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PROCEEDINGS AND DEBATES OF THE 100^{th} CONGRESS, FIRST SESSION

SENATE—*Friday, September 18, 1987*

(Legislative day of Thursday, September 17, 1987)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

The PRESIDING OFFICER. The guest chaplain will deliver the opening prayer.

The guest chaplain today is Rabbi Tzvi H. Porath of Adat Reyim Congregation, Burke, VA.

PRAYER

Rabbi Tzvi H. Porath, Adat Reyim Congregation, Burke, VA, offered the following prayer:

Let us pray:

In a few short days Jews throughout the world will be ushering in Rosh Hashana—their spiritual new year.

The shofar will be sounded preceded by a special prayer for the leadership of the community.

Elohaynu Velohay—Avotaynu.

Our G-d and G-d of our ancestors.

Heyai im Pifiyot Shluchai Amcha.

Inspire the lips of those selected to lead the Nation.

Be with them and all who exercise just and rightful authority.

Enlarge their vision so that they may guide in wisdom and thus make our land a mighty force for righteousness among the nations of the world.

Bind us ever more closely that we may labor unceasingly against the festering vices of malice and greed, fear and ignorance, hypocrisy and corruption, avarice and violence. May this country forever be the land of the free, where all may dwell in security and peace.

Prosper our country, O Lord, in all its worthy endeavors, so that future generations may praise Thee and call us blessed for the spirit of fellowship implanted in the hearts of all Thy children.

Grant that our country lead the way in the pursuit of peace and the fulfillment of the vision of Thy prophet: "Men shall do no evil and work no destruction on all G-d's holy mountain for the earth shall be filled with the knowledge of the Lord, as the waters cover the sea." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 18, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I yield my 5 minutes to Mr. PROXMIRE. If he has any time remaining, I then yield that remaining time to Mr. DASCHLE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

THE HYPOCRISY OF CHARGES OF POLITICAL PLAGIARISM

Mr. PROXMIRE. Mr. President, the most ridiculous charge that anyone can make against a Presidential candidate is that any plagiarism he might have engaged in is either morally wrong or even unusual. The plain fact, Mr. President, is that virtually every candidate running for President, Democratic or Republican, for many years has been guilty of plagiarism in virtually every sentence of every speech he delivers.

How does Webster's dictionary define plagiarize? Here it is. Listen carefully:

Plagiarize: "To take the ideas, writings, etc., from another and pass them off as one's own."

Now consider that definition in the light of speeches delivered by candidates for the Presidency.

I repeat the definition of plagiarize: "To take the ideas, writings, etc., from another and pass them off as one's own."

Now let me ask: will the Democratic or Republican candidate for the Presidency who has never delivered a speech written by a hired speechwriter, please stand up.

Mr. President, any candidate who says he has never read a speech prepared by his speechwriter and passed it off as his own is something more than a plagiarizer. He is a liar. Indeed, in this body—many of the speeches delivered by Senators on this very floor have not been written by the Senator who delivers the speech. They have at least on occasion been written by his staff. But the Senator delivering the speech always but always passes the speech off as his own. In every significant sense he plagiarizes the ideas—the writing of someone else—usually the staff writer has been bought and paid for by the taxpayer. We all know that. We accept that. The press knows that. Does anyone complain about this widespread, common every day plagiarism? Of course, not. How often do Presidential candidates or Senators identify the real author of the words for which the Senator or the Presidential candidate takes full credit? Again the answer is absolutely never.

So when a Presidential candidate takes the same phrasing word for word from a United Kingdom candidate for Prime Minister, or from a former President or a greatly honored former candidate for President and appropriates them for his own, how does that differ from virtually every speech that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

has been delivered by virtually every candidate for President in the past 50 years? The only possible exception was Adlai Stevenson who did, indeed, write his own speeches. And they were great speeches. But Adlai was rewarded by being crushed for those magnificent speeches written by himself with two overwhelming defeats. Is there any informed person who thought that the man who defeated him, President Eisenhower, ever wrote one word of any Presidential speech he ever delivered? Of course, not. Like every other President and Presidential candidate except Stevenson, Eisenhower plagiarized virtually every word he ever uttered. Sure the press knew and even identified the speechwriters the persons whose ideas and writings Eisenhower plagiarized. But if there was one word of criticism of Eisenhower for plagiarism, this Senator didn't hear it.

Now, of course, some would argue that it is one thing to deliver a speech written for a candidate by his speechwriter and pass it off as one's own. It's something else to deliver a speech written by another public figure and pass it off as one's own. Is it? What's the difference? The difference is that the original speech which was very likely plagiarized in the first place from some anonymous ghost writer has been identified in the public mind with, say, Robert Kennedy or John Kennedy. Sure the original speech had been written by their speech writers and plagiarized by these highly esteemed men. But it was theirs. It was bought and paid for either by their campaign contributors or the taxpayers. So they didn't originate the speech. But so what? Hadn't they first brought it to public attention? Sure. But does this mean the original plagiarizer is home free? After that any subsequent plagiarizer is a moral leper? Come on. The argument goes that anyone other than the original plagiarizer calling those words to public attention must first identify the original plagiarizer as the real author or he should be pilloried as a thief, a low-down sneak, who takes what isn't his and claims it's his very own.

Mr. President, this is ridiculous. We live in a world of plagiarism, a world in which the ghosts write and the politicians plagiarize with impunity. But why do we retain that ridiculous distinction that if one public figure uses the words of another public figure without attribution, then he is guilty of some kind of moral depravity? Come on. Dumb, maybe—not to give credit to the original plagiarist, but a sin? No way.

Mr. President, I suppose someone might ask, PROXMIRE, how can you make such an incompetent, illogical, and foolish speech, as you have just made? The answer, Mr. President, is easy. This speech wasn't plagiarized. I wrote it myself.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin has yielded the floor.

The Senator from Nevada.

BULLFROG COUNTY

Mr. HECHT. Mr. President, I am here today to correct a grave misunderstanding, a misunderstanding that has escalated the movement toward Nevada as the site for the Nation's first high-level nuclear waste repository.

This misunderstanding has been caused by the regrettable creation of a county in Nevada called Bullfrog County. This county, and the unfortunate impression it promotes, are the result of a last-minute effort by Nevada's Governor and State legislature at the end of the last legislative session.

Bullfrog County was designed to be a clever ploy to siphon any extra benefits caused by a potential site at Yucca Mountain away from Nye County and into the hands of the legislature and Governor.

Like most hasty, last minute, clever ploys, the creation of Bullfrog County was ill-conceived, ill-timed and has been totally misunderstood.

Instead of accomplishing its original objective, the creation of Bullfrog County has been looked on as an open invitation, issued to the Federal Government by Nevada, for the waste repository site.

The Los Angeles Times recently ran a story under the headline "Empty County to Croak Unless it Goes to Waste," which says that "Governor Richard Bryan signed the bill making the Bizarre County a political reality," and called Bullfrog County "one of the strangest political subdivisions ever created."

The Washington Post has called Bullfrog County simply an attempt "to get the maximum amount of money out of a proposed Federal high-level nuclear-waste dump at Yucca Mountain."

The New York Times said the creation of Bullfrog County is "a not-in-my-backyard issue that some say has become an embarrassment to Nevada."

There is a growing consensus here in Washington that Nevada has surrendered the fight and by creating Bullfrog County the people of Nevada are ready to accept the Nation's nuclear garbage.

Mr. President, nothing could be further from the truth.

I have just completed my fifth annual "Chat With Chic" tour of Nevada. I traveled through every county—including Bullfrog, in spite of the fact that no one lives there. I talked to many Nevadans about their problems and concerns.

On this trip, two things came through to me loud and clear:

First. The people of Nevada are not ready to give up the fight and accept Nevada as the inevitable site for a nuclear waste dump site.

Second. The creation of Bullfrog County was a mistake because it is being interpreted as an open invitation.

I am here today to correct that misconception. Bullfrog County is not an invitation, it is an ill-conceived mistake. I am hopeful that the Governor of Nevada and the legislature will destroy Bullfrog County or that the courts will find it unconstitutional.

One of the worst aspects of this tragic mistake was that the affected citizens were never consulted. The citizens of Nye County, from whom the land was stolen, feel it sends the wrong signal to Washington. In a letter to Governor Bryan, the Nye County commissioners ask:

> How can Nevada's nuclear waste repository concerns be taken seriously on Capitol Hill in light of Bullfrog County? Bullfrog County may have sealed Nevada's fate with the repository.

In the letter, which I will insert into the RECORD at the conclusion of my remarks, the commissioners ask that Governor Bryan call a special session of the legislature to repeal the law creating the county, and inform the Governor of their plans to sue over the matter. For Nevada's sake, I hope the Governor changes his mind and grants this reasonable request.

I favor a more rational, more reasonable, less confusing approach.

When S. 1668 came before my committee, I offered amendments that will protect Nevada, or any State that is forced to accept the dumpsite. I added language specifically requested by the Nevada State Legislature. The 12 amendments I sponsored will:

First. Require a study of feasibility of reprocessing spent fuel of different vintages, due September 30, 1989.

Second. Require that nuclear waste packages be licensed by Nuclear Regulatory ommission [NRC].

Third. Require the Department of Energy [DOE] to abide by NRC rules for notifying States before waste is shipped.

Fourth. Require DOE to provide Federal money and assistance to train State and local agencies involved with waste transportation.

Fifth. Require that waste package prototypes be submitted to actual tests, not just to computer simulated tests.

Sixth. Require NRC to examine other nations' waste packages to see if any are safer than what we plan to use.

Seventh. Require DOE to pay for onsite State oversight, for quality control of site characterization and repository construction.

Eighth. Require DOE to consult with the Department of Defense [DOD] and certify that a repository site to be named by the President would not jeopardize national defense activities nearby.

Ninth. Require a study of the advantages of future research on subseabed disposal.

Tenth. Require DOE to comment on the financial implications of Nevada State Legislature's joint resolution calling for compensation for a State forced to host a repository.

Eleventh. Require that a State that gets stuck with a repository receive special consideration for other DOE research contracts.

Twelfth. Require a study of the advantages of 50 year storage of waste before moving waste to a repository, allowing for public comment, and specifically analyzing the long-term storage practices of other countries.

Mr. President, even though I was successful in attaching these safeguarding amendments to the legislation, I still firmly opposed its passage and voted against it, because I feel the approach unfairly targets Nevada. I knew, however, that by itself, my opposition would not be enough. Nevada had to be protected whether the bill passed or not.

When the final legislation comes to the Senate I will speak against it, vote against it, and do everything I can to stop it—and to protect Nevada in case it passes over my objections. That's the job of a Senator.

Mr. President, I plan to send a letter outlining my remarks today to every Member of Congress, to set the record straight in light of this confusing signal from Carson City.

Despite the unfortunate creation of Bullfrog County, the people of Nevada do not want the nuclear waste repository and I will do everything I can to see that this legislation does not pass.

I ask unanimous consent that the letter, from the commissioners to Governor Bryan to which I referred earlier, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NYE COUNTY, NV,
August 5, 1987.

Re Bullfrog County.
Hon. RICHARD BRYAN,
Governor of Nevada,
Executive Chamber,
Carson City, NV.

DEAR GOVERNOR BRYAN: I am writing you this letter on behalf of the members of the Nye County Board of County Commissioners. The Board decided at its August 5 meeting to place on paper for your consideration its thoughts and concerns relative to the creation and operation of Bullfrog County. We hope you can set aside a few minutes of your valuable time to hear us out.

At the outset we wish the subject of this letter was a positive topic. But Bullfrog County is not a positive topic, and its creation has made Nevada an object of ridicule and the butt of uncomplimentary jokes throughout the nation. Many proud Nevadans have stated publicly they are personally offended by the motives and existence of Bullfrog County. Nevadans like yourself have worked long and hard to create a positive image for Nevada, nationally and internationally. Unfortunately, the motives for Bullfrog County and the manner in which it was created have diminished Nevada's standing or respect in board rooms, committee hearings and at dinner tables across the nation. How can Nevada's nuclear waste repository concerns and arguments be taken seriously on Capitol Hill in light of Bullfrog County? Bullfrog County may have sealed Nevada's fate with the repository.

We realize the Bullfrog County law will not be legislatively repealed unless there is a large public outcry against this artificial county or you and Nevada legislators decide to repeal it independent of public pressure. We sense there will be a large public outcry in Nevada if Bullfrog County continues to be a source of national embarassment or it cost Nevada taxpayers a considerable amount of money to address the problems associated with Bullfrog County.

Another avenue that one may follow to rid the State of Bullfrog County is to challenge the law that created it. Nye County requested a legal opinion on the constitutionality of the Bullfrog County law from two distinguished attorneys, Mr. Russell W. McDonald and Mr. Rex A. Jemison. As you know these attorneys are very familiar with the application of the Nevada Constitution. Both of their opinions state the Bullfrog County law violates the Nevada Constitution in a number of obvious area (e.g., Article 4, Sections 20, 21, 25 and 26). Based on these opinions and the opinions of other attorneys, the Nye County Board of County Commissioners instructed the Nye County District Attorney, Mr. Philip Dunleavy, to prepare a lawsuit challenging the constitutionality of the Bullfrog County law.

We believe District Court Judge William P. Beko's July 17, 1987, letter to you clearly states there are constitutional problems with the Bullfrog County law. But of more urgent concern to us is the Judge's statement that there are serious law enforcement problems associated with Bullfrog County. Bullfrog County does not have a sheriff, a justice of the peace, a district court and citizens to serve on a required jury. In essence, Bullfrog County is a haven for lawbreakrs and anarchy. If Nevada Test Site protestors or common criminals locate or flee to Bullfrog County you will probably have to call out the Nevada National Guard, at a significant expense to Nevada taxpayers, to bring law and order to the County. It is anybody's guess as to what you do with the lawbreakers after the Guard arrests them. We hope the fathers of Bullfrog County, State Senator Tom Hickey and State Assemblyman Paul May, can set our minds at ease and tell us the Judge's concerns are baseless.

Given the aforementioned legal problems and Nevada's national black eye, we suggest you call a special one-day session of the Nevada Legislature for the purpose of repealing the Bullfrog County law; the alternative could cause Nevadans, particularly the lawmakers who created Bullfrog County, considerable hardships in the weeks and months ahead. We think the time is right for political courage.

Respectfully,

JOE S. GARCIA, JR.,
Nye County Commission Chairman.

Mr. BYRD. Mr. President, how much time remains from my time?

The ACTING PRESIDENT pro tempore. One minute and 42 seconds.

Mr. BYRD. I yield to the distinguished Senator from South Dakota. He needs an additional 3 minutes and I ask that he be given an additional 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DASCHLE. I thank the majority leader.

AGENT ORANGE

Mr. DASCHLE. Mr. President, in the last few days the Center for Disease Control has come to the conclusion that a study on the effects of agent orange on troops in Vietnam, which we mandated in 1979, could not be accomplished. They cited as their reason that enough veterans who were exposed to agent orange could not be located.

After spending more than $60 million and 8 years, this annoucement is nothing short of incredible. It confirms what I have suspected all along: the CDC did not want to do the study in 1979, it has not wanted to do the study for 8 years, and it does not want to do it now.

It is probably no coincidence that when the CDC made this announcement, an undated report from within the Veterans' Administration was leaked to the press. Veterans who were marines in Vietnam, according to this report, had a 110-percent higher death rate from non-Hodgkin's lymphoma and a 50-percent higher death rate from lung cancer. It indicated that there may be a link between exposure to agent orange and these and other diseases.

Conflicting evidence and continued controversy is nothing new to this issue. This latest round should be a surprise to no one.

I must say that in my 9 years in Congress on all of the issues that I have addressed, nothing has been more frustrating than my experiences in the effort to resolve the agent orange issue.

For nearly a decade, the overwhelming scientific data has concluded that agent orange has detrimentally affected veterans who served in Vietnam. In hundreds of laboratory tests, the results have indicated that through agent orange, dioxin kills laboratory animals. And we have argued that if it kills laboratory animals, it kills people, too.

But lacking universal, unequivocal, unanimity on the effects of dioxin, we have said simply that the only thing to do is to give those veterans exposed to agent orange and who are now having health problems the benefit of the doubt. We have done so in 40 other diseases within the VA benefit structure. At the very least, we ought to do it for agent orange victims, too.

In the reasonable goal, we have been thwarted at every step. And the sad thing is the Vietnam veterans themselves are the victims. They have been totally frustrated by the Government's inability to own up to the damage it has done.

What is incredible to me is that, after 20 years of delay, the VA Administrator, just last week, was urging that we even have further delay in addressing this issue. We cannot be hurried, he says. Incredibly, he is reported as saying: "No one is more committed than I am in addressing concerns about agent orange."

If that is the case, where is the proof? Why has not the VA expanded the list of compenstable diseases? Why have they not at least added non-Hodgkin's lymphoma as a disease related to exposure?

Why has not the VA advisory committee been made to respond more quickly to the dearth of scientific data already available on dioxin?

How can anyone in the VA responsible for this gross neglect now talk about commitment?

The enthusiasm we shared 8 years ago that at long last the needs of agent orange victims would be met is gone. For 8 years we have had nothing but mumbo-jumbo excuses, delays, and outright distortion at each and every turn—from the Centers for Disease Control, from the Veterans' Administration, from administration on both sides of the aisle.

There is no reason for these delays and conflicting messages. We now have blood serum tests to verify exposure. It is the most reliable method yet in detecting exposure. States, especially New Jersey, have done a tremendous job in bringing about new scientific evidence and data to this effect.

So it is imperative, Mr. President, that we confront the issue once more at the national level. The VA advisory committee has the power to add innumerable diseases right now. We need to conclude the question of who was exposed right now. We need to assess the half life of dioxin and determine its effect on ongoing studies right now. We need to establish a national system of achieving blood and tissue samples for Vietnam veterans who may have been exposed—and we should do that right now.

Finally, we need to craft a compensation package which, at long last, meets the needs of victims of exposure to agent orange. It is my sincere hope that we can do that, too, right now.

Working with the Vietnam veterans in Congress, the Veterans' Committee and others, let us resolve this issue during the 100th Congress.

In the near future, I will be introducing legislation which I believe will address, once again, the compensation needs of veterans expand to agent orange. I intend to work with the chairman of our Committee on Veterans' Affairs in the hope this bill will merit his support and that of other members of the committee.

My hope is that, after all these years, the Government, once and for all, will demonstrate its commitment and fulfill its responsibilities to the thousands who continue to wait. We can wait no longer.

I thank the Chair and I thank the majority leader for yielding me this time.

BICENTENNIAL MINUTE

SEPTEMBER 18, 1793: GEORGE WASHINGTON PLACES CAPITOL CORNERSTONE

Mr. DOLE. Mr. President, 194 years ago today, on September 18, 1793, a large and boisterous crowd jostled around President George Washington as he placed the cornerstone of the Capitol Building. When Pierre Charles L'Enfant laid out the new Federal City, he had saved the choice rise of land, known locally as "Jenkins' Hill," expressly for the Congress' home. It stood he claimed, "As a pedestal waiting for a monument." Choosing the right "monument" to crown this pedestal, however, proved difficult. None of the first designs was satisfactory, and some were downright ludicrous. Then, at the last minute, William Thornton, a physician and amateur architect, asked permission to submit a design. When it arrived, another amateur architect, Secretary of State Thomas Jefferson, claimed with relief, "it captivated the eyes and judgment of all."

Work on the new Capitol began immediately. By September 18, 1793, all was in readiness for the cornerstone to be laid. Festivities began with a grand parade. With drums beating and flags flying, brightly uniformed members of the "Alexandria Volunteer Artillery" and local Masonic lodges escorted President Washington across the Potomac, into the District, and up to the top of Capitol Hill. Dating from the middle ages when stonemasons and the Masonic order were closely associated, Masonic rituals dominated the ceremonies. President Washington laid the cornerstone wearing a Masonic apron, reportedly made by the wife of General Lafayette. Using a silver trowel and a marble-headed gavel to put the stone in place, he then attached to it a silver plate proclaiming the date to be the 13th year after American independence, the first year of his second term, and the year 5793 of Masonry.

After 15 salutes from the artillery, the Alexandria Gazette reported that "the whole company retired to an extensive booth, where an ox of 500 pounds' weight was barbequed, of which the company generally partook."

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 8:30 having arrived, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

CALL OF THE ROLL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 22]

Armstrong
Bingaman
Boschwitz
Byrd
Daschle
Dole
Graham
Hecht
Helms
Karnes
Leahy
Proxmire
Specter
Stennis

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have been requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia [Mr. Byrd]. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Iowa [Mr. Harkin], the Senator from Hawaii [Mr. Inouye], the Senator from Montana [Mr. MELCHER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], and the Senator from Oklahoma [Mr. BOREN] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. SANFORD] and the Senator from Connecticut [Mr. DODD] are absent on official business.

I also announce that the Senator from New Jersey [Mr. LAUTENBERG] is absent because of death in family.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from New Mexico [Mr. DOMENICI], the Senator from Texas [Mr. GRAMM], the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Idaho [Mr. MCCLURE] are necessarily absent.

I also announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from Vermont [Mr. STAFFORD] are absent on official business.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 8, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—73

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dole
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Kennedy
Kerry
Leahy
Levin
Lugar
Matsunaga
McConnell
Metzenbaum
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stennis
Symms
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—8

Bond
D'Amato
Evans
Murkowski
Quayle
Stevens
Wallop
Weicker

NOT VOTING—19

Biden
Boren
Cochran
Cohen
Dodd
Domenici
Gramm
Harkin
Inouye
Kassebaum
Lautenberg
McCain
McClure
Melcher
Mikulski
Sanford
Shelby
Simon
Stafford

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, we read in this morning's press a number of discussions of quotation and citation in public discourse, much of it centering on recent speeches by our much admired and senior, though a still youthful, colleague from Delaware.

The Senator speaks for himself, and speaks so well as to have no need to exposition from such as I. Still, it may be of some use to the Senate to note how everyday a matter it is for public men to appropriate one another's thoughts as they seem appropriate, and also to note a darker warning about the toll taken on American political leaders by our current processes.

In this first matter, I would simply read a passage from the fine biography of the English statesman Benjamin Disraeli, written by Sara Bradford. The year is 1852. The future Prime Minister has just achieved his first high office, that of Chancellor of the Exchequer in the government of Lord Derby.

> The principal topic of 1852, young Stanley wrote in his diary, was the hunting-down of the Protectionist government, and the particular game of the winter of 1852 would be the hunting-down of the Chancellor. Disraeli planned to meet his opponents head-on, and soon, before the elements of opposition to him could coalesce, by presenting his Budget before Christmas. Unfortunately for him, fears that Louis Napoleon, who had declared himself Emperor on 2 December, would emulate his uncle and invade England, caused a clamour for huge expenditure on defence, and destroyed Disraeli's plans to conciliate every interest by tax remissions. Disraeli's position was an unenviable one, with, behind him the suspicious Protectionists typified by the Duke of Richmond who had predicted that the Government would not last three weeks—'I can see they are, damn them! at the old game of throwing over their principles!'[8]—and in front of him Russell and the Whigs, longing for office again, aided by the Peelites who had resolved to avenge their dead leader.
>
> Indeed the omens at the outset of the session in which the crucial battle was to take place were not encouraging. The Duke of Wellington had died at Walmer in September. On the day of his State Funeral at St. Paul's Disraeli delivered the eulogy on behalf of the Government in the Commons; to the delight of his enemies it was discovered that a part of his speech had been borrowed from a similar oration by Thiers on the death of Marshal Gouvion Saint-Cyr. A storm of execration and accusations of plagiarism descended upon Disraeli's head, expressed with particular vindictiveness by the *Globe:* 'We have seen him [Disraeli] snatch a wreath of faded French artificial flowers for the pall of Wellington, with an audacity of larceny unsurpassed in Grub Street'. Disraeli's enemies in the literary set were especially venomous; on 22 November *The Times* berated them as a 'whole pack of jealous litterateurs', wondering whether it was worth their while 'to be flinging as much dirt as they can on the only litterateur who has ever yet succeeded in breaking that solid aristocratical phalanx which has hitherto monopolised the high offices of state'. Disraeli could only defend himself by saying, which was at least partly true, that he had been struck by the passage long ago, had written it down, and, coming upon it, had thought it was his own composition. The most likely explanation would seem to be that, pressed with business and faced with the necessity of delivering the oration, Disraeli had hurriedly searched through his notes for suitable material and had used the passage without remembering or, perhaps caring, where it had come from. It was a storm in a teacup, but Disraeli was greatly upset by it: 'I can bear a great reverse', he told Stanley, 'but these petty personal vexations throw one off one's balance.'

Would the Senate not agree that the Times showed a notable understanding of the pressures and distractions a young man might experience in office or in quest of office?

But to a graver matter. From talking about this matter in town meetings in New York State, I have the impression that many of us do not know just how recently the Presidential campaign has become part of our politics. It dates, quite literally, from 1896 when, for good or ill, William Jennings Bryan discovered the rear platform of the railroad train and after receiving the Democratic nomination instead of going home and peaceably awaiting the calm judgment of the voters, as any respectable candidate would do, instead jumped aboard and started barnstorming across the land, and especially, of course, the prairies.

At first the response was moderate. Mark Hanna devised a "front porch campaign" for William McKinley, allowing voters to come and see him in his home in Ohio. But next in Presidential succession came Teddy Roosevelt, and there has been no rest since.

Woodrow Wilson, still a professor of government, watched this begin and had forebodings. No normal man, he wrote, could endure the strain. If this manner of campaigning should continue, he continued—and here I rely on memory—"we shall be reduced to choosing our chief magistrates from among wise and prudent athletes, a small class."

Foreboding indeed. As we know, some two decades later Wilson himself died, or as near as makes no matter, on the rear platform of a railroad train, campaigning for the Treaty of Versailles.

The strain is yet greater today. Do Americans really think they can be so casual with their political system?

We would do well on the day after the 200th anniversary of the Constitution to remember that the framers did not anticipate the rise of political parties. Those that sensed the possibility feared it. They fully expected the President to be chosen in the House of Representatives, and the Presidential campaign to be conducted in lobbies. It is not that they lacked energy:

those men founded a nation. It is rather, today, that we are running out of common sense. Do not be surprised then if we run out of viable Presidential candidates and turn instead to television.

Mr. President, I yield the floor.

Mr. BUMPERS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas is recognized.

AMENDMENT NO. 697

(Purpose: To apply the provisions of the War Powers Resolution to the imminent danger zone designated by the Secretary of Defense)

Mr. BUMPERS. Mr. President, I was waiting for my colleague from Oregon, Senator HATFIELD, who apparently has just left the floor. We have an amendment that we want to get up here. He was going to offer the amendment.

Maybe we could have someone check to see if Senator HATFIELD is just off the floor. He wanted to offer the amendment. I want him to. I do not want to delay the Senate, however.

Mr. EXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas has the floor.

Mr. EXON. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. EXON. May I suggest this? Here we are on Friday getting off to a 12-minute late start. I am wondering if my friend from Arkansas, since he knows full well what the amendment is, which is going to be offered by the Senator from Oregon, could not begin the debate on this because I know I would like to listen to what he has to say. Can we move along? That is what I am asking.

Mr. BUMPERS. Mr. President, the Senator from Oregon is on the floor and will immediately send the amendment to the desk. We are on our way.

Mr. President, I yield the floor.

Mr. HATFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I send an amendment to the desk on behalf of the Senator from Arkansas [Mr. BUMPERS], the Senator from Washington [Mr. ADAMS], and the Senator from Alaska [Mr. MURKOWSKI], and I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. HATFIELD], for himself, and Mr. BUMPERS, Mr. ADAMS, and Mr. MURKOWSKI, proposes an amendment numbered 697.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . Notwithstanding any other provision of law, the War Powers Resolution shall be deemed to apply beginning 48 hours after the designation of the imminent danger zone on August 25, 1987, and the use of United States Armed Forces in such zone, as if the report pursuant to section 4(a) of that Resolution had been transmitted within such period.

AMENDMENT NO. 698

Mr. ADAMS. Mr. President, I send a perfecting amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. ADAMS], proposes an amendment numbered 698 to amendment No. 697.

Mr. ADAMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On Page 1, strike all after "SEC" and insert the following new Section:

SEC. . Notwithstanding any other provision of law, the requirement for the transmittal to the Congress of the report described in section 4(a)(1) of the War Powers Resolution shall be deemed to apply to the escort, protection, or defense of any vessel which has been reregistered under the United States flag and which as of June 1, 1987 was owned by the government or nationals of any country bordering the Persian Gulf. Furthermore, in the event that such report is not so transmitted, the provisions of the War Powers Resolution shall be deemed to apply, beginning 48 hours after enactment of this Act as if that report were transmitted within such period, unless such reregistered vessels have been further reregistered under the flag of a country other than the United States.

Mr. HATFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, briefly, this particular amendment that I offer at this time to the defense authorization bill has to do with the subject of the War Powers Act that this Congress passed a number of years ago.

Mr. President, James Madison wrote in 1887:

> Those who are to conduct a war cannot in the nature of things be proper or safe judges of whether a war ought to be commenced, continued or concluded. They are barred from the later functions by a great principle in free government, analogous to that which separates the sword from the purse, or the power of executing from the power of enacting laws.

Almost 200 years after Madison penned his eloquent words, this Congress enacted the war powers resolution.

The war powers resolution was written precisely because we had allowed the principle Madison championed to slip away. It was written because those who conduct war had become those who judge the wisdom of war.

It was written, Mr. President, because we had allowed the President to usurp our rights—our responsibilities.

We had allowed the President—indeed, several Presidents—to drag our sons into a bloody war without even so much as a vote in this body. And the blood of that distant war had spilled over onto us, Mr. President.

We wanted to make sure that never happened again. So we put into law the principle Madison championed: When the President sends United Armed Forces to face hostile fire, he must notify us.

And in 60 days, we must act. We must declare war, pull the troops out, or authorize an extention of the policy. But whatever we do, Mr. President, we must examine the policy.

We must ask the President why he sent the troops into the midst of hostile fire. We must ask the President how they are going to respond to that fire. We must ask the President what the risks of the policy are. And we must ask the President when our troops are going to be removed.

The one thing we do not have to ask the President is who is responsible for this policy. That is the point: Mr. President, we are all responsible for this policy—the President and the Congress.

Of course the President did not much like the war powers resolution. In fact, he vetoed it. But we overrode his veto, and it became the law of the land.

James Madison would have been proud of us on that day, that day in 1973 when we passed the war powers resolution over a Presidential veto.

He would not, however, be so proud of us on this day, this day in 1987 when we stand idly by and watch the President ignore the law of this land.

There are more than 10,000 troops and 41 naval ships facing hostile fire in and around the Persian Gulf right now.

More than 40 of our sons have died in the region this summer, and Iranian mines have become almost routine. Shipping in the gulf is under almost constant attack and our Navy is under orders to defend itself against even the threat of hostile fire.

And on August 26, the Secretary of Defense went so far as to designate the Persian Gulf and part of the Gulf of Oman an "imminent danger area," entitling our troops serving there to additional "imminent danger pay" of $110 a month.

But still the administration insists the war powers resolution does not apply.

Still the administration insists, as Assistant Secretary of State Richard Murphy explained last spring:

> The naval protection accorded by United States naval vessels to these United States flag tankers transiting international waters or straits does not constitute introduction of or Armed Forces into a situation where "imminent involvement in hostilities is clearly indicated."

Does the administration really expect us to believe that a policy based on the assumption that the Iranian will to survive is stronger than the Iranian will to martyrdom does not clearly risk imminent hostilities?

Just look at the Iranian record.

It makes me wonder what would constitute "the introduction of our Armed Forces into a situation where 'imminent involvement in hostilities is clearly indicated.'"

Mr. President, I happen to think this policy ill-conceived from the beginning. And I am convinced that the risks inherent in the policy far outweigh any potential benefits.

But it is current U.S. policy. And whether we are willing to address it or not, it is a policy we are funding to the tune of $1 million a day.

When is it going to end? When the Iran-Iraq war ends? And how many more troops are we going to send in? 20,000? 30,000?

The truth is that we are footing the bill for a policy we know virtually nothing about.

I do not want to fool anybody. Even if we were to invoke the war powers resolution, I do not think we will have the courage to terminate the policy in 60 days demonstrated by our current record.

In truth, I would have ambivalence about that decision. Not because I think it is a good policy—I have already explained that I think it is a disasterous policy. But because of our own inaction earlier this summer, we have allowed the administration to put us in a box.

There is little room left for face saving, no way to gracefully bow out.

That is no secret, Mr. President. In fact, I think it is the major reason we have been unwilling thus far to take a position on this issue, on the applicability of the war powers resolution to this situation.

Once the war powers resolution is invoked, we are implicated. It is going to be our policy, too.

The problem is that we all know this is a lose/lose proposition. And we just do not want to get involved. It may be a bad policy, but at least our fingerprints are not on it.

Well, Mr. President, the law requires that our fingerprints go on the policy. If we did not want to be put in this position, we should have said so before the policy was implemented. Senator PELL introduced a bill to stop the reflagging arrangement before it started, and Senator BUMPERS and I proposed an amendment to delay its implementation for 90 days.

The Senate had its chance to avoid this situation, but we ignored it.

Mr. President, the war powers resolution now requires us to get involved in the policy. If we are not going to do that, we might just as well repeal the war powers resolution and relegate James Madison and the rest of our Founding Fathers to the forgotten shelves of history.

It all comes down to this, Mr. President: This charade has gone on long enough. The war powers resolution is the law of the land.

Whatever your opinion of the overall policy, no one in this Chamber can tell me that imminent involvement in hostilities is not clearly indicated.

And no one can tell me that the war powers resolution does not apply.

It does, and we have a responsibility—to the Constitution, to the people we represent, and ultimately to ourselves—to say so.

I am proud to join my colleagues from Arkansas, Washington, and Alaska in introducing this resolution at this time.

Mr. ADAMS. Mr. President, I thank my colleague from Oregon for his fine opening statement on this amendment, and my friend the Senator from Arkansas and my friend the Senator from Alaska, in all joining together for this important debate.

Mr. President, over the last few days and the last few months, the Senate, quite properly, has been debating the controversial role of interpreting treaties. Now, however, we are going to discuss and debate something that really cannot be debated, in the sense of raising a question of congressional powers. Congress must accept the powers which the Constitution has so clearly designated that Congress exercised. Congress must exercise, by law, policies which place our troops into the midst of imminent hostilities.

Before I turn to the specifics of this amendment, let me indicate that I think it is supremely important that we debate this amendment this week, which is the week we celebrate the 200th anniversary of the Constitution. I think it is obvious from all that has been stated this week and all that will be stated during the week that ours is a system of checks and balances.

The mandate of the 18th century was that we do not have a king, we do not have a monarch, we do not have an Executive that exercises the traditional 18th century powers of placing a country into a status of war or moves troops into imminent hostilities to create a war.

The War Powers Act, which we now seek to have enacted by this amendment and to invoke, in the 20th century's translation of the 18th century mandate regarding who shall declare war and who shall have and exercise the war power. It is a contemporary characterization of an explicit, and I might say an essential, authority which the Framers of the Constitution gave to Congress. The President's authority as Commander in Chief and the responsibilities of Congress under the Constitution to declare war are clearly expressed not only in the specific words of the Constitution but also in the Federalist Papers.

Mr. President, Alexander Hamilton, who often argued for stronger powers for the Executive, expressed the intent of the Framers of the Constitution on this issue very clearly in Federalist 69, where Hamilton wrote:

> The President is to be the Commander in Chief of the Army and Navy of the United States. In this respect, his authority would be nominally the same with that of the King of Great Britain, but in this instance much inferior to it. It would amount to nothing more than the supreme command and direction of the military and naval forces as the first general and the admiral of the confederacy, while that of the British king extends to the declaring of war and to the raising and regulating of fleets and armies, all of which, by the Constitution under consideration, would appertain to the legislature.

Hamilton stated it clearly. It was the subject of debate; but it was the subject of no debate, once the Constitution was presented for signature, that the Constitution gave the power to declare war, to marshal troops, to place the Treasury of the United States at the command of the Executive. That power was reserved to the legislature—in this case, to Congress—and for a very specific reason. The Framers did not want to have another king in the United States. They did not want a President to have the power to place the Nation in a state of war.

The War Powers Act is a portion of this power. It is a manner duly passed by both the House and the Senate, passed over the Presidential veto, that enables Congress to place itself in a position to respond to the President's request for building or escalating a situation that leads to acts of war and a declaration of war, or a refusal to declare war.

This is not a situation of the Congress of the United States, particularly the U.S. Senate, trying to micromanage a war or to tell a President specifically how to conduct an operation that would be of short term, which he might do as Commander in Chief, which goes all the way back to the time of Tripoli and through our history. Instead, this is the Congress of the United States saying that a statute has been implemented and this statute should be operable at this moment in time, and we are trying to unite this country behind a policy that is agreed upon by the President and the U.S. Congress and the people for placing our service people into an area of imminent hostilities.

(Mr. BREAUX assumed the chair.)

Mr. ADAMS. I cannot believe that there is anyone in the Senate of the United States who does not believe that our troops and our sailors who are in the Persian Gulf are in an area of imminent hostilities. We suffered casualties before any of this started just by being there. We have had the situation of one of our ships being conveyed, having to fall behind the ship it was convoying, a Kuwaiti ship, which we wrongly put our flag on, striking a mine.

In a moment I will refer to what the captain of that ship said with regard to that mine:

> If our frigate had hit that ship instead of it being hit by a 200,000-ton oil tanker which could have absorbed the blow of that mine . . .

This is just the right day for this debate, Mr. President. This is the right bill. After all, the Department of Defense authorizes spending on specific weapons systems and defense activities. It seems absurd for us to spend our time debating what we will buy without considering the ways and the places and the means where we will spend this money.

Where will we spend what we purchase? What will be lost? What is our commitment? How deep will it be? How many ships, how much operation and maintenance, how many personnel do we have to have?

The amendment, Mr. President, that we offer today, and it is a bipartisan amendment, is both simple in detail and sound in design.

It grows out of the historic Vietnam era when in the 1970's the Congress hesitated again and hesitated again until finally we had disastrous divisions within the United States which an undeclared war was creating in American life.

I say an undelcared war, Mr. President, because I was in the Congress of the United States when that started with the landing of the troops at Da Nang; I was in the Congress after the Gulf of Tonkin resolution, but before our commitment.

Mr. President, I have a horror of repeating step by step what we did as a nation then. For years in the Congress of the United States I listened to the executive branch, and it was not a Republican legislative branch. A legislative branch described this as a conflict, a police action, and assistance, everything except a war. But we were landing divisions. We were transferring enormous amounts of equipment. We spent billions of dollars. In fact, to this day we are paying for the fact that we did not say we were in a state of war and to finance that war. It started the inflation of the 1970's because we had not taken in the money. We pleaded with the President, many of us in Congress at that time, to put on a war tax. That President said, "I will not call this any war tax." But if that was not a war in Vietnam, I do not know what a war is, and I do not know what the Framers of the Constitution were talking about when they said declare war.

Mr. President, what concerns me about this is that we are starting down the same trail, and the reflagging started it. I am not arguing here the merits of being in or out of the Persian Gulf. As a superpower we have been there for 40 years. In my opinion we will probably be there 40 years more. That is not the question. The question was the reflagging of these ships, then the convoy protection of these ships, then the instructions to fire even before fired upon if shown to be in danger, then the granting of the imminent hostility pay. Everything says we are proceeding down the track to war and that is what the War Powers Act was meant to address. We passed it over the President's objection.

I wish we did not have to be here today. I wish the President would simply follow the statute. I hope in the lawsuit which has been filed which says the act is in force the court will state that. But I do not think that removes our responsbility as Senators to address the question and to address it strongly and to answer it, that we are a sovereign Nation, we are a sovereign branch of that Nation, and we have a responsibility to state that this Nation is moving toward war, that we have met all the tests of the statute that was passed out of a undeclared war and, therefore, let us unite this Nation and let us unite this Congress with the administration into a policy that tells us precisely what we are going to do and we will be part of it.

This act was designed, was specifically designed to carry out the constitutional mandate to keep a President ever again from unilaterally placing us in hostilities. It required the President where possible to consult with the Congress prior to introducing American forces into a situation involving imminent hostilities. That was not done in this case. But it says if such consultation is not possible, the law requires the President to notify the Congress within 48 hours that American forces have been introduced "into hostilites or into situations where imminent involvement in hostilities is clearly indicated."

If we are not in a situation where imminent involvement in hostilities is clearly indicated due primarily to this reflagging operation and to the convoying and to the instructions given to those convoying ships, I do not know that we will ever have a situation where we are in or about to be involved in imminent hostilities.

The Congress under this statute, Mr. President, does not automatically then do something to or for the President. What it does is it says that the President has 60 days and during that period of time has to convince the Congress to authorize the action.

It very well may be that the President could come to the Congress of the United States and the Congress would authorize a particular action.

But if that is not done, this is the precise constitutionality of this statute. It says if you do not do it, withdraw the troops, start over, because you have not received power under the constitutional power to declare war. This is not a strange power. It is a power that does not have a lot of Supreme Court cases involved because in this Nation until the last two decades it has always been known by Presidents and by Members of Congress that committing the resources, the young people of our society, all of our treasure, our thought, our time to a war would be agreed upon by the President and the Congress and the Congress would exercise the ultimate authority to place us into a war situation.

This statute is simply a manner of interpreting that in a 20th century context.

Now we have had extensive debate on this before, Mr. President. And I know even now some of our colleagues disagree with it, but it is the law and we accepted an oath when we became Senators of the United States to enforce the law. That is what we are doing today. I believe that oath requires us to invoke the War Powers Act and discharge our duty under the Constitution to either authorize or reject the President's decision to introduce American forces into the Persian Gulf in this convoying and reflagging operation, an environment in the Persian Gulf which surely meets the test of the War Powers Act by involving our forces in hostilities or in situations where imminent hostilities are clearly indicated under the circumstances.

Again, I hope there is no one in this Chamber or in the entire Congress of the United States who really has a factual question about whether these are war zones we are in and whether we are placing our troops and our sailors in a position where imminent hostilities are involved.

I do not want to spend a lot of time describing the circumstances in the gulf because every day—every day we hear it. It has been an active war region since 1980, and this is not a small war. Since 1980, there have been over a million casualties in this war sustained by Iraq and Iran. Since 1984, when the tanker war began, which we are now actively involved in, over 200 ships have been attacked in the gulf. We formally entered the free-fire zone in July.

Now, Mr. President, many of us were concerned about this before, but when our ships enter a free-fire zone, as they have done escorting reflagged Kuwaiti tankers, we are then in a situation of imminent hostilities. We have now gone farther than that. We are building up toward a war force. We have deployed 24 vessels in this gulf. We have a quantum and qualitative jump of what we are doing in the Persian Gulf and we have more than 17,000 American servicemen in the area. Those vessels and those men are now not merely escorting tankers; they are protecting them from the very real threat of hostile action. We have already had one ship attacked and one of the ships we were protecting struck a mine and was damaged.

Our forces are operating under the rules of engagement which direct them to fire in the face of hostile acts. Our people are being paid an imminent hazard bonus and they should be because they are in hazard and they are in imminent danger, and, if we are going to do this, which we should and which we are and which, incidentally, involves the appropriating power of this Congress, then we should be honest and protect our servicemen and say that the War Powers Act is in force.

Let us support them. Let us not ignore what is happening. And our administration says that the War Powers Act is not operative.

Mr. President, it is just as absurd to say we are not involved in hostilities in the Persian Gulf as it is to watch the evening news every night and read the paper every morning and see reality in the world being reported to us which is completely different from what we are being told by people who are saying that the War Powers Act is not involved.

It is intolerable that we be in this situation as a result of a unilateral Presidential decision, a decision taken without congressional consent and without meaningful consultation.

I want us to be in this. I want us to have a vote on this. I want all of us to participate. I want the President to have the knowledge of where the people and the Congress are.

Under the Constitution of the United States, which we celebrate this week, Mr. President, the President of the United States cannot unilaterally decide to spend $20 million a month on specific military operations and argue he is simply implementing a general congressional policy. In fact, Mr. President, next year the President will have to come to Congress, and he may come this fall, with a supplemental appropriation to cover the costs of continued operations in the gulf—unless he wants to defer spending.

And this is what I am afraid. I hope that this will be addressed by my colleague from Virginia, the manager of the bill on the Republican side. I am concerned, and I hope there has been investigation into what is happening in the administration, that we are pulling money out of operations and maintenance around the world. We are robbing Peter to pay Paul in order to make a buildup in the Persian Gulf. I want to know where they are coming from and where the troops are coming from and what we are doing with our world posture in order to be involved in this.

We may have a vital interest and decide that that is where we want our vessels, that is where we want our carrier groups, that is where we want all of this operation we have started. But that is going to be a spending matter. And we could have attacked this on a spending matter and we probably will again. But we have got to give fair warning to everybody before we start—and this defense authorization is the appropriate place to do it—that we are involved in the spending of an enormous amount of money which has got to be authorized by this committee. It is going to have to be authorized by the appropriating committee or we are going to defer spending in other parts of the Navy.

My point is we will all be better off if we speak sooner rather than later.

Let me make my own position clear. I believe we have a vital interest in the gulf. I believe that we have a situation where the consequences of our policy have not been carefully charted or considered. And I am dismayed that we are prepared to spend billions without congressional authorization. There is no end to our commitment in sight, no criteria for what determines victory.

But the issue now before us does not hinge on how we feel about the policy. What it is is how we feel about a process that allows a President to violate the war powers of the Constitution which reside in the Congress. I think it is wrong under the congressional power to declare war and the War Powers Act as the law of the land is not to be followed.

I want to say to the administration they ought to welcome this amendment. It will give the President an opportunity to explain his policy to the Congress and to the country and to explain it in a persuasive manner. I hope that he comes up. I hope that he does it.

Mr. President, we are a great superpower in this world and we accept great responsibilities. No one here is advocating that we "cut and run." No one here is advocating that we micromanage our tactics in the Persian Gulf, which clearly is the job of our Commander in Chief.

But we are advocating the congressional involvement required by the Constitution. We are advocating Presidential compliance with the law. We are advocating a policymaking process that will draw a clear picture of the costs and the consequences in the gulf, a process which will help us clearly define and articulate the goals and objectives of our strategy in the gulf and how it affects the rest of the world, a process that will tell the American people precisely what we are doing and why.

Abraham Lincoln, who certainly understood the powers of the Presidency in this area very well, once wrote:

> The provision of the Constitution giving the warmaking power to the Congress, was dictated, as I understand it, by the following reasons. Kings had always been involving and impoverishing their people in wars, pretending generally, if not always, that the good of the people was the object. This, our Convention undertook to be the most oppressive of all Kingly oppressions; and they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us.

The only way to assure that the policymaking process—and the policy itself—is sound, is to adopt this amendment, invoke the War Powers Act, and get on with the deliberations and reach a national, rather than just an executive, decision.

I thank the Chair.

I see my friend from Rhode Island, the chairman of the committee, is waiting, so I will yield the floor.

The **PRESIDING OFFICER.** The Senator yields the floor.

The Chair recognizes the Senator from Rhode Island, Senator PELL.

Mr. PELL. Mr. President, I thank the Senator very much for letting me speak now, and the Senator from Arkansas, who should be speaking now, because he is a cosponsor with the Senator from Washington in this amendment.

I think this amendment is an excellent one. We debated an almost identical one in our committee and reported it favorably in July. We reported it by a narrow margin, but we still passed it out.

Mr. President, the war powers resolution of 1973, and the 14 years of experience with its operation, mark an era of continuing turmoil in executive-legislative relations. The atmosphere surrounding the resolution's passage and its subsequent invocations has been both contentious and confused. Continuation of this state of affairs indefinitely is domestically divisive and internationally dangerous. The prospects for significant improvement will depend upon the restrained realism and determined collaboration of both Congress and the executive branch.

As legal scholars have observed, the war powers resolution, and the reasons for its enactment, are best understood not as the consequence of a "runaway" Presidency but rather a "runaway" Congress. For years Congress has tended to shy away from the recognition and acceptance of its constitutional responsibilities regarding the commitment of U.S. forces to hostilities.

If ever there was any doubt there are hazards and hostilities going on in the Persian Gulf, all they have to do is read the newspaper, look at the casualty reports. We see the evidence each day that shots are being fired at tankers that are going through the gulf.

Events leading up to the final passage of the war powers resolution over President Nixon's veto in November 1973 reflected widespread uncertainty and disagreement among legislators as to what those responsibilities were. But the veto override marked a turning point in the views of most Members of Congress that, whatever the defects of the final version might be, Congress had a duty to assure itself a central role in decisions by the United States to use armed force. In short, the war powers resolution offers us an opportunity which should not be lost.

In the United States, the power to conduct warfare is constitutionally divided between the President and the Congress. Congress has the power to declare war, provide armed forces, and finance military operations. The President has power as Commander in Chief of the Armed Forces.

During the Vietnam war, Congress became increasingly concerned about its diminishing influence on the use of the Armed Forces. The war powers resolution was an effort on the part of the Congress to reassert its warmaking authority. This legislation enables Congress to limit the use of force by the U.S. Government by requiring the President to obtain congressional approval before introducing troops into hostile or potentially hostile situations abroad for more than 60 days. It was intended to reduce the chances of an overzealous President involving the United States in an unwanted war. As stated in the Foreign Relations Committee report (S. Rept. 93-220), this law was an attempt—

> To fulfill—not to alter, amend, or adjust—the intent of the framers of the U.S. Constitution in order to insure that the collective judgment of both the Congress and the President will be brought to bear in decisions involving the introduction of the Armed Forces of the United States in hostilities or in situations where imminent involvement in hostilities is indicated by the circumstances.

The tragic attack on the U.S. frigate, the *Stark*, underscored the danger to all international shipping in the Persian Gulf—through which more than half of the West's oil supplies flow—posed by the protracted conflict between Iran and Iraq.

This incident raised serious questions about the U.S. role in the gulf. Both Iran and Iraq during the course of this 7-year war have attacked hundreds of ships coming in and going out of the gulf. The presence of U.S. naval vessels has not stemmed these attacks in any substantial way.

These questions are made even more compelling by the administration's decision to register 11 Kuwaiti oil tankers under American flags and by the Defense Department's declaration that the Persian Gulf is a zone of imminent hostilities. What happens if one of our ships is attacked?

We do not want to be dragged into a shooting war in the Persian Gulf if it can be avoided. Neither do we wish to become a part to the Iran-Iraq war—a bloody conflict that has reportedly cost 1 million lives already. It is imperative that we proceed carefully and with the full commitment and consensus of the American public.

Therefore, I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, I am wondering if the distinguished chairman of the Foreign Relations Committee would entertain just one brief question before he departs the floor? As I understand it, he has to preside over a hearing and may be gone for several hours, and I think it would be very helpful for the Senate to listen to a short colloquy here on this point, and I thank my distinguished colleague from Alaska.

During the past 24 hours, the distinguished chairman of the Foreign Relations Committee, the distinguished chairman of the Senate Armed Services Committee, and I had an opportunity—just a few of us—to meet with Foreign Minister Shevardnadze.

In the course of that meeting I asked him, "Isn't it in the interest of both the United States and the Soviet Union that the war in the gulf be contained first and then, hopefully, stopped?"

And he readily acknowledged that to be the case. The Senator was right there, not but a foot away, to my recollection.

Mr. PELL. I recall the question. I recall the answer. He completely agreed.

This is one of those cases where, to my mind, we and the Soviets have a parallel set of interests.

Mr. WARNER. I am so glad that the chairman said that, because that was my next question to the Foreign Minister. I said, "Mr. Minister, in what areas can the Soviet Union and the United States work together?" And you will recall, Mr. Chairman, that he said the forum would be the United Nations. We can work together in the United Nations. We have already achieved one resolution, and we are working on the second.

So I say to my good friend from Rhode Island, the distinguished chairman: Why would this Nation want to impose on our chief negotiator, the President of the United States, a legislative restriction in the nature of the War Powers Act at the very time when he is endeavoring in the United Nations forum to work with the Soviet Union and other allies to bring to a conclusion, or first contain and then to a conclusion, this unfortunate war in the gulf? Why hobble one nation's chief executive officer and let the other nations' chief executive officers be in that forum without a restruction such as this?

Mr. PELL. This is a question involving varying points of view. It does not hobble the President. It strengthens his position because it means that he would be acting in partnership with the Congress. He is, now, acting alone by executive fiat. So I would say the answer to your question, is that it strengthens the Government, strengthens the Presidency, and mandates that we work together.

In reply to an earlier part of your question: If ever there is a situation designed for the United Nations' peacekeeping force, it is that in the Persian Gulf.

I remember being in San Francisco at the start of the United Nations. For 3 months we debated the peacekeeping provisions of the charter, which were those that provided for a peacekeeping force, which has never been adequately used in all the years since.

Here we have a situation where four of the five permanent powers on the Security Council have vessels in the area and where they should be working together as a task force.

Finally, I think the reply that Mr. Shevardnadze gave was aimed not so much at the United Nations as a whole but at the Security Council.

Mr. WARNER. Mr. President, the distinguished chairman is correct. The answer was, "in the Security Council." But I point out that the amendment now before the Senate there would be only 5 or 6 weeks in which to make a determination to declare war, adopt a limited time extension, or tell the President to pull the troops back.

Given the current state of uncertainty, and since at this time the United Nations is working toward ending the war and our President, through his Ambassador, is working in that forum, why would we want to trigger more uncertainty at this critical time?

Mr. PELL. I do not think it would give uncertainty. If it were endorsed by Congress, I think it would strengthen our chief executive.

Mr. WARNER. What is it, a declaration of war?

Mr. PELL. Not a declaration of war. The compliance of our executive branch with the provisions of the war powers resolution.

Mr. WARNER. I have taken more than my allocated time. I will revisit this later.

The PRESIDING OFFICER. The Senator from Rhode Island has not yet yielded. Does the Senator from Rhode Island yield the floor?

Mr. PELL. Yes.

Mr. HATFIELD. Mr. President, I thank the Senator from Rhode Island for yielding to a question. Mr. Chairman of the Foreign Relations Committee, may I ask just a simple question. Is the War Powers Act a part of the law of the land?

Mr. PELL. It is.

Mr. HATFIELD. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I do not think it is appropriate we debate the merits of whether this topic is appropriate and timely for this body. I do not think there is any question about the very fact that we have nearly 10,000 service personnel in the Persian Gulf, over 40 U.S. naval vessels, and we have not had a debate on the War Powers Act, which is applicable, certainly with regard to the presence of Americans in that theater.

Mr. President, we have to face up to the implications of reality and that is the increasing military buildup in the Persian Gulf. My purpose in joining with my colleagues from Washington, Oregon, and Arkansas in calling up the amendment for invoking the War Powers Act is to encourage the participation in this very discussion.

We were told, initially, that our involvement in the Persian Gulf would be one involving little risk and little presence from our Navy. Well, that just has not been the fact. We see a total of 40 to 41 warships there today. That is a reality.

We see 10,000 American troops. And we see the Secretary of the Navy who just returned from there, reporting that it may be possible if a conflict is avoided, that the region stabilize, to reduce that presence. But for now the buildup continues and the possibility of conflict with Iran comes closer every day.

This is not what our planners had in mind when they decided to meet the Iranian threat against Kuwait and others by reflagging Kuwaiti vessels.

Reflagging, we will all recall, was supposed to deter Iran from daring to attack without committing major United States forces to the region.

We have had a debate in this body on the merits of reflagging. It was an extensive debate and I think it was a revealing debate because it proved that really what the reflagging issue was was a basic subterfuge. What we had done was to allow foreign ships to be reflagged. What we had done was basically put up the American flag for rent, for lease; something that has never been done on previous occasions. We set a very, very dangerous precedent. The sham of American involvement in which those ships were reflagged was truly a tragedy in the sense that we were simply saying that, under the interpretation of the mechanics of reflagged, those vessels, as long as they stayed in foreign commerce, even though they carried an American flag, an American captain and radio operator, would not have to be crewed by American sailors unless those vessels went into an American port.

Of course, the intention was that they would never go into an American port. It is interesting to reflect on the actions of Great Britain and the Soviet Union with regard to reflagging.

So, Mr. President, we find ourselves in an extraordinary position here, an escalating reality associated with our presence in the Persian Gulf; pouring in more warships, more personnel. The difficulty for this Senator, Mr. President, is we have no clear end in sight.

How are we going to know when we can bring our fleet back home? Are we saying that we need a 40-ship Navy in the gulf on a permanent station now to proceed?

The war in the gulf goes on. The U.N. Secretary General has returned from his peace mission unsuccessfully. Iran and Iraq have both resumed attacks on targets in the gulf, and we are moving further every day in my opinion, by degrees, away from our previous policy of neutality in that war and toward the point of siding with Iraq and its Arab allies against Iran.

You may have noticed the administration is no longer calling it the Persian Gulf. If is becoming the Arabian Gulf.

I do not disagree with the position that we are committed to, and that is to keep the Persian Gulf open. But it is fundamental that this body have an opportunity to debate the merits of the law which has been enunciated by my colleagues from the States of Washington and Oregon at some length.

I support the President's fundamental policy in the Persian Gulf. We had our forces there for 4 years to help in keeping peace and to keep those sealanes open. We have a right to be there and we have a right to assist if modern Arab governments are threatened by subversion and intimidation by the Ayatollah's fanatic regime in Iran.

But make no mistake about it, Mr. President, we have, as the U.S. Senate, a right to discuss this subject in a timely manner, and this is certainly a timely manner, if, indeed, we are not somewhat tardy on it.

Mr. President, the War Powers Act states clearly that whenever the President sends our forces into a situation where there is imminent danger of hostility, he must report to the Congress. He must report to the Congress. And that introduction cannot continue unless the Congress takes on some shared responsibilities by authorizing the intervention.

We are asking the administration to share that responsibility. It is appropriate that we do so.

This is a serious debate about the constitutionality, perhaps, of the War Powers Act; perhaps this matter ought to be taken to the Supreme Court and a clear decision rendered. Nevertheless, as I have indicated, it is the law of the land. The administration has argued that the gulf is not an area of imminent danger, but on August 26 that argument lost its force, lost its credibility, when the Department of Defense declared the gulf an area of imminent danger for the purpose of military pay. That is one step lower than hazardous duty pay.

Mr. President, in conclusion, no policy in the Persian Gulf will succeed unless it is sustained for the long haul, and no policy can be sustained unless it has congressional support and the support of the people of the United States. That is what Congress is asking for in this debate. Let there be no mistake about it.

While my colleague from Virginia discusses the merits of the timeliness of this matter being brought up, I urge him to consider the merits of what I have just said. I would encourage attention at this time to the reality that no policy in the Persian Gulf, again—and I hope my friend from Virginia is listening—can succeed unless it is sustained for the long haul and unless it has congressional support.

I am joining my colleagues from Washington, Oregon, and Arkansas in calling for the invoking of the War Powers Act in the Persian Gulf. In my judgment, the risk of conflict there has become very real and I think the majority of my colleagues will agree. It requires this country's unity behind a well-thought-out policy, and that policy, Mr. President, cannot just be a policy of the President. Congress has the right to share the decision of where we need to go in the Persian Gulf and it has an obligation to share the responsibility for carrying it through.

I appreciate the accommodation of my friend from Nebraska.

The PRESIDING OFFICER (Mr. WIRTH). The Senate will be in order.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President, I yield to the Senator from New Hampshire.

Mr. BYRD. Does the Senator yield the floor?

Mr. MURKOWSKI. I yield the floor.

Mr. BYRD. Mr. President, I do not seek the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

VISIT TO THE SENATE BY PARLIAMENTARIANS FROM THE PAKISTAN PARLIAMENT

Mr. HUMPHREY. Mr. President, as is self-evident, the Senate is engaged in a debate on a very important question. Still, it is important that we pause for a moment to examine a situation in the world that offers us encouragement and hope and to take the time to greet several of our fellow legislators from Pakistan who are here in Washington to meet with Government officials.

Mr. President, we are honored to have on the floor of the Senate today, five visiting members of the parliament of Pakistan.

This is an historic visit, as these elected parliamentarians are testament to the important strides that Pakistan is taking to restore democracy and elected government.

Mr. President, 1985 was an important year for the people of Pakistan. In January of 1985, Pakistan's President Zia Ul-Haq announced that parliamentary and provincial elections would be held the following month. In those elections, more than 1,200 candidates contested for the more than 200 seats in the National Assembly. Although the elections were boycotted by some, an article by Prof. William Richter that appeared in the February 1986 edition of Asian Survey states: "The February elections were widely regarded as relatively clean and fair."

In connection with fairness, it is significant to note that voters in those elections defeated several of President Zia's own Cabinet officers.

That is a remarkable and incontrovertible testament to the fairness of the elections, it seems to this Senator.

Following the elections, the provincial assemblies moved quickly to elect members of the upper house—the National Senate. President Zia designated Mr. Muhammed Khan Junejo as Prime Minister, and by April of 1985, a 13 member cabinet was announced. In keeping with the Prime Minister's promises. On December 30, 1985, martial law was formally abolished and civilian government was once again restored.

Mr. President, these are very significant developments. We are all encouraged by the progress that Pakistan continues to make. During a visit to Washington last summer, Prime Minister Junejo discussed with President Reagan Pakistan's progress toward the restoration of democracy. A joint statement released at the conclusion of that visit states:

> The President lauded the return of representative democracy to Pakistan, praising Prime Minister Junejo and President Zia for the steps taken to end martial law and restore to the Pakistan people the full liberties granted by the 1973 constitution.

Earlier this year, the State Department formally reported to Congress that "democracy and respect for human rights advanced significantly in 1986."

Mr. President, my introduction would be incomplete without paying tribute also to Pakistan's courage and principle in standing as a bulwark against Soviet imperialism and for her compassion toward the more than 3 million refugees in Pakistan who have fled the Soviet war in Afghanistan. It is a simple fact, that were it not for Pakistan's courage, by now Afghanistan would have been dragged bleeding into the Soviet Empire and the security of all of south central Asia imperiled. For her stand Pakistan suffered numerous cross border attacks and KGB-inspired terrorism and bombings throughout Pakistan, not just the borders. She is bearing a heavy burden today and richly deserves continued American commitment to her security and economic well-being.

Mr. President, I urge that each of my colleagues take a few moments, even in the midst of this serious debate, to greet our visitors from Pakistan. These democratically elected members are our counterparts in the legislative assembly of Pakistan.

They are Hasan A. Sheikh, Syed Mohammad Fazal Agha, Begum Salma Ahmed, Syed Nusrat Ali Shah, and Mohammad Siddiq Khan Kanju.

Mr. President, I thank the Chair.

(Applause, Senators rising.)

Mr. WARNER. Mr. President, before our distinguished colleague from New Hampshire retires from his desk here in the Senate to take his guests on a tour of the Nation's Capitol—and I am sure that many would want to join me—I want to recognize the contribution that the Senator from New Hampshire has made on behalf of freedom fighters in Afghanistan and on behalf of the people of Pakistan in recognition of their great support of that unfortunate war-torn nation.

This fine Senator has time and time again come to the floor of the Senate to protect the interests of those freedom fighters. We recognize that with appreciation and we thank the Senator from New Hampshire for bringing his guests to the Chamber this morning.

Mr. HUMPHREY. Mr. President, I thank the Senator from Virginia for his kind remarks. I likewise thank him, Senator EXON, and the majority leader, Senator BYRD, for making arrangements to accommodate our visitors even in the midst of this very serious debate on a very grave question.

Mr. EXON. Mr. President, let me add my thanks for those of us on this side of the aisle to the distinguished Senator from New Hampshire for his efforts. We thank him for what he has done and we certainly welcome our distinguished friends from that part of the globe that plays such an important part in the fight for freedom today. We salute you all.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with consideration of the bill.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, we trial lawyers have an expression that I am sure most Members of this body have heard from time to time, and it is that when you have the law on your side, argue it to the judge. When you have the facts on your side, argue them to the jury. And if you do not have either one, they say, run about and hoot and shout.

My trial lawyer instinct surfaces at a time like this; I divinely wish that I could argue this case to the American people because it is seldom in this body, let alone in lawsuits, that you have both so patently on your side. For the benefit of my colleagues who may have forgotten or may never have known, I want to read the law and remind you what the law is that you were sworn to uphold when you came here.

Now, Sam Ervin, the distinguished former constitutional scholar from North Carolina, used to say in this body, "English is the mother tongue. It means what it says and you should be able to read it and understand it." So, English being the mother tongue, let me read the mother tongue to you. This is the language that was hammered out over a long, protracted debate.

The distinguished majority leader from West Virginia was here, as were a few other Senators in this body, when this law was passed. It is the War Powers Act which was very carefully crafted to make sure we did not repeat Vietnam ever again. I want to also remind you that President Nixon vetoed this and it was overridden, to show the overwhelming support of the Congress for making sure that we did not blunder into a war that cost precious American lives for no tangible benefit.

Section 3:

> The President in every possible instance shall consult with Congress before introducting United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

Is there anyone in this body who wants that repeated? Is there anyone here who does not understand that? It says the President in every possible instance will consult with the Congress. Have you been consulted, Senator?

I can tell you the answer is no, not one single Member of this body or the other has been consulted.

Section 4(a):

> In the absence of a declaration of war, in any case in which the United States Armed Forces are introduced, (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances; (2) into the territory, air space or waters of a foreign nation while equipped for combat except for deployments which relate solely to supply, replacement, repair or training of such forces.

Is that not clear? What is it that anyone does not understand? It says that in the absence of a declaration of war, if you introduced American forces into an area where imminent involvement and hostilities is clearly indicated, you will invoke the War Powers Act and give Congress 60 days in which to decide whether we agree with it. This has not been done. It was not done over the clear objection of Howard Baker, the chief of staff, who warned the President, "This is an unnecessary battle with Congress. Give Congress a chance to get on board with you."

Caspar Weinberger and Frank Carlucci said, "No, let's thumb our nose. We can pull this off. The American people will be for us."

I might say at this point the American people are not for them. Every single poll I have seen shows the American people are overwhelmingly opposed to what I refer to as this nonpolicy.

It says imminent involvement in an area of hostilities or possible hostilities. And here is a memo dated August 25, 1987, from the Principal Assistant Secretary of Defense for Force Management and Personnel, and it is a request which says:

> The commander of the United States Central Command has requested, through the Joint Chiefs of Staff, that the Arabian Gulf and its airspace, Bahrain and Kuwait, be designated an imminent danger area for the purpose of authorizing the subject special pay for military members performing duty there. Our review of the situation in the Arabian Gulf indicates that the special pay is warranted on the basis of terrorist activities and other conditions.

Then it goes on to say:

> To qualify for the pay, military personnel, including aircraft crew members, must be: (1) permanently assigned; (2) perform duty in the designated area for a minimum of 6 days; and (3) be exposed to hostile fire or explosion of a hostile mine.

He says those conditions of hostile fire have been met and therefore we ought to be paying members of the armed services combat pay, as we used to call it in World War II. You remember that one. It was in all the papers.

Now, here is the War Powers Act saying if you are putting American troops into an area of imminent hostilities, the President must invoke this act, and here is the executive branch, the Principal Deputy Assistant Secretary of Defense for Force Management and Personnel, asking for combat pay for the servicemen there because those conditions exist.

Do you want to hear the clincher? On September 7, the Secretary of the Defense Department said you are right, and we will start paying them on that basis.

So every airman and every sailor in the Persian Gulf is receiving pay because they are in an area of imminent hostilities. On the one hand they are saying we do not have to abide by the War Powers Act because it is not in an area of imminent hostilities, and on the other hand saying we are going to pay everybody because they are in an area of hostilities.

So, jury America, what do you think about that?

Yesterday, the President was in Philadelphia, and all of us got goosebumps once again talking about the great charter of this Nation, our magnificent Constitution. I did not hear the President at any time this year quote Jefferson or Madison on their concerns about who would declare war. You know the Foreign Relations Committee of this body has debated this very piece of legislation and voted 10-to-9 in favor of it. It has not come up on the floor for all the obvious reasons but the Foreign Relations Committee reported out this precise language.

Mr. President, I hear Barry Goldwater quoted around here with a great deal of regularity. I do not quote Senator Goldwater very often because we did not agree very often. But I will tell you one thing. Barry Goldwater and Scoop Jackson and DALE BUMPERS are three Senators who said you send 1,500 Marines to Lebanon and you are going to be inviting an unmitigated disaster, and I must say, praying all the time that it would not happen. And I invite the Members of this body to recall what kind of consultation you had from the White House on that one. You had no consultation. You were told that these Marines were on their way to Lebanon for purposes which nobody understood. And that is one time that at least we had the sense to get out when it proved to be a disaster.

Senator Goldwater was interviewed by the Christian Science Monitor on August 25, barely 3 weeks ago. What did he say about our Persian Gulf policy? He says, "* * * the President is now courting further damage to the United States and to his administration with unnecessary, high-risk policies in the Persian Gulf. We're inviting disaster," says the Senator. And he goes on to say, "Personally, as one who has been through wars and lived with them most of my life, I don't like what the President's doing in the Persian Gulf. I think we're inviting disaster. In fact, I don't see how we can avoid it."

I ask unanimous consent that that Christian Science article be inserted in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 25, 1987]

GOLDWATER: REAGAN "INVITING DISASTER" IN PERSIAN GULF

(By John Dillin)

The Iran-contra crisis has cost Ronald Reagan his opportunity to be among the 20th century's greatest Presidents, says retired Sen. Barry Goldwater of Arizona.

Iran-contra has caused "irreparable harm" to the President, says Mr. Goldwater, who adds: "Reagan will be lucky if he can gain even part of the prestige back that he held."

Goldwater says the President is now courting further damage to the United States and to his administration with unnecessary, high-risk policies in the Persian Gulf.

"We're inviting disaster," says the senator, who was interviewed at his home here near Camelback Mountain.

Goldwater, regarded as "Mr. Conservative" within the Republican Party, says that historically, Reagan will rank behind both Harry S. Truman and Dwight D. Eisenhower as leaders in the White House.

The senator, who was the GOP nominee for president in 1964, blames Reagan's Iran-contra problems largely on the White House staff. He says:

"Republicans elect a president, and he doesn't know a thing about picking a staff. Right back to Eisenhower, we've had nothing but problems with White House appointments. But particularly Reagan. Reagan has . . . picked some of the worst we've ever had."

Goldwater says the staff has been arrogant, naive, and inexperienced.

"They just don't understand the art and the work of politics. . . . You have to know your way around. You have to know who to talk to. . . . And you have to be willing to listen."

Reagan's saber-rattling in the Persian Gulf particularly concerns Goldwater at this juncture. He explained:

"Personally, as one who has been through wars and lived with them most of my life, I don't like what the President's doing in the Persian Gulf. I think we're inviting disaster. In fact, I don't see how we can avoid it.

"One of these days, they're going to sink . . . an American tanker or an American warship. Then what do we do? Now, if we don't do anything, we can kiss the whole world goodbye, because we are not held in great esteem around this world today. We're looked on as sort of a paper tiger. . . .

"I don't believe in putting ourselves in a position that can result in war. And I think that's exactly what Reagan has done in the Persian Gulf."

Goldwater, who eventually reached the rank of major general in the Air Force Reserve, is a former Army Air Corps pilot who served in southern Asia during World War II. Looking back on his experiences there, he says:

"I hope and pray that the President doesn't get us into a war in the Persian Gulf. . . . That was my neck of the woods, and that's no place for an American."

Goldwater discounts the threat of the Iran-Iraq war to the supply of oil.

"If the Iraqis and Iranians want to fight it out, and it's going to go on forever, let 'em fight," says the senator. And if the warring nations start sinking Saudi and Kuwaiti tankers, "that's their business."

The US would be best served, says Goldwater, by devoting its energy to developing the oil supplies within this country, especially in Alaska. "We have all the oil this country will ever need," he insists.

The senator, who retired in January, also commented on the Republican Party, the conservative movement, the 1988 presidential race, and other topics. Excerpts from the interview follow:

What is the political outlook for the GOP?

I think we have at least one more presidential election that we will win. After that it will be touch-and-go, because we will then have run out of . . . money and ideas, and the people by that time would have gotten tired of the Republicans. These things go in cycles.

Does that mean the conservative movement has peaked?

No, no, no. The conservative movement is stronger now than it has ever been. . . . The great strength of the conservatives today are the young people. I lecture at Arizona State 25 or 30 times a semester, and at other schools, and I find a decided difference today—young people who understand the Constitution, who understand the American enterprise system, who are looking for jobs, not handouts. I am very encouraged by it, and I think it is going to continue to be that way.

But the Republicans won't benefit?

That's the cyclical effect that I've always believed in. . . . A man who is conservative [doesn't] always votes conservative.

Are there any true conservatives running for president in 1988 among the Republicans?

Yes. He may not be as "bad" a conservative as I am, but I think George Bush is going to be the man. I think he'd be a . . . good president.

But Bush comes from the East, which is that part of the country you once wanted to saw off from the rest of the US.

Well, he lived in Texas long enough to get over it.

Do any Democrats look strong in '88?

Yes, but they are not running. I think Senator [Sam] Nunn of Georgia and former Governor [Charles] Robb of Virginia—Robb went to school right here in Phoenix with my kids—he's a good man. But Nunn is about the best man we have in this country right now.

Some have compared Iran-contra to Watergate. Is it comparable?

No. It didn't prove Reagan to be a liar. [Watergate] proved Nixon to be a liar.

Besides our problems with the budget deficit, what major conservative goals remain unfulfilled?

I can't think of anything we've fulfilled, to tell you the truth.

Inflation is down, for example.

Inflation is down, interest rates are down, but if they weren't, we'd already be bankrupt.

So a major concern would be . . .?

Welfare. If we don't solve the problems of the welfare state, then we are going the way of all other nations that have tried it. Bankruptcy, then dictatorship. . . . We have today nearly 50 percent of our people [to some degree] dependent on the federal government for their livelihood. . . . I'll give you a good example. I started paying social security when it first came out—$4 a month. One day I counted everything that I could think of that I had put into social security [and] I hadn't put more than $10,000 or thereabouts in my whole life. Yet I now get that much a year, and more. [Goldwater donates his check to charity.]

So are you optimistic, or pessimistic?

I am always an optimist about my country. I'm an optimist because of the young people and their attitude. If I looked only at the elected officials and the Congress, the war is over. But I think the American people are beginning to realize what awful shape we are in.

Mr. BUMPERS. It has always been a curious anomaly to me that we can see the folly or sometimes the correctness of policies of the past and yet cannot apply our common sense and our knowledge of history in those events to situations that exist now which seem as clear as the nose on our face. Fourteen years out of Vietnam we are in the Persian Gulf; 13 years after Watergate we are into Irangate. It seems to me that memories get shorter all the time.

The President says we can accomplish this with six ships. The estimate at this very moment as I speak is that there are 41 warships, including minesweepers, in the Persian Gulf area to enforce our policy there. And I will come back to the cost in just a moment.

We have finally, because the President has insisted, gotten a little help from some of our allies with minesweepers because we did not have a minesweeper.

The other day there was a cost analysis done by the Pentagon, and they said it is going to cost about $1 million a day to carry out this policy. But the report went on to say it is going to be much more than that.

So let us just assume with a little embellishment and maybe a little hyperbole that it is going to cost a half billion a year to carry out this policy, and I frankly think that is very conservative. Are the Kuwaitis going to reimburse us? That is negative. Are Japan and the western Europeans, who get the oil, going to reimburse us? That is a negative. Is anybody going to help? And outside of those little minesweepers that have been sent over there, the answer is no.

Just by way of diversion, when we found out we did not have a minesweeper that we could even send to the Persian Gulf, my question is, "'My God, what did you do with that $1.5 trillion we gave you?" For 7 years we have had this monumental, staggering, unbelievable defense buildup only to find that all of those complicated laser beams and computers and guided weapons are not worth a dime against Iranian mines.

Not only are the Kuwaitis not paying to help us, but they will not let our ships berth there, and just recently they have allowed a few Sea Stallion helicopters to land there, not be based there, but to land on Kuwaiti soil. You will recall that when we started to send Sea Stallions to help with mine detection there, not minesweeping, but mine detection, that because Kuwait would not allow an American plane or helicopter to land on their soil, we had to send the Guadalcanal, a helicopter landing ship, halfway around the world to the Indian Ocean. Then we put our Sea Stallions on C-5 cargo planes and flew them to Diego Garcia, an island in the middle of the Indian Ocean, where they stayed until the Guadalcanal about a week later sailed close enough that they could fly the Sea Stallions from Diego Garcia to the Guadalcanal from whence the Guadalcanal sailed to near the Persian Gulf.

Can you imagine what that cost was? Can you compute the cost of that simply because Kuwait whom we are there to assist would not let Sea Stallions land, would not let C-5 cargo planes land on their soil?

Oh, jury America, I wish you were listening to all of this. I promise you if they were listening this body would be inundated with indignant mail.

Mr. President, when are we going to leave? I never will forget, I thought it was a pretty good speech. Nobody else much did. But I remember when Frank Clement was the young Governor of Tennessee. He delivered the keynote address. I do not know. I guess it was 1952, at the Democratic National Convention. And the theme of it was "How long, America?" And about every 2 minutes he would do just what I did, spread his arms and shout, "How long, America?"

So I ask those people on the other side of this issue, how long are we going to stay in the Persian Gulf? Tell the American people how long we are going to expose their sons to a hostile environment. And while you are telling them that, which you cannot do of course because there is no end to it, this is open ended, tell them what we are getting for exposing their sons to enemy fire. Tell them where the big benefits to America are and how we come out of this deal.

There is not one Member of this body—I started to say there is not one thoughtful Member of this body, but that eliminates a few, I think. There is not a Member of this body who does not know that we are courting disaster in the Persian Gulf. There is not one person here in this body who does not know that if we continue this policy until the Iranians and the Iraqis decide to end that war it may be 5, 10, 15, 20 years. You are not dealing with rational people. And there is not one person in this body who does not know a lot of moms and pops whose sons are going to die in the Persian Gulf. And for what?

Look at Senator NUNN's report to the majority leader about the rationale for our being there. The Soviet threat? That will not wash. As the Kremlinologist says: "As long as you can fall back on that, you don't have to think. Just say it can't come from anything else."

We are scared the Russians will take over the Persian Gulf. They have put three ships in there carrying oil.

I will tell you one thing—the Russians "ain't" dumb. When the Kuwaitis went to them and asked them to put their flag on Kuwaiti tankers, they said: "If you want your oil out, we'll lease some ships on a business proposition. We'll carry your oil out for $1 or $2 a barrel on our tankers, not yours."

It is a pure dollars and cents proposition for the Soviet Union. But once you told the White House the Soviet Union was going to be in there with three tankers, we showed them a thing or two. We put our flag on 11 Kuwaiti tankers, and are contemplating maybe 11 more. We "ain't" even getting paid. We do not even ask the Kuwaitis to pay the additional hostile fire pay.

I sometimes think—I sometimes know—that we are not very sensitive when it is somebody else's sons who are going to die. We can wave the flag and say: "This is all in the defense of America, and this is patriotic, and you are improving the security of America."

I suppose that is pacifying and ameliorating for some parents who have lost a son. I can tell you one thing: It would not pacify this father if he lost a son in the Persian Gulf.

Do you know what is really ironic? Listen to this: I remember being in Iran in 1977, I guess, and going to some of their air bases to look at the F-14's we were selling the Shah. They had built these big concrete revetments to shield those F-14's. Not only were we selling them the F-14, which is one of our most sophisticated fighter planes, we also were selling the Phoenix missile, by far and away the the most sophisticated air-to-air missile we have.

There were seven or eight Senators standing around, and we said to the Shah of Iran, "Why do you want all this weaponry?" President Nixon had just sent the Shah a shopping list and said, "Take what you want."

The Shah said, "Who is going to defend the Strait of Hormuz? We are your friends. We got these weapons to defend the Strait of Hormuz for you, so that oil will flow."

Is that not rather ironic? Right there, they have our F-14's and our Phoenix missiles. They are not only guarding the Strait of Hormuz; they are trying to close it.

In the latest arms sale caper to Iran, we sell them the Hawk missile, easily one of the most sophisticated ground-to-air missiles in the world.

So, in all honesty, we should tell American boys and their parents: "Not only may you lose your life; you may lose your life at the hands of American weapons."

We have sold Iran the most sophisticated weaponry we have, and they may shoot down our aircraft with their Phoenix missiles or they may shoot down our aircraft with their Hawk missiles.

We never remember, in all these arms sales around the world, that our weapons last longer than our friendships, and that is one of the reasons I almost automatically never fail to vote against these arms sales.

We left Vietnam the third most powerful Nation on Earth in terms of weapons when we pulled out of there. Look at the world's revolutions and see what kind of weapons a lot of the Communist nations or the Communist rebels are using. They are American-made weapons that we left behind in Vietnam. The Vietnam corollary is crystal clear to this Senator.

Secretary Webb was an opponent of this policy.

Mr. WARNER. Is there a time at which I might ask a question and do so in a way not to interrupt the train of thought of my distinguished colleague from Arkansas?

Mr. BUMPERS. The minute I finish, I will turn to you and ask you to ask all the questions you want.

Mr. WARNER. And you will remain, and we can have a colloquy?

Mr. BUMPERS. I will be delighted to do that.

Mr. NUNN. Mr. President, will the Senator yield for a procedural question?

Mr. BUMPERS. I yield.

Mr. NUNN. Do we have a time agreement that has been entered into on this, or is one possible?

Mr. WARNER. Mr. President, I have made inquiry on this side. There are several Senators who wish to speak; and as soon as I can ascertain the number of speakers and the probable duration of their statements, I will be happy to advise the chairman. I share his hope that perhaps we can address the majority leader's inquiry and arrange for a vote, perhaps before noon, on this important matter.

Mr. BUMPERS. I would hope so.

Mr. WARNER. It would be my intention, Mr. President, to move to table, but only Members have been given an opportunity to speak.

Mr. NUNN. I do not want to interrupt the Senator from Arkansas at this point, but I would like to have about 2 or 3 minutes for an announcement, and I will wait until he can give me a signal to make that announcement, which is unrelated to this amendment.

Mr. BUMPERS. I will be happy to do so.

Mr. President, some said that the rationale, besides ensuring the oil coming out of the Persian Gulf—incidentally, one of the questions I will ask the floor manager when I finish speaking is how many tankers have been sunk in the Persian Gulf since the Iran-Iraq war started, and how much oil has not gotten out of the Persian Gulf since the war started, in order to discuss one of the present rationales for doing this—that is, the freedom for oil to get out; the other is freedom of the seas; and the other is the Soviet threat.

Some said that—and this made a little sense; of all the reasons given, one made a little sense. Some said that maybe by going in there and obviously taking the side of Iraq—which we are doing, make no mistake about that—we can convince the Iraqis to call a halt to the war in the gulf, because they have been the biggest offenders. They have attacked more shipping, by a margin of 2 to 1, than have the Iranians. Everybody knows that if we put any pressure on the Iraqis, it did not work. Just yesterday, they were still busy attacking shipping in the gulf.

Mr. President, what is our response going to be when we start losing American lives? I predict that unless Congress stiffens its spine and says, "Let's stop this nonsense," the minute American lives are lost, the war will widen, the American people will turn in favor of attacking Iran, and we will be enmeshed in another Vietnam, and that is the Vietnam corollary.

We have never in this country lost anything that I know of, in my knowledge of history, by stopping and being reflective. I certainly do not know of a time in this country when we have benefited by plotting the law so totally.

There is an old expression in Arkansas: "Everybody's business is nobody's business." We have been in the Persian Gulf for a while now, and inertia has set in. As long as no ships are sunk and no American boys are being brought home in those green bags, inertia sets in, and everybody says, "Well, maybe it's not so bad." I do not believe there is nearly the sentiment in this body or in Congress right now that there was 1 month ago or 2 months ago. It is very difficult to wake people up to something that is not immediately threatening.

One of the things I objected to from the beginning on this thing is that I think it is a gross demeaning and belittling of the American flag.

I think about the goose bumps I had when I marched down the parade field, graduating from boot camp.

As the Senator from Idaho and the Senator from Virginia said on the floor, they are both marines, and they remember precisely what I am talking about.

The American flag was in front of us and we were so happy and proud that we had even survived boot camp.

Incidentally, that drill instructor in the movie "Full Metal Jacket" is a weakling compared to the one I had. But I will never forget, probably the most exciting, exhilarating moment of my life when I think about that flag that gave me goose bumps that day, and now that flag is flying on the Kuwaiti oil tankers.

I do not know why every veteran in the country would not take exception to this.

So my good colleagues, as we celebrate this 200th birthday of our Constitution, the document that you held your hand on when you came here and said "I swear to preserve, protect and defend the Constitution," and that means you not only will defend the Constitution but the laws passed in pursuance to the Constitution.

So as Atticus Finch, the defense lawyer in the book, and movie, "To Kill a Mockingbird," said in his closing argument to the jury in that little southern town in the twenties when an innocent black man was charged with raping a white woman, Atticus Finch said to the jury in closing his argument, "For God's sake, men, do your duty."

I yield the floor.

Mr. WARNER. Mr. President, my first inquiry to our colleagues who have sponsored this amendment—I regret Mr. HATFIELD is not present, but we do have two on the floor—is to make an inquiry as to what it is they are trying to do specifically. I have examined the amendment with some care.

Mr. NUNN. Excuse me.

Will the Senator from Virginia yield without interrupting on this point?

Mr. WARNER. Yes.

Mr. NUNN. I need to make an announcement so the colleagues and people who follow the overall debate on this Armed Services Committee authority bill can begin doing some things.

We have this Persian Gulf amendment up. This is a major amendment, very important amendment. Certainly no one should be pushed. I would hope we could complete it as indicated by noon or before.

Then this afternoon, starting about 1:30, I am told that the Senator from Oregon and the Senator from Arkansas will be ready to pursue two big chemical amendments, and I would hope we would begin thinking on both sides of the aisle about whether we can get time agreements on those amendments.

My observation is that you do not change many people's minds on chemicals on the floor of the Senate.

I would hope we could recognize that and have a reasonable time limit.

We have a nuclear testing amendment by Senator KENNEDY, and I would hope we could get a time agreement on that one and perhaps pursue that one today also.

We have an ASAT amendment.

Mr. WARNER. Excuse me. Mr. President, in view of the announcement which I understand was made this morning—I have been on the floor here since 8:45—on the matter of scheduling, do we know whether the distinguished Senator from Massachusetts still wishes to propose that amendment?

Mr. NUNN. I do not know. I cannot answer my friend from Virginia. I think we have to ask the Senator from Massachusetts on that point.

There is an ASAT amendment by Senator KERRY and I understand that he is ready on this one but needs to do it some time this afternoon rather than later on this evening.

We have an amendment by Senator JOHNSTON to reduce the funding for strategic defense initiative.

We have an important amendment by Senator BUMPERS and Senator LEAHY on SALT II compliance.

Those are the ones that are going to take some time.

I have every intention of being here, provided the majority leader agrees, and the Senator from Virginia, I believe, concurs in this, all day tomorrow, and probably until about midnight tonight. I do not want to go later than midnight tonight because I want to have a big day tomorrow and get as many amendments in as possible, and I see no need going to 3 or 4 o'clock in the morning. I think we are going to have to go to about midnight tonight and probably about 6, 7, or 8 o'clock tomorrow night, and the only way it can be avoided, as I say, is if we can get time agreements on virtually all of those amendments, and in addition to those amendments we would have to get some time agreements on other amendments that are not in the same category as far as the lengthy debate but could stretch out—any one of them could stretch out into 5 or 6 hours debate.

We have an amendment by Senator WILSON from California on cost effectiveness at the margin. I think it is something we debated before, and I would hope we could get perhaps about an hour or less on that one.

We have three amendments by Senator LEVIN on Midgetman, SDI, and MX, and those are all transfer of funds amendments, and I hope we would get a very brief time limit on all three of those.

We have an amendment by Senator HELMS from North Carolina on Minuteman II replacements.

We have an amendment by Senator EVANS from Washington that relates to the N-reactor in Washington State.

We have an amendment by Senator BUMPERS on the so-called man-in-the-hoop amendment relating to SDI and technical considerations on SDI that are important, and I understand the Senator from Arkansas can go on that immediately after this debate.

Mr. BUMPERS. That is correct. I am prepared to go on that immediately after a vote on this if the Senator is ready.

Mr. NUNN. Unless there is someone on that side of the aisle who wishes an amendment immediately after this one certainly we would informally observe mutuality and reciprocity here and move back and forth.

I would like to tentatively plan on going on that one next if the Senator from Arkansas would be ready, which he indicates he will, and the Senator from Virginia concurs.

Then we have an amendment by Senator JOHNSTON from Louisiana on limiting the space-based kinetic kill vehicle, the new part of SDI, the new program.

Senator LAUTENBERG has an amendment we debated last year and voted on last year on religious apparel in the military.

We have a Gramm from Texas amendment on Davis-Bacon. We have a Gramm amendment on service contracts. Those are issues that usually take considerable length of time.

We have an amendment by Senator WEICKER on consistent budgeting. I am not familiar with the details of that one.

We have an amendment by Senator DODD from Connecticut on Panama.

We have a very important amendment by Senator KENNEDY on nuclear aircraft carriers. I know my friend from Virginia is interested on that subject.

Those are what I call 7 blockbuster amendments and 14 less than blockbuster in terms of time, but very important amendments that will consume time.

So we have 21 amendments that, as I view it, on each one of them, we could average 5 or 6 hours' debate on those 21 amendments unless we get a time limit. That is 120 hours just on those.

We have 30 more amendments that I have not listed here, and all of them could take time, but I do not consider them of this nature.

So if you take an average of 5 hours on those 21 amendments, that is 100 hours, and if you divide that into 12-hour days, that is 8 or 9 more days, and frankly, the majority leader has really given me and the Armed Services Committee about the end of this week and next week.

We have 1 day next week we will not be in which is standing practice. That is Monday. We have another day that we hopefully will be as productive as possible, but since we will be stacking votes, we may have difficulty getting people here.

So we perhaps have 3½ days next week and we have at least 8 days of work, not counting 30 more amendments, and if you add another day or 2 days for that, you have 10 days of work which could stretch this bill out for as long as a month.

So I can only say to the majority leader that is the best estimate I have. If we go on as we are going and if everybody acts in good faith, which we are acting in now, we have no attempt that I see whatsoever to stretch out this bill purposefully or anything of that nature, I think we are beyond that point, and I think we have had splendid cooperation from our colleagues on that side of the aisle in the most recent hours we have been debating this, and so I say to the majority leader it looks to me as if we will spend anywhere from 3 weeks to a month on this bill unless we get time agreements.

The way I see it, we will have to go as many days as the majority leader is willing to go and as late as we can with still leaving room for at least a partial night's sleep so we can come back and have a full day the next day.

I would say to the majority leader it is my recommendation as floor manager, and the Senator from Virginia can speak for himself, but we talked about this a good bit, and I think I speak for both of us, we are willing to be here tomorrow, Monday if necessary. We are willing to stay late tomorrow night. We are willing to be here all of next week and I would anticipate a Saturday session next week following, and if the majority leader so desires—I am not advocating, but if he desires it, I will be here on Sundays, because we had 4 months waiting on this bill.

Appropriations bills have stacked up. The military service is dependent on this bill. The men in uniform are. We are talking about men and women in uniform. We are talking about the Persian Gulf. Pay raises are in here. Special benefits are in this bill. The money for ships in the Persian Gulf, the money for the ammunition, the airplanes, everything is in this bill. So it is of enormous importance, and I demonstrated earlier I thought it was more important even than a Supreme Court Justice, his confirmation hearings, and I do.

So I just say to my colleagues between now and around midnight tonight, we have to know whether we can get time agreements and I am not talking about 6, 7, or 8 hours on these amendments—I am talking about in the 1- and 2-hour bracket—whether we can get time agreements on these key 21 amendments. If we can, then we can give them a projection of a reasonable schedule next week and a reasonable schedule, perhaps even avoiding a session tomorrow. If we cannot, we will be here to 11 or 12 o'clock tonight as far as I am concerned and all of this is subject to the majority leader. Everything I said is subject to his wishes. He has a much broader picture than I do of the Senate and does a splendid job keeping a broader picture in mind. As far as I am concerned, if we do not get time agreements on these 21 amendments, we will be here until about midnight and tomorrow night to about midnight.

And Monday will be up to the majority leader. But I would acquaint him with the fact that I would be willing to be here on Monday. But we will certainly be here the following Saturday and I think Senators ought to all be on notice that is where we stand.

Mr. BUMPERS. Mr. President, I will just say, to avoid a Saturday session, which is very vital to all of us, I would just let the manager of the bill set the time on all my amendments. He can just set the time as to whatever may be appropriate.

Mr. WARNER. Mr. President, the distinguished chairman has stated with specificity what work remains. But when this bill was formulated by the Senate Armed Services Committee, the Republicans took a very great deal of pride in it. With the exception of the one amendment, the Levin-Nunn amendment, we were ready on the bill, not only in the committee but ready to take it to the floor and vote on it as it was.

Most of these amendments clearly are coming from the majority side of the aisle, and we will do our best to deal with them. But we are not piling on amendment after amendment. The majority of the Members on this side of the aisle thinks the bill, with the exception of the one provision, is a very good bill and addresses the needs of the Armed Forces of the United States. We were ready to act on that bill and would have acted on that bill as reported out of the committee had it not been for this one amendment.

Mr. BUMPERS. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BUMPERS. Mr. President, as far as I know, there are no other speakers on this side, with the possible exception of Senator GRAHAM, who might want 5 minutes. If he does, I assume he will be here. Otherwise, we are finished and I will be happy to vote at 11:30.

Mr. WARNER. Mr. President, I thank the distinguished Senator.

It is now 5 minutes to 11. We have been on this amendment for 2 hours. Generally speaking, we have, I think been relatively quiet on this side and allowed this amendment to be presented. Now it is our turn and I am ready on this amendment as soon as I can get the floor to speak on this.

Mr. BYRD. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. Mr. President, I have discussed this situation with the Senator from Georgia, including the calendar and the overall matter of the heavy work that confronts the Senate in these few remaining weeks before Christmas, and I am fully supportive of the program that he has outlined insofar as it treats the pending business before the Senate.

There is no doubt but that we have worked ourselves into a situation now where we are just going to have to work late nights and work on Saturdays, if need be, and, if need be, come in on a Monday, which gives me the greatest heartburn because I have made a commitment that we would not come in on Mondays. But I cannot foresee every contingency and eventuality that might arise. I have said, barring an emergency, we would not have sessions on Monday.

So, that being the case, I am going to support the distinguished chairman and the ranking member. The ranking member says that they were ready to vote on the bill and there was only one problem area and that was the reason why the bill was held up for so long.

Well, the chairman and I consistently took the position that, even though that problem area was there, we ought to get the bill up and let the Senate work its will and get on with the rest of the bill. And the Senate worked its will on that matter and it could have done that 1 month ago or 2 months ago just as well.

But that is water over the dam now and we have the bill before us.

So, I say to the distinguished chairman that I do not want to be in here on Saturdays, I do not want to be in here on Mondays, I do not want to be in here on Sundays, but it is rather refreshing to have a chairman and ranking member who say: "Let's go against Philip."

That was Demosthenes' rallying cry: "Let's go against Philip." Well, Let's go. Let's go.

Now, can we get an agreement on this amendment that is pending?

Mr. WARNER. Mr. President, I respectfully suggest to the majority leader that the answer would be in the negative, simply because we have not had a chance to speak on it. I mean, it is just a fact of the matter.

Mr. BYRD. I understood that the distinguished Senator was going to speak.

Mr. WARNER. Yes; but there are other colleagues on this side who wish to address it. I am simply going to lead off with a rebuttal at this time. I know of at least two other Senators desiring to speak.

I will try to make an assessment and advise the majority leader at what time possibly the Senate can reach a vote.

Earlier we did talk. I did not realize the presentation of the amendment would take 2 hours. There was, I realize a hiatus on the occasion of our visitors from Pakistan, which I think was very important.

Mr. BYRD. Mr. President, momentarily I had forgotten the distinguished ranking member was going to speak.

But, aside from that, I had understood from the distinguished ranking member that no other Senators over there are holding up this amendment and they are ready to vote on the bill. Removing the Senator from Virginia and the fact that I did understand he wanted to speak, I would hope, following that, that we can get an agreement on the amendment so that we can make further progress.

I am fully supportive of the Senator from Georgia and I am glad he took the floor at this point early in the day to lay it out right on the table, because Senators all day long will be asking, and have been asking thus far: "What is the outlook for the rest of the day? What is the outlook for a Saturday session?"

Mr. NUNN. Will the Senator yield for a moment?

Mr. BYRD. Yes.

Mr. NUNN. I have told every Senator privately and publicly that we will have no windows today or tonight or tomorrow or tomorrow night. I have told them we will not stay later than midnight tonight unless we are about to finish an amendment and lapse over, because I think that interferes with a full day tomorrow.

But my view is that we have no more windows on this bill for anyone. I have places I have got to go and I know other Senators do.

I sympathize with every case presented. But I have great sympathy for the majority leader, because when you manage a bill out here you get about one one/hundredths of the pressure that the majority leader gets every day. So, my appreciation for the splendid and very difficult and frustrating job to the majority leader grows every time I manage a major bill on the floor of the Senate.

Mr. EXON. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. EXON. An hour ago I was seated in that chair and the offer was made by the introducer of the amendment before us and the principal backers of that for 1 hour, equally divided, to finish up. A statement was made a few moments ago that no one realized it was going to take 2 hours for the presentation of the proponents.

I suggest, and I think I grasp the situation, that we would have had this over with and done with with the dividing of the time. The Senator from Arkansas is ready to divide the time, if we could reach some kind of an agreement. If not, of course, he is not going to restrict his argument.

I just appeal once again to my good friend from Virginia. I do know that there are all kinds of pressures on all of the Senators, including this one. I am leaving tonight because of a family matter that I feel obligated to. You can go on and conduct the Senate without me. But I am leaving sometime tonight. I do not like to miss these important votes or miss taking part in the debate. But we have got to move this along.

I salute the majority leader and the leader of our committee for keeping our feet to the fire on this thing. I hope, on this amendment and each and every amendment that comes up, that we could have an understanding that we should have some kind of a time agreement, because without that we are not going to get anywhere and we are going to be bogged down here until midnight tonight, midnight Saturday, and probably midnight Monday. I appeal for some reason so we can get this bill moving.

Mr. BYRD. Mr. President, I also should state that Mr. HATFIELD told me earlier that we would be willing to enter into a time agreement.

May I also express my thanks to the able ranking member who has been very cooperative with the leadership.

I also commend the attitude taken by the distinguished Senator from Nebraska. He has to go because of family reasons. He has to go and he is not saying, "Let's hold up the Senate." He has to make that choice.

I again want to thank the chairman of the committee. It is like a breath of fresh air for me to see a chairman come to the floor and say, "We have a tough bill and we are going to stick on it."

Usually it is ROBERT C. BYRD who stands up here and who has to make the statements and earn, at least temporarily, the enmity of my colleagues. And I know their frustration.

Mr. NUNN. I think the majority leader is telling me in a very subtle way that I am earning the enmity of our colleagues; he is sharing that with me.

Mr. BYRD. No. I am complimenting him. I wish other Senators would have a dose of what the chairman and ranking members have here, in dealing with a difficult bill.

Mr. WARNER. I appreciate all the sentiments. We will do our best. Can we get started?

Mr. BYRD. Mr. President, I get the message and I am glad the Senator is giving me that message. I am going to take my seat and I hope all Senators will have heard the Senator's message.

Mr. BUMPERS. Would the Senator from Virginia like to make it 50 minutes to your side and 10 minutes to our side?

Mr. WARNER. I cannot at this time indicate when it will come to a vote.

Mr. BUMPERS. We spent 20 minutes talking about how urgent it is.

Mr. WARNER. The debate will be significant and persuasive.

Mr. BUMPERS. Does the Senator from Virginia have a question?

Mr. WARNER. Not one, not two, but several.

I thank the distinguished majority leader, members of the committee. They have made a case. We know we have to move on. I will do the best I can.

Mr. BYRD. This might help a little bit. I want to help——

Mr. WARNER. I know that.

Mr. BYRD. I hope we do not go on too long. I may change my view as to how I will vote on this amendment.

Mr. WARNER. That is a very subtle and important message and I take it to heart.

The PRESIDING OFFICER (Mr. BREAUX). The Chair recognizes the Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, our distinguished colleague from Arkansas said, and I quote, "the Russians ain't dumb."

I say to my colleagues in the Senate, respectfully, neither is this Chamber dumb. I do not believe we are going to adopt the amendment that is pending for these reasons.

First, I am not in any way able to determine what it is the amendment seeks to achieve.

It is drawn in the form of two parts. It is like a fishnet being cast on the whole Persian Gulf area. Because if it is the objective to address the issue of removing the Armed Forces from the Persian Gulf area, does that include the Navy that has been there for 40 years? This Nation has had a presence in the gulf for 40 years. The amendment catches that standing naval force.

Mr. President, if I may just finish and then I will propound it in the form of a question.

Mr. President, this Nation has worked with a number of Gulf States, primarily Saudi Arabia, to provide AWACS warning systems, absolutely essential to the preservation of the peace in other Gulf States.

Is this amendment designed to bring to a cessation that military activity by the forces of the United States, which has been so valuable to maintaining peace?

Mr. President, our naval forces, although stretched primarily in terms of carriers, now have a presence in the Indian Ocean. Those fleet units in the Indian Ocean are directly or indirectly supporting the men and women of the Armed forces in the Persian Gulf area at this time. This amendment would cast out the net and could easily be interpreted as requiring the President to bring those forces back into other operating areas.

I ask drafters of this amendment to stop and look at the language. First, let us address the War Powers Act, section (b) and I quote:

> Within 60 calendar days after a report is submitted—

All right, the President has not submitted that report—

> or is required to be submitted pursuant to Section 4(a)(1),

That is what we are endeavoring to do here this morning, to trigger such a requirement—

> * * * whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted) * * *.

That is what we are doing here today, endeavoring to put on this piece of legislation a requirement that triggers the War Powers Act. So we now go to the amendment. The amendment states:

> The requirement for the transmittal to the Congress of the report described in Section 4(a)(1) of the War Powers Resolution shall be deemed to apply to the escort, protection * * *

I point out that escort protection involved the AWACS early warning planes; it involves the fleet units as far away as the Indian Ocean and the Gulf of Oman.

> or defense of any vessel which has been registered under the United States flag and which as of June 1, 1987 was owned by the Government or nationals of any country bordering the Persian Gulf.

Mr. President, I ask the drafter of the amendment to address this question. I think I stated it quite succinctly.

How big a fishnet? What is to be caught and brought under section (b) of the War Powers Act?

Mr. BUMPERS. Senator, I think your question is an appropirate one and I am most happy to respond to it.

The War Powers Act, as you know, says that within 60 calendar days—it says, first of all, the President will report to the Congress. And he will report to the Congress why troops, ships, planes, et cetera, Armed Forces, have been introduced into a hostile environment, and subsection (b) of section 5 says:

> Within 60 calendar days after the report is submitted * * * the President—

Unless Congress, of course, it is understood, of course, unless Congress agrees with such introduction of such forces, it says:

> The President shall terminate any use of Armed Forces with respect to which such report was submitted * * *.

It does not say that he will withdraw American forces from the Persian Gulf. It does not say we cannot fly AWACS. It does not say that we cannot even have 41 ships there, Senator; which is about 7 times the normal number of ships.

It says he will terminate the use of those ships with respect to such report. The report being that we are escorting Kuwaiti tankers.

Mr. WARNER. Now, Mr. President, let us turn to the balance of section (b).

After the report is submitted and this action is triggered, the following steps have to take place.

No. 1, "unless the Congress has declared war . . ." and I ask my good friend from Arkansas, is anyone shooting at us today? Against whom do we declare war? Is that an option, in your judgment, a declaration of war, given the circumstances in the gulf today; given the circumstances in the gulf in the past 60 days——

Mr. BUMPERS. No.

Mr. WARNER. Given the circumstances where we can see, clearly, forebearance by the Iranians from direct engagement with American forces?

What are the circumstances under which we would declare war? Is that an option?

Mr. BUMPERS. The Senator is asking me whether I would vote for or against war if tomorrow is a clear day or a bad day or if an Iranian gunboat sinks an American warship? That is something Congress would have to deal with at a specific occasion, pursuant to a specific series of events.

As of this moment, here is one Senator that is not prepared to declare war. I doubt seriously that any other Member of this body is. That is why we are here. We are trying to avoid the necessity of such action.

Mr. WARNER. Nevertheless, once this act is triggered, this sequence of options opens; and I agree with my good friend——

Mr. BUMPERS. Senator, if the Senator may please be fair with me on this. What subsection (b) of section 5 says is that the President will terminate the use of our Armed Forces with respect to the report he has filed. Unless Congress has declared war.

We all understand that now. You may go ahead. There are a series of other circumstances.

Mr. WARNER. I thank the Senator. The next option is an act of specific statutory authorization for use of such U.S. Armed Forces.

In what form would that authorization likely be?

Mr. BUMPERS. Senator, if the Senate and the House both passed this amendment and the President signs it, which he is not likely to do—let us assume that this amendment today becomes law—the President then must comply with the terms of this.

Mr. WARNER. Right.

Mr. BUMPERS. And, again, to be repetitious, he must terminate the use of America's Armed Forces with respect to the report he has given us unless we have declared war or unless Congress, within the 60-day period, has debated our policy and said, "Mr. President, it is OK. Stay there if you want to under the terms of your report."

That is an option. It is left to the Congress to debate it. It is an option which the Congress has not yet debated. That is, do we not approve of the use of American forces for this purpose?

If this is adopted, Congress will still debate that issue.

Mr. WARNER. Now, Mr. President, let us think about that situation, if the amendment becomes law and Congress commenced debate for some 60 days. In what position does that leave our allied forces and other friends who have come into the gulf region, providing their contribution toward achieving a containment of that unfortunate war and even the termination of that war?

Let us say we triggered the act and we begin the 60-day debate. The United Kingdom is participating with five combat ships, two support ships, four minesweepers; France, five combat ships, three support ships, and five minesweepers. Italy and other nations—I could go on and list more vessels deployed.

The Senator from Arkansas is fully aware of this. What would be the posture of our allies if this body were to say this whole policy is under debate for 60 days while Congress debates the propriety of United States participation in this area? What posture does that put our allies in?

Mr. BUMPERS. Let me answer this way. When Great Britain sent minesweepers to the gulf, is the Senator aware of what Mrs. Thatcher said the reason was?

Mr. WARNER. This Senator has followed Mrs. Thatcher's statements.

Mr. BUMPERS. First she said, "No, thanks."

Mr. WARNER. Mr. President, she did not say no.

She sought the steadfastness and determination of this President to commit our forces in the cause of peace and stability in that region. It was that leadership that brought about this allied participation. It is that leadership that you are now going to challenge under the War Powers Act and throw into a state of uncertainty for 60 days.

Mr. BUMPERS. All I am saying in this amendment is, "Mr. President, please comply with the law," which is so patently clear to anyone who reads English. Mrs. Thatcher did not say "We are sending our minesweepers there because the President of the United States has been steadfast."

She said, "We are sending our minesweepers to escort British ships."

If she wants to leave the minesweepers there to escort British ships after we impose the War Powers Act, she and all our allies have a right to stay there. I am not telling her to take her ships out. The War Powers Act has nothing to do with Great Britain. She could reflag and escort, so far as I am concerned.

Mr. WARNER. Given this very complicated situation in the gulf, is the Senator suggesting that the United States, one of the two superpowers, is going to pull out under the war powers resolution, abdicate its responsibility, and allow the other nations to fill that hiatus? Is that a realistic option?

Mr. BUMPERS. Do you think the Soviet Union, leasing three or four tankers to the Kuwaitis in an arm's length transaction for money represents Soviet domination? Incidentally, this is exactly the reason the Senator from Alaska, a cosponsor of this amendment, said if we are going to do this, let us use American ships. We have tankers galore laying around here idle. Why do we not do what the Soviets did?

"If you want us to carry your oil, put the oil in our ships. We will lease you all you want."

Does the Senator consider three Soviet tankers being leased to the Kuwaitis, when hundreds of tankers pour in and out of that gulf every day, does he think that makes the Persian Gulf a Russian sea?

Mr. WARNER. Mr. President, I would like to answer my good friend's remarks on the potential participation of the Soviets.

Look at Russian history. Go back to Peter the Great. That nation has long coveted a warm water port. They are now waging a brutal war in Afghanistan, one of the objectives of which may be to achieve a greater presence in that area.

Last night, as I mentioned earlier to the distinguished chairman of the Foreign Relations Committee, a small group of us had an opportunity to speak to Soviet Foreign Minister Shevardnadze, just a quiet roundtable discussion. I asked him the question, Is it not in the interests of the Soviet Union and the United States jointly to contain that war and hopefully to bring about peace in that region and a termination of the hostilities. His response, unequivocally, was yes, but he said we should do it in the United Nations forum.

I concur. Our President, through our representative, is working diligently. One United Nations resolution has recently been passed. We are actively pursuing a second resolution on sanctions.

If we were to launch ourselves into the situation of a 60-day hiatus under the War Powers Act, where this body and the Congress as a whole is debating the propriety of the policies of our Government, it would simply undercut the President right in the middle of the United Nations and Security Council negotiations aimed at bringing about a cessation of hostilities in the Iran-iraq war.

I do not think three tankers is the full measure of the potential participation by the Soviet Union in this very important area of the world.

Mr. BUMPERS. Does the Senator think the United Nations will disband if this passes, if we cause the President to invoke the War Powers Act, that the United Nations will stop debating this issue on a resolution calling on Iran and Iraq to cease hostilities?

Mr. WARNER. I think, quite frankly, that if we get into the situation, the Congress would see the wisdom—I am confident this body would—see the wisdom of supporting the President of the United States and his actions today in the Persian Gulf.

Mr. BUMPERS. The Senator knows the full House has voted by a vast majority to discontinue this policy.

Mr. WARNER. That is correct. But when it really comes down to making the decision and directing the course of our forces, I do not believe that we——

Mr. BUMPERS. Do you believe the American people understand this policy?

Mr. WARNER. My response is, not fully; but I doubt if they had the opportunity to vote that they would compel the President to withdraw from that area. They would study it and in due course reach the right conclusion.

Mr. BUMPERS. Every poll I have seen shows the American people are overwhelmingly opposed to this policy.

Mr. WARNER. We have both had many years of experience with polls. Polls are one thing. A concrete decision and a vote is another. When we get down to the voting, the people of this country would be supportive of our President and see the wisdom of having an American presence in the gulf, a presence which is there to provide peace and stability.

Now I would like to add a note about imminent danger pay. The Defense Department has said that individuals serving in the designated imminent danger zone will qualify for increased pay.

The amendment as drafted would use this as part of the basis for triggering the provisions of the war powers resolution.

The legal standards governing this special pay determination, and the broader language and history of this pay authority, allow it to be available in situations where the war powers resolution does not apply.

Presently, five other areas have been designated, at various times, for this special pay, without Congress making use of the War Powers Act. These five are El Salvador, Lebanon, Sudan, Peru, and Colombia.

This is an important point. The special pay authority applies where there is a "threat of physical harm or imminent danger." But the War Powers Act applies only when imminent involvement in hostilities is clearly indicated.

Mr. President, I do not wish to monopolize the floor. I hope to return to this matter. I have further questions for my good friend from Arkansas. I see on the floor the distinguished ranking member of the Foreign Relations Committee, and I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor. The Senator from North Carolina seeks recognition and is recognized.

Mr. HELMS. Mr. President, I thank the Chair, of course. I have just a few observations.

The Senate is now engaged in chasing rabbits, and irrelevant rabbits at that. Every Senator in this body knows what is afoot. We can have protestations, pious or not, that the will of the Senate must be worked. I agree with that. But every Senator also knows that this bill is going nowhere in terms of being signed by the President into law. So what is being constructed here is veto bait.

Now, I said on this floor the other day, and I reiterate, that if Senators will be willing to lay aside the Levin-Nunn amendment as well as the amendment before us now, this bill could be passed by the Senate by 6 o'clock tonight. Senators will know that the inclusion of Levin-Nunn and the amendment by the distinguished Senator from Washington [Mr. ADAMS] means prolonged debate, many amendments that would otherwise not be offered at all, and eventually a veto by the President of the United States. And there are votes, I believe, in this Senate to sustain that veto.

So what are we concerned about? Are we really concerned about defense authorization or are we really concerned about 1988? I think it is the latter.

Now, it may be of interest to the distinguished Senator from Arkansas that I agree with him in many of the things he has said about the State Department's project in the Persian Gulf. I have said earlier and I say again that I believe there is a possibility that the architects of this Persian Gulf policy down at the State Department overdosed on dumb pills when they conceived this plan to reflag Kuwaiti tankers. The plan has no safeguards, and no answers have been provided questions such as the distinguished Senator form Arkansas has raised.

This is certainly a controversial policy involving so many aspects that it is by no means a clearcut issue. I wish it were otherwise. I believe if there had been a little consultation by the State Department prior to persuading the President to sign off on this Persian Gulf plan, we might have avoided some of the pitfalls.

But all of that, Mr. President, is a fait accompli and we have to deal with reality as it is now, not as we might otherwise wish it to be. But whether one agrees with the reflagging policy, the issue is a fait accompli. I have had a lot of reservations about it and I have stated them both privately and publicly.

But the real issue here, now that this amendment is before us and now that the project in the Persian Gulf is in progress, is whether the United States really wants to be the kind of nation which cuts and runs from a commitment. It is not essential that you agree with the commitment. What we are talking about is the perception and the principles of this country. The question is whether we want America to play a leadership role in the world or whether we want to be reduced to the kind of second-rate status held by the European nations.

There is also, of course, the question of how do you unscramble this egg in the Persian Gulf. It cannot be done unless you want to cut and run on the one side or stick by the commitment on the other. That is the choice.

Now, the goal of this amendment—and I hope that we will not chase the rabbit so far that we lose sight of what the intent of the amendment is—the goal of this amendment is to terminate our commitment in the Persian Gulf under the so-called War Powers Act.

Now, Mr. President, I was in the Senate at the time the War Powers Act was enacted and signed into law. I was a new boy on the block at the time. I had been elected in 1972 and came to the Senate January 3, 1973. On July 20 of 1973 the War Powers Act was approved by the Senate. I remember, not being a lawyer myself, going to my distinguished colleague, Senator Sam Ervin, and saying, "Senator, I need some advice from you."

He said, "Fine. Sit down."

I said, "I have studied this proposed War Powers Act and just as a layman I do not believe it is constitutional. You are a constitutional authority, sir, and I would like your opinion."

I remember his smiling at me and saying, "JESSE, you may not be a lawyer, but you can read the English language and you know something about the constitutional separation of powers." And then he said, "You're exactly right; it is, on its face, unconstitutional." And he said, "If it becomes law, I do hope that it will be tested by the executive branch."

Now, only three Members of this body today were in the Senate then and voted against the enactment of the War Powers Act. There were 14 Republicans and 4 Democrats, one of whom was the distinguished Senator from North Carolina, my good friend, the late Sam Ervin. The three Senators who voted against the War Powers Act were Senator McCLURE, Senator THURMOND, and I. All the rest have gone or have passed away. I shall always be grateful for the advice and discussion that Senator Ervin gave me about the War Powers Act at the time of its enactment.

Since 1981, when Ronald Reagan became President, I have many times urged the administration to test the constitutionality of the War Powers Act. Had that been done, there is no doubt in my mind about how the Supreme Court would have ruled.

But like on so many other matters, the administration, the Reagan administration, which I support, failed to do what I believe to be essential. We would not be here discussing this amendment, in my judgment, if the administration had challenged the constitutionality of the War Powers Act. It did not do it. And therefore, we have had this prolonged, tedious, almost irrelevant around-the-clock consideration by the Senate of a bill and amendments thereto which otherwise, would have been completed weeks ago, if not months ago.

But under the so-called War Powers Act, if U.S. Armed Forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances," the President is required to submit a report to Congress within 48 hours outlining the circumstances necessitating the introduction of U.S. Armed Forces, the constitutional and legislative authority under which the forces were introduced, and the estimated scope and duration of the hostilities or involvement.

Within 60 days of the submission of this report, the statute requires the President to terminate the use of U.S. Armed Forces unless Congress has either declared war or has enacted a specific authorization, or has extended the 60-day period by law, or is physically unable to meet as a result of an armed attack on the United States.

Just the mere reading of that spells out and emphasizes the intrusion by the Congress into the clearly constitutional prerogatives of the President of the United States. The President should consult with Congress. But I do not think his hands ought to be tied. I think the Constitution clearly draws that line of demarcation between the Executive's responsibility and the responsibility and authority of the Congress of the United States. And I feel that way about this no matter who is President. I for one have never and will never challenge the constitutional authority of a President, regardless of his party, regardless of his philosophy, because if the Constitution of the United States means anything at all—and yesterday and in the days preceding we spent a lot of time describing the greatness of this document—then the separation of powers must be preserved.

But the War Powers Act, Mr. President, as a mere legislative act, seeks to take away authorities to conduct foreign policy which the Presidents of the United States have properly exercised under the Constitution for almost two centuries; section 5(b) of the act specifically would deprive the President of his constitutional authority as Commander in Chief during a period of hostilities after a period of 60 days if the Congress remains silent on the matter.

The idea that Congress can by silence or inaction deprive the President of a fundamentally expressed constitutional power, even in times of national emergencies, I might add, is incompatible with the system of separation of powers established by the Founding Fathers.

The only way in which the constitutional powers of a branch of the Government can be altered is by amending the Constitution. Indeed, attempts by Congress to modify its constitutional relationship with the executive branch by legislation have been firmly rejected by the U.S. Supreme Court in the past. (*Myers* v. *United States,* 272 U.S. 52 (1926)).

REFLAGGING KUWAITI VESSELS DOES NOT TRIGGER WAR POWERS ACT

To invoke the War Powers Act is tantamount to saying that the use of the U.S. Navy to protect reflagged vessels is tantamount to introducing United States Armed Forces into hostilities or into a situation where involvement in hostilities is imminent.

However, the reflagging of Kuwaiti vessels by the United States does not introduce our Armed Forces into hostilities or into a situation where involvement in hostilities is imminent. With respect to the Iran-Iraq war, the United States is a neutral party, and uninvolved in the hostilities.

Neither Iran nor Iraq has declared war on the United States, and the one unprovoked attack on the United States—the unfortunate attack on the U.S.S. *Stark*—appears to have been—

indeed has proven to have been an isolated, and accidental attack.

Reflagging ships owned by Kuwait—which is also a nonbelligerent in the war—does not change our neutral status. Under international law governing the operation of armed conflict, neutral ships have the right of free passage on the high seas unless a formal blockade exists. Thus, both the United States, and the emirate of Kuwait are entitled to the freedom of navigation in the Persian Gulf.

The reflagging operation also does not currently bring us into hostilities. Kuwait is nonbelligerent, and is not involved in hostilities. The reflagging of Kuwaiti vessels does not, in itself, place United States Armed Forces into hostilities.

Some might point out that Kuwait supports Iraq in the war financially and suggest that this involves Kuwait in the hostilities. However, providing support to a belligerent does not make a country a belligerent itself, nor necessarily involves it in hostilities.

In addition, the reflagging operation—and the protection provided for this operation—does not signal that hostilities are imminent. Despite the fact that four nations—the United States, Great Britain, the Soviet Union, and France—have been committed to protecting their flagged vessels in the gulf for some months now, there has been no attack by Iran on any combatant ship.

And for good reason—the best deterrent in that part of the world is a strong and determined military presence. In fact, the best way to invite aggression is to indicate a lack of will and resolve—exactly the message that this amendment seeks to send to the Ayatollah.

Furthermore, the Ayatollah has no interest in involving foreign powers in hostilities. Indeed, such involvement in the gulf war works exactly opposite to Teheran's plans. The Ayatollah's long range goal is to take control of the oil reserves of the Arabian peninsula—so as to hold the West hostage, and to finance his radical movement. Involving foreign powers in hostilities prior to any capitulation on the part of Iraq would make this goal of controlling these oil reserves all but unobtainable.

KHOMEINI AND THE THREAT TO WESTERN INTERESTS

The United States has vital and longstanding interests in the Persian Gulf region. For nearly 40 years, American policy in the region has sought to protect the flow of oil, provide support for moderate Arab States, and contain the spread of radical forces—including the Soviet Union.

Over this period, there has been widespread bipartisan support in Congress for this policy.

The need to maintain this policy, however, is underscored by the fact that 70 percent of the world's proven oil reserves are in the gulf region with the enemies of the industrialized nations heavily dependent on this oil.

On a percentage basis, the United States is not nearly as dependent upon oil shipped through the Persian Gulf region as are friends such as Japan and France. But regardless of who is more or less dependent on this oil, the fact remains that if the production of oil is disrupted anywhere, prices rise for all consumers, and all Western economies are adversely affected.

This vital economic interest is directly threatened by the Ayatollah and his brand of radical Islamic fundamentalism.

It seems like every 30 or 40 years, passionate political movements sweep through the Middle East. In the 1950's and 1960's, it was Pan-Arab nationalism led by Egypt's Nasser. Today, it is Islamic fundamentalism—or Khomeiniism.

Khomeiniism is an ideological-political movement which arouses the passions of the downtrodden of the Islamic world—and directs these passions against the West, and those Arab leaders who deal with the West. It is a movement which knows no geographic boundaries. It presents a direct military threat to those Arab countries in the gulf region, and a direct political threat to other Arab countries—especially those which are inherently unstable.

If Khomeini were to win his war with Iraq, and then were to undermine or confront the gulf states—including Saudi Arabia—it is conceivable that a large percentage of the region's oil reserves could come under the control of Teheran's radical regime.

This is the bottom line of the Ayatollah's strategy—to take control of the oil reserves under the Arabian peninsula in order to hold the rest of the world hostage and to finance his revolutionary movement and terrorists.

And the best way for this body to help promote Khomeini is to support this amendment taking Commander in Chief powers away from the President in the Persian Gulf.

Now the State Department will tell you that the reason we are reflagging Kuwaiti tankers is to protect the freedom of navigation. That's exactly what the Arab States—that are fearful of being seen as too close to the United States—want us to say. But the fact of the matter is that the main reason we were asked to come into the gulf was to send a signal to the Ayatollah that his aggression can only go so far.

I'm not certain the reflagging scheme was the best way to send this signal. But the fact is that the operation is underway. And by the way, let me point out that Congress was unable to come up with any realistic alternative for protecting our interest in this region.

EFFECTS OF ADAMS AMENDMENT

But as long as this operation is underway, it would be a grave error for our country to pull out—which is what the ultimate effect would be of this amendment. There is more at issue in the gulf than oil and Khomeini. Rather it has become a question of whether or not America can carry out its world leadership role.

Throughout the world and especially in the Middle East, the strength and value of the American commitment is being questioned. Our ability to influence world events—in all parts of the world; including Central America—is in many ways determined by the perception of our strength and our resolve.

Any back-peddling on our commitment in the Persian Gulf, and indication of wavering resolve can only hamper our country's ability to pursue our interests overseas, and reduce us to the kind of second-rate status held by the European nations.

But that is exactly what this amendment represents—a back-peddling on our commitment in the Persian Gulf. Invoking the War Powers Act provides a 60-day grace period afterwhich our military presence in the gulf would have to effectively cease.

Thus, over the 60 days following enactment of this proposal, no one would be certain of our commitment in the gulf. No one would be certain of the President's control over U.S. armed services or U.S. foreign policy. In fact, the uncertainty of our commitment would only invite hostilities directed toward our military—not deter them.

And of course, if Congress were, for some reason, to fail to ratify our military presence, we would have to cut and run from the Persian Gulf. The American commitment would lose all its value. The United States would be perceived as weak and as lacking resolve, and our ability to pursue our interests overseas would be hobbled. America would be reduced to the kind of second-rate status held by the European nations.

So that is what we are talking about here today. Whether or not the United States is to be a world power.

Mr. President, the War Powers Act is unconstitutional. Even if it were constitutional, the "imminent hostilities" which were to trigger this act are not present. And to call for automatic implementation of this act would cause our resolve to come under question and would hamper the President's ability to conduct foreign policy.

Let me say again that I hope we can get on with the business of the Senate and stop chasing rabbits. Not for 1 moment would I presume to dictate to the manager of the bill or anybody else. But I hope there will be a motion to table the amendment of the distinguished Senator from Washington, which is now pending. I have the greatest respect for him. But I hope that we will not further compound the constitutional situation that exists already with respect to the War Powers Act.

Mr. President, I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers of the bill, together with the majority and Republican leaders, have been working on the possibility of bringing this issue to a vote. Am I not correct, Mr. Leader, that we have now been informed the Secretary of State will join us at the hour of 12:30 for the purpose of the briefing in the Senate?

Mr. BYRD. Yes. I talked with the Secretary of State earlier today. And he indicated that he could spend no more than 45 minutes in that briefing. He indicated that the briefing will occur at 12:30 to 1:15.

Mr. WARNER. Mr. President, suppose then we would indicate the possibility that the Senate would start its vote on this matter at, say, 12:15. It would be my intention, as I stated earlier, to move to table at 12:15. There is present on the floor the distinguished Senator from Indiana who desires to address the issue; and the ranking member of the Foreign Relations Committee has concluded his presentation. I know the Senator from Georgia also wishes to have a few statements on this. Do I see the Senator from Georgia desiring to say something?

Mr. NUNN. I would defer to the majority leader. I would like to say a few words about this while the Senator from Arkansas is on the floor and others are here. But I will not interrupt.

Mr. WARNER. It seems to me that we could just sort of allocate this time and go ahead and have a vote at that time. This would enable the Senators to speak and then the Senate, if I may respectfully request, could go into recess out of courtesy to the Secretary, and allow Senators to attend the briefing.

Mr. BYRD. All right. Is the able distinguished Senator from Virginia recommending that the Senate stand in recess?

Mr. WARNER. From the hour of 12:15 until 1:30. That will enable the Senators to attend the briefing.

Mr. BYRD. All right. The Senator would move to table at 12:15. Very well.

Mr. WARNER. I see the Senator from Indiana about to say something.

Mr. QUAYLE. Would the Senator yield for a question? I would like to have about 15 minutes to address this issue.

Mr. WARNER. If it is all possible.

Mr. QUAYLE. I have not spoken at all today. I hope the sponsors of the resolution will be on the floor to maybe respond to what I would have to say or engage in some colloquy. I do not want to unreasonably delay this thing. This is a very important issue, and I have not spoken. You have spoken very eloquently, and the Senator from North Carolina has.

Mr. WARNER. I think all of this is achievable if we start right now.

Mr. BYRD. It might pose a problem if the order is for the Senate to recess at 12:30 and the Senator makes his motion at 12:15 and that rollcall vote is not completed, and the Chair announces the results of the vote. The Senate would continue that vote and it will have an order to stand in recess.

Mr. WARNER. I see the majority leader's point. Why do we not just indicate that the vote would start at 12:15 and continue until such time as the majority leader determines to end the vote? I am trying to accommodate as many Members as possible. The understanding would be that there would be no further transaction on the pending bill subsequent to the vote, and that the Senate would stand in recess at whatever time the leadership agrees.

Mr. BYRD. Would this be agreeable: that the Senate stand in recess upon the disposition of the question until 1:30 p.m. today?

Mr. WARNER. And the question would be put in the form of a motion to table, by the Senator from Virginia, at 12:15.

Mr. BYRD. Does the Senator intend to move to table the underlying amendment or the amendment in the second degree?

Mr. WARNER. Mr. President, I will first talk to the Parliamentarian.

Mr. HATFIELD. Mr. President, I think the procedure we used in submitting this amendment is fairly obvious, and it seems to me that whatever the tabling motion is, we should handle it as a single unit.

Mr. BYRD. The underlying amendment.

Mr. HATFIELD. Because I think we need only one vote on this issue.

Mr. BYRD. Yes. That would carry everything.

Are Senators ready for me to make that request?

Mr. President, I ask unanimous consent that the distinguished Senator from Virginia be recognized no later than 12:15 to make his motion to table; that upon the disposition of that vote and its announcement by the Chair and the tabling of the motion to reconsider—and I would ask unanimous consent that there be no time on a motion to reconsider—that upon the disposition thereof, the Senate stand in recess until the hour of 1:30 p.m. today.

Mr. WARNER. I am informed by the Republican leader that he concurs in this proposal.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader?

Mr. HATFIELD. Mr. President, reserving the right to object—I did not mean to interrupt the Senator from Virginia.

Mr. WARNER. I was about to say that I had heard no comment on this side, but I now hear some comment.

Mr. HATFIELD. Mr. President, reserving the right to object, I would like to ask a question: Between now and the time the motion is put, we have approximately 45 minutes. How will that time be handled?

Mr. BYRD. We have 30 minutes.

Mr. HATFIELD. 12:15?

Mr. BYRD. Yes.

Mr. HATFIELD. Between now and 12:15, the time of the motion of the Senator from Virginia, how will the half-hour be handled?

Mr. BYRD. What is the intention of the Senator?

Mr. WARNER. Mr. President, I had not indicated any particular preference. I do not know whether you want to put this time under control or allow comity among Senators for a reasonable time to speak.

Mr. QUAYLE. I want to speak approximately 15 minutes. If we get into any kind of colloquy or discussion about some of the things I have to say or questions I raise, we may go beyond that. It may not. There may not be any discussion. That is all I am asking for. If there are others who want to speak with any degree of length and have any kind of discussion, you are jamming this into a fairly tightly constricted timeframe of 30 minutes.

Mr. HATFIELD. Mr. President, I, too, would have hopes of closing on our amendment, for a period of 10 minutes or so. But now we are close to a half-hour between the Senator from Indiana and my interest in this. It seems to me that we ought to have some way to divide the time so that people may be heard.

Mr. BUMPERS. Mr. President, will the majority leader yield for an observation?

Mr. BYRD. I yield.

Mr. BUMPERS. We have 30 minutes. We spent 5 minutes talking about this. It occurs to me that the Senator from Indiana wants 15 minutes, and the Senator from Virginia is willing to let him have that. The Senator from Georgia wants 5 minutes. That takes us to 5 after. That will leave 10 minutes. Can we have that 10 minutes equally divided for both sides to close? Is that a fair proposal?

Mr. WARNER. We were discussing starting at 12:30, and that gives the Senator 5 minutes.

Mr. BUMPERS. Start the vote at 12:30?

Mr. WARNER. Yes.

Mr. BUMPERS. I thought the briefing was going to start at 12:30. That is going to cause Senators to be late for what a lot of people think is a pretty important briefing. But I am flexible. I am here until the vote is over.

Mr. BYRD. I wonder if this might resolve the matter:

Mr. President, I ask unanimous consent that the distinguished Senator from Virginia be recognized at no later than 12:30 to move to table; that immediately upon the making of the motion, the Senate stand in recess until the hour of 1:30, at which time no quorum call will be in order, and that the Senate proceed immediately to vote on the motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Mr. President, reserving the right to object——

Mr. BUMPERS. Mr. President, reserving the right to object——

Mr. QUAYLE. How is the time to be allocated? That is the difficulty. I have been in my office. I had some other engagements. Just looking at the RECORD, much more has been talked about on the side of the proponents of the resolution, which is fair. They proposed it and have four cosponsors. Some of us are violently opposed to this. Getting it down to 15 minutes is an abbreviation of what I had intended to take.

Mr. BYRD. Will this be agreeable?

The time to be equally divided between Mr. NUNN and Mr. WARNER, and they can give time back and forth. I am sure they will do this fairly to all Senators.

Mr. BUMPERS addressed the Chair.

Mr. HATFIELD. Mr. President, reserving the right to object——

Mr. BUMPERS. Mr. President, I do not want to get rhapsodic about this agreement.

Mr. BYRD. The time to be under the control of Mr. BUMPERS on this side.

Mr. BUMPERS. Mr. President, I have a real problem with this moving to table and then coming back to vote after the briefing. I would much prefer to vote immediately at the end of the debate.

Mr. BYRD. I did not understand the Senator.

Mr. BUMPERS. I understood that the unanimous-consent request was that the motion to table would be made and then we would have the briefing and then come back and vote. I must respectfully object to that.

Mr. NUNN. May I suggest a possible course, if the Senator will yield? Begin to vote at 12:35, which gives us 35 minutes. Senators desiring to be at the briefing will vote. We do not start the briefing on time, anyway.

Mr. WARNER. This Senator has to be in two places at the same time.

Mr. NUNN. I have seen the Senator do that many times. [Laughter.]

Mr. WARNER. In this case, I do not desire to do it. I want to be in the well to discuss with my colleagues the importance of this vote, and I have already indicated to the Secretary of State that I will be present at the briefing. So I cannot accede to that proposal.

Mr. BYRD. Mr. President, let me make this request, that the distinguished Senator from Virginia be recognized at 12:30 to make his motion to table, that the time be divided and controlled between Mr. BUMPERS and Mr. WARNER and that upon the return of the Senate at the hour of 1:30 p.m., notwithstanding the fact that no debate is allowed on a motion to table, that there be 10 minutes at 12:30 to debate that motion to table and that time be equally divided.

Mr. BUMPERS. If the leader will yield for an observation, that is not my problem. I just do not like that interim period to vote on this. I do not want any additional time unless someone makes some wild charges that I feel have to be responded to. I do not intend to speak any further. And I see the look on the face of the Senator from Indiana, and I suspect I will make that decision later. I say that facetiously of course, with all due respect to my good friend from Indiana.

We have been talking for 10 minutes how to get this thing done. I am not asking for additional time except a minute or two to respond to something that is patently unfair.

I would like to vote sometime between now and 12:30 or at 12:30. I do not understand why that is such a big problem. He wants 15 minutes and the Senator from Georgia wants 5 minutes. Let us start voting at 10 after.

Mr. WARNER. Mr. President, the Senator from Arkansas knows full well that during the course of the debate it is important for those who have taken an active role, and primarily the manager, be available to address questions of Members.

This Senator respectfully asks the opportunity to attend the briefing of the Secretary of State. I simply cannot be absent from the Chamber at that time.

Mr. BUMPERS. Mr. President, in the spirit of friendship for my good friend from Virginia I will not object. We will go ahead and I will agree to the leader's first unanimous-consent request. He moves to table at 12:30. We come back at 1:30 and vote, with no debate.

Mr. BYRD. I make that request.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Hearing none, it is so ordered.

Mr. BYRD. I thank all Senators.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Do I understand we are now under controlled time until 12:30 and the time is equally divided under the control of the Senator from Virginia and the Senator from Arkansas?

The PRESIDING OFFICER. Under the unanimous-consent request it was not asked by the majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the time be divided how?

Mr. WARNER. Equally between Senator BUMPERS and myself.

Mr. BYRD. Equally divided between Mr. BUMPERS and Mr. WARNER.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, one additional question of the leader and the distinguished Senator from Virginia. If everybody has run out of time by 12:15, would it be permissible under the agreement for him to go ahead and move, knowing he will finish the vote before he goes to the meeting?

Mr. BYRD. No, we would not want to split that because of the reasons that have been stated by Mr. WARNER.

Mr. BUMPERS. OK.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield such time as the Senator from Indiana may require providing it does not exceed 12 minutes.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 12 minutes.

Mr. QUAYLE. Well, that is all this unanimous consent said. I said I only need 15. I guess my good friend from Virginia is saying I really only need 12 minutes to get on my wild responses to the wild statements that have been made here this morning. But so be it.

I ask indulgence of the Chair if he will inform the Senator from Indiana when he has used 10 minutes and have 2 minutes remaining.

Mr. President, the debate this morning has focused a lot on the constitutional issues surrounding the War Powers Act, and again we are getting back in this year of our bicentennial determining the constitutional responsibilities of the executive branch and congressional branch. I heard one Senator this morning say there is no argument here about who has the power of the purse, under the law of the land, and who has the power to declare war.

The Senator from Indiana concedes that point, and I think it is equivocally clear who has the power to declare war—the Congress of the United States.

But it is also very clear from the constitutional authority that the President of the United States is the Commander in Chief. The President of the United States is the chief executive officer and the President of the United States may in fact deploy troops, and if the Congress does not like it, Congress can simply by majority vote in both Houses with the power of the purse deny those funds. That in fact can be done.

But I have heard it suggested this morning that somehow we in fact are going to war in the Persian Gulf.

Nothing could be farther from the intent or the desires not only of this Senator but from the President of the United States.

Who says we are going to war? Does somebody want to go to war?

What we are doing in the Persian Gulf is an operation to preserve peace.

We are there to provide certain support which was deemed to be in our national security interest not by President Ronald Reagan, but by former President Jimmy Carter.

Because of the short time I will not cite Madison or Hamilton. But I notice Hamilton has been cited a lot this morning on the difference between this country and those of kings. A big difference, as Hamilton discussed, was that kings had the power to deploy the troops and to declare war. We took the power to declare war away from our President.

No one is talking about declaring war. We are talking about a peacekeeping operation.

Let us look at the Gulf situation. We are, in fact, providing protection for ships in international waters. If we are going in on the side of aiding Kuwait, and I might point out Kuwait is not a combatant country in this particular case—Kuwait is not at war. Iran and Iraq are at war. If Kuwait were at war and we went in on the side of Kuwait, that might be a different situation. The U.S. fatalities that unfortunately have occurred there have been by accident, not by any hostile intention.

So again, I say that looking at the situation we have a peace-keeping operation.

You know, I might add, Mr. President, that our gulf policy, in fact, is succeeding. It is succeeding. We, in fact, now have far more cooperation from our NATO allies than we have ever had before. We have far more participation of the Gulf States than we every had before. We have curbed the expansion of the Soviet influence.

Yes, I would say that perhaps there is even a better chance to get a potential cease-fire, though who knows, between Iraq and Iran than we have had before.

So make no doubt about it, Mr. President, we are succeeding in our stated policy.

Now let us look at this specific resolution. I heard time and again this morning that the reason that we ought to impose the War Powers Act is because of the increase in pay, that our people over there are getting paid for hostile fire and imminent danger pay. Those are interesting words, hostile fire and imminent danger. Congress changed the description of that pay from hostile fire pay that we had in 1963. They changed that in 1982. Congress did that. It was not the Department of Defense. I wonder if the sponsors of this resolution who are hanging their hat on the fact that we are now giving the hostile fire and imminent danger pay, if they know that there are other areas of the world where our soldiers and our men and women in military uniform are getting that hostile fire and imminent danger pay. I wonder if they know that, Mr. President. Our military personnel are getting that kind of pay in Colombia, Peru, El Salvador, and the Sudan.

I suppose we will probably have a War Powers Act to be consistent in all those countries because of imminent hostilities.

So as they hang their hat on that peg of what the pay is over there, let them be consistent. Offer a war powers resolution for Colombia, for Peru, for El Salvador, and the Sudan. Let them do that, Mr. President.

Now I think we have got to ask ourselves: What is going to be the perception of the world and what kind of message are we really sending by passing this resolution?

Khomeini made a very threatening statement to the Gulf States a few weeks ago. He said this; and it is very instructive of the mindset over there. He said to the Gulf States:

> You know, the United States is here now. But you don't know how long they are going to be here. And, you know what? Iran is going to be here forever.

Which is an implied threat to those much smaller states, because of the population and military power of Iran, that, "By golly, you better not cozy up too much with the United States. We are going to be here. They are not."

If this resolution is going to be potentially sending a message, how is it going to be perceived? Is it going to be perceived as, that if the United States would get hit somehow, we in fact could be pushed out? Where would the United States be if that's the message? Where would the Congress be then if you had direct hostile actions?

I know full well the sponsors of this amendment have no desire to make this an invitation to hit the United States, none whatsoever. But I am not sure what the practical effect of this is going to be. What is the practical effect of this?

And who says that these are imminent hostilities? We have seen the publicity; we have seen the threats. There has not been any direct intentional attack against the United States. And, by golly, I hope there never is. I hope to God there never is.

But I wonder what we are doing? I heard a discussion saying, "The polls of this country are opposed to our presence in the gulf." Well, you know, we do not conduct our foreign policy by polls. And we should not conduct our foreign policy by polls.

We heard a lot of discussion, I remember, in Grenada. When the President launched the rescue mission in Grenada, some in Congress were urging that we invoke the War Powers Act, right after that. Well, they stopped calling for that, Mr. President.

The **PRESIDING OFFICER.** The Chair will notify the Senator from Indiana he has consumed 10 minutes.

Mr. **QUAYLE.** I thank the Chair.

They called for the War Powers Act, but they stopped calling for that when those kids came home, got off that airplane and kissed the ground. They said, "Oh, well, don't worry about that. I guess we didn't really mean it."

But here we go again, Congress is again trying to put itself in the position of the Commander in Chief.

I would just say to the sponsors of this resolution that if you really do not want us over there, just offer an amendment—maybe they will; I heard someone say this morning that maybe they will—just offer an amendment to cut off the funds for the deployment of ships in places such as the Persian Gulf. It is a very simple amendment. And the Congress has the constitutional authority to do that. No doubt about it. No doubt about it, Congress certainly has the constitutional authority to raise or cut funds for the armed services. But no one is talking about it. Nor is anyone talking about declaring war. We should not be talking about that.

But I think that we ought to think long and hard about the message that Congress is sending once again. Are we sending a message of consistency and support or are we sending a message saying, "Well, we really want to have it both ways"? What kind of message are we sending?

The policy over there has been and continues to be successful. This does not help that policy. As a matter of fact, I think that with this kind of message you will see perhaps more instability, which I know nobody wants, rather than less. We do not disagree that we want peace and stability. What we disagree on is how to achieve peace and stability. This is a peaceful operation and I hope it continues.

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Who yields time?

Mr. HATFIELD. Mr. President, I ask for 7 minutes from the proponents' time.

Mr. BUMPERS. I yield 7 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator yields 7 minutes to the Senator from Oregon.

Mr. HATFIELD. Mr. President, in response to the distinguished Senator from Indiana, yes, we have done our homework. I am aware of the legislation authored by Representative PATRICIA SCHROEDER, which authorized the change in the pay. I am also aware of for what reason that change was made. We are not hanging our hat, Mr. President, on the fact that the administration has seen fit to adopt this increase in pay because of the hostilities and the danger, an imminent danger, in the Persian Gulf. It merely affirms the applicability of the War Powers Resolution.

Mr. President, before I quote the War Powers Act, I must say that I am a bit disturbed today by some tones of the debate. They are reminiscent of other experiences we have had in our Government when the law has been in the way of policy. So many times, the law has taken a secondary place, because people believed that the policy was so well crafted and so nobly motivated that the law should be set-aside in order to achieve the policy.

Mr. President, that is precisely the root of Watergate. That is precisely the root of the Iran-Contra hearings that we have just gone through. Well-motivated policy—maybe. But the fact was that there were laws that were in the way.

Now, we hear it said: "Don't hobble the President as he tries to reduce the tensions and arrive at some kind of solution in the Persian Gulf. Don't hobble the President."

Mr. President, this is reminiscent of the Constitutional Convention. The warmaking power was a great issue debated in Philadelphia. I need not extend into unlimited quotes, but George Mason, one of the great constitutional fathers, James Madison, and Thomas Jefferson, all believed we should clog, if necessary, the warmaking capability of the chief executive. They changed "war-making" to "declaring war" in order to show again their emphasis upon the joint responsibility for war-making that they wanted to establish between the legislative branch and the executive branch. Some of us believe that it is more important than even the Founding Fathers' perception that the Congress must have a legitimate and important role that we "Don't hobble the President."

That means that we cannot let the law get in the way. Let me quote the law. The law says: "When the President sees the necessity to introduce Armed Forces 'into hostilities or into situations where imminent involvement in hostilities are clearly indicated by the circumstances.'"

Forty dead Americans already; 40 plus naval ships there ordered to defend themselves with the fire capacity of those ships. Can anybody deny that we are in circumstances which are clearly hostile?

The Senator from Indiana declares that we are not going to be involved in war. I wish I could stand here and say that. Or that we are not moving to a war. Even if we were, I suppose we could use clever phrases like "police action." We have developed so many skills to circumvent the reality of war because the Congress, more frequently than not, does not want to take any responsibility.

I feel very strongly that when this law is in place, if we do not like the law, let us amend it. This ignoring the law, setting it aside, going around it because, "Oh, we can't hobble the President; we can't fulfill a policy that may be a good policy" is mind-boggling. I do not think it is a good policy, Mr. President. But even those who think it is good, even they cannot escape the law.

What hypocrisy that we engage—we hail the Constitution and our system of constitutional government as a government of laws and not of men and then at the very time celebrations that are taking place across this country to celebrate it we say today on the floor of this Senate: Do not let the law get in the way. We do not like the law. We think it might hobble a policy.

Well, Mr. President, that certainly is not a government of law. We are now engaging in a charade. We are saying that the law has become an impediment of a policy that we like, a policy that we want to follow or a President that we love and respect. And so we want to toss it—the law—aside.

This is the failure of the Congress to exercise its responsibility under the law. It is not to hobble the President under the law. It is to make him accountable and to make the Congress accountable. And we are doing neither in failing to adopt the amendment we have pending before us.

Mr. President, what time do I have left?

The PRESIDING OFFICER. The Senator has 1 minute left.

Mr. HATFIELD. Mr. President, I would only like to pose a question to the Senator from Indiana, the Senator from Virginia, and any other Senators who are opposing my amendment. To whomever is opposing this amendment, I would just like to ask one basic question. Is the War Powers Act a part of the law of the land?

Mr. QUAYLE. I will be glad to answer that if the Senator would yield.

The PRESIDING OFFICER. The Senator has yielded to the Senator from Indiana for a question.

Mr. QUAYLE. I would be glad to answer that and say certainly the War Powers Act is the law of the land until it is deemed to be unconstitutional. I think there are some unconstitutional features to it. But I would like to ask the Senator: Define what hostile action is? What is hostile? That is what we are talking about.

The PRESIDING OFFICER. The Senator from Oregon still has the floor.

Mr. HATFIELD. Forty Americans have perished; we have directed our vessels to defend themselves when they may be fired upon; we have foreign ships with our flag sailing through the gulf. If that is not hostile—as a veteran of World War II I can tell you that there were many actions that were less hostile and yet deadly. I can tell you what hostile is: When my life is at stake.

Mr. QUAYLE. Does the President of the United States in conjunction with the War Powers Act have a right to repel an attack without coming to the Senate and asking for it?

Mr. HATFIELD. Yes.

Mr. QUAYLE. That answers my question. You would not oppose it then.

Mr. HATFIELD. But I would say to my brother from Indiana, read all the law. The law says very clearly the President has duties to inform the Congress. We have the total law here, and it does not absolve the Congress of a responsibility. Just because the President ignores a part of the law in triggering that responsibility, we should not seek to assume that responsibility ourselves.

Mr. QUAYLE. The President has a right to respond to attack.

The PRESIDING OFFICER. The time of the Senator from Oregon has expired. The Senator from Virginia.

Mr. WARNER. Briefly, in reply to my distinguished, good friend from Oregon, when he says that he has had military experience to enable him to judge a situation—I acknowledge that. I know of his extensive involvement in combat situations in World War II and I have nothing but respect for this fine American.

Mr. President, I disagree with my good friend from Oregon, in terms of the basic facts and the necessity to trigger this law. It is the law of the land.

Mr. President, at this time I yield such time as the distinguished chairman of the Senate Armed Services Committee may require.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I think this has been a good debate. I do not know of any subject that is more difficult than this. I really do not know of any question we will have here in this deliberation of this bill that is closer in my own mind than this one.

Frankly, if we had voted on this issue before the recess, I think a case could really have been made, based on the evidence we had before our committee then, that hostilities were, indeed, imminent. I think the word "imminent" is very important. I think it is important for us to understand what it means.

I am just looking at the dictionary. Perhaps there is another definition in another dictionary. This is the Random House College Dictionary and it says imminent means likely to occur at any moment. The words "likely to occur at any moment."

This is a technical issue. I think this issue is much broader than technicalities and it should not be decided that way but it is so close on the merits that to me I have to refer to the words themselves.

I do not believe, based on the evidence I have seen and heard, that we could say that we are likely to get into hostilities at any moment in the Persian Gulf. I add very quickly that I think it is possible and I think over a period of time it is probable. If we are there for another 6 months, I think something, some kind of hostilities is probable. But I cannot say to my colleagues that I feel, based on the evidence now, it is likely.

I think there is evidence that the Iranians are basically trying to stay away from our vessels. That could change overnight and I recognize that.

The dilemma is that we should not be in this posture. You can only run the foreign policy of the United States if you have a consensus, a consensus in the Congress, House, Senate, and a consensus among the American people.

This administration does not have a consensus in the Persian Gulf. They did not consult with Congress until after they had already made the decision and agreed with Kuwait to flag the vessels.

I searched for about 4 weeks for a strategic purpose behind this Kuwaiti flagging. I have not found that strategic purpose yet.

You can ask the questions any way you want to and it is awfully hard for me to justify the policy. I think the policy is wrong. I think it is not in our national security interests.

But the problem now—and this is what the War Powers Act, and even before the War Powers Act—what the dilemma is for Congress: Once the President has committed to a certain course of action—and I think in this case he did it in breach of the spirit of the War Powers Act—but once he had done that, what does Congress do to keep the situation from becoming worse?

If we pass this resolution and if the House passed it and if it is signed into law—and those are all three "ifs," as we know—what happens? We have 60 days in which the Congress can act affirmatively to permit the actions described in this amendment, that is the flagging of vessels and the attendant protection of vessels.

Then if we do not pass it the President has 30 more days, if he makes certain more declarations under the War Powers Act. At the end of 90 days what happens? This is why the War Powers Act needs some revisiting, in my view. What happens? Do we deflag the vessels, then; the Kuwaiti vessels? Or do we pull all of our ships out of the Persian Gulf? Do we pull part of the ships out of the Persian Gulf?

What happens if the Kuwaiti vessels are deflagged and an American warship on routine patrol in the Persian Gulf is there when the Iranians, or for that matter the Iraqis, attack that vessel?

I do not think there is any answer to it. I do not know where we go. This is one of those areas of the Constitution where it can only work with good faith on both sides. The Founding Fathers did not solve every problem. If they had attempted to do that we wouldn't have had a Constitution; so they left some vague areas and they left it up to the good faith of both branches of government.

We spent a lot of time talking about that this week already in another vein. I think in this case the administration had better get its own policy straight; it better get a definition of America's strategic interests. It better get some definition of how long we are going to continue to flag those vessels; it had better start answering questions about what happens if a Japanese vessel is attacked by the Iraqis right next to one of America's warships.

I do not think there is any policy on that. We are in a strange position of protecting Kuwaiti vessels against the Iranians. What happens if some of our best allies have ships attacked by the Iraqis? There is no answer. There is no answer from the administration.

The military people in the Pentagon do not know how long we are going to be there. They do not know really what the strategic policy is. And they are very frustrated. By "they" I am not trying do describe all of them. I am trying to describe a general feeling of frustration.

I will vote to table this amendment but I will do so with a great deal of reluctance. I will commend the Senators from Oregon and Arkansas for bringing this to our attention and I would send a warning to the administration that we do not have a lot of time to try to build a consensus. Because if something happens over there we are going to be in a very uncomfortable position of being in some type of hostility without having a consensus in the House or the Senate.

Mr. President, I would yield the floor.

Mr. HATFIELD. Would the Senator from Arkansas yield 2 minutes?

The PRESIDING OFFICER. The Senator from Arkansas; does he yield time?

Mr. BUMPERS. I yield to the Senator from Oregon 1 minute.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATIELD. Mr. President, it disturbs me a little bit to hear these semantics about what constitutes hostilities or not. I think it is clear in the Defense Department what constitutes hostile pay in a letter dated August 25, 1987, where American troops are exposed to the danger of hostile mines or of being killed or wounded by hostile fire. Hostile is the Persian Gulf.

In the conference report on the War Powers Resolution, it says very clearly that it includes all commitments of U.S. Armed Forces abroad to situations in which hostilities have begun and where there is a reasonable expectation that American military personnel would be subject to hostile fire.

Mr. President, there were over 300 military attacks in the Persian Gulf before we got there. That is the situation, the circumstance.

Ask the parents of these 41 Americans who were killed what the situation is, what the circumstances are. Those men out there did not die choking on a chicken bone at a Sunday school picnic. They were in a hostile environment. That is why they lost their lives.

Let us not engage in these semantics when we have such strong evidence to define what our situation really is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, I yield the Senator from Ohio 5 minutes.

How much time have I remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. BUMPERS. I yield 4 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I find myself on the horns of a dilemma here. Ever since the War Powers Act was passed, which I supported—it passed just before I arrived in the Senate but I supported it in the Foreign Relations Committee at that time—to my knowledge there never has been a single submission under the War Powers Act. It has been ignored by administration after administration through one crisis or another. The War Powers Act is inoperative. In my view, we ought to either make it operative or get it off the books. That is the debate we should have with regard to the War Powers Act.

I do not think there can be any doubt in anyone's mind that if you look at the facts with regard to the Persian Gulf it is hostile, it is dangerous. The pay is one example of it. We should be submitting this under the War Powers Act if the President is ever to submit anything under the War Powers Act.

If they do not, then we should have a debate as to whether it is ineffectual and get it off the books. That is a separate debate.

Having said that, I think we should have the War Powers Act invoked here. But, let me say this now, if it is invoked, I will vote to continue our support for activities in the Persian Gulf. This is not just the one-quarter to one-third of the world's oil production per day coming out of the Persian Gulf that we are concerned about. We can make some adjustments on that. But it is 70 percent of the world's oil reserves for the future. That is the importance of the Persian Gulf.

With all the Pentagon talk about keeping navigation open, involved in some great principle of maritime law, that may be all good to the Pentagon, but to me if we had two little islands in the middle of the Pacific shooting at each other, we would not be sailing our ships up and down between them to show we had freedom of navigation.

But the whole free world has an economic interest in that Persian Gulf, and I will vote to continue our mission in the Persian Gulf so they can rely upon us and know they rely upon us.

That was their question when we were over there. The distinguished floor manager, Senator WARNER, and I were over there. That was the concern everywhere we went, is America reliable? Will you pull out, a la Beirut, a la Tehran, where we have said one thing and done another in that part of the world? They do not know that they can rely on us.

The energy needs of this world are centered 70 percent in the Persian Gulf. Make no mistake, we cannot go back to being a wood-buring or coal-burning world; we are an industrialized petroleum-burning world. On the importance of that Persian Gulf, I have asked for 10 years, if you had your choice of 10 square miles of territory, what would you take? I said I would take the in and out channels through the Strait of Hormuz. That is the importance of the Persian Gulf.

I want to see our commitment continue, but at the same time I do believe we should either make the War Powers Act mean something or get it off the books and stop this charade it has been ever since it has been published. To my knowledge, there never has been a submission by any President under the War Powers Act. I believe that is correct. At the same time, I am committed absolutely to an American presence and our superpower world leadership to maintain availability to the industrialized world for the Persian Gulf oil, which is 70 percent of the world's known reserves of oil. That is the importance of it.

To me these are two different things. I think the War Powers Act should be invoked. At the same time I will fight on this floor to continue our involvement in matters about keeping the Persian Gulf open because it is so important for the future, for my children, grandchildren, for the whole industrialized world, until we come up with a different energy source where we are not dependent on petroleum.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Arkansas has 5 minutes remaining.

Mr. BUMPERS. Mr. President, the Senator from Ohio made a very cogent remark. In my opinion, and I think in the minds of 99 percent of the lawyers who have studied this in this country, I say the President is flouting the law. This is not the first President to flout the law. But we ought to give this body the chance to vote, to force the imposition of the War Powers Act, so the debate, as the Senator from Ohio has said, can commence. Shall we stay or shall we leave?

This does not mean we remove all of our airplanes and ships from that area. That is a piece of sophistry everybody understands. We are not suggesting that. What we are suggesting is, do not escort ships of a nation which is clearly aligned and whose ships are always going to be subject to attack.

The other day, Judge Bork was asked or he was saying there is no right of privacy, the Constitution does not state privacy, there is no such word in the Constitution. He concluded by saying privacy of what? They were talking about the right of a married couple to privacy in their bedroom. He objected to that. He said privacy of what? Private businessmen to meet in a hotel room and fix prices, or privacy of people to have a cocaine party in the privacy of their home?

I am not on the Judiciary Committee, but my response to that would be, "Judge Bork, if you do not know the difference between the right of a married couple to privacy in their bedrooms and people in a hotel room conspiring to commit murder, or fix prices, if you do not understand the difference between those things, you are in big trouble."

So, here we are, talking about combat pay in Colombia and combat pay for some of our marines who died in our Embassies.

Senator, if you do not understand the difference between paying people combat pay in those situations and having 41 warships in a hostile environment where shooting is taking place every day, God help us all. We cannot make any other decision than let us go to war and Congress sit on its hunkers while we do it.

One of the arguments that troubles me here is hostilities are probable, but they are not imminent.

Does that mean that Congress, for example, in the case of a Serb who pulled the pistol and killed Archduke Ferdinand to set off World War I, does that mean we can only declare it imminent as he pulls his pistol from its holster to shoot the archduke?

If we are going to hang on a very narrow, narrow interpretation or definition of "imminent," the War Powers Act ought to be repealed because we will never invoke it.

So, far as what our forefathers intended when they said do not put the right to declare war and the necessity for raising money for that war in the same hand, they said the President will be the Commander in Chief and responsible for carrying out the war, but only Congress may declare it.

The argument of the Senator from Indiana is that the President has the power to carry out the foreign policy of this Nation. If that power is carried out by the President in a way that is absolutely certain to take this country to a war that Congress feels is wrong or unjustified or that we do not want to commit to, are we to sit here and wait until the war commences because of a piece of sophistry that he has unfettered power to conduct foreign policy?

Mr. QUAYLE. Will the Senator yeild?

Mr. BUMPERS. No; I will not.

Mr. QUAYLE. Why?

Mr. BUMPERS. I would like to quote what the Continental Congress said to George Washington. They said we are making you Commander in Chief of the American Forces, but here is what they said and I quote:

> You are to regulate your conduct in every respect by the rules and discipline of war and punctually to observe and follow such orders and directions from time to time as you shall receive from this or any future Congress of these United Colonies or a committee of Congress for that purpose appointed.

That sheds a little light on the role of the Commander in Chief from the perspective of our Founding Fathers.

Has all time expired, Mr. President?

The PRESIDING OFFICER. All time of the Senator from Arkansas has expired. The Senator from Virginia has 30 seconds. It is the understanding of the Presiding Officer from the prior order that the Senator from Virginia had a motion he wished to make. After he has had that opportunity, there is an order for a recess in order that the Secretary of State may address the body. So the time of the Senator from Arkansas has expired. The Senator from Virginia has 30 seconds.

WAR POWERS IN THE PERSIAN GULF

Mr. BYRD. Mr. President, the Persian Gulf is a dangerous place. There is no question of that reality. Through a terrible accident, made possible in part by sloppy procedures and poor operational practice, an Iraqi pilot attacked the United States warship *Stark*, and 37 sailors perished. There is a sometimes heated, sometimes desultory war against shipping in the gulf. The war between Iran and Iraq is tragic and wasteful, costly to both sides. The diplomatic initiatives to end the war, which I strongly support, have not yet born fruit.

In the midst of these circumstances, the administration decided to allow Kuwaiti tankers to be reregistered under the United States flag. While the objectives of that decision may have been understandable, it soon developed that the reflagging would result in a large buildup of U.S. naval forces in the region, and an open-ended convoy and escort operation in the Persian Gulf.

I opposed the current escort operation, as did a number of other Senators in this body. We urged that its implementation be delayed and that diplomatic solutions be pursued further. We were unable to achieve sufficient votes in the Senate to carry our position, and the buildup has gone forward. I continue to believe that this policy is misguided, that it places U.S. forces at risk in an unnecessary manner, and that it places too much initiative to determine the course of events in the gulf in the hands of the Iranians, to say nothing of the Iraqis. While I believe the administration's policy toward the gulf is misguided, I do not believe that the War Powers Act should be invoked at this time. I recognize the merits of the arguments made by the sponsors of this amendment.

But, in highly ambiguous situations, such as the one we confront in the gulf—which are dangerous, to be sure, but which may not exactly conform with the definition of the phrase "imminent hostilities," the application of the War Powers Act is difficult to interpret.

I also have reservations about invoking the War Powers Act now, at a time when it could be interpreted to require the pullout of the American commitment in the gulf. The reason our Nation has been placed in the embarrassing position of putting our flag on someone else's ships and then spending our money and risking American lives to protect them is because our credibility and our commitments to our friends in the region were called into question by the disastrous initiatives which led to the Iran-Contra fiasco. To call into question our commitment to the region now could further damage the credibility of the United States in the area.

I respect the views of the Senators offering this amendment. They believe the situation is fraught with danger, that the escort and convoy operation is imprudent, that the policy is wrong. I could not agree more. But I believe that invoking the War Powers Act at this time could foreclose options both now and in the future for dealing with this problem in ways which do not further undermine U.S. credibility.

Mr. WARNER. Mr. President, there has been a very good debate on this issue. It is a closely divided question. It comes down to factual distinctions as to whether or not our men and women are in imminent danger in this area. But I say to my colleagues who are listening and studying this issue that the men and women of the Armed Forces of the United States are in danger in positions throughout this world, in some cases greater than those in the Persian Gulf. We can recite instance after instance, to use the metaphor of the distinguished Senator, of a cocked pistol being held to the head of our brave young men and women all over the world. The facts do not support the Congress at this time invoking the War Powers Act.

Mr. President, I now move to table the underlying amendment No. 697 and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. Under the prior order of the Senate, the Senate will now stand in recess until 1:30, at which time the vote will occur on the motion to table. The Senate will stand in recess until 1:30.

Thereupon, at 12:32 p.m., the Senate recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CONRAD).

The PRESIDING OFFICER. The question is on the motion to table the amendment of the Senator from Oregon. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. SANFORD] and the Senator from Connecticut [Mr. DODD] are absent on official business.

On this vote, the Senator from North Carolina [Mr. SANFORD] is paired with the Senator from Arizona [Mr. MCCAIN].

If present and voting, the Senator from North Carolina would vote "nay" and the Senator from Arizona would vote "yea."

Mr. SIMPSON. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

I also announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from Utah [Mr. STAFFORD] are absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 41, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—50

Armstrong
Bentsen
Bond
Boschwitz
Byrd
Chafee
Chiles
Cochran
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Fowler
Garn
Graham
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McClure
McConnell
Mitchell
Moynihan
Nickles
Nunn
Pressler
Quayle
Reid
Rockefeller
Rudman
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—41

Adams
Baucus
Biden
Bingaman
Breaux
Bumpers
Burdick
Cohen
Conrad
Cranston
Daschle
Exon
Ford
Glenn
Gore
Harkin
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Murkowski
Packwood
Pell
Proxmire
Pryor
Riegle
Roth
Sarbanes
Sasser
Specter
Weicker
Wirth

NOT VOTING—9

Boren
Bradley
Dodd
Gramm
Kassebaum
McCain
Sanford
Simon
Stafford

So the motion to lay on the table amendment No. 697 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, may I say that I felt this was one of the——

Mr. QUAYLE. Mr. President, can we please have some order?

The PRESIDING OFFICER. May we please have order in the Chamber so the Senator can be heard?

The Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Indiana.

Mr. President, we have had a very good debate on this issue. The vote is by no means an overwhelming vote, and indicates clearly the sensitivity of the thinking of this body. I am appreciative of the efforts on both sides of the aisle. This is not in my judgment a partisan issue. It reflects the conscientiousness and deep thinking by all Members of this body.

I thank the Chair.

Mr. BUMPERS and Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. NUNN. Mr. President, will the Senator yield for a very brief time?

Mr. BUMPERS. I am happy to yield to the manager.

Mr. NUNN. Mr. President, I congratulate managers of the bill in the way that this was presented.

I want to thank particularly the Senator from Arkansas, and the Senator from Oregon for being so cooperative on the schedule. Without the cooperation of the Senator from Arkansas and his willingness we would have had more difficulty this morning. He was willing to bring up this amendment now, and has been very, very helpful. I thank him. He has been a great help to the floor managers.

Mr. President, I want all Senators, whether they are here on the floor or through staff, to listen very briefly. I will not make this long.

The Senator from Virginia has to leave in just a moment. There is almost no chance that we are going to be here any less than until about 11 or 12 o'clock tonight, all day tomorrow, and by all day I mean starting at a reasonable hour such as 8:30 or 9 o'clock in the morning depending on when we go out, and 6 or 7 o'clock tomorrow afternoon late. The odds are against it. The reason is we have just such a huge workload. The only way we can escape this is to get time agreements on amendments. There are a lot of amendments. But these are a few of them that have to have time agreements if we are going to finish this bill by the end of next week.

Let me propose this, and this does not speak for the authors of the amendments. But we have canvassed this side of the aisle. This represents, on some amendments, conversations with the authors, and on some amendments conversations with their staffs, and on some amendments simply my own estimate of what can be done. So it is not binding on anyone. I do not seek unanimous consent at this time. But I will ask my colleague from Virginia to please canvass his side on these amendments and see if he can get anything like this in terms of a time agreement today.

If we were to be able to achieve something like this list of agreements today, we could stay in until about, I would say, 9 or 10 o'clock tonight, not be in tomorrow, and come back in here Tuesday to get started early. So the odds are against it. I know it may not be possible. But I feel obliged to try.

First of all, on the Bumpers SALT II amendment, I proposed 4 hours equally divided.

Mr. BUMPERS. Mr. President, I would be willing to help out on this and cut an hour off. My distinguished compatriot, Senator HATFIELD, is on the floor. I think 3 hours would be adequate. We have debated that many times. I think we can shorten it.

Mr. NUNN. I thank the Senator. I will make note of that, and go on through the list. I am not asking unanimous consent now. I have not informed my colleagues on this. I am giving them a chance to later on today to react.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. NUNN. Yes.

Mr. QUAYLE. I think it would be very helpful in trying to acquire some time agreements if we had the understanding like on the Bumpers amendment on SALT II, if it is going to be a motion to table, and there is a big difference between a motion to table and voting up or down on the amendment. If these are going to be motions to table, it is going to be a little bit easier to get time agreements. It would be just 3 hours, and up or down. I imagine that would be more difficult.

Mr. NUNN. I say to my friend that would be something to consider. I think a time agreement would not exclude a motion to table. But I think also the authors of the amendments, if you gave them a proposition like that, would not have much incentive to agree to time agreements. What the Senator from Indiana is saying in effect is if they lose, we move on. If they win, it is wide open. That is not a great deal to offer someone offering an amendment.

That means if the motion to table fails, as I understand the Senator from Indiana, then it is wide open for further debate.

So that is short of, if you lose off the amendment, we move on, and if you win, we have unlimited debate.

I just do not see that as much of a deal. But anyway, we will consider it.

The second proposition is the Kerry Asat amendment. I proposed on that one 2 hours equally divided.

Next we have the Johnston SDI funding amendment. I propose on that one 3 hours equally divided.

The next one is a likely amendment by Senator KENNEDY on the aircraft carriers. I propose 3 hours equally divided.

The next one is a Lautenberg amendment which we considered last year and voted on, which is religious headgear. I proposed 1 hour equally divided.

Senator DODD has an amendment on Panama. I propose 2 hours equally divided. That would maybe take less time.

Kennedy-Hatfield, nuclear testing: I propose 2 hours equally divided.

Levin transfer amendment: I am not clear exactly what that is, but we have looked at it briefly. Two hours equally divided.

Wilson, cost-effective at the margin: I propose 1 hour equally divided. He may want more time.

Helms, Minuteman II replacement: 1 hour equally divided.

Bumpers, man-in-the-loop: We cannot get a time agreement, but I hope we would finish it quickly or be able to get a time agreement of 1 hour equally divided.

Gramm, Davis-Bacon amendment: Everyone has heard about that for years, and I hope we can have 1 hour equally divided.

Gramm, service contract amendment. I propose 1 hour equally divided.

Weicker, consistent budgeting amendment: One hour equally divided.

Hatfield, chemical amendment: I propose one hour equally divided.

Pryor, chemical amendment: I hope we can do both of those this afternoon. One hour equally divided.

Mr. President, that is simply my proposition. I have not discussed this with all the authors. I hope we can get some feedback on each of those amendments during the next 2 hours, and that way by 6 or 7 o'clock tonight we will know whether it is going to be all day tomorrow and in the evening tomorrow night.

That is my proposition. The Senator from Indiana has not had a chance to look at this, but I hope we canvass the people on both sides.

Mr. QUAYLE addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Arkansas has the floor.

Mr. QUAYLE. Will the Senator yield for an observation?

Mr. BUMPERS. I yield.

Mr. QUAYLE. Mr. President, we will be glad to canvass this. I might say two things: First, Senator WEICKER informed me that he has an additional amendment—if I may have the attention of the chairman of the Armed Services Committee.

I tell the chairman that Senator WEICKER indicated that he would have an additional amendment on transferring $2 million from DOD to NIH. That will take a half hour equally divided.

We will canvass this. On some of the very sensitive and important issues, with a motion to table at the end of the debate, it would be a lot easier to achieve those time agreements. I am being straightforward with the manager.

Mr. NUNN. I think that would be a great step forward, if we can get that kind of agreement; and I would hope that under that agreement, every time a motion fails, if one fails, we would not have extended debate after that. It would be a step forward. I would welcome that.

Mr. QUAYLE. We can probably delineate to the chairman which one of those issues, if a motion to table failed, would require extended debate. Obviously, on a lot of them, if a motion to table would fail, the Senators would have spoken.

There are sensitive issues which I and others do not like, and if they were attached to this bill, there would be some problems.

Mr. NUNN. I thank the Senator from Indiana. That has been helpful. If we can have only a few of them that were still wide open after the motion to table failed, that would be a step forward. If we can get this kind of situation between 5 and 6 o'clock this afternoon and know where we are going next week, we can avoid tomorrow's session.

Mr. PRYOR. Mr. President, will the Senator from Arkansas yield to me for a question?

Mr. BUMPERS. I yield.

Mr. PRYOR. Mr. President, what would be wrong—and I pose this question—with discussing many of these amendments this afternoon, whether we have a time limitation or not, debating these amendments, and then disposing of them not by vote but simply laying them aside until 8 o'clock Tuesday morning, and stacking a series of votes on these particular amendments? Not only might that avoid a very late night, but it also might avoid a Saturday session.

It appears to me that already 10 Members of the Senate have gone. I understand that by 2 hours from now, another 5 to 10 Members of the Senate are going to be gone.

Why do we not stack these amendments for Tuesday; debate them today and tonight; and use some good sense around here?

Mr. NUNN. If we can get Senators to stay here and debate the amendments and make sure we have them to debate, that would make sense. The problem is that if you announce something like that and do not have Senators handcuffed to the Chamber or put some kind of iron rail around the Chamber, everybody leaves town, and then you are left with nobody here, no amendments up, and no way to make it work.

You would have to get unanimous consent as to which amendments were coming up, and you would have to have some time agreement. You would have to have Senators come in and give their Boy Scout oath that they would stay. They would have to tell you honestly that they are going to be here and debate. Otherwise, you would lose everybody.

Your biggest problem is getting people to stay once you announce no more rollcalls.

Everyone should be aware that I anticipate 10 or 15 rollcalls between now and tomorrow night.

Mr. PRYOR. I thank the distinguished chairman.

AMENDMENT NO. 699

(Purpose: To prohibit the development of strategic defense systems designed to engage attacking forces without first receiving a substantially contemporaneous command issued by the national command authority)

Mr. BUMPERS. Mr. President, perhaps we can dispose of this rather quickly, if I start where I normally end up in the debate.

I have been concerned for a long time about the strategic defense initiative——

The PRESIDING OFFICER. Will the Senator suspend?

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 699.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SEC. . Notwithstanding any other provision of law, no agency of the federal government may plan for, fund, or otherwise support the development of architectures, components, or subcomponents for strategic defense against air-breathing or ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative real-time human decision at an appropriate level of authority."

Mr. BUMPERS. Mr. President, in the event that SDI is some day perfected and deployed, it is the Pentagon's belief and it is the belief of the Strategic Defense Initiative Office that our sensors that we will have deployed in space will not know that a launch has been commenced for 30 seconds after the fact.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. QUAYLE. Can we get a copy of the amendment? We do not have one. The majority manager of the bill does not have one, either.

Mr. BUMPERS, I am sorry. I will proceed while the distinguished floor managers are looking over the amendment.

Let me repeat: The sensors that we are going to use to detect a Soviet launch will not know whether a launch has occurred for 30 seconds after the fact. They pick up the fire trails of the missiles.

General Abrahamson has said that ideally we should respond between 40 and 50 seconds after the launch. That means that, ideally, since 30 seconds will have gone before we know a launch has taken place, we would have only 10 to 20 seconds to activate the SDI. That is not time to get the President off the tennis court or to find him, wherever he may be, and say: "Mr. President, I think the Soviets have launched. What do you think we ought to do about this?"

With such a short time to make this decision, which may determine the fate of the planet Earth, I did not want the planet Earth to be incinerated because of a malfunctioning computer chip, and I do not want SDI built so that it can only be activated by a computer chip. This amendment simply says that SDI may only be activated by human hands.

We call it the PTL amendment, the person in the loop, a human person. If we are going to make a decision to destroy the planet, then it ought to be at least by a human being who is using all of the very precautionary guidelines that can be laid down for making that decision.

Under the very best circumstances, Mr. President, he is not going to have very much time.

Here is a document from the Strategic Defense Initiative Office which has a time line on what will occur if that unhappy day ever comes. First, 30 seconds after the Soviets launch. Our sensor will tell us that they have launched. Ideally, we would activate our SDI system within 10 to 20 seconds. But you do not have much time, if you do not launch with 100 seconds, from the time they launch, forget it. That trillion dollars you have spent on SDI is practically worthless.

So, Mr. President, with all of this in mind, I wrote to Secretary Weinberger. I said, "Mr. Secretary, I have been concerned for some time about the role, or lack thereof, that human judgment would play in weapons developed for SDI, especially for weapons that would fire during the boost phase of a missile launch."

I go on and talk about that. I say:

My concerns about a totally automated, computer-controlled SDI system able to fire without a human in the loop are further heightened by Department of Defense documents recently released by the Strategic Defense Initiative Office pursuant to a request by Senator Bennett Johnston. These documents show that in 1981 the Air Force was concerned that a system very similar to the SBKKV approach now being developed would require an "on-board, automated . . . force execution decision," which "results from [the] very short decision timelines (2-5 minutes)."

And General Abrahamson the Director of the SDI Office, wrote me back, and for one time we agreed:

DEAR SENATOR. Thank you for your letter to Secretary Weinberger, dated June 2, 1987, in which you requested information on the role of man in managing any future Strategic Defense Initiative (SDI) system. Secretary Weinberger asked that I respond on his behalf.

I share your concern and consider positive human control an essential feature of the SDI system. While the detailed requirements and procedures for implementing man-in-control are being addressed, with the help of the U.S. Space Command, certain essential aspects are clear.

He goes ahead to say in the letter, and I will put it in the RECORD for all to see:

The SDI command and control system will have man-in-control and will have stringent trusted system and fault tolerant requirements.

General Abrahamson says—in one sense I guess that amendment is redundant because he says they are going to do it. But I will sleep a lot better and I believe America will if we just put it into law and say that we are not going to trust a malfunctioning computer chip to decide how we respond to a launch.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BUMPERS. Mr. President, I ask unanimous consent that my letter to Secretary Weinberger and the response of General Abrahamson be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 2, 1987.

Hon. CASPAR W. WEINBERGER,
Secretary of Defense,
The Pentagon, Washington, DC.

DEAR MR. SECRETARY: As you know, an important consideration in the design and operation of the weapons we have in our arsenal is the importance of having a human being playing an active role before weapons are fired. Even the most sophisticated weapon or computer can make mistakes which, in a world of increasingly lethal conventional weapons and overpoweringly destructive thermonuclear weapons, would have extremely devastating consequences.

In this regard, I have been concerned for some time about the role, or lack thereof, that human judgment would play in weapons developed for SDI, especially for weapons that would fire during the boost phase of a missile launch. Space-based kinetic kill vehicles (SBKKVs), especially those that might be part of an early deployment of SDI, seem to be particularly relevant in this regard. I note that Lt. Gen. Melvin F. Chubb, the Commander of the Air Force Electronic Systems Command, was recently quoted as saying that the battle management needed for a SBKKV system to be effective requires that the kill rockets be launched within one minute of the launch of Soviet ballistic missiles. During this crucial minute, the battle management system must detect the launches, predict booster flight paths, and launch the SBKKVs. My worry is that there would not be time for a human being, at a very senior level, to verify that there was indeed a hostile attack under way, and not just a normal missile test flight or a rocket launching a satellite, or humans, into orbit.

My concerns about a totally automated, computer-controlled SDI system able to fire without a human in the loop are further heightened by Department of Defense documents recently released by the Strategic Defense Initiative Office pursuant to a request by Senator Bennett Johnston. These documents show that in 1981 the Air Force was concerned that a system very similar to the SBKKV approach now being developed would require an "on-board, automated . . . force execution decision," which "results from [the] very short decision timelines (2-5 minutes)."

These concerns are reinforced by a key covering memo to the Air Force documents, written by your office, a copy of which I sent you a few days ago. That memo states that since such a boost phase kinetic kill system "must detect missile launch, determine if it is a threat, launch a kill vehicle against it and complete the intercept, all in a few hundred seconds, there obviously is no time to involve the NCAs [National Command Authorities] in the decision process." Indeed, as the most recent SDIO Report to Congress points out, any boost-phase system would face these extremely demanding response requirements, or even more challenging ones if the Soviets react to such a system.

As you know, one logical Soviet response to a near-term SDI deployment would be to modify or replace their current rocket boosters with fast-burn boosters. Dr. George H. Miller, the Director of Lawrence Livermore National Laboratory, has testified that the boost phase durations of such rockets could be as short as 80-100 seconds.

In the face of such demanding time requirements, reliance upon automatic systems would be a tempting but dangerous way to deal with the problem for at least two reasons. First, there would be the strong possibility of accidental firing against benign targets, and the potentially devastating consequences that would result. Second, as a result of this false alarm fear, there is the real risk that such an automatic anti-missile system might simply be "turned off" at times of less than very high crisis, as happened with the U.S.S. *Stark's* Close-In Weapons System defense. Even a perfect SDI system would be ineffective if it were shut down at the very time it was needed.

In view of these seriously troubling concerns, I am writing to seek your assurance that the systems being developed under the Strategic Defense Initiative would not rely on computers and other machines alone in order to fire. Do the systems under development include plans requiring humans at appropriate levels of authority to make affirmative decisions before the systems can fire? What is the level of authority envisioned to activate the firing mechanisms of the system? What steps are being taken to assure that the systems will be able to respond in sufficient time to attack Soviet missiles in their boost phase? Are the concerns expressed in 1981 by experts in the Air Force and the Office of the Undersecretary of Defense for Policy concerning automatic operation, which the Air Force in fact called a "critical issue," still valid?

I look forward to your timely response to these questions. If you have any questions, please have your people contact Bruce MacDonald of my staff at 224-4843.

Thank you for your assistance.

Sincerely,

DALE BUMPERS.

DEPARTMENT OF DEFENSE, STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, June 26, 1987.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your letter to Secretary Weinberger, dated June 2, 1987, in which you requested information on the role of man in managing any future Strategic Defense Initiative (SDI) system. Secretary Weinberger asked that I respond on his behalf.

I share your concern and consider positive human control an essential feature of the SDI system. While the detailed requirements and procedures for implementing man-in-control are being addressed, with the help of the U.S. Space Command, certain essential aspects are clear.

As your letter points out, for optimal system performance an effective boost phase engagement requires a weapons release decision within a very short period of time after launch detection. That decision, however, will not be made autonomously or automatically. As is the case with United States offensive forces today, any future strategic defense system will be tied into the National Military Command Center, the World Wide Command and Control System, the National Command Authority, and our Strategic Offensive Forces. Further, it is planned that in any situation or threat scenario, after confirmation by multiple sensors or evaluation of all source information, man will make the final engagement decision.

Our analyses and simulations indicate that for the unrealistic but worst case of a simultaneous launch, the earliest engagement decision can be made at approximately 40 and 50 seconds after launch. Minimal boost phase performance degradation will occur if the engagement decision is reached between 40 and 100 seconds after launch. Studies indicate that this decision time line is feasible and assure us that we can successfully conduct a boost phase engagement within time constraints. In order to further confirm our analysis, command and control will be extensively investigated and evaluated during upcoming SDI tests. These tests will help us carefully evaluate the prototype software and command and control centers, for use in any possible future strategic defense system.

We have also considered the potential for an accidental engagement. In addition to the positive man-in-control aspects of the system, the accidental engagement of a benign launch is made more improbable by a combination of factors. First, benign launches are one to a few at a time; not the massive launch that would require very short decision time lines. Second, on some benign launches we exchange information with the Soviet Union. In these cases, the system will be informed of planned benign launches and can monitor them closely, to prevent their being used as a cover for an attack, as well as to prevent an accidental engagement. Third, typical benign launches have different launch points and trajectories than hostile launches. Additionally, with a robust defense system in the future, one that we have confidence in the subsequent layers of defense—such as mid-course, a proper human command authority could afford to wait a period of many minutes and observe the trajectory and circumstances of a single launch prior to authorizing any action. All these factors combine to give us confidence that we would never have an accidental engagement.

The SDI command and control system will have man-in-control and will have stringent trusted system and fault tolerant requirements. There is, however, one additional factor that should be considered: SDI is a defensive system. The very nature of the system mitigates against catastrophic results from weapons malfunction. Today, if the impossible happened to one of our or their offensive missiles, and it was accidentally launched it would mean that nuclear warheads would tragically be "on-the-way" toward a target on earth. This would not be the case with a defensive system accidental launch. However, the combination of man-in-control, stringent trusted system and fault tolerant requirements, extensive systems analysis and simulations, planned future evaluations, and the nature of the threat give us a high confidence that the system will effectively counter an attack while never accidentally engaging a target.

Again, thank you for the opportunity to address your concerns. If it would be of interest to you, I would be more than happy to meet with you at any time to discuss the classified aspects of our Battle Management/Command, Control, and Communications Program.

Sincerely,

JAMES A. ABRAHAMSON,
Lieutenant General, USAF, Director.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 699) was agreed to.

Mr. **BUMPERS.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **EXON.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The **PRESIDING OFFICER.** Are there further amendments?

AMENDMENT NO. 700

(Purpose: To direct the Secretary of the Army to lease certain lands at Fort Chaffee, AR, to the city of Barling, AR, for use by the city for the construction of a waste treatment facility, and for other purposes.)

Mr. **BUMPERS.** Mr. President, I have an amendment here which I believe has been cleared with both sides. It is a parochial amendment dealing with a community in my State which adjoins Fort Chaffee. I send this amendment to the desk.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself and Mr. PRYOR proposes an amendment numbered 700.

Mr. **BUMPERS.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new Title:

TITLE . REQUIREMENT TO LEASE LANDS TO THE CITY OF BARLING, ARKANSAS

SEC. (1)(a) IN GENERAL.—The Secretary of the Army shall lease to the city of Barling, Arkansas, for the use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE ¼ and the NW ¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) LEASE REQUIREMENTS.—(1) The lease shall authorize the city of Barling to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary of the Army and the city of Barling.

(3) The lease shall require the city of Barling to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the city. The amount of the rent may not exceed $1,600 per year.

SEC. 2. ALTERNATIVE OPTIONS

(a) IN GENERAL.—(1) In lieu of leasing to the city of Barling the lands described in section 1(a), the Secretary may lease to the city other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chaffee, Arkansas, for use by the city in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of section 1(b).

(b) Use of Army Sewage Treatment Facility.—The Secretary may permit the city of Barling to use the sewage treatment facilities of Fort Chaffee under an agreement which would require the city to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city of Barling.

SEC. 3. ADDITIONAL PROVISIONS

(a) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Barling.

(b) ADDITIONAL TERMS AND CONDITIONS.—Any lease or other agreement entered into under this Act shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

Mr. **BUMPERS.** Mr. President, this deals with the community of Barling which is surrounded on one side by Fort Smith, AR, and on the other side by Fort Chaffee, I say one side, it is actually surrounded by either Fort Smith, AR, or Fort Chaffee.

They have a terrible situation down there with a waste treatment facility. They have been trying to work with the Army on this and this amendment says that the amendment gives the Secretary of the Army the choice of either leasing the 320 acres, suitable for a new lagoon, or be expanding the existing lagoon at Barling's expense.

Mr. President, it is just a simple question and, incidentally, Barling has agreed to handle a substantial portion of Fort Chaffee's waste treatment problems. They have problems of their own. They are willing to cut a deal with Fort Chaffee if we can get this worked out.

The **PRESIDING OFFICER.** The Senator from Illinois.

Mr. **DIXON.** Mr. President, this particular amendment comes under the jurisdiction of the Readiness, Sustainability and Support Subcommittee which I chair. It is a Milcon question and has been thoroughly cleared on this side. It is entirely acceptable to us.

My understanding is from my aides it has been cleared on both sides as far as we know. We have no objection to it.

Mr. **EXON.** There is no objection on this side of the aisle.

Mr. **QUAYLE.** Mr. President, we do not have a copy of the amendment. We got a copy of the previous amendment. I was under the impression that the previous amendment was being opposed by both sides but that it was an understanding that apparently was not the case. We do not mind moving ahead but there is a little bit of disarray right now.

And I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **DIXON.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so I may have a colloquy with my friend from Indiana to determine where we are going on this.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **DIXON.** Mr. President, may I say to my friend from Indiana that we are concerned about the time element, as he would realize. But, at the same time, I fully understand his concern which, as I understand it, is that you do not know what your side's position is on this amendment. We thought it to be a relatively innocuous one.

I must say, in all honesty, as the chairman of the subcommittee with jurisdiction, we thought everybody had pretty well known about it on your side. I do not mean that offensively.

But if we are going to have this kind of trouble about fairly noncontroversial—I hope my colleague from Arkansas will not take exception to that—amendments that do not involve any major expense or anything, I do not know how we are going to get the work done.

Mr. QUAYLE. If I might just answer my friend from Illinois, we have to have somewhat of an understanding of whether we are for or against amendments, whether they have been cleared or not cleared.

Where the confusion exists is that I was distinctly under the impression on the Bumpers amendment—now there is some dispute on whether it was going to be accepted or not accepted. As a matter of fact, I was conversing—I was on the floor; eveything was straightforward and we had a vote—I was conversing on the amendment and all of a sudden that was finished and we were going to something else. I did not have a copy of the amendment, the first one. I got one and was reading it during the debate. So I was trying to listen to what the Senator was saying and reading at the same time. We finished that one and got another one that they said had been cleared on both sides. I have no knowledge of that.

So that is why I put in a quorum call, to get some semblance of order of how we are going to proceed, if we are going to oppose or accept an amendment.

I did not think the manager of the bill was going to accept the first Bumpers amendment, but it was accepted.

Mr. DIXON. If my friend from Indiana will yield, this is jurisdictional to my subcommittee. It is Milcon. My good friend from New Hampshire, Senator HUMPHREY, would be the ranking member. Ken Johnson would be the staff person on your side. There are a whole bunch of these.

I think we waste an awful lot of time if we do not have somebody around that knows the position.

For instance, I have one of my own that I know this side is for and I cannot find out if your side has cleared it. I do not want to be facetious, but I think we are going to waste a lot of time if we do not have somebody that can say OK or no. The Senator is not the ranking member of this particular subcommittee, so you would not know.

Mr. QUAYLE. The second Bumpers amendment has not been cleared.

Mr. DIXON. Well, that is what we are on right now.

Mr. BUMPERS. I cannot vouch for the Senator's side. Staff had advised me that it had been cleared on both sides. One of the questions I have is how are we going to make a decision here? These amendments have been filed. I thought both sides, certainly the Senator from Georgia [Mr. NUNN] read all of our amendments off discussing the proposed time periods and I thought everybody had copies of the amendments and either signed on or signed off. It does not make any difference to me. If the Senator cannot get clearance on this one, I have another one and I will set this aside temporarily and offer another that maybe he can get cleared. I know Senator NUNN has been apprised of it for at least a week.

Mr. QUAYLE. The amendment that is presently pending, I am attempting to make contact with Senator HUMPHREY, who is the ranking member. Once we make contact with Senator HUMPHREY, then we will be in a position to proceed.

So you know, that is the order of business.

Mr. BUMPERS. Would the Senator have any objection to setting it aside until you can hear from Senator HUMPHREY?

Mr. QUAYLE. Give us a reasonable amount of time to get Senator HUMPHREY. Otherwise, you are going to get three or four amendments set aside. I do not want to be in a position to have to do that, trying to contact three or four people. Let us see if we can get this ironed out to see whether we can accept or propose other amendments.

Mr. BUMPERS. Before we put in another quorum call, let me say the amendment I wanted to offer pursuant to the one pending right now is one that is pursuant to the Scowcroft Commission to say that we ought to start a study. It is a fairly innocuous amendment to say that the Pentagon ought to start studying a follow-on for the Trident submarine.

The rationale is, if we enter into a START agreement with the Soviet Union tomorrow to limit both sides to 4,800 warheads, 4,000 of ours would be on Trident submarines when we complete our Trident Program. I think that is putting too many of our eggs in one basket and the Scowcroft Commission did, too; and they said we need a smaller missile-firing submarine so we do not have just a very few targets for the Soviets to shoot at.

It only calls for the Defense Department to start studying that which I think they are planning to do anyway.

But I am just telling you that so you can start running your traps on that one.

Mr. QUAYLE. Does the Senator yield? I will be glad to start working traps on that and I want to take a look at that. I do not want the Senator to fall over: I might even support him on that. It sounds like a reasonable amendment.

Mr. BUMPERS. For a change, you will be on the side of the angels.

Mr. QUAYLE. On second thought, I might reconsider that. Please strike that from the record, Mr. President. I thought of sponsoring that amendment. But we will get it going on this side. How many more do you have over there?.

Mr. BUMPERS. Well, not many. But I promise you, you will have adequate notice.

Mr. QUAYLE. I thank the Senator. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. I have had a conference with the distinguished manager on the other side and I believe that we are again prepared to clear the Bumpers amendment and I think their side is as well. Then we can go to an amendment by the distinguished Senator from California [Senator WILSON].

Is that a fair representation?

Mr. QUAYLE. Will the Senator yield?

Mr. DIXON. I yield.

Mr. QUAYLE. Mr. President, I do believe that the second Bumpers amendment has been cleared. The understanding is, then we will move to an amendment by Senator WILSON that I think has been cleared; so we go back and forth. So we could go ahead and move the adoption of the amendment of the Senator from Arkansas at this time. Then we will get the Senator from California over here.

I might say that we ought to attempt to list cleared amendments that we presently think we have, and in the order in which the Senator from Illinois would like to proceed.

The first Bumpers amendment has already been accepted. We have the second Bumpers amendment. We have a few over here. We will go to the Senator from California, his amendment. Then the Senator from Illinois would read amendments that he thinks are agreed upon and the contents of the amendment—it would be very helpful to get maybe four of them discussed and we will go in the process of laying them down.

I hope that what we will do is go in the order that the Senator from Illinois outlines. I do not want to start jumping back and forth over the field at this particular time.

Mr. DIXON. Let me say what I would suggest as an order in order to get rid of four amendments. We have before us the Bumpers amendment. I would suggest that we dispose of it. That would be the first one, may I say.

The second amendment would be the amendment by the Senator from California [Senator WILSON] on

Mather Air Force Base, strike section 2817 re: Two Milcon projects.

We would agree to that. It has been cleared on both sides.

The third amendment would be an amendment by the Senator from Illinois on Chanute Air Base which would be offered as the third one as cleared, and it has been cleared by both sides.

The fourth would be another amendment by the Senator from California. I am not trying to favor him, but they happen to be ones that are at hand and have been cleared. Senator Wilson has another amendment on the Oakland land lease.

So it would be the Bumpers amendment, followed by an amendment on their side by Senator Wilson, followed by an amendment by the Senator from Illinois, followed again by an amendment by Senator Wilson. Then there are some others that are in the pot that will come to fruition that we can clear.

Mr. QUAYLE. Mr. President, I think that is a fair way to proceed. We are going to dispose of this amendment momentarily, unless the Senator from Arkansas has another enlightening speech about his amendment. There would be fairly quick approval of the Bumpers amendment. I just notified Senator Wilson's staff to obtain his presence here to offer the amendment. He will be here momentarily. We will dispose of that amendment and then we will get to the amendment of the Senator from Illinois and then back to another amendment by the Senator from California.

Mr. BUMPERS. Mr. President, I move the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 700) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

Mr. DIXON. Mr. President, I am sure my friend from Indiana trusts me and I trust him. I wonder if, in view of the fact that Senator Wilson is on his way to the Chamber, we can then do two Wilson amendments back to back simply so that we are using the time?

Mr. QUAYLE. I was going to use the time of the introduction, discussion, and adoption of the first Wilson amendment to get clearance on the amendment of the Senator from Illinois. I do not dispute my friend's announcement that it has been cleared, but I do not personally have that knowledge. That is what I was going to use the time for. Senator Wilson is coming to the floor. That is why we outlined the process, to give us a little bit of time as we move forward on these allegedly agreed-to amendments.

Mr. NUNN. If the Senator will yield, I am happy he used that term, "allegedly agreed to." That helps us. We have a key word now.

Mr. QUAYLE. Allegedly agreed to.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. May I say to my friend from Indiana that there are a number of amendments here that probably can be cleared, but his side has not shown them to me yet. I wonder if we can take note of this.

The distinguished Senator from Delaware, Senator Roth, has an amendment that we have not seen. It is on base closure reform.

There is another amendment by my friends from Missouri, Senators Danforth and Bond, on Fort Leonard Wood, a base well-known to me, not far from my home. I wonder if either Senator Danforth or Senator Bond, if their offices are listening to the proceedings, could let us know about the Fort Leonard Wood amendment which is before us and which could, maybe, be cleared.

I have referred to the Roth amendment and the Danforth-Bond amendment.

May I say on my side there are several that I could mention as well, but that would give us a beginning. The Senator from Indiana might want to indicate some that he has reservations about.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, there is an amendment that has not been necessarily cleared on both sides but maybe one we can vote on if the Senator from New Mexico wants to educate us on superconductivity, something that we have always been very interested in.

Mr. QUAYLE. Will the Senator yield?

Mr. DIXON. Yes.

Mr. QUAYLE. I do not mind if he wants to talk about the amendment, and he can certainly offer it. It would be within his rights.

But that is not within the understanding we have.

Mr. DIXON. This has nothing to do with our agreed amendments. I thought while waiting for someone to come here, we might see if our friend has something we can consider. Is there objection to that?

Mr. QUAYLE. I thought the next order of business was to consider the Wilson amendment. That is what we decided. If you want to consider the Bingaman amendment, that is a different procedure. That has not been cleared, to my knowledge.

Mr. DIXON. I am prepared to take both Wilson amendments as soon as the Senator gets here. There is no question about that. I am not going to back out on that.

When the Senator from California gets here, he can go ahead and we will take both of his amendments. I am trying to save some time and use some time. But it is up to the Senator.

Mr. QUAYLE. This amendment has not been cleared.

Mr. DIXON. We are not saying it has.

Mr. QUAYLE. And the Wilson amendments have.

Mr. DIXON. Yes.

Mr. QUAYLE. You are going to get in the position of starting to set aside the Bingaman amendment to take up the Wilson amendment when the Senator gets here.

Mr. DIXON. Perhaps the Senator from New Mexico could proceed and when the Senator from California, who has two agreed-to amendments, gets here, we could intercede and adopt them and then return to the Senator from New Mexico. This Senator, who has one at issue, will be glad to wait until that is concluded, if that is all right, so we can usefully employ the time.

Mr. QUAYLE. Mr. President, what should be done is to propound a unanimous consent that upon the arrival of the Senator from California, he be recognized to offer his amendment and that the pending amendment, if the Senator from New Mexico offers it, be set aside. What I suggest the Senator do is not offer the amendment but talk about the amendment, educate the Senate about the amendment, talk about it and save the debate for when the amendment is actually offered. I think that would be a better way to proceed.

The **PRESIDING OFFICER.** The Senator from New Mexico.

Mr. **BINGAMAN.** Mr. President, the amendment which I am offering along with Senator DOMENICI is designed to help guarantee a strong Defense Department contribution to our national effort to maintain U.S. leadership in the field of high temperature superconductivity.

There is undoubtedly no one in this body unaware of the momentous discovery earlier this year of ceramic materials which displayed the property of superconductivity at unprecedentedly high temperatures. Previously, superconductivity had only been achieved at temperatures of about 22 degrees above absolute zero or 400 degrees below zero on the Fahrenheit scale. These new ceramic materials display superconductivity at temperatures above 77 degrees above absolute zero which is the temperature at which liquid nitrogen boils. This discovery of materials which when cooled to the temperature of inexpensive liquid nitrogen display superconductivity will potentially revolutionize a whole host of critical technologies of importance both militarily and in the civilian sector.

The importance of the discovery has been compared to the discovery of the transistor and of the integrated circuit. And thus it is critical that the United States stay at the forefront of converting this discovery into technologies that will contribute to our military strength and to economic competitiveness in world markets.

Mr. President, many of us noted the rapidity with which the Japanese Government and industry reacted to this breakthrough in high temperature superconducting materials. We called upon the administration to put together a similar coordinated effort among government, industry, universities, and the national laboratories in this country.

Back in April when our committee marked up the bill which is before us today, we highlighted the importance of dealing with how to manufacture these new high temperature superconducting ceramic materials. This was an area in which the defense Advanced Research Projects Agency had already been actively involved because of other military uses for similar ceramic materials. As part of our defense manufacturing initiative we called upon the Department to emphasize research on manufacturing these materials and set aside $50 million to pursue this and other manufacturing technology initiatives within the Defense Advanced Research Projects Agency. The committee also added $10.5 million to the Navy's research and development program on electric drive propulsion in order to begin to investigate, develop, and apply the new superconducting materials for ship propulsion.

Mr. President, since our April markup, I am glad to say that our Government has taken significant steps to put together a coherent superconductivity initiative. The President announced an 11 point initiative at a gathering of our Nation's scientific elite on July 28 here in Washington. As part of that initiative, the President asked the Department of Defense to develop a multi-year plan to ensure the use of superconductivity technologies in military systems as soon as possible. Under that plan the Defense Department will spend a $150 million over the next 3 years. The President's plan emphasizes the DOD role in developing the required processing and manufacturing capabilities for these high temperature superconducting materials, just as the Armed Services Committee's report on this bill had done. The Defense Department will explore both small scale applications of the new high temperature superconductors to sensors and electronics and large scale applications to compact high efficiency electric ship drive, electrical storage, pulse power systems, and free electron lasers. Many of these areas will have a high potential for commercial spinoffs.

The President's July 28 initiative also assigned various other tasks to the civilian agencies. For example, the Department of Energy and its national laboratories were assigned to pursue basic research in superconductivity of importance to civilian applications and to facilitate transfer of technology to industry. My senior colleague from New Mexico, Senator DOMENICI, has been the leader of the congressional effort to ensure that the DOE laboratories have the resources and the authority to carry out these assignments. The National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration also will have important roles in the overall Federal research effort.

Mr. President, the amendment that I am offering today is entirely consistent with the Armed Services Committee's previous actions to support research in this critical field and with the President's July 28 initiative. It seeks to ensure that at least $50 million will be identified in each of fiscal years 1988 and 1989 by the various Defense Department components for research and development relating to high temperature superconductivity just as the President announced on July 28. The information I have is that despite the President's announcement, firm funding commitments from the various DOD components have been slow to materialize. This amendment will ensure that that problem is resolved. The amendment also designates that an additional $10.5 million be used in each of fiscal years 1988 and 1989 to explore the development of superconductor technology to support the electric drive propulsion program of the Navy. This merely codifies the action taken in the committee's report on this program, as I mentioned earlier.

More importantly in my opinion the amendment places the Under Secretary of Defense for Acquisition or his designee in charge of coordinating the overall Department of Defense superconductivity effort. And it also calls upon the Under Secretary to ensure that DOD's research efforts are carried out in coordination with and are complementary to the efforts of the DOE and its national laboratories, the National Science Foundation, the National Aeronautics and Space Administration, and the National Bureau of Standards. The Under Secretary is also called upon to ensure that any technology resulting from the Department's high temperature superconductivity research effort is transferred to the private sector as rapidly as possible in accordance with the Federal Technology Transfer Act of 1986 and the President's Executive Order 12591, dated April 10 of this year. Finally, the amendment notes that there is a particular opportunity to utilize the national laboratories of the Department of Energy to assist in this technology transfer effort.

Mr. President, I am convinced that there is no more important research effort in the long run than this enterprise on which the various Federal agencies are now embarked in the field of high temperature superconductivity. Clearly, the Department of Defense is going to play a very major role in that effort and it is vitally important that its research activities are coordinated with those of the other Federal agencies.

I am proud of the role which the Department of Defense has already played in the area of superconductivity research. The Air Force, for example, since the mid-1960's has had an important research effort in this field. In fact, an Air Force-funded Westinghouse research project back in 1973 had led to the highest temperature superconducting material which had been achieved prior to 1986.

More important probably than the specific research results is the fact that the DOD program has funded some of the brightest scientists in the world during their graduate education and careers in this field. Paul Chu, now a professor at the University of Houston, whose name is familiar to anyone who has read the news clips on high temperature superconductivity, was supported entirely during his graduate career working under Professor Matthias at the University of California, San Diego, with Air Force funding. Brian Josephson, who discovered the so-called Josephson effect in superconductors which may some day lead to a revolution in computer technology, received significant DOD support during his early research career.

The other Federal civilian agencies have similar stories to tell in terms of their support of superconductivity research prior to now and I am sure that a solid coordinated effort among these agencies will keep the United States at the forefront of world science and technology in this field. My amendment will help guarantee that the DOD effort which will be funded at the highest level of the Federal agencies and which will be directed primarily toward military applications will be fully coordinated with the efforts of the Federal civilian agencies and especially with those of the Department of Energy and its national laboratories.

This field is so young that it is almost impossible to separate military from civilian research at the moment. The DOD research effort will undoubtedly result in large spinoffs to civilian applications and conversely the civilian research efforts will have significant spinoffs to our defense program. Indeed, I might note that in testimony before our committee back in March, the president of the National Academy of Sciences, Frank Press, noted that in areas like temperature superconductivity, the flow from the civilian sector to the defense sector may well be larger than the technology transfer in the other direction at this time. This is in sharp contrast to the situation 20 years ago when the flow was almost entirely from the defense to the civilian sector.

Mr. President, this is a research effort that our Nation absolutely must pursue. We must pursue it knowing that success may not be easily or quickly achieved but that in the long run it will be achieved and it will have profound implications for our military security and our economic competitiveness. I would urge my colleagues to support this amendment which guarantees an absolute minimum level of DOD funding to keep this Nation at the forefront in research in this area and which will hopefully ensure close coordination between the research effort of the Defense Department and of the civilian agencies. I urge the adoption of the amendment.

I plan to offer this amendment at this point if it has been sufficiently reviewed and cleared by the managers. If they need additional time, I will withhold offering it until such time as they feel they have an opportunity to make a judgment as to whether they will oppose the amendment. I yield to my friend from Illinois.

Mr. DIXON. If my friend, Mr. President, from New Mexico will yield, may I suggest this: the distinguished Senator from California is here. He has two amendments that have already been cleared. I have one on this side of my own that has been cleared. We will dispose of his two, while he is here, together. Then we will come back to mine, if it is satisfactory to the Senator from New Mexico. That will take only a few brief moments. Then I am prepared to go to his amendment, and in the meantime, I will ask the other side while we are doing this exercise between the Senator from California and myself that their side examine the amendment of the Senator from New Mexico which has been cleared on this side.

Mr. BINGAMAN. That will be fine. Perhaps by the time you have completed those amendments, my colleague Senator DOMENICI will have an opportunity to come to the floor and also speak for a few moments on behalf of this amendment.

I yield the floor.

Mr. DIXON. Mr. President, the Senator from Indiana as the manager on the other side and myself have cleared the following two amendments: The Mather Air Force Base construction project, strike section 2817 re: Two Milcon project amendments by the distinguished Senator from California [Mr. WILSON], and the Oakland lease by the Senator from California. Those two amendments are in the possession of the Senator from California, who is on the floor, Mr. President.

AMENDMENT NO. 701

(Purpose: To strike out section 2817 of the bill relating to restriction on funds for Mather Air Force Base)

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. I thank my good friend, the manager, the Senator from Illinois.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 701.

On page 191, strike out lines 15 through 24.

On page 192, line 1, strike out "SEC. 2818" and insert in lieu thereof "SEC. 2817".

Mr. WILSON. Mr. President, this is a very simple amendment. It will simply remove the fencing language on the Mather Military Air Force construction project. That is simply the operation of logic. The Air Force had thought about closing certain parts of this base. They thought better of it, and wisely so because they were really not in the position to relocate some vital training functions that were occurring there. Therefore, the scheduled military construction projects should go forward.

I know of no opposition to this amendment. I ask for its immediate adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. WILSON].

The amendment (No. 701) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILSON. Thank you, Mr. President.

AMENDMENT NO. 702

(Purpose: To authorize the Secretary of the Navy to lease certain property at the Naval Supply Center, Oakland, California, to the Port of Oakland, California)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 702.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. 2827. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years with an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement by the Secretary; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) USE OF FUNDS.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing facilities which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority To Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for the construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under Subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Mr. WILSON. Mr. President, this too is a simple amendment. It would authorize the Secretary of the Navy to lease certain property at the Oakland Naval Supply Center to the Port of Oakland and thereby make possible not only a very substantial economic shot in the arm to the community of Oakland, but much more to the point in the context of this defense authorization bill—to arrange for a very substantial upgrading of the Navy's mobilization capability there at this critical facility so that in time of need we would have no expense to the taxpayers a very greatly increased capability.

As it happens, this is the coordination of multi-mobile cargo transfer system involving sea and rail. The rail capacity is substantial and the lease of this property by the Navy to the Port of Oakland will permit the Naval Supply Center to reach in time of war its port mobilization requirements which is to handle 40 percent of the total west coast movement demand which happens to involve about 85 percent containerized cargo. The Port of Oakland has pioneered this containerization cargo handling. They are in a very good position to substantially improve the property for the Navy, and again I repeat at no cost to the taxpayer. I know of no opposition to this amendment. I ask for its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. DIXON. Mr. President, this is in the House authorization bill. It has been cleared on this side. I would appreciate it if the President puts the question.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. Wilson].

The amendment (No. 702) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 703

(Purpose: To authorize the Secretary of the Air Force to convey certain land near Chanute Air Force Base, Illinois)

Mr. DIXON. Mr. President, I send to the desk an amendment that has been cleared on both sides and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illiinois [Mr. Dixon] proposes an amendment numbered 703.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS.

(a) Authority to Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that track of land (together with any improvements thereon) which compromises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) Conditions of Sale.—Before the Secretary enters into a contract for the sale of any or all of the property referred to in subsection (a), the prospective buyer shall be required—

(1) to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(A) Widen and extend Heritage Drive.

(B) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(C) Construct a visitor reception center and parking lot to serve such center.

(D) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) Competitive Bid Requirement and Minimum Sale Price.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the appropriate committees of Congress a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) is received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the appropriate project selected by the Secretary.

(e) Use of Excess funds.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) Legal Description of Land.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

Mr. DIXON. Mr. President, I rise to offer an amendment to the fiscal year 1988 Department of Defense authorization bill that will allow Chanute Air Force Base to relocate the west gate of the base and construct a new main entrance and visitor's gate to the base at no cost to the taxpayer.

At the present time, there exists near the Chanute Air Force Base in the city of Rantoul, IL., pre-World War II housing owned by the Government called Chapman Courts. Chapman Courts is temporarily being used for unaccompanied enlisted personnel housing and family housing for lower grade enlisted personnel and their families.

It is anticipated that within the next 12 to 18 months the Air Force will provide on base living quarters, and the facilities at Chapman Court will no longer be needed. The Air Force will then no longer have a use for these 49 acres. Since this land is within the corporate boundaries of Rantoul, IL, the city has proposed that developers be allowed to purchase this land with the understanding that they must construct the following projects at the base.

(A.) Widen and extend main access road through the base.

(B.) Construct a new entrance gate and guardhouse to serve as the main entrance from the local highway.

(C.) Construct a visitor reception center and parking lot to serve such center.

(D.) Construct new street or alter existing streets in order to effectively reroute automobile traffic on the Air Force Base to and from the proposed gate.

Should it be determined that the property has a greater value than the facilities being constructed on Chanute, the developers must pay the U.S. Government for the additional land value to be paid into the general fund of the U.S. Treasury.

I urge my colleague to support this amendment to oblige the wishes of the city of Rantoul and the Chanute Air Force Base.

Mr. President, this amendment has been cleared on both sides. It provides for the conveyance of some land for other projects at Chanute, which is land presently owned by Chanute. It has been cleared by all parties on both sides and by the appropriate service people. I think there is nothing further.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Illinois [Mr. DIXON].

The amendment (No. 703) was agreed to.

Mr. DIXON. I move to reconsider the vote by which that amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, that nicely clears up four amendments. I thank my colleague on the other side for his accommodation.

Mr. WARNER. Mr. President, I wonder if I might ask the distinguished manager of the bill and others present if we could put in a brief quorum call, I would hope maybe not to exceed 10 minutes during which time I propose to canvas my side to receive their expression of views concerning the time agreements, the quantum of time agreements that might be available to determine again the extent to which we can approach the managers' objective to have in place, as I understand it, a fixed body of work for us in order for the leadership of the Senate to consider the necessity for tomorrow's session.

Mr. NUNN. Mr. President, the Senator is correct. I think if we could take that list of amendments and get a time agreement on all of those, we will be in business.

Mr. WARNER. I thank the distinguished chairman. At this time, it just necessitates the absence from the floor of the Senator from Virginia.

Mr. DIXON. In the course of the exercise, while both managers were temporarily absent, we adopted four agreed-to amendments, two from each side. The Senator from New Mexico had presented his point of view on the amendment he was about to offer that is cosponsored by the two distinguished Senators from New Mexico, Senator DOMENICI as well as Senator BINGAMAN. And the other side was looking at the question of clearing that amendment. I wonder if we could usefully employ the 10 minutes for further discussion on that, and the offering of that amendment. We sort of agreed to go ahead with that while others were doing the other things.

Mr. WARNER. At this time, I say to my good friend the chairman that no one will be available to protect this side. Not that we need protection, but people recognize the practicalities.

Mr. PRYOR. Mr. President, before the distinguished Senator asks for a quorum call, if that is going to happen, I wonder if it would be appropriate for me to offer an amendment that may be accepted. I was trying to accommodate the managers of the bill. I could at least lay down the amendment, and once we dispose of the quorum call and go back in session, that could be the pending order. Would that be appropriate?

Mr. WARNER. Mr. President, I am not entirely clear what the content of the amendment is, whether or not it falls within the framework of the understanding the manager and I have.

Mr. PRYOR. It relates to the transfer of land around several Titan missile sites.

Mr. WARNER. I understand that this matter has been shared with this side, and it appears that it can be acted on fairly quickly. So the Senator can address that and we can put in a quorum call.

Mr. NUNN. Will the Senator from Virginia agree that this amendment can be disposed of before the quorum call or just lay down before the quorum call?

Mr. WARNER. Mr. President, if it will take only a few minutes. I have a number of Senators who wish to get into the caucus. It if is the desire of the manager, I will do that.

Mr. PRYOR. Mr. President, the Senator from Virginia is being very accommodating. I know him well and admire and respect him, and I think he would rather go ahead with his caucus before we do this amendment. I will delay offering this amendment.

Mr. NUNN. I say to the Senator from Arkansas that he can probably present his amendment in 30 seconds, and I think he should do so at this time.

AMENDMENT NO. 704

(Purpose: To provide for the disposition of real property at Air Force missile sites)

Mr. PRYOR. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself and Mr. BUMPERS, proposes an amendment numbered 704.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following:

SEC. 2827. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES.

(a) IN GENERAL.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

“§ 9781. Disposition of real property at Air Force missile sites

(a) IN GENERAL.—(1) The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

“(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

“(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Air Force, as determined by the Secretary of the Air Force;

“(B) does not exceed 25 acres;

“(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

“(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

“(b) PREFERENCE FOR SALE TO OWNERS OF SURROUNDING LANDS.—The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

“(c) DETERMINATION OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

“(d) WAIVER OF REQUIREMENT TO DETERMINE WHETHER PROPERTY IS EXCESS OR SURPLUS PROPERTY.—The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

“(e) ADDITIONAL TERMS AND CONDITIONS.—The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

“(f) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) OTHER DISPOSITION OF PROPERTY.—If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

"(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at Air Force missile sites.".

Mr. PRYOR. Mr. President, I rise today—along with my distinguished senior colleague from Arkansas, Senator BUMPERS—to offer an amendment to the Department of Defense authorization bill to protect the integrity of farm land holdings within which dismantled Air Force missiles sites are located. I believe this amendment is noncontroversial, having been examined by Armed Services Committee staff and others with an interest in Federal Government surplus property disposal. It is my hope this amendment can be adopted quickly.

Our amendment establishes a statutory priority for conveyance to current owners of land surrounding dismantled missile sites. Without such a priority, these individuals may find themselves owning property which contains land that would interfere with the use of the primary parcel.

The amendment will deal with Titan II sites now being dismantled in Arizona, Kansas, and Arkansas, and with the eventual closure of the Minutemen sites in North and South Dakota, Wyoming, Nebraska, Colorado, Montana, and Missouri. It therefore provides assurance to current owners and any potential purchasers that the sites will cause no problems should they be dismantled in the future.

Unless Congress approves this measure, the land will go through the normal disposal process for Federal property. This involves offering the land to other Federal agencies first, and if none have a need for the property, then the property is offered to State and local governments. Finally, the land can be offered for sale to the public through either a competitive bidding process or an auction. I believe, and I hope my colleagues will agree, that this land, surrendered by rural citizens to their government for defense purposes, should upon dismantlement be made available to the party who sold to the Government, or to the current owner.

I ask unanimous consent to have printed in the RECORD two letters from Arkansans who have Titan sites on their land:

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

For 26 years much of my land has been useless to me. 13 and one half acres have been covered by rocks (dug out of the missile hole). A road splits the land. I have been unable to sell most of my land for 26 years because it is restricted against building. After all the problems the missile site has caused, I believe the land should be given back to the original land owners.

L.E. HEFNER.

PANGBURN, AR

I would like to have the right to purchase this property. If it is sold to someone else it will continue to keep me from using property that I own but is covered by easement. If bids are taken the owner does not have an advantage to recover the land.

ODAS SMITH.

Mr. PRYOR. Mr. President, I believe these letters are representative of the sentiments which landowners across the country surely must have on this matter.

The amendment has been carefully drawn to prevent windfall profits. It essentially gives the landowner the right of first refusal. The property will be sold for what is determined by objective appraisal to be the fair market value of the land. This ensures that the Government and the taxpayer are parties to a sound business transaction, while also recognizing the important interest of the surrounding landowner. No consideration of the landowner's interest is possible under current law.

Mr. President, the Air Force fully supports this amendment. In fact the Air Force has worked closely with my staff as I developed this amendment. It is my understanding that the distinguished chairman of the Armed Services Committee, Senator NUNN, has also been contacted by the Air Force on this matter. Senator NUNN and his staff have been most helpful in this regard.

Finally, I thank the distinguished chairman of the Armed Services Committee for his assistance on, and consideration of, this amendment.

Mr. NUNN. Mr. President, this is a unique set of circumstances involving land grant ICBM sites. They are in rural areas. I understand that the Senator would be giving the people adjacent thereto first refusal, which is a departure from the normal GSA rules. But under these circumstances, I think it is warranted, and we suggest that the amendment be accepted.

Mr. WARNER. There is no objection.

Mr. PRYOR. I thank the Senators.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 704) was agreed to.

Mr. PRYOR. Mr. President, I have a second amendment regarding the facilities at the Blytheville Air Force Base.

As my good friend, the chairman of the Armed Services Committee, knows, Blytheville is the home of the Strategic Air Command's 97th Bombardment Wing and several other Air Force missions.

The community surrounding Blytheville is four square miles behind the Air Force base and the relations between the base and the town are as good or better than relations at any other base in this country. Blytheville is also located in an almost perfect location for carrying out its missions and is far enough away from urban centers to minimize problems with the noise associated with such bases.

Although Blytheville has many advantages, it seems to be at the end of the pipeline when it is time to allocate funds to upgrade military facilities. Since the base was activated in 1942, the base's responsibilities and importance has skyrocketed. My amendment seeks to help Blytheville keep up with its important responsibilities.

One of Blytheville's biggest needs is a new mission operations facility. I am not alone in recognizing this need, it is something that the Air Force has identified. My amendment, which is cosponsored by the senior Senator from Arkansas, would authorize the appropriation of $5.9 million to begin work on the facility.

I understand that the House authorization bill provides for construction of the mission operations facility and I hope that the Senate will accept this amendment as well.

Mr. NUNN. I thank the Senator from Arkansas for bringing the needs of the Blytheville Air Force Base to our attention here tonight. Blytheville is indeed a base of great importance to the Air Force and to the defense of this Nation. I am aware of the need to upgrade aging facilities at Blytheville and to build new facilities to meet current and expected needs.

The money the Senator requests to build the missions operations facility at Blytheville is in the Air Force budget request, but it is in the request for fiscal year 1989. I am very interested in accommodating the Senator but would respectfully ask that the Senator allow the Armed Services Committee to consider this request in the context of the fiscal year 1989 military construction requests.

I can assure the Senator that this Senator will make every effort to see that the mission operations facility and other proposals to bolster the Blytheville Air Force Base receive careful and favorable consideration in the coming year.

Mr. PRYOR. Am I to understand that the Senator is saying that the committee would oppose this amendment at this time?

Mr. NUNN. Unfortunately, I must state that such is the case. However, I will give my personal assurance that the committee will remember this discussion and give the funding request special consideration in the coming year.

Mr. PRYOR. I respect the Senator and his word and thank him in advance for his efforts on this matter. I will not push this amendment to a vote today, but will state again that this issue is very important to me and the men and women who serve our Nation at Blytheville.

I look forward to working with the chairman and his staff when the fiscal year 1989 military construction budget is being discussed.

Mr. DOMENICI. Mr. President, I might first compliment my colleague for offering the amendment.

This amendment, with reference to superconducting research as it applies to the military and the Department of Defense, is much needed. The President of the United States is to be commended because as far as superconducting research and the Department of Defense, he has included substantial amounts of money in his budget.

My colleague, Senator BINGAMAN, in our amendment, focuses and directs it and makes sure that this important research is managed properly and is directed at the right activities within the Department of Defense.

So I think this is one of those few occasions where, when we here in the Congress are asking that we do more research, especially in some of these very new cutting edge activities and scientific breakthroughs, we should have a happy marriage because we are not having to increase to any significant degree the President's request.

This amendment just takes care of some of the shortcomings and vagaries that have accompanied some of our research activities in the Department of Defense and elsewhere and in particular in these new cutting edge sciences.

So I compliment my colleague for that.

We all know in the last 6 or 8 months that much is being said about scientific and technological breakthroughs and our economic future.

I think it is becoming generally understood here in Washington, by those who are involved in committees that have jurisdiction in research areas, that the time has come when we can no longer compartmentalize our research. We cannot have our national laboratories off doing their own thing, the universities and academia doing theirs and the private sector off doing its. If we do not find some way to measure those activities better than we have in the past, clearly we are not going to take advantage of our knowledge breakthroughs quickly enough to significantly affect our competitiveness and give us a better opportunity to bring these new technologies into the marketplace.

I think that is becoming well-known. So, I rise in support of the amendment, and point out that it is a step forward and that it directs the Department of Defense to take every step possible to expedite the transfer of technology that may result from this research activity. Nonetheless, I think it is fair to say that at least in my opinion, we are a long way from effective utilization of the Department of Energy's nine national laboratories that do significant defense work, to which I expect some of this superconducting research will go. We are a long way from changing a national culture that has sort of developed around them.

Frequently, private sector activities are going on in the same community—in the same area that the Department of Energy's labs are working, be it the one in Berkeley or New York or Chicago or the two in New Mexico—and there is no collaboration, I believe that is the case because, by design, they have been user unfriendly.

The national labs were supposed to accomplish their mission and as far as the private sector, it was to accomplish its mission. We all must engage in changing in a dramatic way the culture of both. And then, we must also work the academic community into the equation.

There are some pilot projects beginning around the country to see how we can do it. We have billions of dollars invested in these national laboratories with the best scientists in the country. These scientists have expanded the purposes of the labs in the past during national crises. Although we have this broad array of talent, this fantastic technological capacity, we still have a long way to go to make the activities of the labs available to the private sector without doing damage to our national security. This must be done in an expeditious way by the private sector and the universities, both by way of knowledge exchange and property right acquisition, so the private sector will be interested in taking advantage of it because it might mean marketplace activities.

As I indicated, the amendment that we offer does direct that every advantage be taken to get this into the marketplace and to use private sector relationships. Clearly that whole set of activities is in an extreme quagmire in the Department of Defense because our technology transfer laws are being read narrowly.

Instead of proceeding expeditiously with waivers, they proceed at a slow pace. When they can protect an area of activity, they are always on the side of protecting it to the maximum extent. My best guess is that fully 60 percent of these national laboratories' work is exempt from private sector activity and private proprietary right acquisitions and the waiver process is taking an inordinately long time.

I am not prepared to say how long it is now because my last information is 1986 information which GAO obtained in their reports. But clearly we have got to take far more advantage of these activities if we are going to ulitize our knowledge base and move it through enabling technology into the marketplace.

I am very hopeful that this amendment will succeed in effecting the coordination of all of our superconducting activities. By designating two of our national labs as lead labs in superconducting research, and designating the Los Alamos scientific lab as a pilot laboratory to attempt to work out private sector and university arrangements, that this money will be used in the most fruitful and productive manner. In that way we will capitalize, as a nation, not only in our defense but in the area of developing this cutting edge technology for the American marketplace.

Mr. President, I understand that we are still trying to work out with the floor manager on this side the acceptability of this amendment. I hope the distinguished senior Senator from Virginia will accept it. I do not believe we are going to get a defense bill through on the appropriations side that does not put some money into superconducting activity because, if nothing else, we are afraid that some of these critical technologies of the eventuality of not having some of our defense will not be available if we do not act. This is the kind of technology that could have broad ramifications, positive and negative, depending upon how it comes out for our defense.

So we are going to put some money in to encourage research and market applications. I think this is a modest initiative. It follows the President's recommendations dollarwise and I think it ought to be accepted here today.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 705

(Purpose: To set aside funds for a Department of Defense high-temperature superconductivity research and development program)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 705.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 8 and 9, insert the following new section:

SEC. 229. DEPARTMENT OF DEFENSE HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT PROGRAM.

(a) AUTHORIZATION.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989, may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1) for each of fiscal years 1988 and 1989, $10,520,000 may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Project Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive program of the Department of Defense.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of Defense shall determine, with respect to the amounts appropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

(2) The Under Secretary of Defense for Acquisition or his designee shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

(c) The Under Secretary of Defense for Acquisition shall take appropriate action—

(1) to ensure that high-temperature superconductivity technology resulting from the reseach activities of the Department of Defense is transferred to the private sector in accordance with (A) the amendments made by the Federal Technology Transfer Act of 1986 (Public Law 99-502; 100 Stat. 1785) to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and (B) Executive Order Number 12591, dated April 10, 1987; and

(2) in consultation with the Secretary of Energy, to ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent, in the transfer of such technology to the private sector.

Mr. BINGAMAN. Mr. President, this is the amendment related to the Department of Defense effort in research in high-temperature superconductivity, which I have spoken about, and which my colleague, Senator DOMENICI, has spoken about. I believe the amendment is acceptable on both sides at this point. Unless there is additional debate that someone has, I believe we are ready to vote.

The PRESIDING OFFICER. Is there further debate?

Mr. DOMENICI. Mr. President, I have spoken with the distinguished Republican manager, Senator WARNER, and he indicates he has no objection to the amendment.

Mr. President, I have already given my remarks and have no further remarks.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, this amendment has been reviewed by both managers and reviewed by the majority of the committee. We strongly support the adoption of the amendment. We do commend the two Senators from New Mexico, Senator DOMENICI and Senator BINGAMAN, and hope the amendment is agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 705) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WIRTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

Mr. DIXON. Mr. President, may I say to my friend, the distinguished Republican manager, the Senator from Indiana, that the majority leader, the ranking member, and the chairman are in the majority leader's office now going over those provisions of the general parameters of the unanimous-consent agreement that had been discussed with the Senator from Indiana and others. I was not a participant, but I know generally the things involved therein.

I understand the distinguished Senator from Wyoming has an amendment that may be agreed to. I am not positive about that, but I think that is correct. I understand that the Senator from North Carolina has an amendment he would like to consider today and have a vote on. And I believe that the Senator from Connecticut, Senator WEICKER, has an amendment that we could go to today and vote on.

I believe that, while I cannot speak for the leadership, it would be the sense of this side, if it is the sense of that side, that if we could dispose of the agreed amendment, should it be an agreed amendment, by the Senator from Wyoming, and the disputed amendments by the distinguished Senator from North Carolina and the distinguished senior Senator from Connecticut, we might conclude today's business. Then there could even be more pleasant announcements that others would have the power to suggest at a later date to my colleagues.

What does my friend from Indiana say to that?

Mr. QUAYLE. I have no problem with the amendment of the Senator from Wyoming, which I understand is going to be accepted. The Senator from North Carolina then has his amendment ready and I believe that the Senator is prepared to enter into a 1-hour time agreement with no amendments thereto which I think is understood.

Mr. HELMS. Or less.

Mr. QUAYLE. Or less.

Mr. DIXON. This is satisfactory.

Mr. QUAYLE. The Senator from Connecticut has a couple of amendments floating around here. I am not exactly sure which one—I do not like either one of them—but I am not sure which one we are talking about.

Mr. DIXON. Why do we not worry about that latter? I have here a statement from the chairman of the committee to go in the RECORD supportive of the amendment by the Senator from Wyoming, so I think we are ready to roll on that. Then if we could go to the Senator from Carolina, that will keep us occupied while we find out what the Senator from Connecticut is doing.

Mr. QUAYLE. OK. At this time, do you want to propound a unanimous-consent request?

Mr. DIXON. What is your pleasure, may I ask my friend?

Mr. HELMS. Not to exceed 1 hour, equally divided.

Mr. DIXON. May I request that a tabling motion be in order until I see how the chairman feels about it?

Mr. HELMS. Yes.

Mr. DIXON. There is no problem with that at all.

Mr. QUAYLE. Then I ask unanimous consent that, upon the disposition of the Wallop amendment, the

Senator from North Carolina be recognized and his amendment be in order and that the time agreement be not more than 1 hour, equally divided, with no amendment thereto.

Mr. DIXON. And a tabling motion is in order, Mr. President.

The PRESIDING OFFICER. Is there objection to the Senator's request? Hearing none, it is so ordered.

The Chair recognizes the Senator from Wyoming, Senator WALLOP.

AMENDMENT NO. 707

(Purpose: To require a report on how the absence of any ABM Treaty limitations would effect the Strategic Defense Initiative Program)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP], for himself and Mr. WILSON, proposes an amendment numbered 707.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 114, between line 13 and 14 insert the following:

(a) REPORT ON NO ABM TREATY LIMITATIONS.—The Secretary of Defense shall submit to Congress a report concerning the effect of no ABM Treaty limitations on the Strategic Defense Initative Program.

(b) MATTERS TO BE INCLUDED.—The report shall include the following:

(1) An analysis of the ramifications of no ABM Treaty limitations on the development under the Strategic Defense Initiative program of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets. This analysis should compare research and development programs pursued under the restrictive interpretation, the less restrictive interpretation, and no ABM Treaty limitations, including a comparative analysis of—

(A) The overall cost of the research and development programs,

(B) The schedule of the research and development programs, and

(C) The level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early- to mid-1990s.

(2) A list of options under no ABM Treaty limitations that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) DEADLINE FOR REPORT.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) REPORT CLASSIFICATION.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

Mr. WALLOP. Mr. President, last year I proposed an amendment requiring that the Secretary of Defense produce a report on how the SDI Program would be effected if the administration were to move to the legally correct interpretation of ABM Treaty.

The report did not prejudice in any way to outcome of the debate we have focused so much attention on over the last 5 months. It merely asked the question, "Would we save any time or money, and would we increase our confidence in any strategic defense we might consider deploying in the 1990's, if we moved programmatically to the broad interpretation.

I believed it was important to have that information, both because it would have a bearing on the debate over the interpretation issue, and more importantly because it would provide Senators with needed information about what we can do to speed the development of the strategic defenses we so vitally need.

Mr. President, my amendment to last year's DOD bill was accepted without debate by both sides of the Chamber. The report was delivered to the Senate in May of this year. Unfortunately the contents of the report are classified, and I encourage my colleagues to read the report. But the findings were summarized in an unclassified cover letter. The report concludes that moving to the broad interpretation of the treaty will reduce overall costs and will allow for significantly greater program efficiency. At least $3 billion dollars can be saved in establishing the feasibility of an initial, incremental defense against ballistic missiles. And with that money, over two years in time can also be saved.

The most striking conclusion to me, Mr. President, is that each month our legal right to conduct research remains limited by the restrictive interpretations, we must swallow a 2-month delay in the deployment of defense based on the results of our research. It is difficult for this Senator to understand how some of my colleagues can oppose moving to the legally correct interpretation of the ABM Treaty yet support a strategic defense for the United States.

Today, Mr. President, I am offering a similar amendment. In fact, the wording is almost identical with that the Senate passed last year. This year, however, the basic question has changed. This year, Mr. President, I thought that the Congress should have a report on how the SDI Program would be conducted differently, and what the benefits might be, if any, of no ABM Treaty limitations. We all know that if we are to one day deploy a robust strategic defense, the ABM Treaty must be either modified or abrogated. Many scholars, and I suspect many inside this administration, have debated the question as to when we ought to take that step. It is my hope that this report will shed some light on that question.

Most of my colleagues in this Chamber support SDI. A majority of them have voted consistently for SDI budgets far in excess of what would be needed for a level of effort technology program. The objective of the SDI Program is not just to maintain a hedge against Soviet ABM breakout, but to actually make a decision to build antimissile devices to protect this country. I have been advocating for almost a decade that such defenses be built, and with all speed. Be that as it may, we in the Senate must at least contemplate a world without the ABM Treaty. This report will hopefully provide us with some of the needed information to face that world with greater confidence.

The requested report does not ask whether we should abandon the ABM Treaty. Nor does it ask for a time when such a withdrawal would be optimum. It merely asks what effect would the absence of ABM Treaty constraints have on the SDI Program.

I cannot tell Senators what the answers to the questions posed in this report are. But if they are as significant as the report requested in last year's DOD bill, I think we would be skirting our responsibility to the American people not to ask these questions of the administration.

Mr. President, basically what the amendment intends to do is to ask for a further report. I have consulted both the majority and minority on this. It is my understanding, with the statement by the chairman of the committee, that the amendment is agreeable on both sides.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. Mr. President, I am prepared to accept the amendment.

We had a similar reporting requirement last year which was included in the authorization act and the Congress received that report this summer.

The Senator's amendment this year would go beyond last year's report and require information on how SDI testing would be conducted if there were no ABM Treaty.

In accepting this amendment, I am not recommending that the U.S. abrogate the ABM Treaty—just as in accepting last year's Wallop amendment dealing with testing under the broad interpretation I was not recommeding that we make that switch.

As I have said before, though, we cannot rule out the possibility of having to deploy some types of strategic defense, so Congress should have information about that option as it considers the future course of SDI and the ABM Treaty.

I would say, in concluding, that I hope the report that would be submitted under this amendment is more credible than the last Wallop report, which was extremely assumption—dependent and, in my opinion, driven more by ideological considerations than technical objectivity. I think the next report must be able to stand up to impartial and informed technical review.

Mr. DIXON. Mr. President, there is no objection on this side. This side supports the amendment of the Senator from Wyoming.

Mr. QUAYLE. Mr. President, I wish to congratulate the Senator from Wyoming on his amendment. He has been a stalwart in this area on trying to promote the strategic defense initiative. As a matter of fact, he has probably been on this as much as anybody and early on, ever since he has come to the Senate, he has focused on trying to get some defenses, not only research but actually developed and eventually deployed.

I think this report will go a long way to perhaps answer some questions that some may have, because we have had the situation of those who support defenses and eventually deployment of defenses and there are certain incompatibilities with the ABM Treaty.

I congratulate the Senator on the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Wyoming [Mr. WALLOP].

The amendment (No. 707) was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me. I understand there has been a unanimous consent with reference to the time limitation on this amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Not to exceed 1 hour, equally divided?

The PRESIDING OFFICER. The Senator is also correct.

Mr. HELMS. I thank the Chair.

AMENDMENT NO. 708

(Purpose: To redeploy 50 stockpiled Minuteman III missiles into existing Minuteman II silos in order to en-hance the strategic modernization program at no additional cost and to release 50 Minuteman II missiles for testing to support the reliability and effectiveness in the aging Minuteman II force)

Mr. HELMS. Mr. President, I learned the hard way last night to be leery of two voices in the administration speaking once saying different things about the endorsement of legislation. Maybe that will happen again today. I don't know yet.

So, therefore, I have an amendment at the desk which I will call up and ask to be stated. And we will find out.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from North Carolina.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 708.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

Add at the end of the bill the following new section:

"SEC. —. Of the funds appropriated for operations and maintenance to the Air Force pursuant to section 301(a)(4), one-tenth of one percent of the amount appropriated for fiscal year 1988 and one-tenth of one percent of the amount appropriated for fiscal year 1989 may be obligated only to redeploy 50 stockpiled Minuteman III missiles into existing Minuteman II silos in order to enhance the strategic modernization program at no additional cost and to release 50 Minuteman II missiles for testing to support the reliability and effectiveness in the aging Minuteman II force.".

Mr. HELMS. Mr. President, just at the outset, let me document the full support of the administration of this amendment. Maybe this time there won't be confusion or another self-inflicted wound brought about by discord in the administration.

First, I am going to ask Mr. Sullivan to hold up a slightly enlarged text of a letter from Cap Weinberger, Secretary of Defense.

Then, if you raise the other letter, blown up to about the same size. This is a letter from Department of the Air Force endorsing this amendment.

I ask unanimous consent that the text of these letters be printed in the RECORD at this point. I assume there will not be any disagreement.

There being no objection the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, September 9, 1987.
Hon. JESSE A. HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR: Thank you for your letter of June 24. Your proposal to retrofit Minuteman III missiles into Minuteman II silos has merit and has indeed been advocated by the Air Force in the past. The Department of Defense believes it would be useful to redeploy the 50 Minuteman IIIs being displaced by Peacekeeper. In fact, reentry vehicles and other assets have been protected to support a potential, future redeployment of 50 Minuteman IIIs.

The benefits cited in your letter—additional number of more capable warheads, the relative economy of this redeployment, and a revitalization of the Minuteman II flight test program—are attractive. Indeed, there is a significant need for additional Minuteman II test assets. Releasing 50 operational Minuteman II missiles would be of major benefit to our ability to support a reliable and effective Minuteman II force.

The 150 additional Minuteman III warheads would undeniably be more capable against hardened targets than the 50 Minuteman II warheads they displace, and, thus, would constitute a valuable adjunct to the strategic modernization program. As you know, however, the Minuteman IIIs are far less counterforce-capable than Peacekeeper. Therefore, in view of the expanding Soviet threat, the full strategic modernization program remains our priority.

We share a common goal in providing the best possible defense for our country. Our pursuit of that goal is best served by continued cooperation, and I look forward to working with you in this worthy endeavor.

Sincerely,

CAP.

DEPARTMENT OF THE AIR FORCE,
Washington, DC, June 15, 1987.
Mr. QUENTIN CROMMELIN,
Counsel, Minority Staff, Senate Foreign Relations Committee, U.S. Senate, Washington, DC.

DEAR MR. CROMMELIN: The Air Force supports the President's plan for ICBM Modernization which currently calls for deployment of 50 Peacekeepers in Minuteman silos and development of Small ICBM and the Peacekeeper Rail Garrison basing mode. We sincerely appreciate Senator Helms' support in pursuit of these ICBM Modernization goals.

The current plans for ICBM Modernization do not include a displacing of Minuteman IIs with Minuteman IIIs. That approach, last proposed in the early 1980s, was disapproved by Congress in 1983.

The Air Force would not be opposed to a reinvestigation of displacing MM IIs with MM IIIs as an addition to the modernization program. Because the Air Force needs to maintain sufficient spares and assets for testing to ensure the reliability and accuracy for the life of the MM III system, 50 MM IIIs would be the maximum deployable. Our estimate is that retrofit of 50 missiles would take about 2 years and cost approximately $50M.

We hope that this information proves useful.

ROBERT F. RAGGIO,
Colonel, USAF, Chief, Weapon System Liaison Division, Office of Legislative Liaison.

Mr. HELMS. Mr. President, I offered this amendment on one other occasion and the water got muddied just a bit because two Senators arose to say that the Air Force "adamantly opposed it" and I quote them in saying adamantly and the Pentagon opposed it. I do not quite know what the distinction between the two may be. But in any event that is what the Senate was told.

The amendment was unwisely not accepted at that time. I just want to make it clear this time that we checked all the bases. It is a good amendment. It is cosponsored by the distinguished Senator from Idaho [Mr. SYMMS], the distinguished Senator from Wyoming [Mr. WALLOP], the distinguished Senator from Utah [Mr. GARN], the distinguished Senator from New Hampshire [Mr. HUMPHREY], the distinguished Senator from Utah [Mr. HATCH], the distinguished Senator from Idaho [Mr. MCCLURE], and I believe Senator NUNN, the distinguished chairman, supported this proposal in the Armed Services Committee when it was first agreed to in that Committee in early 1980.

Now, I shall proceed.

This amendment is intended to assure the continuation of a program that is essential to the defense of the people of the United States. And at the same time, this amendment is extremely cost-effective in defense dollars.

I refer to retrofitting 50 stockpiled, MIRV'd Minuteman III Inter-Continental Ballistic Missiles in existing single-warhead Minuteman II ICBM silos.

This amendment will be a measure of the will and resolve of the Senate in taking those actions necessary to deter the Soviet threat to the people of the United States. I ask for my colleagues' support in this crucial effort, because it is vital to insuring that the Senate signals a position of deterrent strength to the Soviet Union, rather than the position of weakness we have signaled all too frequently in recent decades.

I hope that a majority of Senators will join with us in perceiving the strong logic of this proposal, and I hope that they will recognize its importance in demonstrating our intention to maintain a clearly viable, powerful strategic nuclear deterrent.

Mr. President, as Senators will remember, on May 28, 1987, I offered an amendment to resume the fiscal year 1983 program for limited retrofitting of Minuteman III ICBM's into Minuteman II silos. As we recall, about 130 Minuteman III's are stockpiled, and an additional 50 Minuteman III's are now being stockpiled further, as a result of MX ICBM deployment in Minuteman III silos. Thus there will soon be about 180 stockpiled Minuteman III MIRV'd ICBM's.

It has long seemed to me that approximately 180 stockpiled Minuteman III's were excessive, and that many of these perfectly serviceable ICBM's should be put to some military use.

I would remind Senators that the present U.S. ICBM force structure consists of only 450 Minuteman II's deployed, only about 536 Minuteman III's, and only about 14 MX "Peacekeeper" ICBM's deployed, for a U.S. total of only 2,198 ICBM warheads. This compares with a Soviet deployment of from 6,500 to over 8,000 ICBM warheads, almost a 4 to 1 numerical ratio in Soviet favor. This is the most important measure of military power in the world today.

When we began the deployment of the Minuteman III's 17 years ago in June 1970, the original intent was to complete deployment at the level of 1,000 Minuteman III MIRV'd missiles. But by 1975, only 550 Minuteman III's had been retrofitted into Minuteman II silos, and it was necessary to stockpile more Minuteman III's for retrofitting to be continued. About 130 had been stockpiled, before the Carter administration stopped the production of Minuteman III's and broke up the machine tools and production line in 1978 in anticipation of SALT II.

But in August 1979, the United States detected a Soviet Combat Brigade in Cuba. The ratification process on the SALT II Treaty was derailed. In late 1979, the Senate Committee on Armed Services declared that the SALT II Treaty was "not in the national security interest of the United States." Just after this statement, the Soviets invaded Afghanistan. The SALT II Treaty could not be ratified, because two-thirds of the Senate would not give its advice and consent, as Senator MOYNIHAN pointed out.

The approximately 130 Minuteman III's are still stockpiled, and there will soon be about 180, as 50 MX ICBM's are retrofitted into Minuteman III silos. Some of us have long recognized the need to put these stockpiled missiles to some useful military purpose. Therefore, in 1980, Congress in the fiscal year 1981 Defense authorization bill authorized the retrofitting of at least 50 but to up to 100 of the 130 stockpiled Minuteman III missiles into the existing Minuteman II silos.

Mr. DIXON. Would my friend from North Carolina yield for a moment?

Mr. HELMS. Sure.

Mr. DIXON. I am very embarrassed to interrupt my dear friend. I think the membership is interested in knowing what is going to happen here in the balance of the day, if I can take one moment to interrupt you to let the folks know at 5 o'clock, because I think some are wondering what is happening.

Mr. HELMS. I think that is a good idea, Senator. Why do not you proceed.

Mr. DIXON. There definitely will be a rollcall on your amendment, Senator. Since we have an hour time limit that is going to occur somewhere around 6 o'clock.

The Senator from Connecticut [Senator WEICKER] was just in the Chamber, and has advised me that he will be ready on an amendment and that will also be a disputed one. So I would caution my colleagues that there will be two more recorded rollcalls and we would expect that the work will be completed in about 2 hours. I apologize. Let me say I assume, on the basis of all I have said, that the unanimous-consent agreement now being discussed in the majority leader's chambers will be agreed to.

On that assumption I am saying if we get a unanimous-consent agreement, which presently is pretty well in final form and has been diligently worked on on both sides, then we will vote on the Senator's amendment somewhere between now and 6, and on one more amendment, probably 7, and the membership is on notice that there are two more rollcalls.

I apologize to the Senator.

Mr. HELMS. No apology needed at all. I think it will be earlier than 7 o'clock because I will not take all my time.

Perhaps I missed something in the translation, but I thought I asked the Chair if there was a unanimous-consent agreement already on this amendment.

Mr. DIXON. Yes. On your amendment there is.

Mr. HELMS. The Senator is talking about the Weicker amendments.

Mr. DIXON. May I say to the Senator there is a unanimous-consent agreement covering about 10 or 12 very contentious amendments where each will be 2 hours in length, or several hours, which is being worked on right now, which will cover our work schedule next week. We have a separate unanimous-consent agreement on the Senator's amendment which is 1 hour, and one more agreement after that with Senator WEICKER.

Mr. HELMS. I thank the Senator.

Mr. President, I know as I proceed for 2 or 3 additional minutes, the manager will be so absolutely persuaded by this amendment that he and the other manager will see that they should accept it without even a rollcall. That remains to be seen.

Mr. QUAYLE. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. QUAYLE. During the last couple of days we have heard a lot of discussion about the law of the land, the ratified ABM Treaty, the War Powers Act. I would like to ask the

Senator about his observation of this violating any laws that the United States might have, in his judgment.

Mr. HELMS. None whatsoever. As a matter of fact, it is just the resumption of statutory authority which existed previously.

In 1981, $5 million was appropriated by Congress to begin this retrofitting. A total of only $50 million would have been required for the retrofitting of 50 to 100 Minuteman III's. Most of the $50 million, however, was intended to install so-called functionally related observable differences [FROD's] required under SALT II to differentiate MIRV'd Minuteman III silos from non-MIRV'd Minuteman II silos under SALT II counting rules. The FROD's involved were for distinctive antennas, which are no longer necessary now that SALT II is dead, and the FROD's can be eliminated. Indeed, most of the funding in my amendment is for the FROD's, even though FROD's are no longer required.

Mr. President, the Minuteman III retrofitting program moved forward in 1981, and in 1982 the Air Force requested $20 million more out of the $45 million additional funding that was necessary for the whole project.

However, the Soviet Union complained to the United States through diplomatic channels that actual U.S. retrofit of any of these 50 to 100 stockpiled Minuteman III MIRV'd ICBM's could place the United States in violation of the unratified SALT II Treaty by 1985. Nevertheless, the administration stood by its request to continue the retrofit.

Unfortunately, a few Members of Congress quietly decided not to fund the program for fiscal year 1983, without giving Congress a chance to vote on continuing the already—already—authorized and already appropriated program. It was one of these ships that pass in the night. Or perhaps, a slip between the cup and the lip—as it were.

I have long believed that 180 stockpiled Minuteman III's were grossly excessive for reliability testing purposes, and that it was extremely wasteful of the taxpayer's hard-earned money that these missiles had not been put to some more immediately useful military purpose.

Mr. President, let me, just for a point of emphasis, repeat that the United States total ICBM warheads is 2,198 compared to the Soviet deployment of the same ICBM warhead being at least 6,500 and probably the Soviets have more than that—some experts think that over 8,000 is the best estimate.

I was supported in that view to which I just referred by the White House last May, which gave me, through its office of legislative affairs, the go-ahead to offer my amendment on May 28, with the statement that there was not opposition to my proposal from the administration.

Subsequently, on the floor of the Senate, our distinguished colleague, Senator BUMPERS made the statement that the Department of the Air Force adamantly opposed my amendment. Senator LEAHY made a similar assertion. The subsequent vote in the Senate may well have been influenced by those assertions, which we now know to have been made in error.

I have been informed by a letter from the Air Force dated June 15, 1987, that "The Air Force would not be opposed to a reinvestigation of displacing Minuteman II's with Minuteman III's as an addition to the strategic modernization program." Moreover, both the Air Force and its Strategic Air Command actually advocated the retrofit of stockpiled Minuteman III ICBM's in Minuteman II silos from 1980 through 1983.

More significantly, I have also received a letter dated September 9, 1987, from our Secretary of Defense, Caspar Weinberger. I would like to quote from this letter at some length, in order to clear up any misunderstanding that may have been created during the Senate debate last May.

Secretary Weinberger states:

> Your proposal to retrofit Minuteman III missiles into Minuteman II silos has merit, and has indeed been advocated by the Air Force in the past. The Department of Defense believes it would be useful to redeploy the 50 Minuteman IIIs being displaced by Peacekeeper. In fact, reentry vehicles and other assets have been protected to support a potential, future redeployment of 50 Minuteman IIIs. The benefits cited in your letter—additional number of more capable warheads, the relative economy of this redeployment, and a revitalization of the Minuteman II flight test program—are attractive. Indeed, there is a significant need for additional Minuteman II test assets. Releasing 50 operational Minuteman II missiles would be of major benefit to our ability to support a reliable and effective Minuteman II force. The 150 additional Minuteman III warheads would undeniably be more capable against hardened targets than the 50 Minuteman II warheads they displace, and, thus, would constitute a valuable adjunct to the strategic modernization program.

I now intend to pursue this proposal for continued Minuteman III retrofit, because its logic is compelling. Mr. President, in a moment I will ask for the yeas and nays on my amendment.

Mr. President, I would remind the Senate that it is over a year since May 27, 1986, when the administration wisely decided to end its unilateral compliance with the unratified SALT II Treaty. That carefully deliberated decision was based on an expanding pattern of 22 separate Soviet violations of SALT II confirmed to the Congress by the President. A 23d and a 24th Soviet SALT II violation have just recently been confirmed, when the Soviets exceeded the 820 and the 1,200 SALT II MIRVed missile sublimits.

So the expanding pattern of Soviet SALT II violations has continued to expand. It is important to note that the Soviets exceeded the 820 sublimit on MIRVed ICBM's with their deployment of their railmobile, MIRVed SS-24 ICBM in early October 1986, over 1 month before the United States exceeded the SALT II sublimit of 1,320 on November 28, 1986. I will provide a summary of the 24 confirmed Soviet SALT II violations at the end of my statement. But with the continuously expanding pattern of confirmed Soviet SALT II violations finally forcing the United States to abandon its unilateral compliance with SALT II, the only reason for delaying the already requested, authorized, appropriated, and initiated retrofit of stockpiled Minuteman III's is finally gone. SALT II is dead, due to the Soviet violations.

Mr. President, my amendment does not cost any additional funding under this bill. It merely fences $42.5 million of Air Force operations and maintenance funds to continue over a 2-year period a program previously requested by the administration and authorized and appropriated by the Congress. The amount fenced each year is less than one-tenth of 1 percent of the Air Force operations and maintenance account. The program was initiated in 1981, with the expenditure of an initial $5 million.

Upon completion of the retrofitting, the U.S. ISCBM force will have 150 additional warheads deployed, for a total of 2,348 U.S. ICBM warheads. Unfortunately, this is an extremely modest incremental addition, in light of the current Soviet force structure of 6,500 to 8,000 ICBM warheads. It would cost billions of dollars to start up the Minuteman III production line and build new ICBM's; but for very modest funding and no additional cost we can deploy at least 50 stockpiled MIRVed ICBM's, and make sure that they can be used to improve significantly our deterrence of any attack on the American people.

Mr. President, now that the Senate has a better picture on this issue, I urge my colleagues to vote in favor of this amendment. I repeat: This amendment would merely continue a program that the administration has requested, and for which the Congress has already voted to authorize and appropriate funds. There are many compelling, logical reasons.

First, the United States is no longer unilaterally complying with the unratified and expired SALT II Treaty, which President Reagan has confirmed to Congress that the Soviets had previously violated in 24 instances. There was an expanding pattern of Soviet SALT II violations from 1979 to 1985, and this expanding pattern of Soviet violations unfortunately has continued to expand in 1986 and 1987. Thus there are now no SALT II arms control constraints on this U.S. unilateral retrofit program. This retrofit would be a very modest response.

Second, this amendment would merely resume an already initiated process of retrofit that would add at least 50 MIRVed Minuteman III ICBM's to the American retaliatory force, for the very low cost of only $42.5 million. This would be the lowest cost strategic deployment by far in the history of American strategic deterrent forces.

The cost would be only about $250,000 per additional deployed warhead, compared to about $43 million per deployed MX warhead, about $10 million per deployed B-1B bomber warhead, and about $8 million per deployed Trident SLBM warhead. If the SALT II FROD antennae were not added to each silo, then the cost could be considerably less than $42.5 million and considerably less than $250,000 per additional deployed warhead. We can not ignore such cost-effective options in these times of fiscal deficit and defense austerity. Indeed, we would be derelict in our duties if we did not propose this option. This relatively low cost is achievable only because the missiles and the silos are already procured and already exist.

Third, this very cheap retrofit would add 150 U.S. ICBM warheads, increasing United States hard target kill capability by about 10 percent, and U.S. ICBM warhead survivability by about 15 percent.

Fourth, this retrofit would free up at least 50 Minuteman II missiles, enabling the resumption of vitally needed Minuteman II reliability test launchings suspended since 1984 due to a severe shortage of Minuteman II missiles.

Fifth, adding at least 150 U.S. ICBM warheads would be only a modest, but necessary, response to the Soviet addition of over 4,000 warheads to their intercontinental arsenal since SALT II was signed in 1979.

The Soviets already have 6,500 to 8,000 ICBM warheads, compared to only 2,198 for the United States—almost a 4-to-1 Soviet numerical advantage. Considering the confirmed Soviet accuracy and yield superiorities as well, we even now already face a 6-to-1 Soviet advantage in ICBM counterforce capability. This is an overwhelming Soviet first strike capability, as President Reagan admitted in his June 3, 1986 report to Congress. Soviet refire and reserve ICBM's could give the Soviets as much as a 10-to-1 superiority in ICBM capability, which is the most important measure of military power in the world today.

Sixth, Minuteman III retrofit would be an ideal "proportionate response" to the Soviet deployment of over 100 road mobile SS-25 ICBM's and reported 30 railmobile MIRV'd SS-24 ICBM's, both in clear violation of SALT II. The Senate has already overwhelmingly approved "proportionate responses" to Soviet SALT violations.

Seventh, the Air Force's Strategic Air Command stated as long ago as 1980, well before any Soviet SALT violations had ever been confirmed, that:

> Additional Minuteman III's would help to compensate for Soviet force modernization in the near term.

Moreover, this assessment was made well before the Soviets added over 4,000 warheads during their massive strategic build-up in the period of SALT II, and it is certainly even more true today.

Mr. President, I rest my case. This Minuteman III retrofit proposal is destined to become an important issue in both the 1988 Presidential and congressional campaigns, because now that the Soviets have killed SALT II by their "break out," the only reason for voting against such a cost-effective option to bolster deterrence is to appease Russia.

It is as simple as that, and, to be blunt, my amendment is easy for the American voter to understand. Between now and November 1988, we will be working to fulfill a duty to the public to ensure that Members of Congress have ample opportunity to show their colors on the question of appeasement and unilateral disarmament.

If the U.S. Senate will not vote to continue a previously requested, authorized, and appropriated U.S. strategic deployment program that is extremely cost effective and militarily effective, but that was delayed only because of U.S. unilateral compliance with the unratified, expired, and Soviet-violated SALT II Treaty, then unilateral disarmament and appeasement has truly become the rule in the U.S. Senate.

I do not believe that the American people want the U.S. Senate to embrace U.S. unilateral disarmament or appeasement of the Soviet Union, especially in the face of the expanding pattern of 38 to 50 presidentially confirmed Soviet "break out" violations of SALT I, SALT II, and the ABM Treaty.

Mr. President, this vote is an important signal of our will or lack of will to defend our country. It is crucial that the Senate vote to support this extremely cost effective deployment which will bolster the U.S. strategic deterrent posture.

Mr. President, I ask unanimous consent that a summary of the 24 confirmed Soviet SALT II violations to which are referred in my remarks be printed in the Record.

There being no objection, the summary was ordered to be printed in the Record, as follows:

Presidentially Confirmed Expanding Pattern of Soviet SALT II Break Out Violations—Total of 24

I. SS-25 road mobile ICBM—prohibited second new type ICBM:

1. Development since 1975;

2. Flight-testing (irreversible) since February, 1983;

3. Deployment (irreversible) since October, 1985—over 100 mobile launchers—"direct violation";

4. Prohibited rapid-refire capability—doubles or triples or quadruples force;

5. Reentry Vehicle-to-Throw-Weight ratio over 1 to 2 (and doubling of throw-weight over the old SS-13 ICBM)—probable covert SS-25 two or three MIRV capability—"direct violation";

6. Encryption of telemetry, "direct violation".

II. Excess Strategic Nuclear Delivery Vehicles (SNDVs):

7. Strategy Nuclear Delivery Vehicle de facto limit of 2,504—Soviets have long been at least 75 to over 600 SNDVs over the 2,504 SNDV number only they had SALT II was signed in 1979, thus illustrating the clear fact that SALT II was fundamentally unequal.

III. Prohibited SS-N-23 Heavy SLBM:

8. Heavy throw-weight prohibited—conclusive evidence (irreversible);

9. Development since 1975;

10. Flight-testing (irreversible);

11. Deployment on Delta IV and probably on Delta III Class submarines (irreversible);

12. Encryption of telemetry.

IV. Excess Backfire Intercontinental Bombers:

13. Arctic basing, increasing intercontinental operating cabability;

14. Probable refueling probes, also increasing intercontinental operating capability;

15. Production of more than 30 Backfire bombers per year for an estimated period of over five years, making more than an estimated 12 extra Backfire bombers;

V. Camouflage, Concealment, and Deception:

16. Expanding pattern of camouflage, concealment, and deception (Maskirovka), deliberately impeding U.S. verification.

VI. Encryption:

17. Reported almost total encryption of ICBM, IRBM, SRBM, SLBM, GLCM, ALCM, and SLCM telemetry.

VII. Concealment of Launcher—(ICBM) Missile Relationship:

18. Reported probable concealment of relationship between SS-24 missile and its mobile ICBM launchers, and concealment of the relationship between the SS-25 missile and its mobile ICBM launchers.

VIII. Prohibited SS-16 Mobile ICBM:

19. Confirmed concealed deployment of 50 to 200 banned SS-16 mobile ICBM launchers at Plesetsk test and training range, now reportedly probably being replaced by a similar number of banned SS-25 mobile ICBM launchers.

IX. Falsification of SALT II DATA Exchange:

20. Operationally deployed, concealed SS-16 launchers not declared;

21. AS-3 Kangaroo long-range-air-launched cruise missile range falsely declared to be less than 600 kilometers, and not counted.

X. Excess MIRV Fractionation:

22. SS-18 super heavy ICBM—NIE reportedly states that SS-18 is deployed with 14 warheads each instead of the allowed 10, adding over 1,230 warheads.

XI. Exceeding SALT II MIRV Missile Sublimits:

23. and

24. The Reagan Administration confirmed on August 7, 1987, that:

"The Soviets exceeded the SALT II sublimit of 1,200 permitted MIRVed ICBMs and MIRVed SLBMs when the 5th Typhoon submarine recently began sea trials. Moreover, some SS-X-24 MIRVed ICBM railmobile launchers should now be accountable under the SALT II sublimit on MIRVed ICBMs. It appears that the Soviets have not yet compensated for any of the SALT II-accountable SS-X-24 launchers. Therefore, the Soviets may also have exceeded the SALT II sublimit of 820 MIRVed ICBM launchers." This judgment has been further confirmed as accurate.

The Soviets reportedly informed U.S. arms control negotiators in Geneva in late 1983 that they intended to exceed the SALT II sublimits of 820, 1200, and 1320, which they are now in fact doing. And Soviet leader Gorbachev confirmed to President Reagan at the Iceland Summit on October 11, 1986, that the SS-24 was deployed.

Moreover, the Soviets are reportedly flight-testing the even heavier throw-weight follow-on to the super heavy SS-18 ICBM, in violation of the SALT II absolute ceiling on SS-18 throw-weight. This SS-X-26 follow-on to the SS-18 will certainly result in further excess MIRVing on the SS-18, because it will probably carry 20 warheads.

Mr. HELMS. Mr. President, that is about it. I think Senators understand the issue. It is a very small cost, and as a matter of fact, it amounts to saving money by not investing in something else but using what we already have. Unless Senators have questions or problems with the amendment that they want to discuss, I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DIXON. Mr. President, the managers oppose the amendment of the distinguished Senator from North Carolina. I think the amendment, may I say, is well intentioned. One would have to observe, as a member of the Armed Services Committee, that, quite obviously, you cannot have too many things in your arsenal, if you had everything that one would like to have.

Mr. President, I would like to make serveral points very briefly. I will not take a lot of time. There may be others on our side who want to come over here and make some remarks about this amendment.

The Senate should first know, Mr. President, that this amendment by my friend from North Carolina was rejected by the Senate on an earlier occasion this year, 4 months ago. The Senator proposed this as an amendment to the fiscal year 1987 supplemental appropriations bill. I have the rollcall of that vote and will make it available. The amendment was defeated 57 to 32 on the supplemental appropriations bill 4 months ago.

Mr. President, that amendment and the rollcall can be found in the CONGESSSIONAL RECORD dated May 28, 1987, at page 13914.

Mr. President, I notice my colleague has placed a letter from the Secretary of Defense on the easel behind him as part of the presentation of his remarks.

I would be tempted to say, Mr. President, that the letter by the Secretary of Defense is kind of artfully drawn, and you can about make out in the letter almost anything you want to make out of the letter. But I want to read what I call the bottom line of the letter. The Secretary writes Senator HELMS and thanks him and suggests that the idea has merit and it has appeal to put these 50 Minuteman III's in the Minuteman II silos but then it says this:

> As you know, however, the Minuteman III's are far lesss counterforce capable than Peacekeeper.

Of course Peacekeeper is the MX.

> Therefore, in view of the expanding Soviet threat, the full strategic modernization program remains our priority.

"Remains our priority." So what the Secretary of Defense is saying, I think in a very deft way—and as I say the letter is very artfully drawn—I think he is saying we would like to have everything but if we are going to have choices, if we are going to have to use our priority list, the strategic modernization program remains our priority.

The Senator in the chair knows that the worst thing we had to face in the Armed Services Committee was our commitments to priorities. I do not happen to be on the Strategic Subcommittee, so I would take a backseat to many on the committee, may I say, in my understanding of the various nuances involved in the subject matter at risk in this amendment, but I can say that my subcommittee that I chair had the heaviest bogey and made the deepest cuts and that is the point I want to get to next.

Where does this money come from that the Senator wants to use? I want to read from the amendment.

Of the funds appropriated for operations and maintenance to the Air Force—"For operations and maintenance to the Air Force," take the money out of there, and I am here to say that we have stripped operation and maintenance to the bone. I am very disappointed; if there is one thing about this bill that disturbs this Senator, it is the fact that we have not done everything I would like to see us do in connection with readiness, sustainability, and support in connection with depot maintenance, real property maintenance, ammunition, and spare parts. I sure do not want to take away from the flying time of our Air Force people. So while the amount here might not be a real large amount in the context of the debate over this whole authorization bill, whatever we take from operations and maintenance from the Air Force I want to say to my colleagues they can ill afford to give up.

I guess in conclusion, let me say—and again I say it with every due regard for my friend from North Carolina, who is honorably motivated, feels about this very deeply and I know those Minuteman III's could be helpful—what we tried to do in prioritizing what the Secretary asked us to do, to expand our full strategic modernization program and to make that our priority. And so we did things with Midgetman.

There may be debate on the floor, but we are spending some money on the question of the basing mode for the Peacekeeper, the MX, on rails, and I support that, Mr. President. There is some contentiousness about it, but I support it.

But those are all things we are doing in this area. So with every consideration to my friend from North Carolina, I must reluctantly suggest that in view of the priorities involved here and for the following reasons, we oppose this amendment:

First, this question has been visited before and the amendment was defeated earlier 57 to 32.

Second, in the listing of priorities we think the Midgetman and the rail-basing mode for MX and other things has a higher priority.

Third, in the use of our funds for the Air Force we think operation and maintenance has already been substantially reduced and should not be reduced further.

With due respect to my colleague, for all those good reasons, notwithstanding the good intentions of my colleague from North Carolina, I would have to reluctantly suggest that we do oppose this amendment.

While I have no desire to cut off debate, at the appropriate time I am instructed by this side to offer a motion to table the amendment of the distinguished Senator from North Carolina.

I yield the floor.

The PRESIDING OFFICER (Mr. Wirth). Is there further discussion on the amendment? The Senator from North Carolina.

Mr. HELMS. Mr. President, I am reminded of the poem we were required to memorize when I was in high school about the six blind men of Indostan who decided to describe an elephant. In the interest of the time of the Senate, I will only discuss three. One touched the side of the elephant and said, "Oh, an elephant looks like a wall." Another touched the tusk, "Oh, no," he said, "the elephant looks like a spear." Another one touched the trunk and said, "Oh, no, it looks like a snake."

Now, I must say my friend from Illinois alluded very carefully to the fact that this amendment was not accepted earlier this year, but I would remind him that great oratory was presented by two distinguished Senators flatly saying that the Air Force and the Secretary of Defense did not support the amendment.

Now, I do not question the good faith of the Senators who said those things, but nevertheless they were not true. But the damage had been done. The vote was taken, and the amendment was defeated. Like a good soldier, when I am defeated, I am defeated. But the Senator, like one of the blind men of Indostan—and I am perhaps the second—reads the letter like he wants to read it and I read it as I want to read it, plus having discussions with the Secretary of Defense. I do not know whether the Senator has talked to the Secretary of Defense about this, but I have. And I believe I understand his letter.

The Secretary of Defense says in the third paragraph:

> The 150 additional Minuteman III warheads would undeniably be more capable against hardened targets than the 50 Minuteman II warheads they displace, and, thus, would constitute a valuable adjunct to the strategic modernization program.

Furthermore, Mr. President, the Senator is waving toward a cobweb when he talks about the cost of this, because there is no cost. The O&M money is there, and the proposal involves—now get this—one-tenth of 1 percent of the O&M funds, and you are buying an awful lot of defense for that small amount of money which has already been proposed to be authorized and appropriated.

Now, if I wanted to taunt my friend from Illinois about more defense, I would ask him how much more he would be willing to spend, how many hundreds of millions of dollars more for Peacekeeper, and so forth. But here we have some inexpensive but significant increase in the defense capability of this country. And all of a sudden all those Senators—or many of them—who talk so much about the cost of defense are probably the same ones who will oppose this no cost proposal. It shows us where the cards really lie.

I say again that the Secretary of Defense and the Air Force have both endorsed this amendment because they see the value of it.

So, Mr. President, at any time the distinguished Senator wishes to make his motion to table, I will yield back the remainder of my time.

I do not yield the remainder of my time. I yield to the distinguished Senator from Indiana such time as he may require.

Mr. QUAYLE. I thank the Senator.

Mr. President, the Helms amendment will give us a better counterforce capability than what we presently have. There is no doubt about it that the counterforce capability will come about because of the increased accuracy. You add the increased weapon even with lower yields.

The Senator from Illinois is absolutely correct. You need to have the Minuteman II. What you need the Minuteman II for is some operation tests. Believe me, I would rather have the operational tests on some of those than I would on others. We are going to have operation tests. We really do not need to have our missile capability basically be city busters. That is what we are getting rid of. The Minuteman III's are far more accurate.

Furthermore, from a monetary point of view you are getting 100 additional warheads for less than $50 million, and I know the Senate knows this. But we, by signing up to the 50 MX missiles, spent about $20 billion for 500 warheads. I think that is a prudent investment for peace and deterrence. It is needed for the modernization of our land-based ICBM. And it is something that is necessary. But I think if you look from a monetary point of view, this amendment is certainly the one that gives us some counterforce capability at a very, very low cost.

So I hope that the amendment—no doubt about where the Secretary of Defense stands this time around—will be adopted.

Mr. HELMS. Mr. President, I thank the Senator very much for his comments, and needless to say I agree with him.

I reserve the balance of my time.

Mr. DIXON. Mr. President, I presume I have time for a brief remark or two.

The PRESIDING OFFICER. The Senator has 21 minutes remaining.

Mr. DIXON. I want to read two paragraphs from the letter of the Secretary of the Air Force, and then move to table subject to any closing remarks the Senator from North Carolina might have.

Mr. President, this letter from Secretary of the Air Force Aldridge is several pages in length. I am just going to read two sentences:

> Although more capable against hardened targets than the Minuteman II warheads they replace, these warheads would have limited utility against the most threatening class of Soviet targets. Only weapons with the capability of the Peacekeeper and the Small ICBM can achieve this goal. Therefore, while Minuteman III retrofit is eco-nomical, a comparison of its cost effectiveness with that of Peacekeeper is not appropriate. At the present reduced budget levels—

And that is what I want to stress, the present reduced budget levels—

> we continue to adhere to the President's Strategic Modernization Program as the best investment for the defense dollar.

That is what we have done, Mr. President. On the next page I quote from Secretary Aldridge:

> While we support improving Minuteman force capabilities, we must guard carefully against the impression that Minuteman III retrofit could, in any way, be a substitute for continued ICBM Modernization. However, assuming continued support for the Strategic Modernization Program, and increased funding for this initiative, the Air Force would support redeploying Minuteman IIIs.

Of course, we do not have those kinds of funds in this limited authorization bill this year and for that reason, Mr. President, unless there are others on this side that desire to be heard, I ask unanimous consent that this letter from the Secretary of the Air Force be inserted in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC.

Hon. JESSE A. HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: I am responding to your letter of June 24, 1987 dealing with the retrofit of Minuteman III missiles into Minuteman II silos. The Air Force previously supported a Minuteman III retrofit. However, budget cuts and the need to concentrate on support for the Strategic Modernization Program led us to drop advocacy after the opportunity for this option passed in the FY83 budget process. However, we have taken actions to protect sufficient numbers of assets to redeploy 50 Minuteman IIIs should future circumstances warrant.

As introduced on the floor of the Senate on May 28, your amendment proposed retrofit of 100 Minuteman IIIs. It was the number 100 and the potential impact to ICBM Modernization which caused my department's greatest concerns. Had our staffs worked together in advance of the introduction of this amendment, I am confident that this and other aspects of a redeployment proposal could have been explained and worked to mutual satisfaction.

When we discuss the advantages of retrofit, we need to qualify those advantages so there are no misconceptions. Certainly trading 50 Minuteman II warheads for 150 Minuteman III warheads is a plus. Asset limitations, however, dictate that these Minuteman III warheads would have to be the lower yield MK12s. Although more capable against hardened targets than the Minuteman II warheads they replace, these warheads would have limited utility against the most threatening class of Soviet targets. Only weapons with the capability of the Peacekeeper and the Small ICBM can achieve this goal. Therefore, while Minuteman III retrofit is economical, a comparison of its cost effectiveness with that of Peacekeeper is not appropriate. At the present reduced budget levels, we continue to adhere to the President's Strategic Modernization Program as the best investment for the defense dollar.

A clear benefit of Minuteman III retrofit is support for the Minuteman II flight test program. Those missiles displaced by a retrofit would become available to replenish the lean Minuteman II test inventory. This revitalized flight test program would provide increased confidence in the reliability and capability of Minuteman II, which is planned to remain a significant contributor to our ICBM deterrent force into the 21st century. Regarding the Minuteman III flight test program, extracting 50 missiles from this test program would be acceptable. But, the loss of 100 missiles as originally suggested would decimate the test program that supports the continued effectiveness of that force.

We have made progress toward our ICBM Modernization goals in the last few years. We owe it to the people of this country to continue that progress in order to achieve a safer strategic balance. While we support improving Minuteman force capabilities, we must guard carefully against the impression that Minuteman III retrofit could, in any way, be a substitute for continued ICBM Modernization. However, assuming continued support for the Strategic Modernization Program, and increased funding for this initiative, the Air Force would support redeploying Minuteman IIIs.

I think it's important that our staffs work together in advance of issues such as this. Major General Al Logan, the Air Force Director of Plans and Brigadier General Walt Webb, the Air Force Director of Operations are available, as needed, for indepth discussions on force structure and operational implications of a Minuteman III retrofit. Closer cooperation will be mutually beneficial in our common pursuit of the best possible defense for America.

Sincerely,

E.C. ALDRIDGE, JR.,
Secretary of the Air Force.

Mr. DIXON. I move to table, unless my colleague has any further comment.

Mr. HELMS. This Senator cannot do it. My time has been yielded back.

Mr. DIXON. I yield back the balance of my time. I move to table.

Mr. HELMS. If no one wants to speak, I think it is a good idea to yield back the time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois to lay on the table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD. I announce that the Senator from Oklakoma [Mr. BOREN], the Senator from California [Mr. CRANSTON], the Senator from Nebraska [Mr. EXON], the Senator from Georgia [Mr. FOWLER], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from Maryland [Ms. MIKULSKI], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that the Senator from North Carolina [Mr. SANFORD], the Senator from Connecticut [Mr. DODD are absent on official business.

I further announce that, if present and voting, the Senator from Michigan [Mr. LEVIN] and the Senator from Maryland [Ms. MIKULSKI], would each vote "yea."

On this vote, the Senator from North Carolina [Mr. SANFORD] is paired with the Senator from Arizona [Mr. MCCAIN].

If present and voting, the Senator from North Carolina would vote "yea" and the Senator from Arizona would vote "nay."

Mr. SIMPSON. I announce that the the Senator from Texas [Mr. GRAMM], the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Delaware [Mr. ROTH], are necessarily absent.

I also announce that the Senator from Arizona [Mr. MCCAIN] and the Senator from Vermont [Mr. STAFFORD], are absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 33, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—51

Adams
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Danforth
Daschle
DeConcini
Dixon
Durenberger
Evans
Ford
Glenn
Gore
Graham
Harkin
Hatfield
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
Melcher
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Rockefeller
Sarbanes
Sasser
Specter
Stennis
Weicker
Wirth

NAYS—33

Armstrong
Bond
Boschwitz
Cochran
D'Amato
Dole
Domenici
Garn
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kasten
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—16

Boren
Cranston
Dodd
Exon
Fowler
Gramm
Kassebaum
Levin
McCain
Metzenbaum
Mikulski
Riegle
Roth
Sanford
Simon
Stafford

So the motion to lay on the table amendment No. 708 was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I would like to ask the distinguished Senator from Connecticut, first, whether he is prepared to proceed with his amendment and, second, in view of the majority leader's desire to dispose of the business as expeditiously as possible this evening whether he would be amenable to a time constraint with respect to consideration of his amendment.

Mr. WEICKER. Mr. President, in response to the distinguished Senator from Illinois, I am willing to have a 30-minute time agreement equally divided between the two sides. I seek no additional time.

Mr. BYRD. Mr. President, would both Senators be willing to agree that no amendments to amend be in order?

Mr. WEICKER. I am willing to agree to that.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. I have no objection to that, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I have an amendment I send to the desk.

Mr. DIXON. Mr. President, I wonder, before the Senator from Connecticut proceeds, if the majority leader could address the whole question of a time agreement with respect to the business beginning next week and the expectations for the remainder of tonight, and so forth. Would that be agreeable?

Mr. WEICKER. Anything that the distinguished majority leader does is agreeable, although I would say that knowing the way these things go that could take up more time than my amendment.

Mr. BYRD. Mr. President, if we could have Senator NUNN and Senator WARNER here before I proceed, because much will hinge on the getting of these agreements on these amendments as to whether the Senate will be in later this evening or tomorrow.

The PRESIDING OFFICER. The majority leader will suspend. The Senate will be in order. The Senate will be in order.

The majority leader is recognized.

Mr. BYRD. Mr. President, I would like to get the reaction of the manager at this point before I proceed.

Mr. NUNN. Will the Senator yield?

Mr. BYRD. I yield.

Mr. NUNN. Mr. President, if I could have the attention of Senators, both here and listening in. We have a chance now of getting out of here tonight within about an hour and not coming in tomorrow. That is the good news.

The real question is whether we can get this unanimous consent agreement which the majority leader will propound in a few minutes.

We have worked on both sides of the aisle very diligently all day long to try to get people lined up on this. The Senator from Indiana has worked very hard on it. Senator WARNER of Virginia, has done a tremendous job in working to get this. The minority leader has been very cooperative, and the majority leader has been.

What we have now is a series of unanimous-consent requests to propound. It does not cover every amendment on this list, but it covers a number of major amendments and assures us, with good will on both sides, that we at least have a chance of finishing this bill next week. So if we can get this unanimous-consent agreement entered into, we will have a very full day Tuesday. We would not have to come in tomorrow. We would come in when the majority leader says on Tuesday; the earlier the better, from my point of view. We would have to have a late night Tuesday night and a very full day Wednesday and Thursday to be able to complete this bill.

I think it is possible, I say to the majority leader, to complete it and not have to be in next Saturday a week from tomorrow. But that means there is much work to be done. And all Senators should know that if this is not completed by then, it would be my recommendation, at least, that we stay in next Saturday and complete this bill. We simply must move this bill out.

I say to the majority leader that I hope our colleagues will see fit to agree to this. We can handle the Weicker amendment tonight and then go home until Tuesday.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

If the majority leader might suspend, the Senate will be in order. The Senate will be in order.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that, with respect to each of the following amendments, the time requested and the time agreed to, if agreed to, would be on the condition that there be no amendment to the amendment in order, because otherwise an amendment to the amendment would have to be taken up, no debate would be allowed on it and, bang, there is a vote.

So, Mr. President, I ask unanimous consent that time on the Kerry ASAT amendment be limited to 2 hours, to be equally divided in accordance with the usual form, with the understanding that in respect to that amendment there will be a tabling motion and if that tabling motion were to fail, then the time agreement falls.

On the Johnston SDI funding amendment, 3 hours, equally divided. Now I should say, "On or in relation to the amendment." That leaves a tabling motion in order and it also allows an up or down vote if Senators are agreeable to that.

On all the remaining amendments, the time agreement would stand regardless of whether or not the amendment were tabled.

On the Lautenberg religious headgear amendment, 1½ hours, to be equally divided in accordance with the usual form. In all cases, they are divided and controlled in accordance with the usual form. The vote would be on or in relation to the Lautenberg amendment.

On the Kennedy-Hatfield nuclear testing amendment, 2 hours, equally divided, usual form, on or in relation to.

Mr. QUAYLE. I think that is also one that we said if the tabling motion failed the time agreement did not apply on that one.

Mr. NUNN. We did not say that on that one.

Mr. BYRD. Mr. President, on the Kennedy-Hatfield nuclear testing amendment, 2 hours, equally divided, usual form, but if the motion to table fails, there will be no time limit. In other words, the agreement would fall.

On the Hatfield chemical amendment, 1 hour, equally divided and controlled in accordance with the usual form, and the agreement is with respect to a vote on or in relation to the Hatfield chemical amendment.

And exactly the same with respect to a Pryor chemical amendment.

Those are the requests, with the understanding that no amendments to the amendment be in order in every case.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. On the Johnston SDI amendment, the request is 4 hours instead of 3.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, on the amendment by Mr. PRYOR for which I had asked for 1 hour equally divided, I would change that to 1½ hours, equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. BYRD. Mr. President, I do not want to impose on the distinguished Senator from Connecticut any longer. He has been most gracious and courteous. I ask unanimous consent now that the agreements have been reached, now that we have an amendment pending and that would be the last rollcall vote today, a good day's work has been done by these two men and by the Senate.

(The following proceedings occurred later in the day:)

Mr. BYRD. Mr. President, I am not sure that the intent of the Senate was clear when the agreements were entered with respect to the amendments a little earlier today. In some of those situations, the amendments may be amendments to strike, and obviously no amendment to such an amendment would be in order, but an amendment to the language to be stricken would ordinarily be in order.

So, in view of the fact that it was the spirit and the intent of the request and the order, I am sure, that Senators were agreeing to and entering into, I ask unanimous consent that if any amendments are amendments to strike, then amendments to the language proposed to be stricken are also precluded.

Mr. QUAYLE. The majority leader is correct that was the desire. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That during consideration of S. 1174, the amendments listed below be in order under the following time limitations; the time to be equally divided and controlled in the usual form; that a vote occur on or in relation to each amendment upon the expiration or yielding back of the time; that no second degree amendments or amendments to the text proposed to be stricken be in order:

Kerry ASAT—2 hours; provided that if a tabling motion fails, the time limitation falls.

Johnston SDI Funding—4 hours.

Lautenberg Religious Headgear—1 hour, 30 minutes.

Kennedy-Hatfield Nuclear Testing—2 hours; provided that if a tabling motion fails, the time limitation falls.

Hatfield Chemical—1 hour.

Pryor Chemical—1 hour, 30 minutes.

ORDERS FOR TUESDAY

ADJOURNMENT TO 8 A.M.

Mr. BYRD. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8 o'clock on Tuesday morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

MOTION TO INSTRUCT THE SERGEANT AT ARMS AT 8:30 A.M. TUESDAY

Mr. BYRD. Mr. President, the motion to instruct the Sergeant at Arms will be made at no later than 8:30 and the vote I would expect to be completed and we would be ready to call for the regular order at 9 o'clock.

Now, if we can substitute an amendment—I believe the managers, though, prefer not to have a vote on the amendment first thing.

Mr. NUNN. We would hope that we would get the Johnston SDI amendment up. That is a big one. It has a long time on it and we would hope we would get that up on Tuesday morning.

If we get that up on Tuesday morning and get that one done before noon Tuesday, we will have made a giant stride.

I do not know that the majority leader wants a vote early, before that, or not, but we need to get that one up.

I believe the Senator from Louisiana has agreed to be here and get that amendment up.

Mr. BYRD. Let us have the understanding that the rollcall vote on instructing the Sergeant at Arms will begin at 8:30, and we will allow a half hour, maximum of a half hour, on that vote. That will be over at 9 o'clock. We will begin debate at 9 o'clock. I thank all Senators.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business not to extend beyond 8:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNFINISHED BUSINESS

Mr. BYRD. At no later than 8:30 a.m., I ask unanimous consent that the unfinished business be laid before the Senate at the conclusion of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

AMENDMENT NO. 709

(Purpose: To require consistency in the budget presentations of the Department of Defense)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 709.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE

(a) IN GENERAL.—Section 114 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31 for any fiscal year or years, the five-year defense Program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget for the support programs, projects, and activities of the Department of Defense.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to budgets submitted to Congress by the President under section 1105(a) of title 31, United States Code, for fiscal years after fiscal year 1988.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, I rise to offer an amendment on the 5-year program/budget mismatch—an issue on which the distinguished chairman of the Armed Services Committee, Senator NUNN, has spoken many times.

The chairman of the Armed Services Committee refers to the 5-year program/budget mismatch as the "bow wave" problem.

The "bow wave" is a matter of having too many programs and not enough money—as unbelievable as that may seem when Congress is pumping about $300 billion a year into the defense budget. There is insufficient money available in the outyears to sustain the programs proposed in the budget. Senator NUNN sees this as "one of the worst problems we have in the defense budget now." It has far reaching implications. And he says it is going to get worse. He suggests that it makes the coffeepot scandal look like a dime store operation. I agree completely.

What I want to do is discuss the problem as it manifests itself during the budget review process in Congress.

The Department of Defense is giving Congress inconsistent 5-year program and budget information.

The problem has two facets.

First, there are two 5-year defense plans for fiscal years 1988-92.

The 5-year plan submitted to Congress in compliance with the Congressional Budget Act of 1974, which appears in the Budget of the United States Government and is basis for deficit projections, totals $1.72 trillion.

The numbers in the congressional plan have been pulled out of thin air. They are not based on "hard" military requirements. They have not been translated into a detailed line item program plan.

The secret, Pentagon Five Year Defense Program, known as the FYDP, by comparison, which is never given to Congress, totals $1.8 trillion or about $77 billion more than the plan given to Congress. The numbers in the budget years, fiscal year 1988-89, are identical in both plans. The divergence occurs in the outyears roughly as follows: $25 billion for 1990; $25 billion for 1991; and $27 billion for 1992.

The discrepancies between the two 5-year plans were verified by the deputy inspector general of the Defense Department in a letter to me dated April 30, 1987.

I ask unanimous consent that that letter be placed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

INSPECTOR GENERAL,
DEPARTMENT OF DEFENSE,
Arlington, VA, April 30, 1987.

Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR: This responds to your letter of April 10, 1987, concerning the differences between the President's estimates for budget authority for a 5-year defense program as reported to Congress (the "top line") and the amounts in the internal Defense Department document known as the FYDP—Five Year Defense Program. You asked me to verify the information, and you also asked five specific questions. The first answer addresses the validity of the information.

Your data indicate that the FYDP for fiscal years 1988-1992 will project a need for $1,804.8 billion or $82.9 billion more than the President's top line budget authority estimate. To compare properly the FYDP to the top line, we should first reduce the FYDP figure by offsetting receipts to reflect needed budget authority. With that relatively minor adjustment, the difference between the President's budget and the FYDP will be $77.2 billion for FY 1988-1992. The difference for FY 1987-1991 is $58.8 billion. There was no difference between the top line and the FYDP for the FY 1986 and 1985 budget submissions.

The second question was, "why do they exist?" The difference exists only in the outyears of Defense planning. There is no difference between the top line and the FYDPs for the budget year(s) under review. I know that the Secretary of Defense answered this question in a letter to you dated March 4, 1987. Let me try to put his rationale in my own words because I believe there is a valid reason for these differences.

The President's budget is the Defense budget. It includes the request for budget authority for the budget year(s) under review, as well as the long-term view of Defense budget commitments that the President is asking the Congress to support, taking into account national macro-economics considerations. On the other hand, the FYDP is an internal DoD planning document that serves two purposes. It provides the detailed support for the budget year(s) under review, and it also contains the outyear planning details for the Defense programs generated in response to Defense and fiscal guidance. Although the outyears in the FYDP are prepared in response to the Secretary's fiscal guidance, such guidance is not fully constrained by macro-economic considerations such as the size of the deficit. Such constraints are addressed in the budget year(s) under review, as they should be.

You also wanted to know who is responsible for the differences? The Secretary of Defense is responsible for the FYDP. However the President, with advice from the

Secretaries of Defense and Treasury, as well as the Director of the Office of Management and Budget, is responsible for top line budget authority projections.

Has the Department of Defense broken any laws? No laws have been broken. The Congressional Budget and Impoundment Control Act amended the Budget and Accounting Act of 1921 to require that the President's budget contain estimated expenditures, receipts and proposed appropriations for each of the four fiscal years following the budget year. The level of supporting detail is left to the President's discretion. For the budget year(s) under review, the President provides a great deal of information which admittedly coincides with the Defense Department's FYDP. However, for the outyears, the President provides only summary information because no decisions are being made on the detail which supports the budget authority for these years.

Your final question was, "is the Department planning to revise 1988-1992 so that it conforms with the one presented to Congress, and if so, when?" Since there is no difference between the FYDP as adjusted for offsetting receipts and the President's request for FY 1988 and 1989 budget authority, the Defense Department is not planning to revise its FYDP at this time. There is merit in not making program adjustments any earlier than necessary. Of course, DoD will have to revise its basic planning document to react to Congressional action on the FY 1988-89 budget request once that action is known. However, if the FYDP were summarily adjusted to the top line at this time, the effect would be to submerge valid program considerations and make them less visible for subsequent Office of the Secretary of Defense level review.

I hope this has helped you. Please call me if you need more information.

Sincerely,

DEREK J. VANDER SCHAAF,
Deputy Inspector General.

U.S. SENATE,
Washington, DC, April 10, 1987.

Mr. DEREK J. VANDER SCHAAF,
Deputy Inspector General, Department of Defense, Arlington, VA.

DEAR MR. VANDER SCHAAF: I am writing to you about the vast discrepanices between the cost of the President's five-year defense programs as reported to Congress and their cost as portrayed in the internal Defense Department document known as the FYDP—The Five Year Defense Program.

Documents and information in my possession indicate that the internal Defense Department five-year defense program for fiscal years 1988-1992 projects a need for $1,804.8 billion or $82.9 billion more than has been reported to Congress. Similarly, the total cost of last year's internal five-year defense program exceeded the amount reported to Congress by $62.9 billion.

Under the Congressional Budget and Impoundment Control Act of 1974 (Section 603), the President is required to submit five-year budget projections for the United States Government. If those projections are inaccurate, then the department responsible for providing the erroneous information is not abiding by the spirit of the law.

For that reason, I would like you to look into this matter to verify the accuracy of my information and to answer the following questions: (1) how large are the discrepancies; (2) why do they exist; (3) who is responsible for them; (4) have any laws been broken; and (5) is the department planning to revise the internal five-year program for fiscal years 1988-92 so that it conforms with the one presented to Congress, and if so, when?

As I want to be in a position to propose some remedial legislation to the Armed Services Committee when it begins marking up the authorization bill toward the end of this month, I would like to have the answers to my questions by April 24, 1987.

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

Mr. NUNN. Will the Senator yield?

Mr. WEICKER. Yes.

Mr. NUNN. Mr. President, I have to leave the floor just for a few minutes. Before I do I want to speak for this amendment. I think the Senator has put his finger right on the biggest problem we have in the defense budgeting. This 5-year defense plan they have in the Department of Defense is completely out of sync with what we see. It is unrealistic, in terms of budget numbers. They are planning for a larger program in the Department of Defense for all their weapons systems than is going to be forthcoming under the very best budget assumptions and even under the highest tier, that we could envision in a 5-year defense plan.

That means that the planning is obscured. It means that weapons systems projected costs are going to be much higher per unit because you are not going to have the funding. Inevitably what has happened and will continue to happen with greater intensity is a spread-out of those costs with less units being produced on each assembly line and monumental inefficiencies in assembly lines.

This is a step toward addressing the biggest waste we have in the Department of Defense. I commend the Senator. I plan to vote for the amendment. I may not be back before the rollcall starts, so I wanted to speak for it.

Mr. WEICKER. I thank my distinguished colleague for his comments and believe me, to have those comments means everything to the substance of the matter before the Senate.

The FYDP is a very important document, because it details how much money is available and who gets it. It embodies the numbers in the Pentagon computers and is the result of perhaps 1 million man-hours of staff work each year. It is the sum total of literally thousands of individual spending decisions, such as the F-15 flying hour and spare parts programs, the purchase of aircraft carriers, and the production of the M-1 tank, that the Secretary of Defense must make each year.

Second, the line item data given to Congress in support of the budget request, as presented in congressional data sheets, Procurement Programs [P-1] documents and testimony, are derived from and consistent with the more costly internal FYDP.

This is a flimflam operation.

Approval of the line items as they appear in the budget and congressional data sheets would be in keeping with the higher FYDP top line, but the extra $77 billion needed to sustain those programs at economic rates has already been summarily carved from the outyears if one is to believe the 5-year plan submitted to Congress.

Mr. QUAYLE. Will the Senator yield?

Mr. WEICKER. I yield.

Mr. QUAYLE. Some people asked about a rollcall. I do not intend to push for a rollcall. Unless you want one—I might talk a little bit about it, but I have no desire to push for a rollcall.

The chairman accepts the amendment. It is going to pass.

Mr. WEICKER. That is fine. Do the majority and minority leaders agree on this? I asked for it, but I am perfectly willing to vitiate.

Mr. NUNN. I suggested the rollcall because I did not know we were going to have an agreement. If we are not going to have a disagreement, then in fairness to our colleagues we could let everyone know if the Senator vitiates the yeas and nays. They could head out and catch planes, and so forth.

Mr. QUAYLE. I do not disagree to the extent of asking for any kind of a rollcall vote.

Mr. NUNN. Mr. President, then I would suggest to the Senator from Connecticut if he sees fit perhaps to vitiate the yeas and nays.

Mr. WEICKER. I have no problem. Mr. President, I ask unanimous consent that the yeas and nays on my amendment be vitiated.

The PRESIDING OFFICER (Mr. REID). Without objection, that is the order.

The Senator from Connecticut.

Mr. WEICKER. The 5-year defense plan, Mr. President, is a very important document. The programs no longer fit into the 5-year budget. The programs and budget do not mesh. Approval of line items as requested in the budget would therefore lead to instability and waste as program funding must inevitably be reduced in the outyears.

Now, the argument will be made by those who oppose the amendment that DOD is never in a position to provide line-item detail until the appropriations process has been completed. Well if DOD cannot provide line-item detail at the beginning of the budget process—January-February—then how in the world is the budget formulated—the budget being the first year of the 5-year plan? Line items are what budgets are made of. If line-item detail does not exist in January, then the budget is built on sand.

Inconsistencies in the 5-year program and budget information given to Congress constitute documentary evidence of the bow-wave problem identified by Senator NUNN. The inconsistencies do not cause the bow wave. They are the effect—the result. And they help to energize and sustain it through the congressional budget review process.

It would be irresponsible to allow DOD to continue to submit inconsistent budgetary information.

Congress must stop taking a piecemeal approach to the defense budget. We need to look at the 5-year program and budget in its entirety.

We must gain a better understanding of the future consequences of today's decisions.

Budget decisions today entail spending commitments far into the future. For example, Congress is being asked to vote on funding for two aircraft carriers. This vote involves a commitment to spend operating and support dollars over the next 40 to 50 years. Is there enough money in the 5-year budget for the two carriers along with everything else? We do not have the information needed to answer the question.

Indeed, what limited information we have creates a very misleading impression.

There is little Congress can do and do well without the facts.

Congress needs accurate information to understand such commitments and to make rationale decisions. If program and budget informaiton is flawed, then Congress cannot do its job.

My amendment would require that all program information submitted to Congress after 1988 be consistent with the 5-year budget submitted in compliance with the Congressional Budget Act of 1974—a very simple and straightforward approach.

In other words, that there be one 5-year plan, not two; just one; one set of facts for all of us to evaluate as we vote on each of these items, line by line.

To ensure compliance, the Secretary of Defense would be required to submit the 5-year defense program used in formulating the budget.

My amendment would force DOD to submit coherent 5-year program and budget information and would end the practice of having two 5-year defense plans.

My amendment is not a final solution. I see it as a modest first step in what must be a long-term effort in Congress to take a broader view of budgetary problems. But as we all know, the problem will not be solved until those in positions of authority, both in Congress and the Department of Defense, have the courage to do what must be done—make the hard choices.

Mr. President, I ask unanimous consent that two articles on this matter be included in the RECORD: first, an article written by David Evans, which appeared in the Chicago Tribune of Sunday, July 26, 1987, entitled "Too Much Money Provides Pentagon Too Many Projects"; and the second, an article by Tim Carrington of the Wall Street Journal of August 21, 1987, under the title "Politics and Policy." I ask unanimous consent that these articles be printed in the CONGRESSIONAL RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, July 26, 1987]

TOO MUCH MONEY PROVIDES PENTAGON TOO MANY PROJECTS

(By David Evans)

WASHINGTON.—The nation's capital has been described as 10 square miles surrounded by reality. This aphorism is most true in the case of defense spending, where no matter how much money the Pentagon is given, there never seems to be enough.

Over the last six years more than $1.5 trillion has been pumped into the Department of Defense, yet readiness levels are flat, modernization rates are slower than during the Carter years, the Navy may not be able to sustain a 600-ship fleet, and the Air Force is cutting back to 37 from 40 tactical fighter wings.

The real problem is not a lack of money, but the Pentagon's unrealistic plans to spend it. Weapons proponents in the military services tend to underestimate the purchasing and operating costs of their pet projects. The Pentagon leadership also tells the services to plan on large budget increases as they put together their five-year plans.

Both aspects of Pentagon planning tacitly encourage the services to start more programs than they can afford. Cost overruns are the most visible evidence of what happens when these planning delusions hit the hard ground of fiscal reality.

Until recently, the Pentagon's optimistic plans at least matched the five-year spending proposals President Reagan submitted to Congress. Now it appears that Reagan's proposal to spend a staggering $1.7 trillion on defense over the next five years is not enough to contain the Pentagon's spending urges.

Critics cite as proof the discovery of an internal Pentagon plan to spend at least $77 billion more than Reagan has proposed. This gap exist, a Marine colonel with Pentagon experience says, because after six years of rising budgets the Pentagon's leaders "have lost the ability to say no" to $77 billion in additional programs the services want.

Defense Secretary Caspar Weinberger acknowledges there are some higher internal figures, but he asserts that they're "not in any sense a final determination."

But a congressional staffer observes: "By concealing the real five-year plan, [Pentagon planners] lock in enormous pressures for continued high spending. Once all these programs get started in 1988 and 1989, they're going to get identified by congressional district. They are going to be very hard to stop."

If the additional spending can be projected for a specific district, he suggests, the jobs and profits it could produce become an important political inducement for Congress to support the increase.

A Pentagon source puts the problem more bluntly, "It's an extortion game; our goal is to enslave Congress."

In the end, this ploy probably won't work. With too many programs chasing after too few dollars, the secretary of defense who follows Weinberger in 1989 will be faced with a huge jolt back to fiscal reality.

"It's like buying a big, new house in the expectation of a huge salary increase," says Mike Burns, a defense analyst with Business Executives for National Security. "They're not going to get those increases, and to afford the house they'll be selling off the rugs and furniture in 1989."

The result, he says, will be a "hollow force": weapons without the ammunition, spare parts, fuel or necessary training levels.

The higher spending figures are contained in a closely guarded internal Defense Department document called the Five Year Defense Plan. It represents the detailed spending plans for the five-year period beginning next year, through fiscal 1992, including tanks, "Star Wars" space weapons and spare parts.

This is a new development in Pentagon budget wars. Until last year, Weinberger's budget always met Reagan's instructions.

Sen. Lowell Weicker of Connecticut, senior Republican on the Senate Appropriations Committee, has led a lonely battle for full disclosure to Congress of the Pentagon's internal plan.

"All the defense programs that make up the fiscal 1988 budget assume that $77 billion will be available in future years. There is little Congress can do without all the facts, because we're starting programs where we really don't know what we're buying into," Weicker said.

The Pentagon planning process begins with a statement from the Joint Chiefs of Staff about the military forces needed to carry out national strategy. That estimate is contained in a secret memorandum to the defense secretary called the Joint Strategic Planning Document, and it always outlines a bigger and much more expensive military than the current one, soaking up about 10 percent of the gross national product, as opposed to the 6 percent currently devoted to defense.

The secretary of defense's task is to pull the military down to a spending plan the president is willing to present to Congress. The secretary has to link strategy to resources.

The president tells the secretary of defense how much money he can expect. The defense secretary, in turn, slices up that pie and tells the armed services how big a piece each of them can expect for the next five years.

On that basis, the services develop their proposed spending plans. Those plans are then scrutinized at the highest level inside the Pentagon to produce the defense part of the president's budget. Over a million man-hours are frequently devoted to this effort.

The development of the fiscal 1988 defense budget, now before Congress, was far different. Initial planning for this budget began more than a year ago, before Congress had even passed the 1987 budget.

For their fiscal 1988-1992 five-year plans, Weinberger told the services to assume Congress would approve the $312 billion request for fiscal 1987, and that defense spending would rise to $340 billion in fiscal 1988 and continue to rise at 3 percent over inflation thereafter.

The ink was hardly dry on those plans when Congress passed its concurrent resolution in late June, 1986, which capped defense at $285 billion in 1987.

"There was a huge emerging disconnect between our internal plans and the mood on Capitol Hill," recalls a Pentagon staffer.

The response was twofold, and counterproductive.

On July 22, 1986, Weinberger's deputy, William Taft, directed the services to cut $80 billion out of their five-year spending plans for 1988-1992. The services were given three weeks to make the reduction. It was a frantic exercise described by one of the participants as "taking a plan built with a micrometer and shaping it with an ax."

Curiously, the next day Taft convened the Defense Resources Board, composed of the service secretaries and senior Pentagon officials to review the original spending plans. These plans were based on the higher numbers already submitted by the services. Over the next three weeks the most senior budget-planning body in the Pentagon, which is headed by Taft, added $13 billion to the five-year plan Taft had ordered trimmed the day before.

The services dutifully submitted their $80 billion in proposed reductions on Aug. 11, 1986. Budget and program experts in the office of the secretary of defense were given less than 24 hours to review and approve the reductions, though they had spent the previous six weeks coming up with the rationale for adding $13 billion to the same five-year plan. The result was a net $67 billion reduction in spending plans, not nearly enough to meet the much lower spending levels suggested by Congress' June budget resolution.

Sen. Sam Nunn (D. Ga.), chairman of the Senate Armed Services Committee, got wind of the fiscal delusions in the Pentagon. Last August, in a speech on the Senate floor, he recalled the Gramm-Rudman-Hollings goal of a balanced budget by 1990, as well as the resolution two months earlier establishing "a zero-growth spending path" to achieve it.

"It is clear this cold, harsh reality hasn't penetrated the thick walls of the Pentagon yet," Nunn said. "The current planning for the fiscal 1988-1992 Five Year Defense Plan starts from a budget request of $340 billion for fiscal 1988, and soars upward. That is a 15 percent real growth increase over the best-case level [the Department of Defense] will get."

The Pentagon's spending plans, compounded over five years, according to Nunn's calculations, were "$300 billion to $450 billion out of touch with reality."

In the fall of 1986, Reagan issued his final instructions for preparing the fiscal 1988 budget, to be presented in January, 1987.

According to congressional and Pentagon sources, Weinberger's internal five-year plan at that point was about $96 billion higher than Reagan was willing to allow, and close to $450 billion higher than Congress was likely to vote over the next five years.

In a last-minute flurry, $16 billion was cut out of the first two years, which still left the Pentagon about $80 billion higher than Reagan's upper limit in the last three "out years."

"The Pentagon could not accommodate the most generous commander in chief in the post-World War II era, let alone reality," one Pentagon staffer says.

There was no hint of the extra $80 billion in the five-year budget projections submitted to Congress.

In a Senate Appropriations Committee hearing Feb. 3, Weicker accused the defense department of misleading Congress by keeping "two sets of books" and concealing the second and higher figures from congressional review.

The higher internal Pentagon five-year plan is of critical importance, noted a congressional staffer. Those internal numbers, he asserts, "represent all the detailed program decisions," which means how many planes and tanks to buy, the readiness levels to be funded, and so forth.

"All those actions are hooked into the higher figures," he says. "They're buying into huge payments in a few years with money that won't ever be there. We're starting things we can't finish. The Pentagon is setting up a roller coaster of starts, stops and slowdowns that guarantee waste and inefficiency."

The taxpayer will wind up paying more, and getting less defense in return.

The budget documents sent to Congress do suggest the Pentagon isn't laying out all the future costs of its programs. Only about $1.5 billion in advanced procurement funds are shown for two new aircraft carriers that will cost about $5 billion to complete.

"We're hiding the magnitude of future commitments from the Congress," one Pentagon source says. "On the one hand we're asking Congress for two-year budgets for more stable planning, while at the same time we're producing a plan guaranteed to self-destruct."

To make matters worse, there is plenty of evidence suggesting that even the Pentagon's higher internal figures won't be enough. The low cost estimates of years past are now causing a major reduction in the modernization rate, at increased cost. The original 1983-1987 five-year plan is full of examples:

In 1983 the Pentagon predicted it would buy 96 F-15's in 1987, at $31.5 million apiece. This year it is requesting 48 of the fighters at $42 million per plane.

In 1983 the Navy planned to buy four Aegis cruisers this year at $958 million each; the cost per ship is now more than $1 billion, and only two cruisers will be procured this year.

In 1982 the Army planned to buy 1,080 M-1 tanks at $2 million each in 1987. Those plans have since been scrapped, with M-1's now costing $2.5 million, the Army proposed to buy 840 this year.

Throughout last spring, Weicker pursued his fruitless quest for full disclosure of the Pentagon's internal plans. He wrote the Pentagon's inspector general, and in late April the deputy inspector general, Derek Vander Schaaf, confirmed that Weicker was essentially correct: The internal five-year plan was indeed higher by $77 billion.

Weicker was quick to note that "the false figures given to Congress are used in calculating the federal deficit," putting Weinberger in the awkward position of undercutting even Reagan's tepid commitment to the Gramm-Rudman law's deficit-reduction targets.

In a mid-May Senate Appropriations Committee hearing, Weicker challenged Weinberger directly: "Why are there two five-year plans, one for internal consumption and one that you present to Congress?"

Weinberger called the internal plan a "compilation of figures the services feel would be desirable. . . . [They] are not hesitant about publishing what they wish."

While Weicker has been striving to nail down the five-year plan beginning in 1988, the administration is deep into preparations for the next budget cycle, the 1990-1994 plan.

The Pentagon has been told by the Office of Management and Budget to plan on 3 percent real growth annually through 1994. Fred Ikle, Under Secretary of Defense for Policy, passed these tentative planning targets along to the armed services in late February. Ikle's numbers for the first three years, 1990-1992, matched exactly the lower projections submitted by Reagan with his fiscal 1988 budget.

In April, Taft issued a memorandum calling for a long-range review of defense plans, 15 years into the future. That review would assume that every cent of the Pentagon's much higher internal five-year plan would be approved and, further, that the budget would continue to grow to the year 2002.

The military services were told, in effect, that the spending increases of the last six years would be the norm for the next 15 years, Gramm-Rudman and Ikle's memorandum of the month before notwithstanding.

The purpose of the long-range review, under way this summer, is to begin planning for the next five-year cycle, beginning with the fiscal 1990 budget.

"They won't be following the President's guidance on future spending," one critic says.

He contends that the long-range review can't be based on the lower provisional numbers Ikle passed along from the Office of Management and Budget, because they're not tied to specific programs. The only document that lays out spending and objectives by program—how many tanks, ships, spare parts, manpower strengths—is the internal five-year plan.

"They couldn't face up to a $77 billion disconnect with the numbers sent over to Congress," the critic says. "Now they're going to make a 15-year projection based on the higher numbers they've been keeping from the Congress."

Instead of coming closer to the stark fiscal realities on Capitol Hill, the internal Pentagon planning process is moving further away from it. If Congress holds to between 0 to 1 percent real growth in coming years, the gap between the Pentagon's internal plans and the amount of money likely to be available compounds into at least a $1 trillion difference.

[From the Wall Street Journal, Aug. 21, 1987]

POLITICS AND POLICY

(By Tim Carrington)

WASHINGTON.—In offices sprinkled throughout the Pentagon, budget specialists are poring over plans for buying hundreds of new warplanes, tanks and missiles, as well as launching a new class of submarines and possibly, gearing up the first generation of Star Wars weaponry.

Fed into their computers are five-year budget projections handed down by the Defense Department's top brass. These projections envision the military budget swelling from the current $282 billion to about $412 billion in fiscal 1992.

But the actual defense budget isn't likely to approach this level. Some of the Pentagon's strongest supporters in Congress foresee a rise to only about $350 billion by 1992, meaning that the department's assumed growth rates, which dictate planned production rates for more than 3,000 military programs, could be more than $150 billion out of whack for the five-year period.

ENORMOUS AMOUNT OF LOST MOTION

The Pentagon's military planners are starting to gripe about it. "For the last two years, the services have been given fiscal guidance that is junk," complains a Marine Corps officer in charge of planning certain high-cost programs. Like hundreds of other military planners, he knows he'll someday be told to throw away the plans he is working on and draw up new ones to meet the fiscal constraints imposed by a tight-fisted Congress. "There's an enormous amount of lost motion because of the reprogramming that we have to do," says Vice Adm. David Jeremiah, who heads the Navy's planning office.

However, attempts to plan military programs at more likely funding levels have been squelched. Drawing up production schedules under less robust budget assumptions is regarded as defeatist rather than realistic.

An office in charge of buying Navy aircraft recently suggested such an approach and was chided by David Chu, the Pentagon's director of program analysis and evaluation. "It is inappropriate to initiate action undercutting that budget," he said in a memorandum fired off earlier this month. "Developing lower funding levels for naval aviation, at this time, would have exactly that effect."

Currently, the Pentagon's internal spending plan for the next five years is out of line not only with what Congress is likely to authorize but with President Reagan's own budget blueprint. Last January, the administration told Congress that it had scaled back its weapons-buying ambitions and that for the next five years it would seek growth of 3% a year, after inflation. However, the budget plan still used inside the department envisions this level of growth for only the next two fiscal years. Then, the heftier growth rates of the buildup would return for fiscal years 1990, 1991 and 1992, according to the internal projections.

"It's institutional self-deception," says an Air Force budget analyst who asked to remain annoymous.

LIVING BEYOND ITS MEANS

Under any interpretation, the Pentagon's long-range plans show an institution that appears bent on living beyond its means. Even if Congress were to provide full funding for the 3%-a-year growth plan the administration called for, the Pentagon would be $77.2 billion short of funds needed to carry out its five-year plan. Moreover, that assumes the most optimistic funding scenario. Under the more likely outcome that Congress allows the defense budget to grow at a rate equal to the rate of inflation, the Pentagon's five-year plan could be as much as $230 billion too high.

But even that may be too optimistic. The congressional budget committees appear determined to keep the defense budget flat. If that pattern holds for the next five years, the Pentagon's arms-buying plans would need about $400 billion more than Congress seems willing to give.

"The next president is going to inherit this defense situation, and there'll be weeping and gnashing of teeth," predicts Lawrence Korb, assistant defense secretary during the first Reagan term and currently dean of the Graduate School for Public and International Affairs at the University of Pittsburgh.

Robert Helm, the Defense Department's comptroller, says the big numbers in the Pentagon's plans shouldn't cause such anxiety. "It's not a budget; its a planning tool," he says. "It must be readjusted every year when we finally see what Congress gives us."

CHAOTIC ADJUSTMENT PROCESS

However, the adjustment process is getting more chaotic each year as the gap between Pentagon plans and congressional appropriations widens. "People at the last minute force 10 pounds into a five-pound bag," says Mr. Korb. Painless cuts stemming from lower-than-expected inflation and reduced fuel costs have been largely used up. Michael Burns of Business Executives for National Security, a private watchdog group, expects many of the cuts to come out of budgets for training, ammunition and spare parts. "We'll have a readiness and sustainability slump worse than anything we saw in the Carter years," he predicts.

Often the costs of weapons rise as the Pentagon scales back its purchasing plans. For example, budget cuts for fiscal 1988 forced the Army to drop its request for M-1 tanks to 600 from 815 this fiscal year. The cut drove up the price of each tank to $2.6 million from $2.3 million. The Navy pushed up the cost of each F-18 aircraft when it chopped its request for fiscal 1989 to 72 planes at $32.5 million apiece from 84 planes at $30.7 million each in fiscal 1988.

Sticking with budget wishes others consider unrealistic has long been a hallmark of Defense Secretary Caspar Weinberger's political strategy of refusing to give ground early in a struggle. During the debate surrounding the fiscal 1988 budget, he remarked to a reporter, "If you were realistic, you would never have realized as much military strength as we have gained since 1981."

"He will not let people begin to plan for what we're likely to get because he thinks it becomes a self-fulfilling prophecy," says Mr. Korb. However, some lawmakers are perplexed that the internal plan doesn't even match the official administration budget projections. Sen. Lowell Weicker (R., Conn.) has charged that "the Pentagon continues to keep two sets of books." Frustrated by a recent letter-writing flurry with the Pentagon, he's pushing a legislative amendment that would require the department to use internal budget plans consistent with the ones submitted publicly.

Meanwhile, Pentagon budget specialists began work this summer on a 10-year plan. This, too, is built on the same hugely optimistic internal projections, so that through the end of the century, the mismatch between planned-for funding and likely funding approaches the $1 trillion mark.

Mr. WEICKER. Mr. President, I hope this amendment will have the approval of my colleagues. If this amendment is adopted, then we will know to a far greater extent possible than is the case today what the eventual cost will be of what we are voting on today. That, in the long run, will put our defense dollars to the greatest possible use.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Mr. President, I yield myself such time as I may consume.

Mr. President, this amendment will be adopted. It will be adopted though some of us have some specific concerns about it. We have had some discussions with the Senator from Connecticut about exactly what the amendment is going to attempt to achieve. I have no problem with getting documentation over here that would be consistent with what the Department of Defense or any other Department would supply when they submit their budgets. But when you are dealing with a 5-year plan, particularly in the Department of Defense, I think we have to pay special attention about what kind of requirement we are placing on DOD, and the man-hours, what kind of requirements and how that document will be treated when it gets over here.

I assume that document will remain classified. If it does remain classified, certainly we can put our staffs busily to work to make sure that all the numbers add up. I really think when you start looking at a 5-year plan beyond R&D and procurement—those are the big items, and I think those are the items the Senator is interested in—and get down to the O&M and all of those details on a 5-year basis, you are talking about an extraordinary amount of work, an extraordinary amount of material. I think that the kind of scrutiny that we want to give is to make sure that the recommendations sent over here add up.

I want that and I think the Senator from Connecticut wants that. That is the genesis of this amendment that he, in fact, is offering.

We will not be voting on it. The amendment will be adopted and we will go to conference. We will continue to work with the chairman of the committee, the Senator from Connecticut, to see if there is anything that, in fact, might be worked out to accommodate his desired objective, to make sure that we get the desired information and in the manner as he has described and where we get the R&D and procurement for a 5-year basis, so be it.

On getting into all of this other documentation, when you start getting this out, even if it were classified, if all of this information suddenly gets out, and I will not say handed over, you are talking, potentially about some sensitive matters. I want to make sure that all the safeguards are taken care of. Obviously, the safeguard of Congress knowing what the Department of Defense is doing in this area is very important, but also how they go about making this additional request.

We have always talked around here about paperwork reduction. Many have been concerned in the Armed Services Committee about the number of reports that we require out of the Department of Defense. This is an extraordinary request. I guarantee it will take a considerable amount of manhours, a considerable amount of paper, that will go into the production of this material for the Congress. They will have to go back and say that since this is no longer an internal document, the Secretary of Defense will make his determination. They will change the way they are doing it now. It will not be just internally and kept internally.

I am not saying that the numbers will be different, but they will go back and figure out that all this information has to go up to the Congress, all this information. They will go back and start figuring out all sorts of ways.

I would hope that we might be able to achieve the Senator's objective because he wants consistency. He does not want two budgets. It is a legitimate concern and a legitimate request. No one can ask for anything less, quite frankly.

I hope that over the course of the debate on this bill and when we go to conference, we might make sure that this amendment does what the Senator wants. I do not have any problems in the consistency, but I do express some concerns, and I want to go on record with them, about how this amendment would be implemented, how we would be able to contain the classification once it came over here, getting that kind of information on a 5-year basis that in the past has been used for internal use in the Department of Defense only.

We are going into a territory that we have not gone before, and before we do that I want to hopefully make sure that we are not going to be too disruptive. I am sure it will be disruptive, but not too disruptive and too overly burdensome on those who will have to prepare this document. We have enough of a problem making sure that other budgetary matters and things are taken care of. In an additional request, particularly of this magnitude, I believe that we ought to use extreme caution.

Mr. WEICKER. Mr. President, I thank the distinguished Senator from Indiana for his assistance on this matter, but I assure him rather than additional burden and additional paperwork it just stands to reason that all you have to do is produce one 5-year plan now, not two. The paperwork and everything else will be cut in half. They will not have to sit up nights to figure out how they are going to go ahead and pull the wool over our eyes—publish one set of books. Believe me, from the point of view of the cost and effort and the result it will achieve in giving us the tools to make the right decisions, they will have done a far better thing than is the case right now.

I do not know of anybody else, Mr. President, who desires to speak on this matter. I am perfectly willing to have it go to a vote. I yield back the remainder my time.

Mr. QUAYLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Both Senators have yielded back their time. All time has expired. The question is now on adoption of the amendment.

The amendment (No. 709) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business not to extend beyond 6:30 p.m., that Senators may speak therein not to exceed 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

WE HAVEN'T HEARD THE FINAL WORD

Mr. DOLE. Mr. President, for most Americans—and for most people outside this country, as well, I suppose—almost everything they know about the Senate comes from the occasional headline on this-or-that Senate vote. Sometimes those headlines send the right signal; sometimes, I fear, they do not.

There are probably some headlines this morning about the vote the Senate took last night on the Helms amendment on Contra aid. This happens to be one of those occasions where the headlines may not tell the whole story, or even the real story.

Let us keep last night's vote in perspective.

The fact is, this body is closely divided on this question of Contra aid today, just like it has been in the many votes we've taken over the past 3 or 4 years.

Some Senators—I happen to be one of them—believe that Contra aid has been a necessary, and effective, part of a broader policy to keep the pressure on the Sandinistas, to respond to our legitimate concerns. We think the fact that we've kept the heat on Managua through Contra aid is one of the main reasons there is any hope for a negotiated settlement now. Without Contra aid, there just would have been no Guatemala City accord.

Let me say, without revealing any confidences, that virtually everybody I spoke to on my recent trip to Central America would agree with that statement.

But of course, there are some in the Senate who disagree with that assessment. They have voted against Contra aid, and they will do so again, I suppose, if the President seeks additional aid. I understand and respect their view, ever though I might not agree with it.

But the fact is, the balance of power—if that's the right phrase—the balance of power on this issue is the group of 15 or 20 Senators from both parties who are kind of on the fence on this matter. They see the value of the Contra aid program; but they have real and legitimate concerns about it. For them, the votes that we've had have been tough, tough calls. Their honest judgment was that this is not a clear cut, black-and-white issue.

I think that, while almost of that group voted against the Helms amendment last night—including some who have voted for Contra aid each of the past four or five times—almost all of them voted against the Helms amendment, not on its basic merits, but because they thought this was just not the right time to address this issue.

Last night's vote was not a vote against Contra aid; it was a vote against voting on Contra aid at this time.

So, this morning, it seems to me, we are pretty much where we were before last night's vote on this issue.

We want to give the Guatemala City accord every chance. Most of us think that—to do that—we ought to hold off on additional military aid until after the November 7 deadline in the Guatemala City agreement. Meanwhile, though, we need to keep the Contra aid option open—as an indispensable element in keeping the pressuring on Ortega and his gang to fulfill their commitments; to keep their word. That is what at least half of this Senate feels, in my view.

So I hope no one misreads that vote last night. I hope Daniel Ortega doesn't because that would be dangerous.

But above all, I hope that the young men who are risking their lives—and who, in some cases, have already sacrificed their strong young bodies and their health in that cause—I fervently hope they will not misread the vote.

The Senate has not spoken the final word on this matter yet. And—at least as far as I am concerned—we will not; not until we know if November 8 will dawn with new hope for democracy in Central America; or, instead, will just be the first day in the newest phase of a long struggle to bring freedom to people who so badly want and deserve it.

NATIONAL POW/MIA RECOGNITION DAY

Mr. DOLE. Mr. President, today marks another particularly significant day—"National POW/MIA Recognition Day." All across this Nation, Americans will gather to pay tribute to servicemen and women, our former

POW's who sacrificed so much for their country and returned to enjoy, once again, the fruits of their efforts. But there is another very special group that will be honored whose whereabouts remain a mystery—our Nation's MIA's.

Literally hundreds of POW/MIA Day events are being held nationwide. Many of those Americans attending ceremonies can closely identify with the hardships and sacrifices of war, having served their country when it called. Many of us here in the body know full well the loss that is felt when friends and relatives do not return, having made the ultimate sacrifice. Thus we can realize the pain of the MIA families who have kept the faith, endured false hopes, and continued to highlight the POW/MIA issue in every way possible.

Their efforts have been rewarded. From those first days 18 years ago when public awareness was difficult at best—to the high national priority that it is today, the POW/MIA issue is one that we, as Americans, must reaffirm to resolve. Much progress has been made, but much remains to be done. We must continue to keep these special Americans foremost in our minds and in our hearts—as I have said many times, we will never forget, nor will we rest until a satisfactory accounting has been made of those brave Americans.

AIR FORCE, 40TH BIRTHDAY

Mr. DOLE. Mr. President, I would like to take this opportunity to congratulate the U.S. Air Force on its 40th birthday. It seems an appropriate coincidence that we celebrate the Air Force's anniversary one day after we commemorate the bicentennial of our Constitution. Defense of that Constitution and the protection of its guaranteed rights and freedoms are the very reason we have an Air Force.

Over the past 40 years, our Air Force has successfully met constantly changing threats that took Air Force people to Tempelhof during the Berlin airlift; to "Mig alley" in North Korea; to increased nuclear alert during the Cuban missile crisis; and to conventional combat in Vietnam. In both Korea and Vietnam, meeting the threat subjected some of our airmen to years of brutal imprisonment and left far too many unaccounted for. In more recent times, the Air Force was part of the liberating force in Grenada and the striking blow against terrorism in Libya.

But most important, the Air Force has been and continues to be, the most powerful force for peace under the control of mankind. All that comes from a coherent match of deterrent strategy and strong, flexible forces.

More than 1 million active Reserve, and civilian men and women serving in the Air Force today continue the proud traditions of courage and dedication pioneered in the Air Force's first 40 years. Through their unswerving commitment to meeting the challenges of national defense, we will see another 40 years of freedom through strength.

THE SHULTZ-SHEVARDNADZE MEETING

Mr. DOLE. Mr. President, this morning we were all pleased to hear that the talks between Secretary Shultz and Foreign Minister Shevardnadze have removed the remaining obstacles to an INF Treaty. Now our Geneva negotiating teams will try to iron out the details as soon as possible.

While we congratulate the President on this achievement, let's keep our feet on the ground. Near-agreement and agreement are not the same thing, and the details can be very important. Our negotiators—and I hope the Soviet negotiators—should be instructed to roll their sleeves up and get to work. Pay strict attention to those details, because this Senate is going to scrutinize any treaty very carefully.

I believe that verification is going to be a major concern, and this is an area in which details count. For example, onsite inspection has to be at the right time and place, and carried out in a way most likely to detect noncompliance, I know Max Kampelman and his team, and I am sure they will be right on top of such details.

I will have to reserve further judgment on the INF Treaty until I see the details, but I think there are a few other observations worth making at this time.

The progress we have had so far on INF is instructive for us here in Congress. Interestingly, INF is the one area in which the Congress did not micromanage the President's negotiating strategy, and did provide him the weapons to back it up.

We authorized and appropriated the Pershing-2 and ground-launched-cruise-missiles to counter the Soviet SS-20 missiles. We deployed in the face of the Soviet threats, public disruption in allied countries, and a Soviet walkout from the arms talks. The Soviets stayed away from the bargaining table for nearly a year—until just after Ronald Reagan's reelection. I wonder if there was any connection?

This morning we also heard another bit of good news: The Soviets have agreed to formal talks on verification of the Threshold Test Ban Treaty. At the beginning of the year, some in this body suggested that we should give our advice and consent to this treaty before the verfication provisions were negotiated. Republicans, led by Senators EVANS and KASSEBAUM, said no—let's see it all first, and then we'll consider advice and consent. Now we may have a chance to do that.

I mention these points because they are relevant to what we are doing here this week on the defense bill. This morning the President was also optimistic for a start agreement—and let's face it, that's the big one. I still caution that we should keep our feet on the ground, but if there is anything we can do to help get such an agreement, we should do it.

Instead, the Senate has decided to tie the President's hands to the narrow ABM Treaty interpretation—an act which can only encourage the Soviets. And we also have looming amendments which would curtail nuclear testing and even bind us to bits and pieces of the unratified, violated, and expired SALT II Treaty. Again, such measures only undercut our negotiators.

I was encouraged to hear the President's remarks this morning, and I hope we can realize his hopes for good arms control agreements. I am, however, discouraged by legislation like Levin-Nunn, or any measures on SALT II or nuclear testing. These are a far cry from the backing we gave the President on INF, and I fear the arms control results could be equally different.

ECONOMICS OF HOSTILE TAKEOVERS—SUPPORT FOR S. 1323

Mr. PROXMIRE. Mr. President, as the Members of this Chamber are aware, I am firmly of the view that the pace of hostile takeover activity is bad for America, especially those takeovers whose purpose is to manipulate the price of the target company's stock in order to make a fast buck. In my judgment these takeovers do irreparable damage to our businesses, our work force and our communities. This is not to say that all hostile takeovers are bad. But on balance, takeovers as they are being conducted today, do more harm than good. And, I truly believe that the Tender Offer Disclosure and Fairness Act, S. 1323, that I have sponsored with a number of my colleagues on the Banking Committee is absolutely essential for the long-term well being of our country.

Mr. President, I rise today to address one particular aspect of the hostile takeover problem—the economics of this pernicious phenomenon.

Mr. President, there is very little disagreement that following the raider's trial, we find a swathe of decimated corporations, crippled by debt, compelled to sell off productive assets at fire-sale prices, and unable to marshal the financial and managerial resources necessary to meet foreign competition. Unequivocal testimony throughout lengthy hearings before the Senate Banking Committee establishes a further grim reality: that the devastating toll on American corporations is the same whether or not the raiders actually get their hands on the corporation they put into play. Indeed, in many cases raiders have no intention of acquiring and running these corporations themselves; they simply manipulate the market to create an auction-block atmosphere and then arrange a private payoff through greenmail. The net fanancial result is a loss of productive corporate resources, while the raider, swollen with cash, sets his signts on ever-larger targets.

The devastation wreaked on American corporations by the hostile takeover phenomenon is mirrored in the adviser affects on American workers. It has been estimated that in recent years along, the takeover frenzy has affected hundreds of thousands of union and nonunion jobs as companies shut down plants and sell off productive assets to service the enormous debt incurred in the takeover process.

Additionally, when a company is forced to shrink as a result of a hostile takeover, local communities that had some to depend upon the corporation incur drastic social and economic costs. Budgets for schools, police, fire and other social services needed to make our communities fit places to live and raise children are of necessity cut.

For the economy at large, takeover mania has swamped the Nation with unprecedented levels of debt, and this at a time when consumer and Government debt is already brimming. Because of hostile takeovers, American corporations sold 263 billion dollars' worth of debt in 1986, double the 1985 figure, and five times the figure in 1982. Last year, for the first time ever, American industry spent some $177 billion in hostile raids, more than spent on new plant and equipment. Much of that money was spent servicing debt. Come the next recession, Mr. President, our corporate sector is in big trouble.

And, yet Mr. President, although the case is clear that there are serious injuries caused by hostile takeovers and that legislation is needed to eliminate raider abuses, efforts to right these wrongs will not go unopposed.

Too much is at stake for corporate raiders, and they and their cohorts in the takeover game are too well placed not to oppose efforts every step of the way.

Mr. President, there is one thing about hostile takeovers on which everyone, raider and prey, agree: at the end of the day, the raider and those in his pay pocket enormous sums of money. I am not talking about millions of dollars, Mr. President, I am not even talking about tens of millions of dollars, I am talking about hundreds and hundreds of millions of dollars in profits.

To justify their obscene profits, raiders generally invoke a number of economic arguments purportedly confirmed by economic studies.

On examination, these arguments are usually little more than variations on the following themes: First, the takeover game puts money, in the form of a premium, into the pockets of target shareholders, and therefore raids increase shareholder wealth, and second, hostile takeovers replace incompetent managers, while the mere threat of such takeovers may spur more efficient management.

My reason for addressing this body today, Mr. President, is simply to set the record straight with respect to the worthlessness of arguments like these and to demonstrate that not only are hostile takeovers bad for legitimate business, bad for labor and bad for our communities, but they are a disaster for the U.S. economy.

To be specific, Mr. President: Takeovers almost certainly reduce the overall wealth in our economy. The proponents of hostile takeovers frequently focus on the premiums paid to shareholders of the acquired company. They conclude that since a premium is paid, the transaction must be wealth creating. But the short-term financial gains that in certain cases may be realized by shareholders of a company subject to a hostile takeover are significantly offset by losses, from a number of sources, and further reduced by the costs associated with takeovers. For example, Professor Ellen Magenheim of Swarthmore College, in her own empirical research, found that where the acquiring firm is a public company, is own shareholders frequently lose value when a takeover is completed. Professor Michael Jensen, usually a proponent of hostile takeovers, also notes in a survey article that there is a "systematic reduction in the stock price of bidding firms."

Furthermore, even with respect to the acquired company's shareholders, a recent study by Professor Donald Margotta of Northeastern University shows that, in the long run, these target company shareholders are not worse off by rejecting the tender offer premium. In fact, over the long-term, shareholders do just as well by defeating the tender offer and holding their company's stock as they would have done had they sold out for the offered premium. Thus, Mr. President, contrary to the assertion that tender offers at least increase the wealth of target company shareholders, there is, in fact, no long-term gain to these shareholders whatsoever.

Moreover, as the business press frequently reports, bondholders in target companies incurring debt as part of a hostile takeover or attempted hostile takeover experience dramatic reductions in their investments which, again, offset some of the short-term gains of target shareholders. Standard & Poor's recently asserted, for instance, that recapitalizations under the threat of a hostile takeover damage credit quality.

In addition, as I am sure that every member of this body recognizes, transaction in hostile takeovers, such as lawyers' fees, investment bankers' fees, etc., are substantial. In the Unocal deal involing T. Boone Pickens, the investment bankers' fees alone exceeded $50 million. These amazing costs, however, are seldom included in calculating the true price of hostile takeovers.

In sum, taken as a whole—and particularly noting that target company shareholders do not gain in the long term—it is clear that hostile takeovers cannot be shown to be increasing the overall wealth in our economy.

It is well-managed companies, not the worst-managed companies, that are the subject of hostile takeovers. As I noted earlier, Mr. President, hostile takeover proponents also assert that takeovers produce a more efficient use and management of assets by targeting poorly run companies for acquisition. The more recent evidence flatly contradicts this theory. Separate studies by, among others, Professor F.M. Scherer of Swarthmore College, and Professor Louis Lowenstein of Columbia University, recognized specialists on acquisitions and mergers, conclude that target companies are generally good performers. This is to be expected; it is easier and more profitable to take over a company that can support a high debt level, that has strong assets to sell off, and that can provide good cash flow—the key ingredients of a well-managed company—than to take over a company that does not have these attributes.

The performance of target companies falls after acquisition, causing inefficiencies and hurting the economy. Proponents of hostile takeovers try to justify them on the basis that the acquiring company will improve the performance of the target company after the acquisition. In fact, however, studies by Professor Dennis Mueller of the University of Maryland, by Professor David Ravenscraft of the University of North Carolina, and by Professor Scherer, have all concluded that acquired firms' performance deteriorates significantly after the takeover. Studies by McKinsey & Company, as well as a recent article by Professor Michael Porter of the Harvard Business School, reach similar conclusions. It therefore seems clear that, on average, many target company managers do a better job than the acquiring company's managers in running the target company.

A large number of hostile takeover attempts in recent years have been engaged in by "raiders" that merely put companies into play in order to be bought out at a higher price in a recapitalization or through greenmail, with no intention or effect of replacing existing management. Proponents of hostile takeovers also claim that takeovers root out inefficient management. While some early hostile takeovers may have been effected by operating companies that wanted to own and manage the target company to attempt to obtain synergies or other benefits, many attempted hostile takeovers today are designed simply to force existing management to recapitalize the company or pay greenmail. As is the case with all of T. Boone Picken's "raids" to date, the "raider" actually never takes control. Obviously, Mr. President, these "raids" are not designed to replace bad management. Also, as noted above, it is not the poorly run companies that are usually the targets of takeovers, and the acquired company's performance usually deteriorates, rather than improves, after the acquisition.

No evidence was found which suggests that the normal competitive process in our economy is failing—that assets are not otherwise moving to their most productive use, or that bad managers are not being removed. Numerous means exist to ensure that assets are used productively. For example, there were over 1,200 divestitures last year, compared with about 40 hostile takeover attempts. And bad managers are consistently removed by boards of directors. Not only are these means effective, they do not cause the same economic dislocations and high costs associated with hostile takeovers. Nations such as Japan and Germany which, for all practical purposes, preclude hostile takeovers, obviously have very strong economies. Clearly, hostile takeovers are not necessary to improve a nation's efficiency.

There are economic risks created by hostile takeovers, as yet unquantified, that may have serious long-term consequences for our economy. A central feature of almost all hostile takeovers today is that they convert equity into debt. Also, a number of managers have testified before Congress as to the reductions in R&D expenditures caused by takeovers or attempted takeovers and the usually accompanying need to provide for increased debt service. A number of economists and even investment bankers, such as Felix Rohatyn of Lazard, Freres & Co., are also now beginning to believe that this movement to debt, and the short-term perspective it fosters, threatens the long-term stability of our economy. For example, testifying with respect to takeovers and using as an example the restructuring of the oil industry for which T. Boone Pickens claims credit, Mr. Rohatyn stated:

> The mergers of Chevron-Gulf, Occidental-Cities Service, Mobil-Superior all occurred as a result of raids or the threat of raids. The deterioration in their combined balance sheets has been dramatic. Far from being a healthy restructuring, the oil companies involved are cutting exploration sharply, a practice our country will pay for dearly when the next energy crisis occurs. With their high levels of debt, they could be in serious difficulty if the price of oil declines again. If one were to write a scenario about how to get the United States into trouble as far as energy is concerned, it would be hard to improve on what has happened.

Hostile takeovers do not represent the "free market" at work. Proponents of hostile takeovers claim that such takeovers are simply the actions of the free market. However, free markets rely on (1) willing buyers and willing sellers, (2) with full information, and (3) equal bargaining power. Coercive takeover tactics eliminate the idea that hostile takeovers in fact involve willing buyers and willing sellers. Misleading disclosures, inadequate information, and the failure to disclose secretive "group" trading activities all underscore the lack of full information. Other exploitive tactics, such as "parking" of securities, further underscore just how far from a "free market" is the takeover game played by today's raiders.

Moreover, economic studies supporting hostile takeovers are deficient because they rely exclusively on one concept—namely, that stock price movements within a short period (usually 5 to 20 days) around an "event" tell the whole story. The proponents of hostile takeovers, recognizing that the studies that review actual company behavior do not generally support their position, rely almost exclusively on stock price studies. The cornerstone of these studies is a single "event," isolated in time, such as the passage of a State law deterring certain takeover abuses, or the adoption of a shareholder rights plan. If the stock price drops within a few days after the event, these economists conclude that the subject of the event will result in greater management entrenchment and corporate inefficiencies, thereby leading to lower returns for shareholders. All of these negative effects are supposedly recognized almost instantly by the market, resulting in the lower stock price. Despite the theoretical deficiencies in these studies as shown by numerous economists, the studies have also been shown to be overwhelmingly sensitive to choice or time frame. For example, Professor Margotta showed that, in the Securities and Exchange Commission's study of the Ohio takeover law, using a time frame of even 1 day longer than that used by the SEC, was sufficient to generate a contradictory result. These obviously flawed studies cannot be the basis of public policy.

In sum, the economic argument against hostile takeovers is overwhelming. At the same time, Mr. President, I do not intend to get into a debate over the macro- and micro-economic aspects of this problem. I fully recognize that eminent economist frequently differ on many economic problems. Thus, I would say to my colleagues that even if you conclude that the long-term economic impact of hostile takeovers is unclear, you must conclude that both the short- and long-term adverse social costs are enormous and that legislation in this area is necessary.

I cannot conclude, Mr. President, without summarizing what I believe are the three public policy implications that flow from the economic and social findings I have outlined above. First, takeover abuses should be subject to evolving and flexible regulatory controls. The States, which have historically regulated corporate governance matters, are closest to the constituencies most impacted by takeovers and can react quickly to the evolving nature of the takeover process. In contrast, Congress is not able to revisit this area on a continual basis.

Second, the central role of corporate directors in the takeover process should be strengthened. The board of directors can be more efficient at evaluating and disciplining management, without the enormous costs and disruption cased by hostile takeovers.

Finally, raiders' manipulative actions should be deterred by the enactment of S. 1323.

In conclusion, Mr. President, it is clear that the situation is grave and the need for action compelling. The committee therefore intends to move swiftly but deliberately to address the deficiencies in current law that are undermining the fairness and integrity of or securities markets and inhibiting the sound operation of American corporations. I am confident that this great body will support these efforts.

CLEAN AIR AND ALTERNATIVE FUELS

Mr. BURDICK. Mr. President, today I come to the Senate with good news for our environment and our agricultural economy. I am talking about the prospects for methanol and ethanol as fuels of the future.

It is now clear that significant new ethanol and methanol markets can be created. It is entirely realistic to expect a variety of benefits for North Dakota and the Nation. From cleaner air in our cities to new markets for farmers to a more reliable source of affordable fuel, ethanol holds much promise. We are working hard in the Environment and Public Works Committee to make that promise come true.

The development of markets for alternative fuels is a major concern for our ethanol and methanol producers, our agriculture community, and for my State's economic future.

While State and Federal tax incentives have assisted these fledgling industries, more must be done to encourage the use of alcohol fuels. Greater use of alcohol fuels could improve the quality of the air in polluted urban areas around the country. Farmers, as well as ethanol and methanol producers, will benefit as new markets for their products are developed in the so-called clean air nonattainment areas.

Make no mistake—there is a need for cleaner fuels in American cities. Although North Dakota has few pollution problems with its air, nearly half of the American population lives in areas that fall short of our standards.

Today there are some 76 areas not meeting the ozone standard and about 40 areas not meeting the carbon monoxide standard of the Clean Air Act. Increased use of cleaner burning ethanol and methanol will help many nonattainment areas comply with the standards established under the Clean Air Act.

Alcohol fuels offer the potential for significant reductions in auto emissions in these nonattainment areas. Urban areas such as Los Angeles, Denver, and New York have already developed programs which will encourage, and in some cases mandate, the use of alcohol fuels.

The south coast air basin hopes to have 20 percent of the automobiles in the Los Angeles area using alternative fuels by the year 2000. This would be a major step toward improving air quality in that area.

Amendments to the Clean Air Act, which will be reported in the coming weeks by the Environment and Public Works Committee, mandate the use of alternative fuels. For example, buses and taxicab fleets in urban areas would be required to burn methanol and ethanol in order to reduce air pollution.

In addition, the bill requires the use of alternative fuels in carbon monoxide nonattainment areas during the winter. Both of these provisions will create new markets for alcohol fuels. As a result of these mandates, the infrastructure necessary for the supply and distribution of alcohol fuels will be developed and expanded.

So where is the value to North Dakota and other rural States? Along with cleaner air in neighboring regions, increased use of alcohol fuels would increase domestic demand for grain. Above all, greater use of domestic alcohol fuels will make America less dependent upon foreign sources of energy.

I have been a consistent supporter of the alcohol fuels industry. Tax incentives have assisted this vital industry, but I expect the alcohol fuels industry will soon grow strong enough to stand alone. Specific markets for these fuels must be developed so that urban consumers can begin to appreciate the energy and air quality benefits associated with alcohol fuel use.

Many farm States have accepted gas-ahol. In North Dakota, 17 percent of the gasoline consumed in 1986 was gas-ahol. By comparison, less than 2 percent of gasoline sales in California were made up of gasahol. There is tremendous potential for increased use of alternative fuels in many urban areas. Many of these same areas have been unable to comply with existing Clean Air Act standards.

I support alcohol fuel provisions in the Clean Air Act. Increased use of ethanol and methanol in nonattainment areas is desirable public policy. It will help North Dakota's farmers; it will help methanol producers; and it will help clean up the air in many urban areas across America.

HENRY LINDEN

Mr. BURDICK. Mr. President, last week we paid tribute to Alf Landon, a great politician who just celebrated his 100th birthday.

Today, I would like to share with you a few memories of another political great—my friend Henry Linden, who passed away during the August recess.

Henry had never been elected to public office. He was rough cut, he had a slight German accent, and he would not have won a men's style show. Yet this man, this very common man, exerted influence over the political life of North Dakota, far greater than anyone would suspect.

I came to know Henry through Bill Langer and the Nonpartisan League, a political organization that held sway in North Dakota for many years at different times. His main occupation at that time was driving Langer's car. He probably knew more about this former member of this body than anyone else.

After the passage of Bill Langer, Henry continued his political observations and keen interest. He made heavy use of the North Dakota telephone systems in particular.

Since I am a member of the Nonpartisan League, I was in constant contact with him during most of my political life.

Henry knew thousands of people on a first-name basis. He added color to the North Dakota scene.

North Dakota has been know for its colorful politicians. Henry has now joined the others. He has joined Alexander McKenzie; early political boss Senator William Langer; A.C. Townley, organizer of the Nonpartisan League; and others who strode upon and off the North Dakota scene.

I will personally miss this man, who customarily greeted me by saying "Vot's new?"

Mr. President, I ask unanimous consent that Henry Linden's obituary and an article by Sid Spaeth from the Forum, a Fargo, ND, daily, be printed in the RECORD. Thank you.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FORMER AIDE TO LANGER DEAD AT 82

BISMARCK, ND.—Funeral services are tentatively set for Friday for Henry Linden, an aide to former North Dakota governor and U.S. Senator William Langer who was respected statewide as an astute politician in his own right.

"He was the most important lieutenant that Langer had all his life," historian Agnes Geelan said of Linden, who died Sunday at age 82.

"Wild Bill" Langer and Mrs. Geelan were active in the Non-Partisan League, an insurgent farmers' political movement that established North Dakota's state-owned industries, the Bank of North Dakota and the state Mill and Elevator in Grand Forks.

Linden, as Langer's longtime chauffeur and political confidant, was expert at discerning the way North Dakota's political winds were blowing, friends said.

"Politically he was one of the sharpest that I ever knew," said Secretary of State Ben Meier, a friend for more than three decades. "I'd put Bill Langer first and probably him second."

Linden died Sunday night at a Rochester, Minn., hospital, said Marjorie Zappas, a business associate in Jamestown.

HENRY LINDEN, POLITICAL FIGURE, DIES AT 82

(By Sid Spaeth)

Henry Linden, a German-born tavern operator who became North Dakota's quintessential cloak-room politician and a political prognosticator without peer, died Sunday in Rochester, Minn. He was believed to be 82.

Linden was the "eyes and ears" of controversial and powerful former Sen. Bill Langer, and remained the state's consummate political insider for more than four decades.

Linden died in a Rochester hospital after a short illness.

Friends described Linden's death as the "passing of an era."

"He loved politics," said Marlys Lundberg, a long-time aide to Democratic Sen. Quentin Burdick. "He ate, slept and breathed it. It didn't make any difference if it was Republican or Democrat. He'd get in there and mingle with them all."

Former Sen. Mark Andrews, a Republican, said, "He represented the last of the old-time politicians. He had a great feel for North Dakota and great feel for North Dakota voters."

Linden, who never ran for office, counseled and talked with hundreds of politicians over the past several decades. His knowledge of the state's politics was legendary. Tom Stallman, another long-time friend and aide to Burdick, said, "He was an encyclopedia of political information. The sad thing is that a lot of history died with that man."

Lundberg added, "He forgot more politics than the rest of us will ever know."

Linden lived on the fringes of politics—never making the headlines—but often leaving turmoil in his wake.

Lundberg said, "He was always in the background. He was always the guy in the back room."

Not surprisingly, Linden's counsel was highly sought by the state's politicians.

"He had a real nose for the voter, what the voter was going to do," said Stallman. "I don't recall him ever missing a shot on calling a campaign."

A German national. Linder was interned at Fort Lincoln south of Mandan during World War II in March of 1942. A 1942 Fargo Forum dispatch quoted local sources as saying "Linden had made himself very unpopular in the Braddock (N.D.) region by his pro-German conversation, his frequent 'mysterious' trips at night and his quarrelsome behavior.

The Forum stated that Linder's several attempts at becoming an American citizen were denied because of "criminal activities" including bootlegging. On one occasion, a petition signed by more than 50 residents of the Braddock area protesting the granting of citizenship was posted with the court.

Barely one month after his internment, Linden was released from Fort Lincoln, undoubtedly, friends say, through the work of Langer. He later became a U.S. citizen.

Ostensibly a chauffeur, Linden became the "eyes and ears" of Langer in North Dakota, said Agnes Geelan, who wrote a biography of Langer.

"He was just the kind of politician you would understand Bill Langer would have," Geelan said of Linden. "He would get the news that wouldn't get printed and get people to talk."

Linden later moved with his wife to Driscoll, N.D., where he operated a bar, owned some farm land and raised his family, said Albert Dronen, of Driscoll, who had known Linden since the mid-1940s.

He is reputed to have encouraged third-party candidacies, including that of James Jungroth, a Jamestown lawyer who ran for the U.S. Senate as an independent in 1974 and probably tilted the razor thin decision toward Milton Young over William Guy.

Jungroth denied Linden's input. "He wasn't even involved." Jungroth said. "But he would never discourage the rumor. He loved it. He got credit for more things he didn't do than for the things he did."

Linden also was legendary for his political predictions.

Jungroth said. "I question whether he ever lost a political bet."

Asked what made Linden so politically astute, Jungroth said "I don't know. What made Einstein, Einstein?

"He regularly traveled the state." Jungroth continued. "It was a hobby — an all-consuming one. He talked to people all the time. When he was 80 years old, he would just hop in his car and he would be gone for a week or 10 days. He would just tour the state."

Even when slowed by age, Linden continued his daily contact with politicians by long-distance telephone or visits to their offices.

Attorney General Nicholas Spaeth said Linden visited Bismarck several months ago, checked into a hotel near the capitol, and had politicians call on him there.

"He really was a giant figure in North Dakota politics," Spaeth said.

Gorman King, Sr., a long-time political colleague, said Linden repeatedly challenged him to bets on the outcomes of elections. And Linden always won.

When King was supporting George McGovern for president in 1972, Linden bet King that McGovern would not carry even his own state of South Dakota. Linden won.

Lundberg recalled that Linden called her one month before the 1986 election and predicted the upset victory of Kent Conrad over Andrews.

Norman Meland, of Driscoll, described Linden as a "generous man (who) never wanted anyone to know it was he who was behind the generosity."

But Linden made some enemies in Driscoll. One colleague said he infuriated some by "making a buck where no one else could."

Linden was a common man with little education, who spoke in a rich German brogue, friends said.

"He was not a polished gentleman," Burdick said. "But he was a real soul."

Lundberg said Linden looked like a sympathetic character. "He used to walk around and you would say. 'Oh, look at the poor thing.'" But she said Linden was anything but a poor "thing" and sympathetic people coddled him with enough information to make him among the most astute political minds in the state.

Linden was unpretentious. Gorman King Jr., an aide to Sen. Conrad, recalled seeing a picture of Linden, Langer and President Harry Truman hanging in Linden's bar in Driscoll. The picture was without frame and stapled to the wall "like it was OK to spill beer on it, or something," King said.

But Linden was always behind the scenes, shaping politics.

Ben Meier said Linden was among those in 1954 who convinced him to run for the secretary of state seat he has held since.

"He is going to be missed in political circles," Meier said. "He was around with people. He wasn't just sitting with one group talking, he was talking with different types, from business people to laborers in ditches."

Linden has lived in Jamestown since his wife died. He became ill in the middle of last week and checked himself into St. Mary's Hospital in Rochester, where he died Sunday night.

Lundberg said Linden is survived by two sons, Frank, Washington, Jim, New York, and a daughter, Arlene Linden-Beckman, Hannover, N.D.

SENATOR RIEGLE'S SPEECH TO THE HUNTSVILLE, AL, SPACE CLUB

Mr. HEFLIN. Mr. President, on September 2, the Huntsville, AL, chapter of the National Space Club had the distinct opportunity and pleasure to hear from our distinguished colleague from Michigan, Senator DONALD RIEGLE. I must say that in my judgment, Senator RIEGLE has done an outstanding and exemplary job since assuming the chairmanship of the Subcommitee on Science, Technology, and Space of the Senate Commerce Committee. His comprehension and understanding of the operations, needs, and requirements of America's Space Program is certainly to be admired and respected.

In this regard, it is with great pleasure that I ask unanimous consent to have Senator RIEGLE's remarks to the Huntsville Space Club included in the RECORD so that my colleagues may have the opportunity to read and study them.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DONALD W. RIEGLE, JR.

Thank you for the opportunity to address the National Space Club here in Huntsville.

This is my first appearance before the Space Club, but your membership is very familiar to me in my work as Chairman of the Science, Space and Technology Subcommittee.

First, let me acknowledge the presence of the folks from the Marshall Space Flight Center and compliment them on their recent success with the test of the space shuttle solid rocket motor. In particular, I would like to salute J.R. Thompson for the fine job that he is doing. I understand that there is no doubt who is charge when J.R. is around. I get the feeling that if J.R. would get into the Super Tuesday Presidential primary, there's a good chance he'd carry Alabama.

I am greatly encouraged by our progress on the shuttle. I think we're going to really go next June, and I feel the enthusiasm building.

I also would like to acknowledge the presence of the folks from the Redstone Arsenal. I must admit that I have a great deal of familiarity with the Marshall Space Flight Center and its team despite the fact I have never been here before. However, I do not have the same familiarity with Redstone, and I hope I have a chance to talk to some of your folks during my visit.

Finally, let me note that it is good to see the Chrysler Corporation with a major presence in Huntsville. This is real evidence of the trend in the auto industry to become a major force in all areas of high technology manufacturing.

For all of us in the space community, the date January 28, 1986, is a day of profound and stark meaning. But I know I speak for America and for you when I say January 28, 1986, does not mark a crippling of the civil space program or U.S. leadership in space. America is going back into space—wiser—stronger—safer—with our character tempered and steeled by painful sacrifices along the way.

In the aftermath of the Challenger accident, our role as the leader of spacefaring nations came into serious question, as did the capabilities, direction, and the future of our space program. But today, the issue in my opinion, is not so much our capabilities, as our commitment.

We are now at the crossroads in the civilian space program. We aspire toward the visions of the Paine Commission and Ride Report, just as we are confronted with the hard realities of the Rogers Commission and other difficult contraints.

Our task requires us to meet these multiple challenges at the same time. That creates tough unremitting pressure all around. Our fate is to use and meet that challenge. We are, and we will.

Our success will depend not only on an all out work effort, but also our willingness to make hard choices. We must have a clear set of goals and objectives—and a strong, state-of-the-art space infrastructure.

As to our goals, I believe the Congress and the Administration must commit to a permanently manned space station.

I realize there has been a lot of discussion lately about the reduction to the HUD-Independent Agencies Appropriations Bill and the fact that Senator Proxmire intends to kill the space station program. I intend to openly and actively oppose that effort.

I believe that this Nation, this Administration, and this Congress must commit the necessary resources to the space station program and that this Nation must take the next logical step. I for one, believe that the United States has the capacity within a trillion dollar annual federal budget to allocate $2.5 billion a year for the next 8 years to build the Block I space station that has been proposed by NASA and reviewed inside out by the Seamans Space Station Committee of the National Research Council.

In my opinion, the space station is critical to continued U.S. leadership in space; and any effort to kill this program is shortsighted. Our leading adversaries have afforded seven successive space stations and have one orbiting above our heads today—despite the fact that the Soviet economy has less than half the output of the United States.

It's about time that we start to assess the space station program from more than its costs and challenges but as a visible demonstration of American technology and operational prowess in space and a commitment to sustained U.S. leadership in space.

The space station would give the Nation the ability to explore regions of the universe never explored by man. It would serve as a laboratory where we can learn to adapt to another more hostile environment and where the knowledge required to improve life on Earth and advanced technology and research can be acquired. Not only would the space station let us look out into the universe, but it also would let us come to better know and understand our planet Earth as suggested in the Ride Report. It would provide a vital new chapter in international cooperation in space.

I heard the report yesterday on the radio, as many of you did, that indicated that the National Research Council determined that the Block I space station proposal would cost 30% more than the Council's June estimate. Certainly there is significance in any report that indicates that the potential cost and risks of the space station are higher than formerly perceived. However, the truth of the matter is that the National Research Council said that the cost increase could be in the range of $0 to $3.9 billion, or in the range of 1% to 30%.

Now, I would hope that when the Council's report is issued on Monday that everybody does not use that report to take more pot shots at the space station program or at NASA. Rather, I would hope that we use the report to refine and tighten our space station planning and our overall space program, and to make the decision to move forward in a deliberate and predictable manner. It's time for the U.S. to tell the world that we will not surrender our leadership in space—not to the Russians, the French, the Japanese or to a paralysis of our national will or an inability to make difficult policy decisions.

In the last four years, there has never been a single vote on the space station program during consideration of a Senate or House Authorization or Appropriations Bill. I am hopeful that the Proxmire proposal to kill the space station will result in a vote so strong for the space station that its future success will be ensured. To do that, I will need your help, and we will need the help of the American public.

Secondly, let me talk about an issue that goes straight to the concerns and efforts of each and every person in this room—space transportation.

It might surprise some of you to know that the National Research Council Space Station Report is rumored to have more discussion of the Nation's space transportation system and our future options than discussion of space station costs.

On the hard question of alternative lift vehicles for the future, there are legitimate questions and differences of opinion of the best route to take. It strains the capacity of any single individual to evaluate the technical, competitive merits of an enhance shuttle, a shuttle-derived vehicle or shuttle cargo carrier, or an advanced launch system. But those of us in Congress can clearly see that the space transportation infrastructure of this Nation is not adequate for the civil and military requirements that we have to meet. That condition is unacceptable, and it must be resolved immediately.

We in Congress can also see a variety of different agencies working for their own interest but not necessarily in the best interest of our overall national mission.

However the debate turns, the time has come to make some hard decisions about the space transportation infrastructure of this Nation and what additional capabilities are required to meet existing and future payload requirements.

I can remember in the fall of 1985 before the space shuttle Challenger disaster when Pete Aldridge was trying to market the Titan II and Titan IV programs on the Hill. I doubt many of you can even remember the Complementary Expandable Launch Vehicle. It was a hard battle for Pete Aldridge, but the message he delivered was quite simple. "This program is in the national interest. We cannot afford, from an economic or national security point of view to rely solely upon the space shuttle—a man-rated vehicle."

History has shown us that Secretary Aldridge was right. More importantly, his message was right. The economic and national security of this Nation does require a robust and diversified space transportation system with both manned and unmanned vehicles.

For some reason that same message has not yet gotten across to everyone engaged in today's debate about the space transportation requirements of this Nation. But the message is more profound today than it was in the fall of 1985. This Nation does need a more robust and balanced fleet. It needs space shuttles, it needs Titans, it needs Deltas, it needs Atlas Centaurs, it needs AmRocs. But it also needs an interim heavy lift launch vehicle to assist with the deployment of the space station and a long-term heavy lift launch vehicle to meet the transportation requirements of the late 1990's and beyond. These multiple needs must be cross-connected and rationalized to give us a cost-effective and efficient mix. We can't afford bureaucratic squabbling and selfishness. We need a unified, cooperative effort that puts everyone on the same team—working toward common goals.

When the U.S. hockey team beat the Russians in the Olympics, they did it with teamwork. NASA, the Air Force, the administration and Congress, the contractors and the public have to get together behind an overall strategy and make it work.

Now, I know that there is a very strong heritage at the Marshall Space Flight Center in the space transportation sector. I also know that the Air Force is anxious to have its own capability so that the national security will never again rely upon a single, man-rated vehicle like the shuttle. But I find a certain conflict in the goals of the NASA and Air Force space transportation programs.

NASA with good reason would like to maximize the Nation's investment in the space shuttle and space shuttle technology. Not surprisingly, shuttle-derived vehicles have been on the drawing board for quite some time. However, it might just be the case that an enhanced shuttle with an advanced solid rocket motor might be just as good an option in the near term. If that were the case, NASA would be freed up to start designing Shuttle II or the man-rated successor to the current space shuttle fleet.

The Air Force on the other hand, seems committed to an Advanced Launch System or an ALS by the late 1990s. And who wouldn't be committed to a vehicle that might reduce the cost per pound to space by a factor of ten. This would have significant consequences for the scope and direction of the Nation's future military space program and defense systems. However, the Air Force also seems committed to distancing itself from space shuttle technology. Therefore, we are told that there is an interim Advanced Launch System that could be available in the 1993-94 time frame and that could reduce the cost of space transportation by a factor of three and would incorporate advanced technologies. Members of Congress with space oversight duties do not possess the technical skill to wisely referee these highly technical decisions. But we can expect and require the best technical minds available to crack this impasse and make a sensible and workable recommendation to us. So don't be surprised when you read the National Research Council Space Station Report and see some very telling comments about the merits of each of these respective proposals—the NASA proposals and the Air Force proposals.

As I indicated earlier, I hope that the space station recommendations of the National Research Council result in positive actions. I also hope the recommendations concerning space transportation do not further divide the various parties, NASA and DOD. I hope that the report will help us do what we should have done already—make some selections among the various and sundry space transportation options and put this Nation in a position where future space transportation debates will not focus on "is there an adequate space transportation infrastructure" but "what vehicle in our existing fleet is the best suited for the successful and most cost-effective completion of that mission."

In the next session of the 100th Congress, I hope that I will be able to work with both NASA and the Air Force to clearly resolve these issues so we can move forward. I hope that we can make the hard choices, make the necessary commitments, select those systems that are best suited to our future space transportation requirements and that will best serve the national interest. Yes, there will be winners and losers; but fair, tough competition strengthens everyone—and ultimately, we will all be winners.

Finally, I would like to address an area that those of you who have heard me speak know I am deeply concerned about—that is the existing space policymaking apparatus.

A lot has happened in Washington in the last few months. One of the best things to happen for the space program so far is the appointment of Frank Carlucci as the National Security Advisor.

For too long, the Senior Interagency Group on Space that is under the direction of the National Security Council has been a bureaucratic nightmare. Recently, there have been some very real efforts to improve that process and to improve the space policymaking apparatus. The staff of the NRC is currently reevaluating the Administration's space policy and the space policymaking process. We are all deeply interested in this activity and think it is time that space policy be formulated on the basis of national interests and not agency interests. I also think it is time that we consider that we want to do as much as what we want to say. For too long we have been developing space policies that could not be implemented.

As all of you probably know, I strongly believe we should reestablish the National Space Council under the executive direction of the Vice President of the United States. We need a clear command structure that will elevate and illuminate the importance of the U.S. role in space. We need to get the debate, the decisions, and our space goals out in the open. The space program needs that standing and visibility if it is to maintain public support and earn its needed share of scarce national resources.

The Congress last year acted to reestablish the National Space Council, and the Administration objected and vetoed the authorization bill. The Space Council has been reenacted in this year's Senate bill, and we are facing the same veto threat. We are dealing with that question and others in the Senate/House conference now.

Over the course of the last few months, representatives of different Federal agencies have approached me and my staff to indicate that they agree that the space policy process isn't working properly, but do not favor a return to the Space Council.

I hope that in the very near future, the Congress and the various agencies in the Executive Branch can come to a meeting of the minds as the best possible space policymaking apparatus. I have made the offer before, and I will repeat it today. If the Administration has a better solution that they can implement administratively, I will support that effort. If they have a better solution that they can implement legislatively, I will introduce the bill for them. The Paine Commission and the Ride Report, in a sense, underscore the policy drift that has been occurring. These important studies are no substitute for an efficient, everyday policy mechanism that can make key decisions on a timely basis and move us forward.

We must have an adequate space policymaking apparatus. We need to be able to decide if we want to build a space station, what type of space transportation systems to build, what goals of the Paine Commission or the Ride Report we should implement, and what recommendations of the National Research Council on Space Station we should implement.

It is the duty of the Administration and the Congress to formulate a space program and space policies that are so well conceived that a strong national consensus can sustain our efforts as the U.S. space effort contributes a vital part to the economic and military security of our nation.

Space programs and space policies must never be crafted for a single Administration. Space programs and space polices need continuity that carries us forward over the decades, firing the national spirit and earning the continuing commitment of the American people.

I appreciate the opportunity to speak with you today and to have the opportunity to work wtih you to formulate a reasonable, rational, and pragmatic space policy and space program. I deeply admire the work you do and your dedication to this area of extraordinary national effort.

If we work together, we can keep America in its pioneering role in space—as we have only really just started the process of unlocking the secrets of the universe and taking man out to the furthest reaches of the heavens.

We are making progress, and I feel the momentum building in NASA day by day.

The recent success of the space shuttle solid rocket booster test, the recent announcement that DOD will procure 2 additional Titan IVs, the recent signing of a new space shuttle contract by NASA and Rockwell, of commercial customers by Martin Marietta and McDonnell Douglas, all point to the forward movement of the U.S. space program—civil and military.

For nearly twenty-five years, the United States enjoyed a Golden Age in space and space exploration, much of it produced by people in this community and many of you in this room today. We have done much for which we can be proud. Imagine a 25-year record where not a single life was lost on an operational mission.

We should conclude this meeting today with an iron commitment to ourselves and each other—that we will produce space results over the next 25 years every bit as daring and important as our past achievements.

Make no mistake about it, the U.S. space program is alive and well. While we are sorting out our precise goals for the future—an often frustrating process—that debate and list of options is a sign of strength, purpose, and commitment. We will hammer out these decisions and go on to build the U.S. space future with all the skill and determination our nation can command—and with you in Huntsville leading that effort.

AGENT ORANGE UPDATE

Mr. CRANSTON. Mr. President, my distinguished colleague, the ranking minority member of the Committee on Veterans' Affairs, the Senator from Alaska [Mr. MURKOWSKI], yesterday introduced a bill, S. 1697, to provide a presumption of service connection for Vietnam veterans suffering from non-Hodgkin's lymphoma [NHL].

I agree with Senator MURKOWSKI that serious questions have been raised regarding veterans' exposure in Vietnam to agent orange and its highly toxic contaminant, dioxin. Indeed, these questions have long been of serious concern to me and many of my colleagues. Accordingly, a major focus of my efforts and those of the Committee on Veterans' Affairs in both Houses has been on research which might eventually lead to a greater understanding of the health effects of agent orange exposure and how best to address the special needs of those veterans who may have been exposed to this herbicide.

Based on the best available science at this time, I do not think that the answers to these questions have been found, or that an association between agent orange exposure in Vietnam and non-Hodgkin's lymphoma has been demonstrated. The questions which have been raised about the health effects of agent orange are scientific ones, which require scientific research and analysis. They are not susceptible to quick and easy answers. Rather, meaningful answers must be found, not just for purposes of providing compensation but so that we can know the full extend of any threat which may exist to the health of our Vietnam veterans. Major studies are well underway at this time—in addition to research carried out by the Veterans' Administration [VA], the Centers for Disease Control [CDC] is conducting three studies on the health of Vietnam veterans pursuant to congressional mandate, the status of which I will now outline.

Mr. President, at this time I would like to review the major scientific evidence regarding a possible association between agent orange exposure in Vietnam and NHL.

CDC EPIDEMIOLOGICAL STUDIES

In 1979, through legislation which I authored—enacted in the Veterans' Health Programs Extension and Improvement Act of 1979, Public Law 96-151—Congress mandated that the VA conduct an epidemiological study of the possible health effects of exposure to herbicides and dioxin—a highly toxic contaminant of agent orange—on veterans who served in Vietnam. The scope of that study was expanded in 1981, through legislation which I introduced—enacted in the Veterans' Health Care, Training, and Small Business Loan Act of 1981, Public Law 97-72—to authorize the inclusion of an evaluation of the impact on the health of Vietnam veterans of other environmental factors which may have occurred in Vietnam. In 1983, as I had urged for more than 3 years, the CDC took over responsibility for this study. Public Law 96-151, in order to provide assurance that the study would be designed and carried out in a fully appropriate and acceptable manner, requires that, before the study will begin, the Office of Technology Assessment [OTA] will have to approve the protocol and thereafter monitor the conduct of the study.

The CDC is conducting the epidemiological study of the health of Vietnam veterans in 3 components. The CDC's protocols for these studies were extensively reviewed in accordance with scientific peer-review criteria and were approved by both the OTA and the Science Panel of the Cabinet Council's Agent Orange Working Group [AOWG]. The first component, the Vietnam Experience Study

["VES"], is a three-part effort designed to demonstrate whether or not there is any difference in the health of veterans of the Vietnam era who served in Vietnam compared to the health of veterans who served elsewhere during the same period of time. The second component of the CDC effort, the agent orange study, is designed to determine whether troops who were exposed to that herbicide during service in Vietnam have suffered long-term adverse health effects as a result of that exposure. The third component, the selected cancers study, is designed to determine whether there is an increase among Vietnam veterans in the incidence of several serious, but relatively rare, cancers—including NHL—which have in some studies been suggested to be linked to dioxin exposure.

Vietnam experience study. The VES has three parts: A mortality study; detailed health interviews; and comprehensive medical, psychological and laboratory evaluations of veterans. In January 1987, the CDC released the results from the first VES part—an analysis of postservice mortality of over 18,000 Vietnam era veterans. No increase in the number of deaths from NHL for Vietnam veterans was found. The CDC did find an excess of deaths—primarily due to external causes such as motor vehicle accidents and suicides—in the first 5 years after service. However, after that period, except for drug-related deaths, the study found no increase in the death rate for Vietnam veterans as compared to their veteran counterparts who did not serve in Vietnam—including no increase for deaths from NHL.

Although the mortality study comprises only one of the three areas of research being conducted in the VES and its results thus do not provide the final results from the VES, it is nevertheless significant that no increase in deaths from NHL was found. When the final report from the VES is released—which I understand is expected in stages, to begin at the end of this year—I will examine it carefully for any additional information regarding whether Vietnam veterans, as a consequence of their exposure to agent orange or of some other factor, are suffering from an increase in NHL or any other health problem.

Agent orange study. The CDC's agent orange study had been stalled since January 1986, pending the outcome of efforts to determine if assumptions about a veteran's exposure to agent orange for purposes of assigning the veteran to a particular study cohort can be validated on the basis of a review of military records. However, during late 1986, the CDC refined a methodology for detecting residuals of dioxin in blood samples which, it was believed, could be used to validate a very intricate exposure-measuring methodology, developed by the defense Department in consultation with CDC, based on military records. This blood-testing method of determining dioxin exposure has also been validated and used successfully in other studies, including studies of civilians with known exposures to dioxin.

The CDC serological study found, in preliminary results published in July 1987, no significant dioxin exposure among the Vietnam veterans studied regardless of whether their military records indicated high, intermediate, or low dioxin exposure; moreover, all of the Vietnam veteran participants, with one exception, had dioxin levels well below the upper limit for U.S. residents without known dioxin exposure.

Whether the CDC results indicate that, by and large, Vietnam veterans were not exposed to significant amounts of dioxin, or whether they merely show that exposure cannot be determined from military records remains unclear. Both the OTA and the AOWG are currently evaluating the CDC findings. The OTA, at a meeting in August of its Agent Orange Panel, preliminarily indicated that the CDC blood dioxin study appears to have been properly conducted and to be scientifically valid.

Of course, the CDC results do not directly address the issue of a possible association between NHL and agent orange exposure. However, they do raise questions about the amount of exposure Vietnam veterans may actually have received.

The CDC and the White House Domestic Policy Council will be determining in the next few months whether the agent orange exposure study, at least as originally envisioned, can be carried out, and the OTA will be reviewing their determinations. The Veterans' Affairs Committee will be very closely monitoring these activities, and I plan to hold a hearing in the next several months, on the status of agent orange study.

The selected cancer study is underway at this time. The CDC is still in the process of data collection, and results are expected in early 1989.

RANCH HAND STUDY

In 1979, the Air Force began an epidemiological study of ranch hand personnel, the former Air Force pilots who flew the planes which sprayed agent orange in Vietnam, to determine whether these veterans suffered adverse health effects from herbicide exposure. In this study, the health of these veterans is being compared with that of Vietnam veteran counterparts who were not exposed to herbicides. The ranch hand veterans clearly received significant amounts of agent orange exposure, probably the highest of any group of Vietnam veterans. Four mortality reports have been released thus far—the most recent in January 1987—and all of them indicate that the ranch hand personnel as a group have not suffered adverse health effects from their exposure to agent orange. None of the four reports demonstrate any health effects which can be conclusively attributed to dioxin exposure—and none of them suggest any link between such explosure and NHL.

VA MORTALITY STUDY

The VA recently completed a proportionate mortality study of Army and Marine Corps Vietnam veterans. The VA compared causes of death among 24,235 such veterans with that among 25,685 non-Vietnam veterans. Among the Marine Corps Vietnam veterans—who comprised approximately one-fifth of the study subjects—there was a statistically significant two-fold increase of NHL. Among the Army veterans, who comprised about 80 percent of those studied, there was no increase, indeed there was a deficit—which was not statistically significant—of deaths from NHL. As to all cancers and as to deaths in general, there was no marked difference between causes of death among the Vietnam veterans as compared to the non-Vietnam veterans.

The VA study certainly supports the suggestion in several studies of a link between NHL and dioxin exposure, and I, along with the chairman of the House Veterans' Affairs Committee, Mr. MONTGOMERY, already have written to the OTA, the AOWG, and the VA Advisory Committee on Environmental Hazards, requesting that each evaluate the study. I think that such review by independent scientific entities—including OTA, whose primary mandate is to provide scientific analysis to the Congress—is essential before we can properly evaluate the impact of any scientific study and determine what, if any, legislative response may be appropriate.

Moreover, I believe that such independent review is particularly necessary in the case of this VA study, because I understand that—contrary to standard procedure in a scientific study of this magnitude—its protocol was never submitted to peer review, and because it has been rejected for publication in a scientific journal and remains unpublished at this time. Publication in a reputable scientific journal carries with it clearance through a peer-review process designed to confirm scientific validity. The VA's Advisory Committee expects to meet and discuss the study in October.

It may well be that the VA study is scientifically valid, but to proceed without benefit of review by outside scientific entities would seem to be very unwise. The VA itself needs to examine additional questions which have been raised by the study including, for example, the health status of Army

Vietnam veterans who served in "I" Corps, the area in Vietnam where the majority of the Marine veterans served. As to "I" Corps, my understanding is that in terms of agent orange spray intensity in Vietnam, 2,250,430 gallons were sprayed there but that the greatest intensity of spray was in the "III" Corps where 5,255,938 gallons were sprayed.

Mr. President, at this time I would like to note that, contrary to recent assertions, I know of no evidence indicating that the results of this VA study were suppressed. Rather, my understanding is that the VA has been unsuccessfully trying to get the study accepted for scientific publication and that once it is made public it is no longer eligible for scientific publication. Apparently, the report from the study has been rejected for publication by one journal, the Journal of the American Medical Association, and the VA is awaiting a decision as to whether another journal will accept it.

NON-VETERAN HERBICIDE STUDIES

In addition to studies of the effects of dioxin exposure on Vietnam veterans, other independent studies have examined the effects of herbicide exposure on agricultural, forestry, and industrial workers exposed occupationally. Some of these studies have found some excesses of NHL among exposed workers. Studies conducted in Sweden by L. Hardell and others on the effect of years of occupational exposure to phenoxy herbicides, including in some cases compounds containing dioxin, have been inconsistent with respect to finding an association between such exposure and NHL. Certain of these studies have found fivefold to sixfold increases in NHL. However, others of these studies have not found an increase. A similar study conducted in New Zealand has found no link at all between NHL and herbicide exposure.

In September 1986, the results of a study entitled "Agricultural Herbicide Use and Risk of Lymphoma and Soft-Tissue Sarcoma" ("Kansas Study"), conducted by the National Cancer Institute and the University of Kansas, were published. This study examined the effect of exposure to certain herbicides—which, almost exclusively, were not contaminated with dioxin—through agricultural use, including any relationship with NHL. The components of some of the herbicides were also present in agent orange.

The report of the Kansas Study found a significant increase of NHL among the agricultural workers. At my request, the OTA and the AOWG reviewed this study. As is described more fully in my statement in the CONGRESSIONAL RECORD on February 7, 1987 (page S1769), both the OTA and the AOWG raised significant questions about the significance of the Kansas study results as far as Vietnam veterans were concerned. Concerns were expressed regarding the small number of cases on which the NHL findings were based. More importantly, both entities noted that almost all of the herbicide exposure evaluated in the study consisted of exposure to 2,4-dichlorophenoxyacetic acid ("2,4-D"), rather than to dioxin. Although 2,4-D is one of the components of agent orange, because it does not persist in the environment substantial exposure in Vietnam would have required either direct contact with agent orange or exposure very shortly after spraying. Accordingly, as OTA observed, few Vietnam veterans would have been exposed to 2,4-D, and the results of the Kansas study do "not provide strong support for attributing the occurrence of non-Hodgkin's lymphomas in Vietnam veterans to agent orange".

Another recent study on this issue—entitled "Soft Tissue Sarcoma and Non-Hodgkins Lymphoma in Relation to Phenoxy Herbicide and Chlorinated Phenol Exposure in Western Washington" which was published in the May 1987 issue of the Journal of the National Cancer Institute—sought to "investigate the relationship between the incidence of soft tissue sarcomas and NHL and past exposure to phenoxy herbicide and chlorinated phenol using a population-based case-control approach." This study found "small but significantly increased risks for developing NHL in association with some occupational activities involving exposure to phenoxy herbicides, particularly for prolonged periods, and possibly, in combination with other chemicals." The study did not demonstrate "a positive association between increased cancer risks and exposure to any specific phenoxy herbicide product alone."

Mr. President, the Senate and House Veterans' Affairs Committees have asked OTA, the AOWG, and the VA Advisory Group to review this study and provide their views on it and its relevance to issues relating to Vietnam veterans.

Finally, it is very important to keep in mind in evaluating the evidence regarding a possible link between dioxin exposure and NHL that the group of Vietnam veterans who likely had the heaviest dioxin exposure—and therefore would be the likeliest group to experience an increase in dioxin-related diseases—the ranch hand veterans, has not shown an excess of NHL above its non-Vietnam-veteran counterparts and that the CDC mortality study showed no excess in NHL deaths among Vietnam veterans above their non-Vietnam-veteran counterparts.

CONCLUSION

I recognize that the issue of veterans' exposure to agent orange through their service in Vietnam is an emotional and divisive one for many Vietnam veterans, as well as for their families and others. That is why we have required that the results of the CDC's blood dioxin analysis and of the VA's recent mortality study be reviewed by three independent scientific entities. It would be ironic—and, I think, irresponsible—if the Congress, after working for so many years to mandate epidemiological studies of Vietnam veterans, and after over $50 million has been spent on them, were now to act on the basis of limited and disputed scientific knowledge, when the results from the CDC VES study and the evaluation of the results from the VA study are expected to be available in only a few months.

Mr. President, I do not believe that this is an appropriate time for legislative action to establish presumptions of service connection for certain diseases occurring in Vietnam veterans. Rather, we must focus more closely on the efforts underway to find answers to those questions. To that end, once we have received the decision of the executive branch, through the AOWG and the Domestic Policy Council, regarding the CDC agent orange study, and the evaluations of the VA mortality study from the three bodies we have requested to make such evaluations, I plan to schedule hearings of the Veterans' Affairs Committee on the agent orange issue.

In the meantime, the committee is moving forward with the legislation mandating a review by the National Academy of Sciences [NAS] of all the scientific literature, evidence, and studies pertaining to the human health effects of exposure to agent orange, as provided in S. 1510, introduced by the Senator from Massachusetts [Mr. KERRY] and myself and approved by our committee on July 31, as part of S. 9. I hope to bring S. 9 before the Senate later this month or next.

Mr. President, the evidence associating non-Hodgkin's lymphoma with exposure to agent orange is suggestive at best. Substantial additional scientific information is expected in the next few months, including the evaluations of the VA mortality study and the Washington study and a decision on the CDC agent orange study. I do not believe that we can justify prematurely proceeding with the enactment of piecemeal legislation to benefit only a very small number of the Vietnam veterans who believe they suffer from agent orange-related diseases. I do not think that an association between agent orange and NHL must be established beyond a reasonable doubt; but when there is no indication that conclusive scientific answers cannot be found, action establishing a presumptive connection while pertinent studies are ongoing must surely have a strong basis in valid and accepted scientific evidence. Should that evidence be found, I will lead the way to the enactment of legislation to provide compensation for those veterans who are entitled to it.

Mr. President, I have been in close communication regarding the agent orange issue with my counterpart in the other body, House Veterans' Affairs Committee Chairman G.V. "Sonny" Montgomery. I am confident that he and I share a commitment to doing what is right for Vietnam veterans on this issue and we and our ranking minority members, Senator Frank Murkowski and Representative Gerald Solomon, and our two committees will be working closely together in the days and months ahead as we continue to grapple with this very complicated, divisive, intensely felt, vitally important issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE REHABILITATION SERVICES ADMINISTRATION—MESSAGE FROM THE PRESIDENT—PM 66

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 13 of the Rehabilitation Act of 1973, as amended, I am pleased to transmit the annual report of the Rehabilitation Services Administration. The report, prepared by the Department of Education, covers activities supported under the Act in Fiscal Year 1986.

Ronald Reagan.

The White House, *September 18, 1987.*

MESSAGES FROM THE HOUSE

At 2:42 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House had passed the following bills, in which it requests the concurrence of the Senate:

H.R. 442. An act to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians; and

H.R. 3289. An act to amend the Export-Import Bank Act of 1945.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3289. An act to amend the Export-Import Bank Act of 1945.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH:

S. 1701. A bill to improve the administration and enhance the utility of the National Assessment of Educational Progress; to the Committee on Labor and Human Resources.

By Mr. NICKLES:

S. 1702. A bill to provide that any requirement to substantiate a deduction under the Internal Revenue Code of 1986 for business use of a vehicle be based on the regulations in effect before the Tax Reform Act of 1984; to the Committee on Finance.

By Mr. EVANS (for himself, Mr. Inouye, Mr. McCain, Mr. Burdick, Mr. DeConcini, Mr. Murkowski, Mr. Daschle, Mr. Domenici, Mr. Hatfield, Mr. Packwood, Mr. Cochran, Mr. Hecht, and Mr. Bingaman):

S. 1703. A bill to amend the Indian Self-Determination and Education Assistance Act and for other purposes; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. Melcher, Mr. Grassley, Mr. Durenberger, Mr. Cochran, Mr. Baucus, Mr. Nickles, Mr. Boschwitz, Mr. Heflin, Mr. Karnes, Mr. Pryor, Mr. McClure, Mr. Exon, and Mr. Bentsen):

S. Res. 284. Resolution to express the sense of the Senate that the Secretary of Agriculture should make advance deficiency payments for the 1988 crop of wheat, feed grains, upland cotton, and rice, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 1701. A bill to improve the administration and enhance the utility of the "National Assessment of Educational Progress," to the Committee on Labor and Human Resources.

NATIONAL ASSESSMENT OF NATIONAL ASSESSMENT OF EDUCATION PROGRAMS

Mr. HATCH. Mr. President, I am pleased to introduce the "National Assessment of Educational Progress Amendments of 1987." When enacted, this program will be a major tool of the educational reform movement in the United States and will also help our country to become more competitive on the international scene. I applaud the Department of Education for the work which it has done at the urging and in cooperation with the Governors of many States and concerned, forward-looking educators throughout this Nation. They have produced an efficient and direct tool by which the Federal Government can properly assist those who wish to improve the quality of education across this Nation.

Educational reform is impossible without a knowledge of what our schools are teaching, of what our children learn and do not learn. As a result of the enactment of this legislation, the current National Assessment of Educational Progress Program of testing the academic skills of school children will be expanded. Objective, comparable information about student performance in an expanded menu of academic subjects will be measured and publicly reported. With that information, parents will be better able to evaluate how well schools are doing in educating their children and thus to work together with local and State educators and other public officials further to improve the schools in their communities.

The children of our Nation will, of course, be the primary direct beneficiaries of this educational improvement. But all of us as a nation will benefit as well. Many of the subjects now to be tested, and thus improved, as a result of NAEP's expansion are the subjects where our children are woefully behind students in other countries. Enhancing the capabilities of our children in these areas will lead to a more skilled and productive work force and enhance our competitiveness on the international scene.

Mr. President, this is a short statement of the clearly foreseeable results of a very short but very important legislative proposal. I look forward to working with my colleagues to ensure its speedy enactment.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

National Assessment of Educational Progress Amendments of 1987—Section-by-Section Analysis

Section 2. Section 2 of the bill would explain the purpose of the Act as the improvement of our Nation's schools by making objective information about student performance in an expanded variety of learning areas available to policymakers at the national, state, and local levels. Such information would be both representative and comparable and maintained in a manner that ensures the privacy of individual students and their families. Section 2 would also clarify that the Act is not intended to authorize the collection or reporting of information about student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

Section 3. Section 3 of the bill would comprehensively revise the Secretary's authority to administer the National Assessment of Educational Progress and transfer that revised authority from section 405 of the General Education Provisions Act (GEPA), dealing generally with the activities of the Office of Educational Research and Improvement, to section 406 of GEPA, dealing specifically with the activities of the Center for Education Statistics.

As amended, section 406(h) of GEPA would require the Secretary to carry out the National Assessment through a grant, contract, or cooperative agreement with an organization experienced in educational testing. The National Assessment would have as its purpose the assessment of the performance of children and young adults in the basic skills of reading, mathematics, communications, and other subjects and skills. The Assessment would provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history, geography, civics, and literacy. Sampling techniques that produce data that are representative on both a national and State basis would be used. In addition, the National Assessment would collect and report data on a periodic basis (at least every two years for reading and mathematics, and at least every four years for writing and science); collect and report data every two years on students at ages 9, 13, and 17 and in grades 4, 8, and 12; assess and report every four years upon the literacy achievement of a nationally representative sample of out-of-school 17 year-olds and adults; report achievement data in a manner that facilitates valid State-by-State comparisons; and include information on special groups and students attending non-public schools, as well as special assessments of achievement in other educational areas as needed. The National Assessment would also provide technical assistance to States, localities, and others that desire to expand it to yield additional information, but would not collect any data that are not directly related to the appraisal of educational performance and achievement or the fair and accurate presentation of such information. With certain exceptions relating to personally identifiable information about students, their educational performance, and their families, and cognitive questions the Secretary intends to re-use, the public would be ensured access to all National Assessment data, questions, and test instruments.

The National Assessment would be conducted with the benefit of the expert, nonpartisan, and independent advice and recommendations of the Education Assessment Council. The Council would consist of the Assistant Secretary for Educational Research and Improvement (who would be the only Federal employee) and 20 other members appointed by the Secretary with due regard to their qualifications, experience, and diversity of perspective, including: two Governors (who may not be members of the same political party); two State legislators (who also may not be members of the same political party); one chief State school officer; one superintendent of a local educational agency; one member of a State board of education; one member of a local board of education; one classroom teacher; one representative of business or industry; one curriculum planner or supervisor; one testing and measurement expert; one non-public school administrator or policymaker; two school principals; one education researcher; and four additional members, who are not professional educators, including parents. The Secretary would be responsible for ensuring that the membership of the Council is balanced fairly in terms of the points of view represented and that it exercises its independent judgment, free from inappropriate influences and special interests. Members of the Council would serve terms not to exceed four years and the Secretary would appoint the initial members from among nominees furnished by Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, parent organizations, learned societies, and other interested parties. Subsequent vacancies would be filled by the Secretary from nominees submitted by the Council. The breadth of interests and perspectives represented on the Council would enable it to articulate a national perspective on matters and issues affecting the conduct of the National Assessment.

The purpose of the Council would be to advise the Secretary on an on-going basis with respect to all aspects of the National Assessment, including the selection of subject areas to be assessed; the identification of achievement goals for each age and grade in each subject area tested; the development of objectives and test specifications; the design of assessment methodology; the development of guidelines and standards for analysis plans and for reporting and disseminating results; the development of standards and procedures for interstate and national comparisons; and the actions needed to improve the form and use of the National Assessment. The Secretary would be required to give careful consideration to the view of the Council and supply it with a written explanation if the Secretary departed from its written advice or recommendations.

In the past, the Federal Government has borne the full cost of the National Assessment. However, in light of the proposed major expansion in the National Assessment's data collection efforts to include State representative data, some cost-sharing is appropriate. Accordingly, the bill would require the Secretary to pay the full cost of administering National Assessment tests to the national sample of students and adults, but require cost-sharing among the governments involved for the administration of tests designed to generate data that are representative on a State basis. This flexible cost-sharing arrangement would permit States and other levels of government to satisfy their responsibilities through the use of in-kind contributions.

As in the past, participation in the National Assessment by State and local educational agencies and non-public schools would be voluntary.

Section 4. Section 4 of the bill would provide that the bill would take effect October 1, 1988.

By Mr. NICKLES:

S. 1702. A bill to provide that any requirement to substantiate a deduction under the Internal Revenue Code of 1986 for business use of a vehicle be based on the regulations in effect before the Tax Reform Act of 1984; to the Committee on Finance.

RECORD KEEPING FOR BUSINESS USE OF A VEHICLE

● Mr. NICKLES. Mr. President, today I am introducing legislation which will end, once and for all, the IRS stonewalling regarding the use of contemporaneous recordkeeping for the business use of a personal vehicle.

Under the provisions of the Tax Reform Act of 1984, taxpayers were required to keep contemporaneous records of the business use of their personal vehicles. Because of public pressure about this provision, Congress passed a repeal of the measure with the intent that the IRS would go back to using the regulations regarding automobile recordkeeping that were in effect before the 1984 act.

Unfortunately, the IRS has continued to require that the substantiation of deductions for the business use of a personal vehicle take the form of contemporaneous records.

This requirement is a costly and intrusive burden into the lives of millions of Americans. My bill prevents the IRS from requiring the use of contemporanous records to substantiate deductions for the business use of a person's own private automobile. In addition, my legislation forces the IRS to begin using the regulations which were in effect prior to the passage of the 1984 act that allowed a taxpayer to substantiate expenditures by adequate records or by sufficient evidence corraborating his own statement.

It is my hope that the Senate will pass this bill.●

By Mr. EVANS (for himself, Mr. INOUYE, Mr. MCCAIN, Mr. BURDICK, Mr. DECONCINI, Mr. MURKOWSKI, Mr. DASCHLE, Mr. DOMENICI, Mr. HATFIELD, Mr. PACKWOOD, Mr. COCHRAN, Mr. HECHT, and Mr. BINGAMAN):

S. 1703. A bill to amend the Indian Self-Determination and Education Assistance Act, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT AMENDMENTS

Mr. EVANS. Mr. President, today I am introducing the Indian Self-Determination Act Amendments of 1987. The Self-Determination Act, signed into law on January 4, 1975 by President Gerald Ford, has provided the statutory basis for tribal contracting with the U.S. Government for the last 12 years.

Mr. President, the Indian Self-Determination Act embodies the historic policy of "Indian self-determination without termination" first enunciated by President Richard Nixon in his special message to Congress in 1970. A major tenant of the policy of self-determination is that Indian tribes are viable units of local government capable of delivering services directly to their constituencies. The Indian Self-Determination Act established the right of Indian tribes to contract with the Secretary of Interior and the Secretary of Health and Human Services to operate programs otherwise operated by the Bureau of Indian Affairs and the Indian Health Service. The law transfers resources to the tribes to enable them to participate fully in the planning, management and delivery of services to Indian people.

Indian tribes have responded positively to this law. Since 1975, many tribes have gained valuable experience in operating and managing human services, economic development and natural resources programs. Currently, there are 1,400 contracts between the Bureau of Indian Affairs and Indian tribes, involving some $280 million, which is one-fourth of the total BIA budget.

Although the act has been, for the most part, a success, there have been problems. Federal procurement laws and Federal acquisition regulations have been inappropriately imposed on Indian self-determination contracts, resulting in burdensome and unnecessary reporting requirements. Federal agencies have failed to pay their fair share of indirect costs for self-determination contracts. This has resulted in many tribes subsidizing Federal contract administration costs, and foregoing opportunities for economic development. Federal agencies have passed Federal pay costs, retirement costs and computer equipment acquisition costs on to tribes, which has resulted in deteriorating budget levels for tribal programs. Tribes that have demonstrated program competence and sound management are required to annually submit voluminous recontracting applications.

The amendments I am introducing today are designed to respond to the concerns expressed by Indian tribal leaders. These amendments are designed to strengthen the policy of Indian self-determination while maintaining accountability for Federal funds.

Mr. President, the Indian Self-Determination Act is a declaration of our commitment to maintain the Federal Government's unique and continuing relationship with and responsibility to the Indian people. The act is intended to permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning and administration of those programs and services. This bill provides the necessary changes in the Indian Self-Determination Act to ensure its continued viability in the years to come.

Mr. President, I ask unanimous consent that a copy of the Indian Self-Determination Act Amendments of 1987, and a section-by-section analysis of the bill, be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1703

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS

This Act may be referred to as the "Indian Self-Determination and Education Assistance Act Amendments of 1987".

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SEC. 102 DECLARATION OF POLICY

Section 3 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended by striking existing subsection "(b)" and inserting the following new subsection "(b)" in lieu thereof:

"(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to individual Indian tribs and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities.".

SEC. 103. DEFINITIONS

Section 4 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by adding the following new subsections (a), (b), (c) and (d):

"(a) 'construction programs' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities but not limited to, housing, sanitation, roads, schools, administration and health facilities, irrigation and agricultural works and water conservation, flood control, or port facilities;"

"(b) 'contract costs' means all direct and indirect costs which are necessary and reasonable for the proper and efficient administration of self-determination contracts;"

"(c) 'contract funding base' means the base level from which contract funding needs are determined, and includes all contract costs;"

"(d) 'direct program costs' means costs that can be identified specifically with a particular contract objective;";

(b) by redesignating existing subsections "(a)" and "(b)" as subsections "(e)" and "(f)" respectively;

(c) by adding the following new subsections (g), (h) and (i):

"(g) 'indirect costs' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved: *Provided*, That indirect costs are determined by multiplying the amount of direct program costs by the indirect cost rate for such contract;"

"(h) 'indirect cost rate' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the cognizant Federal agency;"

"(i) 'mature contract' means a self-determination contract that has been continuously operated by an Indian tribe or tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of such Indian tribe or tribal organization;";

(d) by redesignating existing subsection "(c)" as subsection "(j)";

(e) by striking existing subsection "(d)" and by redesignating as subsection "(k)" and inserting the following new subsection in lieu thereof:

"(k) 'Secretary', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;";

(f) by adding the following new subsection "(l)":

"(l) 'self-determination contract' means an intergovernmental contract entered into pursuant to this Act between an Indian tribe or tribal organization and an agency of the United States for the purpose of assuring Indian participation in the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: *Provided*, That no intergovernmental contract shall be construed to be a procurement contract; and"; and

(g) by redesignating existing subsection "(f)" as subsection "(m)".

SEC. 104. REPORTING AND AUDIT REQUIREMENTS

Subsection (a) of section 5 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by inserting after the words "as the appropriate Secretary shall prescribe," the following: "by regulations promulgated under the Administrative Procedure Act (Act of June 11, 1946, 60 Stat. 237, as amended), consistent with Section 102(d)(5) of this Act,"; and

(b) by changing the period at the end of the subsection to a colon and inserting the following provisio:

"Provided, however, That for the purposes of this subsection, such records for multiyear contracts shall consist of quarterly financial statements for the purpose of quarterly advance payments, the annual single-agency audit required by the Single Audit Act of 1984 (Public Law 98-502, Act of October 19, 1984, 98 Stat. 2327), and a brief annual program report.".

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

SEC. 201. SELF-DETERMINATION CONTRACTS

(a) Section 102 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended to read as follows:

"SEC. 102. (a)(1) The Secretary is directed, upon the request of any Indian tribe or tribal organization, to enter into a self-determination contract or contracts with such Indian tribes or tribal organization to plan, conduct, and administer programs, including construction programs, or portions thereof—

"(i) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended by this Act;

"(ii) any program or portion thereof which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208) and any Act subsequent thereto;

"(iii) any or all of the functions, authorities and responsibilities of the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended;

"(iv) any program or portion thereof, including construction programs, administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

"(v) any program, or portion thereof, for the benefit of Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

"(2) Any Indian tribe or tribal organization may submit a proposal for a self-determination contract to the Secretary for review. The Secretary shall, within ninety days after receipt of a proposal for a self-determination contract, approve the proposal unless a specific finding is made that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

"(B) adequate protection of trust resources is not assured; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(3) Indian tribes and tribal organizations shall be entitled to contract for any program or function operated by the federal government for the benefit of such tribe, as provided in this section.

"(4) Upon the request of any Indian tribe or tribal organization that operates two or more mature self-determination contracts, the Secretary is authorized to allow such Indian tribe or tribal organization to consolidate such contracts into one single contract.

"(b) Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, he or she shall (1) state his or her objections in writing to the Indian tribe or tribal organization within sixty days, (2) provide assistance to the Indian tribe or tribal organization to overcome his or her stated objections, and (3) provide the Indian tribe or tribal organization with a hearing, under such rules and regulations as he or she may promulgate, and the opportunity for appeal on the objections raised.

"(c)(1) The Secretary is authorized to require any Indian tribe or tribal organization requesting to enter into a self-determination contract pursuant to the provisions of this title to obtain adequate liability insurance: *Provided, however,* That, except for liability for interest prior to judgment or for punitive damages, each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

"(2)(A) For purposes of section 224 of the Public Health Service Act (42 U.S.C. 233(a)), and chapter 171 and section 1346 of title 28, United States Code, with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under this section or section (104(b) of this Act, the Act of April 30, 1908 (35 Stat. 71; 25 U.S.C. 47) or section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47) is deemed to be part of the Public Health Service of the Department of Health and Human Services while carrying out such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.

"(B) Subparagraph (A) shall apply to an urban Indian organization, and to employees of an urban Indian organization, only with respect to services provided to Indians.".

(b) Section 103 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is hereby repealed.

SEC. 202. TECHNICAL ASSISTANCE AND GRANTS TO TRIBAL ORGANIZATIONS

Section 104 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "103"; and

(b) by adding the following new subsection (d) at the end thereof:

"(d) The Secretary is directed, upon the request of any Indian tribe or tribal organization, to provide technical assistance on a non-reimbursable basis to such Indian tribe or tribal organization—

(1) to develop any new self-determination contract authorized pursuant to this Act;

(2) to provide for the assumption by such Indian tribe or tribal organization of any program, or portion thereof, provided for in the Act of April 16, 1934 (48 Stat. 596), as amended by this Act, any other program or portion thereof which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto; or

(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 102 of this Act.".

SEC. 203. PERSONNEL

Section 105 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "104"; and

(b) in subsection (e), by deleting the words "on or before December 31, 1988".

SEC. 204. ADMINISTRATIVE PROVISIONS

Section 106 of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by redesignating such section as section "105";

(b) by changing the period at the end of existing subsection "(a)" to a colon and adding the following new proviso at the end thereof: *"Provided further,* That the Office of Federal Procurement Policy Act (Public Law 93-400, Act of August 30, 1974, 88 Stat. 796) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.";

(c) by striking existing subsection "(c)" and inserting the following in lieu thereof:

"(c) Any self-determination contract requested by an Indian tribe or tribal organization pursuant to section 102 of this Act shall be for a term not to exceed three years in the case of a new contract, and for a term not to exceed five years in the case of a mature contract unless the appropriate Secretary determines that a longer term would be advisable: *Provided,* That the amounts of such contracts shall be subject to the availability of appropriations: *Provided further,* That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of an Indian tribe or tribal organization.";

(d) by striking existing subsection "(d)" and inserting the following in lieu thereof:

"(d) Whenever an Indian tribe or tribal organization requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not less than one year from the date of the request by the Indian tribe or tribal organization at such date as may be mutually agreed to by the appropriate Secretary and the Indian tribe or tribal organization.";

(e) by striking existing subsection "(e)" and inserting the following in lieu thereof:

"(e) In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may—

(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

(2) donate to an Indian tribe or tribal organization the title to any personal property found to be in excess to the needs of the Bureau of Indian Affairs, the Indian Health

Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and

(3) acquire excess or surplus Government property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act."; and

(f) by striking existing subsection "(h)".

SEC. 205 CONTRACT FUNDING AND INDIRECT COSTS

Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by adding the following new section 106:

"SEC. 106. (a) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act—

(1) shall include all contract costs incurred by such Indian tribe or tribal organization in connection with such contract;

(2) shall not be reduced to make base funding available for any new self-determination contract;

(3) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

(4) shall not be less than the appropriate Secretary would have otherwise provided for direct operation of the programs or portions thereof for the period covered by the contract: *Provided*, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract;

(5) shall not be reduced by the Secretary in subsequent years except by a reduction in Congressional appropriations from the previous Fiscal Year for the program or function to be contracted;

(6) shall not be reduced by the Secretary to pay for Federal functions, including but not limited to Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring; and

(7) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract.

(b) The Secretary of Health and Human Services and the Secretary of the Interior shall provide an annual report in writing to the Select Committee on Indian Affairs and the Committee on Appropriations of the United States Senate, and to the Committees on Interior and Insular Affairs and Appropriations of the United States House of Representatives, on the implementation of this Act. Such report shall include—

(1) an accounting of the total amounts of funds provided for each program or function for direct and indirect costs for new and mature self-determination contracts: *Provided*, That in the annual budget justifications the amounts of funds provided to Indian tribes and tribal organizations under self-determination contracts shall be reported for each program, line-item, activity or element and shall be reported separately from amounts for Agencies, Service Units, Area Field Operations and other Federal functions;

(2) an estimate of the actual obligations of Indian tribes and tribal organizations for direct and indirect costs for self-determination contracts;

(3) the indirect cost rate and type of rate for each Indian tribe or tribal organization negotiated with the Department of Interior Office of Inspector General;

(4) the direct cost base and type of base from which the indirect cost rate is determined for each Indian tribe or tribal organization;

(5) the indirect cost pool amounts and the types of costs included in the indirect cost pools;

(6) activities of the Department of Health and Human Services and the Department of the Interior in assisting Indian tribes to establish and administer indirect cost systems;

(7) a list of requests for technical assistance made by Indian tribes and tribal organizations made pursuant to section 103; and

(8) any findings and recommendations regarding needed improvements in the system of indirect cost funding.

(c) For purposes of determining indirect cost rates in subsequent fiscal years for Fedral programs that provide funding to tribes, other than the Bureau of Indian Affairs and the Indian Health Service, and which have statutory limitations on indirect cost reimbursements, Indian tribes and tribal organizations shall not be held liable for the difference between the amounts actually collected, and the amounts that would have been collected at one hundred percent of their indirect cost rate.

(d) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1988.

(e) The Secretary shall give notice of any disallowance of costs within three hundred and sixty five days of receiving any required audit report and shall provide for an appeal and hearing to the appropriate officials on any such disallowance. Any right of action or other remedy relating to any such disallowance shall be barred unless notice has been given within the designated period.

(f) At least ninety days prior to removing any program from the Indian Priority System, the Secretary of the Interior shall publish in the Federal Register a notice of intent to remove or alter any program in the Indian Priority System, and provide a statement of the impact on base funding levels for each Agency and tribe affected.

(g) Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for such contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct funding available for such contract, for each subsequent year that the program remains continuously under contract. Such combined amount be carried in the contracting agency's budget at the specific budget location of the contracted program for as long as the contractor continously contracts such program.".

SEC. 206. CONTRACT APPEALS

Title I of the Indian Self-Determination and Education Assistance Act (Public Law 93-638, Act of January 4, 1975, 88 Stat. 2203, as amended) is further amended—

(a) by adding the following new section 110:

SEC. 110. (a) Federal district courts shall have original jurisdiction concurrent with the Court of Claims, of any civil action or claim against the appropriate Secretary arising under this Act or under contracts authorized by this Act. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any Agency thereof contrary to this Act or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States or any agency thereof, to perform a duty provided under this Act or regulations promulgated hereunder.

(b) No self-determination contract may be modified unilaterally by the United States. Self-determination contracts may be modified only—

(1) at the written request of a tribe; or

(2)(A) if the federal agency states in writing the reasons for the proposed contract modification and provides this written notification to the tribe ninety days in advance of the proposed effective date of modification; and

(B) the tribe is afforded the right to appeal the proposed modification through the Department of Interior Board of Contract Appeals, or through the Department of Health and Human Services Board of Contract Appeals.

(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980, 94 Stat. 2325, as amended) shall apply to administrative appeals by Indian tribes and tribal organizations regarding self-determination contracts.

(d) The Contract Disputes Act (Public Law 95-563, Act of November 1, 1978, 92 Stat. 2383 as amended) shall apply to self-determination contracts."; and

(b) by redesignating existing section "110" as section "111".

SEC. 207. SAVINGS PROVISIONS

Nothing in this Act shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.

SEC. 208. SEVERABILITY

If any provision of this Act or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, not the application of any provisions herein to other Indian tribes, entities, persons or circumstances shall be affected thereby.

SECTION-BY-SECTION ANALYSIS—INDIAN SELF-DETERMINATION ACT AMENDMENTS

TITLE I—ADMINISTRATIVE PROVISIONS

Section 101. Short Title and Table of Contents.

Section 102. Declaration of Policy.—The existing declaration of policy is amended to emphasize the commitment of the United States to assist Indian tribes to strengthen tribal program administration and reservation economies.

Section 103. Definitions.—New definitions are added to the Indian Self-Determination Act to clarify the contractability of construction programs, and to clarify funding for contract costs, including indirect costs. A definition of "mature contract" is included in order to simplify reporting requirements for contracts that have been successfully operated by tribes for three or more years. "Self-determination contracts" are defined as intergovernmental contracts that are not procurement contracts. The term "Secretary" is defined to mean either the Secretary of Interior or the Secretary of Health and Human Services, or both.

Section 104. Reporting and Audit Requirements.—The current law is amended by requiring the Secretary to publish proposed contract reporting requirements in the Federal Register prior to imposing such reporting requirements on contractors. For mature contracts, reporting requirements shall consist of quarterly financial statements, an annual single-agency audit and a brief program report.

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

The Indian Self-Determination Act is amended by consolidating provisions for contracts with the Secretary of Interior and contracts with the Secretary of Health and Human Services into Section 201.

Section 201. Self-Determination Contracts.—This section restates current law authorizing tribes to contract to operate programs authorized by the Johnson-O'Malley Act of 1934, the Snyder Act of 1921 and the Transfer Act of 1954. This section further authorizes tribes to contract with the Secretary for programs, including construction programs, for which appropriations are made to other departments. This section authorizes tribes to contract to operate any program, or any portion of any program, without regard to the organizational level that such program is operated within the Department of Interior or the Department of Health and Human Services.

Section 201 revises current contract application procedures by eliminating some of the declination criteria. The Secretary is directed to approve a proposal within ninety days unless the Secretary declines to contract. This section clarifies that tribes are eligible to contract for any program or function operated by the Secretaries for the benefit of tribes, regardless of whether such specific programs or functions are operated locally. The Secretary is authorized to allow tribes to consolidate two or more mature contracts into a single contract. Section 201 continues the requirement for liability insurance for contracts with the Secretary of Interior, and provides for federal tort claims coverage for tribal contracts with the Secretary of Health and Human Services.

Section 202. Technical Assistance and Grants to Tribal Organizations.—The current section 104 is redesignated as section 103, and a new subsection 103(d) is added which authorizes the Secretary to provide technical assistance to tribes in the preparation of contract applications.

Section 203. Personnel.—Section 105 is redesignated as section 104. The authority to allow federal employees who transfer to tribal employment to retain civil service benefits is made permanent.

Section 204. Administrative Provisions.—Section 106 is redesignated as section 105. Subsection 105(a) is amended by providing that federal procurement law and federal acquisition regulations shall not apply to Indian self-determination contracts. Subsection 105(c) is amended to allow three-year contracts in the case of new contracts, and five-year contracts for mature contracts. Subsection 105(d) is amended to change the notice of retrocession from 120 days to one year. Subsection 105(e) is amended to allow the Secretary to transfer to tribes property purchased with contract or grant funds. The current subsection (h) is repealed.

Section 105. Contract Funding and Indirect Costs.—A new section 106 is added to the law to clarify provisions for funding self-determination contracts, including indirect costs. This section establishes protections for contract funding levels provided to tribes, and prevents the diversion of tribal contract funds for federal costs.

The new Section 106(b) would require the Secretary of Interior and the Secretary of Health and Human Services to annually report to the Congress an accounting of the amounts of funds provided to tribes for direct and indirect costs for each program; and data on tribal indirect cost rates. Tribes shall not be held liable for uncollectable indirect costs from agencies other than the Bureau of Indian Affairs or the Indian Health Service, for purposes of determining indirect cost rates in subsequent years. Indian tribes shall be forgiven theoretical underrecoveries and overrecoveries and actual underrecoveries incurred prior to fiscal year 1988.

The new Section 106(h) would provide a time limit on disallowing contract costs of 365 days after receipt of the audit report. This section also provides that the Secretary of Interior shall publish in the Federal Register any proposal to alter the Indian Priority System prior to implementing such changes.

The new Section 106 would require the Secretary to add indirect costs to the amount of funds provided for direct costs for self-determination contracts for the first year. The combined amount of direct and indirect costs shall be available for each subsequent year that the program remains continuously under contract.

Section 206. Contract Appeals.—A new section 110 is added to the Indian Self-Determination Act. Section 110(a) authorizes that federal district courts shall have original jurisdiction concurrent with the Court of Claims, regarding civil actions or claims involving self-determination contracts. Section 110(b) prohibits unreasonable and unilateral contract modifications by the federal government. Section 110(c) provides that the Equal Access to Justice Act shall apply to administrative appeals by tribes regarding self-determination contracts. Section 110(d) provides that the Contract Disputes Act shall apply to self-determination contracts.

Mr. INOUYE. Mr. President, today I am very pleased to be cosponsoring a bill to amend the Indian Self-Determination Act. This act was signed into law in January 1975, and during the past 12 years, Indian tribal governments have contracted with the Department of Interior and the Department of Health and Human Services to operate programs previously operated by the Bureau of Indian Affairs and the Indian Health Service.

In most cases, the transfer of control and resources to the tribes made possible by this law has resulted in greater levels of achievement by Indian children in Indian-controlled schools, in greater utilization of health facilities by Indian people, in stronger Indian families because of tribal emphasis on child welfare services, and in better law enforcement by Indian officers. Increased stability in Indian communities as a result of programs operated by Indian tribes has, in turn, enabled Indian leaders to focus their efforts on economic development.

While there has been great progress, there have also been obstacles to Indian self-determination. Inappropriate application of Federal procurement laws and Federal acquisition regulations to self-determination contracts has resulted in excessive paperwork and unduly burdensome reporting and auditing requirements. Fluctuations in annual funding levels for self-determination contracts due to budgetary allocations to cover Federal pay costs, retirement costs, computer costs and other Federal needs have resulted in uncertain planning and management of tribal programs. The consistent failure of Federal agencies to fully fund tribal indirect costs has resulted in financial management problems for tribes as they have struggled to pay for federally mandated annual audits, liability insurance, personnel systems, and other administrative requirements. In short, tribal funds derived from trust resources, which are desperately needed for community and economic development are instead diverted to pay for these indirect costs associated with programs which are a Federal responsibility.

The Committee on Indian Affairs held a hearing on April 22, 1987, at which we heard excellent recommendations for changes in the law from three panels of tribal elected officials, financial managers, planners, program managers, and attorneys. The committee has worked closely with a broad spectrum of tribal experts who have years of experience in contracting and program administration to develop the amendments we are introducing today.

These amendments would strengthen the self-determination aspects of contracting by clarifying that Federal procurement laws and Federal acquisition regulations do not apply to Indian self-determination contracts. These amendments would allow tribes that have successfully operated contracts for 3 or more years, and for which the tribes have clean audits, to consolidate these mature contracts into one multiyear contract. Reporting requirements for mature contracts would be simplified. The annual contract funding base for tribal contracts would be protected from Federal administrative encroachments, thereby providing needed stability for tribal government programs. The Secretary of Inteior and the Secretary of Health and Human Services would be required to annually report the amounts of funds provided to tribes for both direct and indirect costs so that Congress can determine from year to year the trends in self-determination contracts and their associated costs.

I believe this legislation is necessary to achieve the original intent of the Congress when it adopted the Indian Self-Determination Act in 1975. Moreover, this bill is responsive to the concerns expressed by Indian tribes, and these amendments will result in more effective tribal delivery of local government services and tribal management of resources on Indian lands.

Mr. DOMENICI. Mr. President, I am most pleased to cosponsor this bill today. Its purpose is to make needed improvements to the Indian Self-Determination and Education Assistance Act of 1974. I was an original sponsor of this legislation as introduced in the Senate in the 99th Congress.

This legislation is supported by the all Indian Pueblo Council, the Eight Northern Indian Pueblos Council, and the Five Sandoval Indian Pueblos. They have all been disappointed with the performance of the original 1974 Self-Determination Act, Public Law 93-638. The original law mandated Governmentwide participation. To date, the main participants have been only the Bureau of Indian Affairs [BIA] and the Indian Health Service [IHS].

Public Law 93-638 called for an orderly transition from Federal domination of programs and services for Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In the 10 years of 638 activity, many tribes have been awarded 638 contracts for conducting what would have otherwise been Government-operated programs mainly in education and health.

While the Indian Pueblos and Tribes would like to run many more of the Government programs operating to their benefit, there are some major obstacles to their ability to do so. First of all, the Secretary of any Federal department may decline to allow such a contract for several reasons. Declinations occur if the Secretary finds that: First, services to Indians under the proposed contract will not be satisfactory; second, adequate protection of trust resources is not assured; or third, the proposed project or function to be contracted cannot be properly completed or maintained by the proposed contract. In addition to declination, the Federal Govenment may rescind a 638 contract.

There is also much consternation about the meaning of section 106(h) of Public Law 93-638. This section requires that the contract amount "shall not be less than—the amount that—the appropriate Secretary would have otherwise provided for in his direct operation of the program"—25 U.S.C. 450j(h). The BIA, for example, routinely retains 20 to 40 percent of program amounts for "residual functions of oversight" and other administrative activities.

The issue of contract support costs for operating a 638 contract is another vital issue in Indian self-determination. Recurring shortfalls in agreed-upon support costs have led to many administrative and legal actions to recover costs. This complicated arena of indirect costs and costs that are added because the Federal Government is no longer the provider—for example, liability insurance and depreciation—is a continuing focus of friction in the day-to-day reality of 638 contracting.

Our bill, Mr. President, clarifies the activities that are subject to the Indian self-determination concept. We also attempt to resolve many of the complicated contract support cost issues and the administrative processes for initiating and maintaining a 638 contract. Our aim is to place more trust in the Indian people and their ability to serve their own people. They should not have to face major administrative obstacles in seeking to provide needed services. The Indian people of this land should be supported with consistency and clarity in their efforts to become self-sufficient. The rules of the contracting game should not be as shifting sands.

In his testimony last year before the House Committee on Interior and Insular Affairs, Ross O. Swimmer, Assistant Secretary for Indian Affairs at the Department of Interior, stated his support for these needed improvements. For example, the Assistant Secretary supports the expansion of 638 activity to construction projects on trust lands. On the complicated question of indirect costs or contract support costs, Mr. Swimmer prefers the establishment of an "administrative fee." He is working with the inspector general and others to work out the details for this needed change.

I am pleased to note that Senator INOUYE, chairman of the Senate Select Committee on Indian Affairs, has expressed his interest in solving this recurring and complicated issue. I look forward to working with his committee to find the best solutions to encouraging the Indian people of this country to improve their ability to operate and improve service programs for Indian people.

By strengthening and clarifying congressional intent, we can do a lot for helping Indian tribal administrators to focus their attention on serving their people rather than constantly doing battle with Federal bureaucrats who want to bicker over responsibilities, funding, and oversight. If we are successful, we may actually reduce the bureaucracy and enhance the position of Native Americans to direct their own lives.

● Mr. BINGAMAN. Mr. President, I join my distinguished colleagues in cosponsoring this bill, the Indian Self-Determination and Education Assistance Act of 1987. The Indian Self-Determination Act was signed into law on January 4, 1975, and, over the past 12 years, has served as the statutory basis by which Indian tribal governments contract to operate programs that previously had been operated by the Federal Government.

Although the act was originally intended to promote economic self-sufficiency among tribes, in many cases, this law has become an impediment to tribes achieving such independence. Tribes are often leery of entering into contracts because of the costs involved. Fluctuations in Federal funding levels creates planning uncertainties and the Government's failure to properly fund indirect costs creates economic hardships for the tribes. If they do enter contracts, tribes are faced with burdensome reporting and auditing requirements and excessive paperwork because of inappropriate application of Federal procurement laws and Federal acquisition regulations.

Clearly, as I have been urged by the Pueblos in New Mexico and other Indian tribes, it is time Congress take a second look at the Indian Self-Determination Act. By clarifying that Federal procurement laws and Federal acquisition regulations do not apply to Indian self-determination contracts and by protecting the contracts' funding basis from administrative encroachments, these amendments would go a long way in achieving the original intent of Congress when it first adopted the Indian Self-Determination Act in 1975.●

(Mr. DOLE submitted the following statement for Mr. McCAIN.)

● Mr. McCAIN. Mr. President, I rise in strong support of the Indian Self Determination Amendments of 1987. I want to commend my distinguished colleague, Senator Evans for his leadership on this most important issue.

Mr. President, the Indian Self-Determination Act of 1975 is a landmark piece of legislation providing tribes with the opportunity to take control and provide direction to programs previously operated by the Bureau of Indian Affairs and the Indian Health Service. While there is no doubt that the law has enabled numerous tribes to achieve a greater degree of self determination, numerous obstacles have also surfaced which have violated both the spirit and letter of the law.

One of the biggest obstacles tribes have encountered has been recovering the full indirect costs they incur in administrating self-determination contracts. What is even more disturbing to me is the lack of assistance the Bureau of Indian Affairs and the Indian Health Service have provided to tribes in addressing this problem. The indirect cost problem and other obstacles experienced by tribes with self-determination contracts were discussed in a very informative study prepared by a task force of the Affiliated Tribes of Northwest Indians entitled: "Determining the True Cost of Contracting Federal Programs for Indian Tribes." I commend this study to my colleagues and ask unanimous consent that the task force's executive summary to their study be printed immediately following my remarks

I believe this legislation will serve to clarify the original intent of the Congress when it passed the Indian Self-Determination Act in 1975. I look forward to receiving further comments and suggestions from tribes on ways to strengthen the bill. And, I hope the Bureau of Indian Affairs and the Indian Health Service will join this effort to build stronger tribal governments.

There being no obligations, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

When Congress enacted the Indian Self-Determination and Education Assistance Act of 1975, it was intended that Tribes would develop strong Tribal governments which would be capable of administering quality programs for the benefit of Indian people.

To Congress and to the Tribes, contracting to operate federal programs meant that the Tribes would have the opportunity to take the funds the U.S. Government would have otherwise spent through the Bureau of Indian Affairs and the Indian Health Service and utilize them to provide services to their respective communities. Section 106 (h) of the Act states that the amount of funds provided to Tribal contractors would not be "less than the appropriate Secretary would have otherwise provided for his operation of the programs or portions thereof for the period covered by the contract." This section assured the Tribes that the funds provided would be *at least as much* as the U.S. Government was spending for its operation.

Tribes generally embraced the spirit of self-determination and worked hard to establish and strengthen their administrative and management capabilities as the necessary foundation for effective Tribal government. As they viewed it, this Act would enable Tribes to address a multitude of needs, including economic development as a step towards self-sufficiency. Over these first eleven years of the Self-Determination Act implementation, the Tribes have assumed responsibility for over 500 million dollars of BIA and IHS programs.

Despite the best intentions, and despite the Tribes' eagerness to assume responsibility for determining their own fate and to achieve economic independence under Self-Determination, things generally did not proceed smoothly. Tribes, many of whom had little or no experience in administering federal programs, were introduced to a complicated set of contracting rules and regulations, including a method of recovering those portions of their costs known as "indirect costs," as determined by the Tribes' negotiated indirect cost rate.

While Tribes have struggled and in some cases met with very serious financial trouble in attempting to utilize indirect cost rates, the BIA and IHS, sister agencies charged with implementing the Self-Determination Act, have compounded the problem by requesting from Congress and allocating to Tribes less than the necessary funds required to operate programs in most budget years since 1975.

Little was understood about indirect costs by the high level bureaucrats in these agencies. While Tribes struggled to gain administrative expertise, these agencies (which employed in excess of 28,000 people) did little to support the Tribes in dealing with the complexities of indirect costs. To date, neither agency has provided even one full-time position to assist Tribes in addressing this critical technical issue. Rather than addressing this contractual problem in a direct and effective manner by advocating sufficient funding, the two agencies, have attempted to bypass the problem by failing to request necessary operational funds and attempting to reduce or limit the recovery of legitimate indirect costs by Tribes.

In 1986, the BIA began advocating a shortsighted fifteen percent flat administrative fee in lieu of the existing negotiated indirect cost rates. If implemented, this policy would prevent Tribes from recovering their full costs for operating federal programs, severely crippling Tribes' capacity to administer programs, and unraveling much of the Tribal management and administrative capability developed during the first eleven years of Self-Determination.

While it seems ludicrous and ironic that the agency responsible for implementing the intent of the Self-Determination Act would not only fail to advocate it but would actually work to undermine the establishment of strong and effective Tribal governments, it is nevertheless obvious that this simplistic cure poses a direct and potentially devastating threat to self-determination.

Recognizing the need for better understanding of current indirect cost problems and potential solutions among both Tribal and federal decision makers, The Northwest Tribes asked that a task force be established to address the issue. The first job of the task force was to publish an educational document that would examine the methods and uses of indirect costs as a cost recovery mechanism during the past eleven years. This report is the result of that effort.

The report takes the position that indirect costs or rates are really not the issue. The main issue is the recovery of costs incurred by operating federal programs and the equitable payment of total contract costs, both direct and indirect. Failure to provide full financial support places a Tribe in the position of being required to spend more than it can collect when operating contracted programs. For many Tribes, this creates economic hardship and inhibits the incentive to contract. The report further indicates that the provisions of Section 106(h) of the Act have not been met. Neither the Secretary of the Interior nor the Secretary of Health and Human Services has developed a system that complies with that section of the law. That is to say, Tribes have been allocated less funds than the government would have spent for federal operation of the same program. One key feature of the law that must be addressed is how funds are budgeted and allocated, and then how total contract costs are recovered. Right now, this is not happening in any consistent or equitable way. A stable funding base is needed to enhance the development of strong Tribal governments.

It really comes down to this important point: To implement true self-determination, Congress and the BIA/IHS must budget and appropriate adequate funds to contract for federal Indian programs and services. To provide less than adequate funds, in many cases, causes financial hardship and prolongs dependence on the federal government. In short, to allow the BIA and IHS to underfund the P.L. 93-638 contracts is to plot a sure path to programmatic failure.

Tribes want true self-determination. That means being truly recognized as sovereigns and being assisted in developing an economic base that can lead to greater independence and self-sufficiency.

As this publication points out, the solutions to many problems that now block self-determination are neither very costly nor difficult. It will, however, take effective teamwork on the part of all concerned to make them work. It will also require that the Bureau of Indian Affairs and the Indian Health Service assume an advocacy role. Paying lip service to the concept of self-determination will not be enough. That commitment must be reinforced with fair and consistent enforcement of regulations that recognize variations in Tribes's managerial responsibilities, and with funding policies that enables Tribes to operate programs efficiently and effectively.●

ADDITIONAL COSPONSORS

S. 303

At the request of Mr. BRADLEY, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 860

At the request of Mr. BOREN, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 860, a bill to designate "The Stars and Stripes Forever" as the national march of the United States of America.

S. 1075

At the request of Mr. LAUTENBERG, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of S. 1075, a bill to require the processing of applications from Cuban nationals for refugee status and immigrant visas.

S. 1162

At the request of Ms. MIKULSKI, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1162, a bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to certain health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes.

S. 1188

At the request of Mr. SYMMS, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1345

At the request of Mr. McConnell, the names of the Senator from Delaware [Mr. Roth] and the Senator from New Jersey [Mr. Bradley] were added as cosponsors of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal identification records.

S. 1427

At the request of Mr. Boschwitz, the names of the Senator from Minnesota [Mr. Durenberger] and the Senator from Virginia [Mr. Warner] were added as cosponsors of S. 1427, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to cancel the registration of certain cyclodienes.

S. 1468

At the request of Mr. Mitchell, the names of the Senator from Massachusetts [Mr. Kennedy] and the Senator from Michigan [Mr. Levin] were added as cosponsors of S. 1468, a bill to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes.

S. 1567

At the request of Mr. Bumpers, the names of the Senator from Hawaii [Mr. Inouye] and the Senator from Montana [Mr. Baucus] were added as cosponsors of S. 1567, a bill to provide for refunds pursuant to rate decreases under the Federal Power Act.

S. 1594

At the request of Mr. Graham, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 1594, a bill to improve the operation of the Caribbean Basin Economic Recovery Act.

S. 1595

At the request of Mr. Domenici, the name of the Senator from Virginia [Mr. Trible] was added as a cosponsor of S. 1595, a bill to amend title 5, United States Code, to provide for the establishment of a voluntary leave transfer program for Federal employees, and for other purposes.

S. 1622

At the request of Mr. Daschle, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1622, a bill to amend the Internal Revenue Code of 1986 to treat rural electric or telephone cooperatives in the same manner as other cooperatives for purposes of the book income preference under the minimum tax.

S. 1623

At the request of Mr. Daschle, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1623, a bill to amend the Internal Revenue Code of 1986 to permit rural telephone cooperatives to have qualified cash or deferred arrangements, and for other purposes.

S. 1625

At the request of Mr. Sanford, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of S. 1625, a bill to enhance the effectiveness and independence of the U.S. Court of Military Appeals.

SENATE JOINT RESOLUTION 148

At the request of Mr. D'Amato, the name of the Senator from Delaware [Mr. Roth] was added as a cosponsor of Senate Joint Resolution 148, a joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. Bradley, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE RESOLUTION 219

At the request of Mr. Daschle, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of Senate Resolution 219, a resolution expressing the sense of the Senate with respect to the use of ethanol, methanol, and other oxygenated fuels as an accepted air pollution control strategy in non-attainment areas designed by the Environmental Protection Agency.

SENATE RESOLUTION 284—RELATING TO ADVANCING DEFICIENCY PAYMENTS

Mr. DOLE (for himself, Mr. Melcher, Mr. Grassley, Mr. Durenberger, Mr. Cochran, Mr. Baucus, Mr. Nickles, Mr. Boschwitz, Mr. Heflin, Mr. Karnes, Mr. Pryor, Mr. McClure, Mr. Bentsen, and Mr. Exon) submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. Res. 284

Resolved, That it is the sense of the Senate that the Secretary of Agriculture should—

(1) make advance deficiency payments for the 1988 crop of wheat, feed grains, upland cotton, and rice in accordance with section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2); and

(2) base such payments on—

(A) in the case of wheat and feed grains, up to 40 percent of the projected payment rate; and

(B) in the case of upland cotton and rice, up to 30 percent of the projected payment rate.

Mr. DOLE. Mr. President, today I am joined by Senators Melcher, Grassley, Durenberger, Cochran, Baucus, Nickles, Boschwitz, Heflin, Karnes, Pryor, McClure, and Exon in introducing a sense of the Senate resolution urging the administration to make advance deficiency payments available to farmers on their 1988 program crops.

BACKGROUND

In recent years farmers have received advanced deficiency payments at the time they sign up to participate in the Government farm programs. We are urging the Department to announce advance payments up to the levels of past years, or 40 percent for wheat and feed grains and 30 percent for rice and cotton.

These payments have been especially valuable to cash-strapped farmers who have difficulty obtaining adequate credit or who need to pay off debts.

BUDGET PROJECTIONS

I understand the administration has projected that farm program costs will decline to $16 billion for fiscal year 1988, which will be $7 billion below the fiscal year 1987 future. A key assumption, however, is that no advanced deficiency payments will be made to farmers on their 1988 crop, thereby saving almost 45 billion of fiscal year 1988 spending.

AN IMPORTANT SIGNAL

Mr. President, I suggest failure to advance deficiency payments would be an unreasonable burden to place on farmers. Many farmers and their lenders have made their financial planning decisions based on expectations of advanced deficiency payments being made on a consistent basis.

The resolution introduced today sends a signal to the American farmer that we will ensure continuity in disbursement of program payments and prevent disruptions in farmers' planned operating procedures.

Advancing deficiency payments at the same rate of previous years would give farmers about $5 billion in cash to help them pay off debts and operating loans. This is particularly important at a time when Congress is considering legislation to shore up the ailing Farm Credit System and assist its' member-borrowers.

CONCLUSION

Some of my colleagues have suggested reducing the level of advanced deficiency rates to achieve budget reconciliation targets. I would simply say this sense of the Senate resolution will not lock anyone into specific payments levels. Most importantly, we need to let farmers know that it is congressional intent to provide advanced deficiency payments once again.

I would urge my colleagues to support the resolution.

Mr. MELCHER. Mr. President, I am very pleased to join Senator DOLE in offering this sense of the Senate resolution that would urge the Secretary of Agriculture to make advance deficiency payments for major program crops.

This is good policy and policy that we have followed in the past. I would like to stress that these do not represent new or additional payments for our agricultural producers. They are payments to which they are entitled.

The difference is in the timing of the payments. And that question of timing can be all important.

Right now in the Subcommittee on Agricultural Credit we are in the midst of marking up a bill to help assure that our farmers and ranchers can get the credit that they need to stay in business. Advance payments can significantly reduce that need for credit. Funds that a farmer and rancher receives in December can be used for payments necessary during the planting season.

These payments will not impact the Federal total outlays. That will be the same regardless. For the individual producer, however, a matter of a few months can make a very real difference.

I certainly hope that our colleagues will quickly agree to this resolution and that the Secretary of Agriculture will follow the sound advice that we are offering.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

HATFIELD (AND OTHERS) AMENDMENT NO. 697

Mr. HATFIELD (for himself, Mr. ADAMS, Mr. BUMPERS, and Mr. MURKOWSKI) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 110, between lines 13 and 14, insert the following new section:

SEC. . Notwithstanding any other provision of law, the War Powers Resolution shall be deemed to apply beginning 48 hours after the designation of the imminent danger zone on August 25, 1987, and the use of United States Armed Forces in such zone, as if the report pursuant to section 4(a) of that Resolution had been transmitted within such period.

ADAMS AMENDMENT NO. 698

Mr. ADAMS proposed an amendment to amendment No. 697 proposed by Mr. HATFIELD (and others) to the bill S. 1174, supra; as follows:

On page 1, strike all after "Sec." and insert the following new section:

SEC. . Notwithstanding any other provision of law, the requirement for the transmittal to the Congress of the report described in section 4 (a)(1) of War Powers Resolution shall be deemed to apply to the escort, protection, or defense of any vessel which has been reregistered under the United States flag and which as of June 1, 1987 was owned by the government or nationals of any country bordering the Persian Gulf. Furthermore, in the event that such report is not so transmitted, the provisions of the War Powers Resolution shall be deemed to apply, beginning 48 hours after enactment of this act as if that report were transmitted within such period, unless such reregistered vessels have been further reregistered under the flag of a country other than the United States.

BUMPERS AMENDMENT NO. 699

Mr. BUMPERS proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill, insert the following:

"SEC. . Notwithstanding any other provision of law, no agency of the federal government may plan for, fund, or otherwise support the development of architectures, components, or subcomponents for strategic defense against air-breathing or ballistic missile threats that would permit such strategic defenses to initiate the directing of damaging or lethal fire except by affirmative real-time human decision at an appropriate level of authority."

BUMPERS (AND PRYOR) AMENDMENT NO. 700

Mr. BUMPERS (for himself and Mr. PRYOR) proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill, insert the following new Title:

TITLE .-REQUIREMENT TO LEASE LANDS TO THE CITY OF BARLING, ARKANSAS

Sec. (1)(a) IN GENERAL.—The Secretary of the Army shall lease to the city of Barling, Arkansas, for the use by that city in the treatment of sewage, the following tracts of land at Fort Chaffee, Arkansas:

(1) A tract consisting of 320 acres and more particularly described as the NE ¼ and the NW ¼ of section 34, Township 8 North, Range 31 West.

(2) A tract 40 feet wide running from the northern boundary of the tract described in paragraph (1) to the Arkansas River, as may be agreed upon by the Secretary and the city of Barling.

(b) LEASE REQUIREMENTS.—(1) The lease shall authorize the city of Barling to construct and maintain a wastewater treatment facility on the land leased under subsection (a). Upon termination of the lease, the United States shall have all right, title, and interest in and to any improvements on the land.

(2) The lease shall be for such period, not less than 55 years, as may be agreed upon by the Secretary of the Army and the city of Barling.

(3) The lease shall require the city of Barling to pay rent for the use of the land in an amount to be agreed upon by the Secretary and the city. The amount of the rent may not exceed $1,600 per year.

SEC. 2. ALTERNATIVE OPTIONS.

(a) IN GENERAL.—(1) In lieu of leasing to the city of Barling the lands described in section 1(a), the Secretary may lease to the city other lands under the jurisdiction of the Secretary adjacent to existing lagoons at Fort Chafee, Arkansas, for use by the city in the treatment of sewage.

(2) Land leased to the city pursuant to paragraph (1) shall be leased at an annual rate of not more than $5 per acre.

(3) Any lease entered into pursuant to paragraph (1) shall be subject to paragraphs (1) and (2) of section 1(b).

(b) Use of Army Sewage Treatment Facility.—The Secretary may permit the city of Barling to use the sewage treatment facilities of Fort Chafee under an agreement which would require the city to pay a reasonable cost for the use of such facilities and any reasonable costs incurred by the Army. In increasing the capacity of the sewage treatment facilities at Fort Chafee in order to accommodate the use of such facilities by the city of Barling.

SEC. 3. ADDITIONAL PROVISIONS.

(a) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of any land to be leased under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Barling.

(b) ADDITIONAL TERMS AND CONDITIONS.—Any lease or other agreement entered into under this Act shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.

WILSON AMENDMENT NOS. 701 AND 702

Mr. WILSON proposed two amendments to the bill (S. 1174) supra; as follows:

AMENDMENT 701

On page 191, strike out lines 15 through 24.

On page 192, line 1, strike out "SEC. 2818" and insert in lieu thereof "SEC. 2817".

AMENDMENT NO. 702

On page 198, between lines 4 and 5, insert the following new section:

SEC. 2827. LEASE OF PROPERTY AT THE NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (g), the Secretary of the Navy may lease, at fair market rental value, to the Port of Oakland, California, not more than 195 acres of real property, together with improvements thereon, at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE.—The lease entered into under subsection (a) may be for such term as the Secretary determines appropriate, with an initial term not to exceed 25 years with an option to extend for a term not to exceed 25 years.

(c) REPLACEMENT AND RELOCATION PAYMENTS.—The Secretary may, under the terms of the lease, require the Port of Oakland to pay the Secretary—

(1) a negotiated amount for the structures on the leased property requiring replacement by the Secretary; and

(2) a negotiated amount for expenses to be incurred by the Navy with respect to vacating the leased property and relocating to other facilities.

(d) Use of Funds.—(1) Funds received by the Secretary under subsection (c) may be used by the Secretary to pay for relocation expenses and constructing new facilities or making modifications to existing faciltiies which are necessary to replace facilities on the leased premises.

(2)(A) Funds received by the Secretary for the fair market rental value of the real property may be used to pay for relocation and replacement costs incurred by the Navy in excess of the amount received by the Secretary under subsection (c).

(B) Funds received by the Secretary for such fair market rental value in excess of the amount used under subparagraph (A) shall be deposited into the miscellaneous receipts of the Treasury.

(e) Authority To Demolish and Construct Facilities.—The Secretary may, under the terms of the lease, authorize the Port of Oakland to demolish existing facilities on the leased land and to provide for the construction of new facilities on such land for the use of the Port of Oakland.

(f) Report.—The Secretary may not enter into a lease under this section until—

(1) the Secretary has transmitted to the Committee on Armed Services of the Senate and of the House of Representatives a report containing an explanation of the terms of the lease, especially with respect to the amount the Secretary is to receive under subsection (c) and the amount that is expected to be used under subsection (d)(2); and

(2) a period of 21 days has expired after the date on which such report was received by such Committees.

(g) Additional Terms.—The Secretary may require such additional terms and conditions in connection with the lease authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

DIXON AMENDMENT NO. 703

Mr. DIXON proposed an amendment to the bill S. 1174, supra; as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LAND CONVEYANCE, CHANUTE AIR FORCE BASE, ILLINOIS

(a) Authority to Sell.—Subject to subsections (b) through (g), the Secretary of the Air Force may sell all or any portion of that track of land (together with any improvements thereon) which compromises the Chapman Court Housing Annex, a housing complex near Chanute Air Force Base, Illinois, consisting of 49 acres, more or less.

(b) Conditions of Sale.—Before the Secretary enters into a contract for the sale of any or all of the property referred to in subsection (a), the prospective buyer shall be required—

(1) to carry out the following projects at Chanute Air Force Base in accordance with specifications mutually agreed upon by the Secretary and the prospective purchaser:

(A) Widen and extend Heritage Drive.

(B) Construct a new entrance gate (including a gate guardhouse) to serve as the main entrance from U.S. Route 45.

(C) Construct a visitor reception center and parking lot to serve such center.

(D) Construct new streets or alter existing streets in order to effectively reroute automobile traffic (on the Air Force Base) to and from the proposed new gate.

(c) Competitive Bid Requirement and Minimum Sale Price.—(1) The sale of any of the land referred to in subsection (a) shall be carried out under publicly advertised, competitively bid, or competitively negotiated contracting procedures.

(2) In no event may any of the land referred to in subsection (a) be sold for less than its fair market value, as determined by the Secretary.

(d) Report Requirements.—(1) The Secretary may not enter into any contract for the sale of any or all of the land referred to in subsection (a) unless—

(A) the Secretary has submitted to the appropriate committees of Congress a report containing the details of the contract proposed to be entered into by the Secretary under this section; and

(B) a period of 21 days has expired following the date on which the report referred to in clause (A) received by such committees.

(2) Any report submitted under paragraph (1) shall include—

(A) a description of the price and terms of the proposed sale;

(B) a description of the procedures used in selecting a buyer for the land; and

(C) all pertinent information regarding the appropriate project selected by the Secretary.

(e) Use of Excess Funds.—If the fair market value of the property conveyed to a buyer under this section is greater than the fair market value of the facilities constructed by the buyer for the United States, as determined by the Secretary, the buyer shall pay the difference to the United States. Any such amount paid to the Secretary shall be deposited into the general fund of the Treasury.

(f) Legal Description of Land.—The exact acreage and legal description of any land conveyed under this section shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the buyer.

(g) Additional Terms.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

PRYOR (AND BUMPERS) AMENDMENT NO. 704

Mr. PRYOR (for himself and Mr. Bumpers) proposed an amendment No. 704, supra; as follows:

On page 198, between lines 4 and 5, insert the following:

SEC. 2827. DISPOSITION OF REAL PROPERTY AT AIR FORCE MISSILE SITES.

(a) In General.—Chapter 949 of title 10, United States Code, is amended by adding at the end the following:

"§ 9781. Disposition of real property at Air Force missile sites

"(a) In General.—The Secretary of the Air Force shall dispose of the interest of the United States in any tract of real property described in paragraph (2) or in any easement held in connection with any such tract of real property only as provided in this section.

"(2) The real property referred to in paragraph (1) is any tract of land (including improvements thereon) owned by the Air Force that—

"(A) is not required for the needs of the Air Force and the discharge of the responsibilities of the Air Force, as determined by the Secretary of the Air Force;

"(B) does not exceed 25 acres;

"(C) was used by the Air Force as a site for one or more missile launch facilities, missile launch control buildings, or other facilities to support missile launch operations; and

"(D) is surrounded by lands that are adjacent to such tract and that are owned in fee simple by one owner or by more than one owner jointly, in common, or by the entirety.

"b) Preference for Sale to Owners of Surrounding Lands.—The Secretary shall convey, for fair market value, the interest of the United States in any tract of land referred to in subsection (a) or in any easement in connection with any such tract of land to any person or persons who, with respect to such tract of land, own lands referred to in paragraph (2)(D) of such subsection and are ready, willing, and able to purchase such interest for the fair market value of such interest. Whenever such interest of the United States is available for purchase under this section, the Secretary shall transmit a notice of the availability of such interest to each such person.

"(c) Determination of Fair Market Value.—The Secretary shall determine the fair market value of the interest of the United States to be conveyed under this section.

"(d) Waiver of Requirement To Determine Whether Property Is Excess or Surplus Property.—The requirement to determine whether any tract of land described in subsection (a)(2) is excess property or surplus property under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) before disposing of such tract shall not be applicable to the disposition of such tract under this section.

"(e) Additional Terms and Conditions.—The disposition of a tract of land under this section to any person shall be subject to (1) any easement retained by the Secretary with respect to such tract, and (2) such additional terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States.

"(f) Legal Description of Lands.—The exact acreage and legal description of any tract of land to be conveyed under this section shall be determined in any manner that is satisfactory to the Secretary. The cost of any survey conducted for the purpose of this subsection in the case of any tract of land shall be borne by the person or persons to whom the conveyance of such tract of land is made.

"(g) Other Disposition of Property.—If any real property interest of the United States described in subsection (a) is not purchased under the procedures provided in subsections (a) through (f), such tract may be disposed of only in accordance with the Federal Property and Administrative Services Act of 1949.".

(b) Conforming Amendment.—The table of sections at the beginning of chapter 949 of such title is amended by adding at the end the following:

"9781. Disposition of real property at Air Force missile sites.".

BINGAMAN (AND DOMENICI) AMENDMENT NO. 705

Mr. BINGAMAN (for himself and Mr. Domenici) proposed an amendment to the bill S. 1174, supra; as follows:

One page 22, between lines 8 and 9, insert the following new section:

SEC. 229. DEPARTMENT OF DEFENSE HIGH-TEMPERATURE SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT PROGRAM

(a) Authorization.—(1) Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201 for research, development, test, and evaluation, $60,520,000 of the amount appropriated for fiscal year 1988 and $60,520,000 of the amount appropriated for fiscal year 1989, may be obligated only for research and development relating to superconductivity at high critical temperatures.

(2) Of the amount that may be obligated under paragraph (1) for each of fiscal years 1988 and 1989, $10,520,000 may be obligated only for support of research and development activities that—

(A) are conducted under the superconductor program of the Defense Advanced Research Project Agency of the Department of Defense or under the superconductor program of any other entity involved in superconductor research and development; and

(B) accelerate advanced development of superconductor technology to support the Electric Drive Program of the Department of Defense.

(b) Administrative Provisions.—(1) The Secretary of Defense shall determine, with respect to the amounts appropriated or otherwise made available to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 for research, development, test, and evaluation for each of fiscal years 1988 and 1989, the amount to be derived from the Army, Navy, Air Force, and each of the Defense Agencies in each such fiscal year to carry out the high-temperature superconductivity research and development activities of the Department of Defense under this section.

(2) The Under Secretary of Defense for Acquisition or his designee shall—

(A) coordinate the research and development activities of the Department of Defense relating to high-temperature superconductivity; and

(B) ensure that such research and development—

(i) is carried out in coordination with the high-temperature superconductivity research and development activities of the Department of Energy (including the national laboratories of the Department of Energy), the National Science Foundation, the National Bureau of Standards, and the National Aeronautics and Space Administration; and

(ii) complements rather than duplicates such activities.

(c) The Under Secreary of Defense for Acquisition shall take appropriate action—

(1) to ensure the high-temperature superconductivity technology resulting from the research activities of the Department of Defense is transferred to the private sector in accordance with (A) the amendments made by the Federal Technology Transfer Act 1986 (Public Law 99-502; 100 Stat. 1785) to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), and (B) Executive Order Number 12591, dated April 10, 1987; and

(2) in consultation with the Secretary of Energy, to ensure that the national laboratories of the Department of Energy participate, to the maximum appropriate extent in the transfer of such technology to the private sector.

LAUTENBERG (AND OTHERS) AMENDMENT NO. 706

Mr. LAUTENBERG (for himself, Mr. Moynihan, Mr. Simon, Mr. Wilson, Mr. Specter, Mr. Bradley, Mr. Proxmire, Mr. Pryor, Mr. DeConcini, Mr. Metzenbaum, Mr. Bingaman, Mr. Daschle, Ms. Mikulski, Mr. Kerry Mr. Levin, Mr. Reid, and Mr. Wirth) submitted an amendment intended to be proposed by them to the bill S. 1174, supra; as follows:

Insert at the appropriate place in the bill:

Sec. . Wearing of Religious Apparel By Members of the Armed Forces While in Uniform.

(a) In General.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"Sec. 774. Religious apparel: wearing while in uniform

"(a) General Rule.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) Exceptions.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) In circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the members' military duties; or

"(2) If the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) Regulations.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term religious apparel means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

"(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.

"775. Applicability of chapter.".

(c) Regulations.—The secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

WALLOP (AND WILSON) AMENDMENT NO. 707

Mr. WALLOP (for himself and Mr. Wilson) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between line 13 and 14 insert the following:

(a) Report on No ABM Treaty Limitations.—The Secretary of Defense shall submit to Congress a report concerning the effect of no ABM Treaty limitations on the Strategic Defense Initiative Program.

(b) Matters To Be Included.—The report shall include the following:

(1) An analysis of the ramifications of no ABM Treaty limitations on the development under the Strategic Defense Initiative program of strategic defenses, including comprehensive strategic defense systems, and more limited defenses designed to protect vital United States military and command and control assets. This analysis should compare research and development programs pursued under the restrictive interpretation, the less restrictive interpretation, and no ABM Treaty limitations, including a comparative analysis of—

(A) The overall cost of the research and development programs,

(B) The schedule of the research and development programs, and

(C) The level of confidence attained in the research and development programs with respect to supporting a full-scale engineering development decision in the early- to mid-1990s.

(2) A list of options under no ABM Treaty limitations that meet one or more of the following objectives:

(A) Reduction of overall development cost.

(B) Advancement of schedule for a full-scale engineering development decision.

(C) Increase in the level of confidence in the results of the research by the original full-scale development date.

(c) Deadline for Report.—The report under subsection (a) shall be submitted not later than March 1, 1988.

(d) Report Classification.—The report under subsection (a) shall be submitted in both classified and unclassified versions.

HELMS AMENDMENT NO. 708

Mr. HELMS proposed an amendment to the bill S. 1174, supra; as follows:

Add at the end of the bill the following new section:

"Sec. . Of the funds appropriated for operations and maintenance to the Air Force pursuant to Section 301(a)(4), one-tenth of one percent of the amount appropriated for fiscal year 1988 and one-tenth of one percent of the amount appropriated for fiscal year 1989 may be obligated only to redeploy 50 stockpiled Minuteman III missiles into existing Minuteman II silos in order to enhance the strategic modernization program at no additional cost and to release 50 Minuteman II missiles for testing to support the reliability and effectiveness in the aging Minuteman II force.".

WEICKER AMENDMENT NO. 709

Mr. WEICKER proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. REQUIREMENT FOR CONSISTENCY IN THE BUDGET PRESENTATIONS OF THE DEPARTMENT OF DEFENSE.

(a) In GENERAL.—Section 14 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) The amounts of the estimated expenditures and proposed appropriations necessary to support programs, projects, and activities of the Department of Defense included pursuant to paragraph (5) of section 1105(a) of title 31 in the budget submitted to Congress by the President under such section for any fiscal year or years and the amounts specified in all program and budget information submitted to Congress by the Department of Defense in support of such estimates and proposed appropriations shall be mutually consistent unless, in the case of each inconsistency, there is included detailed reasons for the inconsistency.

"(g) The Secretary of Defense shall submit to Congress each year, at the same time as the President submits the budget to Congress under section 1105(a) of title 31 for any fiscal year or years, the five-year defense program (including associated annexes) used by the Secretary in formulating the estimated expenditures and proposed appropriations included in such budget for the support programs, projects, and activities of the Department of Defense."

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to budgets submitted to Congress by the President under section 1105(a) of title 31, United States Code, for fiscal years after fiscal year 1988.

NOTICES OF HEARING

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Wednesday, September 23, 1987. The subcommittee will hear testimony on the impact of the proposed catastrophic health legislation on the Federal Employees Health Benefits Program [FEHBP] and the Federal annuitant.

The hearing is scheduled for 9:30 a.m., in room SD-342, Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following hearing and markup on:

September 21, 1987, beginning at 9 a.m., a field hearing on amendments to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), at the Hyatt Regency Hotel, Tampa, FL; and

September 23, 1987, beginning at 2 p.m., in Senate Russell 485 a markup on S. 1475, clinical staffing recruitment and retention program, and H.R. 2937, miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes.

Those wishing additional information should contact the committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

EDUCATION SUBCOMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Education Subcommittee, of the Labor and Human Resources Committee, be authorized to meet during the session of the Senate on Friday, September 18, 1987, to conduct a hearing on "Health Education and Gifted and Talented Education."

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSUMER SUBCOMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Consumer Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 18, 1987, to hold oversight hearings on general issues related to product liability.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 18, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MINERAL RESOURCES DEVELOPMENT AND PRODUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, Subcommittee on Mineral Resources Development and Production be authorized to meet during the session of the Senate on Friday, September 18, 1987, to receive testimony concerning the National Coal Council's Reserve Data Base Report and the state of information relating to the quality and recoverability of U.S. coal reserves.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL POW/MIA RECOGNITION DAY, 1987

● Mr. KERRY. Mr. President, I am pleased to join with my colleagues in commemorating September 18, 1987, as "National POW/MIA Recognition Day." It is very appropriate that the theme of this day should be "We the People Remember." On the 200th anniversary of the signing of our Constitution, it is fitting that we should remember the men and women who have fought to protect and preserve our freedoms under the Constitution.

All veterans of our Armed Forces deserve and are entitled to special consideration. But we owe a special duty of remembrance to our POW's and MIA's. This is an issue of great concern to many of my fellow Vietnam veterans. Unfortunately, this administration's rhetoric on the issue of POW's and MIA's has not been matched by its record. While the administration talked tough, they did very little for 6 years to make real progress on these issues.

I am encouraged that this administration has now finally begun to take meaningful action to try to resolve the lingering questions surrounding POW's and MIA's. The mission of General Vessey to Vietnam in August of this year appears to have led to real progress in several areas. I am pleased that the process of repatriation of Amerasian children to the United States will be speeded up and obstacles removed. I am also encouraged by the fact that the Vietnamese have pledged to accelerate their efforts to find MIA's if possible, and to lift restrictions on the search for MIA's in Vietnam. Their willingness to release prisoners from reeducation camps is also a positive step. I believe that the agreement reached by General Vessey to provide for American humanitarian assistance in areas such as providing prosthetic limbs to victims of the war in Vietnam is also a step forward.

All of these recent developments are steps in the right direction. However, we know that many of the questions about POW's and MIA's are still not resolved. Many American families are still waiting and wondering, more than a decade after the end of the war. This is a situation which is not acceptable, for Vietnam veterans and for the families of those who served in Vietnam. Until all the questions are answered, the homecoming process will not be complete. We the people remember our brethren who are still missing. On this 200th anniversary of our Constitution, we cannot and will not forget them.●

NEED TO PROVIDE A PREFERENTIAL TAX RATE FOR CAPITAL GAINS

● Mr. BOSCHWITZ. Mr. President, this will be my eighth floor statement on capital gains. I will continue to speak on the subject in the future because, while I was an enthusiastic supporter of the Tax Reform Act of 1986, I very much disagree with the new law's treatment of capital gains.

As my colleagues know, the Tax Reform Act of 1986 slashed both individual and corporate tax rates by unprecedented amounts. It was truly historic legislation. The new law is fairer, should simplify the Tax Code for many and be a boost to our economy. When a person gets to keep at least 72 cents of every dollar earned as opposed to 50 cents—less than 50 cents when you include State taxes—I really think the incentive to hit the floor running every morning will be increased.

Unfortunately, while the new law lowers tax rates on ordinary income substantially, the tax rate on long-term capital gains will be increased substantially. Under the old tax law—that is, the tax law prior to the Tax Reform Act of 1986—the top Federal tax rate on long-term capital gains was 20 percent. Under the new tax law, capital gains will be taxed as ordinary income. That means the maximum marginal tax rate on capital gains at the Federal level could increase to as high as 33 percent. That's a 65-percent increase.

Unfortunately, that is only half the story. We must also consider State taxes on long-term capital gains. I am told that, under prior law, the top Federal and State combined tax was in Arkansas and North Carolina—$235 per $1,000 of capital gains. In California and New York, tied for third highest, the maximum combined Federal and State tax was $228 per $1,000 of gain.

Under the new law, the combined Federal and State tax will increase substantially in all States. I am told that there could be four States—and also the District of Columbia—where the combined Federal and State tax on $1,000 of long-term capital gains will exceed $400. In no State will the maximum combined tax be less than $330. Again, the maximum under prior law was $235 per $1,000 of gain.

Such an increase is unwise. The increased tax on capital gains will reduce venture capital that leads to new businesses, new jobs, new technology, and new research and development. Certainly new business will continue to be created, but fewer new businesses and projects. Many innovative but risky projects might not go forward. The preference will be to invest in less risky ventures.

In fact, our competitors very much understand the importance of preferential treatment for capital gains. It's a competitiveness issue. According to the American Council for Capital Formation, 11 industrialized countries including Japan, Taiwan, West Germany, Hong Kong, Italy, and South Korea impose no taxes on long-term capital gains, and Canada's maximum tax is only 17 percent.

Opponents of capital gains sometimes argue that an exclusion only benefits the wealthy. That is not true.

For many low- and middle-income taxpayers, and single largest capital gain often comes from the sale of an asset—such as a farm or a business—which they have held for years. In many cases the asset represents a substantial portion of their net worth. The unexpected and very substantial increase in their capital gains tax caused by repeal of the exclusion could be very difficult for these people to bear.

Indeed, in many cases, the capital gain being taxed is not real economic gain, but merely inflationary gain which does not add to personal wealth or purchasing power. That's one of the reasons there was an exclusion under the old law and one of the reasons that capital gains income is different from other income. If you started a business or bought a farm many years ago, worked it for many years and then sold it for a higher price, you would have a tax gain but not necessarily an economic gain. When we remove the capital gains exclusion, the taxpayer will no longer have a cushion against taxing inflationary gain.

Much of the American dream is tied to capital gains. I was just in Jackson, MN, at a parade and picnic and I sat with a fellow I had not known before who ran his business for 30 years and then sold it and the building he occupied on a contract for deed. He was living on that monthly check. Raising his taxes—particularly years after the sale was made—really is uncalled for. And owning real estate in rural America is no bargain these days. I know because I own some. In many instances you are lucky to get your cost of 10 to 20 years ago back, so if you have to pay taxes on the transaction you have a net loss. Capital gains are very important to middle and lower income taxpayers.

Another misperception about a capital gains exclusion involves the revenue impact to the Treasury. During debate of the new law, it was argued that allowing an exclusion was a revenue loser for the Treasury. Interestingly, when the late Congressman Bill Steiger was fighting to push through the capital gains exclusion of the old law, he was faced with a similar argument. In a 1978 letter to Congressman Steiger, then Secretary of the Treasury W. Michael Blumenthal stated that lowering the tax rate on capital gains would cost the Treasury billions annually.

Fortunately, an exclusion was enacted despite the objections of the Treasury. Did revenues to the Treasury from capital gains transactions fall? Quite the contrary, they increased substantially. In 1978, with a top tax rate on capital gains of 49.1 percent, captial gains collections were $9.3 billion. The following years—1979 and 1980—when the maximum rate was lowered to 28 percent, collections jumped to $11.7 billion and $12.5 billion respectively.

Those figures are not at all surprising. Mr. President, I submit for the RECORD a table comparing the tax rate on long-term capital gains with collections from capital gains immediately following my statement. As the chart illustrates, lowering the capital gains rate generally increases collections and increasing the rate generally decreases collections. This reflects the fact that capital gains are voluntary. When rates are high, there is a tendency to hold assets. When rates are lowered, assets turn over more quickly and are put to more productive uses.

While I agree with what seems to be a general sentiment here in Congress that we should leave the Tax Code alone for a while, give taxpayers a chance to catch their breath, I think an exception does need to be made in the case of capital gains. Accordingly, both last year and again this year I introduced legislation—S. 444 in this Congress—to reinstate a differential tax rate for long-term capital gains. Under my proposal, the exclusion for assets held at least 1 year would be 40 percent. For assets held 3 years or more, the exclusion would be increased to 60 percent. These exclusions will bring the tax rate on capital gains back in line with the rate under the old law. As the historical figures indicate, it should not result in a loss of revenue to the Treasury.

Mr. President, I yield the floor.

The table follows:

CAPITAL GAINS RATE INCREASES RESULT IN REDUCED REVENUES—CAPITAL GAINS RATE CUTS RESULT IN INCREASED REVENUES

	Maximum capital gains rate (percent)	Capital gains revenues
Year:		
1968	25.9	$5,943,000,000
1969	27.5	5,275,000,000
1970	32.2	3,161,000,000
1971	30.8	4,380,000,000
1972	45.5	5,708,000,000
1973	45.5	5,366,000,000
1974	45.5	4,253,000,000
1975	45.5	4,535,000,000
1976	49.1	6,621,000,000
1977	49.1	8,104,000,000
1978	49.1	9,348,000,000
1979	28.0	11,669,000,000
1980	28.0	12,459,000,000
1981	20.0	12,684,000,000
1982	20.0	12,900,000,000
1983	20.0	17,800,000,000

Source: American Council for Capital Formation.●

NO QUICK FIX FOR TRADE DEFICIT

● Mr. HEINZ. Mr. President, for several years now economists have been urging a decline in the dollar's value as a solution for all our trade woes. The events of the past several years have demonstrated the error of that simplistic analysis. Apparently we are now beginning to make progress in the economic profession, as demonstrated by a recent article in the Journal of

Commerce which stresses that there is no such "quick fix."

The article by Keith Rockwell, "No Quick Fix for U.S. Trade Deficit," that appeared in the Journal of Commerce, August 21, 1987, contends that either fiscal or monetary methods must be used in order to change the savings and consumption rates which are responsible for much of our trade balance problems. A monetary approach will drive up interest rates, which would in turn drive the dollar up. These increases would harm U.S. industries, and could conceivably result in a recession. A fiscal approach would force a reduction of the Federal budget deficit, a reduction which is obviously very difficult to accomplish.

The importance of this article lies in the fact that it shows quite clearly that a single, simplistic solution, namely the weakening of the dollar, will not accomplish what is necessary. I have argued throughout the last 7 years for the need to find a range of solutions, such as those found in the trade bill, to combat the trade deficit, not just rely on the false promise of a weakening dollar.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

No Quick Fix for U.S. Trade Deficit

(By Keith M. Rockwell)

In searching for solutions to the unbroken string of U.S. trade deficits in recent years, economists, administration officials and foreign diplomats agree on one thing: There's no quick fix.

Administration officials have long contended that the 40%-50% depreciation of the dollar against the yen and European currencies over the last two years was the best way to bring the U.S. trade account closer to balance.

But last week's release of the June trade figures challenges that reasoning. Commerce Department figures put the June deficit at $15.7 billion, the second highest monthly figure ever. Some trade analysts project a 1987 deficit of $166 billion, topping last year's record $156.2 billion.

Easing of export control laws, liberalizing the Foreign Corrupt Practices Act and more aggressive action against the trade barriers overseas would all help to reverse the trend, officials say. But the deficit is so large that macroeconomic policy changes are the only way to effectively tackle the problem, they contend.

BORROWING TO PAY FOR IMPORTS

One commonly cited reason for the trade deficit is the low U.S. savings rate. The personal savings rate in the United States is at an historic low. According to the Organization for Economic Cooperation and Development, U.S. households saved 7.3% of disposable income in 1985. This compares with 16% that year in Japan. But since that time, the U.S. rate has fallen even further to less than 3% of disposable income, according to economists.

Not only has the personal savings rate been in decline, but there is a huge "dissavings" factor that hangs like a thundercloud over the U.S. economy—the federal budget deficit.

Instead of saving money, Americans have been on a buying spree, much to the delight of U.S. trading partners. Meanwhile, the sluggish economies in Japan, West Germany and elsewhere, have hampered U.S. export growth.

Without a pool of savings to draw from, the United States is forced to pay higher rates of interest in order to attract foreign savings. As John Makin, economist with the American Enterprise Institute puts it, "capital imports are the mirror image of the trade deficit."

In other words, the United States is borrowing abroad to pay for its imports.

"The trade deficit isn't going to go down without reduction in the budget deficit, unless there's a remarkable surge in savings," Mr. Makin says.

He recommends reforming the tax code so that personal and corporate savings are not taxed twice, first as earned income then as interest on the savings.

The other side of the low savings coin is the staggeringly high U.S. consumption rate. The June trade figures show that exports increased to $21.1 billion, the second highest total on record. But imports were at an all time high of $36.8 billion, $2 billion over the previous monthly high in May.

"We've got to have a three- to four-year program in this country to keep consumption down," says David Hale, economist with Kemper Financial Services Inc. in Chicago. "That means cutting the budget deficit. It's the same old story but it still has to be done."

MONETARY OR FISCAL FIX?

Mr. Hale explains that the two ways to reduce the domestic demand are either through monetary or fiscal policy. On the monetary side that means raising interest rates, he says, which could drive the dollar back up while hurting U.S. industries by increasing the cost of capital. That could mean a recession. If monetary policy is ruled out, he says, fiscal action is the only alternative.

Robert Ortner, Undersecretary of Commerce for Economic Affairs, agrees that the budget deficit needs to be slashed but points out the deficit for fiscal 1987 is projected to be less than $160 billion—a marked improvement over the $221 billion deficit in 1986.

"The budget deficit needs to decline further, yes. How we get across that canyon is something else. Spending just hasn't gone down enough," he says.

Mr. Ortner says tax increases are not the answer. He points out that the new tax laws have produced increased revenues without causing economic drag. In fact, he adds, unemployment has fallen since the new code was enacted.

The bull market on the stock exchange and the higher rate of taxation on capital gains under the new law may account for some of the increase in tax revenue, he says.

He blames June's huge import figures on a number of factors, including speculative purchases of oil imports and "probably some speculative buying of imports out of fear of what Congress might do (on the trade bill)."

As for next month's figures, Mr. Ortner says he would be "both surprised and disappointed" if the deficit were not narrower.

IMPORT PRICES ARE HIGHER

Even considering speculative buying, however, many economists admit they are mystified about why imports are rising. According to the Bureau of Labor Statistics, the surge is occurring despite an increase of 14.5% in import prices since June of 1986.●

CRISIS IN LONG-TERM CARE FOR THE ELDERLY

● Mr. SASSER. Mr. President, I rise today to call attention to an article which appeared in the New York Times on Sunday, September 13, 1987. This article deals with an issue that I have been emphasizing for quite some time—the looming "crisis" in the financing of long-term care.

Mr. President, I use the word "crisis" not as a scare tactic. Rather, this is the finding of a Federal Advisory Commission on Long-Term Health Care Policies. As the article notes, the members of this 18-member blue-ribbon panel are virtually certain that the United States will soon face a crisis in financing long-term health care.

For the past several months, I have sought to focus attention on the question of long-term care. Many believe that we are moving to address this vital concern in the catastrophic health care legislation in both the House and Senate.

Unfortunately, that is simply not the case. While certainly a step in the right direction, the catastrophic health care proposals making their way through the 100th Congress simply do not deal with the issue of long-term health care. There is precious little in these bills that effectively addresses such issues as home, nursing home, and respite care that are necessary for victims of long-term illness.

As the Times article points out, our current Medicare system does even less to assist the elderly on long-term care matters. The Commission's report stressed the importance of acknowledging this major shortcoming in Medicare. Panel members said it was essential for the Government to publicize the fact that Medicare only provides "extremely limited" coverage of nursing home care, the single greatest long-term care expense. Indeed, last year Medicare paid less than 2 percent of the total spent on nursing home care.

It's absolutely shocking that Medicare fails to protect our Nation's elderly from this great expense. Perhaps even more shocking is the fact that private insurance paid an even smaller amount. Private insurors paid less than 1 percent of the $38 million spent on nursing home care last year.

Nursing home care is but one component of comprehensive long-term care for the elderly. As the Commission notes, only 29 percent of those who receive long-term care live in an institution. The same 28 million Americans 65 or older have other long-term care needs such as home health care. Yet, the panel reports that only 423,000 insurance policies for long-term care have been written by 73 companies.

Mr. President, as our population grows older, the pending crisis associated with long-term care can only get worse. As those over age 65 number 35 million in the year 2000, we will be faced with incredible strains and stresses on our health care system.

And let's be clear. The Federal Government is already facing at least a part of this crisis. With so few elderly Americans being able to afford long-term care insurance, most faced with long-term-care costs must turn to personal and family savings. Once that person has exhausted all of their own resources, then the Federal Government offers assistance.

For example, Medicaid, our Nation's health care program for the poor, pays for 42 percent of the elderly's nursing home costs. This is a tragic irony. Government won't pay for the elderly's long-term health care needs at the front end. But, the Government ends up paying for long-term care anyway because the elderly impoverish themselves trying to pay for it and end up on the Medicaid rolls.

Mr. President, we simply must assist our senior citizens before they put themselves in the poor house. We can give our seniors better care in a responsible manner. We can cut the financial costs of such assistance by using reasonable beneficiary premiums. And we can make the elderly's golden years much more trouble free as they should be.

The time to make these changes is now. The Census Bureau estimates that the number of America's senior citizens 65 years or older will increase 22 percent by the year 2000. By the year 2050, nearly a quarter of our Nation's citizens will be over 65. Think of all the suffering, and financial and emotional strain we can avoid if we address this problem now instead of putting it off year after year.

Mr. President, that is the message inherent in the report cited in the Sunday Times article. It is a message that we would do well to heed quickly. I have offered one legislative solution to the crisis of long-term health care in S. 454. The panel report sets forth a number of other ways of addressing this growing problem.

Whether we follow the path set out in my bill or some other approach, we must not dilude ourselves into thinking this problem will go away. We are moving in the right direction with the pending catastrophic health care bills. But clearly, we have far to go.

Mr. President, I think my colleagues would do well to read the Sunday Times article on the crisis in long-term health care. I ask that a copy of the article appear in the RECORD.

The article follows:

[From the New York Times, Sept. 13, 1987]

CRISIS IS PREDICTED IN CARE OF ELDERLY—U.S. PANEL WARNS OF EXPENSE OF LONG-TERM TREATMENT

(By Robert Pear)

WASHINGTON, Sept. 12.—A Federal advisory commission says that there will soon be a "crisis" in the financing of long-term health care and that the Government should provide tax incentives to reduce the expense of insurance covering the high cost of such care.

In a confidential draft of its final report, the panel says that public and private employers should also help employees and retirees obtain insurance for long-term care in nursing homes, other facilities and at home, much as they now offer insurance to cover hospital and doctors' bills. However, the panel opposes any statutory requirement for coverage.

The panel of 18 health and insurance experts emphasized that ordinary health insurance does not cover nursing homes and other forms of long-term care.

HUGE POTENTIAL MARKET

The report, scheduled to be issued later this month, says that workers should be able to withdraw money from pension plans and individual retirement accounts to buy insurance for long-term care.

The panel sees a huge potential market for private insurance: 50 million people 55 years old and over, most of whom are unprepared for the cost of nursing home care. The cost averages $22,000 a year nationwide, according to the Government, and in New York City it often exceeds $35,000 a year.

But Joshua M. Wiener, a researcher at the Brookings Institution who prepared a study for the panel, said, "Private insurance can play a much larger role, but will never be a panacea because only 30 percent to 40 percent of the elderly can afford it." For a person 65 years old, he said, premiums average $300 to $700 a year, and for a 79-year-old person, they often exceed $1,000 a year.

To date, the panel said, 423,000 insurance policies for long-term care have been written by 73 companies, mostly in the last two years. The number of policies is "infinitesimally small when we consider the potential market," the panel said.

Representative Ron Wyden, an Oregon Democrat who introduced the legislation that created the panel last year, said its recommendations would have a powerful influence on Congress. He said he would push to get some of them adopted this year.

Dr. Otis R. Bowen, the Secretary of Health and Human Services, also supports most of the recommendations, according to his aides. The White House and the Treasury are still studying the proposals.

In its report, the panel says that employers and individuals should be allowed to take tax deductions for the premiums they pay on insurance for long-term care. Benefit payments should not be subjected to any tax, it said.

Moreover, it said, insurers should be able to take a tax deduction for money they set aside in reserves to pay benefits under contracts covering long-term care. Likewise, income earned from an insurer's investments should not be taxed if it is required to meet future obligations to policyholders, the panel said.

Such tax preferences would permit insurers to offer coverage at a lower cost, the panel said. More people would then buy coverage and they could do so at an earlier age, the report said.

Similar tax benefits are already available for life insurance and for the usual types of health insurance covering hospital and physician services. But under current law, there is much uncertainty about the tax treatment of insurance for long-term care.

The panel said that "long-term care means much more than nursing home care." It also refers to home health care and various services provided to people who need help with daily activities like dressing, bathing and eating. Only 29 percent of the people receiving long-term care live in an institution, the report said.

DESCRIPTION OF PANEL

The panel, the Task Force on Long-Term Health Care Policies, was created by Congress in April 1986 to investigate the potential market for private insurance. It held six public hearings, commissioned several studies and consulted many experts.

The members, all appointed by Dr. Bowen, include two state insurance commissioners, one Federal health official, two state health officials, two insurance executives, two officers of groups representing the elderly and several providers of long-term care. The chairman was Daniel P. Bourque, senior vice president of Voluntary Hospitals of America, an alliance of more than 760 nonprofit hospitals.

Private insurance paid less than 1 percent of the $38.1 billion spent on nursing home care last year, according to the Department of Health and Human Services. Fifty-one percent of the total, or $19.4 billion, was paid by nursing home residents and their relatives.

Medicaid, the Federal-state insurance program for low-income people, was the other main source, paying $15.8 billion, or 41 percent of the total. Though originally established for the poor, Medicaid finances nursing home care for many middle-class people who have exhausted their own resources.

CRISIS CALLED A CERTAINTY

The panel said it was essential for the Government to publicize the fact that Medicare, the Federal health program for the elderly, provides "extremely limited" coverage of nursing home care. Last year it paid $613 million, or less than 2 percent of the total spent on such care, according to Government data.

Members of the panel said the aging of the population made it virtually certain that there would be a crisis in financing long-term care. The Census Bureau estimates that the number of Americans 65 years old and over will rise 22 percent, from 28.6 million in 1985 to 34.9 million in the year 2000. But the population of those 85 and over, which is most likely to need long-term care, will increase 81 percent, to 4.9 million from 2.7 million, the bureau said.

The panel also made these points:

State insurance regulators "should recognize the experimental nature of long-term care insurance." The Federal Government should not prescribe minimum benefits or other standards unless state regulators fail to protect consumers.

People should not be automatically disqualified from buying insurance for long-term care merely because they have previously been in a nursing home or a hospital.

People who have bought insurance for long-term care should generally be able to renew their policies until they die or exhaust the benefits. Workers should not lose their coverage when they change employers.

If insurance for long-term care becomes more widely available, it could accelerate the demand for nursing home facilities, the panel said. The supply of beds should keep up with the demand, it added.●

200TH ANNIVERSARY OF ERASMUS HALL HIGH SCHOOL

● Mr. D'AMATO. Mr. President, I rise today to commemorate the 200th anniversary of Erasmus Hall High School in Brooklyn, NY.

As the oldest secondary school in New York State and the second oldest in the country, Erasmus Hall High School has much to be proud of. Erasmus Hall has made great contributions to the development of secondary education. It was the first secondary school in America to have a school library and employ a professional librarian; it originated the Arista Honor Society; it administered the first regents examinations.

Erasmus Hall opened its doors on September 27, 1787, just 10 days after the signing of the U.S. Constitution. The school was founded by Dutch settlers in Brooklyn and named for Desiderius Erasmus, a 16th century Dutch philosopher and scholar known for his philosophy of honest inquiry, intelligent curiosity, and a tolerance for all that is good in humanity. Only 26 boys were enrolled in the first class, but the school later began admitting women in 1801.

Two hundred years and a quarter million students later, Erasmus Hall High School remains most innovative in secondary education. It has nevertheless guarded many of the traditions upon which it was founded and still cherishes the original philosophy of its namesake, Desiderius Erasmus.●

NATIONAL POW/MIA RECOGNITION DAY

● Mr. BINGAMAN. Mr. President, today we observe "National POW/MIA Recognition Day." It is a time when all Americans unite to remember the thousands of men and women who fought in our wars and were captured by the enemy or are missing in action. From the Vietnam war there are still over 2,400 men missing.

The sacrifice of these soldiers is beyond what the average citizen can understand. There is no way to understand the brutal and inhumane treatment to which they have been subjected. The families of these courageous young men have suffered immeasurably because of the uncertainty of their loved ones' fate.

Public awareness of the plight of these brave men and the families who long for their return, has made possible the negotiations with the governments holding these men. I commend the veterans organizations, POW/MIA organizations, civic groups, and private citizens whose joint efforts demonstrate to the Vietnamese, Cambodian, and Laos governments that we will not give up our demand for a full accounting of our missing.

This year, the administration has been successful in securing the return to their families the remains of several more of our missing soldiers. I applaud President Reagan for the priority which he has placed on negotiating the return of our POW's and MIA's, and his perseverance in resolving this important humanitarian issue.

But, today, I also want to express my heartfelt sorrow to the families who still have missing loved ones in Southeast Asia. I look forward to the time when their courage and dedication leads them to a successful end to their search.●

ROALD AND GALINA ZELICHONOK, CALL TO CONSCIENCE

● Mr. BINGAMAN. Mr. President, I wish to add my voice to the Congressional Call to Conscience on the plight of Soviet Jews.

Despite the recent release of several prominent Jewish refuseniks from the Soviet Union, the majority of them still face an absolutely deplorable situation. Although I am pleased each time I receive news that someone who has been awaiting permission to emigrate has been granted an exit visa, such good news must be considered in the sobering context of the other thousands of Soviet citizens who have been denied their human rights, persecuted, imprisoned, and denied the right to emigrate. An estimated 400,000 Jewish Soviet citizens have been denied this basic right.

I would like to call attention to the plight of one refusenik couple of particular interest to me. During a visit to the Soviet Union in 1985 I met Mrs. Galina Zelichonok of Leningrad. Her husband, Roald, had just been sentenced to 3 years in a Soviet labor camp on the charge of slandering the Soviet state and its social system. His real crime in the eyes of Soviet officials was his involvement in the promotion of Jewish culture. Despite poor health, aggravated by severe hypertension, Roald had by then already been subjected to solitary confinement and denied medical treatment. Galina had periodically had all her mail cut off, and though nearly blind and an invalid herself, she had been harassed in various other ways.

Subsequent to my 1985 trip, I wrote on several occasions to Soviet officials about the Zelichonoks' plight. I was gratified in February of this year, when Roald was released from the labor camp and allowed to return to Leningrad. This accompanied the return of Andrei Sakharov to Moscow and the release of several other prominent prisoners of conscience. Unfortunately, the Zelichonok's situation is still difficult. After his release Roald requested to be reinstated at the Institute of Cytology where he had worked before his arrest. The institute denied the request, claiming that the research in which he was engaged has been discontinued in spite of the fact that there were six vacancies, among them two for senior engineers, Roald's former position, on their bulletin board. Meanwhile Roald is under threat of arrest for parasitism. Galina, who urgently needs medical attention for her heart and eyes, is afraid to seek it, fearing Roald will be rearrested in her absence.

We must do everything in our power to ensure the right of free emigration from the Soviet Union. Though the emigration of Soviet Jews has increased in 1987, we are far from the pace which saw 51,000 emigrate in 1979. We must apply continuous pressure on the Soviet Government until all those who wish to obtain visas have been allowed to do so.

I would like to commend the 47 of my colleagues in the Senate who recently joined me in writing to General Secretary Gorbachev urging the release of the Zelichonoks on humanitarian grounds. We also wrote to Secretary of State Shultz urging him to take advantage of his meetings with Soviet Foreign Minister Shevardnadze to address the plight of the Zelichonoks, and to request that the Department of State to raise the Zelichonok family's situation in any other appropriate settings.

At the conclusion of my remarks I will submit these letters for the RECORD.

I would like to take this opportunity to congratulate the Union of Councils for sponsoring the Congressional Call to Conscience and to urge all my colleagues to participate in this important effort to promote human rights in the Soviet Union.

The letters follow:

U.S. SENATE,
Washington, DC, September 4, 1987.

Mr. MIKHAIL SERGEEVICH GORBACHEV,
General Secretary, Central Committee, Communist Party of the Soviet Union, The Kremlin, Moscow, U.S.S.R.

DEAR MR. GENERAL SECRETARY: We have noted your recent personal intervention to ease the exit of Soviet Jews and other minorities wishing to emigrate from your country. A significant increase in emigration to the levels that prevailed eight years ago would certainly contribute to improving the climate between our two countries on the eve of the hoped-for Washington summit later this year. We hope that in the future the new emigration policy will allow for expeditious processing of all requests for exit visas, making appeals for individual cases unnecessary.

Meanwhile, however, we request you expedite the cases of Roald and Galina Zelichonok of Leningrad. We were encouraged by Roald's early release from labor camp in February, but remain concerned by his and his wife's deteriorating health, his inability to find work due to the obstacles placed in his way by local officials, and the continued denial of their request to emigrate.

We strongly believe in the concepts set forth in the 1974 Helsinki Final Act, to which both our nations are signatories. The right of individuals to emigrate freely is one such concept, and one we embrace wholeheartedly.

We appreciate your attention to our humanitarian appeals and ask you to look into this matter personally. Resolution of this and other similar long-term exit visa cases would be seen as a very positive step toward allowing the free emigration promised in the Helsinki Accords.

Sincerely,

William S. Cohen, David L. Boren, Jeff Bingaman, Richard G. Lugar, Don Nickles, Christopher S. Bond, Dale Bumpers, Alan J. Dixon, Charles E. Grassley, John McCain, Daniel P. Moynihan, David Pryor.

Harry Reid, John D. Rockefeller IV, Howard M. Metzenbaum, Bill Bradley, Paul S. Sarbanes, Dennis DeConcini, J. James Exon, Jake Garn, Nancy L. Kassebaum, William Proxmire, Paul Simon, Steve Symms.

Daniel K. Inouye, Orrin G. Hatch, Brock Adams, Arlen Specter, Frank R. Lautenberg, John F. Kerry, Carl M. Levin, Alfonse M. D'Amato, Donald W. Riegle, Jr., George J. Mitchell, Ernest F. Hollings, Mark O. Hatfield.

Bob Graham, J. Bennett Johnston, Timothy E. Wirth, John C. Danforth, Pete Wilson, Thomas A. Daschle, Barbara A. Mikulski, Lawton Chiles, Paul S. Trible, Jr., Warren B. Rudman, Joseph R. Biden, Jr., John H. Chafee.

U.S. SENATE,
Washington, DC, September 4, 1987.

Hon. GEORGE P. SHULTZ,
Secretary of State,
Washington, DC.

DEAR MR. SECRETARY: We are writing you out of concern for Roald and Galina Zelichonok, Soviet Jews who have been denied the right to emigrate.

Mr. Zelichonok is a mainstream, well-respected former prisoner of conscience who recently was released after 18 months of a 3-year labor camp internment on the charge of having slandered the Soviet state. His real crime was the teaching of Hebrew and attempting to preserve Jewish culture. Upon his return to Leningrad, Mr. Zelichonok was not allowed to return to his former job at the Institute of Cytology, despite the fact that announced vacancies in his field exist, and, therefore, he is facing possible charges of parasitism. Mr. Zelichonok has, however, received an offer of employment from Roosevelt University in Chicago.

Both Mr. and Mrs. Zelichonok have severe medical problems, his aggravated by his imprisonment, hers by stress and by the reluctance to seek medical attention, for fear of his rearrest in her absence. Further denial of permission to leave the Soviet Union can only serve to worsen their already deteriorating medical condition.

We ask that you take advantage of your September pre-summit meeting with Foreign Minister Shevardnadze to address the plight of the Zelichonoks, and that the Department of State raise the Zelichonok family's situation in any other appropriate settings.

Sincerely,

William S. Cohen, David L. Boren, Jeff Bingaman, Richard G. Lugar, Don Nickles, Christopher S. Bond, Dale Bumpers, Alan J. Dixon, Charles E. Grassley, John McCain, Daniel P. Moynihan, David Pryor.

Harry Reid, John D. Rockefeller IV, Howard M. Metzenbaum, Bill Bradley, Paul S. Sarbanes, Dennis DeConcini, J. James Exon, Jake Garn, Nancy L. Kassebaum, William Proxmire, Paul Simon, Steve Symms.

Daniel K. Inouye, Orrin G. Hatch, Brock Adams, Arlen Specter, Frank R. Lautenberg, John F. Kerry, Carl M. Levin, Alfonse M. D'Amato, Donald W. Riegle, Jr., George J. Mitchell, Ernest F. Hollings, Mark O. Hatfield.

Bob Graham, J. Bennett Johnston, Timothy E. Wirth, John C. Danforth, Pete Wilson, Thomas A. Daschle, Barbara A. Mikulski, Lawton Chiles, Paul S. Trible, Jr., Warren B. Rudman, Joseph R. Biden, Jr.

THE AMTRAK PRIVATIZATION OPTION

● Mr. HUMPHREY. Mr. President, on August 5, the Senator from New Jersey [Mr. LAUTENBERG] submitted for the RECORD a letter from Amtrak President W. Graham Claytor, Jr., intended to rebut a U.S. Chamber of Commerce policy working paper entitled "Amtrak and the Privatization Option." My colleague from New Jersey urged Senators to read the letter in assessing Amtrak.

In the interests of fairness, I would like today to submit the chamber's response, in the form of a letter from its President, Dr. Richard L. Lesher. My views on Amtrak privatization differ from Senator LAUTENBERG's—I view Amtrak privatization as an option bearing close scrutiny as we attempt to address the massive Federal budget deficit.

Regardless of one's views on the issue, however, it is one which deserves our careful inspection. We owe it to our constituents to look for ways to lower their tax burden while improving the efficiency of our national transportation network. I urge my colleagues to examine Dr. Lesher's ideas as they form their views on the Amtrak issue.

I ask that the text of the Lesher letter be included in the RECORD.

The letter follows:

CHAMBER OF COMMERCE,
Washington, DC, September 9, 1987.

Mr. W. GRAHAM CLAYTOR, Jr.,
President, Amtrak, National Railroad Passenger Corporation, 400 North Capitol Street, NW., Washington, DC.

DEAR MR. CLAYTOR: Thank you for your letter dated July 15, 1987 and for taking the time to review in detail Ms. Ohri's Policy Working Paper entitled, "Amtrak and the Privatization Option." After carefully considering your concerns and reviewing the paper, I can state at the outset that we stand by our analysis that Amtrak offers an excellent privatization opportunity.

I found your letter to be quite interesting, informative and certainly revealing in terms of the many problems you confront in managing a public enterprise. What was especially interesting, however, were the issues you did not discuss and what parts of Ms. Ohri's paper you did not address. Specifically, we hoped that you would confront the issue of why American taxpayers must pay more than a half a billion dollars to subsidize a form of transportation when consumers have so many other choices available to them from private, unsubsidized providers. We also want to know why this cost should be incurred in an era of $180 billion dollar deficits that have forced Congress to raise taxes even higher, cut back on national defense spending and severely limit funding for a whole range of other programs, such as education and basic welfare. These issues ought to be the key concerns and are the reasons we chose to address Amtrak in our working paper series.

In reading your letter, I now discover that the subsidy problem is even worse than we imagined: a nine dollar subsidy per passenger per meal served on Amtrak trains? That has to be more than what we pay per meal for needy food stamp recipients and certainly more than what many working people would have to pay for lunch in downtown Washington at a typical privately-owned, tax-paying restaurant.

Nonetheless, you did raise a number of questions about some small points that appeared in Ms. Ohri's article, and I appreciate your giving us the opportunity to reply.

Limiting my response to just the substantive concerns, both in the letter and elsewhere you have said that other modes of intercity travel (airlines and highways) are more heavily subsidized than Amtrak. Several critics of Amtrak (Steve Moore, Andrew Selden, John Semmens) have refuted this allegation on numerous occasions. In a February 22, 1985 news conference, you claimed (as you do in this letter) that competing forms of intercity transportation have large hidden subsidies. You then stated that the government spends about $42 subsidizing each airline passenger, compared with $34 per passenger Amtrak subsidy. Some suggest this claim clearly rests on flawed analysis. Steve Moore and John Semmens for example, both demonstrate that what Amtrak actually does is to count the legitimate business tax deductibility of air travel as a "subsidy." By that reasoning, every firm that deducts expenses from its gross revenue to determine profits and tax liability is subsidized by the government. Amtrak also neglects to note that direct federal subsidies to air travel, such as the cost of operating the air traffic control system, are almost completely covered by user fees and taxes; indeed, billions of dollars raised by user fees charged air passengers have in recent years been used to reduce the overall deficit rather than improve the air control system.

When the federal government originally nationalized the passenger railroads in 1971, Congress assured the taxpayers that Amtrak would soon be operating as a "self-sustaining corporation." Indeed, the taxpayers were also told that it was supposed to be a two year "noble experiment." In short, Congress intended to eventually return Amtrak to private hands after a temporary infusion of federal funds. Had Congress believed otherwise, it is doubtful that they would have agreed to take it on, since doing so would entail a perpetual subsidy. Now we are told that American taxpayers were naive to have believed this. This is disturbing information, because I am certain that a public referendum on the issue would show a great majority of Americans in favor of privatization of Amtrak if they knew the costs to them as taxpayers.

We concede that an error was made when we asserted that the number of passenger miles recorded on the Northeast Corridor decreased since 1981 when in fact they have turned up in the last few years. However, it is important to note that although Amtrak passenger miles have increased by 17 percent since 1981, airline passenger miles have increased far more rapidly, by 47 percent over the same period, and they did this without any federal subsidy. Of course, these differential growth rates indicate that passenger railroad's market share of intercity traffic has fallen substantially. Thus, what is seen as a success in one dimension with selected facts, actually demonstrates further slippage in customer appeal when all the facts are considered.

Although Amtrak's labor improvements are commendable, these reforms fall short of changes that a private corporation could have achieved. As Steve Moore and Warren Brookes have pointed out, Class I freight train workers have achieved a 100 percent productivity improvement record since deregulation in 1970.

On another matter, you contend that Ms. Ohri's paper is just a reprint of the thoroughly rebutted Heritage Foundation paper. A thorough study will reveal that is not so. Upon receipt of your letter, we did contact the folks at Heritage and they tell us that they know of no rebuttal of their paper.

I want to reiterate my view that Amtrak can and should be privatized and that opportunities for management efficiencies remain. We appreciate all that you have accomplished and know that you are doing your best under difficult circumstances.

In closing, let me offer you an opportunity to take your message nationwide in a fair and open debate on our Ask Washington television show. The show airs daily for 60 minutes and reaches a potential audience of 24 million. Taking the opposing position would be an expert on privatization and federal spending who would make the case against continued taxpayer support for Amtrak. This will offer you a unique opportunity to confront your critics and to take your message to the public.

Again, thank you for taking the time to read our paper and to provide us with your detailed response. If you are interested in pursuing the opportunity to appear on our television show, please contact Bonnie Ohri, our Staff Economist, who will help arrange a time that is convenient for you and your opponent.

Sincerely,

RICHARD L. LESHER.●

CENTRAL AMERICA PEACE NEGOTIATIONS AND CONTRA AID VOTES

● Mr. DOMENICI. Mr. President, I would like to take a minute of the Senate's time to explain for the RECORD my vote last night on amendment 694, authorizing aid to the Nicaraguan Resistance.

I voted to table Senator HELMS' amendment to authorize $310 million for military assistance to the Contras. While I may vote for additional military aid if the peace negotiations collapse, I am not prepared to do so now. This is the time to support efforts by our President and the Central American democracies to peacefully pry Nicaragua out of the Soviet bloc.

The President and Speaker WRIGHT agreed last month to put the Contra funding issue aside until September 30. That will allow all of us here and in Central America to focus on efforts that we pray will lead to a more peaceful and democratic region. Although most of us doubt the good faith of the Sandinista rulers in Nicaragua, we owe Cardinal Obando Y Bravo and our other democratic friends down there a window of time for peace.

We have been assured by the Nicaraguan Resistance that existing funding will carry them well into the month of October. When the first contining resolution for the 6-week period beginning October 1, 1987, comes before the Senate Appropriations Committee at the end of this month, I will support efforts to sustain the Nicaraguan Resistance as the Central American peace negotiations approach the November 7 deadline. Subsequently, those negotiations will influence what Congress provides for Nicaragua in the final appropriations bill for fiscal 1988.●

TAKEOVER BY THE SMITHSONIAN MUSEUM OF THE MUSEUM OF THE AMERICAN INDIAN

● Mr. D'AMATO. Mr. President, I rise today in opposition to legislation to be introduced by my friend, the senior Senator from Hawaii [Mr. INOUYE], proposing a takeover of the Museum of the American Indian [MAI] by the Smithsonian Museum. I have the deepest respect and admiration for Senator INOUYE. However, I am compelled to oppose his legislation that would take an established New York institution to Washington, DC.

Mr. President, for 10 years the Museum of the American Indian has sought a new location. Currently, MAI has display space at 155th Street in Manhattan and storage space in the Bronx. The museum's usable display space amounts to only 40,000 square feet. It is clear that MAI requires more space to adequately display its fabulous collection. However, for years New York's political and cultural leaders have been unable to agree on where MAI should move.

The discord surrounding this issue dissipated when Mayor Koch and I endorsed a plan to move MAI into the U.S. Customs House located in downtown Manhattan. Legislation has been introduced by my senior colleague from New York, Senator MOYNIHAN, to convey the Customs House to MAI. Mayor Koch and I generally support this legislation.

Mr. President, since New York's political leadership has unified behind the plan to find MAI more space, there is no need to consider legislation moving the museum to Washington. It is time for Smithsonian to stop exploiting a New York dispute. It is also time for the board of MAI to reject any plan to leave New York City.

Furthermore, the Smithsonian option is too expensive. The proposed legislation would cost at least $100 million in Federal taxpayer dollars to build a new building on the Mall for MAI. At a time when the Federal Government faces demands to increase spending for housing, AIDS research and health insurance for the elderly, we cannot afford to needlessly spend $100 million.

Mr. President, through my position on the Appropriations Committee I intend to do everything in my power to fight the Smithsonian's hostile takeover of a New York institution. As a Senator from New York, I am obligated to undertake whatever action is necessary to stop outsiders from raiding New York State's cultural resources.●

MICRO-ENTERPRISE LOANS FOR THE POOR ACT

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 998, the Micro-Enterprise Loans for the Poor Act, which has been introduced by my distinguished friend and colleague, the senior Senator from Arizona. S. 998 would make small loans available to those who are in most desperate need and who would reap the most substantive benefits from U.S. assistance.

The poor majority in many underdeveloped countries have no prospects for advancement in the future because they do not have access to credit. In order to gain access to credit through normal channels, some form of collateral is usually required. This is impossible for the people at whom this legislation is aimed. If given access to productive credit, those people will, for the first time, have the potential to support themselves while contributing to their respective local economies.

This legislation is particularly attractive because it is available at no additional cost to the American taxpayer. By supplying aid directly to the private sector these moneys will have the chance to make an immediate impact on the lives of the most destitute.

S. 998 would provide $50 million in loans available for fiscal year 1989 strictly for micro- and small-size businesses. It is estimated that over three-quarters of the world's businesses are microenterprises. With the availability of intermediary agencies already in place to execute these small business loans, the costs of administering the loan programs would not constitute a significant drain on aid resources.

Organizations like FINCA and CARE have already demonstrated that programs similar to those proposed by S. 998 can accrue a high percentage of payback on microloans. Countries in which loans have already been available to micro and small businesses have enjoyed an impressive degree of success. These countries include Bangladesh, Indonesia, India, Nepal, Colombia, as well as several other nations that suffer through some of the most devastating poverty in the world. The high percentage of paybacks coupled with the invaluable amount of self-esteem and confidence that these programs instill, make loans to micro and small enterprises under this proposed legislation a priority that must not be ignored.

Millions of people die of hunger and hunger-related illnesses every year. Although direct aid programs have greatly helped this tragedy, a concurrent program to develop small enterprises will have greater long-term success against poverty and hunger. The provision of loans and related services to the very poorest people in the developing nations of the world should be an imperative function of U.S. aid. S. 998 would direct loans to those in the poorest 20 percent of the households in most recipient countries, and by adding the further stipulation that in the least-developed countries, the loans can be made available to the poorest 50 percent. In short, the Micro-Enterprise Loans for the Poor Act represents an excellent means of transforming the lives of some of the world's most impoverished people.

These small loans represent one of the most effective vehicles of foreign aid that the United States has at its disposal. U.S. aid in the form of loans concentrated on the large number of these microenterprises will contribute to the economic well-being of the ailing global community. Let's take full advantage of our resources to help the poorest of the world's poor in the most efficient capacity available. The Micro-Enterprise Loans for the Poor Act offers the ability to do as much as we can with as much that we have. I urge my colleagues to join me as a cosponsor of this legislation.●

SCHOOL DROPOUTS

● Mr. McCONNELL. Mr. President, I want to bring to the attention of the Congress a unique, community-spirited program by Ashland Oil, Inc., of Kentucky. This year the regional advertising theme for Ashland Oil is the problem of school dropouts. Ashland Oil recently announced that they were devoting its entire corporate regional advertising campaign, for the fifth consecutive year, to increasing the quality of education.

The dropout problem is especially severe in Kentucky with 1 out of 3 students in my State dropping out of school before graduating from high school. Almost half of Kentuckians 25 years or older have not completed high school. This, along with Kentucky's high illiteracy rate, contributes to economic and unemployment problems throughout the State. Ashland's program will hit the problem with a series of television and radio commercials which will identify the problem; discuss the consequences of dropping out; encourage parents to help on keeping children in school, and show the benefits of graduating.

In the near future, there will also be outdoor, newspaper and magazine advertising to highlight the problem. In addition, Ashland is sponsoring an awareness building program entitled, "A Day on Campus" which is designed to put elementary through junior high students on a college campus for a day. Other aspects of the campaign on dropouts is a free brochure on the dropout rate and suggestions for alleviating the problem, and a speaker program for schools and civic organizations.

This is a serious commitment on the part of a responsible corporate citizen to identify a program and do something about it. I want to commend Ashland for its initiative again this year and encourage other companies to address community or statewide problems in such a positive manner.●

INFORMED CONSENT: MASSACHUSETTS

● Mr. HUMPHREY. Mr. President, today I would like to insert into the RECORD a letter from the State of Massachusetts in support of my informed consent bill. Miss Canu's letter is one of hundreds of letters that has been sent to my office of women who have been traumatized by abortion.

No matter where you stand on the abortion issue, you must agree that informed consent, which is standard medical procedure, must be applied to termination of pregnancy as well. I urge my distinguished colleagues to support S. 272 and S. 273.

The letter follows:

BROOKLINE, MA,
May 29, 1987.

DEAR SENATOR HUMPHREY: I have founded the Massachusetts Chapter of Feminist for Life because of Pro-life stance. Not only have I suffered a life time of loss of self-esteem because of my history, I have recently lost a 16-year old girl who killed herself because she was not emotionally equipped to deal with the guilt from her abortion.

I have been involved in the Pro-life movement for a mere 3 months. Not only do I receive mail every day from other women, I hear stories from other women who have had complications following abortion. The truth is not given to these women at the abortion clinics.

I might also add that I married my ex-husband because of my anger towards him about an abortion, needless to say, ruining not only my life but his, and the life of our son. I can attest to the fact that the pain never goes away, even after extensive psycho-therapy.

My medication for depression cost $50 a month. I urge women who plan to have abortions to consider the risks involved, what price they will ultimately pay for their self-esteem.

Sincerely,

ROCHEL CANU.●

TRIBUTE TO ST. MARY'S HOSPITAL AND THE SETON BRANCHES

● Mr. D'AMATO. Mr. President, I rise today to commemorate the 130th anniversary of St. Mary's Hospital in Rochester, NY and pay special tribute to the women of Seton who have been indispensable in assisting St. Mary's for the past 82 years.

In September 1857, three Daughters of Charity opened their doors at the corner of West Main and Genesee Streets to care for the victims of the cholera epidemics of 1855 and 1856. From this time through the present, St. Mary's has been providing quality health care for Rochester's community.

Forty-eight years later, the "Seton branches" formed. The "Seton branches" were 12 groups of women who organized in the spirit of the Daughters of Charity to assist St. Mary's by volunteering their services and holding various fundraising activities.

Today, there are more than 60 Seton branches that continue to uphold the the same values and traditions of the three Daughters of Charity and their namesake St. Elizabeth Ann Seton. They are as committed to St. Mary's today as they were in 1905. Their efforts have proven effective and have resulted in over $130,000 to be donated to St. Mary's this year.

I am honored to participate in this year's "Salute to Seton" and recognize the Seton branches for their years of dedicated service to St. Mary's and the people of Rochester.●

NATIONAL HISPANIC HERITAGE WEEK

● Mr. BINGAMAN. Mr. President, I wish to invite the attention of my colleagues to Public Law 90-498, authorizing the President to proclaim the week including September 15 and 16 as "National Hispanic Heritage Week." President Lyndon B. Johnson first made this proclamation in 1968.

It is the tradition of our country to cherish and conserve all the diverse cultures which have contributed to this Nation's greatness. Many of our country's States, particularly in the Southwest, include cities and towns which proudly bear Spanish names—the capital of my home State of New Mexico, Santa Fe, is just one example. Many of these cities and towns were initially developed by Hispanic pioneers. It was the Spanish who were the first Europeans to settle the region that is now the Southwestern States.

Mr. President, this week as part of "National Hispanic Heritage Week," over 100 Hispanic student leaders representing States from all across the country, will be participating in a "Leadership in Literacy" symposium.

"Leadership in Literacy" is to encourage literacy and leadership in the Hispanic community. By setting up volunteer tutoring programs, Hispanic students hope to curb the increasing drop out rate among their fellow Hispanics. I applaud members of the New Mexico delegation of students, Eloy Martinez, Monica Sanchez, Linda Aragon, Nina Martinez, and Alfredo Ponce. I also commend the unconfirmed delegation members, Donald Gallegos, David Proper, John Martinez, Mary Jo Lujan, Michael Gallegos, and Debra Montoya and their adult escorts Leo Montoya and Edna Gallegos, and the members of all the State delegations for their efforts in moving forward with this initiative.

The problem of illiteracy of the United States has reached epidemic proportions. Such initiatives as "Leadership in Literacy" are giant steps in overcoming this problem. There is, however, more to be done. Here in the Congress we can take steps of our own to change the illiteracy trends. Last March, I introduced the English Proficiency Act of 1987. This legislation focuses on helping adults and out-of-school youth whose native tongue is not English to become literate in English.

There are over 18 million Hispanics in the United States today. They are the fastest growing minority in the country, and the illiteracy rate among them is a startling 54 percent. In New Mexico, 37 percent of the population is Hispanic. According to a recent Commerce Department study in New Mexico, Hispanics represented the highest drop out rate—8.1 percent compared to 5.8 percent of Anglos. These statistics have serious implications for the future of the Hispanic community. The English Proficiency Act would generate some of the funding needed to bring some necessary adult education to the rural areas of the Nation.

I am proud to support the efforts of the "Leadership in Literacy" initiative. I believe that its diligent efforts will help shape the future of the Nation's Hispanic community, and be of enormous benefit to the country as a whole.

We approach the 500th anniversary of the Hispanic presence in America, which began with Christopher Columbus. We also will soon celebrate the 450th anniversary of the great expedition of Francisco Vasquez de Coronado, whose search for the Seven Cities of Cibola led him through Arizona, New Mexico, Texas, Oklahoma, and Kansas. This aspect of the Hispanic heritage I hope to preserve by the enactment of the Coronado National Trail Study Act of 1987, which I introduced this week. I believe that these great events, as well as the many other contributions Hispanics have made to our nation throughout its history deserve the recognition and public awareness "National Hispanic Heritage Week provides".

THE DAVIS-BACON ACT

● Mr. HUMPHREY. Mr. President, enforcement problems associated with the Davis-Bacon Act continue to plague the Federal Government's construction programs despite gradual implementation of the Reagan administration's commonsense regulatory changes.

The Wage Appeals Board [WAB]—a nonstatutory quasi-court located within the Department of Labor—recently issued another baseless opinion expanding the scope of the 56-year-old Davis-Bacon Act. Astonishingly, this decision comes almost simultaneously with a Department of Jusitce decision settling a similar interagency dispute by ruling against the Wage Appeals Board's expansionary proclivities.

INTERAGENCY DISPUTE NO. 1: HUD VERSUS DOL

In October of 1986, the Justice Department was asked by the Secreatry of Housing and Urban Development for an opinion to settle a dispute between the DOL and HUD. Their dispute concerned differing interpretations of section 110 of the Housing and Community Development Act of 1974, the Davis-Bacon wage requirement for urban development action grants [UDAG] and community development block grants [CDBG].

Since enactment of the two programs, HUD has made numerous grants that consistently and clearly exempted designated private construction work from the ambit of the Davis-Bacon Act. This exempt work was that part of a UDAG or CDBG project that resulted from the use of Federal funds, but not actually utilizing Federal dollars in the construction of the end product.

But in late 1985, the building trades appealed a HUD-UDAG grant made to the city of Muskogee, OK, that explicitly exempted the construction of a new mall—built with private funds—from the requirements of the Davis-Bacon Act. Davis-Bacon wages were properly required for site clearing and other construction performed with Federal funds. Dissatisfied, the building trades wanted the entire package to be covered under the Davis-Bacon Act. They brought the issue before the WAB.

The Wage Appeals Board, that impartial dispenser of justice, held in December of 1985 that all construction resulting from a UDAG grant, regardless of the funding source, was indeed covered by the Davis-Bacon Act. However, the Board wisely chose to avoid a court challenge to this unsupportable decision by not applying the underlying holding to the city of Muskogee's UDAG grant. HUD continued to hold to its original interpretation and asked the Justice Department to settle the dispute.

In August of 1987, the Department of Justice rejected the Wage Appeals Board's decision and upheld HUD's interpretation of the Housing Act: Davis-Bacon wage rates are inapplicable to private construction projects financed without Federal funds, even though the project was made possible by, and in conjunction with, a UDAG or CDBG grant.

INTERAGENCY DISPUTE NO. 2: DOL VERSUS GSA

In June of this year, the Wage Appeals Board issued another expansionary decision over a similar dispute with the General Services Administration [GSA]. The Board ruled that a GSA contract to lease a building—not yet constructed—for a Veterans' Administration clinic required the payment of Davis-Bacon wage rates. GSA has been leasing privately owned and constructed buildings for Government use for 20 years and this is the first attempt by the Wage Appeals Board to change their modus operandi.

GSA has announced that it will follow the example of HUD and appeal the WAB holding to the Justice Department on the same basis that HUD appealed the first ruling.

Wage Appeals Board decisions—frequently crafted for the sole purpose of expanding the scope of the Davis-Bacon Act—often cost the taxpayers dearly. Had the city of Muskogee decision not been rejected by the Department of Justice, Davis-Bacon wage requirements would certainly drive all private sector participation from UDAG and CDBG projects. Construction costs would increase accordingly or projects would never get off the ground.

The Secretary of Labor should give serious thought to abolishing the Wage Appeals Board altogether unless decisions of this type stop.

Mr. President, I ask that two editorials be printed in the RECORD. The first editorial, from the New York Times, is supportive of the Justice Department's intervention; the second editorial, from the Engineering News-Record sheds further light on the latest interagency controversy between GSA and DOL/WAB.

The editorials follow:

A WELCOME ATTACK ON DAVIS-BACON

The Davis-Bacon Act was conceived during the Depression as a way to protect Northern construction workers, most of them white, from job competition on Federal projects with Southern blacks who would work for less money. The law is still on the books, 54 years later, inflating the cost of Government construction and sticking taxpayers for the gravy. Now, however, the Justice Department has issued a welcome ruling that may limit the scope of Davis-Bacon.

The ruling says that contractors on federally assisted community development projects must pay "prevailing wages"—the basic Davis-Bacon requirement—only where Federal funds are used for actual construction. Prevailing wages need not be paid when the funds go for such things as land purchases or fees for architects or engineers.

Samuel Pierce, the Secretary of Housing and Urban Development, who sought the ruling, said it could reduce the cost of projects built with Federal community development funds by as much as 25 percent. The Government last year distributed $3.3 billion of such funds to about 5,700 local government entities for use in a wide range of programs for people of low and moderate incomes.

To some extent, the Justice Department ruling is the product of legal sophistry. Purchasing land and paying architects and engineers are necessary to construction, if not necessarily part of it. But sophistry is nothing new where Davis-Bacon is concerned. Over the years, Labor Department interpretations have made the term "prevailing wages" synonymous with "union wages," even where non-union construction is common.

The result has been to discourage non-union contractors from bidding on Government projects and to inflate the cost of Government construction. The Congressional Budget Office estimated last year that Davis-Bacon adds $900 million a year to Federal building costs.

A spokesman for the A.F.L.-C.I.O. condemned the new Justice Department ruling and said the organization would try to overturn it in court. That was to be expected. But Davis-Bacon is the most egregious kind of special-interest legislation. The Justice Department's effort to narrow its scope deserves to succeed.

STOP STRETCHING THE DAVIS-BACON ACT

The ruling by the Labor Dept.'s Wage Appeals Board that the Davis-Bacon Act applies to the construction of a building owned by a private developer and leased to a federal agency is preposterous (see p. 11). This administrative tribunal is bootstrapping itself up, using its 1985 ruling in the *Fort Drum* case to expand the scope of the federal prevailing-wage law.

Rarely are federal statutes argued for as long as the Davis-Bacon Act. The Depression-era law means a lot of different things to different people and organizations, ranging from protection for local construction workers from fly-by-night contractors on federally funded construction projects, to protection for unions against competition from nonunion contractors. But any interpretation or application of the act should not depend on which camp a tribunal may favor, but on the language of the law itself and the intent of Congress in passing it.

The Davis-Bacon Act by its terms applies to construction performed with federal funds. The Crown Point outpatient clinic does not fall in that category. Neither, for that matter, does the off-base military housing to be leased to the military at Fort Drum. The only situation involving private construction that should be brought within the purview of the federal prevailing-wage law is a project that has no possible commercial application and whose private ownership is clearly arranged to avoid the wage law requirements. If the Labor Dept. continues to ignore the clear dictates of the Davis-Bacon Act and expand it by usurping legislative power, we suggest that more federal agencies seek redress from the Dept. of Justice.●

BUDGET RECONCILIATION

● Mr. BOSCHWITZ. Mr. President, I want to bring to the attention of Senators, especially Senators who represent agricultural States, a matter regarding budget reconciliation.

First, let me acknowledge that given the tentative state of the whole budget process it may be premature to talk about any reconciliation matter. However, if the Agriculture Committee does move to consider reconciliation instructions, there is one item called 0/92 which will probably be adopted. 0/92 allows farmers to collect 92 percent of their payments if they plant none of their acres.

Our problem arises from the fact that the winter wheat planting season has already begun in the South and will soon be in full swing across the country. If we do not adopt a 0/92 provision soon, savings we could have achieved in fiscal year 1988 and fiscal year 1989 will be lost. I estimate that the lost savings could run as high as $80 to $100 million.

The other body considers this to be a very serious matter and passed H.R. 3093 before the August recess allowing 0/92 for producers of winter wheat and feed grains. The Senate should consider taking up the House bill and moving ahead with this cost-saving item for the budget and for farmers.

The 1985 farm bill contained what is known as 50/92. This provision would allow farmers to plant only 50 percent of their permitted acres and receive 92 percent of their deficiency payments. The 50/92 option was not used widely by farmers because once they have the equipment and are geared up with supplies to farm, it is economical to go ahead and farm all the acreage allowed rather than half.

The 0/92 would modify the 50/92 provision so that producers could idle all of their land and get 92 percent of their payments in 1987. If approved, this provision would discontinue our present system of forcing farmers to plant in order to get their payments.

I would like to emphasize that 0/92 would be a totally voluntary option on the part of producers. The normal farm programs would not change at all. The expansion of 50/92 would give financially hard-pressed farmers a chance to get back on their feet—time to reorganize their affairs.

For the vast majority of producers 0/92 would not be a viable option. Some agricultural groups and agribusinesses have told me that they fear 0/92 because large acreages might be taken out of production while the budget people at CBO and USDA tell me the acreage enrolled would be low. Because of the late date and the fact that 0/92 does not pencil for most producers, I am inclined to believe that land enrolled would not be more than 3 million acres.

The reason participation would be low is because the regular farm program is more profitable. Independent analysis of 0/92 indicate that a wheat farmer would have to have variable costs of production above $80 per acre and yields around 30 bushels per acre in order to use 0/92. Most producers have costs that are lower and yields that are higher. However, for producers who might be in financial trouble or on marginal land—0/92 would be perfect. It might also give some relief to the Farm Credit System if we stopped forcing their clients to continue losing money on their crops.

Confusion has arisen regarding just what 0/92 means. Some have even dubbed it decoupling which is a buzzword for the farm policy proposal put forth by Senator BOREN and myself. Let me assure Senators that 0/92 is not Boschwitz-Boren style decoupling. Briefly, I will explain exactly how 0/92 would work.

The provision would remove the requirement to plant at least 50 percent of the program acreage to receive 92 percent of the deficiency payments. Producers could plant as much of their permitted acres as they like—or none.

Payments would be known in advance by producers. The payment rate would be based on the projected deficiency payment rate at the time of sign up.

The interests of tenant and sharecropper would be protected in cases where landlords might displace the tenant or sharecropper, in order to participate in the program.

Although I believe we ought to work toward letting the market decide all planting decisions, I realize that minor crops could face difficulty if large acreage were opened up to compete against them right away. Any 0/92 provision adopted would probably not allow for the planting of nonprogram crops.

The interests of local communities and agribusiness would be protected by requiring the Secretary of Agriculture to consider any adverse effects that may accrue to the local community by unexpected high participation. If local economies would be harmed the Secretary could limit participation just as is done with the Conservation Reserve Program.

It may be fairly asked why I support legislation that is far from the decoupling idea proposed by Senator BOREN and myself, and that by my own admittance will not be used that heavily?

First and most important, it is good policy—it makes common sense. Why in the world should we tell a farmer that he or she must plant to get payments when such a farmer would be better off just to leave the land idle? Does it make sense to, on the one hand, spend billions to make our products competitive while supporting farm income and on the other hand force farmers to keep producing the stuff when they may voluntarily quit if given the option? I say no and bet that most farmers would too.

Second, CBO estimates that it will save about $710 million over the next 3 fiscal years. The Agriculture Committee has instructions to save $5.8 billion over the same period. Savings of $710 million are too large to ignore.

I emphasize the timeliness of this option because if we delay it will be too late for winter wheat production. Farmers are already prepard to go to the field. Personally, I can see no sense in bypassing savings achieved by a policy supported out in the countryside. It will be very difficult to explain to farmers why we have to cut their target prices, increase the unpaid acreage reduction percent, or cut payment limitations to save money when we could have passed 0/92 to save a big chunk of money now.

I ask that a letter that I received from Congressman Glickman on this subject be printed in the Record.

The letter follows:

Committee on Agriculture, Subcommittee on Wheat, Soybeans,
and Feed Grains, Room 1301,
Longworth House Office Building, Washington, DC,
September 4, 1987.

Senator Rudy Boschwitz,
U.S. Senate,
Washington, DC.

Dear Rudy: On August 7, the House gave unanimous approval to H.R. 3093, the Optional Acreage Diversion Act of 1987. In short, the bill amends the 1988 wheat and feed grains programs to permit producers a 0/92 option by which they can receive as much as 92% of their expected deficiency payment for that crop if they agree to devote their permitted wheat and feed grains acreage to conserving uses.

Although not every producer will take advantage of this alternative, farmers with high variable costs of production, with high production risks, with weather-related problems, or who have very high debt loads and who are seeking to avoid new expenses may find it attractive. The bill will help reduce surpluses and it saves the Treasury money. While some concerns have been raised about the bill's effects on agribusiness, it contains a directive to the Secretary to implement the program to minimize possible negative ramifications.

Those of us in the House acted quickly in the days before the Congress began the August break hoping we could secure approval of the legislation before farmers made other planting commitments for their 1988 crops. Unless final action comes soon, I am concerned that for many farmers who might otherwise use it, 0/92 will simply not be a practical possibility.

A concern I often hear from my producers is that they want Congress to make program options available in time to be real options, not after the fact as too often occurs. We are quickly approaching the time when, for all practical purposes, 0/92 will not be a viable option for producers; so I am writing you to urge swift action on this measure.

I am enclosing a summary of the provisions of H.R. 3093 as it passed the House and, in case you missed it, an editorial which appeared in the Washington Post on the legislation. If you have any questions, I would welcome talking with you about the bill or your staff can call Greg Frazier at 5-1494.

With best personal regards, I am,
Sincerely,
Dan Glickman,
Chairman, Subcommittee on Wheat, Soybeans, and Feed Grains.

[From the Washington Post, Aug. 18, 1987]

Fixing Farm Supports

Farmers now get two layers of support from the government. First is a loan: a farmer can turn his crop over to the government if the market price is below the so-called loan rate. Second is an outright income supplement or deficiency payment, making up the difference between the market price or loan rate—whatever the farmer gets for his crop—and a target price or income goal.

The House, as it was leaving town two weeks ago, sent to the Senate with little debate a bill making an important change in this second kind of subsidy. Currently a farmer must plant to earn it: the system encourages production when overproduction is the problem. Under the bill, by contrast, wheat and corn farmers, the two largest subsidized classes, could earn most of their traditional deficiency payments if they promised *not* to plant.

The legislation offered by Rep. Dan Glickman, chairman of the House grain subcommittee, is a fairly simple and straightforward effort to nudge down production and costs and thereby help in a modest and traditional way with both crop surpluses and the budget deficit. But it also exists in a broader context.

The present two-tier system of supports was developed in the 1960s and 1970s. It was an attempt to separate income support from price support, so that in theory farm income could be kept comfortably high and farm prices competitively low at the same time. Now the thinking is that income support should be divorced from production decisions as well, so that the support system does not perpetuate the problem it is meant to solve.

The administration has been pushing this "decoupling" idea as a way to reduce support levels and costs. Right now the bigger a farmer is, the more income support he gets; the program is upside down. The administration suggests, for free-market and fiscal as well as fairness reasons, basing income supports instead on some standard of need. Those who want to preserve the existing support levels aren't much enamored of this idea; among many other things they object that some of the money farmers get is welfare.

There is a middle school of thought that favors (1) divorcing income support from production levels, then (2) phasing down the support levels. The purpose would be not just to stop subsidizing surpluses but to give farmers time to adjust by either leaving the land or turning to other crops.

It's a long way from Mr. Glickman's constructive bill, which is only voluntary, to such a transformation of the support programs, and he didn't offer it with that as a goal. But it does take Congress into the territory. The farm programs need some work, and this is an interesting path.●

WINNING ESSAY ON CONSTITUTION

● Mr. NICKLES. Mr. President, in honor of the bicentennial of the U.S. Constitution, I sponsored an essay contest in my State for high school students. The goal was to try to interest 10th and 11th grade students in taking some time to study and examine for themselves the importance of the Constitution in their daily lives. I would like to announce the results of this essay contest.

A winner was selected from each of the State's six congressional districts and from those, the statewide winner was selected. The district winners are: Tonya Brown, Skiatook, First District; Mark Dean, Okemah, Second District; Traci Gunn, Wister, Third District; Scott Shellhorse, Tuttle, Fourth District; Nichole Clark, Edmond, Fifth District; and Mary Reneau, Medford, Sixth District.

The statewide winner is Mark Dean of Okemah. I am very proud of Mark for his efforts and for all of the other students for taking the time to reflect and write about surely one of the most important documents to American citizens.

Mr. President, I submit for the Record the winning essay by Mark Dean, entitled, "Why I Believe the United States Constitution Is an Important Document Today." It is an outstanding essay on the Constitution which I commend to my colleagues.

The essay follows:

Why I Believe the U.S. Constitution Is an Important Document Today

(By Mark Dean)

In the National Archives Building in Washington, D.C., there is a piece of parchment that belongs to all the people of the United States. This parchment is so precious that it is sealed in a glass case filled with helium and is guarded at all times. This document is the Constitution of the United States of America.

The Constitution is the supreme law of the land. It establishes the form of the United States government and the rights and liberties of the American people. I believe in my country and in my forefathers and this is why I believe that the United States Constitution is an important document today.

Before the Constitution was created, some states paid no attention to the laws and openly opposed the rights of citizens. They disregarded jury trials and sentenced men to death without a trial. Neighboring states raised tariff barriers against each other. Each state acted like an independent country and ran its own affairs as they saw fit with no concern for the broad purposes of the republic. Many problems arose that no one could solve, and, worst of all, some men began to think once again of taking up arms in order to solve their problems. Without our Constitution this could possibly all happen again.

Our forefathers, George Washington, Benjamin Franklin, James Madison, Alexander Hamilton and many more, had the expressed determination to "form", "establish", "insure", "provide", "promote", and "secure" a plan of government whereby each of these special objectives were all directed to the supreme aim to "secure the Blessings of Liberty to ourselves and our Posterity." These six major goals set forth the purpose of a free people in a new land.

The Constitution made the United States an undivided nation. It is the shield of democracy under which Americans govern themselves as a free people.

The Constitution establishes the federal system of separating powers between the national government and the states' governments. It divides the powers of the national government among the executive, legislative, and judicial branches.

The Constitution has continued to develop in response to the demands of an ever growing society. Yet the spirit and wording of the Constitution have remained constant. Men of each generation have been able to apply its provisions to their own problems in ways that seem reasonable to them.

The Constitution protects the rights of each one of us. It was designed to serve the interests of all the people—rich and poor, Northerners, Southerners, farmers, workers, and businessmen. It establishes the basic freedom of Americans, such as freedom of speech, of the press, of religion, of assembly and the right to trial by jury.

The Constitution has played a major role in making this a greater and better America. The great principles of the Constitution have been in tune with the beliefs and hopes of an expanding democracy for 200 years.

The United States Constitution is without a doubt a very important document today. Without it America could very well destroy itself. It could become a divided nation and the republic could cease to exist.

I am proud of my country, of my forefathers, and of my Constitution. I respect them and I am proud to be an American and abide by the United States Constitution.●

DON'T RAISE THE MINIMUM WAGE

● Mr. BOSCHWITZ. Mr. President, I rise today to alert my colleagues to an article from Fortune magazine by Jeffrey Campbell, executive vice president of Pillsbury and chairman of its restaurant group. He opposes raising the minimum wage and offers very interesting alternatives.

Mr. Campbell points out that the Minimum Wage Study Commission in 1981 reported that each 10 percent increase in wages reduces teenage employment of 0.5 to 1.5 percent; a loss of 90,000 jobs in today's job market. The article points out that linking the minimum wage and the average nonsupervisory hourly wage could raise the minimum to over $7 per hour by 1995. He also reminds us of the "ripple effect," from demands to maintain the salary difference between minimum wage employees and other employees.

Mr. Campbell agrees that trying to support a family on today's minimum wage is a disgrace. But who are the minimum wage workers? According to Mr. Campbell a third are teenagers, 59 percent are under 25, and two-thirds live with a relative who has a job.

To mandate raises for everyone, Mr. Campbell feels, is an inappropriate way to help a distinct minority of minimum wage workers who are the head of households. As one alternative Mr. Campbell suggests that the Federal earned income tax credit, which currently tops out at $851, be increased.

To help those under 25 find employment in the fast-food industry Mr. Campbell would initiate a training wage. The training wage would apply to any new employee in the fast-food industry. The goal of this program is to reward tenure and experience through wage increases based on productivity.

I encourage my colleagues to read this article and urge a careful review of the history of the effects of raising the minimum wage.

Mr. President, I respectfully request that the article by Mr. Campbell be printed in the Record.

The article follows:

DON'T RAISE THE MINIMUM WAGE

A specter is haunting America. An underclass of unemployable young people, particularly minority youth, is expanding steadily, abetted by drug abuse, adolescent pregnancy, and illiteracy. This may be the single greatest threat to the competitiveness of American business. These teens need jobs, and before that, job skills. A higher minimum wage, as proposed in the well-intentioned Kennedy-Hawkins bill now before Congress, would not help them much. And it could even hurt.

The bill's laudable objective is to reduce poverty by bringing low-paid workers a higher standard of living. Unfortunately, the problem and the solution will pass like ships in the night. Virtually every economist who has studied the issue agrees that a minimum wage increase would lead to a loss of jobs. According to studies coordinated by the Minimum Wage Study Commission in 1981, each 10% increase reduces teenage employment by 0.5% to 1.5%—a loss of up to 90,000 jobs in today's job market.

The last federal minimum wage hike was a four-step, 46% increase, from $2.30 per hour in 1977 to $3.35 per hour in 1981, the current level. The Kennedy-Hawkins bill would increase the hourly wage another 39%, from $3.35 to $4.65, within 25 months. Thereafter, the minimum would automatically be raised to 50% of the average nonsupervisory private hourly wage.

One economist estimates that the federal minimum wage linked to the Kennedy-Hawkins index could top $7 per hour in 1995. There would be an additional ripple effect as well. Employees earning more than the minimum wage would expect—and probably get—raises to maintain their historic differentials. In fact, such increases are built into some labor contracts.

Proponents of raising the minimum wage argue that it is a national disgrace for a person to work 40 hours and earn only $134 weekly, $6,968 a year. This is a disgrace if the wage earner is attempting to support a family solely on this income. In this context, it is extremely important to understand the makeup of today's minimum-wage work force. More than a third are teenagers, and 59% are under 25. Many are students, some of whom are technically classified in government statistics as heads of households. Two thirds are living with a relative who also has a job. Relatively few work 40 hours weekly, all year, for the minimum wage.

A mandated raise for everyone is an inappropriate way to help the distinct minority whose sole livelihood is the minimum wage and public assistance. The most efficient solution would be targeted assistance for these people. The working poor can best be helped by raising the federal earned income tax credit—the negative income tax that now tops out at $851.

Another alternative to Kennedy-Hawkins deserves careful study: a training wage. The Administration has long advocated a lower minimum wage for teenagers. The training wage would be lower too, but it would apply to any new worker, regardless of age. After several months' training, the new worker's pay would be increased to a level that would reflect greater productivity. High turnover is one of the fast-food industry's big problems. The training wage would reward tenure and experience.

One big thing many young people need is what could be called general job skills—including punctuality, teamwork, initiative, personal communication, and the ability to take direction and take responsibility for one's actions. The companies in Pillsbury's restaurant group teach those things—what we call the invisible curriculum—along with making hamburgers and delivering pizza. Our restaurants are in every kind of neighborhood across the nation, from affluent suburbs to impoverished ghettos. We are in direct contact with millions of young people and employ hundreds of thousands every year. We recognize that the welfare of American youth is critical to our own future.

We have a long way to go before we will be satisfied with our job-training efforts. But we believe we can do the job more efficiently than government. If there are fewer jobs—in our restaurants and across the rest of the economy—the government will have to assume a larger and more expensive share of the burden for vocational training.

Fast-food jobs are often disparagingly described as dead ends. We do not buy that. To us they can be a very large port of entry for disadvantaged young people into the mainstream of the American economy. Our young workers can take the job skills they learn with us into any kind of work. They can also stay with us and get promoted into good jobs in a dynamic business. A lot of our managers started in hourly paid jobs. Two regional vice presidents in our Burger King division rose from jobs behind the broiler without college degrees.

We do not want to slash jobs or reduce our job-training-role. But ours is a highly competitive business. If Kennedy-Hawkins passes, we would have little leeway to pass along higher wage costs in the form of higher prices. We are constantly looking for ways to increase productivity—which often means serving more customers with fewer workers. Higher wages will only accelerate that activity.

Poverty cannot be cured by higher paychecks for some citizens and unemployment for others. Employment should be the goal of federal policy, not raising the price of employees beyond their productivity level with resulting job loss.●

BICENTENNIAL COMMUNITIES IN THE HOOSIER STATE

● Mr. LUGAR. Mr. President, as I watched over the grand celebration of the bicentennial of our Constitution in which we all took part earlier this week, I reflected upon all of the local celebrations that were occurring simultaneously across the Nation. Today, I wish to commend those communities in my home State of Indiana which have recognized the importance of this 200th anniversary and have gone to great lengths to plan stimulating, educational events throughout the year.

Forty-nine Hoosier communities from all areas of the State have been designated "Bicentennial Communities" by the National Commission on the Bicentennial of the United States Constitution. These localities have each established a committee, representing all facets of the community, which, in turn, has created a plan for educating its citizenry on the meaning and significance of the Constitution. Activities range from a local production of the musical "1776," and essay and poster contests for the schoolchildren, to "Bicentennial Moments" aired on local radio and television stations.

Earlier this year, Senator QUAYLE and I appointed 10 members—one from each congressional district—to a State advisory board which will oversee a statewide student competition on the Constitution and the bill of rights. The competition begins with a 6-week study of instructional materials on the Constitution. It culminates with participation by the students in a debate on a fundamental constitutional issue before a panel of judges selected from the various communities. Eventually the local competitions will lead into a State-level debate, determining who will represent Indiana in the national competition.

I am heartened by the excitement generated in the Hoosier State over the chance to study and celebrate this venerable document. I think the statewide competition and other planned activities too numerous to mention provide excellent opportunities for our youth, and our adult population as well, to gain a greater understanding of the principles of democracy. Indiana and the Nation as a whole will ultimately benefit from a new generation of well-informed citizens who will continue to ensure the perpetuation of our constitutional system.

Again, I commend the 49 "Bicentennial Communities" Indiana currently boasts, and I encourage other towns in my great State and across the country to join in this important celebration.●

THE CALENDAR

Mr. BYRD. I would like to ask at this time if the acting Republican leader is prepared to take up Calendar Order Nos. 309, 310, 313, and 319.

Mr. QUAYLE. I will tell the majority leader I do not have 309 on my list. I have 310, 313, and 319.

Mr. BYRD. Mr. President, I thank my friend, Senator QUAYLE.

I ask unanimous consent, Mr. President, that the Senate proceed to the consideration of those three measures, 310, 313, 319 seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

The Senate proceeded to consider the bill (H.R. 1567) to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes, which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "tribe" means the Cow Creek Band of Umpqua Tribe of Indians, which was extended Federal recognition by the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712, et seq.).

(3) The term "tribal member" means any individual who is a member of the Cow Creek Band of Umpqua Tribe of Indians within the meaning of section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c), as amended by section 5 of this Act.

(4) The term "tribe's governing body" means the governing body as determined by the tribe's governing documents.

(5) The term "tribe's governing documents" means either the 'By-Laws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9-10-78' or those bylaws as amended or revised or any subsequent final governing document adopted pursuant to section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b), as amended by section 7 of this Act.

(6) The term "tribal council" means the general membership of the Cow Creek Band of Umpqua Tribe of Indians convened in a meeting open to all tribal members.

(7) The term "tribal elder" means any tribal member who reached 50 years of age on or before December 31, 1985 and whose name appears on the list compiled pursuant to 4(b)(1)(A).

SEC. 3. JUDGMENT DISTRIBUTION PLAN.

Notwithstanding Public Law 93-134 (25 U.S.C. 1401, et seq.), or any plan prepared or promulgated by the Secretary pursuant to such Act, the judgment funds awarded in United States Claims Court docket numbered 53-81L shall be distributed and used in the manner provided in this Act.

SEC. 4. DISTRIBUTION AND USE OF FUNDS.

(a) PRINCIPAL PRESERVED; NO PER CAPITA PAYMENTS.—(1) The total judgment fund of $1,500,000, less attorney's fees and loan with the Bureau of Indian Affairs for expert witness testimony during the land claims case, shall be set aside as the principal from which programs under this Act will be funded. Only the interest earned on this principal may be used to fund such programs. There will be no per capita distribution of any funds, other than as specified in this Act.

(2) The Secretary shall—

(A) maintain the judgment fund in an interest-bearing account in trust for the tribe; and

(B) shall disburse funds as provided in this Act within thirty days of receipt by the Portland Area Director, Bureau of Indian Affairs, of a request by the tribe's governing body for disbursement of funds.

(b) ELDERLY ASSISTANCE PROGRAM.—(1) From the principal, the Secretary shall set aside the sum of $500,000 for an Elderly Assistance Program. The Secretary shall provide a one-time-only payment of $5,000 to each tribal elder within thirty days after the tribe's governing body—

(A) has compiled and reviewed for accuracy a list of all tribal members who were 50 years of age or older as of December 31, 1985; and

(B) has made a request for disbursement of judgment funds for the Elderly Assistance Program pursuant to subsection (a) of this section.

(2) Payments of $5,000 to tribal elders shall be made—

(A) to tribal elders by age in descending order, beginning with the oldest tribal elder, until the interest accumulated for one year on the $500,000 has been depleted below the sum of $5,000: Provided, That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment;

(B) on or before January 1 of succeeding years, and will continue to be made to tribal elders in descending order by age until the interest earned in such year on the $500,000 has been depleted below the sum of $5,000: Provided, That any interest remaining shall carry over to the following year for distribution hereunder in the next $5,000 payment; and

(C) each year until every individual eligible for payment under this subsection has received a one-time-only payment of $5,000: Provided, That when all payments have been completed, the principal sum of $500,000 will be distributed to other tribal programs as provided in this Act and any remaining interest will be distributed to other tribal programs as determined by the tribe's governing body.

(3) If any tribal member eligible for an elderly assistance payment should die before receiving such payment, the money which would have been paid to that individual will be returned to the Elderly Assistance Program fund for distribution in accordance with this section.

(c) HIGHER EDUCATION AND VOCATIONAL TRAINING PROGRAM.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Higher Education and Vocational Training Program. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and will be utilized to

provide scholarships to tribal members pursuing college, university, or professional education or training. Tribal members seeking vocational training also will be funded from this program, although adult vocational training funding available through a contract with the Bureau of Indian Affairs will be utilized first if an individual is eligible and there is sufficient funding in such program.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the higher education and vocational training program shall be increased to $250,000.

(d) Housing Assistance Program.—(1) From the principal, the Secretary shall set aside the sum of $100,000 for a Housing Assistance Program for tribal members. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be added to any existing tribal housing improvement programs to supplement them or it may be used in a separate Housing Assistance Program to be established by the tribe's governing body. Such funding may be used for—

(A) rehabilitation of existing homes;

(B) emergency repairs to existing homes;

(C) down payments on new or previously occupied homes; and

(D) if sufficient funding is available in a given year, for purchase or construction of new homes.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for the housing assistance program shall be increased to $250,000.

(e) Economic Development and Tribal Center.—(1) From the principal, the Secretary shall set aside the sum of $250,000 for economic development and, if other funding is not available or not adequate, for the construction and maintenance of a tribal center. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

(A) land acquisition for business or other activities which would benefit the tribe economically or provide employment for tribal members: Provided, That at least 50 per centum of all individuals employed in a tribally operated business acquired or operated under this subsection shall be tribal members or their spouses as available and qualified: Provided further, That as new positions open or existing ones are vacated, preference will be given to tribal members or their spouses, but if insufficient numbers of qualified tribal members or their spouses are available to fill at least 50 per centum of the positions offered, nontribal members may be considered for employment;

(B) business development for the tribe, including collateralization of loans for the purchase or operation of businesses, matching funds for economic development grants, joint venture partnerships, and other similar ventures which can be expected to produce profits for the tribe or to employ tribal members;

(C) reservation activities, including forest management, wildlife management and enhancement of wildlife habitats, stream enhancement, and development of recreational areas. The tribe's governing body shall determine what reservation activities will be funded from economic development funds under this subparagraph; or

(D) construction, support, or maintenance of a tribal center.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding available for economic development and tribal center shall be increased to $400,000.

(f) Miscellaneous Tribal Activities.—(1) From the principal, the Secretary shall set aside the sum of $50,000 for miscellaneous tribal activities as determined by the tribe's governing body. Interest earned on such sum shall be disbursed annually in a lump sum to the tribe and may be used for—

(A) operating costs of the tribe's governing body, including travel, telephone, and other expenses incurred in the conduct of the tribe's affairs;

(B) legal fees incurred in the conduct of tribal affairs, tribal businesses or other tribal activities, recommended by the tribe's governing body and approved by the tribal council; or

(C) repayment to the Secretary of any funds provided by the Secretary under Bureau of Indian Affairs Contract Numbered POOC14207638.

(2) When the Elderly Assistance Program under subsection (b) has been completed, the principal funding for miscellaneous tribal activities shall be increased to $100,000.

(g) Evergreen Property; Collateralization of Loan With Bureau of Indian Affairs.—(1) From the principal, the Secretary shall set aside the sum of $315,000 as collateral on the property known as Evergreen. The interest from such amount shall be disbursed annually in a lump sum to the tribe and shall be utilized for payments on the loan property and for maintenance and upgrade of such property. If the tribe's governing body determines that the interest and income together are sufficient to pay off the loan more quickly, it may commit the full interest from $315,000 to repayment of the loan until such time as loan payments are completed or the income from the property is sufficient to complete the loan payments.

(2) When the loan has been paid or the income from the property is sufficient to pay the loan, the principal amount of $315,000 and any remaining interest generated from such sum shall be redistributed to the Housing Assistance Program, Higher Education and Vocational Training Program, and Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(h) General Conditions.—The following conditions will apply to the management and use of the judgment funds by the tribe's governing body:

(1) No amount greater than 10 per centum of the interest earned on the principal may be used for the administrative costs of any of the above programs, except as provided in paragraph (2).

(2) No service area is implied or imposed under any program under this Act. If the costs of administering any program under this Act for the benefit of a tribal member living outside the tribe's Indian health service area are greater than 10 per centum of the interest earned thereon, the tribe's governing body may authorize the expenditure of such funds for that program, but in carrying out the program shall give priority to individuals within the tribe's Indian health service area.

(3) The tribe's governing body may at any time after enactment of this Act declare a dividend to tribal members from the profits from any business enterprise of the tribe. Prior to declaring or distributing dividends, however, the tribe's governing body must first take into consideration the effect of such declaration or distribution of dividends on future operating costs and proposed business expansions. Profits from business enterprises may also be distributed back into any of the programs established under this section provided that future operating costs and proposed expansion costs are first set aside. Any such distribution back into the program under this Act shall be proportional to the percentage of principal then being allocated hereunder.

(4) Notwithstanding any other provisions of this Act, interest accrued on the principal prior to enactment of this Act shall as of the date of this Act be distributed under the tribal programs described in section 4 of this Act.

(5) The tribe's governing body shall adopt and publish in a publication of general circulation regulations which provide standards for the participation of individuals who are eligible for programs established pursuant to subsections (c) and (d) of this section.

(6) Benefits received pursuant to this Act shall be considered supplementary to existing Federal programs and their existence shall not be used by any Federal agency as a basis to deny eligibility in whole or in part for existing Federal programs.

(7) Any individual who feels he or she has been unfairly denied the right to take part in any program under subsections (b), (c), or (d) of this section may appeal to the Secretary. The Secretary shall provide payments pursuant to this section to any individual who the Secretary determines, after notice and hearing, has been unfairly denied the right to take part in such program.

(8) Notwithstanding any other provisions of this Act, no funds shall be disbursed pursuant to subsections (c) or (d) of this section until one year after enactment of this Act.

(i)(1) Any portion of the principal set aside under subsection (a) which remains after the allocations of the principal required under subsections (b), (c), (d), (e), and (f) have been made shall be allocated among the Housing Assistance Program, the Higher Education and Vocational Training Program, and the Economic Development and Tribal Center Program established under this section in such proportions as the tribe's governing body determines to be appropriate.

(2) If the total amount of the principal set aside under subsection (a) after amounts sufficient to pay attorney's fees and the loan described in subsection (a) have been deducted is insufficient to make all of the allocations of the principal required under subsections (b), (c), (d), (e), and (f), the portion of the principal which is required to be allocated to the purposes provided in subsections (c), (d), (e), and (f) shall be reduced in such proportions as the tribe's governing body determines to be appropriate.

SEC. 5. MEMBERSHIP ROLLS.

(a) Section 5 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712c) is amended to read as follows:

"SEC. 5. TRIBAL MEMBERSHIP.

"(a) Until such time as the Secretary of the Interior publishes a tribal membership roll as mandated in subsection (b) of this section, the membership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed in the official tribal roll approved on September 13, 1980, by the tribe's Board of Directors, and their descendants. Following publication by the Secretary of the tribal membership roll mandated in subsection (b) of this section, the mem-

bership of the Cow Creek Band of Umpqua Tribe of Indians shall consist of all persons listed on such roll.

"(b) Within three hundred and sixty-five days after the enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the Secretary shall prepare in accordance with the regulations contained in part 61 of title 25 of the Code of Federal Regulations a tribal membership roll of the Cow Creek Band of Umpqua Tribe of Indians. Such roll shall include all Indian individuals who were not members of any other federally recognized Indian tribe on July 30, 1987 and who—

"(1) are listed on the tribal roll referred to in subsection (a);

"(2) are the descendants of any individuals listed pursuant to paragraph (1) born on or prior to enactment of this Act; or

"(3)(A) are the descendants of any individual considered to be a member of the Cow Creek Band of Umpqua Tribe of Indians for the purposes of the treaty entered between such Band and the United States on September 18, 1853; (B) have applied to the Secretary for inclusion in the roll pursuant to subsection (c); and (C) meet the requirements for membership provided in the tribe's governing documents.

"(c) The Secretary shall devise regulations governing the application process under which individuals may apply to have their names placed on the tribal roll pursuant to paragraph 3 of subsection (b).

"(d) After publication of the roll in the Federal Register, the membership of the tribe shall be limited to the persons listed on such roll and their descendants: Provided, That the tribe, at its discretion, may subsequently grant tribal membership to any individual of Cow Creek Band of Umpqua ancestry who pursuant to tribal procedures, has applied for membership in the tribe and has been determined by the tribe to meet the tribal requirements for membership in the tribe: Provided further, That nothing in this Act shall be interpreted as restricting the tribe's power to impose additional requirements for future membership in the tribe upon the adoption of a new constitution or amendments thereto as provided in section 7 of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987.".

(b) TECHNICAL CORRECTION.—The Cow Creek Band of Umpqua Tribe of Indians Recognition Act is amended by striking out "Umpqua Tribe of Oregon" each place it appears and inserting in lieu thereof "Umpqua Tribe of Indians".

SEC. 6. ELIGIBILITY OF NONTRIBAL MEMBERS.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, any individual who is not a tribal member shall be eligible to participate—

(1) in the programs established under subsection (c) and (d) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe an application for participation in such programs which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group; and

(2) in the program established under subsection (b) of section 4 of this Act if such individual—

(A) submits to the Secretary and to the tribe, by no later than one hundred and eighty days after the date of enactment of this Act, an application for participation in such program which is accompanied by evidence establishing that such individual is within the group of persons described in section 4(a) of Public Law 96-251; and

(B) is certified by the Secretary as being within such group.

(b) BASIS OF CERTIFICATIONS.—In making certifications under subsection (a) of this section, the Secretary may use—

(1) records collected pursuant to Bureau of Indian Affairs Contract Numbered POOC14207638 that are made available to the Secretary by the tribe; and

(2) any other documents, records, or other evidence that the Secretary determines to be satisfactory.

SEC. 7. ORGANIZATION OF TRIBE; CONSTITUTION, BYLAWS AND GOVERNING BODY.

(a) IN GENERAL.—Section 4 of the Cow Creek Band of Umpqua Tribe of Indians Recognition Act (25 U.S.C. 712b) is amended to read as follows:

"SEC. 4. (a) The tribe may organize for its common welfare and adopt an appropriate instrument, in writing, to govern the affairs of the tribe when acting in its governmental capacity. The tribe shall file with the Secretary of the Interior a copy of its organic governing document and any amendments thereto.

"(b) Not less than one year following enactment of the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987, the tribe's governing body may propose a new governing document or amendments or revisions to the interim governing document, and the Secretary shall conduct a tribal election as to the adoption of that proposed document within one hundred twenty days from the date it is submitted to the Bureau of Indian Affairs.

"(c) The Secretary shall approve the new governing document if approved by a majority of the tribal voters unless he or she determines that such document is in violation of any laws of the United States.

"(d) Until the tribe adopts and the Secretary approves a new governing document, its interim governing document shall be the tribal bylaws entitled 'By-Laws of Cow Creek Band of Umpqua Tribe of Indians' which bear an 'approved' date of '9-10-78,'.

"(e) Until the tribe adopts a final governing document, the tribe's governing body shall consist of its current board of directors elected at the tribe's annual meeting of August 10, 1986, or such new board members as are selected under election procedures of the interim governing document identified at subsection (d).".

Mr. HATFIELD. Mr. President, I come to the floor to address a lingering controversy through this new legislation, H.R. 1567, the Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987. This legislation provides a long-awaited mechanism to guide in the distribution of $1.5 million awarded to the Cow Creek Band of Umpqua Indians by the U.S. Claims Court in 1984. H.R. 1567 has been approved by the House of Representatives and I think the Senate should act accordingly and put an end to yet another unfinished chapter in Cow Creek history.

The Cow Creek Indians have been forced to wait and experience considerable hardship as a result of unfulfilled Government commitments over the past 128 years.

In September 1853, the U.S. Government entered into a treaty giving monetary restitution to the Cow Creek Indians for tribal land that was to be acquired by the U.S. Government the following year. During early settlement of the Oregon Territory, however, animosity grew between the Indian tribes occupying the area, and the settlers. The ensueing struggle left many small tribes, including the Cow Creek, isolated and without compensation due them under the treaty.

During the 1930's, the Cow Creek Indians repeatedly tried to get their fair share of compensation. Their efforts proved to be fruitless, however, when legislation was vetoed in 1932 that would have allowed the Cow Creeks to file a claim against the U.S. Government. But the Cow Creek Indians continued their fight for compensation, and almost 50 years later the Cow Creeks finally won. In 1980, Public Law 96-251, legislation was passed by Congress to enable the Cow Creek Indians to pursue their compensation claim with the U.S. Claims Court.

Four years later, the Cow Creek Indians were awarded a judgment of $1.5 million as the result of a settlement reached with the U.S. Government. However, before this settlement could be of help to the Cow Creeks, however, a distribution plan had to be designed and approved by Congress or the Secretary of the Interior. The plan had to be structured in a fashion that emphasized the importance of the long-term interests of the tribe and its members.

Mr. President, the bill before the Senate today represents the concerted effort of the Cow Creek people to craft a fair and equitable distribution plan.

This legislation takes into account the lessons learned from the failed per capita distribution plans of the past. For many tribes, unfortunately, the per capita distribution plans implemented by tribes and the Bureau of Indian Affairs in the past have failed to serve the general well-being and common interest of the tribes. Greed and selfishness among tribal members has led to the quick evaporation of the much needed but poorly distributed funds. Now, years after the plans were implemented, the affected tribes are still struggling with financial and social problems that a more thoughtful distribution plan might have helped to alleviate.

Specifically, H.R. 1567 divides the $1.5 million principal into four separate accounts. The interest on these accounts will provide support to the tribe in the areas of housing, economic development, elderly assistance, and higher and vocational education. These programs will go far in bringing help to those loyal Cow Creeks who have struggled through many generations. This plan will allow the tribe to take important steps toward economic and social prosperity by assisting its members competing in the sluggish economy of my home State.

Mr. President, in addition to establishing a distribution plan, H.R. 1567 also resolves a dispute that has arisen regarding the membership of the tribe. This dispute has paralyzed the operations of the tribe for many years and has otherwise thwarted the implementation of the judgment distribution scheme.

The dispute goes back to 1982, shortly after the Cow Creek Tribe received Federal recognition with enactment of Public Law 97-251. In that legislation, Congress stated that the membership of the tribe was to consist of all the individuals and their descendants listed on the tribal roll at the time of enactment of the act. Although a membership roll was a part of the record before the House and Senate committees reviewing the issue, the Bureau of Indian Affairs, without consulting the Congress, determined that Congress did not intend to recognize the tribe with a membership consisting of the individuals on that roll. So the Bureau of Indian Affairs, for all practical purposes, administratively terminated the tribe.

This legislation before us restates the intent of Congress on this issue. I believe H.R. 1567 will enable all Cow Creek descendants to participate in the distribution of the judgment. It will provide long-term benefits to the tribe and its members. It will resolve the questions over membership which have suppressed the tribe's advancement. Mr. President, this legislation will enhance the quality of life for all tribal members now and in the future. I urge its immediate adoption in the Senate.

Mr. PACKWOOD. Mr. President, I am pleased that the bill before us has reached the Senate floor. It has taken over 130 years for the Cow Creek Band of the Umpqua Tribe of Indians to receive their just compensation for land they ceded to the U.S. Government. This bill will end their years of waiting.

My colleagues may ask why it has taken so long for this tribe to be awarded compensation. Let me briefly explain its history.

The Cow Creek Band of the Umpqua Tribe of Indians was an aboriginal tribe in southwestern Oregon, in what is now Douglas County. With the rush of settlers into the Oregon Territory and the discovery of gold in the Umpqua Valley, the Government and the tribe signed a treaty in 1853 whereby the Cow Creeks agreed to cede their land in exchange for goods, other land, services, and annuities. This agreement was ratified by the U.S. Senate on April 12, 1854.

However, the Cow Creeks were destined to never receive that compensation. In 1855, war broke out in the region between the natives and the settlers. Caught up in the conflict, many of the Cow Creeks fled into the neighboring hills. However, the tribe was not completely wiped out by this conflict and those who remained in the area continued to consider themselves Cow Creeks.

Not until 1980 did the Cow Creeks see hope of receiving compensation. Congress passed legislation allowing the tribe to file a claim with the U.S. Court of Claims. It took 4 years before an agreement was reached, and on June 12, 1984, the tribe was awarded $1.5 million.

The bill before the Senate, H.R. 3214, is a distribution plan for this money. Mr. President, it is a good plan supported by the tribe. The principle will be placed in a trust fund, the interest from which will be used to pay for various tribal programs and expenses. These programs include: elderly assistance, higher education and vocational training, housing assistance, and economic development.

Mr. President, I believe that the bill before this body will be of long-term benefit to the tribe, and I hope my colleagues will join me in supporting it. The House has passed a bill. It is now time that the Senate act to finalize our obligation to the Cow Creek Band of Umpqua Indians and bring to an end their long wait.

The amendment was agreed to.

The amendment was ordered to be engrossed, the bill was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BENIGN ESSENTIAL BLEPHAROSPASM AWARENESS WEEK

The joint resolution (H.J. Res. 224) designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OPPOSITION TO THE THIRD COUNTRY MEAT DIRECTIVE BY THE EUROPEAN COMMUNITY

The concurrent resolution (S. Con. Res. 77) expressing the sense of the Congress in opposition to the third country meat directive by the European Community requiring individual inspection and certification by the European Community of United States meat plants, and urging the President to take strong countermeasures should the European Community deny United States meat imports because of the unfair application of the directive, was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, and the preamble, are as follows:

Whereas the third country meat directive by the European Community requiring individual inspection and certification by the European Community of United States meat plants would damage a $130,000,000 United States export market:

Whereas this directive would reduce prices and income to the United States livestock producers;

Whereas this directive would reduce employment in the United States meat packing industry;

Whereas this directive would create a trade barrier in violation of the general agreement on tariffs and trade;

Whereas the terms of the directive would not apply to intracountry meat trade within all European Community member states;

Whereas there are no established enforcement mechanisms for the directive within the European Community;

Whereas the requirements of the directive are not based solely upon specific scientific research and evidence;

Whereas this directive will not result in more wholesome meat being made available to European consumers;

Whereas the United States has strongly opposed the establishment of trade barriers under the guise of hygiene and sanitation requirements;

Whereas the United States has maintained the position that any attempt by the European Community to impose unfair health requirements on United States meat imports would invite strong and immediate countermeasures: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the administration should vigorously oppose the implementation of the directive by the European Community which will limit United States access to European Community agricultural markets;

(2) if the European Community denies United States meat imports based on scientifically unsubstantiated standards or standards which are not applied to intracountry trade within all European Community member states, the Administration should adopt strong and immediate countermeasures; and

(3) the administration should communicate to the European Community the message that the United States views the directive as inconsistent with the European Community's obligations under the general agreement on tariffs and trade.

SEC. 2. The Secretary of the senate shall transmit copies of this resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Treasury, the United States Trade Representative, the head of the Delegation of the European Community to the United States, and the Ambassadors to the United States for each of the member states of the European Community.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMERGENCY MEDICAL SERVICES WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 148 and House Joint Resolution 134, to designate the week of September 20, 1987, through September 25, 1987, as Emergency Medical Services Week.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 134.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 134), designating the week of September 20, 1987, through September 26, 1987, as Emergency Medical Services Week.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered for a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that further action on Senate Joint Resolution 148 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR H.R. 3289 TO BE PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 3289, to amend the Export-Import Bank Act, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

JURISDICTION OVER ISSUES IN H.R. 3, OMNIBUS TRADE BILL, IN CONFERENCE

Mr. BYRD. Mr. President, I ask unanimous consent that in the conference on H.R. 3, the omnibus trade bill, Senators CRANSTON and GRAMM have jurisdiction over all issues within title X.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the able acting Republican leader, Mr. QUAYLE.

ORDERS FOR TUESDAY, SEPTEMBER 22, 1987

WAIVER OF CALENDAR CALL

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday the call of the calendar be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS AND RESOLUTIONS

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next the motions and resolutions over under the rule not come over.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, may I ask the distinguished acting leader on the other side if he has any further statement or business to bring before the Senate.

Mr. QUAYLE. Mr. President, I tell the distinguished majority leader we have none, and I bid him farewell over the weekend and we will see him bright and early as we will see all of our colleagues on Tuesday morning ready to go at it again.

Mr. BYRD. I thank the able Senator, and I want to say it is a pleasure to work with him. I reciprocate in wishing him and all his loved ones a good weekend.

Mr. President, it has been called to my attention by our able Secretary to the Majority that I should mention Rosh Hashanah. Rosh Hashanah begins as of sundown on Wednesday next and continues until sundown on Thursday next.

Now, there will be no rollcall votes after sundown on Wednesday. Any rollcall votes that may be ordered after that hour, namely 6 o'clock or thereabouts, will be laid over until 6 p.m., on Thursday. Any rollcall votes ordered on Thursday will not occur until the hour of sundown circa 6 p.m., that day, Thursday.

Mr. QUAYLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. QUAYLE. It is the desire, though, of the majority leader at least to work probably into the evening Wednesday and certainly to work Thursday but no rollcall votes; is that correct? So Senators would be on alert that if they had maybe noncontroversial amendments or even amendments that might want to be offered or maybe stack votes, that that would be the desire of the majority leader?

Mr. BYRD. Yes, the Senator is preeminently correct.

It is not the intention to go out on Thursday or to go out on Wednesday after 6 p.m. The Senate has so much work to do. We will continue to work. So no rollcall votes will occur after 6 p.m. on Wednesday or prior to 6 p.m. on Thursday.

Mr. President, I thank the distinguished Senator.

I am now going to make a brief statement.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A WELL-DESERVED RECOGNITION FOR THE SECRETARY OF THE SENATE

Mr. BYRD. Mr. President, unchallengeably, one of those individuals most responsible for the smooth, efficient, and dependable functioning of the U.S. Senate is Mr. Walter J. "Joe" Stewart. Again and again, in their contact with Mr. Stewart, or in their participation in some event or service for which he is the coordinator, Senators, and other knowledgeable people comment on the remarkable work that Joe Stewart does as Secretary of the Senate. Indeed, we are fortunate to have at our command the talents, skills, brilliance, and loyalty of this outstanding man.

I know, then, that all of the Senators and the staff members of the Senate join me in congratulating Joe Stewart for a deserved honor that has come to him.

Last night, at an appropriate ceremony held at the Columbia Country Club in Chevy Chase, MD, Walter J. Stewart was officially named the fourth distinguished fellow of the John Sherman Myers Society, at the unanimous recommendation of the development committee of the Washington College of Law of the American University.

This honor is but the most recent confirmation of the achievements and abilities of a singularly accomplished and gifted man.

Interestingly, however, from his entrance into Capitol Hill circles, Joe Stewart's career has been marked by promise, and by a step-by-step fulfillment of that promise.

In 1951, Joe Stewart came to Washington from his home in Jacksonville, FL, as a Senate page under the sponsorship of the late Senator Spessard Holland of Florida. As president of his class, Joe graduated from the Capitol Page School in 1953.

Thereafter, while earning his undergraduate degree at George Washington University and his LL.B. at the American University, Joe continued to serve in various Senate positions. Those included, at the age of 23, an Assistant to the Secretary for the majority, one of the youngest individuals in Senate history to serve in that capacity.

Significantly, Joe was awarded his juris doctor in June of 1963.

Incidentally, I received my LL.B. degree in June 1963, but I was not the same age of Joe Stewart. I happened to be 45 years old on that occasion. He was much younger.

The commencement speaker for that ceremony was the late President John F. Kennedy, who made mention of having worked with Joe during his own days as a Member of the Senate.

Upon his graduation from law school, and his admission to the District of Columbia Bar, Joe was named counsel to the Senate Committee on Appropriations. He remained in that position until 1971, when he became my chief legislative asssistant while I was serving as Senate Democratic Whip.

I should mention also that Joe Stewart worked on my appropriations staff for a while.

In 1977, when I was elected Senate majority leader for the first time, I asked Joe Stewart to serve as my administrative assistant for Senate floor operations.

In 1979, Joe was elected secretary for the majority and served in that role until January 1981, when he was elected secretary for the minority.

On January 6, 1987, after serving several years as the vice president for Government affairs of Southern Natural Resources, Inc., Joe returned to his Senate home upon being elected Secretary of the Senate for the 100th Congress. In that position, he is one of the paramount authorities of the Congress, serving as the Senate's principal administrative and financial officer. Under his jurisdiction are the Parliamentarian, the legislative clerk, the Journal clerk, the bill clerk, and the official reporters of debates. In addition, Joe Stewart holds ultimate responsibility for the Office of Printing Services, the Senate Historical Office, the Curator's Office, the Office of Classified National Security Information, the Senate Library, the document room, and the stationery room.

I had wanted to attend last night's dinner in Chevy Chase, and I especially regret that I could not attend that dinner, but I know that Joe Stewart will understand our current legislative schedule and he will understand that that presented me with a dilemma in which I had to be here rather than at the ceremonies honoring a good friend.

Certainly, the Washington College of Law of the American University has my endorsement of the action taken last evening in bestowing a singular distinction on Joe Stewart.

In the long history of the U.S. Senate, few nonmembers have contributed as significantly to this unique institution as has our current Secretary of the Senate.

Again, I congratulate Joe Stewart on receiving a great honor, and, for all of our colleagues, I thank him for his incomparable efforts in fulfilling his duties to this institution and its Members.

THANKS TO SENATORS AND STAFF

Mr. BYRD. Mr. President, I thank all Senators and all of the officers of the Senate and the fine floor staffs, Republican staff and Democratic staff, all the pages, reporters, security officers, and doorkeepers. I hope everyone will have a good weekend.

PROGRAM

Mr. BYRD. Mr. President, I will restate the program for Tuesday.

Mr. President, the Senate will adjourn at the close of business today and it will come back in on Tuesday next at 8 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of morning business not to extend beyond 8:30 a.m.

Mr. President, at the conclusion of morning business, circa 8:30 a.m. the unfinished business will be laid before the Senate at which time I will suggest the absence of a quorum. There will be a live quorum, and I will move to instruct the Sergeant at Arms to request the attendance of absent Senators. That rollcall vote being that early, I will have that vote last 30 minutes. It will be a 30-minute rollcall. So that the rollcall should be completed circa 9 a.m.

And several amendments are in the wings. Time agreements have been entered on several amendments. As Mr. NUNN stated earlier, I believe he expected Mr. JOHNSTON to lay down an amendment. But in any event Tuesday will be a day of good debate and some rollcall votes. There is no doubt but that the Senate will be in late Tuesday. I think we have to keep in mind that the debt limit will expire at midnight on Wednesday; a week Wednesday next. And the conferees, I believe, have reported or prepared to report back on the conference actions.

I understand that there is enough cash on hand to carry the Government beyond Wednesday night midnight so that it will be absolutely imperative that we adopt the conference report. But, Mr. President, next week at some point the Senate I think should take up that conference report. And that is not under any time limitation. That will contain the "Gramm-Rudman-Hollings fix" so-called.

So certainly within the next few days and before the 29 or 30 of the month both Houses will of necessity have to adopt the conference report, and have it on the President's desk. That means we will have very busy days on Tuesday, Wednesday, Thursday, Friday, and I would not be surprised if we would have to have a Saturday session next week. If we have to have a Saturday session, it would be because of the necessity for completing action on the DOD authorization bill or action on the debt limit extension, or some other pressing matter. By all means, Senators should not expect to get out early next Friday.

Today I think has been a well-deserved workday with our managers having done a good job and the Senate having worked well. There has been good debate, and action on important amendments.

ADJOURNMENT UNTIL 8 A.M., TUESDAY, SEPTEMBER 22, 1987

Mr. BYRD. Mr. President, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 8 a.m., Tuesday next.

The motion was agreed to and, at 6:46 p.m., the Senate adjourned until Tuesday, September 22, 1987, at 8 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1987:

THE JUDICIARY

EDWARD F. HARRINGTON, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE ANDREW A. CAFFREY, RETIRED.

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF UNDER TITLE 10, UNITED STATES CODE, SECTION 152:

ADM. WILLIAM J. CROWE, JR., xxx-xx-xxxx U.S. NAVY.

HOUSE OF REPRESENTATIVES—*Monday, September 21, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, as You have given us dominion over all the Earth, enable us to gain a true understanding of our responsibility in Your world and grant us a greater reverence before the mysteries of life. Give us a proper sense of humility as we contemplate Your whole creation and teach us to be good stewards of the resources of the land and of all the gifts You have given. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolutions of the House of the following title:

H.R. 1163. An Act to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses;

H.J. Res. 134. Joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week"; and

H.J. Res. 224. Joint resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week."

The message also announced that the Senate had passed bills, a joint resolution, and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1666. An act to amend title 5, U.S. Code, to provide for the extension of physicians comparability allowances and to amend title 37, U.S. Code to provide for special pay for psychologists in the commissioned corps of the Public Health Service;

S. 1691. An act to provide interim extensions of collection of the Veterans' Administration housing loan fee and of the formula for determining whether, upon foreclosure, the Veterans' Administration shall acquire the property securing a guaranteed loan;

S.J. Res. 173. Joint resolution to commemorate the 200th anniversary of the signing of the U.S. Constitution; and

S. Con. Res. 9. Concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol Rotunda.

AIR FORCE'S 40TH BIRTHDAY

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, last Friday the U.S. Air Force turned 40 years of age and I'd like to take this opportunity to congratulate them for not only 40 years spent defending the Nation, but 80 years of airpower that is second to none.

The vision of great aviators like Eddie Rickenbacker, Billy Mitchell, Jimmy Doolittle, and Hap Arnold carried the Air Force from the days of military ballooning and air machines to the leader in airpower it is today.

Over these years, the Air Force has successfully met changing threats that have taken our people to the Berlin airlift; Mig alley in North Korea; to increased nuclear alert during the Cuban missile crisis, and to conventional combat in Vietnam. They were also part of liberating allies and Americans in Grenada and in striking a blow against terrorism in Libya.

But most important, the Air Force has been, and continues to be, the most powerful force for peace. That comes from a deterrent strategy and strong flexible forces.

More than 1 million Active, Reserve, and civilian men and women serving in the Air Force today continue the proud traditions of courage and dedication pioneered in the first 40 years. Their commitment to meeting the challenges of national defense will help us see another 40 years of freedom through strength. We all congratulate the U.S. Air Force.

CONDEMNING SOVIET SHOOTING OF AMERICAN SOLDIER

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Mr. Speaker, they have done it again. With all the nonchalance of professional executioners, Soviet soldiers have again opened fire on American servicemen who were conducting a routine mission inside East Germany. The two GI's who were traveling last Thursday in a clearly marked U.S. Army vehicle were attacked in broad daylight; yes, again. They were subsequently detained by Soviet authorities, despite the fact that one of them was wounded and bleeding. Does it remind you of something that happened a few years ago?

And for all of this, Mr. Speaker, we are asked to forget the whole thing because, this time, the Soviets have apologized; but what cannot be forgotten, Mr. Speaker, is the real issue here: the reliability of the Soviet Union to honor the agreements that they have signed.

Our military liaison teams, as well as those belonging to Great Britain, France, and the Soviet Union, conduct routine surveillance missions in Germany, subject to an agreement that was signed by the big powers 40 years ago. Despite the assurances granted by this agreement that these routine missions will have freedom of movement, without escort or supervision, Soviet forces have repeatedly harassed United States, British, and French missions.

Mr. Speaker, 2½ years ago the Soviets gunned down Maj. Arthur Nicholson and left him to bleed to death. They still refuse to even acknowledge, apologize, or take any responsibility for that criminal act. They did agree, subsequent to his murder, not to use deadly force against any such military personnel in the future.

Mr. Speaker, we found out on Thursday just how good that promise is.

Mr. Speaker, I will just conclude by saying that we can trust the Communists to do one thing, and that is to act like Communists. A system that does not hesitate to brutalize its own people is not going to be reluctant to use violence against people who represent and protect the free world, and we should never forget that.

Mr. Speaker, this afternoon I will be introducing a resolution condemning the Soviet Government for this act once again of attempted murder, and I would appreciate the cooperation of the Speaker and everyone else in the sponsorship of this resolution.

WELFARE REFORM: IT IS SORELY NEEDED

(Mr. ANDREWS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, the debate on welfare reform in the 100th Congress began with an uncommon consensus on the need for action. H.R. 1720, the Family Welfare Reform Act, best addresses this critical issue.

The problem of welfare dependency worsens every year. As each year passes, a family on welfare has greater difficulty leaving the welfare rolls.

Over half of the families on welfare continue to receive assistance for more than 3 years after they start. Each year that we fail to confront this problem means that millions of Americans do not lead productive and self-supporting lives.

The impact of welfare dependency is greatest on the children. One in every five children of this country are born into poverty. This number has steadily risen since 1970 when the child poverty rate was one in seven. The purpose of H.R. 1720 is to help needy children and parents avoid long-term welfare dependence.

I believe that these children and parents deserve our best efforts to give them the tools they need to climb out of poverty. I urge my colleagues to keep this thought in mind as we complete our work on this landmark legislation.

REPORT ON VISIT TO CENTRAL AMERICA

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, I just returned from a visit to Central America. Yesterday about 1 hour after the announcement that La Prensa would be permitted to publish, we visited with its publisher, Violeta Chamorro. She told us that opening La Prensa was not enough and her opinion is agreed to by President Arias of Costa Rica, President Duarte of El Salvador, and Cardinal Obando y Bravo, all of whom we also spoke with.

Opening La Prensa, Radio Catolica, is not enough to abide by the peace accords.

We also spoke with the Secretary General of the Foreign Ministry in Nicaragua, who told us that they could not comply with the peace accords by November 7 and that in the meantime no United States aid should be given to the Contras.

The point is clear. The Sandinista government will try to string this process out until the Contras have died.

We must have an alternative plan and that plan must be to be able to continue to support the Contras in the event that the peace plan should fail.

I submitted a letter to President Arias asking him how he would propose that we act and how he would propose the Central American countries act in the event that the peace plan fails.

Mr. Speaker, I hope my colleagues will address this question to President Arias when he is here with us tomorrow.

GENERAL MOTORS TAKES MORE JOBS OVERSEAS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, General Motors is closing its Fairfield, OH plant: 1,600 auto workers in Fairfield, OH, are losing their jobs.

General Motors is not just cutting back on production. General Motors is taking those jobs overseas. What bothers me, these types of news headlines seem to be forgotten. In fact, most people in Congress feel they are like sort of a fly on our face. I say today the sad truth is that it is more like an elephant eating our behinds.

Our jobs are going to Korea, Singapore, Hong Kong, Taiwan, Mexico, and China; yes, even Communist China. Packard Electric will open up a plant in Communist China, and about all the President and Congress have done for communities like Fairfield, OH, is to provide rustproof paint.

Mr. Speaker, I think it is high time that we listened to the advice and the warnings of Lyndon Baines Johnson, when he said that if we are not careful and if we do not rebuild our factories, America will become nothing more than a paper tiger.

Well, I hate to say this, Mr. Speaker, but Congress and Washington are beginning to resemble the Hallmark Hall of Fame.

Shame on Congress, shame on the President. We should be helping Fairfield, OH.

WHAT HAPPENS IN NICARAGUA ON NOVEMBER 7?

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, what happens to the Central American peace plan if on November 7 Nicaragua has not negotiated a cease-fire with the Contras?

What happens to the Central American peace plan if on November 7 El Salvador has not negotiated a cease-fire with the FMLN?

What happens if on November 7 the state of Nicaragua has not extended the blessings of liberty and democracy to its people?

Mr. Speaker, the Central American peace plan does not answer those questions. Along with my colleagues, Congressman Kyl, Congressman Kolbe, Congressman Ballenger, and Congressman Hastert, I spoke with President Arias in Costa Rica just last Friday. We asked those questions.

Mr. Speaker, I urge my colleagues to attend his meetings here with us tomorrow and I urge them likewise to ask those questions, because quite frankly, my colleagues, we were not satisfied with the response that we got. Quite frankly, we do not believe that what happens after November 7 has been clearly thought through.

I, like my colleagues, am very fearful that this process will be strung out to the detriment of the people of Central America and to the detriment of those whom we support.

Mr. Speaker, I urge you all to please attend tomorrow and to ask President Arias the same questions that we asked him and to begin our own thought process as to what we will attempt to accomplish, along with our neighbors in Central America, after November 7 if this plan does not succeed.

SUPPORT H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SLAUGHTER of New York. Mr. Speaker, agriculture is New York State's No. 1 business. In just the 4 counties comprising my district, 3,300 farms produce over a quarter billion dollars in agricultural products annually.

To keep our agriculture vital and productive, farmers need access to funds for land, machinery, fertilizer, feed, and other essentials. In the 30th District over half the commerical farms have been financed by Farm Credit System institutions. While our local and regional farm credit banks are healthy, eroding confidence in the System as a whole threatens their competitiveness.

Today we begin floor consideration of H.R. 3030, the Agricultural Credit Act of 1987. While the current bill has many positive features, I believe it can be further strengthened. The secondary mortgage provisions of title III need to ensure a level playing field for all agricultural credit institutions. In title IV we need a flexible structure which provides for farmer-owner self-determination to guarantee the system will be responsive to the diverse needs of farmers and cooperatives across the Nation.

Mr. Speaker, I urge my colleagues to join me in supporting this needed legislation to put the Farm Credit System back on its feet.

ANOTHER U.S. SOLDIER SHOT IN EAST GERMANY: CAN WE REALLY TRUST THE SOVIETS?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, as United States and Soviet negotiators smile about a possible arms accord, can we as a nation entrust our national security to the integrity of the Soviet Government?

Over the weekend I learned that yet another unarmed American serviceman was shot in East Germany.

Air Force M. Sgt. Charles Barry was wounded while on an official U.S. military liaison assignment in that country.

Soviet soldiers fired seven shots at the clearly marked vehicle in which the sergeant and an officer were riding. The officer had to demand that Soviet soldiers lower their weapons and allow him to aid the sergeant.

In 1985, Maj. Arthur Nicholson, Jr., was killed while performing similar work in an unrestricted zone.

Both men were performing legitimate duties under a 1947 accord. After the brutal killing of Nicholson, United States and Soviet negotiators signed yet another agreement to prevent similar incidents.

Slick public relations campaigns and fast footwork about glasnost are not substitutes for basic honesty in complying with accords.

This latest violence reveals the true nature of Soviet behavior—hit first and ask questions later.

□ 1215

BORROWER RIGHTS PROVISIONS OF H.R. 3030, AGRICULTURE CREDIT ACT OF 1987

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to express my support for the borrower rights provisions contained in H.R. 3030, as passed by the House Agriculture Committee.

Several months ago, Congressmen DORGAN, PENNY, MARLENEE, and I got together, in a bipartisan effort to draft legislation that would make significant reforms in the Farmers Home Administration. The product of our efforts was H.R. 2340, which was introduced with a large group of Members of Congress from both sides of the aisle.

Recently, during the consideration of H.R. 3030 by the House Agriculture Committee, of which I'm a member, the major provisions of H.R. 2340 were adopted as part of title II of that bill.

The major reforms included in title II include mandatory debt restructuring of delinquent FmHA loans, right of first refusal for previous owners of FmHA inventoried farmland, release of living and operating expenses, and other key borrowers rights. This is an essential rewrite of one of the major sections of the 1985 farm bill. I urge my colleagues to hold firm against any weakening of these provisions during consideration of title II today.

Title I of the bill includes many significant reforms that resemble those listed in title II. Again, debt restructuring of nonaccrual and high risk loans, right of first refusal, and other reforms are absolutely essential.

Additionally, this bill requires similar reforms in the Farm Credit System that are absolutely essential. This Congress should not pass any assistance package for the Farm Credit System without mandating significant borrower rights reforms for both the Farm Credit System and Farmers Home Administration.

Although it will not be considered today, there is another section of H.R. 3030 that merits our support. The creation of a secondary market will provide assistance to those borrowers who have weathered the farm crisis, but cannot find a source of credit at reasonable interest rates. I urge all of my colleagues to give serious consideration of this provision and vote to retain title II when it is considered later next month.

Mr. Speaker, we have the chance to take significant strides in pulling rural America out of the crisis of the 1980's. This bill will not only provide needed assistance for the Farm Credit System, but can send a signal to rural America that the Congress supports family farming and the way of life needed to sustain rural America.

ELIMINATION OF SO-CALLED EARNINGS OR RETIREMENT TEST UNDER SOCIAL SECURITY

(Mr. ARCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, I rise to speak in behalf of a cause I have championed for 17 years. I have introduced implementing legislation in every Congress over that period, and I intend to continue my campaign until the light finally dawns for a majority of my colleagues. More of them seem interested with each passing day, so I do have hope.

The cause is elimination of the so-called earnings or retirement test under Social Security. My bill in this Congress is H.R. 42, and I renew my pleas for support of it and will address today just one of the compelling factors in favor of it: The changing demographics of the work place.

When Social Security was enacted in 1935, the country faced a depression, and the earnings test was designed to serve two immediate aims: bolstering the basic social insurance premise that benefits should replace earnings lost through retirement, and offering an incentive for older workers to make way for younger, unemployed workers.

We must recognize that the demographics of the work place have changed drastically. Back in World War II days, there were 50 workers for every Social Security beneficiary. Today there are just over three, and actuaries project the ratio will be 2 to 1 within another 50 years.

I urge my colleagues to support H.R. 42 because it would encourage those senior citizens who want to work, and are able to work, to continue as productive members of the labor force.

WELCOME TO PRESIDENT ARIAS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, we welcome President Arias to Washington and say to you, Mr. Arias, that the world owes you a vote of thanks. Your peace plan, at least for the moment, has replaced the cacophony of gunfire with the much sweeter sound of negotiation.

We have exchanged grizzly dispatches from the battlefront for updates from the bargaining table.

After years of bitter warfare, Central America is taking the first tentative steps on the road to peace.

The report that Nicaragua's opposition paper, La Prensa, has been allowed to reopen is welcome news for skeptics. The Reagan administration had no comment. But. Mr. President, you must admit that this significant opening means the peace plan is worth pursuing.

Whether the leopard of Nicaragua can change its spots is an open question. But with a free press, at least Nicaraguans will be able to see those spots.

Speaker WRIGHT, President Arias, you have shown that things can begin to happen when you give peace a chance.

LET DEMOCRACY BREAK OUT, LET LIBERTY FLOURISH IN CENTRAL AMERICA

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, along with some of my colleagues yesterday I had the opportunity to be in Central America, in Managua, Nicaragua. Yesterday morning we had an extraordinary experience. We attended a meeting of the Social Democratic Party, one of those parties that is allowed to try a function under very difficult circumstances in Nicaragua.

There they were, 2,000 people meeting in a dark, airless, hot old theater, crammed into every seat and in the aisle, chanting for democracy and for liberty.

I could not help but notice the banner over the podium which said, "Democratizaccion—Condiccion Para La Paz," democracy, a condition of peace.

We have heard a lot about peace in Central America. Our Speaker has said let peace break out, and peace is devoutly to be wished by all of us in this country and all of the Central American countries.

But as that banner indicated to us, there is much more than simply peace at stake, much more than peace at any price. There is freedom, freedom for newspapers and radio stations to broadcast unfettered, freedom for people to practice their religion without any conditions, freedom to hold a political assembly and not have it broken up with dogs and truncheons, and so I would add to the statement, let peace break out, let democracy break out, let liberty flourish. Then and only then are we going to have a true peace in Central America.

UNITED STATES SHOULD WITHDRAW MOST FAVORED NATION STATUS FOR ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, recent events within Romania have suggested that the extension of MFN status to Romania has emboldened rather than hindered the Ceausescu government. They have not taken seriously congressional concerns over Romania's human rights violations nor have they heeded the warning of the House and Senate that MFN status will be revoked if the intolerable human rights record the Ceausescu government possesses is not cleaned up.

Since the administration renewed MFN status, on June 2, the atrocities and the disregard for human and religious rights have continued at a quickened pace. The Ceausescu government still does not respect the freedom and liberty.

The following reports of recent atrocities in Romania have come to my attention. These actions have taken place since the extension of MFN status was granted.

The Holy Friday Church, built in 1644, and the old St. Stiridon Church, built in 1746, were demolished to make way for a large boulevard in front of the monument that Ceausescu is building for himself. The irony contained in this action is that the name of the boulevard is called "Victory of Socialism."

A Pentecostal minister, Victor Opris, was sentenced to 9 years in prison for distributing bibles.

On August 11, Yassar Arafat visited Bucharest. Duimiru Mircescu, author of the book, "Memoirs From Prison," was placed in a psychiatric hospital during the visit of Secretary Gorbachev. Mircescu's wife mysteriously plunged to her death from the balcony of their Bucharest apartment shortly thereafter.

These recent actions should be brought to the attention of the trade conferees. In the spirit of celebration for the 200th birthday of our Constitution we need to send a strong message to the Ceausescu government and to the administration that actions against the rights and liberties of the people of Romania will not be tolerated. Suspending MFN status is the leverage that delivers this message. Suspend MFN status to Romania. It's the right thing to do.

THE 76TH NATIONAL DAY OF THE REPUBLIC OF CHINA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, in August, I had a most productive visit to Taiwan under the invitation of the Chinese National Association of Industry and Commerce. My colleagues and I exchanged views and opinions with Taiwan's trade officials and business leaders. We were especially privileged to meet with Taiwan's president, Mr. Chiang Ching-kuo. Contrary to press reports on Mr. Chiang's declining health we found him robust, engaging, and warm.

In our conservation with Mr. Chiang, I learned about Taiwan's recent political movements toward liberalization; from my discussions with Taiwan politicians and scholars I ascertained that Mr. Chiang had committed his personal prestige to bring about those political changes.

In fact, Mr. Chiang also instructed everyone to help the opposition to grow and develop, just as Mr. Chiang has encouraged Taiwanese participation in the political arena. Taiwan, in short, is changing politically.

Of course, Taiwan's economic prosperity depends to a large extent on its political stability. It is my hope that the opposition party and the native Taiwanese will act responsibly in helping the ruling Kuomintang maintain and continue Taiwan's political growth as Taiwan celebrates its 76th national birthday on October 10.

CONTINUED KILLING OF GREAT WHALES BY JAPAN

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, the great whales are the largest creatures that ever lived on Earth. But now, because of the greed of the Japanese, they are threatened with extinction. Despite repeated mandates by the International Whaling Commission to effect a moratorium on commercial whaling, the Japanese have announced this morning that they will thumb their noses at the rest of the world and will continue killing whales under the guise of "scientific research." This is nothing more than a fraud against the environment—nothing more than a Pearl Harbor against the last of the greatest of God's creatures. But what more can we expect of a nation, who having been nursed back to economic and political health by our country, would sell our country's vital military technology to the Communist block.

Shame on you Japan. Shame on you Japan.

RONALD REAGAN, A PRESIDENT FOR PEACE

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, we know how easy it is to become enmeshed in problems that crowd the horizon and fail to see the Sun shining in a flash of brilliance. Of course we are concerned about Central America and we fret about farm credit, and we are even worried and criticize or compliment a conference report on a debt ceiling.

But for heaven's sake, at the end of last week we are able to see the first real step forward in lowering the nuclear threshold between the two great powers.

President Ronald Reagan and his counterpart in the Soviet Union reached preliminary agreement not to freeze nuclear arms but for once to move beyond that. Some of us criticized President Reagan because we said he just wanted a military buildup, and some others said you cannot sit down with the Soviets, do not negotiate.

Every single one of us here should be cheering today, not because of the ultimate agreement, not because it ends conventional war, but because for the first time since the shadow of the mushroom cloud fell upon our two great nations, the sun is shining through. To the two leaders of these nations we should be saying thank you, and President Reagan indeed is a President for peace.

□ 1230

THE PEACE PROCESS MUST GO ON

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, tomorrow we have a chance to listen to President Arias and listen to his peace plan.

I have just returned, along with several of my colleagues, from Central America. We had a chance to talk candidly with President Arias and discuss the Guatemala accords.

But what really is news, I believe, in Central America is that there are cracks in the armor of the monolithic government that sits in Nicaragua today and yes, peace has a chance. Certainly the peace process must go on. We must make sure that it goes on.

But we must see that the true seeds of democracy that are sown in Managua, a truly free church, an open and accessible church, a press that can be the dialog carrier between political parties and yes, the convention and moving on and the agendas of political parties being discussed openly.

These are the things that are happening in Managua today. And as the peace process moves on, we need to make sure that those other processes go on; that the dialog is there. This makes common sense.

This is a real promise in Nicaragua. We must press on to make sure that it happens.

THE PENDING AGREEMENT ON REDUCTION OF THERMONUCLEAR WEAPONS IS GREAT NEWS FOR ALL OF MANKIND

(Mr. BROWN of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, the pending agreement between the United States and the Soviet Union for the reduction of thermonuclear weapons is good news for all of mankind. We in this Chamber have criticized the President's strategy from time to time in dealing with Soviets through strength. I have also been concerned about the cost of our buildup. But, Mr. Speaker, this potential agreement confirms the validity of the President's method of dealing with the Soviet Union to reduce tensions. We have disagreed as to the best method of dealing with the Soviets. Some have advocated unilateral concessions and unilateral disarmament. Others have felt that the best path to peace was through strength.

This agreement, is strong justification for the President's approach to deal with the Soviets through strength. By insisting on mutual disarmament, not unilateral disarmament we may have found the surest path to lasting peace.

This is a day the President of the United States deserves the thanks and, yes, perhaps even the apologies from some in this Chamber on his great achievement.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING THE 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 23, 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the full Committee on Public Works and Transportation be permitted to sit during the 5-minute rule on Wednesday, September 23, 1987.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERMISSION FOR SUBCOMMITTEES OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING THE 5-MINUTE RULE IN THE HOUSE: SUBCOMMITTEE ON WATER RESOURCES, ON MONDAY, SEPTEMBER 21; SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS AND SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT, TUESDAY, SEPTEMBER 22; AND SUBCOMMITTEE ON SURFACE TRANSPORTATION, ON WEDNESDAY, SEPTEMBER 23

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the following subcommittees of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule in the House: On Monday, September 21, the Subcommittee on Water Resources; on Tuesday, September 22, the Subcommittee on Public Buildings and Grounds and the Subcommittee on Investigations and Oversight; and on Wednesday, September 23 and the Subcommittee on Surface Transportation.

Further, Mr. Speaker, I state that this matter has been cleared with the ranking minority member, the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
September 18, 1987.

HON. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:38 p.m. on Friday, September 18, 1987 and said to contain a message from the President wherein he transmits the annual report of the Rehabilitation Services Administration for Fiscal Year 1986.

With great respect, I am,

Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNUAL REPORT OF THE REHABILITATION SERVICES ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

(For message, see proceedings of the Senate of Friday, September 18, 1987, at page 24541.)

PROVIDING FOR CONSIDERATION OF H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 265 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 265

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, and with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order except the amendments printed in the report of the Committee on Rules accompanying this resolution, said amendments shall be considered in the order and in the manner specified in the report, and shall be considered as having been read when called up for consideration. Each amendment may only be offered by the Member designated in the report. Debate on each amendment shall not exceed ten minutes, equally divided and controlled by the proponent and a Member opposed thereto, or for such time as specified in the report. No amendment shall be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole. All points of order against amendments numbered 1, 15, 23, and 39 are hereby waived. Notwithstanding any provision of this resolution, it shall be in order for the chairman of the Committee on Agriculture, or his designee, at any time to offer en bloc amendments printed in the report, including modifications in the text of any amendment. Such amendments en bloc shall be considered as having been read and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed twenty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. The original proponents of the amendments offered en bloc shall have permission to insert statements in the Congressional Record immediately before the disposition of the amendments offered en bloc. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a subsititute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT] pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 265 provides for the consideration of H.R. 3030, the Agricultural Credit Act of 1987, to provide credit assistance to farmers, and to strengthen the Farm Credit System. All points of order against the bill are waived.

The rule provides 2 hours of general debate. One hour is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture. Thirty minutes is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs. Thirty minutes is to be equally divided and controlled by the chairman and ranking member of the Committee on Energy and Commerce. The rule makes in order the Agriculture Committee's amendment in the nature of substitute, now printed in the bill, as an original bill for the purpose of amendment. All points of order against the substitute are waived. No amendments to the Agriculture Committee's substitute shall be in order except the amendments printed in the Rules Committee report accompanying this resolution. Those amendments shall be considered only in the order and manner specified in the rules committee report. In addition, amendments may be offered only by the Member designated in the report.

Unless otherwise specified in the report, debate on the amendments shall be limited to 10 minutes equally divided and controlled by the amendment's proponent, and a Member opposed to the amendment. There are two exceptions to the 10-minute time limit on amendments as specified in the Rules Committee report. They are Chairman DE LA GARZA's perfecting amendment to title III which shall be debatable for 30 minutes equally divided between Chairman DE LA GARZA and the chairman of Energy and Commerce, Mr. DINGELL. The other exception is Mr. DINGELL's amendment to strike title III which shall be debatable for 1 hour equally divided between Chairman DINGELL and a Member opposed to the amendment.

These amendments are not amendable, nor are they subject to a division of the question in the Committee of the Whole or in the House.

All points of order are waived against amendments in the report numbered 1, 15, 23, and 39.

The chairman of the Agriculture Committee, or a member he designates, may, at any time, offer one or more en bloc, amendments consisting of the amendments printed in the Rules Committee report. Such an en bloc amendment may include modifications in the text of the individual amendments. Amendments offered en bloc are not subject to amendment or to a division in the House or in the Committee of the Whole.

Each en bloc amendment can be debated for no more than 20 minutes equally divided and controlled by the chairman and ranking minority member of the Agriculture Committee.

The original proponents of amendments that end up being offered en bloc, may insert statements into the CONGRESSIONAL RECORD immediately before the disposition of the en bloc amendment.

Finally, Mr. Speaker, the rule allows one motion to recommit with or without instruction.

Mr. Speaker, as you well know, the farmers of America are in great need of help. The Farm Credit System which makes the agricultural loans to our beleaguered farmers is itself in trouble. H.R. 3030 will help restructure the Farm Credit System and set it back on its feet again. The need is real and the need is immediate.

Mr. Speaker, the Rules Committee is also very much aware of the increasing demand for floor time as the session comes to a close. Therefore, with the urgency of this bill and the need to make good use of floor time both in mind, the Rules Committee crafted this rule which deals with this bill expenditiously while allowing great latitude and flexibility in the amendments that can be offered.

Mr. Speaker, after ample notification by the distinguished chairman of the Rules Committee, the committee received over 40 amendments Members wished to offer to H.R. 3030. The committee made in order 39 of those amendments in this rule.

Given the constraints imposed by the realities of session-end, I believe this rule is a very fair rule under which to consider this very important and badly needed piece of legislation.

Mr. Speaker, before I yield the customary time to my colleague from Mississippi, I yield such time as he may consume to my distinguished whip, the gentleman from California [Mr. COELHO] for a statement.

☐ 1245

Mr. COELHO. Mr. Speaker, I thank the gentleman for yielding, and let me say to my colleagues that I will be brief.

I just want to notify my colleagues of an accommodation that has been made with the Committee on Energy and Commerce and the Committee on Banking, Finance and Urban Affairs in regard to title III of this legislation.

The agreement is that we will complete the rule and titles I and II of this bill today, and then we will rise at the end of the consideration of title II. Then on October 6 we will take up titles III and IV and conclude the bill.

I will be asking unanimous consent today also that on October 6 the Committee on Banking, Finance and Urban Affairs, the Committee on Energy and Commerce, and the Committee on Agriculture each have a half hour of general debate in order to discuss title III and, on the part of the Committee on Agriculture, title IV on that particular date.

This is an accommodation that all parties have agreed to, and at the time of the unanimous-consent request I will be discussing the matter further with the ranking member of the committee.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to address just a brief comment to the distinguished majority whip who just spoke. I hope that the gentleman would consider just a general comment before he asks for unanimous consent later on during the day. I know the gentleman is trying to get a specific date on return, but let me say to the gentleman, if you ask for a specific date and you may be one day short, you may be cutting yourself off when you do not really intend to. So I hope the gentleman will give us a chance to talk further about that and give it more consideration.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. COELHO. Mr. Speaker, as the gentleman knows, one of the powers of the Speaker is the power of scheduling. He has scheduled the bill, and we are all accommodating that schedule. But I would be glad to talk to the gentleman about the matter.

Mr. LOTT. Mr. Speaker, I thank the gentleman. Mr. Speaker, House Resolution 265 is categorized as a modified open rule. This could be a little misleading because of the word open. It still remains a restrictive rule. Mr. Speaker, I submit for the consideration of the Members the following history of open and restrictive rules in the 95th through the 100th Congresses:

OPEN AND RESTRICTIVE RULES 95th–100th CONGRESSES [1]

Congress	Open rules (No./percent)	Restrictive rules (No./percent)	Total rules
95th	213 (88)	28 (12)	241
96th	161 (81)	37 (19)	198
97th	90 (80)	22 (20)	112
98th	105 (72)	40 (28)	145
99th	65 (64)	36 (36)	101
100th [2]	26 (57)	20 (43)	46

[1] Source for data: Survey of Activities of the House Committee on Rules (Reports by the Committee on Rules), 95th–99th Congress. Rules counted were those providing for the initial consideration of legislation (as opposed to special rules on conference reports, etc.) For the purposes of this table, restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules.

[2] Data for the 100th Congress is based on "Notice(s) of Action Taken," Committee on Rules, 100th Congress, as of September 17, 1987.

Mr. Speaker, this rule provides for 2 hours of general debate between the Agricultural, Banking, and Energy and Commerce Committee. Only 39 unamendable amendments are to be considered in the order specified in the report of the rule. The rule waives all points of order against consideration of the bill and against specified amendments. Amendments are debatable for 10 minutes each.

Also, the chairman of the Agricultural Committee may group and accept amendments for en bloc consideration, including modifications in the text of any amendment. These amendments are debatable for 20 minutes.

Mr. Speaker, I know that we have been informed that this rule is conceived in a desire to give as many Members as possible an opportunity to present their amendments and at the same time keep the bill within the 1-day consideration on the House floor. Actually, the rule was conceived to accommodate the Democratic leadership.

Now we can say we appreciate the fact that 39 of the 42 amendments are allowed—that it could have been closed off even more. But I want to point out that while many Members were given the opportunity to offer amendments, the Rules Committee was inconsistent in determining what amendments would be allowed. It included some that were not germane and excluded some that were not. Those amendments that were not germane were given germaneness waivers and were made in order.

Mr. Speaker, this bill is too complex, too serious, and too costly with a lot of important amendments to be packed into one 5-hour day. We are restructuring a whole Farm Credit System.

I could not understand why we had to limit the consideration of this bill to 1 day when we are dealing with this kind of major issue. And we are saying amendments of major import are going to be restricted to 10 minutes.

It is now my understanding that we can anticipate only amendments pertaining to title I, borrowers' rights and the temporary assistance corporation, and title II, Farmers' Home Administration, to be considered today.

I would like to urge my Democratic colleagues on the Rules Committee that when the Democratic leadership suggest that we fashion a rule for major bills for a 1-day consideration that we are not going to allow nor follow that sort of irresponsibility.

Mr. Speaker, I yield 6 minutes to the gentleman from Oregon [Mr. ROBERT F. SMITH].

Mr. ROBERT F. SMITH. Mr. Speaker, I thank the gentleman for yielding me this time. Essentially, as the gentleman was just pointing out with reference to the rule, it is necessary for me to take this time under discussion of the rule to explain my position on the bill since there will be very little time under general debate to do that.

Mr. Speaker, I think that this bill, H.R. 3030, the Farm Credit Assistance Act, may be the most important issue before this Congress in current history. If we believe that governments have priorities—and certainly this Government does—certainly they follow in the line of defense, of shelter, and of food. Certainly this Federal Government has those same priorities. Today we are going to discuss the food priority.

What happened to the Farm Credit System? Why are we here? Surely there was mismanagement, most likely. But also I think the occurrence of the transition of this country in the early 1980's from an inflation economy to a noninflation economy is the prime reason we are here discussing farm credit today. I submit that any banking institution, no matter where it is, that has lost 50 percent of its equity could not sustain itself. That is why we are here today.

This System is a System of 12 separate banks across this Nation. They are joined in what is called joint and several liability. That means that if one fails, all the banks are involved in that problem, and, of course, that makes it a nationwide problem, not just a regional problem.

The problem here is simply that we have $60 to $80 billion outstanding in the Farm Credit System in this country, and we are in dire straits. We must infuse capital into the System. That is what this bill is all about. The System must be made viable before the end of 1987 or we will lose it. It is that simple. Without the passage of this bill, it could involve the economic stability of this whole country.

There is a great tendency around here to just throw money at a problem and walk away from it. But that is not the issue here today. We are not allowing business as usual in restructuring the Farm Credit System.

What has happened here? We have reduced the 12 banks to 6 banks, we have provided for checks and balances in this process, we have demanded expert management and assistance for the Farm Credit System, and we have created an entity more resembling the national banking system than any other. And, by the way, that has been a successful banking system.

Why should we support the farm credit bill? Without our support the total $60 to $80 billion National Farm Credit System "house of cards" may well come tumbling down. Without this remedy, at least one-third of agriculture in America is in jeopardy without credit. This provides, for instance, for a cheap food policy for consumers.

Why do I say that? Simply because losing one-third of agriculture in America means that food prices shoot up astronomically, and that means more cost for consumers. It is a protection for the family farm, if we believe we want to protect the family farm.

The fact is that America has the best deal in the world among free nations. We spend only 17 percent of our disposable income in this country for food, and that has to be the best deal around. If we want to continue that policy, we must save the Farm Credit System.

There are many precedents for this. Among them, there is Continental Illinois, there is New York City, and we remember the Iacocca Chrysler program and the savings and loan rescue. All of these programs were successful. If indeed defense, shelter, and food are priorities, then we must pass this bill.

We have funded defense, have we not? We have rescued shelter through the passage of the Savings and Loan

Program, and now we must attend to food.

Is this a bailout? No, it is not a bailout. This bill provides for a paycheck to the Treasury, and it is a good business decision, even if it takes a good $6 billion, because it saves $60 to $80 billion in the portfolio.

Does this bill provide for a blank check? No, it does not. Funds are provided as needed, no more and no less. No one knows what it will take, whether it will be $2 billion or the possibility of $6 billion. But no funds will be applied or appropriated until they are needed.

In summary, it is essential for us to act promptly. It is a necessary restructuring that we are about with this bill. It is a retaining of the cheap food policy for consumers, be they in the city or in the country, in America. This provides a long-term commitment by the Federal Government to preserve the Farm Credit System.

There are payback provisions in this bill, and there are programs for expert management to assist the Farm Credit System. Again, to save the family farm we must pass this bill.

Mr. Speaker, while the rule is not perfect, I urge my colleagues to support this rule as well as this very urgent farm credit legislation.

Mr. LOTT. Mr. Speaker, I yield 6 minutes to the gentleman from Nebraska [Mr. Daub].

Mr. DAUB. Mr. Speaker, I rise in support of this rule. It allows us to consider a bill and amendments which should go a long way toward achieving what I think must be our main objective for farm credit legislation: Lower and more competitive interest rates for the farmer-borrower.

Mr. Speaker, I had the privilege of testifying before the Subcommittee on Credit of the Committee on Agriculture chaired by the gentleman from Tennessee [Mr. Jones], and I thank him for those courtesies. For their work in the past 6 months, I commend the committee chairman, the gentleman from Texas [Mr. de la Garza], the ranking member, the gentleman from Illinois [Mr. Madigan], and especially the Subcommittee on Credit for the fine work they have done.

Mr. Speaker, I know it is hard to justify paying to bandage wounds the System inflicted on itself. And it's clear many of the System's wounds are indeed self-inflicted. For examples, the General Accounting Office tells us that in 1985 and 1986 the System mismatched the maturities of assets and liabilities. This mistake alone cost the System, or I should say it cost the farmer-borrower, $3.4 billion.

Intersystem squabbling has led to a failure to enforce the joint and several liability obligations the System is suppose to operate under. This has kept millions away from needy districts.

In fairness it needs to be said that not all of the wounds came from the System's own sword. Poor management decisions coincided with disastrous financial trends in agriculture as a whole which deepened and exacerbated FCS's financial crisis. Record deflation in land values, sharp drops in exports and low prices undermined agriculture's largest lendor.

The System may have mended its own wounds without our help. It may have also weathered the financial storm in agriculture without our help. But it won't withstand both blows on its own. And these blows are not just being absorbed by the System itself, they're being absorbed by the System's owner: the farmer-borrower.

Farm credit help is, therefore, not just System assistance, it's farmer-borrower assistance.

This bill helps farmer-borrowers. It guarantees their stock, including stock which has been frozen from past institution failures. Those who lost stock in Valentine and O'Neill NE, will get relief.

The bill expands borrower rights. These include the redoubling of loan restructuring efforts and the right of first refusal for disposing of acquired land.

This bill authorizes the necessary funds to prevent a System collapse. Financial stability is needed to assure uncertain markets that the System can meet its obligations. This will help avoid unnecessary runups in System borrowing costs. Let me also say that we need uniform standards of accounting so that all sections of the System are using the same methods.

Finally, the bill mandates reorganization. It calls for more efficiency through streamlining. This is needed. Farmers don't want to pay for unneeded bureaucracy through higher interest rates. At the same time, farmers want as much local control as possible. Although we don't know how this bill after amendment will look, this must be an important element of any package.

While I fully support cost-efficient reorganization, I want to inform the House that the Omaha and St. Paul districts appear to have jumped the congressional gun on this point. They have announced a merger attempt which includes combining their banks for cooperatives. However, this bill at title VI, section 6.3 directs the establishment of a single bank for cooperatives which may "consider the creation of regional service centers." The proposed merger could preempt this decisionmaking reversal economically impractical.

This development is causing quite a stir in Nebraska and among employees of the Omaha bank. I've heard that some personnel are already leaving the Omaha bank because of uncertainties.

Aside from the question of the consistency of this proposal with legislation, I don't know where it got started that Omaha would automatically lose it's bank and the 300 jobs that go with it. I'm told that no location has been selected.

The case for Omaha's bank seems strong to me. The St. Paul facilities are worth $30 to $40 million while selling Omaha's would only bring a few million dollars. If the issue's efficiency and saving money, it seems to me that selling St. Paul's building would generate millions and reduce borrower interest rates.

Could we be on the verge of an FCS management decision that costs millions needed to reduce interest rates just to keep newer and more comfortable offices for bank personnel? This Congressman is one Member whose not going to roll over and accept the jobs and revenue losses of a merger that may not make economic sense or preempts this legislation.

This is a fair rule. Let's adopt it. I don't know how the final bill will look after amendments. But if it contains the necessary authorizing language for financial help, expansion of borrower rights and stock guarantees, a secondary mortgage market and the reorganizing directions that make sense and maintain local control, I'm going to support it and I hope my colleagues do as well.

□ 1300

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

I just want to commend the gentleman from Nebraska [Mr. Daub] for characterizing this rule that we have before us as a fair rule, as fair as it can be, as I recall the gentleman's remarks. I think it is fair.

We have allowed just about any member who wanted to offer an amendment to have an amendment, 39 out of 43 amendments.

I did not want to let the debate on this particular issue slide by without answering in a somewhat limited way, but nevertheless, answering the gentleman from Mississippi [Mr. Lott] when the gentleman talked about the problem of restrictive rules.

The gentleman from Mississippi expressed at one point in the gentleman's arguments, and I am paraphrasing; but the gentleman could not understand why there was a necessity to move ahead on this in the way that we have, restricting somewhat the time limit on those 39 to 43 amendments which we allowed given our schedule.

Our schedule is not as light as some might think, and we have some important business, Mr. Speaker, to take care of before we adjourn this session of Congress.

We still have before the Members an agricultural appropriation bill, a Defense appropriation bill, foreign operations; and of course, we are going to have the HUD appropriation bill in the Committee on Rules today, and hopefully that rule will pass before we adjourn this week.

In addition to those appropriation bills, we have the Reconciliation Act that we have got to get through this full body and sent over to the other body. We have continuing resolutions. We have a short-term one this week, and we have a full one November 10.

We have the Gramm-Rudman and the debt-ceiling question, which is going to take some time and debate that people want to get serious about and take care of. We have the welfare reform in whatever way it is rolled into, whether it is rolled into the reconciliation, or if it is by itself, we have that to consider.

We have foreign aid authorization, a few important airway bills. Every Member is concerned about air safety. We have the airline disclosure legislation, Airport Improvement Act, high-risk notification, Department of Justice reauthorization, Public Health Service Amendments Act; and I can go on with another list of a page of conference reports to deal with, so I want the Members to understand that we have a full plate before us.

There are perhaps other things that I did not mention that may in fact be considered, and it seems to me that we have to show some patience and understanding about the necessity to structure these rules, so that they are fair, as the gentleman from Nebraska has indicated, and that give Members a chance to express their views when appropriate, and when we can do it in a reasonable fashion, and at the same time move the calendar along, so that we can accommodate all of these priority pieces of legislation which the minority in many instances has asked for.

Mr. Speaker, I just wanted to make that statement and alert the Members to the fact that in the coming weeks ahead, we will have before the House on this House floor rules that I suspect will be somewhat restrictive, although we are going to do the best we can to accommodate as many Members as we can.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of the rule and the farm credit bill. Also, I compliment the committee for the fine work that it has done on a most difficult and timely bill, especially the gentleman from Tennessee [Mr. JONES], the chairman of the Subcommittee on Conservation, Credit, and Rural Development, who has led the fight for farm credit reform.

Mr. Speaker, recently a very fine article appeared in Memphis magazine, September 1987, which was complimentary to our colleague and friend, the gentleman from Tennessee [Mr. JONES]. Indeed Congressman ED JONES has made a name for himself the old-fashioned way—he earned it. I commend the article for the RECORD.

KEEPING UP WITH JONES

(By David Terrell)

Ed Jones is an accomplished long-distance swimmer in the choppy, treacherous waters of national politics. Plowing steadily along for 18 years, the U.S. Congressman from Tennessee's Eighth District has made few waves and virtually no splashes, just slow and certain headway. With no ultimate goal in sight or apparently in mind, he seems to simply enjoy the exercise.

Jones just wasn't cut out to be a sprinter. Glamorous as a mess of collard greens, he has found a track in the Washington scene that bypasses most of the glitz, most of the publicity, some of the fun, and almost all of the scandals. He does what any 75-year-old farmer does: he works. He spends his long days, when he's not traveling between his little Capitol Hill apartment and his Yorkville, Tennessee farm, slogging through the legislative process. It is a difficult vineyard in which to labor, that process. Very little is ever final, even less is truly effective. It is the process itself, not the product, that one must learn and appreciate, if one is to thrive on Capitol Hill. And it is that drab process at which Ed Jones excels. Today, after years of study and works, Jones has become one of the recognized expert specialists in Congress, a genuine national authority on agriculture, and more particularly on his own area, farm credit. He can bore you in a minute and keep boring you all night long with details of crop finances and soil erosion rates for West Tennessee.

The result is that Jones is at once effective and obscure. He is, according to his colleagues, easily the most powerful (at least nationally) of the three congressmen who represent parts of Memphis. (The others are the Seventh District's Don Sundquist and the Ninth District's Harold Ford.) Yet socialites aren't dying to get Ed Jones to their dinner tables, and *The Christian Science Monitor* is not going to quote him on the Afghanistan conflict. No, Jones' clout comes neither from personal charisma nor high visibility, but from one simple fact: he chairs the potent Subcommittee on Conservation, Credit and Rural Development, and he gets his committee's legislation adopted—legislation which profoundly affects every state in the nation.

But even the titles of that legislation are dull: The Soil and Water Resources Conservation Act of 1977, the Consolidate Farm and Rural Development Act of 1979, the Futures Trading Act of 1982. Of course Jones, who has spent his life in farming, doesn't find these topics boring at all, and neither do the country's farmers and agribusinesses. It's just that they aren't the sort of issues that get a politician onto *Nightline* with any regularity. But then again Jones cultivates the impression, perhaps an accurate one, that he'd rather be interviewed by the *Jackson Sun*, anyway, than be on any old *Nightline* show.

Friends and opponents alike call Ed Jones old-fashioned, and, like it or not, the words accurately describe the genial congressman whose district stretches north from Frayser all the way to the Kentucky line. By calling him old-fashioned, his friends mean he is a gentleman. Those who are not his friends mean, perhaps, that he is not particularly adaptable to change.

Perhaps, he is not. Perhaps Mr. Jones, as those around him address him—in the old-fashioned way—is from another era, not long past but past all the same.

His values and, thus, his methods are suited to a House of Representatives that may no longer exist. In an age dominated by the dazzlingly telegenic likes of Albert Gore, Jr., plain old Ed Jones is a sort of classic Member of Congress, a dinosaur among the greyhounds. His means and his goals are almost identical: diligence, patience, work, honesty, and loyalty.

Of those words, loyalty is the one that jumps most readily to mind with regard to Jones. He knows what loyalty means in politics. He gives loyalty, even at times when it might be painful; he expects it back and is truly appalled when it is not shown. When a struggling Walter Mondale showed up in Tennessee during his doomed presidential campaign of 1984, Jones was there literally to stand by his side. Jones' appearance, arguably, did nothing for Mondale, and certainly Mondale did nothing for Jones. Showing up was just a function of loyalty, and loyalty is an absolute for a chap like Ed Jones. Ideologically, if he is anything at all, Jones is a Democrat deep in his bones.

His party loyalty is one reason why, at 75, with his health in some question, Jones probably has little to worry about by way of opposition. In one of the most thoroughly Democratic districts in the country, with eight or nine potentially well-funded younger men apparently ready to run for his seat, none looks willing to take on the dean of the Tennessee Democratic delegation. There may be no safe seat in Congress—but Ed Jones' comes pretty close.

Loyalty may also be the reason Jones is not chairman of the House Committee on Agriculture. A few years back, when Kika de la Garza of Texas was scheduled to take the job, Jones learned—he says—on the House floor that a movement was under way to place his name in nomination over de la Garza's. He squelched it, telling potential supporters he'd love to be chairman, but not by defeating the seniority system and leapfrogging over de la Garza. Nothing, he explained, would prevent that from happening to him later, if seniority and loyalty meant nothing. For a brief time de la Garza apparently held a grudge against Jones anyway, thinking Jones had sought his job. But Jones, in his usual quiet fashion, got Morris Cunningham, then Washington correspondent for The Commercial Appeal, to write his version of the story, and saw that a copy of the piece made its way to the chairman. It seems to have patched up things between them.

Measured by a pure legislator's standards, Jones is pitching a perfect political game. Using the editorial "we," as office holders often do, he says flatly, quietly, "We've never carried a piece of legislation to the subcommittee, to the full committee, or to the full House and lost a vote on a single amendment." That, folks, is a remarkable record. Why? "The committee has a lot of respect for me because they know I work hard and know my staff works hard," he claims.

Well, yes, but Capitol Hill is full of workaholics who can't get anything accomplished.

There's much more to it than that. It has to do with all those attributes of the old-fashioned legislator—the diligence, patience, and loyalty that Jones—and his people—bring to their jobs.

First, there is that staff: professional staff members Bob Cashdollar and Jim Johnson, and administrative assistant Kelly Sharbel in Washington, and people like field representative Joe Hill back home are as loyal to Jones as he is to them. His staff averages something like ten years on the job—unusual in any field nowadays, and nearly unheard-of in the volatile world of politics. Asked why they stay, they give the same answer: "Ed Jones." They like their boss, irascible as he can sometimes be. One reason, no doubt, is, as he puts it, "I pay my people." Allocated 23 staff positions, he uses just 17, but *all* his budget.

The staff, working with the legal beagles of the Agriculture Committee, writes the legislation Jones sponsors. He often does not read it line by line. He says he doesn't need to and, to be honest about it, he and the other members are not capable of putting it into final legal form. This is the function and the power of staff work. But it is his legislation. As Sharbel puts it, new staff members "are told to set aside their own agenda, along with any pride in authorship." They work as craftsmen, molding the language to meet the complex technical requirements of the bills. The general requirements of the bills are those of the boss.

Second among the keys to Jones' startling legislative success is the arcane nature of the field in which he works. Farm credit, because of the crisis in the system, gets a lot of publicity nowadays, but those who truly understand it are few. Jones is acknowledged by those in the know to understand it better than anyone else. "I rely very heavily on my staff on the issues that I'm not familiar enough with," he freely admits. "And then I rely heavily on other members who are knowledgeable in their fields, as they do on me, with respect to farm legislation." This is the nature of the House—the old, traditional House, at any rate—where members normally work on only one major committee assignment and are expected to become expert in one field, somewhat at the expense of other areas.

Jones scoffs at the youngsters in the House who hop on television at every opportunity with opinions on any major issue. "The truth of the matter is, they don't really know about any of it," he scoffs. The only way to become expert, he is satisfied, is through years of deep work, not months of broad acquaintance.

A third element of his success, and perhaps the most important, is Jones' willingness to compromise and to bring to a vote only that legislation which stands a good chance of passage. His theory: you won't be beaten if you don't overreach yourself. He is not, therefore, known as an authoritarian chairman of his subcommittee; he merely seeks a consensus. As a consequence, he must assume the blame for some imperfections in legislation, but would have trouble claiming the credit for a perfect bill, because none is entirely his own. One of the chief critics of President Reagan's farm policy, Jones claims that, although many farmers are still drowning in debt, the program now "doesn't have as many flaws as it did, because the Democrats pretty much wrote the last farm bill and the President just signed it." The bill, the Food and Security Act of 1985, was "the best we could do at the time," he says, given the administration's budget constraints. It works, he argues, for some farmers, notably cotton and rice producers and livestock feeders and breeders.

Once the subject turns to the specifics of farm legislation, Jones is off and running. This year, he notes with evident pride, as many as 73 million acres of row crops are "voluntarily" out of production through the Conservation Reserve and other programs. This represents something like a 20 percent cut in acres actually being farmed, and should combat the grain surpluses that have driven down prices in recent years. Mainly affected by these programs are corn, wheat, and beans and, although the continued current surplus will forestall immediate effects on prices, "given enough time, this will work" claims Jones. He hopes that over the five-year life of the 1985 farm bill, rising prices will reflect the production drop and help farmers survive the 5 percent drop in target prices (the prices the government pledges to pay for surpluses) that the Secretary of Agriculture likely will effect next year.

But the fly in the ointment, Jones says, is the continuing inability of the administration to deal with the international trade problem, specifically as it affects agriculture. "[The trade problem] is tough to fight," he acknowledges, as developing countries get more efficient in their own food production, often benefiting as well from subsidies by their governments. He claims that an international trade policy that allows farmers to sell sufficient quantities of their goods overseas is possible, and that, by itself, this would solve most of the worsening crisis in agriculture. Even when pressed, however, he does not become more specific about his solution to trade problems; he is, after all, on the Agriculture Committee, not Commerce. Instead, he returns to the narrower farm issues. As it is, he points out, 60 percent of the country's wheat, 50 percent of the corn, and 40 percent of soybeans must be either exported or bought by the government and stored as surplus. And it is no coincidence that these are the crops most deeply troubled, in descending order of their problems.

To those who know anything about Jones, he is Tennessee's Mr. Agriculture. He is, after all, third in seniority among the majority members of the Agriculture Committee; he is a lifelong farmer, and he had a long background in agribusiness before entering Congress. He was agriculture representative of the Illinois Central Railroad from 1943 until he took office in 1969, except for four years when he served as the state commissioner of agriculture under late Governor Gordon Browning.

For obvious reasons, therefore, the name Ed Jones is not closely linked with the urban center that Memphis has become—and in fact many Memphians know almost nothing about him. But he represents a big chunk of the city, 103,000 people, including all of Frayser. And he has a vision of the city as . . . what else? The nation's agricultural center. In his own, plain language, "Memphis, at one time, admitted that it was the agricultural center of the world—boasted it . . . When you really look at Memphis, it's still agricultural. There's just been some add-ons to it . . . Memphis is a big center for agricultural chemical manufacturing, and that all relates, you know, to the profession [he uses the word as though it routinely applied] that I'm involved in."

And Frayser? "My people are farm people," he says simply. The factory workers and suburban white-collar crowd in his district are, at most, only a generation away from the farm, he claims. They know farmers, know why he labors on the Agriculture Committee, and appreciate his work, he believes. Thus, for example, his work on behalf of Memphis' Agricenter International, the agricultural marketing showplace on the Shelby Farms property. He has been according to those who have worked on it, a key point of contact for the limited federal involvement in the project, and he assumes some credit for the fact that, after he pushed for their moving, most of the government agencies relating to agriculture in Memphis moved their operations to the new facility.

But Memphis *per se* is not Jones' base, and for all his years living here while working for the railroad, it is not his home. Yorkville and his little farm, and all the little farm-based communities in deprived, economically starved, rural West Tennessee are his home. For all its importance to him politically, Memphis holds just 20 percent of the voters in his district. When, in an early election contest, his victory was apparent, he got testy with reporters and his own staff, who wanted him to claim the race. "I wasn't going to do it in Frayser," he explains. "I wanted to make the announcement in the heart of the district."

At work there was the instinct of a shrewd political operator, a man who knows not only where his own heart is, but where his support really lies. It lies in the soil of the croplands. His tireless work to slow the tragic erosion of that soil has everything to do with Jones' own political life. The analogy holds, even in extension. Jones fights a holding action in politics, the same as a dam to hold back the silt-laden waters. While the future of farming does not look as though it is getting better, Jones works to see that at least it doesn't get much worse. For his own part, holding what he's got is sufficient, because he has everything he ever wanted.

"What made me want to run for Congress?" he asks, then answers, "I wanted to do public service . . . and that was the top of the ladder." He wanted to run in 1957, when Jere Cooper, then chairman of the potent House Ways and Means Committee, died, but he was afraid he couldn't win. The late Robert A. "Fats" Everett held the representative's job until Jones was finally ready in 1968.

After entering the primary, Jones made a trip to Washington to tell Cooper's successor as Ways and Means chairman, Wilbur D. Mills of Arkansas, that he was going to win and he wanted to serve on the Agriculture Committee. "Yeah, you can have it," grunted Mills, who then held the exclusive power to do that sort of thing. Why not? Not everybody wants on Agriculture, after all. Quite a few, like Arkansas' Bill Alexander, leave it after a time for service on one of the "major" committees, like Appropriations and Armed Services.

Not Ed Jones. Had he been in another line of work, he would have retired by now, he says. But "working on important pieces of legislation" keeps him stimulated to the point that he's willing to take on the biennial threat to his seat and stay on.

The prospect of not being re-elected hardly seems to enter his mind. Besides being a classic rural Democrat in a largely rural Democratic district, Jones is generally able to avoid making passionate enemies because, from an ideological standpoint, he does not seem to be strongly adversarial. But while he's not picking fights, neither is he leaving many ideological groups absolutely satisfied. The liberal Americans for Democratic Action, for example, rates him a lukewarm 45 out of a possible 100 for the 99th Congress, which ended last year (1986). The average score for House Democrats is considerably higher than that at 69, but—while the ADA does not keep records in this detail—Jones probably is ranked about average for a Southern Democrat. But he rates even lower with arch-conservatives. The right-wing American Conservative Union, for instance, gives him a 29 rating for that same period. "That's pretty low," ACU spokesman Gustavo Frederickson says. Generally, according to Frederickson, Jones "falls down" in areas of economic policy, such as tariff and trade questions, which are so critical to the farm economy now. In the end, it seems, the one group happiest with Ed Jones' performance in Washington is the one group that counts: his constituency in West Tennessee.

So Jones has held on to the pinnacle of his personal ambition for nearly two decades. Let go? "Not as long as I am physically and mentally able to do the job," he says.

Jones doesn't seem tired; he has the sharp eyes and ready—albeit hardly glib—responses one would expect of a member of Congress. But his years do show in an occasionally unsteady gait and in trips to the hospital to take care of fluctuating blood pressure.

Some would say the years also are betrayed in some of his attitudes. He was sued in 1982 for sex discrimination by a woman who ran part of the House food services system while Jones ran the House Administration subcommittee overseeing the operation. She accused him of saying she made too much money "for a woman" as he fired her. Jones denies making the comment; he says, in fact, that when he took her out of the job, replacing her with a man—who worked, in turn, for a woman—"we quit losing money." That's after saying he can't comment on the matter while it remains in litigation.

He is a veteran of life, and of the public life, and he will answer any question more or less straightforwardly. But when you ask about the sex discrimination case, you detect a little shifting in the chair, a half-step lowering of the still-friendly voice, a slight unease and pique at the topic. The same subtle symptoms are elicited by another topic: Memphis.

Jones acknowledges that he is not all that well-known in the biggest city in his district. The relatively drab nature of his work does not attract big headlines, after all, and a congressman can't announce an appearance in Memphis, the way he can in Dyersburg, and automatically attract interest just for being there.

Still, Jones recognizes that Memphis is a significant piece of his constituency, and like any other politician with some responsibility for it, feels some discomfort when discussing its problems. He shakes his head a little over it, then offers a vague prescription: "To make Memphis better . . . more and more of the raw materials [of agriculture] ought to be processed there . . . Memphis needs economic growth." A single congressman, he admits with unusual candor, can't do a great deal about that, "except to encourage it."

And what does he see as the biggest impediment to growth in Memphis? Again, a little shake of the head, a quick look downward, a lowering of the voice almost to a mumble. "I don't know," he says. "I don't know whether it's the political situation, or what."

What political situation? "Black and white," he says, without elaborating.

Jones is not a simple farmer. Something like pain and, a little more strongly, something like resignation color his voice as he addresses the topic of local race relations. Certainly—unlike many members of the Memphis political leadership—he cannot be accused of ever having demagogued over a racial issue. But neither can he be said to have led the charge to solve the problems. He treats the race issues as a fact, a very sad fact of life in the district.

After a pause: "Memphis has changed so much in the last twenty years," Another silence.

For better or worse?

"For the better, eventually, I believe."

Asked to put in a single word the key to solving this issue which he so reluctantly identifies as perhaps the fundamental problem of the city he helps represent, Ed Jones gives no slick television response about "changing values" or "black entrepreneurship" or "inspired leadership." Instead, he answers like the Presbyterian lay worker, Mason, Shriner, and loyal long-distance political swimmer he is. The solution to Memphis' problems? Says Ed Jones, simply: "Faith in each other."

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume, so I can respond to some of the comments just made by the gentleman from Michigan [Mr. BONIOR].

The gentleman from Michigan is correct. We have a full platter ahead, but we have an empty basket behind us.

When we look at what we did last week and the week before that, the week before last we passed a couple of bills; and we have missed targets and we have missed deadlines.

Yes, we will soon have these appropriations bills on the schedule, I guess. Why have they not come up before?

We will probably waive the Budget Act on every one of them. Did we not have major legislation before the House in the 95th, 98th Congress; and yet every Congress, the number of closed, restrictive rules has been inching up, and is now up to almost 50 percent. As of the last few rules we have taken up, 43 percent of the rules are restrictive.

I did not understand why on a bill like this we should not have an open rule. Yes, we have a lot to do; but I would caution the gentleman from Michigan, do not start ending all those major issues with the attitude that we are going to shut them down to where the Members will not have a chance to offer their amendments, and that goes for both sides.

Mr. Speaker, I yield 4 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to agree with the gentlemen, Mr. DAUB and Mr. ROBERT F. SMITH of Oregon, in regards to the statement that it is a good bill.

I guess I would generally say that it is a fair rule as described by the gentleman from Michigan [Mr. BONIOR]. I am for accommodition in this House. I think we have done that with some of the more controversial sections of the bill, and I hate to spoil the party; but fair is fair, and I am the one with the nongermane amendment that was ruled nongermane, whereas other nongermane amendments were ruled germane.

It was like every Member with a nongermane amendment, take one step forward, hold it, Mr. ROBERTS, and you stay right there.

I would say to the gentleman from Michigan, the gentleman is one of the outstanding athletes in the House of Representatives; and when we pass the gentleman the ball on two or three occasions, I would expect him to pass it back maybe on one or two occasions. I am talking about the rule. I oppose it.

I rise in strong support of the bill. For the past year I have been raising concerns with regard to the conservation compliance regulations in the new farm bill. I can already anticipate the question on the minds of the Members.

What on Earth is the gentleman from Kansas doing talking about conservation and sodbusting requirements in the midst of a farm credit bill? What I am trying to do is address a problem that has been a blood-pressure item in farm country for better than a year. What I am trying to do is pass a simple amendment that will enable farmers to go ahead with normal cropping practices when it is time to plow up and rotate a crop of alfalfa.

Why should that routine practice take an amendment on the floor of the House of Representatives? It is because in passing a strong conservation program as part of the farm bill, we also have gotten into regulating what farmers can and cannot do.

During the committee consideration of the farm credit bill, an amendment was offered to expand the sodbuster authority to the Farm Credit System borrowers, so they must comply with the conservation requirement. This is apparently germane.

However, allowing a farmer to rotate his alfalfa crop is somehow beyond the power of this Congress to consider, I am not going to be allowed to offer my alfalfa sodbuster amendment.

I want to go on record with the gentleman from Tennessee [Mr. JONES], the subcommittee chairman, with every Member within the sound of my voice, and make it clear that I am going to be seeking legislative relief down the road regardless of the legislation.

I would urge the Members to study this issue and help me inject some needed common sense and flexibility into the enforcement and implementation of the conservation compliance regulations in the farm bill.

Mr. Speaker, in reference to the farm credit bill I would like to commend Chairman DE LA GARZA, and my colleagues Messrs. JONES, MADIGAN, and COLEMAN for their diligent effort to bring before this body for consideration H.R. 3030, a thorough response to our agricultural and rural credit problems. All in all, I am pleased with the present bill. It has been difficult, and controversial and time consuming but on balance I think it is a good bill.

The general decline of the farm economy, and all the pain we have gone through, as well as inappropriate lending policy within the Farm Credit System in the late seventies and early eighties, requires us now to take action. The evidence is clear, the System and consequently our entire farm lending structure needs financial assistance. However, I made a promise to the farmers, bankers, and ultimately every taxpayer in my district, that not one penny of Federal assistance will go to the Farm Credit System without major changes in the future operations of that institution. If we adopt H.R. 3030 as it now stands, we will meet these responsibilities.

Mr. Speaker, the construction of H.R. 3030 includes a tremendous amount of effort and genuine concern by my friend from Texas, Mr. STENHOLM. It was his effort, his leadership, his hard work, that brought to reality a bill that proposes to reform and downsize and streamline System. Also, the Stenholm capital adequacy language introduces a dose of fundamental economic discipline. When private capital is at risk, the institutional stockholders will demand actions that protect the value of that capital. And complimenting more stringent capital requirements I believe the provision for a Farm Credit System Insurance Corporation marks the beginning of financial adulthood for the System.

These substantial changes in the shape and character of the Farm Credit System provide a large, but incomplete step toward addressing our credit problems. Our efforts must include more. We must change our basic agricultural lending environment. For this reason, any comprehensive reform in our farm lending structure must include a secondary market for agricultural mortgages.

Mr. Speaker, the move to include a secondary market in this bill is based on a well founded belief that competition will result in efficiency. Congress created the Farm Credit System as a stable source of credit for farmers who traditionally suffered the most from the periodic ebbs and flows in the national supply of credit. The Farm Credit System, has been an effective tool to resolve longstanding financial problems—nothing more. Now we are confronted by a System that is in trouble and outdated. The System as presently structured was unable to survive some very difficult times, and as a consequence the farmer has suffered.

A secondary market encourages diversity in the farm mortgage market, and therefore spreads the risk of institutional failure. As such, the farmer is no longer beholden to the success and failures of any one institution. Furthermore, a competitive environment, along with the right to fail, will act as a check on poor financial management decisions by the Farm Credit System. I recognize that the System as a whole is likely to be smaller in scale with a secondary market, but I firmly believe that a greater number of agricultural farm mortgage lenders equates to greater stability for the whole lending structure.

Mr. BONIOR of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to quote the gentleman from Mississippi [Mr. LOTT], my friend, I do not want to beat a dead horse; but I do want to respond to the gentleman's references with regard to what we did last week.

I am sure the gentleman from Mississippi did not want to leave the impression that what we did last week was not worth doing. I think it was important, and the gentleman would probably agree that we tackled the textile bill as we did last week.

The gentleman will probably agree it was important to at least 120,000 Japanese Americans who got some redress last week, those were important pieces of legislation, so I do not want the impression left with the House, or with the American people that we did not take the necessary business of the Republic up last week. We did, and I think we did a good job.

We are on schedule. We passed 9 of the 13 appropriations bills. We will pass the 10th one before we adjourn this week for the high holy days, and the problem is quite frankly; and the gentleman understands it as well as I do, the problem is in the other body.

It is within his party members in the other body. If they would stop filibustering the important business of the country and let the process work its will, we could come to some accommodation in a reasonable time and in a fair manner.

□ 1315

So I just do not want the impression left that we have somehow dawdled around here and not gotten the business of the country done. If I have heard one consistent praise from this side of the aisle this year it is that the business of the House has gotten done in a proper way and in a scheduled way.

I think the examples that I have given of last week and what lies before us is indicative of that.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, due to the interest in this bill, I am going to proceed as some of my colleagues on the Agriculture Committee have to focus on the bill during debate on the rule, rather than focus specifically on the rule itself.

We in the Agriculture Committee were here in 1986. We were here in 1985. Now we are back in 1987 to deal with the Farm Credit System.

Why three times in 3 years? I think the answer is fairly clear and fairly easy and concise; that is, that we have in the past tried to provide custodial care to the patient, that being the Farm Credit System, and unfortunately, the patient has not responded. We now need to provide some more serious medical procedures. Some would say we are looking at at least exploratory surgery, if not drastic surgery in and of itself.

The fact is that the Farm Credit System has continued to lose money and is projected to possibly lose money as a nationwide system over the next couple years. They cannot continue to survive as a viable provider of agricultural real estate under these circumstances, under the present situation of uncooperation between the districts, without some Federal assistance.

We are here today, not because of some failure of the Agriculture Committee to provide the proper legislative remedy, we did that in 1985 and 1986. We are here today because the Farm Credit System did not respond to those initiatives and utilize the full resources that were in front of them.

I would call upon my colleagues to look at this bill and understand that we will between this week and 2 weeks hence when we complete consideration of this legislation have tried to respond to the problems of the Farm Credit System in a way that deals not only with the unique problem today, but much greater the entire problem of rural agricultural credit in 1987 in this country.

First and foremost, we are doing the obvious, and that is to provide the authorization for some Federal assistance to the Farm Credit System that will allow it to continue to operate throughout the waning months of 1987 and beyond; but we are not going to provide that authorization for free.

No. 1, it obviously is a loan. It is not a grant.

No. 2, and most importantly, we are requiring that the System pay a price. If the Farm Credit System as we have known it in the past is no longer in existence in terms of its commitments in joint and several liability in terms of its commitments as a cooperative to help each other, then frankly we in the Agriculture Committee believe it is time to modernize the Farm Credit System to the realities of 1990 finances, and that means providing the assets and providing the authority at the local level, and also means a significant downsizing at the district level and up in terms of the bureaucracy and in terms of the authority they have had in the past.

Perhaps part of our problem is that we have in the past provided too much authority and we have not had the accountability there. Until we get to the point where a nationwide System is in trouble, let us deal with these institutions, these associations, on a local control, one-by-one basis, when they are in trouble and prevent a national catastrophe from happening again.

Third, let us understand that what we are doing here is going above and beyond the Farm Credit System to recognize that we have got some major problems in rural America in terms of rural credit. Not only do we have our farms getting larger and needing larger financial portfolios and loans, but we also have interstate banking deregulation of banking and everything else, which like it or not, is taking money out of rural America.

Combine all those forces and you quickly recognize that we have a serious problem of long-term financial real estate or agriculture money available to rural America.

It is for that reason that we are trying also to authorize in this comprehensive H.R. 3030 legislation that would provide for a secondary market.

Finally, the fourth item we will deal with in this legislation and deal with today is the whole issue of borrower's rights, whether it be the Farm Credit System or the Farmers Home Administration.

The fact is that when we are using Federal money directly or indirectly, it seems that the borrowers ought to benefit to some degree out of what we are doing here in H.R. 3030.

We believe they will accomplish that under this legislation. We will get into those specifics later on.

Mr. Speaker, I encourage you to look favorably on this legislation. It is a good piece of legislation, a good start.

Mr. LOTT. Mr. Speaker, I yield myself just a few more seconds. I would respond again to the gentleman from Michigan, but since he responded to me, I feel constrained to respond to him.

With regard to last week, yes, we had two major pieces of legislation, but we did not have any votes on Monday or on Friday, and yet we find it necessary to limit the farm credit overhaul to 1 day.

I am sure the gentleman misspoke himself when he said we are on time. The last time I checked, all appropriation bills had to be done by June 30. I think that is when we were supposed to have completed the appropriation bills, so if the gentleman wants accolades because we have done 9 or 10 instead of all of them, that is what the law requires, that we report them by June 30.

Mr. Speaker, I yield the balance of my time to the gentleman from Nebraska [Mr. BEREUTER].

The SPEAKER pro tempore. The gentleman from Nebraska [Mr. BEREUTER] is recognized for 2 minutes.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

I asked for some time at this point to engage the distinguished member of the Rules Committee from Mississippi [Mr. LOTT] and the distinguished gentleman from Michigan in a couple questions and answers

I have the intention of trying to engage in a colloquy with the chairman of the Agriculture Committee on title II. It is my understanding that the amendments designated by the rule are taken up for consideration for an established number of minutes.

What would be the gentleman's advice as to whether or not we have sufficient time for colloquy in the debate on title II.

Mr. LOTT. Well, of course, under the general debate, you could have a colloquy then. If the gentleman has a colloquy he would like to enter into with regard to a particular amendment, most of those amendments have 10 minutes. It seems to me there is one that has 20 minutes.

Mr. BEREUTER. It does not relate to an amendment.

Mr. LOTT. So I hope that will be enough time.

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I would also point out to my colleague that it is my understanding that there will be some amendments that will be accepted en bloc together, and as my colleague from Mississippi correctly pointed out, the time then gets extended to 20 minutes, at which point I am sure that some accommodation can be made to accommodate my colleague in a colloquy, assuming that it is not a long colloquy.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman. If I could propound another question, having it seems just arrived at the Washington National Airport less than 10 minutes ago.

I have an understanding that the Banking Committee and the Committee on Energy and Commerce intends to waive the one-half hour that each committee has for general debate.

I wondered if either of the two gentlemen could confirm that understanding.

Mr. LOTT. My understanding is that they will not do it today, but there will be a request made for it to be taken up at that date, either a date certain or some agreed to date, when the committees would report back on that title III; is that correct?

Mr. BONIOR of Michigan. That is my understanding. My understanding is that the half hour for the Banking Committee and the half hour for the Commerce Committee, which is appropriated in the general debate time, will be 2 hours, which can be reserved when the title they are concerned with, primarily title III, is taken up, whatever that date is.

The SPEAKER pro tempore. The time of the gentleman from Nebraska has expired.

Mr. BONIOR of Michigan. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Nebraska, for purposes of debate only.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

If the chairman of either or both committees would intend to yield their one-half hour or not take it at this point, under the rule does any one Member, such as this Member, have the right to object, against such unanimous-consent request to waive the one-half hour of debate.

Mr. BONIOR of Michigan. Yes, the gentleman is correct.

Mr. BEREUTER. I have not had a chance to check with the Agriculture Committee, but is my understanding they have only 1 hour of general debate time distributed between the two sides. I think it is important that this Member and other Members who feel very strongly that title III must be a part of the total package have an opportunity to make that case today.

I am worried now with the change of intention regarding general debate time that this Member and other Members will not have that opportunity. If there is anything the gentleman could do to reassure me in that respect, I would appreciate it.

Mr. BONIOR of Michigan. The gentleman will have a chance to make his case today under the hour allotted to the Agriculture Committee.

Now, I do not know whether my colleague will make the motion, or the distinguished whip. I do not know whether he will ask for an additional 30 minutes for the Agriculture Committee next week.

The gentleman is saying yes, so there will be an additional 30 minutes when they come back.

Mr. LOTT. Mr. Speaker, if the gentleman will yield, that is my understanding. The time is not going to be eliminated. It is just going to be put off until a subsequent date, at which point it will be discussed. I did not know of any intention to waive that time.

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from California, the distinguished whip.

Mr. COELHO. Mr. Speaker, under the unanimous-consent request that I will make, it will provide an additional 30 minutes to the Agriculture Committee, besides what is happening, and the Commerce Committee and the Banking Committee half hours will all be put over until the 6th; so we are not cutting time, we are actually adding to the time, so the gentleman's request will not only be granted, but more time will be provided.

Mr. MADIGAN. Mr. Speaker, will the gentleman from Michigan yield?

Mr. BONIOR of Michigan. I yield to my friend, the gentleman from Illinois.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding.

If I might address this question to the distinguished majority whip. When we come back to this on October 6, or whatever date, will the members of the Agriculture Committee at that point have any time assigned to them to discuss titles III and IV?

Mr. COELHO. Mr. Speaker, if the gentleman from Michigan will yield further, the request will ask for time for the Committees on Agriculture, Commerce, and Banking, so the answer to the gentleman's question is yes, specifically.

Mr. MADIGAN. Mr. Speaker, if the gentleman will yield further, is it contemplated that each committee would be given 30 minutes?

Mr. COELHO. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from California.

Mr. COELHO. Yes.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I just have one question then to confirm what I believe the distinguished majority whip has indicated, that the Agriculture Committee today would have 1½ hours of general debate time to be shared equally, or is it 1 hour?

Mr. COELHO. One hour today, and then a half hour on October 6, and the Banking Committee a half hour and the Commerce Committee a half hour.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. BONIOR of Michigan. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that yeas appeared to have it.

Mr. MADIGAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 304, nays 56, not voting 74, as follows:

[Roll No. 322]

YEAS—304

Ackerman
Akaka
Alexander
Andrews
Annunzio
Aspin
Atkins
Ballenger
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Brennan
Brown (CA)
Bruce
Bryant
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clinger
Coble
Coelho
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Crockett
Daub
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Howard
Hoyer
Huckaby
Jacobs
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Lagomarsino
Lancaster
Lantos
Leach (IA)
Lehman (FL)
Leland
Lent
Levin (MI)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
Madigan
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murtha
Myers
Nagle
Natcher
Nichols
Nowak
Oberstar
Obey
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pelosi
Penny
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schuette
Schulze
Schumer
Sharp
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—56

Archer
Armey
Badham
Baker
Barton
Bentley
Bilirakis
Bliley
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Cheney
Coats
Coleman (MO)
Crane
Dannemeyer
Davis (IL)
DeLay
DioGuardi
Dreier
Fawell
Fields
Gekas
Gregg
Houghton
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kyl
Lewis (CA)
Lewis (FL)
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
McCandless
Nielson
Petri
Roberts
Schaefer
Sensenbrenner
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Swindall
Vucanovich
Walker
Whittaker
Young (FL)

NOT VOTING—74

Anderson
Anthony
Applegate
AuCoin
Biaggi
Boner (TN)
Boxer
Brooks
Bustamante
Chappell
Collins
Coyne
Craig
Daniel
Darden
Davis (MI)
Dickinson
Donnelly
Dornan (CA)
Dowdy
Durbin
Edwards (OK)
Erdreich
Flippo
Florio
Ford (TN)
Garcia
Gephardt
Gingrich
Hatcher
Hefley
Hubbard
Hughes
Hunter
Hutto
Jenkins
Kemp
Kolter
LaFalce
Latta
Leath (TX)
Lehman (CA)
Levine (CA)
Livingston
MacKay
Martin (NY)
McCollum
McEwen
Mineta
Moody
Mrazek
Murphy
Neal
Nelson
Oakar
Olin
Owens (NY)
Pease
Pepper
Ray
Ridge
Roemer
Rostenkowski
Schneider
Schroeder
Shaw
Sisisky
Slattery
Spence
Sweeney
Tauzin
Taylor
Towns
Williams

☐ 1345

The Clerk announced the following pair:

On this vote:

Mr. Shaw for, with Mr. Craig against.

Mrs. VUCANOVICH changed her vote from "yea" to "nay."

Mr. ROTH changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

POSTPONING GENERAL DEBATE ALLOCATED TO COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS AND COMMITTEE ON ENERGY AND COMMERCE AND GRANTING ADDITIONAL GENERAL DEBATE TIME ON TITLES III AND IV OF H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the general debate allocated to the chairmen and ranking minority members of the Committees on Banking, Finance and Urban Affairs and Energy and Commerce pursuant to House Resolution 265 be postponed until completion of consideration of amendment numbered 25 printed in House Report 100-307, in the Committee of the Whole, and that at that time the chairman and ranking minority member of the Committee on Agriculture be allocated 15 minutes additional general debate each, all such general debate to be confined to titles III and IV of the bill, H.R. 3030.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO CONSIDER AMENDMENTS 1 AND 4 TO H.R. 3030, AGRICULTURAL CREDIT ACT OF 1987 OUT OF ORDER

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that amendments 1 and 4 printed in House Report 100-307 to H.R. 3030 as reported be considered in the Committee of the Whole out of the order specified in House Resolution 265 and at such time as the sponsors, after consultation with the ranking and minority Member, may determine.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1770

Mr. NIELSON of Utah. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1770.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah?

There was no objection.

AGRICULTURAL CREDIT ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 265 and rule XXIII, the chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3030.

□ 1352

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes, with Mr. TRAXLER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

Pursuant to the order of the House of earlier today, the chairman and ranking minority members of the Committees on Agriculture; Banking, Finance and Urban Affairs; and Energy and Commerce will be recognized for 15 minutes each for general debate on titles III and IV after the completion of amendment numbered 25 printed in House Report 100-307.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield 4½ minutes to the chairman of the Subcommittee on Conservation and Credit, the distinguished gentleman from Tennessee [Mr. JONES].

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 3030, the Agricultural Credit Act of 1987, as reported by the Committee on Agriculture.

The Members of this body are no strangers to the economic problems that have continued to plague the agricultural sector. In each of the last 2 years, Congress has enacted major bills designed to address the problems of the Farm Credit System. Those measures bought valuable time, but so far they have involved not 1 cent of Federal assistance. However, the day is clearly now at hand when, in the absence of such assistance, many system institutions face the stark reality of collapse.

I want to make just a few points about this bill before the House begins to consider amendments over the next few hours and days.

Without question, in preparing this legislation, the Agriculture Committee sought the advice and opinions of every conceivable organization and individual interested in the subject of farm credit. Between March and June of this year, my Credit Subcommittee held 15 days of hearings, where we gathered testimony from well over 100 witnesses.

The committee has operated in the most open legislative process possible, and truly has attempted to be as responsive and responsible as anytime I've observed in all my years in Congress.

The committee has approached the serious problems affecting our Nation's agricultural credit and financing sector by taking a broad view. This bill is a carefully crafted package of reforms and assistance measures that cut across all elements of the Agriculture Credit Delivery System. Always keeping our priorities aimed at the American family farmer, we have addressed the critical needs of the Farm Credit System, and have provided important new borrower rights for farmers who depend on the Farm Credit System and the Farmers Home Administration as well.

Finally, we have looked to the future and included provisions to help establish and encourage a new secondary mortgage market for agricultural loans.

Despite all our best efforts over the past few years, we unfortunately must admit that the Farm Credit System is in a struggle for its survival, and it is unlikely the System will ever—or should ever—reclaim the overwhelming predominance it once enjoyed during its glory days of the 1970's. Furthermore, the Farmers Home Administration simply cannot be counted on in the future to meet every credit crisis when it arises. Budget realities force us to accept that the Government cannot and should not continue to promote soft credit as the answer to a struggling farm economy.

With these facts in mind, I believe we owe it to the agriculture sector to ensure that a Farm Credit Delivery System continues in place to meet the demands of the 1990's and into the 21st century. Quite simply, prudent judgment demands that we respond to the future in the approach the committee has taken in H.R. 3030.

Taken as a whole, this bill is a strong package, and should form a responsible blend of private and public sector credit delivery for decades to come. However, I must note with caution that any substantial unraveling of this delicate package could jeopardize the entire effort.

I urge my colleagues to support the committee, and oppose major amendments that will undo the basic fabric of H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. MORRISON].

Mr. MORRISON of Washington. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 3030 and commend the committee for some excellent work.

Mr. MADIGAN. Mr. Chairman, I yield 5 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I am pleased to rise in general support of H.R. 3030, the Agricultural Credit Act of 1987.

In 1985, Congress passed legislation to help the Farm Credit System. We believed that that legislation gave the Farm Credit System the tools it needed to help itself by transferring surplus capital within the System to unhealthy institutions who needed assistance before any Federal money went into the System. The Farm Credit Act Amendments of 1985 also provided for a Federal line of credit after the System exhausted its surplus. And finally, the legislation in 1985 made the Farm Credit Administration a truly arms-length regulator of the Farm Credit System.

The legislation that was signed into law in 1985 was a good bill. Unfortunately, the law was not allowed to work. Litigation over regulations that required healthy System institutions to share surplus capital with weaker System institutions prohibited the Farm Credit Act Amendments of 1985 from working completely as Congress intended even though the System has voluntarily shared some surplus capital.

Now we face a situation where several Farm Credit System institutions are on the brink of financial insolvency. Projections are that by the end of this year at least three Federal land banks will be unable to issue obligations on Wall Street because of collateral deficiencies, unless they receive some Federal assistance. It is my understanding that by yearend eight Federal land banks are projected to have farmer-owned stock impaired unless there is some Federal assistance. In addition, the System is projected to lose almost $3 billion over the next 3 years.

Money to finance loans to farmers made by Farm Credit System banks and associations comes primarily from the sale of Farm Credit securities in the Nation's money and capital markets. Farm Credit System instruments have traditionally been very attractive to investors because of the implicit Federal guarantee. Historically, Farm Credit System instruments have run within 20 basis points over U.S. Treasury obligations of like maturities. Because of the deteriorating financial condition of the Farm Credit System, investors' confidence has been shaken and spreads have run as high as 140 basis points above Treasury obligations as recently as June of this year. This higher cost of borrowing is passed on to farmer borrowers.

I believe we must provide appropriate Federal assistance now to shore up the Farm Credit System. H.R. 3030 provides for such financial assistance and for the reorganization of the System to make it more competitive in the changing environment of agricultural credit. The bill clearly demonstrates Congress' continued support and financial commitment to the Farm Credit System.

We don't take lightly the use of taxpayer dollars. To assure the proper expenditures, this bill creates the Temporary Assistance Corporation [TAC], a Government-owned corporation, to administer Federal financial assistance that will be provided by Congress through the appropriation process. The Temporary Assistance Corporation will implement a program of technical and financial assistance on an "as needed" basis to troubled Farm Credit System institutions. Each institution requesting assistance must first have its business plan approved by TAC before receiving Federal help. TAC will be responsible for ensuring that business plans reflect the most efficient and cost-effective use of Federal funds. If an institution deviates substantially from its approved business plan, the TAC can withhold Federal financial assistance.

The Temporary Assistance Corporation will be directed by a five-member board: The Secretary of Agriculture will appoint three members; the Secretary of the Treasury and the Farm Credit Administration Board will each appoint one person to the board. Because each board member will serve a 3-year term, the TAC board should be able to make the difficult and independent decisions required to stabilize the Farm Credit System.

The Temporary Assistance Corporation will be terminated after 5 years, when, hopefully, its purposes will have been served.

There has been a great deal of controversy over the Capital Corporation ever since it was created in the Farm Credit Act Amendments of 1985. The Capital Corporation was established to marshal surplus capital within the Farm Credit System and to provide financial assistance from the Federal Government when Federal dollars entered the System. Because of litigation, the Capital Corporation did not work as Congress envisioned. Since it no longer serves a function in H.R. 3030, it will be terminated upon enactment of this bill. This legislation also funds assessments made by the Capital Corporation and reverses the 1986 third quarter capital preservation agreements.

H.R. 3030 takes bold steps to reorganize the structure of the Farm Credit System to make it more competitive in the future with commercial banks and insurance companies and to reduce operating costs. I feel this is one of the most important provisions in this bill. The System has struggled, unsuccessfully in many districts, to remain competitive with other commercial lenders. Unless the System is required to make structural changes, the secondary market provisions in this bill could cause the demise of the Farm Credit System. The Stenholm reorganization amendment adopted by the Agriculture Committee and to be perfected later must bring about changes in the structure of the Farm Credit System that will result in streamlining and more efficiencies.

While the specific language of this amendment is still to be decided it must allow the System to peel off layers of bureaucracy to provide for a "meaner and leaner" Farm Credit System. Reorganization must provide strong local control to associations of this farmer-owned cooperative. District banks will be dissolved within 12 months and their assets and liabilities transferred to the associations affiliated with that bank. The Farm Credit Administration is authorized to charter up to six regional service banks to perform nonmanagement and nonsupervisory tasks. The Banks for Cooperatives would be merged into one bank. The bill must also provide for merger of the Federal Land Bank Associations and Production Credit Associations, better known as merger of unlike entities, by stockholder approval.

The Farm Credit System continues to lose good borrowers. The System's total loan volume has fallen from $81.4 billion at the end of 1983 to about $51 billion today. To help reestablish borrower confidence, the bill guarantees borrower stock for a 5-year period from the date of enactment. This guarantee ensures that a borrower will receive par value for stock if the stock is retired during the 5-year period. The guarantee also includes stock of borrowers who lost their stock when associations in the Omaha and Spokane districts were liquidated.

Farm Credit System institutions must also establish a new capitalization structure to create permanent risk capital which should provide incentives for efficient and sound management decisions at the local level. The requirement that a borrower purchase a minimum amount of stock based on a percentage of the borrower's outstanding loan is eliminated. The capitalization plan must meet the permanent capital adequacy standards established by the Farm Credit Administration.

Another major provision of the bill establishes a Farm Credit System Insurance Corporation similar to the FDIC to protect the System and taxpayers against future losses by guaranteeing bond holders the timely payment of principal and interest. The Insurance Corporation will allow institutions to fail without bringing down the entire System. The Insurance Corporation will be directed by a three member Presidentially appointed board. The insurance fund will be capitalized through annual premiums that will be collected upon enactment. However, the Insurance Corporation's broad authority to merge, liquidate, and provide cash assistance to failing institutions will not become effective until after the TAC is terminated.

The bill maintains joint and several liability. However, joint and several liability would be triggered only after funds in the Farm Credit System Insurance Corporation were exhausted, which is an unlikely event.

The Agriculture Committee adopted a strong loan restructuring provision. Under it, the System must review nonaccrual and high-risk loans to determine those eligible for restructuring. Lenders are required to restructure loans of financially stressed farmer-borrowers when it is less costly to the Farm Credit System to restructure than to foreclose or liquidate. Small family-farm-sized loans, which include the greatest number of troubled loans in the Farm Credit System's portfolio, will be restructured by the local associations. The Temporary Assistance Corporation will be responsible for restructuring loans over $500,000 that may require more financial expertise.

There were additional borrower rights provisions adopted to allow Farm Credit System borrowers to have access to their files and land appraisals. A review process was also established for adverse decisions on loan restructuring.

The Agriculture Committee adopted a compromise secondary market provision that establishes a Farm Mortgage Corporation, within the Farm Credit System, to certify banks, insurance companies, Farm Credit System institutions, and other agricultural lenders to make a secondary market by buying and pooling agricultural loans. Securities would be guaranteed through a $1.5 billion line of credit at the Treasury. A reserve equal to 10 percent of the pool's principal would be established and tapped to assure payment of principal and interest on securities before seeking Government aid. The Farm Credit System was also authorized to pool its loans, other than real estate loans and housing loans, and sell securities backed by such loans on the secondary market.

Finally, the Agriculture Committee adopted a Farmers Home Administration title that gives FmHA borrowers restructuring rights similar to those provided to Farm Credit System borrowers under this legislation. This title extends the FmHA interest rate buydown program through 1993. It also authorizes matching grants to States for the payment of up to $500,000 per year but not more than 50 percent of the program costs of a State-run nonbinding mediation program for farm borrowers and lenders.

H.R. 3030 represents a delicate compromise by several competing interests. The bill provides a commitment by the Federal Government to help the Farm Credit System continue to be a major source of competitive farm credit for agriculture. It also promotes competition in agricultural lending by creating a secondary market for farm real estate mortgages. It helps farmer borrowers of the Farm Credit System, commercial lenders, and Farmers Home Administration. And perhaps most important, it provides the controls and safeguards over Federal assistance to protect taxpayers.

This legislation has had strong bipartisan support. It was reported out of the Agriculture Committee by a vote of 41 to 2. The Stenholm amendment reorganization language still remains to be resolved. If it is resolved along the line the committee originally intended, then I can urge support for this bill. If it does not, I must reserve judgment.

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Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I urge my colleagues to support H.R. 3030, as amended. Among other benefits, this bill will correct several unanticipated problems caused by the passage of the 1985 amendments to the Farm Credit Act of 1971. I will confine my remarks at this time to those provisions of the bill dealing with the reversal of Capital Corporation assessments and transfers under contractual loss-sharing agreements.

First, I am pleased that this bill will put an end to the disputed assessments made or attempted by the Capital Corporation. As the Members will recall, one of the intended purposes of the Capital Corporation was to marshal the resources of the 37-bank System. The Capital Corporation was empowered to require banks to purchase Capital Corporation obligations and use the proceeds to provide necessary financial assistance to System institutions in seriously weak financial conditions.

Mr. Chairman, reasons for creating the Capital Corporation just 2 years ago were sound. However, in practice the Capital Corporation has proven to be a mistake. The regulations that were adopted to marshal resources for banks in need of help, in fact, did far more harm than good. Their terms were so onerous that in an attempt to provide funds for weaker banks, they instead threatened to bleed healthy PCA's and banks of their own financial strength.

Several System banks and PCA's have successfully challenged this mechanism for involuntary transfers, and several courts have held that the assessment regulations are invalid. It is a shame that so much valuable time and effort was spent on court proceedings, and I am happy H.R. 3030 will help bring that litigation to an end. H.R. 3030 provides that the assessments will be reversed.

In contrast to the Capital Corporation assessments, a different set of circumstances applies to capital preservation agreement transfers. H.R. 3030 provides that those transfers will not be reversed except for certain accruals made in the third quarter of 1986 and then only if and when the receiving banks receive equivalent assistance, both in kind and amount, from the Technical Assistance Corporation. Such different treatment of capital preservation agreement transfers, as compared to Capital Corporation assessments, is fair, proper, and necessary. The 37 banks in the Farm Credit System voluntarily signed those contracts to preserve the stability and viability of the System. These capital preservation agreements, dating back to 1978, provide that the healthier banks will contribute to banks threatened with capital impairment. The banks voluntarily entered those self-help agreements because of their joint liability on obligations issued by the System.

Under the agreements, during 1986 many banks became entitled to contributions from other banks. For the first two quarters of 1986, most of the assessments have been paid in accordance with the agreement. For the third quarter, the contributions are currently accrued as accounts receivable on the books of the receiving banks and accounts payable by the contributing banks. The Federal land banks that are owed money under the agreements for the third quarter of 1986 are the Louisville, Jackson, St. Louis, St. Paul, Wichita, and Omaha's FLB's. Several banks within these six struggling Farm Credit districts paid out over $300 million in cash to less healthy banks to assure the viability of the Farm Credit System during the first two quarters of 1986.

Some of the Federal land banks in those six districts would not only have impaired capital, but would be deficient in collateral but for their third quarter accrued receivables under the capital preservation agreements. Therefore, those banks could not participate in bond offerings if the third quarter receivables were reversed. That, in turn, could precipitate another financial crisis for the entire System.

The bill provides that replacement assistance, equivalent in kind as well as amount to assistance currently accrued under the capital preservation agreements, must be provided to the less healthy banks before the third quarter receivables can be reversed. To be equivalent in kind, assistance must satisfy the banks' needs for both capital and collateral.

Capital preservation agreement accounts receivable serve as collateral required under Federal regulations for bank bonds which finance continuing bank lending to farmers and ranchers. Under the bill, any replacement assistance provided by the Government through the Temporary Assistance Corporation, must be equivalent as collateral in order to permit reversal of the receivables.

The bill would assure that financial assistance from TAC is equivalent in kind and amount to the assistance presently recorded on the books of the receiving banks, and serves the same purposes of protecting against deficiencies of eligible collateral and impairment of borrower stock.

H.R. 3030 provides a reasonable and fair way of resolving these difficult of capital preservation agreement assistance and Capital Corporation assessments. I urge my colleagues to support H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I appreciate having this time yielded to me.

Mr. Chairman, I am extremely pleased to be able to rise in support of this landmark legislation.

When the Committee on Agriculture set its priorities for developing farm credit legislation this year, there was one clear goal—to make sure our Nation's farmers and ranchers have a stable, dependable system of intermediate and long-term credit to be able to retain our position as the strongest food and fiber-producing nation in the world. This legislation accomplishes that most important goal.

While the System would have preferred to take care of its own financial woes, it is necessary to provide some Federal help. I commend my colleagues for realizing before it is too late that we were headed down the wrong path. I do not believe it was ever the intent of Congress to break the rest of the System. The implementation of the 1985 Farm Credit Act was accomplishing just that. We now recognize that the overall health of the agricultural industry can be improved by providing repayable financial assistance, production, credit associations, and Federal land banks.

I also rise to express a great sense of relief that we do not have to rush to the floor with a farm credit system restructuring plan which does not address all concerns of our constituents. Coming from the healthy Texas 10th Farm Credit District, I look forward to continuing to work with other members of the committee to insure that we have a workable package of system reforms which truly improve availability and access to the producer. I appreciate that the House further recognizes that we need to look at the Farmers Home Administration and make sure that it is meeting the needs of its borrowers during these stressed economic times for agriculture. These improvements will help us to continue to move toward the slow recovery that we are currently making.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, the essence of H.R. 3030, the bill before us today, is that it is going to provide approximately $4 billion of Federal taxpayers' money over a period of time to bail out the Farm Credit System. In order to implement this legislation, there is created what is referred to as Temporary Assistance Corporation [TAC].

This is a strong Government entity. It is given strong powers, strong supervisory powers and strong regulatory powers, to see that our tax dollars are properly spent. It calls for a major reorganization of the Farm Credit System. The 22 existing district banks will be folded into 6 regional service centers.

I was one of two members of the Committee on Agriculture who initially voted against this legislation when it was voted out of committee, and the reason I did this was frankly that I did not think the reorganization as initially proposed was workable. It was suggested that some 350 local associations would individually be going to Wall Street to obtain funds and would be making all their own local decisions. I am for local control as much as anybody, but I believe it is necessary to have some uniformity within the System.

I am glad to say that I think the gentleman from Texas and I are getting much closer to agreement, along with many others involved with us in the reorganization. As for the amendment he will be offering in a couple of weeks, I will be able to support that amendment, and I do support the bill at this time.

Finally, the bill creates a secondary market for private banks to allow competition within the industry to help our farmers so that our farmers, we hope, will be able to receive lower interest rates. I refer not only to interest rates for short- and intermediate-term funds but now for a major new source of funds for long-term borrowing.

Mr. Chairman, I urge my colleagues to support the passage of H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise today because of my concerns not for the farm credit banks in my area for they are not expected to request assistance provided for in this bill.

I am however deeply concerned with two provisions contained in title III and title IV of this bill. I will address these through two amendments which I will offer on October 6.

I will briefly discuss these today and address them in more detail later in a special order.

Under title III we have created a secondary market that allows commercial banks to pool farm real estate loans and sell them with Federal guarantees. This may be OK in that it will assist these banks in regaining their lost share of the market which if I am right has decreased from 40 percent of market share to 10 percent.

While doing this however we attached an expensive borrower's bill of rights to the Farm Credit System loans that will be offered in the secondary market. This would increase interest rates to the Farm Credit System borrowers placing them at one-half to 1 percent disadvantage.

My amendment would place the same borrower's bill of rights on commercial loans offered in the secondary market thereby creating a level playing field for FCS and commercial banks in the secondary market.

Perhaps some compromise can be worked out in this area before October 6 as there are other options such as pooling a mix of FCS loans and commercial so that FCS borrowers may gain the interest rates advantages.

I believe that left as is, the unfair advantage gained by commercial banks can lead to the demise of the FCS.

Under title IV reorganization, I am concerned that stockholder borrowers of the FLB, and FICB will have the right to vote on the structure of the bank they wish to have serve them.

Bank for cooperatives stockholders in contrast will not have this privilege.

My amendment will correct this by allowing a vote by BC members within 90 days after the formation of the National Bank for Cooperatives decribed in title IV.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM.]

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3030, the Agricultural Credit Act of 1987.

This legislation was crafted by the Agriculture Committee in an environment of controversy and much uncertainty. However, I urge my colleagues to consider each title and amendments carefully, for this legislation will provide the vehicle that will allow the Farm Credit System to participate in a drastically changed farm lending environment brought about by deregulation of our finance market, and again become a lean mean lending machine.

I would like to discuss briefly the need for H.R. 3030. Being straightforward, the Farm Credit System is on the verge of collapsing. Recent numbers that have showed some promise, but I warn my colleagues of the real problems of this lender. According to the Farm Credit System funding corporation:

Total capital of at least two Federal land banks will have been depleted by December 31, 1987, and in one instance perhaps be depleted as early as October 1987.

At least three Federal land banks will have collateral deficiencies before year end.

At least one district will be collateral deficient by December 31, 1987, even after sharing 100 percent of the excess collateral from all the three banks in that district.

Since 1985 the Farm Credit System has experienced losses of $4.8 billion and could stand to lose several million more should assistance not be provided.

In order to ensure investor confidence, the System cannot withstand any of its 37 banks becoming collateral deficient as each bank is jointly and severally liable for all securities issued. Consequently, investor confidence dictates the existence of a farm credit system. This existence is crucial to rural America as these 37 banks and 380 associations hold one-third of the entire farm lending portfolio. With such a large share of the market, the commercial lending industry in rural America cannot possibly pickup all its customers served by the Farm Credit System without irreparable harm being done to agriculture.

Although H.R. 3030 was crafted in a hurried fashion, the bill contains many of the tools which will put the Nation's largest farm lender back on its feet. First the bill provides for farmers loans to be restructed in the event that restructuring would prove to be less costly to the lending institution as compared to liquidation.

These measures such as interest write downs, debt set-asides, forbearance, and other tools can help both the farmer and the Farm Credit System to regain a position of strength.

Mr. Chairman, I want to confine my remarks to two or three major points. One is the Farm Credit System is broken, or we would not be here; and we have to fix it.

In reading history over this past weekend, going to 1908, 1916, 1923, 1933, 1971, 1985, and 1986, this House, this Chamber has worked to address the problems of the need of farm credit in rural America. This is why we are here again today.

The Farm Credit System is only as strong as its weakest link, and that is part of the controversy that we have. Throughout history this body has recognized the need of making all of the links strong if we are going to in fact have a farm credit system.

The amendment that I have played a fairly significant role in deals with restructuring of the Farm Credit System. My point here, given the fact that the System is broken, it needs to be fixed, and we are here asking once again for a loan from the taxpayers of the United States. No one in agriculture would come to this body and say that we need to continue 37 individual banks to deliver the service in this new deregulated monetary environment that we all have been having to learn to live with since 1979.

Restructuring is an absolute necessity, particularly if we are going to have a secondary market, which I originally opposed for much the same reasons that others have opposed it; but after listening to hour after hour of debate, and then coming constantly around to the needs of all of rural America, not just the Farm Credit System, not just the commercial banks, not just rural America period but everyone, I come to the realization that a secondary market makes sense in this day and age of difficulty of getting credit at an affordable price to those that need it.

When you look at what has occurred in the last 6 years, rural America has lost $376 billion of equity. That is why we are here today, $376 billion, of which the Farm Credit System has had great difficulty but has done an admirable job of getting us to the point to where we are today.

Restructuring, no one would claim that we need 37. We provide in this amendment that is before the House and will be before the House on October 6 to have six district service centers; and the final point that I want to make concerns local control.

Through the debate, throughout the concern by all parties, people have wanted local control, and no one more than I.

As we look at the bottom line, local control is what is in this committee bill. I urge its support.

Second, a secondary market for agricultural mortgages will provide a more competitive lending environment for farm real estate loans. A tool of this type is especially needed at a time many farmers are strapped with high interest cost and farm land values continue to fall. Secondary markets have worked with great success in the housing industry providing millions of home owners lower lending cost. I ask my colleagues to give the secondary market serious consideration realizing its ability to provide interest rate relief and ability to deter falling farm land values.

Third, an item of the bill which I personally have been involved in is the reorganization of the Farm Credit System's bureacratic structure. If we are to provide a secondary market which will allow commercial lending institutions and insurance companies equal access to Wall Street investment, then the current structure must be downsized. Also I strongly believe that before the taxpayers provide assistance they should be assured that changes will be made with respect to the manner in which the Farm Credit System operates. Currently the Farm Credit System is made up of 37 banks and 380 associations which deliver credit to farmers and ranchers. As time progressed the 37 banks have played a larger and larger role in the day-to-day management of the local Production Credit Associations which lend short and intermediate credit and Federal Land Bank Associations which lend long term credit.

Also, the banks are performing many auditing and accounting functions, functions that in the commercial lending industry are that of the regulator. Simply put the current structure is too costly to sustain a secondary market, and meet the credit needs of farmers and ranchers in the nineties and the next century.

If we were to start from scratch to create a Farm Credit System today I think no one would establish 37 individual banks to serve 380 local associations.

Consequently H.R. 3030 was amended in the Agriculture Committee to make these needed changes in the organization. First the 13 Banks for cooperatives, which lend solely to farmers wholesale, purchasing, and electric cooperatives, would be merged into one bank for cooperatives. Then the remaining Federal Land Banks and Federal Intermediate Banks would be dissolved and replaced with not more than six new service banks. These entities would provide funding and other needed services as requested to the local Production Credit Associations and Federal Land Bank Associations, but would be removed from management and regulatory functions.

This new structure should streamline the System by removing auditing and management authorities from the middle layer of the System. All local associations would become direct lenders and hold the responsibility of setting lending criteria, establishing interest rates, hiring and firing management and being solely responsible to the Farm Credit Administration which serves as the systems arms length regulator much as the Comptroller of the Currency serves to the commercial lending industry.

These changes will enable the Farm Credit System to operate as an efficient, independent, and prudent lender of agricultural credit in the years to come. The Farm Credit System was established with funds provided by the Federal Government as loans. Loans which have been long repaid in full. Mr. Chairman, I sincerely believe and have no doubt whatsoever that any assistance that the Federal Government provides enabling the Farm Credit System to regain a position of strength will be repaid in that spirit.

I strongly urge my colleagues to support H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3030, the Agricultural Credit Act of 1987. I commend Chairman DE LA GARZA the ranking member, Mr. MADIGAN, for guiding this effort through the icebergs of special interest and the shoals of partisan politics which threatened to shipwreck the bill.

I would also congratulate the chairman and ranking member of the Credit Subcommittee, Mr. JONES and Mr. COLEMAN, for their tenacity and insight which helped us finally arrive at a recommendation to the full House, adopted by the committee on a vote of 41 to 2. This is especially significant given the complexity of the subject, and the fact that when we began markup there were probably 43 different perspectives among the members of the committee regarding the proper approach we should take.

Mr. Chairman, I want to urge our colleagues in the House to take this matter very seriously, and to give it their thoughtful and prayerful consideration. This is not just a bill which affects farmers and ranchers. This measure will impact upon the daily lives of all Americans. To a large extent, this bill will determine the kind, quality and price of food and fiber which the American housewife will be able to buy in the future. This bill will help ensure that urban and suburban consumers continue to have available to a vast variety of the finest quality food for the lowest cost anywhere in the world. So, Mr. Chairman, this measure is as much a consumer bill as it is a farmer/rancher bill. What we do here today will directly affect the eating habits and the family budget of every household in the United States.

Because this bill is so vitally important I, like Chairman JONES, would urge Members to avoid disrupting amendments.

I would also point out that this bill is in no way a bailout or a giveaway program. Yes, the Farm Credit System will require a lot of funds from the Treasury to help shore up the structure. But, these funds will be repaid over a period of time, and the System will undergo a drastic reorganization which will make it more efficient and far more effective in delivering credit to farm and ranch operators in the future. The bill will help make this credit available to our agricultural producers at interest rates which are more comparable to the interest rates that prevail for borrowers in the cities and the suburbs. Financially troubled farmers and ranchers will be assisted by restructuring or reamortizing their loans when such restructuring can be shown to return a greater percentage of the original loan to the lender—whether Farm Credit or the Farmers Home Administration—that would be recovered through an outright foreclosure and liquidation of the producer's assets.

And finally, Mr. Chairman, the bill will allow farmers and ranchers to have a local voice in their Farm Credit lending institution so long as they are willing to back the System through the future purchase of stock in their local FCS association bank. So, in the future, Farm Credit borrowers will have an even greater interest in seeing that their system is well-managed on a sound financial basis in order to ensure their access to credit and also to protect their investments.

I cannot overemphasize the importance of this crucial legislation which is before us today. If Congress fails to enact this bill, or one similar, before the end of this session then producers, consumers, and even the commercial banking system in this country will all be losers. I urge your prompt passage of the Farm Credit Act of 1987.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of H.R. 3030 in its entirety. This is an extremely important and timely piece of legislation. Extensive hearings and research went into crafting this bill, and I am extremely proud of the leadership and my colleagues on the Agriculture Committee for the quality of work that has been produced.

Not only is that important legislation, it is timely. The agriculture economy has reflected itself through hard-hit farmers and ranchers to the lending institutions. This bill directs needed credit relief to borrowers of all major agriculture lenders, primarily the Farm Credit System, but including farm borrowers with the Farmers Home Administration, and commercial lenders.

I will mention here that although title III is not a part of the bill under consideration today, it will be taken up before this body on October 7. I must strongly state title III was a carefully crafted section of this bill and the center of much research and debate. As the original sponsor of the amendment and a member of the special task force which worked out a compromise in the Agriculture Committee, I can assure you that all interested parties were given full hearing and consideration on this section. I personally worked with the farm groups, banking and securities interests, the Farm Credit System, and others. The negotiations on shaping of the secondary market have been going on for nearly 2 years. This is not a new concept haphazardly interjected into the midst of H.R. 3030. As some have recently argued. I strongly urge my colleagues to support title III when it is considered on October 7.

I also draw the attention of my colleagues to the provisions on borrowers' rights in this bill. The guiding premise for this Member in considering this legislation was and continues to be: "How will it help the farm borrower?" We cannot afford to pump Federal funds into propping up lending institutions if we do nothing to pass this assistance on the agriculture producers. The institutions are there to serve the borrowers, not the other way around.

Agriculture is continuing to go through its greatest challenge and transition since the Great Depression. Over 700,000 family farms have been lost in the past 5 years. Although better prices, not credit, is the answer, credit is certainly an integral part of keeping farmers on the farm.

Farmers, along with other primary industries, have taken the brunt of the administrations over abrupt wrenching of inflation, resulting in skyrocketing interest rates and an overvalued dollar. This resulted in a loss of nearly 40 percent of agriculture export markets and tightened credit policies beyond anything seen in decades.

Farmers and ranchers continue to work endless hours to provide food and fiber for this country, providing the cheapest source of the widest variety of food anywhere in the world. I ask my colleagues to now support our food producers and vote for H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. LEWIS].

Mr. LEWIS of Florida. Mr. Chairman, I thank the chairman for yielding me this time.

Mr. Chairman, as you know, the House Agriculture Committee has struggled hard to bring before you the Farm Credit Act of 1987. Long days and nights were necessary of the members on the committee in order to bring this measure to the House floor on schedule. I would be amiss not to commend Chairman DE LA GARZA, the gentleman from Texas and the ranking member the gentleman from Illinois, ED MADIGAN, for their fine work on the bill.

However, while I believe the bill provides us with a first step in addressing the farm credit crisis currently pending throughout America's agriculture community, there are several provisions of the bill with respect to FmHA I must take exception to.

In particular, I am concerned about the security release provisions of section 209.

Currently Farmer's Home requires a release of sale, proceeds, and or crops and livestock to cover essential family living and farm operating expenses. Such security may be released to a borrower until their FmHA loan is accelerated for involuntary liquidation.

Section 209 extends the period in existing law during which the Farmer's Home Agency must release income from the sale of property serving as security for an FmHA loan for family living and farm operating purposes.

In many States the liquidation process may take as long as 2 years. If the agency were required to continue making releases for this period of time, the security would be depleted to the point where none remained to be liquidated. The cost to the Government would be enormous. According to USDA, if only 12,000 borrowers took advantage of this provision, the cost could approach a half-billion dollars.

While I recognize my colleagues desire as well as mine to assist those who are in trouble, I highly question the use of FmHA loans as a welfare system.

It is my understanding that Chairman DE LA GARZA will be offering an amendment which assists in addressing my concerns. I appreciate the chairman's attention to this matter and encourage my colleagues to support the chairman's amendment.

While I believe the amendment could go a little further, I am hopeful Members of the other body will fully address this problem.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding me this time.

I wish to commend the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, and the gentleman from Illinois [Mr. MADIGAN], the ranking minority, and the gentleman from Tennessee [Mr. JONES], the subcommittee chairman, and the gentleman from Missouri [Mr. COLEMAN], the ranking minority on the subcommittee, for diligently working to bring about corrections needed in the Farm Credit System which provide 30 to 35 percent of the credit for our farmers.

I want to say that the farm borrowers' rights incorporated in the bill for the farmers and our borrowers are much-needed legislation.

I would like to say that when the matter was before the full committee, I did not support the provisions known as the Stenholm amendment, for I had serious reservations about that restructuring provision as it applies to the total system.

I am happy to see that the gentleman from Texas [Mr. STENHOLM] is working with others to make some corrections in that amendment; but I would like to point out to the full House that if we do not keep title III, the secondary marketing provision, in the bill, that that is integrated with the title IV restructuring, and it actually would make it necessary to redo all of title IV also, and in my opinion would seriously impair the bill and make it necessary to revisit it.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. SCHUETTE].

Mr. SCHUETTE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of H.R. 3030, a product of the Committee on Agriculture, and the tremendous efforts expended by the gentleman from Texas [Mr. DE LA GARZA], and the gentleman from Illinois [Mr. MADIGAN], the vice chairman, and the efforts of so many members on the House Committee on Agriculture.

We will not complete action today. We will do a half a loaf today, if you will, and the remainder half of the loaf in October; and on certain portions of the bill in the future, I may choose to speak for specific amendments.

For our purposes today under general debate, there are six key elements that we need to focus on.

First, we need an infusion, an injection of capital to ensure that the Farm Credit System does not fail or topple. If that were to occur, we would have shock waves across rural America.

Second, we need to guarantee the B, borrowers' stock, which is the original investment of the farmer, the producer. That needs to be kept intact.

Third, rural agricultural banks facing similar portfolio pressures, like the Farm Credit System, need assistance as well in the form of a secondary market, and we will deal with that in October.

Fourth, borrowers' rights are important to help keep farmers on the land every way we can.

Fifth, we need to make sure we have local control and local responsibility, so decisions are made at home at the association level.

Sixth, and probably the most important, that we have a restructuring and reorganization of the Farm Credit System. Farmers have reorganized, restructured.

It is absolutely imperative that the system restructure and reorganize itself as well, so in summary, those are the six key elements that we need to watch.

This is our third attempt in as many years to reform and help the Farm Credit System. It is important that this time it be our best.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I commend the gentleman for his work.

Mr. Chairman, today we are faced with a critical challenge. We need this legislation because the Farm Credit System is the Nation's largest agricultural lender and has suffered substantial financial losses since 1985. We in Congress must act now to prevent further deterioration. H.R. 3030 will restore confidence in the Farm Credit System by providing for a 5-year guarantee on the value of borrower stock. The measure will also improve efficiency and provide for greater local control through a systemwide reorganization plan. Moreover, this legislation will insure that farmers who are truly in need will be those who benefit. The bill's loan restructuring and borrower's rights provisions are needed to allow financially strapped farmers to remain on their land and regain economic viability as members of the American agricultural industry.

I caution my colleagues, if we do not pass this legislation now, then our constituents will feel the pain of our inaction in the future through higher food costs. This legislation represents a responsible, comprehensive, and prudent alternative to the problems of the Farm Credit System, and I urge my colleagues to support it.

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Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise today in strong support of H.R. 3030, including title III, which would create a secondary market for agricultural real estate loans.

Mr. Chairman, I did feel it was imperative that we have some discussion about the importance of title III as a part of the whole, balanced, and generally excellent legislation that the Agricultural Committee has brought to us today.

Like several of the gentleman that preceded me, I simply do not have sufficient time to allocated to make that case here today, at least orally, but I do want to say to the gentleman from Vermont, who has expressed concerns a few minutes ago, that I think there are very good answers to the concerns the gentleman has raised and I look forward to presenting those answers to him in the course of debate on title III, apparently in October.

As a member of the Banking Committee, and an original sponsor of secondary mortgage market legislation for long-term agriculture real estate credit, Farmer Mac legislation in both this Congress and the previous one, I first of all want to express my appreciation to Mr. DE LA GARZA, chairman of the Agriculture Committee, to Mr. Jones, chairman of the Conservation and Credit Subcommittee, and all the members of the Agriculture Committee for the hard work which they have put into this very important legislation.

This farm credit bill is, I believe, generally well-balanced in its approach to the financial problems in the agricultural sector of our economy. H.R. 3030 addresses the financial problems of major numbers of farmer borrowers, the Farm Credit System, the Farmers Home Administration, and commercial banks heavily engaged in agricultural finance or located in rural areas. The bill apparently has the support of most or perhaps all the major farm organizations, the banking community and the Farm Credit System—unanimity that is rarely achieved on farm credit legislation.

If this bill is to be effective, or remain equitable, however, then title III must remain a part of this legislation. If title III is not a part of this package, we will lose a very historic opportunity to create an alternative source of long-term, fixed-rate credit for farm borrowers, and we will place commercial argicultural banks in the rural communities of our country at a very serious disadvantage with the Farm Credit System.

In considering this bill, we must keep in mind that both the Farm Credit System and commercial agricultural banks have suffered enormous financial losses. This legislation provides assistance to the Farm Credit System, and I support providing that assistance. However, a recapitalized and newly invigorated Farm Credit System places rural commercial banks at a serious disadvantage. The secondary market provision of this bill is necessary because it levels the playing field and equalizes the competition between commercial banks and the Farm Credit System.

I regret that we will not consider title III and pass this bill today. I hope, however, that between now and the time that we finish this bill that all members, especially those members on the Energy and Commerce and Banking Committees, will examine any concerns they might have come to understand why title III and a secondary market are such an integral part of this bill.

During the past week, a number of "Dear Colleagues" have raised certain questions about the need for a secondary market, or what a secondary market would do if it remains a part of this bill. I want to address these concerns today, even though we will not be considering title III.

I know that many Members find both the Farm Credit System and secondary markets somewhat confusing. Let's take a moment to make sure we all understand what we're discussing.

First, let's look at the Farm Credit System and how it provides agricultural credit. The Farm Credit System is a loose confederation of borrower owned banks that together comprise the largest single provider of farm credit—approximately $60 billion—in this country. The system provides three different types of agricultural credit through three basic institutions: the Bank for Cooperatives, the Federal Land Banks, and the Federal Intermediate Credit Banks.

The Bank for Cooperatives provides funding for local cooperative associations, generally to businesses such as elevators, or farm supply stores. Rural commercial banks also service the credit needs of agriculture-related businesses.

The Federal Intermediate Credit Banks through approximately 400 local Production Credit Associations [PCA's] provide farmers and ranchers with short-term operating credit. PCA's loan money to farmers for basic day to day operations. In this area of agricultural lending, PCA's also compete directly with local commercial banks.

The third branch of the Farm Credit System consists of the Federal Land Banks whose function it is to loan money to farmers or ranchers on a long-term basis. These loans, similar to long-term mortgages on homes, enable borrowers to purchase their farm or ranch over an extended period of time. Federal Land Bank loans are long-term mortgages for periods of 5, 10, 20, or 30 years which are secured by the land in which the borrower is farming or ranching.

In this third category, commercial banks do not generally compete with the Farm Credit System because through regulation and the need to remain relatively liquid commercial banks cannot commit their funds for such long-term periods.

A secondary market, or Farmer Mac as it has come to be known in this bill, is a bridge that would enable commercial banks to originate long-term loans to farm borrowers, package these loans with other lenders, and resell them to the investing public. In reselling the long-term loan which the bank has originated—less 10 percent for which it in effect remains at risk—it is able to retain necessary liquidity and to diversify its loan portfolio. The originating bank continues to service the loan by being a conduit through which loan payments are collected and forwarded to investors.

Secondary markets are not new. We've all heard of the secondary markets known as Ginnie Mae, Fannie Mae, Freddie Mac, and Sallie Mae. These markets have proven themselves to be effective mechanisms for bringing the borrowing and the investing public together, and they have been successful in providing capital for housing and student loans.

Unfortunately, a number of misleading arguments have been made against Farmer Mac—none of which upon careful examination, have either substance or merit.

First, it has been said that Farmer Mac will siphon all of the good loans away from the Farm Credit System, thereby further weakening the System.

What a secondary market will do is allow commercial banks to compete with Federal Land Banks for long-term borrowers. A secondary market levels the playing field between commercial banks and the FCS because both lenders can utilize and participate in it. From the farmer's standpoint, Farmer Mac provides borrowers with an alternative source of capital which is more likely to be competitive, depending upon the varying terms, interests rates, and personal service provided by either his local bank or the Federal land bank.

Second, it has been alleged that Farmer Mac will become a dumping ground for bad or nonperforming loans.

Title III requires Farmer Mac, in consultation with the FCS and bankers, to develop uniform underwriting, appraisal, and repayment standards for qualified agricultural mortgage loans. If Farmer Mac is to succeed, and if these mortgages are to be marketable to the investing public, then they will have to be quality securities. Sound underwriting standards will insure that these loans are well collateralized and secure investments.

Third, it is argued that Farmer Mac exposes the Federal Government to billions of dollars of potential losses.

Again, strict underwriting standards will insure the high quality of Farmer Mac-issued securities, and minimize any potential future losses. However, unlike other secondary markets for housing or student loans, Farmer Mac requires the originating lender to, in effect, remain liable for the first 10 percent of any loan loss. This front-end exposure by the originating lender is similar to the risk sharing that is incurred by banks on SBA and FmHA guaranteed loans. An insurance fee which would eventually make Farmer Mac self-insured provides an additional protection to the Federal Government.

Fourth, Farmer Mac is exempt from State and Federal securities laws, and this exposes investors to fraud and other potential risks.

This is a spurious, but deceptive argument because none of the other secondary markets—Ginnie Mae, Fannie Mae, and so forth—are subject to State or Federal securities laws, and their exemption has not jeopardized the investors of these securities. If there are any legitimate concerns in this area the Energy and Commerce or Banking Committee has several weeks under the rule to correct any limit difficulties or to double the protections already contained the bill.

Fifth, Farmer Mac expands the power of commercial banks to underwrite securities which circumvents existing laws that separate commercial and investment banking.

There is nothing in this bill that either expands or contracts the current powers of commercial banks to issue or underwrite securities. Currently, securities which are sold on secondary markets are termed "agency paper," and commercial banks today have the power to underwrite and issue this type of security.

Sixth, the administration opposes the creation of a new secondary market.

The Department of Treasury and OMB oppose title III for all the reasons I have mentioned. I regret they do not support it, for that position is shortsighted and just plain wrong.

The Congressional Budget Office estimates that the cost of a secondary market to the Federal Government would be insignificant, while the cost of bailing out the FCS will not. I cannot understand how OMB can oppose a secondary market on the basis of cost, yet support a bailout for the Farm Credit System which it knows will cost at least $4 billion and probably more than $6 billion.

There is also inconsistency in the fact that this administration supports a lowering of farm prices to make U.S. producers competitive in world markets, but that it doesn't support competition among the providers of farm credit which would reduce interest rates to farmers.

It is also ironic that this administration favors deregulation of the banking industry to allow the largest money banks in this country to diversify their loan portfolios, but that it opposes increased diversification among small, rural commercial banks that make farm loans.

And, there is a huge irony in the fact that current Federal Reserve Chairman, Mr. Greenspan, and his predecessor, Mr. Volcker—a Fed Chairman whose high interest rate policies dried up farm credit and helped to trigger the credit problems we are addressing today—oppose legislation that would provide alternative sources of credit to farm borrowers at reasonable rates.

But the weakest argument of all against Farmer Mac is that two committees of this House, the Energy and Commerce Committee and the Banking Committee, have not had an opportunity to look at or involve themselves with this legislation.

I agree that each of these committees has some jurisdictional interest in this legislation, but my question to members of these committees is, "Where have you been for the last year?"

For well over a year, we have known that the Farm Credit System was in trouble, that it would need some type of financial bailout, and that a secondary market for agricultural real estate loans would probably be a part of any legislative solution.

I applaud Mr. ST GERMAIN, my chairman on the Banking Committee, because we have held hearings over the last several years on the problem of farm credit, and the condition of the Farm Credit System, rural commercial banks, and farm borrowers. Members of the Banking Committee have discussed and presented legislation on secondary markets, including my colleague on the other side of the aisle, Mr. LEHMAN of California. Together we have introduced Farmer Mac legislation in the previous Congress and again this year.

I ask my colleagues on both committees where were you when the House Agriculture Committee was conducting hearings over a 3 month period on farm credit issues earlier this year. The gentleman from California, Mr. LEHMAN, and I were the only members of either the Banking Committee, or the Energy and Commerce Committee to testify on secondary market issues at these hearings. We took the time to testify before these hearings because we cared about this issue; we believed strongly that a secondary market was important to this legislation.

As a member of the Banking Committee, I have no problem with the Agricultural Committee including a secondary market in this bill in light of the fact that they gave ample opportunity for all members to give their input. In doing so, they have expedited the legislative process, and made this a better and more balanced bill. I commend them for recognizing why a secondary market is needed to make this an equitable bill for all farm lenders.

I am disappointed that certain members of the Energy and Commerce Committee, and even the Banking Committee have waited until the 11th hour to raise their jurisdictional and other concerns and to voice their interest.

Under the rule adopted today we will postpone consideration of title III to give the Energy and Commerce Committee an opportunity to do its homework on this issue. I hope we all use the intervening weeks to better understand Farmer Mac and especially to understanding why it is that title III is a necessary and important part of this legislation. I look forward to working with you to address your concerns.

Farmer Mac is not a big bank issue for big banks, it is a big issue for small rural banks.

Farmer Mac is not a Wall Street issue, it is a Main Street America issue.

Farmer Mac is not something that provides credit to financially sound farmers at the expense of financially troubled ones; it is a means of providing reasonable credit to all farmers.

Support title III, and support Farmer Mac. With title III as a part of the package, H.R. 3030 is a good bill and deserving of our support.

Mr. Chairman, I do have some very brief questions for the distinguished gentleman from Texas [Mr. DE LA GARZA], the chairman of the Agriculture Committee, if the gentleman would engage in a colloquy with me, and perhaps the gentleman from Illinois also would like to respond. I have submitted these questions previously and I would like to know that section 207 would also apply to States that have nonmandatory programs for mediation, as well as to States with mandatory programs.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, the answer is yes.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman.

With respect to section 210, does the term "State agencies" include such political subdivisions of the State as natural resource districts, counties, municipalities, and other miscellaneous public entities or districts?

The second question is, Will any real estate transferred to Federal or State agencies be required to be permanently set aside for conservation or properly managed as forests to meet the conservation purposes of section 210?

Mr. DE LA GARZA. If the gentleman will yield, yes to those two questions, the answer is "yes."

Mr. BEREUTER. I thank the chairman. I did raise one other question on which I believe the legislation is silent.

I think there is a concern that if we transfer to State agencies, unless we have in-lieu-of-tax payments to the affected political subdivisions, I think we are going to have difficulty; so it would be this Member's hope that in the administration of this transfer program, meeting all the conditions of section 210, that in-lieu-of-tax payments for foregone real estate taxes would be a strong recommendation of the Congress.

Mr. DE LA GARZA. We will be very happy to work with the gentleman in that regard. We do not cover yet in this instance, due to a multiplicity of reasons, but we will be very happy to work with our distinguished colleague.

Mr. BEREUTER. I thank the gentleman from Texas for his responses and express my support for H.R. 3030 as presented, with title III included.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I rise in strong support of H.R. 3030, the Agricultural Credit Act of 1987. This bill is the result of months of hard work by the Agriculture Committee with involvement of Members on both sides of the aisle. It has support from many of major farm groups, and the banking and insurance communities. Mr. Speaker, without this legislation, many of the Farm Credit System banks will be insolvent by the end of 1987.

H.R. 3030 authorizes financial assistance to the Farm Credit System, and in so doing, will help farmers across this country. The bill calls for the most complete reorganization of the Farm Credit System in 70 years. Financially stressed borrowers will find relief in the restructuring of loans where it is the least-cost alternative to the lender. This loan restructuring provides farmers with the opportunity to reschedule and reamortize their loans, so that they might avoid the pain and suffering involved in foreclosure.

Mr. Chairman, this is certainly an important provision for the struggling farmers across this Nation, and for the struggling farmers in my district in Mississippi.

It includes a number of other provisions designed to give borrowers under financial stress an opportunity to overcome their credit problems: Right of review of adverse credit decisions, homestead exemptions, rights of "first refusal" so family farmers can repurchase foreclosed property, and borrower access to loan information. These provisions will require the System, as well as Farmers Home Administration, to deal more reasonably and sensitively with distressed borrowers.

H.R. 3030 includes matching grants to States for operation of farm loan mediation programs. It also establishes a new secondary market for agricultural loans which would allow the Farm Credit System and other farm lenders to pool their real estate loans for sale to investors as interest bearing securities.

All in all, Mr. Chairman, I do support this bill. It streamlines the System, it enhances local control. It gives greater rights to borrowers in the loan process, and it certainly keeps the System afloat. I urge my colleagues to support H.R. 3030.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I rise today in support of the Agricultural Credit Act of 1987, which, as reported from the committee, responds to the problems faced by the Farm Credit System while balancing the needs of the System itself, its member-borrowers, and other rural lenders.

First, this legislation clearly demonstrates that the Federal Government will continue to stand behind the Farm Credit System. The bill provides Federal assistance to support the System's capital and authorizes a 5-year guarantee of borrower stock. This guarantee is essential to prevent a loss of the System's best borrowers and a further erosion of their loan portfolio.

In addition, this legislation allows for greater efficiency in the System. It provides for more flexibility in capitalization, and it establishes loss-sharing on a more equitable basis. It also allows for greater efficiency within the System, and expands the options available to it for working with its distressed borrowers.

Second, this bill helps the borrowers of the System. By establishing a solid restructuring plan, we work to stabilize the System by stabilizing the System's borrowers. Many borrowers within the System have been strapped with an unmanageable debt load, caught between falling land values, rising interest rates, and slumping commodity prices. For the agricultural sector to become healthy again, the burden of debt needs to be reduced.

This legislation will support further reduction in our farm debt by establishing a farm restructuring plan. One officer from each district will supervise the restructuring, with the support of a special credit unit to provide expert assistance. The System will be required to restructure a borrower's loan when it is cheaper to do so then to foreclose. As we've seen in the St. Paul District, restructuring makes good business sense. My district has restructured almost 5,000 loans since the beginning of the year, more than any other district, and they have seen a dramatic turnaround in their financial position as a result. Restructuring also gives many farmers the assistance they need to continue farming.

A number of borrowers' rights provisions ensure that the System's farmer-borrowers receive fair treatment, including access to documents, protection of borrowers who meet all loan obligations, and homestead protection. My friend from Oklahoma, will offer amendments today to further strengthen those provisions. But on balance, the bill as reported deserves our support.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished neighboring colleague, the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I thank Chairman DE LA GARZA for yielding.

This bill is a good bill. As was just mentioned, it contains protections regarding the stock ownership of borrowers. It retains matters affecting borrowers' rights and restructuring.

Mr. Chairman, I think we need to commend especially Chairman DE LA GARZA, Chairman JONES, Congressman MADIGAN, and Congressman COLEMAN for their special efforts in getting this bill to the floor.

But why are we here today? We are here because the farmers of this country have suffered with low grain prices, low commodity prices and falling land prices for so long that it has destroyed the primary credit mechanism for farmers in this country, and while this bill is a good and necessary step, unless we do something sensibly for the underlying values of farm commodities and farmland, this effort could be futile.

Those of us on the Agriculture Committee will continue to fight for higher farm prices in order to provide a genuine farm recovery.

In my judgment, the administration in power has led the effort for lower farm prices and the effort to make us more competitive in the world markets. That has led to lower farm land values, has led to greater destruction of the Farm Credit System.

Therefore, in addition to the farm credit bill, we need agriculture policies which have as their goal to push prices up. If we do that, then I do not think we are going to be back here in another few years.

Second, let me talk for a moment about the secondary market, which will not be debated today. This committee worked long and hard to provide an additional source of capital for our Nation's farmer, using the secondary market. I think it is something very important.

We have run into a bit of a snag with respect to other committees in the Congress, but in my judgment the Agriculture Committee has effectively tried to deal with this matter, and if there are defects in what has been done, we are going to work very diligently with other Members of Congress and other committees and take the lead in trying to resolve this problem so we can provide the second source of agriculture credit, the secondary market, which has been used so successfully in the housing area and other areas as well.

So, Mr. Chairman, I urge my colleagues to support this bill, but remember that without higher farm prices, a farm credit bill in itself will not solve the farm problem.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Chairman, I thank my colleague for yielding to allow me to speak on behalf of H.R. 3030, the Farm Credit Act of 1987.

Mr. Chairman, 1987 marks a critical point in the development of the agricultural economy in the United States. Not since the vast expanse of our Nation's midland was first opened to settlement have we in Congress had the opportunity that we have today to influence the future of agriculture and the development of rural America as we have today.

Today, there are millions of acres held by agricultural lenders anxious to dispose of the property they have acquired, and thousands of eager people across the country who are anxious to begin a career in farming.

I commend the members of the Agriculture Committee, and the Subcommittee on Conservation, Credit, and Rural Development, who quickly realized that legislation to restore the viability of the Farm Credit System went beyond just shoring up the Nation's largest agricultural lender. Because of the complexity of the issue, the development of H.R. 3030 has opened up a broader dialog on how to provide adequate and appropriate financial services to an industry uniquely dependent on affordable, and readily available credit.

Our decisions on this bill will not only address the financial plight of the Farm Credit System, but will have an impact on landholding patterns in our rural areas for generations to come.

Our primary goal, and the focus of our debate today, should be on the question of who will have access to the financial services that determine who will be able to retain, or obtain, ownership of our tremendous agricultural resources.

Critics of H.R. 3030 have indicated they would like to limit the scope of this bill to address the immediate needs of the Farm Credit System. But that is a simplistic approach that is self-defeating in the long run.

We must look at ways to address the continuing attrition of producers which continues to drain vital human resources in our rural areas. We must also consider the needs of other agricultural lenders who invest in our rural communities and who share the burden of the recent depression in the agricultural economy.

We must provide direction in the disposition of farmland agricultural lenders have unwillingly acquired in recent years. We must address not only the availability of credit, but should work to improve the quality and variety of financial services at the disposal of our Nation's farmers and ranchers to allow them to compete in the modern era.

H.R. 3030 takes several bold approaches to the dilemma of the Farm Credit System itself and proposed several long-term solutions that deserve our support.

For the first time, H.R. 3030 would establish a central insurance fund to protect individual banks in the event they are unable to repay their bonds. The bill allows institutions of the Farm Credit System to build an insurance fund that in the future, will protect the interests of the member borrowers, but will protect the interest of the Federal Government and the taxpayer as well.

It is sort of self-help mechanism that has proven successful in other sectors of the banking industry that can easily be applied to the Farm Credit System as well.

This bill provides for an efficient means of directing much needed assistance to the Farm Credit System with an appropriate degree of Federal oversight through the Temporary Assistance Corporation. The Temporary Assistance Corporation replaces the highly inefficient, socially irresponsible, and ineffective Capital Corporation created by the 1985 Farm Credit Amendments to marshall the System's own resources which are soon to be completely depleted.

Federal agencies with a role in the assistance to be provided to the Farm Credit System will be represented on the board of the Temporary Assistance Corporation. This panel will oversee the operations of the Corporation, and assist individual banks in their effort to return to profitability.

This bill will authorize one of the more sweeping reorganizations of the Farm Credit System ever. The amendment offered by Congressman STENHOLM has begun a whole new debate on the appropriate structure of the Farm Credit System, and the role of the individual borrower and the local association.

Over the years, the Farm Credit System has become increasingly burdened with layers of bureaucracy that stifle the System's efficiency and have eroded the cooperative structure of the Farm Credit System. As a result, thousands of alienated farmers have turned to alternative sources of credit to the detriment of the farmer-owned Farm Credit System.

H.R. 3030 would downsize the role of the district banks. In fact, this bill goes so far as to completely eliminate the 12 Farm Credit district banks and replace them with no more that 6 regional service centers. These service centers would offer such administrative support services to local associations as computer services, accounting services, consulting, and other nonmanagement, nonlending functions.

Business decisions and loan policy would be returned to the more than 400 local associations and their local boards of directors where they were placed when the Farm Credit System was first created.

There is no mistaking the intent of Congress. We are united in our opposition to further consolidation of the Farm Credit System that further removes management from responsibility to its stockholders. I welcome the Stenhold amendment as a starting point to work from as we seek a way to rebuild the System from the ground up, by returning control to the farmers and ranchers who are the real owners, and who will ultimately bear the cost of this bill.

This bill goes even further in restoring the commitment of the Farm Credit System to its member borrowers who are facing financial difficulty. This bill recognizes the fact that farming is a business that requires a lifelong commitment and still relies to a great extent on the traditional values and skills passed from generation to generation.

The Farm Credit System has been all too willing to abandon the farmers and ranchers it serves. It has repaid the loyalty of farmers who have believed in the Farm Credit System and borrowed from its lenders for generations with certain and instant foreclosure far too often.

This bill also gives System lenders more and better options for capitalization of their banks while establishing new safety standards that will reassure borrowers and investors. Also, farmer-stockholders will be given new options to increase the efficiency of their individual banks through proper mergers of unlike banks with the approval of the stockholders.

Finally, this bill modernizes the credit delivery system to farmers and ranchers through the creation of a secondary market for agricultural mortgages. This is a provision that has been developed only after months of negotiations. It has not added to this legislation as an afterthought as many opponents to this provision would lead us to believe. There has been ample time for those interested to provide their input into the provisions allowing for a secondary market for agriculture.

Title III of this bill recognizes the very important fact that the Farm Credit System is not alone in the business in providing farmers with crucial financing. The secondary market would allow commercial bankers and other traditional agricultural lenders to once again play an important role meeting the needs of our farmers and ranchers.

The secondary market provisions of this bill will do many things for the agricultural sector. It will increase options available to farmers and ranchers, increase competition, improve the quality of financial services available, and have a positive impact on the cost of credit to farmers.

Mr. Chairman, I began by pointing out that this bill is especially critical for the future of agriculture. Yes, agriculture has suffered a tremendous setback in recent years. But conditions have changed dramatically since the height of the storm.

Agriculture's decline in the first half of this decade came as a result of inflated land prices, inflated production costs, and inflated interest rates.

This year, we have the chance to rebuild agriculture based on affordable land prices, affordable production costs, and affordable credit.

The major farm organizations, the rural bankers, individual borrowers, and the Farm Credit System themselves have all joined in the creation of H.R. 3030, and are united in its support.

Farm credit legislation has not captured the headlines or the attention of the general public as other more spectacular proceedings have thus far in the 100th Congress. But no other issue is as important to the well-being of our Nations food producing industry.

I urge my colleagues to support H.R. 3030.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support to the legislation before us today—H.R. 3030, the Agricultural Credit Act of 1987. This legislation has been carefully crafted to bring stability to Farm Credit System institutions while also extending protections to farmer borrowers to give them every opportunity to remain on the land. The financial problems on our farms and in our farm lending institutions cannot be ignored. We are dealing with very complicated problems—which if not addressed quickly by Congress—will continue to depress our farm and rural economies.

Since the early 1980's, the sharp decline in farmland values and agricultural exports combined with lower farm prices left many farmers with huge debt burdens and lower income. Consequently, the Farm Credit System, the Farmers Home Administration, and other farm lenders are faced with an unprecedented volume of delinquent or nonperforming loans. Today, 17.5 percent of all U.S. farms are experiencing serious financial difficulties. Over half of the total farm debt is held by these highly leveraged farms. In the Farm Credit System alone, nearly one-quarter of the System's $51 billion loan portfolio is made up of loans which may never be repaid in full. The Farm Credit System has suffered $4.8 billion in operating losses since 1985. Additional losses of nearly $3 billion are expected by the end of the decade.

H.R. 3030 authorizes financial assistance to the Farm Credit System and calls for a sweeping reorganization of the system in order to achieve greater efficiency and local control. It also requires the Farm Credit System and the Farmers Home Administration to restructure the loans of financially stressed borrowers and give borrowers certain new rights. And in order to increase the Farm Credit System and other farm lenders' access to capital markets, the bill establishes a secondary market for agricultural real estate loans.

In addition, H.R. 3030 contains a provision which I authored to extend FmHA's interest buy-down program through from fiscal year 1988 to fiscal year 1993 and put more flexibililty in its eligibility criteria so that more farmers could qualify for its assistance. FmHA's interest buy-down program, which was originally authorized in the 1985 farm bill, was designed to assist farmers who are unable to meet their current loan obligations on FmHA guaranteed loans. It was authorized at $490 million and it is scheduled to expire on September 30, 1988. Under this program, borrowers can receive an interest rate subsidy of up to 2 percentage points if the lender agrees to lower the interest rate by the same amount.

Many farmers, however, have not been able to participate in the program because its eligibility criteria are too restrictive and because some lenders were unwilling to participate in the program. It requires farmers who are unable to meet loan payments to demonstrate that they will be able to resume these payments within 12 months by participating in the interest buy-down program. My amendment extends this period to 24 months and calls for a GAO evaluation of the efficiency and coordination of debt restructuring programs and FmHA's guaranteed programs.

Since its inception, the program has assisted more than 3,200 farm borrowers and has utilized approximately $30 million of the authorized $490 million. This leaves a balance of approximately $460 million in available funds. Clearly, this program is not utilized to its fullest capacity. My amendment, which was adopted during the House Agriculture Committee markup, is designed to encourage greater participation in this program in conjunction with the debt restructuring requirements contained in H.R. 3030. This amendment is fiscally responsible. CBO estimates that it will not increase the Federal deficit.

The financial problems among many farm borrowers and farm lenders requires Federal attention. H.R. 3030 will make several important changes in the FCS and the FmHA to help family farmers cope with burdensome debt problems and maintain their farming operations. It is a reasonable and fair approach which gives farmers and their lenders an opportunity to together walk out of a problem they walked into together. This bill would help to restore confidence in the Farm Credit System and offer assistance to farmers in rural America. I therefore urge your support of this important and timely piece of legislation.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Arkansas [Mr. ALEXANDER].

Mr. LEHMAN of California. Mr. Chairman, today I rise in support of H.R. 3030, The Agriculture Credit Act of 1987. H.R. 3030 reflects our strong commitment to and support for America's farmers and we cannot afford to let this opportunity to revitalize agriculture pass.

Farm credit has been an issue which has faced this body for several years and H.R. 3030 is an important step in ultimately resolving the credit problems facing both farm borrowers and the farm lenders. I congratulate the members of the House Agriculture Committee for working so hard to provide a reasonable solution.

Title I will give the Farm Credit System the ability to get back in the business of farm credit and out of the real estate business. It will expand long needed borrower's rights and guarantee their stock. It requires that the lender look more closely at restructuring a loan rather than simply foreclosing on the borrower. The bill will establish the Temporary Assistance Corporation to aid troubled associtions both financially and administratively by requiring that a lender submit a business plan as prerequisite for assistance.

Title II is aimed at keeping FmHA borrowers farming through restructuring of debt; this will reduce the strain and pressures which many farm families face and bring a great deal of stability back to the farm industry.

Finally, let me express my strong support for title III, authorizing the creation of a secondary market for farm loans. Farmer Mac will help to ensure that commerical farm lenders and ultimately farm borrowers will continue to have access to an adequate source of capital to meet the long-term credit needs of agriculture.

As the author of one of several bills to authorize the creation of such a market and as a strong proponent of Farmer Mac, I would like to acknowledge that several concerns have been raised with regard to title III. It is my understanding that these concerns will be addressed by both the House Banking Committee and the Energy and Commerce Committee within the next 2 weeks.

Farmer Mac is vital if we are to meet the long-term credit needs of agriculture. As a member of the House Banking Committee, I look forward to working with my colleagues on the Banking Committee and on the Agriculture Committee to resolve the concerns which have been expressed regarding title III.

H.R. 3030 is not a cure-all for the ills facing America's farmers. it will, however, give the Farm Credit System and commercial lenders the resources to meet and help reduce the current farm crisis. Simply put H.R. 3030 will keep farmers farming. I urge that the House approve H.R. 3030.

Mr. JONES of Tennessee. Mr. Chairman, during committee consideration of H.R. 3030, an amendment I offered was adopted that related to new authorities for Federal land bank lending for the purpose of agriculturally related recreational activities. The amendment is found in section 109(e) of the bill. Report language accompanying the amendment also was adopted by the committee, and I include it in the RECORD to clarify the committee's intent:

> The need for additional income from the land, facilities and labor of the American farm and ranch is obvious. In many regions of the United States the use of the farm or ranch to contribute to or conduct recreational activities is becoming a very desirable additional income producer for the farm unit.
>
> It is the intent of this amendment to clarify the authority of Federal land banks to make credit available for the purpose of supplementing business plans for conduct-

ing related recreational activities on the farm property. The necessary equipment and facilities needed to conduct commercially viable activities on the property may be considered eligible under the provisions of this section as agriculturally related business investments. This of course means that the project's business viability should be considered on its merits as any other additional venture is so considered.

It is also the intent that Federal land banks be prudent in exercising this lending authority to ensure that ventures financed under this provision are linked to agriculturally oriented activities on the producer's land.

Mr. de la GARZA. Mr. Chairman, I have further requests, but they are not in the Chamber at this time.

□ 1445

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Missouri [Mr. Emerson].

Mr. EMERSON. Mr. Chairman, I would like to express my support for H.R. 3030, and urge my colleagues to support this measure as well.

This bill represents an important step toward stabilizing and revitalizing our farm credit markets. The Agriculture Committee has labored long and hard to produce a bill that will address the needs of all the parties concerned—the member institutions, the commercial lenders, and most importantly, the farmers themselves.

We must remember that the System's ability to meet the credit needs of our farmers depends upon whether or not the System can survive in a competitive environment. We must also consider that the whole purpose of this proposal is to help our agricultural producers—both those who are financially hard pressed and those who are making their payments on time.

If we keep those concerns in mind, we will produce a sound bill. I urge my colleagues to defeat amendments that do not meet those criteria, and commend the chairman and the ranking member for their leadership in moving this measure.

Mr. MADIGAN. Mr. Chairman, like the distinguished gentleman from Texas [Mr. de la Garza], I have other requests for time, but those Members are not now in the Chamber, and because we will be proceeding on amendments, those Members may have the opportunity then to express themselves on this bill at that time.

So, Mr. Chairman, I yield back the balance of my time.

Mr. de la GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. Watkins].

Mr. WATKINS. Mr. Chairman, I thank the chairman and stand to express my support for H.R. 3030. Many of us who have followed closely the past few years the Farm Credit System knew that this day would be coming to bail out the System. Hopefully, we can strengthen the Farm Credit System and perfect H.R. 3030 with some needed amendments.

At this point in the process, I would like to briefly discuss two amendments contained within the package of amendments offered by the distinguished gentleman from Texas.

The first amendment would clarify the existing Homestead Act provision as drafted (H.R. 3030) and would remove potential conflicts in State and Federal law. The attorneys general of Oklahoma, Minnesota, Iowa, Kansas, and North Dakota have already expressed that FCS and FmHA will perceive these provisions as a basis for not complying with State laws relating to homestead protection, rights of first refusal, and laws regulating corporate ownership of farm land. This amendment would ensure that State homestead protection laws continue to apply to FCS institutions and to FmHA, and State laws establishing a right of first refusal and regulating corporate ownership of farm land would not be preempted if the State laws are more protective than the Federal legislation.

While State homestead laws vary from State to State, this amendment does not give any State an unfair advantage over another but rather ensures that current law prevails if it in fact ensures greater protection than Federal law in that State.

This is not a giveaway provision or an alleged land grant program. The farmer must still be able to carry the debt associated with the current market value of the property under reasonable terms. In Oklahoma, the homestead provision allows for 160 acres. However, it is possible that a farmer could not support more than 10 acres of "fair market value debt" and therefore could not and would not utilize the entire 160 acres. The rationale simply behind both amendments is not to provide enough property to make a living but to provide a base for the future should that individual desire and is able to return to farming.

Oklahoma State University has estimated that 25 percent of the farmers in Oklahoma are financially distressed, which is about 17,000 farm families. Today in Oklahoma City there are 5,000 estimated homeless people. The drain of farm families from the land will only serve to enlarge the problem in urban areas such as Oklahoma City.

This amendment addressing Farmers Home Administration and Farm Credit System simply allows for the State statute to prevail where there is, in fact, a homestead law on the books. States without a homestead law continue to be protected by the number of acres in the bill as drafted.

The amendment also reiterates that the section shall not preempt any right of first refusal under any law of the State in which the property is located provided that the State law requires the lender to hold open an offer to sell the property to the prior owner for at least 60 days and to hold open an offer to lease the property to the prior owner for at least 10 days.

H.R. 3030 as drafted requires the lender to hold open an offer to sell the property to the prior owner for at least 60 days and to hold open an offer to lease the property to the prior owner for at least 10 days.

The final part of the amendment would deal with clarifying State law on corporate land ownership. As the bill is drafted, the rights of first refusal as part of the borrower rights package, does not require the lender "to offer" a 10-year lease; it simply says that the lease shall not exceed 10 years to the previous owner. Oklahoma law, however prohibits corporations from holding land for more than 3 years. Eight other States have similar laws including North Dakota. I know Mr. Dorgan has a strong interest in this provision. These States have limits on ownership ranging from 1 to 5 years.

Since 1916, it has been well established that Farm Credit System institutions must comply with State laws. This was reconfirmed by the U.S. Supreme Court as early as 1934 in the case Federal Land Bank versus Warren, and as recently as 1987 by the North Dakota Supreme Court in the case Federal Land Bank of St. Paul versus Lille Haugen.

Congress has provided explicitly for two instances of preemption of State law when it saw a specific need, concerning State taxes (at 12 U.S.C. 2055 and 2079) and limitations on interest rates (12 U.S.C. 2015 and 2205). Clearly, preemption should not occur in this case.

This provision ensures that if property was acquired by Federal Land Bank in the eight States with a corporate statute "the State statute would prevail." The 10-year leasing provision in H.R. 3030 would effectively be limited to the number of years allowed by corporate ownership in the State. So, the limit on the lease-back period would be 2 years in Missouri, 3 years in North Dakota, 5 years in Minnesota, et cetera.

This and the previously discussed homestead provisions simply allows for the continuance of existing State statute.

A second amendment I have as part of this package is a sense-of-the-Congress resolution to recognize, encourage, and support the National Rural Crisis Response Center on behalf of the American people in response to the valuable service being rendered by the American Family Farm Foundation, a not-for-profit 501-3-C tax-exempt foundation formed in 1985 to promote the concept of the American family farm as an integral part of America's way of life.

It is with a great deal of gratitude that I find that the Rules Committee has made this amendment in order for this resolution. At the request of singer Willie Nelson, proceeds from a very successful and highly acclaimed Farm Aide III in Lincoln, NE, this past weekend was dedicated to support the National Rural Crisis Response Center.

For those who have said and say today the crisis on the farm is over, they are wrong. It was reported August 17 on page 1 of the New York Times that in the past 2 years 100 farm-stress deaths have been recorded in Oklahoma alone.

The deep and severe crisis in rural America and on the American family farm continues.

In Oklahoma, families with all their worldly belongings are more than a page out of "The Grapes of Wrath," it is reality on the streets, roads, and highways as Oklahomans find another trail of tears that ends not in a promised land.

Perhaps in his cross of gold speech, William Jennings Bryan should have added more to his speech and dealt with the loss of young people to farm the land. The young people as well as entire families are leaving the farm in record numbers as the agriculture economy continues to decline.

Stores are being boarded up and abandoned in rural towns and communities all across the United States.

In August, Mona Lee Brock, a constituent of mine who lost her farm, then her husband, stated at a Capitol grounds press conference that during the past year there had been 54 suicides documented in Oklahoma because of the agriculture depression.

Mrs. Brock has, since her husband's death, been associated with a crisis hotline, AG-LINK, initiated by the Oklahoma Council of Churches to respond to crisis calls from farm and rural families who have financial, legal, emotional, and medical problems associated with the farm crisis.

The National Rural Crisis Response Center is being established to serve as a national link responding to the needs of these thousands of rural and farm families. The National Rural Crisis Response Center works like this:

A person in distress will call a toll-free telephone number which will be answered by a volunteer.

Using a computer data bank, the National Rural Crisis Response Center volunteers will be able to refer the call to an appropriate local agency in the farmer's geographic area throughout the Nation to try to meet the financial, legal, spiritual, emotional, medical, shelter, or food needs.

The National Rural Crisis Response Center will be funded by private and corporate contributions with no Federal funding involved. It is neighbors helping neighbors; and

There will be no direct Federal costs involved in enacting this provision.

I would hope the committee would adopt both amendments being considered en bloc with the other amendments offered by the gentlemen from Texas.

I thank the gentleman for yielding me this time.

Mr. de la GARZA. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, this is a very difficult situation we find ourselves in. We find ourselves in a very difficult situation, let me repeat, because the legislation is of such significance that we need it for rural America. The plight of rural America is basically beyond their ability to control or even we in the Congress to control. We have been set to a standard of perfection that is beyond mortals as we to reach.

We do the best we can with the tools we have under the rules as best we can and it has brought us to this point. I ask the Members to bear with us, to understand that we do it with the best of intention. We try not to slight anyone. We try and do it for that which all of us are insisting is the ultimate aim that we have a strong viable rural America that will provide the food and fiber not only for us but for many of our brothers around the world.

Mr. Chairman, today the Committee on Agriculture brings before the House, H.R. 3030, probably the most important legislation the committee has considered since the 1985 farm bill. H.R. 3030 is not only important to the Farm Credit System's many farmer-borrowers across the Nation, but it is also needed for the health and stability of our financial markets.

Mr. Chairman, in sum, H.R. 3030 will:

Protect the stock and allocated equities of farmers, ranchers, and cooperatives,

Expand the procedures for working with financially distressed borrowers,

Provide for the opportunity to achieve greater efficiencies in System operations,

Provide a means for financial assistance as necessary,

Provide for more flexibility in System capitalization,

Place System loss sharing on a more equitable basis, and

Conform more closely the Farm Credit Administration's role to that of other Federal regulators of financial institutions.

The bill was reported by the committee on August 28, 1987, after extensive hearings and detailed consideration by the full Committee during 5 days of markup sessions in July and August.

While the evidence is increasingly clear that the 1985 farm bill is beginning to work to reverse the depression in the U.S. agricultural production system, we also find that there still are residual problems in the U.S. agricultural finance system left over from earlier years.

Agriculture was on a roller-coaster ride in the 1970's and early 1980's. In the 1970's, farmers were encouraged to produce more and expand their operations, and farmland prices skyrocketed. In the 1980's, farmers suffered from a depression in commodity prices, a withering of markets, and a crash in the value of their land.

The end result of this roller-coaster ride is that many farms are being foreclosed or being squeezed out of business by heavy debt burdens, and farm lending has been brought to the point of crisis.

To cite just a few statistics: Aggregate outstanding farm loans grew from about $80 billion in 1960 to $220 billion in the early 1980's. In the past 5 years, that aggregate loan amount has dropped to approximately $175 billion. Much of that disappearance of credit has been borne by farmers and their lenders in the form of foreclosures and writing off bad debt.

For several years, the Committee on Agriculture has been wrestling with this growing credit crisis created by the pre-1985 situation. In an attempt to stem the tide, we secured enactment of remedial farm credit legislation both in 1985—at the same time that we passed the 1985 farm bill—and again in 1986.

Unfortunately, the continuing and worsening residual effects of the farm recession of the past several years have overwhelmed our stopgap efforts.

Today there is some hope the situation is bottoming out: U.S. agriculture is beginning to turn around; some of the bad debt from the 1970's and early 1980's has been painfully wrung out of the farm economy, and farmland prices are stazbilizing.

While we currently are facing the worst crisis in the history of the cooperative Farm Credit System, there is some reason to believe that we have the opportunity, with this bill, to put our Nation's agricultural credit system back on its feet.

That is why we urgently seek expeditious consideration and pasage of this legislation. The committee has done its level best to provide solutions to the current problems and provide the framework for a future credit delivery system that will be more competitive, more efficient, and more responsive to economic realities. This legislation has new safeguards that should help U.S. agriculture to avoid future situations similar to current circumstances.

At the same time, the bill, to the greatest extent possible, is designed to keep good farmers on their land. The worst part of the current crisis in agricultural credit has been the human loss—foreclosures, the devastation of rural communities, and even suicides.

What our bill does is provide a way for farmers and lenders to work together to get themselves out of the credit crisis.

Mr. Chairman, I have used the word "crisis" several times in referring to the agricultural credit situation. I do not use it lightly.

Everyone who has followed the situation is in agreement that the cooperatively owned Farm Credit System, which provides about one-third of all credit to farmers, is on the verge of insolvency. Foreclosures and failures of small-town agricultural banks continue with little abatement. The "bad" farm operators who, through poor management, over-extended themselves are long gone. The foreclosures now are devastating good, solid farm operators whom we cannot afford to lose.

Mr. Chairman, much has been said about title III of the bill in the past few weeks. Title III will create a secondary mortgage market for certain agricultural loans made through Farm Credit System and non-Farm Credit System banks. The committee worked long and hard to this title to create a secondary market mechanism that would be viable and yet not harm the system or expose the Federal Government to large potential losses. I believe we met our goal, notwithstanding the charges that have been made by some.

It is important to note that when the committee considered this issue, a special ad hoc subcommittee on secondary markets was appointed to make recommendations. This ad hoc subcommittee, composed of Mr. JONES of Tennessee, Mr. STENHOLM, Mr. STALLINGS, Mr. NAGEL, Mr. MADIGAN, Mr. MARLENEE, and Mr. GUNDERSON, reported back with the compromise that is now included in the bill. The compromise proposal will protect the Farm Credit System by allowing it to issue its own securities on certain loans. In addition, the restructuring proposal of title IV was developed by this group, who recognized that such restructuring would make the Farm Credit System highly competitive with other farm lending institutions. The group recommended protecting the taxpayers by requiring that a 10-percent reserve must be held by loan originators and marketing facilities, and a special reserve must also be established by the Farm Mortgage Corporation. Investors will be protected by the underwriting and other standards to be established by the Farm Mortgage Corporation, and the oversight to be conducted by the Farm Credit Administration. The Board of Directors of the Corporation would be controlled by federally appointed individuals who would also look out for the welfare of the U.S. taxpayer. Mr. Chairman, I remain perfectly willing to work with the other committees of jurisdiction to address any legitimate concerns, and to consider constructive amendments to this title.

In fact, when the House considers title III, I plan to offer an amendment to address several concerns that have come to our attention. These matters include the Federal and State securities law exemption issue, the Glass-Stegall question, and the State usury law provision.

Mr. Chairman, throughout the consideration of H.R. 3030, the Committee on Agriculture has continued its record of compliance with the budget procedures of Congress. Cost was a continuation throughout the committee action. We consulted the Congressional Budget Office on the cost of H.R. 3030 as introduced and with CBO staff throughout the markup on the central portions of Farm Credit System assistance.

The administration has made charges that H.R. 3030 will spend billions of dollars of Federal money, if enacted. We have a cost estimate from the Congressional Budget Office that refutes those claims.

The major provisions of H.R. 3030 designed to assist farmers, the mandatory loan restructuring for both Farm Credit System and Farmers Home Administration borrowers, and the borrowers' rights were constructed so that they would not increase the financial burden on Farmers Home Administration or on the very institution this legislation is to save—the Farm Credit System.

Loan restructuring is required only when it is the least-cost option of bankruptcy or liquidation. Most of the borrowers' rights increase borrowers' access to their loan information or instruct Farm Credit System to give borrowers the right of first refusal to purchase or lease acquired property. The Congressional Budget Office expects that any cost arising from the borrower rights because of loan mediation or increased time to foreclose or reductions in amounts realized in foreclosure will be offset by the cost reductions resulting from loan restructuring.

Similarly, loan restructuring required of Farmers Home Administration may well reduce receipts from the sale of liquidated assets, but Farmers Home Administration is more likely to receive repayments from restructured borrowers. It is quite uncertain just when these two effects of loan restructuring could affect the budget, but the Congressional Budget Office expects that, over a several-year period, these effects are likely to net out.

The CBO has estimated a cost of $200 million, not the half billion dollars the administration has indicated, for the Farmers Home Administration provision requiring the release of income for farm operating and family living expenses to borrowers who have had their loans accelerated or who are in the process of liquidation. At the appropriate time, I will offer an amendment to reduce the amounts Farmers Home must release to cover only family living expenses. The CBO has indicated that this will reduce the annual cost of this provision to $60 million and that this will be more than offset by other receipt-producing provisions of our legislation.

The administration has also stated that the costs of administering these new provisions of the bill, along with the startup costs of administering the secondary market provisions of Farmer Home guaranteed loans, will cost in excess of $150 million. The Congressional Budget Office puts this figure at $10 million per year for greater staff workload, an amount that is subject to annual appropriations.

The administration has also charged that two other provisions central to this legislation's ability to successfully rescue the Farm Credit System are also too costly: The loan of Federal money to the System with out interest and the return of assessments collected from System institutions that are now in litigation.

These assessments are currently in litigation because the strong banks, who seek the return of their money, do not want to see themselves insolvent and in need of Federal assistance when their management has been prudent and their operation sound. Further, these assessments are not available to the System for its own use because of the litigation. It is unwise to wait for the courts to decide the disposition of these funds while banks in need founder only to weaken strong banks. It is robbing Peter to pay Paul.

This Federal money is provided without interest for the very reason the money is provided at all: The argicultural sector is in such financial disarray that even borrowers who can repay their loans have found their collateral, their farm land, diminished in value. Farm land is the primary asset that stands behind the loans that the Farm Credit System makes which back the bonds that are sold on Wall Street. If the System were forced through liquidation, it is unlikely it would payoff its creditors at any where near 100 cents on the dollar. It is not prudent to ask a financial system in this fragile state to repay with interest.

It is this very tentative condition that leads me to offer an funding amendment, which I will do at the appropriate time. At least three of the imperiled district banks are expected to need assistance because of insufficient collateral and insufficient funds by December 1988. Neither the budget resolution nor timing permit appropriations action for the fiscal year 1988. Therefore the first year's assistance, as estimated by CBO, is provided through direct spending in this amendment. The amendment also provides for the sale of Government loan assets so that the bill remains deficit neutral in 1988. In subsequent years, assistance would be made through the appropriations process.

Following my statement is a brief summary of the entire bill:

LIST OF MAJOR PROVISIONS OF H.R. 3030, THE AGRICULTURAL CREDIT ACT OF 1987

(As ordered reported by the Committee on Agriculture, August 6, 1987)

RESTRUCTURING OF FARM LOANS

Require Farm Credit System (FCS) lenders to restructure the loans of financially-stressed farmer-borrowers, in order to help keep farmers on the land and help turn around the condition of stressed FCS institutions. Restructuring (which involves compromise of debt obligations) will be required if that is the least-cost alternative, that is, if it will produce more return to the lender than foreclosure.

Similar requirements will be imposed on the Farmers Home Administration with respect to its farm loans.

FARM CREDIT SYSTEM BORROWER STOCK—FIVE-YEAR GUARANTEE

Authorize appropriations to guarantee Farm Credit System farmer-held stock for five years, to ensure farmer-borrowers their investment in the System will be preserved.

ADDITIONAL PROTECTION FOR FARM-BORROWERS

The bill includes a number of provisions designed to give FCS and FmHA farm borrowers under financial stress a fair opportunity to overcome their credit problems without adversely affecting creditor rights.

These include: review of adverse credit decisions, homestead authorities, rights of "first refusal" so family farmers can repurchase foreclosed property, borrower access to infomation, and an improved FmHA interest rate buy-down program.

Matching grants to States for operation of farm loan mediation programs. ($5 million authorized annually.)

FARM CREDIT SYSTEM ASSISTANCE

Authorize immediate appropriations of funds as needed to prevent the failure of FCS institutions. The Committee did not provide a specific amount of funds for assistance because there was no clear evidence on the exact amount of Federal assistance needed. It could involve from $2 billion to $6 billion, in total, depending on economic conditions that cannot now be accurately predicted. Funds will be metered out on an as-needed basis over the next five years.

Couple the Federal assistance with needed reform and improvement in System management, by creating a Federal Temporary Assistance Corporation (TAC) to make the appropriated funds available.

The TAC would work with troubled FCS institutions to develop business plans that maximize self-help and make efficient use of Federal funds. Approval of business plans, except for emergency help, would be a pre-condition for Federal assistance.

FUTURE ACCESS TO CREDIT TO FARMERS

Establish a new secondary market for agricultural loans, under which commercial farm lenders and the FCS will gain new access to capital markets. With this access, farm lenders can obtain funds to finance their farm-borrowers at reasonable interest rates.

Similarly, the bill will provide for the pooling and sale of FmHA guaranteed loans.

FARM CREDIT SYSTEM IMPROVEMENTS

The bill will establish an insurance program for FCS institutions similar to the FDIC program for commercial banks.

The bill contains the framework for a reorganization of the Farm Credit System, under which the number of regional FCS banks is reduced, while the ability of the local FCS cooperatives to provide lending services to farmers is enhanced.

Authority will be provided for the cooperative institutions that make up the System to improve the way their business operations are capitalized.

Farm Credit Administration regulation will be strengthened through such provisions as the imposition of capital adequacy requirements and new civil money penalties.

Mr. Chairman, I yield back the balance of my time.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 3030, the Agriculture Credit Act of 1987. I would like to thank the distinguished chairman of the Agriculture Committee [Mr. DE LA GARZA] for introducing and bringing to the floor this important legislation, along with the Ranking Minority Member [Mr. MADIGAN]. I would also commend the entire Committee for its diligent efforts on behalf of farmers throughout our Nation.

Mr. Chairman, the farmers throughout our Nation need our help. Since the early 1980's, farmers have been struggling through the blight of depression. As a result of increased capital expenditures made throughout the 1960's and early 1970's, farmers have been forced to bear an ever-increasing debt burden. In fact, during that period farm debt rose from $80 billion to a value of $220 billion in 1980. At the same time, asset values have fallen dramatically from $1.2 trillion in 1980 to $675 billion in 1986.

Virtually no agricultural region has been immune to farm problems. My home State of New York has felt the despair of crop failure and mortgage foreclosure. For example, take the experience of onion farmers in my own 22d Congressional District. For years these farmers have been struggling against nature's adversities, and only just recently their crops were destroyed by a freak hail storm. Like all farmers across the country, these farmers have suffered with inadequate farm credit mechanisms for too many years. Unlike some farmers, however, onion growers do not even receive the benefit of Federal crop insurance. I am currently in the process of developing appropriate measures to correct this inequity, including possible legislative remedies.

Mr. Chairman, the Congress now has the opportunity to recognize the importance of our agricultural community and to demonstrate the commitment necessary to provide for our Nation's continued leadership in food production, H.R. 3030 provides a substantive framework for the reorganization of our beleaguered Farm Credit System and my colleagues know just how vital this system is to the livelihood of farmers everywhere. While attempting to meet the immediate needs of financially stressed farm borrowers, H.R. 3030 attempts at the same time the look beyond immediate needs and address the long-term, structural problems within the Farm Credit System. This system has remained essentially unchanged for the past 50 years.

Through H.R. 3030 in its current form is not a perfect measure, I understand that amendments will be offered to correct a few problems. Nonetheless, while I look forward to discussing whatever changes my colleagues may propose, I believe that, on the whole, H.R. 3030 will serve to modernize the network of support for our Nation's farming community. Accordingly, I urge my colleagues to vote in favor of the Agricultural Credit Act of 1987.

Mr. MORRISON of Washington. Mr. Chairman, I would like to express my support for H.R. 3030, the Agricultural Credit Act of 1987, as forwarded to the floor by the House Agriculture Committee. This package is the product of many hours of hard work, compromise, and commitment to finding the best approach of preserving a viable credit system for our Nation's farmers.

The Farm Credit System was established as a lending entity for farmers. Since its business is directly related to farm prices and land values, the Farm Credit System has dramatically felt the effects of the agricultural recession. Financial assistance and guaranteeing borrower stock, upon which the System is built, are absolutely necessary to keep our Nation's largest farm lender solvent.

Let me start out by saying that I do have some hesitations about some of the provisions included in H.R. 3030. For example, we have extended many costly requirements for the Farm Credit System to the Farmers Home Administration, such as strict loan restructuring schedules, mandatory mediation instructions, and continued income releases during foreclosure, thus reducing FmHA's effectiveness to service deserving farm borrowers in times of need as the "lender of last resort." By putting FmHA at the same level as FCS, we are eliminating a necessary tier structure that is intended to keep affordable credit sources available to farmers, even through the rough times. This will be accomplished at the taxpayer's expense and make it even more difficult for FmHA to be flexible in working with farmers.

My hesitations with the package are countered, however, by my support for the provisions we are not debating today. Titles III and IV, which we will be debating in October, include some major provisions so important to the total package. Authorizing Federal funds for the purpose of preventing failure of Farm Credit System institutions in this time of tremendous budget pressure warrants the direction we've provided to the System in this bill in title IV. By mandating a major reorganization of the System to downsize its operation, we ensure that the Federal investment will pay off. There is some question about how the borrowers fit into this scheme. Ultimately, they will also have a say at the local level when they establish the number of associations that is economically practical in today's lending environment.

Finally, and most importantly to me, the committee has also included, in title III, the establishment of a secondary mortgage market for agricultural loans. This is a crucial element to the package. The secondary market will allow any qualified lender access to capital markets. Increased competition in the agricultural real estate arena will benefit farmers as well as supplement the public contribution to saving the Farm Credit System by encouraging the most efficient operation of the System. By creating the option for farmers to obtain long-term, fixed-rate mortgage for the purchase of farmland, we are also improving credit service to farmers as well as enabling lending institutions to increase their lending capacity. This secondary market is modeled after existing secondary mortgage markets in effect for home buyers through Fannie Mae and Freddie Mac which have proven successful.

Mr. Chairman, this may not be a perfect bill. But it is a very well crafted package that includes many positive changes for the Farm Credit System. I urge my colleagues to support H.H. 3030 as forwarded by the House Committee on Agriculture and cast a vote for the long term viability of a healthy lending entity for farmers.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amended is the nature of a substitute now printed in the reported bill is considered as an original bill for the purpose of amendment under the 5-minute rule, and said substitute is considered as having been read.

The text of the committee amendment in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—PROVISIONS TO ASSIST BORROWERS OF, AND IMPROVE THE ADMINISTRATION OF, THE FARM CREDIT ACT OF 1971

Sec. 101. Amendment of Farm Credit Act of 1971.
Sec. 102. Five year guarantee of borrower stock.
Sec. 103. Restructuring of distressed loans.
Sec. 104. Enhancement of borrower rights.
Sec. 105. Provision of financial assistance through Farm Credit System Temporary Assistance Corporation.
Sec. 106. Insurance of obligations of Farm Credit System.
Sec. 107. Capitalization of System institutions.
Sec. 108. System organization under current statutory structure.
Sec. 109. Other provisions.
Sec. 110. Repeal of preapproval and related authorities.
Sec. 111. Technical amendments.

TITLE II—PROVISIONS AFFECTING THE ADMINISTRATION OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Sec. 201. Amendment of Consolidated Farm and Rural Development Act.
Sec. 202. Amendments affecting debt restructuring and loan servicing.
Sec. 203. Homestead protection.
Sec. 204. Right of first refusal of family of previous owner of acquired property.
Sec. 205. Borrowers' right to information.
Sec. 206. Sense of Congress regarding guaranteed loan program.
Sec. 207. Matching grants to States for operation of loan mediation programs.
Sec. 208. Participation in debt restructuring negotiations.
Sec. 209. Release of income for living and operating expenses.
Sec. 210. Transfer of inventory lands held by Farmers Home Administration.
Sec. 211. County committees.
Sec. 212. Encouragement of greater participation in interest rate reduction program.
Sec. 213. Expedite clearing of title to inventory property.
Sec. 214. Right of first refusal for certain issuers of notes or other obligations to be sold under section 1001 of the Omnibus Budget Reconciliation Act of 1986.

TITLE III—SECONDARY MARKETS FOR AGRICULTURAL LOANS

Sec. 301. The Federal Agricultural Mortgage Corporation.
Sec. 302. Improvement of secondary market operations for loans guaranteed by the Farmers Home Administration.

TITLE IV—REORGANIZATION OF THE FARM CREDIT SYSTEM

Sec. 401. Reorganization plan.
Sec. 402. Stockholder authority to reorganize System institutions under title VI to improve operating efficiency.

TITLE I—PROVISIONS TO ASSIST BORROWERS OF, AND IMPROVE THE ADMINISTRATION OF, THE FARM CREDIT ACT OF 1971

SEC. 101. AMENDMENT OF FARM CREDIT ACT OF 1971.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971.

SEC. 102. FIVE YEAR GUARANTEE OF BORROWER STOCK.

Title IV (12 U.S.C. 2151 et seq.) is amended by adding at the end the following:

"PART I—BORROWER STOCK

"SEC. 4.41. PROTECTION OF BORROWER STOCK.—(a) Notwithstanding any other section of this Act, during the 5-year period beginning on the date of the enactment of this section, each institution of the Farm Credit System, when retiring eligible borrower stock in accordance with this Act, shall retire such stock at par value. For any such institution, during such period, whose capital stock is impaired under generally accepted accounting principles, such retirement of stock at par under this section shall be coordinated with the activities of the Temporary Assistance Corporation.

"(b) This section does not affect the authority of any institution of the Farm Credit System—

"(1) to retire or cancel borrower stock at par for application against a loan in default;

"(2) to cancel borrower stock under section 4.14B; or

"(3) to apply, against any outstanding indebtedness to a System association arising out of or in connection with a liquidation referred to in subsection (c)(1)(B), the par value of borrower stock frozen in such liquidation.

"(c) If, during the 5-year period described in subsection (a), the institution is unable to retire eligible borrower stock at par value due to the freezing of such stock during a liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution during such 5-year period.

"(d) For purposes of this section—

"(1) the term 'eligible borrower stock' means borrower stock, including borrower stock that was frozen by the Spokane, Washington, or Omaha, Nebraska, district after January 1, 1983, in connection with the liquidation of certain Farm Credit System institutions;

"(2) the term 'borrower stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities issued by any institution of the Farm Credit System and held by any person other than any such institution;

"(3) the term 'par value' means—

"(A) in the case of stock, par value;

"(B) in the case of participation certificates and other equities and interests not described in subparagraph (C), face or equivalent value; or

"(C) in the case of participation certificates and other equities and interests subject to retirement under a revolving cycle but that a System institution elects to retire out of order for application against a loan in default or otherwise as provided in this Act, par or face value discounted, at a rate determined by the institution, to reflect the present value of the equity or interest as of the date of such retirement; and

"(4) the term 'institution' means an institution chartered under title I, II, or III.".

SEC. 103. RESTRUCTURING OF DISTRESSED LOANS.

(a) IN GENERAL.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.14 the following:

"SEC. 4.14A. RESTRUCTURING OF DISTRESSED LOANS.—(a) For purposes of this section—

"(1) the terms 'restructure' and 'restructuring' include rescheduling, reamortization, renewal, deferral of principal or interest, monetary concessions, and the taking of any other action to modify the terms of, or forbear on, a loan in any way that will make it probable that the operations of the borrower will become financially viable;

"(2) the term 'distressed loan' means, with respect to an institution, any loan made by the institution that is a high risk loan or that is in nonaccrual status;

"(3) the term 'high risk loan' means any loan—

"(A) that the borrower thereof probably will not be able to fully repay due to adverse financial and repayment trends, as determined by the institution; or

"(B) the value of the security for which is less than the amount required under this Act;

"(4) the term 'qualified lender' means—

"(A) the Temporary Assistance Corporation, each Federal land bank, and each production credit association; and

"(B) each bank, institution, corporation, company, union, and association described in section 2.3(a)(2) but only with respect to loans discounted or pledged under section 2.3(a); and

"(5) the term 'loan' means a loan made to a farmer, rancher, or producer or harvester of aquatic products for any agricultural or aquatic purpose and other credit needs of the borrower, including financing for basic processing and marketing directly related to the borrower's operations and those of other eligible farmers, ranchers, and producers or harvesters of aquatic products.

"(b)(1) On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide written notice to the borrower thereof that the loan may be suitable for restructuring or preventive action, and include with such notice (A) a copy of the policy of the lender that governs the treatment of distressed loans established under subsection (e), and (B) all materials necessary to enable the borrower to submit a proposal for restructuring or preventive action on the loan.

"(2) Not later than 75 days before any qualified lender begins foreclosure proceedings with respect to a loan outstanding to any borrower, the lender shall notify the borrower that the loan may be suitable for restructuring and that the lender will not foreclose any such suitable loan, and shall include with such notice a copy of the policy and the materials described in paragraph (1).

"(c)(1)(A) On determination by a qualified lender that a loan made by the lender is or has become a distressed loan, the lender shall provide a reasonable opportunity for the borrower thereof to personally meet with a representative of the lender (i) to review the status of the loan, the financial condition of the borrower, and the suitability of the loan for restructuring or preventive action, and (ii) with respect to a loan that is in nonaccrual status, as appropriate, to develop a plan for restructuring the loan.

"(B) If, after a meeting (as described in subparagraph (A)) is held on a high risk loan, the lender places the loan in nonaccrual status, the lender shall arrange for another such meeting based on the placing of the loan in nonaccrual status.

"(2) As soon as is practicable after a qualified lender has offered a borrower a reasona-

ble opportunity to meet under paragraph (1), the qualified lender shall review the loan to determine—

"(A) in the case of a loan placed in nonaccrual status, whether the loan is suitable for restructuring under this section; and

"(B) in the case of a high risk loan, whether steps (including restructuring) consistent with sound lending practices may be taken to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status.

"(3) After a qualified lender has complied with paragraph (2) with respect to a loan that is in nonaccrual status, and after consideration of restructuring proposals, if any, put forth by the borrower thereof, the lender shall restructure the loan if—

"(A) the present value of the loan restructured to enable the borrower to meet the loan obligations exceeds the liquidation value of the loan, taking into consideration the lender's estimate of the borrower's repayment capacity and the liquidation value of any interests in property securing the loan less the reasonable and necessary costs and expenses (including attorneys' fees, court costs, collateral asset depreciation, and other commonly incurred costs) that would be incurred by the lender to obtain payment on the loan or title to such interests, to preserve the value of any interests that may depreciate, and to dispose of such interests in the course of a liquidation; and

"(B) the borrower has acted responsibly in the management of the borrower's business affairs, has pledged or agreed to pledge all available assets of more than nominal value to the extent required to increase the value of the collateral for the loan to the amount required under this Act, and has acted in good faith with the lender.

"(4) After a qualified lender has complied with paragraph (2) with respect to a high risk loan, and after consideration of the proposals, if any, put forth by the borrower of the high risk loan to reasonably ensure that the loan will not become a loan that it is necessary to place in nonaccrual status, the qualified lender shall take such steps (including restructuring) consistent with sound lending practices as the lender deems necessary to reasonably ensure that the loan is not placed in such status if the borrower has acted responsibly in the management of the borrower's business affairs and has acted in good faith with the lender.

"(d) If two or more restructuring or preventive action alternatives are available to a qualified lender under paragraph (3) or (4) of subsection (c) with respect to a distressed loan, the lender shall restructure or take preventive action with respect to the loan in conformity with the alternative that results in the least cost to the lender.

"(e) Each qualified lender shall develop a written policy governing the treatment of distressed loans under this section that addresses, at a minimum, the following:

"(1) The criteria used by the lender to place a loan in nonaccrual status, classify a loan as high risk, and determine whether a loan is suitable for restructuring or preventive action under this section.

"(2) The nature and timing of communications that the lender will provide to any borrower with respect to—

"(A) consideration of the borrower's proposal for restructuring or preventive action;

"(B) the decision to accept or reject such proposal, the decision whether to restructure or take preventive action with respect to the loan, and the reasons for such decisions;

"(C) the nature and duration of the restructuring or preventive action alternative selected by the lender;

"(D) any change in the decision to restructure or take preventive action, or in the selection of a restructuring or preventive action alternative; and

"(E) the right of the borrower under section 4.14 to seek review of any decision of the lender with respect to restructuring or preventive action.

"(3) The procedures available to any borrower under section 4.14 to seek review before the lender's credit review committee of any decision of the lender with respect to restructuring or taking preventive action on a loan made to the borrower.

"(f) Each qualified lender shall submit the policy of the lender governing the treatment of distressed loans under this section to the Farm Credit Administration for approval to ensure compliance with this section. Notwithstanding the duty imposed by the preceding sentence, the other duties imposed by this section shall take effect on the date of the enactment of this section.

"(g) No qualified lender may foreclose or continue any foreclosure proceeding with respect to any distressed loan before the lender has completed consideration of the loan for restructuring or preventive action under this section.

"(h) Each qualified lender shall make copies of the policy of the lender under subsection (e) available to borrowers on request.

"(i) Each qualified lender shall submit quarterly reports to the Farm Credit Administration containing—

"(1) the results of the review of distressed loans of the lender;

"(2) the results of monitoring restructured loans to assess the success of restructuring; and

"(3) the financial effect of loan restructurings and liquidations on the lender.

"(j) The Farm Credit Administration may issue a directive requiring compliance with any provision of this section to any qualified lender that fails to comply therewith.

"(k) This section shall not be construed to prevent any qualified lender from enforcing any contractual provision that allows the lender to foreclose a loan, or from taking such other lawful action as the lender deems appropriate, if the lender has reasonable grounds to believe that the loan collateral will be destroyed, dissipated, consumed, concealed, or permanently removed from the State in which the collateral is located.

"(l) Subsections (b) and (c) shall not apply to a loan made by a qualified lender that became a distressed loan before the date of the enactment of this section if the borrower thereof and such lender are in the process of negotiating loan restructuring or the taking of preventive action with respect to the loan.

"SEC. 4.14B. EFFECT OF RESTRUCTURING ON BORROWER STOCK.—(a) If a Federal land bank forgives and writes off, under section 4.14A, any percentage of the principal outstanding on a loan made to any borrower, the Federal land bank association of which the borrower is a member and stockholder shall cancel the same percentage of borrower stock held by the borrower in respect of the loan.

"(b) If a production credit association forgives and writes off, under section 4.14A, any percentage of the principal outstanding on a loan made to any borrower, the association shall cancel the same percentage of borrower stock held by the borrower in respect of the loan.".

(b) IMPLEMENTATION OF RESTRUCTURING.—

(1) IN GENERAL.—Part A of title V (12 U.S.C. 2221-2227) is amended by adding at the end the following:

"SEC. 5.6A. IMPLEMENTATION AND MONITORING OF LOAN RESTRUCTURING BY DISTRICTS.—(a) Each farm credit district board shall appoint one officer to supervise all loan restructuring activity under section 4.14A in the district, and shall establish a special credit unit to provide expert assistance to System institutions in the district to implement such restructuring.

"(b) Each farm credit district board shall develop a system to monitor loans restructured under section 4.14A and determine whether the restructuring has been successful.

"(c) Each Federal intermediate credit bank, on request of any production credit association, may assist the association in restructuring loans under section 4.14A.".

(2) AUTHORIZATION FOR SYSTEM ASSOCIATIONS TO ESTABLISH SPECIAL CREDIT UNITS.—Section 2.12 (12 U.S.C. 2093) is amended by adding at the end the following:

"(21) Establish a special credit unit to implement the restructuring of nonaccrual loans under section 4.14A.".

(3) JURISDICTION AND ENFORCEMENT; PENALTIES.—

(A) JURISDICTION AND ENFORCEMENT.—Section 5.31 (12 U.S.C. 2267) is amended by adding at the end the following: "For purposes of this section, any directive issued under section 4.2A, 4.3(b)(2), 4.3A(e), or 4.14A(j) shall be treated as an effective and outstanding order issued under section 5.25 that has become final.".

(B) PENALTIES.—Section 5.32 (12 U.S.C. 2268) is amended by adding at the end the following:

"(h) For purposes of this section, any directive issued under section 4.2A, 4.3(b)(2), 4.3A(e), or 4.14A(j) shall be treated as an order that has become final and was issued under section 5.25.".

(C) CONFORMING AMENDMENT.—Paragraph (2) of section 4.3(b) (12 U.S.C. 2154(b)(2)) is amended—

(i) by striking out "(A)"; and

(ii) by striking out subparagraph (B).

(4) CONFORMING AMENDMENTS.—

(A) Section 4.13 (12 U.S.C. 2199) is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The title of part C of title IV is amended to read as follows:

"PART C—RIGHTS OF BORROWERS; LOAN RESTRUCTURING".

SEC. 104. ENHANCEMENT OF BORROWER RIGHTS.

(a) ACCESS TO DOCUMENTS.—Section 4.13A (12 U.S.C. 2200) is amended by inserting "any property appraisal performed with respect to the borrower or" before "a copy of the institution's articles of incorporation".

(b) RECONSIDERATION OF ACTIONS ON RESTRUCTURING.—

(1) NOTICE OF ACTION ON APPLICATION FOR LOANS OR RESTRUCTURING.—Section 4.13B (12 U.S.C. 2201) is amended to read as follows:

"SEC. 4.13B. NOTICE.—(a) Each System institution to which a person has applied for a loan shall provide the person with prompt written notice of action on the application, and if the loan applied for is reduced or denied, the reasons therefor, and of the applicant's right to review under section 4.14.

"(b) Each qualified lender (as defined in section 4.14A(a)(4)) that has a distressed loan outstanding to any borrower, in accordance with regulations prescribed by the

Farm Credit Administration, shall provide the borrower with prompt written notice of any action taken with respect to restructuring or taking preventive action with respect to the loan under section 4.14A, and if restructuring is denied, the reasons therefor, and of the borrower's right to review under section 4.14.".

(2) Reconsideration of action.—Section 4.14 (12 U.S.C. 2202) is amended—

(A) by amending the title to read as follows: "Reconsideration of Action";

(B) by inserting after the second sentence the following: "A borrower of a loan from a qualified lender (as defined in section 4.14A(a)(4)) that has received notice, under section 4.13B, of a decision to deny loan restructuring or preventive action with respect to a loan made to the borrower, if the borrower so requests in writing within 7 days after receiving such notice, may obtain a review of such decision in person before the credit review committee.";

(C) by inserting ", or a borrower who has been denied loan restructuring or preventive action," before "requests review"; and

(D) by inserting "or borrower, as the case may be," before "shall be notified".

(c) Protection of Borrowers Who Meet All Loan Obligations; Borrowers Entitled to Meet in Person With Institution Representative Before Foreclosure.—Part C of title IV (12 U.S.C. 2199 et seq.) is amended by inserting after the sections added by section 103(a) of this Act the following:

"Sec. 4.14C. Protection of Borrowers Who Meet All Loan Obligations.—(a) A qualified lender (as defined in section 4.14A(a)(4)) may not foreclose any loan on account of the failure of the borrower thereof to post additional collateral, if the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan. A qualified lender may not require any borrower to reduce the outstanding principal balance of any loan made to the borrower by any amount that exceeds the regularly scheduled principal installment payment (when due and payable), except—

"(1) if the borrower sells or otherwise disposes of part or all of the collateral; or

"(2) as otherwise agreed on by the parties in a written agreement entered into by the parties.

"(b) Any contract provision that results in the acceleration by a qualified lender (as defined in section 4.14A(a)(4)) of a borrower's repayment schedule on account of the borrower having not timely made one or more principal or interest payments shall not continue to be enforced after the borrower has made all accrued payments of principal, interest, and penalties with respect to the loan without regard to such provision.

"(c) If a qualified lender (as defined in section 4.14A(a)(4)) places any loan in nonaccrual status, the lender shall document such change of status and promptly notify the borrower thereof in writing of such action and the reasons therefor. If the borrower was not delinquent in any principal or interest payment under the loan at the time of such action and the borrower's request to have the loan placed back into accrual status is denied, the borrower may obtain a review of such denial before the appropriate credit review committee under section 4.14.".

(d) Protection of Individuals After Foreclosure, Bankruptcy, or Liquidation.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by subsection (c) the following:

"Sec. 4.14D. Homestead Protection.—(a) A qualified lender (as defined in section 4.14A(a)(4)) shall permit any eligible individual to retain the right to occupy, by purchase or lease, the individual's principal residence and a reasonable amount (not to exceed 10 acres) of adjoining land to maintain the family of the individual, on terms that offer reasonable protection for the lender.

"(b) For purposes of subsection (a), the term 'eligible individual' means any individual to whom the System institution has made an agricultural loan—

"(1) that the institution forecloses;

"(2) who files a petition under any chapter of title 11, United States Code, and conveys homestead property to the institution as a result of proceedings with respect to the petition; or

"(3) who liquidates property to avoid foreclosure or filing such a petition.

"Sec. 4.14E. Rights of First Refusal After Foreclosure, Bankruptcy, or Liquidation.—(a) Each qualified lender (as defined in section 4.14A(a)(4)) that acquires title to real property through foreclosure, bankruptcy, or liquidation of a borrower of an agricultural loan, before offering such property for sale or lease to any other person, shall—

"(1) ascertain insofar as is practicable whether the person or persons from whom the lender acquired title or any member of the immediate family of such person or persons desires to purchase such real property or lease such real property for a period not to exceed 10 years; and

"(2) hold open for a reasonable time (not less than 60 days) beginning on the date the lender acquires the real property an offer to sell such real property, or lease such real property for a period not to exceed 10 years, as the case may be, first to the person or persons from whom the institution acquired title, second to members of the immediate family of such person or persons, and third to family-owned and -operated farm operations in the community in which the property is located at a price equal to the market value of such property as determined by an independent appraisal or fair rental value, as the case may be, after such foreclosure, bankruptcy, or liquidation.

"(b) Under regulations of the Farm Credit Administration, each qualified lender shall establish a policy governing the sale and lease under this section of real property title to which is acquired by the lender through foreclosure, liquidation, or bankruptcy of a borrower of the institution.".

(e) Prohibition Against Conditioning Loans on Waiver of Mediation Rights by Borrower.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the sections added by subsection (d) the following:

"Sec. 4.14F. Prohibition Against Conditioning Loans on Waiver of Mediation Rights by Borrower.—No System institution may make a loan secured by a mortgage or lien on farm property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

(f) Good Faith Cooperation of the Farm Credit System With State Agricultural Loan Mediation Programs.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section amended by section 109(g) the following:

"Sec. 4.21. Good Faith Cooperation of the Farm Credit System With State Agricultural Loan Mediation Programs.—Each institution of the Farm Credit System shall participate in good faith in any State agricultural loan mediation program.".

SEC. 105. PROVISION OF FINANCIAL ASSISTANCE THROUGH FARM CREDIT SYSTEM TEMPORARY ASSISTANCE CORPORATION.

(a) Application for Assistance.—Section 4.9A (12 U.S.C. 2161) is amended to read as follows:

"Sec. 4.9A. Required Application for Assistance.—(a) Any System institution the borrower stock of which (as defined in section 4.41(d)(2)) is impaired (as determined in accordance with generally accepted accounting principles) during the 5-year period beginning on the date of the enactment of this section shall apply to the Temporary Assistance Corporation for financial assistance.

"(b) Any other System institution may apply to the Temporary Assistance Corporation for financial assistance during the 5-year period described in subsection (a).".

(b) Financial Assistance Program.—

(1) Statement of purpose.—The purpose of this section is to establish a Government corporation to carry out a program of financial and technical assistance to Farm Credit System institutions experiencing financial difficulties and ensure that borrower stock in such institutions, if retired during the 5-year period beginning on the date of the enactment of this Act, will be retired at par value, in an efficient and cost-effective manner that ensures the long-term financial health of the Farm Credit System and the ability of System institutions to provide efficient credit services to borrowers at competitive interest rates.

(2) Establishment of farm credit system temporary assistance corporation; elimination of farm credit system capital corporation.—

(A) Repealer.—Part D1 of title IV (12 U.S.C. 2216-2221k) is hereby repealed.

(B) Farm credit system temporary assistance corporation.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.28 the following:

"Part F—Farm Credit System Temporary Assistance Corporation

"Sec. 4.28A. Establishment; Revocation of Charter of Farm Credit System Capital Corporation.—There is hereby established the Farm Credit System Temporary Assistance Corporation (referred to in this Act as the 'Temporary Assistance Corporation'), which shall be a Government corporation subject to the provisions of this part. Not later than 60 days after the date of the enactment of this Act, the Farm Credit Administration shall revoke the charter for the Farm Credit System Capital Corporation issued under part D1 in effect before such date of enactment. All authorities of the Temporary Assistance Corporation shall expire 5 years after the date of the enactment of the Agricultural Credit Act of 1987.

"Sec. 4.28B. Board of Directors of the Temporary Assistance Corporation.—(a)(1) The board of directors of the Temporary Assistance Corporation shall consist of—

"(A) three members appointed by the Secretary of Agriculture—

"(i) one of whom shall be selected in accordance with paragraph (2);

"(ii) one of whom is a farm credit district board member; and

"(iii) one of whom is a director of a locally controlled System association;

"(B) one member appointed by the Secretary of the Treasury in accordance with paragraph (2); and

"(C) one member appointed by the Farm Credit Administration Board in accordance with paragraph (2).

"(2) The members of the board of directors appointed under subparagraphs (A)(i), (B), and (C) of paragraph (1) shall be selected from among United States citizens who are—

"(A) not borrowers from, shareholders in, or directors, officers, employees, or agents of any institution of the Farm Credit System;

"(B) not officers or employees of the Federal Government;

"(C) experienced in financial services and credit; and

"(D) not then members of the board of, or senior employees of, the Farm Credit System Capital Corporation.

"(3) Each appointment under paragraph (1) shall be made within 60 days after the date of the enactment of this subsection.

"(b)(1) The members of the board of directors first appointed under paragraphs (1)(A)(i) and (1)(B) of subsection (a) shall serve for a term of 3 years beginning on the date of the enactment of this part. Thereafter, the members appointed under such paragraphs shall serve for a term of 2 years.

"(2) The members of the board of directors first appointed under paragraphs (1)(A)(ii) and (1)(A)(iii) of subsection (a) shall serve for a term of 2 years beginning on the date of the enactment of this part. Thereafter, the members appointed under such paragraphs shall serve for a term of 3 years.

"(c) A vacancy on the board of directors shall be filled in the manner in which the original appointment was made.

"(d) Until three or more members have been appointed to the board of directors, the Secretary of the Treasury may take any action authorized by this part.

"(e) The board of directors may take any action authorized by this part once three or more members have been appointed.

"(f)(1) Once three or more members have been appointed to the board of directors, a majority of members then appointed shall constitute a quorum.

"(2) The members of the board may elect a member to serve as temporary chairman of the board of directors until five members have been appointed to the board and a chairman has been elected under subsection (g).

"(g) The five members of the board shall elect from among themselves a permanent chairman of the board of directors who shall serve as chairman until the expiration of the term for which the member so elected is appointed to the board.

"SEC. 4.28C. COMPENSATION OF BOARD MEMBERS; BOARD PROCEDURES.—*(a) Each member of the board of directors of the Temporary Assistance Corporation shall receive compensation, including necessary travel, subsistence, and other expenses in the discharge of the member's official duties without regard to any other law relating to allowance for travel and subsistence for officers and employees of the United States. The compensation shall not be in excess of the level set by the Farm Credit Administration.*

"(b) The board of directors of the Temporary Assistance Corporation shall adopt such rules as it may deem appropriate for the transaction of its business and shall keep permanent and accurate records and minutes of its acts and proceedings.

"SEC. 4.28D. CHIEF EXECUTIVE OFFICER OF THE CORPORATION.—*The chief executive officer of the Temporary Assistance Corporation shall be selected by the board of directors of the Temporary Assistance Corporation and shall serve at the pleasure of the board.*

"SEC. 4.28E. PROVISION OF ASSISTANCE TO SYSTEM INSTITUTIONS REQUIRING ASSISTANCE.—*(a)(1) As soon as is practicable after a System institution applies for financial assistance under section 4.9A, the Temporary Assistance Corporation shall complete a review of the institution's business plan.*

"(2) The Temporary Assistance Corporation shall require any institution seeking financial assistance to revise the institution's business plan, as the Temporary Assistance Corporation in its sole discretion deems necessary, before providing or making a commitment to provide financial assistance to the institution under this section. During any period in which an institution is receiving assistance from the Temporary Assistance Corporation, the Temporary Assistance Corporation shall review the institution's business plan on an annual basis, and may require revisions in the business plan, based on such annual review, as a condition of receiving further assistance.

"(3)(A) The Temporary Assistance Corporation shall provide or make a commitment to provide financial assistance to any System institution under the institution's approved business plan, on such terms and subject to such conditions as the Temporary Assistance Corporation in its sole discretion deems necessary to ensure that such assistance is provided and used in an efficient and cost-effective manner.

"(B) The Temporary Assistance Corporation may provide or make a commitment to provide financial assistance to any System institution to address, among other types of problems, one or more of the following types of financial problems facing the institution:

"(i) The impairment of the institution's stock (as determined in accordance with generally accepted accounting principles).

"(ii) The inability of the institution to maintain capital at or above the minimum permanent capital adequacy level established for the institution by the Farm Credit Administration under section 4.3.

"(iii) The danger that the institution will default on its obligations.

"(iv) The financial burden placed on the institution due to high interest rates payable on obligations of the institution.

"(b) The Temporary Assistance Corporation shall provide or make a commitment to provide financial assistance to any System institution for which the Farm Credit Administration has appointed a receiver or conservator to the extent necessary to enable the institution to meet its insured obligations (as defined in section 5.51(5)) in a timely manner and retire borrower stock at par value in accordance with section 4.41.

"(c) During the 180-day period beginning on the date of the enactment of this section, the Temporary Assistance Corporation, notwithstanding subsection (a), may provide financial assistance to any Federal land bank, Federal intermediate credit bank, production credit association, or bank for cooperatives before approving the institution's business plan if the Temporary Assistance Corporation determines such assistance is necessary to ensure the continued operation of the institution and the continued provision of farm credit services to borrowers in the institution's territory, or to enable the institution to retire eligible borrower stock at par value in accordance with section 4.41.

"(d) Notwithstanding any other provision of this part, the Temporary Assistance Corporation, as soon as is practicable within 180 days after the date of the enactment of this part when funds are made available under appropriations Acts, shall—

"(1) make financial assistance available to System institutions (whether or not the institution's business plan has been approved) in amounts adequate to ensure the implementation of the adjustment of assessments under section 4.28L and to enable such institutions to return all loss-sharing contributions provided for under section 4.28M; and

"(2) issue to the Secretary of the Treasury an amount of stock or other obligations, in accordance with section 4.28F(a)(9), sufficient to enable the Temporary Assistance Corporation to provide the financial assistance described in paragraph (1).

"(e) The Temporary Assistance Corporation shall keep the Farm Credit Administration fully informed with respect to financial assistance provided or committed to be provided to any System institution under this section.

"(f)(1) The Farm Credit Administration shall monitor the operations of each institution to which the Temporary Assistance Corporation provides or makes a commitment to provide financial assistance to ensure compliance with the business plan and any terms and conditions under which such assistance or commitment is provided.

"(2) The Farm Credit Administration shall keep the Temporary Assistance Corporation fully informed of the progress made by the institution in implementing the institution's business plan.

"(g)(1) The Temporary Assistance Corporation may suspend for any period of time or terminate any commitment to provide financial assistance to any System institution if the Farm Credit Administration notifies the Temporary Assistance Corporation that the institution has substantially deviated from the institution's approved business plan or has failed to comply with any term or condition governing the use of any financial assistance provided to the institution under this section. The Temporary Assistance Corporation promptly shall notify the Farm Credit Administration of any action taken by the Temporary Assistance Corporation under this paragraph.

"(2) The Farm Credit Administration may use any or all of its enforcement powers, with respect to any institution to which the Temporary Assistance Corporation has provided or has made a commitment to provide financial assistance, to obtain compliance with the institution's business plan.

"(h) The Farm Credit Administration shall provide such personnel and facilities to the Temporary Assistance Corporation as the Farm Credit Administration deems are necessary to avoid unnecessary duplication and waste. The Farm Credit Administration shall provide copies of reports of examinations of System institutions to the Temporary Assistance Corporation on request of the Corporation.

"SEC. 4.28F. GENERAL CORPORATE POWERS.—*(a) The Temporary Assistance Corporation shall have the following powers:*

"(1) To operate under the direction of its board of directors.

"(2) To adopt, alter, and use a corporate seal, which shall be judicially noted.

"(3) To provide for one or more vice presidents, a secretary, a treasurer, and such other officers, employees, and agents as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons.

"(4) To prescribe by its board of directors its bylaws, not inconsistent with law, that shall provide for the manner in which—

"(A) its property is to be acquired, held, and transferred;

"(B) its loans, commitments, and other financial assistance are to be made;

"(C) its general operations are to be conducted; and

"(D) the privileges granted to it by law are to be exercised and enjoyed.

"(5) To enter into contracts and make advance, progress, or other payments with respect to such contracts.

"(6) To contract with System institutions for local administration, servicing, and restructuring of loan and loan-related assets and management of acquired properties of the Corporation.

"(7) To sue and be sued, and complain and defend, in any court of competent jurisdiction, State or Federal.

"(8) To acquire, hold, lease, mortgage, or dispose of real and personal property, at public or private sale, guarantee, sell, or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations. The Temporary Assistance Corporation, to the maximum extent practicable, shall use the services of the appropriate System institutions to dispose of noncash property acquired by the Temporary Assistance Corporation.

"(9) To issue to the Secretary of the Treasury under section 4.28I a sufficient amount of stock or obligations of the Temporary Assistance Corporation to enable the Temporary Assistance Corporation to provide financial assistance under this part and to cover reasonable and necessary operating expenses.

"(10) To obtain insurance against loss.

"(11) To modify or consent to modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or in which it has an interest under this Act.

"(12) To provide, at the request of a System institution, technical assistance and related services to the institution in connection with the administration of the institution's loan portfolio.

"(13) To purchase at fair market value from any System institution, on the request of the institution, loans (or interests in loans) that are in nonaccrual status and assets (or interests in assets) in the account for acquired properties.

"(14) To require any System institution to which the Temporary Assistance Corporation has provided or made a commitment to provide financial assistance under this part to sell to the Temporary Assistance Corporation loans, assets, and interests described in paragraph (13) with respect to which the principal amount outstanding, or the value of which, exceeds $500,000.

"(15) To purchase from System institutions undergoing liquidation all assets that are performing loans not purchased by other such institutions.

"(16) To assume debt or other liabilities of System institutions in connection with the acquisition of loans or interests therein or of other assets of such institutions.

"(17) To exercise all rights and privileges, and meet all obligations, of any System institution with respect to any loan acquired from the institution by the Temporary Assistance Corporation or in which the Temporary Assistance Corporation has participated.

"(18) To hire, promote, compensate, and discharge officers and employees of the Temporary Assistance Corporation. Title 5 of the United States Code shall not apply to any action taken or withheld under this paragraph.

"(19) To deposit its securities and its current funds with any member of the Federal Reserve System or any insured State nonmember bank (as defined in section 2 of the Federal Deposit Insurance Act) and pay fees therefor and receive interest thereon as may be agreed.

"(b) The Temporary Assistance Corporation shall have such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this Act.

"(c) Officers or employees of the Temporary Assistance Corporation shall not be considered officers or employees of the Federal Government.

"(d) Sections 551, 552, 552b, 556, and 557 of title 5, United States Code, shall not apply to the Temporary Assistance Corporation.

"SEC. 4.28G. SUCCESSION OF THE CORPORATION.—On the establishment of the Temporary Assistance Corporation under this part, the Temporary Assistance Corporation shall (1) succeed to the facilities and resources of, and absorb the personnel of, the Farm Credit System Capital Corporation chartered under part D1 in effect before the date of the enactment of this section, and (2) succeed to the assets of, and be liable for and assume all debts, obligations, contracts (other than management contracts), and other liabilities of, the Farm Credit System Capital Corporation, whether matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the Farm Credit System Capital Corporation. The existing contractual obligations (other than under management contracts), security instruments, and title instruments of the Farm Credit System Capital Corporation, by operation of law and without any further action by the Farm Credit Administration, the Farm Credit System Capital Corporation, or any court, shall become and be converted into obligations, entitlements, and instruments of the Temporary Assistance Corporation established under this part.

"SEC. 4.28H. LIMITATION OF POWERS.—(a) Except as otherwise provided in section 4.8A, the Temporary Assistance Corporation may not require or request any System institution to repay part or all of any financial assistance provided to the institution through the Temporary Assistance Corporation under this part.

"(b) The Temporary Assistance Corporation may not request or receive funds from the Farm Credit System Insurance Corporation.

"SEC. 4.28I. FUNDING.—During fiscal years 1988, 1989, 1990, 1991, and 1992, the Secretary of the Treasury, as provided for in appropriation Acts, shall purchase such amount of stock or obligations issued by the Temporary Assistance Corporation under this part as the board of directors of the Temporary Assistance Corporation requests to be purchased; and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31, of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases. The stock or obligations acquired by the Secretary of the Treasury under this section shall be retired and cancelled in amounts equal to the amounts paid to the Secretary by the Federal Farm Credit Banks Funding Corporation under section 4.9(b)(3), at the time of such payment. All redemptions, purchases, and sales by the Secretary of the Treasury of such stock or obligations under this section shall be treated as public debt transactions of the United States. There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

"SEC. 4.28J. EXEMPTION FROM TAXATION.—The Temporary Assistance Corporation, and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by the Corporation to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Temporary Assistance Corporation and the notes, bonds, debentures, and other obligations issued by the Corporation shall be deemed and held to be instrumentalities of the Government of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

"SEC. 4.28K. RESTRUCTURING REVIEW COMMITTEE.—The Temporary Assistance Corporation shall establish a committee to review decisions of the Corporation with respect to restructuring or preventive action under section 4.14A.

"SEC. 4.28L. ADJUSTMENT OF ASSESSMENT BY CAPITAL CORPORATION.—On December 31, 1987, the Temporary Assistance Corporation shall retire all debt and equity obligations issued to any System institution under section 4.28F(a)(14) in effect before the date of the enactment of this section, and under section 4.28G, at the book value of such obligations (determined as of such date of enactment) and, in connection therewith, refund to each such institution amounts paid to the Farm Credit System Capital Corporation to purchase such obligations. During the period beginning on such date of enactment and ending on December 31, 1987, the Temporary Assistance Corporation may use the funds obtained through the issuance of such obligations to carry out this part.

"PART F1—LOSS-SHARING AGREEMENTS

"SEC. 4.28M. ADJUSTMENT AND SUSPENSION OF LOSS-SHARING CONTRIBUTIONS.—Any amounts received, or that remain accrued, by any System institution in accordance with the activation of any bank capital preservation agreement for the calendar quarter ending on September 30, 1986, shall be repaid (or reversed) to the contributing institution by the institution that received or accrued such assistance at such time as the institution that received or accrued such assistance is provided with an equivalent amount of assistance or a commitment for such amount of assistance by the Temporary Assistance Corporation. During the 5-year period beginning on the date of the enactment of this section, and thereafter whenever funds from the Farm Credit System Insurance Fund are available for use in assisting System institutions to meet their obligations on their debt instruments, the Thirty-Seven Banks Capital Preservation Agreement, the Federal Land Banks Capital Preservation Agreement, the Federal Intermediate Credit Banks Capital Preservation Agreement, and the Banks for Cooperatives Loss Sharing Agreement shall be suspended,

in exchange for the benefits flowing to the signatories to such agreements under the Agricultural Credit Act of 1987.".

(c) Deviation From Business Plan by Institution Receiving Assistance Treated as Unsafe and Unsound Practice.—Paragraph (4) of section 5.35 (12 U.S.C. 2271(4)) is amended to read as follows:

"(4) the term 'unsafe and unsound practice' means—

"(A) during the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987—

"(i) any substantial deviation, as determined by the Farm Credit Administration, by a System institution from a business plan under which the Temporary Assistance Corporation has made a commitment to provide, or has provided, financial assistance; and

"(ii) noncompliance with any term or condition governing the provision or use of financial assistance provided to a System institution under part F; and

"(B) at any time, any other meaning given such term by the Farm Credit Administration by regulation, rule, or order.".

(d) Submission of Business Plans to Temporary Assistance Corporation.—Part A of title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.2 the following:

"Sec. 4.2A. Submission of Business Plans to Temporary Assistance Corporation.—(a) Within 90 days after the Temporary Assistance Corporation prescribes guidelines to be followed by System institutions in the development of business plans, each System bank and production credit association shall prepare a business plan in accordance with such guidelines and submit a copy of such plan to the Temporary Assistance Corporation. The business plan of any institution applying to the Temporary Assistance Corporation for financial assistance shall include provisions describing the manner in which the institution will meet minimum permanent capital adequacy standards established for the institution by the Farm Credit Administration. During the 5-year period beginning on the date of the enactment of this section, each System bank and production credit association shall annually submit to the Temporary Assistance Corporation an updated version of such plan.

"(b) In addition to, or in lieu of, any other action authorized by law, the Farm Credit Administration may enforce compliance with this section.".

(e) Repeal of Requirements That System Institutions Purchase Stock of, and Pay Assessments and Contribute Capital to, the Capital Corporation.—Section 4.1 is hereby repealed. The repeal of such section shall not affect the validity of any action taken under such section before the date of the enactment of this Act.

(f) Payments Pooled by Federal Farm Credit Banks Funding Corporation.—Part A of title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.8 the following:

"Sec. 4.8A. Repayments of Financial Assistance Pooled by Federal Farm Credit Banks Funding Corporation.—Not later than 5 years after the date of the enactment of this section, or 12 months after the date the aggregate of the amounts in the Farm Credit Insurance Fund established under section 5.61 first exceeds the secure base amount at such date (as defined in section 5.56(c)), whichever is earlier, and annually thereafter, each Federal land bank, Federal intermediate credit bank, and bank for cooperatives shall pay to the Federal Farm Credit Banks Funding Corporation an amount equal to ⅕ of 1 percent of the average principal outstanding during the immediately preceding 12-month period on loans made by the institution (except, in the case of a Federal intermediate credit bank, the aggregate of loans made by the production credit associations of the district in which the bank is located) that are in accrual status. Such payments shall cease immediately after the aggregate of the amounts so paid equals the amounts provided by the Secretary of the Treasury to the Temporary Assistance Corporation under section 4.28I. Any institution may pay any amount required to be paid under this section before the date such payment is required.".

(g) Repayment of Financial Assistance; Powers of Finance Committee and Fiscal Agency Merged in Federal Farm Credit Banks Funding Corporation.—

(1) In general.—Section 4.9 (12 U.S.C. 2160) is amended to read as follows:

"Sec. 4.9. Federal Farm Credit Banks Funding Corporation.—(a) There is hereby established the Federal Farm Credit Banks Funding Corporation which shall be an institution of the Farm Credit System.

"(b) The Federal Farm Credit Banks Funding Corporation—

"(1) shall issue, market, and handle the obligations of the banks of the Farm Credit System, and interbank or intersystem flow of funds as may from time to time be required;

"(2) acting for the banks of the Farm Credit System, subject to approval of the Farm Credit Administration, shall determine the amount, maturities, rates of interest, terms, and conditions of participation by the several banks in each issue of joint, consolidated, or System-wide obligations; and

"(3) shall pay to the Secretary of the Treasury all amounts received from any System bank on account of payments made under section 4.8A, until the aggregate of the amounts so paid plus the amounts, if any, paid by the Farm Credit Administration under section 5.17(a)(16) equals the aggregate of the amounts paid by the Secretary of the Treasury to the Temporary Assistance Corporation under section 4.28I.

"(c)(1) The board of directors may designate such officers and committees for such terms and such purposes as may be agreed on by the board.

"(2) When appropriate to the board's functions under this section, a committee of the board of directors of the Corporation, or representatives thereof, may act on behalf of the board in connection with the issuance of joint, consolidated, and System-wide obligations.

"(d)(1) The board of directors shall be composed of nine voting members and one nonvoting member, as follows:

"(A) Four voting members shall be current or former directors of the System banks elected by the shareholders of the Corporation.

"(B) Three voting members shall be chief executive officers or presidents of System banks elected by the shareholders of the Corporation.

"(C) Two voting members shall be appointed by the members elected under subparagraphs (A) and (B) after the elected members have received recommendations for such appointments from, and consulted with, the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System. The appointed members shall be selected from United States citizens—

"(i) who are not borrowers from, shareholders in, or employees or agents of any System institution, who are not affiliated with the Farm Credit Administration, and who are not actively engaged with a bank or investment organization that is a member of the Corporation's selling group for System-wide securities; and

"(ii) who are experienced or knowledgeable in corporate and public finance, agricultural economics, and financial reporting and disclosure.

"(D) The president of the Corporation shall serve as a nonvoting member of the board.

In selecting candidates under subparagraphs (A) and (B), due consideration shall be given to choosing individuals knowledgeable in agricultural economics, public and corporate finance, and financial reporting and disclosure.

"(2) During the period in which the Temporary Assistance Corporation is in existence, the board of directors of the Temporary Assistance Corporation shall designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation. After such period, the board of directors of the Farm Credit System Insurance Corporation may designate one of its directors to serve as a nonvoting representative to the board of directors of the Federal Farm Credit Banks Funding Corporation. The persons so designated by the Temporary Assistance Corporation and by the Farm Credit System Insurance Corporation may attend and participate in all deliberations of the board of directors of the Federal Farm Credit Banks Funding Corporation.

"(e) Until a quorum of the board of directors of the Federal Farm Credit Banks Funding Corporation is elected or appointed, the finance committee established under section 4.5 in effect before the date of the enactment of the Agricultural Credit Act of 1987, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted.".

(2) Conforming repealer.—Section 4.5 (12 U.S.C. 2156) is hereby repealed.

(h) Authority of Farm Credit Administration Over Temporary Assistance Corporation.—

(1) Regulatory authority.—

(A) In general.—Subsection (a) of section 5.17 (12 U.S.C. 2252(a)) is amended by adding at the end the following:

"(15) Notwithstanding any other provision of this Act, the regulatory authority of the Farm Credit Administration with respect to the Temporary Assistance Corporation shall be confined to providing for the examination of the condition of the Temporary Assistance Corporation.".

(B) Conforming amendment.—Section 5.35(3) (12 U.S.C. 2271(3)) is amended by striking out "D of title IV of this Act, and the Capital Corporation" and inserting in lieu thereof "E of title IV, and the Federal Agricultural Mortgage Corporation".

(2) Authority to wind up affairs of corporation.—Subsection (a) of section 5.17 (12 U.S.C. 2252(a)) is amended by adding after the paragraph added by paragraph (1) of this section the following:

"(16) Beginning 5 years after the date of the enactment of this paragraph, all powers necessary for the management and orderly liquidation of commitments made and obligations incurred by the Temporary Assistance Corporation. Any funds remaining

after the expenses of such liquidation shall be paid into the Treasury.".

(i) LIMITATION ON AUTHORITY TO USE CERTAIN SPECIAL PROCEDURES.—

(1) CAPITALIZATION AND AMORTIZATION OF CERTAIN EXCESS INTEREST COSTS.—Subsection (b) of section 4.8 (12 U.S.C. 2159) is amended by adding at the end the following: "Notwithstanding any other provision of this subsection, the authority granted by this subsection to any institution shall expire on the earlier of the first day the institution receives financial assistance or a commitment to provide financial assistance from the Temporary Assistance Corporation, or 180 days after the date of the enactment of the Agricultural Credit Act of 1987.".

(2) CAPITALIZATION AND AMORTIZATION OF LOAN LOSS RESERVES.—Subsection (b) of section 5.19 (12 U.S.C. 2254) is amended—

(A) by inserting "(except the fifth sentence of this subsection)" after "of this Act"; and

(B) by adding at the end the following: "The authority granted by the third sentence of this subsection to any institution shall expire on the earlier of the first day the institution receives financial assistance or a commitment to provide financial assistance from the Temporary Assistance Corporation, or 180 days after the date of the enactment of the Agricultural Credit Act of 1987.".

(j) PROHIBITION AGAINST REQUIREMENT OF UNDATED LETTERS OF RESIGNATION.—The Temporary Assistance Corporation may not, for any reason, request or require any member of the board of directors of any System institution to submit to the Temporary Assistance Corporation an undated letter of resignation. Immediately after the enactment of this provision, the Temporary Assistance Corporation shall destroy all such letters over which it has control.

SEC. 106. INSURANCE OF OBLIGATIONS OF FARM CREDIT SYSTEM.

(a) ESTABLISHMENT OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Title V (12 U.S.C. 2221 et seq.) is amended by adding at the end the following:

"PART E—FARM CREDIT SYSTEM INSURANCE CORPORATION

"SEC. 5.51. DEFINITIONS.—As used in this part:

"(1) The term 'State' means any of the 50 States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(2) The term 'insured System bank' means any System bank whose participation in notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 is insured under this part.

"(3) The term 'receiver' means a receiver or conservator appointed by the Farm Credit Administration to liquidate a System institution.

"(4) The term 'Board of Directors' means the Board of Directors of the Corporation.

"(5) The term 'insured obligation' means any note, bond, debenture, or other obligation issued under subsection (c) or (d) of section 4.2—

"(A) on or before the date of the enactment of this part, on behalf of any System bank; and

"(B) after such date, on behalf of any insured System bank.

"SEC. 5.52. ESTABLISHMENT.—There is hereby created the Farm Credit System Insurance Corporation (hereinafter referred to as the 'Corporation'), which shall insure, as hereinafter provided, the timely payment of principal and interest on notes, bonds, debentures, and other obligations issued under subsection (c) or (d) of section 4.2 on behalf of one or more System banks all of which are entitled to the benefits of insurance under this part.

"SEC. 5.53. BOARD OF DIRECTORS.—(a) The management of the Corporation shall be vested in a Board of Directors consisting of three members, all of whom shall be appointed by the President, by and with the advice and consent of the Senate. One of such members shall be a member of the Farm Credit Administration Board (other than the Chairman of the Farm Credit Administration Board), and two of such members shall be citizens of the United States who are not members of the Farm Credit Administration Board. Not more than two of such members may be members of the same political party.

"(b) Each director shall hold office for a term of 6 years, except that the director who is a member of the Farm Credit Administration Board shall hold office only while such a member.

"(c) One of the directors who is not a member of the Farm Credit Administration Board shall be the Chairman of the Board of Directors.

"(d) In the event of a vacancy in the office of the Chairman, and pending the appointment of the successor of such Chairman, the other director who is not a member of the Farm Credit Administration Board shall act as Chairman of the Board of Directors.

"(e) Each director shall be ineligible, while holding office and for 2 years thereafter, to hold any office, position, or employment in any insured System bank, except that this restriction shall not apply to any member who has served the full term for which appointed.

"(f) Each director (other than the director who is a member of the Farm Credit Administration Board) shall receive compensation including necessary travel, subsistence, and other expenses in the discharge of the director's official duties without regard to any other law relating to allowance for travel and subsistence for officers and employees of the United States. The compensation shall not be in excess of the level set by the Farm Credit Administration.

"SEC. 5.54. COMMENCEMENT OF INSURANCE.—Every System bank shall be an insured System bank immediately on enactment of this part and shall be subject to this part. Every System bank that is authorized to commence or resume operations under a title of this Act shall be an insured System bank from the time of such authorization. A bank resulting from the merger or consolidation of insured System banks shall be an insured System bank.

"SEC. 5.55. REPORTS OF CONDITION.—On request of the Corporation, the Farm Credit Administration shall provide to the Corporation any report of condition submitted to the Farm Credit Administration by any System institution. The Board of Directors may direct any System institution to provide additional reports of condition on dates to be fixed by it and may call for such other reports as the Board may from time to time require. The Board of Directors may require such additional reports to be published in such manner, not inconsistent with any applicable law, as it may direct. Any such institution that fails to provide any such report within 10 days after request therefor from the Board of Directors shall be subject to a penalty of not more than $100 for each day of such failure recoverable by the Corporation for its use.

"SEC. 5.56. PREMIUMS.—(a) Until the aggregate of amounts in the Farm Credit Insurance Fund exceeds the secure base amount at such time, the annual premium due from any insured System bank for any calendar year shall be equal to the sum of—

"(1) the annual average principal outstanding for such year on loans made by the bank that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the bank that are in nonaccrual status, multiplied by 0.0025.

"(b) At any time the aggregate of amounts in the Insurance Fund exceeds the secure base amount at such time, the Corporation shall reduce the annual premium due from each insured System bank for the following calendar year by a percentage determined by the Corporation so that the aggregate of the premiums payable by all System banks is sufficient to ensure that the aggregate of amounts in the Insurance Fund after such premiums are paid is not less than the secure base amount at such time.

"(c) For purposes of this part, the term 'secure base amount' means, with respect to any point in time, 2 percent of the aggregate outstanding insured obligations of all insured System banks at such time, or such other aggregate amount as the Corporation in its sole discretion determines is actuarially sound to maintain in the Insurance Fund taking into account the risk of insuring outstanding insured obligations.

"(d) For purposes of subsection (a) and section 5.57, the principal outstanding on loans in accrual status made by a Federal intermediate credit bank includes the principal outstanding on loans in accrual status made—

"(1) by the production credit associations in the district in which such bank is located;

"(2) by any bank, company, institution, corporation, union, or association described in section 2.3(a)(2) on account of amounts provided through the Federal intermediate credit bank; and

"(3) by such bank (other than loans made to any party described in paragraph (1) or (2)).

"SEC. 5.57. CERTIFICATION OF PREMIUMS.—(a) Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of such year shall file with the Corporation a certified statement showing its annual average principal outstanding on loans made by the bank that are in accrual status, its annual average principal outstanding on loans that are in nonaccrual status, and the amount of the premium due the Corporation from the bank for such year. Each such bank shall pay to the Corporation the amount of the premium it is required to certify.

"(b) The certified statement required to be filed with the Corporation under subsection (a) shall be in such form and set forth such supporting information as the Board of Directors shall prescribe, and shall be certified by the president of the bank or any other officer designated by its board of directors or trustees that to the best of the person's knowledge and belief the statement is true, correct, complete, and in accordance with this part and all regulations issued thereunder.

"(c) The premium payments required from insured System banks under subsection (a) shall be made not less frequently than annually in such manner and at such time or times as the Board of Directors shall prescribe, except that the amount of the premium shall be established not later than 60

days after filing the certified statement setting forth the amount of the premium.

"(d) The Board of Directors shall prescribe all rules and regulations necessary for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

"SEC. 5.58. OVERPAYMENT AND UNDERPAYMENT OF PREMIUMS; REMEDIES.—(a) The Corporation may refund to any insured System bank any premium payment made by the bank exceeding the amount due the Corporation.

"(b) The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, may recover from any insured System bank the amount of any unpaid premium lawfully payable by the bank to the Corporation, whether or not the bank has made any report of condition required under section 5.55 or filed any certified statement under section 5.57, and whether or not suit has been brought to compel the bank to make any such report or file any such statement. Any action or proceeding for the recovery of any premium due the Corporation, or for the recovery of any amount paid to the Corporation exceeding the amount due it, shall be brought within 5 years after the right accrued for which the claim is made, unless the insured System bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of a premium, in which case the claim shall not be deemed to have accrued until the discovery by the Corporation that the certified statement is false or fraudulent.

"(c) If any insured System bank fails to file any certified statement required to be filed by such bank under section 5.57 or fails to pay any premium required to be paid by such bank under any provision of this part, and if the bank does not correct such failure within 30 days after the Corporation gives written notice to an officer of the bank, citing this subsection and stating that the bank has failed to so file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under this Act shall be thereby forfeited. The Corporation may bring an action to enforce this subsection against any bank in any court of competent jurisdiction for the judicial district in which the bank is located. Every director who participated in or assented to such a failure shall be held liable in the person's personal or individual capacity for all consequential damages.

"(d) The remedies provided in subsections (b) and (c) shall not be construed as limiting any other remedies against any insured System bank, but shall be in addition thereto.

"SEC. 5.59. GENERAL CORPORATE POWERS.—On the date of the enactment of the Agricultural Credit Act of 1987, the Corporation shall become a body corporate and as such shall have power—

"(1) To adopt and use a corporate seal.

"(2) To have succession until dissolved by an Act of Congress.

"(3) To make contracts.

"(4) To sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy; and the Corporation, without bond or security, may remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal in effect. No attachment or execution may be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board of Directors shall designate an agent on whom service of process may be made in any State or jurisdiction in which any insured System bank is located.

"(5) To appoint by its Board of Directors such officers and employees as are not otherwise provided for in this part, to define their duties, fix their compensation, and require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

"(6) To prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

"(7) To exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this part, and such incidental powers as shall be necessary to carry out the powers so granted.

"(8) When necessary, to make examinations of and to require information and reports from System institutions, as provided in this part.

"(9) To act as receiver.

"(10) To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this part (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).

"SEC. 5.60. CONDUCT OF CORPORATE AFFAIRS; EXAMINATION OF INSURED SYSTEM BANKS.—(a) The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Board of Directors shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation may use the United States mails in the same manner and under the same conditions as the executive departments of the Government. The Corporation, with the consent of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out this part.

"(b) The Board of Directors may appoint examiners who shall have power, on behalf of the Corporation, to examine any insured System bank, any production credit association, and any System institution in receivership, if in the judgment of the Board of Directors an examination of the institution is necessary. Each examiner shall have power to make a thorough examination of all affairs of the institution, and shall make a full and detailed report of the condition of the institution to the Corporation. The Board of Directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured obligations.

"(c) In connection with examinations under this section, the Corporation or its designated representatives may administer oaths and affirmations, and may examine, take, and preserve testimony under oath, as to any matter with respect to the affairs of any such institution.

"(d) The examiners appointed by the Board of Directors shall cooperate to the maximum extent possible with examiners of the Farm Credit Administration to minimize duplication of effort and minimize costs.

"SEC. 5.61. INSURANCE FUND.—There is hereby established a Farm Credit Insurance Fund for insuring the timely payment of principal and interest on insured obligations, and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation. All amounts in the revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, and the revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, and continued by Public Law 96-592, are hereby consolidated and transferred into the Farm Credit Insurance Fund, except that the obligations to and rights of any person in such revolving funds arising out of any event or transaction before the date of the enactment of this part shall remain unimpaired. The Corporation shall deposit in the Farm Credit Insurance Fund all premium payments received by the Corporation under this part. Beginning 5 years after the date of the enactment of this part, the Corporation shall expend amounts in the Farm Credit Insurance Fund to the extent necessary to insure the timely payment of interest and principal on insured obligations. The Corporation may expend amounts in the Farm Credit Insurance Fund to carry out section 5.62 and to cover operating costs of the Corporation. The Corporation shall make all payments and refunds required to be made by the Corporation under this part from amounts in the Farm Credit Insurance Fund.

"SEC. 5.62. POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.—(a)(1) The Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may make loans to, purchase the assets or securities of, assume the liabilities of, or make contributions to, any insured System bank if such action is taken—

"(A) to prevent the placing of the bank in receivership;

"(B) to restore the bank to normal operation; or

"(C) to reduce the risk to the Corporation posed by the bank when severe financial conditions threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources.

"(2)(A) To facilitate a merger or consolidation of a qualifying insured System bank, the sale of assets of such insured System bank to another insured System bank, the assumption of such insured System bank's liabilities by such other insured System bank, or the acquisition of the stock of such insured System bank by such other insured System bank, the Corporation, in its sole discretion and on such terms and conditions as the Board of Directors may prescribe, may—

"(i) purchase any such assets or assume any such liabilities;

"(ii) make loans or contributions to, or purchase the securities of, such other insured System bank;

"(iii) guarantee such other insured System bank against loss by reason of such other insured System bank's merging or consolidating with, or assuming the liabilities and purchasing the assets of, such insured System bank; or

"(iv) take any combination of the actions referred to in the preceding clauses.

"(B) For purposes of subparagraph (A), the term 'qualifying insured System bank' means any insured System bank that—

"(i) is in receivership;

"(ii) is, in the judgment of the Board of Directors, in danger of being placed in receivership; or

"(iii) is, in the sole discretion of the Corporation, one that, when severe financial conditions exist that threaten the stability of a significant number of insured System banks or of insured System banks possessing significant financial resources, requires assistance under subparagraph (A) to lessen the risk to the Corporation posed by such insured System bank under such threat of instability.

"(3)(A) Assistance shall not be provided to an insured System bank under this subsection if the amount of such assistance exceeds an amount determined by the Corporation to be the cost of liquidating (including paying the insured obligations issued on behalf of the bank). This subparagraph shall not apply to the provision of assistance to a bank if the Corporation determines that the continued operation of the bank is essential to provide adequate agricultural credit services in its area of operations.

"(B) The Corporation may not use its authority under this subsection to purchase any stock of an insured System bank. The preceding sentence shall not be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interest.

"(4) Any assistance provided under this subsection may be in subordination to the rights of owners of obligations and other creditors.

"(5) In its annual report to Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

"(b) The Corporation, in its discretion, may make loans on the security of, or may purchase and liquidate or sell, any part of the assets of, any insured System bank that is now or may hereafter be placed in receivership on account of inability to pay principal or interest on any of its notes, bonds, debentures, or other obligations in a timely manner.

"(c) On the payment to an owner of an insured obligation issued on behalf of an insured System bank in receivership, the Corporation shall be subrogated to all rights of the owner against the bank to the extent of the payment. Such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of the bank as would have been payable to the owner on a claim for the insured obligation.

"(d) Any agreement that tends to diminish or defeat the right, title, or interest of the Corporation in any asset acquired by it under this section, either as security for a loan or by purchase, shall not be valid against the Corporation unless the agreement—

"(1) is in writing;

"(2) is executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank;

"(3) has been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of the board or committee; and

"(4) has been, continuously, from the time of its execution, an official record of the bank.

"(e) As used in this section, the terms 'insured System bank' and 'bank' include each production credit association.

"(f) The Corporation shall not exercise any authority under this section during the 5-year period beginning on the date of the enactment of this part.

"Sec. 5.63. Investment of Corporate Funds; Maintenance of Corporate Accounts.—Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

"Sec. 5.64. Exemption From Taxation.—Notwithstanding any other provision of law, the Corporation, including its franchise, and its capital, reserves, surplus, and income, shall be exempt from all taxation imposed by the United States, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, county, municipal, and local taxation to the same extent according to its value as other real property is taxed.

"Sec. 5.65. Reports to Congress; Audits.—(a) The Corporation annually shall make a report of its operations to Congress as soon as practicable after the first day of January in each calendar year. Such report shall include the following information:

"(1) The aggregate amount in the Insurance Fund at the close of the preceding calendar year.

"(2) Projections of the costs to be incurred by the Corporation during the calendar year.

"(3) Estimates of the aggregate amount to be collected as premiums during the calendar year.

"(b) Within 12 months after a working majority of the Board of Directors is appointed, the Corporation shall report to Congress an estimate of the aggregate amount that will be in the Insurance Fund 5 years after the date of the enactment of this part. If the Corporation estimates that, at such time, such aggregate amount will be less than the secure base amount at that time, the Corporation shall recommend alternative methods that may be used to increase such aggregate amount to the secure base amount by such time.

"(c) The financial transactions of the Corporation shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States.

"Sec. 5.66. Other Prohibitions.—(a)(1) It shall be unlawful for any person or entity to use the words 'Farm Credit System Insurance Corporation' or any combination of such words that would have the effect of leading the public to believe that there is any connection between such person or entity and the Farm Credit System Insurance Corporation, by virtue of the name under which such person or entity does business.

"(2) It shall be unlawful for any person or entity to falsely represent by any device that the notes, bonds, debentures, or other obligations of the person or entity are insured or in any way guaranteed by the Farm Credit System Insurance Corporation. It shall be unlawful for any insured System bank or person that markets insured obligations to falsely represent the extent to which or the manner in which such obligations are insured by the Corporation.

"(3) Any person or entity that willfully violates any provision of this subsection shall be fined not more than $1,000, imprisoned for not more than 1 year, or both.

"(b) It shall be unlawful for any insured System bank to pay any dividends on its stock or participation certificates or interest on its capital notes or debentures (if such interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any premium due to the Corporation. Each director or officer of any insured System bank who willfully participates in the declaration or payment of any dividend or interest or in any distribution in violation of this subsection shall be fined not more than $1,000, imprisoned not more than 1 year, or both. This subsection shall not apply to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(c) Any insured System bank that willfully fails or refuses to file any certified statement or pay any premium required under this part shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use. This subsection shall not apply to conduct with respect to any default that is due to a dispute between the insured System bank and the Corporation over the amount of such premium if such bank deposits security satisfactory to the Corporation for payment on final determination of the issue.

"(d) Except with the prior written consent of the Farm Credit Administration, it shall be unlawful for any person who has been or is hereafter convicted of any criminal offense involving dishonesty or a breach of trust to serve as a director, officer, or employee of any insured System bank. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover for its use.".

(b) Clarification of Joint and Several Liability of Banks; Enhancement of Capital Adequacy of Banks; Insurance Fund Called On Before Invoking Joint and Several Liability of Banks.—

(1) Clarification of joint and several liability of banks.—Subsection (a) of section 4.4 (12 U.S.C. 2155(a)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Such calls first shall be made on all nondefaulting banks in proportion to each such bank's proportionate share of the aggregate available collateral held by all such banks. For purposes of this subsection, the term 'available collateral' means the amount (determined at the close of the last calendar quarter ending before such call) by which a bank's collateral as described in section 4.3 exceeds the collateral required to suuport the bank's outstanding notes, bonds, debentures, and other similar obligations. If the Farm Credit Administration makes any such call and the available collateral of all such banks does not

fully satisfy the liability necessitating such calls, such calls shall be made on all nondefaulting banks in proportion to each such bank's remaining assets. Any System bank that, pursuant to a call by the Farm Credit Administration, makes a payment of principal or interest to the holder of any consolidated or System-wide obligation issued on behalf of another System bank shall be subrogated to all rights of the holder against such other bank to the extent of such payment. On making such a call with respect to obligations issued on behalf of a System bank, the Farm Credit Administration shall appoint a receiver for the bank, which shall expeditiously liquidate or otherwise wind up the affairs of the bank.".

(2) ENHANCEMENT OF CAPITAL ADEQUACY OF BANKS.—Subsection (c) of section 4.3 (12 U.S.C. 2154(c)) is amended—

(A) by striking out "long-term" the first place it appears and inserting in lieu thereof "consolidated or System-wide";

(B) by inserting "or real or personal property acquired in connection with loans made under such authority" before ", obligations of the United States"; and

(C) by striking out "long-term" the second place it appears.

(3) INSURANCE FUND CALLED ON BEFORE INVOKING JOINT AND SEVERAL LIABILITY OF BANKS.—Section 4.4 (12 U.S.C. 2155) is amended by adding at the end the following:

"(e) Beginning 5 years after the date of the enactment of this subsection, the Farm Credit Administration shall not call on any System institution to satisfy the liability of the institution on any joint, consolidated, or System-wide obligation participated in by the institution or with respect to which the institution is primarily, or jointly and severally, liable, before the Farm Credit Insurance Fund is exhausted.".

(c) CONFORMING AMENDMENTS AND REPEALS.—

(1) Section 2.5 (12 U.S.C. 2076) is amended—

(A) in the title, by inserting "; AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS" before the period;

(B) by inserting "(a)" before "The Federal"; and

(C) by adding at the end the following:

"(b) Each Federal intermediate credit bank may assess each production credit association and other financing institution described in section 2.3(a)(2) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association or other financing institution that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association or other financing institution that are in nonaccrual status, multiplied by 0.0025.".

(2) Subsection (b) of section 4.12 (12 U.S.C. 2183(b)) is amended—

(A) by inserting after paragraph (1) "(1A) the institution is unable to timely pay principal or interest on any insured obligation (as defined in section 5.51(5)) issued by the institution;" and

(B) in the second sentence by inserting ", and such receiver or conservator, after the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, shall be the Farm Credit System Insurance Corporation" before the period at the end.

(3) Paragraph (8) of section 5.17(a) (12 U.S.C. 2252(a)(8)) is hereby repealed.

(4) Section 4.0 (12 U.S.C. 2151) is hereby repealed.

SEC. 107. CAPITALIZATION OF SYSTEM INSTITUTIONS.

(a) MINIMUM CAPITAL ADEQUACY STANDARDS.—

(1) IN GENERAL.—Within 120 days after the date of the enactment of this Act, the Farm Credit Administration shall issue proposed regulations under section 4.3(a) of the Farm Credit Act of 1971 that establish for all System institutions minimum permanent capital adequacy standards, based on financial statements prepared in accordance with generally accepted accounting principles, to be phased in within five years after such date of enactment. Such standards shall specify fixed percentages representing the ratio of permanent capital of the institution to the assets of the institution, taking into consideration relative risk factors as determined by the Farm Credit Administration.

(2) EMERGENCY POWER NOT AVAILABLE.—The Farm Credit Administration may not invoke the emergency provisions of section 5.17(b)(2) of the Farm Credit Act of 1971 with respect to the issuance of proposed regulations under paragraph (1).

(3) PROHIBITION AGAINST CERTAIN REGULATORY ACTIONS DURING TRANSITION PERIOD.—During the five-year period specified in paragraph (1), the Farm Credit Administration may not initiate any receivership, conservatorship, liquidation, or enforcement action against any System institution solely for failure to meet minimum permanent capital adequacy standards unless such action is recommended or concurred in by the board of directors of the Farm Credit System Temporary Assistance Board established under section 4.28A of the Farm Credit Act of 1971.

(4) PERMANENT CAPITAL DEFINED.—For purposes of this subsection, the term "permanent capital" has the same meaning given such term in section 4.3A(a)(2) of the Farm Credit Act of 1971.

(b) NEW BYLAWS ON CAPITALIZATION.—Title IV (12 U.S.C. 2151 et seq.) is amended by inserting after section 4.3 the following:

"SEC. 4.3A. CAPITALIZATION OF SYSTEM INSTITUTIONS.—(a) For purposes of this section—

"(1) the term 'stock' means voting and nonvoting stock (including preferred stock), equivalent contributions to a guaranty fund, participation certificates, allocated equities, and other forms and types of equities; and

"(2) the term 'permanent capital' means current year retained earnings, all unallocated surplus, and all stock issued by a System institution, except stock that—

"(A) may be retired by the holder thereof on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(B) is protected under section 4.41 or is otherwise not at risk.

"(b) Subject to approval by shareholders under subsection (c)(2), each System institution operating under title I, II, or III shall adopt bylaws, developed by its board of directors, providing for the capitalization of the institution in accordance with subsection (c)(1).

"(c)(1) The bylaws adopted under subsection (b)—

"(A) shall provide for such classes, par value, and amounts of the institution's stock, manner in which its stock shall be issued, transferred, and retired, and payment of dividends and patronage refunds, as determined appropriate by the board of directors, subject to this section;

"(B) shall enable the institution to meet the permanent capital adequacy standards established under section 4.3(a);

"(C) shall provide for the issuance of voting stock subject to subparagraph (D);

"(D) shall require that—

"(i) voting stock in System institutions may be held only by—

"(I) borrowers who are farmers, ranchers, producers or harvesters of aquatic products, and cooperative associations eligible to borrow from System institutions under this Act; and

"(II) other System institutions;

"(ii) as a condition to borrow from or through the institution, any borrower who is entitled to hold voting stock shall, at the time a loan is made, acquire at least one share of voting stock; and

"(iii) within two years after a borrower's loan is repaid in full, any voting stock held by the borrower be converted to nonvoting stock;

"(E) may provide that persons who are not borrowers from the institution may hold nonvoting stock of the institution;

"(F) shall permit, but may not require, any holder of stock issued before the adoption of bylaws under this section, to—

"(i) apply such stock at par or book value, as the case may be, against the amount due on the loan and purchase new stock; or

"(ii) exchange such stock for new stock; and

"(G) need not provide for—

"(i) maximum or minimum standards of borrower stock ownership based on a percentage of the borrower's loan; or

"(ii) retirement of stock on repayment of the loan.

"(2) The bylaws developed by the board of directors of a System institution under this subsection shall take effect only on approval by a majority of its stockholders present and voting or voting by written proxy at duly authorized meetings.

"(d) The board of directors of a System institution may not reduce the permanent capital of the institution through the payment of patronage refunds or dividends, or the retirement of stock or allocated equities if, after or due to such action, the permanent capital of the institution would fail to meet the minimum permanent capital adequacy standards established under section 4.3(a). The preceding sentence shall not apply to the payment of noncash patronage refunds by any institution exempt from Federal income tax if the entire refund paid qualifies as permanent capital. Notwithstanding the first sentence of this subsection, any System institution subject to Federal income tax may pay patronage refunds partially in cash as long as the cash portion of the refund is the minimum amount required to qualify the refund as a deductible patronage distribution for Federal income tax purposes and the remaining portion of the refund paid qualifies as permanent capital.

"(e) The Farm Credit Administration may issue a directive requiring compliance with subsection (d) to the board of directors of any System institution that fails to comply therewith.

"(f) This section shall not be construed to affect the provisions of titles I, II, and III that confer on System institutions a lien on borrower stock or other equities and the privilege to retire or cancel such stock or

other equities for application against the indebtedness on a defaulted loan.

"(g) To the extent that any provision of this section is inconsistent with any provision of title I, II, or III, the provision of this section shall prevail.".

SEC. 108. SYSTEM ORGANIZATION UNDER CURRENT STATUTORY STRUCTURE.

(a) MERGER AND REORGANIZATION OF UNLIKE FARM CREDIT INSTITUTIONS IN SAME FARM CREDIT DISTRICT.—

(1) IN GENERAL.—Part B of title IV (12 U.S.C. 2181 et seq.) is amended by inserting after section 4.12 the following:

"SEC. 4.12A. Merger and Reorganization of Unlike Banks and Associations Operating in Same District.—(a) Within 180 days after the date of the enactment of this section, the Farm Credit Administration shall prescribe such regulations as may be necessary to allow the Federal land bank, the Federal intermediate credit bank, all of the Federal land bank associations, and all of the production credit associations of any farm credit district to merge and reorganize as provided in this section. Any such merger may be made only after (1) the Farm Credit Administration has approved such merger, and (2) a favorable vote of a majority of the stockholders of each bank and association to be merged and reorganized, present and voting or voting by written proxy at duly authorized meetings, and a favorable vote of 60 percent of the aggregate of the stockholders of the banks and associations to be merged and reorganized present and voting or voting by written proxy at duly authorized meetings.

"(b) No merger may be made under this section unless the merger agreement provides that—

"(1) all banks and associations to be merged and reorganized are merged and reorganized into one bank and such number of associations as is specified in the agreement;

"(2)(A)(i) the resulting merged and reorganized bank is a Federal land bank to which the provisions of this Act shall apply in the same manner as to other Federal land banks; and

"(ii) each of the resulting merged and reorganized associations is a Federal land bank association to which the provisions of this Act shall apply in the same manner as to other Federal land bank associations; or

"(B)(i) the resulting merged and reorganized bank is a Federal intermediate credit bank to which the provisions of this Act shall apply in the same manner as to other Federal intermediate credit banks; and

"(ii) each of the resulting merged and reorganized associations is a production credit association to which the provisions of this Act shall apply in the same manner as to other production credit associations;

"(3) the resulting merged and reorganized bank and associations shall succeed to the assets of the banks and associations to be merged and reorganized;

"(4) all of the capital stock, participation certificates, and undistributed equity in the banks and associations to be merged and reorganized is converted fairly and equitably into stock, participation certificates, and undistributed equity of the resulting merged and reorganized bank and associations;

"(5) capital stock and participation certificates in the resulting merged and reorganized bank and associations are issued to, and distributed fairly and equitably among, the stockholders thereof;

"(6) the resulting merged and reorganized bank and associations shall be liable for and assume all debts, obligations, contracts, and liabilities of the banks and associations to be merged and reorganized, whether matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the banks and associations to be merged and reorganized;

"(7) the debts, obligations, and contracts of the resulting merged bank and associations shall be distributed fairly and equitably between and among such bank and associations consistent with the subparagraph of paragraph (2) that describes the relationship between and among such bank and associations; except that, for purposes of applying the liability rules of section 4.4 to an obligation originally issued by a bank before the merger and reorganization, such resulting merged and reorganized bank shall be treated as operating under the same title of this Act as the bank that originally issued the obligation was operating at the time of such issue; and

"(8) all authority of the banks and associations to be merged and reorganized shall be transferred to the resulting merged and reorganized bank and associations, consistent with the subparagraph of paragraph (2) which describes the relationship between and among such bank and associations.

"SEC. 4.12B. AUTHORITY OF DISTRICT BOARD TRANSFERRED TO AND AMONG BANKS IN DISTRICT AFTER MERGER AND REORGANIZATION DESCRIBED IN SECTION 4.12A.—In any district in which a merger and reorganization described in section 4.12A takes place all authority of the district board—

"(1) with respect to the Federal land bank and the Federal intermediate credit bank so merged and reorganized shall be transferred to the bank resulting from such merger and reorganization; and

"(2) with respect to the district bank for cooperatives shall be transferred to the district bank for cooperatives.".

(2) AUTHORITY OF FARM CREDIT ADMINISTRATION TO APPROVE MERGERS AND REORGANIZATIONS UNDER SECTION 4.12A.—Paragraph (2) of section 5.17(a) (12 U.S.C. 2252(a)) is amended by inserting "; approve mergers of banks and associations operating under different titles of this Act, under any agreement that meets the requirements of section 4.12A, and prescribe regulations to permit the entities resulting from such a merger, on a vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings, to reverse and undo the merger and reorganize into the entities that were originally to be merged with the same distribution of assets, liabilities, powers, and duties as existed before the merger" before the period at the end of the first sentence.

(3) PROVISIONS AFFECTING TERMS FOR WHICH LOANS MAY BE MADE.—

(A) AUTHORITY OF FEDERAL LAND BANK RESULTING FROM MERGER TO MAKE SHORT TERM LOANS.—Section 1.6 (12 U.S.C. 2014) is amended—

(i) by inserting "(a)" before "The Federal"; and

(ii) by adding at the end the following:

"(b) Notwithstanding subsection (a), any Federal land bank that is the bank resulting from a merger and reorganization described in section 4.12A may make, guarantee, or participate with other lenders in loans on the same bases as applied, before such merger and reorganization, to the Federal intermediate credit bank and the production credit associations so merged and reorganized.".

(B) AUTHORITY OF FEDERAL INTERMEDIATE CREDIT BANK RESULTING FROM MERGER TO MAKE REAL ESTATE LOANS.—Section 2.3 (12 U.S.C. 2074) is amended by adding at the end the following:

"(f) Notwithstanding the foregoing provisions of this section, any Federal intermediate credit bank that is the bank resulting from a merger and reorganization described in section 4.12A may make, guarantee, or participate with other lenders in loans on the same basis as applied, before such merger and reorganization, to the Federal land bank so merged and reorganized, to the extent, if any, that the agreement governing the merger and reorganization provides that the bank shall have such authority.".

(C) AUTHORITY OF PRODUCTION CREDIT ASSOCIATIONS RESULTING FROM MERGER TO MAKE REAL ESTATE LOANS.—Section 2.15 (12 U.S.C. 2096) is amended by adding at the end the following:

"(c) Each production credit association resulting from a merger and reorganization described in section 4.12A may make, guarantee, or participate with other lenders in loans on the same basis as applied, before such merger and reorganization, to the Federal land bank so merged and reorganized, to the extent, if any, that the agreement governing the merger and reorganization provides that the association shall have such authority.".

(4) PROVISIONS AFFECTING BOARDS OF DIRECTORS IN DISTRICTS WHERE BANKS AND ASSOCIATIONS RESULTING FROM MERGER ARE LOCATED.—

(A) FEDERAL LAND BANKS.—Part A of title I (12 U.S.C. 2011 et seq.) is amended by inserting after section 1.4 the following:

"SEC. 1.4A. BOARD OF DIRECTORS.—(a)(1) Except as provided in paragraph (2), in the case of a Federal land bank that is not the bank resulting from a merger and reorganization agreement described in section 4.12A, the board of directors shall be the farm credit district board.

"(2) On the vote of a majority of the stockholders of a Federal land bank described in paragraph (1) present and voting or voting by written proxy at duly authorized meetings, as prescribed under section 5.3A, the board of directors shall be elected upon such a vote.

"(b) In the case of a Federal land bank that is the bank resulting from a merger and reorganization agreement described in section 4.12A, the board of directors shall be elected on the vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings.".

(B) FEDERAL INTERMEDIATE CREDIT BANKS.—Part A of title II (12 U.S.C. 2071 et seq.) is amended by inserting after section 2.1 the following:

"SEC. 2.1A. BOARD OF DIRECTORS.—(a)(1) Except as provided in paragraph (2), in the case of a Federal intermediate credit bank that is not the bank resulting from a merger and reorganization agreement described in section 4.12A, the board of directors shall be the farm credit district board.

"(2) On the vote of a majority of the stockholders of a Federal intermediate credit bank described in paragraph (1), present and voting or voting by written proxy at duly authorized meetings, the board of directors, as provided under section 5.3A, shall be elected on the vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings.

"(b) In the case of a Federal intermediate credit bank that is the bank resulting from a

merger and reorganization agreement described in section 4.12A, the board of directors shall be elected upon the vote of a majority of the stockholders thereof present and voting or voting by written proxy at duly authorized meetings.".

(C) Banks for cooperatives.—Subsection (a) of section 3.2 (12 U.S.C. 2123(a)) is amended—

(i) by striking out "(a) In" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), in";

(ii) by inserting "(or, in the case of a district in which a merger and reorganization described in section 4.12A has been completed, the boards of directors of the district bank for cooperatives and the district Federal farm credit bank)" before "and the member at large"; and

(iii) and by inserting at the end the following:

"(2) On completion of any merger and reorganization in a district under an agreement that meets the requirements of section 4.12A, the board of directors shall be the individuals who were members of the farm credit district board for such district immediately before such merger and reorganization.".

(D) Farm credit district boards.—

(i) Section 5.1 (12 U.S.C. 2222) is amended—

(I) in subsection (a), by striking out "There" and inserting in lieu thereof "Except as provided in subsection (d), there"; and

(II) by adding at the end the following:

"(d) On completion of any merger and reorganization in a district under an agreement that meets the requirements of section 4.12A, the farm credit district board for such district shall be dissolved.".

(ii) Paragraph (1) of section 5.6(a) (12 U.S.C. 2227(a)(1)) is amended by striking out "and" and inserting in lieu thereof "and, except as provided in sections 1.4A(b) and 2.1(b),".

(b) Provisions Affecting District Boards.—

(1) Appointment of 2 additional voting members to district boards.—

(A) In general.—Subsection (a) of section 5.2 (12 U.S.C. 2223(a)) is amended by adding at the end the following:

"(3) The eighth and ninth members of the Board shall be elected by the seven members elected under paragraphs (1) and (2), and such eighth and ninth members shall be voting members who are—

"(A) not borrowers from, shareholders in, or directors, officers, employees, or agents of, any institution of the Farm Credit System; and

"(B) experienced in financial services and credit.".

(B) Conforming amendment.—Subsection (a) of section 5.1 (12 U.S.C. 2222(a)) is amended by striking out "seven" and inserting in lieu thereof "nine".

(2) Election to have separate boards of directors for system banks.—Part A of title V (12 U.S.C. 2221 et seq.) is amended by inserting after section 5.3 the following:

"Sec. 5.3A. Election to Have Separate Board of Directors for System Banks.—(a) Within 30 days after receipt by the Farm Credit Administration of a petition from a stockholder or stockholders of any bank (or one or more borrowers from or subscribers to the guaranty fund of a bank for cooperatives) representing at least 25 percent of the total number of votes that may be cast by the bank's stockholders (or subscribers) in the election of directors, a referendum shall be held to determine whether to elect a separate board of directors for the bank. The Farm Credit Administration shall issue a notice to all stockholders (or subscribers) of the bank explaining that such a referendum is to be held. The notice shall state the time and place of a special stockholders' meeting to hold the referendum. The notice to associations shall state the number of votes that the board of the association is entitled to cast in the referendum, based on the number of voting stockholders of that association on the date of such notice, as determined by the Farm Credit Administration. The meeting shall be held not less than 30 nor more than 60 days after the date the notice is mailed.

"(b) If at the special meeting of stockholders (or subscribers) of a bank called under subsection (a) a majority of the votes represented at such meeting are cast in favor of the election of a separate board of directors for the bank, the Farm Credit Administration shall hold elections for a separate board of directors for the bank in accordance with subsection (c).

"(c) Each separate board of directors of the bank shall be composed of five members. Two members of the original separate board shall be the two district board members already elected by the bank's stockholders (or subscribers), who shall no longer be members of the district board. The other three original members, and all succeeding members, shall be elected and serve in accordance with sections 5.1 and 5.2.

"(d) If separate boards are established for two or more banks in a district, the district board for that district shall be terminated.

"(e) Coordination between boards of directors in a district on matters such as joint property, functions, or policy shall be by a committee composed of representatives from each board in the district.

"(f) A separate board of directors established under this section shall continue until abolished. If the Farm Credit Administration receives a petition similar to that described in subsection (a) requesting a referendum to determine whether to retain the separate board of directors for the bank, a referendum shall be held as provided in subsection (a). If a majority of the votes represented at the special shareholders' meeting called under the preceding sentence are cast in favor of abolishing the separate board of directors of the bank, the board shall be abolished, and the two most senior members shall join the district board, which shall then act for the bank. If the district board has been terminated under subsection (d), it shall take the concurrent abolition referendums of two district banks to reestablish it.

"(g) The creation of a separate board, or its abolition, shall last at least five years.

"(h) The separate board of directors of a district bank elected under this section shall have the power to exercise all of the powers granted to the bank in section 1.4, 2.1, or 3.1, whichever is applicable. The district board shall not act for the bank or exercise the authority otherwise granted under section 5.6.".

(c) Conforming Amendments.—

(1) Section 3.8(1)(d)(3) (12 U.S.C. 2129(1)(d)(3)) is amended by striking out "district board" and inserting in lieu thereof "board of directors".

(2) Paragraph (1) of section 5.17(a) (12 U.S.C. 2252(a)(1)) is amended by inserting "(or, in the case of a district in which a merger and reorganization described in title VI has been completed, the boards of directors of the resulting merged and reorganized bank and the district bank for cooperatives, or, in the case of a district in which there is one or more banks with a separate board, a committee established under section 5.3A(a))" before "involved".

(3) The first sentence of paragraph (2) of section 5.17(a) (12 U.S.C. 2252(a)(2)) is amended by inserting "(or, in the case of a district in which a merger and reorganization described in title VI has been completed, the boards of directors of the resulting merged and reorganized bank and the district bank for cooperatives, or, in the case of a district in which there is one or more banks with a separate board, a committee established under section 5.3A(a))" before "involved and by a majority".

(4) The last sentence of paragraph (2) of section 5.17(a) (12 U.S.C. 2252(a)(2)) is amended by inserting "(or, in the case of a district in which a merger and reorganization described in title VI has been completed, the boards of directors of the resulting merged and reorganized bank and the district bank for cooperatives, or, in the case of a district in which there is one or more banks with a separate board, a committee established under section 5.3A(a))" before "and the board of directors".

SEC. 109. OTHER PROVISIONS.

(a) Required Information on Mergers.—Part B of title IV (12 U.S.C. 2181 et seq.) is amended by inserting after the sections added by section 108(a) of this Act the following:

"Sec. 4.12C. Required Information on Mergers.—No merger may take place under any provision of this Act unless the following conditions are met:

"(1) The Farm Credit Administration has approved the information that is to be sent to the stockholders of the institutions to be merged.

"(2) The information to be sent to stockholders contains an enumerated statement of the anticipated benefits of such merger to the stockholders of the institutions to be merged and the potential disadvantages of such merger to such stockholders. Before an institution provides such information, the institution shall amend such information, as the Farm Credit Administration determines necessary, to ensure its accuracy so that the stockholders may make an informed decision as to the advisability of the proposed merger.

"(3) At least 60 days have elapsed since the sending of such information to stockholders.

"Sec. 4.12D. Communications with Stockholders.—(a) Each bank for cooperatives, Federal land bank association, and production credit association shall provide a current list of its stockholders within 7 days after receipt of a written request by a stockholder. As a condition to providing the list, the bank or association may require that the stockholder agree and certify in writing that the stockholder will—

"(1) use the list exclusively for communicating with stockholders for permissible purposes; and

"(2) not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

"(b) As an alternative to receiving a list of stockholders, a stockholder may request the institution to mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder. This alternative may be used, at the discretion of the requesting stockholder, if the requester agrees to defray the reasonable costs of the communication.

If the requester decides to exercise this option, the institution shall provide the requester with a written estimate of the costs of handling and mailing the communication as soon as is practicable after receipt of the stockholder's request to furnish the communication.".

(b) Eligibility of Parents and Subsidiaries of Cooperatives for Loans.—Section 3.8 (12 U.S.C. 2129) is amended by striking out subsection (2) and inserting in lieu thereof the following:

"(b) Notwithstanding any other provision of this section—

"(1) the following entities shall also be eligible to borrow from a bank for cooperatives:

"(A) Cooperatives and other entities that have received a loan, loan commitment, or loan guarantee from the Rural Electrification Administration, or a loan or loan commitment from the Rural Telephone Bank, or that have been certified by the Administrator of the Rural Electrification Administration to be eligible for such a loan, loan commitment, or loan guarantee, and subsidiaries of such cooperatives or other entities.

"(B) Any legal entity more than 50 percent of the voting control of which is held by one or more associations or other entities that are eligible to borrow from a bank for cooperatives under subparagraph (A) of this paragraph.

"(C) Any legal entity that (i) holds more than 50 percent of the voting control of an association or other entity that is eligible to borrow from a bank for cooperatives under subsection (a) or subparagraph (A) of this paragraph, and (ii) borrows for the purpose of making funds available to that association or entity.

"(2) Each association and other entity eligible to borrow from a bank for cooperatives under this subsection, for purposes of section 3.7(a), shall be treated as an eligible cooperative association and a stockholder eligible to borrow from the bank.".

(c) Amendments Relating to Authority of System Institutions to Sell Certain Kinds of Insurance.—

(1) Section 4.29 (12 U.S.C. 2218) is amended—

(A) in subsection (a)—

(i) by inserting "(1)" before "The regulations";

(ii) by striking out "of this Act";

(iii) by inserting "or borrower from" before "any such bank";

(iv) by adding at the end the following: "A member or borrower shall have the option, without coercion from the person's bank or association, to accept or reject such insurance."; and

(v) adding after and below the end the following:

"(2) Unless specifically authorized by law and subject to subsection (b), no System institution nor the Farm Credit Administration may own, control, manage, underwrite, direct, or supervise any insurance company or insurance agency, underwrite insurance, adjust or pay claims, or supervise the adjustment or payment of any claim, or train and school, or service, adjustors or insurance agents."; and

(B) in paragraph (2) of subsection (b)—

(i) by redesignating subparagraphs (i), (ii), and (iii), as subparagraphs (A), (B), and (C), respectively;

(ii) in subparagraph (B), as so redesignated, by striking out "and";

(iii) in subparagraph (C), as so redesignated, by striking out "and"; and

(iv) by adding at the end the following:

"(D) the insurance program has been approved by the bank or association from among specific programs made available to it by insurers—

"(i) meeting reasonable financial and quality of service standards; and

"(ii) licensed under State law to do business in the State; and

"(E) in making insurance available through approved insurers, the board of directors of the association or bank selects and offers at least three approved insurers for each type of insurance made available to the members and borrowers; and".

(2) Notwithstanding the amendments made to section 4.29 by paragraph (1), any insurance program offered by any bank or association of the Farm Credit System on the date of the enactment of this Act that does not meet the requirements of section 4.29, as so amended, may be continued until January 1, 1988.

(d) Authority of Farm Credit Administration to Assess Civil Money Penalties.—

(1) Assessment authority.—Subsection (a) of section 5.32 (12 U.S.C. 2268(a)) is amended by inserting "and any such institution or person who violates any provision of this Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 per day for each day during which such violation continues;" before "but the Farm Credit Administration".

(2) Notification of alleged violators.—Subsection (b) of section 5.32 (12 U.S.C. 2268(b)) is amended by inserting "Before determining whether to assess a civil money penalty and determining the amount of such penalty, the Farm Credit Administration shall notify the institution or person to be assessed of the violation or violations alleged to have occurred or to be occurring, and shall solicit the views of the institution or person regarding the imposition of such penalty." before "In determining".

(3) Review of final orders.—Subsection (d) of section 5.32 (12 U.S.C. 2268(d)) is amended by striking out the last sentence and inserting in lieu thereof the following: "Final orders of the Farm Credit Administration issued under subsection (c) shall be reviewable under chapter 7 of title 5, United States Code.".

(e) Authority of Federal Land Banks to Make Loans for Commercial Recreation Purposes on Farms and Ranches.—Section 1.10 (12 U.S.C. 2018) is amended by adding at the end the following: "Loans may be made to farmers and ranchers also for the acquisition of equipment necessary to conduct commercial recreation or recreation-related activities on farm or ranch property, if such equipment is used on the farm or ranch property and is owned by the farmer or rancher or the family of the farmer or rancher.".

(f) Limitation on Authority of Farm Credit Administration To Require Disclosure of Information Relating to Loans Made to Directors.—

(1) In general.—Paragraph (9) of section 5.17(a) (12 U.S.C. 2252(a)(9)) is amended by inserting before the period the following: ", except that the Farm Credit Administration may not require any System institution to disclose in any report to stockholders information concerning the condition or classification of a loan—

"(A) to a director of the institution—

"(i) who has resigned before the time for filing the applicable report with the Farm Credit Administration; or

"(ii) whose term of office will expire no later than the date of the meeting of stockholders to which the report relates; or

"(B) to a member of the immediate family of a director of the institution unless—

"(i) the family member resides in the same household as the director; or

"(ii) the director has a material financial or legal interest in the loan or business operation of the family member".

(2) Regulations.—Within 30 days after the date of the enactment of this Act, the Farm Credit Administration shall amend its regulations as necessary to implement the amendment made by paragraph (1).

(g) Removal of Certain Sunset Provisions; Prohibition Against Use of Signed Ballots.—Section 4.20 (12 U.S.C. 2208) is amended to read as follows:

"Sec. 4.20. Prohibition Against Use of Signed Ballots.—In any election or merger vote, or other proceeding subject to a vote of the stockholders (or subscribers to the guaranty fund of a bank for cooperatives), conducted by a lending institution of the Farm Credit System, the institution—

"(1) may not use signed ballots; and

"(2) shall implement measures to safeguard the voting process for the protection of the right of stockholders (or subscribers) to a secret ballot.".

SEC. 110. REPEAL OF PREAPPROVAL AND RELATED AUTHORITIES.

(a) Section 1.3 is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal land banks.".

(b) Section 1.4 is amended—

(1) in paragraph (15), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of";

(2) in paragraph (21), by striking out "as" and by inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be"; and

(3) in paragraph (22), by striking out "and approved by the Farm Credit Administration".

(c) Section 1.5 is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (f), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors of the bank".

(d) Section 1.9 is amended—

(1) in the first sentence, by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in the second sentence, by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(e) The last sentence of section 1.13 is amended—

(1) by striking out "or by approving bylaws of the association,";

(2) by striking out "direct at any time changes in" and inserting in lieu thereof "approve amendments to"; and

(3) by striking out "as" and all that follows through "Act".

(f) Section 1.17 is amended—

(1) in subsection (a), by inserting "regulations of" before "the Farm Credit Administration"; and

(2) in subsection (b)—

(A) by striking out "(1)"; and

(B) by striking out "hereof, and (2) the approval of the Farm Credit Administration".

(g) Section 1.18(a) is amended by inserting "regulations of" before "the Farm Credit Administration".

(h) Section 2.0 is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters of Federal intermediate credit banks.".

(i) Section 2.1 is amended—

(1) in paragraph (13), by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of"; and

(2) in paragraph (18), by striking out "and approved by the Farm Credit Administration".

(j) Section 2.2 is amended—

(1) in subsection (a), by striking out "with the approval of the Farm Credit Administration";

(2) in subsection (d), by striking out "and approved by the Farm Credit Administration"; and

(3) in subsection (g)—

(A) in the first paragraph, by striking out ", with the approval of the Farm Credit Administration,";

(B) in the second paragraph, by striking out ", with approval of the Farm Credit Administration,"; and

(C) in the first sentence of the fourth paragraph, by striking out "under" and inserting in lieu thereof "in accordance with".

(k) The second sentence of section 2.6(c) is amended—

(1) by striking out "approved" and inserting in lieu thereof "established"; and

(2) by inserting after "Administration" the following "in regulations".

(l) The last sentence of section 2.10 is amended—

(1) by striking out "or by approval of bylaws of the association,"; and

(2) by striking out "direct" and all that follows through the period and inserting in lieu thereof "approve amendments to the charter of such association.".

(m) Section 3.0 is amended by striking out the second sentence and inserting in lieu thereof "The Farm Credit Administration shall approve amendments consistent with this Act to charters and organizational certificates of banks for cooperatives.".

(n) Section 3.1 is amended by striking out "and approved by the Farm Credit Administration" each place it appears.

(o) Section 3.3 is amended—

(1) in subsection (a), by striking out ", with the approval of the Farm Credit Administration,";

(2) in subsection (b), by striking out "with the approval of the Farm Credit Administration"; and

(3) in subsection (e), by striking out "and approved by the Farm Credit Administration".

(p) Section 3.5 is amended by striking out "with approval of the Farm Credit Administration".

(q) Section 3.9(a) is amended—

(1) in the first sentence, by striking out "with the approval of the Farm Credit Administration";

(2) in the second sentence, by striking out ", with the approval of the Farm Credit Administration,"; and

(3) in the third sentence, by striking out "as may be approved by the Farm Credit Administration".

(r) Section 3.11 is amended—

(1) in subsection (b), by striking out "as may be approved by the Farm Credit Administration";

(2) in subsection (c), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors"; and

(3) in subsection (d), by striking out "the Farm Credit Administration may approve" and inserting in lieu thereof "may be approved by the board of directors".

(s) Section 4.26 is amended—

(1) by striking out "or by prescribing in the terms of the charter or by approval of the bylaws of the corporation";

(2) by striking out "direct at any time" and all that follows through the period at the end of the first sentence and inserting in lieu thereof "approve amendments consistent with this Act to charters or articles of service corporations."; and

(3) by striking out the second sentence.

(t) The heading of section 4.27 is amended by striking out "SUPERVISION" and inserting in lieu thereof "REGULATION".

(u) Section 5.2 is amended—

(1) in subsection (b)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held"; and

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee";

(2) in subsection (c)—

(A) by striking out "Farm Credit Administration" the first place it appears and inserting in lieu thereof "district election committee of the district where the election will be held";

(B) by striking out "Farm Credit Administration" each place it appears thereafter and inserting in lieu thereof "district election committee"; and

(C) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(3) by redesignating subsections (b), (c), and (d), as subsections (c), (d), and (e), respectively, and inserting after subsection (a) the following:

"(b) Each district board shall designate a district election committee. No member of such district election committee shall be a candidate for election to the district board. The responsibilities and authorities of the district election committee, delegated by the district board, shall be those set forth in this section.".

(v) Section 5.17 is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking out "amend or modify" and inserting in lieu thereof "approve amendments to"; and

(B) in paragraph (5), by striking out "that meet standards and criteria" and all that follows through "refunds by Farm Credit System institutions"; and

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following:

"(b) The Farm Credit Administration shall not have authority, either direct or indirect, to approve bylaws, or any amendments or modifications or changes to bylaws, of System institutions.".

(w) Part D of title V is amended by adding at the end the following:

"SEC. 5.45. TRANSITION RULES RELATING TO AMENDMENT OF CERTAIN FCA APPROVAL AUTHORITIES.—Any approvals granted by the Farm Credit Administration before the date of the enactment of this section shall remain in effect on and after such date. Any approval authority of the Farm Credit Administration that, under the amendments made by section 110 of the Agricultural Credit Act of 1987, became an authority to issue regulations may be exercised only until the earlier of the date the Farm Credit Administration issues final regulations under such authority, or one year after the date of the enactment of this section. After the close of such one-year period, the Farm Credit Administration shall not take any enforcement action against any System institution with respect to any provision so amended, until the Farm Credit Administration issues final regulations under such provision. This section shall not affect the authority of the Farm Credit Administration to exercise any other approval authority either on a case-by-case basis or through regulation, as provided in section 5.17(a)(5).".

SEC. 111. TECHNICAL AMENDMENTS.

(a) Section 1.2 is amended by striking out "the regulation" and inserting in lieu thereof "regulation".

(b) Section 1.15(12) is amended by striking out "or delegated to".

(c) Section 1.20 is amended by striking out "by or other" and inserting in lieu thereof "by other".

(d) Section 2.1(18) is amended by striking out the comma at the end and inserting in lieu thereof a period.

(e) Section 2.2 is amended—

(1) in subsection (d), by striking out "be issued to" the first place it appears;

(2) in subsection (f)—

(A) by striking out "other"; and

(B) by inserting "of " after "with regard to the payment";

(3) in the second sentence of the fourth undesignated paragraph of subsection (g)—

(A) by striking out "other" the first place it appears; and

(B) by inserting "the" before "Farm Credit Administration"; and

(4) in subsection (h), by striking out "the Farm Credit Administration or".

(f) Section 2.6 is amended—

(1) in subsection (c), by striking out the last sentence; and

(2) by redesignating subsections (c) and (d), as subsections (a) and (b), respectively.

(g) The last sentence of section 2.10 is amended by inserting "the" before "Farm Credit Administration" the second place it appears.

(h) Section 2.13 is amended—

(1) in subsection (c), by striking out "to other"; and

(2) in subsection (d)—

(A) by striking out "other" the first place it appears; and

(B) by inserting a comma after "noncumulative)".

(i) The section heading for section 2.15 is amended by striking out the comma and inserting in lieu thereof a semicolon.

(j) Section 2.17 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(k) Section 3.3(d) is amended by striking out "by" the first place it appears.

(l) Section 3.4 is amended by striking out "other than stock held by the Farm Credit Administration,".

(m) Section 3.8 is amended—

(1) by redesignating subsection (1) as subsection (a);

(2) by redesignating paragraphs (a), (b), (c), and (d) of the subsection redesignated by paragraph (1) of this subsection, as paragraphs (1), (2), (3), and (4), respectively;

(3) by redesignating clauses (1), (2), and (3) of the paragraph redesignated as para-

graph (4) by paragraph (2) of this subsection, as clauses (A), (B), and (C), respectively;

(4) in the clause redesignated as clause (C) by paragraph (4), by striking "(2)" and inserting in lieu thereof "(B)".

(n) Section 3.11 is amended—

(1) in subsection (b)—

(A) by striking out "(c) and (d)" and inserting in lieu thereof "(b) and (c)"; and

(B) by striking out the last sentence;

(2) in subsection (c)—

(A) by striking out "(b) of this section, whichever is applicable," and inserting in lieu thereof "(a)"; and

(B) by striking out "(d)" and inserting in lieu thereof "(c)";

(3) in subsection (d), by striking out "(b) whichever is applicable," and inserting in lieu thereof "(a)";

(4) in subsection (g)—

(A) by striking out "or (b)"; and

(B) by striking out "For any year that a bank for cooperatives is subject to Federal income tax, it" and inserting in lieu thereof "A bank for cooperatives"; and

(5) by redesignating subsections (b), (c), (d), (e), (f), and (g), as subsections (a), (b), (c), (d), (e), and (f), respectively.

(o) Section 3.12 is amended by inserting "the" before "Farm Credit Administration".

(p) Section 3.13 is amended by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period at the end.

(q) Section 4.3(c) is amended by striking out "direct of fully guaranteed" and inserting in lieu thereof "direct or fully guaranteed".

(r) Section 4.12(b) is amended by striking out "court, shall" and inserting in lieu thereof "court shall,".

(s) Section 4.14 is amended—

(1) by striking out "committee(s)" and inserting in lieu thereof "committees";

(2) by striking out "4.13" and inserting in lieu thereof "4.13B"; and

(3) by striking out "reviews" and inserting in lieu thereof "review".

(t) Title IV is amended—

(1) by inserting above and before section 4.15 the following:

"Part D—Activities of Institutions of the System"; and

(2) by redesignating part D as part E.

(u) Title IV is amended by redesignating parts E and F, as parts G and H, respectively.

(v) Section 5.0 is amended by striking out "5.17(2)" and inserting in lieu thereof "5.17(a)(2)".

(w) The section heading of section 5.9 is amended by striking out "; Civil Proceedings".

(x) Section 5.11 is amended by striking out the last sentence.

(y) Section 5.16 is amended by transferring the 4 sentences immediately following paragraph (4) to just before the last sentence of such section.

(z) Section 5.17(a) is amended—

(1) by striking out paragraph (13); and

(2) by redesignating paragraphs (14) and (15), as paragraphs (13) and (14), respectively.

(aa) Section 5.28 is amended—

(1) by inserting "(a)" before "Whenever" the first place it appears; and

(2) in subsection (e), by striking out "(d)(3)" and inserting in lieu thereof "(d)".

(bb) Section 5.29 is amended—

(1) in subsection (a)—

(A) by striking out "interest" and inserting in lieu thereof "interests";

(B) by striking out "the investors in the" and inserting in lieu thereof "investors in"; and

(C) by inserting "the" before "Farm Credit System" the third place it appears.

(2) in subsection (b), by striking out "in Farm Credit System obligations" and inserting in lieu thereof "of the institution's shareholders or the investors in Farm Credit System obligations or may threaten to impair public confidence in the institution or the Farm Credit System".

(cc) Section 5.30 is amended by striking out "subsection (g)" and inserting in lieu thereof "section".

(dd) Section 5.32(f) is amended by striking out "sections 5.31 and 5.32" and inserting in lieu thereof "section 5.31 and this section".

(ee) Section 5.37 is amended by striking out "claims,".

TITLE II—PROVISIONS AFFECTING THE ADMINISTRATION OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 201. AMENDMENT OF CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act.

SEC. 202. AMENDMENTS AFFECTING DEBT RESTRUCTURING AND LOAN SERVICING.

(a) Debt Restructuring and Loan Servicing Options.—

(1) Liquidation not required as condition of debt restructuring and loan servicing.—Subsection (d) of section 331 (7 U.S.C. 1981(d)) is amended—

(A) by inserting "debts or" before "claims"; and

(B) by adding at the end of the first sentence the following: "The Secretary may not require liquidation of property securing any farmer program loan or acceleration of any payment required under any farmer program loan as a condition of taking an action authorized under this subsection.".

(2) Debt restructuring and loan servicing required where preferable to liquidation.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 352 the following:

"Sec. 353. (a)(1) If a farm borrower is at least 180 days delinquent in any payment under any farmer program loan, and the borrower would be unable, under any primary loan service program (as defined in section 331D(d)), to meet the obligations of the borrower under such loan, the Secretary shall—

"(A) estimate—

"(i) the present value of the payments that the borrower would make to the Secretary if the terms of such loan were modified under any secondary loan service program to ensure that the borrower is able to meet such obligations and continue farming operations; and

"(ii) the greatest amount the Secretary could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the Secretary could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation; and

"(B) notify the borrower in writing of the amounts estimated under subparagraph (A) and, if the amount estimated under subparagraph (A)(ii) exceeds 70 percent of the outstanding loan balance plus accrued interest and penalties as of the date of the estimate, provide the factual basis for the estimate.

"(2) If the amount estimated by the Secretary under paragraph (1)(A)(i) is greater than or equal to the amount estimated by the Secretary under paragraph (1)(A)(ii), the Secretary shall, within 45 days after notifying the borrower of such estimates, offer to the borrower to modify the borrower's loan obligations through any combination of primary and secondary loan service programs that would enable the borrower to meet such obligations (so modified) under the loan and to continue farming operations. If the borrower accepts such offer within 45 days after receipt, the Secretary shall modify the loan accordingly.

"(3) If the amount estimated by the Secretary under paragraph (1)(A)(i) is less than the amount estimated by the Secretary under paragraph (1)(A)(ii), and if, within 45 days after receipt of such estimate, the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the amount estimated under paragraph (1)(A)(ii), the obligations of the borrower to the Secretary under the loan shall terminate.

"(4) This subsection shall not be construed to limit the authority of the Secretary to enter into any agreement under which the Secretary may modify the obligation of a borrower to take into account, during the life of the loan, by way of a shared appreciation arrangement, any amount received or considered received by the borrower on conveyance of the security property, or by way of an agreement whereby such borrower agrees to repay a portion of any amounts set aside or written off, in the event the borrower experiences a substantial improvement in financial condition and income.

"(b) At the election of the borrower, any estimate or determination under this section shall, for purposes of section 333B, be treated as directly and adversely affecting the borrower.

"(c) The creditworthiness of, or the adequacy of collateral offered by, any borrower whose loan obligations are modified under this section shall be determined without regard to such modification.

"(d) For purposes of this title, the term 'borrower' means any farm borrower who has outstanding debt obligations to the Secretary under any farmer program loan without regard to whether the loan has been accelerated, but does not include any borrower all of whose loans and accounts have been foreclosed or liquidated, voluntarily or otherwise.".

(b) Payment of Losses on Guaranteed Loans.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after the section added by subsection (a)(2) the following:

"Sec. 354. (a)(1) Within 3 months after a court of competent jurisdiction confirms a plan of reorganization under chapter 12 of title 11, United States Code, for any borrower to whom a lender has made a loan guaranteed under this title, the Secretary shall pay the lender an amount estimated by the Secretary to be equal to the loss incurred by the lender for purposes of the guarantee.

"(2) Any amount paid to a lender under this subsection with respect to a loan guaranteed under this title shall be treated as payment towards satisfaction of the loan guarantee.

"(b)(1) If the lender of a guaranteed farmer program loan takes any action described in section 331(d) with respect to the

loan and the Secretary approves such action, then, for purposes of the guarantee, the lender shall be treated as having sustained a loss equal to the amount by which the outstanding balance of the loan immediately before such action exceeds the outstanding balance of the loan immediately after such action.

"(2) The Secretary shall approve the taking of an action described in section 331(d) by the lender of a guaranteed farmer program loan with respect to the loan if such action reduces the net present value of the loan to an amount equal to not less than the greater of—

"(A) the greatest net present value of a loan the borrower could reasonably be expected to repay; and

"(B) the greatest amount that the lender of the loan could reasonably expect to recover from the borrower through bankruptcy, or liquidation of the property securing the loan, less all reasonable and necessary costs and expenses that the lender of the loan could reasonably expect to incur to preserve or dispose of such property (including all associated legal and property management costs) in the course of such a bankruptcy or liquidation.

"(3) This subsection shall not be construed to limit the authority of the Secretary to enter into any agreement with a borrower to take into account, during the life of the loan, by way of a shared appreciation arrangement, any amount received or considered received by the borrower on conveyance of the security property, or by way of an agreement whereby such borrower agrees to repay a portion of any amounts set aside or written off, in the event the borrower experiences a substantial improvement in financial condition and income.".

(c) Provision and Notice of Loan Services.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 331C the following:

"Sec. 331D. (a) The Secretary shall provide to each farm borrower of a farmer program loan a written notice that describes all loan service programs that may be provided to borrowers under this title and the manner in which borrowers may apply for such programs. The Secretary shall provide such notice—

"(1) within 60 days after the date of the enactment of this section, to all borrowers who are at least 180 days delinquent in the payment of principal or interest on a loan;

"(2) at the time any application is made for a loan service program under this title;

"(3) at such time as a borrower is delinquent in the payment of principal or interest on a loan; and

"(4) on request of the borrower.

"(b)(1) The Secretary shall consider for all loan service programs any farmer program borrower—

"(A) who requests such consideration; or

"(B) who is delinquent in the payment of interest or principal on any farmer program loan.

"(2) The Secretary shall consider a borrower for all loan service programs before initiating liquidation, requesting conveyance of security property, accelerating a loan, repossessing property, foreclosing on property, or taking any other collection action with respect to any farmer program loan made or insured to the borrower.

"(3) In considering a borrower for loan service programs, the Secretary shall place the highest priority on the preservation of the borrower's farming operations.

"(c) For purposes of this title, the term 'loan service program' means, with respect to farmer program borrowers, any primary loan service program, any secondary loan service program, and any preservation loan service program.

"(d) For purposes of this title, the term 'primary loan service program' means any of the following:

"(1) Loan consolidation, rescheduling, or reamortization.

"(2) Interest rate reduction.

"(3) Deferral of principal or interest.

"(e) For purposes of this title, the term 'secondary loan service program' means any action authorized under section 331(d).

"(f) For purposes of this title, the term 'preservation loan service program' means any of the following:

"(1) Homestead retention.

"(2) Leaseback of farmland.

"(g) The Secretary shall provide written notice of regulations promulgated under sections 331(d) and 353 to any farm borrower who is delinquent on any farmer program loan and who requests such information from the Secretary, or whose loans the Secretary intends to liquidate, accelerate, or foreclose.".

(d) Regulations.—The Secretary of Agriculture shall issue regulations to carry out the amendments made by subsections (a), (b), and (c) within 60 days after the date of the enactment of this Act.

(e) Suspension of Collection Activities During Transition Period.—The Secretary of Agriculture shall not initiate any acceleration, foreclosure, or liquidation in connection with any farmer program loan before the date the Secretary has issued final regulations to carry out the amendments made by subsection (a).

SEC. 203. HOMESTEAD PROTECTION.

(a) Outbuildings Included in Homestead Property.—Paragraph (3) of section 352(a) (7 U.S.C. 2000(a)(3)) is amended by inserting "improved or unimproved" before "property" the second place it appears.

(b) Broaden Eligibility Requirements.—Subsection (c) of section 352 (7 U.S.C. 2000(c)) is amended to read as follows:

"(c) To be eligible to occupy homestead property, a borrower of a loan made or insured by the Secretary or the Administrator must satisfy the following requirements:

"(1) The borrower must apply for such occupancy not later than 3 years after the date of the enactment of the Agricultural Credit Act of 1987.

"(2) The borrower must have made gross annual farm sales reasonably commensurate with the size and location of the borrower's farming unit and local agricultural conditions (including natural and economic conditions), in at least 2 calendar years during any 6 consecutive years during the period beginning January 1, 1981, and ending December 31, 1990 (or the equivalent crop or fiscal years). For purposes of this paragraph, the term 'gross annual farm sales' includes rent received by a borrower from lessees of agricultural land during any period in which the borrower, due to circumstances beyond his control, is unable to actively farm such land.

"(3) The borrower must have received from farming operations at least 60 percent of the gross annual income of the borrower and any spouse of the borrower in at least 2 calendar years during any 6-year period described in paragraph (2). For purposes of this paragraph, the term 'farming operations' includes the receipt of rent by a borrower from lessees of agricultural land during any period in which the borrower, due to circumstances beyond the borrower's control, is unable to actively farm such land.

"(4) The borrower must have continuously occupied the homestead property, and engaged in farming or ranching operations on adjoining land, or other land owned, rented, or otherwise controlled by the borrower, during any 6-year period described in paragraph (2), except that this requirement shall not apply to any borrower who, due to circumstances beyond the borrower's control, has not engaged in farming or ranching operations during such 6-year period.

"(5) The borrower must during the period of occupancy of the homestead property, pay a reasonable sum as rent for such property to the Secretary or the Administrator in an amount substantially equivalent to rents charged for similar residential properties in the area in which the homestead property is located, and failure to make timely rental payments shall constitute cause for the termination of all rights of a borrower to possession and occupancy of the homestead property under this section. In effecting any such termination, the Secretary shall afford the borrower or lessee the notice and hearing procedural rights described in section 333B and shall comply with all applicable State and local laws governing eviction from residential property.

"(6) The borrower must, during the period of occupancy of the homestead property, maintain the property in good condition.

"(7) The borrower must agree to such other reasonable terms and conditions consistent with this section as are prescribed by the Secretary or the Administrator.".

(c) Conforming Amendment.—Paragraph (1) of section 352(b) (7 U.S.C. 2000(b)(1)) is amended to read as follows:

"(b)(1) If the Secretary forecloses, holds in inventory on the date of the enactment of the Agricultural Credit Act of 1987, or takes into inventory property securing a loan made or insured under this title; if the Administrator forecloses, holds in inventory on the date of the enactment of the Agricultural Credit Act of 1987, or takes into inventory property securing a farm program loan made under the Small Business Act (15 U.S.C. 631 et seq.); or if a borrower of a loan made or insured by either agency files a petition in bankruptcy that results in the conveyance of the homestead property to the Secretary or the Administrator, or agrees to voluntarily liquidate or convey such property in whole or in part, the Secretary or the Administrator may, on application by the borrower, permit the borrower to retain possession and occupancy of the homestead property.".

(d) Homesteaders Offered Repurchase on Same Terms as Other Persons.—Subsection (d) of section 352 (7 U.S.C. 2000(d)) is amended by adding at the end the following: "Such terms and conditions shall not be less favorable than those intended to be offered to any other buyer.".

SEC. 204. RIGHT OF FIRST REFUSAL OF FAMILY OF PREVIOUS OWNER OF ACQUIRED PROPERTY.

(a) Right of First Refusal Strengthened.—Subsection (e)(1) of section 335 (7 U.S.C. 1985(e)(1)) is amended to read as follows:

"(e)(1) The Secretary, to the extent practicable, shall sell or lease farmland administered under this title in the following order of priority:

"(A) Sale of such farmland to the previous owner of the farmland and the immediate family of such owner.

"(B) Lease with an option to purchase such farmland to the previous owner of the farmland and the immediate family of such owner.

"(C) Sale of such farmland to the previous operator of the farmland.

"(D) Lease with an option to purchase such farmland to the previous operator of the farmland.

"(E) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

"(F) Lease of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.".

(b) PREVIOUS OWNERS TO BE GIVEN WRITTEN NOTICE OF POTENTIAL SALE OR LEASE OF PROPERTY.—Paragraph (6) of section 335(e) (7 U.S.C. 1985(e)(6)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after and below subparagraph (B) the following:

"(C) provide written notice reasonably calculated to inform the previous owner or operator of such farmland of the availability of such farmland.".

SEC. 205. BORROWERS' RIGHT TO INFORMATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by inserting after section 333B the following:

"SEC. 333C. (a) On request of a farm borrower of a farmer program loan, the Secretary shall make available to the borrower the following:

"(1) One copy of each document signed by the borrower.

"(2) Copies of the forbearance and restructuring regulations or policies applicable to the loan at the time of the request, including appeal procedures.

"(3) One copy of each appraisal performed with respect to the loan.

"(4) All documents that the Secretary otherwise is required to provide to the borrower under any law or rule of law in effect on the date of such request.

"(b) Subsection (a) shall not be construed to supersede any duty imposed on the Secretary by any law or rule of law in effect before the date of the enactment of this section, unless such duty is in direct conflict with any duty imposed by subsection (a).".

SEC. 206. SENSE OF CONGRESS REGARDING GUARANTEED LOAN PROGRAM.

It is the sense of Congress that the Secretary of Agriculture should issue guarantees for loans under the Consolidated Farm and Rural Development Act, to the maximum extent practicable, to assist eligible borrowers whose loans are restructured by institutions of the Farm Credit System, commercial banks, insurance companies, and other lending institutions.

SEC. 207. MATCHING GRANTS TO STATES FOR OPERATION OF FARM LOAN MEDIATION PROGRAMS.

(a) MATCHING GRANTS.—The Secretary of Agriculture shall pay to each eligible State that provides mediation services to farmers and their creditors that result in nonbinding decisions on the parties under an agricultural loan mediation program 50 percent of the cost to the State of such program. The Secretary shall not pay more than $500,000 per year to a single State under this section.

(b) USE OF GRANT.—Each State that receives an amount paid under subsection (a) shall use such amount to cover any expense (including operating, training, and administrative expenses) incurred in the provision of mediation services to farmers and their creditors under a State agricultural loan mediation program.

(c) GOOD FAITH COOPERATION OF SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall prescribe rules requiring each program under the jurisdiction of the Secretary that makes, insures, or guarantees farm loans to participate in good faith in any State agricultural loan mediation program, except that the Secretary shall not be bound by any determination made in such program.

(d) REGULATIONS.—The Secretary of Agriculture shall prescribe such regulations as may be necessary to carry out this section.

(e) REPORT TO CONGRESS.—Not later than January 1, 1990, the Secretary of Agriculture shall report to Congress on the effectiveness of the State agricultural mediation programs receiving matching grants under this section, recommendations for improving the delivery of mediation services to farmers, and the savings to the States as a result of having an agricultural mediation program.

(f) AUTHORIZATION OF APPROPRIATIONS.—For matching grants under this section, there are authorized to be appropriated $5,000,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

SEC. 208. PARTICIPATION IN DEBT RESTRUCTURING NEGOTIATIONS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 202(b) of this Act the following:

"SEC. 355. (a) The Secretary may not make, insure, or guarantee any farmer program loan to a farm borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any State.".

SEC. 209. RELEASE OF INCOME FOR LIVING AND OPERATING EXPENSES.

(a) EXTENSION OF RELEASE PERIOD.—Subsection (f)(2) of section 335 (7 U.S.C. 1985(f)(2)) is amended by striking out "accelerates" and inserting in lieu thereof "takes title to and possession of security property and determines that the borrower is not eligible for leaseback of the property with respect to".

(b) EXPANSION OF DEFINITION OF NORMAL INCOME SECURITY.—Subsection (f)(1) of section 335 (7 U.S.C. 1985(f)(1)) is amended by inserting before the period at the end the following: "and includes any other chattel or personal (but not real) property that (but for the action of the Secretary) would be received by the borrower".

(c) NOTIFICATION TO BORROWERS OF RIGHTS ADDED BY THIS SECTION; REGULATIONS.—Subsection (f) of section 335 (7 U.S.C. 1985(f)) is amended by adding at the end the following:

"(3) Within 90 days after the date of the enactment of the Agricultural Credit Act of 1987, the Secretary shall notify each borrower under this title of the right of the borrower to have funds released under this subsection and the manner in which such release may be requested.

"(4) The Secretary shall issue regulations to carry out this subsection.".

SEC. 210. TRANSFER OF INVENTORY LANDS HELD BY FARMERS HOME ADMINISTRATION.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 208(a) of this Act the following:

"SEC. 356. The Secretary, without reimbursement, may transfer to any Federal or State agency for conservation purposes any real property acquired by the Secretary under this Act—

"(1) with respect to which the rights of all prior owners and operators have expired; and

"(2)(A) that has marginal value for agricultural production; or

"(B) that is environmentally sensitive; or

"(C) that has special management importance.".

SEC. 211. COUNTY COMMITTEES.

Subsection (a) of section 332 (7 U.S.C. 1982(a)) is amended—

(1) by inserting "(1)" before "In each county";

(2) in the second sentence, by striking out "deriving the principal part of their income from farming";

(3) by inserting before the period at the end the following: "before conducting any county committee election"; and

(4) by adding at the end the following:

"(2) A borrower of a loan made or insured under this title, or a member of the borrower's family, shall be eligible with respect to only one position on the county committee, to serve as an elected or appointed county committee member, subject to the conflict of interest limitations contained in section 336.

"(3) Any farmer may submit nominations for county committee elections in a county during a period of not less than 45 days after general public notice of any procedure by which to submit such nominations.

"(4) The Secretary shall not hold a county committee election in any county during the 30-day period beginning the date general public notice of the election is first provided.

"(5) For purposes of this subsection, the term 'farmer' includes the spouse of any farmer otherwise eligible under this section.".

SEC. 212. ENCOURAGEMENT OF GREATER PARTICIPATION IN INTEREST RATE REDUCTION PROGRAM.

(a) EXTENSION OF PROGRAM FOR 5 YEARS.—Section 1320 of the Food Security Act of 1985 (99 Stat. 1532) is amended—

(1) by striking out "1988" and inserting in lieu thereof "1993";

(2) by inserting "(a)" before "Effective"; and

(3) adding after and below the end the following:

"(b)(1) The General Accounting Office shall evaluate the interest rate reduction program of the Farmers Home Administration and report to Congress the results of such evaluation not later than March 31, 1988.

"(2) In performing such evaluation, the General Accounting Office shall—

"(A) conduct a survey of commercial banks to determine why the participation of such banks in the program has not been greater;

"(B) evaluate program eligibility criteria established by the Farmers Home Administration;

"(C) evaluate the administrative procedures of the Farmers Home Administration under its farm loan programs (including its guaranteed loan programs) in terms of timeliness and efficiency; and

"(D) evaluate the extent to which its guaranteed farm loan programs have been revised since the date of the enactment of the Food Security Act of 1985 to improve such programs.

"(3) In submitting its report to Congress, the General Accounting Office shall—

"(A) recommend revisions of the program eligibility criteria established by the Farmers Home Administration, to encourage greater participation and debt restructuring;

"(B) recommend steps that may be taken to better coordinate the program with State mediation programs, debt restructuring programs, and proceedings under the bankruptcy laws; and

"(C) recommend such improvements in the administrative procedures of the Farmers Home Administration under its farm loan programs (including its guaranteed loan programs), in terms of timeliness and efficiency, as are needed based on its evaluation.".

(b) Amendments to Program.—Section 351 (7 U.S.C. 1999) is amended—

(1) in subsection (b)(1)(C), by striking out "12-month" and inserting in lieu thereof "24-month"; and

(2) by adding at the end the following:

"(f) Each Farmers Home Administration county supervisor shall make available to farmers, on request, a list of approved lenders in the area that participate in the Farmers Home Administration guaranteed farm loan programs and other lenders in the area that express a desire to participate in such programs and that request inclusion in the list.

"(g) Notwithstanding any other provision of law, each contract of guarantee on a farm loan entered into under this title after the date of the enactment of this subsection shall contain a condition that the lender of the guaranteed loan may not initiate foreclosure action on the loan until 60 days after a determination is made with respect to the eligibility of the borrower thereof to participate in the program under this section.".

SEC. 213. EXPEDITE CLEARING OF TITLE TO INVENTORY PROPERTY.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 210 of this Act the following:

"Sec. 357. The Farmers Home Administration may employ local attorneys, on a case-by-case basis, to process all legal procedures necessary to clear the title to foreclosed properties in the inventory of the Farmers Home Administration. Such attorneys shall be compensated at not more than their usual and customary charges for such work.".

SEC. 214. RIGHT OF FIRST REFUSAL FOR CERTAIN ISSUERS OF NOTES OR OTHER OBLIGATIONS TO BE SOLD UNDER SECTION 1001 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) In General.—In the administration of the sale of notes or other obligations under section 1001 of the Omnibus Budget Reconciliation Act of 1986 (7 U.S.C. 1929(a)), the Secretary of Agriculture after the conduct of a sale of a portfolio of any such notes or other obligations, shall—

(1) determine whether the issuer of any unsold note or other obligation desires to purchase the note or other obligation; and

(2) if so, hold open for 30 days, an offer to sell the note or other obligation to the issuer at a price to be determined under subsection (b).

(b) Determination of Offering Price.—

(1) Authority.—The Secretary of Agriculture shall determine, in accordance with paragraph (2), the price at which a note or other obligation is to be offered for sale under this section.

(2) Price.—The price of a note or other obligation that is to be offered for sale under this section after a sale of a portfolio of such notes or other obligations shall be determined by discounting the payment stream of such note or other obligation at the yield on the sale of the portfolio.

(c) Prohibitions.—

(1) Purchase of obligation not tied to purchase of other obligations.—The Secretary of Agriculture shall not require the issuer of any unsold note or other obligation to be offered for sale under this section to purchase any other such note or other obligation as a condition of the sale of any such note or other obligation to the issuer.

(2) Offer to be made without regard to financing.—The Secretary shall offer notes or other obligations for sale to the issuers thereof under this section without regard to the manner in which such issuers intend to finance the purchase of such notes or other obligations.

TITLE III—SECONDARY MARKETS FOR AGRICULTURAL LOANS

SEC. 301. THE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

(a) Purposes.—The purposes of this section are—

(1) to establish a corporation chartered by the Federal Government;

(2) to authorize the certification of agricultural mortgage marketing facilities by the corporation referred to in paragraph (1); and

(3) to provide for a secondary marketing arrangement for farm real estate mortgages to—

(A) increase the availability of long term credit to farmers at stable interest rates;

(B) provide greater liquidity and lending capacity in extending credit to farmers; and

(C) provide an arrangement to facilitate capital market investments in providing long term agricultural funding, including funds at fixed rates of interest.

(b) Agricultural Mortgage Secondary Market.—Title V of the Farm Credit Act of 1971 (12 U.S.C. 2221 et seq.) is amended by adding after the part added by section 106(a) the following:

"Part F—Agricultural Mortgage Secondary Market

"Sec. 5.81. Definitions.—As used in this part:

"(1) The term 'agricultural mortgage loan originator' means any Farm Credit System institution, bank, insurance company, business and industrial development company, savings and loan association, commercial finance company, trust company, credit union, association of agricultural producers, or other entity that originates and services agricultural mortgage loans.

"(2) The term 'agricultural real estate' means a parcel or parcels of land—

"(A) used for the production of one or more agricultural commodities or products; and

"(B) consisting of a minimum acreage or producing minimum annual receipts as determined by the Corporation.

"(3) The term 'certified agricultural mortgage marketing facility' means a secondary marketing agricultural loan facility that is certified under section 5.84.

"(4) The term 'credit enhancement' means the guarantee of timely payment of the principal and interest on securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans.

"(5) The term 'Corporation' means the Federal Agricultural Mortgage Corporation established under section 5.82.

"(6) The term 'qualified agricultural mortgage loan' means an obligation that—

"(A) is secured by a fee-simple or leasehold mortgage with status as a first lien on agricultural real estate located in the United States;

"(B) is approved by a certified agricultural mortgage marketing facility as meeting the standards established by the Corporation under section 5.87;

"(C) is an obligation of—

"(i) a citizen of the United States; or

"(ii) a private corporation or partnership whose members, stockholders, or partners hold a majority interest in the corporation or partnership and are citizens of the United States; and

"(D) is an obligation of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the obligation will be repaid according to its terms.

"(7) The term 'State' has the same meaning given such term in section 5.51(1).

"Sec. 5.82. Federal Agricultural Mortgage Corporation.—(a)(1) There is hereby created the Federal Agricultural Mortgage Corporation, which shall be a body corporate under the direction of a board of directors and which, subject only to the provisions of this Act, shall be a federally chartered instrumentality of the United States and an institution of the Farm Credit System. The Corporation shall have succession until dissolved by Act of Congress.

"(2) The Corporation shall not be liable for any debt or obligation of any other institution of the Farm Credit System. The Corporation shall be the only institution of the Farm Credit System liable for the credit enhancement provided with respect to any security under section 5.88.

"(b) The Corporation shall—

"(1) in consultation with agricultural mortgage loan originators, develop uniform underwriting, security appraisal, and repayment standards for qualified agricultural mortgage loans;

"(2) determine the eligibility of agricultural mortgage marketing facilities to contract with the Corporation for the provision of credit enhancement for specific mortgage pools; and

"(3) provide credit enhancement for timely repayment of principal and interest on pools of qualified agricultural mortgage loans.

"(c)(1)(A) Within 60 days after the date of the enactment of this part, the President shall appoint an interim Board of Directors for the Corporation, one of the members of which the President shall designate as interim Chairman.

"(B)(i) The interim Board of Directors shall consist of nine members, as follows:

"(I) Three members shall be representatives of banks, other financial institutions, and insurance companies.

"(II) Three members shall be representatives of the Farm Credit System institutions.

"(III) Two members shall be farmers who have not served as a director or an officer of any financial institution.

"(IV) One member shall represent the interests of the general public and shall not have served as a director or an officer of any financial institution.

"(ii) Not more than five of the members appointed under clause (i) shall be from the same political party.

"(C) The interim Board of Directors shall arrange for an initial offering of common stock and shall take whatever other actions are necessary to proceed with the operations of the Corporation.

"(2)(A) The Corporation shall have a permanent Board of Directors which shall consist of 13 members. When banks, other financial institutions, insurance companies, and Farm Credit System institutions have purchased and fully paid for $20,000,000 of *common stock of the Corporation, the Corporation shall arrange for the election and appointment of the permanent Board of Directors.*

"(B)(i) The holders of the class of common stock issued to insurance companies, banks, and other financial institutions shall elect 3 members of the permanent Board of Directors, and the holders of the class of common stock issued to Farm Credit System institutions shall elect three members of the permanent Board of Directors.

"(ii) The President shall appoint the remaining seven members of the permanent Board of Directors, of which—

"(I) two members shall be farmers who have not served as a director or an officer of any financial institution; and

"(II) one member shall represent the interests of the general public and shall not have served as a director or an officer of any financial institution.

"(iii) Not more than four of the members appointed under clause (ii) shall be from the same political party.

"(C) Immediately after all of the events described in subparagraphs (A) and (B) have occurred, the interim Board of Directors shall be dissolved and all authority over the affairs of the Corporation shall be assumed by the permanent Board of Directors.

"(3) The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed. The remaining directors each shall be elected for a term ending on the date of the next annual meeting of the common stockholders of the Corporation, and shall serve until their successors have been elected. Any seat on the permanent Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

"(4) After the permanent Board of Directors has been duly constituted, the Corporation, subject to this section, pursuant to commitments or otherwise, may provide credit enhancement, on terms and conditions determined by the Corporation as hereinafter provided, to securities issued on the security of, or participations in pooled interests in, qualified agricultural loans.

"(5) The permanent Board of Directors shall determine the general policies that shall govern the operations of the Corporation. The Board of Directors shall select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws of the Corporation, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Corporation and shall discharge all such executive functions, powers, and duties.

"(d)(1) The Corporation shall be a body corporate and shall have the power to—

"(A) operate under the direction of its Board of Directors;

"(B) adopt, alter, and use a corporate seal, which shall be judicially noted;

"(C) provide for a president, one or more vice presidents, secretary, treasurer, and such other officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(D) prescribe by its Board of Directors its bylaws, not inconsistent with law, which shall provide for—

"(i) the classes of its stock and the manner in which its stock shall be issued, transferred, and retired;

"(ii) the selection of its officers, employees, and agents;

"(iii) the manner in which its property may be acquired, held, and transferred;

"(iv) the manner in which its commitments and other financial assistance may be made;

"(v) the manner in which its general business may be conducted; and

"(vi) the manner in which the privileges granted to it by law may be exercised and enjoyed;

"(E) prescribe such standards as may be necessary to carry out this part;

"(F) enter into contracts and make advance, progress, or other payments with respect to such contracts;

"(G) make and perform contracts, agreements, and commitments with persons and entities both inside and outside of the Farm Credit System;

"(H) sue and be sued in its corporate name and complain and defend in any court of competent jurisdiction, State or Federal; and

"(I) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, provide credit enhancement, sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its business.

"(2) The Corporation shall have such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this Act.

"SEC. 5.83. COMMON STOCK.—(a)(1) The Corporation shall have common stock having such par value as may be fixed by the Board of Directors from time to time, which may be issued only to agricultural mortgage loan originators and certified agricultural mortgage marketing facilities. Each share of common stock shall entitle the holder thereof to one vote with rights of cumulative voting at all elections of directors.

"(2) There shall be 2 classes of common stock. The first such class shall be offered to banks, other financial institutions, and life insurance companies. The second such class shall be offered to Farm Credit System institutions.

"(3) All such stock shall be so offered fairly and broadly to ensure that no type of institution acquires a disproportionate amount of the total amount of common stock outstanding, and that capital contributions and issuances of common stock therefor are equally divided between institutions of the Farm Credit System and other financial institutions, including life insurance companies, under such terms and conditions as the Board of Directors may adopt.

"(b) The maximum number of shares of common stock that the Corporation may issue and have outstanding at any single time shall be fixed by the Board of Directors from time to time. Any share of common stock issued shall be fully transferable, except that, as to the Corporation, it shall be transferable only on the books of the Corporation and except as the Corporation may restrict in its bylaws.

"(c) The Corporation may require each agricultural mortgage loan originator and each certified agricultural mortgage marketing facility to make, or commit to make, such nonrefundable capital contributions to the Corporation as are reasonable and necessary to meet the administrative expenses of the Corporation. The Corporation, from time to time, shall issue to each agricultural mortgage loan originator or certified agricultural mortgage marketing facility common stock commensurate with any capital contributions made under this subsection.

"(d) The Corporation may pay to the holders of common stock of the Corporation such reasonable dividends as, from time to time, may be declared by the Board of Directors, after the Board of Directors determines that adequate provision has been made for the reserve required under section 5.88(c).

"SEC. 5.84. CERTIFICATION OF AGRICULTURAL MORTGAGE MARKETING FACILITIES.—(a)(1) Within 120 days after the appointment and election of the permanent Board of Directors of the Corporation, the Corporation shall issue standards for the certification of agricultural mortgage marketing facilities, including eligibility standards in accordance with paragraph (2).

"(2) To be eligible to be certified under the standards referred to in paragraph (1), an agricultural mortgage marketing facility shall—

"(A) be an institution of the Farm Credit System or a corporation, association, or trust organized under the laws of the United States or of any State;

"(B) have adequate capitalization;

"(C) have as one of its purposes the sale or resale of securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans that have been provided credit enhancement by the Corporation;

"(D) adopt appropriate agricultural mortgage loan underwriting, appraisal, and servicing standards and procedures, in conformity with the uniform standards established by the Corporation; and

"(E) permit the Corporation to examine the facility's books, records, and loan files with respect to its operations and its enhancement of such pools.

"(3) The standards referred to in paragraph (1) shall not discriminate between or against Farm Credit System and non-Farm Credit System applicants.

"(b) Within 60 days after receiving an application for certification under this section, the Corporation shall certify the facility if the facility meets the standards referred to in subsection (a)(1).

"(c) Any certification by the Corporation of an agricultural mortgage marketing facility shall be effective for a period determined by the Corporation of not to exceed 5 years.

"(d)(1) After notice and an opportunity for a hearing, the Corporation may revoke the certification of an agricultural mortgage marketing facility if the Corporation determines that the facility does not meet the standards issued under subsection (a)(1).

"(2) Revocation of certification shall not affect any commitment issued by the Corporation providing credit enhancement for any pool of qualified agricultural mortgage loans.

"(e) Notwithstanding any other provision of this Act, any System institution, on its own or with one or more other such institutions, may create an affiliate to apply to become an agricultural mortgage marketing facility certified under this section. Any number of System institutions may enter into an agreement with any agricultural mortgage marketing facility (including such affiliate) certified under this section to sell the qualified agricultural mortgage loans of such institutions exclusively to or through the facility.

"SEC. 5.85. CREDIT ENHANCEMENT OF QUALIFIED AGRICULTURAL MORTGAGE LOANS.—(a) The Corporation may provide credit enhancement for the timely payment of princi-

pal of, and interest on, securities representing interests in, or obligations backed by, pools of qualified agricultural mortgage loans.

"(b) The Corporation shall—

"(1) provide the credit enhancement described in subsection (a) with respect to any pool referred to in subsection (a) that is held by any certified agricultural mortgage marketing facility;

"(2) provide such credit enhancement only where a reserve or a subordinated participation interest in an amount equal to 10 percent of the principal amount of the loans constituting the pool has been established or retained, as hereinafter provided;

"(3) if an agricultural mortgage loan originator has agreed to contribute to a reserve as provided in section 5.86, require the certified agricultural mortgage marketing facility that has agreed to purchase or hold the loan to establish a reserve in United States Treasury securities or other securities issued, guaranteed, or insured by an agency of the United States Government, in an amount equal to 10 percent of the principal amount of the loans constituting the pool;

"(4) if an agricultural mortgage loan originator has not agreed to contribute to a reserve as provided in section 5.86, require the certified mortgage marketing facility that has agreed to purchase or hold the loan to establish a reserve in an amount equal to 10 percent of the principal amount of the loans constituting the pool in such manner as the Corporation deems appropriate;

"(5) require that the certified agricultural mortgage marketing facility that has agreed to purchase or hold the loan cause such reserve, exclusive of the earnings thereon, to be held for the benefit of the holders of securities evidencing an interest in such pool to ensure the timely receipt of principal and interest due such security holders;

"(6) where the certified agricultural mortgage marketing facility or the loan originator has not established a reserve, require the certified agricultural mortgage marketing facility or the loan originator to retain a subordinated participation interest equal to 10 percent of the principal amount of the loans constituting the pool as provided in section 5.86;

"(7) require that such reserve or retained subordinated participation interest be exhausted before the certified agricultural mortgage marketing facility makes any demand with respect to the Corporation's credit enhancement;

"(8) assure the timely receipt of principal and interest due security holders only after exhaustion of such reserve or retained subordinated participation interest;

"(9) require that each certified agricultural mortgage marketing facility act in accordance with the standards of a prudent institutional lender to resolve loan defaults;

"(10) provide that, to the extent any certified agricultural mortgage marketing facility receives proceeds of collateral, judgments, settlements, or guarantees with respect to a loan in the pool, such proceeds shall be applied, after payment of costs of collection, first to reimburse the Secretary of the Treasury the amount of any credit enhancement payments made with respect to the pool by the Secretary of the Treasury, and second to reimburse the Corporation for any such payments so made by the Corporation;

"(11) permit the reserves to be reduced at certain times to provide for the distribution of earnings to agricultural mortgage loan originators required by section 5.86, subject to the limitation provided in such section;

"(12) not provide credit enhancement if the pool contains any loan the principal amount of which exceeds 5 percent of the total principal amount of the pool at the time the application for credit enhancement is submitted;

"(13) in the case of each loan originated for a pool, provide credit enhancement only if the agricultural mortgage loan originator may retain the servicing of the mortgage in connection with the farm borrower;

"(14) provide credit enhancement only if each qualified agricultural mortgage loan in the pool has been sold to a certified agricultural mortgage marketing facility without recourse, except for any reserve or retained subordinated participation interest that may be established, to the originator of such loan; and

"(15) adopt appropriate standards regarding the characteristics of a pool, security registration, and transfer requirements to ensure liquidity of the securities for which credit enhancement has been provided.

"Sec. 5.86. Reserve or Retained Subordinated Participation Interest of Agriculture Mortgage Marketing Entities and Loan Originators.—(a) For each pool of loans, the certified agricultural mortgage marketing facility holding the pool and the participating agricultural mortgage loan originators may each contribute a share of the 10 percent reserve required under section 5.85(b)(2).

"(b) In the case of each applicable loan pool, the certified agricultural mortgage marketing facility holding the pool shall—

"(1) distribute to agricultural mortgage loan originators or to itself not less frequently than semiannually any earnings on their contributions to the reserve as required, except that such distributions shall not be permitted if they would cause the reserve to fall below 10 percent of the outstanding aggregate principal and accrued interest of the loans then remaining in the pool;

"(2) maintain separate loan loss accounting for each loan in any pool with respect to which an agricultural mortgage loan originator has contributed to the reserve.

"(c) Except for that portion of losses absorbed by a certified agricultural mortgage marketing facility's contribution to the reserve authorized by subsection (a), each agricultural mortgage loan originator participating in the pool shall absorb any losses on loans it has originated up to the total amount it has contributed to the reserve before such losses are absorbed by the contributions of other originators participating in the pool.

"(d) The rights of the holders of the subordinated participation interests to receive distributions with respect to the loans constituting the pool shall be subordinated as prescribed by the Corporation to enhance the likelihood of regular receipt by the holders of nonsubordinated securities evidencing an interest in such pool of the full amount of scheduled payments of principal and interest on loans constituting the pool.

"Sec. 5.87. Standards for Qualified Agricultural Mortgage Loans.—(a) Within 120 days after the appointment and election of the permanent Board of Directors of the Corporation, the Corporation, in consultation with the agricultural mortgage loan originators and in coordination with the issuance by the Farm Credit Administration of regulations under section 4.2B(c), shall establish uniform underwriting, security appraisal, and repayment standards for qualified agricultural mortgage loans.

"(b) The standards referred to in subsection (a) shall not discriminate against small agricultural mortgage loan originators, or small agricultural mortgage loans that are at least $50,000.

"Sec. 5.88. Authority of Corporation To Provide Credit Enhancement for Securities Backed by Pools of Agricultural Loans.—(a) The Corporation shall provide credit enhancement for securities based on or secured by pools or trusts of qualified agricultural mortgage loans through commitments issued by the Corporation providing for such credit enhancement.

"(b) At the time the Corporation issues commitments providing credit enhancement with respect to a pool of qualified agricultural mortgage loans, the Corporation shall assess the certified agricultural mortgage marketing facility holding the pool a fee to be established by the Board of Directors based on a percentage of the amount of the Corporation's credit enhancement with respect to the initial principal amount of securities backed by each pool of qualified agricultural mortgage loans.

"(c) A portion of the fees collected under subsection (b) shall be set aside by the Corporation to establish a reserve against losses arising out of the credit enhancement activities of the Corporation. Such reserve shall be used to fulfill the credit enhancement assurances of the Corporation before the Corporation issues obligations to the Secretary of the Treasury under section 5.91.

"(d) The Corporation may impose charges or fees in reasonable amounts in connection with the administration of its activities under this part to recover its costs for performing such administration.

"Sec. 5.89. Regulation, Examination, and Report of Condition.—(a) The Farm Credit Administration, as provided in this Act, shall regulate the safe and sound performance of the powers, functions, and duties vested in the Corporation by this part. In exercising its authority under this section, the Farm Credit Administration shall consider the purposes for which the Corporation was established, the practices appropriate to the conduct of secondary markets in agricultural loans, and the reduced levels of risk associated with appropriately structured secondary market transactions.

"(b) The financial transactions of the Corporation shall be examined by Farm Credit Administration examiners in accordance with the principles and procedures applicable to commercial corporate transactions. Such examinations shall take place at such times as the Chairman of the Farm Credit Administration Board may determine, but not less frequently than annually. The examiners shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and the examiners shall be afforded full facilities for verifying transactions with certified agricultural mortgage marketing facilities and other entities with whom the Corporation conducts transactions.

"(c) The Corporation shall make and publish an annual report of condition as prescribed by the Farm Credit Administration. Each such report shall contain financial statements prepared in accordance with generally accepted accounting principles and such additional information as the Farm Credit Administration by regulation may prescribe. The Corporation shall hire an independent public accountant to audit the financial statements of the Corporation.

"(d) The Farm Credit Administration shall assess the Corporation for regulatory activities under this section.

"SEC. 5.90. SECURITIES IN CREDIT ENHANCED POOLS.—(a)(1) Notwithstanding any other provision of law, each security representing an interest in a pool of qualified agricultural mortgage loans for which credit enhancement has been provided by the Corporation shall be exempt from the laws administered by the Securities and Exchange Commission to the same extent as securities that are direct obligations of or obligations guaranteed as to principal or interest by the United States.

"(2) Each security shall clearly indicate that the security, together with the interest thereon, is not guaranteed by the United States and does not constitute a debt or obligation of the United States or of any agency or instrumentality thereof.

"(b)(1) Except as provided in paragraph (2), each security that is offered evidencing an interest in a pool of qualified agricultural mortgage loans that has been provided credit enhancement by the Corporation shall be exempt from any State law with respect to or requiring registration or qualification of securities or real estate to the same extent as any obligation issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof.

"(2) Within 3 years after the date of the enactment of this part, any State may enact a law that specifically refers to this section and requires registration or qualification of any security described in paragraph (1) on terms that differ from those applicable to any obligation issued by the United States, and, on and after the effective date of such a law, paragraph (1) shall cease to apply to such securities offered in that State.

"(c)(1) Any person, trust, corporation, partnership, association, business trust, or business entity created or existing under the laws of the United States or any State may invest in securities representing an interest in pools of qualified agricultural loans on which the Corporation has provided credit enhancement to the same extent that such person, trust, corporation, partnership, association, business trust, or business entity is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Such securities shall be eligible for unlimited purchase, sale, and underwriting by national banks. For purposes of any State law that limits the purchase, holding, or investment in obligations issued by the United States by such person, trust, corporation, partnership, association, business trust, or business entity, securities of an approved agricultural loan facility issued on a pool of loans for which the Corporation has provided credit enhancement shall be treated as obligations issued by the United States.

"(2) Any provision of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges that may be charged, taken, received, or reserved by agricultural lenders or certified agricultural mortgage market facilities shall not apply to any agricultural loan made by an agricultural mortgage loan originator or a certified agricultural mortgage market facility in accordance with this part.

"(3)(A) Paragraphs (1) and (2) shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, within 3 years after the date of the enactment of this part, enacts a law that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by any person, trust, corporation, partnership, association, business trust, business entity, or class thereof than is provided in paragraph (1).

"(B) The enactment by any State of any provision of law of the type described in subparagraph (A) shall not affect the validity of any contractual commitment to purchase, hold, or invest that was entered into, and shall not require the sale or other disposition of any securities acquired, before such enactment.

"SEC. 5.91. OBLIGATIONS AND SECURITIES.—Except as otherwise provided in section 5.88(c), the Corporation may issue obligations to the Secretary of the Treasury except that no funds under the line of credit shall be obligated for any pool of loans unless the 10 percent reserve or retained subordinated participation interest established for the pool has been exhausted. Such funds shall be advanced only pursuant to a certification by the Corporation to the Secretary of the Treasury that supplementary funds are required for credit enhancement purposes. Not later than 10 business days after receipt of any such certification by the Corporation, the Secretary of the Treasury shall purchase obligations issued by the Corporation in an amount determined by the Corporation to be sufficient to meet the Corporation's credit enhancement liabilities. The Secretary of the Treasury shall not purchase any obligation under this section if such purchase would increase the aggregate principal amount of the then outstanding holdings of such obligations issued under this section to an amount greater than \$1,500,000,000. Each obligation purchased by the Secretary of the Treasury shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the last calendar month ending before the date of the purchase of such obligation. The Secretary of the Treasury shall require that such obligations be repurchased by the Corporation within a reasonable time. For the purpose of purchasing obligations of the Corporation, the Secretary of the Treasury may use as a public debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include such purchases. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this section shall be treated as public debt transactions of the United States.".

(c) LOANS ORIGINATED THROUGH FARM CREDIT SYSTEM.—

(1) IN GENERAL.—Part A of title IV (12 U.S.C. 2151 et seq.) is amended by inserting after the section added by section 105(d) the following:

"SEC. 4.2B. AUTHORITY OF SYSTEM BANKS TO ISSUE LOAN BACKED AND RELATED SECURITIES.—(a) Each System bank, individually or with other System banks, may form trusts or pools consisting of loans originated by any of such banks under this Act. The bank may sell or otherwise dispose of such loans, or trusts or pools consisting of such loans, with or without recourse, on such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the bank may prescribe, with the prior approval of the Farm Credit Administration.

"(b) Any System bank may join with other System banks to issue notes, bonds, debentures, or other obligations or securities based on or backed by a trust or pool consisting of loans (other than long term loans made for the purchase of agricultural real estate and loans made to purchase rural housing) originated by such banks under this Act, in such sums, with such maturities, at such rates of interest, and on such other terms and conditions as the bank may determine with the prior approval of the Farm Credit Administration.

"(c) The Farm Credit Administration shall issue regulations to implement this section within 120 days after the date of the enactment of this section and at the same time as the Federal Agricultural Mortgage Corporation establishes underwriting standards under section 5.87(a). Final regulations to implement this section shall take effect 60 days after transmittal of such regulations to Congress.".

(2) STUDY.—Within 1 year after the date of the enactment of this Act, the Farm Credit Administration shall complete a study reviewing the potential effects of expanding the authority granted under the amendment made by paragraph (1) to authorize the sale of loan-backed or related securities based on or backed by a trust or pool of loans consisting of long term loans made for the purchase of agricultural real estate.

SEC. 302. IMPROVEMENT OF SECONDARY MARKET OPERATIONS FOR LOANS GUARANTEED BY THE FARMERS HOME ADMINISTRATION.

(a) IN GENERAL.—Section 338 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1988) is amended by adding at the end the following:

"(f)(1)(A) The guaranteed portion of any loan made under this title may be sold by the lender, and by any subsequent holder, in accordance with regulations on such sales as the Secretary shall establish, subject to the following limitations:

"(i) All fees due the Secretary with respect to a guaranteed loan are to be paid in full before any sale.

"(ii) The loan is to have been fully disbursed to the borrower before the sale.

"(B) After a loan is sold in the secondary market, the lender shall remain obligated under its guarantee agreement with the Secretary, and shall continue to service the loan in accordance with the terms and conditions of such agreement.

"(C) The Secretary shall develop such procedures as are necessary for the facilitation, administration, and promotion of secondary market operations, and for determining the increase of farmers' access to capital at reasonable rates and terms as a result of secondary market operations.

"(D) This subsection shall not be interpreted to impede or extinguish the right of the borrower or the successor in interest to such borrower to prepay (in whole or in part) any loan made under this title, or to impede or extinguish the rights of any party under any provision of this title.

"(2)(A) The Secretary may issue pool certificates representing ownership of part or all of the guaranteed portion of any loan guaranteed by the Secretary under this title. Such certificates shall be based on and backed by a pool established or approved by the Secretary and composed solely of the entire guaranteed portion of such loans.

"(B) The Secretary, on such terms and conditions as the Secretary deems appropriate, may guarantee the timely payment of the principal and interest on pool certificates issued on behalf of the Secretary by approved market makers for purposes of this subsection. Such guarantee shall be limited to the extent of principal and interest on the guaranteed portions of loans that compose the pool. If a loan in such pool is prepaid, either voluntarily or by reason of default, the guarantee of timely payment of principal and interest on the pool certificates shall be reduced in proportion to the amount of principal and interest such prepaid loan represents in the pool. Interest on prepaid or defaulted loans shall accrue and be guaranteed by the Secretary only through the date of payment on the guarantee. During the term of the pool certificate, the certificate may be called for redemption due to prepayment or default of all loans constituting the pool.

"(C) The full faith and credit of the United States is pledged to the payment of all amounts that may be required to be paid under any guarantee of such pool certificates issued by approved market makers under this subsection.

"(D) The Secretary shall not collect any fee for any guarantee under this subsection. The preceding sentence shall not preclude the Secretary from collecting a fee for the functions described in paragraph (3).

"(E)(i) If the Secretary pays a claim under a guarantee issued under this subsection, the claim shall be subrogated fully to the rights satisfied by such payment.

"(ii) No State or local law, and no Federal law, shall preclude or limit the exercise by the Secretary of the Secretary's ownership rights in the portions of loans constituting the pool against which the certificates are issued.

"(3) On the adoption of final rules and regulations, the Secretary shall do the following:

"(A) Provide for the central collection of registration information from all participating market makers for all loans and pool certificates sold under paragraphs (1) and (2). Such information shall include, with respect to each original sale and any subsequent sale, identification of the interest rate paid by the borrower to the lender, the lender's servicing fee, whether interest on the loan is at a fixed or variable rate, identification of each purchaser of a pool certificate, the interest rate paid on the certificate, and such other information as the Secretary deems appropriate.

"(B) Before any sale, require the seller to disclose to each prospective purchaser of the portion of a loan guaranteed under this title and to each prospective purchaser of a pool certificate issued under paragraph (2), information on the terms, conditions, and yield of such instrument. As used in this subparagraph, if the instrument being sold is a loan, the term 'seller' does not include (i) the person who made the loan or (ii) any person who sells three or fewer guaranteed loans per year.

"(C) Require each market maker—

"(i) to service all pools formed, and participations sold, by the market maker; and

"(ii) to provide the Secretary with information relating to the collection and disbursement of all periodic payments, prepayments, and default funds from lenders, to or from the reserve fund that the Secretary shall establish to enable the timely payment guarantee to be self-funding, and from all beneficial holders.

"(D) Regulate market makers in pool certificates sold under this subsection.

"(4)(A) Not later than March 31 of each year, the Secretary shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report on the secondary market operations under this subsection during the preceding calendar year.

"(B) Each report under subparagraph (A) shall include—

"(i) the number and the total dollar amount of loans sold in the secondary market and the distribution of such loans by size of loan, size of lender, geographic location of lender, interest rate, maturity, lender servicing fees, whether the interest rate is fixed or variable, and premium paid;

"(ii) the number and dollar amount of loans resold in the secondary market with a distribution by size of loan, interest rate, and premiums;

"(iii) the number and total dollar amount of pools formed;

"(iv) the number and total dollar amount of loans in each pool;

"(v) the dollar amount, interest rate, and terms on each loan in each pool, and whether the interest rate is fixed or variable;

"(vi) the number, face value, interest rate, and terms of the pool certificates issued for each pool;

"(vii) to the maximum extent possible, the use by the lender of the proceeds of sales of loans in the secondary market for additional lending to farmers; and

"(viii) an analysis of the information reported in clauses (i) through (vii) to assess farmers' access to capital at reasonable rates and terms as a result of secondary market operations.".

(b) REGULATIONS.—Within 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall develop and promulgate final regulations to implement the central registration provisions provided for in section 338(f)(3)(A) of the Consolidated Farm and Rural Development Act, as added by subsection (a).

(c) POOL CERTIFICATES NOT TO BE ISSUED UNTIL FINAL REGULATIONS TAKE EFFECT.—The Secretary of Agriculture shall not implement paragraph (2) of section 338(f) of the Consolidated Farm and Rural Development Act, as added by subsection (a), until the final regulations governing the administration of such paragraph take effect.

TITLE IV—REORGANIZATION OF THE FARM CREDIT SYSTEM

SEC. 401. REORGANIZATION PLAN.

Effective beginning 1 year after the date of the enactment of this Act, the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by adding after the part added by section 301(b) the following:

"TITLE VI—FARM CREDIT SYSTEM REORGANIZATION

"PART A—GENERAL PROVISIONS

"SEC. 6.1. DISSOLUTION OF FARM CREDIT DISTRICTS AND BANKS.—(a) The farm credit districts, as created under part A of title V, are hereby dissolved.

"(b) The Federal land banks and the Federal intermediate credit banks are hereby dissolved and their assets and liabilities, on such fair and equitable basis as the Farm Credit Administration by regulation prescribes, shall be assumed by the associations affiliated with such banks. The Farm Credit Administration shall issue proposed regulations to implement this subsection within 45 days after the date of the enactment of the Agricultural Credit Act of 1987.

"SEC. 6.2. CREATION OF REGIONAL FARM CREDIT SYSTEM SERVICE BANKS.—(a) The Farm Credit Administration shall charter not more than six regional Farm Credit System Service Banks (referred to in this section as 'Service Banks') in such locations as are agreed to by the district boards of directors of the districts established under section 5.0 before the dissolution of such districts under section 6.1(a). The Service Banks shall be federally chartered instrumentalities of the United States and institutions of the Farm Credit System.

"(b) Each Service Bank shall perform such functions and services (including accounting, coordinating of funding needs, and other non-lending and non-management services) for or on behalf of the Federal land bank associations and production credit associations located in its region as are agreed to by such associations. No Service Bank may engage in the establishment or supervision of interest rate or loan approval policies.

"SEC. 6.3. ESTABLISHMENT OF BANK FOR COOPERATIVES.—(a) There is hereby established a Bank for Cooperatives, into which are merged the district banks for cooperatives and the Central Bank for Cooperatives. For purposes of this Act, the Bank for Cooperatives shall be considered to be a district bank for cooperatives and the Central Bank for Cooperatives, and the Bank for Cooperatives and its board of directors shall have all of the powers, rights, responsibilities, and obligations of such banks and their boards of directors, as provided in other titles of this Act.

"(b) On a determination by the board of directors of the Bank for Cooperatives that the bank's loan portfolio is concentrated in any district or districts (according to the district boundaries in effect just before the effective date of this title), the bank may consider the creation of regional service centers to accommodate such loan concentrations.

"SEC. 6.4. ASSOCIATIONS.—(a) Each Federal land bank association and its board of directors, in addition to the powers, rights, responsibilities, and obligations provided such association under part B of title I, shall have all of the powers, rights, responsibilities, and obligations of a Federal land bank and its board of directors operating under part A of title I before the effective date of this title.

"(b) Each production credit association and its board of directors, in addition to the powers, rights, responsibilities, and obligations provided such association under part B of title II, shall have all of the powers, rights, responsibilities, and obligations of a Federal intermediate credit bank and its board of directors operating under part A of title II before the effective date of this title.

"SEC. 6.5. LIABILITY OF ASSOCIATIONS.—Each Federal land bank association and production credit association shall be liable for the payment of principal and interest on its obligations or portion of an issue of consolidated or System-wide obligations made on its behalf in the same manner as System banks were liable under section 4.4 before the effective date of this title.

"SEC. 6.6. REGULATIONS.—Within 120 days after the date of the enactment of the Agricultural Credit Act of 1987, the Farm Credit Administration shall issue proposed regulations governing the transition to the System structure established by this title. The Farm Credit Administration shall include in such regulations—

"(1) provisions to ensure that the holders of stock and other equities in banks and associations that are dissolved or modified are treated fairly and equitably; and

"(2) such other reasonable terms and conditions as are appropriate to ensure that the institutions continued by this title provide credit and related services to eligible borrowers at competitive rates.

"SEC. 6.7. CONSTRUCTION.—To the extent any provision of this part is inconsistent with any provision of titles I through V of this Act, the provision of this part shall prevail.".

SEC. 402. STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS UNDER TITLE VI TO IMPROVE OPERATING EFFICIENCY.

(a) IN GENERAL.—Effective beginning 1 year after the date of the enactment of this Act, the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) is amended by inserting after the part added by section 401 of this Act the following:

"PART B—STOCKHOLDER AUTHORITY TO REORGANIZE SYSTEM INSTITUTIONS TO IMPROVE OPERATING EFFICIENCY

"SEC. 6.11. MERGER OF UNLIKE ASSOCIATIONS.—(a) On approval of a plan of merger by their respective boards of directors and approval by a vote of a majority of the voting power represented by stockholders of each constituent association, present and voting or voting by written proxy at a duly authorized meeting, two or more associations, whether or not organized under the same title of this Act, may merge into a single entity (hereinafter in this subpart referred to as a 'merged association').

"(b) A merged association shall have all of the powers granted by this Act to and, except as otherwise provided in this part, shall be subject to all of the obligations, including those imposed by this Act, of any of its constituent entities. The manner in which the powers and obligations of the constituent entities are consolidated and, to the extent necessary, reconciled in the merged association shall be provided in regulations issued by the Farm Credit Administration.

"(c) The number of shares of capital stock issued by a merged association to stockholders of any constituent association, and the classes, rights, and privileges (including voting power, preferences on liquidation, and the right to dividends) of such shares, shall be determined by the plan of merger adopted by the constituent associations. The number of shares of capital stock issued by a merged association to stockholders of any constituent association and the classes, rights, and privileges thereof issued by a merged association after a merger shall be determined by the plan of capitalization adopted by the board of directors of such association. Voting stock of a merged association shall be issued to and held by farmers, ranchers, or producers of aquatic products that are or were direct borrowers from one of the constituent associations or its supervising bank.

"(d) Subject to section 4.3, the board of directors of a merged association shall provide, in the bylaws of the association or otherwise, for the application of net earnings after payment of operating expenses. Such application may include restoration of the impairment, if any, of capital stock. Thereafter, it may include, but not necessarily in the following order, additions to an allocated reserve account; additions to an unallocated reserve account; payment of dividends on capital stock; and payments of patronage refunds in cash or in stock or other notices of allocation. All capital and retained earnings of a merged association shall be available for such use in the activities of the association as the board of directors shall determine, without regard to the activities giving rise to such earnings.

"SEC. 6.12. PRIOR APPROVAL OF DISCLOSURE INFORMATION AND ISSUANCE OF CHARTERS BY THE FARM CREDIT ADMINISTRATION.—(a) After their approval by the boards of directors of the constituent entities and before submission to the voting stockholders of such entities for their vote, plans of merger under any section of this part shall be submitted to the Farm Credit Administration, together with all information that is to be distributed to the voters with respect to the contemplated merger. Within 60 days after the receipt of such submission, the Farm Credit Administration shall notify the submitting entities whether the Farm Credit Administration has determined that the information submitted fails adequately to disclose all material facts relevant to the vote. On notification that the Farm Credit Administration finds no deficiencies in the disclosure, or on the expiration of 60 days without action by the Farm Credit Administration, the submitting entities may submit the plan of merger, together with the disclosure information, to their voters for the prescribed vote.

"(b) If the Farm Credit Administration determines that the disclosure information is inadequate, its notification to the submitting entities shall specify the reasons for its determination. In that event, the plan of merger shall not be submitted to the voters for a vote until the Farm Credit Administration determines that the deficiencies in disclosure have been remedied.

"(c) The Farm Credit Administration shall issue a charter on the approval of the plan as prescribed in this part unless it determines that such charter is inconsistent with this part.

"(d) Except as provided in subsection (a), mergers under this part shall not be subject to prior approval by the Farm Credit Administration.

"SEC. 6.13. TAXATION OF MERGED ASSOCIATIONS.—In the case of any entity resulting from a merger in which one or more of the constituents is a Federal land bank association, that entity and the notes, debentures, and other obligations issued by such entity shall be exempt from taxation only to the extent provided in section 1.21 for Federal land bank associations.

"SEC. 6.14. CONSTRUCTION.—To the extent any provision of this part is inconsistent with any provision of titles I through V, the provision of this part shall prevail.".

The CHAIRMAN. No amendments are in order except the amendments printed in House Report 100-307. Said amendments shall be considered only in the order specified in the report, except amendments 1 and 4, may be offered only by the Member designated, shall be considered as having been read, and shall not be suject to amendment or to a demand for the division of the question. Debate time specified in House Report 100-307 for each amendment shall be equally divided and controlled by the proponent of the amendment and a Member opposed thereto.

It is in order for the chairman of the Committee on Agriculture, or his designee, to offer any of said amendments en bloc at any time, including modifications in the text of any amendment. Amendments offered en bloc are not subject to amendment or to a demand for a division of the question, and are debatable for 20 minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

As the committee proceeds through the consideration of amendments listed in House Report 100-307, the Chair will call the number of the amendment and the name of its sponsor in order to give notice to the Committee of the Whole as to the order of recognition. Pursuant to the order of the House of today amendment No. 1 may be offered at a future time by the gentleman from Texas.

AMENDMENTS, AS MODIFIED, OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, pursuant to House Resolution 265, I offer en bloc amendments 2, 3, 7, 8, 10, 13, 16, 18, 19, 20, 21, 23, 24, and 39 with modifications.

Mr. Chairman, I note that substantive modifications agreed to by the sponsors and both sides of the aisle have been made to amendments 7, 8, 18, 19, and 24.

The CHAIRMAN. The Clerk will designate the amendments, as modified.

The text of the amendments, as modified, is as follows:

Amendments No. 2, 3, 7, 8, 10, 13, 16, 18, 19, 20, 21, 23, 24, and 39, as modified, offered by Mr. DE LA GARZA:

AMENDMENT NO. 2

On page 105, after line 10 insert the following:

(h) SECURITY FOR FEDERAL LAND BANK LOANS.—

(1) APPRAISAL VALUE OF SECURITY.—Section 1.9 (12 U.S.C. 2017) is amended by striking out "85" and inserting in lieu thereof "80".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to loans applied for and made after the date of the enactment of this Act.

AMENDMENT NO. 3

On page 51, after line 15 insert the following:

(k) REPORTS.—During the 5-year period beginning on the date of enactment of this Act, the Farm Credit System Temporary Assistance Corporation, in coordination with the Federal Farm Credit Funding Corporation, shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which System lending institutions translate the savings in the cost of their operations due to the Federal assistance provided to the System under this Act into lower interest rates charged to their borrowers or enhanced financial solvency of such institutions.

AMENDMENT NO. 7

On page 19, strike out line 11 and insert in lieu thereof the following:

"(c) If, within 30 days after a borrower receives from a qualified lender (as defined in section 4.14A(a)(4)) notice that the borrower must post additional collateral with respect to a loan made to the borrower, the borrower notifies the lender that the borrower disputes a value placed on the collateral by the lender that is not based on an appraisal made by a certified appraiser, the borrower may obtain such an appraisal of the market value of such collateral. If the borrower obtains such an appraisal, the lender may not enforce such additional collateral requirement based on a value of the collateral determined by the lender that is not based on such an appraisal. After receiving such an appraisal, the lender shall reconsider any decision with respect to or based on the value of such collateral taking into account such appraisal.

"(d) If a qualified lender (as defined in section

On page 144, after line 9 insert the following:

SEC. 215. COLLATERAL ADJUSTMENT DECISIONS BASED ON APPRAISAL MADE BY CERTIFIED APPRAISER WHERE COLLATERAL VALUE IN DISPUTE.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 213 of this Act the following:

"SEC. 358. If, within 30 days after a borrower receives from the Secretary notice that the borrower must post additional collateral with respect to a loan, the borrower notifies the Secretary that the borrower disputes a value placed on the collateral by the Secretary that is not based on an appraisal made by a certified appraiser, the borrower may obtain such an appraisal of the market value of such collateral. If the borrower obtains such an appraisal, the Secretary may not enforce such additional collateral requirement based on a value of the collateral determined by the Secretary that is not based on such an appraisal. After receiving such an appraisal, the Secretary shall reconsider any decision with respect to or based on the value of such collateral taking into account such appraisal.".

In the table of contents, after the item relating to section 214 insert the following:

"SEC. 215. Collateral adjustment decisions based on appraisal made by certified appraiser where collateral value in dispute.".

Redesignate all succeeding items in the table of contents accordingly.

AMENDMENT NO. 8

On page 105, after the subsection added by amendment No.

(2) insert the following:

(i) OFFERS OF SALE TO BE MADE BY LOCAL REAL ESTATE AGENTS ON COMPETITIVE BASIS.—Part H (12 U.S.C. 2151 et seq.) of title IV (as such part is so redesignated by section 111(u) of this Act) is amended by adding at the end the following:

"SEC. 4.37. OFFERS OF SALE TO BE MADE BY LOCAL REAL ESTATE AGENTS ON COMPETITIVE BASIS.—In the sale of property held by any qualified lender (as defined in section 4.14A(a)(4)), the lender shall make offers to sell such property, to the extent practicable, only through real estate agents located in the county in which the lender is located, and shall select such agents on a competitive basis.".

AMENDMENT NO. 10

On page 13, line 20, strike out "percentage".

On page 13, line 23, strike out "percentage" and insert in lieu thereof "dollar amount".

On page 13, line 24, insert ", up to the total amount of such stock" before the period.

On page 14, line 2, strike out "percentage".

On page 14, line 4, strike out "percentage" and insert in lieu thereof "dollar amount".

On page 14, line 5, insert ", up to the total amount of such stock" before the period.

AMENDMENT NO. 13

On page 105, after the subsection added by amendment no. (8) insert the following:

(j) ENCOURAGEMENT OF CONSERVATION PRACTICES.—Part H (12 U.S.C. 2151 et seq.) of title IV (as such part is so redesignated by section 111(u) of this Act) is amended by adding after the section added by subsection (i) of this section the following:

"SEC. 4.38. ENCOURAGEMENT OF CONSERVATION PRACTICES.—At the time a System institution or an agricultural mortgage loan originator (as defined in section 5.81(1)) approves a loan made to a borrower that, in the opinion of the institution or originator, would be ineligible for a loan made, insured, or guaranteed under the Consolidate Farm and Rural Development Act (7 U.S.C 1921 et seq.) by reason of subtitle B or C of title XII of the Food Security Act of 1985, the institution or originator, as the case may be, shall encourage the borrower to contact the Department of Agriculture Soil Conservation Service to obtain information about soil conservation methods and practices.".

AMENDMENT NO. 16

On page 20, after line 17 insert the following:

"(c) In the event of any conflict between any provision of this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail, unless the provision of this section affords greater protection to owners of real property than is afforded by such provision of State law.

On page 21, strike line 24 and insert in lieu thereof the following;

tion, or bankruptcy of a borrower of the institution.

"(c) This section does not affect, or exempt any person subject to subsection (a) from complying with, any provision of the law of any State requiring a lender who acquires title to real property through foreclosure, bankruptcy, or liquidation of a borrower to offer a right of first refusal to the borrower before the sale of lease of such real property to any other person, except to the extent that such provision of State law does not require such a lender to hold open such an offer to purchase or lease such real property for at least 60 days.

"(d) In the event of any conflict between subsection (a) and any provision of the law of any State or any political subdivision thereof relating to the ownership of interests in farmland by a corporation, such provision of State law shall prevail.".

On page 132, after line 12 insert the following:

(e) RELATIONSHIP TO STATE LAW.—Subsection (b)(1) of section 352 (7 U.S.C. 2000(b)(1)) is amended by adding at the end the following: "In the event of any conflict between this section and any provision of the law of any State relating to the right of a borrower to designate for separate sale or redeem part or all of the real property securing a loan foreclosed on by the lender thereof, such provision of State law shall prevail.".

On page 134, after line 3 insert the following:

(c) RELATIONSHIP TO STATE LAW.—Subsection (e) of section 335 (7 U.S.C. 1985(e)) is amended by adding at the end the following: "In the event of any conflict between any provision of ths subsection and any provision of the law of any State providing a right of first refusal to the owner of farmland or the operator of a farm before the sale or lease of land to any other person, such provision of State law shall prevail, unless the provision of this subsection affords greater protection to such owners and operators than is afforded by such provision of State law.".

AMENDMENT NO. 18

On page 137, strike out line 7 and all that follows through the end of line 12 and insert in lieu thereof the following:

(a) EXTENSION OF RELEASE PERIOD.—Subsection (f) of section 335 (7 U.S.C. 1985(f)(2)) is amended—

(1) by adding at the end of paragraph (2) the following: "After the Secretary accelerates a loan made or insured under this title and before the Secretary takes title to and possession of the security property, the Secretary shall release from the normal income security provided for such loan an amount sufficient to pay for the essential household expenses of the borrower, as determined by the Secretary."; and

(2) by adding at the end the following:

"(3) The Secretary shall issue regulations to implement this section that ensure the expeditious release of funds to each borrower, and that establish guidelines for releases of funds, including a list of expenditures for which funds normally will be released.".

On page 39, strike out line 18 and all that follows through the end of line 2 on page 40 and insert in lieu thereof the following:

erty held by other persons is taxed. The notes, bonds, debentures, and other obligations issued by the Corporation shall be deemed and held to be instrumentalities of the Government of the United States, and they and the income therefrom shall be exempt from all State, municipal, and local taxation.".

On page 99, line 13, insert "subsection (a) or" after "under".

AMENDMENT NO. 19

On page 124, after line 4 insert the following:

(3) OPTION TO RESTRUCTURE INTEREST RATES FOR CERTAIN WATER AND WASTE DISPOSAL AND COMMUNITY FACILITY BORROWERS.—

(A) IN GENERAL.—The item designated "Loan Programs" under the sub-heading "Farmers Home Administration" in chapter I of title I of the Supplemental Appropriations Act, 1985 (7 U.S.C. 1927a; 99 Stat. 296) is amended—

(i) by striking our "Effective November 12, 1983, and thereafter," and inserting in lieu thereof "Effective October 1, 1981, and thereafter, in the case of water and waste disposal and community facility borrowers, and effective November 12, 1983, and thereafter, in the case of housing and farm borrowers,"; and

(ii) by striking out "housing, farm, water and waste disposal, and community facility" and inserting in lieu thereof "such".

(B) CERTAIN OBLIGATIONS EXCEPTED.—The amendment made by subparagraph (A) shall not apply to any note or other obligation sold under section 1001 of the Omnibus Reconciliation Act of 1986 on or before the date of the enactment of this paragraph.

On page 144, after the section 215 added by amendment no. (7) insert the following:

SEC. 216. LEASE OF CERTAIN ACQUIRED PROPERTY.

Notwithstanding any other provision of law, the Secretary of Agriculture, may lease to public or private nonprofit organizations, for a nominal rent, any facilities acquired in connection with the disposition of a loan made by the Secretary under section 306. Any such lease shall be for such reasonable period of time as the Secretary determines is appropriate.

In the table of contents, after the item added by amendment no. (7) insert the following:

"Sec. 216. Lease of certain acquired property.".

Redesignate all succeeding items in the table of contents accordingly.

AMENDMENT NO. 20

On page 144, after the section 216 added by amendment no. (19) insert the following:

SEC. 217. STUDY AND REPORT TO CONGRESS BEFORE ISSUANCE OF CERTAIN FINAL REGULATIONS.

Not later than 60 days before the Secretary of Agriculture issues final regulations providing for the use of ratios and standards as part of loan applications or preapplications, for determining the degree of potential loan risk on loans insured or guaranteed under the Consolidated Farm and Rural Development Act, the Secretary shall complete a study and report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives on the effects of such regulations on a representative sample of persons who, as of the date of the enactment of this Act, are borrowers or potential borrowers of such loans, and shall demonstrate in such study that the implementation of such final regulations will not result in a portfolio of borrowers that is inconsistent with the purposes of the Consolidated Farm and Rural Development Act.

In the table of contents, after the item added by amendment no. (19) insert the following:

"Sec. 217. Study and report to Congress before issuance of certain final regulations.".

Redesignate all succeeding items in the table of contents accordingly.

AMENDMENT NO. 21

On page 124, after the paragraph (3) added by amendment no. (19) insert the following:

(4) INTEREST RATE RESTRUCTURING FOR CERTAIN BORROWERS.—Effective July 9, 1987, the interest rate charged on any loan of $2,000,000 or more made on such date under section 306 to any nonprofit corporation shall be the interest rate quoted to such nonprofit corporation by the Farmers Home Administration on June 22, 1987, in the request for obligation of funds made with respect to the loan.

AMENDMENT NO. 23

On page 144, after the section 217 added by amendment no. (20) insert the following:

SEC. 218. CONTINUATION OF LIMITED RESOURCE FARMERS' INITIATIVE.

The Secretary of Agriculture shall maintain substantially at the levels in effect on the date of the enactment of this Act, the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise.

In the table of contents, after the item added by amendment no. (20) insert the following:

"Sec. 218. Continuation of limited resource farmers' initiative.",

Redesignate all succeeding items in the table of contents accordingly.

AMENDMENT NO. 24

On page 144, after the section 218 added by amendment no. (23) insert the following:

SEC. 219. FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

The Secretary of Agriculture, in coordination with the limited resource farmers' initiative in the office of the Director of the Office of Advocacy and Enterprise, shall establish a farm ownership outreach program for persons who are members of any group with respect to which an individual may be identified as a socially disadvantaged individual under section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5)) to encourage the acquisition of inventory farmland of the Farmers Home Administration by—

(1) informing persons eligible for assistance under any other provision of this Act of—

(A) the possibility of acquiring such inventory farmland; and

(B) various farm ownership loan programs; and

(2) providing technical assistance to such persons in the acquisition of such inventory farmland.

In the table of contents, after the item added by amendment no. (23) insert the following:

"Sec. 219. Farm ownership outreach program to socially disadvantaged individuals.".

Redesignate all succeeding items in the table of contents accordingly.

AMENDMENT NO. 39

On page 185, after line 19 add the following:

TITLE V—SENSE OF CONGRESS

SEC. 501. NATIONAL RURAL CRISIS RESPONSE CENTER.

It is the sense of Congress that the National Rural Crisis Response Center deserves recognition and encouragement from, and the support of, Congress and the people of the United States, and should be recognized for the valuable service the Center provides. The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize, encourage, and support the National Rural Crisis Response Center.

At the end of the table of contents add the following:

"Sec. 501. Sense of Congress.".

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. DE LA GARZA] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, these are basically technical, conforming, or what we consider to be minor amendments that have been worked out with sponsors, with the majority and minority staff from sponsors, staff from the committee, and we have no objection on this side to their being adopted en bloc.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, the gentleman from Texas correctly states the position of the minority in that some of these amendments, as the gentleman has said, have been modified from the manner in which they originally appeared, or the form in which they originally appeared. We have had on this side the opportunity to review all of these amendments and to participate in those modifications, and have no objection either to the amendments or to their being considered en bloc and I thank the gentleman for yielding.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY] on his amendment.

Mr. PENNY. Mr. Chairman, amendment 13 of this block of amendments is a minor provision that would deal with conservation requirements. The amendment is being introduced to show the intent of Congress that the Farm Credit System and participants in the secondary market encourage farmers who receive loans from those institutions to adhere to Federal conservation policy.

In a survey taken of eight Farm Credit district banks only two had any type of conservation policy in place. This amendment will simply refer borrowers of those systems to the Soil Conservation Service. It will not mandate any activity and would not prohibit them from proceeding with the loan but would be another checkpoint at which conservation practices are encouraged.

I urge adoption of this amendment in particular and of the amendments en bloc.

Mr. Chairman, I'd also like to make these general comments on H.R. 3030.

I support H.R. 3030 and am particularly pleased with the debt restructuring that is required of both the Farm Credit System and Farmers Home Administration.

During the past year, the St. Paul District Bank instituted an aggressive debt restructuring program. During 1985 and 1986 the bank posted $1 billion in losses. During the second quarter of this year, the St. Paul Bank showed a $7-million profit. During the first 6 months of 1987, they restructured $709 million in loans for 5,500 farmers in Minnesota, Wisconsin, Michigan, and North Dakota who were having trouble making payments.

A good debt restructuring program not only keeps farmers on the land but it also is less costly to the lender. The systemwide debt restructuring program that is mandated in this bill is based on the St. Paul system and must be in place before we offer some type of Federal assistance to the Farm Credit System. Debt restructuring will lessen the budget expose for the Federal Government.

For these same reasons, it is crucial for debt restructuring to take place within Farmers Home Administration.

Mediation is also an important part of debt restructuring because it allows the lenders and the farmers to sit down with a mediator and find a way that is satisfactory for both parties to settle the debt. The figures show that fewer chapter 12 bankruptcies are filed in States that have a mediation program in place. For example, South Dakota's rate of chapter 12 bankruptcy's is almost five times the rate of Minnesota's.

I believe that debt restructuring and mediation are steps in the right direction to assist our farmers and I urge your support for these portions of the bill today.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER] on his amendment.

Mr. ALEXANDER. Mr. Chairman, I rise to explain the amendment I have offered to H.R. 3030, the Agricultural Credit Act of 1987.

Under current law borrowers of the Farmers Home Administration's water and waste disposal and community facility loan programs have the option to choose between the prevailing interest rate at the time of notice of commitment and obligation of funds and the time of closing of the loan—provided that the loan was closed on or after November 12, 1983.

Borrowers of loans closed between October 1, 1981, and November 11, 1983, may be subject to a market-based interest rate, but do not have a similar option with regard to interest rates.

The amendment simply extends that option to those FmHA loans for water and waste disposal or community facilities closed between October 1, 1981, and November 11, 1983.

For example, let us take the case of Oxford, AR.

Oxford obtained a loan for construction of a rural water system from FmHA. This loan was for $158,000; it was approved on July 1, 1982, and was closed on June 17, 1983. The interest rate charged on loans approved July 1, 1982 was 11.68 percent. The rate in effect June 17, 1983, was 9.125 percent.

Under my amendment, Oxford could reduce its interest rate to the lower figure. Under current law, it may not, because its loan was not closed after November 12, 1983.

In addition, it is the legislative intent in offering this amendment that the borrower shall have the right to reduce the interest paid to the lender, FmHA, by the amount of the total interest due on the existing loans should the borrower choose a lower rate of interest. The borrower's option may be exercised by giving written notice to the Farmers Home Administration State Director.

Further, the borrowers shall have the right to renegotiate those loans closed between October 1, 1981, and November 11, 1983.

Mr. BROWN of Colorado. Mr. Chairman, this amendment provides that loans originated by a Federal Land Bank or in which it participates with a non-Farm Credit System lender shall not exceed 80 percent of the appraised value of the real estate securing the loan rather than 85-percent maximum contained in existing law.

The amendment is effective for loans applied for and made after the date of enactment of this act.

The amendment does not affect the provision of current law added in 1980—Public Law 96-592—which allows System loans guaranteed by Federal, State, or other governmental agencies to equal up to 97 percent of the real estate security.

The objective of the Farm Credit System is to ensure the availability of full credit to full-time farmers to the extent of their credit worthiness. The ability of borrowers to repay debt is extremely important to the viability of the System.

In 1971 Congress liberalized the collateral requirements for Federal Land Bank loans, allowing banks to make loans equal to a higher percentage—85 percent—of the value of farmland. Previously lenders were restricted to loans equal to no more than 65 percent of the normal agricultural value of the farmland.

The mid-1970's were a time of rapid inflation and farm values skyrocketed, increasing 198 percent nationwide between 1973 and 1981—encouraging Federal Land Banks to make loans that soon had little relation to the land's ability to recover the loan out of cashflow.

The change in the law in 1971 effectively tied loan amounts to the liquidation value of the farms, rather than the amount of income the farmer would be expected to produce off that land. When inflation died in the early 1980's, farm values collapsed along with commodity prices, and many borrowers could no longer meet their payment schedules.

Nonaccrual and problem loans now make up one-fourth of the Farm Credit System's loan volume. Federal Land Banks and FLB associations represent two-thirds of the System's loan volume and according to the Farm Credit Administration have continued to consume most of the System's earnings, causing major losses.

In its April 1987 report to the chairman of the House Agriculture Credit Subcommittee, the General Accounting Office [GAO] noted that the System's independent auditor had found that District Bank and Association credit operations needed more emphasis on the borrower's repayment capacity in making credit decisions and that there was a lack of current financial data on borrower repayment capacity on Federal Land Bank and Federal Land Bank Association loans.

Such practices, said GAO, "promoted loan volume rather than loan quality."

The Farm Credit Corporation of America [FCCA], which develops System policy subsequently adopted national credit standards to help assess and manage credit and risk. GAO notes, though, that the FCCA lacks direct authority over System banks and associations to insure compliance with the credit standards.

H.R. 3030 does not address the issue of overextension of credit to borrowers by Federal land banks and the need to assure that future lending refocuses on the repayment capacity of the borrower and his or her ability to produce income from the property securing the loan.

All Federal land bank borrowers are owed equitable treatment and sound lending decisions. It is a disservice to a borrower to lend him any more than he can reasonably be expected to repay. At the same time, when nonaccrual and problem loans happen, their cost is borne by other System borrowers in the form of higher interest rates.

My amendment is an effort to reemphasize the overall repayment ability of the borrower. It makes prudent lending sense and recognizes economic realities.

Mr. TOWNS. Mr. Chairman, I want to lend my support to the Agriculture Credit Act of 1987, H.R. 3030. As an urban Member of Congress, I would hope that my colleagues would look beyond the interests of their local districts and support this legislation because of its impact on farmers and the Farm Credit System.

I am particularly pleased that the chairman and ranking minority member of the House Agriculture Committee have agreed to include two of my amendments in the "en bloc amendment package." These initiatives are focused on strengthening USDA resources and improving land acquisition opportunities for minority farmers.

Finally, while this legislation is critical to America's farmers, some outstanding issues involving the securities and banking industries remain unresolved. Prior to our reconsideration of this measure on October 7, it is my hope that an accommodation can be reached between the various committees, with jurisdiction over these questions, and the House Agriculture Committee. It is my belief that a provision can and must be crafted which aids our rural economies without establishing negative precedents with regard to banking and securities law. I, for one, stand ready to assist in the development of such a compromise.

Mr. DORGAN of North Dakota. Mr. Chairman, I have two amendments in the Agriculture Committee's en bloc amendment that I would like to explain.

REPORTS BY THE FARM CREDIT SYSTEM

My first amendment would require the Farm Credit System to file annual reports on how it is utilizing certain savings realized due to the Federal assistance. The savings to which I refer result from the fact that FCS will get lower interest rates on its new bonds by virtue of the boost in investor confidence provided by the Federal assistance.

At any point in the future, we can compare the ratings on FCS bonds with the ratings similar bonds had 6 months ago, and see the difference in the interest rates carried by the two classes of bonds. Those savings are the result of the Federal assistance, and we need to track what happens to them. We should expect these savings to be passed on to borrowers in the form of lower interest rates, unless the institution needs to first restore its financial solvency.

So the amendment simply requires a report on how institutions are using these savings. I would expect the reports to focus on the amount of the savings mentioned above, calculated as the interest rate differential times the loan volume. This amount should be compared to the institution's spread between its average cost of funds and the average interest rate charged to farmers, and also compared to the spread needed to cover overhead expenses.

The actual spread between cost of funds and interest rates charged to borrowers should stay the same or go down, as savings are passed along to borrowers, unless an increase is needed to restore the institution to financial solvency. But in no case should overhead costs, as a proportion of loan volume, increase if the institution is doing its job of becoming more efficient.

These reports will allow us in Congress, and the farmer-borrowers who are the System's stockholders, to evaluate the performance of the System on this score, and take the System to task if need be.

DELAY OF CERTAIN REGULATIONS FROM FMHA

Mr. Chairman, my second amendment would prohibit the Secretary of Agriculture from issuing certain final regulations for the Farmers Home Administration until at least 60 days after the Secretary has reported to the House and Senate Committees on Agriculture on the impact the regulations would have on borrowers. The particular regulations the amendment refers to deal with Farmers Home's proposed use of certain ratios to calculate the riskiness of loans to farmers, and to make loan decisions on the basis of these ratios.

When FmHA published these ratios and standards as proposed regulations on January 15 of this year, there was an uproar in the countryside. Attorneys general, both Republican and Democrat, from North Dakota, Iowa, Illinois, Minnesota, South Dakota, Wisconsin, Kansas, and other States organized to stop the regulations. They estimated, based on some GAO statistics, that implementation of the regulations would result in about 50 percent of all FmHA borrowers being rejected for future loans. The fact is that FmHA published no systematic study of the impact these regulations would have if implemented.

A credit counselor in North Dakota has taken some examples from his casework, and discovered that the ratios would disqualify as too risky even some borrowers who are current on all of their payments. Others might be disqualified because they are "not risky enough," even though they have met the traditional FmHA test of not being able to get credit elsewhere.

In the midst of this uproar, I worked with the chairman of the Agriculture Subcommittee on Credit and others, and we got the comment period on the regulations extended for 30 days. FmHA has recently announced plans to issue final regulations very soon, in time to implement them for next crop year, with potentially disastrous consequences.

Mr. Chairman, it is imperative that the Farmers Home Administration determine the impact of these proposed regulations on its own borrowers. What could be more logical? As proposed, these regulations could effectively be used to destroy the mission of the agency, to disqualify from loans exactly the type of farmers Congress intended the agency to serve.

I urge my colleagues to support these modest amendments to require reports from the Farm Credit System on how the Federal assistance is being used, and to require that the Farmers Home Administration give an accounting to the Congress before implementing the use of financial ratios for making loan decisions.

Finally, I urge my colleagues to support this bill for final passage. This legislation provides important assistance to farmers and the institutions that lend them money, and it includes badly needed reforms of the Farmers Home Administration loan servicing procedures. This legislation is badly needed in rural America, and I ask for my colleagues support.

Mr. LIGHTFOOT. Mr. Chairman, in my efforts on behalf of constituents dealing with the Farm Credit System and the Farmers Home Administration, I have encountered several problems which I sought to address through amendments to H.R. 3030, the Agricultural Credit Act of 1987. I am pleased to note that members of the House Agriculture Committee have accepted several of my amendments into the committee's en bloc amendment to H.R. 3030. I would like to thank the chairman, the ranking member, and Credit Subcommittee chairman and ranking member, and other members of the committee for their cooperation in this effort.

Although I have reservations about supporting legislation which could, in effect, bailout the Farm Credit System, I have studied H.R. 3030 and believe, on balance, that the bill is worthy of our support. I have concerns about the provision to consolidate the Farm Credit System because I do not wish to see my constituents lose local control over the System. I also have reservations about an open-ended appropriation for the System when we are still unsure about the effectiveness of the bill's restructuring provisions.

Still, many of my constituents are dependent on the maintenance of this farm lending institution, and the borrowers protections included in the bill, along with my amendments, will be of great help to many of my constituents. I also believe that the inclusion of a secondary market for agricultural loans is an important step to maintain the long-term stability of agricultural mortgage lending.

Generally, my amendments address the problems of borrowers' rights and the impact of Farm Credit System and Farmers Home Administration property disposal activities on local areas.

For example, an amendment which I sought to offer is to address a problem I've experienced with the way the Farmers Home Administration has been advertising property for resale. We've found the Farmers Home Administration advertising property and asking for bids no higher than an advertised price. When an agency is losing money, it seems logical that the agency should accept the highest price it can for property it is selling. The amendment also would require the Farm Credit System institutions to act similarly. Unfortunately, the committee could not agree to this amendment, so I may offer it at a later time.

The second amendment of mine which was accepted by the committee would require the Farm Credit System institutions and the Farmers Home Administration to list System- or agency-owned farm property competitively through local or county real estate agents, to the extent practical. We've experienced a problem in Iowa with selective and arbitrary listing of System-owned farm properties with a single, and often remote, agent. This creates ill will in a community and increases the chance that the property will be sold in a manner detrimental to the local area.

Another amendment of mine which was adopted would permit a Farm Credit System borrower to request an independent appraisal of their property when an FCS appraisal results in adverse action against the borrower. For example, I've experienced cases in my district where a Farm Credit System institution will continue to "up the ante" on a borrower by requesting more and more property as collateral, based on periodic FCS appraisals. In some cases, this action has appeared to be highly arbitrary. I'm plesaed the committee adopted this amendment as it will provide considerale protection for borrowers.

Finally, I was pleased the committee accepted an amendment of mine to the Farmers Home Administration title of the bill which is of a little bit different nature. This amendment is vital to restoring equity to a situation involving a Farmers Home Administration rural water system loan in Warren County, IA. Without going any further into the technical details of this amendment, I want to thank the committee for agreeing to address this problem and I intend to work with the Farmes Home Administration to help prevent it from recurring in the furture.

Let me conclude by thanking the members of the House Agriculture Committee, once gain, for being so cooperative in adopting my amendments into the committee amendment. I think they will go a long way toward remedying some specific problems my constituents have encountered.

In conclusion, H.R. 3030 seems to be an important step toward improving the rights and protections available to Farm Credit System borrowers and I lend the bill my support.

Mr. DE LA GARZA. Mr. Chairman, I have no further sponsors who wish to address their amendments, and I yield back the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments, as modified, offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments, as modified, were agreed to.

The CHAIRMAN. Pursuant to the order of the House of today, amendment No. 4 may be offered at any time.

Pursuant to the order of the House of today, amendment No. 5, to be offered by the gentleman from Louisiana [Mr. HUCKABY] may be offered at this time.

AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HUCKABY: On page 29, line 10 after the word "manner" insert the following:

After the establishment of Regional Farm Credit System Service Banks as provided for in title 4, section 6, the Temporary Assistance Corporation shall coordinate assistance to System institutions only through the Regional Farm Credit System Service Banks serving the region in which the System institution is located.

On page 181, after line 16, insert the following:

SEC. 401A. Notwithstanding any other provision of law, during the five-year period beginning on the date of enactment of this Act, each Farm Credit System Service Bank established under title VI of the Farm Credit Act of 1971 shall have such supervisory and enforcement powers over each System association operating in the regional service area served by such Bank as are necessary to ensure that such association complies with business plans and any terms and conditions under which financial assistance, or a commitment to provide such assistance, is made to the association by the Temporary Assistance Corporation under part F of title IV of the Farm Credit Act of 1971.

MODIFICATION TO AMENDMENT OFFERED BY MR. HUCKABY

Mr. HUCKABY. Mr. Chairman, I ask unanimous consent that the word "shall" be changed to "may" following "Temporary Assistance Corporation" on the third line of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. MADIGAN. Mr. Chairman, reserving the right to object, if I may address the attention of the sponsor of the amendment to the language of the amendment, if his unanimous-consent request is agreed to, if the gentleman has the amendment before him, would it not also be necessary for him to request that the word "only" be stricken from the following line?

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I certainly would have no objection to that and I ask unanimous consent also to strike the word "only".

Mr. MADIGAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana [Mr. HUCKABY]?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. HUCKABY: On page 29, line 10 after the word "manner" insert the following:

After the establishment of Regional Farm Credit System Service Banks as provided for in title 4, section 6, the Temporary Assistance Corporation may coordinate assistance to System institutions through the Regional Farm Credit System Service Banks serving the region in which the System institution is located.

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SEC. 401A. Notwithstanding any other provision of law, during the five-year period beginning on the date of enactment of this Act, each Farm Credit System Service Bank established under title VI of the Farm Credit System Act of 1971 shall have such supervisory and enforcement powers over each System association operating in the regional service area served by such Bank as are necessary to ensure that such association complies with business plans and any terms and conditions under which financial assistance, or a commitment to provide such assistance, is made to the association by the Temporary Assistance Corporation under part F of title IV of the Farm Credit Act of 1971.

Mr. HUCKABY. Mr. Chairman, the changes just made were made in an effort to maintain harmony throughout this bill. When we were developing the Temporary Assistance Corporation in the committee we had not at that point in time reached the reorganizational amendments which were to be proposed by the gentleman from Texas [Mr. STENHOLM] and hence there arose some controversy, if I might use that word, over the implementation of the Temporary Assistance Corporation, that is, the powers that it would have and how it would carry those powers out.

I intend to use these brief moments to engage in a colloquy with the gentleman from Texas [Mr. STENHOLM], the gentleman from Missouri [Mr. COLEMAN], myself, and perhaps the gentleman from Oklahoma [Mr. ENGLISH], as far as collective intent, as we understand it, of how the Temporary Assistance Corporation shall function.

It is my understanding that the TAC would initially deal with the 12 regional banks because we have 2 years maximum for the regional banks to be reorganized into six banks. During this period of time, in this interim period of time, 9 of these 12 banks will be needing assistance immediately upon implementation of this act. TAC would deal with the 12 banks. Then as the district banks are dissolved the TAC would then deal with the local associations and the local associations could make the determination of whether of not the TAC should deal through the new regional bank.

It is my understanding, talking with the gentleman from Texas [Mr. STENHOLM], that it is his intent, and he will offer an amendment in section 4, an amendment that says that the local institutions, the majority will rule, so to speak, that is, if a majority of the stockholders in a service region vote then that shall apply for all of the service regions. So that if a majority of the stockholders should vote that the TAC should deal through the regional systems in order to reach the local association, then that would be the way it was even though a given local association did not vote in this direction.

Mr. Chairman, I yield to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Chairman, that certainly was the intent of the author of the restructuring amendment. We think we have most of the language currently in the bill, but as the gentleman explained his concern both in committee and where he brought this problem and similar problems of the local control aspect to the attention of the entire committee, we provide now that any nonloan services that the new district service centers want to provide for their stockholders can be done. I certainly concur with the gentleman's interpretation of TAC and how it should apply, particularly now since the gentleman said "may" in that language, that the other Members—put it this way, the stockholders of the newly created service center will be very interested in how the TAC deals with the receiving entities. It makes eminent good sense that this service be provided at the service center level. But now as a result of the gentleman's change in his amendment, he makes that subject to local control. Local control in a cooperative such as we are now talking about assumes one-man, one-vote and it assumes a majority rule and it assumes that the concerns of each of the entities within that service center shall be the overwhelming force that causes the action to be occurring as the gentleman expressed it and that is the way I understand it.

Mr. HUCKABY. As the author of the amendment of the section creating TAC it was certainly my intent that we wanted the most efficient organization that we could have in dispensing these literally billions of dollars and we wanted a reasonable workout plan so that these institutions, these associations, these service centers might become sound and whole again.

Mr. STENHOLM. Mr. Chairman, would the gentleman yield just briefly on that point?

Mr. HUCKABY. I yeild to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman for yielding.

In fact, this is one of the concerns, it has been one of the concerns that many have expressed about how far we go with powers of the service center. We have attempted to meet the wishes of the stockholders in the new service, center, as far as the funding.

The CHAIRMAN. The time of the gentleman from Louisiana [Mr. HUCKABY] has expired.

Mr. ENGLISH. Mr. Chairman, I ask unanimous consent that the gentleman may be allowed to proceed for 1 additional minute.

The CHAIRMAN. The 5 minutes have expired.

Is there any Member in opposition who would be entitled to 5 minutes?

Mr. ENGLISH. Mr. Chairman, I ask unanimous consent the gentleman may have 1 additional minute.

The CHAIRMAN. Without objection, and the Chair hears none, the gentleman may proceed for 1 minute.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. I thank the gentleman for yielding.

Mr. Chairman, I want to commend the gentleman for his amendment and particularly the thrust which he is making. I think without question it makes a good deal of sense to assist the local associations in doing their business with TAC. This will certainly facilitate that. It makes available to the local associations, should they choose to use it, all of those facilities within the servicing centers and the expertise that may be there. So I commend the gentleman for a very fine amendment.

Mr. HUCKABY. I thank the gentleman from Oklahoma. I think the TAC should use the service center in dealing with the local association and the resources of the service center. I think the gentleman agrees with that.

I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, if I might just strike the last word as somebody who has to be convinced of the wisdom of this amendment so I would be in opposition to it.

The CHAIRMAN. The Chair would advise the gentleman that under today's rule, striking the last word is not permitted. However, the gentleman could request unanimous consent to proceed for a specified amount of time.

PARLIAMENTARY INQUIRY

Mr. COLEMAN of Missouri. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COLEMAN of Missouri. Mr. Chairman, does the rule provide for a person in opposition to have 5 minutes?

The CHAIRMAN. The gentleman is correct.

If the gentleman is in opposition, the gentleman could claim 5 minutes, yes.

Mr. COLEMAN of Missouri. I would like to be recognized for that purpose.

The CHAIRMAN. The gentleman form Missouri [Mr. COLEMAN] is in opposition and controls the 5 minutes in opposition.

The Chair recognizes the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the chairman. Mr. Chairman, I guess I still have problems. We have a parliamentary opportunity here for us to discuss and for the gentleman to actually convince me at the end of my 5 minutes, the gentleman from Louisiana, to support his amendment.

As originally drafted, I was very much opposed to it. I think the "shall" now modified to "may" makes it much more acceptable. But the thing that we really want to talk about here is how do we envision this new organization to function.

I remind my colleagues that the concerns that you have about TAC, the Temporary Assistance Corporation and its relationships to the various associations is only relevant when one of those associations asks for some of the Federal funds that the TAC would provide or not provide.

In other words, that association has to be in financial trouble. They have to apply for assistance. At that point in time then the question arises for the committee here to determine how to conduct that relationship between TAC and the local association.

I think it is clear that in committee we wanted to have a direct relationship, that TAC will require a plan by that association to see how it would utilize Federal funds, how it could come out from underneath this financial problem that exists. The association between that association and TAC then would be direct. That is my understanding.

I would yield to the gentleman and ask if that is his understanding.

Mr. HUCKABY. I would like to point out to the gentleman we have a 2-year interval here before we go from the 12 districts to the 6 service centers, up to 2 years. Certainly some of these districts are going to need financial assistance right away.

Mr. COLEMAN of Missouri. The districts currently in a transition period, the gentleman is correct, may need the assistance like the association. But if we can agree with what I tried to describe here on the record was our understanding of that relationship, I would go one step further then and it would be relevant to the gentleman's amendment.

Mr. HUCKBY. Yes; the gentleman is suggesting then that the districts would initially apply for financial assistance.

Mr. COLEMAN of Missouri. They very well might. The district itself might apply, an association might also apply itself. But the amendment of the gentleman goes to some other direct relationships.

Mr. HUCKABY. That is right, beyond that.

Mr. COLEMAN of Missouri. And that is when we get back here on October 6 and we adopt a Stenholm amendment which in some fashion has a service center and there may be six here, the question the gentleman is trying to get at which we are trying to discuss and make a legislative record on is what is that relationship between TAC, that service center and the local association and whether or not we envision a local association having to work through a service center that, in turn, passes on the request to TAC and TAC to work through a service center as it provides money or funds or plans or approvals or what have you to a local association.

My own feeling is that what we have done, what our intent is is that if it is possible for some things to be done by those associations that would be more efficient and more effectively done and administered by a service center, they can pool their resources in effect and vote those responsibilities to be done at the regional service center level.

What I want to make sure this amendment does not do is say that that service center will be able to broker TAC funds because I think if that is the case we have another layer of bureaucracy and not that direct relationship between TAC and the local association that has applied.

That is my reservation about the amendment of the gentleman, in principle.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. I thank the gentleman for yielding.

As the gentleman is very well aware, when we changed the word "shall" to "may" we are saying this is an option. I think perhaps there is some implied intent here as the gentleman says where it is more efficient and certainly there will be instances where it is more efficient to do some things on a service center basis rather than doing everything on a regional basis.

Mr. COLEMAN of Missouri. Does the gentleman envision the TAC to deal directly with the local associations as I previously described it at the time of the request, and through that process of requesting Federal funds?

Mr. HUCKABY. Yes, they would be able to deal through the local associations assuming the local associations wanted them to. As the gentleman from Texas pointed out, it would be his intention in his amendment to section 4 that he will be offering to give the local associations the power to designate to the regional service centers the authority to deal with TAC if they so desire to.

Mr. COLEMAN of Missouri. The amendment is not before us, of course, but I would be concerned about creating, by allowing associations to create themselves something contrary to our legislative intent and that is to give as much power and, yes, I would not say the word "control" but in fact management oversight of associations that are receiving Federal funds to be able to provide the necessary mechanisms for administrative control while they are receiving Federal funds so that the local association could not vote to say "We want the district service bank to take over the obligations" or to be able to be the recipient of TAC funds because I think that is another question. And if the gentleman's amendment does not so designate, then I can support his amendment.

Is the gentleman agreeing to the statement I just made?

Mr. HUCKABY. Yes, I do.

Mr. COLEMAN of Missouri. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired. All time has expired on this amendment.

The question is on the amendment, as modified, offered by the gentleman from Louisiana [Mr. HUCKABY].

The amendment, as modified, was agreed to.

The CHAIRMAN. Under the rule, amendment No. 6 is now in order.

Under the rule, amendment No. 9 is now in order.

Under the rule, amendment No. 11 is now in order.

Mr. MADIGAN. Mr. Chairman, it is not my intention as the sponsor of the amendment to offer it at this time.

Under the rule, amendment No. 12 is now in order by Mr. MADIGAN.

Mr. MADIGAN. Mr. Chairman, I do not choose to offer amendment No. 12.

The CHAIRMAN. Under the rule, amendment No. 14 is now in order.

Under the rule, amendment No. 15 is now in order.

AMENDMENT OFFERED BY MR. SIKORSKI

Mr. SIKORSKI. Mr. Chairman, I offer amendment No. 15.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SIKORSKI: Page 105, after line 10 insert the following:

(h) AFFIRMATIVE ACTION.—Part H of title IV (as so redesignated by section 111(u) of this Act) is amended by adding at the end the following:

"SEC. 4.36. AFFIRMATIVE ACTION.—The Temporary Asssistance Corporation and each institution of the Farm Credit System shall establish and maintain an affirmative action program plan for the hiring, placement, and advancement of socially disadvantaged individuals (as defined in section 8(a)(5) of the Small Business Act (15 U.S.C. 637(a)(5))) in the same manner as executive agencies are required to establish and maintain affirmative action program plans under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16).".

Redesignate all succeeding subsections accordingly.

The CHAIRMAN. The gentleman from Minnestota [Mr. SIKORSKI] is recognized for 5 minutes.

Mr. SIKORSKI. I thank the chairman.

Mr. Chairman, I will not consume that 5 minutes.

Mr. Chairman, I ask that this House today assist in righting a wrong that stalks the Farm Credit System, tainting the beneficial effects of H.R. 3030, the farm credit bill. It has long been the policy of the U.S. Government to provide equal opportunity on the basis of merit and qualifications without discrimination because of race, color, religion, sex, handicap, or national origin. Today, as we begin the authorization of billions of Federal dollars for the Farm Credit System, we must require that the System uniformly maintain and adhere to these rudimentary principles.

My amendment simply requires that the institution of the Farm Credit System establish and maintain positive programs to assure equality of opportunity in the hiring, advancement, and recruitment of their employees. The Farm Credit System is not opposed to this amendment; the Farm Credit System is willing to change. Many, including the Congressional Caucus on Women's Issues [and the Congressional Black Caucus] support this measure. Several districts, including the district in Saint Paul, are already developing programs that will carry out the objective of equal employment.

There can be no argument that Federal dollars should not abet unfair hiring or advancement practices. Extension of the requirements imposed upon all Federal agencies to the Farm Credit System, therefore, is only reasonable. Federal dollars authorized with the passage of this bill will constitute the most substantial portion of the Farm Credit System's capital, and it is our responsibility to see that taxpayers dollars are not being used by a system which excludes or denies significant portions of our citizenry from employment or merited advancement.

Concerns about discrimination within the St. Paul District of the Farm Credit System was the impetus for my review of hiring practices of 12 districts throughout this country. The data I have collected reveal an appalling state of the hiring, placement, and advancement opportunities for women and minorities within the confines of the Farm Credit System. The numbers speak for themselves—Equal Employment Opportunity [EEO] data reported on the personnel composition in 10 of the 12 districts—in the Farm Credit System—that reported to us only 1.1 percent of senior management positions are held by minorities and only 9 percent are held by women. Of 2,925 loan officers in the System, only 8.7 percent are women and 0.9 percent minorities. Conversely, of the 5,302 support staff workers—secretarial and clerical help—95.9 percent are women and 1.9 percent are minorities. Minorities comprise only 1 percent of lower management positions. An independent study, conducted in 1978 by a group known as Symposia Consultants, concluded that in the St. Paul district "systemic discrimination is endemic to the organization and influences virtually every job above the rank of clerical." In fact, in districts with the worst numbers, there are absolutely no women or minorities in senior management positions and only 4 percent of all loan officer positions are held by women. Things haven't changed in almost 10 years, and the EEO statistics I reviewed evidence that under-representation and under-utilization are commonplace to the System nationwide.

The Agriculture Committee recognized this problem in its report.

Since the time of the markup, the statistics from the Farm Credit System and statements that report language won't change a thing have persuaded me that we cannot authorize billions of dollars in public bailout funds without at least requiring FCS institutions to do what other Federal agencies are doing through positive agency programs.

The data accumulated on the Farm Credit System indicates that minorities and women are grossly under-represented throughout the organization. It is not only appropriate, but necessary that we require equal employment opportunity be instituted by the Farm Credit System to address this inequity.

This amendment does not attempt to redress the wrongs of the past, but starts fresh so that the Farm Credit System can move forward with an effective policy for fair hiring, recruitment, and advancement. My amendment addresses the systemic oppression of the traditionally and legally recognized "socially disadvantaged" within the institutions of the Farm Credit System. It gives them a hope that there will be positive change in this System which Federal dollars will foster and that the bill, H.R. 3030, seeks to buttress.

A program for equal opportunity for all persons will: Insure that sufficient resources are available to administer the program in an effective manner; assure that recruitment activities reach all sources of job candidates; utilize to the fullest extent the present skills of each employee; and provide the maximum feasible opportunity for employees to enhance their skills so they may perform at their highest potential and advance in accordance with their abilities.

The administrators of Farm Credit institutions will have to consciously consider the merit of their employment practices. As a cooperative created to democratically meet the needs of the people who comprise it, the FCS should be responsive to both those who utilize it and those who sustain it. My amendment requires each institution to establish and maintain a positive program, but nothing precludes these programs from being developed at the district level—regionally—and adopted by member institutions throughout the System.

We want equal opportunity to become an integral part of the day-today management and personnel policy of the Farm Credit System.

While the Farm Credit System should search out qualified personnel from all segments of our population, they should also assure the best possible utilization of the skills and potential of the present work force. Employees should have the opportunity to the fullest extent practicable to improve their skills so they may qualify for advancement. Those who have the potential to serve at the supervisory level and above should be identified and given the opportunity to develop to their fullest capability.

This year, we officially celebrate the bicentennial of our Constitution. We should honor it by fostering a just appreciation and clear understanding of our constitutional heritage. That heritage lives today by providing the opportunity for meaningful advancement to citizens no matter their race, color, sex, national origin, or handicap.

The Farm Credit System must reconcile itself to the informed conscience of the 1980's. As a people, we have labored hard to achieve fairness. We cannot abandon the struggle now—even as we try to expeditiously avert fiscal crisis in farm credit. We must be faithful to the ideals of a just society and it's democratic government. We must insist, where we can, that those ideals are implemented within institutions under Federal purview.

This may make a real difference in the lives of thousands of employees of the Farm Credit System and demonstrate our commitment to the pursuit of equality in our society. We can make equality of opportunity a reality in the Farm Credit System. Let us reaffirm our dedication to the principles of fairness and equality that have extolled our Nation's greatness for two centuries by voting to apply the principles of the 1964 Civil Rights Act to the Farm Credit System.

The Farm Credit System is willing to change and many others, including the Congressional Caucus on Womens' Issues support this measure.

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The CHAIRMAN. Does the gentleman from Montana [Mr. Marlenee] rise in opposition to the amendment?

Mr. MARLENEE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Montana [Mr. Marlenee] is recognized for 5 minutes.

Mr. MARLENEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think that this is an unneeded complication in the Farm Credit System legislation. We are not addressing fairness of employment or affirmative action. The same laws that apply to any private lending institution apply to the Farm Credit System, and in fact the Farm Credit System, I would hope, would be and should be considered a private lending institution. I do not think that this Congress should impose upon it the same standards that it imposes upon the agencies of the Federal Government.

Mr. COLEMAN. of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to my colleague, the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, I wonder if I could get the attention of the gentleman from Minnesota [Mr. Sikorski] so I could ask him to respond to this question: Is the gentleman aware that the Farm Credit System is not an agency of the Federal Government?

Mr. SIKORSKI. Mr. Chairman, if the gentleman will yield, this gentleman is aware that it is not technically an agency of the Federal Government. It is, however, a creation of the Federal Government, and we are by this bill restructuring it and authorizing Federal tax moneys in billions potentially into that structure, and I think it is, therefore, appropriate.

Mr. COLEMAN of Missouri. But the gentleman is aware that it is not a Federal agency?

Mr. SIKORSKI. It is a creation of the Federal Government, and taxpayers' money will be flowing into the agency.

Mr. COLEMAN of Missouri. I understand that.

Mr. Chairman, if the gentleman will yield, I think it is important to look at what we are talking about, the Farm Credit System. It has what we call agency status, as the gentleman knows. Agency status simply means, as the gentleman has said, that it has been chartered by the Government, but it is not the Government. It is able to do certain things, and it is able to have the implicit guarantees that some investors have always thought were there. They are not really there until we so provide them, and in effect in this bill we are providing some guarantees, if you will.

Mr. MARLENEE. Mr. Chairman, regaining my time just briefly, I would say that we would be opening up the Farm Credit System to litigation in cases where it was impossible to meet the quotas. It may be totally impossible in certain areas to meet the quotas of people who are capable of administering the Farm Credit Act, of administering loans to producers, and I would say that this amendment is ill-conceived.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I appreciate the gentleman's yielding.

I just want to point out that we by this amendment are suddenly making a giant leap, not just in logic but also in legalities, by making the Farm Credit System, as the amendment says, in the same manner as executive agencies are required, et cetera, and I think if we start doing that, for all the good reasons that the gentleman has for those things he intends to do and accomplish—and I would support these reasons—I just think that this is a hybrid organization, and it always has been and always will be until we change it. There are ways of changing it. If the gentleman wants to make this a Government agency, he might introduce a bill to do so. But I think we have got to recognize exactly where we are treading, even though it is getting Federal funds. I do not know whether Chrysler had to do this. I do not know if they were required to do this. I do not know if New York City or anybody else who got Federal funds had to do it. I know there are a lot of places around the country that get Federal funds. I do not know if all these rules and laws follow our trail of money that we leave around here or not.

Mr. MARLENEE. Mr. Chairman, I would ask the gentleman from Missouri this question: Do not the same rules as far as affirmative action and hiring apply to the Farm Credit System as apply to any private insurer or private citizen, any lender or company?

Mr. COLEMAN of Missouri. Any private lender? The gentleman would have to ask that question of the sponsor of the amendment.

The CHAIRMAN. The gentleman from Minnesota [Mr. Sikorski] has 3 minutes remaining, and the gentleman from Montana [Mr. Marlenee] has 1 minute remaining.

Mr. SIKORSKI. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. Volkmer].

Mr. VOLKMER. Mr. Chairman, I would use this time for the purpose of asking a question.

As I understand the gentleman from Minnesota—correct me if I am wrong—the Farm Credit System has agreed to this amendment, and it says that they can abide by it and fulfill their requirements?

Mr. SIKORSKI. Mr. Chairman, if the gentleman will yield to me, the Farm Credit System says they do not object to the amendment. They indicated to me they are willing in fact to change several of the districts that have had difficulties, and they are in the process of changing them right now.

Mr. Chairman, I yield such time as he may consume to the chairman of the committee, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I appreciate the gentleman's yielding this time to me, and I rise in support of his amendment.

Mr. Chairman, for too long has this issue not been addressed in too many areas of our society, and this is but a small step to bring another segment into conformance, as should be done, that which is right, that which is proper. I do not think that it is an imposition upon the Farm Credit System, knowing the people, knowing those who serve, knowing their desires and having worked with them. So I think they would be cooperative in this endeavor.

I do not think the intent of the gentleman is to impose a quota system or anything that is abrasive, anything that would in any way endanger or obstruct their operation. It just says that because of sex, religion, ethnic origin, disability or otherwise they shall not discriminate in employment, in advancement or in how a person is treated.

I think in working with oversight, we can work with the Farm Credit System, guide them along the way, and take this very small step to do something that needs to be done, something that should be done, so that we can bring in all of the family of this great Government of ours, as a full agency, a half agency, a hybrid agency, or wherever we can reach to see that right prevails.

Mr. Chairman, I thank the gentleman for offering this amendment.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. SIKORSKI] has expired.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the gentleman from Minnesota [Mr. SIKORSKI] be given an additional 4 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. I yield to the gentleman from Montana, the ranking minority member.

Mr. MARLENEE. Mr. Chairman, I do not have any disagreement with the statement of the chairman of the full committee. However, there is a difference, and I wish to emphasize that difference.

In private business, discrimination is prohibited, and let it be understood that this gentleman from Montana has no quarrel with discrimination being prohibited. However, in affirmative action it is not required in private business, and what we are saying is that the Farm Credit System will in fact go out with an affirmative action program.

Mr. Chairman, I thank the gentleman for yielding.

Mr. SIKORSKI. Mr. Chairman, reclaiming my time, I would just make the point that they are going to be doing the same thing that Farmers Home and the Farm Credit Administration and other have to do.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. SIKORSKI. Certainly, I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding, and I rise as a Member who intends to support the amendment offered by the gentleman from Minnesota [Mr. SIKORSKI] for the reasons stated by the gentleman from Texas [Mr. DE LA GARZA], but I do think one issue has been raised here that needs to be addressed. That issue has at least been tangentially touched upon, and that is that in some small communities in sparsely populated Western States in particular it would by very difficult for a local office of the Farm Credit Administration to find the people that would be candidates for employment under an affirmative action program. There may be communities and there probably are communities where there are no residents of the community that are members of particular minority groups.

I wonder if the gentleman has any objection, if we keep the process moving here and accept the amendment, to our looking at that in conference and seeing if we can deal with those very occasional and remote situations?

Mr. SIKORSKI. Mr. Chairman, I think the gentleman raises a good point, and I asked that question. There are two kinds of issues here. One is the requirement that only goes to the areas covered by it, and we are trying to match numbers within that area covered generally, and there should not be those kinds of problems.

Second, the amendment is drafted to only include those institutions with 20 or more employees. Further, I have stated that this specifically allows programs being developed at the district or regional or even national level to be adopted below so that those smaller agencies are not burdened with paperwork but are aware of the kinds of responsibilities they have.

Mr. MADIGAN. Mr. Chairman, I think the gentleman has anticipated the problem very well. I believe the amendment should be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. SIKORSKI].

The amendment was agreed to.

The CHAIRMAN. Under the rule, amendment No. 17 is next in order.

AMENDMENT OFFERED BY MR. WATKINS

Mr. WATKINS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. WATKINS: Page 22, after line 20 insert the following:

(g) RIGHT TO SUE; STANDING.—Title IV (12 U.S.C. 2151 et seq.) is amended by adding after the part added by section 102 the following:

"PART J—RIGHT TO SUE; STANDING

"SEC. 4.51. RIGHT OF ACTION; JURISDICTION; STANDING.—(a) Subject to subsection (c), any person shall have the right to sue—

"(1) any institution of the Farm Credit System for violation of—

"(A) any duty, standard, or limitation prescribed under this Act and owing to such person; or

"(B) any order issued by the Farm Credit Administration with respect to any such duty, standard, or limitation owing to such person; and

"(2) the Farm Credit Administration for the failure to perform any act or duty prescribed under this Act to the extent it is not discretionary.

"(b) The United States district courts shall have original jurisdiction, without regard to the amount in controversy, over any action brought under subsection (a).

"(c) A person shall have standing to sue under this section if such person suffers legal wrong or is aggrieved or adversely affected by the violation or violations on which this suit is based.

"(d) This section shall not affect the right any person may otherwise have under this Act or any other statute to sue any institution of the Farm Credit System or the Farm Credit Administration.".

Redesignate all succeeding subsections accordingly.

The CHAIRMAN. The gentleman from Oklahoma [Mr. WATKINS] is recognized for 5 minutes in support of his amendment.

Mr. WATKINS. Mr. Chairman, I yield myself such time as I may consume, and I will not take the full 5 minutes. I think the amendment is self-explanatory.

My amendment would allow the borrower the right to sue. I really believe in my heart that the right to sue is implied within the bill itself, but I think it is our responsibility and our obligation to make sure that there is no question that the borrower has that right. If a person has a loan and has worked with the Farm Credit System and has suffered some legal wrong or been aggrieved or adversely affected by certain violations of the Farm Credit System, they should have a right to be able to sue.

Every one of us in this Chamber today has heard of dictatorial actions, and we have heard of rigid abuses from individuals against the farmer and against the landowner, and they really have had no recourse to try to remedy their problems. I think my amendment assures them that they have that right if they can prove the wrong.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Missouri.

MODIFICATION OF AMENDMENT OFFERED BY MR. VOLKMER TO THE AMENDMENT OFFERED BY MR. WATKINS

Mr. VOLKMER. Mr. Chairman, I notice in the gentleman's presentation he said the borrower has the right to sue. In the amendment, I find on the second line, after "Sec. 4.51," it says "any person."

Would the gentleman have any objection to a unanimous-consent request to delete the word "person," and insert in lieu thereof the word "borrower"?

Mr. WATKINS. Mr. Chairman, I have no objection. I think that is a very good perfecting amendment. It narrows it down, and I think that would be very much in order.

Mr. VOLKMER. Mr. Chairman, I make that unanimous-consent request.

Mr. CHAIRMAN. For the benefit of the Chair, would the gentleman state the modification once again, please?

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that the word "person", as it appears in the second line after "Sec. 4.51" be stricken and the word, "borrower", be inserted in lieu thereof.

Mr. WATKINS. Mr. Chairman, if the gentleman will yield, that should appear within the entire amendment. The word "person", should be substituted for "borrower".

Mr. VOLKMER. Yes, wherever the word "person", appears, the word "borrower", should be inserted in lieu thereof.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. Watkins as modified: Page 22 after line 20 insert the following:

(g) The Right To Sue; Standing.—Title IV (12 U.S.C. 2151 et seq.) is amended by adding after the part added by section 102 the following:

"Part J—Right To Sue; Standing

"Sec. 4.51. Right of Action; Jurisdiction; Standing.—(a) Subject to subsection (c), any borrower shall have the right to sue—

"(1) any institution of the Farm Credit System for violation of—

"(A) any duty, standard, or limitation prescribed under this Act and owing to such borrower; or

"(B) any order issued by the Farm Credit Administration with respect to any such duty, standard, or limitation owing to such borrower, and

"(2) the Farm Credit Administration for the failure to perform any act or duty prescribed under this Act to the extend it is not discretionary.

"(b) The United States district courts shall have original jurisdiction, without regard to the amount in controversy, over any action brought under subsection (a).

"(c) A borrower shall have standing to sue under this section if such borrower suffers legal wrong or is aggrieved or adversely affected by the violation or violations on which this suit is based.

"(d) This section shall not affect the right any borrower may otherwise have under this Act or any other statute to sue any institution of the Farm Credit System or the Farm Credit Administration.".

Redesignate all succeeding subsections accordingly.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I support the amendment offered by my colleague, the gentleman from Oklahoma [Mr. Watkins]. I think it is an excellent amendment.

One of the problems that exists for borrowers out in the area is the fact that it is almost impossible when you are dealing with a local credit institution and a regional institution and the Farm Credit Administration to get a forum where you can address the problems in a court without going to very extensive litigation in a number of different forums, and it costs one an arm and a leg. This amendment simplifies that, and, therefore, I support the amendment.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding.

I notice that the gentleman's amendment, under section 4.51, subparagraph (B), makes the U.S. district court the court of original jurisdiction without regard to the amount in controversy. I wonder if it is the gentleman's intention, considering the backlog of business that already exists at the district court level, that disputes of $400 or $700, things like that, actually be litigated at the Federal district court level as the court of original jurisdiction.

□ 1530

Mr. WATKINS. Mr. Chairman, I think without question, the district courts are busy. However, most of the time when we are dealing with the Farm Credit System, that we are dealing with a much larger amount than that; and I know the gentleman from Illinois [Mr. Madigan] is concerned about, like I am, trying to make sure we get a fair and just hearing for the farmer if the farmer has to take it to a court.

I thought about it, and I knew of no better place, since I do not know from the standpoint of the gentleman from Illinois, I do not know of any that are small amounts. They are usually large amounts and would probably have to be in district court anyway.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. Watkins] has expired.

Mr. MADIGAN. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma be given an additional 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MADIGAN. Mr. Chairman, would the gentleman yield further?

Mr. WATKINS. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding to me.

There are other provisions in this bill and in current law that deal with the causes of action, notwithstanding borrowers' rights, particularly in the legislation before the House.

I would say, with all due respect to the gentleman and his amendment, I think some of the language in the amendment is at odds with things in current law and with other provisions in this bill; but because the borrowers' rights section of the bill is pretty explicit, does the gentleman have any objection as we move on through the process for establishing some threshold for this kind of action that is contained in the gentleman's amendment?

Mr. WATKINS. I have no objection to that, and would welcome that as the gentleman goes along in the process, in the conference or something, and if the gentleman feels like strengthening it, I think the gentleman from Illinois would make a good point.

I know the gentleman is a fighter for trying to put a little language in there to try to assist the farmers, and I think in the gentleman's good wisdom, and that of the conference committee as it moves along, the gentleman could feel free to alter it in that way.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from Illinois [Mr. Madigan] has raised an important point. I think a threshold would be appropriate. As this thing moves along, I am sure that could be accommodated.

Another amendment that was offered that was part of the en bloc amendments earlier would conform to State laws such as anticorporate farm legislation and other things, and that is an important amendment.

I also wanted to take the time, I might, while the gentleman from Oklahoma and I were at the Committee on Rules dealing with a few other issues since incorporated in the en bloc amendments, they include a requirement that the head of the Farmers Home Administration would notify 60 days prior to the issuing of regulations, using certain ratios to assess who might to able to borrow from the

Farmers Home Administration and who might not.

There has been a real furor about those regulations, and we have taken care of that in this bill.

The second amendment in those en bloc amendments would require yearly reporting by the Farm Credit System to tell Congress how the savings that they are going to realize as a result of Government guarantees here will be used, because most of the Members believe here to the extent that we are using the Federal Government's financial resources to help this system we want that to translate into help from the borrowers in this system.

We want this to ultimately transfer into lower interest rates for the family farmers.

A few of the amendments that we have been able to put in, the amendments that the gentleman and I offered up in the Committee on Rules, accomplished that.

Mr. WATKINS. I thank the gentleman for his remarks.

We all are correct. We want to help the system but we are all very concerned about how we help the family farmers, of this great country. That should be our No. 1 goal.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman for yielding to me.

What actually right now is the state of the law as it relates to a borrower's right to sue? He is allowed to sue under State law, but not Federal law?

It would be useful to know what right a borrower would have to enforce a decision by the Farm Credit System right now in court.

Mr. WATKINS. I think, if the gentleman from Kansas might recall, some States do allow it, and some States do not.

What we are saying is, so there will not be any mistake under this particular Federal legislation, that it be established that they do have the right to be able to sue if they feel like they have been legally wronged or adversely affected by some actions from the Farm Credit System.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman; and I appreciate the gentleman's willingness and openness to allow Members to offer some amendments to help the bill.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding to me.

I have no problem with the gentleman's intention in allowing borrowers to sue, although I think basically they have that right now.

The gentleman provides for the Farm Credit System. Also the gentleman provides for the Farm Credit Administration, and that is where my concern is, that under (2), the Farm Credit Administration for the failure to perform any act or duty prescribed under this act to the extent that it is not discretionary, the gentleman is opening that to any borrower, so in effect the gentleman could paralyze the System.

The gentleman is allowing an individual borrower who has no contact with the regulator to paralyze the System.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. WATKINS] has again expired.

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma may have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, will the genleman yield?

Mr. WATKINS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding to me.

I have no problem with the rest of that, that any duty or limitation or any order issued by the Farm Credit Administration that impacts on the borrower, any order, and the gentleman is going to be dealing now hopefully with the Temporary Assistance Corporation, dealing with the regional service center.

The gentleman is going to be dealing with individual associations or production credit associations, so any borrower then can go to the regulator, so what the gentleman is doing is like giving any depositor in the First State Bank of McAlester, OK, the right to sue the FDIC for any action in Federal district court, for any action the FDIC takes anywhere, in New York or Chicago or Mission, TX.

Mr. WATKINS. Mr. Chairman, I appreciate the gentleman's concern. That is not the intent at all.

If the gentleman feels like it needs to be perfected a little bit to clarify that, as the process moves forward, I think it can.

I have long supported the Farm Credit Administration and the system. I feel very strongly about that. However, I think they have paralyzed also many of our farmers in an unjust way, not the heads of the organization of the administration or the system itself, but many of the people who have become kingpin, very dogmatic and surely dictatorial, to say the least, in the way they interpret it.

The farmer found himself not being able to respond and being paralyzed. I would welcome, if there is any perfecting as we go along in the process, I would be willing to accept that.

The CHAIRMAN. The time of the gentleman from Oklahoma [Mr. WATKINS] has again expired.

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the gentleman from Oklahoma be allowed to proceed for 30 additional seconds.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. WATKINS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding to me.

I sympathize with the gentleman, and I may agree to what the gentleman states. I have read the horror stories, but this is the wrong person. This is the wrong entity, and we may open up a Pandora's box. I do not know how to address this issue.

If the gentleman would agree to strike out the section (2) for the time, and then we can continue to work, so that we may be certain that we know what it is we do, the rest of the gentleman's amendment can proceed.

We have already accepted two and three-quarters of the gentleman's amendment. That is not bad for a day's work.

Mr. WATKINS. Let me say this to the gentleman from Texas, I can accept that at this point, because the language that I have here is exactly what is also over in the other body, so when we come to a conference, the conferees will have the good wisdom of working out that section to the best interests of the farmers, so I do not mind striking item 2.

MODIFICATION OF AMENDMENT OFFERED BY MR. DE LA GARZA TO THE AMENDMENT OFFERED BY MR. WATKINS

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent to strike out the paragraph (2) reading "the Farm Credit Administration for the failure to perform any act or duty prescribed under this act to the extent it is not discretionary."

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, and out of deference to the gentleman from Texas [Mr. DE LA GARZA], the chairman of the Committee on Agriculture, I think I shall not object; but it would seem to me that if a borrower can go in and approve an arbitrary and capricious action by the Farm Credit Administration, then he should have the opportunity to do that in a forum, in a court.

I really see nothing wrong with the amendment of the gentleman from Oklahoma as it stands.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

Under (B) "any order issued by the Farm Credit Administration with respect to any such duty, standard, or limitation owing to such person," and here it would be "owing to such borrower" so the gentleman has covered the borrower.

My concern is with the shotgun approach that I am addressing at this point.

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, the gentleman has been very good about all considerations from all Members, and I shall not object.

Again I emphasize that I think the borrower need have the opportunity, should have the opportunity if he feels that the FCA has been arbitrary and capricious.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

We will further work with the gentleman; but just at this point, we would hesitate not being certain exactly as to the full implication of the wording, we will continue working with the gentleman.

Mr. MARLENEE. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Oklahoma [Mr. WATKINS], the author of the amendment.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding to me.

I think item B will take care of probably what we are all trying to get to.

Item 2, I agree with you also, but allowing it to be stricken, move it forward because this total language is in the Senate bill, so therefore, it will be in the conference and between the conferees, we can make sure we have the very strongest language there.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The text of the amendment, as further modified, is as follows:

Amendment offered by Mr. WATKINS: Page 22, after line 20 insert the following:

(g) RIGHT TO SUE; STANDING.—Title IV (12 U.S.C. 2151 et seq.) is amended by adding after the part added by section 102 the following:

"PART J—RIGHT TO SUE; STANDING

"SEC. 4.51. RIGHT OF ACTION; JURISDICTION; STANDING.—(a) Subject to subsection (c), any borrower shall have the right to sue—

"(1) any institution of the Farm Credit System for violation of—

"(A) any duty, standard, or limitation prescribed under this Act and owing to such borrower; or

"(B) any order issued by the Farm Credit Administration with respect to any such duty, standard, or limitation owing to such borrower; and

"(b) The United States district courts shall have original jurisdiction, without regard to the amount in controversy, over any action brought under subsection (a).

"(c) A borrower shall have standing to sue under this section if such borrower suffers legal wrongs or is aggrieved or adversely affected by the violation or violations on which this suit is based.

"(d) This section shall not affect the right any borrower may otherwise have under this Act or any other statute to sue any institution of the Farm Credit System or the Farm Credit Administration.".

Redesignate all succeeding subsections accordingly.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Oklahoma [Mr. WATKINS].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. ESPY

Mr. ESPY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ESPY: Page 144, after line 9 insert the following:

SEC. . FmHA OPERATING LOAN FUNDS.

Subtitle D (7 U.S.C. et seq.) is amended in Section 346(b)(I)(C) by striking the word "may" and inserting "shall" and adding at the end of the subsection the following clause: "as soon as the Secretary has cause to determine by reasonable projection that insured loan funds will be (or already are) fully utilized."

The CHAIRMAN. Under the rule, the gentleman from Mississippi [Mr. ESPY] will be recognized for 5 minutes and a Member opposed to the amendment will be recognized for 5 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I had intended to offer an amendment requiring the Secretary of Agriculture to transfer up to 25 percent of funds in the Farmers Home Loan Guarantee Program to the Farmers Home Direct Loan Program for the purpose of the making of operating loans.

The 1985 farm bill allows at this time such a transfer, but it does not appear that the Secretary of Agriculture has been exercising his discretion in the transfer of these funds.

In most States, it seems that the direct loan program is exhausted, and that the money is available on the guarantee side. I thought that that transfer should have been authorized.

As I said, Mr. Chairman, I had intended to offer that; but for some time considerations and some budgetary considerations, I would rather engage in a colloquy with the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. ESPY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

I would be very happy to discuss the issue with the gentleman.

Mr. ESPY. Mr. Chairman, this is an appropriate time to highlight the authority of the Secretary of Agriculture and to encourage his exercise of that authority to transfer up to 25 percent of the Farmers Home Administration Loan Guarantee Program to the direct loan program as provided within the 1985 farm bill.

After discussing this matter with several farm groups and several of the Members, I am convinced that there might have been times when the Secretary should have used his authority to transfer funds.

I feel that the circumstances will again arise when he will be in error if he should not exercise that authority.

□ 1545

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. ESPY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I basically agree with the gentleman from Mississippi. The authority given to the Secretary is indeed useless if it is not exercised when the circumstances merit the transfer. It would seem that when a State has exhausted its allocation of FmHA direct loan funds and has a sizable amount of guarantee funds available, the Secretary should use the provision under the 1985 farm bill that allows him to transfer up to 25 percent of those guarantee funds to the direct loan program.

Mr. ESPY. Reclaiming my time, Mr. Chairman, the gentleman has touched on an important point, that there is no mandate for the Secretary's action, and any amount up to 25 percent may now be transferred. Because of the budgetary concerns that are represented in a transfer, it is only in the most urgent of cases when I would advocate such a fund transfer. I want a Farmers Home Loan Program, both the guarantee and direct, that is adequately funded and fiscally responsive to the needs of each State's farming community. Mr. Chairman, I know the gentleman understands and appreciates my concern in this matter.

Mr. DE LA GARZA. Mr. Chairman, if the gentleman will yield further, I indeed do understand and share the concerns of our colleague, the gentleman from Mississippi, and will be glad to work with the gentleman on ensuring that the Secretary and the Administrator of the Farmers Home Loan Administration are adequately informed about our concerns. I will work with the gentleman and with other members of the committee and everyone interested in this area to see that the needs of agriculture are adequately met under the existing authority granted to the Secretary and to the Administrator, wherever possible.

Mr. ROBERT F. SMITH. Mr. Chairman, will the gentleman from Mississippi yield?

Mr. ESPY. I am glad to yield to the gentleman from Oregon.

Mr. ROBERT F. SMITH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I endorse the thoughts of the gentleman here. The point is that the 90-percent guaranteed loan is a good idea. It is moving the question of banking to those who understand banking out of the FmHA; however, at the same time there are many States, including my State of Oregon, and obviously some States in the South, that do not embrace the 90 percent guaranteed loan.

My banks in Oregon, my commercial banks, are not participating in the 90-percent guaranteed loan. We do have a problem with running out of funds on the operating side.

Now, to those who will say that it costs money, I only point out that the FmHA I think has tightened their ship, as well as everybody else, so that they ought to be making better loans than they made previously; however, at the same time we are still running out of funds for operating loans in the FmHA. Therefore, we cannot compel commercial banks to embrace our program of the 90 percent guaranteed loan if they do not want it; but if we are running out of money on the operating side, there ought to be a way to transfer those alloted funds to a State to the operating side, understanding that those loans must be made frugally, so that we have a return to the Government.

Mr. Chairman, I thank the gentleman for yielding. I endorse the colloquy and I thank the chairman for understanding this problem.

Mr. ESPY. Mr. Chairman, the gentleman's remarks are well taken. Let me say to the gentleman that I had intended to talk about this amendment.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The CHAIRMAN. The amendment of the gentleman from Mississippi [Mr. ESPY] is withdrawn.

Mr. DE LA GARZA. Mr. Chairman, unless my distinguished colleague, the ranking minority member, has any further suggestions, it would be my hope to rise at this point.

Mr. MADIGAN. Mr. Chairman, will be gentleman from Texas yield?

The CHAIRMAN. Without objection, the gentleman from Texas [Mr. DE LA GARZA] is recognized for 5 minutes.

There was no objection.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished colleague, the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I think the only other business to come before the Committee of the Whole is that all of us join in wishing our distinguished chairman, the gentleman from Texas, a very happy birthday and a speedy return from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The Chair recognizes the distinguished gentleman from Texas and birthday celebrant.

Mr. DE LA GARZA. On that note, Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. MURTHA] having assumed the chair, Mr. TRAXLER, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 3030) to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration today of the bill, H.R. 3030.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 324, PUBLIC DEBT LIMIT INCREASE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the joint resolution (H.J. Res. 324), statutory public debt limit increase.

The SPEAKER pro tempore. The Chair would inquire, has this been cleared by the minority?

Mr. GIBBONS. Yes, Mr. Speaker, it has.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 324

Mr. ROSTENKOWSKI submitted the following conference report and statement on the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt:

CONFERENCE REPORT (H. REPT. 100-313)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2 and 4.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment as follows:

Restore the matter proposed to be stricken out by the Senate amendment, strike out the matter proposed to be inserted by the Senate amendment, and on page 1, line 6, of the House engrossed resolution, strike out "$2,565,100,000,000" and insert the following: *$2,800,000,000,000* and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—DEFICIT REDUCTION PROCEDURES

SEC. 101. REFERENCES IN TITLE; SHORT TITLE.

(a) REFERENCES IN TITLE.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) SHORT TITLE.—This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987".

SEC. 102. AUTOMATIC TRIGGER FOR FISCAL YEARS 1988 THROUGH 1993; OMB AND CBO REPORTS; PRESIDENTIAL ORDER; COMPUTATION OF BUDGET BASE; SEQUESTRATION RULES FOR FISCAL YEARS 1988 THROUGH 1993.

(a) IN GENERAL.—Sections 251 and 252 of the Act are amended to read as follows:

"SEC. 251. REPORTING OF EXCESS DEFICITS.

"(a) INITIAL ESTIMATES, DETERMINATIONS, AND REPORTS BY OMB AND CBO.—

"(1) ESTIMATES AND DETERMINATIONS.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (in this part referred to as the 'Directors') shall with respect to each fiscal year and in accordance with the requirements, specifications, definitions, and calculations required by this part—

"(A) estimate the budget levels of total revenues and outlays that may be anticipated for such fiscal year as of August 15 of the calendar year in which such fiscal year

begins (or as of October 10, 1987, in the case of fiscal year 1988),

"(B) determine whether the projected deficit for such fiscal year will exceed the maximum deficit amount for such fiscal year and whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1993),

"(C) estimate the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, and

"(D) estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year.

"(2) REPORTS.—(A) Based on the estimates and determinations required in paragraph (1) and in accordance with the requirements, specifications, definitions, and calculations required by this part, the Director of the Congressional Budget Office (in this part referred to as the 'Director of CBO') shall issue a report to the Director of the Office of Management and Budget (in this part referred to as the 'Director of OMB') and to the Congress on August 20 of the calendar year in which the fiscal year begins (or on October 15, 1987, in the case of fiscal year 1988) estimating the budget baseline levels of total revenues and total outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such excess is greater than $10,000,000,000 (zero in the case of fiscal year 1993), estimating the amount of net deficit reduction in the budget baseline that has occurred since January 1 of the calendar year in which such fiscal year begins, specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative real economic growth, estimating the aggregate amount of required outlay reductions, and specifying, by account for non-defense programs and by account for defense programs the budget baseline from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to make the reductions required by this part.

"(B) The Director of OMB shall issue a report to the President and the Congress on August 25 of the calendar year in which the fiscal year begins (or on October 20, 1987, in the case of the fiscal year 1988) containing the same information required in subparagraph (A) and the information required in clauses (i) and (ii) for such fiscal year as follows:

"(i) The Director of OMB shall identify and explain any differences between the amount set forth in such report and the corresponding amount set forth in the report of the Director of CBO under subparagraph (A) with respect to—

"(I) the aggregate amount of required outlay reductions;

"(II) the aggregate amount of resources to be sequestered from defense accounts (by type of sequesterable resource) and from non-defense accounts (by type of sequesterable resource); and

"(III) the amount of sequesterable resources for any budget account that is to be reduced if such difference is greater than $5,000,000.

"(ii) The Director of OMB shall calculate and set forth for defense programs (by type of sequesterable resource) and for non-defense programs (by type of sequesterable resource), the amount of reductions in budgetary resources that would be required by this part using his estimate of the aggregate amount of required outlay reductions and applying the technical assumptions (including outlay rates) and methodologies used in the report of the Director of CBO under subparagraph (A). The Director of OMB shall identify and explain any differences between these estimates and such corresponding amounts set forth under clause (i).

"(iii) In the report for a fiscal year (except fiscal year 1988) issued under this subparagraph, the Director of OMB shall assume that the aggregate outlay rate for defense programs covered by paragraph (6)(C), calculated using data on sequesterable resources and account outlay rates applicable to such fiscal year, shall not differ by more than one-half of 1 percent from such aggregate outlay rate calculated using the same data on sequesterable resources but using account outlay rates calculated arithmetically using the applicable sequesterable resources and outlays contained in the report submitted under this Act for the preceding fiscal year as proposed by the Director of OMB. For purposes of this subparagraph, an aggregate outlay rate shall be the average of account outlay rates (expressed as a percentage) with each account outlay rate (as defined in section 257(13)) given a weight that is proportional to the account's share of total sequesterable resources. The calculation of the non-defense aggregate outlay rate for programs covered by paragraph (6)(C), shall be determined using the procedures and restrictions used for determining the aggregate defense outlay rate.

"(iv) The report issued under this subparagraph for any fiscal year (except fiscal year 1988) may not assume aggregate outlays for the health insurance programs under title XVIII of the Social Security Act (before taking into account legislation enacted or regulations prescribed after the current services budget is submitted) which deviate by more than 1 percent from the amount of outlays estimated for such programs in the current services budget submitted by the President pursuant to section 1109(a) of title 31, United States Code, for such fiscal year. For fiscal year 1988 the report issued under this subparagraph shall assume aggregate outlays for such programs (before taking into account legislation enacted or regulations promulgated as final after August 20, 1987) equal to the amount assumed for such programs by the Director of OMB in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987, except that, unless necessary to comply with requirements provided in law, any change in administrative procedures that increases or decreases the average number of days for the payment of claims under title XVIII of the Social Security Act, compared to such average in the preceding fiscal year, shall not be taken into account for purposes of this Act.

"(C)(i) The technical and economic assumptions used by the Director of CBO to calculate the excess deficit shall also be used by the Director of CBO to calculate the unachieved deficit reduction, required outlay reductions and the amounts and percentages by which budgetary resources must be reduced.

"(ii) The technical and economic assumptions used by the Director of OMB to calculate the excess deficit shall also be used by the Director of OMB to calculate the required outlay reductions, the unachieved deficit reduction and the amounts and percentages by which budgetary resources must be reduced.

"(iii) For fiscal year 1988, except as specified in subparagraph (B)(iv), the Director of OMB shall use the same economic and technical assumptions (including outlay rates) that the Director of OMB used in the report submitted to the Temporary Joint Committee on Deficit Reduction on August 20, 1987.

"(iv) For fiscal year 1989 and subsequent fiscal years, to the extent that the report submitted by the President for such fiscal year under section 1106(a) of title 31, United States Code, uses economic and technical assumptions (including outlay rates) that differ from those that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year, the report submitted by the President shall explain and identify such differences. Such report shall provide an estimate of the deficit excess and net deficit reduction in the budget baseline consistent with the estimates that will be used by the Director of OMB in the report to be submitted under subparagraph (B) for such fiscal year. The report submitted by the Director of OMB under subparagraph (B) for such fiscal year shall use the economic and technical assumptions that the report submitted by the President indicated would be used by such Director.

"(3) DETERMINATION OF REDUCTIONS.—

"(A) The aggregate amount of required outlay reductions for a fiscal year shall be determined as follows:

"(i) The aggregate required outlay reductions shall be—

"(I) for fiscal year 1988, the amount of unachieved deficit reduction;

"(II) for fiscal year 1989, zero if the deficit excess is equal to or less than $10,000,000,000, or if not, the lesser of the deficit excess or the amount of unachieved deficit reduction; or

"(III) for fiscal year 1990, 1991, 1992, or 1993, zero if the deficit excess for such fiscal year is equal to or less than the amount of the margin for such fiscal year specified in paragraph (10) of section 257, or if not, the amount of the deficit excess for such fiscal year.

The unachieved deficit reduction shall be $23,000,000,000 in the case of fiscal year 1988 and $36,000,000,000 in the case of fiscal year 1989, minus the net deficit reduction in the budget baseline for such fiscal year, but such unachieved deficit reduction shall not exceed $23,000,000,000 in the case of fiscal year 1988 or $36,000,000,000 in the case of fiscal year 1989. Net deficit reduction in the budget baseline for a fiscal year shall be the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, the snapshot date, as measured using the budget baseline specified in paragraph (6), subtracted from the amount of the estimated deficit for such fiscal year based on laws enacted by, and regulations promulgated as final by, January 1 of the calendar year in which such fiscal year begins as measured by using the budget baseline specified in paragraph (6). Both such deficit estimates for a fiscal year shall be made using the same economic and technical assumptions.

"(ii) As used in this paragraph, the term 'snapshot date' means—

"(I) for fiscal year 1988, in the case of an initial report submitted under subsection (a), October 10, 1987, and in the case of a final report submitted under subsection (c), the latest possible date before its submission;

"(II) for fiscal year 1989 and subsequent fiscal years, in the case of an initial report submitted under subsection (a), August 15, and in the case of a final report submitted under subsection (c), the latest possible date before its submission.

"(B) Subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in this section and in sections 255, 256, and 257, one-half of the aggregate required outlay reductions shall be made under accounts within major functional category 050 (in this part referred to as outlays under 'defense programs'), and shall be made in accordance with the rules prescribed in subsection (d), and the other half of the aggregate required outlay reductions shall be made under other accounts of the Federal Government (in this part referred to as 'non-defense programs').

"(C) The amount by which outlays for automatic spending increases scheduled to take effect during the fiscal year are to be reduced shall be credited as reductions in outlays under non-defense programs, and the total amount of reductions in outlays under non-defense programs required under subparagraph (B) shall be reduced accordingly.

"(D) The maximum reduction permissible for each program to which an exception, limitation, or special rule set forth in subsection (c) or (f) of section 256 applies shall be credited as reductions in outlays under non-defense programs, and the amount of reductions in outlays under non-defense programs shall be further reduced by the amount of the reduction determined with respect to each such program.

"(E)(i) Sequestrations and reductions under the remaining non-defense programs shall be applied on a uniform percentage basis so as to reduce new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 to the extent necessary to achieve any remaining required outlay reductions; except that each of the programs to which the special rules set forth in subsections (d) and (k) of section 256 apply shall not be reduced by more than the percentages specified in such subsections and the uniform percentage reduction applicable to all other programs under this clause shall be increased (if necessary) to a level sufficient to achieve any remaining required outlay reductions.

"(ii) For purposes of determining reductions under clause (i), any reduction in outlays of the Commodity Credit Corporation under an order issued by the President under section 252 for a fiscal year, with respect to contracts entered into during that fiscal year, that will occur during the succeeding fiscal year, shall be credited as reductions in outlays for the fiscal year in which the order is issued.

The determination of which accounts are within major functional category 050 and which are not, for purposes of subparagraph (B), shall be made by the Directors in a manner consistent with the budget submitted by the President for the fiscal year 1986; except that for such purposes no part of the accounts entitled 'Federal Emergency Management Agency, Salaries and expenses (58-0100-0-1-999)' and 'Federal Emergency Management Agency, Emergency management planning and assistance (58-0101-0-1-999)' shall be treated as being within functional category 050.

"(4) ADDITIONAL SPECIFICATIONS.—The reports submitted under paragraph (2) must also specify (with respect to the fiscal year involved)—

"(A) the amount and percentage increase of the automatic spending increase (if any) which is scheduled to take effect in the case of each program providing for such increases, and the amount and percentage increase (if any) of each such increase which will take effect after reduction under this part;

"(B) the amount of the savings (if any) to be achieved in the application of each of the special rules set forth in subsections (c) through (l) of section 256, along with a statement of (i) the new Federal matching rate resulting from the application of subsection (e) of that section, and (ii) the amount of the percentage reduction in payments to the States under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970; and

"(C)(i) for defense programs, by account, the reduction (stated in terms of both percentage and amount) in new budget authority and unobligated balances, together with the estimated outlay reductions resulting therefrom; and

"(ii) for non-defense programs, by account, the reduction, stated in terms of both percentage and amount, in new budget authority; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; obligation limitations; and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; together with the estimated outlay reductions resulting therefrom.

"(5) BASIS FOR DIRECTORS' ESTIMATES, DETERMINATIONS, AND SPECIFICATIONS.—The estimates, determinations, and specifications of the Directors under the preceding provisions of this subsection and under subsection (c) shall utilize the budget baseline, criteria, and guidelines set forth in paragraph (6) and in sections 255, 256, and 257. In estimating the deficit, the excess deficit, and unachieved deficit reduction for an initial report under paragraph (2) or a final report under subsection (c), the Directors shall use the budget baseline set forth in paragraph (6) based on laws enacted by, and regulations promulgated as final by, the snapshot date applicable to such report.

"(6) BUDGET BASELINE.—In estimating the deficit excess and net deficit reduction in the budget baseline and in computing the amounts and percentages by which accounts must be reduced during a fiscal year as set forth in any report required under this subsection for such fiscal year, the budget baseline shall be determined by—

"(A) assuming (subject to subparagraph (B)) the continuation of current revenue law and, in the case of spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974, funding for current law at levels sufficient to fully make all payments required under such law;

"(B) assuming that expiring provisions of law providing revenues and spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974 do expire, except that excise taxes dedicated to a trust fund, and agricultural price support programs administered through the Commodity Credit Corporation are extended at current rates, and contract authority for transportation trust funds is extended at current levels;

"(C) in the case of all accounts to which subparagraph (A) does not apply—

"(i) assuming for an account (except as provided by clause (ii)), appropriations at the level specified in enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, and in addition, estimates of appropriations to cover the costs of Federal pay adjustments as set forth in subparagraph (D)(ii) (unless funding for such pay adjustments are provided for in such measure as explained in the joint explanatory statement of managers accompanying such appropriations);

"(ii) assuming, if no annual appropriations or continuing appropriations for the entire fiscal year have been enacted for an account, subject to subparagraph (D)(iii), appropriations at the level provided for the previous fiscal year, (I) adjusted to reflect the full 12-month costs (without absorption) of the pay adjustment that occurred in such fiscal year, (II) inflated as specified in subparagraph (D)(i), and (III) increased to cover the increased costs to agencies of personnel benefits (other than pay) required by law;

"(D)(i) as required by subparagraph (C)(ii)(II), assuming that the inflator shall equal—

"(I) in the case of fiscal year 1988—

"(aa) for personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, 4.2 percent, multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, 4.2 percent;

"(II) in the case of fiscal year 1989 and subsequent fiscal years—

"(aa) for 70 percent of personnel costs, the rate of Federal pay adjustments for statutory pay systems and elements of military pay if such adjustments have been enacted into law or (on or after October 1 of the fiscal year) have been established pursuant to law for such fiscal year or, if not, at the inflation rate specified in subclause (II)(bb), multiplied by the proportion of the fiscal year for which the pay adjustments will be effective, multiplied by 78 percent; and

"(bb) for all other costs, the percentage by which the average of the estimated gross national product implicit price deflator for such fiscal year exceeds the average of such estimated deflator for the prior fiscal year (and the Director of OMB shall use such percentage as estimated in the budget submitted by the President under section 1105(a) for such fiscal year, but such use shall not constrain the economic assumptions the Director may use under paragraph (2)(C));

"(ii) if required by subparagraph (C)(i), assuming appropriations for a fiscal year in an amount sufficient to—

"(I) cover any Federal pay adjustment for statutory pay systems (including associated adjustments in benefit costs) if such adjustments have been enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law for such fiscal year;

"(II) cover any pay adjustments for elements of military pay (including associated adjustments in benefit costs) if such adjustments are specifically enacted into law or occur pursuant to adjustments for statutory pay systems if such adjustments have been

enacted into law or, on or after October 1 of the fiscal year, have been established pursuant to law;

reduced by 22 percent.

"(iii) assuming for the purposes of subparagraph (C)(ii) that the amount provided for an account for the previous fiscal year is the amount provided in any enacted annual appropriations or continuing appropriations enacted for the entire fiscal year, as modified by any enacted supplemental appropriations or rescission bills, and if a temporary continuing appropriation is in effect for the previous fiscal year, then the amount provided for such account for the previous fiscal year shall be assumed to be the amount that would have been enacted if such continuing appropriations were in effect for the entire fiscal year;

"(E) assuming that medicare spending levels for inpatient hospital services will be based upon the regulations most recently issued in final form or proposed by the Health Care Financing Administration pursuant to sections 1886(b)(3)(B), 1886(d)(3)(A), and 1886(e)(4) of the Social Security Act;

"(F) assuming that, unless otherwise required by law, advance deficiency payments and paid land diversion payments under the Agricultural Act of 1949 will be made in accordance with applicable regulations and payment rates for 1987;

"(G) assuming that the increase in revenues attributable to any increase in appropriations available for administration and enforcement of the Internal Revenue Code of 1986 (over the amount actually appropriated for the previous fiscal year) is consistent on a proportional basis with the increase in revenues projected to result from the increased appropriations for such purposes in the budget submitted under section 1105(a) of title 31, United States Code, for such fiscal year;

"(H) assuming, unless otherwise provided by law, that the increase for Veterans' compensation (36-0153-0-1-701) for a fiscal year will be the same as that required by law for Veterans' pensions;

"(I) assuming, for purposes of this paragraph and subparagraph (A)(i) of paragraph (3), that the sale of an asset or prepayment of a loan shall not alter the deficit or produce any net deficit reduction in the budget baseline, except that the budget baseline estimate shall include asset sales mandated by law before September 18, 1987, and routine, ongoing asset sales and loan prepayments at levels consistent with agency operations in fiscal year 1986;

"(J) assuming that deferrals proposed during the period beginning October 1 of such fiscal year and ending with the snapshot date for such fiscal year shall not be taken into account in determining such budget baseline; and

"(K) assuming that the transfer of government actions from one fiscal year to another fiscal year, as described in section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, shall not be taken into account except to the extent provided in such section.

Terms used in this paragraph shall have the meanings defined in sections 256 and 257.

"(b) DATES FOR SUBMISSION AND PRINTING OF REPORTS.—Each report submitted under this section shall be submitted to the Federal Register on the day that it is issued and printed on the following day. If the date specified for the submission of a report by the Directors or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such report shall be submitted or printed on the following day.

"(c) REVISED ESTIMATES, DETERMINATIONS, AND REPORTS.—

"(1) REPORTS BY CBO.—On November 15 of fiscal year 1988 and on October 10 of subsequent fiscal years, the Director of CBO shall issue a revised report to Congress and the Director of OMB—

"(A) indicating whether and to what extent, as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which the fiscal year begins (or after October 10, 1987, in the case of the fiscal year 1988) the aggregate amount of required outlay reductions identified in the report submitted under subsection (a)(2)(A) has been eliminated, reduced, or increased,

"(B) adjusting the determinations made under subsection (a)(2)(A) to the extent necessary, and

"(C) specifying by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts and percentages by which such programs, projects, and activities must be reduced.

"(2) REPORTS BY OMB.—On November 20 of fiscal year 1988 and on October 15 of subsequent fiscal years, the Director of OMB shall submit to the President and the Congress a report revising the report issued under subsection (a)(2)(B), adjusting the estimates, determinations, and specifications contained in the report and taking into account for the purposes of required determinations and comparisons the revised report issued by the Director of CBO under paragraph (1). This report shall contain all of the determinations and comparisons required in, and shall be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget baseline and the same criteria and guidelines as, the report issued under subsection (a)(2)(B), and shall provide for the determination of reductions in the manner specified in subsection (a)(3). In addition, this report shall specify by programs, projects, and activities for defense accounts, the budget baseline from which reductions are taken and the amounts by which such programs, projects, and activities must be reduced.

"(d) SEQUESTRATION OF DEFENSE PROGRAMS.—

"(1) DETERMINATION OF UNIFORM PERCENTAGE.—The total amount of reductions in outlays under defense programs required for a fiscal year under subsection (a)(3)(B) shall be calculated as a percentage of the total amount of outlays for the fiscal year estimated to result from new budget authority and unobligated balances for defense programs.

"(2) SEQUESTRATION OF NEW BUDGET AUTHORITY AND UNOBLIGATED BALANCES.—

"(A) Sequestration to achieve the required reduction in outlays under defense programs shall be made by reducing new budget authority and unobligated balances (if any) in each program, project, or activity under accounts within defense programs by the percentage determined under paragraph (1), computed on the basis of the combined outlay rate for new budget authority and unobligated balances for such program, project, or activity determined under subparagraph (B).

"(B) If the outlay rate for unobligated balances is not available for any program, project, or activity, the outlay rate used shall be the outlay rate for new budget authority.

"(3) FLEXIBILITY WITH RESPECT TO MILITARY PERSONNEL ACCOUNTS.—

"(A) Notwithstanding paragraphs (1) and (2), with respect to a fiscal year the President may, with respect to any military personnel account—

"(i) exempt any program, project, or activity within such account from the order;

"(ii) provide for a lower uniform percentage to be applied to reduce any program, project, or activity within such account than would otherwise apply; or

"(iii) take actions described in both clauses (i) and (ii).

"(B) If the President uses the authority under subparagraph (A), the total amount by which outlays are not reduced for such fiscal year in military personnel accounts by reason of the use of such authority shall be determined. Additional reductions in outlays under defense programs in such total amount shall be achieved by a uniform percentage sequestration of new budget authority and unobligated balances in each program, project, and activity within each account within major functional category 050 other than those military personnel accounts for which the authority provided under subparagraph (A) has been exercised, computed on the basis of the outlay rate for each such program, project, and activity determined under paragraphs (1) and (2).

"(C) The President may not use the authority provided by subparagraph (A) unless he notifies the Congress on or before October 10, 1987, in the case of fiscal year 1988, or August 15 of the calendar year in which the fiscal year begins in the case of any subsequent fiscal year, of the manner in which such authority will be exercised. The Directors shall reflect the results of authority exercised under this paragraph in the reports required under section 251(a)(2).

"(e) EXCEPTION.—The preceding provisions of this section shall not apply if a declaration of war by the Congress is in effect.

"SEC. 252. PRESIDENTIAL ORDER.

"(a) ISSUANCE OF INITIAL ORDER.—

"(1) IN GENERAL.—On August 25 (or October 20, 1987, in the case of fiscal year 1988), following the submission of a report by the Director of OMB under section 251(a)(2)(B), the President, in strict accordance with the requirements of paragraph (2) and section 251(a)(3) and (4) and subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in sections 255, 256, and 257, shall make all the reductions specified in such report by issuing an order that (notwithstanding the Impoundment Control Act of 1974)—

"(A) in accordance with such report, suspends the operation of each provision of Federal law that would (but for such order) require an automatic spending increase to take effect during such fiscal year in such a manner as to prevent such increase from taking effect, or reduce such increase, in accordance with such report; and

"(B) in accordance with such report, sequesters new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations—

"(i) for funds provided in annual appropriation Acts, from each affected program, project, and activity (as set forth in the most recently enacted applicable appropriation Acts and accompanying committee reports for the program, project, or activity in-

volved, including joint resolutions providing continuing appropriations and committee reports accompanying Acts referred to in such resolutions), applying the same reduction percentage as the percentage by which the account involved is reduced in the report submitted under section 251(a)(2)(B) or from each affected budget account if the program, project, or activity is not so set forth, and

"(ii) for funds not provided in annual appropriation Acts, from each budget account activity as identified in the program and financing schedules contained in the appendix to the Budget of the United States Government for that fiscal year, applying the same reduction percentage as the percentage by which the account is reduced in such report.

"(2) ORDER TO BE BASED ON DIRECTOR OF OMB'S REPORT.—The order must provide for reductions in the manner specified in section 251(a)(3), must incorporate the provisions of the report submitted under section 251(a)(2)(B), and must be consistent with such report in all respects. The President may not modify or recalculate any of the estimates, determinations, specifications, bases, amounts, or percentages set forth in such report in determining the reductions to be specified in the order with respect to programs, projects, and activities, or with respect to budget activities, within an account.

"(3) ORDER REQUIRED IF NO REDUCTIONS ARE NEEDED.—If the report submitted under section 251(a)(2)(B) states that no aggregate outlay reductions are required for a fiscal year, the order issued by the President shall so state.

"(4) EFFECT OF SEQUESTRATION UNDER INITIAL ORDER.—

"(A) IN GENERAL.—Notwithstanding section 257(7), amounts sequestered under an order issued by the President under paragraph (1) shall be withheld from obligation or expenditure pending the issuance of a final order under subsection (b) and shall be permanently sequestered or reduced in accordance with such final order upon the issuance of such order.

"(B) SPECIAL RULE CONCERNING REDUCTION OF PAYMENTS UNDER THE MEDICARE PROGRAM.—

"(i) IN GENERAL.—With respect to services furnished during the interim period (as defined in clause (iii)) for any fiscal year, and notwithstanding any other provision of this Act, payments under the health insurance programs under title XVIII of the Social Security Act shall not be reduced by an initial order under this subsection for that fiscal year.

"(ii) DIRECTOR OF OMB TO DETERMINE ANNUALIZED PERCENTAGE REDUCTION.—The Director of OMB, in consultation with the Secretary of Health and Human Services, shall determine a percentage reduction which shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished in any fiscal year after the interim period for that year, such that the reduction made in such payments under the final order under subsection (b) for that year shall achieve a total reduction of 2 percent (or, if lower, the uniform percentage reduction provided under section 251(a)(3)(E)(i)) in such payments for such fiscal year as determined on a 12-month basis.

"(iii) INTERIM PERIOD.—In this subparagraph, the term 'interim period' means, with respect to a fiscal year, the period beginning on October 1 of the fiscal year and ending on the date of the issuance of the final order under subsection (b) with respect to that fiscal year.

"(5) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues an initial order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message containing all the information required by section 251(a)(4) and further specifying in strict accordance with paragraph (2)—

"(A) within each account, for each program, project, and activity, or budget account activity, the base from which each sequestration or reduction is taken and the amounts which are to be sequestered or reduced for each such program, project, and activity or budget account activity; and

"(B) such other supporting details as the President may determine to be appropriate.

Upon receipt in the Senate and the House of Representatives, the message (and any accompanying proposals made under subsection (c)(1)) shall be referred to all committees with jurisdiction over programs, projects, and activities affected by the order.

"(6) EFFECTIVE DATE OF INITIAL ORDER.—

"(A) FISCAL YEAR 1988.—The order issued by the President under paragraph (1) with respect to fiscal year 1988 shall be effective as of the day it is issued (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(B) FISCAL YEARS 1989-1993.—The order issued by the President under paragraph (1) with respect to the fiscal year 1989 or any subsequent fiscal year shall be effective as of October 1 of such fiscal year (and the President shall withhold from obligation or expenditure as provided in paragraph (4), pending the issuance of the final order under subsection (b), any amounts that are sequestered under such order).

"(7) TREATMENT OF AUTOMATIC SPENDING INCREASES.—

"(A) FISCAL YEARS 1987-1993.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the first day of such fiscal year and ending with the date on which a final order is issued pursuant to subsection (b) shall be suspended until such final order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such final order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such final order provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause.

"(B) PROHIBITION AGAINST RECOUPMENT.—Notwithstanding subparagraph (A), if an amount required to be withheld is paid, no recoupment shall be made against an individual to whom payment was made.

"(C) EFFECT OF LUMP-SUM PAYMENTS ON NEEDS-RELATED PROGRAMS.—Lump-sum payments made under the last sentence of subparagraph (A) shall not be considered as income or resources or otherwise taken into account in determining the eligibility of any individual for aid, assistance, or benefits under any Federal or federally assisted program which conditions such eligibility to any extent upon the income or resources of such individual or his or her family or household, or in determining the amount or duration of such aid, assistance, or benefits.

"(b) ISSUANCE OF FINAL ORDER.—

"(1) IN GENERAL.—On October 15 of the fiscal year (or on November 20, 1987, in the case of fiscal year 1988), after the submission of the revised report by the Director of OMB under section 251(c)(2), the President shall issue a final order under this section to make all of the reductions and sequestrations specified in such report, but only to the extent and in the manner provided in such report. The order issued under this subsection—

"(A) shall include the same reductions and sequestrations as the initial order issued under subsection (a), adjusted to the extent necessary to take account of any changes in relevant amounts or percentages determined by the Director of OMB in the revised report submitted under section 251(c)(2), and shall include a reduction in payments under the health care programs under title XVIII of the Social Security Act determined in accordance with subsection (a)(4)(B)(ii),

"(B) shall make such reductions and sequestrations in strict accordance with the requirements of sections 251(a) (3) and (4), and

"(C) shall utilize the same criteria and guidelines as those which were used in the issuance of such initial order under subsection (a).

The provisions of section 251(a)(3) shall apply to the revised report submitted under section 251(c)(2) and to the order issued under this subsection in the same manner as such provisions apply to the initial report issued under section 251(a)(2)(B) and to the order issued under subsection (a).

"(2) ORDER REQUIRED IF DEFICIT REDUCTION IS ACHIEVED.—If the Director of OMB issues a revised report under section 251(c)(2) stating that as a result of laws enacted and regulations promulgated as final after August 15 of the calendar year in which such fiscal year begins (or October 10, 1987, in the case of fiscal year 1988) no deficit reduction is necessary to fully satisfy the requirements of section 251(a)(3)(A), the order issued under this subsection shall so state and shall make available for obligation and expenditure any amounts withheld pursuant to subsection (a)(4) or (a)(7).

"(3) EFFECTIVE DATE OF FINAL ORDER.—

"(A) The final order issued by the President under paragraph (1) shall become effective on the date of its issuance, and shall supersede the initial order issued under subsection (a)(1).

"(B) Any modification or suspension by such order of the operation of a provision of law that would (but for such order) require an automatic spending increase to take effect during the fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).

"(4) ACCOMPANYING MESSAGE.—Not later than the 15th day beginning after the President issues a final order under paragraph (1) for any fiscal year, the President shall transmit to both Houses of Congress a single message in the same manner as, and con-

taining all the information required by subsection (a)(5).

"(c) PROPOSAL OF ALTERNATIVES BY THE PRESIDENT.—

"(1) IN GENERAL.—A message transmitted pursuant to subsection (a)(5) with respect to a fiscal year may be accompanied by a proposal setting forth in full detail alternative ways to reduce the deficit for such fiscal year in an amount not less than the deficit reduction required under section 251(a)(3) for such fiscal year.

"(2) FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES.—

"(A) Subject to subparagraphs (B), (C), and (D), and subsection (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under subsection (b)(1) for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subparagraph, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 251(c)(2).

"(B) No actions taken by the President under subparagraph (A) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

"(C) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

"(i) the President submits a single report to Congress specifying changes proposed to be made for such fiscal year pursuant to this paragraph; and

"(ii) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

"(D) Within 5 calendar days of session after the President submits a report to Congress under subparagraph (C)(i) for a fiscal year, but before November 25, 1987, for fiscal year 1988 or, in the case of any subsequent fiscal year, before October 20 of such fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

"(E)(i) The matter after the resolving clause in any joint resolution introduced pursuant to subparagraph (D) shall be as follows: 'That the report of the President as submitted on [Insert Date] under section 252(c)(2)(C)(i) is hereby approved.'.

"(ii) The title of the joint resolution shall be 'Joint resolution approving the report of the President submitted under section 252(c)(2)(C)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(iii) Such joint resolution shall not contain any preamble.

"(F)(i) A joint resolution introduced in the House of Representatives under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(ii) A joint resolution introduced in the Senate under subparagraph (D) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment made in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense).

"(iii) On or after the third calendar day (excluding Saturdays, Sundays, and legal Holidays) beginning after a joint resolution is placed on the appropriate calendar, notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III and IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(G)(i) In the Senate, debate on a joint resolution introduced under subparagraph (D), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subparagraph (D) shall be limited to not more than 4 hours which shall be equally divided between the chairman of the Committee on Appropriations and the ranking minority member of such committee.

"(ii) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit, with or without instructions, is in order.

"(H)(i) In the House of Representatives, an amendment and any amendment to an amendment is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) insofar as they relate to major function 050 (national defense) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(iv) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subparagraph (D) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

"(v) For purposes of the application of clause (iv), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(I) Immediately following the conclusion of the debate on a joint resolution introduced under subparagraph (D), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under subparagraph (H) (except in the House of Representatives for the motion to recommit and the disposition of any amendment proposed in a motion to recommit which has been adopted), the vote on final passage of the joint resolution shall occur.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subparagraph (D) shall be decided without debate.

"(K) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(L) If, before the passage by the Senate of a joint resolution of the Senate introduced under subparagraph (D), the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D), then the following procedures shall apply:

"(i) The joint resolution of the House of Representatives shall not be referred to a committee.

"(ii) With respect to a joint resolution introduced under subparagraph (D) in the Senate—

"(I) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(II)(aa) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(bb) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(iii) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

"(M) If the Senate receives from the House of Representatives a joint resolution introduced under subparagraph (D) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

"(d) EXISTING PROGRAMS, PROJECTS, AND ACTIVITIES NOT TO BE ELIMINATED.—No action taken by the President under subsection (a) or (b) of this section shall have the effect of eliminating any program, project, or activity of the Federal Government.

"(e) RELATIVE BUDGET PRIORITIES NOT TO BE ALTERED.—Nothing in the preceding provisions of this section shall be construed to give the President new authority to alter the relative priorities in the Federal budget that are established by law, and no person who is or becomes eligible for benefits under any provision of law shall be denied eligibility by reason of any order issued under this part.

"(f) PART-YEAR APPROPRIATIONS.—

"(1) EFFECT OF FINAL ORDER ON PART-YEAR APPROPRIATION.—If, at the time the President issues a final order for any fiscal year, there is in effect an Act making or continuing appropriations for part of the fiscal year for any budget account which is subject to reduction under the order, then the amount sequestered upon issuance of the order for that account shall be equal to the reduction amount for such account required by the final order multiplied by a fraction the numerator of which is the number of days during the fiscal year with respect to which the Act applies and the denominator of which is 365.

"(2) EFFECT OF SUBSEQUENT APPROPRIATION ON FINAL ORDER.—

"(A) If, after the issuance of a final order for a fiscal year under subsection (b), an Act referred to in paragraph (1) is extended or an Act making or continuing appropriations for part of the fiscal year for the account is enacted, then additional amounts determined in the same manner shall be sequestered.

"(B) Upon enactment of a full-year appropriation (including a continuing appropriation for the full year) for the account, the full amount of the sequestration specified by the final order, reduced by the sum of amounts previously sequestered and savings achieved by such appropriation measure when the amount enacted is less than the budget baseline for such account, shall be sequestered, except that the sum shall not exceed the amount specified in the final order for the account.

"(3) EFFECTIVE DATE OF SEQUESTRATIONS.—Amounts required to be sequestered by the President under paragraph (1) or (2) shall be sequestered not later than the close of the fifth calendar day beginning after the date of enactment into law of the relevant Act referred to in paragraph (1) or (2).

"(g) PRINTING OF ORDERS.—Each initial order and final order issued under this section shall be submitted to the Federal Register on the date it is issued and printed on the following day. If the date specified for the issuance of an order or its printing in the Federal Register under this section falls on a Sunday or legal holiday, such order shall be issued or printed on the following day.".

(b) CONFORMING AMENDMENTS.—

(1) CONGRESSIONAL PROCEDURES.—Section 254(b)(1)(A) of the Act is amended by striking out "the Comptroller General under section 251(c)(2)" and by inserting in lieu thereof "the Director of OMB under section 251(c)(2)".

(2) SEQUESTRATIONS.—Section 256(a)(2) of the Act is amended to read as follows:

"(2) SEQUESTRATIONS.—Any amounts of new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; or obligation limitations which are sequestered or automatic spending increases which are reduced under an order issued under section 252 are permanently cancelled or reduced; with the exception of amounts sequestered or reduced in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law, including the provisions of this Act.".

(3) TREATMENT OF OBLIGATED BALANCES.—Section 256(l) of the Act is amended to read as follows:

"(l) TREATMENT OF OBLIGATED BALANCES.—Obligated balances shall not be subject to reduction under an order issued under section 252.".

(4) DEFINITION OF SEQUESTRATION.—Section 257(7) of the Act is amended to read as follows:

"(7) The terms 'sequester' and 'sequestration' (subject to section 252(a)(4)) refer to or mean the reduction or cancellation of new budget authority; unobligated balances, new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations.".

(5) DEFINITION OF SEQUESTERABLE RESOURCE.—Section 257 of the Act is amended by adding after paragraph (8) the following new paragraph:

"(9) The term 'sequesterable resource' means new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; spending authority as defined in section 401(c)(2) of the Congressional Budget Act of 1974; and obligation limitations for budget accounts, programs, projects, and activities that are not exempt from reduction or sequestration under this part.".

(6) CLARIFYING AMENDMENT RESPECTING APPROPRIATED ENTITLEMENTS.—Section 257 of the Act is amended by adding after paragraph (10) the following new paragraph:

"(11) As used in this part, all references to section 401(c)(2) of the Congressional Budget Act of 1974 shall include (but are not limited to) payments to any person or government under terms of law for the following programs:

"(A) Claims, defense (97-0102-0-1-051).

"(B) Veterans compensation (36-0153-0-1-701).

"(C) Veterans pensions (36-0154-0-1-701).

"(D) Burial benefits and miscellaneous assistance (36-0155-0-1-701).

"(E) Readjustment benefits (36-0137-0-1-702).

"(F) Loan guaranty revolving fund (36-4025-0-3-704).

"(G) Guaranteed student loans (91-0230-0-1-502).

"(H) Social services block grant (75-1634-0-1-506).

"(I) Family social services (75-1645-0-1-506).

"(J) Rehabilitation services and handicapped research (91-0301-0-1-506).

"(K) Grants to States for medicaid (75-0512-0-1-551).

"(L) Special benefits for disabled coal miners (75-0409-0-1-601).

"(M) Black lung disability trust fund (20-8144-0-7-601).

"(N) Special benefits (16-1521-0-1-602).

"(O) Federal unemployment benefits and allowances (16-0326-0-1-603).

"(P) Supplemental security income program (75-0406-0-1-609).

"(Q) Family support payments to States (75-1501-0-1-609).

"(R) Food stamp program (12-3505-0-1-605).

"(S) Child nutrition programs (12-3539-0-1-605).

"(T) Retired pay, coast guard (69-0241-0-1-403).

"(U) Government payment for annuitants, employees health benefits (24-0206-0-1-551).".

(7) DEFINITIONS OF ASSET SALE AND LOAN PREPAYMENT.—Section 257 of the Act is amended by adding after paragraph (11) the following new paragraph:

"(12) The sale of an asset means the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States. The term 'prepayment of a loan' means payments to the United States made in advance of the schedules set by law or contract when the financial asset is first acquired, such as the prepayment to the Federal Financing Bank of loans guaranteed by the Rural Electrification Administration. If a law or contract allows a flexible payment schedule, the term 'in advance' shall mean in advance of the slowest payment schedule allowed under such law or contract.".

(8) DEFINITION OF OUTLAY RATE.—Section 257 of the Act is amended by adding after paragraph (12) the following new paragraphs:

"(13) The term 'outlay rate', with respect to any budget account, program, project, or activity, means—

"(A) the ratio of outlays resulting in the fiscal year involved from new budgetary resources for such budget account, program, project, or activity to such new budgetary resources; or

"(B) the ratio of outlays resulting in the fiscal year involved from unobligated balances for such budget account, program, project, or activity to such unobligated balances.

"(14) The term 'combined outlay rate', with respect to any budget account, program, project, or activity, means the weighted average (by budgetary resources) of the ratios determined under subparagraphs (A) and (B) of paragraph (13) for such budget account, program, project, or activity.".

(9) ALTERNATE PROCEDURES.—Section 274(f) of the Act is amended—

(A) by striking out paragraph (1) and by inserting in lieu thereof the following new paragraph:

"(1) In the event that any of the reporting procedures described in section 251 are invalidated, then any report of the Director of CBO under section 251(a)(2)(A) or 251(c)(1) shall be transmitted to the joint committee established under this subsection.".

(B) in paragraphs (2) and (3) by striking out "Directors" both places it appears therein and by inserting in lieu thereof "Director of CBO"; and

(C) in paragraph (5) by striking out "section 251(b) or (c)(2)" and by inserting in lieu thereof "section 251(a)(2)(B) or (c)(2)".

(10) COMPTROLLER GENERAL'S ESTIMATES.—Subsection (h) of section 274 of the Act is amended—

(A) by striking out "Comptroller General" both times it appears therein and by inserting in lieu thereof "Director of OMB" and by striking out "section 251(b)" and by inserting in lieu thereof "section 251(a)(2)(B)"; and

(B) by striking out ", assumptions, and methodologies" and by inserting in lieu thereof "and economic assumptions".

(11) CONFORMING MEDICARE AMENDMENT.—Section 256(d)(1)(B) of the Act is amended by inserting after "2 percent" the following: "(or such higher percentage as may apply as determined in accordance with section 252(a)(4)(B)(ii))".

SEC. 103. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

Section 253 of the Act is amended to read as follows:

"SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

"On or before November 15 of each fiscal year (or December 15, 1987, in the case of the fiscal year 1988), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under section 252 for such fiscal year complies with all of the requirements contained in section 252, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not;

"(2) the extent to which each report of the Director of OMB under section 251 for such fiscal year complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(3) any recommendations of the Comptroller General for improving the procedures set forth in this part.".

SEC. 104. EXEMPT PROGRAMS AND ACTIVITIES.

(a) CLARIFYING AMENDMENTS.—(1) Section 255(h) of the Act is amended by including after the item relating to child nutrition the following new item:

"Commodity supplemental food program (12-3512-0-1-605);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Medical facilities guarantee and loan fund, Federal interest subsidies for medical facilities (75-4430-03-551);".

(B) by inserting after the item relating to the Health Education Assistance Loan Program the following new item:

"Higher education facilities loans and insurance (91-0240-01-502);".

(C) by inserting after the item relating to the Bonneville Power Administration the following new item:

"Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);".

(D) by inserting before the item relating to the Postal service fund the following new item:

"Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801);".

(E) by inserting before the item relating to the Alaska Power Administration the following new item:

"Thrift Savings Fund (26-8141-0-7-602);".

(F) by inserting after the item relating to the Tennessee Valley Authority the following new item:

"Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);".

(3) Section 256(b)(4) of the Act is amended by inserting at the end thereof the following new subparagraph:

"(G) Federal Retirement Thrift Investment Board.".

(4) Section 256(e) of the Act is amended by striking out "Any order" and by inserting in lieu thereof "Notwithstanding any change in the display of budget accounts, any order".

(b) AMENDMENTS TO SPECIFICALLY INCLUDE IN THIS ACT EXEMPTIONS ENACTED SINCE 1985.—(1) Section 255(b) of the Act is amended by inserting after the colon the following:

"National Service Life Insurance Fund (36-8132-0-7-701);

"Service-Disabled Veterans Insurance Fund (36-4012-0-3-701);

"Veterans Special Life Insurance Fund (36-8455-0-8-701);

"Veterans Reopened Insurance Fund (36-4010-0-3-701);

"United States Government Life Insurance Fund (36-8150-0-7-701);

"Veterans Insurance and Indemnity (36-0120-0-1-701);

"Special Therapeutic and Rehabilitation Activities Fund (36-4048-0-3-703);

"Veterans' Canteen Service Revolving Fund (36-4014-0-3-705);

"Benefits under chapter 21 of title 38, United States Code, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities (36-0137-0-1-702);

"Benefits under section 907 of title 38, United States Code, relating to burial benefits for veterans who die as a result of service-connected disability (36-0155-0-1-701);

"Benefits under chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces (36-0137-0-1-702);".

(2) Section 255(g)(1) of the Act is amended—

(A) by inserting after the item relating to intragovernmental funds the following new item:

"Panama Canal Commission, operating expenses (95-5190-0-2-403), and Panama Canal Commission, capital outlay (95-5190-0-2-403);";

(B) by inserting after the item relating to payments to trust funds the following new item:

"Payments to the United States territories, fiscal assistance (14-0418-0-1-852);";

(C) by inserting after the item relating to compensation of the President the following new item:

"Customs Service, miscellaneous permanent appropriations (20-9922-0-2-852);";

(D) by inserting before the item relating to intragovernmental funds the following new item:

"Internal Revenue collections for Puerto Rico (20-5737-0-2-852);";

(E) by inserting after the first item the following new item:

"Administration of Territories, Northern Mariana Islands Covenant grants (14-0412-0-1-806);"; and

(F) by inserting after the item relating to payments to the military retirement fund the following new item:

"Compact of Free Association, economic assistance pursuant to Public Law 99-658 (14-0415-0-1-806);".

(3) Section 255(g)(1) of the Act is amended by inserting "(A)" after "(1)" and by inserting at the end thereof the following new subparagraph:

"(B) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

"Black lung benefits (20-8144-0-7-601);

"Central Intelligence Agency retirement and disability system fund (56-3400-0-1-054);

"Civil service retirement and disability fund (24-8135-0-7-602);

"Comptrollers general retirement system (05-0107-0-1-801);

"Foreign service retirement and disability fund (19-8186-0-7-602);

"Judicial survivors' annuities fund (10-8110-0-7-602);

"Longshoremen's and harborworkers' compensation benefits (16-9971-0-7-601);

"Military retirement fund (97-8097-0-7-602);

"National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306);

"Pensions for former Presidents (47-0105-0-1-802);

"Railroad retirement tier II (60-8011-0-7-601);

"Retired pay, Coast Guard (69-0241-0-1-403);

"Retirement pay and medical benefits for commissioned officers, Public Health Service (75-0379-0-1-551);

"Special benefits, Federal Employees' Compensation Act (16-1521-0-1-600);

"Special benefits for disabled coal miners (75-0409-0-1-601); and

"Tax Court judges survivors annuity fund (23-8115-0-7-602).".

(c) CONFORMING AMENDMENTS.—(1) Section 255(g)(2) of the Act is amended by repealing the items relating to veterans with the exception of the items relating to the Loan guaranty revolving fund and the Servicemen's group life insurance fund.

(2) Paragraph (1) of section 257 of the Act is amended by striking out subparagraph (A), by striking out the dash, and by striking out "(B)".

SEC. 105. MODIFICATION OF PRESIDENTIAL ORDER.

(a) IN GENERAL.—Part C of the Act is amended by inserting at the end thereof the following new section:

"SEC. 258. MODIFICATION OF PRESIDENTIAL ORDER.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues *a report under section 251(c)(2) for a fiscal year, but before the close of the tenth calendar day of session in that session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 252 for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.*

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) NO REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate or the House of Representatives under subsection (a) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) IMMEDIATE CONSIDERATION.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived, except for points of order under titles III or IV of the Congressional Budget Act of 1974. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

"(3) DEBATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees). In the House, general debate on a joint resolution introduced under subsection (a) shall be limited to not more than 4 hours which shall be equally divided between the majority and minority leaders.

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order. In the House, a motion further to limit debate is in order and not debatable. In the House, a motion to recommit is in order.

"(C)(i) In the House of Representatives, an amendment and any amendment thereto is debatable for not to exceed 30 minutes to be equally divided between the proponent of the amendment and a Member opposed thereto.

"(ii) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 252(b)(1) shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between the majority leader and the minority leader (or their designees).

"(iii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, and the disposition of any amendments under paragraph (3) (except for the motion to recommit in the House of Representatives), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes it, the Senate shall be considered to have passed the joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

(b) CLERICAL AMENDMENT.—The table of contents set forth in section 200(b) of the Act is amended by inserting after the item relating to section 257 the following new item:

"Sec. 258. Modification of Presidential order.".

SEC. 106. MAXIMUM DEFICIT AMOUNTS.

(a) REVISION OF DEFINITION OF MAXIMUM DEFICIT AMOUNT.—Paragraph (7) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out subparagraphs (D) through (F) and by inserting in lieu thereof the following:

"(D) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;

"(E) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;

"(F) with respect to the fiscal year beginning October 1, 1989, $100,000,000,000;

"(G) with respect to the fiscal year beginning October 1, 1990, $64,000,000,000;

"(H) with respect to the fiscal year beginning October 1, 1991, $28,000,000,000; and

"(I) with respect to the fiscal year beginning October 1, 1992, zero.".

(b) DEFINITION OF MARGIN.—Section 257 of the Act is amended by inserting after paragraph (9) the following new paragraph:

"(10) The term 'margin' means $10,000,000,000 with respect to each of fiscal years 1988 through 1992 and zero with respect to fiscal year 1993.".

(c) REVISION OF EXPIRATION DATE OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b)(1) of section 275 of the Act is amended by striking out "September 30, 1991" and by inserting in lieu thereof "September 30, 1993".

(d) SECTION 301(i) POINT OF ORDER.—Paragraph (2) of section 301(i) of the Congressional Budget Act of 1974 is amended by inserting "(A)" before "Paragraph" and by adding at the end thereof the following new paragraphs:

"(B) Paragraph (1) shall not apply to the consideration of any concurrent resolution on the budget for fiscal year 1988 or fiscal year 1989, or amendment thereto or conference report thereon, if such concurrent resolution or conference report provides, or in the case of an amendment if the concurrent resolution as changed by the adoption of such amendment would provide for deficit reduction from a budget baseline estimate as specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year (based on laws in effect on January 1 of the calendar year during which the fiscal year begins) equal to or greater than the maximum amount of unachieved deficit reduction for such fiscal year as specified in section 251(a)(3)(A) of such Act.

"(C) For purposes of the application of subparagraph (B), the amount of deficit reduction for a fiscal year provided for in a concurrent resolution, or amendment thereto or conference report thereon, shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or of the Senate, as the case may be.".

(e) SECTION 311(a) POINT OF ORDER IN THE SENATE.—

(1) Section 311(a) of the Congressional Budget Act of 1974 is amended by striking out all after "in the Senate," and by inserting in lieu thereof the following: "would otherwise result in a deficit for such fiscal year that—

"(A) for fiscal year 1989 or any subsequent fiscal year, exceeds the maximum deficit amount specified for such fiscal year in section 3(7); and

"(B) for fiscal year 1988 or 1989, exceeds the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;

except to the extent that paragraph (1) of section 301(i) or section 304(b), as the case may be, does not apply by reason of paragraph (2) of such subsection.".

(2) Section 254(b)(1)(E) of the Act is amended by inserting "and for fiscal year 1988 or 1989, exceed the amount of the estimated deficit for such fiscal year based on laws and regulations in effect on January 1 of the calendar year in which such fiscal year begins as measured using the budget baseline specified in section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 minus $23,000,000,000 for fiscal year 1988 or $36,000,000,000 for fiscal year 1989;" after "maximum deficit amount for such fiscal year,".

(f) PRESIDENT'S BUDGET.—Section 1105(f) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) The budget transmitted pursuant to subsection (a) for a fiscal year shall include a budget baseline estimate made in accordance with section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and using economic and technical assumptions consistent with the current services budget submitted under section 1109 for the fiscal year. If such budget baseline estimate differs from the estimate in the current services budget, the President shall explain the differences. The budget transmitted pursuant to subsection (a) for such fiscal year shall include the information required by section 251(a)(2) of such Act (other than account-level detail) assuming that the deficit in such budget baseline were the amount estimated by the Director of the Office of Management and Budget on August 25 of the calendar year in which the fiscal year begins.

"(4) Paragraphs (1) and (2) shall not apply with respect to fiscal year 1989 if the budget transmitted for such fiscal year provides for deficit reduction from a budget baseline deficit for such fiscal year (as defined by section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 and based on laws in effect on January 1, 1988) equal to or greater than $36,000,000,000.".

SEC. 107. SPECIAL RULES FOR MEDICARE PROGRAM.

(a) TEMPORARY EXTENSION OF PAYMENT POLICIES FOR INPATIENT HOSPITAL SERVICES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, with respect to payment for inpatient hospital services under section 1886 of the Social Security Act:

(A) TEMPORARY FREEZE IN PPS HOSPITAL RATES.—For purposes of subsection (d) of such section for discharges occurring during the period beginning on October 1, 1987, and ending on November 20, 1987 (in this paragraph referred to as the "extension period"), the applicable percentage increase under subsection (b)(3)(B) of such section with respect to fiscal year 1988 is deemed to be 0 percent.

(B) TEMPORARY FREEZE IN PAYMENT BASIS.—

(i) EXTENSION OF BLENDED DRG RATE.—For purposes of subsection (d)(1) of such section, the "applicable combined adjusted DRG prospective payment rate" for discharges occurring—

(I) during the extension period is the rate specified in subsection (d)(1)(D)(ii) of such section, or

(II) after such period is the national adjusted prospective payment rate determined under subsection (d)(3) of such section.

(ii) EXTENSION OF HOSPITAL-SPECIFIC PAYMENT.—For the first 51 days of a hospital cost reporting period beginning during fiscal year 1988, payment shall be made under clause (ii) (rather than clause (iii)) of subsection (d)(1)(A) of such section (subject to clause (i) of this subparagraph).

(C) TEMPORARY FREEZE IN AMOUNTS OF PAYMENT FOR CAPITAL.—For payments attributable to portions of cost reporting periods occurring during the extension period, the percent specified in subsection (g)(3)(A)(ii) of such section is deemed to be 3.5 percent.

(D) TEMPORARY FREEZE IN RETURN ON EQUITY REDUCTIONS.—For the first 51 days of a cost reporting period beginning during fiscal year 1988, subsection (g)(2) of such section shall be applied as though the applicable percentage were 75 percent.

(E) TEMPORARY FREEZE IN PAYMENTS RATES FOR PPS-EXEMPT HOSPITALS.—For purposes of payment under subsection (b) of such section for cost reporting periods beginning during fiscal year 1988, with respect to the first 51 days of such a period the applicable percentage increase under paragraph (3)(B) of such subsection is deemed to be 0 percent.

(2) CONTINUATION OF CAPITAL POLICY.—Section 9321(c) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(A) by striking "SEPTEMBER 1" in the heading of paragraph (1) and inserting "NOVEMBER 21",

(B) in paragraph (1), by striking "September 1, 1987" and inserting "November 21, 1987",

(C) in the second sentence of paragraph (1), by striking "before the date of the enactment of this Act", and

(D) in paragraph (4), by striking "second sentence" and all that follows through "operating costs" and inserting "second sentence of section 1886(a)(4) of the Social Security Act, from the term 'operating costs'".

(b) FREEZING CERTAIN CHANGES IN MEDICARE PAYMENT REGULATIONS AND POLICIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue after September 18, 1987, and before November 21, 1987—

(A) any final regulation that changes the policy with respect to payment under title XVIII of the Social Security Act to providers of service for reasonable costs relating to unrecovered costs associated with unpaid deductible and coinsurance amounts incurred under such title;

(B) any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down claims processing, or delaying payment of claims, under such title; or

(C) any final regulation that changes the policy under such title with respect to payment for a return on equity capital for outpatient hospital services.

The final regulation of the Health Care Financing Administration published on September 1, 1987 (52 Federal Register 32920) and relating to changes to the return on equity capital provisions for outpatient hospital services is void and of no effect.

(2) OTHER COST SAVINGS POLICIES.—Notwithstanding any other provision of law, except as required to implement specific provisions required under statute, the Secretary of Health and Human Services is not authorized to issue in final form, after September 18, 1987, and before November 21, 1987, any regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in fiscal year 1988 of more than $50,000,000. Any regulation, instruction, or policy which is issued in violation of this paragraph is void and of no effect.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not be construed to apply to any regulation, instruction, or policy required to implement the amendment made by section 9311(a) of the Omnibus Budget Reconciliation Act of 1986 (relating to periodic interim payments).

(c) DELAY IN ORGAN PROCUREMENT REQUIREMENTS.—Section 9318(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1987" each place it appears and inserting "November 21, 1987".

TITLE II—BUDGET PROCESS REFORM

SEC. 201. 2-YEAR APPROPRIATIONS.

It is the sense of the Congress that the Congress should undertake an experiment with multiyear authorizations and 2-year appropriations for selected agencies and accounts. An evaluation of the efficacy and desirability of such experiment should be conducted at the end of the 2-year period. The appropriate committees are directed to develop a plan in consultation with the leadership of the House and Senate to implement this experiment.

SEC. 202. PROHIBITION OF COUNTING AS SAVINGS THE TRANSFER OF GOVERNMENT ACTIONS FROM ONE YEAR TO ANOTHER.

(a) IN GENERAL.—Except as otherwise provided in this section, any law or regulation that has the effect of transferring an outlay, receipt, or revenue of the United States from one fiscal year to an adjacent fiscal year shall not be treated as altering the deficit or producing net deficit reduction in any fiscal year for purposes of the Congressional Budget Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) EXCEPTIONS.—Subsection (a) shall not apply if the law making the transfer stipulates that such transfer—

(1) is a necessary (but secondary) result of a significant policy change;

(2) provides for contingencies; or

(3) achieves savings made possible by changes in program requirements or by greater efficiency of operations.

SEC. 203. FINANCIAL MANAGEMENT REFORM.

It is the sense of the Congress that the Congress should undertake a coordinated effort to identify problems and develop specific recommendations to reform the financial management systems of the United States Government, including consideration of the use of generally accepted accounting principles.

SEC. 204. EXTENSION OF STATE AND LOCAL COST ESTIMATES.

The State and Local Government Cost Estimate Act of 1981 is amended by striking out section 4.

SEC. 205. EXTRANEOUS PROVISIONS IN THE SENATE.

(a) Prohibition of Extraneous Matters in Reconciliation Measures in the Senate.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986, is amended in subsection (c) by striking out "January 2, 1988" and inserting in lieu thereof "September 30, 1992".

(b) Provisions Considered To Be Extraneous in the Senate.—Subsection (d)(1)(A) of such section is amended by inserting before the period at the end thereof "; and (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays, or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases resulting from other provisions in such title in such year".

(c) Application of Subsection (a) to Certain Senate Resolutions.—Nothing in the amendment made by subsection (a) shall be construed as limiting the manner in which S. Res. 286 (99th Congress, 1st session), as amended by S. Res. 509 (99th Congress, 2d session), shall apply to reconciliation bills and reconciliation resolutions considered on or after the date of the enactment of this joint resolution.

SEC. 206. CODIFICATION OF LAW REGARDING DEFERRAL AUTHORITY.

(a) Proposed Deferrals of Budget Authority.—Section 1013 of the Impoundment Control Act of 1974 is amended to read as follows:

"PROPOSED DEFERRALS OF BUDGET AUTHORITY

"Sec. 1013. (a) Transmittal of Special Message.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

"(1) the amount of the budget authority proposed to be deferred;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

"(3) the period of time during which the budget authority is proposed to be deferred;

"(4) the reasons for the proposed deferral, including any legal authority invoked to justify the proposed deferral;

"(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

"(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

"(b) Consistency With Legislative Policy.—Deferrals shall be permissible only—

"(1) to provide for contingencies;

"(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

"(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

"(c) Exception.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.".

(b) Conforming Amendment.—The first sentence of section 1016 of the Impoundment Control Act of 1974 is amended by striking out "under section 1012(b) or 1013(b)" and by inserting in lieu thereof "under this title".

(c) Reaffirmation.—Sections 1015 and 1016 of the Impoundment Control Act of 1974 are reaffirmed.

SEC. 207. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING RESCISSION AUTHORITY.

Section 1012(b) of the Impoundment Control Act of 1974 is amended by adding at the end thereof the following: "Funds made available for obligation under this procedure may not be proposed for rescission again.".

SEC. 208. ECONOMIC AND TECHNICAL ASSUMPTIONS.

(a) Point of Order.—Section 301(g) of the Congressional Budget Act of 1974 is amended to read as follows:

"(g) Economic Assumptions.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Subject to periodic reestimation based on changed economic conditions or technical estimates, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.".

(b) Application of Section 301(g) Point of Order to Revisions of Concurrent Resolutions on the Budget.—Section 304 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following:

"(c) Economic Assumptions.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).".

SEC. 209. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING TIME LIMITS FOR CONFERENCE REPORTS ON CONCURRENT RESOLUTIONS ON THE BUDGET.

Section 305(c)(2) of the Congressional Budget Act of 1974 is amended by inserting "and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith" after "budget,".

SEC. 210. APPEALS OF CERTAIN RULINGS IN THE SENATE.

(a) In General.—Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Appeals of Rulings.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(c), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.".

(b) Conforming Amendment.—Section 275(b)(2)(D) of such Act is amended by striking out "section 271(b)" and inserting in lieu thereof "subsections (b) and (c) of section 271."

SEC. 211. WAIVER OF SECTION 302(c) RELATING TO COMMITTEE ALLOCATIONS.

Section 271(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by inserting "302(c)," after "301(i),".

SEC. 212. CREDIT REFORM.

The Congressional Budget Office, in consultation with the General Accounting Office, shall study and report to Congress on Federal direct loan and loan guarantee programs for fiscal year 1987 and fiscal year 1988. The report shall be submitted as soon as practicable to all congressional committees of appropriate jurisdiction. The report shall provide information and recommendations on: (1) more accurately measuring the costs to the Federal Government of such credit programs, (2) comparing the cost of credit programs to other forms of Federal assistance, and (3) improving the allocation of resources between credit and other programs. The report shall also discuss the considerations involved in establishing a system for using the information on the costs of credit programs as part of the budget process.

SEC. 213. EXERCISE OF RULEMAKING POWER.

This Act and the amendments made by this Act, other than those relating to the activities of the executive and judicial branches of the Government, are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

And the Senate agree to the same.

From the Committee on Appropriations:
JOHN P. MURTHA,
BOB TRAXLER,
MICKEY EDWARDS,
JERRY LEWIS,
From the Committee on the Budget:
WILLIAM H. GRAY,
HOWARD WOLPE,
MARVIN LEATH,
WILLIS D. GRADISON, Jr.,
CONNIE MACK,
From the Committee on Government Operations:
JACK BROOKS,
FRANK HORTON,
From the Committee on Rules:
CLAUDE PEPPER,
BUTLER DERRICK,
TRENT LOTT,
From the Committee on Ways and Means:
DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
ED JENKINS,
MARTY RUSSO,
ROBERT T. MATSUI,
JOHN DUNCAN,
BILL ARCHER,
RICHARD SCHULZE,
WILLIAM THOMAS,
Additional conferees:
THOMAS S. FOLEY,
WILLIAM D. FORD,
LES ASPIN,
MARY ROSE OAKAR,
LEON PANETTA,
VIC FAZIO,
BUDDY MACKAY,
BILL FRENZEL,
RALPH REGULA,
JUDD GREGG,
LYNN MARTIN,
NANCY L. JOHNSON,
Managers on the Part of the House.
LLOYD BENTSEN,
DANIEL MOYNIHAN,
SPARK M. MATSUNAGA,
LAWTON CHILES,
FRITZ HOLLINGS,
CARL LEVIN,
BOB PACKWOOD,
PHIL GRAMM,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate numbered 1, 2, 3, and 4 to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

I. INCREASE IN PUBLIC DEBT LIMIT

Current Law

The permanent limit on the public debt is $2,111 billion. This limitation was enacted on August 21, 1986 (Public Law 99-384). A temporary limit of $2,352 billion is in effect through September 23, 1987, under Public Law 100-84, enacted on August 10, 1987.

House Joint Resolution

H.J. Res. 324, as passed by the House, provides for an increase of the permanent public debt limit to $2,565.1 billion. This debt limit level is the amount approved by the Congress in the conference report on the budget resolution for fiscal year 1988 (H. Con. Res. 93) and is estimated to be the appropriate level through September 30, 1988.

Senate Amendment

Senate amendment numbered 1 strikes out the House language and substitutes a temporary increase in the public debt limit to $2,800 billion for the period ending on May 1, 1989. The limit reverts to $2,111 billion on May 2, 1989.

Conference Agreement

The conference agreement increases the permanent public debt limit to $2,800 billion.

II. SOCIAL SECURITY TRUST FUNDS

Current Law

The Old-Age, Survivors, and Disability Insurance (OASDI) program is financed primarily from Social Security taxes on employers, employees, and self-employed persons. Under the normalized tax transfer provisions of current law, the Treasury Department is required at the start of each month to credit the trust funds with an amount equal to the taxes expected to be received during the month. The Treasury Department is also required to invest the assets of the trust funds. Funds must be invested in securities issued (or fully guaranteed) by the Federal Government. The securities issued at the beginning of the month are redeemed as necessary to finance benefit payments. Funds not needed to finance current withdrawals are held by the trust funds in the form of invested assets.

Governmental securities issued to the trust funds are subject to the statutory limit on the public debt. When that debt limit is reached, the Treasury Department may be unable, without violating the limit, to meet the requirement that an amount equal to expected payroll tax receipts be fully invested at the beginning of the month.

In a situation where the debt limit prevents the Treasury Department from utilizing the normal investment and disinvestment procedures, present law does not provide specific guidance as to the alternative procedures to be followed. On several occasions in 1984 and 1985 the Treasury responded to such situations by disinvesting securities held by the trust funds that it would not have been necessary to redeem in the absence of the debt-limit constraint. This procedure allowed the Treasury to create sufficient borrowing authority to finance current withdrawals without exceeding the debt limit.

In such circumstances, the trust funds may be placed in a position where they will earn less interest than would be the case under normal investment procedures. In addition, the redemption of trust fund holdings to generate cash to meet benefit obligations can result in significant changes in the portfolio of investments held by the trust funds—changes that would not occur in the absence of a debt-limit constraint. Present law contains no mechanism to restore the lost interest or to reconstitute the portfolio of the trust funds. Specific legislation was enacted in 1985 to correct for the impact of debt-limit constraints in 1984 and 1985.

Present Law imposes on the Board of Trustees the duties of:

Holding of the trust funds;

Meeting and reporting to the Congress at least once a year;

Reporting immediately if they find the balance in a trust fund to be "unduly small";

Recommending improvements to better coordinate Social Security and unemployment compensation; and

Reviewing and recommending changes in trust fund management policies.

House Joint Resolution

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with the Social Security trust funds.

Senate Amendment

Senate amendment numbered 2 establishes rules for investment and disinvestment of the Old-Age, Survivors, and Disability Insurance (OASDI) Trust Funds during periods when the normal borrowing operations of the Treasury Department are constrained because of the debt limit:

The Treasury Secretary is directed to redeem securities held by the trust funds that, absent the debt ceiling, would not need to be redeemed to meet the program's obligations on a timely basis;

The amount of such redemptions cannot be greater than the amount which would be redeemed under normal operating conditions; and

If the trust funds have not been issued securities promptly because of debt-limit constraints, those securities must be issued as room develops for investment within the debt limit (but only to the extent that the Treasury Department has actually received the Social Security taxes giving rise to those uninvested amounts).

The Senate amendment also provides that, after the normal trust fund investment and disinvestment procedures have been affected by a period of debt-limit constraint, the trust funds will be restored fully as soon as the debt limit is increased:

There is appropriated to the trust funds the amount of any interest that would have been earned, but was not, because of the impact of the debt limit;

The portfolio of the trust funds is to be reconstituted by the issuance or reissuance of securities as necessary to leave the funds with the same holdings they would have had but for the impact of the debt limit; and

A special Trustees' Report to the Congress is to be made detailing trust fund operations during any period of debt-limit constraint and describing the actions taken to restore the funds after the end of that period.

Finally, the Senate amendment revises and clarifies the statutory requirements on the Board of Trustees:

The Treasury Secretary is required to report monthly to the Board of Trustees of the Social Security trust funds on the status of the funds, and is required to notify both the Board and the Congress 15 days prior to the date on which he expects, because of the debt limit, to be unable fully to comply with the transfer or investment requirements of the Act;

Funds appropriated or deposited in the Social Security trust funds are to be available immediately and exclusively for trust fund purposes;

The Board of Trustees will be required to meet twice, rather than once, each year; and

The duty of the trustees faithfully to execute the responsibilities imposed on them by the Act is explicitly stated.

Effective July 1, 1990, the Senate amendment repeals a provision enacted in 1983 under which the OASDI trust funds are credited on the first day of each month with the Social Security taxes expected to be collected during the month. Instead, the funds will be credited on a daily basis as the taxes are received. Otherwise, the changes made by the Senate amendment are effective upon enactment.

Conference Agreement

The Senate recedes from its amendment.

III. DEFICIT REDUCTION PROCEDURES AND BUDGET PROCESS REFORM

OVERVIEW

The Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), commonly referred to as the 1985 Balanced Budget Act or the Gramm-Rudman-Hollings Act, established deficit targets (leading to a balanced budget by fiscal year 1991) and a special deficit-reduction process known as sequestration. Additionally, the Act made extensive changes in congressional procedures under the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344).

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with deficit reduction procedures or budget process reform.

Senate amendment numbered 3 adds two new titles to the joint resolution that modify the deficit targets and sequestration process under the 1985 Balanced Budget Act; adopt other budget process reforms, particularly in the congressional budget process; and established new procedures for dealing with Federal credit activities.

The conference agreement also adds two new titles to the joint resolution that amend the 1985 Balanced Budget Act, adopts other budget process reforms, and requires the Congressional Budget Office to issue recommendations on credit reform.

The following discussion explains current law, the Senate amendment, and the conference agreement in more detail, according to specific topics.

A. DEFICIT REDUCTION PROCEDURES UNDER THE 1985 BALANCED BUDGET ACT

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with the 1985 Balanced Budget Act. Senate amendment numbered 3 in part adds a new Title II (Budget and Fiscal Procedures) to the joint resolution; Part A of Title II contains the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987." The conference agreement adds a new Title I (Deficit Reduction Procedures).

1. Deficit Targets and Amount of Sequestration

Current Law

The 1985 Balanced Budget Act established (in Section 3(7) of the 1974 Budget Act) a deficit target, referred to as a "maximum deficit amount," for each of six consecutive fiscal years, beginning with $171.9 billion for FY 1986, $144 billion for FY 1987, and declining by $36 billion a year thereafter until a balanced budget is achieved in FY 1991. The deficit targets are as follows:

FY 1986—$171.9 billion;
FY 1987—$144 billion;
FY 1988—$108 billion;
FY 1989—$72 billion;
FY 1990—$36 billion; and
FY 1991—zero.

The Act contains emergency procedures, known generally as sequestration, to eliminate the deficit excess—that amount of the estimated deficit that exceeds the deficit target. Sequestration involves the issuance of a presidential order that permanently cancels (with certain exceptions) budgetary resources in order to achieve a required amount of outlay savings. If sequestration is required for a fiscal year, the entire amount of the deficit excess for that year must be eliminated. (To eliminate a deficit excess of $20 billion, for example, budgetary resources would have to be reduced by a much greater amount in order to yield the $20 billion in aggregate required outlay reductions).

Sequestration would not occur during FY 1987-1990 if the deficit excess is $10 billion or less. (The $10 billion margin-of-error amount does not apply for FY 1991; in that year, any deficit excess would have to be eliminated.)

Provisions in the 1985 Balanced Budget Act pertaining to the deficit targets and sequestration procedures expire on September 30, 1991.

Section 301(i) of the 1974 Budget Act, as amended by the 1985 Balanced Budget Act, establishes a point of order in both Houses that bars the consideration of a budget resolution recommending a deficit level greater than the applicable maximum deficit amount. The point of order would not apply if a declaration of war by Congress is in effect.

The President's budget also must not exceed the applicable maximum deficit amount.

Senate Amendment

The Senate amendment revises the deficit targets beginning with FY 1988 and extends them for one year, as follows:

FY 1988—$150 billion;
FY 1989—$130 billion;
FY 1990—$90 billion;
FY 1991—$45 billion; and
FY 1992—zero.

Under the Senate amendment, if sequestration is required, the entire amount of the deficit excess must be eliminated (except possibly for FY 1989). Also, the $10 billion margin-of-error amount applies for FY 1988-1991, but not for FY 1992.

In the case of FY 1989 only, the amount of required outlay reductions is the lesser of (1) the amount of the deficit excess or (2) the amount necessary to achieve a $36 billion reduction from a current services baseline deficit. With regard to the second condition, sequestration would not occur if a report issued by the Director of the Office of Management and Budget (OMB) indicates that $36 billion in deficit reduction has been achieved. This final OMB report is issued after preliminary reports are made by the OMB Director, the Director of the Congressional Budget Office (CBO), and the Comptroller General.

To determine whether the second condition has been met, each agency estimates the amount of deficit reduction achieved below its own current services baseline deficit estimate made earlier in the year. (Current services is defined as zero percent real growth for all programs subject to appropriation.) OMB must use a baseline estimate (and corresponding economic and technical assumptions) that it is required to submit as part of the President's annual budget in January. CBO must use a baseline deficit estimate and assumptions that it is required to include in its annual February report. After reviewing the OMB and CBO estimates, the Comptroller General must issue on March 1 his own estimate of the FY 1989 baseline deficit and corresponding assumptions.

The Senate amendment changes the expiration date for provisions dealing with the deficit targets and sequestration procedures to September 30, 1992.

The Senate amendment modifies Section 301(i) of the 1974 Budget Act to make the point of order apply to a FY 1989 budget resolution only if it causes the deficit target to be exceeded and recommends reducing the deficit for that year by less than $36 billion. Also, the Senate amendment establishes a new Section 301(j) which states that the determination of revenue, outlay, and deficit levels under the section shall be based on estimates provided by the House and Senate Budget Committees.

Conference Agreement

The conference agreement revises the deficit targets beginning with FY 1988 and extends them for two years, as follows:

FY 1988—$144 billion;
FY 1989—$136 billion;
FY 1990—$100 billion;
FY 1991—$64 billion;
FY 1992—$28 billion; and
FY 1993—zero.

Under the conference agreement, if sequestration is required, the entire amount of the deficit excess must be eliminated (except for FY 1988 and possibly for FY 1989). Also, the $10 billion margin-of-error amount, defined as the "margin," is set at $10 billion for FY 1988-1992 and zero for FY 1993.

For FY 1988 only, the conference agreement provides that the aggregate required outlay reductions to be accomplished through sequestration shall be the amount of unachieved deficit reduction for the fiscal year. Unachieved deficit reduction for FY 1988 is set at $23 billion, minus the net deficit reduction achieved (because of laws enacted or regulations promulgated as final) between January 1, 1987 and the appropriate "snapshot date" (in the case of the initial sequestration report, October 10, 1987, and in the case of the final sequestration report, the latest date possible before its submission on November 15, 1987 by the CBO Director and on November 20, 1987 by the OMB Director).

For FY 1989 only, the conference agreement provides that the aggregate required outlay reductions to be accomplished through sequestration shall be the lesser of the deficit excess or the amount of unachieved deficit reduction for the fiscal year (or zero if the deficit excess is equal to or less than the margin for that year—$10 billion). Unachieved deficit reduction for FY 1989 is set at $36 billion, minus the net deficit reduction achieved (because of laws enacted or regulations promulgated as final) between January 1, 1988 and the appropriate "snapshot date" (in the case of the initial sequestration report, August 15, 1988, and in the case of the final sequestration report, the latest date possible before its submission on October 10, 1988 by the CBO Director and on October 15 by the OMB Director).

The conferees recognize that the "snapshot date" may be different for the final OMB and CBO reports and therefore some legislation and regulations reflected in one report may not be reflected in the other. The OMB and CBO Directors shall ensure that the revised sequestration reports reflect legislation enacted or regulations promulgated as final as of three days prior to the issuance of such reports. In addition, the Directors shall ensure to the maximum extent practicable that the revised reports reflect legislation enacted or regulations promulgated as final during the three days immediately prior to the issuance of such reports.

The conference agreement caps the maximum amount of aggregate required outlay reductions at $23 billion for FY 1988 and $36 billion for FY 1989, but such amounts are not capped for the remaining fiscal years. The OMB and CBO Directors would determine the amount of net deficit reduction achieved for a fiscal year using the methodology and guidelines for making baseline estimates prescribed in Section 251(a)(6) of the 1985 Balanced Budget Act, as amended by this Act.

For the remaining fiscal years, FY 1990-1993, the aggregate required outlay reductions to be accomplished through sequestration would be equal to the amount of the deficit excess (or zero if the deficit excess is equal to or less than the margin for that year—$10 billion for FY 1990-1992 and zero for FY 1993).

The conference agreement changes the expiration date pertaining to the deficit targets and sequestration procedures to September 30, 1993.

The conference agreement amends Section 301(i) of the 1974 Budget Act so that a point of order would not apply to a FY 1988 or FY 1989 budget resolution if it provides for deficit reduction of $23 billion for FY 1988 or $36 billion for FY 1989, as measured against the budget baseline as defined in the 1985 Balanced Budget Act, as amended in this Act. Further, Section 311(a) of the 1974 Budget Act is amended to provide that in the Senate legislation will not be subject to a point of order for causing a violation of the maximum deficit amount if the legislation would not cause the amount of deficit reduction to be less than $23 billion for FY 1988 or $36 billion for FY 1989. Sections 302 and 311 will continue to prohibit consideration of legislation which would cause a breach of the appropriate levels of budget authority, outlays, or revenues provided in the applicable budget resolution. Determinations of the amount of deficit reduction, for purposes of these sections, would be based on estimates provided by the House and Senate Budget Committees.

Finally, the conference agreement amends 31 U.S.C. 1105(f) to provide that the President may submit a budget for FY 1989 recommending a deficit for that year in excess of the maximum deficit amount so long as the budget recommends $36 billion in reductions from a baseline estimate under the 1985 Balanced Budget Act, as amended by this Act.

2. Sequestration "Trigger" Mechanism and Issuance of Presidential Order

Current Law

The 1985 Balanced Budget Act originally provided for an automatic sequestration procedure. As originally framed in the Act, an initial or final presidential sequestration order would be triggered by a report issued by the Comptroller General estimating a deficit in excess of the amount allowed. The Comptroller General would give due regard in his report to an earlier joint sequestration report of the OMB and CBO Directors. This triggering procedure was invalidated by rulings of a special three-judge panel of the U.S. District Court, on February 7, 1986, and of the Supreme Court, on July 7, 1986. It was determined that the Comptroller General is an employee of the Legislative Branch, and so could not compel an Executive Branch action.

In anticipation of possible invalidation by the courts of the Comptroller General's role in the triggering procedure, Congress included "fallback" procedures in the Act, enabling Congress to trigger an initial or final presidential sequestration order by the enactment of a joint resolution setting forth the contents of the OMB/CBO joint report.

The Act directs the President to issue a sequestration order, upon the enactment of a joint resolution under the fallback procedures, that is consistent with the joint resolution in all respects. The order must provide for reductions in accounts as specified in the joint resolution and must provide for uniform reductions within accounts for each program, project, and activity (for programs funded by annual appropriations) or each budget activity (for programs funded by other means).

Further, the Act requires the President to submit a detailed message to Congress regarding an initial order at the time the order is issued. Also, he must issue a final order even if the deficit excess has been eliminated (the order would so state), releasing any amounts withheld under the initial order. Presidential sequestration orders have been placed in the Federal Register, even though this is not required explicitly by the Act.

Senate Amendment

The Senate amendment reinstates an automatic sequestration trigger for the period covering FY 1988-1992. Under the revised mechanism, a presidential sequestration order would be triggered by a report from the OMB Director. The OMB Director's report would give due regard to a sequestration report issued earlier by the Comptroller General, which in turn would be based on a review of an earlier joint sequestration report of the OMB/CBO Directors.

Conference Agreement

The conference agreement reinstates automatic triggering for FY 1988-1993. During these years, a presidential sequestration order would be triggered automatically by a report from the OMB Director. The OMB Director's report would give due regard to a report issued earlier by the CBO Director. Unlike the Senate amendment, the conference agreement does not provide a role for the Comptroller General in the preparation and issuance of sequestration reports.

Because the FY 1988 sequestration process would begin after the start of the fiscal year, the conference agreement includes a special rule to assure that the correct amount of reduction takes place in the Medicare program.

Additionally, the conference agreement establishes a procedure to ensure that the amount of deficit reduction required to be accomplished in an appropriations account through a sequestration order is achieved in the situation where a short-term continuing resolution is in effect when the sequestration order is issued and, subsequently, a full-year continuing resolution or a regular appropriations bill is enacted into law. Section 252(f)(2)(B) of the 1985 Balanced Budget Act, as amended by this Act, requires that the sequestration be automatically carried out when such a situation occurs. While supplementals are not affected by this provision, appropriations measures continue to be constrained by the various points of order in the 1974 Budget Act, particularly involving the spending ceilings created by the Section 302 allocation process.

If a short-term continuing resolution is in effect when a sequester order is issued, then for each account, the sequester amount, as determined by the sequester order, is pro-rated for the period covered by the continuing resolution. These funds are withheld, but not permanently cancelled. Subsequent short-term continuing resolutions during the year, if enacted, are subject to the same pro-rated sequestration procedure. The total amount withheld under short-term continuing resolutions shall apply toward the total amount sequestered once a full-year appropriations measure is enacted. If the full-year appropriations measure appropriates at a level lower than the budget baseline for an individual account, then the amount sequestered for that account is reduced by the amount by which that appropriation is below the budget baseline. The final amount of funds available for an individual account, following enactment of a full-year appropriation (including a full-year continuing resolution) and implementation of the sequester, shall not be, as a result of the sequester, less than the budget baseline amount minus the sequester amount for that account as specified in the final order.

In the event the automatic triggering procedures for FY 1988-1993 are invalidated by court ruling, the conference agreement provides that a presidential sequestration order may be triggered under fallback procedures involving the enactment of a joint resolution based on the sequestration report issued by the CBO Director.

With regard to the issuance of an order, the conference agreement makes clear that the President must issue an initial sequestration order even if the triggering procedures indicate that no reductions are required (the order would so state). Such a requirement already applies in the case of a final order.

The President must also issue a detailed message, as a single document, to accompany a final order. Such a requirement already applies in the case of an initial order. The message accompanying an initial or final order must be submitted to Congress within 15 days after the order is issued.

Finally, the conference provides that presidential sequestration orders, as well as sequestration reports issued by OMB and CBO, shall be submitted to the Federal Register on the day they are issued and printed on the following day.

3. Timeable

Current Law

The 1985 Balanced Budget Act provides for the issuance of an initial OMB/CBO joint sequestration report on August 20 and the issuance by the President (upon the enactment of a joint resolution under the "fallback" procedures) of a initial sequestration order on September 1. The initial report is be based on laws and regulations in effect on August 15. The initial order becomes effective (providing for the temporary withholding of budgetary resources) on October 1.

On October 5, the OMB and CBO Directors jointly issued a revised sequestration report; the President issues a final sequestration order on October 15 (upon enactment of a joint sequestration resolution). The final order becomes effective immediately (permanently cancelling budgetary resources).

On or before November 15, the Comptroller General submits to Congress and the President a compliance report, certifying whether the final sequester order complies fully and accurately with the requirements of the Act.

Senate Amendment

The Senate amendment retains the general late-August to mid-October timetable, but changes certain dates to reflect the modified procedures. The OMB Director would issue initial and final triggering reports on September 1 and October 15, respectively. The President would issue an initial and final sequester order on September 3 and October 20, respectively.

Conference Agreement

The conference agreement establishes the following timetable for FY 1988-1993, in which some of the dates of action for FY 1988 differ from those for the remaining years:

TIMETABLE FOR SEQUESTRATION PROCEDURES

Action	Fiscal year—	
	1988	1989–1993
Date from which deficit reduction is measured.	January 1	January 1.
President submits to Congress the mid-session budget report (establishing the economic and technical assumptions to be used in sequestration).	Not applicable	July 15.
Presidential notification regarding Military Personnel accounts.	October 10	August 15.
Initial OMB/CBO snapshot	October 10	August 15.
CBO issues its initial report to OMB and Congress.	October 15	August 20.
OMB issues its initial report to the President and Congress.	October 20	August 25.
President issues initial order	October 20	August 25.
President transmits to Congress a detailed message regarding the initial order.	Within 15 days after the order is issued.	Within 15 days after the order is issued.
Fiscal year begins and initial order becomes effective.	October 1 (order becomes effective on date issued).	October 1.
CBO issues its revised report to OMB and Congress.	November 15	October 10.
OMB issues its revised report to the President and Congress.	November 20	October 15.
President issues final order (which becomes effective immediately).	November 20	October 15.
Majority Leader in each House shall introduce a joint resolution which affirms any modifications in defense programs proposed in the President's notification report if the report is timely submitted (the joint resolution is considered under expedited procedures and is amendable).	Introduced within 5 session-days after report is submitted by President (but before November 25).	Introduced within 5 session-days after report is submitted by President (but before October 20).
Majority Leader in each House may introduce a joint resolution which modifies the final order (the joint resolution is considered under expedited procedures and is amendable).	Introduced within 10 session-days after revised OMB report is submitted.	Introduced within 10 session-days after revised OMB report is submitted.
President transmits to Congress a detailed message regarding the final order.	Within 15 days after the order is issued.	Within 15 days after the order is issued.
Comptroller General issues compliance report.	December 15	November 15.

4. Baseline Spending, Revenue, and Deficit Estimates

Current Law

The 1985 Balanced Budget Act provides that the joint sequestration report of the OMB and CBO Directors for a fiscal year shall: (1) estimate budget baseline levels of spending, revenue, and the deficit for that year, including the amount by which the projected deficit exceeds the deficit target; (2) provide OMB and CBO economic assumptions, including the estimated rate of real economic growth; and (3) calculate the amounts and percentages by which various budgetary resources must be sequestered in order to reduce outlays and eliminate any deficit excess. The revenue and spending of the Social Security trust funds are included in the baseline estimates, even though they are off-budget under law.

Budgetary resources, in the case of defense programs, include new budget authority and unobligated balances of budget authority provided in previous years; obligated balances may be sequestered only if the President uses the special authority provided to cancel or modify defense contracts. In the case of nondefense programs, budgetary resources include new budget authority, new direct loan obligations, new loan guarantee commitments, obligation limitations, and spending authority defined in Section 401(c)(2) of the 1974 Budget Act (which includes all permanent appropriations and mandatory current appropriations, including entitlements).

The 1985 Balanced Budget Act prescribes the methodology for making baseline estimates of spending, revenues, and the deficit. The budget baseline totals are generally referred to as the "Gradison base" estimates, which differ from other measures of current services or baseline projections used by OMB and CBO (primarily in the treatment of annual appropriations). Three important determinants of baseline estimates are: (1) economic assumptions, (2) budgetary resource-outlay ratios (outlay rates), and (3) other assumptions.

Economic Assumptions.—Under existing law, the Directors of OMB and CBO make their own determinations regarding the economic assumptions that will be used in making the baseline estimates for sequestration. While any differences in the two sets of baseline estimates are averaged in the joint report, any differences in economic assumptions need not be reconciled.

Budgetary Resource-Outlay Ratios.—Under existing law, the directors of OMB and CBO make their own determinations regarding the budgetary resource-outlay ratios (outlay rates) that will be used in making the baseline estimates for sequestration. While any differences in the two sets of baseline estimates are averaged in the joint report, any differences in budgetary resource-outlay ratios need not be reconciled.

Other Assumptions.—Current law specifies certain other assumptions to be used in making the baseline estimates for sequestration. Under current law, the deficit estimate and amount of required reductions are measured from a baseline which assumes that: (1) current law will continue in the case of revenues, permanent appropriations, and entitlement programs; (2) discretionary appropriations will be equal to prior-year amounts (except when appropriations for the fiscal year have been enacted); (3) expiring provisions of revenue and permanent spending law will expire as scheduled (with certain exceptions); and (4) Federal pay rates will be adjusted as recommended by the President or as enacted into law. In preparing sequestration reports for FY 1986 and FY 1987, OMB and CBO disagreed regarding the treatment of appropriated entitlements (CBO assumed full funding for the fiscal year while OMB assumed the prior-year amounts) and Federal pay raises (CBO assumed that additional funding would be provided while OMB assumed that the increased costs would be absorbed). The conferees agree that the CBO interpretations reflect the intent of Congress.

Senate Amendment

The Senate amendment modifies the procedures for making baseline estimates with regard to the use of economic assumptions, budgetary resource-outlay ratios, and other assumptions.

Economic Assumptions.—The Senate amendment provides for the specification by Congress of certain economic assumptions to be used by the OMB and CBO Directors and the Comptroller General in making baseline estimates for the sequestration reports.

For FY 1988, each report must use the list of 14 economic variables whose values will be specified in the statute by the conferees. For FY 1989 and beyond, the Directors of OMB and CBO and the Comptroller General must submit to the Temporary Joint Committee on Deficit Reduction, by July 25, their estimates of the baseline deficit, the 14 economic variables, and key technical variables to be used in sequestration reports. Congress may enact a joint resolution, reported by the Temporary Joint Committee, requiring the Directors and the Comptroller General to use one or more of these variables in the sequestration reports and specifying their values within the range established by the July 25th reports.

Budgetary Resource-Outlay Ratios.—The Senate amendment provides that sequestration reports issued by the OMB and CBO Directors and the Comptroller General must use budgetary resource-outlay ratios as contained in the sequestration report for FY 1986. By June 20 (September 9, 1987 for FY 1988), either or both Directors may submit a proposal to Congress to change one or more of these ratios. Such a proposal, if enacted in a "fast-track" joint resolution reported by the Temporary Joint Committee, would change the ratios (if and until they are changed later).

Other Assumptions.—The Senate amendment generally retains the existing requirements regarding the construction of baseline estimates, with the following modifications and additions in assumptions:

Appropriated entitlements are will be fully funded for the fiscal year;

The absorption of increased Federal pay costs will be capped according to historical averages;

New Federal regulations will be counted in the baseline only if promulgated by August 15 in the case of initial sequestration reports (or, for FY 1988 only, within two weeks after enactment of this Act), and only if promulgated by October 1, in the case of revised reports;

Asset sales will be assumed to occur only if: (1) a final notice of sale has been published in the Federal Register before August 15 of that year (or, for FY 1988, within two weeks after enactment of this Act); (2) if the receipts from such sale were assumed by the CBO Director in the baseline estimate of the deficit contained in "An Analysis of the President's Budgetary Proposals for Fiscal Year 1988"; or (3) if the savings from such sale are the result of reconciliation savings assumed in the joint explanatory statement accompanying the conference report on the budget resolution for FY 1988 (H. Con. Res. 93); and

Advance farm deficiency payments will be made each year unless legislation is enacted that restrains or eliminates such payments.

Conference Agreement

The conference agreement requires that the OMB and CBO sequestration reports also include an estimate of the net deficit reduction made for the fiscal year. (This amount, which is subtracted from $23 billion in the case of FY 1988, and $36 billion in the case of FY 1989, is used to determine the amount of unachieved deficit reduction for those fiscal years.)

Further, the Directors must identify in their sequestration reports the aggregate required reductions for the fiscal year. (The aggregate required outlay reductions equal, for FY 1988, the amount of unachieved deficit reduction; for FY 1989, the lesser of the amount of unachieved deficit reduction or the deficit excess; and for FY 1990-1993, the amount of the deficit excess; except that no sequestration is required in FY 1989-1992 if the deficit excess is less than $10 billion.)

The conference agreement requires the OMB Director in his sequestration reports to identify and explain any differences between his estimates and those of the CBO Director regarding: (1) the aggregate amount of required outlay reductions; (2) the aggregate amount of resources to be sequestered from defense accounts (by type of sequestrable resource) and from nondefense accounts (by type of sequestrable resource); and (3) the amount of sequestrable resources for any budget account that is to be reduced if such difference is greater than $5 million.

Also, the OMB Director must calculate the reduction amounts on the basis of his estimate of the aggregate required outlay reductions, but using the technical assumptions and methodologies used in the CBO estimates, and explain any differences in the two sets of resulting figures. The conferees assume that the OMB Director will consult with the CBO Director in order to obtain the information required by this provision, and perhaps may request that the CBO Director provide the required calculations.

The sequestration reports of the OBM and CBO Directors must provide estimates of the baseline and reduction amounts for programs, projects, and activities within defense accounts. The conference agreement provides that these estimates be included in the final report but not the initial report, and assumes that they shall be required only to the extent that appropriations for the full fiscal year have been enacted into law.

The term "sequestrable resource" is defined to include the present categories of budgetary resources (clarifying that new loan guarantee limitations and direct loan commitments and limitations are budgetary resources), except for obligated balances (which no longer is a sequestrable budgetary resource).

Finally, the conference agreement modifies the procedures with regard to the use of economic assumptions, budgetary resource-outlay ratios (outlay rates), and other assumptions for purposes of calculating the baseline.

Economic Assumptions.—The conference agreement does not provide for congressional specification of economic assumptions through the enactment of a joint resolution. For FY 1988, the OMB Director must use the same economic assumptions that he used in the sequestration report issued on August 20, 1987. For FY 1989 and beyond, the OMB Director must use the same economic assumptions that were used in the President's mid-session budget report which is required by law to be submitted by July 15, although the Director is also allowed to display an alternative set of assumptions in his mid-session budget report as long as he explains the differences and the details their budgetary effects.

For all fiscal years, the OMB Director must use the same economic assumptions to estimate the deficit excess, net deficit reduction, and the required outlay reductions and to calculate the amounts and percentages by which budgetary resources must be reduced.

Budgetary Resource-Outlay Ratios.—The conference agreement does not provide a procedure for changing budgetary resource-outlay ratios through the enactment of a joint resolution. Instead, the conference agreement provides that the aggregate budgetary resource-outlay ratio, defined as the aggregate "outlay rate," for defense programs and the aggregate outlay rate for nondefense programs used in the OMB Director's report, shall not deviate by more than one-half of one percent from the aggregate outlay rates used in the sequestration report for the prior year, after adjusting for changes in the mix of budgetary resources.

Other Assumptions.—For FY 1988, the OMB Director must use the same technical assumptions that he used in the sequestration report issued on August 20, 1987.

For FY 1988, the OMB Director must assume the outlay level for the Medicare program that he assumed in the sequestration report issued on August 20, 1987 (except that he may not assume a slowdown in the payment of claims compared to the prior year). For FY 1989 and beyond, the OMB Director may not assume aggregate outlays for the Medicare program that deviate by more than one percent from the outlay levels estimated in the President's current services estimate for that year.

For FY 1989 and beyond, the President's July 15 mid-session budget report must provide an estimate of the deficit excess and net deficit reduction computed using the economic and technical assumptions that he will use in the initial sequestration report for that fiscal year. It is imperative that the Director of OMB actually deliver this mid-session report by July 15. When he issues the initial sequestration report, he is required to use those same economic and technical assumptions. For purposes of calculating the deficit under the Act (for revenue and outlay estimating purposes), the OMB Director may use his mid-session estimate of the Gross National Product (GNP) implicit price deflator. However, for purposes of inflating the base when full-year appropriations have not been enacted, he must use the same estimate of the GNP implicit price deflator as was used in the January budget submission. The mid-session review is expected to be issued by the statutory deadline for that report.

For any fiscal year, the OMB Director must use the same technical assumptions (subject to the provision described above regarding the GNP deflator) to estimate the deficit excess, net deficit reduction, and the required outlay reductions and to calculate the amounts and percentages by which budgetary resources must be reduced.

The conferees intend that references in the act to "technical assumptions" shall include assumptions regarding outlay rates.

The conference agreement modifies existing requirements regarding specific assumptions, and adds new assumptions, as follows:

Appropriated entitlements will be fully funded for the fiscal year. These programs are listed by account number in the Act. (The Food Stamp program, although not an entitlement as defined in Section 401(c)(2)(C) of the Budget Act, is included in the list of programs to be assumed to be fully funded). The conferees recognize that this provision is only for the purposes of providing a more accurate estimate of the budget baseline and is not a complete list of all entitlement programs. Nothing in this provision is intended to affect the application of existing House and Senate rules and precedents related to this matter;

Expiring contract authority for transportation trust funds will be extended at current levels. The conferees intend that transportation trust funds shall include, but not be limited to, the Airport and Airway Trust Fund and the Highway Trust Fund;

If full-year appropriations have been enacted without providing for the cost of Federal civilian and military pay adjustments, that additional appropriations will be made to cover the costs of those pay adjustments enacted into law or occurring pursuant to law, less 22 percent to reflect average historical absorption;

Asset sales and loan prepayments will not alter the deficit for any fiscal year or produce any net deficit reduction for FY 1988 or FY 1989 ("asset sale" is defined in the Act to mean the sale to the public of any asset, whether physical or financial, owned in whole or in part by the United States and "prepayment of a loan" is defined to mean payments to the United States in advance of the schedule set by law or contract when the financial asset is first acquired, including prepayments of loans with or without penalty that occur as a result of a default). However, asset sales and loan prepayments that were routine and ongoing in nature in FY 1986 need not be backed out of the deficit estimate (though an acceleration of such activity may not be assumed or reflected). Sales mandated by law as of September 17, 1987 shall be reflected, but this proviso does not include sales that are authorized but not mandated;

Advanced farm deficiency and paid land diversion payments will be made each year;

Legislation will be enacted to increase benefit payments under the Veterans Compensation program;

Medicare spending levels for inpatient hospital services will be based upon the regulations most recently issued in final form or proposed by the Health Care Financing Administration. (This is an exception to the general rule that only final regulations are considered in preparing the initial order. Only final regulations can be used in estimating the budget baseline fo the final order.);

Increased revenue collections attributable to increased funding of the Internal Revenue Service will be consistent with the increased collections projected on this basis in the President's January budget.

The conference agreement also provides that if annual appropriations acts have not been enacted for the fiscal year, then the appropriations levels of the prior year shall be assumed, adjusted to reflect (1) the full 12-month costs (without absorption) of that year's pay adjustment, (2) an inflation adjustment, and (3) the increased costs to agencies of personnel benefits required by law, such as increased FERS costs.

The inflation adjustments use, for most discretionary appropriations, the percentage by which the average of the estimated GNP implicit price deflator for the fiscal year exceeds the average for the previous fiscal year. For FY 1988, this inflator is specified as 4.2 percent, the estimate in the President's July 15 mid-session budget review. For all Federal personnel costs in 1988, and for 70 percent of personnel costs in 1989-1993, the infaltor is reduced if pay raises would be in effect for only part of the fiscal year, and is also reduced to account for 22 percent historical pay absorption.

5. Sequestration Formula and Calculations

Current Law

The 1985 Balanced Budget Act stipulates a formula under which half of the required outlay reductions must come from defense programs (budget accounts in the National Defense (050) function, except for accounts of the Federal Emergency Management Agency) and the other half must come from non-defense programs.

Under the Act, sequestration calculations are then made according to the following steps. The amount of outlay reductions from programs with automatic spending increases is calculated and the savings credited. Savings made in Federal civilian and military retirement and disability programs are credited half to defense and half to nondefense programs; savings made in three other programs—the National Wool Act, the special milk program, and vocational rehabilitation—are credited to non-defense programs only. (The Omnibus Budget Reconciliation Act of 1986 exempted from sequestration all of the Federal retirement and disability programs, leaving only the other three programs covered by this step.)

For defense programs, the remaining required outlay reductions are determined by applying a uniform reduction percentage to the accounts subject to sequestration.

For non-defense programs, calculations of outlay savings from certain programs covered by special rules (guaranteed student loans, foster care and adoption assistance, Medicare, and certain specified health programs) are made and credited toward the required outlay reductions for nondefense programs. Then, the remaining required outlay reductions are determined by applying a uniform reduction percentage to the non-exempt accounts.

As stated previously, current law requires that any differences between the OMB and CBO Directors regarding the baseline estimates or calculations of the amounts to be sequestered be averaged in the joint report.

The initial and revised joint reports must be based on the same economic and technical assumptions and methodologies; the revised report would make adjustments only to reflect laws enacted and regulations promulgated after the issuance of the initial report.

Senate Amendment

The Senate amendment does not propose any changes in the formula or rules for making sequestration calculations. Further, the Senate amendment requires that any differences in the estimates and calculations of the OMB and CBO Directors be averaged only in the preliminary joint reports. There is no averaging requirement for the triggering report, which is issued independently by the OMB Director.

Conference Agreement

The conference agreement retains the basic formula under which half of the required outlay reductions must come from defense programs and the other half must come from nondefense programs. Also, the conference agreement retains the procedure under which savings made in the three programs with automatic spending increases are credited to nondefense programs.

Further, the requirement that any differences in the estimates and calculations of the OMB and CBO Directors be averaged is eliminated (the Directors issue reports independently).

The conference agreement changes the manner in which reductions made in programs covered by special rules are credited. First, outlays savings for the guaranteed student loan and foster care and adoption assistance programs are calculated and applied to the required non-defense outlay reductions.

Second, the remaining required outlay reductions for non-defense programs are determined by applying a uniform reduction percentage to the non-exempt accounts (except that reductions made in the Medicare and certain specified health programs shall not exceed 2 percent). Thus, in the case where the uniform percentage is less than 2 percent, all non-exempt non-defense programs, including the health programs, would be sequestered by that uniform percentage. If the uniform percentage were, for example, 3 percent, then the specified health programs would be reduced by 2 percent and the uniform percentage applicable to all other programs would be increased to a higher uniform percentage to achieve the total required non-defense outlay reductions. This result would be the same as existing law.

6. Special Rules for Medicare for Fiscal Year 1988

Current Law

At the beginning of FY 1988, several changes pursuant to law or regulation will take effect which have an impact on the operations and costs of the Medicare programs established under Title XVIII of the Social Security Act.

Senate Amendment

The provisions of the Senate amendment relating to Medicare do not specifically address these changes.

Conference Agreement

The conference agreement includes a provision which freezes certain Medicare payment rules, and which prohibits the Secretary of Health and Human Services from promulgating certain regulations, during an extension period beginning on October 1, 1987 and ending on November 20, 1987.

The provision modifies changes that would otherwise become effective on October 1, 1987 for payment to hospitals for inpatient services as follows:

(A) The applicable percentage increase or update factor which increases hospital payment on an annual basis would be frozen at zero percent for all Prospective Payment System (PPS) hospitals for discharges occurring during the extension period.

(B) The transition from a blended payment based upon regional and national rates to a wholly national rate in the nonhospital-specific for the Federal portion of the hospital's payment would be delayed for all discharges for all PPS hospitals until November 21, 1987. As of that date the Federal portion of the payments would be based solely on national rates.

(C) The current blend of a 25 percent hospital-specific rate and a seventy-five percent Federal rate would be extended to include the first 51 days of each PPS hospital's cost reporting period beginning in FY 1988.

(D) The current 3.5 percent reduction in payments for capital would be extended through November 20, 1987, rather than changing to seven percent on October 1, 1987.

(E) The current policy of paying 75 percent of inpatient hospital return on equity to investor-owned hospitals would be extended to include the first 51 days of any hospital cost reporting period beginning in FY 1988.

(F) The applicable percentage increase or update factor that applies to hospitals that are exempt from PPS would be zero percent for the first 51 days of any hospital costs reporting period beginning in FY 1988. The conferees wish to make clear that in applying the target amount to PPS-exempt hospitals for cost reporting periods beginning during FY 1988 the Secretary would be authorized to use a pro-rated applicable percentage increase in order to take the effect of this provision into account.

The provision would prohibit the Secretary of Health and Human Services from promulgating any final regulation after September 18, 1987 and before November 21, 1987 relating to payments to hospitals for bad debt resulting from uncollected deductibles or coinsurance of Medicare beneficiaries.

The Secretary would be prohibited from implementing the final regulation issued September 1, 1987 which changes the payment policy for return on equity capital relating to hospital outpatient services.

The Secretary would be prohibited from promulgating any final regulations, instruction, or policy change after September 18, 1987 and before November 21, 1987 which would be primarily intended to slow down claims processing or the payment of claims. The conferees are aware that some regulations, instructions, or policies, such as the secondary payer and medical review requirements, may have a marginal effect on the average time between receipt and payment of claims by intermediaries and carriers. The conferees do not intend this prohibition to apply where the delay in processing or payment is a minor side effect of the policy change.

The Secretary would also be prohibited from implementing any final regulations, instruction, or other policy after September 18, 1987 and before November 21, 1987, unless specifically required by statute (including the requirements of this section) which would result in a net deficit reduction in Medicare expenditures in FY 1988 of more than $50 million.

These prohibitions would not apply to regulations necessary to implement the policies relating to periodic interim payments required by the Omnibus Budget Reconciliation Act of 1986.

The provision also delays until November 21, 1987 the effective date of Section 1138 of the Social Security Act relating to hospital protocols for organ procurement, requirements for transplant programs, and standards for organ procurement agencies.

The conferees intend that the net Federal budgetary savings which occur as a result of the temporary extension of Medicare payment policies in this legislation will be credited toward deficit reduction totals for the Medicare program during the consideration of the FY 1988 reconciliation legislation, to the extent that they are not altered for this period of subsequent legislation.

7. Flexibility with Respect to National Defense

Current Law

In the application of the FY 1986 sequestration, the 1985 Balanced Budget Act granted the President certain flexibility not provided in subsequent fiscal years. First, in the determination of the defense budget base subject to sequestration, the President was permitted to fully or partially exempt military personnel accounts. The uniform percentage reduction made in remaining defense programs, projects, and activities (PPAs) was increased accordingly so that the total required defense outlay reduction would not change.

Second, for FY 1986, the President was given the discretion to partially or fully exempt any defense program, project, or activity from sequestration provided each defense budget account was reduced by the uniform percentage. Budget authority for other defense programs, projects, and activities within the same account could be reduced by up to two times more than the uniform percentage to compensate for the savings not generated from protected programs. In exercising this flexibility, the President was not allowed to increase funding for programs, projects, or activities above base level amounts; terminate any program, project, or activity; close any military base; or reduce funding for certain "congressional interest items" by a percentage larger than the uniform percentage.

Third, in all fiscal years, FY 1986-1991, the President is permitted to achieve some or all of the required defense outlay savings by terminating or modifying existing defense contracts provided there is no net loss to the Government as a result of specified penalties and no legal obligations are violated.

While the President made use of the first two options, he did not terminate or modify any contracts in the FY 1986 sequestration. The President was not required to issue a sequestration order for FY 1987.

Senate Amendment

The Senate amendment extends flexibility with respect to national defense programs to all fiscal years covered by the revised timeframe, FY 1988-1992. First, the President is permitted in all fiscal years to fully or partially exempt military personnel accounts from sequestration as provided by the 1985 Balanced Budget Act for FY 1986. Second, the President may propose an alternative defense plan that includes reductions or increases in funding for specific defense programs, projects, or activities provided that the total required defense outlay reduction is achieved. Any defense program, project, or activity (except military personnel) could be reduced or terminated to make up for the savings not generated from protected programs. No domestic military bases could be closed.

The President's proposal would not take effect without congressional approval. Both Houses of Congress would consider the President's proposed changes to the sequestration order with respect to national defense under expedited procedures in the form of a joint resolution that could be amended.

Further, the Senate amendment eliminates the President's option to modify or terminate existing defense contracts.

Conference Agreement

The conference agreement restores flexibility with respect to national defense programs. First, the President is permitted in all fiscal years covered by the revised timeframe, FY 1988-1993, to fully or partially exempt military personnel accounts from the defense budget base subject to sequestration. The effect of this provision would be to increase the uniform percentage reduction made in all remaining defense accounts so that the total required defense outlay reduction would not change.

The President may not use this option without notifying Congress on or before August 15 (October 10 in the case of FY 1988) of the manner in which he intends to exercise it, and the initial and final sequestration reports prepared by the Directors of CBO and OMB shall reflect the President's use of this option.

Second, the President is granted discretion to propose further reductions in defense programs, projects, and activities (other than those in military personnel accounts) beyond those provided for in the final sequestration order. To the extent that the President chooses to exercise this option, he may propose lesser reductions in budgetary resources for other defense programs, projects, and activities, as long as (1) the resulting outlay increases do not exceed the additional outlay reductions made and (2) no funding for a program, project, or activity is increased above the level actually made available by law in appropriations acts (before taking sequestration into account). In making calculations under this procedure, the President must use the account and PPA outlay rates used by the OMB Director in the revised sequestration report.

The President may not use this option to close or realign any domestic military bases or to eliminate any program, project, or activity.

In addition, the President may not exercise the authority provided by this option unless he first submits to Congress, before November 25, 1987 for FY 1988, and, for subsequent fiscal years, October 20 of such fiscal year, a report specifying the changes proposed, and Congress enacts into law a joint resolution affirming or modifying the changes. The conference agreement establishes expedited procedures for House and Senate consideration of the joint resolution, which must be introduced by the Majority Leaders of both Houses within 5 days after the President submits the report. The joint resolution is referred to the Appropriations Committee of each House, subject to an automatic discharge procedure, and is subject to amendment in either House.

If the report is not timely submitted, it may still be considered, but under normal procedures, without the protection of expedited consideration.

Finally, the conference agreement eliminates procedures to modify or terminate existing defense contracts.

8. Modification of Presidential Order

Current Law

Current law does not provide a procedure for the modification of a presidential order.

Senate Amendment

The Senate amendment provides an expedited procedure for congressional action—between October 15 and October 20—on a joint resolution introduced by the Majority Leader of either House that could require the President to issue a sequestration order for a specified amount, modify the order most recently issued by the President, or for FY 1989 only, cancel the order if the deficit has been reduced by at least $36 billion. A resolution under this section is not referred to committee and is placed directly on the calendar. A motion to proceed to the consideration of the measure is in order at any time. The resolution is amendable and debate is limited to 10 hours.

Conference Agreement

The conference agreement provides an expedited procedure under which Congress may enact a joint resolution requiring the President to modify the most recent sequestration order, including modifications that effectively cancel it. The Majority Leader of either House may introduce such a joint resolution within 10 calendar days of session of that session after the OMB Director issues the revised sequestration report (but no other joint resolution shall be considered under the expedited procedures). Under this procedure, the joint resolution is not referred to committee and may be amended in either House.

9. Programs and Activities Exempted From Sequestration

Current Law

The 1985 Balanced Budget Act exempts specified programs and activities, as well as certain types of programs and activities, from sequestration. The major programs exempted under the Act are Social Security benefits, net interest, certain low-income programs, veterans' compensation and pensions, and regular State unemployment insurance benefits. Prior legal obligations of the Federal Government in certain specified accounts also are exempt, as well as the program bases of certain programs whose automatic increases are subject to sequestration. Federal administrative expenses for most otherwise exempt programs, however, are subject to sequestration.

After the 1985 Balanced Budget Act became law, Congress enacted other legislation exempting particular programs and activities from sequestration: (1) the Panama Canal Commission Authorization Act, Fiscal Year 1987 (P.L. 99-368); (2) the Insular Areas Regulation Act (P.L. 99-396); the Omnibus Budget Reconciliation Act of 1986 (P.L. 99-509); the Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (P.L. 96-576); the Palau Compact of Free Association Act (P.L. 99-658); and the Competitive Equality Banking Act of 1987 (P.L. 100-86). Only the exemption of the Dual Benefits Payments Account (in the Omnibus Budget Reconciliation Act) and the exemptions in the Competitive Equality Banking Act (i.e., the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration and its central liquidity facility and credit union share insurance fund) were made as direct amendments to the 1985 Balanced Budget Act.

The new exemptions include, among others, automatic spending increases for Federal military and civilian retirement and disability programs.

Senate Amendment

The Senate amendment adds 14 budget accounts to the list of exemptions provided in the Act. These additions incorporate into the list accounts exempted by legislation enacted after the 1985 Balanced Budget Act had become law and other accounts whose inclusion in the sequestration process raises legal or technical problems, such as interest payments for the Washington Metropolitan Area Transit Authority (46-0300-0-1-401) and the thrift savings fund of the Federal Retirement Thrift Investment Board (26-8141-0-7-602).

Conference Agreement

The conference agreement adds to the list of exemptions provided in the Act accounts specified in the Senate amendment. In addition, the conference agreement clarifies that the Commodity Supplemental Food Program (12-3512-0-1-605) is exempt; this program was exempted in previous sequestration reports. The child support enforcement program has been moved to the AFDC budget account (an exempted account); the conferees do not intend that the child support enforcement program should be exempted as a result of this change. Finally, the conference agreement lists specifically all of the accounts exempted by virtue of later enactments, except for the Dual Benefits Payments Account and programs exempted by the Competitive Equality Banking Act (which were incorporated at the time of enactment into the 1985 Balanced Budget Act).

Technical revision of list of exempt programs

The conference agreement also includes a technical revision of section 255 to reflect exemptions enacted since the passage of the Balanced Budget and Emergency Deficit Control Act of 1985, P.L. 99-177. Some of these exemptions are also codified in section 113 of title 38, United States Code. The conferees are including these programs in the text of the Balanced Budget and Emergency Deficit Control Act of 1985 in order to insure that there is no possibility of construing the amendments made by this Act as in any way affecting those provisions. The conferees do not intend to disturb the effect of the exemptions or any other provisions pertaining to this matter addressed in section 113 of title 38.

10. Compliance Report by the Comptroller General

Current Law

The 1985 Balanced Budget Act requires the Comptroller General (the head of the General Accounting Office) to submit to Congress and the President a report by each November 15 certifying whether the final sequestration order issued by the President complies fully and accurately with the requirements of the Act.

Senate Amendment

The Senate amendment modifies the provision dealing with the GAO compliance report to require that the Comptroller General also (1) assess whether the OMB Director's sequestration reports comply fully and accurately with the requirements of the Act and (2) make recommendations for improving sequestration procedures.

Conference Agreement

The House recedes and concurs in the Senate amendment.

B. BUDGET PROCESS REFORM

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with budget process reform. Senate amendment numbered 3 in part adds a new Title II (Budget and Fiscal Procedures) to the joint resolution; Part B of Title II contains various budget process reforms. The Senate amendment in part also adds a new Title III (Credit Reform). The conference agreement adds a new Title II (Budget Process Reform).

1. Economic and Technical Assumptions

Current Law

Under current practices, the House and Senate may consider budget resolutions that contain figures based on more than one set of economic and technical assumptions, as was the case when the Senate considered the budget resolution for FY 1988. Additionally, the House and Senate may differ with respect to certain economic and technical assumptions upon which enforcement of the budget resolution is based.

Senate Amendment

The Senate amendment (Sections 231(a)) amends Section 301(g) of the 1974 Budget Act to prohibit in the Senate the consideration of a budget resolution that contains figures based on more than one set of economic and technical assumptions, and to require that enforcement of the budget resolution in the House and Senate be based upon the common economic and technical assumptions set forth in the joint explanatory statement accompanying the conference report on the budget resolution.

Conference Agreement

The House recedes and concurs in the amendment of the Senate.

2. Enforcement of Spending and Deficit Levels in Budget Resolutions

Current Law

The budget resolution adopted each year by Congress sets aggregate spending and revenue levels for the next three fiscal years. Congress enforces the spending and revenue aggregates in the budget resolution largely through points of order established in Title III of the 1974 Budget Act.

Under Section 311(a) of the Act, spending or revenue legislation may not be considered in the House or Senate if it would cause the aggregate levels in the budget resolution to be breached, or, in the Senate only, if it would cause the maximum deficit amount for the fiscal year to be exceeded. However, Section 311(b) provides an exception, in the House only, to this point of order—the "Fazio exception"—which permits the House to consider spending legislation that violates aggregate spending levels in the budget resolution so long as the new discetionary budget authority or entitlement authority provided in the measure is within the appropriate committee's allocation of spending under the budget resolution.

Senate Amendment

The Senate amendment (Section 222) repeals Section 311(b) of the Act, the Fazio exception, and amends Section 311(a) to establish in the House the point of order against legislation that would cause the maximum deficit amount for the fiscal year to be exceeded.

Conference Agreement

The Senate recedes from its amendment.

3. Section 302 Allocations of Spending to Committees

Current Law

Under Section 302(a) and (b) of the 1974 Budget Act, aggregate spending levels in the budget resolution are allocated to committees and then further subdivided by those committees either by subcommittee or by program. Section 302(f), added by the 1985 Balanced Budget Act, prohibits the consideration of any spending measure that would cause a committee's spending subdivisions to be exceeded.

The House and Senate enforce Section 302 procedures differently. One major difference is that the House does not provide for a point of order against violations of outlay subdivisions.

Senate Amendment

The Senate amendment (Section 223) amends Section 302(f)(1) of the Act to provide for a point of order in the House against spending legislation violating a committee's subdivision of outlays.

Conference Agreement

The Senate recedes from its amendment.

4. Budget Act Waivers and Appeals in the Senate

Curent Law

The House and Senate may waive points of order under the 1974 Budget Act by various means, including, in the Senate, motions made under Section 904(b) of the Act. Until the enactment of the 1985 Balanced Budget Act, waivers of the 1974 Budget Act, including motions made under Section 904(b), required the approval of only a simple majority. Section 271(a) and (b) of the 1985 Balanced Budget Act established in the Senate requirements for a three-fifths votes of all Members (60 Members) to waive most points of order under Title III of the 1974 Budget Act. However, because rulings by the Chair on these points of order can be overturned upon appeal by a simple majority of the Senate, the three-fifths vote requirements for Budget Act waivers can be circumvented if a ruling on a point of order is successfully applied.

Most of the three-fifths vote requirements under Section 271 of the 1985 Balanced Budget Act expire on September 30, 1991.

Senate Amendment

The Senate amendment (Section 233) amends Section 271 of the 1985 Balance Budget Act to extend the requirement for a three-fifths vote of the Senate for certain waivers of the 1974 Budget Act to appeals of rulings by the Chair. Further, the Senate amendment (Section 234) adds Section 302(c) of the 1974 Budget Act, which prohibits the consideration of spending legislation before a committee has reported its subdivisions of spending under Section 302(b), to the list of sections that require a three-fifths vote for waiver or appeal.

The Senate amendment changes the expiration date of the three-fifths vote requirements under Section 271 to September 30, 1992.

Conference Agreement

The House recedes and concurs in the Senate amendment, except that the expiration date of the three-fifths vote requirements under Section 271 is changed to September 30, 1993.

5. Time Limit for Conference Reports on Budget Resolutions

Current Law

Section 305(c)(2) of the 1974 Budget Act establishes time limits for debate on the conference reports on budget resolutions and reconciliation legislation. However, it is not clear from the language whether the time limit applies to appeals, debatable motions, and amendments in disagreement.

Senate Amendment

The Senate amendment (Section 232) amends Section 305(c)(2) to specifically include in the time limit "all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith."

Conference Agreement

The House recedes and concurs in the Senate amendment. The conferees intend that all debate on the conference report should fall within the established time limits.

6. Extraneous Provisions in Reconciliation Legislation

Current Law

Title XX of the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272), as amended by Section 7006 of the Omnibus Budget Reconciliation Act of 1986

(P.L. 99-509), established a temporary rule in the Senate—referred to as the "Byrd Rule"—to exclude extraneous matter from reconciliation legislation. The rule specifies the types of provisions considered to be extraneous, provides for a point of order against the inclusion of extraneous matter in reconciliation measures, and requires a three-fifths vote of the Senate to waive or appeal the point of order. The rule expires on January 2, 1988.

Senate Amendment

The Senate amendment (Section 228) amends the Byrd Rule (which applies only in the Senate) to include in the definition of extraneous matter provisions which increase net outlays or decrease revenues during a fiscal year beyond those fiscal years covered by the reconciliation measure and which result in a net increase in the deficit for that fiscal year. The Senate amendment also extends the expiration date of the Byrd Rule to September 30, 1992.

Conference Agreement

The House recedes and concurs in the Senate amendment. This rule applies only in the Senate.

It is the intent of the conferees that expiration after the reconciliation period of a revenue increase or extension provided for in a reconciliation bill would not, of itself, be considered a revenue decrease for purposes of this provision. It could, however, contribute to a finding that a spending increase or a positive revenue decrease in that legislation violated this rule.

7. Prohibition Against Counting Certain Actions as Savings

Current Law

Under current practice, the deficit for a fiscal year can be reduced by transferring certain actions by the Federal Government between that fiscal year and another fiscal year, even if the deficit for the other fiscal year is increased as a result.

Senate Amendment

The Senate amendment (Section 225) provides that a transfer of any action by the Federal Government—including payments, expenditures, asset sales, and the collection of revenues and receipts—from one fiscal year to an adjacent fiscal year shall not be treated as reducing the deficit for the fiscal year from which the transfer is made unless, as a result of the transfer, the deficit for the period covered by both fiscal years is reduced by at least $100 million.

The Senate amendment specifies the conditions for determining (for purposes of this requirement) whether an action by the Federal Government constitutes a transfer and further specifies that its provisions shall be enforced on the basis of estimates made by the House and Senate Budget Committees.

Conference Agreement

The conference agreement prohibits the savings resulting from the transfer of outlays, receipts, or revenues from one year to another to be counted as changing the deficit, except for certain types of transfers identified in law. The conferees recognize that the determinations required under this provision for the 1974 Budget Act will be based on estimates made by the House and Senate Budget Committees.

8. Extension of State and Local Government Cost Estimates

Current Law

The State and Local Cost Estimate Act of 1981 (Public Law 97-108) amended the 1974 Budget Act to require that the Congressional Budget Office (CBO) estimate the cost to State and local governments of authorizing legislation reported by House or Senate committees. The Act expires on September 30, 1987.

Senate Amendment

The Senate amendment (Section 227) repeals the expiration date of the State and Local Cost Estimate Act, thus extending indefinitely the CBO reporting requirement on State and local costs.

Conference Agreement

The House recedes and concurs in the Senate amendment.

9. Codification of Law Regarding Deferral Authority

Current Law

The Supreme Court in *Immigration and Naturalization* v. *Chadha*, 462 U.S. 919 (1983), held legislative vetoes unconstitutional. Applying *Chadha*, the Court of Appeals in *City of New Haven* v. *United States*, 809 F. 2d 900 (D.C. Cir. 1987), struck down Section 1013 of the 1974 Impoundment Control Act, dealing with deferrals, thereby denying the President his sole statutory authority to make deferrals for policy reasons. The Court noted its view that the Executive's power to defer was now limited to so-called programmatic deferrals under the Antideficiency Act, which it characterized as dealing with "routine" and "trivial" matters "relating to the normal and orderly operation of the Government that Congress expected to present little controversy." The reporting requirements of Section 1013 have continued in force by virtue of other statutory reference to that section.

Section 1015 of the 1974 Impoundment Control Act directs the Comptroller General to report to Congress when he determines that the President has failed to transmit a special message with respect to a deferral or rescission, or has incorrectly classified an action in such message. Section 1016 of the Act empowers the Comptroller General to bring a civil action to require that unlawfully impounded budget authority be made available for obligation. The Comptroller General has expressed the view that he lacks authority to take any action to compel the release of impounded funds since such authority was linked to the invalidated Section 1013.

Senate Amendment

The Senate amendment (Section 229) enacts a new Section 1013 that codifies the *New Haven* decision and General Accounting Office administrative interpretations by prohibiting policy deferrals and providing that deferrals will be permissible only: (1) for contingencies, (2) for efficiency, or (3) as specifically provided for by law. Programmatic deferrals must be reported to the Congress and be accompanied by a detailed description and justification of the proposal. Deferrals may not be proposed for any period extending beyond the end of the fiscal year in which the proposal is reported.

The Senate amendment also reaffirms the Comptroller General's authority under Sections 1015 and 1016 of the Act to initiate suits to compel the release of impounded funds and his duty to safeguard Congress' institutional interest in the spending process.

Conference Agreement

The House recedes and concurs in the Senate amendment.

10. Clarification of Congressional Intent Regarding Rescission Authority

Current Law

Section 1012(b) of the 1974 Impoundment Control Act empowers the President to withhold spending appropriated funds during a period of 45 days of continuous sessions while Congress considers a rescission proposal. Under General Accounting Office interpretations which allow preparation time for the submittal message, and because certain days are not counted as days of continuous session, recission proposals sometimes result in appropriated funds being withheld for up to 75 or more calendar days. Seriatim proposals covering the same subject matter have the effect of extending indefinitely the period of unavailability.

Senate Amendment

The Senate amendment (Section 230) adds language to Section 1012(b) to prohibit the Executive practice of submitting seriatim rescission messages covering similar matter when Congress fails to act on such proposals within the statutory 45-day period. The Senate amendment limits the Executive to one rescission proposal in any year regarding substantially the same budget authority.

Conference Agreement

The conference agreement amends Section 1012(b) of the Impoundment Control Act of 1974 to prohibit proposals to rescind budget authority which were the object of a previous rescission proposal not accepted by Congress. The conferees intend that the President be allowed to propose one recission for any given activity. If the recission proposal for that activity is not agreed to by Congress, no further rescission proposal for that activity would be allowed during the availability of that appropriation.

The conference agreement is not meant to diminish the restriction on the Executive from the Senate amendment. The conferees intend that the conference agreement will cover cases in which the Executive seeks to rescind substantially the same budget authority, not just exactly the same budget authority.

The conferees intend that authority granted to the President under this Act regarding the sequestration process shall in no way augment the authority available to him, and the requirements imposed on him, under existing law regarding the deferral or rescission of funds.

11. Two-Year Appropriations

Current Law

Under current practices, the House and Senate provide most new budget authority for a fiscal year in the form of annual appropriations acts (i.e., regular, supplemental, and continuing appropriations acts). Most appropriations within such an act are available for obligation only during the fiscal year, but some are available for two or more fiscal years.

Senate Amendment

The Senate amendment (Section 224) expresses the sense of the Congress that legislation experimenting with two-year appropriations for selected budget subfunctions shall be adopted as part of reconciliation legislation required by the FY 1988 budget resolution (H. Con. Res. 93, adopted June 24, 1987).

Conference Agreement

The conference agreement urges the Congress—under a plan to be developed by the appropriate committees in consultation with the leadership of both Houses and in cooperation with the Executive Branch—to experiment with multiyear authorizations and two-year appropriations for selected agencies and accounts, and to evaluate the experiment once completed.

12. Credit Reform

Current Law

Current law regarding the treatment of credit activities in the budget process is under the law.

Senate Amendment

Senate amendment numbered 3 in part adds a new title (Title III—Credit Reform), to be cited as the "Federal Credit Reform Act of 1987," to the joint resolution.

The Senate amendment establishes the scoring of direct loans and guarantees on the basis of subsidy costs, defined as the present value of the direct costs to Government to extend credit assistance.

Beginning in FY 1989, agencies would receive an appropriation for the subsidy costs of loans and loan guarantees expected during the year. Deposit insurance agencies are not required to have subsidy appropriations. For entitlement programs funded by permanent indefinite appropriations, indefinite amounts will be requested for subsidies, but specific estimates will be included in the budget.

The subsidy calculations take into account direct Government outlays and lost or delayed repayments. Fees and premiums paid by borrowers would reduce the subsidy estimate. The term "subsidy" also refers to changes in the terms of loans that have the effect of increasing the Government's cost, including loan forgiveness, waiving of penalties, and other changes in the terms of a loan agreement. Agencies will include an estimate of the subsidy costs of such changes in their requests for appropriations.

The Senate amendment establishes a Federal credit management agency in the Treasury Department to supply and verify subsidy elements and to study and recommend improvements in Federal agency credit management.

The Senate amendment neither requires nor authorizes the selling of direct loans; the title prohibits the reinsurance of loan guarantees.

Two kinds of budget accounts are established for credit programs—a subsidy account and a financing account. Amounts appropriated for loan subsidies would be credited to the subsidy account and paid into the financing account as the loan is disbursed. All of the unsubsidized cash flow associated with loans made after October 1, 1988 (including loan disbursements, repayments, default claims, and fees and premiums paid by borrowers), would be assigned to a financing account.

Assets and liabilities resulting from loans made before FY 1989 will be transferred to financing accounts as well.

All of these financing accounts will be assigned to a separate and newly established budget function. Amounts in this function would not be allocated to committees and would not be counted when determining compliance with various sections of the 1974 Budget Act.

Because both the financing and subsidy accounts are on-budget, the credit reform title would have no impact on the cash-flow measure of the deficit.

Agencies have authority to borrow from the Treasury to cover the obligations of these financing accounts. For new loans, an agency may borrow to cover the unsubsidized financing requirements of a program if sufficient resources are not available in the financing account. For example, an agency might receive an appropriation of $10 million to make direct loans with a face value of $50 million. It would borrow $40 million in order to disburse these loans and would recover this amount with borrower repayments. The bill would also extend this borrowing authority to obligations associated with loans made before FY 1989. An agency would redeem its debt with Treasury as borrowers repay their loans. If it did not have sufficient funds, the agency would have to request an appropriation to liquidate the debt.

The Senate amendment makes it out of order in either House to consider an appropriations bill which provides new credit authority, for programs that are estimated to require a subsidy, but does not also provide an appropriation for that subsidy cost.

Finally, the Senate amendment states that nothing in the title should be construed as altering the underlying terms and conditions of, or eligibility for, or the amount of assistance provided by, any Federal direct loan or loan guarantee.

Conference Agreement

The conference agreement deletes the Senate language establishing a credit reform title and directs the Congressional Budget Office, in consultation with the General Accounting Office, to study and report to Congress on Federal credit programs for FY 1987 and FY 1988. The report, which shall be submitted to the committees of jurisdiction as soon as practicable, must address and make recommendations on the following areas: (1) more accurately measuring the costs of Federal credit programs, (2) comparing the cost of Federal credit programs to other forms of assistance, and (3) improving the allocation of resources between credit programs and other programs. The report shall also consider how to include information on the cost of Federal credit programs in the budget process.

13. Financial Management Reform

Current Law

Current law, such as the Federal Managers' Financial Integrity Act (Public Law 97-255), addresses certain aspects of financial management improvement. However, a comprehensive statutory framework for financial management reform does not exist.

Senate Amendment

The Senate amendment (section 226) states the sense of Congress that Congress shall adopt, as part of reconciliation legislation, a plan to ensure improvements in the Government's financial management.

Conference Agreement

The conference agreement urges the Congress to undertake coordinated effort to identify problems in Federal Financial management, develop specific proposals for reform, and consider the use of generally accepted accounting principles in Federal financial management systems.

14. Date of Submission of the President's Budget

Current Law

Under current law (31 U.S.C. 1105(a)), the President must submit his budget each year by the first Monday after January 3. Prior to this change in law, which was included in the 1985 Balanced Budget Act, the President was required to submit his budget within 15 days after a session of Congress convened.

Senate Amendment

The Senate amendment (Section 206) changes the deadline in 31 U.S.C. 1105 (a) for submission of the President's budget to the first Monday after January 17 and makes certain conforming changes in 31 U.S.C. 1109(a) and Section 300 of the 1974 Budget Act.

Conference Agreement

The Senate recedes from its amendment.

15. House and Senate Rulemaking Powers

Current Law

The Constitution empowers the House and Senate to determine and revise their rules of procedure at any time. Section 271(c) of the 1985 Balanced Budget Act and Section 904(a) of the 1974 Budget Act state that certain provisions of those acts were enacted as an exercise of the rulemaking powers of the House and Senate.

Senate Amendment

The Senate amendment (Section 235) states that provisions included under Part B of the amendment (entitled "Budget Process Reforms") are enacted as an exercise of the rulemaking power of the House and Senate, with the full recognition of the constitutional right of either House to change them at any time.

Conference Agreement

The conference agreement provides that the amendments made by this Act are enacted as an exercise of the rulemaking powers of the House and Senate.

IV. MISCELLANEOUS PROVISIONS (FEDERAL SALARY ACT AMENDMENT)

Current Law

Under the Federal Salary Act of 1967, as amended, the Commission on Executive, Legislative, and Judicial Salaries makes recommendations every four years to the President as to the salaries for Members of Congress and certain other officers and employees of the United States. The President in turn is required to submit his recommendations as to the rates of pay for those officials as a part of his budget submitted after he receives the recommendations of the Commission. Those recommendations of the President go into effect unless Congress agrees to a joint resolution disapproving them within 30 days after the date on which they were made.

House Joint Resolution

H.J. Res. 324, as passed by the House, does not contain any provisions dealing with the Federal Salary Act of 1967.

Senate Amendment

Senate amendment numbered 4 provides that the recommendations of the President concerning the salary rates for Members of Congress and certain other officers and employees of the United States would become effective only if they are approved by a joint resolution agreed to by the Congress.

Conference Agreement

The Senate recedes from its amendment.

From the Committee on Appropriations:
JOHN P. MURTHA,
BOD TRAYLER,
MICKEY EDWARDS,
JERRY LEWIS,
From the Committee on the Budget:
WILLIAM H. GRAY,
HOWARD WOLPE,
MARVIN LEATH,
WILLIS D. GRADISON, JR.,
CONNIE MACK,

From the Committee on Government Operations:

JACK BROOKS,
FRANK HORTON,

From the Committee on Rules:

CLAUDE PEPPER,
BUTLER DERRICK,
TRENT LOTT,

From the Committee on Ways and Means:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
ANDREW JACOBS, Jr.,
ED JENKINS,
MARTY RUSSO,
ROBERT T. MATSUI,
JOHN DUNCAN,
BILL ARCHER,
RICHARD SCHULZE,
WILLIAM THOMAS,

Additional conferees:

THOMAS S. FOLEY,
WILLIAM D. FORD,
LES ASPIN,
MARY ROSE OAKAR,
LEON PANETTA,
VIC FAZIO,
BUDDY MACKAY,
BILL FRENZEL,
RALPH REGULA,
JUDD GREGG,
LYNN MARTIN,
NANCY L. JOHNSON,

Managers on the Part of the House.

LLOYD BENTSEN,
DANIEL MOYNIHAN,
SPARK M. MATSUNAGA,
LAWTON CHILES,
FRITZ HOLLINGS,
CARL LEVIN,
BOB PACKWOOD,
PHIL GRAMM,

Managers on the Part of the Senate.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 2783, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS, 1988

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 100-311) on the resolution (H. Res. 267) waiving certain points of order against consideration of the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE 3 ADDITIONAL DAYS TO PRINT REPORT ON H.R. 2881, NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME ACT

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be given 3 additional legislative days in which to print its report on the bill, H.R. 2881, in the RECORD.

The SPEAKER pro tempore (Mr. VENTO). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

[Mr. PARRIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CREDIT CARD INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, no longer do Americans enjoy the use of credit cards as a luxury; credit cards are a necessity for millions of us. Yet, it continues to confound me as to why an item required by most Americans to conduct daily business should be available only at exorbitant cost. I believe that this is wrong. It presents the consumer with the conflict of either paying the presently outrageous cost of most credit cards, or going without something necessary to conduct daily business. Most of us are forced to choose the former.

It is interesting to note that those people who choose not to secure a credit card, for whatever reason, are still impaired in their ability to conduct routine business. Have you ever tried to make a purchase or payment by bank check without a credit card as a second form of identification? I suspect that many retailers would resist accepting payment in the form of a bank check from a well-known public figure without a credit card as identification.

The need of Americans to possess a credit card is being used by banks to accumulate obscene profits. I am appalled by the fact that credit cards are the single most profitable area for banks today. The national average for credit card interest rates remains above 18 percent.

This fact is particularly difficult to accept when we look at the sharp drop in every other interest rate over the last 6 years. In 1981 the prime rate rose to over 22 percent, today it stands at 8.75 percent. In 1981 home mortgage rates hovered at 17 percent, today they have declined to 10 percent. In 1981 the Federal Reserve discount rate, the cost of money to banks, hit 14 percent, today the rate is 6 percent. Assuming the same market pressures, isn't it somewhat inconsistent at best to discover that credit card interest rates have actually risen. Banks are charging 18 percent for money that costs them 6 percent. On how many other consumer products or services would we find a 300-percent markup acceptable? It is not difficult to understand why banks continue to resist lower credit card interest rates—enormous profits.

Interest rates are not the only means of profit. Consumers pay annual fees for the privilege of holding the card, and merchants pay a 3 to 4 percent fee each time a consumer uses the card. Additionally, the consumer is being confronted with other assorted fees and charges and shortened or eliminated grace periods.

Many banks will tell us that credit card interest rates are not unreasonably high and we do not understand the cost of providing this service to customers. I contend that while most consumers may not undertand the costs involved in providing these services, it is due to a resistance on the part of the banks to provide a clear and adequate explanation to consumers.

The fact is that there are banks making profits on interest rates considerably lower than the national average. The State of Connecticut placed a 15-percent ceiling on credit card interest rates in 1986. This caused an interest rate war before the Governor had signed the bill. The grim predictions of the bank lobbyists never came to pass; credit did not evaporate, and banks neither lost money nor moved out of State.

In reviewing surveys of banks that offer credit cards with low interest rates, why is it that small banks are able to remain profitable while charging fair rates and the large money centers show little regard for the consumer by maintaining such high rates? Why do these large card issuers who enjoy the lowest processing and per unit administrative costs continue to charge the most for their cards? Could it be that credit card interest rate charges have provided lenders with an unobstructed means by which to achieve record profits at the expense of the consumer?

Banks have spent much of their time trying to explain why credit card rates have remained high while other rates have plummeted. Every explanation has been refuted save one; banks seek to maintain record high profits on the backs of consumers. With the prime rate at 8.75 percent and the Federal Reserve discount rate at 6 percent, there is no acceptable explanation for credit card interest rates of 21, 20, or even 18 percent.

I am proposing that in good conscience, and with a commitment to this country's consumer, fairness dictates that banks be subject to a ceiling on credit card interest rates. Shortly a bill on credit card information disclosure will be brought to the floor; at that time I will offer an amendment to cap interest rates at eight points about the yield on 1-year Treasury securities. If this were in effect today, the maximum interest rate would be 14 percent. Isn't there something questionable about a business that can't make a profit by borrowing money at 6 percent and lending it at 14 percent? This cap would ensure that credit card interest rates would rise and fall with the free credit market. If the cost of funds to banks rises they would be able to raise rates. When the costs drop, as they have for the last few years, the consumer would benefit with reduced rates. Because the banks refuse to respond reasonably and fairly to the needs of consumers, the only alternative for protecting consumers is legislation.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 5 minutes.

[Mr. BEREUTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

H.R. 162, THE HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont [Mr. JEFFORDS] is recognized for 60 minutes.

Mr. JEFFORDS. Mr. Speaker, I have taken this special order this evening to discuss a very important bill which will be on the House floor sometime in the next couple weeks. This bill involves a very serious problem which we have in the country.

The fact is that through our history millions of workers have been working sometimes in conditions which may have exposed them to conditions hazardous to their health.

Mr. Speaker, over the last few days we have heard some impressive arguments on the House floor urging Members to support H.R. 162, the High-Risk Occupational Disease Notification and Prevention Act of 1987. While I have great respect for the sponsors of this bill, I believe that H.R. 162 is unworkable legislation. Further, I believe that we have come up with an alternative to H.R. 162 that is both more workable with respect to risk notification and more likely to truly protect American workers from occupational health hazards.

Now let us examine some of the arguments that appeared in the September 9 RECORD that are typically cited by the proponents of H.R. 162. One of the most frequently cited arguments is that the bill fills a void in present law. Proponents argue that it is not duplicative of existing law because there is no Federal program to both individually notify present and former workers of their risk of disease and also to monitor their medical conditions. While we do not dispute the point that there is no such Federal program in place precisely as just described. Indeed, the creation of a new Federal bureaucracy is one of the cornerstones of H.R. 162. The fact is that most of the objectives of H.R. 162 can be achieved by the application of existing law. Those that cannot be met by current law are specifically addressed in the Jeffords/Henry substitute. Thus the argument that H.R. 162 does not duplicate present law is much more a matter of semantics than it is of substance.

For example, the Occupational Safety and Health Act, which like Jeffords/Henry concentrates on the prevention of occupational hazards, authorizes the Occupational Safety and Health Administration [OSHA] and the National Institute for Occupational Safety and Health [NIOSH] to accomplish many of the goals of H.R. 162. Everyone is most likely well aware by now that OSHA recently expanded its comprehensive hazard communication standard to cover all employers, not just those in the manufacturing sector. It can no longer be argued that its application is limited to only manufacturers. More importantly, we wonder if our colleagues are really aware of just how comprehensive the Hazcom standard is?

Among other things, the Hazcom standard requires chemical hazard training at the time of a worker's initial work assignment and whenever a new chemical hazard is introduced to the work area.

It requires a written chemical hazard communication program at each work place which must at a minimum contain a listing of the chemical hazards present, explain labeling procedures and requirements, explain material safety data sheet procedures, and explain information and training procedures regarding chemical hazards.

It requires the employer to maintain a material safety data sheet [MSDS] on each hazardous chemical present in the work place. The MSDS must at a minimum contain the name of the chemical; its physical and chemical characteristics; its physical hazards; its health hazards, including signs and symptoms of exposure, and medical conditions which are generally recognized as being aggravated by exposure; its primary routes of entry into the human body; the OSHA permissible exposure limit; whether it has been identified as a potential carcinogen; any generally applicable precautions for safe handling; any generally applicable control measures; emergency first aid procedures; and the name, address, and phone number of the manufacturer or importer for the purpose of obtaining any additional relevant information concerning the hazardous chemical.

It requires that the MSDS must be made available upon request to present and former workers who ask for it.

It requires labeling of each hazardous chemical in the work place. The label must contain at a minimum the identity of the substance and contain appropriate hazard warnings.

In other words, the OSHA Hazcom standard already requires every employer to provide information to workers—thereby recognizing their right to know—concerning all hazardous chemicals which are present or used in their work area.

One other point should be made concerning OSHA's expanded Hazcom standard. In its risk evaluation/benefits analysis accompanying publication of the standard in the Federal Register on August 24, 1987, OSHA pointed out that "the benefits of the standard result from its expected reduction of occupational injuries and illnesses that are chemically related. Specifically, OSHA projects that the standard will avert 20 percent of these injuries and illnesses." Thus the Hazcom standard will make a significant reduction of occupationally related illnesses in its own right.

Finally, it is important to point out that the compliance costs of implementing the expanded OSHA Hazcom standard are not insignificant. OSHA estimates the additional cost to industry to comply will be $1.57 billion over 40 years. Of course, these costs will be incurred regardless of whether H.R. 162 is enacted. Naturally, the regulatory burden will fall most heavily on smaller businesses.

In addition to the Hazcom standard, there are several other OSHA standards and programs in place which address specifically the objectives of H.R. 162. For example, OSHA's access to medical records standard gives present and former workers the right to inspect medical records maintained by their employers which show any exposures to potentially hazardous substances while they worked for that employer.

Several substance specific OSHA standards, dealing with some of the most widespread work place hazardous substances—such as vinyl chloride, lead, asbestos, and coke oven emissions—require employers to provide regular medical monitoring to employees who have been exposed to the hazard in question.

NIOSH, exercising its authority under the OSH Act, has conducted thousands of health hazard evaluations. These evaluations involve onsite visits during which NIOSH carefully assesses the health hazard potential within a specific work place. Workers and their representatives have the right to be informed about the results of these health hazard evaluations.

There are also Federal right to know requirements contained in other national laws. One of the most significant is the Superfund Amendments and Reauthorization Act of 1986. Provisions of that law require all employers who are required to maintain material safety data sheets under OSHA's Hazcom standard—and that now includes all employers as a result of Hazcom's recent expansion—to submit those MSDS to the State emergency response commissions, the local emergency planning committee, and the local fire department. Members of the public may request copies of the MSDA from the emergency planning committees.

Finally, we would stress that the Jeffords/Henry alternative is designed specifically to fill in any of the gaps that may not be addressed adequately by existing laws and regulations. Very importantly, the alternative does not create an expansive new Federal regulatory program like H.R. 162 does. Rather, Jeffords/Henry builds on those programs, many of which we have just described, that are already in place.

For example, Jeffords/Henry requires the Secretary of Labor to consider expanding the OSHA Hazcom standard to include medical monitoring information and expanded health training as part of the material safety data sheets. It also requires OSHA to update its permissible exposure limits for a host of chemical hazards within one year after Jeffords-Henry becomes law. This is the kind of worker protection emphasis contained in our alternative which is simply not present in H.R. 162.

Jeffords-Henry also requires NIOSH to implement an interim program to notify present and former workers who have been the subject of Government conducted workplace health studies if those studies show that these workers are at increased risk of occupational disease as a result of actual workplace exposures. Importantly, these notifications will be based on solid scientific evidence involving dose response relationships with humans which indicate a potential for increased risk. They will not be based on extrapolations from laboratory or animal studies that cannot firmly establish a link to disease in humans.

Perhaps most significantly, Jeffords-Henry creates a commission of experts to assess all the issues involved in an expansive risk notification program—the kind of program that H.R. 162 would require immediately, regardless of the potential adverse consequences—before recommending implementation of such a program. Among the issues which the commission must consider are the direct and indirect costs of a H.R. 162-type risk notification program; the impact of such a program on liability lawsuits; the effect of such a program on the ability of small businesses to procure adequate insurance; the adequacy of existing scientific data in being able to establish reliable risk determinations; and the benefits and savings that might be achieved by the implementation of such a program.

By this time it should be clearly evident that there are adequate mechanisms already in place to achieve the basic objectives of H.R. 162. When those existing mechanisms are combined with the complimentary features of the Jeffords-Henry alternative, it seems obvious that H.R. 162 is unnecessary legislation. In short, we believe we have proposed the better way to go.

At this point, it is important to address one of the basic contentions of H.R. 162's supporters, and that is that the bill has broad based industry support. The clear implication in this claim is that if the employers who will actually be affected by H.R. 162 view it as necessary legislation, then it must be so. Despite some limited industry support for the bill, however, the record shows that the vast majority of private employers are adamantly opposed to H.R. 162. Further, the support that has been expressed for the bill has come from a few very large corporations and three industry trade associations: the Chemical Manufacturers, the American Electronics Association, and the Paint & Coatings Association. Not only is the bill universally opposed by the small business community—which rightly perceives it as a regulatory nightmare which will inevitably lead to costly lawsuits—the fact is that H.R. 162 does not even have the unanimous support of the members of those associations which support it.

For example, the proponents of H.R. 162 have made much to do about the fact that the bill has won the support of the Chemical Manufacturers Association. Yet several influential members of that association have taken the extraordinary step of publically repudiating CMA's position by expressing their open opposition to the bill. Among those CMA members who have taken this highly unusual action are Mobil, Georgia-Pacific, Procter & Gamble, Shell, Goodyear, B.F. Goodrich, FMC, Borg Warner Chemical Inc., Uniroyal, and Michelin.

It would not be difficult to consume the rest of our allotted time by reading the names of those associations and companies who are on the record urging Congress to reject H.R. 162. Let us simply state for the record instead that as of today, there are more than 310 industry associations and companies who oppose the bill. And that list it growing day by day.

The list follows:

National Association of Manufacturers.
Chamber of Commerce of the United States.
National Federation of Independent Businesses.
National Association of Wholesaler-Distributors.
American Mining Congress.
Adhesive and Sealant Council.
Aerospace Industries Association.
Air-conditioning & Refrigeration Wholesalers.
Alliance of American Insurers.
Aluminum Extruders Council.
American Coke and Coal Chemicals Institute.
American Federation of Small Business.
American Furniture Manufacturers Association.
American Hardware Manufacturers Association.
American Iron and Steel Institute.
American Jewelry Marketing Association.
American Machine Tool Distributors Association.
American Paper Institute.
American Retail Federation.
American Retreaders Association.
American Road and Transportation Builders Assn.
American Subcontractors Association.
American Supply Association.
American Textile Manufacturers Institute.
American Traffic Safety Services Association, Inc.
American Veterinary Distributors Association, Inc.
American Wood Preservers Institute.
Appliance Part Distributors Association, Inc.
ARMTEK Corporation.
ARMCO inc.
Asarco Incorporated.
Associated Builders & Contractors.
Associated Equipment Distributors.
Associated General Contractors of America.
Association of American Railroads.
Association of Footwear Distributors.
Association of Plumbing-Heating-Cooling Contractors.
Association of Steel Distributors.
Association of the Wall & Ceiling Industries-International.
Automotive Service Industry Association.
Aviation Distributors & Manufacturers Association.
Bearing Specialists Association.
Beauty & Barber Supply Institute, Inc.
Bechtel.
Bethlehem Steel Corporation.
Bicycle Wholesale Distributors Association, Inc.
Biscuit & Cracker Distributors Association.
Blasch Precision Ceramics, Inc.
Borg-Warner.
Bridgestone Tire Company.
Calazeras Cement Company.
Cast Metals Association.
Caterpiller Inc.
Ceramic Tile Distributors Association.
Champion Spark Plug Company.
Chesebrough-Ponds, Inc.
Chrysler Corporation.
Cleveland Cliffs Inc.
Composite Can & Tube Institute.
Cooper Tire and Rubber Company.
Copper & Brass Servicenter Association.
Corhart Refractories Corporation.
Council for Periodical Distributors Association.
Council of Wholesale-Distributors National Kitchen & Bath Association.
Door & Hardware Institute.
Eagle-Picher Industries.
Edison Electric Institute.
Electrical-Electronics Materials.
Distributors Association.
Explosive Distributors Association, Inc.
Farm Equipment Wholesalers Association.
Fire Suppression Systems Association.
Flexible Packaging Association.
Fluid Power Distributors Association, Inc.
FMC Corporation.
Food Industries Suppliers Association.
Food Marketing Institute.
Foodservice Equipment Distributors Assn.
Ford Motor Company.
Gates Rubber Company.
GenCorp. Inc.
General Ceramics, Inc.
General Merchandise Distributors Council.
General Motors.
Georgia-Pacific.
Greater Wash/MD Service Station & Repair Assn.
Gypsum Company.

Health Industry Distributors Association.
Hecla Mining Company.
Hobby Industry Association of America.
Houston Lighting and Power Company.
Independent Medical Distributors Assn.
Institutional & Service Textile Distributors Association, Inc.
International Sanitary Supply Association.
Irregation Association.
International Truck Parts Association.
Jewelry Industry Distributors Association.
Keystone Coal Mining Corporation.
M.A. Hanna Company.
Machinery Dealers National Association.
Material Handling Equipment Distributors Assn.
Maytag Corporation.
McCreary Tire and Rubber Company.
Michelin Tire Corporation.
Mobil Chemical Corporation.
Mobil Oil Corporation.
Monument Builders of North America.
Motor Vehicle Manufacturers Association.
Motorcycle Industry Council.
Motorola.
Music Distributors Association.
National-American Wholesale Grocers' Assn.
National Appliance Parts Suppliers Assn.
National Assn. for Horse & Accessories Distributors.
National Association of Aluminum Distributors.
National Association of Casualty & Surety Agents.
National Assn. of Chemical Distributors.
National Assn. of Container Distributors.
National Association of Decorative Fabric Distributors.
National Assn. of Electrical Distributors.
National Association of Fire Equipment Distributors.
National Association of Floor Covering Distributors.
National Association of Homebuilders.
National Assn. of Independent Insurers.
National Assn. of Manufacturing Opticians.
National Assn. of Marine Services, Inc.
National Association of Meat Purveyors.
National Assn. of Plastics Distributors.
National Assn. of Service Mechandising.
National Association of Sporting Goods Wholesalers
National Assn. of Tobacco Distributors.
National Assn. of Truck Stop Operators.
National Association of Writing Instrument Distributors.
National Beer Wholesalers Association.
National Building Material Distributors Association.
National Business Forms Association.
National Candy Wholesalers Association.
National Coal Association.
National Commercial Refrigeration Sales Association.
National Electronic Distributors Assn.
National Fastener Distributors Association.
National Food Brokers Association.
National Food Distributors Association.
National Forest Products Association.
National Frozen Food Association.
National Grain and Feed Association.
National Grocers Association.
National Independent Poultry and Food Distributors Association.
National Industrial Belting Association.
National Industrial Glove Distributors Association.
National Industrial Sand Association.
National Intergroup Inc.
National Kitchen Cabinet Association.
National Lawn & Garden Distributors Association.
National Locksmith Suppliers Association.
National Machine Tool Builders Association.
National Marine Distributors Association.
National Moving & Storage Association.
National Paint Distributors, Inc.
National Paper Trade Association, Inc.
National Particle Board Association.
National Pest Control Association.
National Plastercraft Association.
National Printing Equipment & Supply Assn.
National Ready Mixed Concrete Association.
National Restaurant Association.
National Sand & Gravel Association.
National Sash & Door Jobbers Association.
National School Supply & Equipment Assn.
National Screw Machine Products Association.
National Small Business United.
National Solid Wastes Management Assn.
National Stone Association.
National & Southern Industrial Distributors Associations.
National Spa and Pool Institute.
National Textile & Apparel Distributors.
National Tooling and Machining Association.
National Truck Equipment Association.
National Welding Supply Association.
National Wheel & Rim Association.
National Wholesale Druggists Association.
National Wholesale Furniture Association.
National Wholesale Hardware Association.
Newmont Mining Corporation.
New York State Electric and Gas Corporation.
North American Heating & Airconditioning Wholesalers.
North America Wholesale Lumber Assn., Inc.
Optical Laboratories Association.
Outdoor Power Equipment Distributors Assn.
Owens-Illinois, Inc.
Pet Industry Distributors Association.
Petroleum Equipment Institute.
Petroleum Marketers Association of America.
Portland Cement Association.
Power Transmission Distributors Association, Inc.
Printing Industries of America.
Procter & Gamble.
R.R. Donnelly & Sons Company.
Rochester & Pittsburgh Coal Company.
Rubber Manufacturers Association.
Russell Corporation.
Safety Equipment Distributors Assn., Inc.
Scaffold Industry Association.
Scott Paper Company.
Security Equipment Industry Association.
Shipbuilders Council of America.
Shoe Service Institute of America.
Society of American Florists.
Sorptive Minerals Institute.
Specialty Tools & Fasteners Distributors Association.
Spring Service Association.
Southwestern Bell Corporation.
Textile Care Allied Trades Association.
The American Society of Personnel Administrators.
The AntiFriction Bearing Manufacturers.
The B.F. Goodrich Company.
The Can Manufacturers Institute.
The Firestone Tire & Rubber Company.
The Formaldehyde Institute.
The Goodyear Tire & Rubber Company.
The National Cotton Council.
The Small Business Legislative Council.
The Society of the Plastics Industry.
The Standard Oil Company.
Toy Wholesalers' Association of America.
UBA, Inc.
U.S. Borax and Chemical Corp.
Umetco Minerals Corporation.
Union Camp.
Uniroyal Goodrich Tire Company.
United Pesticide Formulators & Distributors Association.
USG Corporation.
USX Corporation.
Utah International Inc.
Video Software Dealers Association.
Volkswagen.
Wallcovering Distributors Association.
Warehouse Distributors Association for Leisure & Mobile Products.
Water and Sewer Distributors Association.
Wholesale Florists & Florist Suppliers of America.
Wholesale Stationers' Association, Inc.
Wine & Spirits Wholesalers of America, Inc.
Woodworking Machinery Importers Assn.
Woodworking Machinery Distributors Assn.

We are not suggesting that the issue of occupational health hazards and their possible contribution to increased risk of disease should be minimized. Indeed, that is why we have introduced our alternative bill as a means of further improving work place preventive measures. At the same time, however, particularly when dealing with legislation as comprehensive and potentially far-reaching as H.R. 162, it is important that judgments be made on the basis of generally accepted scientific fact.

Another major argument made by H.R. 162's proponents is the claim that it will not cost much. Indeed, the bill's sponsor refers to the bill as costing only $25 million a year. Based on the claims of what the legislation purports to do, it could certainly be argued that $25 million is not a lot of money.

The $25 million figure represents only the specific authorization amount granted by H.R. 162. The figure does not represent the costs directly imposed on employers to comply, nor does it take into account the almost certain increase in liability lawsuit costs that H.R. 162 will create. In fact, given the new bureaucratic mechanism that the bill creates, it is highly questionable whether the $25 million annual authorization will be enough to underwrite the Government's risk notification efforts.

NIOSH estimates that it could cost $25 million annually to notify just 300,000 workers, yet labor estimates that about 9,000,000 workers may be exposed to chemicals covered by the hazard communication standard. GAO, in its report on H.R. 162, stated that "no comprehensive cost estimates for a large-scale program such as H.R. 162 have been developed primarily because of (1) uncertainty about the number of workers to be notified, and (2) difficulties in estimating costs associated with a notification program, such as possible increases in litigation and workers compensation."

Additionally, the bill creates a new nine-member risk notification board in the Department of Health and Human Services. That board, which will need to be fully staffed, is expected to carefully analyze reams of scientific studies, perform on-site evaluations, conduct public hearings, maintain a telephone hotline, all with the intent of identifying and then individually notifying workers who have been determined to be at increased risk of occupational disease. In addition, the bill requires the Government, within 5 years, to establish and oversee at least one health center in every State in the Union. Can this task really be accomplished with $25 million? How soon will it be before Congress is asked to authorize substantial additional funding to support these activities?

With respect to the direct costs on employers, let us look at one example. Sponsors of H.R. 162 suggest that as many as 300,000 workers a year will be notified that they are in a population at risk. Each worker in a population at risk has the right to obtain regular medical monitoring from his or her present employer, and at no cost if any part of the exposure resulting in a risk determination was made while the worker was employed by that employer. HHS has estimated that the cost of regular medical monitoring to range anywhere between $30 and $300 per individual. If we assume that just half of the workers notified seek such medical monitoring, or 150,000 workers a year, the cost to their employers for this function alone would range from $4.5 million to $45 million annually.

Far more significant in terms of employer costs, however, are H.R. 162's liability implications. Proponents argue that the bill doesn't change existing laws with respect to workers' rights to file claims. Even if we were to concede this point—and we must emphasize that good legal minds dispute the claim that the bill is tort neutral—is there any question in anyone's mind that 300,000 workers a year receiving a notification from the Government that they might get cancer because of a work place exposure is likely to increase liability lawsuits. Workers compensation data shows that stress claims are the fastest rising type of claim under the workers comp system. H.R. 162 will simply stimulate the proliferation of those claims.

We have previously referred to the NIOSH pilot risk notification project at the Augusta Chemical Co. in the late 1970's. That study, which involved the notification of approximately 800 workers, resulted in the filing of $335 million in lawsuits. Many of the claims were filed by individuals who had no symptoms or evidence of the disease in question. While many of those claims have since been settled, in each case a lawyer had to be hired. As everyone knows, lawyers cost a lot of money, even if you end up winning in the end. How many of our colleagues have taken the time to ask one of their small business constituents just how much legal costs can be, particularly those that have been compelled to defend themselves against what they considered to be a false claim? The point is that H.R. 162 is going to dramatically increase the number of lawsuits filed, and that is going to result in a tremendous increase in legal costs. Ironically, the only group we know that will benefit from this development are the lawyers themselves.

Please understand that we are not opposed to workers being justly compensated for wrongs that have been committed because of unhealthy working conditions. This is an issue of major significance that must be dealt with fairly. We do not believe, however, that legislation that is sure to fill up the courts with questionable claims is the best way to ensure justice. That is why our substitute calls for a careful assessment of the liability impacts of a risk notification program before recommending that such a program be implemented.

There is one other proponent argument that we would like to address before closing. Supporters of H.R. 162 contend a massive risk notification program is necessary because it will provide early warning to workers to permit them the opportunity to seek preventive treatment. The contention is that millions of dollars in medical expenses will thus be avoided down the line. Unfortunately, there is no convincing evidence to demonstrate that screening techniques in cancer lead to the prolongation of life. Earlier identification without the means for effective treatment—which is the problem with many major cancers—does not truly affect the outcome.

The majority report on H.R. 162 makes reference to the fact that NIOSH has the names and locations of some 250 workplaces where as many as 250,000 workers and former workers face increased risk of serious disease because of exposures that occurred in those workplaces. NIOSH has identified three categories of workers within that group who might be eligible for notification under a risk notification program. Category 1, which includes approximately 110,000 workers, includes those "who could gain direct medical/health benefits from notification." Category 2, 138,000 workers, includes those where "there are no effective intervention methods." Category 3, 6,500 workers, includes those where "participant notification would stimulate improvement in working conditions." This data graphically shows that more than half the workers eligible for notification would not benefit in the end. Our medical screening techniques and our medical intervention techniques unfortunately lag behind our needs. The claim that early detection will lead to medical cost savings is simply not borne out by the data. We should not raise false hopes of workers with most currently available screening tests of unproved effectiveness. We should concentrate on measures of primary prevention.

This is one of the reasons that we believe the Jeffords/Henry substitute's emphasis on prevention is the preferable public policy option. In other words, let us go to and control the possible causes of a serious disease rather than hoping that medical science will come up with a cure before it is too late.

Let us look again at what Jeffords/Henry will do:

During rulemaking to expand the OSHA Hazcom standard, the Secretary of Labor would be required to consider whether the material safety data sheets include medical monitoring recommendations and whether expanded health hazard training is appropriate.

Employers would be required to notify their current employees of their rights to obtain information regarding workplace hazards and any medical records from their previous employers.

Employers would be required to make available to former employees, upon request, the list of hazards present in the workplace during their employment.

Employers would be required to notify any employee who has been or is being exposed to toxic materials in concentrations or at levels that exceed those prescribed by OSHA.

Agencies other than OSHA that have jurisdiction over worker safety and health would be required to promulgate a hazard notification standard.

Public service announcements would be made to inform current and former employees of their right to obtain information regarding hazardous substances in their workplaces and their right to access their individual medical records.

OSHA would be required to establish an Office of Hazard Communications to review MSDS, provide technical assistance to inspectors, and assist employers in their compliance efforts.

OSHA would be required to update its list of permissible exposure limits for more than 400 chemical substances within 1 year after enactment.

Penalties for willful violations would be substantially increased.

Conflicting State and local right to know laws would be pre-empted.

GAO would be required to evaluate the effectiveness of the expanded hazard communications standard.

Authorizations would be $20 million the first year and as needed thereafter.

NIOSH would be required to establish an interim program to provide notice of risk information to workers who have participated in Federal workplace health studies.

Notification by NIOSH must follow carefully developed guidelines.

Notifications would be required to contain recommendations for appropriate medical monitoring.

A hotline would be established within NIOSH for employees who receive a notification.

NIOSH would receive a 1-year authorization of $5 million and as needed thereafter.

A risk notification study commission made up of experts would be created to carefully analyze all of the issues raised by a risk notification program with recommendations back to Congress in 2 years.

□ 1600

All of us want to make sure that anyone who has been exposed to the possibilities of disease have some way to ensure that they can take proper action in order to reduce the chances of their having any harmful effects from the disease. There is no question about that. I am hopeful that we have taken a very positive approach to this serious situation.

In fact, it is my opinion and the opinion of those who support me that the substitute that we have is superior to the bill which is being offered by the committee.

It is unfortunate we find ourselves in the position where we have to oppose the efforts of the gentleman from Pennsylvania [Mr. GAYDOS], the chairman of the subcommittee, who I know has worked very long and hard on this issue. It is unfortunate that the negotiations commenced on this at a time when they did not feel it appropriate to involve the minority on the committee in the negotiations, but rather the negotiations occurred in the other body and thus they worked with members of industry, and thus we found ourselves in a position that when the bill came to this side it had been agreed to by certain members of industry as well as by Senate Members, as well as some Members of the majority on the House side.

Thus, we were faced with a completed document for which they felt there was no need to make changes. I must say in deference to the Members of the other side that there have been changes made as a result of the dialog and as a result of the points that we have made against the bill. But just as sincerely I believe that we do have a much more superior piece of legislation. That is why I am here this evening, to alert my colleagues to the option that is available.

In fact, I know from the number of industry and businesses and other people in organizations that are supporting us that there is a general recognition throughout that the bill that I am going to relate to my colleagues tonight is far better to the one that is reported by the committee.

In particular, I would like to take this opportunity to rebut several of the arguments made by our distinguished colleague in his speech.

Before addressing these specific points, however, we think it is critical to point out a fundamental difference between H.R. 162 and our substitute. Contrary to the way H.R. 162 is normally characterized by its proponents, the bill's primary purpose is not the prevention of occupational disease. Rather, the bill's basic thrust is disease notification. It is designed to let workers know after the fact that they might be at increased risk of disease because of exposures to substances which occurred in the workplace. While this notification may alert a worker to the possibility of a future health risk, it will not prevent the disease from occurring if the exposure has been sufficient to cause the disease. Nothing in H.R. 162 requires or even suggests to employers means or methods to eliminate or reduce exposures that may increase the risk of occupational disease. If the bill were to pass today, there isn't one word in it that would obligate employers to do anything with respect to improving current workplace health and safety measures.

Yet the fact is, the best way to eliminate or reduce the risk of occupational disease is by preventing the possibility of its occurrence. This means taking away the exposure which may cause or contribute to the disease. And that is the fundamental thrust of our substitute: prevention first. As we describe in more detail later on, we believe our substitute is preferable not simply because it recognizes the validity of a worker's right to know, but more importantly because it will better protect workers from the kinds of workplace exposures that could lead to serious diseases.

Mr. Speaker, at this point I am happy to recognize my most able colleague, the gentleman from Michigan [Mr. HENRY], who has been at the forefront on this matter in trying to bring forth a reasonable piece of legislation. I commend you for your work and I certainly am pleased to have you here to join with me in this special order.

Mr. Speaker, I also commend the gentleman from California [Mr. WAXMAN] for his work in this area, and I know he will enthusiastically endorse our efforts.

Mr. HENRY. Mr. Speaker, I commend the gentleman from Vermont [Mr. JEFFORDS] for calling this special order for the simple reason that this bill has been kind of a sleeper. I am deeply concerned that some of our colleagues are not fully aware of the implications of this legislation because, quite frankly, the title of the bill sounds very innocuous, high-risk notification bill.

The irony is that the term "high risk" itself never even appears in the bill and, in fact, the problems we have with the measure are in many respects the silences which create many, many unintended and I am afraid on the part of many of our colleagues unforeseen hazards that have to be attended to.

First of all, I would agree with my colleague that the whole issue of risk notification is not really, as the bill has established, in any way truly directed at accident prevention. It is as if we had a bad stretch of highway somewhere in our district and cars were constantly going off the side of the road and rolling down the hill, so we know statistically that this segment of our highway system back home was the fault of many, many accidents that could be avoided if the highway would be fixed, but rather than fixing the highway, what we would do is put the ambulance down at the bottom of the hill and after they had fallen off the road, try to rescue them and tend to their injuries rather than preventing injuries in the first place.

That is the heart of the matter, that is the distinction between risk notification and hazard communication.

I would venture to say, Mr. Speaker, that any Member of this House, Republican, Democrat, liberal, conservative, centrist, from the North, East, South, Midwest, Far West, that does not understand the difference between risk notification and hazard communication dare not vote for this bill because that person does not understand what he is voting for.

Risk notification implies trying to retroactively communicate with all former as well as present workers, but we also ought to emphasize all former workers in the manufacturing workforce, notifying them as to whatever risk they may have been exposed to during their working years, even though statistically the vast majority of these people will not suffer consequences from that exposure.

Hazard communication, on the other hand, is the attempt through Government, through OSHA, or through our State OSHA's, where we establish standards relative to work environment meant to protect workers from unreasonable exposures in the first place, and as the gentleman from Vermont [Mr. JEFFORDS] has pointed out so eloquently, one of the key features of our substitute would substantially expand the scope of OSHA's involvement in protecting workers on the job site now. It affects more workers, it prevents disease, it is more cost effective, and we have overwhelmingly found, even within the labor community, that when our workers back home understand the distinction and understand what the substitute does, there is very, very strong support for it.

Second, the bill, H.R. 162, has not yet addressed the total impact in terms of workers' compensation, tort liability, product liability, and so forth. I would point out, and this is very intriguing to note, that the chairman of the Committee on Energy and Commerce, in an exchange of letters with the chairman of the Committee on Education and Labor, made very, very clear, in fact it is part of the committee report, that the Committee on Energy and Commerce does have jurisdiction over provisions in the bill and questions within this piece of legislation that are truly matters of its jurisdiction and of concern to the committee in the area of insurance costs, in the area of liability exposures.

Frankly, I have to express a good deal of personal regret that the Committee on Energy and Commerce did not seek to exercise that jurisdiction because we have not really gotten a handle on the magnitude of the additional claims which would be brought because of this legislation.

The point is, and on this I think even the proponents of H.R. 162 would agree, there would be substantial numbers of additional workers' compensation and liability claims as a result of the notice provisions of H.R. 162.

Is the liability system able to handle these claims? Will it break down even further? What does this do to our efforts to resurrect and restructure American competitiveness in the international market? Why should we be exposing ourselves to these kinds of additional costs when we know that there are alternatives through hazard notification that will do more to protect the health of the workers at lesser cost to our industrial base?

Mr. Speaker, I would point out that we have had very limited testimony on this entire issue and one of the ironies is that the hidden costs here are potentially very, very significant and yet the word "liability" per se occurs nowhere in the legislation. That is one of the deceptive features of the bill, and I believe my ranking member, the gentleman from Vermont [Mr. JEFFORDS] shares that concern, that the real problems with the bill are the fact that it does not really anticipate these problems.

We also want to talk about the expenses, the costs of this bill to American industry. Over and over again it has been suggested that this is an inexpensive bill. Over and over again we have heard that the bill proposes a program that would cost only $25 million a year. In fact, of course, those figures focus clearly on new additional expenditures in the area of risk notification, research and occupational health and safety, expenditures in some respects that are meritorious. But the fact of the matter is that the real costs of the bill are not governmental costs, but costs that are built into the business and to the employer community.

Earlier this year we asked the GAO to estimate the total cost of H.R. 162. The GAO reported that they could not even estimate the cost of the bill to employers because of all the vagaries in the bill as it was reported by the committee.

The only estimate that we have, the only cost estimate in terms of the passed-on costs that we have, comes from one manufacturing association, the machine tool industry, which by the way is an industry which is tremendously beleaguered by foreign import competition and one of the few industries which the administration has sought to protect because of its critical nature in the economic infrastructure to our entire manufacturing sector.

□1615

The only estimate we have as to added cost that has been made on an econometric model shows that for medium- and small-sized heavy manufacturing businesses, this bill alone would create a 4- to 8-percent increase in the wholesale cost of these manufacturing businesses and that 4- to 8-percent cost increase does not even include the incalculable increased liability exposures. The 4- to 8-percent increase for these manufacturers comes only in terms of the other mandated health benefits, job transfer placement, job guarantee provisions in the bill. So that here you have a rather enormous surcharge on that very area of American manufacturing, that infrastructure bears that some of us, particularly in the Northeast and Midwest have been fighting so hard to protect, that one area in which the administration belatedly but nonetheless came out and said this area needs protection, and now we are going to put another nail in its coffin. It just does not make sense.

Mr. JEFFORDS. Let me interrupt the gentleman briefly at that point. There has been a statement made that some industries do support the Gaydos bill. I think it is important that we point out, as I mentioned earlier, that came about because of a negotiated agreement and some pressure was brought forth and some industries finally did agree. There are many that oppose it, which I specifically mentioned earlier in my remarks.

Mr. HENRY. Well, overwhelmingly the business community is opposed to the bill. Now my opposition to the bill is not based simply on the fact that the business community opposes it. Because there are many times when I find myself in a situation where just because the business community opposes it does not necessarily mean it is bad. But if the argument is that the business community is supporting this bill, that is clearly inappropriate.

And if I may, I appreciate the gentleman having raised this question because I think it illustrates some of the misstatements, the misconceptions that have been distributed relative to this bill. It is argued, for example, that the Chemical Manufacturers Association supports the bill. The fact of the matter is that nine major member companies of the Chemical Manufacturers Association have formally broken with the position the association took.

We have had, many of us, as we all know, one letter from the insurance industry that has been mailed to us over and over again suggesting that the insurance industry has no problems with this bill.

The fact of the matter is that the professional insurance associations and the overwhelming number of insurers in the area of product liability, tort liability, and workers' compensation insurance are overwhelmingly opposed to this bill. They believe it will lead to a substantial increase in liability costs which obviously will have to be passed on to their clients.

Mr. JEFFORDS. Mr. Speaker, I know the gentleman from North Carolina is here and I know he is a businessman—it may not be a small business but it is a well-run business certainly—and I wonder whether the gentleman would like to comment on the impact that this might have on small businesses. I think that is important as we weigh the pros and cons here.

Mr. BALLENGER. I thank the gentleman for yielding to me.

First of all, I would like to extend my sincere appreciation to the gentleman from Vermont [Mr. JEFFORDS] and Mr. HENRY, as the senior member of our Committee on Education and Labor, and Mr. HENRY as a senior member of the subcommittee where I serve also.

The information you have given has been invaluable to me. I basically have been a manufacturer by trade. Up until I was elected, I managed a small plastics business for 30 years. I care about my employees and it is in my interest to do so. It is in my interest to insure that they are protected in the workplace. My business, however, has to strive to make a profit. Failure to do so means that I would close my business down and leave 250 employees unemployed.

I will also add that I helped write the right-to-know law in the State of North Carolina. I mention that because I do feel that the business community has an obligation to inform its employees of hazards in the workplace. To go beyond hazard communication, I think is unwise. I believe that while we have been seeking a solution to worsening trade imbalances and decrying the loss of American jobs to foreign suppliers, we are at the same time, through this bill, imposing an additional burden, an indeterminable cost that will further reduce our competitive position.

This bill may appear to be motivated by the best of intentions but in fact it sets a precedent whose consequences are frightening to consider. I do not know whether many Members of the committee have thought of this but not all the risks we encounter are limited to the workplace. If we are to agree to the logic that is guiding the crafting of this proposal, would it not also follow that we have an equal responsibility to extend its scope to include other areas of our lives?

What are we proposing to do here? To scare the living daylights out of the people by sending them rushing to their lawyers who will take them to the cleaners in numbers that could flood and bankrupt the judicial system? Does anyone actually believe that this bill will deter an unscrupulous business that puts profits ahead of its employees? No employer with so little regard for human life is going to get religion because of an action of this Congress.

But by the same token, no responsible business needs to be reminded of its duties to make its employees fully aware of the hazards of the workplace.

I think it was mentioned earlier that some businesses were against this. At the present time there are 310 industry associations and businesses which have spoken out against this bill.

Mr. JEFFORDS. If I may interrupt I am glad both of you gentlemen have emphasized the opposition to this legislation since everybody has become well aware of the contents and, more importantly, I think, the options that are available to accomplish some good and to do some things in this area which we all want to do. However, businesses that may originally have been thinking about supporting it have come out pretty much either against the bill or in support of the substitute.

Mr. HENRY. If the gentleman would yield further on that point, the gentleman is correct. We have over 300 businesses and trade associations that oppose the bill. I like to look at this in terms of the whole issue of American competitiveness which we spent so much time on in this Congress in terms of trying to deal with foreign competition we face, the loss of American jobs, the loss of American manufacturing base. I consider the actions of this House just last week for example when some of us voted at any rate to try to deal with the problems that the footwear industry and the textile industry have had relative to foreign competition, where they are competing against 28 cents-per-hour child labor, where we are relatively open in our markets and they are absolutely closed to our product coming into their countries.

Now why, then, are we on the one hand trying to say, "Yes, I will give you protection because you need it to regroup, to invest, to deal with this foreign threat" and at the same time passing legislation which the American Textile Manufacturers Association, the shoe manufacturers and the footwear distributors are vigorously opposing?

My home State of Michigan, we are tremendously concerned about the impact of foreign automobiles on the infrastructure of our economy. Here we have General Motors and Ford and Chrysler together have in terms of capital investment put more capital investment into restructuring, retooling investment in this country alone in 10 years than all the money that went into the space program up until the time we decided to put a man on the Moon. It was one of the largest infusions of capital in the manufacturing sector in the history of this country and yet virtually every aspect, whether it be Ford, GM, Chrysler, also the machine toolers, the parts suppliers all saying "We cannot take this added cost." It does not make sense to, on the one hand, say "We are going to help you." This is not just the big, big business by the way. It is the Federation of Small Businesses, the National Federation of Independent Businesses who even disproportionately are caught even more on this.

I thank the gentleman from Vermont for letting me interject that, because sometimes we just say 300 association groups are against this and we forget to show how inconsistent it makes our own actions when we have said, "Let's come to the rescue of American industry" and then do this to them which makes it all the harder for them to compete.

Mr. BALLENGER. If the gentleman would yield further, I had a line that beautifully fits in with what the gentleman said. We are so concerned about the welfare of the American workers that we are going to put them out of work and send them to the unemployment lines and meanwhile our Federal competitors are unhindered by this sort of law and will continue to throw up sweat shops and steal our jobs.

I personally feel as a businessman, and the business people that I have spoken to, that the Jeffords substitute that uses the present OSHA, the NIOSH system notification procedures is the thing that is much more practical. I cannot see where this protects any workers at all. It is an after-the-fact thing. You have been there for 40 years and you receive notification that you might not live as long because you have been there. Why not do something while the worker is in the plant at the present time?

I speak very strongly in favor of the bill that Mr. HENRY and Mr. JEFFORDS put together.

Mr. JEFFORDS. I thank the gentleman from North Carolina for his comments. I would like to add though, however, so that there is an understanding of what else we do in the bill, we do not ignore the fact that there are people out there that ought to be helped. That is not the question. The question is how to assist those workers who may have been exposed? We would use the same kind of public service announcement system that was used in the black lung area when that was originally passed. I think anyone who has been involved with the black lung issue knows that the system worked extremely well in notifying people that if they had a bona fide claim they could come forward and file for benefits. So we would use the system that was utilized at that time, that is by public service announcements, announcements through the media, but not the individual notification.

Let me explain with some help from our Members here as to the problems created by the individual notification.

I was a tort lawyer and I was a plaintiff lawyer and I probably would be, perhaps, if I were given an unfavorable mark by my constituents. But I can see here when you are talking about industrial resources available to help people, things that ought to be done, that the way not to do it, is to provide a bill which we have seen, and the one real experience that we had with it provided I think, four times as much relief or twice as much relief for the lawyers as it did for the people that were affected. If you take a look at the situation where there was some Government notice done, under circumstances similar to H.R. 162 to a Georgia plant, it ended up with some over $300 million in lawsuits. If you take a look and you extrapolate what would happen with 20 million notices—this was a small plant which incidentally went bankrupt—in view of the 20 million, that would be somewhere around $6.8 trillion of lawsuits which could come. Then you take the lawyers' fees out of that and then you take all of the other stuff that goes along with it and you wonder what is left for the workers. The amount in the one case that we had that went to the workers was a relatively small amount compared to the size of the lawsuits.

So I just want to make that point that we are not trying to deny the fact that we should have a system for letting people know. In fact, we have a provision in here, where notification occurs when we do definitely know they have serious complications caused by people working in that environment.

So we would start with that and say let us try that out. But some of the tort suits that have been brought are very novel.

And we have seen in all the tort liability cases there have been punitive damages. I am sure the gentleman from North Carolina would agree with me that to get insurance for a small business to cover punitive damages and cover such things as tort claims and stress claims and things like that is probably, if not impossible, it is so expensive that it is not a realistic option that a small employer has.

Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. BALLENGER. In my own small business—and I am not talking about tort liability, just product liability, liability insurance in general—it really has come to about the point where a small business that possibly has some difficulty competing overseas cannot afford it. It has really gotten to the point where it is sort of like doctors who have quit delivering babies because the cost of the insurance to deliver those babies is so expensive that nobody can afford to pay it.

We in the small business area recognizing the cost to us of this possibility—well, I have heard it said that it appears that the Congress of the United States would rather have us move our plants overseas to get away from things like this. This is not a good thought to bring out, but it is a choice that businessmen have to make sometimes when they are greeted with a possibility of unbelievably large liability suits over which they have no control.

Mr. JEFFORDS. I want our colleagues to understand that most businesses are required, probably all businesses are required to have workmen's compensation insurance. So there is a system set up now for workers who may have been exposed and who are suffering damage. That is not the concern that I have nor I know the gentleman from Michigan nor any others who have come forth in opposition. It is the lawsuits that evolve from those who would try to show damage but without the sanction of a governmental officially proclaimed individual notice.

□ 1630

Mr. Speaker, that is the problem we get into here.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Michigan on that issue because I know he has been in the forefront of it.

Mr. HENRY. Mr. Speaker, I appreciate the gentleman's yielding.

I would just like to point out, as the gentleman gave the example of the NIOSH experiment, that for our own purposes we tried an experimental risk notification to NIOSH back in the early 1980's, when some 700 employees were advised of the fact that they had indeed been exposed to a risk. The exposure, to make it very clear, does not mean they had suffered any consequences from the exposure. In fact, in this instance we have every reason to believe that the overwhelming majority of those notified had no deleterious effect, but in fact they had been exposed to a risk in the workplace.

What happened? There were 700 notifications issued in that experiment. Out of those 700 notifications, 171 liability suits were filed, for a total of $335 million in damages being sought. If we apply that $335 million in damages being sought to the 700 notified in that experiment, that carefully monitored experiment, against the 20 million that are potentially covered in H.R. 162, as the gentleman points out, on an extrapolated basis, the potential claims, I am sure, extrapolates to $6 trillion. That is 20 percent more than the gross national product of the United States.

We ought to be sensible enough to recognize that not all 20 million are going to file nor are 20 million necessarily going to be notified. I would be the first to grant that. We also ought to point out that in the case of the 700, where 171 filed, it is true that $335 million in damages were not finally awarded, but the reason they did not get $335 million in awards was that both the companies involved in the experiment declared bankruptcy as a consequence of what happened.

That is why I want to emphasize over and over again the importance of the liability side of this bill simply has to be addressed.

If I may, with the gentleman's permission, I would just like to make one more point. The critical issue here is not just that the bill has not adequately resolved the tremendous cost to the business community in our competitiveness, but I would emphasize again the fact that the substitute which the gentleman from Vermont cosponsored reaches out to more workers in terms of additional health protections at the work station. It reaches out to more than 20 million in the Government sector. It goes well above and beyond that, in keeping with the recent action of OSHA, of which I am very, very enthusiastically supportive. In fact, the Henry-Jeffords substitute puts immediate money in the authorization pipeline to see that OSHA's expansion is fully and vigorously enforced. It references in a number of materials that it is generally believed are in fact potentially hazardous to workers, and it tremendously expedites the legal and administrative process to get those substances properly covered so workers who are now being exposed to those substances without protection of the law are immediately put under the protection of the law, and proper liability is in fact demanded of employers in terms of the responsible use of those substances in the work place.

I emphasize that because it seems to me it would be wrong to come in and make our case and say that this is simply an additional cost to business which we oppose. It is not just that; it is that we can do more to protect the worker for less money without threatening American competitiveness than the bill as reported by the committee would do.

Mr. Speaker, I thank the gentleman for yielding.

Mr. JEFFORDS. Mr. Speaker, I think the gentleman has articulated that point, and I think that point is critical. I do not want to stand up here and say this bill is bad just because business may be affected. It is a question of how to use those resources that we have to best help workers. That is the issue here.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I am happy to yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I also want to thank the gentleman for taking this special order to discuss this very critical subject. The distinguished gentleman from Vermont is the ranking member of the Education and Labor Committee, and I recognize the work that he, along with the gentleman from Michigan [Mr. HENRY], has done has been extremely perceptive in terms of pointing out the fatal flaws in H.R. 162 and formulating alternatives.

But I want to comment for a minute, first of all, on this: I have no difficulty finding any number of people across this country who are opposed to H.R. 162. Anybody who thinks for one moment about this bill ends up opposed to it, including the workers who stand to lose their jobs.

Now, to some extent what we will do if we pass a bill like H.R. 162 is this: we will redistribute income and also take away from those who would choose not to sue or to sue only if they had a reason, a good reason to sue, and give an advantage to those who would bring frivolous lawsuits under a frivolous law that makes the possibility for suits a wide-open game. Around our office we refer to this as the Trial

Lawyers Employment Enhancement Act.

I found myself somewhat amused to hear the gentleman confess that he in his real life is a trial lawyer and at times has been a lawyer for the plaintiff, and I would suggest to him, in light of the concern that he expresses, perhaps, as we all in this body face the real possibility that our constituents may not return us to our employment here, we would have to go out and find work in the real world, and that if by virtue of his opposing this extremely bad legislation and trying to offer something better, he were for example to not be returned to this body or perhaps even be promoted or demoted, depending on his point of view, to another body, that he might leave this body and go into the lawyering business again and very easily find himself with plaintiffs with aches and pains and memories of having been on a job someplace and they now find themselves notified that they have possibly been at risk for one thing and another. And given in fact the litigation explosion that we are facing in this country—and I think the gentleman from Michigan and the gentleman from Vermont have been very clear on this—the only thing we could really predict with certainty through the passage of H.R. 162 is that we would have a new explosion of litigation that would in fact result in, as we saw with the NIOSH experiment, the closing down of firms. And those would most likely be firms that provide manufacturing jobs.

I hear a great deal of talk around this body by people, many of them in support of H.R. 162, regarding their concern that we are seeing what they contend to be, quite inaccurately and erroneously, the deindustrialization of America, where in fact what we are doing is destroying manufacturing jobs while we are expanding the service sector. I would suggest that H.R. 162 would do as much as anything I can think of to destroy manufacturing jobs, to destroy the competitiveness of American manufacturing concerns, and to eliminate employment opportunities for a great many skilled and semi-skilled workers in America, and while at the same time we had this disastrous impact on manufacturing jobs, we would provide incredible new employment opportunities in the legal services sector of our economy.

So if in fact we would prefer to see the manufacturing sector hold its share of the total employment of America and if in fact we would prefer to see the service sector hold its share and if we would like to see American workers, especially the skilled and semi-skilled men and women of America, have an enhanced opportunity for employment, then it would seem to me that we would have to vote against H.R. 162.

I have to say I cannot find supporters of this bill, and I still do not know where they are. I have my suspicions, but I do not have any documentation regarding this outside of some Members of this body who would encourage our passage of this legislation. I certainly have no shortage of organizations, businesses, and working men and women of America who have encouraged me to vote against it, but I cannot find those who would have me vote for it. It seems very clear to me that if at least those who believe that this sort of legislative sham, if you will, is good for America would come out of the closet, it would help us to sort out the sheep from the goats and find out really why in fact it would be in anybody's interest to have such legislation passed.

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman from Texas [Mr. ARMEY] for his fine arguments, and I agree with his position.

Mr. Speaker, I would like to make this inquiry of the gentleman from Michigan: there are a number of States which have what are referred to as stress claims. One of my concerns—and I know it is shared by the gentleman—is the fact that a number of people in a sense may become ill, if we want to use that term, by virtue of the fact that there is a notification suggesting something which may not occur, that is, disease. I wonder if the gentleman would explain a little bit about what those stress claims mean in those States and why that could be a matter of concern and really result in no advantage to the workers in fact.

Mr. HENRY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Speaker, I am most pleased to respond to the gentleman. I have this problem in my own State of Michigan.

A number of States, particularly those States that are manufacturing States and are the more populous States, have increasingly allowed stress claims under the worker compensation statutes, mainly through court rulings and expansion of original workers compensation laws. Basically, it allows a worker to secure disability compensation for stress-related claims, claims based on stress that was related to the workplace environment.

Now, seemingly that ought to be a permissible claim, except ironically the courts increasingly, as in the case of Michigan, have ruled that stress is to be determined not on the basis of any scientific measurement, any physiological assessment that in fact a worker has suffered some illness that affects the heart rate, blood pressure, and so forth, but simply the perception of stress on behalf of the employee.

One of the classic examples that we had in the State of Michigan was a bank teller who successfully sued for workers compensation coverage in Michigan in the following circumstances: the teller had taken his voluntary retirement and was also getting a pension after the requisite number of years. After his voluntary retirement from his position in the bank, he was receiving a retirement benefit pension, and he subsequently filed for workers compensation while getting the retirement on a voluntary leave from work or departure from the work force, saying that he was used to handling large sums of money on a daily basis and suffered psychological strain and stress from the withdrawal of no longer being personally identified with counting large quantities of money.

We ought not to make fun of whatever agonies this person may or may not have experienced, but the irony of the whole situation was that here we had a situation post retirement, No. 1, where it was a voluntary retirement, and there was no medical evidence that in fact this person had changed in any way, and yet simply by saying, "I feel a sense of stress" and taking that under oath, it then becomes compensable. It is a very difficult point in workers compensation law.

Mr. JEFFORDS. Mr. Speaker, in relation to this bill, then, as I understand it, in other words, if I get a notice that comes from the agency that says, "This is to notify you that during your work experience you may have been exposed to this chemical and that chemical has been known to cause cancer," and that I should do something, and as a result of that I become anxious and nervous and in fact become disabled because I got the notice, but not because of the ramifications of having been exposed to a harmful substance, I then, would be entitled to compensation?

Mr. HENRY. Yes, you would, and I will go even one step further. Let me first of all say that the bill's sponsors and advocates maintain that the bill is liability-neutral at this point and is blocked off from worker compensation claims of this sort. They argue that it is based on the fact that the notice itself that would be received from a Government agency or, as the bill does allow, the notice which would be received from the employer by the worker says, "Dear Mr. Jones" or "Dear Miss Jones" or "Dear Miss Smith, we wish to inform you that during certain years of your employment you were exposed to this chemical or hazard in the workplace, and we wish to tell you at this point that you should be advised that some certain degree of risk is attendant to you because of that exposure."

□ 1645

That notice, whether it comes from the Government agency or the employer, the notice itself as a piece of paper, as I understand the legislation being proposed, could not be introduced in the evidentiary record.

However, the fact is the notice could be introduced, because obviously the fact of notice could not be denied in any evidentiary hearing. Not only would this person be allowed to sue for stress, if in fact he or she truly suffered stress in a physiological sense from the notice, but the person would have standing in many States such as Michigan simply because he or she believes he is suffering stress from that notice.

Here is the important thing. When we are talking about retroactive risk notifications, statistically the overwhelming number of people notified will in effect have no true health hazard consequent to the risk to which they had been exposed; but in fact you are going to be notifying statistically probably 995 people who have had no ill effects for the exposure for every 5 that have, so instead of going after the 5—and of course, the problem here is identifying those 5, but you are opening up yourself to this tremendous amount of litigation relative to the 995 that will not have experienced any ill health or stress. In order to adequately compensate the 5, we should also point out that the 5, if in fact they do have some ill consequence as a result of their exposure, gain no standing in law that they do not already have under workers' compensation or subrogated liability claims against a product or an employer, so there is no new protection to the worker that is injured, but a host of liability problems to those who are suffering stress or believe they are suffering stress.

I might add that we have heard from professionals in occupational health who stressed to the committee members over and over again that the fact of notification can indeed create a stress environment, and a stress environment is often a contributory factor to susceptibility to environmental disease, so the fact that the notification may in fact statistically, because of the way in which these numbers spread, may in fact generate more claims in true illnesses than would otherwise be the case without the notification that generates the stress which in turn generates susceptibility to occupational disease.

Mr. JEFFORDS. Mr. Speaker, some of these organizations, one or more of the industrial hygienists who have spoken out in opposition to the bill on the grounds that you are creating a worse situation than you may have without the notification.

It is not our committee jurisdiction to do away with any right that anyone has out in the workplace.

Mr. HENRY. I am wondering if I may pose one more question to the gentleman, because I am afraid the gentleman's time is nearing a closure in a few minutes.

Is the gentleman familiar and perhaps could advise the Members with some of the factual problems in the committee's report, in their definition, the statistical definition of the problem of workers' exposure to debilitating occupational diseases, the committee report outlines the problem in such language suggesting that as many as 100,000 workers a year die from occupational diseases, and another 400,000 become disabled.

I am wondering if the gentleman is aware of what our own Office of Technology Assessment says about this.

Mr. JEFFORDS. I am sure the gentleman is vaguely aware.

Mr. HENRY. I thought it important. Obviously how we assess, to use an analogy, the nature of the regime in Nicaragua, and whether or not there is sufficient political support to allow democratization to take place, the way we answer that question, and the answer to what an appropriate response would be.

What the degree or seriousness of occupational health exposures is has a profound effect in terms of what is the proper remedy given the difficult questions we face. One hundred thousand workers a year die from occupational diseases, and another 400,000 become disabled. That is from the committee report.

Here is what our own congressional Office of Technology Assessment says about those figures, and I quote our own office:

"These estimates of total risk were so grossly in error that no arguments based even loosely on them should be taken seriously."

That is the U.S. Congress' Office of Technology Assessment.

The OTA goes on to say, and I quote directly, "It seems likely that whoever wrote the NIOSH paper," from which these figures were drawn, "did so for political rather than scientific purposes. It will undoubtedly continue in the future as in the past to be used for political purposes."

Mr. JEFFORDS. Mr. Speaker, we are winding down towards the close of my hour. This is the first time I ever took anywhere near this amount of time on the House floor.

Mr. Speaker, I yield to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding to me.

On behalf of all the workers of this country and this Congress, people really appreciate the work of the gentleman from Michigan and the gentleman from Vermont which they have put into this rather difficult question.

I fully support the gentlemen's efforts, and I support their efforts in obtaining some sort of a substitute which is along the lines of the OSHA expanded hazard communications standards.

There are two different concepts at work here at once, and they sound similar, so I will take a second to delineate the differences.

One is risk notification, which is the concept that has never been used before, but is being proposed by H.R. 162. The other one is much more traditional, and that is hazard notification that is being proposed by the Jeffords-Henry substitute and by the new OSHA expanded hazard communications standard.

H.R. 162 tries to determine risk; and when you talk about risk, you are talking about probability and possibility, so H.R. 162 attempts to determine risk by assessing what the statistical possibility of a risk would be.

On the other hand, the Jeffords-Henry approach and the new OSHA standards approach would identify a hazard, and thereby have the weight of OSHA discussing and identifying an identifiable danger or obstacle.

We can protect more people from developing occupationally-related disease by advising them of the specific hazard, of the dangers of a substance that they are handling, or are in the presence of, and educating them about the use of that substance.

That is much more helpful to the worker than advising current workers and past workers about some kind of possibility or probability in the risk, so the thrust of the Jeffords-Henry substitute is one of education, technical assistance, medical monitoring, and when necessary, for any worker employed at a location where hazardous materials are themselves present.

One other flaw that is in H.R. 162, and I know that it has been discussed, is that H.R. 162 would provide that if a worker receives a notice that he is being exposed to a risk with a probability, a statistical probability, in the course of his work, and he goes to his own physician, and his physician reads that notice and writes a letter to the worker's employer stating he cannot continue to work in that position without risking his health or having some possibility thereof, then that employee must be removed for medical reasons from the job; but the employer is obligated to offer the employee another job not working with that risk at the same salary.

That means that in essence the worker may have to go to the mail room; but if a company does not have enough job slots in the mail room, then he has to be paid full salary and benefits for a period of 12 months.

The fact is that H.R. 162 is unworkable, and it approaches the whole issue from the wrong end. H.R. 162 attempts to assess some kind of statistical probability of risk.

The new OSHA expanded communications standards backed up by the Jeffords-Henry substitute would identify specific hazards to this worker, notify the worker of that specific hazard and of ways to protect himself or herself from that hazard.

I think the Jeffords-Henry substitute is a much clearer, better, safer approach for the workers of this country than anything that has been developed in H.R. 162.

Mr. **JEFFORDS**. Mr. Speaker, I thank the gentleman for that very fine explanation, and in a sense, the summary of the differences between the two bills.

We all want to help workers, and want to do what is best to ensure that the number of people that suffer from any industrial disease or injury, or whatever, are reduced to the absolute minimum.

The question is how you do it and where you take those limited resources that we have and put them in the right place and to do it in a logical, sensible way. That is why I have taken so much of this body's time to explain in detail why we feel that the substitute that the gentleman from Michigan [Mr. HENRY] and I will be offering is far superior to the bill which the Members will be faced with, H.R. 162, so I thank the Members for listening very carefully, and I look forward to talking again with this body on the House floor, and hope that the Members will back us in what we think is a very fine piece of legislation to substitute for one which we feel has very many serious deficiencies.

Mr. Speaker, it is our intention in the future to continue to address the arguments that are made in favor of H.R. 162. For many of the reasons we have presented today, we believe that the bill, though well-intentioned, is bad regulatory policy. In contrast, as we have just outlined, we believe the Jeffords/Henry alternative, with its focus on prevention, is the way to go. We would urge our colleagues to look carefully at each proposal. There is no doubt in our minds that when H.R. 162 and Jeffords/Henry are compared, it becomes clear that the alternative is the better approach.

THE LOSS OF U.S. TRADE EDGE: NO ACCIDENT

The SPEAKER pro tempore (Mr. VENTO). Under a previous order of the House the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. **BENTLEY**. Mr. Speaker, as we have seen the growing import penetration of foreign products into all our markets, it seems that no matter what laws we pass in the Congress, the foreign exporters seem to always find a way to go around them or under them or through them.

An interesting article from the Washington Post of July 5—by Stuart Auerbach—tells a curious story about a meeting held in the Trade Representative's office at the instigation of Mr. Alan F. Holmer, one of the chief strategists on trade legislation. Fifteen representatives of the Nation's major trading partners were invited to be reassured that the President still supports free trade and would not accept protectionist measures.

However, Mr. Holmer also—according to this report—provided "insight into the administration's plans for fighting parts of the trade bill now under consideration by the Senate, and listed five 'must go' provisions * * *

The report continues that "Holmer also agreed, in answer to questions, that a few well-placed threats of retaliation from foreign goverments"—imagine that, our official representative in the Special Trade Representative's department telling foreign governments that a few well-placed threats of retaliation from those foreign governments would not be unhelpful to the White House's efforts.

Now, let us see here, among some of the countries who were represented were Japan, South Korea, Canada, Singapore, China, and Australia. They were part of the group of 15.

I must say that I find this a very offensive article.

Later in the story, representatives of the USTR office, when asked about Mr. Homer's statement, said that Mr. Homer is not shy in pointing out to diplomats "provisions that their countries would probably find objectionable. It is easy enough for them to draw their own conclusions."

I have a few thoughts about this. I have long maintained that we should legislate a U.S. desk at the State Department and make it represent the Americans who pay for it all.

Now, I think it is time that we tell the officials of the U.S. Trade Representative's office whom they were supposed to represent, which side of the negotiating table they are supposed to be sitting on.

Let me just review a couple of paragraphs from this article.

> Foreign governments, which have been keeping an exceptionally close watch on the congressional trade debate all year, did not need much encouragement to brandish the threat of retaliation and to suggest that protectionist legislation could lead to a trade war.

□ 1700

Now, all of us who have been demanding fair trade for the United States—fair trade—have been accused of being protectionists and we always hear the Smoot-Hawley tariff bill of the 1930's thrown at us.

Now I want the public to know where all those protectionist threats are coming from.

Within weeks of the meeting with Holmer, foreign officials unleashed a new barrage of threats that trade wars and retaliation against American overseas sales would result from Senate passage of legislation tightening U.S. laws against unfair trade practices.

Canadian Ambassador Allan Gotlieb, for instance, told a Washington conference organized by the American Stock Exchange that passage of the Senate trade bill would provoke countervailing wars, dumping wars, which may be more serious than star wars before we are finished. He, of course, was referring to the SDI, and while we are on the matter of the SDI, I want to commend the other body for including in it a recent provision saying that there could be no more SDI agreements made with foreign countries. In other words, what the other body is saying, we should retain all of the research and development and spend all of the money for SDI in this country, and I have supported that from the beginning.

Then more recently, Willy de Clercq, External Affairs Minister of the 12-nation-economic community in Europe said, "If Congress legislates in a way that is harmful to our interests, then we shall be obliged to respond in kind," and on and on.

Now, you know, we hear all kinds of figures being tossed about, about how much money is being spent by these foreign nations lobbying in Washington; $50 million annually by Japan, many, many more millions of dollars altogether by all the other countries lobbying us.

Can you imagine what would be said if the United States or any Americans tried to spend any money in those countries trying to lobby their legislatures, or whoever makes their laws? Can you imagine that? Can you imagine how our own media would be down on our necks, and yet we hear practically nothing about what is happening right here in Washington.

Now, remember, that $50 million figure I used 1 minute ago is strictly annual figures by one country, and I will be getting into that in more detail in 1 minute.

Now, continuing in this article, that Holmer is not shy in pointing out to diplomats provisions that their countries would probably find objectionable, and then it goes on to say that even without administration encouragement, and we know this, foreign interest in the trade bill is running high, with the economic well-being of many nations dependent on open access to the United States for their products. The Latin and Caribbean members of the Organization of American States, for instance, held a special meeting here on the trade bill last month and were encouraged by the last month and were encouraged by the similarities between their views and those of the Reagan administration on free trade. They asked Congress to refrain from enacting any measures that would further increase restrictions on trade in the U.S. market.

Somewhere along the line somebody is forgetting the fact that the United States of America has the most open market, that this is the one country in the world which literally has laid out a red carpet and let everybody move across it into our markets, and all we have been able to export are the jobs that were formerly producing many of those products.

And speaking of lobbying in Washington, one of the biggest shocks, I think, that hit me recently concerns the amount of money being spent right now by Toshiba to persuade this Congress not to ban Toshiba products even for a short time from this country—and that amount is $60 million. That $60 million is in addition to the $50 million said to be spent annually by Japanese interests just lobbying generally in the United States.

In the newsstory by Stuart Auerbach in the Washington Post, Clyde Prestowitz, a former Reagan administration trade negotiator and one of the few who has remained firm to this commitment to the United States, commented that the Toshiba push "is one of the biggest lobbying public relations campaigns ever launched."

Prestowitz, who is presently writing a book about trade between these two superpowers, this past summer urged members of the Steel Caucus to hold a hardline against the Japanese and said that we should be wary of the plans of MITI—the Ministry of International Trade and Industry of Japan—and the program of economic conquest that country has laid out for our manufacturing destruction.

The Auerbach article states that the "Japanese have enlisted senior officials of the Reagan administration in their attempts to soften legislative proposals. . . ." I guess we should have a program, you know the dance floor type, to identify the players these days.

I am finding it less and less strange that the will of the Congress is being observed in the breach on many trade issues. If this seems a harsh assessment, I remember the Houdaille case when the leaks from the Cabinet and the Trade Representative's office enabled Prime Minister Nakasone to call the President at a critical time and turned that case, which had been found under our law to favor Houdaille, turned that case to the Japanese firm's favor.

As a machine tool firm, Houdaille is now out of business. They had appealed to the International Trade Commission under congressional statute, and they won their case. It was lost in the administration by officials who obviously favored Japanese interests over American interests.

Oh, yes, I am continually shocked by this attitude on the part of American officials and I am getting darned tired of people who swear allegiance to the United States, and serve foreign interests.

I am wondering whether they realize what the will of the people really is. The people are getting darned tired of it as well.

Right today Prime Minister Nakasone again is visiting with the President, is lobbying at the highest level and considering the issues reported to be under discussion—Toshiba once again—strikes me as foreign interference in domestic affairs.

We have been sworn in this body to protect and defend the United States and its interests. I do predict that the day is coming when the American people are going to question our preoccupation with the economic health of 119 or so other nations over the economic health of the United States.

And if it seems that I am exaggerating, I would share with you some recent press coverage of just what is happening in this country. I have been trying to point this out for a long time and I want to congratulate three national publications, Time magazine, the Wall Street Journal, and the Journal of Commerce for proving those persons like myself who have been expressing concern about the United States becoming a colony, for proving that we were not talking out of our hats.

The September 14 issue of Time magazine, the front cover says, "The Selling of America. Foreign Investors Buy, Buy, Buy."

Let me just read you a couple of paragraphs out of here, or a little bit more than that. It talks about a scene in Tennessee where a group of Japanese see an old building. They stop their car and they go in and look at it and then they buy it, after several trips back. After a $27 million investment, they have refurbished this factory and it has become a manufacturer of heavy earth-moving equipment for Japanese huge Komatsu conglomerate. It says, "Such scenes are taking place all over America today, as other foreign scouting parties comb the highways and byways on the lookout for profitable finds. The searchers are Japanese and British, Canadian and South Korean, West German and Swiss, and all of them have one thought in mind: Buy, Buy, Buy. They are in search not only of factories but also of skyscrapers, shopping malls, farms and forest land, ski resorts and vineyards, refineries and mineral deposits. They have already bought some of the biggest and best known corporations in the United States, and their appetite appears to be gargantuan.

"Suddenly, the United States seems to have become a country for sale,"—listen to that—"Suddenly, the United States seems to have become a country for sale, a huge shopping mart in which foreigners are energetically filling up their carts. Result: foreign ownership in the United States, including everything from real estate to securities, rose to a remarkable $1.33 trillion"—$1.33 trillion, one trillion, three hundered thirty-three billion dollars—"in 1986, up 25 percent from the previous year. By contrast, in a complete reversal of the situation only a decade ago, United States holdings abroad now total only $1.07 trillion. In addition to spurring fabulous hikes in real estate values and igniting corporate takeovers, the wave of foreign purchases has become an important force behind Wall Street's stratospheric bull market.

"Never before have U.S. citizens witnessed so many familiar American landmarks and trademarks passing into foreign hands. Japanese investors last December bought the Exxon headquarters building in Manhattan's Rockefeller Center for $610 million cash, the highest price ever paid for a Manhattan skyscraper. The British, who burned Washington in 1814, have now built or bought an estimated $1 billion in District of Columbia property, including part ownership of the famed Watergate Complex. Esteemed U.S. corporate nameplates are also changing citizenship at a rapid clip. Doubleday Books has gone to the West Germans, Brooks Brothers Clothiers to the Canadians," and on and on.

Mr. Speaker, I will include the rest of this article in my remarks:

[From Time magazine, Sept. 14, 1987]

FOR SALE: AMERICA

"Everything here is so cheap!"—A Japanese real estate agent visiting Manhattan.

"The political issue of the 1990s is going to be the foreign invasion of the U.S."—Paul Krugman, M.I.T. economist

It was an unlikely stop for sightseers, but there they were: two carloads of serious-minded, dark-suited Japanese in a deserted parking lot in Chattanooga, Tenn. Each carrying a packed briefcase, the visitors gazed long and intently at the object of their interest: a rusted, run-down manufacturing plant as big as five football fields. The plant was obsolete and abandoned, but the Japanese were delighted by their discovery. Taking pains to conceal their satisfaction, they peered into the distance and busily scribbled in their notebooks. Later, after several trips back, they bought the forlorn plant. Today, after a $27 million investment, the refurbished factory has become a manufacturer of heavy earth-moving equipment for Japan's huge Komatsu conglomerate.

Such scenes are taking place all over America today, as other foreign scouting parties comb the highways and byways on the lookout for profitable finds. The searchers are Japanese and British, Canadian and South Korean, West German and Swiss, and all of them have one thought in mind: Buy! Buy! Buy! They are in search not only of factories but also of skyscrapers, shopping malls, farms and forest land, ski resorts and vineyards, refineries and mineral deposits. They have already bought some of the biggest and best-known corporations in the U.S., and their appetite appears to be gargantuan.

Suddenly, the U.S. seems to have become a country for sale, a huge shopping mart in which foreigners are energetically filling up their carts. Result: foreign ownership in the U.S., including everything from real estate to securities, rose to a remarkable $1.33 trillion in 1986, up 25% from the previous year. By contrast, in a complete reversal of the situation only a decade ago, U.S. holdings abroad now total only $1.07 trillion. In addition to spurring fabulous hikes in real estate values and igniting corporate takeovers, the wave of foreign purchases has become an important force behind Wall Street's stratospheric bull market.

Never before have U.S. citizens witnessed so many familiar American landmarks and trademarks passing into foreign hands. Japanese investors last December bought the Exxon headquarters building in Manhattan's Rockefeller Center for $610 million, the highest price ever paid for a Manhattan skyscraper. The British, who burned Washington in 1814, have now built or bought an estimated $1 billion in District of Columbia property, including part ownership of the famed Watergate complex. Esteemed U.S. corporate nameplates are also changing citizenship at a rapid clip. Doubleday books has gone to the West Germans, Brooks Brothers clothiers to the Canadians, Smith & Wesson handguns to the British, Chesebrough-Pond's consumer products to a Dutch-British combine. General Electric television sets have been bought by the French, Carnation foods by the Swiss, General tires by the West Germans.

In fact, the question of what constitutes a truly American icon has become befuddling. A Sohio gasoline station? British Petroleum owns that company now. An Allis-Chalmers farm tractor? The West Germans manufacture those. Ball Park franks are owned by a British conglomerate; so is French's mustard. The take from Las Vegas' Dunes Hotel and Country Club, one of the best-known American gambling and entertainment centers, will soon go to its new Japanese owner. The latest hit recording by Country Singer Kenny Rogers is a foreign-owned product; his record label, RCA, is now West German property. And what about breakfast (or a diamond ring) at Tiffany, or drinks in the literarefied atmosphere of Manhattan's Algonquin hotel? Those vintage landmark buildings are now Japanese possessions.

The foreign buying spree has inevitably become controversial. How does foreign investment affect America's industrial strength and ability to compete? Just how much overseas investment is good for the country, and how much of America should foreigners be allowed to buy? What other kinds of control might follow? What will happen if nothing is done to stem the buying tide? Warns Lawrence Brainard, chief international economist for Manhattan's Bankers Trust: "By the end of this century, the U.S. may have the most modern manufacturing sector in the world, but it won't own it." Says Democratic Representative John Bryant of Texas: "America has been selling off its family jewels to pay for a night on the town, and we don't know enough about the proud new owners."

The proud new owners know a good thing when they see it, and the reasons for their rush to buy are abundantly clear. To start with, U.S. properties are going for unprecedentedly low prices because of the fall of the dollar. The U.S. currency has plunged some 40% in value during the past two years against such major foreign currencies as the Japanese yen, the West German mark and the British pound. The result is that while prices of real estate and commercial properties may seem high to most Americans, everything with a dollar-denominated price tag looks like a tremendous steal to holders of other, stronger currencies.

At the same time, America's industrial rivals are flush with cash, either their own savings or the billions of dollars that import-hungry U.S. consumers have been spending on Japanese video gear, South Korean appliances and West German autos. Those wealthy nations are eager to use this money to tap the $1.3 trillion U.S. marketplace, where immense diversity and opportunity act as both a model and a magnet for the rest of the world. In addition, foreigners are eager to gain access to the advanced fruits of American research and technology, as well as to enjoy the benefits of U.S. rates of corporate taxation, which are appreciably lower than elsewhere.

Buyers from overseas are especially attracted by American political stability, which is particularly alluring to those with long-term investment prospects in mind. And foreign investors continue to be impressed by the wide-open nature of the American economy and the freedom of its capital and equity markets. Says a Japanese banker in Tokyo: "We are amazed at the way Americans are willing to sell out their companies. In Japan, owners of companies hold on for life."

The foreign shopping bender signals a major transformation in America's global economic role. For nearly four decades following World War II, the U.S. did the buying, savoring its role as the globe's foremost exporter of capital. U.S. investment power was so great that in 1968 French Economics Journalist Jean-Jacques Servan-Schreiber predicted that American multinational companies like IBM and ITT threatened to turn Western Europe into an economic province. Concern about foreign cash flowing into the U.S. arose briefly in the 1970s, when a weak U.S. dollar and the emerging clout of OPEC prompted fear of an Arab buying spree. By and large, however, the cautious oil sheikds steered their petrodollars into bank accounts and securities portfolios rather than toward the bricks and mortar of U.S. real estate and corporations.

But after years of mammoth U.S. budget and foreign-trade deficits, the situation today is radically different. The buying of America has virtually turned into an industry of its own, with sharp-eyed advance crews scouting out the country's most attractively undervalued treasures, researchers typing up thick intelligence reports on U.S. acquisition targets, finance teams huddling with investment bankers in Tokyo, London and elsewhere, and blue-chip law firms constantly at work drafting reams of tender offers, prospectuses and sale documents.

Foreign bargain hunters often pour enormous effort into their shopping. Michael Dornemann, a director of West Germany's Bertelsmann communications giant, flew to the U.S. more than 50 times over the past three years while deciding how his company should spend its $1 billion American shopping budget. Often taking the morning Concorde from Paris in order to put in a full day's work in the states. Dornemann visited more than 20 U.S. companies before choosing his recommended targets: Doubleday publishing and RCA records. The possibility of snagging both was considered so unlikely that he and his boss, Bertelsmann Head Mark Wössner, 48 had called it their "extreme case."

Nonetheless, they turned all their persuasive powers on Publisher Nelson Doubleday and GE Chairman John Welch, offering them hefty prices and even giving the GE boss a lecture on corporate strategy. (Says Wössner: "We told him that music was too far away from electric motors and rockets.") Then Wössner tried another tack. In separate meetings one day last September, he recalls, he gave each American executive the impression that the West Germans could afford to buy only one of the two companies. "Either you sell to us, or we'll go to the others," warned Wössner. By the end of that day, the Germans had won both prizes. Total price for the double-barreled victory: $805 million.

Foreign shopping fever reaches even into the country's remote fastnesses. When the brash British raider Sir James Goldsmith calculated that U.S. timberland was becoming a tempting prize, he launched a $500 million takeover bid at San Francisco's Crown Zellerbach paper company in order to grab the corporation's vast forests. As a result of the 1985 takeover, Goldsmith now owns 1.9 million acres of American forests in Washington State and Oregon.

Equally sharp-eyed Canadian mining companies have snapped up the rights to some 40% of the new gold-digging projects in Montana, Nevada and other Western states. In Northern California, foreign investors have picked up more than two dozen of the region's 300 wineries, among them the Almadén label (now British) and the St. Clement Vineyard (Japanese). In Alaska, Japanese investors control more than one-third of the state's $680 million seafood-packing industry. U.S. farmland might be a bigger target for raiders, except that more than two dozen states have imposed controls or bans on foreign ownership.

Despite the shopping spree, however, the value of U.S. property under foreign control is still only a tiny fraction of America's immense total. (The estimated value of all U.S. residential dwellings alone comes to some $6 trillion.) But foreign holdings have grown surprisingly large in many lucrative, and occasionally sensitive, spots. Foreign investors now own 46% of the commercial real estate in downtown Los Angeles, for example, according to a survey by the Coldwell Banker Real Estate Group. In downtown Houston, the foreign-owned tally is 39%; in Minneapolis 32%; and in Manhattan 21%.

With so much overseas demand for high-profile U.S. commercial property, competing foreign bidders practically bump into one another at airports. To increase their already considerable bargaining power, many would-be buyers go to striking lengths to conceal their ultimate intentions. The Japanese Komatsu executives who went shopping in Tennessee for a factory kept their state government hosts completely in the dark about what they actually wanted. After a tour of the 1940s-era structure that eventually housed their heavy-equipment concern, the Japanese pronounced it "very dull and scary, very gloomy," recalls John Gregory, a Tennessee official who escorted the group. When the Komatsu executives suddenly announced that they were buying the abandoned plant, says Gregory, "it kind of threw us for a loop."

Japanese businessmen are throwing the U.S. for a loop in a number of ways. Japan, the world's largest creditor country, where consumers save 17% of their earnings (vs. 4% in the U.S.), has the mightiest bankroll of all to engage in buying America. Bereft of enough investment opportunities at home to absorb their astonishing pile of savings, the Japanese are hungrily looking abroad for places to park the excess cash. Japan's direct investments in U.S. real estate and corporations reached $23.4 billion at the end of 1986, a jump of about 18% from the previous year. Predicts Amir Mahini, director of international business research for the McKinsey consulting firm: "In the next two or three years, Japanese investments here will build up very rapidly. It's going to become a torrent."

In particular, the Japanese are taking America's skylines by storm. They have invested an estimated $7 billion ($5.5 billion last year alone) in office towers and other buildings. Oil-company headquarters are a favorite: Hiro Real Estate last month paid $250 million for Mobil Oil's 42-story Manhattan headquarters tower. An older landmark, Fifth Avenue's Tiffany building, was sold last November to Dai-ichi America Real Estate for $94 million. Where landmarks are not available, seascapes will do: in Hawaii, Japanese investors own more than half of the twelve major hotels along Waikiki Beach.

American real estate agents love the trend: by some estimates, the Japanese have single-handedly boosted the selling prices of prime Manhattan real estate 10% to 15%, to roughly $500 per sq. ft. Those prices are still a bargain compared with costs in Tokyo, where office towers sell for an astronomical $20,000 or more per sq. ft—on those rare occasions when anything comes up for sale. Says Shigeru Kobayashi, owner of Japan's multibillion-dollar Shuwa real estate empire: "Bond buyers are holding paper, but I have buildings and land. That's the future." Kobayashi's son Takashi, head of the family firm's U.S. subsidiary, controls 26 U.S. buildings worth some $2 billion. Among them: the ARCO Plaza in Los Angeles (bought for $620 million last September) and the ABC network headquarters in Manhattan ($175 million in October). Says the senior Kobayashi: "America is where greatness is."

Japanese bargain shoppers increasingly covet neglected American gambling casinos. Last April, Ginji Yasuda, a Korean-born Japanese, reopened the 1,100-room Aladdin Hotel in Las Vegas after buying the ailing complex for $54 million and spending $30 million more to restore its glitzy decor. He plans to shuttle customers from Japan in a posh jet equipped with sleeping cabins. Says Yasuda: "You have a lot of dreams still available in this country that you don't have in Japan."

Tokyo Billionaire Masao Nangaku, 68, had an expensive fantasy last month, when he outbid five U.S. companies for Las Vegas' struggling Dunes Hotel. The winning price: $157.7 million. Nangaku plans to virtually double the size of the hotel, to 2,200 rooms. Nangaku says he has wanted to buy a casino in Las Vegas for years.

Backed by a vast recreation empire (bowling alleys, golf courses, hotels), he apparently had little trouble lining up the financing for the Dunes purchase through his Tokyo bankers. Boasts an aide: "Our assets are worth far more than the price of a Las Vegas hotel."

One corporate arena in which Japan's huge bankroll is prompting intense jitters is the U.S. financial-services industry. Tokyo's largest banks and investment firms, which already eclipse American companies like Citicorp (assets: $196 billion) and Merrill Lynch ($53 billion), openly aim to grab a large share of the U.S. financial marketplace. They have established a major beachhead in California, where four of the top ten banks are now Japanese owned: California First Bank, Sanwa Bank, Bank of California and Sumitomo Bank of California. On Wall Street, Japan's Sumitomo Bank shelled out $500 million for a 12.5% share of profits in the Goldman, Sachs investment paid $538 million for a 13% slice of Shearson Lehman.

The Japanese have largely shied away from takeovers of major U.S. industrial corporations, at least partly in fear of a public relations backlash. "We are worried about investment friction now. It may get serious," says Hiroki Sakamoto, a senior official of the Japan External Trade Organization. But last month Dainippon Ink & Chemicals won a long and bitter battle to take over New York's Reichhold Chemicals, a maker of specialty polymers. The price: $540 million.

The least inhibited foreign bidders for U.S. corporate control these days are often the British. They have committed more than $22 billion so far this year to U.S. takeovers, successful or pending, in contrast to some $14 billion for all of 1986. The British invasion "is going this year at a frightening pace," observes Philip Healey, publisher of Acquisitions Monthly, a British trade journal. "Buying an American company is very much a vogue thing."

Many British raiders have shown remarkable pluck, taking on American companies many times their size. WPP Group, and upstart London advertising firm, bid $566 million in June to acquire JWT Group, the parent of Madison Avenue's lordly J. Walter Thompson agency. Last month another relatively small London outfit, the Blue Arrow employment-services agency, successfully bid $1.3 billion to take over Milwaukee-based Manpower, the largest American temporary-labor placement firm.

Perhaps the most successful British buccaneer in America is the canny, soft-spoken Sir Gordon White, 64, chairman of Hanson Industries, the U.S. investing arm of London's Hanson Trust conglomerate. Hanson employs more than 35,000 workers in the eight U.S. firms it has acquired since 1973. Among the prizes: SCM, manufacturer of Smith-Corona typewriters, and Endicott Johnson, the shoe retailer. White's current target is Kidde, a maker of products ranging from Farberware kitchen utensils to Jacuzzi Whirlpool Baths. Hanson has made an offer for Kidde, and a successful deal would double the firm's U.S. employment roster. So far White has spent $2 billion on his acquisitions.

The Dutch come right behind the British in their direct investments in U.S. companies. The Dutch-British Unilever consumer-products combine spent $3.1 billion last February alone to acquire Connecticut-based Chesebrough-Pond's. The deal gave Unilever ownership of such American brand names as Ragú spaghetti sauce, Prince tennis rackets and Vaseline petroleum jelly, along with Q-Tips and Pond's cold cream. Last week the Dutch electronics giant Philips struck a deal to swallow its North American subsidiary for more than $600 million, a move that will give the European conglomerate all rights to several famous American brand names: Norelco, Magnavox and Philco.

Canada has the highest levels of foreign, chiefly U.S., ownership of domestic enterprise of any major industrial country. Now the Great White North is striking back. Canadian direct investment in the U.S. has jumped from $12.1 billion to $18.3 billion in the past six years, with much of the increase in real estate and retailing. Last fall Ottawa-based Tycoon Robert Campeau swooped down on New York City to make a $3.5 billion buyout raid on Allied Stores, a 690-store retail chain with holdings that include Brooks Brothers and five major U.S. shopping centers.

West Germany, awash in boodle from selling U.S. customers everything from beer to BMWs, has taken aim at heavier industry. The huge Hoechst chemical firm last March paid $2.8 billion to acquire Celanese, the U.S. fibers firm best known for its Fortrel polyester. For its part, France's Thomson electronics company forged a deal in July to buy GE's consumer-electronics arm in exchange for an estimated $800 million cash and title to the French company's medical-equipment division. That arrangement left Zenith as the last sizable American firm to manufacture TV sets in the U.S.

Even the remote Australians have got into the corporate-takeover act. Investor George Herscu, a real estate magnate, is constructing $1.2 billion worth of supermalls to add to the $500 million string of shopping centers he has accumulated in Ohio, Florida, Colorado and South Carolina. Herscu also spent $100 million to buy Bonwit Teller, the fashion retailing chain, which he aims to double in size. In a widely publicized purchase this year, Natural Resources Magnate Robert Holmes à Court spent $1 billion to buy 9.5% of Texaco. Last month Australian Investor Alan Bond offered $500 million for the St. Joe Gold mineral corporation of Clayton, Mo.

For many parts of America, a megadose of foreign investment is a welcome tonic. In small towns or rusted industrial cities that have been unable to attract American capital, foreign money is virtually the only means to create new jobs (see box). Nearly three years ago, local boosters in Winslow, Ariz. (pop. 8,900), induced a Korean company, Young An Headwear, to buy a long-dormant underwear-manufacturing plant on nearby Hopi Indian reservation land. The refurbished factory has since provided 80 new jobs and produces $2 million worth of sport caps annually. In Fontana, Calif., a joint venture of Brazil's Rio Doce Geologia & Mineracão mining company and Japan's Kawasaki Steel reopened a foundry that was shut down in 1983. It now produces 1 million tons of steel a year and employs 800 workers. Says Kenneth Gibson, director of the California commerce department: "You wouldn't have a steel industry in this state if it were not for foreign investments."

Where U.S. businesses are merely dying rather than dead, foreign buyers flush with cash and enthusiasm can sometimes cause a dramatic turnaround. Canada's Cineplex Odeon theater chain, for example, has bought and spruced up more than 300 mostly decrepit U.S. movie theaters, at a cost of roughly $475 million. The Toronto-based company revives business by boosting the quality of feature presentations and perking up the housekeeping, the acoustics and even the quality of the popcorn.

One of the most dramatic cases of a foreign-assisted turnaround involves the Great Atlantic & Pacific Tea company, parent of A&P. The supermarket chain was ailing badly when West Germany's Tengelmann Group took over in 1980, after anteing up $100 million for control of Great Atlantic. A&P's foreign owners installed a new top manager and restored the company's reputation within three years, first by selling 600 unprofitable stores out of a total of 1,600, then by patiently plowing profits back into the remainder.

Even when U.S. managers are performing well, a foreign takeover can introduce new kinds of dynamism. In the case of last March's Hoechst-Celanese merger, for example, the West German company brought to the union an acknowledged excellence in pure research. The U.S. firm is expected to contribute American know-how in bringing new laboratory discoveries quickly to the marketplace. Moreover, the West German company expects the American addition to help loosen up the regimented corporate culture of its parent, where Hoechst engineers stiffy address one another as "Herr Doktor."

But along with opportunity, foreign owners have stirred plenty of fear. Some Americans react sharply to foreign overtures and invoke apocalyptic visions of the unwanted influence that outsiders may wield. Last May William Jovanovich, chairman of the Florida-based publishing firm of Harcourt Brace Jovanovich, made unabashed appeals to antiforeign sentiment while fending off British Press Lord Robert Maxwell's $1.7 billion takeover bid. Among other things, Jovanovich asserted that a foreigner would be unfit to publish books for American schoolchildren. That conveniently overlooked the dominant role of American publishers, Jovanovich's firm included, in Canada, where 59% of school textbooks are produced by foreign-owned companies.

The buyout binge has stirred bitter debate over fundamental issues. The biggest is jobs: Will the foreign investment wave bring more of them or wash them away? Some U.S. groups argue that overseas companies often come out second best to native ones in generating new employment. A 1986 study by the United Auto Workers contends that foreign autoassembly plants in the U.S. eliminate three jobs for every one they create, since the facilities import so many of their components from abroad. The study implies that foreign-owned plants often fail to spread job opportunities beyond their factory gates.

Nor is foreign ownership always a guarantee of innovative management. Last month Robert Harp, founder of the California-based personal-computer maker Cordata Technologies, quit his chairmanship of the company after a quarrel with Daewoo, the South Korean industrial giant that spent $2.5 million in 1985 to buy 70% of Cordata's stock. The once profitable American firm lost $20 million last year, claims Harp. He blames that on the Korean parent's overpricing of Cordata products and on its slowness in making decisions.

Another frequently voiced concern is that foreign owners will monopolize a particular American industry, driving out U.S. capacity and somehow gaining the capability to extract exorbitant profits or disrupt the economy. One business that draws attention is cement. The biggest player in that industry, which is more than 50% foreign owned, is Switzerland's Holderbank, a financial concern that has bought two American cement companies (Dundee Cement and Ideal Basic Industries). Holderbank wants to combine the two with a Canadian company, St. Lawrence Cement, to form North America's largest firm.

The fact is that U.S. antitrust law, however leniently enforced under the pro-business Reagan Administration, can prevent any foreign monopoly abuse. Indeed, antimonopoly laws are liable to be used more readily against foreign companies than domestic ones. The U.S. already has laws that restrict foreign ownership in any industries that the Federal Government deems essential or sensitive. Among them: telecommunications, shipping, aviation and any form of defense production that requires a U.S. security clearance.

The Reagan Administration tried to draw a new line last March, when it stunned the Japanese electronics giant Fujitsu by blocking a reported bid of $225 million for money-losing Fairchild Semiconductor, a maker of computer microchips. Washington cited national security concerns for the ban—even though Fairchild was already owned by a foreign firm, the French oil-field-services company Schlumberger. (Last week Fairchild finally found a U.S. purchaser when a neighbor in Silicon Valley, National Semiconductor, bought the company for a meager $122 million.) The noisy Fujitsu episode may have proved a costly one for the U.S. according to Federal Reserve Chairman Alan Greenspan. The U.S. central banker told the Wall Street Journal that the incident rattled foreign investors, who reacted by cutting back their holdings of U.S. dollars. That sent the value of the greenback plunging. For a brief time, domestic interest rates moved sharply upward in a bid to force the dollar's value up again.

Even without further moments of monetary turbulence, the U.S. Congress seems bound to look more closely at the foreign buyout wave as it continues to swell. Some Washington legislators argue that the U.S. should at least develop a more vigilant system to monitor foreign inroads. The trade bill that passed the House in April includes a provision that would require foreign investors to report to the Commerce Department any interests of 5% or more in U.S. corporations or real estate. But many foreign investors oppose such scrutiny as trade harassment and a possible first step toward expropriation of their assets. Says a senior Administration official: "An investor might think that these requirements mean the U.S. Government will be coming after him." The Senate has passed a scrutineering provision in its version of the trade bill, but the White House is trying to scale back the dual proposals.

Indeed, most economists and politicians appear to come down against any major interference with the investment spree. Writing in the Washington Post last week, Economists Martin and Kathleen Feldstein (he is the former chairman of the President's Council of Economic Advisers) flatly stated, "The occasional rumblings about restricting foreign investment, such as the idea of requiring official registration, should be resisted by legislators and advisers to presidential candidates alike."

In the view of Hawaii Governor John Waihee, "It's not the origin of an investment dollar that makes it good or bad, but how it is invested." Takeovers that encourage U.S. competitiveness and efficiency and refurbish aging plants and equipment, in other words, are usually good, whoever spends the money. Likewise, the money that foreign companies invest in America is usually more important than the ultimate destination of any future profits. "To a worker in Chicago, does it make any difference whether the dividends go to New York or Tokyo? No," says Economist Edward Bernstein, a guest scholar at the Brookings Institution.

Economic experts in other countries, notably Canada and Britain, wryly point out that they have faced similar and even proportionately larger tides of foreign investment without losing control of their national destiny. Says Economist Alan Rugman of the C.D. Howe Institute, a leading Canadian think tank: "We in Canada have much more foreign ownership than the U.S. will ever have, and we're one of the wealthiest countries in the world as a result." Even so, Canada has suffered through prolonged bouts of unhappiness concerning foreign influence within its $379.3 billion economy and has occasionally lashed back at foreign investors, at substantial cost.

Amid the growing U.S. hubbub about acquisitive foreigners, a fact worth remembering is the importance of America's own trillion-dollar foreign holdings abroad. Any crimping of foreign investment in the U.S. would invite similar measures against American investors elsewhere—the equivalent, that is, of trade protectionism. Ironically enough, overseas worries about rising American protectionism toward imports is a prime reason for many foreign manufacturers' desire to buy physically into the U.S. market.

The U.S. economy has long based its prosperity in large part on the free flow of capital across international borders. In the mid-19th century, European investments helped finance the building of America's railroads, essential for opening up the West. Later, Europeans put their money into American ranching, farming and mining. After the turn of the century, foreigners helped buttress one of the most powerful companies of the era, U.S. Steel, by buying up fully 25% of its equity.

The current crush of foreign buyers offers more oportunities than threats—and, in any event, the $4.5 trillion U.S. economy's best insulation against invasion remains its sheer size. Says Theodore Moran, a professor of international business diplomacy at Georgetown University: "We are not going to have our economy taken over by foreigners unless it continues to decline for 50 or 60 years." That holds true even though a couple of Asian shoppers, South Korea and Taiwan, have barely begun to make strides in the U.S. buyout market. Yet as foreigners continue to rush in, new American properties are constantly being built to balance the outside purchases. In real estate alone, the U.S. annually constructs some $30 billion worth of shopping malls, $10 billion worth of factories and $6 billion worth of hotels.

A more important reaction to the foreign buyathon would be for Americans to adopt healthier economic habits. Those especially include a concentration of selling more exports and a curbing of the appetite for foreign goods, particularly luxury consumer items. Even there, the current bargain-basement sale of U.S. assets may eventually prove to be of some help. Quick to recognize the export advantages of the weak U.S. dollar, for example, the new management at Hoechst Celanese has already decided to move some chemical production from West German factories to American ones. At the same time, new managers like Sir Gordon White are giving their American troops a pep talk. Says he: "In the U.S., you haven't got the drive to export. It's often very difficult to convince managers in companies we've bought that they should flog their products in Britain. They say, 'Why go to all of that trouble when I can sell in the U.S.?' "

White would be only too happy to discover more American corporations that need to be taken over and set straight. Says he: "I do keep a close check on many U.S. companies. We could still launch another bid of more than $10 billion in the U.S." White's bankroll is seemingly inexhaustible—but then, so are the exciting economic opportunities of America itself. With all those tempting troves of undervalued wealth in view, it is small wonder that Sir Gordon and his many foreign imitators still want to buy, buy, buy.—By Stephen Koepp. Reported by Scott Brown/Los Angeles, Richard Hornik/Washington and Frederick Ungeheuer/New York.

Mrs. BENTLEY. Mr. Chairman, I did want to read from another publication. This is from the Wall Street Journal last Friday: "When Tokyo Picks Up the Tab." Let us find out what it means when Tokyo picks up the tab.

"America's appetite for Japanese capital grows, producing worries on both sides of the Pacific."

Inside Japan's Ministry of Finance, director general Makoto Utsumi unfolds a gridlike chart portraying the U.S. Japan, West Germany and Britain at various stages of economic power.

To an American, it isn't a pretty picture.

The U.S. now sits in the bottom corner, where Britain was from 1926 to 1944. Such nations live on past credit, suck in foreign capital and can't save enough to finance domestic investment.

□ 1715

Two rankings higher stands Japan, a strong country with a trade surplus saving more than it spends and spending excess money abroad. That puts Japan, among other nations, at the height of their economic strength, including the United States, from 1946 to 1970, and Britain from 1851 to 1890.

The chart underscores a new reality, Japan has become the United States rich uncle, its chief source of foreign capital.

Since 1981 Japan's net overseas holdings have climbed to more than $180 billion from less than $11 billion. Most of that money has gone to the United States, which has become the world's largest debtor nation. We are the debtor nation of all of the industrial countries.

While this infusion of Japanese capital has pumped up the United States economy it raises worrisome questions about United States dependence on Tokyo's purse strings. Examples of Japan's bank roll in the United States abound. When the maker of Lee and Wrangler jeans, VF Corp., wanted to borrow $50 million this year it turned to Fuji Bank. When Boston College wanted to raise money cheaply it got a guarantee from Sumitumo Trust & Banking Co. In the attempted cleanup of New York's Times Square, it was partly funded by the Industrial Bank of Japan, which helped underwrite a $375 million bond issue for a new Marriot Hotel.

Put simply, the United States needed capital and goods, Japan supplied the goods and the money, says Minuro Inouye, president of the Bank of Tokyo.

This year Japan is expected to buy more than $50 billion of United States stocks and bonds and make billions of dollars on commercial loans. But on both sides of the Pacific financial authorities are nervous about where the United States-Japan coupling will lead. A drop in the dollar, further problems with the United States budget deficit, or a slump in Japan's economy could cause Tokyo's big investors to bail out of the United States, hurting the United States economy and if the Japanese stay they may end up wielding more clout than some in the United States would like.

The United States is accumulating enough debt that it threatens to erode the sovereignty of the country and international policy, worries Charles M. Lucas, a vice president of the Federal Reserve Bank of New York.

Foreigners own more than $1 trillion of assets in this country and they will expect to have some influence. One estimate puts the net worth of all assets in the United States at $13.2 trillion.

The Bank of Tokyo's Mr. Inouye is even more blunt. It is impossible for us to continue this kind of relationship, he warns, otherwise eventually there will be a drastic fall in the dollar or a collapse of the monetary system.

In recent years United States and Japanese policies have complemented each other so precisely that the two nations have been drawn unwittingly into a surprisingly tight interdependence. Japan's export driven economy has plugged into strong domestic demand in the United States. Large Japanese trade surpluses have mirrored even wider United States trade deficits and Japan's high savings rate has left it awash with so much cash that a lot must go offshore where it helps finance United States budget and trade deficits.

Japan's emergence as the financial patron of the United States is an about-face for both nations, and it certainly is.

This article goes on to point out that Tokyo, that Japan has 46 percent of all the commercial real estate in Los Angeles and substantial amounts in many other cities of the United States.

I include for the RECORD the rest of this article.

The article referred to follows:

[From the Wall Street Journal, Sept. 18, 1987]

WHEN TOKYO PICKS UP THE TAB

(By Michael R. Sesit)

Inside Japan's ministry of finance, director general Makoto Utsumi unfolds a gridlike chart portraying the U.S., Japan, West Germany and Britian at various stages of economic power.

To an American, it isn't a pretty picture.

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Two rankings higher stands Japan: a strong country with a trade surplus, saving more than it spends and sending excess money abroad. That puts Japan among other nations at the height of their economic strength, including the U.S. from 1946 to 1970 and Britian from 1851 to 1890.

The chart underscores a new reality: Japan has become the U.S.'s rich uncle, its chief source of foreign capital. Since 1981, Japan's net overseas holdings have climbed to more than $180 billion from less than $11 billion. Most of that money has gone to the U.S., which has become the world's largest debtor nation. While this infusion of Japanese capital has pumped up the U.S. economy, it raises worrisome questions about U.S. dependence on Tokyo's purse strings.

Examples of Japan's bankroll in the U.S. abound. When the maker of Lee and Wrangler jeans, VF Corp., wanted to borrow $50 million his year, it turned to Fuji Bank. When Boston College wanted to raise money cheaply, it got a guarantee from Sumitomo Trust & Banking Co. Even the attempted cleanup of New York's Time Square was partly funded by Industrial Bank of Japan, which helped underwrite a $375 million bond issue for a new Marriott hotel.

UNCERTAIN DIRECTION

Put simply, "The U.S. needed capital and goods. Japan supplied the goods and the money," says Minoru Inouye, president of Bank of Tokyo. This year Japan is expected to buy more than $50 billion of U.S. stocks and bonds, and make billions of dollars of commercial loans.

But on both sides of the Pacific, financial authorities are nervous about where the U.S.-Japan coupling will lead. A drop in the dollar, further problems with the U.S. budget deficit, or a slump in Japan's economy could cause Tokyo's big investors to bail out of the U.S.—hurting the U.S. economy. And if the Japanese stay, they may end up wielding more clout than some in the U.S. would like.

The U.S. "is accumulating enough debt that it threatens to erode the sovereignty of the country in international policy," worries Charles M. Lucas, a vice president at the Federal Reserve Bank of New York.

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Japan's emergence as financial patron of the U.S. is an about-face for both nations, veteran bankers say.

"When we came here 40 years ago, after the war, our job was to import capital to help build Japan," says Robert H. Binney, the head of Chase Manhattan Bank's Tokyo operations. "Now the boot's totally on the other foot; we're shipping their wealth out."

Even the old gray Tokyo building that houses the Ministry of Finance shows how much the world has changed. Forty years ago, it was part of the headquarters for the U.S. occupation forces. Today, it is part of a financial system so powerful that its decisions can be felt on Wall Street, or even in the mortgage rates that typical Americans pay.

Even during the oil-price shocks of the mid-1970s, Japan's banks and insurers were building large asset pools. However, until a few years ago, they were hardly allowed to invest abroad. "So you have a sort of magma energy piled up within these institutions," says Toru Kusukawa, deputy president of Fuji Bank, the world's second largest bank. "Then they were suddenly let out and their presence felt."

In the past year, rumors of Japanese buying or selling have rippled through U.S. stock and bond markets, causing prices to swing noticeably, even though total Japanese holdings are still relatively small. Demand from Japanese insurance and trading companies also is helping to inflate the price of prime U.S. real estate, particularly in New York City and Los Angeles.

Walk into Exxon Corp.'s headquarters in New York, and you're in an edifice owned by a subsidiary of Mitsui & Co. Vacation at the Hyatt Regency Maui, and you'll be staying in a hotel owned by Kokusai Motorcars Co., a big Tokyo-based taxi and limousine company. Even part of First Boston Corp.'s staff is housed in a 44-story New York tower owned by Kato Kagaku Co., one of the world's largest makers of cornstarch.

BANKING ASSETS

Meanwhile, Tokyo's banks—often accused by their U.S. counterparts of unfairly cutting fees—had captured 8.7% of all U.S. banking assets as of Dec. 31. That is up from 5% in 1982, according to the New York Fed. And while U.S. regulators say Japanese banks' capital bases are imprudently small, Japan's leading banks are helping bail out Bank of America, the second largest U.S. commercial bank.

The wave of Japanese cash has its positive side. It has helped fuel five years of U.S. economic expansion, allowing Washington to spend huge sums on social and military programs. It has allowed individual Americans to consume more than they produced, and it has helped the U.S. be the engine of world growth.

"This is still the most viable economy in the world, even though more and more of it is owned by foreigners," says Neal M. Soss, chief economist at First Boston in New York. As a rough yardstick, he says, the U.S. would no longer be a debtor nation if it just turned over 22 days of economic output to foreign creditors.

Other economists are more worried about the U.S.'s growing debt-service obligation to Japan. They say that if the trend continues, it could crimp the U.S. standard of living in decades to come.

GRATING ON AMERICANS

"Ultimately, you have to pay off the foreign claims," says Kermit L. Schoenholtz, an international economist at Salomon Brothers Inc. in New York. This, he explains, could lead to increased inflation, a recession or higher taxes to service the debt. And that means less disposable income to spend on goods and services, and possibly cuts in federal spending. Moreover, there is potential for crowding out the investment necessary to boost U.S. competitiveness, if the cost of funds increases.

Meanwhile, Japan's presence in the U.S. already grates on some American sensibilities. Tomomitsu Oba, president of the Japan Center for International Finance, tells of a cartoon he saw in a Philadelphia newspaper. It showed an American worker carrying a placard that read: "Buy American." Next to him, says Mr. Oba, was a "small Japanese fellow with a small placard that read: 'Buy America.'"

Mr. Oba adds: "I became slightly worried. I want Americans to see these issues will be (exacerbated) by a weaker dollar."

Tension between Washington and Tokyo over trade issues is already high, and some fear it could worsen. Some worry that Americans will turn xenophobic if the Japanese continue buying dollar assets, in a replay of the response to rising Arab wealth in the 1970s.

"I'm afraid the U.S. will pursue a path of autarky and isolation and close its doors," a Japanese official says.

In the U.S., one of economists' biggest worries is a free fall by the dollar that would raise inflationary expectations and cause Japanese and other foreigners to dump their dollar assets. That could force the Fed to raise U.S. interest rates sharply to damp inflation and protect the dollar. And that in turn could send the U.S.—and possibly the world—into recession.

DOLLAR IS LAST RESORT

The Japanese themselves are divided about how they would react to further slumps in the dollar.

"If the U.S. continues to depreciate the dollar, there is a significant risk that foreign investors won't want to buy dollar assets," says Kinya Hiroi, chief investment officer for Dai-Ichi Mutual Life Insurance Co.

But Ariyoshi Okumura, chief financial economist at Industrial Bank of Japan, says: "There is no reason why Japanese institutional investors would pull out totally from the U.S. The dollar is the last resort for the Japanese people."

Besides, of all the possible non-Japanese investments, only the U.S. stock and bond markets are deep enough to absorb Japan's torrent of cash, many Japanese money managers say.

Many Japanese have a different worry: another oil crisis or steep increases in the prices of all commodities. Either event would shrink Japan's trade surpluses, drain its wealth and prompt Japanese investors to withdraw from foreign investments.

Another critical issue is what the U.S. can do to narrow its yawning trade and budget deficits.

"Unless the two deficits are solved, the fact of the matter is the U.S. will have to stay dependent on foreign capital," says Yoshihisa Tabuchi, president of Nomura Securities Co. in Tokyo.

Remedies for the U.S. seem unappealing. The U.S. could devalue the dollar to make its goods more competitive; but that tactic has already been tried, with still uncertain effect. The U.S. could erect more tariffs against imports, but it would risk a worldwide recession in doing so. And with an election year ahead, U.S. politicians are unlikely to risk recession in attempting to narrow the trade deficit. Or the U.S. could persuade others, particularly Germany and Japan, to stimulate their domestic economies so they can absorb more imports. But progress in this area has been slow.

"We know how to improve the situation," says Toyoo Gyohten, Japan's vice minister of finance for international affairs. But, he laments, "to prescribe medicine and cure the disease are different things." It takes time for macro-economic adjustments to occur, meanwhile, social and political tensions heat up.

"We are driving on a very dark road without headlights," the Finance Ministry's Mr. Utsumi says. Japan already has taken steps to pep up its domestic demand and "can't always give sweetenings to the economy," he says. "The U.S. should take some bitterness."

Should the new-found financial bond between Japan and the U.S. dissolve, Japan ultimately may be more vulnerable. As an exporter of capital, it is exposed to potential dollar devaluations, default and a freeze on Japanese assets. In fact, by engineering the dollar's steep decline the past two years, the U.S. has effectively paid for billions of dollars of imports with discounted dollars, says a senior Japanese official.

"We exported, exported and exported, but not beneficially; we just acquired dollars," he says.

The U.S. on the other hand "imported, imported, imported and then devalued," the official says. "It is a very clever monetary policy: The Fed prints money and reduces the value of its overseas debt."

This view of the Japan-U.S. relationship as a game of hardball shows up on Wall Street, too. "If the Japanese don't buy American securities, the U.S. will (still) be able to sell its debt domestically," says Albert M. Wojnilower, a managing director at First Boston. At worst, Mr. Wojnilower says, interest rates might rise.

If the Japanese "don't want to buy our securities at a discount," he says, "they can't sell us their (cars, televisions and other) goods at a discount."

Finally, on August 21 the Journal of Commerce, which is a business paper also, has this editorial on its front page, and the two headlines are very meaningful, one says, "Economists see imports hurting living standard," then the editorial goes on to say:

America needs to wake up! That is the clear message that rings through today's special Journal of Commerce report on the trade deficit.

We are plunging deeper into debt with the rest of the world. We will owe half a trillion dollars before next year is out. And probably twice that by 1992 unless we act.

This newspaper believes America is not doing nearly enough. For example, our foreign trading partners say we are lousy at selling overseas. How ironic! This country invented modern marketing. But American efforts to sell overseas are half-hearted compared with the aggressiveness with which foreign countries attack the U.S. market.

The private sector has a huge role to play if this country is to become truly competitive, if the ships going out are to be as full as those coming in.

"Get our quality up and our prices down," is the way U.S. Ambassador to Japan Mike Mansfield puts it.

But the private sector needs help, encouragement and most of all leadership that only can come from a government that has placed solving the trade deficit as a top priority.

What can the government do? Here are a few not so revolutionary thoughts.

1. Reduce the budget deficit through increased taxes on consumption and lower government spending.

2. Increase the personal savings through reduced taxation on interest and dividends, and by expanding tax-free limits on IRA and 401(k) savings programs.

3. Provide greater government incentives for capital investments and research through accelerated depreciation, investment tax credits and tax credits for selected areas of product research.

4. Get tough with trading partners such as Japan, Taiwan, West Germany and South Korea that until now have viewed the U.S. trade deficit as not their problem. In the long run, it is their problem and these countries must recognize that if the United States is to continue buying from them, they must buy far more from the United States.

5. Establish a cohesive national export policy with the primary leadership coming from the president of the United States. President Reagan needs to recognize that traditional economic solutions won't work—they certainly haven't so far.

Unfortunately the above five steps require a political courage in short supply these days, especially when it involves increased taxes.

The trade deficit is an economic problem so enormous that anything less than a total national commitment will undoubtedly see the U.S. standard of living continue to slide.

America can lick the deficit, but it will take all of the nation's resources, the combined efforts of the private sector, labor and government. So far the White House has shown no desire to challenge the Congress, the people and the private sector to take the all-out action steps needed for results.

The continuing negative trade figures show clearly that we've not done enough. It is a pity that Mr. Reagan, who has accomplished so much, somehow fails to recognize that the long-term implications in the current policy are a further weakening of the U.S. economy and America's position in the world.

It is sad to think that we may have to wait until there is a new occupant in the White House for vigorous leadership to emerge on on the trade deficit. Surely it will come. This nation is too great, its people deep-down too competitive, to slide into the status of an also-ran. Mr. Reagan, you still have time.

In the article saying that imports hurt our living standards, it points out how we are going down in the income of individuals, and while the average income is becoming less and less per family. I am pleased that we have publications of this stature recognizing some of the problems, some of the economic problems that we are facing today and that they are finally coming out and saying so. They are not hiding behind the couch. They are saying, yes, everything out there is not blossoming, that we have to have a pretty solid foundation if the standard living in the future for the United States is not to be downgraded substantially, and if we are not to leave a tremendous debt for our young people to pay off for us in the future.

Mr. Speaker, I submit for the RECORD the article I have discussed.

The article referred to follows:

ECONOMISTS SEES IMPORTS HURTING LIVING STANDARD

(By Mark Magnier)

The United States can expect to pay for its recent import spending binge with a lower standard of living in the 1990s, say several economists.

"We've consumed a lot more in the 1980s," says C. Fred Bergsten, director of the Institute for International Economics, a Washington, D.C.-based research center. "We're going to have to do with less in the 1990s."

But experts differ on how much less Main Street will have to live with—ranging from an almost imperceptible reduction in living standards to an outright recession.

"The idea that we're all going to the poor house isn't true," says Paul W. McCracken, professor emeritus of business administration at the University of Michigan at Ann Arbor. "But we're talking about a swing that could cost us 5% in round numbers of our output."

INTERNATIONAL DEBT

According to Commerce Department figures, the United States had net international debt of $263 billion at the end of 1986. At that time, U.S. investors owned $1.068 trillion in foreign assets while foreign investors held $1.341 trillion worth of U.S. assets.

Economists say the U.S. relative reduction in living standard will result from the need to service U.S. international debt. In order to meet interest payments, they say, the United States will have to export more than it imports, which will drive down the value of the dollar relative to other currencies and direct resources away from the consumer.

Some economists say the nation is already beginning to witness a transition, as evidenced by lower real wages from Poughkeepsie to Palo Alto, a weaker dollar in the exchange markets and layoffs of high-priced managers at many U.S. corporations.

FIGURES QUESTIONED

Many economists question official U.S. international debt figures. U.S. direct investment abroad, a major portion of U.S. international holdings, is recorded at book value rather than current market value. Thus land purchased in Brazil by a U.S. investor thirty years ago is still valued in 1947 dollars.

But other economists point to under-representation on the liability side as well and say the figures probably balance out.

Lee Thomas, vice president of New York-based Goldman Sachs & Co., adds that a net debtor nation should be paying more interest than it receives. Yet the U.S. net balance of payment account shows the country is a net receiver of interest, he said. According to the Commerce Department, the United States had a 1986 net interest and dividend surplus of $20.9 billion from public and private sources.

Even if the United States is not yet a net debtor nation, however, most economists say the United States will be before long, barring some miraculous change in the import-export imbalance.

Lawrence Chimerine, chairman and chief executive of Wharton Econometrics Inc., based in Bala Cynwyd, Pa., says the expanding U.S. trade deficits in recent years reflect the nation's growing inability to compete internationally.

The U.S. balance of payments is divided into three components—the current account, which includes import and export trade, the capital account, covering inward and outward flow of investment capital, and the gold account, consisting of compensatory gold and reserve movements. In 1986, the U.S. trade deficit was $152.2 billion and the official U.S. current account deficit was $141.35 billion.

Mr. Chimerine says the U.S. economy will probably see slow growth—perhaps 2% annually on average—paralleled by weakness in the global economy and continued hardship for debt-plagued lesser developed nations over the longer term.

HOW DEBT IS USED

Although debt is often an important part of national development—the United States was a net debtor nation for much of the 1776-1914 period—the key issue is how debt is used, says Robert Slighton, director of economic forecasting for Chase Manhattan Bank N.A.

When it is used to build infrastructure, he says, it can produce returns that help service the debt. But if the debt is used for consumption, as with the United States recently, or for capital flight, as seen with Latin American nations in the 1970s, there is no productive return.

But not all economists believe growing U.S. international debt represent a problem. "(It's) not a matter of great importance," says Milton Freidman, senior research fellow with the Hoover Institution, part of Stanford University.

Most debts and assets are held by individuals who can be counted on to pursue their separate interests, he says. "This is a false problem, political not economic."

LITTLE CAUSE FOR CONCERN

Economists also point out that although U.S. foreign debt is large in absolute terms, it still represents a relatively small portion of U.S. gross national product, the total value of goods and services produced in one year, which amounted to $4.235 trillion in 1986.

Herbert Stein, former chairman of the Council of Economic Advisers under Presidents Nixon and Ford and now senior fellow at the American Enterprise Institute in Washington, D.C. sees little cause for concern in the near term.

"I think the fact that we are acquiring debt, that people are lending to us and investing in the United States, is helpful to us. I don't see anything wrong with it," he says. Of greater potential concern, he says, is what happens when foreigners stop lending or wish to repatriate their captial.

Mr. Bergsten believes that United States economic and foreign policy position may grow more vulnerable as its foreign obligations mount.

Its status as a debtor may also place pressure on the International Monetary System, he adds "Can the dollar continue to be the world's key currency if we're a net debtor country? It's never happened before."

Although a declining role for U.S. currency isn't likely to happen overnight, given the lack of a clear replacement, a steady erosion could result, he says.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. COLLINS (at the request of Mr. FOLEY), for today and the balance of the week, on account of illness in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SLAUGHTER of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. BEREUTER, for 5 minutes, today.

(The following Members (at the request of Mr. JONES of Tennessee) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. SKELTON, for 30 minutes, on September 23.

(The following Member (at the request of Mrs. BENTLEY) to revise and extend his remarks and include extraneous material:)

Mr. ALEXANDER, for 60 minutes, on September 22.

EXTENSION OF REMARKS

By unaimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SLAUGHTER of Virginia) and to include extraneous matter:)

Mrs. MORELLA.

Mr. LAGOMARSINO.

Mr. WORTLEY.

Mr. ARMEY in two instances.

Mr. GEKAS.

Mr. CHANDLER.

(The following Members (at the request of Mr. JONES of Tennessee) and to include extraneous matter:)

Mr. EDWARDS of California.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. SABO.

Mr. LANTOS.

Mr. SOLARZ.

Mr. SMITH of Florida.

Mr. MURTHA.

Mr. MANTON.

Mr. PEPPER in two instances.

Mr. COELHO.

Mr. FAUNTROY.

Mr. BERMAN

Mr. MILLER of California.

Mr. STARK.

Mr. DYMALLY.

Mr. MATSUI.

Mr. KOSTMAYER.

SENATE JOINT AND CONCURRENT RESOLUTIONS REFERRED

Joint and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 173. Joint resolution to commemorate the 200th anniversary of the signing of the United States Constitution; to the Committee on Post Office and Civil Service.

S. Con. Res. 9. Concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol Rotunda; to the Committee on House Administration.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 1163. An act to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses.

ADJOURNMENT

Mrs. BENTLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 22, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under Clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2126. A letter from the Chief, Program Liaison Division, Office of Legislative Liaison, Department of the Air Force, transmitting notification that the Department intends to file the Final Environmental Impact Statement [DEIS] with the Environmental Protection Agency on the proposed final deployment of the Ground Wave Emergency Network [GWEN], pursuant to Public Law 99-145, section 209(c) (99 Stat. 610); to the Committee on Armed Services.

2127. A letter from the Secretary of Education, transmitting a notice of Final Funding Priorities for Rehabilitation Research and Training Centers—Medical, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2128. A letter from the Chairman, Equal Employment Opportunity Commission, transmitting a report on the Commission's interagency coordination of Federal equal employment opportunity activities for the period October 1, 1985, through September 30, 1986, pursuant to 42 U.S.C. 2000e-14; to the Committee on Education and Labor.

2129. A letter from the Chairman, Federal Energy Regulatory Commission, transmitting the Commission's annual report for fiscal year 1986; to the Committee on Energy and Commerce.

2130. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed Letter(s) of Offer to Australia for defense articles and services estimated to cost $26 million (Transmittal No. 87-38), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2131. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed Letter(s) of Offer to Spain for defense articles and services estimated to cost $22 million (Transmittal No. 87-37), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

2132. A letter from the Comptroller General of the United States, transmitting a report transmitting the proposal for legislation establishing a program to study the profitability of Government contractors; to the Committee on Government Operations.

2133. A letter from the Chairman, Federal Election Commission, transmitting proposed regulations governing political contributions to and expenditures by delegates and delegate committees, pursuant to 2 U.S.C. 438(d); to the Committee on House Administration.

2134. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting the Department's proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2135. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a copy of their Report to the President and the Congress in 1986, pursuant to 16 U.S.C. 470(b); to the Committee on Interior and Insular Affairs.

2136. A letter from the Administrator, Office of Juvenile Justice and Delinquency Prevention, requesting an extension of 90 days to November 9, 1987, to submit the report on the use of franked mail in the location and recovery of missing children, pursuant to 39 U.S.C. 3220 nt; to the Committee on Post Office and Civil Service.

2137. A letter from the Office of Management and Budget, transmitting a determination that additional amounts are necessary to maintain the authorized level of operation of RFE/RL, Inc., because of adverse fluctuations in foreign currency exchange rates, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Appropriations and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3017. A bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the national sea grant college program through the establishment of a strategic research program and other means, and for other purposes; with an amendment (Rept. 100-309). Referred to the Committee of the Whole House on the State of the Union.

Mr. de la GARZA: Committee on Agriculture. Report submitted pursuant to section 302 of the Congressional Budget Act of 1974 by the Committee on Agriculture (Rept. 100-310). Referred to the Committee of the Whole House on the State of the Union.

Mr. FROST: Committee on Rules. H. Res. 267. A resolution waiving certain points of order against consideration of H.R. 2783, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes (Rept. 100-311). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2792. A bill to clarify Indian treaties, Executive orders, and acts of Congress with respect to Indian fishing rights (Rept. 100-312, Pt. I). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.J. Res. 324 (Rept. 100-313). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS:

H.R. 3308. A bill to amend title 18, U.S. Code, to provide for dismissal of a criminal case, before or after judgment, upon a finding of error in the grand jury proceedings from which the indictment arose; to the Committee on the Judiciary.

By Mr. CHANDLER (for himself, Mr. Hughes, Mr. Lowry of Washington, Mr. Miller of Washington, and Miss Schneider):

H.R. 3309. A bill to amend the Internal Revenue Code of 1986, to clarify the treatment of certain fishermen; to the Committee on Ways and Means.

By Mr. DERRICK:

H.R. 3310. A bill to enhance the effectiveness and the Independence of the U.S. Court of Military Appeals; to the Committee on Armed Services.

By Mr. DWYER of New Jersey:

H.R. 3311. A bill to authorize the Secretary of Housing and Urban Development to provide assistance for the purchase and installation of elder cottage housing opportunity units; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MATSUI (for himself, Mr. Vander Jagt, Mr. Archer, Mr. Donnelly, Mr. Gregg, Mr. Jenkins, Mr. McGrath, Mr. Crane, Mr. Gradison, Mr. Frenzel, Mr. Brown of Colorado, Mr. Daub, Mr. Chandler, Mr. Moody, Mr. Flippo, Mr. Duncan, Mr. Schulze, Mr. Thomas of California, Mr. Anthony, Mr. Rangel, Mrs. Kennelly, Mr. Guarini, Mr. Andrews, and Mr. Dorgan of North Dakota):

H.R. 3312. A bill to amend the Internal Revenue Code of 1986 to clarify that section 457 does not apply to nonelective deferred compensation; to the Committee on Ways and Means.

By Mr. MURTHA (for himself, Mr. Murphy, Mr. Gaydos, Mr. Shuster, and Mr. Kolter):

H.R. 3313. A bill to establish in the Department of the Interior the Heritage Preservation Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RANGEL (for himself, Mrs. Boggs, Mr. Campbell, and Mr. Petri):

H.R. 3314. A bill to modernize U.S. circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SMITH of Florida:

H.R. 3315. A bill to amend section 1201 of title 18 of the United States Code to provide a mandatory life sentence in the case of certain kidnapings of persons who have not attained the age of 18 years, and for other purposes; to the Committee on the Judiciary.

H.R. 3316. A bill to amend title 18, United States Code, to include sexual exploitation of children as a predicate offense for certain racketeering offenses; to the Committee on the Judiciary.

By Mr. WISE (for himself, Mr. Ackerman, Mr. Conyers, Mr. de Lugo, Mr. Dellums, Mr. Edwards of California, Mr. Garcia, Mr. Hayes of Illinois, Mr. Leland, Mr. Morrison of Connecticut, and Mr. Savage):

H.R. 3317. A bill to require divestiture from the oil industry in South Africa unless certain conditions are met, and for other purposes; jointly, to the Committees on Foreign Affairs and Rules.

By Mr. GLICKMAN (for himself, Mr. Marlenee, Mr. English, Mr. Madigan, and Mr. Roberts):

H. Res. 268. A resolution relating to advancing deficiency payments; to the Committee on Agriculture.

By Mr. SOLOMON:

H. Res. 269. A resolution condemning the Soviet Union for its attack on American servicemen on September 17, 1987, and for actions clearly inconsistent with the 1947 Military Liaison Missions Agreement; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

203. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Federal income tax reform; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FUSTER:

H.R. 3318. A bill for the relief of Manuel, Felix, and William Marrero; to the Committee on the Judiciary.

By Mr. PICKLE:

H.R. 3319. A bill for the relief of Susan A. Sampeck; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 47: Mr. Lewis of Florida.

H.R. 585: Mr. Skaggs, Mr. Price of Illinois, Mr. Wise, and Mr. Brooks.

H.R. 975: Mr. Price of North Carolina.

H.R. 1071: Mr. Upton.

H.R. 1078: Mr. Atkins.

H.R. 1115: Ms. Kaptur, Mr. Robinson, and Mr. DioGuardi.

H.R. 1242: Mr. Vento.

H.R. 1313: Mr. Lowery of California, Mr. Foglietta, Mr. Wortley, Mr. Sweeney, Mr. Stangeland, Mr. Morrison of Washington, Mr. Bilbray, Mr. Smith of New Hampshire, Mr. AuCoin, and Mr. de la Garza.

H.R. 1352: Mr. Gejdenson.

H.R. 1353: Mr. Lewis of California.

H.R. 1666: Mr. Saxton.

H.R. 1692: Mr. Evans, Mr. Jones of North Carolina, Mr. Wise, Mr. Lancaster, Mr. Richardson, Mr. Ritter, Mr. Hochbrueckner, Mr. Fazio, Mr. Gallegly, Mr. McMillen of Maryland, Mr. Ford of Tennessee, Mr. Erdreich, Mr. Mineta, Mr. Rhodes and, Mr. Bonker.

H.R. 1709: Mr. Richardson.

H.R. 1752: Mr. Howard.

H.R. 1770: Mr. Gaydos.

H.R. 1782: Mr. Traficant, Mr. Lehman of Florida, Mr. Hall of Ohio, Mr. Derrick, Mr. Howard, Mr. Hochbrueckner, and Mr. Stratton.

H.R. 1794: Mr. Daub.

H.R. 1966: Mr. Gejdenson.

H.R. 1971: Mr. Tallon.

H.R. 2017: Mr. Fauntroy.

H.R. 2125: Mr. Bates.

H.R. 2181: Mr. Ritter and Mr. DeLay.

H.R. 2285: Mr. Edwards of California.

H.R. 2312: Mr. Dowdy of Mississippi.

H.R. 2433: Mr. Hyde.

H.R. 2435: Mr. Roth.

H.R. 2537: Mr. Foglietta.

H.R. 2565: Mr. Callahan.

H.R. 2587: Mr. Roberts, Mr. Hochbrueckner, and Mr. Skeen.

H.R. 2647: Mr. Evans, Mr. Roe, Mr. Brown of California, Mrs. Bentley, Mr. Foglietta, and Mr. Frank.

H.R. 2670: Mrs. Byron, Mr. Frost, Mr. Vento, and Mr. Upton.

H.R. 2673: Mr. Solarz, Mr. Owens of New York, and Mr. Foglietta.

H.R. 2707: Mr. Thomas of California and Mr. Gallo.

H.R. 2794: Mr. Hughes, Mr. Dannemeyer, Mr. Edwards of California, Mr. Atkins, Mr. Owens of Utah, Mr. Tallon, and Mr. Foglietta.

H.R. 2800: Mrs. Morella, Mr. Price of North Carolina, Mr. Weiss, Mr. Dreier of California, Mr. Espy, and Mr. McEwen.

H.R. 2804: Mr. Frank, Mr. Jeffords, Mr. Hughes, Mr. Berman, Mr. Clay, and Mr. Neal.

H.R. 2859: Mr. Sabo, Mr. Mineta, Mr. Solomon, and Mrs. Bentley.

H.R. 2880: Mr. Dicks, Mr. Clinger, and Mr. Ridge.

H.R. 2920: Mr. Penny and Mr. Holloway.

H.R. 3001: Mr. Regula.

H.R. 3010: Mr. Edwards of California, Mr. Levine of California, Mr. Fazio, Mr. Eckart, Mr. Scheuer, Mr. Lancaster, Mr. Coble, Mr. Bryant, Mr. Skaggs, Mr. Feighan, Mr. Kolbe, Mr. Hughes, Mr. Lowry of Washington, Mr. Kastenmeier, Mr. Mrazek, Mr. Weber, and Mr. Conyers.

H.R. 3017: Mr. de Lugo, Mr. Bosco, Mr. Studds, Mr. Fascell, Mr. Price of North Carolina, Mr. Mrazek, Mr. Blaz, Mr. Tallon, Miss Schneider, Mr. Cardin, Mr. Chandler, Mr. Neal, Mr. Towns, Mr. Atkins, Mr. Horton, Mr. Nowak, Mr. Lehman of Florida, Mr. Lent, Mr. Stokes, Mr. Hayes of Illinois, Mr. Foglietta, Mr. Bonior of Michigan, Mr. Hochbrueckner, Mr. Young of Alaska, Mr. Kildee, Mr. Traxler, Mr. Henry, Mr. Dingell, Mr. Bennett, Mr. Gunderson, Mr. Anderson, Mr. Hutto, Mr. Howard, Mr. Moakley, Mr. Eckart, Mr. de la Garza, Mr. Bateman, Mr. Dyson, Mr. Gray of Illinois, Mr. Fuster, Mr. Garcia, Mr. Sweeney, Mr. McEwen, Mr. Traficant, Mr. Moody, Mr. Leland, Mr. Ortiz, Mr. Pepper, Mr. AuCoin, Mr. Carr, Mr. Badham, Mr. Ireland, Mr. Dowdy of Mississippi, Mr. Akaka, Mr. Espy, Ms. Kaptur, Mr. Hertel, Mr. Borski, Mr. Price of Illinois, Mr. Thomas of Georgia, Mr. Gonzalez, Mr. Bevill, Mr. Smith of Florida, Mr. Mavroules, Mr. Lott, Mr. Lewis of Florida, Mr. Nelson of Florida, Mr. Kleczka, Mr. Spence, Mr. Pursell, Ms. Slaughter of New York, Mr. Sunia, Mr. Montgomery, Mr. Holloway, Mr. Carper, Mrs. Saiki, Mr. Gejdenson, Mr. Spratt, Mr. Robinson, and Mr. Frost.

H.R. 3020: Mr. Ritter, Mr. Wolf, Mr. English, and Mr. Henry.

H.R. 3023: Mr. Udall and Mr. Foglietta.

H.R. 3044: Mr. Quillen, Mr. Lightfoot, Mr. Hefner, Mr. Slattery, and Mr. Owens of Utah.

H.R. 3045: Mr. Quillen, Mr. Lightfoot, Mr. Hefner, and Mr. Slattery.

H.R. 3047: Mr. Martinez.

H.R. 3057: Mr. Fazio.

H.R. 3064: Mr. Daub, Mr. Ballenger, Mrs. Bentley, Mrs. Johnson of Connecticut, and Mr. Saxton.

H.R. 3112: Mr. Eckart, Mr. DeFazio, and Mr. Jontz.

H.R. 3134: Mr. Mineta.

H.R. 3141: Mr. Foglietta.

H.R. 3149: Mr. Tallon, Mr. Stump, Mr. Chapman, Mr. Boehlert, Mr. Clinger, Mr. Courter, Mr. Marlenee, Mr. Broomfield, and Mr. Schuette.

H.R. 3160: Mr. Bonior of Michigan, Mr. Tallon, Mr. Edwards of California, Mr. Levin of Michigan, Mr. Fazio, Mr. Atkins, Mr. Andrews, Mrs. Johnson of Connecticut, Mr. Crockett, Mr. Vento, Mr. Owens of New York, Mr. Foglietta, Mr. Synar, and Mr. Lehman of California.

H.R. 3205: Mr. Lagomarsino, Mr. Brown of Colorado, and Mr. Stangeland.

H.R. 3214: Mr. Frank, Mr. Garcia, Mr. Clarke, Mr. Pepper, Mr. Neal, Mr. Wortley, Mr. Hayes of Illinois, Mr. Bereuter, Mr. Sikorski, Mr. Fazio, Mr. Waxman, Mr. Martinez, and Mr. Wolpe.

H.R. 3225: Mr. Neal, Mr. Conyers, Mr. Howard, Mr. Lagomarsino, Mr. Early, Mr. Kanjorski, Mr. Quillen, Mr. Hertel, Mr. Akaka, and Mr. Biaggi.

H.J. Res. 50: Mr. Bosco and Mrs. Morella.

H.J. Res. 176: Mr. Flake and Mr. Hochbrueckner.

H.J. Res. 191: Mrs. Meyers of Kansas.

H.J. Res. 234: Mr. Smith of Texas, Mr. Hayes of Louisiana, Mr. Ireland, Mr. Davis of Michigan, Mr. Thomas of Georgia, and Mr. Schaefer.

H.J. Res. 242: Mr. Rowland of Georgia, Mr. Bryant, Mr. Boner of Tennessee, Mr. Ravenel, Mr. Fuster, Mr. Anderson, Mr. Lagomarsino, Mr. Hubbard, Mr. Thomas A. Luken, Mr. Hammerschmidt, Mr. Whitten, Mrs. Meyers of Kansas, Mr. Levine of California, Mr. Bonior of Michigan, Mr. Levin of Michigan, Mr. Sabo, and Mr. Fish.

H.J. Res., 311: Mr. Dicks, Mr. Bonior of Michigan, Mr. Stratton, Mrs. Schroeder, Mr. Owens of Utah, Mr. Levin of Michigan, and Mr. Lewis of Georgia.

H.J. Res. 329: Mr. Roemer, Mr. Feighan, and Mr. Moakley.

H.J. Res. 355: Mr. Ravenel, Mr. Conte, Mr. Duncan, Mr. Young of Florida, Mr. McCandless, Mr. Natcher, Mr. Sisisky, Mr. Mrazek, Mr. Lehman of Florida, Mr. Donald E. Lukens, Mr. Kildee, Mr. Dingell, Mr. Flake, Mr. Hawkins, Mr. Craig, Mr. Owens of New York, Mr. Mazzoli, Mr. Wylie, Mr. Jones of Tennessee, Mr. Burton of Indiana, Mr. Brown of California, Mr. Edwards of Oklahoma, Mr. Inhofe, and Mr. Dellums.

H. Con. Res. 76: Mr. Coleman of Missouri.

H. Con. Res. 138: Mr. Sabo and Mr. Wortley.

H. Con. Res. 178: Mr. Penny, Mr. Fauntroy, Mr. Brown of Colorado, Mr. English, Mr. Vento, Mr. Sensenbrenner, Mr. Frank, Mr. Dornan of California, Mr. Upton, Mr. Dannemeyer, Mr. Bevill, Mr. Nichols, Mr. Martinez, Mr. Johnson of South Dakota, Mr. Applegate, Mr. Ford of Michigan, Mr. Staggers, Mr. McCloskey, Mr. Owens of Utah, Mr. Jontz, Mr. Lipinski, and Mr. Lewis of Georgia.

H. Con. Res. 184: Mr. Leach of Iowa, Mr. Bustamante, Mr. Ritter, Mr. Mrazek, and Mr. Fauntroy.

H. Con. Res. 186: Mr. Frank, Mr. Burton of Indiana, Mr. Dyson, Mr. Penny, Mr. Gilman, Mr. Ritter, Mr. Wortley, Mr. Schuette, Mr. Courter, Mr. Neal, Mr. Hall of Ohio, Mr. Hunter, Mr. Boulter, Mr. Smith of New Jersey, Mr. Mica, Mr. Smith of Florida, Mr. Wilson, Mr. Henry, Mr. Walker, Mr. Parris, Mr. Livingston, Mrs. Johnson of Connecticut, Mr. Levine of California, Mr. Darden, Mr. Lewis of Georgia, Mr. Weldon, Mr. Bartlett, Mr. Konnyu, Mr. Ballenger, Mr. Bliley, Mr. Carper, Mr. Lantos, Mr. Porter, Mr. Traficant, Mr. Bereuter, Mr. Leach of Iowa, Mr. Roe, Mr. Fauntroy, Mr. McGrath, and Mr. Dornan of California.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1770: Mr. Nielson of Utah.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

76. By the SPEAKER: Petition of the Finger Lakes Chapter of the National Organization for Women, Geneve, NY, relative to the passage of the new equal rights amendment; to the Committee on the Judiciary.

77. Also, petition of Hollywood, FL, city commission, relative to the Social Security Act; to the Committee on Ways and Means.

78. Also, petition of Gulf Power Company Chapter, the National Management Association Pensacola, FL, relative to acid rain; jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

EXTENSIONS OF REMARKS

GLASNOST, CONTINUED

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MICHEL. Mr. Speaker, periodically I have been inserting in the RECORD news about a new Soviet publication named "Glasnost." Perhaps I should say it is a publication that appears in the Soviet Union and not a "Soviet publication" since the latter term suggests an official Soviet organ of news or opinion. To the contrary—this Glasnost is a publication of citizens of the Soviet Union, but is in no way a part of the state apparatus. It is not a "samizdat" publication, either, for unlike such "unofficial" literature, glasnost is published quite openly and Soviet officials have been made aware of its existence by its writers and editors.

The fate of "gflasnost" magazine will determine to a great part the fate of the concept of "Glasnost" itself. Will the openness spoken of so often by Mr. Gorbachev be able to accommodate a magazine that does not follow the party line? Will glasnost, the magazine, go beyond mere criticism of certain actions taken by the state and begin to openly question the vanguard status of the party itself?

Much remains to be seen, but the process of publication has begun. We should be aware of the fate of this magazine and of its editor, Sergei I. Grigoryants.

At this point I wish to insert in the RECORD, "Where in Russia Can You Read About Glasnost? Glasnost," the Washington Times, September 17, 1987.

WHERE IN RUSSIA CAN YOU READ ABOUT GLASNOST? GLASNOST

(By Henrik Bering-Jensen)

Is Mikhail Gorbachev's glasnost half empty, half full or something else altogether? To test the water level on the Soviet leader's policy of greater openness in addressing the internal problems of the country, a group of dissidents has now obligingly volunteered to take him—literally—at his word. The result: a new, wholly independent magazine full of candid advice and helpful hints as to how the Soviet Union can be made a nicer place to live. Its name: none other than Glasnost itself.

Whether this contribution to the public debate is exactly what Gorbachev had in mind remains to be seen, not least by its editor, Sergei I. Grigoryants, a former political prisoner. As Mr. Grigoryants has emphasized, Glasnost is not samizdat, or unofficial literature. From the beginning, he decided to do everything in the open. "We want to go through all the legal channels," he stated in May when the magazine was in its planning stages. "We don't want to do anything secretly or underground."

Some former samizdar writers contend that in the past they made no attempts to conceal their products, but it is clear that Mr. Grigoryants has gone farther than most in making his intentions public. He notified the authorities of every step and, in a letter to the Central Committee of the Communist Party; requested facilities for printing in accordance with a new law that allows private individuals to set up small businesses.

He also made it clear that if he did not get this help, he would proceed anyway.

The magazine was originally scheduled to appear in June, but awaiting the response of the authorities, Mr. Grigoryants postponed the inaugural issue until July 3. A month after his application, the State Committee on Publications, to which his letter had been forwarded, politely declined to lend its support; under present conditions, the committee said, it did not really see the need for another magazine in the Soviet Union, which already has an abundance of publications.

But the response did not explicitly forbid Mr. Grigoryants to go ahead, so he did. The magazine is being produced under difficult circumstances-with volunteer typing and use of carbon paper. Photocopying, which would have facilitated the process, is traditionally unavailable in the Soviet Union because it would facilitate such processes. This limits initial production to some 100 copies, which are retyped in Moscow and elsewhere: Leningrad, Sverdlovsk, Kiev. Glasnost is translated into English by the Center for Democracy, a human rights organization in New York City.

The purpose of the publication is to probe the seriousness of Mr. Gorbachev's proclaimed policy. Says Yuri Yarim-Agaev, executive director of the Center for Democracy, "The magazine is not meant merely to dispute the official glasnost, but to complement it. The main idea is to create an independent publication in the Soviet Union. Mr. Grigoryants' magazine is an important test of how far the Soviet government is ready to go."

In this respect, the choice of the magazine's title is no accident. It might look like extremely bad form if the authorities decided to shut down a magazine that bears the name of the Soviet leader's own policy.

As for the editor, this is not his first experience with publication. By background a literary critic, Mr. Grigoryants was sentenced in 1983 to seven years in prison and three years of internal exile under the notorious Article 70 of the Soviet criminal code, which forbids anti-Soviet agitation and propaganda, for his attempt to publish an independent bulletin on human rights. He was released in February, following the much publicized annoncement by the authorities that 150 dissidents would be freed.

The new journal has no editorial board as such: it is more an ad hoc enterprise. The first issue includes a reprint of a statement by the famed dissident scientist Andrei D. Sakharov demanding a revision of the Soviet criminal code, but according to Mr. Yarim-Agaev, Glasnost will not restrict itself to purely human rights issues. The magazine also considers social and economic problems of Soviet society.

Another contributor to the first issue is the writer and economist Lev Timofeev, some of whose critical samizdat studies of the economy have been published abroad, "The Technology of the Black Market: The Peasants' Art of Starving" and "The Last Hope of Survival," for example.

He was slapped with an 11-year sentence in 1985 for peddling "anti-Soviet propaganda," but he also found himself among those pardoned in February. His Glasnost article discusses the current search for a language other than socialist jargon to analyze the workings of the Soviet administrative system.

Mr. Timofeev also describes the market as the driving force behind all economic progress. Even the lethargic Soviet system would never have stood this long, he argues, without a thriving black market economy to hold it up.

In addition to information on the growth of political discussion clubs and seminars taking place in Moscow and Leningrad, the journal also includes news of a proposal for the creation of a cooperative publishing house. The initiative came from well-known writers and has received support even from the Soviet Writers' Union. But Goskomizdat, the State Publishing Committee, has been delaying the application, and its chairman, M.F. Nenashev, has argued optimistically that "perhaps co-op publishing houses are not needed at all. . . . Under the conditions of restructuring, state publishing houses, of course, manage to cope with all problems that arise."

Recently, Izvestia put the point rather more bluntly. Such a publishing house, it argued, would be the thin end of the wedge, a slide down the slippery slope to "pornography." "As I see it," says exiled Russian writer Semyon Reznik, "this is also an indirect answer to Glasnost journal."

The magazine also contains a list of political prisoners serving in Chistopol Prison, with updates concerning their condition. This is the prison where Mr. Grigoryants himself was held.

In the future, the journal will treat these issues in greater depth, in particular the fate of recently released political prisoners.

According to Mr. Reznik, apart from the fact that only a minority of Soviet political prisoners have been released, even those who are now free find themselves in a very precarious position. In an article in the Paris emigrant weekly Russkaya Mysl (Russian Thought), exiled dissidents Irena and Alexander Ginzburg mention that many former political prisoners—Andrei Mironov, Vladimir Skvirsky and Aleksey Myasnikov, among others—face difficulties in obtaining a propiska, a special passport stamp that grants the bearer permission to live in a given area. It is an effective means for the Soviet authorities to keep track of the population.

Not having the stamp means breaking the passport law, and friends of former political prisoners who take them in are equally liable for punishment. Others, like mathematician Vladimir Albrekht, have gotten the stamp but cannot get jobs, not even as street cleaners. This makes them liable to charges of "parasitism."

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

According to Mr. Reznik, the sum of this is that the government still has a hold over these people. "The authorities can raise these questions at any time and put people back into prison."

The second issue of the journal is reportedly out now in the Soviet Union, containing provocative new information that Soviet legal files from the Stalin years are being destroyed at a rate of 5,000 a month. It is said to be 178 pages, combining what were originally planned as issues No. 2, 3 and 4. The initial idea of the editors was to publish the magazine every 10 days. But the resources to process the manuscripts, of which there are plenty, have not been available. Eventually it may become a monthly.

At the same time as the launching of the journal, the first meeting of a press club, also called Glasnost, took place in Mr. Grigoryants's apartment.

The club, which plans to meet twice a month, was organized by former political prisoners; one of its leaders in Larisa Bogoraz, wife of Anatoly Marchenko, who died in prison in December as a result of the harshness of his treatment.

The group's first act was to demand the abolition of the laws under which political dissidents can be jailed. At the meeting, the forced internment of dissidents in psychiatric hospitals was also protested.

Other independent periodicals are also being planned in the Soviet Union, likewise testing the limits of glasnost. Alexander Ogorodnikov, who was released in February after nine years' imprisonment as a religious dissident, has started the Bulletin of the Christian Community. "We understand that we are challenging the government," he stated at the presentation of the bulletin's first issue July 31. Not to be outdone, Vyacheslav Chernovil, a veteran dissident who spent 13 years in prison and more than two years in exile from 1967 to 1985, has announced his intention to publish a Ukrainian dissident journal.

How have the authorities reacted to Mr. Grigoryants's efforts so far? According to Mr. Yarim-Agaev, there have been several disturbing and conflicting signs. Mr. Grigoryants was thus condemned in a Tass statement on recent demonstrations by Crimean Tatars in Moscow.

The Tatars are still struggling to return to the homeland from which they were deported in 1944, when the Crimea was recaptured by the Russians and the entire Tatar nation was accused of collaboration with the Nazis.

One of their news conferences was held at Mr. Grigoryants's apartment. "There was no mention of Glasnost in this statement, but I think it was not accidental that he in particular was singled out," says Mr. Yarim-Agaev.

More directly, Anatoly L. Rusovsky, who is considered a KGB mouthpiece, attacked Mr. Grigoryants in the Moscow evening paper Vechernyaya Moskva for waving "old anti-Soviet banners" and for opening "old rotting trunks." Unearthing a bit of old dirt himself, he insisted that Mr. Grigoryants was a charlatan, a "speculator" in ideas, referring to the charges of illegal speculation in works of art that were brought against Mr. Grigoryants in 1975. The charges were the result of his refusal to assist in the persecution of dissidents.

In a subsequent interview with Western correspondents, Mr. Rusovsky called the journal Glasnost "immoral and unnecessary" and, with disarming logic, asked, "If the process continues and goes on in depth, what need is there for an unofficial press?"—an observation that some dissidents find reminiscent of the "Why should the workers want to strike in the workers' state?" school of argument.

So far this attack has appeared only in the Moscow paper, which has been interpreted by Mr. Grigoryants as a sign that the authorities prefer to keep it a local phenomenon. "They do not want to inform the whole country about it," he has stated.

Even more ominously, his apartment has been ransacked by 10 KGB plainclothes agents. They searched through all his material but did not take anything. Mr. Grigoryants immediately called several foreign correspondents in Moscow, saying he considered it a threat to his enterprise and an unacceptable interference.

Then a few days later, in a surprise move that has been ascribed to the international attention surrounding the magazine. Mr. Grigoryants reportedly received a letter from the local authorities in Moscow stating that he could register his enterprise officially.

STRATEGIC DEFENSE CAN'T WAIT

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. ARMEY. Mr. Speaker, the American people have spoken. They have rejected the insane policy of mutual assured destruction [MAD] and are demanding that our Government defend them against nuclear attack. I believe that we should begin immediately to build such a defense using the technology currently available. The defense of our people is simply too important to wait until the next century.

I commend to my colleagues the views of strategic expert Richard Perle. Mr. Perle shares my view that we must overcome all obstacles, political as well as technical, to the immediate deployment of a strategic defense.

[From U.S. News & World Report, Sept. 14, 1987]

THE POLITICAL TRIALS OF SDI

(By Richard Perle)

If a ballistic missile with a nuclear warhead was launched against the United States today, there is no weapon in our vast arsenal that could prevent it from exploding on American soil. It is true, of course, that we can do a lot to discourage an attack before a launch takes place, and for this purpose we maintain a formidable capacity to retaliate and destroy an aggressor. But what about, say, a missile fired by an errant Soviet submarine commander or an accidental launch—or, in years to come, a missile sent by Libya's Muammar Qadhafi or someone like him? The answer is the same. There is nothing we could do to stop it. Nothing.

This appallingly dangerous state of affairs is not caused by intractable laws of physics; nor is it the fault of inadequate defense budgets or, even, of careless inattention. It is, rather, the result of a deliberate policy adopted by a succession of American administrations according to which strategic defense is a vice and abject vulnerability a virtue.

The doctrine reflecting this strange sense of where safety lies is without precedent in human history. Throughout history, those menaced by offensive weapons have sought defensive ones with which to protect themselves. Thus the shield responded to the sword, coastal fortifications to naval bombardment, and missiles to shoot down attacking aircraft were developed to protect against attacks from the air. One would think that the awesome destructive power of nuclear weapons would have led nations capable of doing so to seek a defense against them. But, in the United States at least, we have come to regard defenselessness as next to godliness in the theology that has guided American thinking about neclear strategy.

Ronald Reagan has set about changing that strategy. He has questioned the notion that it is prudent to remain forever vulnerable to ballistic missiles, and he has embarked on the Strategic Defense Initiative (SDI), a program to research, develop, test and ultimately deploy a strategic defense if a way can be found to do so that is technically and financially sound. In this he is opposed by those, including many Democrats, who cling like abalone to the doctrinal rock of "mutual assured destruction," as we have come to call the idea—that, in the Nuclear Age, safety can only be assured by the threat to destroy an attacker's civilian population.

TEMPTING FATE

The President is seeking a comprehensive defense of American territory. But even a limited strategic defense would diminish the danger of unspeakable destruction from an accidental or unauthorized launch, or an attack by a demented leader as countries that do not now possess them acquire nuclear missiles. But to those who oppose SDI, the risk of such a disaster is preferable to the search for a strategic defense.

So its opponents are trying to hang the President's SDI on the gallows of arms control. But to do this, they must first weave the ABM treaty into an inescapable noose. The hangmen in the House, led by Les Aspin and Norm Dicks, have done precisely that—adopting an amendment to the defense-authorization bill that imposes on the President an interpretation of the ABM treaty that he correctly believes is unreasonably restrictive. And in the Senate, Sam Nunn has elected to become a hanging judge, presiding over a trial in which the SDI program is the defendant.

"Judge" Nunn has already laid out the case for the prosecution in three long speeches delivered on the Senate floor. He sought to persuade his colleagues (1) that the ABM treaty reached between the United States and the Soviet Union in 1972 prohibits any development or testing of space-based defenses; (2) that the practice of the United States and the Soviet Union since 1972 has been consistent with this view, and (3) that this interpretation of the treaty's obligations was presented to, and understood by, the Senate during its ratification deliberations in October, 1972. The Nunn view is now know as the "Narrow," or "restrictive," interpretation. He is wrong on all three counts.

Take first the question of what was agreed to in 1972 when Richard Nixon and Leonid Brezhnev signed the anti-ballistic-missile treaty (ABM) in Moscow. The issue is crucial because we cannot be properly, or prudently, bound to accept constraints on our activity that the Soviets refuse to accept on theirs.

Throughout the 30-month negotiation, the American side argued that there should be no development, testing or deployment of future systems based on such advanced technologies as lasers, particle beams and the like. The negotiators labeled these uninvented but possible future defenses as systems based on "other physical principles," or OPP, and many hours were spent discussing them. The American view was pressed vigorously by Gerard Smith and others on the delegation he headed—nearly all of whom believed then, as now, that vulnerability to missile attack was not something to be deplored but a source of stability.

The Soviets did not agree. They believed deeply in the desirability of defending their territory against attack. For this purpose, they had invested tens of billions in an elaborate system of air defense to counter American bombers, they had begun the development and deployment of a ballistic-missile defense around Moscow, and they were researching the OPP-type defenses that the United States has only recently begun to explore.

The Soviet negotiators were as determined to hold open the door for future advanced defenses as their American counterparts were to slam it shut. In the closing, chaotic hours of the negotiation—indeed, on the very day the treaty was signed—a final compromise was reached. That compromise took the form of a statement known as "agreed statement D," which, by inference, does ban the *deployment* of future systems based on "other physical principles" but does not ban their *development* or *testing*, on which points "agreed statement D" is consciously silent.

It was a compromise typical of arms-control negotiations with Moscow. The American side wished to ban deployment as well as development and testing. The Soviets would agree only to ban deployment. Accepting the standard by which we tend to compose such differences—that a third of a loaf is better than none—we signed "agreed statement D."

The treaty text itself and the record of the negotiations clearly support this view, now known as the "broad" interpretation of the ABM Treaty's treatment of future defenses. It is the interpretation put on the treaty by State Department legal adviser Judge Abraham Sofaer, by Secretaries Shultz and Weinberger, by Paul Nitze (who participated in the negotiations) and by the President. In arriving at the broad interpretation after a number of years during which the narrow one was the prevailing wisdom, Reagan administration officials were struck by the weight of the negotiating record, especially documents showing that when the United States sought a clear and unambiguous ban on the development and testing of future systems, the Soviets flatly, and persistently, rejected it. In the end, the American side was forced to abandon its preferred language in favor of "agreed statement D," which must now be read as the definitive statement on the matter.

There is a kind of Rip van Winkle quality to the administration's discovery, in 1985, that development and testing of space-based systems based on "other physical principles" could proceed consistent with the ABM Treaty. For 13 years, with thought of a U.S. strategic defense lost in sleep, the question of precisely what sorts of development and testing were permitted was largely irrelevant. Prior to President Reagan's speech in April, 1983, that launched SDI, with its emphasis on lasers and systems based in space, Soviet comments all pointed to the validity of the broad interpretation. Most significantly, Soviet research and development has been aimed at precisely the sort of OPP defense that the broad interpretation of the treaty would allow to be developed. It is this—Soviet statements prior to 1983 and their own R&D Program—that refutes Nunn's second assertion: That the practice of the parties since 1972 affirms the narrow interpretation.

The Senator's third argument—that the narrow interpretation was presented to the Senate during ratification—is built on some (but by no means all) statements made by Nixon administration officials in congressional testimony. From transcripts alone, it is difficult to appreciate fully the slapdash, inconsistent manner in which this then marginal matter was approached by officials whose knowledge of the issue was often at second or third hand. The handful of statements of low and midlevel officials on which the senator relies were scattered over hundreds of pages of testimony. Most of them responded to questions posed by Senator Henry Jackson, who, almost alone among his colleagues, thought it important that all the details should be clearly understood by a Senate uninterested in the fine print.

Unhappily, "Scoop" Jackson was only partially successful, and neither he nor I, who staffed him on the issue at the time, had access to the negotiating record or understood the importance that the issue would later assume. Thus he never asked the crucial question: Do the Soviets agree with the White House interpretation of the treaty, and how do they interpret "agreed statement D"? Had he done so, a volcanic dispute would have erupted, and the American failure to bring the Soviets around to the narrow interpretation would have become evident 15 years ago.

Senator Nunn argues that the treaty the Senate ratified in 1972 constituted a "contract" between the Senate and the executive branch of government. He contends, in effect, that by interpreting the treaty differently in 1987—even though the new interpretation reflects the position the Soviets took all along—the President is in breach of that contract. (In a new maneuver, Nunn is now threatening to hold up ratification of a treaty on intermediate-range nuclear weapons unless the admininstration gives up the broad interpretation of ABM.) With Senator Carl Levin, he seeks an amendment to withhold funds from the President for developing or testing advanced defenses in space. Its passage would give the Soviets the thing they desire most from the negotiations now under way in Geneva: A death sentence for SDI.

DEPLOY AN UNTESTED DEFENSE?

Under the Nunn-Levin legislation, we could do research on space-based defenses but we could not develop or test them. This would increase greatly the cost of the program, which is already seriously underfunded, and delay it by many years. But even if money and time could be found to pay for the Nunn-Levin amendment, we would one day be forced to decide whether to withdraw from the ABM Treaty in order to develop, then build and deploy a defense without ever having tested it or even its major components.

Imagine the situation: "I'm sorry, sir, that I can't let you take a demonstration drive, but this car has never actually been developed. We've done a lot of research. We've done computer simulations, and, boy, are they terrific! They show that it will do zero to 50 in 5.5 seconds and it will get 30 miles to the gallon. Now, if you will just write me a check, we'll have our engineers assemble the parts and we'll call you when it's ready. And, by the way, there's no warranty."

Not even Lee Iacocca or the guy who wants to sell you an Isuzu could get away with that. So there will be no sale. No SDI—at least, no American SDI. Unencumbered by any comparable restraint (we couldn't verify compliance with the narrow interpretation even if the Soviets claimed to observe it), the Soviets will be free to continue their SDI Program which is larger than ours.

Senate Republicans have so far blocked the Nunn-Levin amendment's unfavorable verdict on SDI. When the Congress reconvenes, it will turn again to this question, which appears to be a legal one but is, in reality, a highly politicized issue of national-security policy. Surely the Democrats understand that the future of SDI turns on whether the Congress takes the unprecedented step of imposing on the President an interpretation of the ABM Treaty that would doom the program. But they have chosen to hide behind an issue of law rather than declare their preference for killing SDI—and with it any hope that we might someday have an even partially effective defense against ballistic missiles.

The law should be blind. The Congress should not.

STOPPING THE UNFAIR INCREASE IN MEDICARE PREMIUMS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. PEPPER. Mr. Speaker, our Nation's 31 million older and disabled citizens who depend on Medicare for their medical care are again under assault from the Reagan administration. It is expected that the administration will soon propose a huge and unprecedented increase in what these Americans are required to pay for medical insurance through part B of the Medicare Program. Under the projected administration proposal, beginning January 1, 1988, seniors and the disabled would be forced to pay nearly $300 a year in order to receive Medicare coverage for doctor and other medical services. This represents an increase of $82.80 or 38.5 percent from the current yearly rate of $214.80—the largest increase in Medicare's 23-year history and at a rate nearly 10 times that of inflation.

This huge increase is not the work of older and disabled Americans. It is due to the lack of adequate controls on Medicare part B services provided by doctors, hospitals, and others and a shift of sevices from the hospital to outpatient settings. The DRG system has placed fairly rigid controls on what Medicare will pay for in-patient hospital services, but similar cost controls do not exist for other services. As a result, many procedures which used to be performed in the hospital have shifted into outpatient settings, increasing part B expenditures. In addition, the current part B expenditures. In addition, the current part B payment system encourages doctors and other providers to boost their rates and to provide more services. As a result, physician costs under Medicare have skyrocketed, rising at an average annual rate of 17 percent.

On Wednesday, September 16, 1987, I introduced, along with my distinguished colleague from Oregon [Mr. WYDEN], H.R. 3291, to make fairer future increases in the Medicare part B premium. Under H.R. 3291, future annual increases could not be more than the percentage cost-of-living adjustment [COLA] seniors receive to their Social Security benefits. For 1988, premium increases would be held to 4.2 percent, rather than the projected 38.5 percent. Thus, if our bill were enacted, seniors' monthly premium would rise only 80 cents a month, from $17.90 to 18.70.

Older and disabled Americans already bear all too heavy health care costs. The average senior citizen will be forced to spend over $1,800 on health care this year, an increase of over 1,700 percent since Medicare's enactment in 1965. Since 1980, Part B premiums have nearly doubled, from $108 to $214.80.

Our Nation's older citizens must not be made to pay for others' failures. H.R. 3291 would prohibit this from happening.

I urge my colleagues to join me in supporting this important and timely legislation.

TRIBUTE TO THOMAS J. D'ALESANDRO, JR.

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 15, 1987

Mr. RODINO. Mr. Speaker, it is with great sadness that I join in paying tribute to my friend Thomas J. D'Alesandro, Jr. "Tommy," as he was known to everyone from Presidents to his fellow citizens, exemplified the best qualities of public service.

Beginning his career as a member of the Maryland House of Delegates, Tommy served on every level of government. As a Member of Congress from 1939 until 1947, he worked diligently to meet the formidable challenges of wartime America and made a valuable contribution towards shaping a lasting peace.

But Tommy was most closely identified with his native city of Baltimore which he loved and served with tireless devotion. After several terms as a member of the city council, he returned to serve as mayor, a post he held for 12 years.

During his tenure, Tommy led the effort to enhance the physical character of the city, including the opening of Baltimore-Washington International Airport. Under Tommy's leadership, the city greatly expanded its education facilities and opened 87 new schools. Significantly, it was Tommy who succeeded in securing public approval for the financing of the Charles Center urban renewal project. This pivotal undertaking launched the rejuvenation that ultimately changed the heart of Baltimore.

Throughout his life, Tommy's home was only a block from his birthplace in the "Little Italy" section of Baltimore. When questioned about remaining in his modest rowhouse community, Tommy replied, "These are my people and this is where I belong."

This love and affection was mutual. Tommy never lost his enormous popularity with the people of his city. They recognized that whatever position he held, he always remained one of them. Tommy's hallmark was his basic humanity, his kindness toward others and his enduring compassion.

In recent years, Tommy enjoyed his status as an "elder statesman" of the Democratic party and his advice was widely sought and universally respected. This political legacy continues with his daughter Nancy Pelosi, our newest Democratic colleague in the House, and I know that he was very proud that she has continued this family tradition.

As a dedicated public servant and man of the people, Tommy was an inspiration to us all. I join with my colleagues in sending my deepest condolences to his family.

INFANT DEATH, LOW BIRTH WEIGHT REMAIN SERIOUS NATIONAL CONCERNS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MILLER of California. Mr. Speaker, infant mortality and low birth weight rates in this country remain at unacceptably high levels and progress made in reducing infant deaths has come to a virtual halt, according to a study released last week by the Food Research and Action Center [FRAC], a nonprofit organization dedicated to alleviating hunger and poverty in the United States. This comprehensive study of all 50 States and the 54 largest cities between 1979-84, "Poor Infants, Poor Chances," also documents the widening gap in infant deaths between whites and nonwhites.

Citing the growing problems of hunger and poverty as principal contributors to low birth weight and infant mortality, FRAC calls for expansion of sound, cost-effective nutrition programs, such as the Special Supplemental Feeding Program for Women, Infants and Children [WIC]—which currently serves only 40 percent of those eligible—and heightened efforts to reduce poverty in this Nation.

Other highlights of FRAC's report incude:

The United States ranks 17th among other developed countries in ability to prevent infant deaths, with an average infant mortality rate for 1980-85 of 11 infant deaths per 1,000 live births.

Washington, DC, reported the highest infant mortality rate (21.2) among major cities for 1984, followed by Detroit, Atlanta, Newark, Cleveland, Norfolk, and Baltimore. Oklahoma City reported the lowest rate.

Thirty-four of the Nation's 54 largest cities had infant death rates above the national average—10.8 in 1984—9 had infant mortality rates 1½ times the national rate and 2 cities, Washington and Detroit, had infant death rates that were more than double the national rate.

From 1976 to 1981, the infant mortality rate dropped by an average of 4.7 percent per year. From 1981 to 1986, the infant mortality rate dropped by an average of only 2.7 percent per year. National Center for Health Statistics data released last month indicate that changes in the national infant mortality rate from 1984 to 1985 and again from 1985 to 1986—decline of 1.9 each year—were statistically insignificant.

In 1984, nonwhite infant mortality rates were greater than white infant mortality rates in 97 percent of the cities and in 87 percent of the States.

Seven of the 10 States with the highest infant mortality rates in 1984 were among the poorest States.

In 1986, the poverty rate for black Americans—31.1 percent—was nearly 3 times that of white—11.0 percent.

In 1984, nearly three-fourths of the Nation's 54 largest cities and one-half of the States had low birth weight rates in excess of the national rate—6.7 percent.

Low birth weight babies—born weighing less than 5½ lbs.—account for more than two-thirds of all infant deaths. In the first 4 weeks of life, a low birth weight baby is 40 times more likely to die than a normal weight baby.

These findings are part of a growing body of evidence that upholds the prudence of providing low-income and other at-risk pregnant women with quality prenatal care. We have the chance to do just that not only by expanding the WIC Program, but by enacting as well the Infant Mortality Amendments of 1987, which would extend Medicaid eligibility to more poor pregnant women. I urge my colleagues to join me in supporting these vital programs.

THE REALITY OF THE CHILD CARE PROBLEM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. LANTOS. Mr. Speaker, we hear and read a great deal these days about the critical need for affordable, quality care for the children of working parents. On September 11, the Employment and Housing Subcommittee, which I chair, held a field hearing in San Carlos, CA, to examine this important subject.

One of the many well-informed witnesses who testified before my distinguished colleague from New York, Mr. DIOGUARDI, my distinguished neighbor from San Francisco, Ms. PELOSI, and me was Dr. Charlie M. Knight, the superintendent of the Ravenswood City School District in East Palo Alto.

Dr. Knight provided an excellent description of the real-life situation of the typical single parent in a low-income area. The description gives a moving picture, with realistic details of the problems.

Mr. Speaker, I commend this description to my colleagues. It brings to life the child care issue with which we are grappling here.

The material follows:

TESTIMONY OF DR. CHARLIE M. KNIGHT

INTRODUCTION

On a typical day, Agnes Rodgers wakes herself up at 5:30. It has been an average night, the baby had awaken once. Still tired, she washes, irons a dress, and begins to wake her four children. While the older ones help with breakfast, Agnes gets her eight month old daughter, Tammy ready for a day at the Center: changing her diaper, dressing her, packing a change of clothes, and feeding her. Tammy is groggy from sleep, but in a good mood as her mother pulls the baby's right arm out of her sleeper and tickles her belly. Time is passing and Agnes must rush as she breaks up an argument between her other two daughters. By 6:50 Agnes has packed Tammy in her car seat, tells her three and four year-olds to buckle up and waves goodby to seven-year-old Aaron. She hopes her car will start. At 7:05 she drops the three children off at the Child Development Center. Three-year-old Jane whimpers a little and the baby cries as Agnes passes her to the teacher. Agnes watches for a minute until the baby begins to settle down, then leaves to enter crowded 101 on the way to her job in Burlingame. She barely makes it by 8 A.M. and is tired already. Because she is a good typist, her supervisor has been tolerant of her frequent tardiness when she can't keep to her tight schedule.

Because she feels guilty about leaving her baby, during the day she calls the Center three times to be sure Tammy is alright. At five o'clock the pattern is reversed. It is a rush to get to the Center before its 6 P.M. closing time. By the time dinner and dishes are finished, so is Agnes. Exhausted, she crawls into bed at 10:30. There is little relief in this high-pressure existence, and because of her age she is least able to cope with it.

Agnes (fictitious name), a 25 year old single parent, is one of the lucky fifteen parents from East Palo Alto served by the infant program. She can depend on the staff's always being there, and feels her daughter is safe and well care for by professionals. Like other mothers, she has a great deal of difficulty paying the nominal weekly fees for each of her daughters. On more than one occasion she has told the Center's Director that another pressing bill is going unpaid so that she can maintain her child-care. Turnover at the Center is very low. One mother, who had scrambled to get in a late payment, said she had to keep her child in the program. There was no where else.

THE NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. ARMEY. Mr. Speaker, October 10, 1987, will be the 76th National Day for the Republic of China on Taiwan. The Taiwanese have much to celebrate. Their country has just ended 38 years of martial law and has passed a new security law which will contribute to the progress of the Chinese people toward the freedom and justice common to all the Western democracies. We here in the U.S. Congress applaud the political developments in Taiwan, and we look forward to seeing Taiwan become a full constitutional democracy in the near future.

Apart from its promising political developments, Taiwan is also enjoying continuing economic growth. Its per captita GNP will reach $4,700 this year, the highest in Chinese history. Taiwan's economic success has earned it the world's admiration.

We wish Taiwan continued political and economic success, and we congratulate President Chiang Ching-kuo and his people on the occasion of their forthcoming National Day.

THREE INEVITABILITIES: DEATH, TAXES, AND MARKET'S COLLAPSE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. PEPPER. Mr. Speaker, the ever-escalating stock market is just one indicator that paints a seemingly robust portrait of our economy. However, though many Americans may be riding a high tide today, there are many reasons to believe that the booming economy could easily go bust in the near future. I would like to call my colleagues' attention to an article written by Arthur Burck, a Palm Beach, FL, business merger consultant with 50 years of Wall Street experience behind him. Pointing to the cyclical nature of our economy, a stock market level that has been highly overinflated, and increasingly debt-financed business and consumer sectors, Mr. Burck warns that the next recession could cause a plunge that would rival that of the Great Depression.

The article is especially valuable for its insightful analysis of today's unhealthy business practices and how they have contributed to the problem. Our business world has been overrun with an excess of "mergermania." In an effort to go for large-scale profits in financial markets, we have created a casino-like atmosphere in the economy while neglecting the all-important manufacturing base. America must return to producing goods of real value, and we must learn to look at our workers as people, not just commodities. The time to address these problems is now, not in the future when it gets worse. I hope all my colleagues will find the time to read the following article.

THREE INEVITABILITIES: DEATH, TAXES, AND MARKET'S COLLAPSE

(By Arthur Burck)

One would think that I should know something about the stock market. You see, for 50 years I have had at least one foot on Wall Street.

That is why I am baffled because today I am just as confused as I was when in 1937 as a neophyte lawyer I went to work for a Wall Street law firm where I was soon toiling on the problems of such clients as the New York Stock Exchange. Later I had a 13-year stint with the Securities and Exchange Commission reorganizing big corporations, and therefore became skilled in how much a big business was worth. Since 1954 I have made my living as a specialist in buying, selling and merging big businesses. Here again the $64,000 question is always: What is a business worth? Really, isn't that what the stock market is supposed to reflect?

Yet today when I try to cope with the stock market I find that I am puzzled, baffled and frustrated. Believe it or not, I find that I am more at home at Belmont Race Track than at the corner of Broad and Wall streets.

Nevertheless, as certain as death and taxes is the inevitability that the market will collapse. But when? I learned in the 1960s that a certain fall can be delayed a lot longer than one would imagine; I was sure the time had arrived in 1966 and yet it was not until 1969-70 that the market dropped 50 percent.

The market is buoyed by an incredible amount of available money, such as that in foreign hands and in pension and other funds bloated by takeover gains. And there may be political factors that can prolong the euphoria until after the 1988 elections.

But when it comes, the deluge is likely to shake the foundations of our economy. Why? The five-year rise has been of abnormal dimensions—776 to 2,680—and apt is the old homily that the higher you go the harder the fall. Today stocks are selling at an average ratio of 20 times earnings in comparison to seven times in 1982.

During the half century I have been wrestling with the problem of what a business is worth at a given time, there is one principle that I have found immutable. It is that the key is not the past or even current earnings that is vital; at best they are but guides. It is the future stream of earnings that is the important judgmental conclusion. Few people are capable of making informed judgments on such future projections, and that is why buying a business—or buying stocks—is so tricky.

What then is the future of our nation's businesses and their predictable earnings stream? One thing is clear: our businesses are not worth three times their 1982 valuation. Why?

Today, despite the comforting surface prosperity enjoyed by most Americans, the hard reality is that most American manufacturing industries are in trouble. Call the nation achieve lasting prosperity built primarily upon a base of defense and service industries?

The problem is compounded by the malaise in other endangered areas, especially agriculture, banking, mining, energy-related businesses and countless once-thriving smaller businesses that were damaged by mergermania.

Indeed, when the history of our times is written, the destructive takeovers and acquisitions of recent decades may well replace the debacle of the stock market of the 1920s as the cataclysm most damaging to the nation's financial and economic foundations.

Nobody has said it better than Japan's Akio Morita, chairman of Sony Corp., in a recent address at the University of Montana: Unfortuantely, America's brightest managerial talent is engaged in takeover moves and empire-building. . . . The big attraction in American business today is the money game, in which profits are made not by manufacturing and selling goods.

"America must return to fundamentals, to making things of real value. A business organization's real asset is its people—but how can you expect your people to be motivated to work when they are traded like merchandise? A nation's economy is only as strong as its manufacturing base, and this base is chipped away by every mindless merger and by every decision to shift production to a developing country only to save on labor."

Apart from the erosion of our business structure, we are imperiled by the many worst-case scenarios that lurk in the risky practices that have infiltrated our financial community. Wall Street was never a place where the public or the national welfare received priority consideration; indeed, there has always been a tendency to ignore the supplication of the Lord's Prayer. "And lead us not unto temptation." But in recent years, the financial community has gone berserk.

EXCESSES OF MERGERMANIA

The excesses of mergermania are often in the news, but these are but the tip of the iceberg in the sea of speculation that has engulfed our business and financial communities. Today's casino-like atmosphere is reimbursed of the free and easy 1920s.

The business casualties of the Great Depression were often caused by speculative practices of the 1920s that nowadays are again rife in our financial community: excessive debt, "junk bonds" (in the 1920s they were more politely called second, third and fourth mortgage bonds), and leveraged buyouts. Just as today, the 1920s also had its share of speculative new stock issues and helter-skelter mergers that enriched financial opportunities, such as the empire builders who then ravaged our public utility industry.

In sum, current market levels ignore these dangers, uncertainties and the possibility that our industry may be facing a bleak future.

Also, it should not be forgotten that the main reason for the 1929 collapse of the stock market, other than that stocks became over-priced during the euphoria of the '20s, was the speculative overleveraging of stock purchases; i.e., stocks could be bought with little of the buyer's money, often with as much as 90 percent borrowed. Since these practices were outlawed by the margin requirements of the 1930s reforms, most people blithely assume that there is protection against this ever again happening. But this is not necessarily so.

There was a time when corporate management heeded safety factors; debt invariably was cushioned by adequate equity capital. Erosion of these conservative approaches gradually occurred because:

Banks and other lenders had plenty of cash to lend.

The deductibility of interest made it more economical to substitute debt for equity capital.

High-interest junk bonds gained some degree of respectability during the speculative atmosphere of the 1980s.

Takeovers and leverage buyouts have been in the vogue; they are usually structured around heavy debt burdens.

Then the mere threat of takeover had widespread fallout in saddling much of conservative corporate America with heavy debt. To discourage or defend against takeovers, target companies have resorted to restructing programs that reduced their liquidity by various devices: purchase of their own stock in the open market with borrowed funds, exchanging stock for debt instruments, or leveraged buy-outs by management.

As another consequence, the resulting shrinkage of the supply of stock has placed upward pressure on prices of the remaining stock.

Moreover, these leverage factors make euphoric stock market levels even more precarious.

With such thin margins of safety, everything is fine as long as earnings are maintained. But to say we will no longer face a cyclical recession, especially after five up years, is to say that the millennium has come. With a depression, or even a stiff recession like that of 1974-75, wouldn't we see a string of defaults like ten pins falling?

Moreover, in recent years the speculative practices of overleveraging and excessive debt have crept into so many sectors of our economy, such as consumer debt, that some unexpected cataclysm could lead to a downward spiral of massive defaults, at a time when bank illiquidity and our national budget deficit leave little room for maneuver.

THE 75TH ANNIVERSARY OF THE TADEUSZ KOSCIUSZKO SOCIETY OF GREENFIELD

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. CONTE. Mr. Speaker, when His Holiness, Pope John Paul II, touched down on American soil for the second time, he expressed thanksgiving to God for the 200-year-old U.S. Constitution and the blessings of liberty it has secured.

For Americans everywhere celebrating the bicentennial of our Constitution, this was a heartwarming and sobering moment. While we commemorate this historic anniversary by reflecting on our many freedoms, and the many brave patriots who have fought to secure them, millions of men and women across Eastern Europe still wait, hope and pray for poltiical, religious and economic liberty. It is with one courageous struggle, and one world leader crusading for peace, in mind that I salute today the people of Poland, and all Americans of Polish heritage.

Among the many Poles who have made heroic contributions to the worldwide quest for freedom and to the history of our United States was Tadeusz Kosciuszko. Having witnessed the domination and subsequent partition of his beloved homeland by foreign enemies, Kosciuszko sailed to America in 1776 at the age of 30 to offer his services to our Continental Army. As a colonel of Army Engineers, he distinguished himself in the Carolinas as well as in the battles of New York and Yorktown. His long, faithful, and meritorious service, 6 years of fighting for American independence without a single furlough, was hailed by the U.S. Congress at the close of the war. By a special act of both Houses, this great hero who had spent 2 years constructing an impregnable fortress at West Point was granted the rights and privileges of American citizenship, and commissioned a brigadier general. He returned to his homeland to lead the defense against the invasion by Russian forces. Again, he vowed to fight for the liberty, integrity, and independence of Poland in the face of all oppression. To this day Kosciuszko remains a symbol of that continuing struggle.

"The title of 'an American' will always be sacred to me," Kosciuszko once said. And, nearly 200 years later, the name Kosciuszko is still sacred to America. On September 26, 1987, in Greenfield, MA, the Tadeusz Kosciuszko Society will celebrate its 75th anniversary. Formed by Polish-American settlers in 1912, the new society joined two active and popular organizations in the Greenfield community: the Sacred Heart Society, founded in 1905; and the St. George Society, established in 1910.

The first Polish immigrants had come to the Pioneer Valley in 1880 seeking freedom and new opportunities. Their history reflects the ethic of hard work, undying optimism and great faith. We are fortunate to still have among us several of these early pioneers who recall the backbreaking labor on area farms and in local factories, heartless discrimination from new neighbors unfamiliar with their language and customs, and the relentless struggle to save precious wages to send for their wives and children, brothers and sisters, mothers and fathers.

Their native tongue, a cherished tie to the past and a bond that served to fortify a growing community in the new world, resounded in the churches and halls that were built with the blood, sweat, and tears of many generations. The solidarity fostered by language, tradition, and hardship was bolstered by day-to-day achievements and strengthened with the support provided by the extended family of the Kosciuszko Society.

The history of the Kosciuszko Society in Greenfield reflects the great respect of its members for the founding principles of our great country. A committee of six was elected to draw up the society's constitution, which was ratified in January 1913. This constitution welcomed all people of Polish extraction without regard to religious affiliation or political views. Within 6 years, the society was able to purchase Kosciuszko Society Hall on Hope Street, where its members still meet today.

Seventy-five years after the establishment of the society, sons, daughters, grandchildren, and great-grandchildren of the founders provide active leadership to the organization. In happy times, the hall has served as the site for wedding receptions, birthday and anniversary celebrations. In troubled times, members could be assured of the comfort and aid of friends and neighbors. Funds available through the collection of annual dues and generous gifts have assisted hundreds of needy members through the payment of sick and death benefits. As a true pillar of the Polish-American community, it has endured through the strength and commitment of its members.

I am proud to represent the Tadeusz Kosciuszko Society of Greenfield in the First Congressional District of Massachusetts. And, on behalf of my colleagues in the U.S. House of Representatives, I congratulate you for the contributions that you have made and continue to make to Polish-Americans and to our community as a whole. And I wish you continued success in your pursuit of excellence in community service and everyday life. Sto Lat!

IN OPPOSITION TO BORK

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. BRYANT. Mr. Speaker, as a Texas member of the House Judiciary Committee, I want to express in the most forceful and unequivocal terms, my strong and heartfelt opposition to the nomination of Robert Bork to the U.S. Supreme Court

I am speaking out because I believe it is time that the public was told the truth about the nature of this nomination, because I believe it is time a Texas voice other than that of Texas Gov. Bill Clements was heard in this debate, and because it is my hope that by speaking out I will encourage the public to make its opinion known and embolden other public officials to speak out against this nomination as well.

Contrary to the image which the Reagan administration is attempting to promote, the appointment of Robert Bork is not the appointment of a mainstream moderate American thinker. It is a thoroughly political, partisan, and ideological attempt by the Reagan White House to appoint a right-wing judicial activist and to pursue its own political agenda in a way that has only one precedent in modern history: the Roosevelt Court Packing Plan of 1937.

This scheme was wrong then and it is wrong now. And I would point out that the only member of Roosevelt's Cabinet level advisors who opposed the plan was a Texan, Vice President John Nance Garner. Roosevelt failed in that effort and Reagan should fail in this one.

Bork's abundant record is evidence enough of the extreme nature of his appointment. But, if more evidence is needed, citizens need only consider who rank among his most vocal promoters: Jerry Falwell and Bill Clements.

As cochairman of a new national group designed to bring pressure to bear to gain Bork's confirmation—spending a promised $2.5 million or more in the process—Bill Clements will attempt to speak for all Texans in pressuring the majority of our Senators to vote for Bork.

It is perhaps instructive that President Reagan's lobbying campaign for this Supreme Court nominee would be cochaired by a Governor, who, as a university trustee, sanctioned payoffs to football players. He is in my opinion the last person who should speak for Texas about matters involving our judicial system.

Once again the Reagan administration is manipulating many well-meaning and concerned religious groups, convincing them that the appointment of Bork, an agnostic who is not a member of any church, would somehow be consistent with and advance their beliefs.

Bork's confirmation would mean the elevation to the Supreme Court of a central figure in one of the ugliest events of the Watergate episode: the firing of Watergate Special Prosecutor Archibald Cox at a time when his investigation of criminal activities began to lead him directly into the White House. When Richard Nixon ordered Cox fired, then Attorney General Elliott Richardson refused, resigning rather than carry out such an order; the Deputy Attorney General then did the same. But Robert Bork, third in line as Solicitor General, carried out the order, in spite of the fact that it was clearly designed to obstruct the ongoing investigation.

The American people want, expect, and deserve a Supreme Court that is philosophically and geographically balanced—not one, as would be the case if Bork were confirmed to replace Justice Lewis Powell of Virginia, that deprives the South of high court representation for the only time in American history other than Reconstruction and one that threatens every good and decent advance our country has made toward a more open, equal, and democratic society in the past 30 years.

The views of Robert Bork are bizarre and unusual ones, far outside the mainstream of American thinking and in direct opposition to the fundamental principles of fairness and decency championed by the majority of Americans. His confirmation would elevate another extremist unearthed by the White House staff, this time to a lifetime position on the Nation's highest court. If they are successful we will have a new Supreme Court Justice who:

First, believes that the Bill of Rights is, in his own words, a "hastily drafted document on which little thought was expended."

Second, has said it is, in his own words, "a vital area of personal liberty" to be able to deny an American citizen a hotel room, service in a restaurant, or a seat on the bus because of the color of his or her skin.

Third, believes it is constitutionally permissible for the Government to charge a fee for the right to vote.

Fourth, believes it is constitutional for deeds to contain provisions that prohibit the sale of the property to persons of a specific race.

Fifth, believes it is constitutional for one person's vote to count more than another person's vote at election time.

Sixth, has said that the first amendment guarantee of freedom of speech applies only to "political speech"—not to speech or books related to science, literature, or art—an interpretation leaving government able to ban, censor, or interfere with this type of expression and the freedom to learn.

Seventh, believes that there is no right of privacy in the Constitution and that the Government should be permitted to tell married couples that they cannot use contraceptives.

Eighth, believes that there is no constitutional right of a divorced parent to have reasonable visitation with his or her children.

These views are well documented, not taken out of context, and are a part of the voluminous public record of Robert Bork.

There are those who will argue that all should withhold judgment until after the conclusion of Senate hearings on Bork's nomination which will not begin until next week. However, I would point out that Bork has twice before been the subject of Senate confirmation hearings—in 1973 when he was nominated by President Nixon to be Solicitor General and in 1982 when he was nominated by President Reagan to the U.S. Court of Appeals for the D.C. Circuit.

Inasmuch as the record established in those hearings, as well as in Bork's other voluminous writings and opinions, provide the compelling arguments to refuse to confirm his appointment, what could the upcoming hearings reveal that could justify voting for Bork?

In fact, the most recent whip vote count indicates that the vote of the Senate is 46 against Bork, 44 for Bork and 10 undecided. The reason that 90 Senators have already made their minds up about this matter is that his record is already very clear. And while public officials and citizens sit silently, President Reagan, Governor Clements, and 44 Members of the Senate are working full time to achieve the confirmation of Robert Bork.

For this reason I speak out today urging members of the public and call upon other elected public officials to speak out forthrightly and strongly as soon as possible, because this vote will be close and will occur very soon. Preventing the lifetime appointment of a man who has clearly stated that he would like to roll back the clock to erase years of progress is far more important than any political career.

Preventing the lifetime appointment of an extremist like Robert Bork to the highest court in the land is critical to the future of America.

THE 100TH ANNIVERSARY OF THE UNITED WAY OF AMERICA IS MARKED IN HUDSON COUNTY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. GUARINI. Mr. Speaker, while the attention of the people throughout the world has been centered on the 200th anniversary of the U.S. Constitution, which will be celebrated this week, there is a centennial anniversary this year which is also of tremendous significance.

The centennial I speak of is the 100th anniversary of the United Way of America, and in my district, the United Way of Hudson County is having a luncheon celebration which will be attended by 800 community and business leaders at the Statler-Hilton in Secaucus.

The program marking this important occasion has been coordinated by Mr. William Martin, executive director of the United Way of Hudson County. Truly a dynamic individual, who has given to our area a lifetime of caring, a lifetime of sharing, and a lifetime of service.

With Bill's assistance we are providing this information, which I am requesting be placed in the CONGRESSIONAL RECORD in order that this important occasion can be widely known, giving the United Way of America, which functions in hundreds upon hundreds of communities throughout our land, its just due:

In 1887, four Denver religious leaders, reflecting upon the changing social needs of their community, got together and formed the charity organization society . . . and the concept of United Way took root.

On September 22, 1987 United Way of Hudson County, Jersey City, NJ, will celebrate the centennial of the United Way movement. Not many social institutions have stood the test of time as United Way has. For nearly a century, in thousands of communities large and small, United Ways have brought people together to address changing social needs and build caring communities.

Millions of Americans have participated in this dynamic community process called United Way. They have voluntarily given of their time, energy and resources to make their community better places in which to live and raise families.

Todays centennial celebration pays tribute to the unique partnership of United Way and the Federal, State and local government working together in community problem solving.

Thus our centennial is a grand occasion and opportunity to salute those who came before us and who contributed to making

United Way what it is today . . . a vital part of community life. By saluting these volunteers we do no less than salute the spirit of voluntarism that makes this Nation unique.

The United Way of Hudson County, founded as the Allied Aid Association in 1935 by Governor A. Harry Moore (1932-35) then "Community Chest", "Community War Fund," Community Fund, United Fund and United Way and the United Way of Bayonne founded in 1965, merged into the United Way of Hudson County in 1972. And in 1977 joined in partnership with United Way of Tri-State bringing together 37 United Ways of New Jersey, New York and Connecticut, 640 communities and 1,740 human service agencies, Attorney Thomas Lynch played a key role in every aspect of organization from 1935 to 1984.

Our centennial celebration is a salute to the past presidents of our United Way.

William Y. Dear, 1935-1943; A. Harry Moore, 1944-1948; Gustave H. Koven, 1949-1950; C. Gilbert Davis, 1950; Charles E. Adams, 1950-1951; William O. Lippman, 1951-1952; Rt. Rev. Msg. Leroy McWilliams, 1952-1953; Lawrence Whipple, 1953; Louis P. Brenner, 1954-1955; Walter Noll, 1955; William S. Lawo, 1956; David Klausner, 1957-1958; Robert J. Smith, 1959-1961; Fred Stickel, 1962-1963; John Weis, 1964-1965; Joseph Caldarera, 1966-1967; LeRoy J. Lenahan, 1968-1969; David Leff, 1970-1971; Lawrence Lewis, 1972-1975; Harry O'Mealia, 1976-1977; Fred Peterson, 1978-1979; Thomas Zito, 1980-1981; Edward G. Davin III, 1982-1983; Norman LaGueux, 1983-1984; Frank Nilan, 1985-1986; Dominick D'Agosta, 1987-1988.

Campaign leaders Charles Griffin, Harold Wagner, Florence Hayes, Thomas Lynch, Joseph Barbera and Lester Thurston played pivotal roles in assisting the Presidents.

Bayonne United Way, founded by Samuel Kaye and the Bayonne Chamber of Commerce:

Chester Zebrowski, 1965; Alex O'Connor, 1966; Wesley Kapec, 1967; Alton Adler, 1968; Keenan O'Brien, 1969; William Campbell, 1970; John Ciparro, 1971; Frank Nilan, 1972.

Chief Volunteer Officers of the United Way of Tri-State: C. Peter McColough, 1977-1978; Walter Wriston, 1979; Theodore F. Brophy, 1980-1981; Edmund Pratt, Jr., 1982-1983; John F. McGillicuddy, 1984-1985; John B. Carter, 1986-1987.

While the centennial celebration pays tribute to these dynamic leaders . . . we cannot stop there. A whole new generation of volunteers and professionals is getting ready to take charge. We must leave them a legacy—a community system that is as strong, caring, inclusive, and responsive as it can be. The centennial then, is an occasion to look forward to the next hundred years and to lay the foundation now for a new era of hope and service. It is in this spirit that we are joining together in a major nationwide mobilization called the second century initiative to achieve two broad goals:

A: Make a dramatic leap forward in service by building a United Way system that is even more open and caring 5 years from now than it is today.

B: Double United Way capacity in volunteers and financial resources over a 5-year period 1987-1991.

The United Way mission is: to increase the organized capacity of people to care for one another. It calls on you to be the catalysts that make things happen in your community.

United Way of Hudson County leaders have taken the mission to heart. The volunteers are performing miracles daily . . . weekly . . . monthly. You are forging coalitions that are helping people more effectively than ever—coalitions that promote health care, coalitions that fight hunger and homelessness. You are bringing together groups of people that have never talked with each other, and might never have, except for United Way.

This Nation needs a voluntary initiative now—a voluntary initiative of the quality and dimension that the second century represents. Your reasons for doing all this can be found in the teenage suicide—suicide which is the third largest cause of death for teenagers in this country. We talk about the frail elderly. We talk about the unmet needs of families.

Our fast moving society also is changing the nature of the family. The agency system that you are financing and making possible for this Nation is the substitute for the families of old. We collectively need support systems today. Not one of us, regardless of our status in life, is without the need of help. All of us need it.

The second century initiative is really the opportunity for all of us to join hands and push this Nation forward. And the bottom-line measure of the second century initiative's success is very simple: we are, in fact, making a difference in people's lives. That is the bottom line.

The second century initiative is not the United Way with a capital "U" and a capital "W." It is United Way with a small "u" and small "w." It is a process of involving people. It is the future of the movement. The future—and credibility with the people of this Nation—rests on all of us working together to do the best we possibly can. In looking to the future—the United Way is presenting its prestigious Centennial Award to three outstanding community and corporate leaders: Arthur Imperatore, chairman of the board of APA Transport and president of ARCORP, and Thomas J. Stanton, chairman of the board of First Jersey National Bank, and Congressman Frank J. Guarini.

Their imagination, leadership, vision and action rooted in their knowledge, experience and dedication are truly the keys to unlock the door of our "second century community treasure."

For treasures are all around us. Abandoned warehouses, forgotten urban centers, rusty old piers, or collapsing buildings. Our cities and harbors must be recycled, rehabilitated, rebuilt and reshaped to maintain all their natural beauty. Our honorees are leaders devoted to this community effort.

The centennial celebration also highlights the working partnership of United Way and Government. Invited dais guests represent former Mayors Frank Hague Eggers, John V. Kenny, Charles Witkowski, Bernard Berry, Thomas Gangemi, Charles Krieger, Dr. Paul Jordan, Thomas F.X. Smith, Gerald McCann, current Mayor Anthony R. Cucci, Bayonne Mayor Dennis F. Collins, and Hudson County Executive Edward F. Clark.

Each administration, working in partnership with the voluntary sector played a key role leading to the United Way's achievements of today—"people helping people."

I am certain that my colleagues here in the House of Representatives today will join me in this salute to Bill Martin for his 31 years of service as executive director of the Hudson County United Way;

Thirty year veteran, Calvin Green, president of Tri-State United Way; Vincent Beninati, Bennis Murphy, Bill Thompson, Myra Mahon, vice presidents of the Tri-State Organization; Vivian Dupree, 15 years of service as associate director and comptroller of United Way of Hudson County—Joseph Brown, John Slattery, Mark Zatorski, Linda Kowalski, Lorraine Jordan, staff members, United Way of Hudson County;

Current campaign Chairman James Feely, president, Provident Savings Bank, vice chairs, William Thornton, president, Thornwall Realty, Peter Murphy, VP Midlantic North and Daniel Petruzella, vice president, First Jersey National Bank.

I would also like to pay tribute to the United Way of America which on so many days in so many ways has helped serve human causes in almost every city, county, State and hamlet in the entire United States.

I am certain that the quality of leadership and dedication will continue for hundreds of years to come.

BIG CROP TESTS ALMOND SELLER

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. COELHO. Mr. Speaker, American agriculture, like many other industries, continues to suffer from the imbalance promoted by our Nation's regressive trade policy. The California almond industry is one of the bright spots, however, relying on innovation and hard work to capture and expand new markets. Much of the world's almond crop is produced in the 15th Congressional District which I represent, and I salute our almond industry with this recent New York Times article:

[From the New York Times, Sept. 8, 1987]

BIG CROP TESTS ALMOND SELLER

(By Richard W. Stevenson)

SACRAMENTO, CA.—One year after a crop failure left supplies short and prices increasing, the almond growers of California's lush central valley are harvesting what appears to be their largest crop ever.

Hard-pressed farmers may be generally happy about the bumper crop. But the almond glut it is creating poses a major marketing challenge for the California Almond Growers Exchange, or CAGE, the grower-owned cooperative that sells more than half of the state's almonds and is best known to consumers for its Blue Diamond brand.

The cooperative is considered by agriculture experts to be particularly skillful at marketing. And considering that other cooperatives include Sunkist for oranges, Sun-Maid for raisins, Welch's for grapes and Ocean Spray for cranberries, that is quite a compliment.

COOPERATIVE'S SUCCESS HAILED

"In the areas of product development and product differentiation particularly, CAGE's success has been spectacular, at least compared to what other marketing cooperatives have been able to accomplish," said Richard J. Sexton, an assistant professor of agricultural economics at the University of California at Davis.

Indeed, the cooperative has helped make almonds one of the hottest products in the food industry and a mainstay of California agriculture.

But as the cooperative is learning the hard way, no matter how sophisticated its marketing, it remains hostage to the whims of nature.

Almond growers learn each February how big a crop they will have by watching the bees in their orchards. In 1986, heavy rains kept the bees from pollinating the almond trees, resulting in one of the worst crops in a decade. This year, in dry weather, the bees seemed to make up for lost time, giving life to more nuts than the world needs.

"If you're General Motors and you need three million cars, you produce three million cars," said Walter Payne, the cooperative's vice president for marketing and sales. "In agriculture, if you need 500 million pounds, you may get 240 million or you may get 600 million."

That kind of uncertainty and fluctuation can wreak havoc with marketing plans and pricing. Last year some customers that the cooperative had spent years persuading to buy more nuts suddenly found their supplies being rationed, and hard-won space on supermarket shelves had to be surrendered.

This year, by contrast, with the supply exceeding the demand, the $750 million-a-year industry will put 18 percent of its 600 million-pound crop into a reserve, partly to insure that prices do not tumble too precipitously. Already, the wholesale price of a pound of almonds has plummeted to about $1.45, from the record of $2.62 last year.

Like other cooperatives, the California Almond Growers Exchange is owned by its 5,300 grower members, for which it processes and sells the nuts. The cooperative packages some almonds under its Blue Diamond brand name and sells most of the rest to bulk customers, such as food and candy companies that use the nuts in their products.

The cooperative's biggest competitors are a unit of Tenneco Inc., based in Bakersfield, Calif., and the T.M. Duche Nut Company of Orland, Calif.

Almonds were a favorite of King Tutankhamen of Egypt in the 14th century B.C. and were brought to California by Spanish missionaries. But only in this decade, as the cooperative and its smaller competitors have stepped up their sales efforts have the nuts really come out of their shells.

Annual per-capita consumption in the United States, which was 0.37 pound in 1979, swelled to 0.71 pound by 1985, and cooperative executives said they should reach their goal of one pound per person by 1990. California's almond crop this year will be 12 times bigger than it was in 1960, and as the only almond-growing state, California now accounts for 60 percent of worldwide production, with Spain the other major producer.

"I don't think there's any agricultural commodity that's had the success in increasing consumption that we've had," said Roger J. Baccigaluppi, president of the cooperative.

PRODUCTS DEVELOPED

In 1985, the latest year for which figures are available, American consumers bought 37.5 million pounds of almonds from their grocery stores, up from 24.8 million pounds in 1980.

Besides selling roasted and flavored nuts, the Sacramento-based cooperative has developed its own ice creams and even almond butter.

Through its research and development efforts, the cooperative has also helped turn almonds into a popular new ingredient in foods, especially cereals such as the Ralston Purina Company's Almond Delight and General Mills Inc.'s Clusters and Raisin Nut Bran. Over all, domestic food manufacturers bought 16.5 million pounds of almonds from the cooperative and other suppliers in 1985, up from 7.7 million pounds in 1980.

The candy industry, long the biggest user of almonds, has also gone on a nut binge, adding more almonds to existing products and introducing new ones, such as Hershey's chocolate-dipped almond Solitaires. Candy makers bought 40.5 million pounds of almonds in 1985, up from 22.9 million pounds five years earlier, and the growth appears to be continuing.

"Tastes ebb and flow," said Carl Andrews, a spokesman for the Hershey Foods Corporation, the world's largest purchaser of almonds. "It seems that this particular taste is very popular now."

SIXTH-LARGEST U.S. FOOD EXPORT

More than half of the cooperative's sales are to foreign countries; almonds are the nation's sixth-largest food export. West Germany, which has a long tradition of using almonds as a baking ingredient, is the biggest export market.

The best growth prospect, however, may be Japan. Innovative new products tailored for Japanese tastes, such as almond-flavored milk and almonds mixed with dried baby sardines, have been winners. Aggressive marketing techniques, such as urging cooking schools to use almonds in classes taken by nearly all new brides, have made the nut a common flavor enhancer.

Even with its strong domestic and international markets, however, last year was a difficult one for the cooperative, particularly in selling its retail products to consumers. A six-ounce can of almonds that might have retailed for $1.50 a year earlier went for $2.69 last year, an increase sufficient to drive away many buyers.

HEAVY SPENDING ON PROMOTIONS

The cooperative tried to mitigate the damage by cutting its profit margin to the bone and spending heavily on coupons and other price-cutting promotions. But this year, Mr. Payne conceded, it still has a selling job to do to win back its old customers.

The main weapon will be a greatly increased advertising and promotion budget—$18 million, compared with $6 million last year. The centerpiece will be a continuation of a humorous campaign begun last year that shows real-life growers up to their waists in almonds, pleading for people to buy a can a week.

Rebuilding business with the food and candy companies that buy in bulk should not present much of a problem, Mr. Payne said, because they got most of the almonds they needed last year, albeit at a higher price, and they are used to the ups and downs of agricultural supplies and prices.

STROKES OF LUCK IN EUROPE

The shortages forced the cooperative to supply its domestic customers and Japan first, sacrificing much of its European business. But as it rebuilds its international markets, the cooperative is benefiting from several strokes of luck. The value of the dollar has fallen against most major currencies, making American products less expensive abroad. And in Europe, freezes have destroyed a significant portion of the almond crop, and the crop of the major substitute, hazelnuts from Turkey, remains partly contaminated by the radiation fallout from the Chernobyl nuclear accident in the Soviet Union.

With many things seeming to be going its way again, the mood at the cooperative has turned optimistic with lots of thoughts of how almonds could be used in additional, if seemingly unlikely, ways.

I've always thought there was tremendous potential for one of the large beverage companies to develop a really good, heathy, almond-flavored soft drink that's not sold as a health food," said Mr. Baccigaluppi, the cooperative's president. "We're just dreaming about it, but then we just dreamed about almonds in cereal for years, too."

SUMMIT OF THE ORGANIZATION OF AFRICAN UNITY

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. DYMALLY. Mr. Speaker, I recently was invited to attend, as a special observer, the Summit of the Organization of African Unity. During my visit, I was fortunate to have been present at the presentation of a statement by Her Excellency Ms. Gro Harlem Brundtland, Prime Minister of Norway and Chairperson of the World Commission on Environment and Development.

I wish to bring this statement to your attention as it concerns the interrelated questions of environment and development, an important item on every nation's political agenda. Following my statement are the attached remarks:

PRESENTATION OF THE REPORT OF THE WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT TO THE CONFERENCE OF HEADS OF STATE AND GOVERNMENT OF THE ORGANIZATION OF AFRICAN UNITY, ADDIS ABABA, 27 JULY 1987

(By Prime Minister Gro Harlem Brundtland, Chairman of the World Commission on Environment and Development)

Mr. Chairman, Your Excellencies Heads of State and Government, Distinguished representatives, Ladies and Gentlemen:

It is an honour and a privilege for me to have been given this unique opportunity to address this 23rd Assembly of the Heads of State and Government of the Organization of African Unity and to present the report of the World Commission on Environment and Development. As Prime Minister of Norway I also value the invitation to address you as a token of the longstanding bonds of friendship and cooperation between my own country and the countries of Africa.

I venture at the outset to state that the interrelated questions of environment and development today clearly stand out as the major issue on the international political agenda, equalled in importance only by the vital issues of disarmament and security. Nowhere are the issues of environment and development more relevant and critical to humanity's prospects for the future than on this vast continent, the focus of centuries of exploitation and of current struggles for economic and social progress.

True, significant achievements have been made in many countries of Africa. There are countries where food production has increased rapidly, countries where more people can read and write than ever before, where health and education are improving and life expectancy is increasing. Yet we can speak of a development crisis in Africa. There are more people hungry and malnourished today than ever before, more people who lack safe water, proper, shelter, food and energy. And the continent's capital, its environment and natural resources are seemingly caught in a downward spiral of degradation: drought, desertification, deforestation, soil-erosion and loss of genetic resources are increasing at alarming rates.

In the 1960s newly independent African nations set out with high hopes for a better, independent future. They attained remarkable growth rates. In the early seventies, however, these growth rates and international economic cooperation reached an apogee, leading into a decade and a half of stagnating cooperation and of isolationism. The gap between the rich and the poor nations of the world is widening. A complex set of circumstances is now working against the interests of Africa and its people.

Since the Stockholm Conference frustrations about our present institutions' inability to deal effectively with the crucial development and environment issues has been growing. The global conferences on water supply, food, women, human settlements, new and renewable energy resources and population, all offered hope that progress could be achieved despite of temporary setbacks. Yet the frustrations have prevailed.

It was against this background that the General Assembly of the United Nations welcomed the establishment of our Commission. The UN General Assembly asked the Commission to take a fresh look at the interrelated issues of environment and development and to formulate concrete recommendations for action based on shared perceptions of long-term environmental issues.

The World Commission's report, "Our Common Future", is a political document which covers the global political agenda and which carries the consensus signature of commissioners from 21 countries, most of them from developing countries and five of them from Africa.

During our work we came to focus very strongly on Africa, its plight and possibilities. We benefited greatly from views expressed by African governments and African organizations, not least during our public hearings in Harare and our meetings in Nairobi. While we were working, the drought and famine which led Africa and millions of its people through an ordeal inconceivable to many outside the continent, were brought home to us. Few other single catastrophes have more clearly demonstrated the links between environment and development, the links between international and national economic conditions and their impacts on the environment, and between environmental degradation and its long-term effects on the prospects for development.

We on the Commission came to recognize that while pollution problems, mainly a Northern or Urban feature, have significant effects on the global ennvironment, poverty is the main cause of environmental degradation in many developing countries. It is also one of the main effects of environmental degradation. Viewed in the context of short-term needs, each decision by the individual poor is rational, even it it means eating next year's seed corn to stay alive, overexploiting soil when faced with ever shrinking incomes from agriculture, or over-grazing fragile pastures or cutting scarce forests for fuelwood. These might simply be the only ways to survive. Clearly it is totally unacceptable and incompatible with human decency and solidarity to even suggest that the poor must remain in poverty in order to protect the environment. What is needed are national and international strategies that offer real options, that secure and enhance incomes as well as the environment on the local, national and international level.

While the Commission emphatically warns that changes must be made if disastrous mistakes, with global implications, are to be averted, the Commission also believes that it is possible to make changes which are so urgently needed. We point to the fact that human resources, knowledge and capabilities have never been greater, that indeed it is possible to create a future that is more prosperous, more just and more secure for all.

The overriding political concept upon which our report is founded is that of *sustainable development*. It is a broad concept for social and economic progress. We define it as paths of human progress that meet the needs and aspirations of the present generation without compromising the ability of future generations to meet their needs. It requires political reforms, a fair access to knowledge and resources, and a more just and equitable distribution within and among nations.

Sustainable development can only be achieved if we realize that there are thresholds that cannot be crossed without dire consequences. We in the North have too long neglected the signs that our paths of development have been playing lethal games with important life-support systems. We have used the atmosphere as the ultimate sink of our industrial excesses. Too long have we discarded the warnings that global heating caused by industrial emissions may disturb the global climate and consequently also agricultural and settlement patterns. Too long have we overlooked the devastating effects of acidification, of overuse of chemical products and pesticides, and too long have we exported our first generation of environmental problems ot the Third World.

Sustainable development recognizes that there are thresholds imposed by nature, yes, but not limits to growth itself. In a world ridden by poverty growth is absolutely necessary. Growth is the only answer to the problems of developing countries. But the contents of growth must be changed. Growth cannot be based on overexploitation of the resources of Third World countries. Growth must be managed to enhance the resource base on which they all depend. The environment and the natural resources of developing countries must cease to be the victims in a world economy troubled by serious imbalances. The victims must instead become allies in the struggles for survival.

But for this to happen, fundamental changes are necessary in the international economy. A revival of the multilateral approach to solving problems is essential. All of us—in developing and industrialized countries alike—need to realize that it is in our mutual interest to chart a new course of action. The industrialized countries will have a critical role to play. They will have to accept an obligation to ensure that the world economy enhances rather than hinders possibilities for sustainable development.

Nowhere is this obligation more evident than in respect of the debt crisis still facing much of the developing countries. Debt servicing is placing intolerable burdens on the economies and the environment of many African countries that currently depend on commodity exports in their struggle to earn foreign currency. Under present conditions many countries are caught in a vicious circle of having to tax their natural resources at rates that will lead to rapid depletion and devastation. The alarming tendency that more and more exports are tied to debt servicing will have to be reversed. Interest rates must come down. In the face of commodity prices, which have never been so low in real terms since the thirties, urgent action is needed to alleviate debt burdens in ways that represent a fairer sharing between debtors and lenders. North and South must both realize that it is in their own best interest to expand trade with and increase capital flows to developing countries.

Let us be frank. Much of the debt will not and cannot be paid back in any real sense. What is needed are new loans on concessional terms, new investments and economic reforms. New policies must comprise debt relief, long-term rescheduling and conversion to softer terms.

The UN Program of Action for African Economic Recovery adopted last year has been followed by efforts on the part of African governments. Many have taken enormous burdens on themselves to restructure their economies.

The crucial question is: Will the international community be able to come to Africa's assistance in such a magnitude and scope as to fulfill the African people and governments' earnest desire and commitment to the continent's recovery and accelerated development—not just in terms of official development assistance but also and more importantly in terms of addressisng the commodity issue and the debt problems?

The flows of finance will have to be turned back to Africa. In that regard, I would note that too long donor countries have neglected to make serious efforts to reach internationally agreed aid targets. I take the liberty of pointing my finger on the basis of the fact that for several years my country has contributed more than 1% of GNP to ODA. The 0.7 per cent GNP target, reiterated recently at the summit of the seven major Western industrialized nations, must be followed by concrete commitments. Developing countries need much larger financial inflows, and new funds must be forthcoming for projects that aim at sustainable development.

Mr. Chairman, some countries might be sceptical about the application of the Commission's sustainability criteria and perceive it as a new form of conditionality.

Our Report aims at raising global awareness among governments, aid agencies and others concerned with development of the necessity of integrating environmental considerations into economic decision-making and planning at all levels.

It is clear, however, and I emphasize this point, that this integrated process must be made operational by the governments themselves as part of their national strategies for development. External assistance will be needed, from UNEP and other organizations, to help many countries establish their professional and institutional capacity to conduct this integration in practice. Such assistance must come at the request of countries concerned and must be assisted by the international community.

The Commission was emphatic in coupling its demand for higher quality and environmental sensitivity in aid and lending with substantially increased aid flows. Our report cannot be read on implemented à la carte. Donors or lenders cannot unilaterally impose environmental conditions in flows of aid or lending that go against the sovereign priorities of developing countries. Borrowers carry an equal obligation with lenders and donors to set their development priorities on the basis of long-term sustainability criteria. These notions are inherent in our concept of sustainable development, which is based on equity and the joining of forces rather than on the imposition of external will and power.

The Lagos Plan of Action—which was an ambitious, but in wide circles outside Africa a far too neglected design for a better future—Africa's Priority Programme for Economic Recovery and the recently issued Abuja statement all clearly demonstrate the determination of African countries to agree on development goals for the future and their ability to establish priorities which are in line with sound sustainability criteria. The similarities between these documents and our report are striking in many respects, not least in the setting of priorities. Cooperation on sustainable development in Africa should come in response to those priorities.

Mr. Chairman, lending and aid alone will fail to bring about the common objectives unless the developing countries are secured a fairer income from their traditional exports. Commodity prices must be increased. The terms of trade must be reversed to favour Africa rather than to impoverish it. Commodity agreements must be strengthened and new ones must be established. The expansion of many countries into manufacturing and high technology, so far oppressed by external conditions, must be based on more equitable economic exchanges.

The ongoing negotiations in UNCTAD and GATT, as well as in other fora such as the World Bank, the IMF, regional development banks, UNIDO, UNDP, WHO and FAO will be at the core of the process we call for. A new international consensus must provide the basis for integrating the concept of sustainable development into all policies and programmes.

The Commission's report focuses on food security as essential to human progress. We have the possibility of feeding a doubled world population some time during the next century, and many experts believe that parts of Africa could in fact become a granary sufficient to serve the whole continent. Presently, international policies have hampered future possibilities. The Commission calls for a shift in agricultural production patterns to where the demand is. Only then will we be able to secure access to food for those who need it. Agricultural practices can be made compatible with environmental requirements. Greater resources must be directed towards developing techniques adapted to local conditions. Prices on the national as well as the international level must increase the income of smaller subsistence farmers. Policies should provide the incentives for sustainability in agriculture.

The Commission dealt at length with the energy challenge. How can we possibly secure sufficient energy for the enormous unmet energy needs in many developing countries, and how shall we in the North stablize and even decrease our consumption while maintaining high growth levels?

The fuelwood crisis is the reality with which the majority of people in Africa now grapple. In many regions vast afforestation campaigns are needed which involve people more closely in the process. Trees must be treated as a subsistence crop. But policies should explore the dissemination of more efficient, economical techniques, while increasing regional and local efforts to secure adequate supplies from internal and external sources of hydrocarbons. Renewables can become an increasingly important factor in the future, but large-scale research supported by joint international efforts are needed.

The energy and food crises are felt most strongly by women, who in many countries bear the main responsibility for providing for their families. Their status and real participation must be improved, as must their access to education. Unless the status of women is improved, it is difficult to see how living standards in many regions will improve.

Only if the full potential of human resources is realized, only when people have real hopes for a better future will they have real choices, including the choice of limiting the size of their families.

Population strategies, which need to be developed by many countries, must deal with the underlying social and economic conditions of underdevelopment, and differ from country to country as does the carrying capacity of the land. Policies must comprise better health services and education. But the population issue is not one of numbers alone. It is also one of consumption patterns and life styles. Many people—mainly in the North—use the world resources at rates that cannot be sustained, while hundreds of millions consume far too little.

Nowhere are these inequalities more extreme, more injust and more obscene than in the south of this continent, in South Africa. The minority regime in Pretoria is holding the majority of South African citizens hostage to a political system that is an insult to basic principles of civilization. One of the many ways by which the apartheid regime institutionalizes both conflict and environmental degradation is by allocating, through the homeland system, 14 per cent of the nation's land to 72 per cent of its population. Thus racist marginalization has become a source of tension, and the conflict is being pursued by the Pretoria government into neighbouring states.

These trends and threats also demonstrate the interdependence between environment, development and armaments which consumes far too much of scarce resources. The frontline states in particular have been forced to uphold and expand their defense efforts in the face of threats and aggression from South Africa, thereby demanding even larger yields from their scarce resources.

The apartheid regime must and will come to an end. The black population will no longer tolerate the oppressive apartheid system and will demand to be treated as equals and to be given their inherent right to political equality. The black population and the frontline states deserve our firm support in the face of apartheid aggression. So far we have not seen any evidence of a genuine dialogue emerging in the region. It is not enough to insist that "doors are open" when the reality is the opposite.

Sanctions against South Africa have been all too leniently imposed. This spring my own country adopted a comprehensive trade boycott against South Africa. We have prohibited sales of oil and oil transport on Norwegian and Norwegian-controlled ships. We have further strengthened our cooperation with the SADCC countries, and we are prepared to increase our assistance in the event of further South African reprisals against these countries.

We have responded to the laudable initiative of the Non-Aligned Movement by contributing 10 million Norwegian kroner to the newly established Africa Fund, and we urge other countries to respond in similar manner. The international community as a whole has an unfulfilled responsibility towards the oppressed people of Southern Africa. We need to be firm in our action to bring down apartheid. The North has a special moral responsibility as well as the means to do this.

The fact that apartheid exists speaks for the inadequacy of present international cooperation. Ten years ago the United Nations Security Council adopted the only mandatory measure against South Africa. The time has now come to move forward. The time has now come to restore the authority of the international institutions we have created.

Mr. Chairman, unlike previous independent commissions, the World Commission has a mandate from the United Nations following its positive reception at the Governing Council of the United Nations Environment Programme, our report now moves to the General Assembly of the United Nations where it will be dealt with this fall.

In our report we call upon the UN General Assembly, as a step towards sustainable development, to transform "Our Common Future" into a UN Action Programme for Sustainable Development. Needless to say here, before one-third of the members of the world organization, Africa is essential to "Our Common Future". Your support is vital.

In concluding, let me say that during the 900 days we worked as a commission, we gained renewed confidence in people's ability to cooperate. We went to five continents, to Harare and Nairobi, to Moscow, Oslo, Jakarta, Sao Paulo, Tokyo and Ottawa. We heard the views and concerns of people from all walks of life who face the real problems, be they farmers, scientists, politicians, or ordinary people. During our process of learning and sharing, the nationalism and artificial divisions between East and West, between North and South receded. In their place emerged a strong sense of unity and common responsibility. There also emerged a deep awareness that existing threats to sustained human progress demand that we realize we are all neighbours on a small and fragile planet and that it is not only our duty, but also in our own interest to care for each other.

It is my hope that a transition towards sustainable development, as called for by "Our Common Future", will lead to a new deal in international cooperation.

WHY THE RUSH TO GIVE UP ON SANCTIONS?

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. BERMAN. Mr. Speaker, just before Congress adjourned for the August recess, the Los Angeles Times ran a very cogent editorial entitled, "Why the Rush To Give Up on Sanctions?" written by my colleague, HOWARD WOLPE, chairman of the Subcommittee on Africa.

The Anti-Apartheid Act of 1986 will be 1-year-old on October 2. Next month, the President will send to the Congress, as required under the act, his report on the extent to which the South African Government is moving toward negotiations with the majority population. As the antiapartheid debate is renewed this fall, I recommend this article as a timely and incisive analysis of the subtle changes now taking place in South Africa.

[From the Los Angeles Times, July 26, 1987]

WHY THE RUSH TO GIVE UP ON SANCTIONS?

(By Howard E. Wolpe)

In the wake of the rightward tilt in last month's whites-only elections in South Africa, some people are declaring that economic sanctions are a failure—that they've accomplished little more than hardening the government's determination to keep apartheid in force.

The growing popularity of this assessment (which I believe is wrong) is encouraged by certain attitudes that must be fully transcended if the United States is to have an effective policy toward southern Africa.

First, and most obvious, is the tendency toward impatience in foreign-policy matters. It would be astonishing indeed if the immediate reaction of the South African government—or any other—to increased internal and external pressure were anything other than defensiveness. Second, and more subtle, is the ambivalence that arises at those exceptional moments when Americans are asked to support, in the national interest, sanctions against a country not considered as falling within the Soviet orbit. Finally, and most disturbing, given our own tragic history of racial conflict and paternalism, is the appearance at times of a racial double standard in American foreign policy.

Together, in varying proportions, these attitudes help explain why there can be early and vocal skepticism of sanctions against South Africa with no comparable skepticism voiced about the immediate effects of sanctions against, say, Libya or Poland.

Impatience, unconscious racial attitudes and reflexive anti-communism make it possible for there to be expressions of deep concern that sanctions against Pretoria "will hurt the black majority we seek to help" (disregarding the pro-sanctions sentiments of popular black political organizations and unions) when there are no similar cries of conscience about the fate of Polish or Libyan workers. So, too, they help explain why blacks leading an armed struggle against apartheid can be labeled "terrorists" while other insurgents, such as those in Nicaragua and Afghanistan, are hailed as "freedom fighters" deserving of U.S. moral and material support.

By passing the Comprehensive Anti-Apartheid Act of 1986, Congress recognized, on a bipartisan basis, that our traditional foreign policy toward South Africa compromised not only our values but our political and strategic interests as well. It acknowledged that apartheid harms America's long-term relationship with all of Africa, and that continued escalation of violence threatens to degenerage into a blood bath and provoke a superpower conflict. By adopting economic sanctions, Congress put into place a medium- to long-range strategy designed to worsen the economic burden that a regime confronting formidable internal opposition must already bear, to send a signal that the regime will continue to be denied economic and diplomatic support internationally, and to encourage legitimate opposition forces.

Beneath their bravado, South African whites are gradually becoming concerned about the accumulating costs of internal resistance and extermal sanctions. South African economic analysis admit that, even under the most optimistic assumptions, percapita economic growth will stagnate unless sanctions are lifted. In November, the economic adviser to the South African Reserve Bank pointedly noted that "the upswing in the economy is being inhibited by the effect of trade, and more especially, capital sanctions."

Of greater long-term significance than the "law and order" appeals featured in the last election are recent South African opinion polls, which demonstrate that three times as many whites prefer to accelerate the pace of "reform" as to slow it down. The white Dutch Reformed Church has renounced its previous support for apartheid; the Broederbond has circulated a working document implying that any new constitution would have to be acceptable to the African National Congress; more than 300 faculty members at Stellenboach University (the intellectual citadel of Afrikanerdom) have called on the government to scrap all remaining discriminatory legislation and make a commitment to share power with blacks; and three credible independent candidates for parliament have shown that there is a new, reformist Afrikaner opposition that approaches 25% of the Afrikaner vote in key urban and white-collar districts.

Other signs of declining white morale, reminiscent of those that appeared gradually in Rhodesia, include rising emigration (13,711 whites left in 1986, a 67% increase over 1983), rampant draft evasion (more than 25% defined the 1985 call-up, with the government subsequently refusing to publish updated statistics), and swelling suicide figures (453 members of the South African Defense Forces attempted suicide in 1986, a 500% increase over the previous year).

Weakening sanctions in the face of South African intrasigence will only encourage the Afrikaner minority in its fantasy that it can hold onto monopoly power indefinitely, free of mounting economic costs or deepening international isolation.

Worse still, to reinforce such delusions is to invite greater repression and delay the onset of negotiations.

Instead, what is urgently needed is a steady policy aimed at tightening those sanctions already in place, while substantially increasing diplomatic and economic pressure on the South African government to abandon apartheid, and to negotiate—with the black majority—a new and genuinely democratic political order.

WANT TO HELP REDUCE THE FEDERAL BUDGET DEFICIT?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. EDWARDS of California. Mr. Speaker, perhaps one of the most frustrating issues with which the Congress has grappled in recent years is the Federal budget deficit. Under President Reagan's administration we have seen the deficit nearly triple, from $73 billion in fiscal year 1981, to $221 billion in fiscal year 1986.

Despite the fact that it is the President's policies—notably his 1981 tax cut and the binge in military spending—which have led to these massive deficits, the administration has refused to work cooperatively with the Congress in making the difficult choices which must be made if we are to reduce substantially the Federal budget deficit. If the Reagan administration were to abandon its confrontational approach, I feel confident that together the Congress and the President could tackle the deficit problem.

In a recent article in the Los Angeles Herald Examiner, our colleague ANTHONY BEILENSON offers some thoughts on how this could be done. I commend his comments to the attention of my colleagues.

The article follows:

[From the Los Angeles Herald Examiner, Sept. 10, 1987]

WANT TO HELP REDUCE THE FEDERAL BUDGET DEFICIT?

(By Anthony C. Beilenson)

For several years now the President and Congress have spent an enormous amount of time and energy dealing with the federal budget deficit and, yet, we are really no closer to solving this problem than we were when the deficit first reached the $200 billion range in 1983.

During each year since, the government has run a deficit triple the size of any annual deficit prior to 1981. It took the U.S. more than 200 years to accumulate a total national debt of $1 trillion, but in just the last six years, that debt has more than doubled to $2.3 trillion because of these huge deficits.

Everyone agrees that we cannot continue to increase the national debt at this incredible rate. There are only two ways of solving the problem: either cut spending or raise taxes—or, more feasibly and reasonably, a combination of the two. But political obstacles stand in the way. President Reagan adamantly objects to raising any new taxes and opposes slowing the growth of defense spending; both he and many members of Congress are unwilling to slow the growth of Social Security, which alone accounts for 20 percent of the federal budget; and a majority in Congress of both parties do not want to cut most domestic programs any further.

Two years ago, Congress tried to force a resolution of the problem by passing the Gramm-Rudman-Hollings law requiring each succeeding year's deficit to be $36 billion less than the previous year's. In keeping with that law, Congress has been attempting to reduce the 1988 deficit by $36 billion. However, those efforts have almost completely broken down because of disagreements within Congress over the specific spending cuts and tax increases that would reduce the deficit by that amount, and continued pressure from the President not to agree to any tax increases at all.

The tragedy of this political stalemate is that draconian measures are not required to bring the deficit under control. Take a look at the following sampling of ways the 1988 deficit could be reduced and decide for yourself: is it really all that difficult to cut next year's deficit by $36 billion?

Possible spending cuts and 1988 savings

[In billions of dollars]

Defense Spending (28 percent of the budget):	
(1) Freeze (i.e., no increases for inflation)	$5
(2) Cut by 3 percent	7
Entitlement Programs (41 percent of the budget):	
Skip cost-of-living increases for one year for entitlement programs, which include Social Security, Medicare, military and civilian retirement pensions, veterans benefits, etc. (Means-tested programs would be exempt)	7
Domestic Programs (16 percent of the budget):	
(Includes funding for education, job training, national parks, health research, air safety, environmental protection, housing, highways and mass transit, FBI and drug enforcement, immigration control, space programs, etc.):	
(1) Freeze (i.e., no increases for inflation)	4
or	
(2) Cut by 3 percent	6
Interest Payments on the National Debt (the remaining 15 percent of the budget):	
The only way interest payments can be cut is if the deficit is reduced. If you check off at least $30 billion worth of spending reductions and revenue increases (below), take credit for $1 billion in reduced payments	1
Possible revenue increases and 1988 revenue gain	
Retain a tax rate of 38.5 percent for taxable income over $100,000 (single returns) and $150,000 (joint returns), instead of letting the rate drop to 28 percent, as currently scheduled	$6
Raise the Federal tax on beer by 32 cents a 6 pack and on wine by 7 cents a bottle	3
Raise the Federal tax on cigarettes from 16 to 32 cents a pack	3
Raise the Federal tax on gasoline:	
(1) By 10 cents a gallon	10
or	
(2) By 20 cents a gallon	20
Treat most Social Security benefits as taxable income (the way private pensions are treated for tax purposes	**5**
Reduce the business tax deduction for meals and entertainment from 80 to 50 percent	**1**
Impose a $^1/_2$-percent tax on the value of stocks and other securities when they are bought or sold	**5**
Your total deficit reduction	

If you found $36 billion worth of spending cuts and tax increases from the list above that you could support, you have also found ways to produce continuing large reductions in deficits in the years beyond 1988. If these cuts were to be enacted into law now, only very modest additional spending cuts and tax increases would be needed in future years to actually balance the budget five or six years from now.

What makes the budget problem so frustrating is that unlike other major problems that face us, such as the U.S. trade deficit or nuclear arms control, the budget deficit can be solved simply by passing the necessary legislation; our failure to control the deficit is a failure of political will rather than of not knowing what to do or how to do it.

Polls show that the great majority of Americans think that the federal budget deficit is the most serious issue facing our nation today. But to break the political deadlock, public support is needed for specific steps to solve the problem.

Want to help? Then check off at least $36 billion worth of deficit-reduction options listed above that you support—and send a copy to President Reagan, your senators, and your congressman.

WHY HEALTH COSTS KEEP SOARING

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. STARK. Mr. Speaker, last week, the news was reported that the Medicare part B premium was going to rise 37 percent next year, from a monthly premium of $17.90 to about $24.80.

Why?

Part of the reason is brilliantly described in a new article by Princeton University Prof. Uwe Reinhardt contained in the Milbank Quarterly, volume 65, No. 2, 1987. I reprint below portions of his article, entitled "Resource Allocation in Health Care: The Allocation of Lifestyles to Providers."

One can think of the monetary transfer to the providers of health care as their generalized claim on the good things in life, that is, on the food, clothes, shelter, automobiles, vacations, fur coats, and so on, produced by the economy. Thus, the statement that health care expenditures this year reached, say, 10 percent of the gross national product (GNP) does not imply that American patients cut out for themselves a slice equal to 10 percent of that proverbial national pie, nor does it necessarily mean patients received more services if, one year later, 11 percent of the GNP were spent on health care. Rather, the statement signifies that in return for whatever services and supplies the providers did transfer to patients this year they were allowed to claim for themselves 10 (or 11) percent of that national pie as a reward.

In 1985 a claim equal to 10.7 percent of the GNP was handed to American providers of health care collectively in return for whatever health services American patients received in that year. In Canada and West Germany, providers were rewarded with generalized claims equal to between 8 and 9 percent of these nations' GNP, respectively, as a reward for whatever services were rendered patients in these countries. In the United Kingdom, that reward has been only about 6 percent of that nation's GNP in recent years (see Waldo, Levit, and Lazenby 1986, 5). In Japan, it has been about 6.5 percent (Japanese Ministry of Health and Welfare 1985, table 3).

Precisely what real health services patients in these other nations did and did not receive in comparison with American patients is, of course, an intriguing question. For example, in view of the much lower national health expenditures in neighboring Canada, one is tempted to pose American providers the following questions:

"In return for the much higher allocation of financial resources from American society to American providers of health care collectively, do American patients receive a commensurately superior flow of real health care services? If so, precisely what are the extras? Do Americans see physicians more frequently than do Canadians? Is the probability of surviving a given illness episode in the United States perceptibly higher, on average, than that in Canada? Do Americans, on average, walk about with less pain from ill health and with less anxiety over the physical and financial consequences of illness than do Canadians? And how, on average, do the poorest of the two nations' citizens fare in health care?"

Convincing answers to these questions are not known at this time. But the questions are eminently researchable and eminently worth asking.

In fact, these questions lead directly to yet other intriguing questions, namely:

"What actually shapes the relation between the monetary and real resource transfers in figure 1? Are the two so tightly linked that, in discussions on "resource allocation in health care," one can be viewed as a proxy for the other, as is so often done in public debates on health policy? Or is the link between the two loose enough to permit each to go its own way?"

The providers of health care certainly seem to posit a very tight linkage or, at least, they pretend that they do. On this professed belief, any proposal to constrain the flow of money from society to providers is immediately decried by the latter as a proposal to limit the flow of real health services from providers to patients. It is branded as a direct assault on the "quality" of health care, if not as an attempt to "ration" health care outright. That belief, for example, seems implicit in the American Medical Association's contention that the fee freeze imposed by Congress in 1985 had "forced the nation into a two-tier system for medical care in which Medicare patients have become 'second-class citizens'" (American Medical News 1985, 1).

Conversely, it is usually pretended by the providers of health care that any increase in the money flow to them—for example, supplementation of the British National Health Service (NHS) through private health insurance, or increases in the American Medicare and Medicaid budgets—would lead ipso facto and in some unspecified manner to a proportionate increase in the real health care resources made available to patients. It is the medical analogue of the trickle-down theory.

Not only the providers of health care tend to think that way; government officials usually do as well. Suppose, for example, that the state of New Jersey decided to raise the relatively low fees paid physicians under that state's Medicaid program by, say, 25 percent. A natural inclination among politicians would then be to claim that much had been done for the state's poor. In fact, in their published reports state officials would measure their goodwill toward the poor precisely by this monetary transfer to physicians. The only reliable inference to be drawn from the assumed fee increase, however, would be that something had been done by New Jersey's physicians. Just what additional health services the physicians would ultimately bestow upon New Jersey's poor in return for the higher fees—the yardstick by which the benefits received by the poor ought to be assessed—would be an entirely different matter.

This seemingly pedantic distinction between types of resource allocations in health care cannot be exaggerated in thinking about health policy, as will be readily apparent from the data presented in tables 1 and 2. Table 1 records fee charged, in 1984, by physicians in the United States and in Canada for a variety of standard surgical interventions. Table 2, taken directly from a recent report by the Office of Technology Assessment (U.S. Congress, Office of Technology Assessment 1986, table 2.11), records the enormous variation in the so-called prevailing (maximum) charges allowed physicians under part B of the federal Medicare program in 1980.

TABLE 1.—COMPARISON OF 1984 MEDICAL FEES, UNITED STATES AND CANADA

	Prevailing charges under Medicare, California (dollars)	Median fees, United States (dollars)	Fees in Ontario (Canadian dollars)
Electrocardiogram (professional charges only)	40	35	7
Insertion of pacemaker	1,815	1,200	334
Appendectomy	734	600	259
Extraction of lens	1,341		368
Hysterectomy	1,393	901	503
Coronary artery bypass	5,200		1,300

Source: Reinhardt 1985, table 2.

TABLE 2.—HIGH AND LOW PREVAILING CHARGES IN LOCALITIES FOR FIVE SELECTED PROCEDURES, FEE SCREEN YEAR 1980

Procedure	Locality prevailing charges			
	High	Low	Range	Ratio
1. Brief followup hospital visit by an internist	$33.10	$7.00	$26.10	4.73:1
2. Extraction of lens by an ophthalmologist	1,390.70	536.50	854.20	2.59:1
3. Electrosection of prostate by a urologist	1,410.40	475.25	935.15	2.97:1
4. Hysterectomy by an obstetrician/gynecologist	1,305.20	536.50	768.70	2.43:1
5. Chest X-ray single view by a radiologist	35.00	5.50	29.50	6.36:1

Source: U.S. Congress, Office of Technology Assessment 1986, table 2.11.

A budget allocation of the equivalent of $1 million in U.S. dollars obviously buys many more operations of a given type in neighboring Canada than it does in the United States, and it buys far fewer such operations in Calfornia than it does in most other regions of the United States. In 1984, for example, the federal Medicare program for the aged paid surgeons in Mississippi a maximum fee of $2,200 for a coronary bypass, while surgeons in California were paid $5,000 for the procedure and those in New York $6,000 (Reinhardt 1985, figures 2 and 3).

Even more remarkable is variation in the hourly remuneration earned by American physicians in different specialties. For certain surgical specialties—e.g., ophthalmology and thoracic surgery— prevailing fees imply an hourly remuneration manyfold that paid primary-care physicians for nonprocedural care.

Differences in practice costs and in length of training can explain some of the observed variations in fees, but they cannot fully explain them. These variations remain a perplexing mystery among both researchers and policy makers, and even among physicians themselves. And they naturally lead to questions of the following sort:

"Suppose the Medicare program could somehow reduce its monetary allocation for coronary bypass surgery in California below previous levels, so that the annual rate of such operations in California could be maintained only if California surgeons were content with a money transfer per operation equal to, say, the United States median fee. Would that rationing of money for California surgeons necessarily have to lead to rationing of coronary bypasses in that state? And, if it did, who ought to be blamed for that rationing of medical services: the federal government for constraining fees in California to the United States median level, or California surgeons for withholding their services from patients?"

This line of questioning is sharpened if one contemplates the data presented in table 3. These data represent charges for diagnostic tests ordered by a physician during one office visit for an employee of the Caterpillar Tractor Company (CTCO), a company that funds and administers its own health insurance program for employees. The second column in the table exhibits the amounts the physician billed the company for services rendered the employee. The third (rightmost) column shows the amount the physician was charged by the outside laboratory (SKCL) that processed the tests. It is seen that, depending on whether or not the laboratory grants the physician a volume discount, his mark-up over costs was either $298 on costs of $190 (156 percent of costs) or $374 on costs of $114 (328 percent of costs). If now, as part of a cost-containment strategy, the Caterpillar Tractor Company sought to reduce the physician's markup to, say, a mere 100 percent above costs, could the firm's cost-containment program fairly be accused of assaulting the "quality" of health care, or even of rationing health care outright?

TABLE 3.—CHARGES TO INSURER AND COSTS TO THE PHYSICIAN FOR A SERIES OF DIAGNOSTIC TESTS ORDERED FOR 1 PATIENT DURING 1 OFFICE VISIT

Chem 23	$30	$10.00
HDL	60	([1])
Electrolytes	40	([1])
RA factor	18	8.00
Sed. rate	20	7.00
Thyroid panel	60	14.00
TSH	60	37.00
Estrogen	90	53.00
Progesterone	80	49.00
CBC	20	6.50
UA	10	5.50
Total	488	190.00
Net markup (profit)	298	

[1] Included in chem 23.

Also, the mail order lab's common practice is to discount charges by 40 percent to physicians with any volume. If this is the case here, then 60 percent x 190 = $114 charge on $488 billed to insurance as minus $114 equals net mark up of $374 on one patient.

Source: Data supplied by the Caterpillar Tractor Co.

In connection with diagnostic tests, the preceding illustration does not seem an isolated case. In an advertisement of its AV-1000™ test equipment, for example, the producer of that equipment advised prospective clients (physicians) that the "typical scheduled reimbursement for the complete AV-1000™ test is $130" and that, at that price per test, the outlay of $4,995 for the equipment will be recouped in four months at only 10 tests per month and in six weeks at 30 tests per month. The advertisement further advises physicians that "scheduled reimbursement in the South Florida metropolitan area for venous and arterial testing is $125-$250." It may reasonably be assumed that, upon perceiving these fees, the producer of the equipment will not have been dainty in setting the markup over true manufacturing costs to arrive at the price tag of $4,995. Another manufacturer, promoting its VISION™ blood-test equipment, suggests in its "profit worksheet" for the physician a payback of 5.8 months for that equipment. Surely these high markups for diagnostic tests and the unusually fast payback periods for the diagnostic equipment are feasible because the market for tests of this sort is far from perfectly competitive. This circumstance, in turn, raises the question: What lifestyle ought the use of such tests by patients bestow upon the producers of the diagnostic equipment and the physicians who purchase and use that equipment?

The questions raised above can be broadened to the entire American health care scene. Throughout the 1980s, the providers of health care in the United States have lamented loudly over sundry meek attempts at cost containment by government and business. There have been dark hints that the money budgets allocated to health care have been brutally slashed by both players, and that these cuts are inexorably pushing the United States health sector toward the type of rationing practiced by the much-loathed British National Health Service.

There has, in fact, been a marked reduction in hospital admissions and in average length of stay per admission in the United States since 1980. There has also been a reduction in the number of physician visits per capita (Reynolds and Duann 1985, 25). And there have appeared in newspapers throughout the country disturbing anecdotes of outright denial of critically needed health care to poor, uninsured patients (in this connection see, for example, Reinhardt 1986; Robert Wood Johnson Foundation 1983), sometimes within sight of otherwise idle health care resources. Are these contractions in the flow of real health services to patients an unavoidable consequence of a corresponding contraction in the flow of money to the American health sector?

Actually, it would be difficult to support that hypothesis with the available data on aggregate health expenditures. If anything, the aggregate flow of financial resources to the American health care sector appears to have increased apace since 1980, whether one measures it in current dollars, in constant-purchasing-power dollars, or by the percentage of the GNP devoted to health care. In 1980, for example, Americans transferred 9.1 percent of their GNP to the providers of health care. By 1984 that percentage had increased to 10.3 percent of a then larger GNP. As already noted, by 1985 it had grown to 10.7 percent of a still larger GNP. It is a good bet that it will have climbed further toward 11 percent of the GNP in 1986.

The driving force behind this increase in national health expenditures appears to have been rapid increases in the money transfer per unit of health resource (prices) the providers of health care have been able to extract from patients or third-party payers (table 4), in spite of the fact that there is vast excess capacity in the hospital sector and that physicians are now generally believed to be in surplus, factors that would have depressed prices in a properly functioning market. . . .

TABLE 4.—*Trends in the Consumer Price Index, United States, 1986*

	Percentage increase, Dec. 1985 to Dec. 1986
CPI-U, all items	1.1
CPI-U, all services	4.4
CPI-U, medical care services	7.9
Physician services	7.8
Hospital room	7.7
Prescription drugs	9.0

Source: U.S. Bureau of Labor Statistics 1987, table 1.

To sum up at this point: The link between the *financial* resources made available to a health care sector and the *real* health care resources that sector makes available to patients is actually quite loose. That link may be thought of as the lifestyle the providers of health services can extract from the process of caring for patients. Figuratively speaking, if the providers can somehow insist upon driving Cadillacs, then a given money budget set aside by society for the health care sector will make available to patients fewer real health services than would be available if providers could be induced somehow to make do with Chevrolets. The relation between the upper and the lower loops in figure 1, is as obviously simple, and as complex, as that.

RESOLUTION OF CONFLICT OVER RESOURCE ALLOCATION IN HEALTH CARE

Because the economic lifestyle espoused by providers of health care so crucially affects the patient's welfare, the question arises whether there exists an objectively determinable "proper" relation between the two resource transfers in figure 1 and, if so, what mechanism best assures the establishment of that proper relationship?

The data in table 6, for example, suggest that the generosity of nations toward their physicians varies considerably. This raises the question whether British, Italian, and French physicians are underpaid, or American and West German physicians are overpaid, or whether both might be the case. More broadly put, the question becomes what slice of its GNP society should permit the providers of health care to claim as a reward for services rendered patients.

TABLE 6.—NET PRETAX PRACTICE INCOME OF GENERAL PRACTITIONERS AS A MULTIPLE OF AVERAGE EMPLOYEE COMPENSATION AND GROSS DOMESTIC PRODUCT PER CAPITA, CIRCA 1978

Country	Ratio of physician net income to:	
	Average employee compensation	Gross domestic product per capita
West Germany (G.P.s)	4.7	7.4
United States (all M.D.s)	[1] 4.5	6.5
(G.P.s)	3.9	5.6
Japan (all M.D.s)	[2] 3.8	6.2
France (G.P.s)	2.8	4.5
Great Britain (G.P.s)	2.1	4.3
Italy (G.P.s)	1.8	3.8

[1] Relatively few American physicians are general practitioners and these earn relatively low incomes. For all American physicians the ratio was 4.5 in 1975, and 4.6 in 1983.

[2] For Japan the numbers represent the 1975 income of all physicians.

Source: Data for Japan from Nishimura 1981, table A-4. Data for all other countries from BASYS (1986), table D 10. Reprinted by permission from Reinhardt 1985.

CONTINUED NUCLEAR TESTING NOT NECESSARY, STUDY SAYS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MARKEY. Mr. Speaker, an article in yesterday's Los Angeles Times reports a distinguished scientist from the Laurence Livermore Laboratory has concluded, after an extensive review of nuclear test data, that continued nuclear explosive testing is not needed to assure the continued reliability of the existing nuclear stockpile. As this issue has a direct bearing on our deliberations on nuclear test limits, I encourage all of my colleagues to read it.

The article follows:

CONTINUED NUCLEAR TESTING NOT NECESSARY, STUDY SAYS

(By Robert Scheer)

LIVERMORE, CALIF.—A new classified study by a senior physicist at the Lawrence Livermore National Laboratory has concluded that the lab's director was incorrect when he told Congress that continued nuclear testing is required to ensure the reliability of the U.S. nuclear arsenal.

The study, the most detailed of the U.S. nuclear testing program ever undertaken, appears to provide factual support for an emerging body of scientific opinion critical of the Defense Department's insistence on continued testing. Last week, a report by University of California scientists concurred in the Livermore study's overall conclusions, and at least two leading weapons scientists recently have written to Congress questioning the continuing need for testing.

The views set forth in these studies and letters contradict written testimony delivered to the Senate Armed Services Committee earlier this year by Roger Batzel—director of one of the country's two nuclear weapons labs. He alleged that "one-third of all modern weapons designs placed in the U.S. stockpile have required and received post-deployment nuclear tests for resolution of problems. In three-fourths of these cases," Batzel wrote, "the problems were discovered only because of the ongoing nuclear testing."

The accuracy of that statement has become a matter of unusual importance because it subsequently has been echoed by Secretary of Defense Caspar W. Weinberger and others within the Administration who oppose pending legislation to significantly lower the permissible size of U.S. nuclear tests. The question of Weinberger's views took on additional importance Thursday, when Secretary of State George P. Shultz and Soviet Foreign Minister Eduard A. Shevardnadze announced the resumption of negotiations on a comprehensive test ban.

"Any claim that nuclear testing is unnecessary is simply and demonstrably false," Weinberger argued in The Times last May. "Over one-third of all nuclear-weapons designs introduced into our stockpile since 1958 have encountered reliability problems," he wrote, "and 75% of these were discovered and subsequently corrected thanks to actual explosive testing."

Those assertions are directly contradicted in a new study by physicist Ray E. Kidder, a 31-year veteran of the nation's nuclear weapons program and the author of more than 100 classified reports on the weapons' design and effects.

After finishing the most thorough review of classified test data in the history of the U.S. arms program, Kidder bluntly summarized for The Times the conclusion of his still-secret report:

"The bombs work," he said "They'll blow up whatever you want to blow up, a city or a dam. You don't need to test them anymore; they work. Maybe Weinberger doesn't know that, but I've studied the data and it's true."

Kidder said that his five-month study—which was made at the request of House Armed Services Committee Chairman Les Aspin (D-Wis.) and five other congressmen—shows that weapons removed from the stockpile and tested at random have proved remarkably accurate and that most of the problems cited by Weinberger occurred decades ago and have no bearing on the reliability of the current arsenal.

The Livermore physicist contends that not one warhead properly tested in the first place and used for its intended purpose has required retesting.

Kidder's overall conclusion was corroborated Thursday in a report to the UC regents, who operate the Lawrence Livermore and Los Alamos weapons labs for the government. Acting on a request by faculty members, the university had asked its Scientific and Academic Advisory Committee to investigate the reliability question.

"We conclude," the committee wrote, "that the weapons currently in the stockpile are remarkably robust and designed so as to minimize the requirements for continued nuclear testing to assure their reliability."

Kidder's report currently is making its way through the Livermore and Energy Department clearance procedures. But he agreed to disclose some of his non-classified conclusions because he believes that Batzel, Weinberger and other test ban opponents are using a spurious technical argument to derail a policy they oppose.

"The public is being hoodwinked," Kidder charged.

At least one other veteran Livermore physicist, Hugh E. DeWitt, concurs not only in Kidder's technical conclusion but also in his charge that test ban opponents are manipulating classified information in support of their objections. In a letter last June to Rep. Edward J. Markey (D-Mass.), DeWitt wrote:

"Clearly Dr. Batzel's statement is considered to be extremely important by high-level officials in the U.S. government. The statement is based on classified weapons testing data. The accuracy of the statement can be independently judged only by an examination of this classified data and this data is not normally available to most of the audiences . . . who hear the statement from U.S. government representatives. Dr. Kidder and I have examined the classified data on which the statement is based and we conclude that Dr. Batzel's statement is misleading to the point of being false. Dr. Kidder will back this up in a classified report. . . .

"In my opinion, as a longtime staff member of the Livermore lab, the main purpose of present-day nuclear testing is not to identify and correct stockpile reliability problems but to develop new nuclear weapons [often called modernization].

"Batzel's alarming statement to the Senate Armed Services Committee is a scare story that does not hold up when the supporting classified testing information is examined. His statement is a serious misuse of classified information. He could get away with it only on the assumption that nobody outside the weapons labs would challenge his statement by actually examining the classified data."

DeWitt, restricting his comments to unclassified data, argued that Batzel's claim to Congress that one-third of the weapon designs required retesting was based on a group of 14 warheads. DeWitt noted—and the lab's directors agree—that all of those problems were subsequently solved and that there is no reason to think there is a current problem with any weapon in the stockpile.

Kidder and DeWitt further contend that most of the 14 cases do not involve "modern weapon designs," as Batzel claimed. In fact, nine of them—four strategic and five tactical warheads—date back more than two decades. Three of the nine are not even in the stockpile at this time.

Seven of those nine shared common problem that in the words of physicist George Miller, Livermore's associate director, "had to do with unexpected effects of radioactive aging of the boost gas [tritium]." Kidder noted that this problem was cleared up in the early 1960s and is not a factor in more recent weapons designs. The other two weapons—the warheads for the Sergeant and Polaris ballistic missiles—are among the three no longer in the arsenal.

According to Kidder and the UC report, only five warheads tested in the last 10 years are relevant to the discussion of current arsenal reliability.

Of those five, Kidder said, three—the B-61 tactical bomb, the air- and sea-launched cruise missile and the ground-launched cruise missile—were not tested under low temperature conditions before being put into the stockpile. Subsequently, scientists at Los Alamos realized that the cruise missile would be carried under the wings of B-52 bombers at high and, thereore, very cold altitudes. At that time, low temperature tests were ordered for all three warheads.

The other two—the warhead for the Poseidon missile and an eight-inch artillery projectile—required retesting because they were substantially modernized.

Kidder concludes that none of the examples cited by Batzel justify the argument that continued testing is required to ensure the reliability of previously tested modern weapons.

The Livermore physicists's study will be submitted to Congress sometime in the next few months, along with another report by associate director Miller.

Miller would not comment on his findings, but if it follows the recently expressed position of the lab management, it will probably accept Kidder's basic contention that the nuclear stockpile is robust. But it will argue that this is true only because of past testing and that such testing is required to ensure future reliability. Livermore director Batzel refused to respond to The Times' questions on this subject.

During its last session, the House—acting in response to a recent series of Soviet initiatives in pursuit of a comprehensive test ban—approved a measure reducing the permissible size of U.S. and Soviet nuclear tests from 150 kilotons to five or less. The Senate also passed a non-binding resolution requesting the President to pursue such an agreement. The measure has been reintroduced in the current session.

Weinberger, Batzel and Siegfried Hecker, director of the Los Alamos lab, have consistently opposed these proposals. Their critics, such as Kidder and DeWitt, contend that the secretary and lab directors actually are concerned that a test ban would seriously, if not fatally, hobble key elements of President Reagan's Strategic Defense Initiative, including the nuclear pumped X-ray laser, which is being developed at Livermore.

Advocates of a very low level nuclear testing threshold or of a comprehensive test ban tend to favor this policy because they believe it would curtail the nuclear arms race. Developing new nuclear weapons, including the X-ray laser, would require rather large explosions. Just how large is a matter of some debate but there is little disagreement that a five-kiloton testing threshold would prevent serious advances on the project.

Whatever its impact on the "Star Wars" project, congressional efforts to reduce or halt U.S. nuclear testing previously have foundered on two technical objections: Could the United States verify that the Soviets were not cheating on such an agreement? Could America ensure that its nuclear deterrent was survivable and reliable without testing?

In recent years the matter of verification of a test ban agreement has receded. New and more sophisticated methods of verification involving seismological techniques as well as satelite surveillance have refined the nuclear detectives' art.

Recently, the Soviets have indicated that they would accept onsite inspection and, indeed, teams of U.S. scientists are currently in the Soviet Union on a private basis evaluating geological conditions close to the test site.

Top Soviet scientists stated that they would accede to a U.S. request to conduct Cortex monitoring of their test sites. This procedure is more invasive of a nation's security because it involves drilling a second hole parallel and close to the one with the explosion and subsequently revealing much more about the nature of the explosion than through seismological means.

Because of all of these improvements, verification no longer looms as a matter of serious controversy. The lab directors themselves have testified to Congress that they do not believe the Soviets have been cheating on the existing test ban treaty.

So, with the verification issue removed, the technical argument against a test ban now rests on the matter of stockpile reliability.

Frederick Reines, the UC Irvine physicist who directed the report for the regents, tends to side with Livermore's Kidder and DeWitt on this question. U.S. nuclear weapons, he said, are designed "to last one hell of a long time. . . . We should not be prevented [by doubts of stockpile reliability] from thinking in a constructive way about the possibilities of test bans. We are not precluded from this by any means."

Physicist J. Carson Mark, who headed Los Alamos' nuclear weapons design program for almost 20 years, echoes DeWitt's contention that the current debate may not be about the reliability of the existing weapons but about the lab's ability to produce new ones. In a letter to Sen. John Glenn (D-Ohio), Mark wrote: "It is extremely rare—and, in fact, may never have happened—that a unit has been selected from the stockpile and fired just to make sure that it still performed. Obviously, one would learn very little from such a procedure. . . . In practice, confidence in reliability has been based on a stockpile surveillance program whereby on a scheduled basis units are pulled at random, disassembled and subjected to intensive examination to ascertain if any changes appear to be taking place."

However, Mark said his view—one which he shares with Batzel and Kidder—is that without testing a nation cannot "have . . . new weapons or weapons modified."

"Do you want new weapons or not? That," Kidder said, "is the only real question."

JIM BUTERA: AN INSIDE PLAYER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MANTON. Mr. Speaker, I would like to call my colleagues attention to an article which recently appeared in the National Journal. The article entitled "A Banking Lobbyist Who'll Go the Distance" focuses on James J. Butera, vice president of the National Council of Savings Institutions.

Mr. Speaker, as a member of the Committee on Banking, Finance, and Urban Affairs, I have had the good fortune to work with Jim on a regular basis. In that regard, I have come to know him to be one of the most effective lobbyists who works the Banking Committee. Jim is always well informed on any issue he is handling, and never attempts to place a member in an untenable position. I am certain my colleagues on the committee would agree with my assessment that Jim Butera is an excellent advocate for the National Council of Savings Institution's interests on Capitol Hill. He is indeed an inside player.

Mr. Speaker, I include the article on Mr. Butera in the RECORD at this point.

A BANKING LOBBYIST WHO'LL GO THE DISTANCE

(By Margaret E. Kriz)

As James J. Butera knows only too well, trying to represent the nation's savings banks on Capitol Hill can be a tricky matter when the woes of so many ailing thrifts and commercial banks are dominating the headlines.

Neither fish nor fowl, the traditional savings banks pay interest on savings deposits and emphasize home mortgages. But most are insured by the banks' Federal Deposit Insurance Corp. (FDIC). The distinctions could easily have been lost in the tricky negotiations that preceded passage of the Competitive Equality Banking Act, signed into law last month. Instead, the savings institutions emerged relatively unscathed.

Much of the credit for the success goes to the National Council of Savings Institutions and to Butera, the council's chief congressional lobbyist. It helped, of course, that the 445 savings banks, most of which are located in the Northeast, are arguably among the nation's healthiest financial institutions, earning a cumulative $1.8 billion in 1986, according to government figures.

The savings banks had a few close calls before the banking act cleared Congress. For instance, early versions would have stopped them from selling life insurance once they had become bank holding companies and would have required them to maintain at least 65 per cent of their assets in home mortgages. Both provisions were eventually scrapped.

"Politically, he has a tremendous sense of timing," said Richard W. Peterson, a staff member of the House Government Operations Subcommittee on Commerce, Consumer and Monetary Affairs, who worked with Butera in the early 1970s at the American Bankers Association (ABA). "He focuses in the clutches, when the real action is taking place."

Lewis H. Nevins, former director of the council's Washington office, said of Butera: "He's not just some gladhander; he understands the scholarship of what he's talking about."

A Senate aide who helped draft the banking bill was somewhat less laudatory, saying that Butera lost ground in early rounds "because he tried to throw his weight around," but that he recouped by working with the other players as the final language was being drafted.

Peterson agreed that, professionally, Butera's one fault lies in his "insular view of where the thrift industry is going."

In an interview, Butera, 42, admitted that he is somewhat myopic about the needs of the savings banks and the large savings and loans. But he argued that unlike other financial groups, the council doesn't try to limit other financial institutions' powers as it pursues its own goals. "Our approach is to live and let live," he said. "We want to be in the securities business, so the last thing we're going to do is say nonbank banks shouldn't own banks."

A former marine who earned a Bronze Star and a Purple Heart during two tours in Vietnam, the 14-year veteran of the capital's lobbying wars vigorously looks after the banks' interests in Washington legislative and regulatory circles. But he skips power lunches to train for the Nov. 8 Marine Marathon every afternoon.

A graduate of the Georgetown University Law Center, Butera joined the ABA's legal department in 1972. He moved to the savings bank group 18 months later, drawn by the promise of wider-ranging responsibilities that encompassed not only legal matters but lobbying and federal regulatory issues as well. The council, which also represents 180 large S&Ls and 27 savings banks insured by the Federal Savings and Loan Insurance Corp., has a $9 million annual budget and 85 employees, half in Washington and half in the council's Fairfield (Conn.) education center.

Butera recalled that perhaps his most important lobbying lesson came in the early 1970s, when commercial banks and S&Ls asked Congress to stop savings banks from offering interest-bearing demand accounts, known as NOW accounts. The battle ended with the savings banks being allowed to offer the accounts only in the two states where they already existed. Eventually, the accounts' popularity led to their adoption by the same banks and thrifts that had opposed them.

"It was astonishing to me how the right idea and a few friends in Congress can beat the odds," Butera said.

Now that the banking bill is behind him, Butera has a new goal: completing the 26-mile Marine Marathon in less than three hours, a time that would have placed him in the top 6 percent of the 7,913 people who ran the race in 1986. Using the same approach he uses in long-distance lobbying, Butera is depending on work and determination to pull him through; two years ago, he ran the marathon in 3 hours, 15 minutes.

SALUTE TO MARITIME DAYS AT CHANNEL ISLANDS HARBOR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the first annual Maritime Days at Channel Islands Harbor, Oxnard, CA, on October 2 through October 4, 1987.

Maritime Days is a community event organized by volunteers and coordinated by the Channel Islands Harbor Association and the Oxnard Convention and Visitors Bureau.

Honoring the bicentennial of the Constitution, the opening event will be a reenactment of the Boston Tea Party followed by a pancake breakfast on October 3 and then a tallship race featuring seven California tallships including the official State tallship, the *California*. Additional events include a chowder cookoff, arts and crafts fair, boat show, exhibits, musical entertainment and a maritime file festival featuring "Mutiny on the Bounty," "Captain Blood," "the Seahawk," "Tripoli," and "the Buccaneer."

The Ventura County Board of Supervisors has declared the month of October as "Maritime Month" in conjunction with this program.

Please join me in best wishes for a successful Maritime Days at Channel Islands Harbor, and for bigger and better Maritime Days in the future.

CIVIL LIBERTIES ACT OF 1987

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. CLAY. Mr. Speaker, I commend the House for the passage of the Civil Liberties Act, H.R. 442, providing restitution for Japanese Americans whose civil liberties were violated during World War II.

I would also like to take this opportunity to share with my colleagues an article which I wrote 6 years ago, August 10, 1981, concerning the pain and suffering which was brought by Executive Order 9066:

IN THE SHADOWS OF HISTORY

While many occurrences in American history, such as the Vietnam War, Watergate and the McCarthy witch hunts have been openly discussed and debated, others remain dimly concealed in the shadows of history. One such shadowy event centers on the internment of Japanese-Americans during World War II. A little background information is needed to remind us of what took place.

On December 7, 1941, the American bases at Pearl Harbor were attacked by military forces of the Empire of Japan. The next day, President Franklin D. Roosevelt received from Congress a declaration of war. But during the next few months, the situation worsened. The Japanese army and navy were successful in capturing a number of strategic bases and islands, which resulted in a mood of fear and panic in the U.S., especially on the West Coast. Many people expected San Francisco or Los Angeles to be the next target of the Japanese.

Out of the hysteria of the times came one of the darkest moments in the history of the United States. On February 19, 1942, President Roosevelt signed Executive Order 9066, which provided for the forced removal of 120,000 persons of Japanese descent from the three West Coast states, plus Arizona, and relocated them in ten camps throughout the Western states.

The removal of these people was bad in itself. But the even sadder fact is that over 77,000 of them were citizens of the United States. However, they were treated in a way that few citizens have ever experienced. Many of their Constitutional guarantees were either violated or suspended. Luckier ones were given a week's notice of their relocation so that they could sell or store their possessions. Most were not so lucky, having to dispose of their things in a day or two. Many were forced to sell at prices far below the real value of their possessions, others had their belongings taken by neighbors or confiscated by the government.

Upon their arrival at inland towns like Manzanar, their belongings consisting mainly of that which they could carry, they were greeted by a sight that would repel most Americans. Their "homes" for the next three years were to be the relocation camps. Surrounded by barbed wire and watchtowers, the buildings were originally little more than tarpaper shacks that couldn't even keep out the sand. Most of the bare necessities of community life were missing. Although conditions were to improve over the next couple of years, these camps remained far from being homes to those forced to live in them.

Many Americans are either ignorant of these facts or choose to forget them. However, we must never forget what we did to our fellow citizens. We must remember that, despite our protestations, it *can* happen here. Unfortunately, we cannot go back and correct our wrongs in this case, just like we cannot go back in other cases. However, there is a partial way to right the wrongs of the past: that is by providing compensation to those who were relocated, or to their children. With this, we can pay them back for the property they lost. By our recognition of what happened, and by compensation, we will be able to start to pay back what we owe these people. Unfortunately, we will never be able to pay them back for the time stolen from them, or for the pain and suffering they endured.

TWO NEW CHILD PROTECTION BILLS

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. SMITH of Florida. Mr. Speaker, although we have worked hard and long on protecting our children, we must continue fighting the grave problems that confront them in two areas. Unfortunately, the number of children who have been abducted and victimized by child pornographers is still too high. In response to these cruel-hearted crimes, I am introducing two pieces of legislation.

The first bill further cracks down on child pornography by bringing it under the Racketeer Influenced and Corrupt Organization [RICO] statute. I believe this to be an effective way to continue the work of recent Congresses in this area.

Those engaged in a pattern of child pornography distribution would be subject to criminal penalties of up to 20 years imprisonment, forfeiture of any property acquired as part of a pornography enterprise, and a fine of up to $25,000.

Until we integrate the sexual exploitation provisions with RICO, our children may have little or no access to remedies under the law and limited or no availability of injunctive relief against the publication and dispersion of child pornography.

The second piece of legislation imposes harsher measures on nonparental child kidnapers. The abduction of children has had tragic results in south Florida's recent past.

Over 1,800,000 children disappear from their homes in the United States each year. Many run away. Too many, however, are abducted.

The crime of abduction is complicated by evidence of interstate transportation and different State laws which makes it difficult to apprehend and convict the abductors. This problem necessitates my bill to impose harsher sentences on those who prey on our children. This legislation would provide for a mandatory life sentence without parole for any nonparent who abducts a minor.

Current Federal kidnaping statutes are inadequate. In a kidnaping case, the kidnaper usually requests the parent or guardian to take action, such as pay ransom, or not take action, such as not testifying against him. In many child abduction cases, however, the abductors are only interested in exploiting and abusing children and never contact the parents for money. We must fill the gap with this legislation by initiating Federal involvement in nonransom abduction cases.

As legislators we must enact appropriate measures to severely punish those who exploit and harm children. The tragic truth remains that, when one child dies due to abduction, it is one too many.

A CONGRESSIONAL SALUTE TO CALVIN W. STEIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. ANDERSON. Mr. Speaker, it is my distinct honor to rise today to pay tribute to a man who exemplifies the very meaning of the word successful. Calvin W. Stein is worthy of such praise and will be honored at a very special retirement luncheon October 7, 1987 at the Stouffer Resort in Orlando, FL. Only the press of our congressional schedule keeps me from joining Cal for this significant event.

Calvin W. Stein is a native of the city of Baltimore, MD. Upon graduating from Catawba College in North Carolina, Calvin joined the Industrial Traffic Department of the Chevrolet Motor Division, General Motors Corp. in 1941. His new career with General Motors was suddenly interrupted, as he was called for active duty with the U.S. Naval Reserve in July, 1942.

A loyal American and a true patriot, Calvin W. Stein served his country well, displaying an aggressive determination and a sense of leadership not found in most. He served in the Navy's Atlantic Fleet during a very volatile period in World War II. Calvin commanded sub chasers and patrol craft in the Atlantic Fleet until returning to inactive duty in November, 1945. His ties to our country's military service were not severed then however, as he remained active in the Naval Reserve Program while pursuing his professional studies in transportation and material handling at the University of Baltimore.

In November 1950, Cal was again called upon by the U.S. Navy to serve his country in the Korean war. Cal did not hesitate to serve his country again, putting a potentially prosperous career on hold and rising to the call of his country at war. Having served a year on the staff of the commander, Transport Squadron II, U.S. Atlantic Fleet, Cal felt his expertise in transportation and material handling would be better served in the Navy's Supply Corps, and requested a transfer. Upon having his request granted, Cal served in the capacity of traffic branch officer and material division officer, at the U.S. naval supply facility, naval supply activities, Brooklyn, NY from November 1951 until April 1954. Even after he again returned to civilian status, his interests in the Naval Reserve remained until he retired as a commander in 1966.

Cal's strong abilities to organize and manage served him well in the business world, as he was affiliated with several domestic household goods van lines in management capacity. In 1969, he was elected president of the Household Goods Forwarders Association of America Inc., after having previously served on its executive board since the association's inception in September 1962. The Household Goods Forwarders Association of America, Inc., which has offices located at 1500 Massachusetts Avenue, NW, Washington, DC, represents 79 thru-bill, door-to-door, containerized exempt forwarders, and in addition, has in excess of 564 associate members domiciled in the continental United States and 69 foreign countries.

Mr. Speaker, as you can see, Mr. Calvin W. Stein has had a positive impact on all that he has ever attempted. He has given much of himself and has helped make his community of Fairfax, VA a special place. He is a doer, an achiever, a credit to himself and to his country. My wife, Lee, joins me in congratulating Calvin on all his accomplishments. We wish him and his wife, Mary, and their daughter, Nancy, happiness and all the best in the years ahead.

A BILL TO STRENGTHEN THE U.S. FISHING INDUSTRY

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. CHANDLER. Mr. Speaker, I am today introducing a bill that would serve to strengthen the vitally important U.S. fishing industry. This bill, which would amend the Internal Revenue Code to treat fishermen on large and small boats the same, would continue the work of encouraging the development of an efficient, world-class fishing industry that this Congress began in 1976 with the adoption of the Magnuson Act and the Sternman's Exemption Act and that has been carried on by the growing U.S. commercial fishing industry.

In 1976, in enacting the Magnuson Act, Congress extended U.S. territorial waters to 200 miles from our shore for the purpose of encouraging the growth of a new fishing fleet that could compete better with foreign fishing boats that had been reaping huge harvests in those waters. At that time, we expressed the desire that the U.S. fishing fleet "characterized by old vessels . . ., relatively inefficient, and subject to high and rapidly increasing insurance rates" would be able to "attract new capital, technology and young fishermen" needed to rejuvenate our fishing fleet as a source of income, jobs and food.[1]

In 1976, Congress also adopted the Sternman's Exemption Act that acknowledged that fishermen whose sole remuneration was a share of the catch from the boat on which they worked were independent contractors within the meaning of the Internal Revenue Code. In recognizing fishermen as independent contractors, that act focused on the traditional independence of U.S. fishermen and, most importantly, the fact that most fishermen are paid based entirely on their success. The Sternman's Exemption Act also was intended to encourage the U.S. commercial fishing fleet by removing a substantial administrative burden from boat captains that had been required to report income for crew members even though a boat's crew was likely to change every time that the boat put to sea.

These two acts have been remarkably successful. A new U.S. commercial fishing fleet is harvesting more fish and a greater share of the total catch in U.S. waters. Using larger, more efficient boats that work further from shore, this new fleet is creating jobs and encouraging the export of its catch, particularly to Japan. Further, these new, larger boats are safer than the smaller, older boats that had dominated the U.S. industry. The success of this new fleet is something that we can all be proud of.

It is now time, however, to again amend our tax law so as not to discourage the continued growth and success of this industry. In 1976, in adopting the Sternman's Exemption Act, Congress limited independent contractor status to fishermen from boats with crews of ten or less. When adopted, the act adequately reflected the condition of a fishing industry that was made up of aging, smaller boats. Even then, however, Congress specifically noted that the primary factor in granting fishermen independent contractor status was the fact that fishermen are paid solely on the basis of their success, not the size of the boat on which they fished. Today, the larger, more efficient, safer boats that are increasing the vitality of the U.S. industry cannot meet the arbitrary standard of 10 or less crew members, but the fishermen continues to be independent and are paid solely on the basis of the catch. I propose that the arbitrary limitation on the size of the crew be removed so that the growth and success of the U.S. fishing industry will not be impeded.

I should specifically note that this bill would not result in a loss of revenues. The total tax due would remain the same. The only change would be to remove the considerable administrative burden on boat captains that must now report tax data for crew members who tend to change each time the boat leaves port.

This bill is good for our fishing industry, but it is also good for all of us. When we can encourage an export-oriented, job-creating industry by removing an unnecessary administrative burden, I believe that we should do so.

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[1] 1976 U.S. Code Cong. & Admin. News 602.

ETHNIC AMERICAN DAY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. LIPINSKI. Mr. Speaker, as chairman of the Democratic Council on Ethnic Americans, I rise today to inform my colleagues that yesterday, September 20, 1987, marked the celebration of Ethnic American Day.

For years, men, women, and children from many different lands have journeyed to America, often with nothing but their hopes and dreams, in order to begin a new life—so different from the harsh reality of poverty and totalitarian rule which many of them experienced in their native lands.

The promise of America, with the opportunity we have to achieve so much for ourselves and our families, and to exercise so many freedoms, is perhaps most cherished by ethnic, immigrant families. For it is they who often began with little of the privileges we enjoy and usually take for granted.

Many ethnic Americans have come from Communist-ruled countries and have firsthand knowledge of what it means to live under a system completely indifferent to human rights and liberties. It should come as no surprise that these Americans see communism for what it is and are staunchly supportive of efforts to make certain it gains no more footholds in the world.

Through their determination and will to remember their heritage with pride, ethnic Americans have contributed so much toward the rich diversity of our country and have enabled our Nation to maintain close ties with many different and varied regions of the world.

On Ethnic American Day we pay tribute to the perseverance of these proud Americans who have struggled and succeeded over the years to make a better life for themselves in America. Even more we recognize the enormous contributions they have made to the very fabric of our society.

A TRIBUTE TO MAJ. GEN. JEROME WALDOR

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. GALLO. Mr. Speaker, it is unfortunate that the contributions of the men and women of our armed services often go unrecognized. And to fail to recognize those who have spent a lifetime in the service fo their country would be a gross injustice. It is for this reason that I rise today on the occasion of the retirement of Maj. Gen. Jerome Waldor from the U.S. Air Force after an Active and Reserve career spanning 37 years in the service of his country.

General Waldor was born September 21, 1927, in Newark, NJ. Upon graduation from Weequahic High School, he enlisted in the Navy V-5 Program in 1945. While in preflight training, he received an appointment to the U.S. Military Academy, West Point, NY, in 1946. After graduation in 1950, he was commissioned a second lieutenant in the U.S. Air Force. General Waldor completed both the Air War College and Industrial College of the Armed Forces in 1971, by correspondence.

Upon receiving his commission, General Waldor was assigned to the navigator-bombardier-radar operated program. He attended training at Ellington Air Force Base, TX, and Mather Air Force Base, CA, where he was awarded his wings in 1951. He was then assigned to the 85th Bombardment Squadron, 47th Bombardment Wing, Langley Air Force Base, for B-45 combat crew training. The general flew with the wing to Royal Air Force Station Sculthorpe, England, in 1952 and served as a crew member and assistant operations officer for the 85th Bombardment Squadron until June 1954. He then moved to McGuire Air Force Base, NJ, as administration officer until his discharge from active duty in December 1954.

General Waldor was commissioned a captain in the Air Force Reserve in December 1954 and assigned to the Air Reserve Center in Newark, NJ. He subsequently joined the 8459th Air Terminal Squadron at McGuire Air Force Base. In 1960, while at McGuire, he organized and commanded the 5th Military Airlift Support Squadron. In 1973 he served as mobilization augmentee to the deputy director of transportation at Headquarters U.S. Air Force, Washington, DC. General Waldor transferred to the Defense Logistics Agency, Cameron Station, VA, in April 1978, as mobilization augmentee to the assistant director for plans, programs, and systems.

In January 1982 he became mobilization assistant to the deputy chief of staff for logistics and engineering at Air Force Headquarters. He was assigned as mobilization assistant to the vice commander, Air Force Logistics Command, Wright-Patterson Air Force Base, OH, in July 1983. He assumed his duties as mobilization assistant to the deputy chief of staff for logistics at Headquarters Tactical Command, Langley Air Force Base, in May 1985.

His military decorations and awards include the Legion of Merit, Air Force Commendation Medal, World War II Victory Medal, National Defense Service Medal, Air Force Longevity Service Award Ribbon with eight oak leaf clusters, Armed Forces Reserve Medal with hourglass device, and Small Arms Expert Marksmanship Ribbon.

In his civilian capacity General Waldor is president of the Brounell-Dramer-Waldor Agency, a general insurance agency in Union, NJ, and director and chairman of the board of the Inter-Community Bank of Springfield, NJ.

General Waldor's civic affiliations include past president of the North Jersey Tennis Association; president of the East Orange Tennis Club; member of the board of overseers of the Jewish Chapel, U.S. Military Academy; trustee of the Jewish Community Federation of Metropolitan New Jersey; Society of Charter Property and Casualty Underwriters; Professional Insurance Association; Independent Agents Association; Reserve Officers Association; Air Force Association; West Point Society of New York; and vice president of the Daughters of Israel Geriatric Center.

General Waldor is married to the former Rita Kaden of Newark, NJ. They have three sons: Marc, Matthew, and Peter.

Mr. Speaker, today Major General Waldor has offically retired from the U.S. Air Force. I am confident that he will continue to serve his country as a private citizen with the same dedication and commitment that marked his 37 years of service to the U.S. Air Force.

BICENTENNIAL CELEBRATION OF AME CHURCH

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. ESPY. Mr. Speaker, the African Methodist Episcopal Church is celebrating its bicentennial this week. The AME Church is one of the greatest voluntary organizations in the country today. The AME ministers and their congregations are constantly serving their communities and assisting those who need a helping hand. But, the AME Church has always had a record of solving society's problems since its inception 200 years ago in 1787.

I am proud to be a part of the AME's bicentennial celebration and to highlight the contributions of the AME Church during this country's antislavery movement, the civil rights movement, and the movement today to ensure justice for all. Before I can go any further, though, I must mention that one of the greatest AME ministers stood in my shoes more than 100 years ago in Washington, DC. He was Rev. Hiram Revels, of Mississippi, the first U.S. Senator of African descent.

Many other AME ministers went to Congress and became prominent. But, the great majority confined their labors to the organization of the church, which has continued to grow and grow. The church's beginnings date back to 1787, when a number of people of African descent, enamored with the spirit of independence in the American atmosphere, withdrew from the St. George's Methodist Episcopal Church in Philadelphia, PA, because the white Christians wanted to segregate them in the gallery of the church.

Richard Allen, a local Methodist Episcopal preacher, was their leader. The Reverend Allen was born a slave in Philadelphia and at an early age was sold to a Delaware farmer. Deeply religious, the Reverend Allen became a dedicated worker and conducted services in the home of his master, who was later converted and, as a result, freed the Allen family.

While working at wood-cutting and hauling, he embraced every chance to preach to both blacks and whites. He traveled to Delaware, New Jersey, Pennsylvania, and Maryland to preach the word of God. Then, in 1786, he was asked to preach occasionally at the St. George Methodist Church in Philadelphia. Because of his personal appeal and excellent presentations, more and more blacks began to attend the services. The whites asked them to move to the back, to the gallery.

Richard Allen said no, just like Rose Parks, just like Fannie Lou Hamer, just like Medgar Evers, just like so many of our leaders in the past. Richard Allen and his followers formed the "Free African Society" which later formed into a national organization in 1816. The Reverend Allen was chosen as its bishop. He never stopped preaching the word and helping people until he died in 1831.

During the next 50 years, the church was confined almost entirely to the Northern States because it was not allowed to operate among the slaves in the South. These churches in the North became extremely active in the antislavery movement and the "Underground Railroad." Before the Civil War was over, hundreds of preachers and teachers had been sent by the AME as missionaries to the South.

And, of course, the story continues. The AME Church has continued to fight for equal treatment for all people. The church was an important piece of the success of the civil rights movement during the sixties. AME churches were open to people to use as an organizational base for their work.

I know that my Mississippi would not be the State it is today without the help of the AME churches, their ministers, and their congregations. I am honored to say thank you today for your help, not only for me, but for all of our people that AME Church has aided in time of need for 200 years.

HOUSE JOINT RESOLUTION 180

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mrs. MORELLA. Mr. Speaker, I am proud to support House Joint Resolution 180, designating October 6, 1987, as "German-American Day."

There is a great friendship between West Germany and the United States which will be symbolized by the opening of the German-American friendship gardens in Washington, DC on October 6.

There has been 300 years of immigration to this country from Germany. The first recorded organized immigration was on October 6, 1683, when 13 families—33 people—arrived in Philadelphia from Kraefeld, Germany. This was the beginning of the Pennsylvania Dutch, which is the mispronunciation of Deutsch.

The 1980 census reported that there are over 52 million people in the United States who claim German ancestry—that is pure and multiple German ancestry—which is 28.8 percent of the total population.

In my own State of Maryland, the 1980 census recorded that 1,017,481 persons—or 24 percent—claimed multiple German ancestry, and 366,844—or 8.7 percent—claimed single German ancestry. Of these, 16,465 were actually foreign born.

The history of German settlement in Maryland goes back to the 1680's in Pennsylvania. German farmers traveled to the Monacacy Valley through Delaware to the fertile farming valleys in Maryland.

The first German heritage day in Maryland was celebrated at Darley's Park on September 12, 1901, where there were at least 25,000 people in attendance.

In August, Rockville—the county seat of Montgomery County—celebrated its 30th anniversary relationship with its sister city of Pinneberg, near Hamburg in the Federal Republic of Germany. There was an exchange of artists and students and an extension of cultural, commercial and educational ties. There is a Pinneberg room in the Rockville Civic Center Mansion.

The ties between our country, my State, my district and Germany are great, and I am also pleased that Octoberfest is quickly becoming a popular American festival throughout our country.

IN OPPOSITION TO H.R. 162

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. PARRIS. Mr. Speaker, I rise in opposition to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act of 1987, for several reasons. Chief among these reasons are the duplicative bureaucracy that would be created under the legislation and the potential costs that would be forced upon employers.

H.R. 162 would create a Risk Assessment Board within the Department of Health and Human Services to determine employee populations at risk of disease and develop a system of notification. The legislation completely ignores existing regulatory mechanisms that address occupational disease and worker health and safety, notably, the Occupational Safety and Health Administration's [OSHA] Hazard Communication Standard, which has recently been expanded pursuant to rules issued by the Department of Labor to cover millions of nonmanufacturing workers, as well as manufacturing workers. Instead, H.R. 162 would create yet another bureaucracy, at the expense of American taxpayers, to basically duplicate work now charged to other bodies. At a time when this Congress is studying all possible means of reducing Federal expenditures, creation of an unnecessary and costly bureaucracy is foolish.

H.R. 162 would require that employers provide and pay for new medical benefits for workers and would mandate employee transfers. Additionally, case history suggests that the bill would result in a proliferation of unwarranted workers' compensation claims for stress, tort suits for emotional harm, and other claims filed by workers against employers. Estimates of the cost to employers of the bill's mandates and the resulting proliferation of law suits run a wide spectrum, but indicate quite clearly that employers, particularly small business employers, would be significantly burdened with new expenses that they simply cannot afford. It would be irresponsible for this Congress to enact legislation, so potentially damaging to our Nation's employers, before we know the true costs of the legislation and its effects upon small business.

I urge my colleagues to vote against passage of H.R. 162 when it comes to the House for a vote and to consider favorably the substitute measure introduced by Congressmen HENRY and JEFFORDS, which would correct many of the deficiencies of H.R. 162 while addressing the need for risk notification, by protecting workers and preventing disease through expansion of the OSHA Hazard Communication Standard.

RESOLUTION EXPRESSING THE SENSE OF THE HOUSE THAT THE SECRETARY OF AGRICULTURE SHOULD MAKE ADVANCE DEFICIENCY PAYMENTS TO FARMERS PARTICIPATING IN 1988 CROP PROGRAMS

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. GLICKMAN. Mr. Speaker, today as the House is considering H.R. 3030, the Agricultural Credit Act of 1987, I want to call the attention of my colleagues to a resolution I have introduced. That resolution expresses the sense of the House that the Secretary of Agriculture should make available to farmers who participate in 1988 crop programs advance deficiency payments. That resolution sends a signal to the Secretary that he should utilize the authority granted to him in the 1985 Food Security Act to ensure an orderly flow of funds to our farmers. If used, as I believe it should be, that authority will help mitigate the credit problems many of our farmers might otherwise face this year and will help alleviate, just as surely, the problems many of our agricultural lenders would otherwise encounter.

There are two aspects to the financial problems our agricultural economy is facing: One aspect concerns the availability of adequate and affordable sources of credit and the bill we are dealing with today, H.R. 3030, goes a long way in meeting that goal. The other aspect is ensuring that producers have the funds to meet those obligations. My resolution deals with that part of the problem.

As a result of the policy of the farm bill to make U.S. commodities more competitively priced and to ensure adequate income for farmers during that period of transition, most of our farmers are participating in government crop programs. They are dependent on a reliable and steady source of funds from those programs for their planning and to meet the obligations they have assumed. During the past few years, the Secretary has made available to those farmers part of their crop payments in advance. To date, however, the Secretary has not made a similar announcement and consequently, the orderly planning process of many farmers has been thrown into disarray.

This resolution will express the resolve of the House that the Secretary use his ability to make these advance payments. It is crucial that the flow of funds farmers have counted on be continued. I want to make absolutely clear to my colleagues that this authority, if used as I believe it should be, will have no adverse affect on the budget. Indeed, while CBO estimates of farm program spending is going down dramatically that assumption includes the making of these payments. Arguably, in fact, the making of advance payments will lessen eventual Government costs by ensuring that producers can stay on the land rather than forgoing their operations and adding new burdens to Government and private sector borrowers.

An identical measure has been introduced in the Senate and I urge my colleagues to join with me by cosponsoring this measure in letting the Secretary know that he should continue the cash-flow our producers need in an orderly fashion.

LA GRAN FIESTA

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. FUSTER. Mr. Speaker, I would like to commend to my colleagues' attention a most remarkable motion picture about Puerto Rico that has received rave notices on the island and in New York, and which is about to be shown in Washington.

I know that my colleagues will be interested in seeing this film, and in recommending it to their friends. The name of the movie is "La Gran Fiesta," and it will be shown on September 25 at the Cerberus Theater as well as on October 23 and 24 at 10:45 p.m. as part of the Latin American Film Festival at the American Film Institute of the John F. Kennedy Center for the Performing Arts.

It is not very often that I commend to my friends and colleagues in the Congress a motion picture that is shown in commercial theaters. But I was so impressed with "La Gran Fiesta" when I saw it at its New York premiere recently that I want to share my enthusiasm with you.

The movie has everything, and the crowds that have seen it are a testimonial to the film's originality, professionalism and plot. The film has also been praised by its technical excellence. I commend it to you.

A CONGRESSIONAL SALUTE TO DIONNE WARWICK

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. FAUNTROY. Mr. Speaker, I am pleased to join with my colleague WILLIAM H. GRAY III, in honoring a multitalented singer, recording artist, concert performer, and great humanitarian, Ms. Dionne Warwick.

In recognition and in appreciation of her 25 years in the entertainment industry and for her extensive efforts on behalf of humanitarian causes worldwide, we pay tribute to her special musical talent and celebrate her commitment to and generosity in improving the quality of life for those who suffer from chronic diseases.

Dionne Warwick's unique and distinctive singing style has earned her Grammy awards, an NAACP Image Award, an Emmy Award nomination and a Peabody Award nomination, among many others. Her list of hit songs include: "That's What Friends Are For," "I Know I'll Never Love This Way Again," "Deja Vu," "I Say A Little Prayer," and "Do You Know The Way To San Jose?" She teamed up with Stevie Wonder on the music score for the film "The Woman in Red" and was listed as the music coordinator in the film credit.

Throughout her career, Ms. Warwick has actively supported diabetes research, the treatment of blood related diseases, alcohol prevention, famine relief projects, and efforts to combat sickle cell anemia. Last year, she was named chairwoman and spokesperson for the Sudden Infant Death Syndrome Foundation. Her concern for those who suffer from all blood related diseases, was the basis for the formation of her own charity group, Blood Revolves Around Victorious Optimism [BRAVO]. The BRAVO chapter was subsequently designated the official AIDS Research Chapter of the city of Hope.

The recipient of many honorary degrees including an honorary juris doctorate from the University of Los Angeles, School of Law, an honorary doctorate of humane letters from Bethune-Cookman College, Ms. Warwick has taken an active role in encouraging young people to pursue higher education. In 1985, she established the Dionne Warwick Scholarship Foundation, which has awarded over 50 students with educational assistance.

Mr. Speaker, the music industry and the world have benefited greatly from Dionne Warwick, a woman of grace, style, compassion and caring. Her singing continues to touch the young, the old, the rich and the poor, and her giving spirit has brought joy to the world.

DEPUTY CHIEF MOIR TO RETIRE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. FLORIO. Mr. Speaker, after 29 years of continuous, uninterrupted service to the community and the police department, Deputy Chief Robert Moir is leaving the Audubon Borough Police Department in New Jersey.

Mr. Moir's 29 years go all the way back to 1959. He served his Nation in the defense of freedom in World War II, and he served his community in upholding law and order, serving the Borough of Audubon with dedication.

Often, local police officers such as Deputy Chief Moir are overlooked, and in many cases for good reason. In their round-the-clock pursuit of justice, they keep our cities and communities safe. When crime is nowhere to be found, our communities rest more easily and the officers are often forgotten.

Deputy Chief Moir is one of the many officers across the Nation who provide an essential service to the citizens of the Nation. For his years of service, it is time to remember the part that he has played in bringing a little order to the Nation.

In recognition of the long service of this one man, Deputy Chief Moir, the police department and the citizens of Audubon will pay tribute to him with a retirement dinner on October 23.

I am pleased to honor Deputy Chief Moir for his services. His 29 years of contributions to the community have made me as much a beneficiary of his good work as the citizens of Audubon.

Deputy Chief Moir served first at the front lines of battle. His commitment to his fellow citizens, though, was not fulfilled in defending peace in time of war.

Instead, Robert Moir donned a different, but equally important, uniform in protecting the streets and homes of Audubon.

In retirement, every officer continutes to carry his badge and the proud tradition that first led him to serve the public.

Along with his friends and family, I am extending Deputy Chief Moir my appreciation and congratulations. May his years in retirement be as rewarding as the 29 years of a distinguished law enforcement career that preceded.

A TRIBUTE TO CHRISTOPHER FOX

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. GEKAS. Mr. Speaker, Tuesday, September 29, 1987, will be remembered as a very special day in the life of one young man from my district, Christopher Fox of Northumberland, PA. Chris Fox, son of Rev. and Mrs. James Fox, has earned Boy Scouts' highest honor—the Eagle Award—which he will receive before family and friends at an induction ceremony at Trinity United Methodist Church, Northumberland.

Chris has had his eye on the Eagle rank ever since he joined scouting as a Cub Scout with Pack 53 in 1978. He quickly advanced through the ranks of Wolf and Bear, Webelos, Arrow of Light, and Tenderfoot.

For his Eagle project, Chris, a member of Boy Scout Troop 342, Susquehanna Council of Boy Scouts of America, organized and distributerd 1600 "Vial of Life" kits to his community. The kits contained plastic bottles that the sick or elderly could use to store medical information for medical personnel in case of an emergency. He received wide community support for his project.

Chris has displayed excellent service and leadership capabilities in his work with Scouts. Besides earning merit badges and ranks, he has earned the God and Family, God and Church; and will receive the God and Life Award.

I would ask my colleagues in the U.S. Congress to join me in extending congratulations to Chris Fox for earning this worthy and special award. He has made his Congressman very proud. I wish him great success in his future endeavors.

THE 65TH ANNIVERSARY OF THE GERRITSEN BEACH CIVIC ASSOCIATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. SCHUMER. Mr. Speaker, I would like to recognize today, the 65th anniversary of the Gerritsen Beach Civic Association from my district in Brooklyn. In this year of the 200th anniversary of our Constitution it is only right that we celebrate the grassroots community involvement on which our system is based. Gerritsen Beach Civic stands as a magnificent example of just this sort of involvement.

For 65 years this group has been at the forefront of the movement for civic improvement. These are citizens freely giving of their time and effort for the good of community life. The beautiful parklands, roads, and waterways of Gerritsen Beach are testimony to their dedication.

On Saturday, September 26 the group will hold a ceremony marking this anniversary. I take this opportunity to wish Gerritsen Beach Civic Association and their President Ann Dietrich congratulations on 65 years successful and productive years and my best wishes for 65 more.

TRIBUTE TO IRVING AND GERTRUDE SWERDLOW FAMILIES AGAINST CANCER TERROR [FACT]

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. WORTLEY. Mr. Speaker, when a family loses a dear one to cancer, they usually pull together and unite on each other's inner strength. This is certainly understandable given the tragic circumstances.

Irving and Gertrude Swerdlow, however, are an unusual couple. After losing their son Paul, a brilliant physician, to cancer, the Swerdlows reached out to the community and formed an organization, Families Against Cancer Terror [FACT].

FACT is composed of community leaders from the private sector, State and local government, and families who have lost a loved one to cancer or are currently struggling with the disease. FACT is a support group that reaches out to the community to offer guidance to those in need and to educate the public about the facts surrounding cancer.

This all-volunteer organization has held rallies and information seminars to disseminate the facts both locally and around the Nation. The Swerdlows have taken their cause to other cities to assist them in forming support groups like FACT.

Last spring, the Swerdlows traveled here to Washington to testify before the Senate Appropriations Committee, Subcommittee on Human Resources. They urged the committee to appropriate more funds for the research and treatment of cancer. In these times of fiscal restraint, the Swerdlows felt that it wouldn't be enough to limit their activities to the State and local levels. They felt that it was imperative that Federal lawmakers understand the importance of continued support for cancer programs.

I extend the highest level of praise and support to the Swerdlows who have taken a most unfortunate situation and made it an invaluable learning experience for us all. As their Congressman in Washington, I know that the Nation is now better informed due to their efforts.

ELDER COTTAGE HOUSING OPPORTUNITY ACT

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. DWYER of New Jersey. Mr. Speaker, in recent years there has been increasing concern and interest in alternative approaches for housing for our Nation's elderly. Because of my concerns, I have recently introduced the "Elder Cottage Housing Opportunity Act," legislation which will increase the housing options available to senior citizens and their families.

An ECHO unit is a small, freestanding, barrier-free, energy efficient, removable housing unit that is installed adjacent to existing single-family houses. Usually, the unit is installed on the property of adult children. Interest in ECHO units has been stimulated in this country by their 10-year success in Victoria, Australia, where they are known as "granny flats."

The advantages of ECHO units are many. Because the units are removable, they are not viewed as contributing to the density of existing neighborhoods, unlike the traditional conversion of a basement or a garage into an apartment. They are cost effective; certainly less expensive than the construction of a senior apartment complex. Most importantly, they give older people the feeling of independence while allowing them to be near their families.

The "Elder Cottage Housing Opportunity Act" would make ECHO units eligible for funding under the section 202 program, allowing nonprofit organizations to purchase the units and then lease them to individual homeowners. In addition, those individual consumers wishing to purchase an ECHO unit would be eligible for FHA mortgage insurance.

This legislation would transform an appealing concept into a viable housing choice for seniors and their families and I invite your cosponsorship.

ANNUAL REUNION OF DEPARTMENT OF PENNSYLVANIA, CHINA, BURMA, INDIA VETERANS ASSOCIATION

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MURTHA. Mr. Speaker, on October 2, 3, and 4, Greensburg will be the location of the annual Department of Pennsylvania, China, Burma, India Veterans Association meeting.

These veterans of World War II deserve our continued recognition and attention. Our Nation should never forget the commitment these veterans made to the causes of freedom, liberty, justice, and equality which we all enjoy as Americans.

A few years ago, I had an opportunity to stand at the Berlin Wall. It is one of the terrible structures ever erected by man. And as I stood and observed that horrible wall, it occurred to me that America was the only Nation in the world that had to erect barriers to keep out all the people who wanted to come into our Nation, while East Germany had to erect a barrier to keep its people from leaving its world of communism.

It is that spirit of America which lights a beacon of hope to people around the world that we join in celebrating with the World War II veterans gathered in Greensburg for this reunion. It is a spirit that will never die, that has been preserved by these brave veterans, and that will never be forgotten by Congress or the Nation.

It is a pleasure for me to recognize this annual reunion.

INTRODUCTION OF H.R. 3312, TO AMEND THE INTERNAL REVENUE CODE OF 1986 TO CLARIFY THAT SECTION 457 DOES NOT APPLY TO NONELECTIVE DEFERRED COMPENSATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. MATSUI. Mr. Speaker, I am today joining Mr. VANDER JAGT and many of my colleagues on the Committee on Ways and Means in introducing bipartisan legislation which would reverse an erroneous interpretation by the Internal Revenue Service concerning the application of section 457 of the Internal Revenue Code to nonelective deferred compensation. This provision was originally enacted in 1978 to apply to State and local government employees and was extended by the Tax Reform Act of 1986 to private tax-exempt employees.

Let me briefly explain the importance of this legislation. Under the erroneous IRS interpretation of section 457, employees of State and local governments and private tax-exempt organizations would be taxed currently on income which:

They have not received;

They never had the right to elect to receive; and

They may never receive if they die or the employer becomes insolvent or otherwise unable to pay such amounts prior to the time actual payment is to occur.

Under this interpretation, individuals would be taxable currently on amounts they have not yet been paid under vacation pay plans, sick pay plans, severance pay plans, supplemental retirement plans, and reduction in force plans.

I do not believe the Congress intended to accomplish such an obviously unfair result. A review of the legislative history related to this legislation indicates that this was not the intent of the Congress. Failure to adopt this clarification will result in chaos for the State and local government community and the private tax-exempt community. The erroneous IRS interpretation possibly dictates that State and local government employers amend previously issued W-2 forms for affected employees and that such employees amend previously filed tax returns.

The section 457 task force that supports this important legislation is a broad-based group of State and local government employers and private tax-exempt employers representing millions of State and local government and private tax-exempt employees. I believe the broad-based group of organizations supporting this legislation underscores the need for this clarification. This legislation should have no revenue impact because it simply affirms Congress' original intent.

In introducing this legislation, I believe it is important to emphasize that this is the first step in the legislative process. As the legislation is considered, it will be important to consider all ramifications raised by the legislation to ensure that any realistic abuse potential is avoided. This will require striking a balance between what I view as two important policy objectives. The first policy objective is to avoid taxation of individuals on income they have not yet received and never, in fact, had the right to elect to receive. The second objective is to ensure that no realistic abuse of the private pension objectives occurs.

I urge all my colleagues to join me as a cosponsor to assist in eliminating the uncertainty which has been created by the IRS interpretation of section 457 for millions of State and local employees and private tax-exempt employees.

HATS OFF TO WHMM TV 32

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1987

Mr. RANGEL. Mr. Speaker, recently, President Reagan presented the 1987 Presidential Award for Private Sector Initiatives to Howard University's WHMM TV 32 for its excellent community service broadcasts. An honor which is long overdue.

WHMM TV was recognized for its highly successful "Stay In School" project, which was designed to devise ways to minimize school truancy, increase regular school attendance, and to eradicate illiteracy.

The station was among four broadcast stations selected nationally to receive the award, and was also the only public broadcast station and one of two stations in the Washington, DC, metropolitan area honored. Arnold Wallace, WHMM's general manager was presented the award in a ceremony held at the White House Rose Garden last month by Mr. Reagan.

Hats off to WHMM and its remarkable staff for a job well done, and for its unique interest in providing its viewing audience with clean and pure programming.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 22, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 23

9:00 a.m.
Rules and Administration
Business meeting, to consider S. 1490 and H.R. 2249, bills to designate certain employees of the Library of Congress as police and to require the rank structure and pay for such employees to be the same as that for the Capitol Police, H.R. 60, to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection, and House Joint Resolution 309, to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress, and other pending legislative and administrative business.
SR-301

9:30 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
Business meeting, to resume markup of S. 1665, Farm Credit Act of 1987.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Business meeting, to mark up proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health-protective national air quality standards.
SD-406

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on the impact of proposed catastrophic health legislation on the Federal Employee Health Benefit program and the Federal annuitant.
SD-342

Joint Economic
Education and Health Subcommittee
To hold hearings on the competitiveness and quality of the American work force.
311 Cannon Building

10:00 a.m.
Foreign Relations
Western Hemisphere and Peace Corps Affairs Subcommittee
Closed briefing on the situation in Panama.
S-116, Capitol

Judiciary
To continue hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.
SR-325

11:00 a.m.
Foreign Relations
Business meeting, to consider pending calendar business.
S-116, Capitol

2:00 p.m.
Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
Business meeting, to mark up S. 1665, Farm Credit Act of 1987.
SR-332

Energy and Natural Resources
Research and Development Subcommittee
To hold hearings on S. 1294, to promote the development of technologies which will enable fuel cells to use alternative fuel sources, S. 1295, to develop a national policy for the utilization of fuel cell technology, and S. 1296, to establish a hydrogen research and development program.
SD-366

Select on Indian Affairs
Business meeting, to mark up S. 1475, to establish a clinical staffing recruitment and retention program within the Indian Health Service, and H.R. 2937, to make miscellaneous technical and minor amendments to laws relating to Indians.
SR-485

SEPTEMBER 24

9:00 a.m.
Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

10:00 a.m.
Foreign Relations
To hold hearings on the South Pacific Regional Fisheries Treaty (Treaty Doc. 100-5), and the International

Wheat Agreement, 1986 (Treaty Doc. 100-1).

SD-419

SEPTEMBER 25

9:30 a.m.

Governmental Affairs

Federal Spending, Budget, and Accounting Subcommittee

To resume hearings to examine the results of a General Accounting Office survey regarding the accounting procedures and processing of seized cash and properties by Federal agencies.

SD-342

10:00 a.m.

Finance

To hold hearings on the nomination of John K. Meagher, of Virginia, to be Deputy Under Secretary of the Treasury for Legislative Affairs.

SD-215

Judiciary

To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

SEPTEMBER 28

9:30 a.m.

Governmental Affairs

To hold oversight hearings to review inventory control and surpluses by Federal agencies.

SD-342

10:00 a.m.

Judiciary

To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

SEPTEMBER 29

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1645, authorizing funds for certain Indian educational programs.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study to review coastal zone management consistency provisions.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on Federal procurement decisions concerning Wedtech Corporation.

SD-342

10:00 a.m.

Judiciary

To continue hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 2121, to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia, H.R. 1983, to authorize the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and S. 858, to establish the title of States in certain abandoned shipwrecks.

SD-366

SEPTEMBER 30

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on the safety of military charter flights.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Oversight of Government Management Subcommittee

To continue oversight hearings on Federal procurement decisions

SD-342

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

OCTOBER 1

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

2:00 p.m.

Energy and Natural Resources

To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.

S-407, Capitol

OCTOBER 2

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the implementation of the Reclamation Reform Act of 1982.

SD-366

OCTOBER 6

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on pipeline safety.

SR-253

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

OCTOBER 7

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

OCTOBER 8

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on tourism marketing.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings on government handling of Soviet and communist bloc defectors.

SD-342

OCTOBER 9

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on government handling of Soviet and communist bloc defectors.

SD-342

OCTOBER 15

10:00 a.m.

Small Business

To hold oversight hearings on the Small Business Administration small business development center program.

SR-428A

OCTOBER 20

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers and to review the Interstate Commerce Commission consideration of railroad line sales.

SR-253

OCTOBER 21

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.

SR-253

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

NOVEMBER 4

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

NOVEMBER 5

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.

SR-253

NOVEMBER 10

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 12

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

CANCELLATIONS

SEPTEMBER 22

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

11:00 a.m.

Environment and Public Works

Business meeting, to mark up proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

SEPTEMBER 24

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

SENATE—*Tuesday, September 22, 1987*

The Senate met at 8 a.m. and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Hear ye now what the Lord saith; * * * He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?*—Micah 6: 1 and 8.

Holy God, Your words are plain and simple and basic. Where would we be without justice, kindness, and humility before You? Forgive us for the arrogance which elevates ourselves as though we are gods and have all the answers. Help us to see ourselves—to evaluate ourselves in the light of truth. Remind us of the terrible and tragic consequences in history when a society and its leadership abandon justice. Give to the leadership of our Nation a passion for righteousness and integrity. Deliver us from the destructive force of relative values and ethical anarchy. Make this a place dominated by unequivocal moral and ethical values. In the name of Jesus Christ—for the glory of God and the welfare of the people. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 22, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished Senator from West Virginia, the majority leader, is recognized.

THE JOURNAL

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, I thank our Chaplain for reading from the Book of Micah this morning and for his strengthening prayer: For "what doth the Lord require of Thee, but to do justly, and to love mercy, and to walk humbly with Thy God?"

BORK HEARINGS GOING WELL

Mr. BYRD. Mr. President, last week we celebrated the 200th anniversary of our Constitution, one of the greatest documents of its kind ever written by the hands of man.

Celebrations were held throughout the country, including an impressive ceremony on the steps of the Capitol.

But no celebration, however fervent or elaborate, could have been a more fitting tribute to the work of the framers than the discussions on the history and purpose of the Constitution that took place in the hearings on the nomination of Judge Robert Bork to be a Supreme Court Justice.

I commend our colleague from Delaware, Senator BIDEN, for the exemplary way in which he has been chairing these historic hearings. When Judge Bork was testifying, Senator BIDEN made sure that every member of the committee was given the opportunity to question the nominee at length, and he allowed Judge Bork to respond fully and to offer his own comments. The committee members kept their questions on a high plane, so that the issues discussed were those of principle, not personality.

For his part, Judge Bork handled himself with a combination of stamina, wit, and intelligence. He expressed his views with eloquence and considerable clarity, and he offered opinions on a broad spectrum of issues.

The result was not only what Judge Bork might term "an intellectual feast," but also an explanation to the American people of the fundamental principles behind our system of law. Part history lesson, part legalist seminar, and part debate, the hearings provided our citizens a rare opportunity to learn about the Constitution and the beauty of its application.

Reasonable men and women can and do differ about the merits of Judge Bork's nomination, and like many others in this body, I have not yet made up my mind. The hearings so far have been exemplary in their depth and breadth. They have been extremely helpful, I think, to all of us, and I am eager to follow them to their completion.

RESERVATION OF TIME

Mr. BYRD. Mr. President, I reserve the remainder of my time. I ask unanimous consent that the time of the Republican leader may be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BICENTENNIAL MINUTE

SEPTEMBER 21, 1814: THE SENATE MEETS AFTER CAPITOL IS BURNED

Mr. DOLE. Mr. President, 173 years ago this week, September 21, 1814, marked the 3d day, of the 3d session, of the 14th Congress. An examination of the "Annals of Congress" reveals that something unusual was afoot. On the 21st, for example, a resolution passed without opposition authorizing Senate Sergeant-at-Arms Mount Joy Bayly "to employ one assistant and two horses." Why, in the fall of 1814, did the Senate suddenly find itself in need of assistants and horses? The answer lies in the fact that the Senators were not meeting in the Capitol Building, but in Blodgett's Hotel downtown.

The War of 1812 was still raging on American soil. Scarcely a month before, on August 24, the British had marched into Washington virtually unopposed, and had set fire to the Capitol. Only a torrential rainstorm prevented them from burning it to the ground. As it was, the dome and the roofs of both wings lay in ashes. Smoke-stained walls pierced by gaping holes where windows once had been, memorialized the Nation's humiliation. The new assistants and horses, along with other special provisions passed in the early days of this 1814 "special session," represent the Senate's efforts to try to get its affairs back in order.

For more than a year, the Senate met at "Blodgett's," with assistants and horses making frequent trips between the blackened Capitol and the old hotel. Then, in December 1815, the Congress moved to new quarters on Capitol Hill. Washington businessmen, eager to keep the Government in their

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

city, built a large red brick structure specifically to house the displaced Members on the site now occupied by the Supreme Court Building. Congress met in the "brick Capitol" for 4 years, until the Capitol across the street was refurbished in time for the opening of the 16th Congress in December 1819.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 8:30 a.m., Senators being permitted to speak therein for 5 minutes.

The Senator from Wisconsin.

CONGRESS' POPULAR AND CONSTITUTIONAL RIGHT IN FOREIGN POLICY

Mr. PROXMIRE. Mr. President, in this year of our celebration of the 200th birthday of the Constitution, the Senate has been vigorously debating on the floor of this body the respective constitutional authority of the President and the Congress in foreign policy. So what is the answer? Let us get right to it: In this era of failed Presidencies what constitutional right does the Congress have to act when the President commits such monumental foreign policy blunders as President Reagan. Think of it. Here is a President who authorized the sale of 2,000 deadly missiles to our Mideastern adversary, Iran. Why did he do it? Because he wanted to make a concession to a country that held our hostages. Did the Secretary of State not tell country after country that they should not sell arms to Iran? Did he not plead with them not to make concessions to terrorists? Did the President not solemnly announce as a cardinal tenet of his administration that this country would not make concessions to terrorists ever under any circumstances? Did the administration not also flatly violate the law—specifically the Boland amendment—by transferring millions of dollars from the sale of these missiles to the Contra rebels in Nicaragua? In these circumstances does the Congress have no constitutional recourse to intervene and struggle for the integrity of our foreign policy? Was the Congress wrong to move as it did to end Lyndon Johnson's failing foreign policy in Vietnam? Can the Congress only call the President to account as it did with President Nixon, President Johnson, and President Reagan after the failing policy, foreign or domestic, has been perpetrated?

Mr. President, all of us are proud that our country is a democracy. What does democracy mean? It means that whatever authority any of us—Senators, Congressmen, or even the President—wields we derive from the people. So how do the people of our country feel about the President and the Congress in foreign policy? Last November—well before the Iran Contra hearings, the New York Times and the Columbia Broadcasting System jointly polled a scientifically selected cross section of the American people on this issue. Here is the question they asked: Whom do you trust more in foreign policy, the Congress or the President? The public's answer: the Congress 61 percent, the President, 27 percent. Last July after the public phase of the hearings were winding to a conclusion, the New York Times and the Columbia Broadcasting System asked the same question again. This time the answer was almost identical: the Congress 60 percent, the President, 25 percent.

Now think about that popular response for a long minute. Can we interpret that response in any way except that the sovereign people in this democracy feel that the Congress must exert some substantial responsibility for foreign policy? Do you counter—but where is the constitutional authority? Do you say, "Sure we're a constitutional democracy. But does that mean the voice of the people is the voice of God?" No, it does not. Any action the Congress may take in foreign policy should be clearly on all fours with the Constitution.

So, what foreign policy discretion does the Constitution give the Congress? The answer is: Plenty. Above all, the Constitution gives the Congress firm power over the purse. Congress, not the President, has the full and final determination over how much we spend to carry out our foreign policy. A President, as Commander in Chief of all U.S. Armed Forces, takes military action. Congress must authorize the funds to pay for that military action. It can circumscribe those funds in any way it wishes. For example, if a President wishes to renounce an arms control agreement by building more missiles than the agreement permits, or be deploying a military system that the treaty forbids, he can only do so if he can persuade the Congress to appropriate the money necessary to perpetrate the violation. The Congress, for example, is free to maintain SALT II's limitation as long as our intelligence experts tell us that the Soviets are not violating the treaty. How does Congress enforce our compliance? Easy. Congress simply refuses to provide funding for the proposed violation. In the same way, the Congress can force the administration to abide by the ABM Treaty which forbids the deployment of a missile defense like SDI. How does Congress do it? Congress refuses to fund such a missile defense.

Is this constitutional? Of course, it is constitutional. As I have pointed out, the Constitution gives the Congress, not the President; it gives the Congress control over Federal spending. So, there you have it. Both the people's will as expressed in reliable and respected public opinion polls and the Constitution attest to the competence and the right of the Congress to act in crucial foreign policy matters including compliance with arms control treaties.

Mr. President, I yield the floor.

PROGRESS TOWARD AN INF TREATY

Mr. BYRD. President Reagan has announced that Secretary of State Shultz and Soviet Foreign Minister Shevardnadze have reached "agreement in principle" on the basic outline of a treaty limiting intermediate range nuclear forces [INF]. A summit meeting between Mr. Reagan and Mr. Gorbachev, we hear, may occur later this fall. This means it is likely that an INF Treaty will be submitted to the Senate for the Senate's advice and consent to approve ratification sometime in the near future. Some progress is also reported on other arms control issues, such as nuclear testing.

These developments must be welcomed, and I do welcome them. But at the same time I believe we must not let progress on this one issue of United States-Soviet relations obscure the fact that there remain many important and difficult issues which will require attention.

First, let me comment on the prospective INF Treaty. This agreement is clearly likely to contain some valuable features. It will require the elimination—on a global basis—of one class of nuclear weapons. This has never occurred in the history of nuclear arms control. Second, the Soviet Union will agree to dismantle more nuclear warheads than the United States will destroy, helping to correct an imbalance caused by the Soviet buildup. These are positive developments.

The Senate of the United States will give the treaty, at the appropriate time, a careful and thorough examination. As I have noted on more than one occasion this week, the Senate is not a rubber stamp. Many Senators, and I certainly include myself in this group, will want to assure themselves about issues such as adequate verification, the support of our NATO allies, the implications for our defense policy in Europe, and the relationship of agreement on these issues to progress on the other arms control talks currently underway in Geneva, before advising ratification.

The enthusiasm some might feel over the fact that—after nearly 7 years—the Reagan administration may finally manage to reach an arms control agreement on these weapons should not blind us to the very real problems which remain unresolved and, in my opinion, not seriously addressed, by this administration.

Let us not forget that while Mr. Shevardnadze was here in Washington talking about arms control in Europe, the Soviet Army remains in Afghanistan nearly 8 years after the Soviet invasion of that poor country doomed the last arms control treaty between the United States and the Soviet Union. I hope that Senators will remember this historical perspective as we examine the new treaty that comes to the Senate.

I also point out that while talk of arms reductions in Europe proceeds in Washington, in Europe itself, near Berlin, an American soldier was shot and wounded last week by a Soviet soldier. This is a grim reminder of past Soviet misconduct and the fact of continuing tensions.

The Secretary General of NATO, Lord Carrington, has cautioned against "euphoria" over the arms pact. He notes that it will require NATO to examine carefully all aspects of its defense policy. This is good advice, advice which all of us should keep in mind in the months ahead.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEEPER IN DEBT

Mr. BYRD. Mr. President, recently, we had more bad news on the international economic front. The second quarter figures for the United States current account reported a $41 billion deficit—more than $4 billion larger than the almost $37 billion in red ink recorded in the first quarter. The total for the first 6 months has now passed the $77 billion mark.

And this understates the problem, Mr. President. The current account figures for the first 6 months of the year do not contain the bad news from July's record $16.5 billion trade deficit.

The current account, Mr. President, is the best measure of how the United States is faring in its transactions around the world. It includes the figures for trade in goods, the sale of internationally traded services, and pension checks sent to retired Americans living overseas.

There is another part of the current account that we often ignore, Mr. President. It records the earnings on a whole range of overseas investments owned by Americans. Foreigners earn profits and interest from their American investments, but for many years, our overseas investments were so much larger than foreign investments in the United States that we had a healthy surplus of investment income.

Because we have become a debtor nation, Mr. President, that surplus is eroding. In 1981, the investment surplus was $34 billion. By 1986, the surplus had slipped to $20.8 billion. For the second quarter, the surplus shrank to $1.6 billion. At that rate, Mr. President, the surplus on investment income will be a thing of the past by the end of the year.

The world's largest creditor has slipped from being the world's largest creditor to the world's largest debtor in the course of the last 5 years.

America first entered the creditors club during World War I and steadily built its overall investment position to a peak in excess of $140 billion in 1981. Then, Mr. President the slide began. Early in 1985, we became a debtor nation. Late in 1985, we shouldered Brazil aside to become the world's largest debtor. By the end of 1986, our overall investment position was more than $260 billion in the red. Our external debt is already larger than that of Brazil, Mexico, and Argentina combined. At the current rate, our debt will be well past the $400 billion level by the end of the year. By the end of the decade, we could be approaching the $1 trillion mark. The dance of debt, Mr. President, no longer has a strictly Latin beat.

For the past few years, the extent of our external debt problem has been obscured by our well established direct investments, which proved more profitable than more recent foreign investments in the United States. In some cases, foreign firms are still in the process of building their factories and digesting their American acquisitions. Exchange rates have also made a difference. Because the dollar has fallen against major currencies, overseas profits earned in marks and yen translate into a larger number of dollars.

But this grace period is just about over. Soon—next month or next quarter, certainly by early next year—we will begin to borrow money to pay interest on the money that we have already borrowed. We will have to sell more to the world just to stay even. When a family or a business finds itself in that position, it is in very serious financial straits.

Now there is nothing wrong, Mr. President, with borrowing money. The question is—what do you do with it? In the 19th century, a tide of foreign capital flowed into railroads and ranches and lifted the prosperity of the entire Nation. These were investments that paid dividends to foreign investors but also laid the foundation for the productive American economy.

Between 1981 and 1986, we have, in effect, borrowed $400 billion from the rest of the world. Where has the money gone this time, Mr. President?

Not into productive investments. After allowing for depreciation, this country is investing about the same percentage of GNP today it has over the past 30 years. In 5 short years, we have frittered away an international credit position built up over more than six decades. And we have little to show for it. It has been a case of billions for the present and not a penny for the future.

And that future does not look promising. When we embarked on the tide of red ink, we started to sail on unchartered waters. Can we be the world's largest debtor and still be home to the world's principal reserve currency or will the yen or mark eclipse the dollar? Can we resist the temptation to simply print the dollars we owe to the rest of the world or will we ignite a new round of inflation? Can we lead the Western alliance one day and appear hat in hand looking to borrow the next. How can we have national security without economic security?

Without any national debate, without a thought for tomorrow, we have borrowed billions that our children must repay. Our once independent financial markets worry that European or Japanese investors might look elsewhere for investment opportunities. The administration wants to stand tall, Mr. President, but they are wearing borrowed boots. It is yet another example of the long-term costs of this administration's short sighted policies.

PRESIDENT OSCAR ARIAS SANCHEZ

Mr. BYRD. Mr. President, the distinguished and highly respected President of Costa Rica, Oscar Arias Sanchez, delivered an address in the House Chamber this morning which was a testimonial to the long history of unbroken democratic traditions in that nation. It was also an eloquent affirmation of his personal commitment to democracy, peaceful economic development in the Central American region, and an end to the debilitating influence of war and violence.

As my colleagues are all very much aware, it was the personal political initiative of President Arias, in bringing all five Central American countries together in Guatemala City in early August, which changed the current political landscape of that region. His vision of a framework for peace, including the need for all five countries to make political commitments and take political risks for peace, was embodied in the agreement signed in that city on August 7. No one can say that it will work, or that it will not work, or how it will finally be realized, but without political will and good faith efforts to make his plan work, there will be little progress and there would be little prospect that the pattern of suspicion and bloodshed in the region will be broken.

Mr. President, the initiative taken by the Central American countries is commendable and we should encourage the good faith implementation of the plan which was decided upon. It is my hope that the full force of American influence and diplomatic efforts will be used to help realize the plan in its entirety, and that the democratization process will not only be revitalized in Nicaragua, but enhanced for Nicaragua's neighbors as well. El Salvador and Honduras and Guatemala are now democracies, but they have not always been so, and they are fragile democracies indeed. So this is a plan for the region as a whole, even though our particular focus is on the pattern of events as they unfold in Nicaragua.

I was, frankly, disappointed in President Reagan's approach to the situation in Central America, in the context of his address to the United Nations yesterday. The focus of his remarks was negative, emphasizing the Contra operation and downplaying the process of implementation of the Guatemalan peace accord on the eve of President Arias' visit to Washington. I understand he met with President Reagan this morning. I would have hoped that the President would have been positive and would have fully committed his administration to make the plan work. Instead, his comments seemed to imply that the United States is just an observer in this process, cheering on the sidelines for the Contras, judging in advance that actions by the Government of Nicaragua are phony. I urge the President to galvanize his administration to rethink its lukewarm and passive attitude toward the Guatemala City accords and support the actions by Presidents Arias, Duarte, Azcona, and Cerezo to make a breakthrough in Central America.

Mr. President, we are all concerned about not only the democratization of Nicaragua, but also the security relationship and involvement of the Soviet Union and Cuba in Nicaragua. I have long felt the administration should directly test the Sandinista government on its willingness to cut those ties, to remove Soviet bloc influence, end any question of Soviet bloc bases, cut off its umbilical cord of military assistance from those nations, and rejoin the hemisphere. The administration is eager to negotiate with the Soviet Union on arms control.

Its eagerness is apparent to everyone. The more meetings, the more agreements the better, it would seem. We can go the extra mile with the Soviet Union, our chief adversary, but we cannot talk to the Sandinista government. Why not? The United States is not an observer in the dynamics of Central America. The United States is not a bit player. We are playing a major role. The Contras would atrophy and perish, it is said, without American aid.

Mr. President, we cannot dodge responsibility for what happens in Central America. We are involved. I urge the administration to call upon the Sandinista government to negotiate directly to resolve the major security questions which concern us all—and particularly the United States.

It is unfortunate that no mention was made of the commitment by the Sandinista government to allow La Prensa, the major opposition newspaper in Nicaragua, to operate immediately and without censorship. Here is a clear test for the Sandinista leadership. Will it permit free expression to again exist in Nicaraguan society? The announcement is certainly a welcome step in the right direction—one which we have all called for over the last year—and we now have the beginning of a measurable process in connection with the Guatemalan accords.

It is very unfortunate that the President chose to strike a flat negative tone in his remarks before the world body in New York yesterday.

The remarks by President Arias in the Chamber of the House this morning struck a vigorous positive theme. It is a good theme, in the American tradition. He said:

> As we stand at the crossroads of peace and development or war poverty, we must not make the wrong choice, for neither you nor we can undertake this struggle separately. The struggle for peace in Central America is the historic struggle of democracies. Now, as never before, a time has come in history for the people of the United States and of Costa Rica to bring to bear the full power of the principles and values they share.

I commend the President of Costa Rica on his vision and his courage. I commend his speech to the reading of my colleagues.

I ask unanimous consent that the text of the speech may be printed in the RECORD.

There being no objection, the text of the speech was ordered to be printed in the RECORD, as follows:

LET'S GIVE PEACE A CHANCE

(By Oscar Arias, President of Costa Rica)

PRIDE OF A FREE PEOPLE

On behalf of a fellow democracy, I thank you for the invitation to speak here. I should like to say a special word of appreciation to the Speaker of the House of Representatives, the Honorable James Wright, for his constructive interest in peace and development, and to all those who are here today. Many of you are known to me personally. Some I have met during visits here, while others have talked with me in Costa Rica.

What a splendid opportunity it is to address Congress, where you sit as the freely-elected representatives of your constituents. Surely parliament is the finest hall of freedom in a democracy, for it represents both the power of justice and the soul of a free people.

There is only one offense that can be committed here, and that is not to speak freely, sincerely and truthfully. So I have come to speak as a free man, with the same pride that you feel and with the freedom that makes all persons and nations equal. In 1921, the Costa Rican educator Joaquin Garcia Monge said:

"Even small nations, if they are worthy, if they are not servile, if they are enlightened and hard working have the same right to freedom as any great nation. People, who rise up as one to defend their most cherished freedoms are possessed by the only true sacred passion."

Differences that do not separate us

There are any number of differences between this powerful nation and Costa Rica. Differences of size: Mine is one of the smallest countries and yours is one of the largest. Differences of population: my homeland has two and one-half million people; the United States, two hundred and fifty million. Differences of wealth: Fifteen hundred dollars per capita in my country; fifteen thousand in yours. Differences of armament: My country maintains no military establishment whatsoever; your Nation has found it necessary to maintain a powerful military force.

Yet none of these differences separates us. Not one alters our status as brothers in freedom. For the great nation you represent and Costa Rica share the most noble values won by mankind since the dawn of history: Democracy, freedom, respect for human rights, and the struggle for justice and for peace. We both believe in the wisdom of pluralism, and in the rule of law.

Our countries stand as equals, united by the values we hold dear and our efforts to put them into practice. I know that you want to share with us your finest achievements, just as we want to share with you our joy in liberty and the affection and hospitality of our people.

The dialog of friendship

The relationship between our two countries has been a model friendship. Whenever our century-old democracy has been threatened by an attempted coup or foreign invasion, the United States has always supported our cause. Whenever you have embarked on a crusade to defend the free world from totalitarianism, small Costa Rica has never hesitated to join you. There is not a single economic crisis in our history in which you have failed to extend to us a helping hand. Costa Rica is proud of its friendship with the United States of America, and proud to proclaim it to the entire world. We feel free to tell you exactly what we think, even though it might not be what you want to hear. You do much the same with us. This is the dialog of sincere friendship, a dialog unmarked by submission. A dialog in which we honestly seek a convergence of views.

The essence of my country

When President Ronald Reagan visited Costa Rica in December 1982, he cited in his speech these words of a distinguished Costa Rican president of the past century, Jose Joaquin Rodriguez:

"I am not impressed by hearing proclamations of great principles. What I admire is the men who know how to put them into practice."

President Reagan added:

"Costa Rica is a proud example of a free people practicing the principles of democracy. And you have done so in good times and in bad, when it was easier and when it required great courage."

Costa Ricans appreciate these words. They express the essence of my country. For us, the real meaning of politics is the day-by-day struggle to translate vision into reality. I know you feel the same way. Indeed, this is perhaps the greatest treasure and the greatest privilege our two countries share.

Neither you nor we can rest knowing that freedom is threatened. Neither you nor we can rest knowing that the promises of democracy are not completely fulfilled, that there is still poverty and hunger. Neither you nor we will choose war when we can make peace. Neither you nor we will honor as heroes men who lie or cheat. Neither you nor we will refuse to look to a future that holds out a promise of more free men, more democracies, more justice and more peace. Neither you nor we can ever reject the hope that things will change for the better, that changes can occur wherever injustices exist or peace is threatened.

My small country

I belong to a small country that was not afraid to abolish its army in order to increase its strength. In my homeland you will not find a single tank, a single artillery piece, a single warship or a single military helicopter. In Costa Rica we are not afraid of freedom. We love democracy and respect the law. Our democracy has been in place for one hundred years; it is the oldest in Latin America and one of the oldest in the world. Development and peace with our neighbors are our highest goals.

We have made considerable progress in education, health, and nutrition. In all of these areas our levels are comparable to the best in Latin America. Although we are poor, we have so far been able to reach satisfactory social goals. This is largely because we have no arms expenditures and because the imbedded practice of democracy drives us to meet the needs of the people. Almost forty years ago we abolished our Army. Today we threaten no one, neither our own people nor our neighbors. Such threats are absent not because we lack tanks, but because there are few of us who are hungry, illiterate or unemployed.

The modern economy

During these years of persistent economic crisis, we Costa Ricans have realized that we need a modern economy. The basis for any lasting change, however, must be a guaranteed peace in Central America. In six years, regional trade has declined from one billion to four hundred million dollars. Only peace can restore that market. Equally serious have been the negative effects of the decline in investments and the increase in capital flight.

We are engaged in bringing about far-reaching changes in our productive structure, linked to a modern concept of economic and social development. Our political democracy will remain invulnerable only if we can create a more democratic economy. We seek to build a society of many proprietors rather than one vast proletariat. For as Daniel Webster said: "Power Naturally and Inevitably follows Property."

As we restructure the productive system, we must not lose sight of the social sensitivity. This has been a hallmark of our history. We are a country of delicate balances deeply rooted in mutual respect. Some have been surprised that during difficult economic times we have been unwilling to abandon social programs. Make them more efficient and improve them, certainly. But dehumanize our economy, never. That is why we are currently launching a special program of low-cost housing, and have extended free medical coverage to the entire population. If we were to lose the solidarity we have been able to maintain despite our relative poverty, we would destroy the basis of our democratic co-existence.

To structure the new economy without endangering stability, we are negotiating economic stabilization programs with the International Monetary Fund and structural adjustment plans with the World Bank. Domestically we are concerned with modernizing the financial system. We have significantly reduced our fiscal deficit to 1.5 percent of gross domestic product, and are now engaged in a large-scale effort to diversify and expand our exports.

We want to attain a modern economy with more private ownership in which productivity and individual effort will determine worker income. We cannot accept the false premise of "economic efficiency or justice." Instead, we intend to pursue both goals simultaneously.

My government is taking firm action to obtain the full potential of private initiative. We are determined to extend the profit motive by enabling workers to participate in profit sharing. We are involved in transferring State enterprises to cooperatives. Last week we transferred the largest agroindustrial company in my country, the Central Azucarera Tempisque, to two hundred thousand cooperative members.

The new economic organization must be based on equity and security. No economy based on greed and intimidation can ever be established in Costa Rica in the name of efficiency.

United States collaboration

We have received generous collaboration from the United States in our efforts to build our new economy. This collaboration has taken the form of loans and grants, as well as new facilities for our products in the U.S. market. The Caribbean basin initiative, the product of President Reagan's concern for the region and the bipartisan support of the Congress, recognizes the vital link between international trade and economic development. This is gradually becoming a mainstay for our new exports.

However, there are problems that remain to be solved. We are a small nation and none of our products represents a threat to industries in this country. We are negotiating now to include other products in the agreement. We are also confident that the administrative sanctions will be eliminated for Costa Rica and that the quotas for some of our exports will be raised. Our imminent acceptance to the General Agreements on Tariffs and Trade, may help to solve some of these problems.

Our aim in establishing a modern economy is to replace gradually external aid for opportunities to create more a autonomous development. Unfortunately, we must contend with heavy external indebtedness, unstable access to new markets, and persistent deterioration in our terms of trade.

We are following with interest the progress of several legislative proposals: The efforts of Congressmen Gibbons and Pickle to expand the Caribbean basin initiative; Senator Bradley's proposal to deal with external debt relief; and Senator Sanford's Commission on Central American Development, which focuses on regional economic recovery.

The greatest challenge

I said that our greatest challenge is to bring peace to Central America, a desire that I know you share. In August, the five Central American countries signed a peace accord in Guatemala City. Behind the problems besetting the region today, there is a history of two hundred years of injustice. Millions of human beings still live in grinding poverty, the fundamental cause of the present tragedy we face. We are convinced that the risks we run in the struggle for peace will always be less than the irreparable cost of war.

The peace plan

The peace plan encourages national reconciliation in countries where brothers are set against brothers. "To bind up the wounds," in Lincoln's phrase, we ask for dialog and amnesty, a cease fire as soon as possible and democratization without delay. We call for free elections reflecting the true will of the majority of the people. We call for the suspension of military aid to insurgencies. We want guarantees that no territories will be used to attack other States. We seek a reduction in armaments. We request national and international supervision by the Contadora group and the support group and by the Secretaries General of the United Nations and the Organization of American States. In an atmosphere of democracy and freedom, we can return to the path of development that will enable a lasting peace. These points reflect years of efforts by the Contadora group. For Costa Rica they reflect the power of a century of democracy and freedom.

The countries of Central America are now talking with each other. Their presidents, their ministers and their experts are talking. So are their writers and journalists, and their church people as well. We ask for assistance in this Central American dialog. We know better than anyone how hard it is to open up paths in the tropics, but we are determined. Reconciliation commissions have been formed. During the last few days Costa Rica has again exerted all of its moral authority to encourage dialog in El Salvador and Nicaragua leading to prompt negotiation of a cease fire. Costa Rica also served as an intermediary in the agreement to reopen La Prensa in Managua. If the guns fall silent, and if brother no longer kills brother, this dialog will have proved its worth.

The peace accord is a means, a procedure whereby we have all committed ourselves to work for peace. We have set deadlines. Above all, we strive for common goals. Some steps may be taken before those deadlines expire, others may require a longer period. We will not fall into a trap set by someone who shows us a calendar every day, anxious to bury the last hope. We have opened the door to the rule of reason in Central America and to reconciliation and dialog. As long as there is a will to succeed, hope should never be lost.

The right choice

As we stand at the crossroads of peace and development, or war and poverty, we must not make the wrong choice. For neither you nor we can undertake this struggle separately. The struggle for peace in Central America is the historic struggle of democracies. Now, as never before, a time has come in history for the people of the United States and of Costa Rica to bring to bear the full power of the principles and values they share.

The history of Central America is a heartrending one. In the past few years over one million persons have been made homeless. More than one hundred thousand have died. If we were to engrave their names on a wall, as the names of those who died in Viet Nam are engraved here in Washington, we would have to build a wall twice as long to inscribe all of the Central Americans who have fallen victim to violence in those years.

You are as dedicated to the search for peace as we are. Plans such as the proposal of President Reagan and the Speaker of the House, Mr. Wright, suggest significant openings to facilitate peace and guarantee democracy, disarmament, and regional security.

Restoring faith

It is time to focus on the positive. War signifies the failure of politics. Let us restore faith in dialog and give peace a chance. Let us not allow fear to prevail. If we work together we will achieve peace. It will be difficult. But has progress ever been easy? Here in the United States it was a hard-won struggle to wrest a living from the land, to win equality for all people, to preserve freedom, and to conquer space itself! Yet the more difficult the obstacle, the greater the satisfaction in overcoming it.

DEAR FRIENDS: We are most grateful for your friendship. With your help we hope to secure new and better development opportunities. With the help of the United States we hope to exchange threats of war for opportunities of peace.

Let us reaffirm our faith in our long and sincere friendship. Costa Rica wants to retain its cherished traditional values. When President John F. Kennedy visited us twenty-four years ago, he said:

"And today the principles of nonintervention and the peaceful resolution of disputes have been so firmly imbedded in our tradition that the heroic democracy in which we meet today can pursue its national goals without an armed force to guard its frontiers. In few other spots in the world would this be true."

At this difficult hour we are more than ever convinced of the truth of President Kennedy's words. This year we have decreed a yearly celebration of the "Day of Army Abolition" in Costa Rica. We have eliminated all military ranks for our police forces, and scheduled a contest among local schools to design the new civilian dress to be worn by Guard members. We are as proud of our traditions as you are of yours.

That is why I would like to say how moved I am to be present as you are celebrating the 200th anniversary of your magnificent Constitution—one that has inspired free men and women everywhere in the search for peace and freedom.

Let us then combat war with peace. Let us combat totalitarianism with the power of democracy. United in ideals and principles, joined by dialog and democracy, we can and will bring hostilities to an end. We must give peace a chance.

Thank you very much.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 23]

Armstrong
Byrd
Garn
Karnes
Leahy
Stennis

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absent Senators.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask the yeas and nays on the motion.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Rhode Island [Mr. PELL], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. MCCLURE], the Senator from Vermont [Mr. STAFFORD], the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

Mr. BYRD. I ask for the regular order, Mr. President.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 7, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—79

Armstrong
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Symms
Thurmond
Warner
Wilson
Wirth

NAYS—7

Bond
Evans
Murkowski
Quayle
Stevens
Wallop
Weicker

NOT VOTING—14

Adams
Baucus
Biden
Boren
Bumpers
Glenn
Helms
Inouye
Matsunaga
McClure
Pell
Simon
Stafford
Trible

So the motion was agreed to.

Mr. JOHNSTON. Mr. President, what is the pending business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT NO. 710

(Purpose: To reduce funds for the SDI program)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself, Mr. PROXMIRE, Mr. EVANS, Mr. DURENBERGER, and Mr. BURDICK, proposed an amendment numbered 710.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. This amendment is submitted on behalf of myself; the Senator from Wisconsin, Mr. PROXMIRE; the Senator from Washington, Mr. EVANS; the Senator from Minnesota, Mr. DURENBERGER; and the Senator from North Dakota, Mr. BURDICK.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place, insert the following:

Notwithstanding the provisions of Sec. 201, Sec. 231, Sec. 3111, Sec. 3113 and Sec. 3114.

1) Not more than $7,824,552,000 are authorized to be appropriated for fiscal year 1988 for the Defense Agencies for the use of the Armed Forces for research, development, test, and evaluation;

2) Of the amounts appropriated pursuant to authorization or otherwise available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,238,100,000 may be obligated for the Strategic Defense Initiative for such fiscal year;

3) Not more than $3,653,800,000 are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out weapons activities;

4) The total amount authorized to be appropriated to the Department of Energy in Division C for fiscal year 1988 for national security programs is $7,763,900,000; and

5) Not more than $319,500,000 shall be available to the Department of Energy for research, development, test, and evaluation, and other purposes, in connection with the Strategic Defense Initiative Program.

Mr. JOHNSTON. Mr. President, I yield to the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Louisiana.

ORDER FOR RECESS FROM 12:45 P.M. UNTIL 2 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess today from the hour of 12:45 p.m. until the hour of 2 o'clock to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, instead of having 2 hours for conferences, from now on we will have 1 hour and 15 minutes for conferences. This will allow more time for debate before the conferences and possibly votes.

Also, I should state that this evening the Senate will probably go out about 7 o'clock p.m. The White House is having a picnic and I am sure many of our Republican friends, as well as some Democrats, will be there. The reason I say "some Democrats" is that the Democrats are having a dinner honoring our chairman. And so from 7 o'clock on, I think the Senate will be out this evening.

On tomorrow, there should be a full day. However, after 6 o'clock, tomorrow, Rosh Hashanah begins. So there will be no rollcall votes after 6 p.m. tomorrow, sundown, but work can continue, debate can continue, and amendments may still be offered and agreed to by unanimous consent or voice vote. Rollcall votes, if ordered, may be stacked until 6 p.m. on Thursday.

During the day of Thursday, there will be no rollcall votes, but the Senate will be in and the Senate can be working on the DOD bill, transacting business on it, and also lining up rollcall votes to begin at 6 o'clock p.m. on Thursday.

One final item: The conference report on the debt limit should be over from the House of Representatives this afternoon and so that will be available for callup tomorrow. The debt limit expires at midnight tomorrow night. Senator BENTSEN is eager to get the debt limit extension conference report up here tomorrow and acted on, and Senator NUNN is aware of this.

So perhaps we should think in terms of having the debt limit conference report up tomorrow and disposing of that sometime during the day, hopefully while we continue with our work on the defense bill.

I again thank my friend from Louisiana for this courtesy in yielding.

AMENDMENT NO. 710

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, there is a 4-hour time limit, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. Mr. President, I yield myself 15 minutes.

Mr. EXON. Would the Senator yield for a question?

Mr. JOHNSTON. Yes, Senator.

Mr. EXON. Given the schedule and the interruption of the schedule as has just been outlined very clearly by the majority leader, I am wondering if, in view of the fact that we all want to move ahead on this, I am wondering if 4 hours are more than we actually need to debate this bill. I am wondering if we could not arrange now an agreement to cut down that time by unanimous consent, either 2 or 3 hours, so possibly we could have a vote on this immediately preceding the meeting of the two caucuses at noon? Would there be any objection from the Senator from Louisiana to cutting down the 4 hours equally divided as the matter now stands?

Mr. JOHNSTON. I would hope we could do so, I say to my friend from Nebraska. We have nine requests for speaking on this side at this time, and my guess is that you would not have as many as nine on your side. But I would not want to cut down that time yet. We will try to do that as we—try to get a vote before we recess at noon.

Mr. EXON. I thank my friend from Louisiana but I am very conscious of the time, as is the distinguished Senator.

Mr. JOHNSTON. I might say, I would hope that the Senator from Georgia [Mr. NUNN], will be able to come over because frankly I am in hopes that this amendment can be accepted. I know there is—it will need to be discussed but I would hope it can be.

Mr. EXON. I would say to my friend from Louisiana, not withstanding the position of the chairman of the committee, Senator NUNN—I suspect that he would not be in favor of the acceptance of this amendment. If he is, the Senator from Nebraska would object. So I think we can foreclose the possibility of an amicable arrangement on this as of now.

Mr. JOHNSTON. I hope the Senator from Nebraska will keep an open mind. It may well be that he will continue to oppose this, but I think the case is very strong for this amendment.

Mr. President, what the amendment does is provide $3.7 billion, approximately, for SDI, which is a 3-percent growth from last year.

Mr. President, the amendment provides for full funding of what we call the national test bed, which is a new test facility being constructed in Colorado, which will provide for computer simulations of various of the SDI Programs, and will provide, as I say, for 3-percent growth in these programs.

Mr. President, we will hear it said, no doubt, that the reason that the committee needs $4.5 billion, which is their figure, which is a 30-percent growth in SDI, is that the House has $3.1 billion and that somehow $3.1 billion is too little and somehow they need trading room.

Mr. President, I have seen more money wasted in the Congress of the United States based upon that argument, that we have got to have trading room with the House, than almost any other single reason. What we need to do, Mr. President, is to analyze the SDI Program and see how much money is needed.

Mr. President, I join Senator PROXMIRE and Senator EVANS in offering an amendment that would increase funding for the strategic defense initiative from the current level of $3.5 billion to a total of $3.7 billion for fiscal year 1988, which would be sufficient to cover inflation. The reported bill contains $4.5 billion for SDI, an increase of about 30 percent or $1 billion. There are three reasons why this amendment deserves your support.

First, looking at the budget allocations for defense, it is obvious that we cannot afford to provide a billion dollar increase for SDI when it is already the largest research program in the entire budget.

Second, this program has zigged and zagged every which way in its goals and priorities and even now is at odds with what the committee expects of SDI. It simply doesn't deserve a 30-percent increase in nominal terms when all the other DOD programs will get no real growth.

Third, even President Reagan recognized that ballistic missile defense systems are inherently destabilizing to the arms race. Pursuing a crash program to early SDI deployment, and that is what the real issue is here, is unwise and unnecessary.

Now as to the first point, can the committee afford to provide the extraordinary increase of $1 billion to a program that is already the largest research program in the budget? Clearly, the answer is no. According to the chairman, the reported bill is $7 billion over in budget authority and $3.6 billion over in outlays. That's from the high tier budget resolution allocations. That assumes President Reagan will agree to tax increases.

Do any of you really believe that Ronald Reagan is going to agree to raise taxes? I don't. Until President Reagan does raise taxes then the budget allocation situation for defense is even worse than I've described, perhaps impossible.

Now I have to add that when the Armed Services Committee reported their bill out they did not know what their budget allocations would be. So they have a good excuse for what they did. We know now what the situation is.

Under the lower tier budget allocations the committee must cut another $14 billion in budget authority and $10.6 billion in outlays. Over $10 billion in outlays. Where are those cuts going to come from? We are in a zero sum game—what we give to SDI we can't give to other deserving programs. Do you want to cut operation and maintenance, or military personnel, to add a billion dollars to a research program that has more than tripled in 3 years? You certainly can't cut procurement and expect to get many outlays. That leaves research, that's where much of the cuts will have to come.

All of us received a letter recently from William R. Graham, the President's science adviser, lamenting the slow growth in basic technology programs in the military. One of the reasons the basic technology programs for the military have grown so little is that SDI has grown so much. Today SDI's budget exceeds the technology base research budget for all three services combined.

Are we prepared to cut military basic research programs in order to add another billion dollars to star wars, which is already the largest research program in the budget?

The situation is even worse than I described because this week the administration will submit a budget amendment requesting authorization for $316 million for expendable launch rockets. The three services will have to absorb the cost of this amendment.

I sit on the Defense Appropriations Subcommittee and I can tell you that this authorization bill is a fantasy land compared to the reality of the situation. To meet the lower tier allocation for defense in the subcommittee, here are the options:

First, cutting out all fiscal year 1988 new procurement, or

Second, cutting one-half of all operation and maintenance purchases, or

Third, cutting out two-thirds of research and development.

If you cut 200,000 to 300,000 personnel and deny the fiscal year 1988 pay raise for military and civilians, then you have saved only half the outlays you need.

Mr. President, many of my colleagues think the White House does not understand the gravity of the budget situation, especially on defense. What kind of signal do we send the President about that situation if we give his pet project a billion dollar increase in this bill?

Now, do we really need $4.5 billion to have a good research program in SDI? Interestingly enough, just prior to the star wars speech, the Reagan administration gave Congress its 5-year projections for what it wanted for ballistic missile defense research. The figure for fiscal year 1988 was not $5.8 billion, the President's request. It wasn't $4.5 billion as this bill provides. No, the Reagan administration's figure was $3.1 billion.

So we really can't afford to add a billion dollars to SDI. But Mr. President, suppose we could afford to add a billion dollars to SDI. Would SDI deserve that extraordinary increase?

In fact the committee did establish an excellent set of criteria in their report last year for determining when further growth in funding was warranted.

> As part of the broad technological thrust, the committee intends to support SDI at a robust but measured level consistent with the ABM Treaty until such time as progress in defining appropriate and realistic architectures, and determining the technical feasibility, survivability and cost effectiveness at the margin of potential SDI systems warrants further growth in funding.

My colleagues will recognize in this statement the so-called Nitze criteria of feasibility—also described as military effectiveness—survivability, and cost effectiveness at the margin. Yet in this year's report the committee says:

> During its hearings, the committee observed research progress in many areas, but sees nothing thus far that would suggest that any of the three (Nitze) criteria have been met.

As for appropriate and realistic architectures I think it is safe to say that they have not been provided to the committee. There have been some hypothetical architectures submitted for token defense. But architectures that include the exotic weapons can't be devised until we know if the exotic weapons will work. That won't be for another decade according to the American Physical Society. So the committee's own criteria for justifying further SDI funding growth have not been met.

Last year some Members cited noted experts such as Harold Brown and James Schlesinger on what is the maximum amount of increase a good research program can absorb without wasting money. This program has more than tripled in 4 years and the committee would have it more than quadruple in 5 years. No one has suggested that a research program can efficiently absorb increases of that magnitude. Don't forget that star wars began with a billion dollar budget.

What's worse, Mr. President, the committee report indicates they don't even agree with the goals of the SDI Program. Deciding whether you agree is not easy because the goals of SDI keep changing.

My colleagues will recall SDI began with the objective of making nuclear weapons "impotent and obsolete" with the President's vision of a leakproof astrodome over the United States and our allies. No one is talking leakproof astrodome today.

Dr. Harold Brown, former Secretary of Defense, wrote in an article in May of this year:

> My judgment is that a comprehensive near-perfect defense of population will be infeasible for decades, and probably forever against an attack by many thousands of warheads.

Even John Tower said in the June issue of Ripon Forum.

> The President's dream for a shield for the general citizenry, however, cannot be realized.

In short, Mr. President, the leakproof astrodome is dead. The original vision has faded away.

Then there is the issue of whether SDI will protect our cities or our missiles.

The committee's report on page 119 says the major emphasis within SDI should be shifted away from nationwide, population protection, in other words the astrodome defense, and toward protecting retaliatory forces and command and control systems. The committee report last year said the same thing.

I should note that the committee's report and SDI are heading in opposite directions. Secretary Weinberger was quoted on July 2, 1986, as saying:

> It's not our missiles that we seek to protect, but our people. And we must never lose sight of that goal.

Richard Perle said last year in a magazine interview that SDI would protect our missiles. Paul Nitze promptly said Perle's view was at odds with that of the White House.

This program has flip-flopped on another issue, Mr. President, and that is the morality of our deterrent forces. Early in the debate on SDI we heard a lot about the "immorality of deterrence." SDI was preferable to mutual assured destruction because it was better "to save lives than to avenge them," or so we were told. Fortunately, this rhetoric has ceased. Now we are told that SDI, particularly the early deployment of SDI, would add to our deterrence.

Well Mr. President, there are quite a number of programs inudget of other strategic programs taken together increases by 1 percent in real terms?

There has been another change in SDI. Originally, SDI was going to be a long-term research program focusing on "advanced technologies." What did the President mean by advanced technologies? Star Wars technologies is what we understood him to mean—lasers, and energy beams. When President Reagan offered his vision of SDI he said the task "probably would take decades of effort on many fronts" to accomplish. He predicted the research program, "may not be accomplished before the end of this century."

Within a year of President Reagan's first SDI speech, SDI's research objective had shortened in time. The objective was to complete enough research to permit a decision on system development by the early 1990's. Over and over we were told that. But deployment was envisioned by SDI to begin by the turn of the century and be complete, lasers and all, perhaps by 2005.

That was the vision last year. This year the goal has changed altogether again. The emphasis now is on early deployment in the mid-1990's without any laser weapons or particle beam weapons. That is, Star Wars without the Star Wars weapons. Instead SDI wants to use conventional rockets.

Why is that? The reason is that under the best of circumstances it will be at least a decade before our scientists know enough about the exotic directed energy technologe that you cannot obtain a reliable comprehensive ABM defense of this country, one that provides enduring protection, unless we have the beam weapons that can attack at the speed of light. SDI concedes that.

But SDI supporters can't wait that long. Allan Mense, the SDI Program's acting chief scientist, told the Washington Post in January:

> Like it or not, we see a political reality staring us in the face. If we don't come up with something specific people are not going to let us play in the sandbox for 10 years.

To come up with something SDI has dusted off this 25-year-old idea of deploying thousands of conventional rocket interceptors in space that would destroy Soviet ballistic missiles. The missiles are called space-based kinetic kill vehicles or SBKKV.

When the panel of experts headed by Dr. James Fletcher first scoped out the SDI Program in their classified multivolume report on ballistic missile defense, the term "SBKKV" was not used. Instead they were called space-based conventional nonnuclear weapons. I guess that somewhere along the line it was decided that calling these homing rockets "conventional weapons" did not sound exotic enough for SDI. And so the term space-based kinetic kill vehicles was used.

What about maintaining the option for near-term deployment as a hedge against the possibility of a Soviet ABM "breakout?" What does the committee report say about that? You have to read the report very carefully on page 119. It says that a portion of the SDI research program should pursue near-term options as a hedge against a possible Soviet breakout. However, the report says the Eris missile technology alone is an adequate hedge. What is Eris? It stands for exoatmospheric reentry vehicle interception system. It is a land-based interceptor rocket, it is not sapce-based at all. The administration wants to do Eris all right but the larger emphasis by far is on SBKKV, putting thousands of homing rockets in space. Judging by the comimttee report, the committee and the administration don't see eye to eye on how best to hedge against a Soviet breakout.

So, on the subject of maintaining a hedge against a near-term SDI deployment option, the committee report and the administration are speaking about two different concepts.

So SDI's goals keep changing and the committee report reflects quite a different view as to the proper goals and direction of the program.

Nevertheless, despite these differences in fundamental direction, the committee rewards SDI with a billion-dollar increase—a 30-percent nominal increase in the program. Mr. President, SDI just doesn't deserve that increase.

CRASH PROGRAM FOR EARLY DEPLOYMENT IS FOLLY

Now to my third point.

Pursuing a crash program to achieve an early SDI deployment is unwise and unnecessary. To begin with, strategic defenses are destabilizing to the arms race.

> I clearly recognize that defensive systems have limitations and raise certain problems and ambiguities. If paired with offensive systems, they can be viewed as fostering an aggressive policy, and no one wants that.

Those are not my words, they are President Reagan's words in his first SDI speech. He has made the point, not once, but over and over again.

The vote on the Nunn-Levin language shows the Senate understands the danger of rushing into strategic defenses. With the Nunn-Levin language in law, if the President decided to adopt and implement the broad interpretation of the ABM Treaty, we wouldn't learn about it over Sunday dinner while watching the President's national security advisor on Meet the Press. That, you will recall, is how we first learned that the administration has decided the broad interpretation was the correct legal interpretation of the treaty.

There isn't any doubt about what this huge increase in SDI's budget is for. Senator Wilson in the minority views laid it out. He says the committee recommendation of $4.5 billion is "the absolute minimum needed to preserve the option for a first phase of deployment of a defense against ballistic missiles in the midnineties."

That proposed huge budget increase wouldn't go to technology base development for directed energy weapons. That grew by only 0.2 percent. On the other hand, the budget for SBKKV systems grew by 139 percent. The budget for lifting those SBKKV's into space in an early deployment grew by over 1,000 percent. Walk through the President's budget for SDI and you soon see that the 55-percent real increase went to near-term fancy demonstrations and ne SDI deployment.

What kind of shield will this early deployment be? In fact, it isn't going to be a shield at all. It will not keep all, or even most, Soviet warheads from raining down on our country. It's only going to be a token defense that according to General Abrahamson, SDIO Director, will disrupt the timing of a Soviet attack. A Senate staff study which Senator Proxmire and I commissioned reported that the early system would at best only stop about one in five Soviet warheads. Four out of five Soviet warheads would come through. Some shield!

That's the best case. What's really likely to happen? What if the Soviets employ countermeasures?

Dr. Harold Brown published an article in May of this year stating:

> A U.S. decision to proceed with a space-based KKV layer would provide a strong motivation for Soviet development of fast-burn boosters, space mines, and other countermeasures. Those can be developed and deployed more easily, quickly, and cheaply than the space-based KKV's. The Soviets would be imprudent not to do so, and in these matters the Soviets are not imprudent.

Dr. Brown testified before the Defense Appropriations Subcommittee on March 25, 1987, and agreed that a Soviet fast-burn booster would "catastrophically defeat" our SBKKV system. He further testified that the Soviets could have a fast-burn booster by the early to mid-1990's. Mr. George Miller, the associate director of Lawrence Livermore National Labs, and an expert on the subject, agreed with this assessment.

Dr. Brown explained that with a fast-burn booster the rocket motor burns out quickly leaving almost no time for the SBKKV's to reach the target before burnout. Once the Soviet booster rocket burns out it is much more difficult for the SBKKV to track. That means the SBKKV's have to be so densely distributed in orbit over the Soviet Union to be in range of the target missile that "the cost of the defensive system goes up exponentially and it just does not work."

The SDI report to Congress of 1986 concedes that the fast-burn booster could severely shorten the exposure time of enemy missiles in their boost phase.

The 1987 SDI report to Congress concedes we will need directed energy weapons to shore up the SBKKV defenses if the Soviets respond with fast-burn boosters. The problem is, we won't know for another decade if those directed energy weapons will be militarily effective.

Well, what will the early deployment system cost? Earlier this year SDI said $40 to $60 billion. But 6 months have passed since that estimate and the Pentagon now says the figure has doubled. General Abrahamson is quoted in the Philadelphia Inquirer of September 13, 1987, as saying the cost is, "$70 billion to well over $100 billion for an initial, partially capable but very impressive" deployment.

Dr. Harold Brown says the cost is more like $300 to $400 billion, "several hundred billion dollars at least." He and Dr. George Miller told the Defense Subcommittee the Soviets could produce a fast-burn booster for about $30 billion. Brown said that the Soviets could defeat our SBKKV for one-fifth to one-tenth what it cost us to build it.

Harold Brown is an authority on the subject of SBKKV because he made the decision not to proceed with SBKKV 25 years ago. Then the project was called BAMBI. I have a 1,000-page formerly secret DARPA report on Project BAMBI that concluded a quarter century ago that SBKKV was vulnerable to Soviet fast-burn boosters.

The same concept was resurrected in 1981 as "High Frontier." In fact, just months before the President's famous 1983 star wars speech, Defense Secretary Weinberger and his then deputy, Frank Carlucci, refused to spend money on High Frontier. An analysis by their defense experts, and there was an extensive analysis, had concluded that "the High Frontier proposals are unrealistic regarding state of technology, cost, and schedule."

You know what Edward Teller said about High Frontier? He said:

> High Frontier can be done for $100 billion dollars, let us say. But the Soviets can get rid of High Frontier for $10 billion (Christian Science Monitor, Apr. 4, 1983.)

Mr. President, perhaps the most astounding part of all is how fragile the administration says the early deployment option is. The administration's ABM report to Congress, submitted on May 19, 1987, urges the Congress to adopt the broad interpretation of the ABM Treaty immediately so as to facilitate early deployment. The report says in an unclassified paragraph:

> Any significant delay in implementing the broad interpretation of the ABM Treaty will result in increasingly detrimental consequences to the SDI program. These consequences range from further delays in the program and higher costs to the loss of deployment options, in the event of delays of a year or more.

That report was submitted to Congress 4 months ago. That means that 8 months from now a year will have passed, and unless the United States has by then adopted the broad interpretation of the ABM Treaty, early deployment options for SDI may have been lost. Frankly, Mr. President, if a 1-year delay this early in the research program jeopardizes SDI early deployment options, then what the administration would rush to deploy is not worth pursuing.

To summarize, we can't afford to give SDI a billion dollar increase when the rest of DOD is held to essentially no real growth. Here is an opportunity to send the right signal to the President about the budget situation and national defense. If he's tuned in to any channel, it's this one—SDI.

Moreover, a program so buffeted by changing priorities and conflicting hype doesn't deserve such an increase.

Finally, we know what the score is on this early deployment. The program was losing political momentum so SDI shifted to near-term deployment. Does it make sense? Of course not, not even as a hedge against a Soviet breakout.

Mr. President, there has been a shift in ground on SDI of monumental proportions since it was first discussed. Everyone remembers the March 1983 speech of the President where he unveiled this great dream of SDI. We were to put an astrodome over the United States at that time, rendering nuclear weapons impotent and obsolete. It was a wonderful dream and we were told and given schematic drawings and television mockups which showed these ray guns in space and mirrors that would instantaneously beam these rays down on the incoming Soviet missiles.

Well, now Mr. President, that dream has been deep sixed. It is no longer being discussed. We are no longer talking about ray weapons, at least not in the mid-1990's, because this administration wants to deploy this SDI sometime in the mid-1990's. We are no longer talking about Excimer lasers or free electron lasers or neutral particle beams. That is out of the picture now, other than on a research program.

What we are talking about now, Mr. President, or what the administration is talking about, is an expanded BAMBI.

BAMBI was the acronym given to the research program back in 1962, which involved the orbiting rocket pods with rockets, with heat-seeking rockets, which would actually collide with the in-coming ICBM's, given the name space-based kinetic kill energy—or rockets, or SBKKV's.

That is what we are talking about now, a dramatic shift.

It is also a dramatic shift, Mr. President, as we went from ray gunning to smart rocking, or SBKKV's, as they are called, we also went from an astrodome to a program which is less than 20 percent effective.

The present architectures, as the open literature indicates, would give you an effectiveness of something less than 20 percent. The cost we were told last week has now risen, according to the administration, to about $100 billion. $100 billion to $120 billion, I think, is the figure they use. And they hope if everything works out that it will have an effectiveness of about 20 percent. So there has been a dramatic shift, Mr. President, from what it used to be when we were putting the astrodome over the United States.

The question is: Can we afford that? Is that really what the Congress intends? Or should a more modest financing be provided?

Mr. President, if you look at the defense budget—and I must look at the defense budget because I am a member of the Defense Appropriations Subcommittee—the exercise which we have to go through to fit that budget into any foreseeable allocation is going to be a crucial and inhuman exercise with respect to the defense budget because we are going to have to cut programs that need, not less funding, they need more funding.

The question really for this Senate is not whether we want one of these expanded pay-for-anything budgets for SDI but whether we want to take defense money from some other program and put it in SDI? Specifically, put it in space-based kinetic kill vehicles?

Mr. President, the space-based kinetic kill vehicles have long been discredited. It is a futile hope to think you can build a technology on SBKKV.

Last year, in the Committee on Defense Appropriations, we had Secretary Harold Brown who testified that the spaced-based kinetic kill vehicles can be defeated by the fast burn booster of the Soviet Union. The fast burn booster, Secretary Brown testified, is today's technology. It is not something we have to invent. It is not something out there in the future. It is today's technology. And the Soviet Union, for about 25 percent of the costs, can defeat the space-based kinetic kill vehicle with a fast burn booster.

They can also do so sooner. In other words, if we made the decision to deploy the SBKKV, the Soviet Union could defeat it faster than we could deploy the space-based kinetic kill vehicle. The scientist who heads up Lawrence Livermore's strategic weapons program, Dr. George Miller, also testified before our subcommittee, and he testified that the fast-burn booster can catastrophically defeat the space-based kinetic kill vehicle.

I do not know whether my colleagues have heard that testimony, but the scientist who is heading the Lawrence Livermore program says SBKKV can be defeated catastrophically.

I want my friend from Nebraska to respond to that because we have searched very carefully to find the answer to that. He heard from Dr. Miller from Lawrence Livermore, today's scientist, and Dr. Brown, former Secretary of Defense, saying it can be catastrophically defeated and yet we continue to go in that direction.

Mr. President, when the administration says it needs to increase its budget, what they really are doing is increasing the budget for the space-based kinetic kill vehicle.

If you look at the budget for the strategic defense initiative——

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. WILSON. As I understood the Senator, he said that the head of Lawrence Livermore has said that the space-based KKV could be catastrophically defeated.

Mr. JOHNSTON. By the fast-burn booster, yes.

Mr. WILSON. And that is today's technology?

Mr. JOHNSTON. Yes.

Mr. WILSON. Could my friend from Louisiana tell me, in today's technology, how long it would take the Soviets to do that?

Mr. JOHNSTON. According to Dr. Harold Brown and Dr. George Miller, the fast-burn booster could be deployed faster than the space-based KKV, both faster and cheaper.

Mr. WILSON. Would the Senator from Louisiana tell me, in what period of time, and does that involve retrofitting the existing Soviet inventory? If so, what would be the precise cost of that?

Mr. JOHNSTON. Here is what Dr. Brown said:

> The Soviets are now deploying solid propellant ICBM's which are much faster burn than liquid propellant. A steady evolution or rapid acceleration of that technology would give them a fast-burn booster in the early to mid-eighties, the timeframe in my judgment, if they decided they needed to do it.

The fast-burn booster would cost probably as much as any other ICBM system.

> Senator Johnston: We are talking about $30 billion?
>
> Dr. Brown: $30 billion, say, and, of course, you do not have to do it with the whole force. You have to do it with a part of the force.

Then he goes on.

So he is talking about——

Mr. WILSON. So it would be $30 billion for some portion of the existing inventory?

Mr. JOHNSTON. I said $30 billion. That is about the cost of a new system. He said you could deploy it for the cost of a new system. Obviously, you cannot be totally precise on it, but if we are talking about $30 billion for a new system, that compares to at least $100 billion.

Mr. WILSON. That would buy a new system?

Mr. JOHNSTON. I think Midgetman is $40 billion. So we are talking about much less than the space-based KKV.

Mr. WILSON. Did Dr. Brown explain how that would be the case when the existing inventory that we are talking about is estimated conservatively to cost about $800 billion. It is thought by many, I think quite reasonably, that the impetus for the Soviets to be concerned, so overwhelmingly concerned, as they explicitly have been, about the SDI Program, is because of their fear that it would make it obsolete, once an effective ABM system were installed in this Nation.

Mr. JOHNSTON. I can explain that.

Mr. WILSON. It would make obsolete about an $800 billion investment. How do we get away with a $30 billion retrofit that would give this fast-burn booster technology? I should tell my friend the reason I am addressing the point is because everywhere I went last December in about a 10-day tour of the defense contractor installations, I asked questions about the fast-burn booster and they said it was not at hand, that it is very expensive. The idea of retrofitting the Soviet inventory is prohibitively expensive.

Mr. JOHNSTON. I will explain what Dr. Brown meant by that. The answer is very simple. If the invested cost is $800 billion, and who knows what the cost is, that would include all the R&D that went into developing the warheads. The warheads are probably the most expensive part of it. You do not have to change warheads. It involves all the guidance systems. You do not have to change the guidance systems. It involves the silos. It involves everything but the booster. So all we are talking about is a retrofit of a new booster, a new fast-burn booster and that is all you have. That is why Dr. Brown said he thinks you can do it for the cost of a new program which would be about $30 billion. Again, you do not have to do it for the whole system. If you just did it for, let us say, 100 SS-18's with 10 warheads that gives you 1,000 or 1,200 warheads which are immune to the SDI, assuming you have it.

Mr. WILSON. Did Dr. Brown mean, when he spoke of a $30 billion cost, a single weapons system rather than the entire weapons systems?

Mr. JOHNSTON. His testimony, as I recall, does not say. We all assume that the SS-18, which is their most potent weapon, would be the first one retrofitted. But my own guess is that you could probably put a new first stage booster on which could be common to a number of their weapons. Certainly, the SS-18 would be all you would need to have.

The PRESIDING OFFICER. The Senator has used the 15 minutes he allotted to himself.

Mr. JOHNSTON. Mr. President, I yield myself an additional 5 minutes.

According to the CIA, the dollar cost in the production of the Soviet ICBM systems, and this is unclassified, was $43 billion from 1971 to 1975, $42 billion from 1976 to 1980, and $33 billion from 1981 to 1986. So that is about $120 billion. They say that is the dollar value of Soviet defense activities measured to cost in the United States at prevailing prices and wages and using United States technology.

I do not know where the figure of $800 billion came from, but the CIA estimates it from 1971 at about $12 billion. But who knows precisely? We do not know precisely what it is, but almost every expert I have heard says that SBKKV can be drastically defeated, catastrophically defeated. The pro-SDI people and the anti-SDI people all say it. Why we proceed down the SBKKV blind alley I do not know, other than it is what I call an ideological deployment.

Mr. President, the increased amount in the budget is for SBKKV. The ray weapons have only a 0.2-percent increase, so all of these weapons which were the great hope of the astrodome and which, frankly, I think we should proceed with R&D on, Excimer laser, the free electron laser, the neutral particle beam. There is no increase for those programs.

Now, let me say right now, Mr. President, I am a pro-SDI R&D man. I am the chairman of the Subcommittee on Energy and Water of the Appropriations Committee, and when that budget came over—and we fund the national labs there—when that budget came over from the House, as part of the chairman's mark I increased SDI by $30 million, not because somebody made the motion but as part of the chairman's mark, because I believed we need to fund those Exeimer lasers, the free election laser, and the neutral particle beam programs that are going on at our national labs. But this administration does not want to increase those programs. It is all SBKKV.

Look at this budget, if you will, Mr. President. Here is miniprojectiles, $102.9 million. Here are all kinds of SDI strategic architecture; $91 million, system concept analysis. Right on down the line. It is all SBKKV driven and it is driven by SBKKV because this administration wants to get deployment by the mid-nineties of what amounts to obsolete technology. It is the same thing we had back in the BAMBI Program, starting in 1962. It is the same thing we had in the High Frontier Program in the early eighties. Both were rejected and both ought to be rejected at this time.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. WILSON. It is twice now that my friend from Louisiana has made a statement equating SBKKV, the space-based kinetic kill vehicle, with the old BAMBI Program of the early sixties, in fact, earlier than that. BAMBI was Sputnik-era technology.

Mr. JOHNSTON. 1962, if the Senator will yield.

Mr. WILSON. The Senator seems to be saying they are one and the same thing. That is the clear impression that the Senator has left. Is that what the Senator means?

Mr. JOHNSTON. Exactly.

Mr. WILSON. In other words, the Senator is saying that the space-based interceptor that we are talking about now has no greater capacity, no greater capabilities than the BAMBI Program?

Mr. JOHNSTON. No. I am saying it is the same technology, that is to say, what amounts to an orbiting rocket pod with a kinetic kill vehicle—that is, the rocket which would be fired is intended to collide with the ICBM.

Mr. WILSON. It is a kinetic technology.

Mr. JOHNSTON. Yes. It is driven by——

Mr. WILSON. Is the Senator saying no, that it has no greater capability?

Mr. JOHNSTON. It has a heat-seaking sensor.

The PRESIDING OFFICER. If the Senator will suspend, the Senator has used his additional 5 minutes.

Mr. JOHNSTON. Three additional minutes.

It is a heat-seaking sensor. It even looks the same. We have the BAMBI report. Obviously, everything has been improved since 1962, but it is the exact same technology. The principles are all the same. I am sure it is a faster burn rocket. I am sure there are better sensors. All those things are better, but it is the same technology with the same difficulties, that is, even though it is faster now, it is not fast enough to defeat the fast-burn booster. A heat-seeking sensor cannot even see the rocket as it comes up until it clears the atmosphere because it is masked by all of the air and the humidity, so you have to get to about 35,000 feet before you can even begin to see it, and that is the first 30 seconds of the burn. After that you have to be there, you have to see it, and you have to react very quickly.

Now, Mr. President, let me very quickly talk about the budget of the Department of Defense because it is going to be awful when we go to cut it. Mr. President, defense authorization at present is over by $14 billion in budget authority and $10.6 billion in outlays if you use the lower figure of the $7 billion linkage. In other words, in the budget resolution we had $7 billion which was to be allocated to defense appropriations, provided that the President went along with $19.3 billion worth of taxes. Most assume he will not do so. So using those figures, you are $14 billion over in budget authority and $10.6 billion in outlays.

Now, if the Armed Services Committee wants to be irrelevant to this process, just continue to do that. Just continue to fund everything. We will make those decisions over in the Appropriations Committee.

I hope you do not do that because we need some help and guidance on where to make the cuts and where to put the priorities. Fourteen billion dollars over, that is making priorities? I submit to my dear friend that is not making priorities at all.

Now, we have a new resolution coming through as part of the debt conference, and they tell me what they will probably do over there is take about half of that $7 billion and add it on. So they will take $3 billion to $4 billion additional, which means that you are not $14 billion over, but you would be something like $11 billion over in budget authority and probably about $8 billion over in outlays. Eight billion dollars over in outlays is a huge amount.

The PRESIDING OFFICER. If the Senator will suspend, he has used his additional time.

Mr. JOHNSTON. Two additional minutes, Mr. President.

Mr. WILSON. Mr. President, will the Senator, before he finishes, yield to some additional questions to be on our time?

Mr. JOHNSTON. Yes. If I may finish this, then I will yield on the Senator's time because I want to give plenty of time for my cosponsors.

So, Mr. President, you are going to have to go in and cut. Now, where do you cut? I can tell you we have gone through this exercise in defense appropriations. There are not many places to cut. William R. Graham, who is the President's science adviser, is already lamenting the low growth in military basic research. SDI today is larger than the technology base research budget for all three services combined. Are you going to take it from R&D when he is already lamenting the fact you do not have enough?

Are you going to take it from procurement? I hope not because we already have low outlays; there is about a 2 to 1 outlay ratio there. Are you going to take it from military personnel? What our Defense Appropriations Subcommittee has concluded is this: In order to fit this budget into today's allocation, you can do it by cutting out all fiscal year 1988 new procurement—all of it, cut it all out. You can cut out one-half of the O&M purchases or you can cut out two-thirds of the R&D, or you can cut 200,000 to 300,000 personnel and deny the pay raise. But that only saves half the outlays.

Mr. President, these are terrible choices, but with these choices, are you going to take still further funds and put them over in the space-based KKV with this outmoded technology? Is that really what we are wanting to do? Here the President is saying no new taxes, that we need national defense very strongly but no new taxes. Now, what kind of signal does it send to the President when we are giving his pet project a billion dollar increase—and that is what the Armed Services Committee wants to do, give him a billion dollars on this obsolete technology while the rest of defense not only goes begging, not only does not get an increase, but gets decimated, gets cannibalized in order to fund SDI.

The PRESIDING OFFICER. If the Senator will suspend, he has used his additional 2 minutes.

Mr. JOHNSTON. One additional minute. So, Mr. President, the point is we ought to analyze SDI for what SDI needs.

Why can we not debate SDI, rather than just say we have to go into the conference with a $1 billion increase? It does not matter whether we need it or not but we are playing this game of going over there to the House.

I mean that is what we have done every year? Do you know we have quadrupled the SDI budget since the President made his March 23, 1983 speech? Now we want to not only quadruple it, we want to quintuple it again this year. Is it needed? Not for the ray weapons, not for the astrodome, not for the hope of mankind, not for rendering the nuclear weapons impotent and obsolete, but to fund an architecture—and these are the facts—built on space based KKV with a capability of, if it works, shooting down less than 1 out or 5 of incoming warheads, and doing so at a cost of $100 billion.

Mr. President, if that makes any sense, then I do not know what this whole debate is about.

I yield the floor.

Mr. EXON addressed the Chair.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California

Mr. WILSON. Mr. President, I have a number of questions I am eager to ask my good friend from Louisiana because he has made a number of provocative statements with which I do not agree. I look forward to having that opportunity.

I have just received disconcerting news, however. The ranking member of the Senate Armed Services Committee——

The PRESIDING OFFICER. If the Senator will suspend, the Senator from Nebraska is in control of the time and by rights should have been recognized.

Mr. WILSON. That presents another dilemma.

Mr. President, I suggest the absence of a quorum. Let me explain why. I think the Members are entitled to know that.

I have been requested to do so by the ranking member of the Senate Armed Services Committee who desires, along with a number of other members of that committee, to be here on the floor for this debate, but cannot be here because a hearing is being conducted. Therefore, we regret, with great regret, I must say, because I eagerly look forward to this debate, I suggest the absence of a quorum.

Mr. EXON. Mr. President, will the Senator from California please withhold so we might discuss this publicly?

Could we have a discussion on what I thought was the time of the Armed Services Committee majority?

What is the problem that the Senator from California has?

It just so happens that the Senator from California and the Senator from Nebraska are on the same side of this discussion. Our good and close friend from Louisiana happens to be on the other side. A distinguished member of the Strategic Subcommittee who has other pressing business is here.

I was about to make a short 2- or 3-minute opening statement and try to recognize him.

What is the quarrel with regard to time, may I ask the Senator from California? I think the Senator from California knows and recognizes that the Senator from Nebraska's work is good. We have 2 hours. I think that is too much. I will be more than happy to accommodate him and any of the people on his side of the aisle. What is the problem?

Mr. WILSON. The Senator, my good friend who is on my side, and I are on the same side in this struggle. I have no problem, nor quarrel whatever with him nor with the Senator from Louisiana nor anybody else present on the floor.

The reason for the institution of a quorum call is to permit other Senators, who have been summoned to a meeting at the precise time that this debate is going on, to be here. And that is the reason this in fairness to them I think does need to be resolved, and I am not sure that either I or the distinguished Senator from Nebraska who is my subcommittee chairman are in a position to do that. So I suggest the absence of a quorum.

Mr. PROXMIRE. Will the Senator from Nebraska yield before we get the absence of a quorum?

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE. Can we permit the Senator from Wisconsin to make his statement instead of having a quorum call? It seems to me that would permit the debate to progress and would permit the Senators on the other side who want to be here to talk, and to have plenty of time to do so. This is a 4-hour situation. If we have quorum calls that will mean we will not be able to make our statements at all or we go until 1 or 10 past 1.

The PRESIDING OFFICER. If the Senator will yield, the Senator from California, in order to suggest the absence of a quorum, would have to obtain the floor from the Senator from Nebraska who is in control of the time.

Mr. WILSON. Mr. President, I believe I was duly recognized by the Chair.

The PRESIDING OFFICER. Inappropriately recognized by the Chair.

Mr. WILSON. Mr. President, as far as I understand the rules, that does not alter the fact that I was recognized and do have the floor, and have not yielded.

The PRESIDING OFFICER. The ruling of the Chair in this circumstance would be that the Senator from California would have to obtain the floor from the Senator from Nebraska. It was not the province of the Chair to award the floor to anyone other than the Senator in control of the time.

Who yields time?

Mr. EXON. I thank the Chair. I yield myself 3 minutes from our time.

I would first like to start out by saying that I hope the Senate will go on notice and on record that for 2 consecutive legislative days the Chair has made the same mistake that was just made. And I would suggest that if we are going to follow the usual rules and procedures, the Chair and those advising the Chair had better get up to speed. I was upset the other day when a like matter happened. I can understand that the Chair, like all of us, makes mistakes from time to time. I do not know how we are going to work our way out of this particular dilemma.

Let me inquire of the Chair: Since the Senator from Nebraska currently has the floor, and since I would like to continue with the debate and allow the Senator from Ohio and the Senator from Wisconsin and others who legitimately have the right to be heard, I cannot imagine what is accomplished by going to a quorum call to accomplish and do nothing when we have Senators here on the floor willing and able, and whose debate I think could be a critical part of the eventual vote on this matter.

Let me inquire of the Chair: Since the Senator from Nebraska now has the floor, may I recognize and assign time on the 2 hours assigned to me as the manager of this portion of the bill? Can I assign time to others without losing my right to the floor?

The PRESIDING OFFICER. The Senator has 2 hours under his control, and he can yield time to whoever he desires as he sees fit.

Mr. EXON. If I yield time to whomever I see fit, that would not allow the Chair to make a determination as to who is recognized. In other words, in effect, the manager of this bill with the time allowed to him would be allocating time to those he desires as he sees fit; is that correct?

The PRESIDING OFFICER. The Senator is authorized to yield time. The Chair has the authority to recognize Senators seeking recognition.

Mr. EXON. I yield myself an additional 3 minutes. Following that I will be glad to yield 5 minutes to my friend from Ohio.

I have listened with great interest to the remarks from my distinguished friend from Louisiana. He is an expert on defense. He is on the Defense Appropriations Committee. We have worked together on defense matters for a long, long time. We have also worked shoulder to shoulder on matters regarding the budget of the United States of America.

I would simply like to point out that much of the argument that has been made by the Senator from Louisiana thus far today could properly be applied to an amendment to reduce the funding for the space-based kinetic energy kill vehicle. That has not been the major thrust so far of the argument this morning.

The argument this morning essentially advanced by the Senator from Louisiana and the amendment that he has sent to the desk essentially reduces the authorization for SDI funding as approved by the Strategic Subcommittee which this Senator chairs, and the full Armed Services Committee from a level of $4.5 billion for the next fiscal year down to $3.5 billion.

Mr. JOHNSTON. $3.7 billion.

Mr. EXON. The Senator is correcting me already.

The reasons for that is that as usual we do not compare apples with apples and oranges with oranges. I emphasize once again that from the standpoint of the authorization of the Armed Services Committee, the Strategic Subcommittee and the full committee, we authorized $4.5 billion. Under the amendment offered by the Senator from Louisiana that would essentially be $1 billion less, or $3.5 billion.

What we must remember, I suggest to all, is that while I think that the 4.5 level as authorized by our committee is somewhat higher than it needs to be, when we go to conference with the House we are going to be faced with the equivalent of a $3.1 billion authorization from the Armed Services Committee of the House of Representatives.

Therefore, I simply say that I hope that, for various reasons, we will not approve the amendment offered by the Senator from Louisiana, although I happen to agree with many of the points he has made with regard to the kinetic kill vehicle in space.

What we had best do here is go to conference with the House at the agreed recommended level by the Armed Services Committee; and I would suggest to my friend from Louisiana that if we go to conference with the House at $4.5 billion and they are about $3.1 billion, it is very likely that the end authorization for SDI would be in the area of $3.5 billion to $3.7 billion, where, if I understand it correctly, the Senator from Louisiana thinks we should be.

Mr. President, I reserve the remainder of my statement, and I am pleased to yield to a very important member of the Strategic Subcommittee, the Senator from Ohio, for 5 minutes.

Mr. GLENN. Mr. President, I will make my remarks brief and will participate later in the debate.

I do want to state, and I state this as a major supporter of SDI—I have made it on the floor and in committee and have supported SDI—that I think the administration made a grievous error about a year and a half ago when they started talking about already deploying portions of SDI.

The people running the SDI Program, in visits to my office in years previous to this past year and a half, have said repeatedly—and I mean repeatedly—that it would not pay to deploy any part of the SDI system until we had made the scientific breakthroughs necessary to enable us to see our way clear to go ahead with deployment. We need the neutron particle beam, the laser, and the computer technology to be advanced. The laser and the neutron particle beam, at the least, have to have scientific breakthroughs to enable us to learn how to handle them before we can go ahead with any system. Otherwise, with a partial system out there, you have the Soviet capability of completely inundating any system, completely overwhelming it, and money spent on a partial system would be wasted.

I do not know what led them into that, because directors of the program told me repeatedly that their policy was that we would not go ahead with deployment until we had these breakthroughs.

It used to be said at our hearings that all we need was a national will and it would be like Project Apollo. Every time that came up, I said that was not true. There is a major difference between this and Project Apollo, and that is that with Project Apollo we had all the scientific information we needed. All we needed on Project Apollo was a lot of very hard, long, tough engineering work to put the whole thing together.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question?

Mr. GLENN. I yield. My time is limited.

Mr. JOHNSTON. What I am hearing from the Senator, in effect, is that I think he is agreeing with me on the SBKKV, that that is a mistake.

Mr. GLENN. What I was building up to was that we should not be going through a deployment program until we make the scientific breakthroughs whereby we can see this whole pattern fitting together in an overall package, as the President described.

I think the administration shot themselves in the foot when they came up with all these funds for deployment. One of the difficulties has been in trying to sort out the funds for deployment and the funds for going into basic research.

I support all the funds they can take for research, neutron particle beam, laser, and all the control systems, and for the computer technology. That needs some breakthroughs before we can go ahead with having the option of the whole system.

Two summers in a row, I spent 10 days each summer talking to the major scientists on these systems, and they have told me that it is 10 years down the road—some say as much as 15 or more—before we have the breakthroughs, because we do not have them yet. Obviously, the SDI office has a great deal of confidence that they will make these breakthroughs. But when you get into the complexity of these systems, it is mind-boggling. We should not be deploying with a KKV system, or whatever, before we have some of the other components of the research phase, so that we see that we have the capability in the future, have the option in the future, of putting this whole thing together as a package—that is, when we sit down and say that we have the particle beam and the lasers and the computer capacity to start doing these things. We are far enough away from having that—we have a number of years yet, 10 to 15 years, before we have all this ready to go, according to the scientists. That is my concern.

Mr. WILSON. Mr. President, will the Senator yield for a question?

Mr. GLENN. I yield. My time is very limited.

Mr. WILSON. I have been listening to the Senator, and it seems to me that what he has proposed is met precisely by the actions of the Defense Acquisition Board. That is exactly what they have done. Before they get to milestone 2 for this first phase, this first generation system, they have to make just such a decision. But to cut the funding at this point will not allow them to make that decision intelligently.

Does the Senator agree with that?

Mr. GLENN. I do not necessarily disagree with that. We came down to our 4.5 figure from the 5.9 that the administration originally requested with the idea that this cut out much of that deployment capability. I am afraid that if we get the 3.7, and we already know that the House is at 3.1, and we know that in conference we will be compromising, we will be cutting the funding overall and we will not be able to do the adequate research job that I think is important.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. I yield 2 additional minutes to the Senator from Ohio.

Mr. GLENN. I want to give them all the money they can use adequately on research.

If we go to the 4.5 level, it means we will have to be at a percentage increase of 25 percent. In research circles, they usually figure that in a project like that there can be an increase of 15 to 25 percent, something like that—certainly not over 30 percent—and still spend the money properly. So this is a natural expansion, as I see it.

Some of the people there have talked about $4 billion being the absolute rock-bottom level they can take without cutting this project back dramatically. I do not want to see that kind of research cut back dramatically. So we are talking about 4.5, and the House is at 3.1. We are going to be at about the halfway point that the Senator from Louisiana and the Senator from Wisconsin are talking about here when we come out of conference. If we go to conference with their 3.7 figure, we are going to be cutting basic research out of the SDI Program.

I think our 4.5 figure was a reasonable one. We know the feelings in the House on this. I do not want us to deploy any parts of this that will cut into the basic research.

I think the administration made a grievous error. I think it was ridiculous, at this stage of development, when we have 10 or 15 years before we really have all the laser, computer, and particle beam technology put together, so that we can make a rational decision whether or not to go ahead. To try to push that forward and spend major portions of the money now on deployment of a partial system that would not be adequate unless we make these other breakthroughs, was the wrong way.

I support the research, but I do not support the deployment at this time.

Mr. JOHNSTON. Mr. President, I yield myself 30 seconds simply to say, if you look at the SDI budget, you will find that increases are all in SBKKV, not the beam weapons that the distinguished Senator from Ohio talks about.

Our level more than adequately funds the beam weapons program. That is the basic research that needs funding.

Mr. President, I yield 15 minutes to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend from Louisiana.

Mr. President, there is no other person in this Chamber who is more concerned about this country's national security than the senior Senator from Louisiana.

Bennett Johnston has an eagle eye for what really enhances this Nation's defense and what ends up wasting a lot of tax dollars.

On the issue of the strategic defense initiative, he has no equal in the Senate in expertise. He has dug into this issue deeper than any Member has. He has done his homework on this issue. He has an outstanding staffer working on this issue for him, Mr. James Bruce.

Mr. President, the Johnston amendment would authorize a total funding for the strategic defense initiative in fiscal year 1988 of $3.7 billion.

Last year, Congress appropriated about $3.5 billion for SDI. Our amendment would allow an increase in the SDI budget for fiscal year 1988 to cover inflation. Or, to put it another way, our amendment would allow SDI's budget to grow by about the same percentage that the Armed Services Committee allows the entire defense budget to grow in fiscal year 1988.

Mr. President, it has been 4 years since the President of the United States made his famous star wars speech that launched the strategic defense initiative. And in those 4 years, what have we seen?

Well, we have seen an SDI Program that's had $9 billion thrown at it—$9 billion.

We have seen a program whose budget has more than tripled since its inception.

We have seen a program whose goals and objectives are vague and constantly changing.

We have seen a program whose funding priorities radically change from year to year.

We have seen a program that is draining precious funds away from other vital military programs.

And we have seen a program that has been driven by public relations hype and political ideology, rather than sound military research.

Let us face the facts Mr. President, the evidence against this program is piling up day by day. An overwhelming majority of this Nation's top military and scientific experts have grave doubts about the pace, direction, and funding of the strategic defense initiative.

Here are the facts:

Last year, Cornell University surveyed the members of the National Academy of Sciences who work in the physical and mathematical sciences relevant to SDI. What have our Nation's best and brightest scientists concluded? By a 20 to 1 margin, these scientists said Star Wars could not be made survivable or cost-effective in the next 25 years.

Last spring, a task force of the American Physical Society produced a landmark study on directed energy weapons, which would be the linchpin for any truly effective strategic defense. The APS task force was made up of eminent scientists and military experts from places like the national weapons laboratories, the Air Force Weapons Laboratory, and the U.S. Military Academy. What did the APS task force conclude? Incidentally, this task force was headed by a Nobel Prize winning physicist. It concluded that at least a decade of intensive research is needed before we will ever know whether these directed energy weapons are even feasible—much less whether they could be deployed.

As a matter of fact, they studied laser beams and particle beams. They said they would need improvement by a factor of 100. I do not mean 100. I mean a hundredfold improvement up to a factor of a million. In fact they said some of these weapons were not even according to sound scientific principles.

For the past 2 years, my staff and Senator JOHNSTON's staff have produced in-depth studies on the strategic defense initiative, in which SDI's own top scientists were interviewed. What have SDI's scientists concluded about their own program? They say that the research has not made all these spectacular advances that the administration claims it has made. They say comprehensive strategic defenses face tremendous technological hurdles, which at this point they're not sure can be overcome. And they have deep concerns about the current direction of the SDI Program.

The skepticism in the Pentagon over the feasibility of star wars runs far and wide. Oh, sure, the Defense Department publicly is standing behind the President's program. But privately, senior officers in our military have deep misgivings about SDI behind closed doors. Two months ago many of these deep misgivings finally surfaced with the Pentagon's Defense Science Board task force report on SDI. What did the DSB task force conclude? It concluded that there are major gaps in the SDI research and we "have no way of confidently assessing" how well and SDI system would perform, how much it would cost, or even when it could be deployed.

Mr. President, we have let the SDI Program become a budgetary rogue elephant. And now we're seeing it trample over other important military programs.

When Mr. Reagan first proposed his strategic defense initiative, he promised us a "long-term research and development program" that he said "probably would take decades of effort on many fronts."

Mr. WILSON addressed the Chair.

Mr. PROXMIRE. Mr. President, I will not yield until I conclude my remarks.

But what we have gotten instead of a long-term, stable research program is a crash program with a skyrocketing budget.

Presently we are spending more on SDI research than we spend on basic technology research for the entire Defense Department.

For fiscal year 1988 the Armed Services Committee proposes to spend a staggering $4.6 billion on SDI which would almost quintuple the program's budget since its inception. Or, put another way, while the committee has frozen the rest of the defense budget, it is proposing to increase the SDI by 30 percent.

Mr. President, what we are seeing here with SDI is a distortion of our funding priorities in the Department of Defense. And that distortion is creating serious funding problems for other military research efforts.

On June 11, I received a letter from William R. Graham, who is the President's Science Advisor. In this letter, Dr. Graham complains about the slow growth in the military's basic technology program. He cites "dire, long-term consequences" if we continue with this slow growth.

Well, one of the reasons basic technology research in the military has grown so little is because SDI has grown so much.

And if we continue to allow SDI to grow at such an exorbitant rate, we are going to see other military research efforts shrink even more.

(Mr. BREAUX assumed the chair.)

Mr. PROXMIRE. Mr. President, It is time to calm down this program. It seems like every time we turn around, SDI is lurching in some new direction.

When Mr. Reagan announced his Star Wars Program in 1983, he claimed its goal was to render nuclear weapons impotent and obsolete.

In 1984, when the strategic defense initiative was formed, that goal was changed. All SDI would do is render nuclear ballistic missiles impotent and obsolete.

In 1985, SDI told us that the way to render these missiles impotent and obsolete was to pour billions of dollars into space-based chemical lasers.

In 1986, that goal changed. SDI told us that the way to render these missiles impotent and obsolete was to pour billions of dollars into ground-based free electron lasers.

In 1987, that goal changed. Instead of rendering ballistic missiles impotent and obsolete, SDI is reorienting its program to deploy early a leaky defense that barely makes a dent in the Soviet missile force. And instead of concentrating on ground-based lasers, SDI wants to pour billions of dollars into space-based rockets.

Mr. President, the SDI Program is getting to be like the Book of the Month Club. Every time we turn around it has a new selection of goals and objectives.

Last year, the administration told us that if we cut the SDI budget back to $3.5 billion, it would delay for a number of years the date when we could decide whether SDI is feasible and whether an SDI system can be deployed.

This year, everything has turned on a dime. The SDI organization is suddenly saying that: Forget what we told you last year about the budget cut forcing us to delay a deployment decision. Now, lo and behold, with the budget cut SDI claims it can deploy a defense system early.

Why, all of a sudden, is the SDI Program reorienting toward a near-term deployment?

Have the Soviets broken out of the ABM Treaty? No.

Has there been some amazing technological breakthrough in the SDI research? No.

So why the change? Well, the answer is simple. SDI is reorienting toward a near-term deployment because they want to build up political momentum for the program.

They want to get hardware projects in place to build up a political constituency for the program.

Mr. President, as I've said before, it's time to come to our senses with this program.

It is time to take politics out of the strategic defense initiative.

It is time to have this program driven by realistic and technically sound research objectives—not ideology.

It is time to stop treating the SDI budget as something so sacrosanct that we are willing to endanger other important military programs to keep it overfunded.

Sure, all this talk about exotic laser guns in space is exciting. They make great cartoons on the network news, of Buck Rogers battle stations zapping Soviet missiles. It is great to dream about tens of thousands of missiles deployed around the country that will pick off incoming warheads like a skeet shoot.

But the threat we face today is World War I vintage mines in the Persian Gulf, and we still don't have a single modern minesweeper to send to that area to clear them.

The threat we face today are Iranian speedboats or terrorist barreling toward us in vans packed with explosives, and we are still putting together a centrally controlled military force to deal with terrorism.

The threat we face today is a formidable Warsaw Pact force in Eastern Europe, and we still do not have adequate training, equipment levels, close air support, and airlift capabilities for our troops in that region.

Star wars is not going to solve these pressing military needs, Mr. President. But if we continue with these huge funding increases for Star Wars, I can guarantee you that those needs won't be met.

The Johnston-Proxmire amendment, Mr. President, would bring some stability to this program. Our amendment would allow for a more measured increase in SDI funding, instead of a crash program with the funding eating away at other important military programs.

The $3.7 billion our amendment would authorize for SDI represents a 3.5-percent increase over fiscal year 1987.

Would $3.7 billion still allow SDI to conduct a robust research program? You bet, Mr. President.

Would $3.7 billion enable SDI to explore promising new technologies so that someday we might be able to answer the question of whether strategic defenses are feasible? It certainly would, Mr. President.

And would $3.7 billion still make SDI the most heavily funded research program in the defense budget? Absolutely, Mr. President.

I strongly urge my colleagues to vote for this important amendment.

If you want a strong defense for this Nation, a defense that meets our immediate as well as our long-term security requirements;

If you support a vigorous SDI Program, a program that pursues sound and innovative research;

If you believe that our defense budget priorities should be determined by the real threats we face, and not by politics or ideology;

Then this is the amendment you should be supporting.

Mr. President, I yield the floor and I yield back the time to my good friend from Louisiana.

The **PRESIDING OFFICER.** Who yields time?

Mr. **EXON.** Mr. President, to move things along, I would like at this time, with the following caveat, to yield to my friend and colleague from California. I would like to say that the caveat that I am placing at this particular juncture will hold true for the balance of the time that this Senator controls time.

Therefore, I yield at this time for up to 10 minutes to my friend and colleague from California for any purpose, for questions that he has to ask or comments that he has to make, but not for the purpose of putting in a quorum call.

Mr. **WILSON.** I thank my friend from Nebraska.

The **PRESIDING OFFICER.** The Senator from California is recognized for 10 minutes.

Mr. **WILSON.** Mr. President, I wonder if my friend from Wisconsin, now that he has concluded his remarks, would be available for a question.

Mr. **PROXMIRE.** Yes.

Mr. **WILSON.** Mr. President, the senior Senator from Wisconsin made the point during the course of his remarks that there is division within the Department of Defense about the strategic defense initiative. Undoubtedly, through the history of the Pentagon, there has been division of one kind or another.

But is the senior Senator from Wisconsin aware of the recent action by the Defense Acquisition Board, the August decision taken with respect to the SDI Program?

Mr. **PROXMIRE.** Is the Senator talking about the recommendation for the deployment of the near-term technology?

Mr. **WILSON.** No. What I am talking about is the Defense Acquisition Board which, of course, was created by the reorganization bill which we passed just last year, which places in the hands of the Under Secretary of Defense for Acquisition a responsibility for making the milestone reviews. In this case, in August, with the full participation of the Joint Chiefs of Staff and, in effect, achieving a decision that reconciled all of the positions within the Pentagon, that milestone I review decision, validated the Soviet threat in terms of the missile threat to be repulsed by the strategic defense initiative. It validated mission requirements, approved phased development and not only approved phased development as a concept but went further and specifically approved as a system phase 1, the very architecture that my friend from Louisiana has been so critical of this morning, with the elements; and further that it approved a program, a quite specific program, for the demonstration and validation of that plan.

Mr. **PROXMIRE.** May I respond to my good friend?

Mr. **WILSON.** Does that not suggest to my friend from Wisconsin that there is no real division remaining within the Pentagon? This is the voice of the Pentagon speaking officially under the terms of the Reorganization Act.

Mr. **PROXMIRE.** Mr. President, let me point out why I think there is a split. In the first place, it was announced on September 18, just the other day, that the SDI objectives are as follows:

> The technology research programs which are candidates for Phase I of the Strategic Defense System include:
>
> Ground-based Surveillance and Tracking System (GSTS);
>
> Boost Surveillance and Tracking System (BSTS);
>
> Space-based Surveillance and Tracking System (SSTS);
>
> Battle Management/Command and Control, and Communications (BM/C3);
>
> Space-based Interceptor (SBI); and
>
> Exoatmospheric Reentry Vehicle Interceptor Subsystem (ERIS).

None of those are exotic. All of those are standard.

Mr. **WILSON.** I do not think so, but my friend from Louisiana does.

Mr. **PROXMIRE.** Let me continue.

Then the Defense Science Board went on to say:

> If the U.S. has a choice between:
>
> 1. No further BMD deployment on either side; or

> 2. U.S. BMD system meeting JCS requirements on the U.S. side, plus an equivalent system on the Soviet side, which of these two alternatives more effectively enhances U.S. security?
>
> It is not clear, of course, that we will have such a choice, which is reason enough to proceed with a vigorous U.S. R&D program. If we do have a choice, it would be well to have analyzed the consequences of alternatives. It is clear that such an analysis has not been satisfactorily done.

I have a whole series—I do not want to take the Senator's 10 minutes—I have a whole series of 6 answers which they gave which contradict the position that the Defense Department is united on this and there is no difference of opinion. There is a difference of opinion and the Defense Science Board stated it very clearly.

Mr. WILSON. Is the Senator aware that the Defense Acquisition Board had the Defense Science Board report, as well as a great deal of additional evidence from the laboratories, from the contractors, from those who are engaged in the actual experience of providing the strategic defense initiative?

Mr. PROXMIRE. May I say to my friend from California, I am sure they have had the support.

I just cannot let this opportunity escape to point out that my good friend from California is making a terrific defense for his State. Forty-five percent of all of this money goes to California. How much goes to Wisconsin? Zip; zero.

And we have to recognize that there are only six States in the entire Union that get more of the SDI money spent than they pay in taxes for it. Twenty-two States get nothing at all.

So, of course, my good friend from California is making this defense and he is doing a fine job. I would, too, maybe, if Wisconsin got 45 percent of all the money. But this has turned into a pork operation.

And when you go to the Science Board, when you go to the scientists, go to the military experts, they complain about what is going on and there is a division among the top military experts.

Let me just read one other section on milestone decisions:

> As a consequence of the current gaps in system design and key technologies, there is presently no way of confidently assessing.
>
> 1. System performance against JCS requirements;
> 2. System cost; or
> 3. Schedule
>
> Therefore, SDIO effort for the next year or two should focus on filling these gaps.

That is the complaint by the Defense Science Board.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. WILSON. Mr. President, it is very clear that the JCS did not agree with that assessment nor did anyone else on the Defense Acquisition Board.

Let me say that I am disappointed, frankly, in my friend from Wisconsin. There is an old bromide in the practice of law that if you got the facts, you argue the facts; if you got the case or the law on your side, you argue the law; and, if you have neither, you pound the table.

There is one corollary to that and that is that, if possible, you seek to impeach a witness or to discredit a position.

I would remind my friend from Wisconsin that the Midgetman programs would also benefit my State far more than any other, and it is worth 50 million bucks. I have led the fight in Congress against that. While you are handing out golden fleece awards, let me suggest that Minuteman is a superb candidate.

I do not think that we should allow the debate on any weapons system to degenerate into a suggestion that advocates for it or opponents making arguments against it are motivated purely by the economic impact upon their States. I do not pretend for a moment that I am indifferent to the fact that the national security interests coincide with the very good employment base for my State. I think that is a very happy thing.

Mr. JOHNSTON. Mr. President, would the Senator yield at that point?

Mr. WILSON. Let me just finish, and then I will be happy to yield.

Mr. President, much more important, though, than that kind of exercise, is the fact that my friend seems unfamiliar with what the Defense Acquisition Board did.

What they did was conduct a milestone review which validated a threat, validated the mission requirements; validated this specific phase in a phased development concept.

Let me shift to my friend from Louisiana, because it was really with him that I had several bones to pick.

Has my friend from Louisiana ever heard of a weapons system developing that did not occur in phase, unless it was something very simple?

For example, the M-1 tank; was that our first tank?

Mr. JOHNSTON. I think the Senator's point is a valid one, and he points out about this defense acquisition review of phase 1. What we are talking about here is whether we ought to fund, I think they call it milestone 1, or phase 1. That is what this increase would go to fund.

I think the question is: Should we fund that phase 1 or should we not? I think the panel itself, the Defense Science Board Task Force Panel has said we need more information before we fund phase 1.

I would be prepared to show chapter and verse from the panel's own program which has been put into the Congressional Record of July 14, 1987.

Mr. WILSON. Let me save my friend that exercise because, candidly, this is not the first defense science board panel that has given the Pentagon advice that it has wisely refused to take or that we refused to take.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. EXON. I yield an additional—my friend from California asks for how much additional time?

Mr. WILSON. Five minutes.

Mr. EXON. I advise my friend from California that we have some other people supporting our position. I would at this time yield an additional 3 minutes, under the previous conditions, to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President. Let us go back to the BAMBI Program, of which you seem greatly enamored, as a basis for comparison.

Is the Senator from Louisiana suggesting that because it is the same technology in much the same way that Orville and Wilbur Wright's first venture into space was designated to be an aircraft, and the B-1 bomber is also an aircraft, that there is no change, no significant change? For example, let me just ask the Senator this:

Is he aware that the BAMBI had a single color-seeker which allowed it only to see a bright plume which as a practical matter meant that because of that it could only detect rocket plumes in one spectrum of light and therefore could be easily countered; whereas the weapon system that he has been so busy demeaning this morning has a multicolor seeker that can seek plume, booster, booster vehicle, reentry vehicle, orbital Asat's, space mines, and direct-ascent Asat's? That was one point on which I would have to offer a correction to my friend. He made the point that this system cannot see a direct-ascent Asat. It can.

Mr. JOHNSTON. Would the Senator yield for an answer?

Mr. WILSON. Yes. Bear in mind I have 3 minutes and I have another question.

Mr. JOHNSTON. The Defense Science Board Task Force Panel, under the Department of Defense, says as follows:

> Precision targeting of the rocket hard body and the presence of the rocket plume is uncertain at this time. Before this problem can be addressed with confidence, extensive data gathering is needed on various types of U.S. and U.S.S.R. boosters.

I don't know how much progress they made but it ain't enough, according to the Defense Acquisition Board Panel.

Mr. WILSON. Well, I think that is out of context but let me ask the Senator this. Is he aware of the differences in terms of the computer capability between BAMBI and this modern technology?

Mr. JOHNSTON. Of course.

Mr. WILSON. Is he aware, for example, that the BAMBI computer can handle only a very limited amount of data and that it required thousands of watts of power? Whereas the SBI computer can actually do billions of calculations per second and requires tens of watts of power?

Mr. JOHNSTON. I am aware of that. Of course, there have been improvements. But again the DOD's own acquisition task force panel says that it is not good enough yet, it is not good enough to go into phase 1.

Mr. WILSON. Of course, it is not good enough. That is precisely why we need to spend more to take this further.

This is the first milestone of what is a four-milestone review process.

Mr. JOHNSTON. Well, there is a zero milestone which they are in now and which the SDIO panel says we ought to do, but they say we are not ready for milestone 1. Here is what they say: "Therefore, SDIO's effort for the next year or two should focus on filling these gaps." And they just talk about the gaps. A milestone 1 decision can be considered whenever sufficient progress is made to formulate with confidence a system concept. We are not ready for milestone 1.

Mr. WILSON. Let me tell my friend we have already passed milestone 1. That was the decision in August to which I referred in addressing my friend f90[S22SE7-221]{S12441}

> The technology for the manufacture of very large IR focal planes is not yet in hand. The availability of sufficient material for substrates may be a problem if yields are very small.
>
> There is a major need to create an adequate data base of the phenomenology involved in SDI. There is very little available information on how objects look in space or how rockets look in boost phase. Component and system design are proceeding on the basis of assumptions and calculations which may or may not prove reliable. Some measurements are being planned and some instruments are being built but the responsibility and resources necessary for so demanding and important a task are yet to be assigned.
>
> The design concept for a first phase is in an early stage and still quite sketchy. It takes the form more of a list of components than of a consistent design. Many tradeoffs have yet to be completed including those between ground based and space based defense, between sensors on BSTS and CV's and KKV's, between SSTS and GSTS, between discriminating against and killing decoys, between active and passive defense of CV's, etc.
>
> A much more thorough and unified attack on the system design problem is necessary before a design can be confidently selected. The same quality of effort is needed on preliminary system design as is now being applied to component technology.
>
> As a consequence of the current goals in systems design and technology, none of the current cost estimates can be relied upon.

They say, therefore, you need to fill in these gaps before you go to phase 1. Now, Mr. President, this is not some peacenik out somewhere saying that SDI is not ready for phase 1. This is the Department of Defense task force, Mr. President. It is in the RECORD. It is not some classified document. It is in the CONGRESSIONAL RECORD for July 14, 1987, page 19662.

If you do not believe that, Mr. President, read the "Report to Congress on the Strategic Defense Initiative," June 1986, that talks about these fast-burn boosters. It says:

> Over the long term, directed energy weapons appear to hold the key to defeating some of the more stressing threats such as the fast-burn booster which could severely shorten the exposure time of energy missiles in their vulnerable boost phase.

That is from page VII-1 of their report.

It says the same thing in April of 1987.

Mr. President, what could be more clear? SBKKV, from the days of BAMBI to the days of High Frontier to the days of SBKKV, virtually every expert that I know about, the American Physical Society, the Department of Defense in its own report—who is saying it will work? Nobody that I know of.

Mr. President, General Abrahamson himself came to my office. We had a 3-hour meeting. I said: When are you going to be ready to make this decision? And he said: "Well, we cannot make a decision for deployment until the early nineties." And yet that is what this phase 1 is all about, Mr. President.

Mr. President, I invite, I implore the Armed Services Committee to please look at this budget for SDI. What is it the administration is doing? They are going to a phase 1 SBKKV. Their own people, Mr. President, the Department of Defense Science Board task force says they are not ready.

They say:

> There is presently no way of confidently assessing: one, system performance against JCS requirements; two, system cost; or, three, schedule.

In effect, they do not know how much it would cost, when it could be available or whether it will work. In plain language, that is exactly what they say. They say before you can go to a milestone 1 decision, you have to "focus on filling these gaps."

Please, pray tell, somebody from the Armed Services Committee, please tell me why we do not fill those gaps before we put this money down the rat hole; before we cannibalize R&D from the rest of the Defense Department; before we cut personnel; before we cut acquisition and procurement? Why should we not do what the Department of Defense says and fill in those gaps first before we go off on these experiments?

Look at this budget, Mr. President. They are working on kinetic energy weapons, miniprojectiles. That is $102.9 million they want this year. Do you know what miniprojectiles are? That is the shotgun, where they shoot all this debris out in space. It can be catastrophically defeated. Everybody says it can be defeated. Dr. Brown, Dr. Miller——

Mr. WILSON. Will the Senator yield for a question?

Mr. JOHNSTON. Yes, I yield.

Mr. WILSON. Is he aware that not only does not everybody agree with that, but that very distinguished space scientists, space engineers, those with actual experience in contrast to the American Physical Society, including some who have been sharply critical of that report, not only disagree——

Mr. JOHNSTON. Who is the Senator speaking of?

Mr. WILSON. A former president of the American Physical Society, also a former director of the Los Alamos National Laboratory was sharply critical before the House Armed Services Committee hearings.

Mr. JOHNSTON. Critical of what?

Mr. WILSON. Of the American not he is aware that the George Marshall Institute study cites the Central Intelligence Agency's statement that it would cost $90 million per retrofit in order to give this fast-burn capability which he relies upon as being able to defeat the SBKKV.

Mr. JOHNSTON. I am not aware of that figure, but if you are talking about $90 million per retrofit, with 12 warheads per missile, you are talking about less than $10 million per warhead.

Mr. WILSON. I am sorry, I misspoke. Per warhead.

Mr. JOHNSTON. $90 million per warhead?

Mr. WILSON. Yes.

Mr. JOHNSTON. That would be $9 billion per rocket. Is that correct?

Mr. WILSON. That is right.

Mr. JOHNSTON. No. That would be $1 billion per rocket.

Mr. WILSON. The easiest way to calculate is to take the price per warhead and multiply that by the number of warheads we know to exist in the Soviet inventory. Let us say 10,000. We know there are far more than that. If you multiply that $90 million per warhead by 10,000, you get to a very tidy sum, Mr. President, $900 billion. That is rather a severe impediment to bringing about that kind of retrofit. It is more than the cost of the initial installation.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. I yield myself 10 minutes.

Mr. President, I rise in opposition to the amendment offered by my friend from Louisiana.

As a member of the Armed Services Committee I was in the unique position in the course of hearings preceding the markup of this legislation to receive extensive testimony on the merits of the strategic defense initiative.

The administration's request for nearly $5.7 billion for the program was thoroughly discussed by members of this committee and witnesses both for and against this level of funding.

After much deliberation, the members of the Armed Services Committee, working in a spirit of bipartisanship reported out of committee a funding level of $4.5 billion for SDI, a cut of $1.2 billion from the President's request.

I would have preferred that the committee had authorized a spending level closer to the President's request of $5.7 billion.

I believe that a funding level of $4.5 billion strikes a satisfactory balance between the need for healthy growth in this program and current budget constraints. Thus, I choose to support this figure as the minimum level necessary for national security.

There has been much discussion concerning the popularity of the strategic defense initiative. Let me point out that a poll released earlier this year by a highly reputable political research firm demonstrates that, "The public continues to strongly favor the development of the strategic defense initiative."

The poll further states, "The public is firm in its support for the concept of the strategic defense initiative." By 77 percent to 20 percent, the respondents said that they favor "a research program to develop a system to destroy incoming nuclear missiles before they reach their targets."

This data confirms what a majority of us in Congress and the administration have felt. That the American people believe that the SDI Program is vital to the security of the United States and research into this program should be of highest priority.

The Soviet Union has been investing billions of rubles, for many years, on an extensive strategic defense effort of its own. An effort that appears to include the development, testing, and deployment of traditional ABM systems and components that could be expanded quickly for nationwide ABM defense purposes.

In addition, the Soviets appear to be working toward the development of directed-energy weapons systems that can be used for strategic missile defense and to attack space targets.

Though our program ceade it clear that his main job is to rescue the Soviet economy.

He does not want to have to spend billions of rubles on an even more sophisticated high-technology competition with our country. A competition in which our country starts out with a decided advantage.

The strategic defense initiative—the ultimate high technology research project—is the one means by which the United States can maintain its advantage over the Soviets in technology.

Let us also not forget that it was SDI that played a large part in bringing Mr. Gorbachev back to the negotiating table—$4.5 billion this year will show the Soviets that the United States is truly behind this program.

Thus, we will be in a no lose situation—Gorbachev will have to either spend the money or seek real agreements at the negotiating table.

A robust SDI Program is also critical as a hedge against nuclear war.

The strategic defense initiative offers the promise of rendering nuclear weapons impotent and obsolete.

Even a limited system would serve to significantly reduce the risk that the Soviets might launch a nuclear war.

There has also been a great deal of discussion of late over the narrow versus broad interpretation of the ABM Treaty and the leverage that one or the other version gives us at the current arms control negotiations at Geneva. I believe that the best leverage in talks with the Soviet Union can be gained through the authorization of $4.5 billion by this body for continued research into SDI.

It has been the appropriation of healthy growth levels of funds by Congress to SDI that has the Soviets on the defensive, not our discussion of various interpretations of the ABM Treaty.

The strategic defense initiative is also important to the United States in terms of technological advancement. I can remember when President John F. Kennedy challenged our country in 1961 to put a man on the Moon by the end of that decade. Many believed that it could not be done. The technological barriers were too great.

Well, we all know what happened. The great minds at NASA got together and achieved the impossible. And along with a man on the Moon came major technological breakthroughs in computers and electronics that have changed our lives.

I believe that new, unforseen breakthroughs can also be achieved through SDI.

Recent developments in the semiconductor and superconductor industries are just the tip of the iceberg in terms of technological advancement.

Just as in the Space Program, SDI research will result not only in the achievement of a seemingly impossible goal but also bring as yet unforseen technological breakthroughs that will change all our lives.

We must in our deliberations also take into account the actions of the other body. The House has chosen to cut the SDI funding level to $3.1 billion. We need, now more than ever, to maintain the level that was reported out of committee to achieve any real growth in the program. To take our mark down to $3.7 billion would result in, at best, a figure of $3.3 or $3.4 billion out of conference, a cut from last year's program.

Mr. President, let me once again express my opposition to this amendment to slash $800 million from the SDI Program. The $4.5 billion approved by the Armed Services Committee for this initiative is the absolute minimum amount necessary to sustain the progress already made. Anything less will serve only to increase total costs at the risk of national security.

I will be glad to yield to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator said that even a limited SDI would reduce the risk of nuclear war. Now, the Senator agrees with me, does he not, that a limited SDI would enhance the offensive capability of the country that had it?

Mr. SHELBY. It could in some ways. That is possible. But also a limited amount of SDI would make somebody blink and think twice. I do not know if we can ever cover every inch of ground defensively in this country. I am pushing, as the Senator from Louisiana knows, for the research capability. We do not have a lot to deploy now, but I think we should fund research in the lab. That is what I am advocating today. Do not cut research, do not cut back on where we could go.

Mr. JOHNSTON. The Senator would agree with me, would he not, that the hope of the research here is for the beam weapons, the laser weapons, the neutral particle beams?

Does the Senator prefer the space-based kinetic kill vehicle deployment in the mid-1990's?

Mr. SHELBY. I am not ready to defend anything other than the money for research right now. I believe that is what set us apart in the past. I believe that is the cutting edge of the future. That is why I want this money, for research and development in the lab.

Mr. JOHNSTON. I would tell the Senator that if you look at this budget—and that is why I am anxious to have the Armed Services Committee really look at the budget. Frankly, I think the Armed Services Committee said, "What has the House got? They have $3.1 billion. We better get a big number."

Mr. WILSON. Will the Senator yield at that point?

The **PRESIDING OFFICER**. The Senator from Alabama has the time.

Mr. **SHELBY**. I yield to the Senator from California.

Mr. **WILSON**. My friend from Louisiana has made that point about three times and that is a little more than I can stand. As my friend from Alabama will testify, my friend from Ohio, and others who participated in this debate, we did not simply consult the figure that the House took. In fact, I believe when we took our deliberations the House had not yet acted. The fact is we looked at and debated very carefully the effect of the cuts and there was a very spirited debate on precisely this number of $4.5 billion.

The debate was not, "Well, what can we do in conference? What are we going to do about the House number?" It related to specific impacts of cuts in funding.

Now, the Senator is clearly unaware of that. I think he should be made aware of it. If he is sufficiently interested, the chairman is here, and he will be able to also consult the transcript of the hearing.

The **PRESIDING OFFICER**. The time of the Senator from Alabama has expired. Who yields time?

Mr. **SHELBY**. I yield 5 minutes to the Senator from California.

The **PRESIDING OFFICER**. The Senator from California has been yielded 5 minutes.

Mr. **WILSON**. I thank my friend, the junior Senator from Alabama, who has already in his very brief time in the Senate proved a very valuable member of the Armed Services Committee. The point he makes is one that cannot be overemphasized—he has done an extremely good job of making the point—that by shortcutting our research effort we put ourselves in a position where we can really never get the kind of weapons that the Senator from Louisiana apparently wishes.

Let me point out that this is a long road, as it was a long road from the Model T to modern automobiles, a long road from Kitty Hawk to an advanced technology bomber.

Mr. President, what we are dealing with is phased development of a very complex set of systems, and what I would point out is that in this long, complicated process, with all kinds of information available and all kinds of checks at steps along the way, before this first milestone review was taken not only the Defense Science Board Panel, to which reference has been made this morning by the Senators from Wisconsin and Louisiana, but about a dozen other working groups provided information that went into the decisions that flowed from that first milestone review decision by the Defense Acquisition Board.

They are proceeding quite logically and by a process that does not take anything for granted, not just to a near-term deployment but hopefully to a phase 2 that would bring about the kind of weapons the Senator from Louisiana apparently thinks are the answer.

I hope we can get there, but I can tell him we will not get there by cutting spending. That is a strange logic. Indeed, it is very strange. Everything that is contained not just in the number agreed upon by the Senate Armed Services Committee but even in the President's request, which was higher, is permitted under the narrow interpretation of the ABM Treaty to which the Soviets have now agreed, so in effect the Senator is asking us, for reasons that escape me, to cut below a level that is approved even by the Soviet interpretation of the ABM Treaty. I do not know by what logic we are going to more quickly arrive at phase 2. What we have to do very quickly is to be aware of what the impact is if we fail to follow the path that has been set.

This is a development decision that would need to be taken before deployment. It would involve development and testing. We are not there yet. We have taken the first. We have approved the concept. We have approved a demonstration and validation of the research program plan.

Now, over time, if we do not develop what we should, if we rely purely on kinetic energy interceptors and the kind of radar or passive electro-optical sensors that would be used in conjunction with them, we can expect the Soviets to develop countermeasures, so that over time, as our capability increases, if enough time elapses and we have not done more, it will begin to deteriorate; we will experience some degradation owing to Soviet countermeasures.

So the next step is to go to directed energy systems and active discrimination sensors and after that to advanced directed energy weapons and support technologies, all of which will take time and most assuredly it will take money.

Mr. **JOHNSTON**. Will the Senator yield at that point?

Mr. **WILSON**. We did not wait in the history of weapons development to be able to put into the air the advanced technology bomber. At some intermediate point we had a P-38 and a B-17 and a B-29, because people are not simply watching. It is not that the other superpower has an academic interest in this. They have been engaged for years in spending as much for defense, indeed more, than their offensive inventory, which is staggering. So they are not simply passively observing an academic exploration.

The **PRESIDING OFFICER**. The time of the Senator from California has expired.

Mr. **SHELBY**. Mr. President, how much time remains on each side?

The **PRESIDING OFFICER**. The Senator from Louisiana has 67 minutes remaining and the Senator from Alabama in opposition to the amendment has 72 minutes remaining.

Who yields time?

Mr. **JOHNSTON**. Mr. President, I yield myself 2 minutes.

Mr. President, I think the Senator from California, and indeed the SDI Office, are making a fundamental mistake when they speak about the phased deployment of SDI as if the SBKKV, the orbiting rockets, are a necessary first step to get to the beam weapons. I think the Senator from California says it was a long step from Kitty Hawk to the Stealth bomber. And the suggestion is, therefore, that we need to go to spaced-based KKV's before we go to the beam weapons.

Mr. President, that is the fundamental question before the Senate, should we go to space-based KKV's, because I can assure the Senate, Mr. President, it is not a step. It is a choice. You can have one or the other but you cannot have both unless we have found some new pot of gold at the end of the rainbow. The Department of Defense has already said that the cost of space-based KKV—which is only partially effective, less than 20 percent, which does not protect the American people but interferes only with the "timing of the Soviet attack." That is exactly what they have said. That costs $100 billion to $120 billion according to their estimates. That is in the face of course of the Acquisition Board task force that says we do not know what the system costs.

But, Mr. President, you cannot put $100 billion or $120 billion into a KKV partially effective system and then come back and put in beam weapons on top of that. I mean, these are not like injector razors where you can take the space-based KKV's out and put in the beam weapon.

The **PRESIDING OFFICER**. The time of Senator has expired.

Mr. **JOHNSTON**. You have to have one or the other, Mr. President. They are fundamentally different systems.

The SBKKV is fundamentally flawed. Sure they are improving the sensors, and they are improving the burn time on the rocket. But as their own reports say, they cannot be defended. They can be catastrophically defeated by the fast-burn booster and done so at a cost that is much less than our deployment of the space-based KKV's. It is fundamental. It is clear, Mr. President. I wish again, and I challenge the Armed Services Committee to look at the budget, and to focus in on what it is they want to do. It is spaced-based KKV's. That is where all the increase is. There is less than a 1-percent increase in the beam weapons technology. I am for the beam weapons. On my Subcommittee on Energy and Water I increased the number in the House bill by $30 million because that funds the base programs of the national labs which do the beam weapons. That is where the money ought to be. We should not be raiding the rest of the defense budget to fund these experiments. The national test bed; for example, what is that for? That is to run computer experiments on space-based KKV's with a projected efficiency of less than 20 percent.

Mr. President, it does not make any sense.

The **PRESIDING OFFICER**. The time of the Senator from Louisiana has expired. Who yields time?

Mr. **SHELBY**. I yield 10 minutes to the senior Senator from Alabama.

The **PRESIDING OFFICER**. The Senator from Alabama is recognized for 10 minutes.

Mr. **HEFLIN**. I want to thank my colleague from Alabama for making time available to me at this time. I am working with the Bork hearings on the Judiciary Committee, and I appreciate his courtesies and that of the Senate in order that I might get back to those hearings.

Mr. President, I rise in strong opposition to this amendment which would reduce by nearly $2 billion the funding requested by the administration for the Strategic Defense Initiative Program. This is some $800 million below the Armed Services Committee recommended level. In my judgment, this amendment, which would reduce total SDI funding to $3.7 billion, is ill-advised at a time when the United States is embarking upon a vigorous and comprehensive research program to analyze and design defenses that enhance the security of our Nation and our allies, provide a hedge against a Soviet breakout of the ABM Treaty, and ultimately, if feasible, provide options on whether to develop and deploy advanced defensive systems. As I have said many times before in this body, SDI represents a welcome shift in our strategic policy from one which relies upon the doctrine of mutual assured destruction for deterrence to one based upon a commitment to self-defense. The effect of this amendment would be to gut many of the existing programs now ongoing within the SDI organization, threaten critical elements of the program, and undermine the promising arms control negotiations on reduction of strategic offensive arms.

In the 4½ years since its inception, the SDI Program has made significant technological progress and has provided strong incentives to the Soviets to enter into serious arms control talks. On March 23, 1983, when the President made his historic announcement initiating the SDI Program, I was one of the first in Congress to officially congratulate him on his initiative and foresight. It was the right decision at the right time and placed us on a track of building a more balanced strategic force which would no longer rely entirely on the threat of retaliation to assure nuclear deterrence.

Mr. President, this is no time to cripple a defense program that has shown such excellent progress and brought the Soviets back to the negotiating table.

Regrettably, Congress has seen fit to make deep cuts in the President's SDI budget request every year since its inception. This year looks particularly bleak since the President's request of $5.68 billion for DOD and Department of Energy SDI funding has already been slashed down to $3.1 billion by the House of Representatives. Then, Mr. President, the Senate Armed Services Committee cut the total request down to $4.5 billion. Mr. President, our colleagues who serve on the Senate Armed Services Committee are going to have to go to conference with the Members of the House Armed Services Committee. Because of the unreasonably low funding level agreed to by the House, our colleagues are going to require absolutely as much negotiating room as possible in order to have any hope for an acceptable compromise in the joint conference. Even with the $4.5 billion level set by the Senate Armed Services Committee, the final SDI total funding level is likely to be below $4 billion. Mr. President, while I would have preferred that the Senate Armed Services Committee provide a level of funding closer to that required by the administration, the level of funding agreed to by the committee is, in my judgment, the minimum acceptable funding level for the SDI Program in either department if we are to continue the intensive research already begun in many defense technologies.

Mr. President, let me take just a moment to say a word about that $4.5 billion figure. Let me emphasize that that funding level is for both the Department of Defense and the Department of Energy. The real DOD figure is about $4.1 billion. Even with $4.1 billion, the SDI Program in the DOD will experience at least a 1-year program delay. This means that key projects in "theater missile defense," directed energy, battle management, survivability, and lethality will be severaly reduced and delayed.

If we pass this amendment, it would no longer be possible for the SDI Program to keep many of its major programs going along at the currently reduced level. This amendment will result in a funding level for fiscal year 1988 which will force even more severe cuts in major programs and elimination of a great many others than previously expected. In my judgment, this is not the time to force such far-reaching decisions—decisions which will preclude future options for defending our Nation and tie the hands of our arms control negotiators.

In particular, I am concerned that some of the ground-based elements of the SDI Program, which provide us with high confidence and survivable hedge options for our future security, will be endangered by severe budget reductions. These elements can be based securely on our own soil should the need arise, and they can preferentially defend high valued targets to preserve deterrence. It is not wise to sever the ground-based legs of a multitiered SDI concept for ultimately protecting this Nation against any nuclear missile attack, nor is it prudent to force the elimination of the more mature ground-based elements before we have perfected the longer-term technologies, such as directed energy weapons [DEW].

Thus far, SDI has done a good job at taking a balanced approach toward ballistic missile defense by stepping up the pace of research on advanced, long-range defense concepts, such as directed energy devices, while continuing work on more mature, nearer term BMD concepts. This is an approach I have advocated since the inception of the SDI Program. However, in my judgment, the SDI Program should place greater emphasis on research in conventional defense technologies. The United States must maintain the option of deploying a BMD system of relatively mature technology within a decade. I believe this is an appropriate response to the ongoing and extensive Soviet antiballistic missile effort. The Soviet Union has had a very active BMD Program for many years and, as we all know, has constructed an ABM system around Moscow. They are also engaged in extensive research on lasers and neutral particle beams for a strategic defense. Many of the Soviet Union's BMD technologies could be developed by the early 1990's. It is vital to our Nation's security that we provide a deterrent to any further Soviet decisions to expand its ballistic missile defense capabilities beyond that permitted by the ABM Treaty.

Mr. President, advances in BMD technologies and activities currently being undertaken by the Soviets are of grave concern to me and I know they are to many of my colleagues. In that regard, I have urged the administration, even signed correspondence to the President, to declassify certain information regarding Soviet BMD activities. In my judgment, this would be very helpful in convincing many of the doubters of the American public and Members of Congress who traditionally oppose the SDI Program that it is essential that the United States move rapidly with our research toward the development of a strategic defense against ballistic missiles.

The ability to respond to unforseen national and international developments quickly and effectively constitutes one of the greatest reasons for pursuing SDI research. I wonder, Mr. President, what could be more stabilizing than the ability to defend one's homeland against nuclear attack—deliberately or, certainly, accidental? Thus, today we see the Soviets well ahead in ballistic missile capabilities and our land-based ICBM's growing increasingly vulnerable, further adding to a situation that is destabilizing rather than stabilizing.

The Soviet threat is real. Because much of it is classified, I am not able to go into details in this forum. One of the objections of SDI is to evolve with the threat to our Nation. If vital programs are further cut, delayed, or eliminated, as they most assuredly will be if the amendment passes, the program will not be able to evolve with the threat and the program will not be able to live up to that threat.

Since its inception, the SDI Program has shown great progress and substantial success. Many times in the past, I have mentioned the June 1984, Army "homing overlay experiment" which demonstrated the capability of a nonnuclear missile to intercept or destroy an incoming warhead outside the Earth's atmosphere. Also, Mr. President, in June of last year, the Army's "flexible lightweight agile guided experiment" or FLAGE demonstrated the ability to intercept targets within the atmosphere using nonnuclear means. On May 21 of this year, the Army was again successful in testing the FLAGE missile against a U.S. tactical missile as part of the strategic defense initiative program. This new experiment, known as the FLAGE "Follow-On," verified the FLAGE's guidance and control technologies that can provide the accuracy required for a nonnuclear kill of tactical ballistic missile targets within the atmosphere.

In the last year, the SDI Program has had a great many successful experiments and technological developments further confirming the potential for strategic defense systems. For example, last year during the Delta 180 experiment, the SDIO successfully accomplished the interception of a target in space. This kinetic energy interceptor experiment demonstrated the acquisition of boosters from space and added to our understanding of plume data. In the area of directed energy, we have had major successes in several free electron laser experiments. For the first time, wave lengths were produced that may be suitable to space applications. Also, for the first time, we demonstrated a device that will allow for the acquisition and tracking of cold targets in the midcourse flight regime. Experiments with the Alpha laser demonstrated that beam quality and brightness can be produced in a design suitable for space applications.

In the area of sensors, we successfully developed an experiment that would allow for the examination of the auroral and other disturbances in the ionosphere and that could significantly disrupt strategic defense sensing devices. In addition, the first flight test of the airborne optical adjunct airplatform was successfully completed. Also, Mr. President, radiation hardened infrared detectors have been developed which could significantly improve the survivability of a strategic defense system.

If we are to continue to make such great and progressive steps forward in this important research, it is essential that the Senate defeat this amendment. In fact, in my judgment, the reduction made by the Armed Services Committee is already too large in the view of valid U.S. national security requirements.

Many of the critics of the SDI Program argue that it constitutes a breech by the United States of the ABM Treaty. In my opinion, and many of the experts, this charge is totally unfounded. The ABM Treaty places limitations on the deployment of an ABM system, and prohibits development and testing of space-based, sea-based, air-based, or mobile land-based ABM systems or components. Now Mr. President, I have no intention of getting into a debate at this time on the virtues of the ABM Treaty or adding to the extensive discussions relative to what interpretation of the treaty is "legally correct" or incorrect. Over the last 4 months, particularly over the last week, the Senate has experienced a very healthy and beneficial debate on that subject. Currently, SDI is a comprehensive research program only and does not include development or testing inconsistent with the treaty. No decision on development or deployment of the system should be made until we know the results of the research. Nothing in the ABM Treaty prohibits this type of research. With the SDI Program, the United States is merely investigating the research of a wide range of technologies such as computers, sensors, radars, high energy particle beams and lasers. If a comprehensive strategic defense system proves not to be feasible, the program should nonetheless yield, as it already has, many important technological spinoffs.

The second criticism levelled at the SDI Program is that it will prove to be both destabilizing and provocative. In my judgment, development of a strategic defense system would only accelerate and guarantee a nuclear ballistic missile disarmament. If these new technologies do prove feasible and a defense system can be both cost effective and survivable, it would utimately increase a potential attacker's uncertainty about the likelihood of a successful attack, which would enhance deterrence. This is one of the objectives of SDI. The United States must pursue equal and verifiable agreements with the Soviet Union to produce real reductions in the nuclear arsenals of both sides. The SDI can be a crucial means by which such agreements can be reached.

With respect to arms control implications, it is heartening that we appear to be on the threshold of an agreement to eliminate all intermediate range nuclear missiles—an entire class of offensive weapons. This may pave the way to getting on with substantial reductions in strategic offensive weapons—the ultimate menace to security and stability.

Mr. President, it is no secret that SDI has been the incentive that has made the Soviets become more willing to negotiate seriously on reduction of offensive weapons after they walked out on the negotiations earlier. In short, SDI has brought the Soviets back to the negotiating table. While the Soviets complain about SDI, their return to negotiations and their extensive propaganda campaign against the program is irrefutable evidence that they respect our technological expertise in this field and strongly believe that SDI will work. They respond to strength and they are always more conciliatory when we have a technological advantage in a particular class of weapons.

By no means am I implying that SDI is, or should be, a bargaining chip in the arms control process. It is a research program that must be vigorously continued to serve as a stabilizing influence in super power relations. In that regard, it must not be traded away. I remember that it was the safeguard ABM system and the technical superiority it represented that led the Soviets to agree to the ABM Treaty in the first place. It was not some laboratory curiosity that impressed them, but a substantial and sustained program that produced viable and visible results. The SDI Program must, likewise, be sustained over a long period of time to realize its full potential. The more progress it achieves, the more remote will become the chances of nuclear conflict.

Mr. President, this amendment tends to eliminate the efforts aimed at a demonstrable military capability, as well as those aimed at substantive evaluation of military capabilities. Furthermore, it suppresses the program that would provide a focus for the technology. This amendment is a major departure from the current SDI and, if passed, would require major reappraisal of the program. As I have said, this amendment would require the elimination or cutback of a wide range of technological thrusts within the SDI Program. Vital contracts would have to be delayed or terminated causing a national decision to be indefinitely delayed. To reduce the program beyond the viability needed to protect our defense options would send the wrong signal to the Soviet Union, severely injuring the SDI Program and setting its development back several years.

Mr. President, because of budget reductions in previous years, the SDIO has already made most of the premature technology cut backs that it can handle. The SDI Program cannot proceed on schedule with vital elements of the system either missing or delayed. Therefore, I urge my colleagues to reject this disabling amendment and keep the SDI budget at the $4.5 billion level established by the Senate Armed Services Committee.

Furthermore, we must provide our conferees with the negotiating room necessary to prevent a serious budget catastrophe to the program. I am not pleased about that particular reasoning, but because of the low funding level approved by the House, we are forced to proceed into a conference in this manner. While I realize that budget pressures are severe in the upcoming fiscal year, we simply cannot afford to cut so deeply into a defense program with such far-reaching promise.

Thank you, Mr. President.

The **PRESIDING OFFICER**. Who yields time? Does the Senator from Alabama yield time or does the Senator from Louisiana desire to yield time?

Mr. **SHELBY**. Mr. President, I yield to the Senator from Virginia such time as he may consume.

Mr. **WARNER**. I thank the distinguished Senator.

Mr. President, I wish to explain my regrettable absence this morning from the floor.

The Armed Services Committee had scheduled a hearing, to commence at 8:30 today, to receive the testimony of Richard P. Godwin, currently serving in the Department of Defense. While I had earlier discussed with our distinguished chairman—whose presence I note here at this moment—the ill advisability of scheduling a hearing to coincide with the important work of the Senate on this bill, the hearing nevertheless went forward.

It is interesting that the purpose of the hearing, as stated by the chairman during the course of a colloquy we had this morning, was to receive from this witness any recommendations he might have which could be translated into the form of amendments to be placed on this bill. It appeared to me, under questioning from me during the course of the hearing, that the witness recommended that there be no changes in law. So much for that.

Some Senators on this side of the aisle, members of the Armed Services Committee, could not be here on the floor this morning for the important debate on this amendment because they had to attend a hearing of the Senate Armed Services Committee. Indeed, the hearing will now continue for some period of time because the chairman—and I thank him here—acquiesced in my request that not only should the Armed Services Committee receive the testimony of Richard Godwin, but also that the administration, through its witness, the Deputy Secretary of Defense, should be allowed to present its case in rebuttal.

It is not clear to me, having listened to Mr. Godwin this morning, exactly what are the areas of his particular concern, but the record will speak for itself.

So, Mr. President, I wish to extend my apologies to the proponent of this very important amendment. I wish to extend my thanks to the distinguished Senator from California, who very ably has replaced me this morning, and I hope he will see this amendment through, as I must now return to the Armed Services Committee to receive the testimony of Deputy Secretary Taft, along with other members of that committee.

I see that the chairman has risen, and I will forbear for a moment to allow him to address this issue.

Mr. **NUNN**. Mr. President, will the Senator yield me a couple of minutes?

Mr. **SHELBY**. I yield the Senator from Georgia 4 minutes.

Mr. **NUNN**. Mr. President, I do not intend to take all that time. I share the frustration of the Senator from Virginia about having a hearing at the same time we have action on the floor.

Normally, in September, we are through with the authorization bill and we are through with the conference. This year, unfortunately, it has been delayed. Therefore, a lot of things that come up during the fall of the year are going to have inevitable overlaps.

For example, we have a series of confirmations. We have the chairman of the Joint Chiefs, whose nomination has to be confirmed. If we are still on this bill next week, we will have a hearing in the course of this bill.

One of the most difficult things in the Senate is trying to be in two places at the same time. None of us can do it.

I thank the Senator from California and the Senator from Alabama for carrying on in our absence, as well as the Senator from Nebraska. We will have to go back to the hearings and hear Deputy Secretary Taft. We have heard from the Under Secretary of Defense for Acquisition, Mr. Godwin, this morning. He has made it clear that, first, he believes that the Packard Commission report is not being implemented. He believes it is not going to be implemented as things stand at this time. He also testified that he felt it was more honorable for him to leave professing that the system could not work as envisioned by the Packard Commission and by Congress than to stay on and see it simply muddle through.

We have had some very interesting testimony. The Senator from Virginia is correct to an extent about Mr. Godwin's view preferring to find another alternative rather than changing the laws. He also made it clear that he believes changes will have to be made. He will continue to testify. So we will hear from the Department of Defense.

I think all of our colleagues should understand that we do have the likelihood of possible amendments coming up on the procurement system on this bill.

Partly because of this testimony and partly because of the news reports that have already been widely disseminated about reasons for Mr. Godwin's departure, I thought I had no choice as chairman than to hear directly in an orderly way from this witness.

I discussed approximately 2 weeks ago with my friend from Virginia. We told him we were going to have a hearing on this. We first set it last Tuesday. But we decided after being requested by Mr. Godwin to wait and set it today. So last Tuesday we served notice we would have a hearing this morning. Mr. Godwin wanted to be a civilian before he testified, but his resignation technically has not yet been accepted.

So that original goal in delaying for 1 week has not been technically met.

But I also want to make it clear to our colleagues that the Secretary of Defense or his deputy have been asked to testify. We gave Mr. Taft three choices: He could testify before Mr. Godwin, he could testify with Mr. Godwin, or he could testify after Mr. Godwin.

I did not feel there were any other choices available.

We asked him if he wanted to appear this morning. He decided he would prefer to appear after and that was in accordance with his own desires.

The **PRESIDING OFFICER**. The Senator's time has expired.

Mr. **JOHNSTON**. I ask for 1 minute.

Mr. **SHELBY**. I yield the Senator from Georgia 3 additional minutes.

Mr. **NUNN**. I thank the Senator. He did desire to appear after Mr. Godwin which was appropriate from my perspective. We need both sides of this and need to see if any other legislation is needed or it is simply a management problem.

Nevertheless, I felt we had to move on with the hearing and had to get this information to be able to properly handle this defense authorization bill in conference and matters related thereto.

So we will have Mr. Taft appearing later this morning. We will continue the hearing, and I hope we can continue the flow of this debate here.

I thank all of our colleagues for their understanding.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, if I may continue a minute.

Mr. SHELBY. I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, for those who are interested, and I am sure many are in following the testimony of Mr. Godwin, this morning while the distinguished chairman is on the floor, Mr. Godwin stated that the Secretary of Defense was 99 percent supporting when he, Godwin, needed the Secretary of Defense.

We are still trying to unravel his testimony to find out precisely why the Packard Commission recommendations are not being implemented.

It is clear from testimony before the House, and shortly before the Senate, that the Secretary of Defense and Deputy Secretary of Defense have been solidly in favor of implementing the Packard Commission's recommendations.

I leave to those who want to spend time to try and unravel Mr. Godwin's testimony to find out just exactly what it is in his judgment that has been the reason for his disappointment and the need for departure.

I urge that people watching the hearing this morning do so in a balanced way and not to try and leap to a conclusion that a disappointed employee of the Department of Defense is coming over here with any concrete recommendations as to how certain things can be achieved.

I thank the Chair and I thank the managers for their courtesy.

Mr. SHELBY. Mr. President, I ask unanimous consent that the statements and the time consumed by the Senator from Georgia, the chairman of the committee, and the Senator from Virginia, the ranking Republican on the committee, not be charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana has approximately 63 minutes remaining. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, not too long ago I saw a Richard Pryor movie, the theme of which was that he had to spend a huge sum of money, as I recall it was $10 million, in 30 days and if he was successful in doing that he would be able to keep a large sum of money. He could not give it away but he had to spend it, and it was hilarious, Mr. President. He hired his friends at huge salaries, he bought all these big cars. You can imagine how Richard Pryor would carry off the theme of that movie. It was wonderful.

Mr. President, in a way the Senate Armed Services Committee reminds me of Richard Pryor. They have a 302(b) allocation where the Senate of the United States, indeed the Congress of the United States, says you can spend only a certain designated amount. But do they take that seriously? Oh, no, Mr. President. They have reported a bill to us which is $14 billion in excess of the budget authority which the Congress says they can spend and they are $10.6 billion over in outlays.

Now, Mr. President, if the Senate Armed Services Committee wants to be a serious player, if they want to really set priorities, if they want to be of help to the Senate, they will tell us how to carry out policy. Do not just add money, I submit, Mr. President, to every little program that comes along. The Department of Defense wants space-based kinetic kill orbiting rockets. Even their own people say they will not work. Why should we not fund them? We are only $14 billion over in budget authority. Add another few billion dollars.

Well, when push comes to shove, Mr. President, and this gets to the Appropriations Committee, we are going to have to make the choices. I can tell you what our own internal memoranda say. Our staff sent a memorandum to the chairman of the full committee and of the subcommittee. Senator STENNIS sent me a copy of it, so this was not prepared for this debate. But they said what do we have to do to reach our goal. Here are the choices. One, cut out all fiscal year 1988 new procurement. That is one choice. Do away with all of it. No. 2, cut out one-half of all the operations and maintenance purchases. Or, three, cut out two-thirds of all the research and development.

A fourth option was to cut 200,000 to 300,000 personnel, and deny the pay raise, but they found out that that fourth option would only save half enough.

Those are the real world options, Mr. President. That is what we are really facing. And what does the Senate Armed Services Committee say? Increase SDI up to $4.5 billion. Give them another 30 percent. Do they need the 30 percent?

Mr. President, look at their budget. I implore my friends on the Senate Armed Services Committee to look at the space-based KKV budget. That is a political budget, that is an ideological budget. That is not a real budget.

Mr. President, if you want a real budget, if you want a real description of the program, ask the Pentagon what they think of it.

Now, they had a panel, Mr. President, for the Under Secretary of Defense for Acquisition. He is the Under Secretary who deals with these programs. And they sent a report up to the Under Secretary and what did they tell him?

They said:

> TECHNOLOGY
>
> A great deal of work has been done on the components for the first phase and much of the technology needed is either in hand or well along. The principal pieces of missing technology appear to us to be the following:
>
> 1. The technology for the survivability of the SBKKV Bus is still uncertain. Vulnerability to attack by ground-based ASATS and lasers during peacetime is particularly disturbing.
>
> 2. Precision targeting of the rocket hard body in the presence of the rocket plume is uncertain at this time. Before this problem can be addressed with confidence, extensive data gathering is needed on various types of US and USSR boosters.
>
> 3. Serious questions remain unanswered about the ability of the passive IR sensors on Probe and SSTS to carry out discrimination against anything but the most primitive decoys and debris. In addition, the presence of cooled RVs would greatly reduce the range of the proposed sensors. Once again, the needed data base on US and USSR reentry systems and decoys is lacking.
>
> 4. The technology for the manufacture of very large IR focal planes is not yet in hand. The availability of sufficient material for substrates may be a problem if yields are very small.
>
> There is a major need to create an adequate data base of the phenomenology involved in SDI. There is very little available information on how objects look in space or how rockets look in boost phase. Component and system design are proceeding on the basis of assumptions and calculations which may or may not prove reliable. Some measurements are being planned and some instruments are being built but the responsibility and resources necessary for so demanding and important a task are yet to be assigned.
>
> SYSTEM DESIGN
>
> The design concept for a first phase is in an early stage and still quite sketchy. It takes the form more of a list of components than of a consistent design. Many tradeoffs have yet to be completed including those between ground based and space based defense, between sensors on BSTS and CV's and KKV's, between SSTS and GSTS, between discriminating against and killing decoys, between active and passive defense of CV's, etc.
>
> A much more thorough and unified attack on the system design problem is necessary before a design can be confidently selected. The same quality of effort is needed on preliminary system design as is now being applied to component technology.
>
> COST ESTIMATES
>
> As a consequence of the current goals in systems design and technology, none of the current cost estimates can be relied upon. They vary widely, even assuming that the current Phase I concept holds. By the time

the necessary system and underlying technology work is complete, the design may change considerably and costs change as well. There are also sizable uncertainties in such matters as learning curves for space hardware produced in modest quantities, launch costs, and production costs for IR focal planes and hardened high speed data processing.

SCHEDULES

In view of the sketchy nature of the current system concept and the considerable uncertainty about Congressional support and funding, existing schedule estimates are uncertain as well. Current plans calling for a development decision in the early 1990's and an ICC in the mid to late 1990's are really no different than they have been; the term early deployment, which is sometimes heard, appears to mean only that a first phase would necessarily be earlier than later phases and not earlier than previously suggested. In any event current plans and decisions deal only with continued research and development. Decisions about full scale development and deployment will come later.

MILESTONE DECISIONS

As a consequence of the current gaps in system design and key technologies, there is presently no way of confidently assessing:

1. System performance against JCS requirements;
2. System cost; or
3. Schedule

Therefore, SDIO effort for the next year or two should focus on filling these gaps. A Milestone 1 decision can be considered whenever sufficient progress is made to formulate with confidence a system concept.

Mr. President, I do not know what could be more clear. The Armed Services Committee says spend another $14 billion over the limit to fund a milestone 1 effort—and here it is in their budget. If anybody cares to look at their budget, it is right here, spaced-based KKV, milestone 1, undertaken at a cost of an additional billion dollars when the Department and the Under Secretary of Defense for Acquisition's task force says they are not ready to do it.

Now, Mr. President, if that is not a line from a Richard Pryor movie, I do not know what is. If these were the days where we had lots of money and we could throw money at everything, I would say let us do it. It is not. We are going to have to take this money from something else, from R&D. We are going to have to fire personnel or we are going to have to cut O&M—and that is probably what is going to happen, because that is usually what happens—in order to fund this program which will not work. And the report to the Under Secretary has said it will not work, or should I say we are not ready to spend the money which they propose to spend.

Mr. SHELBY. Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator from Alabama controls 61 minutes.

Mr. SHELBY. I yield 4 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 4 minutes.

Mr. WILSON. Mr. President, what is clear is that my friend from Louisiana is laboring under a misapprehension of grave dimensions. He has told us that a choice must be made between the space-based kinetic kill vehicle and the more exotic neutral particle beam and electron lasers, the kind of directed energy weapons that in fact we must also seek to achieve. But the question is not are we compelled to choose one or the other. What escapes him, notwithstanding the graphic explanation just offered him and what has been repeatedly made clear by General Abrahamson and the strategic defense initiative organization, is that we need both at different times and that we are on a path.

In the first place, the Senator from Louisiana has taken a great deal of our time this morning talking about the fast-burn booster that the Soviets can develop and thereby frustrate the SBKKV.

He has not responded to the fact that the CIA estimate is that it would cost $900 billion for the Soviet Union to do so and that in the meantime we will be in fact moving——

Mr. JOHNSTON. Will the Senator yield?

Mr. WILSON. In a moment, I will be pleased to yield.

In the time that it will take them to spend that money and make that effort, the SDI program will move on to these more advanced laser technologies which are not limited by the development of the fast-burn booster. The fact is that we need both the kinetic and the directed energy system, and they will come in a logical sequence with enough time and effort and obviously funding.

To demonstrate both kinetic energy systems and laser systems, we can discourage the Soviets from making a tremendous investment—a tremendous investment—in fast-burn boosters. This in turn will limit our eventual investments.

Now he is urging us today to drop the ham to pick up the wienie. Not a smart thing to do. No one says this is going to be cheap, but the way he is proposing to do it it is going to be very expensive.

Now let me just point out that he is concerned about a distortion in our R&D program. It is interesting that he should mention that in a year when, in fact, the President has announced the most expensive civilian research project in our history, the superconducting super collider, 6 billion dollars' worth.

He has also indicated that we ought to cut from the $4.5 billion figure that the Armed Services Committee very carefully decided upon to a $3.7 billion figure for which he offers no explanation other than it is a percentage growth that appeals to him, and a modest one. It is one that will allow for no real growth. Nowhere in our history, Mr. President, have we, with an evolving weapons system, seen anything less than a 100-percent increase for the kind of milestone movement that in fact is offered by this technology—not during the Atlas Program, not during the Centaur Program——

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. WILSON. I ask my friend to yield me an additional 2 minutes.

Mr. SHELBY. I yield to the Senator from California an additional 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. WILSON. Mr. President, in 1985, my friend from Louisiana said that $2.1 billion was the only defensible number for SDI—$2.1 billion. Now that means that his current proposal, which is about 3.55, I think, for SDI is an increase of over 75 percent above his own prior position. That is just last year.

Does that mean that he has so increased his confidence in the program or so changed his view of the urgency of the threat that he is willing to go not to a 3-percent increase but to a 75-percent increase? I think it makes the point rather clearly.

Mr. President, in any weapons system of any complexity, the year before you start it and the year afterward is no valid comparison. The first and the second year is not much of a comparison. Looking at percentage increases tells you nothing—nothing—of any value. What we need to know is what is the need and will it work, and we will not find out by cutting funding.

There is a strange logic that says we have all kinds of gaps, all kinds of deficiencies, and we need to fill them in, and we are going to fill them in by cutting the budget so that we cannot conduct these experiments. He would do away virtually with the national test bed.

I might say he has a clear misunderstanding of that. I think I understood him to say that its purpose is to tolerate an environment for space-based interceptors exclusively. And that is quite wrong.

Mr. JOHNSTON. Mr. President, I did not say that.

Mr. WILSON. Let me just make it clear that the national test bed is constructed to simulate all aspects of an eventual system, including things that we can never test, notably the nuclear environment. And with all the limits on actual testing that we are imposing, such as the Levin-Nunn amendment, the test bed and other partial systems become even more important.

Now I would be pleased to yield for whatever questions the Senator from Louisiana may have.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute simply to reply to this question that keeps coming up about what the CIA says about the cost of fast-burn boosters.

The Senator has said that it would cost $900 billion for fast-burn boosters.

Mr. President, the CIA said in a——

Mr. WILSON. Mr. President, may I correct my statement? The CIA provided the estimate of threat. The Marshall Institute provided the cost estimate. I was not clear on that and I apologize. That is the fact.

Mr. JOHNSTON. Well, I would like to put into the RECORD an unclassified table from the CIA, submitted by letter of transmittal of May 18, 1987, which shows the total cost of all of the Soviet ICBM's deployed between 1971 and 1986 to be a total of $118 billion. That includes procurement, personnel, O&M, and construction. That includes missile launchers and the whole thing.

Mr. President, I ask unanimous consent that that table, along with a letter of transmittal, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY,
OFFICE OF CONGRESSIONAL AFFAIRS,
Washington, DC, May 18, 1987.

Hon. Frank McCloskey,
House of Representatives,
Washington, DC,
Attention Chris Aldridge.

The attached table is provided in response to Congressman McCloskey's request for costs of Soviet ICBM systems. The data is unclassified.

If you have any questions, please call me.

JACK GRAY.

DOLLAR COSTS AND PRODUCTION OF SOVIET ICBM SYSTEMS [1]

[Cost data are in billion calendar year 1985 dollars]

	1971–75	1976–80	1981–86
Estimated Dollar Costs:			
Procurement	13	19	10
Personnel, O&M, and construction	30	23	23
Total	43	42	33
Estimated Production:			
Missiles	1,050	1,100	400
Launchers	750	700	250

[1] The dollar value of Soviet defense activities measures the cost in the United States, at prevailing prices and wages and using US technology, to develop, deploy, and maintain military forces of the same size and with the same weapons as those of the USSR and to operate them as the Soviets do. Consequently, the dollar measures do not represent actual Soviet defense spending.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. SHELBY. I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, once again, we are debating SDI levels of funding. Let me say that I have never felt entirely comfortable with the enormous expenditures in this research effort. However, the fact is that the SDI is here to stay. The fact also is that the Soviets would not be negotiating a treaty with the President of the United States at this time if it were not for the existence of the SDI.

It is my strongest belief that the Communists only negotiate when they feel the other side is at least equal to themselves or has something superior. I know that there is a euphoria about the possibility of a major arms control agreement, but I have followed this matter of the SDI closely over the years and I submit that negotiations would not be going on if it were not for the existence of the SDI and the heavy expenditures the United States has placed on it. My book, "Star Wars: The Strategic Defense Initiative Debates in Congress," further elaborates on this matter.

My position has always been to support the research but I have been skeptical whether all of the proclaimed objectives can be achieved. I have already mentioned the potential arms control agreement which might result in lower spending for the United States. The SDI holds the possibility for major scientific breakthroughs.

As we all know from our experience with the space program and other major scientific research efforts funded by the Federal Government, the potential applications of technological research and development are often unpredictable. Research for space flight has produced innumerable nonmilitary consumer applications that have enriched our lives. The research has demonstrated the possibility of still further research and development options that previously may have seemed unimaginable. So it is likely to be with SDI research. What now is perceived as a defense or military program holds a potential for far more than that. There is, for example, the prospect of incredible breakthroughs in computer science applications and commercial or industrial uses and, I might add, medical applications of SDI-generated laser and particle beam development and research.

So for these reasons, we must avoid micromanaging every phase of SDI research. Le me also say, Mr. President, that we cannot overlook the vital role SDI can play in revitalizing our Nation's basic scientific research and technological capabilities. As one who serves on the Senate Science, Commerce, and Transportation Committee, I am frankly alarmed at the deterioration of undergraduate and graduate study and research at American colleges and universities. Students in engineering and "hard science" graduate programs often are outnumbered by foreign students at our universities. We seem to be producing and then exporting to other countries the next generation of leading scientists, technicians, and engineers.

The investment in SDI is to a large extent an investment in the research and teaching capabilities of our higher education institutions. To the extent that this investment increases the potential attractiveness of scientific careers to American students, it is a wise and lucrative investment.

Mr. President, I would also like to add a few comments on the controversial issue of the ABM Treaty limitations on SDI research and development. I have endorsed the minority report to the Committee on Foreign Relations regarding interpretation of the 1972 ABM Treaty. That report substantiates why we should pursue a broad interpretation of the treaty.

Without repeating all the details of that report here, the conclusion is that the Soviets have interpreted the treaty to permit SDI-type development and testing by themselves. Since President Reagan proposed the enhanced SDI Program in March 1985, however, the Soviets have insisted that the United States is bound to a strict interpretation of the treaty which would deny it the opportunity to conduct certain development and testing activities. Furthermore, the report documents subsequent practices by the Soviets that bring into question Soviet observance of the treaty's requirements and prohibitions. Soviet treaty violations have been commonplace. I would not like to see our options hamstrung by objections from the Soviets who have demonstrated a pattern of ABM Treaty violations.

It is time to face this problem squarely by encouraging the administration to begin discussions with the Soviets on all aspects of the ABM Treaty, including compliance questions and possible treaty revisions.

It is clear that the ABM Treaty would need to be revised to permit deployment of some elements of an SDI-ABM system, let alone a complete ABM system that is not ground-based. It is less clear what type of ABM components testing is permitted by the treaty. Realistic testing in conditions that approximate potential conflict situations will be necessary to help us decide whether or not to proceed to the deployment of an ABM system not based on the ground.

So, in conclusion, Mr. President, I rise in opposition to this amendment. It is a difficult choice for me, but over the years, I have become convinced that the SDI is what has brought the Soviets to the negotiating table. The existence of the SDI has enriched our scientific capabilities and it is an area in which we should be spending money. We may need to reduce in other areas, but the SDI has become a key element, not only in our military strategy, but also our diplomatic strategy.

Over the years we have gone through some very long and painful debates on this floor regarding the SDI. I recall well a lengthy closed session we had on the SDI. There have been some occasions in the past when I have supported some limitations on testing.

In fact, in the bill before us, the Armed Services Committee has placed limitations and restrictions on the program. This is not an open-ended bill. It is not an open-ended right to spend by the Pentagon. There also are many limitations in the House bill.

We are about to limit some of the intermediate-range missiles. We are finalizing an agreement to eliminate those missiles. But we still have the problem of the intercontinental ballistic missiles. Even if a portion of them could be stopped by an ABM system, it would greatly enhance our deterrence capability.

Margaret Thatcher gave a wonderful speech on the SDI to the Soviet people. I am surprised Soviet officials allowed it to appear on TV, but she talked about the value of deterrence, the value of having something to counter the other side's strength. The other side will not negotiate unless you have a credible deterrent; the other side will be expansionist unless you have a deterrent force; the other side will take advantage of you unless you have deterrence, something with which you can strike back in the future or immediately.

The SDI Program is in place. It appears that it is one of our key defense options. It is something that has shaken the Russians. In fact, only after we reaffirmed our commitment to the SDI did the Soviets come back to the bargaining table in Geneva. Many people have forgotten that.

A lot of people forget what was said just a few years ago about arms control. A few years ago, Ronald Reagan was the first to announce the objective of actual reductions of nuclear arms. The treaties that had been proposed before always permitted increases. The SALT Treaty was a license to increase the building of nuclear arms.

When Ronald Reagan first proposed a major weapons reduction, people in the arms community scoffed and there were commentators on TV who said this cannot be—there will be no reductions under this President. All we can do is limit future building. But now, in fact, the world will see an agreement with actual reduction of nuclear weapons. I have some concerns about that agreement. But the point is that agreement would not have happened were it not for the existence of the SDI—our trump card.

For some reason the Soviets became convinced that the SDI really gave us an advantage. It was then that they decided to negotiate.

We cannot overlook the value of the SDI from a negotiating point of view. I feel the same way in other dealings with Communist countries. They only negotiate if they feel you are at least equal or superior to them in military strength. The SDI does give us that option, therefore I rise in opposition to this amendment.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 1 minute, simply to reply to the assertion that this has been what has brought the Soviet Union to Geneva. I think that is demonstrably not so. The treaty we have at hand on intermediate range nuclear missiles contains nothing about SDI. It has not been negotiated that way. It is a completely separate negotiation.

SDI will in fact be a subject of negotiations in the START Treaty, which is not made possible by SDI. It might be made impossible by SDI. But certainly it is not the reasons that the Soviets came to Geneva.

If the Senator can show me one whit, one iota of words in the intermediate range treaty that relates to SDI, I will stand corrected. But as an observer at Geneva I can tell you that it is irrelevant to the intermediate range treaty. It has not been discussed.

Mr. PRESSLER. Will the Senator yield 1 additional minute?

Mr. EXON. Mr. President, I yield 1 minute to myself and then I will yield 1 minute to my friend from South Dakota.

Once again, I find myself in a serious difference of opinion with my colleague and coworker from Louisiana. While I think it is true that SDI did not have anything to do directly with the treaty on short-range INF missiles, I do not think there is any question but what the record shows that the SDI more than any single factor brought the Russians back to the bargaining table, and out of that came what appears to be an understanding with regard to INF.

So from that standpoint I think SDI has played a key role.

I yield 1 minute to my colleague from South Dakota.

Mr. PRESSLER. I thank my colleague.

Let us remember that in Geneva 2 years ago the Soviets broke off the arms control talks. They said there was no hope for an arms accord. It was only after the SDI became clear, and that the Congress would support the research for it, that they came back to the bargaining table.

It is said that Andrei Gromyko, a young Soviet foreign service officer in Washington when the hydrogen bomb was developed, became convinced that if the United States set out on a research program, it was likely to succeed. He was instrumental in the Politburo going back to the bargaining table to try to slow down the SDI Program.

Although the INF Treaty we are about to conclude has nothing to do with the SDI, this Senator is convinced it would not have come about without the SDI.

Although I do not believe the SDI can do everything some suggest, I believe it will save taxpayers many dollars in the long run.

Mr. EXON. I yield 1 minute to the Senator from California.

Mr. WILSON. Mr. President, the Senator from Nebraska and the Senator from South Dakota are absolutely right. I hope it has not escaped the notice of not only my friend from Louisiana but others, that at least a portion of the interest among the Soviet Union in INF was made very clear by Mr. Gorbachev in his announcement that they could go forward to a START agreement. But what is the price of the START agreement? Mr. President, it is known far and wide, it is no secret, that there is explicit linkage placed by the Soviet Union between getting rid of SDI and making any progress on the reduction of strategic arms.

If my friend from Louisiana does not think SDI has been a lever to bring about arms control, I think that is naive and I think he is in the minority.

Mr. JOHNSTON. Will the Senator yield at that point?

Mr. WILSON. If my minute has not expired, I will yield.

The PRESIDING OFFICER. The time has expired.

Mr. JOHNSTON. I yield myself 1 minute.

There is no question that the START Treaty, not yet negotiated or agreed to, does involve SDI. Of course it does. But the treaty at hand is the INF Treaty. I think it is clear that what brought the INF Treaty to fruition is not SDI but the deployment of Pershing missiles and ground-launched cruise missiles, Pershings having flight time of 10 minutes or less from Western Germany. The ability to decapitate the Soviet Union leadership before they could get down into the deep tunnels is what brought us the INF Treaty. That is why they are willing to give up about five warheads to every one we give up. Of course, SDI will be the subject of tough negotiations in the START Treaty, but that is not the treaty we have now. The treaty we have now is the INF Treaty.

The PRESIDING OFFICER. The time of the Senator from Louisiana has expired. Who yields time?

Mr. PRESSLER. I ask to proceed for 3 minutes.

The **PRESIDING OFFICER.** Does the Senator from Nebraska yield to the Senator from South Dakota?

Mr. **EXON.** I would simply say to my friend from South Dakota we have two Senators on the floor right now and both have pressing engagements at noon. Both would like to get in at least brief comments by that time. I would be glad to yield to my friend from South Dakota except we are hurting for time with two other Senators.

Mr. **PRESSLER.** I ask unanimous consent that my additional remarks be printed in the RECORD at this point.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **PRESSLER.** Nobody who pays taxes in this country could relish the idea of spending $1 trillion or more for the development and deployment of strategic defenses. But the fact remains we will be spending huge amounts in this area well into the future. We will because we must. We are not the only nation that has an interest in strategic defense, and we are not the only nation participating in research to develop missile, particle beam, laser, and computer technologies for defense applications.

So the real argument has been, and will continue to be, over the degree of emphasis and the amount of funding that should be put into SDI research. Where there exists a possibility for greater security through scientific breakthroughs in this area, it is our duty to devote resources to it.

Thus, we should avoid scrimping on, or devastating, the budget for the SDI. To achieve breakthroughs, sufficient funding must be provided to allow the research to achieve a critical mass level. Underfunding will destroy the research momentum that is necessary to achieve that level. While we may not be able to afford the maximum requested for SDI in the current budget deficit situation, we should maintain the program's momentum and permit us to capitalize on the potential fruits of this investment at an earlier time.

Mr. **JOHNSTON.** Mr. President, I yield 10 minutes to the distinguished Senator from Massachusetts.

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KERRY.** Mr. President, I congratulate the Senator from Louisiana on this issue and on this amendment. Unfortunately, the process here in the Senate, with the nature of our committee structure and the demands on time, draws a lot of Senators away from the focus on some things happening around them which are of enormous consequence but which time just does not allow adequate consideration for.

The Senator from Louisiana does us all an enormous service by bringing to the attention of the Senate what is at stake here in this debate.

This is not just a debate about $4.5 billion versus $3.7 billion. It is a debate about fundamental strategic doctrine that is being changed by the financial resources that are being committed to strategic defenses while many people are unaware of specifically what it is that the SDIO is actually doing.

I think this is the first time that the Senate as a whole has heard discussion on the Senate floor about something called phase 1, and about what phase 1 involved, and about the implications to our strategic doctrine and to this country of moving forward with the testing and development of a two-tier ballistic missile defense, phase 1 is not laboratory research. Phase 1 is different.

It is legitimate and permissible for the SDIO to say testing under phase 1 will not initially violate the ABM Treaty, because the tests will be in a fixed, land-based mode. But the fact remains that phase 1 development and testing moves us into a posture where we will have the ability to deploy a system, a national ballistic missile defense system, which we had previously rejected. Yet it will do this, by design, in a way that at best permits us to conceivably knock down 20 percent of the missiles fired at us.

Mr. President, that is a major shift in nuclear doctrine, and it is a shift which is taking place in the absence of important doctrinal debate, a debate which ought to be taking place whenever any nation in the nuclear world we live in contemplates such an enormous fundamental change in the doctrine of nuclear deterrence.

Previously on this floor I and others have raised the question about SDI and its dangers, including concern that it has an ever-shifting rationale, an ever-shifting rationale. I do not think the American people know at this moment that the President, in contemplation of a system, will supposedly put a shield over the United States, that that is not at all what we are talking about.

We are not talking about making nuclear missiles obsolete with phase 1. We are talking about defending our nuclear missiles with phase 1. In effect, we are planning on using strategic defenses to close the window of vulnerability.

We are now talking about a system of partial defenses. Phase 1, being partial defenses, will not save populations, will not save Americans, will not protect this country from nuclear war, but might create new instabilities through each sides fears of the other combining offense and defense, using the sword first and the shield second to defend against a ragged response.

Today, we are debating something different than just theory. This is the first year we have been debating something different than just theory because we have gone beyond the viewgraphs and we have gone beyond the artist's conceptions into what is now the research and testing and development stage of strategic defenses, as indicated a week or so ago when Secretary Weinberger announced that phase 1 had passed the first milestone of the program.

Mr. President, we have already spent $9 billion in this program in the short span of a few years, since 1984. I am not sure the American people understand what it is that justifies this program going from $900 million in 1984 to $1.6 billion in 1985 to $3 billion in 1986 to $3.5 billion in 1987, and the $5.4 billion in 1988. SDI is the single fastest growing portion of the entire military budget at a time when we find ourselves incapable of performing functions in the gulf because we do not have minesweepers, at a time when we have serious problems in conventional weaponry. But we ought to be asking the question of why it is we are rushing headlong into a whole new nuclear doctrine and spending extra billions of dollars to do it when we are struggling to have decent railway systems, when we cannot fund education, when we are raising the cost of Medicare, when we are cutting various benefits, and when people on farm and oil land in Louisiana, Texas, and elsewhere have serious competitive problems.

Last spring we began hearing about a secret early deployment. What we are seeing now is not a secret early deployment; we are seeing what is being called the first wave, a deployment which begins in the mid-1990's which will make our Nation probably commit more than 10 years total time and $100 billion to accomplish just phase 1—phase 1 obviously implying there is going to be phase 2, phase 3, phase 4. And phase 1, although it has not been publicly explained—and incidentally, I might add, my office has called the SDI Office. We have asked for briefings; Precisely what is phase 1? Precisely on what are you asking us to spend this money? Briefings postponed, no briefings to date. But we have been able to figure out by looking at the environmental assessment which they have released something about phase 1 and what the architecture is. Let me tell you a little bit about what the program is. Six different systems and technologies based on physical principles that are well recognized at the time the ABM Treaty was negotiated. The six systems which are called candidate technologies by the Strategic Defense Office are designed to comprise our entire strategic defense system to be deployed in the 1990's. So we now have a new SDI system. This is what we are really talking about spending money on. It consists of a boost-phase, midcourse and ground-based surveillance and tracking of Soviet ICBM's, two kinds of interceptors, a space-based interceptor or kinetic kill vehicle system now known as the SBI or as the SBKKV, which the Senator from Louisiana has talked about at great length, and a ground-based endoatmospheric interceptor system known as ERIS, and finally a centralized battle management and command communications control system.

The details of the architecture which will unite all these elements have not been publicly released by the SDIO. But the Strategic Defense Office has announced that flight tests of the two interceptor systems are already being planned for Vandenberg Air Force Base, Western Test Range, and at the U.S. Army atoll in Kwajelein. Similar flight tests are being planned right now at Vandenberg for boost phase, spaced based—space based, I emphasize—and ground-based surveillance and tracking systems and at Cape Canaveral Air Force Station for the latter two systems and at Kennedy Space Center for the space-based system only.

Could I have an additional 5 minutes? Do we have enough time?

Mr. **JOHNSTON.** Mr. President, how much time remains?

The **PRESIDING OFFICER.** The Senator from Louisiana controls 42½ minutes.

Mr. **JOHNSTON.** Mr. President, could the Senator make it on 3 minutes? I have a list of Senators just now coming to the floor.

Mr. **KERRY.** I appreciate that.

Mr. **JOHNSTON.** I yield an additional 3 minutes.

The **PRESIDING OFFICER.** The Senator is recognized for an additional 3 minutes.

Mr. **KERRY.** In addition, plans are being developed for assembling ABM components for the SDI Program at Edwards Air Force Base in California, at the Kennedy Space Center, at the Harry Diamond Laboratories in Maryland, at the Nevada test site, at the Arnold Air Force Station in Tennessee, and at Lockheed and Grumman.

All this boils down to the basics for a two-tier ABM system, one land based, the other space based.

Basically, the space based interceptor—SBI or SBKKV—is a kinetic kill weapon, modeled on the BAMBI system proposed in the early 1960's, designed to intercept Soviet ballistic missiles in the boost phase after they have been located and tracked by the BSTS or boost-phase surveillance and tracking system. Then, the endoatmospheric interceptor, based on the ground, working with space based and ground based surveillance and tracking systems, will shoot down additional Soviet warheads in the midcourse late midcourse and early terminal phase.

Based on a look at Soviet offensive capabilities, it is obvious that such a system would require thousands of space-based interceptors on a minimum of hundreds of platforms and additionally would require several thousand more ERIS interceptors on the ground. We would have no capability in phase 1 for interactive discrimination. We would also have little to no capability to intercept missiles in the terminal phase within the Earth's atmosphere. For these reasons, such a system could according to published reports only stop about one in five Soviet missiles, a rather limited goal which even then may not necessarily be reached.

From looking at phase 1, it is easy to conclude that it has very little to do with the President's dream of replacing nuclear deterrence with mutually assured survival by making nuclear weapons obsolete. To the contrary, phase 1 appears to be a system being designed to do no more than at best shoot down less than 20 percent of Soviet ICBM's if everything works properly.

By design phase 1 is not and cannot be capable of defending our population in the event of a nuclear war. It cannot replace mutual assured destruction as the foundation for deterrence by keeping our cities from being blown up should there ever be a nuclear war, but can at best defend some land-based systems and some command, communications and control systems if they are adequately proliferated and given redundancy.

The deployment of phase 1 will not have provided our population with the peace shield advertised on television. Phase 1 will not be population defenses at all, but merely an exceptionally expensive and complex way of closing the window of vulnerability about which we heard so much in connection with the MX debate.

Given that we have deployed 50 MX missiles, given that we are developing Midgetman, before rushing forward it seems to me we should have some analysis of whether phase 1 is needed to shore up our retaliatory capacity, or whether that capacity is already assured without deploying phase 1 strategic defenses.

We should be considering for example whether there are alternatives to phase 1 to accomplish its strategic objectives without abandoning the ABM Treaty and without creating new instabilities and uncertainties in the relationship between the superpowers.

We should be asking whether $100 billion or more is an appropriate investment for a system designed to stop less than 20 percent of Soviet missiles. Before we throw that kind of money at it, it seems to me we should calmly assess whether this is the best way to strengthen deterrence—or whether alternatives like the Midgetman or arms control might accomplish the same goal of preserving deterrence for the long term more cheaply, more reliably, and with less military, technological and strategic risk.

There are a lot of questions which we ought to have answered before we head down that road, Mr. President. We should have analyzed for us, for example, whether defenses which are only designed to stop less than 20 percent of Soviet missiles create the kind of instability so many have warned about when offensive and defensive systems are paired.

For example, we don't know whether the deployment of this form of SDI system will create an incentive for either side to strike first in a crisis on the theory that the defenses might be useless to stop a first strike, but perfectly adequate to stop a "ragged response" by a nation that has lost substantial nuclear forces.

We don't know whether either the United States or the Soviets will have to restructure its nuclear forces, or add to them to deal with this problem if we move forward.

We don't know whether such a system would enhance deterrence at all, or whether its deployment might make both sides edgier.

We don't know whether its even feasible for the United States to put the hundreds or thousands of satellites in space contemplated by phase 1, Mr. President, whether we will have the resources to lift the many tons of satellites required. This is another reason why we should be cautious about the administration's plans to move forward with phase 1.

In short, I am concerned that we as a Congress are falling behind in keeping with the rapid changes in this program. Because we are falling behind, we are having little impact on the decisions that are being made. If we are to provide adequate oversight over this program, we are going to have to insist on being informed by the SDIO before fundamental decisions are made about the future of U.S. nuclear strategy and SDI, not after the fact.

Because the SDI Office is moving forward with the tests for phase 1, the level of funding for SDI this year has real implications. Basically the only means we have to slow this program down—to give ourselves the opportunity to think through the implications of phase 1—is to restrict funding for the program to a level significantly below the $4.7 billion authorized in the committee mark.

Allowing the SDI Office to move ahead with testing and development of phase 1 is a serious decision. The Levin-Nunn language does not affect the tests initially contemplated for phase 1. Yet those tests may have real implications for the ABM Treaty and arms control, even if they do not violate the treaty. Similarly, we should recognize now that Congress has to make a decision about phase 1—is it a good idea for us to test and develop strategic defense systems whose deployment would be aimed at shooting down less than 20 percent of Soviet missiles?

Until the Congress knows more about phase 1, there is little we are in a position to do other than to restrain the spending on this program.

I urge the Senate to vote to lower SDI spending, and in the meantime, to seek detailed information from the SDI Office for the facts about phase 1. The decision that has already been made by the Defense Department is a significant one. We should recognize the decision for what it is—a decision to put us on the road to deployment of a strategic defense system that is far less than fully capable, incapable by design of even knocking down 20 percent of Soviet missiles. The implications of that decision have not yet been even fully recognized, let alone analyzed with the care our national defense requires. I have sought to obtain more information on phase 1, and I have been told by the SDI Office to wait.

As we wait, by this vote we should be suggesting to the President that the power of the purse is with Congress, that decisions of such magnitude, decisions which change years of fundamental policies pursued by Republican and Democratic presidents alike, cannot be the President's alone.

Congress too has a decision to make on whether it is wise to move forward with the testing and development a system designed to destroy less than 20 percent of Soviet missiles. Our decision on phase 1 of SDI must not be made by default.

Now, I support the notion that we should be doing research and I will vote for $3 billion-some of research, an extraordinary sum of money in view of other things that we have to consider. But, Mr. President, $4.5 billion is not calculated simply to fund a research program. It is money calculated to guarantee that we get so far down the road in this system and move so rapidly that before the Congress of the United States can even catch up we are going to be locked into this system which threatens to introduce profound new uncertainties in U.S. nuclear strategy.

We have yet to answer the most fundamental question of what happens when you mix offense and defense. Do you create the threat for a first strike capacity by either side? If a nation views itself as conceivably threatened by a defense, is there the possibility that it will decide first strike makes more sense?

Alternatively, is phase one a cost-effective means of "confusing" the decisionmaking process of the Soviet Union if that is what it is intended to do. Is it possible that Midgetman and the deployment of the new 50 MX missiles reduces that window of vulnerability and so we need not spend billions of dollars to do what we could do far more efficiently and far much less expensively. I think Congress needs to decide these issues before we are locked into a program of testing and development which does not leave us an alternative and which by default changes fundamental strategic doctrines in place for decades. I hope my colleagues will adopt this amendment.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired.

Mr. EXON. Mr. President, I yield 8 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator is recognized for 8 minutes.

Mr. WALLOP. Mr. President, I agree with the Senator from Massachusetts; Congress ought to decide before it is locked into a testing program. The problem is he would deny our getting to a testing program that would give us that information. I would just say, as a matter of interest to Senators who are here or may be listening, that the details of the architecture are available if the Senator wishes to have a briefing, and to have the briefing he need only ask. There is only one portion of that which is classified and that is the threat assessment and requirements. You can have that as well, but it is necessarily classified.

Mr. KERRY. Will the Senator yield for a question?

Mr. WALLOP. I will not because I only have 8 minutes.

Mr. KERRY. Will the Senator yield for a question?

Mr. WALLOP. I yield for a question.

Mr. KERRY. The Senator should know that this Senator has called and personally been told we could not get it. Now, maybe your side is getting it and we are not or maybe the proponents are getting it and we are not. But would the Senator have objection to setting up such a briefing before we take a vote?

Mr. WALLOP. Mr. President, I have set up such briefings and found no attendance. There is a problem with briefings and that is that they have the ability to shatter assumptions, to make what is a comfortable thought less comfortable. There are unanswered questions, but the question remains how on Earth do you get to an answer if you deny us the possibility of doing it. The most extraordinary thing is that the Johnston amendment is a killer amendment for a very specific reason. It is not enought to accomplish the objectives of the program, but it is too much if we are to return to the old days of a comfortable embrace of the ABM Treaty.

Again, I have to say, the thing that amazes me is some among us in this body politic take the first look at the Soviets playing fast and loose with their obligations under the ABM Treaty or any other treaty, and their basic response is to restrict further the options of their own country in the vain hope, I suppose, that by even being meeker still, we will find a meek response on the part of the Soviet Union. History has not shown us such a thing.

I heard some talk in here about how this may change the theory of nuclear deterrence. I might suggest that the theory of nuclear deterrence is rapidly running out of credibility anyway as the Soviet Union moves more and more to rail mobile, and road mobile missiles which can be hidden, and cannot be targeted. As the Soviet Union moves more and more to emplace the infrastructure of their own nationwide defense, as we have seen their battle-management radar system is complete, they have hot production lines of ballistic missile defense interceptors. They could, in fact, begin to establish a nationwide defense in a matter of months, if not weeks. There is no prohibition against the production of these elements of ABM equipment in the ABM Treaty. There is no prohibition against testing them together. There is only a prohibition against deploying them. But if you test these items, all of a sudden you have the capability for a nationwide Soviet ABM. This seems lost on opponents of SDI.

Let me talk just for a minute about the capabilities. It seems extraordinary that the authors of this amendment have not themselves been overly studious by visiting the labs or the contractors. It seems amazing that they can draw these conclusions without having talked specifically to the people who are in the laboratories, who are the contractors, who have tested various segments of these systems.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. WALLOP. I yield for a question on the time of the Senator from Louisiana.

Mr. JOHNSTON. Is the Senator aware that I have been to Los Alamos, to Livermore, to Lockheed, to other places that do this, and Los Alamos supports this?

Mr. WALLOP. If the Senator has been there, I suggest he did not hear the briefings that took place there because in point of fact the briefings as to the technical capabilities and the advances of these assorted systems are nothing short of astonishing.

Mr. JOHNSTON. Will the Senator yield?

Mr. WALLOP. I will not yield further because my time is limited.

The point that needs to be made is that the one means by which this country could possibly reestablish a deterrence is to create some doubt in what is increasingly a Soviet planner's mathematical decision as to whether to attack or not. It is mathematical because our fixed-based systems and our submarine fleet—a major portion of which is in port at all times—is vulnerable to a Soviet missile strike. The aircraft arm of it is growing more incapable of penetrating Soviet air defense, as we see our ability to get advanced systems such as the B-1 fully funded and operating decline.

So we now see the two things that make the so-called hairtrigger that threatens the world are the fixed-based, fixed-silo, and intercontinental ballistic missiles. Once an assault is launched upon the United States, an assault launched on our strategic forces, the President of the United States has no choice but to capitulate, or to launch on a hairtrigger what he has available that is fixed based. Once the Soviet Union's warheads land on our strategic forces, at that moment, forever more those weapons are lost to us.

Then the Soviet Union, having launched its fixed-based arsenal on our fixed-base arsenal, thereafter has road mobile, rail mobile missilery and submarine missilery as well as aircraft. We have not, Mr. President, the capability, the intelligence capability, of targeting sufficiently those remaining assets to provide any safety for the American people.

If you want to restore the element of deterrence you must restore the element of doubt to the Soviet planner's mathematical conclusions that he can succeed in the first strike. Absent that, you have simply given him the opportunity to take at will what he wishes and to take from the American military machine any response of consequence. How do you do that? You do that by a strategic defense system that begins to take out those arriving warheads and those transiting missiles. And whether we like it or not, Mr. President, the Soviets know that it works. They are doing it, and have been testing it with a much more massive effort than have we.

I do not particularly like that which the Senate Armed Services Committee brought to the floor because I think it is too small. We have denied ourselves the ability to test and to advance tests by several years with that which the Armed Services Committee brings to the floor. Buy onto the Johnston amendment and you had better write off the program, and vote a complete denial of funds because it is an embrace of logic the ABM Treaty that holds we must remain defenseless in the face of Soviet nuclear weaponry.

If you wish to destroy the program, do not spend that small amount of money that the Johnston amendment brings to the floor because, if you bring that amount of money, it will be wasted. The time is wasted beyond our ability to retrieve it. We cannot embrace the ABM Treaty and the theory of mutual assured destruction and continue the SDI Program toward the objective of providing a defense against Soviet nuclear weapons. The two are completely inconsistent. Wipe it out. It is not consistent to spend so much money, or enough money to waste it, and thereby deny this country the ability to determine if that capability exists. When we are talking about indulging ourselves in train systems, schools, and libraries, we must remember that we need to have a country to have school systems in and train systems in. The defense of this country is the one thing that is in the oath of every Senator.

The **PRESIDING OFFICER.** The time of the Senator has expired.

Mr. WALLOP. I thank the Chair.

I ask unanimous consent that my prepared statement and some charts be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR WALLOP

Mr. WALLOP. Mr. President, I would like to begin by reiterating what many of my colleagues have said about the onerous effects of this amendment. It is a program-killer pure and simple. The choice is clear. If the Senate wants to continue a program that ever may provide this country with some deployment option as the SDI program is currently structured, it must fund this program, at a minimum, at the level requested by the Armed Services Committee.

In effect, Mr. President, the Johnston Amendment hits either too high or too low. It is not enough money to continue the program without significant slippage and reductions in confidence, but it is far too much if all the Senate wishes to do is go back to the days following the signing of the ABM Treaty and support a level of effort research program. The latter is clearly not what the President has in mind, and, I would submit, it is not at all what the Armed Services Committee has in mind. Let us examine for a moment this year's Armed Services Committee report on this issue.

In its discussion of the objectives of the SDI program, the Committee made four points worth mentioning. It must be remembered that this report was drafted by the Majority, under the leadership of Senator Nunn, and does not fully take account of the views of the Republicans on the Committee, although I believe there is ground for significant consensus on both sides.

1. Quote: "The committee continues to support a robust SDI research program because it believes that such a program serves a number of valid U.S. national security interests. First, the SDI continues to represent an important response to the threat to U.S. national security posed by the Soviet Union's continuing strategic spending, both for offensive forces and for strategic defenses."

Hedges against Soviet break-out, Mr. President, can only be maintained by having deployable or near-deployable systems. This, in turn, can only be achieved if funding is adequate to move certain aspects of the SDI program into development, complemented by a robust testing program. The Soviet Union does not just have a theoretical break-out capability. That capability is all too real. Indeed, some of us believe the process of breaking-out has already begun. The Soviets have warm production lines for ABM interceptors and radars. They have laid the battle-management radar network for a break-out. If the Soviets actually decided to end their adherence to the ABM Treaty, such as it is, they could begin deployments of interceptors in months, if not weeks. Our ability to respond to such a Soviet move is constrained largely by the kinds of resources we put into the SDI today.

Back in the FY 1975 budget, Mr. President, Senator McIntyre, then a member of the Committee, sponsored an amendment that prohibited the prototyping of any ballistic missiles defense systems being researched by the United States. Let me repeat, no prototyping of any system, Mr. President, irrespective of whether it was allowed by the ABM Treaty. This had the effect over a number of years of focusing our BMD program on highly advanced technologies that might never be deployed and gave us virtually no near-term response options to Soviet break-out. While in a different form, a vote for this amendment would do exactly the same thing. Do we really want to go back to the strategic defense posture we had from the signing of the ABM Treaty through 1980? The Committee's judgment is "no" and it is a wise one.

2. Quote: "Second, the committee continues to believe that a portion of the SDI research program should emphasize options for near-term deployment as a hedge against the possibility of a Soviet ABM break-out in the near-term." It went on to say that, "The committee commends the SDIO for its expeditious pursuit of the ERIS missile technology, and directs the SDIO to fully fund the ERIS FTV program so as to maintain the current development and flight test milestones." What would this amendment, this funding cut do to this hedge? A cut to 4.1 billion already imposes a one-year delay in the flight test. A cut to 3.7 billion could impose up to a 2 year delay, and would require SDIO to renegotiate the existing ERIS contract, probably imposing greater overall costs for development. A cut to 3.5 billion would seriously effect the technology base of this system. Does the Senate really want to eliminate the only program that gives us a rapid response capability to Soviet break-out at a time when the Soviet Union is forging ahead with its own strategic defense preparations?

3. Quote: "Third, the administration has continued to place primary emphasis within the SDI program on comprehensive, virtually "leak-proof" strategic defenses. . . . The Committee believes that . . . the major emphasis within the SDI program should be dedicated to developing survivable and cost effective defensive options for enhancing the survivability of U.S. retaliatory forces and command, control and communication systems." Well we seem to be talking to ourselves, Mr. President. Senator Johnston laments that the SDI program is no longer focusing on long-term, high pay-off technologies, while the Armed Services Committee is concerned about the overemphasis of such technologies. Well, the truth of the matter is that the SDI program has been substantially restructured to provide a

greater balance between near-term options and long-term ones. The Armed Services Committee is right. And the SDIO has acknowledged that they are right, and has moved forward six key technologies that are more mature than the other SDI work. That long-term research continues, to be sure. These six technologies make up the Phase I architecture of the Strategic Defense System that has passed through Milestone 1 of the Defense Acquisition Board. This system is perfectly configured to provide defenses for our retaliatory forces, and selective attacks on our command, control and communication systems. It is precisely the kind of system we need if we are to deploy defenses one day to accomplish those missions listed by the Armed Services Committee as the high priority.

What would this amendment do to this Phase I architecture? It would delay or destroy the basis for making an informed decision to move to full-scale engineering development for years. Each system, the Boost-Phase Surveillance and Tracking system, which all persons agree we need with or without SDI, the Space-based Interceptor, the ERIS interceptor, the Mid-course Tracking system, and all the other elements that make up this first-phase architecture will be hurt severely.

4. Quote: "Fourth, the committee also supports a robust SDI research program for the leverage it provides to our negotiators in Geneva." While the Committee notes that full-funding is not required, and I disagree with this statement, they go on to say that, "It is the committee's belief that leverage for arms control negotiations comes only from real defense programs which are aimed at realistic objectives, adequately funded, and broadly supported . . ." But now that the program is focusing increasingly on realistic objectives, now that it is becoming a real defense program, having passed its first milestone, moving toward an FSED decision in 1992, we are cutting the legs out from under the program.

Space-Based Interceptor

A major project required to validate the technology for tracking and destroying nuclear missiles in their boost, post-boost and possibly midcourse phases of flight:

BUDGET IMPACTS

4.1B.—Maintain schedule with single flight test and option for second test;

3.7B.—Delay flight test 6 months to 1 year;

3.5B.—In addition to above, reduce technology base (E.G., guidance and propulsion subsystems) needed to improve performance and reduce weight.

BOOST SURVEILLANCE AND TRACKING SYSTEM

A key project to validate advanced technology for detecting and tracking missiles as they are launched:

BUDGET IMPACTS

4.1B.—Delay flight test 1 year;

3.7B.—Maintain 1 year slip, but with no backup technology (E.G., Focal Planes);

3.5B—Technology validation test delayed 2 years; technology base to meet potential envolving threats at high risk (e.g., focal plane arrays; cryocoolers).

TERMINAL DEFENSE OPTION

Ground based high endoatmospheric interceptor and terminal imaging radar technology validation projects aimed at demonstrating that warheads can be destroyed as they reenter the earth's atmosphere:

BUDGET IMPACTS

4.1B.—Interceptor and radar tests delayed 1 year;

3.7B.—Interceptor and radar tests delayed 1 to 2 yeas;

3.5B.—Terminal imaging radar and high endoatmospheric interceptor tests cancelled; TIR and HEDI reduced to technology base program only terminal option eliminated for now.

KEY SUPPORTING TECHNOLOGIES

These projects such as survivability, lethality, power and space transportation are essential to meet the criteria necessary to provide supporting technology for developing and deploying a strategic defense system:

BUDGET IMPACTS

4.1B.—Downselect options such as space power; technology validation for space transportation at high risk;

3.7B.—Transportation and space power reduced to only technology base efforts;

3.5B.—Technology base efforts such as passive and active countermeasures at high risk; booster laser lethality test using miracle device eliminated.

NEUTRAL PARTICLE BEAM

A key project for validating technology required for responsive threat discrimination such as RV versus decoys in midcourse:

BUDGET IMPACTS

4.1B.—Descope integrated space experiment for validation of accelerator designs;

3.7B.—Cancel bear experiment for near-term test of accelerator in space;

3.5B.—Reduced grounds test accelerator technology efforts.

FREE ELECTRON LASER

A key project for validating technology for boost phase kill of responsive threats:

BUDGET IMPACTS

4.1B.—1-year delay in white sands missile range (WSMR) facility;

3.7B.—2-year delay in WSMR facility; continue laboratory laser device efforts;

3.5B.—2-year delay in WSMR facility; reduced support for laser device selection (high risk).

FOLLOW-ON SYSTEMS

Major projects required to advance and improve technology for successive phases to an initial strategfic defense system:

BUDGET IMPACTS

4.1B.—Directed energy laser and neutral particle beam options reduced;

3.7B.—In addition to above, 1-to-2-year delays in remaining technology validation experiments;

3.5B.—Technology base activities (e.g., tracking and pointing and optics) reduced implying even higher risk in delayed experiments.

FISCAL YEAR 1988 BUDGET LEVEL IMPACTS

The program to date has enabled SDIO to present 6 elements for an initial defense system to the defense acquisition board.

Funding levels in the past have been low but progress has been made.

We remain confident that those 6 elements can be used cost effectively in an initial defense with the promise of follow-on phases that enhance the initial capability.

This cannot be accomplished at the same speed and with the same level of confidence as before with the funding levels presently being debated in Congress.

The impact of some of these budgets are as follows:

[Fiscal year budget levels]

IMPACTS

4.1.—Up to a 1-year program delay;

Key projects in theater missile defense, directed energy, battle management, survivability, and lethality reduced and delayed.

3.7.—Work on mature technology candidates for an initial system slipped between 1 and 2 years;

Studies on future technologies necessary for follow-on systems to meet responsive threats, delayed and substantially reduced;

Necessary BM/C3 experiments cancelled or restructured;

Drastically reduce system engineering efforts that examine affordability, producibility, logistics . . . etc;

Survivability and lethality programs further reduced.

IMPACTS

3.5.—Initial system elements severely impacted;

Some technology validation experiments are canceled and others delayed as much as 2 years;

Sensors projects with significant benefits outside SDI, delayed 2 years;

Terminal defense radar delayed indefinitely or terminated;

Major reductions in technology base efforts for directed energy projects;

BM/C^3 efforts severely restricted;

Countermeasures assessments limited.

BATTLE MANAGEMENT COMMAND/CONTROL COMMUNICATIONS

Experiments that are required to validate technology necessary for uniting the sensing and weapons elements into a viable strategic defense system:

BUDGET IMPACTS

4.1B.—Reduce scope and delay cooperative space system experiment 1 year;

3.7B.—Further downselect among experiments and continue some efforts such as secure processing only as technology base research; national test bed remote site links delayed;

3.5B.—Technology validation and technology base efforts (e.g., fault tolerant operating system) at very high risk; national test bed initial simulations reduced in scope.

EXOATMOSPHERIC REENTRY INTERCEPTOR SYSTEM

In conjunction with the midcourse sensor project, a prime project for validating technology needed for tracking and destroying missiles in the midcourse phase of flight:

BUDGET IMPACTS

4.1B.—Flight tests delayed 1 year;

3.7B.—Tests delayed 1 to 2 years; renegotiate contract;

3.5B.—Technology base reduced (miniature kill vehicles; advanced propellants; guidance and control).

MIDCOURSE SENSOR

An essential project designed to validate technology for acquiring and tracking, nuclear warheads in ballistic flight and discriminating them from decoys and debris:

BUDGET IMPACTS

4.1B.—Flight demonstration delayed up to 1 year;

3.7B.—Flight demonstration further delayed or technology validation limited to ground tests only;

3.5B.—In addition to above, technology base reduced (optical and radar discrimination, signal processing) resulting in high risk for planned improvements.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I wonder if the distinguished floor manager will yield me 10 minutes.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 10 minutes.

Mr. BUMPERS. Mr. President, if we were to find the kind of waste and poor performance of the magnitude we've seen in Star Wars in the Food Stamp Program, or the Welfare Program, or even in a health care program, I promise you this administration, and other champions of SDI, would be up in arms. But because this has been held out as some kind of a panacea for the whole nuclear arms problem, we proceed in lockstep to just throw money at it year after year. Yet even in this country, even in this country, the President, General Abrahamson, maybe Secretary Weinberger and retired Gen. Danny Graham are about the only people I know who still even talk seriously about this thing being an ultimate defense.

Who are we going to listen to when it comes to whether or not this thing will work or not? Here is the Washington Post, July 9, 1987:

> Senior Pentagon officials, seeking internal approval for a tentative plan to deploy ballistic missile defense in the mid-1990s, pressured an advisory panel to omit sharp criticism of the plan in a recent key scientific report, military and congressional sources said yesterday.
>
> A recent report by a Defense Science Board panel concluded that the Pentagon's Strategic Defense Initiative (SDI) deployment plan endorsed by Secretary of Defense Caspar W. Weinberger was so "sketchy" that neither its price nor its effectiveness could be determined.

So, what happened? That criticism was omitted from the report that was given to the Defense Acquisition Board. The administration is not about to broach any scientific analysis of this program.

Look at what the American Physical Society said. Look at what Harold Brown said. Look at what James Schlesinger said. Look at what the Vice President, GEORGE BUSH, said. He wants to separate himself in this campaign and not fall prey to the Hubert Humphrey-Lyndon Johnson syndrome of 1968. He will be saying more of these things to separate himself from this President.

Here is what he said to a Newsweek interviewer:

> You've got our hawks who say superiority is the answer. Not possible. Never going to happen. You've got others who say we will make nuclear weapons obsolete by substituting SDI for deterrence. I don't say it's not possible, but it's not until the next century, far into the next century. What must be avoided . . . is the broad, general statement that what we are searching for is a way to make nuclear war obsolete. I wish it were possible, but it is not going to happen.

Mr. President, what is the justification for the massive 30-percent increase in star wars funding? It would be laughable for the President to come here and ask for almost $6 billion unless he believed and we believed that this thing was going to work.

Incidentally, the Pentagon is now working on a program to make our reentry vehicles that we would shoot toward the Soviet Union maneuverable in order to avoid their antiballistic missile systems. If we believe that we can make our reentry vehicles maneuverable and thereby avoid a similar system in the Soviet Union—why cannot the Soviet Union do it?

Here is another quotation, from the New York Times of May 4, 1987, on this whole idea of developing something in the mid-1990's, kinetic kill vehicles:

> Among the Government officials who found fault with the plan for kinetic weapons in space 5 years ago was Defense Secretary Caspar W. Weinberger.

He now supports it, but 5 years ago he thought it was a cockamamy idea.

General Dougherty, former head of the Air Force's Strategic Air Command, sees SDI as a valuable complement to traditional deterrent forces but warns that SDI offers:

> Only a partial, albeit useful, defense against the most threatening of today's weapons . . . The idea we're going to be able to develop a defense that makes us invulnerable to nuclear war or the ravages of war is a pipedream.

General Chain, present commander of SAC:

> As a result, General Chain predicted that unless mutual "caps" can be negotiated, "the day we end up with an SDI system on both sides" the U.S. will have to up its strategic bomber force to between 1,000 and 2,000 aircraft with a corresponding increase in advanced cruise missile. "If the Soviets build an SDI, that means that SAC will have to have a larger bomber force with greater standoff capability because the bomber will have to be the penetrator."

So we'll spend over a trillion for SDI, another half trillion to trillion for more bombers, all to get right back to where we are today.

Admiral Crowe, Chairman of the Joint Chiefs of Staff at this moment, appointed by Ronald Reagan:

> My own view is that SDI right now is a research program. I hear so much said and written that it's out there in the parking lot and we don't know where to put it.

I would like to go on with all those quotations, but look at what the National Academy of Sciences said in a poll. By 20 to 1, the top scientists in America said this is absolutely an absurdity, to lead the American people to believe that it will be survivable or cost effective or either. By a margin of 36 to 1, they said it will not work.

We have the President, who is a former actor, stacked up against all of America's scientists saying, by a vote of 36 to 1, that it will not work. If the President were telling how to make movies and the National Academy of Sciences were saying by 36 to 1 that he is wrong, I might give his opinion some credence.

By a vote of 11 to 1, the National Academy of Sciences says that the research does not even begin to warrant the kind of funding increase of $5.8 billion the President is asking for.

Mr. President, I am sorry that I only have 5 minutes. Do you want me to tell you something? There are 2 million people in this country who test positive for AIDS, and every one of them is going to get it, and every one is going to die.

I do not know how much we are putting in AIDS research, but it does not make any difference. I can tell you that if we do not address that plague, which is coming, inexorably, irresistably, we will be a third-rate nation, no matter how many SDI's we have deployed. It is going to take the best minds in the country, and that is not to suggest that the best minds in the country are in the gay community, either.

There is not anybody in this body who stops and reflects on what we are facing with that disease. Look at some of the more thoughtful reports about where we are going with AIDS, and now increasing numbers of scientists say there will never be a vaccine against it. It is a moving target, like influenza. You get something for Asian flu, and Asian flu is not the disease next year; it has mutated into something else. Here we are—the President asking for almost $6 billion for a defense system that the National Academy of Sciences says has no chance of working.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator's time has expired.

Mr. BUMPERS. I ask for 1 additional minute.

The PRESIDING OFFICER. The Senator is recognized for an additional minute.

Mr. BUMPERS. Mr. President, the Soviet Union may be dumb, but they ain't stupid. When the President talks on one hand about getting an agreement with them about reducing the number of warheads on one side, just for openers, they do not have to believe SDI is workable. They do not have to believe that they are really threatened by the technology of SDI. But I can tell you one thing: They would be crazy to agree to reduce their defense weapons 50 percent while we deploy it.

Even in a society as closed as the Soviet Union is, even in a society as closed as all of Eastern Europe is, I can tell you that politically they could not survive it, any more than we could. So they simply are not going to cut. They are not going to agree to an agreement as long as the President hangs by this idea that, somehow or other, this is going to save us, when he is about the only person left in America saying it. I urge the adoption of this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. Mr. President, I yield 4 minutes to the Senator from South Carolina.

Mr. HOLLINGS. I thank the Senator from Nebraska, the manager of the bill.

Mr. President, right to the point made by the distinguished Senator from Arkansas, about how many people believe in SDI. You cannot listen to that litany because it's the wrong prayer. The SDI Program has been a struggle, step by step, yard by yard, to play catchup ball with a program that the Soviet scientists not only believe in but have developed to a remarkable extent.

Mr. President, I ask unanimous consent at this particular point that we do print in the RECORD in its entirety an article by William J. Broad, the science reporter from the New York Times.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE SECRETS OF SOVIET STAR WARS

(By William J. Broad)

For more than a year, the wizards of reconnaissance in the United States Government have been obsessed by the mystery of Dushanbe. As they peer into the Soviet Union with their spy satellites, what grips them is not the capital of the Tadzhik Republic itself, but an isolated site south of the city, not far from the Afghan border. There, under construction high atop the region's tallest mountain, is an elaborate complex, bristling with roads, buildings, laboratories and domes, and linked by heavy power cables to the nearby Nurek hydroelectric plant, one of the largest in the Soviet Union.

According to United States intelligence experts—who spoke to this reporter only after great hesitation and demands for anonymity—the domes of Dushanbe will one day house lasers that will flash their concentrated beams of light effortlessly through the thin mountain air into the depths of space. The question that divides the experts is how powerful the lasers will be—and, thus, their ultimate purpose when the complex becomes operational, probably near the end of this decade.

A relatively weak laser, used like a radar beam, could track man-made objects moving above the earth. A stronger laser could damage American communication satellites and "blind" those designed to flash an early warning of a nuclear attack. A very strong laser could destroy warheads and missiles. During a war between the superpowers, the Soviet Union might bounce its laser beams off mirrors orbiting in space and toward American intercontinental missiles, destroying the missiles in flight and thus "mopping up" the ragged retaliation that could be expected after a pre-emptive Soviet strike.

No American official has publicly acknowledged the existence of the Dushanbe complex. But Secretary of Defense Caspar W. Weinberger recently has warned of powerful new Soviet lasers on the horizon. "We expect them to test ground-based lasers for defense against ballistic missiles in the next three years," he said in a major speech last January, concluding darkly, "I cannot envision any circumstance more threatening and dangerous for the free world than one in which our populations and military forces remain vulnerable to Soviet nuclear missiles while their population and military assets are immune to our retaliatory forces."

For years, highly placed American officials have hinted ominously about the size and scope of the Soviet antimissile effort, claiming that—as Secretary Weinberger has put it—the Russians are ahead of the Americans "in many important aspects," and making dire predictions about the consequences of Soviet beam weapons for the West.

And for years, with equal vigor, Soviet officials have dismissed such charges. "The U.S.S.R. does not work in this area," a group of senior Soviet scientists flatly asserted in "Weaponry in Space: The Dilemma of Security," a recent book critical of the United States' Strategic Defense Initiative, which is more commonly known as Star Wars.

The public war of words over the Soviet Union's antimissile program tends to generate more heat than light. But a four-month study drawing on Government reports, private studies and scores of interviews with American scientists, intelligence experts, White House officials and civilian sleuths—as well as Russian émigrés, defectors and an exclusive exchange with a senior Soviet official—has brought into focus an extensive Russian effort to develop laser and particle-beam weapons.

The Soviet effort, like the American one, focuses on "directed energy" weapons—beams of concentrated laser light, and streams of subatomic particles—that would destroy missiles and warheads in flight; space-based sensors, which would track the targets, and powerful computers, which would direct the battle.

The Soviet program is larger than the Administration's antimissile effort, and in some ways more scientifically creative. Nonetheless, it has achieved only a rough parity in developing laser and other exotic weapons, and a poor second in building the key devices, such as computers and sensors, that would coordinate an antimissile system. But whether or not the Soviet system could actually threaten incoming American missiles themselves anytime soon, it might achieve the much easier task of disrupting and crippling the satellites and sensors on which an American antimissile system would depend.

The judgment of how great a menace the program actually poses depends on who is viewing it, with perceptions often colored—even within the Government itself—by political leanings, institutional loyalties and varying familiarity with different aspects of the Soviet program. But a clear perception of that menace is essential to resolve the momentous conflict between those who want to forge ahead and deploy Star Wars as soon as possible—which would be the most expensive military program in history—and those who favor negotiating an arms-control agreement that would slow the race for antimissile weapons.

The most striking fact about the Soviet Star Wars program is its age and consistency. As Anatoly Fedoseyev, a winner of the Lenin Prize and the Hero of Socialist Labor Award for his designs of antimissile radars before he fled the Soviet Union in 1971, observed: "Since the beginning of Soviet S.D.I., about 35 years ago, this project has never been interrupted or delayed. And I'm sure it never will be."

Defectors like Fedoseyev, as well as secret agents and sophisticated spy satellites, provide the United States Government with essential insights into the Soviet program. This information is then analyzed in sober, lengthy, detailed—and normally top secret—reports, from which the Government makes public only sketchy details.

The most familiar conduit by which these details reach the public is "Soviet Military Power," a book published annually by the Defense Department that takes a consistently hard line on the Soviet military threat. In its 1987 edition, the book estimates that on their effort to develop lasers alone, the Russians spend $1 billion a year and employ 10,000 scientists and engineers working at more than a half-dozen major research and testing facilities.

American scientists working on the Strategic Defense Initiative program say Soviet theorists are unmatched in the world, producing brilliant papers in areas of basic science relevant to antimissile weapons. George Chapline, a physicist at the Lawrence Livermore National Laboratory in California, noted that the Russians pioneered the theory of X-ray lasers whose short wave length makes the beam more penetrating, and thus more damaging, than ordinary lasers: "The Soviets were the world leader, both in good ideas and the quality of their calculations," he said.

As far back as the 1960's, at a sprawling antimissile research center near the town of Sary-Shagan, in the wilds of Kazakhstan, Soviet scientists started tinkering with the laser—a discovery for which, in 1964, three scientists (two Russians and one American) were awarded the Nobel Prize. As early as 1965, an article in an unclassified Soviet military journal suggested lasers might solve "the problem of destroying intercontinental missiles."

Today at Sary-Shagan, according to "Soviet Military Power," the Soviet Union is testing several large lasers meant to destroy planes, satellites and missiles. The Russians already have "some capability to attack" satellites with ground-based lasers and could put in orbit a "prototype" laser weapon to fire at satellites by the end of the decade, it says. According to the Pentagon, during the 1990's the Russians will also be able to loft particle-beam and kinetic weapons (which destroy their targets by smashing them with hardened projectiles moving at high speeds).

The Soviet effort to create futuristic antimissile arms is complemented by their intensive, and longstanding, work on more-conventional defensive weapons. The Soviet Union currently maintains a functioning antisatellite system and an antimissile network that rings Moscow, both centered around ground-based rocket interceptors. It also boasts a vast arsenal of antiaircraft guns, missiles and jet interceptors designed to shoot down enemy bombers and cruise missiles (but that failed to stop a 19-year-old West German pilot in a small plane who flew unimpeded into Moscow's Red Square last month).

William R. Graham, President Reagan's science adviser, noted that the Russians are currently upgrading their antimissile system. "That means that simultaneously they have ground-based defenses being designed, developed, tested, fabricated, deployed and operated," he said "That's an enormous technical capacity that feeds back information to them constantly. They test and improve. We don't have that capability in this country."

The Russians also possess a key prerequisite for deployment of space-based antimissile sensors and weapons—a vigorous space program. Last year, the Soviet Union successfully launched 91 rockets, while the United States, crippled by the Challenger disaster and the misfiring of several other rockets, launched only six. In May, the Russians began test flights of a giant new rocket, dubbed Energia, which can lift payloads about four times heavier than those of the American space shuttles.

The Central Intelligence Agency, which often presents a less grim picture of Soviet military programs than the Pentagon, judges that in the race to develop exotic antimissile arms, despite Moscow's larger program, East and West are in a dead heat. In 1985, a 17-page C.I.A. analysis found that "the Soviets are in a comparable, or highly competitive position with respect to the United States" in the development of directed-energy technologies. In laser research, the C.I.A. found an "essential equivalence." In particle beams, the C.I.A. found that the Russians "may have the edge over the U.S. in some important areas."

Private analysts who are critical of the Strategic Defense Initiative program go further. They contend that many of the Administration's estimates of the extent of Soviet Star Wars achievements—and particularly estimates made by the Pentagon—are simply exaggerations that are intended to bolster its own aims during budget battles with Congress.

"The Soviets are five years behind us on lasers, five to 10 on sensors, and at least a decade on computerized battle management," said John E. Pike, head of space policy for the Federation of American Scientists, a private Washington group. "We're sitting here with something like 140 installed supercomputers. And they've got one that's considered to be at the very low end of the spectrum."

A common error in assessing the Star Wars balance, Pike added, is to assume that Soviet scientists are as productive as their Western counterparts. Not so, he said. Soviet researchers spend hours each day waiting in lines for laboratory supplies, personnally fashioning hard-to-get equipment, and satisfying rigid bureaucratic demands. "The input into the Soviet Star Wars program might be bigger," he said, "but the output certainly isn't."

Other private analysts counter that Soviet researchers, if less productive, at least have stable, long-term goals. "The faddism over here is dangerous," said Stephen M. Meyer of the Massachusetts Institute of Technology, an expert on Soviet defense and arms control. "We have this boom-bust cycle, which is an absolute waste. Meanwhile, they've got this long tradition of steady work."

Some experts point out that the Russians' steady application has yielded significant, if not brilliant, achievement. "Since the beginning, they've been behind in technology, and yet they were first to push man into space and surprised all Western observers by producing an A-bomb," said Valentin Turchin, a computer scientist who left the Soviet Union in 1977 and now teaches at the City College of New York. "An old Ford and a contemporary car are incomparable; still, that old car is not a horse—you can take a platoon of soldiers and achieve a military goal. Using their backward technology, [the Russians have] created a war machine that keeps the whole world in fear."

Civilian scholars who study the Soviet antimissile enterprise tend to see it as far less threatening than do Pentagon officials, former Russian scientists or C.I.A. analysts. Lacking access to spy satellites, these high-technology sleuths comb thousands of Soviet books, documents and scientific papers. Though discovering no great secrets about weapon systems, the scholars gain something as important—a detailed understanding of how efficiently scientific ideas are turned into the exotic technologies that form the basis of the Soviet Star Wars program.

"They have a lot of good ideas, and can develop brute-force prototypes, but getting beyond that is hard," said Nikita Wells, a physicist with the Rand Corporation who has conducted several unclassified studies of Soviet particle-beam technology for the Pentagon. "They don't have the computers or materials. It's primitive. It's a rich country from the standpoint of basic science and natural resources. But whatever they do that's good, the system kills it one way or another."

An example of stymied innovation is the Radio Frequency Quadrupole, known as R.F.Q., a remarkably compact device for accelerating subatomic particles, making it ideal for use in light-weight, space-based beam weapons. Russian scientists at the Soviet Institute of High-Energy Physics at Serpukhov, a sprawling science center south of Moscow, set amid thick stands of pine and birch, invented the R.F.Q. during the early 1970's. Scientists there announced the discovery in the "open literature," describing its characteristics in technical publications read around the world. "The Soviets did the first work," said Wells, pointing out that the Russians are now behind in R.F.Q. research.

In 1978, scientists at the Los Alamos National Laboratory, in New Mexico, the birthplace of the atomic bomb, picked up the Russian idea and developed its potential. Today, the technology of the R.F.Q. is essential to the particle-beam weapons that Los Alamos scientists plan to test in space during the 1990's.

Simon Kassel, a senior scientist with the Rand Corporation and author of a study on Soviet Star Wars, said the West in general had an edge because of its economic strength and technical skills. "It's one thing to do basic research and have a lot of different concepts going, and another to translate it into weapons," Kassel said. "[The Russians'] technology base is not as rich as ours. Their machines are crude and their society closed. They are an extremely talented people, with enormous imagination. And yet the system prohibits the full fruition of talent."

Kassel said a crash Soviet program aimed at closing a key technology gap centered on computers, which are essential to all phases of Star Wars, including the design, development, testing, deployment and coordination of arms for antimissile war. The program is headed by Yevgeny P. Velikhov, vice president of the Soviet Academy of Sciences and a leading figure in Russian Star Wars development.

The Soviet lag in key technologies has made Moscow extremely apprehensive about competing with the West to deploy Star Wars systems, experts say. "Given the increasing demands on Soviet resources, not only from the economy at large but also the defense sector, the Strategic Defense Initiative threatens a new round of technological competition that the Soviets almost certainly would prefer to forgo," wrote Benjamin S. Lambeth, a senior analyst with the Rand Corporation, in "The Soviet Union and the Strategic Defense Initiative," a 55-page study of Soviet antimissile technology he undertook for the Air Force. "Moscow's discomfiture . . . seems genuinely rooted in an appreciation of the Soviet Union's own resource and technology limitations."

The United States, after appropriating some $10 billion to date for a crash program of antimissile research, is moving vigorously ahead in many areas of the Star Wars race. The critical question is what to do with this leverage, especially with respect to the Anti-Ballistic Missile Treaty, signed in 1972 in an attempt to limit antimissile systems. The Administration's aim is to go beyond the treaty and deploy a Star Wars system as soon as possible. Caspar Weinberger, in a speech last January, said "we must seize this opportunity" to deploy arms in space because the chance to stay ahead of the Russians "will not remain with us forever." In the proposed system's first phase, envisioned for the mid-1990's, the Pentagon would deploy battle stations in space armed with small homing rockets—the most mature of the antimissile technologies now under development. In theory, these rockets would intercept Soviet missiles as they rose over Central Asia.

The alternative is for the United States to sign an arms accord that would combine cuts in the nuclear arsenals of both superpowers with an agreement to forgo intensive development of antimissile weapons for a specified period, perhaps 10 years.

Moreover, a new treaty, by slowing the arms race, would allow the Russians time to modernize their industries and economy, paving the way for better antimissile work. "They're playing for time," said Kassel, of the Rand Corporation. "So far, the technological lag has been tolerable for them because it was confined to traditional technologies that they have mastered. In the new ones, such as computers, their situation is very bad. . . . An all-out race is something they dread. It would put an enormous strain on us. You can imagine what it would do to them."

A key question is whether the West, having signed a treaty limiting antimissile-weapons deployment, would continue to provide funds for research to maintain its technical edge, or whether it would be lulled into passivity on antimissile issues.

"Perhaps the worst outcome of all would be one in which the domestic consenus behind S.D.I. collapsed after enough momentum had gathered to drive the Soviets into vigorous offsetting measures," said Benjamin Lambeth, of the Rand Corporation. Such measures, he said, might include further development and deployment of antimissile arms and an increase in offensive nuclear warheads.

Although a new treaty would pose risks, the alternative, Star Wars deployment, is also fraught with problems, experts say. Current Soviet weapons, though perhaps too crude to prove effective against American missiles, might still be good enough to knock out American Star Wars systems in space. Antimissile sensors and battle stations, which are laden with delicate lenses and communication systems, as a rule are easier to disrupt and destroy than nuclear warheads, which are self-contained and "hardened" to withstand a variety of attacks.

Indeed, the mountain-top laser facility near Dushanbe might pose a serious threat to the low-orbit battle stations the Administration wants to place in space. "The electric power going into the facility suggests it may be a pretty powerful laser," said Jokn Pike, of the Federation of American Scientists.

In an unusual departure, a senior Soviet science official recently agreed that large lasers could threaten space-based antimissile arms.

"At present, we have a kind of . . . basic research in lasers, just to keep our hands in such things," said Roald Z. Sagdeyev, director of the Space Research Institute of the Soviet Academy of Sciences, during a recent visit to the United States. "But if there were a final decision in this country to go along with S.D.I., I suspect some of these technologies would be very helpful of countermeasures."

At an arms-control conference in Hamburg, West Germany, last year, Sagdeyev made an oblique reference to the Dushanbe site, noting that "some installations" that might have "rather volatile lasers" had become a topic of discussion in the arms-control community. These, he assured his audience, were not weapons but new lasers for tracking satellites.

"At a minimum, Sagdeyev's explanation is not obviously wrong," said Pike. The most charitable view is that it could be used for picture-taking of satellites at high altitudes and shooting them up—destroying them—at low altitudes." The ultimate purpose of the Dushanbe site may remain a mystery for some time, because the facility is not expected to be finished until the end of this decade.

Nonetheless, the threat of Soviet lasers and particle beams could put into question the feasibility of the Administration's proposed asntimissile weapons system, experts say. The so-called "Nitze criteria," named after Paul H. Nitze, the Reagan Administration's top arms-control adviser, hold that any Star Wars system must be survivable against enemy attack and "cost effective at the margin," meaning it should be cheaper for the United States to add a unit of defense than for the Soviet Union to add a comparably effective unit of offense.

Mr. HOLLINGS. The question is not whether we worry that President Reagan thinks it will work or Caspar Weinberger thinks it will work or the Senator from South Carolina thinks it will work. The Soviets think it works and we do not have the luxury of dallying any longer in developing the capability to defend ourselves.

What the Johnston amendment really does is guarantee research forever. We will not find out whether missile defense is feasible if you cannot test SDI technology and with these delays caused by the reductions.

Mr. President, the Department of Defense has approved six major research programs that are prime candidates for Phase 1 of a SDI system deployment. These programs will undergo extensive demonstration and validation testing prior to any decision being made about deployment. But, it is essential that this R&D be conducted so that the feasibility of these programs and their components can be determined by thorough analysis, experimentation, and simulation.

The amendment to reduce funding of SDI to $3.7 billion—$3.2 billion for DOD SDI R&D efforts—will seriously jeopardize the well-conceived plans to test SDI to determine whether it is feasible to have a missile defense for the United States. The Soviet Union has spent billions of dollars for missile defense in preparation for a deployment of a nationwide ballistic missile defense program. Also, it is in violation of the ABM Treaty with both the Krasnoyarsk radar and mobile ABM interceptors.

The Soviet actions—at a minimum—necessitate a proportionate United States response. Instead, we have seen the Senate vote for a unilateral conversion under the ABM Treaty for adherence to provisions never agreed to by the Soviet Union. As a next step, the Senate is now being asked to significantly curtail the United States missile defense technologies that will directly help us compete with the Soviets.

It is no wonder the Soviets have agreed to proceed—if press reports are accurate—on strategic arms talks with us even though no concessions have been made by the President on SDI as sought by the Soviets. The Soviets know the Congress can force the same result from the administration the Soviets seek in negotiations. And the Soviets will have to concede nothing.

This amendment is wrong, and it should be defeated as it was last year. Arms negotiations should take place at the bargaining table—not on the Senate floor. The bill before us should seek to enhance the U.S. defense position—and not include provisions to weaken it.

We need to go forward with the test and validation program recommended by the DOD. Mr. President, I ask unanimous consent that a listing of the components of the Phase 1 deployment proposal and the impact on them by this amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PHASE I SYSTEMS

System name	Functions
Boost surveillance and tracking system [BSTS].	Detection of launches. Acquisition and tracking of boost vehicles [BV's] and post boost vehicles [PBV's].
Space-based surveillance and tracking system [SSTS].	Acquire and track post boost vehicles, reentry vehicles, and ASAT's Discrimination.
Ground-based surveillance and tracking systems [GSTS].	Acquisition. Tracking. Discrimination.
Space-based interceptor [SBI]	Disabling of boosters, PBV's, RV, and ASAT's. Sensors on carrier vehicle [CV] could provide enhanced mid-course sensor capability.
Exoatmospheric reentry vehicle interceptor system [ERIS].	Disabling of RV's in late midcourse.
Battle management/command, control and communication system [BM/C^3].	Man-in-loop control. Engagement management. Maintaining track data. Target assignment. Communications.

IMPACT OF PROPOSED REDUCTIONS ON PHASE I SYSTEMS

1. Senate Armed Services Committee—$5.2 billion reduced to $4.1 billion for SDI R&D efforts in the DOD.

Boost Surveillance and Tracking System (BSTS) tests delayed from 1990 to 1991.

Space-based ' Interceptor (SBI) test program cut from 2 tests to 1 test.

Space-based Surveillance and Tracking System (SSTS) and Ground-based Surveillance and Tracking System (GSTS) test delayed from 1992 to 1993.

Exoatmospheric Re-entry Vehicle Interceptor System (ERIS) tests delayed from 1989 to 1990.

Battle Management/Command, Control, and Communications (BM/C^3) System tests delayed from 1989 to 1990 and scope of program reduced.

2. Johnston et al amendment—$5.2 billion reduced to $3.2 billion for SDI R&D efforts in the DOD.

BSTS tests delayed from 1990 to 1992 and reduces engineering analysis of evolving Soviet threat.

SBI tests delayed from 1990 to 1991; provides for only one test instead of two; cuts back on performance gains through increased technology efforts.

SSTS/GSTS tests delayed from 1992 to 1993 plus cut backs in planned improvements.

ERIS tests delayed from 1989 to 1991; contract cost will increase; technology base considerably reduced.

BM/C^3 tests delayed from 1989 to 1990/1991 and big curtailment on overall effort.

IMPACT OF SDI BUDGET CUTS

The SDI budget request supports a balanced research effort: a balance between technology base research and validation experiments, between ground and space based systems, and between mature and advanced technologies.

In the past, budget reductions were implemented by eliminating competing technology approaches and delaying certain efforts. While these steps increased the risk to program success, the overall objectives were not substantially degraded.

The options for implementing substantial FY 1988 budget reductions, while maintaining a strong technology research program, are limited to: reduce integrated experiments and/or shift from the balance between mature and advanced technology. Either of these steps would have severe impact on determining the feasibility of strategic defenses and would result in a delay in the time when a defensive system could be operational. The following actions would be necessary to implement budget reductions in FY 1988.

$4.5B. Sufficient funds would be available to continue a balanced approach to both mature and advanced technologies. However, an informed decision on the feasibility of strategic defenses date would be delayed about two years because of delayed integrated experiments. Specifically:

Delay key satellite sensors experiments,

Terminate significant portions of endoatmospheric missile tests (HEDI) and all theater defense programs except one.

Restructure two major directed energy programs to ground based technology only.

Space power program (SP-100) delayed two years.

4.0B. A strong technology program is still possible. Funds would not be sufficient to continue essential Treaty compliant integrated experiments in both space based and ground based components. Specific changes:

Space Surveillance Satellite delayed one year; Airborne sensor restructured to a ground simulation; Experiment for terminal phase radar terminated.

Totally terminates endoatmospheric missile tests and theater defense programs.

Ground-based Free Electron Laser delayed 1-3 years.

3.5B. The technology base program would be reduced to addressing critical system and technical issues only. All initiated technology integration experiments would be delayed for two years. The time in which a first phase defense could be operational would slip a minimum of 2-3 years. Specific impacts:

Reduce Boost Surveillance Satellite and Airborne Sensor to ground-only experiment.

Cancel Space Surveillance Satellite and terminal phase radar experiments.

Delay Kinetic Kill Vehicle flights to FY 1991. Delay exoatmospheric missile testing (ERIS) flight to FY 1990. In addition to cancelling phase II of endoatmospheric missile, even initial research would be significantly slowed.

Delay Ground-based Free Electron Laser 1-3 years.

Cancel all Survivability and Lethality system development efforts.

3.0B. Under this funding level, it will be necessary to cancel virtually all major Technology Integration Experiments which have been initiated. The time in which a first phase defense could be operational would slip by more than 3 years. Significant detrimental impact on the program.

Further reduce Boost Surveillance Satellite and Airborne Sensor technology efforts.

Cancel Space Surveillance Satellite and terminal phase radar programs, further reduce the probability of their reinitiation at a later date.

Delay Kinetic Kill Vehicle flights beyond planned date in FY 1991.

Cancel all Survivability and Lethality system development efforts.

Funding at $3.0 billion or below is tantamount to "research forever" without receiving an answer on feasibility.

Mr. HOLLINGS. Funding at the $3 billion or below level—$3.2 billion for SDI and in the DOD under the Johnston amendment—is tantamount to research forever without ever receiving an answer on the feasibility.

Mr. JOHNSTON addressed the Chair.

Mr. HOLLINGS. I am not going to yield. I have been playing this game long enough. I apologize to the body, but I have been marking up a bill as chairman of the State, Justice, Commerce Subcommittee on Appropriations, and we are limited just to a few minutes and that is an unfortunate thing and the debate on this amendment suffers from it. I do not mean to cut off anyone. I love debate. But I need the time to talk on the drastic effects of this amendment. We must not get the idea that when we approve the $4.5 billion, for SDI, in the Defense Authorization bill that we can deploy SDI.

We have 4 to 5 more years' work before the distinguished Presiding Officer and I are afforded the luxury of voting yes or no on SDI deployment. It could well be that this particular Senator will oppose it. However, I see many signs of promise that we are making tremendous progress in our research. We are ahead of some of the schedules. And there are briefings. General Abrahamson will give them to you. We tried to hold them before the Defense Appropriations Subcommittee but Senators did not attend. And then some come to the floor and complain that they cannot find out. There is nothing sinister about General Abrahamson. SDI is well-conceived, and it will be tested, dated and critiqued, we are on course to determine the feasibility.

If you go support the Johnston amendment, you are not going to be given the chance to make the decision on deployment. SDI opponents will have set in place a change in the treaty on the floor of the Senate and also unilaterally allowed only research, but never a test on anything. You cut off all the programs and then we are so far behind that there is very little can be done to defend ourselves.

I strongly resist this amendment and we will talk at length again sometime later.

Mr. President, I ask unanimous consent that the article be printed in the Record regarding the Soviet deployments of ABM systems and how they may breach even the new ABM Treaty enacted last week in the body.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Times, July 31, 1987].

New Soviet Deployments May Breach ABM Treaty

(By Bill Gertz)

Recent U.S. intelligence reports have identified Soviet deployments of new interceptor missiles and mobile radars that may violate the antiballistic missile treaty, according to U.S. officials.

Officials familiar with the reports said the new deployments in western Russia were spotted under heavy concealment near three large tracking radars near the Baltic coast.

The proximity of the new ABM components to the tracking radars and their heavy camouflage have led many in the U.S. intelligence community to suspect the systems violate the terms of the 1972 treaty, the officials said.

"This could be the first step in a soviet breakout of the ABM treaty," said one official, who declined to be named.

The new interceptor missiles may be the first installment of a projected deployment of several thousand anti-missile rockets, the official said.

According to one official, U.S. intelligence monitors—satellites and listening posts—confirmed last month that "several hundred" SA-12B anti-missile rockets, dubbed "Giant" by the Pentagon, have been deployed in the western Soviet Union.

The interceptors were spread out near Muckachevo, Baranovichi and Skrunda, the sites of three large phased-array early-warning radars. The large radars can be used for warning detection, tracking or possibly battle management in connection with an ABM system.

The Pentagon, in its March 1987 edition of Soviet Military Power, said an experimental interceptor, the SA-X-12B, would "soon become operational."

The missile, according to the Pentagon publication, "can intercept aircraft, cruise missiles and tactical ballistic missiles and may have the potential to intercept some types of strategic ballistic missiles."

"This [anti-ICBM] capability is a serious development because this system is expected to be deployed widely throughout the U.S.S.R.," the Pentagon said. "It could, if properly supported, add a measure of point-target defense coverage of a nation-wide ABM deployment."

In addition to the interceptors, U.S. intelligence has discovered that since early this year, "dozens" of mobile anti-missile radar systems—of the type of surrounding Moscow—have been deployed in the western Soviet Union. The Moscow ABM system is permitted under the terms of the ABM pact.

The mobile radars, dubbed "Flat Twin" and "Pawn Shop" by the Pentagon, also are hidden in pairs at various locations in western Russia.

The ABM treaty limits the United States and Soviet Union to one regional anti-ballistic missile system and bans preparations for a nation-wide ABM system.

According to the State Department, a five-year review meeting to discuss compliance problems or to offer amendments to the ABM treaty is scheduled for October 1988, when both sides are expected to discuss new technological developments, such as the U.S. Strategic Defense Initiative.

In March, the Reagan administration charged in a report to Congress that the Soviets had violated the ABM treaty by building a large tracking radar at Krasnoyarsk in Siberia.

The administration has also accused the Soviets of bending the ABM prohibition against developing mobile, land-based ABM components and testing ABM systems together with conventional air defense systems.

Other ambiguous ABM violations listed in the report include charges that the Soviets have developed a rapid ABM reloading capability and that all Soviet ABMs taken together may have violated the treaty ban on ABM defense of the "national territory."

Defense Secretary Caspar Weinberger has warned that the Soviet development of a nationwide ABM system would have "the gravest implications" for the U.S.-Soviet strategic balance.

"Nothing could be more dangerous to the security of the West and global stability than a unilateral Soviet deployment of a nationwide ABM system combined with its massive, offensive missile capability," Mr. Weinberger said in a speech last year.

> Recent improvements in the Soviets' Moscow ABM system have also caused concern among U.S. officials that the Soviets may be violating the ABM treaty.
>
> According to one official, the positioning of longer-range ABM "Gazelle" interceptors around Moscow has extended the range of anti-missile coverage outside of Moscow to several large ICBM bases nearby.
>
> Also, the Soviets were suspected of recently testing a laser tracker system from a space station that monitored the flight of a Soviet ICBM test. The test, if confirmed, could have violated ABM prohibitions against such tests.
>
> A secret State Department arms control memorandum, obtained by The Washington Times, found "a continuing and expanding pattern of Soviet concealment activities—camouflage, deception, concealment, and other data-denial or data distorting practices aimed at preventing us from acquiring accurate information about Soviet military programs."

Mr. HOLLINGS. Mr. President, this concludes my remarks and at the appropriate time I will join in moving that the amendment be tabled.

I thank the distinguished Senator from Nebraska for yielding to me.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 8 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 8 minutes.

Mr. HARKIN. Mr. President, I thank the Senator from Louisiana for yielding me this 8 minutes.

Mr. President, I am deeply concerned about our seemingly schizophrenic behavior with respect to the SDI: We have disassociated SDI funding decisions from realistic assessments of possible defensive capability. We continue to fund star wars as though it might lead to a perfect or near perfect defense, while study after study shows that we could deploy only a partial defense. A near-perfect defense might provide protection for our cities and our people; a partial defense could only "complicate Soviet attack plans" as part of a nuclear war-fighting strategy, or protect missile silos, not people.

It is time that we reassess what is possible with strategic defense, and adjust our funding levels to match reality. We must first choose worthwhile and feasible goals for any continued star wars research. Then we must allocate our limited resources to achieve those goals. Any additional funds expended on star wars for dangerous or infeasible goals will decrease our national security, diverting resources from legitimate defense needs and sapping scientific and engineering talents from our civilian economy.

Let me say that I would be the first to propose increased funding for SDI if a perfect or near-perfect defensive shield were feasible * * * a defense that could literally protect our country from nuclear attack. But an impenetrable shield is not feasible, given a determined adversary. The leaders of the SDI have acknowledged from the start that such a shield is not possible. General Abrahamson has stated that:

> A perfect defense is not a realistic thing and there is no perfect weapons system, there is no panacea.

Gerold Yonas, the initial chief scientist for SDI wrote that:

> I know we agreed at the start that there was no perfect defense against a determined adversary, and it is not likely there ever will be.

Recently, we learned that the first phase of the planned SDI defensive system, as proposed to the Defense Acquisition Board, would at best destroy only 10 to 20 percent of Soviet nuclear warheads, using thousands of chemically propelled hit-to-kill rockets fired from hundreds of orbiting battle stations in space. The more advanced directed energy weapons such as lasers or particle beams developed over the next 10 to 20 years might improve these initial token defenses. But, then again, Soviet advances in these same technologies might decrease our defense effectiveness as the Soviet Union gained the capability to shoot down our space based battlestations and sensor satellites.

For the foreseeable future, then, we are debating the merits of a research program that might lead to a 10 to 20 percent effective defense. What are the possible uses for a partial defense?

The SDIO discusses three possible goals for research on a leaky defense in their annual reports to the Congress:

First. To provide a hedge against Soviet breakout from the ABM Treaty.

Second. To induce the Soviets to reduce offensive nuclear forces.

Third. To improve deterrence by complicating Soviet attack plans.

In addition, my distinguished colleagues have added a fourth goal that is disavowed by the administration:

Fourth. To protect our land-based missiles and command and control centers.

I will analyze the merits of each of these goals:

First, the SDI organization emphasizes that this is "just a research program", intended primarily to provide the technical information so that a future President and a future Congress could decide in the early 1990's whether or not to deploy any type of partial defense. This research would also provide a hedge against a possible Soviet breakout of the ABM Treaty: it would provide us with the technical information needed to confuse, overwhelm, penetrate, or destroy components of any future Soviet defensive system.

This research is prudent to the degree that it is needed to counter any possible Soviet ballistic missile defense activity on a timely basis. If, on the other hand, underground testing of nuclear-pumped directed energy weapons are prohibited by future verifiable test ban treaties, then the United States could safely eliminate research programs to counter such weapons. Research into penetration aids and other countermeasures to assure that our weapons could penetrate realizable Soviet defenses would be appropriate.

The second, oft-stated goal of SDI is to convince the Soviet Union that their ICBM's are becoming worthless in the face of our improving defenses, and that they should, therefore, agree to substantial cuts in these now impotent—nuclear weapons. This argument for star wars is irrational and without merit. The historical record and the stated position of our own Secretary of Defense support the opposite conclusion: defenses or even the threat of defenses would lead to substantial increases in offensive nuclear weapons:

In the late 1960's, faced with the perceived threat of a nationwide Soviet defensive system, the United States embarked on a program to overwhelm Soviet defenses, leading to the MIRVing of our missiles. We placed multiple reentry vehicles or nuclear bombs on each missile, leading to a tripling of the number of deliverable nuclear warheads in the U.S. arsenal in the 1970's.

More recently, in preparation for the first summit meeting between President Reagan and Secretary Gorbachev, Caspar Weinberger wrote that:

> Even a probable territorial defense would require us to increase the number of our offensive forces and their ability to penetrate Soviet defenses to assure that our operational plans could be executed.

In word and deed, the United States has demonstrated that defenses would cause us to increase our offensive capability. Can we expect the Soviets to behave any differently?

Can we expect them to decrease their offensive nuclear arsenal at the same time we are preparing to diminish the effectiveness of their remaining forces?

Turning to the third declared purpose for a partial defense, the SDIO claims that even a 10 to 20 percent effective defense would be militarily valuable. Quoting from the 1987 SDIO report to Congress, they claim that a partial defense would:

> Service an intermediate military purpose by denying the predictability of Soviet attack outcome and by imposing on the Soviets significant costs to restore their attack confidence. It could severely restrict Soviet attack timing by denying them cross/targeting flexibility, imposing launch window constraints, and confounding weapon-to-weapon assignments, particularly of their hard-target kill capable weapons. Such re-

sults could substantially enhance the deterrence of Soviet aggression.

This is ludicrous. Does anyone really believe that an attack with nuclear weapons would have a predictable outcome? That the Soviets could ever have confidence in their attack plans?

This goal is based on the bizarre notion that the Soviet Union is deterred not by the threat of massive nuclear retaliation, but rather by the fear that they would fail to achieve certain military objectives by attacking with nuclear weapons.

Do we really believe that the Soviet Union would attack the United States knowing that they could only destroy the 18 percent of our nuclear warheads that are mounted on land-based missiles? Knowing that we could retaliate with over 5,000 nuclear warheads stored safely on submarines? Knowing that we could destroy most Soviet military, industrial, and civilians targets?

If they are deterred today by the threat of massive retaliation, how could the addition of partial defenses improve deterrence?

The fourth potential goal of protecting missile silos and command centers as suggested by my colleagues could have some merit. Deterrence, for better or worse, depends on the ability of both superpowers to retaliate with nuclear weapons which can survive a first strike by the opponent. Any weapon or technique which increases the number of survivable warheads could improve deterrence, but only if most other warheads in the arsenal are vulnerable to attack. To the degree that fixed, land-based missiles are becoming vulnerable, a point-defense of missile silos could improve deterrence.

However, with 5,000 survivable submarine-based warheads already in the U.S. inventory, it is questionable whether saving a few hundred or even a few thousand land-based warheads adds any significant value to our deterrence posture, unless one subscribes to the nuclear warfighting strategy that requires accurate, land-based missiles to be able to fight, survive, and win a nuclear war. And, even if survivable land-based missiles were deemed desirable, we should compare silo defense with other methods of reducing missile vulnerability, such as moving to mobile missiles, or, better yet, jointly removing all land-based missiles through negotiated reductions.

Based on this evaluation, I conclude that there is only one reasonable goal for SDI—as a hedge against Soviet ABM Treaty Breakout—one marginally worthwhile goal—the protection of land-based missiles. These two tasks would not require $3 billion per year.

Examination of the SDI budget submitted by the administration reveals that about $510 million is associated with countermeasures, lethality, hardening, data collection, and survivability—the type of activities that would be prudent to assure our ability to penetrate or otherwise defeat possible Soviet territorial defenses. If laboratory research on high power lasers was deemed necessary, a budget of $220 million would be adequate. Finally, funding for point defense of missile silos, the ground-based ERIS and HEDI interceptors with their associated sensors, would cost $1.22 billion according to administration requests. If we adopted these administration budgets, which represent an extraordinary increase of 55 percent over last year's equivalent budget, then we could justify no more than $1.95 billion for star wars for fiscal year 1988. Assuming that we apply the same fiscal restraint on SDI as we have on the defense budget as a whole, then the appropriate funding level for justifiable SDI projects would fall to about $1.2 billion.

Mr. President, I conclude that it is irresponsible to continue funding for the SDI Program based on the illusion that it might lead to a nationwide impenetrable shield. We are not developing a shield. The SDI is a collection of weapons and associated sensors and computers. These weapons systems could be used defensively to attack ICBM's and they could be used offensively to attack space-based battlestations and communications satellites.

Based on an analysis of worthwhile and feasible SDI objectives, this program should be reduced to less than $2 billion. The administration request for $5.7 billion is totally unjustified. The committee recommendation of $4.5 billion is still two to three times larger than is justified. I will therefore support the Johnston-Proxmire-Evans amendment at $3.7 billion as the best lowest funding level that can be achieved this year, but I encourage my colleagues to evaluate the realizable goals of star wars, with an eye toward bringing funding levels down to the $1 to $2 billion level in future years.

Mr. President, we often set funding levels for a program by adding a fixed percentage to the previous year's budget. This may be appropriate for well established military programs with clear and rational missions. It is not appropriate for a program like SDI, which was conceived as an impossible dream and continues to this day with many contradictory goals and objectives. Some SDI objectives have merit. Other SDI objectives are simply not feasible, or are unnecessary, or are dangerously destabilizing. It is our responsibility to select only those portions of the SDI research program which are in the best long-term national security interests of the United States, and to reduce SDI funding to levels commensurate with those worthy goals.

I urge support for this amendment at the $3.7 billion level.

I yield back any remaining time that I have.

Mr. EXON. Mr. President, I understand that we are scheduled to adjourn at 12:45. We have three Senators that wish to speak 5 minutes each.

I ask unanimous consent that those three Senators be allowed to speak 5 minutes each, with 5 minutes from this side, my side, to Senator THURMOND next; following that 5 minutes to Senator CHAFEE, charged to the time of the Senator from Louisiana; followed by 5 minutes to the Senator from Indiana, and that we continue until those times have run out before we recess for the caucuses.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Chair recognizes the Senator from South Carolina.

Mr. THURMOND. Thank you, Mr. President.

Mr. President, I rise in opposition to the amendment offered by my distinguished colleague from Louisiana. The amendment in question will seriously delay the progress of the strategic defense initiative thus delaying the ability of the United States to defend against nuclear attack.

During the last 15 years, the Soviet Union has spent an estimated $150 billion on strategic defenses, while the United States has spent one tenth of that amount. I certainly feel that the people of the United States are as worthy of protection as the people of the Soviet Union. Yet the Soviet Union is the only country with a deployed ABM system at present, and they are working relentlessly to upgrade and expand this system.

Mr. President, cuts previously enacted by the Congress have already slowed the progress and reduced the scope of SDI research. In fact, the level supported by the Senate Armed Services Committee will force an estimated 1 year delay in the program. Further reductions will only exacerbate the problem.

Mr. President, the distinguished author of the amendment has stated that he disagrees with the proposition that the Senate needs to hold the Senate Armed Services recommendation because we will have to ultimately compromise with the House of Representatives. I must remind my good friend and colleague from Louisiana that the chairman of the House Armed Services Committee stated that he supported House floor reductions to SDI as a matter of tactics for positioning the House for conference with the Senate. This being the case, it is imperative that the Senate maintain the level recommended by the Senate Armed Services Committee.

If we do not, we will be foreclosing decisions that should not be made for another decade. The House Armed Services Committee chairman has advocated a final level similar to that of the supporters of this amendment. If the Senate adopts that level now, the final result will be much lower.

Mr. President, the administration request for SDI called for an increase of about 60 percent over the amount approved for fiscal year 1987. In the Senate Armed Services Committee, we limited program growth to about 27 percent over last year. The amendment offered by the distinguished Senator from Louisiana, calls for virtual level funding for fiscal year 1988. In fact, after adjusting for inflation, the level called for in this amendment will be an actual reduction from last year's level.

The Senate has to make a decision today, and that decision is whether or not we will support the one program that has forced the Soviet Union back to the bargaining table on reducing nuclear weapons. That program is SDI. The Soviets walked out on the arms talks in Geneva, but they returned because of SDI.

Mr. President, we must decide whether or not the Congress of the United States wants to hand the Soviets a unilateral concession with nothing in return. I for one oppose this approach.

A few years ago, I had the opportunity to travel to the Soviet Union with the chairman and ranking member of the Senate Armed Services Committee, the majority leader and the chairman of the Senate Foreign Relations Committee. We met with Mr. Gorbachev for several hours, and he relentlessly urged us to abandon SDI so that there could be progress in arms reductions.

Well, we have not abandoned SDI and we are progressing with reductions in nuclear arms. I am reminded of a popular television commercial involving an investment firm, where a noted actor states that this particular investment firm makes money the "old fashioned way," they "earn it."

Mr. President, I prefer the "old fashioned" method of forcing our adversaries to obtain concessions in arms reductions from the United States. I say make them "earn it," and the only leverage that we have to do so is SDI. I urge my colleagues to reject this amendment. It is not in the best interest of our Nation.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. CHAFEE. Mr. President, I intend to vote today for the amendment of the distinguished senior Senators from Louisiana and Wisconsin. I have been a supporter of their effort since its inception last year, and I still believe they have the right idea about the strategic defense initiative. They are not out to kill SDI, as some have accused them, and neither am I. No, the sponsors of this amendment simply believe, as I do, that SDI must be kept in perspective. This amendment limits SDI to $3.7 billion in 1988—hardly a complete denial of funds. Senate Armed Services, $4.53 billion.

SDI's enthusiasts make glorious claims about the potential of the program. But we must remember that this research initiative is still in its infancy and certainly has a long way to go before it might make a meaningful contribution to the national defense. The SDI concept as we know it today originated only 4½ years ago in President Reagan's famous speech. Although since then SDI has been the subject of passionate arguments here in Congress, and of bargaining at the very highest levels of superpower relations, it is still largely an unknown quantity. In my view, the questions raised by SDI deserve our closest attention. They fall into three basic categories:

I. Theory.

II. Effectiveness.

III. Cost.

I. THEORY—IS SDI BASED ON A SOUND STRATEGIC THEORY?

The basic premise of SDI, and President Reagan's main motivation in proposing the space shield, are easy enough to understand: Rather than rely on the admittedly risky doctrine of mutually assured destruction [MAD], in which each superpower leaves itself naked to nuclear attack, perhaps we can move to a defensive strategic plan in which the United States would seek to protect itself from nuclear attack. If all goes well, the theory says, we might even make nuclear weapons obsolete. In this simple form, the SDI vision is attractive.

There are, however, a number of major flaws in this vision. One is the unproven assumption that we should abandon deterrence, the doctrine that has prevented the outbreak of superpower war for more than 40 years. As illogical as it may seem, the fact is that MAD has worked. In order to discard MAD theory, and with it our nuclear arsenal, we would need to devise a truly leakproof SDI system.

But it will be monumentally difficult, and may be impossible, to create a perfect shield. And without a perfect SDI, we will always need up to date and reliable missiles of our own, to ward off possibly destructive attacks. Thus, until SDI attains perfection—and it's unlikely ever to do so—we must retain an essentially deterrent posture. So we must ask ourselves: Why pump tens and hundreds of billions into a new program that will leave us essentially where we were when we started—guided by the deterrent philosophy—and at the same time saddle ourselves with a new weapons race in space?

SDI proponents answer that their program will enhance deterrence. Each component that we put in space, they argue, will add one more unknown to the calculus of Soviet strategic planning, and thus discourage attack. In my view, however, with our first-rate submarine programs and ever-modernizing arsenal of bombers and land-based missiles, there are more than enough unknowns already to discourage Soviet attack. Is it worth spending hundreds of billions of dollars simply to add a few more question marks to the strategic equation? That question is a big enough one to convince me that SDI should be kept at a relatively low level of funding, and as a research program, for the forseeable future.

I disagree strongly with the backers of SDI who are more than willing to abandon the ABM Treaty and allow SDI testing and development to proceed. The successful ABM Treaty has proven the workability of the deterrent philosophy, and I for one am not prepared to abandon that theory in order to unleash a research program that has just begun to get underway.

II. EFFECTIVENESS—CAN SDI WORK?

The practical question of whether SDI can work is not an easy one to answer, but obviously it should have a prominent place in our budget decisionmaking. In fact, this question is covered by the first two of Paul Nitze's three criteria for SDI, which were feasibility, survivability and cost effectiveness at the margin. In order for SDI to work, it must be both feasible and survivable, and it has not yet proven to be either.

Clearly, we will not know for some time whether SDI can work because SDI researchers are still sifting through the various possibilities for the design of a deployable system. At the moment there is much discussion of beginning some kind of deployment in the mid-1990's. Putting aside for a moment the grave ABM Treaty implications of this proposal, let's look at what would be deployed under such a plan.

The only SDI technology that could possibly be ready for deployment in the next 10 years would be interceptor rockets—the so-called kinetic-kill vehicles—on space platforms. Now this is a fairly crude concept that has been in existence since the 1960's, and many distinguished scientists have raised serious questions about it.

In his testimony last March before the Subcommittee on Defense Appropriations, Dr. Harold Brown, the former Secretary of Defense, pointed out that the kinetic-kill variety of SDI would be ineffective and easily countered by Soviet countermeasures, particularly what are called fast-burn boosters. These would essentially make incoming Soviet missiles much harder to detect and destroy. In fact, Brown pointed out that the Soviet fast-burn countermeasure would cost them 5 or 10 times less than it would cost the United States to put up this early version of SDI, which indicates that this rocket-based space defense system would not meet the Nitze criterion of cost effectiveness at the margin.

Other SDI technologies in the area of directed energy—lasers and particle beams—might be much more effective as a space shield. But last April's report of the distinguished American Physical Society, composed of some of this country's leading scientists, made clear that we will not even know if these futuristic SDI weapons will be feasible for a decade or more. The message of that report, according to one analyst quoted in the New York Times of April 24, "is that we can have a long-term, serious research program in ballistic missile defenses, and still stay within the ABM Treaty because the technologies we want to test will not be ripe for a decade."

I believe the scientists should be listened to on the practical possibilities of the SDI research program. Unfortunately, the Department of Defense is not heeding them, and is placing undue emphasis on development of kinetic-kill weapons that may well be obsolete before they are even ready for deployment. The scientific community is providing no evidence that we need to rush SDI, so why in this defense budget should we give the program a huge, disproportionate funding increase? There is no good reason.

III. COST—CAN WE AFFORD SDI?

The affordability of SDI must be examined not merely in terms of the price tag, but also of whether the financial tradeoffs are worth it. Some estimates of the cost of deploying an SDI system have approached the trillion-dollar mark. That figure, of course, is astounding enough all by itself, but we must also think seriously about what we would have to give up in other defense programs in order to invest such large sums into SDI.

With a new INF treaty apparently close to completion, I am convinced that our conventional needs must be strengthened. I share the President's delight that an entire class of nuclear weapons may be eliminated by a superpower treaty, but I am also realistic about the new costs such an agreement will entail. The cold fact is that conventional forces are more expensive than nuclear weapons, and will by necessity begin to demand more emphasis in our annual defense budget. I see no possibility that, suddenly in the mid-1990's, we will find $50 or $100 billion to put into a deployed SDI system, and I shudder to think what would happen to our conventional capabilities if we did so. In this respect, the amendment before us today sets the right tone: Let us not let SDI run away with more than its share of the defense appropriations.

In a speech I gave in London 2 years ago, I said that a reasonable level of funding for an SDI research program would be about $2 billion per year. I continue to believe that such a limited funding level for a strictly research program, adhering to the strict and correct interpretation of the ABM Treaty, would best serve the defense needs of this country. There is no need at this point in time to trash an extremely valuable treaty, and the deterrence doctrine that goes with it, simply because a dreamed-of space shield has captured some peoples' imaginations. Let's face it—the furor over the Krasnoyarsk violation and other ABM concerns has not arisen because these problems are insoluble through international diplomacy. And the new interpretation of the ABM Treaty is not based on objective legal reasoning. All of this is an attempt by the supporters of SDI to gut the ABM Treaty and proceed with SDI. I take issue with their approach.

The 3.5 percent real growth in SDI allowed by this amendment will take the program to $3.7 billion. Given our other pressing defense needs—one need only look at the Persian Gulf—I continue to believe that is too much money. But apparently that is the figure that is politically achievable. Certainly it makes more sense than the administration request of $5.8 billion, an imprudent 55-percent increase over last year's figure. In an overall defense budget that will see almost little or no real growth this year, I find it hard to justify any special increase for SDI. Are space lasers really more important than minesweepers or gas masks? But I will support this amendment as the best alternative available.

When the President gave his speech in 1983, SDI was what it remains today, an interesting idea—something worth looking into. The fantastic possibility of throwing up a defensive shield over the United States, to repel incoming ballistic missiles, is intriguing. But exciting as it may be to imagine an end to our fears of nuclear attack, it would be wrong to let the imagined possibilities of SDI obscure the real defense needs of 1987. Let's not rush into this rash and unproven new approach to national defense. I urge all Senators to approve the proposed cut in SDI funding.

The PRESIDING OFFICER. The time of the gentleman is expired. The Senator from Indiana is recognized for 5 minutes.

Mr. QUAYLE. Mr. President, let us get this debate straight. What we are doing here is digging a grave for SDI.

We are going to do it in a nice way. We are going to do it with a smile on our face. We are going to do it saying, gee, we really are for SDI; we just want to cut the funding.

Let me tell you what is happening. This amendment is sort of a nice, polite way to be able to kill SDI, because the practical effect of this amendment is to confine SDI to research under Gorbachev's definition. Pretty soon the Soviets are simply going to argue that we can only do what the Senate says, since we are now arguing that SDI ought not to get beyond laboratory research.

This amendment, then, is a polite way of putting SDI right in the grave preventing if from ever being developed and then saying, well, it did not work, it cannot work.

I wonder how many research programs would survive if we cut the funding every time the program encountered problems. That is precisely what we are doing here. If there are some problems with the program, what are we doing? Cut the funding.

Did we have problems with the Trident, R&D with the Trident? We had some problems. Sure, we had problems. Did we cut the funding on that? No, we increased the funding to work out the problems. What are we doing with SDI to work out some of the problems? Cut the funding.

Mr. President, I want to focus in my short time on what the options are for SDI because I agree with some of the critics that say no, we do not want to go forward with SDI, if it means only locking ourselves into this so-called astrodome concept.

I cannot tell you whether the astrodome concept is going to work. I do not really know. I do not think anybody knows. If, in fact, we get that, it is going to be way, way down the road in the future and it is expensive and I do not even know if we would want to do it at the time we get the option to deploy it.

Let me tell you what I want to do, I want to give a future President the options to deploy, on an incremental basis, some strategic defense systems.

Mr. President, the people that I talked to in my State and the people that are looking at this whole arms control process, they want to see a reduction of nuclear weapons. They are not talking about just a reduction of INF nuclear weapons. They are talking about a reduction of strategic nuclear weapons.

If, in fact, we are going to see a reduction in nuclear weapons and get them down to smaller numbers, then defenses are going to be far more important than they have been in the past.

When are we as a nation going to get rid of the idea: To have peace and to have deterrence the only way is through offensive force?

That is what this debate is focused on.

I think that you can in fact have more stability, increased deterrence, a better prospect for peace as you reduce offensive nuclear weapons and also eventually deploy some defensive systems.

But there is absolutely no way with this kind of amendment that you are going to be able to go forward in a prudent, logical way to give those options to this President or a future President.

I can tell you, there is strong indigenous popular support for the concept of defense. Many people in this country do not realize we have no, zero, strategic defense. If you had a ballistic missile that was shot on an accidental basis that was coming to this country: tough luck.

That is a pretty sad commentary. That is a pretty sad commentary that we do not have the capability to knock down one nuclear ballistic missile that might be fired against this country.

Take that situation off the coast of Bermuda about a year ago where a submarine caught fire. What if that had gotten out of control and all of a sudden there is an accidental launching of a SLBM and Gorbachev got on the hot line and said: "Mr. President, I am sorry, no provocation, it is an accident, true accident. Here is the target, here are the coordinates."

Do you know what? We could not stop that SLBM, even if we had that information.

I believe the American people strongly support the concept of peace and deterrence through defensive capabilities.

As a matter of fact, a lot of my constituency are surprised when I tell them the fact that we do not have any defensive capabilities. So, Mr. President, we are, in essence, in sort of a nice way saying, well, we do not really mean it, I guess; that we are for SDI, but we are placing this in a grave. We are confining it in the research only and it will possibly not come to fruition. I think that is a grave, grave mistake.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2 p.m.

There being no objection, the Senate, at 12:46 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BAUCUS).

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. EXON. Mr. President, I was prepared to yield time to the senior Senator from Virginia, who has 10 minutes scheduled. I do not see him on the floor at the present time. I do see my colleague from California. I would suggest that, in view of the absence of speakers that are scheduled to speak at this time and in view of the absence of those on the opposite side of this amendment, we have a quorum call with the time equally divided.

The PRESIDING OFFICER. Is there an objection to the request? If not, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum called be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield 10 minutes of our time to the distinguished Senator from Virginia, the ranking member of the Armed Services Committee.

Mr. WARNER. Mr. President, I thank my good friend and fellow colleague on this committee. We came to the Senate at the same time and have worked together these many years and hopefully for many more.

Mr. President, I thank my distinguished colleague from California for his very skillful management of this amendment. Due to compelling commitments for me and the chairman of the committee to be present at a hearing of the Armed Services Committee throughout the morning since 8:30, I have not been able to participate as I had originally planned in the debate on this amendment.

I, needless to say, rise in the strongest of opposition to the amendment offered by the distinguished Senator from Louisiana. In doing so, I would like to take a few moments to comment first on the SDI funding, the funding number that is in the committee bill; second, on the impact of the funding reduction being advocated by the Senator from Louisiana, and finally on the timing of this amendment, coming as it does after substantial progress on the arms control front.

Mr. President, the Armed Services Committee recommended an authorization of $4.1 billion of the $5.2 billion requested for SDI research by the Department of Defense and $308 million of the $569 million requested by the Department of Energy. This recommendation had the effect of reducing the percentage growth in SDI funding, not accounting for inflation, from the requested 60 percent increase over last year's level to a percentage increase of about 27 percent.

I should note for the benefit of my colleagues that unlike the Levin-Nunn amendment on SDI testing, which severely divided the committee and was debated at length by the entire Senate, there was strong bipartisan support for the SDI funding level in the Armed Services Committee.

There was also an appreciation—and I pay special acknowledgement to the chairman of the subcommittee of the Armed Services Committee that had guided, this year, the issues related to strategic forces with great skill and fairness—by the members of the committee that the SDI Program could no longer absorb reductions, averaging 30 percent annually over the last several years, without an impact on the program, and indeed it has been an adverse impact on the program and that has been carefully covered here this morning.

The reductions in past years have been accommodated by eliminating competing technology approaches and delaying certain efforts. While these steps increased the risk to program success, the overall objectives were not substantially degraded.

The effect of the Armed Services Committee reduction has been estimated to be up to a 1-year delay in the program, with key projects in theater missile defense, directed energy, battle management, survivability, and lethality, reduced or delayed.

Mr. President, no one on the committee was under the illusion that the SDI funding level recommended would be the final figure for fiscal year 1988. At the time of our markup, the House Armed Services Committee had already recommended a number that was $1.1 billion lower than the Senate position. The House number was subsequently lowered on the floor by another $400 million. The argument used by the chairman of the House Armed Services Committee, Mr. ASPIN, is most germane to the debate we are having today. In adopting a funding level of $3.12 billion for SDI, Mr. ASPIN argued that he preferred a higher number, around $3.5 or $3.6 billion as a final outcome, but as a matter of tactics in the conference between the Senate Armed Services Committee and the House Armed Services Committee, he supported a lower number that was adopted by the House. Were we to adopt the Johnston amendment, we would lose that flexibility and, indeed, it would go counter to the tactics adopted by the House under the leadership of the chairman of the House Armed Services Committee.

Mr. President, I presume that the supporters of this amendment favor a final outcome for the SDI Program at the level of the amendment. They must realize, however, that the Senate position must be compromised with the House position that has been purposely set at a low figure as a matter of conference tactics. This amendment, therefore, undermines the Senate's ability to achieve even the funding level being advocated by its sponsors.

Mr. President, let's look a moment at the funding level proposed by this amendment, which is somewhat clouded by the fact that the sponsors proceed from a different SDI funding baseline than that used by the committee. The $4.5 billion committee figure for SDI research does not include the $100 million that the Senate authorized, but the House did not, for military construction associated with the national test bed. On an apples and apples basis, the amendment allows virtually no growth over fiscal year 1987 funding levels for either DOD or DOE SDI research. When adjusted for inflation, the amendment would actually reduce the fiscal year 1988 program below that which was approved in fiscal year 1987.

Mr. President, the effect of this reduction is difficult to capture fully, since it brings the level of funding for the program below the level where slippages and cancellations alone can accommodate the reduction. It may very well require a fundamental restructing of the careful balance that has been maintained between validation experiments and technology base research. At a minimum, the reduction will severely impact those initial systems that the Secretary of Defense recently approved for the demonstration-validation phase of the acquisition process. Some technology validation experiments will be canceled, and others delayed 2 or more years. Most significantly, sensor projects, which would satisfy important requirements outside of the SDI Program, such as early warning of missile attack, will be delayed 2 or more years. Terminal defense radars, and perhaps the Terminal Defense Missile Program—known as HEDI—will be delayed indefinitely or terminated.

Mr. President, this is not just another budget reduction to the SDI Program, along the lines of previous years. This reduction will significantly delay the program, and may well not permit the careful balancing of near-term and advanced technologies that has characterized the program despite budget reductions in the past.

Mr. President, I want to make a final point and that is one that has been made time and again in this body, and frankly, I believe bears repeating in view of the severe effect that this amendment will have on the SDI Program.

I believe that this amendment undermines the position of our negotiators in Geneva. SDI, in my judgment, was largely responsible for bringing the Soviets back to the negotiating table. It has been the President's tough stand on SDI that has been instrumental in the progress that was achieved on the INF. I believe that continuing to stand tough on the SDI is the best hope we have for achieving the deep reductions in strategic arms that both nations will be working toward over the coming months.

Mr. President, we will not resolve the final number for the SDI Program on the floor of the Senate today. I assure my colleagues, however, that the position recommended by a bipartisan majority of the Senate Armed Services Committee greatly enhances the prospects that the final outcome will be a program that maintains a balanced program, and enhances the prospects of our negotiators in Geneva.

Mr. EXON. May I ask the Chair as to the amount of time remaining on each side?

The PRESIDING OFFICER. The Senator from Nebraska has 10½ minutes remaining, the Senator from Louisiana has 14 minutes remaining.

Who yields time?

Mr. JOHNSTON. Mr. President, I yield myself 7 minutes.

Mr. President, I hope we have begun to focus the question on SDI in this debate. If I may summarize our position, it is as follows: First, we strongly support a robust R&D Program in the strategic defense initiative. My own credibility has been proved in that regard by increasing the House number in my own appropriations subcommittee by some $30 million for the core programs at our national labs.

Those increases, however, were in the beam programs, the laser programs, the neutral particle beam weapons, and those are where the real promise is.

Mr. President, what this debate is about is the space-based kinetic kill vehicles. Mr. President, it is perfectly plain that a reorientation of those programs has taken place with a view to go to an early deployment.

If you look at the budget of the Department of Defense, Mr. President, you will find there is no increase—well, there is a 0.1 increase for beam weapons, technology there is a 139-percent increase for space-based kinetic kill vehicles.

That is the core of this debate: Should we or should we not have a 139-percent increase in space-based kinetic kill vehicles?

Mr. President, if you go by scientific data, and scientific study, the answer is a resounding no. The BAMBI Program in 1962 was exhaustively studied. They issued a report. I have here a copy of that BAMBI report, Mr. President. They had actual tests, actual collisions with incoming warheads; the precise same technology although to be sure the heat-seeking sensors have improved; to be sure, the boosters are faster burn than they were at that time. But it is the same technology. It was rejected at that time.

Come 1982 and 1983, a new version called the High Frontier was proposed and again rejected.

Mr. Carlucci, who at that time was Under Secretary of Defense, was the lead man in the Department of Defense who wrote the report rejecting High Frontier. That was virtually at the same time when the President was making his March 1983 speech proposing this brandnew program which was going to make America safe and render nuclear weapons impotent and obsolete.

Mr. President, the ground shifted, of course, since then. There is no longer any talk about making nuclear weapons impotent and obsolete. Oh, the President may still be saying that, but none of his people are saying that. And now, Mr. President, we are talking about a limited deployment with a success ratio of about 16 to 20 percent depending on what assumptions you make.

We are talking about a cost of around $100 billion. We are doing that at the time when the scientists say it will not work.

Mr. President, I have quoted extensively from the memo to the Under Secretary for Acquisition which has said that we should not have what we call a phase 1 R&D program, that we are only ready for the zero phase. I quoted that into the RECORD extensively. The task force chairman said it is totally premature because there are too many gaps. They do not know about system performance, system cost, or schedule. In other words, they do not know whether it will work, how much it will cost, or when it would be available and you need to fill in those gaps before you go to this phase 1 which is this 139-percent increase.

Mr. President, in July 1987, this year, the Lawrence Livermore Laboratory was commissioned to do a study on the effectiveness of KKV's. There was an article in the San Francisco Chronicle dated July 1987 which sums it up. If I may read:

> Dateline, Livermore, California:
>
> Weapons which would destroy incoming enemy missiles by smashing into them won't shield the United States from new Soviet missiles planned for the next decade, a report by weapons experts concludes.
>
> "We are very skeptical of the wisdom of relying on the first generation of kinetic kill vehicles to provide any real protection," said Christopher T. Cunningham, group leader for strategic defense systems studies at Lawrence Livermore Laboratory and sponsor of the study.
>
> "The study means, in essence, that kinetic kill vehicles won't do any damned good," said Sidney Drell, a physicist and co-director of the Center for International Security and Arms Control at Stanford University.

Mr. President, I ask unanimous consent that the article from the San Francisco Chronicle along with a fuller description of the article from Defense Systems for July 1987 describing in more technical terms that report be put into the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the San Francisco Chronicle, July 1987]

NEW SOVIET MISSILES COULD GET PAST SDI, LABORATORY STUDY SAYS

LIVERMORE, CALIF.—Weapons which would destroy incoming enemy missiles by smashing into them won't shield the United States from new Soviet missiles planned for the next decade, a report by weapons experts concludes.

"We are very skeptical of the wisdom of relying on the first generation of kinetic kill vehicles to provide any real protection," said Christopher T. Cunningham, group leader for strategic defense systems studies at Lawrence Livermore Laboratory and sponsor of the study.

"The study means, in essence, that kinetic kill vehicles won't do any damned good," said Sidney Drell, a physicist and co-director of the Center for International Security and Arms Control at Stanford University.

So-called kinetic kill weapons would not use explosives but would collide with warheads at high speed. Later, more sophisticated defensive systems are envisioned that might use technologies such as high-power lasers and atomic particle beams.

Defense Secretary Caspar Weinberger contends a rudimentary but effective kinetic kill anti-missile system could be up and working by 1994.

But the report, in the laboratory's Energy and Technology Review magazine, says the system would be effective only against Soviet missiles in use at present.

The report says it would take only a few thousand kinetic kill vehicles poised in polar orbit to knock out the current Soviet force of SS-18 and SS-19 intercontinental ballistic missiles.

But it says newer SS-24 and SS-25 missiles the Pentagon expects the Soviets to install in the next decade will be much harder to knock out, probably requiring about 100,000 kinetic kill vehicles, because their first-stage boosters will burn faster and give defense less time to react.

[From Defense Systems, July 1987]

KINETIC-KILL VEHICLES

A system of space-based kinetic-kill vehicles (KKVs) is often proposed for the first tier of a strategic defense. KKVs rely on a very precise homing capability to ram their targets, transferring a lethal amount of kinetic energy. Since the technological requirements for KKVs may be lower than for beam weapons, KKVs are often proposed as near-term defenses for the mid-1990s or even earlier. However, KKVs are limited by the time-of-flight necessary to reach their targets, a limitation that may make them vulnerable to some Soviet countermeasures.

A space-based defense might consist of a number of carrier satellites, each containing several KKVs, in low-altitude orbits. If enemy missiles were launched, defense sensors would detect and track the missiles' boosters and give detailed target information to the individual KKVs. The KKVs then should reach their targets—boosters and post-boost vehicles (PBVs)—before the targets deploy many of their reentry vehicles and decoys. Thus, the flight velocities of the KKVs and the operating times for boosters and PBVs are crucial in this race.

Since the mass of a small rocket roughly doubles for each 2 km/s of final velocity, there is a trade-off between speed and weight; this implies an optimal KKV design which is neither too slow nor too heavy. Except for responsive threats (weapons designed to defeat defensive measures) like fast-burn boosters, this optimal design has a velocity of about 6 km/s. (This velocity is assumed in the Marshall Institute's 1987 study Missile Defense in the 1990s. We also adopt their values of a 20-g acceleration of the KKV as it leaves its carrier satellite and a kill probability of 0.9 against its target.)

Another important characteristic of the defense is the amount of time between threat launch and KKV launch, i.e., the time required for the defense to detect and track the boosters, perform battle management, and hand over information to the KKVs. In general, the U.S. defense could not respond before the missiles break out of the troposphere (at about 10 km), if we allow for cloud cover. This takes about 20s for solid-fuel boosters like the MX and probably about 30s for liquid boosters. The assumption of such short response time is very favorable to the defense but precludes human decisions.

Whether or not such a KKV defense would be effective depends upon the threat. To illustrate this, we consider three threats: the current Soviet ICBM force, dominated by SS-18s; a threat for the mid-1990s, which augments current SS-18s and 19s with significant numbers of SS-24s and SS-25s; and a near-term responsive threat, consisting only of SS-24s and SS-25s modified for reduced boost and deployment times.

The inventory of the current Soviet ICBM force, 1400 missiles and 7000 warheads, consists mostly of liquid-fuel boosters with MIRVed PBVs. The Soviets are replacing some of these missiles with a solid-fueled singlet, the SS-25. These two types of systems differ radically in their operation times; current liquid-fueled boosters burn for about 5 min; solid-fueled boosters, about 3 min. We estimate from MX technology that reentry vehicles are deployed from PBVs at the rate of about one every 45 s. Thus, an SS-18 with 10 MIRVs has a total operation time of about 12.5 min, compared to about 3.8 min for the SS-25 singlet.

Assuming 20 s for intial launch detection and a 20-g acceleration, a 6-km/s KKV can fly about 4300 km from its carrier before intercepting the SS-18 PBV but only about 1100 km against the SS-25. Since the portion of the defense that can engage is roughly proportional to the square of the flyout distance, this implies that about 14 times more KKVs will be able to engage SS-18 than SS-25s.

While the current Soviet inventory provides a useful comparison, it is not the threat a defense would face in the next decade. The Department of Defense estimates, on the basis of present trends that the Soviet Union will have modernized its ICBM force substantially by the mid-1990s. By then this force is projected to consist of about 300 SS-19s, a more highly MIRVed heavy missile (possibly a successor to the SS-18, unconstrained by treaty), plus significant numbers (600 each) of SS-24s and SS-25s (the latter likely to be MIRVed follow-on), for a total 14 000 warheads on 1800 missiles.

This projected threat does not include a U.S. defense, which must be a key element in Soviet planning. For instance, it is unlikely that the Soviets would devote resources to revising a system like the SS-18, which is so obviously vulnerable to defenses. It seems reasonable that they would concentrate on their new systems, the SS-24 and 25, to make them less vulnerable.

One of the main areas of vulnerability is the long operation time of a highly MIRVed PBV, such as the SS-24. We are investigating schemes for reducing this time. For example, if the RVs were deployed simultaneously, deployment time would be that for a single RV, no matter how many were launched. One way to accomplish this would be to have the payload break up into individual components directly after boost (the way the SS-11, a MRV, operates). This requires duplication of guidance and deployment hardware for each RV. An additional penalty would be the inability of responsive PBVs to carry quite as many MIRVs as their conventional counterparts.

Our near-term responsive threat eliminates the vulnerable SS-18s and SS-19s from the inventory entirely. The same numbers of SS-24s and SS-25s (600 each) are assumed as for the projected threat. However, their PBVs have been modified to deploy within 45 s. Modest reductions in booster burn times (by 30 s or so), such as might be achieved with propellant and nozzle modifications only, are also assumed. The modified SS-24 would carry 6 rather than 10 reentry vehicles per booster, and the SS-25 would carry 2 for a total inventory of 4800 warheads on 1200 boosters.

A fast-burn booster with an action time of about 50 s is often cited as a possible defense response. Significant guidance and control problems have been identified for such short burn times. However, such a very short burn is not needed to defeat the boost phase of a KKV defense, as our effectiveness calculations show. We are studying the feasibility and technology requirements for missiles with a somewhat longer burn time. This would be a completely new system however, and not a near-term response.

To assess the performance of the defense against the threat, we use a computer simulation that moves the threat boosters, PBVs, satellite carriers and KKVs along their trajectories to find the targets that may be attacked from each carrier. Then KKVs are assigned to targets in order to best achieve the defense's objective—in this case, to minimize the number of RVs deployed.

Figure 1 shows the number of RVs reaching midcourse as a function of defense inventory for each of the three threats. Only a few thousand KKV rockets are sufficient to impair a system like the SS-18 with long boost and deployment times. Thus, the defense will compromise the current or projected threats with a rather modest inventory. The SS-24s and SS-25s of the projected threat are more difficult targets; so, to destroy, say, 90 percent of the projected threat in boost or deployment phases, about 100 000 KKVs would be needed. The responsible threat is not liable to KKV attack in its boost and deployment phases because of its short action times. However, it has a smaller total number of RVs, since it does not use existing ICBMs and requires more throw weight per RV. Importantly, the deployed defense has resulted in significant reductions from the projected threat without firing a shot.

Our analysis has focused on defense against missiles in boost and post-boost phases only. Space- and ground-based KKVs can be brought into the midcourse battle in much greater numbers than the threatening RVs. Therefore, one of the first countermeasures the Soviets could be expected to develop would be midcourse decoys. Studies by AVCO suggest that large numbers of decoys could be rapidly deployed.

These results substantiate the value of greater efforts to understand better the options open to the offense and the penalties associated with those options. Here we have presented the results of only one defensive move and offensive response. There are many others not addressed here.

(Key Words: kinetic-kill vehicles; strategic defense systems.)

Mr. JOHNSTON. Mr. President, to sum up, the question is—when the defense authorization bill as we speak is $14 billion over the target of the budget resolution in budget authority, when it is over $10 billion over the target in outlays—should we be going for a 139-percent increase in the very technology, the SBKKV technology that the Department of Defense says you should not do, that Lawrence Livermore Labs, who is the lead lab on it says you should not do, when the American Physical Society says it will not work, and virtually every other scientist in America save a few of those employed by the SDI and maybe a few others, not many, say we should not do it?

So why should we do it? Well, I do not know, Mr. President. I really do not know except to say that we have to have it for Geneva, or we have to have it to go to conference. I think it does not make any sense.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, we have 10 minutes remaining. I will give 2 minutes of that time to the Senator from Virginia and 4 minutes to the Senator from California. I will conclude with the final 4 minutes which will use up all the time on this side of the aisle.

I yield to the Senator from Virginia for 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleagues.

Mr. President, time and time again, this Senator and other Senators on both sides of the aisle have spoke on issues in this bill and indicated the severity of those issues on the arms control process. It is clear now that SDI was one of the principal inducements to bring the Soviets back to the negotiating table. As we are here this afternoon addressing the issue, negotiations are taking place in Geneva, in the United Nations, and elsewhere, working toward what hopefully will be a common goal to reduce the level of nuclear weapons throughout the world, those weapons which are in the hands of the United States and the Soviet Union.

Progress is being made and we are about to render judgment on that key issue that brought the Soviets to the negotiating table. If this amendment prevails, it will be another indication that we are undercutting the efforts of our negotiators at the very time that they are making good progress.

I urge my colleagues to reflect most seriously on the effect of this amendment on the arms control negotiations now taking place.

The PRESIDING OFFICER. The Senator from California.

Mr. EXON. I yield 4 minutes to the Senator from California.

Mr. WILSON. Mr. President, thank you.

Mr. President, the Senator from Virginia is absolutely correct. What is more, I want to pay a compliment, a deserved compliment, to the chairman of the subcommittee, the Senator from Nebraska, under whose leadership this compromise was crafted, this bipartisan compromise which passed with a bipartisan vote.

Mr. President, there has been one great manifest. This statement that has been made—there have been several, but one in particular—the idea that this phase 1 defense, when deployed, which is far in the future, would in fact result in a 20-percent effectiveness is an absurdity.

If there is any doubt, General Abrahamson, the director of the program, has right-out said, the full effectiveness is a matter that is classified. We cannot discuss it here in the open. But it is many times that which we have been led to believe by the opposition. It is not 20 percent. That is simply not true. It is not true, as the Senator from Massachusetts said, that it includes a point defense. It does not. What is true is that the Senator from Louisiana is urging that we get to the exotic systems and the neutral particle beam, chemical laser, and Excimer laser, all of which would suffer a very sharp injury. In many cases, to take the neutron particle beam and the chemical laser they would be terminated under the level of funding he is recommending. The flight experiment for the chemical laser would be terminated under the level of funding he is recommending. The Excimer would be terminated at that level of funding. It does not reach just phase 1. It affects the entire process.

Let me get to a point on which he spent much time: The Defense Acquisition Board, for the first time operating on a major decision as a threat validation by the Defense Intelligence Agency, which is an amalgam of all inputs from all the other two agencies, does not find the result we have been told confidently by the Senator from Louisiana. He does not think it is any trick at all for the Soviets to come up with a fastburn capability. They do.

I suggest that those sources, plus the scientists who have informed the SDIO, have offered far more convincing proof than political scientists in the cloakroom. In fact, he has said nothing about the degradation as you achieve a fast-burn capability. He said nothing whatever about the degradation in accuracy.

The point is very simple. He has spent all his time talking about one element of a program which is by no means the only element, but one that is necessary and will be necessary as we progress further down the path.

He is projecting a choice that is a false choice. He has suggested a level of funding that bears no relationship to anything in the program nor in the history of weapons systems development beyond an arbitrary 3-percent growth, which is no real growth.

Mr. President, we are posed a choice, and it is simple: The Soviet Union has been spending as much as $20 billion a year on ballistic missile defense. There is no argument that they have been spending $150 billion over the past decade. The choice is this: Will we let them go forward with the very research program we are being urged to abandon, take the suggestion of the Senator from Louisiana for a level of funding which is less than the Soviets would permit under their narrow interpretation of the ABM Treaty? His logic is that there are gaps and deficiencies in the program. How will we ever fill them, if we cut back on the program?

The VICE PRESIDENT. The time of the Senator from California has expired.

Mr. HEINZ. Mr. President, although it is my intention to vote against tabling the Johnston amendment, I want to make it clear that I do not necessarily support the magnitude of the funding reductions proposed by that amendment.

I have been disappointed in the debate. I do support a strong, vigorous, strategic defense initiative. However, the justification for the $4.5 billion for SDI contained in the Armed Services Committee's authorization bill has been, in my judgment, unconvincingly supported.

Perhaps the only clear, persuasive argument made by the proponents of the committee's budget level for SDI is that we need larger authorization numbers—such as the $4.5 billion this time—in order to go to conference with an unrealistically low House authorization figure. I believe the House amount is too low. But while that can often be a legitimate factor in making a legislative decision, its use here to justify a $1 billion increase over the previous year's appropriation is an example of taking an argument past the boundary of logic and common sense.

Mr. GARN. Mr. President, I have been listening to this debate on SDI funding levels with appreciation for all the positions presented today. But what has begun to cause me great concern is that I haven't heard anyone explain the reason for the strategic defense initiative research. By that I mean the fundamental reason behind the national decision to proceed with research on defensive technologies. It appears to me that we've all allowed ourselves to be lulled into a state of complacency over the reason for our strategic defense program—the alarming progress of Soviet efforts in strategic defense research.

By some inexplicable phenomenon it appears we have reached a point in history where we are more inclined to believe the word and good intentions of foreign governments than that of our own. The reasoning goes something like "if the Soviets say they're not doing work on advanced strategic defense technologies, it must be true and some unknown alarmist at the Pentagon is manufacturing evidence for Soviet military power." Well, let me tell you that is simply not true. I have received a number of classified briefings on Soviet efforts in space and strategic defense. The only thing I can say is that it scares me. I am concerned that if this Nation and this Chamber take a disinterested position about Soviet military and space efforts by undercutting the SDI Program, we will be far surpassed in technology and experience and will not be able to adequately address future challenges to our national integrity.

Chapter 3 of Soviet Military Power contains the best unclassified information on Soviet strategic defense efforts I've seen. It compiles information from the entire interagency community and is a prudent, careful analysis of where the Soviets are today. I emphasize the terms "prudent" and "careful" because it is not, in my opinion, an exaggeration of Soviet efforts. In Soviet Military Power, Secretary Weinberger clearly lays out the evidence for which we can now know that the Soviets are covertly carrying out the strategic defense program and surpassing us in many advanced strategic defense technology areas.

Now mind you, they have not yet admitted to having a strategic defense program. But, admit it or not, the facts are that since 1978 the Soviets have continued to refine and upgrade their ABM system around Moscow. Upgrading not only in numbers, but by making the whole system more sophisticated than anything they've ever had before. The Soviets have employed as many as 10,000 scientists and engineers and utilized more than a half dozen major R&D facilities and ranges to conduct research on advanced laser weapons. They have done work on space-based kinetic energy weapons and research on advanced sensor work. All in an effort to pull together a robust, effective Soviet strategic defense system. That's what our Government experts concluded. If you doubt U.S. experts analysis, listen to a man who won the Lenin Prize and the Hero of Socialist Labor Award. Anatoly Fedoseyev said, in a 1987 article by William Broad of the New York Times, that, "since the beginning of Soviet SDI, about 35 years ago, this project has never been interrupted or delayed. And I am sure it never will be." William Broad says in the same article that the Soviets are working on a facility in Dushanbe which will one day house lasers as part of an ABM system. As if that isn't enough, the Washington Times charged in July of this year that the Soviets actually conducted a missile tracking test from the MIR space station—in violation of the ABM Treaty—to support their strategic defense program.

The signing of the ABM Treaty in 1972 did not end Soviet strategic defense activities. In fact, it has proved to be little more than a minor obstacle to their program. Clearly, they have shown great determination to modernize their ABM system, test air defense missiles against ballistic missiles, and develop radars and other ABM components all the while condemning U.S. strategic defense efforts as militarizing space and offensive technology.

Gen. John L. Piotorwski, Chief of the U.S. Space Command, is quoted as saying the "Soviets are spending about $1 billion a year on laser research * * *" alone. Our best estimates indicate a total of $20 billion per year is spent on Soviet SDI research. Clearly, this is a program in which they have invested enormous time, money, and resources, to ensure its success. Additionally, this figure does not account for the millions the Soviets spend to buy and steal Western high technology that their research fails to produce. Are we willing to ignore its existence for our own convenience? Can we afford to ignore it any longer?

There was an amusing piece in the New York City Tribune recently, a reprint from Pravda which claimed the administration was "ideologically and psychologically brainwashing the American public" in an attempt to garner support for the SDI program. It struck me as being amusing because it's a perfect example of how American and Soviet thinking differ. We have been perfectly open about our strategic defense program, our progress, and goals. On the other hand, they have determined it is wiser to shroud their efforts behind propaganda. No "brainwashing" was at work here, just the facts: The Soviets are very clearly working on their own SDI Program—that is the reason for the existence and support for the strategic defense initiative.

Mr. EXON. Mr. President, in the last 4 minutes, I will wind up the presentation against the amendment offered by the Senator from Louisiana, and then I shall move to table his amendment and ask for the yeas and nays.

We have had an interesting debate today on SDI, and I hope it has been informative so far as the Members of the Senate are concerned and also the Nation as a whole.

I appreciate the nice comments by my colleague from California, who has helped manage what we hope will be defeat of the Johnston amendment. I thank Senator WARNER, the ranking member of the Armed Services Committee. I also thank Senator STROM THURMOND, who played a key role as the ranking member of the Strategic Subcommittee when we worked out the compromise that is inherent in and a part of the armed services bill.

I heard a lot today about looking at the bigger picture. Mr. President, we should look at the bigger picture. There has been an attempt, though, in debate by those supporting this amendment, to look at the smaller picture, I suggest.

This is not a vote as to whether or not individual Members of the Senate feel one way or the other with regard to the treaty proposition that has generated a great debate on SDI. I happen to favor the so-called Nunn-Levin amendment. Others who will be voting with us on this tabling motion do not agree with that. That is not the issue; and I hope that when Senators come to the floor to vote in about 5 or 10 minutes, they will recognize that this is not at all, in any way, shape, or form, any indication as to how any of us feel as to the treaty violation. What this is all about, and the key to this whole debate which has been covered by the speakers, is what is going to be the funding level for SDI.

I suggest that in the current fiscal year, the one we are in now, we appropriated $3.5 billion for the overall SDI Program. I have been a supporter of that program for a long time, and will continue to be in the future, while I do not believe that we should have substantial procedure beyond the laboratories at this juncture. But that is another matter.

This year, the administration requested $5.7 billion, a significant increase indeed. The Armed Services Committee, through compromise, came out with $4.5 billion. As has been pointed out, the House of Representatives, led by the chairman of its Armed Services Committee, came up with only $3.1 billion.

I have always felt, as chairman of the Strategic Subcommittee, that we should be funding SDI at about a $3.7 to $3.8 billion level. That would be a 15-to 20-percent increase over last year.

I remind all my colleagues that if the amendment offered by the Senator from Louisiana prevails, we will cut SDI funding below the current year. I suggest that there are few in this body who wish to do that.

Therefore, I think it is very clear that we should stick with the compromise figure that the Armed Services Committee has in its bill, go to the House of Representatives, and we will have a difference of $4.5 billion and $3.1 billion. We all know it will end up about $3.7 or $3.8 billion.

Mr. President, I move to table the amendment of the Senator from Louisiana, and I ask for the yeas and nays.

The VICE PRESIDENT. While any time remains to the sponsor of the amendment, the motion to table is not in order.

Mr. JOHNSTON. How much time remains, Mr. President?

The VICE PRESIDENT. The gentleman has 6 minutes and 14 seconds.

Mr. JOHNSTON. I yield myself the remainder of the time.

Mr. President, it is said that patriotism is the last refuge of scoundrels. I can add a corollary to that, and that is that the bargaining chip is the last refuge of the big spenders.

I have seen more money wasted in this Congress under the rubric of bargaining chip than probably under the cloak of any other rhetoric.

The fact is that the Johnston-Proxmire amendment has more than sufficient money to give us whatever bargaining chip we need in Geneva.

If I may quote from the Armed Services Committee's report on page 120, it says this:

> It is not necessary to fund the President's entire request for SDI to maintain our negotiating leverage in Geneva. It is the committee's belief that leverage for arms control negotiations comes only from real defense programs which are aimed at realistic objectives adequately funded and broadly supported by bipartisan consensus.

I could not put it any better.

To use the terms of the Armed Services Committee authorization report, is it realistic to have a 139-percent increase in the KKV budget?

Virtually everybody says it is not realistic. The report to the Department of Defense, the Under Secretary for Acquisition, says, no, we are not even ready to go in a phase 1 program which is funded by this 139-percent increase.

Lawrence Livermore Labs has done an extensive study at the behest of SDIO. They say, no, KKV, is not the way to go.

Dr. Harold Brown's testifies it can be defeated at less cost and sooner by the fast-burn booster. You have Dr. George Miller, from Lawrence Livermore Labs, who heads up the weapons programs, who says that fast burn "catastrophically," to use his phrase, defeats the SBKKV.

You even have Dr. Edward Teller—this is back in the High Frontier days in 1983—who says, "High Frontier," which is the space-based KKV, "High Frontier can be done for $100 billion, let us say," said Teller, "but the Soviets can get rid of High Frontier for $10 billion."

But, Mr. President, in spite of a $14 billion excess by which this committee is exceeding the 302(b) allocation of the Budget Act, they proceed to give us a 139-percent increase in this unrealistic SBKKV technology.

Mr. President, it does not make any sense.

Point No. 2, I have made the assertion here on this floor many times that the kind of architecture they are talking about for this phase 1 would have an effectiveness of around 20 percent. We are told that, no, General Abrahamson is out here in the hall and he says it is many times that much. I can assure my colleagues that what he is talking about when he says "many times that much" is a late-phased, late-nineties, second-generation system based upon beam weapons not yet invented.

What I am talking about is this space-based kinetic kill deployment, the first deployment and that is, indeed, 20 percent or less. The precise figures, of course, are classified, but this is in the open technology. That is what they are talking about.

If you look at the testimony before the Defense Appropriations Subcommittee, they talk about this and this is a statement from the Defense Acquisition Board. They say, "These first phases could severely restrict Soviet attack timing by denying them cross timing flexibility," et cetera.

That is all they are talking about. For $100 billion you can interfere with the timing of the Soviet attack.

Mr. President, if that is what we are talking about, a maximum of being able to interfere with the timing of Soviet attack, then I can tell you it is not worth the $100 billion plus that it will take to fund it.

Mr. President, the evidence is overwhelming that space-based kinetic kill vehicles will not work. They can be easily defeated. Virtually the whole scientific community says that.

So, Mr. President, I say let us stick with our beam weapon emphasis which the Johnston amendment will more than adequately do and it will fund this program at a rate that we can afford.

Mr. President, somebody has to make the hard choices. Nobody is suggesting that we change the 302(b) allocation under the Budget Act. I guess it will have to fall to the Senate Appropriations Committee and not the Senate Armed Services Committee to make these choices and set these priorities.

That is why, Mr. President, I say under our amendment let us in the Senate set these priorities. Let us fund it at an adequate amount, $3.7 billion.

I ask for the support of my colleagues.

The VICE PRESIDENT. The time of the Senator has expired.

The Senator from Nebraska.

Mr. EXON. Mr. President, I move to table the amendment by Senator Johnston from the State of Louisiana and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Nebraska to lay on the table the amendment of the Senator from Louisiana. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 50, nays 50, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—50

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Byrd
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Exon
Garn
Glenn
Graham
Gramm
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Reid
Roth
Rudman
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—50

Adams
Baucus
Biden
Bradley
Breaux
Bumpers
Burdick
Chafee
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Evans
Ford
Fowler
Gore
Grassley
Harkin
Hatfield
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Stafford
Weicker
Wirth

The VICE PRESIDENT. On this vote the yeas are 50, the nays are 50. The Senate being equally divided, the Vice President votes aye and the motion to table is agreed to.

Mr. EXON. Mr. President, I move to reconsider the motion.

Mr. DOLE. I move to lay that motion on the table.

The VICE PRESIDENT. Without objection, the motion to table is agreed to.

The PRESIDING OFFICER (Mr. Baucus). The Senator from South Carolina.

(The remarks of Mr. Thurmond are printed later in the Record under Statements on Introduced Bills and Joint Resolutions.)

AMENDMENT NO. 711

(Purpose: To limit the testing of anti-satellite weapons)

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KERRY) for himself and others proposes an amendment numbered 711.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, and the following new section:

SECTION . LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS.

(a) Funds appropriated to or otherwise available to the Department of Defense may not be obligated or expended to carry out, on or after the date of the enactment of this Act, a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) Expiration. The prohibition in subsection (a) expires on October 1, 1988.

Mr. KERRY. Mr. President, today on behalf of myself, Senators CHAFEE, SIMON, HATFIELD, STAFFORD, JOHNSTON, PELL, LEAHY, CRANSTON, MITCHELL, PROXMIRE, METZENBAUM, RIEGLE, KENNEDY, BINGAMAN, DODD, BURDICK, HARKIN, MATSUNAGA, ADAMS, BUMPERS, SARBANES, WIRTH, CONRAD, MIKULSKI, SANFORD, GORE, and DASCHLE, I have sent to the desk an amendment to continue the current moratorium by the United States on the testing of our antisatellite weapon against an object in space, that moratorium to continue through fiscal year 1988, so long as the Soviet Union does not conduct such a test.

What this amendment seeks to do, Mr. President, is to maintain the status quo. It seeks to continue existing law which has been in effect for 2 years now to place a moratorium on such tests. I might add that the House has already passed similar legislation this year and it is part of the House defense authorization bill.

Mr. President, in recent years the Congress has generally accepted the core proposition of this amendment that retaining the mutual moratorium on Asat testing by the United States and the Soviets is the best way we can protect United States satellites while at the same time continuing arms negotiations in an effort to reach a final and binding mutual accord. Today, Mr. President, as we debate here, neither side, neither the Soviet Union nor the United States, has a dedicated antisatellite weapon capable of attacking the high-altitude satellites of another country. While the Soviets do have a limited antisatellite capability against low-altitude U.S. satellites through what is called their coorbital system. That system is one which the U.S. Air Force Chief of Staff has told Congress "isn't very credible."

The Soviets, like the United States, have other systems with residual antisatellite capability but which they have never tested against a satellite or in an antisatellite mode. The Soviet antisatellite system has not been tested since 1982, and there is not even an assertion by an opponent of this amendment that there has been such a test.

The question which this amendment placed before the Senate is whether or not maintaining the status quo is the best way to give arms negotiators the opportunity to be able to better protect U.S. satellite capacity and to give the opportunity to our negotiators to be able to come to an agreement.

In the words of former U.S. Air Force Chief of Staff, General Gabriel,

> I would rather that both sides not have the capability to go into geosynchronous (orbit) with an ASAT. In fact, I would like to be able to agree with the Soviets that we not have any ASAT's if we could verify it properly. Because we are an open society, we need our space capabilities more than they do.

That is the former Chief of Staff of the U.S. Air Force speaking.

U.S. satellites are our eyes and ears. These satellites are essential in the process of watching what the Soviet Union is doing, of photographing, of listening, and all of the various covert capacities of satellites. It is precisely that capacity which gives us the ability to be able to determine whether or not the Soviet Union is complying with arms control agreements.

Satellites are expensive, Mr. President. We know that. And they are inherently vulnerable because of their known trajectories, their predictability as they orbit. We know exactly where they are. We know exactly where they will be and when they are targetable.

The Soviet Asat under the worst case assumptions, Mr. President, puts at risk about 20 of our lower altitude satellites, and that is a legitimate military concern. But there are several techniques available to us which we are not exploring as fully as we could right now to lessen or eliminate that risk to some 20 satellites, and these techniques do not include testing a U.S. Asat. This year the Air Force, ironically, despite that capability, is requesting only $3.3 million in order to examine those kinds of techniques that might be available to us to harden satellites or to put up reactive shields or shutters, decoys, to create maneuvering capacity for satellites, electronic countermeasures, and other similar approaches. By contrast, they have sought more than $400 million in order to pursue the Antisatellite Program. It is precisely these kinds of measures, the hiding, deception, hardening, electronic countermeasures, that we ought to be pursuing to protect the satellites which are vital to the security of the United States.

It seems to me that the $400 million requested by the Air Force and the $237 million agreed upon for Asat is simply not money well spent. And we are sitting here trying to decide to the best of our ability how to spend with a very, very difficult set of choices for money that is simply not available.

Moving ahead with Asat, Mr. President, carries with it serious risks for our own national security as well as dispenses money in ways that I think the Congress could find 100 more worthwhile alternatives to better spend it on. The real threat to the United States security, Mr. President, is not the current limited system of the Soviet Union. It is the real threat that if we go ahead and build that system we will be placing our own satellites at ultimate risk because the result of our development of a system will be the inevitable need of the Soviet Union to build a like system. Once they have developed a system, we have taken our own satellites which are currently impregnable and placed them at risk to the Soviet response.

Given the fact that our submarine deterrent is dependent on our command and control, given the fact that our national technical means of verification is best defined in satellite technology, to place both of those interests at risk to the Soviet development of a system they now do not have because we decide to make this move would be foolhardy, shortsighted, and once again to shoot ourselves in our own foot.

I only have to point back, Mr. President, to the decision we made on MIRV missiles in the 1960's which we thought was the way in which we would deter the Soviet Union and close the window of vulnerability. What happened? The Soviet Union built bigger missiles with more warheads, and all of a sudden the United States had turned the tables on itself and we were more threatened.

The real threat to the U.S. security, Mr. President, is to create this technology that does not exist today, to open the window on weapons in space, and to say to the world we are willing to put our own verification technology, and command and control technology at risk.

Mr. SIMON. Will my colleague yield?

Mr. KERRY. I am delighted to yield to my colleague without losing my right to the floor.

Mr. SIMON. Mr. President, I commend my colleague for his statement. I ask him if it does not go even beyond what he has just suggested. Just in the example of MIRV, for example, we do it and then they do it. Here we escalate but we add I think another factor; that is, the factor of fear. We really take the cap off the arms race because we lose that verification possibility. Is that an incorrect assumption?

Mr. KERRY. I think my colleague from Illinois has put his finger, as he always does, right on the essential point. That is precisely it. It opens up the window to the future and denies us an opportunity that we ought to be availing ourselves right now.

Mr. SIMON. I thank my colleague. I commend him for his leadership on this.

Mr. KERRY. I thank the distinguished Senator from Illinois for his comment.

Mr. President, the Arms Control and Disarmament Agency itself reported to Congress in 1983 saying:

> An ASAT competition would pose a considerable threat to critical satellites on both sides creating a situation in which neither side could rely with confidence on unprotected space systems.

As Dr. Kurt Gottfied and Richard Lebow have concluded in a 1985 study of Asat weapons:

> Asat's possess a considerably greater capacity for transforming a crisis into a war, and for enlarging wars, than they do for assisting in military missions or enhancing deterrence.

Proponents of developing the United States antisatellite weapons system have argued that it is essential for us to do it because the Soviets have a system.

Mr. President, I do not intend to take a great length of time here to go through the Soviet system. We have done that before. But I do not want to remind people that while it is true the Soviets have a system, it is by everbody's judgment a rudimentary system, a system which most people feel barely works if it works at all. And clearly the United States should not be making choices about its weapon systems and particularly its larger deterrent strategy based solely on the fact that the Soviet Union has one of something, particularly when there may be other alternatives available to us which we can employ in order to counter whatever it is that the Soviet Union has.

I might quote the CIA Assistant Director Robert Gates, who told the Senate Armed Services Committee last year:

> While the Soviets seek to be able to deny enemy use of space in wartime, current Soviet antisatellite capabilities are limited and fall short of meeting this apparent requirement.

It is true, I think, that one could gain some marginal momentary advantage if you had such a system. But obviously Mr. President, if both sides have such a system the longer term disadvantage to the United States in any war-fighting situation should be apparent for anybody to see.

Mr. President, the Soviet system was introduced 19 years ago. It is lifted into orbit on top of an SS-9 liquid booster rocket. It takes about 6 hours between one shooting and another shooting. And all tests that we have verified to date have come out of one location in the Soviet Union, the one location that we know they have an antisatellite capability.

In order to hit one of our satellites the Soviet Union has to put its weapon into orbit. It can only shoot its weapon between the declination of 62 and 65 degrees, only when a satellite is at that particular latitude of the launch site in the Soviet Union. That happens to certain satellites only once every 2 days. Then it has to go into orbit, circle the Earth, meet its target, circle with its target and finally blow up beside its target. That takes hours during which time we could maneuver, we could jam, we could use electronic countermeasures. We would know exactly what is happening.

Most importantly, since it takes another 6 hours before they can do it again, the threat to other satellites is nonexistent because we can respond in that period of 6 hours' time, through a variety of means.

There are other flaws in the Soviet system. It requires a massive booster rocket that can be launched only from that site or a number of small facilities. It is very difficult to fire massive liquid fuel boosters in rapid succession, Mr. President. Col. Jim Reynolds, who was the former manager of Navstar and satellite communications for the Air Force said. That the Soviet Asat is "so weak and cumbersome that I think we literally have to let them get us in order for it to work."

Mr. President, as was reported in a recent book on verification published by the American Academy of Advancement of Science, the testing of any new Soviet Asat "would be relatively easy to detect with U.S. national technical means."

So what we are really talking about in this amendment is whether or not we are willing to leave in place the existing law and the status quo. There is nothing unilateral in this move. We are not doing something that the Soviet Union has not done. We are not giving up something on our own unaware of whether or not the Soviet Union is willing to follow. We are doing precisely what we have done for the last 2 years, and we are doing precisely what the Soviet Union has done since 1982.

I think, Mr. President, that we should recognize the danger to our own satellites if we proceed forward at this moment in time to create a whole new technology, one that could be launched from any F-15. The United States vehicle is such that if we develop a system that could be fired from under the wing of an F-15, every F-15 in our entire arsenal becomes from the Soviet point of view a potential antisatellite weapon and platform. Clearly, that is the kind of a threat to which the Soviet Union would have no choice but to immediately respond.

There is another reason, Mr. President. It is not obvious to everybody. Some people do not take it that seriously yet. But I think it warrants our consideration. It is separate from arms control. It is separate from being an example to demonstrate restraint. It is separate from the technical problems associated with our own program, and it is separate from the technical problems associated with the Soviet program. That is that in the past few years the few antisatellite tests that we have run have been a major contributor to the growing hazard of collision in space.

Each Asat test in which the interceptor explodes or collides with its target produces about 100 large fragments of orbiting debris. The single U.S. Asat test in September 1985 was responsible for a 63-percent increase in radar-tracked objects in orbit during the last 6 months of 1985. It is very easy to understand that when the increase of debris starts orbiting the likelihood of debris colliding with a functioning satellite increases.

NASA studies published in 1978 indicated that the proposed U.S. space station would require more shielding from this manmade debris hazard in space than from the natural hazard of a collision with meteors.

One major problem with the debris in space is its long life. Of 98 radar trackable fragments produced by the first Soviet Asat test almost 18 years ago, 61 were still in orbit as of March 31, 1986, and being tracked.

The U.S. Asat test in September 1985 put 199 new trackable objects in space. Together, United States and Soviet antisatellite tests are now responsible for 915 Asat fragments still in orbit or about 5.5 percent of the total objects in orbit in space since the beginning of the space age.

Mr. President, when there are only a few fragments in orbit the chances of collision may be small. But if we continue to increase testing and increase the number of those fragments, we increase the possibility for catastrophic collision with satellites and the disruption that can interrupt other programs that we care about.

On November 13, 1986, a European Ariane booster exploded in space under circumstances which a number of scientists say indicates a collision with debris of the exact kind produced by the Asat test. Besides the Ariane, scientists believe that space debris may have destroyed the United States satellite NOAF-8, the polar orbiting satellite lost in early January 1986, as well as the Soviet Cosmos 954 and Cosmos 1275 satellites in earlier years.

In addition, a number of other satellites including the space shuttle have actually been hit and damaged by smaller orbiting objects.

So, Mr. President, those are the choices. It seems to me rational on each level—rational in terms of arms control, rational in terms of avoiding collisions in space, rational in terms of where we find ourselves now in our current technologies, rational in terms of the strategic interests of the United States in not putting our own satellites at risk, and rational in terms of leaving open the window for the arms control negotiators to hopefully keep us out of space and space weaponry.

The last comment I have is to remind my colleagues again, this amendment is not new. It is another attempt to seek Senate approval for a moratorium now in place, but which this body has not fully accepted. Last year, the House passed it and we receded to the House.

It is my hope that this year the Senate will make the statement that we believe this is an important step and an important breather for the United States.

Mr. President, I think we have additional time, but I reserve such time as is necessary.

The PRESIDING OFFICER (Mr. ADAMS). Who yields time?

Mr. EXON. Mr. President, I yield such time as he may require to the Senator from South Carolina.

Mr. THURMOND. I thank the Senator.

Mr. President, I rise in opposition to the amendment of the Senator from Massachusetts to prohibit funds to the test the space defense system [Asat] against objects in space.

This amendment fails to take into account what I believe are two important reasons to proceed with Asat testing.

The first of these is to deter attacks on our critical space systems. For more than a decade, the Soviets have had the world's only operational Asat system. It has been tested and proven, and the Soviets continue to test the boosters on which it would be launched. Failure to provide a deterrent in kind to this operational Soviet system would perpetuate the existing destabilizing situation in which the Soviet Union has an uncontested capability to attack our space systems, secure in the knowledge that their systems are not vulnerable to counterattack.

The second reason to proceed with Asat testing has to do with improving the effectiveness of our conventional forces to deter conflict, and if deterrence fails, to prevail. The Soviets have maintained satellites in orbit, the purpose of which is to provide targeting information against our terrestrial forces. We would not allow an enemy to exercise such leverage in putting our forces at risk in any other theater of warfare. It simply escapes me why some are willing to allow the Soviets to threaten our land and maritime forces from space with impunity.

Mr. President, the 2-year moratorium on Asat testing has delayed the development of the program by at least 2 years, and has increased costs. In the current budget environment, we cannot afford to continue to delay the program.

The Armed Services Committee has received testimony from military witnesses who indicated the importance that they attached to the space defense system. President Reagan indicated in a statement on May 11, 1987, the importance of the Asat Program, and I ask unanimous consent that his entire statement be printed in the RECORD following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. THURMOND. Mr. President, the Senate tabled a similar amendment 55 to 43 last year. The House supported moratorium prevailed in conference, not on its merits, but because it was one of five House provision that undermined arms control prospects and our national security and Senate conferees could not prevail in eliminating all of them.

Mr. President, I hope this amendment will fail. It is not in the best interests of the people of the United States. I urge my colleagues to join me in opposing the Kerry amendment.

EXHIBIT 1

THE U.S. ANTI-SATELLITE (ASAT) PROGRAM A KEY ELEMENT IN THE NATIONAL STRATEGY OF DETERRENCE

PRESIDENTIAL FOREWORD

Five years ago, in July 1982, I announced a national space policy which was to set the direction of U.S. efforts in space for the next decade. A key element of this policy was to strengthen the security of the United States by developing "an anti-satellite (ASAT) capability, with operational deployment as soon as possible."

Unfortunately, over the last two years, we have experienced major Congressional setbacks in the fielding of our ASAT capability. I firmly believe that these actions have undermined our national security and therefore, in February 1987, I signed a new directive indicating my continued commitment to a U.S. ASAT program. I supported the Department of Defense's programmatic recommendations for the U.S. ASAT program, as well as the need to seek adequate funding and relief from the Congressional moratorium on testing of the non-nuclear Miniature Vehicle (MV ASAT) against objects in space.

For more than a decade, the Soviets have had the world's only operational ASAT system. Failure to provide a deterrent inkind to the operational Soviet system would perpetuate the existing destabilizing situation in which the Soviet Union has an uncontested capability to attack our space systems, secure in the knowledge that their systems are not vulnerable to counterattack.

For several years now, the Soviets have maintained satellites in orbit, the purpose of which is to provide targeting information against our armed forces. Failure to provide a non-Nuclear capability to counter Soviet targeting satellites that directly support hostile forces against our land, sea, and air forces undercuts stability and our ability to deter both conventional and nuclear conflicts.

The space threat posed by the Soviet Union is growing more serious as time goes on. I cannot let this unilateral Soviet advantage continue unaddressed. As President and Commander-in-Chief of our military forces, I am personally committed to developing an operational U.S. ASAT which will help preserve the security of the nation and our men and women in uniform. I am eager to work with the Congress to restore bipartisan support for the U.S. ASAT program in order to ensure that the testing moratorium is not reimposed and that proper funding is provided in Fiscal Year 1988 to enable this vital program to proceed.

RONALD REAGAN.

THE WHITE HOUSE, May 11, 1987.

THE U.S. ANTI-SATELLITE (ASAT) PROGRAM A KEY ELEMENT IN THE NATIONAL STRATEGY OF DETERRENCE

"The United States will proceed with development of an anti-satellite (ASAT) capability, with operational deployment as a goal. The primary purposes of a United States ASAT capability are to deter threats to space systems of the United States and its Allies, and within such limits imposed by international law, to deny any adversary the use of space-based systems that provide support to hostile military forces."—President Ronald Reagan, National Space Policy, July 1982.

Anti-Satellite Systems

In July 1982, President Reagan called for a prudent, measured response to the Soviet military space threat in order to protect U.S. and Allied security interests. The two aspects of the Soviet space program of greatest concern in 1982, remain today—their ability to destroy U.S. satellites and to use satellites for targeting of U.S. and Allied air, land and sea forces. While the United States abandoned our first anti-satellite (ASAT) program in the early 1970s, the Soviets continued their program and now maintain the world's only operational ASAT system. The Soviets have also developed reconnaissance satellites which provide targeting data that can be used to direct attacks against U.S. and Allied surface fleets and land-based forces. In view of the importance of our space assets and the continued need to project power to deter war and control escalation during conflict, it is essential that the United States develop and deploy an operational ASAT to deter the Soviets from exploiting their present ASAT and space-based targeting capabilities.

The Soviet Military Space Threat

The Soviet Union has a large and continually expanding military space program. We believe Soviet military space assets serve two basic functions: 1) to support terrestrial operations; and 2) to wage war in outer space. The attainment and maintenance of military superiority in outer space is the essential condition for the performance of both functions. According to U.S. intelligence assessment of Soviet military space doctrine:

> The Soviet Armed Forces shall be provided with all resources necessary to attain military superiority in outer space sufficient both to deny the use of outer space to other states and to assure maximum space-based

military support for Soviet offensive and defensive combat operations on land, at sea, in air, and in outer space.

In the Soviet view, military superiority in outer space is achieved, in the first instance, by the use of ASAT systems to degrade or destroy the space-based command, control, communications and intelligence systems of an adversary and in the second instance, by successful use of space to support military operations including the use of satellites to target an opponent's forces.

The Soviet Union is, therefore, fully aware of both the strategic importance to the United States, of military satellites and of the severe impact of their loss upon the U.S. capability to alert and direct our military forces in the event of a war. This knowledge has prompted the Soviets to develop their ASAT capability.

The Soviet ASAT system has been operational for well over a decade and has demonstrated an effective capability to destroy low-altitude satellites where many critical U.S. space systems orbit. In the past, the Soviets regularly conducted ASAT tests to practice satellite interception and to refine their system. Their present, self-imposed moratorium on testing is possible only because they have a proven and deployed ASAT, and this moratorium has not eroded their operational proficiency. As long as it serves their political and military purposes by tying our hands, the Soviets are likely to refrain from further testing. However, we believe that they have additional ASAT weapons and their associated boosters available, and we are certain that they can resume testing to improve their system or employ it operationally at any time.

The Soviets also have ASAT capabilities in some systems designed for other purposes. For example, the nuclear-armed GALOSH ABM interceptor deployed around Moscow has an inherent ASAT capability against low-altitude satellites. Two high-powered lasers at Sary-Shagan may be capable of damaging sensitive components on-board satellites. Although weather and atmospheric beam dispersion may limit the use of ground-based laser ASAT's, such systems have the major advantage of being able to fire repeatedly and therefore to disable many satellites over time.

During the next decade, the Soviets are likely to retain their current ASAT-capable systems while moving aggressively ahead in developing and deploying new, more advanced ASAT systems. Their large-scale efforts in laser, particle beam, radio frequency and kinetic energy technologies may provide them with significant ASAT capabilities.

There is a growing and destabilizing threat posed by present and projected Soviet military satellites whose sole purpose is to help defeat U.S. and Allied terrestrial forces in the event of conflict. These systems include ocean reconnaissance satellites which use radar and electronic intelligence to provide real-time targeting data to Soviet weapons platforms which can quickly attack U.S. and Allied surface fleets. They also include photographic and electronic intelligence satellites which provide data and other information useful in supporting Soviet land forces.

In view of the fundamental importance of U.S. and Allied force projection in crisis and wartime, including the need for Allied reinforcement by sea, the protection of U.S. and Allied forces against such targeting is critical. As Soviet military space technology improves, the capabilities of Soviet targeting satellites are being enhanced and therefore will present a greater threat in time of conflict, conventional or nuclear, to our national security and that of our Allies.

Strengthening Deterrence

The fundamental purpose of our national security policies is to maintain and strengthen deterrence—deterrence for both conventional and nuclear conflict. Continued, unilateral ASAT limitations on the United States undermine deterrence.

Since the Soviet Union has an operational capability to destroy satellites while the United States does not, the current situation is destabilizing. An operational U.S. ASAT would increase stability by providing a true deterrent-in-kind to a potential Soviet ASAT use. Past military exercises have revealed that in absence of a U.S. ASAT capability we have two choices if the Soviets attack and destroy one of our satellites—do little or nothing or take some other military action.

The first case could lead to serious military losses, and our inaction might invite further attacks and show a lack of resolve. In the second case, our retaliatory response could be interpreted by the Soviets as an escalation of the conflict. By having an operational ASAT, we would be able to provide an unambiguous response in-kind, thereby avoiding a serious military disadvantage without the risk of unintentional escalation.

In addition to the need to deter Soviet attacks on our space systems, the lack of a U.S. ASAT capability would afford a sanctuary to existing Soviet satellites designed to target U.S. naval and land-based conventional forces. The absence of a U.S. ASAT capability to put at risk Soviet satellites could be seen by the Soviets as a substantial factor enhancing their ability to attack U.S. and allied forces. On the other hand, a U.S. ASAT capability would contribute to deterrence of conventional conflict by generating Soviet uncertainty over their ability to employ satellites to target U.S. and allied forces. Thus, the development of an ASAT capability is essential to our ability to deter conventional conflict.

The United States must take the necessary steps to avert a situation in which the Soviet Union has full freedom during a crisis or conflict to target our assets from space while the United States has no capability directly to attack the Soviet satellites providing targeting information. We would never allow a similar situation to exist in the atmosphere, on land, or at sea.

The continued development of a credible ASAT system is an integral part of the steps needed to avert such a situation. An operational U.S. ASAT will provide us with a capability to protect our forces in the field that is urgently needed to support our global commitments and strategy.

Utility of a U.S. ASAT Capability

The U.S. ASAT system now under development consists of a miniature vehicle warhead mounted on a modified Short Range Attack Missile (SRAM) booster as the lower stage and a modified Altair II rocket motor as the upper stage. This is carried aloft and launched from a specially modified F-15 aircraft. The ASAT mission will involve the F-15 flying to a launch point identified by mission control and launching the inertially guided missile toward a rendezvous area. After the upper stage burns out, the miniature vehicle separates and is guided by an on-board sensor to the target. The system is planned for deployment at Langley Air Force Base, Virginia.

The U.S. ASAT program is focused explicitly on those Soviet satellites which most threaten U.S. and Allied terrestrial interests in times of crisis or limited war. All of those threatening Soviet satellites operate at low altitude. Without low altitude satellites, Soviet space-based targeting data would be significantly degraded. By reducing the likelihood that a Soviet attack using those satellites would be successful, deterrence would be enhanced.

At the President's request in the fall of 1986, the Secretary of Defense completed a comprehensive study of the U.S. ASAT program. The current restructured program implements the Secretary's recommendations to the President of how best to continue the ASAT development program in light of two years of Congressionally-imposed funding and testing constraints.

The study found the present air-launched MV ASAT system to be the only viable path to providing a near-term counter to the Soviet threat. The Department of Defense (DOD) plans to continue the present program by conducting three tests against Instrumented Test Vehicles in space during 1988, restarting the production verification program in 1988, and requesting advanced production funds in 1988.

The study also determined that with recent improvements in Soviet space systems which threaten U.S. and Allied forces, it is prudent for the United States to research alternative ASAT systems that could ultimately complement the F-15 air-launched MV system. To that end, the DOD will accelerate an ongoing study during the remainder of the fiscal year to select the best method for enhancing the altitude capability of the MV-ASAT within the low-earth orbit regime by changing the system which boosts the MV-ASAT into space. The study will compare the cost and mission effectiveness of improving the thrust capability of the F-15 air-launched lower-stage booster, versus developing a ground-launched system using an available lower-stage booster. Additionally, the study is investigating the feasibility of ground-based laser technologies for ASAT application.

U.S. Space Policy and Arms Control

The United States is committed to the exploration and use of space by all nations for peaceful purposes and for the benefit of mankind. Among the activities conducted by the United States in space is the pursuit of fundamental national security objectives. Arms control arrangements for space would serve these objectives if they contributed to our overall deterrence posture and reduced the risk of conflict.

With those objectives in mind, President Reagan articulated the national space policy of the United States on July 4, 1982, and reaffirmed in his March 31, 1984, Report to Congress of U.S. Policy on ASAT Arms Control:

The United States will consider verifiable and equitable arms control measures that would ban or otherwise limit testing and deployment of specific weapon systems, should those measures be compatible with United States national security.

Guided by these criteria, the United States has studied a range of possibilities for ASAT arms control. We have been unable, to date, to identify a specific ASAT proposal which meets the Congressionally-mandated requirements of verifiability and consistency with U.S. national security.

ASAT arms control involves a number of difficulties, including the problem of defining an ASAT weapon for arms control purposes. ASAT weapons could include, among other things, interceptors as well as space systems not designed as weapons which have inherent ASAT capabilities that are difficult to distinguish from those of weapons. These definitional difficulties pose serious problems for assessing compliance with treaty limits.

Verification is crucial because satellites that serve U.S. and Allied security are few in number and therefore cheating, even on a small scale, could pose a grave risk. Yet verification of an ASAT agreement would be very difficult, or, for certain limitations, impossible. Furthermore, ASAT arms control verification measures that required any form of access to U.S. space systems might create an unacceptable risk of compromising the protection of information regarding certain U.S. space systems associated with national security.

Arms control measures banning ASAT activities would not ensure survivability of other elements in a space system. Ground stations, launch facilities and communications links may, for example, in some case be more vulnerable than the satellites themselves. There is also the risk that a country could gain unilateral advantage through breakout from an agreement and obtain a head start in building or deploying a type of weapon which has been banned or severely limited. Finally, certain current and projected Soviet space satellites, although not weapons themselves, are designed to provide radar and electronically derived targeting data to Soviet weapon platforms. We must be able to counter these satellites which could enhance Soviet capabilities for attacking U.S. and Allied surface fleets and land forces.

The United States is presently involved in negotiations in Geneva on the whole range of nuclear and space issues. At these negotiations, we are seeking to explore with the Soviet Union the merits of a strategic relationship characterized by a greater reliance on defenses. We are seriously exploring with the Soviet Union arms reduction agreements intended to prevent an arms race in space while facilitating a possible transition to a more effective deterrence posture based on the increasing contribution of strategic defenses.

The Congressional ASAT Test Moratorium

For two years now the Congress has denied us the ability to test our U.S. miniature vehicle ASAT system against targets in space. As in any weapon development program, we must conduct extensive and realistic testing to demonstrate to ourselves and our adversaries that we have a real military capability. To date, we have conducted just one test of the MV ASAT against a target in space—which was successful—and several tests against a point in space. To be confident that we have an effective system, we must be able to conduct additional tests of the MV ASAT against objects in space.

The Congress demands realistic testing of other military systems; it should not lower its standards in the case of this important program. Any extension of the testing moratorium against objects in space will prevent us from achieving an ASAT capability comparable to that possessed by the Soviet Union, with all the attendant risks to U.S. national security.

Conclusion

This is the year of decision for our U.S. ASAT Program. We cannot disregard our responsibilities to our people and to our Armed Forces by ignoring the growing threat created by the present Soviet monopoly on ASAT systems.

We must work together as Americans to find ways to ensure our national interests are protected in space as well as on earth. Our non-nuclear miniature vehicle ASAT Program is the only near-term response to the growing Soviet threat in space. Our U.S. ASAT must be tested and deployed to protect our national security and maintain deterrence.

This is a crucial time when all members of Congress should stand together in bipartisan support of our programs as our representatives meet with the Soviets in Geneva. We cannot and must not undercut our chances for the long-term benefits of peace through arms reductions by unilaterally restricting or cancelling U.S. programs, such as the ASAT Program, which are so essential to our national security.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, will the Senator from Massachusetts yield me 5 minutes?

Mr. KERRY. I yield 5 minutes to the Senator from Oregon.

Mr. HATFIELD. I thank the Senator for yielding.

Mr. President, I am pleased to join my colleagues as a cosponsor of this amendment and offer my praise to them for their consistent efforts to make sure that this important arms control measure remains in force.

Mr. President, a moratorium on the testing of anti-satellite weapons has been in force for 2 years. I could spend hours explaining the justification for the moratorium but what it really comes down to is this: The moratorium on Asat testing just plain makes good sense.

For the life of me, I cannot figure out what it is about this moratorium that worries its opponents.

Are they worried that the Soviets will test while the United States cannot? The amendment includes the condition: "So long as the Soviet Union does not conduct such a test."

Are they worried that the Soviets are ahead? The Soviets current system is so crude that it is capable only of destroying satellites at altitudes lower than most of our satellites. If that.

Or are they worried that, without U.S. testing, the incentive for the Soviets to negotiate will be gone? The Soviets have not conducted a test since 1982, Mr. President, and the Soviets—not the United States—proposed negotiations on a treaty prohibiting Asat testing.

Those excuses just do not hold up, Mr. President.

The only thing the Asat moratorium does is offer the promise of a bilateral and verifiable arms control agreement. If this truly is the dawning of a new era of progress on arms control—as the President would have us believe—what could possibly be wrong with keeping that promise alive?

The PRESIDING OFFICER. Who yields time?

Mr. KERRY. Mr. President, I am happy to yield back such time as we have on this side, if there are no further requests.

The PRESIDING OFFICER. The Senator from Massachusetts has stated that he is prepared to yield back his time.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. There is no intention for those of us on this side to yield back the remainder of the time when there are many speakers here to be heard on this.

At the present time, from our time I would like to yield 2 minutes to the Senator from North Carolina who I understand wishes to make a request of the Senator from Massachusetts. Is that correct?

Mr. HELMS. That is correct.

Mr. KERRY. Before he does, Mr. President, I said I will reserve. I would yield back the time if there are no further speakers generally. I reclaim back the time. I am happy to answer the question.

The PRESIDING OFFICER. The Senator has his time. It has not been yielded back. So the Senator from Massachusetts has remaining 36 minutes.

The Senator from Nebraska was recognized and therefore, the Chair is taking the position the Senator from Nebraska is in opposition and, therefore, controls that time.

The Senator from Nebraska has yielded to the Senator from North Carolina 2 minutes.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair and, of course, I thank the able Senator from Nebraska. I hope I can accomplish what I seek to accomplish in 2 minutes. I will give it the old college try.

Mr. President, a parliamentary inquiry, and I think I know the answer to it.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. Under the unanimous-consent agreement, no second-degree amendments are in order; is that correct?

The PRESIDING OFFICER. The Senator is correct relative to the amendment specified in the agreement.

Mr. HELMS. I understand.

Now, I hope I am correct in my understanding that the yeas and nays were not ordered on this amendment, on the Kerry amendment, as yet.

The PRESIDING OFFICER. They have not been ordered as yet.

Mr. HELMS. I thank the Chair.

Mr. President, I am going to send an amendment to the desk knowing that it is out of order and ask that it be stated because I want the Senator from Massachusetts to consider modifying his amendment with the proposed amendment, if the Chair will do me the courtesy of allowing the clerk to read the proposed amendment.

The PRESIDING OFFICER. The clerk will read what has been sent by the Senator, but it is not in the form of an amendment because a point of order will lie against that so the Chair does not wish to rule on that. But the clerk may read what the Senator sent based on the Senator's time.

Mr. HELMS. That is correct.

The PRESIDING OFFICER. The clerk will read based on the time.

Mr. HELMS. I ask the page to take a copy of it to the distinguished Senator from Massachusetts.

Mr. KERRY. Mr. President, a point of inquiry. Would this be better carried out if we either put in a momentary quorum call or if the Senator would want to propound it to me in a question, either way.

Mr. HELMS. I think that is fine.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I am going to object to the quorum call. I have been objecting to a quorum call since I came in at 9 o'clock this morning. I want to move along.

I have read the amendment and the suggested change that the Senator from North Carolina is going to request as I understand it to be accepted by the Senator from Massachusetts.

I suspect that the Senator from Massachusetts is not going to agree to accept this. If he does agree to accept it, it can be done very simply but I think he will not. If he will not that will dispose of this matter very quickly and we can get on with the business at hand.

I will simply say that I am not going to agree to the calling of a quorum call because that could be time charged to someone.

Mr. HELMS. Mr. President, will the Senator yield to me?

Mr. EXON. I am glad to yield.

The PRESIDING OFFICER. The Senator form Nebraska has yielded.

Mr. EXON. I yield 1 minute to the Senator from North Carolina.

Mr. HELMS. I can understand why he wants no quorum call, and time will be charged equally if there is no quorum call.

Meanwhile, may we have the clerk read the amendment?

The PRESIDING OFFICER. The Senator has made the request.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. The clerk will read and the Senator from Massachusetts can respond. The time is controlled by the Senator from Nebraska at this moment.

The legislative clerk read as follows:

> Add at the end of the Kerry amendment the following new section.
>
> "SEC. . It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missile Treaty of 1972.".

The PRESIDING OFFICER. The Senator has used the 1 minute yielded.

The Senator from Nebraska.

Mr. EXON. I yield another minute to the Senator from North Carolina.

Mr. HELMS. I can serve my purpose in 1 minute.

I ask my friend from Massachusetts if he will accept this modification.

Mr. KERRY. In its current form, I am unable to. I would be delighted to entertain a discussion. It is not possible to do that. I am happy to put in a quorum call against the time, usually, but I think this requires conversation which we cannot engage in at this point of time.

In its current wording and current form, the Senator from Massachusetts cannot accept it.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the Senator from Nebraska is not going to yield the floor. I, therefore, claim my right to the floor.

The PRESIDING OFFICER. The Senator is recognized.

Mr. EXON. Does he have the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor.

Mr. EXON. I will keep the floor the best as I can to protect us from lapsing back into quorum calls which has been the Achilles' heel of this organization for as long as I can remember.

While I am talking and others talking on this matter, if the Senator from Massachusetts and the Senator from North Carolina want to get together and discuss it, I suggest it has been done on the floor of the Senate before. I assume it will again.

Mr. President, the Senate Armed Services Committee discussed and debated the Air Force's Asat Program extensively during markup. I have not supported the moratorium on Asat testing in the past and I do not expect to support the current amendment. Yet, increasingly, I find that I am not attracted to either of the choices presented for voting on this amendment.

In the past, I have seen the continuation of the test program, at a limited annual rate, as important first, to respond to Soviet efforts in this area and, second to generate leverage on the Soviet Union to engage in meaningful negotiations on the limitation of antisatellite weapons. It is on this basis that I have supported continued testing of the Air Force's miniature homing vehicle [MHV] Asat, because I think it is the only option available to us at this particular juncture, as imperfect as that program has been thus far. It is closer to deployment than any other Asat option currently in development, even though we have had only one full test against a satellite target, and tests have been prohibited by law as we all know, for the past several years. Essentially this has been done, Mr. President, because of the insistence of actions very similar to the amendment offered by the Senator from Massachusetts by the other body.

But the legislated prohibition on testing the MHV Asat has not limited progress in R&D on other more advanced and capable Asat options. Indeed, the strategic defense initiative is developing a panoply of Asat capabilities—or perhaps I should say, is developing a Pandora's box full of Asat capabilities. This occurs virtually automatically, I should add, by virtue of the fact that it is generally easier to destroy a large, relatively soft satellite traveling in a highly predictable orbit than it is to destroy a small, hardened reentry vehicle traveling on a suborbital path.

So we should be clear that if this amendment passed, it would not stop R&D on Asat's; it would only stop further R&D on the Air Force MHV Asat. Other Asat approaches, both interceptor missiles and directed energy concepts, will proceed. This means that the opportunity for negotiating some limitations on Asat capabilities is running out. It is running out on both sides, since the Soviet Union not only has an operational Asat interceptor but also an active Asat R&D Program and and active SDI Program of its own.

As I say, I have opposed previous Asat test bans both on strategic and arms control grounds.

Mr. KERRY. Will the Senator yield for a question?

Mr. EXON. I will just in a few moments. I would say to my friend from Massachusetts that the Senator from Nebraska patiently waited for the rather extended comments that the Senator from Massachusetts just made and if he would do likewise, I would very much appreciate it.

As I say, I have opposed previous Asat test bans both on strategic and arms control grounds. And, indeed, the Soviets have proposed to negotiate on Asat's. But the administration has continued to argue that it can find no Asat agreement—even a partial limitation—that would be in our national interest, and has refused to negotiate in Geneva on what limitations might be appropriate.

Frankly, that leaves me in a dilemma. I question whether the MHV Asat is worth pursuing in its own right. It is expensive. Almost $2.5 billion more would have to be spent to acquire only a few dozen interceptors that are range and altitude limited. I am simply not persuaded this program is worth pursuing, when we are developing far more capable systems under the SDI.

In my opinion, we could forgo further tests, simply collect the current test assets, and declare our own "Limited Asat capability" that would effectively offset the Soviets unimpressive and unreliable Asat interceptor.

Thus, I find myself wanting to cast a vote both against and for the position of the Senator from Massachusetts, but, unfortunately, the Senate does not like to have a procedure like that going on. And so I simply say, Mr. President, that this is one Senator, a member of the Armed Services Committee, who has looked into this in great detail. I will certainly remind the Senate and all of my colleagues that it is my position that we would like to have the measure left as it is in the armed services bill before us.

We will take this to conference. I do not know how high a priority item it will be with the Senate conferees. But we feel that it would be in the interest of the Senate's position to leave the measure as it is in the Armed Services Committee bill before us.

I am glad at this time now to yield, on his time, to my friend from Massachusetts for any questions that he might have.

The PRESIDING OFFICER. The Senator from Massachusetts is now recognized.

Mr. KERRY. Thank you, Mr. President.

Mr. President, I am going to forego my question, but I do want my distinguished friend to understand that I would be more than happy to be patient. I just thought occasionally in his dialog, in an effort to really engage in debate, that sometimes it is helpful when a point is being made to engage in that dialog at that time, and that was my purpose interrupting, not certainly to interrupt any train of thought.

At this point, Mr. President, I yield to my colleague from the State of Rhode Island, Senator CHAFEE.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. KERRY. Mr. President, before I do that, if I can answer the distinguished Senator from North Carolina.

I have reviewed the language and I appreciate enormously his efforts to try to be helpful. While obviously I would like to have a vote on this, and I hope I might get it anyway, that particular amendment reaches, I think, beyond the scope of this and complicates it in terms of the interests of other Senators not here. In an effort to protect those interests, I would have to say I cannot accept it.

Mr. HELMS. Will the Senator yield 1 minute to me?

Mr. KERRY. I would yield, on the Senator from Nebraska's time, if I may.

The PRESIDING OFFICER. Does the Senator from Nebraska yield time?

Mr. EXON. As usual, the Senator from Nebraska is yielding time to try to accommodate some other people and I do not think the Senator from Massachusetts has a burning desire to carry on with the amendment of the Senator from North Carolina. But I would like to be courteous and therefore I will yield 1 more minute of our limited time, not on the time of the Senator from Massachusetts, but our time, to the Senator from North Carolina.

Mr. HELMS. The Senator is always unfailingly courteous and I thank him.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 1 minute.

Mr. HELMS. I thank the Chair.

I understand that the Senator from Massachusetts feels that he cannot accommodate the suggestion of the Senator from North Carolina by the modification, is that correct?

Mr. KERRY. That is correct.

Mr. HELMS. Mr. President, I thank the Senator. I will just observe that I intend to offer this amendment freestanding later on in the consideration of this bill. But I do thank him for considering it.

I thank the Senator from Nebraska for yielding to me.

The PRESIDING OFFICER. Does the Senator from Massachusetts wish to yield time?

Mr. KERRY. A point of parliamentary inquiry. How much time is remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 34 minutes and 16 seconds.

Mr. KERRY. Mr. President, I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 10 minutes.

Mr. CHAFEE. Thank you, Mr. President. I thank the Senator from Massachusetts. He and I are cosponsors to this amendment.

I would like to draw out some of the aspects of this amendment through a series of questions to the Senator from Massachusetts.

First of all, I ask the Senator from Massachusetts: Am I not correct that this is not a unilateral limitation on testing; in other words, this amendment that we have does not say the United States cannot test. It says we are not going to test as long as the Soviets do not test, but if the Soviets test, then all restrictions are off and the United States can go ahead. Am I not correct in that?

Mr. KERRY. The Senator is 100 percent correct.

Mr. CHAFEE. Let me also ask: Is it not true that antisatellite testing is easily verifiable? In other words, it is not one of these arcane subjects that is difficult to ascertain; that when somebody tests an antisatellite weapon, we know it?

Mr. KERRY. Mr. President, that is absolutely correct. It has been stated by all those who are part of the process of verification and, in fact, it is in all of the literature and nothing to the contrary asserts that we cannot easily verify all tests of antisatellite weaponry and there is no assertion to the contrary.

Mr. QUAYLE. Will the Senator yield?

Mr. CHAFEE. Could we just get through this brief series of questions?

Mr. QUAYLE. On that point.

Mr. CHAFEE. If I could just finish. Well, go ahead; I am always glad to hear what the Senator from Indiana has to say.

The PRESIDING OFFICER. Does the Senator from Rhode Island yield?

Mr. CHAFEE. Briefly, because I am under a time limitation.

Mr. QUAYLE. Let me point out that the CIA and DIA would dispute that. They say you cannot, in fact, have any degree of confidence in verification of Asat capability. I wanted to point out what the CIA and DIA say.

The PRESIDING OFFICER. The Senator from Rhode Island has been yielded time. The Senator from Rhode Island has the floor.

Mr. CHAFEE. The next point, Mr. President, I would like to stress and see if the Senator from Massachusetts does not agree with me is that satellites are more important to the United States than they are to the Soviets. I know that this is a subjective judgment in some fashion, to some degree, but I think we would all agree that satellites are a very important part of the United States discovery arsenal and that they are far more important or more important than are the Soviet satellites to the Soviets. Do you not believe that that is a fair judgment?

Mr. KERRY. That is a fair judgment.

If I may add to the answer of my last question, maybe it will clarify for the Senator from Indiana. When I say we can verify and verify easily, we are talking about a dedicated system, a dedicated system being an F-15 homing vehicle or coorbiting system as in the Soviet Union.

I will yield additional time if necessary.

Maj. Gen. Thomas Brant, former member of the Joint Planning Staff for the Joint Chiefs of Staff, before the Senate Armed Services Committee last year said:

"We have an excellent capability to monitor the deployment of the Soviet Asat."

In a recent book put out by the American Academy for the Advancement of Science on the testing of any new Soviet antisatellite, "it would be relatively easy to detect with U.S. national technological means alone."

Mr. CHAFEE. That was testing?

Mr. KERRY. That was testing.

Mr. CHAFEE. The first quote, I think you referred to the word "deployment?"

Mr. KERRY. That is correct.

Mr. CHAFEE. But the second quote was testing?

Mr. KERRY. Testing.

Mr. CHAFEE. And I think it is testing that we are most concerned with here. Again, we move into the subjective field. But it is my understanding from the studies that I have done on this, and obviously somebody is going to rebut it, but it is my understanding that whatever the Soviets now have achieved in antisatellite techniques is what may be classified as relatively crude.

Would the Senator agree with that assessment?

Mr. KERRY. The Senator agrees with that and the Joint Chiefs have agreed with that and other scientific experts have agreed with exactly that assessment and used similar language.

Mr. CHAFEE. In other words, we are not lapsing into a situation where we are imposing a moratorium in which one runner is way ahead, in the race, of the other. Indeed I, from the studies I have done in this, it is my belief that the United States is ahead in capabilities of where the Soviets are.

I know the material has been distributed but it is my clear understanding that at worst it is a draw and at best the United States is considerably ahead, where we are now, in antisatellite weaponry.

Would the Senator agree with that?

Mr. KERRY. The Senator agrees with that, sir.

Mr. CHAFEE. It seems to me that this is a clearcut case where persisting in the moratorium that currently exists—and I would like to stress this. We are not venturing into some unknown territory here. This is an area we are in already. This is a moratorium on antisatellite testing. And we have all kinds of other expenses that it is worthwhile devoting our money to. I am particularly concerned about the conventional forces.

It seems to me to venture money into an area where we can be the losers, in other words we are more dependent upon satellites than the Soviets are; for both of us to get into an antisatellite race, in which, yes, we are ahead of them now in my judgment but they could well catch up: we have far more to lose than they do out of a moratorium.

So, the moratorium has worked successfully to date. I say continue it. If the Soviets break out of it, there is none of this business of coming up to Congress and having to get a resolution approved by both bodies—none of that.

If the President, under the Kerry amendment, finds that the Soviets are testing—and again I would like to question the Senator from Massachusetts, to stress that language particularly—if the President can certify to the Congress that the Soviets are testing, then what happens? Tell us.

Mr. KERRY. Mr. President, if the President so certifies, the President has the right to immediately, without any approval, denial, or process of the Congress, simply, upon certification, the President can order testing and we can proceed to test immediately upon the President's mere statement that they have tested.

Mr. CHAFEE. I think that is terribly important. In some of this legislation that comes forward there is a process: The President has to certify; it has to be approved by both bodies. That is clearly a limitation on the President and the armed services moving swiftly.

That is not so in this legislation. I think it is worth our while to continue this moratorium because we save money—but that is not the principal reason. The principal reason in my judgment is it is not in our interests to get into an antisatellite race with the Soviets with us far more dependent on satellites than the Soviets are.

Let us leave well enough alone. We have plenty of other areas for us to venture into and I would particularly, I say, stress to my colleagues the need to devote our money to the conventional forces. I want to thank the Senator for his time.

Mr. KERRY. I thank the Senator from Rhode Island for his important questions and for the points which he has focused on.

I yield myself, Mr. President, 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KERRY. Mr. President, with respect to this issue of our ability to verify: this is a red herring that gets thrown up again and again and again by those who just want to proceed forward on this.

The administration itself tells us that in 20 tests of the Soviet ability, it has failed to intercept its target 11 times for an overall success rate of just 45 percent.

The administration tells us that its first-generation system failed 5 times out of 14 tests; its second-generation Asat failed every time it was tested.

First of all, that is not the testing of a reliable system. But far more importantly, Mr. President, how do they tell us that if they cannot verify? If there are difficulties in verification?

I have a report here from the Brookings Institution. It paraphrases the military reports.

We have October 20, 1968; the target, K-248 Kosmos; inclination 62.25 degree; perigee, 475; apogee, 542; interceptor was the K-249. Then they have the inclinations, perigee, and apogee, attempted intercept altitude, 525 kilometers; mission type, revolutions around the Earth, 2; probability outcome, failure.

They go through every single test for every year, date, time, apogees, kilometers, and the outcome and the DIA and the CIA have never ever asserted that we do not know the outcome of Soviet ability to test, the coorbital Asat and it has never been asserted to us that we do not know how to do it.

Mr. President, if we do not know how to verify this, then that is where the $400 million ought to be going, not into the creation of a U.S. Asat.

I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska.

Mr. EXON. Mr. President, I yield such time as he might need to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the distinguished chairman of our strategic subcommittee and I must say that I say to my good friend from Massachusetts: here we are again. I think it is the third consecutive year.

I must say to him that I admire him for his tenacity and resolute effort to try each year to bring this issue to the attention of the Senate. But, once again, I stand in the strongest opposition and I hope that this body continues the 3 consecutive years of rejecting, not necessarily the amendment of the Senator from Massachusetts, but any effort to curtail this Asat Program.

We have had the Congress, as a matter of necessity resulting from the conference between the House and the Senate, to, from time to time, make some curtailments in this program and I hasten to point out as a consequence the program has suffered a costly and wasteful interruption of the testing program that goes contrary to every initiative the Congress has taken to improve DOD weapons acquisitions. So there has been a price paid.

But, Mr. President, let us review the reasons that this body has very wisely turned back these efforts during the course of debate over the past 3 years.

At the time this issue came before the Senate Armed Services Committee the distinguished chairman from Georgia, the distinguished chairman of the subcommittee, framed these issues which are set forth in the report as to why the committee, once again, supports the program and urges Members to reject the amendment.

The committee has strongly supported the development and testing of the F-15 miniature homing vehicle. Support of the program has been warranted, both by the contribution of the vehicle to deterring actions by the Soviets that might impede, damage, or destroy our important space assets, and by the ability of the program to deny Soviet space-based capabilities that could threaten our terrestrial forces in the time of a confrontation.

On the basis of testimony received again this year before the committee, the committee is convinced of the continuing requirement for a viable antisatellite program to satisfy both deterrence and requirements should there be a confrontation.

Mr. KERRY. Would the distinguished Senator yield for a question?

Mr. WARNER. I am happy to.

[Ms. MIKULSKI assumed the chair.]

Mr. KERRY. I want to say to the distinguished Senator he and I have enjoyed this go-around on an annual basis now. I hope to terminate it this year, but if I do not, we can look forward to it in the future. We have an anniversary each year. I enjoy the Senator's approach and appreciate his willingness to listen and engage in a dialog on it.

The Senator just said in quoting the report that the Soviets are developing an ability extraterrestrial to threaten our forces. It seems to me that no one knows better than the Senator that if they are not testing and we know they are not testing there is no ability to have any confidence in any system or actually deploy a system. So insofar as we are mutually, neither of us, testing, how is that extraterrestrial threat to our forces in fact being enhanced in a way that puts us at a disadvantage?

Mr. WARNER. Mr. President, I wonder if the Senator from Massachusetts would address the Rorsat Program from the context of what he just said.

Mr. KERRY. I am sorry?

Mr. WARNER. I want to make sure that we do not get into any classified areas. I am sure that the Senator is familiar with the Rorsat Program?

Mr. KERRY. I think the Senator is well aware that there are alternatives of either jamming or of spooking. Those are alternatives which we could be enhancing. It seems to me we could better deal with that kind of problem or threat by pursuing those alternatives rather than putting in something that ultimately has such a large capacity to threaten our overall interest, command and control, as well as verification.

The Senator will admit to me that as of today as we debate there is no threat to our longer distance, higher orbit satellites. Is that correct?

Mr. WARNER. Mr. President, we are treading close to the line of classified information. I will say that that statement is reasonably correct.

But that does not mean that there is not active research going on in this area to penetrate those upper limits.

Also, as you know, they are working in these areas to address these lateral areas with blind satellites, deafened satellites.

Mr. KERRY. I am well aware of that and I support our researching into similar areas. This Senator in no way wants to disadvantage the United States at any point in time. We obviously ought to be researching and I support that research. But there is a vast difference between research and deployment and between research particularly—and I call this to the Senator's attention—that we can discuss on the floor.

I believe the Senator is aware of the classified report of the GAO on this particular program which came out last year.

Mr. WARNER. Of course I am. Other Members of this body have access to that information.

Mr. KERRY. I think it is fair to say without revealing anything classified, the conclusion of that report would place serious question in a reasonable person's attitude toward further disbursement of funds in this program in its current state.

Mr. WARNER. Mr. President, as I said earlier, I prefer not to discuss that report, which is classified.

Mr. KERRY. There are portions that are unclassified which support the conclusion I just drew. The unclassified portion certainly permits us. The unclassified portion said this program is a dud.

Well, I thank the Senator for yielding. I wonder if the Senator will agree with me that there are serious problems in the program.

Mr. WARNER. There are problems, but I am not sure that I would use the word "serious."

The Senator is correct that there are unclassified portions of that report which he has the right to refer to as possibly being in some measure in accord with his position. But I think the overall body of evidence on this, certainly the evidence before the Senate Armed Services Committee, fully justified the action of this body to once again reject the amendment.

If I may continue, I will be happy at any time to be interrupted for the purpose of a question.

These are the same reasons that prompted President Reagan to take the unusual step of sending a special report to the Congress on May 11, 1987.

In the Presidential foreword to that report, he stated:

> The threat posed by the Soviet Union is growing more serious as time goes on. I cannot let this unilateral Soviet advantage continue unaddressed. As President and Commander in Chief of our military forces, I am personally committed to developing an operational U.S. ASAT which will help preserve the security of the Nation and our men and women in uniform. I am eager to work with the Congress to restore bipartisan support for the U.S. ASAT program in order to ensure that the testing moratorium is not reimposed and that proper funding is provided for fiscal year 1988 to enable this vital program to proceed.

On May 1, 1987, General Herres, the Vice Chairman of the Joint Chiefs of Staff, wrote to the Senate, this Senator and others, of his deep concern.

> If this moratorium continues, its already serious detrimental effect on our national defense will continue. The maintenance of a constrained ASAT Program, despite the continued growth of Soviet military space capability, unilaterally disarms our forces in a critical area while ceding to the Soviets a sanctuary for space operations. Three years of program uncertainty, budget cuts, and test moratorium have not resulted in a demilitarization of space or reduced the Soviet space threat. Several JCS-directed exercises have clearly underscored the asymmetry in Soviet ASAT capability compared to that of the United States, and have just as clearly validated our need for an operational ASAT system.

Mr. President, there are many myths which accompany the Asat issue, and I congratulate the members of the JCS and others, particularly the commander-in-chief of the U.S. Space Command, General Piotrowski, for his recent article which dispelled certain of these myths. I have made this article available to each of my colleagues, and I think it is now on their desks here in the Chamber, and I urge them to review it.

One of the most persistent myths is that the antisatellite programs will militarize space.

Mr. President, space has been militarized almost from the outset of the space age. We use space, as the commander-in-chief of the Space Command stated in his article, for communications relay, aids to navigation to warships, and for surveillance of warships, ground units, and for warning. The objective of those military activities is to support our Nation's strategy of deterrence by enhancing the capabilities of our terrestrial and maritime forces.

I might add, these forces have the ability to deter a numerically superior adversary, especially in the area of conventional weapons.

The Soviets have exploited the military theater space from its very outset. Ninety percent of all Soviet space launches support military operations.

Air Force Secretary Aldridge, who has been closely affiliated with the space program, wrote again to this

Senator in a letter dated September 11 of this year.

> The Soviets also have roughly a 3 to 2 advantage over us in number of military satellites on orbit at any time. These Soviet satellites can be used to monitor and target our land and sea forces. Although the Soviets have not tested their dedicated co-orbital ASAT against a target since 1982—

As stated by my distinguished friend:

> They continue to maintain proficiency by exercising several pieces of the system. For example, the ASAT booster is the same booster which is used to launch the Electronic Ocean Reconnaissance Satellite, EORSAT, and the Radar Ocean Reconnaissance Satellite, RORSAT. The last launch occurred approximately two months ago.

Madam President, did I see the Senator on his feet? I yield at any time for a question.

Mr. KERRY. I thank the Senator. What I wanted to ask him and perhaps I can point out to him, I know he is aware——

Mr. WARNER. Excuse me, Madam President, I did not hear the Senator. Would he repeat it?

Mr. KERRY. What I said was by way of a question, I know the Senator is aware of the distinction between militarized and weaponized, and I hope the Senator is clear that there is no assertion on this side that one of the reasons for passing this amendment is to prevent militarization of space. That has not been an asserted rationale for this amendment, nor is it. I hope the Senator is aware of that.

Mr. WARNER. I certainly accede to the manner in which the Senator wishes to interpret his own amendment and the effects thereof. Nevertheless, there has been considerable militarization of space by both nations over a lengthy period of time, and I think that fact is well known to the Members of this body.

Madam President, there have been a number of criticisms of the Asat on technical grounds. This Senator has followed the development program closely and observed any number of technical issues that have arisen only to be resolved eventually by the development program.

While the effectiveness of the overall system cannot be determined without completing the test program, there are no unresolved technological problems today.

I am interested if the distinguished Senator from Massachusetts agrees with that observation.

Mr. KERRY. Let me make certain that I understood the assertion of the Senator. He said that there is no outstanding existing technical problems with the program today?

Mr. WARNER. I said there are no unresolved technological problems today. I think that is pretty much the same thing.

Mr. KERRY. I do not think the Senator would agree with that, but in order to discuss that I would have to go into the classified part of that report which I cannot do now.

If I may, by way of answering his assertion, however, this amendment is not calculated—and I would be happy if this comes out of my time. I do not have to have this one-sided.

Mr. WARNER. Madam President, I think this is a helpful colloquy, if there are no other Senators seeking recognition.

Mr. EXON. The only Senator who wants to be recognized is the Senator from Indiana. Maybe we could begin to yield back some of our time.

The PRESIDING OFFICER. The Chair brings to the attention of the Senators that the Senator from Massachusetts has approximately 23 minutes and a few seconds; the Senator from Nebraska has approximately 27 minutes and a few seconds.

Mr. WARNER. Madam President, I say to my distinguished chairman, the manager of the time, that I would be happy to relinquish the floor. If there is further time, I would be happy to utilize it, but I do wish to permit other colleagues to speak.

Mr. KERRY. Let me, if I may, Madam President, answer that question then, and attribute the time as the Chair sees fit.

I think it is very important in making the point for the continuation of this moratorium to understand that this amendment does not want to, nor does it seek to, demilitarize space. It cannot. The Senator from Virginia is absolutely correct. We are in the state we are in. The Soviet Union has used space militarily and, indeed, the majority of their payloads are associated with military missions. We understand that.

It is in fact precisely to preserve the U.S. military use of space that this amendment is important. We rely on space use of satellites for our command and control. That is a military use. It is an important use. It is one that the Senator from Massachusetts wants to preserve. If our satellites suddenly become threatened, then the Soviets have different options with respect to their strategy against the United States in the event of an attack. They can target certain satellites that are the critical components of our communications to our submarines, and then our own deterrent ability has been changed. So, it is precisely with an understanding of the military uses and an effort to try to preserve the safety of those military uses that this amendment has been put forward.

Does the Senator want to continue?

Mr. WARNER. Madam President, I apologize to my distinguished colleague. I had stepped out. I still adhere to the statement I made that there are no unresolved technological problems today. That is the position of this Senator based on the facts as we received them in the Senate Armed Services Committee.

Mr. KERRY. I think it is clear that we still have some work to do. If we continue to test in a homing mode against an object in space, after a succession of tests—I think the Senator said we need to get to the point that we know if it works or it does not work. Is that correct?

Mr. WARNER. I missed one word. We need to get to the point where?

Mr. KERRY. Where we know the system works or it does not.

Mr. WARNER. That is desirable of all military systems, Madam President.

Mr. KERRY. Assuming we did that with this system, since ours is a homing device, fired from under the wing of an F-15 fighter—the F-15 goes up to a classified number of feet and fires its homing device, and it goes into space and homes into the satellite. If we develop that system to the point where, as the Senator says, we know we have a working system, the Soviets, who are tracking our testing, who are watching us develop the system, will know just as we know that we have developed a working system, at which point every single F-15 in the United States arsenal becomes, from the Soviet point of view, a potential operational antisatellite weapon.

When we have sent that message to the Soviet Union, and they will know it, they will have no choice but to have the same capability, just as they always have in every weapon they have developed since 1945 when we first blew up the bomb.

You can trace a whole pattern of who did what first and who followed. And no negotiation has been successful in eliminating something someone else has that puts them at a advantage ahead of the other until those people also have it. We never yet, with the exception now of the INF agreement, succeeded in reducing something until we had a mutuality of frustration or interests that brought us to the point that we were going to negotiate that.

So I would suggest that if we create that operational capability on our F-15's, you cannot have an agreement until they also have it. Then, given the past history of negotiations, it is very, very doubtful that you can get an agreement at all and we would have changed yet another pattern of relationships in terms of weaponry between our countries and I think put ourselves at risk.

Mr. WARNER. Madam President, I have to take the opposite side of that question because the facts do not lead to the conclusion that if one F-15 can carry out this mission, any F-15 can carry out this mission.

First, you have to train the pilots. Second, you have to put some configuration on the aircraft. Third, you have to have a support base. Fourth, you have to have an area in which we do these tests in operational equipment, even if they were all in an operational status. And fifth and most important, the Soviets need only consult the Congressional Record at any time and they would know exactly how many F-15's, how many F-15 pilots, and how many bases are capable of going into an operational mode with this system.

For those who argue that there are satellites against which the Asat would be effective, I would respond that it will be very effective against the threat it is intended to put at risk—those low-Earth-orbit satellites that enhance the effectiveness of Soviet terrestrial forces in the maritime arena, and increase the leverage of their numerically superior land forces.

For those who argue that a better answer to the Asat problem is just around the corner in the SDI Program, I would respond as follows:

First, the Asat course we are now on provides the earliest possible availability of the needed capability at the least cost. Even if those who see a better Asat in the SDI Program were willing to increase SDI funding to accelerate such efforts, an operational Asat would still not be available on the same schedule as the programmed F-15 Asat.

Second, such a course has implications for arms control. How would the advocates of such an approach reconcile potential arms control limits on strategic defense technologies with Asat's which potentially span the spectrum from low-to-high intensity conflict? Would an ERIS-based Asat system, for example, count against the 100 interceptors currently allowed under the ABM Treaty, and how might such commonality be treated in future agreements?

Mr. President, millions of readers of "Red Storm Rising" came to an appreciation of the tremendous military implications of the F-15-launched Asat Program. This Senator believes the author painted a scenario that is too real to ignore, and certainly one that cannot justify continuation of a wasteful unilateral constraint on a needed U.S. capability.

Mr. President, I urge my colleagues to join me in supporting the committee position and reject the Kerry amendment.

Madam President, I have perhaps used an excess of time. I would like a few more minutes if the manager sees fit at a later time.

Mr. EXON. Madam President, I would suggest in order to move things along a little bit that I believe we are down to where the Senator from Massachusets is in a 20-minute timeframe and I think I have about 25 minutes.

I was just wondering to expedite things if we might agree that I would yield for 5 minutes to the Senator from Indiana. That would about even up the time, then have 1 minute for closing statements from that side, 1 minute over here, and then vote. Is there any objection to that procedure?

Mr. QUAYLE. Let me just say to my dear friend, let me make a short statement. I do not know whether it will be 5, 4, or 9 minutes. I do not want to be restricted to 5 minutes.

Mr. EXON. I yield 9 minutes to the Senator from Indiana.

Mr. WARNER. Madam President, I wonder if the Senator would allow me to make a 5-second observation. I ask my good friend from Massachusetts. Did he have the opportunity to read "Red Storm Rising" in which there was a very clear description of this whole area almost frightening in its reality?

Mr. KERRY. I did.

Mr. QUAYLE. Madam President, I ask unanimous consent that the time be charged against the Senator from Massachusetts and not mine.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. The Senator from Massachusetts is happy to take time to answer that question. The answer is yes, I did, subsequent to having read "The Hunt for Red October." I enjoyed them both enormously. In fact, it convinced this Senator even more of the need to try to move in the direction. I think there are other alternatives to deal with that. I talked about them. We are not spending enough money on them. There are legitimate threats but this does not answer them. I think that is my response.

The PRESIDING OFFICER. The Senator from Indiana was yielding his time.

Mr. KERRY. Madam President, I ask unanimous consent if I may that Senator Moynihan be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Indiana.

Mr. QUAYLE. Thank you, Madam President.

I am glad my friend from Virginia raised the issue of "Red Storm Rising," and I guess I just had a much different conclusion than my distinguished colleague from Massachusetts because in that book, as everybody will well remember, it was the satellites from the Soviet Union, the EORSAT's and the ELINT's that really did very severe damage initially to the naval task force of the United States. And it was only through our Asat capability, in that particular book, which the Senator says he read and both Senators said they read, it was only through the Asat capability in that novel, that the United States was able to turn a very difficult situation around. I think that points out one of the reasons why we in fact do need an Asat capability. We all have good pastime reading, and Red Storm Rising is certainly a good place to begin this discussion.

Madam President, I think what we want to ask ourselves is in whose benefit is this moratorium? Our friend from Rhode Island was talking about who is ahead. Who is ahead in this? Well, I guess there are certain facts you can examine. Who has deployed Asat capability? There is no doubt about it. The facts conclude the Soviet Union has a deployed Asat capability in their coorbital system, their GALOSH system, ground-based lasers, and radio jammers. Not only do they have a capability that is deployed, but they have tested it. They have tested it 20 times against space targets. We have tested our Asat against an object in space once.

I can see how from their point of view it might be a good thing if we did not go ahead and test an Asat capability since they have already a system that is deployed. We do not have a deployed system. They have tested theirs 20 times. We have tested ours once. I can certainly see how that in fact is a very good situation, but not one that we ought to accept.

Madam President, the issue of verification has come up. According to the briefings that we have had it is very, very difficult, if not impossible, to verify Asat tests. What is a Asat test? It is a test against an object. Is that a docking? We can go up against a satellite and dock. Obviously, if you can go up against a satellite and dock, you can go up against a satellite and destroy it. So therefore we might not know whether we have a successful Asat system until the satellite is actually destroyed. I suppose at that time we would certainly be able to verify that we had Asat capability if our satellite was destroyed. I am sure the Senator would agree if a satellite is destroyed, then they have proven Asat capability; that they have proven Asat capabilities if the satellite is destroyed. But what can we know if the Soviets engage in or deploy space mines?

So there is absolutely no doubt about it. Verification is very, very difficult issue in this discussion.

Also, Madam President, I believe we have heard on this floor this last week and a half arms control and in fact discussions that are going on. There is no doubt about it. Asat is part of the space and defense discussions, and how we are going to proceed in defense, particularly defenses in space. So this is an issue that will be discussed. I do not believe we ought to get into prejudging particularly where the Soviets already have one deployed, have three systems that are capable, or actually four systems that are deployed. They have tested it. Therefore, when we look at this thing in the total perspective, I do not believe it is certainly in our best interests to continue this moratorium even though I can see how it is from the Soviet point of view.

Do we need, Madam President, an Asat capability? I certainly think that we do.

It occurred to the distinguished Senator from Virginia, former Secretary of the Navy. In his discussion not only about "Red Storm Rising," but in his concerns about our maritime forces. The thing that really threatens them are the Soviet satellites, RORSAT's and ELINT's, which can determine where many of our ships are. The United States is a maritime nation. We have to have access, and we have to have control of the seas.

What is really threatening to our Navy is not the Asat capability of the Soviet Union, so much as their surveillance, reconnaissance, and intelligence satellites. If they are what's threatening, the only way to continue to overcome that vulnerability is to go up and be able to have some capability take out those satellites.

Madam President, that is one reason why we need to lift the Asat test moratorium. Another reason, is that space is our future. We have to be able to come to grips on how we are going to use space, how we are going to be able to effectively control it, and utilize this control. Our satellites are very important. We have military assets in space. The Soviet Union has military assets in space. Space is going to be very important to our future.

Also, how we are going to get arms control in space? I know the author of this amendment is very interested in the whole process of arms control. How are we going to get arms control in space someday? Arms control in space—I think eventually we will probably see agreements to establish self-defense zones in space, that will actually divide up space between the Soviet Union, the United States, and other nations so that certain areas would be ours. If others come within our zones, then in fact they would be infringing on our territory and under certain circumstances that would be a violation of the understanding.

If you are going to have space assets, if you are going to utilize space, if you are going to have to work in space, which I certainly believe that we will, if you look at any kind of an arms control process in space, you are going to have to look at satellites to be able to defend themselves.

If satellites can defend themselves, that means they are going to have to have the ability to do what, Madam President? They are going to have to have the ability to thwart an attack if they get attacked in space. Therefore, that is antisatellite capability. That is why such people as Ashton Carter and the people at the Aspen Institute and others have written and talked about the futility of having a moratorium on an antisatellite capability.

I believe that as we look forward, we are going to move in a direction where we are going to have ventures into space. We need to have this system because of the tremendous threat that the Soviet satellites present to any kind of projection of force.

We have mobile command and control centers land based in this country. If the Soviets, through their satellites, intelligence, and reconnaissance capability can identify where they are, the Soviets might be more inclined to attack to knock them out in a crisis. We need to secure the Asat.

So, I predict that no matter what happens today—I hope that this amendment, which has been defeated in the past, will be tabled, as it should be—eventually we will have an antisatellite capability. There is no doubt about it. We are going to move in that direction, and the sooner the better.

Madam President, I hope that when the proper time comes, a motion to table will be offered and will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Madam President, I believe there are about 14 amendments remaining on this side and about 18 amendments on the other side.

I believe we have thoroughly debated this subject. I listened with great interest to the excellent presentation by the Senator from Massachusetts and others, and those who have opposed this amendment have made their case very well. I am prepared to conclude in 2 minutes and yield back the remainder of my time, if we could have a similar arrangement and understanding with the Senator from Massachusetts.

Mr. KERRY. I appreciate the request of the Senator from Nebraska. I will try to do it in 2 minutes, but I do not want to restrict myself. We will try to terminate it now and move on.

Madam President, I should like to respond quickly to a couple of points made by the Senator from Indiana, who works hard at this and believes strongly in the SDI and some ancillary subjects, including this one.

The "red storm rising" problem, the surprise or immediate damage done by satellites to naval forces, and so forth, is not resolved by our development of our current antisatellite system. That is not going to be resolved by that. Any kind of surprise attack is not resolved by having an antisatellite system immediately available. The attack will take place. You will not get to use your system, and when you do, it will not be on the original attacking entities. So that will not solve that.

Second, yes, there is a GALOSH system around Moscow; it has been there for years. We had one once in North Dakota. We took it down, we dismantled it, because we decided it was useless.

The GALOSH system has never been tested in antisatellite mode. Again, as to the issue of verification, it is fascinating to me that no one has ever asserted that it has been tested in antisatellite mode.

Mr. QUAYLE. Mr. President, will the Senator yield?

Mr. KERRY. I yield.

Mr. QUAYLE. The Senator is not disputing that the GALOSH system is capable of reaching antisatellite mode?

Mr. KERRY. Not in the least. The GALOSH system could reach antisatellite mode. But if it has not been tested, no general, admiral, President of a country, or General Secretary worth their salt in making judgments about military strategy is going to rely on it and say, "That's a system we can depend on."

So the GALOSH system has not been tested against an object in space or otherwise, and at this moment it is not what we call a dedicated antisatellite system.

Finally, the Asat system has not been tested just once, as the Senator has said. It has been tested once against an object in space, but it has been tested five times in total, four of them against a point in space. We have an 80-percent success rate with ours, versus their 100-percent failure rate—100-percent failure rate—in their second generation homing system antisatellite weaponry. So, to liken the two is not accurate.

As to the GALOSH system, the President, at any moment he wishes, under this amendment, can say to us: "They have tested. We are going to test." We are not disadvantaged. This is a mutual moratorium, not unilateral. We are only going to do what the Soviet Union has already done; and the reason we are going to do that is that many of us believe that it is in the longer term interests of the United States to protect its satellites, to stay in weapons out of space. There is a difference.

My colleague is absolutely correct: In the long run, there are going to be enormous difficulties in terms of verification in space weaponry. I am not sure how we will do it all in the long run, but I know that we are better off buying time to discover how we are going to do it, put more money into creating the protocols and the verification technology, than we are now to rush headlong into space with weaponry which makes it even more complicated and harder than it is.

If we have a prayer of staying out of space in terms of future weaponry, this is part of that effort. This does not tie the hands of the President. He can negotiate. He can sit down with Mr. Gorbachev and say: "We have a moratorium, but we are going to move ahead in the future unless you do this and this," and come forward to the Senate, and show the negotiating record, show intransigence. No options are minimized here. What it does is create more options. It keeps the options open. So we do not rush headlong into a position which does not become a position from which we cannot recover.

Madam President, I yield back the remainder of my time.

Mr. EXON. Madam President, I ask unanimous consent to have printed in the RECORD a letter addressed to the chairman of the Armed Services Committee, Senator NUNN, from Mr. E.C. Aldridge, Jr., Secretary of the Air Force.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, DC, September 11, 1987.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: As you are aware, despite your outstanding efforts Congress reimposed the testing moratorium on the U.S. anti-satellite (ASAT) program last year. I am deeply concerned that our opponents will succeed in enacting this testing moratorium for a third straight year which will severely jeopardize continuation of the ASAT program.

I first want to extend my appreciation for your continued support of this program. I want to personally reassure you that the Air Force is firmly committed to the continued development and deployment of the current air-launched miniature vehicle ASAT system. While I know that you fully understand why the U.S. needs an ASAT, I would like to provide some recent updates on the Soviet threat. I will also cover some of the details on our recently completed program restructuring.

We estimate today that ninety percent of all Soviet space launches support military operations. The Soviets also have roughly a three to two advantage over us in number of military satellites on-orbit at any time. These Soviet satellites can be used to monitor and target our land and sea forces. Although the Soviets have not tested their dedicated coorbital ASAT against a target since 1982, they continue to maintain proficiency by exercising several pieces of the system. For example, the ASAT booster is the same booster which is used to launch the Electronic Intelligence Ocean Reconnaissance Satellite (EORSAT) and the Radar Ocean Reconnaissance Satellite (RORSAT). The last launch occurred approximately two months ago. Further, we have assessed the laser facility at Sary Shagan as capable of damaging our satellites in low orbit.

Last fall, as a direct result of the Congressional testing moratorium, we performed a complete reassessment of the ASAT program. This reassessment revalidated the seriousness of the Soviet space and ASAT threats described above, and the need to deploy an operational system now. The reassessment also concluded that we must continue with the air-launched miniature vehicle ASAT since it is the only cost-effective system which can be deployed with high confidence in the required time period. Using any of the other systems, including those being developed under the Strategic Defensive Initiative (SDI) would delay an operational capability by a minimum of four years. Additional conclusions were: (1) that several of the Soviet satellites may be moving to higher altitudes and therefore, some improved altitude capability would be prudent, and (2) investment in laser technology should be pursued for a complementary system.

Our restructured program submitted in the FY 1988/89 President's Budget has three major efforts: (1) Proceeding with the air-launched ASAT, (2) Incorporating an improved altitude interceptor, and (3) Cooperatively funding a ground-based laser effort with SDI. We believe that this phased approach will provide us with a much needed nearterm capability while allowing us the flexibility to determine the optimum force-mix to meet any changes in the longterm Soviet threat.

We believe that this is a critical year for the ASAT program. The major obstacle which we must overcome is to deny the reimposition of the testing moratorium. I am counting on your support again to help us in winning the ASAT battle. Please do not hesitate to contact me if you have any questions or suggestions.

Sincerely,

E.C. ALDRIDGE, Jr.,
Secretary of the Air Force.

Mr. EXON. Madam President, I am not sure that we are ever going to be fully successful in developing the Asat system off the F-15 launch vehicle, but at this juncture it seems to me that we should keep our options open in these areas and go to conference with the House of Representatives with the measure as it came out of the Armed Services Committee.

Madam President, I yield back the remainder of our time, and I ask that the Chair recognize the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. QUAYLE. Madam President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. SIMON], would vote "nay".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—51

Armstrong
Bond
Boren
Boschwitz
Byrd
Chiles
Cochran
Cohen
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Exon
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Quayle
Roth
Rudman
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—47

Adams
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bumpers
Burdick
Chafee
Conrad
Cranston
Daschle
Dodd
Durenberger
Evans
Ford
Gore
Harkin
Hatfield
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Specter
Stafford
Weicker
Wirth

NOT VOTING—2

Simon
Stennis

So the motion to lay on the table, amendment No. 711 was agreed to.

Mr. WARNER. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Madam President, the manager of the bill, the Senator from Georgia, was here a few moments ago. We are trying to sequence the amendments. As we agreed on Friday afternoon, the distinguished majority leader will recall that we worked on the sequencing of amendments. There may be other amendments that the Senate would desire to bring up but it seems to me out of deference to the chairman, here, who is diligently exploring the options, that it would be appropriate to just put in a quorum call for a period of time.

Mr. WEICKER. Would the distinguished Senator from Virginia yield?

Mr. WARNER. I would yield only for the purpose of a question. I do not wish to yield the floor at this time.

Mr. WEICKER. As the Senator from Virginia knows, I have an amendment. I believe the last amendment was offered by a distinguished Member of the other side.

I believe it is also the wish of the floor managers that the business be moved along. I really do not understand why it is that we have to have a quorum call if, indeed, we can have substantive business before us, most specifically an amendment relating to the most recent actions in the Persian Gulf.

So I would hope that my good friend from Virginia would allow this Senator to do what everybody else has been doing, which is to offer an amendment.

If it is delay of the bill the distinguished Senator wants, I am sure we can also accommodate on that score.

Mr. WARNER. Mr. President, I understand fully. The distinguished Senator from Connecticut has in a very cooperative way discussed with this Senator the purpose of his amendment. If I understand that correctly it is to revisit the decision made by this body some few days ago with respect to invoking the War Powers Act?

Mr. WEICKER. That is correct.

Mr. WARNER. Mr. President, that is certainly within this Senator's rights to bring that issue up. I am simply at this time wondering if we may have a short period within which the chairman of the committee might confer with the ranking member, regarding commitments that this body made under the unanimous consent request of Friday?

Mr. WEICKER. Well, to the distinguished Senator from Virginia, am I correct in assuming there is some predetermined sequence of votes? I do not think that there was such an agreement arrived at. I will be glad to have the unanimous-consent request restated but I do not think there was a specific order.

Various Senators, as I recall, agreed to enter into time agreements on their amendments and, indeed I ask—make a parliamentary inquiry: Under the unanimous-consent agreement that was arrived at, was there a specific order to amendments arrived at?

The PRESIDING OFFICER (Mr. WIRTH). There was no specific order arrived at. There was a time agreement on a number of amendments, and there was a general understanding an attempt to coordinate votes was possible.

Mr. WARNER. If you would yield momentarily? That is a correct interpretation and that was the spirit, at the time of the agreement. But I wonder if there were not a few words in there with respect to the time agreements to the effect that we have granted these time agreements with the understanding that they may not have a preferential order under the time agreement. Nevertheless, if they would—and certain Senators did—concede to a time agreement, then they would be given some form of recognition here today. It may well be that there are not present on the floor one or more of those Senators that were involved in the time agreements. I am just wondering if we may have a short period of time in which the leadership of the Senate, which is presently here on the floor, the chairman who is momentarily off the floor, the ranking Member and the distinguished Senator from Connecticut, can assess the situation.

Mr. WEICKER. I concede to the distinguished Senator from Virginia the floor. I am not trying to take the floor from him. But just to pursue this matter, I alert the Parliamentarian, in case the Parliamentarian is not possessed of the unanimous-consent request, that I am going to make a parliamentary inquiry to restate what the unanimous-consent request was.

If she has it in her hands now, I would like to have it stated by the Chair.

The PRESIDING OFFICER. That is a proper inquiry by the distinguished Senator from Connecticut.

During consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, the amendments listed below be in order under the following time limitations; the time to be equally divided and controlled in the usual form; that a vote occur on or in relation to each amendment upon the expiration or yielding back of the time; that no second degree amendments or amendments to the text proposed to be stricken be in order:

Kerry ASAT—2 hours; *provided*, That if a tabling motion fails, the time limitation falls.

Johnston SDI Funding—4 hours.

Lautenberg Religious Headgear—1 hour, 30 minutes.

Kennedy-Hatfield Nuclear Testing—2 hours; *provided*, That if a tabling motion fails, the time limitation falls.

Hatfield Chemical—1 hour.

Pryor Chemical—1 hour, 30 minutes.

Mr. WEICKER. To my distinguished friend from Virginia, I certainly see nothing in that unanimous-consent request which in any way sequences amendments. I really find it somewhat surprising that since the distinguished majority leader is on the floor he has been pressing for business under this bill, amendments under this bill. Now that I am here trying to offer an amendment I am in effect being told that we have to wait on a quorum call and, believe me, I do not mind doing the business of the Senate 7 days a week but I sort of object doing it on Saturday when I am not allowed to do it on Tuesday.

Unless there is something in the cards here that I do not know anything about—I would be delighted to have it explained to me by the distinguished Senator from Virginia or the majority leader—I would merely like to send by amendment to the desk.

I might add I am perfectly willing, so the majority leader understands that nothing is going to take place to delay this bill, I am willing to send it to the desk under a one-half-hour time agreement so there is no question of delay. No question of delay.

But clearly, clearly facts in the Persian Gulf within the last 48 hours, I think, are new matter upon which the U.S. Senate should pass. Regardless of the vote that it took previously.

The last time we did this we were within 1 month's time after trying to avoid our responsibilities, 240 marines were killed on the tarmac in Lebanon.

Maybe nobody thinks this is hostilities and we can continue to say that the king is beautifully clothed, but I would suggest that these most recent events make it quite clear we are in hostilities. If we want to create an artificiality here, let us do it by a rollcall vote. But I would at least hope to have the courtesy of pursuing the business of this particular legislation, more particularly the amendment of Senator HATFIELD and myself, which, in effect, would invoke the War Powers Act.

Mr. BYRD. Mr. President, if the distinguished Senator from Connecticut is wanting an answer from me, I will be glad to give him an answer. I have no problem with his offering an amendment when he gets the floor. I might offer an amendment to it, but he has as much right to offer an amendment as anybody else around here. I have no problem.

Mr. WARNER. Mr. President, I, too, likewise know the right of our good friend and colleague to bring the amendment to the floor. I commend him for desiring to keep the momentum of the bill going forward.

I wonder if I gave him the assurance that were a quorum call to be put in that this Senator would anticipate that the duration of that call would not exceed 10 minutes, would he afford me the courtesy of having the opportunity to confer with the leadership of the Senate and others with respect to this amendment and another matter?

Mr. WEICKER. I would be glad to in any way accommodate my good friend, the distinguished Senator from Virginia. I believe a man such as he is a true gentleman. That is all I need. We know exactly where we stand. Please proceed. I will patiently await the pleasure of the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend from Connecticut for his cooperation. At this time, I suggest the absence of a quorum and I will revisit that request in no more than 10 minutes.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, shortly I will yield the floor. I am trying to get a couple of unanimous-consent requests, and the distinguished Senator from Connecticut wants to send up an amendment. He should have that opportunity. We did discuss alternating between sides as far as was possible to do so. At some point in time he should have that opportunity, and he will get that opportunity; and he should have it now.

UNANIMOUS CONSENT AGREEMENT—POSTPONEMENT OF CONSIDERATION OF SENATE JOINT RESOLUTION 187

Mr. BYRD. Mr. President, the Republican leader I believe is in the Cloakroom.

Mr. President, I believe this request has been cleared with the Republican leader. It has to do with the sequestering, the fall-back automatic sequester. Today is the fifth day. Except for the use of this unanimous consent request, if we were in session until midnight tonight, that matter would automatically come before the Senate. I do not want to be here until midnight. And if it would be passed up after today, that would create a problem. So this request would temporarily postpone the consideration of the sequester resolution until no later than the close of business Thursday. It will give us a little more time tomorrow. It has its problems. On Thursday we cannot vote until sundown.

So I ask unanimous consent that notwithstanding Public Law 99-177, the Senate temporarily postpone consideration of Senate Joint Resolution 187 until no later than the close of business on Thursday, September 24, and that it be in order to consider the resolution under the statute notwithstanding section 254(a)(4)(A) of the act.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I shall not object, I will just indicate it has been cleared on this side.

Mr. BYRD. I thank the distinguished Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent with the understanding the distinguished Senator from Connecticut, Mr. WEICKER, will offer an amendment, that at such time on tomorrow or at such time as the Senate returns to the consideration of the DOD authorization bill, which would not be today, I be recognized to call up an amendment to the amendment that will be offered by the distinguished Senator from Connecticut; that I or my designee be recognized for such.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. I thank all Senators. May I say at this point that it is my plan then to go out of session today about 6:30. I had earlier said 6, I believe, but it was my understanding at that time the picnic at the White House was going forward. I understand that has been canceled.

Mr. DOLE. Because of weather it has been postponed until tomorrow.

Mr. BYRD. The Democrats are having a dinner tonight honoring the chairmen of the committees. So we will go out about 6:30. If the distinguished Senator from Connecticut wishes to discuss his amendment longer, I have no objection to leaving it in his hands and letting the Senate go out when he finishes his remarks.

Mr. WEICKER. In response to the distinguished majority leader, I have no intention of going beyond 6:30.

Mr. WARNER. Mr. President, this is a matter that we have discussed here. I wonder if the majority leader wishes to revisit the unanimous consent request. Did I understand that the majority leader would be recognized when the Senate comes back to this bill or was it there be a period of time after the Senate returns to the bill, in other words, to allow a little flexibility in there?

Mr. BYRD. I thought the Senator and other Senators might wish to debate the amendment with the Senator from Connecticut this evening as long as they wished. Then it would be my plan to put the Senate out and then tomorrow I would come in and go immediately to the——

Mr. WARNER. I understand that, Mr. President. But my question is once the Senate returns to the pending DOD authorization, is it instantaneously that the Senator be recognized for the purpose or would there be a lapse of time such that there could be some additional debate? Then would he be the only Senator recognized for the purpose of a perfecting amendment?

Mr. WEICKER. That was my understanding. In other words, there would be a little period of time, fully understanding the Senator from West Virginia would offer his amendment, but to bring them up to speed.

Mr. BYRD. Yes.

Mr. WARNER. Mr. President, I say further to the distinguished majority leader, I was listening. It appeared to me that only the proponents could be heard tonight on this measure in view of the importance, a sense of fairness that some period of time be allocated for the opponents this evening.

Mr. BYRD. Yes. I have no reason to exclude those who oppose it tonight. I simply wanted to give the distinguished author of the amendment all the time this evening that he would wish and others who support his amendment while those of us who have to leave the Chamber would go.

But I should finish my statement by saying—the distinguished Republican leader being on the floor at this point—that it would be my intention tomorrow to come in, with the approval of the distinguished Senator from Georgia, and go immediately to the conference report on the extension of the debt limitation.

There is no time limitation on that conference report at the moment. It is a preferential motion. There is no debate on the motion to take up the conference report, so the Senate can go to that.

I would like to get a time agreement on the conference report. I have discussed that with the Republican leader, and he has someone on his side who does not wish to give consent to a time limitation on it. But the Senate will go to it. The debt limit expires tomorrow night at midnight.

So that will be the plan, keeping in mind that tomorrow evening we will not vote after 6 o'clock.

ORDER FOR RECESS UNTIL 8:20 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:20 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEADERS' TIME ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders be limited to 5 minutes each tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that at the close of the orders for the two leaders on tomorrow, the Chair place before the Senate the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That would be at about 8:30 a.m., at which time I will suggest the absence of a quorum. That will be a live quorum, and I will not ask for the regular order before the passage of 30 minutes. That would mean that by 9 o'clock or circa 9 o'clock, we would be ready to go to the conference report on the debt limit extension, without a time agreement. Of course, the unfinished business would take its place. Upon the disposition of the conference report, the unfinished business would come back before the Senate.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. BYRD. I yield.

Mr. HATFIELD. I inquire of the majority leader: With respect to the unanimous consent agreement we entered into on the basis of his having the opportunity to present an amendment in the second degree to the proposed amendment to be offered by the distinguished Senator from Connecticut, I wonder if the Senator from West Virginia could give us the gist of his proposed amendment in the second degree. We would like to understand whether we will really be waging the debate on the amendment offered by the distinguished Senator from Connecticut or upon a perfecting amendment or an amendment in the second degree.

Mr. BYRD. I have to say to the distinguished Senator that I am carrying on consultations with a number of Senators about the language of the amendment, and I do not have it in final form at this point. I have been talking with Senators on both sides of the aisle—the Senator from Georgia, the Senator from Virginia Mr. WARNER, the Republican leader, Mr. BUMPERS, and I will be talking to the Senator from Oregon and the Senator from Connecticut. I do not mean to be flippant, but I do not have it ready.

Mr. HATFIELD. I was not seeking the precise language but rather a description. Would this be, in effect, a substitute for the war powers issue? Would we prepare for the debate on that issue? Or will it be on the War Powers Resolution or an alternative to the War Powers Resolution? Really, I am only asking for a general description.

Mr. BYRD. I could use the word "alternative" or I could use the word "substitute." I think either would apply in a rough kind of way.

Mr. HATFIELD. I thank the Senator.

Mr. NUNN. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. NUNN. I understand that the order of business would be now to complete the discussion of this amendment tonight—or, not complete it, but carry on the discussion; and tomorrow morning when we come in, we will go directly to the Gramm-Rudman-Hollings debt ceiling matter.

Mr. BYRD. Yes, if that is agreeable to the Senator from Georgia.

Mr. NUNN. I understand completely. I do not like to interrupt this bill, but we have to pass the debt ceiling and have to address Gramm-Rudman-Hollings. After that, did I correctly understand the majority leader to say we would return to the bill, or would there be other business?

Mr. BYRD. Upon the completion of the conference report, it is my plan, the distinguished manager of the bill approving thereof, to return to the bill. Automatically, it would be the order of business.

Mr. NUNN. Could I give a little glimpse as to the way I see the situation?

If we get back on this bill tomorrow afternoon and do some work on it tomorrow afternoon and tomorrow evening, to a reasonable hour tomorrow night, and then come in on Thursday—if I understand, most people are equipped to deal with going late—it is my recommendation, since we do have a number of time agreements, and assuming that the Weicker amendment can be disposed of in a reasonable amount of time, to continue Thursday late into the evening, perhaps go into the very late hours Thursday, to come in Friday, and try to complete this bill on Friday.

I know that a lot of people have engagements a long way off on Friday evening. I have talked to a number of them on both sides of the aisle. I hope that if we go through the debate tomorrow, Thursday, and Thursday evening, we could perhaps arrive at a time certain to pass this bill on Friday afternoon. If we do, we can avoid a Friday night session and a Saturday session. It will require going very, very late Thursday night and perhaps even late Friday night and perhaps Saturday.

If we are to complete this bill this week, that is the only way I know—to get an agreement or to be here most of Thursday night, Friday night, and Saturday.

Mr. BYRD. The Senator's observations are very helpful.

It seems to me that we should be able to finish the bill or get an agreement, as the Senator has indicated, in the alternative—get an agreement that would see the Senate finishing the bill no later than Tuesday.

Mr. NUNN. I would say Friday. I think Friday would be just as easy as Tuesday.

This is one of those bills—I think everybody recognizes—the longer it is here, the longer it will stay, because every subject that happens in the world is a subject to be put on this bill. Either we will finish this bill or get some other train to attach amendments to, or this one will be here forever.

I think we should make up our minds to be here most of Thursday night, Friday night, and Saturday. Without putting off anyone, we ought to finish this bill Saturday afternoon. I hope we can finish the bill Friday afternoon and avoid Friday night and Saturday.

I believe that if we wait until Tuesday, unless there is an absolute limit on amendments, we will be on this bill all of next week, too.

Mr. BYRD. I am with the Senator from Georgia 100 percent on what he has said. My reference to Tuesday was only in the event that we can get an agreement. If we cannot finish it Friday and get an agreement that puts a time for a vote on Tuesday, with the listing of the only remaining amendments that can be brought up, as we do from time to time, that might be a reasonable way out.

Mr. QUAYLE. Mr. President, will the majority leader yield?

Mr. BYRD. I want to yield the floor soon, so that the distinguished Senator from Connecticut can proceed with his amendment.

Mr. President, I ask that no motions or other amendments be offered today after the amendment by the distinguished Senator from Connecticut. I say that not to protect myself against the Senator from Connecticut, because he and I have an understanding; but if he should yield the floor and other Senators were to make motions, I do not want those to be in order. There will be a time when some of us have to leave the floor for the day.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, I ask the majority leader, with respect to offering a second-degree amendment, that would not foreclose other second-degree amendments if that were defeated?

Mr. BYRD. No, not if that were defeated, it would not. My request would not foreclose other second-degree amendments.

Mr. QUAYLE. Mr. President, reserving the right to object.

Mr. BYRD. Mr. President, I yield the floor.

Mr. QUAYLE. This unanimous consent only applies to the remainder of the day; is that correct?

Mr. BYRD. Yes.

Mr. NUNN. Mr. President, will the majority leader yield briefly? And I apologize to my friend from Connecticut.

Mr. BYRD. I have yielded the floor. I believe he has the floor.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. WEICKER. I yield.

Mr. NUNN. Mr. President, we have the possibility now of getting business set for Thursday afternoon. I believe that is a possibility, because on Thursday there is going to be nonvoting until 4 o'clock. We have the Senator from Oregon and the Senator from Arkansas on the floor, and they have chemical amendments. We know what they are, I believe. They have a time agreement on those amendments.

If we could set in unanimous consent form arrangements where we begin the debate on those amendments until

4 o'clock on Thursday afternoon and debate the amendment of the Senator from Oregon first, the amendment of the Senator from Arkansas second we would have two rollcalls stacked beginning at approximately 6 o'clock that night. I know we will have other things that morning. That would be a big help if we have everyone here to agree on that.

Mr. BYRD. They could not get it.

Mr. NUNN. They prefer them starting at 4 o'clock. I have other amendments.

The Senator from Massachusetts has agreed to bring up three amendments that morning.

Mr. QUAYLE. Mr. President, will the Senator yield on that point?

Mr. NUNN. I yield.

Mr. QUAYLE. I say I have no desire to delay the bill. We have already done that, and we are on the bill and going to finish it at some time. I think it is going to be very, very difficult to get off of this amendment and whatever second-degree amendments are offered to it until we get some understanding what we are going to do. What is going to happen is that is going to be on the floor. It will take unanimous consent and maybe we will dispose of these amendments. Then you will have to get unanimous consent to set aside these amendments to go to anything else, to the amendment of the Senator from Oregon or the Senator from Arkansas.

I think it is probably going to be fairly difficult to get that unanimous consent until we get some understanding of where we are going to go on this particular, I think, very explosive issue.

The PRESIDING OFFICER. The Chair will note there is a unanimous consent request pending by the majority leader. It will preclude amendments to the Weicker amendments this evening. There is a unanimous-consent request made by the majority leader.

Without objection, it is so ordered.

Mr. BYRD. Mr. President, for the information of all Senators there will be no more rollcall votes today.

AMENDMENT NO. 712

(Purpose: To require compliance with the provisions of the War Powers Resolution)

Mr. WEICKER. Mr. President, I have an amendment at the desk, an amendment on behalf of myself and Senator HATFIELD. I ask that the clerk report the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] for himself and Mr. HATFIELD proposes an amendment numbered 712.

Mr. WEICKER. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . MEETING THE REQUIREMENTS OF THE WAR POWERS RESOLUTION.

(a) FINDINGS.—The Congress finds that—

(1) section 4(a)(1) of the War Powers Resolution requires the submission, within 48 hours, of a report by the President to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"; and

(2) on September 21, 1987, United States Armed Forces attacked an Iranian vessel which was laying hostile mines in the Persian Gulf.

(b) POLICY.—(1) Therefore, the Congress declares that the report described in section 4(a)(1) of the War Powers Resolution is required to be submitted to the Congress by the President pursuant to such section not later than 48 hours after the attack referred to in subsection (a)(2) of this section.

Mr. WEICKER. Mr. President, this is very brief. Let me read to my colleagues the substance of this amendment.

(a) FINDINGS.—The Congress finds that—

(1) section 4(a)(1) of the War Powers Resolution requires the submission, within 48 hours, of a report by the President to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"; and

(2) on September 21, 1987, United States Armed Forces attacked an Iranian vessel which was laying hostile mines in the Persian Gulf.

(b) POLICY.—(1) Therefore, the Congress declares that the report described in section 4(a)(1) of the War Powers Resolution is required to be submitted to the Congress by the President pursuant to such section not later than 48 hours after the attack referred to in subsection (a)(2) of this section.

First let me say I realize this matter was visited by the U.S. Senate a few days ago, at the end of last week. I have to say that even though at that time I thought our vote ignored the facts, I think new matter makes it even more urgent that we visit the matter of the War Powers Act today.

Now, let me just very briefly summarize that portion of the War Powers Act I think is of concern.

Under the War Powers Resolution, I am quoting now, and I will quote several times from an article that was written by the late Senator Jacob Javits, of New York, on October 23, 1983.

In that article Senator Javits states:

Under the War Powers Resolution, the President must consult with Congress before introducing the armed forces—"into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." Under 4(a)(1), the President must report to Congress on the status of United States troops in such situations. In another clause, the President must inform Congress if troops are sent into foreign locations not directly or indirectly related to the prospect of combat. Section 5(b), perhaps the engine of the resolution, requires the President to withdraw troops in 60 to 90 days unless Congress authorizes their continued presence. He must, in any case, withdraw them immediately if directed to do so by a concurrent Congressional resolution, which is not subject to Presidential veto.

Now, Mr. President, according to the papers of today, and I read from the New York Times dated New York, Tuesday, September 22: "U.S. reports firing on Iranian vessel seen laying mines—craft is set afire. Copter's Action in Gulf Is Called Defensive by the White House."

The first point I want to make is the word "defensive" or "offensive" has nothing to do with the invocation of the War Powers Act.

Again, the War Powers Resolution is the law of the land. This is not something prospective. This is not something discussed and passed over. The War Powers Act is the law of this Nation.

I now quote again from the act: "In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." "Hostilities"—is the trigger word. That is the mechanism. Hostilities. Either into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances.

How can anyone in this Nation, much less this privileged few who even just moments ago came from a briefing session—how anyone can say that there are no hostilities or the situation is not imminent of hostility? The mines, as far as I understand, certainly are not beachballs with which people play. The warships of the U.S. Navy are not cruise ships. It reeks of hostility. It is a definition of the word "hostility" in and of itself.

They say we live in an unreal world here in Washington, DC, and on the Senate and the House floors. And nothing proves that point better than our failure to adopt the Hatfield amendment last week or if we should fail to adopt the Weicker-Hatfield amendment this week. At what point does it become a hostility?

Does the sinking of an aircraft carrier, is that the trigger mechanism? Or a battleship? How many numbers of personnel have to be killed before the definition of hostility is fulfilled?

And it is not as if we have not been through all of this, because I remember this debate back in 1983 when we had our marines in Lebanon and continually the President tried to avoid meeting the exact requirements of the

War Powers Act. And then finally, the following events took place.

On August 29, 2 U.S. marines died, 14 were wounded in hostile fire.

On August 31, 1983, the Senate received a report from President Reagan "consistent with section 4 of the War Powers Resolution," but expressing the view the danger would be only temporary.

September 8, 1983, two more marines die 2 days earlier; U.S. Navy ships return fire.

Remember all this history?

September 14, 1983, Senator BYRD introduced Senate Joint Resolution 163, making a congressional determination that section 4(a)(1) of the War Powers Resolution applied to the situation in Lebanon.

September 29, the Senate approves a multinational force in Lebanon resolution.

I voted against that, along with Senators ROTH and HATFIELD.

And on October 23, 241 United States Marines were killed on the tarmac in Lebanon.

Also, ironically, on October 23, 1983, in the magazine section of the New York Times, former Senator Jacob Javits wrote an article "Who Decides on War?" decrying the fact that the Congress and the President were trying to avoid their responsibilities under the War Powers Resolution.

Senator Javits used a quote from Thomas Jefferson at the beginning of that article:

> We have already given . . . one effectual check to the dog of war by transferring the power of letting him loose, from the executive to the legislative body, from those who are to spend to those who are to pay.

Jack used that as the introduction to his examination of the War Powers Act and how Congress had failed to meet its responsibility and the President under it.

Mr. ADAMS. Will the Senator from Connecticut yield for a moment without yielding the floor?

Mr. WEICKER. Will the Senator just give me 2 or 3 more minutes, then I would be glad to yield to the Senator from Washington.

Mr. ADAMS. I thank the Senator.

Mr. WEICKER. Is there anybody, as a matter of common sense, not as a matter any particular military knowledge or of any particular governmental knowledge or Presidential knowledge or senatorial knowledge, that would not agree that the present situation in the gulf is one involving hostilities?

It is not whether you are for or against it. It is not a matter of defender or aggressor. It is not a matter of size or numbers. It is just the clear picture in that part of the world that defines the word "hostility."

And do you know what I find ironic at this point in time? The whole Nation has its focus on the confirmation of hearings of Judge Bork, and one of the first questions asked by my colleagues was his views on the War Powers Act—his views on the War Powers Act.

Well, how about our views on the War Powers Act, given the opportunity to express them under law? And we do not have the courage to do it. Or given that opportunity, we reject it, when clearly we flout both the spirit and the letter of the law.

What will be required to have us enact the War Powers Act or de facto withdraw? What will be the number this time? Last time it was 240 marines. How many sailors, how many ships? And maybe it is—and this is an entirely different debate—that we should actually be there. Then let us vote that. But both the Congress and the President would prefer a fog, where if things go wrong nobody can find you. In the meantime, you keep your fingers crossed that they are right.

I know that my distinguished colleague from Washington wants a few minutes and I will be glad to yield for 2 minutes to him before concluding here and then I will yield to the distinguished Senator from Oregon.

(Mr. SANFORD assumed the chair.)

Mr. ADAMS. I will not take long, but I want to say to the Senator from Connecticut that I agree with him that we have, in effect, the War Powers Act in effect now; that it does not take anything but common sense to see that we are in imminent hostilities. And you remember the past of Lebanon from your service here, as I remember the past, from my service in Congress, in Vietnam.

The whole purpose of the War Powers Act was to create a check on the power of the Executive to be exercised, and the checks are applied from this Constitution. I agree with the Senator from Connecticut that we must stand to say that we are in or we are out of a particular action. This Senator is prepared to vote on that action and the War Powers Act should be up so that we do vote on it. It may be that we have some policy that we should pursue in the Persian Gulf, but certainly we should not ignore the law.

And I particularly agree with the Senator, when we ask a Supreme Court nominee what his views are on the War Powers Act, which is to say, "Will you apply a check that is under the law?" We should ask the same to ourselves and we should apply that check.

The Framers of the Constitution divided the power on war, and they gave the power to declare war to the Congress of the United States, not to the Executive. They gave foreign policy power to the President. And we are in that area between the two, and that has been decided and settled by a statute.

If we do not want to apply this War Powers Act, then let us get it off the books. But if it is there, each of us, under our oath that we have undertaken—the Senator from Connecticut, the Senator from Washington, and other Members of the Senate—should apply the statute as it is there. I do not think there is any factual question in the world anymore that we are involved in imminent hostilities.

I regret that the Senator has to bring this up again and that we were not successful the other day. I just want the Senator to know that, as far as this Senator is concerned, where there is breath and body, I will attempt to try to uphold that law that says that when our troops are committed into imminent hostilities—which they certainly are—that we as Members of the Congress should vote on their action.

I think the Senator should bring this up and I think that we should proceed with it and let us try to think of a way we can apply the check to the executive branch that is provided in the Constitution by this statute. And if the Senator pursues it and other Senators pursue it, I intend to support the matter.

I thank the Senator for yielding.

Mr. WEICKER. I thank my distinguished colleague from Washington for articulating precisely what is at issue here, because there are going to be those that stand up and say to vote for implementation or for triggering the War Powers Act, to vote that way means that you are against the U.S. presence in the gulf. It does not mean that at all. That is a separate vote.

All it means is that you are voting for reality, for the truth, and for the law. Period. And you can take it from there.

Maybe it is that there are those that will extend the time permitted the President to keep troops in the gulf. Maybe it is. That is not the issue. Or maybe those that want immediate withdrawal, because that also comes under the War Powers Act; or maybe those that say 60 to 90 days is sufficient—that is a separate issue.

All that we are trying to do here is to make sure that precedent, and that is what we are establishing, defines the word "hostilities." That is all we are trying to do.

If you say that what has happened in recent days is not hostilities, then that defines the word and that is precedent forever.

At what point do you have hostilities? So do not let anybody be embarrassed by someone saying: well, there are those who want to cut and run. There are those who want to withdraw.

Some of us do feel that is an ill-advised policy but that is not what I am going to debate here today and neither am I going to accept it as a valid argument against the enactment of this amendment.

The war power resolution is treated as if this were some sort of a debatable item. It is the law. If the President does not want to obey the law, if he feels it is unconstitutional, challenge it. But until it is challenged and overturned or repealed, it is the law. And the word is "hostilities." To me that does not require much imagining insofar as its definition is concerned.

The U.S. Senate flew in the face of all reality, given that opportunity, when Senator HATFIELD offered his amendment last week. The Senator has a pretty good nose for these things in the course of history, I think. We all realize it is not a new-found interest of his. He has a pretty good nose for where things lead.

The Senate rejected that opportunity. I am sure that many rejected it with the hope that this is all going to turn out all right. It is just like the last time. You know, one marine, that does not get anybody too excited. It does me; that is quite enough. Two marines does not get anybody too excited. Two hundred and forty, boy, we cannot ignore that.

I do not think we can ignore any longer the reality of the Persian Gulf. I think the American people have the right to express themselves on this matter and especially express themselves on the matter of whether the determination of the price to be paid in resources and life is to be made by 535 or by 1.

The President does not derive his Presidency from being Commander in Chief.

Jake Javits articulates that in this article. He derives being Commander in Chief from his Presidency.

It is high time this Nation either accepts this constitutional Government, which we are now celebrating, or it seeks something more expeditious. But as long as we have that Constitution and the laws enacted under it, I suggest among all the citizens, this body should lead in obeying the law.

Mr. President, I yield now to my distinguished colleague from Oregon, Senator HATFIELD.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Oregon.

Mr. HATFIELD. I am indebted to my colleague. He is a man I have admired for many years and who has never failed to take the courageous stand, often against great opposition. Again he has demonstrated that commitment here tonight.

Mr. President, I am not going to engage in a long soliloquy on my concerns about the current situation. This particular debate tonight may be for naught, given the imminent offering of an amendment that could be a substitute or an alternative to the real question of the war powers resolution. We may again be entering into one of those very interesting and somewhat confusing exercises of the U.S. Senate, demonstrated so often in this body, when we reach a point of perhaps making a vote or making a decision on a very specific and very profound issue. Because there is a necessity to find ways to save face, those who have gone so far out on a limb, may offer us a substitute to the real issue that further confuses a situation rather than clarifying it. I do not know if that is going to happen but it has happened in the past. Most frequently it has taken on the character of what we call a sense-of-the-Senate resolution, which is not worth the paper it is written on because it is nonbinding.

Mr. President, when the Senator from Connecticut, the Senator from Washington, the Senator from Arkansas, the Senator from Alaska, and others debated last Friday, there was no great problem defining the words "hostile" or "imminent," the triggers of the War Powers Act. In fact, the Department of Defense, on August 26, defined the situation in the Persian Gulf as one of imminent danger because they wanted to increase the pay of the military personnel assigned in the region.

It is very interesting to think of the discussion of this issue only last Friday and to think of what has happened since then. I would like to quote certain of our colleagues from that debate because I think the quotes illustrate the reality that we ignored the issue last Friday. There is no reason we should continue to ignore reality on Tuesday or on Wednesday.

Listen to the comments last Friday of those who led the opposition to our amendment. I quote:

> I think the word "imminent" is very important. I do not believe, based on the evidence I have seen and heard, that we could say that we are likely to get into hostilities at any moment in the Persian Gulf.

That is only last Friday.

Listen to another:

> It comes down to factual distinctions as to whether or not our men and women are in imminent danger in this area.

Listen to another:

> Certainly the War Powers Act is the law of the land but I would like to ask: define what "hostile action" is. What is "hostile"? That is what we are talking about.

Can anyone in the light of reason, sanity, intelligence, competency or any other measurement declare that there is any doubt whatsoever, any shadow of doubt left, as to what constitutes hostility or hostile action or imminent danger after the events in the last 24 hours?

I would say to the Senator from Connecticut, I may have a nose but he has a sense of timing. Perhaps my timing was off, perhaps Senator ADAMS' timing was off last Friday. I confer the compliment—I may have a nose but you have the timing. The events that have occurred in the last 24 hours have totally demolished any reasonable argument that somehow our ships and our men and women are not in "imminent danger" of hostilities.

I understand that someone went to the dictionary to find out what the dictionary said about "hostile." Well, let me put that in the RECORD.

Hostile is "opposed in feeling, action, or character; characterized by antagonism."

Even last Friday, how could anyone not see that definition in the reality of the events in the Persian Gulf? Over 300 attacks, military attacks, have occurred in the last few years in that region; 40 American people, 40 American servicemen have died in that region.

The Senator from Connecticut has asked what the threshold is for triggering the War Powers Act.

How many deaths do we have to experience before somehow we reach that magic threshold that moves us from nonhostile to hostile under the definitions of the War Powers Act?

Many, many years ago, in my first session of the legislature in my State in 1951, I had proposed a bill that would require railroads to put drop arms at major intersections in urban centers. The opposition, of course, was immediately formed and came forth with a counterproposal.

> Instead of requiring the railroads to do this now, we will amend your proposal to say that upon the occurrence of seven deaths at any intersection the railroads will be required to put the drop arms in as a safety measure.

In other words, set a threshold, we put a premium on how many people we had to kill before we could get action, my response was that it should be a preventive action rather than an action after the fact, so should this.

What is the threshold here? When will this administration and those who oppose our amendment clarify the threshold? When will they accept the fact that is so real—we are in a hostile area and involved in hostile activity?

Well, Mr. President, I again have to reflect a little bit on history. Let me go back a little in history—I recall when we were involved in Vietnam in Southeast Asia.

For the younger folk, let me sort of highlight two or three points of that history, of that involvement.

We were out there for a good and worthy cause, we were told. We had military advisers. From advisers it moved to about 540,000 fighting troops, but never with a congressional declaration of war. The longest war in the history of the United States, the highest casualties.

We never had a congressional declaration of war as required under the Constitution.

We reached a point of gradualism, deeper and deeper into that quicksand. Finally, we reached a point where the argument was not on the national interest, but the President. Rally around the chief, rally around the chief. The tribal instinct. We could no longer deny the President of the United States the full-fledged freedom to pursue this policy of war because to deny him at this point would make a mockery out of the deaths that we already had experienced. Somehow we had to give the President an affirmation of that war policy in order to justify the deaths that had occurred up to that point. Then it went further and further. Not until the American public ws aroused—I hate to say this—to the economic impacts of that war as well as to the personal tragedies that so many families suffered did public opinion finally force us to address the war, the price we were paying.

Mr. President, let us not wait until we get that deeply involved in the Persian Gulf. Of course there is another element to the Persian Gulf that did not exist in Vietnam: oil, Mr. President, oil.

I know of no commodity that the average American has demonstrated his willingness to kill for than oil. All I need to do is remind our body of the people who shot others in the gas lines during the Arab boycott because of our marriage to the automobile and our priority of anything for the sake of oil.

I will not recite the history of the fact that we helped fuel Hitler's panzer divisions even into Poland with American exported oil. I do not have to recite the fact that we were willing to provide the oil for the Japanese military machine to invade Manchuria and carry on its war in China for all those years. But now we do not have the oil—its in the Persian Gulf.

We have demonstrated time and time again that when it comes to an ethic and morality related to our demand and appetite for oil we tend to numb our moral indignation.

I would hope that between now and tomorrow, I hope everyone watching will demand that each and every Member of this body take a position on this issue up or down—are we going to commit, potentially commit, future generations or this generation to this war or to a potential war?

This one moment makes me happy to say I was wrong when I voted against television in the Senate. I think the American public ought to speak now.

Often I have heard the regret expressed by people who suffered through Vietnam—"I wish I had spoken up sooner." Here is your chance.

I said, "That is going a little bit far."

Mr. WARNER. Mr. President, I hope at some point others can be heard on this issue. It seems to me out of a sense of fairness that when we initiated this debate this Senator sat down and made it possible for this amendment to be brought up and there was a clear indication that we would have a little comity, and opportunity to address it, before we get into the matter of those of us who supported the action of a few days ago being warmongers.

Mr. HATFIELD. Mr. President, I am going to sit down and give the Senator from Virginia an opportunity to speak. I would never want to take that opportunity away from any colleague.

But there is a very interesting example of public perception here. Go back to history again. Everything was very quickly decided during the debate over Vietnam on the basis of hawks and doves. I happened to be on the negative side of that one, I can assure the Senator from Virginia, to the point where I was considered a friend of Ho Chi Minh, undermining the boys in Vietnam because a simplistic label was hung around my neck. I am not attempting to do that because I have been the victim of that.

But my friend may find it interesting to note that this administration has been criticized by the senior Democratic Party leaders on occasion for following a certain kind of foreign policy. They have simplified the debate by saying "a dangerous foreign policy," "a disastrous foreign policy." And yet, when the time comes to vote on those issues this administration's foreign policy has been affirmed more often than it has been challenged.

We had better show some demonstrated leadership on this issue. We had better face up to the fact that we are ignoring the law deliberately. And we had better admit that there is no way to say we can ignore that law because of definitions of hostility and imminent danger. I think it is about time Congress, instead of standing off and either criticizing the administration or supporting the administration, takes the responsibility that we have assigned to ourselves under the law.

I hope this amendment will be voted on. I am very dubious. I think the strategy now is to avoid that issue, to avoid it by some other parallel move. A substitute or a modification or an indirect amendment of the War Powers Act. We do not want to face up to it.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, when the distinguished Senator from Connecticut brought to this Senator's attention, one of the comanagers of the pending bill, a bill for the authorization of funds for the Department of Defense, his desire to bring forward this amendment, indeed, I tried to be as cooperative as I could. The amendment is now up, and I am pleased to join my distinguished colleagues in a colloquy on this subject.

First, Mr. President, may I assure those present and others listening that I have been in communication with the White House and the President is well aware of this situation and intends to send forth to the Congress in a very short period of time a report describing in some detail this incident last night and stating the other conclusions that he has with respect to the policy.

That report, Mr. President, would note the existence of the War Powers Act, as did the one in the case of the Libyan participation by our Armed Forces, but it would not in my judgment be pursuant to the War Powers Act, and I think perhaps for a valid reason. I recognize that since the debate on this issue several days ago when Senators of good and clear conscience came forward and voted not at that time to have the Senate invoke the War Powers Act, that is, to put on this bill an amendment which had the effect, should this bill become law, of triggering the War Powers Act. They did so in good conscience and at that time there was a certain factual situation which was discussed freely on both sides of the aisle. Indeed, I think the vote was largely bipartisan. But I acknowledge the facts have changed.

It seems to me that we should provide our President with the opportunity to come forward, as he has done in similar instances, to inform the Congress by way of a written report, and that I can assure my colleagues is being done.

Now, Mr. President, let us go back for a moment because in a sense I am suggesting that we need a little time within which our President can inform the Congress in writing, let us go back and look at the background. Indeed, my distinguished colleague was here and has a knowledge of the background of the War Powers Act. But it was done against the Vietnam experience, done against the experience of this Nation in Korea, and indeed in World War II when we were contemplating major engagements.

The world has changed, and in this particular instance last night, we witnessed an unexpected, a darting out, should we say, of forces with a belligerent intention toward American forces. It is not a clear case that this Nation could be involved in a prolonged confrontation of hostilities. So I think it is important that we look at such a factual distinction in light of the background of this law.

I urge all my colleagues to address, perhaps here in a few moments, my thoughts that the U.N. Security Council at this time is looking at this issue in the Persian Gulf—looking at it, I think, largely because of the steadfast determination of the United States of America to utilize its forces on behalf of peace in that region.

The President committed forces of the United States of America to provide for security of certain elements of shipping in that gulf. That situation has vacillated back and forth, and for a while I think there were hopes raised that maybe Iran and, indeed, Iraq, the two belligerents, recognized that they should slow this conflict down and reflect on the actions of the United States. Then, unfortunately, another hostile act took place in the Gulf of Oman, the sinking of a ship. That crisis brought our allies into this situation. The President of the United States had continuously urged our allies to take a more active role. The United Kingdom has had forces in the Persian Gulf for many, many years, indeed, preceding the U.S. presence. Likewise, the French have had forces there. They were there at the time of the tragic strike on the U.S.S. *Stark*. Since that time, they have increased their military presence in the area. So we now see other allies besides the United Kingdom and France coming in. We have seen increased participation by the gulf states, perhaps not in a formal sense, but we all know from the briefings—indeed, we had a briefing not more than a few hours ago of Senators by representatives from the Joint Chiefs of Staff, so this body is being given the opportunity to keep informed, Mr. President—that the gulf states are taking a more active role in trying to support not just the U.S. forces but, indeed, the allies and other friendly nations that are responding to the call to bring peace.

If you look at the composite of the Security Council action, the participation by our allies, and the participation by the gulf states, it seems that there is a very decisive atmosphere that hopefully will be conducive to the two belligerents—not just Iran but both belligerents—to begin to face reality and cease these hostilities.

Recognizing those situations, recognizing that our President is contemplating sending a report to the Congress, I wonder if the proponents of this amendment would consider a reasonable period of time—I am not asking for it formally but just generally speaking—within which to allow some good, hard, sober reflection on this situation by the President, by our allies, by the gulf states, and by the U.N. Security Council.

I am not certain just what that reasonable period of time might be, but when we address this measure again—I understand from the majority leader we have other pressing items of business before the Senate tomorrow, but we will return to this measure and under the unanimous consent request the proponents of this amendment will be recognized and thereafter the majority leader—it is my hope that within that short period of time we can reflect on the situation and perhaps devise some means by which to accommodate interests other than the United States that are actively involved in that gulf situation with their young men and, indeed, in some instances women of their armed forces assuming risks just as are our forces.

So, I think Congress should reflect, before we dart out, acting unilaterally, and give recognition to the participation of many, many others working in concert to achieve a more peaceful situation in the gulf.

Mr. WEICKER. Mr. President, to respond to the very articulate comments of my friend from Virginia, and they were articulate, first let me express pleasure at the news that we are going to hear from the President. At least there is some movement, for whatever reason.

I am sure the movement started with the amendment of the distinguished Senator from Oregon last week, and I am delighted to hear there is further movement now.

So I welcome those remarks. Without in any way being disparaging—because I think the distinguished Senator from Virginia knows the personal affection which I hold, and I might add the professional affection which I hold for him—aside from these remarks, the rest of the remarks had nothing to do with the amendment that I have before the Senate. It was a very good recapitulation of what has transpired in the gulf.

But I made the point during my presentation that that was not the argument before the Senate, whether we should be there, how long, what forces, and with what allies. It was merely as to whether or not the requirements had been fulfilled in defining the word "hostilities" in the law of the land.

All I am saying to my distinguished colleague from Virginia is that up to this point, and as has been eloquently stated by Senator HEFLIN, we just have chosen to ignore reality. Let me cite.

My good friend from Oregon cited a little piece of history about his earlier political days. Do you know what this reminds me of, Senator? I was a member of the Connecticut State Legislature for 6 years. By law the State legislature has to adjourn on a particular day at 11:59, in other words p.m.; when the clock strikes 12, that is it, you are out.

Do you know what they used to do? They used to turn the clock back a half an hour and some guy used to hang on to it in some fashion so the clock would not go ahead and move.

That may be all right when it comes to some of the tactics of the State legislature. But it certainly does not befit this body or the Government of the United States, and certainly not when dealing with a matter of such seriousness, a matter of life and death.

It was not 11:30. It was past midnight in that State legislature. It is past midnight on this issue demanding a response by the Senate of the United States. Then we can get into the debate, as I said before, and as has been well phrased by the distinguished Senator from Virginia, as to the merits of our presence and what our policies should be.

I do not intend, in other words, to get into that trap because that can blind you to what our mission is now. What our mission is now—and I repeat and I am through for the evening—is we are setting precedent in the definition of the word "hostility." And in defining that word, we set precedent for all future generations as to what it is this Nation and its leadership, the President and the Congress, can or cannot do. That is the narrow issue which we have to decide.

I hope that in that decision no partisanship or philosophy enters in—merely simple, straightforward, common sense, and intelligence.

Time? My good friend from Virginia, we have already gone quite a way down the road from the day that we all opened our newspaper and read there was going to be a new policy of sending some American assistance into the gulf. That has grown to a mighty armada. It is a mighty armada. And I have to say that it is my intention to press this matter, and press it hard. My colleagues may be thrown off center by some sense-of-the-Senate resolution. Maybe they will be. But then they have to take on their shoulders the burden that attaches, that is as a result of our avoidance or our self-imposed blindness to the law. We as much as any other adversary are responsible for the lives of our neighbors.

Mr. WARNER addressed the Chair.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am happy to yield the floor after just a comment.

Mr. President, it is fortunate that this debate takes place among very good, close, personal, professional friends. I think we are, in a nearly dispassionate way, looking at a very difficult situation. I recognize it is the law of the land. We can all cite instances in which this body has looked the other way from time to time. And if I may reminisce for a moment, I remember in that seat right there, Harry F. Byrd, Jr., sat for many years, the senior Senator from Virginia, a man that we all respect in many ways, particularly for his knowledge of the fiscal policies of the United States, and his concern, the deep concern, about the direction in which our Nation was moving with the deficit. Each year he would put on the books a simple amendment, not more than three or four lines, which said that the United States of America cannot expend a sum of money greater than the sum it takes in through primarily taxes and other sources.

Each year he would make a famous speech back here on the floor of the Senate. He would get up and read his amendment as we would sit around, and I was part of it, and the distinguished ranking member of the Appropriations Committee, prior thereto the chairman of the Appropriations Committee, had no other alternative facing the dilemma of shutting down the Federal Government, the dilemma of bills, the dilemma to fund the securities, and the forces of the United States than to watch that law be violated.

So much for my story about what this body does when faced with the reality. But we all remember that chapter, and then many other chapters. But I come back to the touching comment and indeed having had the privilege of serving in uniform for my country on two occasions, I, too, am deeply concerned about the safety of the men and women of the Armed Forces, the safety of the men and women of the Armed Forces of other nations, and the safety of the people that live in the gulf region. There is no limit to the compassion that every one of us have for those individuals.

But we recognize this is not a perfect world; far from it—an imperfect world—and we are faced with an imperfect situation, one in which we have never had before in my recollection of the history of this country. We are doing the very best we can.

As a matter of fact, the other night some of us had dinner with Mr. Shevardnadze, the Foreign Minister of the Soviet Union. I asked him the question. "Look, this situation is intolerable to the United States, the Soviet Union, and indeed the free world." And he rather acknowledged that. He said, you know, this is the opportunity for the Security Council to regain much of the ground it has lost in the esteem of the world, and to stand up and be counted as it was envisioned at the time that Council was created under the United Nations Charter, and to let them step in. That is the forum in which the United States and the Soviet Union should work to try to resolve the situation.

My concern is if the Congress were to trigger the War Powers Act at the very time that the Security Council is addressing this issue, it would give an option to those who do not want to face up to the need to make a tough decision on embargo of arms and simply postpone it, and say, "Well, let us wait until the outcome of the congressional debate on the War Powers Act because it may well be that the President of the United States, represented at this Security Council by General Vernon Walters, now our Ambassador there, will lack the authority so that the United States would not be able to come in there with its Armed Forces and fulfill its commitment. It would not have the ability to bolster the policies of France, Great Britain, and other nations to come in there with the elements of their Armed Forces to try to show this coalition of countries on an informal basis to bring peace."

That is my concern. Therefore, I share with the Senators the concern of the fate of our people and other people there. But I do not know of a quick option to solve this. I am not certain that if we got in here and started a debate and held this Chamber in continuous session, we could come out with a policy that would be any better than the policy now being followed by the President.

So I appreciate the recognition by my colleagues of the uniqueness of this situation.

The President will be forwarding a report, not technically in accordance with the War Powers Act, but as he has done before and as other Presidents have done.

This is not a partisan issue. We all know that Presidents, both Democrat and Republican, have seen fit not to invoke the War Powers Act.

I recognize the right of my colleagues to bring this up. I think they have done so fairly and as dispassionately as they can. Let us hope that in the next several days we can see a way to resolve this issue in a course of action that will not disrupt the U.N. Security Council, that will not send a frightening signal to the GCC. Mind you, they are in a locked situation. If we were to pull out, Iran would devour them in a short time. Let us not disturb our allies and indicate that the United States is committed in any manner with less sincerity than those allies and other friends who are participating in the gulf.

I thank my good friends for according me the courtesy of listening to my viewpoints on this very difficult issue.

Mr. HATFIELD. Mr. President, I appreciate the concern the Senator from Virginia has expressed. We are not trying to put the President under extraordinary or unnecessary pressure as he pursues a policy which the Senator from Virginia perceives as possibly leading to some kind of resolution through the United Nations. In no way does the amendment that the Senator from Connecticut and I have presented do that. There is no pushing the President into premature actions or shifts or changes of policy. This is not a push or pull question.

The War Powers Act very carefully states, with all due consideration having been given to the role of the President to repel any imminent danger on behalf of national security, what Thomas Jefferson had to establish with the President in the North African pirate case. He establishes a principle that goes right through our history. Very carefully, this War Powers Act provided for that extraordinary circumstance.

When he introduces troops or military force, the President is required under the War Powers Act to notify Congress in 48 hours. In no way does the act say that it was other than a notification—it was not any kind of blueprint policy for action, no guarantee of a result. It was a notification.

Mr. President, after that notification, it says that the President has 60 days to communicate or to assess the situation, to make a judgment, to make an evaluation, to provide opportunity for negotiations. And then a 30 day extension on the 60 days.

If we invoked the War Powers Act tonight, the President of the United States would have 90 days, through a partnership relation established by this law, to pursue a policy that he has established and to prove that policy.

Mr. President, let us assume that at the end of that 90 days Congress is forced to make a decision, let us assume that in that choice we authorize the continuation of the policy. There is no abrupt ending of that policy at the end of 90 days. If the President's policy is justified, if it is policy that can be supported, Congress can then authorize the extension of his policy or our policy.

I say to the Senator from Virginia that there is no cut and run. There is no premature decisionmaking or policy shift that has to occur under the War Powers Act.

Mr. President, I have always appreciated the straightforward manner of the Senator from Virginia. He is a man who is without guile. I have seen him under pressure in different circumstances, in different issues and debates, and have always had complete trust and a belief in his purpose and in the role he plays. I think tonight he demonstrated those qualities again.

He spoke of the former Senator from Virginia in an example of how this body has ignored the law, and there is no question about it. We have done it probably more in the budgetary and appropriations process than any other process in this body.

However, I think that when you are dealing with a matter of war and peace it is a different issue. Remember Vietnam? We were dealing with something that is so recent in our history, a war in which this body felt we had been somehow lured or suckered in, or that we had been given too little information, and all of a sudden we awakened to the fact that we were in the midst of a war from which we could not extricate ourselves. We resolved in this body to never let those circumstances happen again.

In part, we were responding to the American public's demand that Congress take its role under the Constitution. The Constitution provided us with a war-making as well as a war-declaring role—something more than the appropriation of money to carry out the war. We therefore set forth the War Powers Act. That is all the Senator from Connecticut and I and others are asking this body to do—to let it operate or to initiate its operation if ignored, as it has been, by the President.

It is still our joint responsibility to make that act work, not just the President's. If the President chooses to ignore it, so be it. But that does not justify our ignoring the law and not taking such steps as this amendment would to trigger us to respect the law of the land. We must put ourselves into full partnership—the Congress of the United States with the Chief Executive of this country in a policy that could, in effect, lead us and get us into war. We must take responsibility for it.

I do not feel that we are impinging upon the prerogatives of the President. I join the Senator from Virginia in saying that I have resisted many times on this floor—and he can look at the record of my votes—when I felt there was an impingement upon the Chief Executive's constitutional role to conduct foreign relations. The only time I have ever supported the action of this body that had any kind of objective of somehow defining the conduct of foreign relations has been purely at the appropriation level, that "no funds herein appropriated," and that is the legitimate approach, rather than trying to do it as an authorization or a deauthorization or a circumvention of the President's basic constitutional rights. But I do not believe this amendment does that, I say to the Senator, it does not circumvent his rights. It simply underscores ours.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague for his comments of a personal nature. Those things are long remembered by those of us in this body who labor through the night sometimes.

However, there is a question, and I do not do this in the sense of trying to attack the Senator. I do it simply to try to inform myself and others who are following this as to precisely what the intent of the amendment was and whether or not that intent is consistent with what I think it does.

As I understand the amendment—and as I read the law—for example, the amendment reads:

> Therefore, the Congress declares that the report described in section 4(a)(1) of the War Powers Resolution is required to be submitted to the Congress by the President pursuant to such section not later than 48 hours after the attack referred to in subsection (a)(2) of this section.

To review quickly a hypothetical process here, suppose the Senate did vote this amendment that cannot be tomorrow but possibly on Thursday. Then this bill, the pending DOD bill, is probably going to be considered by this body, that is other portions of the bill, for some several days.

Hypothetically, let us say the bill was finished next Wednesday.

Now that is roughly the latter part of September. Just how quickly the House and the Senate can go to a conference is indeterminate, but let us say within a period of 3 weeks a conference has been held, the House and the Senate resolves such differences as they may have and then this amendment remains in and we send a bill to the President. That would occur the third week in October.

The President then has a period of time under the law during which he can consider it. I think he happens to be of a mind to veto the bill now for reasons other than this one, although this amendment I am sure would have the result of his considering a veto, and I do not say that facetiously. But right now the Levin-Nunn amendment is something that the President, and I support the President in his conclusion, cannot accept.

Let us assume hypothetically that the bill is not vetoed and that this then became a part of the law that became effective November 1.

Now, as I read the amendment, would it have the effect of saying that Congress would then begin a debate after the report is filed? When does this 60-day period begin? Or is the drafting of the amendment such that it is retroactive and the 60 days will have expired as a consequence of the legislative process taking place on this particular pending measure to which it is attached?

Mr. WEICKER. I would respond to my good friend from Virginia that obviously the amendment does not take effect until the bill is enacted into law. That is just plain common sense, the same common sense that tells me what hostilities are.

Mr. WARNER. Mr. President, I know that, I realize that.

Mr. WEICKER. In response to the Senator, the Senator can say, well, you know, we do not know what is going to happen, but at least we would have discharged our obligations. We can do no more than that.

What my objection is is that we do not discharge our obligation within the constitutional process, and for those who say that is going to take a long time, believe me that is a short time compared to the months and to the years that these matters drag out as has been correctly historically stated by the distinguished Senator from Oregon.

So my answer to the distinguished Senator from Virginia is I can only be held accountable for that which is my responsibility when the moment comes for me to discharge my responsibility. As to when it takes effect, that depends obviously on the passage through the remainder of the constitutional process.

Mr. WARNER. Let me pause once again to ask if this amendment then becomes law on November 1 but the Senator put in the triggering mechanism that the President had to file a report 48 hours after the attack referred to in subsection A(2) of this section. The attack occurred within the past 24 hours, so when——

Mr. WEICKER. If the distinguished Senator wants me to say it on the floor I will. The President is in violation of the law right now.

Mr. WARNER. I understand that assertion. I am just trying to clarify the provision of the amendment. When is that report to be filed?

Mr. WEICKER. The language used in the amendment is the language of the law, the war powers resolution.

Mr. WARNER. So when, in the Senator's judgment, should that report be filed under this amendment?

Mr. WEICKER. That report should have been filed promptly under a reasonable definition of hostilities when our first ships went into the gulf. I am saying in any event that report has to be filed 48 hours from the actual occurrence of the hostility.

Mr. WARNER. I acknowledge that. That is the way the law reads. The Senator has recited the law, but I am trying to determine whether or not the amendment has the effect, if this amendment becomes law on November 1, of being of a retroactive nature. That is the question.

Mr. WEICKER. No. It requires of the President that which the law requires. I cannot do any more in this position than to try to see the law fulfilled. The President has already disregarded it. I choose not giving any opportunity to disregard.

Mr. WARNER. We can further debate the interpretation of the amendment.

I conclude my remarks tonight by simply saying that were the Senate to vote affirmatively for this amendment here in the next 48 to 72 hours, whatever the case may be, depending on the Legislative Calendar, we may be triggering an arbitrary period of time to report, depending on the action of this bill, the interpretation of the amendment, and the time that action is described by the press, and I am not suggesting the press will necessarily be in error. They will be accurate as to what this body did, but the interpretation of that announcement as it rolls over the ocean will read in the gulf newspapers "Congress Invokes the War Powers Act."

Mr. WEICKER. That is correct.

Mr. WARNER. When in fact it would not be invoked, as I read the amendment, until November 1, using that date as to when this might be signed into law.

So immediately the whole gulf situation goes into a question of uncertainty because it appears to the residents of that area that the War Powers Act has been invoked. We run a risk, and a risk that I say to the Senator is high-stakes poker, in view of the participation of our allies, participation by the Gulf States, the participation by the Security Council, to try to work in some combination of law and order in bringing this to an end.

Mr. WEICKER. To my distinguished colleague I will make my final comment, I think his comments are certainly direct in good measure; however, it is not the United Nations that is charged with the responsibility of lives and resources of people of America. It is the U.S. Senate, the House, and the President. It is not the Supreme Court in this matter. It is the President, and the Senate and the House. It is toward the discharge of that responsibility that this amendment is before the Chamber. I hope that there will be the courage from this Chamber to face up to the responsibilities placed upon us by law rather than trying to shuttle them off to some other political institution.

I yield the floor.

DOD PURCHASE OF TYPEWRITERS MANUFACTURED IN WARSAW PACT STATES

● Mr. D'AMATO. Mr. President, last Thursday, the Senate adopted an amendment proposed by my friend, the distinguished senior Senator from Illinois. This amendment, Senate Amendment No. 687, was approved by rollcall vote No. 249 by a vote of yea 53, nay 41. I voted nay.

I voted against his amendment because, if it is signed into law, it would repeal an amendment I sponsored. My amendment, which was first enacted into law in 1981, prohibits expenditure of appropriated funds for the purchase of manual typewriters manufactured in any Warsaw pact state.

In Public Law 99-500, my amendment is section 9039, which reads as follows:

> None of the funds available to the Department of Defense shall be available for the procurement of manual typewriters which were manufactured by facilities located within states which are signatories to the Warsaw Pact.

This section has been a general provision in every Defense appropriation bill since 1981.

I authored that amendment for national security reasons, reasons which remain valid today. I will defend my position when we consider the Defense appropriations bill for fiscal year 1988 later in this session.

In Poor Richard's Almanac, in June 1758, Benjamin Franklin wrote:

> For want of a nail a shoe was lost, for want of a shoe a horse was lost, and for want of a horse the rider was lost; being overtaken and slain by the enemy, all for want of care about a horse-shoe nail.

Since last week was the bicentennial week of the signing of the U.S. Constitution, it is appropriate for us to take to heart the wisdom of its oldest signer.

Where the Defense Department purchases its manual typewriters occupies much the same prominence in our concerns today as horseshoe nails occupied in the Founding Fathers' concerns. However, as Franklin's proverb was intended to demonstrate, negligence about seemingly small details can cost lives and battles in war.

Warsaw Pact-made manual typewriters on a clerk's desk in the Pentagon don't directly threaten our national security. However, Warsaw Pact-made manual typewriters in a parachute battalion's tactical operations center—its combat headquarters—very well might be the modern equivalent of Ben Franklin's horseshoe nail.

I know that many of my colleagues have had the privilege of visiting U.S. military units in the field. These visits normally include a stop at the unit's command post.

If you stand in the middle of a battalion or brigade tactical operations center and look at the typewriters on the desks of the headquarters personnel, you will notice that they are all manual typewriters. This is so because electric power is not always available in the field and these units need their typewriters.

Our Armed Forces—for whatever reason—have an insatiable appetite for paperwork. The logistics, transportation, and personnel systems which support our armed services live on paperwork—on properly, legibly completed forms.

Accurate, timely written communications are essential to the operation of our combat forces, and these manual typewriters are essential to our ability to communicate legibly in writing. In important ways, they are just as vital as rifles.

To win, we must "get there furstest with the mostest," as Nathan Bedford Forrest, a famous Confederate general, reportedly said. In simple words, this means getting our combat units to the right place at the right time, and being able to support them in combat until they are victorious. Having our supply, personnel, and transportation documents completed on Warsaw Pact typewriters does not strike me as the best way to do this.

I ask my colleagues, would we buy our rifles from a Warsaw Pact manufacturer? This measure makes just about as much sense as a proposal to buy our soldiers' rifles from them.

I do not believe it is wise for us to purchase these typewriters from factories located in states that are members of a hostile alliance. What happens if tensions should rise and these factories suddenly stop shipping repair parts to us?

How long would it take to replace these typewriters with typewriters which are manufactured outside the Warsaw Pact, or to reverse engineer these machines and develop a domestic source for them and their spare parts?

The senior Senator from Illinois argued, and here I quote from page S12254 of September 17th's CONGRESSIONAL RECORD, that

> . . . National security will not be affected by the potential purchase of Polish typewriters. The Predom typewriter is licensed for production to Poland by a Swedish company. Consequently, parts for the typewrites are available from Sweden, West Germany, and Switzerland. Also, parts to cover any contingency are stocked by the American distributor. In the event of war, typewriters already purchased by DOD will be easily serviced.

In case my colleagues overlooked this point during last Thursday's debate, let me point out that all of the countries mentioned as sources for spare parts are in the middle of the European theater of war, in the zone most likely to be affected first by a Warsaw Pact attack on NATO. In contrast, Brazilian sources of supply and the lines of transportation between Brazil and the United States are unlikely to be interdicted in even a major, protracted conventional conflict.

There is serious question, in the event of a major conventional war between NATO and the Warsaw Pact, whether we would be able to freely purchase and transport parts from factories in Sweden, Switzerland, and West Germany. There is, in fact, room for doubt about whether the factories making these parts would still exist after several weeks of war. We might even have to ask Soviet occupation authorities for permission to deal with these factories if they remained in production.

No. U.S. distributor will maintain at no cost to the Government a large enough stock of spare parts to support these Predom typewriters for the duration of a war lasting longer than a year. Either the Government will have to purchase and store this stock of spare parts itself, or require the distributor to maintain such a stock as part of the procurement contract, and pay for it.

The cost savings my colleagues asserted this amendment would achieve may not be real after all—if we take a prudent course of action and prepare to sustain our forces for more than a 90-day war. Otherwise, we are trading the attractive promise of cost savings for a hidden increase in risk to our forces. Since the increased risk can't be readily quantified, but the cost savings can, it appears that the taxpayer is getting a good deal. This is a false economy—saving pennies now, that may have to be redeemed in the blood of our soldiers later.

It is true that military forms can be filled out by hand. Unfortunately, as most of us know from personal experience, the average person's handwriting is not legible. When a unit is locked in battle and it needs ammunition, food, fuel, spare parts, or replacements, its survival must not depend upon a clerk's ability to decipher correctly hastily scrawled messages.

I drafted my original amendment to correct an outrageous situation. East Germany—the German Democratic Republic—was dumping manual typewriters on the United States market at prices far under its cost of production. This activity harmed no U.S. firms, because no manual typewriters are manufactured in this country. The General Services Administration was procuring manual typewriters in huge numbers for the entire U.S. Government, and the Defense Department was filling its needs from these GSA procurements.

As a result, many United States military units equipped with manual typewriters received new East German typewriters from the United States supply system. The other major Western nation which manufactures manual typewriters, Brazil, wanted to compete for these GSA procurements but was priced out of the market. I found this situation unacceptable. While I was unable to address the GSA's procurement activities, I was able to correct the problem within the Department of Defense.

The distinguished senior Senator from Illinois quoted a letter to him from Robert B. Costello, the Assistant Secretary of Defense for Production and Logistics, to the effect that "the Department of Defense 'views the continuance of the restriction'—on Warsaw Pact typewriters—'as a matter of congressional discretion.'" While the Department may have registered no opposition to the Dixon amendment, in this year's defense budget submission, it requested neither repeal nor amendment of my provision, which has been in force since 1982.

The Dixon amendment allows expenditure of Defense Department procurement funds to purchase manual typewriters if one or more component of these typewriters is manufactured in a Warsaw Pact state, only if that state "has a most favored nation trading status with the United States." At this time, only three Warsaw Pact states meet this requirement—Hungary, Romania, and Poland.

As my colleagues know, the Senate has voted, in an amendment to the trade bill which is still in conference, to suspend for 6 months Romania's most-favored-nation trade status. If that provision survives conference, Poland and Hungary are the only pact states which will have this status once the trade bill is signed into law.

If the Romanian MFN provision does not survive conference, or if the President vetoes the trade bill and his veto is sustained, this amendment will allow Romania to bid upon and win Defense Department procurement contracts. As a Senator who voted to suspend Romania's MFN status, I believe this is a major flaw in the proposed amendment, one of sufficient magnitude all by itself to justify the defeat of the amendment.

Since the President has let it be known that he strongly opposes several of the provisions in the trade bill and would likely veto the bill if these provisions remain in the final version, Romania could well be eligible to compete for these procurements. This is an entirely unacceptable result.

There is nothing good to be said about this amendment. Arguments that it will save money in the defense budget are shortsighted in the extreme. Any money we save now we may have to repay later with the lives of our soldiers. This is the worst sort of defense economy.

I strongly oppose this amendment. It should have been defeated. Since it has passed, I will work to ensure that it does not survive conference. If it should be signed into law, I will fight to ensure that my amendment remains a part of our defense appropriations bill, so that as the last expression of the will of Congress, it will bar the operation of this amendment.

In closing, I say to my colleagues that this amendment should not have passed. If appears innocuous, but I assure you that it is not. Before the Senate again addresses this issue, I will be prepared to make a more detailed presentation setting forth specifics concerning its negative effects. Yesterday's action, you may rest assured, is not the last word on this issue.●

MICHAEL P. METCALF AN UNTIMELY DEATH

Mr. PELL. Mr. President, I rise to share with my colleagues in the Senate the news of the untimely death of Michael Pierce Metcalf, chairman and chief executive officer of the Providence Journal Co. and publisher of Rhode Island's only statewide newspaper—the Journal-Bulletin.

Under the guidance of Michael Metcalf since 1979 both the newspapers and the parent company have made rapid and effective use of modern technology. Under his leadership, the Providence Journal and the Evening Bulletin moved into advanced production techniques.

World news now is gathered on satellite dishes and the newspapers are written and edited with the help of the latest computers. Michael Metcalf, by a tragic irony, died on the day the newspapers proudly unveiled his latest initiative, a new, state-of-the-art flexographic production plant in Providence.

Rhode Island will miss his vision and his commitment to charting a new and bold course for the Providence Journal Co. I know that I speak for all Rhode Islanders when I express my deepest sympathy to his wife and family.

Mr. President, I ask unanimous consent that an article about Michael P. Metcalf from the Providence Journal of September 21, 1987 and an editorial about his works from the Providence Journal of September 22, 1987 be reprinted in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MICHAEL P. METCALF, PUBLISHER OF JOURNAL, DIES AT 54 FROM INJURIES

Michael P. Metcalf, 54, the chairman and chief executive officer of the Providence Journal Co. and the publisher of the Providence Journal and Evening Bulletin, died last night in St. Anne's Hospital, Fall River, Mass., of head injuries suffered Sunday, Sept. 13, in a bicycling accident near his summer home in Westport, Mass. He was the husband of the former Charlotte I. Saville.

Descendant of a family that has been a dominant force in the newspaper company since before the turn of the century, Mr. Metcalf broadened the company into a successful operation with substantial interests throughout the country in cable television, broadcasting and telecommunications.

But despite the company's far-flung interests, Mr. Metcalf remained focused on his primary role as publisher of the three newspapers, the Providence Journal, the Evening Bulletin and the Sunday Journal.

He guided the development of the $60 million production plant on Kinsley Avenue that features a new newspaper printing process known as flexography, which has drawn industry-wide attention.

The plant opened officially on Sept. 13. But even as employees in brightly colored shirts and blouses prepared to greet guests, Mr. Metcalf was undergoing surgery at St. Anne's Hospital.

Receptions planned throughout that week at the new plant were held as scheduled because company officials believed that would have been Mr. Metcalf's wish.

SHUNNED THE LIMELIGHT

Acquaintances and colleagues frequently described Mr. Metcalf as shy, reserved and reticent, a man who often shunned the limelight in a job that sometimes forced it upon him.

But, they said, he was always willing to take a forceful stand when the moment required it.

When Chief U.S. District Judge Francis J. Boyle issued a court order forbidding the newspaper to publish certain information about Raymond J. "Junior" Patriarca, reputed head of organized crime in New England, the newspaper published a story containing that information. Mr. Metcalf defended the newspaper's action this way:

"We viewed our action as the exercise of the fundamental right to free speech, a right which we felt sincerely was being enjoined unconstitutionally by the judge's order."

The newspaper and its executive editor, Charles McCorkle Hauser, were held in contempt but that finding was overturned on appeal.

SHAPED EDITORIAL POLICY

"He took his duties as publisher very seriously," said Stephen Hamblett, Journal Company president and assistant publisher.

Mr. Metcalf's views shaped a largely conservative editorial page that stresses fiscal responsibility at all levels of government, a strong national defense and the effectiveness of the market economy, and expresses reservations about unduly expansive social programs, while remaining sympathetic to peoples' needs.

The editorials also champion access to public meetings, press freedom, the economic development of Rhode Island and preservation of open spaces and the environment.

The news pages of the paper seemed to reflect their publisher's personality. They were not showy or flamboyant. Mr. Metcalf preferred them full of "Hard" news. When they strayed too far into "soft" features, he was apt to counsel caution.

One of the publisher's interest was in improving the community without fanfare.

"He was involved in the community, but in a very low-profile way," Hamblett said.

INITIATED SYMPOSIUMS

When the newspaper was celebrating its 150th anniversary, Mr. Metcalf and other company officials approached Brown University president Howard R. Swearer and proposed co-sponsoring annual symposiums at which nationally recognized experts would join the public in discussing complex and pressing issues of the decade.

Mr. Metcalf participated annually in the planning, Swearer said, and in the selection of topics, such as the revitalization of cities, crime in American and ethical issues in medicine that were important both locally and nationally.

Last year the Journal-Bulletin and the University of Rhode Island Graduate School of Oceanography co-sponsored a one-day symposium on the Future of the Ocean.

Under Mr. Metcalf, the company began investing in downtown Providence.

The Journal's investments in the Biltmore Hotel, now the Omni Biltmore, and the Providence Performing Arts Center were not primarily calculated to make money. Rather, they were Mr. Metcalf's investment in preserving downtown Providence, a commitment that led the company to maintain its headquarters at 75 Fountain St. when others were deserting the city for the suburbs, and later to construct its new printing plant on the fringe of downtown.

MONITORED NEW TECHNOLOGIES

As an entrepreneur, Mr. Metcalf was constantly on the lookout for new opportunities arising from rapidly evolving communications technology.

In recent years this had led to investments in cable television, cellular telephones, electronic data bases and satellite transmission of color separations for advertising purposes.

Journal-Bulletin reporters began typing their stories on video display terminals in 1975, using the most advanced electronic editing systems available at the time. Since then, the system has been steadily upgraded as the technology developed.

The new production plant with its pioneering process was another illustration of Mr. Metcalf's intense curiosity about science and technology and his fascination with high-quality printing techniques. One acquaintance called him "a good printer."

Mr. Metcalf, a Harvard University graduate who later earned a master's degree in business administration at Stanford, joined the Providence Journal Co. in 1962.

Previously, he worked summers in various Journal departments and once, while in the circulation department, drove to Newport with copies of a special edition and sold them on the streets.

Mr. Metcalf was born in Providence on Sept. 1, 1933. After completing his education—which formally began at Providence Country Day School—he served from 1955 to 1957 as a Navy officer, with stints in Newport and the Mediterranean.

REPORTING EXPERIENCE

From 1958 to 1960 he worked as a reporter for the Charlotte (N.C.) Observer. He spent the next two years, before joining the Journal Company, as an advertising salesman for the Philadelphia Bulletin.

He joined the Journal Company in 1962 in the advertising department, and in 1963 moved to the administrative offices as assistant to the president, then John C.A. Watkins.

He was elected executive vice president of the company in 1971, and in 1974 succeeded Watkins as president. He later succeeded Watkins in two other capacities, in 1979 as publisher and in 1985 as chairman of the board.

Under Watkins and later under Mr. Metcalf as chief executive officer, the complexion of the Providence Journal Co. changed dramatically with a number of acquisitions and sales.

MEDIA INVESTMENT

In 1978, the company's Providence Journal Broadcasting Corp. subsidiary acquired its first television station, WPHL-TV in Philadelphia, an independent broadcasting outlet that aired the Philadelphia 76ers National Basketball Association games. The sale of that station, to an investor group headed by Cincinnati broadcasting executive Dudley S. Taft, is at present awaiting Federal Communications Commission approval.

The company acquired independent television stations KMSB in Tucson, Ariz., and KGSW in Albuquerque, N.M., in 1984 and station WHAS in Louisville, Ky., the CBS outlet in that market, in the following year. In April 1985, two long-time Journal Company holdings—radio stations WEAN and WPJB-FM—were sold to Eastern Broadcasting Co.

The Journal Company entered the radio common carrier business in 1983, when another subsidiary, Providence Journal Telecommunications, acquired a 50 percent interest in Communications Properties, which has more than 50,000 paging-system subscribers in North Carolina, South Carolina, Georgia and Tennessee. In 1984 it acquired the assets of Travel Phone, a radio-paging company based in Warwick now known as MetroNet. The company expanded into the cellular telephone, acquiring Carolina MetroNet in Raleigh, N.C., and Tulsa Cellular Telephone in Tulsa, Okla.

Colony Communications, a subsidiary formed in 1969 to develop cable TV systems, began with a system serving Westerly; by the end of 1986 it had about 221,000 subscribers in 50 communities in five states. In a joint venture with Copley Newspapers, Colony also serves 34,000 subscribers in several California communities.

The Journal Company in 1986 sold its Providence Gravure printing operation—which included plants in Providence, Dallas, Tex., Richmond, Va., Mt. Morris, Ill., and Cary, N.C.—to British Printing & Communications Corp.

SPOKE TO THE POINT

Mr. Metcalf, who maintained a home on Providence's East Side and 1,400-acre farm in Exeter, as well as his summer home in Westport Harbor, was an intensely private person. Public glimpses of his personal philosophy were rare; such disclosures were terse—but to the point.

In one of the early annual symposiums cosponsored with Brown, Fred W. Friendly, a former president of CBS News, was moderating a panel on nuclear energy that was discussing whether the press had adequately informed the American public in the 1950s and 1960s of the potential dangers of radiation.

The Journal-Bulletin, Mr. Metcalf commented matter-of-factly, had given the issue "more thought than any other newspaper our size in the country." Emphasizing the separation of editorial opinion and reporting, he added that the newspaper's editorials had given "very heavy support on the side of nuclear power, with the obvious reservation that it is not an ideal answer."

In the same symposium, he was asked what the Journal Company newspapers would do if a corporation owner warned that printing a story would mean the loss of thousands of jobs. "Would you print?" Friendly asked.

"Yes," Mr. Metcalf replied.

"Even if it meant 50,000 jobs?"

"That is not the press's job," Mr. Metcalf replied. "The press's job is to print the news—absolutely."

AFFILIATIONS

Mr. Metcalf's paternal grandfather, Stephen O. Metcalf, was elected to the Journal Company's board of directors in 1890 and in 1904 was elected president, a position he held until 1941, when he was succeeded by his son—Michael's father—George Pierce Metcalf. George Metcalf died in 1957.

Michael Metcalf was a member of the boards of directors of Rhode Island Hospital, Trust National Bank, the Newspaper Advertising Bureau, the American Press Institute and the American Newspaper Publishers Association, and was a member of the Brook Club, the Agawam Hunt and the Hope Club.

He was a trustee of Providence Country Day School, the Providence Foundation and the Rhode Island School of Design, and was on the board of directors of the Providence Performing Arts Center.

He had served as a director of the Greater Providence Chamber of Commerce, and was a founder of the Rhode Island Corporation, an investment management firm, and an incorporator of the Greater Providence Foundation.

He also was a partner with Stanley Livingston Jr. in Stillman White Associates, and a member of the board of directors of the Research and Design Institute, an energy conservation study group.

Mr. Metcalf also had served on the boards of directors of the Rhode Island Historical Society, the Rhode Island Tourist-Travel Association and People's Savings Bank.

Besides his wife he leaves a son, Jesse, and two daughters, Hannah and Lucy, all at home, and two sisters, Esther Elise Mauran and Pauline Cabot Metcalf.

Funeral arrangements were incomplete.

MICHAEL P. METCALF

With the untimely death of Michael Pierce Metcalf, these newspapers and the Rhode Island community have lost a valued friend and leader.

Mr. Metcalf was a vigorous and principled man, with a solid sense of tradition, a deep dedication to his community and a keen sense of the possibilities of change. As chairman and chief executive officer of the Providence Journal Co., and as publisher of the Journal-Bulletin since 1979, he brought this company and these newspapers to new levels of excellence. His tragic death on Sunday, resulting from a bicycle accident Sept. 13 near his summer home in Westport, Mass., has left his staff and this community profoundly saddened. His wife Charlotte and his three children, to all of whom he was deeply devoted, have our utmost sympathies.

Like others whose family roots go deep into Rhode Island's past, Mr. Metcalf sought to preserve and enhance the state's lasting values. He was a devoted benefactor of many institutions, particularly the Rhode Island School of Design, which his forebears had founded. He had led this company in establishing close working contacts with Brown University, most especially the annual Providence Journal/Brown University Public Affairs Conferences that began in 1980.

At the Journal-Bulletin, his colleagues knew him best as a farsighted leader who pointed the newspapers toward the future with energy and vision. He was a man alert to whatever was new, one intrigued by the workings of science and technology. Sooner than many of his fellow publishers, he understood what modern technology could mean for the world of communications.

He helped lead the newspapers into advanced production techniques, with world news gathered on satellite dishes and the newspaper written and edited with the help of the latest computers. By a tragic irony, his fatal accident occurred the day the Journal-Bulletin proudly unveiled his boldest initiative: the company's new state-of-the-art flexographic production plant in Providence.

Mr. Metcalf, born into a manufacturing family with strong ties to the newspaper, gave diligent attention to the challenge of putting out a strong publication each day. He was a striver, determined that the Journal-Bulletin lead the way as a force for progress. He was proud of the staff's contributions, supporting its efforts and participating actively in the ways editorial policy was shaped.

But Mr. Metcalf also saw that modern communictions technology held a wider potential. He was instrumental in broadening this company's role as an information provider, expanding its printing plants and developing television and cable television subsidiaries, cellular telephone networks and paging services. By so doing, he strengthened the company's independence and expanded its capacity for community service.

Providence was his home, and he expended care and concern on its well-being. He was among those who led the preservation of the old Loew's Theater, now the Providence Performing Arts Center, and helped bring new life to the Biltmore Hotel. Believing deeply in the city's future, he steeped himself in knowledge of urban planning and design, energized the Downtown Providence Improvement Association and gave enthusiastic backing to the Capital Center Project now reshaping the city's heart. He insisted that the newspaper demand the highest ethical standards of public officials, and let the paper's unremitting campaign to remove the blight of organized crime from this state.

It should also be said that Michael Metcalf was in his heart a devoted environmentalist, with an abiding concern for husbanding Rhode Island's natural heritage. An avid skier and sailor, he loved the outdoors. He was an ardent believer in preserving open spaces wherever feasible. He saw the need to protect the coastline and restore the sparkle to Narragansett Bay. To these causes, as to many others, he saw that the newspaper's resources were applied with dedication.

His colleagues at the Journal-Bulletin had expected that, in the nature of things, Mr. Metcalf would be on the scene to extend his energies and leadership for another 15 years or more. Now, by the caprice of fate, this is not to be. His death at age 54 marks a sad conclusion to one of the most dynamic eras in the communications company he led.

But Mr. Metcalf's passing does not end the many commitments that the newspapers and the Journal Company have made under him and his predecessors—abiding commitments to excellence, to fairness, to independence and to serving the Rhode Island community. The management team he has built shares those values.

Michael Metcalf charted a courageous new course to lead the Providence Journal Co. toward the 21st Century. His colleagues will strive to see that this course is followed. By such effort we can best honor his memory.

HUMAN RIGHTS VITAL FOR PROGRESS IN RELATIONS WITH PEOPLES' REPUBLIC OF CHINA

Mr. PELL. Mr. President, over 2,000 Tibetans, mostly political prisoners, languish in a prison just north of the capital city of Lhasa. Elderly Catholic priests are held in detention for years at China's White Lake Labor Camp and elsewhere. Prisoners of conscience are beaten and whipped in Chinese detention centers in order to extract confessions. These are but a sample of human rights abuses brought out September 17 in testimony before the Senate Foreign Relations Committee—testimony which also demonstrated that while problems remain, the human rights situation inside China has actually improved in recent years.

Too often we focus solely on the positive aspects of the regime in China. I do not wish to denigrate the many political and economic reforms accomplished under the leadership of Deng Xiaoping. Progress in agriculture, particularly the elimination of the commune system and the enlargement of family plots, has been impressive, as has the effort to establish market incentives in Chinese industries. The human rights situation has also improved.

These improvements, however, do not mean that significant problems do not remain, that progress is inevitable, or that regressive policies cannot emanate from the 13th Party Congress scheduled to begin next month. What we are witnessing is a continued struggle between reform-minded Chinese leaders and those who would lead the country backward into a more doctrinaire Socialist state with reduced contacts with the West.

By focusing on the overall political direction of the Peoples' Republic of China, as well as the human rights situation therein, the Foreign Relations Committee was able to recognize publicly the progress that has been made in these areas, while also expressing our concern that the favorable trends of recent years not be reversed.

Some Chinese scholars have labeled this process one of "two steps forward, one step backward." What we would like to see, and what the committee seeks to encourage, is a policy of "two steps forward, two more steps forward."

In making this point we were pleased to have the testimony of six distinguished witnesses: Deputy Assistant Secretary of State Stapleton Roy, Prof. Michael Oksenberg, a member of the National Security Council staff during the Carter administration and now on the faculty of the University of Michigan, Prof. Nicholas Lardy of the University of Washington, Mr. John Avedon, a noted author on Tibet, Mr. John Davies, president of Free the Fathers, and Mr. John Healey, executive director of Amnesty International.

It is my belief that the hearing accomplished its purpose of pointing out some of the problems as well as the progress which has taken place in recent years both in China and in our bilateral relations. I believe that a public airing of this type, far from constituting interference in another nation's internal affairs, is a sign of a maturing relationship in which each side is free to express its concerns.

As Professor Oksenberg stated succinctly:

> The United States has a high stake in the success of China's modernization efforts. How the Chinese leaders rule their people will have a decisive effect upon the success of the economic development program, and opening to the outside world.

I would conclude by stating that we who consider ourselves friends of China want to encourage China to continue its opening to the West, to involve itself ever more fully in dialog with our own Nation, and to respond effectively to the needs and aspirations of its own people.

HIGH RISK, LOW RECOGNITION

Mr. HATCH. Mr. President, our Foreign Service officers are often the subjects of criticism, but they perform tasks of critical importance to this Nation in an international environment of increasingly high risk with a constant low recognition factor. Joseph Verner Reed, who served as our Ambassador to Morocco from 1981 to 1985 and as U.S. Representative to the U.N. Economic and Social Council thereafter and who has been serving as Undersecretary General of the United Nations for Political and General Assembly Affairs since July 1, 1987, placed an article in the Commentary section of the Washington Times on June 29, 1987, which adds the perspective of a participant in foreign affairs at a high level to our view of those in Foreign Service. His article provides us an opportunity to round out our views and understanding, and I submit it as a part of the RECORD for that purpose.

[From the Washington Times, June 29, 1987]

HIGH RISK, LOW RECOGNITION

(By Joseph Reed)

William Palfrey was lost at sea in 1780. Hardy Burton died of yellow fever in 1852. Joseph Granger was murdered in Vietnam in 1965. Phyllis Faraci died in Beirut in 1983.

So goes a long list of diplomatic and consular officers of the United States who lost their lives while on active duty in the U.S. Foreign Service: a group of the brightest, bravest public servants in the world today—the best of the best.

As U.S. strategic, political and economic interests have spanned the globe, our Foreign Service officers have served in increasingly diverse, difficult and even hostile environments. In the first two centuries of the U.S. diplomatic service, 73 American officers lost their lives in the course of duty; in the past two decades alone, 80 more have been added to the list of those killed while serving their country.

The Foreign Services has become a high-risk profession for individuals of enormous intelligences, diplomatic expertise, international experiences and, yes, real heroism. Thus it is ironic that a recent spate of articles in the American press have described a "faded," lackluster Foreign Services beset with problems.

Certainly, the State Department is confronting budgetary constraints which entail serious belt-tightening. However, the Foreign Service I know has not crumbled in the face of fiscal stringency. And certainly, there are the personal travails of those highly qualified individuals who, as in all endeavors, can be unfairly passed by when it comes time for promotion. But in six years of round-the clock contact with the men and women of the Foreign Service, I consistently see qualities of dedication and intelligence which stand in stark contrast to the recent moribund characterizations in the press.

During times when sentiment against "big government" or criticism of administration policies may cast doubt on the value of a career in the Foreign Service, it is doubly important that the high standards of the Foreign Service and the pride and self-respect of its officers be both preserved and praised.

The Foreign Service of the United States is a lean machine. Out of the 15 million civilian government workers in America, only about 4,000 are the Foreign Service officers who make up the core of our diplomatic representation throughout the world.

Despite the generally negative image that government service has acquired in some quarters in the last decade, that small cadre still captures the imagination and ambition of many highly qualified applicants.

Who are these people? Generally, they are young Americans of uncommon patriotism and ambition leavened by a streak of romaniticism and curiosity about the world. You'll see few Yuppies here. These men and women care more for horizons than for stock tickers. Each year, 15,000 to 18,000 young and not-so-young Americans undergo a rigorous examination procedure in hopes of obtaining one of the less than 200 entry-level Foreign Service positions. New entrants' backgrounds are measurably more impressive than in preceding years. For the one person in a hundred who is chosen, the future holds a career—indeed, a way of life—which is substantially different from the "striped pants" stereotype.

U.S. diplomats do on rare occasions still wear a morning suit and sip champagne at posh receptions in exotic foreign capitals. However, if one were to look into a Foreign Service officer's closet, next to the black tie or evening gown would likely hang the bush jacket worn while serving as peace-keeping observer on the Sinai Peninsula or as refugee-assistance officer in Southeast Asia.

Far from home, but far from dispirited, these unique individuals enjoy the rewards of a business that is intrinsically interesting, and they are staying with it as never before. The U.S. Foreign Service's rate of retention is as high as it has ever been.

The Western democracies in general, and the United States in particular, have a duty to themselves and to the world community to maintain that delicate balance between high professional standards and open public criticism which enables public servants to play their indispensable role. But let's give the men and women who have dedicated their lives and careers to the Foreign Service credit where due.

Contrary to the current media picture of dispirited souls moping around the halls of the State Department, these are vividly intelligent people who know exactly what they are about. Call them what you will. But "faded?" Some faded! Witness their expertise, their dedication and, most of all, their loyalty to the national interests of the United States, this all-important task of representing our country and our way of life would be impossible.

It has been said the greatest honor in life is to do a good deed in secret and have it discovered by accident. To that special group called the Foreign Service, whose deeds are rarely discovered and often inadequately rewarded, the honors are many. And for those who lost their lives in this calling, our loss, our debt, is deeply felt.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on September 21, 1987, during the adjournment of the Senate, received a message from the President of the United States, transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on September 21, 1987, are printed in today's RECORD at the end of the Senate proceedings.)

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 67

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Section 657 of the Department of Energy Organization Act (P.L. 95-91; 42 U.S.C. 7267), I hereby transmit the Eighth Annual Report of the Department of Energy.

RONALD REAGAN.

THE WHITE HOUSE, *September 22, 1987.*

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 2:22 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 1163. An act to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses;

H.J. Res. 134. Joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week"; and

H.J. Res. 224. Joint resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week".

The enrolled bill and joint resolutions were subsequently signed by the Vice President.

MEASURES PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 442. An act to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-301. A joint resolution adopted by the Legislature of the State of California to the Committee on Finance.

"ASSEMBLY JOINT RESOLUTION No. 20

"Whereas, The ability of investor-owned energy and water utilities to provide extensions of their dedicated utility services to new residential, agricultural, and business customers within California on an efficient basis is of utmost importance to the continuing growth of the state's dynamic economy; and

"Whereas, The policies of the California Public Utilities Commission encourage new customers to contribute the plant or needed funds to the serving utility for major service extensions, and thereby protect existing ratepayers from assuming the costs of those extensions; and

"Whereas, A key element of providing least-cost utility service extensions was a longstanding provision of federal tax law which allowed payments made by new customers to offset the cost of extending the utility's distribution facilities to be treated as a contribution of capital to the utility, and thus not treated as income to the utility upon which income taxes are owed; and

"Whereas, The Federal Tax Reform Act of 1986 (Public Law 99-514) amended Section 118 and repealed Section 362(c) of the Internal Revenue Code, which allowed for those contributions to be treated as capital, and produced the result that contributions made after December 31, 1986, will be treated as income to the receiving utility, and subject to applicable federal income tax rates; and

"Whereas, The economic impact of this change will be immediate and severe, inasmuch as the overall cost of those contributions will increase by as much as 66 percent during 1987, due to their taxable status, and these increased costs must be borne by either the new customer or the ratepayers of the serving utility; and

"Whereas, This impact will be particularly harmful for regulated water utilities, which are unable to obtain cash for both building needed extensions and paying the newly-imposed tax unless the California Public Utility Commission grants significant rate increases for existing customers; and

"Whereas, This action by the federal government does not appear to satisfy either of the goals of fairness or economic growth upon which the Tax Reform Act of 1986 is grounded; now, therefore, be it

"Resolved that the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to immediately enact legislation to restore the capital status of contributions in investor-owned energy and water utilities as it existed prior to the federal Tax Reform Act of 1986; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the California Public Utilities Commission."

POM-302. A petition from a citizen of Cheektowaga, NY urging the adoption of an amendment to the Constitution requiring a balanced Federal budget; to the Committee on the Judiciary.

POM-303. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on the Judiciary.

"ENROLLED JOINT RESOLUTION 27

"Whereas, the Congress of the United States has submitted to the several states, by action of the house of representatives on September 24, 1789, and by action of the United States Senate on September 15, 1789, a proposed amendment to the constitution of the United States pertaining to the effective date for congressional pay changes, which amendment reads as follows:

"No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.

"Whereas, while the congress of the United States has the power to impose reasonable time limits for the ratification of proposed amendments to the constitution of the United States, and has done so for many of the amendments submitted to the states in recent decades, the congress did not impose any time limit whatsoever on the ratification of the congressional pay change amendment; and

"Whereas, the congressional pay change amendment was validly ratified by the state of Vermont on November 3, 1791, even though Vermont had not been one of the original 13 states to which the proposed amendment had been submitted, and had not yet achieved statehood when the amendment was submitted; and

"Whereas, by the act of congress dated May 29, 1848 (9 U.S. Stats., Ch. L, pp. 233-235), "for the Admission of the State of Wisconsin into the Union", this state was . . . . "admitted into the Union on an equal footing with the original States, in all respects whatever" . . . .; and

"Whereas, almost 26 years following the admission of the state of Wisconsin into the union the state of Ohio, on May 6, 1873, became the 7th state to ratify the congressional pay change amendment. A century later, on March 6, 1978, Wyoming submitted the 8th ratification. Maine ratified on April 27, 1983; Colorado on April 22, 1984. Five states ratified the amendment in 1985: South Dakota in February; New Hampshire on March 7; Arizona on April 3; Tennessee on May 28 and Oklahoma on July 10. Three more ratifications—bringing the total number to 18—were received in February 1986: New Mexico on the 14th; Indiana on the 24th; and Utah on the 25th; and

"Whereas, the people of the sovereign state of Wisconsin, represented in senate and assembly, have studied said proposed addition to the constitution of the United States and it is their consensus that the federal government, three-fourths of the states concurring, be directed to thus alter the constitution of the United States; now, therefore, be it

"Resolved by the assembly, the senate concurring, That the said proposed congressional pay change amendment to the constitution of the United States is hereby ratified by the legislature of the state of Wisconsin; and, be it further

"Resolved, That a duly attested copy of this resolution be immediately transmitted to the president and secretary of the senate of the United States, to the speaker and clerk of the house of representatives of the United States, to the office of the federal register, to the library of congress, to each member of the congressional delegation from this state, to the national conference of state legislatures, to the council of state governments, and to the presiding officer of each house of each state legislature in the United States, attesting the adoption of this joint resolution by the 1987 legislature of the state of Wisconsin."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Special report entitled "Report on the Activities of the Committee on the Judiciary—99th Congress" (Rept. No. 100-163).

By Mr. BIDEN, from the Committee on Foreign Relations, with an amendment:

S. Res. 167: A resolution concerning constitutional principles pertinent to the making of treaties, and further concerning the interpretation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems (with additional views) (Rept. No. 100-164).

By Mr. BYRD, from the Committee on Appropriations, with amendments:

H.R. 2712: A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-165).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER:

S. 1704. A bill to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana; to the Committee on Energy and Natural Resources.

By Mr. HATCH (for himself, Mr. PELL, Mr. SIMON, Ms. MIKULSKI, Mr. QUAYLE, Mr. CHAFEE, Mr. MATSUNAGA, Mr. THURMOND, and Mr. METZENBAUM):

S. 1705. A bill to clarify the distribution of assistance with respect to single parents and single pregnant women under the Carl D. Perkins Vocational Education Act; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 1706. A bill to provide that amounts paid for the acquisition, training, and maintenance of a service animal used for purposes of assisting an individual who is physically disabled shall be treated as medical expenses for purposes of the Internal Revenue Code of 1986; to the Committee on Finance.

By Mr. THURMOND:

S. 1707. A bill for the relief of Frans Nicolaas Mustert; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1708. A bill to provide certain interim measures relating to the Institute of American Indian and Alaska Native Culture and Art Development; to the Select Committee on Indian Affairs.

By Mr. KASTEN:

S. 1709. A bill to amend the Internal Revenue Code of 1986 and the Congressional Budget and Impoundment Control Act of

1974 to improve the tax policy process, provide more accurate information to the Congress and the executive branch, and to provide for improved measurement of tax expenditures; to the Committee on the Budget and the Committee on Government Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee has 30 days of continuous session to report or be discharged.

By Mr. PACKWOOD:

S. 1710. A bill to amend subtitle IV of title 49, United States Code, to increase productivity and competitiveness by reducing regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN (for himself, Mr. Moynihan, Mr. Chafee, Mr. Bradley, Mr. Cranston, Mr. DeConcini, Mr. Durenberger, Mr. Graham, Mr. Inouye, Mr. Matsunaga, Mr. Mitchell, Mr. Reid, Mr. Riegle, and Mr. Stennis):

S. 1711. A bill to amend the Social Security Act to establish a National Commission on Children; to the Committee on Labor and Human Resources.

By Mr. WALLOP:

S.J. RES. 190. Joint resolution to authorize and request the President to issue a proclamation designating June 6-12, 1988 as "National Fishing Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MELCHER:

S. 1704. A bill to authorize the establishment of the Lewis and Clark National Historic Site in the State of Montana; to the Committee on Energy and Natural Resources.

LEWIS AND CLARK NATIONAL HISTORIC SITE

Mr. MELCHER. Mr. President, today I am introducing legislation to authorize the establishment of the Lewis and Clark National Historic Site near Great Falls, MT, where Lewis and Clark portaged 18 miles around the Great Falls of the Missouri River in the summer of 1805.

This legislation is identical to House resolution 1982 introduced in the House of Representatives by Montana Congressman Ron Marlenee. This legislation authorizes the Secretary of the Interior to accept a donation of 50 acres from the State of Montana to establish this site and to construct a visitor center. Passage would also authorize to be appropriated not more than $5 million for the construction of an appropriate visitor center and associated structures and improvements.

The expedition of Lewis and Clark commencing in 1804 was directed by President Jefferson to explore a large part of the Louisiana Purchase and to explore routes to the Pacific coast. In the course of their journey, they passed through the present States of Missouri, Kansas, Iowa, Nebraska, South Dakota, North Dakota, Montana, Idaho, Washington, and Oregon. Altogether, between May 1804 and the return to St. Louis in September 1806, they were to travel in boats, on horses, and on foot some 8,000 miles.

On June, 13, 1805, on their way upstream as they probed for the Continental Divide, Captain Lewis, while exploring what we called the southern fork of the Missouri River in central Monana, made a startling discovery. Let me share that event with you as described in their journal and recorded in the history of the expedition under the command of Captains Lewis and Clark:

> Thursday 13:
>
> . . . . In this direction Captain Lewis had gone about two miles when his ears were saluted with the agreeable sound of a fall of water, and as he advanced a spray which seemed driven by the high southwest wind arose above the plain like a column of smoke and vanished in an instant. Towards this point he directed his steps and the noise increasing as he approached soon became too tremendous to be mistaken for anything but the Great Falls of the Missouri. Having travelled seven miles after first hearing the sound he reached the falls about twelve o'clock; the hills as he approached were difficult of access and two hundred feet high: down these he hurried with impatience and seating himself on some rocks under the centre of the falls, enjoyed the sublime spectacle of this stupendous object which since the creation had been lavishing its magnificence upon the desert unknown to civilization.

Today, the Great Falls of the Missouri is still a sight to behold and, as Captain Lewis observed and contemplated, the Missouri River has a great spectacle that is not expected in an arid area. Passage of this legislation will enable Montanans and our visitors to share this special place and the history of Lewis and Clark as they described their journey, including their portage around the Great Falls of the Missouri.

Mr. President, I ask that my colleagues join with me and support this legislation to authorize the establishment of the Lewis and Clark national historic site.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

(a) Historic Site.—In order to preserve and interpret, for the benefit and inspiration of present and future generations, the historic site where Lewis and Clark portaged around the Great Falls of the Missouri River, the Secretary of the Interior (hereinafter) in this Act referred to as the "Secretary") is authorized to establish the Lewis and Clark National Historic Site (hereinafter in this Act referred to as the "historic site"). The historic site shall be established by the Secretary upon the transfer by the State of Montana to the United States of the lands described in subsection (b) and such additional easements and other rights as the Secretary deems necessary to ensure adequate public access to the historic site.

(b) Map.—The historic site shall consist of the lands granted by the State of Montana, not to exceed 50 acres, and generally depicted on the map entitled "Boundary Map, Proposed Lewis and Clark National Historic Site," numbered and dated , which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. ADMINISTRATION.

(a) In General.—The Secretary shall administer the historic site in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Serivce, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(b) Donations.—Notwithstanding any other provision of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(c) Cooperative Agreements.—In administering the historic site, the Secretary is authorized to enter into cooperative agreements with the State of Montana, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearly law enforcement and firefighting departments or agencies. The Secretary is also authorized to enter into cooperative management agreements for specified areas near or adjacent to the historic site within the Giant Springs State Park as depicted on the boundary map referred to in section 1(b). The Secretary is encouraged to develop, in conjunction with the State of Montana, a cooperative management plan for the entire Giant Springs Park which will enhance the general public's opportunity to use and enjoy the historic site as well as adjoining State lands.

SEC. 3. REVERSION OF LANDS.

Any lands granted to the Secretary by the State of Montana for use in connection with the historic site shall revert to the State of Montana if, at any time, the Secretary uses such lands for any purpose other than any purpose authorized under this Act.

SEC. 4. MISSOURI RIVER WILD AND SCENIC RIVER.

Subsection (g) of section 203 of the Act approved October 12, 1976 (90 Stat. 2327, 2329), is amended as follows:

(1) Strike out "except" in paragraph (1)(G) and insert in lieu thereof "including".

(2) Strike out "National Park Service" in paragraph (2) and insert in lieu thereof "Bureau of Land Management".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, including such sums as may be necessary for the planning and designing of, and site preparation for, a visitor center and associated structures and improvements at the historic site.

(b) Construction of Visitor Center.—There is hereby authorized to be appropriated not more than $5,000,000 for the construction of an appropriate visitor center and associated structures and improvements.

By Mr. HATCH (for himself, Mr. PELL, Mr. SIMON, Ms. MIKULSKI, Mr. QUAYLE, Mr. CHAFEE, Mr. MATSUNAGA, Mr. THURMOND, and Mr. METZENBAUM):

S. 1705. A bill to clarify the distribution of assistance with respect to single parents and single pregnant women under the Carl D. Perkins Vocational Education Act.

AMENDING THE CARL D. PERKINS VOCATIONAL EDUCATIONAL ACT

Mr. HATCH. Mr. President, I am pleased to introduce a small, but important, piece of legislation. This provision would clarify the ambiguity which has stymied full implementation of the set-aside of funds for displaced homemakers and single parents under the Carl D. Perkins Vocational Educational Act. Enactment of this amendment will guarantee that one group—single pregnant women—are eligible to receive vocational education services funded by this set-aside.

I was proud to be the original sponsor of the set-aside for displaced homemakers and single parents during the last reauthorization of the Carl Perkins Act. I had always intended that these funds would be available to serve single pregnant teenagers and regret that they have not been able to be served because there was some doubt that the term "single parent" applied to them.

In my own State of Utah, we have several programs of vocational education, including a program of "alternative schools," for these young women. It is very important that they receive vocational training and the related skills if they are to be able to be self-sufficient, working mothers able to provide for themselves and their child. I know that many States would also like to have these funds available for such programs.

Mr. President, again, I am pleased to introduce this legislation to clarify that single pregnant women may receive services under section 202 of the Carl D. Perkins Vocational Education Act. Senators PELL, SIMON, MIKULSKI, QUAYLE, CHAFEE, MATSUNAGA, THURMOND, and METZENBAUM join me in introducing this legislation.

By Mr. THURMOND:

S. 1706. A bill to provide that amounts paid for the acquisition, training, and maintenance of a service animal used for purposes of assisting an individual who is physically disabled shall be treated as medical expenses for purposes of the Internal Revenue Code of 1986; referred to the Committee on Finance.

LEGISLATION TO CLARIFY THE TAX TREATMENT OF SERVICE ANIMAL EXPENSES

Mr. THURMOND. Mr. President, I rise today to introduce legislation to clarify the tax treatment of service animals for the disabled.

Section 213 of the Internal Revenue Code allows for the deduction from income of certain medical expenses. Interpreting this section, the Internal Revenue Service [IRS] has issued two revenue rulings which allow the deduction from income of amounts paid for the acquisition, training, and maintenance of a dog for the purpose of assisting the deaf or blind. See Revenue Rulings 55-261 and 68-295.

Mr. President, within the past few years, different animals have been trained to assist individuals with a wide range of physical disabilities. This legislation would ensure that these service animals are treated under the Tax Code the same as guide dogs used by the blind and deaf.

The important use of these service animals was brought to my attention by constituents of mine, John and Joanne Jones of Taylors, SC. Mr. and Mrs. Jones will soon be acquiring a service dog for their disabled 16-year-old daughter who suffers from lower limb paralysis. Mr. Jones has informed me that a service dog will substantially add to their daughter's ability to live an independent life. For example, this dog will assist in carrying her books to school, climbing stairs, and opening doors. As well, the dog will be able to retrieve objects and switch lights on and off.

Mr. President, the Jones have provided me with three articles calling attention to the marvelous service these animals are providing to the disabled throughout the country. I ask unanimous consent that they be included in the RECORD, as well as the bill I have introduced.

Mr. President, I have been informed that the IRS has not clarified its position on the tax treatment of expenses associated with service animals for the disabled. This legislation would ensure they are not treated any different than guide dogs for the deaf and blind.

Mr. President, I urge my colleagues to support this legislation and its expedited passage.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPENDITURES FOR SERVICE ANIMALS USED TO ASSIST PHYSICALLY DISABLED TREATED AS MEDICAL EXPENSES.

(a) IN GENERAL.—For purposes of section 213 of the Internal Revenue Code of 1986, any expenditures for the acquisition, training and maintenance of a service animal used for purposes of assisting an individual who has a physical disability other than blindness or deafness shall be treated in the same manner as such expenditures in connection with a dog used for purposes of assisting an individual who is blind or deaf.

(b) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1986.

A BOY AND HIS DOG

Sex and age differences notwithstanding, David Pearson, 14, and Cameo, three, do almost everything together, from camping with the Boy Scouts to showering. The Labrador retriever pulls her master's wheelchair, carries his ninth-grade homework and, of course, retrieves—one lunch period David had trouble throwing away a milk carton because Cameo kept taking it out of the trash. But it is not the 89 commands the dog obeys that matter most to David. "It's companionship," he says. "Cammie's so up—wired, lively. I'll never be lonely."

Dan Pearson, a dentist, and Alysa, a special education teacher, had one daughter when they adopted two-month-old David. At six, the boy was diagnosed as having a gradual, incapacitating form of muscular dystrophy, Duchenne's. While David was still mobile the family hiked, skied and swam; by seventh grade he couldn't walk. The only wheelchair student in his Modesto, Calif., school, he was increasingly isolated despite such activities as playing the alto saxophone in the school band.

Then, last year, David applied to Canine Companions for Independence, a group that provides dogs to the disabled. At a two-week training camp he met Cameo. She tipped him out of his wheelchair. "Hey, no big deal, I've eaten concrete before," David told the trainer. Secretly, the reserved boy wished for a quieter animal, but after sharing 10-hour training sessions and tears—David shed them, Cameo licked them off—dog and master formed a close bond. His sister, Lisa, 19, says of the year since, "David is so much more alive now."

THE WOMAN WHO BROUGHT THEM TOGETHER

Bonnie Bergin, a special ed teacher, was in a Nepalese marketplace a decade ago when she saw a donkey carrying wares for a cripped man. Back in Santa Rosa, Calif, she wondered if dogs, too could be helpers. "I got a crash course in the techniques of dog breeding and training with a job at a kennel for a year," she says. In 1975 Bergin began Canine Companions for Independence by convincing Kerry Knaus, a quadriplegic woman, to take on a dog. Since that time, 231 dogs have been placed. Knaus, today a regional director for CCI, estimates that her Abdul has saved $20,000 annually in human nursing care.

Promising puppies from pedigreed stock are raised in foster homes from the age of eight weeks to 15 months. Six months of advanced training at one of CCI's two centers in California prepares some to be service dogs, some to be ears for the deaf and some to work with the elderly or with people who have emotional problems. Once matched with a master, dogs work for about 10 years, after which they may be kept as pets. The disabled pay $125 in application and registration fees; the rest of CCI's $5,000 cost per dog comes from contributions. The nonprofit organization predicts a million-dollar budget next year and plans to open new centers—in Dallas, New York, Chicago and Atlanta—to reach more Davids.

DOGGONE SMART—GUNSHOT VICTIM, DOG PREMIERE GRADUATES OF TRAINING PROGRAM

(By Kay Gordon)

Several years ago, a gunshot wound left Eddie Jones paralyzed from the waist down and confined to a wheel chair.

Today, he remains in a wheelchair, but with a little help from a friend, Eddie has the use of another set of legs.

Yesterday, Eddie and his golden retriever, Jackson, graduated as the first team to complete a service dog training program in South Carolina through Southeastern Ears for the Deaf/Hearing Impaired.

The event marked the expansion of the 3-year-old Greenville-based program, which originally was started to train dogs only for the deaf and hearing impaired.

Now, in addition to the hearing dogs, the program expects to train many more service dogs throughout the Southeast. Another team is in training right now and a third will begin soon.

Initially, Jackson's training was done in Greenville by Connie Drobac, the SEED/HI trainer. She made bi-monthly trips to Columbia to show Eddie what Jackson was learning and to give them a chance to work together. In March, Jackson moved in with Eddie. The training period took about eight months.

"I was trained to train Jackson," Eddie said, patting his dog.

Jackson can open and close doors, flip light switches, fetch medicine, open the refrigerator and pull Eddie in his wheelchair.

"He's the amazing Jackson," Eddie said with a wide smile. "I just tell Jackson, 'Forward,' and he'll do" whatever task. "Smart? He's smart. As a matter of fact, I think he's smarter than I am. If I graduate today, it'll be from the lessons he taught me."

Yesterday, the pair strutted its stuff at the graduation ceremonies and press conference held by SEED/HI in conjunction with South Carolina Protection and Advocacy System for the Handicapped Inc. at the SCPASH offices.

"Lights," Eddie commanded.

Jackson padded to the wall switch and nosed the switch off. He wagged his tail in appreciation to a round of applause from on-lookers.

Eddie pointed to the door, and, opening his mouth to grasp the string on the knob, Jackson obligingly pulled it shut.

"Good boy" Eddie praised, as the dog put his head in his master's lap.

Eddie grinned again when he was presented Jackson's identification card, with a color photo of the dog, and a black leash and collar to match his black harness. Inscribed on the collar are: "Jackson-Eddie Jones."

The graduation ceremonies were doubly sweet for the team because just days before the legislative session closed earlier this month, South Carolina Public Act 147 was ratified and signed by Gov. Carroll Campbell. Now, South Carolina law states that "Every handicapped person has the right to be accompanied by an assistance dog."

"I don't have to worry now," Eddie said. "It means me and Jackson can go anywhere I want to go. We never go anywhere without this card. He's always there," Eddie said of Jackson. "I don't have to worry if a friend shows up. He's always there."

SEED/HI was founded in June 1984 as a program of Greenville's Speech, Hearing & Learning Center Inc. to train dogs to respond to sounds their owners couldn't hear. Although the center is a United Way agency, SEED/HI receives no United Way funds.

The program is supported by interested civic groups and private individuals. The center raises $2,000 to cover the cost of each dog that goes through the program.

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A DOG FOR KRIS

(By Bruce B. Henderson)

Kris was born with a spinal defect that left him paralyzed from the waist down. Within days of his birth, his real parents signed him into a California mental hospital and never came back.

Spinal fluid collected in Kris' skull, causing pressure on the brain, but doctors decided against surgery. Left to die, Kris did not. Six months later, a cranial shunt was implanted to drain the fluid. Medically, that was all that could be done.

Kris was three years old when Kathleen and Allyn Ledwick of Santa Rosa, Calif., first saw him. The couple already had five children. An aircraft mechanic, Al worked the night shift in order to help Kathy during the day. Still, the Ledwichs wanted to adopt a handicapped child who might not otherwise find a home. Officials told them about Kris.

Misdiagnosed as profoundly retarded, Kris was confined to the acute ward. He had never been outside to touch the grass or see the sky. He did not know what the words Mommy and Daddy meant.

The Ledwicks saw something special in this boy with hair and eyes as dark as the night, and took him home. They had braces made so Kris could stand. But when he suffered hip problems, he had to return to a wheelchair.

Kris' disabilities were psychological as well. He chattered a lot, but said little. Things like "Hello, there" and "How are you?" Just the way the nurses had talked to him. He hid his feelings. Dependent on others for everything, he was withdrawn one moment and filled with rage the next.

When he started school, teachers found him uncertain, noncommunicative, fragile. His schoolmates shied away from him.

Kathy and Al wondered if they had taken on more than they could handle: Kris was so unassertive as he sat in his wheelchair behind an invisible mask. When he spoke, it was in a timid voice that suggested he would accept whatever he got and didn't think he deserved any better. Everyone in the family sought ways to reach him.

Puppy Power. In 1982 the Ledweicks' 12-year-old daughter, Kellie, read about Canine Companions for Independence (CCI), a national, nonprofit organization that trains dogs to help sighted, disabled people. Thinking of Kris, she rode her bike to the CCI office a mile away and asked for more information.

Kellie eventually became a volunteer "puppy raiser," bringing home a ten-week-old golden retriever to train. Her job was to socialize the dog and teach it basic commands. Later, the dog would be assigned to assist a disabled person.

Soon, Kris hinted he wanted his own dog. But everyone wondered: how could he handle a dog when he couldn't take care of himself? Kerry Knaus, a regional director for CCI, met Kris and came up with an answer: he would be given a puppy to raise. If he did okay, Kris would receive his own dog.

Collie pup Jessie Jane was 16 weeks old when she was given to Kris to raise. The challenges began immediately. Early one morning Jessie needed to go outside. Kris steered his wheelchair down the ramp to the back yard. When he reached the lawn, the chair tipped over and he fell out. Watching from the window, Kathy ran for the back door. Gripping the knob tightly, she willed herself to stay inside: Kris must handle this himself.

Kris struggled to right his chair. "I wish you were gone!" he yelled at the dog. "Go away!" After 15 minutes, Kris managed to climb back into his wheelchair. The puppy licked him on the chin. Kris smiled, then petted her. Kris talked to and touched the puppy as they roamed through the yard.

Kathy was filled with new hope. Kris didn't like being in the back yard alone. Yet, he had just spent two enjoyable hours outside without his brothers or sisters around. Something special was happening.

"I Can't Hear You, Kris." In the weeks that followed, Kris learned to feed his dog, clean up after her and give her daily vitamins. When it was time for Jessie Jane to be returned to CCI for her final training, everyone agreed that Kris deserved his own dog.

Kris had one remaining hurdle—an intensive two-week training session. There were 14 disabled people in the class. All but three were in wheelchairs. The first day, they were asked to introduce themselves. When it was his turn, Kris said softly, "My name's Kristofer Ledwick. I'm eight years old, and my legs don't work."

The class began working with the dogs under the watchful eye of CCI's founder, Bonnie Bergin. In the beginning, commands were kept simple: sit, stay, heel. The dogs had already learned a total of 89 commands, but the people had to learn how to give them so that the dogs would obey.

Kris spoke in a soft, whiny voice, talking to the dogs rather than commanding them. They usually ignored him.

Bonnie knew what was happening. "Sit up," she told Kris. "Take a deep breath. You are the leader. Do you believe that?"

He nodded his head shyly.

"I can't hear you, Kris."

He squirmed.

"Kris, a dog will believe you're the leader only if you believe it. That must come from inside you."

Bonnie knew that having such a young child in class might not work. Here was a boy who had never been in command of his life. Yet he was now being asked to take charge not only of himself but of an intelligent animal.

When he went home that night, Kris crawled out of his chair. Crying, he picked up his unfeeling legs and pounded them on the floor. "I hate my legs! I wish I was dead!"

Kathy calmed him down and found out what was wrong. Kris had never been around adults in wheelchairs. That day, he had been forced to confront what he was going to look like when he grew up. And he didn't like what he saw.

The next morning, he told his mother he didn't want to go back to class. "I don't want a dog," he whined. "I want to walk."

"Kris, there's nothing you can do about that," she said. "But there's something you can do about the class. Come on, don't be a quitter."

Bonding With Ivy. By the third day, Kris was joking with his classmates and challenging them to race to the deli down the street. His work reflected his growing confidence.

Bonnie Bergin soon decided that the dog that best matched Kris was Ivy. A golden retriever, nearly two years old, she weighed 48 pounds. Too small to pull an adult in a wheelchair, Ivy might be just right for Kris. Alert, intelligent, sensitive, she had been the best in her litter at learning commands.

Kris and Ivy seemed a perfect match. But on their first full day together they didn't do well. The following day, Kris began projecting commands in a stronger voice, and Ivy began making eye contact with him. Bonnie recognized this as the first stages of "bonding"—a vital emotional connection a dog has to make with its master to feel secure and trusting.

Each day, Kris became more sure of himself as Ivy responded to his orders. Thereafter, this new team of the smallest student and littlest dog had no trouble keeping up with the rest of the class. On the written exams, Kris did better than some of the adults.

At the graduation ceremonies, on June 25, 1983, Ivy was presented to Kris by her puppy raiser, 12-year-old Cherie Montague. Grinning, Kris patted Ivy on the head. He didn't look so alone anymore.

In the audience, Kathy Ledwick whispered to her daughter, "You got your wish, Kellie."

"Yeah," Kellie said, wiping away a tear. "Now we've got to fine-tune it."

A Working Dog. Before school started again, Ivy had to learn commands tailored to Kris's needs. In August they practiced getting on and off the bus. Ivy was introduced to the school hallways, playground and Kris's third-grade classroom. His textbooks and note pads fit nicely into Ivy's specially designed backpack. She learned to lie down under a school desk, and to drink from a water faucet. If Kris dropped a pen, she would fetch it and put it into his hand.

On the first day of school, CCI's Kerry Knaus told Kris's teacher that Kris was completely responsible for his dog. "If Ivy makes a mistake, give the detention to Kris," she said firmly. "It will be his fault, not the dog's." Kerry then told Kris's classmates, "Ivy is a work dog, not a pet. Don't touch her without Kris's permission. And don't feed her. She doesn't eat on the job."

When Kathy Ledwick visited her son's class during the second week, what she saw at recess convinced her that everything was fine. In the old days, recess would have been ending about the time Kris made it out to the playground. But now, with Ivy pulling as Kris gripped the handle on her pack, he was one of the first there. The kids were talking to Kris, asking to pet Ivy, and finding ways for Kris and his dog to take part in the activities. Laughing with the rest of the kids, he had never looked happier.

One afternoon, Ivy barked in the library. Kris and Ivy had to serve time at the "detention bench." A quick learner, Ivy never made another peep. In fact, later in the term, she won a special school award for good behavior.

The following months were good ones for Kris. Thanks to his Canine Companion, he gained more independence each day.

Then tragedy struck. In April 1984 he was rushed to the hospital with a brain infection. Doctors had to operate. In the days following surgery, Kris lay near death.

At the Ledwick home, Ivy slept fitfully on her master's bed, carried his belongings from room to room and more than once tried to slip into her harness so she could return to "work."

When Kris was at his lowest, suffering intense pain and with flagging spirit, Kerry Knaus visited him. "Kris, you've got to get better," she said. "Ivy needs you." Within days, Kris started to improve. Eight weeks later, he was back for the last day of school.

As he prepares to enter sixth grade this September, Kris is very much a normal boy. There's nothing shy about him these days. The boy slumped in his chair and looking out on the world with frightened eyes has become a dynamo on wheels. Watching a videotape of a TV story about him done several years ago, Kris hears an announcer call him a "special younster."

"That's when I was still a kid," Kris says breezily. "Now I'm a fighter."

By the end of 1985, nearly 200 dogs had been placed with disabled people across the United States and Europe by Canine Companions for Independence. For information on obtaining a dog or supporting this group, write: CCI, Inc., P.O. Box 446, Santa Rosa, Calif. 95402.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1708. A bill to provide certain interim measures relating to the Institute of American Indian and Alaska Native Culture and Art Development; referred to the Committee on Indian Affairs.

INDIAN ART AND CULTURE INSTITUTE TRANSITION ACT

● Mr. DOMENICI. Mr. President, I send to the desk a bill to make some urgent technical corrections to the Indian Culture and Art Development Act, which we passed last year.

I am pleased and honored to be joined on this bill by my colleague and good friend from New Mexico [Mr. BINGAMAN]. He shares my enthusiasm for that important legislation.

During the 99th Congress, Mr. President, we enacted several significant improvements in the legal and administrative framework for the Institute of American Indian Art, which is located in Santa Fe, NM.

These improvements were designed to encourage this national school to attract more private donations and foundation support. We accomplished this by freeing the school from the control of the Bureau of Indian Affairs, while maintaining its basic Federal support.

We are now in the transition phase, from the old Institute to the new. Not unexpectedly, a few technical problems have arisen.

For example, Congress originally ordered the Bureau of Indian Affairs to complete the transition by October 1, 1986, a quite unrealistic date since we did not pass the bill until September 1986.

This error was corrected with language in the continuing resolution that extended the date 1 year. But Mr. President, that date will arrive next week, and the transition needs a bit more time. While progress has been made, and the President will soon appoint a new Board of Trustees, more time is needed to ensure the continuation of the Institute.

The questions over this legal authority could close the Institute before the new Board of Trustees has been appointed and approved by the Senate.

So our bill provides the Federal authority to continue to operate the Institute until June 1, 1988, or an earlier date, if both the new Board of Trustees and the Secretary of the Interior agree.

I have worked closely with the Senate Select Committee on Indian Affairs, the House Education and Labor Committee, and the administration to reach agreement on the purpose and details of this proposal.

To assist the Secretary, we have also included a new authority to enter into a 6-month contract with the University of New Mexico. This contract will be used to develop what we expect will be an administrative system appropriate for a national art institute. Included will be the development of plans for personnel, admission standards, fiscal and accounting management, procurement, and property management.

The bill also creates a seven-member interim advisory board to support the university's effort. One member each will be designated by the National Congress of American Indians and the American Indian Higher Education Consortium. The other five members will be appointed by the Secretary of the Interior, who will be required to select persons with experience in Indian arts and culture and in postsecondary education. A majority of the Secretary's appointees must be Indians.

The bill also permits the new Board of Trustees, once organized, to extend the University of New Mexico contract for 60 days. After that, any further contractual assistance must be subject to the normal procurement practices established by the Board.

With these changes, Mr. President, I believe that the transition from the current Institute for American Indian Art to the new Institute of American Indian and Alaska Native Culture and Art Development will be enhanced. Many details remain to be settled in the transition. But the joint effort of the University of New Mexico and the Indian advisory council to the university offer a solid and effective combination.

I am confident that this strategy will enhance the new Institute from its very first official day. I urge my colleagues to support this bill. Public confidence in the Institute, together with the necessary ability to attract private donations, will be strengthened greatly with this legislation.

The winner, Mr. President, will be the Institute for American Indian and Alaska Native Culture and Art Development, and the American people.●

● Mr. BINGAMAN. Mr. President, I am pleased to join with my colleague, the senior Senator from New Mexico [Mr. DOMENICI] to introduce this legislation, a bill providing urgently needed corrections to the Indian Culture and Art Development Act, Public Law 99-498.

Three weeks ago, on September 2, 1987, I chaired a field hearing of the Joint Economic Committee of Congress in Santa Fe, NM. During that hearing, the scope of which was Indian education and the proposed transfer of Bureau of Indian Affairs schools to tribes and local governments, I was informed of a pressing problem concerning the administration of the Institute of American Indian Art. As Senator DOMENICI outlined, the problem arose in the 99th Congress when we enacted legislation to transfer administration of the Institute from the Bureau to an independent Board of Trustees. An erroneously drafted portion of that legislation apparently led to a provision mandating the termination of the Bureau's legal authority to operate the Institute on October 1, 1987. The termination is to occur without regard to whether the Board of Trustees has been appointed. Because it is virtually impossible for the Board of Trustees to be appointed within the next 2 weeks, the Institute is faced with closure when the Bureau's administrative authority lapses on October 1, 1987.

I am pleased that we are able to expeditiously respond to this problem with the corrective legislation introduced today. Working with the Senate Select Committee on Indian Affairs, the House Education and Labor Committee and the administration, we have developed a framework that provides ample time for the smooth transition from Bureau control to administrative independence.

It is our belief that the Institute's new administration, which the University of New Mexico and an advisory counsel comprised of individuals possessing knowledge and experience of Indian arts and culture will temporarily oversee, will do much to preserve and enhance the continued viability of this important institution. Since its establishment more than two decades ago, the Institute has sought to preserve and foster traditional Native American art and culture while, at the same time, encouraging and facilitating the evolution of contemporary and personal artistic expression. To allow this work to cease would be a shame, not only for the students whose artistic and educational opportunities would be stemmed, but for this Nation as a whole, which has been deeply enriched by the Institute's existence. I urge my colleagues to join us in support of this bill.●

By Mr. KASTEN:

S. 1709. A bill to amend the Internal Revenue Code of 1986 and the Congressional Budget and Impoundment Control Act of 1974 to improve the tax policy process, provide more accurate information to the Congress and the executive branch, and to provide for improved measurement of tax expenditures; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

TAX POLICY INFORMATION ACT

Mr. KASTEN. Mr. President, I rise today to introduce the Tax Policy Information Act of 1987. The primary purpose of the act is to improve the congressional revenue estimating process.

Let me point out at the outset that I believe the staff of the Joint Committee on Taxation is a group of highly competent and professional tax technicians. Revenue estimating is not an easy job. Norman Ture, president of the Institute for Research on the Economics of Taxation [IRET] and former Treasury Under Secretary for Tax and Economic Affairs called the JCT staff "The heroes of tax reform process. As tax technicians, they're remarkable." I agree. However, both Dr. Ture and I disagree with the methodology by which the JCT uses in arriving at its revenue estimates.

Strengthening and improving the revenue estimating process is particularly needed now that the revenue considerations are of overriding importance during the tax policy decisionmaking process and secret revenue estimates drive policy decisions critically affecting millions of individuals and businesses. The tax policy process in last year's Tax Reform Act was driven, to an unconscionable extent, by revenue estimates.

The Tax Reform Act of 1986 is, on balance, good for American people and the Nation's economy. However, we failed to go far enough in some areas and actually took a step back in others, in large part, because of inaccurate revenue estimates.

I believe the major problem with the current revenue estimating process is the reliance on "static" rather than "dynamic" revenue estimates. Revenue estimates should take into account the fact that taxpayers change their behavior in response to changes in the tax law. Granted, this is a difficult and inexact process. But it is better to be inexactly correct than precisely incorrect.

The revenue estimates of the taxation of capital gains is the most obvious example of the inaccuracy of "static" analysis. Despite the wealth of empirical evidence that we have on the positive effect of capital gains tax cuts on the realizations and Federal tax receipts, the JCT estimated that raising the capital gains tax rate from 20 to 28 percent will raise about $20 billion over 5 years.

The present tax expenditure budget is based on a definition of tax expenditure that rests on a number of highly debatable normative assumptions and incorrect economic assumptions. In the interest of public disclosure, the legislation would require four alternative tax expenditure budgets that accurately reflect differences of opinion within the economics and political communities.

First, revenue estimators would be required to conduct estimates on both a dynamic and static basis. Presently, estimates are conducted on the manifestly incorrect static assumption that people do not alter their behavior in response to changes in the tax law. This leads to highly inaccurate estimates that may even predict a revenue gain or loss when the exact opposite is true. Dynamic estimates would take reality into account by analyzing changes in taxpayer behavior that are likely to take place. While this process is inexact, it is better to be imprecisely correct than precisely incorrect. For example, if a $10,000 tax were imposed on red cars, the static revenue estimating method would multiply $10,000 times the number of red cars produced annually and predict large revenue gains. A dynamic revenue estimate would predict that most people would buy cars of another color and predict very low revenue gains.

Second, revenue estimates would also have to be conducted using the two major competing income concepts. The one generally called the Haig-Simons definition is presently used, while the one associated with Irving Fisher and Norman Ture is not. The former requires complex determinations of asset decay rates and estimation of phantom imputed income. The second, more simple definition is closer to the concept used by ordinary people and is based on the idea that only when a taxpayer actually receives income does he have income and when he actually pays expenses, he has deductible expenses.

In addition, the bill requires revenue estimators to be more responsive to congressional requests for revenue estimates. Under the bill, if two Members of the House or Senate—one of whom is a member of a tax-writing committee—request a revenue estimate, then the JCT would be required to provide an estimate within 60 days.

Mr. President, inaccurate revenue estimates can lead to unwise changes in the Tax Code that adversely affect millions of American taxpayers, investors, and businesses. In addition, the current revenue estimating process could prevent future changes in the Tax Code to increase investment, savings, economic growth, and job creation.

By Mr. PACKWOOD:

S. 1710. A bill to amend subtitle IV of title 49, United States Code, to increase the productivity and competitiveness by reducing regulation of motor carriers of property, and for other purposes; to the Committee on Commerce, Science, and Transportation.

TRUCKING PRODUCTIVITY IMPROVEMENT ACT

● Mr. PACKWOOD. Mr. President, today I am introducing by request the

Trucking Productivity Improvement Act of 1987. The administration is to be commended for submitting this excellent legislation to Congress.

The trucking industry is a crucial component of our Nation's transportation system, hauling more than 70 percent of the dollar value of all freight carried in the United States and generating annual revenues in excess of $200 billion.

Prior to 1980, the operations of interstate trucking companies were hindered by a burdensome Federal economic regulatory system administered by the Interstate Commerce Commission [ICC]. These regulations, first imposed in 1935, restricted carriers in terms of the routes over which they could travel and the commodities they could haul. These restrictions led to costly, inefficient operations.

It was also extremely difficult for new carriers to enter the industry. Not only was the ICC's consideration of applications for new operating authority a lengthy process, but new carriers were frequently faced with protests to their applications from carriers who merely were afraid of competition. Typically, these protests were successful. The resulting lack of competition, in the form of new entry, combined with the carriers' ability to meet and set their rates collectively resulted in shippers paying higher rates than necessary and having fewer service options available than the free market would have provided.

This situation changed dramatically with enactment of the Motor Carrier Act [MCA] of 1980. This legislation subtantially eased entry regulations and provided carriers greater operating and pricing freedom. The MCA also took the important procompetitive step of eliminating antitrust immunity for collective ratemaking with respect to single-line rates.

Mr. President, deregulation has worked well. According to the ICC, more than 31,000 new carriers have received operating authority since enactment of the MCA. In addition, trucking operations have become more efficient and more and more carriers are taking advantage of the pricing flexibility provided by the MCA. The combination of more carriers providing service with a greater amount of independent pricing provides shippers with a greater variety of price and service options.

In fact, shippers are very satisfied with trucking service under partial deregulation. Since enactment of the MCA, the number of service complaints received by the ICC has decreased. This does not just hold true for large metropolitan areas—small communities also have benefited from deregulation. The research conducted by and for the ICC and the Department of Transportation [DOT] has consistently shown that overall motor carrier service to small communities is at least as good as it was prior to enactment of the MCA, and often better.

While deregulation has brought substantial benefits to users of trucking services, there is no doubt that the trucking industry and trucking company employees have experienced difficulties since 1980. There have been several bankruptcies of large and small trucking companies. Because of this, as well as the fact that most of the new motor carriers in operation since 1980 are nonunion, many Teamsters have lost their jobs in the years following deregulation. It is important to remember, however, that all of the trucking industry's problems cannot be blamed on the MCA. The economic recession of the early 1980's brought difficulties for American business as a whole. As business activity in our Nation slowed, the amount of freight available for transport by trucking companies decreased. Fortunately, we are seeing improvements in our economic situation.

Mr. President, it is important to remember that while the MCA greatly reduced economic regulation over interstate trucking companies, it did not provide complete deregulation. There is no need for continued Federal economic regulation of trucking companies. In fact, former ICC Chairman Reese Taylor went so far as to characterize the Commission's trucking-related functions as "a monumental paper-shuffling operation." I see no reason to continue such needless activity.

Most others agree with this view. Total economic deregulation of the trucking industry is supported by a large number of business interests. Deregulation's supporters include the following:

AMERICANS FOR SAFE AND COMPETITIVE TRUCKING

The following companies, associations, and organizations support the total economic deregulation of the trucking industry.

A & S Trucking, Inc.
Air Products & Chemicals Inc.
American Conservative Union.
American Greetings.
American Petroleum Institute.
American Retail Federation.
Anderson Clayton Foods Inc.
Associated Distributors, Inc.
Atlas Powder Company.
Belden Corp.
Bristol Myers.
H.E. Butt Grocery Co.
Cardinal Industries.
William Carter Co.
Central GMC, Inc.—Leasing Div.
Central Soya Company, Inc.
Champion Home Builders Company.
Clorox Co.
Common Health Warehouse Co-op Assoc.
Crown Zellerbach Corporation.
Dairylea Cooperative, Inc.
Edward Don & Company.
E.I. DuPont de Nemours & Co.
Farmland Industries, Inc.
Fleet Wholesale Supply.
FMC Corporation.
Franchise Services Inc.
Furst-McNess Company.
General Electric.
Gold Bond Transport, Inc.
Handscraft, Div. of Gerber Products.
Hitachi Metals America.
The Hub Group, Inc.
Internatl. Communications Industry.
K Mart Corporation.
Kern Foods, Inc.
The Kroger Company.
Lakeside Packing Company.
Lenertz Trucklines Inc.
Thomas J. Lipton, Inc.
MacMillan Bloedel Building Materials.
C. Maxwell Trucking Co., Inc.
McCormick Co., Inc.
Henry S. Miller Co.
A.C.R. Inc.
Alumacraft Boat Co.
American Farm Bureau Federation.
American Isowall Corp.
American Precast Trucking.
Amerigas Inc.
Arcadian Motor Carriers.
Associated Wholesale Grocers.
Beker Industries Corp.
Blue Ridge Kenworth, Inc.
Bruning Paint Co.
Calif. Coalition for Truck Dereg.
Cargill, Inc.
JI Case Co.
Central Paper Co.
CFS Continental.
The Cincinnati Cordage & Paper Co.
Collins & Aikman Corporation.
Corn Products U.S.
CRST.
DeCarolis Truck Rental, Inc.
Drug & Toilet Preparation Traffic.
East Penn Mfg. Co., Inc.
Figgie International Inc.
Fleur De Lait Foods Ltd.
Food Marketing Institute.
Frito Lay, Inc./Exchange Park.
Gateway Foods of Minnesota, Inc.
General Motors Corporation.
Grocery Manufacturers Association.
Health Foods Inc.
Hot Tomato Express.
H.D. Hudson Manufacturing Company.
Johnson & Johnson.
Kenworth Truck.
Keystone Steel & Wire Co.
Labor Leasing Inc.
Leaseway Transportation.
Lever Brothers Co.
M.G. Industries.
Martin & Bayly Inc.
McCarty-Holman Co., Inc.
Herman Miles Trucking, Inc.
Milliken & Company.
3M.
John Morrell & Co.
Murray Elevators.
NASSTRAC.
Nat's-Amer. Wholesale Grocers' Assoc.
National Grocers' Association.
National Retail Merchants Assoc.
Nat'l. Wholesale Druggists' Assoc.
Sterling B. Nelson & Sons, Inc.
Osco Drug.
J.C. Penney Company, Inc.
Pfizer Inc.
Private Carrier Conference Inc.
Procter & Gamble.
Publix Supermarkets Inc.
Randall Stores Inc.
C.H. Robinson Co.
Royal Corporation Inc.
Ryder Financial/Communications Srvcs.
Safeway Stores, Incorporated.
Scrivner, Inc.
The Sherwin-Williams Company.

J.R. Simplot Co.
Southern Screw.
A.E. Staley Manufacturing Co.
State Industries, Inc.
Stroehmann Bakeries Inc.
TEX-AID.
Trailer-Mate Inc.
Truck Renting and Leasing Assoc.
Union Carbine Corporation.
Universal Leaf Tobacco Company, Inc.
U.S. Enterprises.
Western Traffic Conference, Inc.
Wichita Sheet Metal Supply, Inc.
Mobay Corporation.
MPI Inc.
Nabisco Brands USA.
Natl. Agricultural Trans. Assoc.
Nat'l. Assoc. of Manufacturers.
Nat'l. Industrial Transpor. League.
Nat'l. Starch & Chemical Corporation.
NCH.
Occidental Chemical Corp.
Paccar Leasing Corp.
PET Inc.—St. Louis.
Philips ECG, Inc.
Private Truck Council of America.
Public Citizen.
Quaker Oats.
James River Corporation of VA.
Rollins Leasing Corp.
RSR Corporation.
Ryder Truck Rental, Inc.
Scott Paper Co.
Sears, Roebuck and Co.
Shippers Natl. Freight Claim Council.
Sioux Steel Company.
The Southland Corporation.
The Standard Oil Co.
Stenger Gas & Hdwe.
Super Valu Stores, Inc.
Tom's Foods Inc.
Trammel Crow Company.
Union Camp Corp.
Union Oil Co. of California.
Unocal Corporation.
Walgreen Company.
Westinghouse Electric Corporation.
Willett Nationalease Co.

Mr. President, today I am introducing by request legislation which would finish the job started by the MCA. This bill, the Trucking Productivity Improvement Act of 1987, would accomplish the following:

First, provide Federal economic deregulation of trucking companies which operate in interstate commerce, while retaining safety, insurance, and cargo liability requirements;

Second, eliminate all collective ratemaking antitrust immunity for the trucking industry;

Third, preempt State economic regulation of the interstate and intrastate operations of interstate trucking companies;

Fourth, provide a mechanism for achieving uniformity of motor carrier administrative requirements;

Fifth, transfer ICC household goods consumer protection regulations to the Federal Trade Commission; and

Sixth, enable brokers to handle Government traffic.

Mr. President, the time has come to totally deregulate the trucking industry. This legislation not only would bring more competition to the general freight and household goods trucking industry through total deregulation, it would also address many of the productivity and efficiency concerns raised by the truckers themselves. I am eager to move forward with this legislation and I urge my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the text of the Trucking Productivity Improvement Act of 1987 and a section-by-section description of this legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1710

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Trucking Productivity Improvement Act of 1987."

PURPOSE OF THE ACT

SEC. 2. This Act is a part of the continuing effort by Congress to reduce unnecessary and burdensome government regulations in order to improve the efficiency of motor carrier transportation in the United States, thus enabling U.S. companies to become more productive and more competitive in domestic and world markets. It is intended to further amend the Interstate Commerce Act, as amended through the Surface Freight Forwarder Deregulation Act of 1986.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel efficient motor carrier system is vital to the maintenance of a strong national economy and a strong national defense; that the statutes governing Federal regulation of the motor carrier industry are outdated and must be revised to reflect the transportation needs and realities of the present and future; that, historically, the existing regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities, small businesses, and others to enter the trucking industry; that protective regulation has resulted in operating inefficiencies and anticompetitive pricing, has tended to suppress technological and managerial innovation, and has tended to restrict the range of price and service options available to shippers; that available evidence suggests that many billions of dollars in savings to a broad range of U.S. industries have already been associated with the reforms of the Motor Carrier Act of 1980 and that removal of the remaining regulations and adoption of additional trucking productivity measures will result in additional savings which will enable U.S. companies to become much more productive and more competitive in domestic and world markets; that in order to reduce the uncertainty felt by the Nation's transportation industries, the Interstate Commerce Commission's remaining responsibilities for the regulation of motor carrier transportation should be eliminated; and that legislative and resulting changes should be implemented with the least amount of disruption consistent with achieving the reforms enacted.

GENERAL PROVISIONS

SEC. 4. Section 10101 of title 49, United States Code, is amended—

(a) in subsection (a)(2) by inserting "of passengers" after "motor carrier";

(b) in subsection (a)(2)(A) by striking "shippers, receivers,";

(c) in subsection (a)(2)(B) by striking "shipping and";

(d) in subsection (a)(2)(E) by striking "and small shippers";

(e) in subsection (a)(2)(H) by striking "and" after the semicolon;

(f) in subsection (a)(2)(I) add the connector "and" at the end thereof;

(g) in subsection (a)(3)

(1) by striking "(3) in regulating transportation by motor carrier of passengers";

(2) by striking "(A) to" and inserting "(I)" in lieu thereof;

(3) by striking "(B) to" and inserting "(J)" in lieu thereof; and

(4) by striking "(C) to" and inserting "(K)" in lieu thereof.

SEC. 5. Section 10102 of title 49, United States Code, is amended—

(a) in paragraph (9)(C)

(1) by inserting "a motor carrier of property or" after "transportation"; and

(2) by striking ", II," after "subchapter I"; and

(b) in paragraph (11) by striking "and such other similar property as the Commission may provide by regulation" each time it appears.

INTERSTATE COMMERCE COMMISSION

SEC. 6. Section 10322 of title 49, United States Code, is amended—

(a) in subsection (a)

(1) by striking ", or section 10934" at the end of the first sentence;

(2) by striking "10530," in the second sentence;

(3) by striking "10922(i)(2), 10922(i)(4)" in the second sentence and inserting "10922(h)(2)" in lieu thereof;

(4) by striking "10934(c)," in the second sentence; and

(5) by striking "10922(c)(2)(A)" in the third sentence and inserting "10922(b)(2)(A)" in lieu thereof;

(b) in subsection (b)(1) by striking "Except as provided in paragraph (2) of this subsection, a" and inserting "A" in lieu thereof;

(c) by striking subsection (b)(2); and

(d) by redesignating subsection (b)(3) as subsection (b)(2).

JURISDICTION

SEC. 7. Section 10521 of title 49, United States Code, is amended—

(a) in subsection (a)—

(i) by adding the following new sentence at the beginning of the subsection:

"Notwithstanding any provision of law other than sections 11343 and 11344 of this subtitle as amended by the Trucking Productivity Improvement Act of 1987, the Interstate Commerce Commission has no jurisdiction over motor carriers of property.";

(ii) by adding "of passengers" after "motor carrier" the first time it appears; and

(iii) by inserting "such" before "motor carrier" the second time it appears; and

(b) in subsection (b) by striking "10922(c)(2)" each time it appears and inserting "10922(b)(2)" in lieu thereof.

SEC. 8. Section 10522 of title 49, United States Code, is amended by inserting "of passengers" after "motor carrier" each time it appears.

SEC. 9. Section 10523 of title 49, United States Code, is repealed.

SEC. 10. Section 10524 of title 49, United States Code, is repealed.

Sec. 11. Section 10525 of title 49, United States Code, is amended—

(a) by striking subsection (e); and

(b) by redesignating subsection (f) as subsection (e).

Sec. 12. Section 10526 of title 49, United States Code, is amended—

(a) by striking subsections (a)(4) through (a)(7) inclusive, (a)(11) through (a)(13) inclusive and (a)(15);

(b) in subsection (a)(8) by striking the paragraph designator "(A)" and by striking subsections (a)(8)(B) and (a)(8)(C);

(c) by redesignating subsections (a)(8) through (a)(10) as (a)(4) through (a)(6) and subsection (a)(14) as (a)(7), respectively;

(d) in subsection (b)(1)

(1) by striking the dash after "except";

(2) by striking subparagraph (A); and

(3) by striking the subparagraph designator "(B)";

(e) by striking subsection (b)(3); and

(f) by striking "; or" at the end of subsection (2) and inserting a period in lieu thereof.

Sec. 13. Section 10527 of title 49, United States Code, is repealed.

Sec. 14. Section 10528 of title 49, United States Code, is repealed.

Sec. 15. Section 10529 of title 49, United States Code, is repealed.

Sec. 16. Section 10530 of title 49, United States Code, is repealed effective six months after date of enactment of this act.

Sec. 17. Section 10561 of title 49, United States Code, is amended in subsection (b)(2) by striking "10526(a)(8)" and inserting "10526(a)(4)" in lieu thereof.

Sec. 18. The analysis of chapter 105 of title 49, United States Code is amended—

(a) by striking

"10523. Exempt motor vehicle transportation in terminal areas.

"10524. Transportation furthering a primary business." and inserting in lieu thereof.

"10523. Repealed.

"10524. Repealed."; and

(b) by striking

"10527. Written contracts pertaining to certain interstate movements by motor vehicle.

"10528. Mixed loads of regulated and unregulated property.

"10529. Limited authority over cooperative associations." and inserting in lieu thereof

"10527. Repealed.

"10528. Repealed.

"10529. Repealed."

RATES, TARIFFS, AND VALUATIONS

Sec. 19. Section 10702 of title 49, United States Code, is amended in subsection (b) by striking "shippers" in the second sentence and inserting "passengers" in lieu thereof.

Sec. 20. Section 10703 of title 49, United States Code, is amended—

(a) by striking subsection (a)(4)(A); and by redesignating subsections (a)(4)(B) through (a)(4)(E) as subsections (a)(4)(A) through (a)(4)(D);

(b) in subsections (a)(4)(A) and (a)(A)(B) as redesignated by subsection (a) of this section by striking "(D)" and inserting "(C)" in lieu thereof; and

(c) in subsection (b) by striking ", II (insofar as motor carriers of property are concerned),".

Sec. 21. Section 10704 of title 49, United States Code, is amended in subsection (c)(1) by striking in the last sentence "motor or" each time it appears and by striking ", respectively,".

Sec. 22. Section 10705 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking "(except a motor common carrier of property)";

(b) by striking subsections (b)(1) and (b)(2);

(c) by redesignating subsections (c) through (g) as subsections (b) through (f);

(d) in subsection (b) as redesignated, by striking the comma after "rail carrier" and inserting "or" in lieu thereof and by striking ", or motor common carrier of property" in the second sentence;

(e) in subsection (e) as redesignated by subsection (c) of this section by striking "or (b)";

(f) in subsection (f) as redesignated by subsection (c) of this section by striking (f)" after "subsection" and inserting "(e)" in lieu thereof; and

(g) by striking subsection (h).

Sec. 23. Section 10706 of title 49, United States Code, is amended—

(a) in subsection (a)(2)(A) by striking "(c)(1) (B)-(E)" and inserting "(d)(1) (B)-(E)" in lieu thereof;

(b) by striking subsection (b)(3)(D) and by redesignating subsections (b)(3)(E) through (b)(3)(H) as subsections (b)(3)(D) through (b)(3)(G); and

(c) by striking subsection (b)(4) and by redesignating subsection (b)(5) as subsection (b)(4).

Sec. 24. Section 10708 of title 49, United States Code, is amended—

(a) in subsection (d)(1) by striking "motor common carrier of property or";

(b) in subsections (d)(1)(A) and (d)(1)(B) by striking "carrier" each time it appears and inserting "household goods freight forwarder" in lieu thereof;

(c) in subsection (d)(2) by striking "motor common carriers of property or"; and

(d) in subsection (d)(2)(B)(i) by striking "carriers or".

Sec. 25. Section 10721 of title 49, United States Code, is amended in subsection (b)(1)—

(a) by inserting after "title 39, and", the words "any qualified person";

(b) by striking "reduced" in the last sentence and inserting "tendered" in lieu thereof; and

(c) by striking "; except that any rates for the transportation of household goods for the United States Government shall not be predatory".

Sec. 26. Section 10725 of title 49, United States Code, is amended—

(a) in subsection (a) by striking ", II,"; and

(b) by striking subsection (c).

Sec. 27. Section 10730 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "including a motor common carrier of household goods but excluding any other motor common carrier of property and" and by striking ", II,"; and

(b) in subsection (b)—

(i) in subparagraph (1) by striking "providing transportation or service subject to the jurisdiction to the Commission under subchapter II of chapter 105 of this title may, subject to the provisions of this chapter (including the general tariff requirements of section 10762 of this title), establish rates for the transportation of property (other than household goods) under which" and inserting "may agree with a shipper that" in lieu thereof; and

(ii) by amending subparagraph (2) to read as follows:

"Before a carrier may limit a contract of carriage for any service under paragraph (1) of this subsection, it shall provide a contract of carriage for such service which does not limit the liability of the carrier.".

Sec. 28. Section 10732 of title 49, United States Code, is amended—

(a) by striking the title and inserting "Backhaul allowances" in lieu therof;

(b) in subsection (a)

(1) by striking the designator "(a)";

(2) by striking "food and grocery" each time it appears; and

(c) by striking subsection (b).

Sec. 29. Section 10733 of title 49, United States Code, is repealed.

Sec. 30. Section 10735 of title 49, United States Code, is repealed.

Sec. 31. Section 10741 of title 49, United States Code, is amended in subsection (c) by striking ", II,".

Sec. 32. Section 10743 of title 49, United States Code, is amended—

(a) in subsection (b)(1) by striking "for weekly or monthly payment for transportation provided by motor common carriers and"; and

(b) in subsection (b)(2) by striking the parenthetical phrase.

Sec. 33. Section 10744 of title 49, United States Code, is amended in subsection (a)(1) by striking ", motor,".

Sec. 34. Section 10749 of title 49, United States Code, is amended—

(a) in subsection (a) by striking ", or a motor contract carrier of property,";

(b) in subsection (b)(1)

(1) by striking "motor," and ", or motor contract carrier of property";

(2) by striking the dash after "including";

(3) by striking subsection (b)(1)(A); and

(4) by striking the subsection designator "(B)" in subsection (b)(1)(B); and

(c) by redesignating subsection (b)(2) as subsection (b)(3) and inserting a new subsection (b)(2) as follows:

"(2) a motor common or contract carrier of property; or".

Sec. 35. Section 10751 of title 49, United States Code, is amended by striking subsection (c).

Sec. 36. Section 10762 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking the last sentence; and

(b) by striking subsection (g).

Sec. 37. Section 10766 of title 49, United States Code, is amended—

(a) in subsection (b) by striking ", providing transportation subject to the jurisdiction of the Commission under subchapter II of that chapter,"; and

(b) in subsection (c) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of such chapter," each time it appears.

Sec. 38. The analysis of chapter 107 of title 49, United States Code, is amended—

(a) by striking

"10732. Food and grocery transportation."

and inserting in lieu thereof

"10732. Backhaul allowances.";

(b) by striking

"10733. Rates for transportation of recyclable materials."

and inserting in lieu thereof

"10733. Repealed."; and

(c) by striking

"10735. Household goods rates—estimates; guarantees of services.";

and inserting in lieu thereof

"10735. Repealed."

LICENSING

SEC. 39. Section 10922 of title 49, United States Code is amended—

(a) by striking subsections (b), and (k);

(b) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), (j), and (l) as subsections (b), (c), (d), (e), (f), (g), (h), (i) and (j) respectively;

(c) in subsection (h) as redesignated—

(1) by striking subsections (h)(1) and (h)(2); and

(2) by redesignating subsections (h)(3) and (h)(4) as subsections (h)(1) and (h)(2);

(d) in subsection (i) as redesignated by subsection (b) or this section

(1) by striking subsection (i)(1); and

(2) by redesignating subsections (i)(2) and (i)(3) as subsections (i)(1) and (i)(2); and

(e) subsection (j) as redesignated by subsection (b) of this section is amended to read:

"(1) Whenever the President of the United States determines that the government of any foreign country contiguous to the United States, or the government of any political subdivision or any instrumentality of such country, has engaged in unfair, discriminatory, or restrictive practices that have a substantial adverse competitive impact upon a United States transportation company providing, or seeking to provide, motor carrier transportation of property or passengers to, from or within such foreign country, the President shall seek elimination of such practices through consultations.

(2) Notwithstanding any other provision of law, when consultations fail to result in the elimination of the unfair, discriminatory, or restrictive practices cited in subparagraph (1), the President may suspend, modify, amend, condition, or limit operations in the United States by motor carriers of property or passengers domiciled in such foreign country or owned or controlled by persons of such foreign country, if the President determines such action to be in the national interest. The President shall publish notice of such determination, including the reasons for the determination and the action being proposed, in the Federal Register. Unless the President determines that expeditious action is required, the President shall provide an opportunity for presentation of views concerning the taking of such action.

(3) The President may also remove or modify any action taken under subparagraph (2) if the President determines that such removal or modification is likewise in the national interest.

(4) The President may delegate any or all authority under this subsection to the Secretary of Transportation who shall consult with other agencies as appropriate. Any suspension, modification, amendment, condition, or limitation imposed under subparagraph (2), and documentary requirements that may be necessary to institute and enforce such actions, shall be accomplished in accordance with directions of the President under regulations issued by the Secretary of Transportation, in consultation with other agencies as appropriate. Such regulations and orders shall be enforced by the Department of Transportation, the Department of the Treasury, and the Department of Justice.

(5) This section shall in no way affect the requirement for all foreign motor carriers operating in the United States to comply fully with all applicable laws and regulations pertaining to safety fitness; safety of operation; financial responsibility; and taxes imposed by section 4481 of the Internal Revenue Code of 1986."

SEC. 40. Section 10923 of title 49, United States Code, is amended—

(a) by striking subsections (b)(3) through (b)(6);

(b) by redesignating subsection (b)(7) as (b)(3);

(c) in subsection (d)(1) by striking ", except that in the case of a motor contract of property, the Commission may not requrie such carrier to limit its operations to carriage for a particular industry or within a particular geographic area"; and

(d) in subsection (d)(2)

(1) by inserting "of passengers" after "motor contract carrier";

(2) by striking "necessary conditions, including each person or class of persons (and in the case of a motor contract carrier of passengers,"; and

(3) by striking the parenthesis after "the number of persons"; and

SEC. 41. Section 10924 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "of household goods subject to the jurisdiction of the Commission under subchapter II of Chapter 105 of this title,"; and

(b) by striking subsections (b) and (c) and by redesignating subsections (d), (e) and (f) as subsections (b), (c) and (d).

SEC. 42. Section 10927 of 49, United States Code, is amended—

(a) in subsection (a)(1) by striking

(1) "and a certificate of registration to a motor carrier or motor private carrier under section 10530 of this title";

(2) "the provisions of section 30 of the Motor Carrier Act of 1980, in the case of a motor carrier of property,";

(3) ", in the case of a motor carrier of passengers, or the laws of the State or States in which the carrier is operating, in the case of a motor private carrier"; and

(4) the parenthetical phrase; and

(b) in subsection (a)(2) by striking "and a foreign motor private carrier (as such term is defined under section 10530(a)(3) of this title)"; and

(c) by striking subsection (a)(3).

SEC. 43. Section 10928 of title 49, United States Code, is amended in subsection (c)(1) by striking "not more than 90 days. Such authority for a period of not more than 90 days and, in addition, in the case of motor carriers of passengers, the Commission may extend such authority for a period of more than 90 days but".

SEC. 44. Section 10930 of title 49, United States Code, is amended in subsection (b)(2) by striking "Except for motor vehicle transportation subject to the jurisdiction of the Commission under subchapter IV of chapter 105 of this title by section 10523(a)(2) of this title, a" and inserting "A" in lieu thereof, and by striking ", water, or motor carrier" and inserting in lieu thereof "or water" and by striking ", II,".

SEC. 45. Section 10931 of title 49, United States Code, is repealed.

SEC. 46. Section 10932 of title 49, United States Code, is amended—

(a) by striking subsection (b); and

(b) by redesignating subsections (c) and (d) as subsections (b) and (c).

SEC. 47. Section 10934 of title 49, United States Code, is repealed.

SEC. 48. Section 10935 of title 49, United States Code, is amended in subsection (h) by striking "10922(c)(4)" and inserting "10922(b)(4)" in lieu thereof.

SEC. 49. The analysis of chapter 109 of title 49, United States Code, is amended—

(a) by striking

"10931. Motor common carriers providing transportation entirely in one state."

and inserting in lieu thereof

"10931. Repealed."; and

(b) by striking

"10934. Household Goods Agents."

and inserting in lieu thereof

"10934. Repealed."

OPERATIONS OF CARRIERS

SEC. 50. Section 11101 of title 49, United States Code, is amended by striking subsection (c).

SEC. 51. Section 11107 of title 49, United States Code, is repealed.

SEC. 52. Section 11109 of title 49, United States Code, is amended by striking the parenthetical phrase in each subsection.

SEC. 53. Section 111010 of title 49, United States Code, is repealed.

SEC. 54. Section 11145 of title 49, United States Code, is amended by striking subsection (c).

SEC. 55. The analysis of chapter 111 of title 49, United States Code, is amended—

(a) by striking

"11107. Leased motor vehicles." and inserting in lieu thereof

"11107. Repealed."; and

(b) by striking

"11110. Household Goods Carrier Operations."

and inserting in lieu thereof

"11110. Repealed."

FINANCE

SEC. 56. Section 11304 of title 49, United States Code, is amended in subsection (a)(1) by striking "a truck of rated capacity (gross vehicle weight) of at least 10,000 pounds, a highway tractor of rated capacity (gross combination weight) of at least 10,000 pounds, a property-carrying trailer or semitrailer with at least one load-carrying axle of at least 10,000 pounds, or"

SEC. 57. Section 11342 of title 49, United States Code, is amended—

(a) in subsection (a) by striking "property" in the second sentence and inserting "passengers" in lieu thereof; and

(b) in subsection (b)(1) by striking "property" wherever it appears and inserting "passengers" in lieu thereof.

SEC. 58. Section 11343 of title 49, United States Code, is amended—

(a) in subsection (a) by inserting", or between a rail carrier and a motor carrier of property," after "of this title"; and

(b) in subsection (e)(1) by amending the initial clause to read as follows:

"Notwithstanding any provisions of this title, the Interstate Commerce Commission in a matter related to a rail carrier and a motor carrier of property, may exempt a transaction from the merger, consolidation, and acquisition of control provisions of this subchapter if the Commission finds that—".

SEC. 59. Section 11344 of title 49, United States Code, is amended in subsection (c) by inserting "of passengers or property" after "a motor carrier" in the fourth sentence.

SEC. 60. Section 11348 of title 49, United States Code, is amended in subsection (a) by striking "11901(f), (l)(1)" and inserting "11901(f), (h)(1)" in lieu thereof.

FEDERAL-STATE RELATIONS

SEC. 61. Section 11501 of title 49, United States Code, is amended by adding the following new subsection after subsection (f):

"(g) Notwithstanding any other provision of law, no State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to interstate or intrastate rates, routes, or services of any owner or operator of a commercial motor vehicle that provides transportation of property in interstate commerce."

Sec. 62. Section 11504 of title 49, United States Code, is amended in subsection (b)(2) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of this title" and inserting "of passengers and a motor carrier of property" in lieu thereof.

ENFORCEMENT: INVESTIGATIONS, RIGHTS, AND REMEDIES

Sec. 63. Section 11701 of title 49, United States Code, is amended—

(a) in subsection (a) by striking the sentence "If the Commission finds that a motor private carrier is violating section 10530 of this subtitle, the Commission shall take appropriate action to compel compliance with such section."; and

(b) in subsection (b) by striking "or a motor carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title".

Sec. 64. Section 11702 of title 49, United States Code, is amended—

(a) in subsection (a)(2) by striking "10527 or"; and

(b) in subsection (a)(4) by striking "or by a motor carrier or motor private carrier providing transportation under a certificate of registration issued under section 10530 of this title".

Sec. 65. Section 11707 of title 49, United States Code, is amended—

(a) in subsection (a)(1) by striking "a freight forwarder" in the first sentence and substituting "(1) a freight forwarder and (2) a motor common carrier of property";

(b) in subsection (a)(1) by striking "The carrier or freight forwarder and any other common carrier" in the second sentence and substituting "That freight forwarder, motor common carrier of property, and any other common carrier";

(c) in subsection (a)(1) by striking "carrier of freight forwarder" in the fourth sentence and substituting "carrier, freight forwarder or motor common carrier of property"; and

(d) in subsection (a)(2) by striking "providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title".

Sec. 66. Section 11711 of title 49, United States Code, is repealed.

Sec. 67. The analysis of chapter 117 of title 49, United States Code, is amended by striking

"11711. Dispute Settlement Program for Household Goods Carriers."

and inserting in lieu thereof

"11711. Repealed.".

CIVIL AND CRIMINAL PENALTIES

Sec. 68. Section 11901 of title 49, United States Code, is amended—

(a) in subsection (g)

(1) by striking "or transportation provided under a certificate of registration issued under section 10530 of this title";

(2) by striking ", (4)" and inserting ", or (4)" in lieu thereof;

(3) by striking "or (5) does not comply with section 10530 of this title,"; and

(4) by striking the last two sentences.

(b) by striking subsections (h), (i), (j), and (k) and redesignating subsection (1) as subsection (h); and

(c) in subsection (h)(2) as redesignated, by striking ", (i) (j)(1), or (k)".

Sec. 69. Section 11910 of title 49, United States Code, is amended in subsection (a)(2) by striking "motor carrier or" and "carrier or" each time they appear.

Sec. 70. Section 11914 of title 49, United States Code, is amended in subsection (b)—

(a) by striking out "this title" and inserting "this title," in lieu thereof; and

(b) by striking after "1966," the following: "or a condition of a certificate of registration issued under section 10530 of this title,".

Sec. 71. Section 11917 of title 49, United States Code, is amended in subsection (a) by striking "a" after "weight on" and inserting "an interstate" in lieu thereof and by striking "which is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title".

FEDERAL TRADE COMMISSION

Sec. 72. (a) Motor carriers of property shall be subject to the jurisdiction of the Federal Trade Commission under the Federal Trade Commission Act, as amended, 15 U.S.C. 41-58 and §11 of the Clayton Act, 15 U.S.C. 21.

(b) The Federal Trade Commission is empowered exclusively to enforce the Interstate Commerce Commission's household goods regulations under 49 C.F.R. 1056 which shall remain in effect until revised or revoked by the Federal Trade Commisson under subsection (c) of this section.

(c) The Federal Trade Commission shall institute a proceeding within 120 days of the enactment of this Act to review the necessity and effectiveness of those regulations and, where appropriate, make revisions (1) to ensure that shippers of household goods receive adequate protection in their dealings with carriers, and (2) to eliminate unnecessary regulations. The initial proceeding conducted to implement this section shall be governed by section 553 of title 5, and the Federal Trade Commission may dispense with the rulemaking requirements imposed under section 57a of title 15, except that any such rule promulgated shall be subject to the judicial review procedures of section 57a(e) of title 15. This proceeding shall be completed within one year after commencement of the proceeding.

(d) Not later than one year after the Federal Trade Commission issues its final regulations pursuant to subparagraph (c), all departments, agencies and instrumentalities of the United States shall revise and conform their rules and regulations pertaining to the transportation of household goods for the United States to those household goods regulations issued by the Federal Trade Commission.

(e)(1) Section 5(a)(2) of the Federal Trade Commission Act, as amended, (15 U.S.C. § 45(a)(2) is amended by inserting "(except motor carriers of property)" immediately after "common carriers subject to the Acts to regulate commerce".

(2) Section 11(a) of the Clayton Act (15 U.S.C. § 21(a)) is amended by inserting "(other than motor carriers of property)" immediately after "common carriers subject to subtitle IV of Title 49".

(3) Section 8 of the Clayton Act (15 U.S.C. § 19) is amended by, in the fourth paragraph, inserting "(other than motor carriers of property)" immediately after "common carriers subject to subtitle IV of Title 49".

(4) Section 10 of the Clayton Act (15 U.S.C. § 20) is amended by inserting "(other than a motor carrier of property)" immediately after "common carrier engaged in commerce".

DEPARTMENT OF TRANSPORTATION

DUTIES AND POWERS

Sec. 73. Section 503 of title 49, United States Code, is amended—

(a) in the title by inserting "motor carriers of property," after "and process on";

(b) in subsection (a) by inserting "of property and each motor carrier" immediately after "Each motor carrier";

(c) in subsection (a) by inserting ", operating in the United States," after "motor private carrier"; and

(d) in subsection (a) by adding the following new sentence after the second sentence of the subsection:

"If the designation is made on behalf of a motor carrier not domiciled in the United States, the designation shall indicate the country of the motor carrier on whose behalf the designation is made."

Sec. 74. Chapter 5 of title 49 United States Code is amended by adding the following section:

"508. Two years from the effective date of this Act, the Secretary of Transportation shall submit a status report and evaluation, including recommendations, to Congress concerning the National Governors' Association Consensus Agenda on standards for uniform State regulation of interstate motor carriers in regard to vehicle registration, fuel tax, and third-structure tax requirements."

Sec. 75. The analysis of chapter 5 of title 49, United States Code, is amended—

(a) in section 503 by inserting "motor carriers of property," after "and process on"; and

(b) by inserting "508. Uniform state administrative requirements."

Sec. 76. Section 3102 of title 49, United States Code, is amended in subsection (a) by striking all after the hyphen and inserting in lieu thereof:

"(1) between a place in—

(A) a State and a place in another State;

(B) a State and another place in the same State through another State;

(C) the United States and a place in a territory or possession of the United States to the extent the transportation is in the United States;

(D) the United States and another place in the United States through a foreign country to the extent the transportation is in the United States; or

(E) the United States and a place in a foreign country to the extent the transportation is in the United States; and (2) in a reservation under the exclusive jurisdiction of the United States or on a public highway."

Sec. 77. Section 3104 of title 49, United States Code, is amended in subsection (a) by adding the following new paragraph:

"(3) require each of those motor carriers, motor private carriers, and motor carriers of migrant workers to display on the vehicle the name of the carrier and such other information as the Secretary may require."

EFFECT OF REPEAL OF ANTITRUST IMMUNITY FOR AGREEMENTS AND MERGERS

Sec. 78. (a) On the effective date of this Act, all orders issued by the Interstate Commerce Commission under provisions of subtitle IV of title 49, United States Code, granting an exemption or immunity from the antitrust laws as set forth in subsection (a) of section 1 of the Clayton Act (15 U.S.C. § 12(a)) relative to an agreement between or among motor carriers of property, shall cease to be in effect and conduct pursuant to such an agreement shall be subject to such antitrust laws; *Provided*, that no conduct that occurred prior to the effective date of this Act, pursuant to an order and antitrust exemption in effect at the time of such conduct, shall be subject to such antitrust laws.

(b) No merger between or among motor carriers of property approved prior to the effective date of this Act by the Interstate Commerce Commission under subchapter III of chapter 113 of title 49, United States Code, shall be subject to such antitrust laws.

SEVERABILITY

SEC. 79. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected by such invalidation.

EFFECTIVE DATE

SEC. 80. This act shall take effect 60 days after enactment.

SECTION-BY-SECTION ANALYSIS OF THE TRUCKING PRODUCTIVITY IMPROVEMENT ACT OF 1987

This bill eliminates all federal economic regulation of the trucking industry; it eliminates entry controls and rate regulation; eliminates antitrust immunity for collective ratemaking; eliminates tariff publication requirements; eliminates the "common carrier obligation"; and transfers jurisdiction for consumer protection in household goods operations to the Federal Trade Commission.

The increased range of trucking price and service options available to shippers in a broad range of U.S. industries have resulted in savings of many billions of dollars in reduced transportation, inventory and merchandising costs. Elimination of the remaining regulations and adoption of specific trucking productivity measures contained in this bill will enhance such savings and enable U.S. companies to become much more productive and competitive in domestic and world markets.

SECTION 1

The short title of the bill is the "Trucking Productivity Improvement Act of 1987."

SECTION 2

The purpose of the bill is to reduce unnecessary and burdensome government regulations in order to improve the efficiency of transportation by motor carriers of property in the United States, thus enabling U.S. companies to become more productive and competitive in domestic and world markets.

SECTION 3

This section states the findings of Congress. It sets out that the statutes governing Federal regulation of motor carriers of property are outdated and must be revised and additional trucking productivity measures be adopted.

SECTION 4

This section amends the transportation policy of the Interstate Commerce Act to reflect the elimination of economic regulation of motor carriers of property.

SECTION 5

This section makes conforming amendments to the definitions section of subtitle IV of title 49 USC because, under this Act, the ICC will no longer have jurisdiction over motor carriers of property and will no longer regulate household goods transportation by motor carrier. The definitions of the terms referring to motor carriers ("motor carrier", "motor common carrier", "motor contract carrier", etc.) are not amended because these are generic terms referenced by other subchapters of title 49 (*see* 49 U.S.C. § 3101). It is the intent of this Act that, when used in reference to the ICC's functions, unless otherwise indicated, these terms will refer only to bus operations. Accordingly, amendments modifying references to motor carriers to mean carriers of passengers have been included throughout this Act.

SECTION 6

This section deletes the procedural guidelines of section 10322 of title 49 USC for handling applications involving motor carrier transportation incidental to trailer on flatcar or container on flatcar service by rail or registration certificates for foreign motor carriers. This is a conforming change, since this legislation eliminates the necessity for applying to the Interstate Commerce Commission for any kind of motor carrier authority.

SECTION 7

This section amends section 10521 of title 49 USC to remove Interstate Commerce Commission jurisdiction over motor carriers of property. The reference to property in the second sentence of the initial paragraph of subsection (a), as amended, refers to property transported by buses incidental to their passenger service.

SECTION 8

This section amends section 10522 of title 49 USC. It removes the requirement that motor carriers of property providing transportation between Alaska and another state must comply with Interstate Commerce Commission regulations.

SECTION 9

This section repeals section 10523 of title 49 USC. It removes the exemptions for motor vehicle transportation within terminal areas provided by water carriers, rail carriers, freight forwarders, and express carriers. Such exemptions will not be necessary with the removal of regulation of motor carriers of property provided by this bill.

SECTION 10

This section repeals section 10524 of title 49 USC. It removes the exemption from Interstate Commerce Commission jurisdiction for private carriage by motor vehicle. With the deregulation of motor carriers of property by this bill, such an exemption is no longer required.

SECTION 11

This section strikes subsection (e) of section 10525 of title 49 USC to preclude regulation of interstate transportation within Hawaii by that State. No other changes to section 10525 are necessary, because this section will apply only to motor carriers of passengers.

SECTION 12

This section amends section 10526 of title 49 USC. It repeals all exemptions of motor carriers of property from Interstate Commerce Commission jurisdiction. With complete deregulation of motor carriers of property such exemptions are not required.

SECTION 13

This section repeals section 10527 of title 49 USC pertaining to written contracts concerning interstate movements by motor vehicles. The Interstate Commerce Commission and the Secretary of Agriculture have determined that requiring written contracts between owners or operators of motor vehicles and brokers, shippers, and receivers is not necessary.

SECTION 14

This section repeals section 10528 of title 49 USC concerning mixed loads of regulated and unregulated property. With motor carriers of property completely deregulated, such distinctions are no longer necessary.

SECTION 15

This section repeals section 10529 of title 49 USC concerning the Interstate Commerce Commission's reporting requirements for cooperative associations. With motor carriers of property completely deregulated, these reporting requirements are no longer necessary.

SECTION 16

Section 16 repeals the existing requirement for carriers of exempt commodities and private carriers from affected foreign countries to obtain the certificate of registration established under section 10530 of title 49, United States Code (section 206 of the Motor Carrier Safety Act of 1984), effective six months after date of enactment of this Act. Instead, section 10922(1) is amended by this bill to provide the President with more flexible authority to respond to discriminatory actions against U.S. carriers (see section 39, *infra.*). The six month delay is intended to allow sufficient time to put regulations into place as appropriate.

SECTION 17

This section amends section 10561 of title 49 USC to conform to the change provided in section 12 of this bill.

SECTION 18

This section makes conforming changes in the analysis of Chapter 105 of title 49 USC to reflect the changes introduced by sections 7 through 17.

SECTION 19

Because motor common and contract carriers of property will no longer be subject to Interstate Commerce Commission jurisdiction by operation of other provisions of this bill, this section makes a conforming amendment to section 10702 of title 49 USC, which requires a carrier to file tariffs with the Interstate Commerce Commission, to narrow its application to only motor contract carriers of passengers.

SECTION 20

This section amends section 10703 of title 49 USC by removing the statutory reference to the authority of motor common carriers of property to establish through routes and joint rates and classification with other carriers; however, this does not preclude motor common carriers from entering into such arrangements.

SECTION 21

This section amends section 10704 of title 49 USC to remove Interstate Commerce Commission authority to protect motor common carriers from unreasonable competition from motor contract carriers.

SECTION 22

This section amends section 10705 of title 49 USC by removing the authority of the Interstate Commerce Commission over motor common carriers of property to prescribe through routes, joint classification, joint rates, the division of rates, and the conditions under which those routes must be operated.

SECTION 23

This section amends section 10706 of title 49 USC by removing Interstate Commerce Commission jurisdiction for providing antitrust immunity to motor carriers of property. Under the provisions of section 78 of this legislation, elimination of antitrust immunity will occur on the effective date of this Act. This section does not disturb antitrust immunity for motor carriers of passengers or other carriers.

SECTION 24

This section amends section 10708 of title 49 USC to remove Interstate Commerce Commission jurisdiction to investigate, suspend, revise, or revoke any rate of a motor common carrier of property on the grounds that such rate is unreasonably high or low. The "zone of rate freedom" provided by the Motor Carrier Act of 1980 would remain applicable only to household goods freight forwarders.

SECTION 25

This section amends section 10721 of title 49 USC, which deals with special rate provisions for government traffic. It removes Interstate Commerce Commission jurisdiction to suspend and investigate rates for the transportation of household goods for the U.S. Government on the basis that such rates may be predatory and broadens the scope of transportation options available to the United States Government by authorizing the use of such "noncommon" carriers as freight forwarders and brokers.

SECTION 26

This section amends section 10725 of title 49 USC by removing the conditions concerning special rates of motor carriers of property when such carriers deal with household goods freight forwarders.

SECTION 27

This section amends section 10730 of title 49 USC to retain this portion of the so-called Carmack Amendment with one important difference. The involvement of the Interstate Commerce Commission is removed with respect to these agreements between shippers and motor common carriers of property. Under this amendment a shipper and a carrier may agree to limit the liability of the carrier as long as the carrier also offers a contract of carriage without such limitation. Disputes concerning such agreements would be adjudicated under uniform federal law.

SECTION 28

This section amends section 10732 of title 49 USC by removing the requirement that the Interstate Commerce Commission monitor and report annually on the effects of "backhaul allowances" (discounts for customers of food and grocery products who pick up those products at the shipping point of the seller), and by extending the lawfulness of backhaul allowances to all industries. It is intended, for purposes of this section, that the "actual cost" basis for computing such allowances need not be limited to the cost avoided by sellers.

SECTION 29

This section amends section 10733 of title 49 USC, which provides statutory permission for free or reduced transportation rates for recyclable materials carried by motor carriers of property. The ability to provide such transportation at reduced rates is not precluded by the amendment.

SECTION 30

This section repeals section 10735 concerning household goods rates and guarantees of service. With deregulation of motor carriers of property this section is no longer necessary. There is no intent to preclude or limit carrier activities described in this section.

SECTION 31

This section amends section 10741 of title 49 USC by removing the general prohibition of motor carrier discrimination against freight forwarder services. With deregulation of motor carriers of property, this section is no longer necessary. Instead, the antitrust laws would apply to pricing practices of motor carriers of property in the same way as they apply to other non-regulated industries.

SECTION 32

This section amends section 10743 of title 49 USC by removing the prompt payment provisions relating to motor common carriers.

SECTION 33

This section amends section 10744 of title 49 USC by removing the requirements concerning liability for payment of rates for property transportation by motor carriers.

SECTION 34

This section amends section 10749 of title 49 USC by deleting the provision that motor carriers of property regulated by the Interstate Commerce Commission may exchange services with telephone, telegraph, or cable companies. With the deregulation provided by this bill, motor carriers of property do not need express permission to exchange services with other companies.

SECTION 35

This section amends section 10751 of title 49 USC by deleting the subsection which provides that the Interstate Commerce Commission institute a proceeding for the establishment of standards and guidelines for authorized business entertainment expenses.

SECTION 36

This section amends section 10762 of title 49 USC by removing the requirement for motor carriers of property to publish, file, and keep tariffs open for public inspection.

SECTION 37

This section amends section 10766 by deleting the requirement that freight forwarders may only contract with Interstate Commerce Commission regulated motor carriers of property.

SECTION 38

This section makes changes in the analysis of Chapter 107 of title 49 to conform to the changes made in sections 19 through 37.

SECTION 39

This section amends section 10922 of title 49 USC by striking the language concerning entry requirements for motor common carriers of property. With these changes section 10922 will deal only with entry requirements for motor carriers of passengers as amended by the Bus Regulatory Reform Act of 1982.

This section replaces the Presidential moratorium provision under section 10922(l) of title 49, which was added by the Bus Regulatory Reform Act of 1982 to limit the ICC's approval of foreign-owned trucking operations in the United States due to discriminatory treatment by their governments. This section authorizes the President to seek consultations to eliminate discriminatory practices by governments of countries contiguous to the United States that have a substantial adverse competitive impact on a U.S. transportation company providing, or seeking to provide, motor carrier transportation of property or passengers in those countries. If consultations fail to eliminate such practices, the President may impose restrictions on foreign motor carriers' access to the U.S., if the President determines such action to be in the national interest. These provisions provide greater flexibility in the type of response that may be taken to discriminatory actions by foreign governments. Not only may the President limit entry as under current law, but the President may also modify or condition operations of foreign carriers.

It should also be noted that section 16 of this bill repeals the registration requirements for foreign motor carriers under section 10530 of title 49, United States Code, effective six months after the date of enactment.

SECTION 40

This section amends section 10923 of title 49 USC to strike the language concerning entry requirements for motor contract carriers of property. With these changes, section 10923 will deal only with entry requirements for motor contract carriers of passengers as amended by the Bus Regulatory Reform Act of 1982.

SECTION 41

This section amends section 10924 of title 49 USC by deleting the requirement that brokers use only Interstate Commerce Commission regulated carriers.

SECTION 42

This section amends section 10927 of title 49 USC by removing the language dealing with security and insurance requirements for motor carriers of property, as well as reference to registration certificates for foreign motor carriers.

SECTION 43

This section amends section 10928 of title 49 USC by removing the time limitation for the grant of temporary authority for motor carriers of property. Since this bill removes entry requirements for such carriers to operate, they will not need temporary authority.

SECTION 44

This section amends section 10930 of title 49 USC to delete the reference to section 10523, which is repealed by section 9 of this bill. The net effect of these two changes is to permit freight forwarders to conduct both long haul and terminal area operations.

SECTION 45

This section repeals section 10931 of title 49 USC. Section 10931 provides for Interstate Commerce Commission Grants of interstate motor carrier authority under certificates of registration for intrastate carriers who provide transportation entirely in one state.

SECTION 46

This section amends section 10932 of title 49 USC by striking the language permitting motor carriers certificated under section 10931 to continue to provide such transportation as long as the intrastate certificates so provide.

SECTION 47

This section repeals section 10934 of title 49 USC that confers special antitrust immunity upon certain business relationships between a household goods van line and its own local agents because principal-agent relationships are satisfactorily governed under common law.

SECTION 48

This section amends section 10935 of title 49 USC to conform to the change provided by section 39 of this bill.

SECTION 49

This section amends the analysis section of Chapter 109 of title 49 USC to conform to the changes made by sections 44 and 47.

SECTION 50

This section amends section 11101 of title 49 USC to conform to the change provided in section 7 of this bill, and by implication removes the authority of the Interstate Commerce Commission to prescribe requirements for continuous and adequate transportation service by motor carriers of property under the so-called "common carrier obligation."

SECTION 51

This section repeals section 11107 of title 49 USC. The result is to repeal all Interstate Commerce Commission requirements concerning leasing arrangement for motor carriers of property. Such arrangements can be made satisfactorily under normal commercial law.

SECTION 52

This section amends section 11109 of title 49 USC by making conforming changes to reflect the deregulation of transportation by motor carriers of property. It retains the prohibition against "lumping," a practice of forcing truckers, by threat of violence, to accept unloading assistance, when such assistance is not needed.

SECTION 53

This section repeals section 11110 of title 49 USC. Interstate Commerce Commission jurisdiction over household goods operations is transferred to the Federal Trade Commission under section 72.

SECTION 54

Section 11145 of title 49 USC authorizes the Interstate Commerce Commission to require periodic and special reports by carriers subject to its jurisdiction, and requires the Commission to streamline such reports in the case of motor carriers of property. Section 54 deletes the requirement that the Commission streamline reports by motor carriers of property, and by implication removes such carriers from all reporting requirements.

SECTION 55

This section amends the analysis section of Chapter 111 of title 49 USC to conform to the changes made by sections 51 and 53.

SECTION 56

This section amends section 11304 of title 49, USC by deleting trucks from the definition of motor vehicles. As a result of this amendment, trucks that were previously regulated by the Interstate Commerce Commission will no longer be entitled to preferential financing.

SECTION 57

This section amends section 11342 of title 49 USC by removing the power of the Interstate Commerce Commission to approve pooling agreements and agreements dealing with division of transportation or earnings among motor carriers of property. Removing this power has the effect of subjecting such agreements to the antitrust laws as defined in the first section of the Clayton Act (15 U.S.C. § 12).

SECTION 58

Because motor carriers of property would no longer be subject to ICC jurisdiction, mergers of two or more motor carriers of property would be subject to the antitrust laws, most notably section 7 of the Clayton Act (15 U.S.C. § 18). However, it is intended that the ICC still retain jurisdiction over mergers between a rail carrier and a motor carrier of property. Therefore this section makes conforming amendments to subsections (a) and (e) of section 11343 of title 49, United States Code, in order to preserve ICC authority to approve, or exempt from approval, rail-truck mergers.

SECTION 59

This section makes a conforming amendment to section 11344 of title 49 USC in order to keep in force the criteria for Commission approval of transactions involving consolidation, merger, and acquisition of control of motor carriers of passengers or property by rail carriers.

SECTION 60

This section amends section 11348 to conform to the changes provided in section 68 of this bill.

SECTION 61

This section amends section 11501 of title 49 USC by adding a new subsection (g) which prevents state and other political agencies from enacting or enforcing any economic regulation concerning interstate or intrastate rates, routes, or services of any interstate motor carrier of property. For purposes of this Act, an interstate motor carrier of property means a carrier that operates in or between two or more states or between a state and a foreign country. This provision is not intended to abridge any state authority regarding the establishment and enforcement of motor carrier safety measures.

SECTION 62

This section amends section 11504 of title 49 USC by making conforming amendments to the regulations concerning state withholding of income taxes for motor carriers.

SECTION 63

This section amends section 11701 of title 49 USC by making conforming amendments deleting the Interstate Commerce Commission authority to compel compliance with section 10530 of title 49, which requires certificates of registration for foreign motor carriers of property. That authority is transferred to the Secretary of Transportation under sections 16 and 74 of this bill.

SECTION 64

This section amends section 11702 of title 49 USC to conform to the changes provided in sections 13, 16, and 74 of this bill.

SECTION 65

This section amends section 11707 of title 49 USC to retain this portion of the so-called Carmack amendment with one important difference. Section 11707 provides the legal standards of liability of common carriers under receipts and bills of lading. This amendment means that motor common carriers of property, while no longer subject to Interstate Commerce Commission jurisdiction, will continue to be subjected to standards of liability of Section 11707 of the Interstate Commerce Act, as amended.

SECTION 66

This section repeals section 11711 of title 49 USC, which authorizes dispute settlement programs for household goods carriers. The household goods consumer protection function will shift to the Federal Trade Commission. Moreover, carriers do not need specific statutory authority to set up dispute settlement programs.

SECTION 67

This section amends the analysis section of Chapter 117 of title 49 USC to conform the change made by section 66.

SECTION 68

This section amends section 11901 of title 49 USC. Section 11901 provides for penalties against carriers for violations of various aspects of the Interstate Commerce Act. This section has the effect of removing from section 11901 penalties against motor carriers of property. The Federal Trade Commission Act, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund Act) and, with respect to violations of section 10530 (certificates of registration for foreign carriers), the Secretary's enforcement authority, provide for appropriate civil penalties.

SECTION 69

This section amends section 11910 of title 49 USC by deleting motor carriers of property from the unlawful disclosure provisions of section 11910, since such carriers will no longer be subject to regulation by the Interstate Commission.

SECTION 70

This section amends section 11914(b) of title 49 USC by removing applicability of the general criminal penalty under that section to violations of the registration requirements for foreign carriers under section 10530 of title 49, which is repealed by section 16 of this bill.

SECTION 71

This section makes a conforming amendment to section 11917 of title 49 USC by deleting a reference to Interstate Commerce Commission jurisdiction over household goods, which is transferred to the Federal Trade Commission under section 72 of this Act.

SECTION 72

This section states that the Federal Trade Commission Act shall apply to motor carriers of property. The section also directs the Federal Trade Commission to enforce the Interstate Commerce Commission's household goods regulations and to conduct a review of those regulations and revise them as appropriate. Once the revised regulations are issued, other federal agencies are directed to conform their regulations accordingly.

SECTION 73

This section amends section 503 of title 49 USC by requiring motor carriers to property operating in the U.S., including foreign and private motor carriers, to designate agents for service of notice and process with the Department of Transportation. Prior to enactment of this bill such designations had to be filed with the Interstate Commerce Commission. Section 75 also requires that agent designations made on behalf of a carrier not domiciled in the United States indicate the nationality of the carrier on whose behalf the designation is being made.

SECTION 74

This section requires the Secretary to submit a report to Congress within 2 years concerning progress in achieving uniform state administrative requirements for motor carriers.

SECTION 75

This section makes changes in the analysis of chapter 5 of title 49 USC to conform to the change made by section 75.

SECTION 76

This section amends section 3102 of title 49, United States Code, to make a conforming change in order to preserve the authority of the Secretary of Transportation to regulate requirements for qualifications, hours of service and safety and equipment standards for interstate motor carriers. The language tracks the description of interstate transportation in sections 10521 and 10522 of title 49, United States Code.

SECTION 77

This section amends section 3104 of title 49 USC by adding motor carriers of property to those carriers which may be required to display identification plates on their vehicles.

SECTION 78

This section clarifies the post-enactment status of any previously-approved and immunized mergers among motor carriers of property and any existing agreements between motor carriers of property that possess antitrust immunity (rate and pooling agreements). Such mergers will not be subject to retrospective antitrust challenge after the effective date of this Act. Likewise, conduct pursuant to any agreements immunized prior to the effective date will not be subject to retrospective challenge. However, any agreement or conduct under such agreement that continues after the effective date will be fully subject to the antitrust laws.

SECTION 79

This provision sets out the severability clause for the Act.

SECTION 80

This section provides that the Act shall take effect 60 days after enactment.●

By Mr. BENTSEN (for himself, Mr. MOYNIHAN, Mr. CHAFEE, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. DURENBERGER, Mr. GRAHAM, Mr. INOUYE, Mr. MATSUNAGA, Mr. MITCHELL, Mr. REID, Mr. RIEGLE, and Mr. STENNIS):

S. 1711. A bill to amend the Social Security Act to establish a National Commission on Children; to the Committee on Labor and Human Resources.

NATIONAL COMMISSION ON CHILDREN

● Mr. BENTSEN. Mr. President, in recent years, as never before, America's scholars, writers, and researchers have brought vividly to our minds and to our consciences the fact that our children are facing an increasing array of serious problems, many of which grow out of fundamental changes in the way we live with work.

It is my view, Mr. President, that the time has come to move beyond the inventory of the problems, and on to the complex and challenging task of charting a course to resolve them for the sake of our children.

This is a group that doesn't vote, it has no political clout, and yet represents our destiny as a nation. As a nation, we should strive to see them have whole and healthy bodies and minds, not only because we are a compassionate people, but because in this tough competitive world of ours this country can afford no less.

We need to emphasize children's issues not only for social reasons but because they make economic sense as well. Investments in prenatal health care are returned three to one in the first year of a child's life. To understand the depths of the problem, one has only to experience the anguish of a young mother whose 2-year old is faced with chronic illness or major surgery. Next to cancer among adults, serious illness among premature babies is one of the costliest hospital stays. There is no way a nation like ours can close its eyes to correctable conditions which otherwise condemn young people to lifelong illness.

There is no need to document here the many problems that befall our children and that have been chronicled so poignantly by many others. But a few should be mentioned because they underscore the magnitude, and the importance, of the challenge before us.

One quarter of our children live with a single parent.

Twenty percent of the babies in America are born to unwed mothers.

In an ocean of prosperity, one-fifth of our children live on barren islands of poverty.

Some 700,000 teenagers dropped out of school last year, with a substantial percentage destined to experience long-term unemployment and poverty.

How much richer we all would be if we could prevent, or reduce the impact of, these and other misfortunes that befall so many, and which impede the fulfillment of hopes and dreams.

I believe that we in the Congress have a responsibility to serve as a catalyst in this process. To this end, I propose the immediate establishment of a bipartisan National Commission on Children. I propose that this Commission be a forum on behalf of all the children of America.

This Commission, which will be broadly representative, will conduct public hearings in all regions of the country, urban and rural, gathering the views of Americans from all walks of life on how we—as a nation—can safeguard and enhance the physical, mental, and emotional well-being of our children and youth. I foresee this Commission being the source of ideas and strategies from which can spring the national resolve to assure productive futures for coming generations.

Much has been written on problems relating to children. But we have yet to see a comprehensive examination of the status of children that highlights the critical interaction of family, school, and community. And we have yet to see a comprehensive and critical analysis of the contributions that can and should be made by both public and private institutions.

The National Commission on Children will conduct such an examination and provide such an analysis. No later than September 30, 1988, the Commission will submit a report to the President and the Congress that sets forth its findings and recommendations.

I believe that this report will encourage all candidates running for public office in 1988 to pay close attention to children's issues, and to focus on how they believe America can ensure the future well-being of our youngest citizens.

The Commission will direct its attention to four specific areas of concern:

First, the Commission will examine questions relating to the health of children, including:

How to reduce infant mortality; how to reduce the number of low birthweight babies; how to reduce the number of children with chronic illnesses and disabilities; how to improve the nutrition of children; how to promote the physical fitness of children; how to ensure that pregnant women receive adequate prenatal care; how to ensure that all children have access to both preventive and acute care health services; and how to improve the quality and availability of health care for children.

Second, the Commission will examine questions relating to social and support services for children and their parents, including:

How to prevent and treat child neglect and abuse; how to provide help to parents who seek assistance in meeting the problems of their children; how to provide counseling services for children; how to strengthen the family unit; how children can be assured of adequate care while their parents are working or participating in education and training programs; how to improve foster care and adoption services; how to reduce drug and alcohol abuse by children and youths; and how to reduce the incidence of teenage pregnancy.

Third, the Commission will examine questions relating to education, including:

How to encourage academic excellence for all children at all levels of education; how to use preschool experiences to enhance educational achievement; how to improve the qualifications of teachers; how schools can better prepare the Nation's youth to compete in the labor market; how parents and schools can work together to help children achieve success at each step of the academic ladder; how to encourage teenagers to complete high school and remain in school to fulfill their academic potential; how to address the problems of drug and alcohol abuse by young people; how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy; and how schools might better meet the special needs of children who have physical or mental handicaps.

Finally, the Commission will examine questions relating to income security, including:

How to reduce poverty among children; and how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried.

In addition, the Commission will be asked to seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner.

The Commission will be composed of 36 members—12 members appointed by the President, 12 by the Speaker of the House of Representatives, and 12 by the President pro tempore of the Senate.

The President, the Speaker and the President pro tempore will each appoint as members of the Commission:

First. Four individuals who are representatives of organizations providing services to children, are involved in activities on behalf of children, or have engaged in academic research with respect to the problems and needs of children;

Second. Four individuals who are elected or appointed public officials involved in issues and programs relating to children; and

Third. Four individuals who are parents or representatives of parents or parents' organizations.

These appointments will be made in consultation with the chairmen of the committees of the House of Representatives and the Senate that have jurisdiction over relevant Federal programs.

We know that answers to the many questions that the Commission will address will not come easily. But we also know that there are remarkable resources upon which it can draw. Across this land there are educators, health care professionals, religious leaders, providers of social services, public officials, and parents and children themselves who share the hope and belief that answers can be found. And I know they are willing and eager to join in the search. It will be the task of the Commission to seek out, and to enlist the aid of these able and interested Americans.

It is my hope, Mr. President, that we in the Congress will let our children and their families know that they have our full attention, that we care about them, that they are, in fact, at the top of the Nation's agenda.

I urge my colleagues to support this bill, and to join in the effort to forge a new consensus on behalf of America's children.●

By Mr. WALLOP:

S.J. Res. 190. Joint resolution to authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week"; to the Committee on the Judiciary.

NATIONAL FISHING WEEK

● Mr. WALLOP. Mr. President, millions of Americans enjoy fishing in our Nation's beautiful streams, rivers, lakes, bordering oceans, and other waterways. It is in honor of our anglers that I am today introducing legislation authorizing and requesting the President to designate June 6-12, 1988, as "National Fishing Week."

This wholesome activity not only provides protein-rich food and thousands of hours of entertainment, but also generates $25 billion of economic activity and 300,000 jobs per year. Moreover, fishing brings families and neighborhoods together. It is a wonderful opportunity for children, handicapped persons, older Americans, and others to learn about our rich natural resources and the benefits of fishing. This pursuit is the second most popular recreational activity in this Nation, and fully one-third of all citizens go fishing each year. In my family, it is the most popular leisure-time activity. We rejoice in it. We are rejuvenated by it and we anticipate it.

During National Fishing Week 1987, there were celebrations and fishing events across the country. Fishing clinics and contests provided many children with their first opportunity to enjoy our rich natural resources. Efforts were also undertaken to educate the public on the necessity of protecting and enhancing our environment.

Mr. President, 60 Senators joined me in cosponsoring National Fishing Week in 1987. Clearly, the Senate endorses recognizing the pleasure, nourishment, and economic strength that fishing brings to the American public. I would urge all Senators to join me in honoring our Nation's fishermen by cosponsoring my bill to designate June 6-12, 1988 as "National Fishing Week."●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. Moynihan, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of S. 27, a bill to establish the American Conservation Corps, and for other purposes.

S. 74

At the request of Mr. Gramm, the names of the Senator from Michigan [Mr. Riegle] and the Senator from Washington [Mr. Evans] were added as cosponsors of S. 74, a bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefit of an institution of higher education.

S. 126

At the request of Mr. Inouye, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 126, a bill to amend titles XVIII and XIX of the Social Security Act to provide that gerontological nurse practitioner or gerontological clinical nurse specialist services are covered under part B of Medicare and are mandatory benefit under Medicaid, and for other purposes.

S. 714

At the request of Mr. Specter, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 714, a bill to recognize the organization known as the Montford Point Marine Association, Inc.

S. 840

At the request of Mr. Thurmond, the names of the Senator from Kansas [Mr. Dole] and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of S. 840, a bill to recognize the organization known as the 82nd Airborne Division Association, Inc.

S. 849

At the request of Mr. Chafee, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 849, a bill to establish guidelines for timely compensation for temporary injury incurred by seaman on fishing industry vessels and to require additional safety regulations for fishing industry vessels.

S. 884

At the request of Mr. Cranston, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 884, a bill to prohibit the burning and dumping of toxic and hazardous waste in certain areas off the coast of California, and various other purposes.

S. 924

At the request of Mr. Bentsen, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 924, a bill to revise the allotment formula for the alcohol, drug abuse, and mental health services block grant under Part B of title XIX of the Public Health Service Act.

S. 998

At the request of Mr. DeConcini, the name of the Senator from Oregon [Mr. Hatfield] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1188

At the request of Mr. Symms, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Rhode Island [Mr. Chafee] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1366

At the request of Mr. Sasser, his name was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1451

At the request of Mr. Heinz, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 1451, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1464

At the request of Mr. Cranston, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans's Administration facilities.

S. 1475

At the request of Mr. Melcher, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 1475, a bill to establish an effective clinical staffing recruitment and retention program, and for other purposes.

S. 1490

At the request of Mr. Sarbanes, the name of the Senator from New York [Mr. Moynihan] was added as a cosponsor of S. 1490, a bill to designate certain employees of the Librarian of Congress as police, and for other purposes.

S. 1573

At the request of Mr. McClure, the name of the Senator from Oregon [Mr. Hatfield] was added as a cosponsor of S. 1573, a bill to amend section 1853 of the act of June 25, 1948.

S. 1600

At the request of Mr. Ford, the names of the Senator from California [Mr. Cranston], and the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1620

At the request of Mr. Pell, the names of the Senator from Tennessee [Mr. Sasser], the Senator from Massachusetts [Mr. Kerry], and the Senator from Nebraska [Mr. Karnes] were added as cosponsors of S. 1620, a bill to reauthorize and revise the act of September 30, 1950 (Public Law 874, Eighty-first Congress) relating to Federal impact aid, and for other purposes.

SENATE JOINT RESOLUTION 97

At the request of Mr. Hatch, the names of the Senator from Rhode Island [Mr. Chafee], the Senator from Idaho [Mr. McClure], the Senator from Idaho [Mr. Symms], the Senator from Wisconsin [Mr. Kasten], the Senator from Delaware [Mr. Roth], the Senator from Utah [Mr. Garn], the Senator from Hawaii [Mr. Inouye], the Senator from North Dakota [Mr. Burdick], the Senator from Mississippi [Mr. Stennis], and the Senator from Montana [Mr. Baucus] were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the week beginning November 22, 1987, as "National Adoption Week."

SENATE JOINT RESOLUTION 126

At the request of Mr. Packwood, the names of the Senator from Illinois [Mr. Dixon], the Senator from Tennessee [Mr. Sasser], the Senator from New York [Mr. Moynihan], and the Senator from Maine [Mr. Mitchell] were added as cosponsors of Senate Joint Resolution 126, a joint resolution to designate March 16, 1988, as "Freedom of Information Day."

SENATE JOINT RESOLUTION 148

At the request of Mr. D'Amato, the names of the Senator from Utah [Mr. Hatch], the Senator from Oregon [Mr. Packwood], and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Joint Resolution 148, a joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. Bradley, the names of the Senator from Minnesota [Mr. Durenberger], the Senator from Kentucky [Mr. Ford], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 177

At the request of Mr. Thurmond, the names of the Senator from North Carolina [Mr. Helms], the Senator from Georgia [Mr. Nunn], the Senator from Mississippi [Mr. Stennis], the Senator from Arizona [Mr. DeConcini], the Senator from Wisconsin [Mr. Kasten], the Senator from Wisconsin [Mr. Proxmire], the Senator from Michigan [Mr. Riegle], the Senator from Pennsylvania [Mr. Heinz], the Senator from North Carolina [Mr. Sanford], the Senator from Mississippi [Mr. Cochran], the Senator from Michigan [Mr. Levin], and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of Senate Joint Resolution 177, a joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. Cranston, the names of the Senator from Virginia [Mr. Warner], and the Senator from Nevada [Mr. Reid], were added as cosponsors of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

JOHNSTON (AND OTHERS) AMENDMENT NO. 710

Mr. JOHNSTON (for himself, Mr. Proxmire, Mr. Evans, Mr. Durenberger, and Mr. Burdick) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, the prescribed personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

Notwithstanding the provisions of Sec. 201, Sec. 231, Sec. 3111, Sec. 3113 and Sec. 3141.

(1) Not more than $7,824,552,000 are authorized to be appropriated for fiscal year 1988 for the Defense Agencies for the use of the Armed Forces for research, development, test, and evaluation;

(2) Of the amounts appropriated pursuant to authorization or otherwise available to the Department of Defense for research, development, test, and evaluation for fiscal year 1988, not more than $3,238,100,000 may be obligated for the Strategic Defense Initiative for such fiscal year;

(3) Not more than $3,653,800,000 are authorized to be appropriated to the Department of Energy for fiscal year 1988 for operating expenses incurred in carrying out weapons activities;

(4) The total amount authorized to be appropriated to the Department of Energy in Division C for fiscal year 1988 for national security programs is $7,763,900,000; and

(5) Not more than $319,500,000 shall be available to the Department of Energy for research, development, test, and evaluation, and other purposes, in connection with the Strategic Defense Initiative Program.

KERRY (AND OTHERS) AMENDMENT NO. 711

Mr. KERRY (for himself, Mr. CHAFEE, Mr. SIMON, Mr. HATFIELD, Mr. PELL, Mr. LEAHY, Mr. PROXMIRE, Mr. JOHNSTON, Mr. SARBANES, Mr. WIRTH, Mr. MATSUNAGA, Mr. KENNEDY, Mr. CRANSTON, Mr. RIEGLE, Mr. BUMPERS, Mr. DODD, Mr. GORE, Mr. HARKIN, Mr. BINGAMAN, Mr. BURDICK, Mr. METZENBAUM, Mr. MITCHELL, Mr. STAFFORD, Mr. DASCHLE, Mr. SANFORD, Ms. MIKULSKI, and Mr. MOYNIHAN) proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . LIMITATION ON TESTING OF ANTI-SATELLITE WEAPONS

(a) Funds appropriated to or otherwise available to the Department of Defense may not be obligated or expended to carry out, on or after the date of the enactment of this Act, a test of the Space Defense System (anti-satellite weapon) against an object in space until the President certifies to Congress that the Soviet Union has conducted, after the date of the enactment of this Act, a test against an object in space of a dedicated anti-satellite weapon.

(b) Expiration. The prohibition in subsection (a) expires on October 1, 1988.

WEICKER (AND HATFIELD) AMENDMENT NO. 712

Mr. WEICKER (for himself and Mr. HATFIELD) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . MEETING THE REQUIREMENTS OF THE WAR POWERS RESOLUTION

(a) FINDINGS.—The Congress finds that—

(1) section 4(a)(1) of the War Powers Resolution requires the submission, within 48 hours, of a report by the President to the Congress whenever, in the absence of a declaration of war, United States Armed Forces are introduced "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"; and

(2) on September 21, 1987, United States Armed Forces attacked an Iranian vessel which was laying hostile mines in the Persian Gulf.

(b) POLICY.—(1) Therefore, the Congress declares that the report described in section 4(a)(1) of the War Powers Resolution is required to be submitted to the Congress by the President pursuant to such section not later than 48 hours after the attack referred to in subsection (a)(2) of this section.

NOTICES OF HEARINGS

SMALL BUSINESS COMMITTEE

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee's oversight hearing on the Small Business Administration's Small Business Development Center Program, scheduled for Tuesday, September 22, 1987, has been rescheduled for Thursday, October 15, 1987. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 10 a.m. For further information, please call Patty Barker of the committee staff at 224-8495.

SMALL BUSINESS COMMITTEE

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup on Tuesday, September 29, 1987, at 10 a.m. on S. 437, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies. The markup will be held in room 428A of the Russell Senate Office Building. For further information please call John Ball, staff director of the committee at 224-5175.

GOVERNMENT AFFAIRS SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. CHILES. Mr. President, the Government Affairs Subcommittee on Federal Spending, Budget, and Accounting will hold hearings on the accounting and management procedures used by the Federal Government involving seized property as a result of criminal activities. The subcommittee held hearings in March on the disposition of seized cash. We hope to hear from the agencies regarding remedial steps they have taken regarding the problems identified by the GAO in March hearings.

The hearings will be held in room 342 of the Senate Dirksen Building and will begin after 9:30 a.m. on Friday, September 25, 1987. Witnesses will include representatives from the General Accounting Office, the Department of Justice, the Customs Service, and Mr. Richard Brennan of the law firm of Layne, Brenner & Dienstag. Any persons wishing to submit written testimony should contact Bob Harris of my staff at (202) 224-9000.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will continue hearings on oversight of Federal procurement decisions on Wedtech, on Tuesday and Wednesday, September 29 and 30, in room 342 of the Dirksen Senate Office Building, at 9:30 a.m. both days.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding the following hearing on: September 29, 1987, beginning at 9 a.m., in Senate Russell 485, a hearing on S. 1645, amendments to the Indian Education Act.

Those wishing additional information should contact the committee at 224-2251.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks, and Forests.

The hearing will take place October 6, 1987, 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following measures currently pending before the subcommittee—

H.R. 1044, a bill to establish the National Maritime Museum at San Francisco in the State of California, and for other purposes;

S. 963, a bill to amend the boundaries of Stones River National Battlefield, TN, and for other purposes;

S. 761, a bill to provide for the establishment of a western historic trails center in the State of Iowa, and for other purposes; and

S. 1165, a bill to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

Those wishing information about testifying at the hearing or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Tom Williams at 224-7145 or Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON VETERANS' AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to hold a hearing on Tuesday, September 22, to hear the 1988 legislative priorities of the American Legion.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, September 22, 1987, at 2 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, September 22, 1987, in open session to receive testimony on the effectiveness of legislation enacted last year establishing the position of the Under Secretary of Defense for Acquisition.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 22, 1987, to hold a hearing on a pending Presidential nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 22, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES-SOVIET INF AGREEMENT

● Mr. WIRTH. Mr. President, Friday President Reagan announced that the United States and the Soviet Union had reached agreement in principle to ban medium- and short-range nuclear missiles. He also announced that our negotiators have reached an accord to begin a new round of talks on nuclear weapons testing, that the Soviets indicated a willingness to discuss new limits on strategic missiles, and suggested new approaches to limits on weapons in space—an area that has been most contentious for some time with our Nation's negotiators in Geneva.

Mr. President, this is good news, indeed. I congratulate the President and all U.S. officials who have had a role in negotiating the INF and short-range missile agreement—as well as Secretary Gorbachev and the Soviet negotiators, because it takes agreements and concessions on both sides to achieve such accords. But as much as I welcome this news and applaud those who brought it to us, and as strongly as I feel about arms control, I must say that this is not the millenium. Our work has just begun.

While this is only the first step in a much longer process, and the ability of the U.S.S.R. to obliterate the United States and vice versa will only be dented by this agreement, by no means do I mean to minimize the significance of this accomplishment. Everything must start somewhere, and eliminating the spectre of mutual nuclear suicide begins here, and I am relieved this step now appears likely to be taken.

Once before in this century, Mr. President, superpowers agreed to scrap significant numbers of a specific class of weapons. I am speaking of the Washington conference of 1921 that led to the naval holiday in battleship construction. But that agreement was not followed by a general cessation, and, as an unintended consequence, the world witnessed the rapid development of new technology and tactics to fill the void. Naval architects were freed to work on cruisers, submarines and aircraft carriers and theorists kept apace developing the strategy and tactics for their use. The end result was an increase in the world's arsenal and new ways to use it. Are we at the same point today with INF, Mr. President? I hope not.

What remains in front of us, of course, even after the ink has dried on the signatures on this treaty, is the necessity to address the whole panoply of strategic offensive and defensive weapons, tactical nuclear weapons, and conventional forces. The world will remain a very dangerous place until we reach agreements on these fronts; but the achievement of the INF and short-range agreement proves that agreements can be reached with the Soviets that protect our security while reducing the threat of nuclear annihilation. We can and must build on this first success in these other areas.

I am encouraged, further, by the announcement that Secretary Shultz and Foreign Minister Shevardnadze discussed a broad range of issues to be taken up by our negotiators in 1987-88, including nuclear testing, strategic arms reduction, chemical weapons, mutual and balanced force reductions, and security and confidence-building measures. As I noted previously, there is much left to do.

Mr. President, let me reiterate how encouraged and pleased I am by Friday's news. We appear to have reached an historic point on the road to eliminating weapons of mass destruction while assuring security for our Nation, its people, and its democratic form of government. I look forward to the summit and the final treaty. As will all of my colleagues, I will study the treaty with care. There are risks involved in any arms agreement. We must be prepared to take reasonable risks to reach our goals, but we must be prudent.●

NEED TO REINSTATE A CAPITAL GAINS EXCLUSION

● Mr. BOSCHWITZ. Mr. President, for months now I have been speaking on the Senate floor and elsewhere about the need to reinstate a preferential tax rate for capital gains.

At this time, I would like to put into the RECORD an article by Warren Brookes which appeared in the Washington Times. Mr. Brookes gives an excellent discussion of two of the many reasons why we need to reinstate a differential tax rate for capital gains—competitiveness and revenues.

As Mr. Brookes points out, the United States is fast becoming one of the few countries that imposes a tax when someone invests capital and makes a profit on that investment. Take a look at the chart in Mr. Brookes' article. Virtually all of our competitors are now exempting capital gains from tax, either directly or indirectly through an annual tax allowance. We are now competing in a global economy where capital is highly mobile. We need to create incentives, not disincentives, to attract funds into this country.

Mr. Brookes' article also points out the fallacy that increasing the tax rate on capital gains will increase revenues to the Treasury. As I have pointed out on previous occasions, history shows that increasing the tax rate on capital gains results in a loss of revenue to the Treasury. Lowering the tax rate on capital gains has consistently resulted in an increase in tax collections for the Treasury. That is not surprising, since capital gains is a voluntary transaction. When rates are lowered, there is less of an incentive to hold assets. Instead, assets turn over more quickly and capital is put to more productive uses.

Again, I urge my colleagues to join me in reinstating a preferential tax rate for capital gains. I have introduced legislation—S. 444—which would provide a 40-percent exclusion for assets held 1 year and a 60-percent exclusion for assets held 3 years or more. That will bring the rate on capital gains back down to where it was prior to the Tax Reform Act of 1986. Our rates will still be high compared to our competitors, but it will be a good first step to increase competitiveness and to prevent a loss of revenues to the Treasury.

The article follows:

[From the Washington Times, Aug. 20, 1987]

COMPETITION FOR CAPITAL—WILL TAX BLEMISH HANDICAP US?

(By Warren Brookes)

Congressional Democrats are trying to do what appears to be impossible: Make America more competitive, while raising taxes a proposed $64.3 billion over the next three years.

Small wonder they need a protectionist wall to enable them to return to their old friends: high-tax rates and organized labor.

There's a problem, however: "capital." In the deregulated and integrated world markets, money moves easily from bad investments to good, from poor investment climates to good ones. The market is making politicians irrelevant.

And therein lies a fascinating irony as well as a real opportunity.

The one major negative aspect of the 1986 tax reform—eliminating the 60 percent exemption on capital-gains income—pushed U.S. long-term capital gains rates to very nearly the highest in the Free World. (See table.)

While the U.S. Maximum rate on long-term gains rose from 20 to 28 percent, West Germany, Japan, Belgium, Italy, and Holland all now exempt long-term capital gains from any taxation. Canada's top rate is 17.51 percent. And this is applied only after the first $100,000 per year in capital gains realized, and there is no requirement for holding the capital.

Socialist France's rate is only 16 percent with no holding period, and France exempts the first $44,336 each year from any tax at all. Even Britain, whose top long-term rate is 30 percent, exempts the first $10,679, while Sweden's long-term rate is 18 percent.

This means, as a study by Arthur Andersen shows, America now has the most anticapital tax system in the Free World. And as The Economist pointed out recently, "At a time when most of the capitalist world is moving toward cutting capital-gains taxes in an effort to promote equity investment, America is moving in the opposite direction. For how long?"

Not long, if the Democrats wake up to a real opportunity the Republicans on the House Ways and Means Committee are offering them: Raise $32 billion in new tax revenues over the next three years—or about half the total the Democrats want—by *lowering* the capital-gains tax rate to the 15 percent rate.

They argue that experience shows that lower rates will actually yield higher revenues—and the higher rates that took effect this year are actually going to cost the Treasury.

In 1969, for example, the capital-gains tax rate was raised from 35 percent to 49, and within two years revenues from this tax had *fallen* more than 40 percent. This caused Congress in 1978 to lower the top rate to 28 percent. Immediately revenues from this tax jumped 44 percent in one year, from $8.1 billion to almost $11.7 billion. The same thing happened in 1982 when the top rate was cut from 28 percent to 20.

A recent study by Harvard economist Lawrence Lindsay shows that, based on these experiences, the "ideal" or "revenue maximizing" rate for capital gains is 18 percent—and such a rate would raise capital-gains revenues as much as 72 percent over the new tax-reform's 28 percent rate.

Indeed, he estimates that as a result of raising the capital-gains rate from 20 percent to 28 in last year's tax reform, the government will actually *lose* between $11 billion and $42 billion in the next two years alone, and between $27 and $105 billion over the next five years.

The reason is obvious: The lower rate encourages capital gains to be realized and declared. The higher rate encourages capital to be held rather than mobilized.

In fact, that's exactly what has happened: 1987 tax revenues shot up more than $20 billion over estimates because so many taxpayers took their capital gains last year (filed this year) to avoid higher rates in 1987.

That experience was confounded, however, by the shocking July 7 testimony by Treasury's tax legislative counsel Dennis Ross. Mr. Ross opposed the Republicans' proposal to cut the rate to 15 percent, because "it will cause the Treasury to lose revenues."

When this amazing assertion was picked up in The Wall Street Journal on July 8, an embarrassed Mr. Ross was forced by his boss to write a "clarification" to the Ways and Means Committee, admitting that "a body of research exists that indicates that a substantial reduction in the maximum capital-gains rate could result in increased revenues in time."

Mr. Ross reminded the committee (and himself): "The administration supported a reduction in the capital-gains rate to 17.5 percent as an important feature of . . . the president's tax-reform proposals," which had argued that the lower rate would actually yield $19 billion *higher* revenues over five years.

The Republicans have offered the Democrats an opportunity to make America more competitive and to increase revenues at the same time.

They should grab it.

OUR ANTICAPITAL TAX RATES—CAPITAL GAINS MAXIMUM RATES

	Maximum short-term rate (percent)	Maximum long-term rate (percent)	Time period (months)	Annual tax-free allowances
United States	38.5	28.0	6	None
West Germany	56.0	0	6	$543
Japan	0	0		
Canada	17.5	17.5		100,000
France	16.0	16.0		44,336
Britain	30.0	30.0		10,679
Italy	0	0		
Holland	0	0		
Belgium	0	0		

Source: Arthur Andersen.●

INFORMED CONSENT: MICHIGAN

● Mr. HUMPHREY. Mr. President, today I would like to insert into the CONGRESSIONAL RECORD two letters from the State of Michigan in support of my informed consent legislation. Both women feel they were denied factual information about alternatives to abortion, the physical and emotional ramifications of abortion. I urge my colleagues to support S. 272 and S. 273 so that future women will not be subjected to needless pain and suffering because of a lack of information.

I ask that the letters from the State of Michigan be printed in the RECORD.

The letters follow:

AUGUST 6, 1986.

DEAR SENATOR HUMPHREY: I have had an abortion in November of 1978 and I feel that if I would have only had proper counseling before my abortion I wouldn't have to go through the post abortion trauma now. The only counseling I received was when the assistant brought me into the room and told me how the procedure is done on a model. I only wish I knew the facts because to later find out what I really did to my baby really hurts. If I would have only received proper counseling and been told the truth about the baby and what really happens I know that my baby would be here now. I wouldn't have to deal with the fact of killing my baby. I feel that they could have told me about adoption and true facts because if they did I wouldn't have to suffer now. I guess they wouldn't because they would lose a lot of money on me.

Please, please try to get this Senate Bill 272 in effect because each day many other girls aren't getting proper counseling and they too will have to deal with the fact they are committing murder also. I feel sorry for the girl when she finds out what she did: it will be devastating.

Thank You and God Bless You,

PAMELA HULSING,
Michigan.

JULY 8, 1986.

DEAR SENATOR HUMPHREY: I am writing you today regarding Senate Bill 272 in support of informed consent for women considering abortion. My support stems largely from personal experience.

When I was 18 years old I became pregnant. That pregnancy put my life in crisis; I was scared and with my boyfriend (now husband) decided to end my 12-week pregnancy through abortion. Years later we learned that my "12-week pregnancy" was an anatomically complete fetus.

One of my first reactions to this knowledge was the rage I felt toward everyone involved. I felt betrayed, having had an unfamiliar doctor perform surgery on my body to scrape the living fetus from my womb. I look back and wonder at the haze of illusion I was in to have done this.

The "counseling" I had at the clinic was an interaction that lasted less than five minutes. I had kept my pregnancy secret, too ashamed to ask anyone I know for help, and had done no problem solving prior to my decision to abort. When I told her I was sure I wanted the abortion (though truly I was still quite ambivalent) she seemed satisfied. She then gave me a brief description of the abortion procedure then directed me back to the lobby until my name was called for surgery.

The emotional and psychological repercussions of the abortion have been painful and required counseling, spiritual healing (and medical treatment for complications with scar tissue) for myself and my husband. Seven years later, we still grieve the loss of our first child. The abortion was an extreme and panicked response to an unplanned pregnancy and it is a difficult memory that will never totally be relieved.

Though I take personal responsibility for having kept myself ignorant, still, the facts of and alternatives to abortion were not readily available. It is a legitimate and necessary requirement that such information be presented to persons with an unplanned pregnancy so that a woman's decision can truly be a choice and not merely a reaction.

Thank you for your efforts on this bill.

Sincerely,

ANONYMOUS,
Michigan.●

WITHOUT MANUFACTURING, SERVICES CANNOT SURVIVE

● Mr. HEINZ. Mr. President, in recent years, politicians and economists have been loudly touting the advent of a postindustrial, service-dominated economy in the United States, claiming that the development of services instead of manufacturing shows that our economy is becoming more advanced and healthy. In a recent article in "Technology Review" entitled "The Myth of a Postindustrial Economy," this view is soundly renounced.

The authors of this article take the position that services are, to a great extent, intricately linked to manufacturing. They dispel the traditional economic view that these linkages are not important, and argue instead that they are, in fact, very real and important. Without strong manufacturing, a strong service industry cannot thrive.

In pursuing this topic, the authors address another popular argument, namely that the United States can export its technological, financial, and engineering knowledge instead of manufactured products and still thrive. Unfortunately, the article argues, this will not work permanently, since other countries are rapidly learning from, and surpassing, the United States in all of the above-mentioned categories.

Mr. President, this is an important article because it puts to rest some of the myths that are growing up about the American economy in the closing years of this century. It clearly describes the glib surrender of manufacturing as a basic part of our economy by administration officials and economists. A shoring up of manufacturing is not only one of many weapons which we must employ to effectively combat our severe trade deficit ills, but it is also a critical element of our national security and our survival as a nation.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

[From Technology Review Magazine, February-March 1987]

THE MYTH OF A POSTINDUSTRIAL ECONOMY

(By Stephen S. Cohen and John Zysman)

Manufacturing matters mightily to the wealth and power of the United States and to our ability to sustain the open society we have come to take for granted. But this contension is a distinctly minority view in the United States today. In part this is due to the power of a central tenet of American economic thought: government policy should be indifferent to what makes up the gross national product.

This conventional view is supported by numerous authors in books, journal articles, op-ed pieces, and expert testimony. They point to the relentless decline in manufacturing employment—from 50 percent of all jobs in 1950 to 20 percent now—and the increase in service jobs, which now constitute about 70 percent of all employment. These figures underwrite the mainstream view that economic development is a never-ending shift from activities of the past up into newer, more farming to industry. Now we are shifting from industry to services and high technology.

The lesson for government is clear: keep hands off. For example, in his latest Report to the Congress on Trade Agreements, President Reagan sets out the following framework for understanding a troubling trade imbalance. "The move from an industrial society toward a 'postindustrial' service economy has been one of the greatest changes to affect the developed world since the Industrial Revolution. The progression of an economy such as America's from agriculture to manufacturing to services is a natural change."

The New York Stock Exchange, in a recent report on trade, industrial change, and jobs, put it more pointedly: "A strong manufacturing sector is not a requisite for a prosperous economy."

Or, in the words of a *Forbes* editorial, "Instead of ringing in the decline of our economic power, a service-driven economy signals the most advanced stage of economic development. . . . Instead of following the Pied Piper of 'reindustrialization,' the U.S. should be concentrating its efforts on strengthening its services."

In this view, America's loss of market share and employment in industries such as textiles, steel, apparel, autos, consumer electronics, machine tools, random-access memories, computer peripherals, and circuit boards is neither surprising nor bad. It is not a sign of failure but part of the price of success. The United States should be shedding sunset industries and moving on to services and high tech, the sunrise sectors. Such a change is part of an ever-evolving international division of labor from which everyone benefits.

This view is soothing in its message, calm in tone, confident in style, and readily buttressed by traditional economic theory. We believe it is also quite possibly wrong. At the heart of our argument is a notion we call "direct linkage:" many service jobs are tightly tied to manufacturing. Lose manufacturing and you will lose—not develop—those high-wage services. Nor is the relationship between high tech and manufacturing, like that between services and manufacturing, a simple case of evolutionary succession. High tech is intimately tied to manufacturing, not a free-floating laboratory activity.

Our argument takes issue—fundamentally—with the widely articulated view that a service-based, "post-industrial" economy is the natural successor to an industry-based economy, the next step up a short but steep staircase consisting of "stages of development." Because the traditional view justifies economic policies that risk the wealth and power of the United States, it is, for all its conventionality, a terribly radical guide for policy. If the United States wants to stay on top—or even high up—we can't just shift out of manufacturing and into services.

Nor can we establish a long-term preserve around traditional blue-collar jobs and outmoded plants. If the United States is to remain a wealthy and powerful economy, American manufacturing must automate, not emigrate. Moreover, it must automate in ways that build flexibility through the imaginative use of skilled labor. In a world in which technology migrates rapidly and financial services are global, the skills of our workforce and the talents of our managers together will be our central resource.

LINKAGES AND WEALTH

Most celebrations of the shift from industry to services construct a parallel to the shift from agriculture to industry. According to that argument, the shift from low-productivity, low-paid farm labor to higher-productivity, hence higher-paid employment in industry is precisely what economic development is about. The same developmental movement, the same "creative destruction," is now being repeated in the shift out of industry and into services and high tech.

This view of economic history, although familiar and reassuring, is misleading. It confuses two separate transitions: a shift out of agricultural production and a shift of labor out of agriculture.

The first shift never occurred. U.S. agricultural production did not go offshore or shrivel up. To the embarrassment of those who view the cultivation of large quantities of soybeans, tomatoes, and corn as incompatible with a high-tech future, agriculture has sustained the highest long-term productivity of any sector of the economy. We automated agriculture; we did not send it offshore or shift out of it. As a result we developed massive quantities of high-value-added, high-paid jobs in related industries and services such as agricultural machinery and chemicals. These industries and services owe their development, scale, and survival to a broad and strong American agricultural sector.

Even the employment shift from agriculture merits a second look. The generally accepted figure for U.S. agricultural employment is about 3 million, or 3 percent of the workforce. But this figure arbitrarily excludes many categories of employment. Are crop dusters and large-animal veterinarians employed in agriculture? The 3 million figure is blind to such important economic realities. If we ask what would have happened to employment (and wealth) if the United States had shifted out of agriculture instead of moving labor off the farm, we encounter the notion to linkage: the relationship of agricultural production to employment in tractor repair, ketchup making, and grape crushing.

The more advanced a production process, the longer and more complicated the linkages. Primitive farmers scratch the ground with sticks. They need very little from outside. Their productivity is also very low. Modern farmers head a long, elaborate chain of specialists, most of whom don't often set foot on the farm, yet all of whom are vital to its successful operation and directly depend on it.

Such linkage is not a new notion. But conventional economics does not like linkages to be used as evidence of some special economic importance for particular sectors. Linkage has no place in a discussion of a subject like why manufacturing matters, critics say. Their objection is not that linkages are dubious or rare, or impossible to demonstrate. Rather, it is that they are ubiquitous. In economics, everything is linked to everything else.

The linkages admitted in traditional economics are all of the same special kind: they are loose couplings. Each is a simple market relationship between a buyer and a seller, and each involves a traded good. The United States can, in principle at least, make cars or texiles with imported machines. We do it every day, though at a steadily shrinking volume. These are the loosest linkages imaginable.

There are, however, tighter linkages, such as those between agricultural production and the food-processing industry, which employs about 1.7 million Americans. Here the linkages are tight and concrete. Move the tomato farm offshore and you close the ketchup plant or move it offshore also. It is technically possible but economically difficult to mill sugar cane in a country far from the sugar fields, or to process tomatoes far from the tomato patch, or to dry grapes into raisins far from the vineyard. An economy like ours is based on an enormous number of such tight bonds. It is not simply a system of loose linkages like those that dominate the models from which conventional economics produces its conventional prescriptions.

It is extremely implausible that the United States would sustain a major agricultural-chemicals industry if it were not the world's largest and most advanced market for those products. It is not likely that we would have developed the world's largest agricultural-machinery industry in the absence of the world's largest agricultural sector. Were the wheat fields to vanish from the United States, the machinery makers would shrink and so would their suppliers of parts, computers, trucking, and janitorial services.

The Department of Agriculture provides estimates of agriculture-dependent employment, but they outrageously overstate the case by tracing the food and fiber chain up through textile mills and food stores. Their 1982 estimate was 28.4 million jobs dependent on agriculture. Using rather conservative assumption, we found that 3 to 6 million jobs—in addition to the 3 million traditionally classified as agricultural—can be considered part of this sector.

MANUFACTURING LINKAGES

If we turn from agriculture to industry—where direct employment is 21 million jobs—we find that even a remotely similar "linkage rate" would radically alter the place of manufacturing in the U.S. economy. The employment of another 40, 50, or even 60 million Americans, half to three-quarters of whom are counted as service workers, depends, directly upon manufacturing production. If manufacturing goes, those service jobs will go with it.

If we lose control and mastery of manufacturing production, the problem is not simply that we will be unable to replace the jobs lost with service jobs, or simply that those service jobs will pay less, or that the scale and speed of adjustment will shock the society—and polity—in potentially dangerous ways. It is that the high-paying service jobs that are directly linked to manufacturing will after a few short rounds of industrial innovation, whither away, only to sprout up offshore.

Many service jobs that follow manufacturing, such as wholesaling, retailing, and advertising, would not be directly affected if manufacturing were ceded to offshore producers. The same sales effort is involved in selling a Toyota as in selling a Buick.

The services that are directly linked to manufacturing are concentrated in that relatively narrow band of services that precedes it. Examples of such activities include design and engineering services; payroll, inventory, and accounting services finance and insurance; repair and maintenance of plant and machinery; training and recruitment; testing services and labs; industrial waste disposal; and the accountants, designers, publicists, payroll, transportation, and communication firms who work for the engineering firms that design and service production equipment.

Two questions pose themselves. The first concerns the nature of the linkages. How can we go about determining how many jobs would vanish from the U.S. economy if manufacturing were lost? The second involves scale: do services to manufacturing constitute a scale of employment sufficient to justify a new sets of concerns, a rethinking of theory, and a recasting of policy?

The President's Report on the Trade Agreements Program provides an approximate answer for the second question: "25 percent of U.S. GNP originates in services used as inputs by goods-producing industries—more than the value added to GNP by the manufacturing sector."

But charting how much of this service employment is tightly linked to manufacturing is difficult. It should be right at the top of the economics research agenda, so that it can get to the top of the policy debate. Unless it can be shown that the overwhelming bulk of those services are weakly linked to manufacturing, we must quickly reformulate the terms of that policy debate.

Some of those services that proceed are so tightly linked to manufacturing that they are best understood as direct extensions of it. These would include truckers who specialize in shipping raw materials, components, and semi-finished goods. The U.S. textile industry, for example, is a major employer of trucking services. The category of services tightly linked to manufacturing is real, and it is peopled. But unfortunately we do not yet know how big it is.

IS EXPORTING SERVICES AN ANSWER?

If, indeed, many services are tied to manufacturing, can the United States significantly offset its trade deficit in merchandise by running a surplus in trade of services? Recent experience provides no reason for assuming—wishing is a better word—that the United States is better at exporting services than it is at exporting manufactured goods. The total volume of service trade is an order of magnitude less than trade in goods. Consequently, only a sudden multiplication of service exports could compensate for the present deterioration in traded goods.

There are a number of problems with counting on an expansion in American service exports. First, almost all the current trade surplus in services stems from interest on old loans abroad. These loans are not very bankable since Third World nations threaten to default. Indeed, our obligations to foreign countries now exceed theirs to us. The United States is a debtor nation.

Second, as with domestic services, large segments of trade in international services are directly tied to a strong a technologically advanced manufacturing sector.

Consider U.S. exports of engineering services. These top-of-the-line services are knowledge-intensive and employ highly paid professionals who in turn purchase significant amounts of other services, including telecommunications, data processing, computer programming, and legal advice. Competitive advantage in engineering services depends upon mastery and control of the latest production technology by U.S. producers. Not very long ago we exported such services in the steel industry. Then U.S. steel producers fell behind in the design and operation of production technologies and facilities. When leadership in production changed hands, the flow of services for this industry also reversed. Now we import those services from our former customers in Europe and Japan, and might soon obtain them from Korea and Brazil.

Third, it is not only engineering services that go through this development cycle. Financial services—a sector in which the United States is said to have a strong competitive advantage—are often cited as an area where export earnings could offset deficits in the merchandise account in a big way. Financial services are high in knowledge and technology, and are supposedly located within the most advanced economy: ours.

But the situation in banking services may be less rosy than we like to think. There is no compelling reason to assume a special advantage for U.S. banks compared with their competitors. Foreign banks are bigger, and they are growing faster than U.S. banks. A recent listing of the world's largest banks included 23 Japanese banks, 44 European banks, and only 18 U.S. banks.

U.S. banks are not even particularly succeeding in holding on to their home market. For example, foreign banks are doing as well in California as foreign auto producers. Six of the ten largest banks in California are now foreign owned, up from two of ten five years ago. Foreign banks now account for about 40 percent of the big commercial loans—the high end of the business—made in New York and San Francisco. Service trade is not an alternative to trade in goods.

THE HIGH-TECH LINK

Some analysts, such as Robert Z. Lawrence of the Brookings Institution, take comfort in the fact that high-technology exports have grown in importance for the United States. They see that as a sign of a healthy, normal development process. But the supposed U.S. advantage in high-technology goods is also deeply misleading. It suggests less a distinctive international advantage than a deep incapacity to compete with our industrial partners even in more traditional sectors. A failure by American firms to remain competitive in manufacturing processes seems to underlie this weakness. Moreover, the U.S. position in high-technology trade is quite narrow and fragile.

In the early eighties the range of high-technology sectors from which a surplus was generated was actually quite narrow; aircraft, computers, and agricultural chemicals. The overall high-tech surplus disappeared by 1983, and in 1984 and 1985 high technology, too, ran a growing deficit. Moreover, a substantial portion of U.S. high-tech exports are military goods, which indicates more about the character of America's strategic ties than about its industrial competitiveness. At a minimum, military sales reflect such factors as foreign policy far more than simple commercial calculus.

Like the service industries, much of high tech is tightly linked to traditional manufacturing. Most high-tech products are producer goods, not consumer items, despite the popularity of home computers and burglar alarms. They are bought to be used in the products of other industries (such as microprocessors in cars) or in production processes (such as robots, computers, and lasers). If American producers of autos, machine tools, telephones, and trousers don't buy American-made silicon chips, who will?

A second tie to manufacturing is even tighter. If high tech is to sustain a scale of activity sufficient to matter, America must control the production of those high-tech products it invents and designs—and it must do so in a direct and hands-on way. Unless R&D is closely tied to manufacturing—and to the innovation required to maintain competitiveness—it will lose its cutting edge. For example, by abandoning the production of televisions, the U.S. electronics industry quickly lost the know-how to design, develop, refine, and competitively produce the VCR, the next generation of that product.

DEFENSE: A FOOTNOTE

Until now, we have treated military needs in parenthesis, as they are treated in conventional economics. However, it is easy to make exceptions for something as big as the U.S. military effort. Exceptions of that scale are never without consequences for the rest of the system.

A strong domestic manufacturing capability greatly reduces the costs of our defense effort. Diverse and leading-edge production of technologies such as semiconductors, computers, telecommunications, and machine tools makes the costs of advanced weaponry much lower than if we had to create an industrial structure exclusively for military use.

If U.S. commercial semiconductor manufacturers, say, fall behind foreign competitors, the military might not even be able to produce the components for its own use. Domestic capability in critical links in the production chain—for example, mask-making, clean rooms, and design and production tools for semiconductors—could quickly disappear.

Such an erosion of our ability to produce critical technologies would massively reduce our strategic independence and diplomatic options. Whatever the ups and downs of military spending and the changes in defense strategies, our basic security is built on the assumption that the United States will maintain a permanent lead in a broad range of advanced industrial technologies. Loss of leading-edge capacity in chip making would quickly translate into a loss of diplomatic and strategic bargaining chips.

This argument suggests that commercial development often drives military capability. It is the reverse of the common notion that military needs drive commercial development. If the United States had to support the full weight of a vast arsenal economy, we would become vis a vis Japan not so different from the arsenal Soviet economy vis a vis that of the United States.

MANUFACTURING AND WEALTH

Sometimes new notions capture the public fancy, resonate to some element of our experience, and color the way we see the world. The concept of a "post-industrial" society is such a notion. But it also obscures the precise nature of changes in the U.S. economy and what they mean.

Things have changed: production workers go home cleaner; more and more workers leave offices rather than assembly lines. And the organization of society has changed along with the technologies of product and production.

But the relationship of changes in technology and society to changes in the fundamentals of economics—the process of creating wealth—is less clear. There is not yet, nor is there likely to be in the near future, a post-industrial economy. The division of labor has become infinitely more elaborate and the production process far less direct—involving ever more specialized services as well as goods and materials located far from the traditional scene of production. However, the key generator of wealth for this vastly expanded division of labor remains profuction. The United States is shifting not out of industrial into services but from one kind of industrial economy to another.

Insisting that a shift to services or high technology is "natural" is irresponsible analysis and perverse policy. The competitiveness of the U.S. economy—the ability to maintain high and rising wages—is not likely to be enhanced by abandoning production to others. Instead of ceding production, public policy should actively aim to convert low-productivity, low-wage, low-skill production processes into high-technology, high-skill, high-wage activities—whether they are included in the manufacturing unit itself or counted largely as service firms.

America's declining competitiveness is troubling precisely because emerging fundamental changes in production technologies and the extent and forms of international competition are likely to prove enduring. The international hierarchy of wealth and power is being reshuffled, and it is happening fast and now.●

COMPUTER EDUCATION ASSISTANCE ACT OF 1987—S. 838

● Mr. BIDEN. Mr. President, I am pleased to join my colleagues in cosponsoring The Computer Education Assistance Act of 1987.

Computers are the pen and pencil of the information age. Some predict that by the year 2000, 80 percent of American jobs will require familiarity with computers. As a society, we are responsible for preparing today's children for tomorrow's jobs. Senator LAUTENBERG's bill is an important step forward in helping America fulfill its responsibilities to its children.

Nearly every elementary and secondary school in this country has at least one computer. Unfortunately, the typical ratio of students to computers is approximately 40:1. Unless this situation improves dramatically, our children's exposure to computing will be so limited as to inadequately prepare them for college or the job market, or even to function as informed citizens in our complex society. Imagine trying to teach a class of 30 students to write when all the students had to share a single pencil. This is the situation faced by the majority of our teachers as they struggle to teach computing to our children.

The situation is even worse in poor neighborhoods, where there is not enough funding for basics, let alone computers. Poor children are also far less likely to have access to a computer at home than their affluent counterparts. If this gap continues to widen, it will manifest itself in even higher levels of unemployment for segments of our population which already struggle with high levels of illiteracy and high dropout rates. Over half of the funds authorized by this legislation are earmarked for financially disadvantaged schools.

This bill will authorize competitive grants for local school districts to acquire computer hardware and software. But even if we could place a computer on every desk in every classroom in America, only half of the battle would be won. For computers to be used effectively, State and local school districts need to develop plans for integrating computers into their existing curricula; teachers need to be trained to take full advantage of the computer's capabilities. This legislation makes awards contingent upon the local school district setting goals and developing plans for computer use, and also funds teacher training institutes. These provisions make it highly likely that scarce Federal funds will be used to best advantage.

Computers have the potential to empower our children intellectually through their application to even traditional areas of study. Children exposed to computers at a relatively early age may be more likely to consider pursuing careers in science and engineering, or even to stay in school rather than dropping out.

America is in a critical period with regard to our economic future. Economists predict that most low-skill, low-literacy jobs will vanish in the immediate future. The remaining jobs will require the occupants to have strong basic intellectual skills. Other industrialized countries such as Japan are already making major investments in computing equipment for their schools. The simple fact is that if we want the best for our children and our society, if we want to win the global economic competition, we must be willing to pay the price. The Computer Education Assistance Act of 1987 represents an investment in our children and in our future—an investment that will yield a substantial return in the form of a highly educated, competitive work force for the information age.●

INTERNATIONAL REFUGEE CRISIS

● Mr. DURENBERGER. Mr. President, I rise today to comment on the international refugee crisis. Too often, as this body considers crucial foreign policy issues, we overlook the human cost. We discuss U.S. policy toward various regions of the world but rarely deliberate on the impact such policies will have on the growing refugee population in the Third World.

Estimates of the current number of refugees vary widely; some exceed 20 million. Refugees are not merely statistics—they are human beings forced to leave the land of their birth for reasons of war, famine, or persecution. Many of the refugees are fleeing Communist regimes—and this is no coincidence. The plight of Cambodians, Afghans, Vietnamese, Ethiopians, Laotians, and Nicaraguans provides compelling testimony to the world about the results of Communist rule. And it is also no coincidence that these same nations are wracked with conflict and civil war.

There are many geopolitical and strategic reasons for the civil wars raging in many Third World states today. But in the midst of the strife, there are the omnipresent men, women, and children forced to leave their homes, forced to leave all that they own, forced to go to strange lands with little hope for the future.

The world has always seen refugees—wars have always left their victims homeless, repression has always forced people to flee their homelands. But in the past decade or so, the character of the refugee problem has changed. The world has seen tremendous growth in a new class of refugees: those with little chance to return to their country in the foreseeable future. Unlike refugees in the past, the new refugees have little prospect of returning to their homes. And they are found in all regions of the developing world.

The new stateless peoples are the real victims of conflict in the Third World. Something like 5 million Afghans have fled the brutality of the Soviet puppet regime in their country. Despite occasional headlines trumpeting progress in negotiations, it does not appear that the Soviet Union is ready to end its occupation of Afghanistan soon.

Southeast Asia has faced the refugee problem for much longer than South Asia. Laotians, Cambodians, and Vietnamese have fled their states by the millions since Communists came to power in the 1970's. The tragedy of Southeast Asia is not over. The refugee camps in Thailand remain filled to more than capacity and countries willing to offer resettlement seem to be flagging in their commitment. The Thais have begun to close down refugee camps and force their inhabitants back to what can only be described as a most uncertain future. People who have barely escaped with their lives—often losing relatives and enduring incredible hardship—are being forced to go back in cruel twist of fate.

In Africa, millions more are homeless. Civil wars rage in Angola, the western Sahara, Sudan, and Mozambique. Forced resettlement in Ethiopia, a particularly vicious policy, has combined with repression and a separatist war to leave a million or more refugees.

Closer to home, conflict in Central America has created millions of refugees, chiefly from El Salvador and Nicaragua. Those fleeing strife have placed a tremendous burden on the resources of host states: Mexico, Costa Rica, and Belize. Thousands more have sought sanctuary in the United States, leading to a divisive debate over U.S. policy toward Central American refugees. While demagogues on both sides of the Contra aid issue use the refugee plight for their own arguments, the wars continue and the ranks of the refugees continue to swell.

The refugee crisis of the 1980's does not lend itself to simple solutions. Greater support for international agencies involved in refugee work is needed. A strong U.S. commitment to resettlement must continue. But if the refugee crisis is ever to ease, there must be concerted effort to deal with the causes, not merely the symptoms, of refugee creation. This means the political will to address the regional security issues and civil wars that force so many to leave their country.

Until the Soviet Union decides to allow Afghanistan the right of self-determination, refugees will not go home. Until there is peace in Central America, refugees will not be able to return safely to their homelands. As long as civil strife continues throughout Africa, refugees will have no place to go besides the squalor of the camps.

But beyond working toward resolution of the root causes of the refugee crisis, there is much that we can do. When I heard of Thai plans to close the Khao I Dang refugee camp near the Cambodian border, I wrote to United States officials and asked that they express our desire that the camp remain open to the appropriate Thai officials. I joined with Senator Hatfield in sponsoring S. 814, the Indochinese Resettlement and Protection Act of 1987. S. 814 would address Thai concerns that the United States commitment to refugee resettlement is waning by committing the United States to a steady number of admissions from Southeast Asia, as well as providing funds for education in the Thai camps. S. 814 would go a long way to alleviating the tragic plight of Southeast Asian refugees.

I have also been active in other areas. When I heard that U.S. assistance programs for refugees were slated for reductions, I acted quickly and drafted a resolution which expressed the sense of the Senate that Federal refugee assistance should be maintained. As the Senate moves toward finalizing our appropriations for the next fiscal year, I have written to the chair of the Appropriations Committee and urged him to maintain adequate levels of refugee assistance. I will continue to monitor Federal assistance very closely and to do all I can to ensure that aid is not cut.

I have also spoken repeatedly on the need to address the problems in Central America that lead to refugees being forced to leave. Progress toward democracy is the best guarantee of the political freedom that is so lacking in the societies that generate refugees. And peace is the best guarantee of reducing the number of people forced to flee war and destruction.

I have supported the peace plan proposed by President Arias and continue to hope that the wars in the region can be resolved. But until that time, I do not think that the United States should deport Central Americans on the basis that they are economic migrants rather than refugees. Toward this end, I have cosponsored S. 332, which would provide for a stay of deportation for Salvadorans and Nicaraguans pending a full report on the conditions they face upon return to their countries. I have supported this bill in past Congresses and continue to believe that sending thousands of Salvadorans and Nicaraguans back to their countries is not good refugee policy nor is it good foreign policy.

While these measures by themselves will not solve the refugee crisis, they will all help. The refugee issue is not simply abstract—not for me not for my constituents. In my meetings and in my travel, I have seen first hand the intense personal tragedy of what it means to be a refugee. I have heard heart-rendering stories of new Americans that had to leave everything behind, all too often relatives and friends as well as personal possessions.

In addition, my State of Minnesota is a national leader in its efforts on behalf of refugees. Over 26,000 refugees from Southeast Asia have made their home in Minnesota. It has not always been easy for them but their presence has immeasurably enhanced the already rich melting pot of Minnesota. Many of my constituents are active in assisting refugees throughout the world—from Thailand to Sudan, from Namibia to Honduras. I am proud of their efforts and will continue to do all I can to support refugees around the world. An insightful and thought-provoking series of articles on the international refugee crisis recently appeared in the Minneapolis Star and Tribune from September 13-16. Mr. President, I ask that this series be printed in the Record.

[From the Minneapolis Star and Tribune, Sept. 13, 1987]

RANKS OF THE UPROOTED SWELL AS THEIR OPTIONS DWINDLE

(By Frank Wright and Tom Hamburger)

GENEVA, SWITZERLAND

Switzerland, long known as a place of sanctuary, now forcibly ejects refugees, sometimes handcuffing them to police escorts to ensure their return to the lands they fled.

Thousands of Cambodian exiles, including children, hide in tunnels they dig by hand under a refugee camp in Thailand, avoiding guards, grabbing scraps of food from relatives and friends, clinging to the vain hope they will some day resettle in the United States.

Scores of Mozambicans running from civil war are killed or maimed by a high-powered electric border fence built by the government of South Africa to keep out refugees.

Hundreds of Afghan refugee children have picked up shiny Soviet bombs disguised as toy trucks and dolls—and lost arms, legs and eyes.

Such is the fate of the uprooted in 1987. They are people forced from their homes by political repression, superpower confrontations, civil war, tribal conflicts and fear of persecution for race, religion or political belief.

Never has the world refugee situation looked so bleak. The refugee population is at an all-time high, conditions in refugee camps are deteriorating and the Western countries that traditionally offered resettlement are closing the doors.

The United States, still the leader in refugee care, today accepts 75 percent fewer refugees than in 1980 and has taken strong steps to prevent certain groups from seeking sanctuary here. Other Western nations have followed the U.S. lead.

Under the weight of a rising Third World refugee population and international disinterest, the complex international system set up to protect refugees may be permanently damaged.

Official counts show that the number of refugees has risen steadily from 7 million in 1982 to 12 million today. Unofficial counts show that three to four times that many people may have fled their homes in search of sanctuary.

With no place else to go, refugees are staying longer in increasingly crowded camps, facing conditions often as dangerous as those they escaped and destabilizing the Third World countries that offer them temporary haven.

There has been no conflagration of the scope of World War II or Vietnam to explain this population rise or create a widespread sense of crisis. But smaller conflicts, often backed by the United States and the Soviet Union, have fueled the steady creation of refugees.

By far the largest number of refugees are Afghans, about 5 million, or a third of Afghanistan's population. Most left after Soviet troops invaded eight years ago to prop up the country's Communist regime. The invasion ignited a civil war, backed on one side by the United States. That war continues today—as does the flow of refugees.

Two million Palestinians have been uprooted by the Arab-Israeli wars. Some have been without a permanent home for 40 years.

There are 3 million officially designated refugees in Africa, 1 million of whom are Ethiopians. Millions more have been forced to flee their homes by escalating political violence often backed by the United States or the Soviet Union. The new tinderboxes are in southern Africa, where military conflict has displaced millions in Angola and Mozambique. The number uprooted in southern Africa increased more than 500 percent in the past five years and the numbers will continue to grow.

More than a half-million refugees still languish in Southeast Asia, although the numbers are down from the peak years after U.S. forces pulled out of the region.

And about 300,000 have fled their homelands in Central America, many of them winding up in settlements akin to concentration camps.

These and the other displaced people who make up the world's 12 million official refugees have one think in common. They receive help from the United Nations High Commissioner for Refugees, other U.N. agencies, individual friendly countries and more than 300 voluntary organizations, many church-related.

The story is much different for a similar number who are part of a second, vague category of unofficial refugees. Most left their countries to escape war or economic suppression but are not classified as people persecuted because of race, religion or political belief. They receive little or no international help.

For example, several hundred thousand Salvadorans and Guatemalans who fled north are hiding in the United States, unable to obtain refugee status. The Reagan administration says they do not face persecution at home and thus are not refugees.

A third category, also well into the millions, consists of people who have been forced out of their homes, usually by violence, but who have stayed in their native country. Africa has more than any other continent, according to U.N. estimates, with 3 million South Africans and a million or more each in Mozambique, Ethiopia and Sudan. Iran and Afghanistan also have more than a million each.

Because they have not crossed a national boundary, these uprooted people have no claim on the international refugee system and must depend on their government and private agencies for help.

Refugees used to appear only periodically, most often in Europe, and the problems were solvable. After World War II, as permanent homes were found for displaced Europeans, their U.N. camps were closed and burned. The refugee offices of the World Council of Churches were shut down.

Now, however, regional disorder has become a permanent worldwide ailment. Refugees exist virtually everywhere, especially in less developed countries, and they are created virtually nonstop.

They have become "a major global phenomenon of our times, often inseparable from the range of problems affecting the political, social, cultural and economic development of the Third World," according to Jean-Pierre Hocke, U.N. High Commissioner for Refugees.

Before, refugees usually were white, reasonably well-educated, possessed a skill and came from a Western culture that eased assimilation into new homelands rather like their own. Now, refugees are likely to be people of color, have less formal education, lack readily transferable skills and come from backgrounds different from Western ways.

Living conditions for many exiles are increasingly precarious. Conditions in refugee camps are often as dangerous as the places the refugees escaped. Physical abuse by bandits and military attackers is rising in Third World camps.

Women and children, who compose 90 percent of the refugees in some places, are the most frequent victims. Even in the largest U.N.-supervised camp in Thailand, for example, there are regular reports of women being taken from their huts at night and raped by guards. Reports of children being kidnapped are frequent.

Extortion schemes are common. Profiteers who promise to cut red tape do not always deliver. Agents paid to lead people to freedom sometimes turn them over to the very authorities they are fleeing.

Refugees stay longer in camps because there is no place else to go. The average stay now is more than five years. Dependence on handouts grows, destroying self-esteem. Traditional cultures wither. Generations of refugee children who know no other life are growing up with little hope.

Most camps, and most refugees are in poor countries that, even with U.N. help, often find the economic burden overwhelming. Friction increases between the foreigners and local residents. Some host countries force refugees to return home in violation of U.N. agreements, even when the refugees face jail, torture or execution in their homeland.

Only one feature seems unchanged. Despite international agreements requiring that refugees be treated as nonpolitical, people fleeing Communist regimes often get a better reception in Western nations than do those fleeing non-Communist countries. When refugees flee their homeland their first stop usually is next door.

But hospitality is wearing thin in many of these countries of first asylum. Almost all of the 20 countries with the highest proportions of refugees are in the developing world and have an average annual per capita income of less than $850.

Thailand is a prime example.

When Vietnamese, Laotians and Cambodians began to pour across its borders in the 1970's, fleeing the aftermath of U.S. withdrawal from the region. Thailand made room.

For years, the Thai government provided temporary sanctuary before passing along the refugees for final resettlement in the United States and other Western countries. But now the West is taking fewer and fewer refugees, and Thailand is threatening to close its clogged camps and push newcomers back across the border.

Sudan is another example of the hospitality well running dry.

As recently as two years ago, Sudan housed more than 1 million refugees with few complaints. But now Sudan's economy is wallowing and its food supplies are inadequate. With the help of international assistance, some refugees in camps appear to have a higher standard of living than the Sudanese. Exiles outside the camps compete for employment, land, water, schools and medical care.

The Sudanese government now rounds up refugees in the cities and sends them to isolated border camps. Those without proper documents are jailed. During the 1950s, 1960s and into the 1970s, economic times were good in the West, and sympathy for refugees was high.

Refugees passed along from Thailand, Sudan and other first-stop nations often were received as economic and cultural assets.

Since 1975, the United States has admitted more than 1 million refugees, 80 percent of them Southeast Asians. More than 30,000 have come to Minnesota, placing Minnesota among the top 10 resettlement states.

Canada has accepted more than 170,000; France and Britain more than 145,000 each; Australia 125,000. Nations such as Sweden, Switzerland and Denmark rank higher than many large nations in refugees admitted relative to their population.

Those days are ending.

Even in Minnesota, which has a worldwide reputation for welcoming refugees, there is evidence of fatigue. There is a decline in the number of refugee sponsors and state officials have been talking quietly with ethnic leaders about encouraging refugees to migrate elsewhere.

Increasingly, refugees "are presented not as people in need of help, but as people who constitute a threat to the order of things," said Philip Rudge, secretary of the European Consultation on Refugees and Exiles. "They do not *have* problems. They *are* the problem."

Economic conditions have tightened throughout the industrialized West, and refugees are accused regularly of taking jobs from local residents. At the same time, the number of asylum applicants is rising. Antipathy toward these foreigners, especially those with colored skin, is growing.

U.S. admissions have declined from a high of 207,000 in 1980 to 62,000 last year. The Reagan administration is expected to propose a lower ceiling for next year.

Canada, which only a year ago won the international refugee community's highest humanitarian award, is enacting tougher legislation. It feels threatened by people—Tamils from Sri Lanka and Sikhs from India—who can't find asylum elsewhere, and by increasing numbers of Salvadorans who are heading north in fear of deportation from the United States.

Western European nations, confronted by a 50 percent increase in asylum-seekers in the past three years, also are tightening up.

France now requires visas that virtually no asylum applicant can produce. West Germany, once the region's most open country, fines any airline that brings in undocumented asylum-seekers. Belgium, the Netherlands, Denmark, Austria, Britain and Norway have taken similar actions.

Switzerland, despite being the headquarters of the U.N. High Commissioner for Refugees and the Red Cross, is especially active. Deporting unwanted aliens is only one move. Voters, by a 2 to 1 margin, in April endorsed tighter refugee laws. The Swiss were the hosts this spring for European meetings to discuss joint restriction plans. Further actions are pending.

One result in Europe is that numerous asylum-seekers, many of them Tamils, Iranians and others from southern Asia and the Middle East, bounce from one airport to another in search of a country that will let them in. More and more are unsuccessful.

Melaku Kifle, coordinator of refugee services for the World Council of Churches, is an Ethiopian who has seen more than a million fellow Ethiopians flee to Sudan and Somalia to escape war and famine. "The poor African countries are accepting of refugees," he said. "Now, when the United States complains, or Europe, about too many refugees, I have difficulty to understand that. Where is the sharing?"

Western officials dealing with this mounting influx of would-be refugees say most of them are economically motivated, simply want a better life, are leaving home voluntarily and do not meet the test of being persecuted. The tighter requirements, the officials say, are intended only to weed out fraudulent asylum claims.

Refugee advocates charge the "economic motivation tag is being applied liberally by some nations wishing to avoid a legitimate humanitarian burden.

As the debate goes on, the number of people who can be resettled permanently in new countries has become restricted just as demand is increasing.

There is little prospect the situation will improve.

A 1986 report for the Independent Commission on International Humanitarian Issues concluded: "There is nothing to suggest that this trend will be reversed in the immediate future, particularly in the developing countries. The combination of population growth, economic stagnation and ecological deterioration is almost certain to lead to increased poverty and social tension.

"Add to this the burgeoning arms trade, increased militarism and intolerance, and the stage is set for a series of massive movements of population."

[From the Minneapolis Star and Tribune, Sept. 14, 1987]

CROSSROADS OF ASIAN SANCTUARY HAS BECOME HARDER PATH FOR MANY

(By Frank Wright and Tom Hamburger)

Climb the final ridge on the path used by Cambodian refugees and you will see it; a giant red cross painted on top of the medical buildings of the Khao I Dang refugee camp in Thailand.

For years, that vision symbolized relief and sanctuary for Cambodians attempting to flee the violence that gripped their country.

Today refugees still climb the lush Dangrek Mountains to escape violence in Kampuchea, formerly Cambodia. But the giant red cross atop the building of Khao I Dang camp is fading and so is the commitment to provide sanctuary.

Instead of being welcomed at Khao I Dang, refugees are greeted by armed guards posted to keep newcomers out. Instead of getting access to regular supplies of food, thousands of refugees are forced to hide in dark tunnels under the camp, getting sustenance where they can from the black market, from relatives, from friends.

Where once there was hope of joining relatives overseas, most new arrivals face the dismal prospect of years in an unsupervised border camp, where young men are conscripted to the U.S. backed resistance, young women may face physical abuse and all face a future clouded by continued warfare.

Around the world, the two most important rights of people in flight—the right to seek asylum and the right to protection—are being eroded. A system of international agreements and aid programs is supposed to assure these rights.

It is failing.

Nowhere is this breakdown more visible than in Southeast Asia. After the United States pulled out of the region in 1975, Thailand and other western-oriented Southeast Asian countries agreed to provide temporary sanctuary for those fleeing Communist forces on condition the refugees be resettled elsewhere. The United States and other Western nations agreed to open their doors for resettlement.

Since then, about 1.2 million refugees have passed through Southeast Asian refugee camps on their way to the West, half to the United States.

Today, the Western world has reduced its resettlement commitment. But the refugees keep flowing at a rate of about 30,000 a year, and the hospitality of countries like Thailand is exhausted.

As a result, the primary refugee groups seeking asylum in Thailand—Cambodians, Hmong, Laotians and Vietnamese—face an array of crises that reflect the problems facing refugees worldwide.

The first step in becoming a refugee, according to international law, is entering a new country to apply for asylum, or sanctuary.

For the Hmong people of Laos, that right has all but disappeared. The Hmong served as the United States' allies in the secret war in Laos, and suffered losses many times greater proportionally than those of U.S. soldiers in the region.

Because of that service, the Hmong were targets for the Communist forces that swept Laos after the U.S. departure in 1975. The Hmong were told they could come to the United States if they wished and about 60,000 came by way of Thailand. Others stayed to in Laos fight the Communist government.

Today, thousands of Hmong fighters who continued resistance activities are tired and are seeking refuge in Thailand. But 12 years after the end of the war in Indochina, their welcome is wearing out.

A group of about 1,400 former fighters, for example, has been forced by Thai soldiers to stay in a cramped jungle encampment at Nam Pun in northern Thailand. Although that group now has access to some food and medicine, Thai officials have threatened to force them back to Laos.

Their situation reflects what happens when a first asylum country, such as Thailand, feels overwhelmed with a long-term refugee population. About 60,000 Hmong refugee remain in Thai refugee camps, unsure whether to emigrate.

Similar refugee situations have threatened first asylum rights in Sudan and Djibouti, where Ethiopian refugees have been threatened with forced repatriation to Communist Ethiopia, which is known to abuse human rights.

Tanzania and Kenya agreed four years ago to return refugee dissidents to their home countries, where several reportedly were killed and several remain in jail.

Since 1981, the United States has turned back asylum-seekers from Guatemala, Haiti and El Salvador, despite claims that they would be persecuted on return.

Thai officials say they plan to continue to force back some groups of arriving Hmong—including women and children requesting asylum—because they are not considered refugees. They are resistance fighters, the Thai say, who want to use Thailand as a base. Also, says Thailand's top refugee official, "We can't allow an endless streams of people across our borders."

In whispered conversations, visitors to the Site 2 camp near the volatile Thai-Kampuchean border hear that the Thai guards and Kampuchean soldiers victimize refugees, shooting those who break camp rules or won't pay extortion fees or submit to sexual advances.

"Every day," one hospital worker said, "we have at least one person injured and one killed by guards." He pointed to a bandaged man in one of the hospital beds to confirm his story. The man concurred.

Six weeks ago, for example, a Thai guard raped and shot a pregnant woman outside the Site 2 camp.

According to witnesses, the guard caught the woman and her disabled husband gathering firewood outside the camp's fence in violation of rules and chased the pair up a hillside. Volunteers found the woman shot several times in the head. Her husband had been badly beaten. The soldier has not been apprehended.

On the nights of March 21 and 22, 1986, three Thai officers tortured Cambodian refugees who were suspected of raiding another camp.

The torture included applying a hot iron and burning firewood to various parts of the refugees' bodies, setting their hair on fire, pouring boiling salt water over open wounds and whipping them with electric cables. The accusations were documented by the Lawyers Committee for Human Rights. But the officers were never charged.

Daily rapes and kidnapping and extortion are reported by camp residents. Lately there has been a startling increase in kidnapping young refugees with relatives in the United States and holding them for ransom.

The problems are exacerbated because the Thais order all international relief personnel, including those with the United Nations, to leave the camps at nightfall. Then, says one camp resident, "It's open season on the refugees." The Thais say the curfew is enforced to protect the safety of the international personnel. Relief workers, however, suspect they are evicted at dusk to protect the lucrative smuggling and extortion rackets.

Similar reports come from other countries overwhelmed by refugees. In Honduras, where thousands of Salvadorans moved into temporary camps, troops have been known to beat and even kill camp residents because they are thought to support soldiers fighting the U.S.-backed government of El Salvador. In the Cambodian border camps, boys pretend to be girls by growing long hair and wearing earrings. They do this to avoid being compelled to join the resistance armies that hope to retake Kampuchea from the Vietnamese-backed government now in control.

Because the Cambodian refugee camps are near the border and are considered support bases for the resistance, they are subject to attack by Vietnamese and Kampuchean troops. In June, eight refugees were killed and dozens injured in an attack by Vietnamese forces.

Most Cambodians are now labeled displaced persons, not refugees, in part because the Thai government hopes these displaced persons will one day force the Vietnamese out of Kampuchea and return to their homeland.

Displaced persons are placed in camps controlled by one of the three factions making up the Cambodian resistance, including the Khmer Rouge, the Chinese-backed faction that killed at least one million Cambodians before being ousted by the Vietnamese in 1978. About 60,000 displaced Cambodians are placed in camps controlled by the Khmer Rouge. Reports of human rights violations are increasing from those camps.

The United States, China and Thailand support the resistance because it puts pressure on the Vietnamese and their Soviet supporters. But such a strategy forces refugees into a strategic and dangerous role.

A major terror for Cambodians living along the border, and for the Afghans in Pakistan, is the noise of exploding munitions. Already this year at least 300 Afghan refugees in Pakistan have been killed in air raids by the Soviet-backed Afghan Air Force. The Afghan refugees are seen as very much part of the resistance movement. As a result, Afghan refugees, like the Cambodians, remain forever under the threat of war.

As the number of people in flight has grown, the world has shown less interest in helping them. According to United Nations agreements, most countries are prohibited from forcing refugees back into the countries from which they fled. They are, however, permitted to turn back economic migrants or other unwanted arrivals.

In deciding who can stay and who cannot, Western nations have become increasingly restrictive and increasingly tough.

In 1981, the United States began jailing asylum-seekers while their cases were considered. Other countries used similar tactics.

In Southeast Asia, many of those in flight now are considered economic, not political, migrants.

The result, according to refugee advocates, is that legitimate refugees often are treated harshly and denied asylum.

Refugee groups claim to have catalogued harsh resettlement decisions by Thai admissions personnel and by interviewers of the U.S. Immigrations and Naturalization Service (INS). Laotians from the lowland areas of the country are a case in point.

Since Vietnamese-backed Communists took control of Laos in 1975, about 360,000 Laotians, or ten percent of that country's population, have crossed the Mekong River to Thailand.

Those arriving today often are considered economic migrants by Thai and U.S. officials because most of those directly associated with the U.S. war effort came out just after 1975. Therefore, some U.S. officials argue the United States should be more circumspect about admitting them.

To cope with the steady stream of people fleeing Laos, Thailand announced a screening process in 1985 designed to separate real refugees from economic migrants who could be returned home safely.

The screening process doesn't work well. Today, for example, about 2,600 Laotians are held in jails in Thailand while they await repatriation to Laos or acceptance to a refugee camp. At Nong Khai, visitors can see whole families kept for months in crowded cells while awaiting screening. Some refugees eventually can buy their way into a refugee camp by paying Thai border officials, currently about $1,000 apiece.

Families interviewed at Thai jails along the Mekong River in April claimed to have connections to the U.S. military and some produced documents to prove it. The families said they were crossing to Thailand because they were just released from Communist reeducation or labor camps.

Vietnamese refugees are treated even more harshly.

Since Communists gained control of Vietnam 12 years ago, more than a million people have fled the country, usually venturing into the rough waters of the South China Sea in rickety boats.

If they didn't perish at sea, they likely fell prey to pirates, who robbed, raped and often killed the refugees. Thailand, with assistance from the United Nations, has started an effective antipiracy program, but the risks remain staggering. Of 60 boats of Vietnamese refugees arriving in southern Thailand in the first four months of this year, 17 had been attacked by pirates. The percentage of boats attacked during the period, 28, is down from 46 percent in 1986.

If they are able to reach land, Vietnamese escapees increasingly are viewed as economic migrants, not refugees. In Hong Kong today, boat people are told they face detention and possible repatriation to Vietnam. About 10,000 are held in crowded, prison-like circumstances. Many have been held for years.

Malaysia, which provided first asylum to more than 214,000 Indochinese refugees since the U.S. pulled out of Vietnam, is now considering closing its refugee center, Pulau Bidong. Malays allowed boat refugees to land in the past, according to State Department officials, because of promises from the West that the refugees would be resettled. Now the camp population is about 5,000 and it is more difficult to find them homes. The Malays don't want to be stuck with a permanent refugee population.

In the face of all these problems, people look to one agency for help: the U.N. High Commissioner for Refugees. But the agency faces a situation beyond its control and its authority.

The commissioner said in 1986 that the "personal safety and very survival of refugees and asylum seekers are increasingly at stake" around the world because of wars and human rights violations. The problem, the commissioner said may be the worst it has ever been.

But U.N. officials acknowledge they are not able to change the situation much because they have few enforcement powers. For example, Thailand never signed the Geneva agreements securing refugee rights and has the authority to evict U.N. personnel at any time.

Even those countries that signed the agreements are accused of violating refugee rights. The United States, for example, was criticized when it turned Haitians away at sea.

It's difficult for the U.N. to criticize the United States and other Western nations because those countries provide most of the agency's budget.

As one U.N. official put it, "How can we persuade an African country or any other developing countries to take more refugees when we have been softer in complaining about the West?"

[From the Minneapolis Star and Tribune, Sept. 15, 1987]

HOPE, SKILLS DWINDLE AS TIME IN CAMP GROW

(By Frank Wright and Tom Hamburger)

NASIR BAGH, PAKISTAN

The boy was 2 when he and his family walked across the jaggered mountains to Nasir Bagh refugee camp.

Now they are a number—PR-1002.7—in Nasir Bagh. There they struggle to retain their identity, their skills and their humanity along with millions of other uprooted people forced to live long and longer in refugee camps around the world.

Now the youngest son of Imamullah Mujeebvllah is 7—and looking forward to the day when he will be old enough to join the camp's resistance forces that are fighting Afghanistan's Soviet-backed government.

His family's hard but tranquil existence ended almost five years ago when Soviet forces charged into their village, intent on wiping out suspected rebel sympathizers. Homes were blown away, crops burned. Five family members were killed. Mujeebvllah, his wife and five surviving children fled to Pakistan.

These long-stayers are the worst off among refugees, a new underclass often called a Fourth World. They result from military conflicts and repression that mass produce new refugees and prevent old ones from returning to normal lives.

These conditions combined with declining resettlement opportunities in the west have produced a whole generation of children who know life only as refugees. They are people going to waste.

The average camp stay is five years and rising at the rate of several months each year.

Many Afghan and Southeast Asian refugees have endured life in camps for ten years or more. Some Palestinians have been refugees for almost four decades. The United Nations sees a "real danger" that some refugees may remain in camps forever.

Long-stayers now comprise half the world's refugees population, according to official estimates. They are the most dependent and apathetic of the refugees.

A glance at Mujeebvllah's worried and creased face confirms this. He looks older than his 47 years as he stands in lines dictated by a monthly schedule, displaying his numbered identification card to officials so he can collect handouts of cash, food, fuel and clothing for his family of seven.

Like all refugees, especially longstayers, Mujeebvllah is controlled by the system, benevolent as it tries to be. He no longer is in charge of his own life, and his depression shows.

What hope he has left is focussed on his young son. But for his son, and other children in the camp, the future is one likely to be filled with war.

Women and children, who comprise up to 90 percent of the world's refugee population, suffer the most under circumstances like these. For example, child deaths have doubled in Mozambique in the last decade, largely due to the civil war between the Marxist government and rebels backed by South Africa. And a congressional committee estimates that in Mozambique and neighboring Angola, also gripped by civil war, half the children will be killed or crippled before the age of 5.

A continental conference called this year in Africa to assess the impact of war on children reported that more than 320,000 Mozambican children died between 1981 and 1986, giving the country one of the highest child death rates in the world.

Despite serious drought and famine, the nations of Africa spent more in 1984 to import weapons than to import food, according to the United Nations Children's Fund. Military conflicts frequently are fueled by superpower aid. Once equipped by the United States or the Soviet Union, rival factions become surrogates fighting wars with East-West overtones in places such as Nicaragua, El Salvador and Angola.

As the wars continue, the refugees they create can do little but escape to a camp and wait. Sometimes their stays are extended when some refugees are armed, usually by a superpower, and their camps are used for military purposes. Both are violations of international rules.

The best-known example is the covert U.S. funding of Afghan resistance fighters in refugee camps in Pakistan. Soviet weapons have found their way through Syria to Palestinian groups that operate in or near Middle East refugee camps. Resistance fighters also operate out of some of the refugee facilities in Central America and Thailand.

The expense of these wars is more than military. They also raise the cost of refugee care. The annual budget of the United Nations High Commissioner for Refugees is approaching $500 million. That is almost a five-fold increase in constant dollars since the mid-1970s, when the number of refugees began to increase along with the average length of stay in camps.

Most of the U.N. money must be spent on immediate needs. Less than 40 percent is available for such long-term solutions as helping refugees return home.

The refugees who remain in camps for long periods live in limbo. They fear returning home. They aren't allowed to settle permanently in the countries that provide sanctuary in the camps. And many of those who do want to move on and start anew often are thwarted by the increasing resistance of the rest of the world to refugees.

So these people stack up in the camps, their numbers compounded by some of the world's highest birth rates—the only way they see to offset the deaths of so many of their children.

The Mujeebvllahs, into their fifth year in Nasir Bagh, are close to the average stay.

The camp's 70,000 residents live in traditional mud huts and a smattering of tents spread over a windy, dusty, treeless plain near Peshawar, the provincial capital. Nasir Bagh opened shortly after the Soviets invaded Afghanistan in 1979. It is one of the oldest of the 247 camps that clot Pakistan's North West Frontier Province.

If asked what he thinks of his circumstances, Mujeebvllah shrugs and looks at the ground. Asked about his own hopes for the future, he talks instead of his two sons, 7 and 10, and of the day, only a few years away, when they will be old enough to pick up rifles and take the family's place in the ranks of the resistance. He speaks little of himself, typical of long-term refugees who see their own lives as finished.

When he first was a refugee, he went regularly into Afghanistan with the resistance to fight. But now he is considered too old. He spends a few days every month as a laborer at an Islamic school. The pay is about $15 a month. Mostly he does nothing.

Many of Mujeebvllah's younger neighbors, however, have virtually a full-time occupation—the war.

Nasir Bagh is one of many border camps used by the resistance as a recruiting center and arms depot. Weapons are plentiful despite Pakistani bans. Fighters from the camp join pack-horse caravans that attack enemy garrisons inside Afghanistan.

Military training starts at an early age. During morning recess at Peshawar's Imam Abohanifa school, run by the refugees, earnest schoolboys marched under the command of a former resistance fighter.

Dressed in camouflage uniforms and carrying wooden rifles, the 8-, 9-, and 10-year-olds about-faced, performed bayonet thrusts, hit the dirt and crawled on their bellies as the dust from the street rose around them. In perfect unison they shouted resistance slogans: "Death on Russia. Death on Russia, Death on Russia." At the top of their lungs, they sang songs honoring dead resistance heroes. They all knew every word.

Pakistani administrators can't control resistance activities and don't seriously try. They simply ask the refugee fighters to keep a low profile while in camp.

The refugees usually comply, although not always. An ammunition dump in one camp blew up one night when several Soviet prisoners being held illegally by the rebels tried to escape. The Soviets died in the explosion.

Because of this kind of military activity, the United Nations has been unable to agree on a policy concerning attacks on refugee camps. Some members argue that no attacks should be condoned. But others say retaliation should be permitted against camps clearly being used for military purposes. Despite their number, which represents one of the largest and longest-lasting concentrations of refugees in history, the Afghans in Pakistan are fortunate in some ways.

Pakistan officially welcomes them and provides half the $362 million annual relief budget. Government support seems steadfast even though public resentment is building. In addition, Pakistan is familiar ground to many refugees because of old family ties, language similarities, years of border crossings by traders and nomads and the common Islamic heritage of the two countries. Refugees are permitted to find jobs and start businesses outside the camps, and many have.

Refugees in other nations of first asylum usually have less freedom and often attract more opposition. In Thailand, for example, they are confined to camps and kept under armed guard. They may not take jobs outside or start businesses. Salvadoran refugees in Honduras are restricted, as are Palestinians in some Arab nations and in territories occupied by Israel.

Despite their advantages, Afghans in Pakistan suffer most of the difficulties that plague long-term refugees everywhere.

Subjugation of Afghan women reflects the sex-based discrimination that almost all refugee women endure. Because they often live among strangers in Nasir Bagh and other Pakistan camps, Afghan women are kept out of sight and their activities are even more limited than during pre-refugee days. They seldom set foot outside walled family compounds because of tightened cultural and religious restrictions.

Women never hold leadership positions in the Afghan camps. To the contrary, they often are pawns in frequent maneuverings among male political factions in the camps.

For example, a U.N.-sponsored supplemental feeding program for undernourished children in a camp near Nasir Bagh was shut down temporarily this year after one political faction complained that the program gave mothers and children too much opportunity to congregate by themselves at the medical clinic. The shutdown boosted the influence of the winning faction at the expense of the children.

Health care for long-term refugees worldwide often is spotty and sometimes inadequate. Women and children usually suffer the most. Care for the Afghans in Pakistan and fellow Muslim refugees in other countries is especially at risk because their religion requires separate facilities and medical staffs for men and women, stretching slim resources further.

Food distribution to women and children in camps throughout the world frequently is unfair. The many families headed by war widows and other single or abandoned women often are last in line because they lack a man to protect their interests. Food is used to extract sexual favors. Sometimes it is diverted to the black market or other profitable schemes, leaving women and children hungry.

Diversion and favoritism have been common among the Afghans. Pakistani officials say they have corrected most of the problems by eliminating religious mullahs, tribal maliks and other traditional male leaders as middlemen in the distribution system. In Nasir Bagh and most other camps, goods now go directly to heads of families, such as Mujeebvllah. But problems remain. One official said illegal diversion of food at Nasir Bagh is now an "acceptable" 5 to 10 percent.

A high proportion of children who live in camps for years contract emotional and psychological disorders. More than most refugees, they suffer from immaturity, delays in learning to talk, excessive nightmares, bedwetting, insomnia and fear of strangers.

Learning disabilities also are common.

Refugee education is the top priority for the U.N. Relief and Works Agency, which works solely with Palestinians. Many Palestinians have used U.N. schools as a route to good jobs and a better life throughout the Arab world.

But education often lags badly among long-staying refugees in other places. Children who see no future lose interest. Sometimes their cultures put little value on formal learning. And sometimes it falls victim to international politics.

In many first asylum nations, classes focus narrowly on preparing refugees for permanent resettlement in another country. In Thailand most camps have a basic program, but courses like airplane etiquette and English often are emphasized. Even those may end if the Thai carry out their threat to stop refugee assistance.

Afghan school-age children have become prizes in an unusual ideological battle with the Soviets.

The refugees' traditional disinterest in formal education has started to change since parents and political leaders became aware that back home in Afghanistan the Soviets are promoting schooling that is heavily laced with Communist indoctrination. The refugees, from a culture with a literacy level of less than 10 percent, realized that some day their offspring will have to compete for control of the country with Afghan children educated by the Soviets.

So refugee education programs are expanding, heavily flavored by Islamic instruction as a religious antidote to communism.

Once again, however, sexual favoritism is evident. By far, most students are boys. In Nasir Bagh the ratio is more than 4 to 1. Girls rarely attend past fifth grade, an age on the verge of puberty and the beginning of traditional confinement at home.

There also is a large wave of dropouts every year among boys 13 or 14 it is the time for them to get ready to go to war.

[From the Minneapolis Star and Tribune, Sept. 16, 1987]

TRADITIONAL APPROACHES NO LONGER WORKING

Donations from warm-hearted people to benefit concerts like Live Aid and Band Aid can help resolve an immediate crisis facing refugees by providing food, medicine and emergency shelter.

But when public attention shifts to another issue and the supplies dwindle, then what?

Refugee officials have long known that such relief efforts make little progress against the overwhelming problems created by the swelling tide of refugees—a group that's grown by 50 percent since 1982.

In recent years United Nations and other officials have started looking deeper, adopting three programs to reduce refugee populations over time. Lately, even those three programs are beginning to lose promise. And some are saying the answer can be found only by resolving the root causes of refugee creation: political repression, wars and foreign intervention.

The first—and most preferred—of the three solutions usually pursued by the United Nations is to help refugees return home.

Last year was the best in several years because up to 250,000 Ugandans were able to return after years of brutal rule in that country. But the Ugandan returnees constitute only a fraction of the millions who remain uprooted around the world.

Since 1975, between 2 million and 3 million refugees have gone home. That is not enough to offset the growing number of refugees, which has increased to 12 million by official count since 1980 and to perhaps twice that unofficially.

Nonetheless, the U.N. High Commissioner for Refugees (UNHCR), the key international agency assisting refugees, now promotes repatriation more aggressively.

In some cases the agency has pushed so hard that it has been accused of violating the international rule that all returns be voluntary. Refugee advocates claimed, for example, that UNHCR acquiesced while Ethiopian refugees in Djibouti were pushed home against their will.

The agency denies that.

Yet an August report by the United Nations on Central America noted that returning home is problematic for refugees today, even when new governments promise freedom from persecution.

The "sober reality" is that refugees going back home "are returning to homes that have been destroyed, to farm plots sometimes occupied by others and to a country in which war has played havoc with the economy," the report said in describing the situation in Guatemala. "As former refugees, they are sometimes viewed with suspicion by neighbors or local authorities or pressured to join sides in the war whose consequences they fled earlier. Return to the village of origin often means going back to areas of conflict where they again are caught in the cross fire."

A second long-term solution, permanent resettlement in a country far from home, will not end the refugee problem either. The Western nations that have accepted the most refugees for resettlement could help relieve short-term crisis situations—like that in Thailand—if they increased admissions. But they cannot resolve the growing worldwide problem even if they doubled admissions.

Since 1975, more than 2 million refugees have found permanent new homes through resettlement, about half in the United States. As with repatriation, the annual average is a relative drop in the bucket compared with the growing refugee population.

The third option is permitting refugees to settle permanently in their first country of refuge as full-fledged residents with full rights and privileges. This solution is sometimes popular with the refugees but seldom with their hosts. Because most first-asylum countries are in the developing world and are as poor as the neighboring homelands from which the refugees come, the hosts are increasingly reluctant to consider the exiles as anything but temporary. UNHCR seldom promotes this solution anymore.

So what works? In one new program, U.N. agencies are cooperating with the World Bank to secure loans for construction of schools, clinics and environmental projects.

Some of the projects have been troubled in the early years. But in Pakistan, bank funds have financed a reforestation project in which a largely Afghan workforce was hired to plant thousands of acres of brush and trees that had been stripped for the refugees' goats, cattle and cooking fires.

The goal is to encourage refugee self-reliance and give the host country a boost, too, without immediately requiring anyone to say the refugees are permanent residents.

However, Kevin Lyonette, UNHCR chief in Pakistan, said his agency must avoid making the temporary enrichment programs so appealing that they will tempt refugees to stay or become magnets that attract would-be refugees.

To strengthen protection for refugees, especially women and children, some officials also have proposed a special corps of U.N. observers to monitor camp safety.

All of these plans cure symptoms only. Many leaders in the refugee assistance system and in the U.S. government agree that that no longer is enough.

They say traditional aid must be coupled with world-wide political attacks on the complex conditions that cause today's unending flow of refugees.

For example, ending the eight-year war in Afghanistan between the Soviet-backed government and U.S.-supported rebels would be a major breakthrough, allowing 5 million Afghans—the largest group of refugees in the world—to return from Pakistan and Iran. Peace negotiations stalled again last week over two issues: the timetable for withdrawing the approximately 120,000 Soviet troops in Afghanistan and the nature of the government the Soviets wish to leave behind.

Jean-Pierre Hocke, the U.N. High Commissioner for Refugees, is making his bosses uncomfortable by putting more responsibility on them. He told the agency's 41-nation executive committee not long ago that "it is no longer sufficient for states to consider they have fulfilled their obligations by contributing generously to UNHCR programs. UNHCR needs more than just your humanitarian support. We need your collective political will . . ."

Relief aid, he said, cannot be used to "deflect or avoid the obligation to address the root causes of refugee flows."

To help get at those root causes, refugee advocates and others have encouraged agreement between the Soviet Union and the United States to limit their participation in regional conflicts such as those in Angola, Central American and Afghanistan. Reduction or elimination of military aid in these civil wars could shorten them, reduce their intensity and produce fewer refugees.

Such an agreement is not likely, however. President Reagan and Soviet leader Gorbachev decided at their November 1985 summit to consult regularly on regional conflicts, but nothing of substance has resulted.

The lack of Soviet-U.S. progress illustrates the difficulty facing Hocke and others campaigning against underlying causes. "This is a tough job for Hocke because he has to confront his major donors (the United States and the European Community), who already have been pulling back on refugee interests and ask them for new leadership," said Brian Neldner, associate director of Lutheran World Federation and a longtime international leader in refugee assistance.

The problem is further complicated because Hocke does not have direct access to the Soviet Union. While it belongs to the U.N., it refuses to participate in UNHCR affairs.

In the United States, a small group of policy makers is concerned about how U.S. foreign policy contributes to the creation of refugees. For example, Doris Meisner, a former commissioner with the U.S. Immigration and Naturalization Service now with the Carnegie Endowment for International Peace, warns that the contras could become the Hmong refugees of the 1990s.

In a recent interview, Meisner compared the anti-Communist fighters in Nicaragua with the Laotian hill tribe that fought the Vietcong with U.S. weapons and advisors in the 1960s and 1970s. The United States already has accepted about 60,000 Hmong refugees and is trying to assist an equal number waiting in refugee camps in Thailand.

"We did eveything to bring the contra fighters out of dormancy," Meisner said. "People don't realize the cause and effect with those people who we get to be our surrogates. We may be even more obligated to them than to the Hmong because we gathered people to fight who weren't even in the area. We empowered and emboldened them. There's going to be a large refugee obligation in Central America. Its very much in the cards."

A small bipartisan group of U.S. officials have expressed interest in a new way to at least increase awareness of the hidden cost of refugee creation: civilian impact statements. It sounds bureaucratic, but it might force policy makers to acknowledge the human cost of certain strategic decisions.

"We consider around here environmental impact statements. Shouldn't we consider refugee impact statements or civilian impact statements as a result of our foreign policy decisions?" asked Sen. Edward Kennedy, D-Mass., during the debate over funding for rebels in the Angolan civil war.

"I think it would be good guidance to all administrations to consider the impact of our policies, particularly military aid, on the creation of refugees."

Elizabeth Ferris, a refugee official at the World Council of Churches, is one of many experts with typically low expectations for the future. During the next 20 years she and others predict increasing poverty in the developing countries, increasing social tensions and political turmoil, more warfare, continued superpower interventions, more refugees, growing international racism, more antipathy toward foreigners, more resistance to giving sanctuary to refugees and less international assistance for them.

"Given the present trends in the world," she said, "it is difficult to be optimistic."●

REPORT OF THE TRIP OF RHODE ISLANDERS TO NIQUINOHOMO PROVIDENCE'S SISTER CITY IN NICARAGUA

● **Mr. PELL.** Mr. President, I would like to share an interesting report written by a group of Rhode Islanders who traveled to Nicaragua this summer under the sponsorship of the Providence-Niquinohomo Sister City project. They spoke to a wide-range of people from various sectors of Nicaraguan society, including Nicaraguan Government officials and as well as critics of the government, and had an opportunity to visit the countryside and communicate with the campesinos. Their report concludes that the people of Nicaragua have no animosity toward the people of the United States and want the Contra war to end so they can live in peace.

So that my colleagues have the opportunity to read the views of Rhode Islanders participating in this people-to-people project, I ask that the report be printed in the RECORD.

The report follows:

TO THE HONORABLE CONGRESS OF THE UNITED STATES

A delegation of five Rhode Islanders spent eight days touring Nicaragua. The trip was sponsored by Rhode Island's sister city project of Niquinohomo. The tour was conducted by the Center for Global Education located at Augsburg College in Minnesota.

Our schedule had us meet with numerous individuals and groups. They are as follows:

Members of the General Assembly; the President of the Conservative Party; a lawyer representing LaPrensa; the editor of a paper supportive of the Government; a representative of Cardinal Bravo, an economist from Stanford University working for the Nicaraguan Government, and a General Assembly member from the Atlantic coast who represents the needs of mixed Indian cultures.

Also, the director for food distribution; a wealthy rancher; textile factory workers; union lenders; nurses and health care workers; a director of a women's association; representatives of the American Embassy; the Mayor of Niquinohomo; and the compesinos—the peasants of Nicaragua.

Most people we met were not members of the Sandinista Party but most supported the Revolution and the present Government. We found criticism of the Government by people who work in and out of the Government. Some of these criticisms were over food distribution, transportation problems, farming techniques. However, these people still supported the Government.

LaPrensa, which supports the Contras, was vocal in its disapproval of the Government, along with the President of the Conservative Party.

We saw political pluralism. Opposition parties had billboards displayed throughout Managua. We were free to go anywhere and speak to anyone we wished. We took pictures freely except at military installations and the inside of the U.S. Embassy. Most importantly, we set our own agenda.

Our general impression is that Nicaragua is suffering economic and physical hardship. This, in large part, is due to three factors:

The Contra War;

The trade embargo, and

To a lesser degree, the Government's past mistakes in its economic policies

The Contras, the so-called freedom-fighters, intra-structure is made up of Somoza's National Guard. We met with mothers who have lost their sons to these Contras. One mother whose son was seventeen when killed by the Congras, invited us to her home. There her daughter asked us to take a picture of her and her semi-automatic rifle. There, in that picture, we saw that these peasants are willing to defend the Revolution. The peasants are well armed. They need arms to protect themselves from the Contras. Some also believe that they will be invaded by the United Staates. The example of the invasion of Grenada was given. Due to the Contra War, we were told and it was confirmed to us by the U.S. Embassy in Managua that the Government spends fifty to sixty percent of its budget on the military, hence, the high inflation rate. While we were there, the exchange rate was 5,500 cordobas to one American dollar.

The War is spreading havoc in the farming areas because the Contras continually attack coffee plantations and cooperatives. While we were in the town of Boaco, we were prevented from visiting such a coffee cooperative due to Contra activity in the area. Also, there are fewer people to harvest the crop since they are in the military.

The trade embargo of the United States is the second factor that is hurting the people of Nicaragua. Public transportation is problematic due to the lack of spare parts. We visited a fifteen member sewing cooperative which could not expand its business due to a shortage of sewing needles. The needles imported from Eastern European countries break too often because they are the wrong size. We visited a textile factory where an old North American boiler runs the heart of the operation. When it breaks down, spare parts are hard to come by. This impinges on production.

Medical supplies are in short supply at hospitals and health clinics. We saw surgical gloves that were being reused due to a shortage. In another room, a kidney dialysis machine has been dormant for the past nine months due to the lack of parts. Spare parts can be obtained through other countries. However, these parts have to be bought with hard currency; with a high inflation rate this is very difficult to do. At our sister city's health center in Niquinohomo, there is a shortage of all kinds of medicines, especially pain medications.

Between the Contra War and the trade embargo, which includes a freeze on loans, Nicaragua is suffering a most cruel fate. The low-intensity warfare as prescribed by the Reagan Administration is prevelent everywhere.

Add to these the third factor of past mistakes in the economic policies of the Government. As an example, the Government fixed prices too low creating a disincentive to produce. Another mistake was that the Government was subsidizing too many goods and services which added to the inflation problem. The Government recognizes these problems and it is trying to rectify them.

Our conclusion is that virtually no one in Nicaragua agrees with the trade embargo, confirmed in our discussions with compensinos as well as with members of the Conservative Party. We saw very little support for the Contras amongst the general population.

The people of Nicaragua make a distinction between the policies of the United States Government and the American people. They like our culture. They wish to be trading partners. They wish to be nonaligned. They have a mixed economy including collectives and private ownership of land.

On the faces of the Nicaraguan people, we saw the weariness of war. Besides the 50,000 Nicaraguans who died during the Revolution, another 40,000 have died since the Contra War began under the direct guidance of the United States Government.

We ask that the Congress catch up with the majority of the American people and other nations of the world and support the Arias Peace Plan.

Lastly, in the name of humanity, we ask you to stop all funding for the Contras, lift the trade embargo and let Nicaragua live in peace.

Respectfully submitted,

MARTIN LEPKOWSKI,
West Kingston, RI.
ELIZABETH DIAZ,
Narragansett, RI.
REV. PATRICIA LIBERTY JONES,
Warwick, RI.
REV. DAEHLES HAYES,
Providence, RI.
ROBERTA AARONSON,
Providence, RI.●

JUSTICE SCALIA'S MISUNDERSTANDING

● **Mr. CRANSTON.** Mr. President, as Senators are currently so occupied with the issue of judicial judgment, I'd like to share with my colleagues a fascinating article entitled "Justice Scalia's Misunderstanding" which appeared in the October issue of Natural History. The author, Stephen Jay Gould, is a well-known teacher of science at Harvard University and certainly one of the most brilliant and popular writers about science that our Nation has ever produced.

Professor Gould examines Justice Antonin Scalia's dissent in the Supreme Court's recent striking down by a 7-to-2 vote of Louisiana's statute involving the teaching of creationist "science." Chief Justice William Rehnquist joined in Justice Scalia's dissent. Gould argues that Justice Scalia's dissenting argument was based on a fundamental misunderstanding of the nature of the science of evolution.

I think the article should enhance our understanding of two points:

First. That the Biblical account of creation, while perfectly valid as a theory which anyone has the right to believe and teach, does not qualify as a science.

Second. That the rendering of justice requires not only knowledge of the law but also a mastery of the subject being litigated.

I ask that Jay Gould's article appear in the RECORD.

The article follows:

JUSTICE SCALIA'S MISUNDERSTANDING

(By Stephen Jay Gould)

Charles Lyell, defending both his version of geology and his designation of James Hutton as its intellectual father, described Richard Kirwan as a man "who possessed much greater authority in the scientific world than he was entitled by his talents to enjoy."

Kirwan, chemist, mineralogist, and president of the Royal Academy of Dublin, did not incur Lyell's wrath for a mere scientific disagreement, but for saddling Hutton with the most serious indictment of all—atheism and impiety. Kirwin based his accusations on the unlikely charge that Hutton had placed the earth's origin beyond the domain of what science could consider or (in a stronger claim) had even denied that a point of origin could be inferred at all. Kirwin wrote in 1799:

"Recent experience has shown that the obscurity in which the philosophical knowledge of this [original] state has hitherto been involved, has proved too favorable to the structure of various systems of atheism or infidelity, as these have been in their turn to turbulence and immorality, not to endeavor to dispel it by all the lights which modern geological researchers have struck out. Thus it will be found that geology naturally ripens . . . into religion, as this does into morality."

In our more secular age, we may fail to grasp the incendiary character of such a charge at the end of the eighteenth century, when intellecutal respectability in Britain absolutely demanded an affirmation of religious fealty, and when fear of spreading revolution from France and America equated any departure from orthodoxy with encouragement of social anarchy. Calling someone an atheist in those best and worst of all times invited the same predictable reaction as asking Cyrano how many sparrows had perched up there or standing up in a Boston bar and announcing that DiMaggio was a better hitter than Williams.

Thus, Hutton's champions leaped to his defense, first his contemporary and Boswell, John Playfair, who wrote (in 1802) that—

". . . such poisoned weapons as he [Kirwan] was preparing to use, are hardly ever allowable in scientific contest, as having a less direct tendency to overthrow the system, than to hurt the person of an adversary, and to wound, perhaps incurably, his mind, his reputation, or his peace."

Thirty years later, Charles Lyell was still fuming:

"We cannot estimate the malevolence of such a persecution, by the pain which similar insinuations might now inflict; for although charges of infidelity and atheism must always be odious, they were injurious in the extreme at that moment of political excitement" [*Principles of Geology*, 1830].

(Indeed, Kirwan noted that his book had been ready for the printers in 1798 but had been delayed for a year by "the confusion arising from the rebellion then raging in Ireland"—the great Irish peasant revolt of 1798, squelched by Viscount Castlereagh, uncle of Darwin's Captain FitzRoy.)

Kirwan's accusation centered upon the last sentence of Hutton's *Theory of the Earth* (original version of 1788)—the most famous words ever written by a geologist (quoted in all textbooks, and often emblazoned on the coffee mugs and T-shirts of my colleagues).

"The result, therefore, of our present enquiry is, that we find no vestige of a beginning—no prospect of an end."

Kirwan interpreted both this motto, and Hutton's entire argument, as a claim for the earth's eternity (or at least as a statement of necessary agnosticism about the nature of its origin). But if the earth be enternal, then God did not make it. And if we need no God to fashion our planet, then do we need him at all? Even the weaker version of Hutton as agnostic about the earth's origin supported a charge of atheism in Kirwan's view—for if we cannot know that God made the earth at a certain time, then biblical authority is dethroned, and we must wallow in uncertainty about the one matter that demands our total confidence.

It is, I suppose, a testimony to human carelessness and to our tendency to substitute quips for analysis that so many key phrases, the mottoes of our social mythology, have standard interpretations quite contrary to their intended meanings. Kirwan's reading has prevailed. Most geologists still think that Hutton was advocating an earth of unlimited duration—though we now view such a claim as heroic rather than impious.

Yet Kirwan's charge was more than merely vicious—it was dead wrong. Moreover, in understanding why Kirwan erred (and why we still do), and in recovering what Hutton really meant, we illustrate perhaps the most important principle that we can state about science as a way of knowing. Our failure to grasp the principle underlies much public misperception about science. In particular, Justice Scalia's recent dissent in the Louisiana "creation science" case rests upon this error when it discusses the character of evolutionary arguments. We all rejoiced when the Supreme Court ended a long episode in American history and voided the last law that would have forced teachers to "balance" instruction in evolution with fundamentalist biblical literalism masquerading under the oxymoron creation science. I now add a tiny hurrah in postscript by pointing out that the dissenting argument rests, in large part, upon a misunderstanding of science.

Hutton replied to Kirwan's original attack by expanding his 1788 treaties into a cumbersome work, *The Theory of the Earth* (1795). With its forty-page quotations in French and its repetitive, involuted justifications, Hutton's new work condemned his theory to unreadability. Fortunately, his friend John Playfair, a mathematician and outstanding prose stylist, composed the most elegant pony ever written and published his *Illustrations of the Huttonian Theory of the Earth* in 1802. Playfair presents a two-part refutation for Kirwan's charge of atheism.

1. Hutton neither argued that the earth was eternal nor even claimed that we could say nothing about its origin. In his greatest contribution, Hutton tried to develop a cyclical theory for the history of the earth's surface, a notion to match the Newtonian vision of continuous planetary revolution about the sun. The materials of the earth's surface, he argued, passed through a cycle of perfect repetition in the large. Consider the three major stages. First, mountains erode and their products are accumulated as thick sequences of layered sediments in the ocean. Second, sediments consolidate and their weight melts the lower layers, forming magmas. Third, the pressure of these magmas forces the sediments up to form new mountains (with solidified magmas at their core), while the old, eroded continents become new ocean basins. The cycle then starts again as mountains (at the site of old oceans) shed their sediments into ocean basins (at the site of old continents). Land and sea change positions in an endless dance, but the earth itself remains fundamentally the same. Playfair writes:

"It is the peculiar excellence of this theory . . . that it makes the decay of one part subservient to the restoration of another, and gives stability to the whole, not by perpetuating individuals, but by reproducing them in succession."

We can easily grasp the revolutionary nature of this theory for concepts of time. Most previous geologies had envisioned an earth of short duration, moving in a single irreversible direction, as its original mountains eroded into the sea. By supplying a "concept of repair" in his view of magmas as uplifting forces, Hutton burst the strictures of time. No more did continents erode once into oblivion; they could form anew from the products of their own decay and the earth could cycle on and on.

This cyclical theory has engendered the false view that Hutton considered the earth eternal. True, the mechanics of the cycle provide no insight into beginnings or ends, for laws of the cycle can only produce a continuous repetition and therefore contain no notion of birth, death, or even of aging. But this conclusion only specifies that laws of the *present order* of nature cannot specify beginnings or ends. Beginnings and ends may exist—in fact, Hutton considered a concept of starts and stops absolutely essential for any rational understanding—but we cannot learn anything about this vital subject from nature's present laws. Hutton, who was a devoted theist despite Kirwan's charge, argued that God had made a beginning, and would ordain an end, by summoning forces outside the current order of nature. For the stable period between, he had ordained laws that impart no directionality and therefore permit no insight into these beginnings and ends.

Note how carefully Hutton chose the words of his celebrated motto. "No vestige of a beginning" because the earth has been through so many cycles since then that all traces of its original state have vanished. But an original state is certainly had. "No prospect of an end" because the current laws of nature provide no insight into a termination that must surely occur. Playfair describes Hutton's view of God:

"He may put an end, as he no doubt gave a beginning, to the present system, at some determinate period; but we may safely conclude, that this great catastrophe will not be brought about by any of the laws now existing, and that it is not indicated by any thing which we perceive."

2. Hutton did not view our inability to specify beginnings and ends as a baleful limitation of science but as a powerful affirmation of proper scientific methodology. Let

theory deal with ultimate origins, and let science be the art of the empirically soluble.

The British tradition of speculative geology—from Burnet, Whiston, and Woodward in the late seventeenth century to Kirwan himself at the tail end of the eighteenth—had focused upon reconstructions of the earth's origin, primarily to justify the Mosaic narrative as scientifically plausible. Hutton argued that such attempts could not qualify as proper science, for they could only produce speculations about a distant past devoid of evidence to test any assertion (no vestige of a beginning). The subject of origins may be vital and fascinating, far more compelling than the humdrum of quotidian forces that drive the present cycle of uplift, erosion, deposition, and consolidation. But science is not speculation about unattainable ultimates; it is a way of knowing based upon laws now in operation and results subject to observation and inference. We acknowledge limits in order to proceed with power and confidence.

Hutton therefore attacked the old tradition of speculation about the earth's origin as an exercise in futile unprovability. Better to focus upon what we can know and test, leaving aside what the methods of science cannot touch, however fascinating the subject. Playfair stresses this theme more forcefully (and more often) than any other in his exposition of Hutton's theory. He regards Hutton's treatise as, above all, an elegant statement of proper scientific methodology—and he locates Hutton's wisdom primarily in his friend's decision to eschew the subject of ultimate origins and to focus on the earth's present operation. Playfair begins by criticizing the old manner of theorizing:

"The sole object of such theories has hitherto been, to explain the manner in which the present laws of the mineral kingdom were first established, or began to exist, without treating of the manner in which they now proceed."

He then evaluates this puerile strategy in one of his best prose flourishes:

"The absurdity of such an undertaking admits of no apology; and the smile which it might excite, if addressed merely to the fancy, gives place to indignation when it assumes the air of philosophic investigation."

Hutton, on the other hand, established the basis of a proper geological science by avoiding subjects "altogether beyond the limits of philosophical investigation." Hutton's explorations "never extended to the first origin of substances, but were confined entirely to their changes." Playfair elaborated:

"He has indeed no where treated of the first origin of any of the earths, or of any substance whatsoever, but only of the transformations which bodies have undergone since the present laws of nature were established. He considered this last as all that a science, built on experiment and observation, can possibly extend to; and willingly left, to more presumptuous inquirers, the task of carrying their reasonings beyond the boundaries of nature."

Finally, to Kirwan's charge that Hutton had limited science by his "evasion" of origins, Playfair responded that his friend had strengthened science by his positive program of studying what could be resolved:

"Instead of an *evasion*, therefore, any one who considers the subject fairly, will see, in Dr. Hutton's reasoning, nothing but the caution of a philosopher, who wisely confines his theory within the same limits by which nature has confined his experience and observation."

This all happened a long time ago and in a context foreign to our concerns. But Hutton's methodological wisdom, and Playfair's eloquent warning, could not be more relevant today—for basic principles of empirical science do have an underlying generality that can transcend time. Practicing scientists have largely (but not always) imbided Hutton's wisdom about restricting inquiry to questions that can be answered. But Kirwan's error of equating the best in science with the biggest questions about ultimate things continues to be the most common of popular misunderstandings.

I have often mentioned that fifteen years of monthly columns have brought me an enormous correspondence from nonprofessionals about all aspects of science. From sheet volume, I obtain a pretty good sense of strengths and weaknesses in public perceptions. I have found that one common misconception surpasses all others. People will write, telling me that they developed a revolutionary theory, one that will expand the boundaries of science. These theories, usually described in several pages of single-spaced typescript, are speculations about the deepest ultimate questions we can ask—what is the nature of life? the origin of the universe? the beginning of time?

But thoughts are cheap. Any person of intelligence can devise his half dozen before breakfast. Scientists can also spin out ideas about ultimates. We don't (or, rather, we confine them to our private thoughts) because we cannot devise ways to test them, to decide whether they are right or wrong. What good to science is a lovely idea that cannot, as a matter of principle, ever be affirmed or denied?

The following homily may seem paradoxical but it embodies Hutton's wisdom: the best science often proceeds by putting aside the overarching generality and focusing instead on a smaller question that can be reliably answered. In so doing, scientists show their intuitive feel for the fruitful, not the narrowness or paltriness of spirit. In this way we sneak up on big questions that only repel us if we try to engulf them in one fell speculation. Newton could not discover the nature of gravity, but he could devise a mathematics that unified the motion of a carriage with the revolution of the moon. Darwin never tried to grasp the meaning of life (or even the manner of its origin on our planet), but he did develop a powerful theory to explain its manner of change through time. Hutton did not discover how our earth originated, but he developed some powerful and testable ideas about how it ticked. You might almost define a good scientist as a person with the horse sense to discern the largest answerable question—and to shun useless issues that sound bigger.

Hutton's positive principle of restriction to the doable also defines the domain and procedures of evolutionary biology, my own discipline. Evolution is not the study of life's ultimate origin as a path toward discerning its deepest meaning. Evolution, in fact, is not the study of origins at all. Even the more restricted (and scientifically permissible) question of life's origin on our earth lies outside its domain. (This interesting problem, I suspect, falls primarily within the purview of chemistry and the physics of self-organizing systems.) Evolution studies the pathways and mechanisms of organic change following the origin of life. Not exactly a shabby subject either—what with such resolvable questions as "how, when, and where did humans evolve?"; "how do mass extinction, continental drift, competition among species, climatic change, and inherited constraints of form and development interact to influence the manner and rate of evolutionary change?"; "how do the branches of life's tree fit together?" to mention just a few among thousands equally exciting.

In their recently aborted struggle to inject Genesis literalism into science classrooms, fundamentalist groups followed their usual opportunistic strategy of arguing two contradictory sides of a question when a supposed rhetorical advantage could be extracted from each. Their main pseudoargument held that Genesis literalism is not religion at all, but really an alternative form of science (creation science) not acknowledged by professional biologists too hidebound and dogmatic to appreciate the cutting edge of their own discipline. When we successfully pointed out that creation science—as an untestable set of dogmatic proposals—could not qualify as science by any standard definition, they turned around and shamelessly argued the other side. (They actually pulled off the neater trick of holding both positions simultaneously.) Now they argued that, yes indeed, creation science is religion, but evolution is equally religious.

To support this dubious claim, they tumbled (as a conscious trick of rhetoric, I suspect) right into Kirwan's error. They ignored what evolutionists actually do and misrepresented our science as the study of life's ultimate origin. They then pointed out, as Hutton had, that questions of ultimate origins are not resolvable by science. Thus, they claimed, creation science and evolution science are symmetrical—that is, equally religious. Creation science isn't science because it rests upon the untestable fashioning of life *ex nihilo* by God. Evolution science isn't science because it tries, as its major aim, to resolve the unresolvable and ultimate origin of life. But we do no such thing. We understand Hutton's wisdom—"he has nowhere treated of the first origin . . . of any substance . . . but only of the transformations which bodies have undergone. . . ."

Our legal battle with creationists started in the 1920s and reached an early climax with the conviction of John Scopes in 1925. After some quiescence, it began in earnest again during the 1970s and has haunted us ever since. (I have written more than half a dozen essays, most in this series, on the resurgence of creation science.) Finally, in June 1987, the Supreme Court ended this major chapter in American history with a decisive 7-2 vote, striking down the last creationist statute, the Louisiana equal time act, as a ruse to inject religion into science classrooms in violation of first amendment guarantees for separation of church and state.

I don't mean to appear ungrateful, but we fallible humans are always seeking perfection in others. I couldn't help wondering how two justices could have ruled the other way. I may not be politically astute, but I am not totally naive either. I have read Justice Scalia's long dissent carefully, and I recognize that its main thrust lies in legal issues supporting the extreme judicial conservatism espoused by Scalia and the other dissenter, Chief Justice Rehnquist. Nonetheless, though it may form only part of his rationale, Scalia's argument relies crucially upon a false concept of science—Kirwan's error again. I regret to say that Justice Scalia does not understand the subject matter of evolutionary biology. He has simply adopted the creationists' definition and thereby repeated their willful mistake.

Justice Scalia writes, in his key statement of scientific evidence:

"The people of Louisiana, including those who are Christian fundamentalists, are quite entitled, as a secular matter, to have whatever scientific evidence there may be against evolution presented in their schools."

I simply don't see the point of this statement. Of course they are so entitled, and absolutely nothing prevents such a presentation, if evidence there be. The equal time law forces teaching of creation science, but nothing prevented it before, and nothing prevents it now. Teachers were, and still are, free to teach creation science. They don't because they know that it is a ruse and a sham.

Scalia does acknowledge that the law would be unconstitutional if creation science is free of evidence—as it is—and if it merely restates the Book of Genesis—as it does:

"Perhaps what the Louisiana Legislature has done is unconstitutional because there is no such evidence, and the scheme they have established will amount to no more than a presentation of the Book of Genesis."

Scalia therefore admits that the issue is not merely legal and does hinge on a question of scientific fact. He then buys the creationist argument and denies that we have sufficient evidence to render this judgment of unconstitutionality. Continuing directly from the last statement, he writes:

"But we cannot say that on the evidence before us. . . . Infinitely less can we say (or should we say) that the scientific evidence for evolution is so conclusive that no one would be gullible enough to believe that there is any real scientific evidence to the contrary."

But this is exactly what I, and all scientists, do say. We are not blessed with absolute certainty about any fact of nature, but evolution is as well confirmed as anything we know—surely as well as the earth's shape and position (and we don't require equal time for flat earthers and those who believe that our planet resides at the center of the universe). We have oodles to learn about how evolution happened, but we have adequate proof that living forms are connected by bonds of genealogical descent.

So I asked myself, how could Justice Scalia be so uninformed about the state of our basic knowledge? And then I remembered something peculiar that bothered me, but did not quite register, when I first read his dissent. I went back to his characterization of evolution and what did I find (repeated, by the way, more than a dozen times, so we know that it represents no one-time slip of his pen, but a consistent definition).

Justice Scalia has defined evolution as the search for life's origin—and nothing more. He keeps speaking about "the current state of scientific evidence about the origin of life" when he means to designate evolution. He writes that "the legislature wanted to ensure that students would be free to decide for themselves how life began based upon a fair and balanced presentation of the scientific evidence." Never does he even hint that evolution might be the study of how life changes after it originates—the entire panoply of transformation from simple molecules to all modern, multicellular complexity.

Moreover, to make matters worse, Scalia doesn't even acknowledge the scientific side of the origin of life on earth. He argues that a creationist law might have a secular purpose so long as we can envisage a concept of creation not involving a personal God "who is the object of religious veneration." He then points out that many such concepts exist, stretching back to Aristotle's notion of an unmoved mover. In the oral argument before the Court, which I attended on December 10, 1986, Scalia pressed this point even more forcefully with counsel for our side. He sparred:

"What about Aristotle's view of a first cause, an unmoved mover? Would that be a creationist view? I don't think Aristotle considered himself as a theologian as opposed to a philosopher.

"In fact, he probably considered himself a scientist. . . . Well, then, you could believe in a first cause, an unmoved mover, that may be impersonal, and has no obligation of obedience or veneration from men, and in fact, doesn't care what's happening to mankind. And believe in creation." [From the official transcript, and omitting the responses of our lawyer.]

Following this theme, Scalia presents his most confused statement in the written dissent:

"Creation science, its proponents insist, no more must explain whence life came than evolution must explain whence came the inanimate materials from which it says life evolved. But even if that were not so, to posit a past creator is not to posit the eternal and personal God who is the object of religious veneration."

True indeed; one might be a creationist in some vernacular sense by maintaining a highly abstract and impersonal view of the creator. But Aristotle's unmoved mover is no more part of science than the Lord of Genesis. Science does not deal with questions of ultimate origins. We would object just as strongly if the Aristotelophiles of Delaware forced a law through the state legislature requiring that creation of each species *ex nihilo* by an unmoved mover be presented every time evolution is discussed in class. The difference is only historical circumstance, not the logic of argument. The unmoved mover doesn't pack much political punch; fundamentalism ranks among our most potent irrationalisms.

Consider also, indeed especially, Scalia's false concept of science. He equates creation and evolution because creationists can't explain life's beginning, while evolutionists can't resolve the ultimate origin of the inorganic components that later aggregated to life. But this inability is the very heart of creationist logic and the central reason why their doctrine is not science, while science's inability to specify the ultimate origin of matter is irrelevant because we are not trying to do any such thing. We know that we can't, and we do not even consider such a question as part of science.

We understand Hutton's wisdom. We do not search for unattainable ultimates. We define evolution, using Darwin's phrase, as "descent with modification" from prior living things. Our documentation of life's evolutionary tree records one of science's greatest triumphs, a profoundly liberating discovery on the oldest maxim that truth can make us free. We have made this discovery by recognizing what can be answered and what must be left alone. If Justice Scalia heeded our definitions and our practices, he would understand why creationism cannot qualify as science. He would also, by the way, sense the excitement of evolution and its evidence; no person of substance could be unmoved by something so interesting. Only Aristotle's creator may be so impassive.

Don Quixote recognized "no limits but the sky," but became thereby the literary embodiment of unattainable reverie. G.K. Chesterton understood that any discipline must define its borders of fruitfulness. He spoke for painting, but you may substitute any creative enterprise: "Art is limitation: the essence of every picture is the frame." ●

THE AMERICAN LEGION LEGISLATIVE PRIORITIES HEARING

● **Mr. MURKOWSKI.** Mr. President, this morning the Senate Committee on Veterans' Affairs held a hearing to receive testimony on the legislative priorities of the American Legion. Mr. Jack Comer made his first appearance before the committee in his capacity as the national commander. Commander Comer was accompanied by Pearl Behrend, the president of the American Legion Auxiliary, as well as Legionnaires from across our Nation.

As ranking minority member of the committee, I deeply regret that, due to other commitments, I was unable to attend the hearing. However, for the record, I would like to express some thoughts on the tremendous contributions made by the American Legion. I note with deep regret the absence of my friend and colleague, Bob Blair, of Kodiak, AK, named the outstanding American Legionnaire for 1987. Bob died 2 weeks ago at this home in Kodiak. His dedication to his family—and the 18 orphaned children to whom he gave a home—his community, and his country were reflected in his service to the American Legion. Bob epitomized the spirit of the Legion and we are better for his service to his fellow veterans.

I wish to commend the Legion and its fine staff for its dedication to veterans and skilled advocacy on their behalf. Mylio Kraja, the executive director, Phil Riggin, and Bob Lyngh, and the rest of the fine Washington staff, have, in their skillful work with the Members and staff of the Congress, created an enviable record for themselves and for the American Legion. I would also like to commend the Legion service officers, such as Shorty Oliver—who traveled from Anchorage—whose work on behalf of veterans has done so much to ensure the system serves well those who served the Nation so well—our veterans.

America can learn much from the service officers of the American Legion. They are always available, without charge, to help their fellow veterans. They are knowledgeable and skillful; and, when necessary, tough and aggressive advocates of the veterans they serve. At a time when our country and an enlightened legal community are looking for a way to resolve disputes without resorting to the expense and delay of lawsuits, I believe there is much to be learned about advocacy and representation from the VA and the service officers of organization such as the American Legion.

In the months and years ahead, the Congress will face enormous and perhaps unprecedented challenges. I am confident that the Congress—with the assistance of the American Legion—can arrive at thoughtful and responsible solutions which will meet our commitments to America's veterans for quality health care and a system of veterans' benefits which is second to none.

The Legion, with over 2 million members and posts in virtually every community in America can and do make the difference.

An important priority of mine in the coming year is to elevate the Veterans' Administration to the President's Cabinet. Once a Secretary of Veterans' Affairs sits at the Cabinet table, we will have done much to ensure that the Nation's program for veterans will continue to enjoy the high priority veterans have earned through their service.●

TRIBUTE TO HENRY TAUB

● Mr. LAUTENBERG. Mr. President, I wish to pay tribute to a dear and close friend and a great humanitarian, Henry Taub.

I have known Henry since 1949. In 1952, I joined him and his brother Joe at a small company that struggled to make a business out of payroll processing. That small company became Automatic Data Processing, Inc. Henry still serves on its board.

Henry Taub is the epitome of the self-made man. He is the son of Polish immigrants who worked in the Paterson silk mills. He studied accounting at New York University, paying for his education partly by working part-time for a small accounting firm.

In those days there were no firms around to handle a company's payroll. In most firms, a head bookkeeper had to take care of the payroll, or the employer personally wrote out the checks to his employees. One day on the job, an accountant at that time, Henry was notified that a client's bookkeeper was ill and Henry himself would have to prepare the checks for the firm's employees. That gave Henry the idea that a tremendous need could be filled by a company that specialized in processing the payrolls of other businesses, delivering employees' checks, and handling other employee records.

In 1949, Henry and Joe Taub started out in the basement of a small hotel in Paterson, NJ. Joe and Henry worked days and nights to process payrolls, delivering them on time, accurately, and at an attractive price for the client. How that small business grew into a pioneering computer service company is a part of American business history. It is a story of perseverance; a story of how technology, when harnessed and managed can bring great economic growth; and it is a story of how the human element can never be ignored. Because, as much as ADP relied upon computer development, it relied upon the effective motivation and management of its people.

Today, ADP is the largest computer services company in the world. It helped develop a new industry that employs almost a million people and brought economic growth to our State and the Nation. ADP now employs over 5,000 people in New Jersey and 20,000 in total. We came a long way from a Paterson basement.

Despite his enormous success, Henry has never forgotten his modest beginnings. Henry has always had a deep concern for those less fortunate, and has dedicated a significant part of his time, energy, and resources, to help others. Henry has provided substantial support to the Joint Distribution Committee, an international organization concerned with the welfare needs of Jews around the world. Among his honors, Henry received an honorary degree from Technion Institute of Technology in Israel.

One of things that makes Henry so special is that he is not the kind of man to sit back when he sees a problem that needs solving. He was convinced that business could play as great a role as government in reducing unemployment and breaking the cycle of poverty.

So, Henry set about to find new ways to provide jobs for economically disadvantaged residents of New Jersey. As a result, he created two of New Jersey's most successful job training programs for the poor. In 1979, Henry established the Business Employment Foundation, sensing that the greatest need for job training rested in urban areas.

These programs are aimed at employing inner city residents of Paterson, one of New Jersey's poorest cities. The Paterson program, which trains economically disadvantaged residents in the clerical and health fields, has become a way out of poverty for hundreds of Paterson residents and their families. About 90 percent of the graduates of the Paterson program are black or Hispanic, and almost 90 percent are women. Today the programs have successfully recruited, trained, and placed about 1,000 people for jobs with area companies, hospitals, and health care facilities.

Mr. President, Henry Taub is celebrating his 60th birthday on Sunday. But he shows no sign of slowing down. He has so much more to accomplish and contribute to business and to the public. I pay tribute to my friend and colleague.●

ORDER OF BUSINESS

Mr. BYRD. Mr. President, these two requests have been cleared on the other side.

ORDER TO PLACE H.R. 442 ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 442 just received from the House of Representatives be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

HATFIELD-KENNEDY AMENDMENT TO DOD BILL

Mr. BYRD. Mr. President, I ask unanimous consent that in the list of amendments to the DOD authorization bill on which there are time agreements, the amendment listed as Kennedy-Hatfield nuclear testing be corrected to read Hatfield-Kennedy nuclear testing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished acting Republican leader, Mr. WARNER, have anything further he wishes to say or any business to transact?

Mr. WARNER. Mr. President, I am advised by the Republican leader that there is no further business on this side of the aisle, and I simply conclude by saying to the distinguished majority leader we have had what he would call a good day in the Senate and progress has been made on this bill, and we will return tomorrow and hopefully have comparable progress, but I understand that there may be other legislative matters necessitating the temporary laying aside of the pending matter.

Mr. BYRD. Yes, Mr. President.

I thank the distinguished acting leader, Mr. WARNER.

May I say that the progress made today is attributable in considerable part to the actions of the distinguished Senator from Virginia [Mr. WARNER].

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in at 8:20 a.m. tomorrow. The two leaders will have their orders reduced to 5 minutes each and at the conclusion of the 10 minutes the Senate will proceed to the consideration of the unfinished business. That will be around 8:30 a.m. At that time I will suggest the absence of a quorum and I will request the yeas and nays on a motion to instruct the Sergeant at Arms to request the attendance of absent Senators. That rollcall vote, therefore, will begin about 8:30 a.m. and I will not ask for the regular order, that being early in the morning and being the first rollcall vote of the day until about 30 minutes have elapsed.

So, at around 9 o'clock, I will send the conference report to the desk, or Mr. BENTSEN or someone will, and, that being a privileged matter, that will be taken up. That will not be debatable. And for the time being, while the Senate is on that conference report, the DOD authorization bill will be temporarily held in abeyance.

There is no time agreement on the conference report, but I hope that the Senate would act expeditiously on the matter. The deadline for the cost debt limit extension will expire tomorrow evening at midnight.

Upon the disposition of the conference report, the Senate then will return to the unfinished business, the Department of Defense authorization bill. Hopefully, that will be early enough in the day that other votes may be had on amendments to the DOD authorization bill.

In any event, if any rollcall votes are ordered after 6 o'clock tomorrow, those rollcall votes will be held over until 6 p.m. on Thursday. This is being done in recognition of the religious holiday, Rosh Hashanah.

But I say again, as I have said several times heretofore, that the Senate will continue working tomorrow evening after 6 p.m., and will be working early and throughout the day on Thursday.

RECESS UNTIL 8:20 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:20 a.m. tomorrow.

The motion was agreed to; and, at 7:10 p.m., the Senate recessed until Wednesday, September 23, 1987, at 8:20 a.m.

NOMINATIONS

Executive nominations received by the Secretary of Senate September 21, 1987, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF STATE

CHARLES FRANKLIN DUNBAR, OF MAINE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE YEMEN ARAB REPUBLIC.

UNITED NATIONS

WILLIAM W. TREAT, OF NEW HAMPSHIRE, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE 42ND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE U.S. ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF 5 YEARS, VICE PAUL A. VOLCKER, RESIGNED.

DEPARTMENT OF THE TREASURY

O. DONALDSON CHAPOTON, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE J. ROGER MENTZ, RESIGNED.

DEPARTMENT OF THE INTERIOR

HENRY M. VENTURA, OF CALIFORNIA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR, VICE GERALD RALPH RISO.

DEPARTMENT OF TRANSPORTATION

ALFRED A. DELLIBOVI, OF NEW YORK, TO BE URBAN MASS TRANSPORTATION ADMINISTRATOR, VICE RALPH LESLIE STANLEY, RESIGNED.

POSTAL RATE COMMISSION

WILLIAM H. LEBLANC III, OF LOUISIANA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING NOVEMBER 22, 1988, VICE HENRIETTA FAYE GUITON, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, September 22, 1987*

The House met at 12 noon.

Rev. Charles A. Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

I will extol Thee my God and King, and bless Thy name for ever and ever. Every day will I bless Thee, and praise Thy name for ever and ever.—Psalm 145:1-2.

Father, we begin this day as we begin every legislative day by offering You our first thoughts. Receive from us this prayer of thanks as we express our gratitude.

Father, God of our youth, You fill our formation years with awe and wonder so that with each new encounter with creation we found Your masterful hand. Spirit of God, our present strength, You sustain our lives through bread and word which brings wisdom to both mind and spirit. Son of God, our eternal hope, You take away the anxiety of death and fill us with hope of unending life.

Father, please continue to give us the joy to love You and the direction to serve You. We ask this through Christ our Lord. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1567. An act to provide for the use and distribution of funds awarded to the Cow Creek Band of Umpqua Tribe of Indians in U.S. Claims Court docket numbered 53-81L, and for other purposes.

The message also announced that Mr. CRANSTON and Mr. GRAMM be appointed conferees, on the part of the Senate, on the bill (H.R. 3) entitled "An Act to enhance the competitiveness of American industry, and for other purposes," for the consideration of title X, in lieu of sections 1029 to 1036 of title X.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 77. Concurrent resolution expressing the sense of the Congress in opposition to the third country meat directive by the European Community requiring individual inspection and certification by the European Community of United States meat plants and urging the President to take strong countermeasures should the European Community deny U.S. meat imports because of the unfair application of the directive.

IRAN'S MOST-FAVORED-NATION STATUS

(Mr. **RAY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **RAY**. Mr. Speaker, I and Congressman ED JENKINS are introducing a bill to revoke Iran's most-favored-nation status.

We urge our colleagues to join us as sponsors.

It is unbelievable that we continue to offer Iran MFN status today—8 years after the fall of the Shah. During this period of time, we know without question that Iran has been responsible for the kidnaping of our citizens, the bombing of our Embassy in Beirut, and the suicide truck bombing of our Marine barracks in Lebanon which killed 241 young marines. Even today, Iran is placing American lives in danger by mining the Persian Gulf. The headlines in today's Washington Post tell us of United States Navy helicopters attacking an Iranian navy ship that was spotted laying mines in the Persian Gulf.

Repealing Iran's MFN status will not hurt domestic producers. Last year, Iran exported 611.6 million dollars' worth of goods into the United States, while the United States exported only $34.1 million. With MFN status, Iran has also been able to flood our markets with textiles that are one-half of the cost of the textiles produced by our domestic manufacturers. Last year, Iran exported 15,000 square yards of textiles into this country. Through August of this year, they had exported 600,000 square yards. Can you imagine the delight of the Ayatollah knowing that they are dumping their goods on the markets of a nation that they consider to be the great Satan?

Iran has kidnaped Americans, killed Americans, and unless we revoke their most-favored-nation status, they will take away more and more American jobs. I hope my colleagues will join me in support of this legislation.

TRIBUTE TO ELIZABETH HANFORD DOLE

(Mr. **BALLENGER** asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. **BALLENGER**. Mr. Speaker, at this point in the evolution of our democracy, we are no longer surprised to find highly qualified, competent women in positions of leadership and authority. This is true in business, the professions and Government service.

Even so, it is rare to find a woman—or a man, for that matter—who not only has distinguished herself as a scholar and professional administrator, but at the same time has made a commitment to improve the lives of the ill-fed, the ill-housed and those who are deprived of the most basic medical care.

Such a caring woman is the distinguished Secretary of Transportation, Elizabeth Hanford Dole.

If you had been in Port-au-Prince, Haiti, last Saturday you would have witnessed the successful completion of a humanitarian project inspired and directed by Elizabeth Dole.

Less than 2 months ago, Elizabeth Dole told my wife Donna about a medical doctor, David McNeeley, who provides medical care for the poor citizens of Haiti. Dr. McNeeley travels on horseback through that country, where even the most common diseases, left untreated, take a high toll of human life.

Dr. McNeeley needed surgical equipment, medical supplies, and incubators. Elizabeth enlisted Donna's help to see that this need was met.

With the help of the U.S. Coast Guard, the Department of Transportation, the Burke County Office of Emergency Services, young men working in a Burke County BRIDGE Program, and officials at Frye Regional Medical Center in Hickory, NC—and countless others who volunteered their time and effort. But most of all because Elizabeth Dole offered her invaluable assistance. Dr. McNeeley can continue his mission in an area that badly needs his talents.

Donna and I are delighted to count Elizabeth Dole as a personal friend and Donna was honored to assist in the Haitian project, which is one example of how one caring person can make a difference.

Elizabeth Dole has earned our praise as an able, professional administrator.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

She deserves our thanks for being a person who cares about people.

THE PRESIDENT SHOULD INVOKE THE WAR POWERS ACT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, yesterday a United States Navy helicopter fired on an Iranian ship that was detected laying mines in the gulf. Even though I disagree with the President's policy in the gulf, I commend our troops for protecting themselves and making sure that our troops have an opportunity to complete their duties without serious incident; however, there is no question now with the buildup of troops greater in the gulf than it was during the Second World War that imminent hostilities exist and this President must invoke the War Powers Act. Failing to do that would be a tragic mistake.

Keep in mind, Mr. Speaker, that 90 percent of commercial oil shipments in the gulf still go unprotected. We have escalated this to a fever pitch. There were no mines being laid before we reflagged those vessels.

It has come down to the fact that the President should invoke the War Powers Act and America had better be very careful of an incident brewing in the gulf that may turn out to be quite sour. About all we are protecting is the President's ego, let us face it.

BUDGET DIFFICULTIES

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, I rise to pay tribute today to Secretary of Transportation Elizabeth Hanford Dole, as she leaves the President's Cabinet after 4½ years of distinguished service.

Mrs. Dole has presided over one of the most important executive departments during an era of Gramm-Rudman-Hollings and a looming Federal budget deficit. Faced with the cries from many constituencies with diverse and conflicting priorities, she plotted a strong but prudent course to ensure that our country's transportation needs were met.

She was a forceful and articulate proponent of safety in all forms of transit from improvements in airline safety to tougher airport security, from mandatory seatbelt use to safer highways—hers was an agenda of practical application, in a period of financial stress in our Federal system.

I congratulate the Secretary on her tenure as she leaves to join her husband, Senator BOB DOLE, in his quest for the Presidency. I hope the future will be every bit as kind to her as the past has been.

The Senator calls the Secretary his "southern strategy" surely many could accuse him of understatement.

TRIBUTE TO SECRETARY ELIZABETH DOLE

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, it is a day that we all knew had to come. No one remains Secretary of Transportation forever, but that didn't make it any easier to hear that Elizabeth Dole was stepping down from her Cabinet post, as she said "putting down one cause and taking up another."

For those of us who have had the pleasure of working with her during her 4½ years at DOT, it is our loss. She will be missed by the administration, by her employees at the Department, and the public she served so ably.

In one particular area, she took quick and decisive action where others had not. For over 12 years, the issue of forbidding, by Federal regulation, drug and alcohol use by railroad workers had erupted into a controversial battle, and one that begged for a solution. Secretary Dole made enacting a Federal rule on testing for drugs and alcohol for railroad workers one of her top priorities, and as with so many other issues, it was no sooner said than done.

Since the rule went into effect, hundreds of railroad workers have been tested, and the best part is a provision that I know means the most to the Secretary—it allows workers to step forward in confidence and admit to a substance abuse problem and get into a rehabilitation program before they have an accident.

Experience has demonstrated the need to go beyond the rule. Now Secretary Dole has instituted random drug testing in the transportation industry, and, random testing for 30,000 DOT employees in safety and security positions as well.

It takes courage to act, as Secretary Dole has.

> If I'm going to look you in the eye and tell you, the American people, that I've done everything I know to do to give you what you expect and deserve—A transportation system that is drug free—we have to go to random drug testing.

Elizabeth Dole has fulfilled the public trust; her shoes will be hard to fill.

DEPARTURE OF ELIZABETH DOLE

(Mr. CHANDLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHANDLER. Mr. Speaker, public service provides those of us who have been entrusted with the responsibility to govern with the opportunity to make a difference in the lives of people. That is particularly true of Elizabeth Dole. Not only has the Secretary been responsible for ensuring the safety and efficiency of America's transportation system, but she is also the first woman to head a branch of our Armed Forces—the U.S. Coast Guard. In this capacity, Secretary Dole made it her goal to help protect America's greatest resource—our young people. As Secretary of Transportation, Elizabeth Dole has moved the Coast Guard into a leadership role to help stop illicit drugs from entering our country and poisoning our youth. Last year, the Coast Guard seized 154 vessels, and prevented approximately 2 billion dollars' worth of illegal drugs from entering our country.

On this occasion, I salute the Coast Guard and Secretary Dole for leadership, courage and determination in helping to wage the battle against illicit drugs. And I will personally miss her leadership on this important issue, and many other tough ones she has tackled during her very distinguished tenure. Godspeed, and may she find a safe port wherever her travels take her.

□ 1215

HIGHWAY SAFETY

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, it was with great disappointment that I heard Elizabeth Dole is resigning as Secretary of Transportation. I was sad, because our Nation will lose one of its ablest leaders.

Now, as Secretary Dole prepares to leave office, I rise to commend her on her tremendous leadership in promoting safe highways.

Secretary Dole's courageous solution to the 20-year battle over passive restraints has saved thousands of lives and prevented thousands of crippling injuries. She provided the incentive for the passage of seatbelt laws in 29 States and the District of Columbia.

And as a result of the Secretary's 208 ruling, 10 manufacturers are now offering air bags on new cars, and 25 percent of 1988 model year cars will contain passive restraints.

Under Elizabeth Dole's leadership, the Department of Transportation has joined with the auto industry in looking for vehicle safety improvements that are practical and cost-effective, such as the high-mounted stop lamp—or "Dole light"—now standard equipment on new cars. Once installed throughout the fleet, the new third light will prevent roughly 900,000 rear-end accidents a year and save 40,000 injuries and nearly half a billion dollars in property damage.

Secretary Dole also led a major effort to eliminate drunk driving, particularly among America's young people. Elizabeth Dole has worked closely with parent and student organizations to make drivers aware of the hazards of drinking and driving.

As a result of Secretary Dole's highway initiatives, the last 2 year's highway fatality rate was the lowest level in history—last year's rate was 2.47 fatalities per 100 million miles traveled. And the last three holiday weekends showed a reduction in highway fatalities compared with the same holidays last year.

Although we will miss Elizabeth Dole and the positive difference she has made in the lives of every American, I am confident that she will be back, ready to face each challenge that awaits her. Elizabeth, we will miss you. Godspeed.

HIGH QUALITY PUBLIC SERVICE

(Mrs. SAIKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SAIKI. Mr. Speaker, since the times of Washington, Adams, and Jefferson, the American people have expected a high quality of public service from their leaders. Most have lived up to those expectations; a few have not. Just last week, a public servant in every noble sense of the word, announced she was stepping down as Secretary of Transportation to devote her time and energies to her husband's campaign for the Presidency. It could not have been an easy decision, but I believe when Elizabeth Dole makes a tough decision, it is well thought out, and more importantly, the right decision.

Secretary Dole will leave an outstanding record as someone who took on the tough issues and made tough decisions. Whether it was aviation, trucking or railroads, Secretary Dole has always set the standards as a leader who put the American people's interests first in her policy decisions. She leaves behind a record of safety unmatched by her predecessors; and for a Transportation Secretary, that is the ultimate measure of how she has had an impact on the lives of the American people.

I wish the Secretary and Senator DOLE well and look forward to our paths crossing again. She has been a joy to work with.

DRUG TRAFFICKERS LIFE IMPRISONMENT PENALTY ACT OF 1987

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, in survey after survey, Americans have affirmed that drug abuse and related crime ranks as one of the greatest problems facing this Nation. In my district I hear one heartbreaking story after another about individuals, families and even communities destroyed by drugs. Yet we seem paralyzed from acting upon these concerns.

Despite our best efforts, illegal cocaine is coming into our country at alarming levels, and 4 to 5 million people regularly use it. Five hundred thousand Americans are hooked on heroin; 1 in 12 persons smokes marijuana regularly.

Regular drug use is even higher among the age group 18 to 25—most likely just entering the work force.

Drug abuse costs. Drug abuse costs us in financial terms, in the tragic loss of human potential and even lives. It costs the drug abusers themselves and it costs the Ameican taxpayers at least $60 billion a year.

When faced with these sort of numbers, indifference is simply no longer an option. We need to let the drug kingpins know that we mean business. That is why I am introducing H.R. 3320, the Drug Traffickers Life Imprisonment Penalty Act of 1987, to mandate life imprisonment for serious drug offenses. Those offenses include: murder of a law enforcement officer in the course of a drug-related offense; trafficking 10 or more kilograms of heroin, cocaine, crack, PCP, or designer drug; any second or subsequent trafficking violation involving 1 kilogram or more of heroin, cocaine, crack, PCP, or designer drug.

H.R. 3320 goes straight to the source and I am convinced it will serve as a deterrent. While it may seem a harsh step, the alternative is even harsher. A life hooked on drugs is a life sentence. Why shouldn't those who deal out this sentence have to serve the same time?

TRIBUTE TO SECRETARY ELIZABETH DOLE

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, it is a privilege and an honor to join with my colleagues today in expressing my admiration and best wishes to Secretary of Transportation Elizabeth Dole. Like many others, I am sorry to see her leave the Cabinet, she has been most effective, but I think we all understand her reasons and wish her well.

Many Americans know Elizabeth Dole in her role as a Cabinet member for nearly 5 years. She has served longer than any other Transportation Secretary.

But, I would point out to my colleagues, this tenure only represents one-fourth of her 20-year career of public service. Secretary Dole was a member of the President's senior staff at the White House, served as a member of the Federal Trade Commission and was the Executive Director of the President's Committee on Consumer Interests.

Mr. Speaker, hers is indeed an outstanding record of public service. From the people of Kansas and the country, thank you, Secretary Dole, for leaving a legacy of excellence for men and women who with your example will follow, excel and serve our country well.

A CONSTITUTIONAL CRISIS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, yesterday afternoon a helicopter from the U.S.S. *Jarrett* fired upon an Iranian vessel which was observed laying mines off the coast of Bahrain. This incident illustrates the very fine line between a situation where hostilities are imminent and one where they are indisputably present. We have crossed that line in the Persian Gulf.

Let me say it one more time. The issue here is not the wisdom of the President's policy in the Persian Gulf. The issue is whether Congress will exercise its constitutionally mandated war power or whether it will continue to abdicate its responsibilities.

We swore, upon assuming this office, to uphold and protect the Constitution of the United States. The President has unilaterally introduced U.S. Armed Forces into hostilities. The war powers resolution and the Constitution require congressional authorization for that act. We have been denied the opportunity to grant that authorization.

Benjamin Franklin, upon being asked what sort of government the farmers had agreed upon, answered, "A Republic, if you can keep it". Well—we had better begin to exercise our responsibilities if we want to keep it.

OUTSTANDING CONTRIBUTIONS OF SECRETARY ELIZABETH DOLE

(Mr. THOMAS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of California. Mr. Speaker, I would like to recognize the outstanding contributions Elizabeth Dole has made in over 4 years as Secretary of Transportation. Her record at the Department of Transportation clearly speaks for itself. The last 3 years have been the safest in U.S. history for aviation, automobile safety, and railroading.

In aviation, Elizabeth Dole has continuously pushed for much needed improvements. She has proposed a requirement that collision avoidance warning systems be installed in commercial aircraft. She has hired additional air traffic controllers. She has increased the FAA inspector work force. And she is requesting and receiving a 50-percent increase in the FAA budget.

Elizabeth Dole also led an active campaign for automobile safety. She led the fight against drunk driving, including the enactment of the "Age 21" legislation. She mandated rear high-mounted stop lamps on cars which have been very effective in preventing rear-end collisions and eliminating thousands of injuries as well as saving millions of dollars in property damages annually.

As a public servant she has set an example by her long and dedicated service to the people of this country and should be commended. I have only highlighted a few of Secretary Dole's achievements in her long career at the Department of Transportation and know that she will be as successful and dedicated to her new role as she was as Secretary of Transportation. As our next First Lady she will be outstanding.

THE UNITED STATES SHOULD STAND BY THE ARIAS PEACE PLAN

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, in May, President Reagan stated in his Ellis Island speech that he would lend "full support to any negotiations that can build democracy throughout Central America without further bloodshed." In August, he joined House Speaker JIM WRIGHT in unveiling a peace plan that called for a cease-fire and negotiations aimed at reconciliation.

Now the administration has reversed course and backed away from the most promising diplomatic initiative that has come during his 7 years in office. Secretary of State Shultz signalled the sea change and called for $270 million in renewed aid for Contras. In his weekly radio address, President Reagan deemed the Guatemala plan fatally flawed because it called for an end to aid the Contras. But the fatal flaw is not in the Guatemala plan. It's in the logic of the administration.

Will continued aid to the Contras force the Soviets to stop aiding the Sandinistas? Will it make the Sandinistas cry uncle? Will it force the Sandinistas to reform internally? The answer to all three questions is no.

Rather than supporting the agreement reached by the five Central American Presidents in Guatemala, the President has abandoned the initiative and appears intent on scuttling it altogether. In the process, he abandons a golden opportunity to forge a true bipartisan consensus on our policy in the region and leaves our Central American allies in the lurch.

The Guatemala Agreement is not a panacea. It did not transform the Sandinistas into saints. It created a political opening for meaningful negotiations—something the Contra war and Iranian arms sales never could accomplish. This morning, President Arias of Costa Rica said that our two countries stood at a crossroads of peace and democracy, war and poverty, and that we could not afford to make the wrong choice.

The peace plan was signed by our allies in the region. It is supported by the Contadora countries and the Contadora support group. It has even gained support among the opposition parties within Nicaragua. The United States should stand ready to support it.

KEEP THE SOVIETS OFF MOUNT ALTO

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, we and the American people have been painfully aware of the failed agreement made in 1972 by the United States and the Soviet Union on our respective Embassies. In 1972 we entered into a bad agreement in the spirit of détente. Since that point in time the Soviets have repeatedly shown us that there is no détente in espionage. They have ruined both Embassies and they have done so with diplomatic acquiescence by the State Department.

Mr. Speaker, I would like to remind the State Department, that on June 16 the Mount Alto amendment to the State Department authorization was adopted by a vote of 417 to 0 and this body expressed the will of the American people that the Soviets should move off Mount Alto.

I now read reports in the paper that Secretary of State Shultz is again acquiesing to the diplomats from the Soviet Union in contriving new schemes so that they can reclaim Mount Alto.

I would recommend to the Secretary that he provide a hard spot for the Soviet bayonets and resist their continued espionage efforts, and remember the 417-to-0 vote of this body.

GIVE THE ARIAS PEACE PLAN A CHANCE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, President Arias' parting words and message in his address to Congress this morning was, "Give peace a chance" and, "Don't torpedo the peace process."

The subtle hint was for the on again off again peace policy of the Reagan administration after agreeing to a peace plan with Speaker WRIGHT, it is more difficult to escape the conclusion that the Reagan administration is attempting to scuttle the Central American peace plan in order to justify more aid to the Contras. Everyone is getting into the act of supporting the Reagan, WRIGHT, and the Arias peace plans except the President, five Central American nations, the Contadora countries, and public opinion in our entire Western Hemisphere, including the United States.

Recently, the Sandinistas reopened the opposition daily, La Prensa. The editor of La Prensa has stated, "We now have freedom of the press. This is the peace process at work," citing the freedom of expression clause. The Contras recently released 80 Sandinista prisoners to give support to the peace plan.

Clearly, these steps are not enough, especially with the Sandinistas, who are especially guilty in manipulating the process, but they are a start, a start that was painfully absent.

Mr. Speaker, the President of a very small country asked us today to give peace a chance. Let us listen.

OUTRAGEOUS MISMANAGEMENT OF THE HOUSE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, please come to my district and explain to my constituents why you are wasting their money. This morning my administrative assistant is flying back from Chicago with a round-trip cost to the taxpayers of over $500. He flew there yesterday to deliver a long scheduled speech for me because I had to race back from the district to Washington for the many votes the majority leader promised us on the farm credit bailout bill. Then the entire bill was yanked off the floor by the majority leadership.

Monday's fiasco is a microcosm of the entire legislative process and it mirrors what is wrong with the Congress and why reform is needed. One has only to look at the entire budget and appropriations process, to the missed deadlines, to bills intentionally withheld from floor consideration, complete inaction by the Senate, and then a huge one-vote up or down omnibus continuing resolution to know how bad things have really become.

Mr. Speaker, it is time to put an end to this outrageous mismanagement. It is time for reform.

□ 1230

PERSIAN GULF

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, everyday it is underscored with greater clarity, the Reagan administration is brazenly ignoring the law. Last night, United States Navy helicopters attacked an Iranian ship reportedly laying mines in the Persian Gulf. Only hours before, an Iranian gunboat fired on an oil tanker flying the British flag near Bahrain.

Everyday, the fighting in the Persian Gulf escalates. And yet, President Reagan still refuses to invoke the War Powers Act, denying that the Persian Gulf is a region in which U.S. troops face "imminent involvement in hostilities."

Does President Reagan truly believe what he says? Are attacks on Iranian and British ships not examples of hostilities? American seamen in the region are receiving hazardous duty pay. More than 40 Americans have died in the region this summer. And, in Philip Geyelin's words, the Reagan administration continues to deploy the "largest armada since the Vietnam war in what has to be considered to be, right now, the most dangerous part of the planet."

We are well on our way toward war in the Persian Gulf. The law of this country requires President Reagan to invoke the War Power Act. By ignoring that law, President Reagan is violating the Constitution and the trust of the American people.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF H.R. 2783, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1988

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 267 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 267

Resolved, That during the consideration of the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 2, line 7 through page 6, line 3; beginning on page 6, line 12 through page 8, line 8; beginning on page 8, line 21 through page 13, line 14; beginning on page 13, line 21 through page 14, line 9; beginning on page 15, line 16 through page 16, line 4; beginning on page 16, line 16 through page 18, line 11; beginning on page 21, line 5 through page 25, line 7; beginning on page 26, line 6 through page 29, line 7; beginning on page 29, line 17 through page 32, line 13; beginning on page 35, line 17 through page 36, line 17; and beginning on page 40, lines 1 through 5. It shall be in order to consider at any time the amendments en bloc numbered (1) and (2) printed in the report of the committee on Rules accompanying this resolution, by, and if offered by, Representative Boland of Massachusetts, said amendments shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole, and all points of order against the amendments numbered (2) for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. If either of the amendments en block numbered (1) or (2) are adopted, further amendments to the bill shall be in order as if the bill as so perfected were the original bill for the purpose of amendment under the five-minute rule. It shall be in order to consider the amendment numbered (3) printed in the report of the Committee on Rules, by, and if offered by, Representative Frost of Texas, said amendment shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto, shall not be subject to amendment, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived.

The SPEAKER pro tempore. (Mr. FEIGHAN). The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 267 is a rule waiving certain points of order against specified provisions of H.R. 2783, the HUD and independent agencies appropriation for fiscal year 1988, and making in order the consideration of certain amendments and waiving points of order against those amendments.

As Members may recall, in June the Committee on Rules reported a rule on H.R. 2783, but because of scheduling problems this summer, the original rule, House Resolution 216, was laid on the table. The resolution before Members today is very similar to the original resolution reported from the Committee on Rules with two notable differences, which I will explain to my colleagues.

Since general appropriation bills are privileged under the rules of the House, House Resolution 267 does not provide for any special guidelines for the consideration of the bill nor does it provide specific general debate time; instead that time will be determined by unanimous-consent agreement. The rule does, however, make two specific en bloc amendments in order for consideration at any time and makes in order a third specific amendment, providing debate time for that amendment.

Mr. Speaker, as was provided in the earlier rule reported from the Committee on Rules, House Resolution 267 provides a waiver of clause 2 of rule XXI, which prohibits unauthorized appropriations and legislative provisions in general appropriations bills, against specified provisions of the bill. The waivers are detailed in the rule by reference to page and line in H.R. 2783. These waivers are identical to those provided in House Resolution 216.

House Resolution 267 provides that is shall be in order to consider at any time the amendments en bloc numbered 1 and 2 printed in the report of the Committee on Rules accompanying this resolution by, and if offered by, Mr. BOLAND of Massachusetts. The inclusion of amendment 1 is the first major difference in the provisions of House Resolution 267 and the original rule, House Resolution 216. This amendment reduces recommended outlays by $101.5 million and its adoption would bring the HUD appropriation into compliance with the subcommittee's 302(b) allocation. It is likely that this amendment will be offered by the gentleman from Massachusetts at the outset of the consideration of the bill for amendment, and the rule provides that if the amendment is adopted, further amendments to the bill shall be in order as if the bill as so perfected were the original bill for the purpose of amendment under the 5-minute rule. The effect of this provision of the rule is to allow further amendments to the bill either increasing or decreasing dollar amounts in the bill should the first Boland amendment be agreed to in the Committee of the Whole.

Amendment 2 is identical to an amendment made in order en bloc in section 2 of House Resolution 216. Those amendments provided additional funding for the Emergency Shelter Grants Program and the Supportive Housing Demonstration Program as authorized by the Stewart B. McKinney Homeless Assistance Act and reduced funding in other accounts to assure that the increase in homeless assistance provided in the amendment was budget authority neutral. These en bloc amendments are again specifically made in order in the rule and in addition, the rule waives clause 2, rule XXI, which prohibits unauthorized appropriations or legislative provisions in a general appropriation bill, against the amendments. The rule also provides that if amendment 2 is adopted, further amendments to the bill shall be in order as if the bill as so perfected were the original bill for the purpose of amendment under the 5-minute rule.

In the case of both amendments 1 and 2, the rule provides that neither amendment shall be subject to amendment or to a demand for a division in the House or in the Committee of the Whole.

Finally, Mr. Speaker, the rule makes in order the amendment numbered 3 in the report of the Committee on Rules to accompany the rule, by and if offered by the gentleman from Texas [Mr. Frost]. The rule provides that the amendment shall be debatable for not to exceed 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto, that the amendment shall not be subject to amendment, and the rule waives all points of order against the amendment for failure to comply with the provisions of clause 2, rule XXI. The inclusion of amendment 3 is the second major difference in House Resolution 267, and as the author of the amendment, I should like to take a few moments of my colleagues time to explain the purpose of the amendment.

Amendment 3 seeks to prohibit the Department of Housing and Urban Development from expending any money for demolition of 2,600 public housing units in my congressional district in Dallas, TX, or in a specific public housing project in the district of my good friend and colleague, the gentleman from Texas [Mr. Leland]. HUD has reserved funds from the Community Improvement Assistance Program to demolish nearly one-third of the total public housing units in Dallas. In the case of the units in Mr. Leland's District, HUD is now considering an application from the local housing authority to obtain CIAP funds to demolish all 1,000 units of the Allen Parkway Village. Mr. Leland and I offer this amendment to prevent HUD from destroying public housing that could and should be remodeled and modernized in order to afford the poorest of our constituents with decent, safe, and affordable housing. When this amendment is considered in the Committee of the Whole, I urge my colleagues to vote for its adoption.

Mr. Speaker, as reported, H.R. 2783 provides budget authority of $57.9 billion for fiscal year 1988 for the Department of Housing and Urban Development and for 16 independent agencies and offices. Included in the recommendations of the Committee on Appropriations are $13.8 billion for housing programs that are administered by HUD such as assisted housing, community development block grants, mortgage insurance programs, and elderly and handicapped housing.

The bill also provides $27.3 billion for the Veterans' Administration for benefits for survivors of deceased veterans, education and vocational assistance, and nursing home care for veterans. The bill also recommends $5.2 billion for the Environmental Protection Agency, $9.4 billion for the National Aeronautics and Space Administration, $1.8 billion for the National Science Foundation, and $34.4 million for the Consumer Products Safety Commission.

Mr. Speaker, this bill provides funding for a wide variety of Federal agencies and a number of important housing programs. I would like to commend the chairman of the subcommittee, Mr. Boland, for his continued leadership on this important funding measure, and especially for bringing to the House his amendment which will reduce funding levels of the bill. I urge my colleagues to adopt this rule so that the House may proceed to the important consideration of H.R. 2783.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule has been ably explained in detail and I would be redundant if I repeated what the rule contains. This is an important bill.

Mr. Speaker, in addition to making appropriations for Housing and Urban Development this bill makes funds available for some 16 other independent agencies including the Veterans' Administration.

I want to commend the gentleman from Massachusetts [Mr. Boland] for the fine job that he does chairing this subcommittee on appropriations. Also, I want to commend the gentleman from New York [Mr. Green] for the fine job that he does.

Always uppermost in their minds is the care of veterans as well as other needs of these independent agencies and Housing and Urban Development itself.

I feel they do a trojan job in going into detail on the various line items brought before them as they report these items from their committee to the floor for consideration. The bill itself provides for $57.9 billion in funds for these independent agencies and HUD. The bill has been delayed because of other matters but time is of the essence.

Today, we will consider the bill in its entirety. First, we must adopt the rule and I urge passage of the rule, Mr. Speaker. When the bill is before the House let us keep in mind that the veterans of this Nation are important, that housing for this Nation is important, and that each of the independent agencies provided for in this bill is important.

Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. Taylor].

Mr. TAYLOR. Mr. Speaker, I support House Resolution 267, the rule waiving points of order against various provisions of H.R. 2783, the fiscal 1988 appropriations bill for the Department of Housing and Urban Development, the Veterans' Administration, and 15 independent agencies.

The rule waives points of order against some 27 pages of the bill, where accounts have either not been authorized by law or the paragraphs involved constitute legislation.

Mr. Speaker, given the wide variety of programs covered by this appropriations bill this is not an unusual situation for us to be faced with.

Mr. Speaker, the bill appropriates $27.3 billion for the Veterans' Administration including $10.3 billion for medical care of our veterans. Adequate medical care for our veterans should always be one of our first priorities.

I want to commend the gentleman from Massachusetts [Mr. Boland], the chairman of the HUD and Independent Agencies Subcommittee, and the gentleman from New York [Mr. Green], the ranking Republican member for the manner in which they have provided for veterans medical care.

The bill provides for an increase in staffing, to meet the growing demand for VA medical care, primarily due to the increasing number of aging veterans. The bill provides special pay rates for nurses and other scarse medical specialties. It also provides for startup costs for 6 new satellite outpatient clinics, bringing to 11 the number of clinics to be established in 1988.

Mr. Speaker, I am especially grateful that the committee has responded to an urgent need in rural Southwest Missouri and directs the VA to establish an outpatient clinic at Mount Vernon, MO.

According to VA officials, locating an outpatient clinic here meets all five of the Veterans' Administration's criteria, and will result in less cost than usual because of the willingness of the State of Missouri to allocate space for the clinic in the Missouri Rehabilitation Center.

This area is geographically remote to any VA facility, and the new clinic will serve approximately 135,000 veterans in a 35-county area of southwest Missouri, northern Arkansas, southeastern Kansas, and northeastern Oklahoma. The Mount Vernon site will greatly reduce the distance veterans now have to travel to obtain medical care in Kansas City, Columbia, MO, or Fayetteville, AR.

Mr. Speaker, in 1984 the Congress revised title 38 to improve Veterans' Administration health programs, and called for alternative approaches to furnishing health care services.

Travel time and distances to VA facilities was identified as a major barrier to access to medical care for veterans. The VA now operates 47 satellite clinics, and the Mount Vernon clinic will greatly improve access to medical care for veterans in this area, especially those in Springfield and Joplin, MO, the third and fourth largest metropolitan areas in the State.

The Veterans' Administration utilization projections are for 25,000 outpatient visits per year at the Mount Vernon clinic.

One of the unique factors supporting the location of the clinic at Mount Vernon is the cost. The VA already has a working relationship with the Missouri Rehabilitation Center, because the 104-bed Missouri Veterans Home is located there.

Mr. Speaker, the State of Missouri has excess space in its rehabilitation center and is willing to make it available to the VA at nominal costs, thus providing a modern, attractive facility available without the usually expensive lease costs.

The clinic would be located in the second floor of the center's newest building, and VA officials estimate minimal costs for renovation and construction to convert the space.

The Missouri Rehabilitation Center currently offers a wide range of medical services, including dental, laboratory, radiology, physical therapy, and occupational therapy, as well as surgical intensive care.

Locating a satellite outpatient clinic within the center is a rare opportunity, and I am pleased that the Appropriations Committee responded in such a timely manner to my request for this urgently needed clinic.

□ 1245

Mr. QUILLEN. Mr. Speaker, I yield 6 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to this rule.

Mr. Speaker, I strongly oppose the rule, although I will quickly add that I do plan to vote for the legislation. I commend the gentleman from Massachusetts [Mr. BOLAND] and the gentleman from New York [Mr. GREEN] for bringing this legislation in this form.

The reason I ask the House to consider strongly this rule and to vote "no" on the rule is that the rule waives all points of order against a particularly heavy-handed and narrow legislative amendment that my colleague and friend, the gentleman from Texas [Mr. FROST], would seek to add to an appropriations bill.

I first want to call the attention of the House to the fact that the gentleman from Massachusetts [Mr. BOLAND] will be offering an amendment that would reduce the total appropriation and outlays in this bill by such an amount as to meet the deficit targets or the budget targets in our budget, and with that today, combined with the imminent reinstatement of Gramm-Rudman, I do not plan to offer any reduction amendments other than what is in the bill. So, I believe there will not be a money fight on the bill, but there will be a serious issue as to whether or not this House, with an appropriations rider, should rewrite Federal law by the Frost amendment and make it apply to only two cities in the country, Dallas and Houston. That is all the Frost amendment would do.

What the Frost amendment would do is it would reverse a national law that provides for a 1-for-1 replacement in the case of Dallas and Houston. In the case of Dallas it would negate a desegregation court order that provided for more than 1-for-1 replacement since it would replace with certificates and vouchers those units of public housing that are so dilapidated as to be also vacant.

The Frost amendment would specifically contradict both existing law on replacement and the law that the House of Representatives enacted, the bill we enacted in H.R. 4, that we considered and adopted by formal consideration and vote in the Banking Committee and brought to the membership in the housing bill.

The Frost amendment has had no hearing. It has had no committee input. The members of the Committee on Appropriations did not know about it until just about a week ago. It has never been considered by the Congress at all. It has been considered by the Dallas City Council and the local governments involved. The Dallas City Council has had hearings on the subject and has approved the desegregation plan that the Frost amendment would eliminate.

I say to my colleagues that I understand that on the surface there is an emotional appeal against anything that is called "demolition," but I want the House to go below the surface and to understand that the issue here is not demolition. The issue is not demolition; the issue is replacement. The issue is whether to allow low-income residents the opportunity to live in standard conditions, in conditions that are livable.

Here are the facts. More facts will come out in the debate. First, there are 3,500 units of public housing in West Dallas that were built in 1952. Those units are, by all accounts, substandard and dilapidated. They were repaired in 1973, and they quickly fell into a substandard condition again. They are so dilapidated that 1,300 of those units have been vacant for a decade, for 10 years.

Demolition, then, is not the issue at all. The issue is what to do about those 3,500 units in that one location.

The Federal court considered the issue. They considered it under the filing of a Federal desegregation lawsuit that was filed by plaintiffs that were given standing in the court. They were given standing in the court to represent both the tenants of West Dallas and the other potential tenants of the Dallas Housing Authority.

The plan that the Federal court adopted, which has become in many ways a model for the rest of the country and that has been approved by the Dallas City Council would repair and renovate 821 units. It would construct 100 units of scattered site public housing, but, most significantly, it would give us the new provision for 2,650 new certificates and new vouchers to be used throughout the Dallas metroplex upon the choice of location of the residents themselves. All relocation expenses would be paid for by the Dallas Housing Authority, and the key element of the agreement is that no one, not a single resident of West Dallas, would be required to move out of West Dallas against that resident's will.

I do urge the House to vote "no" on the rule. It makes in order a legislative amendment that relates to only two cities in the country. I ask the Members to vote "no" on the rule. We should bring a clean rule to the House floor, not a rule that permits a legislative amendment on an appropriations bill that is out of place, one that has been rejected by the authorizing committee and rejected as a matter of national policy, an amendment that would negate national policy on an appropriation bill with relation to only two cities in the whole country, and, most importantly, an amendment that, if adopted, would hurt or damage the lives of low-income residents in Dallas and Houston, low-income residents who merely want an opportunity to live in decent, safe, standard, and desegregated conditions.

The Frost amendment, if permitted to be adopted to this appropriations bill, would prohibit those low-income residents from doing so. I do, therefore, urge a "no" vote, and I ask the committee to bring back a clean rule.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do appreciate the interest of the gentleman from Texas [Mr. BARTLETT] in the housing projects located in the district that I represent, the 24th Congressional District.

The history of this matter is that HUD has consistently refused to provide funds to remodel these units. Several years ago a lawsuit was filed against the entire Dallas Housing Authority and all of its operations. Not a single plaintiff in that lawsuit was a resident of the projects that now are to be demolished, not a single one. The plaintiffs in the lawsuit did not seek demolition of the West Dallas housing projects. HUD, because it did not want to provide funds to remodel those projects, forced upon the plaintiffs in the lawsuit and upon the Dallas Housing Authority a scheme to demolish these units.

This plan is opposed by the elected black leadership of the city of Dallas, the elected black State senator, and the three black State representatives. It is opposed by national civil rights leaders, including the Reverend Jesse Jackson, who has appeared at the projects located in my district to protest their demolition at a time when there are homeless in the city of Dallas and at a time when there are low-income residents who need housing.

The amendment is being offered at this time because of the heavy-handed, cynical attitude of HUD. HUD has been asked to delay the provision of the funds for demolition while this case is on appeal. It is being appealed by residents of the area affected, by tenants of the units. HUD has refused, and just this Friday announced that it was reserving the funds and it would be releasing those funds for demolition within a period of several weeks.

I have no alternative but to offer this amendment at this time to this bill. The gentleman from Texas [Mr. Leland] has a similar or a comparable situation—it is not exactly identical—in Houston, and he will explain that when the matter is discussed, when the amendment is brought up on the floor.

Mr. Speaker, I urge adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman for yielding additional time to me.

Mr. Speaker, while the merits of the amendment, if it is allowed to be offered, will be debated in full during the amendment stage, I do think it is important that we get a few of the facts out, and perhaps the House would agree that this is really not in order on an appropriation bill.

First of all, in the desegregation order that this would negate is included $18 million in renovation money to renovate and remodel 821 units in West Dallas at two locations.

Second, while it is true that the west Dallas housing projects are in the district represented by the gentleman from Texas [Mr. Frost], technically many of the people who live there are now living in other congressional districts. The plan has begun to work. Some 318 residents have taken advantage of the opportunity to move to a place where they wanted to live, and they live in congressional districts all through the Dallas-Fort Worth metroplex. Those moves have been accomplished without controversy, incidentally. Another 250 or so who have indicated their desire to move have in fact sought to do so.

So, I do not think it should be denigrated into just what congressional district they happen to live in.

Third, as to the plaintiffs who filed the lawsuit, the plaintiffs who filed the lawsuit include one particular tenant counselor who had worked with section 8 and public housing tenants. It included another woman who is now living in Roseland Homes, but prior to that time she was living in her car with her three children, all under the age of 10, rather than taking an offer to live in west Dallas. She filed a lawsuit, among other reasons, because she wanted the opportunity to live in standard conditions. She finally got her place in Roseland.

Other tenants that filed a lawsuit were section 8 assistance tenants who had been offered places to live in west Dallas, but the conditions were so substandard that they believed that if the Federal Government under Federal law is going to provide assistance to residents, it ought to be provided in a decent, safe, and sanitary way. Thus they refused a place in west Dallas. They filed a lawsuit specifically because the conditions in west Dallas were so bad they could not bring their children there, and the existence of those 2,650 units means that the replacement could never be made.

Incidentally, the Frost amendment earlier just today has been opposed in writing by the National Association of Housing and Redevelopment in a letter to the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Boland]. The desegregation plan has been subject to hearings in Dallas. There has been not a single hearing in Congress. There has been not a single hearing in Washington. The Banking Committee considered the subject on a national basis and decided to opt for 1-for-1 replacement nationally.

This amendment would single out two cities and say, no, despite what we say in authorizing law, considered by a duly constituted authorizing committee, adopted on this floor, we are going to change all that in an appropriation bill for two cities, without a single hearing and without a single consideration of the facts.

Mr. Speaker, I thank the gentleman for the additional time, and I urge a "no" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this matter will be debated more fully during the consideration of the bill. I have no further comments at this time other than to point out to my friend, the gentleman from Texas, that this has the unified opposition of the elected officials, the black elected officials, who represent this project, and we will discuss that further at the time the matter is debated on the floor.

Mr. Speaker, I urge the adoption of the rule.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Weiss). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. BARTLETT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 137, not voting 36, as follows:

[Roll No. 323]

YEAS—261

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coleman (TX)
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Daniel
Darden
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade

McHugh
McMillen (MD)
Meyers
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—137

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
Dreier
Edwards (OK)
Fawell
Fields
Frenzel
Gekas
Gingrich
Gradison
Grandy
Gregg
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morrison (WA)
Nielson
Oxley
Packard
Parris
Petri
Porter
Pursell
Ravenel
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Whittaker
Wolf
Wortley
Wylie
Young (AK)

NOT VOTING—36

Biaggi
Boner (TN)
Bonior (MI)
Bonker
Brown (CA)
Coelho
Collins
Craig
de la Garza
Dornan (CA)
Dymally
Gallegly
Garcia
Gephardt
Guarini
Hall (OH)
Horton
Jeffords
Kemp
Kolter
Latta
Leach (IA)
Livingston
McCurdy
Mfume
Obey
Pelosi
Roemer
Sharp
Spence
Stratton
Tauzin
Torricelli
Weldon
Williams
Wilson

□ 1315

The Clerk announced the following pairs:

On this vote:

Mr. Guarini for, with Mr. Craig against.

Messrs. HUNTER, BATEMAN, and PURSELL changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 362, CONTINUING APPROPRIATIONS, 1988

Mr. FROST, from the Committee on Rules, submitted a privileged report (Rept. No. 100-314) on the resolution (H. Res. 270) providing for the consideration of the joint resolution (H.J. Res. 362) making continuing appropriations for the fiscal year 1988, and for other purposes, which was referred to the House Calendar and ordered to be printed.

WELCOMING HIS HOLINESS, THE DALAI LAMA OF TIBET

Mr. ROSE. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 191) welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mrs. MORELLA. Reserving the right to object, Mr. Speaker, I have no objection, and I would like the House to know that the minority has no objection to the resolution now being considered.

Mr. Speaker, under my reservation, I yield to the gentleman from North Carolina [Mr. ROSE] who is the prime sponsor of this resolution.

Mr. ROSE. Mr. Speaker, I thank the gentlewoman and I thank the House for its consideration of this resolution.

Mr. Speaker, His Holiness, the Dalai Lama, is the spiritual leader of millions of Buddhists around the world. He is in Washington for 3 days of visits with many of his friends. He comes as a man of peace and we in the Congress of the United States certainly welcome him to our town.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in support of the resolution.

It is highly appropriate that we extend a warm welcome to the leader of millions of Tibetans who have been impacted by the Chinese suppression in Tibet and by the movement of the Chinese population into Tibet.

Mr. Speaker, since the Dalai Lama will be in the Capitol Building this afternoon in H-139 at 3:30, I invite our colleagues to take advantage of meeting with His Holiness at this time, and this evening in 1300 Longworth at 5:30 p.m. I urge our colleagues to join us in extending a warm welcome to His Holiness, the Dalai Lama, a great humanitarian.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 191

Whereas His Holiness the Dalai Lama of Tibet is a spiritual leader to millions of Buddhists throughout the world, including many in the United States;

Whereas His Holiness the Dalai Lama has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrine of nonviolence;

Whereas His Holiness the Dalai Lama has, through his example, his teaching, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas His Holiness the Dalai Lama will be visiting the United States in September 1987: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That the Congress welcomes His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States, commends him for furthering the just and honorable causes that he has championed, and offers him the greetings and good wishes of the people of the United States.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2783, Department of Housing and Urban Development-Independent Agencies Appropriations, 1988, and that I be permitted to include tables, charts, and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT-INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1988

Mr. BOLAND. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York [Mr. GREEN] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. BOLAND].

The motion was agreed to.

□ 1325

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, with Mr. MACKAY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Massachusetts [Mr. BOLAND] will be recognized for 30 minutes and the gentleman from New York [Mr. GREEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. BOLAND].

Mr. BOLAND. Mr. Chairman, we bring to the House today the 1988 HUD-Independent Agencies Appropriations bill. I think I can say without exaggeration that in all the years I have been an appropriations subcommittee chairman—this is the toughest and the most difficult year we have ever faced.

There is a great deal of budget cutting fever around here today. And there should be. We are running deficits at a destructive rate. But, Mr. Chairman, any fair, reasonable look at the 1988 HUD bill will convince you that this is not a budget buster. The bottom line is that this bill is within the section 302(b) allocation for budget authority to the subcommittee. That amount is $42,575 million—which represents the total discretionary budget authority in the 1988 HUD bill.

Mr. Chairman, the bill, as reported, exceeds the outlay allocation by approximately $101 million. And, Mr. Chairman, at the appropriate time, I will offer an amendment—which has been made in order by the rule—to reduce the budget authority in five agencies by $167 million—which is the amount necessary to achieve $101 million of outlay savings.

Mr. Chairman, now let's take a look at the bill and what it does. As reported a total of $57,938,256,000 in new budget authority is included for the Department of Housing and Urban Development and 16 independent agencies and offices.

In the housing area, we have provided $7,800 million for subsidized housing programs. That is essentially the same level made available in fiscal year 1987—and within that total we have allocated the funds in basically the same manner and with the same emphasis as last year.

We have provided 5,000 units for either public housing major rehabilitation or new construction—and, Mr. Chairman, the choice is at the discretion of the public housing authority—where it should be. If a PHA feels that its first priority is to totally gut some of these unoccupied, uninhabitable public housing units and redo them—all of the 5,000 units could be made available for that purpose. On the other hand, in some areas, local PHA's may want to add some additional new public housing stock. But the point is we have left the decision to the local PHA.

Next, we have made available $1,604 million for public housing modernization—one of the highest priority housing efforts in this bill. A study commissioned by the Department which has not drawn much attention—but which is a landmark study—suggests that public housing rehabilitation requirements are about $20 billion over the next 4 or 5 years. Last year, we doubled the amount of real dollars available for public housing modernization and we have kept that same level in 1988.

We also make available 42,850 free standing and rental rehabilitation housing vouchers—10,000 section 8 existing certificates—6,000 section 8 moderate rehabilitation units—and 10,000 section 202 housing for the elderly units.

And, Mr. Chairman, the amendment which I will offer will increase the section 202 housing for the elderly by almost a thousand units to a total of 11,000 in 1988.

Finally, in the housing area, we have provided $200 million for the rental rehabilitation program—and we have included $99,550,000 for the rental development (HODAG) program. In both cases—rental rehab—and rental development—we are providing last year's level.

Mr. Chairman, the subsidized housing program once stood at $25 billion. Each year this program has gradually eroded. For 1988 we are attempting to hold the level at $7.8 billion—the current rate—and we make that $7.8 billion available for almost the same program levels and the same program areas as we provided last year. That $7.8 billion represents the absolute minimum necessary for assisted housing. Frankly, it should be more—because without subsidized moneys—we will only see more homeless Americans.

Now let's take a look at some of the independent agencies in the bill. In the EPA we are making available a total of $1,699,315,000—$1.7 billion—for all of the agencies operating programs. That represents a $197 million increase above the 1987 level. But I want to quickly point out that even with that increase many of the newly authorized EPA programs could not be accommodated within our section 302(b) allocation. In short, we have not been able to take care of everybody's wants and wishes—but we have done a good job in providing EPA with the resources necessary to meet its ever increasing role.

For the Federal Emergency Management Agency, we are providing $703,394,000 in 1988. That includes a $60 million increase, primarily for operating programs.

For the National Aeronautics and Space Administration we are recommending $9,479,200,000—virtually the budget request. However, when I offer my amendment conforming the bill to the section 302(b) outlay allocation—we will reduce the NASA space flight, control and data communications account by $85 million. I think that we can safely make that reduction for this reason.

After the 1988 budget was submitted the Administrator and Deputy Administrator came to us and indicated that the 1988 shuttle request was short by at least $300 million. If that money was not provided in some way or another—we would probably not be able to make the current June 1988 launch date.

Frankly, Mr. GREEN and I didn't know how to deal with the problem—given a very tight 302(b) allocation. So what we did was to cut $79 million from the shuttle structural spares program and $40 million from the replacement tracking and data relay satellite (which was lost on the *Challenger*) and we took those two cuts and put aside $125 million as a down payment on the $300 million requirement.

But then we got lucky. We were able to slip in the 1987 supplemental a $300 million appropriation for 1988 to take care of the shuttle problems. What that did was make it possible for us today to take back $85 million without seriously harming NASA's 1988 effort. We have been advised by NASA that, even if we had appropriated the $79 million for structural spares, it would not use the money for that purpose. So, Mr. Chairman, I think the subcommittee has done a very commendable job in protecting NASA during what we all know are some exceedingly rough budget times.

Now let's take a look at the National Science Foundation. There we are including $1,843 million for 1988—and the amendment I will offer will reduce that by $50 million. That will still leave a total increase in the foundation of $170,150,000 above last year's level. And, within that increase, the subcommittee placed special emphasis on the science education program where we added $30 million and brought the total to $145 million.

Now, I know there are many here who feel that the Science Foundation should get whatever it requests. I would have no objection to that approach if we had all the money in the world to spend. But what we have tried to do in this bill is to give the foundation the highest priority possible. In fact, as the bill was reported, the NSF received the largest percentage increase—14 percent—of any agency in the bill.

I will be the first to admit that within the foundation we have placed a higher emphasis on the science education priorities. We have done that because that particular account has been starved by this administration and the previous administration. If it was not for this subcommittee, the science education program would be a zero. That is a tragedy. Our Nation's current problems in the science and mathematics area are not going to get better until we start putting more resources into providing adequate science education tools for our young children, and this bill does precisely that.

Finally, Mr. Chairman, I want to say a word or two about the Veterans' Administration. When I offer my amendment, there will be one account which outlays heavily, that we will not cut, and that is VA medical care. We considered taking some of the $101 million outlay reduction from that account. But, Mr. Chairman, we felt it was essential not to cut VA medical care.

And why did we feel that way? The answer is very simple. What we have recommended for medical care, a total of $10,321 million, ensures that the VA will be able to maintain the current level of employment—194,140.

Unfortunately, since we marked up, additional requirements have impacted that account. For example, although it was agreed some years ago that beneficiary travel would be curtailed, it now appears that legislation will remove that restraint, and that fact could cost an additional $75 million above the $52 million provided in the 1988 budget for beneficiary travel.

The point is that the travel money will have to come from someplace. And it will come from maintenance or equipment or supplies. So we feel that given our original mark, and given these new requirements, we should not take any additional reductions from the VA medical care account.

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In fact, Mr. Chairman, we feel so strongly about this account that we have included funds to cover the 1988 3-percent pay increase. The 172 hospital directors know now that, when the fiscal year starts, or shortly thereafter, they will have available the salary money necessary to maintain those 194,140 FTE through all of fiscal year 1988.

Without that kind of support—we have experienced, in the past years, serious personnel shortages in our VA hospitals. And let me hasten to add that, even with this funding level, the typical VA tertiary care hospital will still be understaffed on many surgical and medical wards—wards I might say that are impacted with evermore complicated cases and an aging veteran population.

Mr. Chairman, that concludes the summary of the bill, but I do want to touch on one other point. We have to conform this bill with our House section 302(b) outlay allocation. That will require an amendment taking $167 million in budget authority out of this bill. But that is nothing compared to what is happening in the Senate. In the other body, the Senate Appropriations Committee has chosen to allocate roughly $700 million less in section 302(b) outlays than this subcommittee. That will require a cut of $1.3 billion in budget authority, and that will devastate this bill. So, whatever we have to do today to conform this bill to the House Appropriations Committee outlay allocation is going to seem like small pickings as compared to what could happen in the Senate.

I believe that we have once again produced a balanced appropriation bill. A responsible bill; a bill that meets the budget targets. But at the same time I want to warn you we are cutting into the bone. There will have to be some relief given to the domestic discretionary area of the budget in the coming years if we are to provide adequately for housing and for our space programs and for our science programs and for our veterans.

Thank you, Mr. Chairman, and I urge that you all support the bill.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am delighted to join with the gentleman from Massachusetts [Mr. BOLAND], the distinguished chairman of the subcommittee, in recommending this bill to the committee. At the outset I want to praise the leadership that the gentleman from Massachusetts has given this subcommittee and the Appropriations Committee in crafting this bill. I have not been on the subcommittee anywhere near as long as the gentleman, but, certainly in the 7 years I have been on the subcommittee, this year presented us with the most difficult problems that we have faced since I have been on the committee. I think it was only because we had the strong leadership of the gentleman from Massachusetts and his intimate knowledge of all of these programs that we are able to craft as sound a bill as this one is.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield on that point?

Mr. GREEN. Mr. Chairman, I am delighted to yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, as a member of the subcommittee, let me say that the gentleman is absolutely correct in his assessment of the chairman's talents and abilities. This is a most appropriate point also at which those of us on the subcommittee, especially those of us on this side of the aisle, would extend our appreciation to the gentleman from New York [Mr. GREEN] for the kind of leadership that he has provided in this very difficult bill. I want to congratulate him and express my personal appreciation, and I am sure all the members of the subcommittee would express their appreciation to the gentleman from New York for his outstanding work and we are very grateful for his presence here.

Mr. GREEN. Mr. Chairman, I thank my friend from Michigan.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. GREEN. Mr. Chairman, I am happy to yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I want to thank the gentleman from New York for yielding.

Mr. Chairman, I am happy to be on the authorizing committee related to HUD, and I want to say to the gentleman from Massachusetts [Mr. BOLAND], the distinguished chairman of the subcommittee, and all the members of the subcommittee, and the minority members led by my friend, the gentleman from New York [Mr. GREEN], how grateful I am for the manner in which the issues were formed. There is a lot of compromising that has to be done without hurting people, and I cannot really think of a better manner in which you have operated, not only in the area of community development and housing, but also in the area of NASA. You had to do some cuts, but the manner in which you did it was eminently fair and I really appreciate it and compliment the chairman and all the members of the subcommittee.

Mr. GREEN. Mr. Chairman, I thank the gentlewoman from Ohio for her comments.

Mr. Chairman, I do not want to go over the same ground that the chairman has already gone over so ably. He has laid out the bill accurately and in a form which I hope makes it intelligible to all the Members of the House, but I do want to make a couple of observations on the bill.

First, anyone who thinks that the budget process is not grabbing us very tight, at least when it comes to discretionary spending, has only to look at this bill and he or she will see immediately that this is a very difficult process indeed and one which is very drastically constricting spending.

There is much that I would like to do, that I am sure the chairman would like to do, and that all the Members of this House would like to do that we cannot do because there are only so many dollars. I guess the No. 1 example I have in this bill is the area alluded to by the chairman, the National Science Foundation, where we are not able to meet the full request of the administration. I think the administration was right to seek to expand the National Science Foundation; their target is, over a 5-year period, to double the funding for the Foundation. That is an important investment for the future of this country and one that I think the administration is right to ask for.

There are only so many dollars to go around and we had to make some hard choices and that was one choice we made.

A second comment I would like to make is about the space station. I think Members of the House when they vote for this bill today ought to understand that they are undertaking a very serious commitment for the future. I would like to read just a couple of excerpts from the transmittal letter of the report of the National Research Council to the White House on the space station; the letter is dated September 10, 1987.

In that report the National Research Council states:

> The Space Station Program will be the most ambitious space project the nation has ever undertaken. It will require tens of billions of dollars over a period of several decades and will absorb much of the energy of NASA for most of that period. It will entwine for many years our space program with those of our international partners, and it will be a highly visible symbol of the American commitment to remain a leader among spacefaring nations.
>
> Thus the Space Station Program must have enduring stable support across administrations, and this support must be generous enough to provide adequate hardware and testing, provisions to ensure that it can be operated safely for decades, and an adequate space transportation system for its deployment, assembly and operation.

I think Members of this House and particularly those who serve on the Budget Committee ought to understand that as we move past the definition stage of the space station with this bill and move on to its production, we are undertaking a very serious, very important, and very expensive commitment.

We cannot have a situation where next year, as the Budget Committee is trying to make ends meet, suddenly someone decides that $1 billion can easily come out of the space program, as the Budget Committee initially proposed this year. We are undertaking a commitment here, and when we vote for this bill we ought to know we are undertaking that commitment, and we ought to be prepared to live up to it, all of us, in future years.

Mr. Chairman, there is a lot more I would like to see done, particularly in the housing area, which is the area in which I have grown up in public life. We have been able to make some modest increments in terms of public housing, but certainly the program level we are proposing, 5,000 units a year, is very, very modest indeed compared to what the program had been in some past years and certainly very modest in terms of the need that is out there as evidenced by the homeless problem.

Mr. Chairman, in conclusion this is a very tough bill, it is a very tight bill, and I urge my colleagues to support it.

Mr. CONTE. Mr. Chairman, I rise in strong support of the fiscal year 1988 HUD-independent agencies appropriations bill, and ask permission to revise and extend my remarks.

Mr. Chairman, this is the 10th regular fiscal 1988 appropriations bill to come before the House. I think it's also the ninth bill we've reported that is considered by OMB to be veto bait. For the RECORD, I will include a copy of the administration's official policy statement dated June 30.

But I say to my colleagues that I do not agree with the objections raised by OMB. This bill is barebones. After we adopt the committee amendments further reducing the bill to comply with the outlay targets, I wouldn't be suprised if many Members think about voting against it because it's too low. But, this is the best bill we could produce under the very severe budgetary restrictions of our 302 allocations. I support it, and say to my colleagues on both sides of the aisle that it deserves your support as well.

I want to commend my colleague from Massachusetts, the chairman of subcommittee, ED BOLAND, the able ranking minority member from New York, BILL GREEN, and all my colleagues on tthe HUD-Independent Agencies Subcommittee, for the extraordinary effort they have made throughout the year to balance our many competing interests and programmatic priorities against the unyielding demands of a very strict budget allocation. We have made some very difficult tradeoffs, and have been forced to cut some very popular and effective programs.

This is very much a people's bill, and I think we can all be proud of the action we have taken to provide for families who are in need of decent housing, communities in economic distress, veterans entitled to benefits and medical care, American scientists, teachers and consumers.

The bill as reported totals $57.9 billion in new budget authority, including $42.6 billion for discretionary programs and $15.4 billion in mandatory spending.

By restoring over $5.3 billion in housing and community development cuts proposed by the administration, our recommendations will provide for approximately 11,000 units of housing for the elderly and handicapped, $3 billion for community development block grants, and $99.5 million for housing development grants. For the Urban Development Action Grant Program, which I have long supported and fight year after year to keep alive, I have to say I regret that the best we could do is to maintain the 1987 level of $225 million.

In the area of environmental protection, we have added over $600 million to the administration's request for EPA, primarily in the construction grant program and for abatement, control and compliance.

For emergency food and shelter, we have added $70 million to the President's request, providing for a total of $150 million.

For veterans programs, we have added $370 million to the budget requests to meet the growing demands of our veterans for medical care and treatment.

The committee has been unable to fund a number of projects and programs of special interest to many members of this House. In some areas, as is the case with housing initiatives, we will await enactment of a conference agreement on the authorization bill. We were not able to provide funds for some newly authorized EPA programs like wellhead protection grants, or for most of the $400 million in projects, demonstrations and studies authorized in the Clean Water Act.

We have taken some cuts from the budget requests for the National Science Foundation and NASA. But overall, we have reported a good bill, a responsible bill. And I urge the support of my colleagues for our recommendations.

STATEMENT OF ADMINISTRATION POLICY, JUNE 30, 1987

H.R. 2783—HUD/INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1988

(Sponsors: Whitten, Mississippi, and Boland, Massachusetts)

The HUD-Independent Agencies Appropriations bill approved by the full Appropriations Committee provides excessive funding levels and contains objectionable language provisions. If the bill were presented to the President in its current form, the

Office of Management and Budget would recommend that he veto it.

The budget authority provided by the Committee for discretionary programs other than subsidized housing is $2.5 billion in excess of the President's request, and the direct loan limitation is $386 million more. There are also substantial increases in loan guarantee ceilings for GNMA and FHA at a time when the Administration is trying to encourage greater reliance on privately-issued and guaranteed mortgage-backed securities and private mortgage insurance.

The following increases in budget authority over the President's request are particularly objectionable:

$225 million for HUD Urban Development Action Grants (UDSAG), and $100 million for HUD Rental Housing Development Grants (HoDAG), two programs the President proposed to terminate.

$490 million for HUD Community Development Block Grants (CDBG);

$400 million for EPA Construction grants and $250 million in general revenue financing for the Superfund; and

$353 million for VA Medical Care, which is not necessary for the continued provision of quality health care to the nation's veterans.

In addition, the Committee provides $3.9 billion more than the request for subsidized housing programs. While we are disappointed that the bill does not provide funds for all the vouchers recommended by the President, we are pleased that the Committee provides substantial support for vouchers.

The language provision requiring that HUD maintain minimum staffing levels for housing, public and Indian housing, and community planning and development (CPD) programs is particularly objectionable. Employment floors are inconsistent with efficient management and contrary to the Executive branch's role in such matters.

The enclosed material details these and other funding and language provisions that are objectionable.

The Administration urges the House to remove these objectionable features from the bill and approve a bill that the President could sign.

OBJECTIONABLE PROVISIONS

I. Funding Levels

Housing and Urban Development:

Management and Administration.—The Committee provides $699 million for HUD's salaries and expenses account, $49 million above the President's budget request. The recommendation assumes a staffing level of 13,911 staff years, an increase of 1,273 above the President's budget. These increases are unwarranted.

Annual Contributions for Assisted Housing.—The Committee provides $7.6 billion in budget authority for annual contributions to assisted housing, $3.9 billion above the President's request. Included in this appropriation is funding for vouchers, Section 8 certificates, and public and Indian housing modernization, and development and rental rehabilitation. While the bill appropriates funds for vouchers, it does not go far enough. It continues to fund programs that provide larger subsidies per unit such as Section 8 Moderate Rehabilitation (6,000 units) and Section 202 and Section 8 Elderly rental assistance (10,000 units).

The bill funds the Rental Housing Development Grant program (HoDAG) at $99.6 million, an unnecessary use of scarce funds at a time when national rental vacancy rates are at their highest in two decades. In addition, the Committee provides $200 million for Rental Rehabilitation Grants, $125 million more than the President requested.

The provision for public housing modernization would provide $1.6 billion in budget authority for FY 1988. This amount is $600 million above the Administration's proposed funding level of $1.0 billion. Public housing modernization needs require substantial funding, but because of newly developed financing mechanisms, such as capital grants, the Committee's proposed $1.6 billion funding level in budget authority should be reduced. In comparison to pre-1987 appropriations amounts, $1.0 billion in FY 1988 budget authority is equivalent to $2.0 billion in FY 1986 budget authority. The House should recognize this difference and adjust the $1.6 billion budget authority figure downward.

The public development, acquisition, or major reconstruction provision would provide $210.9 million for FY 1988. The President's FY 1988 budget provided no funding for new development of public housing inventory and, instead, concentrated resources on modernizing the existing public housing inventory. The continuation of this program is costly and inefficient in comparison to other forms of housing assistance, such as vouchers. In addition, this provision includes objectionable language to reappropriate any development funds recaptured in FY 1988.

Other Housing Programs.—The Committee provides for $517.0 million in loans for 10,000 units for the Section 202 Housing for the Elderly and Handicapped Program, well above the President's request of $131.5 million for 2,000 units.

Community Development Programs.—The bill provides $225 million for the Urban Development Action Grants (UDAG) Program. The Administration opposes continuation of this program, which subsidizes private development projects, including fancy hotels, resorts and commercial office buildings. In the current budget environment, this is precisely the type of Federal spending that should be eliminated. The Committee provides $3 billion for the Community Development Block Grants (CDBG) Program, $490 million more than the Administration requested. A more restrained funding level is appropriate for this program at this time.

Federal Housing Administration (FHA)/Government National Mortgage Association (GNMA).—The Committee's loan guarantee ceiling for the GNMA mortgage-backed securities program exceeds the President's $100 billion request by $50 billion, and the loan guarantee ceiling for the FHA mortgage insurance program exceeds the President's $70 billion request by $30 billion. These higher ceilings assume an increasing market share for GNMA and FHA at a time when the Administration is trying to rely more heavily on privately-issued and guaranteed mortgage-backed securities, and private mortgage insurance.

Environmental Protection Agency (EPA):

Construction Grants.—The Committee mark is $400 million above the level in the President's budget. Moreover, combined with a FY 1987 level of $2.4 billion, the mark would be $800 million over the President's budget for the two-year period FY 1987 and FY 1988. The President's veto of the Water Quality Act of 1987 was based in large part on excessive spending levels for this program, which would be likely to fund many lower-priority activities. Funding in excess of the President's budget level is not necessary to meet 1988 municipal compliance requirements.

Hazardous Substance Superfund.—The bill provides for a $250 million general fund revenue payment to the Hazardous Substance Superfund instead of financing the appropriation entirely through trust fund receipts. The need for budgetary restraint precludes using general fund revenue to finance Superfund, and such financing is not necessary to carry out an aggressive cleanup and enforcement program. Further, general fund revenue financing is an inappropriate interference with the long-standing "polluter pays" principle.

Asbestos Program.—The $50 million added by the Committee for the Asbestos School Loan and Grant Program is not necessary and was not contained in the President's budget since prior year appropriations have greatly reduced the problem. This additional funding would go to State and local agencies that are financially capable or to low-priority projects that do not represent an environmental threat. Approximately $130 million in Federal funds have been provided to 635 local educational agencies showing the greatest financial and environmental needs. The financial responsibility for asbestos abatement now rests with States and localities. Thirty-two States have enacted more than 60 asbestos-related laws and nearly half of the States have financing provisions in these laws.

Operating Program, Salaries and Expenses, Research and Development, and Abatement, Control and Compliance.—The House bill would add more than $140 million and almost 400 FTE's to the President's budget spread across EPA's operating program within the Salaries and expenses, Research and development, and Abatement, control, and compliance accounts. These increases would either fund low-priority activities, special interest projects, or would increase current resources beyond levels consistent with Administration policy.

Veterans' Administration:

Medical Care and Medical Research.—The Committee adds $353.2 million and 3,810 full-time equivalent employment to the President's request for VA Medical Care. An additional $10 million is also added to VA Medical and Prosthetic Research. The House should reconsider these unneeded increases in Federal expenditures. The employment increase and $170 million of the dollar increase would be used to fund the treatment of non-service disabled veterans with annual earnings in excess of $20,260 for single veterans and $25,325 for veterans with one dependent. Such increases are unnecessary because these veterans do not have a service disability and can afford to finance the cost of their own health care. The other major VA increase is $134 million intended to fund the cost of a 3 percent pay raise, beginning in January 1988, for VA medical care staff. It is inappropriate for the Committee to provide these funds before it is known whether they will be needed. To the extent that funds are needed, this pay raise should be funded via the FY 1988 supplemental next year.

Major Construction.—The Committee has added $6.4 million to the President's request for the planning and design of future VA construction projects. Funding for the additional construction is not warranted, and it will cost at least $200 million over the next several fiscal years to complete the construction of the recommended projects.

Department of Health and Human Services:

Office of Consumer Affairs.—The Administration opposes the 56 percent increase in funding over the President's budget for the Department of Health and Human Services (HHS) Office of Consumer Affairs. Given the numerous public, non-profit, and private entities involved in consumer education, the Committee's increase is unwarranted.

II. Language Provisions

General Provisions. Section 409. Availability of Funds for Agency Contributions to Employee Retirement Funds.—The Administration objects strongly to section 409. This section has been in the bill for a number of years and prohibits the use of funds made available for personnel compensation and benefits for other object classifications. The Administration has long objected to restrictions on the use of appropriations to the estimates for certain object classifications in the budget. This practice undermines Executive branch flexibility needed to adjust to changed conditions and may interfere with the accomplishment of the agency's statutory mission.

It should be noted that this year, with the enactment of the Federal Employees' Retirement System (FERS) Act of 1986, additional employee benefits (agency retirement contributions for FERS) are included in the FY 1988 budget estimates for each agency. Because of uncertainties about the exact amount of the increase in these retirement costs, the Administration proposed language (for fiscal years 1987 and 1988 only) as part of the Treasury/Postal Service Appropriations bill that would make these funds available only for retirement costs in all agencies. Section 409 would seem to make any excess retirement funds for the agencies in this bill available for other items within the personnel compensation and benefits classifications, thus providing a possible override of the Treasury/Postal Service language and potentially creating an unintentional windfall to the agencies funded by this bill.

Housing and Urban Development: Housing Programs.—The Committee bill includes language requiring that HUD maintain minimum staffing levels for the housing, public and Indian housing, and community planning and development programs. The Indian housing development section also includes objectionable language provisions that would reappropriate Indian housing development funds recaptured in FY 1988. Despite already high levels of funding, this language appropriates additional funding for Indian housing construction.

The public housing development grant provision would release the Bay City (Michigan) Housing Commission from requirements to return public housing development overpayments to HUD. The provision would set an undesirable precedent for other public housing authorities to misspend Federal dollars without being required to pay back overpayments to HUD.

Veterans Administration:

Medical Care.—The Committee would make $6.65 billion of the amount appropriated for Medical Care available only for personnel compensation and benefits and would place employment ceilings on administrative and engineering staff in the medical care system. There are three problems with these actions. First, there is the problem with FERS contributions mentioned above in connection with the discussion of Section 409. Second, the amount set aside for personnel compensation and benefits is $17.7 million higher than warranted, even at the higher employment level for medical care contemplated by the Committee. Third, it is inappropriate for Congress to impose statutory employment constraints on the Veterans Administration, be they ceilings (as in this bill) or targets (as are set forth for VA medical care as a whole in the report that accompanies the bill), and thereby remove or inhibit the discretion needed to administer programs efficiently.

General Operating Expenses.—The language designates an employment floor for the Department of Veterans Benefits (DVB) and the Department of Memorial Affairs (DMA). This unacceptable restriction will counter management actions to achieve savings through increased productivity and efficiency. The Committee also prescribes the funding levels for the DVB, the DMA, and general administration, increasing DVB and DMA at the expense of general administration. The designation of separate funding levels in appropriations language is overly restrictive and eliminates the agency's ability to reallocate resources to meet unforeseen events. Moreover, the increases to DVB and DMA, in FTE and funding, are not supported by workload and the decreases to general administration will affect necessary central support systems that assist in the delivery of DVB and DMA benefits. Finally, the language prohibits the consolidation of the insurance centers, preventing efficiencies of operations and budget savings.

Mr. BOLAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate very much the remarks of the gentleman from New York [Mr. GREEN]. As I have said so many times in the past, this subcommittee could not operate without his knowledge and his ability and the cooperation we get—not only from the gentleman from New York, but also the other members of the subcommittee, the gentleman from Pennsylvania [Mr. COUGHLIN], the gentleman from California [Mr. LEWIS], and of course that applies to the distinguished Members on the majority side, the gentleman from Michigan [Mr. TRAXLER], the gentleman from Ohio [Mr. STOKES], the gentlewoman from Louisiana [Mrs. BOGGS], the gentleman from Tennessee [Mr. BONER], and the gentleman from West Virginia [Mr. MOLLOHAN].

I am grateful to them for the support that all of them have given, and the time they have given to this committee. It is not an easy task, let me say, because this subcommittee deals with some of the most controversial items of any of the 13 subcommittees of the Appropriations Committee.

Mr. Chairman, I am grateful to them for their support, and I want them to know that it is appreciated very much.

Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. I thank the gentleman for yielding me this time.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Massachusetts [Mr. BOLAND].

Mr. Chairman, included in the HUD-Independent agencies appropriations bill is money for six satellite veterans clinics throughout the country. While many of these clinics are stationary, it was agreed that the satellite clinic in New Mexico would be a mobile clinic which would travel throughout the State since this would maximize the health benefits of New Mexico's rural veterans. As you know Mr. Chairman, even if veterans travel pay were adequate, many of the veterans of my State must travel excessively long distances in order to get to health care facilities. Was this in accordance with your intentions?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, first of all I want to compliment the gentleman from New Mexico [Mr. RICHARDSON] for his work on this satellite clinic. I must say that I have found him to be one of the most persuasive and one of the most persistent Members in tracking a particular project of any Member that I know. But his personality of course won the day for him. In response to the gentleman, let me say that this particular project was put in in accordance with your intentions and my intentions. The gentleman is correct. The committee felt that a stationary satellite would have difficulty servicing an adequate number of veterans to make the facility cost effective. It was, therefore, decided to make this satellite clinic in New Mexico a mobile clinic, as the gentleman from New Mexico had requested.

Mr. RICHARDSON. Mr. Chairman, I thank the gentleman very much.

Mr. BOLAND. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, this bill provides $27.3 billion to the Veterans' Administration for fiscal year 1988 and I want to commend the chairman of the subcommittee, Mr. BOLAND, and the ranking member, Mr. GREEN, and all members of the subcommittee for their usual good work for our Nation's veterans and their dependents.

This level of funding is $370 million more than the administration requested for this account. Most of the increase is in medical care to restore reductions in personnel proposed by OMB. Our committee, as well as the Appropriations Committee, is very concerned about the administration's request for veterans health care and I commend the Appropriations Committee for restoring the money that OMB proposed to cut.

The $10.3 billion included in this measure for the VA's medical care account is $353 million above the administration's request. According to the committee report, it is intended to support a minimum staffing level of 194,140 FTEE throughout fiscal year

1988. It does this by including full funding for the anticipated pay increase which will go into effect on January 1 of next year. This is an unprecedented and very important decision by the subcommittee, and one that I strongly endorse.

In terms of the minimum staffing levels, I think the Office of Management and Budget often interprets these levels as ceilings. Since the VA needs additional personnel to staff facilities that have recently been constructed or renovated, it is entirely possible that wise management will allow the VA to exceed the levels contained in this measure.

I want to encourage the Administrator to seek flexibility in the use of personnel so that if additional personnel can be utilized to meet the demand for health care without exceeding the agency's budget, the Administrator will have the authority to hire such personnel. It is unfortunate that we must earmark funds for personnel in DM&S, DVB, and the Department of Memorial Affairs, but if this is what it takes to ensure an adequate personnel level to meet demand for health care and other benefits and services, I do not object.

I want to make special note of the fact that all of the funds which the VA requested for the medical computer system—known as DHCP—are contained in this bill and that there is no language restricting the availability of these funds in the bill. The report language sets out the parameters for use of the 1988 funds. The Veterans' Administration is confident that it can proceed under the guidelines that have been esablished.

We all agree that the VA needs a good computer system in its hospitals to assure quality medical care and I think we have a good one. Yes, there are a few things that the VA needs to do to improve this system according to a recent AGO report which our committee requested. The agency has moved rapidly to make those changes.

I want to make it clear that no one has recommended that the DHCP system be replaced. Contrary to what some have said, GAO has not proposed that the system not be continued and funded. It is doubtful that if the office of technology assessment does its job, the outcome will be any different. Let's get on with the job at hand and proceed with the enhancement of DHCP without further delay. I have confidence that the VA will use the funds provided in this bill wisely to enhance the DHCP during fiscal year 1988 and in further years.

Mr. Chairman, earlier I expressed my regret that it was necessary to earmark funds for DM&S personnel. A similar earmarking in the general operating expenses account reflects the subcommittee's concern with staffing in the Department of Veterans Benefits [DVB] and the Department of Memorial Affairs. Although I wish that such earmarking was unnecessary, I think that OMB's emphasis on shrinking the VA's staff at the expense of timely service has reached a point that Congress must do something to reverse this mindless trend. When there are not enough people to deliver the benefits, veterans are denied what Congress intended to provide. It is one thing to say that you can do more with less, but when the figures show that less money translates to slower services or the denial of services altogether, it's time to rethink your approach. I used to try to talk to the people down at OMB about the real-world impact of its management approach, but I have concluded that the policy makers aren't going to listen. Then they wonder why Congress is legislating minimum personnel strengths and the like. I believe downtown they call it micromanaging the agency.

Mr. Chairman, this is a good bill for veterans. Any reduction in this part of the bill will deprive many veterans of health care which they deserve and need, and I hope no effort will be made to cut the appropriations for veterans.

Again, I commend the chairmen and ranking minority members of the subcommittee and the full committee, as well as other members of the committee for their leadership and for their efforts in behalf of our veterans.

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Mr. GREEN. Mr. Chairman, I yield 1 minute to my colleague the gentleman from New York [Mr. SOLOMON], the distinguished ranking minority member of the Committee on Veterans' Affairs.

Mr. SOLOMON. Mr. Chairman, I thank my colleague from New York for yielding time to me.

Let me at the outset, first of all, commend the chairman, the gentleman from Massachusetts [Mr. BOLAND] and certainly the ranking member, the gentleman from New York [Mr. GREEN], for their cooperation on this year's veterans budget. It has been a very difficult issue when we are faced with the fiscal restraints the way we are. Both of these gentlemen have graciously given the gentleman from Mississippi [Mr. MONTGOMERY] and me the time to sit down and work out this budget with them.

Mr. Chairman, as ranking member of the Veterans Affairs Committee, I rise in strong support of H.R. 2783, title II, as it pertains to fiscal year 1988 appropriations for the Veterans' Administration.

The Appropriations Committee recommends what is essentially a current services budget for the VA of $27.3 billion. Compared to nearly all other Federal Departments and agencies, the VA is faring very well indeed, and the recommended appropriation is adequate to meet the Nation's obligations to its veterans.

However, I do want to note that, while the VA has been quite successful in stretching its budget dollars further and further, before very many more fiscal years have passed, the VA is going to require a real increase in its budget and appropriations to meet the growing demands which are being made on its resources. The American people are all for economy and efficiency in government, but they also strongly support veterans' programs, because they recognize the just claim of veterans to a fair portion of each Federal dollar.

Mr. Chairman, the Appropriations Committee has recommended a COLA for disability compensation and dependency and indemnity compensation of 3.5 percent. That amount is six tenths of 1 percent below the amount approved by the House in H.R. 2945, but, in any event, the Appropriations Committee in its report recognizes that supplemental funding may be necessary when final disposition of the proposed legislation is known. I believe it is accurate to say that the Congress is committed to providing veterans a full COLA, whatever else may or may not happen, and I know veterans are glad to hear this good news.

Veterans readjustment benefits, and insurance and indemnities have been recommended for appropriations sufficient to cover program needs, at $625.7 million and $14.3 million, respectively.

Perhaps the most critical areas of VA appropriations relate to medical care. H.R. 2783 recommends $10.3 billion, an increase of $353.2 million over the fiscal year 1988 estimates. I am most pleased to see the Appropriations Committee call for a staffing level of 194,140 for the VA medical programs and provide funding to support it. At present, the VA is some 4,000 FTE below that level in average employment. It has been the consensus in Congress for some time that an FTEE level of 194,140 is needed to overcome staffing shortages in many VA medical facilities, before the quality of care is affected and more bed closings are necessary.

Mr. Chairman, I do have one disagreement with the recommendations of the Appropriations Committee, and it is in the area of automated data processing [ADP] for the Medical Care Program. There is no question that the VA needs and is going to procure an ADP system for medical care. The question is what system to procure. The Veterans' Affairs Committee had believed for some time that the decision had been made and endorsed by all of the necessary decisionmakers, including the Appropriations Committee, to buy the so-called decentralized hospital computer system [DHCP], and in fact the VA has already spent about $200 million on DHCP. Yet earlier this year, the Appropriations Committee indicated it had reservations about DHCP and suggested a careful look at an alternative system, the integrated hospital system [IHS]. It is very late to be talking about changing systems. The VA rank and file, in adition to top management, strongly supports and even shows high enthusiasm for DHCP. If this change in systems is forced upon the VA, the losers will be the veteran and the taxpayer, because much of the $200 million already invested in equipment and training will be completely wasted, and a delay of at least 5 years will occur in acquisition of an ADP system. Hopefully, the question about the acquisition of state-of-the-art medical computers for the VA can be resolved in the near future, because the VA needs them as soon as possible to better serve veterans.

I am happy to note that this appropriations measure includes funds for five new satellite outpatient clinics, in addition to start-up funding for six others. Satellite outpatient clinics are playing an increasingly significant role in meeting the health care needs of our aging veterans population. It can be anticipated that more of them are going to be needed within the next few years, as a cost effective way to reduce, or alleviate the need for very expensive in-patient hospital treatment.

Mr. Chairman, $407 million sounds like a lot of money for major construction projects. Yet when the size of the VA system of 172 hospitals is considered, the appropriation is a modest one, and no more than enough. If VA construction is not stepped up, eventually the VA is going to reach the point where it has a few very fine modern hospitals and many very old hospitals which cannot deliver an acceptable level of medical care. A realistic long range plan for VA construction is something we need to be considering.

The VA appropriations cover a number of agency programs and functions, such as research, grants for State extended care facilities, and the loan guarantee revolving fund. I support all the VA appropriations I have not specifically mentioned. While these appropriations are fair, I wish they could be more, because, I think the Nation ought to be generous with its veterans.

I join my distinguished chairman, SONNY MONTGOMERY, in commending Mr. WHITTEN, chairman of the Appropriations Committee; Mr. CONTE, the full committee's ranking member; Mr. BOLAND, chairman of the Subcommittee on HUD-Independent Agencies; Mr. GREEN, the subcommittee ranking member and all of the committee's members for their unwaivering support for veterans. Once again, they have shown that veterans have many friends in this body.

Mr. Chairman, every dollar in title II of H.R. 2783 for veterans is more than justified, and I ask my colleagues to support these VA appropriations.

Mr. BOLAND. Mr. Chairman, the committee appreciates very much the remarks of the chairman of the Committee on Veterans' Affairs and its ranking minority member.

I do not know of another legislative or substantive committee with which we have better rapport than the Committee on Veterans's Affairs. That is due to its leadership, provided not only by Mr. MONTGOMERY and Mr. SOLOMON, but by all the members on that particular committee.

It is a big bill—the Veterans' Administration appropriations for 1988 comes to $27.3 billion. The one item in which all of us are terribly interested is medical care, of course, which comes to about $10.3 billion.

And as the gentleman from Mississippi pointed out and the gentleman from New York also, it is an area that I think we have to be terribly careful about. We do have 172 hospitals in the Veterans's Administration system. Incidentally, it is probably one of the finest hospital systems in all the world. And we insist on a number of employees to adequately care for the medical needs and necessities of those who are hospitalized or come to the outpatient clinics—and that the veterans are adequately taken care of by the staff which has competence and knowledge and ability, as they do.

So we do establish the total requirement for the number of employees in the medical care appropriation. It is 194,140 FTE. That is a big staff but it is a staff that is essential if we are going to give the veterans the kind of care that the veterans are entitled to.

Incidentally, Mr. Chairman, I am delighted that we bring this bill to the floor today. A number of the veterans organizations, particularly the American Legion as I understand it, are in town today and they testified before the legislative committee.

I am delighted to inform the membership of this committee and the House that the national commander of the American Legion, Mr. Comer, comes from the State of Massachusetts. He was our State commander at one time, is a distinguished veteran with a magnificent war record, and has exhibited magnificent leadership in those areas affecting veterans.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I, of course, yield to the gentleman from Mississippi, the chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. I thank the gentleman for yielding.

Mr. Chairman, we certainly look forward to the new national commander of the American legion, and I commend the gentleman that he is from the state of Massachusetts.

Mr. Chairman, I would like to point out for my colleagues that the gentleman from Massachusetts [Mr. BOLAND] will be awarded for the work that he has done for the veterans and their dependents by receiving the Silver Helmet Award which is the outstanding and largest award given by the AMVETS. Mr. BOLAND, I congratulate you; they picked the top person who works for veterans.

Mr. BOLAND. I thank the gentleman.

Mr. MONTGOMERY. Congratulations.

Mr. BOLAND. Mr. Chairman, I would like to have had the helmet today. It would probably be able to fend off some of the amendments that will be coming a little later on today.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK].

Mr. NOWAK. I thank the gentleman for yielding.

Mr. Chairman in consideration of the Gramm-Rudman-Hollings balanced budget resolution, I understand a modest cut must be made in the appropriations levels of EPA's abatement, control and compliance programs. While we regret that the Environmental Protection Agency must field these cuts, we realize the gravity of the Federal deficit problem and the need for fiscal restraint.

As the House and eventually, the conference committee go about deciding how these cuts will be made, I hope due consideration will be given to the importance of the Great Lakes, and the role of the Great Lakes National Program Office in restoring and protecting this grand body of water. I encourage my colleagues to retain the $8.9 million funding level recommended by the Appropriations Committee for this office in fiscal year 1988.

Over 95 percent of all surface fresh water in the United States is in the Great Lakes, and 24 million U.S. citizens rely on the lakes for drinking water. Congress overwhelmingly supported the Water Quality Act last January which gave the Great Lakes National Program Office the authority to play a leading role in toxics cleanup in the lakes. Not only will the office perform much needed research on contamination problems and cleanup technologies, but it will provide States in the region guidance and other Federal agencies coordination in badly needed cleanup programs. However, without adequate funding, the office will be unable to perform these essential tasks.

I applaud the Appropriations Committee's recommendation to include

$8.9 million in the EPA budget for the Great Lakes National Program Office. Due to the importance of the Office to Great Lakes cleanup, I encourage the House and will urge the conferees to retain this funding level.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. NOWAK. I certainly would yield to the chairman of the subcommittee.

Mr. BOLAND. I thank the gentleman for yielding.

Mr. Chairman, I appreciate the remarks of the gentleman.

I am conscious, and this committee is conscious, of the work the gentleman has done with respect to the programs of the Environmental Protection Agency. We had to make some very difficult choices for all of the agencies in this bill. I must say that the EPA, despite some of the small cuts that were made, fared extremely well. I think overall we increased the requested amount for EPA operating programs by some $200 million.

I am well aware that the gentleman from New York is interested in the Great Lakes program. Let me assure the gentleman, if there is an opportunity to make an adjustment when we get to the Senate, we will work on that.

I must say, though, that the question of whether or not we will be able to adjust any of the figures that we bring to this floor today will depend upon the Senate's section 302(b) outlay allocation. We are going to have a very difficult task there because the subcommittee, chaired by the distinguished chairman from Wisconsin, Senator PROXMIRE, faces a 302(b) outlay allocation that is about $675 million below the House. I think this will present a problem for us. But in any event, if we can resolve it, we will certainly look at the program the gentleman is interested in and try to resolve it in a fashion that will be satisfactory to him.

Mr. NOWAK. I thank the chairman.

Mr. GREEN. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I rise to support the HUD appropriations bill in its present form, particularly with the amendment that will be offered by Mr. BOLAND a little while later, to conform to the budget.

I do want to take this time to call to the attention of the House of Representatives an amendment that may be offered later by my friend and colleague from Dallas, Mr. FROST, an amendment that would for purposes of Dallas and Houston, apparently only, would negate and eliminate a Federal law that this House has adopted not once, but several times, in the authorizing process, which permits a 1-for-1 replacement of public housing if approved by the local city.

In this case the public housing that this would specifically negate is in an area of Dallas known as west Dallas. I want to go through that a minute and bring some facts to the attention of this House and urge a "no" vote on the Frost amendment to be subsequently offered.

First of all, west Dallas was built in 1952. It was then and is now segregated housing. A Federal court has ruled that it is segregated housing and that it is illegal. Those 3,500 units are by and large substandard, dilapidated. Of those 3,500 units, 1,300 of them are so dilapidated that they have been vacant for approximately 10 years. That is in spite of the fact that west Dallas was renovated as late as 1973.

I do bring to the House floor and call the attention of the House to some photographs taken this year of some of the units of the west Dallas housing project so that people will understand what kind of conditions are there. The Federal court has ordered in a desegregation ruling, it entered into an order that has been agreed to by the Dallas City Council and by HUD that a lawsuit that was initiated by the plaintiffs that were given standing as tenants or potential tenants in west Dallas and in public housing throughout Dallas and assisted housing; that order would replace those 3,500 units of public housing on a 1-for-1 basis, replace even the 1,300 units that are vacant, respondent would replace them with 821 units that would be renovated on the site in two different locations, with 100 new units of new construction and with 2,650 new certificates and vouchers. Now those new certificates and vouchers are key elements to the plan, they would be guaranteed, and required that they actually be used, not just simply issued, to permit a resident to live in assisted subsidized housing, in private housing in a location of that resident's choice. Over 300 of those residents have, just since the plan was approved in June, left west Dallas. There are another 250 approximately who have indicated their desire to leave and to take advantage of those certificates.

The residents are given full relocation expenses and a key element to the order is that no resident of west Dallas, no resident of west Dallas will be required to move out of west Dallas against that resident's will: none, not ever. Now that will not be a problem because the plaintiffs who originally filed the suit, and residents of west Dallas will tell you that the living conditions in west Dallas are so onerous that west Dallas is the last choice available rather than a first choice.

Now in addition to the problems that I have already outlined in terms of the conditions of west Dallas, the murder rate is approximately five times the murder rate of the rest of Dallas. The rape rate is approximately six times that of the rest of Dallas. One section of this west Dallas project is adjacent to a lead smelter.

In that lead smelter according to the courts, it has contaminated those units of public housing and the soil they are on so as to cause negative health conditions to the residents there. One court has already ruled that over 300 children in west Dallas have suffered permanent brain damage as a result of living in that location. The Frost amendment would prohibit the replacement of those units of public housing in those substandard and unlivable conditions with 2,650 vouchers that would be used at a location of the resident's choice. Federal law currently provides, and H.R. 4 as adopted this summer, will provide for a 1-for-1 replacement of units of public housing. That 1-for-1 replacement applies everywhere in the country. But if the Frost amendment is adopted, it would not be permitted to be used in west Dallas.

Subsequently, during the debate I will have additional facts and comments to bring to the attention of the House.

Mr. BOLAND. Mr. Chairman, in keeping with the eminent fairness of this committee, I yield 5 minutes to the distinguished gentleman from Texas [Mr. FROST].

Mr. FROST. I thank the chairman.

Mr. Chairman, I have a great deal of respect for my colleague, Mr. BARTLETT, from the neighboring district in Dallas. As mentioned earlier, the projects are located in the 24th District that I represent in Congress. I was reading the CONGRESSIONAL RECORD recently, that of June 5, 1986, and I would like to quote some of Mr. BARTLETT's words on June 5, 1986. This was at a time when Mr. BARTLETT had offered an amendment to take money that would be used for new starts for public housing, about $800 million and devote that entirely to renovation, to fixing up units, just as the ones you have seen pictured during Mr. BARTLETT's comments a moment ago. Mr. BARTLETT, at that time on the floor of the House speaking in favor of renovation said:

> This amendment would establish a priority of the United States Congress for the 1980's and that priority is the same priority as that expressed by tenants, by local government, by the public housing authority managers and trustees. That is that we ought to get on about the job of repairing and rehabilitating existing units. The fact is that we can repair more units for more low income families, we can do it faster, less disruptive, at a lower per unit cost and provide better living conditions for those families with the same amount of money that we can build new units.

He went on to say,

> The result is to emphasize repair and modernization which is an emphasis that

the tenants tell us is needed but the Government has stood in the way.

Now the House in 1986 agreed with Mr. BARTLETT and adopted his amendment providing $800 million for rehabilitation. What has happened is that HUD has refused to use that money in Dallas, TX, to rehabilitate those units.

The units were built in 1952. They are structurally sound. Of course they are rundown inside. I have seen a lot of rundown units that have been rehabilitated and wonderful things can be done. The structures are sound.

Now what would Mr. BARTLETT have us do and what would HUD have us do? They would have those units torn down and they would have them replaced by section 8 certificates and by vouchers. Section 8 certificates are good for 15 years.

□ 1400

Housing vouchers are good for 5 years. We do not know, if those section 8 certificates or vouchers will be renewed, whether the money will be available at the time when they would come up for renewal. But once those structures are destroyed, they are gone forever; they are taken out of service.

I would like to respond to a comment my colleague made about the lead situation. I was involved with that, and in fact, through my efforts and the efforts of others, the lead smelter in question was closed and in fact has been closed for several years now. Some efforts were made to remove some of the lead-contaminated soil. The city of Dallas at that time did not choose to devote the financial resources necessary to remove all the lead-contaminated soil. Clearly, that could be done in the future. The lead smelter no longer exists. It no longer is functioning.

Those apartments, those garden apartments, are structurally sound, and with money that HUD has refused to release up to this point, they could be made sound for the future.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. FROST. I am happy to yield to my friend, the gentleman from Dallas, TX.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I do respect the gentleman a great deal for many of his efforts. We worked together on a lot of issues, and I do want to clarify this and respond a bit in terms of the gentleman's quoting my words of June 5, 1986.

The gentleman is absolutely correct, that in fact the repair of public housing ought to be a priority over new construction of new units of public housing, because in most cases it is both costly and it is a much better way to proceed, but not in all cases. If in fact we were to attempt to repair those 3,500 units of public housing—they have already been repaired once, in 1973—the fact is the result would still be a concentration of 3,500 public housing units in one location, in a very low-income part of town, with still the attendant crime problems that affect the people who live there, and it would still be segregated and it would quickly become substandard again, as it did in 1973.

So I do advocate repair and in fact I advocate the repair of 800 units in that location in a deconcentrated way that would allow the people then who live there to stay in standard conditions. But it also has to be blended with a freedom of choice to allow people the opportunity to live where they want to live.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FROST. Mr. Chairman, if I may reclaim my time, I do wish to point out that the local black officials in this area do not want these units demolished. They do want them desegregated. I want them desegregated, and I want them preserved. I do not want them destroyed.

The CHAIRMAN. The Chair will point out that the gentleman from Massachusetts [Mr. BOLAND] has 8 minutes remaining and the gentleman from New York [Mr. GREEN] has 17 minutes remaining.

Mr. GREEN. Mr. Chairman, I yield 6 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I hesitate to take the time of the House on what seems to be a local issue, and I must say that I know very little about what is happening in west Dallas. I do know something about what will be affected by this amendment in Houston, in the Allen Parkway Village.

For the life of me, Mr. Chairman, I do not understand why, when we have an opportunity to rebuild units in perhaps another location or to relocate people in much better housing in another location, and especially provide in the case of Houston maybe twice as many units, we would bring an amendment to the floor that would prohibit our ability to increase the number of units that we would be providing for our underprivileged in Houston.

Mr. Chairman, let me give the Members a little background of this.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. DELAY. Mr. Chairman, when I have finished my statement, I will be glad to yield.

Let me give the Members a little background of Allen Parkway Village. It was built in the early 1940's. It is about a thousand units, and at the present time it is half empty because of the conditions in Allen Parkway. It is located on a major street in Houston, and in my opinion it is very dangerous to children. The majority of the tenants there are Indochinese. It is in a very high crime area. In fact, even the Guardian Angels had to patrol Allen Parkway on the days that people were receiving their Social Security checks to protect them from being stolen. Even parking is inadequate at the facility right now. It is at a 50-percent occupancy level, so half the units are empty, and yet they do not have adequate parking for the facility.

What I am trying to say, Mr. Chairman, is that demolition is not necessarily eliminating housing. The gentleman from Texas [Mr. BARTLETT] has already pointed out that the law specifically calls for relocation of decent housing. Experience and support calls for replacement. In fact, the Houston Housing Authority in its proposal to HUD specifically states that they would like to see at least an equal number of units rebuilt, and we can relocate this site in a more residential area close to downtown in the fourth ward, because people are already lining up landlords in the fourth ward and putting together a group of properties that can be sold to HACH for relocation in the fourth ward itself.

But let me just try to point out that in this particular project we can provide twice as many units. Right now it has been estimated that to rehabilitate Allen Parkway it would cost $30 million. In fact, the president of the tenant organization estimates it to be $25 million. I would go with the higher figure of $30 million. The property has been estimated to be valued at $98 to $115 million.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I will ask the gentleman to please let me finish, and then I will yield.

Mr. Chairman, that was done through the environmental assessment or by the regional office of HUD. Right now in Houston the high estimate of rebuilding a unit is $45,000, so we can quickly see that to rebuild this particular project it would cost $45 million. Yet we want to stop the demolition and rebuilding and spend $30 million on a thousand units when we could sell the property and build at least twice as many units. We can provide modern housing, we can provide a better way of life for these people, and these people can enjoy a wonderful standard of living, as much as we can provide, by relocating in section 8 housing or by rebuilding a nice apartment complex.

Mr. LELAND. Mr. Chairman, will the gentleman yield now?

Mr. DELAY. I am glad to yield to the gentleman from Texas.

Mr. LELAND. Mr. Chairman, will the gentleman admit that it is purely conjecture on his part or purely speculation, if you will, that you can do these things if certain things happen? I submit that there is no plan in place that would provide us with some visible evidence that there is an opportunity for these people to be removed and put somewhere else. Is that not correct?

Mr. DELAY. Mr. Chairman, it is not conjecture on my part because by the proposal of the Housing Authority of the City of Houston, No. 1, it says they are not willing to support demolition unless there is at least an equal number of units for replacement. No. 2, this is only a proposal at this stage. So I think that makes this amendment very untimely because we are not even at the point of approval of a plan. But the plans are being pulled together. They are being worked on, and no one in Houston particularly wants anything different than the plan that I have outlined.

Mr. LELAND. Mr. Chairman, let me ask my dear friend and colleague this: when was the last time the gentleman went to Allen Parkway Village?

Mr. DELAY. As a matter of fact, I was there on an estimate for termites about 5 years ago.

Mr. LELAND. About 5 years ago, on an estimate for termites?

Mr. DELAY. Yes.

Mr. LELAND. Mr. Chairman, let me ask the gentleman this also: in whose district does Allen Parkway Village exist?

Mr. DELAY. It exists in the gentleman's district. But let me say that the gentleman knows there are no lines in Houston. What affects Houston affects all of us who represent Houston.

Mr. BOLAND. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Chairman, I would like to ask my neighbor, the gentleman from Texas [Mr. DELAY], to please come back to the well, if he would.

Mr. DELAY. I will be glad to.

Mr. LELAND. Mr. Chairman, I will ask the gentleman, when was the last time he talked to me about the demolition of Allen Parkway Village?

Mr. DELAY. Well, I must apologize. The gentleman must understand that——

Mr. LELAND. I would say to the gentleman that this is my time now.

Mr. DELAY. Mr. Chairman, the gentleman asked me a question. Will he please let me answer? Will the gentleman yield?

Mr. LELAND. If you will, answer just yes or no.

Mr. DELAY. I was not made aware of this amendment until late Thursday as I was on my way to go back to Houston.

Mr. LELAND. But the gentleman is familiar with how to get in touch with this gentleman, his neighbor, over the weekend, or when we are on airplanes when we talk, and in other places in the Congress. We have been here for the last couple of days since he was made aware of it.

Mr. DELAY. When did the gentleman add Allen Parkway to the amendment?

Mr. LELAND. We appealed to the Rules Committee yesterday at the time of the seating of the gentleman.

Mr. DELAY. Up until yesterday Allen Parkway was not added to the amendment.

Mr. LELAND. I appreciate that. No, the amendment was added relating to my district. It was added last week to the Frost amendment.

Mr. DELAY. But the Allen Parkway project in the amendment, if you look at the amendment, assuming it is the same copy that was offered to the Rules Committee, was typed in on a different typewriter and added at the last minute.

Mr. LELAND. That is a technicality.

Mr. DELAY. It was added by the Rules Committee. So I did not have an opportunity to talk to the gentleman.

Mr. LELAND. Mr. Chairman, the point this gentleman from Texas is making is that the gentleman did not extend the courtesy to this gentleman of expressing himself in his opposition to my amendment when what he is going to do is something that is more far-reaching. If there was anything that was to occur in the gentleman's district of this magnitude, I would certainly confer with the gentleman before I would offer any kind of proposal in debate on an issue like this. That is my point. I am just very disappointed that the gentleman would not confer with me.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I yield to the gentleman from Dallas, TX.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if I could, I would like to bring the debate back to what the Federal law is. The Federal law says should the Houston Housing Authority and others develop a plan for a 1-for-1 replacement of Allen Parkway or any other project and should they prove to HUD under the Federal law that Allen Parkway or any other public housing is so substandard that it cannot be repaired—and that is the test, 1-for-1 replacement, and it cannot be repaired—and should they further under H.R. 4 guarantee that certificates and vouchers would be used, in fact at that point then HUD and others, along with the city, would have an opportunity to review that plan. All I am saying is that we should not single out Houston or Dallas or someone else and say that, as in the case of Houston, that we have not seen that plan yet, but we already disapprove it. The plan as it is developed may turn out to have some demerits, in which case I will work with the gentleman to reform those or to defeat the plan. But that plan has not even been presented yet, but the Federal law is very clear on 1-for-1 replacement.

Mr. LELAND. Mr. Chairman, let me ask the gentleman, if he would indeed find that something is going to destroy some part of his district, that it is going to destroy the integrity of the people of his district, would the gentleman not come to this Congress and ask the Congress to do what it could to preserve that integrity? That is the question I would like to ask the gentleman.

The CHAIRMAN. The time of the gentleman from Texas [Mr. LELAND] has expired.

Mr. BOLAND. Mr. Chairman, I yield myself such time as I may consume. I would like to yield additional time on this subject to Members, but it is impossible for me to do so because we only have about 5 minutes left. I can understand the nature of the controversy here. It is a very difficult one for the Members who are debating the issue. I would hope that perhaps we could resolve this matter sometime today—and they could come back when the Dallas Cowboys are playing the Houston Oilers and resolve it at that time, too.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I would like to engage in a colloquy with the gentleman from Massachusetts, the chairman of the House Appropriations Subcommittee on HUD-Independent Agencies.

The HUD-Independent Agencies appropriations bill provides funds for startup costs for six satellite outpatient clinics. One of these clinics is to be located in San Jose, CA. My effort here, Mr. Chairman, is to ensure that out of this new satellite clinic certain outpatient services will be provided at a veterans facility currently located in Marina, CA.

The outreach center in Marina presently provides psychological counseling to Vietnam veterans and a host of other services by State and local veterans officials. The center has been used in the past to provide other medical services. My goal is to establish these types of outpatient medical services on a more permanent basis to serve veterans in this area. The center in Marina currently provides services to over 57,000 veterans in Santa Cruz and Monterey Counties. I have discussed this proposal with the gentleman from California, Mr. EDWARDS who is largely responsible for the opening of the San Jose clinic, as well as representatives of the Veterans' Administration Hospital in Palo Alto, and we have come to an agreement that this is the best approach for providing these needed services.

It is my objective that outpatient medical services including, but not limited to, prehospital assessments, prescreening for hypertension, diabetes, cancer, alcohol/drug dependency, followup care, and general medical counseling, be provided on a part-time basis at the Marina Center by staff from the San Jose Clinic. These services would be provided in three unoccupied rooms in the Marina Center.

While I had intended to offer an amendment, it is my understanding that the committee may direct that these services be provided. I would, therefore, like to ask the chairman of the HUD-Independent Agencies Subcommittee if it is the intent of the committee to direct the VA to provide outpatient services at Marina, CA, in connection with the San Jose satellite outpatient clinic.

Mr. BOLAND. Mr. Chairman, if the gentleman will yield, I would like to assure the gentleman from California that it is the subcommittee's intent in the 1988 appropriations bill to direct the VA to establish outpatient services at Marina, CA, in connection with the San Jose satellite outpatient clinic. The subcommittee directs the VA to establish these services.

Mr. PANETTA. I would like to thank the gentleman from Massachusetts for clarifying the subcommittee's intent on this matter. I assure you that the veterans of the Monterey/Santa Cruz area will be grateful for the chairman's cooperation and commitment on this matter and that the establishment of outpatient medical services in Marina will allow the VA to provide the benefits to which the veterans of Monterey and Santa Cruz are entitled.

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Mr. BOLAND. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding to me.

The conference report accompanying the fiscal year 1987 continuing resolution contained language prohibiting EPA from funding any of the research centers established in the Superfund reauthorization legislation. Is it the intention of the committee to have a similar restriction in the fiscal year 1988 appropriations legislation for EPA?

Mr. BOLAND. No, it is not the committee's intention to have similar restrictions in the fiscal year 1988 appropriation for EPA.

Mr. SWIFT. I thank the gentleman.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. PARRIS].

Mr. PARRIS. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise to ask this question of the gentleman from Massachusetts [Mr. BOLAND] and the gentleman from New York [Mr. GREEN], the ranking member of the committee.

We have discussed this very briefly; but just for the record, I have been asked by the American Battle Monuments Commission to authorize investment of the contributions previously made by the Treasury of the United States prior to their use. This is a very simple matter.

The American Battle Monuments Commission is charged under Public Law 99-572 with the responsibility of designing, creating, establishing a Korean war memorial for the persons who served in that conflict. Under the law that was adopted, the American Battle Monuments Commission is not authorized to utilize that money prior to the accumulation of all of the funds that are needed to build that monument so as to maximize the return on the investment, very much like the military pension and retirement fund is utilized now.

I understand the reluctance of the gentleman from New York to adopt this matter as a legislative matter on an appropriations bill, and the reason I rise is to ask the gentleman if they would be kind enough to express their support for the concept of this bill.

It is supported by the administration, and there is no controversy, it is clearly in the interest of the American Battle Monuments Commission's purposes; and there is no person, no agency, no anybody that I know of that would be adverse to doing this.

I wonder if the gentlemen would look kindly on it if a conference committee were to consider it as a result of the action of the other body?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I thank the gentleman for yielding.

The gentleman states the problem as it is. It does concern expenses for the Korean cemetery.

Mr. PARRIS. It is the Korean War Memorial.

Mr. BOLAND. The Korean War Memorial.

My understanding is that those funds would be provided privately, is that correct?

Mr. PARRIS. That is correct.

Mr. BOLAND. I have no objection, but it is legislating on an appropriations bill to which we have turned down a number of requests.

I would be happier to hold off for a while and make some later determination in consultation with the gentleman from New York.

Mr. PARRIS. I thank the gentleman.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. PARRIS. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank the gentleman for yielding to me.

It is a legislative problem and one that belongs to the authorizing committees; but if they are sympathetic to this, I would consider taking a look at it.

Mr. PARRIS. I thank the gentleman for his comments, and I apologize to both of the gentlemen for the delay, the tardy appearance of this; but it has just come to our attention, and the request was just made, so I would solicit the gentlemen's favorable consideration of the request.

Mr. GREEN. Mr. Chairman, I yield myself such time as I may consume.

I do so to make a plea to the Members who may have noticed we have had some very impassioned debate on situations in Dallas and Houston; and the Members have noticed that this Member has sat here mute and listened attentively, like other Members, seeking to find out what the merits were of the various cases.

I did so, because I first became aware of this matter only last week. I did put in some time on it on Friday. Through the chairman of my local Urban League, I got in touch with the local Urban League in Dallas and got their views; and frankly, given the time limits, I was otherwise not able to delve very deeply into what is a very complicated situation.

The gentleman from Texas [Mr. FROST] had told me that a similar case might be arising in Houston also, but not knowing definitely until Monday that the Houston case would be included in the Frost amendment, I made no inquiries about that case.

It seems to me that our committee has members on it, starting with the gentleman from Massachusetts [Mr. BOLAND], the chairman, who have had long experience in the housing area. Members of the House might find it helpful to get the views of members of the subcommittee on these kinds of issues, but obviously we cannot devote our staff time, or our time to them if we learn of these matters only shortly before the bill is going to come to the floor. So I would ask in the future, if possible, and I realize there are emergencies, and there are times when it is just not possible; but I would ask in the future, that Members let us know somewhat earlier about prospective amendments, so we could give them the thought to which they are entitled, and so that if it is appropriate, we could give such advice we might choose to give on those matters.

It might be helpful to our subcommittee and helpful to the House.

Mr. BOLAND. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Louisiana [Mrs. Boggs].

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding to me.

I rise to compliment the committee, both the majority and the minority side, and all the members of the staff for bringing to the House an enormously comprehensive bill that addresses many major problems across the spectrum of our national experience.

I would like to pick out one small element among all of the tremendous elements of this bill, and to thank especially the gentleman from Massachusetts [Mr. Boland], the chairman, and the gentleman from New York [Mr. Green], the ranking member, for recognizing the importance of science education.

For the first time we have been able to increase the amount for our science education to have teachers and the materials that the teachers use upgraded for teaching young people in the junior high school and high school classes.

Without this kind of input into science education, we are never going to be able to educate our children to enter into the end of the 20th century and into competitiveness and productivity in the 21st century.

We should now go down next year to the lower grades, and finally to preschool that we try to support with our television component and Contact 3-2-1.

I wish to compliment the gentleman from Massachusetts [Mr. Boland], the chairman, and the gentleman from New York [Mr. Green], the ranking member, and all of the members of the committee and the staff for a job beautifully done; and I hope that every Member will support the bill.

The CHAIRMAN pro tempore (Mr. Frost). The gentleman from Massachusetts [Mr. Boland] has 1 minute remaining.

Mr. BOLAND. Mr. Chairman, I have no more requests for time.

Mr. GREEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. Walker].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me this time.

I am in a somewhat unusual posture on this appropriations bill. I am going to stand up and congratulate the gentleman from New York [Mr. Green], the ranking member, and the gentleman from Massachusetts [Mr. Boland], the chairman, for bringing the House a very good bill.

I understand that we are going to get it down to the budget estimates with an amendment, so I make those remarks predicated on the fact that that is going to happen. The committee has done a pretty good job of staying within the budget limits. It is not a perfect bill, but it is a good bill.

I wish to comment on the NASA money in it. It is down from last year, down primarily, in talking to the gentleman from New York [Mr. Green], because the orbiter was included last year which is not in this bill, the replacement orbiter; and that is understandable.

I will say coming at it from the standpoint of the authorization committee, we have to understand that this is an area where in the future, we are going to have to look for substantially more money, and it is going to be hard to get that; but if we are going to commit to a space station, the space station is a $35 billion commitment, and we ought to understand, as we make the commitments embodied in this bill and the authorization bill which passed this House earlier this year, we are making a commitment to a considerable expenditure of money which is not going to accrue in hundreds of millions of dollars in the years just ahead, but in billions of dollars in the years ahead.

I am not certain that NASA has made the case, or all of the Members who favor the station have made the case yet to sustain that kind of commitment in this body over a period of years.

I am really concerned that at the present time no one has justified this station in a way that assures me that when we start talking about billions of dollars more, that Congress is going to be willing to go along with that kind of spending, and so I think we have our work cut out for us.

This is a start. The committee has done a pretty reasonable job on this bill. I congratulate the committee.

We have got some things coming up in the years ahead that will be before the authorization and appropriations committees that will cause a great deal of suffering, I think.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I thank the gentleman for yielding to me.

I appreciate very much, and the committee does, and I am sure that the gentleman from New York [Mr. Green] does, the remarks of the gentleman from Pennsylvania [Mr. Walker]. He is a very valuable member of the Science, Space and Technology Committee, and has followed the progress of NASA in all the years he has been there, and contributed immeasurably to the success of the programs.

What the gentleman says with respect to the funding for NASA is exactly right. There will have to be additional funding for NASA programs. They will have to be increased considerably in fiscal year 1989; or otherwise we are going to cut back on some of the programs that have made NASA a great governmental institution.

We will have to cut back on future telescopes, applications, satellites, and comet rendezvous missions that NASA is and wants to be engaged in. Those are the kinds of programs we might have to reduce if we want to keep the space transportation program healthy.

The gentleman from Pennsylvania is exactly right, and we will cooperate in any way we can to make sure that NASA's budget is the kind of budget that keeps this agency in the forefront of space science and space technology.

Mr. BONKER. Mr. Chairman, I had planned to rise today to offer an amendment restoring 2,000 units of housing for the elderly and the handicapped through the section 202 program. I would have been joined in offering this amendment by many of my colleagues on the Special Committee on Aging, including the distinguished chairman, Mr. Roybal, and the senior member of the New York City delegation, Mr. Biaggi. I have decided, however, not to offer such an amendment at this time.

I base my decision on two factors. First, the distinguished chairman of the Appropriations Subcommittee on HUD-Independent Agencies, Mr. Boland, has worked with me to add 900 of the 2,000 units that I was seeking. Included in Mr. Boland's outlay reduction amendment is $124.1 million to pay for annual contributions necessary under the section 8 program and $42.9 million to fund the bricks and mortar of the 202 program. This is an important step in the direction of providing at least the 12,000 units that were funded in fiscal year 1987.

Second, I believe that my colleague from Massachusetts has made a sincere effort to assist the 202 program for the elderly and handicapped, and that if additional units can be obtained during the conference committee consideration of the HUD appropriations bill, he will be open to moving further toward the fiscal year 1987 level of 12,000 units. I appreciate the help of Mr. Boland with this matter. And on behalf of many older Americans I thank you for supporting these additional section 202 housing units.

As chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I was distressed that the Appropriations Committee had cut 2,000 units from the fiscal year 1988 appropriation. While I am sympathetic to the competing demands placed upon the committee, taking funds from vitally needed housing for the elderly and handicapped is not the solution to shortages in other programs.

Created in 1959, the section 202 program currently provides 188,000 units of housing to the Nation's older and handicapped citizens. While other programs actually provide more housing to older people, the section 202 program has been a show case of the Federal Government's efforts to provide specialized housing to older and disabled people. The program has been one of the most successful and popular housing programs throughout its history.

Unfortunately, in recent years section 202, like other housing programs, has suffered deep cuts. The 1981 White House Conference on Aging recommended that 20,000 units of section 202 housing be built each year in order to meet the growing need for low-income housing for older and handicapped tenants. During the Carter administration, Congress was able to meet that goal.

Mr. Chairman, the Reagan administration, however, has consistently proposed the elimination of or reductions in the section 202 program as part of its general strategy of eliminating or greatly curtailing Federal assistance to housing. For the past 4 years, Congress has managed to hold the line at 12,000 new units a year. In the meanwhile, waiting lists have lengthened to 5 years and more as the unmet need grows.

This year, despite growing interest in addressing housing needs that have accumulated through years of neglect and hostility, we find that the appropriations bill before us today would have cut the section 202 program by a further 2,000 units. It appears that these cuts have been made in order to provide increases for other programs. While I am aware of the desperate need for additional funds for other housing programs, I believe that it is an error to address those needs through cuts in an equally worthy and needy program such as section 202. One of the negative results of this strategy is that, by pitting one housing program against another, we risk dividing the ranks of those who should be united in their support for meeting the housing needs of all disadvantaged populations.

In conclusion, Mr. Chairman, I again thank Mr. BOLAND for his support of so many important housing programs and in particular for supporting my efforts today to increase the number of section 202 housing units funded in H.R. 2783. We will now be able to fund at least 900 more units and hopefully after conference we will be able to build at least 12,000 units wilth fiscal year 1988 dollars.

Mr. BONER of Tennessee. Mr. Chairman, I am proud to rise in support of the fiscal 1988 HUD-independent agencies appropriations bill.

It has been a distinct honor for me to serve on the HUD-Independent Agencies Appropriations Subcommittee and I want to thank Chairman ED BOLAND, ranking member BILL GREEN, and the subcommittee staff for their courtesies and their assistance during my tenure on the subcommittee.

The bill which the subcommittee brings to the floor today is, as always, a balanced approach to meeting many of the needs of the Nation as well as some of the more important parochial needs of the residents of Tennessee and the Fifth Congressional District.

Let me reiterate what the chairman has already stated—the committee made many difficult decisions and the bill which it brings to the House today represents and effort to hold down spending. Simultaneously, the bill stretches funds for the many important programs which the Congress has approved by passing the underlying authorization bills. Be it housing, community development, space exploration, environmental protection, or benefits for our Nation's veterans—the committee has effectively allocated increasingly scarce Federal dollars to the programs which comprise the subcommittee's jurisdiction.

One provision which I would like to bring to my colleague's attention is the culmination of more than a year's work to have the Department of Housing and Urban Development expend almost as much time and effort to return money owed homeowners as other agencies of the Federal Government spend to collect it.

Specifically, I refer to report language directing the Department to increase the number of employees allocated to locating homeowners due FHA insurance premium distributive shares, which normally are paid following the final payment of an individual's insured mortgage. At present, more than $57 million in pre-1986 unclaimed distributive shares are owed 114,323 mortgagors. I am including with my statement a table prepared by the Department for the subcommittee's hearings that shows the number of unclaimed shares for each of the last 8 years.

TABLE 1.—UNCLAIMED FHA-INSURANCE PREMIUM DISTRIBUTIVE SHARES BY YEAR

Year	Total cases	Total encumbrance amount	Mean dollar amount	Median dollar amount
1979 and prior	50,059	$15,602,943	$311	$392
1980	8,460	4,024,584	475	468
1981	7,473	3,113,740	416	484
1982	5,513	3,020,280	547	609
1983	13,527	7,686,906	568	618
1984	12,537	9,771,743	779	659
1985	16,754	13,794,628	823	691
Total	114,323	57,014,824		

From page 224 of party of the HUD–IA hearings on the fiscal 1988 request of the Department of Housing and Urban Development.

Unfortunately, compared with a similar table provided last year during the subcommittee's hearing, the backlog is increasing. And, as claims become increasingly stale, the ability to locate individual homeowners becomes increasingly difficult, if not impossible.

Last year, I made my own effort to locate nearly 193 property owners in middle Tennessee who were entitled to distributive shares but, for some reason or other, had not received that refund. One night, I sat down with my staff and using the telephone directory and a criss-cross directory, we called neighbors as well as some of the property owners themselves. We were able to locate 26 property owners, expedite the paperwork through HUD, and have Treasury checks issued ranging from $206 to $1,600.

Rather than rely on Members of Congress or disinterested third parties, I believe the Department itself must make a greater effort to locate property owners due unclaimed distributive shares. In fact, it is the Department's responsibility to reduce the backlog. Thus, I want to express my appreciation to the Chairman for including the report language directing the Department to allocate up to 20 staff-years to reduce this backlog of unclaimed distributive shares. With these added staff resources, I hope the backlog of outstanding distributive shares will be significantly reduced by the time of next year's subcommittee hearings.

A second provision of the bill which I would like to bring to my colleagues' attention concerns Nashville's Veterans Administration Medical Center [VAMC]. Included in this year's bill is language directing the VA to proceed with the construction and engineering drawings of the clinical improvements and patient privacy project at the Nashville VAMC. The subcommittee has been told that construction of the project will be included in the fiscal 1989 budget request for the Veterans' Administration and, as such, proceeding with the design drawings in fiscal 1988 is especially timely.

The clinicial addition and patient privacy project is the third phase of an important modernization of the Nashville VAMC, a 22-year-old, 475-bed facility. Beginning in the midseventies, a three-phase approach was developed to modernize the facility, as well as address a number of engineering, fire, and safety problems.

The first phase was the construction of an ambulatory care, research and education building in 1982. This was a 6-story, 95,000-square-foot addition which relieved extreme overcrowding in the ambulatory care area and moved research from the basement of the original building to the newly constructed building. The second phase was the total renovation of the existing laboratory, which was completed in 1985.

The third phase, the construction of which will be included in the VA's 1989 budget request, is the construction of a 150,000-square-foot, 4-story addition to the front of the medical center, and the renovation of approximately 100,000 square feet of existing medical center space. The new construction will house new operating rooms, dental clinics, medical and coronary intensive care units, a 40-bed intermediate care ward, a rehabilitation medical service adjacent to the orthopedic surgical wards, and additional mental health space. Existing portions of the facility will also be renovated to provide additional ambulatory care space as well as to consolidate a number of other important health care services.

To the veterans of middle Tennessee, this project has a very high priority. As we all know too well, our veterans population is aging and increasingly drawing on the services of the Veterans' Administration health system. It is vital that we in Congress try our best to anticipate these needs and put in place the most modern VA facilities we can. The improvements for Nashville are part of that effort and I want to thank the subcommittee for including the directive necessary to ensure that the construction of this project proceed in a timely and cost-efficient fashion.

I urge the passage of the bill.

Mr. ROYBAL. Mr. Chairman, I want to call your attention to a provision within the fiscal year 1988 HUD appropriations bill before us today which allocates $4.5 million for a number of Environmental Protection Agency studies and demonstrations authorized by the Water Quality Act of 1987. In addition to $2 million earmarked for specific projects, $2.5 million is to be made available for other studies and demonstrations. I want to bring to the attention of my colleagues one of these authorized studies that I think is of particular importance. The study would look at the problem of sulfide corrosion and is authorized in section 552 of the Water Quality Act at $1 million.

The criteria used by EPA to allocate these funds should reflect the magnitude of the problem to be addressed and the capability of those persons conducting the study. The use of these criteria would ensure that funds are distributed by EPA based upon merit. I believe that, using those criteria, a study aimed at solving or developing solutions to the problem of sulfide corrosion of sewers deserves special attention. It is well documented that sulfuric acid is generated in sewers. If not controlled, this acid can corrode concrete pipes. Research by one of the Nation's largest sewer districts has shown that the rate of corrosion in sewers has increased rapidly in the last few years.

Mr. Chairman, sulfide corrosion of our sewers presents a critical infrastructure problem that must be solved immediately. Cities may be faced with the unwelcome prospect of extensive damage to their sewer systems, damage which would necessitate billions of dollars in repairs and threaten the multibillion dollar Federal investment in sewage collection and treatment facilities. In Los Angeles County alone, there are 25 miles of sewers that have already suffered sufficient corrosion damage that they are in danger of collapsing. These sewers require structural repair or replacement in the very near future at an estimated cost of $100 million. An additional 16 miles of sewers have suffered moderate corrosion damage and need repairs estimated to cost $35 million within 2 to 10 years. There are also 500 miles of sewers that are yet undamaged but show evidence of sulfide generation; the current replacement value for these would be over $1 billion. Other major cities may soon encounter similar problems. We need to know what is causing this sudden increase in the rate of sewer corrosion, and we need to find ways to prevent it. Funding for this study will enable the EPA to bring its scientific resources to bear in seeking timely solutions to this very critical problem.

The technical capability of the Los Angeles County Sanitation District [LACSD] is unmatched. LACSD is one of America's most sophisticated authorities on sewage management and has been doing research on sulfide control for years. Since 1983, the district has spent over $3 million studying this problem and, thus, uniquely qualified to conduct a study of this importance in conjunction with EPA.

I believe that EPA should find this study at the authorized level and should conduct this study in consultation with the Los Angeles County Sanitation District.

Mr. FRENZEL. Mr. Chairman, H.R. 2783 is a better than usual effort. It is only 2.8 percent over last year's bill. For me, no more than a freeze is acceptable, so I will not support it, but I acknowledge that it is a more frugal bill than usual.

It is difficult to amend H.R. 2783 rationally because the new Gramm-Rudman-Hollings baseline to be approved today is not available in hard numbers. Therefore we have no solid numbers yet with which to compare this bill. I know it's too much for me, but I don't know what figure to recommend to Members of the House.

In summary, I shall vote against the bill because it's too high for me, but I make no recommendations to anybody else.

Mr. BRENNAN. Mr. Chairman, I rise in strong support of the HUD-independent agencies appropriations bill.

I was particularly pleased to see that the committee rejected the administration's efforts to scuttle elderly and handicapped programs within HUD. Specifically, the committee recommends a $386 million increase over the administration's request for section 202 housing, which will provide for an estimated 10,000 housing contracts.

The committee also recommends a modest appropriation of $4.4 million to maintain existing services provided through congregate housing services demonstration projects—a program the administration sought to eliminate altogether. This vital program is designed to enable elderly and handicapped people to continue to live as independently as possible by providing access to services such as congregate meals and nursing staff.

The rising cost of long-term nursing home care is a very serious problem for this Nation's elderly citizens. Clearly, we should be encouraging programs that enable them to avoid institutionalization for as long as possible, and I commend the committee for their sensitivity to this important issue.

I was also pleased to note that the committee has indicated its commitment to expanding the Leaking Underground Storage Tank cleanup program. This is especially crucial to States that rely heavily on ground water sources for their drinking water, such as my home State of Maine. The Maine Department of Environmental Protection estimates that there are at least 13,000 underground tanks in the State that may pose a threat to ground water sources, and 750 tanks which have actually leaked. And these figures reflect only the tanks which the DEP knows about.

The committee provides $10 million to support an expanding program level of approximately $35 million. Typically, the administration had requested that no additional funds be appropriated for this cleanup program.

I want to thank the committee for its support of this important program, which is an absolutely essential component of our efforts to address the ground water contamination problems that threaten our citizens. It is my hope that this commitment will continue as the cleanup gains momentum in the coming years.

Finally, I want to express my support for H.R. 2783, and I urge my colleagues to support its passage.

Miss SCHNEIDER. Mr. Chairman, I want to address three important issues in H.R. 2783, the Department of Housing and Urban Development-independent agencies appropriations bill, 1988.

First, I want to applaud the Appropriations Committee for the addition of $6.5 million to allow EPA to mount an initiative in hazardous waste reduction. Earlier this year, my amendment to require EPA to develop a comprehensive research strategy on hazardous waste reduction and to authorize $1 million in fiscal year 1988 for this task was included in H.R. 2355, the EPA Research, Development, and Demonstration Authorization Act of 1987. This bill passed the House on June 4. On June 25 Congressman WOLPE and I introduced H.R. 2800, the Hazardous Waste Reduction Act of 1987. This bill, which now has 145 cosponsors, is designed to focus industry attention on reducing hazardous wastes at their source of production rather than on treating and disposing these wastes after they are produced.

It is gratifying to see that the Appropriations Committee has provided funds for EPA's research and development program as was authorized in H.R. 2355 and that the committee has appropriated resources to begin implementing several key provisions of our waste reduction bill—the development of a clearinghouse to provide waste reduction technology transfer, incentive grants to State waste reduction programs to provide technical assistance to their industries, and funds for research and evaluation of promising new waste reduction techniques. With estimates of our national hazardous waste production now ranging as high as 1 billion metric tons a year, and the costs associated with managing our wastes approaching $70 billion a year, we must take decisive action now to reduce the mounting threat to our public health and financial well-being.

My second point concerns the Appropriations Committee recognition of the importance of EPA's radon mitigation research program. While the President's request would have decreased this program by 50 percent, the House Science Committee's Natural Resources Subcommittee, of which I am the ranking Republican member, authorized an additional $1.5 million to ensure that the assessment of cost effective radon control techniques would continue above the current level. Preliminary data from EPA suggest that over 10 percent of the 85 million homes in the United States may have radon levels in excess of the target recommended by the EPA for corrective action. In Rhode Island, a survey conducted this past winter showed that 19 percent of the homes tested had radon levels which exceeded the EPA action level. We can ill afford to cut back now on our efforts to determine the extent of the problem and the means to remediate it. My colleagues on the Appropriations Committee have guaranteed that these critical activities can continue unimpeded.

Finally, Mr. Chairman, I regret that the committee did not fully fund the President's request for the National Science Foundation. The requested 17-percent increase was the first step toward a doubling of the NSF budget over the next 5 years. Nevertheless, the committee's 13.6-percent increase for NSF is an important contribution in the Nation's fight to regain its industrial competitiveness.

Roughly half of the increases in U.S. productivity can be attributed to technological innovation. Basic research conducted at our Nation's universities with support from the National Science Foundation is critical to our ability to increase our productivity and our competitive position in world markets. NSF funding also is essential for training our next generation of scientists and engineers. I hope that the conferees on this bill will choose to fully fund the President's request for NSF.

Mr. JONES of North Carolina. Mr. Chairman, I rise in strong support of this measure. It provides funding for some of our Nation's most important environmental programs. I would like to thank the gentleman from Massachusetts for his work in bringing this bill before the House.

As chairman of the Committee on Merchant Marine and Fisheries, I have become painfully aware of the plight of our coastal waters and estuaries. Many of these waters are already severely degraded; many more are on the path toward degradation. We are, quite simply, not doing enough to stop this insidious trend.

This unpleasant fact was recently highlighted in a report by the Office of Technology Assessment. Titled "Wastes in Marine Environments," this report concluded that even assuming total compliance with existing laws, which is unlikely, degradation of estuaries and coastal waters will continue. This report is no less than an indictment of our past efforts to protect and manage these sensitive coastal waters.

The OTA report recommended a systematic program to address and correct this downward trend in coastal water quality. Such a program was envisioned by the Congress when it recently amended and reauthorized the Federal Clean Water Act. Section 320 of the Water Quality Act of 1987 establishes a National Estuaries Program [NEP] within the Environmental Protection Agency.

As chairman of an authorizing committee sharing jurisdiction over this program, and as a Representative of a district which includes the Nation's second largest estuary, I am concerned with support for the NEP. I directed my staff to investigate this matter and have been pleased with the response from Mr. Boland's subcommittee. The following paragraphs outline my understanding of H.R. 2783 regarding support for the estuaries program.

The bill provides $13 million to support the NEP for fiscal year 1988. Base funding of $5 million will be supplemented by an additional $8 million in funds derived from a set-aside of construction grant funds. This set-aside was specifically mandated by the Water Quality Act to support implementation of section 320. I understand that an amendment may be offered to reduce construction grants by $150 million, thus correspondingly reducing NEP support by $600,000.

The funds provided through H.R. 2783 will allow for continued support of management conferences in six esturaries where efforts are ongoing: Albemarle-Pamlico Sounds, NC; Long Island Sound, New York and Connecticut; Narragansett Bay, RI; Buzzards Bay, MA; Puget Sound, WA; and San Francisco Bay, CA. In addition, this level of support will allow the EPA to consider initiation of management conferences in other nationally significant estuaries, especially those identified for priority consideration in section 320 of the Water Quality Act.

Finally, I would like to express my hope that, of the 250 additional positions approved for implementation of the Water Quality Act, some will be dedicated to the NEP. These additional positions will provide administrative and technical support for the management conferences. It is my understanding that such allowance can be accommodated within this overall ceiling.

Increases in both funding and in support staff are necessary if we are to address the degradation of our estuaries. While I would prefer to see greater commitment, I think this bill provides for both, and I urge its passage.

Mr. STARK. Mr. Chairman, in the mid-60's, in an effort to encourage private sector involvement in the production of subsidized multifamily housing for lower income families, the Federal Government offered favorable financing mechanisms to investors to build low-income housing. In return for this federally guaranteed mortgage with its lower interest rates, the owners have been required to pass through the subsidies in lower rents to low-income persons. The mortgages that HUD made available were 40-year mortgages. However, HUD structured the program so that for-profit owners could prepay the mortgage after 20 years, thereby terminating the low-income use requirements.

Mr. Chairman, it is now 20 years later. In my own district the owner of the Buena Vista complex has prepaid his mortgage, thereby freeing him to raise rents or convert the apartments into condominiums. This particular owner has chosen to raise the rents. Quite possibly more than 250 families will be forced to move November 1 when the rents will rise by 75 percent. The big question is: Where will they move to?

As you know the Federal housing program for low-income persons has been viciously slashed under this Administration. Since 1981, funding for low-income housing programs has been cut by 58 percent; very few new units have been built; and this year the administration requested that housing assistance be cut in half and Community Development Block Grants reduced by 17 percent. Very few options for the tenants at the Buena Vista exist. Fortunately, HUD is offering to make some housing vouchers available, but while Buena Vista people may be helped, there simply aren't enough vouchers available to serve the hundreds of thousands of others who will soon be displaced from subsidized housing. Many of these people could be forced to move to the streets.

My district is one of the first to be hit with this problem, but it is a nationwide problem. Over the next 5 to 10 years anywhere from 500,000 to 1 million low-income units may be lost. This loss, coupled with the past 6 years of cuts to housing programs, will lead to a national disaster if we let it. The time is at hand to deal with this problem.

Today we will vote on the HUD Appropriations bill. Unfortunately, there is no attempt within this bill to address the pre-payment situation. I would urge those members on the appropriate committees to intensify work on this problem. I offer my strong support to any viable solutions, and encourage my colleagues to do so as well.

Mr. ROYBAL. Mr. Chairman, I rise in strong support of the efforts of my distinguished colleague from Washington, Mr. BONKER, the chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, to restore funding for 900 units of section 202 housing for the elderly and handicapped. While I am extremely disappointed that the full 2,000 units cannot be restored, these added units are of vital importance to thousands of low income older Americans who have neither the resources nor the capacity to search for scarce housing units which are both suitable and affordable.

Testimony before my Aging Committee has confirmed time and again that the section 202 program is one of the most effective of all Federal housing programs. Combined with section 8 assistance, 100 percent of these units assist low-income elderly and handicapped Americans. Features such as ramps, guard rails, intercom systems, and supportive services permit individuals to live more humanely and independently—and at a cost to the Federal Government which is much less than if the elderly are inappropriately housed in a nursing home.

Suitable housing with these amenities simply do not exist in the private sector at rents which the poorest and most vulnerable of our elderly and handicapped individuals can afford. Evidence of this scarcity is substantiated by projects which have waiting lists which are so long that they are unable to accept any more applications.

Mr. Chairman, we are in the midst of one of the most dramatic demographic forces in the nation's history—the rapid increase in both the numbers and percentages of older Americans. If we are to avoid a severe housing crisis for our low income elderly and handicapped population, we must begin to take action now.

Yet, the bill we are considering today provides funding for only 10,000 units of elderly and handicapped housing—a reduction of 17 percent from last year's level and an amount which is nearly half of what it was just 7 years ago. At the very least, assistance to these low income and vulnerable individuals should have been frozen at the fiscal year 1987 level of 12,000 units.

Mr. Chairman, we can no longer afford to attempt to balance the bulk of the Federal budget deficit on the backs of the poorest of our senior citizens and handicapped Americans. HUD's budget has already been slashed by over two-thirds since 1980. These cuts have severely limited housing opportunities for older Americans since historically over two-fifths of the recipients of HUD-assisted housing are elderly. I urge my colleagues to halt the dismantling of housing assistance to the poorest of our senior citizens. I thank my distinguished colleagues, Mr. BOLAND and Mr. BONKER for restoring funding for 900 section 202 units of elderly and handicapped housing.

Mr. BROWN of California. Mr. Chairman, I rise in support of the Housing and Urban Development [HUD] appropriations bill for fiscal year 1988.

Specifically, I urge my colleagues to support continued funding for the Community Development Block Grant [CDBG] Program. This appropriations bill would provide $3 billion in fiscal year 1988 for the CDBG Program, $490.2 million more than the administration initially requested. We must not turn our backs on this vital assistance for our cities. The CDBG Program was first established in 1974 to help develop viable urban communities by providing decent housing and living environments. The program expands the opportunities and creates new challenges for people of low to moderate income. Block grant funding helps pay for municipal improvements, housing rehabilitation, economic development, and neighborhood revitalization. And perhaps most importantly, the CDBG Program helps entitlement communities learn to stand on their own, by making them responsible for the development of their own programs and funding priorities.

For the last 7 years we have witnessed an every increasing assault on housing programs by the Reagan administration. I am concerned that while the funding assistance provided to cities has dwindled over the past 6 years, the Pentagon's budget has grown to 40 percent above inflation. I am deeply committed to our allies and to a strong defense, but I nevertheless believe that we have a primary responsibility to our own citizens.

I for one know that my district is my first priority. Numerous projects throughout the inland empire could not have been undertaken without CDBG funds. In my district alone, the CDBG Program makes possible a variety of vital projects, not all of them housing related. Block grants aid senior programs and neighborhood day care; street, water, sewer and flood control improvements; fire protection; and libraries, utilities, and parks.

This Nation must give its cities a break and realize that we cannot continue to drain and bleed them and still expect healthy communities. We all complain about urban decay and the drug problem that thrives and festers in our poorer neighborhoods. Many of the louder complaints about these problems seem to come from the administration, which offers its solution in the form of "Just Say No." I would argue that the best way to solve the problems of our cities is to "Just Say No" to the administration's proposed $500 million cut in CDBG funding by voting in favor of the measure before us now.

Mr. APPLEGATE. Mr. Chairman, I would like to take this opportunity to join with my colleagues on the House Veterans' Affairs Committee in commending Mr. Boland, the chairman of the HUD-Independent Agencies Appropriations Subcommittee, for the tremendous work that he's done in protecting the essential services and benefits that our grateful Nation extends to the 28 million veterans of America and to their families.

This morning, the members of the Veterans' Affairs Committee heard the testimony of the new national commander of the American Legion, John P. Comer of Massachusetts, and in his remarks he reminded us of how that portion of the total Federal budget that goes toward veterans programs and benefits has declined—sharply—from 5 percent in fiscal year 1975, to 3.3 percent in fiscal year 1982, and down to 2.5 percent in the current fiscal year.

At a time when the needs of an aging veterans population are creating growing demands on the Veterans' Administration, all I can say is that we in the House can no longer accept the intentions and proposals which emanate from the Office of Management and Budget of the Reagan administration calling for major cuts in spending for veterans.

Quite simply, the veterans of American cannot endure the kind of neglect and disregard that this administration has proposed year after year in its budgets. This is not the time for us to even think about asking the veterans of this Nation to shoulder any kind of budget cuts, especially coming after everything that they've done to ensure that we may still live in a Nation where the decisions we make today in this body can continue to be performed under the blessings of freedom and liberty. Countless numbers of veterans have provided this for America for over 200 years of our history.

Mr. Chairman, I ask my colleagues to remember the special contributions and sacrifices that America's veterans have made and to think very hard before they consider taking any action that would reduce the funding of programs and services provided for in this important legislation.

Mr. RAHALL. Mr. Chairman, I rise today in support of H.R. 2783, the measure which appropriates $57.9 billion to the Department of Housing and Urban Development [HUD] and other independent agencies for fiscal year 1988. In addition to HUD, this measure appropriates funds for the Veterans' Administration [VA], Environmental Protection Agency [EPA], National Aeronautics and Space Administration [NASA], and the Federal Emergency Management Agency [FEMA]. Many of the programs and projects funded by this measure are of great concern to my fellow West Virginians.

Of particular interest to my fellow West Virginians, H.R. 2783 provides $43.4 million for the purpose of funding a clinical addition project at the Huntington Veterans' Administration Medical Center [VAMC]. This clinical improvement addition, which has been in the planning stages for 6 years, is necessary to correct gross space deficiencies in surgery, medicine, radiology, laboratory and ambulatory care in addition to increasing the bed capacity to meet the projected facility needs.

It was my privilege to testify before the Appropriations Subcommittee on HUD-independent agencies in much greater detail on the need for funding at this particular VAMC. I appreciate the support that this request has received by the Appropriations Committee and would like to thank Chairman Boland, Chairman Whitten, and ranking minority members of the subcommittee, Congressman Green and the full committee, Congressman Conte, for the inclusion of funds for this project in this appropriations bill. Funding for this project was also included in the President's fiscal year 1988 budget and was authorized earlier in this Congress by the House Committee on Veterans' Affairs. This funding will go a long way toward addressing the pressing needs of the 144,000 veterans from counties in West Virginia, Ohio, and Kentucky who are served by the Huntington VAMC. I join these veterans in expressing a heartfelt thank you to the committee for the recognition of this need.

I would also like to give special thanks to my fellow West Virginians Congressman Alan Mollohan and Harley Staggers for their assistance in furthering this funding request. As members of the appropriations and authorization committees respectively, they have both been very instrumental in bringing this much needed funding to the Huntington VAMC.

Also of great importance to West Virginia is funding contained in the bill for the Urban Development Action Grant Program, a program which the Reagan administration has repeatedly attempted to terminate. The funding, $225 million, will maintain the program at its current level. This program is uniquely able to target economic development assistance to distressed areas with special needs and has proven effective as a tool for the revitalization of depressed areas by leveraging substantial amounts of private investment.

The city of Huntington, WV, which is in my congressional district, is seeking UDAG funding for its premier development site, dubbed the "Super Block." The Super Block would consist of shopping areas, gallery space, office and apartment complexes and hotel space. The development of the Super Block is crucial to the revitalization of Huntington, the largest city in West Virginia, and would not be feasible without UDAG funding.

Funding for HUD's assisted housing programs is also urgently needed by my home State. The bill provides for modernization programs, elderly and handicapped units, and for the operation of low-income housing, all needed to ensure that the less fortunate in our society are able to live with dignity in safe and adequate housing.

Appropriations for the Environmental Protection Agency are also of great importance to West Virginia, especially funding for the construction grants program. Included in the bill is $2.4 billion for these grants to State, local and regional governmental entities for the planning, design, and construction of wastewater treatment facilities. These grants play a major role in the continued development of this Nation's infrastructure. Throughout this country, there are many areas that to this day do not have adequate wastewater treatment facilities, facilities that most of us take for granted. Such is the case with many areas within my home State, making these appropriations extremely important.

Mr. Chairman, I urge my colleagues' support for this important appropriations measure.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of H.R. 2783, and would like to focus for a few moments on the appropriations of funds for the Veterans' Administration.

Mr. Chairman, in addition to appropriating funds for various VA administered projects, H.R. 2783 specifically earmarks funds for the establishment of a veteran's outpatient health care clinic in Ocean County, NJ. The need for this clinic is overwhelming. In the VA's own study, Ocean County presented the greatest demand for an outpatient satellite clinic. The VA's minimum threshold requirement for establishment of such a clinic is 15,000 service-connected visits per year. From Ocean County alone, the VA estimates that a satellite clinic would receive 52,000 veterans per year. That is more than three times the minimum number of visits required to justify a VA clinic.

An amendment that I authored and attached to H.R. 2616, the Veterans' Administration Health Care Amendments of 1987, requires the VA to establish and operate the clinic. H.R. 2616 was passed by the House of

Representatives earlier this year; we are currently awaiting conference with the Senate.

Mr. Chairman, the bill before us today, H.R. 2783, would provide funds for the Ocean County clinic. The VA has recognized the unmet demand for veteran outpatient health care in Ocean County, NJ. They also have recommended the appropriation of funds for the project in their budget request embodied in H.R. 2783. Mr. Speaker, while I have some concerns with the bill's provisions, the overall package does address most of the critical needs of our veteran population.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of H.R. 2783, the appropriations bill for the Department of Housing and Urban Development and Independent Agencies, and especially the section of the bill which funds the Urban Development Action Grant [UDAG] Program.

The current administration has attempted to eliminate this program which, since it started in 1978, has provided seed money for joint Government-private development projects in economically depressed areas.

Nationwide, it has created 565,000 new, permanent jobs with a total Federal investment of $4.4 billion, and a private industry investment of $27.2 billion.

And, in my district, Allegheny County, hard-hit by plant closings and unemployment, has received some $14 million in Federal funds. These dollars have led to an investment of more than $70 million from the business community and creation of more than 1,300 new, permanent jobs.

UDAG funds were used in West View Borough to convert an amusement park into a shopping center and condominiums for low- and moderate-income families. UDAG provided over $500,000 to match $15 million of private money, and the project created 400 new, permanent jobs.

In Jefferson Borough, the UDAG Program contributed $2.9 million to match 14.9 million private dollars to reactivate a closed glass plant with 300 new jobs.

In McKees Rock Borough, UDGA put up $689,000 to match $12.3 million in private funds which were used to build an office building for a business' national headquarters, putting 159 people back to work.

Mr. Chairman, the UDAG Program has put more than half a million Americans back to work. In my district and across the Nation, it has helped revitalize economically depressed areas and it has allowed local communities and businesses to work with the Federal Government to decide the best ways to help their areas.

I commend Mr. BOLAND, the chairman of the Appropriations Committee's Subcommittee on HUD and Independent Agencies, for retaining $225 million for UDAG funding. UDAG represents economic development at its best, the Government working with private enterprise to improve the local business climate, and I encourage all of my colleagues to support this important bill.

Mr. YATRON. Mr. Chairman, I would like to commend the distinguished chairman, EDWARD BOLAND, and the members of the Appropriations Subcommittee on HUD-Independent Agencies, for allocating a more adequate level of funding in H.R. 2783 for EPA's Indoor Radon Gas Program.

Chairman BOLAND and his subcommittee deserve great credit for supporting EPA's Radon Program.

As my colleagues may know, the President's fiscal year 1988 budget called for only $1.5 million for the program—a substantial reduction over fiscal year 1987 appropriations.

More than 25 States across the Nation are affected by unsafe levels of indoor radon and many of my colleagues from those States and I were deeply concerned about what this reduction would do to the Federal radon effort. It is incomprehensible to under-fund such a vital, and clearly warranted, Federal program.

Thousands of my constituents, and an estimated 1 million other Americans, are living in homes contaminated by indoor radon. We are only beginning to understand how to effectively mitigate such homes. Clearly, further Federal work in this area is needed. Until sure-fire, low-cost mitigation techniques for a wide range of residential construction types are developed, the Federal effort cannot be abandoned.

A $1.5 million program amounted to such an abandonment. Chairman BOLAND's success in finding an additional $2.1 million, bringing the total to $3.6 million, will provide a more adequate level of Federal support. I commend his efforts, Chairman WHITTEN's, and all the members of the Appropriations Committee for helping to preserve this important, Federal environmental program.

Mr. RANGEL. Mr. Chairman, let me first take this opportunity to commend my colleagues for the great progress we have made on addressing the extremely pressing issues facing us during this session. I am especially pleased that the House has taken the lead role in focusing on the urgent need for Federal funding for low and moderate income housing assistance programs. A matter of great concern to a majority of the American population, housing has become a more poignant situation for the least fortunate in our society.

It is unfortunate that there is not consensus in the Federal Government on the need to provide housing assistance. In fact, the Reagan administration has done everything in its power to undermine public housing programs.

The most recent event which adds to the dilemma of providing housing for this Nation's poor came in an announcement made by Mr. Stanton, an administrator for Health and Human Services. Mr. Stanton announced that the Federal Government would no longer allow Federal funds to be used for housing individuals in welfare hotels.

Well, Mr. Chairman, let me be the first to say that keeping families in welfare hotels is not my idea of adequate housing. In fact, I have made it known that a long-term plan for housing the poor must be presented in order to fight this new attack by the administration. However, I am appalled by the lack of foresight portrayed by the administration's consistent and persistent efforts to cut spending at the expense of vital social programs designed to assist the poor. These regulations are clearly going to hurt these homeless families more than any other party involved.

Mr. Chairman, I support long-term, quality housing. I support the Public Housing Program as it was designed by the original drafters, to provide affordable, decent housing for all American citizens. It is for this reason that I rise in strong support of H.R. 2783, which provides $9.6 billion in fiscal year 1988 for various housing programs, including $7.6 billion for housing assistance and $1.6 billion for public housing operating subsidies.

The bill also provides $3 billion for the Community Development Block Grant Program in fiscal year 1988. I am encouraged by the maintenance of assistance for child care demonstration projects in public housing. This program will offer the mothers of nonschool age children unprecedented opportunities for getting quality, affordable day care and freedom to find employment.

These actions are, without a doubt, significant to meeting the objectives of our Federal Public Housing Program. However, no progress can be made if the administration is going to fight the actions of the Congress with continued efforts to destroy the housing programs that have served our nation well.

In closing, Mr. Chairman, I wish to say that the crisis in public housing is very real. While this Congress has done much to prop the system up by maintaining funding at basic levels, Federal public housing programs are still on a steady course toward destruction.

I conclude that we must reinforce our commitment to providing decent public housing so that cities are not faced with the dilemma of placing individuals in welfare hotels or shelters. I urge my colleagues to recognize the necessity of rebuilding our Public Housing Program. I encourage you to review the bill proposed by our colleague, JOHN CONYERS, H.R. 918, the Jesse Gray housing bill. This bill is the exact remedy that our ailing Public Housing Program needs.

The CHAIRMAN pro tempore. All time of the gentleman from Massachusetts [Mr. BOLAND] has expired.

Mr. GREEN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437), not otherwise provided for, $7,800,000,000, to remain available until expended: *Provided,* That of the budget authority provided herein, $130,200,000 shall remain available until expended for assistance in financing the development or acquisition cost of public housing for Indian families; $1,585,732,500 shall be available as an appropriation of funds, to remain available until expended, for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l); $1,382,400,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $848,850,000 shall be for the section 8 existing housing program (42 U.S.C. 1437f); $595,170,000 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f); $928,559,500 shall be available for the housing voucher program under section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for use, notwithstanding the limitations in section 8(o)(1) of such Act that the Secretary conduct a demonstration, and in section 8(o)(4) of such Act that the Secretary use substantially all authority in connection with certain programs, in connection with the rental rehabilitation program under section 17 of such Act and for any other purposes as determined by the Secretary; $200,000,000 shall be available until September 30, 1990, only for rental rehabilitation grants pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o); and $99,550,000 shall be available until September 30, 1990, only for development grants pursuant to section 17(a)(1)(B) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o): *Provided further*, That with respect to grants as authorized by section 17(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437o) which are made using funds made available under this paragraph, notwithstanding the rental housing vacancy rate criteria of the third and sixth sentences of section 17(d)(2) of such Act, no unit of general local government shall be eligible for such a grant unless the percentage of rental dwelling units within its jurisdiction which are vacant is less than the national percentage of rental dwelling units that are vacant and a percentage of rental dwelling units within its jurisdiction which are vacant for more than two months is less than the national percentage of dwelling units that are vacant for more than two months, except that the housing vacancy criteria specified in this paragraph shall not apply to grants authorized by the seventh sentence of such section 17(d)(2): *Provided further*, That of the $7,800,000,000 of budget authority provided herein, $210,923,000 shall be available only for assistance in financing the development or acquisition cost of public housing (other than for Indian families) and for major reconstruction of obsolete public housing projects (other than for Indian families), and an amount equal to the amounts of budget authority which have been reserved or obligated for such purpose in a prior year and which are recaptured during fiscal year 1988 (not including such amounts as may be recaptured from amounts heretofore obligated for such assistance for Indian families, and amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)) shall also be made available until expended as an appropriation of funds for such purpose: *Provided further*, That any part of the $210,923,000 and the recaptured amount referred to in the immediately foregoing proviso may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects (other than for Indian families): *Provided further*, That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance in financing the development or acquisition cost of public housing for Indian families and which have been recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437b)), in addition to other amounts specified for such purpose under this Act, shall be made available until expended as an appropriation of funds for grants for such development or acquisition cost of public housing for Indian families: *Provided further*, That an amount equal to the amounts of budget authority which have been reserved or obligated for assistance for modernization of existing public housing projects pursuant to section 14 of such Act (42 U.S.C. 1437l) and which are recaptured (not including amounts that become available for rescission pursuant to section 4(c)(3) of the Act (42 U.S.C. 1437b)) or which are carried over from a prior year or are otherwise available for obligation, shall be made available as an appropriation of funds, to remain available until expended, for grants for modernization of existing public housing projects: *Provided further*, That all amounts of budget authority (and contract authority) equal to the amounts of budget authority (and contract authority) reserved or obligated for programs under section 8 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), which are recaptured during fiscal year 1988 shall be rescinded.

AMENDMENTS OFFERED BY MR. BOLAND

Mr. BOLAND. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. Boland: On page 2, line 12, strike out "$7,800,000,000" and insert in lieu thereof "$7,924,100,000".

On page 2, line 20, strike out "$1,382,400,000" and insert in lieu thereof "$1,506,500,000".

On page 6, line 13, strike out "$517,000,000" and insert in lieu thereof "$559,900,000".

On page 17, line 16, strike out "$689,085,000" and insert in lieu thereof "$672,085,000".

On page 22, line 13, strike out "$296,850,000" and insert in lieu thereof "$291,850,000".

On page 26, line 26, strike out "$4,085,300,000" and insert in lieu thereof "$4,000,300,000".

On page 28, line 25, strike out "$1,563,000,000" and insert in lieu thereof "$1,558,000,000".

On page 30, line 5, strike out "$1,555,000,000" and insert in lieu thereof "$1,505,000,000".

On page 36, beginning on line 1, strike out "$816,100,000", including "$554,545,000" and insert in lieu thereof "$811,100,000', including $549,545,000".

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consideration that the amendments be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to House Resolution 267, the amendments are not subject to amendment or to a demand for a division of the question.

The gentleman from Massachusetts [Mr. Boland] is recognized for 5 minutes in support of his amendments.

Mr. BOLAND. Mr. Chairman, these amendments, as the rule indicates, are the first amendments printed in the Record accompanying House Resolution 267.

Mr. Chairman, this amendment would accomplish a single purpose; and that is to reduce this bill by $101 million in outlays, thereby bringing it under our section 302(b) outlay ceiling for 1988.

Basically, by reducing the levels for five agencies, NASA, NSF, EPA, FEMA, and VA, we would bring the bill within the outlay ceiling for 1988. This is done by reducing NASA's space flight control and the data communications account by $85 million; NASA's salary and expense account by $5 million; the NSF research and related activities account by $50 million; EPA's abatement, control and compliance account by $17 million; FEMA funding by $5 million; and finally we have reduced the Veterans' Administration nonmedical salaries and expenses account by $5 million.

I suppose there are many other ways in which these reductions could be made, but basically there are only seven or eight accounts in this bill that outlay at a rate high enough to achieve the $101 million savings in outlays.

□ 1430

One account which outlays heavily that we did not cut is the Veterans' Administration's medical care. We considered taking some of the $101 million reduction from that account, but Mr. Chairman, we felt it was essential not to cut veterans medical care. We feel that way and we included for VA medicare care a total of $10,320,808,000, which insures that the VA will be able to maintain the current level of employment of 194,140 FTEE.

So, Mr. Chairman, this amendment will bring us in line with the section 302(b) ceilings for both budget authority and outlays. We think this amendment deserves the support of the membership of the House.

Mr. GREEN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. Green] is recognized for 5 minutes.

There was no objection.

Mr. GREEN. Mr. Chairman, I rise in support of the amendment. The cuts are painful, particularly the cut in the research and related activities at the

National Science Foundation; but we do have a commitment to our colleagues on the Appropriations Committee and to the House to bring the bill in with outlays that meet our 302(b) allocation, and even though a point of order does not lie under the House rules with respect to outlays, but only with respect to budget authority, nonetheless this amendment is being offered to fulfill our commitment, and that it does.

I agree with the chairman that it would not make a lot of sense to go the alternative route, which would be to cut the VA medical account, which is the other very fast outlaying account. Our veterans' population is largely World War II veterans. They are mostly becoming senior citizens at this point and they are therefore at an age where their health-care needs increase rapidly. Moreover, they are at an age where they are eligible for Medicare, so that there is no saving to the Government if we force them out of the VA medical system and into the general medical system where Medicare, rather than the VA, will pick up the tab. The VA hospitals are run at staffing levels below the national average, and it probably saves the Government money to be caring for these veterans through the VA, rather than through our general medical care system in this country. That being the case, there is little choice but to go into these other accounts which outlay rather rapidly.

One final bright side of what we have to do, because these accounts involve $167 million of budget authority, the reduction of these accounts has enabled the chairman to include an increase of almost 1,000 units of section 202 housing for the elderly, since none of that budget authority outlays in the immediate fiscal year ahead. Thus, for the pain we are suffering in these other accounts in order to meet our outlay requirement, we are at least getting the benefit of some additional units for our senior citizens and our handicapped.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts [Mr. BOLAND].

The amendments were agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1988 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1988, $517,000,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided*, That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further*, That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further*, That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further*, That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further*, That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1988 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $4,400,000, to remain available until September 30, 1989.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of New Jersey: Page 7, line 17, strike "$4,400,000" and insert in lieu thereof "$10,000,000".

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent that amendment No. 1 and amendment No. 2 be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

Mr. BOLAND. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Does the gentleman offer his first amendment?

Mr. SMITH of New Jersey. Mr. Chairman, I offer the first amendment.

POINT OF ORDER

Mr. BOLAND. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. BOLAND. Mr. Chairman, I make a point of order against the amendment because it is in violation of section 302(f) of the Congressional Budget Act, as amended by Public Law 99-177.

The Committee on Appropriations filed its subcommittee allocation for fiscal year 1988, pursuant to section 302 of the Congressional Budget Act on July 29, 1987, House Report 100-255.

Mr. Chairman, this amendment would provide new budget authority in excess of the subcommittee allocation and is not permitted under section 302(f) of the act.

The CHAIRMAN. Does the gentleman from New Jersey wish to be heard?

Mr. SMITH of New Jersey. Mr. Chairman, while I believe the chairman of the subcommittee is correct in his reasoning, any objection I am sure will be sustained by the Chair, I would point out to the committee that it is unfortunate that this body will not have an opportunity to transfer some funds from the Management Act Account to the Congregate Services Account.

I appeared before the Rules Committee yesterday seeking to make in order a transfer of $5.6 million, which would be a straight transfer for the very worthwhile and, I think, very prudent Congregate Services Housing project.

The CHAIRMAN (Mr. MACKAY). The Chair is prepared to rule.

For the reasons stated by the gentleman from Massachusetts, the objection is sustained.

Mr. SMITH of New Jersey. Mr. Chairman, the amendments which I have been precluded from offering today to the bill before us, H.R. 2783, would have transfered $5.6 million from the Management and Administration Account into Congregate Services.

Perhaps the Members of the House will recall that the Congregate Housing Services Program [CHSP] was created in 1978 and provides certain elderly and handicapped individuals living in federally assisted housing units nonmedical, on-site services. The intent is to maximize the quality of life for these individuals and to prevent or at least mitigate institutionalization. The services provided through the CHSP Program include meals, housekeeping services, personal care assistance, onsite social services and transportation.

Mr. Chairman, H.R. 2783 provides only $4.4 million for CHSP and is, therefore, substantially below the $13 million authorization level as passed by the House in the Housing bill, H.R. 4 as a matter of fact, it constitutes only a third of the House-approved level.

The case for modestly increased funding for this program is compelling and has recently been given futher impetus by a draft report released by the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging. Chairman DON BONKER, who also supports by amendment today, points out in the report that "The CHSP and similar programs * * * have been effective in preventing unnecessary institutionalization" that "the CHSP [has] had substantial positive effects on the life satisfaction and general sense of well-being of its participants" and that "The CHSP is a cost-effective alternative to institutional care".

I would point out to my colleagues in the House that the money that would be shifted under my amendments from management and administration still leaves a sizable increase over the administration request as well as the fiscal year 1987 appropriations. This amendment still provides for an increase in the HUD administrative account of $43 million over the budget request and $46 million over 1987 appropriations. This increase will provide another 183 full-time equivalents or staff years at HUD beyond 1987 levels and 1100 above the request.

Finally, Mr. Chairman, this amendment is strongly endorsed by the following groups:

American Association of Retired Persons; American Association of Homes for the Aging; National Council of Senior Citizens; and National Council on the Aging.

I am disappointed the House has been denied an opportunity to boost our aid to senior citizens.

Mr. ROYBAL. Mr. Chairman, I am disappointed that the House will not have the opportunity to consider the amendment offered by my colleague from New Jersey to provide an additional $5.6 million for the Congregate Housing Services Program [CHSP]. Hearings before my Select Committee on Aging have documented the humane and cost-effective benefits of the CHSP in meeting the special housing and supportive service needs of frail and vulnerable older Americans. I firmly believe this is one Federal housing program which deserves the full support of this Congress.

One of the most significant issues facing our Nation and Federal housing policy is that the fastest growing segment of our population consists of individuals aged 85 and over. Within the next 30 years, this population group is expected to triple. This trend has important implications because these elderly Americans are likely to have a much higher incidence of health problems and frailties than the rest of the population.

There are presently very few housing alternatives which can bridge the gap between total independent living and nursing homes. Consequently, it is estimated that as many as 40 percent of nursing home residents do not need the 24-hour care provided by nursing homes, but have no other suitable options. This serious problem is not only a barrier to those elderly Americans who wish to live independently in their communities, but it is very costly to the taxpayer through increased Medicare and Medicaid costs.

The Congregate Housing Services Program has proven its ability to prevent institutionalization in a number of cases and has resulted in significant numbers of individuals being discharged from institutional care. By combining suitable housing and supportive services, the CHSP provides individuals with a stable and humane environment. What is more, the cost savings of the CHSP when it is properly targeted to frail, but not ill, elderly Americans is very impressive.

Given the fact that the numbers of individuals aged 85 and over are growing so rapidly, the American taxpayer can ill afford to inappropriately house them in nursing homes when they do not need 24-hour nursing home care. Rather, these frail elderly Americans who need basic supportive assistance to maintain a level of independence and dignity can be much more humanely and cost-effectively served by the type of environment provided by the CHSP.

Mr. Chairman, we have reached an important crossroad of decision regarding the housing of our rapidly growing numbers of frail older Americans. Either we can rationally plan for their housing and supportive service needs through cost-effective alternatives such as the CHSP, or we can ignore this significant demographic change and be faced with dramatic increases in public expenditures being spent unwisely on elderly individuals who are inappropriately housed in nursing homes simply because they have nowhere else to turn.

When it comes to developing cost-effective housing programs, we do not have the luxury of waiting until the crisis is upon us. I intend to continue to work with my farsighted colleagues on the Select Committee on Aging, Mr. SMITH of New Jersey and Mr. BONKER of Washington, in furthering the development of this important program.

Mr. BONKER. Mr. Chairman, I am disappointed that the House will not have an opportunity to judge Mr. SMITH's amendment on its merits.

I rise, however, in support of the amendment offered by my distinguished colleague, Mr. SMITH, and me, that would increase the fiscal year 1988 appropriation from $4.4 million to $10 million for the Congregate Housing Services Program [CHSP]. I commend my colleague's steadfast support of this program and the bipartisan spirit in which he has worked to strengthen and expand its much needed services.

The amendment would shift the $5.6 million needed for the CHSP from HUD's management and administration account which has been funded at $698,921,000 or $48,738,000 above the budget estimate. This account would still be some $43.1 million above the budget request.

As chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I have received a great deal of mail from the elderly and handicapped beneficiaries of this program. One recent letter, written in a very shakey hand, reads as follows:

DEAR MR. BONKER: I am handicapped due to a stroke. My printing might be difficult to read.

I was in the Mary Immaculate Nursing Home (Lawrence, Massachusetts) when the officials thought I could be moved to the M.I. residential community by being put on the CHSP Program. I am doing well on this program. I am living somewhat independently. What would people like me do without it!

I hope this program is continued for a long time. It makes living more bearable.

With deep respect,

ALDO A. PINOS.

This is one example of thousands of similar tales of people who have been released from nursing homes or have narrowly avoided confining institutional care because they have received services through the CHSP. The CHSP was created in 1978 to provide nonmedical, in-home services in order to prevent the premature institutionalization of the elderly and disabled and, hopefully, reduce unnecessary nursing home costs. Currently, 61 sites offer services on a demonstration basis with a budget that totaled $3.4 million in fiscal year 1987.

The CHSP enables low-income frail or disabled citizens to live independently among friends when the alternatives would be to live in a nursing home or other restrictive environment. A recent HUD evaluation and State level experiences confirm that congregate services can be very effective in preventing or delaying institutionalization. The HUD report indicates that, for every CHSP participant who required institutional care, 1.8 people in a control group who did not receive CHSP services had to be institutionalized. In other words, frail individuals not receiving CHSP services were almost twice as likely to be institutionalized as those who received the services.

In addition to preventing unnecessary institutionalization, the CHSP is virtually unique among Federal programs in its ability to move frail and disabled people out of institutional environments. Individuals applying for admission to congregate housing facilities from nursing homes were six times more likely to be accepted at facilities offering CHSP services than in facilities without such services. At several sites, mentally retarded citizens are able to live in group homes outside of State institutions because the CHSP provides the necessary assistance for everyday living.

The Subcommittee on Housing and Consumer Interests recently completed its own evaluation of CHSP based on results from the HUD report and reports from States with similar programs. Studies done at the State level have consistently found significant savings when individuals have been able to avoid institutionalization through programs similar to the CHSP. The HUD evaluation found that the program was effectively administered and that administrators and beneficiaries alike expressed satisfaction with the services provided. I have found the CHSP to be very successful in accomplishing its goals with very little money.

This summer, I held a hearing to highlight the successes of the CHSP in providing services to frail elderly and handicapped residents of federally assisted housing. I found the program has been enormously successful in allowing older and handicapped people to live independent and dignified lives. For a very small investment of money the CHSP has saved substantial amounts of money in Medicaid expenses for institutional care.

Mr. Chairman, the CHSP offers the rare opportunity to provide more humane services while saving the taxpayers dollars. The House has already expressed its intention to expand the CHSP by increasing the authorization level to $13 million. By appropriating $10 million, our amendment would allow for the creation of the first new CHSP sites since 1983. It is time to move ahead with this worthwhile program. This amendment provides a modest but important first step in that direction. I urge my colleagues to support independent and dignified living for the elderly and handicapped. I regret that our amendment will not be considered today, but it is my sincere hope that the House will support additional funding for CHSP in the near future.

The Clerk will read.

The Clerk read as follows:

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,465,000,000.

PUBLIC HOUSING DEVELOPMENT GRANT

Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development may not require the Bay City Housing Commission in the State of Michigan to pay any amount relating to ineligible costs incurred with respect to the public housing development grant numbered Michigan 24-7, awarded in 1974, under the United States Housing Act of 1937.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii) and section 106(a)(2) of the Housing and Urban Development Act of 1968, as amended, $3,500,000.

TROUBLED PROJECTS OPERATING SUBSIDY

For assistance payments to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, in the program of operating subsidies for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, all uncommitted balances of excess rental charges and any collections after September 30, 1987, to remain available until September 30, 1989: *Provided*, That assistance payments to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $169,652,000, to remain available until expended.

During fiscal year 1988, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1988, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $100,000,000,000.

During fiscal year 1988, gross obligations for direct loans of not to exceed $82,575,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1988, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,000,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1988, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $150,000,000,000 of loan principal.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

For financial assistance and other expenses, not otherwise provided for, to carry out the provisions of the Solar Energy and Energy Conservation Bank Act of 1980 (12 U.S.C. 3601), $3,000,000, to remain available until September 30, 1989: *Provided*, That all funds recaptured from prior year appropriations under this heading shall be reallocated to eligible financial institutions.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grant program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000 to remain available until September 30, 1990: *Provided*, That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the next following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further*, That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

During fiscal year 1988, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $150,000,000 of contingent liability for loan principal.

URBAN DEVELOPMENT ACTION GRANTS

For grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, $225,000,000, to remain available until September 30, 1991.

REHABILITATION LOAN FUND

During fiscal year 1988, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1987, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided*, That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $15,000,000, to remain available until expended.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,000,000, to remain available until September 30, 1989.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, $5,000,000, to remain available until September 30, 1989.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $698,921,000, of which $358,132,000 shall be provided from the various funds of the Federal Housing Administration: *Provided*, That during fiscal year 1988, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least (1) 6,502 for Housing Programs, (2) 1,370 for Public and Indian Housing Programs, and (3) 1,163 for Community Planning and Development Programs.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $12,925,000; *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $34,400,000: *Provided,* That no more than $286,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053: *Provided further,* That none of these funds shall be available for conducting or reviewing cost/benefit analyses on enforcement actions of the Consumer Product Safety Commission.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of one passenger motor vehicle for replacement only, and not to exceed $1,000 for official reception and representation expenses; $8,504,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $803,630,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, $199,100,000, to remain available until September 30, 1989: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $689,085,000, of which $50,000,000 shall be available for the purposes of the Asbestos School Hazards Abatement Act of 1984, as amended, including not more than $15,000,000 to defray the costs of school asbestos reinspections and management plans required by section 2 of the Asbestos Hazard Emergency Response Act of 1986 and not more than $2,500,000 for administrative expenses, with all of such funds to remain available until September 30, 1989: *Provided,* That school asbestos abatement loan and grant awards shall be made no later than March 1, 1988: *Provided further,* That none of the funds appropriated under this heading shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART: Page 17, line 16, insert after "$689,085,000," the following: "of which $8,000,000 shall be available for grants for State programs to protect wellhead areas under section 1428 of the Public Health Service Act, and".

Mr. ECKART. Mr. Chairman, it is indeed a somewhat unusual set of circumstances that my friend from Massachusetts and I rise to discuss this point about safe drinking water protection, not in any way because he has any diminished commitments for the protection of our Nation's environment or the quality of our drinking water, but because of an authorization passed in the Safe Drinking Water Act of several years ago of $20 million a year for 2 years and $35 million of a year thereafter to enable the States to enact a meaningful program of wellhead protection.

My colleagues from Massachusetts and I have collaborated most successfully in the passage of the Superfund legislation, a program that will witness us spending over $8 billion alone just to clean up hazardous waste sites, fully 80 percent of which is going to have to be spent because of ground water contamination.

There is that old television commercial where the mechanic, when you bring your broken down car in, says, "Well, you can pay me now, or you can pay me later."

The provisions of this bill simply say that when the Federal Government, as the Safe Drinking Water Act states, forces States to come to grips with preserving and protecting our most previous environmental resource, our safe drinking water, that we would provide some modicum of assistance, nowhere near the $20 million that was authorized, but a small amount, $8 million, that the EPA agrees would be necessary.

Mr. Chairman, this bill would earmark about 1 percent of the total EPA appropriation for a wellhead protection program; because you see, simply the law requires the States to submit to the EPA a comprehensive plan to protect current potential sources of drinking water.

I think it would be incumbent upon us to provide that appropriate protection.

I believe that each State has the responsibility, however, to determine how best to meet the Federal requirements, which is why the gentleman from Illinois [Mr. MADIGAN], and the gentleman from California [Mr. WAXMAN] and I crafted the Safe Drinking Water Act and left that appropriate delegation authority and implementation into their hands; but to say that we will not provide some small modicum of financial resources to deal with the threat is once again turning our back on a very important and significant environmental problem.

Protecting our fresh drinking water supplies from the 23 million septic systems, the 9,000 municipal landfills, the 190,000 surface impoundments, which have resulted so far in more than 30 percent of the drinking water supplies of the United States today already showing at least the presence of one manmade volatile organic contaminant, which has resulted in half a million homes having drinking water that if it was found on a public beach they would put up a sign that says, "Unsafe for swimming," let alone drinking.

Mr. Chairman, $8 million, I say to my colleagues, is a very small investment, given the larger authorization and given the greater threat to drinking water, to invest in the States helping us to do the job.

I think we must all candidly assert that if we want or hope the Federal Government to do this for us, we are wishing for what never was and probably hoping for what never can be. That is why our entire safe drinking water program was focused on the States developments of their alternatives. The EPA said that they could not spend the $20 million authorization that the legislation provided for 2 years ago. We would not want to inordinately spend money in a helter-skelter way; but even Alf Landon said 51 years ago that to be a liberal does not necessarily mean you have to be a spendthrift. I would concur with that assertion, because I do not think it is liberal or conservative to want to protect our safe drinking water supplies. I think it is in the public interest. It is certainly in the public health interest to spend this small modicum of earmarking $8 million out of an almost $700 million budget to provide for the protection of our safe drinking water sources.

Mr. Chairman, I agree the authorization may in fact be larger than that which the EPA and the States can effectively use. That is why we have scaled back the actual appropriation request to $8 million, an amount that both the States and the U.S EPA concur would be appropriate for the development of this important State-led initiative.

Let us let the States do the job. Let us let them focus, as our Chair's most intimate concerns in Florida reflect about preserving and protecting our drinking water.

Eight million dollars, Mr. Chairman, is not too large a price to pay to insure that our son, my son, and our grandchildren, have adequate resources to drink and an opportunity to grow.

□ 1445

Mr. BARTON of Texas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio [Mr. ECKART]. I think it is an excellent amendment. It would not cost any additional funds.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, the floor debate moved faster than many of us perhaps anticipated, and I note out of friendship to the gentleman from Texas [Mr. BARTON] that he is out of breath, so I have taken this time so he can regain his breath, as he just came onto the floor.

I thank the gentleman.

Mr. BARTON of Texas. Mr. Chairman, I would like to enter into a colloquy with the author of the amendment, if he would be willing to.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Ohio.

Mr. ECKART. I would be happy to engage in a colloquy with my friend.

Mr. BARTON of Texas. Mr. Chairman, it is my understanding that in the last Congress the gentleman from Ohio [Mr. ECKART] was very involved in the Superfund reauthorization legislation. Is that correct?

Mr. ECKART. That is correct. I was the author of the bill that gained Presidential approval last year.

Mr. BARTON of Texas. I would like to commend my colleague for his leadership in that piece of legislation. There was a provision, section 104(18)(j) dealing with the authority of the President or his designees to accept title, or at least interim title, to the property that needed to be cleaned up. It is my understanding that the gentleman was the author of that provision. Is that correct?

Mr. ECKART. Yes. That was part of an effort to put appropriate discretionary authority in the hands of the U.S. EPA to deal with unique problems that may arise from time to time in the cleanup process.

Mr. BARTON of Texas. I think the gentleman is familiar with a situation in my congressional district. In Conroe, TX, there is a Superfund site that needs to be cleaned up. The State of Texas and the EPA officials agree that it needs to be cleaned up. The State of Texas is willing to take permanent title to the land once it is cleaned up, but because of some potential liability problems they are not willing to take interim title.

Is it your opinion that this section 104(18)(j) could be used in that situation in order that the EPA take interim title until the cleanup is completed?

Mr. ECKART. If the gentleman will yield to me, it is my clear understanding of the SARA amendments adopted in 1986 to indeed encourage the EPA to use its discretionary authority, as I recall it, under 104(18)(j), when the agency determines that exercising that authority would continue to encourage the prompt and complete cleanup of the site. As my colleague knows full well, the underlying framework of the SARA amendments was to provide for protection of public health and the environment and we want to put that in there to authorize the EPA to acquire title if the agency believed that acquiring that title was necessary to assure that prompt and complete cleanup.

So if the question the gentleman propounds to me is, is this an appropriate vehicle for the circumstances he suggests, I would assert that it is.

Mr. BARTON of Texas. I thank the gentleman.

Mr. Chairman, I include for the RECORD the applicable provisions of the law that we just referred to, and also the EPA regulations concerning that law. I would point out to my colleagues that in spite of the clear intent of the revised law, the EPA regulations still prohibit the Federal Government from taking interim title, and require State government to take title before any cleanup activity can begin.

The material referred to follows:

(j) ACQUISITION OF PROPERTY.—

(1) AUTHORITY.—The President is authorized to acquire, by purchase, lease, condemnation, donation, or otherwise, any real property or any interest in real property that the President in his discretion determines is needed to conduct a remedial action under this Act. There shall be no cause of action to compel the President to acquire any interest in real property under this Act.

(2) STATE ASSURANCE.—The President may use the authority of paragraph (1) for a remedial action only if, before an interest in real estate is acquired under this subsection, the State in which the interest to be acquired is located assures the President, through a contract or cooperative agreement or otherwise, that the State will accept transfer of the interest following completion of the remedial action.

C. ACCESS AND ACQUISITION OF PROPERTY

EPA's policy has been that States must obtain access to sites for both State- and Federal-lead response activities. Section 104(e)(3) of CERCLA authorizes EPA and its representative, including contractors for Fund-financed response activities, to enter any vessel, facility, establishment, or other property where a hazardous substance may be or has been generated, stored, treated, disposed of, transported from, or released or where release may be threatened, or where entry is needed to determine the need for or to undertake a response. States acting under a CA or a SSC may also use this authority. In the absence of such agreements, States are expected to use their own authorities to gain access.

The need to enter private property for response purposes sometimes raises the issue of acquiring an interest in the property. Under Section 104(j) of CERCLA, as amended, States are required to assure EPA that they will accept transfer of the acquired interest following the completion of the remedial action. The Assistant Administrator for the Office of Solid Waste and Emergency Response with the concurrence of the General Counsel will determine when the purchase of a property interest is necessary.

If EPA determines that an interest in such property is required, it is EPA's policy that States acquire the interest upfront before the fund-financed response action can proceed. States must enter into a CA to receive Federal funds to purchase the real property even on a Federal-lead action. If acquisition is approved by EPA, States must comply with applicable Federal regulations for property acquisition under assistance agreements (40 CFR Part 4 and 40 CFR Part 33).

The Federal Emergency Management Administration's procedures for acquiring real property as part of a relocation remain in effect. As stated above, a State must agree to make title to such property before relocation can begin.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it pains me to oppose my good friend from Ohio [Mr. ECKART].

Mr. Chairman, I am conscious of the efforts that the gentleman has made on the Committee on Energy and Commerce, and the valuable part he plays in shaping the very many difficult and controversial programs that come under that committee's jurisdiction. Wellhead protection is a new program under the Safe Drinking Water Act that was passed by the Congress. The gentleman justifies the amendment on the basis that it is only $8 million, which is not very much when you consider the amount of money that is being spent by the Environmental Protection Agency. But we made some solid recommendations in this bill because we could not fund every single new program established by either the Clean Water amendments or the Safe Drinking Water amendments.

The Appropriations Committee has added staff at EPA and millions of dollars for each of the past 3 years for the ground water protection program, and that was long before it became fashionable. When one looks at the competing priorities in drinking water and other environmental programs I do not think we can justify $8 million to initiate a new wellhead protection program in 1988.

Mr. Chairman, what the gentleman from Ohio [Mr. ECKART] is doing is earmarking $8 million for this program. But, that money has to come from somewhere else, from some other program. I know that this is the kind of program that the environmental groups are excited about. They want to see more money in there for this new program in this particular budget.

Drinking water comes from only two sources: Surface water or ground water. Protecting ground water is definitely important. But, I think many would probably question the extent of the expenditure of money in this particular program over the long run and its ultimate effectiveness. Wellhead protection, as the gentleman from Ohio [Mr. ECKART] has indicated, attempts to protect the ground water within a particular area, within a particular measured area. I guess throughout the United States one could say it would be impossible to know the number of wells in existence.

I know that in order to walk a mile, one must take one gentle step. This is what we would be doing here. If we take that step now to start planning projects, I think in the future it will cost the States and localities millions of dollars to implement wellhead protection. And some still question the effectiveness in different geologies.

Let me say that all the States are not in favor of this particular program, as the gentleman from Ohio indicated. The gentleman suggests that we let each particular State do what it wishes with the problem in its own State. That sounds pretty good, and it sounds rather persuasive. But my objection to this particular amendment is that we have to take the $8 million from somewhere else.

I do not know where the money is going to come from. We have already reduced EPA funds in the outlay reduction amendment I offered a short while ago. I think we ought to let it ride. Sometime in the future I can tell my friend from Ohio, Mr. ECKART, if the gentleman offers this amendment and it appears to be one that we can get some support for, I might very well join him in his request. But I would hope that the gentleman would withdraw his amendment and come back at a better time.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to join the chairman of the subcommittee in opposing this amendment. I do so with some difference, first, because the gentleman from Ohio [Mr. ECKART], who offers this amendment, has certainly been one of the leaders in this House in the safe drinking water area, and he certainly is one that I respect for that leadership, and also because obviously there is a considerable interest in the wellhead protection approach to dealing with the whole problem of our water supply. But in the end I am constrained by the budget situation to rise in opposition.

Let me explain why. Certainly our subcommittee has not been in the rear when it comes to dealing with this whole problem of ground water protection. In fact, I think we can justly claim to have been out front of many in terms of the funding that we have provided in this area over the last 3 years. But if we are going to take $8 million away, we are taking it from somewhere else because, as the gentleman from Ohio [Mr. ECKART] recognized in drafting his amendment, we are up against our 302(b) ceiling and thus we are taking it from other pollution control activities in order to do this.

But beyond that, Mr. Chairman, we are making a commitment that I am not sure we can live up to. That is because $8 million is only going to be getting the States to start planning what will ultimately be a major program in this area, one that will cost not $8 million a year but, if it is going to amount to anything, very substantially more.

Given the kinds of constraints I see in the years ahead and in this appropriations bill, I have to be very skeptical that that is the way to go when this method of approaching the problem is one that is not supported by everyone and when there are other methods that seem to have more support from the States at large and which we are financing at the present time.

As far as I can see into the indefinite future, if we go down the road of expanding funding for this approach, and this is surely the camel's nose under the tent, not the final level of funding for such a program, if we do that then we are committing ourselves to taking larger and larger dollars away from other pollution control approaches in future years, and I am reluctant to commit to do that.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I am delighted to yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, my grand dad once told me, and I think the gentleman from Massachusetts [Mr. BOLAND], our distinguished chairman, once met my father in my district a number of years ago, that you are not going to succeed in this business if you do not know things that other people cannot see, feel, or hear.

I suspect that I am beginning to know some things that maybe we could not see, feel, or hear prior to bringing this amendment up.

Mr. Chairman, at the conclusion of my remarks I intend to ask unanimous consent to withdraw my amendment, because I do know things I am not sure all of us can see, feel, or hear. Both of my colleagues have been good, strong supporters.

The CHAIRMAN. The time of the gentleman from New York [Mr. GREEN] has expired.

Mr. ECKART. Mr. Chairman, will the gentleman continue to yield?

Mr. GREEN. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, both of my friends, the gentleman from New York [Mr. GREEN] and the gentleman from Massachusetts [Mr. BOLAND] have been good friends of mine in finding money for a wide variety of environmental control problems in the past. I know there are tough constraints. As my colleague said, he knows of my interest to see safe drinking water become a reality. Given the comments of my colleague from Massachusetts [Mr. BOLAND], echoed by my colleague from New York [Mr. GREEN], let us work together in a future appropriations bill to come up with a mechanism that will deal with the fiscal constraints and deal with the problem the States have. I know my good friends and I do not want to trammel on their good will needlessly.

Mr. ROWLAND of Georgia. Mr. Chairman, will the gentleman yield?

Mr. GREEN. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. ROWLAND of Georgia. Mr. Chairman, I want to express my appreciation to the gentleman from Ohio [Mr. ECKART] for agreeing to withdraw his amendment. I did have a call from the Georgia Commission on Natural Resources who opposed this amendment because he felt it was going to shift funds away from some other programs that he had in place there with reference to our ground water, detection of levels of lead, herbicides, pesticides, enforcement, and so forth. He was very concerned that out of the $500,000 he got for ground water, that it would take about $100,000 away.

So I am very grateful to the gentleman from Ohio [Mr. ECKART] for his agreeing to withdraw his amendment.

Mr. GREEN. Mr. Chairman, I, too, want to express my appreciation to the gentleman from Ohio [Mr. ECKART] for agreeing to withdraw his amendment, and I look forward to working with him on this problem in the future.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. GREEN. Mr. Chairman, I yield to the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I appreciate the gentleman from Ohio [Mr. ECKART] agreeing to withdraw his amendment. I think he recognizes the fact that this committee has tried to do an outstanding job in the area of the environment, which has caused us a number of problems at times. In any event, I am sure the gentleman from Ohio also knows that whatever he is interested in, this committee is interested in. His generosity in his agreeing to withdraw his amendment augers well for the future.

Mr. ECKART. Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

□ 1500

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $7,500,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,181,000,000, to be derived from the Hazardous Substance Superfund, consisting of $931,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $250,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided*, That funds appropriated under this account may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further*, That none of the funds appropriated under this heading shall be available for sections 111(b), (c)(1), or (c)(2) of CERCLA, as amended: *Provided further*, That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $43,000,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), 111(c)(14), and 118(f) of SARA: *Provided further*, That no more than $190,000,000 of these funds shall be available for administrative expenses.

Mr. NELSON of Florida. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Chairman, I want to take this opportunity to tell the gentleman from Massachusetts, the chairman of the subcommittee and his ranking member, the gentleman from New York, and all the Members who have worked long and hard on this that I think that they have done an exceptionally good job under very difficult fiscal constraints. We have an excellent working relationship between the subcommittee that I am privileged to chair, the Space Committee, in working on the civilian space program funding here.

So I wanted to simply take this opportunity to state that I support the gentleman and his committee in what they are trying to do in bringing forth a sound budget for the civilian space program, realizing that we need to get every bit of efficiency and effectiveness out of each dollar that we are spending, because this Nation needs a bold and visionary space program.

Now there is one area that I have little concern over and that is that one of the mistakes that we learned that we made when we decided years ago that the space shuttle was going to be the space transportation system, was that we put all our eggs in one basket and said that the space shuttle was going to carry everything to orbit; it was going to take all military payloads, it was going to take all civilian payloads, it was going to take all scientific payloads, all commercial payloads. In retrospect, that was a mistake because what we need is a variety of horses in the stable upon which to call to have an assured access to space and that those included in that stable a variety of expendable rockets and use the space shuttle for the unique capabilities that it has as a manned vehicle for humans to have access to space.

Therefore I do have a concern, Mr. Chairman, albeit the financial constraints that were placed upon you that you have a cap of ELV's in this budget for fiscal 1988 of two Delta ELV's.

In our markup in the space subcommittee, which was overwhelmingly better than a 10 to 1 margin approved by this House in the NASA authorization bill, we had provided, in trying to correct the mistakes of the past, not two ELV starts in this coming fiscal year but four. The additional two were a Titan III for a Mars observer mission going in 1992 and a Titan IV, the big new Titan which would be a backup planetary for launching the big communications satellite, the TDRSS satellite that we need to have launched in the early nineties.

I think the logical sequence of rebuilding the space program from this disaster that we have all suffered is to recognize the hard reality that we have to supplement the space shuttle with the appropriate ELV's.

It is my judgment, it is the judgment of our committee that it is going to be very difficult to do that just with two Delta II's, if that is what it is going to be.

So, Mr. Chairman, you are one of the most reasonable people in this House and what I am here to say today is that I will seek your advice, I will seek your counsel, I will seek your cooperation as we build and rebuild this Nation's space program to be what the American people expect and demand, nothing less than the best and I am going to look forward to that.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Florida. Of course I yield to the chairman of the subcommittee.

Mr. BOLAND. I thank the gentleman for yielding.

Mr. Chairman, from time to time this committee, this chairman, have sought the advice and counsel of the distinguished gentleman from Florida who is probably as key a figure in the national space effort as any Member of the entire Congress.

I thank the gentleman from Florida for his kind remarks with respect to the membership of this committee and what this committee had done in this area. As the gentleman has said, we do have a limitation on two Deltas—a $30 million cap for expendable launch vehicles and which shall be available only for the purchase of two Delta II vehicles.

We took this action, as the gentleman I am sure has probably gleaned, partly because of funding constraints.

The CHAIRMAN. The time of the gentleman from Florida [Mr. NELSON] has expired.

Mr. BOLAND. If the gentleman will continue to yield.

Mr. NELSON of Florida. I yield to the chairman.

Mr. BOLAND. I thank the gentleman for yielding further.

As the gentleman probably knows, we took this action because of funding restraints, partly because we would like to see exactly what additional ELV's NASA will be formally requesting and whether funding will be requested for such ELV's. The gentleman, of course, knows that we have no objection in principle to what he has espoused here—but that we are looking really for a signal from downtown on what ELV's the administration wants or supports. I think when you cap a particular program, it sends a message to those who are responsible for the program that we are not potted plants, that we are looking for something more.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. NELSON of Florida. Mr. Chairman, I yield to the ranking member, the gentleman from New York [Mr. GREEN].

Mr. GREEN. I thank the gentleman for yielding.

Mr. Chairman, I also thank the gentleman for his courtesy. I should point out also that earlier we had approved a reprogramming of funds for an initial look at a shuttle-derived launch vehicle that would provide us, of course, with very substantial additional unmanned launch capacity. This Member is particularly mindful of the need for such capacity because I have a particular interest in the space science aspects of NASA and it is plain to me that if space science is going to flourish, it is going to do so largely through the unmanned vehicles.

So I can assure the gentleman of my continued interest in that aspect of the program.

Mr. NELSON of Florida. I thank both gentlemen for their responses, for their reasons, their friendliness, their recognizing of what this Nation's space program needs. Indeed, that is something we will continue to visit with not only on the ELV's and Titan III and Titan IV's that we are talking about, but the large heavy-lift vehicles that the gentleman from New York is talking about. And as we look to the future, what else, in addition that we need to make sure that we have nothing less than what the American people expect, an excellent space program.

I thank the chairman.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $10,000,000, to remain available until expended: *Provided,* That no more than $5,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out title II of the Federal Water Pollution Control Act, as amended, other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209, $2,400,000,000, to remain available until expended.

ADMINISTRATIVE PROVISION

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969, the Environmental Quality Improvement Act of 1970, and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $862,000.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (43 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,998,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $125,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $131,544,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $296,850,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $9,892,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $45,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1989. In fiscal year 1988, no funds in excess of (1) $38,000,000 for operating expenses, (2) $137,765,000 for agents' commissions and taxes, and (3) $2,537,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $150,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program. Notwithstanding any other provision of this or any other Act, such amount shall be made available under the terms and conditions of the following paragraphs:

The Director of the Federal Emergency Management Agency shall, as soon as practicable after enactment of this Act, constitute a national board for the purpose of determining how the program funds are to be distributed to individual localities. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the U.S.A., the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., and the American Red Cross shall each nominate a representative to sit on the national board, and the Director of the Federal Emergency Management Agency shall designate a representative from each of these organizations to sit on the national board. The Federal Emergency Management Agency shall also designate a representative to sit on the national board, and the representative of the Federal Emergency Management Agency shall chair the national board.

Each locality designated by the national board to receive funds shall constitute a local board for the purpose of determining how its funds will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national board except that the mayor or appropriate head of government will replace the Federal Emergency Management Agency member.

The Director of the Federal Emergency Management Agency shall award a grant for $150,000,000 to the national board within thirty days after enactment of this Act for the purpose of providing emergency food and shelter to needy individuals through private voluntary organizations and through units of local government.

Eligible private voluntary organizations should be nonprofit, have a voluntary board, have an accounting system, and practice nondiscrimination.

Participation in the program should be based upon a private voluntary organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are determined by the local boards.

Total administrative costs shall not exceed three and one-half per centum of the total appropriation.

As authorized by the Charter of the Commodity Credit Corporation, the Corporation shall process and distribute surplus food owned or to be purchased by the Corporation under the food distribution and emergency shelter program in cooperation with the Federal Emergency Management Agency.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,339,000, to be deposited into the Consumer Information Center Fund: *Provided*, That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1988 shall not exceed $1,721,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1988 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,750,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $3,661,200,000, to remain available until September 30, 1989.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,085,300,000, to remain available until September 30, 1989, including not to exceed $30,000,000 for expendable launch vehicles which shall be available only for the purchase of two Delta II vehicles for the launch of the Roentgen satellite (ROSAT) and the Extreme Ultraviolet Explorer (EUVE).

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $169,700,000, to remain available until September 30, 1990: *Provided*, That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further*, That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further*, That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,563,000,000: *Provided*, That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1988, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided*, That administrative expenses of the Central Liquidity Facility in fiscal year 1988 shall not exceed $847,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,555,000,000, to remain available until September 30, 1989: *Provided*, That of the funds appropriated in this Act, $1,500,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further*, That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $88,000,000 shall be available for program development and management in fiscal year 1988: *Provided further*, That contracts may be entered into under the program development and management limitation in fiscal year 1988 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further*, That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further*, That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $143,000,000, to remain available until expended: *Provided*, That receipts for support services and materials provided to individuals for non-Federal activities may be credited to this appropriation: *Provided further*, That no funds in this account shall be used for the purchase of aircraft.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including award of graduate fellowships, services as authorized by 5 U.S.C. 3109, and rental of conference rooms in the District of Columbia, $145,000,000, to remain available until September 30, 1989: *Provided*, That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $19,500,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,520,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,334,287,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $625,700,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $14,290,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Administration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,320,808,000, plus reimbursements: *Provided,* That of the sum appropriated, $6,650,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That, during fiscal year 1988, jurisdictional average employment shall not exceed (1) 37,700 for administrative support and (2) 26,500 for engineering support.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1989, $208,766,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $49,848,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $816,100,000, including $554,545,000 for the Department of Veterans Benefits, $49,746,000 for the Department of Memorial Affairs and $211,809,000 for general administration: *Provided,* That, during fiscal year 1988, jurisdictional average employment shall not be less than (1) 12,915 for the Department of Veterans Benefits and (2) 1,219 for the Department of Memorial Affairs; *Provided further,* That none of the funds appropriated by this or any other Act shall be obligated to effect the closing of the St. Paul Insurance Center during the period beginning on the date of the enactment into law of this Act and ending on September 30, 1988: *Provided further,* That $26,700,000 of the sum appropriated is for contracts in amounts not less than $1,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Department of Veterans Benefits and shall remain available until September 30, 1989.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $406,921,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1988, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1988, and (2) by the awarding of a construction contract by September 30, 1989: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $121,038,000 to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $42,738,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $4,100,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009.

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $42,000,000, to remain available until September 30, 1990.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1989.

DIRECT LOAN REVOLVING FUND

During 1988, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans is authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $389,800,000, to remain available until expended.

During 1988, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions, payment of participation sales insufficiencies, and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided*, That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1988, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1988, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Not to exceed 5 per centum of any appropriation for 1988 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations, but not to exceed 10 per centum of the appropriations so augmented.

Appropriations available to the Veterans Administration for 1988 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Mr. BOLAND [during the reading]. Mr. Chairman, I ask unanimous consent that the remainder of title II be considered as read, printed in the RECORD, open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of title II?

If not, are there any amendments to title II?

The Clerk will read.

The Clerk read as follows:

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1988 for such corporation or agency except as hereinafter provided: *Provided*, That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $30,486,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided*, That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,619,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to section 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided*, That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

Are there any amendments to title III?

The Clerk will read.

The Clerk read as follows:

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the

Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811-1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

Mr. BOLAND (during the reading). Mr. Chairman, I ask unanimous consent that the portion of title IV through page 50, line 7, be considered as read, reprinted in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Are there any points of order against that portion of title IV?

Are there any amendments to that portion of title IV?

The Clerk will read.

The Clerk read as follows:

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

AMENDMENT OFFERED BY MR. FROST

Mr. FROST. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FROST: Page 50, after line 12, add the following new section:

SEC. 415. None of the funds appropriated by this Act or any other Act for any fiscal year shall be used for demolishing George Loving Place, at 3320 Rupert Street, Edgar Ward Place, at 3901 Holystone, or Elmer Scott Place, at 2600 Morris, in Dallas, Texas, Allen Parkway Village, 1600 Allen Parkway, Houston, Texas.

The CHAIRMAN. Pursuant to House Resolution 267, the amendment is not subject to amendment.

The gentleman from Texas [Mr. FROST] will be recognized for 15 minutes and a Member opposed will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Chairman, I yield myself 4 minutes for the purpose of debate.

Mr. Chairman, I rise in support of the Frost amendment to H.R. 2783, the HUD-independent agencies appropriations bill, and ask for unanimous consent to revise and extend my remarks.

The Frost amendment is very straightforward. It would prohibit the use of Federal funds to demolish more than 2,600 units of public housing in my congressional district in Dallas, TX, and 1,000 units of public housing in the district of my colleague, MICKEY LELAND, in Houston, TX.

I will discuss the facts of the Dallas situation and yield to my colleague from Houston, Mr. LELAND, to discuss the Houston situation.

Since its inception, the Reagan administration has followed an approach that is antagonistic to the very existence of public housing. In fiscal year 1981 a total of $24.951 billion was appropriated for public housing, with a major portion of this amount going toward the construction of 36,370 new low-income housing units. In fiscal year 1988, the subject of today's bill, only $7.5 billion is provided for public housing, and a maximum of 5,000 new units will be built. It is clear that the Reagan administration would totally eliminate all new starts for public housing if it could.

Worst still, the Reagan administration is pursuing a policy in both Dallas and Houston that would demolish a significant amount of the existing public housing available to the poor.

I'd like to give you a little history of the situation in Dallas. Several years ago, a law suit was filed seeking to desegregate public housing in Dallas. The suit alleged segregation in existing public housing and discrimination in the manner in which section 8 and other programs were being administered. The plaintiffs did not seek demolition of the west Dallas public housing units in their original suit, and none of the plaintiffs who brought the suit were residents of the west Dallas projects.

Meanwhile, the Dallas Housing Authority for years has been seeking Comprehensive Improvement Assistance Program [CIAP] funds to remodel the 3,500 units of public housing in the west Dallas portion of the 24th Congressional District that I represent. Prior to the filing of the lawsuit, HUD had committed $18 million for remodeling these public housing units but, over a period of years, began to back away from that commitment.

HUD then seized on the existence of the lawsuit to renege on its commitment to remodel the units and pursued another agenda—demolition of 2,654 of the 3,500 units. HUD pressured the local housing authority to seek a settlement of the entire discrimination lawsuit, with the focal point being the demolition of over 2,600 units of public housing in west Dallas. HUD told the Dallas Housing Authority that the only way it could obtain funds to remodel 900 of the units in west Dallas would be to agree to the demolition of the remaining 2,600, which represent one-third of the total public housing units in Dallas.

The local housing authority and the plaintiffs then agreed to HUD's terms, and a consent decree was entered into by a Federal district judge in Dallas incorporating the settlement. Tenants of the project have appealed the court order to the Fifth Circuit Court of Appeals. In despite of the appeal, HUD last Friday announced it was making available over $2 million to the Dallas Housing Authority to begin demolition.

You will be told by a member from the other side of the aisle that this is primarily a desegregation matter. The truth is that this is primarily a question of the availability of public housing for the poor. 900 of the tenants in the projects to be demolished will be offered section 8 certificates or housing vouchers, which are difficult to use and which have limited life. The units of public housing, on the other hand, will be destroyed forever.

If this were primarily a desegregation issue, why would leading civil rights leaders such as the Reverend Jesse Jackson and the local black elected leadership of Dallas be opposed to the demolition of the west Dallas projects. Jesse Jackson joined west Dallas tenants in a demonstration at the projects in July to oppose the demolition. Dallas' black State senator, Eddie Bernice Johnson, and Dallas' three black State representatives all joined me in a press conference last week opposing HUD's plans to demolish the projects.

HUD's repeated effort to deny adequate renovation funding is truly extraordinary considering the fact that the House, in June of 1986, passed an amendment authored by my colleague, Mr. BARTLETT, diverting $860 million in unobligated fiscal 1986 new construction funds specifically for the purpose of renovation. Now that the House has said that it wanted this money used for renovation rather than new construction, HUD has turned around and denied that very money to renovate the West Dallas projects and has used as a basis for demolition the unavailability of renovation funds.

My amendment is urgently needed because HUD has taken the position that it is entitled to release the CIAP funds for demolition even though an appeal is pending in the Fifth Circuit. J. Michael Dorsey, General Counsel of HUD, wrote me on September 18 that "HUD's view is that the claims brought by the Concerned Citizens to Save West Dallas are deficient both procedurally and substantially and the Department is opposing them. HUD expects its position to be sustained by the Court. Accordingly, it is entirely appropriate for HUD to process the DHA's CIAP application without regard to those claims." Clearly, HUD doesn't care what the residents of the area think and is proceeding as if the appeal were not even taking place.

What we have is a cynical action by the Reagan administration to eliminate one-third of the public housing units in Dallas at a time when the problem of the homeless is increasing and at a time when there is an increasing number of poor people in the seventh largest city in the United States.

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The CHAIRMAN. The gentleman from Texas [Mr. BARTLETT] is recognized in opposition to the amendment.

Mr. BARTLETT. Mr. Chairman, as I understand it, I am recognized for 15 minutes and I may yield time to other Members during that 15 minutes?

The CHAIRMAN. The gentleman is correct.

Mr. BARTLETT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I want to bring this House back in this 1 minute to a review of some of the facts. The amendment has a great deal of emotional and surface appeal, but I want to remind the House of some things that have come out in earlier debate.

First of all, this amendment negates Federal law that applies to the rest of the country. That is both current Federal law and Federal law in H.R. 4, the housing bill that was considered formally by the Banking Committee, and on several formal votes the Banking Committee decided, as in current Federal law, to extend in Federal law the provision for a 1-for-1 replacement of substandard and dilapidated Federal housing.

Second, this court order in Dallas does provide for a 1-for-1 replacement of 2,650 substandard units to replace those with standard units that are up to standard with a guarantee and a requirement that all of those certificates and vouchers be used.

Third, this is a combination plan. The court order in Dallas provides for the renovation of 820 units at that location. So it is a combination.

Mr. FROST. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. LELAND].

Mr. LELAND. Mr. Chairman, I want to thank the gentleman from Dallas, TX, Mr. FROST, for his forthright leadership in this matter, and I want to challenge the gentleman from Dallas, TX, Mr. BARTLETT, for what he said. I am emotional about the matter before us today, because what is happening in my district is that people are going to be uprooted with no place to go. There is no defined plan to send people away, to put them in some proposed housing. We have not seen any kind of hard facts about some alternative sites for the folks in my district to be moved to.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Texas [Mr. FROST] to H.R. 2783. As an original cosponsor of the Urgent Relief for the Homeless Act and as chairman of the Select Committee on Hunger, I find it particularly ironic that Federal money may be used to destroy desperately needed housing in my district.

HUD must not be allowed to demolish Houston's Allen Parkway Village, for such an action makes absolutely no sense. Houston's Housing Authority says there are 5,000 to 6,000 people on the waiting list for public housing. This has been going on for years, I might add. Others say the number is as high as 10,000 or 20,000. That is a 5-year or 6-year wait for housing.

I see no rationale for spending scarce housing money to demolish 1,000 units of public housing, especially considering the circumstances surrounding Allen Parkway Village.

Mr. Chairman, let me tell the Members what the facts are. The fact of the matter is that this is the oldest black community in the city of Houston. Freedom's Town was where black freed slaves at one time settled. They were then removed at a time when white people moved into the middle of the city of Houston and removed them from the community. Then they came back again, reestablishing themselves, and because the demographics changed, all of a sudden there was a white flight from the inner city. But now because the real estate is so valuable and it exists in the middle of downtown Houston, all of a sudden there is proposed a reentry of that white flight back from the suburbs because of the transportation problems in the city of Houston and because people want to move into the near proximity of working in those highrise buildings there, the people who are the professionals and business people of our community. Yet they have no proposed plan that has some compassion for those poor suffering people in the Fourth Ward of the city of Houston.

Aside from that, Mr. Chairman, in addition to that history, the fact of the matter is that my colleague, the gentleman from Texas [Mr. DELAY], earlier suggested that he had been in Allen Parkway Village about 5 years ago to see if he could get some kind of termite contract to clean out the termites there. I have been in and out of Allen Parkway Village over the last few years talking to people about their very livelihoods, about their families, and about their community. Allen Parkway Village is the heart of the Fourth Ward in the city of Houston. If we destroy Allen Parkway Village, we would destroy a whole community, a whole neighborhood, and, yes, even a history.

Mr. Chairman, I rise in support of Representative FROST's amendment to H.R. 2783. As an original cosponsor of the Urgent Relief for the Homeless Act and chairman of the House Select Committee on Hunger, I find it particularly ironic that Federal money may be used to destroy desperately needed housing in my district.

HUD must not be allowed to demolish Houston's Allen Parkway Village, for such an action makes no sense. Houston's Housing Authority says there are 5,000 to 6,000 people on the waiting list for public housing. Others say the number is as high as 10,000 or 20,000. That is a 5- or 6-year wait for housing.

I see no rationale for spending scarce housing money to demolish 1,000 units of public housing, especially considering the circumstances surrounding Allen Parkway Village.

HUD wants to tear down the project and rip the heart out of the poor, predominantly black fourth ward. The history of Allen Parkway goes back more than 45 years. Hundreds of families in the area lost their homes when the 37-acre site was being developed. Then, in 1942, an all-white project opened. Eventually, the demographics of Allen Parkway came to match those of the community.

HUD and the city's housing authority have promised to relocate the displaced persons and set up 1,000 units of public housing elsewhere in the city, but their plan is, at best, ill-defined, and at worst, undefined.

Because of the proximity to Houston's downtown business district, HUD and the housing authority believe the land can be sold to private developers. You cannot uproot these people just because the land they sit on has suddenly become valuable. These people are not nomads—their ties to this community are long and deep.

Publicly, HUD and the housing authority have put plans to tear down Allen Parkway on hold pending the outcome of litigation and further congressional hearings. But in fact, they are de facto shutting the project down. As tenants move out, their apartments are boarded up, gas and electrical meters pulled out and water lines disconnected.

HUD's plan is not well thought out. Not one official has ever said the buildings at Allen Parkway are not structurally sound. Those in favor of demolishing the buildings say such largescale public housing projects are no longer desirable. Well, I can appreciate that view, and in a perfect world we might have alternatives, but we do not have the luxury of unlimited public moneys. It would be criminal to spend this money to destroy rather than to save. Precious housing funds should be used to renovate, not tear down, Allen Parkway Village.

THE NEED TO PRESERVE ALLEN PARKWAY VILLAGE

Allen Parkway Village, a public housing project built in the 1940's, consists of 1,000 units of low-income housing in 80 buildings and is located between Houston, downtown and the mostly black fourth ward.

The proposal to demolish Allen Parkway Village is fueled by the Reagan administration's disdain for building and renovating public housing projects and the desire of some to build private developments close to the downtown business district.

Ignoring Federal codes, the housing authority of the city of Houston [HACH] has not made every effort to retain the housing units at Allen Parkway. Instead, HACH has inflated the cost of rehabilitating the project and left hundreds of units vacant, letting the waiting list for Allen Parkway grow, rather than placing low-income people in the available housing. This deliberate decision was made by HACH to make it easier to facilitate the closing of the project and keep relocation costs down.

The city says it is committed to replacing the 1,000 apartment units that would be lost if Allen Parkway is demolished, yet this goal is unrealistic considering the strong opposition of some groups to the building of projects in their neighborhoods.

Allen Parkway Village should not be closed. It is a structurally sound, well-located development capable of being rehabilitated.

FACTS ON ALLEN PARKWAY VILLAGE

Allen Parkway was opened in 1942.

There are 1,000 units on 37 acres in 80 buildings; 95 units have been lost to consolidation. Approximately 180 of the 905 available units are occupied.

Over 3,000 families on waiting list for public housing.

Housing authority says that the units have sustained too much infrastructure deterioration and interior and exterior blight to be repaired at an affordable price.

HUD is considering the housing authority's application for community improvement assistance [CIAP] funds to demolish the units.

According to the Banking Subcommittee Chairman, HENRY B. GONZALEZ, there is $8.5 million available for modernization which is not being used.

Housing authority application to demolish buildings on hold pending further hearing by GONZALEZ committee.

Housing authority says all displaced occupants will be relocated, but hasn't indicated where or how. "Trust us" they say.

City has promised to produce 1,000 units of housing elsewhere in the city but no one knows where, when, or how.

The housing authority says 2,000 additional units can be built with the money generated by the sale of the property. No guarantees.

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio [Mr. WYLIE], who is the ranking Republican on the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Chairman, I rise in strong opposition to the Frost amendment, which would prohibit HUD from using Federal funds to demolish certain public housing units in Dallas and Houston, TX. I must say there is a considerable amount of confusion over this issue.

Early on we were presented with editorials from the New York Times saying, "Dallas Now Tries Real Desegregation." There was an article from a Dallas newspaper which said, "Dallas Authority OK's Settlement of Bias Suit" and "Project Residents Would Welcome a Chance To Move." All of this, may I say, was put in the RECORD when we had hearings on this issue.

Mr. Chairman, although this amendment is primarily geared to a public housing demolition issue in Dallas, the ramifications have very broad public policy implications.

Specifically, this broader issue of public housing demolition and disposition has been addressed in H.R. 4, the housing authorization bill presently in conference. As my colleagues know only too well, H.R. 4 in large part was carried over from the last Congress' ill-fated attempt to pass H.R. 1. In both bills efforts spent by the Banking Committee and the House of Representatives in crafting housing legislation took a considerable period of time. The provision in H.R. 4 which addresses the demolition and disposition issue was the subject of several hearings and a series of perfecting amendments adopted during the markup process. The issue was addressed during regular procedure by the authorizing committee.

In view of the time and energy that went into the H.R. 4 provision, which was finally crafted on a bipartisan basis, I would hope that this amendment which contradicts the policy set forth in this year's housing authorization bill would be defeated. Moreover, the Frost amendment, if accepted, will also disrupt the desegregation plan and agreement entered into in settlement of a lawsuit filed by a group of minority low-income tenants against the Dallas Housing Authority. In my view, it would be wrong for us to here, in effect, overrule that settlement—the work of our committee and the will of this body as expressed on previous occasions.

Mr. Chairman, in summary, H.R. 4 incorporates a carefully balanced bipartisan compromise which assures that the interests and rights of public housing residents are protected. This amendment would upset this balance that was so carefully crafted by the committee of jurisdiction.

I urge a "No" vote on the Frost amendment.

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the ranking member of the Subcommittee on Housing and Community Development, the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I rise reluctantly in opposition to the amendment offered by the gentleman from Texas [Mr. FROST]. I understand how heavily this impacts on his district, but although I rise reluctantly, I am nevertheless firm in my opposition. I just do not think this is a good idea.

Mr. Chairman, there are several reasons why the amendment offered by the gentleman from Texas [Mr. FROST] is not a good idea.

First, this is clearly a legislative matter which ought not to be addressed in an appropriations bill. This is an issue which should properly be addressed, and is being addressed, in the authorization bill, which is now in conference. It is highly inappropriate for the matter to be resolved in the context of this bill before us today.

Demolition and disposition of public housing units is a contentious matter and one with which the Banking Committee has grappled for some time. This was considered by our committee during several hearings and was the subject of several amendments throughout our committee's markup. The bill provides replacement with new units or section 8 subsidies.

Not only is this a complex agreement on the broader issue of demolition and disposition which has been worked out in the Banking Committee on a bipartisan basis, but there is also a complex agreement which has been worked out in the specific situation in Dallas which would be upset by this amendment.

This issue in Dallas originally arose out of a segregation suit and culminated earlier this year in a consent decree agreed to by the plaintiffs, HUD, the PHA, and the city currently under appeal. After all that, it would be outrageous for the Congress to step in at this late date and upset the apple cart.

In closing, I would also like to point out that any tenants who might be displaced by this demolition would be offered a choice: The tenant could take one of the vacant public housing units now available, a section 8 certificate, or a housing voucher. This is part of the agreement worked out in conjunction with the consent decree and which would be undone by this amendment.

This is legislation on an appropriation bill, it contradicts provisions in the authorization bill, H.R. 4, and it upsets a complex agreement reached by the local parties involved. The amendment should be defeated and I urge my colleagues to vote against it.

Mr. FROST. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, to cut through the tangle here, what the status quo will be in the event we do not adopt the Frost amendment is very simple. This amendment will result in the tearing down of one-third of the public housing in Dallas, TX. There will be 2,654 units of government property that will be torn down.

Are they in bad shape? The gentleman from Texas [Mr. BARTLETT] has brought in pictures to show how bad a shape they are in. Sure, they are in bad shape because HUD will not give us the money to put them in good shape. But how bad a shape are they really in? Well, they must not be in really bad shape because about 3 weeks ago the Dallas Housing Authority moved 23 families into some of the apartments that are scheduled to be torn down.

What are they going to give back to the public instead of the public housing that stands there now? What they say is that they are going to give us certificates and vouchers. The fact of the matter is that these have very little more value than the good will of the prospective landlords who can easily opt out of these programs, as everyone knows, and besides that, in Dallas, TX, what we have available to be purchased or to be rented with these vouchers are one-bedroom and two-bedroom efficiencies, when what our tenants need are three-bedroom and four-bedroom units.

This is just another step toward the elimination of public housing in America. The issue here is very, very clear. If we are opposed to public housing, if we want to continue gradually tearing down public housing in this country, then we can stick with the proponents of the position taken by the gentleman from Texas [Mr. BARTLETT].

But if we want to stop the destruction of more public housing and leave available to the citizens of our communities and the citizens of Houston and stop this trend, then we should vote for the Frost amendment.

Mr. Chairman, I urge the House to support the Frost amendment.

□ 1530

Mr. BARTLETT. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY], a member of the Committee on Appropriations.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding me this time.

The gentleman from Texas who previously spoke said, "Leave it to the citizens of Houston and Dallas."

In Houston, the city of Houston wants this plan, the housing authority of the city of Houston voted unanimously for this proposal; and my colleague and neighbor in Houston also claimed that there is no plan.

Well, the gentleman wants to circumvent it by any plan by the imposition of this particular amendment, because we do have a proposal submitted to HUD by the Houston Housing Authority. In the proposal it calls for at least equal replacement of units.

As I explained earlier in this debate, we can provide 2,004 more units which is a doubling of the amount of units that are presently there, and one-half of those that are not even occupied, so the gentleman is saying that we have these huge waiting lists in Houston. The gentleman is absolutely right, waiting for housing.

We have a proposal before us in Houston that would be circumvented by this particular amendment to provide and double the amount of units available for these waiting lists. I have already outlined how we could propose to double the amount of housing.

I also might say that in the proposal, or in the talking stage at least, there are landlords in the area, so we do not have to uproot these people, in the area that are putting together a package to sell to the housing authority to build a new project, a brandnew project.

What this amendment does is say, people, you have got to live in 1940 construction. You have got to sit there whether you like it or not. You are not given the choice of taking a voucher, section 8 housing, and going out and living somewhere else if you choose; and you do not have the choice to look at the new project that is twice the size of the present project, and brand new with modern conveniences, and you will not have the choice either to move in that kind of project. This is what this amendment is all about.

It is supported by the Houston Housing Authority, by the city of Houston, the city of Houston government and the politicians of the city of Houston. I do not say all politicians in the city of Houston, but we are not even to the point of having this approved by HUD.

This is just a proposal; and what we are saying is, proposal or not, objective plan or not, we are going to stop it right now and cause these people to live in 1940 housing.

Mr. FROST. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Illinois [Mr. Hayes].

Mr. HAYES of Illinois. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise today to add a Chicago perspective to this housing debate. The support of the Frost amendment is based the on fact that like much of the rest of the country, Chicago needs more housing. We need more public housing, more subsidized public housing, and more housing for low- and moderate-income people. With the exception of Puerto Rico and one congressional district in New York, I have more public housing units in my district than in most cities. Chicago has all the problems of homelessness and poverty of other large American cities, and what we really need is a sincere Federal commitment to insure decent housing for our Nation's citizens.

There is no doubt that I must oppose the Bartlett amendment, which would tear the heart out of this housing appropriation. The Bartlett amendment would reduce new public housing construction by $136 million, section 8 certificates by over $100 million, HODAG grants by $99 million, UDAGS by $75 million, and emergency food and shelter programs by $26 million. This may be the kind of proposal that scores political points with those who want generic financial reductions in our Nation's spending programs or huge profits for those who want to acquire and develop the land, but it means pain and suffering for American families that need this kind of assistance. It may be what the other body wants to support, but I am not convinced that the other body is any more representative or any more financial responsible than this body.

We are the people's Representatives. We were not sent here to be rubberstamps for either the administration or the Senate. We are to write, pass, and enact legislation for the people of this country. The Bartlett amendment will offer fewer Americans—your constituents and mine—the opportunity for decent, affordable housing and I urge my colleagues to reject it.

Mr. BARTLETT. Mr. Chairman, I yield myself 4 minutes, and reserve 1 additional minute.

Mr. Chairman, we have a debate of several different kinds, and it has been a bit disjointed.

Let me read into the Record for the Members what others would say about the Frost amendment and about the desegregation plan, including 1-for-1 replacement now adopted by the city of Dallas that the Frost amendment would eliminate.

From the National Association of Housing and Redevelopment Officials, a letter dated today, September 22, 1987, to the Honorable Edward P. Boland.

> We urge you to oppose a floor amendment by Representative Frost to the HUD appropriations bill, H.R. 2783 * * *.

Second, from the New York Times editorial of May 14, 1987, headline, "Dallas Tries Real Desegregation":

> Now, under an unusual three-way agreement, most residents are to be integrated into suburban apartment complexes and most of the project is to be torn down.
>
> Why demolish public housing when accommodations for the poor are in short supply? In this case, demolition is probably the best response.

They go on to quote from the attorney for the plaintiffs in the West Dallas lawsuit, "The mere fact that you have bricks and mortar together does not mean you have usable public housing." West Dallas would seem to illustrate that persuasively. The scattered operator-site plan offers an opportunity to show Dallas, and perhaps the Nation, a better way.

Another quote from the editorials of Housing Settlement, "This could help needy tenants move up and out."

"It's time to get low-income tenants out of dilapidated public housing ghettos and into better alternatives."

From the Dallas Times-Herald, October 2, 1986, some housing answers:

> It will be a win-win situation for tenants in need of rental assistance and for the community at large * * *.

Now, some quotes from the residents themselves.

Mr. Chairman, said one, on May 17, 1987, "It's so quiet here. I haven't heard a gunshot since we moved in." That is from a former west Dallas resident who was able to move to a suburb because of the desegregation plan.

Same date, from a former west Dallas resident, "I could sit on the porch and watch the money and drugs being transferred. I called the police and it never seemed to make any difference."

From another west Dallas resident, October 1, 1986:

> It would be a godsend if they gave us something that would allow us to find somewhere nice to live. It's too violent for my two children here. People are dangerous. They have no respect for the young or old.

From a west Dallas resident, October 1, 1986:

> * * * here the children get nothing but bad examples from the community. Cars go speeding through here and little kids bust bottles against the walls. Children need a better environment so they'll go to school.

From a west Dallas mother of four, "Maybe I would strive a little harder if I was out of this neighborhood." That was from the Dallas Morning News, January 10, 1987.

Also, the attendant counselor working with section 8 public housing tenants, unable to find a decent place to live under the conditions the Frost amendment would send us back to.

Another was living in Roseland Homes when the lawsuit was filed, but prior to that time she was living in her car with her three children under the age of 10, because she refused to take an offer to live in the west Dallas project.

If we pass the Frost amendment, we send people back to dilapidated, substandard conditions and to segregated conditions.

Some other section 8 tenants, in some cases their refusal meant they had to forgo any assistance. There is some emotion involved in this debate.

A couple of facts stand out, and I recall the gentleman from Texas, whom I respect a great deal, but the gentleman needs to understand that there is a plan that has been adopted in Dallas, adopted by the Federal court, the Dallas City Council, by the plaintiffs themselves, by HUD and under Federal law.

There has been a plan proposed in Houston. Both plans would fit under Federal law that requires a 1-for-1 replacement.

In Dallas we do more than a 1-for-1 replacement. We guarantee decent, safe and sanitary housing that the Frost amendment cannot provide, much less guarantee.

Mr. FROST. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Gonzalez].

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding me this time.

I rise in strong support of the Frost-Leland amendment.

As chairman of the Housing Subcommittee, I have taken the subcommittee to both sites. I want to impress upon the Members that we are talking about a local-impact amendment impacting the districts of the respective Members, the gentlemen from Texas [Mr. Frost and Mr. Leland] and no other Member; and if anybody knows the situation, it should be the gentlemen from Texas.

I have been on the site twice within 2 years. The last time, 6½ months ago, I went in an individual capacity. I went into the project and talked to the present tenants, and this issue is a very important issue, and I urge the strong support of this amendment.

I am compelled to say that I am shocked at the misrepresentations offered here with respect to H.R. 4 and the attempt to try to portray it as having been a bipartisan effort in the House. There was never any such thing.

One of the reasons was the determined opposition of the Reagan administration to any kind of comprehensive housing authorization.

My experience with the Members on the right, but from Texas and out, is the same old story of Dorothy Parker's little rhyme:

Higgledy piggledy, my little white hen,
She lays eggs only for the gentlemen.
I can't persuade her with pistol or lariat,

To come across with the proletariat.

Mrs. **ROUKEMA**. Mr. Chairman, will the gentleman yield?

Mr. **GONZALEZ**. I yield to the gentlewoman from New Jersey.

Mrs. **ROUKEMA**. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman may have been alluding to my reference to the bipartisan support in the committee for the consensus that we reached on the subject of replacement——

Mr. **GONZALEZ**. I was alluding to the statement of the gentleman from Ohio [Mr. WYLIE] that the House had acted bipartisanly.

Mrs. **ROUKEMA**. There has been no misrepresentation as to what H.R. 4 says on demolition. It has been a contentious subject.

The **CHAIRMAN**. The gentleman from Texas [Mr. BARTLETT] has 1 minute remaining.

Mr. **BARTLETT**. Mr. Chairman, I yield myself my 1 remaining minute.

It has been far too contentious a debate and not a debate that should ever have occurred on this House floor. It isolates two cities, separates them from Federal law which is national policy, and would make special rules for those two districts.

I would comment on the argument that these projects reside in a Member's congressional district. That does not mean that the people belong to that Member or that Representative.

In many of these cases, the residents of west Dallas are voting, and voting with their feet, because they are voting for the opportunity to live where they want to live, and under the current plan they are given that opportunity.

Under a resegregation, they cannot. The issue is one of better life for those residents of public housing and assisted housing in Dallas and Houston, giving them the chance to improve their standard of living, to live in an area with a lower crime rate, better education.

It is an issue of a freedom of choice, allow low-income tenants the right to live where they want to. Under this plan, no person can be forced to move out of west Dallas, unless they want to, but they can live where they want to.

It is a desegregation amendment. A vote for the Frost amendment would be a vote for resegregation.

The **CHAIRMAN**. The gentleman from Texas [Mr. FROST] has 1½ minutes remaining.

Mr. **FROST**. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, as to why this amendment is necessary today, it is necessary because of the arrogance of the Department of Housing and Urban Development.

I wrote them and asked them not to release the demolition funds pending the appeal by the tenants.

They wrote me back saying they were going to release those funds, saying they do not think the tenants have a case, and they are sending those funds within the next 2 weeks to the Dallas Housing Authority to demolish those units.

□ 1545

This must be voted on today. It has the unanimous support of the black elected officials of my district, of the 24th District.

Mr. Chairman, this is not a resegregation matter. This is a matter of availability of public housing. If this amendment is not approved, all these people will have will be pieces of paper, vouchers which cannot be used in many cases for more than 1 year and which expire in 5 years.

Mr. Chairman, this will save public housing in both Dallas and Houston and reverse what the Reagan administration has been trying to accomplish.

It is no accident that all the opponents to my amendment are on that side of the aisle, and all the proponents of the amendment are on this side of the aisle.

Mr. Chairman, I yield back the balance of my time.

The **CHAIRMAN**. The question is on the amendment offered by the gentleman from Texas [Mr. FROST].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. **BARTLETT**. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 239, noes 175, not voting 20, as follows:

[Roll No. 324]

AYES—239

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Bevill
Bilbray
Bliley
Boggs
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Conyers
Cooper
Coyne
Crockett
Darden
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOES—175

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bilirakis
Boehlert
Boland
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Duncan
Edwards (OK)
Emerson
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hughes
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kostmayer
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge

Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schneider
Schuette
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOT VOTING—20

Biaggi
Boner (TN)
Brown (CA)
Collins
Craig
de la Garza
Dornan (CA)
Ford (TN)
Garcia
Gephardt
Guarini
Kemp
Latta
Livingston
McCurdy
Roemer
Schulze
Spence
Tauzin
Wilson

☐ 1600

The Clerk announced the following pairs:

On this vote:

Mrs. Collins for, with Mr. Craig against.

Mr. Guarini for, with Mr. Schulze against.

Mr. HANSEN and Mr. HUGHES changed their votes from "aye" to "no."

Mr. FRANK and Mr. ANNUNZIO changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. DICKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask the gentleman from Massachusetts [Mr. Boland], the distinguished chairman of HUD-Independent Agencies Subcommittee, to engage in a colloquy.

Mr. Chairman, it is my understanding that the Puget Sound Water Quality Authority shares the same objective as the management conferences required under the Clean Water Act Amendments of 1987 and is nearly identical in its responsibilities and activities to these conferences.

In light of these similarities and because of the progress that has already been made in the planning process, would the chairman agree that requiring the creation of a separate, parallel "management conference" would be counterproductive and duplicative in this particular situation?

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Massachusetts.

Mr. BOLAND. Yes, I believe the Puget Sound Water Quality Authority's management plan is a fine example of State initiative, and the EPA Administrator should make every effort to accommodate and support the Authority's activities.

Mr. DICKS. Mr. Chairman, with regard to the additional funds provided for State water quality grants, I understand that these funds can be used for addressing nonpoint sources of pollution. Is it correct to assume that these funds can be used by State and local governments to carry out nonpoint source planning and implementation functions, such as the nonpoint element of the 1987 Puget Sound Water Quality Management plan?

Mr. BOLAND. Yes, we intend nonpoint source planning and controls to be eligible activities under section 106 State grants.

Mr. DICKS. Mr. Chairman, I appreciate the chairman engaging in this colloquy.

I want to commend the gentleman for his work in this important activity and for the leadership he has shown not only in the State of Washington but all over the country on this important issue.

Mr. BOLAND. Mr. Chairman, I thank the gentleman from Washington.

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Smith of New Jersey: Page 50, after line 12, insert the following new section:

Sec. 415. Amounts otherwise appropriated by this Act shall be adjusted by reducing the amount for salaries and expenses for the management and administration of the Department of Housing and Urban Development to $693,321,000 and by increasing the amount for contracts with the payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978 to $10,000,000.

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, this amendment that I am offering to H.R. 2783 will shift $5.6 million from the management and administration account to the Congregate Housing Services Program. The Congregate Housing Services Program was created in 1978 to provide certain elderly and handicapped individuals living in federally assisted housing units non-medical on-site services. The intent of the law is to maximize the quality of life for these individuals and to prevent or at least mitigate the institutionalization of our elderly. The services provided through the CHSP program include meals, housekeeping services, personal care assistance, onsite social service, and transportation.

Mr. Chairman, H.R. 2783 provides only $4.4 million for CHSP and is therefore substantially below the $13 million authorization level as passed by this House in the housing bill, H.R. 4. As a matter of fact, it constitutes only a third of the House approved level.

The case for modestly increasing funds for this program, Mr. Chairman, is compelling and was recently given further impetus by a draft report issued by the Subcommittee on Housing and Consumer Interests of the Select Committee on Aging.

The gentleman from Washington [Mr. Bonker], chairman of the Subcommittee on Housing and Consumer Interests, also supports my amendment, and points out in the report that the CHSP and similar programs, "have been effective in preventing unnecessary institutionalizations" and that the CHSP has substantial positive effects on the life satisfaction and general sense of well being of the elderly. The report also points out that CHSP is a cost effective alternative to institutional care.

Mr. Chairman, I would point out to my colleagues in the House that the money that would be shifted under my amendment from management and administration still leaves a sizable increase over the administration request as well as the 1987 appropriation. This amendment still provides for an increase in the HUD administration account of $43 million over the budget request and $46 million over the 1987 appropriation.

☐ 1615

This increase will provide another 183 full-time equivalents or staff years at HUD beyond the 1987 levels and 1,100 above the request that was made by the administration.

Finally, Mr. Chairman, this amendment is strongly endorsed by the following groups: American Association of Retired Persons, AARP, American Association of Homes for the Aging, the National Council on Senior Citizens and the National Council on the Aging.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Let me indicate to the gentleman from New Jersey that he made a pretty good end run on this particular amendment. He offered this amendment earlier when we were in the HUD section of the bill and I raised a point of order, which was sustained by the Chair. He comes back now with an amendment that I believe also would be subject to a point of order that would be sustained by the Chair—in my judgment—but the din was so loud in the hall of the House of Representatives that I did not catch it. So I did not rise in time to make a point of order against the amendment.

But, Mr. Chairman, what he does is reduce the salaries and expense account in the Department of Housing and Urban Development by $5.6 million and provides that $5.6 million as an add-on to the $4.4 million the committee has already recommended for congregate services for elderly housing projects throughout the United States.

This committee is not a neophyte in this particular area. As a matter of fact, we have supported congregate services for the last 9 years. There was no request by the administration for this in 1988. There was no request last year for it. There was no request the year before for the program. But this committee has constantly and consistently supported congregate services.

We have appropriated $34 million in past years for the program. There was no request made this year. We added $4.4 million for the program. He asks that we add $5.6 million more.

I think the committee has acted wisely in this particular area and I would hope that the committee would sustain the actions of the subcommittee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum. The Chair will count all Members present.

A quorum is present.

The gentleman from New Jersey asks for a recorded vote.

Those Members in favor of taking this vote by recorded means will stand and remain standing.

A recorded vote was refused.

Mr. SMITH of New Jersey. Mr. Chairman, do I understand there is a quorum present?

The CHAIRMAN. There is a quorum present.

A recorded vote is not ordered, an insufficient number having arisen.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 50, after line 12, insert the following new section:

SEC. 415. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available under law, except for amounts appropriated or otherwise made available for the Veterans' Administration, shall be reduced by 2.86 percent.

Mr. CRANE. Mr. Chairman, I would like to congratulate the bipartisan appropriations task force for having done an outstanding job of offering amendments designed to hold the line on spending in this session of Congress. While I am not a member of this task force, I did have the pleasure of working with its members on a number of occasions earlier this year.

I am offering an amendment to freeze the appropriations for the Department of Housing and Urban Development-independent agencies for fiscal year 1988 at the 1987 level. This will save taxpayers $882 million by eliminating the committee's funding increase of 2.86 percent for all discretionary programs except the Veterans' Administration. I have exempted the Veterans' Administration from my amendment because the care of our veterans is of paramount importance. This is a reasonable amendment which does not seriously harm any program since it merely reduces the rate of increase for these agencies. Thus, my amendment is one step in the direction of getting our spending under control and eventually balancing the budget.

The adverse effects of the deficit on our economy are well documented. But we have not made sufficient progress toward reaching the original Gramm-Rudman target for fiscal year 1988 of $108 billion. In fact, it seems that this Congress will now abandon this target and set a new, higher target of $144 billion for fiscal year 1988. It is a moral outrage that Members of this body do not have the political will to stand behind its earlier promise to reduce the deficit to $108 billion in fiscal year 1988. The American people certainly have a right to be upset with their elected officials.

But my criticism of Gramm-Rudman goes much deeper than simply its new deficit target. This measure threatens the security of our Nation by exempting approximately 55 percent of the budget from its sequester. Thus, defense spending is constantly placed in jeopardy by improperly narrowing the battle over spending priorities. The measure also increases the incentives that today cause most budgetary decisions to be put off until the last minute. Finally, Gramm-Rudman is a clear abdication of congressional responsibility since it leaves to an automatic mechanism decisions which are more properly made by our elected representatives.

I believe that the most honest approach to lowering the deficit is a budget freeze. According to Citizens for a Sound Economy, if Congress just didn't increase spending, the budget would come quickly into balance. For instance, assume Congress enacted a budget freeze so that spending in 1988 would be no greater than the 1987 level of $1.015 trillion. As part of a compromise, the higher taxes already built into the law could go into effect, which means revenues would total $910 billion in 1988. Therefore, the deficit for 1988 would be $105 billion, meeting the original Gramm-Rudman target without raising taxes more than they already are scheduled to increase. Holding the budget constant in 1989 and 1990 would result in a budget surplus in just 3 years—all without increasing taxes.

My amendment fits into this strategy and does not take a great toll on any programs contained in this bill. The Environmental Protection Agency will still receive an increase of 24 percent. The Federal Emergency Management Agency will also still get a large increase of 19 percent. The National Science Foundation will get an increase of 10.6 percent. The programs of the Department of Housing and Urban Development will suffer a small reduction in funding of around 3 percent, but none of its programs will be eliminated. I am certain that the capable managers at HUD can easily make up this slight reduction in funding by improving the productivity of its employees.

In conclusion, my amendment will preserve the committee's sense of priority with respect to the function of this bill. I am only asking that all agencies in this bill shoulder a small burden to help us cut spending and eventually balance the budget. I urge my colleagues to do the right thing and support this amendment and thereby show the American people that we are willing to get spending under control.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, when I first looked this bill over I felt myself that it was too expensive but I had no amendment that I could recommend to the House, because we are trying to work out a new baseline as a result of the debt extension conference agreement. And I really did not know how to compare this bill with anything. I guess I do know, however, Mr. Chairman, that if it had been reduced by its managers to meet the current 302(b) limitation, it is obviously going to be well over where we are going to be when we have to do the sequester. So it needs extra work, it needs to have more removed from it and I must say that I believe that the amendment of my good friend from Illinois [Mr. CRANE] is the sensible one.

He exempts veterans' programs, which is about half the bill, I understand. This bill as I understand it started $1.9 billion over last year. With the chairman's amendment it was somewhere around $1.2 billion I believe. This amendment would take it down to $0.4, $400 million more than last year. That is still a fairly large number of extra dollars to be appropriating. I believe that the gentleman from Illinois has given us a chance to apply some fiscal sobriety to the actions of this House.

Mr. Chairman, I support the amendment. I hope others will.

I yield back the balance of my time.

Mr. BOLAND. Mr. Chairman, I rise in opposition to the amendment.

Incidentally, in response to the gentleman from Minnesota this bill, the $1.9 billion figure which is shown in the table in the report—and that is where I am sure my friend from Minnesota picked that figure up—was correct when this bill was reported on June 25, 1987. However, that 1987 column did not include the amounts provided in the 1987 supplemental appropriations bill, because that bill had not been enacted. The 1987 Supplemental Appropriations Act was signed into law July 11, 1987. When those amounts are included, the 1988 HUD bill is $1.2 billion above the 1987 appropriations bill, just as the gentleman from Illinois [Mr. Crane] stated.

And as the gentleman from Illinois has stated, his amendment exempts the VA. That, of course, is a large exemption, something like $700 million of the increase above 1987. But his amendment does not exempt a number of other programs that this committee has funded.

Now let me say that the effort to get to the 302(b) allocation in budget authority and the heroic effort to get to the 302(b) allocation in outlays is something that this committee had to struggle with.

☐ 1630

We will have a larger struggle, I would suppose, when we get over to the Senate.

Let me also say that if Gramm-Rudman is amended, whatever sequestiations are occasioned by Gramm-Rudman will be added to the reductions that would be made here if we accept the amendment offered by the gentleman from Illinois [Mr. Crane].

Mr. Chairman, let me run down some of the figures and some of the agencies that will be affected by this 2.86-percent cut. It would reduce housing for the elderly and the handicapped by about 315 units. That is not very many units, I guess, when we consider the fact that the administration only requested 2,000 units. We added another 8,000 units in the bill that was reported in July, and then another thousand units in the committee's floor amendment today.

In the EPA construction grant program, the reduction would amount to about $64 million, and the amendment would cut Superfund by $35 million.

The amendment would reduce the community block grant program by about $86 million, and the amendment offered by the gentleman from Illinois would reduce NASA by $271 million. If there is one agency that cannot afford a cut at this particular time, it is NASA. That would seriously impact the NASA programs.

For the National Science Foundation, it would reduce the National Science Foundation by $51 million. We have already reduced the National Science Foundation by $100 million.

The amendment would cut the HUD assisted housing program by $223 million, and which would equate to about 2,200 units.

The amendment would also cut $42 million from the public housing operating subsidy program.

Mr. Chairman, that is the sum and substance of it. We think this committee has done a good job in bringing to the floor the kind of a bill that most Members can sustain. I would hope, Mr. Chairman, that we would reject the amendment offered by my friend, the gentleman from Illinois [Mr. Crane].

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would simply like to emphasize one point in addition to the remarks made by the subcommittee chairman, and that is that Members should understand that this amendment makes some significant cuts in some important areas where the President is asking for an increase. Of particular concern is the future of our country in science. I would point particularly to NASA.

This 2.86 percent sounds like a little bit of a cut, but NASA is a big enterprise, and what the gentleman is doing is cutting over a quarter of a billion dollars from the NASA budget. That means that the gentleman is leaving the NASA budget below the President's request.

Again the President this year is asking for a significant increase in the National Science Foundation, with a view toward doubling the appropriation for the National Science Foundation over a 5-year period. The President thinks that that is an important thing to do for the future well-being of this country in terms of maintaining our competitiveness as a Nation.

Unfortunately, we were not able to do the whole thing that the President wanted, but we came a good part of the way. With the result of the Crane amendment, if it is adopted, we will be a full $100 million below what the President requested.

I would, therefore, say to the Members that this is not just a routine across-the-board, no-one-is-going-to-get-hurt kind of an amendment. The Space Program is at a crucial juncture, and to take a half a billion dollars out of NASA at this point is really extremely dangerous. Similarly, our ability to compete in the world, I think, is very much in question at this point. The President's initiative with respect to the National Science Foundation is an important one, and to leave NSF $100 million below what the President wants, as the Crane amendment would do, I think, would be a very bad idea.

Mr. ARMEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let me begin by expressing my appreciation to the members of the Committee on Appropriations, and especially this subcommittee and especially the chairman of the subcommittee, the gentleman from Massachusetts [Mr. Boland]. I do realize how hard those gentlemen have worked on this appropriation bill, and I do realize the heroic effort the chairman has made with the series of amendments to bring this in line with the 302(b) allocation. I think that work should be appreciated, and I do appreciate it.

On the other hand, we do have with this bill a request that is $2.5 billion in excess of the President's request. In addition to that, it is $3.9 billion more than the President's request for subsidized housing programs.

The first thing I would like to point out is that the gentleman from Illinois is giving this bill a love tap. We all know how serious the fiscal problems of the country are, and we do have to cut, unfortunately, at every possible juncture. Even when a good hardworking committee has done good work, we should look for additional opportunities, as we have in this case, to cut more.

There is one point I would like to make. I think it is probably not the best argument to make that once we make this cut, if we do, we should then worry about the further impact on the appropriations of a Gramm-Rudman sequestration. The Gramm-Rudman sequestration will only take place if we do not make the cuts, and it is precisely out of a willingness, a desire and a need to avoid that sequestration that the gentleman from Illinois [Mr. Crane], the gentleman from Minnesota [Mr. Frenzel], myself, and many others have repeatedly come down here to build on the good work of the subcommittees of the Committee on Appropriations that have done the best they could to stay within the 302(b) allocation, to carry that a little further and to avoid that sequestration, should the Gramm-Rudman law be reenacted or at least implemented.

So I would ask the Members of this body to look at this carefully. It is a simple freeze, with strategic exceptions that I think are important. It is not a big cut, but it is a necessary cut.

Mr. Chairman, I request that all the Members vote "yes" on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Crane].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 136, noes 279, not voting 19, as follows:

[Roll No. 325]

AYES—136

Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bereuter
Bilbray
Bilirakis
Bliley
Boulter
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Chandler
Cheney
Coats
Coble
Coleman (MO)
Combest
Crane
Daniel
Dannemeyer
Darden
Daub
DeLay
Dickinson
Dorgan (ND)
Dreier
Eckart
English
Fawell
Fields
Frenzel
Gallegly
Gingrich
Glickman
Gradison
Grandy
Gregg
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Herger
Hiler
Hopkins
Hubbard
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lancaster
Leach (IA)
Leath (TX)
Lewis (FL)
Lightfoot
Lott
Lujan
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Moorhead
Neal
Nielson
Owens (UT)
Oxley
Packard
Parris
Patterson
Penny
Petri
Porter
Ray
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Russo
Schaefer
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Weber
Whittaker
Wylie
Young (FL)

NOES—279

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Baker
Bates
Beilenson
Bentley
Berman
Bevill
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Bustamante
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Huckaby
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lagomarsino
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Pashayan
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Walker
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—19

Biaggi
Boner (TN)
Brown (CA)
Collins
Craig
de la Garza
Dornan (CA)
Edwards (OK)
Ford (TN)
Gephardt
Kemp
Latta
Livingston
McCurdy
Roemer
Spence
Tauzin
Torres
Wilson

□ 1645

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mrs. Collins against.

Mr. VALENTINE and Mr. HOLLOWAY changed their votes from "aye" to "no."

Messrs. RAY, ARMEY, and HALL of Texas changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 50, after line 12, insert the following new section:

SEC. 415. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act not required to be appropriated or otherwise made available under law, except for amounts appropriated or otherwise made available for the Veterans' Administration and NASA shall be reduced by 2.00 percent.

□ 1700

Mr. CRANE. Mr. Chairman, I would like to address some of the points that were apparently misunderstood on the last amendment and explain the provisions of this.

The last amendment exempted the Veterans' Administration, that is a $26 billion figure in this total appropriation. It exempted totally the Veterans' Administration.

Now, when I referred to increases in funding for EPA, for FEMA, and for the National Science Foundation, the figures I quoted were accurate figures. I did not touch the committee's priorities. I did not attempt to rearrange the committee's priorities; so even with the modest cut I mentioned, EPA's increases would have been 24 percent next year; FEMA's would be 19 percent, and the National Science Foundation would be up 10.6 percent.

Now, in addition to that, however, I have altered this amendment by striking its application to NASA, because NASA already took a hit as the committee rearranged its priorities. I exempted that $250 million that my colleague, the gentleman from New York, was concerned about; so NASA is exempted under this amendment, and also the Veterans' Administration is exempted, but all those other areas are going to take a very modest reduction.

To calculate the dollar figure, if you subtract roughly 1 percent of the reduction I initially proposed, that takes us down to about $600 million, and then if you exempt NASA, we are talking about $400 million out of an appropriation bill in excess of $57 billion.

I submit to you again, when we are faced with the prospect of a mandated sequestration, and right now there is nobody in this body that does not think that is exactly what we are going to get, we start making some discretionary cuts here, that is an eminently more sensible approach than taking an indiscriminate whack at so many of these categories, which will be what happens if we get to that inevitable sequestration.

So, Mr. Chairman, I would urge my colleagues, this is modest to an extreme, $400 million.

Ev Dirksen used to say, "A billion here, a billion there, it begins to add up to real money."

This does not amount to a hill of beans, relatively speaking, to when we look at trillion dollar budgets—$400 million.

Mr. Chairman, I would appeal to my colleagues to use determination to try and make some rational reductions so as to minimize that indiscriminate cut that will inevitably attend the sequestration.

Bear in mind, as I say, these percentage increases in the categories that I just cited and the exemption of NASA from its application and the exemption for the Veterans' Administration and the lowering of my percentage reduction figure from 2.86 percent to 2 percent.

Mr. Chairman, I would urge support for the amendment.

Mr. TRAXLER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I appreciate the concern that the maker of the amendment has for fiscal integrity and the budget process, but let me just speak about the budget process. I am not on the Budget Committee, but I want to tell you that this bill is within the 302(b) allocation. It is within in budget authority and it is within in budget outlays.

This subcommittee has followed every mandate that this House has given to it under the budget resolution.

Now, each and every one of us may have our own budget scheme, but this is a rational body, let me say. It is a rational body of intelligent people who collectively have already spoken on budget and budget priorities and budget expenditures. They have made that choice.

Mr. CRANE. Mr. Chairman, will the geneltman yield?

Mr. TRAXLER. I am pleased to yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank my colleague for yielding.

The only question I would raise is the rationality of a body that has tolerated $200 billion annual deficits for the past several years running and is contemplating the prospect next year of $170 to $180 billion deficits.

The only point I am trying to make is that everyone should absorb a little bit of this, every one of the committees, and we should make that judgment here on the floor, rather than leaving that up to some automatic mechanism.

Mr. GREEN. Mr. Chairman, will the gentleman yield to me on that point?

Mr. TRAXLER. I am pleased to yield to my distinguished colleague, the gentleman from New York.

Mr. GREEN. Mr. Chairman, I think the point should be made that of all the appropriation bills, if you look back at a 1980 base year, this one is lower than any other appropriation bill. Our growth in this bill in nominal dollars over 1980 is only about 2½ percent, far less than any of the other appropriations.

Therefore, I would suggest that if we are looking for places to seek cuts in a rational way, and I agree that we should make rational cuts, that this subcommittee has done that job and that this subcommittee is not the place to make those cuts, because we have done the job already these last 7 years.

In this bill, you can cite big numbers, but most of those are veterans benefits, as we know, so that this committee cannot control that.

Again, I would simply point out that this subcommittee of all the appropriation subcommittees has run the tightest ship in terms of where our appropriation bills, stand, compared to where we were in 1980. I do not think that this is the place if one is rational, as the gentleman wants us to be, that one ought now to be coming to look for the cuts. It seems to me those that have had very large growth would be the logical place to look.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to the distinguished chairman, the gentleman from Massachusetts.

Mr. BOLAND. Mr. Chairman, I think the gentleman from New York makes a valid point and it is true. In 1981, budget authority for the assisted housing program totaled about $25 billion. This year the administration made a recommendation of less than $4 billion for assisted housing. We have increased that to $7.8 billion in this bill. But think of the drop in a 6-year period—from $25 to $7.8 billion.

I think this committee has worked its will in a number of areas, including that one, even though we opposed that dramatic drop in assisted housing.

Now, the gentleman also indicated that there was a 24-percent increase in the EPA. Well, the answer to that, let me say, is very simple. There is a $600 million increase for wastewater construction grants. The reason for that increase is that last year we provided only $1.8 billion in new budget authority, because we had a carryover of $600 million, while the clean water bill was going through the process of being enacted. So it is unfair to point at that increase. There is a good reason for the increase in the EPA budget.

Now, the gentleman's amendment exempts the VA, and I think it should. But what the gentleman's amendment overlooks is that $764 million or almost two-thirds of the increase above 1987 are occasioned by the increases in the VA. The gentleman exempted the VA from his across-the-board amendment—nobody disagrees with that. But the amendment includes the VA in calculating the increase, while it exempts the VA in the application of the across-the-board cut. I think that is comparing apples and oranges.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

Mr. TRAXLER. Mr. Chairman, I yield to the distinguished chairman, the gentleman from Massachusetts.

Mr. BOLAND. The rest of the increase, Mr. Chairman, can be accounted for in EPA's Superfund Program which was also working its way through the Congress last year. It is that simple.

I do not know what the gentleman's third amendment is going to do, but I think we ought to vote this one down. Mr. Chairman, I hope that the committee sustains the position of the subcommittee.

Mr. CRANE. Mr. Chairman, will the gentleman yield for one more point?

Mr. TRAXLER. I am pleased to yield to the gentleman from Illinois.

Mr. CRANE. The percentage increase, Mr. Chairman, I quoted was from my last amendment, 24 percent for EPA, 19 percent for FEMA, over 10 percent for the National Science Foundation. With this one-third reduction, we are talking about better than a 30-percent increase still for the EPA, well over a 20-percent increase for FEMA and a 12- or 13-percent increase for the National Science Foundation, still permissible.

Mr. Chairman, I would urge support for the amendment, and I thank my colleague for yielding.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the distinguished gentleman from New York.

Mr. GREEN. Mr. Chairman, this last increase in the EPA that the gentleman from Illinois [Mr. CRANE] cites and to which he applies his percentage arises because of a very special circumstance, and that is we had the deadlocks on the clean water bill and on the Superfund bill. As a result, last year there was not a lot of money gong out in those accounts, and I do not want to go through all the permutations of what that was; but the effect in essence is that just to get back to what had been the normal funding level for those accounts requires us now to add in $1 billion to be back where we were the year before last; so this is no big increase. It is just going back to the steady State level that existed before the impasse in the authorizing committees.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(By unanimous consent, Mr. TRAXLER was allowed to proceed for an additional 30 seconds.)

Mr. TRAXLER. In conclusion, Mr. Chairman, this bill is within the budget outlays allocation. It is within the budget authority allocation. It is within the 302(b). For those reasons, Mr. Chairman, I would request a "no" vote on the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. Crane].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 176, noes 239, not voting 19, as follows:

[Roll No. 326]

AYES—176

Andrews
Applegate
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bereuter
Bilbray
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Carper
Chandler
Chapman
Cheney
Coats
Coble
Coleman (MO)
Combest
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (MI)
DeLay
DeWine
Dickinson
Dorgan (ND)
Dreier
Eckart
Edwards (OK)
Emerson
English
Fawell
Fields
Frenzel
Gallegly
Gingrich
Glickman
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hefley
Herger
Hiler
Holloway
Hopkins
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jenkins
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Leach (IA)
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Lott
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moody
Moorhead
Murphy
Myers
Neal
Nichols
Nielson
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Petri
Pickett
Porter
Pursell
Ravenel
Ray
Regula
Rhodes
Ridge
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Russo
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Skaggs
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walgren
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Young (AK)
Young (FL)

NOES—239

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Baker
Bates
Beilenson
Bentley
Berman
Bevill
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Campbell
Cardin
Carr
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Davis (IL)
DeFazio
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Huckaby
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
MacKay
Madigan
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Panetta
Pease
Pelosi
Pepper
Perkins
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Richardson
Rinaldo
Rodino
Roe
Rostenkowski
Roukema
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schumer
Shays
Sikorski
Sisisky
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—19

Biaggi
Boner (TN)
Brown (CA)
Collins
Craig
de la Garza
Dornan (CA)
Ford (TN)
Gephardt
Kemp
Latta
Livingston
McCurdy
Roemer
Rose
Spence
Tauzin
Wilson
Wylie

☐ 1715

The Clerk announced the following pair:

On this vote:

Mr. Craig for, with Mrs. Collins against.

Mr. HORTON and Mr. MARTINEZ changed their votes from "aye" to "no."

Mr. DICKINSON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1730

The CHAIRMAN. Are there other amendments?

ANNOUNCEMENT BY MINORITY WHIP RE PERSIAN GULF BRIEFING

Mr. LOTT. Mr. Chairman, I take this time to just briefly tell the Members who have not been able to do so that would like to go back to the briefing over in the Rayburn Building, that briefing on the Persian Gulf will still be going on. Members will be able to go to room 2118 for the briefing on the Persian Gulf in about 15 minutes. They will still be going forward.

The CHAIRMAN. Are there other amendments?

Mr. BOLAND. Mr. Chairman, before moving to rise, I want to commend the staff of this committee, Dick Malow, Paul Thomson, Don Ryan, and Susan Lee for their effort. Without their help, of course, we would not even be on the floor.

Mr. Chairman, I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Foley] having assumed the chair, Mr. MacKay, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2783) making appropriations for the Department of Housing and Urban Department, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment?

Mr. PRICE of North Carolina. Mr. Speaker, I demand a vote on the so-called Boland amendments en bloc.

The SPEAKER pro tempore. Is a seperate vote demanded on any other amendment?

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The Clerk will report the amendments on which a separate vote has been demanded.

The Clerk read as follows:

Amendments:

(1) The amendment offered by Representative Boland of Massachusetts:

On page 2, line 12 strike out "$7,800,000,000" and insert in lieu thereof "$7,924,100,000".

On page 2, line 20, strike out "$1,382,400,000" and insert in lieu thereof "$1,506,500,000".

On page 6, line 13, strike out "$517,000,000" and insert in lieu thereof "$559,900,000".

On page 17, line 16, strike out "$689,085,000" and insert in lieu thereof "$672,085,000".

On page 22, line 13, strike out "$296,850,000" and insert in lieu thereof "$291,850,000".

On page 26, line 26, strike out "$4,085,300,000" and insert in lieu thereof "$4,000,300,000".

On page 28, line 25, strike out "$1,563,000,000" and insert in lieu thereof "$1,558,000,000".

On page 30, line 5, strike out "$1,555,000,000" and insert in lieu thereof "$1,505,000,000".

On page 36, beginning on line 1, strike out "$816,100,000", including "$554,545,000" and insert in lieu thereof "$811,100,000, including $549,545,000".

Mr. FRENZEL [during the reading]. Mr. Speaker, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. The question is on the amendments.

The question was taken; and the speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PRICE of North Carolina. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 413, noes 1, answered "present" 1, not voting 19, as follows:

[Roll No. 327]

AYES—413

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—1

Gonzalez

ANSWERED "PRESENT"—1

Bonker

NOT VOTING—19

Biaggi
Boner (TN)
Brown (CA)
Collins
Craig
de la Garza
Dornan (CA)
Ford (TN)
Gephardt
Kemp
Latta
Livingston
McCurdy
Mrazek
Parris
Roemer
Spence
Tauzin
Wilson

☐ 1745

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 348, noes 68, not voting 18, as follows:

[Roll No. 328]

AYES—348

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Florio
Foglietta
Foley

Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
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Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Mack
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
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McMillan (NC)
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Michel
Miller (CA)
Miller (OH)
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Mollohan
Montgomery
Morella
Morrison (CT)
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Mrazek
Murphy
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Nowak
Oakar
Oberstar
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Owens (NY)
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Packard
Panetta
Parris
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Patterson
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Pelosi
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Price (IL)
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Regula
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Richardson
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Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
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Stark
Stokes
Stratton
Studds
Sundquist
Sweeney
Swift
Synar
Tallon
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Taylor
Thomas (GA)
Torres
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Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
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Williams
Wise
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Wolpe
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Wyden
Wylie
Yates
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Young (AK)
Young (FL)

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Cheney
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Crane
Daniel
Dannemeyer
DeLay
Dickinson
Dorgan (ND)
Dreier
Edwards (OK)
Fawell
Frenzel
Gallegly
Gradison
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Hansen
Herger
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Inhofe
Ireland
Konnyu
Kyl
Lagomarsino
Lightfoot
Lott
Lujan
Lukens, Donald
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Marlenee
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McCollum
McEwen
Moody
Moorhead
Nielson
Oxley
Petri
Roberts
Robinson
Roth
Russo
Schaefer
Sensenbrenner
Shumway
Shuster
Slattery
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Stenholm
Stump
Swindall
Thomas (CA)
Upton

NOT VOTING—18

Biaggi
Boner (TN)
Brown (CA)
Collins
Craig
de la Garza
Dornan (CA)
Flippo
Ford (TN)
Gephardt
Kemp
Latta
Livingston
McCurdy
Roemer
Spence
Tauzin
Wilson

□ 1800

The Clerk announced the following pairs:

On this vote:

Mrs. COLLINS for, with Mr. CRAIG against.
Mr. ROEMER for, with Mr. KEMP against.
Mr. LATTA for, with Mr. SPENCE against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1082

Mr. SAVAGE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1082.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Illinois?

There was no objection.

PAYMENT FOR TELECOMMUNICATIONS EQUIPMENT AND SERVICES FURNISHED BY SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. COELHO. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1532) relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I yield to the gentleman from California [Mr. COELHO], the distinguished majority whip.

Mr. COELHO. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this bill would authorize use of the Senate contingent fund to pay for Senate telecommunications equipment, and certain other services, furnished by the Senate Sergeant at Arms and the Senate Doorkeeper. It passed the Senate before the August recess, and has an effective date of October 1. If the House is to assist the Senate on this internal Senate matter, we must act at this time. This bill deals only with internal Senate policy and the use of the Senate contingent fund. And as a matter of comity regarding the internal policies of the other body, the House should pass the bill at this time.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, the minority concurs that it is a matter of comity and a matter of urgency.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1532

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION. 1. As used in this Act, the term—

(1) "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the United States Senate; and

(2) "user" means any Senator, Officer of the Senate, Committee, office, or entity provided telephone equipment and services by the Sergeant at Arms.

REGULATIONS; CERTIFICATION

SEC. 2. (a) Subject to such regulations as may hereafter be issued by the Committee on Rules and Administration of the Senate, the Sergeant at Arms shall have the authority, with respect to telephone equipment and services provided to any user on a reimbursable basis (including repair or replacement, solely for the purposes of this section, to make such certification as may be necessary to establish such services and equipment as official, issue invoices in conjunction therewith, and receive payment for such services and equipment by certification, voucher, or otherwise.

(b) For purposes of this Act, telephone equipment and services provided to any user for which payment, prior to the effective date of this Act, was not authorized from the contingent fund of the Senate shall, on and after such effective date, be considered telephone equipment services provided on a reimbursable basis for which payment may be obtained from such fund in accordance with subsection (a) of this section.

(c) Subject to the approval of the Committee on Rules and Administration, the Sergeant at Arms may establish reasonable charges for telephone equipment and services provided to any user which may be in addition to that regularly authorized by the Committee.

(d) All moneys, derived from payments for telephone equipment and services provided from funds from the Appropriation Account within the contingent fund of the Senate for "Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate" under the line item for Telecommunications (including receipts from carriers and others for loss or damage to such services or equipment for which repair or replacement has been provided by the Sergeant at Arms), shall be deposited in and made a part of such Appropriation Account and under such line item, and shall be available for expenditure or obligation, or both, in like manner and subject to the same limitations as any other moneys in such account and under such line item.

(e) Nothing in this Act shall be construed as limiting or otherwise affecting the authority of the Committee on Rules and Administration of the Senate to classify or reclassify telephone equipment and services provided to any user as equipment or services for which reimbursement may or may not be required.

REPORT

SEC. 3. The Sergeant at Arms Shall report to the Committee on Rules and Administration of the Senate, at such time or times, and in such form and manner, as the Committee may direct, on expenditures made, and revenues received, pursuant to this Act. It shall be the function of the Sergeant at Arms to advise the Committee, as soon as possible, of any dispute regarding payments to and from such Appropriation Account as related to the line item for Telecommunications, including any amounts due and unpaid by any user, if any such dispute has remained unresolved for a period of at least 60 days.

EFFECTIVE DATE

SEC. 4. This Act shall take effect on October 1, 1987.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONSIDERATION OF CONFERENCE REPORT OF HOUSE JOINT RESOLUTION 324, PUBLIC DEBT LIMIT INCREASE

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 247 and ask for its immediate consideration.

The Clerk read the resolution, follows:

H.RES. 247

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider at any time the conference report and any amendments in disagreement on the joint resoluton (H.J. Res. 324) increasing the statutory limit on the public debt, all points of order against said conference report and any amendments in disagreement are hereby waived, and said conference report and any amendments in disagreement shall be considered as having been read when called up for consideration. Debate on said conference report or on any motion on any amendment in disagreement shall continue not to exceed ninety minutes.

The SPEAKER pro tempore. The gentleman from South Carolna [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 247 is a rule providing for the consideration at any time of a conference report on House Joint Resolution 324, a joint resolution to increase the statutory limit on the public debt, and any amendments to that bill reported from conference in disagreement. The rule waives all points of order against the conference report and any amendments in disagreement and provides that the conference report and any amendments in disagreement shall be considered as having been read. The rule provides that debate on the conference report on any motion or any amendment in disagreement will be limited to 90 mintues. Pursuant to clause 2 of rule XXVIII the debate time will be equally divided between the majority and minority floor managers, unless both floor managers support the conference report or amendment in disagreement, in which case an opponent would be entitled to one third of the debate time.

I should note that the rule before us was reported from the Rules Committee before the form of the conference product was known, so that the rule provides for consideration of a conference report or any amendments in disagreement. Since the conference committee reported without any disagreement, the House will simply be considering a conference report without any amendments in disagreement.

Mr. Speaker, I am sure everyone understands the situation we are in with respect to this joint resolution. House Joint Resolution 324 was originally passed by the House, pursuant to rule XLIX, the so-called Gephardt rule, when the House adopted the conference report on House Concurrent Resolution 93, the budget resolution for fiscal year 1988. As passed by the House, House Joint Resolution 324 simply increased the public debt limit to $2.565 trillion.

When the Senate approved House Joint Resolution 324 on July 31, however, in addition to increasing the debt limit to $2.8 trillion, enough to fund the Government until May 1989, the Senate added amendments reinstating the automatic Gramm-Rudman-Hollings trigger, changing the maximum deficit targets set forward in that law, and providing for a number of so-called budget reforms. After a long and difficult conference, House and Senate conferees have reached an agreement.

I will not take the time now to explain that agreement, except to say that the agreement does restore an automatic trigger similar to the one that was provided in the original Gramm-Rudman-Hollings Act but was struck down by the Supreme Court. It avoids the separation of powers objection raised by the court by giving final authority for sequestration determinations to the Office of Management and Budget, but it also provides safeguards intended to ensure that OMB does not manipulate the deficit estimates or sequestration amounts for political purposes. It also revises the deficit targets in order to make them more realistic and to increase the likelihood that we will actually achieve significant deficit reduction. The compromise also includes some budget process changes, but the conferees have attempted to ensure that these changes will not disrupt the functioning of the House of Representatives the way the Senate proposal would have.

I realize that there will be many Members who will not be happy with this conference report. As one who voted against the original Gramm-Rudman-Hollings Act, I can sympathize with those who oppose doing anything to restore the automatic functioning of that process. But, the temporary debt limit we enacted in August expires at midnight tomorrow and unless a further increase is signed into law the Government will once again have to suspend the sale of Federal securities and will face the prospect of an unprecedented default on its obligations next week. We cannot move ahead with an increase in the debt limit until the Gramm-Rudman-Hollings issue is settled. This rule allows the House to work its will on that issue in an expeditious manner.

I urge a "yes" vote on this rule, so that we can move ahead with the crucial debt limit legislation, with or without a Gramm-Rudman-Hollings fix.

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Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the gentleman from South Carolina has more than adequately described the contents of this rule, House Resolution 247.

Mr. Speaker, let me make it clear at the outset that I support this rule and the debt limit conference report it makes in order. I do so for two major reasons, even though I do feel very strongly that the conference fell short in the budget reform area. First, we get an extension of the debt limit through May 1989. That is approximately 20 months before we have to revisit this painful issue. Second, we get a 6-year restoration of the Gramm-Rudman automatic sequestration trigger and an adjustment of the deficit targets to more realistic levels, while renewing our commitment to keeping deficit reductions on a downward glidepath toward a balanced budget.

As my colleagues are aware, our previous short-term extension of the debt limit ceiling expires tomorrow, September 23. So there is an urgent need to consider this conference report now under the blanket waiver provided by this rule. This obviously means we are setting aside the 3-day availability requirement as well as points of order on germaneness and scope.

While I would not ordinarily support this type of rule, I think it is the responsible thing to do at this particular time when we are dealing with the debt ceiling and the Gramm-Rudman-Hollings fix.

There is much I would like to say about the substance of what we agreed to in the conference, and particularly the failing in the budget reform area, but in the interest of moving on through the rule so we can get to the substantive debate, I will withhold that comment for the general debate time. I believe we have an hour and a half allowed for general debate.

Mr. Speaker, recognizing the complexity and importance of this conference report, the Rules Committee has recommended an hour and one-half of debate on the conference report instead of the usual hour provided by House rules.

Mr. Speaker, as 1 of the 52 House conferees on this debt limit conference, I want to commend my colleagues on both sides of the aisle and both sides of the Capitol for their dedication, perseverance and good faith efforts in developing this compromise. I especially want to commend the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, for reaching out to the minority and trying to accommodate our concerns. I only regret he did not have more cooperation on his side in this regard when it came to budget reform.

Mr. Speaker, many of our colleagues may not be aware that this conference was not only concerned with extending the debt limit and fixing the Gramm-Rudman trigger, but was supposed to produce some meaningful budget reform as well.

I have made it clear on numerous occasions that it makes little sense to fix the tail end of the budget process—the so-called Gramm-Rudman sequestration process—if you don't at the same time fix the front end of the budget process. The whole point of Gramm-Rudman was to force us to make rational fiscal decisions up front in order to avoid the mindless, across-the-board cuts at the end.

But, I think it's obvious to everyone, in this year especially, that the regular budget process just isn't working. We were over 2 months late in getting a budget resolution this year. We still don't have a reconciliation bill which has a Budget Act deadline June 15. We still haven't completed all the appropriations bills in the House even though they have a Budget Act deadline of June 30.

And we continue to waive Budget Act points of order left and right for missed deadlines and breached spending ceilings. We continue to load up reconciliation bills with extraneous matters. And we continue to wait until after the start of the fiscal year to roll all our work into one big bomb—that bloated, omnibus money bill that is a living monument to legislative lassitude and largess.

Mr. Speaker, I think it is apparent to everyone that something is drastically wrong here and that more needs fixing than just the Gramm-Rudman trigger at the end of this process. We need to do a number of things if we are to avoid its being pulled. Our Republican Party in the House has been pushing a number of budget process reforms since the beginning of the year and we have been rebuffed and resisted by the majority leadership at every turn. We have fought our battle in the rules package on opening day, in the budget resolution, and on the debt limit. And yet, each time, we have been patted on the head and told to wait until another day.

Well, Mr. Speaker, I hate to break the news to you, but our days are numbered if your leadership continues to harbor this kind of attitude toward genuine budget reform. We may have gotten the Gramm-Rudman fix we can all live with in this conference report. But we're still in a heck of a fix we might all die by when it comes to the rest of the budget process. The sooner we wake up to this and do something about it, the better we'll be in the long run.

Mr. Speaker, the original Senate amendment did address some important budget reforms, but most of those were either deleted or diluted in this final package. They would have required enforcement of budget resolution outlay ceilings and subceilings in the House, as is now done in the Senate. That's something our Republican leadership task force has also urged. But the House majority stood firm against this. The Senate bill contained credit reform that would require an honest accounting for subsidies through the appropriations process. This was watered down to a report by CBO. The Senate bill called for financial management or accounting reforms, and biennial authorizations and appropriations. But these were both watered down to mere sense of the Congress provisions. In short, about all we ended up with of any substance in the budget reform area were some Senate rules changes, the extension of the State and local government cost estimate requirement on bills, and the requirement that a single set of economic assumptions be used in budget resolutions.

Our House Republican conferees did express an interest in negotiation and compromising on other possible budget reforms, particularly in the areas of credit reform, severability of omnibus continuing resolutions, and barring extraneous matters in reconciliation. But, we ran up against a solid wall of resistance from our Democratic brethern.

Mr. Speaker, nothwitstanding the lack of budget reform in this conference report, I think on balance we should adopt it both to ensure an extension of the debt ceiling and restore the Gramm-Rudman deficit reduction process.

For those reasons, I urge my colleagues to vote for this rule and for this report. We must renew our commitment to deficit reductions and a balanced budget, and this is the best procedure available. As imperfect, and messy, and scarey as it may be, the fact remains that no one has come up with a better alternative.

But let me caution the Democratic leadership that our support for this conference report in no way signals a retreat on our part from budget reform. If anything, it only strengthens our resolve and the need to clear up this awful mess that has evolved around here. I hope we can now join on a bipartisan basis to develop an effective budget process. I can think of no finer birthday present to the Nation in this bicentennial of our Constitution than a reclaiming and streamlining of our vital constitutional powers over the purse strings of this Republic. Let's vow to work together on this in the same bipartisan spirit that has brought us this conference report today.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I rise in opposition to the rule and to the bill that we are about to take up. I rise in opposition to the rule because we are waiving all points of order against consideration of this bill. Some of those points of order include things like the 3-day availability, and we have exceeded the scope of the conference and we are considering nongermane matters. That would be enough. The 3-day availability I think is something rather important, since as of last night the language was just completed on this.

The Members ought to know what it is we are taking up in this particular bill that is about to be brought before us. The debt limit conference is in fact a very, very troublesome piece of legislation. It is troublesome to those of us who have supported the original Gramm-Rudman concept because this basically abandons the principles that Gramm-Rudman was brought to this House floor for. If you are someone who believes in balanced budgets, there is no way that you can support this particular debt limit extension. If you have signed up for an amendment to balance the budget through the Constitution, there is no way you can support this process, because what you are doing in this particular process is you have now developed a principle of a rolling budget as far as a balanced budget target. We had said in Gramm-Rudman that we were going to do it in 1991. Now we are saying we are going to do it in 1993 and we will probably roll that out to some point in the future.

Instead of having firm balanced budget requirements, we have now set up a rolling standard, which is completely unacceptable.

Mr. Speaker, I would also remind my colleagues that the fundamental thing we are considering here is a $700 billion increase, $689 billion increase to be exact, in the permanent national debt. That is the largest single debt commitment in the history of the world.

It is certainly the largest single commitment this country has ever made, but it is the single largest commitment to debt that has been made in the history of the world. That is what you are going to decide to do if you vote for this bill.

I suggest you ought to think twice before making that kind of commitment, because the process reforms they are telling you that you get in order to get you to vote for $700 billion are really nonreforms that get us nowhere.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. WEISS] for purposes of debate only.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong opposition to this rule and to the underlying conference report. The debt ceiling and Gramm-Rudman are two distinct pieces of legislation. It is wrong to lump them together. I, for one, support the increase in the debt ceiling, and continue to oppose Gramm-Rudman.

With every action we take on Gramm-Rudman, we seem to move further and further away from reality, and further and further away from serious action to deal with our Nation's deficit crisis.

We made our first serious mistake when we passed the Gramm-Rudman law itself, a law that is certain to go down in history as a monument to congressional irresponsibility and inaction. By passing this law, we abdicated our responsibility to craft the Federal budget.

This is no simple matter. Our constituents elected us to make judgments on a wide range of matters. One of the most important is the manner in which their tax dollars are spent by the Government, a decision that has far-reaching consequences for the economy and our relations with other nations. But in an unparalleled admission of failure, we told the General Accounting Office [GAO] to follow an automatic and arbitrary budget-cutting process designed to balance the budget in stages over 5 years.

Moreover, the process we instituted fails to address in any fashion whatsoever the chief cause of the deficit crisis which we are allegedly attempting to solve: the massive loss of revenues from President Reagan's tax cuts. Instead, the burden of reducing our still-monstrous deficits falls in large part upon the discretionary spending programs that have already been ravaged over and over in recent years.

After we passed Gramm-Rudman in a flight from reason, the Supreme Court injected some reality into the process by insisting that the proper role of the legislative and executive branches be respected. The Court struck down the automatic spending cut mechanism in the plan because it permitted the General Accounting Office, an agency of Congress, to determine how the final cuts would be made. The Court said that this role should properly be performed by the executive branch.

As a result, Congress was forced to revert to a fallback plan already built into the law that called on Members to vote on the across-the-board cuts that are mandated under the law. This was a partial return to an ethic of responsibility, but even then the scheme called for approving the mindless calculations of the GAO, rather than making thoughtful and informed judgments on the form of the budget.

Then Congress chose to depart even further from reality. In order to avoid voting on across-the-board cuts under Gramm-Rudman, but at the same time preserve the illusion that Gramm-Rudman's deficit targets were being met, we employed every bookkeeping gimmick and budgetary ruse in the book to get the budget figures below the target levels. Many of these gimmicks, such as the sale of Government assets, actually raised the deficit for future years, but they served the short-term goal of meeting the target and were thus approved.

The extent to which we were fooling ourselves is readily apparent. The fiscal year 1986 Gramm-Rudman deficit target was $172 billion. Yet the actual deficit for fiscal year 1986 is listed in the record books at $221 billion, the highest deficit in the history of our Nation. The fiscal year 1987 deficit target was $144 billion. Yet the latest official Congressional Budget Office [CBO] deficit estimate for this year is $157 billion. It should be apparent to all the Congress is playing elaborate games with our Nation's ledgers.

We entered the fiscal year 1988 budget follies with another hint of realism: many Members realized that the bookkeeping gimmicks of recent years could not be perpetuated forever, and that the Gramm-Rudman deficit target of $108 billion would require cuts of such magnitude—more than $60 billion—that even feigning compliance was out of the question. Thus, many Members acknowledged the importance of relaxing the goals.

Democratic members set about the task of crafting a fiscal year 1988 budget resolution that would put the deficit on a downward path without a drastic budget reduction that would threaten to produce a recession. They successfully produced a resolution that cuts the deficit by more than $36 billion through a balanced mix of spending cuts and revenue increases. While it was not perfect, the budget resolution began the process of identifying the real causes of our Nation's deficit ills and proposing substantive solutions.

But success seems to be too good for some Members of Congress. Following passage of the budget resolution, they demanded that we once again part company with sound budget policymaking. They demanded that we "reinvigorate" the Gramm-Rudman law by restoring its automatic budget cutting mechanism in a manner that would pass constitutional muster. They wanted to once again turn over responsibility for budget matters to a mindless bureaucracy.

In all fairness, some Members supported this process because they are fed up with the manner in which the President had distanced himself entirely from the budget mess he created and has refused to enter into negotiations with Congress on reducing the deficit. These Members thought that the threat of serious cuts in military programs will force the President to negotiate on the issue of taxes.

Frustration with the President's fiscal policy, or lack thereof, is easy to understand. The President's former budget director has referred to "the shameless, groundless fiscal fiction * * * which has steadily emanated from the White House." Meanwhile, our deficits have grown to absolutely unprecedented size, and the national debt has more than doubled. This President has earned the dubious distinction of having mishandled the budget on a scale heretofore unimagined by most Americans.

However, one can say this much for him: he has been consistent. He has never cared about the deficit. He created the deficit, he perpetuated the deficit, and he has done nothing of consequence to reduce the deficit.

It is for this reason that I view with profound skepticism the notion that threatened automatic cuts in military spending will draw the President into the budget process. The President, who made a career out of railing against the deficit before he got to Washington, has made a career out of raising it since he has been here. And even though his own budget proposals have contained many revenue increases, he has continually threatened to veto any tax increase delivered to him by Congress. As his term draws to a close, there is no reason to believe he will not stay this course.

Though well-intentioned, the folly of the plan that has been returned to us by the conferees cannot be overstated. It will once again abdicate congressional responsibility. It will devastate domestic spending programs that serve our Nation's struggling middle class. And it will give the President the authority to redistribute funds in defense accounts in order to spare favored programs.

What the conferees seem to be saying is: Let us find a constitutional manner in which to give up our constitutionally mandated power of the purse. Last time we gave it to the General Accounting Office, a legislative agency, but the Supreme Court didn't approve. This time, let's give it to the executive branch. Ronald Reagan's Office of Management and Budget will take care of our deficit problems for us.

What the conferees seem to be saying is: If we eliminate the deficit in 7 years, instead of 5 years, then the President will fall in love with taxes and the people of this Nation will be protected from devastating cuts.

Let there be no mistake about it: the President will not approve a tax increase. And 7 years of resultant cuts in domestic spending will be just as hard for the American people to bear as 5 years. Health care, education, law enforcement, pollution control, veterans benefits—all of these programs will be dispatched over a 7-year period.

Moreover, we can expect deep cuts in essential foreign aid programs, including those that supply our Middle East allies Israel and Egypt. The Food for Peace Program, used to supply food to starving people around the globe, will be scaled back. And our efforts to resolve the long-term development needs of the poorest countries will be substantially curtailed. We cannot expect to meet our international commitments in the economic, political, and security arenas with a declining foreign assistance budget.

What the conferees seem to be saying is: We don't need to have strict oversight of the defense budget. The President can propose to redistribute defense budget outlay reductions as he wishes, so long as particular projects are not increased above the appropriated level. The President's proposal would have to be considered on an expedited basis.

On August 4, the House of Representatives voted to instruct the conferees on the debt-ceiling legislation to return a conference report that restores an automatic sequestration procedure. But most Democratic Members, realizing that automatic sequestration amounts to Government-sanctioned violence against the people who sent us here, voted against this misguided instruction.

I hope that our party will once again disassociate itself from the Gramm-Rudman fantasy. I hope that our party will once again take responsibility for its actions, as it did when it crafted and passed a fiscal year 1988 budget resolution that set the deficit on a declining path without relinquishing responsibility to any other party.

When Ronald Reagan's chickens come home to roost, and they inevitably will, there will be a lot of finger pointing going on. Let it not be said that the Democratic Party hid from its responsibilities behind the cover of a so-called budget reform. Instead, let it be said that we accepted our role as crafters of the Federal budget, and that we were willing to meet this challenge despite the obstinate and shortsighted budget policies of Ronald Reagan.

Above all, let it be said that we understand that the average people of this Nation are not responsible for the deficit crisis. Therefore, they should not bear the burden of bringing it down.

I urge my colleagues to vote against this rule, and if it passes, the conference report. It is a matter of conscience and a matter of principle. But it is also a matter of hard political reality. Gramm-Rudman will not solve the deficit crisis. Only we can do that.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma [Mr. SYNAR], for purposes of debate only.

Mr. SYNAR. Mr. Speaker, I believe we are making a tremendous mistake today by delegating our fundamental responsibility to make spending decisions. Last year, I argued before the Supreme Court that automatic trigger goes to the heart of the legislative function by allowing bureaucrats—not legislators—to set across-the-board spending levels. If the Constitution does not require Congress to vote on spending matters, and if our Founding Fathers did not intend beyond doubt that only Congress should set our Nation's spending priorities, then there is nothing left for Congress to do. I have always said that good government makes good politics. I think the converse is also true—that bad government makes bad politics. This is bad government, and if we can dress it up and sell it to our constituents when the real cuts come, we are kidding ourselves. If we don't have the courage to vote for real budget reduction, we have no business giving that task to OMB.

Those Democrats who support an automatic sequestration seem to believe that Gramm-Rudman will:

First, force the President to be responsible and sign a tax bill, or

Second, hold him accountable for these huge deficits.

They should know better. This President has hoodwinked the American people for six years. He is the biggest budget buster in American history, yet the American people do not hold him accountable for the deficit. He controls the stage of American politics, and that is not going to change simply because we institute a new form of budgeting.

We cannot avoid the inevitable public reaction against Congress when a sequestration occurs. The American public is going to hold us—not the President—accountable.

Republicans have their own delusions about what this process will accomplish. Their motive is not to reduce the deficit, but rather to shield the President from the consequences of his disastrous budget policies.

They know as well as the rest of us that revenues are needed to balance the budget. If they were truly concerned about the deficit, they would be working with us on deficit reduction that included both spending cuts and tax increases. Instead, they focus their efforts on budgetary gimmickry that can't work, and even if it did would leave our county in economic shambles.

And for those Republicans and Democrats who believe that OMB will save us from ourselves, and that we can trust OMB to be honest, let me remind you of:

EPA, pesticides;
OSM;
Superfund; and
Dave Stockman.

The problem with the Gramm-Rudman process is that it isn't intended to work. It is the product of political posturing aimed at taking credit for a solution that hasn't occurred, and avoiding blame for the crisis that lies in waiting.

As Members of Congress, we should be serious about governing. Gramm-Rudman is not about serious governing. It is about avoiding responsibility. It is about abdication and unaccountability. And it is about a fruitless attempt to legislate leadership.

My constituents may not understand this bill, or my vote against it. But they sent me here to do the right thing. There is right, and there is wrong. This is wrong.

Mr. LOTT. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WEISS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 84, not voting 25, as follows:

[Roll No. 329]

YEAS—325

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Aspin
Atkins
AuCoin
Badham
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Daub
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Emerson
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hutto
Hyde
Ireland
Jacobs
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Mack
MacKay
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
St Germain
Stallings
Stark
Stenholm
Stokes
Stratton
Sundquist
Sweeney
Swift
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Wheat
Whittaker
Whitten
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron

NAYS—84

Applegate
Armey
Baker
Ballenger
Bentley
Bilirakis
Brown (CO)
Buechner
Bunning
Burton
Carr
Conte
Conyers
Crane
Dannemeyer
Davis (IL)
DeWine
Dickinson
Dreier
Edwards (CA)
Edwards (OK)
English
Fawell
Gekas
Grandy
Gunderson
Hansen
Hertel
Hopkins
Hughes
Hunter
Inhofe
Jeffords
Kanjorski
Kasich
Kyl
Leach (IA)
Leland
Lewis (FL)
Lightfoot
Lukens, Donald
Lungren
Marlenee
Martin (NY)
McCandless
McCollum
McEwen
Moody
Morella
Murphy
Nagle
Nielson
Packard
Perkins
Petri
Porter
Ridge
Rodino
Roth
Schaefer
Sensenbrenner
Shuster
Skeen
Slaughter (VA)
Smith (IA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Staggers
Stangeland
Studds
Stump
Synar
Tallon
Traficant
Vucanovich
Walker
Watkins
Weber
Weiss
Weldon
Yates
Young (FL)

NOT VOTING—25

Biaggi
Boner (TN)
Brown (CA)
Clay
Collins
Craig
Daniel
de la Garza
Dornan (CA)
Ford (TN)
Gephardt
Goodling
Kemp
Latta
Livingston
Madigan
McCurdy
Roberts
Roemer
Saxton
Spence
Tauzin
Williams
Wilson
Young (AK)

☐ 1845

The Clerk announced the following pair:

On this vote:

Mrs. Collins for, with Mr. Craig against.

Messrs. STUDDS, KANJORSKI, ENGLISH, CONYERS, HUGHES, DAVIS of Illinois, and MARTIN of New York changed their votes from "yea" to "nay."

Mr. BONKER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Speaker, I was unavoidably absent on Thursday, September 17 and missed rollcall vote Nos. 320 and 321.

Had I been present, I would have voted "no" on rollcall vote No. 320 and "yes" on rollcall vote No. 321.

Mr. Speaker, I ask unanimous consent that my personal explanation of missed votes appear in the appropriate places in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

CONFERENCE REPORT ON HOUSE JOINT RESOLUTION 324, PUBLIC DEBT LIMIT INCREASE

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 247, I call up the conference report on the joint resolution (H.J. Res. 324), increasing the statutory limit on the public debt.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. Gray of Illinois). Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, September 21, 1987, at page H7696).

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Rostenkowski] will be recognized for 45 minutes and the gentleman from Tennessee [Mr. Duncan] will be recognized for 45 minutes.

Mr. OBEY. Mr. Speaker, I would inquire if the gentleman from Tennessee [Mr. Duncan] is opposed to the conference report.

The SPEAKER pro tempore. Is the gentleman from Tennessee [Mr. Duncan] opposed to the conference report?

Mr. DUNCAN. Mr. Speaker, I am not.

The SPEAKER pro tempore. Is the gentleman from Wisconsin [Mr. Obey] opposed to the conference report?

Mr. OBEY. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. Obey] qualifies for one-third of the time.

The gentleman from Wisconsin [Mr. Obey] will be recognized for 30 minutes, the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 30 minutes, and the gentleman from Tennessee [Mr. Duncan] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the vote on this conference report will be one of the most significant budget votes in this Congress.

In addition to extending the debt limit through May 1989, the conference report amends the so called Gramm-Rudman-Hollings Act. The amendments reinstate the automatic trigger under the act in a constitutionally valid manner. They also extend the act for 2 years, through 1993, and stretch out the statutory deficit reduction targets to achieve a balanced budget in 6 years. The goal of the amendments is the continued and systematic reduction of the deficit.

With the automatic trigger restored, spending cuts will automatically occur if Congress and the President fail to agree on a deficit reduction package that meets the requirements of the act. In fiscal year 1988, the conference report calls for $23 billion in deficit reduction. In the later years, we must come within $10 billion of the targets in order to avoid the automatic cuts.

In order to make the process constitutional, authority for administering the automatic cuts is vested with the Office of Management and Budget [OMB]. I want to emphasize that OMB will have no discretion to determine where the cuts will be made. The automatic cuts will continue to be equally divided between defense and non-defense programs and will continue to be made uniformly. OMB cannot change this.

The President, at his discretion, will be allowed to exempt military personnel accounts from the automatic cuts. If he exercises this discretion, other defense accounts will have to absorb greater cuts. The President can also request that the defense cuts be distributed in a nonuniform manner among defense accounts. The total defense reduction cannot change under the request and the request must be approved by the Congress.

Mr. Speaker, the most important domestic issue facing us is the need to reduce our Federal deficit. This conference report gives us a chance to meet our responsibility and adopt a plan for real deficit reduction.

We must not waste this opportunity. Our economy is living on borrowed time and borrowed money. Everyone of us has given numerous speeches about the need to reduce the deficit. If we really believe what we have been saying, there are no excuses for voting against this conference report. The time for excuses is over.

The reinstatement of the automatic trigger provides needed discipline to the deficit reduction process. The adjustment of the deficit targets makes the provisions of the act more realistic and achievable. No one wants the automatic cuts to go into effect. But no real deficit reduction is going to take place unless the Gramm-Rudman-Hollings trigger is cocked.

The conferees worked hard and have delivered a bipartisan plan for restoring Gramm-Rudman-Hollings. It is a plan for real deficit reduction and it deserves the overwhelming support of the House.

Mr. Speaker, I reserve the balance of my time.

The **SPEAKER** pro tempore. The Chair recognizes the gentleman from Tennessee [Mr. Duncan].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference report has many flaws, and certainly does not offer a complete and lasting solution to the problems it addresses. However, I think it is the best answer we can get at the time, and that is one reason why I support it.

I support the resolution also because it complies with the motion to instruct the House conferees which was offered by our Republican leader. It does include a reconstitution of the Gramm-Rudman-Hollings mechanism, providing for either sequestration or reconciliation to reduce the Federal deficit by about $23 billion in fiscal year 1988.

The measure provides further for a statutory increase in the public debt ceiling which should be sufficient to remove this worrisome problem until the spring of 1989.

In light of difficulties facing the conference, I think it did a reasonably good job in meeting its responsibilities. It put us on the right course again, and I urge my colleagues to join me in voting for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

The **SPEAKER** pro tempore. The gentleman from Wisconsin is recognized.

Mr. OBEY. Mr. Speaker, I have no real quarrel with the Members of the House who put together this package; people like Mr. Foley, Mr. Rostenkowski, and others have certainly brought back the most benign package that is possible, I suppose, under the circumstances. The question is whether you accept the circumstances and I for one do not, because I think the circumstances requires us to, in essence, lie to the American people if we pass a package like this.

The problem as I see it is simply this: I do not know what it is like in other parts of the country, but in Wisconsin if you hire a carpenter and they screw up the job the first time, you do not bring them back twice more. But that is not the way we are doing it here.

In 1981, we were told in the Gramm-Latta bill that if we just followed their prescription on budgeting and taxes we would get to a zero deficit.

So in 1981, we listened to their promise that we would have zero deficit if we followed their prescription. Instead, we passed their package and then we had deficits of $200 billion and more. So 2 years ago the same carpenters came and said, "We have a new idea." So we passed Gramm-Rudman.

They said again it would get us to zero in a nice, neat 5-year package.

Now they are back, the same carpenters are back here for the third time. What they are telling us is, "Gee whiz, folks, what we recommended 2 year ago was not working. We were only missing the target by $50 billion. So now we have got another Mr. Fix-It arrangement." And that is before us today.

I finally figured out this package. The original deficit target for this year was $108 billion under Gramm-Rudman, the new target is now $144 billion except it is really supposed to be $160 billion unless you have a one-eyed jack or a couple of deuces in your hand. Then it is something else.

That is how much sense this formula makes. It makes phony promises to the American people that there is going to be a zero deficit by 1993 when everybody knows that these numbers in this resolution are going to be changed at least four times between now and 1993. It pretends that you can take a $1,050 billion budget, put $700 billion off limits from cuts, leave the remaining $370 billion and out of that somehow, between now and 1993, find $160 billion in cuts from the $370 billion base.

Everybody here knows that is not true. That is a ludicrous and misleading promise. It says we are going to take 100 percent of the cuts out of 37 percent of the budget and you know that is not going to happen down the line.

What this really is is a procedural fig leaf to hide what is really happening. What is really happening is this: We have a President in the White House who is perfectly willing to negotiate with Mr. Gorbachev about arms control but he is not willing to negotiate with the Speaker, he is not willing to negotiate with Mr. Michel or Mr. Gray or Mr. Dole or Mr. Domenici or Mr. Byrd the congressional leadership in order to try to get a domestic compromise to preserve balance in the economy and to make some balanced deficit reductions.

And so in essence we are asked as a substitute for real leadership to approve the package which pretends that we would be willing to accept the following cuts this year under sequestration:

□ 1900

Drug enforcement, $50 million; AIDS research, $100 million reduction; Alzheimer's research, $10 million reduction; maternal and child health, $50 million; toxic waste control, $120 million; meats and poultry inspection, $40 million; student aid, $580 million; elementary and secondary education, $800 million; and mine safety, $17 million.

And we are supposed also to tell our dairy farmers, for instance, that they should accept anywhere between a 55 cents per hundredweight to $1 per hundredweight cut in their price, in addition to other previously scheduled cuts.

Does anybody really think we should let all those things happen? Unless we do, voting for this is a phony act, and I submit the package is a phony.

Mr. Speaker, what we have here is simply a procedural gimmick to cover up the fact that there is not sufficient will on the other end of Pennsylvania Avenue to put together the kind of bipartisan compromise that requires that Democrats give some on our social priorities and that the President give some on his defense and revenue positions. And so as a consequence we are passing this elaborate Rube Goldberg scheme to pretend we are going to get the deficit down to zero when in fact we are going to see changes take place that leave us with a deficit that is probably close to what we have now over the next 3 or 4 years.

So I simply suggest that if Members are voting for this, they are voting for something that is not real. I understand the motivation of it. I understand that Members will vote for it because it is essential in their minds to try to find some way to get the President to move. I just do not happen to think this package is going to be very successful, and I think we will be meeting ourselves coming back again and again until we can finally force the White House to do something real.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I rise in support of the conference report on the debt ceiling extension which includes a reinvigorated Gramm-Rudman deficit reduction mechanism.

This measure restores the automatic trigger so that across-the-board cuts will occur if Congress and the President fail to make progress in cutting the deficit. Second, the new mechanism sets annual deficit reduction goals that will deliver a balanced budget by fiscal year 1993. Third, the conference agreement assures that automatic cuts will be evenly divided between the domestic and military sides of the budget. Finally, the new Gramm-Rudman process prohibits the use of asset sales and other gimmicks to meet the deficit reduction targets. While this agreement is not everything that everyone wanted, it will strengthen our ability to reach a balanced budget. The targets established by the conference agreement are more realistic—and therefore more achievable. Because the targets are more realistic we are more likely to stay on a steady road to a balanced budget.

In the last few months, Mr. Speaker, as a cochair of the Bipartisan Truth in Budgeting Task Force, I have stood on the floor of the House and urged adoption of amendments that limit the growth in spending next year. We have successfully sponsored amendments to reduce spending by $500 million, but perhaps more importantly, the task force through its efforts has heightened awareness of the need to come to grips with the budget deficit.

Many of the members of our task force strongly embrace the new Gramm-Rudman mechanism. However, this agreement should not signal anyone that the hard choices necessary to balance the budget will be easy. They will not. This agreement should not signal to Members that the decisions to reduce spending or balance revenues with spending will be easy. They will not. this agreement should not signal to anyone that the appropriations process is over. It is not.

The hard choices are ours to make. If we make a commitment to deficit reduction here today—and I certainly hope we will—we will need to more thoroughly review appropriations to assure that spending is in line with Gramm-Rudman targets. Accordingly, the bipartisan task force in the next few weeks and months will redouble our efforts and continue to pursue every avenue of deficit reduction open.

Let's not kid ourselves, no process or mechanism will substitute for hard choices, but without a mechanism like the new Gramm-Rudman process to guide us in our deliberations, it is unlikely we will stay on the road to a balanced budget very long.

Mr. Speaker, Chairman ROSTENKOWSKI, Majority Leader TOM FOLEY, Minority Leader BOB MICHEL, among many others who deliberated long hours to reach this agreement before us today are to be congratulated. A vote in favor of this agreement is a vote for fiscal responsibility.

Mr. Speaker, I strongly urge adoption.

Mr. DUNCAN. Mr. Speaker, I am pleased to yield 4 minutes to the distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, on August 4, when I introduced a motion to instruct conferees, I said:

> The issue before us is not the budget, not the deficit, and it is not the fact of sequestration. It is, instead, something much more fundamental, and that issue before us is the responsibility of the House of Representatives to simply act.

Since rhetoric gets such careful scrutiny from the media these days let me say I am paraphrasing remarks of Winston Churchill when I say that the agreement we have reached is not the end of our need to act nor the beginning of the end—but it is the end of the beginning.

We have begun. We have reached a bipartisan agreement. We have broken the evil spell of paralysis and actually moved forward. This agreement is only procedural—but it is procedure that has the promise of future substance.

Just as beauty is in the eye of the beholder—I don't know who to acknowledge as first having said that one—so is progress on the deficit. So much depends on the meaning we give to the actions we take. Some may look at what we have reached here and say: It is not enough. It is only a gesture.

But I say we should look at it as the beginning of a process we have committed ourselves to, a bipartisan process to do something real about the deficit.

We haven't seen any real expression or effort to achieve reduction in spending. Everyone sees what he wants in this—some see a chance to force the President to raise taxes—some a chance to reduce excessive spending—others a commitment to balance the budget.

I see it as a genuine bipartisan effort to work together from this point on to reduce the deficit.

I want to commend my good friend, Chairman DAN ROSTENKOWSKI, for having joined with me when I introduced my motion to instruct.

His cooperation, his leadership, his willingness to cooperate have helped us get this far.

But this isn't far enough. I want to take this opportunity to reach out my hand once again to my good friend ROSTY and to say to him and to the Democratic leadership:

What we have done is small in comparison to what we need to do. But we've come this far together. Can we, in conscience, go a few steps further, and then another few, and then a few more?

I say to my colleagues on my side of the aisle: I'm not asking you to go along to get along. All I'm saying is now that we've achieved this small, tentative bipartisan step, isn't it possible that very, very carefully we can take other steps, checking each one along the way to see to it that it is moving in the direction of shared values and shared goals?

We all speak about the "American people" and we all claim, from time to time, that we know exactly what they want.

Well, in this case we do know what they want. They want responsible progress toward reducing the deficit. They are willing to leave it up to us how we responsibly achieve that goal. So why don't we take what we have achieved in a bipartisan fashion and get ready, right now, to take the next small step. One at a time. But always moving forward toward goals we as Americans share.

I think we can do that. I hope you share that belief with me. It is risky, this bipartisan openness. It can blow up in your face. But it also can work if we just keep the spirit that has gotten us this far.

Is that too much to ask? I think not. I think we have a chance to seize the moment and do some good for the country.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, I want to thank my good friend, the gentleman from Wisconsin [Mr. OBEY], for giving me this time.

Mr. Speaker, I strongly support the increase in the permanent debt limit. But I cannot vote for an extension of Gramm-Rudman-Hollings, and I cannot vote for the conference report. I take the same position on Gramm-Rudman-Hollings that I have taken on the temporary debt limit and the Budget Act.

I want to set budget priorities by my votes on individual spending and revenue bills. If a majority of the Congress or the President want to reduce the deficit, then I will stay here and work with you bill by bill.

But I will never accept the proposition that the individual expenditures and revenues that I have voted to support can be changed by a mindless process like a debt limit or a sequester. I wish that the rule allowed a separate vote on the debt limit. I would like to support the conferees and the gentleman from Illinois [Mr. ROSTENKOWSKI] on the debt limit issue. It took vision to pass up a quick fix in the temporary debt limit, and to recommend instead an increase in the permanent debt limit.

It took vision to acknowledge that the level of debt is determined by the individual expenditures and revenues that are voted on the floor of this House, and should not be constrained by the expiration of some arbitrary limitation.

But we do not yet have the vision to acknowledge that there is no essential difference between the temporary debt limit and the sequester process.

Gramm-Rudman-Hollings cannot be fixed. The basic concept is wrong. It should be repealed. That is my vision, and the time will come when you will join me, mark my words.

And just wait. I make this prediction: when that first sequestration comes in, there are not going to be enough bushes in the District of Columbia to hide under.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. FLIPPO].

Mr. FLIPPO. Mr. Speaker, I rise in strong support of the conference report on House Joint Resolution 324.

After several years of progress on deficit reduction, CBO recently predicted that future deficits are projected to increase in the future rather than decrease. We simply cannot tolerate a rising budget deficit. We must take action and we must begin today.

This bill will provide the mechanism to bring the Congress and the President together to negotiate a reduction in the deficit.

Even if there is no agreement on a reconciliation bill, we are guaranteed that the deficit will be cut by $23 billion in fiscal year 1988.

By continuing to amass huge deficits, interest rates will continue to rise with severe repercussions for our housing, farming, and other interest sensitive sectors of the economy.

The simple truth is that we must restore fiscal integrity to our Federal Government.

Many of you support a balanced budget amendment. This is essentially a legislative device to accomplish the same objectives. I urge your support.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, this has been a long and frustrating year. Deficit reduction and budget reform have, until now, been ignored.

I have spoken often in the last several months against fiscally irresponsible legislation. It was not hard to find. It was responsible legislation that was hard to find.

I continue to believe that deficit reduction must be our top priority. And that is why I am pleased, and slightly surprised, to recommend to you the conference agreement on House Joint Resolution 324.

Mr. Speaker, I believe that we are, on balance, well-served by this agreement. We may claim victory in the fact that the House got what it asked for in our motion to instruct the conferees last month. At that time, the Michel motion asked for the conference to restore the Gramm-Rudman-Hollings automatic trigger. We got it. We also asked for some flexibility on the sequester of defense spending in this process. That one is less certain, but we got at least some flexibility.

Mr. Speaker, this is not a perfect agreement, but I think it ought to be acceptable to the House, and I hope it will be passed. The sequester numbers are not large enough for my taste. A $23 billion target in fiscal year 1988 is a very small step when we are dealing with a projected deficit of $157 billion, especially after we have escalated the base line.

For fiscal year 1989, if our economy continues to grow at its present pace, and if the sequester is effective this fall, our target of $36 billion could actually be reduced to a target of from $15 to $20 billion.

I have some trouble with that new adjusted baseline, which now approximates the baseline of our friends at CBO. In scrapping the so-called Gradison baseline, we have raised the baseline by $13 billion. The new baseline is unrealistic. Because it is too high, I am told that a $23 billion cut from the new baseline would only equal a modest $15 billion cut using the Gradison baseline.

Republicans sought budget reform in this conference. The Senate conferees did not object to our demands for credit reform and splitting continuing resolutions on enrollment. The House Democrat conferees stonewalled this effort and they failed.

The conference did produce some minor budget reforms. I wish there could have been more. But at least we have put budget process items on the agenda. The agreement calls for use of a single set of economic assumptions. More importantly, under this agreement the Congress may no longer play the funny-money game of shifting pay dates from one year to another and counting that as a deficit reduction, nor can it use asset sales as deficit reducers.

Mr. Speaker, the conference agreed to extend the debt-ceiling through May 1989. This may be the best news of all. Now we can get down to the business of running the Government instead of regularly threatening to shut it down.

Every debt-ceiling resolution is a vehicle for Senate hitchhikers. Most of them are not as desirable as the retrigging of Gramm-Rudman-Hollings. If this resolution passes, we won't see any more for a year and a half.

The heart of this agreement, and the matter that forced this conference into overtime, is the adjustment of the Gramm-Rudman-Hollings targets and the replacement of the automatic trigger. This agreement is designed to balance the budget by 1993, and gives the sequestration decisions to OMB and CBO rather than the Comptroller General.

As in the original Gramm-Rudman package, any sequestration would be split between defense and nondefense accounts. A provision was added to allow the President some flexibility in where the defense cuts would come from. The President may propose certain adjustments in the distribution of the cuts among personnel and other accounts. Then he is given an expedited procedure to send his proposals back to the Congress for action.

The expedited process guarantees a vote in both Houses, but because the process ends in the conference committee, there is no guarantee that it will produce results. It could be filibustered in the Senate or simply not scheduled in the House.

Mr. Speaker, it is not often that I find any congressional action on the deficit that I can applaud. But this conference agreement has produced the first substantive moves toward deficit reduction in the 100th Congress. It extends the bothersome debt ceiling. We have replaced the automatic trigger, which is necessary to pressure Congress into dealing with the deficit. We have given the President a little flexibility in defense cuts. And we have agreed to some budget process reforms.

Make no mistake about this vote. It is a fiscal, trigger-restoring vote. The correct vote from a standpoint of economic conservations is an "aye" vote.

I was encouraged by the bipartisan flavor of this conference and am hopeful that we can get back on the road of deficit reduction by passage of this conference agreement. I respectfully suggest that all Members who are worried about the deficit, and have promised to do something about it, vote for the conference report on House Joint Resolution 324.

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Mr. OBEY. Mr. Speaker, I yield 5 minutes to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased that the conferees on House Joint Resolution 324 have arrived at a compromise solution to the Gramm-Rudman fix-it problem. As I said 2 years ago as we formulated Gramm-Rudman, the best thing about Gramm-Rudman is that it is so bad. The threat of across-the-board cuts will hopefully force both Congress and the administration to make the serious compromises necessary to reduce the Federal deficit. I hope that the restoration of the automatic trigger will provide the impetus for some responsible decisions by this body over the next 6 weeks.

I do have one very serious problem with the Gramm-Rudman compromise. Contrary to expectations, the conference committee did not address an issue that preoccupied the House for a couple of days in February 1986 on how to obtain savings from the dairy program. I was concerned to discover that notwithstanding the actions of the 99th Congress (Public Law 99-198), the new Gramm-Rudman provisions regarding dairy revert to the provisions of the original Gramm-Rudman Act.

The use of across-the-board reductions in the milk price support would result in unfair and unintended reduction in dairy farm income. Additionally, it would not achieve the budget savings that Gramm-Rudman is designed to achieve, particularly in the upcoming fiscal year.

The Commodity Credit Corporation is expected to purchase only 5 billion pounds in surplus dairy products. Most of these purchases are necessary to meet the requirements of Federal food assistance programs such as the School Lunch Program.

For example, a 4.3-percent across-the-board sequestration order would require a 50-cent cut in the support price. This cut would cost dairy producers $725 million in lost income, yet it would only generate about $25 million in outlay savings, given the current 5 billion pound level of Government purchases. This is a very optimistic result. More likely the assessment will be twice this. By contrast, a 3.5-cent assessment on all milk produced would reduce dairy program costs by about $50 million, and it would cost dairy producers only $50 million. Congress adopted this method of meeting the dairy program's share of Gramm-Rudman savings last year.

Dairy producers are willing to contribute their fair share to achieve the budget savings required by law. However, as you can see, the price-cut method contained in the proposed Gramm-Rudman revisions would cost dairy producers 30 times more in lost income than it would generate in budget savings. And that is the optimistic view.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

I would like to get the pessimistic view.

Mr. GUNDERSON. Mr. Speaker, I thank the gentleman for yielding to me.

There is no Member who regrets that he is unable to stand up in support of this bill more than I, because I do believe deficit reduction is the absolute No. 1 problem facing this country; but unfortunately, the conferees have seen fit not to provide the Members the same flexibility in agriculture that, as the gentleman indicated, we had to pass 2 years ago.

Let us assume, according to the Committee on the Budget, that a maximum sequestration order goes into effect requiring a 9-percent cut in our domestic programs.

That would require an $86 million reduction in the dairy price support program. If we have a sequestration, dairy farmers are willing to pay their share, do their part despite the fact we have cut the cost of the program in half in the last year already.

Because the conference agreement does not provide the Members the flexibility of using an assessment to fund that $86 million, we will have to achieve it through a price cut. A price cut would be $1.11 price cut as opposed to only a 6-cent assessment.

Let me tell the Members what that will mean to a typical 50-cow dairy farmer in Wisconsin. It will mean a loss in annual income of $6,600 a year.

We are willing to do our part for deficit reduction; but after we have cut the cost of the dairy program in half last year, to be picked out as the sole recipient of this kind of penalty in this conference agreement is very unfair.

Mr. JEFFORDS. Mr. Speaker, I appreciate the gentleman's comment; and I do not know how we can explain it any more easily than the fact that it is going to have 30 to 60 times the impact on the dairy farmers as it will the rest of those affected, and to me that is so outrageous.

After we had gone through the whole debate a year ago, to point out and to convince this House that it was essential that a modification be made, and that the 1985 farm bill presumed that a change would be made to accommodate an assessment in lieu of a price cut.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding.

I would like to say I agree with the gentleman, and all they have done is to screw up this time around what they fixed up 2 years ago.

Mr. JEFFORDS. That is exactly right. I am sorry we have to be before this body to point out what has happened, and again ask that somehow some way we will be able to remove these horrendous circumstances that are created by this bill for the dairy industry. The industry itself will suffer a loss of $750 million to over $1.5 billion in income to save only $25 to $50 million for the taxpayers. Whereas a small assessment of a few cents will fulfill the dairy persons obligation to help balance the budget.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Speaker, I thank the gentleman for yielding.

In 1986 the Dairy Program cost $1.8 billion. This year it will cost $900 million. We have cut the cost in half.

What we are sending as a signal and reward to the dairy farmers for saving half the cost of their program in 1 year, we are sending them a penalty of $1.11 price cut automatically, as I indicated, costing the average 50-cow family dairy farmer in this country $6,600 in lost income the first year.

Is that any way to run a government? I say no.

Mr. DENNY SMITH. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Oregon.

Mr. DENNY SMITH. Mr. Speaker, I thank the gentleman for yielding to me.

I stand in opposition to the measure and would like to be so recorded.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise tonight in support of this proposal. As I said, as a Member of Congress who was very much against the Gramm-Rudman original approach, feeling that a mechanical mechanism was totally unnecessary, that we could stand up and vote for what was necessary, increases in revenues and reductions in spending. However, since we have come back to the 100th Congress, all I have heard are excuses why we cannot in fact do this.

I hear that we voted for the budget resolution, but we really did not mean that; we voted for $19.3 billion in increased revenues.

I hear that time warning calls for line-item vetoes, constitutional conventions, balanced budgets, and we all know these things probably are not going to happen, so I stand here tonight supporting this proposal reluctantly.

I notice I am not alone. There are other Members gathered around the mikes.

Those that are voting for this proposal understand, if they understand any economics, that for every $1 we reduce that deficit, that spills out into the economy; and it is better for our country.

I urge the Members to support this.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. GRADISON], who has been one of the architects of this proposal.

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the conference report to accompany House Joint Resolution 324. This may not be the best way to cut the deficit, but it appears to be the only way.

Beginning in February, I begun to burden my colleagues with a series of Dear Colleagues and speeches on the need to "fix" the original Gramm-Rudman-Hollings legislation.

The upshot of my winter offensive was that staunch supporters of Gramm-Rudman who refused to change it ran the risk of loving it to death. The reason was clear enough.

Soon after the Supreme Court ruled against automatic sequestration, it became apparent that the backup or fall-back mechanism was simply not going to work. This, combined with the fact that the starting deficit that we assumed in the balanced budget legislation was much to low, brought me to the conclusion that a "fix" was essential if the goal of a balanced budget was to be achieved.

I argued for a two-part "fix"—first, to stick with the goal of reducing the deficit by $36 billion a year but to start counting from a more realistic deficit level; and second, to restore automatic sequestration in a constitutional manner.

Therefore, as a personal matter, I was pleased when the House passed Mr. MICHEL's motion to instruct conferees, which called for precisely the same thing. Specifically, the instructions this House agreed to called upon the conferees "to * * * restore an automatic * * * sequestration * * * in a constitutional manner and in a way designed to achieve significant deficit reduction over several years leading to a balanced budget."

I am even more pleased that the conference report does exactly what these instructions called for.

I support this legislation because I believe its enactment will result in $23 billion of real deficit reduction over the next 12 months that would not otherwise occur. I wish I could be as optimistic about deficit reduction in the outyears, but in budgeting as in baseball we have to take a year at a time.

I disagree with those who believe this new law will let the President off the hook with respect to deficit reduction. It is true that without this change the President, and the President alone, would be required to produce a budget for fiscal year 1989 with an unrealistic deficit of $72 billion. We all know any such budget would be dead on arrival, and the very fact of submitting it would reduce the chances for cooperation between Congress and the White House. But the revision of Gramm-Rudman-Hollings now before us could increase the chance for cooperation by setting targets which are in the realm of the possible.

Finally, Mr. Speaker, I want to comment on the contentious issue of budget process reform. I regret that the conference committee failed to include significant process reforms in this legislation.

But process reform needs to be placed in perspective. In frankness, I believe the push for process reform can be oversold. Former CBO Director Rudy Penner said it best: "The process is not the problem, the problem is the problem." And we all know that the "problem" is the deficit. Even with significant process reform, we know from experience that the congressional talent for gaming the system can largely neutralize the intent of the reform.

Mr. Speaker, this is, on balance, a very good product. Without question, it's extremely close to what many of us have been pushing for. I urge its adoption.

Mr. OBEY. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

I have been a firm supporter of the Gramm-Rudman concept. I rise tonight in opposition to this particular conference report.

In all honesty, this is a bad conference report which will result in bad policy and will result in bad law.

I say that, because the Members, first of all, have to buy into the idea that raising the debt of this country by $689 billion in one fell swoop is a good idea.

I would suggest that for many of the Members, we have come to the conclusion that is not a good idea. That is the single largest debt commitment in the history of the world. It is not a good idea.

Second, I think you have to buy into the idea that the original Gramm-Rudman targets worked correctly. Gramm-Rudman was supposed to be a process by which we balance the budget by 1991. In ths particular bill what we are saying is, we have abandoned that principle altogether. There are no firm targets.

We are going to have a rolling target toward zero which means we will forevermore have a rolling target toward zero.

The Members in this body who have sponsored a constitutional amendment to balance the budget cannot in good conscience vote for this particular matter, because it says there is only a rolling target maybe to get to a balanced budget at some point at some time. There are no firm targets.

Second, the Members would also have to buy a new budget process fatally flawed from the start. We already know the next series of budget waivers that will come down the pike, supplementals, that once we have the automatic trigger kick in, we will come back and correct that with supplementals following on.

The process developed in this bill is fatally flawed. We also, by adopting this conference report, are selling out a proposal for pay-raise reform.

In the other body there was a proposal put forward that suggested that Congress would vote on their pay raises henceforth. Under this particular conference report, and in this confernce report, what we said we were going to do was simply abandon that. That was one of the first decisions we made, so the Members will not find any language in this report about that.

The fact is, we will be endorsing a conference report that abandons the concept of pay-raise reform in this body. I would suggest to the Members that we cannot make up in budget fixes what we lack in guts; and I have come to the conclusion that we lack the guts to do real things about the budget, and this budget fix we are proposing here tonight is not going to do anything toward correcting that particular problem.

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I think it is high time to say no. We ought to say no to this process. We cannot go on simply raising the national debt all the time to make up for the spending that we are doing around here. In this proposal we raised the national debt by a figure bigger than any figure before in the history of the world. We ought to turn it down.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise in support of the conference report. I recognize that the general reaction to Gramm-Rudman is ambivalent at best, but like a lifeboat, I think Gramm-Rudman represents both failure as well as hope; failure because the President and the Congress have failed to agree on our approach to deficit reduction; failure because we failed to break the political logjam over the past 4 or 5 years over putting controls on defense, controls on entitlements and taxes in the same package; and failure because we have had to resort to an automatic mechanism to force what we should do through compromise and through voting; but at the same time it also represents the only hope we have to try to resolve the budget issues. If we fail to adopt this approach, the consequences are worse. We will be unable to pass a debt ceiling extension.

We cannot adopt reconciliation as proposed under the budget resolution. That is just a fact. We cannot pass a continuing resolution that meets the targets in the budget resolution, and ultimately the deficit will increase to approximately $200 billion next year.

We have tried to take the approach here adopted in the conference of trying to clear up some of the problems contained in Gramm-Rudman. The approach with regard to the trigger is constitutional. We do constrain OMB and prohibit it from changing the order. We do maintain the equal distribution of cuts between defense and domestic. We do protect the programs that impact on the poor and we do eliminate asset sales as a gimmick.

Now, while Members are right to be frustrated about this process, there frankly is no choice. The alternative that faces you is to continue to try to reach unrealistic goals in the budget, to continue to have confrontation, to continue to play the game of chicken with regard to passing the debt ceiling and to continue higher deficits.

This is the only chance we have now to change that course and to try to reach for common sense solutions to the budget problems that face us. I think it is a chance that is worth taking.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. DAUB].

Mr. DAUB. Mr. Speaker, everybody knows that the budget process is broke. It has become something of a national joke. Short of bombgrade plutonium and starting over from ground zero, about the only thing that will fix it is the threat of a real sequester. That is why the first bill I introduced in this Congress offered sequestration as a solution and that is exactly what this bill does. It puts the teeth back in Gramm-Rudman that the Supreme Court defanged.

Gramm-Rudman means that the congressional spending party is over and it is time to deal with the hangover, and what a party it was. In the last 6 years, the national debt ceiling has risen from a trillion dollars, and that is with a "T", my friends, to over $2 trillion. In those years Congress has outspent what it said it would spend by an average of $28 billion annually.

Mr. Speaker, this should change dramatically with real sequestration. Economists are nearly unanimous that a reduced rate of spending, a reduced rate in the growth of Federal spending, means lower interest rates. I saw a prediction that bringing the deficit down to 2 percent of our gross national product means a drop in interest rates of 2 to 4 percent.

Mr. Speaker, there is not a housewife, worker, taxpayer, businessman, homeowner, or farmer, who will not benefit from these interest rate reductions. Let us take farmers for example. A moderately leveraged corn grower with 600 acres will realize over a $6,000 gain with a 2-percent interest rate drop. For a thousand head per year feeder cattle operator, a 2-percent decline in the interest rate equals a savings to him of over $8,000.

The more trouble a farmer is in, the more he gains with interest rate relief. If we assume the two operators I just spoke about have a higher debt load, say a 50-percent debt to asset ratio, and that is not uncommon for my State of Nebraska these days, interest rate reductions mean even more money will be left in that producer or grower's pockets. For the 600-acre corn grower, a 2 percent drop gives him about a $15,000 savings; for that 1,000 head per year cattle feeder, a 2-percent interest rate relief lets him pocket almost $22,000.

Mr. Speaker, Gramm-Rudman was in the beginning a vote of this Congress on a solid bipartisan basis and it was in response to the American taxpayer, and it should be again tonight.

Congress spends, and Congress taxes—Presidents do not.

Gramm-Rudman is an admission of guilt on the part of this House. I say let us admit the guilt, pass this bill and let us get on with the job of reducing the deficit. The farmers and the rest of America will thank us for it.

Mr. OBEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I will be voting against this measure. I voted against Gramm-Rudman from the beginning. Gramm-Rudman is a fig leaf hiding the unwillingness of many of those that espouse it to bite the bullet and vote for the only thing that will truly reduce the deficit; tax increases and specific budget cuts.

Mr. Speaker, there is only one thing to do about this deficit, raise revenues, reduce defense and reduce selected domestic programs. Anything that does differently is simply not addressing the deficit.

I am voting no and the responsible vote is "no."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, in great deference to the conference committee, I nonetheless rise to express concern and disappointment over the conference agreement, because the budget cuts it schedules for fiscal year 1988 and fiscal year 1989 are simply too small. The agreement schedules cuts of $23 billion in fiscal year 1988 and perhaps as little as $15 to $20 billion in fiscal year 1989. This is about half as much deficit reduction as we should make during this period. If I am not mistaken, it is about half as much deficit reduction as the House conferees originally set out to achieve.

I fear that by shrinking from our position, from what we know to be right for the country, we become a party to the Reagan administration's cynical abdication of responsibility. We become a party to the dangerous political gamble the Reagan administration continues to play with the United States and world economy.

The business cycle has not been repealed. By 1990, when the real deficit reduction under the conference agreement will kick in, we may well be in a recession. At that time, revenues will fall and entitlement outlays will rise, dashing any real hope of getting a handle on the deficit and the ballooning national debt. We will have missed the boat.

At that time, the Federal Government will be without a single viable policy tool to fight the recession. We will not be able to increase the fiscal deficit; it will already be at a prohibitively high level. The Federal Reserve will not be able to cut interest rates, because the dollar would plummet as foreign investors left the country out of fear of inflation. With all responsible options foreclosed, we will face the prospect of either inflating our way out of the recession or sitting by helplessly as it takes its course.

Mr. Speaker, there is evidence that we are already in the early stages of this frightening process. As my colleagues are aware, interest rates have risen dramatically in recent months. The bond market is slumping. The dollar is under growing pressure. And we are having little success in convincing our trading partners, Japan and Germany, to stimulate their economies. Why? In each case because no one believes that the United States is putting its fiscal house in order.

Mr. Speaker, I am afraid that this conference agreement will only confirm the worst suspicions of the financial markets and our trading partners. As a result, our trade deficit is likely to remain stuck at record-breaking levels and the arrival of the next recession is likely to be hastened.

Finally, Mr. Speaker, there is the question of political accountability. One of the reasons I voted for Gramm-Rudman in the first place was that it offered the only opportunity of forcing the President to confront the mistake he made in characterizing his supply-side tax cuts as self-financing.

The President gambled. He lost. His economic program did not perform as advertised. Now he owes the American people his full cooperation, if not leadership, in correcting this mistake. He is providing neither and I regret that the conference agreement is going to let him off the hook once and for all.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, it has been said here that this is far from the full answer. That is true, but the answer is not imaginary. The danger is that the response would be too powerful a sequestration.

It has been said also that some who crafted this approach helped create the mess in the first place. How true, but is the answer to let the mess get worse?

It has been said that the main problem is the President will not act. He has been playing dodgeball. How true, but is the answer to let the country suffer because of the President's default?

It has been said that there will not be less defense expenditures or more taxes because of this resolution. That is not true. There will be less defense and there will be more taxes because of this process.

No, the answer is to put as much heat on the President as possible. This is not so much a compromise as it is the only proposition on the table. The worst action on the deficit would be total inaction.

Mr. Speaker, I urge support for the resolution.

Mr. DUNCAN. Mr. Speaker, I am pleased to yield 2½ minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the conference report accompanying House Joint Resolution 324. In coming to this conclusion, I asked myself several questions. First, is this a real bill or is it just another budget gimmick?

Well, it has $23 billion in real cuts this year. Next year's target lowers it another $36 billion, or down to $144 billion, whichever is less, and in the 3 years after that, we go to $100 billion, $64 billion, $28 billion and finally in 1993 to zero. I would say those are real targets.

We also eliminate the asset sale gimmick, so I would answer the first question by saying this is a real bill.

Second, does it have teeth? What happens if we do not meet these targets?

Well, we do have another sequestration mechanism that is constitutional. OMB will be the implementor of that mechanism.

We have to use realistic economic and technical assumptions and the other body and this House and the President have to use the same set of economic assumptions; so I would say this bill does have teeth and we will have to implement it if we do not do it in the normal practice.

Does it have some flexibility and compassion? I think the answer to that is "yes." The President does have flexibility in meeting the defense cut if it comes to that.

At the same time, we maintain the social safety net programs that we exempted under the original Gramm-Rudman mechanism, like Social Security and food stamps and veterans' programs.

The House and the Senate also have the ability to modify the sequestration order, if the majority leader in this body and the majority leader in the other body has an alternate proposal and they introduce it within 10 days after the President presents his sequestration order.

Finally, is there an alternative? If we are against this, what are we going to do? The answer to that is there is no alternative. Without this we go to $185 billion deficits next year and then $200 billion deficits the year after that.

So in summary, we have a real bill with teeth, with some flexibility. We do not have an alternative.

To quote my 5-year-old daughter, Kristin Barton, when we started on vacation this year, she said, "Are we there yet, Daddy?"

Well, we are not there yet, Daddy, on deficit reduction, but we are on the road, and I urge support for the conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Speaker, Otto Von Bismarck said, "Politics is the art of the possible." That truly is where we are tonight on this vote. This is the best that could be done. It makes sense. It is imperative that we get about the significant business of deficit reduction.

Mr. Speaker, we are really on very, very thin ice. Since 1981 the Federal budget deficit has grown from $59 billion to over $180 billion. The national debt has grown from $1 trillion to $2.5 trillion during this administration.

There really is blame to go around for everyone; but make no doubt about it, history will not be kind to this Congress nor this administration if we do not reach the hard boards of compromise to put us on significant deficit reduction.

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Tonight is really the easy part. The hard part lies ahead. The decisions we make in the next few weeks will affect our deficit in the next few years.

Mr. OBEY. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I rise in opposition to this conference agreement because of the provisions it contains which deal with the Gramm-Rudman-Hollings law.

Since the Gramm-Rudman-Hollings law was first proposed 2 years ago, I have been adamantly opposed to it. To begin with, it is simply bad policy. Putting the Federal Government on automatic pilot is an awful way to conduct the business of this Nation. To remove thinking and choosing from the process of governance is to set the stage for disaster. In lowering its deficit cutting ax, the Gramm-Rudman-Hollings law except in a few cases does not distinguish between programs that are absolutely essential to the survival of this Nation and those that are not. It blindly cuts them all.

I firmly believe that the Gramm-Rudman-Hollings law is still unconstitutional, because of its overly broad delegation of authority to the executive branch. The Constitution very clearly specifies that the power to control Federal pursestrings belongs to Congress. While Congress can delegate limited duties to the President, it cannot abdicate one of its core constitutional duties.

Quite simply, one of the fundamental reasons for which Congress exists is to make the tough budgetary decisions facing this Nation, and then take the responsibility for the consequences of those decisions. It is contrary to the Constitution to allow Congress to avoid making budgetary decisions by delegating these responsibilities to the President.

I urge you to reject this conference agreement and join with me to restore our Government to its proper form.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MACK], who has certainly played a major role.

Mr. MACK. Mr. Speaker, first a comment about automatic pilot. I would remind the Members of the Congress that we only go on automatic pilot if in fact we have failed to carry out our responsibilities under this act. What we are saying is that the Congress should establish targets and then we should establish spending bills necessary to reach those targets. It is only if the targets are not met that there is a sequestration that takes place.

There is even a step in there for further protection. It says we can come back with an alternative. So the Congress has plenty of opportunity to do what it is required to do.

So I would say to the comment by the previous speaker, it is not quite accurate. We are not putting the Congress or the country on automatic pilot. It is only if we fail that we are going to change the nuance in this Congress away from spending increases to spending reductions.

Mr. Speaker, the second point I would make is again to go back to 1985 when the Congress said it was important, No. 1, to establish targets for borrowing over a period of time; and No. 2, that there should be an accounting mechanism to see whether the plans we have put together in fact will meet those targets; and No. 3, an enforcement mechanism if we failed to carry out and meet the targets.

What we are addressing here is a fix on the automatic trigger, a fix that says that if we fail that there is something to enforce it.

I would say to those of my colleagues who voted for Gramm-Rudman originally, and those of my colleagues who voted for the motion to instruct which said there should be a fix to the triggers and there should be specific targets to reduce the deficit over a period of years, this is exactly what the conference has brought back and I do not think that my colleagues can use the feeling that, well, the reductions were not great enough, or that the time was too long. I do not think that my colleagues can use that as an excuse to vote against the conference report.

I encourage my colleagues on both sides of the aisle, specifically those who have supported it in the past and those who voted for the motion to instruct, to support this particular conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. MACKAY].

Mr. MACKAY. Mr. Speaker, I would like to relate back to a comment that the gentleman from Illinois [Mr. MICHEL] made earlier: this really is the end of the beginning, and both parties really did come a ways toward each other, and we came forward with what I think is the best product we can come with at this point. The beginning was this 2-year bipartisan effort that we have had to try to make the appropriations bills stay within the budget, so the budget has some meaning. The end of the beginning is reinstating an automatic trigger in Gramm-Rudman.

The question we have now is what comes after the beginning?

I am very disappointed that we were not able to deal with budget reform, with process reform. I thought there were some important ideas that were part of the Republican Party agenda going into this conference, and I would like to say as this part of the bipartisan effort, that is what comes next. That is what comes after the end of the beginning.

Maybe we cannot do that in the partisan context that we now find ourselves with the Presidential campaign starting. My hope is that if we cannot do that, maybe we could find a less partisan, a less charged way that we could look at these issues which really are the underlying issues and the question of a disciplined fiscal policy. Maybe we could have a bipartisan commission of some type. Maybe we could have a Volcker Commission like the Greenspan Commission that helped pull us out of the Social Security problem. Maybe we could do that and it could report back to us after the Presidential election. I am very pleased that we have come this far. This is the end of the beginning. What we have got to do now is look forward. The parties have started coming toward each other, perhaps we can go further.

Mr. Speaker, I urge adoption of this report.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I suppose that I am maybe the only one in the Chamber who is not really sure how he is going to vote on this conference report.

I rise with a great deal of ambivalence. I am a supporter of the Gramm-Rudman law. I certainly I like the automatic sequester. Yet, I notice there are no target deficits for the first 2 years in fiscal year 1988 or in fiscal year 1989.

I also like the idea of the asset sales not being counted in determining deficit cuts.

And I certainly do recognize that there is an obligation to extend the debt, but, as I look at this, the big thing that bothers me is that nothing is being done in regard to cutting deficits. As you look at the figures, the 1988 deficit is going to be much bigger than 1987. The Congressional Budget Office estimates the 1988 deficit at $183 billion. We deduct the $23 billion limited deficit reductions authorized by the conference report and we have a 1988 minimum deficit of $160 billion. But we must add $108 billion to be borrowed from trust fund surpluses. Everyone seems to ignore this borrowing. It is ignoring things like this that bothers me a great deal. In fact, the borrowing of trust fund surpluses will continue to be a big problem during fiscal year 1988-1993 and we are not doing anythng about it. In 1989 the trust fund borrowing will be $115 billion; in 1990 $133 billion; in 1991 $148 billion; in 1992 $159 billion; in 1993, probably $175 billion.

So, we shall have $175 billion of publicly incurred debt caused by the borrowing of trust funds, even if we eliminate what is called the deficit by 1993. I do not believe for a minute as we look at the CBO estimate for 1988 of $183 billion that that is the end of it. There is more spending to come in 1988. So my problem is whether or not we do have the will to make the real hard choices required to reduce the deficit. We certainly are not doing that by producing a $183 billion deficit in 1988 while also borrowing $108 billion more from trust funds. That adds up to $291 billion of added debt during 1988. It appears to me that Congress is just putting off as it has been putting off ever since we thought of Gramm-Rudman. That is what bothers me about this conference report. We've simply given up having any meaningful deficit reduction in the 100th Congress. In the 99th Congress, the total private and public incurred debt exceeded one-half trillion dollars! It appears to me the 100th Congress will repeat that unenviable performance.

Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, the statutory fixes are not going to save our country from financial ruin. Only a constitutional amendment requiring a balanced budget can do that.

Consider the financial disaster that is our Federal Government; a deficit approaching $2.5 trillion; interest on that debt of $12 billion a month, a sum that would run my State of South Carolina for 4 years; a proportional debt of $10,000 being inflicted on each American at the moment of birth; a catastrophic situation where half as much of our annual budget is being spent on interest alone as on our Nation's defense; a condition where every month our Government has to borrow approximately $819.50 to cover each Congressman's paycheck. It is shameful, deplorable, and embarrassing to me as an American and I will not vote to permit our national indebtedness to rise to an astronomical $2.8 trillion.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I rise in opposition to the conference report.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report on H.J. Res. 324, the debt extension bill. This bill while extending the debt limit through May 1989 would also amend Gramm-Rudman-Hollings. The goal of these amendments is the continued and systematic reduction of our Federal deficit. The principle amendments include the reinstatement of the automatic "trigger" and the adjustment of the deficit reduction targets contained in the act. It does fall short in making budget reform changes and I regret this.

Mr. Speaker, the reinstatement of the automatic trigger should provide needed discipline to the deficit reduction target. No longer will many of my colleagues be able to talk deficit reductions but vote deficit increases without paying the price. I regret that Congress is having to pass this legislation. However, there are many in the House who are simply "all talk and no action" when it comes to dealing with the deficit. They have opposed the balanced budget amendment, the line-item veto, cost-cutting recommendations of the Grace Commission, amendments to appropriation bills to cut spending and other measures intended to reduce deficits. Finally, a nonpartisan watchdog of the Treasury study for the first session of the 99th Congress showed that of the 136 Representatives who were honored for showing fiscal responsibility, 126 were Republicans, including myself, and only 10 were Democrats.

Mr. Speaker, I urge my colleagues to support House Joint Resolution 324.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of this measure and would like to briefly review the impact of Gramm-Rudman-Hollings on veterans programs as it has been revised by this measure.

As my colleagues may recall, when the balanced budget and emergency deficit control act of 1985—Public Law 99-177—was originally passed by the Senate, it contained no protection for veterans programs. The measure was quickly amended in the House to protect the major veterans' programs. Compensation and pension COLA's and most of the medical care account were exempt from sequestration or protected from major cuts.

Following enactment of Public Law 99-177, we subsequently witnessed major problems with the effects of sequestration on a few other VA programs and it became necessary to expand the exemptions contained in the original measure.

Section 601 of Public Law 99-576 added a new section to title 38 of the United States Code which provided a total exemption from sequestration for the following veterans' programs:

First, specially adapted housing for seriously disabled veterans;

Second, burial benefits for veterans who die of a service-connected disability;

Third, automobiles allowances and specially adapted equipment for severely disabled veterans;

Fourth, vocational rehabilitation benefits for veterans with service-connected disabilities;

Fifth, educational benefits payable to dependents of veterans who are totally disabled due to a service-connected cause and to survivors of veterans who die of service-connected causes;

Sixth, VA life insurance accounts which are almost exclusively self-supporting; and

Seventh, certain other self supporting accounts.

Mr. Speaker, it is my understanding that there is nothing in this measure which we are now debating which affects the exemptions for the programs which I have just referred to. I understand that the text of the 1985 act is being revised to include the programs which were exempted by the bill reported by our committee last year. However, this is being done as a technical measure so that programs which are exempt are all listed in the text of Gramm-Rudman. This is merely a technical correction and has no effect whatsoever on the action which we took last year. The effect of this is that the exemptions are listed in two places; there is no implied repeal of section 113 of title 38 United States Code.

Mr. Speaker, I do not like the idea of an automatic sequestration. I would prefer that Congress make the decisions on what programs, if any, need to be cut and how to raise the necessary revenue so that the budget can be brought into balance. However, it appears that in order to obtain the cooperation of all parts of the Congress, as well as the administration, some sort of threat of automatic cuts is necessary.

I do not claim to have a mastery of all the things that are contained in this package, but with the assurance of the conferees that it will not in any way affect veterans programs unless sequestration becomes necessary, I must reluctantly support the compromise. I hasten to add that if the credit reform proposals which were contained in title III of the Senate amendment had not been dropped in conference, I would be speaking against this measure. As the matter now stands, the House conferees should be commended for their insistence that the Senate recede from this hastily conceived and dangerous proposal.

In a letter to all of the House conferees, a copy of which I am attaching to my remarks, Mr. SOLOMON, the ranking minority member of the committee, and I expressed our views on this proposal. I will not read the entire letter, but I want to emphasize to my distinguished colleagues in the Senate who proposed this measure in the first instance that, for many veterans, the home loan program is the only Government benefit they will ever receive. It ought not to be terminated by some bookkeeping change which doesn't even specifically address the program and those that it serves.

This proposal has been deleted because veterans deserve more consideration than was given to them by the Senate proposal. I want to thank my good friend, Mr. SOLOMON, and the chairwoman of our Subcommittee on Housing, for joining with me in our efforts to defeat this proposal.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, August 4, 1987.

Hon. WILLIAM H. GRAY III,
Chairman, Committee on the Budget, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to advise you of our serious objections to the credit reform title which was added to the Debt Ceiling bill (H.J. Res. 324) by the Senate on Friday. If the credit reform proposal is included in its present form in any conference agreement on this measure, we plan to oppose the conference agreement and will urge other Members to do so as well.

The VA's home loan programs originated in 1944, and every person who served in our Nation's armed forces since then and who was discharged from service under conditions other than dishonorable is entitled to a VA home loan. Over the years, the VA direct loan program has been virtually eliminated, and the Congress has imposed a one percent "user fee" on veterans who use the program to help defray some of the costs of this program. Nonetheless, this very progressive and popular program continues to serve millions of veterans over the years. For many veterans it is the only benefit they will ever receive from the Government. It must be continued.

We have no way of knowing whether the "reform" proposal by the other body will fundamentally alter the relationship between the Federal Government and those who answered the country's call in time of need. However, we do know that members of our Committee have had no chance to consider this proposal, and that something which has the potential to seriously alter this entitlement program deserves careful scrutiny by our Committee and the other committees that will be affected by it.

We do not take the position that the credit reform proposal is without merit; however, we believe we should have ample opportunity to hold hearings and hear from Administration witnesses and others who may be affected by it before voting on a measure that is so comprehensive. We respectfully request that the House conferees insist that the credit reform title be deleted from any conference agreement reported to the House.

Sincerely,

G.V. (SONNY) MONTGOMERY,
Chairman.

GERALD B.H. SOLOMON,
Ranking Minority Member.

Mr. BRENNAN. Mr. Speaker, I rise in opposition to House Joint Resolution 324, the conference agreement on the debt limit increase, which also restores the Gramm-Rudman-Hollings automatic spending cut process. I am strongly opposed to permitting government spending decisions to be made on some sort of automatic pilot decisionmaking plan.

While I was not a Member of this body in 1985 when Gramm-Rudman-Hollings was first adopted, I oppose abdicating congressional power to control our Nation's purse strings. The very nature of adopting this type of legislation is an admission that Congress cannot, or will not, make the difficult and necessary spending decisions to restore fiscal responsibility to our Nation's budget. Our constituents, roughly 500,000 who elected us to make the tough decisions are being told through the passage of this legislation that we are allowing unelected bureaucrats to make those important decisions. I cannot allow our fundemental responsibility to formulate our Nation's budgetary priorities to be turned over to the unelected bureaucrats of the Office of Management and Budget.

The debate in 1985 on Gramm-Rudman-Hollings led us to believe that fiscal responsibility was in hand and that deficit reduction would occur in a fair and evenhanded approach. The reality of the situation has shown us that the legislation was not only unconstitutional, but certainly not evenhanded. When over $100 billion in cuts will be forced from roughly $350 billion of discretionary spending in the budget through the mandatory sequestration process, we will see the dismantling of the very programs our constituents expect us to maintain—drug enforcement, medical research, air safety, mass transit, education, environmental protection, housing, and a whole host of other vitally important programs to all of us.

Yes, deficit reduction must occur if we are to remain a viable world power. However, the key to economic responsibility is not passing the responsibility for tough spending decisions to bureaucrats. Our constituents did not elect us for that purpose, nor should they allow us that option.

I urge my colleagues to join me in voting down this abdication of our constitutional responsibility, House Joint Resolution 324.

Mr. HUGHES. Mr. Speaker, I rise in opposition to the conference report, which attempts to resurrect the Gramm-Rudman automatic spending cut process.

Gramm-Rudman was ill-advised when we first passed it, and it is ill-advised today.

First, it represents an abdication of our responsibilities, as Members of Congress, to make qualitative judgments as to how to achieve deficit reduction, including where spending should be cut, where projects should be canceled or postponed, or where we should be rebuilding the revenue base.

Second, the mindless way in which cuts would be achieved is almost the same under the conference report as it is under the original Gramm-Rudman program which was declared unconstitutional by the Supreme Court. The only substantive difference is that the meat-ax will be wielded by bureaucrats at the Office of Management and Budget, instead of at the General Accounting Office. This is little more than a cosmetic change.

Third, the measure before us once again postpones the day of reckoning for balancing the budget. The last Gramm-Rudman timetable required a balanced budget by 1991. The measure now before us delays a balanced budget until 1993, and raises the interim deficit targets. As such, it gives the congressional seal of approval to an additional $250 billion in deficit spending over the next 6 fiscal years. So, rather than being a deficit reduction measure, we actually have before us a deficit increasing measure.

Mr. Speaker, there is nothing in the congressional budget process that prevents us from reducing or eliminating the deficit. The process is not the problem, and amending the process is not going to eliminate the problem.

The problem is a substantive one. It is the result of a failure of the administration and of the Congress to successfully compromise their differences, and make good faith efforts to meet each other halfway on some of these very troubling issues of tax levels, spending levels, entitlements, and a host of others. Blindfolding ourselves and sending the budget off into a bureaucratic sawmill is not going to solve the problem.

I urge my colleagues to vote against this measure which, in effect, gives us the worst of both worlds—we turn our responsibilities over to unelected bureaucrats, while raising the national debt by a quarter of a billion dollars.

Mr. BEILENSON. Mr. Speaker, the original Gramm-Rudman-Hollings law was reckless and irresponsible; the legislation to "fix" it that we are considering today is even worse. It reestablishes what we all know is an unrealistic and unworkable approach toward reducing the deficit, it gives far too much authority to the executive branch to make spending decisions, and it adds a great deal of unnecessary complexity to our budget process.

No one thinks that Federal spending should be reduced through the scheme of automatic cuts provided for by this legislation. The only reason for supporting this bill is to try to force the President to negotiate on a deficit-reduction plan. However, there are many ways he can escape the trap that this bill attempts to set, and we can be sure that he will find at least one, leaving us nowhere on deficit reduction.

But worse than the fact that this scheme won't work is that the whole effort puts Congress to shame. We spent the first 6 months of the year struggling to get an agreement among ourselves to reduce the deficit by $37 billion, which we finally succeeded in doing when we adopted the concurrent budget resolution for fiscal year 1988 in June. Now, instead of at least trying to comply with our budget resolution, we are considering legislation that will effectively cancel that commitment by changing our fiscal year 1988 deficit-reduction goal to $23 billion.

Fiscal year 1988 starts in less than 2 weeks, and Congress has not yet completed one measure to carry out our deficit-reduction goals for the new fiscal year. Fiscal year 1988 appropriations bills are moving very slowly; reconciliation legislation, not at all. The President's staunch opposition to tax increases has created a difficult political situation for us, but that does not excuse us from taking action that we all know—and that virtually every economist and impartial observer knows—is necessary to lower the deficit. If we are serious about dealing with this critical problem, then we are going to have to act without the President's cooperation.

Actually, some of us thought that by adopting the fiscal year 1988 budget resolution, with its call for $19 billion in additional revenues, Congress was in fact making a decision to move ahead without the President's acquiescence. Passage of this Gramm-Rudman-Hollings "fix" will signal that we have lost our courage to face up to the deficit problem responsibly; it will mark our failure to carry through on our budgetary commitments.

Mr. Speaker, I urge my colleagues to oppose House Joint Resolution 324. Instead of adopting this conference report, let's pass a clean debt limit extension and get to work on the reconciliation legislation that was directed by the fiscal year 1988 budget resolution.

Mr. COLEMAN of Texas. Mr. Speaker, today will not go down in history as a great day in the life of this institution.

We have here on the table a so-called Gramm-Rudman compromise that, in my opinion, breaks the fundamental promise we made to the American people when we passed the original Gramm-Rudman legislation in December 1985. It was supposed to be a new beginning; Congress was supposed to be getting serious about the deficit; and in that landmark legislation, we promised that we would be.

Even more, we promised that this is where we have drawn the line. We promised that we will meet these Gramm-Rudman deficit reduction targets, one way or another. Unlike previous promises about the deficit, we weren't going to change the numbers at the last minute. We weren't going to include any loopholes or back doors in Gramm-Rudman. No, Mr. Speaker, we told the American people that we were going to stick to our guns about cracking down on the runaway deficit, that nothing was more important than reducing the deficit and balancing the budget.

We met those targets last year. This was to be the reckoning year, the year that the really tough choices would be made, the sacrifices endured, the red ink staunched.

Instead, this will be known as the year that when Congress met the deficit face-to-face, Congress blinked.

This conference agreement retreats from $37 billion in deficit reduction to $23 billion—just when the deficit is worse than ever. Furthermore, this fiscal sleight-of-hand removes much of the incentive for the Reagan administration to negotiate seriously on deficit reduction, something that is essential to any real progress.

Mr. Speaker, I urge my colleagues to vote against this short-sighted agreement. Aside from the still-unresolved constitutional questions, it still boils down to the fact that it represents a fundamental breach of the promise we made to the American people in 1985 when we passed Gramm-Rudman and in 1986 when we mandated the first round of Gramm-Rudman spending cuts.

Instead of this broken promise, we should pass a clean debt limit extension, a clean debt limit will force the Congress and the administration to make the tough choices necessary reduce the deficit and balance the budget. It will restore the faith of the American people in the ability of Congress to face up to its responsibilities, and it would send a signal at home and abroad that we are indeed serious about addressing the Nation's fiscal crisis.

This bill should be defeated on fiscal and budgetary grounds as well. It could cripple important Federal programs, notably defense, in the attempts to balance the budget. Under this new proposal, $23 billion in deficit reduction would be required, leaving a deficit of up to $160 billion instead of $144 billion. And in addition to this backsliding on the Gramm-Rudman targets, we will also see a Rube Goldberg-style contraption of snapshot estimates, a maze of reports and deadline, and everything else in the world except what we need: The political courage to stand up and tell the American people the truth about the budget deficits, and the personal courage to then act on that truth.

This will be a disappointing day for the House of Representatives if the conference report passes. I for one think we could have done better, and I am sure that the American people will demand that we do better in the future. We cannot go on passing so-called tough deficit reduction targets, only to revise those same targets upward to avoid politically uncomfortable decisions.

This Congress has still not learned that only tough choices and even-handed sacrifices can reduce the Federal deficit and balance the budget. We can pass all the so-called compromises we want, but every time we revised those deficit targets upward, we add more billions to the national debt and take another step backward toward achieving real deficit reduction.

The real truth is that we will all probably be treated before year's end to the irony of having required outselves by this conference report to support across-the-board cuts in spending—doing the chopping and slashing indiscriminately on defense and domestic programs alike. The reason is simple—revenues cannot be enacted unless Ronald Reagan backs down on his promise to veto any tax bill. This will leave about $12 billion in across-the-board cuts that will be done automatically—without thinking about or selecting our priorities.

I once again urge my colleagues to vote against this conference report.

Mr. MARTIN of New York. Mr. Speaker, I rise in opposition to the conference report on the debt ceiling extension and want to take this opportunity to embrace the earlier remarks of my colleagues, Mr. JEFFORDS of Vermont and Mr. GUNDERSON of Wisconsin.

Unless the object of this exercise is to inflict pain, the failure of the conferees to address the impact of a drastic cut in the dairy price support is incomprehensible. It makes no sense at all when you can get the same result with an assessment which is much less onerous to the dairy industry.

Last year, Congress recognized this inequity and took the necessary legislative action to reduce the burden on individual farmers, while at the same time ensuring that the reductions required under the Gramm-Rudman law were met. Our dairy farmers have always been willing to do their part, but they should not be asked, or expected, to contribute more than their fair share to deficit-reduction efforts.

I ask my colleagues to vote in opposition to the conference report.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want deficit reduction, but I do not want Congress to pass promises that it cannot keep. Twice before we passed gimmicks to balance the budget. They did not work because they were not real. This is not real either. Gramm-Rudman in the past has written its deficit reduction in disappearing ink and this will prove to be no different.

The only way we are going to get real deficit reduction is if the President calls down the leaders of both parties to the White House, puts them in a room and says, "Work out a 2-year deal we can all live with."

That is the only way we are going to get something real done and the sooner it happens the better it is for our country and for our economy. All Gramm-Rudman does is to have us singing a variation of the old theme that General Electric used to sell as its slogan, and that would simply be, "Progress is our most important product."

Mr. Speaker, we ought to be able to do better than that.

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Mr. DUNCAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, from 1975 to 1982, the Federal budget increased by 11 percent every single year and then the budget started down but not by very much and not consistently. But in the last 2 years since Gramm-Rudman, our Federal budget increases have been 4.6 percent in 1986 and 2 percent in 1987, which shows that Gramm-Rudman is working.

I do not think Congress should be reluctant to admit that we need a mechanism to enforce a kind of discipline of ourselves.

Virtually all States have very similar mechanisms and they work well, not through draconian cuts but because the State legislatures accept the fact that they have to have a kind of discipline, a target and some kind of automatic cut which forces them to observe that target.

This conference report calls for a retargeting and allows 2 more years to reach zero deficit, 1993 instead of 1991. This is much more realistic.

The deficit is the major factor in high interest and high inflation rates and if we are to improve our trade deficit we must control our budget deficit. This may not be the perfect way to control spending, but it is a way that seems to be working and I would urge my colleagues to vote for it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the majority leader, the gentleman from Washington [Mr. FOLEY].

Mr. FOLEY. Mr. Speaker, we have come to the end of a long day. This bill represents the culmination of many weeks of effort by the conference committee, and I believe its enactment is in the best interests of the Congress and the country. The directions given by the House in the Michel motion to instruct the conferees has been fulfilled. The overwhelming majority of the House voted for that motion to instruct. Those instructions have been followed and the conference report carries out the wishes of the House.

We extend the debt ceiling, which is absolutely necessary for the Federal Government to meet its fiscal obligations and to prevent a default which would be of horrendous consequence to the Nation and to the economy. We establish in the Gramm-Rudman portion of this bill a reinvigoration of that process and set deficit reduction targets that reach a balanced budget at the end of the period provided for in the conference report.

Mr. Speaker, I urge all Members to support this legislation.

Mr. Speaker, I want to commend the members of the conference committee on both sides, and I especially want to commend the distinguished chairman of the Committee on Ways and Means who has again demonstrated his leadership and legislative ability. This conference report reflects his outstanding credentials and is a direct result of his approach to these problems. The House is in his debt.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OBEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, although I served as a member of the conference committee reporting this bill, I unfortunately find that the problems with this legislation are compelling enough that I must oppose this bill. Politics is the art of the possible and this is a proper compromise but the basic law is fundamentally flawed beyond repair.

Although I am deeply concerned with the negative effects that the budget deficits have on our economy and our ability to provide for the needs of this Nation, I continue to find fundamental problems with the Gramm-Rudman concept and the "fix" embodied in this legislation.

The Gramm-Rudman fix which we have before us amounts to an abdication of the congressional responsibility to set spending levels. I find it especially disturbing that that power will not ultimately lie with elected officials accountable to their constituencies, but to the Office of Management and Budget. As we on the Budget and Appropriations Committees have seen quite clearly over the past 6 years, OMB is a partisan participant in the budget process. It is not only highly political, but its economic forecasts and estimates of projected deficits have been abysmal. Quite simply I find the prospect of OMB making the final cuts unacceptable and assert that we cannot accept these procedures as a substitute for leadership both in the Congress and by the President.

The restoration of the automatic trigger in this bill will not force the President to agree to meaningful deficit reduction. He has already expressed his unwillingness to agree to additional revenues which I believe are a central component of significant deficit reduction. Should we have to rely on sequestration, it will force cuts in too many programs which quite simply cannot sustain additional cuts of the magnitude which would be imposed by the failure to responsibly set legislative priorities.

While I will for the first time vote against the extension of the debt, I cannot cast an even more irresponsible vote to extend the fig leaf covering our national nakedness that is Gramm-Rudman-Hollings-Mack Act.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 230, nays 176, not voting 28, as follows:

[Roll No. 330]

YEAS—230

Akaka
Alexander
Andrews
Annunzio
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bartlett
Barton
Bereuter
Bilbray
Bliley
Bosco
Boucher
Boulter
Broomfield
Brown (CO)
Bruce
Bustamante
Callahan
Campbell
Carper
Chandler
Chappell
Cheney
Clarke
Clay
Clinger
Coble
Coelho
Coleman (MO)
Combest
Cooper
Coughlin
Courter
Coyne
Darden
Daub
Davis (MI)
DeLay
Derrick
Dicks
DioGuardi
Donnelly
Dowdy
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (OK)
Emerson
Erdreich
Espy
Fascell
Feighan
Fields
Fish
Flake
Flippo
Foley
Frenzel
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gingrich
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (LA)
Hefner
Henry
Hiler
Holloway
Hopkins
Horton
Houghton
Howard
Huckaby
Hutto
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kaptur
Kasich
Kennelly
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lipinski
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Morrison (WA)
Murtha
Nichols
Nowak
Olin
Ortiz
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Penny
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Ray
Regula
Rhodes
Richardson
Ridge
Roberts
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Sawyer
Saxton
Schaefer
Schneider
Schuette
Schulze
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (NH)
Snowe
Spratt
St Germain
Stallings
Stenholm
Stokes
Stratton
Stump
Sundquist
Sweeney
Swift
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Traxler
Upton
Valentine
Vander Jagt
Volkmer
Walgren
Whittaker
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie

NAYS—176

Ackerman
Anderson
Applegate
Ballenger
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilirakis
Boehlert
Boggs
Boland
Bonior (MI)
Borski
Brennan
Brooks
Bryant
Buechner
Bunning
Burton
Byron
Cardin
Carr
Chapman
Coats
Coleman (TX)
Conte
Crane
Dannemeyer
Davis (IL)
DeFazio
Dellums
DeWine
Dickinson
Dingell
Dixon
Dorgan (ND)
Downey
Dreier
Dyson
Early
Edwards (CA)
English
Evans
Fawell
Fazio
Florio
Foglietta
Ford (MI)
Frank
Frost
Gallegly
Garcia
Gilman
Gonzalez
Grandy
Guarini
Gunderson
Hall (TX)
Hansen
Hastert
Hayes (IL)
Hefley
Herger
Hertel
Hochbrueckner
Hoyer
Hubbard
Hughes
Hunter
Hyde
Inhofe
Jacobs
Jeffords
Jontz
Kanjorski
Kastenmeier
Kennedy
Kildee
Kolter
LaFalce
Leach (IA)
Lehman (CA)
Leland
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lowry (WA)
Lujan
Lukens, Donald
Marlenee
Martin (NY)
McCandless
McDade
McEwen

McHugh
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Moorhead
Morella
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Oakar
Oberstar
Obey
Owens (NY)
Packard
Parris
Pelosi
Perkins
Petri
Pickett
Rahall
Rangel
Ravenel
Rinaldo
Ritter
Robinson
Roth
Roybal
Russo
Sabo
Savage
Scheuer
Schroeder
Schumer
Sensenbrenner
Shays
Shumway
Shuster
Skeen
Smith (IA)
Smith, Denny (OR)
Smith, Robert (OR)
Solarz
Staggers
Stangeland
Stark
Studds
Synar
Tallon
Torres
Torricelli
Towns
Traficant
Udall
Vento
Visclosky
Vucanovich
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wolf
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—28

Anthony
Biaggi
Boner (TN)
Bonker
Boxer
Brown (CA)
Collins
Conyers
Craig
Crockett
Daniel
de la Garza
Dornan (CA)
Ford (TN)
Gephardt
Kemp
Latta
Livingston
Martinez
McCurdy
Morrison (CT)
Pepper
Rodino
Roemer
Solomon
Spence
Tauzin
Wilson

□ 2015

The Clerk announced the following pairs:

On this vote:

Mr. Anthony for, with Mr. Roemer against.

Mr. Livingston for, with Mr. Craig against.

Messrs. BATES, TORRES, and STARK, Mrs. BYRON, and Messrs. BOEHLERT, LEWIS of Georgia, HOCHBRUECKNER, and GUARINI changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was off the Hill and did not get the proper signal; and for that reason I missed the vote on the conference report on House Joint Resolution 324. Had I been present, I would have voted in favor of the conference report.

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. GRAY of Illinois) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, September 22, 1987.)

□ 2030

TAX REFORM ACT BURDEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. ENGLISH] is recognized for 5 minutes.

Mr. ENGLISH. Mr. Speaker, I am here today to introduce a bill which will alleviate what could become an unnecessary and obtrusive requirement upon the American people. Within the 1986 Tax Reform Act there contains a onerous burden upon the American taxpayer. This burden is the new requirement on all taxpayers to include on his or her tax return the tax identification number of dependents who have attained age 5. Requiring honest American taxpayers to obtain tax identification numbers for their dependents, which are usually Social Security numbers, at the age of 5 is unnecessary Government intervention into the private lives of American citizens. The 1986 Tax Reform Act was supposed to simplify the tax process, not make it more difficult. Millions of Americans will now be required to flood local Social Security Administration offices with requests for Social Security numbers. Mr. Speaker, I urge my colleagues to use common sense and repeal this unnecessary burden on our Nation's taxpayers.

HIGH HOLIDAYS 5748

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on the evening of September 23, the first day in the autumn month of Tishri, 5748, under the Jewish calendar, Jews all over the world, will begin the new year with the celebration of Rosh Hashanah, the Day of Judgment. For Jews all over the world, this is a joyous, but solemn, holy day of deep religious significance, and the beginning of a 10-day period of penitence, the Days of Awe, culminating in Yom Kippur, the holiest day of the year.

The Hebrew month of Elul, which immediately precedes this high holiday period, is seen as a time for introspection and meditation in preparation for repentance and renewal. During this month, it is customary to visit the graves of relatives and teachers, to remember the sanctity of their lives, and to gain inspiration for the coming year. Penitential prayers, selikot, are recited at midnight on the Saturday before Rosh Hashanah, and continue for at least 4 days, as the tenor of the high holiday period begins to intensify. It is also customary to send friends and relatives cards containing special wishes for a new year of good will, peace, and happiness.

According to Jewish tradition, on Rosh Hashanah God remembers all his creatures and judges humankind. Their destinies are inscribed in the Book of Life. It is a time of reflection, prayer, and penitence. During the evening celebration in the home, festival candles are lit, and a holiday meal is served, including a round loaf of bread and apples dipped in honey to symbolize the hope for a sweet new year. The next day is devoted to prayer and self-reflection in the synagogue.

On Rosh Hashanah, the highlight of the synagogue service is the blowing of the Shofar, or ram's horn, symbolizing the beginning of the high holy days. Its shattering sound is meant to awaken man's conscience, to renew his faith, and to return him to God, and to summon all Jews to meditation, self-examination, and repentence.

During the days of Awe, Jews search their souls and repent for their sins, and their deeds and fate are weighed in the balance, to be sealed on the last day. Beginning on the 10th evening, Yom Kippur, the Day of Atonement, Jews fast until the next sundown. Most of this time is spent in the synagogue, repenting, and asking pardon from God and from their fellow man. In turn, they freely forgive their neighbors. At the end of the day, the Shofar is blown one last time, and with a cleansed heart, all Jews look forward to a good new life for the following year, and return to their homes for a hearty break-the-fast dinner.

As Congressman for the 11th Congressional District of Illinois, which I am honored to represent, I extend my greetings and best wishes for a happy new year to my many constituents and friends of the Jewish faith, as well as to all Jews throughout the world—"May you be inscribed in the Book of Life." Let us hope and pray that the coming year brings a relaxation of restrictions by the Soviet Union, and a significant increase in the numbers of Jews who are allowed to emigrate to Israel, so they too may observe these most holy days in religious freedom, "Next year in Jerusalem."

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. Speaker, I was unable to be present and voting for roll No. 322 on Monday, September 1. Had I been present, I would have voted "aye" for House Resolution 265, the rule for consideration of the bill H.R. 3030.

LET'S JOIN THE PEACE PROCESS, MR. PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington [Mr. LOWRY] is recognized for 5 minutes.

Mr. LOWRY of Washington. Mr. Speaker, this morning President Arias of Costa Rica addressed a standing-room-only joint session of Congress in this Chamber in which he made an eloquent appeal for peace in Central America. President Arias' speech was another example of the stark contrast between what he is doing for the peace process and what our President is doing.

President Arias worked tirelessly for more than a year to bring about the peace agreement which was signed by the five Central American countries on August 7, and he has been working tirelessly since then to ensure that the agreement is implemented by all parties. He has engaged in direct talks with the Salvadoran Government, the Salvadoran rebels, the Sandinista government, and the internal opposition in Nicaragua. He has urged us and others to have faith in the democratic process, to be willing to take a risk for peace.

In contrast, President Reagan has done little but criticize the peace accord and call for more Contra aid—in effect, to hold a gun to the head of the Nicaraguan Government. If there is one thing virtually all Latin American leaders and experts agree on, it is that resumption of Contra aid will seriously jeopardize, if not kill the Central American peace accord.

Mr. Speaker, yesterday 122 of my colleagues joined me in a letter to President Reagan that called on him to put aside the idea of Contra aid and start participating in the Central American peace process. Our letter, which was initiated by the executive committee of the Democratic Study Group, urged the President to begin focusing on U.S. security interests through the Contadora process and through direct negotiations with the Sandinista Government of Nicaragua. We also urged the President to negotiate directly with the Sandinistas to guarantee the safety and fair treatment of Contras who return to Nicaragua under the amnesty called for in the peace agreement.

Mr. Speaker, President Arias called on us today to combat war with peace. We call on President Reagan to join in this struggle for peace instead of trying to continue a failed policy of making war on Nicaragua.

ANTICOMPETITIVE AGENDA OF 1987

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Texas [Mr. ARMEY] is recognized for 60 minutes.

Mr. ARMEY. Mr. Speaker, I appreciate the indulgence of the Chair for giving me this time; and I want to say that I appreciate the indulgence and the patience of the people working here at the desk. I know the day has been long, and frankly I regret keeping you here working.

I had intended and hoped at the time I scheduled this discussion that we would end the day at an earlier time; but unfortunately, it has not worked out that way.

I know everybody is anxious to get home to their families, but nevertheless, I do feel as though I want to go forward with this work at this time.

Mr. Speaker, the great irony of the 100th Congress is that the House leadership is making competitiveness of the American economy and the world economy and the American business enterprise here at home its greatest cornerstone issue, while at the same time the House leadership is pushing a group of labor bills that will not only hurt competitiveness, but threatens employment for American workers and threatens to create a new round of inflation and indeed serious unemployment for the whole economy.

If this package of labor bills taken together is passed into law, it will increase business overhead, reduce economic flexibility, and spur litigation. The consequences of this will be rekindled inflation, increased unemployment, wider trade deficits, and a reduced competitiveness for American business enterprise.

Mr. Speaker, I will soon be discussing each and every one of these bills, so we can see exactly what we have here in greater detail; but let me say at this point that the eight bills that I will discuss tonight, if we took them together, could be called the Anticompetitive Agenda of 1987.

This is a serious threat to the working men and women of America, and a threat that I would expect to detail in the next 50 minutes or so.

Mr. BALLENGER. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding.

First, I would like to thank the gentleman from Texas [Mr. ARMEY] for arranging this special order, and for his leadership on both the Committee on Education and Labor and in the House as a whole. As a freshman member of Education and Labor, I have learned to respect his ability and rely on his guidance.

This Congress, more than any other in recent history, has before it an abundance of labor bills—double breasting, mandated employee leave, plant closing restrictions, occupational disease notification, minimum wage increase, and mandated health insurance. The adverse impact of any one of these bills on the private sector could be tremendous, and their cumulative effect could spell absolute disaster. Our Nation would retreat from job creation to job exportation at an alarming rate. Many small businesses would simply close their doors—and we must remember that most new jobs are created by small businesses.

The U.S. Chamber of Commerce has devised an interesting analogy to illustrate the serious impact of the labor agenda. They have published "Organized Labor's Menu for the 100th Congress." This menu lists the bill of fare offered by the chef or organized labor—mandated health care, mandated parental leave and minimum wage are listed as entrees, with plant closing, double breasting and occupational hazard notification listed as house specials. The menu lists an annual cost for each item. This cost alone is staggering, but the cumulative costs will simply force many companies to close their doors and layoff their employees.

This labor menu was cooked up by organized labor and is being served up to the American people by the liberal Democrat leadership of the Congress. But this labor-controlled leadership does not want you to just select one item from their antibusiness, anticompetitive, antiemployment menu. They insist that you eat the whole thing. They will, in fact, try to shove it down our throats.

The labor-controlled leadership is not satisfied with forcing unionization on millions of nonunion employees and increasing construction costs through the elimination of double-breasting. They would also sharply reduce job opportunities for teenagers, blacks, and other minorities, women and lower skilled and unskilled workers by increasing the minimum wage to $4.65 per hour by 1990 and indexing it to one-half of the average nonsupervisory hourly wage. This could result in a $7-an-hour minimum wage by 1995.

After eliminating double-breasting and increasing the minimum wage, the private sector would be forced to feast on mandated employee leave and mandated health insurance. These items further serve to drive up the costs of production and unemployment and force more and more businesses to close shop. But the Chef of organized labor and his liberal band of cooks are not yet finished.

The private sector would be force-fed perhaps the biggest dish of all—occupational disease notification. Businesses will be faced with billions of dollars in lawsuits, massive amounts of paperwork and the costs of complying with another government bureaucracy. In the end, many businesses will call it quits and the health of our workers will not be the least bit improved.

I strongly urge my colleagues to look at the overall impact of the labor menu and try not to focus on one item and its possible effects. The leadership of this House and of organized labor intend to enact all of these measures. Simply put, the jobs of millions of Americans, the productivity of the private sector and the economic health of our Nation are at risk. However well intentioned, the labor menu of the 100th Congress contains a recipe for disaster. I strongly urge my colleagues to reject every item on this menu. It is simply more than the American taxpayers and American business can swallow.

Mr. ARMEY. Mr. Speaker, I might point out that the gentleman from North Carolina is a valued member of the Committee on Education and Labor; and as a member of that committee, has, as I do, an opportunity to study each and every one of these bills in detail, and in fact in great detail prior to the opportunity being afforded to the Members of this body at large, so I value the gentleman's insight and understanding, especially in regard to my knowledge of the depth to which the gentleman has studied each and every one of these bills; and I especially appreciate the gentleman's point of understanding that the bills do constitute a package, and that as we will look at them individually, each and every one might separately seem relatively harmless, but as a package they are enormously good.

Mr. Speaker, I would like to do a quick summary of each and every one of these bills, so in fact we can be clear on what it is we are talking about.

The first bill that I would like to mention is mandated health benefits. The key word here is "mandated." In this case we are contemplating passage of legislation where the Federal Government would define and mandate benefits packaged for employees of all employers in America regarding group health coverage.

We all understand the importance of this kind of coverage and in fact, the employers of America do, because in fact the history of group health insurance is the history of voluntary innovation in the private sector through both the creative thinking of the employers of America and the employees of America, and then the voluntary negotiation of packages by the employers and employees and their elected representatives.

They are all valuable, but the simple fact exists that many small businesses, and we should keep this in mind, that the most dynamic sector of the American economy, or for any economy for that matter where you have new business starts, new opportunities being created, new prosperity being originated, is in small businesses often referred to as mom and pop operations.

They operate for a very, very long time on an extremely thin margin of profit. In fact, as I talk about the working men and women of America, I want to make it clear that the hardest working men and women in America are those who own and operate their own small, independent businesses.

These are the men and women of America that will work from 50 to 60 hours a week, the men and women of America who have put their life savings into a business, have to manage it as well as operate it, and operate it in many cases at salaries paid themselves that would be less than what they would pay somebody hired from outside, and at benefits to themselves which are less, and these are the risks we take.

If in fact we impose extraordinary costs on these businesses, we can make their worst fear come true. If you can imagine the courage of a man or woman that put their life savings in their business and drive to work realizing that this is the day they might go broke, and to have that courage betrayed by a government that would force mandated group health coverage on them and their employees beyond their capacity to bear the costs which eventually would drive them out of business.

The second legislation I would like to talk about again has that key word: "mandated" parental leave.

Again, legislation contemplated in this body that would mandate by the Federal Government employers to give employees 18 weeks of unpaid leave with all benefits intact if the employees either adopt or give birth to a child or have an illness in the family.

The problem with this mandate is that it not only puts at risk the small businesses where the benefits cannot be afforded, but it betrayed again the opportunity to negotiate between employer/employee; and also, of course, crowds out other benefits in the now-growing popular cafeteria plans where employers and employees sit down together and select benefits.

With the Government mandate of a benefit which they may or may not prefer, and may or may not use, the employees are very likely to see something in a benefits package that they might otherwise value more crowded out by the intrusion of the Federal Government.

□ 2045

Plant closing legislation has an elaborate scheme of notification procedures and consultation procedures that must be entered into by any firm that anticipates the possibility that it might have to close a plant. The result of this legislation would be to destroy the flexibility of capital movements in the economy.

This is an interesting piece of legislation to me, because it is a piece of legislation that has been offered around here since 1974. In fact, in 1985 the plant closing legislation was brought to a vote in this body and was defeated by five votes. After that defeat, all the parties concerned agreed that they would get together in a commission formed by the Secretary of Labor and see if they could not reach some kind of a consensus, see if they could not find an accord on the matter. In fact, they did have a committee consensus that was reported out.

It was a rather interesting point, though, because that was reported just prior to the last election.

Mr. Speaker, as you know, after the last election, the Democratic Party gained five seats in their majority in this body, the exact number of votes by which plant closings had lost earlier, and they gained control of the Senate.

Now, Mr. Speaker, both you and I know there are good and bad philosophies and there are good and bad provisions in both parties; but I think it is pretty clear to everybody concerned that the Democratic Party in the United States has a much more favorable working relationship with organized labor than does the Republican Party and organized labor took heart from the increased number of their friends in both bodies. In fact, they became so confident that one member of the Commission on Plant Closings changed his position. He betrayed the consensus and decided that instead of going with the consensus worked out in the commission that he would rather have the original plant closing legislation brought back to this body. That was a man by the name of Howard Samuels, a high-ranking official in the AFL-CIO. That consensus was deserted while the preexisting legislation was brought back to us at a time when Mr. Samuels was quoted in Time Magazine as saying we—in this case, we being the AFL-CIO—"We control the committee and we control the agenda on the floor."

Now, obviously that is not true in the strictist and the most literal sense of interpretation. We all understand that, but it shows a confidence on their part, a confidence that says despite the earlier defeat of this ill-conceived legislation, despite the efforts of many, many people to reach a consensus in the commission, which this body asked the Secretary of Labor to form, that they would prefer to bring this legislation back, and back it is, and if it should pass this body and be written into law I am afraid that it would have a dire consequence for the working men and women of America represented by the AFL-CIO.

The interesting point about this legislation in terms of its current status is that it has not been brought to the floor of this body. Instead, it has been moved through the back door by inclusion in the trade bill in the other body and we will have to see what happens.

Another piece of legislation that has come through the Education and Labor Committee, already passed in June, is the dual shop legislation, often referred to as double breasting union legislation, H.R. 281. This is a bill that will force construction companies to go all union and prevent them from competing in different markets.

Now another one that I find rather interesting is the Davis-Bacon amendments. There have been a group of Members of Congress in this body for a great many years, more years than I have been here, that have argued consistently that the antiquated, the unnecessary, the punitive and counterproductive Davis-Bacon legislation should be reformed, and as I understand, there has been a series of agreements that has led to a commitment to take up a Davis-Bacon reform act in this legislation.

The principals in that agreement that have been most active in their quest for Davis-Bacon reform are the most bitterly disappointed by what we see coming in this what I would prefer to call the Davis-Bacon deform resolution that is passing through our body.

It forces our construction companies to pay exorbitant wages. It costs taxpayers up to a billion dollars. This bill would expand the law, not reform it, but expand the law and the law's jurisdiction even further.

Another one of our items in the labor anticompetitive package is the Occupational Disease Notification Act. It sets up a redundant new Federal bureaucracy that will be responsible for notifying people when they are at risk of a possible hazard or have been at risk of a possible hazard in earlier employment; not notification for having been subjected to a hazard, but notification for the possibility of having been at risk.

This bill, which we discussed last night in a special order, is so unbelievable that I cannot yet figure out who could possibly want to see it passed into law. It is so intrusive. It sets up such an incredible risk litigation for a nation whose industry is beleaguered by litigation, I might add; witness the White House Congress on Small Business, where 1,800 men and women of America, doing business in America, listed among their 60 concerns a No. 1 concern for tort reform, petitioned this Congress to respond to that concern and has had their petition neglected or ignored, or certainly not acted upon; while instead we push occupational disease notification, which can do only one thing, generate a whole new arena of litigation.

Mr. Speaker, I have come to the point where I call this bill the "Lawyers' Employment Enhancement Act of 1987," because that is the only body of people that I can see who could benefit.

Then bill No. 7 in this group is the polygraph ban, which prevents employers from using polygraphs to stop or deter employee theft. Employee theft, as you know, white collar theft, has become a major concern for employers and business men and women of America, and in fact has been the basis for business failure in some instances. Employee theft is one of the principal ways that we get illegal drugs into circulation in America.

We now have a labor agenda that is suggesting that we should ban the use of polygraphs in such investigations.

Then of course, No. 8, the minimum wage hike. I do not know how many years we have to have the minimum wage and increases in the minimum wage before the proponents of minimum wage who advanced its cause in callous disregard of the chronic high unemployment, particularly of black youths in America, which has worsened with every increase in the minimum wage, where these proponents will fail to recognize the most fundamental principle of economic analysis, called the law of downward sloping demand. When you raise the price of something, the quantity demanded goes down. We have seen this happen every time.

The minimum wage hike will raise the minimum wage by over a dollar and provide for automatic further increases in future years. It will create increased unemployment in America, as it has done in the past.

These are the eight bills that I say if we put these together, they will create an economic disaster for America in the form of lost competitiveness, increased unemployment, renewed inflation, and a deteriorated international balance of payments.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. ARMEY. I am happy to yield to my friend, the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, I am not sure if the gentleman did refer to the plant closing legislation and the dual shop legislation, but if not, I would like to comment just briefly, or perhaps just add to the gentleman's remarks.

Mr. ARMEY. These bills are both in the package and I would be more than happy for the insight of the gentleman from Illinois. The gentleman from Illinois is a member of the Education and Labor Committee and a very studious and detailed researcher of this legislation, so I appreciate the gentleman's willingness to come out and share his insight with us, knowing how thoroughly the gentleman has studied the legislation.

Mr. FAWELL. Yes, and how late the hour is.

I did want to bring out in these comments, and I think it is fine that the gentleman has had this special order, but the gentleman's comments in regard to the anticompetitive effect of legislation, I think, can be best exemplified in my opinion by the so-called plant closing legislation and also the so-called dual shop legislation.

The plant closing legislation is of special interest to me, because I have felt that the title itself is misleading. In reality, the bill in effect defines a plant closing by coming up with the words "employment loss." Employment loss is defined as any termination or layoff or even reduction in working hours in regard to which a notice has to be given.

The key words, the key phrase in both the Senate bill and the House bill sets forth that if over a 90-day period you happen to have a number of terminations or layoffs or reduction in working hours, then when that aggregates to the total of 50, you have violated the act.

The irony there is that for most employees the first 49, for instance, can be lawful terminations and/or layoffs and/or reductions in working hours, because it obviously has not hit the 50 mark, and then once it hits the 50 mark, if it aggregates to 50 over a 90-day period, the employee finds that those particular termination or layoffs or reduced working hours have caused him to violate the law.

The effect of that is rather substantial. In the House bill he is required to make back pay to all of his employees, including all fringe benefits, and he is also required to go into collective good faith bargaining with the union representative, which in effect is saying that there is going to be a big discussion in reference as to whether or not he indeed did have the right to be able to make those terminations, layoffs, or reduced working hours, which as I have indicated, could be retroactive in effect.

I should say this. The bill also calls for notifications to the local governmental entities in the particular geographical location in the plant where for instance the particular termination or layoff or reduced working hours occurred.

The penalty is $500 per day, as I recall, for every day. having breeched the act, which means having made such a termination or layoff or reducing working hours of an employee in violation of the act, which again if it is retroactive, the poor fellow is guilty retroactively and has quite a huge payment, not only to the employees which were technically therefore under the act deemed to be illegally terminated, but also to local governmental entities. If it is construed another way, I think it could be construed that you could even have it at multiplant sites, so that you would have to have a site in Washington or Tokyo or Chicago all coordinate and you better be sure that you are keeping track of all your discharges, early offs, or reduced working hours, for instance, because once they get to that magic figure of 50 in aggregate, you have a violation. I think the bill is poorly drafted. It is an effort, it seems to me, by labor to simply come in and take a big part in determining when indeed an employer can discharge or layoff or reduce working hours.

□ 2100

Thus we are Europeanizing, I believe attempting to Europeanize American business and certainly the record in Europe with those kinds of laws is anything but favorable.

In the dual shop operations which pertain to the building trades I find it very difficult to understand how the Congress can take it seriously, yet it has passed out of this body, as you well know. But when we have an entity, a corporate entity that has two subsidiaries and they are in the building industry, which is now about 70 percent nonunion in character, if one is going to compete worldwide or countrywide or just in a regional area obviously one is going to give thought to having a union and a nonunion shop, too, separate and distinct, not sham operations, but different employees, common ownership, and that is dictated by the ability to be able to compete.

Yet we have legislation which has flown out of this House, backed strongly by labor, which has for one reason or another simply lost out to a great degree in regard to union employees in the building trades area. We have this law which redefines single employer to simply say if there is a common ownership, ipso facto you are deemed to be, if you are a corporation such as I have described with corporate entity A, which is a union shop, and corporate entity B, which is a nonunion shop, but because they are owned by the same parent corporation then automatically ipso facto that common ownership means that they are a single employer which practically means that the nonunion shop is bound by the collective-bargaining agreement of the union shop.

Therefore, with dual shops, which is an understandable way to compete in the building industries, by means of that legislation which we have, as I mentioned, this has popped out of the House, we will eliminate all of the nonunion shops in a dual shop arrangement.

Indeed, we run the risk, because the legislation also refers to a common management situation as possibly bringing about and triggering the single employer definition, we run the risk even though there have been attempts to negate this, we run the risk in a contractor or subcontractor situation of having the subcontractor coming on the job site and because he is under the common management of a union contractor, he is being sucked in and being covered by the collective-bargaining agreement of the union contractor.

To me it just is not fair and rational that that kind of legislation is taken seriously. I have said to my colleagues several times, in fact I have said to my colleagues on the floor of this House with respect to dual shop legislation that at least we should do this, we should let the people back home who are in the building trades business, tell them what is happening and understand that those who are in the nonunion shops would have to adjust to a collective-bargaining agreement. They would be at the bottom of the line in union hall hiring. It would simply shock them to let them know that we are taking this type of thing seriously. But it adds up to hearing the rhetoric about the competitiveness to be most anticompetitive bills I have seen in my short tenure here.

Mr. Speaker, I thank the gentleman very much for taking this special order and having the spirit to press these matters. Maybe if we repeat it often enough, enough people will hear it and perhaps we will have some effect.

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman's insight.

There is no question that when you look at the dual shop legislation, the only way we really are able to read that is compulsory unionization. It reminds me of Samuel Gompers, who I believe was probably the single most important man in the history of the American labor movement, when Samuel Gompers made the comment that a good union does not need compulsory unionization, and a bad union does not deserve it. Yet we see that with the declining enrollments, we have here in these two pieces of legislation that you talked about, first of all H.R. 281, the dual shop legislation, which is an out and out compulsory unionization bill; then in the plant closing bill by way of the provisions for consultation, a bill that certainly strengthens the union's hand in making the argument to the employees that they ought to vote the union in. It is not compulsory but it is certainly extraordinarily persuasive as an argument in favor. There is no doubt in my mind whatsoever that the principal objective of both of those pieces of legislation are to enhance the union membership. I have no doubt about that. It is the only way really, as you indicated, that the bills are both so peculiar, so hard to explain, that one could not explain anyone's willingness to advance that legislative cause unless it were explained in terms of that obvious result.

Mr. FAWELL. Mr. Speaker, may I say that certainly dual shop legislation has to be called antilabor because, I repeat, 70 percent of labor is nonunion and they are out to do away with the nonunion status to a great degree and in the residential building trades it is about 100 percent. My tradesmen in the building industries back home, whenever I let them know that this kind of legislation is being taken seriously, they are absolutely enraged when they realize what that could mean to their livelihoods, and it is, I repeat, antilabor.

Mr. Speaker, I thank the gentleman for taking this special order.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for his participation.

Mr. Speaker, I suppose that is the reason why I am here talking tonight, because we have discovered that when people realize what this legislation means they are offended by it. They want no part of it.

Mr. Speaker, I now turn my attention, having discussed the bills themselves, to see if I cannot talk a little bit about their significance, their impact. One of the things that we see in some of this legislation, Mr. Speaker, is a new strategy on the part of the Democrat leadership in the House and in the other body. These bills are a new strategy for people who are big spenders, thinking in terms of mandating of benefits. People like the sponsors of this legislation argue that with the Gramm-Rudman crunch, as we have seen here today, with the clear message from the American voters they do not want increases in spending, they do not want increases in taxes, that we cannot mandate and pay through Government expenditures for increased social program as we have done throughout all the Great Society Program years.

They have taken a page of their book on how the Federal Government does business with the State and local governments where for a long time mandating without paying has been the practice, a practice that can be attested to and often is by anybody on the local school board or anybody in local government or local county government.

Now we will mandate to the businessmen benefits such as parental leave, health insurance requirements, and now force them to pay for it. For example, the minimum wage rate, this would force business to pay for the largesse of the Government.

The object of this obviously is for politicians to be able to go home and say, "Look what we have done for you. We have given you more and we did not even raise your taxes."

In fact, Senator KENNEDY——

PARLIAMENTARY INQUIRY

Mr. ARMEY. Mr. Speaker, is it appropriate for me to address a Member of the other body by name?

The SPEAKER pro tempore (Mr. KILDEE). Under the rules of the House a Member should use caution when referring to a Member of the other body by name.

Mr. ARMEY. Mr. Speaker, one of the news magazines, Newsweek or Time magazine, has said that the strategy of the sponsors of this legislation in the other body of mandating without paying, or mandating passing the bills on to business, is a recognition that in some cases the private sector can do better than the Government.

In some respects I feel encouraged because at least, Mr. Speaker, I feel we see the birth of understanding. It might very well be that that kind of understanding could become infectious and we would soon see that in most cases the private sector will do better for the working men and women of America than the Government. But I thought it a rather facetious comment and an interesting admission.

Mr. Speaker, as I argued, these eight bills will increase business overhead. There can be no doubt about that. Mandated health benefits are projected to cost $100 billion borne by businessmen and women in America, all too often borne by small businessmen and women of America who can ill afford that increase in cost.

Minimum wage, $25 billion.

Parental leave would have an enormous cost in lost productivity and worker retraining. Estimates range in the tens of billions of dollars.

Just because these costs do not show up in the Federal balance sheet does not mean they do not exist. They will exist and they will wear down American enterprise, they will prevent new innovations, and they will destroy jobs and reduce America's relative industrial well being.

Mr. Speaker, I might mention the point that the gentleman from Illinois [Mr. FAWELL] made earlier. There is a tendency here to justify these mandatings by saying other nations do it, and Europe does it.

Mr. Speaker, the European economy has not created a single net new job in the last 6 years. They have stagnation over there. They cannot break that stagnation and they have all these Government programs. Why in the world would anybody admonish us in this body to mandate benefit programs in emulation of failed economies elsewhere?

Furthermore, to agrue that the justification in requiring employers to do these things is in that other nations are ahead of us in mandating by the Federal Government totally fails to recognize the fact that in the United States these kinds of innovations are arranged on a voluntary basis and the labor-management relationships worked out voluntarily and freely by negotiating partners, employers and employees. America is the great innovator. We are not behind the European welfare state. We are ahead of them in the innovative and competitive state of the United States where workers and management sit down together and work out arrangements to their mutual benefit, because management values their employees and their employees value management.

Litigation I mentioned earlier, Mr. Speaker. There is no doubt that litigation right now is the major concern of the American business community. Occupational disease bills provide grounds for suits even if real injury does not yet exist.

Davis-Bacon has an open invitation to frivolous suits. That says that if a union sues an employer and wins, the employer pays the union's court costs. If a union sues and loses, however, it has no corresponding obligation to pay the employer's court costs. How is that for fair play?

Plant closing contains provisions which will allow virtually any plant closing to be delayed indefinitely by court action.

Then the instructions in the bill for consultation, this concept of good faith to reach agreed upon alternatives, is an open door for litigation. In other words, if management, facing the possibility of the requirement that they may need to close a plant or reduce their work staff substantially, fails to notify the proper authorities at the right time, or fails to reach an agreement that is agreeable to the union, they are subject to a lawsuit.

□ 2115

Economic flexibility: one of the things we have to understand is the world economy has come a long way since the end of World War II. The United States emerged from World War II as the only industrial power in the world with its industrial base intact. The world marketplace was our breadbasket.

All the world was trying to develop by exporting resources and materials to the United States. The United States was, in turn, fabricating, manufacturing, and returning that in the form of finished products.

After World War II, this Nation showed a responsibility and a generosity that we can forever be proud of as we actively participated in assisting the rebuilding of the world economy. And it is something I am very proud of. But we must have understood that if our good intentions were, in fact, to work out, the rest of the world would begin to catch up, and it has. Japan has become competitive in some areas of economic activity, Germany in others, France; Latin American countries heretofore previously referred to as "Third World" nations or "underdeveloped" countries are now called "developing" or "newly developed" countries, gaining advantage in some areas of production. And as that occurs it becomes necessary for all the world's economies to be able to reallocate their capital resources from those areas of production for which it will experience declining markets and declining competitive advantage with the new emergent industrial nations and, as they reallocate away from those areas, those resources can be made available to those areas where we have a gaining advantage.

That means you have to close plants. And as you close plants you do not destroy jobs forever, you create new jobs; the age-old worry and it has been going on for 100 years.

I remember when I was a graduate student, Mr. Speaker, back in 1963 working on my masters degree in the area of labor management relations where the great fear was automation. Automation was going to destroy all the jobs. America creates more jobs than all the rest of the world combined despite automation, despite electronics. And they do that because we have a flexible economy with creative entrepreneurs who can shut down plants here in failing enterprises and move the resources to a better location.

Now the cost of opening a plant is the risk that one must realize is there inherent in the venture, that someday this may not have proven out. If we all had crystal balls and had a perfect view of the world in front of us, there would be no risk. There would be no friction in the economic machinery. But in fact there is.

Risk is cost; it comes back in very, very real terms when you consider the opening of a plant; not necessarily just the closing of a plant. But if you begin to realize that once you take the risk to open this venture over here and possibly create these new jobs in Toledo, OH, or some other beleaguered corner of our Nation, if some entrepreneurs, some business wants to take the risk of going in with a business enterprise venture and then realizing the uncertainty, the possibility that it might not work out, and in that case recognize that they have all sorts of back pay obligations, of litigation, of suits, of penalties under the law, that adds to the cost of the investment.

Plant closing will not stop the closing of plants in failing business enterprise, nothing can stop that. What it will stop is opening plants where you have an opportunity for new jobs, restructuring of the economies of beleaguered areas.

Plant closings, rightfully named, is the anti-plant opening act. Nobody will take that. You will destroy the economic flexibility of this economy.

An interesting thing about this irony, the first irony being, of course, that all eight of these bills are advanced as a package of legislation designed to carry forward our competitive agenda, and they are in fact the anticompetitive agenda.

The second irony is that these bills will not even help the bill that they purport to help. Parental leave will cause discrimination against women of child bearing ages. It has done that in Europe; it will do it here. It is a cost.

Any employer under the sun is going to try to minimize his labor costs. The fact is even though I would be given parental leave I am not going to use it. My wife is not going to use it. I might say, Mr. Speaker, I am thankful to report that all my kids are in college and out of the house. We will not need that, but our employer will still bear the risk. Now if, in fact, you are not going to use that and you will not if you are a man, and business has the choice between hiring somebody who is likely to impose costs that are extra and somebody who is not, any prudent businessman or woman in America is going to try to minimize the cost and that means reduced incentive to hire women of child-bearing age.

It happened in Europe and it will happen here and you would have to be a fool not to see that.

And this bill purports to be on behalf of such people.

Davis-Bacon discriminates against minorities. Minority contractors in America will tell you so and they have done so. It is outrageous discrimination against minorities.

Minimum wage throws minority youth out of work. That has been so thoroughly documented nobody can refute it.

These are the people that the bills purport to help. Yet they hurt them.

Mr. Speaker, this is a trade issue. There are a lot of things we are concerned about here. We are concerned about the extent to which the American economy will continue to lead the world in the creation of new job opportunities. We are concerned about the extent to which the American economy will lead the world in new business starts. All these pessimists around this country who can only see bottles that are half empty will always tell you about the business failures.

We have more business starts every year than we do business failures. And to a large extent you cannot have business starts without business failures. About 50 percent of the business failures are in the restaurant business which is one of the most fascinating dynamic markets in America.

With plant closings they will not even be able to shutdown when they go broke without facing lawsuits. And there are few families opening restaurants today who can afford that kind of expensive lawyers.

This is about our trade bills. These bills taken together will rekindle inflation. Inflation is a generalized increase in prices.

All eight of these bills will add to the labor costs. Business has one of two things, either go broke, take the profits—the costs away from the owners' earnings or pass on to the consumers, and that is called cost-push-inflation.

When you have inflation your exports decrease, your imports increase. That will widen the trade deficit and it will throw Americans out of work.

That will give us that phenomenon that in the 1970's all the smart people in the profession of economics said could not happen, stagflation, and renewed inflation coupled with increasing unemployment.

We will have it again and we will have that because we are trying to emulate the chronic stagnation of the European welfare States across all of Europe.

Mr. Speaker, again I want to tell you how much I appreciate your indulgence and most particularly the indulgence of these staffers here who have had a long, hard day. I appreciate that you have had. I hesitate to keep us longer but we had this special order scheduled. I hope it was worthwhile. It certainly was to me.

I want to thank you for your indulgence and I want to ask the American people to study these eight bills, study them independently, study them as a package, think beyond the surface.

Remember the politics of greed is always wrapped in the language of love. Also, look beyond that language and see in fact if this is not a package of bills that will hurt you and your children, and encourage the Members of this body, as I will, to vote against them and vote on behalf of the working men and women of America.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Lancaster (at his own request), for September 23, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Herger) to revise and extend their remarks and include extraneous material:)

Mr. Burton of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. Mrazek) to revise and extend their remarks and include extraneous material:)

Mr. English, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Nelson of Florida, for 5 minutes, today.

Mr. Lowry of Washington, for 5 minutes, today.

Mr. Penny, for 30 minutes, on September 23.

Mr. Frank, for 60 minutes, on October 7.

Mr. Downey of New York, for 60 minutes, on October 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Conte, during general debate on H.R. 2783, following Mr. Green, in the Committee of the Whole.

Mr. Morrison of Connecticut, following the vote on conference report on House Joint Resolution 324 today.

(The following Members (at the request of Mr. Herger) and to include extraneous matter:)

Mr. Weber.

Mr. Chandler.

Mr. Hastert.

Mr. Whittaker.

Mr. Vander Jagt.

Mr. Porter in two instances.

Mr. Goodling.

Mr. Young of Alaska.

Mr. Solomon in two instances.

Mr. Gekas in two instances.

Mr. Houghton in two instances.

Mr. Gradison.

Mr. Livingston.

Mr. Lagomarsino.

Mr. McEwen.

Mr. Gunderson in two instances.

Mr. DeWine.

Mr. Bereuter.

Mr. Roth.

Mr. Gingrich.

Mr. Gallo.

Mr. Lightfoot.

Mr. Schuette.

Mr. Smith of New Jersey.

(The following Members (at the request of Mr. Mrazek) and to include extraneous matter:)

Mr. Cardin in two instances.

Mr. Torres.

Mr. Rahall.

Mr. Ray.

Mr. Kleczka.

Mr. Tallon.

Mr. Florio in two instances.

Mr. Montgomery.

Mr. Markey.

Mr. Hoyer.

Mr. Traficant in two instances.

Mr. Martinez.

Mr. Roe.

Mr. Richardson.

Mr. Lantos.

Mrs. Byron.

Mr. Skelton.

Mr. Feighan.

Mr. Dingell.

Mr. Mrazek.

Mr. Bryant in two instances.

Mr. Swift.

Mr. Kolter.

Mr. Mavroules.

Mr. Dymally.

Mr. McMillen of Maryland.

Mr. Dixon.

Mr. Coleman of Texas.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 77. Concurrent resolution expressing the sense of the Congress in opposition to the third country meat directive by the European Community requiring individual inspection and certification by the European Community of United States meat plants and urging the President to take strong countermeasures should the European Community deny United States meat imports because of the unfair application of the directive; to the Committee on Ways and Means.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 134. Joint Resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week;" and

H.J. Res. 224. Joint Resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week."

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 25 minutes p.m.), the House adjourned until tomorrow Wednesday, September 23, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2138. A letter from the chairman, Task Force on Long-Term Health Care Policies, transmitting the final report on long-term health care policies, pursuant to 42 U.S.C. 1395b nt; to the Committee on Energy and Commerce.

2139. A letter from the Assistant Secretary for Legislative and Intergovernmental Affairs, Department of State, transmitting fact sheets on Middle East arms sales currently under consideration by the administration for the remainder of 1987; to the Committee on Foreign Affairs.

2140. A letter from the Chairman, Commission on the Bicentennial of the Constitution, transmitting the third report containing recommendations for commemoration and coordination of the Bicentennial and related activities, pursuant to Public Law 98-101, section 6(e) (97 Stat. 722); to the Committee on Post Office and Civil Service.

2141. A letter from the Administrator, General Services Administration, transmitting copies of proposed lease prospectuses, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. Pepper: Committee on Rules. House Resolution 270. Resolution providing for the consideration of House Joint Resolution 362, a joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes (Rep. 100-314). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. TALLON:

H.R. 3320. A bill to amend the Controlled Substances Act to provide life imprisonment for certain serious drug offenses; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. BRYANT (for himself and Mr. Swift):

H.R. 3321. A bill to amend the Communications Act of 1934 so as to enable local cable franchising authorities to specify, in the franchise or by any other means, the cable channel position of local stations; to the Committee on Energy and Commerce.

By Mr. BUECHNER (for himself, Mr. Lott, Mr. Coleman of Missouri, Mr. Wheat, Mr. Taylor, Mr. Gunderson, Mr. Hammerschmidt, Mr. Lipinski, Mr. Clay, Mr. Porter, Mr. Hayes of Illinois and Mr. Fawell):

H.R. 3322. A bill to provide for a study to identify areas to be included in a Mississippi River National Park; to the Committee on Interior and Insular Affairs.

By Mr. DUNCAN:

H.R. 3323. A bill to provide that certain disclaimers shall not be treated as transfers for purposes of Federal estate and gift taxation; to the Committee on Ways and Means.

By Mr. ENGLISH:

H.R. 3324. A bill to repeal the provision of the Tax Reform Act of 1986 which requires a taxpayer to include on his tax return the tax identification number of dependents who have attained age 5; to the Committee on Ways and Means.

By Mr. FLIPPO (for himself, Mr. Bevill, Mr. Nichols, Mr. Dickinson, Mr. Harris, Mr. Callahan, Mr. Erdreich, Mr. Howard, and Mr. Hammerschmidt):

H.R. 3325. A bill to designate the segment of corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway; to the Committee on Public Works and Transportation.

By Mr. HAMMERSCHMIDT:

H.R. 3326. A bill to amend title XVIII of the Social Security Act to assure that medicare beneficiaries receiving services for which payment is denied under the Medicare Program because they are not medically necessary or are custodial are not liable for deductibles and coinsurance for such services; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LANCASTER (for himself, Mr. Wright, Mr. Foley, Mr. Coelho, Mr. Jones of North Carolina, Mr. Neal, Mr. Rose, Mr. Hefner, Mr. Valentine, Mr. Ballenger, Mr. Clarke, Mr. Coble, Mr. Price of North Carolina, Mr. Anderson, Mr. Cooper, Mr. Walgren, Mr. Stark, Mr. Hamilton, Mr. Fazio, Mr. Kastenmeier, Mr. Stokes, Mr. Bevill, Mr. Levin of Michigan, Mr. Kostmayer, Mr. Lagomarsino, Mr. Montgomery, Mr. Leland, Mr. Wortley, Mr. DeFazio, Mr. Lipinski, Mr. Towns, Mr. Owens of Utah, Mr. de Lugo, Mr. Espy, Mr. Kolter, Mr. Skelton, Mr. Rangel, Mr. Clinger, Mr. Atkins, Mr. English, Mr. Martinez, Mr. Waxman, Mr. Weiss, Mr. Jontz, Mr. Garcia, Mr. Hughes, Mr. Cardin, Mr. Lewis of Georgia, and Mr. Grant):

H.R. 3327. A bill to designate the Federal building located at 324 West Market Street in Greensboro, NC, as the "L. Richardson Preyer Federal Building"; to the Committee on Public Works and Transportation.

By Mr. LELAND:

H.R. 3328. A bill to prohibit investment in United States capital markets by certain South African mining interests; jointly, to the Committees on Foreign Affairs and Energy and Commerce.

By Mr. LEWIS of California:

H.R. 3329. A bill making appropriations for the fiscal year ending September 30, 1988, to promote democracy in Central America; jointly, to the Committees on Appropriations and Foreign Affairs.

By Mr. MARTINEZ (for himself, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Ford of Michigan, Mr. Biaggi, Mr. Frank, Mr. Fuster, Mr. Fauntroy, Mr. Foglietta, Mr. Kastenmeier, Mr. Gejdenson, Mr. Hoyer, and Mr. Bates):

H.R. 3330. A bill to require Federal entities that are subject to title VII of the Civil Rights Act of 1964 to file with the Equal Employment Opportunity Commission plans and reports regarding their compliance with such title; and to compel such entities to file such plans and reports; jointly, to the Committees on Education and Labor and Post Office and Civil Service.

By Mr. RICHARDSON (for himself and Mr. Kildee):

H.R. 3331. A bill to provide certain interim measures relating to the Institute of American Indian and Alaska Native Culture and Art Development; to the Committee on Education and Labor.

By Mr. WALGREN (for himself, Mr. Florio, Mr. Sikorski, Mr. Eckart, Mr. Staggers, and Mr. Kolter):

H.R. 3332. A bill amending title 49 of the United States Code to provide certain protections for railroad employees affected by the sale or other disposal of a rail line, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BRYANT:

H.R. 3333. A bill to require that any telecommunications equipment or customer premises equipment manufactured by any of the former Bell Operating Companies may not be provided or sold in commerce in the United States unless such equipment is manufactured in the United States, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROSE:

H. Con. Res. 191. Concurrent resolution welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States; considered and agreed to.

By Mr. HOUGHTON (for himself and Mr. Buechner):

H. Res. 271. Resolution amending the rules of the House of Representatives to prohibit consideration of certain long-term resolutions making continuing appropriations; to the Committee on Rules.

By Mr. SHAW (for himself, Mr. Anderson, Mr. Badham, Mr. Bevill, Mr. Bilirakis, Mr. Bliley, Mr. Chappell, Mr. Clinger, Mr. Davis of Illinois, Mr. DeLay, Mr. DeWine, Mr. Dornan of California, Mr. Fawell, Mr. Fields, Mr. Gingrich, Mr. Goodling, Mr. Hatcher, Mr. Holloway, Mr. Horton, Mr. Inhofe, Mr. Lagomarsino, Mr. Lewis of Florida, Mr. Lungren, Mr. Moorhead, Mr. Smith of Texas, Mr. Stokes, Mr. Wortley, and Mr. Young of Florida):

H. Res. 272. Resolution to express the sense of the House of Representatives concerning the policies of colleges and universities with respect to the use of illegal narcotics among their students; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 192: Mr. Conte.

H.R. 468: Mr. Price of Illinois.

H.R. 470: Mr. Gilman and Mr. Pepper.

H.R. 792: Mr. Regula.

H.R. 809: Mr. Daub.

H.R. 911: Mr. Lewis of Florida, Mr. Pickett, Mr. Houghton, Mr. Howard, Mr. Cardin, Mr. Rogers and Mr. Moorhead.

H.R. 1028: Mr. Owens of Utah and Mrs. Patterson.

H.R. 1074: Mr. Broomfield, Mr. Huckaby, Mr. Lewis of Florida, Mr. Bateman, Mr. DeWine, Mr. Livingston, Mr. Badham, Mr. Pepper, Mr. Dornan of California, Mr. Lagomarsino, Mr. Shumway, Mr. Gingrich, Mr. Smith of Florida, Mr. Crane, Mr. Burton of Indiana, Mr. Roth, Mr. Bilirakis, Mr. Smith of New Jersey, Mr. Armey, Mr. Swindall, and Mr. Packard.

H.R. 1084: Mr. Dowdy of Mississippi.

H.R. 1105: Mr. Foglietta.

H.R. 1197: Mr. Tauke.

H.R. 1326: Mr. Frank.

H.R. 1708: Mr. Kostmayer, Mr. Martinez, Mr. Traficant, and Mr. Hughes.

H.R. 1770: Mr. Roe.

H.R. 1779: Mr. Crane, Mr. Tallon, Mr. Matsui, Mr. Jenkins, and Mr. Spence.

H.R. 1807: Mr. Conte, Mr. Gallo, Mr. Wolpe, Mr. Ford of Michigan, and Mr. Kildee.

H.R. 1873: Mr. Dicks and Mr. Davis of Michigan.

H.R. 1874: Mr. Dicks and Mr. Davis of Michigan.

H.R. 1891: Mr. Cardin.

H.R. 2052: Mr. Eckart and Mr. Gunderson.

H.R. 2248: Mr. Saxton, Mr. Skeen, Mr. Hatcher, Mr. Wyden, and Mr. Cheney.

H.R. 2279: Mr. McCloskey, Mr. Mineta, and Mr. Evans.

H.R. 2311: Mr. Crane, Mr. Schulze, Mrs. Byron, and Mr. Mfume.

H.R. 2325: Mr. Ortiz, Mr. DeLay, Mr. Archer, Mr. Fields, Mr. Hall of Texas, Mr. Wilson, Mr. Bustamante, Mr. Boulter, Mr. Combest, Mr. Bryant, Mr. Leath of Texas, Mr. Sweeney, Mr. Andrews, Mr. Gonzalez, Mr. Leland, Mr. Bartlett, and Mr. Chapman.

H.R. 2405: Mr. Fauntroy, Mr. Savage, Mr. Espy, Mr. Torres, Mr. Dixon, Mr. Berman, Mr. Clay, Mr. Lewis of Georgia, Ms. Pelosi, Mr. Biaggi, Mr. Wheat, and Mr. Foglietta.

H.R. 2433: Mr. Dornan of California, Mr. Weber, and Mr. Tauke.

H.R. 2474: Mr. Hochbrueckner, Mr. Dorgan of North Dakota, Mrs. Smith of Nebraska, Mr. Wilson, Mr. Kastenmeier, Mr. Gejdenson, Mr. Lowry of Washington, Mr. Bevill, Mr. Frank, Mr. Lujan, Mr. Tauke, Mr. Hoyer, Mr. Mfume, Mr. Erdreich, and Mr. Borski.

H.R. 2622: Mr. Vento and Mr. Levine of California.

H.R. 2676: Mr. Foglietta.

H.R. 2717: Mr. Donnelly, Mr. Yates, Mr. Howard, Mr. Brown of California, Miss Schneider, Mr. Walgren, Mr. Vento, Mr. Price of Illinois, Mr. Espy, Mr. Nowak, and Mr. Frank.

H.R. 2724: Mr. Foglietta.

H.R. 2752: Mr. Holloway.

H.R. 2768: Mr. Lujan.

H.R. 2833: Mr. Biaggi.

H.R. 2911: Mr. Foglietta, Mr. Sawyer, and Mr. Morrison of Connecticut.

H.R. 2914: Mr. McEwen and Mr. Marlenee.

H.R. 2926: Mr. Wilson, Mr. Brown of California, Mr. Hawkins, and Mr. Martinez.

H.R. 2939: Mr. Hughes.

H.R. 3001: Mr. Broomfield.

H.R. 3005: Mr. Wortley, Mr. Espy, and Mr. Martinez.

H.R. 3054: Mr. McMillan of North Carolina, Mr. Owens of New York, Mr. Ackerman, Mr. Lantos, and Mr. DeFazio.

H.R. 3066: Mrs. Bentley, Mr. Dornan of California, Mr. Davis of Illinois, Mr. Oxley, Mr. Bilirakis, Mr. Lagomarsino, Mr. Neal, Mr. Hansen, Mr. McEwen, Mr. Crane, Mrs. Lloyd, Mr. Denny Smith, Mr. Hiler, Mr. Wortley, Mr. Livingston, Mr. Inhofe, Mr. Kyl, and Mr. Badham.

H.R. 3130: Mr. Fazio and Mr. Wolpe.

H.R. 3141: Mr. Torricelli.

H.R. 3175: Mr. Vento.

H.R. 3194: Mr. Vander Jagt.

H.R. 3195: Mr. Roe, Mr. Wortley, Mr. Ford of Michigan, Mr. Boland, Mr. Hertel, Mr. Neal, Mr. Martinez, Mr. Hyde, and Mr. Kildee.

H.R. 3228: Mr. Darden, Mr. Whitten, and Mr. Kildee.

H.R. 3232: Mr. Coelho.

H.J. Res. 25: Mr. Marlenee.

H.J. Res. 55: Mr. Chappell, Mr. Pickett, Mr. Dingell, Mr. Badham, and Mr. Burton of Indiana.

H.J. Res. 61: Mr. Emerson.

H.J. Res. 96: Mr. Frank, Mr. Boulter, Mr. Stark, Mr. Cheney, Mr. Tauke, Mr. Mineta, Mr. Bryant, Mr. Mrazek, Mr. Gilman, Mr. Henry, Mr. Wheat, Mr. Hoyer, Mr. Levin of Michigan, Mrs. Martin of Illinois, Mr. Lowery of California, Mr. Wylie, Mr. Ford of Michigan, Mr. Brown of Colorado, Mr. Rhodes, Mr. Miller of Washington, Mr. Lott, Mr. Traxler, Mr. Rahall, Mr. Gray of Illinois, Mr. Hochbrueckner, Mr. Nelson of Florida, Mr. Ray, Mr. Wolf, and Mr. Shumway.

H.J. Res. 304: Mr. Hall of Ohio, Mr. Conyers, Mr. Gordon, Mr. Wolf, Mr. Lungren, Mr. Boner of Tennessee, Mr. Smith of Florida, Mr. Horton, Mr. Bryant, Mr. Daub, Mr. Lagomarsino, Mr. Towns, Mr. Savage, Mr. Levin of Michigan, Mr. Nielson of Utah, Mr. Gallo, Mr. Tauke, Mr. Atkins, Mr. Martinez, Mr. Lewis of California, Mr. Gunderson, Mr. Dornan of California, Mr. Dowdy of Mississippi, Mr. Anderson, and Mr. Hayes of Louisiana.

H.J. Res. 336: Mr. Gregg, Mr. Archer, Mr. Brown of California, Mr. Martinez, Mr. AuCoin, Mr. Slattery, Mr. Gejdenson, Mr. Fish, and Mr. Pursell.

H.J. Res. 342: Mr. Badham, Mr. Evans, Mr. Frost, Mr. Hamilton, Mr. Hughes, Mr. Kolter, Mrs. Martin of Illinois, Mr. Martinez, Mr. Matsui, Mr. Murtha, Mr. McCloskey, Mr. Price of Illinois, Mr. Stark, Mr. Swindall, Mr. Volkmer, Mr. Wheat, Mr. Gunderson, and Mr. Smith of New Hampshire.

H.J. Res. 355: Mr. Hughes, Ms. Kaptur, Mr. Davis of Michigan, Mr. Daub, Mr. Bartlett, and Mr. Morrison of Washington.

H.J. Res. 356: Mr. Bonior of Michigan, Mrs. Collins, Mr. Howard, Mr. de la Garza, Mr. Conte, Mr. Shumway, Ms. Kaptur, Mr. Kasich, Mr. Wilson, Mr. Thomas of California, Mr. Vento, and Mr. Schaefer.

H. Con. Res. 11: Mr. Mollohan.

H. Con. Res. 21: Mr. Dwyer of New Jersey.

H. Res. 225: Mr. Bilirakis, Mr. Broomfield, Mr. Gejdenson, Mr. Martinez, Ms. Pelosi, Mr. Rogers, and Mr. Schuette.

H. Res. 269: Mr. Broomfield, Mr. Lott, Mr. Kyl, Mr. Marlenee, Mr. Cheney, Mr. Gekas, Mr. Gallo, Mr. Archer, Mr. Schuette, Mr. Sundquist, Mr. Robert F. Smith, Mr. Parris, Mr. Emerson, Mr. Buechner, Ms. Snowe, Mr. Miller of Washington, Mr. Hayes of Louisiana, Mr. Stangeland, Mr. Ritter, Mr. Weber, Mr. Walker, Mr. Molinari, Mr. Wortley, Mr. Bartlett, Mr. Upton, Mr. Gunderson, Mr. Lewis of Florida, Mr. Moorhead, Mr. DioGuardi, Mr. Bateman, Mr. Gallegly, Mr. Rowland of Connecticut, Mr. Fish, Mr. Packard, Mr. Inhofe, Mrs. Saiki, Mrs. Vucanovich, and Mr. Hammerschmidt.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1082: Mr. Savage.

EXTENSIONS OF REMARKS

PROPOSAL FOR PEACE AND ACCOMMODATION IN TIBET—STATEMENT OF THE DALAI LAMA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. LANTOS. Mr. Speaker, yesterday the Congressional Human Rights Caucus met with His Holiness the Dalai Lama, the spiritual and political leader of the Tibetan people. During our meeting, the Dalai Lama made a major political statement regarding a negotiated settlement with the People's Republic of China on the Tibetan issue. This was the first political statement he has made outside India since he fled to that country from Tibet in 1959.

The Dalai Lama was forced to flee from his mountainous homeland when military forces of China brutally occupied Tibet almost three decades ago. Since that time, the Dalai Lama has lived in exile in India, where he has worked to secure peace and religious freedom for his people and to preserve Tibetan culture.

Since the military occupation of Tibet, over 1 million Tibetans have died as a result of political instability, imprisonment, and widescale famine. Reports, confirmed by Amnesty International, indicate that Tibetans are being imprisoned and killed for the nonviolent expression of their religious and political beliefs. Over 6,000 monasteries, the repositories of 13 centuries of Tibet's ancient culture, have been destroyed. An irreplacable national legacy of art and literature has been lost or removed from Tibet by the People's Republic of China.

China has encouraged a massive migration into Tibet of literally millions of ethnic Chinese. Today, there are more Chinese than Tibetans in Tibet, and the Government of China continues to encourage this migration. The people of Tibet are being overwhelmed and overrun in their own land, and the ancient and unique Tibetan culture and civilization are being destroyed in the drive to Sinify Tibet.

Today in his statement to the Human Rights Caucus, the Dalai Lama proposed a five point program that can restore peace and cooperation between the Chinese and Tibetan people—First transformation of Tibet into a zone of peace, second, an end to the massive migration of ethnic Chinese into Tibet, third, respect for the fundamental human rights and democratic freedoms of the Tibetan people, fourth, restoration and protection of Tibet's natural environment, including an end to the production of nuclear weapons and dumping of nuclear waste in Tibet, and fifth, the beginning of serious negotiations on the future status of Tibet and relations between the Chinese and Tibetan people.

Mr. Speaker, the Dalai Lama's proposal is a serious, well-considered proposal that deserves the serious attention of all those involved. I urge the Government of the People's Republic of China to give it serious and thoughtful consideration. I urge our own Government to support the proposals of the Dalai Lama as a key to the resolution of this problem.

I also urge my colleagues here in the Congress to give it thoughtful attention. I ask that the statement of the Dalai Lama be placed in the RECORD for my colleagues consideration.

STATEMENT OF HIS HOLINESS THE DALAI LAMA

The world is increasingly interdependent, so that lasting peace—national, regional, and global—can only be achieved if we think in terms of broader interests rather than parochial needs. At this time, it is crucial that all of us, the strong and the weak, contribute in our own way. I speak to you today as the leader of the Tibetan people and as a Buddhist monk devoted to the principles of a religion based on love and compassion. Above all, I am here as a human being who is destined to share this planet with you and all others as brothers and sisters. As the world grows smaller, we need each other more than in the past. This is true in all parts of the world, including the continent I come from.

At present in Asia, as elsewhere, tensions are high. There are open conflicts in the Middle East, Southeast Asia, and in my own country, Tibet. To a large extent, these problems are symptoms of the underlying tensions that exist among the area's great powers. In order to resolve regional conflicts, an approach is required that takes into account the interests of all relevant countries and peoples, large and small. Unless comprehensive solutions are formulated, that take into account the aspirations of the people most directly concerned, piecemeal or merely expedient measures will only create new problems.

The Tibetan people are eager to contribute to regional and world peace, and I believe they are in a unique position to do so. Traditionally, Tibetans are a peace loving and non-violent people. Since Buddhism was introduced to Tibet over one thousand years ago, Tibetans have practiced non-violence with respect to all forms of life. This attitude has also been extended to our country's international relations. Tibet's highly strategic position in the heart of Asia, separating the continent's great powers—India, China and the USSR—has throughout history endowed it with an essential role in the maintenance of peace and stability. This is precisely why, in the past, Asia's empires went to great lengths to keep one another out of Tibet. Tibet's value as an independent buffer state was integral to the region's stability.

When the newly formed People's Republic of China invaded Tibet in 1949/50, it created a new source of conflict. This was highlighted when, following the Tibetan national uprising against the Chinese and my flight to India in 1959, tensions between China and India escalated into the border war in 1962. Today large numbers of troops are again massed on both sides of the Himalayan border and tension is once more dangerously high.

The real issue, of course, is not the Indo-Tibetan border demarcation. It is China's illegal occupation of Tibet, which has given it direct access to the Indian sub-continent. The Chinese authorities have attempted to confuse the issue by claiming that Tibet has always been a part of China. This is untrue. Tibet was a fully independent state when the People's Liberation Army invaded the country in 1949/50.

Since Tibetan emperors unified Tibet, over a thousand years ago, our country was able to maintain its independence until the middle of this century. At times Tibet extended its influence over neighboring countries and peoples and, in other periods, came itself under the influence of powerful foreign rulers—the Mongol Khans, the Gurkhas of Nepal, the Manchu Emperors and the British in India.

It is, of course, not uncommon for states to be subjected to foreign influence or interference. Although so-called satellite relationships are perhaps the clearest examples of this, most major powers exert influence over less powerful allies or neighbors. As the most authoritative legal studies have shown, in Tibet's case, the country's occasional subjection to foreign influence never entailed a loss of independence. And there can be no doubt that when Peking's communist armies entered Tibet, Tibet was in all respects an independent state.

China's aggression, condemned by virtually all nations of the free world, was a flagrant violation of international law. As China's military occupation of Tibet continues, the world should remember that though Tibetans have lost their freedom, under international law Tibet today is still an independent state under illegal occupation.

It is not my purpose to enter into a political/legal discussion here concerning Tibet's status. I just wish to emphasize the obvious and undisputed fact that we Tibetans are a distinct people with our own culture, language, religion and history. But for China's occupation, Tibet would still, today, fulfill its natural role as a buffer state maintaining and promoting peace in Asia.

It is my sincere desire, as well as that of the Tibetan people, to restore to Tibet her invaluable role, by converting the entire country—comprising the three provinces of U-Tsang, Kham and Amdo—once more into a place of stability, peace, and harmony. In the best of Buddhist tradition, Tibet would extend its services and hospitality to all who further the cause of world peace and the well-being of mankind and the natural environment we share.

Despite the holocaust inflicted upon our people in the past decades of occupation, I have always strived to find a solution through direct and honest discussions with the Chinese. In 1982, following the change of leadership in China and the establishment of direct contacts with the government in Peking, I sent my representative to Peking to open talks concerning the future of my country and people.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

We entered the dialogue with a sincere and positive attitude and with a willingness to take into account the legitimate needs of the People's Republic of China. I hoped this attitude would be reciprocated and that a solution could eventually be found which would satisfy and safeguard the aspirations and interests of both parties. Unfortunately, China has consistently responded to our efforts in a defensive manner, as though our detailing of Tibet's very real difficulties was criticism for its own sake.

To our even greater dismay, the Chinese government misused the opportunity for a genuine dialogue. Instead of addressing the real issues facing the six million Tibetan people, China has attempted to reduce the question of Tibet to a discussion of my own personal status.

It is against this background and in response to the tremendous support and encouragement I have been given by you and other persons I have met during this trip, that I wish today to clarify the principal issues and to propose, in a spirit of openness and conciliation, a first step towards a lasting solution. I hope this may contribute to a future of friendship and cooperation with all of our neighbours, including the Chinese people.

This peace plan contains five basic components: 1. Transformation of the whole of Tibet into a zone of peace; 2. Abandonment of China's population transfer policy which threatens the very existence of the Tibetans as a people; 3. Respect for the Tibetan people's fundamental human rights and democratic freedoms; 4. Restoration and protection of Tibet's natural environment and the abandonment of China's use of Tibet for the production of nuclear weapons and dumping of nuclear waste; 5. Commencement of earnest negotiations on the future status of Tibet and of relations between the Tibetan and Chinese peoples.

Let me explain these five components.

I

I propose that the whole of Tibet, including the eastern provinces of Kham and Amdo, be transformed into a zone of "Ahimsa", a Hindi term used to mean a state of peace and non-violence.

The establishment of such a peace zone would be in keeping with Tibet's historical role as a peaceful and neutral Buddhist nation and buffer state separating the continent's great powers. It would also be in keeping with Nepal's proposal to proclaim Nepal a peace zone and with China's declared support for such a proclamation. The peace zone proposed by Nepal would have a much greater impact if it were to include Tibet and neighboring areas.

The establishment of such a peace zone in Tibet would require withdrawal of Chinese troops and military installations from the country, which would enable India also to withdraw troops and military installations from the Himalayan regions bordering Tibet. This would be achieved under an international agreement which would satisfy China's legitimate security needs and build trust among the Tibetan, Indian, Chinese and other peoples of the region. This is in everyone's best interest, particularly that of China and India, as it would enhance their security, while reducing the economic burden of maintaining high troop concentrations on the disputed Himalayan border.

Historically, relations between China and India were never strained. It was only when Chinese armies marched into Tibet, creating for the first time a common border, that tensions arose between these two powers, ultimately leading to the 1962 war. Since then numerous dangerous incidents have continued to occur. A restoration of good relations between the world's two most populous countries would be greatly facilitated if they were separated—as they were throughout history—by a large and friendly buffer region.

To improve relations between the Tibetan people and the Chinese, the first requirement is the creation of trust. After the holocaust of the last decades in which over one million Tibetans—one sixth of the population—lost their lives and at least as many lingered in prison camps because of their religious beliefs and love of freedom, only a withdrawal of Chinese troops could start a genuine process of reconciliation. The vast occupation force in Tibet is a daily reminder to the Tibetans of the oppression and suffering they have all experienced. A troop withdrawal would be an essential signal that in future a meaningful relationship might be established with the Chinese, based on friendship and trust.

II

The population transfer of Chinese into Tibet, which the government in Peking pursues in order to force a "final solution" to the Tibetan problem by reducing the Tibetan population to an insignificant and disenfranchised minority in Tibet itself, must be stopped.

The massive transfer of Chinese civilians into Tibet in violation of the Fourth Geneva Convention (1949), threatens the very existence of the Tibetans as a distinct people. In the eastern parts of our country, the Chinese now greatly outnumber Tibetans. In the Amdo province, for example, where I was born, there are, according to Chinese statistics, 2.5 million Chinese and only 750,000 Tibetans. Even in the so-called Tibet Autonomous Region (*i.e.*, central and western Tibet), Chinese government sources now confirm that Chinese outnumber Tibetans.

The Chinese population transfer policy is not new. It has been systematically applied to other areas before. Earlier in this century, the Manchus were a distinct race with their own culture and traditions. Today only two to three million Manchurians are left in Manchuria, where 75 million Chinese have settled. In Eastern Turkestan, which the Chinese now call Sinkiang, the Chinese population has grown from 200,000 in 1949 to 7 million, more than half of the total population of 13 million. In the wake of the Chinese colonization of Inner Mongolia, Chinese number 8.5 million, Mongols 2.5 million.

Today, in the whole of Tibet 7.5 million Chinese settlers have already been sent, outnumbering the Tibetan population of 6 million. In central and western Tibet, now referred to by the Chinese as the "Tibet Autonomous Region", Chinese sources admit the 1.9 million Tibetans already constitute a minority of the region's population. These numbers do not take the estimated 300,000–500,000 troops in Tibet into account—250,000 of them in the so-called Tibet Autonomous Region.

For the Tibetans to survive as a people, it is imperative that the population transfer is stopped and Chinese settlers return to China. Otherwise, Tibetans will soon be no more than a tourist attraction and relic of a noble past.

III

Fundamental human rights and democratic freedoms must be respected in Tibet. The Tibetan people must once again be free to develop culturally, intellectually, economically and spiritually and to exercise basic democratic freedoms.

Human rights violations in Tibet are among the most serious in the world. Discrimination is practiced in Tibet under a policy of "apartheid" which the Chinese call "segregation and assimilation". Tibetans are, at best, second class citizens in their own country. Deprived of all basic democratic rights and freedoms, they exist under a colonial administration in which all real power is wielded by Chinese officials of the Communist Party and the army.

Although the Chinese government allows Tibetans to rebuild some Buddhist monasteries and to worship in them, it still forbids serious study and teaching of religion. Only a small number of people, approved by the Communist Party, are permitted to join the monasteries.

While Tibetans in exile exercise their democratic rights under a constitution promulgated by me in 1963, thousands of our countrymen suffer in prisons and labor camps in Tibet for their religious or political convictions.

IV

Serious efforts must be made to restore the natural environment in Tibet. Tibet should not be used for the production of nuclear weapons and the dumping of nuclear waste.

Tibetans have a great respect for all forms of life. This inherent feeling is enhanced by the Buddist faith, which prohibits the harming of all sentient beings, whether human or animal. Prior to the Chinese invasion, Tibet was an unspoiled wilderness sanctuary in a unique natural environment. Sadly, in the past decades the wildlife and the forests of Tibet have been almost totally destroyed by the Chinese. The effects on Tibet's delicate environment have been devastating. What little is left in Tibet must be protected and efforts must be made to restore the environments to its balanced state.

China uses Tibet for the production of nuclear weapons and may also have started dumping nuclear waste in Tibet. Not only does China plan to dipose of its own nuclear waste but also that of other countries, who have already agreed to pay Peking to dispose of their toxic materials.

The dangers this presents are obvious. Not only living generations, but future generations are threatened by China's lack of concern for Tibet's unique and delicate environment.

V

Negotiations on the future status of Tibet and the relationship between the Tibetan and Chinese peoples should be started in earnest.

We wish to approach this subject in a reasonable and realistic way, in a spirit of frankness and conciliation and with a view to finding a solution that is in the long term interest of all: the Tibetans, the Chinese, and all other peoples concerned. Tibetans and Chinese are distinct peoples, each with their own country, culture, language and way of life. Differences among peoples must be recognized and respected. They need not, however, form obstacles to geniune cooperation where this is in the mutual benefit of both peoples. It is my sincere belief that if the concerned parties were to meet and discuss their future with an open mind and a sincere desire to find a satisfactory and just solution, a breakthrough could be achieved. We must all exert ourselves to be reasonable and wise, and to meet in a spirit of frankness and understanding.

Let me end on a personal note. I wish to thank you for the concern and support which you and so many of your colleagues and fellow citizens have expressed for the plight of oppressed people everywhere. The fact that you have publicly shown your sympathy for us Tibetans, has already had a positive impact on the lives of our people inside Tibet. I ask for your continued support in this critical time in our country's history. Thank you.

A TRIBUTE TO JUDGE JACK LIPARI

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Judge Jack A. Lipari, a very special resident of my 17th Congressional District. I am pleased to inform my fellow Members of the U.S. House of Representatives that Judge Lipari has been elected as national commander of the Italian American War Veterans of the United States. Judge Lipari will be honored by the national department of the Italian American War Veterans Committee at a testimonial dinner at the ITAM Veterans Centre in Youngstown, OH, on December 5, 1987.

Judge Lipari is a resident of Youngstown, and is married to the former Antoinette Deli Quadri. Even as a young child, Judge Lipari dreamed of entering the legal profession. This burning desire to become an attorney led him to obtain both a bachelor's degree and a law degree from Youngstown State University. He spent 12 years as a distinguished Mahoning County court judge, and was honored seven times by the Ohio Supreme Court for superior judicial service.

In addition to being the new national commander, Judge Lipari has served the Italian American World War Veterans as the Ohio adjutant and as post 11 commander. He has served as grand financial secretary of the Sons of Italy in America, national president of the Wolves Club, and as president of the Latin Culture Foundation. One of the proudest moments of his life was when he was knighted by the Republic of Italy as Commander of the Order of Merit in May, 1974.

Judge Lipari has worked tirelessly and for countless hours at promoting the goals of the Italian American War Veterans. The members of this organization are well aware that Judge Lipari will be a diligent and dynamic national commander who will raise the Italian American War Veterans to a position of prestige and influence unsurpassed in its long history. Thus, it is with pride and special thanks that I join the residents of the 17th Congressional District in paying tribute to the new national commander of the Italian American War Veterans of the United States—Judge Jack A. Lipari.

A TRIBUTE TO DR. WILLIAM HOMISAK

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GEKAS. Mr. Speaker, the service club movement in our Nation has been termed as "one of North America's most important contributions to the life of our times." And there is no doubt that the Kiwanis is one of the most enduring of this 20th-century phenomenon.

My fellow colleagues in the U.S. House of Representatives, please join me in congratulating a constituent of mine from Williamsport, PA, Dr. William Homisak, for being elected governor of the Pennsylvania District of Kiwanis International for 1987-88. Dr. Homisak and his officers will be installed this Saturday, September 26, 1987, at a dinner at the Genetti Lycoming Hotel in Williamsport, PA.

As governor, Dr. Homisak will act as chief executive officer of the district's 250 clubs and more than 9,000 members as well as serve with 45 other district governors on the Kiwanis International Council. In his position as governor, he can draw on his experiences as president, vice president, board member, and chairman of various Kiwanis Club committees. He has been a member of the Williamsport Kiwanis Club for 23 years.

In addition, he has served as lieutenant governor of State district 12 and as assistant sergeant-at-arms at two international conventions. He has been a local delegate to international sessions at Miami, Minneapolis, Anaheim, California, Washington, DC, and Toronto, Canada.

The Kiwanis dates back to 1915, founded in Detroit, MI by a merchant tailor. Within a year, the purpose of the organization became "community service," a concept from which Kiwanis has never deviated. Active membership provides the means through which one can do something for fellow mankind. Kiwanis provides the means to end isolation for a shut in; to feed and clothe an orphan; to motivate a teenager to complete his or her education; to find a job for a handicapped youth; and to help a young person deal with drug-related problems; and a myriad of other beneficial services encompassing persons from all walks of life.

Mr. Speaker, I would like the record to reflect my heartfelt congratulations and best wishes to Dr. William Homisak on his recent achievement.

WORLD RAINFOREST WEEK

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. PORTER. Mr. Speaker, this is World Rainforest Week, and I urge my colleagues to celebrate it by sponsoring the Tropical Forest Protection Act of 1987. Forests are rich in biological diversity, and critical to control flooding, halt wind erosion, and house wildlife. Resources of tropical forests such as wood, oils, gums, latexes, resins, tanins, steroids, waxes, and dyes offer Third World countries, where most tropical forests are located, an opportunity for sustainable development.

Yet each year in the Third World, forest areas the size of West Virginia are cleared for cattle ranching and monoculture. These exports are used to pay multilateral development banks interest on the almost $1 trillion Third World debt.

H.R. 3010 calls on multilateral development banks to allow developing countries to repay part of their debt with conservation programs, and proposes environmental structural adjustment lending to extend the potential long-term economic benefits of conservation. Please join the "debt for nature swap" and help fight debt and deforestation, two of the most pressing problems facing the Third World today.

THE 40TH BIRTHDAY OF VASYL NIKOLAIVEVICH SPINENKO

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. CARDIN. Mr. Speaker, September 19 marked the 40th birthday of Vasyl Nikolaivevich Spinenko of the Soviet Union. Unfortunately, we will have to do all the celebrating for Mr. Spinenko. According to Amnesty International, Mr. Spinenko is confined to a hospital in the Soviet Union—a confinement that has lasted for some time without any justification. It is not because of a physical nor mental illness that Mr. Spinenko remains cutoff from the world. No, it is because of his ideas and outspokeness and his role as a dissident that have forced the Soviets to silence him in the only way they know how—by forced hospitalization.

Since the implementation of glasnost the Soviets have proudly pointed out the large number of prisoners of conscience who have been released from forced confinement. But, as long as one person remains either jailed or hospitalized without reason, the meaning of glasnost comes up empty and unfulfilled.

The Soviets, by their failure to release Mr. Spinenko, are guilty of violating the provisions of the Helsinki Agreement in denying Mr. Spinenko his basic human rights. If Mr. Spinenko is, indeed ill let the Soviets tell us. If he has committed a crime, let the Soviets reveal it. But, if he is not ill and he has not committed a crime, Mr. Spinenko should be released.

If the spirit of glasnost is to prevail, Mr. Spinenko—and others like him who continue to be held against their will—must be freed. Hopefully, this will be the case and this time, next year, Mr. Spinenko will be able to celebrate his 41st birthday with his family and friends.

OCEAN DUMPING FROM SEA TO SHINING SEA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 1987

Mr. FLORIO. Mr. Speaker, on the shores of the Atlantic Ocean this summer, millions of summer tourists arrived on the beach not to find the vacation they had been waiting for, but debris from the tons of waste being dumped into the ocean at an excessive and uncontrolled rate each year.

Since 1978, there have been laws on the books intended to protect our coastal and river resources from the often hazardous pollution affecting our Nation's water systems. In 1978, the Marine Protection, Research and Sanctuaries Act [MPRSA] set a deadline in 1981, after which no more sewage sludge could be dumped into the ocean.

In addition, the Clean Water Act has established regulations over municipal discharges into navigable waters, including the Delaware and Mississippi Rivers among the many other vital, river systems in the United States.

Yet despite the statutes protecting the oceans and rivers from dumping, the Environmental Protection Agency, as the Federal agency with primary charge for the environment, has failed to exercise its congressional mandate in ensuring the preservation of the ocean and the rivers.

As originally enacted, the language of the legislation leaves enough of a loophole for millions of tons of sewage of make their way into the Nation's waters. According to the wording of the statute, it is essentially permitted for sewage to be dumped as long as it does not "endanger or degrade human health or the environment."

As the garbage washing up on the shores of the Atlantic this summer proved all too dramatically, that condition has not been met by the ocean dumpers.

More importantly, a court ruling involving the city of New York found that not all dumping was prohibited by the law. As a result of that ruling, which the EPA did not appeal, the ocean dumping laws have been watered down even further.

The result is that today, over 1,300 industrial and 600 municipal facilities are discharging a grand total of more than 7 million metric tons of municipal sewage and over 8 million metric tons of dredged material into the ocean and the Nation's river system each year.

That is over 15 million metric tons of sewage and dredge permitted by the EPA to be dumped. The system is predicated on the assumption that all of the garbage will find its way down onto the ocean floor, thus disposing of at a safe distance much of the Nation's sewage woes.

However, in that entire amount of waste winding its way to the bottom of the ocean floor, there often are toxic materials and dangerous materials that find their way back onto the beaches and into the environment.

Pollution is a problem that our Nation has been trying to deal with as aggressively as possible. We recognize that pollution is more than a nuisance on the horizon.

Pollution is an economic problem and a medical threat.

On the shores of New Jersey this year, those aspects of ocean dumping become all the more apparent.

The many tourists and residents who ventured out onto the beaches this summer saw the debris piled up onshore. The garbage managed to close not just the shoreline but also the tourist-oriented economy.

In addition to losses for the tourism industry, the fishing industry is estimated to have lost close to one-quarter of a billion dollars between 1974 and 1980 because the fish that was to have been caught was unfit to eat. For the striped bass fishermen alone, that dollar figure easily translates into 7,500 jobs lost because fishermen who depend on the striped bass catch from season to season could not catch polluted fish.

The same toxic chemicals that contaminate the fish in the water pose an even greater threat to the people who live alongside polluted bodies of water.

One of the many toxic chemicals found in the sediment along the water is PCB.

And the toxic chemicals are just part of the overall problem. Plastic, although not itself toxic, can interfere with the marine life, killing sea birds, fish, and marine mammals. Estimates of the number of marine animals dying as a result of consuming plastic are placed conservatively at 100,000 every year.

With the reintroduction of the Ocean Dumping Amendments of 1987, legislation tightening restrictions on the wastes permitted to be dumped and requiring the EPA to oversee the dumping in a more effective manner, the Congress has an opportunity to avoid a repeat of the last summer's garbage that landed on the beaches of New Jersey.

Now is the time to focus attention on a solution to the problem. In fact, the EPA has at its disposal not just one solution, but a number of them. Among the alternatives to and improvements in the current garbage system are better regulations for landfills, incineration, and ocean disposal.

When a hospital syringe washes up on the beach, as was the case numerous times this past summer, there should be cause for immediate concern.

Before the picture at the beach becomes even bleaker next summer, alternatives to the problem should be studied and implemented. The methods for avoiding an adverse impact on the environment do exist. It is a question of whether or not the EPA will implement them effectively.

THE CABLE CHANNEL SHIFTING ACT OF 1987

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. BRYANT. Mr. Speaker, today, with the support of my colleague from Washington, Mr. SWIFT, I am introducing the Cable Channel Shifting Act of 1987, a bill designed to provide local community review of the cable channel placement given to both television and local access stations by cable systems. Specifically, this measure will amend the Communications Act of 1934 to allow local cable franchising authorities to specify the channel number or service tier on which the cable system must carry any channel designated for public, educational, or governmental [PEG] use, as well as the signals of any public or commercial television broadcast station that the cable system is required to carry by Federal law or regulation.

I have been prompted to introduce this measure by the recent series of cable channel shifts by local cable companies. These locally-franchised cable companies are wreaking havoc in many communities across the country by changing—often without any notice to viewers or broadcasters—the cable channel assignments on their systems.

As a result of the cable companies' desire to market their own for profit programming through prime positioning "on the box," PEG channels and the signals the cable operators are required to carry under the Federal Communications Commission's new must-carry rules have been relegated to unpopular or inaccessible positions on the cable systems. Often, cable systems are configured in such a manner that not all television sets connected to the cable can receive the higher channel numbers. Viewers who own these sets therefore lose all access to local stations which have been shifted to those higher cable channel numbers.

The National Association of Public Television Stations has reported that its members, the Nation's non-commercial television licensees, believe that channel placement on cable systems is their number two management concern, after adequate public financing—which we all know is a chronic problem. This new concern of channel shifting is no small one—within the past year, public television signals have been shifted on over 140 cable systems across the country. These changes have affected 619 communities with over 3 million, 200,000 cable subscribers.

While this bill will neither address nor create any new carriage obligations for cable systems, I believe it is important to note that recent NAPTS research also shows that over 200 public television signals have been dropped completely from cable system nationwide.

The Association of Independent Television Stations has received numerous complaints from its members regarding hundreds of preemptory—cable channel shifts all across the country. In my own home State, in the community of Jacksonville, TX, channel KETK-TV was notified at 4:30 p.m. on Thursday, May 14, that it would be shifted from channel 5 to channel 36. The switch was made at 7 a.m. on May 16, just 38½ hours later. This shift also occurred in the middle of KETK's first rating period as the new NBC affiliate in the Jacksonville market.

The local broadcast station shifts have included both UHF and VHF independent television stations. The most common practice by cable operators has been to relocate these independent television stations from low VHF channel number positions to high UHF channel numbers. These shifts, as I noted in the

Jacksonville example, often occur at or near the beginning of audience measurement rating periods. The resulting audience confusion distorts the television rating data and has had a negative impact on the placement of millions of dollars of television advertising.

The National League of Cities has recently completed a survey of local cable regulators which shows that channel repositioning has occurred in 74 percent of this country's cable systems. Of the many problems associated with the Cable Act, unilateral channel shifting is the most widespread and pervasive problem cities are encountering.

The premise of my bill is that if a signal is required to be carried by a local cable system, it must also be accessible on the cable channel box to the viewer. Federal policy currently provides some protection for local broadcast signals in the cable environment. This bill would not in any way modify that protection, nor would it prejudge, or set a hard and fast Federal rule governing cable channel shifts—it merely allows for local carriage issues to be decided locally.

While no provision of the Communications Act clearly prohibits local franchising bodies from exercising authority over channel positioning, cable companies generally make the claim that such regulation is not permitted. All across the country, many channel shifting disputes have been brought to local franchising bodies—or even the courts—for resolution. My proposal will clarify the authority of those local bodies to make channel position determinations. Under the terms of this measure, a local cable franchising authority would be able to weigh a cable company's marketing decision against the public interest.

I am pleased to note this legislation has gained the support of a broad cross section of public and private sector interests. It enjoys the official endorsement of the National Association of Public Television Stations, The Association of Independent Television Stations, the National Association of Broadcasters, the National League of Cities, and the National Federation of Local Cable Programmers.

I am convinced that this measure will provide the wherewithal by which local communities can exercise the option to decide where PEG channels and must-carry signals are to be placed on their own communities' cable systems since the authority is explicitly granted.

I invite my colleagues to review this proposal and join me and Mr. SWIFT as cosponsors in order to ensure true local access of local programs to cable system subscribers.

THE CABLE CHANNEL SHIFTING ACT OF 1987

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. SWIFT. Mr. Speaker, I am pleased to be able to cosponsor the Cable Channel Shifting Act of 1987 introduced by Congressman JOHN BRYANT. Unilateral and preemptory decisions by cable companies to shift the channel placement of local television stations can cause those local stations economic harm, and in many cases can mean that some viewers in those communities would be unable to receive the signals of local stations now relegated to higher channel numbers.

I have to say that I would prefer that this issue would be addressed federally through the mandate created by the Cable Communications Policy Act of 1984. Given the makeup of this Federal Communications Commission, that is probably not possible or practical. Therefore, I am pleased to cosponsor the very useful reform proposed by Congressman BRYANT to provide local community review of cable channel placement.

BENEFITS OF WORLDWIDE TRADE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. McEWEN. Mr. Speaker, I recently received a letter regarding trade which I would like to submit to the attention of my colleagues. The words of Mr. R.E. Lawrence of Canton, OH, are well worth heeding as the conference committee prepares to address the trade bill.

LAWRENCE, DYKES, BOWER & CLANCY,
Canton, OH, September 3, 1987.

Hon. BOB McEWEN,
House of Representatives,
Washington, DC.

I hope you understand the benefits of world-wide trade. The news headlines suggest that few editors or news reporters seem to understand the benefits.

Here is an easy way for me to understand the benefits to me:

Limitation of geographical trade area	How am I affected	Remarks
1. If I only buy from people from city of Canton.	I have a very limited and poor choice of goods and services.	I would have a low standard of living, if I try to buy only from my direct customers. (Barter system)
2. If I only buy in Stark County.	Slightly better but very limited choices.	I start a "personal" trade deficit. Many do not buy my services.
3. If I only buy from Ohioans.	Better but still very limited choices.	Have bigger "personal" trade deficit. Not many in Ohio buy my services.
4. If I only buy from States east of Mississippi.	More products available to me but still limited in my choices.	Same as 3 above except even fewer buy my services.
5. If I only buy from 48 contiguous States.	Much better, more choices.	Bigger "personal" trade deficit. Fewer yet use my services.
6. If I add Alaska to my trading area.	Adds more oil supplies to my choices.	Even bigger "personal" trade deficit. (No one in Alaska uses my services.)
7. Add Hawaii to 49 other States.	Adds good pineapple, vacation area, etc. to my list of choices.	Creates even bigger "personal" trade deficit but allows me a higher standard of living.
8. Add Japan to the 50 States for my buying territory.	Further increases my choices (adds good electronics, photographic equipment, cars, etc.).	As before, increases my trade deficit but increases my standard of living.
9. Add Canada, Mexico, West Germany, etc. to Japan and 50 States.	Wider choice than before.	My trade deficit mounts but I have an even higher standard of living. (Better products at lower prices.)

As you can see from the above, there is no "magic" point at which I am suddenly hurt by being able to buy from a larger geographical area than my hometown. Also, I have the potential of an ever increasing standard of living.

To those who may say that the Japanese buy nothing from me, or from Canton, Ohio, I say, "then they gave me my Sony TV set and what's wrong with that?" Obviously, they took my dollars and bought something, perhaps part of a Honda plant near Columbus, Ohio, or something from a Frenchman who bought a Hoover sweeper from North Canton, who hired me for architectural work.

Best regards!

R. E. LAWRENCE.

P.S. Please do not support trade barriers because they limit the choice and lower the standard of living of the people in the U.S.A.

VA'S DHCP—COST EFFECTIVE AND USER FRIENDLY

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. MONTGOMERY. Mr. Speaker, the Veteran's Administration's decentralized hospital computer system [DHCP] is up and running in 169 of the VA's 172 hospitals. When this system is working so well and has proven to be cost effective and user friendly, should we be looking to a private vendor to replace it?

The following letter from Dr. Daniel M. Baer, chief of the laboratory service at the VA Medical Center in Portland, OR, is a good illustration of why the DHCP should not be replaced.

TUALATIN, OR, *May 14, 1987.*

Hon. G.V. MONTGOMERY,
Chairman, House Veterans' Affairs Committee, Rayburn HOB, Washington, DC.

DEAR MR. MONTGOMERY: I wish to express my thoughts concerning the VA's Decentralized Hospital Computer Program (DHCP). I am Chief of the Laboratory Service at the Portland VA Medical Center, Chairman of the VA Medical Center's Computer Committee and a member of the VA Laboratory Special Interest Users Group (SIUG). The SIUG is appointed by the Director of Pathology Service, VA Central Office and is responsible for setting the functional requirements of the Laboratory Module, testing it for compliance with these requirements, and planning and initiating educational programs to implement the computer system and keep it operating.

Our Medical Center, which had no previous computer experience, has successfully implemented all of the current modules of DHCP system. We are convinced that it provides us with more accurate patient care information in a more timely manner than our previous manual system.

The DHCP system has benefits that are not found in comparable commercial systems. I wish to discuss these in the following paragraphs.

The DHCP system was developed by users representing a cross section of VA Medical Centers. The method of development was unique in that members of the developing SIUG had an opportunity to work directly with the software developer by communicating from their Medical Centers with a central computer at the development site, testing each portion of the computer program as it took shape. This allowed very fast development which was responsive to the users.

I enclosed a copy of a paper from one of the scientific journals describing this method of development. We are convinced that using this method, the VA is able to develop software that is more responsive to the users needs in a shorter period of time and at less cost than can be done by a commercial developer.

A single set of computer software was developed for VA Medical Centers of all levels of complexity and size. This was possible because a large amount of flexibility in choices of computer operation were written into the programs. This was known as Site Configurability. It was planned to allow the computer staff and users at the individual Medical Centers to set up the software in a manner that was most appropriate for the individual location. Comparable commercial systems frequently do not allow the users to make the changes that are required to adapt the software to the local needs. The user is thus held captive to the vendor and must pay fees to the vendor's programmer to make these changes. This seriously limits the flexibility of the system and does not allow it to change as local conditions change.

In a similar way the software that has already been developed is continuing to evolve. Through electronic mail and other means users of our systems are continually making suggestions for improvement. Through the SIUG we have a mechanism to incorporate improvements into the software. Many of the improvements have been developed by users in the field who are able by simple utility programs to develop new and improved applications of the computer software. Commercial systems discourage this kind of broad based user development, insisting that only their programers make changes in the software. Moreover, many commercial software developers have failed to provide improvements for their systems, over the years.

In addition to the CORE software developed at the VA computer development site, talented computer amateurs at many of the VA Medical Centers have written additional programs that have a high clinical or management utility. For instance at the Portland VA Medical Center we have developed programs to assist scheduling of operating rooms and to notify services throughout the Medical Center of the current operating room schedule, an inventory control and supply ordering system, and an inventory system for control of hazardous and toxic chemicals throughout the Medical Center.

Implementation of the DHCP system has not been without problems, however. I believe that most of the problems have been related to insufficient computing capacity of the computer hardware that was originally supplied, insufficient numbers of appropriately trained computer center personnel and the resistance of some individuals who were required to implement the computer system without having first understood its benefits. In spite of these problems there has been wide spread implementation within a time frame that compares favorably with implementation of other comparable large computer systems.

Development and implementation of the VA/DHCP system has in my opinion been highly successful and because of the high level of involvement of its users it is likely to evolve at a rapid pace providing capabilities which will be envied and copied by the private sector. I urge your continuing and vigorous support for this system.

Sincerely,

DANIEL M. BAER, M.D.

A TRIBUTE TO MR. NICK VACOVONE

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Nick C. Vacovone, a very special resident of my 17th Congressional District. Mr. Vacovone has devoted his life to serving his fellow human beings in the Youngstown, OH, region. It is with great pride and humility that I inform my fellow Members of the U.S. House of Representatives of his inspiring life story.

Mr. Vacovone was born on April 21, 1915, in Caravilla, Italy. But even as a young child he dreamed of coming to the United States, a dream he realized in 1920. His burning desire to obtain an education led him to graduate from Campbell Memorial High School and spend 2 years at Ohio University. Then came the happiest day of his life, June 28, 1941, the day he married his sweetheart, the former Sophia Kimatek. With the outbreak of World War II, Mr. Vacovone's red-blooded patriotism and deep love for his new country moved him to fight in the U.S. Navy for 2 years.

Mr. Vacovone worked diligently at building the Campbell Electric Co. into an outstanding business, and is currently a consultant for Charter Electrical Contractors. His numerous honors have included being named "Knight of the Year" by the Knights of Columbus, being named "Man of the Year" by the Byzantine Men's Association, while serving as a grand knight of the Knights of Columbus and as president of the Byzantine Men's Association. In addition, he has served as a council member for St. Nicholas Byzantine Catholic Church, as a Byzantine Youth Association adviser, and as president of the Carovillesi Society.

I am certain that Mr. Vacovone's three daughters—Jacquelyn, Bonita, and Denise—are bursting with pride over their father's lifetime of accomplishments. All of the individuals and organizations which he has served tirelessly for countless hours over the years strongly believe that a tribute to him is long overdue. Thus, it is with thanks and special pride that I join the residents of the 17th Congressional District in saluting Mr. Nick C. Vacovone for his astounding accomplishments and very admirable character.

A TRIBUTE TO PATRICIA WHITE

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GEKAS. Mr. Speaker, I would like to call to the attention of my colleagues in the U.S. House of Representatives an untiring community leader of Harrisburg, PA, Sister Patricia White.

On Saturday September 12, 1987, the Goodwin Memorial Baptist Church of Harrisburg hosted an appreciation musical program to honor Sister Patricia "Sunshine" White who will soon be relocating to California. This program was an attempt to return a fraction of the love and dedication exemplified by Patricia White in her work to her central Pennsylvania community.

Faithful, caring, dedicated, loyal, and compassionate are the words heard when describing Patricia J. White. She has served many civic, business, and church organizations, often appearing on behalf of fundraising activities for many service organizations. She has spent many hours visiting hospitals, schools, prisons, and nursing homes, trying to spread cheer. For the past 6 years, she has volunteered her time hosting a Christian radio program on WIZZ as well as serving as Gospel Program director.

She has also directed her resources in the direction of government. She has served on the staff of three Governors as advocate specialist helping citizens of the Commonwealth obtain solution and redress of their problems with governmental agencies.

Mr. Speaker, I invite you and our colleagues to join me in congratulating Sister Patricia White on her lifetime achievements and her unselfish dedication. She will be greatly missed by the Harrisburg area community.

REFUSENIK ROULETTE?

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. PORTER. Mr. Speaker, I worry that the Soviets may be up to their old tricks. Only the week before Soviet Foreign Minister Eduard Shevardnadze's meeting with Secretary George Shultz, several well-known refuseniks were granted permission to emigrate.

Don't get me wrong, Mr. Speaker. I am overjoyed that Vladimir Lifshitz, Josef Begun, and the others will finally receive the freedoms they rightfully deserve. But what about Roald Zelichonok, Benjamin Charny, Abe Stolar, and the 400,000 other Soviet Jews waiting to leave? We must never forget that this high-profile publicity venture is solely the result of hard work and tireless effort by the human rights community of the West to make the plight of these people known.

We must now press Mr. Gorbachev to establish a standardized review process and include a time limit for refusals based on the possibility applicants may have seen "state secrets" in years past.

The outlook is improving. An average of 800 emigration visas per month is much higher than the 76 per month we saw last year. But these figures are still far short of the 2,000 Soviet Jews permitted to emigrate each month in 1979.

THE DEATH OF AUNT MARY

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. CARDIN. Mr. Speaker, during the August recess, Baltimore lost one of its most dedicated supporters and advocates of our young. Mary Dobkin, affectionately called Aunt Mary by everyone, was a genuine folk hero who overcame a life of incredible poverty to dispense love and affection to needy children. It has been estimated that during her 50 years of devotion to needy children, Aunt Mary succeeded in getting nearly 10,000 youngsters to play ball for her in summer leagues—that's 10,000 youngsters who might otherwise have spent their summers getting into mischief.

Aunt Mary, who escaped the pogroms of Russia only to almost freeze to death as a child on the streets of Baltimore, never forgot the trauma of living on those streets and losing a leg to frostbite. Aunt Mary was not only able to overcome her own disability, but she sought to reach out to others, to try to make certain they would not meet a similar fate.

Aunt Mary knew the value of a truly meaningful life. She once said: "It's what's in your head and heart that counts; arms and legs are overrated." That is the creed—and spirit—Aunt Mary lived by. That is the message she was able to transmit to the thousands of needy kids she inspired to overcome hardship and poverty. Aunt Mary will be missed, but hopefully her spirit will live on.

CONSUMER PROTECTION BREAKDOWN CITED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. FLORIO. Mr. Speaker, I am inserting in the RECORD a letter I recently received from the Federal Trade Commission which is sad evidence of the breakdown in protection for the American consumer that we have experienced in recent years. The letter from the FTC is a response to a constituent inquiry I received regarding consumer rebates—a marketing technique in which consumers are offered a rebate as an inducement to purchase a product. A variety of concerns have been raised with respect to this practice. For example, it has been suggested that sometimes there are long delays in providing the rebate to the consumer or perhaps even instances in which the rebate is never provided.

In my letter to the Chairman of the FTC, I asked for a description of actions of the Commission to address problems raised in my constituent's letter. The reply I am inserting in the RECORD asserts that no statute enforced by the FTC addresses a company's decisions on how to implement a rebate program. The reply also suggests that the consumer "may wish to raise his concerns with the manufacturers and companies who offer rebates."

Mr. Speaker, for 50 years, section 5 of the Federal Trade Commission Act has provided that "unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful." This basic authority of the Commission gives it the power to address unlawful, false, and misleading practices in the use of consumer rebates, if such practices exist. The Commission's suggestion that it lacks authority to act is a simply abdication of responsibility. The Commission's reply adds insult to injury by suggesting that the consumer's sole remedy is recourse to those who may be engaging in questionable practices. Congress created the Federal Trade Commission to displace the law of the commercial jungle with a modest dose of public accountability. The Commission's letter is a sad reflection of the philosophy that the laws enacted by Congress to protect the American consumer are a nullity.

I am inserting the Commission's letter and my response in the RECORD to provide background for those interested in this matter. The public has grown increasingly impatient with the kind of abdication of responsibility for law enforcement illustrated by this matter.

FEDERAL TRADE COMMISSION,
Washington, DC, July 20, 1987.

Hon. JAMES J. FLORIO,
Chairman, Subcommittee on Commerce, Consumer Protection, and Competitiveness, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your recent letter referring Mr. John P. Warners' inquiry regarding manufacturer's rebates. Letters such as Mr. Warner's provide valuable information that is frequently used to help develop or support Commission enforcement activities, and we appreciate learning of his concerns.

Rebate offers are, among other things, a form of price competition. While some manufacturers or sellers may conclude that simple price discounts will attract customers, others may believe that a rebate program will be a more effective means of advertising substantial savings to consumers. In general, no statute enforced by the Commission addressed the decision to adopt a rebate program or the specific procedures to follow in the implementation of such a program. Thus, promoters of rebate plans use their independent business judgment in offering such plans to distributors or to the public.

Mr. Warner may wish to raise his concerns with the manufacturers and companies who offer rebates, since many companies appreciate comments from the public about their products and how they are marketed.

I hope that this information is helpful to you. Please let me know whenever we may be of service.

Sincerely,

CRAIG S. BRIGHTUP,
Director.

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND COMPETITIVENESS,
Washington, DC, September 15, 1987.

Hon. DANIEL OLIVER,
Chairman, Federal Trade Commission, Washington, DC.

DEAR CHAIRMAN OLIVER: On June 9, 1987 I wrote to you concerning a marketing technique in which consumers are offered a rebate as an inducement to purchase a product. A variety of concerns have been raised with respect to the use of this technique. For example, it has been suggested that sometimes there are long delays in providing the rebate to the consumer or perhaps even instances in which the rebate is never provided.

I enclosed with my June 9 letter a letter from a constituent raising some of these concerns. I asked for your comments and for a description of actions of the Commission to address problems raised in the constituent's letter. I have received a reply from your Office of Congressional Relations. The reply states that no statute enforced by the Federal Trade Commission addresses a company's decisions on how to implement a rebate program. The reply also suggests that the consumer "may wish to raise his concerns with the manufacturers and companies who offer rebates."

The Commission's reply to my letter is disappointing, to say the least. Section 5 of the Federal Trade Commission Act provides that "unfair or deceptive acts or practices in or affecting commerce, are hereby declared unlawful." I fail to understand how one can take the position that this does not give the FTC the authority to scrutinize potentially false and misleading use of promotions involving rebates. The Commission has previously dealt with similar practices in its Food Store Rule and its Mail Order Rule. Recently you testified in Congressional hearings that you favor law enforcement through individual cases rather than through rules. Of course, before cases are brought, industry practices must be monitored to determine whether there is reason to believe that the law has been violated. The Commission's reply on the current matter, however, disclaims responsibility altogether and remits the consumer to the firms that may be engaging in the conduct that has been questioned in the first place.

I would appreciate it if you would reconsider your response to my original request that you provide me with a description of actions of the Commission to address the problems raised by my constituent relating to consumer rebates. If the answer is that the Commission is doing nothing, I would appreciate confirmation of that fact.

Sincerely,

JAMES J. FLORIO,
Chairman.

CONGRESSIONAL SALUTE TO THE MEMORIAL DAY NURSERY OF PATERSON, NJ, UPON THE CELEBRATION OF THE 100TH ANNIVERSARY OF ITS FOUNDING

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. ROE. Mr. Speaker, on Thursday, October 15, the residents of the city of Paterson, my congressional district and the State of New Jersey will assemble in commemoration of the 100th anniversary of the Memorial Day Nursery, the first specially planned and designed children's day care center in our Nation; nestled in the city of Paterson, the first industrial city of our Nation; in the State of New Jersey, the cradle of industry and research in our Nation. I know that you and our colleagues here in the Congress will want to join me in extending our heartiest congratulations to the supporters, officers and faculty of the Memorial Day Nursery on this most noteworthy occasion.

At the outset let me commend to you the diligence and foresight that has been extended by the people of Paterson who have participated in its founding and operations throughout the past 100 years. I particularly commend to you the founders and members of its board of managers responsible for the establishment and the administration of the Memorial Day Nursery. The current officers of the board of managers are, as follows: Richard F. Ward, president; John Hovey, first vice president; Jay Dorn, second vice president; Joanne Thompson, general secretary; Anna Lisa Dopirak, treasurer; and Emma L. Conlon, honorary president.

Mr. Speaker, over the past half century a great change has been taking place in the social and economic structure of the United States: mothers have been joining the labor force in ever increasing numbers. At the present time, over half of all the children in America have mothers who work outside the home. More than 43 million women are now employed in every area of public and private employment and are continuing to develop new opportunities. They have made, and continue to make increasingly important contributions to our Nation. Of these 43 million working women, over 18 million simultaneously perform the vitally important role of mother.

America's children represent new life and new hope for the future of our Nation and the world. They are regarded as our Nation's most precious resource and are our future's productive citizens and responsible leaders of tomorrow.

Back in October 1887, 100 years ago, in the city of Paterson working mothers achieved a safe and positive environment for day time assistance and supervision of their children through the establishment of a so-called pioneer children's day nursery which has flourished over the years to become a most valuable quality day care center for the children of working mothers: the Memorial Day Nursery.

Mr. Speaker, with your permission, I would like to insert at this point in our historic journal of Congress a profile on the history of the Memorial Day Nursery which has intertwined the industrial activities, love of parents, and quality care for children that have spanned almost a century of growth in our Nation. The brief history compiled from the writings of two distinguished citizens from the northeastern part of our country, the Honorable Dorothy Patterson Rude, an outstanding news correspondent in the Paterson area, and the Honorable Emma T. Conlon, honorary president of the board of managers of the Memorial Day Nursery is, as follows:

THE MEMORIAL DAY NURSERY, PATERSON, NJ

On October 15, 1887, the Children's Day Nursery of Paterson, now the Memorial Day Nursery, was born out of the compassion of a handful of ladies and a church organization.

The City of Paterson was a booming industrial center in those days. "Lyons of America"—"The Silk City"—"Locomotive Capital of the World"—"The Colt Revolver" were a few of its proud titles.

Paterson was a vital, dynamic city. It was the mecca for immigrants from all over Europe who had come to America to seek a better life for themselves and their families in a new land.

There were jobs; lots of them. So many, in fact, that the mill owners could not get enough men to keep the machinery running, so they began to recruit women to work in their industrial complex.

Wives and mothers for the most part were happy for a chance to add a few dollars to their meager incomes. But there was one obstacle. What to do with their children? Older children were left to fend for themselves and for many of the little ones, a neighbor, family friend, or elderly grandmother was called upon to take care of them during the day while their mothers were at work.

This was disturbing to the wives of the mill owners. They talked about it over tea and at club meetings, and the idea emerged to set up a program of day care.

The City Mission of the Society for Church Work of the Church of the Redeemer, one of the city's most elite parishes, moved to adopt it as a project.

On October 1, 1887, a number of its members met to form the Children's Day Nursery of Paterson. Its specific purpose; "dispensing daily care to the children of working mothers."

The good ladies saw themselves as only doing their duty, certainly not as pioneers. But they were pioneers, breaking ground for what was to become the present-day day care movement that is now accepted and demanded as one of the "rights" in a democratic society.

Then as now, a program little changed over its 100 year history, the nursery provided the children with breakfast, lunch and snacks, provided recreation, training and all the elements of early childhood education. There were, also, and still are, generous helpings of tender, loving care.

From the beginning, the Day Nursery had to race to keep up with demand. A larger facility was needed. The mansion of the late Mayor Beckwith was made available, and it looked like it might have the accommodations for a permanent home. This was in early 1901, but on the last day of that year, there came the announcement that Mrs. Garret A. Hobart, one of the nursery's early supporters and widow of the Vice President, was donating a tract of land at Grand and Hamilton Streets, and a $25,000 contribution toward a new and permanent home for the nursery. It was a memorial gift, in memory of her daughter, Fannie Beckwith Hobart.

Miss Hobart was only 17, when she was stricken with diphtheria and died while at school in Switzerland. Although just a teenager, she had already demonstrated an interest and a willingness to involve herself with needy children, and the memorial was considered most fitting.

In gratitude, the Nursery Board voted to change the nursery's name to the present, Memorial Day Nursery of Paterson.

The cornerstone for the new building was laid on September 29, 1903, and the new Memorial Day Nursery opened its doors on October 15, 1904. This was the first building in the State of New Jersey which had been planned and designed for a day care center.

On the platform for the dedication ceremonies were the Reverend David Magie, Pastor of the Presbyterian Church of the Redeemer, of which Mrs. Hobart was a member, and the Very Reverend Dean McNulty of St. John's Roman Catholic Cathedral. Benediction was given by the Reverend Dr. David Hamilton of St. Paul's Episcopal Church.

This was long before the ecumenical movement was even dreamed of. Yet it was symbolic of the commitment of the nursery from its beginnings to "care for children of all nationalities, color and creed.".

That the Memorial Day Nursery was ahead of its time was demonstrated also in another of its ancillary services. This was the Babies Dairy, a forerunner of today's government funded nutrition program.

Infants who were brought to the Day Nursery were given thorough medical examinations before admission. Those who showed nutritional deficiencies or problems were put on a formula developed to meet their individual needs. The formulas were prepared in the nursery's diet kitchen by a registered nurse-dietician. They were then placed in sterile bottles and packed into zinc lined containers, surrounded by ice. A 24 hour supply was given to each mother daily, and the next morning she would bring back the bottles for a refill.

Babies as young as four months and occasionally younger were accepted for care, and children up to age nine. School age children attended nearby School 3, and returned to the nursery for lunch and after school snacks to await their parents.

Attendance at the nursery during the first month, October 1887, began with 4 children. It quickly moved to 62 children from 45 families for an aggregate of 1844 days of care during the first year.

Through depression and recession, in boom times and inflation, times of war and interludes of peace, the Memorial Day Nursery has continued to serve the working mothers of the community. Although federal programs and controls are now a part of the overall operation, the support now, as from the beginning, has come from those dedicated and committed individuals who give generously of themselves and their resources.

In its darkest hours, it was these good people who came forward with the help and support needed to keep the nursery program alive.

On October 14, 1904, Mr. Hobart Tuttle, brother of Mrs. Hobart, the donor, in his dedicatory address spoke these words prophetic in retrospect:

"Today the building is completed, the work goes on." The work of the Memorial Day Nursery, now 100 years old, goes on!

Mr. Speaker, it is indeed appropriate that we reflect on the deeds and achievements of our people who have contributed to the quality of life here in America. In commemorating the 100th anniversary of the founding of the Memorial Day Nursery, I appreciate the opportunity to present the foregoing to you and seek this national recognition of the magnificient efforts manifested by the foresight and expertise of the people of the city of Paterson and the lasting achievements that can be attained with people working together in a common endeavor.

We commend the supporters and administrators of the Memorial Day Nursery throughout these past 100 years with special commendations to the founders of the nursery, especially Mrs. Garret A. Hobart whose contribution of land and funds provided the necessary foundation to establish a quality day care center which truly serves as a lasting memorial to her daughter, Fannie Beckwith Hobart. They have sought and achieved a quality of excellence in our community which bespeaks the pioneering efforts of our forefathers and the traditions of a freedom loving people dedicated to the American principles of democracy and a good family life for themselves and future generations to enjoy. We do indeed salute the officers of the Memorial Day Nursery of Paterson in observance of the 100th anniversary of its founding.

THE APARTHEID PROFITS DISINCENTIVE ACT

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. LELAND. Mr. Speaker, during the August recess I, like many other Americans, was deeply concerned about the continuing turmoil in South Africa, particularly with respect to labor conditions in South African gold mines. I am sure we can all vividly recall the sight on our television screens of mine workers walking out and then being summarily fired under the apartheid laws that continue to permeate daily life in South Africa. News commentaries underscored, lest any of us could have forgotten, that the pay scales in South Africa are still grossly slanted and that the living and working conditions for many of the miners are simply inhuman.

On a level closer to home, I have also been deeply concerned during the past few weeks by press reports regarding mine strikes and the Newmont Mining Corp., an American company, and the recent Time article on the selling of America: all of these share a common link. Newmont is currently the largest producer of gold in the United States and recently announced that by next year it will be the largest producer of gold in North America and by 1990 will be the largest producer of gold outside of South Africa. South Africa's Anglo American Corp. currently exercises de facto control over Newmont through a complex web of interlocking directorships and cross minority interests which span the globe from Bermuda to Park Avenue. Even more disturbing than Anglo American's de facto control of Newmont is Newmont's recent press release indicating that Anglo American is aggressively seeking to gain direct control over Newmont's operations through the stock purchases of Consolidated Gold Fields, PLC, an intermediary company.

Anglo American employs 40 percent of South Africa's black miners and produced 39 percent of South Africa's gold in 1986. Thus, it was deeply involved in the recent mine strike. Among the other concerns that I will be expressing, I fear that Anglo American's quest to gain direct control over Newmont, through its connection with Consolidated Gold Fields PLC, raises serious national questions.

Putting two and two together, it is clear to me that the profits generated in South Africa through the apartheid system are, under our very noses, being invested in the United States capital markets. In turn, there is every opportunity for South African businesses to benefit from the labor of American workers while these same businesses profit from the apartheid system. The degree to which this may be taking place should be made the subject of congressional hearings—a point I will return to later.

Why are South African profits being invested in United States capital markets? It is apparent that South African businesses are reacting to the political and economic instability in their country, withdrawing capital and investing in similar businesses in more stabile business environments such as the United States and Europe. In short, they are attempting to dilute their exposure to the political and economic pressure that the free countries of the world are bringing to bear on the apartheid system. It is particularly ironic that some of these large business interests are partly responsible for perpetuating the apartheid system and creating the political turmoil which causes capital flight.

This is a serious problem for two reasons. First, by permitting this to occur we are weakening our leverage to bring political stability to South Africa. If we required the beneficiaries of the apartheid system to invest more of their money in South Africa we could, in effect, force them to stabilize that country and to face and deal with South Africa's pressing social problems. As events currently stand, those South African companies that have ignored and resisted efforts to reform that country's racist system are being allowed to hedge their bets against strikes and other forms of economic upheaval that have become the last resort of those who are victimized by that system.

Second, the fact that moneys generated under the apartheid system can be invested in the U.S. capital markets indicates that there is a major loophole in the Anti-Apartheid Act. The act prohibits United States nationals from making any new investment in South Africa, even if such an investment would help eradicate the apartheid system. Yet, South African companies benefiting from apartheid can continue to invest in the United States. There should be a minimum standard for entering the United States capital markets to screen out those entities that attempt to enter the market with dirty hands. At a minimum, all South African mining interests should be forced to abide by the spirit of the Anti-Apartheid Act before they invest in the United States capital markets.

Accordingly, we need to close the loophole in the Anti-Apartheid Act and create a disincentive to profit from the apartheid system. We can accomplish these objectives by moving quickly to deny South African mining interests access to the United States capital markets. Specifically, no South African mining interest should be able, directly or indirectly, to invest in United States corporations until apartheid practices end at their mines. I am introducing legislation, the "Apartheid Profits Disincentive Act," to achieve that goal.

I wish to point out at the onset that this legislation is not intended to prevent a Johannesburg doctor from buying 10 shares of IBM. To the contrary, the goal of this legislation is simply to prevent those mining interests that enrich themselves through practices proscribed by the Anti-Apartheid Act from investing in the U.S. capital markets.

It is no accident that it is difficult to trace investments in the United States by South African mining interests. The Newmont Corp. is a case in point; at first blush it appears that South African interests do not control Newmont, since Gold Fields' interest in Newmont is only a minority interest. It is only through piercing several corporate veils that we are able to determine that such minority interests are sometimes the greatest interest in a company and are often joined by other South African interests. Therefore, I am interested in the immediate initiation of congressional hearings to determine the extent to which South African mining interests invest in and, in some cases, control United States companies and the extent to which the profits of such companies are being invested in South African companies which benefit from the apartheid system.

In conclusion, I wish to emphasize that I propose using a carrot, not a stick, to end apartheid. I believe strongly that this is the direction in which we must go. By closing the United States capital markets to those South African mining interests which most greatly benefit from the apartheid system, we can strike a blow at the roots of that system.

Mr. Speaker, I urge all Members of Congress to join me in supporting this legislation and working toward its speedy enactment.

THE ARMS CONTROL AGREEMENT

HON. MICHAEL DeWINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. DEWINE. Mr. Speaker, the arms control agreement reached between the United States and the Soviet Union is an historic achievement. It has paved the way for increased cooperation between our two countries. This agreement is the first arms control agreement ever to actually reduce the number of nuclear weapons in our possession. Previous agreements only controlled the number of weapons we could add to our nuclear inventories.

In addition, there are very important lessons to be learned by the manner in which this agreement was negotiated. The administration formulated the zero option back in 1981. Since that time, the United States firmly maintained that it would not remove its missiles until the Soviet Union removed their much larger forces. The administration stuck with the proposal, even through the Soviet walkout in 1983. Now, 6 years later, we have an agreement because of the administration's determination to stick by its original proposal. I believe this demonstrates that firmness brings positive results. The fact that this agreement has been reached at all demonstrates that firmness and cooperation are not contradictory.

I am concerned, however, over the verification procedures that are to be worked out. When you make such drastic reductions in a nuclear weapons system, you dramatically increase the risks for one side if the other side cheats. It is my hope that the verification measures will be stringent enough to accurately verify the Soviet Union's compliance with the agreement.

I am also concerned that, despite the recent agreement, the Soviet Union still possesses a superiority in conventional forces in Europe. If the NATO alliance is to truly enhance its security, we must redress this huge imbalance.

MARY STOUT IN CHARGE AT THE VVA

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. FLORIO. Mr. Speaker, this year, the ranks of the veterans organizations representing the many servicemen and women who fought for their Nation in its time of need will be joined by a new leader, Mary Stout.

The appointment of Mary Stout as the president of the Vietnam Veterans of America is a departure for the VVA. As the first woman elected to lead the VVA, she brings a new perspective on how the veterans' needs should be met.

Yet at the same time it is a continuation of the many good deeds and the attention that the VVA and the other veterans service organizations have offered for the men and women who have been a part of the Armed Forces.

Mrs. Stout brings to the VVA a special understanding of the medical, psychological, and economic needs of the Vietnam veteran, many of which are shared by the veterans of other wars and many of which are unique to the Vietnam vet.

The agenda of the VVA will reflect that developing understanding of the needs of the Vietnam veteran. Over the years, society has come to understand the immense difficulties that these veterans face in adjusting to the United States of the 1980's after their experience in the Vietnam of the 1970's.

For many veterans, the past is still a painful part of their present. Suffering from post-traumatic stress disorder [PTSD], these veterans depend on the Veterans' Administration outreach centers to help them deal with PTSD.

Under the direction of Mary Stout, the VVA will work to maintain these outreach centers. Currently, the VA is threatening to close these centers at the end of the year.

Judicial review is also high on the agenda for the VVA. Mrs. Stout will seek to bring a greater degree of fairness to the individual veterans in appealing decisions affecting their condition. That is what judicial review is all about: fairness.

Indeed, fairness describes Mary Stout's efforts on the veterans' behalf both in the past and in the present.

Mary Stout knows these issues firsthand from her tour of duty in Vietnam as an Army nurse. Whether the issue is the effect of agent orange on the numerous exposed veterans, the lack of jobs and job training programs, or the continuing problems faced by veterans with PTSD, Mrs. Stout is bringing an insider's view to the VVA and to its needs.

Finally, as a symbol of the fairness that Mary Stout brings with her to the VVA, the women of the Vietnam war will be remembered for the years of service and sacrifice that they, too, gave when their Nation called.

In many cases, the needs of the women who served in Vietnam are as unique as the needs of the Vietnam veteran in general.

And those needs are, indeed, significant. As many as 30,000 women served in Vietnam, sacrificing for the same ideals and under the same risks that the millions of other servicemen faced during the war.

I am including below an article from the Woman's Reporter on Mary Stout's achievements and the achievements that she is sure to make as the president of the VVA:

WOMAN VETERAN FIGHTING FOR EQUITY

(By Diane Riker)

When Army nurse Mary R. Stout returned from Vietnam in 1967, she was told it would take her three days longer to process out than the men. The colonel who headed the fort clinic where she was required to have a gynecological exam wouldn't schedule it.

"The biggest welcome I got was from a female secretary who recommended I talk to the inspector general, who called a young captain at the clinic. When the colonel saw me, he went stomping off to call someone but by that time I had had my examination," Stout recalls.

Of the 3.5 million who served in the southeast Asian theater, between 10,000 and 30,000 were women and often forgotten. "There are still a lot of women who don't even recognize that they're veterans and can access the benefits due to veterans," says Stout. Correcting the oversight has become a priority of the newly-elected president of the Vietnam Veterans of America.

The first woman ever to head a major national veterans' group, Stout campaigned vigorously for the post. Her gender, she says, attracts attention to the association, which helps all veterans of the 1964-75 era, men and women.

But there are inequities she would like to see righted.

"For so long 'veteran' has been a male word, the Veterans Administration didn't even have privacy for women who needed hospitalization. That's beginning to change," Stout says.

"When you were a veteran, you could go to the VA for any medical need regardless of whether it was service-connected—unless you were a woman with a gender-specific problem. Then you were turned away. Today there is just one place (Indianapolis) where you can get a mammography.

"And no one has done a study of the effects of Agent Orange on women, though a lot of women have reported illnesses and a lot have had children with birth defects." (A Massachusetts group has begun testing dioxin levels in veterans, including some women, among them Stout.)

Stout was a member of the class of '65 at the Mt. Carmel School of Nursing in Columbus, Ohio, enlisting through the Army's student program in her senior year. She served for two years in Vietnam, first at An Khe and then at Chu Lai, with the Second Mobile Army Surgical Hospital.

The unit, she says, bore some resemblance to television's MASH in its later episodes, being "very patient-oriented, caring about each other and with a little black humor here and there because that's what kept you going."

Afterward when someone hearing of her war duty said, "Oh, it must have been terrible!" she recalls answering, "It was the best years I ever spent in my life, the best people I ever served with.

"The kind of people I worked with and took care of in the hospital—the dedication and caring about each other—were something I didn't see in other facets of life," she explains.

But, in fact, Vietnam returned to haunt her.

Mustered out, she married a field artilleryman. "We decided if either of us was going to stay, I had more saleable skills in the civilian world than he did."

Fifteen years later, with her husband Carl in Korea, Stout and her three daughters, a 13-year-old and 12-year-old twins, had returned to Columbus. She began to suffer from what is now understood as post-traumatic syndrome (PTS).

"All I could think of was Vietnam, and it was very frightening.

"When you send in the Army, what they do is blow things up and kill people, and I think anyone who is aware of the reality of that has to have some problems dealing with the emotional and psychological impact.

"It certainly is much more helpful when your country welcomes you back as a hero rather than welcoming you back as very suspect."

At the Columbus chapter of the Vietnam Veterans of America, Stout found other veterans suffering the same flashbacks. "There are now 188 veterans' outreach centers which do group counselling in PTS," she reports.

Saving the centers, which are due to close Oct. 1, has become a major issue. There is a bill before the Senate which would make the program permanent as well as open the centers to veterans of other wars.

"The VA wants to shut them down," Stout reports. "They would like Vietnam veterans to come back into the medical centers, into the mainstream. They say there shouldn't be special programs, because a veteran is a veteran is a veteran.

"But we're a different generation of veterans," the former Army nurse insists. "We see what's going on in the civilian community with HMOs, PMOs and community centers for all kinds of illnesses. The VA is operating as it did in the 1940's."

Another of Stout's goals will be legislation giving veterans the right to go to court to appeal a decision of the VA. "When someone is denied a claim for disability, we think they should have the constitutional rights of every other American citizen," she says.

THE ARIAS INITIATIVE

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. CHANDLER. Mr. Speaker, as diplomatic work continues on the agreement signed in Esquipulas by the Central American presidents, we all hope for a positive outcome. Our common hope is for a peaceful solution to the war in Nicaragua which brings true freedom and democracy to the Nicaraguan people.

Unfortunately, it is not clear that the Sandinistas want such an outcome. We must be sure they do not use this peace initiative to eliminate the Nicaraguan resistance and irrevocably consolidate their power.

With this in mind, I bring to the attention of my colleagues this insightful article by Morton M. Kondracke that was published in the New Republic. I believe the issues raised in this article are worth our careful attention.

[From the New Republic, Sept. 28, 1987]

WHO WANTS PEACE?

(By Morton M. Kondracke)

MANAGUA.—There is a small chance that the causes of peace, democracy, and hemispheric security could be advanced by the Arias plan signed by five Central American presidents in Guatemala on August 7. This could occur if democrats outside Nicaragua (especially Democrats in the U.S. Congress) are uncharacteristically shrewd and stalwart in forcing the Sandinistas to live up to the accord they signed. Timetables need to be drawn up for Sandinistas to meet, leading to full, representative democracy. The world's democrats should resolve to monitor closely Nicaragua's progress, and be ready with stiff sanctions if they renege. And the United States needs to keep the Nicaraguan contras alive until it's clear that the progress toward democracy is irreversible. Major responsibility lies with House Speaker Jim Wright.

The more likely prospect arising from the Arias plan is a debacle—the dismantling of the contras in exchange for some token steps toward democracy, followed by consolidation of the Sandinista regime as a permanent dictatorship and partner in Cuban and Soviet efforts to undermine U.S. interests in the hemisphere. If this occurs, the United States will be seen as abandoning yet another force of indigenous fighters who depended upon us, following the Bay of Pigs Cubans, the Kurds in Iran, and the Hmong in Southeast Asia—and this just at a time when the contras are scoring military successes, hardening the Sandinistas' economic crisis, and apparently, beginning to develop a popular following inside Nicaragua. The United States will be the laughingstock of Latin America, having been utterly outfoxed by the puny Sandinistas, and the next president—Democrat or Republican—will have an incredibly weaker hand to play in conducting foreign policy against Mikhail Gorbachev.

There is a third possible outcome, which in Washington and all over Central America is held the likeliest: that the Guatemala plan could fall apart, either because the Sandinistas are unable and unwilling to allow "complete political pluralism" by November 7 or because one of the other signatories fails to comply—particularly Honduras, which is required to stop allowing its territory to be used to supply the contras.

The original author of the peace plan, Costa Rican president Oscar Arias, made it clear in an interview that he does not think the Sandinistas will comply. "I know the nature of the Sandinista government," he said, "so I am skeptical." You mean, I asked him, because the Sandinistas are Marxist-Leninists? "Yes." he said.

"The purpose of my initiative is to give the Sandinistas a chance, to get rid of the excuse that they won't advance toward democracy because of the contras," he said. "We will know by November 7 if they are complying or not." He said the first signs were not good—meaning the arrests of the Nicaraguan human rights commission chairman Lino Hernandez and bar association president Alberto Saborio, and the appointment of a four-man National Reconciliation Commission in Nicaragua that contains only one proven independent, Cardinal Miguel Obando y Bravo.

Arias said that on November 7 he will "pass judgment" on whether the Sandinistas are complying. "We are not going to accept excuses or tricks," he said, though he acknowledged that the Guatemala pact contains no penalties if the Sandinistas balk. Would he then favor aid to the contras? "I would never be in favor of it," he said, "but it's a decision to be taken by the United States Congress." Does he favor putting military aid for the contras in escrow? "I would prefer waiting until after November 7," he said.

Various U.S. officials insist that when Arias met with President Reagan on June 17, he said that if the Sandinistas failed to democratize, "you will be free to do your thing." Arias denied this to me, but all over Latin America there is evidence that leaders and populations expect the United States to act like a great power and deal with the Sandinista threat.

And they do consider it a long-term threat. Arias said, "The Sandinistas are Marxists. They are expansionist." In another interview, Costa Rican foreign minister Rodrigo Madrigal Nieto said that "today, they don't represent a threat. I don't think we'll be invaded, even with their powerful army. But, they could destabilize our government." One Nicaraguan democrat in exile in Costa Rica said he heard Venezuelan president Jamie Lusinchi tell a group of visitors in 1983 that "we all know that the only solution for Central America is a U.S. invasion. Of course, when they do it, we'll all raise our hands and shout, 'imperialist.'" Among Costa Rican conservatives and some democratic opponents of the Sandinista regime inside Nicaragua, a quick U.S. invasion is even favored as more moral and less bloody than a drawn-out contra war.

In the meantime, though, the contra policy has public support in Central America, and the Sandinistas do not, as evidenced by a poll conducted by the Costa Rican firm CID, and affiliate of Gallup International, whose results were published in Guatemala on August 7.

Asked whether they think the Sandinistas represent a majority or a minority in Nicaragua, the answer was "a minority"—from 79 percent of those polled in Costa Rica, 75 percent in Honduras, 64 percent in El Salvador, and 64 percent in Guatemala. Asked whether they think a majority of Nicaraguans support the contras or the Sandinistas, the Costa Ricans split 72 percent to 12 percent for the contras; the Hondurans, 75 to 15; the Salvadorans, 46 to 20; and the Guatemalans, 60 to 23.

Asked who treats civilians better in the war zone, Costa Ricans sided 72 percent to 6 percent with the contras over the Sandinistas; Hondurans, 74 to 6; Salvadorans, 45 to 10; and Guatemalans, 60 to 18. Asked if they approve or disapprove of U.S. military aid to the contras, Costa Ricans favored aid 70 to 21; Hondurans, 81 to 9; Salvadorans, 69 to 23; and Guatemalans, 68 to 28. No polling was done inside Nicaragua because it's illegal.

The Sandinistas' strategy for dealing with the Arias plan seems directed, as always, straight at the U.S. Congress. They want the contras off their backs at the cheapest possible price in terms of democratization—perhaps at no cost at all, if collapse of the Arias plan can be blamed on the Reagan administration and if Democrats in Congress then cut off contra aid in revenge. For example, any Honduran recalcitrance will be instantly pinned on the United States. A story circulating in Central America has it that when Honduran president José Simon Azcona returned home from signing the Guatemala pact, U.S. Ambassador Everett Briggs threatened him by saying, "So now I suppose you won't want those F-5s," the jets Hondurans expect from the United States. The U.S. version is that Briggs was making a joke about the possibility of peace breaking out in the region, and that Azcona laughed, but the story is being told to make Honduras seem a U.S. puppet.

The Guatemala agreement contains numerous ambiguities that the Sandinistas are free to exploit in order to torpedo the pact, avoid compliance with its democratization provisions, and focus blame elsewhere. The key ones are the provisions for a cease-fire and amnesty for the contras. The United States naturally wants any cease-fire to be in situ, so that the contras are able to resume fighting if the pact fails. The Sandinistas well may insist that by November 7 the contras must disarm themselves and surrender. They are likely to object if the United States tries to fly in food and medicine, and if Honduras provides facilities for transport and hospitals.

Nicaraguan president Daniel Ortega has repeatedly claimed that Nicaragua already has an amnesty program for individual contras who turn themselves in, and doesn't need a new one. The civic opposition inside Nicaragua wants a full release of nearly 10,000 political prisoners, which the United States should support. The U.S. and contra leaders also want the Sandinistas to enter direct negotiations with the contras. The Sandinistas claim the contras are strictly "mercenaries" and want to negotiate only with Washington.

Meanwhile, the Sandinistas are spreading the word that they are entirely ready to comply with the Guatemala pact's democratization requirements, and that they are beginning to take steps showing good faith in advance of November 7. Hernandez and Saborio were released, and the Sandinistas may permit the reopening of Radio Católica and perhaps even the newspaper La Prensa. They tell U.S. congressmen and journalists that it's simply an American slander that they are deep-dyed Marxist-Leninists, and that but for the contra war there would be no restrictions on free expression, the press, and political activity. They say they have no problem whatever with free and fair elections. To the contrary, they say, they won a 67 percent victory in 1984 and will win again because the Nicaraguan population supports the revolution and the land reform, literacy program, and health services it has brought with it.

With respect to the contras, the Sandinistas want it both ways: they say the force is less than a third as big as the United States claims (6,000 vs. 20,000), that it's demoralized and having no success on the battlefield, yet also that it's the cause of Nicaragua's economic misery and suspension of the constitution under the state of emergency. The bottom line, as it's been put out since even before the Sandinistas came to power in 1979 and as it's being put out today, is that Sandinismo stands for political pluralism, a mixed economy, and a nonaligned foreign policy, and that only the enmity of the United States prevents its pacific success. The logical conclusion is that the United States should cut off the contras and give peace a chance.

But by the evidence of history and the testimony of honest people who try to live under the Sandinistas—including many who helped bring them to power and now regret it—all of this is a colossal deception. The truth is that the Sandinistas are Marxist-Leninists, allies of the Soviet Union, and believers in world revolution. The contras have exacerbated the economic crisis in the country, but it is primarily the result of the Marxist system the Sandinistas imposed—which even the Soviet Union has criticized for inefficiency. Far from making life better for the Nicaraguan people, the Sandinistas have made it worse for everybody—except Sandinista Front insiders, who shop at special dollar stores and inhabit the residences of the Somocistas they replaced.

The best evidence of what the Sandinistas really are is contained in their own words and record of behavior. Their basic 1977 strategy document declared that they would join non-Marxist groups to overthrow Somoza, but "we will prevent the dissenting bourgeoisie from assuming political leadership" and "maintain political hegemony among our forces during this tactical and temporary alliance." The document refers to capitalism as an "archaic, dependent system" and declares that "once the People's Sandinista Revolution has achieved its purpose of ousting the dictatorship . . . we will be able to develop along progressive Marxist-Leninist lines. We will be a party of iron, forged and tempered in the same process to enable us to fully organize and mobilize the masses."

Such pre-1979 documents are dismissed now as exuberant ideological rhetoric, but there are other examples, including the May 1984 closed-door speech of Sandinista Directorate member Bayardo Arce, in which he said that the principles of non-alignment, mixed economy, and pluralism were merely devices by which "we kept the international community from going along with American policy." He said, "The important thing is that the entrepreneurial class no longer controls all the means to reproduce itself. . . . The bourgeoisie no longer invests—it subsists."

Arce said that "[American] imperialism asks three things of us: to abandon interventionism, to abandon our strategic ties with the Soviet Union . . . and to be democratic. We cannot cease being internationalists unless we cease being revolutionaries. We cannot discontinue strategic relationships unless we cease being revolutionaries." By holding elections, he said," we are using an instrument claimed by the bourgeoisie, which disarms the bourgeoisie."

Hiding behind a "democratic mask" (the term was coined by Douglas W. Payne of Freedom House, whose 1985 book by that name remains the best short history yet produced on Nicaraguan deception), the Sandinistas have acted like ruthless Communists—and began doing so long before Ronald Reagan launched the contra policy. They killed one president of COSEP, the private-sector coordinating group, jailed other leaders, and confiscated the property of the current president. They killed some 800 persons after taking power, and when the chairman of the independent Permanent Commission on Human Rights reported on that fact and on the holding of between 6,000 and 8,000 political prisoners, he was arrested. The current chairman, Lino Hernandez, was grabbed while standing outside the headquarters of the Coordinadora, the opposition umbrella group, watching a demonstration take shape to test the Arias plan.

Usually notables like Hernandez are not ill-treated by the security police. Peasants in the countryside suspected of collaborating with the contras are often jailed for years, tortured, and sometimes killed. During the 1984 elections, rallies and speeches of opposition candidates were broken up by Sandinista toughs referred to by Interior Minister Tomas Borge as "turbas divinas" ("divine mobs"). Borge's ministry bears a sign in front declaring it "the Sentinel of the People's Happiness." Sister Mary Hartman, the American nun who is in charge of the government's human rights commission, excuses turba violence against dissenters as directed "only at people who support the United States." Censorship began in Nicaragua long before the contras took the field, and it was President Carter who cut off aid to Nicaragua because his administration developed conclusive evidence that the Sandinistas were supplying arms to Communist rebels in El Salvador.

It's being argued on American op-ed pages that the United States should cut off aid to the contras if they subscribe to the "Mexican model" of government—a one-party system that permits "political space" to its opposition. It's claimed that the Arias plan would set up such a system, but that's far from automatically true. In Mexico, for example, the army exists to serve the nation; in Nicaragua the army and the security police officially serve the party. Nicaragua, in fact, is a military dictatorship in which members of the ruling Directorate are all called comandante. Mexico has the politics of a huge big-city machine, but one in which there is participation from constituent groups such as labor, peasants, and business. Nicaragua is a top-down dictatorial system. In Mexico the top leadership changes each six years; in Nicaragua, as in Cuba, the leadership could stay for decades. Mexico has a love-hate relationship with the United States. In Nicaragua the Sandinistas have a party-to-party relationship with the Soviet Union, and schoolchildren memorize the anthem, "Let us struggle against the Yanqui, Enemy of all Mankind."

Amid all this, a visitor finds no joy in Managua, a city of dirt, broken pavement, uncertain water supplies and electric power, and wooden shacks. Honduras used to be poorer than Nicaragua, and El Salvador also was hit with a ruinous earthquake. Yet there is music and life in those countries. Managua is desperate and sad. Even on Sandinista television, farmers shown receiving inspirational lectures by government officials look glum and passive, as if being ordered to do things that are profoundly distasteful.

The Sandinistas blame their woes on the contras and America, but they have caused most of their economic problems themselves by confiscating land and turning most of it over to collectives, not individual farmers. The economy is ostensibly 50 percent in private hands, but the government tells businesses what to produce, what prices to charge, what to pay workers, and furnishes materials—which are almost always in shortage—on the basis of political loyalty. The annual inflation rate is more than 1,000 percent, and government officials admit they are using inflation as a tax (which hits the poorest hardest) to pay for the war. The lowest-paid worker's monthly salary is not enough to buy a shirt. There is not enough food to go around. Milk rations are restricted to children under age 2, which the government advertises as a special program for the very young.

One gets the strong feeling—it's impossible to prove in this secret society—that the Sandinistas signed on to the Arias plan out of desperation. Nicaragua's external debt has risen from $1.6 billion in 1979 to $10 billion, and its export earnings have dropped from $650 million a year to $218 million. Its trade deficit is $500 million and its budget deficit is $260 million. The Soviet Union is supplying $300 million in economic aid and $600 million in military aid, but it is not increasing its dole as the Nicaraguan crisis deepens. The Soviets have pledged to increase oil supplies to Nicaragua to help it fight the war, and the Sandinistas announced that Ortega plans to be in Moscow on November 7, when his country is supposed to be a democracy.

There is no evidence whatever, as some optimists have claimed to see, that the Soviets are abandoning the Sandinistas as part of a new détente with the United States. They have just renewed party-to-party ties for the next five years. The Soviets are still building a long-runway airfield at Punta Huete and have the Bulgarians at work on a deep-water port at El Bluff. It's true that the Soviets do not consider Nicaragua a socialist ally as they do Cuba. They also have publicly criticized the Nicaraguans for wasting money. Arce, in his 1984 speech, said, "Our strategic allies tell us not to declare ourselves Marxist-Leninists, not to declare socialism. . . . We've talked about this being the first experience of building socialism with the dollars of capitalism."

What the Sandinistas apparently mean to do is get a respite from the contra struggle, which by their own accounts is costing the lives of 100 soldiers a month in more than 400 firefights, up from 300 a month in May, and driving the economy to the brink of ruin. The Sandinistas insist that the contras are detested on account of their brutality, but they cannot account for the fact that the contras survive without food drops. Non-violent opposition groups in Nicaragua claim that their informal polls indicate that peasants and the bourgeoisie in war regions do support the contras and that the Resistance's Radio Liberación, with increasingly appealing propaganda messages promising democracy, is widely listened to where it's not jammed. All these claims are impossible to prove, of course, but as one opposition leader said, "If the Sandinistas want to prove how much people support them, why don't they let pollsters in? If Gallup consistently showed the people approve of what they're doing, they could say, 'Reagan, you old cowboy, the people are against you.' "

The contras create leverage for the United States and other democracies—almost certainly there would be no Arias pact without them—and they provide the only hope there is of making the Sandinistas live up to the terms of the Guatemala agreement, which declares that "political groupings shall have broad access to communications media, full exercise of the right of association, and the right to manifest publicly the exercise of their right to free speech . . . as well as freedom of movement by members of political parties in order to proselytize." The agreement also calls for the holding of "free, pluralist, and honest elections," which could occur next year for municipal offices and for a Central American parliament.

To make these goals a reality requires determined action on the part of the world's democrats. COSEP wants to open a private television station, and other oppositionists talk about a second independent newspaper beside La Prensa. These efforts need private financial and moral support. The fractured internal opposition needs to unify and it needs training that could come from the political parties in the United States—or, better yet, the democracies of Europe and Latin America.

Above all, the internal opposition, the contras, the Reagan administration, and the Latin American democracies need to develop lists and timetables spelling out standards of conduct that they expect the Sandinistas to meet. The most influential of these schedules is that of the Arias government, which Costa Rican foreign minister Madrigal Nieto promises to unveil on September 17. Watchdog groups, American and international, need to be formed to monitor Sandinista compliance, and groups such as the Organization of American States need to be ready to inflict strong sanctions against Nicaragua if they show signs of cheating.

For the world's democrats to demand that Nicaragua live up to its pledge of 1987—as it did not to its pledge to the OAS in 1979—would be a far more humane and moral way to deal with Sandinismo than the military means employed by the Reagan administration. But until such a concerted effort is under way, the United States needs to maintain the military option. And this is where Democrats in Congress come in—House Speaker Wright in the forefront. Is Wright interested in leading the way toward democracy in Central America or merely following liberals in his House caucus?

Their attitude was displayed down here on August 31 by Representative Peter Kostmayer of Pennsylvania, who broke into a "debate" between Senate Republican leader Bob Dole and President Ortega (actually, it was a rout by Ortega over the ill-prepared Dole) to tell Ortega, "You have to do much less than you imagine to stop contra aid," only "the relatively small steps" of opening Radio Católica and La Prensa and freeing Lino Hernandez. Those steps could be easily reversed once the contras were disbanded. If Wright and the other Democrats are going to abandon Nicaragua, they had best get a plan ready to house the contras, their relatives, and hundreds of thousands of other refugees in the United States. The better plan is for Congress to refund the contras, put the military aid in escrow, and give peace a real chance.

CHALLENGES FACING THE MINING INDUSTRY

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. RAHALL. Mr. Speaker, on September 12, 1987, the American Mining Congress held its annual meeting in San Francisco, CA. Among those addressing the conference was a member of my Subcommittee on Mining and Natural Resources, Congressman GEORGE MILLER.

In his remarks, Mr. MILLER provides some interesting perspectives on a range of issues that affect mineral resource development and the mining industry.

Mr. Speaker, I thought my colleagues would be interested to read this excerpt of Mr. MILLER'S remarks:

REMARKS OF CONGRESSMAN GEORGE MILLER

The American Mining Congress has a long and distinguished reputation of service to the mining industry. I'm pleased to address those who lead AMC, the industry, and those who represent you so ably on Capitol Hill and in State capitals.

I'm also pleased to have this chance to discuss my views on a variety of mining and resource issues. As a member of the Mining and Natural Resources Subcommittee, I'll be directly involved in a number of issues affecting you and your companies.

PUBLIC LAND MANAGEMENT

The federal government plays a primary role as the steward of the nation's public lands and natural resources.

I support the use of public lands for the exploration and development of mineral and energy resources. But it is important and necessary that we develop Federal resources in a systematic and rational manner.

Mining and other uses of public lands are now guided mainly by the concept of multiple use. This policy is the Congressionally established and widely accepted foundation for management by the Forest Service and the Bureau of Land Management.

Multiple use is a great tool. But multiple use is only a concept and it can be a blunt tool if it is abused.

Multiple use has little substantive content. It sets out an appetizing menu of available uses, but it doesn't tell us how to order.

And, multiple use, in practice, has tended to produce a disproportionate influence by short-term economic activities, rather than public uses, such as watershed, wildlife or recreation. The pressures for "now" are always greater on the managers than the pressures for "later."

This is an audience which knows that the West, where most public lands are located, has changed. It is now the most urbanized and fastest growing region in the country.

This growth has diversified the Western economy. The dominance of natural resource-based industries has been reduced. And these changes have naturally had an impact on how Western public lands are managed. Public, non-consumptive uses are becoming more important, and I have to live with those politics just as you do.

OPEN PROCESSES

Throughout my Congressional career, I have urged that major decisions regarding the use and development of public resources be open. That every legitimate interest have an opportunity to be heard. We live in the age of participatory democracy. To do otherwise leads to unnecessary controversy, confrontation and delay.

Environmental organizations in this country are strong and well organized. They enjoy tremendous popular support. Polls show that an overwhelming majority of Americans favor protecting our environment and wild areas—even when it may cost them additional money. These views must be an important component in major decisions affecting public lands issues.

With few exceptions, when environmental groups have fought a program or project, they have either won or they have tied it up.

This Administration has failed to understand this basic lesson. They have failed to sit down, listen, and negotiate with their critics. Their ideological zeal has blinded them and led to needless confrontation, deadlock and delay.

The result has been tragic for many in your industry. Stalemate is your enemy, and most Federal programs to control resources have been stalemated at some point in the past 6 or 7 years.

Now I'd like to turn to the activities I expect our Committee will address during remainder of the 100th Congress.

OIL AND GAS LEASING REFORM

I'm encouraged about the changes for enactment of reform in the simultaneous oil and gas leasing system. I have promoted this reform for over a decade. This program, which I have likened to a glorified church raffle, has been an outrage for many years. The Federal government has been denied millions of dollars in revenues, while the program has been used as a shell game to defraud unsuspecting investors.

I'm very encouraged about the prospects for comprehensive reform of this program. The Mining Subcommittee will soon markup a bill on which I have been working closely with Chairman Rahall. This will retain a two tier system, but rid the program of its worst abuses. And for the first time in decades bring competition into the picture. Since similar efforts are under way in the Senate, I believe that legislation reforming the onshore oil and gas leasing program will be enacted during this Congress.

MINERAL COLLECTIONS

I'm less optimistic about efforts to bring some common sense to the collection and valuation of Federal energy resources.

The current Administration has engaged in what I call "bargain basement" charade: Undervaluing resources and not collecting what is owed.

The Minerals Management Service has failed to collect millions of dollars each year in royalties owed to the government from minerals leases. MMS is guilty of mismanagement—gross mismanagement. The States and Indian Tribes, which share the proceeds from the royalties, want the system improved. Members of Congress also want the system improved. But this Administration can't or won't do it.

I've given up on the Interior Department and MMS. I've introduced legislation to take the royalty collection functions out of Interior and put them in the Department of the Treasury—an agency which knows how to collect money. From my perspective, the longer it takes Interior to put its house in order, the louder the cries for reform of the system will become, and the greater the price the industry will ultimately pay.

MINING LAW OF 1872

The Mining Subcommittee recently held oversight hearings on the Mining Law of 1872. We heard from a broad spectrum of interests who called for changes in current law. The only exception was the American Mining Congress, who opposed any change.

A few years back, when Wayne Aspinall was chairman of the Interior Committee, AMC favored revising the Mining Law. Now you don't. The question is: Should the mining law be reformed? It is not: Who is the chairman? I need to know what you think; what will help the industry; what makes sense as public policy.

I support amending the mining law. I don't believe the law meets the needs of the contemporary mining industry, nor does it provide minimal environmental controls or insure a fair return to the government.

However, I don't have strong preconceived notions about how it should be revised. I would prefer that everyone interested in the law sit down soon to find areas of common concern, rather than engage in a lengthy, controversial battle.

FEDERAL RESERVE WATER RIGHTS

The American Mining Congress recently sponsored a seminar in Washington on the issue of federal reserved water rights. I'm glad to see you taking an interest in this issue.

However, I was disappointed that your seminar only included speakers who opposed Federal reserved water rights. In essence, the seminar stacked the deck, and gave an unrealistic perspective to those who attended the meeting.

A handful in Congress are now more determined than ever to address this issue legislatively. They hope to get the Congress in the business of quantifying water rights for wilderness areas and other federal lands instead of leaving this important issue to the courts and States. Their agenda is clearly antiwilderness.

My Subcommittee on Water and Power Resources is going to thoroughly examine the issue. But let me caution you. This issue is not as one-sided as presented at the AMC seminar. Federal reserved water rights are not the "Frankenstein-Water Gobbling Monster" that some portray.

I strongly encourage opponents of water rights for wilderness to re-think their strategy of forcing Congress to assert and quantify water rights for federal lands. I feel they are over-reacting to the recent court decisions in Colorado.

Congress will not easily overturn nearly a century of judicial precedent affirming Federal reserved water rights.

I can only assume that those who want to quantify the water rights on wilderness lands think they will get a "better deal" from Congress than from the courts or through state adjudications. I can only assume they think they will stop future wilderness designations. I don't think anyone can truly predict how Congress will act; I only caution that these strategies can easily backfire.

CONCLUSION

This is, of course, only a part of our agenda; one which will no doubt occupy us for years. After my remarks, it should not surprise you that I plan to speak plainly on these issues, and I encourage you to do the same.

This is a great industry, a major part of the American tradition, and I'm pleased I will be working with you. Let's work together to broaden your base; expand your perspective and look for the ways to get the industry moving strongly again. We'll be together on some things, at odds on others—but let's keep talking.

THE CAPITAL NEWSPAPER PUBLISHES ON SUNDAYS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the extension of services to the community by a great newspaper, The Capital.

Last Sunday, The Capital, for the first time in 260 years printed a Sunday edition. The Capital has been serving the people of Anne Arundel County since 1727. Over that period of time, The Capital has established itself as a valued member of the fourth estate, providing its readers as their primary newspaper with excellent reporting on local and national events.

A former employee of The Capital in the 18th century, John Peter Zenger, propounded the principle of freedom of the press. This concept of Zenger's became a foundation of the Constitution and the liberties we all enjoy that means so much in this country. William Parks, the first publisher of The Capital, was a British journalist who fought the Stamp Tax and continued publishing the newspaper. Later, The Capital was one of the first newspapers in the United States to have a woman editor.

Mr. Speaker, today The Capital continues this tradition of service to its daily readership of 50,000. The Capital is so prized in the Annapolis area that it has one of the highest saturation rates in the country for a daily newspaper. It is my pleasure to call the attention of Congress to The Capital and to wish the newspaper many more years of dedicated service to its readers.

THIRD WORLD HOPE: CHANGING DEBT INTO EQUITY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. RICHARDSON. Mr. Speaker, I would like to take this opportunity to enter for the RECORD a recent article written by Leonor and Marc Blum exploring a unique approach to Third World debt. Leonor Blum teaches at the College of Nortre Dame and together with her husband writes frequently on Latin American affairs. I believe this article presents an interesting alternative, worthy of the attention of my colleagues in Congress:

[From the Evening Sun, Aug. 5, 1987]

THIRD WORLD HOPE: CHANGING DEBT INTO EQUITY

(By Leonar and Marc Blum)

Hope is beginning to shine through the cloud of Third World debt. Two new ideas—the conversion of debt into equity and the creation of debtor-country mutual funds—could simultaneously activate the Third World's engines of growth, while reducing one third of their one trillion dollar debt burden over the next 10 years.

Lenders would swap some of their loans to Third World countries for what is known as "equity," that is, direct investments in Third World factories, farms, equipment or even common stock. Debtor countries would then "grow" their way out of the rest of their debt problem, just as the average American would have more to invest if his home mortgage payments were cut by 30 percent.

Between 1982 and 1984, Latin American debtors who, according to the International Monetary Fund (IMF), currently owe $383 billion of Third World debt, swallowed the IMF stabilization program. To generate savings, they cut their budget deficits and reduced their imports. The diet resulted in a merger growth rate, much below the projected level of 3 percent; a mirage of positive balance of trade, due to import cuts rather than to increased exports; a decline in investments; and no voluntary loans from private foreign banks. Between 1982 and 1986. Latin America became a net capital exporter to the industrialized world, to the tune of $100 billion.

In 1985, Secretary of Treasury James Baker III, recognizing the recessionary effect of the IMF program, launched a development proposal designed to promote Third World growth. Subject to structural adjustments by the debtor nations, the World Bank and other international development agencies were to increase their loans, accompanied by an infusion of new money from private banks. Over a period of three years, $30 billion was to be channeled into the 15 largest debtors.

But Baker's plan failed to generate new private loans to the Third World. That is why the alternatives of debt-equity swaps and country mutual funds are now being explored.

Let us take a look at the debt-equity swap. An American bank sells Brazilian debt to a foreign investor at a 33 percent discount from its face value. The Brazilian government fully converts the dollar debt into cruzados, the local Brazilian currency. The foreign investor must then use his cruzados in an approved Brazilian investment, a power plant or a factory, for example.

Potential investors could include a multinational with a plant in Brazil, an adventurous American investor attracted by the discount, or a Brazilian national with money in a Swiss bank account. Even a creditor bank, like Citicorp, might be interested in holding stock in a Brazilian affiliate.

The obvious winner is the debtor nation that reduces its international debt and the interest owed on it, saves scarce foreign exchange and receives a shot of capital from foreign sources or from returning local capital. The investor wins by purchasing local currency at a discount. The creditor bank loses by selling the debt at a discount but gains by converting some of its non-performing loans into assets. U.S. exporters benefit once growing third World countries resumes purchases of American goods.

Debt-equity swaps are still rare in Latin America because of nationalistic pressures against foreign investment. Free-market-oriented Chile is on the forefront of such transactions. Since 1985 it has retired 5 percent of its $20 billion debt. Fiat has used Brazil's capitalization scheme to expand its plant there, and Nissan has arranged a similar deal in Mexico.

A less explored but equally attractive tool to reduce Third World debt while encouraging investment is the creation of country mutual funds. The Chilean Congress is curently considering legislation on a Chilean country fund, and Brazil is rumored to be doing the same. How are country mutual funds projected to work?

The government of Brazil, for example, assigns shares it owns in a variety of companies to a mutual fund, called the "Brazil Fund." International creditors of either public or private Brazilian debt could swap their debt for shares in Brazil Fund. Brazil Fund would trade on the Brazilian stock market and abroad, with no tax or regulation impeding the transferability of its shares.

A Brazil Fund would allay nationalistic fears of losing control to foreigners, since its management is Brazilian. Foreign investors would benefit by spreading their risk, instead of swapping into an investment in only one Brazilian stock.

Of course, neither debt-equity swaps nor country mutual funds are problem-free. Details such as fair taxation procedures, freedom from discriminatory government controls, and permission to pay dividends that can be remitted outside the country must be worked out between the govenment and foreign creditors. In addition, creditors also must be protected in some measure from the vicissitudes of Third World politics and economics.

In view of a possible avalanche of defaults, following Brazil's recent example, all reasonable actions to reduce the chance of disaster should be pursued. Debt-equity swaps and country mutual funds will not only reduce the magnitude of the debt crisis but also will stimulate new investment in the Third World which will, we all hope, aid world-wide economic recovery.

THE 44TH ANNUAL CONVENTION OF THE NATIONAL CONGRESS OF AMERICAN INDIANS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. DYMALLY. Mr. Speaker, I would like to take this opportunity to bring to your attention the 44th Annual Convention of the National Congress of American Indians. The Congress is one of the largest American Indian organizations, representing over 150 tribes.

Their forum is being convened at a time when the national climate is unfavorable to the concerns of American Indians.

The administration has often been responsible for weakening not only legislation vital to Indians, but also Federal programs that have been significant to American Indians' progress.

In past years, President Reagan proposed the elimination of the Office of Indian Education and the administration for American Indians, both programs dedicated to finding creative solutions for education and social development.

The administration is joined by anti-Indian groups, which are concentrating their efforts on Congress. They have had some success in getting antitreaty legislation introduced, using the argument that treaties are outdated and should be negotiated or legislated away.

These anti-Indian efforts are all the more egregious in a year when we celebrate the Bicentennial of the Constitution and the founding of a democratic nation. As a member of a traditionally disadvantaged group, I join the National Congress in saying that our celebration must be different from those whose ancestors were afforded protections and rights from the inception of this Nation.

The Constitution of today is radically different from that drafted at the Philadelphia Convention, reflecting a social transformation.

This transformation calls for the protection of minority groups of the population and the affirmation of equal rights to all persons, regardless of race or sex.

American Indians and black Americans have a common heritage of grievance and oppression. The ties grew stronger when fleeing slaves were provided haven by American Indians. As a result, many blacks have equally strong ties to Indian communities.

Our common heritage includes our exclusion from citizenship rights. For blacks, article I of the original Constitution stated that we were not equal with whites, but rather to be considered as three-fifths of a person.

In 1857, the infamous Dred Scott decision established that blacks were a subordinate and inferior class of beings, denying citizenship to them. It was not until 1868, when 28 States ratified the 14th amendment, that blacks became citizens.

American Indians have a similar legacy. It was not until 1924 that American Indians were granted full citizenship rights. Prior to that, only those who would leave their tribes and adopt a civilized way of life were considered to be citizens.

Clearly then, our celebration of the Constitution is based on our measurement of the progress of our people and the ability of the larger society to live up to the moral values now reflected in the Constitution.

One of the issues with which both groups must grapple is that of political empowerment. American Indians are perhaps the most disadvantaged group in American society. This is, in part, due to the lack of numbers and the difficulty of translating those numbers into a political force.

This situation exists despite the fact that some tribes possess substantial resource wealth—coal, gas, uranium and water. Unfortunately, the possession of potential wealth has yet to be translated into economic or political power.

Rather, those tribes have often been victimized by more powerful interests which seek to dispossess them of their assets.

Racism and the trust concept, portraying American Indians as incompetent children, have often been the justification for the taking of land.

In the face of pervasive discrimination in all areas of civil rights, American Indians have relied upon the constitutional-legal system and the moral conscience of the society.

This is not to belittle the important activist response of a number of American Indian organizations. The 1970's, in particular, was a time when American Indians aggressively sought to present their issues and concerns to the American public.

The activism of the 1970's also encouraged a debate on the uniqueness of the Federal-Indian relationship and the special status of Indians in relation to all other Americans. All of us here are familiar with the argument that the special status of American Indians denies other Americans their equal protection rights.

The Supreme Court has spoken definitively, and clarified that the special treatment of American Indians is permissible, when that status is tied to the unique trust relationship and obligations of the Federal Government to Indian tribes.

In the 1980's, then, efforts must be made to ensure that the sovereignty of tribes is respected. This is based on our legal system's interpretation of international law, which confers the status of Nation-States on American Indian tribes.

I referred earlier to anti-Indian efforts in Congress. One of the issues on which I would urge further discussion is the special relationship which Congress has with American Indians.

The legal status of tribes has two underpinnings. One is the trust concept, the other the extraordinary powers with which Congress is vested.

Congress has virtually a free hand on American Indian affairs. I want to urge my colleagues to adopt a more aggressive approach to passage of pro-American Indian legislation.

An example of this type of legislation is the Indian Health Care Improvement Act which would improve health care to an equal level with non-Indians and place control for health-care policy with the tribes themselves.

This legislation was introduced because Congress found that the "unmet health needs of American Indian people are severe and the health status of the Indians is far below that of the general population of the United States."

There are many other issues which I hope that we will address. As chairman of the Subcommittee on Census and Population, I will be focusing on the concerns of American Indians about the 1990 decennial census. Some of those concerns are the decision of the Census Bureau to omit the use of a supplemental questionnaire for the American Indians and Alaska Native populations, the undercount of American Indian populations, and the hiring of American Indians as tribal liaisons, to ensure the effectiveness of outreach and promotion programs and the administration of the census questionnaires.

Mr. Speaker, I respectfully ask that you join me in noting the 44th Annual Convention of the Congress of American Indians, and the concerns of the tribes thereby represented.

WE APPRECIATED WALTER FUREY'S HELP

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. MAVROULES. Mr. Speaker, a short time ago, a constituent and dedicated Federal employee, Walter Furey retired from his Postal Service position. Those who serve in our Nation's post offices, like Water, often become our friends, sharing with us our joys and sorrows, and bringing the world closer to our homes. I would like to share with my colleagues a note of appreciation for Walter's service that was recently published in his local newspaper, the Swampscott Reporter, by two of his postal service fans.

[From the Swampscott Reporter, Aug. 6, 1987]

WE APPRECIATED WALTER FUREY'S HELP

To the Reporter:

The Swampscott Reporter story on Walter Furey's retirement left us with a feeling of gladness and sadness. We are glad that he will visit his relatives in Ireland and sad that we will miss his friendly service at the U.S. Post Office.

"Walter Furey is the name—tops in Swampscott U.S. Postal Service, is the claim to fame."

We appreciated greatly his interest and friendly approach when we needed his advice and help. These poetic lines are dedicated to a great human being, Walter Furey.

The little things are most worthwhile,
A soothing word, a nod, a smile,
A listening ear, an open mind,
A gentle word—so warm and kind,
An open heart that's quick to share
Another's thoughts, another's care
Though at times they seem so small
These little things mean most of all.

God bless Walter Furey on his honorable retirement.

Davida and Maurice Goldsmith.

MOTOR FUEL TAX INCREASES—A RETURN TO TAX AND SPEND?

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. ROTH. Mr. Speaker, today I rise in strong support of House Joint Resolution 225, a resolution expressing the sense of the House that the Federal excise tax on gasoline and diesel fuel not be increased for deficit reduction purposes. We must balance the budget. But tax increases are not the correct approach. We in the Congress must cut spending.

Once again, the summer has come and gone with little progress made on addressing our Nation's burgeoning Federal deficit. Congress must buckle down and make the hard choices. Simply put, we must cut spending.

Here we are in September, with once again a majority of the appropriations bills still awaiting passage by the Senate and no firm inclination as to what the budget reconciliation language will encompass.

In July, the House leadership succeeded in pushing through a concurrent budget resolution, which I voted against, calling for $19.3 billion in new revenues for fiscal year 1988. Rather than outlining a budget which will responsibly address the constraints of the Federal deficit, the Democrat leadership in both Houses of Congress has returned to the old adage of "tax and spend."

The House Ways and Means Committee currently is reviewing several proposals to raise revenue. Clearly, the most unfair and unjust proposal of the lot, is to raise the motor fuel excise tax. Revenues from the 9 cents-per-gallon motor fuel tax and 15 cent tax on diesel fuel are deposited in the Highway Trust Fund for the purpose of construction and maintenance of our Nation's roads and bridges. For Congress, to raise highway user taxes and not use the funds for our pressing transportation needs would be a serious breach of responsibility to the American public.

Motor fuel taxes hit lower income groups much harder than they do the rich. In 1985, for example, gasoline expenditures represented 17 percent of an individuals income who earns less than $5,000 annually. Comparatively speaking, individuals earning more than $50,000 annually spent only 2 percent of their income on motor fuels. An additional 10 cent or 5 cent per gallon hike in motor fuel taxes would directly translate to less consumer spending by our Nation's lower income individuals and likely cause increased inflation.

The simple economics of traveling greater distances to get from A to B in our rural areas ensures that these individuals will bear the lion's share of any increased motor fuels tax. My home State of Wisconsin already has an excise tax on motor fuel of 20 cents per gallon. An increase in the Federal tax would unfairly target people living in rural areas of America.

As vice-chairman of the Travel and Tourism Caucus, I recognize the devastating impact an increase in the Federal motor fuel tax would have on our Nation's fastest growing industry. An estimated $30 billion in tax revenue is generated annually from tourism nationwide and over 5 million people are directly employed by the tourism industry. An increase in the motor fuel tax, of 5 to 10 cents would likely deter some middle and lower income families from taking extended trips by car. Not only could resort owners and innkeepers face significant losses, but restaurant owners and small businesses in resort areas would also be hard hit.

Increasing the Federal motor fuel tax makes little sense. We would be unjustly penalizing lower income individuals, our tourism industry and industries heavily dependent on motor fuels, namely, motor carriers and farmers. I strongly urge my colleagues to join me in supporting H.J. Res. 225, a resolution to prevent an unfair increase in motor fuel taxes.

INF A REAGAN SUCCESS

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. BEREUTER. Mr. Speaker, as we consider an upcoming summit between President Reagan and Soviet General Secretary Gorbachev to finalize the first accord in history that will significantly reduce nuclear weapons, this Member is struck by the fact that this Reagan administration has achieved such a monumental accomplishment. How quickly some forget the early days of this administration when President Reagan's "zero option" proposal to reduce intermediate nuclear forces [INF] was considered by arms control zealots to be evidence of this administration's complete intransigence and unwillingness to negotiate any arms accord. In fact, the President's proposal to begin a general reduction of nuclear weapons was treated by many with skepticism. Interestingly, while arms control enthusiasts were calling for a freeze this administration was calling for reductions. Would we really be better off today had their views prevailed? The nuclear freeze rhetoric now seems antiquated, irrelevant, and, finally, counterproductive.

On September 21, 1987, the Omaha World-Herald published a thoughtful editorial on this subject that I commend to my colleagues' attention.

[From the Omaha World-Herald, Sept. 21, 1987]

Better Than a Freeze: Progress in Arms Talks Indicates U.S. Was Wise

How quiet the backers of a nuclear weapons freeze have been lately. And understandably so. The idea of a freeze has been obsolete since the United States and the Soviet Union began working toward an agreement to reduce their nuclear arsenals.

Four or five years ago, the freeze people seemed to be everywhere with their campaign of a Soviet-American agreement for a mutual and verifiable freeze on the development, testing and production of nuclear weapons and delivery systems. Just as a speeding car must be stopped before it can be put in reverse, the freeze advocates would say, the production of nuclear weapons must cease before arsenals can be reduced.

The notion was, from the standpoint of U.S. security, dangerous. In the early days of the freeze movement, the United States didn't have the B-1B bomber or the MX missile. U.S. forces depended more on weapons, including Minuteman missiles and B-52 bombers, that were nearly obsolete in relation to state-of-the-art Soviet missiles and bombers developed in the late 1970s. Under a freeze, the United States would have grown progressively less able to deter a Soviet attack.

Nonetheless, the freeze movement had a following. Church groups endorsed it. A freeze resolution in the House of Representatives got 202 votes. President Reagan was ridiculed, or accused of being a warmonger, when he took the position that seeking balanced reductions in nuclear arms was a better idea than simply freezing them.

Recent events in Washington, Moscow and Geneva have demonstrated the wisdom of the Reagan position.

Under a freeze, not a single warhead would be dismantled and not a single missile would be eliminated. But under the U.S.-Soviet agreement in principle that was announced Friday, the entire class of medium-range nuclear-tipped missiles—332 U.S. missiles and 683 Soviet missiles—would be eliminated.

Secretary of State George Shultz raised the possibility of future agreements to eliminate more nuclear weapons.

The elimination of missiles doesn't necessarily make the world safer. The United States and the Soviet Union would still have 95 percent of their nuclear arsenals. The intrinsic hostility between the Communist system and the Free World continues, as was demonstrated Thursday when a U.S. liaison unit was fired on by Soviet troops in East Germany.

But a beginning is being made at reducing both tensions and nuclear arsenals. With its balanced reductions, it is a good beginning—a better beginning than would have been made if the United States had agreed on a freeze that left it at a growing strategic disadvantage.

INDIAN ART AND CULTURE INSTITUTE TRANSITION ACT—H.R. 3331

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. RICHARDSON. Mr. Speaker, I am pleased to join with my colleague from Michigan to introduce this bill which provides for important interim measures relating to the Institute of American Indian and Alaskan Native Arts and Cultural Development in Santa Fe, NM. In the Higher Education Amendments of 1986 we enacted legislation that would make the institute an independent school to be operated by a board of regents rather than the Bureau of Indian Affairs. The legislation stated that the board was to be in place and the transfer from the BIA to be accomplished by October 1, 1987. Unfortunately, at this time it is clear that this deadline will not be met and there is a real question as to the authority of the BIA to operate the institute after September 30, 1987.

The bill I am introducing today extends the date for completing the transfer from the BIA to the new board to no later than June 1, 1988. It also authorizes the BIA to contract with the University of New Mexico to develop the necessary administrative systems to ensure a smooth transition. The bill directs that this contract include the establishment of an advisory council to advise the university and the Secretary of the Interior on the proper development of administrative systems. The advisory council shall include a representative from the National Congress of American Indians, a representative from the American Indian Higher Education Consortium and at least five other individuals possessing knowledge and experience in Indian arts and culture and in postsecondary education, the majority of whom shall be Indian. The advisory council made up of leaders in the field of Indian art education will ensure that the systems developed will be appropriate for the operation of the institute and continue the high standards of educational excellence that the students and the Indian community deserve.

Mr. Speaker, this bill will address the emergency situation facing the institute and allow it to stay open while the Bureau of Indian Affairs, with the aid of the University of New Mexico and the advisory council, develop systems to facilitate the transition to the board of regents. I urge my colleagues to join me in this effort to provide for a smooth transition of the Institute of American Indian and Alaskan Native Arts and Cultural Development so that its important educational and cultural mission can continue without interruption.

100 MEMBERS OPPOSE GAS TAX INCREASE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. ANDERSON. Mr. Speaker, as you know, the conference agreement on the Gramm-Rudman Reaffirmation Act will require that a reconciliation bill be adopted to reduce the deficit by $23 billion. This will be accomplished through some mix of spending cuts and tax increases. In determining which of these to adopt, we should turn to those which are the most equitable and least damaging to our economy.

Some 100 Members of this House have now cosponsored House Resolution 225, a resolution I introduced expressing the sense of the House that the Federal excise taxes on gasoline and diesel fuel shall not be increased to reduce the Federal deficit.

According to a Peat Marwick study, a motor fuels tax increase would not be equitable, but would be extremely regressive. 23.2 percent of gasoline excise tax revenues are generated from families earning under $20,000, those who account for just 10.5 percent of our total economic income. Families at the higher end of our income scale, earning over $100,000 a year, account for 15 percent of the Nation's economic income but pay just 5 percent of the gasoline excise tax.

While a gasoline tax is fair if the revenues generated are used for transportation purposes so that people are simply paying for what they are using, it is patently unfair if used for deficit reduction purposes. When used for those purposes, it is obviously not a user fee. It is simply an unfair tax that would place a disproportionate responsibility for reducing the deficit on the backs of our middle and lower classes.

Just as using a motor fuels tax increase for deficit reduction is unfair to all but upper class Americans, it is damaging to the economy of the Nation as a whole, to everyone in this country.

When Wharton Econometrics compared a gasoline tax increase to an income tax surcharge, a corporate tax increase, or an oil import fee, they found that the gasoline tax would have the greatest negative impact on unemployment and the gross national product, and a greater inflationary impact of any except an oil import fee, the inflationary impact of which would be similar to that of a gasoline tax increase.

A 10-cent per gallon gasoline tax increase would add 180,000 people to our unemployment rolls by 1990, detract $10 billion from the GNP, and cause the Consumer Price Index to rise by 0.3 percent.

Is it because of these facts that 100 Members have now joined together to cosponsor House Resolution 225? Or is it because of how regressive a motor fuels tax increase would be?

Mr. Speaker, I urge more of our colleagues to express their opposition to a regressive, economically dangerous gasoline tax increase. I urge them to join the 100 Members who have already done so by cosponsoring House Resolution 225.

Mr. Speaker, I ask to insert a list of the resolution's cosponsors:

LIST OF COSPONSORS

Mr. Anderson, Mr. Howard, Mr. Hammerschmidt, Mr. Shuster, Mr. Akaka, Mr. Applegate, Mr. Ballenger, Mr. Barton of Texas, Mr. Bateman, Mr. Bilbray, Mr. Bilirakis, Mr. Bliley.

Mr. Boehlert, Mr. Boner of Tennessee, Mr. Borski, Mr. Boulter, Mr. Broomfield, Mr. Brown of Colorado, Mr. Buechner, Mr. Bunning, Mr. Callahan, Mr. Carr, Mr. Chapman, Mr. Clinger, Mr. Combest.

Mr. Courter, Mr. Craig, Mr. Daub, Mr. DeFazio, Mr. DeLay, Mr. de Lugo, Mr. Dornan of California, Mr. Dymally, Mr. English, Mr. Fascell, Mr. Fawell, Mr. Feighan, Mr. Gallo.

Mr. Garcia, Mr. Gejdenson, Mr. Gilman, Mr. Gordon, Mr. Grant, Mr. Gray of Illinois, Mr. Hastert, Mr. Hayes of Illinois, Mr. Hefner, Mr. Henry, Mr. Holloway, Mr. Hopkins.

Mr. Hubbard, Mr. Inhofe, Mr. Jeffords, Mr. Johnson of South Dakota, Mr. Jones of North Carolina, Mr. Kasich, Mr. Kolter, Mr. Konnyu, Mr. Lagomarsino, Mr. Lancaster, Mr. Latta, Mr. Lightfoot.

Mr. Lott, Mr. Donald E. Lukens, Mr. Mack, Mr. Martinez, Mr. Martin of New York, Mr. McEwen, Mr. Mineta, Mr. Neal, Mr. Nichols, Mr. Nielsen of Utah, Mr. Nowak, Mr. Oberstar, Mr. Oxley.

Mr. Packard, Ms. Pelosi, Mr. Perkins, Mr. Petri, Mr. Rahall, Mr. Ravenel, Mr. Rogers, Mr. Roth, Mr. Savage, Mr. Schuette, Mr. Shaw, Mr. Skeen, Mr. Smith of Florida.

Mr. Smith of New Hampshire, Mr. Smith of Nebraska, Mr. Stangeland, Mr. Stump, Mr. Tallon, Mr. Towns, Mr. Upton, Mr. Valentine, Mr. Walker, Mr. Whittaker, Mr. Wise, Mr. Wortley.

SOVIETS PUSH AHEAD WITH ENERGY INDEPENDENCE WHILE UNITED STATES SITS ON HANDS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. YOUNG of Alaska. Mr. Speaker, today we hear word that in the Persian Gulf United States servicemen successfully captured an Iranian vessel laying mines in international waters. While we continue to protect the Persian Gulf, we are sitting on our hands regarding future energy supplies here at home, which if developed, would reduce our exposure in the Middle East.

Meanwhile, the Soviet Union pushes ahead with its development plans for new energy resources, recognizing fully that security is only guaranteed by independence. The attached article, by Mr. Paul Kelly of Rowan Drilling, points out what the Russians are doing to develop their energy resources. They are not, for example debating over caribou as the U.S. Congress is in regards to the Arctic National Wildlife Refuge. That is one reason they will outproduce the United States in oil next year.

IN THE WORLD OF ENERGY THE RUSSIANS ARE COMING—U.S.S.R. OVERTAKING U.S.A. AS WORLD'S NO. 1 ENERGY PRODUCER.

(By Paul Kelly)

Simultaneous with the steep decline in U.S. oil production in the past two years the Soviet Union has reversed the decline in its oil production and seems well on the way to overtaking the United States in primary energy production. In fact, when 1987 statistics are known, they may well confirm that the U.S. is already second to the U.S.S.R. in energy production. Texas and Oklahoma after all have just projected that 1987 will show the lowest annual oil production in those two states since World War II with

Texas production actually expected to fall below 2 million bbls per day for the first time since 1944.

Western commentators, including the CIA, have consistently underestimated Russia's oil reserves and production potential. As technical problems in the U.S.S.R. are being overcome, oil output in the U.S.S.R is rising once again while gas production is surging ahead strongly. Moreover, there is vast untapped exploration potential in Russia for both oil and natural gas.

MAJOR ENERGY PRODUCERS 1985

[Million tons oil equivalent]

	Saudi Arabia	China	U.S.S.R.	U.S.A.
Oil	174.8	124.7	594.5	500.5
Gas	4.5	11.5	528.4	422.3
Coal	—	512.9	363.2	494.4
Nuclear	—	—	36.0	104.6
Hydro	—	25.8	53.5	82.9
Total	179.3	674.9	1,575.6	1,604.7

Source: World Energy Review, Hoare Govett Limited, London, April 1987.

The Soviet Union's importance in global energy production and consumption is evident from the fact that it is now the world's largest producer, and second largest consumer, of oil. The U.S.S.R. is also the world's largest exporter of oil and possesses the third largest oil reserves. It has the largest natural gas reserves in the world and is first in the production, consumption and export of gas. Russia is third largest in the world in coal production and consumption, ranking only behind China and the United States. In terms of overall primary energy production the U.S. held its number one position by only a slim lead over the Soviet Union in 1985.

Technical problems associated with rapid development of Western Siberian oilfields have been blamed for declines in Soviet oil production which occurred during 1984 and 1985. However, increased investment overcame many of these problems in 1986 with oil production rising to 615 million tons as Western Siberian output reached new record highs. Recovering production was paralleled by an increase in oil exports to the West to around 1.55 million b/d, up 14% from 1985. Currently the Soviets are launching a new initiative to obtain new Western oilfield technology and turning increasingly to exploration and development in their vast offshore areas.

The United States' future position relative to the Soviet Union as the world's leading primary energy producer does not look good when one compares the key indicator of the size of reserves relative to production (R/P ratio). In natural gas the U.S.S.R. has an R/P ratio of 66.1 compared with only 11.9 in the U.S. For oil the R/P ratio is 14.0 for the U.S.S.R. and only 9.1 for the U.S.

A strong anti-nuclear lobby, highly complex and costly regulatory controls, plant cost overruns and environmental concerns do not make the future prospects for nuclear power in the U.S. look very favorable. On the other hand, despite the Chernobyl disaster, the Soviets are moving ahead with construction of several new nuclear plants. Similarly, environmental factors loom large in the American coal industry and negate in part the advantages of vast U.S. reserves. America's best prospects for large new oil finds lie offshore California and in the Arctic National Wildlife Refuge in Alaska (ANWR). To date the U.S. Congress has not allowed national concerns to overcome local environmental concerns so that oil and gas development can proceed in frontier areas offshore California, and the Congress is just now beginning to evaluate the Reagan Administration's strong recommendation in support of legislation which would permit oil and gas exploration in ANWR. Without successful exploration in these areas, the U.S.S.R. is sure to draw strongly ahead of the U.S. in primary energy production in the 1990's and beyond.

Just as declining Russian production was reversed in 1986, U.S. production started to decline on the order of 800,000 b/d or 8.5% for the year. This decline, coupled with an associated increase in consumption, caused oil imports to rise 1 million b/d in 1986 to around 5.3 million b/d.

Much of the 1986 production decline stems from the oil price collapse, which led to the shutting in of stripper wells, the deferral of offshore and Arctic developments and the prevention of reserves replacement through new exploration and enhanced oil recovery. Looking ahead, however, America's biggest potential production decline is due to a natural fall in production from our biggest oil field on Alaska's North Slope, Prudhoe Bay. More than 5 billion barrels have been produced from the Sadlerochit reservoir at Prudhoe Bay to date. The field has maintained its 1.5 million b/d production rate longer than was originally estimated as a result of good reservoir engineering and aggressive development drilling. Inevitably, however, gradual decline will begin sometime in late 1988 or 1989.

The best possibility for offsetting falling Prudhoe Bay output in Alaska is ANWR, where the production potential is very high. Nevertheless, even assuming that exploration in ANWR is successful, it could take 8-12 years to bring new Arctic discoveries through development into production, and it appears unlikely that without an extraordinary effort on the part of the American petroleum industry ANWR could make a meaningful contribution to U.S. crude oil supplies before the late 1990's. What this does is to open up a window during the 1990's when the United States will be extremely vulnerable to rising oil imports from OPEC and the dangerous economic, political and strategic consequences which will flow from increased import dependence. Exploration of ANWR should begin as soon as possible, for the sooner we can close, or at least lower, that window of vulnerability the better.

The Soviet Union's energy future is secure with its vast reserves of natural gas and oil prospects that are more favorable than many observers realize. Over the years the Soviets have carefully cultivated a reputation as a reliable supplier, and they can afford to play a long-term game as they advance steadily to a predominant position. Their interests will best be served by a gradual process of increasing Western European dependence on Russian energy supplies. Unwittingly the U.S., which now accounts for nearly one-third of world oil consumption, will assist this process as it seeks additional imports to replace its own falling production in the 1990's. In the meantime, the U.S.S.R.'s continuing development of nuclear power plants will make more oil and gas available for export, thereby improving its predominant position and providing an important source of additional foreign exchange.

Critical economic, political and security implications could result from this shift in U.S. and Russian positions. Together with a small number of oil producers in OPEC the Soviet Union will become a predominant source of low cost energy supply in the 1990's and beyond. Being a source of low *cost* supply will not necessarily mean being a source of low *priced* supply, however. Dwindling U.S. oil and gas production, gradual depletion of North Sea reserves, and the elimination of certain exporters now within OPEC will form the backcloth for a new era of high priced energy in the 1990's. There will be a concentration of power and influence which results in a new price regulated market where energy consuming nations are left helpless because of the large investments needed for alternative sources of energy and the long lead times required for development. Recent events highlight how quickly and explosively Middle East politics can change. Complex changes in regional economic interests which result from this concentration of power and influence in the hands of OPEC and the Soviet Union in the 1990's could realign political interests in Europe and the Middle East against the best interests of the United States.

A number of oil analysts on both sides of the Atlantic believe that even with active exploration campaigns in Alaska and California during the next decade oil production in the United States will never again reach the 9 million b/d produced in 1985, and that it is inevitable that the supply shortfall we face will affect other Western countries which are also bound to become more dependent on Middle East and Russian oil. This is open to debate. One thing is certain, however. Present U.S energy policy, which downplays the importance of providing incentives for new domestic exploration and production, is both shortsighted and tantamount to giving up the fight without even trying.

FEDERAL EQUAL EMPLOYMENT OPPORTUNITY REPORTING ACT OF 1987

HON. MATTHEW G. MARTINEZ

OF CALIFORINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. MARTINEZ. Mr. Speaker, today, myself and the chairman of the Committee on Education and Labor, Congressman HAWKINS, along with 9 other cosponsors, are introducing the Federal Equal Employment Opportunity Reporting Act of 1987.

Despite the fact that equal employment opportunity has been an established policy of the Federal Government for over 40 years, discriminatory employment patterns and practices continue to have an adverse impact on applicants and employees of the Federal Government because of their race, color, sex, or national origin. Recent reports conclude that minorities and women continue to be underrepresented and underutilized throughout our Federal work force.

This legislation would require all Federal agencies to prepare and submit affirmative action plans similar to plans already required for private sector Federal contractors under Executive Order 11246. This legislation simply requires Federal agencies to keep records of their affirmative action efforts, which will thus help them identify and eliminate potential discrimination in the work force.

The Federal Government, as a model employer, already has an affirmative action monitoring program in existence. In fact, almost all Federal agencies do report on their affirmative action efforts. Therefore, this legislation is not requiring any new or more detailed requirements.

The Equal Employment Opportunity Commission [EEOC], through authority given to it by Congress, issued management directive 707 in 1981 which outlines detailed instructions for Federal agencies to follow in developing and implementing affirmative action plans. However, since 1983 several agencies have placed themselves above the law and refused to submit adequate affirmative action plans based on the management directive guidelines.

Clearly, the refusal of any Federal agency to submit equal employment opportunity plans in defiance of lawful regulatory requirements rises above partisan politics. As the U.S. Supreme Court succinctly ruled in Weber, Wygant, Johnson, and other decisions within the past 2 years, affirmative action including goals and timetables is appropriate in remedying the past and present effects of discrimination.

As the law stands now, the EEOC is powerless to enforce compliance with management directive 707. EEOC Chairman Clarence Thomas, before the House Government Activities and Transportation Subcommittee on July 25, 1984, stated that:

> I think for noncompliance, if we had in place sanctions of some sort or a mechanism to require compliance, then perhaps we could get compliance. * * * But right now, we have no sanctions to impose against any agencies. All we can do is report noncompliance to Congress.

Chairman Thomas then stated his support for increased enforcement provisions, should Congress legislate them.

This bill essentially codifies the existing reporting requirements under EEOC's management directive 707, with some modifications including the enforcement authority for the EEOC to collect this data. The legislation also allows the EEOC the freedom to require additional data it deems necessary to carry out its mandate.

President Reagan has publicly endorsed the policy of equal employment opportunity in the Federal Government. In accordance with the President's views and the need to strengthen the EEOC's enforcement authority in the Federal sector, it is imperative that we enact this legislation as expeditiously as possible.

Mr. Speaker, I think it is time for the Federal Government to put its enforcement where its mouth is in the area of civil rights. The Federal Government should take the lead in integrating its work force without obstruction and delay.

I urge my colleagues to join me in cosponsoring the Federal Equal Opportunity Reporting Act of 1987. I ask that a summary of the legislation be included in the RECORD.

SUMMARY OF THE FEDERAL EQUAL EMPLOYMENT OPPORTUNITY REPORTING ACT OF 1987, MATTHEW G. MARTINEZ, SPONSOR

A. Need for the legislation.—Federal government agencies are required under the Equal Employment Opportunity Commission's Management Directive 707 (MD-707), to maintain an affirmative program of equal employment opportunity for all employees and applicants for employment. Despite this requirement, federal agencies have failed to ensure that their labor forces are fully representative of the general labor force of the United States. In particular, minorities and women have been, and continue to be, underrepresented and underutilized in the federal workforce.

Over the last several years, some federal agencies have failed to comply with the requirement in MD-707 to file an annual report with goals and timetables designed to maintain an affirmative action plan. Although MD-707 was designed to comply with current law it does not have the force of regulations to collect these reports.

B. Purpose.—This bill essentially codifies MD-707's reporting requirements and also provides enforcement authority to the U.S. Equal Employment Opportunity Commission to require federal entities subject to laws prohibiting employment discrimination to file such reports regarding their compliance with such laws.

C. Specific Reporting Requirements.—

1. Every five years, each federal agency must submit to the EEOC a five year plan to provide equal employment opportunity for its employees and applicants for employment. Every subsequent year, the federal entity shall submit a report based on the plan not later than 90 days from the beginning of each fiscal year to the EEOC. Detailed contents of the plan and reports must include:

a. A workforce utilization analysis for each EEO group, by sex, which shows whether underrepresentation or underutilization exists;

b. An adverse impact analysis of each EEO group, by sex, of personnel transactions where underrepresentation or underutilization has been identified;

c. Affirmative action goals for each EEO group, by sex, for each employment category for which underrepresentation, underutilization or adverse impact exists; and

d. A plan of action, including a timetable, outlining all of the steps that will be taken to eliminate barriers to equal employment opportunity and to achieve appropriate goals.

2. This Act will not permit any federal entity to utilize quotas in recruitment, hiring, training or promotion.

D. Enforcement provision.—The U.S. Equal Employment Opportunity Commission may order the head of any federal agency to submit the report required under this Act or commence a civil action to compel the head of such entity to submit such report. In addition, the Act provides for a private cause of action for any employee or applicant for employment or any labor organization to compel the head of any federal agency to submit the required report if the EEOC does not carry out its mandate.

E. On-site investigations and audits.—The EEOC will be authorized to conduct on-site reviews of the federal entities to assure compliance with this Act.

TAX CHANGE FOR SECTION 457 ABSOLUTELY REQUIRED

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. VANDER JAGT. Mr. Speaker, yesterday, I joined colleagues on the Committee on Ways and Means in introducing bipartisan legislation, H.R. 3312, which would reverse an erroneous interpretation by the Internal Revenue Service concerning the application of section 457 of the Internal Revenue Code to nonelective deferred compensation. This provision was originally enacted in 1978 to apply to State and local government employees and was extended by the Tax Reform Act of 1986 to private tax-exempt employees.

Let me briefly explain the importance of this legislation. Under the erroneous IRS interpretation of section 457, employees of State and local governments and private tax-exempt organizations would be taxed currently on income which: They have not received; they never had the right to elect to receive; and they may never receive if they die or the employer becomes insolvent or otherwise unable to pay such amounts prior to the time actual payment is to occur.

On the face of it, I believe it is inconceivable the Congress intended to accomplish such an obviously unfair result. A review of the legislative history related to this legislation, which is analyzed in the detailed discussion below, clearly indicates that this was not the intent of the Congress. Failure to adopt this clarification will result in chaos for the State and local government community and the private tax-exempt community. The erroneous IRS interpretation dictates that State and local government employers amend previously issued W-2 forms for affected employees and that such employees amend previously filed tax returns.

Set forth immediately below is the membership of the Section 457 Task Force that supports this important legislation. The Section 457 Task Force is a broad based group of State and local government employers and private tax-exempt employers representing millions of State and local government and private tax-exempt employees.

THE SECTION 457 TASK FORCE

Government Finance Officers Association.
International Association of Fire Fighters.
National League of Cities.
National Association of Counties.
National Conference of Public Employee Retirement Systems.
American Association of State Colleges and Universities.
American Council on Education.
National Association of Government Deferred Compensation Administrators.
Fairfax County Public Schools.
American Red Cross.
Johnson & Higgins.
American Association of School Administrators.
Presbyterian Hospital.
The Cleveland Clinic.
The Johns Hopkins University.
New York University.
Salt River Project.

Memorial Hospital System.
Samaritan Health Service of Arizona.
American Society of Association Executives.
Texas Automobile Dealers Association.
Texas Pharmaceutical Association.
American Healthcare Institute.
New York City.
Goodwill Industries.
Association of Advanced Life Underwriting.
Fairfax County of Virginia Government.
University of Nebraska.
Carlton College.
Interhealth.
Christian Hospital Northeast-Northwest.
Sisters of Providence (West Coast).
Cosmetic, Toiletry and Fragrance Association, Inc.
Golden Health System, parent to Pleasant Valley Hospital and Pleasant Valley Health Services, Corp., Camarillo, California.
Georgia Poultry Federation, Inc.
University of Texas.
PEBSCO.
Nationwide Life.
Business Council of Georgia.
Michigan Retailers Association.
VMI Foundation.
County of Los Angeles.
Association of American Medical Colleges.
National Association of Police Organizations.

In addition, the Church Alliance representing 28 mainline denominations heartily supports this legislative effort. I believe the broad based group of organizations supporting this legislation underscores the need for this clarification. This legislation should have no revenue impact because it simply affirms Congress' original intent. I urge all my colleagues to join me as a cosponsor to assist in eliminating this uncertainty for millions of State and local employees and private tax-exempt employees. A memo discussing in detail the legislative history of section 457 indicating it was not intended to apply to nonelective deferred compensation is available through my office. Please feel free to contact my office for a copy if you so desire.

. . . BUT DON'T TAX THE FARMERS

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. WEBER. Mr. Speaker, for a number of years, I have been critical of the lending practices of the international lending institutions, which use American taxpayers' dollars to subsidize our agricultural competitors. In this Congress, I am an original cosponsor on the House side of the Foreign Agricultural Investment Reform [FAIR] bill.

I would like to call to the attention of my colleagues an excellent article by the distinguished Senator from Idaho, STEVE SYMMS, on the destructive course followed by the development banks. Senator SYMMS, the Senate sponsor of FAIR, chronicles the damage these loans have done to the American farmer.

As he points out, the mismanagement of Third World debt and the resulting lending policies of the development banks have destroyed American agricultural exports. In the past 6 years, agricultural exports have dropped over 40 percent. It is time to stop this ridiculous and self-defeating policy, by withholding all support of these development banks until they reform their lending practices.

We are presently following a costly policy to regain our exports. It is imperative that we do so. It is also imperative that we put a definitive end to policies that continue to undercut our exports and drive up the cost of our farm programs. I join Senator SYMMS in calling for the enactment of the FAIR bill.

[From the New York Times, Sept. 20, 1987]

. . . BUT DON'T TAX THE FARMERS

(By Steve Symms)

Ironies never cease in Congress, and United States support for international development policy is a case in point.

While concern for regaining foreign markets pushes a comprehensive trade bill through Congress, and with "competitiveness" fast becoming the watchword of the 1988 Presidential race, the United States continues to support an international development policy that is making it more difficult than ever for American producers to compete with their foreign counterparts.

The policy is "debt-service" investment, practiced by the multilateral development banks to keep their empires intact; the mechanism is "development" loans to the third world for the production of commodities easily sold on world markets; and the result is the loss of markets to American producers and counter-development in third-world countries.

It started in the early 1980s with economic stagnation in developing countries caused by growing debt to the development banks. In the face of huge loan defaults, the banks imposed austerity programs to insure that debtor countries continue to service their debt.

The banks began requiring that loans be used to produce commodities in demand on world markets—whether or not they were already in surplus—to generate cash for interest payments. The developing countries had no choice but to cooperate. So they began subsidizing the production of commodities they could sell below cost quickly, taking away markets from American producers. Because developing nations are required to consume their higher-cost products rather than less expensive imports, the only beneficiaries of this policy are the banks.

The consequences? American agriculture struggles to recover, developing countries divert precious resources away from education and health care to cope with ever-increasing debt and American taxpayers pick up the tab for subsidized interest rates and losses from default.

This is not to argue against third-world development. American producers know the development-markets equation works; they see its fruits in the nations of the Pacific Rim. But elsewhere, they have nearly lost hope. The drop in American agricultural exports to Latin America since 1981 is five times greater than during the Soviet wheat embargo.

Since 1981, America's share of world exports in vegetable oils fell 33 percent while Argentina's share shot up 567 percent. During the same period, Brazil's increase in world beef exports was seven times greater than that of the United States.

The loss of markets is reflected in the decrease of imports by developing nations. Brazil, Mexico and Argentina have reduced imports 20 to 30 percent over the past three years, and over all, American agricultural exports to Latin America declined by more than 35 percent since 1981.

Some development loans help create new markets, but many do not. For example, The Wall Street Journal reported a $35 million loan by the Asian Development Bank to be used, in part, by Burmese cooperatives to produce edible oil from such things as groundnuts. The Burmese hope to sell the oil for about $1.80 per kilogram, while edible oils on the world market sell for around 65 cents a kilogram.

The Journal wrote, "We end up with this: struggling farmers in Iowa"—and I would add my state, Idaho—"are going to be taxed to subsidize a government-sanctioned project in a socialist country that usually opposes U.S. interests—and all to make a farm product that will cost Burmese consumers three times the world price!"

This kind of policy is totally incompatible with efforts to revive American agriculture; and if it continues, developing nations will never enjoy prosperity by Western standards.

From 1981 to 1985, Chile struggled to increase its exports 21 percent to meet its debt-service obligations. In doing so, its debt increased 43 percent. The result? A decline of 23 percent in export revenue. Argentine exports rose 47 percent during the same period. Debt grew 46 percent, but revenue rose a mere 3 percent.

These loans will push developing countries into economic regression, and they should be stopped. That is what my Foreign Agricultural Investment Reform bill—FAIR—an amendment to the trade bill now in conference, would do.

FAIR would require that American representatives to the banks oppose all loans for the production of commodities already in surplus on world markets, for the production of commodities which are not economically viable and for commodities that are subsidized, as defined by GATT.

If such loans are made in spite of American opposition, our representative would oppose any increase in the capital share of the lending institution, any replenishment of its funding, or the letting of any instrument or note of credit in the United States or in United States currency by that institution.

The need for FAIR is clear. The Senate voted overwhelmingly this summer to make it part of the trade bill, and 16 of the nation's largest farm organizations in the FAIR Coalition have committed their support to its passage.

The time has come to stop the lunacy of financing the demise of American agriculture with American tax dollars. FAIR will do it.

IN OPPOSITION TO THE WINDFALL PROFIT TAX

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. LIVINGSTON. Mr. Speaker, I have in my hand a 1986 windfall profit tax return submitted to me by one of my constituents. This return is a perfect example of how onerous the windfall profit tax really is for the majority of our independent oil producers.

The form itself is not very complicated. It is only one page and contains five parts that must be filled out in order to arrive at the annual amount of windfall profit tax that was withheld from payments made in 1986. In this case, the grand total withheld amounted to 34 cents.

Unfortunately, the form doesn't show the tens of thousands of dollars in accounting, bookkeeping, and secretarial costs, along with hundreds of pages of forms, that were necessary for my constituent to find out that his tax was going to be just 34 cents.

I have personally cosponsored a number of bills to repeal this unnecessarily burdensome law, and the administration and many Members of Congress are on record supporting its repeal. It would cost the Government very little to repeal it, since the price of oil is now, and has for sometime been, below the effective Federal tax participation level. The added cash flow would induce the oil companies, mostly independents, to expand exploration activity and generate domestic oil reserves.

Mr. Speaker, the expedited passage of legislation repealing the windfall profit tax is essential to a healthy, energy secure nation. I urge our leadership to allow us to bring this repeal to the floor immediately.

ANNUAL INFORMATION RETURN OF WINDFALL PROFIT TAX—1986

Producer name and address: Steven M. Jordan, P.O. Box 545, Lake Charles, LA 70602.

Filer name and address: Woolf & Magee, Inc., P.O. Box 6566, Tyler, TX 75711.

Type of return: Original.

Part I—Producer or other recipient

1. Type of producer: Individual.

2. Producer status: Independent producer.

Part II—Exempt oil

1. Number of barrels of exempt oil (do not include exempt stripper well oil or exempt royalty owner oil): a. Tier one, .00; b. tier two, .00; c. Tier three, (1) Newly discovered, .00; (2) Incremental tertiary, .00; (3) Heavy, .00.

2. Total (add amounts on line 1, columns a through c(3)): .00.

3. Type of exempt oil: —.

4. Total barrels of exempt stripper well oil: .00.

Part III—Exempt royalty owner oil

1. Barrels removed in calendar quarter: a. 1st quarter, .00; b. 2nd quarter, .00; c. 3rd quarter, .00; d. 4th quarter, .00.

2. Total (add amounts on line 1, columns a through d): .00.

Part IV—Taxable crude oil removed during 1986

	a. Number of barrels	b. Tax liability
1. Tier one, other than Sadlerochit oil, taxed at 70 percent	.00	.00
2. Tier one, other than Sadlerochit oil, taxed at 50 percent	.00	.00
3. Tier one Sadlerochit oil taxed at 70 percent		
4. Tier one Sadlerochit oil taxed at 50 percent		
5. Tier two oil taxed at 60 percent	.00	.00
6. Tier two oil taxed at 30 percent	.00	.00
7. Newly discovered oil	34.04	.00
8. Incremental tertiary oil	.00	.00
9. Heavy oil	.00	.00
10. Total barrels of oil (add amounts in column a)	34.04	

11. Amount of windfall profit tax liability for oil removed during 1986 (add amounts in column b): .00.

12. Amount of windfall profit tax withheld with respect to oil removed during 1986: .00.

13. If line 11 is greater than line 12, subtract line 12 from line 11. this is underwithheld windfall profit tax: .00.

14. If line 12 is greater than line 11, subtract line 11 from line 12. This is overwithheld windfall profit tax: —.

Part V—Amount of windfall profit tax withheld from payments made in 1986

1. Windfall profit tax withheld from payments made in 1986 (regardless of when windfall profit tax liability arose): .34.

Owner: Steven M. Jordan of property No. 681, Koonce #1, Calcasieu Par., LA:

WINDFALL PROFIT TAX STATEMENT—OIL REMOVED IN 1986

Remove date, tax tier, and rate	Barrels removed	Removal value	Adjusted base value	Severance tax adjusted	Windfall profit	Windfall profit tax—	
						Liability	Withheld
Jan. 1986—3 9	8.18	216.45	233.46	.00	.00	.00	.00
Feb. 1986—3 9	3.88	76.59	110.84	.00	.00	.00	.00
Mar. 1986—3 9	4.25	63.09	121.35	.00	.00	.00	.00
Apr. 1986—3 9	4.25	54.62	123.53	.00	.00	.00	.00
May 1986—3 9	3.81	51.41	110.93	.00	.00	.00	.00
June 1986—3 9	2.77	38.34	80.53	.00	.00	.00	.00
July 1986—3 9	2.79	31.04	82.16	.00	.00	.00	.00
Aug. 1986—3 9	1.43	18.71	42.03	.00	.00	.00	.00
Total	31.36	550.25	904.83	.00	.00	.00	.00

Property No. 682, Pomeroy #1, Calcasieu Par., LA:

WINDFALL PROFIT TAX STATEMENT—OIL REMOVED IN 1986

Remove date, tax tier, and rate	Barrels removed	Removal value	Adjusted base value	Severance tax adjusted	Windfall profit	Windfall profit tax—	
						Liability	Withheld
Oct. 1986—3 9	2.68	32.18	63.52	.00	.00	.00	.00
Total	2.68	32.18	63.52	.00	.00	.00	.00

TAKING THE AVIATION TRUST FUND OUT OF THE BUDGET

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GINGRICH. Mr. Speaker, as the ranking minority member of the Aviation Subcommittee and Congressman to the Atlanta Airport, I want to point out the importance of removing the aviation trust fund from the unified Federal budget. The purpose of the trust fund, which was built up through taxes on air-related purchases, is to improve and develop our Nation's airway system. To ensure that these funds are readily available for the necessary improvements in aviation, Congress must vote to take the trust fund out of the unified Federal budget. I urge my colleagues to read the following editorial from the September 18, 1987, Atlanta Constitution which aptly assesses the aviation trust fund situation and the need for congressional action.

[Atlanta (GA) Constitution, Sept. 18, 1987]

AVIATION TRUST FUND SHOULD BE SEPARATE

If the best interests of the American people were the primary motivation of our lawmakers, the battle over a proposal to remove the Aviation Trust Fund from the federal budget would be unnecessary. The deed would be done and the nation's sagging air safety system and the air-traveling public would be better off because of it.

But alas, opponents and proponents of this sensible plan are poised for a dogfight when the legislation is introduced in the House next week—that is, if supporters can convince the House Rules Committee to include the measure as an amendment to the Airport and Airways Improvement Act.

The proposal has some powerful enemies, including leaders of the congressional Appropriations and Budget committees and some members of the Reagan administration. The opposition has little to do with concerns for the greater good of the nation. It has more to do with the exercise of personal power. Appropriations and Budget committee members do not want to give up any of their control over the federal budget. In conjunction with the administration, they have used the trust fund's $5.6 billion surplus to play games with the American people, keeping the money in the bank to make the federal deficits look smaller, even though the reduction is purely illusory.

Efforts by other members of Congress, the aviation industry and government critics to secure the release of the money have failed. Removing the fund from the federal budget so it can no longer be used as a clerical cosmetic to prettify the deficits seems to be the only solution. The money, already earmarked for aviation improvements, is desperately needed so the nation's airports can expand their capacities, so additional air traffic controllers and safety inspectors can be added to the Federal Aviation Administration's undermanned forces and so aging and unreliable radar and other equipment can be replaced.

While some members of Congress and the Reagan administration have played shell games with the trust fund, the nation's air traffic control network has failed to keep pace with the explosion in air traffic following deregulation, and the margin of safety in the skies has narrowed. The money must be released and the system brought up to snuff.

THE QUESTION OF STATEHOOD FOR PUERTO RICO

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. LAGOMARSINO. Mr. Speaker, I would like to share a letter to the editor which appeared in the August 28, 1987 Washington Post. The letter is written by a former colleague of ours, now mayor of San Juan, Baltasar Corrada. The former Puerto Rico Resident Commissioner to Congress for 8 years was responding to an earlier Post editorial which suggested that politicans are "toying with Puerto Rico."

I believe Mayor Corrada succinctly explains the political situation in Puerto Rico and the need for congressional action, which should not be construed as game-playing by politicians.

Legislation pending in Congress, S. 1182 and H.R. 2849, seeks to address the very serious question regarding the poltical status and citizenship rights of the nearly 3.5 million Americans in Puerto Rico. Members of Congress have introduced legislation recognizing the full broad and specific constitutional rights and responsibilities of Congress regarding Puerto Rico.

I urge my colleagues to review our former colleague's remarks and to consider the bipartisan bills pending in Congress.

[From the Washington Post, Aug. 28, 1987]

PUERTO RICO: THE QUESTION OF STATEHOOD

What The Post calls "toying with Puerto Rico" and "interfering in the sensitive internal politics of Puerto Rico" [editorial, Aug. 7], I call "the democratization of Puerto Rico."

The 3.2 million American citizens of Puerto Rico do not have the right to vote for the president. And as The Post correctly points out, there is an "anomaly" in the presidential selection process. The "anomaly"—that Puerto Ricans participate in the candidate selection process—is what we call the important participation that Puerto Ricans, and all the mainland-born residing on the island, have in the national political process. It is our only and very limited national political power.

S. 1182, which was introduced by Sen. Bob Dole, was cosponsored by Sens. Alfonse D'Amato, Daniel Patrick Moynihan, Paul Simon and Spark Matsunaga. Sen. Simon, and avid supporter of Puerto Rico statehood for over a decade, said on the floor June 2: "This important resolution would allow Puerto Ricans to decide their political future for themselves." He added, "Only then will Puerto Ricans resolve their political limbo and receive all the rights and responsibilities which they deserve as American citizens."

In the House of Representatives, H.R. 2849 was introduced by Reps. Robert Lagomarsino, Ike Skelton, Austin Murphy and Tom Coleman. This bill responds to more than a quarter of a million petitions for statehood that have been filed in Congress. The bill defines a detailed process of consultation and establishes a procedure to allow for a referendum on statehood.

Neither of these bipartisan bills enacts statehood. Both ask the American citizens of Puerto Rico to express themselves.

A status referendum has not been held in Puerto Rico since 1967. Seventy percent of today's eligible voters did not participate in that referendum because most of them were not of legal age at the time. Since then, the pro-statehood movement has become significantly stronger, particularly among the young, modern and better educated, who see statehood as an important political instrument to attain greater economic self-sufficiency and full political equality.

These two bills respond to the most basic democratic principle, the right of American citizens to petition Congress, and propose a basic democratic process, calling for an electoral referendum so that the people may speak for themselves.

BALTASAR CORRADA,
Mayor of San Juan.

ARIAS PLAN, YES, BUT WITH CONTRA AID IN RESERVE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. SOLOMON. Mr. Speaker, I don't want to see the Monroe Doctrine replaced by the Brezhnev doctrine as the basis of U.S. policy in the Western Hemisphere. That is why I was pleased to see the possible snares in the so-called Arias peace plan for Central America outlined in a Sunday, September 20 editorial in the Albany, NY Times Union.

In yet another perceptive editorial, this great upstate newspaper urges the United States to give the Arias plan a chance, but adds this warning: without continued aid to the Nicaraguan resistance, the Arias plan makes no sense.

Members of this body who insist on seeing a moral equivalence between the United States and the Soviet Union are quick to applaud each crumb of reform announced by the Sandinistas, such as the opening of La Prensa and hints of opposition political activity. But the Times Union editorial does well to remind us that not even these gestures, which may be merely cosmetic, would have been made without the pressure generated by the Contras.

Mr. Speaker, I submit that only the Contra aid policy of President Reagan has prevented the Sandinistas from totally subjugating their own country and spreading their tyranny to their neighbors. And let's face it. We're trying to get the Sandinistas to do something they don't want to do. There is only one way under the Sun to do that, and that is to maintain the military pressure of the Contras. Lacking that, what incentive do the Ortegas and Borges have to believe they must reform?

So, in conclusion, I say, yes, let's give the Sandinistas a chance to institute democratic reforms by November 7. But let us not abandon one more ally. If the Sandinistas do not take the carrot, we absolutely must have a stick waiting for them.

[From the Times Union, Sept. 20, 1987]

MORE AID TO THE CONTRAS?

Last week newsprint was delivered to La Prensa newspaper in Managua, Nicaragua. The paper's owners hope that the signing of Costa Rican President Arias' peace accord earlier this month will mean they will soon be able to publish their paper, an independent organ opposed to Sandinista rule, again.

In fact, there is a pervasive feeling throughout Managua that the Sandinistas might soon begin to somewhat loosen their grip on many civic and political activities in this harried nation. The Rev. Bismarck Carballo, the expelled director of the Catholic Radio station, for example, has even returned to Managua in the hopes that he might be allowed to broadcast again. Many opposition political leaders, meanwhile, are preparing to take the debate over Sandinista rule directly to the people.

These are all wonderful and encouraging signs. But we must not lose sight of the fact that these nascent reforms are wholly the result of pressure that the U.S. has been able to bring on the Sandinista dictatorship. If the U.S. had not supplied the Nicaraguan rebels and encouraged their efforts, no number of peace treaties by the Contadora nations would have moved the communists to agree, however tentatively, to the Arias peace plan. It is solely because the American aid to the contras, as the rebels are called, that the Sandinistas, first, were diverted from their original goal of subjugating all of Central America and, second, made more agreeable, at least on the surface, to democratic reforms.

While the U.S. should give the Sandinistas opportunity enough to live up to the reforms they agreed to institute by Nov. 7—reforms that include freedom of the media and political activity—it cannot now afford to rely on Managua's good will alone to see that these changes are actually made. The Arias peace plan, as good a beginning as the Central American nations thought they could get, contains a flaw that could condemn Nicaragua to totalitarian rule if not checked. Specifically, the fatal loophole is the absence of a provision that bars Soviet bloc aid to Nicaragua—even though that same plan bars U.S. aid to the contras.

Obviously, under such an arrangement, the Sandinistas, while pretending to move the country toward freedom and democracy, could merely consolidate their control over the nation and over disputed countryside. The contras, meanwhile, without material aid of any kind, would disband and dissolve.

The U.S. cannot allow that to happen. It cannot allow the contras to wither on the vine while the world waits to see if the communists live up to their end of the bargain. The contras must be given at least enough aid to keep them intact in the event Senor Ortega reneges. Indeed, as reduction of U.S. aid to the contras should parallel the reduction in the Nicaraguan military forces. As Managua cuts the number of its troops, the U.S. can cut back its military aid to the rebels.

The U.S. of course, should give the Arias peace plan a chance to succeed. But, ironically, the U.S. might very well seal the peace plan's doom if it signals an end to supporting the resistance and gives the communists reason to believe they have no reason to reform.

PROTOTYPE FOR A NEW CONCEPT IN NATIONAL PARKS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. MURPHY. Mr. Speaker, today I joined with my friend and colleague from Pennsylvania [Mr. MURTHA], in introducing legislation to establish a heritage preservation commission within the Department of the Interior to preserve and promote the many historic sites in southwestern Pennsylvania that contributed to the development and growth of this country in its move westward and its establishment as a world power.

The heritage commission and its related projects are an outgrowth of the reconnaissance survey of western Pennsylvania roads and sites, prepared by the National Park Service in 1985. This heritage preservation project will be the prototype for a new sort of National Park System unit. Rather than attempting to place a large geographic area under the management of a single agency, the project area would consist of existing park, forest, historic, and recreational areas, managed by their respective Federal, State, and local government, and private interests.

With a modest overall planning effort, coordinated by the heritage preservation commission, these various interests will work together to provide visitors a comprehensive understanding of the natural and cultural resources of western Pennsylvania and how the resources, people and events of this area shaped the very form and fabric of American civilization.

The project area is rich in cultural, historical and recreational resources. Four units of the National Park System, Allegheny Portage Railroad National Historic site, Johnstown Flood National Memorial, Fort Necessity National Battlefield, and Friendship Hill National historic site, are located across a 100-mile span of the area. There are several national landmarks within the area, such as Fallingwater, Searsights Tollhouse, and the Ferncliff Peninsula. There are several components of the National Trails System, including the Potomac Heritage Trail and several national recreational trails, such as the Laurel Highlands Trail and trails at Allegheny Portage and Friendship Hill.

In addition, the Commonwealth of Pennsylvania manages an extensive system of public lands in the project area, including the Forbes State Forest and its several designated wild or natural areas, and the following State parks: Ohiopyle, Laurel Ridge, Kooser, Laurel Hill, Linn Run, Laurel Summit, Laurel Mountain, and Prince Gallitzin.

Finally, there are several key resources managed by private interests. These range from the holdings of the Western Pennsylvania Conservancy to such sites as Fort Ligonier and Laurel Caverns. The private sector also provides the bulk of the visitor support services, such as lodging, restaurants, shopping, and such recreation services as downhill skiing and whitewater rafting. The cooperation and involvement of these private interests is the key to making this project work.

Mr. Speaker, the heritage preservation project will be the prototype for a new concept in national parks. By coordinating the overall experiences available to visitors, the existing Federal, State, and local government operations, working in partnership with the private sector, could enrich the lives of all Americans and I urge my colleagues to support this worthy legislation.

HONORABLE LOUIS STOKES NAMED 1987 HONOREE "FRIENDS OF LABOR"

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. FEIGHAN. Mr. Speaker, I would like to take a moment to congratulate my friend LOUIS STOKES on his recently being named 1987 honoree "Friends of Labor" by Ohio's AFL-CIO's Southeastern Area COPE.

The AFL-CIO's Southeastern Area COPE is labor's proud political voice in southeastern Cuyahoga County. This outstanding organization is deeply committed to those sincere, qualified, and progressive candidates for public office who have demonstrated through their records support of the noble objectives to which AFL-CIO is dedicated. LOU exemplifies such sincere, dedicated, and progressive public service, and I cannot think of a more deserving recipient of this year's honor.

Indeed, to anyone acquainted with LOU and his distinguished career, this most recent honor hardly comes as a surprise. Before entering Congress in 1968, LOU practiced law in his hometown of Cleveland for 14 illustrious years. At that time, LOU also found time to be active in the Cleveland branch of the NAACP, of which he became vice president, as well as numerous committees and boards of the Cleveland, Cuyahoga County, and Ohio bar associations. It is truly a remarkable man who reaches out as LOU has.

When LOU was elected to Congress in 1968, his long record of leadership and service continued at the same back-breaking pace as it had in Cleveland. Nine and a half terms later, LOU can look back on a fine congressional career. He has often been selected by his colleagues to chair prestigious committees, such as Appropriations and the 1976 select committee that investigated the deaths of President John F. Kennedy and Dr. Martin Luther King, Jr. As dean of the Ohio delegation, LOU has chaired the Intelligence Committee, and this summer he served with distinction as a member of the select committee to investigate the Iran-Contra affair.

Finally, LOU's record of commitment to working people is outstanding. Recently, he testified on behalf of retirees nationwide whose pension benefits are threatened by holes in the bankruptcy code. For his strong leadership in protecting workers' rights and for his long record of public service, LOU STOKES is the ideal choice for the southeastern Ohio AFL-CIO's award.

RESTORING RAILROAD EMPLOYEE PROTECTIONS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. WALGREN. Mr. Speaker, under current law, a railroad employee who loses his or her job due to a railroad merger, consolidation, or abandonment is entitled to a severance allowance of up to 6 years full pay and benefits from the purchasing or abandoning carrier. However, those who work for a railroad that is purchased by a nonrailroad entity receive no comparable protection under the law, as interpreted by the Interstate Commerce Commission since 1982. In this class of transactions, the Commission has discretionary authority to impose labor protective conditions, but through formal policy rulings, the current ICC has declined to do so.

Mr. Speaker, my colleagues and I are introducing a bill that attempts to close this loophole. The bill would provide some labor protection for employees upon the sale of shortline and regional railroads. It would require the employing carrier to compensate workers who lose their jobs, based on length of service and subject to a cap of $30,000 per employee. In addition, it would give employees working on a line prior to sale, the right of first hire based on seniority under the new operator.

The compensation workers would receive under this bill amounts to only about 10 percent of what employees are currently entitled to in merger and abandonment proceedings. It is not our intention to create disincentives for the purchase of lines by nonrailroad companies. However, the need for this legislation arises from the ICC's contention that there is no demonstrated need for these protections and that its policy of not imposing labor protections is consistent with the will of Congress in the spirit of deregulation. In fact, the ICC has used its discretionary authority to justify a rulemaking in which it now automatically approves all shortline exemptions from labor protections in a 7-day "rubber stamping" procedure.

For nearly 50 years, prior to this administration, the ICC carried out Congress' intent by guaranteeing labor protections in all rail transactions. Notably, the only factor that has changed in the last 7 years is the ICC's interpretation of the law. Under previous administrations, the ICC consistently used its discretion to extend labor protection in both merger and abandonment proceedings. Congress subsequently passed the Transportation Act of 1940 and the 4R Act of 1976 to codify these practices.

The "noncarrier" loophole in current law has encouraged railroads to establish separate subsidiaries to purchase shortline railroads. The purchases in many instances are structured expressly for the purpose of circumventing labor protections. In the process, thousands of employees are stripped of their livelihoods and denied the protections normally afforded them under law.

The legislation we are introducing today offers a fair and equitable arrangement for employees affected by shortlines sales to noncarriers. I believe that we must clearly reinstate what has been a standard and justifiable practice for many years. Otherwise, the current ICC will continue to leave railroad employees high and dry when economic and corporate forces beyond their control threaten their jobs. Congress should not allow this kind of unjust treatment to continue. I urge all my colleagues to cosponsor this legislation.

TRIBUTE TO ELIZABETH DOLE

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. WHITTAKER. Mr. Speaker, it is with a great deal of admiration that I rise today to honor and commend Secretary of Transportation Elizabeth Dole as she prepares to leave her beloved Department of Transportation.

Her accomplishments over the past 4½ years are far too numerous to mention, but there is one in particular that I would like to commend her on—the sale of Conrail.

Conrail had been in the hands of the Federal Government for over 10 years, and had cost the taxpayers billions of dollars. The administration had decreed that Conrail be sold, and the Congress had passed legislation mandating the sale if Conrail met certain tests of profitability.

When Elizabeth Dole became Cabinet Secretary of DOT, Conrail was in fact ready to be sold, and Secretary Dole wasted no time at all in getting to work on this larger than life task, for it was to be the Government's first major attempt at privatization.

The sale of Conrail, successfully completed this past March, became, in the Secretary's words, the "flagship of privatization." She had paved the way for future sales of Government assets by proving that it could be done.

Throughout her diligent efforts to sell Conrail, she insisted on strong covenants to protect the strength of the railroad and defeated efforts to regulate the railroad industry. Her skillful management of the largest such sale in U.S. history helped reduce the Federal deficit by nearly $2 billion.

It is because of Elizabeth Dole's tireless perseverence to the task of selling Conrail, that I know we will be seeing more such privatizations in the future.

SEPARATE CONSIDERATION NEEDED FOR LONG-TERM CONTINUING RESOLUTIONS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. HOUGHTON. Mr. Speaker, earlier today, Representative JACK BUECHNER and I, two freshmen members of the Budget Committee, introduced House Resolution 271.

The point of this resolution is to change the rules of the House regarding omnibus continuing resolutions.

As the more senior Members of this body know, the use of a single omnibus CR to provide a full year's appropriations for the entire Government has crept slowly but relentlessly into our fiscal practices. For example, in 1984, 3 of the 13 appropriations bills were included in such a measure. In 1986, there were seven. Then last year, for the first time, all 13 appropriations bills were thrown into one CR which provided $576 billion for all the discretionary programs in the Federal Government.

Mr. Speaker, I find it difficult to believe that these omnibus CR's are a responsible way for Congress to fulfill its basic duties. I ask—are they fair to the Members, who have been asked to be responsible Representatives? Are they fair to the citizens all of us represent? Last year, the most important piece of legislation to come to the floor of the House was presented under a restrictive rule which allowed only one minor amendment to be offered; 435 Members were provided sketchy information on its contents, yet this was a bill covering every department and every agency in the Government. It required almost 400 pages of fine print.

I know of few Members who privately do not deplore the use of these omnibus CR's. But publicly, we seem to rely on them more and more. The resolution we introduce today is an attempt to address this problem. It is not complicated. We feel it is significant. This resolution prohibits consideration of a CR in the House which includes funding for more than 1 of the 13 regular appropriations bills after November 30 of a given year. A short-term CR such as the one on which we will vote tomorrow would still be permitted under this resolution. But it would be necessary to have a separate CR for each unpassed appropriations bill extending beyond the November 30 date.

Mr. Speaker, tomorrow's CR will permit stopgap funding until November 10. Our resolution would say, in effect, "All right, go until November 10, or even a bit beyond. But no further than the end of November. By that time we should have separate legislation for any unpassed appropriations bill."

What this resolution asks is nothing more than requiring Congress to follow its own procedures—instead of circumventing them. I urge my colleagues to support us in this effort.

EXTENSION OF REMARKS OF STEVE GUNDERSON

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GUNDERSON. Mr. Speaker, this past week, after months of on again, off again negotiations, the debt ceiling conferees finally reached agreement on major reform of the Gramm-Rudman-Hollings Deficit Reduction Act of 1985. Although the need to adjust our deficit reduction timetable is somewhat disappointing, if enacted, this legislation will help keep the deficit moving in the proper direction.

Since last year's Supreme Court decision making the automatic sequestration process unconstitutional, it has become obvious that Congress is unable to enact serious deficit-reducing legislation unless faced with the alternative of even more painful across-the-board spending cuts. As a result, the institution of a constitutionally acceptable sequestration procedure is an extremely positive development.

The seriousness of the deficit problem is such that these reforms putting the Nation back on track toward a balanced Federal budget should be welcomed by all responsible Members of Congress. Unfortunately, however, at the same time the conferees were adding some strength to Gramm-Rudman, they were removing some of the previous law's thoughtfulness.

By their very nature, across-the-board spending cuts do serious damage to the programs they affect. By refusing to include the flexibility included in previous law as to how these across-the-board cuts are determined in the Dairy Price Support Program, the new Gramm-Rudman agreement thoughtlessly and unnecessarily compounds the damage to America's farmers.

Under a worst-case scenario—assuming no budget reconciliation—this bill would mandate a sequestration of approximately $86 million from the dairy price support program. With an inflexible across-the-board reduction of this nature, the milk support price would be slashed by approximately $1.11, down to $9.99 per hundredweight. This would mean that the average Wisconsin dairy farmer with a 50-cow herd could lose up to $6,600 per year in his milk checks.

Last year we faced a similar problem. But through the thoughtful cooperation of many Members of Congress, we were able to provide the flexibility within the Gramm-Rudman laws to allow increased assessments on milk produced instead of drastic support price reductions. In this way, farmers were asked to come up with the necessary reductions, without catastrophic effects on milk prices.

Dairy farmers have been and are willing to contribute their fair share to deficit reduction. Commodity Credit Corporation purchases of dairy products have nearly been cut in half since 1985—from $1.45 billion in fiscal year 1985 to a fiscal year 1988 estimate of $823 million.

Mr. Speaker, I thought this issue had been resolved, but apparently we have to consider it again. Continued flexibility for dairy should have been provided for in the conference agreement before us tonight. Instead, it appears, as it did last year, that we will have to seek subsequent legislation amending the Gramm-Rudman law to correct this problem.

TELECOMMUNICATIONS EQUIPMENT MANUFACTURING—MADE IN THE U.S.A.

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. BRYANT. Mr. Speaker, President Reagan has described the telecommunications industry as one in which "we are still a leader in innovation."

Despite this optimistic assessment, recent information released by this administration indicates that a more ominous outlook is warranted. Last year, and again last month, the United States suffered record trade deficits. Trade deficits for telecommunications equipment soared upward toward $2 billion last year. Every day in 1986, the United States imported an average of $4 million more of foreign-produced telephone equipment than we sold aboard. Today, not one residential telephone instrument—the device pioneered by Alexander Graham Bell—is manufactured by an American company in the United States. I have drafted legislation to reverse this trend.

Today I am introducing a bill to establish our Nation's policy with respect to telecommunications equipment manufacture. Our current policies—or the lack thereof—have resulted in increasing telecommunications trade deficits, as well as unemployment and worker dislocation in that industry, to say nothing of the erosion of American dominance of the telecommunications industry internationally and the related brain-drain.

We have observed American firms like AT&T going off-shore to manufacture residential telephones and we have seen an increase in proposed joint venture activities between

Bell Operating Companies and foreign telecommunications equipment manufacturers.

Our trade imbalance results from at least two misguided policies. First, the Reagan administration permits foreign nations, such as Japan, to bar high-quality, American-produced telecommunications equipment. Second, these same policymakers have opened our trade doors to allow foreign manufacturers to make major inroads into our domestic markets. The door of free trade must swing both ways. While foreign products pile up higher on our docks and in our stores, American jobs are exported overseas. This is not an idle notion—the Commerce Department has estimated that over 2½ million jobs were lost last year as a result of the trade deficit.

In addition, American companies, lured by special tax breaks and low wages offered by Third World nations, have migrated offshore enmasse. There these expatriate corporations turn back the clock to recreate sweatshops reminiscent of the 19th century. For example, in 1985 AT&T shut down the last plant in the United States—in Shreveport, LA—where residential telephones were made. This operation is now located in Singapore. And this is not an isolated plant closing—since divestiture, AT&T has closed many of its operations in the United States, costing us not only productive capacity, but also at least 18,000 jobs.

Companies such as AT&T apparently pledge allegiance to no flag. Their loyalty is to short-term profit and shareholder satisfaction.

In order to stop this exportation of domestic telecommunications manufacturing employment and profit to foreign countries, I propose legislation to require the regional Bell operating companies to manufacture in the United States any equipment they want to sell here. The Bell operating companies are currently prohibited by the modified final judgment, in the AT&T divestiture case, from producing telecommunications equipment and have petitioned Judge Greene to allow them to be released from this restriction.

Recently, the Judge issued an order which does not grant this permission, but, should the BOC's be successful in their effort by legislative means, as some regional carriers have indicated they hope to pursue, I fear they will follow the model set by their parent—AT&T—and move offshore to manufacture communications and customer premises equipment. I believe such manufacturing must be done in the United States.

My proposal provides for a comprehensive definition of the elusive word "manufacture." It specifies that manufacturing includes engineering design, product development, testing, and production. Under the terms of my bill, all these activities would take place in the United States.

In my view, Congress should take steps now to redirect our national telecommunications trade policy so that it benefits America—its consumers and its workers. We must not forget that the telephone is a uniquely American instrument—it was invented here and our predecessors built the world's best communications network around it.

I want to help give the competitive edge in international telecommunications back to America. Before we open telecommunications equipment manufacturing to more competition, I want to make sure that those interested in reaping profit from such action take full advantage of the abundant technological and human resources available to them right here in the good old USA.

America can regain its preeminence in telecommunications trade if we look to our home-based resources. I invite my colleagues to join me in this effort to make America strong again—at least in this area of telecommunications trade.

CONGRESSIONAL SALUTE TO CALIFORNIA'S POPCORN MAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. DIXON. Mr. Speaker, I would like to take this opportunity to extend my congratulations to James L. Melikian, who is celebrating his 10th anniversary as the Popcorn Man. Ten years ago, Jim, who originally worked for Robert W. Selig, Pacific Theatre, Executive Assistant to the President in Governmental Affairs, decided to purchase Shoemaker Popcorn Service from Mr. Al Lapidus. The rest is history.

The Popcorn Man specializes in selling nutritious popcorn snacks to school children throughout California. Today, he serves over 90 school districts in the Golden State, from San Diego to San Francisco.

Mr. Melikian has also worked tirelessly on behalf of the California and American School Food Service Associations. These organizations supply the manpower for feeding our school children, and Jim, a firm believer in corporate responsibility, does more than his share. Mr. Melikian has labored to find funding for child nutrition programs at both the State and Federal levels, using an approach he has termed, "popcorn diplomacy."

And Mr. Speaker, Jim Melikian has done much over the years to feed California's children—the future of our country—nutritious snacks and school meals. His 10 years of commitment to his jobs and the community should not go unrecognized. Today, on the eve of his 10th anniversary as the Popcorn Man, I ask my colleagues in the House of Representatives to join me in congratulating Jim on his achievements, and to wish him much further success and happiness.

JDF WALK SPREADS HOPE FOR DIABETES CURE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. KLECZKA. Mr. Speaker, I would like to applaud all those who stretched their legs this Saturday, September 19, 1987, for the Juvenile Diabetes Foundation's walk-a-thon. The beautiful Milwaukee County Zoo was the site where 300 enthusiastic walkers raised money for research to find the cause, cure, treatment, and prevention of diabetes.

The Juvenile Diabetes Foundation [JDF] walk, for the second year in a row, focused community attention on a disease which strikes over 13 million Americans. This year, participation in the walk jumped from 27 marchers to 300 and, just as impressively, these individuals raised five times more money than last year for a total of nearly $20,000. This charitable effort is particularly significant because, other than the U.S. Government, the JDF has given more money directly to diabetes research than any other organization in the world.

Tragically, diabetes and its complications are the third leading cause of death by disease in our Nation today. Fortunately, parents of diabetic children joined forces in 1970 to form the Juvenile Diabetes Foundation International. In the short time since then, the JDF has become an outstanding voluntary health agency which has provided tens of millions of dollars for diabetes research.

I share the firm determination of all my friends and constituents who participated in the walk that a cure for diabetes can be found in the lifetime of today's many young diabetics. We have made progress in the understanding and treatment of this disease and we will continue to do so with educational and fundraising events such as the JDF walk.

TRIBUTE TO HON. ELIZABETH DOLE, SECRETARY OF TRANSPORTATION

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GOODLING. Mr. Speaker, last week we heard the disappointing news that the Honorable Elizabeth Dole is resigning as Secretary of Transportation in the Reagan administration. While the minority leader in the other body is gaining a loyal and impressive campaign ally, our country is losing an exemplary public servant.

All my experiences with the Secretary have been absolutely first rate. She is knowledgable and tough. She has become an effective spokeswoman on transportation issues for our country, exhibiting like her partner in marriage leadership skills that are very necessary in Government. Finally, she has been extremely pleasant and easy to deal with, even under the demanding pressures of her position as a Cabinet Secretary.

I wish her the very best in her new chosen career. I have no doubts that we will see her back in a prominent role in our Government in the future.

A TRIBUTE TO ST. FRANCIS HOSPITAL

HON. ROBERT J. MRAZEK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. MRAZEK. Mr. Speaker, I rise today to pay tribute to St. Francis Hospital, of Roslyn, NY, on the occasion of its 50th anniversary as one of the leading cardiac care centers in the country.

St. Francis was founded in 1937 to serve those acutely afflicted with heart disease. Yet it was not simply founded to provide physical care. In the Franciscan tradition, St. Francis serves the emotional and spiritual needs of its patients, as well as attending to their physical ailments. St. Francis embraces the values of its founders and in that spirit strives to respect the dignity of the individual while providing quality health care. St. Francis is a hospital that has not forgotten the meaning of the word compassion.

St. Francis is not content to rest on its laurels. Indeed, it is moving forward with ambitious plans for the future. A top priority will be to broaden its cardiovascular services. The completion of a new wing to the heart center will aid toward achieving this goal. St. Francis is also moving ahead with new financial and marketing plans, and its board of directors is very optimistic about the financial future.

St. Francis is the leading cardiac center on Long Island. Its staff is one of the finest in the Nation and are recognized leaders in the area of pulmonary valvuloplasty. This procedure is an alternative to open heart surgery, in which a tiny balloon in used to open blocked arteries, and was recently used to save the life of a 10-month-old baby girl. St. Francis has a special affinity for young children, and attempts to provide open heart surgery for needy children around the world.

St. Francis also serves its local community. CPR training is provided for the public and St. Francis sponsors a local cable TV health-care program. St. Francis also enlists the support of over 500 volunteers from all walks of life.

Mr. Speaker, I commend St. Francis Hospital on its outstanding record over its first 50 years, and look forward to the next 50 years being even more successful.

HAIKU POETRY COLLECTION BY THE STUDENTS OF RIVERA MIDDLE SCHOOL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. TORRES. Mr. Speaker, I ask my colleagues to join me in recognizing the work of students attending the Rivera Middle School in Pico Rivera. These students are taught English by their teacher, Mr. Randolph Nelson Levy. Mr. Levy sent me a collection of Haiku poetry by the students in his class.

Congress often hears about what is wrong with the public education system in our country. I am pleased to acknowledge what is working in our public schools. The El Rancho Unified School District, Rivera Middle School and Mr. Randolph Levy are to be commended for exposing their students to this style of Japanese poetry. I want to call your attention to one poem by Anabelle Morales called Teachers:

Teachers are tall and short and nice and kind and teach us all they can every day.

Mr. Speaker, I am pleased to recognize the students that wrote the poems included in the collection. These students are: Bernice Aldaco, Ernesto Aleman, Jerry Ambriz, Naomi Cisneros, Adam Delgado, George Esparza, Yvonne Gomez, Richard Gonzales, Ernesto Guzman, Michael Hernandez, Griselda Horta, Jared Lorenzo, Annette Martinez, Gloria Meza, Anna Nunez, Ernie Paraza, Marty Rios, Valerie Rodriguez, Javier Serrato, and George Seville. I wish them all the best and I encourage them to continue working hard in school.

TAKE THE AVIATION TRUST FUND OFF BUDGET

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. HASTERT. Mr. Speaker, most Members have had at least one unfortunate airline experience in the past year. For some it may have been the inconvenience of a flight delay or a missed connection; for others it may have been a mechanical malfunction or near collision.

Why are we being plagued with these recurring problems? The major reason is because we are stuck with an antiquated system that is not being modernized. Money that has been designated for these specific purposes is being held hostage—not being spent and never will be until the aviation trust fund balances are no longer manipulated to make the general fund deficit look smaller.

The solution? It's simple. Take the aviation trust fund off-budget and reduce the problems of flying in the future. Only Congress can correct this problem—and we will never have a better opportunity to do that than right now.

Mr. Speaker, if any Members of the House haven't heard the message, they haven't been listening. I strongly urge my colleagues to stop this masquerade and join me in supporting efforts to get this fund off budget.

COLLECTIVE TRIUMPH OF A SPECIAL FAMILY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. SCHUETTE. Mr. Speaker, I would like to call my colleagues' attention to an extraordinary family from Michigan who recently celebrated the graduation of their youngest child, Christine, from Michigan State University. This graduation was a very special occasion because it marked the last of 10 children in the family of Larry and Arlene Varner to complete a postsecondary education.

I would like to ask my colleagues in the U.S. Congress to join with me in extending our congratulations to this individual and collective triumph of this special family. Mr. Speaker, I also respectfully ask that a copy of a recent letter I sent to this family be inserted in the CONGRESSIONAL RECORD in this regard:

September 17, 1987.

Mr. and Mrs. LAWRENCE VARNER,
c/o Kevin Varner,
Midland, MI.

DEAR LARRY AND ARLENE: I would like to take this opportunity to congratulate you and your family on the occasion of the graduation from college of your tenth child, Christine from Michigan State University. Graduation is always a time of celebration. However, I know both of you must be especially proud of the significant accomplishment your family achieved this year.

The fact that all ten of your children were able to successfully complete a postsecondary education is both a triumph and a tribute to the hard work and dedication of your children. I applaud the accomplishments of all ten; Margie, June, Van, Greg, Dennis, Carol, Jeanette, Paul, Mark and, of course, Christine, for both their individual perseverance and the extraordinary collective effort of your family. It is indeed rare when all children in a family successfully complete college, much less when there are ten children in a family.

Best of luck to you both and to your extraordinary children.

Warm Regards,

BILL SCHUETTE,
Member of Congress.

THE 50TH ANNIVERSARY CELEBRATION

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. KOLTER. Mr. Speaker, I rise to commemorate the 50th anniversary of Moonlight Mushrooms, Inc., of Worthington, PA, located in my Fourth Congressional District of Pennsylvania.

In business in Armstrong and Butler counties, Moonlight Mushrooms provides employment to nearly 1,000 individuals with a payroll of over $16 million during the last year. The company provides support to many local farmers as well, through the purchase of hay for use in compost.

Operating for 50 continuous years, Moonlight Mushrooms, Inc., conducts tours of its noted underground facilities, and I welcome my colleagues to take advantage of this feature, through the president of Moonlight Mushrooms, Inc., G. Ramsey Yoder. The underground temperature is kept at 60 degrees.

Again, I take great pride in honoring this local business and the help to the economy it provides before the U.S. House of Representatives today. Here's a tip of the hat to Moonlight Mushrooms, Inc., for 50 continuous years, and a sincere hope of many, many more years of success.

THE DEATH OF GEN. J. LAWTON COLLINS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mrs. MORELLA. Mr. Speaker:

> Soldier, rest! thy warfare o'er,
> Sleep the sleep that knows not breaking,
> Dream of battled fields no more,
> Days of danger, night of waking.

America has lost one of its great military leaders, with the death September 12 of Gen. J. Lawton Collins at the age of 90.

Called "one of the most outstanding field commanders in Europe" by his compatriot Gen. Omar Bradley, General Collins served his country devotedly in both war and peace. A West Point graduate, he served in numerous posts around the Nation and the world; he returned to teach at the Military Academy as well.

General Collins fought on both fronts during World War II, earning the Silver Star with Oak Leaf Cluster. It was at Guadalcanal where he earned the nickname "Lightning Joe," derived from the shoulder patches worn by the 25th Infantry Division which he commanded. In the European Theater, he commanded one of the two Army corps that went ashore at Normandy on D-Day. Forty years later, he returned to those beaches as President Reagan's personal representative at a remembrance of the landings. This was an honor I know he cherished deeply.

After the war, he served in Washington as deputy commanding general and chief of staff of the Army ground forces, and as information director for the War Department. In 1949, President Truman named him Army Chief of Staff, a post in which he served through the Korean conflict until 1953. He retired from the Army in 1956.

Another contemporary, Gen. George Patton, wrote:

> Wars may be fought with weapons, but they are won by men. It is the spirit of the men who follow and of the man who leads that gains the victory.

Lightning Joe, as he was known to soldiers and staff alike, gained many victories for our Nation, fighting the good fight.

I had the privilege of knowing General Collins through his family, and I recall many stimulating discussions with him about his experiences—and the future of our great country. On behalf of the House, I would like to extend our condolences to General Collins' family.

MRS. CAROLYN BARRANCA

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mrs. BYRON. Mr. Speaker, earlier this summer, the U.S. Supreme Court ruled that charters of local Rotary chapters could not be revoked for admitting women into its membership. This landmark decision made female membership in these clubs possible and ever since the number of female members has been growing.

It is my pleasure today to recognize the first female member to the Rotary Club of Frederick, MD, Mrs. Carolyn Barranca. Mrs. Barranca is a graduate of Hood College with a degree in communications. Currently, she is a graduate candidate at the University of Maryland while she works as the vice president of a local public relations firm. Mrs. Barranca's involvement in the local business community and her membership in the chamber of commerce has earned her high respect within the Frederick community.

In honoring Mrs. Barranca, I believe that it is also appropriate to recognize the Rotary Club as well. For a long time, the Frederick Rotary Club has been an outspoken proponent for change in the club bylaws to accept women. Their admission of Mrs. Barranca is evidence of their commitment to this concept.

With Mrs. Barranca's admission to the Rotary, everybody wins; the Rotary Club, the community, and Mrs. Barranca. The future of the Rotary Club is as bright and prosperous as ever and with quality members like Mrs. Barranca, I believe that it will endure.

H.R. 3320—THE DRUG TRAFFICKERS LIFE IMPRISONMENT PENALTY ACT OF 1987

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. TALLON. Mr. Speaker, in survey after survey, Americans have affirmed that drug abuse and related crime ranks as one of the greatest problems facing this Nation. In my district I hear one heartbreaking story after another about individuals, families, and even communities destroyed by drugs. Yet we seem paralyzed from acting upon these concerns. And the tragic problem of drug abuse continues to escalate at a terrifying rate.

Despite our best efforts, illegal cocaine is coming into our country at alarming levels, and 4 to 5 million people regularly use it. Five hundred thousand Americans are hooked on heroin. One in twelve persons smokes marijuana regularly.

Regular drug use is even higher among the age group 18 to 25—most likely just entering the work force.

And then there is the terrifying epidemic: smokable cocaine, otherwise known as crack. It is an explosively destructive and often lethal substance which destroys its users like an uncontrolled fire.

The results are terrifying, striking at the very heart of our society. Drug abuse has invaded our schools, our places of work, and our homes threatening our productivity and our future.

Drug abuse costs. Drug abuse costs us in financial terms, in the tragic loss of human potential and even lives. It costs the drug abusers themselves and it costs the American taxpayers at least $60 billion a year.

Americans spend an estimated $130 billion each year on illicit drugs. The price of narcotics abuse to the United States amounts to more than $100 billion annually in increased health care costs, lost productivity, and related crime and violence.

The severe human costs are indicated by drug-related emergency room admissions and deaths which have increased dramatically in recent years.

Yet, the greatest victims in this whole mess are the children. We have all grieved to learn of the many babies born to drug addicted mothers who are, upon birth, condemned to a brief, painful, and hopeless life.

During the 99th Congress, we passed the Anti-Drug Abuse Act, a comprehensive bill to strengthen the enforcement of drug laws, stem the flow of illegal drugs into the country, increase penalties for illegal drug activities, and assist in drug education and treatment. Already, this law has produced positive results. But it is only the beginning.

Certainly the most lasting and effective end to drug abuse lies in reducing demand. However, the problem is too pervasive and engrained in American society to ignore the demand side.

Approximately 150 tons of cocaine, 12 tons of heroin, between 30,000 and 60,000 tons of marijuana, and 200 tons of hashish will enter the United States this year. An additional 4,000 tons of marijuana will be grown and 10 tons of psychotropic drugs will be illicitly manufactured and abused domestically.

These figures represent a dramatic increase in the importation of illicit narcotics into this country. For example, in 1984 it was estimated the influx of cocaine to be 85 tons, as compared to the 1986 estimate of 150 tons. The 1987 International Narcotics Control Strategy Report of the U.S. Department of State reveals that we can only expect these figures to increase during the current year.

Moreover, the production of illicit narcotics is escalating to new heights. From 1983 to 1985, coca production in Peru and Bolivia increased from roughly 55,000 tons to 150,000 tons.

State and local enforcement efforts are being overwhelmed by the problem. In hearings, we have heard from officials across the country that their drug efforts need Federal assistance to combat the widespread drug trafficking in their jurisdictions.

When faced with these sort of numbers, indifference is simply no longer an option. We need to let the kingpins know that we mean business. That is why I am introducing H.R. 3320, the Drug Traffickers Life Imprisonment Penalty Act of 1987, to mandate life imprisonment for serious drug offenses. Those offenses include: murder of a law enforcement officer in the course of a drug-related offense; trafficking 10 or more kilograms of heroin, cocaine, crack, PCP, or designer drug; any second or subsequent trafficking violation involving one kilogram or more of heroin, cocaine, crack, PCP, or designer drug.

H.R. 3320 goes straight to the source and I am convinced it will serve as a deterrent. While it may seem a harsh step, the alternative is even harsher. A life hooked on drugs is a life sentence. Why shouldn't those who deal out this sentence have to serve the same time?

For too long, we have allowed drugs to rob our children's dreams, minds, and futures. No longer.

TRIBUTE TO LT. COL. ROBERT HEPLER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. SKELTON. Mr. Speaker, last month, a good friend and former instructor of mine at Wentworth Military Academy passed away. Lt. Col. Robert Hepler, a resident of my own hometown of Lexington, MO, had been assistant dean and an instructor at Wentworth since 1945. Besides being a good friend through the years, Colonel Hepler was also my first college history professor. It was he who inspired me to pursue the study of history. It was he who was an outstanding role model in this academic field. Mr. Speaker, I owe a debt of gratitude to this fine man.

I was not the only person who benefited from Colonel Hepler's instruction and friendship. Wentworth cadets over several decades were the beneficiaries of his knowledge and instruction. His legacy will continue far into the next generation.

I join with Lt. Col. Robert Hepler's many friends in extending sincere sympathy to his son, Fred Hepler. He will be greatly missed.

INTRODUCTION OF H.R. 3323

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. DUNCAN. Mr. Speaker, I am introducing today a bill to provide that certain disclaimers shall not be treated as transfers for purposes of Federal estate and gift taxation. I am doing so not because I necessarily favor the measure in this precise form, but because I believe it should be presented for consideration in the 100th Congress. Similar measures have been introduced in prior Congresses, and I hope this one will be taken up expeditiously.

The estate and gift tax law allows a person to disclaim an inheritance or trust interest within a short period after the transfer of the interest. A disclaimer made after that period is treated as a taxable gift by the person making the disclaimer. In 1982, the U.S. Supreme Court decided that the period for disclaiming a contingent remainder interest in a trust (for example, life interest to wife, remainder to daughter if she is alive when wife dies) starts when the trust is created and not when the contingent interest vests (that is, when wife dies with daughter surviving). The Supreme Court decision contained a strong dissent by three justices. This bill would clarify the intent of the Congress and adopt the dissenting viewpoint with respect to disclaimers made before December 9, 1980, of interests created before November 15, 1958.

KAYE LANI RAE RAFKO, MISS AMERICA 1988

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. DINGELL. Mr. Speaker, I rise today to congratulate one of my constituents, Miss Kaye Lani Rae Rafko, of Monroe, MI, for being crowned as Miss America 1988. The former Miss Michigan was selected in the 61st Miss American Pageant on September 19, 1987, in Atlantic City to reign for the upcoming year as the Nation's most beautiful, talented, and respected young woman.

Miss Rafko, of Ukrainian descent, is 24 and exudes an inner confidence and elegance as notable as her outer beauty and charm. She is an exemplary model of goodwill and thoughtfulness toward others and demonstrates an intelligence and presence possessed by few. I know these qualities, along with her enthusiasm and earnestness, will be sources of inspiration for young women throughout the country. Miss Rafko's hard work in the Monroe community, her dedication to help others as a registered nurse, and her volunteer work with AIDS patients demonstrates a remarkable inner compassion and strength.

I am confident that her work throughout the upcoming year will exemplify the outstanding individual that she is and that she will continue to be a great source of pride for the citizens of Monroe and the entire State of Michigan. The title of Miss America carries high expectations and places great demands on a young woman. I know she will fulfill these demands with the grace and presence worthy of her national recognition. Congratulations to Miss Rafko, Michigan celebrates her success.

TAIWANESE TRADE RESTRICTIONS

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GALLO. Mr. Speaker, during the August congressional recess, I had the opportunity to visit Taiwan at the invitation of the Chinese National Association of Industry and Commerce. I was pleased to accompany Congressman JERRY LEWIS, Congressman DOUG BOSCO, Congresswoman BARBARA VUCANOVICH, Congressman RICHARD STALLINGS, Congressman LARRY SMITH and Congressman WALLY HERGER for a week of meetings and discussions with officials of the Republic of China in Taiwan.

During our visit we had many opportunities to discuss the important issues that are affecting our relationship with Taiwan. Taiwan is bustling with activity and its economy is growing rapidly. However, one result of this growth has been the creation of an unacceptably high trade deficit with the United States. All of the members of the delegation urged the Taiwan Government to remove its remaining trade barriers and continue its aggressive "Buy American" program.

However, during the course of our discussions it also became apparent that Taiwanese trade restrictions were not the only cause of our significant trade deficit. Unfortunately, the trade debate has focused mainly on the actions of our trading partners rather than on our inaction in failing to seek foreign markets for U.S. products. My visit only reaffirmed my prior conclusion that American businessmen must also do more to aggressively market their products abroad.

Throughout our visit, it was readily apparent that the Government of Taiwan was an active partner in helping its companies to export their products. The China External Trade Development Council [CETRA] is the main trade promotion organization of the Republic of China on Taiwan. It was established in 1970 to unify the efforts of the Government and people in helping local and foreign traders to expand their export and import trade systematically.

The CETRA is a nonprofit legal entity funded mainly by exporters. CETRA staff members are not directly employed by the Government, but their activities are closely coordinated with official policy and they remain in constant contact with relevant Government departments.

In cooperation with its sister organization, Far East Trade Service, Inc., CETRA has established 70 branches and representative offices in foreign countries. The main functions of this overseas network are to collect business data, answer trade inquiries, arrange business meetings, coordinate trade promotion activities and conduct market research.

If our smaller firms are to compete abroad we must provide similar support services. As a nation we must make every effort to increase our exports, especially among the small businesses that are the life-blood of our economy.

We have not put enough emphasis on what we can do to expand our own exports. In New Jersey alone we have thousands of small and medium size businesses that are ripe to enter the international market. Historically, however, these firms have lacked the necessary expertise and financial resources to export. In order to compete we must emulate, not ignore, the Taiwanese experience.

To look into this problem, I created the Small Business Export Opportunity Task Force, which was made up of Federal and State government trade experts and business leaders from the 11th Congressional District in New Jersey to study and evaluate the problems that our small businesses face in exporting their products. The task force identified three critical areas that need to be addressed if we are to improve our ability to export.

First, we must raise public awareness of export opportunities and reach out to bring more small businesses into the field of exporting. Second, we need to identify and remove trade barriers and to cut red-tape that currently keep small business people from exporting. Third, we must build on resources available in the private sector and among State and Federal Government services to help small businesses expand into international markets.

As a result of the recommendations of my task force, I successfully offered two amendments to the Small Business section of the

Omnibus Trade Bill, H.R. 3, which would create export hotlines in each State and increase small business participation in international trade shows.

I am also pleased to report that the democratic movement on Taiwan is going full-steam ahead. Under President Chiang Ching-kuo's leadership, the democratic movement on Taiwan has finally begun to take root and flourish. This fact was graphically illustrated during a "member-to-member exchange" between our congressional delegation and a delegation from the Taiwanese legislative Yuan.

For the first time in its history, the ruling Kuomingtang (KMT) party allowed opposition party legislators to participate on an equal basis with Government legislators. This may seem like a small step but, now that martial law has ended, it is just one of several positive steps indicating that the government of President Chiang Ching-kuo is headed in the right direction.

NATIONAL HOSPICE MONTH

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1987

Mr. GRADISON. Mr. Speaker, I am delighted that well over half of my colleagues have joined me in sponsoring House Joint Resolution 234, a resolution to designate the month of November in 1987 and in 1988 as "National Hospice Month." I am particularly grateful to the distinguished chairman of the Subcommittee on Census and Population for bringing House Joint Resolution 234 to the House floor so promptly.

Similar resolutions, which I introduced in 1984, 1985, and 1986, received overwhelming bipartisan support and were enacted as Public Law 98-423, Public Law 99-125, and Public Law 99-442 respectively.

Hospice—an innovative, comprehensive, compassionate approach to caring for terminally ill persons as well as their families—has become a respected, viable part of the Nation's health care system. Hospice care is now a permanent benefit under the Medicare Progam and an option under the Medicaid Program.

Each year, thousands of families face the crisis of caring for a terminally ill family member. Hospice provides a unique program of support and care, allowing patients to remain in their own homes or in homelike inpatient facilities. The delivery of services by a team of physicians, nurses, social workers, therapists, clergy, and hospice-trained volunteers concentrates on enabling patients to live as meaningfully and as comfortably as possible until their death. Today hundreds of programs across the country are dedicated to providing this invaluable service.

This humanitarian method of care has proven to be an excellent way for patients and their families to cope with the immeasurable stress and emotion of a terminal illness. While understanding of and support for the hospice concept has grown dramatically over the past few years, there is still a need for public education regarding the benefits of hospice care. It is also appropriate that we recognize the significant contributions made by those involved in the provision of hospice services and in the advancement of the hospice philosophy.

The public education and recognition programs conducted during National Hospice Month will continue to expand the knowledge of hospice care.

HOUSE OF REPRESENTATIVES—*Wednesday, September 23, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remember, O gracious God, all those who look to You for nurture and grace. We especially recall those who are in need of Your healing power and the renewed strength that You can give. We place before You our petitions for health and strength and peace, for ourselves and those we love. May our hearts be open to the blessings that You freely give to body, mind, and soul and may Your spirit remain with us always. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HEFLEY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HEFLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 307, nays 85, answered "present" 1, not voting 41, as follows:

[Roll No. 331]

YEAS—307

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Applegate
Archer
Atkins
AuCoin
Baker
Barnard
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Chapman
Chappell
Clarke
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Conyers
Cooper
Coyne
Crockett
Darden
Daub
Davis (MI)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dicks
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Konnyu
Kostmayer
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Madigan
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McEwen
McHugh
McMillen (MD)
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Scheuer
Schneider
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—85

Armey
Badham
Ballenger
Bentley
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Clay
Coats
Coble
Coughlin
Courter
Crane
Davis (IL)
Dickinson
DioGuardi
Dreier
Emerson
Fields
Gallegly
Gekas
Gingrich
Grandy
Gregg
Hansen
Henry
Herger
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Lukens, Donald
Lungren
Mack
Marlenee
Martin (IL)
McCandless
McGrath
McMillan (NC)
Michel
Miller (OH)
Moorhead
Parris
Pashayan
Penny
Rhodes
Ridge
Roberts
Rogers
Roukema
Saiki
Schaefer
Schroeder
Sikorski
Skeen
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Vucanovich
Walker
Weber
Whittaker
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Goodling

NOT VOTING—41

Anthony
Aspin
Bartlett
Barton
Biaggi
Boner (TN)
Boxer
Callahan
Carr
Collins
Craig
Daniel
Dannemeyer
de la Garza
Dingell
Dowdy
Dymally
Edwards (OK)
Ford (TN)
Gephardt
Gibbons
Hawkins
Hayes (IL)
Hunter
Kasich
Kemp
Kleczka
LaFalce
Lancaster
Latta
Livingston
McCurdy
Meyers
Mfume
Oberstar
Owens (NY)
Roemer
Spence
Tauzin
Williams
Wilson

☐ 1015

Mr. GRAY of Pennsylvania changed his vote from "nay" to "yea."

Mr. SMITH of Texas changed his vote from "present" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. MICA. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MICA. Mr. Speaker, will there be 1-minute speeches today?

The SPEAKER. The Chair will announce that 1-minute speeches have been postponed until the conclusion of legislative business today. Today the House will take up the continuing resolution and we should like to conclude that in ample time that we might properly observe the high religious holidays which begin at sundown this evening. Therefore, any 1-minute speech requests will be postponed

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

until the conclusion of legislative business.

Mr. MICA. I thank the Speaker.

CONTINUING APPROPRIATIONS, 1988

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 270 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 270

Resolved, That upon the adoption of this resolution it shall be in order to consider section 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), to the contrary notwithstanding, the joint resolution (H.J. Res. 362) making continuing appropriations for the fiscal year 1988, and for other purposes, in the House. Debate on the joint resolution shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The amendments printed in section 2 of this resolution shall be considered to have been adopted, and the previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

Sec. 2. Amendment 1.—On page 2, line 17, strike the ";" and insert the following: ", notwithstanding section 502(a)(1) of the National Security Act of 1947;".

Amendment 2.—On page 3, at the end of line 15 strike the ";" and insert the following: ": *Provided*, That the authority available as of September 30, 1987, shall be continued to allow the obligation and expenditure of previously appropriated funds in section 206 for supporting, monitoring, and managing the activities provided for under section 206 in fiscal year 1987: *Provided further*, That in order to strengthen and continue the peace process in Central America, not to exceed the current rate of $2,650,000 per month shall be available only for humanitarian assistance and its support, management, and monitoring in accordance with the provisions of title II of the Military Construction Appropriations Act, 1987;".

The SPEAKER. The gentleman from Florida [Mr. Pepper] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee [Mr. Quillen], pending which I yield myself such time as I may consume.

Mr. PEPPER. Mr. Speaker, House Resolution 270 provides for the consideration of House Joint Resolution 362 in the House. The 1 hour of debate is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. Section 302(f) of the Congressional Budget Act is waived against consideration of the joint resolution. Section 302(f) prohibits consideration of measures that would cause the appropriate subcommittee level ceiling to be exceeded.

Section 2 of House Resolution 270 contains two amendments that are considered as having been adopted upon adoption of the rule. The first of these amendments would waive section 502 of the National Security Act to permit obligation and expenditure of funds appropriated under the continuing resolution for U.S. intelligence activities. This is required because the Congress has not completed action on the Intelligence Authorization Act for fiscal year 1988, which would continue the basic underlying authority for intelligence activities.

The second amendment provides $3.5 million in humanitarian assistance for the Nicaraguan Contras for the duration of the continuing resolution. The amendment provides funding only for humanitarian assistance and its support, management, and monitoring in accordance with current restrictions. It is reflective of a bipartisan agreement that was reached by the House leadership and should be supported. Mr. Speaker, as I said, the rule provides that upon the adoption of the rule, these two amendments are considered as having been adopted. The rule also provides for one motion to recommit.

Mr. Speaker, House Joint Resolution 362 makes continuing appropriations at current levels for all operations of Government until November 10, 1987. The current rate of operations includes funding provided for in the 13 appropriations bills contained in Public Law 99-591 as well as the fiscal year 1987 supplemental appropriations bills. The only exception to this funding level is that foreign operations programs are funded at current levels or the rate provided for in the budget estimate, whichever is lower. The joint resolution also contains language which continues the current terms and conditions which are in effect during this current fiscal year for the duration of the resolution. The continuing resolution also provides that the funds are made available until November 10, 1987, or until the regular annual appropriations bills are enacted. Upon enactment of the regular appropriations bills, the provisions of the continuing resolution disengage and the regular appropriations bills then become the funding device. Mr. Speaker, this is a clean continuing resolution providing funding at current levels and free from extraneous matters. As such, it deserves our support.

☐ 1030

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Federal Government's fiscal year ends 1 week from today. Not a single 1 of the 13 general appropriations bills has been signed into law. As a matter of fact, not a single one of the general appropriations bills has even passed the Senate, though all but three have passed the House.

We have come to the point where we have to act promptly in order to prevent a shutdown by Government agencies. The bill made in order by this rule will continue the current level of funding until November 10, 1987, or until the enactment of the regular appropriations bills, whichever comes first. No extraneous provisions are included in the continuing appropriation.

There is only one major item currently being funded which is not continued by this continuing resolution. That is funding for the Contras in Nicaragua.

However, Mr. Speaker, while the continuing resolution itself does not contain funding for the Contras, this rule does include an amendment providing $3.5 million in nonmilitary aid to the Nicaraguan Contras. That amendment will be deemed to have been adopted when this rule is passed.

Mr. Speaker, this Contra funding is the result of a bipartisan agreement and I support it. Since the money is for nonmilitary aid, it is consistent with the current peace initiative.

Mr. Speaker, it would have been better to have had all the general appropriations passed so that there would have been no need for a continuing resolution. But it is too late for that now. We must proceed to adopt this continuing resolution so that the Federal Government can continue to function after September 30. By agreeing to this continuing resolution we will give ourselves approximately 40 additional days to complete the necessary action on the general appropriations bills. Mr. Speaker, I support this rule so that the House can get down to the business of passing the continuing resolution.

Mr. Speaker, before we adopted the House and Senate budget process our fine Committee on Appropriations had the general appropriations bills on the floor, the bills were passed and they went to the Senate and they were passed and the President signed them or vetoed them, but in the end all of them were passed into law.

I think our budget caused the irresponsible delays that we are facing now and it is no fault of the Committee on Appropriations.

So I would advocate strongly that we do away with the House and Senate budget process without delay.

Mr. Speaker, I yield 6 minutes to the distinguished minority leader, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, I certainly support this rule, self-executing one that it is, and in support of what it does, as the gentleman so ably represented a few moments ago, continuing all the expenditures of the Government at its current level until the date of November 9.

Mr. Speaker, I would like to use just a few moments that I have here to say a few words about the assistance to the democratic resistance in Nicaragua. As you know, such assistance was originally excluded from the continuing resolution and that riled up my dander because, frankly, I thought it sent exactly the wrong signal at the wrong time.

Speaker WRIGHT and the Democratic leadership agreed with the Republican leadership that such aid, in nonlethal forms, should be part of the CR.

That is where we are.

But it is important to know where we are going as well.

We have all read in the newspapers and seen on television the Sandinista regime's latest moves.

They have allowed La Prensa to open. The Catholic radio station can operate. They are preparing to declare a unilateral cease-fire.

The question about all of this is: What does it all mean?

Is it a legitimate and sincere beginning to a process of democratization? Or is it yet another tactical ploy by Marxist-Leninists?

The history of Marxist-Leninist regimes leaves no alternative to serious analysts than to say we view these moves with scepticism, with caution, with prudence—but also with a tiny bit of hope.

But hope doesn't make freedom happen. Real substantive progress in the real world makes freedom happen.

We cannot be satisfied with the forms of democratization.

We must demand the substance.

And in this case, the substance of democratization in Nicaragua demands that the Sandinistas know they still have the democratic resistance to worry about.

Without the democratic resistance, the Sandinistas would never have come to the bargaining table.

The democratic resistance and its ability to remain a force in this peace process in my judgment is absolutely vital.

And that is why aid in the CR is vital. Not just for the Contras—but for the last, fragile hope of justice, freedom, and peace in Nicaragua.

Consider the following:

The new Nicaraguan Constitution, written by a Sandinistas-dominated Constituent National Assembly, specifically mentions the "Sandinista Popular Army" the armed forces totally under the ideological and political control of the ruling Sandinistas Party.

How can there be true popular pluralism in a state in which there is a constitutional provision about an army dominated by one specific political party?

I am glad to note that the Washington Post yesterday or the day before, for the first time that I can recall, mentioned that specifically in a nationally recognized editorial comment of a dominant newspaper in this country. And the media have not focused enough attention on that specific subject.

Can we realistically hope the Sandinista popular army will lose its ideological character in the brave new world of the agreement?

Is there anyone in this Chamber who believes the Sandinista Party is going to allow the army to be controlled by another party or to be at the service of the nation, regardless of who is elected?

No other country in Central America has an army of this character. It is the military arm of the vanguard Marxist-Leninist party. It is this ugly little fact that destroys the beautiful theory some might have about the Sandinistas' good faith.

The fate of freedom in Central America and in Nicaragua especially is at a crisis point. If we in the Congress allow ourselves to be deluded and deceived by the recent moves of the Sandinistas, I think we will regret it as long as we live.

The aid we provide to the democratic resistance in the CR is not going to change the balance of forces by any stretch of the imagination. It is not going to threaten the Sandinistas.

What it will do is to put the United States of America on record of not abandoning an ally just because certain forms of democratization have been temporarily agreed to by a Marxist-Leninist government.

If we withdraw our hand by refusing these funds, it will be a slap heard round the world, a slap in the face to those in Nicaragua this Congress voted to help a year ago.

I say we take a slow, cautious, step-by-step, skeptical, yet open, approach to the recent events in Nicaragua.

But at the same time we have to keep our commitment to those we armed and funded and sent into battle.

The spirit of the democratic resistance is Nicaraguan—but as in so many other cases, the spirit may be willing but the ability to be a political force is weak.

Let us not let that happen to our friends in Nicaragua.

So, Mr. Speaker, I want to say again that I appreciate very, very much the consideration that the Democratic leadership has given to this Member and those of us who have these strong feelings, recognizing full well that to upset the balance there at this juncture.

We want to keep the playing field out there as level as we possibly can. For the moment I think it certainly is justified to provide this assistance and its deliverability and I hope Members will support the rule and support the resolution.

Mr. PEPPER. Mr. Speaker, I yield such time as he may consume to the able gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Speaker, this legislation, as the gentleman from Illinois and my distinguished chairman have pointed out, will provide $3.5 million in aid to the Contras.

I want it to be clear to everybody that this is strictly limited to food, to clothing, to medicines, a very small amount to family assistance.

I also want to take exception to the term humanitarian aid. I do not believe we should call this humanitarian aid although clearly the bill states it. Humanitarian aid, according to the Geneva Convention, is reserved for noncombatants.

By right, such aid should be provided through an international humanitarian organization.

I think the process to getting Members in this body to understand that distinction should have begun, I think, a long time ago, but obviously at some point it has to be discussed and let us begin today.

I also want to point out that passage of this legislation should not be taken as a sign of support for the Contras or for this administration's policy in Central America. The policy, in my mind and in the minds of most Members of this body, has been a failure. In my view our action today should be more properly seen as providing the Contras with the means to disengage at the proper time, which I think is coming very soon, from the conflict in Nicaragua. It is not a sign that the war will continue, but, rather, it is time for the war to end in an orderly fashion. This legislation is proposed in the spirit of fairness and reconciliation. It should be emphasized that this legislation is an effort to avoid a bitter partisan battle that would be disruptive to the peace process in Central America. That process is moving forward.

The Nicaraguans, as has been stated twice already on the floor this morning, have appointed a reconciliation commission with Cardinal Obando y Bravo as its chairman.

□ 1045

They have announced that they will allow the Catholic radio station to come on the air, as well as other radio stations that have been off the air, and that they will allow La Prensa to reopen and will lift press censorship. Just yesterday they proposed a cease-fire that will allow the reconciliation commission which is headed by Cardinal Bravo to explore a further broadening of the cease-fire with the Contras.

I think we must put ourselves and our full energies behind the movement for peace in Central America which is abundantly real at this time. When President Arias was here yesterday in the Rayburn Room, he was asked by his critics, "What will you do if peace fails?"

He responded with a challenge by saying, "What will you do if it will succeed?"

Mr. Speaker, we must begin planning for peace. Peace is breaking out, and it is real. That is happening not only in Nicaragua; we learned yesterday of a significant event in El Salvador where Duarte has agreed to meet on October 4 with the leaders of the FLN, the guerrillas in El Salvador.

Members of this body who have traditionally supported aid to the Contras must face the reality of peace. It will happen. It is now happening. The administration is prepared to ask for an additional $270 million for aid to the Contras. Such a request would be a major escalation of the war.

By our actions today, we send a clear message that the time for the war is over, and that we accept the challenge to move forward to end the war in an orderly, humane, fair fashion.

Mr. Speaker, I ask every Member of this body in the next 30 days to help us as much as they possibly can to make that reality happen so we can get on with the important business of helping people rebuild their lives in this war-torn region.

Mr. QUILLEN. Mr. Speaker, I reserve the balance of my time.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the able gentleman from Massachusetts [Mr. MOAKLEY].

Mr. MOAKLEY. Mr. Speaker, I would like to associate myself with the remarks of the chief deputy whip, Mr. BONIOR. He has eloquently outlined this fragile agreement. Let me also take this opportunity to commend the Speaker for his strong efforts on behalf of peace in Central America.

I, like many of my colleagues have received literally hundreds of calls from constituents who oppose Contra aid. I represent the Ninth Congressional District in Massachusetts—and 98 percent of the calls that have come into my office during the last few days have been against any additional aid to the Contras, no matter what the form. My constituents are concerned that any further aid will only prolong the conflict.

Mr. Speaker, I have always opposed Contra aid—and I still do. I have viewed United States intervention in Nicaragua as one of the saddest chapters in recent history. But, for my part, I do not see this as a pro-Contra vote. I view it, like my colleague from Michigan, as a means to help extricate the Contras from Nicaragua and the war.

Mr. Speaker, I do have reservations.

I must confess that I am very uneasy about the role the CIA is playing in this. I would much prefer an international agency like the Red Cross to administer any aid. But, I have been given assurances that the accounting procedures are sufficiently stringent to guarantee compliance with congressional intent. This means only food, medicine, boots, and a small amount of family assistance can be provided—nothing else.

I am also frustrated that the term "humanitarian" is used to describe this aid. The Geneva conventions and protocol stipulate very clearly what constitutes humanitarian aid—and this action does not meet the definition. I would have preferred the term "nonlethal aid" or "logistical aid." This may sound like a minor point—but, on the contrary, misuse or political exploitation of the term humanitarian erodes the integrity of genuine humanitarian aid, and adds further dangers to the work of bona fide aid providers in conflict situations. In the future, we must be aware of this fact and use the appropriate terminology when describing various forms of aid. Too many lives are at risk for us to continue to be careless.

Mr. Speaker, this has been a difficult decision for me. I would strongly oppose this if I felt that it would prolong the violence or dismantle the delicate peace process. I have been assured by individuals in the leadership, whom I trust and respect, that it will not. In fact, yesterday, the chief architect of the Central American peace initiative, President Arias, gave his support to this limited, nonlethal aid package.

After hearing President Arias speak in this Chamber yesterday, I am optimistic that there is a real chance for peace in Central America. My prayers are with him.

I urge my colleagues to vote for this rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I would not want the legislative history on this rule to get completely out of the perspective that those of us who favor Contra aid see it from. The fact is that when President Arias was before Congress yesterday, he talked about not just peace breaking out but freedom breaking out. He made it clear that there can be no real peace in Central America without freedom, and on November 7 we will have a test as to whether or not the Sandinista Communists in Nicaragua have in fact given freedom to the people of that country. If there is no freedom as of the first part of November, then there is going to have to be continued resistance.

We ought not view the money here as being money which is phasing out the Contra movement if freedom has not been given a chance in Nicaragua. We ought to recognize that we are going to have a responsibility to that resistance at the point where the question of freedom arises.

Every one of us hopes that we have a peace process in place, and that at the end of that peace process the prople throughout Central America will be guaranteed not only an end to hostilities but a restoration of freedom.

Mr. Speaker, when that happens, then we will have no further need for the money, and we hope that is the final result.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the distinguished ranking Member, the gentleman from Tennessee, for his willingness to allow me to speak on this matter for 3 minutes.

Mr. Speaker, here it is, the first CR. This is a nice, innocent, clean CR. It is only three pages long, and it continues to fund at current levels for the most part. All it does is admit our failure to meet our own deadlines and give us more time to pass the 13 regular appropriation bills.

But if the past is any guide, by the time we are finished the CR will be several hundred pages long. It will appropriate for unauthorized programs, it will include legislative language, and it will probably underfund a few important accounts, thereby guaranteeing a supplemental. And if the past is any guide, it will include most of the $600 billion of total discretionary funding for fiscal year 1988.

I am committed to seeing that this kind of CR does not happen.

The House has passed 10 separate appropriation bills, and there is no reason we cannot pass the remaining 3, if not on time, at least separately. There is no excuse for not doing so.

The report accompanying the CR says:

> The Committee continues to be dedicated to the principle of financing Federal programs under the traditional authorization and appropriations process which includes individual appropriations bills. Therefore, it will continue its efforts to get regular bills enacted as soon as possible.

I assume this language not to be mere boilerplate but sincerely meant. As I have told the Appropriations Committee chairman, my chairman, I will take his words at face value and will do everything I can to see that the intent is carried out.

Mr. Speaker, I urge the Members to join me in giving the Appropriations Committee their assistance and in holding the Appropriations Committee to doing its job. It is time that we stopped the omnibus continuing resolution, the huge, ugly appropriation bill that we pass every year. We can force the process to do what it is intended to do, lay those bills on the President's desk for action one at a time. We have given ourselves some additional time to do so.

Now it is time to say we will have no omnibus CR this year. The work of the committee must be carried out.

Mr. WEISS. Mr. Speaker, I oppose the recommended rule for this legislation. I was surprised and disappointed to hear that the rule includes an unusual provision to provide $3.53 million in humanitarian aid to the Contras, and permits the CIA and the Department of Defense to distribute those funds, as well to distribute the money remaining from the amount appropriated last year for the Contras.

Mr. Speaker, this provision is totally unnecessary and flies in the face of the accord reached last month in Guatemala City. Everyone knows that the Contras are not going to perish for lack of funds in the next month and a half. There is still plenty of money left from the $100 million appropriated last year to sustain the Contras until the nations in the region have a chance to implement the peace plan. The only saving grace is that the Central American leaders are determined not to permit this proposal to slow down the peace process.

Nevertheless, to include Contra aid in the continuing resolution at the present time sends exactly the wrong signal to the leaders of the nations of Central America who are negotiating for peace in the region. It is wrong for the House of Representatives to do this the day after President Arias appeared in this very Chamber to ask for our help in bringing an end to the bloody wars that have caused such suffering and loss of lives in Central America. President Arias spoke eloquently about his nation's commitment to peace, and asked the United States to join him in working to implement the Guatemala accord. He declared that: "War signifies the failure of politics. Let us restore faith in dialog and give peace a chance."

Because the humanitarian aid for the Contras is such a tiny portion of the total funding in the continuing resolution, funding which affects every domestic and foreign assistance program of the U.S. Government, it is not possible to vote against the continuing resolution itself. That is why the rule is so objectionable and why it should not be adopted.

I urge my colleagues to give peace a chance. Join me in opposing the recommended rule for this legislation.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule and the passage of the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, pursuant to the rule just adopted, I call up the joint resolution (H.J. Res. 362) making continuing appropriations for the fiscal year 1988, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. Coelho). Under the rule, the gentleman from Mississippi [Mr. Whitten] will be recognized for 30 minutes and the gentleman from Massachusetts [Mr. Conte] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississppi [Mr. Whitten].

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution, House Joint Resolution 362, and that I may include extraneous and tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require. Mr. Speaker, the resolution that we bring before you today continues what is essential. It is necessary to continue the orderly operations of the Government into the new fiscal year—which begins October 1, 1987. While this is 7 calendar days away, there are only 2 legislative days between now and October 1 on which votes have been scheduled in the House.

STATUS OF APPROPRIATION BILLS

The House has passed the following 10 appropriations bills for fiscal year 1988:

Energy and water development on June 24;

Interior and related agencies on June 25;

District of Columbia on June 26;

Legislative branch on June 29;

Commerce, Justice, and State on July 1;

Transportation and related agencies on July 13;

Military construction on July 14;

Treasury-Postal Service on July 15;

Labor-Health and Human Services-Education on August 5; and

HUD-Independent Agencies on September 22.

The committee reported the foreign assistance appropriation bill on August 6 and it is awaiting floor action.

Hearings were completed on the rural development, agriculture, and related agencies appropriations bill on April 8, and on the defense appropriations bill on May 7. These bills are awaiting further action.

To date the Senate has not passed any of the appropriation bills. Because of this, the outlook is that it will require some time beyond October 1 for these bills to be handled in conference.

A termination date of November 10, 1987, is therefore proposed in the continuing resolution in order to allow time for further regular congressional action on the 1988 appropriations bills. It is essential that this resolution be passed.

This is a very straight forward continuing resolution. There are no special provisions and no special funding levels for any programs. The resolution simply carries the Government forward at the current level until November 10 or until appropriation bills are enacted. It is a clean resolution.

PHILOSOPHY OF THE RESOLUTION

Provides a reasonable level of interim funding to allow for continued operation of Government programs until final decisions about bills are made—the current level.

Is of relatively short duration—41 days.

Automatically disengages when regular annual bills are enacted.

Contains no extraneous provisions which more properly should be considered with regular bills.

LEVELS OF FUNDING UNDER THE RESOLUTION

Section 101 of the resolution provides interim funding at the current rate of operations, with one exception, when its at a reduced rate, and under the current terms and conditions in effect during fiscal year 1987 for the following 13 regular appropriations bills:

First, the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, and section 1241(a)(1) of Public Law 99-198;

Second, the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and Educational Exchange Act of 1948, as amended;

Third, the Department of Defense Appropriations Act, 1987;

Fourth, the District of Columbia Appropriations Act, 1987;

Fifth, the Energy and Water Development Appropriations Act, 1987;

Sixth, the Foreign Assistance and Related Programs Appropriations Act, 1987, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: Provided, that the rate for operations shall not be in excess of the current rate or the rate provided for in the budget estimate, whichever is lower;

Seventh, the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987;

Eighth, the Department of the Interior and Related Agencies Appropriations Act, 1987;

Ninth, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and section 101(n) of Public Laws 99-500 and 99-591;

Tenth, the Legislative Branch Appropriations Act, 1987;

Eleventh, the Military Construction Appropriations Act, 1987, except for section 206 of such act;

Twelfth, the Department of Transportation and Related Agencies Appropriations Act, 1987; and

Thirteenth, the Department of Treasury, Postal Service, and General Government Appropriations Act, 1987.

NO NEW STARTS

The resolution also prohibits any new starts (section 101(a)(2)) from beginning during this interim time period.

TERMINATION DATE

Section 102 of the resolution provides that funds made available by this resolution continue to be available until November 10, 1987, or until the enactment of the regular appropriations acts. When regular bills are signed into law, the provisions of the continuing resolution automatically disengage and the regular appropriations bills then become the funding device. This continuing resolution in no way precludes subsequent enactment into law of the regular appropriations bills.

CONCLUSION

Prompt enactment of this resolution will allow more time to work on the regular annual 1988 appropriations bills. We hope to clear as many of the regular bills as possible during the effective date of this resolution.

Mr. Speaker, I urge its adoption.

□ 1100

Mr. PORTER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from Illinois.

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend my chairman for having gotten 10 bills out to the floor and enacted by the House. That is certainly a far better record than over in the other body; but I wonder if the chairman could tell us during the next 45 days or so the timetable for getting the remaining three bills to the floor and acted on separately? When can we expect to get the agriculture bill, the defense bill and the foreign operations bill before the body?

Mr. WHITTEN. It is my hope, Mr. Speaker, that we will not be delayed. On agriculture, with which I am more closely identified, we are waiting to see what action we take on legislation now pending before the Congress. We have completed our action. We have been standing at the ready sign for some time.

On foreign aid, I have not discussed it with the subcommittee chairman and others, but we have been ready on that bill for some time, but have been waiting on the authorization committee to complete the authorization.

May I say as far as defense is concerned, there, too, we are waiting on the authorization committee and we are doing everything we can to expedite that.

May I point out that in the last week or 10 days the Senate has gotten busy. They have reported out of the full committee I believe five bills, with action on one more scheduled for today, so they are working on it and they are moving ahead.

So, the November 10 date is the date decided on by our leadership in conference with the Senate leadership as to the time they think we can have all this wound up.

Mr. PORTER. Mr. Speaker, if the gentleman will yield further, can I assume then from what the chairman has said that when the authorizations for those three bills have gone forward, that immediately we will then be offering the appropriation bills?

Mr. WHITTEN. May I say that in some cases they have gone forward very slowly with activity showing up in the last few days.

Mr. PORTER. Mr. Speaker, I thank the chairman very much.

Mr. WHITTEN. Mr. Speaker, I appreciate the fine service my colleague contributes to the committee.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is easy to describe what this continuing resolution does. It extends until November 10, 1987. It covers all programs, projects, and activities which were conducted in the current year and for which provision was made in the regular appropriation bills or in subsequent acts, such as the drug supplemental in the continuing resolution, and the regular supplemental.

The rate, with two exceptions, is the current rate under the current terms and conditions.

The first exception is foreign aid, where the rate is the current rate or the budget estimate, whichever is lower. The chairman of the subcommittee did not want to ask for a waiver of section 302(b), and I cannot blame him. I feel the same way.

There are no extraneous provisions, and the continuing resolution contains the usual prohibition on new starts. That is what this continuing resolution does; but I also recognize what this continuing resolution represents—a failure in our legislative process.

Here we are on September 23, with the start of the fiscal year 1 week away, and not a single appropriation bill has been signed into law. The other body has not passed one single appropriation bill, not one.

So, there you have it, a continuing resolution which is clean and has the support of the administration, but also symbolizes our inability to legislate in a timely and responsible manner.

If you oppose continuing resolutions on principle, then your vote is very clear.

If I were a Member of this House who is not on the Appropriations Committee and had to vote the continuing resolution up or down, elected by the same amount of people as the members of the Appropriations Committee, I would be leading a revolt here on the floor of the House against this kind of a process. If you are not on the committee, then you have no say in any individual bill.

On the other hand, if you are willing to take each continuing resolution in its merits, then I can honestly say that the Appropriations Committee and the Rules Committee have given you a continuing resolution that you can support.

Mr. Speaker, as a senior member of the committee, my vote for the continuing resolution will be a vote to keep the Government running; but it is another example of the futility of the Budget Act of 1974. We have never met a deadline. It has held up the Appropriations Committee from reporting out bills until late in the year when the budget resolution has been adopted and the 302(b) allocations have been made in the House and in the Senate. We could blame the Senate, but we were late in sending our bills over there. They have got their own problems with this Budget Act.

Mr. Speaker, there is only one way out of this mess and I do not think it is going to come until we have complete chaos in the House. We are getting there. I think in the next couple months we will be in complete chaos. Then people in this House and in the Senate will come to the realization that we have made a mistake.

Mr. Speaker, I voted for the Budget Act. I supported Chairman WHITTEN. He was for the Budget Act. We went up to the Rules Committee and told Congressman Bolling that we should have this change, but we made a mistake. We should stand up here and say yes, we made a mistake. The system is not working. It is broken down. We are in utter chaos.

As I said yesterday, Mr. Speaker, when this new sequester that we voted on so proudly yesterday first goes into effect, there will not be enough bushes in the District of Columbia for Congressmen and Senators to hide under.

So until we repeal the Budget Act, until we repeal Gramm-Rudman-Hollings, we are going to be in this kind of mess.

The gentleman from Illinois can speak as much as he wants, but that is the solution, to start from scratch where we were once before in 1974. We used to get our bills out in an orderly fashion.

I remember, and the gentleman from Mississippi, JAMIE WHITTEN, must remember this, the subcommittees used to fight to see who could get the first bill out. We would always have two or three bills out before the Easter recess. Now we do not get our bills out until midsummer, all because of the Budget Act and all because of Gramm-Rudman-Hollings.

Mr. WHITTEN. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], a member of the committee.

Mr. OBEY. Mr. Speaker, I thank the chairman of the committee for yielding me this time.

I would like to make one comment before addressing myself to a point that needs to be clarified about the foreign operations title of the bill.

I fully agree with the gentleman from Massachusetts on the remarks he just made about the budget process. I agree that people ought to be thinking about leading a revolution, but I hope when they think about it that the revolution is against the right thing.

A number of Members, frankly, who do not understand the process around here wind up shooting at the Appropriations Committee because they say, "Gee whiz, you guys are producing continuing resolutions. You guys don't have any conference reports for us."

The fact is that what they are doing is simply shooting the messenger, rather than doing something about the root cause.

I think people need to understand one thing, that if they want to shoot at what really needs to be dealt with, they need to deal substantially with a reform of the budget process. They also have to face the fact that even the best budget process in the world cannot function if any administration sends down numbers which wind up being unrealistic from the day that they arrive here. That simply means that because they have 90 percent of the resources and the Government has put together a budget, if you start with a bunch of phony numbers, phony assessments and phony judgments, no amount of wizardry on Capitol Hill can correct the problem.

The second thing I think we have to understand is that the original purpose of the budget process was to help this institution match revenues with spending. In that goal, it has been a spectacular failure. As a result, because the budget process has not been able to meet its primary obligation, it has wound up in essence simply being a time drag on the ability of the committee doing real things to get the work done. That is the tragic point to it.

The SPEAKER pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. WHITTEN. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. OBEY. Mr. Speaker, I would also like to take this time to explain a situation with regard to Africa development assistance levels.

For fiscal year 1988, the administration has requested a separate line item for economic assistance for sub-Saharan Africa. Since no such separate line item was included in the fiscal year 1987 Appropriations Act, using the formula contained in the continuing resolution would result in no funds being provided for sub-Saharan Africa. To avoid this anomalous situation, for purposes of determining the rate for operations for development assistance under the continuing resolution, it is the committee's intention that the fiscal year 1988 request level for each of these accounts, including the Sahel, be considered as including an amount for sub-Saharan Africa as identified in AID's fiscal year 1988 congressional presentation.

The congressional presentation levels for sub-Saharan Africa by functional account are as follows: agriculture, rural development and nutrition, $151,100,000; population, $23,975,000; health, $23,649,000; child survival fund, $7,391,000; education and human resources development, $59,508,000; energy and selected development activities, $163,877,000; Sahel development, $70,500,000.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to my good friend, the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I had a chance to track appropriation bills for the last few years. I agree with our minority chairman, the gentleman from Massachusetts [Mr. CONTE] that we have some real serious flaws in budgetary deadlines in respect to the Budget Act. Looking back over the last 10 years, since I have been here, we have had continuing resolutions in every year but one.

□ 1115

The last year that all appropriation bills were passed on time in the House and Senate was 1954, way before Gramm-Rudman, way before the Budget Act. I was looking at this record and I added up the number of bills in the last 10 years that have not passed the House and Senate on time. That is a total of 52 appropriation bills out of a possible 130 in the last 10 years. That is about a 40-percent batting average and that is not too good.

I agree with both chairmen, we have some responsibility here to look at budget reform but it is deeper than that. I think it is the inability of both sides of the aisle and the executive branch to not meet deadlines and have those bills passed by October 1 and on the President's desk so that he can look at them individually. A sitting President would want that constitutional responsibility so stated when presenting a budget to the Congress in January. Certainly the opportunity exists to use the veto, or engage in an earlier planning process with the appropriate committees to see if those bills are in good shape prior to October 1.

There is fault on all sides, the House, the Senate, and the executive branch, but in looking at the history depicted on this chart that I have prepared, I think we cannot fault Gramm-Rudman for the inability of the last 10 years to have nine continuing resolutions, of which I have voted against I think all but one.

[Chart not printed in RECORD.]

I have broken out the track record of individual appropriation subcommittees. I am not going to read those into the RECORD today but I will submit them for the RECORD at an appropriate time, because some chairmen have exercised good discipline in terms of timetables, and some have not.

I think, as I understand it, some of the leaders have held up appropriation bills even when the subcommittee chairmen on appropriations have wanted to move them through, get them passed and get them over to the other side. So I congratulate the subcommittee chairmen and the ranking minority members for their good work, for those who have gotten their bills completed.

I think we have a lot of work to do in reevaluating the last few years of our track record. We must have a more appropriate schedule so we can get all 13 appropriation bills to the President by October 1 in order that we can help this Nation eliminate the deficit.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, here we go again. The congressional game show. We are placing the whole country in jeopardy because we continue to spin the wheel of fortune that is this continuing resolution. Our contestants, or should I say our constituents, are at risk here. They are in a position to win, lose, or draw at our hand every year in this game show that we call the continuing resolution. Are we engaging in the sale of the country here if the price is right? Is this the kind of business that our constituents want us to conduct in formulating a budget?

I say that we are engaged in a scrabble that confuses everyone and brings us to a point of risk every year. We ought to face the truth or the consequences that come from this kind of action every year. The truth is that we need a budget process that will work.

The consequences of not having it are at hand today. We see uncertainty and the same old game show of postponing the inevitable and not coming up with proper appropriations.

I think we ought to engage in new kinds of games, or create our own games here. Budget busters, would be a good one to start with. It is one that would bring us the point of recognizing what our responsibility is. It is time to end the game shows, get into budget reform, and quit the game of continuing resolutions.

Mr. FAZIO. Mr. Speaker, House Joint Resolution 362, the first continuing resolution for fiscal year 1988, extends the conditions and limitations in force in fiscal year 1987. In particular, it is my understanding that it is the committee's intention that the continuing resolution extends the moratorium on the prepayment of certain rural rental housing loans which is contained in section 634 of the fiscal 1987 continuing resolution and which was extended in the fiscal 1987 supplemental appropriations bill.

Mr. COMBEST. Mr. Speaker, 1 week from today the current fiscal year draws to a close. As this deadline approaches, Congress is once again faced with the realization that our work is far from completed. In fact, we have missed all of our own budgetary deadlines and a huge continuing appropriation bill must be passed to keep the Government in business.

Unfortunately, Congress' inability to fulfill its obligations and to meet its self-imposed deadlines has become business-as-usual in the Nation's Capital. The Congress has not sent the President one single piece of legislation to fund the Federal Government despite a June 30 deadline.

Legislating in this Band-aid fashion is nothing short of a travesty and the American people deserve much more from the Congress. In fact, the last time Congress fulfilled its responsibility and sent all 13 annual appropriations bills to the President on time was back in 1954. Our track record is an embarrassment.

Mr. Speaker, despite my strong objections to legislating through continuing resolutions, I intend to vote for this short-term resolution for two reasons.

First, the resolution we are voting on today would continue funding for Federal programs at current fiscal year 1987 levels from October 1 to November 10, 1987. This 40-day extension would hopefully enable the Congress to hammer out agreements on the 13 appropriation bills. It is important to note that if we held spending at this level for the entire fiscal year, we could make a substantial dent in the deficit.

Second, the legislation also contains $3.5 million in humanitarian assistance to the democratic resistance in Nicaragua. Failure to provide aid to the Nicaraguan freedom fighters at this critical time would be foolish.

Abandoning the freedom fighters at a time when they need it the most only undermines their efforts to restore democracy in Marxist Nicaragua.

As we chalk up another year of being forced to pass a continuing resolution to keep the Federal Government operating, I urge my colleagues to renew their efforts to drastically reform our flawed budget process. Let's stop missing important deadlines and waiving the Budget Act and bring some integrity back to the Congress.

Mrs. MORELLA. Mr. Speaker, it is with some reluctance that I will vote for the continuing resolution, a measure which will continue Government spending for the first month and 10 days of the new fiscal year for all programs funded by the 13 regular appropriations bills.

Without passage of a continuing resolution, there would be no paychecks for Federal employees, 60,000 of whom live in Maryland's Eighth Congressional District, and essential Government services would soon grind to a halt.

I am opposed to the provision of the continuing resolution that appropriates $3.5 million in nonmilitary aid for the Nicaraguan Contras through November 7. I consider it unwise and am disappointed that there was no opportunity to vote on an amendment to strike this provision from the resolution.

It is unfortunate that Government funding should come to this. All too often in recent years, Congress has failed to pass appropriations bills in a timely fashion and has had, instead, to pass omnibus spending bills outside of the normal, careful funding process. As a result, individual items are not given the consideration which is their due, but are instead wrapped into a large spending package which must be approved to keep the Government operating.

Mr. ATKINS. Mr. Speaker, I rise in opposition to House Joint Resolution 362.

It is with a heavy heart that I vote against this measure. I understand that a fragile compromise has been constructed on the issue of Contra aid, and that the $3.5 million in humanitarian aid included in the bill is the result of extensive negotiations across the aisle. Still, I cannot in good conscience vote for aid to the Contras to be administered by the CIA and the Department of Defense.

This body long ago banned the CIA and the DOD from administering humanitarian aid in Central America. We know their record. Yet, this bill would have these champions of the Contra's military cause distribute this nonlethal aid. It is a conflict of purpose that I cannot reconcile in my own mind. If the aid is indeed to be humanitarian, it should be administered by the Red Cross or other relief agencies.

Yesterday, we heard President Arias of Costa Rica describe the need for diplomacy, cooperation, and reconciliation in Central America. We heard of his efforts to bring the wars in Central America to an end. We heard his reminder that the United States must be a partner in the peace process underway, that the United States must cease to aid the Contras. Approval of this bill could be interpreted as a sign of bad faith on the part of the United States. This bill provides the wrong kind of aid at the wrong time.

I urge my colleagues to vote against the bill.

Mr. HOYER. Mr. Speaker, I rise to point out to the House an issue which is of concern to a great many Members.

As the House is aware, the budget agreed upon by both the House and the Senate provided for a 3-percent pay raise for Federal employees. The President ignored this recommendation, along with the recommendations of his pay agent—24 percent increase—and Advisory Committee on Federal Pay—8 percent increase—and recommended instead a 2-percent comparability adjustment for Federal employees.

Just as last year, I will offer an amendment to the final continuing resolution which will override the President's recommendation and provide Federal employees what we have provided in the budget, a 3-percent comparability adjustment. This amendment is not on this short-term resolution, in an attempt to keep this emergency measure "clean."

I merely want the Members who may be getting mail from their constituents on this issue to know that there will be an opportunity to resolve it before the end of the session.

FISCAL YEAR 1988 COMPARABILITY ADJUSTMENT

SUMMARY OF HOYER AMENDMENT

Amendment is identical to that which is already in the House and Senate budget resolution. It provides for a 3-percent comparability adjustment for civilian employees for fiscal year 1988. The amendment is silent on the adjustment for military employees, which is still to be determined by the Defense Subcommittee. The amendment also provides, as the budget did, for 100-percent absorption.

FISCAL IMPACT

CBO has said that this amendment will have no impact on outlays or authority relative to the budget agreement. Further, for purposes of Gramm-Rudman, the amendment will actually produce a savings of $902 million, since the CBO baseline assumed a 3-percent adjustment without any absorption. (The Gradison baseline, which is based on the President's recommendation, assumed a 2-percent civilian and 4 percent military, with 50-percent absorption for civilian, so there will be a $730 million savings against this baseline.)

ARGUMENTS

President recommended a 2-percent adjustment in August, which in the absence of a law establishing a different adjustment will become effective.

House Concurrent Resolution 93, the budget resolution was agreed to by the House and Senate (June 23 and June 24) and provides for a 3-percent pay adjustment with 100-percent absorption.

The President's pay agent recommended that a comparability adjustment of 23.74 percent would be needed to achieve comparability with private enterprise pay rates.

The Advisory Committee on Federal Pay rejected the President's budget recommendation of 2 percent, and rejected the congressional budget recommendation of 3 percent, and recommended instead 8 percent. It also made this effective on October 1, instead of January 1.

The committee referred to the "quiet crisis" of the "creeping erosion of the quality of the Federal service and the Government's ability to successfully enter the 21st century.

The committee also declared that: "The current Federal pay and benefit system is failing to achieve efficiency. The breakdown of the system is most apparent at the top and bottom levels of Government."

The number of people under "special rates" has more than doubled, from 40,000 to 110,000.

The White House fellows program had a 50-percent drop in the number of applicants.

The advisory committee made clear that if we are to attract and retain quality people to Federal service, we must begin to close the 24-percent gap. Their 8-percent recommendation would be a reasonable step, but would cost $3.35 billion (as opposed to $1.26 billion for 3 percent). Since this would be unreasonable in light of the budget constraints, Hoyer decided to at minimum offer the 3 percent.

Employee health premiums will rise on average 31 percent this year, with some plans rising as much as 70 percent. Most HMO's will increase by 12 percent, with a few actually lowering their rates, but the clear majority of employees will face higher health care costs this year. The extra 1 percent Congress provided in the budget isn't much, but it is more than the President would give, and for employees under continuous assault, every little bit helps.

U.S. CONGRESS
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 17, 1987.

Hon. STENY H. HOYER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN: As your staff requested, the Congressional Budget Office has reviewed their oral description of a proposed amendment to the Continuing Resolution for Fiscal Year 1988, as pending before the House Committee on Appropriations.

According to your staff, the amendment would provide for a 3 percent increase in pay rates to federal civilian employees, effective January 1988. The amendment would also result in a 3 percent increase in basic pay and allowances for uniformed military employees. The amendment further states that civilian agencies would be required in the aggregate to absorb the entire first-year cost of the pay increase from their 1988 appropriations. The cost of the pay raise is shown in Table I. Because the Concurrent Resolution on the Budget for Fiscal Year 1988 as interpreted by the House Budget Committee assumes the same rate of pay increase and absorption as your amendment, your amendment would have no budgetary effect relative to the budget resolution.

TABLE I

[In million of dollars]

Program (budget function)	Authorization amounts in Hoyer amendment	
	Budget authority	Outlays
Civillian agency employees (920) (assuming 100-percent absorption)	0	0
Department of Defense civilian employees (050)	616	605
Department of Defense military employees (050)	1,482	1,379
Subtotal	2,098	1,984
Employer share, employee retirement (950)	−715	−715
Net budgetary effect	1,383	1,269

Table II shows the budgetary effects in fiscal year 1988 of the pay assumptions in the CBO baseline. The CBO baseline assumes a 3 percent pay increase effective January 1988 for civilian and military employees, and that appropriations enacted will cover the full cost of the pay increase. Relative to CBO's baseline, your proposed amendment would result in net outlay savings of $902 million in 1988.

TABLE II

[In millions of dollars]

Program (budget function)	Authorization amounts in CBO baseline		Savings of amendment relative to baseline	
	Budget authority	Outlays	Budget authority	Outlays
Civilian agency employees (920)	864	902	−864	−902
Department of Defense civilian employees (050)	616	605	0	0
Department of Defense military employees (050)	1,482	1,379	0	0
Subtotal	2,098	1,984	−864	−909
Employer share, employee retirement (950)	−715	−715	0	0
Net budgetary effect	1,383	1,269	−864	−902

As seen in Table III, your amendment would result in net outlay savings of $730 million in fiscal year 1988 relative to CBO's base for the Balanced Budget Act of 1985. In the August 1987 joint OMB-CBO sequestraton report, CBO assumed increases in the amounts recommended by the President: 2 percent for all civilian employees (with civilian agencies absorbing 50 percent of the first-year cost) and 4 percent for uniformed military employees (with no absorption assumed), effective in January 1988. For purposes of the Balanced Budget Act, however, the CBO figure is only half of the story. The actual change to the excess deficit would be the average of the CBO and OMB estimates for this amendment.

TABLE III

[In millions of dollars]

Program (budget function)	Authorization amounts in balanced Budget Act base		Savings of amendment relative to base	
	Budget authority	Outlays	Budget authority	Outlays
Civilian agency employees (920)	323	312	−323	−312
Department of Defense civilian employees (050)	505	496	111	109
Department of Defense military employees (050)	2,009	1,979	−527	−600
Subtotal	2,837	2,787	−739	−803
Employer share, employee retirement (950)	−788	−788	73	73
Net budgetary effect	2,049	1,999	−666	−730

If you wish further details on this cost estimate, we will be pleased to provide them.

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

Mr. CONTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JEFFORDS. Mr. Speaker, there are two good reasons to oppose the rule and this legislation. First, we have reached the end of fiscal year 1987 any yet not a single appropriations bill has been passed into law. Second, upon adoption of the rule, this bill will contain $3.5 million in humanitarian aid for the Contras—a bad precedent at a time when the nations of Central America are struggling to achieve a negotiated regional settlement.

Each time we stand at this juncture in the Federal fiscal process, good resolutions are made by all parties that this will not happen again; and that it happened this time only because other parties were not willing to compromise or make tough decisions.

But here we are with another omnibus spending bill, and a stop-gap one at that. This bill essentially is an abdication of our fiscal responsibilities. It makes no programatic or policy changes—it just gives Congress a 40-day extension on its deadline. In the meantime, the new fiscal year marches on and the deficit continues to grow.

Finding ourselves in this predicament, the least Congress can do would be to use these 40 days to approve and send to the President the 13 individual appropriations bills. There is sufficient time to avoid another frightful continuing resolution if we dedicate ourselves to the task of doing so.

Finally, let me turn to the other very disturbing aspect of this bill—$3.5 million for the Contras. Negotiations to achieve a regional peace settlement in Central America are at a very sensitive stage. A great deal of effort is being put into developing a settlement acceptable to all parties. It is imperative that the United States be a constructive part of this process. Approval at this time of even a small amount of humanitarian Contra aid sends the wrong signal to the region. I am sorry to see this provision pass the House. I would hope that this might be the last time that the House approves aid to the Contras.

The SPEAKER pro tempore (Mr. COELHO). All time has expired.

The text of House Joint Resolution 362, as amended by House Resolution 270, is as follows:

H.J. RES. 362

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1988, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for programs, projects, and activities which were conducted in the fiscal year 1987, under the current terms and conditions and at a rate for operations not in excess of the current rate, for which provision was made in the following and subsequent appropriations Acts:

The Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, and section 1241(a)(1) of Public Law 99-198;

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1987, notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956 and section 701 of the United States Information and

Educational Exchange Act of 1948, as amended;

The Department of Defense Appropriations Act, 1987 notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1987;

The Energy and Water Development Appropriations Act, 1987;

The Foreign Assistance and Related Programs Appropriations Act, 1987, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956: *Provided*, That the rate for operations shall not be in excess of the current rate or the rate provided for in the budget estimate, whichever is lower;

The Department of Housing and Urban Development—Independent Agencies Appropriations Act 1987;

The Department of the Interior and Related Agencies Appropriations Act, 1987;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and section 101(n) of Public Laws 99-500 and 99-591;

The Legislative Branch Appropriations Act, 1987;

The Military Construction Appropriations Act, 1987, except for section 206 of such Act: *Provided*, That the authority available as of September 30, 1987, shall be continued to allow the obligation and expenditure of previously appropriated funds in section 206 for supporting, monitoring, and managing the activities provided for under section 206 in fiscal year 1987: *Provided further*, That in order to strengthen and continue the peace process in Central America, not to exceed the current rate of $2,650,000 per month shall be available only for humanitarian assistance and its support, management, and monitoring in accordance with the provisions of title II of the Military Construction Appropriations Act, 1987;

The Department of Transportation and Related Agencies Appropriations Act, 1987; and

The Department of Treasury, Postal Service, and General Government Appropriations Act, 1987.

(2) No appropriation or funds made available or authority granted pursuant to this subsection shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1987.

(3) No appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1987 or prior years, for the increase in production rates above those sustained with fiscal year 1987 funds, or to initiate, resume or continue any project, activity, operation or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1987: *Provided*, That no appropriation or funds made available or authority granted pursuant to this subsection for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 102. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 10, 1987, whichever first occurs.

SEC. 103. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 104. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 105. No provision in any appropriations Act for the fiscal year 1987 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 102(c) of this joint resolution.

SEC. 106. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

The SPEAKER pro tempore. Pursuant to House Resolution 270, the amendments printed in section 2 are considered as having been adopted, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 138, not voting 26, as follows:

[Roll No. 332]

YEAS—270

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Archer
Armey
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Boucher
Boulter
Brooks
Broomfield
Brown (CA)
Bryant
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Conte
Cooper
Coughlin
Coyne
Darden
Daub
Davis (MI)
DeLay
Derrick
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Edwards (OK)
Emerson
English
Espy
Fascell
Fazio
Fields
Fish
Flake
Flippo
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gilman
Gingrich
Glickman
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Huckaby
Hutto
Hyde
Ireland
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Kanjorski
Kaptur
Kasich
Kildee
Kolter
LaFalce
Lantos
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Lungren
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (OH)
Moakley
Mollohan
Montgomery
Morella
Morrison (WA)
Mrazek
Murtha
Myers
Natcher
Nelson
Nichols
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Parris
Pashayan
Patterson
Pease
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schulze
Schumer
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stokes
Stratton
Sundquist
Sweeney
Swift
Swindall
Taylor
Thomas (GA)
Torricelli
Towns
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Waxman
Weiss
Weldon
Whittaker
Whitten
Wise
Wolf
Wolpe
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—138

Applegate
Atkins
AuCoin
Badham
Baker
Ballenger
Bates
Bilirakis
Bosco
Brennan
Brown (CO)
Bruce
Buechner
Burton
Callahan
Coats
Conyers
Courter
Crane
Crockett
Dannemeyer
Davis (IL)
DeFazio
Dellums
DeWine
Dorgan (ND)
Dornan (CA)
Dreier
Durbin
Eckart
Edwards (CA)
Erdreich
Evans
Fawell
Feighan
Florio
Foglietta
Gallegly
Gekas
Gonzalez
Grandy
Gregg
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Hopkins
Hubbard
Hughes
Inhofe
Jacobs
Jeffords
Jontz
Kastenmeier
Kemp
Kennedy
Kennelly
Konnyu
Kostmayer
Kyl
Lagomarsino
Leach (IA)
Leath (TX)
Lehman (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Luken, Thomas
Lukens, Donald
Mack
Marlenee
Mavroules
McCandless
McEwen
Miller (CA)
Miller (WA)
Mineta
Molinari
Moody
Moorhead
Morrison (CT)
Murphy
Nagle
Neal
Nielson
Oberstar
Oxley
Packard
Panetta
Pelosi
Penny
Petri
Porter
Pursell
Ridge
Rinaldo
Roberts
Robinson
Roth
Rowland (CT)
Roybal
Russo
Schaefer
Schneider
Schroeder
Schuette
Sensenbrenner
Sharp
Shumway
Sikorski
Slaughter (NY)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Stark
Stenholm
Studds
Stump
Synar
Tallon
Tauke
Torres
Traficant
Upton
Walgren
Weber
Wheat
Wyden
Yates
Yatron

NOT VOTING—26

Anthony
Aspin
Biaggi
Boner (TN)
Boxer
Collins
Craig
Daniel
de la Garza
Ford (TN)
Frenzel
Gephardt
Gibbons
Hunter
Kleczka
Kolbe
Lancaster
Latta
Livingston
McCurdy
Roemer
Spence
Tauzin
Thomas (CA)
Williams
Wilson

□ 1130

The Clerk announced the following pairs:

On this vote:

Mr. Lancaster for, with Mr. Craig against.

Mr. Spence for, with Mr. Hunter against.

Messrs. DAVIS of Illinois, HUGHES, BUECHNER, WHEAT, YATES, MINETA, RINALDO, CONYERS, and HEFLEY, and Ms. PELOSI changed their votes from "yea" to "nay."

Messrs. LUJAN, ARMEY, and HARRIS changed their votes from "nay" to "yea."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KOLBE. Mr. Speaker, on House Joint Resolution 362, contiuing appropriations for fiscal year 1988, I was on the floor and believed that I had voted, used my card, and thought that it had recorded. it apparently did not, and, therefore, I am not recorded on that vote.

Mr. Speaker, I intended to vote "yea."

□ 1145

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2939, AMENDING UNITED STATES CODE WITH RESPECT TO THE APPOINTMENT OF INDEPENDENT COUNSEL

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-315) on the resolution (H. Res. 273) providing for the consideration of the bill (H.R. 2939) to amend title 28, United States Code, with respect to the appointment of independent counsel, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have asked for this time for the purpose of receiving the schedule for the balance of the week and for next week, and I owuld be glad to yield to the distinguished majority leader for that purpose. I think that this does conclude the schedule for the day and the balance of the week.

Mr. Speaker, can the majority leader confirm that and give us the schedule for next week?

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican whip for yielding.

The House has completed the legislative business for today, and the House will not be in session tomorrow, in observance of Rosh Hashannah.

The House will meet at 10 a.m. on Friday for a pro forma session. No legislation is expected.

On Monday, September 28, the House will not be in session.

On Tuesday, September 29, the House will meet at noon to consider 10 suspensions. Recorded votes on the suspensions will be postponed until after debate on all suspensions has been completed. The list of suspensions is as follows:

H.R. 390, to authorize a gold medal to Mary Lasker;

H.aR. 3251, to authorize the minting of coins in commemoration of the bicentennial of the U.S. Congress;

H.R. 2035, to increase the authorization for Lowell National Historical Park;

H.R. 2566, Jean Lafitte National Historical Park and Preserve Amendments;

H.R. 1495, Smokey Mountain Wilderness;

H.R. 2530, Mississippi National River and Recreation Area;

H.R. 2596, Admiralty Island National Monument Management Act;

H.R. 2893, Fishermen's Protective Act reauthorization;

H.R. 1173, to establish a National Ocean Policy Commission; and

H.R. 3017, National Sea Grant College Program Act.

On Wednesday, September 30, the House will meet at 10 a.m. to consider H.R. 2939, the Independent Counsel Amendments Act, subject to a rule.

On Thursday, October 1, and Friday, October 2, the House will meet to consider H.R. 2310, the Airport Development and Improvement Act, subject to a rule being granted.

Mr. Speaker, I might repeat that the House may be in session on Friday, October 2. In addition to the possibility of meeting that day to complete action on the Airport Development and Improvement Act, any adjustments that might be required because of the failure to conclude the continuing resolution would require that Members be on notice that there is a possibility, though not yet a probability, of a Friday session on October 2, and Members should accordingly adjust their schedules to recognize the possibility that the House may be in session on that day.

Mr. LOTT. Mr. Speaker, if the gentleman will let me take my time back just briefly right on that point, it is not necessarily expected the House will be in session, in fact, it is hoped the House will not be in session on that Friday, but it would depend on what the Senate does with respect to the continuing resolution; is that right?

Mr. FOLEY. If I were advising a Member or making my own decision, I would say the presumption is that the House will not be in session on Friday, but Members would be well advised to make plans for Friday which would permit their cancellation to accommodate a session of the House, if one should be called on short notice, and to avoid commitments which would be extremely difficult to change in the event that the House schedule should call for a Friday session.

Mr. LOTT. Mr. Speaker, if the distinguished majority leader would allow me to continue, I would like to ask about a couple of things that are not listed on the schedule. We still have three appropriation bills left that were supposed to have been completed by June 30. We do not have any of those three bills listed for next week. Does the gentleman have any idea when we might bring up any of those three appropriation bills?

Mr. FOLEY. No; I do not.

Mr. LOTT. What about reconciliation? Assuming we are going to be able to get the Gramm-Rudman and the debt ceiling through the entire process, since this body has already acted on it, I assume we would be ready to move pretty expeditiously on reconciliation?

Mr. FOLEY. Yes.

Mr. LOTT. That was supposed to have been reported, I believe, or acted on by July 29, and when it did not meet that deadline, we were told along the way that it would be September 29. That is next Tuesday. Do we have any idea when reconciliation will be coming up?

Mr. FOLEY. No; I think reconciliation will probably be rescheduled for sometime in October.

Mr. LOTT. Jumping a little bit beyond next week, the week of the Columbus Day recess, we do expect the House will not be in session on that Monday, Columbus Day; is that correct?

Mr. FOLEY. That is correct.

Mr. LOTT. Beyond that, can the gentleman give the Members any information about that particular week?

Mr. FOLEY. Mr. Speaker, at this time we expect the remaining dates in the week except for Friday to be scheduled days.

Mr. LOTT. Is the gentleman saying we would not be in session on Friday of that week?

Mr. FOLEY. I think the possibility again is remote that there will be a Friday session that week. I am not in a position to give Members absolute assurance, but the presumption should be again that we will not be in session and schedules should be made for that day in home districts based on the possibility of a session, but probably not.

Mr. LOTT. Mr. Speaker, I have one observation and one final question, and then we will conclude this.

I notice that next week we have 10 relatively noncontroversial suspension bills scheduled and only 2 other bills actually scheduled, Independent Counsel and Airport Development and Improvement Act, with no appropriations, no reconciliation, and basically no heavy lifting.

Once again we talk about how basically we are on schedule and we are doing good, but it is looking to me more and more like maybe there is an effort for us to contribute to the D.C. economy by being here for our Christmas shopping. I would like to ask if the leader is thinking in terms of maybe being helpful to the local area economy, because I would like to contribute to my own local economy down in Mississippi.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield, the House has passed but the Senate has not acted on the debt ceiling extension, as the gentleman noted, and until the debt ceiling was passed and the Gramm-Rudman legislation was passed by the House and now may be enacted by the Senate and sent to the President, it was difficult to schedule reconciliation or for the committees to act on the reconciliation proposal. So, we are going to proceed on that expeditiously, and the reconciliation bill will be brought to the floor as soon as it is available.

As far as next week's work is concerned, the two bills that are scheduled are bills of major importance. Both of them are significant bills, and we are going to continue a schedule to meet the requirements of the House. We are going to go forward as quickly as possible, and it is our intention that after October 15 committees will be expected to have reported any bills that will be taken up this year.

Mr. LOTT. That is an important point. The gentleman has indicated that there have been whispers around here that maybe the House would try to complete its work and leave. I would suggest that that may be a very good idea, but if we are going to do that, we need to take up some of these heavy, important issues as soon as we can, and I would encourage the leadership to do that.

Mr. FOLEY. Mr. Speaker, I want to assure the gentleman and the House that there is no effort to delay or postpone critical bills for the purpose of keeping the House in session. Nobody on this side wants to see the House stay in session any longer than necessary, and I can assure the gentleman that his concerns are shared fully on this side of the aisle.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, if I might ask our distinguished majority leader this, let me say that I got very confused, and I am not sure that I understand what is going on anymore. I thought we came back on Monday for a lot of votes, and I wonder if we missed the votes we came back on Monday for. If we come back next week, I just cannot figure it out. I feel like I am in the NFL; I cannot figure what the game is.

Mr. FOLEY. Sometimes it requires a close reading of the schedule. We always attempt to inform Members as accurately as possible as to what they can expect, but sometimes last-minute developments make predictions that were previously announced somewhat inaccurate.

If the gentleman is concerned about the Monday schedule, we had anticipated that there would be a full consideration of H.R. 3030, the farm credit legislation. Because of a dispute which is jurisdictional in character and bipartisan—it does not affect one side of the aisle or another—it became clear that title III of that bill would involve a great dispute on the floor. In an effort to find the possibility of a compromise and conciliation, it was decided to remove title III from the bill on Monday and consider only titles I and II, which were not controversial to the same extent, or not significantly controversial. Because that decision was made late in the week, not all Members, I think, were fully aware of the fact that the previous prediction of a late session Monday night had been adjusted by the withdrawal of title III from the Farm Credit Act.

There was no intent to mislead Members. We did expect votes. We just did not expect the bill would be completed partially and would not involve as long a time as was otherwise predicted.

Yesterday we were trying to accommodate the White House invitation to Members of Congress which was later in the day canceled due to weather. So our schedule yesterday was somewhat shorter than it would have been otherwise, although we proceeded then after the announcement of the White House cancellation to complete the debt ceiling bill.

We try to let Members know ahead of time what to expect. We earnestly try to do that. Last-minute changes do occur, and the only thing I can suggest is that Members on both sides of the aisle, when they are making decisions and are concerned about what the schedule might be or whether there might be a change, should check with the leadership on your side of the aisle and on this side of the aisle. We will have announcements and other information available to keep Members fully apprised of last-minute developments.

Mr. GINGRICH. Mr. Speaker, I will ask the gentleman if he will yield to me for one moment.

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I just want to make one comment. It would be enlightening and helpful, I think, if, given the degree of accommodation and concern for comity which has clearly led to an occasional modest change in the schedule, we could have this assurance I would be curious to know if the next time we go through this exercise late next week if the leadership might offer us any week in which this dialog bore a reasonably accurate resemblance to the following week's behavior. I have listened carefully because I think these are important discussions, and I find it hard to tell whether or not in fact they had been as helpful as I had originally hoped they would be when our distinguished friend first began to brief us back in January.

Mr. Speaker, I thank both my colleagues for allowing me to participate.

Mr. FOLEY. Mr. Speaker, if the gentleman will yield further to me, I think our predictions are reasonably accurate. We try to tell Members what is planned, and those plans are for the most part carried out. But we have modern conveniences such as telephone lines where telephone numbers can be called, and the whip organizations on both sides will announce to a Member up to the very day in question what the proposed schedule is, and Members who want to keep last-minute tabs on any schedule changes have the availability of that number to call and see if there have been any changes. I would urge the gentleman from Georgia, who just left the floor, to avail himself of that means.

Mr. LOTT. Mr. Speaker, I would suggest that the gentleman does try to inform the membership of what is happening, and certain events do change. But I was just wondering if the gentleman gets as much harassment from his side as I do from my side when we have events like Monday when we say we are going to have a lot of recorded votes and then we do not have them. Some of my friends over here do not appreciate it.

Mr. FOLEY. Well, again I would say to Members on both sides that it is possible to keep checking or to have someone on your staffs to keep checking when you leave on Friday or over the weekend as to whether there has been any change in the schedule.

We do keep those telephone announcements fully up to date. It is a method of communicating with Members, and I would say it is useful for Members not to take just the announcement we make here on Thursday but to occasionally have someone on the staff check and see if there are any changes in the schedule so they can be made aware of it. We do not make these changes capriciously or lightly. There are usually involved major reasons for the change, and we try to make those changes as minimal as possible.

Mr. LOTT. Mr. Speaker, I thank the distinguished majority leader, and I yield back the balance of my time.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore (Mr. Lowry of Washington). Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT TO FRIDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Friday, September 25, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

ADJOURNMENT FROM FRIDAY NEXT TO TUESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Friday, September 25, 1987, it adjourn to meet at noon on Tuesday, September 29, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

□ 1200

ANNOUNCEMENT OF THE PASSING OF THE HONORABLE H.R. GROSS

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute.)

Mr. SMITH of Iowa. Mr. Speaker, I am saddened to announce the passing of a much esteemed and loved former Member, H.R. Gross. He passed away last night.

The memorial service will be at 1:45 Friday at Fort Myer Chapel, and for those who want to send an expression of sympathy, their address is River House, 1600 S. Joyce St., Arlington, VA 22202.

I am sure that all of the Members join in expressing sympathy to Hazel and the family.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO HAVE UNTIL 5 P.M. TOMORROW, THURSDAY, SEPTEMBER 24, 1987, TO FILE REPORTS ON H.R. 2897, FEDERAL TRADE COMMISSION ACT AMENDMENTS OF 1987

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until 5 p.m. on Thursday, September 24, 1987 to file certain reports on H.R. 2897; and I would say further, Mr. Speaker, this matter has been cleared by the minority side.

The SPEAKER pro tempore (Mr. Lowry of Washington). Is there objection to the request of the gentleman from Illinois?

There was no objection.

SENSE OF CONGRESS RESPECTING THE DESIGNATION OF JAZZ AS A RARE AND VALUABLE NATIONAL AMERICAN TREASURE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 57) expressing the sense of Congress respecting the designation of jazz as a rare and valuable national American treasure, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like to inform the House that the minority has no objection to this legislation now being considered.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan [Mr. Conyers], who is the chief sponsor of House Concurrent Resolution 57, expressing the sense of Congress respecting the designation of jazz as a rare and valuable national American treasure.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman for yielding to me.

I want to commend the leadership of this subcommittee for the excellent work it has done.

We have in fact a House of Representatives full of jazz buffs and jazz lovers. I want to tell the Members that if my life in the Congress could follow the ease with which I gathered signatures for this measure, I could make some revolutionary progress in the struggles around issues on which I work so hard, but this was truly a bipartisan endeavor.

It was one in which I found that many of the Members have a deep and abiding interest, and incidentally a lot more knowledge than I thought that they had before on this subject matter.

In my city of Detroit, many jazz musicians have developed and gone on to world fame.

I will not incite competition by naming any of the long roster of names, but it brought me in touch with this art form for which I had always had more than a passing interest, and because of my connection with some of the artists and the friendships that developed, I had always thought that there ought to be a more tangible connection between this legislative body and many of the artists who have been received in the White House who have served as diplomats traveling around the world.

As a matter of fact, they have done some of the most outstanding work in bringing disparate groups of people and countries together, that I thought there ought to be some tangible expression.

To my surprise, I found that the Congress had never once spoken on this subject of its appreciation to these unique artists who have promulgated this unique art form.

Out of that lack of a connection, it occurred to me that maybe in this 100th session of Congress, we could get together most of the Members to express the deep respect and love we have for this very unique art form.

I have been in countries throughout Europe in which many people thought that the art form was their art form. I have been in the Caribbean where there has been a fusion of the music of the Caribbean with jazz, and there have been many new genres of music that have been developed.

Jazz is a very generic term. I am looking at the gentlewoman from Louisiana, and I realize that there are all forms of jazz, so I come here very, very pleased to thank the gentleman from California [Mr. Dymally] who is, incidentally, the Chair of the Congressional Black Caucus, and the more than 150 of my colleagues who have joined with me on it.

Might I just conclude my appreciation to this body for their cooperation by inviting the House of Representatives to join the Congressional Black Caucus at the Washington Hilton tomorrow where we have a jazz panel, and we are favored with a number of musicians that I do not know by name; but I can tell the Members that Wynton Marsalis, his father and brother, and Percy Heath and his brother will all be there.

I would be very, very honored to acknowledge the presence of any of the Members of the House of Representatives that chose to be the Congressional Black Caucus's guests.

It is 6 p.m. at the Washington Hilton tomorrow, and I again express a deep appreciation to the chairman and ranking member of the subcommittee, who have made the expeditious and very timely passage of House Concurrent Resolution 57 possible.

Mr. DYMALLY. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I certainly do yield to the gentleman from California [Mr. Dymally], the chairman of the subcommittee, who helped to make the passage of this resolution possible.

Mr. DYMALLY. Mr. Speaker, I thank the gentlewoman for yielding.

While we do honor the jazz musicians across the country, we must not fail to recognize the work that the gentleman from Michigan [Mr. Conyers] has done over the years in bringing to the attention of the American public this unique form of art and culture.

Every year during the Congressional Black Caucus weekend, the gentleman from Michigan sponsors a dialog in jazz. I hope sometime the gentleman will sponsor a concert in jazz, so that we could learn not only about the history, but we could appreciate the music.

I really sought the time to have a dialog, if I may, with the gentleman from Michigan.

The gentleman made mention of it. As I travel across different parts of the country working, of course, at night there is nothing to do, and one looks around; but I am struck by the rise of jazz in Japan.

Indeed, Mr. Feather, the authority on jazz, has said one of the best arrangers and composers next to Duke Ellington is one in Japan. In New Orleans you hear the mourning jazz, the forties and fifties, and Dizzy Gillespie.

I am also intrigued by this notion that we can go overseas and have an opportunity to walk in any first-class hotel and listen to very good jazz, and the New Otani Hotel has a big band there and in other parts of Japan.

Of course, you must have a guide to know where these unique places are; but I am really, really impressed with the rise of jazz music in Japan.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman for yielding.

I am pleased that the gentleman would bring this point to our attention, because one of the unique qualities of our music, this jazz music with its Afro-American roots which has now been taken by all the artists in all the world; but in Japan our jazz artists have been afforded great honor and recognition, as well as remuneration, but it is frequently unlike any that they can enjoy in this country. For many years now, the great American jazz artists traditionally go to the Far East, where they are treated with the same caliber of respect as concert classical artists. As a matter of fact, they treat jazz as a form of classical music, because it not only can require great reading skill; but it also requires an ability to create a music line spontaneously, and so the artists are treated with great respect there.

It is a very, very important consideration.

Jazz has indeed become a worldwide phenomenon, but nowhere more so than in Japan, where it is studied with great care.

Mr. DYMALLY. The last time I ran into the gentleman by accident, of course, you were working, and it was in Moscow, as I recall, and the gentleman was trying to promote a jazz concert; and the cold war put a freeze on that effort.

Would the gentleman enlighten the House as to what happened to that?

Mr. CONYERS. Even in Moscow, in the capital of the Soviet Union, jazz was being promoted. People were, at the time I visited, practicing it in their basements. It was off limits. There are only certain clubs that could promote it.

In the era of glasnost, we hopefully have a different experience; but throughout the world, I would say to the gentleman from California, on the African Continent I remember a very unique experience where I heard a music combination that I thought was jazz and found out that it was really an African traditional music that had been going on all along, and some creative jazz musician had literally appropriated it to the jazz idiom.

I realized that it had been taken traumatically almost back through centuries to an African music that had been incorporated into jazz.

These kinds of experiences become commonplace as we travel around the world, and I think it leads to the wide collaboration of Members of both sides of the aisle in making this day possible.

Mr. DYMALLY. If I may continue the time which the gentlewoman had given me, one closing comment.

The gentleman from Michigan [Mr. Conyers] made mention of the fact that jazz has also penetrated the Caribbean and not being able to find a proper acronym, they call it soul-cal, which is soul calypso, which is a combination of soul and calypso and jazz music.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I simply want to compliment the gentleman from Michigan [Mr. Conyers], the sponsor of the resolution, and the gentleman from California [Mr. Dymally], the chairman of the subcommittee, for the excellent colloquy that has been very informative.

I concur with what the gentlemen said about the fact that appreciation of jazz is no respect of political philosophies, and in fact jazz belongs to the world.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from Louisiana [Mrs. Boggs].

Mrs. BOGGS. Mr. Speaker, I thank the gentlewoman for yielding to me.

I thank so much the gentleman from California [Mr. Dymally], the chairman of the subcommittee, and the gentlewoman from Maryland [Mrs. Morella], the ranking minority member of the subcommittee, and the gentleman from Michigan [Mr. Conyers], the chief sponsor of this legislation, for bringing this great piece of legislation to the floor, so that we may as the Congress recognize this truly American art form that has thrilled us all through the ages of its development.

As the Representative from the home, the birth of jazz in New Orleans, I thank very much the principals involved for the Tulane Jazz Archives Group, for the New Orleans Jazz Club, for Preservation Hall that was started by the late Alan Jaffe and is now being carried on by his wonderful wife, Sandra, and the great old musicians who are still with us there.

□ 1215

All of us together and all the people who are interested in jazz in New Orleans, LA, thank you very much.

I would like to say that both the Old Time Preservation Hall Jazz Musicians and then Fred Star, who was an executive vice president at Tulane University and now is the president of Oberlin, who started the Jazz Repertoire Orchestra while he was in New Orleans, and he keeps it up to this day, have been in the last year on trips to Russia. They have been all over the world before then, and were magnificently received with open arms and a lot of toe tapping. Fred came back with his orchestra and held a very important seminar at the Smithsonian on the experience that they had in the Soviet Union in relationship to jazz.

It is a magnificent piece of Americana that is so important to our relationships with many people in all parts of the world.

I would say all the Members who go on official trips abroad that if you really wish to please your host country recipients of your gifts that you order some of the great old jazz records from Preservation Hall to present to them. They are considered as really great objects of art by the people who do receive them in those countries.

Mr. Speaker, it is a rare day, I say to the gentleman from Michigan [Mr. CONYERS], when you can go to your colleagues in the House of Representatives and ask them to cosponsor a piece of legislation when you have all the saints come marching in and happy to be able to do it.

I thank the gentlewoman very much for yielding.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I could not let this occasion pass without mentioning our part of the country. My home is just east of Kansas City. Jazz, of course, has been a great part of the history of western Missouri, particularly Kansas City. Back in the twenties and thirties, of course, it was in its prime. Within the last 20 years there has been a concerted attempt to preserve this art form. The city of Kansas City is making an admirable contribution in preserving jazz as true Americana in the theater of the arts.

So, Mr. Speaker, I thank the gentlewoman and I wholeheartedly endorse the resolution.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Texas [Mr. GONZALEZ], a very distinguished Member of the House, who has been very patiently waiting to speak.

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman very much. I am very grateful to the gentlewoman for giving me this opportunity.

Mr. Speaker, I rise because I, too, like my colleague from that great State of his where Kansas City, of course, is located, coming from my native city of San Antonio where it has had from the beginning very close identification with jazz music and its truly 100 percent American contribution to bringing it out of the purely Afro-American center.

Mr. Speaker, I think we should note that in the beginning, which was around the time of World War I and immediately thereafter, as all wars bring great social upheavals, the Afro-American rhythm, which we now call jazz, was very much looked down upon by the traditionalists. The music of that time was, of course, the waltzes, the European music, and those people were very critical of what they called a disturbing introduction of Afro rhythms that they looked down upon, almost considering them to be cacophonous; but the truth of the matter is that down in the South those great musicians, particularly those coming from San Antonio, that incidentally represented every single one of our basic ethnic and racial and cultural segments; for instance, we had a very famous local San Antonio citizen who actually had been born in New Orleans, Don Albert, that became nationally known, but he had to come north and avoid the then strict segregation life and environment in our area, his identification until his death 5 years ago. Now he is nationally known. He was one of those who came in with national bands that had been hidden in the subbasement of American society, in Harlem, in New York, and in sectors of Chicago.

Then we had the Mexican-American famous musician, Emilio Casarez, who was born in San Antonio, had to leave San Antonio in order to get recognition in the North where he was identified with the great name bands, but also with the jazz musicians.

Today we have Jim Collum, who happens to be white, who happens to be the great conservator of jazz and is nationally and internationally known as such, conducts musical contests and joins in musical festivals purely on a jazz note, all the way from New Orleans to Moscow, to Paris, France, and today is conserving this great tradition of jazz music.

I want to compliment the sponsoring author and my distinguished colleague from Detroit for evolving this resolution, and certainly the distinguished gentlewoman from Maryland who has been so kind and generous in granting me this time.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 57

Whereas, jazz has achieved preeminence throughout the world as an indigenous American music and art form, bringing to this county and the world a uniquely American musical synthesis and culture through the African-American experience and—

(1) makes evident to the world an outstanding artistic model of individual expression and democratic cooperation within the creative process, thus fulfilling the highest ideals and aspirations of our republic.

(2) is a unifying force, bridging cultural, religious, ethnic and age differences in our diverse society,

(3) is a true music of the people, finding its inspiration in the cultures and most personal experiences of the diverse peoples that constitute our Nation.

(4) has evolved into a multifaceted art form which continues to birth and nurture new stylistic idioms and cultural fusions,

(5) has had a historic, pervasive, and continuing influence on other genres of music both here and abroad, and

Whereas, (6) has become a true international language adopted by musicians around the world as a music best able to express contemporary realities from a personal perspective; and

Whereas, this great American musical art form has not yet been properly recognized nor accorded the institutional status commensurate with its value and importance;

Whereas, it is important for the youth of America to recognize and understand jazz as a significant part of their cultural and intellectual heritage;

Whereas, in as much as there exists no effective national infrastructure to support and preserve jazz;

Whereas, documentation and archival support required by such a great art form has yet to be systematically applied to the jazz field; and

Whereas, it is in the best interest of the national welfare and all of our citizens to preserve and celebrate this unique art form: Now, therefore be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that Jazz is hereby designated as a rare and valuable national American treasure to which we should devote our attention, support and resources to make certain it is preserved, understand, and promulgated.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will now recognize those Members who are simply seeking unanimous-consent requests to accommodate necessary schedules, and then we will go on with the business of the House.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I was unavoidably absent last evening when the vote came on rollcall 330. If I had been present, Mr. Speaker, I would have voted "aye."

NATIONAL HOSPICE MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 234) to designate the month of November in 1987 and 1988 as "National Hospice Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. GRADISON], who is the chief sponsor of House Joint Resolution 234, to designate the month of November in 1987 and 1988 as "National Hospice Month."

Mr. GRADISON. Mr. Speaker, I am delighted that well over half of my colleagues have joined me in sponsoring House Joint Resolution 234. I am particularly grateful to the distinguished chairman of the subcommittee for bringing House Joint Resolution 234 to the House floor so promptly.

Similar resolutions, which I introduced in 1984, 1985, and 1986, received overwhelming bipartisan support.

Hospice—an innovative, comprehensive, compassionate approach to caring for terminally ill persons as well as their families—has become a respected, viable part of the Nation's health care system. Hospice care is now a permanent benefit under the Medicare Program and an option under the Medicaid Program.

Each year, thousands of families face the crisis of caring for a terminally ill family member. Hospice provides a unique program of support and care, allowing patients to remain in their own homes or in homelike inpatient facilities. The delivery of services by a team of physicians, nurses, social workers, therapists, clergy, and hospice-trained volunteers concentrates on enabling patients to live as meaningfully and as comfortably as possible until their death. Today, hundreds of programs across the country are dedicated to providing this invaluable service.

Hospice care has proven to be a humanitarian way for patients and their families to cope with the immeasurable stress and emotion of a terminal illness. While understanding of and support for the hospice concept has grown dramatically over the past few years, there is still a need for public education regarding the benefits of hospice care. It is also appropriate that we recognize the significant contributions made by those involved in the provision of hospice services and in the advancement of the hospice philosophy.

The public education and recognition programs conducted during "National Hospice Month" will continue to expand awareness and knowledge of hospice care.

Mrs. MORELLA. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Speaker, I thank the gentlewoman for yielding.

Let me say, Mr. Speaker, I would ask the gentleman from Ohio [Mr. GRADISON] for his attention. I know that he and the gentleman from California [Mr. PANETTA] have been real leaders in the hospice idea, the movement and the idea, for the consideration of those of us here in the House.

The reason I think this recognition is important, and I know the gentleman would agree with me about this, is that when we move a system from its most expensive, most intensive forms of care, to a more compassionate and in many cases less expensive form of care, we are not only helping out the budget, but we are putting that person in a much more appropriate setting. That is what hospice care does.

I want to commend the gentleman for his fine work and his colleague, and the gentleman from California [Mr. PANETTA] because I know that I as a junior Member of this body over the years have followed the hospice movement with interest. I am a supporter of it, a member of the subcommittee, and very supportive of what both these Members are going and I want to thank both for the leadership they have given us on this important issue.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to another of the original cosponsors of this important resolution, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Speaker, I rise today in support of House Joint Resolution 234, which would designate the month of November in 1987 and 1988 as "National Hospice Month." I am pleased to be an original cosponsor of this resolution, which was originally introduced by my distinguished colleague, Mr. GRADISON, as I have been of similar measures introduced in 1984, 1985, and 1986. All of these passed with broad, bipartisan support, and I am hopeful that the resolution now before us will similarly be adopted.

Hospice is a compassionate, cost-effective means for caring for the terminally ill that helps them remain in their homes and communities, among families and friends. Over the past decade, we have seen enormous growth in the hospice movement, and today there are estimated to be over 1,500 hospice programs in operation throughout the country. At the Federal level, I am proud to have played a major role, along with Mr. GRADISON, in making hospice a permanent benefit under the Medicare Program and an option under Medicaid.

Hospice provides an innovative means of care and support in which a team of health care workers and others strives to make the remainder of the lives of the terminally ill, and the lives of their families during this very difficult time, to be as meaningful and comfortable as possible. Serious illness is difficult at any time, and terminal illness is much more so: physically, emotionally, spiritually, and economically. Hospice helps to significantly relieve the burden in all of these areas.

Not only is hospice compassionate and emotionally supportive for the terminally ill and their families; it is cost-effective as well. It is widely concluded that the substitution of hospice for acute care can save significant amounts of money, for families or Government insurance programs that cover hospice. The Congressional Budget Office has estimated that hospice coverage under Medicare could save more than $100 million over 3 years and a report on hospice demonstration programs also concluded that hospice, in addition to its compassionate care, offers a cost savings in the last year of life. These facts are critical as we continue in the struggle to reduce deficits, and we must continue to encourage the development and utilization of cost-effective, community-based forms of care such as hospice.

Mr. Speaker, "National Hospice Month" is a time when numerous organizations conduct programs of public education and recognition of the hospice movement. Each successive year, Hospice Month thereby contributes to public support and knowledge of hospice, and this makes it a very meaningful joint resolution. Again, I hope that House Joint Resolution 234 will be adopted with overwhelming support.

□ 1230

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER (Mr. Lowry of Washington). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 234

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional and spiritual needs and specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care;

Whereas hospice is rapidly becoming a full partner in the Nation's health care system;

Whereas the recent enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November in 1987 and 1988 is designated as "National Hospice Month". The President is requested to issue a proclamation calling upon all Government agencies, the health care community, appropriate private organizations, and people of the United States to observe those months with appropriate forums, programs and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GOLD STAR MOTHERS DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 355) designating September 27, 1987, as "Gold Star Mothers Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but I would like the House to know the minority has no objection to the legislation now being considered.

Mr. Speaker, I yield to the gentleman from New York [Mr. Gilman], who is the prime sponsor of this resolution.

Mr. GILMAN. Mr. Speaker. I rise in support of House Joint Resolution 355, commemorating Sunday, September 27, 1987, as "Gold Star Mothers Day."

I thank the gentleman from Michigan [Mr. Ford], the distinguished chairman of the Postal Committee, the gentleman from California [Mr. Dymally], the distinguished chairman of the subcommittee and the ranking minority member, the gentlelady from Maryland [Mrs. Morella], for their expeditious consideration of this measure.

I wish also to express my appreciation to our many colleagues who have expressed their enthusiastic support for this measure of recognition.

I am pleased to be able to remind our colleagues and our Nation of our Nation's Gold Star Mothers, for although they have suffered the supreme sacrifice of motherhood by losing sons and daughters who served in our Armed Forces, they still give generously of themselves by helping women throughout our Nation and by donating thousands of hours of volunteer work and personal service in our veterans hospitals and to our veterans and their families and their communities.

Mrs. Shirley Delanoy, the president of American Gold Star Mothers has recently informed me about the memorial ceremonies the Gold Star Mothers are planning for the last Sunday in September, when a group of Gold Star Mothers are going to assemble at Arlington National Cemetery to conduct a service honoring all Gold Star Mothers for the loss of their sons and daughters, followed by the placing of a wreath at the Tomb of the Unknown Soldier. Following their Arlington service the women will proceed to the Vietnam Veterans War Memorial to place another wreath at the war memorial as a special tribute to those 58,000 who lost their lives or who remain missing.

Mrs. Delanoy also expressed concern about their organization's diminishing membership. Once over 10,000, membership now stands at 4,000. It is believed that this decline in membership may be a result of the public's perception of the Vietnam war. For everyone of those 58,000 soldiers who sacrificed their lives in Vietnam, there is a mother who perpetuates the memory of that son or daughter. Some women have shied away from joining the Gold Star Mothers because of the unwarranted shame and discredit that has been inflicted upon them and their lost son or daughter. This decline in membership has eroded the organization's effectiveness affecting its finances and the running of their national headquarters here in Washington, DC.

I have introduced this resolution, designating this Sunday as "Gold Star Mothers Day," in order to focus attention on this courageous, dedicated group of women, as well as expressing our gratitude for the service they have bestowed upon our country. Although I realized that I would have only 2 weeks once Congress returned from the August recess to gather the necessary signatures and expedite the bill through the legislative process, I was also aware of the respect and admiration the Gold Star Mothers enjoyed from Congress. My fellow colleagues have responded generously with their support, reassuring me that motherhood and allegiance to our Nation are still held in high esteem.

Mr. Speaker, on September 14, 1940, the late President Franklin D. Roosevelt issued a proclamation designating the last Sunday in September as "Gold Star Mothers Day." In order to continue that worthy tradition I invite my fellow colleagues to join in support of House Joint Resolution 355, designating September 27, 1987, as "Gold Star Mothers Day."

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I commend the gentleman from New York [Mr. Gilman] for introducing this resolution.

Mr. Speaker, I yield to the gentleman from California [Mr. Dymally], the chairman of the subcommittee.

Mr. DYMALLY. Mr. Speaker, I wish to commend the gentleman from New York [Mr. Gilman] for his continued interest in this cause and the issues and the concerns of veterans, concerns for POW's, and for the men missing in action. Never an opportunity comes by without the gentlemen from New York [Mr. Gilman] expresssing some concern for these brave men and women who have given so much for us, and today appropriately so, he is focusing attention on the mothers of these veterans who have died in service, some of whom are missing in action, some of whom are prisoners of war, none of whom can hear our voices today. I am very pleased that my friend is continuing to express his deep commitment as the leader in the movement to free our prisoners of war and to find our men missing in action and to dedicate a word of praise to their mothers. I commend him for that.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I want to congratulate my colleague, the gentleman from California [Mr. DYMALLY] and everyone, particularly the gentleman from New York [Mr. GILMAN], my good friend, for putting this bill in. I understand that a group of Gold Star Mothers will gather this Sunday at our beautiful national cemetery at Arlington and after they lay a wreath there they are going to march down to the Vietnam Memorial.

Over the weekend I was at Panmunjom in Korea and stood on the North Korean side where the negotiations were and I rode a vehicle to the spot where on August 18, 1976, two young American officers were murdered with axes, Lt. James Barrick, and Capt. Arthur Boniface. Their mothers are still alive; they are Gold Star Mothers. I think it is peculiar, as someone who joined in the Korean war at the end of that war in late 1952 and never had to serve in combat, that we do not have a memorial for 33,629 Gold Star Mothers, most of whom are still alive, from the Korean war. Somehow or other in our noble and anxious effort to pay tribute to the Vietnam veterans who have taken such a psychological beating at the end of that agonizing decade trying to keep Indochina free and prevent the killings of boat people and the genocide in Cambodia, that we forgot to build a memorial to the 300,000 casualties of the Korean war, the paraplegics, and the 33,629 dead Korean veterans.

I hope this House will get about the business of not making people go through private donations, as we did with the Vietnam Memorial, but do what we have done with that beautiful Iwo Jima Memorial, the 1st Army Division Memorial in front of the White House Executive Office Building, the 2d Army Division Memorial just south of that on Constitution Avenue, and put up in this Federal City a memorial to our Korean veterans for the Gold Star Mothers of that war, and that we get about it in this 100th Congress.

Again, my congratulations to everybody involved in paying respect to these, the greatest mothers in our country, those that give their flesh and blood for our freedom and in every institution that we hold dear that was purchased with the lives of their sons.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from California [Mr. DORNAN] for his remarks in support of this measure.

The gentleman mentioned a tragic incident that occurred in Korea several years ago with the chopping down of the branches of the tree and then the chopping down of the American soldiers that followed. I had the tragic, the very sad duty of presenting a flag on behalf of the President to Mrs. Boniface, who resided in my district at that time. I did want to point out that Mrs. Shirley Delanoy, president of the American Gold Star Mothers, has reluctantly stated to us in the Congress that their ranks have diminished badly over the years because not many of the mothers who sacrificed know of their organization, and she had made a special plea for those in the Korean war and the Vietnam war to join their ranks so that they can continue to do the wonderful things that they are doing in support of our veterans and in keeping our Nation reminded of the sacrifice that so many have given to our Nation.

Mr. DORNAN of California. Mr. Speaker, if the gentlewoman will continue to yield, I discussed in Korea with our military that there are between 400 and 500 American men in uniform who have been killed exclusive of the campaign theater of Indochina and Korea, 400 who have been killed along the DMZ in periods of so-called peace, that have been killed in Europe, that have been shot down in airplanes around the world. For example, Arthur D. Nicholson, who was killed last year in Potsdam. We could have had a soldier killed on the very day that we announced that we finally had an INF arms control treaty.

Mr. Speaker, over 400 to 500 Gold Star Mothers in peacetime, and if they joined this organization there is a tremendous nurturing process there and they get to bond with other women in a similar situation and I think that is an excellent suggestion that this great organization should reach out as they try to do to these younger mothers of these other conflicts and these peacetime instances, such as the 220 marines, 17 sailors, and 4 Army soldiers who died at the Beirut headquarters bombing, and the 37 sailors that just gave their lives for freedom in the Persian Gulf a few months ago. All of these young military men are giving their lives, and they have Gold Star Mothers somewhere in this country.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, we can see the importance of this resolution in increasing awareness and in giving the appropriate recognition to these Gold Star Mothers. As was mentioned, President Franklin D. Roosevelt issued a proclamation in September 1940 designating the last Sunday in September as "Gold Star Mothers Day." This was 12 years after a group of 25 mothers living in Washington, DC, gathered to organize a national organization named the American Gold Star Mothers.

It is a privilege for me to speak in support of House Joint Resolution 355 which designates September 27, 1987, as "Gold Star Mothers Day." This organization offers support to the women whose sons or daughters have been lost in one of America's wars. In addition, today these women assist veterans and their dependents, foster a love of country, and a spirit of generosity in their communities.

Mr. Speaker, I add my voice to those of many men and women of America who say thank you to our Gold Star Mothers for their enormous sacrifices and continuing gracious spirit of service to our Nation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 355

Whereas the services rendered to the United States by the mothers of America have strengthened and inspired our Nation throughout our history;

Whereas we honor ourselves and the mothers of America when we revere and emphasize the role of the home and the family as the true foundations of our Nation;

Whereas by doing so much for the home, the American mother is a source of moral and spiritual guidance for the people of the United States and thus acts as a positive force to promote good government and peace among all mankind;

Whereas the American Gold Star Mothers assist veterans of the Armed Forces and their dependents in the presentation of claims to the Veterans' Administration, and aid the men and women who served and died or were wounded or incapacitated during hostilities; and

Whereas the American Gold Star Mothers have suffered the supreme sacrifice of motherhood by losing sons and daughters who served in the Armed Forces, and thus perpetuate the memory of all whose lives were sacrificed in our wars: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 27, 1987, is designated as "Gold Star Mothers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DESIGNATION OF HON. THOMAS S. FOLEY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS UNTIL SEPTEMBER 28, 1987

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 23, 1987.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore to sign enrolled bills and joint resolutions until Monday, September 28, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to:

There was no objection.

GIVING SENIOR CITIZENS AN EXPLANATION OF THE "NOTCH" ISSUE

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, I rise to speak today on the Social Security notch-year issue, an issue that has plagued my constituents for several years now. My mother was also born in the so-called notch years, and the lower Social Security benefits that she is receiving have worried her a great deal.

Mr. Speaker, I attended a meeting last Saturday in Morristown, TN, at which over 100 upset citizens, led by Mr. Edd Hodge, voiced their anger with being in the notch years and receiving lower benefits. I told them that, although I and Senator PEPPER and the AARP disagreed with some of them on the facts, I would take their concerns to Washington and try to get them the answer and the benefits they deserve.

Therefore, Mr. Speaker, I call on the General Accounting Office to complete its report on the issue, and on the Ways and Means Committee to hold hearings on the issue. Today, there is too much confusion. The facts need to be laid before the public. All senior citizens deserve a complete explanation of the notch issue and deserve to receive their full fair and legal benefit.

□ 1245

A NEW TELEVISION PROGRAM AND A NEW GRANDCHILD

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I just wanted to take advantage of the close of today before we break for 5 days to make two important announcements; one of them rather super important to me.

The first one is I want to remind all of the Members of this House that tomorrow night CBS Television will debut a program, it is going to be a series that hopefully will stay on the whole year, entitled "Tour of Duty."

As I have said before, having seen the pilot film that will air as the first episode tomorrow, 2,700,000 veterans who served in Vietnam, Americans in uniform can watch with assurance that they will feel proud at the end of this show. No Hollywood fantasizing about baby killing and drugs and egregious acts, just a straight relation of the honorable way our men served there. "Tour of Duty" tomorrow at 9 o'clock.

The other announcement is, as I predicted when we fought to make the 200th birthday of our Constitution a holiday, a new grandchild was born to my Sally and to me, a little girl Erin Mary Griffin, 8 pounds on the nose, 20 inches on the nose, born on the 200th anniversary of this great Chamber, the other Chamber, the Supreme Court, the Presidency and our great Constitution and I hope that some day Erin Mary Griffin will serve as a U.S. Congresswoman in this Chamber or maybe in the other Chamber that we refer to occasionally.

It was a great day for me to go from the birth of that grandchild, our 6th, over to see 100 new Americans from 30 nations sworn in in Orange County in a perfect replica of Philadelphia's Independence Hall that is such a treasured place for tourists to visit at our Knottsberry Farm.

A good day for me and I know everybody is going to have a good day tomorrow night at 9 o'clock when they watch this excellent show on CBS, doing honor to our veterans, entitled "Tour of Duty."

TRIBUTE TO ALEX SINGER

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, tonight begins the Jewish New Year.

It is a particularly sad time for many of us, of all faiths, who know the family of Max and Suzanne Singer, who knew their beloved son, Alex, and who now grieve with the Singer family over Alex's death.

Alex was one of three Israeli Army soldiers who died last week in a skirmish on the western slopes of Mount Hermon. They came across a group of guerrillas attempting to infiltrate Israel's borders. Alex died defending the territorial integrity of a country he had come to dearly love.

Our family knew Alex as a child—a sparkling, vibrant child, who retained these gifts and added to them as he grew to maturity in Chevy Chase, MD, and Cornell University.

What consolation is there in death of one in the bloom of life? I find it difficult to find any. If there is any, it may be in dying in defense and pursuit of one's cherished beliefs. The deepest consolation would be if those who live on will act to bring peace in the Mideast, in a way consistent with Alex Singer's cherished goals.

Mr. WAXMAN of California and Mr. BURTON of Indiana join me in expressing these remarks.

THE MISSISSIPPI RIVER NATIONAL PARK

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, the Mississippi River is the heart of America. It extends throughout the nine Midwest States, displaying the historic culture and natural beauty of our country.

The National Park Service has studied the idea of a park along the Mississippi since the fortys. Various proposals have been contemplated.

And so today I am proposing to reevaluate the proposals of the past in an effort to reach our long awaited goal—a Mississippi River National Park.

Most of the major natural wonders in America have been preserved in the National Park System, allowing people to witness what sets America apart from the rest of the world. But of the 51 national parks representing virtually every facet of America's natural, historical, and cultural legacy, there is nothing to reflect one of its greatest legacies—the Mississippi River.

If anything characterizes our culture and our heritage, it would be the Mississippi River.

Yesterday I introduced legislation which directs the Secretary of the Interior, in coordination with other interested State and private agencies, to study the shorelines and parklands on both sides of the river, in order to recommend areas of natural, scenic or historic value to become part of the Mississippi River National Park. I urge you to take advantage of this opportunity to preserve an American birthright.

Many of our colleagues who represent Mississippi River shoreline States have already joined in my interest in a national park. Among them are TRENT LOTT of Mississippi; BILL CLAY, ALAN WHEAT, GENE TAYLOR, and

Thomas Coleman of Missouri; John Porter, Bill Lipinski, Charles Hayes, and Harris Fawell of Illinois; Steve Gunderson of Wisconsin; and John Paul Hammerschmidt of Arkansas and Tom Tauke of Iowa, all of whom claim to be close to the most awe-inspiring portion of "the father of water." The Sierra Club and the Coalition for the Environment are also among the environmental groups who endorse this legislation. Please join us in preserving America's greatest river.

WAYS AND MEANS COMMITTEE SHOULD CONSIDER NOTCH PROBLEM

(Mr. KANJORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KANJORSKI. Mr. Speaker, I rise in support of the effort to correct the notch problem which continues to perpetuate unfairness in the Social Security benefits received by millions of our senior citizens. I think it is sad indeed that we must correct the 1977 Social Security law, which was meant to correct the 1972 Social Security law, but if that is what must be done, I think we should have the courage to do it.

Those senior citizens who had the misfortune of being born between 1917 and 1921, many of whom served this country courageously during World War II, may be paid over $1,200 less per year than Social Security recipients with similar work histories who were born only a few years earlier.

This is clearly not a minor problem. There are approximately 9 million senior citizens who were born in the notch years in this country. Over 390,000 of them are in the State of Pennsylvania, and roughly 20,000 are in my district.

It has been almost 4 years since the notch issue first gained wide attention. It has been almost a year and a half since the Ways and Means Committee asked the GAO to do a report on the notch problem. I think our senior citizens have waited long enough for Congress to act on this issue and I do not think it is too much to ask that the committee review the notch bills presented in this Congress. Therefore, I respectfully request that my colleagues on the ways and Means Committee give the notch issue a fair hearing.

NOTCH

(Mr. Murphy asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. MURPHY. Mr. Speaker, a bill that was introduced in this Congress and currently has over 145 cosponsors and which languishes in the House Ways and Means Committee would correct a longstanding injustice—the Social Security notch. Ironically, the same bill, H.R. 1917, met a similar fate in the last Congress. I am here today with my colleagues to express our concern at this situation and to urge that such injustice will not be repeated in this Congress. We are here to call for action and to urge all of the Members of this body to recognize the severity of this situation and to ask for their support.

Over 10 million senior citizens have been adversely affected by the creation of the notch back in 1977. Your best intentions went awry and instead of correcting one mistake, it compounded with another.

Over 5,000 of my constituents have written to me on this issue alone. Many have come here to the Capitol steps on more than one occasion to call Congress into action. To date, all they have seen in inaction. Letters have been ignored, testimony disregarded, logic discounted and hope destroyed. We cannot permit this to continue. We must send a message to the leadership—H.R. 1917 deserves consideration and it deserves to be brought to the floor as soon as possible.

LEGISLATION DISAPPROVING OF D.C. EARLY RELEASE ACT

The SPEAKER pro tempore (Mr. Lowry of Washington). Under a previous order of the House, the gentleman from Virginia [Mr. Parris] is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, it is my intention in the very near future to make a privileged motion to discharge the District of Columbia Committee, on which I am the ranking member, from further consideration of my resolution of disapproval of the city's Prison Overcrowding Emergency Powrs Act. The resolution of disapproval was introduced consistent with our oversight responsibility under section 602(c) of the Home Rule Act.

This D.C. act allows the city to continue to shirk its responsibilities to incarcerate criminals and to provide for the safety of the public. The act permits the city to grant early release from prison to literally hundreds of dangerous criminals without consultation with the courts or the parole board. The predecessor to this act, emergency authority granted to the mayor by the council and implemented in July, has already resulted in the early release of 586 convicts from the city's inadequate and mismanaged corrections system.

During recent committee hearings on my resolution, Mr. Fauntroy told the committee that not eligible for release under the program are those who have committed rape, robbery, assault, sexual offenses, weapons, drug sales, and so forth. However, I have just received a report from the Justice Department on those released under the program. Among them are 24 in for robbery, 19 for assault, 22 for weapons convictions, 67 in for drug sales, 3 in for rape, and 25 in for other sexual offenses. Are these individuals, my friends, the ones classified by Mr. Fauntroy in committee as "a welfare mother with six children who takes a chicken from the local grocery store in order to feed those children?"

The city and Mr. Fauntroy have led the Congress and the public into believing that these convicts granted early release are not dangerous—I am certain that you will agree with me that the are, in fact, the most dangerous of criminals. And I hope you will support me when I move to bring this matter before the full House very soon.

PUBLIC SUPPORTS CREDIT CARD INTEREST RATE CAP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. Annunzio] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, responding to the prospect of interest rate caps, credit card issuers often threaten greater selectivity in giving credit, and that many people who now have credit cards will lose them. Although I believe these to be empty threats spoken in an effort to blackmail the consumer, my response is that if issuers had not arbitrarily flooded the market with cards, card users would not be penalized with today's outrageous rates to make up for losses due to bad risks. And, if the punishment card issuers propose is that they will more carefully monitor to whom they give cards, then, I say, "bring on the punishment."

It appears that the American people agree. When asked in an NBC News poll, "Do you think Congress should pass legislation limiting the amount of interest credit card companies can charge, even if that means it would be much harder for people like you to get credit? The overwhelming majority of Americans—74 percent—responded "yes." This tells me that there is significant public support for an interest rate ceiling.

I think we must listen to what our constituents are telling us. This response demonstrates not only a personal motive but a general concern about the fact that all American consumers are being taken. The consumer wants this legislation even if it makes it more difficult for him or her to get credit. But, I suggest that there will not be a significant decrease in the consumer's ability to get credit.

In testimony before the House Banking Subcommittee on Consumer Affairs and Coinage, Mr. Elgie Holstein, director of Bankcard Holders of America, convincingly rebuffed this threat. He said,

> Some banking industry officials have argued that lower rates would cause them to restrict the ready availability of credit. To see beyond this particular smokescreen argument, it is necessary to examine the credit card industry more closely. Today that industry is a mature, permanent part of our economic landscape. Seventy-five million Americans are carrying 186 million bankcards. The bulk of credit card marketing is directed at Americans who already have credit cards.
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> If Congress were to enact a reasonable ceiling on credit card interest rates, not one single current cardholder would be expected to have his card confiscated. If that person is creditworthy at 19 percent interest, he becomes more creditworthy—not less—at a lower rate, since monthly debt obligations obviously will be less.
>
> What about first time card applicants? Just as in the case of automobile loans and personal loans, it is true that lower credit card profit margins will force greater scrutiny by the banks of credit card applications, especially those they send out through mass mailings on a so-called preapproved basis. First-time applicants with a reasonably stable credit background—a steady job, absence of heavy debt, etc.—will continue to qualify for cards. Reducing the availability of cards to unemployed teenagers, inmates,

children, and household pets seems to be a small price to pay for lower credit card interest rates for everyone else.

I am, as the American people have said they are, offended by the arrogance of the credit card companies. We cry out for justice at the indignities suffered by American citizens in foreign lands, but sit passively as we are held hostage by these domestic economic terrorists.

It is only through legislation that we can guarantee the American people the fairness that credit card companies defiantly refuse to offer. This is legislation that 74 percent of the public fervidly supports, 74 percent. How often do we see such agreement on an issue? When the bill on credit card information disclosure is brought to the floor, I will respond to the wish of the American consumer and offer an amendment to cap credit card interest rates at 8 points above the yield on 1-year Treasury securities. This floating cap would ensure that credit card interest rates would rise and fall with the free credit market. This legislation is a fair and reasonable response to an unfair and unreasonable situation resulting from the greed and arrogance of the credit card companies.

IRAN'S MFN TRADE STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. RAY] is recognized for 5 minutes.

Mr. RAY. Mr. Speaker, Congressman ED JENKINS and I are introducing a bill today, along with over 125 of my colleagues, which would repeal the most-favored-nation trade status of Iran.

The events over the past several days have proven beyond a doubt that Iran has been laying mines in the Persian Gulf and placing our sailors in harm's way. We also know that Iran has been responsible for terrorist activities around the world directed at Americans. The bombing of our Embassy in Beirut and the suicide truck bombing in Lebanon which killed 241 young marines are but two notable examples of their brand of terror. And it wasn't so long ago that the Government of Iran held 52 Americans hostage for 444 days causing the country to feel humiliated.

Iran's Government continues to support policies directed against America and American interests. The Ayatollah continues to refer to our Nation as the great satan. I am sick and tired of their verbal attacks and their terrorist attacks, and I am tired of their using our markets as a dumping ground in an effort to finance their war against Iraq and their attacks on shipping in the gulf.

We are currently running a tremendous trade deficit with Iran. Last year, Iran exported $611.6 million worth of goods into the United States, while the United States exported only $34.1 million. This year, the figures are even worse. Through June of this year, Iran has exported $566.6 million worth of goods into this country, while we have exported $15.3 million to them. If trade continues at this clip, they would ship over $1.1 billion into this country this year, while we would ship a paltry $30 million to Iran.

It is ridiculous for this country to continue to grant Iran such favorable trade terms 8 years after the fall of the Shah. Today, I, along with Congressman ED JENKINS and 125 of my colleagues, are introducing a bill which says enough is enough. The bill would repeal the most-favored-nation trade status of Iran. I encourage my colleagues who are not yet a cosponsor of this legislation to join me in support of this bill.

LIST OF COSPONSORS

Mr. Jenkins, Mr. Derrick, Mr. Ackerman, Mr. Hefner, Mr. Daniel, Mr. Robinson, Mr. Dornan of California, Mr. Davis of Illinois, Mr. Ravenel, Mr. Marlenee, Mr. Rowland of Georgia, Mr. Emerson, Mr. McEwen, Mr. Jones of Tennessee, Mr. Wheat, Mr. MacKay, Mr. Boucher, Mr. Staggers, Mr. Spence, Mr. Penny, Mr. Hubbard, Mr. Thomas of Georgia, Mr. Leath of Texas, Mr. Flippo, Mr. English, Mr. Watkins, Mr. Schumer, Mr. Morrison, Mr. Anthony, Mr. Alexander, Mr. Gray of Pennsylvania, Mr. Burton, Mr. Pickett, Mr. Hall of Texas, Mr. Hopkins, Mr. Gonzalez, Mr. Montgomery, Mr. Gray of Illionis, Mr. Hayes of Illnois, Mr. Barnard, Mr. Solomon, Mrs. Patterson, Mr. Spratt, Mr. Kasich, Mr. Skelton, Mrs. Boxer, Mr. Mavroules, Mr. Rowland of Connecticut, Mrs. Byron, Mr. Nichols, Mr. Stratton, Mr. Dickinson, Mr. Sisisky, Mr. Coleman of Texas, Mr. Herger, Mr. Boner, Mr. Rogers, Mr. Tallon, Mr. Lewis of Georgia, Mr. Espy, Mr. Lott, Mr. Stenholm, Mr. Erdreich, Mr. Harris, Mr. Sundquist, Mrs. Lloyd, Mr. Bates, Mr. Richardson, Mr. Slattery, Mr. Obey, Mr. Towns, Mr. Hatcher, Mr. Ridge, Mr. Dannemeyer, Mr. Dicks, Mr. Mollohan, Mr. Hutto, Mr. Stump, Mr. Kyl, Mr. Huckaby, Mr. Durbin, Mr. Martin, Mr. Mrazek, Mr. Glickman, Mr. Hansen, Ms. Kaptur, Mr. Howard, Mr. Dwyer, Mr. Levine, Mr. Smith of Florida, Mr. McMillen of Maryland, Mr. Stokes, Mr. Carr, Mr. Hertel, Mr. Perkins, Mr. Darden, Mr. Dowdy, Mr. Olin, Mr. Fazio, Mr. Frank, Mr. Vento, Mrs. Schroeder, Ms. Oakar, Mr. Murtha, Mr. Kennedy, Mr. Clarke, Mr. Dingell, Mr. Moakley, Mr. Udall, Mr. Cooper, Mr. Fauntroy, Mr. Chapman, Mr. Nelson, Mr. Bevill, Mr. Carper, Mr. Sweeney, Mr. Andrews, Mr. Donnelly, Mr. Early, Mr. Hyde, Mr. Smith of New Jersey, Mr. McMillan of North Carolina, Mr. McCandless, Mr. Henry, Mr. Hiler, Mr. Hunter, Mr. Duncan, Mr. Dellums, Mr. Dyson, and Mr. Konnyu.

STATEMENT REGARDING NOTCH LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Alabama [Mr. NICHOLS] is recognized for 5 minutes.

Mr. NICHOLS. Mr. Speaker, as a cosponsor of legislation to improve the benefit computation formula under Social Security for those who attain age 65 in or after 1982, I wish to urge that the House Ways and Means Committee give further consideration to notch legislation.

During the August district work period, notch was certainly an issue raised by my constituents, and it has been every year since it was created in 1977. It is difficult for individuals to see themselves receiving less money than others with similar earnings histories and with retirement at the same age, and in my district, Social Security is a large source of retirement income. Equality in the computation formula for all or a more gradual change would go a long way toward easing the controversy.

There are 170 cosponsors of notch legislation in the 100th Congress, and I feel that this is a sufficient number to persuade the House Ways and Means Committee to take some further action toward addressing the concerns of these Members and the constituents they represent.

REMARKS ON HOUSE JOINT RESOLUTION 340

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, this conference report of yesterday represents the defanging of the Gramm Act; it recognizes the disastrous unworkability of the Gramm Act, which was itself recognition of the catastrophic failure of the original Gramm legislation that inaugurated the Reagan era. That is well and good, but in truth and fact, this prescription is no more realistic than the one it replaces, which in turn was a recognition that the Reagan fiscal disaster arose from still another phony fiscal prescription. It would be more sensible, more honest, simply to repeal the Gramm Act, as I have proposed to do. It is time to stop the pretense that some magic formulation or some remote-control device will substitute for sense, logic, and elemental responsibility. This report confesses failure and sets up yet another formulation equally destined to fail.

The Reagan program promised that the Federal budget would be balanced by 1984, even though a vast tax cut had been enacted. It promised that this could be done through cuts to domestic spending, even though an unprecedented military budget buildup was undertaken at the same time. This miracle was to take place because there would be a magical economic growth.

Here we are in the waning days of 1987, and after 6 years of painful, even disastrous budget cuts to domestic spending, the deficit is no smaller than it was in 1984, some 400 percent greater than it was at the outset. Moreover, this persists despite the Gramm Act, despite such severe cuts as a 70-percent reduction in assisted housing programs, despite a freeze in military spending, and despite modest growth in the economy.

Under the Gramm Act, the deficit was supposed to be hacked down by a brutal, wholly irresponsible formula, down to $108 billion in fiscal year 1988. The terror of this sequestration was supposed to brace the Congress to cut spending, and also awaken Ronald Reagan to the need to adjust revenues upward. Well, to no one's surprise it turns out that this machine to force a compromise did not work.

It didn't work because allowing the Gramm Act's automatic, across-the-board budget cuts to take place would have effects like cutting $9.6 billion out of military personnel. This would mean reducing troop strength by at least a half million active duty personnel. There is no way anybody could permit that kind of disaster to take place. It would mean—as I predicted at the time of the Gramm Act's approval—a huge stockpile of weapons that could not be manned or operated or maintained. It would mean a disastrous waste of resources that have been built and bought at great cost. It would mean ships without fuel, aircraft without parts, guns without bullets. Such actions would be contemplated only by an official who had become unhinged; the threat of them therefore had no credibility.

Nobody wanted to hear that kind of argument in 1985. But the sequestration report issued on August 20 proves beyond doubt my original statement that the goals of the Gramm Act could not be met without crippling this Government, including national defense. This conference report affirms the failure, the disastrous failure, of both the Reagan fiscal program and the Gramm Act itself.

The Gramm Act did not, as promised, force Ronald Reagan to recognize fiscal reality. Indeed, he has become even more determined in his effort to oppose any realistic effort, or even discuss any reasonable compromise, that might reduce the deficit. He does so in the face of disastrous trade deficits, and in the face of huge interest rate costs that result from the necessity of attracting foreign dollars to finance the Federal deficit.

Nor did the Gramm Act reduce the deficit, despite vast budget cuts enacted before and since. Nor would it do so in the future. The deficit would rise even if appropriations were to remain constant in real terms, with no increases, and even if modest economic growth continues, and even if there are no nasty interest rate rises. Past experience proves this, and current Congressional Budget Office forecasts affirm it.

The Gramm Act's scheduled budget cuts cannot be permitted. If they were, a half million active duty service members would have to be dismissed, which would be an act of insanity. This would reduce troop strength by 25 percent, leaving the Navy without crews for its vast new fleet, the Air Force without pilots or crew to operate its immense new squadrons, and the Army with no way to operate its complex arrays of new weapons.

Likewise, on the domestic side, the Gramm cuts would amount to a 25-percent cut across the board, in all affected program areas. Among other things this would force a half million students out of the basic Pell Grant Program. This would have ruinous effects on those students, and would be a disaster to the whole higher education system of this Nation. Those cuts would have equally catastrophic effects on elementary and secondary education. They would add new burdens to the disadvantaged, leaving a million kids without the kind of help that they need in order to have any chance in life. At a time when all of us recognize the need for better schools, and at a time when we want better performance from our children, there is no way to permit that kind of cut from going into effect.

Do we really need budget cuts that eliminate vaccinations for a half million young children? Do we really think that this Nation's assisted housing programs can be cut by $61 million through a sequestration without adding tens of thousands to the homeless population? Do we really think it acceptable to add $360 million to the medical expenses of people under Medicare?

Do we really believe it is possible to cut Federal prison funding by one-fourth through a sequestration? No; it is no more possible to cut the domestic side by 25 percent than it is to cut the defense side by that amount, as the 1985 Gramm Act would require.

Those are the kinds of things that would happen if the Gramm Act of 1985 were permitted to continue in effect. It would be catastrophic. It would bring chaos into every city and town, and it would cripple the Nation's defense.

Since such cuts cannot be contemplated, much less put into effect, now comes the revised Gramm Act. We didn't get enough of this fiscal poison in 1981, when the Gramm Act legislated the fantasy of the Reagan program. That original act led us into the morass of cut after cut, all of them futile, for none could offset the costs of the Reagan tax cut, the unprecedented Reagan defense budget, or the ruinous rise in debt service brought about by Reagan's blindness and failure.

In 1985, Congress bit into the poison again, in the form of the Gramm Act. This one embraced the fantasy that Ronald Reagan could be embarrassed enough to accept reality, that there was some magic way to avoid basic responsibility. Whether it was adopted out of desperation or hypocrisy, it couldn't work, and now comes the latest fix.

Once again we are given a set of fixed targets. Conveniently, these revised deficit targets can be reached without the draconian and crazy cuts that would be required in the 1985 Gramm magic, nor would these targets require anything more drastic than fiddling with revenue adjustments. These revised targets are also slippery in definition, because everyone knows they are just as unrealistic as the first Gramm numbers.

The question of responsibility has thus been distilled into how we change dogma on the question of fiscal sin. Instead of the old Gramm law, the one that in 1985 declared the fiscal 1988 sin level to be a deficit of $108 billion, we are to enact an indulgence, a level of $144 billion, more or less. Fiscal salvation is to be a deficit reduction of $23 billion, and then another $13 billion, and so on. Thus we have it; last year's sin is this year's salvation, and last year's salvation is this year's damnation. But none of this addresses the question of Reagan's original fiscal sin; it has become a debate on how to escape the consequences of accepting that poisoned apple so glibly held out in 1981 by the President and peddled so ardently by the now junior Senator from Texas.

This conference report is a final surrender to the fantasy of the Reagan fiscal program. It is a surrender to the cynical, easy assurances of Gramm I, Gramm II and the Gramm Act of 1985 that there is a machine capable of replacing political will, careful thought, fiscal responsibility, and even human compassion. It is a surrender to frustration.

The Reagan fiscal program is a disaster, but he cannot be made to see it. The Gramm laws have all—all—been disasters, but Congress has found in them the convenient excuses of ephemeral targets, the comfort of formidable, incomprehensible procedures, and fortunately for the country, the utter unworkability of the clattering sequestration robot.

This conference report is a convenient formulation, but it does not address the fiscal disaster that sprang from the adoption of voodoo economics. It is a way of letting Ronald Reagan off the hook, and with him, those who translated his policies into law, not least among them the now junior Senator from Texas.

Reality would compel us to repeal the Gramm Act altogether, but that would put the Congress at the mercy of the easy demagoguery of those who brought about the Nation's fiscal disaster, not least among them the now junior Senator from my own State. Responsibility indeed, would compel us to repeal that act. But this report allows an escape. It changes the targets in a way that forces no one to change anything; it evades the fundamental issues of political responsibility and the necessity of forging a national consensus. It leaves the task to the next President, the next Congress, the next crisis. What a shame for us, and what a tragedy for the country.

THE PROPOSED INF AGREEMENT CALLS FOR CAUTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 30 minutes.

Mr. SKELTON. Mr. Speaker, 10 years ago the Soviet Union began deploying a new family of intermediate and short range nuclear-tipped missiles. The SS-20 caused a great deal of concern among the European members of NATO. With the signing of the SALT I agreements in 1972, the superpowers had formally ratified parity of nuclear forces at the strategic level. The deployment of the SS-20, an intermediate-range ballistic missile with a range of 3,000 miles, threatened America's allies in Europe, but not the United States. Europeans, who had become concerned about the United States guarantee to use nuclear weapons in the defense of Western Europe, when the Soviet Union developed ICBM's to hit the United States in the late fifties and early sixties, became even more concerned during an era of strategic parity when they saw the Soviet deployment of this new intermediate family of weapons.

To respond to these developments—to the deployment of Soviet SS-20's and to the European concern about the nuclear link between the United States and its European allies—NATO adopted the "two-track" decision of 1979. It was an approach that sought to strengthen extended deterrence and at the same time offer a means to induce the Soviets to limit SS-20 deployments. The NATO allies agreed to combine the modernization of United States nuclear forces in Europe, the development and deployment of the Pershing II missile and ground-launched cruise missiles, with an offer to limit such systems through arms control negotiations. At the same time the decision was made to remove 1,000 battlefield nuclear weapons from Europe.

After 4 years of fruitless effort to arrive at a negotiated settlement, NATO began deploying Pershing II and ground-launched cruise missiles called GLCM's, in Europe in the fall of 1983. The Soviets responded by breaking off the Strategic Arms Reduction Talks. In this way they hoped to put pressure on the Governments of Western Europe and the United States to halt the further deployment of the missiles. It was another card they threw down in the effort to intimidate NATO. They hoped that peace movements in the various countries would be able to exert enough pressure on European governments to halt the deployment. A little over a year later, in January 1985, after they realized that such tactics would not succeed, the Soviets announced that they would return to the negotiating table.

AN "AGREEMENT IN PRINCIPLE"

Last week Foreign Minister Shevardnadze and Secretary of State Shultz announced an "agreement in principle" that would lead to the destruction of all of the short- and medium-range nuclear missiles now in the inventories of the Soviet Union and the United States. I return for the withdrawal and destruction of the 108 Pershing II and 208 GLCM's based in Europe (as of January 1987), the Soviet Union will destroy 441 deployed SS-20's, 120 SS-4's, 130 SS-12's/SS-22's, and 90 SS-23's.

In many ways I believe that this is a pretty good trade for our side. While many in the West opposed the deployment of Pershing II and GLCM's—politicians and public alike—in late 1983, I think that showing firmness in dealing with the Soviet Union is starting to pay off. This will be the first time in any arms control agreement that an entire class of nuclear weapons will be eliminated. Who knows, maybe we have turned a corner.

But while we have an "agreement in principle" we should note that there are many technical issues that still remain to be resolved, the most important of which is the matter of verification. Unless, we can verify the terms of the treaty, and the Soviets have given a number of indications that are much more flexible on this matter than they have been historically, then the prospects for ratification by the Senate could be dim. These next few weeks of negotiations will be critically important. Broad outlines are one thing, the details of any agreement are what finally count.

IMPLICATIONS FOR NATO

There is a split both in the United States and especially in the countries of Western Europe about the wisdom of the present agreement. Public opinion in most Western countries strongly supports an INF agreement. Government leaders, on the other hand, are split. Gen. Bernard Rogers, the former Supreme Allied Commander of NATO, expressed the sentiment of many of these government leaders in West Germany, France, Belgium, and elsewhere in the alliance when he said, "If we end up getting rid of all nuclear weapons and we haven't achieved equity [in Europe] between their conventional forces and ours, we'll wake up one day and find ourselves dancing to the tune of the Soviet pipe."

While the agreement calls for the elimination of a number of nuclear systems in Europe, a number will continue to remain in the arsenals of both sides. In the NATO arsenal, they include artillery shells, short range lance missiles, F-111 aircraft, and the independent nuclear forces of the British and French. On the Soviet side, the systems include SS-21 missiles, Scud and FROG missiles, and a considerable number of bombers and fighters—including Badger, Blinder, and Backfire bombers, and Fishbed, Folgger, Fitter, and Fencer attack aircraft.

Earlier this year, the French Government voiced skepticism over the "zero option," though it now officially supports the proposal. French officials believe, however, that the next step that has to be taken in Europe is to get agreements on conventional forces and chemical weapons. Over the years, NATO has relied on nuclear weapons to compensate for conventional military inferiority with respect to the Warsaw Pact. Now, however, with the drawdown on nuclear forces NATO will have to beef up its conventional forces or negotiate a comparable reduction of Warsaw Pact forces. The ultimate goal should be kept in mind, the purpose of NATO is not just to reduce the possibility of nuclear conflict in Europe but to reduce the possiblity of any sort of conflict in Europe. At the same time it should be remembered that without a substantial nuclear force in Western Europe, NATO invites at least the possibility of being bullied or blackmailed by a Warsaw Pact with greater conventional forces.

FUTURE DEVELOPMENTS

As we look to the future, NATO will have to play its cards wisely. While public opinion supports an INF agreement, it does not support an increase in conventional forces. Implementation of the agreement will require that NATO look long and hard at how arms control fits into overall alliance political and military strategy. Difficult decisions on priorities and funding will have to be made.

West Europeans will have to take an increased share of the load. Already French leaders are seeking closer defense ties with both Great Britain and West Germany. Earlier this year French President Mitterand told an audience in London, "France is my country, Europe is our future. It cannot be that we will fail in this rendezvous." French military reintegration into NATO, with the possibility of having a French Supreme Allied Commander, is an idea that should be given more attention.

There will be some in this country who will call for the withdrawal of United States troops from Europe. This would be a mistake. We are not involved in NATO as a charity service for our allies, or simply because we are good guys. We are in Europe to protect our own security interests. If we hope to get progress on conventional reductions, withdrawing American troops from Europe at this time would be counterproductive. In fact, to spur progress in conventional reductions, we may want to tie the withdrawal of nuclear forces in Europe to reductions in conventional forces. Since General

Secretary Gorbachev has promised progress in conventional talks, this may be a way to promote such progress.

Finally, we should remember to hold a steady course. In 1983, NATO took the decision to upgrade its tactical battlefield nuclear weapons, improving the Lance short-range missile system. This has to be carried out. Arms control lobbyists and peace movement types need to understand that being firm has enabled us to get a good agreement. Expectations should not be built up that we will reach a nuclear-free world anytime soon, if ever. Raised expectations will only contribute to dashed hopes. That was what happened during the 1970's when President Nixon and Secretary Kissinger made progress in arms control and then oversold their accomplishments to the American people. If we do not give in to euphoria over the prospective INF agreement, then the chances are increased that we will be able to build in a steady fashion upon the accomplishments made today.

DOLLARS AND DEBT: THE PRICE OF LIBERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. PENNY] is recognized for 30 minutes.

Mr. PENNY. Mr. Speaker, I take this time to submit for the RECORD the remarks of our colleague, Representative JIM MOODY of Wisconsin, before the Conference of Americans for Generational Equity at their recent meeting here in Washington. JIM's remarks are an eloquent indictment of our current fiscal policy and the effect it will have on future generations.

Mr. Speaker, I submit the text of Representative MOODY's remarks for printing in the RECORD following this statement:

DOLLARS AND DEBT: THE PRICE OF LIBERTY

(Remarks of Hon. Jim Moody Before the Conference of Americans for Generational Equity, September 10-11, 1987)

Welcome to Washington. I would like to personally thank each of you for participating in this important event. Now that Senator Durenberger has outlined the framework for our various panels, I would like to return to the central theme of our discussions: the fiscal and moral obligations of government to present and future generations of Americans. What are the consequences of today's budget and spending decisions, and who pays?

Before getting to the main issues, I would like to say a few words about this conference. This forum is more than just an opportunity to discuss ideas. It is an opportunity to move the topic of long-term fiscal responsibility onto the nation's political agenda.

Many ideas compete for attention in Washington. If an issue cannot get onto the political agenda, it is just another good idea that never got off the ground. Somewhere in this city there is a graveyard of lofty ideas that failed to attract effective advocates.

Ideas make it onto the political calendar because individuals such as yourselves who think seriously about public policy suggest solutions to problems that seem to be getting worse. Knowledgeable men and women like you are able to see special opportunities to act. They are able to seize the moment and suggest new solutions to tough problems.

Aid to the homeless, Social Security reform and catastrophic health care are good examples of issues that won high ranking in our national consciousness because people like you cared enough to act.

The high level of public concern about the costs of government and national debt provide a special opportunity to act. But it is only an opportunity. We have long taken our prosperity for granted. Each generation of Americans has exceeded the standards of its parents in material well being, education and income. But now, a new prospect emerges: for the first time in history, our children's standard of living may not equal, much less exceed, our own.

This conference can help us frame our thinking about the consequences of our national spending and budget decisions.

There is a special significance in holding this meeting in this city. Paris is the City of Lights. Chicago is the City that Works. Washington is the City of Monuments. We have monuments to heroes, to foreign luminaries and to adventurers. The city itself is a monument to the man who led our Revolution. Sadly, we have no monument to the one thing that sustained the Revolution. That honor belongs to Massachusetts. When the citizens of Boston erected a column "to commemorate the train of events which led to the American Revolution and finally secured liberty and independence to the United States", they recorded on it those events which they believed deserved special remembrance. The list begins with the Stamp Act of 1765. It ends with the Public Debt of 1790. The willingness of many public creditors to believe in the United States of America made revolution and freedom possible.

Even during the darkest days of the Revolution, when the British armies roamed unchallenged through the South, Benedict Arnold was exposed as a traitor and Congress and the states were destitute, federal securities were never dead paper. That the new republic would honor its debts was never in doubt.

But today, the twin forces of demographics and debt in our $5 trillion economy may force revolutionary change. Change in our productive capacity. Change in the demand and ability to pay for basic social services. Change in our national standard of living. This will likely make the world of 2030 as different from 1987 as today is from the world of 1950.

Let's look at a few specifics.

A generation ago, a triumphant United States felt secure in its borders. Unchallenged militarily, we led the world in commerce and manufacturing. We enjoyed advantages many others did not: a skilled workforce, productive industries and rich and bountiful resources. The goodwill of the United States financed the recovery of Europe and Japan. Our arms shielded our allies and our dollars rebuilt their industries. A robust economy reaped the rewards of free trade. By bringing down tariffs, trade flowed. It was very easy to desire nothing more than this because we were the world's most competitive trader.

At home, manufacturing was the backbone of the American economy. Because manufacturing has high productivity, the economy boomed. Family income grew at an average annual rate of about six percent a year. The average thirty year old male worker in 1950 would see this income rise by 118 percent over inflation during the next ten years. The future looked as if it would bring only more prosperity.

Today, American firms are losing market share to virtually every foreign competitor. From 1891 to 1971, the United States never had a trade deficit. Then in 1972, Americans were shocked to learn that we imported $6.4 billion more than we sold overseas. Fifteen years later, the trade deficit hit twelve digits—over $170 billion. As a result, about three million Americans were thrown out of work. Americans spent more than $3 on foreign products for every $2 our trading partners spent on ours. The last time this ratio was so bad was in 1864, when the American economy was devastated by the Civil War.

At home, the rapidly changing economy poses a fundamental challenge to our traditional notions of work and career. Manufacturing hit an all-time low. By 1982, only 22½ percent of American employment was manufacturing based. In many regions of the country, prosperity vanished with manufacturing. Men in the workforce in 1970 would see their real wages rise by only 16 percent in ten years.

Americans have always believed that their children would be better off than they. But as Daniel Patrick Moynihan has observed, "this is the first society in history in which a person is more likely to be poor if young than old."

The way we manage and invest our resources puts our future prosperity in peril.

The American savings rate ranks last among industrialized nations. During the last six years, the growth of the federal deficit has absorbed about fifty percent of private sector savings. With personal savings providing very little industrial capital, American firms are highly dependent on retained corporate earnings and on open capital markets for funds to invest and create new jobs. What capital is left is obtained only at very high rates. A myopic fiscal regime is robbing America of the financial tools we need to grow and compete.

Short-sighted investments further diminish growth. Last year was the third consecutive year in which American corporations raised as much debt to finance mergers or to protect themselves against raiders as they raised to invest in new equipment, buildings and financial assets. You don't have to be a financial genius to realize that the United States can't possibly compete in a world full of dynamic, aggressive competitors with that kind of wasteful record. Seventy percent of the manufacturing equipment used in American plants is at least ten years old or older, compared with only forty percent in Japan. Rather than creating state-of-the-art innovation in manufacturing, we encourage the inefficient shifting of assets from one portfolio to another.

Underlying these dangerous developments is the most massive build-up of public and foreign debt in American history.

The public and private debt of the nonfinancial sector has doubled since just 1980. President Kennedy foresaw a time when the rising tide of economic progress would raise all the boats. Today, a tidal wave of debt threatens to swamp the boats and drown the passengers.

Let me tell you why the growth of debt in this country is so alarming.

First, any increase in debt should only accompany an increased ability to pay. But national income has not risen in proportion to the amount of debt. There is now about forty cents more debt for every dollar of income than there was just five years ago.

Second, the growth in debt has far outpaced our growth in net worth. Household debt, excluding mortgages, exceeds $575 billion—triple the level of just a decade ago.

Third, government debt is now growing far more rapidly than private debt. The $1.8 trillion in government debt held by the public accounts for about 43 percent of GNP—up 28 percent since 1981.

But perhaps the most dramatic development in the American economy is the $441 billion swing from major world creditor to the world's largest debtor nation in less than six years. It would be one thing if we were borrowing to increase productive investment. We could earn income on our investment that would improve our standard of living.

But we are borrowing to finance private consumption and government spending. Assets, not goods and services, are now our largest exports. And we must continue to ship more and more dollars overseas, or risk losing the foreign capital we need to keep government running.

The economics of debt has locked us into a cycle of costly, self-defeating policies.

In order to keep attracting foreign investment, we have to keep raising our interest rates, further escalating the cost of debt. Just last May, the Treasury Department was forced to hike long-term interest rates for American bonds. Why would our own Treasury Department want to further increase the cost of government and risk more harm to the economy? Because our voracious appetite for foreign currency is making foreigners increasingly reluctant to invest in our securities.

We can probably continue to attract enough foreign investment, but in the process we are slowly losing control over our own financial affairs.

The question we must ask ourselves is whether the strategy of budget deficit, high interest rates, overvalued currency and foreign borrowing by the most capital-rich country on earth is sustainable. The fact that the stock market is booming does not prove that U.S. economic policy is on a sustainable course. After all, until 1982 the market was happily financing what everyone now recognizes to have been a similar, unsustainable policy in Mexico.

Already high interest costs we have to pay to foreign debt holders and lost investment opportunities at home are weakening the American economy. But what might happen if our foreign suppliers of capital decide that we are becoming too big a risk? A sudden loss of dollars might turn just a mild business slowdown into a major recession. A large recession would further increase government spending, cut revenues and add $200 to $300 million to the federal deficit.

It won't be easy to stop depending on foreign-held debt to finance government spending. Our standard of living will drop in the short-term, but will rebound when the American economy becomes more productive. To completely wipe out our foreign held debt, our GNP would be about 3.5 to 4.5 percent lower than it otherwise would be. This means it will cost every American about $1000 to pay back our foreign creditors.

Since Gross National Product is not evenly distributed, the poor may shoulder more of the burden to retire our foreign debt, unless we shield the poor and the working poor from a new assault on their standard of living.

America in the 1980s has discovered what every individual taxpayer already knows: buying now and paying later is a dangerous way to live.

Now that we have considered some of the changes in store for America, let's look at some of the specific intergenerational effects of our economic policies.

The most important legacy of our current policies will be a lower future standard of living.

Some may ask, why should I care if Americans not even born yet will have to get by with less than I have? The answer is that individuals must live in the short-term, but our nation prospers over the long-term.

The great industrial expansions have always brought new prosperity to American homes. The Industrial Revolution and the industrial boom following World War II brought unprecedented growth in personal income. By making long-term investments in plant and equipment, Americans of these earlier generations made our nation prosper at the same time that they shaped our own high standard of living.

But now, even though the present recovery is entering its fifth year, the prospects for future prosperity are bleak.

This is the case because there is a direct link between a nation's debtor or creditor status and its ability to consume—or invest—in relation to what it produces.

Since the United States has run up such a huge foreign debt, we will now have to produce a lot more then we invest just to keep from exploding into even greater indebtedness. In other words, we're running a lot faster just to stay in the same place.

We are mortgaging our future income to finance more government spending and consumption, not to create more wealth and better jobs. There will be more Americans in the workforce, but fewer well-paying jobs to go around. The traditional structure of employment and job security will become even more a thing of the past.

Second, by hampering private capital formation through high government borrowing, we are limiting future private sector productivity and real income. This effect of out-of-control debt finance on future living standards is a shift of the cost of today's government to future generations. As interest payments claims an increasing share of federal revenue, taxes will have to be raised or services reduced in the future to make even larger payments to bondholders.

Third, our huge imports of foreign capital have meant that we have had to lower the high exchange rate for the dollar in order to stimulate exports and improve our overall balance of trade. But the lower exchange rate means that more U.S. resources and more American labor and capital must be spent for a dwindling amount of foreign resources. To pay for today's capital inflows, tomorrow's economy will have to ship more U.S. goods abroad at lower prices. This will require future generations to make even greater sacrifices in their standard of living.

At no time in American history have such radical problems demanded such modest solutions: thrift; a responsible budget that pays for the amount of government we want; more productive private investment and better cooperation with our allies to stimulate demand for American exports.

The search for solutions must begin with real and continuous deficit reduction. Because of the magic of compound interest, a $1 billion expenditure cut—with interest rates at ten percent—would reduce the budget deficit by $1.7 billion after five years. Since compound interest works the other way as well, we cannot put off the hard work of cutting the deficit one more day.

While domestic spending has fallen considerably, it must be reviewed again if we are to bring the budget into balance. Because defense outlays account for about 30 percent of all federal spending and are rising faster than other spending, even larger savings could be achieved by a program of targeted reductions with three basic emphases.

First, we should trim the redundancy from big-ticket weapons systems. Many proposed weapons systems duplicate the capabilities of existing systems and should be carefully reviewed.

Second, we should pursue force modernization with a longer-term investment strategy, and not with a rush to buy every tantalizing innovation.

Third, we should abandon some goals for which there appears to be little justification. Modernizing our air defenses against a potential Soviet bomber threat loses its rationale when the overwhelming Soviet threat is from ballistic missiles.

Finally, we must find new sources of revenue to meet this year's Congressional Budget Resolution. But we must do this without harming the structure of tax reform. Raising revenue by simply raising taxes would take us back to the days when taxpayers were treated inequitably and economic efficiency suffered. The tax reform package enacted last year is not perfect—no tax system is—but it is the fairest, simplest tax system we've had in decades. New revenue options should broaden the tax base, tax spending rather than income and strive for progressivity.

But this is no easy task. It is almost a no-win situation. No politician wants to tell the nation that it's living beyond its means.

And no American wants to make do with less.

But in conclusion I would like to point out that our national commitment to real deficit reduction is not just etched on a lone monument. It is literally imbedded in the heritage of American government.

During the last decade of the 18th century, there was a great debate among Thomas Jefferson and others about how to fund the debts of the Revolution. Some argued that real debt reduction was unnecessary. They said that all that really counted was the appearance of action. This infuriated Jefferson. He believed it immoral to bind a succeeding generation with the debt of the present.

In reply to his opponent, Jefferson said, "We are ruined, sir, if we do not overule the principles that the more we owe the more prosperous we shall be."

200 years have not changed that simple wisdom. Accountability for our own actions is still the price of liberty in a perilous world.

Thank you.

INTRODUCTION OF THE FOOD STAMP FAMILY WELFARE REFORM ACT OF 1987

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, I am introducing today the Food Stamp Family Welfare Reform Act of 1987. This is a bill that was reported out of the subcommittee, and we will be dealing with it at the full committee level. It has been worked on on a bipartisan basis, and hopefully we will be able to pass this through the full committee.

Mr. Speaker, I am introducing today the Food Stamp Family Welfare Reform Act of 1987. This bill has been approved by the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition of the House Committee on Agriculture. The Food Stamp Family Welfare Reform Act of 1987 is designed to ensure that the benefits and administration of the Food Stamp Program are coordinated with the rest of the welfare system.

This year, the leadership of both parties in the House of Representatives and the President of the United States have called for reform of the welfare system. Welfare reform will be neither quick or easy, but a start must be made.

The bill approved by the subcommittee builds on the bipartisan employment and training program we fashioned 2 years ago in the Food Security Act of 1985. Based on the experience which we have gained this year as the program has been implemented, some changes are made to the employment and training program, which will retain the essential elements of what we approved 2 years ago—States should have the flexibility to determine which approaches to employment and training have the best potential to provide food stamp recipients with the opportunity to work and to make meaningful changes in their lives.

The improvements include:

Increase reimbursement for work expenses and day care for persons participating in employment and training;

Base performance standards for the States on success in placing individuals in jobs, not simply processing them through training and job search activities; and

Requires food stamp offices be open at hours convenient for persons participating in employment and training.

The bill also includes a number of provisions both to improve coordination between the current programs and also to test ways to simplify the welfare system. These include the following:

Mandate that applicants for AFDC benefits be informed they can simultaneously apply for food stamp benefits;

Make permanent the provision in current law which authorizes AFDC beneficiaries to be categorically eligible for food stamps;

Authorize a limited demonstration in Washington State to provide a combined cash benefit equal to food stamp-AFDC benefits for households with one or more members participating in an innovative employment and training program approved by the legislature of that State; and

Authorize up to 10 additional States to conduct a similar demonstration to the Washington State demonstration, except that food coupons would have to be provided.

The demonstration authority provisions were carefully worked out with officials from Washington State and advocates to ensure that the benefits and due process rights of food stamp recipients would be protected, but States would have the flexibility to test ways to simplify the administration of the welfare and training systems.

The Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition also approved provisions to help low-income persons escape the trap of welfare dependency through education. What we do not intend to do, however, is reopen the student issue so that food stamps become an education subsidy for college students from middle- and upper-income families. Therefore, the bill contains two narrowly drawn provisions affecting student eligibility.

The first conforms the food stamp income exclusion under current law for Federal education assistance programs to all recognized education and training programs. This provision will ensure that members of households currently eligible for food stamps can participate in all recognized training and education programs without jeopardizing food stamp benefits.

The second allows students who are living with a parent, grandparent, or legal guardian in a household that is otherwise eligible for food stamps to retain food stamp benefits while completing their education.

The bill contains two provisions to strengthen families.

First, higher dependent care deductions would be allowed in recognition that day care expenses can often be a significant obstacle to a welfare recipient seeking work.

Second, for AFDC families who also receive food stamps, the first $50 a month in child support payments would not be counted as income. This change ensures that the food stamp benefits will not be reduced as a result of the change in the AFDC Program approved by the Committee on Ways and Means.

Finally, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition approved a number of provisions designed to ensure that farm families who have fallen on hard times because of the downturn in our agricultural sector receive food stamps if they are entitled to them. The bill ensures that the particularly complicated finances of family farms will be taken into account when social workers process Food Stamp applications from farm households. The bill also authorizes States to request reimbursement for one-half of the cost of providing special training to caseworkers in how to handle applications from farm families and also to inform low-income farm families of the availability of food stamp benefits.

I do not intend that this bill be a budget buster. Therefore, I asked the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition to take two steps to ensure that it is not.

First, in order to keep the cost as low as possible, the cost has been dramatically pared down. CBO estimates the cost in fiscal year 1988 to be $11 million and the cost through the 3-year projection period covered by the concurrent resolution on the budget to be $326 million. This cost is substantially below some of the other welfare reform proposals under consideration this year.

Second, this bill will not go into effect unless Congress achieves the budget discipline which it imposes on itself this year. If the reconciliation instructions or any subsequent deficit reduction mandated by the revisions to Gramm-Rudman currently under consideration are not achieved, this bill will not be implemented. Thus, this bill will not increase the deficit targets which we impose on ourselves.

The Food Stamp Family Welfare Reform Act of 1987 is not a panacea. Our current budgetary straitjacket prevents anyone from proposing the major investment that would be necessary to eliminate the ongoing cancer on our society—welfare dependency. Within the political and budgetary constraints we face, it is a responsible effort to make the current system work. For that reason, I ask for your support of the Food Stamp Family Welfare Reform Act of 1987.

SECTION-BY-SECTION ANALYSIS: THE FOOD STAMP FAMILY WELFARE REFORM ACT OF 1987

SHORT TITLE

Section 1 cites the Act as the "Food Stamp Family Reform Act of 1987."

CATEGORICAL ELIGIBILITY

Existing law grants categorical (automatic) food stamp eligibility to households in which all members receive Aid to Families with Dependent Children (AFDC) or Supplemental Security Income (SSI) benefits—through September 30, 1989.

Section 2 makes categorical eligibility permanent—deleting the 1989 expiration date.

EXCLUSION FOR CERTAIN EDUCATIONAL EXPENSES

(a) Existing law and regulations require a disregard (exclusion) of income in the form of Federal education assistance provided under title IV of the Higher Education Act (e.g., Pell grants, student loans), to the extent the aid is used for: (1) tuition and mandatory school fees (including costs for materials required to be obtained by all other students in the same course of study); (2) books, supplies, transportation, and miscellaneous personal expenses (other than room, board, and dependent care) incidental to attendance, as determined by the institution; and (3) origination fees and insurance premiums on student loans.

Existing law and regulations also require a disregard (exclusion) of income in the form of non-Federal education assistance, and Federal education assistance provided under laws other than title IV of the Higher Education Act, to the extent the aid is used for: (1) tuition and mandatory school fees (including costs for materials required to be obtained by all other students in the same course of study); and (2) origination fees and insurance premiums on student loans.

Existing law and regulations further require that, in order to be eligible for these income disregards, students receiving education assistance must be attending a school for the handicapped, or a postsecondary institution (including correspondence schools) that requires a high school diploma (or equivalency certificate), or an institution or program that admits persons beyond the age of compulsory school attendance and is recognized as providing postsecondary education or training for employment.

Section 3(1) expands existing income disregards for education assistance by: (1) applying the more extensive disregard provisions (including a disregard for aid used for books, supplies, transportation, and miscellaneous personal expenses incidental to attendance) mandated for title IV Higher Education Act assistance to all education assistance; and (2) applying the education assistance disregard provisions to cases where the student is attending a program that provides for completion of a secondary education (or obtaining the equivalent of a secondary school diploma), or attending an employment training program.

[NOTE: The second change noted—adding programs for completion of a secondary education and training programs to the list of institutions and programs qualifying a student for an education assistance disregard—would change existing practices only to the extent that these programs are not already recognized, under current regulations, as institutions admitting persons beyond the age of compulsory school attendance and recognized as providing post-secondary education or training for employment.]

(b) Existing law and regulations deny an income disregard (exclusion), as a reimbursement for expenses, for income from any Federal education assistance beyond that used for tuition and mandatory school fees (including costs for materials required to be obtained by all other students in the same course of study).

Existing law and regulations also deny an income disregard (exclusion), as a reimbursement for expenses, for income from any non-Federal education assistance that is used for living expenses (such as food, rent, or clothing).

Section 3(2) conforms the reimbursement disregard rule for Federal education assistance to the rule for non-Federal education assistance—i.e. income from any Federal or non-Federal education assistance may not be disregarded as a reimbursement for expenses to the extent that it is used for living expenses.

EXCLUSION OF CHILD SUPPORT PAYMENTS RECEIVED

Existing law allows States administering the food stamp program to disregard, in food stamp income determinations, child support payments that are excluded under the AFDC program (i.e., the first $50 a month), if the State pays the food stamp benefit cost of doing so.

Section 4 requires the disregard of child support payments that are disregarded under the AFDC program for purposes of determining AFDC eligibility, and deletes the requirement that States pay the benefit cost of doing so.

EXCLUSION FOR TWO-PARTY PAYMENTS FOR AGRICULTURAL COMMODITIES

Existing law and regulations do not allow a disregard (exclusion) for income used to repay business loans (other than interest payments) as a cost of producing self-employed income.

Section 5 requires an income disregard (exclusion) for payments for agricultural commodities (and their products) produced by farmers, if the payments are made payable jointly to a farm household member and another holding a security or leasehold interest in the commodities, except to the extent that the payments are actually available to the farm household. [NOTE: This would have the effect of disregarding, as a cost of producing self-employed farm income, repayments on farm loans (including principal and interest) to the extent they are made through two-party checks received for commodities.]

EXCLUSION FOR ADVANCED PAYMENT OF EARNED INCOME CREDIT

Existing law and regulations provide that earned income tax credit payments (made to families with children having income below certain thresholds) are: (1) counted as liquid assets if received as a lump sum payment (i.e., as an income tax refund/rebate); (2) counted as income if received as periodic "advance payment" (i.e., as a reduction in income taxes withheld by an employer from earnings); and (3) not counted at all if received as a simple reduction in a year-end tax payment. [NOTE: If counted as income, 20 percent of any earned income tax credit is disregarded under rules requiring a 20-percent "deduction" for earnings.]

Section 6 requires an income disregard (exclusion) for earned income tax credits received as periodic advance payments (i.e., made by an employer as a reduction in income taxes withheld from an employee's earnings).

DEDUCTION FOR DEPENDENT CARE

(a) Existing policy treats dependent care expenses paid under a food stamp employment and training program as a reimbursement for expenses, thereby excluding them from being counted as income. [NOTE: Existing policy also generally bars claiming a deduction for expenses covered by a reimbursement.]

Section 7(a) and 7(b)(1) reinforce existing policy by requiring an income disregard for payments made for dependent care under a food stamp employment and training program and barring claims for dependent care expense deductions for expenses paid for under a food stamp employment and training program.

(b) Existing law and regulations limit the deduction allowed a household for dependent care expenses to $160 a month, regardless of the number of dependents and regardless of age.

Section 7(b)(2) and 7(b)(3) raise the limit on dependent care expense deductions to: (1) $200 a month for each dependent less than 2 years of age; and (2) $175 a month for each dependent age 2 or more.

ANNUALIZING SELF-EMPLOYMENT INCOME AND EXPENSES FROM FARMING

Existing law and regulations require that income be calculated by averaging it over a 12-month period, for households deriving their annual income in periods of time shorter than 1 year (i.e., income is received on an irregular basis).

Section 8 adds to the existing requirement for income averaging a requirement that income be calculated by averaging it over a 12-month period, for households with a member engaged in farming that have regular monthly farm income, but irregular expenses to produce that income—at the household's option.

RELIANCE ON PAST SELF-EMPLOYMENT INCOME FROM FARMING

Existing law and regulations require that, for households whose anticipated income is averaged over a 12-month period, self-employment income must be calculated based on anticipated business earnings, rather than past earnings, if the averaged amount (based on past earnings) does not accurately reflect the household's actual monthly circumstances because it has experienced a substantial increase or decrease in business earnings.

Section 9 adds a requirement that past self-employment income from farming may not be used as an indicator of anticipated income, if changes have occurred, or can be anticipated to occur during the certification period.

EXCLUSION OF CERTAIN PROPERTY FROM RESOURCES

Existing law and regulations provide that business property, such as farm land and farm machinery, is to be excluded from being counted as a resource, as long as it is "essential to employment or self-employment."

Section 10 adds a requirement for exclusion of property (including land, equipment, and supplies) essential for farm self-employment—for a period of 1 year from the date on which a farmer ceases to be self-employed in farming.

ELIGIBILITY OF STUDENTS

(a) Existing law allows students "assigned to or placed in" an institution of higher learning through a program under the Job Training Partnership Act (JTPA) to participate in the food stamp program, if otherwise eligible. [NOTE: This is one of a number of categories of students who are exempt from the general rule prohibiting students in institutions of higher education from participating in the food stamp program.]

Section 11(1) expands the existing provision allowing JTPA students to paticipate in the food stamp program by: (1) allowing participation by students under a food stamp employment and training program, a Trade Adjustment Assistance training program, or a training program of a State or locality; and (2) allowing participation by these new categories of students (along with JTPA students) if they are "attending, awaiting placement after being assigned to, or accepted by" an institution of higher learning (as opposed to "assigned to or placed in" an institution of higher learning).

(b) Existing law allows students, who are parents with the responsibility to care for a child age 6-11 and enrolled half time or more in an institution of higer education, to participate in the food stamp program if adequate child care is not available, as long as they are otherwise eligible.

Section 11(2)(A) clarifies existing law by providing that students with children age 6-11 may participate in the food stamp program if adequate child care is not available to enable them to work a minimum of 20 hours a week or participate in a federally financed work study program.

(c) Existing law allows students enrolled half time or more in an institution of higher education to participate in the food stamp program if they are receiving AFDC benefits.

Section 11(2)(B) expands the existing provision allowing AFDC recipients to participate in the food stamp program to include recipients of benefits under a State or local general assistance program (i.e., programs providing regular benefits for general living support without Federal financial participation).

(d) Existing law bars participation in the food stamp program by a student enrolled at least half time in an institution of higher education unless the student falls into an exempt category. Existing exempt categories include: (1) student 18 and younger or age 60 or older; (2) students who are not physically or mentally fit; (3) students assigned under a JTPA program; (4) students employed 20 hours a week or more; (5) students participating in a federally financed work study program; (6) students responsible for the care of a dependent child under age 6; (7) students responsible for the care of a dependent child age 6-11 without adequate child care; (8) students receiving AFDC benefits; and (9) students enrolled under an AFDC work incentive program.

Section 11(2)(C) and 11(2)(D) add a new exempt category: students who are members of a household that: (1) is otherwise eligible for food stamps; and (2) includes the student's parent, grandparent, or legal guardian.

EMPLOYMENT AND TRAINING PROGRAM COSTS INCURRED BY PARTICIPANTS

Existing law requires States operating a food stamp employment and training program to reimburse program participants for the actual costs of all transportation and other (e.g., dependent care) expenses reasonably necessary and directly related to participation. However, States may limit their coverage of each participant's expenses to $25 a month.

Sections 12(a)(1)(A) and 12(a)(2)(A) expand the requirement to cover participants' expenses by:

Specifying that the requirement to cover participants' expenses may be fulfilled by: (1) payments made directly to the participant, in cash or certificates (vouchers) redeemable by the State agency; or (2) payments to service providers;

Requiring that payment made directly to participants be made in advance, to the maximum extent practicable;

Establishing a new rule governing the limit States may place on the extent to which they cover each participant's expenses other than dependent care: States are allowed to limit their coverage of these non-dependent-care expenses (e.g., transportation) to $25 a month or a higher amount (up to $75 a month). [Note: States must cover actual expenses up to whatever limit they establish.]

Establishing a new rule governing the limit that States may place on the extent to which they cover each participant's dependent care expenses: States are allowed to set a limit of $200 a month for each dependent under age 2 and $175 a month for each dependent age 2 or more. [Note: States must cover actual dependent care expenses up to the limit if established.]

EMPLOYMENT AND TRAINING PROGRAM PAYMENTS TO STATES

Existing law requires the Federal Government to pay each State 50 percent of the cost of payments made (or costs incurrred) by the State for participants' expenses that are necessary and related to participation in a food stamp employment and training program—50 percent of all payments for participants' costs, up to an amount equal to 50 percent of $25 per participant per month.

Sections 12(a)(1)(B) and 12(a)(2)(B) expand the requirement for Federal cost-sharing by increasing the limit on State costs that the Federal Government will share in:

For payments for participants' costs other than dependent care, the Federal share is 50 percent, up to an amount equal to 50 percent of the limit established by the State (this limit can be as low as $25 per participant per month, or as high as $75);

For participants; dependent care costs, the Federal share is 50 percent, up to an amount equal to $200 per month per dependent under age 2 and $175 per month per dependent age 2 or more.

EMPLOYMENT AND TRAINING PROGRAM PERFORMANCE STANDARDS

(a) Existing law requires the Secretary of Agriculture to establish employment and training program performance standards for each State. These performance standards are to specify the minimum percentage of food stamp recipients subject to a requirement to participate in an employment and training program that States are expected to place in a program. Standards may vary among the States, and, inserting standards, the Secretary is to consider the States' costs for meeting them and the degree of participation of persons who, though exempt, volunteer to participate. Standards must also be varied according to differences in the characteristics of participants and the type of program they are applied to. The establishment of performance standards may be delayed until October 1988. [Note: The Secretary has chosen to take this option and performance standards will not be effective until October 1988.]

Existing law also requires that, in deciding whether a State has met a performance standard, the Secretary must consider the extent of volunteer participation, such factors as placement in unsubsidized employment, increases in earnings, reduction in food stamp participation, and other factors determined to be related to employment and training.

Section 12(b) replaces the existing performance standard requirements with the following requirements:

The Secretary is required to establish performance standards after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials (designated by State Governors), other appropriate experts, and representatives of food stamp households.

Performance standards are to: (1) be coordinated with those under the JTPA and those developed for the proposed National Education, Training, and Work Program for AFDC recipients; (2) measure employment outcomes; (3) be based on the degree of success that may reasonably be expected of States in helping participants achieve self-sufficiency through employment and training programs; (4) take into account the extent of volunteer participation, job placement rates, wage rates, households ceasing to need food stamps, improvement in participants' educational levels, and the extent to which participants are able to obtain jobs with health benefits; (5) encourage States to serve those who have greater barriers to employment; (6) include guidelines that permit appropriate variations within and among States to take account of differing conditions (such as unemployment rates and rates of volunteer participation); and (7) be varied within any State (to the extent permitted by the Secretary's guidelines) as necessary to take into account specific economic, geographic, and demographic factors, the characteristics of the population to be served, and the types of employment and training services to be provided.

Proposed measures for performance standards are to be published not later than 1 year after enactment. Final standards are to be established, issued, and published not earlier than October 1, 1989, and are to be implemented not later than 180 days after publication. [Note: Any performance standards established under existing law would remain in effect until final standards have been established under this Act.]

(b) Section 12(c) requires the Office of Technology Assessment to: (1) develop model performance standards for food stamp employment and training programs that satisfy the requirements; set out in law for the standards; (2) compare its standards with Secretary's proposed measures; and (3) submit a report on the comparison to the Speaker of the House, the President pro tempore of the Senate, and the Secretary of Agriculture—not later than 180 days after the Secretary's proposed measures are published.

EMPLOYMENT AND TRAINING PROGRAM INCENTIVE PAYMENTS

Section 12(d) requires the Secretary to develop, and transmit to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry, a proposal for modifying the rate of Federal payments to States for employment and training programs so as to reflect the relative effectiveness of the various States in carrying out food stamp employment and training programs.

FARM HOUSEHOLDS

(a) Existing law permits States to conduct food stamp informational activities directed at homeless individuals, with 50-percent Federal cost-sharing. [Note: No other "outreach" activities may be conducted with Federal funds.]

Section 13(a) expands Federal participation in outreach efforts by permitting States to conduct food stamp informational activities directed at farm households, with 50-percent Federal cost-sharing.

(b) Section 13(b) permits States to undertake intensive training to ensure that State agency personnel certifying farm households are well qualified to do so, with 50-percent Federal cost-sharing.

Section 13(b) also requires the Secretary to publish instructional materials specifically designed to be used by State agencies providing intensive training on farm household certification—within 180 days of enactment, and annually thereafter.

HOURS OF OPERATION

Existing law requires the Secretary to establish standards for efficient and effective administration of the food stamp program by the States, including standards for the periodic review of the hours that food stamp offices are open to ensure that employed individuals are adequately served.

Section 14(a) adds a requirement that States have food stamp offices and issuance points that are open at sufficient locations and hours to ensure that those who are employed, or participating in a food stamp, AFDC, or State rehabilitation agency employment and training program, can: (1) comply with the various requirements of the food stamp program (including reporting changes, providing verification, appearing at interviews, and submitting applications and requests for recertification); and (2) obtain and use Authorizations to Participate documents and food stamps without missing or rescheduling hours of employment or participation in an employment and training program.

Section 14(b) revises the existing requirement for periodic review of office hours by requiring that the reviews also be conducted to ensure that persons in employment and training programs are adequately served.

NOTICE OF EXPIRATION; COORDINATED APPLICATION

(a) Existing law requires States to ensure that participating households receive a notice of expiration, prior to the start of the last month of their certification period, advising them that they must submit a new application in order to renew eligibility.

Section 15(a) requires States to include, in notices of expiration, information as to participants' rights, at recertification, to: (1) single interviews for AFDC and food stamp eligibility; (2) assistance in making a food stamp application, and certification for food stamps using information in social security case files (for SSI applicants and recipients); (3) unified food stamp and public assistance applications; (4) certification for food stamps using information in public assistance case files (for AFDC and general assistance recipients); and (5) simple food stamp applications at social security offices (for social security applicants and recipients).

(b) Existing law requires Secretary and the Secretary of Health and Human Services to develop a system by which: (1) a single interview is conducted to determine eligibility for AFDC and food stamps; and (2) households in which all members are applicants for or recipients of SSI benefits are informed of the availability of food stamps, assisted in making a simple food stamp application, and certified for food stamps using information from Social Security Administration files. States are required to implement these features.

Existing law also requires the Secretary and the Secretary of Health and Human Services to develop a system by which: (1) households in which all members are included in a federally aided, or State or local, public assistance program have their food stamp application included in their public assistance application; and (2) food stamp applicants with public assistance case files (either because they are public assistance recipients or have recently lost or been denied public assistance eligibility) are certified for food stamp eligibility based on the information in their public assistance case file, to the extent it is reasonably verified. States may implement these features.

Section 15(b) requires States to implement all four features of the system for single interviews, unified application procedures, and use of information in social security or public assistance files.

Section 15(b) also requires States to inform AFDC applicants that they may file a food stamp application along with their AFDC application without a separate food stamp interview.

WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT

Existing law permits the Secretary to conduct, on a trial basis, 1 or more pilot or experimental projects designed to test program changes that might increase the efficiency of the food stamp program and improve the delivery of food stamp benefits—including projects involving the payment of actual, or averaged (by household size), food stamp allotments in the form of cash to households with members entitled to cash AFDC or SSI benefits. In doing so, the Secretary is allowed to waive any Food Stamp Act requirements to the degree necessary, except that no project (other than projects involving the payment of averaged food stamp allotments) may lower or further restrict Food Stamp Act eligibility and benefit standards.

Existing law also permits States to conduct federally assisted pilot projects to demonstrate the use of integrated service delivery systems for human service programs, including the food stamp program.

Section 16 adds specific authority (a new section 21 of the Food Stamp Act) for the State of Washington to conduct a Family Independence Demonstration Project, in all or part of the State, to determine whether the project, as an alternative to providing food stamp benefits, would more effectively break the poverty cycle and provide families with opportunities for economic independence and strengthened family functioning. Under the project, the State is authorized to combine food stamp and cash public assistance benefits (AFDC benefits) into a unified cash grant, if it meets the conditions laid out in the new section 21 of the Food Stamp Act authorizing the project.

[NOTE: The Washington State Family Independence Program, enacted in May 1987 and to be implemented in early 1988, proposes to establish, as an alternative to the receipt of regular cash public assistance (AFDC) and food stamps, a program under which (1) cash and food stamp benefits are combined into a unified basic cash grant, (2) extensive employment and training programs are set up for recipients, and (3) recipient enrollees are given incentives in the form of added aid and support services. Benefits equal to at least the level of those provided under the regular AFDC and food stamp programs are to be assured.]

Unless otherwise required by the new section 21 of the Food Stamp Act authorizing the project, the project must be carried out as laid out in the Washington State law, enacted in May 1987, establishing its Family Independence Program. The Secretary is to approve the State's application to operate the project if it meets certain terms and conditions. Specific terms and conditions for approval of the project are as follows:

Those eligible for AFDC must be eligible for the project, in lieu of benefits under the food stamp program and any other Federal program covered by the project.

Project participants must receive aggregate monthly cash assistance not less than the total value they would otherwise receive under the food stamp program and any cash-assistance Federal program covered by the project. This assistance floor is to be calculated using income, resource, and deduction rules in effect on January 1, 1988 (including any future adjustments to those rules), and without regard to individuals not participating in the project.

The State may: (1) provide a "standard" food assistance benefit as part of cash aid under the project (except that cash food assistance must be no less than would otherwise have been received as food stamps); and (2) provide a food assistance benefit, as part of the project's cash benefit, that is equal to the maximum food stamp monthly benefit for the household.

The State must notify project participants, each month, of the amount of project cash assistance that is being provided as food assistance.

The State must have a program to require participants to engage in employment and training activities, as established under the Washington State law establishing the Family Independence Program.

Food assistance under the project must be provided to participants accepted into the project within 30 days of application. [NOTE: This is also a requirement in the food stamp program.]

Food assistance under the project must be provided from the date of application. [NOTE: This is also a requirement in the food stamp program.] However, food assistance under the project must be reduced to reflect the value of food stamps received by a participant in a month in which the participant is receiving project benefits including food assistance.

Food assistance under the project must be provided until: (1) participation in the project is terminated; (2) the participant is informed of the termination and advised of food stamp eligibility requirements; (3) the State determines whether the participant will be eligible for food stamps after leaving the project; and (4) food stamps are received by the ex-participant, if eligible.

The State must use appropriate bilingual personnel and printed materials in administration of the project. [NOTE: This is also a requirement in the food stamp program, and would apply in the same manner.]

The State must have safeguards that limit the use or disclosure of information obtained from project applicants to those directly connected with administration or enforcement (including the U.S. General Accounting Office and law enforcement officials). [NOTE: This is also a requirement in the food stamp program, and would apply in the same manner.]

The State must have procedures for granting fair hearings and prompt determinations to participants aggrieved by an action of the State. [NOTE: This is also a requirement in the food stamp program, and would apply in the same manner.]

The State must have an "income and eligibility verification system" for use of information available from other agencies (e.g., the Social Security Administration and agencies administering unemployment compensation) in verifying income and other eligibility factors. [NOTE: This is also a requirement in the food stamp program, and would apply in the same manner.]

The State must provide that individuals making an in-person oral or written application during office hours receive, and are permitted to file, an application for the project on the same day. [NOTE: This is also a requirement in the food stamp program.]

The project must provide for telephone/mail application procedures, and subsequent home or telephone interviews, for elderly, handicapped, and other persons unable to apply in person solely because of transportation difficulties and similar hardships. [NOTE: The food stamp program has a similar requirement.]

The project must provide that applicants may be represented by another person, designated by the applicant, in the application review process, if the other person is sufficiently aware of relevant circumstances. However, the State may restrict the number of individuals represented by any designee and otherwise establish criteria and verification for representation. [NOTE: The food stamp program has a similar requirement.]

The State must provide methods for reviewing applications made by the homeless, and distributing food assistance under the project to them. [NOTE: This is also a requirement in the food stamp program.]

The State must provide an assurance that it will allow any individual to participate in the food stamp program, without applying to participate in the project. The State must also provide an assurance that it will continue to carry out the food stamp program while carrying out the project.

The State must provide an assurance that the cost of food assistance under the project will not be such that aggregate Federal payments to the State over the course of the project exceed: (1) the anticipated value of food stamp benefits that would have been distributed to project participants if they had participated in the food stamp program; plus (2) the Federal reimbursement for State administrative costs (not including the Federal share of State costs for investigation and prosecution of fraud) if project participants had participated in the food stamp program; plus (3) the Federal reimbursement for food stamp employment and training programs if project participants had participated these programs. However, States may claim Federal payments for additional households that would qualify for food stamp benefits because of changes in economic, demographic, and other conditions, and later changes in State benefit levels.

The State must provide that there will be no change in existing State law that would eliminate guaranteed benefits, or reduce project applicants' or enrollees' rights, during (or as a result of participation in) the project.

The project must include procedures and due process guarantees no less beneficial than those available to food stamp participants under Federal and State law.

The State must provide an assurance that it will carry out the project during a 5-year period beginning on the date the first individual is approved for participation. However, the project may be terminated 180 days after the State notifies the Secretary, or 180 days after the Secretary determines the State has materially failed to comply with the requirements established in the new section 21 of the Food Stamp Act authorizing the project.

Upon approval of the State's application to carry out the project, the Secretary must, from funds appropriated under the Food Stamp Act, pay the State: (1) the actual cost of food assistance provided under the project; and (2) the percentage of the State's administrative costs for providing food assistance under the project equal to the percentage of the State's aggregate food stamp administrative costs (including employment and training program costs) paid in the most recent fiscal year for which data are available.

Until an application for the project is approved and food assistance under the project is made available, an application for the project is to be treated as an application to participate in the food stamp program, requiring processing for food stamp eligibility. Moreover, food stamp program "expedited service" rules are to apply to these applications. [NOTE: Food stamp expedited service rules require provision of benefits within 5 days of application in the case of persons with very low income and resources, the homeless, and persons with very high shelter expenses.]

Food stamp recipients applying to participate in the project may not have their food stamp benefits reduced or terminated because they apply for the project.

Individuals participating in project are not to be considered members of a food stamp household during their participation in the project.

The Secretary is required to waive compliance with any Food Stamp Act requirement that would prevent the State from carrying out the project, or effectively achieving its purpose.

With respect to any other Federal, State, or local law, food assistance provided under the project is to be treated as food stamp assistance, and project participants are to be treated as food stamp recipients.

The U.S. Comptroller General is required to conduct periodic audits to determine the amounts payable to the State for the project, and to submit a report of each such audit to the Secretaries of Agriculture and Health and Human Services, the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry.

The Secretary, in consultation with the Secretary of Health and Human Services, is required to conduct an evaluation of the project—using funds appropriated under the Food Stamp Act.

OTHER FAMILY INDEPENDENCE DEMONSTRATION PROJECTS

Existing law permits the Secretary to allow up to 5 statewide projects (on the request of a State) and up to 5 local projects (on request of a State or locality) under which households are considered to have satisfied food stamp eligibility requirements if they include one or more members who are recipients of AFDC, SSI, or Medicaid benefits and have monthly income less than the food stamp income eligibility limits. Participating households are to receive "standardized" monthly food stamp benefits based on household size and other benefits paid or available, with adjustments to ensure that average allotments under the projects are not less than average food stamp allotments that would have been provided under a regular food stamp program.

Section 17 adds specific authority (a new section 22 of the Food Stamp Act) for up to 10 of the 50 States (except for the State of Washington) to conduct a family independence demonstration project, in all or part of the State, under the same terms established for the Washington Family Independence Demonstration Project—except that food assistance benefits under any State's project must be issued in the form of food stamps, and cash.

ISSUANCE OF RULES

Section 18 requires the Secretary to issue rules to carry out amendments made by this Act—other than those pertaining to family independence demonstration projects—not late than January 1, 1988.

SEVERABILITY

Section 19 provides that, if any provision of, or amendment made by, this Act is held invalid, the remainder of the Act and its amendments, along with the application of the invalid provisions to other persons or circumstances, will not be affected.

EFFECTIVE DATES; APPLICATION OF AMENDMENTS

(a) Section 20(a) provides that—except for the severability provision and certain provisions made effective January 1, July 1, and October 1, 1988 (see "(b)" below)—the amendments made by this Act will take effect on the date, if any, the Director of the Congressional Budget Office (CBO) certifies to the Congress that a determination has been made regarding whether deficit reduction instructions or targets will be exceeded. [NOTE: See "(d)" below.]

(b) Section 20(b) provides that—subject to the CBO determination regarding deficit reduction instructions and targets (see "(d)" below) and subject to a requirement regarding application of the amendments (see "(c)" below)—certain amendments made by the Act will take effects as follows:

Amemdments affecting the exclusion for education expenses, the exclusion for child support payments, and the eligibility of students (sections 3, 4, and 11)—July 1, 1988;

Amendments affecting employment and training programs (section 12)—October 1, 1988; and

Amendments affecting family independence demonstration projects (sections 16 and 17)—January 1, 1988.

(c) Section 20(c) provides that amendments made in this Act do not apply with respect to a certification period beginning before the effective date of the amendment—i.e., amendments would apply only to new applicants and those being recertified for eligibility (when they regularly recertified) after the applicable effective date.

(d) Section 20(d) provides that substantive amendments made by this act (i.e., those other than the provision for separability and this provision regarding a CBO determination with regard to deficit reduction instructions and targets) will take effect only if the deficit reduction over fiscal years 1988-1990 (as determined by the CBO) exceeds aggregate reduction required by instructions contained in the budget resolution for FY 1988 (H. Con. Res. 93, as adopted by Congress), any subsequent revisions of these instructions adopted by Congress, or new deficit reduction targets adopted by Congress, by at least the cost of this Act's amendments for FYs 1988-1990.

The determination is to be made by the Director of the CBO by comparing the aggregate deficit reduction from reconciliation legislation adopted by Congress—pursuant to deficit reduction instructions in the FY 1988 budget resolution, any subsequent revision of these instructions adopted by Congress, or new deficit reduction targets adopted by Congress—against the CBO "baseline" issued in February 1987.

H.R. 3337

(A bill to amend the Food Stamp Act of 1977 to reform the food stamp program, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food Stamp Family Welfare Reform Act of 1987".

SEC. 2. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Program of 1977 (7 U.S.C. 2014(a)) is amended—

(1) by striking "during the period", and

(2) by striking "and ending on September 30, 1989,".

SEC. 3. EXCLUSION FOR CERTAIN EDUCATIONAL EXPENSES.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) in clause (3)—

(A) by inserting "(A)" after "the like", and

(B) by striking "at an institution" and all that follows through "handicapped, and", and inserting the following: "(including the rental or purchase of any equipment, materials, and supplies required to be obtained by all other students in the same course of study) at a recognized post-secondary school, institution of higher education, school for the handicapped, training program that prepares individuals for employment, or program that provides for completion of a secondary education or obtaining the equivalent of a secondary school diploma, (B) to the extent they do not exceed an allowance determined by such school, institution, or program for books, supplies, transportation, and miscellaneous personal expenses (other than living expenses) of the student incidental to attending such school, institution, or program, and (C)", and

(2) in the proviso to clause (5)—

(A) by inserting "and" after "child care expenses,"

(B) by striking "non-Federal", and

(C) by striking ", and no portion of any Federal" and all that follows through "mandatory school fees,".

SEC. 4. EXCLUSION OF CHILD SUPPORT PAYMENTS RECEIVED.

Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) by amending subsection (d)(13) to read as follows: "(13) child support that is disregarded under part A of title IV of the Social Security Act for recipients of benefits under such part", and

(2) by striking subsection (m).

SEC. 5. EXCLUSION FOR TWO-PARTY PAYMENTS MADE FOR AGRICULTURAL COMMODITIES.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by section 4, is amended—

(1) by striking "and (13)" and inserting "(13)", and

(2) by inserting before the period at the end the following: "and (14) payments for agricultural commodities (including products of such commodities) produced by a household member engaged in farming if such payments are made payable jointly to any member of the household and a person (including a governmental entity) that holds a security or leasehold interest in such commodities, except to the extent that such payments are actually available to the household".

SEC. 6. EXCLUSION FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by sections 4 and 5, is amended—

(1) by striking "and (14)" and inserting "(14)", and

(2) by inserting before the period at the end the following: ", and (15) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit)".

SEC. 7. DEDUCTION FOR DEPENDENT CARE.

(a) CONFORMING AMENDMENT.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)), as amended by sections 4, 5, and 6, is amended—

(1) by striking "and (15)" and inserting "(15)", and

(2) by inserting before the period at the end the following: ", and (16) any payment made to the household under section 6(d)(4)(H)(ii) for dependent care".

(d) DEDUCTION.—Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended—

(1) in the matter preceding clause (1) of the fourth sentence by inserting "and expenses which are paid under section 6(d)(4)(H)(ii) for dependent care" after "third party",

(2) in clause (1) of the fourth sentence—

(A) by striking "$160 a month" and inserting the following: "the sum of $200 a month for each dependent who is less than 2 years of age and $175 a month for each other dependent without regard to age", and

(B) by striking ", regardless of the dependent's age,", and

(3) in clause (B) of the last sentence by striking ", regardless of the dependent's age,".

SEC. 8. ANNUALIZING SELF-EMPLOYMENT INCOME AND EXPENSES FROM FARMING.

Section 5(f)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)(A)) is amended—

(1) in the second sentence by striking "preceding" and inserting "first", and

(2) by inserting after the first sentence the following: "Notwithstanding the preceding sentence, household income from the self-employment of a member who is self-employed in farming, who has income from farming, and who has irregular expenses to produce that income may, at the option of the household, be calculated by averaging such income and expenses over a twelve-month period.".

SEC. 9. RELIANCE ON PAST SELF-EMPLOYENT INCOME FROM FARMING.

Section 5(f)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)(A)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this subparagraph, past income from the self-employment of a household member who is self-employed in farming may not be used as an indicator of anticipated income if changes in such past income have occurred or if changes in income from such self-employment can be anticipated or occur during the certification period.".

SEC. 10. EXCLUSION OF CERTAIN PROPERTY FROM RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by adding at the end the following: "In the case of property (including land, equipment, and supplies) which is essential to the self-employment of a household member in farming, the Secretary shall exclude such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.".

SEC. 11. ELIGIBILITY OF STUDENTS.

Section 6(e) of the Food Stamp Act of 1977 (7 U.S.C. 2015(e)) is amended—

(1) in clause (2)—

(A) by striking "assigned to or placed in" and inserting "attending, or awaiting placement after being assigned to or accepted by,", and

(B) by inserting after "the Job Training Partnership Act," the following: "an employment or training program (as defined in section 6(d)(4)(B)), a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296), or a training program of a state or local jurisdiction,", and

(2) in clause (3)—

(A) in subclause (C) by inserting "to enable such individual to satisfy the requirements of subclause (A)" before the semicolon,

(B) in subclause (D) by striking "aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)" and inserting in lieu thereof: "benefits under a state plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or under a state or local general assistance program",

(C) by striking "or" before "(E)", and

(D) by striking the period at the end and inserting the following: "; or (F) is not a member of a household that is otherwise eligible to participate in the food stamp program and that includes a parent, grandparent, or legal guardian of such individual.".

SEC. 12. EMPLOYMENT AND TRAINING PROGRAMS.

(a) TRANSPORTATION AND RELATED COSTS INCURRED BY PARTICIPANTS.—

(1) DEPENDENT CARE EXPENSE.—(A) Section 6(d)(4)(H) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(H)) is amended—

(i) by inserting "(i)" after "(H)",

(ii) by striking "reimburse" and inserting "pay",

(iii) by inserting "(including actual costs for dependent care)" after "other actual costs",

(iv) by striking "such reimbursement" and inserting "such payment (I)",

(v) by inserting before the period the following: "for actual costs other than dependent care and (II) to each household to the sum of $200 a month for the care of each dependent who is less than 2 years of age and $175 a month for the care of each other dependent, without regard to age", and

(vi) by adding at the end the following:

"(ii) Payments under this subparagraph may be made to such participants directly or to the providers of the services for which payments are authorized by this subparagraph. Payments made directly to such participants—

"(I) may be made in cash, or in certificates redeemable by the State agency upon presentation by such providers if such certificates are readily usable by such participants; and

"(II) shall be made in advance to the maximum extent practicable.".

(B) Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended—

(i) by inserting "(including expenses for dependent care)" after "other expenses",

(ii) by inserting "(A)" after "exceed",

(iii) by striking "and such reimbursement" and inserting "for such expenses, other than expenses for dependent care, and (B) an amount representing, per household, the sum of $200 a month for the care of each dependent who is less than 2 years of age and $175 a month for the care of each other dependent without regard to age. Such reimbursement".

(2) PAYMENTS.—(A) Section 6(d)(4)(H) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(H)), as amended by paragraph (1)(A)(i)(I), is amended by striking "to each participant to $25" and inserting "required by this subclause to each participant to any amount that is not less than $25 and not more than $75".

(B) Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)), as amended by paragraph (1)(B), is amended—

(i) by striking "per centum" and all that follows through "connection with", and inserting "percent of the aggregate amount paid by the State agency to participants for", and

(ii) by striking "$25" and inserting "the payment made under section 6(h)(4)(H)(i)(I)".

(b) PERFORMANCE STANDARDS.—Section 6(d)(4)(J) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(J)) is amended to read as follows:

"(J)(i) The Secretary shall establish in accordance with this subparagraph performance standards that are applicable to employment and training programs carried out under this paragraph.

"(ii) The performance standards referred to in clause (i) shall be developed by the Secretary after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials designated for purposes of this clause by the chief executive officers of the States, other appropriate experts, and representatives of households participating in the food stamp program. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act and the performance standards under section 416(n) of the Social Security Act, taking into consideration the differing characteristics of such households)—

"(I) shall be measured by employment outcomes and shall be based on the degree of success which may reasonably be expected of States (in carrying out employment and training programs) in helping such individuals to achieve self-sufficiency;

"(II) shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph, job placement rates, wage rates, job retention rates, households ceasing to need benefits under this Act, improvements in household members' educational levels, and the extent to which household members are able to obtain jobs for which they receive health benefits;

"(III) shall encourage States to serve those individuals who have greater barriers to employment and thus have greater difficulties in achieving self-sufficiency; and

"(IV) shall include guidelines permitting appropriate variations to take account of the differing conditions (including unemployment rates and rates of elective participation under subparagraph (G) in employment and training programs under this paragraph) which may exist in different States.

"(iii) Proposed measures for the performance standards referred to in clause (i) shall be published by the Secretary not later than 1 year after the date of the enactment of the Food Stamp Family Welfare Reform Act of 1987. The performance standards themselves shall be established, issued, and published not sooner than October 1, 1989, and shall be implemented not later than 180 days, after the publication of such measures.

"(iv) The performance standards developed and issued under clause (ii) shall be varied in any State, to the extent permitted under clause (ii)(IV), to the extent necessary to take account of specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.".

(c) DEVELOPMENT OF MODEL PERFORMANCE STANDARDS.—Not later than 180 days after the Secretary publishes the measures for the performance standards under subparagraph (J) of section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)), as added by subsection (a), the Office of Technology Assessment (hereinafter in this subsection referred to as the "Office") shall—

(1) develop model performance standards suitable for application to employment and training programs carried out under such section 6(d)(4) and that satisfy the criteria specified in such subparagraph,

(2) compare such standards with the performance standards established under such subparagraph by the Secretary, and

(3) submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Secretary of Agriculture a report describing the results of the comparison required by paragraph (2) of this subsection.

(d) INCENTIVE PAYMENTS.—Section 16(h) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)) is amended by adding at the end the following:

"(6) The Secretary shall develop and transmit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).".

SEC. 13. FARM HOUSEHOLDS.

(a) AUTHORITY TO PROVIDE INFORMATION.—Section 11(e)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended by inserting after "homeless individuals" the following: "and food stamp informational activities directed at households that include a member who engages in farming".

(b) SPECIAL TRAINING OF STATE PERSONNEL.—

(1) TRAINING.—Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(A) by striking "and (C)" and inserting "(C)", and

(B) by inserting before the semicolon at the end the following: ", and (D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are well qualified to perform such certification".

(2) TRAINING MATERIALS.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(A) by redesignating subsection (h), as added by section 121(b)(5) of the Immigration Reform and Control Act of 1986 (Public Law 99-603), as subsection (j), and

(B) by adding at the end the following:

"(k) Not later than 180 days after the date of the enactment of the Food Stamp Family Welfare Reform Act of 1987, and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are well qualified to perform such certification.".

SEC. 14. HOURS OF OPERATION.

(a) STATE PLAN REQUIREMENT.—Section 11(e)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)) is amended by adding at the end the following: "The State agency shall ensure that its offices and points of issuance are open at sufficient locations and during sufficient hours to ensure that applicants and participants who are employed or who are participating in an education, training, work, or rehabilitation program under section 6(d) of this Act, under title IV of the Social Security Act (42 U.S.C. 601 et seq.), or under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may (A) comply with the requirements of the food stamp program (including reporting changes, providing verification, appearing at interviews, and submitting applications and requests for recertification), and (B) obtain and use certification documents and coupons without missing or rescheduling hours of employment or hours of participation in such education, training, work, or rehabilitation program.".

(b) STANDARDS.—Section 16(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(b)(1)) is amended by inserting ", and individuals participating in employment and training programs," after "employed individuals".

SEC. 15. NOTICE OF EXPIRATION; COORDINATED APPLICATION.

(a) NOTICE OF EXPIRATION.—Section 11(e)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(4)) is amended by inserting "informing the household of its rights under subsections (i) and (j) and" after "last month of its certification period".

(b) COORDINATED APPLICATION.—The second sentence of section 11(i)) of the Food Stamp Act of 1977 (7 U.S.C. 2020(i)) is amended to read as follows:

"In addition to implementing clauses (1) through (4), the state shall inform applicants for benefits under part A of title IV of the Social Security Act that they may file, along with their application for such benefits and without a separate food stamp interview, an application for benefits under this Act.".

SEC. 16. WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT.

The Food Stamp Act of 1977 (7 U.S.C. 2011-2029) is amended by adding at the end the following:

"WASHINGTON FAMILY INDEPENDENCE DEMONSTRATION PROJECT

"SEC. 21. (a) On the written application of the State of Washington (in this section referred to as the 'State') and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program and cash assistance under any other Federal program covered by the Project.

"(ii) Individuals with respect to whom only food assistance would be provided under the Project shall not be eligible to participate in the Project.

"(B) Individuals who participate in the Project shall receive for a month an amount of cash assistance that is not less than the total value of the assistance such individuals would otherwise receive, in the aggregate, under the food stamp program and any cash-assistance Federal program covered by the Project for such month, including income and resource exclusions and deductions in effect as of January 1, 1988, and as adjusted to reflect all subsequent increases in exclusions, deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month an amount of cash that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a cash benefit for food assistance equal to the value of the thrifty food plan.

"(D) For purposes of subparagraphs (B) and (C), the value of the assistance such individuals would otherwise receive under the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(E) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(F) The State shall have a program to require participants to engage in employment and training activities carried out under chapter 434 of the 1987 Washington Laws, as enacted in May 1987.

"(G) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participation of such participant in the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible, after terminating participation in the Project, to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) shall apply with respect to participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of a cash out of such benefits as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature. For purposes of this paragraph, the value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) There shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act.

"(d)(1) Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project; may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which (if applied) would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) For purposes of any other Federal, State, or local law—

"(1) cash assistance provided under the Project that represents food assistance shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to verify the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing the results of each such audit.

"(h) With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the Project.".

SEC. 17. FAMILY INDEPENDENCE DEMONSTRATION PROJECTS.

The Food Stamp Act of 1977 (7 U.S.C. 2011-2029), as amended by section 16, is amended by adding at the end the following:

"Other Family Independence Demonstration Projects

"Sec. 22. (a) On the written application of a State and after the approval of such application by the Secretary, the State may conduct a Family Independence Demonstration Project (in this section referred to as the 'Project') in all or part of the State in accordance with this section to determine whether the Project, as an alternative to providing benefits under the food stamp program, would more effectively break the cycle of poverty and would provide families with opportunities for economic independence and strengthened family functioning.

"(b) In an application submitted under subsection (a), the State shall provide the following:

"(1) Except as provided in this section, laws of the State identical in substance to the provisions of chapter 434 of the 1987 Washington Laws, as enacted in May 1987, shall apply to the operation of the Project. During the operation of the Project, there will be no subsequent change in State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section.

"(2) All of the following terms and conditions shall be in effect under the Project:

"(A)(i) Except as provided in clause (ii), individuals with respect to whom benefits may be paid under part A of title IV of the Social Security Act shall be eligible to participate in the Project in lieu of receiving benefits under the food stamp program.

"(ii) Individuals with respect to whom only food assistance would be provided under the Project shall not be eligible to participate in the Project.

"(B) Individuals who participate in the Project, shall receive for a month, coupons that have a cash value that is not less than the total value of the assistance such individuals would otherwise receive under the food stamp program, including income and resource exclusions and deductions in effect as of January 1, 1988, and as adjusted to reflect all subsequent increases in exclusions, deductions, and benefit levels.

"(C)(i) The State may provide a standard benefit for food assistance under the Project, except that individuals who participate in the Project shall receive as food assistance for a month coupons that have a total value that is not less than the value of the assistance such individuals would otherwise receive under the food stamp program.

"(ii) The State may provide a benefit for food assistance equal to the value of the thrifty food plan.

"(D) For purposes of subparagraphs (B) and (C), the value of the assistance such individuals would otherwise receive under the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(E) Each month participants in the Project shall be notified by the State of the amount of Project assistance that is provided as food assistance for such month.

"(F) The State shall have a program to require participants to engage in employment and training activities carried out under laws identical in substance to chapter 434 of the 1987 Washington Laws, as enacted in May 1987.

"(G) Food assistance shall be provided under the Project—

"(i) to any individual who is accepted for participation in the program, not later than 30 days after such individual applies to participate in the Project;

"(ii) to any participant for the period that begins on the date such participant applies to participate in the Project, except that the amount of such assistance shall be reduced to reflect the pro rata value of any coupons received under the food stamp program for such period for the benefit of such participant; and

"(iii) until—

"(I) the participation of such participant in the Project is terminated;

"(II) such participant is informed of such termination and is advised of the eligibility requirements for participation in the food stamp program;

"(III) the State determines whether such participant will be eligible, after terminating participation in the Project, to receive coupons as a member of a household under the food stamp program; and

"(IV) coupons under the food stamp program are received by such participant if such participant will be eligible to receive coupons as a member of a household under the food stamp program.

"(H)(i) Paragraphs (1)(B), (8), (10), and (19) of section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) shall apply with respect to participants in the Project in the same manner as such paragraphs apply with respect to participants in the food stamp program.

"(ii) Each individual who contacts the State in person during office hours to make what may reasonably be interpreted as an oral or written request to participate in the Project shall receive and shall be permitted to file on the same day that such contact is first made, an application form to participate in the Project.

"(iii) The Project shall provide for telephone contact by, mail delivery of forms to and mail return of forms by, and subsequent home or telephone interview with, the elderly, physically or mentally handicapped, and persons otherwise unable, solely because of transportation difficulties and similar hardships, to appear in person.

"(iv) An individual who applies to participate in the Project may be represented by another person in the review process if the other person has been clearly designated as the representative of such individual for that purpose, by such individual or the spouse of such individual, and, if the application review process is concerned, the representative is an adult who is sufficiently aware of relevant circumstances, except that the State may—

"(I) restrict the number of individuals which may be represented by such person; and

"(II) otherwise establish criteria and verification standards for representation under this clause.

"(v) The State shall provide a method reviewing applications to participate in the Project submitted by, and distributing food assistance under the Project to, individuals who do not reside in permanent dwellings or who have no fixed mailing address. In carrying out the preceding sentence, the State shall take such steps as are necessary to ensure that participation in the Project is limited to eligible individuals.

"(3) An assurance that the State will allow any individual to apply to participate in the food stamp program without applying to participate in the Project.

"(4) An assurance that the cost of food assistance provided under the Project will not be such that the aggregate amount of payments made under this section by the Secretary to the State (including the cash value of coupons provided to the State for distribution under the Project) over the period of the Project will exceed the sum of—

"(A) the anticipated aggregate value of the coupons that would have been distributed under the food stamp program if the individuals who participated in the Project had participated instead in the food stamp program; and

"(B) the portion of the administrative costs for which the State would have received reimbursement under—

"(i) subsections (a) and (g) of section 16 of this Act (without regard to the first proviso to such subsection (g)) if the individuals who participated in the Project had participated instead in the food stamp program; and

"(ii) section 16(h) of this Act if the individuals who participated in the Project had participated in an employment and training program under section 6(d)(4) of this Act;

except that this paragraph shall not be construed to prevent the State from claiming payments for additional households that would qualify for benefits under the food stamp program in the absence of food assistance provided under the Project as a result of changes in economic, demographic, and other conditions in the State and subsequent changes in benefit levels approved by the State legislature. For purposes of this paragraph, the value of the coupons that would have been distributed under the food stamp program if the individuals who participate in the Project had participated instead in the food stamp program shall be determined without regard to individuals who are not participating in the Project.

"(5) An assurance that the State will continue to carry out the food stamp program while the State carries out the Project.

"(6) There shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees under this section during, or as a result of participation in, the Project.

"(7) The Project shall include procedures and due process guarantees no less beneficial than those which are available under Federal law and under State law to participants in the food stamp program.

"(8)(A) An assurance that, except as provided in subparagraph (B), the State will carry out the Project during a 5-year period beginning on the date the first individual is approved for participation in the Project; and

"(B) The Project may be terminated 180 days after—

"(i) the State gives notice to the Secretary and to the Secretary of Health and Human Services that it intends to terminate the Project; or

"(ii) the Secretary, after notice and an opportunity for a hearing, determines that the State materially failed to comply with this section.

"(c) If an application submitted under subsection (a) by the State complies with the requirements specified in subsection (b), then the Secretary shall—

"(1) approve such application; and

"(2) from funds appropriated under this Act, pay the State for—

"(A) the actual cost of the food assistance provided under the Project; and

"(B) the percentage of the administrative costs incurred by the State to provide food assistance under the Project that is equal to the percentage of the State's aggregate administrative costs incurred in operating the food stamp program in the most recent fiscal year for which data are available, which was paid under subsections (a), (g), and (h) of section 16 of this Act;

except that the Secretary may not approve more than 10 applications submitted under subsection (a).

"(d)(1) Unless and until an application to participate in the Project is approved, and food assistance under the Project is made available to the applicant, such application shall—

"(A) also be treated as an application to participate in the food stamp program; and

"(B) section 11(e)(9) shall apply with respect to such application.

"(2) Coupons provided under the food stamp program with respect to an individual who—

"(A) is participating in such program; and

"(B) applies to participate in the Project; may not be reduced or terminated because such individual applies to participate in the Project.

"(3) For purposes of the food stamp program, individuals who participate in the Project shall not be considered to be members of a household during the period of such participation.

"(e) The Secretary shall (with respect to the Project) waive compliance with any requirement contained in the Food Stamp Act of 1977 (other than this section) which, if applied, would prevent the State from carrying out the Project or effectively achieving its purpose.

"(f) For purposes of any other Federal, State, or local law—

"(1) food assistance provided under the Project shall be treated in the same manner as coupons provided under the food stamp program are treated; and

"(2) participants in the program who receive food assistance under the Project shall be treated in the same manner as recipients of coupons under the food stamp program are treated.

"(g) The Comptroller General of the United States shall—

"(1) conduct periodic audits of the operation of the Project to determine the amounts payable to the State from time to time under subsection (b)(4); and

"(2) submit to the Secretary of Agriculture, the Secretary of Health and Human Services, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of each such audit.

"(h) For purposes of this section, the term 'State' means any of the fifty States, except that such term does not include the State of Washington.

"(i) With funds appropriated under section 18(a)(1), the Secretary shall conduct, in consultation with the Secretary of Health and Human Services, an evaluation of the projects carried out under this section."

SEC. 18. ISSUANCE OF RULES.

Not later than January 1, 1988, the Secretary of Agriculture shall issue rules to carry out the amendments made by this Act, other than the amendments made by sections 16 and 17.

SEC. 19. SEVERABILITY.

If any provision of this Act or of an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and of the amendments made by this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 20. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) GENERAL EFFECTIVE DATES.—This section and section 19 shall take effect on the date of the enactment of this Act.

(2) Except as provided in subsections (b), (c), and (d), this Act (other than this section and section 19) and the amendments made by this Act shall take effect on the date, if any, on which the Director of the Congressional Budget Office certifies to the Congress that the Director has made the determination specified in subsection (d).

(b) SPECIFIC EFFECTIVE DATES.—Except as provided in subsections (c) and (d)—

(1) the amendments made by sections 3, 4, and 11 shall take effect on July 1, 1988,

(2) the amendments made by section 12 shall take effect on October 1, 1988, and

(3) the amendment made by sections 16 and 17 shall take effect on January 1, 1988.

(c) APPLICATION OF AMENDMENTS.—An amendment made by this Act shall not apply with respect to any certification period beginning before the effective date of such amendment.

(d) CONTINGENCY.—(1) This Act (other than this section and section 19) and the amendments made by this Act shall take effect only if the deficit reduction over fiscal years 1988 through 1990, as determined by the Congressional Budget Office in accordance with paragraph (2), exceeds in the aggregate the deficit reduction required by the deficit reduction instructions contained in section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93), as adopted by the 100th Congress, or any subsequent revision of such instructions adopted by the Congress, or new deficit reduction targets adopted by the Congress, by an amount not less than the aggregate cost of carrying out the amendments made by this Act for such fiscal years.

(2) The determination described in paragraph (1) shall be made by the Director of the Congressional Budget Office by comparing the aggregate deficit reduction from the reconciliation legislation, as adopted by the Congress pursuant to the deficit reduction instructions in section 4 of the concurrent resolution on the budget for fiscal year 1988 (H. Con. Res. 93), or any subsequent revision of such instructions adopted by the Congress, or new deficit reduction targets adopted by the Congress against the baseline issued by the Congressional Budget Office in February 1987.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DANIEL (at the request of Mr. FOLEY), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MORELLA) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 30 minutes, today.

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. RAY, for 5 minutes, today.

Mr. NICHOLS, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. PELOSI, for 60 minutes, on October 8.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KOLBE, following the vote on House Joint Resolution 362 today.

Mr. WEISS, during debate on House Resolution 270 today.

(The following Members (at the request of Mrs. MORELLA) and to include extraneous matter:)

Mr. JEFFORDS in two instances.

Mr. OXLEY.

Mr. INHOFE.

Mr. BROOMFIELD.

Mr. YOUNG of Alaska.

Mr. SOLOMON.

Mr. GEKAS.

Mr. HORTON.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. STARK in two instances.

Mr. MILLER of California.

Mr. FEIGHAN.

Mr. COELHO.

Mr. SOLARZ.

Mr. WAXMAN.

Mr. RODINO.

Mr. WYDEN.

Mr. TALLON.

Mr. COLEMAN of Texas.

Ms. SLAUGHTER of New York.

Mr. CROCKETT.

Mr. HAMILTON.

BILL AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill and joint resolutions of the House of the following titles:

H.R. 1163. An act to amend section 902(e) of the Federal Aviation Act of 1958 to revise criminal penalties relating to certain aviation reports and records offenses;

H.J. Res. 134. Joint resolution designating the week of September 20, 1987, through September 26, 1987, as "Emergency Medical Services Week"; and

H.J. Res. 224. Joint resolution designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week."

ADJOURNMENT

Mr. PANETTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 10 minutes p.m.), under its previous order, the House adjourned until Friday, September 25, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2142. A communication from the President of the United States, transmitting a bimonthly report on progress toward a negotiated settlement of the Cyprus question, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

2143. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting copies of reports of political contributions by Charles Franklin Dunbar, of Maine, Ambassador designate and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

2144. A letter from the Chairman, Cultural Property Advisory Committee, U.S. Information Agency, transmitting the Committee's report, subsequent to its July letter of notification (Ex. Com. 1814), on the request of El Salvador for United States emergency import restrictions; advising that the presidential determinations required have been made by the Deputy Director of USIA and published in the Federal Register on September 11, 1987, pursuant to Public Law 97-446, section 306(f)(6); to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2897. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations in such act, and for other purposes; with an amendment (Rept. 100-271, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 273. A resolution providing for the consideration of H.R. 2939, a bill to amend title 28, United States Code, with respect to the appointment of independent counsel (Rept. 100-315). Referred to the House Calendar.

Mr. RODINO: Committee on the Judiciary. H.R. 2939. A bill to amend title 28, United States Code, with respect to the appointment of independent counsel; with an amendment (Rept. 100-316). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. APPLEGATE:

H.R. 3334. A bill to amend title 49, United States Code to improve hazardous materials transportation safety, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mrs. BENTLEY:

H.R. 3335. A bill amending the cargo preference laws to cause components or ingredients of equipment, materials, commodities, or supplies to be included under existing requirements on the transportation of goods by or for the United States; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. GUNDERSON (for himself, Ms. Snowe, Ms. Kaptur, Mr. Matsui, Mr. Perkins, Mr. Fawell, Mr. Roe, Mrs. Saiki, Mr. Ravenel, Mr. Lagomarsino, Mr. Daub, Mr. Gonzalez, Mr. Wortley, Mr. Bilbray, Mr. Traficant, Mr. Murphy, Mr. Campbell, Mr. Baker, and Mr. Yatron):

H.R. 3336. A bill to provide for the acquisition of statistical data about the incidence of crimes against the elderly, to establish the National Center on Crimes Against Older Americans, and for other purposes; to the Committee on the Judiciary.

By Mr. PANETTA:

H.R. 3337. A bill to amend the Food Stamp Act of 1977 to reform the Food Stamp Program, and for other purposes; to the Committee on Agriculture.

By Mr. RAY (for himself, Mr. Jenkins, Mr. Derrick, Mr. Ackerman, Mr. Hefner, Mr. Daniel, Mr. Robinson, Mr. Dornan of California, Mr. Davis of Illinois, Mr. Ravenel, Mr. Marlenee, Mr. Rowland of Georgia, Mr. Emerson, Mr. McEwen, Mr. Jones of Tennessee, Mr. Wheat, Mr. MacKay, Mr. Boucher, Mr. Staggers, Mr. Spence, Mr. Penny, Mr. Hubbard, Mr. Thomas of Georgia, Mr. Leath of Texas, Mr. Flippo, Mr. English, Mr. Watkins, Mr. Schumer, Mr. Morrison of Connecticut, Mr. Anthony, Mr. Alexander, Mr. Gray of Pennsylvania, Mr. Burton of Indiana, Mr. Pickett, Mr. Hall of Texas, Mr. Hopkins, Mr. Gonzalez, Mr. Montgomery, Mr. Gray of Illinois, Mr. Hayes of Illinois, Mr. Barnard, Mr. Solomon, Mrs. Patterson, Mr. Spratt, Mr. Kasich, Mr. Skelton, Mrs. Boxer, Mr. Mavroules, Mr. Rowland of Connecticut, Mrs. Byron, Mr. Nichols, Mr. Stratton, Mr. Dickinson, Mr. Sisisky, Mr. Coleman of Texas, Mr. Herger, Mr. Boner of Tennessee, Mr. Rogers, Mr. Tallon, Mr. Lewis of Georgia, Mr. Espy, Mr. Lott, Mr. Stenholm, Mr. Erdreich, Mr. Harris, Mr. Sundquist, Mrs. Lloyd, Mr. Dyson, Mr. Bates, Mr. Richardson, Mr. Slattery, Mr. Obey, Mr. Towns, Mr. Hatcher, Mr. Ridge, Mr. Dannemeyer, Mr. Dicks, Mr. Mollohan, Mr. Hutto, Mr. Stump, Mr. Kyl, Mr. Huckaby, Mr. Durbin, Mr. Martin of New York, Mr. Mrazek, Mr. Glickman, Mr. Hansen, Ms. Kaptur, Mr. Howard, Mr. Dwyer of New Jersey, Mr. Levine of California, Mr. Smith of Florida, Mr. McMillen of Maryland, Mr. Stokes, Mr. Carr, Mr. Hertel, Mr. Perkins, Mr. Darden, Mr. Dowdy of Mississippi, Mr. Olin, Mr. Fazio, Mr. Frank, Mr. Vento, Mrs. Schroeder, Ms. Oakar, Mr. Murtha, Mr. Kennedy, Mr. Clarke, Mr. Dingell, Mr. Moakley, Mr. Udall, Mr. Cooper, Mr. Fauntroy, Mr. Chapman, Mr. Nelson of Florida, Mr. Bevill, Mr. Carper, Mr. Sweeney, Mr. Andrews, Mr. Donnelly, Mr. Early, Mr. Hyde, Mr. Smith of New Jersey, Mr. McMillan of North Carolina, Mr. McCandless, Mr. Henry, Mr. Hifer, Mr. Duncan, Mr. Hunter, Mr. Konnyu, Mr. Dellums, and Mr. Valentine):

H.R. 3338. A bill to deny most-favored-nation treatment to products of Iran; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 3339. A bill to amend section 235 of the National Housing Act to reduce the costs of the lower income homeownership program; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WYDEN (for himself, Mr. Waxman, Mr. Madigan, Mr. Cooper, Mrs. Collins, Mr. Florio, and Mr. Chandler):

H.R. 3340. A bill to amend the Public Health Service Act to establish programs with respect to providing for an increase in the number of professional nurses; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska:

H.R. 3341. A bill to strengthen fisheries research through the imposition of fees on the harvesting and processing of fish within the exclusive economic zone and through the licensing of recreational fishing within such zone; to the Committee on Merchant Marine and Fisheries.

By Mr. QUILLEN:

H.J. Res. 365. Joint resolution designating October 1, 1988, as "National Quality First Day"; to the Committee on Post Office and Civil Service.

By Mr. DYMALLY (for himself, Mr. Horton, Mr. Rodino, Mr. Conyers, Mr. Penny, Mr. Towns, Mr. Fauntroy, Mr. Sunia, Mr. Savage, Mr. Espy, Mr. Gray of Pennsylvania, and Mr. Clay):

H. Con. Res. 192. Concurrent resolution expressing support for U.N. efforts to end the Iran-Iraq war and to bring an end to human rights abuses in Iran; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

204. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to the use of tributyltin in marine bottom paints; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 80: Mr. Gaydos, Mr. Bliley, and Mr. Kostmayer.

H.R. 84: Mr. Visclosky.

H.R. 190: Mr. Solarz, Mr. Smith of Florida, Mr. Daub, Mr. LaFalce, and Mr. Hyde.

H.R. 541: Mr. Lantos.

H.R. 792: Mr. Solarz.

H.R. 958: Mr. Clinger, Mr. Coelho, Mr. DeLay, Mr. Dowdy of Mississippi, Mr. Gonzalez, Mr. Howard, Mr. Jeffords, Mr. McDade, Mr. McEwen, Mr. McGrath, Mr. Roberts, Mr. Robinson, Mr. Sabo, and Mr. Weber.

H.R. 1106: Mr. Akaka and Mr. Mazzoli.

H.R. 1342: Mr. Schumer.

H.R. 1395: Mr. MacKay.

H.R. 1481: Mr. Lewis of Georgia.

H.R. 1546: Mr. McMillen of Maryland and Mr. Levine of California.

H.R. 1554: Mr. Ritter, Mr. Ford of Tennessee, and Mr. Hughes.

H.R. 1584: Mr. Evans, Mr. Donnelly, Mr. Smith of Florida, and Mr. Eckart.

H.R. 1782: Mr. Stump, Mr. Mollohan, Mr. Richardson, Mr. Taylor, Mr. Donald E. Lukens, and Mr. Schuette.

H.R. 1987: Mr. Foglietta.

H.R. 2038: Mr. Evans, and Mr. Foglietta.

H.R. 2237: Mr. Bruce, Mr. Smith of New Hampshire, and Mr. Evans.

H.R. 2238: Mr. Weber, Mr. Bliley, Mr. Smith of New Hampshire, Mr. English, Mr. Craig, Mr. Sundquist, Mr. Lewis of Georgia, Mr. Gallo, Mr. Spence, Mr. Upton, and Mr. Martinez.

H.R. 2248: Mr. Frost, Mr. Lantos, Mr. Myers of Indiana, Mr. McCloskey, Mr. Kanjorski, and Mr. Owens of New York.

H.R. 2392: Mr. Burton of Indiana and Mr. Wortley.

H.R. 2429: Mr. Solarz, Mr. Roberts, Mr. Boehlert, and Mr. Bateman.

H.R. 2517: Mr. Fish, Mrs. Roukema, and Mr. Rodino.

H.R. 2609: Mr. Wortley and Mr. Stump.

H.R. 2692: Mr. Markey, Mr. Savage, Mr. Price of Illinois, Mr. Hastert, and Mr. Owens of New York.

H.R. 2787: Mr. Fish, Mrs. Roukema, and Mr. Rodino.

H.R. 2792: Mr. Synar, Mr. Oberstar, and Mr. Russo.

H.R. 2833: Ms. Kaptur.

H.R. 2876: Ms. Kaptur.

H.R. 2972: Mr. Fascell and Mr. Glickman.

H.R. 3013: Mr. Chapman, Mr. Lancaster, Mr. Clinger, Mr. Evans, Mr. Gunderson, Ms. Kaptur, Mr. Fuster, Mr. Foglietta, Mr. Harris, and Mr. Martinez.

H.R. 3071: Mr. DeFazio.

H.R. 3075: Mr. Thomas of Georgia, Mr. Robinson, Mr. Bennett, Mr. Valentine, Mr. Daniel, Mr. Kyl, Mr. Young of Alaska, and Mr. Lowery of California.

H.R. 3132: Mr. Kolter, Mr. Towns, Mr. Fazio, Mr. Owens of New York, Mr. Udall, Mr. Gilman, Mr. Evans, Mr. Hayes of Illinois, and Mr. Mrazek.

H.R. 3258: Mr. Swindall, Mr. Fazio, Mr. Daub, Mr. Panetta, Mr. Chandler, Mr. Whittaker, Mr. Weiss, Mr. Vento, Mr. Biaggi, and Mr. Hughes.

H.J. Res. 227: Mr. Kastenmeier, Mr. Robinson, Mr. Tallon, Mr. Markey, Mr. Derrick, Mr. Donnelly, Mr. Fawell, Mr. Holloway, and Mr. Gunderson.

H.J. Res. 318: Mr. Kanjorski, Mr. Schuette, Mr. Derrick, Mr. Wheat, Mr. Ray, Mr. AuCoin, Mr. Dicks, Mr. Lowry of Washington, Mr. Gray of Illinois, Mr. Stenholm, Mr. Leath of Texas, Mr. Barnard, Mr. Anthony, Mr. Jones of Tennessee, Mr. Alexander, Mr. Harris, Mr. Gibbons, Mr. Gray of Pennsylvania, and Mr. Downey of New York.

H.J. Res. 349: Mr. Carper, Mr. Vento, Mr. Holloway, Mr. Kolter, Mrs. Martin of Illinois, Mr. DeLay, Mr. Regula, and Mr. Owens of New York.

H.J. Res. 355: Mr. Yates, Mr. Hall of Texas, Mr. Neal, Mr. Huckaby, Mrs. Boggs, Mr. Hayes of Louisiana, Mr. Towns, Mr. Ackerman, Mr. Manton, Mr. Coleman of Texas, Mr. Kostmayer, Mr. Pepper, Mr. Porter, Mr. Ireland, Mr. Mack, Mr. Anderson, Mr. Torres, Mr. Hansen, Mr. Quillen, Mr. Jeffords, Mr. Hubbard, Mr. Annunzio, and Mr. Chappell.

H. Con. Res. 183: Mr. Bennett, Mr. Boner of Tennessee, Mr. Hawkins, Mr. Saxton, Mr. Rodino, Mr. Fauntroy, Mr. Bryant, Mr. Beilenson, Mr. Richardson, Mr. Bevill, Mr. Lagomarsino, Mr. Gibbons, Mr. Pepper, Mr. Fields, Ms. Pelosi, Mr. Neal, Mr. Brooks, Mr. McCloskey, Mr. Studds, Mr. Robinson, Mr. Gallo, Mr. Dwyer of New Jersey, Mr. Grant, Mrs. Johnson of Connecticut, Mr. Smith of Florida, Mr. Roe, Mr. Ford of Michigan, Mr. Courter, Mr. Bosco, Mr. Lewis of Georgia, Mr. Biaggi, Mr. Martinez, Mrs. Roukema, Mr. Upton, Mr. Fawell, Mr. Bates, Mr. Gejdenson, Mr. Morrison of Connecticut, and Mr. Owens of Utah.

H. Con. Res. 187: Mr. Pease.

H. Res. 185: Ms. Snowe, Mr. Fazio, Mr. Pursell, Mr. Duncan, Mr. Martin of New York, Mr. Florio, Mr. Coble, Mr. Donnelly, Mr. Gregg, Mr. DioGuardi, Mr. Grandy, Mr. Craig, Mr. Brown of Colorado, Mr. Schaefer, Mr. Kemp, Mr. Dowdy of Mississippi,, Mr. Davis of Michigan, Mrs. Vucanovich, Mr. Bustamante, Mr. Kostmayer, Mrs. Patterson, Mr. Fawell, and Mr. Rangel.

PETITIONS, ETC.

Under cause 1 of rule XXII.

79. The SPEAKER presented a petition of Wisconsin State Senate, Madison, WI, relative to the effective date for congressional pay changes; which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, September 23, 1987*

(Legislative day of Tuesday, September 22, 1987)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Thou wilt shew me the path of life: In thy presence is fullness of joy; at thy right hand there are pleasures forever more.—Psalm 16:11.

Eternal God, our Gracious Heavenly Father, the psalmist captures the secret of joy and pleasure. In our jaded culture, we run out of pleasures so quickly and understand little the meaning of joy. In our quest for pleasure—our experiments with all its varieties we have become a fed-up people, satiated but unsatisfied. Thank You, Faithful Father, for the wisdom of the psalmist who understood that fullness of joy and inexhaustible pleasure are found in our relationship with You. Alert us to the deadends to which so many of our excursions for happiness lead us. Quicken our hearts and minds to understand the sheer delight available to those who take God seriously and find consummate joy and pleasure in Him. We pray this in His name whose sole life commitment was to do Your will. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 23, 1987.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 5 minutes.

Mr. BYRD. Mr. President, I yield my 5 minutes to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

TWIN DOVES SOAR

Mr. PROXMIRE. Mr. President, until January of this year Robert Dove was the head Parliamentarian of this body. As Parliamentarian he was widely respected for his excellence. Bob Dove and his wife enjoy another distinction. Their twin daughters have both been chosen as national merit semifinalists. Both, Mr. President—the same year. This is a rare achievement, perhaps the only such achievement by any family anywhere. Very few schools in the Washington area had any national merit semifinalists. We should all be proud and happy to know that the U.S. Senate Page School had two. They were Carrie Dove and Laura Dove.

According to the Washington Post report of the selection in its September 17 issue, the merit semifinalists were picked on the basis of a 100-minute multiple choice test in English and mathematics, given last October to about 1 million high school juniors. About 15,500 were selected as semifinalists.

So here is congratulations to Mr. and Mrs. Bob Dove for the super job they have done as parents to two brilliant daughters.

WHY THE FUTURE DEFICIT IS UNPREDICTABLE

Mr. PROXMIRE. Mr. President, recently the New York Times reported that the administration is elated over the sharp improvement in the budget deficit for 1987. Until a short time ago the Office of Management and Budget had estimated that the 1987 deficit would be about $160 billion. Now that the fiscal year end of September 30 is so near at hand they estimate the deficit will be $155 billion. This contrasts with a fiscal year 1986 deficit of $221 billion. The budget reduction in 1987 over 1986 is, indeed, impressive, until we examine it more closely. The Times also reported that Treasury Department officials predicted the deficit will continue to decline meeting the target set by congressional Budget Committee leaders to achieve a further $23 billion cut in 1988.

Mr. President, can we really count on this good news? Is Congress beginning to bring the budget under control? Or is this another cruel illusion that sets us up for a bitter disappointment? If we look at all the facts the answer is disturbing. First, how did the $66 billion reduction in the deficit come about for fiscal year 1987? Twenty billion dollars of the savings came from tax reform, the big tax bill passed in 1986. The bill brought in an additional $20 billion in the first transition year after enactment which happened to be fiscal year 1987. Will it do the same in 1988? No. In 1988 tax reform will add, that is right, add, an additional $12 billion to the deficit. That will be a swing of $32 billion in 1988 compared to 1987 because of the 1986 tax bill. Then there were one-time outlay savings. These are savings that reduced spending in 1987, but will not do so henceforth. This amounted to $15 billion. These included a 1-day delay in the military pay raise that threw the entire pay raise into the 1986 fiscal year and saved billions in fiscal year 1987. There was the Medicare payment delay that also saved billions in 1987, but will save nothing in 1988. And there was the advance in the final revenue sharing payments. This also saved a little over $1 billion in the 1987 fiscal year.

But won't these or similar "gimmicks" be available in 1988 as they have been in every year since Gramm-Rudman became law? The answer is that the Congress is virtually certain to pass a Gramm-Rudman reform bill that will prohibit these gimmicks in the future. So they will not be available. Now, Mr. President, this is going to make 1988 a much more difficult year for bringing the deficit under control than 1987. Keep in mind that the Gramm-Rudman reform measure would also prohibit using the sale of assets and other such activities from "prettying" up the deficit. Keep in mind the fact that the improvement in the 1987 budget over fiscal 1986 was $66 billion. A surplus in the Social Security account reduced the deficit by another $19 billion. These three items: tax reform, one-time outlay saving, and the Social Security surplus accounted for $54 billion of deficit reduction. In 1988 the tax reform change and the absence of outlay savings will deepen the deficit by $47 billion. But the Social Security surplus will swell to $38 billion. This will leave a monumental challenge to the Congress to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

continue to make further reductions in the deficit next year.

Mr. President, no one can predict this economy of ours. We cannot possibly tell whether the present recovery, the longest peacetime recovery in more than 50 years, will roll merrily along or not, fallible as is our capability of predicting the economy. Our capacity to stimulate the economy without risking catastrophic inflation is even weaker. Worst of all, if Congress follows the kind of prudent long-term economic policies we should pursue and that this Senator strongly favors, we will, in the short run, increase the likelihood of recession. In the view of this Senator we should drastically cut spending and if that will not reduce the deficit sharply, we should increase taxes. But would such a policy not slow the economic recovery? It might also trigger a recession. The answer I admit is yes, indeed, the Federal Reserve Board should pursue a conservative policy of holding down the rate of increase in the monetary supply. This is critical in the long run if we are either to keep inflation under control or deal effectively with our huge and still growing trade deficit. But in the short run such a Federal Reserve policy would tend to increase interest rates.

Rising interest rates will slow housing starts and automobile sales. It will impede business borrowing to finance plant and equipment purchases. It will tend to reduce stock market investment and stock prices. All of these adverse effects are in the short run. All are unpopular. All of them can easily precipitate a recession that could become long and deep. Here is why: household debt and business debt is at an all-time high. Savings as percentage of income is at an all-time low. What does this mean? This means our economy is very vulnerable to a recession. And a recession would among other painful effects certainly torpedo any deficit reductions. In fact, a recession could hand us annual deficits of $300 or $400 billion or more, and push us into a genuine 1930's style depression.

So, Mr. President, in spite of the good news in the past few days about the deficit outlook, the economic as well as the deficit future remains cloudy. The best thing that can be said for it is that it is unpredictable.

Mr. President, I yield the floor.

RECOGNITION OF THE ACTING REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting Republican leader is recognized for not to exceed 5 minutes.

U.S. POLICY TOWARD CENTRAL AMERICA

Mr. KARNES. Mr. President, I rise today to discuss my views on the important problems facing the United States in Central America. The first vote I cast when I came to the Senate earlier this year was to release funds for the so-called Contras. Following my vote to release the funds, I received many letters from interested constituents in Nebraska expressing concern about our policy toward Central America. In response to that overwhelming expression of concern, I pledged to give this issue my special attention. And, I want to thank those who contacted my office because their input has contributed to my further understanding of the complex problems facing the United States in an important region of the world.

As my colleagues may know, I had the privilege of accompanying Senators DOLE, MCCAIN, COCHRAN, and SYMMS on a trip to Central America 3 weeks ago. I want to express my special appreciation to the minority leader for allowing me the opportunity to travel to a region that is of vital importance to the interests of the United States. I also want to thank my other colleagues, who are members of the Senate peace observer group, for sharing their perspectives on the problems of the region with me during this trip. In this regard, I want to pay special tribute to Senator MCCAIN, who is the cochairman of the peace observer group. Senator MCCAIN demonstrated a broad understanding of the challenges facing the United States in Central America and expressed his views and concerns to the leaders of Central America forcefully and eloquently. I am sure that Senator MCCAIN will continue to handle his duties as cochairman of the Senate peace observer group with great ability.

Mr. President, as I stated earlier, I have pledged to give the problems of Central America my special attention, and my trip to the region was part of my efforts to familiarize myself with these problems. I rise today to outline what I have learned about Central America and my views on the appropriate policies for the United States to pursue in the region.

Foremost, it is essential that we determine what is at stake for the United States in Central America. I believe that it has not been made clear to the American people that the United States has vital interests in Central America and that what we hope to achieve there is meant to benefit American interests as well as improve the lot of Central Americans. Mr. President, just what are U.S. interests in Central America?

First, nearly 55 percent of the crude oil consumed by the United States passes through the Gulf of Mexico and the Caribbean Sea. A full 45 percent of all U.S. imports and exports pass through these same sealanes. More important, in the event of war in the NATO theater or in the Persian Gulf, 60 percent of military reinforcements and supplies will be transferred through the Gulf of Mexico and the Caribbean. These figures make it obvious that the United States has an overwhelming interest in protecting these sea lines of communication. Any threat to these sea passages must be considered a threat to the vital interests of the United States.

Second, the establishment of a Marxist military presence in Central America would constitute a direct military threat to the United States. Soviet attempts to establish such a presence in Cuba in the 1960's created a crisis unprecedented in postwar United States history. The United States has an immediate interest in ensuring that such a Soviet military presence does not emerge in Central America.

Third, the establishment of a Soviet client state in Central America is not an end in itself. It must be viewed in the context of certain attempts to further destabilize and radicalize the region. The successful subversion of Central America would force the United States to reshuffle its strategic political and military priorities. Our ability to sustain our security commitments in Europe and the Pacific would be diminished. The immediate threat posed by a radicalized Central America would demand that the United States retrench to meet this threat. Clearly, it is in the national interest of the United States to prevent the subversion of Central America.

Finally, Mr. President, the United States has pursued a policy of fostering democracy in Latin America. This policy has met with considerable success: Costa Rica has had a longstanding democratic tradition; the countries of El Salvador, Guatemala, and Honduras are fledging democracies that are moving to institutionalize their hard-won gains. When I speak of democracy, I mean fair and honest elections, the right to freedom of expression and worship, an open press, due process, and protection against human rights abuses. Obviously, the fostering of democracy in Latin America is of interest to the United States. Democratic governments will contribute to peace, prosperity, and stability—always the hallmarks of a successful U.S. foreign policy.

In summary, Mr. President, my study of the problems of Central America lead me to believe that these are the primary goals of our long-term policy toward the region: First, the protection of sea lines of communication; second, the prevention of the establishment of a Marxist military threat in Central America; third, forestalling subversion in the region; and fourth, the fostering of democracy in Latin America. Our efforts should be focused on achieving these four goals.

Our primary focus should be on achieving these goals in light of recent events in the region. As my colleagues are aware, Guatemala, El Salvador, Honduras, Nicaragua, and Costa Rica signed a regional peace agreement on August 7, 1987, in Guatemala City. The agreement calls for the following: First, national reconciliation within countries that are deeply divided, accompanied by a general amnesty; second, the establishment of democracy in all the countries of the region; third, the establishment of a cease-fire and the cessation of assistance to irregular forces; fourth, the nonuse of territory for cross-border attacks on neighboring countries; and fifth, the verification of compliance under the national reconciliation process by national commissions and verification of the international decrees by an international committee. The agreement establishes a November 7, 1987, deadline for implementation of the provisions on amnesty, cease-fire, democratization, and the discontinuation of assistance to irregular forces.

Mr. President, I believe that on paper the Guatemala City agreement is a good one. The problem that occupies my mind concerns compliance. It would be a disaster for U.S. policy, and a disaster for the region, if this agreement is used by those opposed to democracy and peace to hide their real intentions and gain an upper hand. We must insist on compliance with the letter and spirit of the Guatemala City agreement. To demand less would signal a lack of seriousness about the value of the agreement and a lack of dedication to the causes of peace and democracy. Prudence dictates that we must discern the most likely sources of noncompliance and adopt a policy that induces compliance. Also, we must be prepared to take effective actions if there are violations.

My trip to Central America and subsequent study of the implications of the Guatemala City agreement lead me to believe that the agreement is most likely to be undermined by two parties. These parties are the armed leftists of the so-called FMLN in El Salvador and the Sandinista government of Nicaragua. Each of these two parties poses a unique challenge to full implementation of the agreement.

Since the signing of the agreement on August 7, there have been reports that the FMLN, the organization of the leftist guerrillas in El Salvador, is opposed to the agreement—making evident their prejudice against peace and democracy in Central America. This opposition comes despite renewed efforts by President Duarte to meet with the FMLN leadership. As long as the guerrillas continue to reject the Guatemala City agreement, I believe it is incumbent upon the Government of the United States, in conjunction with other governments of Latin America, to prevent the FMLN from shooting its way to power. The Government of El Salvador is not required by the agreement to extend any privilege to the armed opposition, if it refuses to take advantage of the offer of amnesty and rejects a cease-fire.

In light of current statements of FMLN rejection of the peace plan, it is important that the United States reaffirm its support for the Government of El Salvador. We should continue providing El Salvador the required assistance to resist the violent insurgency and bolster its economy. The United States should seek support among the countries of Latin America, perhaps through the Organization of American States, for efforts to condemn the actions of the FMLN as long as it rejects the peace process. Only through this sort of strong action will democracy continue to take root in El Salvador. The best chance of convincing the FMLN to pursue their goals through democratic means is by making it clear to them that they will lose what little legitimacy they have remaining in the eyes of the international community as long as they reject the promise of democracy and the desire for peace.

Ultimately, the most troubling problem surrounding the Guatemala City peace agreement concerns that of compliance by the Sandinista government of Nicaragua. This problem dominated the discussions during my recent trip to the region. Certainly, there exists widespread skepticism about whether the Sandinistas will comply with the terms of the agreement they signed on August 7—skepticism shared by the leaders of Honduras and Costa Rica as well as the Nicaraguan opposition. Our August 31 meeting with President Ortega did not reassure me that the Sandinistas are taking the agreement seriously. Recent reports that President Ortega will be in Moscow celebrating the anniversary of the Russian Revolution on November 7, the date that democracy and internal reconciliation is to be established in Nicaragua under the terms of the agreement, raises further questions about Sandinista sincerity. How the United States is to address the question of Sandinista compliance, how to secure Sandinista compliance, and what to do if the Sandinistas fail to comply are questions of immediate national and international concern.

What is meant by compliance? Unlike the view I have recently heard expressed, it does not mean that President Ortega need do "less than he imagines." In the mind of this Senator, compliance means adherence to both the letter and the spirit of the entire agreement, and nothing less. Specifically, we must work to ensure that the Sandinistas offer a legitimate amnesty to the democratic resistance forces, establish fair terms for a cease-fire, and fully implement democratic reforms in Nicaragua. Also, it is of critical importance that these requirements under the agreement be fulfilled by the deadline of November 7, 1987. Compliance should also require strict adherence to the timetable in the agreement. I believe that if we tolerate delays in the implementation of the agreement, the Sandinistas will begin to violate its other terms at their convenience.

Now let me return to the questions of amnesty, cease-fire, and democratic reform. What does it mean to make a legitimate offer of amnesty to the democratic resistance? I believe that for the Sandinistas to be in compliance with this provision they must allow the members of the democratic resistance to reenter Nicaraguan society without reprisals, free from prejudice, and as members in full standing of Nicaraguan society. Activities by the Sandinistas that put into question the security of former members of the democratic resistance must be considered a violation of the agreement.

The establishment of fair terms for a cease-fire requires that the disengagement not put at risk unilaterally the members of the democratic resistance. Fairness also requires that the terms of the cease-fire not be conducive to future aggression by the Sandinistas. By this I mean that the cease-fire should not be designed so that the Sandinistas can easily use it as a means to gain a superior military position and then break the cease-fire later.

There can be no peace in Central America without genuine democratic reform, and there is great skepticism about the Sandinistas willingness to implement genuine democratic reforms. What genuine democratic reform comprises is of critical importance to the agreement. The following are some, but not all, of the rights I associate with genuine democracy and that should be required by the agreement. First, all free and fair elections must be established. The right to freedom of speech, worship, and dissent should be recognized. The rights of a free, independent press should be granted. Basic human rights should be respected. Due process rights should not be violated.

There are two conditions specific to Nicaragua that should be required by the process of democratization set forth in the agreement. The present state of emergency in Nicaragua, which allows the government to deprive its citizens of their civil rights, should be discontinued. Second, there exists in Nicaragua today a favored relationship between the governmental structure and Sandinista party hierarchy. This union of state and party serves as the foundation of a single-party state. I believe the clause in the agreement requiring political pluralism means that the Sandinista party should divorce itself from the government structure. This reform, as much as any other, will open up the political process in Nicaragua. It is a reform that should be demanded by the supporters of the Guatemala City agreement.

Mr. President, given the important agenda established by the Guatemala City agreement, what is it that the United States should do to ensure Nicaraguan compliance with the agreement's terms? I believe the general answer to this question is to work to establish a regime of sanctions against the Nicaraguan Government, to be applied if it fails to abide by the agreement. Only by maintaining pressure on the Sandinistas is there an even chance that required reforms will be implemented in Nicaragua. If the Sandinistas are led to believe that there are no penalties associated with violations or noncompliance, then the opportunity for success will be lost. I believe that an appropriate regime of standby sanctions will serve as an insurance policy for compliance with the agreement.

Mr. President, it is within the context of insuring compliance with the Guatemala City agreement that I have decided that I will support future efforts to provide funding for the democratic resistance in Nicaragua. I believe these funds will serve notice to the Sandinista government that failure to abide by the terms of the agreement will result in serious penalties. However, I must also say that I am in certain agreement with those who have criticized the administration for not pursuing political and diplomatic solutions to our problems in Central America. In order to be as effective as possible, the regime of standby sanctions against the Nicaraguan Government should include political and diplomatic provisions as well as the military provision. Also, to the extent possible, this program of sanctions should have broad support among the other countries of Central America.

It is in this vein that I urge the administration to work closely with the governments of Guatemala, El Salvador, Honduras, and Costa Rica to establish contingency plans for handling possible Nicaraguan violations of the agreement. Prudence demands that such contingency plans be established. Possible diplomatic efforts could include appropriate resolutions adopted through the Organization of American States, downgrading diplomatic ties, and broadening the U.S. economic embargo to include other countries. These are just several suggestions and I am sure others could be considered. But the administration would do well to discuss these matters with the leadership of the four countries mentioned. The fact is that the specific requirements of the Guatemala City agreement could provide an opportunity for the United States to broaden regional support for its policies in Central America. The administration should not squander this opportunity.

Mr. President, the Guatemala City peace agreement should serve as a vehicle for achieving U.S. security interests in Central America. If the agreement is fully implemented, many of the problems facing the United States in the region will be diminished. If the agreement is violated by undemocratic forces in the region, then the United States should be prepared to establish a broad base of support among those in the international community who are concerned about peace and democracy in Central America, including regional allies, for efforts to condemn those violations. Above all, we must not be complacent and assume that by the mere signing of the agreement that peace is at hand in Central America. Mr. President, our goals will be realized only by demonstrating the strength of our conviction to foster peace, democracy, and freedom in Central America. There is no substitute for American will, strength, and determination.

CALL OF THE ROLL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 24]

Bumpers
Byrd
Conrad
Hecht
Karnes
Kasten
Metzenbaum
Moynihan
Packwood
Proxmire
Shelby
Wilson
Wirth

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Oklahoma [Mr. BOREN], the Senator from Arizona [Mr. DECONCINI], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Montana [Mr. MELCHER], the Senator from Georgia [Mr. NUNN], the Senator from Rhode Island [Mr. PELL] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. HUMPHREY] and the Senator from Vermont [Mr. STAFFORD] are necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 8, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—80

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Packwood
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Symms
Thurmond
Trible
Warner
Wilson
Wirth

NAYS—8

Bond
D'Amato
Evans
Murkowski
Quayle
Stevens
Wallop
Weicker

NOT VOTING—12

Biden
Boren
DeConcini
Exon
Gore
Humphrey
Matsunaga
Melcher
Nunn
Pell
Simon
Stafford

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. A quorum is present.

STATUTORY INCREASE IN THE PUBLIC DEBT—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on House Joint Resolution 324 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 21, 1987.)

Mr. BENTSEN. Mr. President, as I look back over the last 6 years of ballooning Federal budget deficits, I cannot help be reminded of the character Linus of the comic strip "Peanuts," when he said: "No problem is so big, no problem is so complicated that it cannot be run away from."

That is about what I think we have done over the last 6 or 7 years. That is the way we have dealt with the Federal budget deficit. But it is time that the Federal Government began to live within its means. It is time tthat we put it on a diet that will get us back to a balanced budget. That is the purpose of the debt ceiling extension conference report that I am bringing to the floor now.

The conference report is the fruit of many long hours of discussion, of compromise, of trying to work out something that would develop a consensus—that is, among Members of both parties and in both the House and the Senate.

I particularly express my appreciation to the Senator from Florida [Mr. CHILES], the chairman of the Budget Committee; to Senator PACKWOOD, the ranking member on the Finance Committee, and to my colleague from Texas, Senator GRAMM, for their cooperation and their help during these long hours.

I believe we have come up with a workable agreement, one that meets the challenge of shrinking this Federal budget deficit. This is an agreement that is going to proceed over a period of years to get us back to zero.

The House voted on this last night and carried it by a bipartisan vote. There were a majority of Democrats and Republicans alike who voted for it. The vote was 230 to 176.

I think we are going to have a tougher fight on this side. There are some Members who have always voted against anything that had any connotation that might result in some tough calls insofar as budget cuts and the possibility of tax increases are concerned. There are Members who have always voted against the Gramm-Rudman process.

I do not like the kind of approach in this process—an arbitrary, stringent sequestration, if we do not face up to our responsibility. But I think this is the best of the alternatives we have left to force that kind of discipline on the President and Congress.

I hear some people say, "Well, what you are trying to do is put the President in a box, to force him to make those choices."

Sure. That is right. But we are also putting this Congress in that box, forcing it to make those tough and those hard choices and not walk away from them as has happened in the past.

The Gramm-Rudman-Hollings process did not work before, and it did not work before because we put some unrealistic objectives there—in part, I think, for political reasons.

What we have tried to bring together here is something that will work. This agreement has tough targets. They will not be easily attained. But they can be met if we show the courage to reach for them and to develop the kind of a consensus we achieved in reaching this conference agreement.

That is what I am looking for here. I am looking for Members of the Senate, Democrats and Republicans, who say, "I can think of reasons why I should not vote for this. I really wanted a $36 billion cut, and they did not achieve that." Or others who might say, "I don't want to go that far. That cuts too deep."

I am asking for some of those who have never voted for this kind of a process to vote for it now. I am asking the same of those who think it should be higher or think it should be lower. This is the compromise, and this is the consensus, and this is the best we can get.

If you do not approve this, then you are going to be faced with the alternative following this of voting for a $45 billion sequester under the present law process.

I personally think that would be irresponsible for what it does to defense and what it does to some domestic programs. But that is where you are.

And then if you fail in all of those, you have a situation of foreign governments looking to see what we do to fulfill our responsibility on our own financing.

We say to the Germans, we say to the Japanese, "Accelerate your economy, help us on this trade deficit."

They say to us, "Take care of your own problems first; show us that you can be responsible on your own budget and on your own deficits; face up to that before you presume to tell us how to run our domestic economy."

Before we can really have some influence in that regard, we have to do what has to be done at home.

More than at any time since the 19th century we are dependent on what foreign financiers, what foreign central banks decide insofar as our securities, insofar as our interest rates. They can jerk our chain. Back in the 19th century it was the British that could do that, owned our securities, bought our securities, renewed our securities or decided not to do it. They could push us into recession, or they could assure us of the funds and the capital to keep our economy moving. But it became their decision not ours. That is where we are drifting now. And that is what we have to turn around.

Let me outline some of this conference report for you. First, it increases the debt limit ceiling to $2.8 trillion from the temporary ceiling of $2.35 trillion. Now, that increase will enable the Federal Government to conduct normal and routine budget financing activities until the spring of 1989.

Let me say to my colleagues in the Senate, I did not say 1988; I said 1989. We will not have to face this task again next year. We will face it again in 1989. That is a breathing spell that should provide the Congress and the administration with ample opportunity to make serious progress in winding down this Federal budget deficit.

Second, the conference agreement establishes a debt reduction plan which will avoid those constitutional questions that undermined the original version of Gramm-Rudman-Hollings. The major change in this new deficit reduction plan is to reassign the final sequestering responsibilities from the General Accounting Office to the Office of Management and Budget in the executive branch. That takes care of the constitutional question.

Third, the new budget deficit reduction plan restores an automatic spending reduction provision. This sequestration component guarantees that future deficits will decline even if the Congress and the President cannot reach a compromise on the budget.

Under sequestration, the spending cuts are to be spread broadly across the Federal budget, shared evenly by defense and nondefense programs.

Fourth, the conference report recalculates those budget deficit reduction targets for fiscal year 1988 and beyond. I think those targets, as I said, are a more deliberate, more attainable set of targets than the earlier ones. They will bring about that balanced budget by 1993, and I think that is a realistic progression of reductions in deficits. I think it does something else, too. It does not tilt it too far. It minimizes the possibility of bringing on a recession by excessively tough fiscal restraints.

Because fiscal year 1988 is almost upon us, the actual deficit reduction target for fiscal year 1988 is $23 billion.

One of the things you have to look at is the job that my friend, Senator PACKWOOD, and I face on the Finance Committee. Part of this task is going to be revenues, we assume. The revenue part might be somewhere between $10 and $15 billion. But you have to recall that part of that year is already going to be gone when we start raising the revenues for 1988. And that means you have to have a heavier impact in the remaining three quarters of a year than you would have needed if you had a full 12 months to achieve the revenue part of the $23 billion figure.

Some have stated that we should have stayed with $36 billion. That is where we were in the budget resolution. This is a tougher $23 billion. It is a harder $23 billion than at least part of that $36 billion was because this agreement does not allow us to count the REA adjustment that totals almost $6 billion. You do not have any asset sales in there. It will not be an easy $23 billion to obtain.

In fiscal year 1989 the deficit reduction target is $36 billion unless a smaller reduction would reduce the actual deficit to $136 billion.

Now, beginning in fiscal year 1989 as well you will have a $10 billion tolerance from the deficit target. That is comparable to what was permitted under the old plan.

After 1989 those deficits must decline on this kind of a schedule. Remember, there is the $10 billion deficit tolerance in each of these years.

For fiscal year 1990 the deficit target would be $100 billion; in 1991, $64 billion; in 1992, $28 billion; and 1993 zero, with no tolerance in this final year.

Now, the purpose of the deficit reduction plan: What will it accomplish? The most important message in this conference report is that the Congress is serious about cutting the deficit. It removes the cloud from the budget process. It unequivocally sends the alert that Congress intends to rein in the budget deficits.

Moreover, passage of the conference report ensures that the deficit will fall by $23 billion this year, either through the normal budget process or through sequestration. One reason it is not going to be an easy target to attain is because this budget report does not bridge the vast gulf within the Congress, or between the Congress and the White House, on how to cut this deficit.

That is the issue that is going to be thrashed out in the weeks ahead as we proceed through the fiscal year appropriation process and reconciliation. And I am not going to make any predictions on how that one is going to turn out, but I do know that a lower deficit is going to be the result. That is going to be a major victory in a war that the Congress, and especially the White House, have seemed more willing to lose than to win in recent years.

Since 1981, the Federal budget deficit has doubled and then nearly redoubled to a peak of $221 billion last year. Much of that time we have seen the Congress more willing to make the hard choices than the White House. More often than not, in contrast, the White House attacked the budget deficit with rhetoric rather than making the hard choices involving revenues and spending.

The White House talked loudly about balanced budget amendments, pledged adherence to fiscal responsiblity, and had the gall to talk about a constitutional amendment for a balanced budget. Yet in seven budgets, stretching back to 1981, the President has never produced a balanced budget for Congress to consider. The latest budget sent by the White House was so full of phony numbers, disguised behind smoke and mirrors, it arrived DOA—dead on arrival. And not just because of the Democrats. I did not hear any Senator speak in defense of that budget. In fact, a majority of the Republicans in the House and the Senate voted against it.

In this bicentennial year of the Constitution, the President could well take to heart some sage advice by Benjamin Franklin who said, "Before you consult your fancy, consult your purse."

Since 1981, the administration's appetite for spending has far exceeded its willingness to produce the revenues to pay the bill. The White House seemed convinced that a free lunch really existed. Simply put, the administration has acted as though the deficit is just not as important as some other things.

Now Congress should share the blame for acquiescing to that kind of a permissive attitude and the deficits that have resulted. Deficit reduction has been a second priority—a problem to be left to the next President, a problem to be left to the next Congress.

What did we do? We had a situation where you cut your income by 25 percent. Then you turned around and increased defense spending by 50 percent. And I should not say "you"—it is "we." I voted for that cut in taxes, 25 percent of it. I voted for practically all of those defense spending increases.

But it did not take long to understand we had gone too far; that there just was not enough meat left on the bones in between to balance that budget; that you cannot increase your spending that much on defense and cut your income that much and expect to have enough left in between to even it out. It just was not there.

So, by the time we had a vote on the third cut, insofar as the 25 percent cut in revenue, I voted the other way. But those of us who felt we had gone too far have not been able to prevail up to this point.

And, I have reached the conclusion that the time has come where we must level out our defense spending. Obviously we must maintain a strong national defense. But we must also recognize that there are two threats which could cause us to lose this great country of ours. One is to put ourselves in a posture where we would face a military defeat. The other is to allow our national economy to become bankrupt. These are competing priorities. They are difficult to reconcile. But we must do so. We must walk that tightrope.

Well, this conference report will help us balance our priorities. Deficit reduction is going to be a priority now for this Congress and this President. The President should sharpen his pencil. Those hard choices that have been sidestepped in budget after budget for the last 7 years are now going to have to be confronted. A spirit of compromise is going to have to replace confrontation. And the Congress and the White House will have to work together to avoid triggering the automatic sequestration procedure.

I have said that I do not like the sequestration approach. I think it is a meat ax instead of a scalpel. But this patient of ours is in serious trouble and apparently only the drastic medicine of that automatic sequestration will work and force the discipline on both sides.

Congress has turned to automatic sequestration because the spirit of compromise, the glue holding our democratic government together, has become brittle. Separation of powers to constrain the executive authority was a key principle of the Founding Fathers. But separation of power between Congress and the President can only work when you have an undercurrent of compromise that exists to resolve difference in opinions.

As Edmund Burke once said, "all government—indeed, every human benefit and enjoyment, every virtue and every prudent act—is founded on compromise and barter."

Compromise has been a scarce commodity around here during budget debates in Washington since 1981, and the deficits stand as mute witness to that effect. But a spirit of compromise, I believe, will be rekindled by enactment of the conference report. And I am convinced that a lower deficit is going to be the result.

I said moments ago that this conference report sends a signal that Congress is really serious about reducing the deficits. That message is long overdue, and I believe it is important to send it now.

Wall Street and those financial markets around the world are watching our efforts to craft this new budget policy. There is a great deal of cynicism out there about whether or not we will be able to accomplish it. The stakes are high because the health of our economy is so much today determined by foreign investors, and they are worried about these twin deficits of ours. They have heard the steady drumbeat from the administration that the trade deficit is going to improve. Yet in June and again in July record monthly trade deficits were set. We are headed for another annual trade deficit record of $169 billion at the current pace, with no turnaround in sight.

Export growth in the first 3 months of this year has fizzled out. We are as likely to see higher trade deficits as lower ones in the months ahead. Our biggest imports since 1981 have been foreign capital. Tens of billions of dollars in foreign capital is now held in T-bills and Treasury notes, funding our budget deficit.

Those foreign investors like our interest rates, but they fear equity erosion from a falling dollar. The trade numbers have them running scared. They are holding their breath anticipating another round of dollar devaluation anticipating inflation because of the sorry trade statistics we are facing.

Indeed, only massive intervention into the foreign money markets by Japan's Central Bank, the Federal Reserve here, the Bundesbank of Germany, has delayed that kind of a day of reckoning.

Even with all that, the foreign investors grew nervous in August. They dumped the dollar. Long-term interest rates reacted immediately here, rising over one-half point. Mortgage rates jumped above 11 percent and the Federal Reserve rushed out to boost the discount rate from 5.5 to 6 percent, and that is the first increase in 2 years.

The FED was forced to sweeten the pot for foreign investors, and to reassure them of its determination to hold the line on the dollar and inflation.

Even so, foreign investors stiffed the FED. They kept their money at home. And interest rates here have not fallen back to July's level. All interest rates are well above a year ago. And the prime rate is up one and one-quarter percent—125 basis point—to 8.75 percent now.

Never in our history has domestic monetary policy been so captive to the whim of foreign investors. Back in the time of the 19th century, when the British had such a hold on our economic policies, it took a long time to transfer money. Now, with your electronic transfers you have billions and billions of dollars that move overnight.

Foreign investors determine if interest rates here rise or fall. They determine if the dollar and inflation will rise or fall. And they determine if the recovery will continue, or stumble and slide into a recession.

Moreover, foreign investors will continue to dictate the course of our economy—and interest rates in particular—until the immense budget and trade deficits are reduced.

Passage of the conference report and the lower deficits to follow will reduce reliance on foreign capital. But it will provide vivid support for our efforts to shrink the trade deficit, as well. For example, we could see some improvement in our stagnant exports if Japan and West Germany grew faster. We can make that point to them with a great deal more support and credibility if we responded responsibly on our own deficit. But they have refused, pointing fingers at our budget deficit instead. It's time we did something to back up our own demands.

So, the conference report involves higher stakes than just the budget deficit. It bears on the trade deficit, and has dramatic implications for the future course of interest rates and our economy, as well.

This administration may well be remembered by historians for its twin deficits of budget and trade. It has taken years of neglect for them to grow so enormous. And it will take years of careful economic policy to ease them down without tipping over the economy.

So what we'll do by enacting the conference report is send a clear message—to the White House as well as to financial markets—that we mean business. The deficits are going to shrink. And that means this year, by this Congress and by this President. Not next year, not the next Congress and not the next President. We are going to face up to it now.

It is time, Mr. President, that we display our serious intent to reduce the deficit. And the conference report is the first step we should take to do that.

Mr. President, I wish to recognize staff members from the Finance Committee, the Senate Budget Committee and the Congressional Research Service who worked many long and tiring hours—sometimes through the night—to expedite Members' efforts to craft this committee report, who understood that time is of the essence and worked right through the weekend. I want to especially note the great effort of Mr. Joe Humphreys of the Finance Committee staff, who spent some very sleepless nights in helping us put this together, along with the staff director, Bill Wilkins, for making major contributions to this conference.

I would also like to list those who really were most helpful from the Senate Budget Committee: Mr. Rick Brandon, Mr. Alan Cohen, Mr. Bill Dauster, and Mr. Jeff Colman.

From the Congressional Research Service: Mr. Robert Keith and Mr. Sandy Davis.

I know that on the minority side we have others who worked just as diligently and just as hard and will be recognized as such.

I strongly urge my colleagues to support the conference report.

I yield to my distinguished colleague, the ranking member on the Finance Committee, the Senator from Oregon.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Oregon.

Mr. PACKWOOD. Thank you. Congratulations to the chairman of the Finance Committee. I am not sure I believed 1 month ago, 2 months ago, 3 months ago we would have achieved this and he has, and in a very bipartisan manner.

The Democrats split; the Republicans pretty much split. This is not a Republican/Democrat issue, and I do not think it is going to be a House/Senate battle.

Interestingly, it may or may not be a battle with the White House. I do not know what they are going to do on this yet. It is ironic, I think, if the White House were to consider vetoing this because, indeed, it does move us toward a goal the President has talked about for a long time: The balanced budget.

This is statutory. It is not as good as a constitutional amendment. It does not guarantee it as strongly as a constitutional amendment would, but is it better than what we have been doing? Clearly, it is better than what we have been doing.

There are some who are fearful of the Gramm-Rudman-Hollings process because they think defense could suffer. But to those, Mr. President, I would say: It is no different than if we had a constitutional amendment to balance the budget. You would have to make the same decisions. You are going to raise taxes? You are going to cut defense? Going to cut social spending? Do some amalgam of them to put them together? But those are the same kinds of decisions you have to make with a constitutional amendment. I find that those who have some misgivings about what we have fashioned because they fear for defense are by and large supporters of a constitutional amendment to balance the budget. So I am not quite sure I see the difference in the bind that defense is in.

Second, and I have used these figures several times, the House and the Senate and the President, in a budget in excess of a trillion dollars, are not that far apart in defense. The President's initial budget figure for outlay, spending, cash out next year, was $299 billion. The Senate was about $290 billion, the House was about $283 billion. So you had a difference from the low side in the House of $283 billion to a difference of $299 billion that the President wanted, about $16 billion in a budget in excess of a trillion.

Those who wanted $299 billion fought that battle. That battle was lost. That battle was lost before we ever got to this bill and that battle will be fought again and continued again because it does not ever seem to end. Unfortunately for the administration, and I do not say this with malice, but unfortunately for the administration, they have not succeeded in selling to the American public the size of the defense budget they want.

At the time the administration came in in 1981, we had had a number of years of President Carter and there was a feeling we should spend more on defense and we did. That time may come again.

This country will spend, Mr. President, when they have to spend for defense; when they are convinced of the merits. If you look at what we were spending in 1944 and 1945, we were spending 40 percent of the gross national product on defense.

Translated into today's terms, that would be a defense budget of about $1.6 trillion and we were borrowing half of all of our budget. We were borrowing, in today's terms, the equivalent, then, World War II, of about $800 billion to $900 billion a year.

So, if the public is convinced that we must spend for defense, they will spend. If they are convinced of the merits of the Persian Gulf doctrine, President Carter's doctrine, we will use military force if necessary to defend our vital interests in the Persian Gulf, the Carter doctrine. President Reagan picked it up and ratified it. If they are convinced the doctrine requires spending enough money for two more aircraft carriers, they will do it. I do not think we should argue the merits of Gramm-Rudman-Hollings on the basis of whether or not it is going to result in some impingement on defense spending.

If those who want higher defense spending can make their case, Congress and the public will support it. I think we ought to argue it on the basis, Mr. President, that the major problem we face, the biggest problem we face right now is both the annual and accumulating deficit. In the career of both Senator **BENTSEN** and myself, I think it was after the Senator came to the Senate, but not long after, that we had the debate as to whether or not we would delegate to the President the authority to cut the budget anyplace he wanted if the total deficit, total accumulated deficit went above $250 billion. That passed the House of Representatives. It came here and was defeated by a very close margin.

Then we were not talking about accounts or we were not talking about cutting across the board. We said he can cut it anyplace he wants to cut it because $250 billion is such an excessive amount of a deficit that the country would strangle itself and go bankrupt.

Now, 15, 16, 17 years later we are not talking about $250 billion; we are talking about in excess of ten times that amount.

So, I think you can make a very good case for Gramm-Rudman-Hollings. I know there are economists in this country, some of them have Noble prizes; there are candidates running for President; that will tell you the deficit, within reason, does not matter. So long as we can afford to carry it, it is all right. They will sort of use the analogy that if you are making $50,000, you can afford a $100,000 house and if you are making $500,000 you can afford a million dollar house and as long as you can make the interest payments on it you can keep expanding that and refinance the house and never really have to pay it off.

That is true so long as your bank or your savings and loan is willing to loan you the money. But at some stage even the bank or the savings and loan takes a look at what you have in the way of assets, thinks you are overextended, and finally either will not loan you the money or say: No, we are not going to do it at 10 percent interest but we will do it at 22 percent interest, 23 percent interest.

We see that every year on interest on the national debt. When people think we are serious about trying to get the budget down, the interest rates go down. When they think we are not serious, the interest rates go up.

And perhaps the biggest variable item that we face in the budget is not Social Security, not the defense budget, but it is the total amount of interest that we pay on the debt. Why is that?

Let us just assume for purposes of discussion that the accumulated debt, what we have run up in the past, not what we are running up each year, rounded off, we will say, is $2 trillion, and much of that debt is carried in relatively short-term Treasury notes. We roll it over with some regularity. So if in any given year the interest, Mr. President, on the debt, is an average of 10 percent that is $200 billion a year. If, by chance, the interest for that year goes up to 15 percent on the average, that is $300 billion a year in interest. That is a bigger increase by far than anyone talks about for the defense budget or for increases in Social Security or Medicare or Medicaid or education or highways probably put together.

No, Mr. President, the biggest problem we face now—I am not going to argue what the biggest problem we faced in World War II was, probably the Nazis and Japanese—the biggest problem we face now is the annual deficit we faced each year and the accumulation of those annual deficits as the total accumulation creeps up and up and up until one day it will bankrupt this country. We cannot go on borrowing $140 billion, $150 billion, $160 billion, $170 billion each year in the red, running the deficit up to $3.1 billion $3.2 billion $3.3 billion, $3.4 billion, or $3.5 billion, and so on, without some day paying the piper.

Mr. President, this country has lived too long on borrowed money, borrowed time. The Gramm-Rudman-Hollings statutory fix—not the constitutional; the statutory fix—is the best we can do right now. There is no point in fooling ourselves. There are not the votes for a constitutional amendment to balance the budget, not in the Senate, let alone the House. I do not know whether or not the States would ratify it if we sent to them. It is fine to talk about that in theory. Hopefully, we do have the votes to pass Gramm-Rudman-Hollings and the very best hope that the President will sign it.

We will leave for another day, and, Mr. President, it is another day, not another month or another year, the debate over the size of the defense budget.

But I will say again what I just said a few moments ago, if the President can convince the public, the public will convince the Congress. If the President can convince the public that there is a necessity for a $299 billion military budget next year or $309 billion or $319 billion military budget, then we will find the money to pay for it somehow.

Because Gramm-Rudman-Hollings does not automatically say that you have to meet the totals in annual reductions in the size of the deficit, so we might cut it by increasing taxes. Next year we have to save $23 billion over the deficit this year. That can be $23 billion in tax increases and in spending cuts; it can be $10 billion in tax increases and $13 billion in spending cuts, or any combination thereof. And if, in figuring how to reduce that $23 billion deficit, we also decide that we have to spend $10 billion more on the military, we would have to raise the taxes $10 billion more than we otherwise would raise them to pay for it.

That is not expecting too much of us, and the public would support that if they believed in the expenditure we need.

For those who would argue today in opposition to Gramm-Rudman-Hollings because they say it will be hard on defense, I would pose two questions:

One, how does it differ from a constitutional amendment which would compel you to balance the budget or you could be sued in court?

Two, in terms of the battle on defense spending, how does it differ whether or not we pass Gramm-Rudman-Hollings?

What Gramm-Rudman-Hollings does is guarantee a statutory reduction in the deficit. That is guaranteed. I think what that reduction means is a reduction in interest rates over the next 2 years of 1 to 2 percent lower than interest rates would otherwise be but for Gramm-Rudman-Hollings.

I want to emphasize what I said. Not 1 to 2 percent lower than where we are today, but 1 to 2 percent lower than where we might otherwise be but for Gramm-Rudman-Hollings.

If interest rates today are 10 percent and stay there, the interest rates will be 8 or 9 percent. If the interest rates today are 10 percent but might go to 13 percent, with Gramm-Rudman-Hollings they might be 11 or 12 percent. It is beneficial in any event.

So I would hope, Mr. President, that the Senate will join Senator BENTSEN and myself in a bipartisan coalition, Republican and Democrat, liberal and conservative, and support this effort. It is our last, best, and, Mr. President, only hope for this Congress and perhaps for the next one.

If we choose to do nothing or if the President were to veto this and there were not the votes to override the veto, then I think we are looking not at deficits of $144 billion or $128 billion; I think we are looking at deficits in the next year of $190 billion or $200 billion. After that, $230 billion or $240 billion. Not down, but up.

For those few who honestly think those deficits make no difference, I suppose they can vote against this in good conscience. There is no longer any point in asking to have a hearing in one of the conferences, and asking them. Some will say fine, some not so fine; some will say maybe if it goes this way or if it goes that way.

We are finally going to have a vote on what we intuitively think is right for the country. My intuition tells me, my gut tells me, that we cannot go on the way we are going.

So I support this not reluctantly. I support this with enthusiasm and wholeheartedly. I would urge my fellow Senators to do the same.

I yield the floor, Mr. President.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, in a lot of ways, this is a remarkable day. Last August, just before the Congress recessed, conferees were within an eyelash of working out an agreement on the debt limit bill, but that was more than a month ago and I think all of us were a little worried that we might not be able to keep those fires burning this long. But I think it is singularly fortunately that we did. We came back here to get down to work and now I think we are bringing to the Senate a solid agreement. We have not only agreed on a way to make sure that the checks are good; we have found a way to make good on our promises to restore discipline in the budget process and cut the Federal deficit.

I think it is a tribute to every body involved that the determination carried on across the summer and that we are able to meet our responsibilities.

Here is what we have done:

We have achieved each of the main goals that we set out in the beginning. We restored the discipline in the budget process by putting the automatic sequester back in the law. That is crucial to our plans for cutting the Federal deficit.

Everybody knows what an automatic sequester would mean. It would mean sharp cuts in national defense and in key domestic programs, if we could not find a way to get the deficit down to a level for each year. And it would mean Congress and the President did not have what it takes to govern as we are expected to.

So automatic sequester is back in the law, not because we plan to use it but because it will help make sure that we get our job done.

We have also revised the deficit targets. The targets in the original Gramm-Rudman-Hollings law were never realistic from the word go. Everybody knew that. Everybody knew the targets were too low compared to the actual size of the deficit. So whether it was the Republicans who missed the targets or the Democrats, and both of us missed, it became a political field day for the other party. The new targets are demanding but they are doable. It is tremendously important that we have those on the basis of which everybody knows they are doable.

There is something else in this conference report that's a matter of concern to just about everybody, and that is the question of who determines the size of the sequester and how it is done.

Generally speaking, the Office of Management and Budget will make the call. That is not what I would perfer. I admit that. OMB has traditionally underestimated the size of the deficit. OMB is an arm of the executive branch. It's the President's own budget office, and there are always questions about how far the agency will go to make the President's case.

But under the terms of the agreement, the Office of Management and Budget will be tightly circumscribed. It will have to use the concepts the Congressional Budget Office uses and operate within specified technical limits.

Mr. President, those are several of the notable pieces of this agreement.

Now, I would like to take just a few minutes more to focus on some of these elements in a little greater detail.

REVISED TARGETS

We have revised the deficit targets under Gramm-Rudman-Hollings.

To give an example, the original law put the fiscal 1988 target at $108 billion. Unfortunately, that figure was based on a considerable under estimate of the baseline deficit. None of the budget proposals offered this year—not the one approved by the Senate or the House, and not the one offered by the President—met the $108 billion figure. There was no realistic way to do it.

The conference report now before the Senate sets the fiscal 1988 deficit target at $144 billion. For fiscal 1989, the target is $136 billion. The "zero-deficit-target" is scheduled to be reached in 1993.

In 1988, the agreement requires $23 billion in deficit reduction. In 1989 it means deficit reduction of $36 billion, and in each year after that until we reach zero.

Mr. President, those are actual reductions. They are not shadows. The agreement includes restrictions against the use of asset sales or loan prepayments to "Jimmy" the figures. We have outlawed the slipping of payment dates to achieve deficit reduction. I should point out that the DOD bill in the House already has $6 billion of slippage in contract payments. The President's budget contains a great deal of money in asset sales. So these are serious issues. We want real progress on the deficit, and we believe these changes are necessary.

Now, let me briefly talk about the makeup of the deficit reduction figures. A lot of us are understandably concerned about how much of that $23 billion in savings for 1988 involves new revenues. The Congressional Budget Office says that $23 billion dollars in this Gramm-Rudman-Hollings package is as tough as $33 billion would have been in the budget resolution.

The way it stands, we either come up with a fair blend of spending cuts and deficit reduction revenues, or there will be $23 in spending cuts. I think it would be pretty hard to build a consensus around spending cuts alone as a means of reducing the deficit in light of the sizable spending cuts already enacted over the past several years.

Nevertheless, the conference agreement does not set a revenue number. My best guess is that based on the spending levels in the budget-resolution—which assumes high-tier defense, increases in key domestic programs and the cuts we prescribed—we will need something on the order of $10 to $15 billion in additional revenues to meet the $23 billion deficit reduction target. Whatever the final composition of the savings, it is something left to the committees to work out.

AUTOMATIC SEQUESTER

Mr. President, along with the revised targets in the agreement, we have restored the automatic sequester provision in the original Gramm-Rudman-

Hollings law. It is not in there piecemeal or part time. Automatic sequester is a feature of this legislation for the full 5 years of the deficit reduction plan. It is the penalty provision we hope we never have to use.

But if the time ever comes when it is, the agreement lays out precise timetables and guidelines for its use.

In 1988, the sequester would be $23 billion if we cannot agree on the actual savings necessary to reach the revised deficit target. Otherwise, a sequester for 1988 would add up to $23 billion minus whatever savings we are able to agree on. However, the maximum sequester amount would be $23 billion. It could not go over that amount.

For 1989, the maximum sequester amount would be $36 billion. So, for 1988 and 1989, the sequester amount is limited to a specific dollar amount. But those restrictions do not apply in the years after 1989. In those years, the size of a sequester would be the amount by which we might fall short of the deficit target.

The agreement provides that a Presidential sequester order would be triggered automatically by a report from the Director of the Office of Management and Budget. Unlike the Senate's proposal and unlike the original version of Gramm-Rudman-Hollings, the General Accounting Office will have no role in the sequester process.

We arrived at this procedure only after restricting the discretion of OMB. The agency would have to give careful consideration to the earlier reports submitted by the Congressional Budget Office. OMB would have to identify and explain any differences between its estimates and those provided by the Director of the Congressional Budget Office.

OMB would have to lay out the total amount of outlay or spending reductions, and the amount of funds to be cut in both defense and domestic. Key variables like spending outlay rates are restricted in the law so that OMB cannot use sequester to impose Presidential spending priorities at the program level. All programs would be reduced equally. At the overall level the 50-50 savings split between defense and domestic is maintained.

We have also provided a backup mechanism. It is designed so that if OMB is wide of the mark—either by accident or design—Congress can move to increase or reduce the size of the sequester in an expeditious manner. Throughout the conference agreement, OMB's conduct and technical role is carefully governed by guidelines to assure reliability, consistency, and accuracy. The power of sequester is enormous. We have bent over backward to make sure that while OMB issues the order, Congress does not surrender its vital and primary oversight role in seeing to it that the power is closely monitored.

SEQUESTER TIMETABLE

Let me turn, now, to some key dates in the sequester process.

For the years 1989 through 1993, the President must submit his midsession review budget report to the Congress by July 15. That report sets the economic and technical assumptions to be used in a sequester.

On August 15, the Office of Management and Budget and the Congressional Budget Office—using the same technical and economic assumptions included in the President's July 15 report—issues its snapshot. Five days later, CBO sends its initial report to Congress and OMB, and 5 days after that the Office of Management and Budget issues its report at which time the President issues his initial sequester order.

It is important to bear in mind that each of these reports are constructed using identical economic assumptions.

Fifteen days after that first order, the President must file a detailed report explaining the details of the first sequester order. The initial sequester order—if one is necessary—becomes effective on October 1.

On October 10 and 15, the Congressional Budget Office and the Office of Management and Budget issue revised reports on the sequester, and the final sequester takes effect on October 15.

The time between October 20 and November 20 is a key period in this process. By October 20 we must deal with reconciliation so we will know how much still needs to be done to meet the deficit target. November 20 is the end date. So in that time the President and the Congress can sit down to serious bargaining to get the job done.

All this adds up to a very rigid and definite timetable. But the conferees made allowances for disagreement or error. We included an expedited procedure that allows Congress to approve a joint resolution that would require the President to modify the final sequester order. The majority leader of either House can introduce such a measure within 10 days of the final sequester report issued by the Office of Management and Budget. The joint resolution would not be referred to the committee and could be amended by either House. This procedure gives Congress the authority to move forcefully on the shape of sequester.

"HOLD HARMLESS" PROVISIONS ON SEQUESTER

There has been a lot of discussion about what happens if you are operating under a short-term continuing resolution when the sequester report comes down. That seems to be the likely scenario for this year. There is a concern that under a sequester, defense spending might be vulnerable to a kind of double jeopardy. Since the current level of defense spending likely under a continuing resolution is near the low tier in the budget resolution, there is concern that the President might be faced with a choice between settling for the low-tier or face a sequester that cuts defense even further.

To head off that situation, we have built in a kind of "hold harmless" provision which establishes a maximum sequester level at the outset for both domestic and defense spending. What that means is that the sequester amount cannot be taken below the level specified in the initial sequester order. Let me give you an illustration.

Let us say we started with a program funded at a level of $100 million and a 10-percent sequester would reduce it $10 million to $90 million. If the final appropriation funds that program at $95 million, a sequester cannot kick in that cuts that program by that $10 million down to a level of roughly $85 million. The baseline minus the sequester amount sets a kind of "maximum peril" limit for each account.

DEFENSE FLEXIBILITY

Under the original terms of the Gramm-Rudman-Hollings law, the President had limited leeway to make spending changes in defense programs. Under the new agreement, the President can propose defense changes to Congress. Those proposals must then go to the Appropriations Committee. They can't be bottled up there, and they can be amended.

What we are trying to achieve here is a balance that gives the President the right to propose a change in the program mix of the cuts, but does not give him the power to reduce the amount of sequester or impose his spending priorities on Congress.

Mr. President, I ask unanimous consent that a detailed explanation of all the provisions of the conference agreement be printed at the conclusion of my remarks.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. **CHILES**. I have rarely been involved in a conference where the give and take was as vigorous as the one on the debt limit bill. We had plenty of involvement. We had plenty of ideas moving back and forth.

What we ended up with is a comprehensive proposal that fits together in a systematic package for deficit reduction. This is one case where the overall package is better than what we started with.

There may still be some concern about what some will see as complexity. And, yes, this is detailed legislation. It had to be. We wanted to make sure that we covered the bases and that none would be stolen.

We are serious about deficit reduction, so serious that while we adjusted the targets, we restored the penalty of sequester just to keep our feet to the fire. We put sequester on a parallel track with the budget process so we will always know where we are in the deficit struggle. And we made sure that both the President and the Congress share the responsibility for getting the job done.

I think this is a solid, workable agreement. I hope the Senate will approve it.

EXHIBIT No. 1

CONFERENCE AGREEMENT SUMMARY

DEFICIT TARGETS AND AMOUNT OF SEQUESTRATION

OMB automatic trigger for FY 1988 through FY 1993.

TARGETS

[In billions of dollars]

	Target	Cushion
Fiscal year:		
1988 [1]	144	10
1989 [2]	136	10
1990 [3]	100	10
1991 [3]	64	10
1992 [3]	28	10
1993 [3]	0	0

[1] But a minimum of $23,000,000,000 of net deficit reduction below a defined baseline and a maximum sequestration of $23,000,000,000.

[2] Or $36,000,000,000 from a defined baseline, whichever is easier.

[3] Fixed target only.

REVENUES

Although the Act does not specify revenue numbers, it is anticipated that revenue increases of $10 to $15 billion would be sufficient to prevent a sequester if spending is held to budget resolution levels.

Timetable	1988	1989 and after
President submits his midsession review and deficit estimate.		July 15.
Presidential notification regarding military personnel.	Oct. 10	Aug. 15.
Initial CBO/OMB snapshot	do	Do.
CBO issues initial report	Oct. 15	Aug. 20.
OMB issues initial report	Oct. 20	Aug. 25.
CBO issues final report	Nov. 15	Oct. 10.
OMB issues final report and President issues final order.	Nov. 20	Oct. 15.
GAO compliance report	Dec. 15	Nov. 15.

DEFENSE FLEXIBILITY

The conference agreement allows the President to exempt military personnel from sequester if he notifies Congress by a date certain. The cuts on other defense accounts would increase to make up the difference.

The total amounts sequestered from defense cannot be changed. The President may, however, submit a single proposal to Congress to redistribute defense reductions within and across defense accounts. No program, project, or activity may be increased above the appropriated level. To become effective, the report must be affirmed by an amendable joint resolution of Congress considered under procedures expedited up to conference. The sequester order goes into effect unless changed in this way.

DEFICIT REDUCTION AMOUNTS

In 1988, net deficit reduction from legislative and regulatory actions must be $23 billion.

$23 billion is also the maximum sequester in 1988. The maximum sequester in 1989 is $36 billion. In the years thereafter, the sequester will equal the amount necessary to reach the fixed deficit targets regardless of size.

If a sequester order is issued before full-year appropriations are in effect, the sequester amount will be prorated for the period covered by the continuing resolution. The amount of funds withheld are applied to the full sequester amount once a full-year appropriations measure has been enacted.

The amount that a sequester can cut an account is limited. The amount of savings below baseline in an account resulting from full-year appropriations is credited towards the sequester amount. The size of the sequester is reduced accordingly. An account's final available funding level, as a result of a sequester, cannot be lower than the baseline level minus the sequester amount as specified in the final order.

CONSTRAINTS ON OMB

OMB is constrained in legislative language regarding economic and technical assumptions in its baseline estimate, including aggregate defense or non-defense outlay spendout rates, Medicare outlays, pay increases, advanced farm deficiency and paid land diversion payments, and appropriated entitlements. In 1988, OMB must use the economics and technical assumptions that it has already released in its August 20, 1987, sequester report.

The baseline would include inflation (4.2 percent for FY 1988 and OMB January estimate of the increase in the GNP deflator for later years) and adjustments for pay raises, FERS, and related personnel costs, rather than assuming no increase in discretionary appropriations, for the purpose of measuring the deficit and deficit reduction.

Asset sales (including REA) would not be counted towards required deficit reduction in any year.

Should Congress disagree with OMB's determinations, an expedited procedure provides for congressional modification of the final sequester order.

BUDGET PROCESS PROVISIONS

The conference agreement contains provisions regarding a two-year appropriations experiment (sense of Congress), prohibiting counting savings from year-to-year transfers, financial management reform (sense of Congress), extending state and local cost estimates, extending Senate reconciliation restrictions (Byrd Rule), prohibiting policy deferrals, prohibiting resubmission of rescission requests, requiring one set of economic assumptions in the Senate, clarifying time limits for budget resolutions, appeal of certain rulings in the Senate, section 302(c) of the Budget Act, and credit reform study.

RELATIONSHIP OF REA PREPAYMENT RECONCILIATION INSTRUCTIONS TO REVISED 1988 GRAMM-RUDMAN TARGETS

Mr. CHILES. The $23 billion 1988 deficit reduction target in the revised Gramm-Rudman-Hollings legislation has raised some questions regarding the status of reconciliation instructions contained in the 1988 budget resolution.

As you are aware, the $23 billion target cannot be achieved through the use of asset sales or prepayment of loans. In fact, REA sales have been specifically mentioned in summaries of the Gramm-Rudman compromise as not counting toward the target.

I can understand how the Agriculture Committee could be confused about whether or not they are still required to include the REA prepayment provisions in their reconciliation legislation.

I would like to make it clear that the change in the sequestration target does not in any way affect the reconciliation instruction to the Agriculture Committee regarding REA prepayment. They are still expected to lower budget authority by $1.33 billion in 1988 and increase contributions and reduce outlays by $8.548 billion. "Contributions" is the term we used to cover our assumption on REA loan prepayments.

Hopefully, this will clear up any misunderstanding which may have occurred on this important point. While the deficit reduction generated by the REA prepayment is a one-time savings it can still make an important contribution to reducing our deficit in 1988.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, first I want to thank everyone who was involved in this conference, beginning with Senator Chiles. I would like to thank my colleague from Texas, Senator Bentsen, who was chairman of the conference. I would like to thank Senator Packwood. I would like to thank Senator Domenici and all the other people who were on the conference. I would like to thank them for a lot of reasons.

No. 1, of all the conferences I have been on in my 9 years in Congress, this was the toughest, the longest, and the most complex. There were many occasions when virtually every side of the debate had an opportunity and, in fact, a lot of incentive, to give up on fixing the Gramm-Rudman-Hollings law. And through all of that, I think we have produced a remarkable bill. I think as you look back at where we started that day when I sent an amendment to the desk on behalf of myself and all of the principals involved in this debate, then you look at where the House initially was on this issue, and then you look at the final document it would seem, quite frankly, something of a miracle, even to someone who has been involved in this from the very beginning, that we find ourselves here.

I would like to review very briefly where we are, what we did under the old law, why this change is needed, and what this change is aimed at producing. Then I would like to address several issues that relate to where we go from here if this bill is signed into law.

I would like to address some of the criticisms I know will be leveled at the conference product in areas such as its impact on national defense. However, let me begin by recalling for Members of the Senate where we were when we adopted the original Gramm-Rudman-Hollings law. We had suffered 5 years of frustration during which the deficit had continued to mount. We had doubled the national debt in 5 years. We had come off a bitter budget cycle and, at 3 o'clock in the morning, we had taken action in the Senate to address the deficit problem only to have that success die in conference. And we were facing a $2 trillion debt ceiling. It was in that environment that this idea was born. It is not a complex idea, although it takes a lot of paper to set out the technicalities. You will hear discussion today about baselines, and about how we used this baseline and other technicalities. But when you get down to the bottom line the idea here is pretty simple.

The first principle is that we have an economic crisis, that the deficit problem imperils national security, imperils the future of America, imperils the future of our children, and that the old system was not working.

In initially thinking about this concept in the original Gramm-Rudman-Hollings law, the thing that drove me to the idea of binding constraints was a recognition that every time we vote on a spending bill all the people who want money from the American taxpayer are looking over one shoulder and sending letters back home telling people whether we care about the old, the poor, the sick, the tired, the bicycle rider and the list goes on and on and on. That is the American system. I am not complaining about it. People have a right and an obligation to let people know how we vote on the spending issues.

The problem is that very seldom is anybody looking over our other shoulder, sending letters back home, telling people whether we care about the taxpayer and about the people who do the work in this country.

As a result, day in and day out, whether the issue is buying rights-of-way on a trails program for bicycle riders, or whether the issue is spending on any one of literally thousands of programs, the people who want the money are organized politically, while the people who are out trying to work, to save money to buy a home, to send Johnny to college, are too busy working to be involved in the debate. So the spending went on and on and on.

A premise of the original bill was that there was an economic emergency. And who could doubt that there was an emergency? The deficit was $233 billion, the largest deficit in American history.

The original bill declared an economic emergency and set out a 5-year program to achieve a balanced budget. It required that the President submit budgets that reduced the deficit in five equal parts to zero. It made it not in order for Congress to consider budgets that did not meet the targets. It required that amendments which spent money be zero sum in the deficit, which, in the language of the fellow in the street, means that if you want to add money for a mother's milk program, you have to kill off a hog somewhere to pay for it. It made budgets binding down to the subcommittee level.

The public never understood that, despite the budget debates and the hot rhetoric, the budgets did not matter because they were not binding.

Finally, in I guess what was probably the most novel part of the bill, it had what the distinguished Senator from South Carolina called truth in budgeting. It had a provision that gave us an assessment of whether we had met the budget targets that we had written into law; and if we had exceeded those targets, there would be an across-the-board cut in spending, which brought us down to the targets. The original bill provided a period of time for us to come to our senses and go back and do the job right, or else those threatened, automatic cuts would go into effect. That was the basic law we adopted some 2½ years ago.

There were problems with the bill from the beginning, and to some extent they had something to do with politics. When the initial bill passed the Senate, the immediate cry from the House was: "If reducing the budget is such a good thing, why don't we do more of it now?" Those who were critical of that view saw that as an effort to stuff so much down the turkey's throat that he died before he ever got old enough to do any good.

Our problem was that we were forced, as part of the political process, to accept a deficit figure for the first year that was based on a budget that was passed 6 months before the Gramm-Rudman-Hollings Act was adopted. A budget that was phony from the very beginning, in terms of the targets it had set.

The deficit, in reality, was $233 billion, not $172 billion, and we were behind the spending curve by about $60 billion from the very beginning.

The second problem was that in trying to come up with a political compromise between the House and the Senate, and between the executive branch and the legislative branch of Government, we had trouble deciding who ought to be the final arbiter of what the deficit was and whether or not we met the target. We decided, as part of a political compromise, to have OMB, which is the budgeting arm of the President and CBO, which is the budgeting arm of Congress, report on the deficit. Then the General Accounting Office would audit the accounts of the Federal Government based on these findings and certify a deficit number. We chose the General Accounting Office because of the fact that it did studies for Congress, it settled financial disputes and determined financial settlements for the executive branch, and the Comptroller General was viewed as being independent of both Congress and the President.

We knew at the time that there was a potential constitutional problem. In fact, the Court had ruled twice on the issue—once that the Comptroller General was a member of the executive branch, once that he was not. Therefore, we wrote a backup provision into the bill. The Supreme Court, based not on Gramm-Rudman-Hollings but on the 1921 Budget and Accounting Act, subsequently, ruled that because Congress had the power to remove the Comptroller General by a two-thirds vote of both Houses, without the compliance of the President, Congress therefore controlled the Comptroller General. The Court held that he could not, therefore, carry out an executive function and as a result he could not be the person to certify the deficit.

As Judge Scalia said, basically the problem was not the process but the individual who we had chosen to certify the deficit on which the process would hinge. That pushed us back to the backup provision, which required Congress to vote on the across-the-board cuts.

People ask me: "Has the original Gramm-Rudman-Hollings law worked? Is it a success?" I always say: "It depends on your definition of a success. If you define the success of religion by the number of saints in the world, religion is a failure."

We never met a single target that was contained in the original Gramm-Rudman-Hollings law. From the point of view it failed; primarily because we couldn't use the club in the closet that threatened automatic cuts and that forced us to do what was unpleasant politically to do. But if you define the success of religion on the basis of whether the world is better off with it or without it, then religion is a resounding success; and I believe that, by the same definition, so is the Gramm-Rudman-Hollings law.

Under that law, the deficit has come down from $233 billion to $157 billion. I do not claim for a moment that all that deficit reduction has been due to this one, single law, but I also believe that there is not one person here who would honestly say that it could have been achieved in the absence of this law.

We are back here today because things have started to fall apart in terms of our ability to make the original law work. Beginning in January of this year, we have seen the deficit rise, and we have moved from a situation where the deficit had fallen for 2 years to a situation where the deficit is going up again. As the deficit has risen, interest rates have started to rise and housing starts last month fell off sharply all over the Nation.

It is important to remember that a lot of the progress we made under the original law occurred because when we passed the Gramm-Rudman-Hollings law the financial markets of this country believed for the first time in 25 years that Congress was serious about deficit reduction. As a result of the change in expectations about the deficit, about the financial demands imposed by the Federal Government on the financial markets of the Nation, interest rates fell sharply; and because the Federal Government is the world's largest debtor, the deficit nose-dived.

But the financial markets have wised up to the fact that Congress is off on another spending spree, that the deficit is rising, that interest rates are going up and there are clearly troubling signs on the economic horizon.

What is now the longest economic recovery in the postwar period is jeopardized by the fact that the deficit and interest rates are going back up. The impact that will have on inflation and on our balance of trade can have catastrophic consequences for the economic recovery and our ability to create the jobs and growth and opportunity that our people want.

It is that crisis which has brought us to this day and to this bill. This bill is in every way, in my opinion, superior to the original bill based on what can be actually done. What we have accomplished here—and I am not going to go through it in great detail, because Senator CHILES has done that—is we have gone back and adjusted the targets to set out a realistic path to balance the budget.

We require in this first year that the deficit be reduced by $23 billion from the deficit that would occur if you took the level of goods and services bought by Government last year and went out and tried to buy them again. Now, $23 billion worth of deficit reduction in the next 45 days is going to be tough. Since we have not saved any money, or reduced the deficit at all in the last 9 months, trying to reduce the deficit by $23 billion in the next 45 days, which is what is required by this bill, is going to be very difficult indeed.

But I believe that by setting out that requirement and then by achieving that result, we will have an immediate impact on interest rates and we will help sustain this recovery which has been a boon to the whole Nation.

Quite frankly, in my part of the country, we have not shared in much of the recovery for the last 2 years; we are just now beginning to see our economy revive, but we realize that we cannot have a full-blown economic recovery if the economy of the Nation goes sour.

So I believe that while it is going to be difficult to reduce the deficit by $23 billion in the next 45 days, the economic benefits of doing it are going to be substantial.

We are going to hear today from many Members who are going to make their decision based on the difficulty of meeting this $23 billion deficit reduction target.

I want to remind my colleagues that two-thirds of the Members of the Senate voted for the original law that had a more difficult deficit reduction target than the one that we are setting out in this law.

Second, I want to address the defense issue head on. I believe in a strong defense. I have been in the Senate for 3 years and in the House for 6, and my record demonstrates that I have consistently supported a strong defense. I have no doubt about the necessity of providing a strong defense to keep Ivan back from the gate and to keep the world free and to preserve the peace.

In the House I helped write a budget which reordered national priorities, which increased national defense, which helped us recruit and retain in our Armed Forces the finest young men and women who have ever worn the uniform of this country and which helped us modernize our strategic and conventional forces.

I do not believe that the requirement to reduce the deficit for the next fiscal year by $23 billion in the next 45 days imperils national defense. The plain, said truth about national defense is that we have already had that debate. The reality is that while there will be an effort to involve the fix in Gramm-Rudman-Hollings with the debate about defense, the defense spending debate is over. When the Congress adopted the budget earlier this year, we set into concrete the fact that we are going to have the low-tier number in defense. If you are worried about that number and you vote against Gramm-Rudman because of that concern, you are still going to get the low-tier defense number and if you are worried about that defense number and you vote for the Gramm-Rudman-Hollings revitalization law you are still going to get that low-tier defense number.

The reality is that the defense issue is settled and, in fact, with the low-tier defense number and with the other things that have been done in the budget, with the user fees and revenues proposed by the President, and with a reasonable compromise, we can put together a package and meet the $23 billion of deficit reduction.

So, I believe that the defense figure in the budget adopted by Congress is too low. I grieve over that number. But that number cannot be raised by not reaffirming our commitment to balance the budget. That is an important issue, but it is not an issue here.

Second, I want to remind my colleagues that, while Ivan is in fact at the gate, there is a wolf at the door. There is no way in a free society that we are going to be able to provide for the defense of this Nation unless we have a strong and vibrant economy, and I believe that dealing with this deficit is a critical factor toward achieving that goal.

A second concern that is going to be stressed here is a concern about raising taxes. I oppose raising taxes. I do not believe that we must raise taxes to meet the targets set out in this bill, but I do not know yet how Congress will deal with the tax issue.

This bill does not guarantee what the outcome of the battle will be; it does guarantee that there will be a battle and I, for one, am willing to fight that battle, so I want to address the people who share with me opposition to a tax increase and those who have shared, too, the President's vision for America. The unfinished business of the Reagan agenda is the Federal deficit. If you believe in what Ronald Reagan has done in terms of reordering priorities, strengthening national defense, putting more money back in the pockets of the people who earned it in the first place, providing incentives for people to work, save and invest, then unless we deal with this deficit and do it now we are setting ourselves up, no matter who the new President is, for a massive tax increase, that will assault exactly that area of the Tax Code that we have fought so hard to reform.

If we do not deal with this problem, we are in for a massive tax increase and soon, and the tax increase is going to fall where all tax increases fall, on the backs of the working men and women of America. If that happens, if we raise marginal tax rates, if we go back and put heavy burdens on inheritance taxes, assaulting the family in the accumulation of capital and wealth, then all of our work in the last 7 years will have simply produced a little blip on the trend line and we will be going exactly in the direction we were headed in before. I believe that is the wrong direction.

I do not know how we are going to come up with the $23 billion. I know how I would do it. I believe out a $1 trillion-plus continuing resolution I could easily squeeze $23 billion worth of unneeded spending out of it.

In fact, if you set out with the numbers, look at where we are in defense in terms of the cap that Congress has put on, look at what the Budget Committee did, which was not enough in my opinion, in controlling spending, but if you bring all those things together $23 billion is not heavy lifting or cruel and unusual punishment. It does, however, represent a down payment which gets us binding constraints and fixed targets and allows Ronald Reagan to leave office with a binding process in place to balance the Federal budget. It also, it seems to me, does something else that is good for America. If we pass this bill today and the President signs it, in 1988 when all the Presidential candidates go out running around the country telling special interest groups how they are going to bring home the bacon with Gramm-Rudman-Hollings and automatic cuts in place, the first question they will have to answer is: Whose smokehouse is that bacon coming out of? How are they going to pay for it? What programs are they going to take money away from to give money to this special-interest group? Whose taxes are they going to raise? I believe that is the kind of debate we need.

I know that this is a difficult decision, but I believe that anybody who supported the original bill ought to support this one. If there is a valid criticism of this revitalization act, it is that it does not do enough. The criticism is not that $23 billion is an unrealistic reduction in the deficit. It is that we could do more. If there is a valid criticism, it is not that the targets set out are too tough, it is that they are not tough enough.

I am not making those criticisms it is not so important what year we balance the budget. It is important to me that the deficit decline and that it be balanced during the lifetime of the Nation. This bill guarantees that. With a new President in 1989, that new President will have to submit a budget that meets a fixed target. Obviously, there can be efforts to repeal this law, but there is going to be great opposition.

The American people are concerned about this bill. They are concerned about across-the-board cuts. In the abstract, everybody wants to balance the budget. But nobody wants to do the things you have to do to balance the budget. But the American people know what the Senator from Oregon has already said: This may not be the best possible solution, but nobody has come along with a better one.

I believe that this is the last train out of the station. For those who want to deal with the deficit, this is the last real chance we have to do something about this problem, not just today, but to get the job done over the next decade. For those who believe that the Reagan agenda should be made permanent, I am absolutely convinced that this is our final opportunity during the Reagan Presidency to deal with this problem.

There is a quote that I identified with and believed in when it was first said, and I believe in it today, and I believe that it applies directly to this bill. In dealing with the deficit problem, in changing the political system to try to control spending, if we do not do it, who is going to do it? If this Congress and this President cannot deal with the deficit problem, what Congress and what President are going to do it? "If not us, who? If not now, when?" Ronald Reagan said that about changing the direction of America, and we changed it.

The question before us today is: Are we going to make those changes permanent or are we going to refuse to deal with the No. 1 problem in America, which is deficit? I urge my colleagues to take the long view, to vote for this bill, to give us a strong vote so that we can show the Nation that there is a commitment to balance the budget, that we are willing to make the tough choices.

If we adopt this bill today, it puts the fat in the fire. We are either going to rend lard by controlling spending or we are going to put the fire out by raising taxes. I am not indifferent in that choice. But we will at least address the issue. And I believe that, regardless of the outcome of that debate, the American people will be resounding winners, that the economy will be stronger, and that the American people will have a brighter future.

I want to conclude by thanking all of the Members of the Senate and the House who have worked on this bill. This bill has been mortally wounded on a dozen occasions. But on each occasion, it has come back to life and it has come back to life because it meets a need that cannot be met without binding constraints.

I urge my colleagues to vote for this bill, for a reaffirmation of our commitment to balance the budget, for binding constraints on Congress that force Congress to do what every family and every business in America has to do every year—set priorities, make tradeoffs. That is something we have not done a good job at in the past that we must do a good job at in the future.

I urge my colleagues to vote aye, and I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am thinking back to about 18 years ago when I was the equivalent of a mayor of my home city of Albuquerque. We were trying to do something that we thought was very good for the city of Albuquerque. We called a meeting and invited all the people to come and listen to us talk about this great project. A very distinguished citizen that was opposed to it knew that the event was rigged. Obviously, what the mayor wanted, the mayor was going to get. And he came along with a little entourage and showed up a bit late—sort of like I did this morning. I was listening as the distinguished speakers that preceded me spoke, but I could not be here. But he came along a little late and everybody noticed him. I do not know if everybody is noticing me. That is irrelevant.

But as he walked by, he put up his hand and he noticed that nobody was very pleased to see him and that they did not really want to hear what he had to say. He smiled and said: "I sort of feel, Mr. Mayor, like a skunk at a lawn party."

Well, Mr. President, since I have been battling for about 7 or 8 years, I do not have the least bit of reluctance to at least mildly pat myself on the back. I have been living with deficits for a long time. At a point in time when I thought defense was outrageously high, I was not reluctant to have a big confrontation about it.

I can remember some pretty vivid details. I can remember being on the telephone in the back room, during the middle of a markup in the Budget Committee, after waiting 8 weeks for some accommodation on defense, having the President personally ask me to delay things. And I had to sit there, and I can tell you honestly—it was a few years ago—it was pretty quick for the beads of sweat to come down my forehead, as I said, "No, you're too late. It's too late. I told you what we ought to do. It's not going to be done. We are going to do our job."

So, Mr. President, it is with real reluctance that I come to the floor of the Senate today to urge that the U.S. Senate not adopt this measure. Frankly, if I had any significant influence over the President of the United States, I would tell him to veto it. If he asks for my advice, I will tell him to veto it.

But there is one thing in it that is good. We will quit playing games with the debt limit of the United States.

Accidentally, almost as an afterthought as this debt limit came to the floor, one of the distinguished members of this body—I do not recall which—suggested that we ought to extend this debt limit so that it would go on into the next Presidency. And nobody resisted that very much. Everybody said, "Well, as long as we get a Gramm-Rudman fix on it, let's do it." Well, we have done that.

And I submit that there are probably not many people in this country who understand how many hundreds of millions of dollars we waste playing games with this debt limit; how close we get to putting the credit of the United States on the line when, as a matter of fact, the debt limit is nothing more than the recognition of the debts that we have incurred. They go out there and sell Treasury bills to pay for what we have incurred in our entitlement programs or our appropriations.

So, clearly there is one good thing about this bill.

Beyond that, Mr. President, this particular Gramm-Rudman-Hollings fix hardly deserves the name. It hardly deserves the name.

My good friend from Texas said how Gramm-Rudman-Hollings has worked. I have taken to the floor and said it worked. I remind the Senate the only time it really worked was when we had an automatic sequester, a wild and crazy one midway through the year. People have looked back at that and said, if you are going to do a sequester, do it across the board and do it before the year starts.

Remember that one we did in February or March? You would think we would learn a lesson.

Then the other thing it did was last year when the binding target in Gramm-Rudman-Hollings brought us a substantial deficit reduction, even without the hammer. Argue as one may that it was made up of a strange mixture of things that people do not like—such as asset sales and a credit for the tax bill that we predicted was going to be there—but we hit the target.

Indeed, I remember telling the distinguished Senator from Wisconsin when he almost jokingly said: "Are you serious? That budget is going to yield $154 billion?" I think I looked at him and said well, if it is not $154, it is going to hit $155 billion. I am now reading that that is about what it is.

We did that without any hammer because there were some points of order and a little discipline.

I have a series of prepared ideas but my friend from Texas has mentioned so many things that I am going to get sidetracked for a minute. Let me just suggest for starters, this is a Trojan horse and nothing more, to implement a budget that the U.S. Senate on the Republican side has not voted for. It is essentially a Trojan horse to implement it, plain and simple.

No. 2, my wonderful friend from Texas stands up here before the U.S. Senate and says: Vote for this Gramm-Rudman-Hollings fix and you are not voting for taxes. Why, Mr. President, he is saying he is not going to vote for taxes. That is for sure. There is no one, no one, Mr. President, at any conference I have been at, except my friend from Texas, that is hiding that. The question is how much in taxes?

Obviously, I can stand up here and say, well, I am voting for this because I know what my budget will be and it will not have any taxes in it. But let us be honest about that. That is mine. That is not the U.S. Congress. Anyone that wants to buy the idea that there is not going to be new taxes resulting from this Gramm-Rudman-Hollings fix is literally and absolutely kidding himself.

Actually, I had harsher words than that, but I will not say them. Let us just say that they are kidding themselves and the junior Senator from Texas is kidding himself. It is not a question of whether he will not vote for them. Of course, he will not, if that is how he feels. But this Gramm-Rudman-Hollings fix is borne out of the idea that we could not get $21 billion in taxes, or $19 billion as proposed in the budget that cleared here a few months ago, and so we are doing it another way.

Before anyone says, you know you are going to have to have some taxes sooner or later to fix this budget deficit—yes, indeed, we are. As a matter of fact, I offered a budget that had $10 billion or $11 billion in taxes in it. It got 22, 24 votes. But there were a lot of other things in that budget that are not going to be in this budget when it winds its way through this Congress. You can be assured of that.

I submit that the enfocement mechanism, this sequester is the strangest thing I have ever heard of. We are sequestering off of hot air; not sequestering off of expenditures. I tell you that so the average American would understand.

If you are going to seek a sequester to bring the deficit under control and if sequester means an across-the-board cut, Mr. President, you would think that would mean cutting off of existing expenditures, would you not? If you were to say to anybody: Well, here is what you have been earning. Here is what you have been spending. Now we are going to cut those expenditures. You would say, how much did I spend? $100. We are going to sequester, we are going to make it $89.

That is not what this sequester is all about. We invented a new baseline to cut from so it will sound like we are cutting a lot when we are cutting nothing. Would you believe that the starting point for discretionary appropriations under this baseline is $13 billion higher than this year's expenditures? So if you went down to this year's level of expenditures, you would have already saved 13 of the 23.

But that is not going to happen. Why is it not going to happen? Because there are not going to be any of those cuts on the domestic side. The reason we are here is because that agenda is set.

How are we going to get to $23 billion? Has anybody seen a piece of paper by those who are putting this together, appropriators, Finance Committee leaders, Ways and Means Committee leaders? Has anybody seen a piece of paper that says we are going to reduce domestic expenditures from the allocation allowed by this year's budget?

What I have seen, Mr. President, is it is going to go up half a billion. No cuts there.

Where are we going to get this $23 billion? That leads me to what is wrong with this proposal. There are many things wrong with it but it leads me to what is wrong with it in essence.

Mr. President, whether Gramm-Rudman-Hollings works or whether it does not, whether it is the greatest thing that happened to American fiscal policy or whether it was never going to work—I do not know which—but essentially it was calculated to cause a train wreck. Some have called it a guillotine, to bring the President of the United States and the Congress into an interplay to reach a solution satisfactory to both and to avoid a sequester.

Well, Mr. President, let me tell you. That is not the case any longer. My friend from Texas, who I greatly admire and respect, may think that is the case, but it is not. I am going to talk later about why it will not work in terms of getting to a balanced budget. Essentially it is because it does not have fixed targets; but I will tell you about that very shortly.

Mr. President, what this is calculated to do is to say to the President of the United States: You either sign a bill with new taxes in it between $11 billion and $15 billion or you suffer a sequester.

Mr. President, there is not even any assurance that the high tier defense number will be in that equation. That is $296 in budget authority.

As a matter of fact, as you approach $296 billion you have got to start adding more taxes because there are no other savings. Senators ought to wonder, where is the blueprint to get the $23 billion? We used to have reconciliation. Now there is no blueprint.

This $23 billion will be pulled out of the air, other than about $2 billion or $3 billion in reconciliation savings that have nothing to do with revenues that I assume we will keep. Chalk that up on your blackboard, $2 billion to $3 billion.

Where is the rest going to come from? It appears to me that it is going to come from taxes, and what else? Does anybody have the slightest idea what else? Defense cuts. Plain and simple, defense cuts. No doubt about it.

My friend from Texas may want to stand up here and say we have lost the defense fight. I do not believe it. We have been here on the floor of the Senate for 10 days debating what the distinguished Senator from Georgia must think is a very important bill. He put up with 2 months of delays. The distinguished floor manager knows why. That committee worked very hard.

Did they bring us a bill that is a joke? Do you know how much it takes to fund that bill? $302 billion. Not $296 billion, not $289 billion, which is the low tier in this budget, and not $279 billion to $280 billion in budget authority, which is going to be the sequester level in defense.

Regardless of what is said around here, there is no longer the ambiance between the Congress and the White House to work something out in the event of a sequester. There are only two things to be worked out, because the domestic spending cut is worked out. There are not going to be any—there are not going to be any—there are not going to be any—how many more times do we have to say it, I defy anyone to come down here and say the Senator from New Mexico is wrong.

There are going to be some real cuts somewhere else that I have not seen in anybody's budget, in no appropriations bill. The cuts are going to be from defense, plus the little tiny pinch that is in reconciliation for Medicare and a little tiny piece from the Energy Committee which, when you look it over carefully, is a joke, an absolute joke.

In the Energy Committee, we are going to say we are saving money because we are going to a new law with only one site for high-level waste disposal instead of three and still leave it in the appropriations account where next year they can change it however they want. That is the kind of savings we can expect.

So, Mr. President, there no longer is any kind of balance to negotiating. We are giving the President an option and the Congress and all those who vote for it that is plain and simple. We don't know how much we have to cut because, you see, there is no reconciliation or appropriations bill in place. So we are shooting in the dark; there is nothing in this bill that tells us how much we are going to save in appropriations. It is all hypothetical but I told you it is off a baseline that is not reality. It is a baseline, a starting point, that is inflated by 4.2 percent across the board so we are really not sure where we are going.

Nonetheless, it is more taxes and less defense. I hope that some of those who have worried about defense, as I have, will come down and ask some of these who are going to be putting this package together—I assume it will not be this Senator, I assume it will be the majority putting the package together. Ask them, where is the language that says if we vote in taxes, the taxes will go to the high level of defense so that at least they can get a shot at the $296 billion, which is what the distinguished chairman and all of his helpers, bipartisan, said was the absolutely lowest number.

It is not in here. It is not in here because if you put it in, it would have caused havoc in the House. They probably would not have voted for it, although it is in the budget resolution. It does say there if you want to vote in $21 billion worth of taxes, you will get your defense number. What about $15 billion? What about $13 billion? What about $11 billion? Do you transfer some of that to defense as contemplated in the original budget resolution? I think not, and I will tell you why: because the arithmetic does not add up. If you transfer it to the high level of defense, you have to raise more taxes, to repeat myself, because there are no other cuts.

Now, Mr. President, those who think there is some magic in Gramm-Rudman-Hollings, that it is a solution to our fiscal problems, that it is going to be part of the next Presidential debate, as I hear my friend from Texas talk about, I submit to you that long before that day it will be exposed for what it is.

Now let me move on.

A very interesting thing has happened with the sequester proposal in this package, very interesting. There are some who would say, "What in the world is the Senator from New Mexico talking about all these technicalities for?"

The sequester, the so-called even-handed cut automatically occurring across-the-board—the hammer—is at the heart of this. Let me tell you what inadvertently, I am sure, was done.

You see, Mr. President, in the old Gramm-Rudman-Hollings law, if an across-the-board cut was going to occur, it occurred off of something that was real. What? Current law. So you looked out there and said, "Here are all the appropriations and entitlements and whatever we took out of the budget is out; then, cut across the board."

Well, interestingly enough, the new baseline, the hypothetical line from which you cut, is the current level. You add 4.2 percent to it. I assume, to be fair, you add the 4.2 percent to defense also.

Is that not interesting? You have domestic raised 4.2 percent over this year's level, and you have defense raised 4.2 percent over this year's level.

Do you know what that number is for defense? It is higher than anybody had in mind around here. It is higher than the $296 billion or the $301 billion. Now you are going to cut from that $11.5 billion, if, as a matter of fact, you have to do the whole $23 billion. You cut $11.5 billion.

I will get to the fact that the way we read the language dealing with the sequester and the continuing resolution, no one is sure that it will be a 50-50 split between defense and nondefense. Anyone who wants to stand up and say they are sure of that with this language does not read English. But theoretically that is the case.

Well, Mr. President, that leaves you with a defense number after the sequester of about $280 billion in budget authority, or thereabouts, depending on the outlay to budget authority ratio.

Well, my friends, we may have the biggest surprises of our lives. There is no willingness on the part of the Congress at this point to talk about raising defense, and you talk about raising taxes to get to the $23 billion. Is it not going to come as a shock if Ronald Reagan says, "Well, you did it to yourselves. You do not want to give me a reasonable amount for defense. I might have gotten $4 or $5 billion more than the sequester."

Maybe. But nobody has assured him of it, so let us just let the sequester take place.

"You all like this process so much so we are just going to do that."

Mr. President, I am not averse to cutting, but never, never, would I produce a budget to get $23 billion that would cut in a manner that an automatic sequester does. It just cuts everything across the board, assuming we know what the board is, which I am not sure we do.

But I will give you my best judgment of how interesting that scenario might be.

Well, in the event we have outdone ourselves and really come forth with a fix here, energy will be cut $1.2 billion, agriculture automatically $2.7 billion, education automatically $2.9 billion, income security—that is not Social Security; it is the other programs—$1.3 billion; veterans' benefits, $1.6 billion. That is just a smattering of the sequesters that the President is apt to leave in place since we are so generous in wanting to put in taxes, reduce no domestic programs in any orderly way, and then have no assurance that he is going to get anything on the defense side.

Now, Mr. President, there are a lot more things that I want to talk about and I do, but in no way do I want to use the floor at this point if there are others who want to speak. It will take a little time to go through what the sequester means and how we absolutely have no idea how we are going to sequester and how cuts will be applied to the continuing resolution and I clearly do not want to do all of that now. I want to seriously discuss the sequester, how it applies, how you are going to measure continuing resolutions and just where the game plan for the $23 billion is and where it is not. But I close by saying please remember, Senators, as you vote for this, you are about to be burned for the second time by having a sequester. This time, it is far more difficult to predict, and far less certain that it is really across the board. The way I read it, it could be far less than across the board. There can be many favored accounts. But you are going to have a sequester in place on October 20—20 days into the fiscal year.

And for those who say, "Oh, no, it is November 20," November 20 is the real final, final. But on October 20, 20 days into the fiscal year, you are going to sequester and withhold payment of the sequestered accounts pending a final determination on November 20, I think my friend from Massachusetts, Mr. CONTE, in his normal succinct manner, noted that after October 20 there will not be enough bushes in the District of Columbia for all of the Members who voted for this bill to hide under.

Now, they will not have to do that because they all have some way of explaining that they did not really vote for it, and they expected something else to happen in between, and really cannot be serious that we have not had a chance to fix this thing. We have all the accounts of Government, from those that are very good to some which many here might not think are so good. But all of them will be sequestered, across the board, in the event we have not changed that by a continuing resolution favoring some programs over others, and in the event some programs by their nature have not already spent out in the first 20 days. There may be some, in which event I assume they will not be sequestered at all.

After a while, I understand that people begin to think the language is technical, and probably ought to be left to the written reports. Maybe somebody will read them later.

Well, I do not have any written reports. All I can do is tell you how I feel, and I will have a few more things to say about this measure. But I must close by telling you my impression of this bill, as a master game plan for the next 6 years.

First, I will make a prediction. I do not make this with quite the assurance I had when I said to the distinguished Senator from Wisconsin, "We will reach our target of $154 billion." But I believe that when we are all finished and we have done our duty here under this bill and raised taxes and cut defense and a little tiny bit of entitlement reform of $2 billion or $3 billion and passed the appropriations, is it not interesting that the following year, we start off of what? A new Gradison baseline. It has nothing to do with targets. It is sort of que sera sera—whatever it is it is. It is going to be $160 billion by the time we are through reestimating all these things, and then we are going to say, we inflate that by Gradison and we cut off of it in order to get to a new, baseline.

Yes, we will be so far from next year's target that the next President of the United States is going to say, "Let's sit down, troops. Let's talk about it. This won't work. You have been off every year. You are off again. You had a sequester. You raised taxes and you are still at $160 billion, and you haven't even come down. So don't hold me to this next 4 years of targets."

So I am really not saying to anybody out there, as my distinguished friend, the junior Senator from Oregon, a former chairman of the Finance Committee, if you pass this, unemployment comes down, interest rates come down—hallelujah, we have saved the economy.

Well, Mr. President, I really do not think anyone around watching our activities responds on rhetoric. They respond on intelligent analysis of what we have done, and they are not going to believe that we are on a 6-year game plan to a balanced budget when we have no fixed targets in the first 2 years, when we have the kind of sequester game plan that is permitted here, when we do not even know what the continuing resolutions, instead of appropriations, are going to mean, when we have a very, very high possibility that committees will put into their own bills what the baselines are. I look for that to be the next "jimmy" around here. You put it in your appropriations or some bill. Here is the baseline for this program and do not fool with us.

Now, obviously, the distinguished occupant of the chair will say we will catch that, and we will take care of it. Well, I am not too sure. Most appropriations are done in conference, and I can see a few of those coming down the line.

So for now, at least, I have three or four Senators who want to chat a little bit on this. I need more time for myself, after a 5- or 10-minute break. I will be back shortly and complete my remarks. For now I thank the Chair and I yield the floor.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER (Mr. HOLLINGS). The Senator from Florida.

Mr. CHILES. Mr. President, I did not get a chance to listen to all of the remarks of my distinguished colleague from New Mexico, and former chairman of the Budget Committee. But I did hear some of them. And I think I have the gist of those remarks, that is, we do not have a perfect solution here. This does not solve all of our problems. And you can say that a year from now there may be another problem, 2 years from now another problem, and there may be a problem that defense could get cut in this, and there may be a problem that revenues have to be raised in this.

All of those are true. All those problems are there. This is not the end all, fix all. But, Mr. President, this is the next step that has to be taken if we want to go forward to another step to do something about the deficit.

What if we do not pass this? And I think that is what we have to look at, because we are comparing this to nothing. It is, how do you like your mother-in-law compared to who? I think there has to be some kind of comparison that you have to make. And how do you like this compared to nothing? With nothing, first, we have chaos. With those financial markets with interest rates starting to go up, bond rates starting to go up, the stock market getting very shaky and accelerating and decelerating at 30 or 40 points a day or more, think of what it is going to do. One, if we have the chaos of having no debt ceiling, running out of money at midnight sort of tonight, or supposedly we fall off the cliff a few days from now; but also if we have that kind of chaos, and then the sort of certainty out there that we have abandoned the discipline or attempting to do anything about the deficit.

This is the signal it sends: That you are abandoning, you have forgot about it, the Congress decided this thing was popular for a few years but when we came to the point where it might get binding, we might have to do something, we might have to get realistic with it, and as long as you have a $50 billion float, nobody is going to vote for that sequester, and you are getting about where you may have to do something, then we quit. We abandon. That is what I think you had better compare it with because that is the worst of all things that could happen.

What happens with us? It is interesting. I understand the junior Senator from Texas said this does not cause taxes. The Senator from New Mexico says this causes taxes.

So you can take either one of those propositions, and either one of them can be true. Either one of them can be true depending on whether you want to assure a $23 billion sequester.

Absolutely, you would not have to have any taxes, and maybe if you want to assure that there is not going to be, there has to be some revenue in this proposal if you are going to assure that. Again, if you want to protect defense and get defense with the high tier, yes, there has to be some kind of revenue.

But, on the other hand, you do not care about that. If you do not care about paying for defense or do not think the American people are ready to pay for defense for a level of defense that we ought to have to really protect ourselves, then you can buy the sequester argument. You can say you can take that.

But to me, Mr. President, we have to do something. And when we take this step, this not the end-all. Then we move to reconciliation. Everybody is saying but what about? This does not guarantee the high tier of defense. It does not. It does not guarantee the low tier. It does not do either one of those things.

But it is, again, the most important ingredient or the step that you must take if you are going to move on to reconciliation. If this is law I hope—and the Senator from Florida has a hope in this, too, like the other people—at that point the White House and the President sits down with the leadership, Mr. ROSTENKOWSKI, Mr. BENTSEN, the leadership that will be working on this, the Speaker, the majority leader, the minority leader, the whip—those kind of people and say, look, now. Let us sit down and do something for the country. Now let us sit down and come up with a plan that will give some kind of certainty out there that finally we are going to kind of march in unison.

Are we that far off from being able to do something with this at $23 billion? I say not. I say that with everybody being able to win. There has to be some kind of situation in which the President can say, "I win, I finally made those fellows make those spending cuts first, and I finally made them do something to lock in a defense number. For 2 years—it could be 2 years—for the remainder of my term." And Congress can say we finally got the President to sit down with us, and we finally got ourself on a track of how we would pay for defense, and how we would put that together.

All that I think is possible. Will it happen? It is the Senator from Florida's fondest hope that it will happen. It will not happen if we do not pass this. It will not have a chance of happening. That will be the end of that. It has the possibility and a chance of happening if we do pass this. That is why I think it is very important that we take this step and the House has done it. I am delighted to see the numbers and the way in which they have done it.

I will speak a little further to that in a little while. It is the responsible thing now for the Senate to take this step. I certainly hope that we will.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, you have heard of legislation on a "fast track," well, this is legislation on the "tax track." And I believe that it is the wrong track for the American taxpayer. Once again, we have become mired on the road of good intentions. I speak of the conference report to reinstate the "big fix," the automatic spending reduction of the Gramm-Rudman-Hollings process. There is a big question as to whether the conference report is in the economic best-interest of America. While some say it will reduce spending, others believe—that given the nature of Congress—it will not. Defense outlays will be cured, but I am doubtful that domestic spending will be restrained.

Since coming to Congress, I have been a strong proponent of controlled spending. I have long believed the American people should spend their own money—when they want, where they want, and on what they want. Economists will tell you this is how our markets grow. To this end, I sponsored a constitutional amendment to balance the budget, and I have favored the Presidential line-item veto. These would encourage us to control spending without tax increases. In addition, I have repeatedly voted against measures which would increase Federal spending.

The Gramm-Rudman-Hollings process—a process that began as a cost-cutting and deficit reduction measure—once again puts us firmly in a position for tax increases. And as we examine the conference report, we see that it could provide—intentionally or otherwise—the grist needed to force the White House into a tax increase. The automatic—across the board—spending cuts included in this report are a trap for the President—a ticket to new taxes on a road to new revenues.

This is the danger of the conference report we are considering now: automatic spending reduction will inevitably force a tax increase, unless, as Senator DOMENICI has pointed out, the President refuses to go along. It is no secret that the budget resolution, recently passed by this body, included a $64 billion tax increase, and this conference report could provide the opportunity. And herein lies the great irony.

Tax increase rarely, if ever, have reduced the Federal deficit. In fact, they often exacerbate the problem. The proof is in our history. While the theory of our past tax increases was to reduce the deficit, the reality was increased spending. In fact, a recent study demonstrates that raising taxes is directly associated with increased deficits. For every dollar increase in taxes, there occurs $1.58 in new spending as Congress is determined to use what it collects—and then some. Considering this misguided habit, Mr. President, we cannot afford another tax increase.

For 6 years—beginning with the tax cuts of 1982—President Reagan has restored the economic confidence of America. Once again, we are proud and strong. The malaise of the seventies has been overcome by a recovery that has created 13 million new jobs and ushered in an era that will soon become the longest peace-time expansion since World War II. Recent history has made it clear that a strong economy is the result of a decrease in taxes. I fully realize that many of my Republican colleagues who support this conference report to restore the automatic spending reductions do not want a tax increase. I realize they understand the danger attached to such an increase. But I want them to fully understand that these automatic spending reductions almost guarantee a tax increase.

Mr. President, on April 1, 1987, when the Senate first considered the President's veto of the highway bill, I said on the Senate floor: "We must face our large, looming budget deficits with candor, and I submit that those people whose favorite pork is in this budget-busting legislation will be the first to come out in favor of a tax increase." Sixty-seven Members of the Senate voted to override the President's veto—and 56 Members passed the Senate version of the budget resolution that called for a tax increase of more than $88 billion over the next 3 years. Many of the individuals who favor this agreement are the same who voted for the highway bill and other budget-busting bills. President Reagan has used his veto power responsibly; now if only Congress could be such a wise steward.

During the 6 years that I served as chairman of the Committee on Governmental Affairs, we repeatedly achieved success in managing our money and reducing our costs, as required in the budget resolutions. If each of us assumed financial responsibility, we would have no need for Gramm-Rudman or a tax increase. But until then, when it comes to raising taxes, Congress should take Nancy Reagan's advice and "just say no!"

Mr. CHILES. Mr. President, I do not know whether there are other people who wish to speak on this. The Senate has a lot of business before it.

My understanding is that there is a Senator on his way to the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, while occupying the chair for the first time in 8 years, I listened with interest to the presentation of the Senator from New Mexico; the presentation of the distinguished chairman of the Budget Committee, the Senator from Florida; and, of course, just a minute ago, the presentation of the distinguished Senator from Delaware, who protests that this Gramm-Rudman-Hollings plan is really a plan to increase taxes.

On that score, Mr. President, let me speak to the point made by the Senator from Delaware [Mr. ROTH]. Yes, the Government has grown. A former Senator from South Carolina, Senator

Byrnes, whose desk—known as the John C. Calhoun desk—I occupy, had a grand total of three people on his staff. I recall the time, not so long past, when Senators began their work at the beginning of March and were home in time for graduation speeches at the beginning of June.

We fret about the growth of Government, but, by and large, it has been positive growth. How often at the State level we used to be confronted with a request for services or funding, and the usual response was, "Oh, that's not a function of government." And, over the years, in the absence of State action, the Feds stepped in and took on one responsibility after another.

A good example is education. We always used to say that national defense was the primary function of the Federal Government and that education was the primary function of the State government. But we realized that, in fact, the job was not being accomplished adequately at the State level. The year before this Senator came to Congress in 1965, this body passed the Elementary and Secondary Education Act. Under title I, we have improved our dropout rates in the most disadvantaged areas of my State of South Carolina from a dropout rate of almost 87 percent to a positive graduation rate of 67 percent. And the graduation rate gets better each year.

So many social improvements of the last half century have been the result of Federal intervention, to protect the environment, to ensure equal protection of the laws, to fight hunger and poverty, and in so many other areas. Yet this administration came to town proclaiming that Government is the enemy. It pledged to dismantle the puzzle-palaces on the Potomac, and to turn power and money back to the States.

President Reagan appointed me and others to the Federalization Commission. Our mandate, supposedly, was to identify elements of the Federal Government that could be transferred to the States and cities, or abolished outright. The new administration's favorite whipping boy was the Department of Education which, they said, should be done away with outright and forthwith.

How ironic it is to see the distinguished President of the Senate, our national Vice President, on TV the other day being asked what his priority would be if he were elected President. He said education.

Indeed, it is Mr. Bush who is belatedly being educated on the critical role of the Federal Government in ensuring standards and quality and priority in the field of education. We have witnessed a similar conversion with regard to the Department of Energy, another early target for extinction.

Mr. President, I am proud that the Senate has consistently supported, on a bipartisan basis, both the Department of Education and Energy. The Senator from Delaware does not speak for his party on these matters. He is in the minority. Pure and simple, his game plan in Kemp-Roth was to take away 25 percent of the Government revenues and thereby force us to stand and be counted. That was the catch phrase; we would have to stand up and be counted by voting revenues to fund specific programs we wanted. But it didn't work that way.

The whole premise of Kemp-Roth was fallacious and naive.

We heard in Chamber of Commerce halls across the land that all we had to do was make the people in Washington stand up and be counted if they wanted to spend more money. Well, we have gone 6 years in a row with $200 billion more in spending each year than we were willing to stand up for: Republican, Democrat, President, Congress alike. No one has called us to account.

So, surely, after 6 years, the shakedown cruise of Kemp-Roth has run aground. That chamber of commerce incantation about "making them stand up and be counted" has been exposed as just so much supply-side hokum.

The wonder is that this body ever swallowed the Kemp-Roth snake oil in the first place. How could we sign off on the premise that if we would just have the courage to slash taxes, then we would be rewarded with a fiscally sound government?

I opposed it at the time. I said I had never heard of a mayor who would dare say to the City Council of Boston, MA, or Charleston, SC, "What we need is supply side stimulus, so we are going to slash our revenue base by 25 percent and grow our way out of the resulting deficit."

Nonsense. Look at those States that refuse to tax and you will find third-rate schools, people going hungry, and the mentally ill wandering the streets.

We need an activist Federal Government. We need a government the size it is today: a trillion-dollar Government. That is one thing we have proved in recent years. President Reagan and the Congress, Republican and Democratic, conservative and liberal, all agree that we need and want a trillion-dollar Government. The only question is whether we have the discipline and courage to pay for it.

Some would have allocated more to defense. Others would have allocated more on the domestic side. But there is a basic, bipartisan consensus that we need a trillion-dollar government. Indeed, we have been reelected on that score.

As I said, what we have not yet come to grips with is the necessity of paying for that trillion-dollar government. The Senator from Delaware—as if to prove there is no education in the second kick of a mule—speaks as though we still have the luxury of reducing revenues, forgoing taxes, and whoopee, we will grow our way out of deficits. Well, we haven't grown our way out of deficits. We have grown into deficits, into the dubious honor of being the greatest debtor nation in the world. In 1984 we were still a creditor nation. Today, we owe some $330 billion in debt to foreigners, more than Mexico, Argentina, and Brazil combined. I repeat: We haven't grown our way out. We have grown our way in.

And there is an awesome price to be paid for these twin budget and trade deficits. Indeed, the one compounds the other. Our budget deficits are the key culprit in the runup of our foreign debt and trade imbalances. We thought we could find an easy way out by devaluing the dollar. But not even that has worked. Instead of growing our way out of the budget deficits, we have grown our way into deficits in the balance of trade.

We are in an unprecedented economic crisis. Yet, even at this late hour, we still hear this fanciful litany from the distinguished Congressman from Buffalo and the distinguished Senator from Delaware. The Kemp-Roth crowd still assures us, "Don't worry. We are going to grow out of it." But in essence, we have returned to the latter days of the Roman Senate where they bought the people's votes with bread and circuses. The only difference is that we are buying votes not with bread and circuses, but with the fruits of the next generation, our children and grandchildren.

Of course Gramm-Rudman-Hollings is an imperfect tool. But it has worked, despite its flaws.

The genesis of Gramm-Rudman-Hollings was in an experience this Senator had back in the 1950's. I proudly went to New York to the bond-rating houses, and said, "Look, I balanced the budget." They said, "Governor, that is fine. But we have a lot of States that temporarily do that. How can we count on your doing it again and again and again?"

I answered, "We have a little gimmick in the law whereby the comptroller must constantly keep the Governor informed that expenditures have not exceeded revenues. If there is a deficit, there must be automatic cuts across the board." Forty-three States have adopted this tactic. And now we have it at the Federal level with Gramm-Rudman-Hollings. It is imperfect because the State and the Federal Governments operate differently.

There are tremendous swings in revenues at the Federal level. A 1-percent difference in unemployment will create about a $30 billion swing; a 1-percent difference in real growth will give you another $14 billion swing.

Men and women of good will can make faulty economic projections that throw the budget off by $50 billion. Yet even in this chaotic budgetary environment, Gramm-Rudman-Hollings has worked. It brought a $221 billion deficit down to approximately $157 billion, an unprecedented accomplishment.

As one of the sponsors of Gramm-Rudman-Hollings, I have become about as popular as the itch around this town and out on the political trail. In the last election every group I met said, "You cut our budget." Whether it is on farm payments, community ACTION programs, you name it, wherever I went, the Washington crowd had sent the word down that, "Your program was not being funded on account of Gramm-Rudman-Hollings." So I know the unpopularity of this measure. I know the pique of certain Senators who say "Oh, these fellows have let their vanity run away with them. They think Gramm-Rudman-Hollings is a panacea."

Not so. We know its imperfections and we know of its unpopularity. We also know that no viable alternative has appeared on a white horse.

Referring to the Senator from New Mexico, I too could sulk in the corner. I agree with everything he said, with all his reservations. I have said, going back to June, that many of our working economic assumptions were wrong. Accordingly, I was not surprised when the deficit projection ballooned. We were playing with smoke and mirrors. But once defeated in conference, you don't retreat to the sidelines and pout.

We live in the real world. The Senate practices the art of the possible. And in that light, I commend the Senator from Florida and the Senator from Texas who worked doggedly to fashion this compromise and to preserve the teeth of Gramm-Rudman-Hollings, the automatic trigger.

Mr. President, we feel pressure at the moment. It certainly is not the salesmanship of PHIL GRAMM and FRITZ HOLLINGS. They would say, "Those two fellows never met Dale Carnegie." On the contrary, it is pressure from the American public. That message has come through again and again and again.

Labor leaders, farmers, main street merchants all give us one clear message: go on back up there to Washington and start paying the bills.

And time, Mr. President, is very short. Because if a recession hits, the jig is up, it will be too late. Transfer payments for unemployment and welfare will skyrocket. Revenues will plummet. The deficits will dwarf today's levels, and we will find ourselves trapped in a negative downward vortex from which there will be no escape.

Of course there is one alternative to Gramm-Rudman-Hollings. We can ignite a rip-roaring inflation and debase both our currency and our debt as Germany did before the war.

Thank God, no one is advocating such a catastrophic course. But we are reaching the point where an inflationary dynamic will take over—an inflationary impetus that a hundred Volckers will not be able to stop.

The Senator from New Mexico is correct that this budget process is becoming hideously complex. He has been the leader. He knows and understands the reconciliation bills, the cross-walks, all the techniques of this complicated budget process. His dire scenario could come true. But something else could occur that is worse. As the Senator from Florida has noted so eloquently, we could arrange one grand fiscal train wreck by pushing ahead with a sequester. If the debt limit expires tonight, a sequester vote is in order. A sequester would require a $23 billion cut in defense outlays, a $44 billion cut in budget authority. Is that preferable to this imperfect Gramm-Rudman-Hollings fix?

I want to address one specific concern that several of our colleagues have about the impact of the new Gramm-Rudman-Hollings. I am referring to the funding level for National Defense in the budget. As you will recall, the Budget Resolution provides two levels for defense dependent upon revenue action taken by the Congress and the President. These are referred to as the high-tier and low-tier levels. The BA and outlays for the high tier are $296 and $289.5 billion respectively; the BA and outlay levels for the low tier are $289 and $283.6 billion respectively.

The Senator from New Mexico and others have protested that the Gramm-Rudman-Hollings fix will not guarantee that the high-tier can be achieved since the revenues in the resolution—approximately $19 billion—have been reduced to roughly $12 billion in the new Gramm-Rudman-Hollings. I would point out that the deficit target for fiscal year 1988 has been increased from $108 to $144 billion in this fix and the deficit reduction amount from $36 billion in the resolution to $23 billion in the fix. These actions should ease the pressure on meeting the high-tier level. Nothing can be guaranteed about the eventual funding level for defense. That will depend upon the appropriations action on the defense bill.

I believe defense comes out better under the Gramm-Rudman-Hollings fix than if we didn't have it. Let me point out why. If we had the sequester under current law, the defense cut would be about $23 billion—resulting in outlays of $256 billion. As part of the fix and if taxes were not raised, the defense cut would be roughly $11.5 billion—resulting in outlays of about $279 billion. The defense cut under the proposed fix with the $12 billion anticipated in revenues under the fix, would likely be $2 to $5 billion—resulting in $284 to $287 billion in defense outlays. This is a far preferable outcome than what we face under existing law.

So, yes, you can end up with the low tier under this Gramm-Rudman-Hollings fix. But, as a practical matter, you can also end up with the low tier without this fix. We cannot change the House of Representatives. They are going to vote the low tier. And I cannot think of a law, or a Gramm-Rudman-Hollings, or a debt limit fix that guarantees what the Senator from New Mexico would want. There is no commandment that orders, "Thou shalt not vote the low tier." You would have to be King Solomon to avoid the low tier through this Gramm-Rudman-Hollings fix. I do not know how to do it and I do not think anyone else does.

Mr. President, I return to the imperative for new revenues to begin to pay the Government's bills. In my budget alternative in the Budget Committee, this Senator called for $34 billion in new revenues. My budget got 8 votes in committee. The chairman's budget got only 12. My objective was to start to pay the bills now, before the election year. It is the conventional wisdom that there will be no budget progress in a Presidential election year. Likewise, whoever is sworn in in January of 1989 will not be able to make progress on the deficits until the summer of 1989. And whatever action is taken in the summer of 1989 will not take effect until 1990. Can we wait that long to act? Can the economy withstand unabated extravagance and irresponsibility for two more full years. I think not.

That is why I have advocated substantial new revenues. However, in the absence of that dramatic tax initiative, the very least we can do is to restore teeth and bite to Gramm-Rudman-Hollings.

Mr. President, there has been great wrangling over the issue of whether the next President should be bound by the trigger. Should the trigger be extended for 2 or 5 or 6 years, as called for in this fix? The House was more or less committed to 2 years. But the counterargument was, "Oh, no, we have got to have more than 2 years because you are only controlling President Reagan and not the next President."

This is largely a pointless debate. We are not setting in concrete our fiscal course for the next 6 years. The next President will have his own mandate to set his own economic course as of January 1989. This has always been the case with a new President.

When President Reagan took office in 1981, he submitted a program that his present chief of staff, Senator Howard Baker, called a "riverboat gamble." The Vice President had called it voodoo economics, yet we still adopted it. The new President got his way.

The power and the respect and the mandate of a new administration must be yielded to. The people want him to carry out his program. So don't pretend that congressional initiatives like Gramm-Rudman-Hollings are going to tie the new President's hands.

So, let us not get all riled up about the term of the sequester. Keep your eye on the ball, which is to move this Government's finances back into balance. I remember when we looked upon a balanced budget as a grave responsibility. Under President Johnson, we Democrats were, in all candor, fearful of the charge that we were big spenders. Accordingly, we agreed in December of 1968 to a 10-percent surcharge. We cut another $5 billion in spending. We achieved not just a balanced budget but a surplus. Indeed, we gave Richard Milhous Nixon a surplus when he took office, in 1969.

It is time for us to balance the budget once again. And I say to those who won the battle on Kemp-Roth, "You have had your fling with supply side. Now it's time to dry out and sober up." There is an echo in the deep cavern of debt: Foreign debt, trade debt, fiscal debt, the debt to be inherited by generations yet to come.

Our responsibility is to move forward by adopting this conference report. This is more than just a good settlement, it is an outstanding settlement. Deep inside the collective conscience of this Government, there is an urgent voice that cries out, "force us to do what is right on the budget. Stop as before we kill again." This Gramm-Rudman-Hollings fix promises to save us from ourselves, from our own perchant for folly. It puts the starch back in our quest for fiscal sanity and responsibility. I yield the floor.

SENATE PAY RAISE PROCEDURES

The **PRESIDING OFFICER.** The Senator from Iowa.

Mr. **GRASSLEY.** Mr. President and Member of this body, on the issue of whether or not this Gramm-Rudman fix is a proper fix, I will listen to the debate and later reach my conclusion. But I do want to draw this body's attention to a subject that all of my 99 colleagues would probably rather I not bring up. That is just exactly the way I presented this amendment when the debt limit resolution was debated in July.

Mr. President, at that time I brought up an amendment to this resolution which deals with procedure, not the substance, of a congressional pay raise. It was the last amendment during that debate and that amendment was adopted on an 84-to-4 vote.

You would think anything that was adopted by an 84-to-4 vote in this body would go to the conference with the support of the Senate conferees. Even if it was not voted out of the conference committee, the Senate conferees should have at least fought forcefully for the Senate position. But that was not to be the case.

I want to discuss this situation with this body because the pay raise issue is not going to go away. It might not be a part of the debate on the debt limit, but it is going to be brought up again and again. Until we make the congressional pay procedure exactly the same as the procedure by which we appropriate every other penny, this issue will continue to come forth.

What is that procedure? Simply that this body votes on the money to be spent.

Under the present procedure of adopting a congressional pay raise, the Quadrennial Commission studies and makes its recommendations to Congress and to the President. The President then reviews the Commission's report and issues his recommendations. That recommendation goes into effect unless this body and the other body reject those pay raises within the time limit.

In other words, unless we take negative action, it is an automatic pay raise. This process is contrary to any way we spend every other single penny.

Why should it be any different? Well, it is different only because of sensitivities about pay raises. There's a feeling that this body will never deal directly with that issue. It might be symptomatic of the problem we face with the whole issue of the annual deficit and the national debt. Maybe we don't have the guts to deal with it forthrightly.

The Gramm-Rudman procedure in the conference committee may improve upon that a little bit. For that reason, I may support it. But why don't we get right down to brass tacks? Basically, until we wrestle with small issues, something like our own pay raise, how will we ever be able to deal with the larger budget issues?

So I want to use my time during this debate, Mr. President, to point out to this body that I think the procedure by which the conference committee dealt with the Grassley pay raise amendment is entirely wrong. In the future I will not assume that the vote of the Senate, even an 84-to-4 vote, indicates the weight a measure will have in conference committee. I will not assume that the Senate conferees will fight for a Senate-passed provision, even if the Senate voted for that provision with an overwhelming majority.

It is quite obvious from what I have said already, Mr. President, that I am very disappointed in the action of my colleagues on the conference committee. They failed to uphold the action of the Senate regarding this amendment.

The Senate conferees receded from the Grassley amendment without debate and without a rollcall vote. I suspect, Mr. President, that the Senate conferees receded with just somewhat of a smile or a snicker or a wink.

How often does it happen, I ask my colleagues, that the conferees from the Senate recede, without even blinking, from an amendment which their own Chamber had previously adopted by overwhelming margins?

The accepted precedent in the other body, as well as in this body, is that conferees are expected to support the legislative positions of the Chamber they represent. To recede so easily indicates to me that maybe the conferees, who were part of the 84 Senators who voted for my amendment, perhaps were not as sincere in their vote that late evening on July 31.

Mr. President, my frustration is targeted at the Members of the other body as well. Even though the House voted a day late to disapprove the pay raise early in February, the House did vote. My amendment would simply require that the pay raise not be enacted unless both Houses approve the raise. In other words, this would do away with the back-door approach of requiring both Houses to disapprove the raise.

It is ironic that the Members of the House opposed my amendment even though it is completely consistent with their actions of this past winter.

Mr. President, the action of the conference committee is irresponsible. The irresponsibility is further emphasized by the fact that the Senate voted on January 29 to disapprove this pay raise by a vote of 88 to 6.

I do not believe, Mr. President, that it is in the best interest of the Senate to let the House unicamerally set congressional pay policy. That is exactly what happened when the Senate conferees silently deferred to the House conferees on this issue.

We have allowed the Members of the House to override the Members of the Senate on this issue. We have allowed them to do it without so much as debate or a record vote.

In addition, I must remind my colleagues that the sense of the public is also crystal clear. More than the pay raise itself, Mr. President, constituents disapprove of the back door method by which Congress lets a pay raise become effective. I have received well over 3,500 letters and calls from Iowans who oppose the method by which the pay raise was received. I fear that using a back-door method creates an imperial class for Members of Congress, one which is exempt from public scrutiny.

I believe, Mr. President, that this type of elitism is not suitable for Members of the most powerful democratic body in the world.

Mr. President, the Senate will have other chances to redeem itself and adopt similar amendments dealing with the congressional pay raise.

This issue will not quietly go away. Not only do I fully expect my Senate colleagues to adopt this proposal at some future date, I also expect that Senate conferees in the future will give more support to the Senate's position in the conference committee.

Mr. President, I also would like to bring up that perhaps the conferees of the other body did not know exactly what my amendment did. I want to share with my colleagues a letter I received from a Member of the other body. I have full respect for this Member. When I was a Member of the other body for 6 years, he always approached me with gentlemanly regard. In reference to his letter to me, I can only conclude that he did not read the amendment before he drew his conclusions. This colleague of mine, a Congressman from New York, Charles Rangel, began this letter to me with the following sentence:

> I received a copy of your dear colleague letter in connection with abolishing the Quadrennial Commission.

I will not read the rest of his letter, but I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

House of Representatives,
Washington, DC, August 12, 1987.

Hon. Charles Grassley,
U.S. Senate,
Washington, DC

Dear Senator Grassley: I received a copy of your "Dear Colleague" in connection with abolishing the Quadrennial Commission.

As a member of the Conference Committee, I suggested that the amendment which you are supporting apply only to the Senate. If the Senate is so hell-bent on restricting salary increases without a vote, why don't you just change your rules and do just that? On the other hand, if the reason for your amendment was merely to get publicity, then you accomplished your purpose and once again the House protected the Senate as the amendment was rejected.

Sincerely,

Charles B. Rangel,
Member of Congress.

Mr. GRASSLEY. Mr. President, that first sentence says it all. My amendment did not abolish the Quadrennial Commission. My amendment did not change any of the procedures by which the Senate and the House would consider the recommendations of the Quadrennial Commission. The members of the Commission would still go about their business. The Commission would still impartially study the salaries, as they have always done. They would make their suggestions to the President and to Congress.

The only thing that my amendment does is not allow that pay raise to go into effect automatically. We would have to actually vote up or down on those recommendations. The recommendations of the Commission would not go into effect unless approved by the majority of both the House and the Senate.

So my amendment does not touch the Commission. It is clear that my friend in the other body, the Congressman from New York—and Lord knows how many other conferees—did not even bother to read this amendment. This, in and of itself, is irresponsible.

So when we revisit this issue in the future, and I speak to future conferees who will be dealing with this issue, I hope that my friends will take note of the fact that this body has already spoken on an 84 to 4 vote. I hope they will not take lightly the position of the Senate.

In closing, Mr. President, I am very disappointed that the conferees did not deal with this issue as they should have dealt with it. However, the inability or unwillingness of the conferees to deal with this will not interfere with my judgment of the overall conference committee recommendations.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER (Mr. Breaux). The Senator from New York.

Mr. D'AMATO. Mr. President, I would like to discuss some questions with the conference committee, and with the Senator from New Mexico [Mr. Domenici], clarifying for me and maybe my colleagues, certainly the people of this country, how this sequester process will actually work.

As I understand the unachieved deficit reduction in section 102 of this bill, it sets out some $23 billion for the upcoming fiscal year. That figure is fixed and will become the sequester figure on October 20. Is that correct?

Mr. DOMENICI. The Senator is correct.

Mr. D'AMATO. Now we have in this bill an elaborate mechanism for defining the baseline by which this $23 billion figure was calculated. Since the bill defines the technical and economic assumptions for fiscal year 1988, it seems to me we ought to be able to tell the American public today what that $23 billion means. I wonder if I can ask my colleague if the following figures provided to me by the Budget Committee staff are accurate and represent what a $23 billion sequester means with the budget resolution assumptions: Housing programs will be cut by $3.2 billion in budget authority below the budget resolution assumptions. Transportation programs will be cut $3.1 million below the budget resolution assumptions. Education programs will be cut $2.9 billion below the budget resolution assumptions. Health programs including AIDS research, National Institutes of Health grants will be cut $2.3 billion below the budget resolution assumptions. The question is, are these estimates correct?

Mr. DOMENICI. Let me say to my good friend from New York, as I indicated this morning, we really have a very strange situation, as the Senator stated so eloquently. The sequester number is not arrived at until October 20. Being a member of the Appropriations Committee, the Senator knows that by October 1 we must vote on something in appropriations. I do not know what it will be. The current estimate is that it will be a continuing resolution at this year's level for 30, 40, 45 days.

If that is the case—and that is what I am assuming—it would carry well beyond October 20. It is my understanding that the continuing resolution would be irrelevant to the calculations, at least that first one. These numbers are our best estimates of what the sequester would then read.

Now, we have no official reading on it from the Congressional Budget Office. We have asked. Maybe they did not have time. Maybe nobody wants the numbers out. But, in any event, I think these are reasonably accurate, and very close to what will be waiting around for the so-called fix, come November 20.

Mr. D'AMATO. Let me go one step further. We have addressed the domestic side. Let me ask, what would be the final defense budget authority and outlay level under a $23 billion sequester?

Mr. DOMENICI. Well, again here, as the Senator well knows, the intention is that half of $23 billion in outlays be charged to the defense account. If our arithmetic is right, that should be $11.5 billion in outlays.

We do not really know how the budget authority will spend out because, as the Senator well knows, some spend out rapidly, some spend out slowly.

I am going to give an estimate, and that is all it is. It is going to be somewhere around $280 billion in budget authority and $279 billion in outlays. I would not be surprised, however, if on budget authority it was slightly lower because of the budget authority outlay ratio. But that is in the ballpark.

I am sorry nobody can give the Senator anything better. It is one of the real problems we have with a floating baseline, when you are cutting from hot air, as I called it, because, as the Senator well knows, somehow or another we add 4.2 percent to everything before we sequester. I do not quite understand the rationale for that, but that is where we are, so we are cutting off a higher baseline in defense than reality. This is theoretical, but about right.

Mr. D'AMATO. If I recall correctly, the Appropriations Committee set an allocation for the defense aggregate level at about $289 billion in budget authority, $284 billion in outlays. If these numbers are correct, then Congress plans to give the President only about $3 billion in outlays more than what would have happened under a sequester. So I ask my good friend from New Mexico, the distinguished ranking member, in the context of these numbers, did the conference include language like that in the budget resolution which said that if you raise taxes, more money would be available for defense, raising it to the so-called high-tier level?

Mr. DOMENICI. I compliment my friend for asking the question because I think it is really relevant, although some will say that it was never binding. But the Senator was here. He recalls the only reason that the budget resolution, from which we are appropriating, which is now not going to be carried out, except on the domestic side, the reason that so many votes were forthcoming from the other side of the aisle was because there was a dialog about a so-called high-tier level in defense going to $296 billion. The chairman of the Committee on Armed Services, Senator NUNN, said that was barely enough but maybe livable. And as a consequence, they put another tier in and said, "If you vote in this reconciliation bill with these taxes, you get the high tier."

The Senator recalls that. Now, it will be said that was never binding. But in answer to the Senator's question, no, taxes will be voted in under this new fix with no language saying that any of it gets allocated to defense. As a matter of fact, when I asked the Senate conferees to do it, the answers were, "We will see that it is done sometime later, but it would sure destroy this conference if we even tried to do such a thing in this Gramm-Rudman-Hollings rebirth. We just cannot see our way to give that to the House. It would probably kill the bill."

Mr. D'AMATO. Mr. President, I am truly baffled. This sequester will result in significant cuts in domestic programs well below our own budget blueprint, some close to the levels that the President has been requesting and that the Congress will not go along with. Obviously they are cuts that not only this Senator cannot support but others in the area of education, in the area of health. We talk about the dual crisis that we face with drug addiction and the AIDS epidemic, housing which has already been slashed by 70 percent; transportation, $3.1 billion. Does that cover the Federal Aviation Administration?

Mr. DOMENICI. Absolutely.

Mr. D'AMATO. Air safety?

Mr. DOMENICI. FBI.

Mr. D'AMATO. FBI, Coast Guard, drug interdiction. So this sequester will result in a defense level not much different than that the Congress was going to give the President anyway, and it appears, as the Senator from New Mexico has just pointed out, that taxes were raised to pay for defense. I have to ask my friend, if all this is true, then for what reason would the President want to negotiate a budget with us and why would he not just let the sequester cuts go into effect? If we are not going to give him nor approach those levels in defense, we are going to raise taxes and cut the domestic programs, why would he not just allow that sequester to take place?

Mr. DOMENICI. Well, again I say to my good friend from New York, he has made the argument that I made, it was not my only argument for being against this proposal, but he has succinctly put the argument I made before the Senate 1½ hours ago. I really believe, unintentionally, we put this process in believing the President would never let a sequester go in; he would negotiate; that is what it was intended to do. Both the executive and legislative branches would negotiate, with good cause. I have concluded that the pendulum is much the other way now, based on what I know the position to be of the overwhelming majority of the members of the conference, who were looking at taxes, who were looking for little or no domestic restraint, not talking about the cuts the Senator is speaking of—just no reform or anything.

So where do you pick up all the cuts? They have to be in defense. So you are only looking at raising taxes to try to get some adequate defense number, or leaving this sequester in. It seems to me that there is as much a chance the President will leave the sequester, as he would try to fix it.

Mr. D'AMATO. We have created the situation, then if I might say, of why should the President come to the table to negotiate. Why should he not let the sequester take place. The military is going to be brought to levels unacceptable in either event and yet taxes are going to be poured on on top of that, something he has indicated he will not support, and the domestic cuts that he seeks to make will take place under the sequester. Is that not the point the Senator makes?

Mr. DOMENICI. I think the Senator makes a very good point.

Mr. D'AMATO. Mr. President, there certainly is a need for fiscal policy and spending restraints, but I find that this process is becoming irrational and increasingly irresponsible.

I understand that the automatic sequester is intended to impose discipline. It is supposed to compensate for our failure to govern.

And we have failed to govern. We have failed to make the tough cuts.

Mr. President, it will not work. We have tied ourselves to some magic standards that are in themselves meaningless. Why try to eliminate the deficit in 5 or 6 years if it turns out that we can reasonably do it in 7 or 8 years by setting realistic, achievable goals? What is magic about 6 years when we have to deceive ourselves and work from targets and figures that are not reasonable when 40 days from now or 6 months from now we will admit to the public and to ourselves that we have not been using the right figures? I think what we see is our cutting our preparedness, our infrastructure, our provisions to support and shelter for the needy in order to try to meet an unrealistic yearly goal that in itself means nothing. When I say let us look at the experience we had, and I voted for this bill, I voted for Gramm-Rudman and the fix. I went through the games of saying, yes, we are going to achieve these cuts when we knew and we started from the baseline that was $40 billion off. Then we wonder why when we go to the marketplace the financial community shudders because they say you are never really giving us a true picture, you are really never going to cut and you cannot make these cuts over 5 years. What is magic about 6 years? Why? Why do we not look at something that is achievable, meaningful, and start with a realistic position?

Some with some economic theory say if we do not make these cuts in 6 years, really hit the targets in 8 years, and really come in below, something is wrong with that. Then we started with 5 years. Last year I was told, no. We have to show it is going to work over 5 years. It did not work, and we looked bad. I think we are riding for that kind of fall once again.

I will tell you. We had better be careful because I would not blame the President given what he had indicated he must have and needs, and he sees as realistic. He probably will. He probably will allow the sequester to come into play. If he does, I wonder what my friends and colleagues here in the Congress are going to say when those cuts are made? Are we going to blame the President? I think it is irresponsible. What do we say to those people who do not get adequate shelter, housing, and what do we say as we talk about safety in the skies when we are cutting the FAA? What do we say about the Coast Guard when we talk about the war on drugs and we do not have sufficient funds there—all of those programs? And by the same token we are imperiling defense. My friends' laudable effort has become, it seems to me, and irrational process with its own momentum. We should be countering productive artificial proposals.

I want to congratulate my friend from New Mexico for keeping his head, sense of responsibility, and trying to bring some comon sense back to this effort. I want to serve notice. This business of saying those of us who have realistic, reasonable inquiries as to how this process is going to work should not be turned around and say you are then for a lack of fiscal restraint. Quite on the contrary, I say let us work with some real numbers, from some reasonable levels and from some targets and goals that we know can be achieved realistically, not from targets and goals where we play games, conjure up; and those who do not care about certain programs and the budget process see to it that they suffered terribly; and those who have needs that are maybe not important for one reason but are important for another reason in the country are faced with a dilemma where it has been said they could not care about fiscal restraint.

Let us have the true, reasonable, attainable fiscal restraints so that the marketplaces will respond so that we do not have to come back in a couple of days or months and say that we are off our target, that our estimates were wrong, that we were attempting to cut too much of any one point in time. And that is what we did last time. I predict we will be doing it again.

I would like to serve notice that I believe if we move forward in the manner that has been prescribed that it is a prescription for disaster.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Who controls time?

The PRESIDING OFFICER. There is no control over time.

Mr. DOMENICI. I wonder if the Senator will yield to me for an announcement. I would like to accommodate my friend from Florida, the chairman of the Budget Committee, who asked me how much longer we need. There are no time limits on this.

Let me say I understand that the distinguished Senator, ranking member of Appropriations, Senator HATFIELD, has some questions. I am now checking with Senator ARMSTRONG as to whether or not he desires some time. He asked there be no time limits on this. It is out of deference to him that I should say that I am contacting him. As far as the Senator from New Mexico is concerned, I need a little bit more time. But it is nothing substantial. Perhaps over the course of the next hour or hour and a half I will need half an hour, and I will try to contact these other Senators and be able to report on where we stand.

Mr. CHILES. Does the Senator think there is any way we can shop and see if there is a unanimous-consent agreement to limit time? You know how these things go. We always keep going and keep going. We know we have the Defense authorization bill that is there on our plate. That is something that is going to keep us here late at night, all Thursday night maybe and later. It seems like to me if we want to accommodate everybody on this, if we could say within an hour and a half or something.

Mr. DOMENICI. Let me say again to my friend, the chairman of the committee, I will try that. But I think that is just—not from my standpoint, but from those who have spoken to me—slightly premature. But I will try in the next 15 or 20 minutes to see if we can do that.

Mr. RUDMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. RUDMAN. Mr. President, in order to conform to the request of the Senator from Florida and the Senator from New Mexico, I will keep my remarks brief. A great deal has been said this morning. Before the Senator from New Mexico leaves the floor, I am not going to ask him a question, I want to make a comment.

I think it is well known around here that the Senator from New Mexico, both in his capacity as chairman of the Budget Committee for a number of years, and the Senator from Florida in his capacity as chairman at this time, both deserve the highest praise for what they have done for deficit reduction. As a matter of fact, I think it can be fairly said that although Gramm-Rudman-Hollings bears the names of the Senators from Texas, New Hampshire, and South Carolina, that the Senator from New Mexico [Mr. DOMENICI] and the Senator from Florida [Mr. CHILES] deserve as much credit as anyone for the positive impact that legislation has had over the last 2 years. They have, in fact, led the fight to reduce deficit spending.

Thus I find it regrettable, Mr. President, that after a number of years of standing shoulder-to-shoulder with the Senator from New Mexico on this matter, and after supporting his initiatives on many occasions, that we have come to a disagreement. I understand his news. I listened carefully to the Senator from New Mexico. I have enormous respect for his judgment and his opinions. Much of what he said about this fix is correct. I do not disagree with some of his specific concerns. But I think there is a larger question involved here.

Mr. DOMENICI. Before the Senator gets on to his real substance, and I appreciate his kind remarks—and I do not mean to denigrate them as not real substance—but I understand the Senator will now make his argument in favor. Let me just say to my friend, this is about as tough a decision as I have had to make. I have been working on this proposition for years. I think it is commonly known, since the two of the major sponsors are here, that the idea and the legacy is yours, but we really did work very hard to make it something within the framework of this budget policy, something workable. I think we offered something like 100 constructive amendments when we put the package together. I think we agree they were helpful, when I was chairman of the Budget Committee. And I was delighted to do that.

It is with real regret that I just do not believe this approach is going to work. I am very sorry that is the case. I do not have any false hope about this. My version is not going to win here on the floor of the Senate. There will be a number of Senators in the middle on both sides. There is no question they are going to vote for it because they are going to conclude that there is no other game in town.

I have tried my best to make sure that everybody votes with a clear understanding, as clear as humanly possible under a difficult situation like this. I just hope that everybody will know 1, 2, or 3 months from now, as clearly as possible, what they voted for.

I hope the Senator understands that I said some things about the Gramm-Rudman-Hollings fix that I would not have said about it 3 years ago, that I would not have said about it a year ago, and that I would not have said of a permanent fix of the type we originally sponsored.

Mr. RUDMAN. I thank the Senator.

I might add, Mr. President, that the original 2 or 3 minutes of what I had to say I considered substantive because, most sincerely, no one has done more for deficit reduction than the Senator from New Mexico and the Senator from Florida.

I think it regrettable that the Senator from New Mexico takes that position. I understand his objections, and many of them are valid. We do not have any disagreement on that.

So we come down to what the Senator from New Mexico said a moment ago, and that is, to paraphrase him, what other game is there in town? There is no other game in town.

The basic question this body must address is not nearly as complex, it seems to me, as we could make it. Let me put it the way I see it, and let everybody make his or her choice.

Are we more or less likely to reduce the deficit with this fix or without this fix? The procedural situation we are faced with is interesting. We are going to have a vote on this conference report. By our rules, it is not amendable. Therefore, even though the Senator from New Mexico may have some sterling ideas he would like to offer, he will not get that opportunity.

Let me hasten to add that the Senator from New Mexico and others have been working in the vineyards for the past 4 months in the conference committee, and thus, what was finally produced in the conference committee is probably the best we are going to get, no matter how many votes we have.

So the question comes back to the simple one: Are we more or less likely to reduce the deficit with this fix than without it? I think the answer is almost a rhetorical one. The answer is, obviously, that we are more likely to reduce the deficit with it. It is hypothetically possible that we will reduce the defit without it? Of course, it is. But is it likely? I do not think so. Unless we have this mechanism in place, there is no way we will have the force of coercion, if you wish, at reconciliation time to force that grand meeting we have all been waiting for with the leadership of these bodies and the President of the United States.

On the way over here this morning, it occurred to me that there was a letter circulating that I wanted to make everyone aware of, because it is a remarkable letter. It is remarkable not for its content but for the signatories to the letter. It is dated September 21 and says, "Support the conference report on the debt limit extension." Let us see who signed it on the Democratic side: Mr. ROSTENKOWSKI, Mr. FOLEY, Mr. GRAY, Mr. PANETTA, Mr. COELHO, CLAUDE PEPPER, and BUDDY MACKAY.

Kind of interesting, considering what some of those folks had to say about Gramm-Rudman-Hollings about 2 years ago. I still have the scars of some of the things they said, as does the Senator from Texas.

Let us look at the Republican side: JOHN DUNCAN, ROBERT MICHEL, TRENT LOTT, BILL FRENZEL, and WILLIS D. GRADISON, JR.

It seems to me that when you get signatories of those divergent political philosophies to agree that this is the best we could do, we ought to pay some attention to it. These people, I must say, both in my party and in the party of the other side of the aisle, are widely divergent in their views on spending priorities, taxes, priorities on defense, and all the other issues that we face.

Mr. President, let us look at how we got here. If there is any secret, let us expose it. The problem we have been fighting the last 5 years is very simple. The President says we need more defense spending and I agree with him on that. The President says the way we are going to pay for that defense spending is to take it from certain domestic programs because we do not want new taxes. The President is entitled to say that. Maybe he is right; maybe that is the way we should do it. But there have been people on this side of the aisle as well as the other side of the aisle who have said: "Yes, we want more defense, but we're not willing to take it from education, from the environment, from health programs, from highway programs, from foreign aid, and from other accounts." So, what do we do? We do neither, and we borrow the money. That is where we are today, with a debt reaching over the $2 trillion level.

Really, what I am talking about here today is fairly simple. If we do not pass this, I think I can predict with some certainty—I am only in my 7th year here, but I think there are some things I can predict—I predict that without this fix, we will not have a reconciliation bill that will in any significant way reduce the deficit. If we do not pass this bill, we will still face the same budgetary problems. Of course we must fund all the high priority programs. So, what will we do? We will borrow the money—just another few billion dollars, that is all.

It seems to me that there are some people in this town who think it is all right to borrow money to fund defense, and there are others who seem to believe that it is all right to borrow money to fund social programs. Let me go on the record and say that I think it is all right in neither case. Enough is enough.

When you look at the composite of this year's Federal budget—when you look at the top three items—it is enough to chill the blood that flows in your veins. Social Security and Medicare is the largest expenditure—not unexpected; defense is second—not unexpected; and what is third? Third is interest on the debt. I am not sure that I have the figure precisely, but we are going to pay $135 billion to $155 billion this year in net interest—much of it, I might add, is being paid to people overseas who hold U.S. Government securities. Is it any wonder that economists say that although we appear to be in good economic shape, there is a thin line between continued prosperity and economic disaster?

So here we are with the Gramm-Rudman-Hollings fix, and what does it say? It says that this year we will face a $23 billion sequester unless we meet our responsibilities. What we have to do, Mr. President, is the art of the possible. That is what democratic representative government is all about.

If it means more taxes than the President wants, he will have to bite that bullet if he wants his defense budget; and if someone else wants higher levels for social programs, he will have to bite that bullet, too. The final product must be what the majority of votes in this body will produce, not what some ideology believes it should produce.

When I was in New Hampshire this past August, a number of people asked me whether Gramm-Rudman-Hollings was dead, and I said I did not think so. I thought we could produce a fix.

Most of the wise scribes in this town wrote over the summer that because the conference failed, it was dead.

I heard that question from enough people that I decided to call a few folks who I respect. There are a lot of practicing economists in this Chamber, very few with the credentials to properly call themselves that, although I will say that my colleague from Texas, Senator GRAMM, is authentic. He really is an economist. I did not ask him his opinion because he is prejudiced.

I asked a lot of people around the country who I respect, whose names you would recognize, what they thought would happen if after the deficit went from $230 billion down to this year's roughly $156 billion or $160 billion, if by the end of this year it was clear it was going to climb back toward $200 billion. I will tell you what they told me.

To a person, the best economists in this country said interest rates will continue to rise and the first sign of that is when the Fed raises the discount rate for the first time since Gramm-Rudman-Hollings passed.

The Senator from New Mexico says it is not going to work. Well, maybe he is right. But I say we ought to find out. We know with certainty that if we do not pass this fix, we will have a deficit trend going up again instead of down.

What this Congress must do is to convince the financial markets around the world that the deficit in fact is going down. I would like it to go down at a faster rate. I think the Senator from Florida would like it to go down at a faster rate. But we cannot do that.

But I am told by those who I respect that so long as it is going down, not up, then we will continue the kind of prosperity that we have had.

I talked with some of our colleagues from the agricultural States and I asked, "With all you have been through in the past 5 years, what would happen in your States if all of a sudden interest rates started going up to 12, 14, or 15 percent?" They were 21 percent when I got here in 1981.

So when I hear the Senator from New York talking about all the possibilities of what will happen under the worst scenario, and we, in fact, have this sequester, I say why does not anyone want to consider the alternative—what happens to America if we go back to hyperinflation and high interest rates? We will be in a deficit situation then that will make 1980 to 1985 look mild.

I will conclude by saying that sure, the Senator from New Mexico has a point. There are provisions in the bill that ought to be changed. I am sure the Senator from Florida would like some of them changed. I am sure the ranking member and chairman of the Finance Committee would like some of them changed. But it is the only game in town. The only hope we have to tell the American people and the financial markets that we intend to reduce the deficit is this piece of legislation and it will not be too long before the proof of the pudding will be in the eating. Someday in the next 3 months or probably more likely some morning at 3 a.m., we will be considering whether or not we are willing to make the choice and if we do not, then the Senator from New Mexico was right, and if we do, he was wrong. This conference report gives us the opportunity to find out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois, Senator DIXON, is recognized.

Mr. DIXON. Mr. President, I have listened with interest this morning, some of the time in my office and a period of time here on the floor, to this entire discussion because I am not a member of the Budget Committee. I have supported the Gramm-Rudman-Hollings initiative and have voted on every occasion to seek methods to achieve a balanced budget at the earliest possible date. Earlier this year, I supported an amendment by the Senator from Louisiana, Senator JOHNSTON, to seek a deeper cut this year. I think it would have amounted to $40 billion. So I am sure I speak for many other Members when I say we are not entirely satisfied with the conference report that is presently being debated. But, Mr. President, it is worthwhile to consider what occurs if we do not adopt this conference report.

I wonder whether my friend, the Senator from Texas, who was the principal sponsor of the original Gramm-Rudman-Hollings bill, might yield to me for a series of questions concerning this matter. I note he is in conference right now with the manager on our side and the Senator from New Hampshire.

Mr. GRAMM. Mr. President, will the distinguished Senator restate his question?

Mr. DIXON. I have not put the question yet. I am sorry to interrupt my colleague. I noted he was visiting with others there about the bill.

Might I ask him some questions? Will he yield?

Mr. GRAMM. Sure.

Mr. DIXON. The point I made, may I say to my friend, the Senator from Texas, was that what we ought to consider is the alternative to the adoption of the conference report if we do not adopt it because many of us have some reservations about the conference report. Would my colleague accommodate me in connection with some of my concerns about that?

First, is it correct that if we do not adopt this conference report we continue to operate under the provisions of the existing Gramm-Rudman-Hollings law without the triggering device or the fixing device that would cause automatic sequestration to take place?

Mr. GRAMM. The distinguished Senator from Illinois is correct. If we do not pass this revitalization act then we stay under the old law.

Mr. DIXON. All right. My second question is this: I am told that the generally accepted figure for the deficit right now in the discussions before OMB, CBO and others is around $153 billion or so. Is that substantially correct or what is the figure?

Mr. GRAMM. Roughly in that range. I think the last one I have seen is $157 billion.

Mr. DIXON. All right. Let us take that figure. Now if I remember—and the Senator may have to correct me because my memory would not be as good as his on this—but is not the threshold requirement or the target this year under the existing law $108 billion?

Mr. GRAMM. That is correct.

Mr. DIXON. All right. And the sequestration provision the automatic triggering device for sequestration is out under the Court decisions?

Mr. GRAMM. That is correct.

Mr. DIXON. So essentially what we are faced with if we do not adopt the conference report, am I correct in assuming this, is that we will have to meet the requirements of the existing law?

Mr. GRAMM. We would have to vote on whether or not to trigger a sequester of roughly $50 billion.

Mr. DIXON. That is exactly what I thought. We would have to vote on that.

Now I ask my friend whether he thinks there is much chance that the Congress would vote that kind of reduction?

Mr. GRAMM. There is zero chance.

Mr. DIXON. Zero chance. So that the alternative, if I understand the facts correctly, to the adoption of this conference report is that we would have to cut $50 billion. My friend from New York, I would remind the Senator, only a moment ago—and I respect him greatly—was talking about the impact of a sequestration that could take place, some of the reductions that could take place here. If I understand the alternative correctly, if we do not adopt this conference report, we would have to cut $50 billion, substantially more than the concerns of my friend from New York. Is that right?

Mr. GRAMM. If we complied with a fallback trigger as the distinguished Senator knows, the likely action is that nothing would happen and the deficit would continue to mount.

Mr. DIXON. That is correct. So that we would either have to make a very deep cut or nothing would happen, the deficit would continue to mount and we would continue to operate under deficit financing by borrowing more money?

Mr. GRAMM. The Senator is correct.

Mr. DIXON. I thank my friend from Texas.

I would like to make just this brief observation, that, Mr. President, many of us here are not on the Budget Committee and do not deal with these problems every day, but we want to do obviously the right thing in connection with dealing with this budgetary problem.

Now, a number of people here have opposed this conference report for a variety of reasons. One of my friends has suggested that if we do adopt this conference report that indicates that there is going to be sequestration of funds in a variety of significantly important programs which he named. That is probably so.

On the other hand, if we made cuts under the existing law, the cuts would be much greater.

Others have suggested that the cuts that we are making here are not enough, but if we do not adopt this conference report there is a chance that no cuts whatsoever will take place and there will be no sequestration of funds whatsoever this year.

I think when you look at the alternatives, Mr. President, you come back to the conference report and you see that that is the best of the opportunities available to us as Members to deal with the budgetary problem.

Now my friend from New Hampshire read the names of those on the House side who signed the conference report. They are the leaders of both political parties over there. They were involved in the conference. I am satisfied that what they have done here is the outside parameters of what they are able to do in connection with this particular conference and the budgetary problem.

And so I would suggest to my friends that we ought to adopt this conference report on the grounds that it is the very best we can do under the circumstances. There will be a $23 billion reduction in the deficit under this conference report. As I understand the conference report, if we follow the conference report and the new Gramm-Rudman-Hollings law, we will, by the year 1993, achieve a balanced budget. I certainly think that is a desirable goal for us to seek. I urge my colleagues to support the conference report.

I yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan.

Mr. LEVIN. Mr. President, first let me congratulate the leaders of this conference in producing another report which is the best that could possibly be achieved under some extremely difficult circumstances. Hopefully today we will adopt that conference report and take a step on the road toward deficit reduction.

We have had to overcome a lot of congressional reluctance and a lot of Presidential opposition to get to this point. Even the Supreme Court put a hurdle in the way. But now we are finally on the verge of setting up a process which will put us on a realistic path toward a balanced budget.

Mr. President, I am the first one to admit that this Gramm-Rudman fix is not exactly what I would have put in place if I were king, nor would the Gramm-Rudman process itself have been what I would have put in place had I been able to vote 100 votes here and 435 votes in the House.

I supported Gramm-Rudman in 1985 not because it is the ideal way the system should work, but out of a sense of frustration and out of a belief that, without an action forcing mechanism like Gramm-Rudman, neither the President nor the Congress would negotiate a substantial deficit reduction package. I was convinced that without the threat of automatic across-the-board cuts, there would never be agreement between the President and the Congress or within the Congress itself, on a package which would call for shared sacrifice and which would recognize that increased revenues as well as spending restraint are necessary. I would have liked to believe that we would see the handwriting on the wall about the consequences of not taking action on the deficit without having to be pushed up flat against that wall. But all the evidence pointed to the need for an action forcing mechanism.

Now, I know that since it was enacted, Gramm-Rudman has been a favorite pincushion of editorial writers and academics. Indeed, many of them and some of our colleagues see it as the ultimate copout. They see us abdicating congressional decisionmaking to bureaucratic across-the-board cuts. But the real copout would be to see budgetary gridlock and to do nothing about it. Gramm-Rudman is a way—even if it is an awkward way—to break that gridlock. It is a way to force decisionmaking from elected officials who do not like to inflict some pain now, even to avoid greater pain later. This pain is as evenly applied as we know how in this Gramm-Rudman fix. We should get on with applying it before this economy totters from the crushing load of Federal debt.

The legislation that we are considering today to fix Gramm-Rudman is necessary because the Supreme Court decision of last year knocked the teeth out of the law we passed in 1985 and because that law itself contained, as it turned out, an unrealistic glidepath toward a balanced budget. If it were up to me alone to draft the fix, if I had all the votes I needed in my hip pocket to pass what I drafted, it would differ somewhat from what we have before us today.

For instance, I believe that it would make sense from the perspective of economics if the deficit reduction figure for fiscal year 1988 was closer to the $36 billion which the Congress approved of as part of the budget resolution than to the $23 billion called for in this conference report. We see that interest rates are rising and that the trade deficit stubbornly resists declining. We know the effect that the budget deficit has on these problems, and we should be as aggressive as is reasonable in reducing that deficit.

In addition, the chances that the President would enter into negotiations on a deficit reduction package would be enhanced if he faced a sequester order of $18 billion in defense—$18 billion in defense instead of the $11 billion he faces now. Similarly, many Members of Congress would be more open to such a deficit reduction package if they were confronted with an $18 billion sequester order affecting domestic programs instead of the $11 billion that we face now. So a target of $36 billion would have exerted more pressure than one of $23 billion, and, thereby, would have made it more likely that Gramm-Rudman would achieve its intended goal of forcing the President and the Congress to agree on a substantial but targeted deficit reduction package as an alternative to across-the-board cuts.

Furthermore, by limiting our sights to $23 billion in deficit reduction for fiscal year 1988, I am concerned that we now risk asking people to sacrifice and only being able to show them in return a deficit which offers little, if any, improvement from what is projected for fiscal year 1987. If we are going to ask the people to mount the barricades to fight the deficit, then we risk losing their faith and cooperation, which are essential to victory, if, when the smoke has cleared, the deficit appears to be standing nearly as tall as ever.

Yet, in spite of these concerns I support this Gramm-Rudman fix because I am convinced that in order for a fix to be approved by the Congress, it would have to look pretty much like the fix before us, and because I am convinced that without a fix the deficit situation will grow far worse. It was clear in the conference that the support from the other side of the aisle would not have materialized if the deficit target exceeded $23 billion. And while I believe that the threat of a $36 billion sequester order would have made a Presidential-congressional deficit reduction agreement more likely, the threat of a $23 billion sequester order still makes it somewhat likely. It was also clear that a Gramm-Rudman fix stood no chance of passage unless it had bipartisan support. Neither party, standing by itself, had the votes to pass its preferred fix.

What is more, it is clear that there would be no reconciliation bill which cuts spending and raises revenues if there is no Gramm-Rudman fix. Key committee chairmen indicated their reluctance to push for passage of a reconciliation bill if there was no chance that the President would sign it as an alternative to a sequester order. So our very real world is the world we operate in and in that world the choice is not between $23 billion in deficit reductions or $36 billion, but between $23 billion and something much less than that, perhaps nothing.

Finally, it is clear that unless there is such a reconciliation bill, there is virtually no chance that the deficit in fiscal year 1988 will be lower than the deficit in fiscal year 1987. In fact, the most likely scenario is that the deficit would shoot upward and our economic policy would drift aimlessly until a new President takes office in 1989.

So, while it is certainly possible to theorize on how to improve on the Gramm-Rudman process in general or on how to improve on the Gramm-Rudman fix before us in particular, I do not see how, in a very practical sense, we can do any better. In one sense this is admitting failure. In another sense, a more important one, it is recognizing reality. But if we do not recognize that reality today, tomorrow's reality will be far more painful.

I want to again commend my friends, Senator BENTSEN, Senator CHILES, Senator GRAMM, and others on this conference committee. I saw them at work. I know how hard they worked. Their product is a good one. It deserves to be approved by this body.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Colorado, Senator ARMSTRONG, is recognized.

Mr. ARMSTRONG. Mr. President, the choice before the Senate today would undoubtedly be very pleasing to a masochist. The proof of the matter is that the choice which we are faced with today is probably very satisfying to anybody who likes to see Senators squirm. This is the kind of a choice which would be positively a delight to Thomas Hobson.

I wonder how many Senators remember the name of Thomas Hobson. He is the person whom we recall in the phrase "Hobson's choice."

Mr. Hobson was the proprietor of a stable in the 1500's and the early 1600's and he had an unusual custom. When people came to his stable to seek a horse he did not let them take their pick. They were not able to select from among the available animals which of them suited them the best. Instead, Mr. Hobson insisted that they take the horse that was nearest to the stable door or depart without getting a horse at all. That is exactly the situation that we find ourselves in with this proposed fix of the Gramm-Rudman-Hollings budget measure.

I do not think, Mr. President, that most people who prosper here in the Senate tend to agonize over decisions. I think we are all pretty quick decisionmakers. In fact, if we are slow to make decisions it is just hard to thrive in this place because we have to cast about, I guess, maybe 600 or 700 votes a year on the floor and several hundred more in committee. If we have to stop and think about every one of them in great detail, there just is not time to do it. Then, if we look over our shoulder when it is over and lose sleep at night wondering did we really do the right thing, we create an impossible situation.

I find that I come to the floor and generally can make a pretty quick decision on things and I think most of my colleagues have the same experience. Besides that, on most issues there are normally what one of our colleagues used to call bell cows. On almost any issue, whether it is budget or abortion or Central America or you name it, there is a certain group of recognized players who have long-established expertise and positions and they divide along more or less predictable lines so those of us who have not been following the debate closely can generally look down the line and say well, so-and-so is on this side and so-and-so is on the other side, and we very quickly sort ourselves out into where we want to be.

For a lot of reasons this particular issue does not lend itself to that kind of analysis. First of all, while this is not a wholly novel issue, it is very, very unusual slant on the question of getting somehow to a balanced budget. Even for those of us who supported Gramm-Rudman-Hollings, and I did so, we do not find ourselves entirely comfortable. In fact, I do not find myself comfortable in the slightest degree with the proposal which is brought back to us from the conference committee.

The bell cows in this particular case are not sorting themselves out into their particular corrals. It so happens that the Senator from New Mexico, the ranking Republican member, and the former chairman of the Senate Budget Committee, who has fought longer and harder and more skillfully and with greater dedication and tenacity for more years than any of us can remember, to somehow bring spending under control and balance the budget, has denounced this compromise, said it is not going to work. Instead of being for it, which would be more or less the predictable role for him to play, he is on the other side.

It is interesting, also, that at least a few Members of this body and the other body who never associated themselves with the cause of deficit reduction have suddenly expressed that interest. I went over with great interest the rollcall vote yesterday in the other body in which the House of Representatives divided along lines which I found to be quite unusual, if not entirely unprecedented.

So, without too many cow bells and without a clear precedent, I found that I had to give this issue a lot of thought, an unusual amount. I arrived at what is for me a somewhat unusual conclusion. I would just like to share the background of it with my colleagues before we go to a vote.

The arguments in support of this proposal to fix up Gramm-Rudman-Hollings are pretty simple to state. First, that though it is cumbersome, the fix does not establish a path to a balanced budget at some future time. Yes, it is a delayed time; yes, it is a cumbersome method, it is a complicated path, but at least it amounts to a policy declaration and maybe something more that we are going to, at some time in the distant future, balance Federal spending and revenues.

It applies a form of external discipline to the Congress and I am for that. I am a person who believes that year in and year out, Congress will never really get itself together unless there is some kind of exterior discipline. I prefer a constitutional amendment which requires that Congress balance the budget. This, indeed, is the patter which has been followed by almost all of the States, by most municipalities, I guess by organizations and others; that they have outside requirements.

The Congress of the United States is really almost unique in a governmental sense that they just have unlimited authority to borrow and borrow and borrow. That has not worked out, so I like the external discipline.

Second, I like the fix because it assumes, it does not prove but it at least assumes, that cuts will fall somewhat proportionately across the board.

The first thing that happens under Gramm-Rudman-Hollings is that the cuts are exempted from certain programs which are politically of high priority. I think that is a huge mistake myself.

The Senate at one point was willing to bite the bullet on some very sensitive programs. This is some years ago. The Senate was willing to say, even with respect to unmentionable programs like Social Security and farm subsidies and housing subsidies and programs for poor people and scientific research and you name it, that we ought to apply this more or less across the board. That is not what Gramm-Rudman does.

It takes a shopping list of things out of the mix and says that all of the savings will have to come from the programs that are not otherwise exempted.

Nonetheless, it does have this sort of rough idea that half the cuts will come from domestic spending programs and half the cuts will come from the defense spending area. I am skeptical that it is going to work out exactly that way. I hope that if we have to have a sequester that is what will happen. But at least the notion of it is sort of embedded in this proposal.

Third, I note, Mr. President, with approval, that this is a truly bipartisan measure and I think that is a positive benefit of this proposal; perhaps not enough of a reason to vote for it in and of itself. I sense that the breakdown in bipartisanship on the budget the last couple of years has been very injurious to the processes of the Senate and more important has contributed mightily to the deficit. So the fact that we are able to get a broad cross section of Members of both Houses, of both parties, who are interested in this proposal and willing to vote for it, I think, is a good sign. I think that is a tribute to the people who worked on it and I compliment especially the chairman of the Senate conferees, Senator BENTSEN; the chairman of the Budget Committee, Senator CHILES; and the ranking Republicans, Senator PACKWOOD and Senator DOMENICI.

The fact of the matter is this is about the only pending proposal which really does encompass a broad cross-section of both Republicans and Democrats. So that is what I see in this that attracts me to it.

These are the provisions—they are not too numerous—but there are some things about it that I find are admirable.

The laundry list of things that are wrong with it is depressingly long. First, in order to be for this, you have to start with the baseline proposition that you are willing to vote for and support and explain at home and justify to your conscience a huge, indeed, an astronomical increase in the national debt. I have not heard all the debate, but I guess very little has been said about that the last 4 or 5 hours. I will just tell you for the Record, I do not like that. That is not something I warm up to and, in fact, if I vote for this proposition—which I guess I am going to do—it will be only the second time in 15 years that I have voted for an increase in the national debt.

By and large, I think that it has been a mistake for Congress to resort to increasing the debt. It has amounted to nothing more or less than just putting off the problem and avoiding tough decisions.

The second thing that I must note as a significant problem in this proposal is that I do not think it is going to work. At least I am not sure it is going to work. There is a chance that it will fulfill its intended purpose, but there is also a very strong possibility, at least, that the Senator from New Mexico will prove to be right.

I have decided I am going to vote for this, but I told the Senator earlier that there is a very good chance that, in 6 months or a year or maybe in January 1989, that we are all going to come back to him and say: By gosh, **Pete**, you were right. This is worse than doing nothing.

I decided that by a very, very close judgment it is not worse than doing nothing but I am not very confident of my opinion and I deeply respect the arguments that Senator **Domenici** has made on this. I just want to admit, going into it, he may well prove to be right.

This thing is pretty hokey, and there is a good chance it may not work.

Third, I note that it is heavily backloaded. That is, in essence, the point that was being made a moment ago by our colleague from Michigan [Mr. **Levin**] who points out that the targets in the first 2 years are a lot easier to meet than the targets after that. Two reasons for that. First of all, because we put in a plug figure. We say that the first year we only have to meet $23 billion of deficit reduction no matter how large the deficit and the second year $36 billion. That means in the third year when we finally get around to the notion of fixed targets it is going to come down like a ton of bricks on the new President.

I do not think that the timing which is contemplated by this scenario is accidental in the slightest.

It is not a coincidence of a happenstance that we have crafted something which permits us to be on record in favor of balancing the budget, a Gramm-Rudman fix, getting on track to where we want to be in the 1990's, and yet puts off the heavy lifting beyond the next 18 months so that all the Senators who are running for election can get themselves elected or reelected and so that the next President can be chosen before the hard work really starts.

I do not mean to imply that a sequester this fall is going to be duck soup or child's play, but compared to what the new President and the new Congress will face in January 1989, it will make this look like the good old days.

I think backloading it in this way is sort of a hint that maybe we are not too serious about it, and the predictions that Senator **Domenici** and others have made that it will be amended, maybe abolished or repealed, in the early part of 1989, could well come true.

I also have another little qualm. We do not know as we stand here today who the next President is going to be. We do not know whether it will be President Bush, President Dole, President Kemp, President Biden. We do not know who the next President will be. Whether he is a Democrat or Republican, I do not think it is good public policy to deliberately set a trap for him. That is what we are doing by backloading it in this way, when we say that in his first budget submission when he is trying to put together a battle plan, a Cabinet, an agenda for the country, that the first thing he has to do is send up a budget which is far tougher and addressing questions which are far tougher than we are ourselves prepared to address at this time. I have real doubts whether that is good.

Next, Mr. President, I want to note that this proposal is so complicated that it is really in its very essence antidemocratic. I do not mean an anti-Democratic Party; I mean antidemocracy, anti the people. This thing is so complicated that as a practical matter it is impossible for almost all Senators to really understand.

They say that confession is good for the soul, and I will make two confessions.

First, that I have been on the Budget Committee for about 9 years and I have been a reasonably faithful participant in the affairs of the Budget Committee. Before that, I was on the Budget Committee of the House of Representatives for about 4 years. At one time in my career I was a member of the State legislature budget committee in Colorado. So I have been following this for a long time.

I am not sure I understand it. I do not understand how anyone who had the benefit of being on the Budget Committee for 9 years, who did not spend a few hours on Sunday, which I did, who did not have access to briefings which I know were not available to most Members in this Chamber, and who do not have on their personal staff the expertise that I have with members on my staff—I do not see how it is possible for Senators under those circumstances to know as much about it as I do. I will tell you, I do not fully understand all the ramifications and implications of this broad process.

I understand the broad outline and I think I have a pretty good idea how it will work out. But I think we ought to know it cold. We are betting the ranch on this. This is a big, big vote we are about to make. The truth of the matter is there are only a handful of Senators, only a handful at most, who really have a detailed understanding of the processes and procedures and assumptions that are built into this resolution. I am not sure that there is even one who could stand before you—there may be one, two, or five who could stand before the Senate today—and say, "I understand this so thoroughly that I am confident of the outcome under different scenarios, under different circumstances that may develop either in the legislative process or in the national economy."

If there are any such persons, none of them have volunteered it to me privately.

Well, what is the significance of that? I am not just expressing frustration. The point is you create a situation, and we have done this deliberately. This is not something that just happened. We have deliberately created a process for budgeting, spending, and accounting for the Government's activities that it is impossible as a practical matter for Senators to understand or know who is at fault if things go wrong, and it is completely impossible for the people at home or for journalists or commentators or candidates or voters to really know who is at fault if this thing goes off the track. And there is, in my opinion at least, a 40-60 chance it will go seriously off the track and will not work. That is a serious problem.

This whole budget process which I have supported up until now, and I am reconsidering that position, too, was, to begin with, highly complex. It is at best a sort of a Rube Goldberg contraption. Over that, we added the Gramm-Rudman process, and I supported that. I felt that I could just barely understand the ins and outs of that.

Now we have the modified Gramm-Rudman-Hollings approach, which is contained in this legislation. I am not going to embarrass anybody by asking them if they can explain some of the archaic provisions of it, but I have been over this very carefully with my staff and the staff of the conference committee and the staff of the Budget Committee and there are some things in there we just do not know the answer to.

There is at least one provision in there which I believe has been left deliberately ambiguous because I do not think they could get the votes for it if they answered the question specifically. I think that is just a fact. They just had to fudge over one major issue. In fact, it is true because that is what we conferees sat around and talked about.

I kept trying to push it, saying, Look, we have to at least figure this out and know what we are voting on." The answer I got back was, "Yes, that is right, but we have the votes and we are going with it."

I think that is a serious not only public policy but a budget policy. I think that is serious in the process of

Government. While I do intend to support this conference report. I must say I am deeply troubled about that and I hope that at some point, maybe arising out of the same wellspring of bipartisan spirit that brings this complex matter before us, there will be a simplicity cost. I hope there will be some Members who will think it important enough that we are able to hold the process accountable that they will join in that.

Mr. DOMENICI. Will the Senator yield?

Mr. ARMSTRONG. I am happy to yield.

Mr. DOMENICI. Let me say to my friend, and he knows that I really mean that sincerely, you have spent much more time on this subject than most. Probably only five Senators have spent as much. You were on the conference, asked a lot of penetrating questions. I know you went through the bill, and particularly those complicated questions about continuing resolutions and how you could score them against sequester.

My staff talked to you for a very long period of time.

I am absolutely convinced that in this particular instance, complication will be the mother of invention. The invention that is going to result will not be on the side of deficit reduction.

Let me give a very simple example, then ask you if your understanding of this bill is the same as mine.

My good friend from Florida quite properly, for about a year or a year and a half, has been saying, "We do not want any more of this"—I do not want to use the word "cheating"—"shenanigans," where you slip a day on military pay and pick up $3 billion in outlay savings.

You'll remember that one. That is how we fit a defense budget within a low target, by moving pay one day so that it is within the next year.

Mr. ARMSTRONG. I remember that very well. I think we discussed that on the floor at the time.

Mr. DOMENICI. We have language in here that purports to fix that. We do not want to do that anymore. We do not want the House Armed Services' approach to the defense bill, where they were told, "Meet this target or your bill does not pass."

They were not appropriating, but I am using an example.

They said, "We will talk to CBO."

They said, "How many days at the end of the year will it take to save $6 billion in outlays, if we do not pay our bills?"

They have in there, "The last 12 days of the year we do not pay our bills to anyone other than"—and they did not want to offend a lot of people so we put parenthetically, "(except small business)."

They got the number.

Now I ask, what do you think the results are going to be if an appropriations bill says, "Well, you are not supposed to exceed $5 billion in budget authority, and $4 billion in outlays for the year"?

You add it up and get CBO to tell you and they say, "Well, you are $70 million over."

So you write in the bill, OK, this $70 million will not be spent until the next year. You just write it in. You say here are these programs. They have a lot of money. We know they need it. We want to give them assurance. They have programs under way. We just say, all right, we give you your $4.6 billion, but $70 million of it will not spend until 1989.

We do not know where that fits with reference to this thing. We do not know how we are going to find that. But it seems to me every time we rely on this kind of complication, as the Senator indicated, that is the kind of invention we will confront. I do not believe it is possible to catch up.

I compliment the Senator on his argument today. It is about as good as anyone's. I regret to say that after having made as eloquent an argument as anyone has made against this bill, the Senator comes down mildly on the side of being for it. I tell my people back home frequently, when I am talking with them, that you cannot say "maybe" in the Senate. People who have never voted can say "maybe." But here, you either say "yes" or "no." So the Senator has come down on the side of "yes." I think the Senator has made an eloquent argument—perhaps better than I have made—against this bill, and I thank him for it. I hope somebody is listening so that they can say, "I have heard all the argument, and I am persuaded by Senator Armstrong from the great State of Colorado that I should vote against it."

Let me ask the Senator if—

Mr. ARMSTRONG. Mr. President, before the Senator propounds another question, I thank him for his generous observations about my arguments in opposition to this bill. But I want to point out I have four more reasons why people ought to have serious reservations before voting for this bill. In due course I am going to give, in a very low-key fashion, the rationale of why, notwithstanding the serious, possibly fatal flaws in this legislation, I am going to vote for it. But I thank him for his generous comments.

Mr. DOMENICI. I did not know the Senator had more.

Mr. ARMSTRONG. I do.

Mr. DOMENICI. I will not get up when the Senator is finished and compliment him a second time.

Mr. ARMSTRONG. I have a couple items that will probably curl the Senator's hair.

Mr. DOMENICI. Let me ask the Senator this question because I am not sure all our Senate friends understand this. But let me see if the Senator understands this the way I do.

We say we are going to sequester $23 billion off this new baseline, which the Senator and I know is not the current expenditures of Government, but decided to add 4.2 percent to the ledger so we have a hypothetical set of numbers for the Government's expenditures. I have called it today cutting from a hot-air baseline, instead of the expenditure level. Average citizens would assume, if you are cutting, you are cutting from where you are. We somehow added to both sides.

But now we have a reconciliation bill out here that was done a long time ago, a mandate to the committee that was supposed to, when coupled with the targets in appropriations, achieve $36 billion in cuts. We are not trying to get $36 billion anymore. It would not even be relevant because we use different starting points.

But am I correct now that once we have passed this, and assuming the President signs it, there is no blueprint for any of the committees around here to decide what their responsibility is, other than the parts of the reconciliation bill that are still relevant? And the tax one is not.

I have said there will be taxes, but nobody is saying $21 billion. In fact, that is why we have this Gramm-Rudman-Hollings fix, because nobody wanted to do $21 billion. Does the Senator share the same concern I have with all of this complication, that nobody is really going to know from this day until October 20, when a sequester goes in, whose responsibility it is to do what to get $23 billion?

Mr. ARMSTRONG. Mr. President, I think the Senator from New Mexico is correct. I am not so sure anybody knew where we were going anyway.

Mr. DOMENICI. Before.

Mr. ARMSTRONG. Before. There was a direction to the committees contained in the budget resolution.

Mr. DOMENICI. Yes.

Mr. ARMSTRONG. And so from the standpoint of civic theory, one could suppose that the committees were going to abide by that, but we at least had a road map. If the Senator's point is that this sort of puts a large ink blot on the road map and conceals more than it reveals, I would agree with that. What I think is going to happen, at least the best hope I can put on the matter from that standpoint, is that having stuck their necks out to present and obtain passage of this bill the leaders involved—and we are talking about the principal leaders of the House and the chairman and ranking member of the Senate Finance Committee, the chairman of the Budget Committee, and some others—having committed so much of their personal prestige to this are going to feel obligated to make it work. Frankly, I think the people who have put this compromise together, the ones I have named and some others, have a very heavy responsibility, and indeed those of us who vote for it have a responsibility, to figure out how to make it work.

I mention that in passing because, as I conclude my remarks, I am going to spell out some things that Senators can count on me to do and some things they cannot. For example, and this brings me to one of the points I wanted to make about the bill, many people think it will trigger a tax increase. That could be true. I am going to vote for it but I am serving notice right now that if anybody is counting my vote for a tax increase, they can quit counting because I am not personally buying into that kind of a compromise. If somebody is harboring the notion that they are going to avoid the sequester because we are going to pass a big tax increase and they need my vote to do it, they should just think again because they will not have my vote, probably will not in fact.

But I think the answer to the Senator's question is that this legislation, if enacted, will lead to exactly what he has suggested, invention, and there is probably going to be some pretty cute inventions around here.

I hope that in the spirit this has come forward—because even though I think the work product is poor, the spirit that underlies it is genuine and good, and I hope that spirit will prevail—when the crunch comes—and there will be a little crunch later this year and another little crunch after that and a huge, colossal, mammoth, earth-shaking crunch in 1989—we will not approach it by resorting to golden gimmicks, or the kind of deferrals of payments that the Senator has mentioned, or the kind of smoke and mirrors that we have gone through, or selling of assets, or double counting savings, or adjusting the baseline, or hot air baselines, or any of that. I hope that the people who are really bringing this forward will feel obligated to comply not just with the letter of it but with the spirit of it. If all they do is comply with the letter, there is a good possibility we will just end up in a cul-de-sac because the truth is nobody knows for sure what the letter of this provision really would require us to do. And so what we are buying into, what anybody who votes for this thing is really buying into is sort of a consensus of goodwill with some broad guidelines. And if that is not a poor way to legislate, I will throw in with them.

Mr. DOMENICI. I thank the Senator.

Mr. ARMSTRONG. I guess that responds to the Senator's question.

Mr. President, I do want to set forth at least four more reasons why I think we ought to have doubts and reservations about this legislation and why a vote against it would be amply justified. I have already mentioned that it may set the stage for a tax increase. The choice that we are going to face very quickly is a sequester or a tax increase. If anybody thinks as we gather here today that there will be votes enough to make significant cuts in domestic spending to avoid a sequester, they just counted the votes a lot differently than I have. I would be pleasantly surprised if that happened, but I do not think it will. Nor do I think it is likely that Senators are going to voluntarily belly up to the bar for big defense cuts.

So my guess is it is going to come right down to a question of either a sequester or a fairly substantial tax increase. I do not have a horror or a dread of a sequester. I have tried to look pretty carefully at what will happen if a few weeks from now there is a sequester and we have an across-the-board cut and it is allocated half to defense and half to domestic programs. It is going to hurt, but it is not going to be excruciating. It is just a prelude, just a foretaste of what we are going to go through next year and the year after if we are really serious about it. I have already said my piece about that, that I am worried about how the baseline will be defined when we start cutting defense, and I just want it on the record that I am keeping my powder dry on a tax increase.

Let me make the point that lovers of Government process will find this bill a disaster. People who honor the traditions of the legislative body and who think that self-government is not only a practical thing but is also a thing of beauty will find this a monstrosity. This is a procedural nightmare.

It is also most unfair. It is not just complicated; it is really unfair. We have a provision—I do not know if it has been discussed previously—in this conference report, as I understand it, which says that when the sequester is ready to go into effect, it is possible for the Congress to consider and act upon an alternative sequester resolution. That alternative sequester resolution comes to the floor under expedited procedures, a highly privileged matter, and is subject to amendment but only with some limitations, and may not be filibustered. It is a high-priority, special treatment piece of legislation which provides an alternative to the Presidential sequester.

Here is the part that I find to be completely unfair. The only person who can introduce that sequester is the majority leader. I do not take anything away from the majority leader in saying there are 99 other Senators and the notion that the only person in this Chamber—and am I mistaken about this? Has this been altered since we discussed it earlier? The only person in the U.S. Senate who can propound an alternative to the sequester is the majority leader. The same is true in the other body. They have 435 Members in the House. Only one of them can introduce an alternative sequester. I think that is really tinkering around with a procedural consideration that we are going to regret. I already regret it, and we have not even started it yet. That is just one of the features of this which I really think are a procedural nightmare.

Seventh, let me point out that we are really just postponing the day of reckoning, although we will have some pretty heavy going here in the next few weeks if we enact this—probably some work, tough votes, and decisions we have to make whether or not we want to support a tax increase, whether or not we want to see education cut, agriculture cut, defense cut, and other things. What we are really doing is putting off the day of reckoning. We are not advancing the day of reckoning. We are not saying: OK, the problem is here; let us bite the bullet. We are saying: Let us go on a diet starting 2 years from now.

I am sure I have told this before. But after I put on a few pounds, I tried to figure out some way to lose weight without dieting. I cannot do it. What I can do is postpone the decision on Friday. I will say the weekend is a bad time to start a diet. On Monday I will say this is a hard week and it is a poor time to start the diet. But the truth of the matter is, if you want to lose weight, to eat a little less. If you want to balance the Federal budget, you have to start spending a little less.

What we are really saying is we are going to be virtuous, strong, courageous, take chances, we are going to bite the bullet but we are not going to do it for a couple of years. We are just going to take a nibble of the bullet now and really chomp down on it in 1989.

Finally, Mr. President, I have not tried to make an exhaustive list in this legislation, but I do want to note in passing that it gets the Congress even more deeply mired in micromanaging the affairs of the Government because when that sequester hits or threatens to hit, we will know with precision exactly how every program, function, and operation of the Government is going to be affected.

Then we are going to have presumably an opportunity to consider an alternative by the lead of the majority leader, if he decides to give us a vehicle on which we can work. Then Senators are going to take a look at every act, every program, and every line item. We are going through and critique it and fine tune it. We are going to have votes, and we are going to involve the Senate more and more deeply in the minutia of Government instead of the policy issues of Government.

We have gone a long way down that road in the last 10 or 12 years since the passing of the Impoundment Act. Congress got mad at President Nixon because he did not spend some money. So we passed the Budget and Impoundment Act which drew us quite deeply into the process of second guessing things which had been formerly matters of executive discretion step by step with a lot of bad faith, I guess I would have to say on both sides, both on the side of the executive branch and on the side of the Congress. We have rubbed each other's nerves so raw that now nobody trusts anybody. The only way that we can find to do business is to pass statutory enactments or report language that attempts to fine tune these small features of Government.

What we really ought to do is have the courage, grace and confidence enough in our system and in the processes of Government, just the ordinary every-day processes of Government, to say, look, here is the policy, here is the broad outline. That is the law. That is what Congress passes. And it is then up to the President, the Cabinet offices, and the OMB to make most of the day to day operating decisions about how to fit into those priorities, and not put them in such a straitjacket as we have done.

First, because it corrupts the function of the Congress, and I will tell you in the years I have been here, I have seen the deterioration in the situation to a large degree, and I think others would say the same thing. Congress is less and less willing to come to grips with large policy issues and more and more focused on the tiny issues, the minutia of Government.

Somebody said—and I guess it is too cynical for me really to subscribe to, but it is not far off the mark—that you can tell how important an issue is by the way it is handled by the Congress of the United States, because those matters which are basically inconsequential are accorded the full treatment, the formal debate, the issuance of a committee report, lengthly discussion on the floor, and really the full ceremonial honors. Those go to the matters which are basically minor or are of inconsequential importance. Those things which are of huge importance are handled in the middle of the night by unanimous consent with 30 minutes' debate, and really are kind of blown off as if they did not matter. There is a lot of truth to that. I do not quite subscribe to that notion, but it is not far off the mark.

Micromanagement of this kind is bad for the legislative branch. It is just terrible for the executive branch, because it puts the premium over there on their finding ways to subvert the intent of Congress. It is a situation in which capable executives are frustrated about 5 minutes after they get into office. It is the way no businessman would operate a company. It is a way in which most State governments that I am familiar with are not operated. We would not operate our own offices with the kind of procedural straitjacket that we put the President of the United States, our Cabinet secretaries, and the OMB in.

So those are the reasons why I think this legislation is seriously, and as I said earlier possibly fatally flawed. First, it does validate a very large increase in the deficit. Second, there is a danger, a serious possibility that it will not work; that it is heavily backloaded; that it will come down like a ton of bricks on the new President right after he takes office; that it is so complicated and ambiguous that it is impossible for Senators, let alone people at home, to understand and therefore hold accountable to people who are making policy; that it probably sets the stage for a tax increase or at least a large battle over a tax increase; that it is a procedural nightmare; and, that it leads to micromanagement which is bad for both Congress and the executive branch.

Mr. President, the tragic part of this is that we do not have to make a Hobson's choice here. There are other horses in the barn. If the stable of keepers were not insisting we take only the horse nearest to the door, if we could go into the corral and sort of look them over, check their teeth, and hooves, the fact of the matter is there are a lot of better ideas on the drawing boards than this Rube Goldberg cockamamy proposition that we are going to vote on today.

For example, we could enhance the recission authority of the President. That would save a lot of money. Do it in a way that would not undermine the prerogatives of the President. I remember when the Democrats were in control around here before I tried to get a resolution passed to enhance the President's rescission authority and Jimmy Carter was the President. All my Republican friends were apprehensive—not all of them. A lot of them were afraid he would use his enhanced rescission authority to cut the Defense establishment.

As soon as Ronald Reagan got in, I went around and got a bunch of them lined up because they felt more comfortable with Reagan in the White House. But I noticed there was a tremendous dropoff on the other side of the aisle. Some of the same people who had been willing to strengthen the hands of the Democratic President were not willing to strengthen the hands of a Republican President. We argued about that, and fought over it. I offered amendments several times.

Then Russell Long and I once offered a very sensible proposal that would have given the President authority to rescind on an expedited basis in order to meet targets in the budget resolution passed by the Congress itself. Incredibly, I am dumbfounded even in retrospect to report this, the administration opposed that. Here we had Democrats and Republicans lined up and they actively opposed the measure. They did not think the President ought to have such authority. They were afraid they would be accused of using it to rescind all or a portion of some increase in Social Security payments. They were afraid of it politically, so we only got 47 votes for it, which I think was the high-water mark on rescission around here.

The line item veto would be a better idea. A constitutional veto to balance the budget would be a better idea.

What would be best would be if we agreed to set this measure over for about 2 weeks and every day take up about 10 proposals pending for specific spending reductions, if the President sent up a package of about 40 measures that would abolish, sharply curtail, or drastically curtail programs like UDAG, farm subsidies, and others.

When we got done with that, if we have the courage of our convictions, we would look at some of the sacred cows, such as Social Security.

I note for my colleagues that I have said for the second time today the unmentionable word, "Social Security," and I draw attention to the fact thus far I have not been struck by lightning.

Around here, if anybody mentions one of those sacred cows—farm subsidies or Social Security—and suggests that we could fine-tune one of these and we could save money and it would be wise to do so, immediately there is such a hue and cry that they back off. It would be better for us to adopt some courage.

We have a Hobson's choice. We can either saddle up the horse nearest to the door of the barn or forget it, because we are not going to get a chance to look at the other horses right now.

Mr. President, on that basis, as I see it, we are confronted with a very unsatisfactory choice: Either sort of go along the way we are, creeping disaster, the prospect of rising deficits, rising interests rates, rising inflation, and probably a further decline of the dollar, and gradually sink into a quagmire—and undoubtedly were we to defeat this, it would be sometime before we could put together even the start of a bipartisan effort to bring this problem under control—or we can support this, with the likely outcome of a train wreck.

So, do you want a creeping disaster or a train wreck? I have decided to be a train wreck man. I think passage of this is going to cause disaster sooner or later, and probably both. It is better, in my opinion, to go forth in the spirit, not the letter, of this proposal, but the spirit that underlies it, the spirit that brought together thoughtful people in both Houses, on both sides of the aisle, to support it. And when we invent these crazy new solutions to comply with it, it will be done in an open manner, and we will not resort to gimmicks, and the outcome will be the best.

When I was in the State legislature, we used to have a phrase which I do not think I have heard around here, but it applies here. When we came to a particularly noxious matter, we sometimes said we were going to hold our nose and vote for it. Mr. President, when the vote comes, I think I am going to hold my nose and vote for it.

Mr. DOMENICI. Mr. President, I need not repeat my remarks with reference to the distinguished Senator from Colorado. But, having heard his eloquent remarks in opposition, I must compliment him again.

Far be it for me to challenge his logic that, in spite of all those reasons, he is going to hold his nose and vote for it. But I hope that those around here who wonder what is wrong with this measure listen.

I might say, before I engage in a colloquy with the senior Senator from Oregon [Mr. HATFIELD] that I did hear the Senator from Colorado say he is going to vote for this and he thinks there is a way to get the $23 billion fix without taxes. I hope everybody understands he was expressing his view of the world. I prefer to tell the Senate what I think the consensus view of the world is, as to those who put this thing together.

I do not think there is the slightest intention to affect a fix, getting rid of the sequester without additional taxes. I have not heard any proposal, and I do not see any on the horizon, to fix it; and even with that, I do not believe we are going to get an adequate defense level.

The Senator from Colorado has his view. The Senator from Texas has his view, that he is going to vote for this. He said he would not vote for taxes. He did not say that it can be done without taxes. He said he merely was not going to vote for them. That was his position when he spoke.

Mr. ARMSTRONG. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. ARMSTRONG. The Senator's statement reminds me of a footnote that I should state.

First, while I am going to vote for this, I am going to listen intentently to what the President says when it reaches his desk. I do not know whether he will sign it. My feeling is that he will. This is going to be one of those rare occasions when I might change my mind. In the years I have been in the Senate, I do not recall that I have ever actually changed my vote as a result of a Presidential veto. I may in this case, depending on his reason for doing so.

Second, I stopped just short of saying that I would never vote for any taxes. I said there is a consensus that taxes are part of the answer, but they had better not be counting on my vote to do that, because at the moment the sequester is more attractive than a big tax increase.

I thank the Senator for permitting me to add that. My guess is that we will have a train wreck, and it will come down to a question of whether or not we can get all the principal players at the table, including the President, and it will involve a trade off of some taxes and involve a trade off on some of these sacred cows.

Mr. DOMENICI. Mr. President, I should like to discuss with the Senator from Oregon the operation of sequestration with regard to a full-year appropriation bill. My questions will relate equally to a full-year continuing resolution and to regular appropriation bills.

Is the distinguished ranking member, the senior Senator from Oregon, prepared to discuss that with me?

Mr. HATFIELD. I will be happy to respond the best I can.

The PRESIDING OFFICER. The Senator from Oregon is prepared to engage in colloquy.

Mr. DOMENICI. Let me assume that when the sequester order was issued, the baseline for each of three programs was $100 million, for a total spending baseline of $300 million. Let me also assume that the sequester percentage is 10 percent, which, for these three programs, translates into a sequester of $10 million from each program.

I further assume that the full year appropriation bill funds these programs as follows: Program A, $100 million; Program B, $115 million; Program C, $85 million.

I ask my friend, having read the language in an effort to understand continuing resolutions and appropriations concerning sequester, how would this mechanism apply to these three programs, funded on a full-year bill which is enacted after the final sequester order has been issued?

Mr. HATFIELD. Mr. President, I respond to the distinguished Senator from New Mexico by saying that this colloquy is not spontaneous. Rather, it is well prepared, from the standpoint that I found it necessary to go to our staff on the Appropriations Committee, including both technical and legal resources that we have on that committee, to try to work out some responses to these questions. Thereby, I want to give it more authenticity than if I were to try to respond off the top of my head, on the basis of my reading of the report.

So, I want to make very clear that this is composite thinking. Therefore, any kind of attack that might be made on my responses would have to be made equally to my staff as well as to myself, but seriously, it reflects our best understanding of the situation after some study and analysis.

Let us take this scenario that the Senator from New Mexico has outlined and I would say this, that if these programs were to be handled under the conference report as best we understand it, program A would be cut by $10 million, which would bring it to $90 million; program B would be cut by $10 million, which would bring it to $105 million; but program C would not subject to any cuts at all because the language prohibits the reduction of a program to a level which is below the baseline minus the sequester.

I might note, however, this appears to be the case only in the very rare instance where a regular appropriation bill is signed into law immediately following enactment of a partial-year continuing resolution.

I believe this may have occurred in 1983 or 1984. But that would be basically the way I would interpret the application of this conference report on those three programs.

Mr. DOMENICI. What is the net savings from sequester in that illustration?

Mr. HATFIELD. Again, if you assume the baseline of $300 million, a 10 percent sequester should have resulted in a post-sequester spending of $270 million, but because of this special rule, actual spending will be at $280 million.

Mr. DOMENICI. I am compelled to ask my good friend how the proponents of this conference report can then assume and assure us that the deficit reduction purported here will actually happen? How are we guaranteed? Not that I want it to happen against appropriations, but it seems to me that there are some who are saying that is what is going to happen. How are we guaranteed that the fiscal year 1988 sequester will actually result in a $23 billion deficit reduction?

Mr. HATFIELD. I would respond again to my good friend that I find such assurances difficult to justify. Dealing with the realities that we have to deal with, I must question whether those assurances can be delivered. I think they may be offered with good intentions and in good faith, but I can say from the appropriations perspective I do not really see how this could automatically happen.

Mr. DOMENICI. Then I have another question. This one is regarding the so-called cleanup accounting procedure which is supposed to take place after one or more short-term continuing resolutions, at the time we finally enact a full year funding bill. There are provisions trying to cover that here.

Using program C from the above example, is it not true that that account, which was funded at $85 million, or $15 million below the baseline of $100 million, is subject to further reduction under a short-term CR?

Mr. HATFIELD. I would say the Senator is correct, for the reason that if program C is funded in a short-term CR at an annual rate of, say, $85 million and the sequester percentage is 10 percent, then the resulting rate would be $76.5 million in one interpretation, or could be $75 million under a seemingly plausible but again a different, separate interpretation.

Mr. DOMENICI. So that means that it is true that when a full-year bill is enacted the $10 million cut must be restored, but because of the rule that no account may be sequestered under a full-year bill to a level which is lower than the baseline minus the sequester amount, or in this case below $90 million.

Mr. HATFIELD. I would say the Senator is correct again for in the illustration either the $8.5 million of the $10 million, depending on how you read the language and how you interpret it, would have to be restored to bring program C back up to its original $85 million level. At least that is what appears to be the case. Given the caveat, unfortunately, as the bill language contains the confusing and ambiguous term, and I quote "the amount sequestered" when describing the effect of a sequestration order on a partial year—I want to underscore the "partial year"—continuing resolution. It appears that the conferees were under a misperception that only a limited sum of dollars are provided by a CR and that the "amount" sequestered was proportionate to this reduced level. This is not the case as I understand it, and once the funds are sequested, I am not sure how they can be magically reincarnated or restored and considered available in this subsequent measure.

Mr. DOMENICI. Where would the Government find the money to pay for such a restoration?

Mr. HATFIELD. I do not find anything in the conference report that addresses this question. As for myself, I do not see how it could be done, given the fact that when amounts were sequestered from the short-term CR's those amounts were permanently cancelled, pursuant to the specifications of the final order.

Mr. DOMENICI. Then it seems to me, I say to my friend from Oregon, that I might infer that in all likelihood we may actually be asked to enact an appropriations measure in order to provide a restoration of sequestered amounts which are promised in this conference report.

Mr. HATFIELD. I believe the Senator from New Mexico is correct.

Mr. President, let me add a few additional thoughts on this particular question that we are facing here for this procedure that we have discussed may come across as either incomprehensible or very complex. It is both. And I think that has been one of the difficulties that the conference committee has experienced trying to deal with complexities with not only novel and complex procedures, but also how these would apply to highly technical appropriation legislation.

I think the issues raised by my colleague from New Mexico point to the very substantial question of just how will this work, the mechanics of it and we as legislators have a responsibility, I believe, to assure that the laws we pass are reasonably likely to achieve the results that we intend.

I think that it is clear that this conference agreement fails that test. But there is a more fundamental question. It does not revolve around merely trying to make sense of the words before us—it goes to the basic illogic of trying to balance the Federal budget by slashing discretionary appropriations, addressing a very small part of the total budget.

If the goal of the supporters of this legislation is to prove that we can cut discretionary spending, the Appropriations Committee and this body have time and time again proven the point.

Only 6 years ago, I want to remind ourselves discretionary spending was nearly half the Federal budget. It is now less than a third—less than $300 billion of a budget exceeding $1 trillion.

If this legislation passes, I cannot doubt that we will slash discretionary expenditures to under a quarter of the total budget—but we will accomplish very little indeed toward eliminating the deficit.

And at what cost?

Earlier this year everyone crowded to jump on the bandwagon of addressing the needs of our Nation's homeless. Those programs will be devastated.

We have spent weeks on the defense authorization bill, and I do not shed crocodile tears over the imposition of this measure on this part of the spending, but it still has to be looked at in a fair, objective way as much as we can be objective. But all our rhetoric and debate on these issues will be swept away by the meat ax cuts called for in Gramm-Rudman-Hollings, even in this area of spending.

Health research, science and technology, environmental protection, economic development, law enforcement, international assistance—all with face the same fate.

Mr. President, until we confront the real problems driving the Federal deficit, which are entitlements and the lack of revenues, we are only fooling the American people. Worse—we are fooling ourselves.

I know the sponsors of this legislation say that this in only an action forcing device, that this will force the Congress to address mandatory spending and taxes.

Unfortunately this device is a loaded gun pointed directly at the Appropriations Committee—and the folks that are supposed to be forced into action are on the tax writing and authorizing committees.

We are already bruised veterans of this difficult budget cutting business. I have said it in the past and I will restate it again: we have been in surgery and without the benefit of anesthetic. Good programs have been amputated and operated on in the discretionary part of the budget. We do not have much of a body left to operate on.

And we have gotten the message in that Appropriations Committee. We have cut and cut and cut.

I might ask, and even today I think it would be a very pertinent question, Where is the reconciliation bill that is supposed to address this same problem?

Mr. President, I want to just offer really a gratuitous, unnecessary observation. But, as a history buff, I am wondering what we really are doing to the next President of the United States, be that person Democrat or Republican. I wonder if we are really setting up a situation which will create the same circumstances that faced a man by the name of Herbert Hoover.

We have been playing Calvin Coolidge for an awful long time in the last few years in not facing up to the signals and the danger signs we have certainly encountered recently. And I am not sure that in the present circumstance of today's politics that, even though Mr. Hoover's administration was the first administration to interdict the economic cycle with the powers of the Federal Government—and while it is fortunate that historians are recognizing that Harding, Coolidge, and Hoover were not the last of the old regime resistance. Rather it was only Harding and Coolidge who were the last of the old and Herbert Hoover was the one who laid the foundations for the New Deal.

Be that as it may, I do not think today we face the same political environment. I think the next President, instead of having to worry and fret and shoulder the responsibilities of the inaction or the bad actions of the previous years and administrations, will probably spend more of his time not dealing with the Gramm-Rudman fix that he will inherit but fending off articles of impeachment. That, to me, will be the real task for the next President given the budgetary disaster we are encouraging with this legislation.

I might ask the Senator from New Mexico, would you really want to be the next President of the United States and inherit that?

Mr. DOMENICI. Under no circumstances.

Mr. HATFIELD. I thank the Senator.

(Mr. DIXON assumed the chair.)

Mr. DOMENICI. As a matter of fact, I might say to my dear friend, in his absence this morning—and I know he was at the markup on the Energy Committee, which I could not make—I came to the conclusion and told the Senate that if anybody was voting for this because of a 6-year emergency balanced budget, fix-the-economy bill, that they were pipe dreaming. As a matter of fact, it may get us through the next 2 years, and then we will start over with another President. No one convinces me that we are going to be anywhere close to the target set for the first 2 years by the time we are through with all the manipulating. And, as my friend from Colorado said, it is so complex that it is going to be the innovator of all kinds of shenanigans.

Then, I might say to my friend, in this next year, we claim we have a fixed target. But then we say the cut is no more than a certain amount. And then we set a new, higher baseline from which to start. Whatever current law is, we add 4.2 percent to it. We could be at $175 billion with that added to it.

So we will send this new President, 2 years from now, a target that is supposed to really get us on the way. It will be absolutely impossible. And do you know what he is going do? He is going to say, "Let's get rid of that first thing, and let's talk sense."

So this bill is really about 2 years, that is what we are really finagling with.

Mr. HATFIELD. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. HATFIELD. Would you say it is analogous to the Western parlance of a floating financial crap game?

Mr. DOMENICI. Well, I have heard so many wonderful expressions of late that you might want to give me the privilege of saying I pass on that. I am not sure.

I understand the Senator from Washington desires to speak.

I might say to Senators on my side, if any of you are interested, I am getting pretty close to agreeing that we are through on our side. I want another few minutes, and I understand the distinguished minority leader wants a few minutes. I understand my friend, the senior Senator from Washington, wants a few minutes and the distinguished Senator from Kansas, Senator KASSEBAUM, wants to speak. I think that is about it on our side. So we should not be too many more minutes, I say to the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Thank you, Mr. President. I did not know it at the time, but several nights ago I had an opportunity to go through some old papers, trying to sort things out in preparation for doing some writing for a lecture later on this fall. As I went through all of that, I ran across some things that bear on what we are arguing today, for it was a series of budget papers during several of the years I served as Governor of the State of Washington.

Those budget papers reflected a time during our fiscal biennium when we had very sharp retrenchment in our economy, creating a necessity for the government to move and to move rapidly to keep our budget in balance. We did so by radically restricting spending on an immediate basis.

In thinking about that time and those papers and this debate today, I am struck by how simple and how easy, and, perhaps relatively, how small the problems were in that State. But then, on second throught, I began to wonder why we make things so darn complex here.

I doubt that there is one State out of 50 in this Nation that does not at this time have a better accounting procedure than the Federal Government, a more simplified and streamlined budget procedure, a better method of keeping their books, and a more understandable way of predicting what is going to happen. In virtually every respect, these States, presumably with fewer people, with less expertise and experience, have all contrived somehow to do the job in a better, simpler, and more straightforward manner than we.

Well, with all of that, Mr. President, I am going to vote for this bill. I do not like it very well, but it is the only game in town. No one I have heard of has suggested a real alternative to what is being suggested here. I am not among those who believe that Gramm-Rudman-Hollings has failed. I think, quite to the contrary, it has worked and worked far better than we could have anticipated when it was passed. It has worked because we have set for ourselves and for the President the requirement of fixed targets. And even though we are now in the process of modifying or changing those targets, they are still going to be fixed targets.

It was too easy for us in the past, before Gramm-Rudman-Hollings, to merely say, "Here's what we want to spend and here's what the current revenues will bring in." And when we were shocked by the difference, the size of the deficit, we merely refigured the economy or economic projection. We rejuggled figures, knowing full well that what we were producing was not honest and was not straightforward and certainly would not be accurate.

At least under this act, over the last several years, we have been forced to fix targets. We have been forced to a more rigorous measure of expectation of the economy and the revenues that economy would bring in in the future. And in fiscal 1987, at least, we finally started to stop the fiscal hemorrhage which has been going on in this Nation for most of the last decade.

I think it has worked so far because the alternative to meeting those targets is a mechanistic sequester, which no one wants. That mechanistic sequester is unacceptable to constituents who put us here to make tough choices.

I believe that, even with the difficulty and the complexity of this conference report, if adopted, this Congress eventually will not sit still for a mechanistic sequester, but will find a proper, more balanced, more rational way to meet the same targets.

This fix, which certaintly is not the best approach, is probably one of the only realistic approaches we have in front of us. A vote against it, at this point, is merely a vote to retreat. It is a vote to have nothing in place. It is a vote to say we are either going to come to an extraordinary crash with the unreachable goals under the unamended Gramm-Rudman-Hollings bill, or that we are going to abandon the whole process and let deficits go where they will.

I do not think either course is responsible. We cannot turn our backs on the problems we face. We have got to keep the pressure on. We have got to keep focusing on fixed targets and try to make those targets as tough to reach as possible, but still realistic targets.

Like all of us, I am concerned about national security and I do not think we can adopt a program that will strip from this country an adequate defense and adequate spending for defense. A level of spending which, at least over the last 6 years, has gone a long way toward ensuring that the Soviet Union came to the bargaining table. It has probably been one of the largest and most responsible causes for the arms control agreement we are about to enter into.

I am equally concerned, as my colleagues are, with the alternatively simple solution—maybe not an easy one but it is certainly simple—to erase the deficit by wholesale increases in taxes.

But this is no time to let perfect be the enemy of good. We are not producing something that is perfect. But I believe it is at least good enough to try. Let us face it, we painted ourselves into this corner. We, and the President, both joined in producing budgets and appropriations which had increasing amounts of red ink. We kept kidding ourselves that budget deficits would keep coming down each year and as each year passed we saw that instead of going down, the deficits were going up. We should have known better. And we tried again the next year and we predicted that deficits would go down and at year end the deficits kept going up. We knew they were going up but refused to face up to it. It was only when a Gramm-Rudman-Hollings bill came into being that we had to march to a tougher drummer.

I have said that those opposed to this legislation, Mr. President, have not suggested any great series of alternatives. Do we adopt, as some in this body would suggest, a balanced budget amendment to the Constitution? Well, I can tell you one thing, that if we did we would have all the complexities that we are now facing under this legislation, coupled with the full participation with all 18 feet of the 9 Members of the Supreme Court. That is a complexity we do not need.

If you are concerned about the boxing-in that we are doing with the Gramm-Rudman-Hollings bill, if you pass a balanced budget to the U.S. Constitution, you "ain't seen nothing yet."

That layer of complexity would be with us for years as the Court tried to interpret what we meant by all of the fiscal terms we commonly use each day.

In fact, what we should be focusing on, Mr. President, is the budget process itself. Gramm-Rudman-Hollings attacks the symptoms but not the cause. It is an additional complex procedure which exacerbates the overall complexity of the budget process but perhaps is necessary since we are unwilling at this point to produce anything simpler.

We spend far too many hours on this subject and others in this body, particularly tinkering with procedures, and far too little time dealing with substance. It is time to start rebuilding. Clearly our current budget laws are fundamentally flawed. It is time to start from scratch and put together a program that works.

There are some positive proposals around, many of which ought to be more seriously considered than they have been up to now. I have spent hours with my colleagues, Mr. President, in the last several weeks, on the Energy and Natural Resources Committee, and we have had to deal with the problems of how we were going to meet the reconciliation targets. I can tell you that we have been subjected to the most bizarre, complex, Byzantine kind of scorekeeping I have ever seen in my life.

It is not so much whether you really save money or do not save money; it is how you keep score. It has gotten to the point where it is really a Mad Hatter's tea party in the way we do our business.

I see my distinguished colleague from Kansas is here. She and Senator INOUYE from Hawaii have introduced a bill which I think needs some serious consideration and debate, which would simply abandon our Budget Committee, make the authorization committees into Appropriations Subcommittees along with their other responsibilities, and make the Appropriations Committee as I understand it sort of a grand leadership committee to pull together of all of those efforts. It would slash, at one time, through much of the thicket we have built over the last 10 years.

Along with that, Mr. President, we ought to consider more seriously than we are willing to in this bill, although I am glad to see that there are some beginning efforts in this proposal, to look seriously at 2-year budgeting.

Although it is not in here, I think we ought to equally look at a straightforward capital budget to go along with our operating budget so that we all really understand better just what it is we are doing.

No State, and no corporation I know of, would accept a budget that did not clearly set aside their capital expenditures from the maintenance and operating expenditures of a budget.

We need to ensure, Mr. President, that there are at least 13 separate appropriation bills which we present to the President. We are not only giving the President a line-item veto, but when we send him a single overall continuing resolution we have stolen from him for all practical purposes any kind of veto at all.

What President after the beginning of a fiscal year, when faced with a single omnibus appropriation bill covering the entire Government of the United States, could afford to veto that bill and in doing so bring the entire Government to a halt?

With all of that, Mr. President, I do not think the news is all bad. We have spent much of our time over the last few days, and over the last few weeks, in arguing about budgets and in looking ahead, purporting to show how things are going to get worse rather than better. We forget sometimes that every time we look ahead toward budgetmaking we are dealing with the future. We are estimating. We are predicting events which we simply cannot know for sure, events which will happen in terms of economic performance, in terms of international affairs, in terms of a whole host of other measures which will have or could have drastic effects on future deficits.

When I said the news is not all bad, I think it is important, sometimes, to look back and to see where we have come from. I think it is important to not just look at the dollar size of the deficit which has gone in the past 6 years from fiscal year 1982 onward from 111, 195, 175, 212, 221. This year, which will end in less than a month, it is estimated that it will be less than $160 billion. We have turned something of a corner.

If you measure the deficit, however, you should not measure it just in dollar terms, because that does not mean very much unless you compare the dollar terms to the total size of the budget so you know what percentage it is of that total budget. The deficit as a percentage of total revenues actually peaked in 1983. In fiscal 1982, the deficit as a percentage of revenues was almost 18 percent. In 1983, it was 32½ percent. By fiscal 1984, it was down to 26 percent. Then up to 29, down to 28.7. And in fiscal 1987, down to 18.5 percent—lower than at any other year since 1982.

What is even more important, Mr. President, is the measure of what we pay in interest. What is our debt service every year compared to the total revenues we take in? That is a meaningful figure. That is something we look at as a family, as a corporation, as a State, and we should as a nation. We should certainly be looking at trends. Are we spending more of our income on debt service this year than last year? If we are spending more, we are headed for real trouble as a family or as a nation. If we are spending less, we may be getting a little healthy.

What are the figures over the last 6 years? In 1982, we spent 13.8 percent of our income on debt service. In 1983 it was 15 percent. In 1984, it was 16.7 percent. In 1985, it was 17.6 percent. We were headed for real trouble in each succeeding year.

In 1986, it was 17.7 percent.

But, listen. In 1987, the year which will very shortly end, it is estimated that the percentage of income that goes to debt service will be 16.1 percent, the lowest it has been in the last 4 years.

We have an opportunity with the bill we are about to pass to keep it at about that same level. We are not going to make very much additional progress, but it will still keep it at a reasonable level. It will not allow it to creep upward any more. I think that in itself is a pretty significant measure of progress.

The challenge, as we look ahead, is to do what we can do to have the best chance of ensuring a good, healthy, economy. Because a strong economy, more than anything else, is going to determine the size of our fiscal deficit 1 year from today.

We will go through all of our budgetmaking. We will set pretty closely the total amount of spending. But we are still guessing on what the revenues will be. Those revenues will depend on the nature of our economy and its speed of growth, the rate of inflation, the rate of unemployment, and all of the other factors we look at so carefully.

But in each of those we are estimating at best and guessing, probably more accurately.

What is more important, Mr. President, is that as we look ahead this year, perhaps more than any year in our recent history, we have a chance to affect what happens instead of just waiting for the results. If we send clear signals that we are serious about deficit reduction to the financial markets, the business leaders, the people who make up the private sector of our economy, and our international friends, allies, and trading partners, then, Mr. President, I think we can begin to affect the health of our economy. That is what can have remarkable results.

If our economy grows in terms of real growth of the gross national product 1 percent faster than we are now anticipating, that alone would reduce the size of our deficit by $30 billion-plus. That, Mr. President, as far as I am concerned, is the very best way to reduce our fiscal deficit.

We have to make some tough choices. Those tough choices may include some revenue increases. They may include cutting the defense budget more than some would suggest. It may include postponing or even cutting some of the important domestic services we would like to carry out. But by doing so we can lay the groundwork for a better economy and a better opportunity for the next year when it comes along.

Mr. President, I am not like some who feel that this is so flawed it ought to be defeated. I am not like some who feel that we are headed for a train wreck, as my colleague from Colorado suggested. But he was going to vote for the train wreck because he thought out of the train wreck might come something better.

No, I am not going to vote for it because I am a great enthusiast and think it is a great piece of legislation. Few pieces of legislation that we pass are. But I am going to vote for it because I do think it is the only responsible game in town today. I believe it is something we can work with. I am confident that my colleagues will join and, together, we will pass a responsible alternative to an automatic sequester and that in doing so we will lay the groundwork for a stronger economy. If, in fact, that is the outcome, then we will have dealt responsibly with our charge as Senators of the United States. I thank the Chair.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, at the risk of standing alone at the end of what I know has been a laborious effort on the part of many to fashion this particular legislation, I would just like to speak for a moment about why I will be voting against it.

First, I would highly praise the Senator from Florida, the chairman of the Budget Committee [Mr. CHILES] and the ranking member, the Senator from New Mexico [Mr. DOMENICI]. There have been no two members who have worked harder in the years I have served on the Budget Committee to try to fashion a sensible budget.

The godfather of the present budget legislation, the Senator from Texas [Mr. GRAMM] is also on the floor. I think we in this body share the desire for deficit reduction and a balanced budget and, more importantly, a sound and sensible fiscal policy.

Now legislation is before us attached to a debt ceiling limit, which we must pass, to significantly change Gramm-Rudman-Hollings in the name of deficit reduction.

I voted against the original Gramm-Rudman-Hollings legislation and I will vote against this particular measure for very simple reasons. I have never believed we could procedurally solve our deficit problem. I have never believed the answer lay in a set of figures which force us into a straitjacket and which do not give us flexibility.

Second, I do not believe it will work because we will never enforce it. We will continue to exempt programs. We will utilize new economic factors. Or we will change targets.

Our intentions will be the best our implementation will be questionable.

I would just like to list a couple of things that we do not think about when we place ourselves in this kind of procedural straitjacket. Let us consider the legislative priorities we have set for ourselves:

The Clean Air Act must be passed this year. Its cost may be as high as $5 billion.

The Senate-passed trade bill will cost almost $10 billion. Only some of the cost has been built into this baseline.

The space station will cost approximately $16.5 billion, and the superconductor and supercollider is expected to cost about $9.5 billion.

Keep in mind, Mr. President, that the vast majority of these expenses are not figured into this baseline. Are we willing to forgo these initiatives and others, the cost of which will be enormous, in favor of hitting Gramm-Rudman-Hollings deficit targets? I submit we will not be so disposed.

It is imperative, and it must be our initial responsibility in the U.S. Senate, to reconcile our legislative goals and determine the best way to pay for them. These decisions must be coupled with a sound fiscal policy. Therein lies the problem.

A sound fiscal policy must balance social and political needs against economic costs. It is not dependent upon arbitrary targets which can be juggled or procedural measures which can be circumvented when we run out of options.

I admit the choices are tough. We have struggled with it since our founding. Many contend, like the distinguished Senator from Washington [Mr. EVANS] who has wisely lent his advice on fiscal problems, that there is no other game in town.

But I do not think this is true. The other games, so to speak, are tackling spending on defense and entitlements and increasing revenues—something that many are loathe to address. However, we have done it before. I think we can do it again. There is no easy way out of the situation before us. But substituting one set of smoke and mirrors for another is certainly not the answer. For that reason, Mr. President, I will be voting against the measure before us.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I am sure there are a few more people who want to speak and I know we are eager to vote. Rather than wait until the last minute, I will go ahead and answer several points that have been made today, and I will try to be brief.

We have heard a variety of arguments against fixing the Gramm-Rudmann-Hollings law. We have heard people who do not like the way we are doing it. One can always make an argument that there is a better way and a better time. The reality is, however, that this is the only opportunity we are going to have.

We have heard people get up and say, as did the distinguished Senator from New York, "Do you realize if we require a balanced budget this could cut AIDS research, that this could cut funding for air traffic control?" And that hits close to home to me because I for one am tired of money being raised for an air safety trust fund and then spent on other things. He listed all the heartthrob programs that many of us support and people want. We have heard people say, "If we put this new mechanism into place, mandate an automatic cut if we don't meet the target, it will cut defense." You have heard people say, "You realize if we mandate a balanced budget it will force a tax increase."

The problem is there is no free lunch. The problem is we are not going to balance the budget without doing at least one of the above.

Now, I do not know the final outcome of the debate. I am not certain, when we put the whole package together, whether we will meet this target and achieve a balanced budget over the next 6 years by controlling domestic spending. I hope we do. By reducing defense further; I hope we do not. By raising taxes; I hope we do not. But in a sense, a lot of these speeches we have heard are the kind of speeches you might hear if you were getting together prior to football season and you had people jump up and say, "Do you realize if we play a football game, our opponent might score a touchdown? We might fumble the ball?" Good things and bad things may happen, but the point is everybody here recognizes that if we do not revitalize the Gramm-Rudman-Hollings law, we are not going to address this problem.

I do not know the final outcome. I know what I want it to be, but I am not willing to say that because the final outcome of the debate concerning reducing the deficit is one that I do not agree with, I am, therefore, willing to give up on the commitment we have made to the American people to control spending and to balance the Federal budget. I, for one, believe the time has come to take on this dragon. I am not sure how the ultimate death of the dragon is going to be produced, but I am willing to commit myself to that goal and to work with anybody else in the Senate who wants to work together to try to meet the target of $23 billion of deficit reduction this year and try to meet the targets in the outyears as well.

I believe the plain truth is that while there is no guarantee this process is going to be successful, it is like being the pilot of a jet fighter that is crashing. There are really only two alternatives: One, we can go ahead and ride it down to the ground or, two, we can fire the explosive charge under the ejection seat. It may blow up and kill us. The canopy may not come off and we may go through it. The parachute may not open.

All of those represent the fundamental uncertainties when you set out binding constraints and you force politicans to make hard choices. The notion of politicans making hard choices represents relatively unexplored territory in the functioning of democracy. I, for one, am willing to take those risks, and I am willing to take those risks because there is no real alternative. This is the only mechanism that we have that gives us any hope of forcing the Federal Government to be fiscally responsible.

It is for that reason I am asking people to vote for this bill, not that it is the best piece of legislation ever written, not that brilliant people could not have written it better. But the plain truth is nobody did. We have debated this subject for 2½ years. We have spent literally hundreds of hours in meetings trying to hammer out differences and get a bill. This is the best product we could produce. If it is rejected, do we have any reason to think that there will be a better one? I see none. If it is rejected, do we have any reason to believe that deficits will go down? That has not happened in the past. It is something that has been left up to us. We have not done the job in the past. This bill, with all of its imperfections and warts, still represents the best hope we have of dealing with the problem.

The pill is bitter, but the disease kills, and I believe it is imperative that we address the problem. I urge my colleagues to vote yes.

Mr. DOMENICI. Mr. President, unless the distinguished Senator from Minnesota [Mr. BOSCHWITZ] wants to speak—and I am sending for him—our distinguished leader wants to speak for 5 minutes. I do not think there are any others. I am putting out the word on this side, so I think it is very close.

The PRESIDING OFFICER. Is the Senator from New Mexico indicating then that with the exception of the minority leader, who wants to speak for 5 minutes, the Senator from New Mexico is prepared to close?

Mr. DOMENICI. I might say to the Chair, we are sending for the distinguished minority leader. I hope he is going to be available. I am going to speak a little bit myself, but I do send word if there are any Senators who really want to come down, obviously at this time we ought not preclude them.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me say to Senators who are listening, if you have not voted before for a Gramm-Rudman-Hollings automatic sequester fix, whatever its official name, you should have absolutely no difficulty voting against this thing we have here today. We once had a proposal before us that was calculated to work. The Supreme Court threw it out. We found ways and means of making sure that it was not a duplicate of that bill. And yet I am convinced that a number of Senators will come down here and say, "Well, I voted for it before. How can I vote against it now? It is the only game in town."

Let me tell you, Mr. President, it may appear to be the only game in town, but it is a pretty rotten game. As a matter of fact, there are not many people who would bow to the altar of this bill, except for the fact they are told it, in some way, will fix the deficit of the United States, in some automatic way. My great and good friend from Texas said not from God, but some magical wand that we have stuck in the thousands and thousands of words in this bill, many of which no one can interpret.

I heard my friend from Colorado say it is about as complicated as anything he has ever seen. He is pretty astute. With all the staff help around, he cannot understand it all. I submit to you, that complex matters around here have only one tendency. They lead to innovative paths around what was intended. There are 10, 12, 14 committees of the Congress, there is the ingenuity of OMB directors and others. This is a pale replica of what we voted in a few years ago, what was going to get the deficit under control.

Mr. President, there are plenty of games in town. As a matter of fact, I honestly believe there is a better chance, through other means, to achieve a true bipartisan Presidential compromise to work the will of the Congress, and get 23 billion dollars' worth of deficit reduction.

We are more apt to get an acceptable, good $23 billion package if we defeat this conference report. That will take a few months. There will be a bunch of confrontations. There will be some appropriations confrontations.

Do not forget, Mr. President, and Members of the Senate, there is a reconciliation bill languishing in the committees. It is the only instruction around. It was voted in by the Congress of the United States. It carries with it the opportunity to bring a bill to the floor that has all kinds of privileges vested in it. Turn to that as the instrument. Put that together. Negotiate with the President. There is nothing in the world wrong with that.

So to anyone who thinks there is no other game in town, you are killing off the existing game in town. Anybody that votes for this must understand that. There will be no other game in town after this. This will be the game.

We have heard people on the floor talk about deficit reduction, in terms of domestic spending priorities. Those are people I dearly respect. I greatly admire them. To the extent that they are on my side of the aisle and they are speaking about that, they are living in a fantasy land. They are dreaming.

Mr. President, the agenda is set. And it is very, very simple. It will be domestic programs at exactly the budget level, Mr. President, plus a little more. No ifs, no and, no buts.

Does anybody really believe that under a sequester that comes from this bill, that the majority will say, we are going to reduce the appropriated accounts to save $23 billion?

Mr. President, I have been in every meeting. I have been at every conference. I have seen every scrap of paper. How are we going to get the $23 billion? I know it by heart. They start with what we originally had in the budget. Then they take out REA because they no longer want to count asset sales. Then they put exactly what was in that budget resolution, except for one thing: not quite as many taxes because we only saving $23 billion, and no high tier on defense. If you want a high tier on defense, Mr. President, you will not cut domestic to pay for it. You have to raise more taxes. So no high tier on defense.

Why do we have people down here talking about fixing the $23 billion, when it is as plain as the lines on the palm of your hand that it is nothing more than, Mr. President, here it is. It is this much taxes; it is exactly the amount of appropriations we said we wanted from the beginning. Then what about defense? It is going to start at the low level. Then it is going to say if you want a little bit more, put some more taxes on.

We are going to get to the point where the President of the United States is going to have a very interesting option. As I said before, because of this mix, we have increased the probability that there will be a sequester.

So for those who wanted the crash—there are some on my side who have spoken of it wishfully hoping that it would be undone—there is a high probability it will not be undone. You will get that sequester unless you are willing to give the President of the United States substantially more in defense, which he is entitled to in my opinion, which this body is going to vote for when they approve the armed services authorization bill. You know they need at least that much.

But the tradeoff is going to be more taxes if you want any reasonable level of defense.

How can anybody on this side of the aisle—I understand there can be various reasons on the other side of the aisle—stand here and say, this is the only game in town?

There is a reconciliation bill pending out there, with instructions to the committee to do the work. We have not started the appropriation process yet. We have not negotiated any one of the appropriation bills, any of the entitlement savings and reconciliation. The whole process is unfolding before us. But it will be done differently than any of you want, because the game plan and the map is unequivocal.

I cannot believe that some of the most astute minds on this side, most informed on budget process, can stand up here and talk as if we will get this done without revenues. That is not the issue. They are literally saying to their brothers and sisters in the Senate, you vote for this, we want this $23 billion, and we want the cuts in the next year. Then there is a glorious, 4-year plan thereafter, taking the next President clear down to a $100 billion deficit the first year.

When that fellow steps in the White House, he will step into quicksand pretty fast. We stand up here, and say, I am for it, but I am not going to vote for any taxes? Well, that is interesting.

If you want a sequester, it will happen. If you want help to fix this, they will wash their hands of it. They are going to vote for it, and they will not be around when you have to do the field goal kicking. They still think that there is a serious effort in the next 18 months to reform the domestic side of this budget.

I say to my good friends, anyone who wants to listen, if that is ever going to come, it is not going to come in this budget, and it is not going to come next year.

So what are we looking at? It is as plain as opening up your hands and saying the lines were there last night; they are the same this morning. Believe me, they are going to be there October 20 when the sequester occurs, and they are going to be there November 20 when the sequester becomes final.

One of the truly concerned Senators, the second name in Gramm-Rudman-Hollings, my friend Senator Rudman—who is sometimes greeted on airplanes as "Mr. GRAMM RUDMAN"—talked about the trend line going down. Well, I am suggesting that my best analysis is that if you get some enormously good economic breaks over the next 10 to 12 months—not because of any of this, if you get some great economic news—you might have a trend line down. If you do not, there is just as much a probability that you will go through this sequester off this new inflated baseline, I say to the Senator, and still miss your target.

You can take off it what is prescribed here, and people are complaining about $136 billion plus $10 billion next year—as a modicum of success. Well, there is nothing in here that says you should get that.

That is what you are voting for in the name of the only game in town. Well, may be.

I am delighted that we have worked so hard—great people have, staff who killed themselves for hours on end, so many of the minority staff on the Budget Committee. Basically, I am pleased that I am not responsible for this last game in town. I shall be on the sidelines for the first time on something significant, allegedly affecting the deficit of this country, because I do not think it is going to work.

Mr. CHILES. Mr. President, I hope we are getting close to wrapping this thing up. I know that the minority leader wants to speak, and I think the majority leader wants to speak. We have tried to send the signal out to those on our side.

I have heard a lot of gloom and dire predictions about how bad these cuts are going to be, and I have heard a lot of gloom and bad predictions about what kind of box this puts the President in, to have to deal on taxes. I have heard all those, but it seems to me that we do not have to have gloom and doom if we can get some kind of cooperation, and that is what we are talking about.

How much do we really have to work out? $23 billion. Mr. President, when we are looking at a $1 trillion budget, we are talking about 2 percent of $1 trillion. We are talking about the ability of trying to get half of that off spending and half of that off revenue. I cannot see that that is something that is impossible to do.

We are talking about this as a step to get us to that next point where we can negotiate that. Does anybody think we have a chance to do that without some kind of step like this, without having the sequester?

My good friend from New Mexico has said that we made Gramm-Rudman-Hollings the only game in town and it should not be. It is all right with me, but tell me what the other game is. He said that the game ought to be reconciliation. I am for that. How do you get to play in that ball game? Only one way: If you have a chance to sit down.

We on this side of the aisle passed a budget resolution with no help. We are to the point of reconciliation. Again, no offer of bipartisan help on that. The President we have invited and invited and invited, and we renew that again, to come and sit down, but with no help.

So, if reconciliation could perhaps have a possibility of being the game, it is only going to be if you have something to try to bring that game about, and that is to pass this act, to have this sequester. I think it is as simple as that.

Mr. DOMENICI. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. DOMENICI. Since "the only game in town" was being used, I said before that I would be on the sideline. I meant for this vote. I want you and the Senate to know that if it passes and we have to fix it, I will not be on the sideline trying to fix it. I mean for this. But if it is the will of the Senate that we do it, I do not want the Senator to think I meant that literally.

Mr. CHILES. I am delighted to hear that. I did not think he meant it literally.

I was thinking that the only way we could do it, in this Senator's opinion, was to pass it.

I listened to the arguments that said if we pass this, we get these drastic cuts in defense, and those arguments were made very strongly as to what they could be. I listened to those arguments that said if we pass this, we are going to have these drastic cuts in the domestic programs, and we cannot stand that.

I heard another argument that said this is a trap to force the President into taxes. I do not see how all that can happen.

Those are the three basic arguments I have heard: The drastic cut in defense, the terrible cut in domestic programs, or you are going to force taxes.

Do you know what I have not heard? I have not heard anybody say this is going to cause us in any way to increase the borrowing of this country.

Really, what is this exercise about? Why did we start into this? Why do we have the Budget Act? Why do we have Gramm-Rudman-Hollings? To do something on the deficit. Is the deficit any better? Heaven knows, no. It is terrible, and we all are—or should be—scared to death as to where we are on the deficit.

The only thing this does is to stop the borrowing, and it does something in the other direction. It is the only game in town that does anything in that regard.

All of us have made those speeches. Every Member of the Senate has talked about how concerned he is about the deficit. I have done my share of that, and the rest of us have, too.

Now you come down to this point: Are you really concerned? Are you willing to say yes, we take a chance that there could be a sequester if we cannot have a sit down; yes, we take a chance that we could try to get the President to put some revenue in this bill; yes, we take a chance that there could be a proposition that we have to find additional spending cuts?

How are you going to get the deficit down? Is it not a combination of those things? Is it not a combination of spending cuts, delaying increases, and some revenue? I do not know of any other way to do it.

So those dire things that will have to be done or will happen because of this—some of them do have to be done. Some, or a combination of them, have to be done. That is all we are saying.

Let us pass this, and let us move to the next step. That is reconciliation. that is where the Senator from New Mexico said he will not be on the sideline, and I am delighted. I hope all the other Members will not be on the sideline and, most of all, I hope the President will not be on the sideline and that we will get everybody into the ball game.

To my way of thinking, if we cannot find 2 percent out of that $1 trillion deficit to bring this down and to start us—the 2 percent is not important, but it is the trend. It is to try to start us on that line toward going down. That is the best signal we can send to the financial markets. The best signal we can send to our neighbors in other countries and the best signal we can send to the American people is that we are serious about it, and I hope we will do that.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I rise with great reluctance to oppose the conference report. I rise with reluctance because I have the greatest respect for the chairman of the Budget Committee, Mr. CHILES, and the chairman of the Finance Committee, Mr. BENTSEN, who have worked with extraordinary patience to put together an agreement, and the reservation that I register is that this is pretty weak medicine for the deficit ills that confront this country.

In fiscal 1987 we now anticipate a budget deficit of $157 billion.

What does this agreement do in the coming years? Well for fiscal year 1988 we would have a deficit target of $144 billion plus a $10 billion cushion, so in fiscal 1988 we could anticipate a deficit of $154 billion in all probability, $154 billion after a deficit in 1987 of $157 billion, $3 billion of progress in 1 year, pretty tepid medicine.

And in the next year the target would be $136 billion plus $10 billion of cushion so we would have $146 billion deficit and that is if everything goes right. The fact is that if the baseline goes up on us we would only accomplish $36 billion off the baseline, so we might not even achieve the $146 billion.

In the first 2 years then, we would go from $157 billion deficit in fiscal 1987 to $146 billion in fiscal 1989. That is not good enough.

If we look at what happened in the pattern, I provide these charts that show from 1977 to 1987, in 1977 we had under $800 billion of public debt. That has more than tripled in just 10 years to $2.4 trillion in public debt. We have more than tripled that public debt in just 10 years. And in the next 2 years, we will go up to $2.8 trillion if this conference report is agreed to.

In my judgment, Mr. President, that is simply not good enough.

The question always comes, why, what difference does it make, what difference do these big budget deficits make? I had colleagues come to me, say, "Look, KENT, the interest rates are down, the trade deficit, although that is going down, we are looking at more favorable unemployment numbers; what difference does this deficit make?"

Well, here is the difference it makes. We look at real interest rates. People focus on what is happening in interest rates, and if you ask an audience, as I have asked hundreds in my home State, "Have interest rates gone down over the last 6 years?" They will say, yes, they have gone down. But if you ask them what has happened to real interest rates, real interest rates, the difference between the interest rates you pay and the level of inflation, then they start to give a different answer because this chart shows what has happened to real interest rates over the last 25 years.

From 1961 to 1986 and on into 1987, a very interesting relationship, Mr. President. We have gone from a long-term trend of business real interest rates averaging just over 2 percent. In fact, from 1961 to 1981 real interest rates, the difference between the interest rates you paid and the level of inflation, that difference averaged 2.3 percent from 1961 to 1981. From 1982 to 1986 those real interest rates averaged 6.2 percent. This chart tells the story.

The long-term pattern for 20 years real interest rates about 2 percent. Then real interest rates went negative in the 1970's until they absolutely skyrocketed starting in 1980 up to a level of about 8½ percent, a record for real interest rates. They have pulled back some now but still are at very high levels by historical standards.

What effect does that have? The effect of those high real interest rates in this country has been to drive up the value of the American dollar. We read about it every day in the newspaper. The skyrocketing value of the dollar which started in 1980 has pulled back some now, starting in 1985, but still is at very, very high levels compared to the value of the dollar in the 1970's.

And this chart shows on a trade-weighted basis what happened to the value of the dollar. We read all the time about the reduction in the dollar against the yen and that is absolutely true, but what is more important is what has happened to the value of the dollar on the trade-weighted basis with all the countries with whom we trade and that relationship shows something much different than what we read about in the headlines. That shows the value of the dollar still at very high levels. And what difference does that make? That has made it almost impossible for us to be competitive in the world marketplace because what has to happen when the American dollar soars in value, what has to happen to our ability to compete in the world with commodities that we sell in dollar terms? Our ability to compete goes down and the trade figures show it conclusively. Since 1968 the trade deficit has mounted, grown like a cancer. In fact the trade deficit in 1986 was greater than the total of all the trade surpluses accumulated since World War II.

And what difference does that make? Well, we have gone from being a major creditor nation in this world to being a major debtor nation. We have gone from being the biggest creditor to being the biggest debtor and those lines cross in 1984 and we have gone not only to being a debtor nation but being the biggest debtor nation on the face of the globe.

People ask me when I am making this presentation in my home State what difference does that make, what difference does it make if all of a sudden we are a major debtor because again the interest rates are down, inflation is down, unemployment is down, so what difference does it make? Well, the difference it makes is our relationship has changed with the rest of the world just as certainly as your relationship changes with the bank when you go in and you have a major deposit, versus when you go in and you have a major note due. All of a sudden, when you owe money, that banker has a lot more to say about what you are going to be doing in the future, and that is the posture that our country is now in. We are a debtor nation and our friends in Japan and our friends in Western Europe are now going to have a lot to say about the economic decisions made in this country.

For these reasons, Mr. President, I have concluded that this conference agreement is simply medicine that is too weak. Some referred to it as duck and run. I am afraid that that is precisely what we are doing in confronting the greatest challenge facing this country at this time, a deficit that has been out of control, is out of control, and is not going to be brought under control when we only propose to reduce the deficit $11 billion in the next 2 years. That is simply not good enough, and again while I have enormous respect for the chairman of the Finance Committee, the chairman of the Budget Committee and the others who have worked on this agreement, I think we ought to call a halt to the process, go back to the drawing board and do more. We ought to be able to confront this problem more aggressively at a time when the economy is still doing relatively well. To only have $11 billion of deficit reduction in the next 2 years when the economy is relatively strong is simply not enough.

And for that reason I will vote against this conference report and I will do it in the hope of asking the conferees to go back and come to us with something better.

I yield the floor.

(Mr. HARKIN assumed the chair.)

Mr. BENTSEN. Mr. President, I respect the viewpoint of my distinguished colleague. I wish we were doing more, too. I voted for the $36 billion.

But I say to my colleague, this is the best we are going to get. And I would say that, after very tough, long, lengthy negotiations that my friend was not in, these are the realities.

What happens if we do not do this? More than ever before, this country, its economy, is being controlled by foreign financiers who are looking at what we are doing about our budget deficits, who are looking at what we are doing about our trade deficits. We are talking to the Germans, we are talking to the Japanese, saying, "Accelerate your economy to help us on trade." They say, "Why don't you take care of your budget deficit first? Don't tell us how to run our economies until you show responsibility on your own."

We have seen a situation here where budget deficits have doubled and redoubled in the last 7 or 8 years. We have seen a President who has called for a balanced budget and never submitted one. We have seen a President who has sent us a budget that was dead on arrival, not because of partisanship here, not just because Democrats voted against it, but because a majority of Republicans and a majority of Democrats voted against it. I did not hear one Senator speak up for that budget—not one.

So what you have seen here is a bipartisan effort. This conference agreement passed by a substantial majority last night in the U.S. House of Representatives. And you saw Republicans and Democrats alike voting for it.

I do not like the procedure in this conference agreement. I would prefer some other way to do it. But I think it is a discipline that is needed by this Congress and this President. There are those who would like to get out of town and leave the problem of these deficits for the next President and the next Congress to resolve. We do not have that luxury. This Congress and this President must meet this responsibility.

What you have seen thus far is the flight of the dollar. And you have seen us having to crank up the interest rates to try to hold that foreign capital in here to help us finance these deficits. This cannot continue on into the future. The sooner we face up to the responsibility the easier we will make the transition.

We have listened to the ranking member of the Budget Committee, Senator DOMENICI, who I think is one of the very able Members of this body. He has a different point of view. Then we have listened to my colleague from Texas who supports this measure. We have listened to the chairman of the Budget Committee in the Senate who supports this one. All of these people are people who are deeply concerned about what is happening to our country and think that we must begin facing up to the tough choices that we have avoided in the past.

I say to my colleagues, this is the best we are going to get. If we do not pass this and if we do not pass it by a respectable margin, we have a serious danger that the President might veto it. And then I think you will see real tremors in the financial markets of the world. And you will see interest rates going up more in this country, you will see the reflection in the bond market, and you will see a further depreciation of the U.S. dollar.

Not perfect? Of course, it is not perfect. I could find a thousand reasons to vote against this bill or most bills that we get here. And there will always be some who are not going to be players. There are those that think this goes too far and those that think it does not go far enough. I happen to join those who do not think it goes far enough.

But, again, this is a consensus that I think we can put in place, and the time to do it is now. I strongly urge my colleagues to vote for it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE PROVISIONS IN THE DEBT LIMIT CONFERENCE REPORT

Mr. BAUCUS. I know that the conferees on the debt limit agreement have worked long and hard to reach the point where we are today. I commend them for their efforts. Because of this agreement, I believe that we can now get on with the important and difficult business of reducing the enormous budget deficits we now face.

I am particularly pleased to learn that the conferees reached agreement late Monday night on how Medicare payments would be affected in the event that there is an across-the-board sequester of funds.

I was concerned that earlier versions of the conference agreement would have authorized the Secretary of HHS to either begin holding back on Medicare payments to health care providers and seniors until November 20 or temporarily pay 2 percent less than the amount due for Medicare claims.

Either of these options might have caused unnecessary hardship and confusion in the Medicare program, especially for our senior citizens.

I now that others on both sides of the aisle had similar concerns with these provisions. And I commend the Senate conferees, particularly Senator BENTSEN, for the efforts made to resolve successfully the concerns that we had with the preliminary conference agreement.

Mr. BENTSEN. I thank the Senator from Montana for his kind remarks and for his continuing concerns for the Medicare Program. I am also pleased that the final conference agreement addresses the concerns that Senator BAUCUS and others expressed.

The final conference agreement that is before us today includes a special rule that applies to the Medicare Program in the event that a sequester of funds occurs under the Gramm-Rudman-Hollings process.

When Congress approved the Gramm-Rudman-Hollings Act in 1985, provisions were included to limit the amount that could be cut from the Medicare Program under the sequestration process.

Today's conference agreement includes provisions to clarify how the correct amount subject to sequestration should be calculated for the Medicare Program. The agreement also makes clear that no payments are to be reduced unless it is determined that an across-the-board sequester is required.

I appreciate the support of the Senator from Montana in working out these Medicare provisions.

Mr. BAUCUS. Again, I commend the Senator from Texas for his leadership on the many tough issues involved in this conference. And I thank him for expressing his understanding of the special rules included in this agreement that apply to the Medicare Program.

Mr. DURENBERGER. Mr. President, the vote before us today presents a difficult dilemma for this Senator. I do not hold any great enthusiasm for the nature of the compromise rendered to us by the conference. Nor do I rush forward gladly to allow and encourage this government to extend its indebtedness far beyond its scandalous level today. And yet in the interest maintaining the course we set for this Government in 1985, I will vote "aye" on this conference report.

In the early morning hours of May 10, 1985, I marched into the well of this Chamber to vote with 49 Republicans and 1, now deceased, Democrat to balance the budget in 5 years. The spending cuts and freezes which that vote would have required were used in 1986 to hang some of our colleagues who voted as I did; and it will probably be used against me in my election next year. But we were right and those who disagreed were not. Later in 1985, and today, some number of our colleagues who opposed us that night, have opted to balance the budget through the Gramm-Rudman-Hollings formula. No other decisionmaking has been advanced since that time.

I believe in the utility of the original Gramm-Rudman-Hollings process. Get all the players to the table, take all the wild cards out of the deck, and get to work. And, to force the decisionmaking process to go forward, impose a severe penalty—sequestration—on all the players if any one of them leaves the table. A number of decisions, political and judicial, have blunted that original intent. The effort of the conferees, which I believe was a sincere one, was to salvage as much as they could of Gramm-Rudman-Hollings. The absence in this plan of true fixed targets, a reliable zero deficit year, or many of the truth in budgeting reforms of the Senate bill, is very unfortunate. I believe that enough remains to justify that we move forward.

I came to this Congress in 1979 with a desire and a mandate to do something about the Federal deficit. What I have observed over the years is a fixation with the processes of deficit reduction, to the exclusion of policies to get us there. If this fix gets us off reinventing the budgetary wheel, and onto going somewhere, it will be worth the effort.

My judgment is that passage of this conference report is more likely to reduce our deficit than no fix at all. Some undetermined alternative may arise at some point which would do more and do it better, but that is not reality today. The Congress has too much on its platter as to the substance of deficit reduction, in reconciliation and the appropriations bills, to ask the conferees to go back to the drawing board, where there may or may not be a better deal.

With this debt limit extension, we extend the terms of indenture of the next generation of Americans. In a very real sense we enslave them to financing our desire to have without paying. There is a heavy moral responsibility in our action today. I can only hope that by this vote today, we set in motion a process which will make future debt limit extensions less likely.

I urge the adoption of the conference report.

Mr. DANFORTH. I will vote for this resolution for two reasons. First, the debt ceiling must be extended if the Government is to continue to function. Second, the resolution cures the legal defect in the Gramm-Rudman-Hollings process, thereby offering at least some future discipline on the size of our Federal budget deficit.

However, having stated my support, I must say that I am not happy about the product of the conference on this resolution. The actual deficit reduction which will be accomplished over the next 2 years is pitiful. Instead of reaching our original Gramm-Rudman-Hollings target of $108 billion for fiscal year 1988, the best we will do is $144 billion, and in practice that figure is likely to be considerably higher.

Having back-peddled from our original Gramm-Rudman-Hollings commitment once, I have no illusions about our ability to stick with goals in the future. Nevertheless, this resolution accomplishes at least some reduction in the deficit, however small, and it provides at least some structure for future action on the deficit, however shaky.

RESTORATION OF THE AUTOMATIC SEQUESTRATION

Mr. ADAMS. Mr. President, I rise to speak against this proposal to restore the automatic sequestration process to what we might as well start calling Gramm-Rudman-Hollings III. While I will oppose the flawed formulas and perverted process contained in this conference report, I recognize both the sincerity and the dedication that went into fashioning it. Budget work is a hard and thankless job. The conferees certainly have worked hard—and they certainly will not be thanked.

I rise Mr. President, not as a new Senator unfamiliar with the fiscal issues presented in this debate, but as a past legislator who has had to make tough budgetary choices and tradeoffs. As the original chair of the House Budget Committee, I am aware of the history of the congressional budget process, what role that process was supposed to play, and distressingly, the role it has assumed.

The purpose of the 1974 Budget and Impoundment Control Act was to coordinate authorizations and appropriations within the context of a given economic framework. It was developed to set overall policy and priorities within which programmatic and spending decisions could be made. In short, it was a tool to enhance our decisionmaking process by creating a macroeconomic context which would help shape decisions while retaining the authority of the authorizing and appropriating committees.

Subsequently, Mr. President, in 1985 Congress passed what was supposed to be a simple amendment to a bill increasing the debt limit: The Balanced Budget and Emergency Deficit Control Act. That is, at the time Congress was told it was going to be simple. As written, the proposal specified maximum deficit amounts for 1986, declining in equal stages until zero was reached in 1991. It was definitely a dramatic departure from traditional approaches to budgeting and fiscal policy. But slowly things begin to get complicated. Intricate formulas and rules were established and special exemptions were passed. The courts ruled against the process; we tried and failed to fix it in 1986; now we are trying to fix it again.

Mr. President, if this is a process of simplification, then I don't want to see a complicated approach. Simple or complicated, this is an unthinking arbitrary and capricious machine, which is tooled up to produce problems rather than solutions.

Mr. President, I am most angry with the thought that we are here because of what has been perpetrated by this administration. We are sitting here 7 years after this President came into office saying that the annual average $44 billion deficits of the preceding administration were economically unacceptable. He was going to wipe out those deficits. Well, he didn't wipe out the deficits, he whipped them up to new levels, to figures more than three times the amount allowed in the past. It is now left for us to clean up the mess.

Mr. President, it is imperative that we step back and become aware of what we are truly advocating. We are opting for the perfection of a process rather than a product that reflects economic reality. In our zeal to seek a balanced budget we are creating a Kafkaesque world where the means of balancing the budget has become an end unto itself.

As responsible policymakers, I know that is not what we really intend to do.

Mr. President, our real goal is not to create a methodically blind process. The real goal is to create a budget process, and a budget, which allows us to reduce the deficit while building safe highways, a strong infrastructure, and full employment. It consists of shelter for our homeless, a reformed welfare system and retraining programs for our jobless. It consists of ensuring a strong, efficient and sufficient system of defense. And it consists of promoting international trade and competitive excellence in our industrial base. Those are our real goals. Those are the priorities that this body has established to fulfill the future vision of our country. But this end will never be met if we insist on focusing on this fix and ignoring the dynamic and interwoven socioeconomic process that exists in our world today.

Mr. President, a noted philosopher once said, "To work for a better future, find the causes that made the past what it was, and then bring different causes to bear." If we willingly and consciously deprive ourselves of the power to mandate change, we have stripped ourselves of an option. We have purposively shackled our prerogative to exercise our legislative duty and thrown away the key.

Abraham Lincoln defined government this way: "The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do in their separate and individual capacities." Mr. President, the people of our home States have sent us here to do just that. They have asked us to sift through the data, formulate our priorities based on what we have learned, search our hearts, and then judge and choose what is to be in their best interests. They have asked us to apply our value systems to the legislative process. Indeed, I am most troubled with the thought that as a body we are abdicating this constitutional and moral responsibility.

Mr. President, as I said before, I appreciate the hard work of my colleagues in an attempt to remedy this situation. But I cannot accept the argument that to escape this bottomless pit we must sacrifice our soul. This is the second time we have revisited the wrong solution. Major surgery is needed on the patient. A qualitative change in focus is necessary. We cannot just "reform" our way out of this—we have to change the way we look at.

Mr. President, I have no magic solution. But I firmly believe that the path of process does not take us into the jungle of more and more detailed and confining budget act language. Instead, I believe we need to go back to the basic philosophic assumption of the Budget Act, the desire to provide guidance to the authorizing and appropriating committees. Even before this fix, the process has become too complex and too confining: there are crosswalks and points of order and allocations and a host of other technicalities which few of us understand and which frustrate all of us. As a legislator who is familiar with the issue, I have come to the conclusion that we need to step back and evaluate our position. When Sugar Ray Leonard couldn't find a way to handle Marvin Hagler in the mid-rounds, he didn't keep on moving down the same road. Rather, it was a change in strategy that led to his victory that night.

In conclusion Mr. President, I understand the frustrations of my colleagues. We are battle-scarred and weary and are looking for the quick answer. We have become intolerant of ambiguity. But in this area we have to accept ambiguity if we expect results. We have to set some goals and trust our ability to meet them in a reasoned and reasonable way. The problem with this proposal is simply that it sets goals and sets in place a process which denies the role of reason and reduces our ability to be reasonable. There is a better way and it begins by restoring the Budget Act to its original goals.

I thank the President and yield the floor.

Mr. JOHNSTON. Mr. President, it will probably come as no surprise to my colleagues that I intend to oppose this conference report. The serious flaws that I pointed out in the Senate amendment, and which the junior Senators from Colorado and North Dakota and the senior Senator from Nebraska and I tried unsuccessfully to amend on the Senate floor, persist.

First, and the most fundamental problem with this complex 80-page plus "fix", we've only built in more delay to achieving meaningful deficit reduction.

In the budget year we are now considering, fiscal year 1988, for example:

The date for reporting reconciliation is delayed from July 28 to September 29 and the date for final action is in effect delayed until mid-October, 4 months later than the 1985 Balanced Budget Act required Congress to complete action on legislative changes necessary to enact deficit reduction. So we lose more than 100 days of savings and pay 100 days of more interest right out of the gate.

The amount of savings required this year has been slashed by $14 billion from the plan the Congress adopted in June, just 3 months ago—a 37.8-percent reduction in savings, or to put it another way, a 37.8-percent increase in the allowable deficit which many of our colleagues thought too high in June. Instead of $37 billion in savings, this document only requires $23 billion.

The balanced budget target is postponed 2 years, pushing this goal out even further into the future, to 1993 instead of 1991.

And the grossly uneven path this report purportedly delineates to reach that goal only means, in my view, that we will not reach that goal.

Why?

First. Almost $700 billion of the $1.05 trillion budget we now have is off limits in the sequestration process. Let me repeat—almost 70 percent of spending is taken off the table.

Yet, we are asking the American people to believe that we are going to find at least $160 billion in cuts from the remaining $370 billion in spending programs over the next 5 years.

This is, in my judgment, nothing but an empty promise. The experience over the last 7 years—during which we've seen the deficit rise from $59 billion in 1980 to a peak of $220 billion in 1985 and to about $160 billion in fiscal year 1987 (a decline in large part due to a one-time revenue bonus from the 1985 Tax Reform bill)—shows that this promise is empty.

Second. In the first 2 years of this plan we only require $59 billion in deficit reduction, which will reduce the deficit to only about $124 billion.

In the remaining 3 years, when this administration, which proposed, advocated and fought for the budget plans which increased the deficit from $59 billion to over $220 billion, has left, more than twice that amount of deficit reduction will be required by the new administration.

Let me repeat, in the first 3 years, only one-third of the savings necessary to meet a 1933 balanced budget will be required.

But in the last 3 years, when we have a new President and a new administration, two-thirds of the savings are required.

In short, this plan only postpones the day of reckoning, and so "backloads" reduction that it will be impossible to reach the targets, and many of us will be back here in 1989 revising unworkable and unrealistic targets again.

Second, I do not believe this plan requires sufficient reductions to encourage, much less force, the President to come to the table and engage in meaningful talks about deficit reduction.

The sequester for this year is limited to $23 billion, half of which would come from defense. This would mean, if my math is correct, no more than $11.5 billion in defense outlay cuts. In my view, this is both insufficiently tough and insufficiently enticing to get the President to the table on taxes, which the distinguished chairman of the Budget Committee stated earlier today will be between $10 to $15 billion in the reconciliation package.

Eleven and a half billion in reductions in defense is not trivial. But in my judgment this neither takes away enough—nor gives enough—to the President to set the stage for a meaningful bargain.

Third, I remain as I have since this sequestration process first emerged in the early fall of 1985 opposed to this process for policy reasons.

Our colleague in the House, Mr. SYNAR of Oklahoma, succinctly laid out a number of objections to this unconstitutional abrogation of spending power by the Congress. I concur with his remarks and would only add that if we are going to amend the Constitution then we should follow the procedure for so doing laid out in article V. It is odd to this Senator that in the midst of all the celebrations about the bicentennial of the Constitution the Congress is so quick to ignore its words, its framework and its spirit. Any fundamental restructuring of the Federal system like this surely should be concurred in by three-quarters of the States.

This process also lets the Congress and this President avoid accountability for making cuts. That is precisely what we are elected to do and as a number of my colleagues have argued forcefully and eloquently with respect to the war power, a responsibility rooted deep in the history of the Constitution. I believe the American people will not be fooled, and if sequestration occurs will hold responsible those who voted to avoid this responsibility.

Fourth, I think this so-called fix contains a number of seemingly innocuous changes in the current committee structure of the House and the Senate which will only heighten the current institutional crisis the Congress now faces in this never-ending budget process. No hearings were held on these proposed changes so it is difficult to comment on them with any authority. But I can say that a quick reading of some of them gives this Senator cause for concern.

For example, section 202 which deals with asset sales sets out certain determinations to be made with respect to an exception which would allow transfers to be counted as savings, and I assume incuded in a reconciliation bill. However, it is not clear who makes this determination—the authorizing committee, the Budget Committee, or the Senate. Who does this has major substantive implications which every committee member who has been involved in putting substantive legislation together should be concerned about.

Other provisions which seem to give the two Budget Committees rather than CBO scoring authority also concern me. We seem to be setting the stage for even more divergence between the House and the Senate, divergences which have caused serious and at times crippling problems on appropriations bills because of different allocations, different scoring conventions, and the Fazio exception which only applies in the House. I fear those new changes are only going to exacerbate an already untenable situation, a situation which I believe could have been avoided had we had thoughtful and open consideration of these changes in the appropriate committee forum.

Mr. President, the deficit problem cannot be solved by procedure, only substantive proposals which require the President and each Member of Congress to stand up and be counted will result in meaningful progress in reducing the triple digit deficits we are facing from now until as far as the eye can see.

I will support specific proposals, as I have in the past, to reduce the deficit.

I won't support mischeivous, and in my view misleading, procedural changes which will only make it more difficult for the Congress and the President to face reality and deal with substance.

GRAMM-RUDMAN-HOLLINGS—MOVING IN THE RIGHT DIRECTION

Mr. KERRY. Mr. President, today, as in 1985, I support Gramm-Rudman-Hollings as an unfortunately necessary cure to our budget crisis. This budget process effected by Gramm-Rudman-Hollings should permit us to achieve three goals:

Reverse the pattern of escalating Federal deficit spending and set this Nation on the glide path to a zero deficit; set definite, hard targets for ourselves and the President as markers on the way to a zero deficit and to force compliance with those deficit targets with, if necessary, automatic reductions in spending called a sequester; make possible sequester reductions fair and equitable for all categories of Federal spending, thus reversing the pattern of this administration: devasting domestic program reductions and massive military spending increases while Federal revenues were reduced.

I support the modifications to Gramm-Rudman-Hollings contained in the conference agreement because I believe it keeps us on a path of deficit reduction. We have made progress in this area as the fiscal year 1986 deficit of an all-time record of $221 billion will now be reduced to under $160 billion in the fiscal year about to conclude.

But like many of my colleagues who voted for the conference agreement I have several important reservations. They are serious reservations and make this a difficult vote.

I prefer a $36 billion reduction in the baseline, as originally adopted in the budget resolution, than the $23 billion reduction provided for in the conference bill.

Similarly, while I recognize that the deficit targets needed to be stretched out, I believe they are being stretched out too far to 1993 so that the deficit will decline too slowly. Moreover, too much of the deficit reduction comes in the outyears, thereby unfairly burdening future administrations without requiring this administration to face up to the budget mess it has created.

Finally, I still believe that defense spending, as in the budget resolution, is too high for my priorities. Like many of my colleagues I hope that we can avoid a sequester order because I am not yet convinced that defense programs, given the President's flexibility to shift some funds within defense categories, would, in reality, be curtailed.

Senator BENTSEN, Senator CHILES, and the other conferees are to be commended for forging a viable consensus on deficit targets. While many of my colleagues—including members of the conference committee—would prefer lower deficit targets I believe we all recognize that given the constraints we have adopted a reasonable set of deficit targets.

Mr. LEAHY. Mr. President, I rise in support of the compromise reached by the House and Senate conferees on the debt ceiling extension and the Gramm-Rudman-Hollings balanced budget law. While I do not agree with every provision of the conference report, on the whole it deserves the Senate's approval.

Earlier this summer, it appears that Congress had given up on the effort to reduce the Federal deficit which began with passage of the Gramm-Rudman-Hollings balanced budget law in 1985. As one of the early supporters of that law, I am pleased that the House and Senate agreed on a plan to restore the Gramm-Rudman-Hollings discipline. The conference agreement will help reduce the deficit next year by more than $23 billion and by $36 billion annually thereafter, until the Federal deficit is retired.

Our efforts to reduce the Federal deficit are back on schedule. This year, the conference agreement should lead to a sensible combination of cuts in spending and modest increases in revenue—increases which will not require an individual income tax increase. During Senate consideration of the budget for the next fiscal year I voted to cut the level of taxes by more than $5 billion. The conference agreement includes the reasonable level of revenues which I supported earlier.

The measure before the Senate will also restore the automatic cutting mechanism to the Gramm-Rudman-Hollings law, but without jeopardizing programs that help the needy and senior citizens. As under current law, Social Security benefits, Federal retirement benefits and programs that help those most in need will not be subject to these automatic cuts.

The compromise agreement will ensure, however, that if a sequester ever occurs, the spending cuts will be divided equally between defense spending and domestic programs. By holding out the prospect of equal cuts in defense and domestic spending, every Member of Congress and the President, whether hawks or doves or advocates or critics of social programs, are encouraged to find a more reasonable way to reduce the deficit and avoid such across-the-board cuts.

While all of these changes will further the gains we have made toward reducing the Federal deficit in the last 3 years, one provision of the conference agreement concerns me. On July 23, I voted for Senator CHILES' original plan to revive Gramm-Rudman-Hollings. That plan would have given Congress an opportunity each year to vote up or down on sequesters, instead of allowing bureaucrats at the Office of Management and Budget to carry out these cuts.

The Constitution specifically gives Congress the authority to make tax and spending decisions. I believe we should face up to this responsibility. Congress should make the tough decisions to reduce the Federal deficit and, if necessary, vote on sequesters. Unfortunately, the Chiles' plan was not included in the final conference agreement.

With this reservation, I urge the Senate to put Gramm-Rudman-Hollings back on track, and approve the conference report.

A BITTERSWEET VOTE

Mr. PROXMIRE. Mr. President, I am going to vote against this conference report, not because it repairs Gramm-Rudman, but because it increases the debt limit to a staggering $2.8 trillion.

Why this huge increase in the debt limit? To get the Congress and the President past the witching hour of November 1988. In that month the voters will choose a new President, a House of Representatives, and one-third of the Senate. If we had an acrimonious debate on the deficit, and on the debt limit, those voters might get the idea that we really have not done that much to reduce the deficit. Who knows how they might vote with that debate ringing in their ears.

This increase is a political insurance policy for incumbents. The repairs to Gramm-Rudman may not work, as a number of speakers have pointed out. Next year being an election year, we may find a number of loopholes in the law. Neither party may want to take the heat of trying to make one more repair in the heat of an election campaign.

Would we need this big an increase in the debt limit if we were going to meet the new targets in this bill? The answer is no. The deficit for fiscal year 1988 is not to exceed $144 billion. Add that to the existing debt, and you reach $2.5 trillion. Add in the target for fiscal year 1989—$136 billion—and you come to about $2.65 trillion. That should get us through September 1989. The fact that we are increasing the limit to $2.8 trillion, and saying that it will last until May 1989, says something about how well we will adhere to the new targets.

I favor the repairs to Gramm-Rudman. They are complex, and they may be subject to manipulation, but right now they are the only game in town. Given the Congressional Budget Office's new projections on the deficit, which indicate that it will stay in the $175 billion range, mean that we must do something. The new targets should be tougher, especially for this year and next. This criticism notwithstanding, this part of the conference report is still a notable improvement over what we have done so far this year.

Were it not for the increase in the debt limit, it would have my support. Unfortunately, that $2.8 trillion is more than this Senator can swallow.

Mr. GRASSLEY. Mr. President, I have chosen to support this Gramm-Rudman-Hollings fix because, as many of my colleagues in support of this measure have said, it is the only game in town. If deficit reduction is going to occur this year, it'll occur because of the threat of an automatic sequester. This is how we will ensure that the savings contained in the reconciliation bill are indeed achieved.

I am mindful of the impact of a sequester on Government services in Iowa and the rest of the country, particularly in agriculture. And of course we must keep in the back of our minds that deficit reduction is just as important to the farming community as anything else we can do here in the Senate.

Nonetheless, my vote for this fix is not an endorsement of that sequester. Rather, it is intended to support keeping alive the slim opportunity we have this year to achieve real deficit reduction. Frankly, I fail to see anything out there on the horizon that would give us any hope should this measure fail. It is certainly not a very solid fix, and I believe the ranking member of the Senate Budget Committee spoke very eloquently and persuasively against this fix. And, in fact, he may be right in the final analysis. But in the absence of any alternative, Mr. President, I am taking the step here, in this vote, to support the slim opportunity before us. If it fails, we will have to come back and address the issue again. I hope it will not fail.

Mr. RIEGLE. Mr. President, I have expressed my opposition to the Gramm-Rudman-Hollings approach many times in the past and I want to state them again now. This attempt to fix a failed policy actually has the perverse result of reducing incentives for the President and Congress to work together to solve the deficit problem. This is not the way to deal effectively with the massive deficit problem facing our Nation today.

The original Gramm-Rudman law was a failure in large part because it side stepped the problem and added another layer to the already complex budgetmaking process. The legislation today is even more convoluted and complicated than before. It is unworkable and will break down again under its own weight.

Changes in the budget process are no substitute for setting Federal priorities and making hard choices. As we have learned since Gramm-Rudman went into effect, there's always a way around a procedural fix. Federal deficits can only be reduced by honest budgets and painful choices, not by amending the operating rules of Congress or by creating a random slashing of programs regardless of their effectiveness or importance.

Even though the deficit target for 1988 has been increased from $108 to $144 billion, the target really is misleading. Under this change, we would only reduce the deficit by $23 billion, a major retreat from the congressional budget resolution reduction amount of $37 billion. For fiscal year 1989, the so-called target deficit is almost double the target enacted by the original Gramm-Rudman statute. This retreat from the goal of $36 billion in annual deficit reduction is another indication of the failure of this process.

Further, this new law contains a new escape provision—if indeed we are faced with a sequester resolution; a mechanism that will again change the sequester resolution or to abandon it altogether. This indicates the ultimate lack of confidence the authors have in this approach to reducing the deficit. We are wasting our time on arcane and unworkable procedure when our goal should be to get the President and Congress together to come up with a workable reconciliation bill that makes real, lasting reductions in the Federal deficit.

Mr. President, I commend all serious efforts to bring down the deficit. But I think we're headed in the wrong direction. Rather than try to jerry-rig a failed system, we must take steps to confront the deficit head on. The President should convene a summit with congressional leaders this year and put all options on the table. Otherwise, our economy will continue to struggle under the growing weight of these massive deficits.

Mr. BENTSEN. I yield to the distinguished minority leader.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, I have been listening to the debate off and on today. I first want to express my appreciation to all Senators, particularly Senators on this side of the aisle, although the distinguished chairman, Senator BENTSEN, and Senator CHILES on the other side have been very busy also.

I have listened to Senator PACKWOOD, who has made a great contribution; and to Senator DOMENICI, who has a different view. But I think over the past several weeks and months Senator DOMENICI has made vast and positive changes in the original product and the end product.

I would also note the contributions of Senator PHIL GRAMM, who was sort of the father of the original legislation and, of course, deeply interested in what happens today.

I am going to vote for the conference report. I think all of us have questions. I know, as I travel around the country these days, people ask about the deficit. They ask why Congress is not doing something about it. They ask "What are you going to do about it? What would you do about it?"

Everybody wants to bring the budget into balance as quickly as possible. A lot of people have a lot of good ideas. They do not have the votes, but they have got the ideas—a line-item veto, a constitutional amendment for a balanced budget.

Those obviously are very important, but we are not dealing with that today. We are dealing with what we have before us. It is not a perfect product. Gramm-Rudman-Hollings was not perfect at the outset, as the Supreme Court indicated. But we did admit in 1985 that the process was not working.

We missed by one vote adopting a constitutional amendment for a balanced budget in this body. I think we had 66 votes and we needed 67. And we missed by a couple of votes the line-item veto. We needed 60 to break a filibuster, as I recall, and we had 58.

The question today is whether we want to reinstate, by the so-called Gramm-Rudman-Hollings fix, that budgetary discipline.

By approving the legislation, the threat of automatic sequestration once again exists. I think we would all have to confess that that really is not the way it is supposed to work. Congress is supposed to take certain actions, with the help of the administration from time to time, to avoid what is probably perceived as blackmail, in a sense, economic budgetary blackmail, or call it what you will.

I think we are, at least our constituents think we are, the ones who ought to be making the decisions, rather than some automatic processes that have not worked. That is why we had Gramm-Rudman-Hollings I. That is why we are going to have a Gramm-Rudman-Hollings II. If it works, Congress will have to confront some tough choices and set their spending priorities and revenue priorities. Maybe the budget will be in balance.

It seems to me there are other things that we should have done that we are not doing here: to try a 2-year budget and appropriations cycle, some way to break up the massive continuing resolutions so the President is not confronted with an all or nothing situation. As it stands, you can load up a continuing resolution with a lot of junk and send it to the President. He does not have any alternative but to sign it or let the Government come to a screeching halt.

I would prefer a proposal that would guarantee there will not be any tax increase and I do not think we made that judgment today. I think what we are saying today is that we are going to pass this; the spending and taxing decisions are going to come later. They will be made, those suggestions and recommendations, when we have reconciliation and appropriations legislation. Like everybody else, we will all have to review that legislation. Certainly I will, particularly as it may address itself to any revenue changes or attempts to treat defense unfairly.

So, what we have before us is probably not perfect. But there is one other matter in this package that I think deserves some attention. I think in many cases that to many Senators it may be the deciding factor. We will be back, probably, addressing some of the problems in the Gramm-Rudman later. I would guess the next President may not like what he sees in this package. But there is one thing that I think has a lot of merit and that is extending the debt ceiling to get it beyond the 1988 election.

I recall when I was the chairman of the Finance Committee, I do not know how many times we had to extend the debt ceiling, but it seemed like it was every other week. Every time it is brought to the floor, as the distinguished chairman of the Finance Committee knows, it is fair game. I think at one time we had 21 different amendments on the debt ceiling dealing with everything from foreign policy to economic policy to farm policy; none of which was in the jurisdiction of the Finance Committee or the Ways and Means Committee in the House.

I think what we are saying is the United States, if it wants to continue paying its bills, if we want to continue our credibility worldwide, for at least 1½ years we are going to engage in fiscal brinksmanship. That I think is going to be of some solace to the markets and others who look to us reliable in many, many ways. One of the best elements of this package is it is going to increase the debt ceiling through May of 1989.

So, I thank the distinguished manager of the bill. This does keep the process moving in the right direction, hopefully keeps the deficit moving in the right direction, and that is down. I believe, based on the information that I have, that it is in our interest to support the conference report.

Again, I would say, some of my most respected colleagues, particularly the distinguished Senator from New Mexico, has a different view, one that I respect totally. I want to again express my appreciation to him for moving the process in the right direction and for raising the objections he has today.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have the greatest respect for the authors of the proposition before us and I applaud their efforts for reaching a compromise under some most extreme conditions. They have worked hard and it might be argued that this is the best than can be done under the circumstances. I do not slight the intentions of the authors, I simply disagree with the underlying premise of the Gramm-Rudman philosophy.

I fully share the authors' concerns regarding the growing Federal budget deficit. I have authored a constitutional amendment to require that the President submit and the Congress enact a balanced budget and legislation to reform debt ceiling approval. In my view, if the debt ceiling is to be increased, it should accompany actual deficit reduction and be tied directly to the Federal budget. I am also a cosponsor of legislation to give the President enhanced rescission authority which would allow the President to immediately send items contained in appropriations bills back to Congress for reconsideration. I have also long supported legislation to grant the President line-item veto authority.

Mr. President, I realize that all the process reform in the world alone will not solve the deficit crisis. There are only three ways to reduce the deficit; cut spending, improve receipts or pursue a combination of both. The real problem is not procedure, it is people. The deficit crisis will not be solved until the congressional leadership and the President sit down and work out a program of shared sacrifice. As a former Governor who put together eight balanced budgets, I can attest to the fact that there are no procedural magic wands, or painless ways to cut spending. Only hard work, tough negotiation, and good faith efforts to reach a consensus can produce meaningful deficit reduction.

I have been a consistent opponent of the Gramm-Rudman law. In spite of several positive factors, much of the Gramm-Rudman scheme is poor public policy. I have opposed the Gramm-Rudman law over the years because it is an abdication of congressional responsibility; it delays meaningful action on the deficit; the result it produces is grossly unfair; and after 2 years of operation it has not worked.

In this bicentennial year, the Gramm-Rudman automatic sequester is an idea which goes against the very foundations of congressional power and responsibility. The Constitution of the United State grants the Congress the power to lay and collect taxes, pay debts and provide for the national defense. Gramm-Rudman turns congressional responsibility over to the President's Office of Management and Budget. If the economic forecasters determine that the Congress has not reduced the deficit by a sufficient amount, the authority to cut a portion of the Federal budget is turned over to the head of the Office of Management and Budget. I do not believe that the American people elected the Congress to turn over its constitutional fiscal responsibilities to an unelected bureaucrat.

The entire Gramm-Rudman process actually delays serious action on the deficit. The budget reconciliation bill passed in 1986 is a prime example of the type of deficit reduction the Gramm-Rudman process inspires. The bill was loaded with spending shifts, one-time asset sales and accounting gimmicks which reduced the deficit projections, which technically met the Gramm-Rudman targets for the purposes of avoiding a sequester. The Congress did very little to reduce Federal borrowing or reduce the structural deficit. Rather than force action, the Gramm-Rudman process fakes action. I will concede that the latest incarnation of the Gramm-Rudman amendment goes a very long way to close the many known loop holes. However, in this environment, it is only a matter of time before new loopholes are discovered. One obvious weakness in this new incarnation is that it will likely encourage appropriators to "pad" accounts to cushion the effects of a sequester.

Most disturbing is the fact that if the Gramm-Rudman procedure were played out, it would produce a result which is grossly unfair. In its basic and theoretical form, there is great appeal to taking across-the-board action to reduce the deficit. I have worked over the years to formulate across-the-board freeze budgets. If the Congress is unable to reduce the deficit, it makes a good deal of sense to freeze or reduce each program by a uniform amount to deal with a budget shortfall. Such a procedure spreads the burden of deficit reduction and preserves the relative priority of each program. Unfortunately, Gramm-Rudman is not across-the-board deficit reduction. Over half of all Federal spending is exempt from the Gramm-Rudman formula reduction. Those nonexempt programs must absorb a disproportionate share of the deficit reduction burden. Agriculture, for example, takes an extremely heavy hit in a sequester scenario. Agriculture which accounts for about 3 percent of the budget would take a 10-percent reduction even under the limited sequester established for 1988. No one can say that Gramm-Rudman does not hurt farmers.

After 2 years of operation, by and large, Gramm-Rudman has not worked. The new version of the law does not bring with it a new promise of deficit reduction. If anything, it pushes difficult decisions away from this Congress and President Reagan onto the next Congress and the next President. In the first year of the Gramm-Rudman law's operation, the United States rolled up a $220 billion deficit; the largest ever! The Congressional Budget Office [CBO] just reported that in 1987 the deficit will likely exceed $160 billion, about $20 billion above the current Gramm-Rudman target. However, the acting director of CBO acknowledged that this slight improvement in the deficit picture is largely temporary and due to an unexpected windfall from tax reform, spending shifts, and one-time asset sales. After 1987, the deficit once again takes an upward path and hovers indefinitely in the $200 billion area. Today, the Congress is attempting to put off dealing with the long-term problems of debt and deficit.

Let's be honest with the American people. There were not sufficient votes to increase the debt ceiling, 2 years ago, to over $2 trillion and today to $2.8 trillion. The original Gramm-Rudman law and today's latest incarnation is basically a device to garner sufficient votes to extend the debt ceiling to a new and extraordinary level.

Mr. President, the Gramm-Rudman philosophy works to reduce deficit estimates, but time has proved it is a meager tool for actually reducing deficits. It is a way for Congress to congratulate itself for having fiscal courage without making a single decision on the spending and revenue issues which produce the debt and deficit. The future of deficit reduction does not hinge on the adoption of an automatic trigger for the Gramm-Rudman law. It hinges on political will and bipartisan cooperation. From the first day of Budget Committee hearings, the members of the majority called on the President to meet with the congressional leadership in a budget summit to really fix this problem. To date those requests have fallen on deaf ears. If the President can negotiate with the Soviets, certainly he can negotiate with the Congress.

The debt and deficit are the nuclear nightmare of the President's fiscal policy. It is time to stop hiding and start working toward deficit disarmament.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Chair. I do not intend to say anything further. I just wanted to say to you, Senator BENTSEN, as the chairman of our conferees, obviously because of the nature of the debt ceiling bill, it has befallen you twice, one in a ranking position and one as chairman, to be a lead person taking to conference on that little simple thing called the debt limit this very complex issue.

I truly want to say to you two things: It is not normally my privilege to be on conference with you because I do not serve on your committee. Second, it was really a privilege to serve with you, and I want to thank you for the way you conducted the hearings, they were difficult; for your tenacity; and for both you and your staff's dedicated work in trying to come up with a solution.

It happens in this case, obviously, that I do not agree, but I did want to tell you that it has been a privilege working with you. Obviously you understand intimately how to get things done. I was glad to be part of it right up until the end, and I am sorry on this one we disagreed. I am certain there will be many times in the future we will have a chance to agree.

Mr. President, I want to also thank the distinguished ranking member, Mr. PACKWOOD.

I want to say that it will fall on his shoulders to either chair or be the ranking member of the committee. We will not have a debt limit bill before us for some time now.

I want to say to him also, frankly, we are dealing with issues that he has no responsibility in. I want to thank him for all the hard work he has done, for the excellent staff work, for the quickness with which he grasped the issues, and for participating fully in arriving at this compromise. I compliment him and I thank him.

Mr. PACKWOOD. I thank my good friend.

Mr. BENTSEN. I would say to my distinguished friend, I served on the Environment and Public Works Committee where he was a very vital member. I have enjoyed his friendship and I have a great respect for his ability and integrity.

As I listened to the distinguished minority leader talking about extending this until May 1989, we would not have to bring up the debt limit again, I could not help but think how many things we have attached to it. I learned more about the budget process than I ever intended to learn. But it has been a fascinating study for me. I have enjoyed it and you have been educational in the process. I appreciate that and I thank you very much for your cooperation working on that.

Mr. DOMENICI. Can we get the yeas and nays, Mr. Majority Leader?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader is recognized.

DEBT LIMIT/GRAMM-RUDMAN FIX NEEDED NOW

Mr. BYRD. Mr. President, the tale of deficit reduction this year has been a tortured one so far. It has been marked by frustration, intransigence, delays, and a lack of results. Shortly, I hope the Senate will take the next step needed to achieve significant deficit reduction by approving the conference report on the debt limit, which includes restoration of the automatic sequester process under Gramm-Rudman.

Earlier, the House adopted the conference report with a bipartisan vote of 230 to 176. It is important for the Senate to do likewise and send the conference report to the President today for two reasons. First, the temporary extension of the debt limit expires at midnight tonight. Unless the conference report is agreed to before then, the Government will run the risk of default at the end of the month.

I hope all my colleagues recognize the seriousness of that situation.

I understand there is enough cash on hand to keep the Government running for a few days yet, but, in any event, a default by the U.S. Government on its financial obligations would be unprecedented. It could create chaos in worldwide financial markets and jeopardize millions of benefit checks and other payments.

But there is a second, perhaps more fundamental, reason to approve this conference report, and that is to achieve real, significant deficit reduction this year. There should be no mistake about it. The fate of Gramm-Rudman is the fate of deficit reduction for the next 2 years.

Last month, CBO and OMB released their joint report required by the current Gramm-Rudman law. In it, the two agencies estimated that the deficit for next year will be $172 billion if nothing is done to reduce it. That is an increase of $14 billion over this year's expected deficit of $158 billion.

Mr. President, it is clear from this report that unless we take action, the deficit will resume its upward spiral. This administration has already achieved the dubious distinction of saddling the country with the double debt blues—huge deficits both in trade and the budget. We in Congress have been trying to change that, with legislation designed to lower both deficits.

Unfortunately, we have met with resistance and obstruction by the White House and some in Congress on both issues. The White House has opposed restoring the heart of the Gramm-Rudman law.

Much of the opposition we have encountered comes from those who have said that economic growth will solve the budget deficit problem. It has not been solved. I believe that it is time to disregard that advice and take steps to do what we know must be done.

It has become clear to me that the key to deficit reduction this year is restoration of the automatic sequestration procedures under Gramm-Rudman. The White House has been so intransigent, so unyielding on the issue of deficit reduction that I have come to believe that the best hope of achieving it is to hold over both the Congress and the President the prospect of large, across-the-board spending cuts that will occur automatically unless more responsible action is taken to reduce the deficit.

What I am saying is that we have to hold the gun at the temples of both the President and the Congress. And to my colleagues on both sides of the aisle, may I emphasize that they should be aware that the gun is there not just at the temple of the President, but also at ours.

I regret that we must resort to such a process to force action on the biggest menace to our future prosperity—the deficit. But the unwillingness of the White House to cooperate in this effort has brought me, reluctantly, to this position.

The present Gramm-Rudman law does not contain the needed incentive for deficit reduction. The sequester resolution that is now on the calendar can be vetoed by the President. Thus, it does little to force him and the Congress to engage in a cooperative, serious effort to reduce the deficit.

Unless the automatic sequester process is restored, I fear that any significant deficit reduction will have to await January 1989 and the inauguration of a new President. That is a terrible situation for the country and for the new President.

Mr. President, I hope that there will be bipartisan support for this effort.

I hope there will be strong support on my side of the aisle. I am delighted that the distinguished Republican leader has announced his support. And, of course, it has the support of Mr. PACKWOOD and others. I think we all need to join together and show a very strong, bipartisan supportive position.

I know that there may be disagreements over the specific ways to reduce the deficit. But those differences should not paralyze us. The need to reduce the deficit should transcend those disagreements. Restoring the automatic trigger in Gramm-Rudman is absolutely essential to achieving any significant deficit reduction this year.

The change in Gramm-Rudman contained in the conference report does not specify how deficit savings are to be achieved. It does not say raise so much in new revenues or save so much in spending. It says that unless you reduce the deficit—by $23 billion next year and more the following years—there will be certain, across-the-board cuts in spending without regard to important national priorities. The specifics of how the deficit reduction targets will be met are left to the discretion of the Congress, which is as it should be.

So I ask all Senators for their support.

The message we send from here today will be heard, not only in the financial markets around the country, not only around the world, but also downtown, at the other end of Pennsylvania Avenue.

With strong bipartisan support, we can set in motion a process that can result in sure, certain deficit reduction, ultimately leading to a balanced budget. Without it, we likely will continue to wallow in a growing mountain of debt—a debt that saps the lifeblood from our economy and forces our children to bear the burden which is rightfully ours.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN. Mr. President, I cannot close without thanking the majority leader for his support which has been so helpful.

I want to say to the distinguished ranking member on the Finance Committee, without his help, I do not believe we could achieve what we are trying to achieve. I think he has been very forceful and eloquent in his help.

Mr. PACKWOOD. I appreciate the comments of my colleague.

Mr. BENTSEN. And I thank the chairman of the Budget Committee for his long, hard work along the way.

Mr. President, I urge adoption of the conference report.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD. Mr. President, I would be recreant in my duties to my colleagues, if I did not compliment the distinguished Senator from Texas [Mr. Bentsen], the chairman of the Finance Committee; the distinguished ranking member of that committee, [Mr. Packwood]; and the distinguished Senator from Florida [Mr. Chiles], the chairman of the Budget Committee. While I cannot thank Mr. Domenici for his support on this matter, I can certainly thank him for the courtesy, the consideration, and the understanding he always extends to all of us. He is a very capable and able Member. He sees this thing as he sees it, and that is for him to decide. I respect his viewpoint even though I do not agree with it.

But these other Senators have worked hard in support of this measure. They have labored to bring the measure to the floor. They labored in conference with the other body. They worked hard and always, of course, with the threat hanging over them that even all of this work may in the final analysis prove to be in vain. But they tried and they produced a good product. I thank them on behalf of all of us in the Senate.

I also express appreciation to Mr. Gramm for the work that he has done in this instance. I hope we can produce the kind of vote which will convince the other end of the avenue, the White House, that we have a package here that is entitled to, and deserves and commands, the support of the Executive as well.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the conference report.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—64

Armstrong
Baucus
Bentsen
Biden
Bond
Boren
Breaux
Bumpers
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Daschle
Dixon
Dodd
Dole
Durenberger
Evans
Fowler
Graham
Gramm
Grassley
Hatch
Heinz
Helms
Hollings
Inouye
Karnes
Kasten
Kennedy
Kerry
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pryor
Quayle
Reid
Rockefeller
Rudman
Sanford
Sasser
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Wilson

NAYS—34

Adams
Bingaman
Boschwitz
Bradley
Burdick
Conrad
D'Amato
DeConcini
Domenici
Exon
Ford
Garn
Glenn
Harkin
Hatfield
Hecht
Heflin
Humphrey
Johnston
Kassebaum
Lautenberg
Metzenbaum
Mikulski
Nunn
Pressler
Proxmire
Riegle
Roth
Sarbanes
Shelby
Specter
Warner
Weicker
Wirth

NOT VOTING—2

Gore
Simon

So the conference report was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask the Chair to lay before the Senate the unfinished business.

The PRESIDING OFFICER. The clerk will report the unfinished business.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Pending: Weicker-Hatfield amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The majority leader.

Mr. STENNIS. Mr. President, may we have quiet? This is an important matter.

The PRESIDING OFFICER. The Senate will be in order.

I thank the Senator from Mississippi.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, if the Chair will indulge me momentarily, and if all other Senators will.

Mr. President, that I might facilitate matters, does the order which was entered into protect me or my designee for the purpose of offering an amendment in the second degree to the amendment by Mr. Weicker with the understanding that there could be some debate and, in that event, I would be protected against any motion or amendment?

The PRESIDING OFFICER. The Chair will discuss this with the Parliamentarian.

The opinion of the Chair is that the order does so protect the majority leader.

Mr. BYRD. Mr. President, I thank the Chair.

Might I have the understanding of the distinguished Senator from Connecticut—I do not want to delay his getting on with whatever he wishes to say—that at some point, however, he would yield to me so that we could perhaps get some agreements on other matters. We are currently talking about taking up the nomination of Mr. Sessions and possibly having a very short debate thereon. We are also talking about hopefully getting an agreement to take up the continuing resolution, when it comes over from the House, without any amendments thereto.

If I could just have the understanding of the distinguished Senator, in the event we are ready to pursue those matters, that he would yield temporarily without losing his right to the floor and without the Record showing an interruption of his speech.

Mr. WEICKER. In response to the distinguished majority leader, absolutely. I have no intention in any parliamentary way—I do not think I could if I wanted to—of preventing the majority leader from taking the floor to make whatever request he desires.

But I do want the Record to show something else, and that is that I am perfectly willing to have a vote on the Weicker amendment at this instance, right now, and that in no way is it the Senator from Connecticut or the Senator from Oregon who is preventing such a vote from taking place, nor are we preventing the business of the Senate.

As long as the record is clear on that point, I can assure the majority leader that I do not want to hold up the Senate on whatever business it has to do.

Mr. BYRD. Mr. President, I am glad the distinguished Senator has said what he just said, because some impression might have been given by the request that I made of him that I was implying that the Senator was going to hold the floor. I did not mean that at all. I just do not want to hold up the Senator. At the same time, I do not want to hold up getting another agreement, if we can reach an agreement, on one of the other matters.

I am happy with the understanding of the distinguished Senator. I can assure him and all who are within listening and seeing distance that not for a moment did I feel that he was wanting to hold up the floor. I know he is ready to vote at this point. I thank him.

Mr. WEICKER. Mr. President, might I ask the distinguished Senator from West Virginia, through the Chair, whether there is any possibility that we are going to have a vote on the Weicker amendment or any amendments thereto before the hour of 6 o'clock, the curtailed hours being necessary because of the religious observance? Is there any chance this might be accomplished within the next hour and a half?

Mr. BYRD. I think the distinguished Senator is entitled to have an answer to that question. In responding to the question, I should say that a bipartisan group of Senators has been meeting to develop the amendment in the second degree, and that group includes Mr. WARNER, the ranking member of the Armed Services Committee. That group is still working. We have produced I believe this is the third draft and we are diligently working.

But I would doubt that within the next hour and a half we could reach a vote on that amendment. That is my honest reaction. The distinguished Senator from Virginia [Mr. WARNER], is he cares to, might elaborate.

Mr. WARNER. Mr. President, I join the distinguished majority leader. There is a very conscientious bipartisan effort. And, I might say, my two colleagues who are the proponents of this amendment initiated the momentum which is now moving forward. We began, I think, this morning at 9:30 and we have spent some 5 to 6 hours on this matter. I assure them that it is being carefully considered.

The current draft strikes me to be a very fair approach to this situation and one which I possibly think the proponents of this amendment would want to look with considerable care to possibly joining.

I concur in your view that, assuming we reach the fourth and final draft here shortly, it might be laid down tonight. You are really the spearhead on this whole effort, the leader. I would think it would require some discussion, certainly, by the group of Senators who have worked on it. You would undoubtedly have some thoughts on it and, therefore, such time would be consumed. And, assuming the hour of 6 o'clock is the terminate point tonight, it is not likely a vote could be reached on it.

Mr. BYRD. I think were we not inhibited or fenced in by the 6 o'clock hour, I think we very well might dispose of the subject matter, as far as this Senator is concerned. It may not be in accord with other Senators' thinking. But I think the 6 o'clock hour that we have been pointing to for the last day would probably prevent disposition of the matter today.

I yield to the Senator from Georgia so that he might contribute his thinking.

Mr. NUNN. I missed the first part of the colloquy, but I did want to give a rundown on where we stand on other amendments. I do not have any real comments on this particular amendment.

Mr. WARNER. Mr. President, what the distinguished leader and I have said is that there is a small group, I am sure the chairman would indicate that he is a member of that group, working on a bipartisan agreement which would take the form of an amendment, and that agreement would require a considerable discussion both by the group who prepared it and by those who are interested in this issue. Therefore, we are not likely to reach a vote tonight on anything the majority leader would lay down.

Mr. WEICKER. With my good colleague from Oregon in remarking on the comments of the distinguished Senator from Virginia, we have have initiated these discussions but we did not participate in them.

Mr. WARNER. Mr. President, I say to my good friend that there will come a time when you will participate, and many will have the benefit of your erudite observations.

Mr. NUNN. I thought the distinguished Senator from Virginia was speaking for the distinguished Senator from Connecticut and the distinguished Senator from Oregon. We are shocked not to find that to be the case.

Mr. WEICKER. That is testimony to a former colleague of ours. It is very difficult to state Jake Javits' position. That is the problem being confronted. I doubt that they will do better than he.

Mr. WARNER. Mr. President, I would say as we look at this issue, a careful examination of the law indicates that both the executive branch and the Congress want to work within the spirit of the law, and we hope to achieve that. I think that is important. It is not a cut and run situation. We are trying to work within the spirit of the law, not the letter. Not the letter, but the spirit of the law.

Mr. NUNN. Mr. President, my own view is that we need to work both within the spirit and the letter of the law, but we also need to do so in our own security interest in the Persian Gulf area and that area of the world. That is not an easy task, as has already been observed.

Mr. President, I do not know who has the floor.

Mr. WARNER. Mr. President, if I could join with the observation of my distinguished colleague, he said the security interest of our Nation, and that is absolutely true, but also the security interests of our allies are involved. There is a composite of nations that have come together to address this crisis in the gulf and we must consider their interests as well as the interest of this Nation.

Mr. NUNN. If the Senator from Virginia has the floor, will he yield?

The PRESIDING OFFICER. The Chair will advise that the majority leader has the floor.

Mr. BYRD. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, I would like to have the attention of the majority leader and my friend from Virginia.

I would like the Senate to have some idea about the rest of the week and where we are in this defense bill before we get into any more debate on this particular amendment.

The PRESIDING OFFICER. The chairman of the Armed Services Committee has a request of the majority leader.

Mr. NUNN. I would like to acquaint the majority leader about where we stand on this Department of Defense bill so that our colleagues can begin to make plans for the remainder of the week.

It is my understanding that we will hopefully be able to get this amendment up and perhaps the substitute to that and debate those in due course, and perhaps stack votes on those two tomorrow afternoon.

Then I would hope to have two chemical amendments up, one by the Senator from Oregon and another by the Senator from Arkansas, and have those stacked for tomorrow afternoon.

Then I would hope to have the Kennedy amendment up on testing, have that up tomorrow and stacked for tomorrow afternoon.

Then a possible Kennedy amendment on aircraft carriers that I hoped we could debate and stack for tomorrow afternoon.

I would anticipate that we will have four, five, or six votes sometime after tomorrow afternoon. I would anticipate a very busy day in terms of debate, if that is in accordance with the desires of the majority leader.

Mr. BYRD. Mr. President, first I beg the Senator's pardon for having been distracted. I distracted myself. It was not because of someone else.

The chairman is pursuing a wise course. It is the only way to go forward with action on this bill and hope to finish it this Friday or Saturday, or even Tuesday of next week.

So, while we will not be having rollcall votes after 6 o'clock today, though we may yet have a rollcall vote today on a nomination or some such, it is a course which I very strongly support, that we proceed and try to line up our votes and call up our amendments. We may have our amendment in the second degree that will be offered still this afternoon, be able to debate it, and agree to stack that for tomorrow after 6 o'clock. That would be a good beginning.

Then whatever other amendments the Senator can encourage by way of getting Senators to call them up, I hope he can do it. I compliment him on his approach.

Mr. NUNN. If I can say again, with the attention of the majority leader and my colleague from Virginia, for the rest of the week the way it appears to me if we can dispose of the amendments I have already outlined, including the pending amendment, in that general framework, we have a Bumpers-Leahy amendment on SALT II.

I would like to propose to my friend from Virginia a 3-hour time on that amendment equally divided. Not now but I would like to have him think about that and see if we can get that agreement tomorrow.

I know the Senator from North Carolina has an amendment on the ABM matter. I would like to get a time agreement on that one. I was going to suggest maybe an hour equally divided, but I will defer to the Senator from North Carolina for his feeling.

We have a Wilson amendment, cost effective, I think referring to the Midgetman program and the defensive criteria on the SDI Program. I would suggest a 1-hour time limit on that one.

We have a Gramm amendment on Davis-Bacon and a Gramm amendment on service contracts. That is Mr. GRAMM of Texas. I would suggest those amendments have been debated over and over again and that we have no more than a 1-hour time agreement on both of those.

We have a Gramm amendment on stockpiles that I am not familiar with, but I would suggest a 1-hour time agreement.

We have a Levin amendment that shifts funds from the strategic to conventional forces. I would suggest 1 hour.

We have a Roth amendment on base closures, and I suggest a 1-hour time limit on that one.

We have a Kennedy amendment on carriers. I would suggest a 2-hour time limit on that one.

I would say to the majority leader that I would like Senators' staffs to please bring this suggested list to the attention of their Senators and determine some time tomorrow afternoon or some time during the day if we can secure that kind of a unanimous-consent agreement.

Whether we can or not, I would suggest that we continue tomorrow night and I would suggest that we stay here as late as the majority leader will tolerate and my colleagues will tolerate on Thursday evening, well into the early morning hours, if necessary, coming back on Friday and working all day Friday, Friday night, and Saturday.

The goal I would like to achieve is to avoid a Saturday session and even get away Friday afternoon late, if we can finish this bill or if we can get to the stage where we close off further amendments and we agree that this is the set of amendments that we are going to live with and we have time limits on those with a time certain for final passage of this bill Tuesday afternoon of next week.

I say to my colleagues this is the only way we can avoid going perhaps late Thursday evening, which will be necessary in any event, and perhaps all night Friday and most of Saturday. The reason I say that, and I think this is something everyone should try to recognize, is that we had a week ago 60 amendments pending on this bill. We have been at work. We have had good cooperation from Members on both sides of the aisle. We have had no delay that I know of, purposeful delay. And we still have, guess what, 60 amendments pending. We have not disposed yet of any amendments over the course of a week.

Now, the reason that happens is because this is one of those bills that people view as covering the world and every time something happens in the world, the longer this bill stays here, the more amendments we are going to have. And we are going to go on and on and on. This bill could conceivably be debated in perpetuity, in good faith.

Mr. WARNER. Mr. President, would the Senator outline that course of action? I think it would be very interesting how that works.

Mr. NUNN. There is a rule against perpetuity I learned back in law school in real property but I have forgotten the rule, so I will have to look it up.

The PRESIDING OFFICER. The Chair will help. It is lives in being plus 21 years.

Mr. NUNN. Lives in being plus 21 years. That is probably the length of time this bill is going to last unless we are going to get some time agreements. If we are going to get that time agreement by Friday afternoon, nothing would suit me better than to have everyone get away Friday afternoon late, knowing we are going to finish this bill either Friday afternoon or at a time certain Tuesday.

Mr. HATFIELD. Will the Senator yield?

Mr. WARNER. Mr. President, at an appropriate time I would like to rejoin, but I will yield.

Mr. BYRD. Mr. President, if the Senator will yield, if we can get the agreement on amendments and limit the list to those on which we have agreed and with that a final time for a vote, a final vote on this measure, then we will not be in Saturday.

I hope that will be a little encouragement to Senators to shorten their amendment and perhaps the time limits that the distinguished Senator has stated could be shortened by Senators. That would help the chairman also. I think he is being very generous.

Mr. NUNN. Unless there are a lot of these amendments withdrawn, obviously we cannot complete this bill in that time frame. But if some of these amendments are withdrawn, and if on other amendments we can get agreement on both sides to accept, some of the amendments will go rapidly. And what I have enumerated here are what I consider to be the major amendments.

Mr. WARNER. Mr. President, I would just like to say this side pledges to work this afternoon to establish an agenda for tomorrow so that it can be a productive day, in certain respects, with stacked votes in the evening. It seems to me that is objective No. 1.

This Senator and others will work with the Senator from Georgia tomorrow to establish hopefully an agenda No. 2, which is an acceptable program by which we do not have to come in all night long, we can carry out Saturday plans, Monday plans and have a time next week, possibly Wednesday afternoon, for a final vote.

Mr. NUNN. I certainly hope the Senator from Virginia would not foreclose and would work for a final passage, first of all, Friday afternoon and, second, no later than Tuesday afternoon.

Mr. WARNER. Mr. President, that is up to the leadership of the Senate. I gave my views.

Mr. NUNN. If we start talking about Wednesday afternoon, I really think it is going to make it more difficult to get this kind of agreement and it is going to make it more difficult to get amendments up the next 2 days.

Mr. WARNER. Mr. President, I mentioned it only to indicate that there is considerable thought on this side that we should have a fixed time next week, agreed upon by the two leaders of the Senate, concurred in by the chairman and ranking member.

Mr. NUNN. I understand. I thank the Senator.

Mr. WARNER. We are working toward that objective. So let us have objective No. 1, a full day tomorrow with stacked votes, and during the course of that day this Senator together with the Republican leader, will come forward and try and contribute a plan that would involve the weekend and a time next week.

Mr. NUNN. If we could get the kind of time agreements we are talking about here and if we can have the kind of productive day we are talking about, with chemical weapons, testing amendments, the Weicker amendment and the substitute thereto, go into the evening until a reasonable hour tomorrow night, 10, 11 o'clock, I think it would be possible with these kinds of time agreements and with cooperation to really be able to finish this bill Friday or certainly by Tuesday afternoon. I think that is within the realm of possibility.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. NUNN. I will be glad to yield.

Mr. HATFIELD. I know precisely what the chairman of the Armed Services Committee is going through because amendments on CR's and appropriations bills have had the same effect. To assist the Senator in setting this in some kind of timeframe, I could suggest that we pull the bill down and then offer it as an amendment to the CR where there is a timeframe. There is ample precedent for that, and I would be very happy to take this all to conference on behalf of the Armed Services Committee.

Mr. NUNN. I will say to my friend from Oregon that I have thought about that long and hard in the last 10 or 12 seconds and I would be rather negative on it now, but would keep it alive as a last ditch possibility.

Mr. WEICKER. Will the Senator yield? To get this matter off on the right foot, you have at the present time a request by this Senator for an amendment to transfer defense moneys to the National Institutes of Health for medical research that benefits military personnel. I have asked for 1½ hours on that amendment. I would be willing to have a time agreement of 25 minutes to a side. If that will get the ball rolling here, so be it. I will be glad to agree to that time limit on that amendment.

Mr. NUNN. I would be delighted. I ask the majority leader perhaps if he would pose that time limit. That was an amendment on which we already had a time agreement.

Mr. WEICKER. That is an amendment on the list scheduled tentatively for 1½ hours, no time agreement having been arrived at, I would be more than willing to have 25 minutes on a side and a vote on it.

Mr. WARNER. Mr. President, I do not think either side had the opportunity to consider the offer. Let both sides consider it. I am not at this time able to agree.

Mr. NUNN. That is one on which we have already had a time agreement, and I think the Senator from Connecticut is simply proposing that we shorten the time agreement.

Mr. WARNER. That is clear.

Mr. NUNN. I would be strongly inclined to accept it but will defer to my colleague until he has a chance to consider it.

Mr. President, does the Senator from Connecticut desire to perhaps take that amendment up this afternoon in lieu of the one that is now pending and dispose of it or does he desire to go ahead with this amendment today?

Mr. WEICKER. In response to the Senator from Georgia, I would like to have a rollcall vote on it. We are getting a little close even on the 25 minutes to a side and that would be without any further discussion of the pending amendment. I think there might be a few minutes still allocated to the pending amendment. However, I am prepared to move forward on my other amendment to transfer defense money to the National Institutes of Health.

That would mean, if we started on the National Institutes of Health amendment at 5 o'clock, according to the time agreement which I have proposed, we should be ready to vote at 10 minutes to 6 or quarter to 6. I have no problem with that. If you want to start on that amendment and dispose of it—and I would want a rollcall vote—I am perfectly prepared to start talking to that amendment at 5 o'clock.

Mr. NUNN. I believe that would be moving forward because we are not going to be able to vote on the pending Weicker amendment tonight. We would be able to vote on the other Weicker amendment that he has identified tonight and the Senator would not lose his priority with his amendment that is now pending after disposal the subsequent Weicker amendment.

If we could proceed and debate that amendment now and perhaps we could get a unanimous consent within the next 5 or 10 minutes on the time, that would give us a rollcall vote this afternoon and dispose of one amendment.

Mr. BYRD. We would dispose of one amendment. I hope we could do that. Moreover, I am convinced at this point, having had some discussions, too, that we will not be able to offer the substance of the amendment in the second degree tonight. Consequently, if it is agreeable with the Senator from Connecticut [Mr. WEICKER] and the Senator from Oregon [Mr. HATFIELD] and others that we could agree to temporarily lay aside the amendment by Mr. WEICKER so that other amendments could be brought up, we could continue to make progress on the bill overall, stack the votes after having a vote on the amendment which Mr. WEICKER and the chairman have just addressed. If we could set aside, after Mr. WEICKER finishes his discussion, the pending amendment, or set it aside, bring up the other amendment, we have a vote on it, then if we could set aside that amendment temporarily to take up other amendments so that we could begin stacking them, it would be well. Otherwise, we will not make any further progress today.

Mr. NUNN. I would also suggest while we are discussing this that we get some order of priority tomorrow morning. If the Senator from Connecticut and the Senator from West Virginia would like to go first with this matter and the substitute, if we could begin that debate first thing in the morning and take the substitute and debate that, I think that would be a good place to begin. If the Senators from Connecticut and West Virginia would prefer to do it later in the day, I would ask my friend from Oregon if he would consider bringing up his chemical amendment either before this as a first amendment in the morning or following the disposition——

Mr. HATFIELD. Afternoon.

Mr. NUNN [continuing]. Of the Weicker amendment.

Mr. HATFIELD. Mr. President, I believe that the Senator from Georgia and the Senator from Arkansas [Mr. PRYOR] and I had a little discussion yesterday. We agreed to bring ours up at 4 o'clock on Thursday.

Mr. NUNN. The Senator is correct. I thank him.

Mr. WEICKER. I have no problem. Let me ask the majority leader. I have no problem with commencing debate on the Weicker NIH amendment at 5 o'clock with a time limit, out of deference to my friends who cannot vote after 6, of 45 minutes to be equally divided so the rollcall will go off at quarter to 6. Therefore, under the rules, it should be terminated by 6 o'clock.

I have no objection to that taking place if it meets with the pleasure of the majority leader and the chairman and ranking member of the committee.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I am very supportive of the idea. I would like to see us go forward on that premise.

Mr. WARNER. Mr. President, we are prepared to accommodate these recommendations. We are waiting for the ranking member of the commitee who has jurisdiction. It is my hope to continue working with the majority leader and the chairman on the war powers.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

I ask unanimous consent that the time then that was earlier agreed to on the amendment by Mr. WEICKER be reduced to 45 minutes to be equally divided and controlled in accordance with the usual form, with the same understanding that there will continue to be no second-degree amendment.

Mr. WARNER. Mr. President, I do not intend to object. That was the clarification I wanted to make sure was in there—that the unanimous-consent request now being propounded is parallel in every respect to the one that is pending at this time.

Mr. BYRD. Yes. It would be.

Mr. WARNER. I note the presence of the distinguished ranking member.

Mr. HELMS. I want to be certain I understand the situation. The majority leader is not going to offer his substitute this afternoon?

Mr. BYRD. That is correct.

Mr. HELMS. So that will be tomorrow?

Mr. BYRD. That will not be today.

Mr. HELMS. It will be a substitute?

Mr. BYRD. That is my plan.

Mr. HELMS. I thank the Senator.

Mr. BYRD. I thank the distinguished Senator.

Mr. WEICKER. Mr. President, what is the pending business?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the majority leader? Without objection, it is so ordered.

The Senator from Connecticut is recognized in support of his amendment.

Mr. WEICKER. Mr. President, I believe the pending business is the Weicker-Hatfield amendment as pertains to the War Powers Act. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WEICKER. There are only about 5 minutes or so left here before the 5 o'clock hour and the introduction of the other Weicker amendment. But I want to use that time to once again refresh everyone's memory as to what is exactly at issue here.

What is at issue is not our policy in the Persian Gulf. Indeed, I have not arrived at a final conclusion as to whether I support or I do not support our policy in the Persian Gulf. What is at issue here is a simple living up to the letter of the law as that law is now on the books, specifically the War Powers Act.

It is not a question of whether we are going to cut or run, or whether we are right or wrong in any individual action in the Persian Gulf. Indeed, I would say that the actions taken yesterday which precipitated my amendment were just that; hostile actions against the Government of the United States. And it is just because they were hostile actions against my Government, our Government, that I put in the amendment relative to the War Powers Act which triggers that act when either we are engaged in hostilities or hostilities are imminent.

So let us make it clear that the Persian Gulf policy is not the issue. The War Powers Act is. I understand the length of time required to get a substitute to the Weicker amendment. It is occasioned by several factors. No. 1, there are those that are concerned with flexibility. Well, the War Powers Act is about as flexible as you can get. You go from 60 days of our presence in an area to 90 days to an indefinite period of time if that is what the Congress wants to vote. So time is not the issue.

What is at issue is that eventually sooner or later this body has to take upon itself the responsibility of determining whether our troops should be in that situation of hostilities. And there is no avoiding that. I would suggest that any sort of a substitute amendment is just that—an attempt to avoid the simple clarity of the War Powers Act and the responsibility being placed on the shoulders of the U.S. Senators. That is the result to be achieved by any substitute pure and simple. I just make these concluding remarks, and I will save the rest of the debate for tomorrow.

I again do not in any way want to foreclose my distinguished colleague from Virginia.

I yield the floor on this matter.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Briefly to reply to my distinguished colleague from Connecticut, we do have a difference of opinion. It seems to me that as the act is drawn, both the executive branch and the legislative branch have responsibilities. And each can exercise independently at what time they want to exercise those responsibilities.

I say to my good friend from Connecticut that the legislative branch should take into consideration the progress that the President is making in the U.N. Security Council, the progress he is making in terms of encouraging further allied support—and he has had a remarkable surge in that support in the last 30 days—the progress he is making in terms of getting the six gulf states to likewise contribute to this overall effort to contain that war, and to work toward peace and stability in that region.

In my judgment, the bipartisan group that is addressing this issue is looking at the options whereby both the executive branch and the legislative branch can work within the spirit of the law and achieve these objectives in a timely manner, but in a manner so as not to disrupt the actions being taken by our President now in the international forum.

Mr. President, I yield the floor.

I now understand we will proceed to the amendment.

Mr. WEICKER. I appreciate the remarks of my distinguished friend from Virginia. I am not concerned about the progress the President is making. I am concerned about the lack of progress the U.S. Senate is making.

Mr. President, I ask unanimous consent that the Weicker-Hatfield amendment be set aside in order that we might consider another amendment by this Senator.

Mr. BYRD. Mr. President, reserving the right to object, and I will not object, will the Senator also include in that that it be set aside temporarily, and that it retain the same conditions that have heretofore been attached?

Mr. WEICKER. The suggestion made by the distinguished Senator from West Virginia would be my request and so I make that request.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

AMENDMENT NO. 714

Purpose: To set aside funds for cooperative medical research to be administered by the Secretary of Defense and the Director of the National Institutes of Health.

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 714.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 8 and 9, insert the following:

SEC. 229. COOPERATIVE MEDICAL RESEARCH WITH THE NATIONAL INSTITUTES OF HEALTH.

Of the funds appropriated pursuant to section 201 or otherwise available to the Defense Agencies for reseach, development, test, and evaluation, the Secretary of Defense shall transfer $200,000,000 of the amount available for fiscal year 1988 and $200,000,000 of the amount available for fiscal year 1989 to the National Institutes of Health for the support of medical research conducted in the interest of the health of Armed Forces personnel.

Mr. WEICKER. Mr. President, I rise to offer an amendment to transfer $200 million from the defense budget to the National Institutes of Health for support of medical research conducted in the interest of the health of armed services personnel.

For many years now the National Institutes of Health has been doing work both independently and in conjunction with the Department of Defense, work of incalculable benefit to the armed services.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Is there agreement before the Chair that the vote on this amendment will take place at 5:45?

The PRESIDING OFFICER. There is a 45-minute time limit on debate. There is no such agreement as to the exact time for ordering the yeas and nays.

Mr. WEICKER. I yield to the distinguished majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending amendment at 5:45 p.m. today; that no further motions be in order; and that no quorum call be in order at that time, and no further debate, no further action of any kind.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Is there objection? The Chair hears none, and it is so ordered.

Mr. WEICKER. Mr. President, for many years now, the National Institutes of Health has been doing work, both independently and in conjunction with the Department of Defense, of incalculable benefit to the armed services. As we all know, a strong Armed Forces depends not just on the firepower of its weapons systems, but also on the health and fitness of its troops. Think back to the Civil War when for every man killed in battle, three perished from disease. Or World War I where over 38,000 American soldiers died of typhus, influenza, and frostbite before even getting overseas.

Recognizing the links between national security and disease prevention, Congress broadened the NIH's scope of responsibility in the 1930's. From being a freestanding Government laboratory carrying out infectious disease research with limited resources, the NIH was transformed into what would become the world's foremost biomedical research facility, with the virtually unlimited mission of ascertaining the cause, prevention, and cure of disease.

The strides that have been made since are apparent. Citizen and soldier alike no longer have to fear diptheria, yellow fever, and typhus among other diseases. Which is not to say, there are not other challenges to be undertaken.

Mr. President, my reason for the pause was that in the course of preparing the speech, the staff put malaria in here, and that is one disease for which we do not have a cure. The National Institutes of Health is actively engaged in finding a breakthrough. The National Institutes of Health and the U.S. Government thought we had a breakthrough. That is not necessarily the case.

I cite this wrongful inclusion, which I have now corrected, only because this is one of the diseases to which our armed services personnel are subject in service around the world. This is one of those matters affecting citizen and soldier alike.

Imagine the advantages to the Nation and the world if this Nation should find a vaccine for malaria, a disease that cripples and kills across all sections of the world and certainly among our own armed services personnel. So they have a definite stake in finding this vaccine.

Today, the NIH is doing pioneering work in the fields of AIDS, radiation effects, spinal cord injuries, environmental toxins, trauma, burn, physical rehabilitation, drug addiction, viral hepatitis, influenza, bacterial meningitis, blood substitutes, heart disease, and cancer pathology. Work in all of these areas clearly impacts on the military. In fact, the NIH has collaborated on medical research projects with army scientists, and in fiscal year 1986, even bankrolled Defense Research and Development through grants to the tune of $3 million.

Now, $3 million really is a pittance in relation to the potential benefits to Armed Forces personnel, especially in some of the diseases which are of deep concern to the Nation and the Armed Forces alike. A good example is the AIDS problem. This is a big problem in the military. Yet, with all the money that the military has, they are not making their proportional contribution to seeing the problem overcome.

Two hundred million dollars is almost nothing when it comes to the defense budget. Yet, insofar as the National Institutes of Health is concerned, this could provide a great push toward conquering not only AIDS but malaria and other diseases, the economic cost of which is enormous to our military services.

The irony of this is that while the budget for defense, spurred on by star wars and the 600-ship Navy, has increased dramatically, the President has continually attempted to cut funding for the NIH. While we are getting new weapons systems, the laboratories and university facilities where the medical pioneering is done are in a serious, systemwide decline.

The last NIH-wide appropriation for research facilities was in 1968. Ten years later, a survey of cancer research facilities conducted by the National Academy of Sciences found that more than a third of the Nation's research facilities needed remodeling and nearly one-half needed additional space. An update of that study released in 1985 concluded that "since that time, the need has grown while Federal support has declined."

In those research facilities and in the minds and experiments of NIH scientists lie the answers to the medical questions of our times. If we do not pay the price now to upgrade facilities, and lay out research funds, we are going to see staggering bills later on, bills of suffering, bills of lost manpower, bills attesting to our failure to uphold our vital defenses.

The point is that while we need battleships on the seas, and bombers that we can send up to the skies, we need healthy men and women on the ground. Over the years, the Department of Defense has benefited greatly and directly from the work done by the NIH. Instead of the NIH subsidizing the DOD, I would like to see it the other way around: $200 million to the NIH is a good investment for the defense of American lives and for the defense of the lives of our military personnel.

Mr. President, I notice that the distinguished chairman of the Appropriations Committee is on the floor. I might add that the chairman happens to be one who can take as much credit as anybody in this country for building up the capabilities and strength of our armed services. But he will discover shortly, when he chairs the subcommittee markup on the labor, health, and human resources bill, that the sums allocated to science and medical research are pitifully small insofar as the total budget is concerned.

I have to repeat that I have searched everywhere to find an answer, and finally I hit upon this concept where, in effect, the Department of Defense carries its own weight insofar as protecting its people is concerned. I am not asking them to do any more than that.

Again, I think the record is replete with the danger posed to our military personnel just by AIDS, certainly by malaria, certainly by the suffering and injury caused by burns.

I would hope that I would have the support of my colleagues for this amendment which authorizes a new program within section 201 of the defense authorization bill. Section 201 authorizes $8.4 billion for research and development in defense agencies in fiscal year 1988. Under my amendment the Secretary of Defense will transfer $200 million to the National Institutes of Health in support of medical research conducted in the interest of health for Armed Services personnel. It is a 2-year authorization, $200 million in fiscal year 1988 and $200 million in fiscal year 1989. The money is authorized from within existing funds.

I might add that the type of medical research envisioned by this amendment is not specified. Flexibility is retained so that maximum benefit to the health of Armed Forces personnel can be realized.

I yield the floor.

Mr. WARNER. Mr. President, I see the distinguished chairman of the subcommittee: Does he seek recognition of this matter? If so, I am glad to defer my comments. My opening comments are very brief.

They would simply be, Mr. President, in every room in this Capitol—I say this with respect—there are people who are looking for ways to take this bill and try and get funding for a project. This is a very worthy project and I commend my good friend from Connecticut, but it seems to me that the Senate has got to make a conscious decision, are we going to look to this bill as a treasury for a variety of very worthy projects which are second, third or fourth cousins possibly to defense, and I am certain that our committee and we are now bringing over the files to the floor. We did not have much lead time on this amendment being up tonight. But the files will reveal that our committee takes a look at situations such as this, and I cannot state specifically whether we addressed this situation, but it does consider these situations as we formulate our bill.

Mr. President, I yield the floor.

Mr. President, are we under controlled time?

The **PRESIDING OFFICER**. The time is controlled.

Mr. **WARNER**. Would the Senator from Virginia control the time in opposition or would the Senator from New Mexico? And I am perfectly willing to let him. I am not asserting, but we should establish it.

The **PRESIDING OFFICER**. The Senator from New Mexico, if he opposes the amendment, has a time allocation.

Mr. **WARNER**. That would be this Senator's understanding, and I yield the floor.

The **PRESIDING OFFICER**. The Senator from New Mexico.

Mr. **BINGAMAN**. Mr. President, let me speak in opposition to this amendment and first clarify what I understand the amendment to be doing.

I think this is consistent with what the Senator from Connecticut has said; that is, that the amendment would transfer $200 million in fiscal year 1988 and $200 million in fiscal year 1989 from the Defense Department research development, test and evaluation accounts to the National Institutes of Health for the support of medical research to be conducted in the interest of the health of the armed forces personnel.

I would start merely by saying that I think that as far as I know this is not an amendment that is supported by the National Institutes of Health. If I am incorrect on that, I would certainly want to be corrected. But my information is they have said nothing to us here in Congress indicating their desire to have this $200 million transferred to them directly.

I would also point out that at the present time there is a great deal of research going forward in the National Institutes of Health which is funded by the Department of Defense for the very purposes and the kinds of purposes that this amendment is trying to address.

My information is that in 1988 under the present budget that we have before us there are $324 million anticipated to be used by the Department of Defense for research to be done in this general area of health and much of that contracted through the National Institutes of Health.

In 1989 there are $352 million of research to be done in this general area, again to be much of it contracted through the National Institutes of Health.

So it is not as though this is a subject going unaddressed in the present bill before the Senate.

Again, as I say, I am not aware of any concrete recommendation or concrete proposal that the National Institutes of Health has come up with to explain what they would use this $200 million for each of the next 2 years on. And I think as drafted, the amendment pretty clearly would be money that the Department of Defense would take from the funds it already anticipates using to pursue this health research.

That funding would go directly to the National Institutes of Health and essentially take the Department of Defense out of the loop as the agency that has the foremost say about the nature of the research that ought to be pursued.

I do think that the amendment is one which is sort of one of a variety of amendments that come to the floor when we have the defense bill. The defense bill is a very large dollar bill, and it is very attractive, of course, to have amendments from all different sources urging that we take a couple hundred million for one purpose, a couple hundred million for another purpose and generally whittle down the research and development funds that we have otherwise allocated to the defense area.

I really do think that in the bill before the Senate we have worked very hard at trying to shape a bill that has an adequate amount of research and development funds in it for our national security needs, some of them for this type of research, a great deal of the R&D funding for other types of research.

I would hate to see us making this kind of a judgment here on the Senate floor to interfere with that, to take large amounts, as this amendment would, and just transfer them over for an unspecified, undescribed program in another agency that has not yet requested the funds.

I think that is an unusual course for us to follow and I think it is very hard to justify.

So my understanding is that the Department of Defense is opposed; NIH has certainly not expressed any support of it that I am aware of. I do not know anybody in the administration who has come forward in support of this effort. I really do not know there is a specific enough proposal before us for us to discuss it too intelligently.

We have $200 million which is the figure for each of the next 2 years. As to what it would be used for, what type of research it would be used for which is otherwise going unattended or unaddressed is not clear.

For those reasons I would oppose the amendment.

I yield the floor.

Mr. **WEICKER**. Mr. President, I have two questions I would like to propound to my distinguished colleague from New Mexico.

First, let us understand what we are talking about here. We are not talking about money to be taken from the defense budget and used for purposes outside of the needs of our military. To say that would presume that our military need no benefits from medical research. Clearly, they do. And it is time especially with the moneys allocated with the military that they carry their fair share. They do not and I would like to have the specific figures regarding the statement that some of the $320 million spent for general health is subcontracted to the NIH.

The National Institutes of Health is our premiere agency in the conquering of disease. Nobody in the military and nobody in private enterprise has the capabilities of the National Institutes of Health when it comes to biomedical research.

The Senator from New Mexico is well aware that AIDS is a big problem and a big worry to the military. The reason why the NIH budget is being devastated right now is because AIDS is taking an enormous chunk out of the biomedical research budget that the administration repeatedly proposes to cut.

I would suggest that there is not the capacity for biomedical research within the military establishment that there is within NIH.

Indeed, if we are going to benefit the Nation and the military then all I am saying is let the military pay its fair share.

The matter of malaria weighs far more heavily upon military personnel than it does civilians in the United States. And I can go down the whole check list of diseases.

You have the money. At least pay your share and do not piggyback on this miniscule budget meant to lead the breakthroughs in science against disease.

The distinguished Senator from New Mexico made the statement that nobody asked for this money, that NIH has not asked for the money, and the administration has not asked for the money.

Believe me, that falls on very, very sensitive ears. The administration has requested almost nothing for NIH over the past several years. It is the Congress of the United States, Republican and Democrat, Senate and House, that, in effect, has protected that National Institutes of Health budget.

And, obviously, the personnel within NIH have not made the request because they are under the direction of the executive branch.

It is the Congress of the United States, both parties, both Houses, that has had to dig out the facts and ask for the money. So it should not come as a surprise to my distinguished friend from New Mexico that I am here making the request and not the administration. They do not even ask for adequate funds for the civilians of this Nation that would be benefited by NIH, never mind asking for more funds needed for the military. I am here to make the request, as I have many other requests.

How much is involved here? One-tenth of 1 percent of the budget being authorized—one-tenth of 1 percent—to assure that the health of our military personnel, along with that of the citizens of this country, is adequately provided for.

I hope I am wrong, but I repeat: With the types of diseases we are confronted with today and their complexity, believe me, we need the help of the National Institutes of Health. I hope that the military would participate in paying the cost of that help. It does not come free. You have the biggest part of the budget. You have an easy ride, and they have a tough ride.

If you could turn to me and say we are not benefiting from anything that they do, I would say, fine. But, indeed, the benefits flow more, if not much more, to the military than other institutions of this country. That is the purpose of the amendment.

Mr. BINGAMAN. Mr. President, could I ask the Senator from Connecticut to yield for a couple of questions?

The PRESIDING OFFICER. Does the Senator from Connecticut yield?

Mr. WEICKER. I am delighted to yield to my good friend.

Mr. BINGAMAN. First, let me say that I certainly favor the National Institutes of Health and I respect the work they do. I certainly favor funding at a reasonable level. But why $200 million? Why not $500 million? Why not $100 million?

Is there something going unaddressed there that requires $200 million this next year and $200 million the year after that that the National Institutes of Health feels is being neglected?

Mr. WEICKER. To my distinguished friend from New Mexico, the answer I would give him is, why not $500 million? Why not $500 million? They could use $500 million. They could use $700 million. They are grossly underfunded, considering the task that lies in front of them.

What I tried to do was to pick a reasonable figure that had some relationship to the benefits to be derived from their work.

I would be perfectly satisfied, if the committee leadership, in its wisdom, figures something less would be appropriate, I am willing to go ahead and discuss that. I am not willing to discuss zero. I am willing to discuss some compromise.

But I think the time has come now to hold the military accountable for its fair share in the battle against diseases.

Mr. BINGAMAN. Let me ask, on the $321 million that the military is spending on research in the area of health in 1988, does the Senator know—I do not know and I am the first to admit that, but it is not my amendment that is being proposed—but does the Senator know what portion of that $321 million in this budget would be expected to be contracted with the National Institutes of Health?

Mr. WEICKER. Mr. President, I have to remind my colleague from New Mexico that he made a statement of $321 million that would apply to the general health, much of which was contracted through NIH. Those are not my words, those are the Senator's words. Obviously he has the figures to back it up. I do not know.

Mr. BINGAMAN. You are not aware of that?

Mr. WEICKER. I certainly do not know.

Mr. BINGAMAN. You are not aware of the extent to which the military today contracts for research through the National Institutes of Health?

Mr. WEICKER. I am certainly not aware of what portion of the $321 million is contracted out. The Senator indicated a large portion of it is. I am not in a position to dispute that. I would doubt a very large portion of it is.

Indeed, I would say it goes around the other way, where NIH itself, trying to ascertain certain facts, goes ahead and funds activities at various military installations.

This whole situation, as I said before, is not one of trying to attach military funds to affairs that are beyond the necessity of the military. I have tried to clearly establish a common ground of health between the military and our national health effort.

Mr. BINGAMAN. I certainly agree that the military has major concerns about health and the health of the active duty personnel and dependents and all others. I do think that the commitment of $321 million in research funding for 1988 and $352 million in research funding for 1989 is a fairly clear sign that they take that responsibility seriously.

I am not clear as to exactly what portion of that goes to NIH.

Mr. WEICKER. I would suspect, in responding to the distinguished Senator from New Mexico, that it cannot be very much because the facilities coming under that particular research budget include Walter Reed; the Naval Medical Research Institute in Bethesda; the Human Systems Division, Aerospace Medical Command, in San Antonio; the Armstrong Aerospace Medical Research Laboratory in Dayton, OH; the Armed Forces Radiobiology Research Institute in Bethesda; and 18 other laboratories worldwide.

I do not think there is going to be much of that $300 million that goes to the National Institutes of Health.

But, in any event, I do know this: For the particular diseases that threaten the military today, the greatest capability for breakthrough exists at the National Institutes of Health.

Mr. BINGAMAN. Mr. President, I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I certainly respect what the Senator from Connecticut is attempting to do here because NIH is enormously important to the health of our country, and included in the benefits of the work of NIH is the Department of Defense.

Our problem is that it is my understanding—I do not have the figures now—that DOD sits down each year and contracts with NIH on things that are of great interest to the DOD that they are not able to do with their own medical research. The Department of Defense does have medical research ongoing. I do not know what the numbers are, but I am told that there is an agreement, for instance, on AIDS research between the Department of Defense and NIH.

Our big problem is that we have an account here that is a very broad account and I am afraid what is going to happen is you are going to be taking medical research out of DOD and putting it into NIH. I know the Senator's amendment does not specifically get that detailed, but I think the net result is we are going to be taking the Department of Defense health research for their own problems within the military—ways to treat wounds, new methods of helping battlefield victims, all of those things—we are going to be taking money out of that and putting it into NIH.

Both are worthy causes. But that is what a budget process is all about. That is what the administration is supposed to do when they put together their two budgets, weighing in the balance the NIH needs versus the DOD needs. And then what we do when we vote on the budget resolution, presumably those things are taken into account when Congress sets the level. So if we set a budget resolution with the defense number at one area and then we come in and basically start shifting funds from one area to the other, we are obviating what we have done ourselves earlier.

The other big problem we face, being frank with our colleagues, is we are going to have one amendment after another to transfer Department of Defense funds to other agencies. This is not the first one. I would suggest that if this one passes we will probably have numerous amendments to do that. Everybody wants to grab for funding that they deem to be available.

We simply do not have the margin in the Department of Defense budget now to undertake these kinds of transfers and still carry out the needs of the national security of our country.

So I certainly respect the Senator from Connecticut's arguments, and I also have a tremendous respect for his leadership in the field of health. He has been an outstanding leader for a long time. I know he is keenly aware of the health needs and challenges of this country. But I would urge that this amendment be rejected.

Mr. WEICKER. Mr. President, I would respond to both of my friends from New Mexico and Georgia by citing a specific example as best as I can ascertain from your budget. On AIDS research, I see where in 1986 the actual dollars spent was about $33 million. A later estimate, as best again I can determine from your own document, is about $21 of $22 million spent on AIDS research.

This is a subject that we share in common between the military and the civilian. The fiscal year 1988 budget had the administration advocating about a $100 million increase in AIDS research while cutting the basic research budget of NIH $600 million.

Anybody who knows their science knows that we are as far along as we are against AIDS because of basic research. To go ahead and say you are increasing AIDS research while you cut basic research, in effect, results in a $500 million reduction in research activities on AIDS.

The amount that the military is contributing here is peanuts. If these figures are true, it is around $20 million. I think we would also agree that this is one of the problems that has confronted the military. Indeed, some of the best facts we have relative to the AIDS virus and epidemic early on came from the military. It did good testing and reporting work in that area.

The fact is we are not yet stopping the disease.

I would again only suggest to the managers of the bill that I understand what they are afraid of. I am not trying to take funds from SDI to go ahead and put into NIH. I am just trying to go ahead and focus your own R&D money where it will do the most good, saying you ought to pick up your fair share of the medical tab with your medical funds.

That is the only thing that I have done here.

Let me also make the comment that I happen to know both the distinguished Senator from Georgia and the distinguished Senator from New Mexico are both very sensitive to the health needs of the Nation. It is their duty, certainly, to keep things as best as possible as they are within their authorization bill. But having been alerted to this problem, I would suggest that the matter has been so improved to the point where movement is necessary. I would hope that the military would assist not just in the battle against foreign enemies but in the battle against diseases when its own personnel are very much subject to the exigencies of diseases, as indeed we all are. I would hope the amendment would be adopted.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, will the Senator from New Mexico yield 1 minute?

Mr. BINGAMAN. I did not know I controlled the time. I yield.

Mr. NUNN. Mr. President, does the Senator from Virginia desire to be heard, or other Senators desire to be heard, on this amendment?

Mr. WARNER. Mr. President, the Senator from Virginia spoke in opposition to this amendment earlier and desires no further time. I commend the chairman of the subcommittee having jurisdiction over this. I believe he stated the case very clearly on behalf of the committee.

Mr. NUNN. I will ask my friend from Connecticut whether he desires to yield back his time so we can have a rollcall vote. I assume the Senator wants the yeas and nays.

Mr. WEICKER. I believe the yeas and nays have been ordered.

Mr. WARNER. Mr. President, I am informed that there is at least one Senator coming to the floor on this issue, the distinguished Senator from Alaska, the ranking member of the Appropriations Committee, Subcommittee on Defense. I wonder if we can put in a quorum call.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I would yield such time as the Senator from Alaska desires.

We have by unanimous consent a rollcall vote to occur at quarter of 6, so we must be concluded by 6 o'clock.

Mr. STEVENS. Mr. President, I thank my good friend. I rise to speak against this amendment which, as I understand it, would take $200 million from the Department of Defense and transfer it to the National Institutes of Health. This transfer of funds would negatively impact the Department of Defense and its involvement in AIDS research.

I want to point out that it is now 4 years since we started the Army in extensive research on AIDS. They have an excellent track record in vaccine development; hepatitis A, malaria, dengue fever, the adenoviruses and shigella. The Army has been involved in so many other things and has done an excellent job.

It was our consideration that there is a unique population in the active defense force that has a significantly high risk in terms of AIDS. This is a sexually transmitted disease. The military exposure for sexually transmitted diseases is some 5 times higher than in the same civilian age group. The risk of overall AIDS infection is significantly higher in defense because defense personnel are sent throughout the world at the command of the military. This is not a decision made voluntarily. They are people who are sent into high-risk areas throughout the world. I personally felt the Department of Defense should do its utmost to see if it was possible to explore some of the avenues that might provide additional protection to these people who have a higher risk. That higher risk can be met by temporary prevention of transmission by vaccines and also by treatment of those who are already currently infected.

I would point out that there is an immediate active duty problem. We already know of at least 4,000 infected persons who are currently on active duty in the Department of Defense. I might also point out that it is in fact the Department of Defense statistics from its testing program for those who attempt to volunteer for enlistment in the Armed Forces that has given the United States, if not the world, the best information so far on the extent and nature of this disease and its rapid transmission. These statistics have led us to the conclusion that we are not just dealing with a problem, we are dealing with a plague.

Those who are concerned about the National Institutes of Health should realize that without the money that is available to the Department of Defense we would not have the basis to attack this disease on the broad front that we do. I hope that the Senate will reject this amendment. In the first place it exceeds the amount that should be taken from the Department of Defense even if there was a sincere possibility that we would give it up. But those of us who are concerned about the Department of Defense and AIDS should resist absolutely an amendment that would take away any of this money.

Mr. President, knowing the time constraints, I yield in the interest of fairness to my friend from Connecticut.

Mr. WEICKER. Mr. President, the distinguished Senator from Alaska makes all the arguments that I could ask for on behalf of this amendment. What I am asking is not that the money be taken from defense but that defense pay its fair share of the bill.

Very frankly, the vaccine development and the principal research effort is not going on in the military. The Senator is absolutely correct, they have done a grand job of gathering statistics, but as far as finding the vaccine or chemotherapy to halt AIDS, that sits over in NIH.

The Senator dramatizes the fact that there is 5 times the rate of AIDS within the military, which makes the exact argument I am trying to make: Who is going to pay the bill to go ahead and do something about it?

Again, this is money to go over to NIH for the benefit of our Armed Forces personnel. It gives it to those who are best equipped to do the job, which does not in any way denegrate the research efforts going on within the military. But I would suspect that a little help from our friends in the military would go a long way in shortening the time to which we will find a cure, certainly go a long way toward finding the chemotherapy which can halt the transmission or progression of the AIDS virus.

I yield the floor and I am perfectly willing to yield back the remainder of my time.

The PRESIDING OFFICER. All time for the opposition has expired.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. Thirty seconds remain for the manager. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Connecticut. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—64

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Chiles
Cochran
Cohen
Danforth
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kerry
Levin
Lugar
McCain
McClure
McConnell
Melcher
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Rockefeller
Roth
Rudman
Sasser
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NAYS—34

Adams
Biden
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
D'Amato
Daschle
Dodd
Durenberger
Fowler
Harkin
Hatfield
Heinz
Inouye
Kennedy
Lautenberg
Leahy
Matsunaga
Metzenbaum
Mikulski
Mitchell
Pell
Proxmire
Reid
Riegle
Sanford
Sarbanes
Specter
Stafford
Stennis
Weicker

NOT VOTING—2

Gore
Simon

So the motion to lay on the table amendment No. 714 was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the Weicker amendment.

Mr. BYRD. Mr. President, as indicated heretofore, there will be no further rollcall votes today. The Senate will come in early tomorrow.

I ask the distinguished manager of the DOD bill what time he feels we can get started in the morning.

Mr. NUNN. Mr. President, I believe we can start at 8:30 tomorrow morning. I know that we do not have any rollcall, but I do have an inquiry out to the Senator from North Carolina because the Senator from Connecticut is willing to bring up an amendment on Panama at 8:30 tomorrow morning. There is no time agreement, but I would hate to start today with an amendment that was going to involve protracted debate.

From the manager's point of view, I am trying to get someone who is alive and well and awake at 8:30 in the morning to start on this bill.

Mr. HELMS. Mr. President, if the Senator will yield, he may not find anyone like that.

Mr. NUNN. I found one, and I have not found anyone else volunteering.

Mr. HELMS. Is the Senator asking unanimous consent?

Mr. NUNN. We are not proposing unanimous consent. We are asking, as a matter of courtesy, the Senator from North Carolina, whether he would have any real problem with getting the Dodd amendment up in the morning and having debate. No one's rights would be waived, but I would not want to start a debate that would take a long time.

There is an amendment that will come up later in the day by the Senator from Connecticut and a substitute by the Senator from West Virginia.

Mr. HELMS. Mr. President, on tomorrow, it is a set of circumstances. Is there any way that there can be an agreement that the Dodd amendment could be revisited later in the day for further discussion? I happen to have two meetings downtown in the morning back to back. But I would like to discuss it with the Senator.

Mr. NUNN. Under those circumstances.

Mr. WARNER. If I might acquaint the manager, there is another amendment that would be available tomorrow. I wonder if I might invite the Senator from Arizona to join in this colloquy.

Mr. NUNN. Mr. President, I would suggest particularly in light of the fact that we seem to have another amendment, in deference to the Senator from North Carolina that we contact the Senator from Connecticut and inform him it is preferable to bring up his amendment later in the day and perhaps have the Senator from Arizona begin in the morning at 8:30 and bring the amendment up.

Mr. HELMS. I would appreciate that.

The PRESIDING OFFICER (Mr. BINGAMAN). The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I yield the floor.

Mr. WARNER. May I pose a question to the leadership?

Mr. BYRD. Yes.

Mr. WARNER. Is the hour of 8:30 established for this bill or will this bill come sequentially after other matters the leadership may have in the morning?

Mr. BYRD. No. It would be our plan to begin with this bill tomorrow morning.

Mr. WARNER. Mr. President, I thank the majority leader.

Mr. McCAIN. Mr. President, if the Senator from Georgia will yield, it is my understanding we will start at 8:30 with the amendment.

Mr. NUNN. I would ask my leader from West Virginia if that would suit him to begin at 8:30 with this amendment?

Mr. BYRD. Yes, it would if the distinguished Republican leader is agreeable if we could begin at, say—at 8:30 or if we could come in at 8:20, just have the two leaders' 5 minutes each and go immediately to the DOD bill so that the distinguished Senator could call up his amendment at 8:30.

Mr. DOLE. All right.

Mr. BYRD. Mr. President, that will be the understanding, and I will enter an order later to that effect.

Mr. NUNN. Then I would hope to follow that with Senator DODD, and Senator HELMS, from North Carolina, can have a conversation this evening and perhaps have the Dodd amendment shortly thereafter and have some Dixon amendments and then by that time we could perhaps get to the substitute and then we do have amendments from 2 to 6 o'clock which are on major amendments where we will have the debates and stack the votes. So we are looking for other business tomorrow and would like to take as many amendments as we can.

A VIEW OF SDI

Mr. ADAMS. Mr. President, yesterday the Senate, on a tie vote broken by the Vice President, failed to adopt Senator JOHNSTON's amendment designed to limit SDI funding. I voted for the Johnston amendment, even though I believe it provided more funds than we should have for SDI, because it was the best opportunity we will have this year to express our opposition to the SDI Program.

During the debate on that amendment, many Members spoke about the specific funding levels and the specific problems associated with space-based kinetic-kill vehicles. In these remarks, I want to take a slightly broader view and talk about the basic justification for the SDI Program itself. Let me outline a few of my main concerns about this initiative.

First, even if the mechanical and technical elements of an SDI system could be made to work, SDI itself will not work to protect the United States from the effect of a nuclear attack. No one has, or can, argue that SDI could create a total shield—everyone concedes that the SDI system would allow some level of ICBM nuclear warheads to leak through its defenses. What we have to realize is that when nuclear warheads explode, our future as a nation, a people and world explodes as well. I do not believe in the concept of a limited nuclear war. I do not accept the notion that the United States would accept as "limited" a strike which caused the death of 10 million or so American citizens and the destruction of major cities and command, control and communication systems. A new study conducted by MIT clearly demonstrates the impact that even a few warheads would have. In the aftermath of what would be an unlimited disaster, there is no limited response possible.

Second, even if the mechanical and technical elements of an SDI system could be made to work, even if it could be made "leak proof," it would protect us only from ICBM's. SDI was never designed to deal with a threat generated by the other elements of the Soviet nuclear forces: the bombers, the SLBM's, the cruise missiles. And SDI certainly does not protect us from an equally likely threat: nuclear terrorism or an isolated strike from one of the other nations which has developed a nuclear capability. Even if SDI worked more effectively than anyone believes it can, it simply does not give us protection from the full range of threats we face.

Third, just as SDI can be defeated by non-ICBM forces, it can also be overcome by an increase in the Soviet ICBM force. After all, SDI simply responds to the threat generated by the current level of Soviet ICBM's. But since the President has decided to nullify the SALT II Treaty sublimits, all the Soviets need to do is build more ICBM's and flood the system. The SDI we are creating now simply does not offer us a system which will work in the face of an increase in the Soviet threat. We will spend billions of dollars on research and that research will build a system which can be overcome by Soviet spending in the millions. It simply does not make sense of economic or military grounds. We used to require SDI to be "cost effective at the margins," but that requirement appears to have been abandoned—and with it, we have abandoned any hope that SDI could be a viable system. It is a system which the Soviets can beat—and they can beat it for less than it cost us to build it. And the way they will beat it is to build more nuclear weapons.

Fourth, this program will not work today and it may never work. Senator PROXMIRE has certainly documented the problems associated with this program: the technical problems of programming, the mechanical problems of targeting, the operational problems of early detection and discrimination between real and false targets. Perhaps, despite these and a host of other theoretical problems that have been identified, it is worth continuing research on the program to try to resolve these scientific problems. But we surely do not need to increase spending by 25 percent for this progam given the mechanical and theoretical problems it faces.

Fifth, the administration's request for $5.9 billion was driven by the belief that early deployment of SDI was desirable and possible. It is, in fact, neither. The Senate has clearly expressed its reservations about an interpretation of the ABM Treaty which would allow for early deployment. And the insistence on early deployment threatens the sort of agreement which might make an SDI system sensible—some overall limitation on strategic nuclear forces.

Sixth, neither the administration's request nor the committee's recommendation make sense if you view SDI spending in the context of our economic or military needs. The plain truth is that we cannot afford this level of spending on one strategic program. And if the administration had its way, SDI research would consume a full 23 percent of DOD's research and development budget by 1992. Now, Mr. President, given the fact that we don't have minesweepers to send to the Persian Gulf, given the needs we have to increase R&D on conventional capabilities—particularly in anti-tank activities—this emphasis on SDI simply makes no sense.

Those are some of the reasons for opposing SDI. But there is another more basic reason as well. SDI is overtly designed to protect America from enemy missiles. But I fear that its covert goal is to protect American people from the reality of nuclear war. If the administration could convince the American people that nuclear weapons are really safe, that they cannot harm us, then they will have made nuclear war more possible. The essence of deterrence for over 30 years now has been the reality that nuclear war is MAD—that it will produce mutually assured destruction. It is the reality of that terror which has created what small level of stability we have achieved. If we accept the notion that somehow we can launch missiles and not feel their effect, if we come to believe that nuclear weapons are somehow toothless tigers, then we will inevitably come to the conclusion of the world as we know it. You see, the plain truth is these weapons will—not matter what defensive measures we take—destroy us if we use them. If we keep that reality in mind, then there is every reason for the United States and the Soviet Union to reduce their nuclear forces; if we embrace the belief that we can be safe from the effect of nuclear weapons, then we will increase our dependence on and deployment of such weapons. And we will increase the probability of our own destruction.

So, Mr. President, I reject the philosophy underlying SDI; I disagree with those who assert that SDI is workable; and I particularly dissent from the conclusion that SDI, even if it worked, represents a defense against the totality of the Soviet nuclear threat. This amendment is a realistic response to the fiscal reality we face, it is an intelligent response to strategic reality we confront, and it is a modest move toward a more balanced set of defense priorities. I fully support it.

ALF LANDON'S BIRTHDAY

Mr. DOLE. Mr. President, September 9 was the 100th birthday of one of Kansas' best-known and most-beloved citizens, Alf Landon. I was honored to attend a very special birthday party for him in Topeka, which featured a visit by President and Mrs. Reagan.

My hometown newspaper, the Russell Record, ran a wonderful editorial about our former Governor that highlights some of the most important aspects of his character and career. The editor, Russ Townsley, is to be congratulated for his fine piece of writing; and I urge my colleagues to read it.

"Landon was admired for his dogged independence and his thoroughness. He emphasized common honesty, character, and devotion to principle, and he wore no faction's collar," the editorial notes. Words all of us could aspire to.

Mr. President, I would like to include the full text of the editorial in the RECORD.

There being no objection, the editorial was ordered to be printed in the REORD, as follows:

[From the Russell Record, Sept. 10, 1987]

ALFRED M. LANDON

The "Soul of Kansas" was honored Sunday by President Ronald Reagan and his wife, Nancy, when they came to Topeka to honor the state's No. 1 citizen, Alfred Mossman Landon. The former governor, born in Pennsylvania in 1887, while Grover Cleveland was president, was 100 Wednesday.

Due to Landon's infirmities—failing eyesight—failing hearing—and the overall frailties that come to a person his age—the party was brief an so were the speeches.

The two men sat together and chatted on the front porch of Landon's mansion on the west side of Topeka—one man aging, the other aged, Reagan the landslide winner with only two governmental units—Minnesota and the District of Columbia—denying him their vote for re-election in the last presidential contest, the honoree, known then as "The Kansas Coolidge" and "The Kansas Tornado," the victim of a Roosevelt-inspired landslide steamroller more than 50 years ago that denied him all the states except two—Maine and Vermont.

Although both are now Republicans—Reagan through 1948 was a registered Democrat—the two men differ in their political philosophies. Reagan is now the arch far right conservative, even though his administration has piled up more debt than all other administrations combined, and Landon, in 1912, bolted his party to support Theodore Roosevelt and his progressive Bull Moose Party.

Landon, in my view, has always held close to a centrist position, not being as far to the left as Franklin Delano Roosevelt, but slightly farther to the left than Herbert Clark Hoover had been. Although the Grand Old Man of the Grand Old Party for more than 50 years, Landon was never as far right as the GOP. He was closer in his thinking to the Fair Deal views of his Missouri friend, Harry S. Truman, and to those of fellow Kansan Dwight D. Eisenhower.

Landon, a University of Kansas Law School graduate and an Independence oilman, first gained national attention in 1932 when he defeated both Dr. John R. Brinkley of Milford and Harry H. Woodring of Neodesha, the incumbent Democrat governor, to become the only Republican governor west of the Mississippi to win election, despite Roosevelt's smashing defeat of President Hoover. And in 1934 he was the only Republican governor in the nation to be returned to office.

Landon also had attracted attention by decisive leadership during his first term. The nation was suffering from the Great Depression, and Kansas, plagued by crop failures and low commodity prices, was baked by drought and losing its topsoil as part of the great Dust Bowl. Bread lines were common, as one-quarter of the nation's workers could not find jobs, businesses were failing, and banks were closing.

Among other things, Landon earned the sobriquet of the "Old Budget Balancer" by imposing a 25 percent across-the-board spending cut that got rid of the state's budget deficit, and his pay-as-you-go cash basis law put the state back on a sound financial basis. He sent close party friends—including state officeholders—to the penitentiary in the Finney Bond Scandal of 1933, and he called out the state militia to maintain law and order when lead and zinc miners in southeast Kansas went out on strike in 1935.

Landon was admired for his dogged independence and his thoroughness. He emphasized common honesty, character, and devotion to principle, and he wore no faction's collar.

He was picked to become the Republican standard bearer for president on the first ballot at the national convention in Cleveland, Ohio, in the summer of 1936.

But the presidency for him was not to be, as the nation swung heavily to Roosevelt's column for re-election and a continuation of his New Deal spending programs.

In 1981 I got a chuckle out of Landon's response to a question I put to him. We were publishing the 126-page Prairiesta historical special edition, and I was handling the copy for it. Since we had told the story of Russell and Russell County and all its communities several times before, I decided to take a state-wide approach and make the edition one of Kansas history.

I wanted to do a story about Landon, so I called him at his home. He was friendly and cooperative.

During our conversation, I said to him, "Alf, I want to know . . . did you think you had a chance to beat Roosevelt in 1936?" He responded, "Hell no!"

And I would like to make a point for history that seems to have been completely overlooked by the media.

Landon, due to his high principles and his opposition to a third term for Roosevelt in 1940, may have lost a cabinet appointment.

There is no way to know for sure if Landon would have accepted an appointment from Roosevelt, because Roosevelt never made an offer to him, but I am of the opinion the offer might have been made, and might have been accepted, had not Landon opposed Roosevelt's ambitions.

Roosevelt, facing up to the problems of an approaching war, had decided to bring two Republicans into his cabinet to help bipartisan support for his programs.

Frank S. Knox, publisher of The Chicago Daily News, who had been Landon's vice-presidential running mate in 1936, was named Secretary of the Navy. Knox had not opposed a third term for Roosevelt.

Knox contacted Landon and told him that he would not oppose a third term try by the president, but Landon advised Knox that, as the titular head of the opposition party, he had to oppose the proposition.

Nevertheless, Landon was considered for an appointment. He made a trip to Washington, D.C., to meet with the president, but no offer was received. No one who opposed Roosevelt was ever rewarded. Roosevelt, however, may not have made an appointment offer, even though overtures to Landon had been extended, because he knew Landon could not accept a cabinet post.

During that 1981 interview, I asked Landon, "What post was discussed?" He replied that he couldn't remember, but he thought it was defense. (The Defense Department was not created until after World War II). It probably was the position of Secretary of War because later Harry H. Woodring, a Democrat, was dismissed as Secretary of War and Henry L. Stimson, a Republican who had been Secretary of War before in William Howard Taft's administration and Secretary of State for Hoover, was appointed.

Landon, instead, stayed in Topeka, managed his oil and radio broadcasting interests, and for the past 50 years has continued to be Mr. Republican throughout the nation, and the love and respect he has earned have been his lasting consolation.

On Alf Landon's birthday there were no Republicans nor Democrats, just Americans of every political persuasion, who joined in wishing the beloved elder statesman from the prairies of the Midwest a happy birthday and many more.—A.D.E.

BIRTHDAY GREETINGS TO MR. WALKER CISLER

Mr. RIEGLE. Mr. President, on behalf of Senator LEVIN and myself I would like to call the attention of the Senate to a special occasion in the life of a remarkable person from Michigan.

We would like to extend our warm birthday wishes and hearty congratulations to Mr. Walker L. Cisler, former chairman of the board and chief executive officer of the Detroit Edison Co. Mr. Cisler, whose 90th birthday is being celebrated on October 8, has devoted most of his life to serving the energy and power needs of this country and abroad.

During World War II, as Chief of the Public Utilities Section, Supreme Headquarters Allied Expeditionary Forces, European Theater of Operations, Mr. Cisler arrived in Paris the same day as General Charles DeGaulle after the invasion at Normandy. He restored the city's electric and gas service in 2 weeks, them proceeded to work on the French Power System. By 1945, it was generating more electricity than it had before the war.

Mr. Cisler came to Michigan after World War II to begin his career with Detroit Edison. By 1951, he was company president, later serving as chief executive officer from 1964-71, and as chairman of the board from 1964 until his retirement in 1975. During this time, Mr. Cisler also spent countless hours serving both the Detroit community and the rest of the State. As one of the founders of Operation Action—Upper Peninsula, which is dedicated to the balanced development of the Upper Peninsula, Mr. Cisler was the instigator of a total State energy analysis, implemented in the 1960's.

To commemorate his efforts, several Michigan colleges and universities have honored his work at their respective institutions. In 1969, the University of Detroit established the Walker Lee Cisler Chair of Political Science and Public Affairs. During the same year, the Walker and Gertrude Cisler Library Foundation was created at Wayne State University. In addition to these acknowledgements, Mr. Cisler is the holder of 17 honorary degrees.

As the Senators from the State of Michigan, we are proud to recognize today the accomplishments of Mr. Walker L. Cisler on behalf of our State. We wish to applaud his many services to our citizens and congratulate him on his 90th birthday.

THE ACHIEVEMENTS OF DR. LORIN E. KERR

Mr. METZENBAUM. Mr. President, I rise to pay tribute to Dr. Lorin E. Kerr, director emeritus of occupational health for the United Mine Workers of America. Dr. Kerr retired as director of Occupational Health for the Mine Workers in February 1986, after serving in that capacity since the position was established in 1969.

Dr. Kerr, who I am proud to say is an Ohio native, has been a leader in occupational health and safety for almost 50 years. Perhaps most notable among Dr. Kerr's many achievements is his successful effort in bringing the problem of black lung disease into public view. Dr. Kerr was a driving force behind the passage and implementation of the Federal Coal Mine Health and Safety Act of 1969, our Nation's first attempt to mandate compensation for and elimination of an occupational disease in a major industry.

That our mines are now cleaner and safer and that we have regulations and procedures to correct unsafe or unhealthy practices is due in large part to Dr. Kerr's commitment to this goal. That over 350,000 mine workers and their families are receiving compensation for the injuries and hardships that they have suffered from black lung disease is largely due to Dr. Kerr's drawing public attention to this devastating—and preventable—disease. The hundreds of thousands of mine workers who will be spared this disabling disease owe their health in part to Dr. Kerr, who proved to this country that the misery of black lung disease could be avoided through making our mines cleaner.

During his career as an occupational safety and health specialist, Dr. Kerr compiled an impressive list of achievements. In addition to this distinguished service with the United Mine Workers of America, he served as President of the American Public Health Association and received their prestigious Sedgwick Memorial Medal as well as their Presidential Citation. He received an outstanding service award from the District of Columbia Public Health Association, which he founded in 1960. He also founded the American Labor Health Association, the Group Health Association of America, and the National Institute for Rehabilitation and Labor Health Services. He was named an Honorary Fellow of the Royal Society of Health in 1974. He also has written extensively on the need for occupational health initiatives.

I salute Dr. Kerr for his remarkable achievements and thank him for the invaluable contribution he has made in the field of occupational health and safety. His work serves as an inspiration to us all as we seek to guarantee a safe and healthy workplace for this nation's workers. I wish him health and happiness in his retirement.

RECOMMENDATION BY DOT ADMINISTRATIVE LAW JUDGE IN THE PROPOSED MERGER OF USAIR AND PIEDMONT

Mrs. KASSEBAUM. Mr. President, on Monday, a decision by the Department of Transportation's Office of Hearings was handed down in the proposed merger of USAir and Piedmont Aviation. The administrative law judge's decision in this matter is one I find absolutely incredible.

The proposed merger was disapproved on the grounds that it would substantially reduce competition in relevant markets, and would be contrary to the public interest. If this decision if upheld, competition in the airline industry will not be strengthened, to the contrary it will be substantially reduced, on a national basis.

Through its past record of granting almost carte blanche approval to air carrier mergers and acquisitions, DOT has created a climate where regional carriers, like Piedmont and USAir, have been forced to negotiate merger agreements for defensive purposes. USAir and Piedmont are both high profile targets for hostile takeovers. Both are efficiently operated, profitable enterprises. Both have significant assets including well-developed markets, extensive plant and equipment, and reputations for good customer service. In all likelihood, however, neither has the size necessary to ward off even a moderately financed corporate raider.

The post-deregulation policy of DOT in airline merger proceedings has clearly been one of almost generic approval. Even mergers of dubious merit, such as TWA-Ozark, Northwest-Republic, and the entire litany of Texas Air acquisitions, were granted, notwithstanding serious operational and anticompetitive considerations. As a result of past DOT policy, the nature of competition in the airline industry has drastically changed, and only large, national "mega-carriers" are likely to survive.

For DOT to now do an about-face and disapprove the USAir-Piedmont acquisition because it "would substantially reduce competition * * * and * * * be contrary to the public interest," is incredible.

Piedmont and USAir did not create the environment in which they now must compete. In fact, they both resisted all merger overtures until it became obvious that such action had become a prerequisite to continued profitability, if not continued existence. As you may recall, before Piedmont and USAir could formalize an agreement to merge, TWA made a strike against USAir and attempted to gain a controlling interest in the company. It was, in many respects, Carl Icahn who forced the USAir-Piedmont issue.

If the Department is truly concerned over anticompetitiveness, it had better rethink its position with respect to this merger. Piedmont and USAir both face continued intrusion on their existing routes by larger, better financed carriers in search of expanded operations. By using deep-discount fares and other marketing tactics associated with past expansion efforts, such carriers can effectively displace Piedmont and USAir from routes they now serve, creating truly anticompetitive markets.

The Department of Justice reviewed the USAir-Piedmont case and stated flatly that, "it could not establish that the merger would eliminate substantial competition." That is also the conclusion of most aviation industry analysts. I hope that when this matter is reviewed, that will also be the conclusion of wiser heads at DOT.

BICENTENNIAL MINUTE—SEPTEMBER 23, 1950: McCARRAN ACT BECOMES LAW

Mr. DOLE. Mr. President, 37 years ago today, on September 23, 1950, the Senate, by a vote of 57 to 10, overrode President Harry Truman's veto of the Internal Security Act. This act was more popularly known as the McCarran Act after Nevada Senator Pat

McCarran, chairman of the Senate Internal Security Subcommittee. On the previous day, the House had overridden the President's veto by a similarly large margin, so the McCarran Act became law.

Stimulated by the outbreak of the Korean war and rising fears of internal subversion, this highly controversial measure was an outgrowth of an earlier Communist registration bill that Congressmen Karl Mundt and Richard Nixon had introduced in 1948. Employing exposure as a weapon against the threat of the Communist infiltration, the act provided for registration of Communist and Communist-front organizations, and for detention during national emergencies of persons likely to commit espionage or sabotage. The McCarran Act also prohibited employment of Communists in national defense work, denied them passports and refused entry into the United States of anyone who had ever been a member of a totalitarian organization.

Senator McCarran and other supporters of the act argued that it addressed the peculiar nature of the Communist threat in the United States. McCarran dismissed arguments that the act might be unconstitutional, pointing out that it neither outlawed the Communist Party nor made communism a crime. Nevertheless, in later years the Supreme Court substantially dismantled the McCarran Act, declaring unconstitutional its provisions for registration of Communists and for denial of passports. In 1971 Congress also repealed the McCarran Act's internment authority, which in fact had never been used.

INTERNATIONAL RESCUE COMMITTEE GIVES "FREEDOM AWARD" TO JOHN WHITEHEAD

Mr. PELL. Mr. President, on September 14 I had the pleasure and honor of attending the dinner in New York at which John Whitehead, the Deputy Secretary of State, was given the International Rescue Committee's Freedom Award. This is the highest award given by the IRC, an organization that has been in the forefront of efforts to aid the world's refugees for over 50 years.

John Whitehead's personal involvement with refugees goes back more than 30 years—to the Hungarian refugee crisis in 1956. John was in Vienna when the refugees started to arrive, as a result of which "John Whitehead's next 30 years were remorselessly shaped and his profound impact on us and those we serve was forged," as was stated by Leo Cherne, chairman, of the IRC, in his remarks conferring the award.

Leo Cherne added:

In presenting John Whitehead with IRC's Freedom Award, it is especially appropriate that one of the first of these infrequently conferred honors went to Winston Churchill, the most recent one to Nobel Laureate Elie Wiesel, and this evening's award to you. IRC's total purpose would be perfectly expressed if that award were never again conferred.

I serve as a vice president of the IRC—it is one of my proudest affiliations—and it was a special privilege to be present in New York at this event. It was an occasion that not only recognized John for his special accomplishments, but also gave testimony to the commitment and service to refugees long epitomized by the IRC.

I ask that the text of Leo Cherne's introduction of John Whitehead, President Reagan's letter of congratulations, and John Whitehead's remarks September 14 be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FREEDOM AWARD DINNER HONORING JOHN WHITEHEAD

(Statement by Leo Cherne, Chairman, International Rescue Committee)

Fate found John Whitehead on a brief holiday in Vienna toward the end of October 1956 during one of the most glorious and ultimately tragic periods of our post World War II history. He found himself a helpless observer during the brief days when the largely unarmed will of the Hungarian people (only miles away) succeeded in compelling the defeat and withdrawal of the massive Soviet forces which had kept Hungary enslaved.

But that brief victory in Hungary was all too soon to be followed by a crushing return of Soviet tanks and fresh troops uncorrupted by previous contact with the Hungarian people. In days 60,000 Hungarian patriots were killed, more than 50% of them under the age of 23.

As the West played with words and inaction and the Soviets with a duplicitous promise of profound change—a moment's glory was expunged, and the life of John Whitehead and the IRC with which he from then on joined his purpose were linked and the reasons for this evening's tribute began.

Our incomparable relationship began during the months when thousands were compelled to flee Hungary—many hundreds of them unaccompanied children sent ahead by their parents with notes pinned to their clothing on which were written their names, ages and an appeal to the free world "Please save my child."

The IRC, which was in Budapest assisting during the brief days of freedom, was now on the frontier assisting those in wintry flight in search of safety and freedom, and John Whitehead's next 30 years were remorselessly shaped and his profound impact on us and those we serve was forged.

I jump twenty-five years—years in which his tireless and unequalled leadership were key to the skill and passion with which the IRC met one emergency after another—emergencies created by those in flight from tyranny of the left and the right. In each of these John's role was unique and indispensable. In Viet Nam as we sought to assist the orphaned, the injured, the displaced victims of a war without end.

On the borders of Nicaragua, Chile, Guatemala, Czechoslovakia and Poland. In Hong Kong, assisting those who risked their lives to escape Mao's China, in Thailand as a handful of survivors fled Cambodia—those who were able to escape the Khmer Rouge Killing Fields and, of course, those who fled Laos as well as the thousands of boat people whom we aided even as we were assisting in Zaire those fleeing Angola, and in Kenya those who were fleeing Idi Amin's Uganda.

Five years before the tragedy created by Communist Government in Ethiopia captured television's attention we were in Sudan to provide emergency relief and medical help for the starving and oppressed in flight from Ethiopia, an exodus as massive as the one that started 25 years earlier from Castro's Cuba, in which we were the first to help those landing on our shores, as well as those, starting about the same time, fleeing from Papa Doc Duvalier's murderous regime in Haiti. This unending succession of refugee tragedies will be the historians hallmark for the last 54 years.

At both ends of that period were two intervals unequaled in infamy. The shame and crime of this century, if not of all of human history—the holocaust in the years which followed IRC's beginnings immediately after Hitler's rise to power in 1933, and though less bestial in comparison—the capture and devastation of Afghanistan and the flight of one-third of its total—5 million people—in population to neighboring countries.

I have no doubt that if John Whitehead had been with IRC in the later thirties and the ensuring war years, he would have helped at least to an extent where others were silent or failed.

As for those who have fled and continue to do so from Afghanistan—the three million in Pakistan alone, mostly women, children and the injured and aged Afghan Refugees, while still not adequately helped, they would have received far less attention, and life preserving help, had not John Whitehead personally undertaken to go to that valley of tears in Pakistan to create the first meaningful program of direct assistance in the early days of the exodus to the harsh Afghan frontier.

The tenacity with which he went about personally establishing the relief, the medical, the other most urgent forms of aid, at first ran into the resistance of the Pakistan government which was reluctant to have foreigners mucking around on their tender frontier with an aggressive Soviet neighbor.

John is not easily deterred, and by the time he left the paranoia and xenophobia of the Paks were subdued.

Had he failed, there would not be the doctors, the nurses, the women's clinics, the primitive schools for the children, the training of Afghan paramedics, the self-help programs, all of which are a living monument to the tenacity of one man and to his humanity.

I recall not one line about that in a newspaper at that time. That reflects both journalistic myopia and John's characteristic diffidence. In fact, throughout these 30 years, I know no person so driven by purpose, so devoid of ego.

Now, as the Deputy Secretary of State—the nation's good fortune has been IRC's loss. But I hasten to add that—in the highest government and international circles—John is still a vital advocate for the millions who hurt, who continue to flee, who can find no sanctuary outside of tenuous refugee camps.

John, it is the magnitude of what you have done for those who are ready to risk their lives to be free and your resistance to praise that make adequate tribute to you impossible.

In presenting you with IRC's Freedom Award, it is especially appropriate that one of the first of these infrequently conferred honors went to Winston Churchill, the most recent one to Nobel Laureate Elie Wiesel, and this evenings' award to you.

IRC's total purpose would be perfectly expressed if that award were never again conferred.

I must add as a companion of yours in this work, my own affection, my unlimited admiration, and a level of appreciation for which my words were inadequate.

THE WHITE HOUSE,
Washington, September 8, 1987.

Hon. JOHN C. WHITEHEAD,
New York, NY.

DEAR JOHN: I'm delighted to add my congratulations to all those you're receiving as the International Rescue Committee presents you with the Freedom Award. This is a cherished honor, and one you richly deserve for your decades of devotion to refugees and to the cause of freedom and democratic institutions.

During your deep and personal involvement with the IRC since 1956—interrupted only by your present outstanding service as my Deputy Secretary of State—you have helped this distinguished voluntary agency assist refugees from oppression or conflict throughout the world with emergency medical care, training, education, and self-help programs. You have helped the friendless know they are friendless no more, and that is truly noble work.

Again, congratulations on this fine salute. Nancy joins me in sending very best wishes. God bless you.

RONALD REAGAN.

[Freedom Award Dinner, Sept. 14, 1987]

DEPUTY SECRETARY WHITEHEAD'S SPEECH TO THE INTERNATIONAL RESCUE COMMITTEE

To receive the Freedom Award from the International Rescue Committee is indeed a great honor. I am twice blessed on this special occasion to be sharing it with my children and many dear friends who have given the IRC their generous support and who honor me by their presence here tonight. I thank Jim Robinson for his warm words and for his willingness to undertake the thankless job of Dinner Chairman. I thank Liv Ullmann for her beautiful words and for her selfless dedication to the cause of refugees. To receive the Freedom Award from the hands of Leo Cherne is especially meaningful to me. My admiration and friendship for Leo go back to the very beginning of my long association with the IRC.

Compared to Leo, I am a greenhorn. He has been Chairman of the IRC for 36 years. It was he who introduced me to it over 30 years ago in 1956, when Soviet tanks were brutally suppressing the Hungarian Revolution. At the time I was vacationing in Austria. One morning, a desperate and disheveled man burst into the Viennese cafe seeking his old friend with whom I was having breakfast. The surprise visitor was a Hungarian freedom fighter who had crossed the lake between Hungary and Austria to bring tragic news from the streets of Budapest. I was shaken and moved by the experience and wanted to assist in any way I could. My friend John Richardson sent me straight to Leo Cherne.

I was so deeply impressed by Leo and by the IRC efforts to aid the refugees pouring across the Hungarian border that I have been committed to them both ever since. Leo's heart and soul are in this good work. His personal dedication, his vision, his enthusiasm and his compassion inspired me—as they have many of you here tonight—to become involved in the IRC's deeply satisfying humanitarian efforts. For that I thank you, Leo.

I can not let this occasion go by without also expressing tribute to Bayard Rustin, civil rights leader and longtime director and officer of the IRC, who died last month. Bayard truly embodied IRC's philosophy of service. Recognizing that man's inhumanity to man is not limited by race, religion or ethnic group, Bayard believed strongly that our moral responsibility must embrace all people suffering discrimination and persecution. To Bayard it was a logical extension of his civil rights efforts here at home to work on behalf of refugees, victims of injustice abroad. Bayard has made a lasting contribution to the nonviolent defense of human rights throughout the world and he will be deeply missed.

People like Leo Cherne and Bayard Rustin who have devoted a lifetime to human rights and the cause of political refugees know that this is a tough business. Simple caring is not enough. You have to care effectively. You have to put in long hours. You have to work in difficult conditions. You have to meet desperate needs with limited resources. You have to deal patiently with bureaucracies even as you answer pressing calls for help. Unhappily, there are always new tragedies to be coped with. Death and disaster—natural and man-made—starvation, persecution and flight from oppression are still the lot of millions of people. You can never do enough. Worst of all, in the daily grind of the human rights business, after years and years of coping with human misery on a massive scale, you run the risk of becoming inured to individual suffering.

Despite it all, the IRC has never flagged in its humanitarian efforts. As the IRC goes about the practical and necessary work of defining problems and constructing effective programs for their solution, this extraordinary organization remains directly involved with the people it serves. Every day, IRC personnel deal face to face with people in acute distress and cope directly with their personal pain. I have seen this myself in the refugee camps in Thailand, in Northwest Pakistan, in Lebanon, in Somalia, in the Sudan.

The IRC is the kind of organization that makes me feel great about America. Freedom and the rights of man are not airy concepts to the IRC or to the people it serves. To both, the absence of freedom and violations of human dignity are keenly and directly felt.

Those refugees fleeing from Communist oppression in Vietnam or Cambodia; from Cuba, Angola, Laos, Nicaragua and Ethiopia; or from the Soviet Union and occupied Eastern Europe and from Afghanistan—they all are living examples of the importance of making the sacrifices and commitments necessary to keep freedom alive around the world. Those refugees today remind us not to take our own freedom for granted.

From its very beginning, our nation was built by wave upon wave of immigrants and refugees fleeing from tyranny and persecution:

Our nation was built by the Pilgrims fleeing religious persecution and by other New World colonists from 16th, 17th and 18th century Europe;

It was built by the immigrants from Ireland, Scandinavia, Germany, Italy and Eastern Europe in the 19th and early 20th centuries;

And it was built in our own time by the refugees from Nazi fascism and Communist totalitarianism.

Each new wave of arrivals to our shores helped us discover and rediscover America and all she stands for, even as they help us today in the building of our country. Throughout our history, newcomers have enriched our national character and society. Their courage, their hard work and their innate talents deserve our recognition and admiration.

Let me tell you the story of 19 year-old Sathaya Tor (pronounced SATCH-ya). Born in Cambodia, Sathaya was 7 years old when the Khmer Rouge took over his country in 1975. His family was forced apart and Sathaya was put in a child labor camp. The Vietnamese invaded in 1979 and the Khmer Rouge abandoned the camp, leaving weapons and goods behind. The then 11 year-old Sathaya armed himself and, having been told his parents were dead, set forth alone for the Thai border. He was wounded by a land mine along the way. When he got to Thailand, he lived in a refugee camp and eventually was taken in by a Thai family, who helped to trace his sister and brother-in-law. In 1981, the IRC resettled Sathaya and his sister and her husband in the United States. Later, the IRC helped to place him as a foster child with an American family in Hawaii, where he went to school and learned English. It was there that he found out through the IRC's family reunion services that his parents and three of his 10 missing brothers and sisters were alive in a refugee camp at the Thai border.

Sathaya worked for 2 years to gain their legal passage to the United States. At the same time, he excelled academically and won a year's scholarship to Andover. The IRC helped to bring his parents and three brothers to the United States just in time to attend Sathaya's graduation from Andover last June. Accepted by many of America's top colleges, Sathaya enrolled last week at Stanford, where he has chosen to study international relations. Who knows, someday he may even join the State Department! I hope he does.

I am sure that Sathaya and the tens of thousands of people the IRC has helped to our shores agree that any personal success they achieve is really a success story for America, too. And, as we look to the future, we must realize how very important it is that we maintain the vigor and strength of these principles. Old and new citizens alike must recognize that America's future requires our continuing active engagement with the world. Just as our democracy depends on the interest and involvement of all our citizens at home, we must remain involved as well in the turbulent, changing, challenging world that surrounds us. Detachment is not an option. The global effects of new technologies and the global reach of our strategic responsibilities mean that disengagement is impossible. Nor is disengagement desirable for any country that would reap the benefits of a future characterized by greater dispersal of economic, military and political capabilities; by heightened economic, technological and political competitiveness; and by increasing economic interdependence.

Yet, it is sobering to realize that in our country there is and will always be a disturbingly powerful minority who react to the challenge of change by advocating a strategy of moral and strategic retreat from the world around us. These short-sighted people are the first to call for closed door policies: cutbacks in foreign assistance and in immigration; protectionism in trade. They do not see that the foreigners they would have us shun are none other than our relatives, our friends, exchange scholars who return to their countries with a better understanding of our values and way of life, overseas investors contributing to our national growth, allies contributing to our collective security—all members of our ever more interdependent world community.

Each generation must resist the pull of these isolationist and protectionist arguments, which undermine the very strengths that have made America the great nation she is today. Our sense of discovery, our eager competitiveness, our innovativeness, our values of concern for the welfare of others, which have served us so well in the past two centuries, are our best assurance of a bright future for America in the next century.

I would like to take a moment now to look at the emerging world and America's place in it from my vantage point in Washington. Even in the near term, I see trends going our way, reaffirming America's values and our way of life. Provided we play to our strengths, we have a winning hand.

A lot has been achieved already to ensure us a more peaceful and prosperous future. In the past few years we have made substantial progress toward reinvigorating our economy, restoring our military capabilities and strengthening our ties with friends and allies in Europe, Asia, Latin America and elsewhere.

By a policy grounded in realism, we have embarked on a new high-level dialogue with the Soviet Union on arms control, human rights, and the other issues that divide us. For the first time, we now have the imminent prospect of negotiating substantial reductions in the nuclear arsenals of both sides. The Shultz-Shevardnadze meetings which start tomorrow in Washington represent only the latest chapter in a series of constructive dialogues between the two superpowers which have substantially reduced the chances of surprises and misunderstandings.

All over the world, we now see a remarkable surge toward democracy, most notably in Latin America, where the percentage of the population living under freely elected governments has grown from 30 percent in 1979 to more than 90 percent today. In South Korea and the Philippines, although the threads holding together these fledgling democracies are fragile, we see how tenaciously their people struggle to strengthen them.

In Afghanistan, Kampuchea, Angola and Nicaragua, our determined support for those fighting for their freedom has forced our adversaries to conclude that expansionism and aggression are not cost-free. As evidenced by the new peace initiative now underway in Central America, the possibilities for negotiated settlements in all these conflict ridden areas have been increased because we matched diplomatic perseverance with military strength.

In corners of the world as far-flung as Africa and China, we have seen an encouraging trend toward free market-oriented solutions to the problems of economic growth. Almost everywhere in the world we hear talk, and have seen action, toward decentralization, deregulation and denationalization. Even the Soviet Union is slowly facing up to the need for openness, economic restructuring and democratization.

And, to bring us back to the subject of the evening, our government's efforts on behalf of refugees are part and parcel of our visible, vocal and balanced approach to the defense of human rights and fundamental freedoms around the world. Between 1981 and 1987 alone, over half a million refugees came to our shores and we stand at the forefront in assisting over 10 million other refugees in countries of first asylum around the world.

Our policy of providing humanitarian assistance to those in need is a dramatic demonstration not only of America's economic success, but of our abiding sense of responsibility to the suffering in the international community.

For me, the chance to participate in our efforts to deal with these central issues of peace, security and economic well-being has been an exciting—and on more than one occasion frustrating—challenge, one that I have relished. When I went to Washington two and a half years ago now, an old friend with long experience in public life told me that I was very privileged to have an opportunity to be part of history. He was right. But he also told me that I would soon discover that "history" consisted of "just one damn thing after another." He was right there too. But, as President Reagan has said, a lot can be accomplished in the next sixteen months, and I look forward to being part of that effort.

In closing, let me just say that I am deeply honored to receive the Freedom Award, because I know that it comes to me polished by the hands of some very distinguished previous recipients. Like me, I am sure that they, too, received it with humble gratitude, deeply moved by its significance and mindful of the high distinction of their predecessors.

It is I who am deeply grateful to the men and women of the IRC. For over thirty years, I have had the opportunity to share in your extraordinary gift of service—to humanity, to the cause of refugees, to freedom. In short, service to all that America stands for in the world. I am proud to be among you tonight.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on September 22, 1987, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, without amendment:

S. 1532. An act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt.

MESSAGES FROM THE HOUSE

At 5:32 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1890. A communication from the President of the United States, transmitting, amendments for appropriations for fiscal year 1988 for the Legislative Branch, Department of Energy, and Department of the Interior; to the Committee on Appropriations.

EC-1891. A communication from the President of the United States, transmitting, amendments to the request for appropriations for fiscal year 1988 reducing that request; to the Committee on Appropriations.

EC-1892. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on certain budget deferrals; pursuant to the order of January 30, 1975, jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1893. A communication from the Chief, Program Liaison Division, Department of the Air Force, transmitting, pursuant to law, notice of filing the Final Environmental Impact Statement (EIS) with the Environmental Protection Agency for the proposed final deployment of the Ground Wave Emergency Network (GWEN); to the Committee on Armed Services.

EC-1894. A communication from the General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation entitled "To Amend the Federal Deposit Insurance Act;" to the Committee on Banking, Housing, and Urban Affairs.

EC-1895. A communication from the Chairman, Railroad Accounting Principles Board, transmitting, pursuant to law, the Railroad Accounting Principles Board Final Report; to the Committee on Commerce, Science, and Transportation.

EC-1896. A communication from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting, pursuant to law, a report regarding refunds of certain offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC-1897. A communication from the Chairman, Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Federal Energy Regulatory Commission for fiscal year 1986; to the Committee on Energy and Natural Resources.

EC-1898. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report to Congress on the Wrongful Use of Cyanide; to the Committee on Environment and Public Works.

EC-1899. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, copies of a repair and alteration prospectus and a lease prospectus; to the Committee on Environment and Public Works.

EC-1900. A communication from the Acting Assistant Secretary of the Army, transmitting, pursuant to law, a report entitled "Hydrilla in the Potomac River and Tributaries;" to the Committee on Environment and Public Works.

EC-1901. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "Medicaid Risk-Based Health Care Act of 1987;" to the Committee on Finance.

EC-1902. A communication from the Chairman, Cultural Property Advisory Committee, transmitting, pursuant to law, a report of the Cultural Property Advisory Committee on the Request of the Republic of El Salvador; to the Committee on Finance.

EC-1903. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report entitled "Social Security Client Satisfaction;" to the Committee on Finance.

EC-1904. A communication from the Acting Assistant Secretary (Legislative and Intergovernmental Affairs), Department of State, transmitting, copies of replacement pages for those pages which contain errors in the certified true copies of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States; to the Committee on Foreign Relations.

EC-1905. A communication from the Chairman, National Advisory Council on International Monetary and Financial Policies, transmitting, pursuant to law, the annual report of the National Advisory Council on International Monetary and Financial Policies for fiscal year 1986; to the Committee on Foreign Relations.

EC-1906. A communication from the Comptroller of the United States, transmitting, pursuant to law, a report on the Implications of Deleting the Birthplace in U.S. Passports; to the Committee on Foreign Relations.

EC-1907. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, a transcript of the Council of the District of Columbia's recent hearing on Council Bill 7-59, the "Protection for Foreign Officials;" to the Committee on Governmental Affairs.

EC-1908. A communication from the Comptroller of the United States, transmitting, a draft of proposed legislation establishing a program to study the profitability of government contracts; to the Committee on Governmental Affairs.

EC-1909. A communication from the Director, Division of Commissioned Personnel, Department of Health and Human Services, transmitting, pursuant to law, the Annual Report for the Public Health Service Commissioned Corps Retirement System; to the Committee on Governmental Affairs.

EC-1910. A communication from the Director, Office of Management Analysis, Department of the Interior, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1911. A communication from the Secretary to the Board, Railroad Retirement Board, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1912. A communication from the Assistant Attorney, Department of Justice, transmitting, a draft of proposed legislation to amend title 18, United States Code, to permit Federal Prison Industries to borrow from the Secretary of the Treasury and for other purposes; to the Committee on the Judiciary.

EC-1913. A communication from the Secretary of Education, transmitting, pursuant to law, notification of Final Funding Priorities for Rehabilitation Research and Training Centers—Medical; to the Committee on Labor and Human Resources.

EC-1914. A communication from the Secretary of Education, transmitting, a draft of proposed legislation entitled "National Assessment of Educational Progress Amendments of 1987; to the Committee on Labor and Human Resources.

EC-1915. A communication from the Chairman, Railroad Retirement Board, transmitting, pursuant to law, the Railroad Retirement Board Budget Request for fiscal year 1989; to the Committee on Labor and Human Resources.

EC-1916. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "To Repeal Health Maintenance Organization Authorities, and for other purposes;" to the Committee on Labor and Human Services.

EC-1917. A communication from the Chairman, Task Force on Long-Term Health Care Policies, Department of Health and Human Services, transmitting, pursuant to law, the final report of the Task Force on Long-Term Health Care Policies; to the Committee on Labor and Human Services.

EC-1918. A communication from the Assistant Secretary (Legislative and Intergovernmental Affairs), Department of State, transmitting, pursuant to law, the texts of ILO Convention No. 162 and Recommendation No. 172, concerning safety in the use of asbestos; to the Committee on Labor and Human Resources.

EC-1919. A communication from the Secretary of Labor, transmitting, a draft of proposed legislation entitled "Labor Statistics Confidentiality Act of 1987;" to the Committee on Labor and Human Resources.

EC-1920. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, proposed regulations governing political contributions to and expenditures by delegates and delegate committees; to the Committee on Rules and Administration.

EC-1921. A communication from the President, United States Capitol Historical Society; transmitting, pursuant to law, the Annual Report of the United States Capitol Historical Society for the year ending January 31, 1987; to the Committee on Rules and Administration.

EC-1922. A communication from the Secretary of Labor, transmitting, a draft of proposed legislation establishing the Secretary's Committee on Veterans' Employment; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 79: A bill to notify workers who are at risk of occupational disease in order to establish a system for identifying and preventing illness and death of such workers, and for other purposes (Rept. No. 100-166).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1579: A bill to amend the Public Health Service Act to revise and extend the block grant program, and for other purposes (Rept. No. 100-167).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 1712. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture, under certain circumstances, to make established price payments for the 1988 crop of a commodity; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE (for himself, (for himself, Mr. Leahy, Mr. Boren, Mr. Conrad, and Mr. Karnes):

S. 1713. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture, to make advance deficiency payments for the 1988 through 1990 crop years for certain crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. D'Amato, and Mr. Moynihan):

S. 1714. A bill to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, to provide for the restoration of the New York Bight, and for other purposes: to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself and Mr. Helms):

S. Con. Res. 78. A concurrent resolution welcoming His Holiness the Dalai Lama of

Tibet on the occasion of his visit to the United States; to the Committee on Foreign Relations.

By Mr. KERRY (for himself, Mr. Nickles, Mr. Harkin, Mr. Grassley, Mr. Ford, Mr. Wirth, Mr. Simon, Mr. Adams, Mr. Moynihan, Mr. Hatfield, Mr. Dixon, Mr. Weicker, and Mr. Sarbanes):

S. Con. Res. 79. A concurrent resolution expressing support for the United Nations' efforts to end the Iran-Iraq war and to bring an end to human rights abuses in Iran; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ:

S. 1712. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture, under certain circumstances, to make established price payments for the 1988 crop of a commodity; referred to the Committee on Agriculture, Nutrition, and Forestry.

LEGISLATION TO AMEND THE AGRICULTURAL ACT OF 1949

● Mr. BOSCHWITZ. Mr. President, I am today introducing legislation that would protect farmers from precipitous declines in their program payment yields.

Program payment yield calculations are important because they help determine the income support payment that farmers ultimately receive. This bill will limit the possible 1988 reduction to 2 percent—the same as last year. We protected farmers in 1986 and 1987 by limiting the drop to 3 and 2 percent respectively from the previous year.

Under current law, program payment yields could drop as much as 5 percent from the level of last year. For a 1,000-acre wheat farm in Minnesota, with a proven yield of 50 bushels per acre, my bill will save about $3,200.

Changes in the country loan rate calculation, program payment yield calculation, lower PIK certificate premiums and lower wheat quality this year could all combine to reduce Minnesota farm income. My bill will cushion at least one of those factors while we work on the other problems.

As a bit of historical perspective, program payment yield changes were part of the 1985 farm bill. After the House-Senate conference committee reached agreement on many of the commodity program provisions, the cost estimates remained several billion over the congressional spending limit and the amount that the President would approve—$50 billion. The new yield formula was adopted by the committee as a way to offset high target prices and save $1.2 billion over 3 years.

Subsequently, the impact of this change was realized by farmers who insisted that Congress go back and change the formula. The Food Security Improvements Act of 1986 contained provisions limiting the program payment yield reduction to 3 percent the first year and 5 percent the second year from the 1985 level with an overall limit of 10 percent for the life of the bill.

The legislation I am introducing today limits the drop to 7 percent in 1988 and, therefore, further protects farmers from budget saving provisions of the 1985 farm bill.●

By Mr. DASCHLE (for himself, Mr. Leahy, Mr. Boren, Mr. Conrad, and Mr. Karnes):

S. 1713. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture to make advance deficiency payment for the 1988 through 1990 crop years for certain crops; to the Committee on Agriculture, Nutrition, and Forestry.

ADVANCE DEFICIENCY PAYMENTS

Mr. DASCHLE. Mr. President, I rise today to introduce legislation which requires the Secretary of Agriculture to make advance deficiency payments for the 1988 through 1990 crops of wheat, feed grains, cotton, and rice. I am pleased to have as the prime cosponsor of this bill, the chairman of the Senate Committee on Agriculture, Nutrition and Forestry, Senator Patrick Leahy, along with my distinguished Agriculture Committee colleagues, Senators Boren and Karnes.

During consideration of the 1985 farm bill, I served on the House Agriculture Committee and authored that committee's requirement that advance payments be made if the Secretary determines that deficiency payments will be paid. Even though my amendment made payments mandatory, the final farm bill version left the advance deficiency payments to the discretion of the Secretary of Agriculture.

The Secretary of Agriculture has the ability to make advanced payments with the stroke of a pen. Those payments are vital to farm families who use them to finance spring planting. They need and they deserve to have the certainty that advanced deficiency payments will be there through the life of the current farm bill.

My bill will require that no less than 40 percent of the deficiency payment to which wheat and feed grain producers are entitled shall be made at program signup. This bill does not increase payments to farmers, but rather insures they will be made when they are needed most.

Secretary Lyng chose to make advance deficiency payments for the 1987 crop year. The grossly over-optimistic farm talk we're hearing in Washington these days and the fact the administration never has liked advanced deficiency payments has a lot of people justifiably concerned whether the same decision will be forthcoming for the 1988 crop year.

This legislation will end that concern and give farmers a settled payment system they can plan on for the next 3 years. For that reason, I urge the support of my colleagues for this very important bill.

Mr. LEAHY. Mr. President, I am pleased to join Senator Daschle in introducing this bill to require the Secretary of Agriculture to provide our farmers with advance deficiency payments.

Advance deficiency payments have been made in one form or another for 4 out of the past 5 years. Farmers have come to expect these payments as they arrange for financing of their crops. In the farm bill we provided the Secretary with the discretionary authority to pay up to 50 percent of deficiency payments in advance at the time a farmer signs up for a set-aside program.

In the Department of Agriculture's midyear estimates of program costs, the Secretary indicated that advance deficiency payments would not be made. Sure, there is a possibility that the Secretary could change this position. But, while the Department plays games, farmers are faced with this uncertainty, even though wheat is already going in the ground.

I think our farmers deserve better. They need to know what Federal programs will be, they need to know what their cash-flow picture will look like. It is critical that a producer know when payments are going to occur.

I think we need to act decisively. We should make the effort to fix the problem once and for all.

Mr. President, this is a no cost bill. It does not increase payments to farmers. Congressional Budget Office has already assumed that the Secretary will make 40 percent of the wheat and feed grain deficiency payments and 30 percent of the cotton and rice payments in advance. This bill only requires that these payments are made in a timely way.

Mr. President, I urge all Senators to support American farmers by supporting this bill.

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. D'Amato, and Mr. Moynihan):

S. 1714. A bill to amend title I of the Marine Protection, Research, and Sanctuaries Act of 1972, to provide for the restoration of the New York bight, and for other purposes; referred to the Committee on Environment and Public Works.

NEW YORK BIGHT RESTORATION ACT

● Mr. LAUTENBERG. Mr. President, this has been a terrible summer for New Jersey. Each and every day it seems we are faced with still another blight on our shores—if its not garbage, its sewage.

Despite all of our efforts to curb the dumping of raw sewage and other contaminants in our oceans, the New

York bight area has been steadily degraded by the dumping of raw sewage, industrial outfalls and runoff from agricultural and urban areas. Several billion gallons of raw sewage and more than 7 million wet metric tons of dredged material go into the bight every year.

Until we insisted on the closing of the 12-mile site by the end of 1987, the bight was also used as a dumping ground for 7 million wet metric tons of sewage sludge every year.

Unfortunately, closing the 12-mile site will not restore the bight. While it may slow degradation of the area, it will not halt the degradation that results from continued industrial and other outflows into the area.

That is why Senator BRADLEY and I are introducing legislation today that will require EPA to look at practices that continue in the bight area which may result in further deterioration. The bill also requires EPA to look at measures that would result in restoration of the bight area.

The persistent degradation of this area has resulted in pollution that has now spread into a far broader area limiting the use of the water, not only along the shoreline, but also further out into the bay. It is time to end this creeping pollution.

New Jersey beaches have borne the brunt of irresponsible management in this area. I would not be surprised to learn that many of the problems we have seen this summer are linked to abuses of the bight region.

Both New Jersey and New York have already acknowledged the need for a coordinated effort to ensure better management of this area.

The legislation I am introducing today should lead to better management and overall enhancement of the bight area. I am convinced that this bill will not only help to restore the bight area, but will also result in a cleaner shores all along the coast.

The bill requires the Environmental Protection Agency to conduct a study to determine what is still being dumped into the bight, learn what effect this material has on the bight area and find alternate means for handling material that results in continued degradation of the area. EPA is also required to set standards for some of the more common hazardous pollutants that are destroying this environment, such as heavy metals and PCB's.

I urge other Members to support this bill, not only as a measure to clean up the New York Bight, but also as a part of our larger commitment and responsibility to protect our vital ocean and shore resources.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "New York Bight Restoration Act of 1987".

SEC. 2. NEW YORK BIGHT RESTORATION PLAN.

Title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is further amended by inserting after section 104 the following new section:

"NEW YORK BIGHT RESTORATION PLAN

"SEC. 104. (a)(1) Within three years after the date of the enactment of this section, the Administrator shall prepare and submit to the Congress a New York Bight Restoration Plan. In preparing the plan, the Administrator shall hold public hearings in order to obtain the views and comments of interested persons.

"(2) The New York Bight Resoration Plan required to be prepared under paragraph (1) shall—

"(A) identify and assess the impact of pollutant inputs, such as treated and untreated sewage discharge, industrial outfalls, agricultural and urban runoff, storm sewer overflow, upstream contaminant sources, atmospheric fallout, and dumping that are affecting the water quality and marine resources of the New York Bight;

"(B) identify those uses in the bight that are being inhibited because of those inputs;

"(C) determine the fate of the contaminants from those inputs and their effect on the marine environment;

"(D) identify technologies and management practices, and determine the costs, necessary to control those inputs;

"(E) identify impediments to the cleanup of those inputs;

"(F) devise a schedule of economically feasible projects to implement the controls identified under subparagraph (D) and to remove the impediments identified under subparagraph (E); and

"(G) develop recommendations for funding and coordinating the various Federal, State, and local government programs necessary to implement the projects devised under subparagraph (F).

Within six months after the date of the enactment of this section, the Administrator shall submit to the Congress a detailed schedule (and the associated funding requirements) for completing the restoration plan required by this subsection.

"(b) Within one year after the date of the enactment of this section, the Administrator shall prepare and submit to Congress a report on the technological and economic feasibility of establishing and implementing quality standards for the disposal of municipal sludge through ocean or land-based methods. The quality standards shall set forth maximum permissible concentrations of heavy metals, PCB's persistent plastics, microbiological constituents, pathogens, and any material found in municipal sludge regarding which the Administrator considers the establishment of maximum permissible concentrations to be warranted.

"(c) In addition to funds authorized under section III, there are authorized to be appropriated to the Environmental Protection Agency, for purposes of preparing the New York Bight Restoration Plan required under this section, the following amounts:

"(1) $2,000,000 for fiscal year 1988

"(2) $1,000,000 for fiscal year 1989."●

● Mr. MOYNIHAN. Mr. President, I rise as an original cosponsor of the New York Bight Restoration Act of 1987, along with my colleagues Senators D'AMATO, LAUTENBERG, and BRADLEY. I am delighted that today we are expanding efforts to clean up the New York Bight, efforts already begun in the Clean Water Act passed early in this Congress. As a member of the Committee on Environment and Public Works, I served as a conferee on the Clean Water Act, and supported designation of New York-New Jersey Harbor and Long Island Sound as priority areas for research and management under the National Estuary Program, section 320 of the Clean Water Act. The National Estuary Program authorizes $12 million annually for 5 fiscal years to help Federal, State, and local government conserve our important estuarine resources.

The legislation we introduce today will go beyond the limits of the National Estuary Program, out into the open sea to cover what is termed the New York Bight apex, a roughly square section of the Atlantic Ocean that encompasses 11,310 nautical square miles bounded by Long Island, the Jersey Shore and the Continental Shelf.

WHY THE BIGHT NEEDS SPECIAL ATTENTION

The Bight is an irreplaceable resource in every sense. At least 350 species of fish and 500 species of shellfish, crustaceans and invertebrates occur in the Hudson/Raritan Estuary and New York Bight. The commercial harvest of fish and shellfish in the region averages 150 million pounds per year, worth $100 million to the fishermen and $850 million to the regional economy. The industry employs over 9,000 fishermen and processing workers. Recreational fishing brings in over 100,000 pounds per year, worth over $1 billion to the region's economy. Those who enjoy sport fishing number 2 million regional residents and 2 million visitors.

The Port of New York and New Jersey, whose shipping lanes crisscross the Bight depends on this resource, too. The port generates $14 billion per year for the region, including $4.2 billion in salaries for more than 200,000 workers. The port remains the largest container operation in the world, handling some 2 million TEU's (twenty foot equivalent units) per year. It is obvious that the Bight nurtures our marine life, provides our shipping lanes, and affects the enjoyment of our coastal beaches and recreational boating.

It is important therefore, that we manage wisely this multipurpose resource. Pressure on the Bight comes from many sources, and signs that it is not as well as it should be abound. In 1985 devastating algae blooms struck both New York and New Jersey. In 1986 the brown tide struck the east end of Long Island. More recently floatable marine debris have adversely affected all the New York Beaches, including Staten Island, the Rockaways and Breezy Point. And researchers are currently studying the deaths of numerous porpoises which may be linked to sea pollution.

PURPOSE OF THIS NEW LEGISLATION

The bill which amends title I of the Marine Protection, Research and Sanctuaries Act of 1972 provides that within 3 years after passage, the EPA Administrator shall submit to Congress a comprehensive New York Bight Restoration Plan. In developing the plan, the bill directs the Administrator to hold public hearings. The plan is to identify and assess the impact of pollution in the bight, including treated and untreated sewage, industrial outfalls, agricultural and urban runoff, atmospheric pollution, and dumping that affect water quality and marine life in the bight. Moreover, the plan must present technologies and management strategies along with their costs, which will aid in restoration of the bight.

Within 6 months of enactment, the Administrator must supply Congress with a detailed schedule and funding plan for carrying out restoration, along with recommendations for coordinating Federal, State, and local government programs which affect the bight. Within 1 year, the Administrator must transmit to Congress a report on the technological and economic feasibility of establishing water quality standards for disposal of municipal sludge through ocean or land-based methods, including permissible concentrations of persistent plastics, PCB's microbiological constituents, pathogens and other potentially harmful materials.

The bill authorizes $2 million for the first fiscal year, and $1 million for the following fiscal year for preparing the plan. In essence, this means that an additional $3 million would be available for the New York Bight, in addition to the money which New York and New Jersey receive under the national estuary program, which by definition must focus on near coastal waters.

Mr. President, I am proud to cosponsor this measure and I ask that my colleagues support restoration of this important resources.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. MOYNIHAN, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 27, a bill to establish the American Conservation Corps, and for other purposes.

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 450

At the request of Mr. ARMSTRONG, the names of the Senator from Mississippi [Mr. COCHRAN], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of S. 450, a bill to recognize the organization known as the "National Mining Hall of Fame and Museum."

S. 542

At the request of Mr. ARMSTRONG, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 542, a bill to recognize the organization known as the "Retired Enlisted Association, Incorporated."

S. 581

At the request of Mr. PROXMIRE, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 581, a bill to amend title 10, United States Code, to increase the combat support assignments open to women in the Armed Forces.

S. 838

At the request of Mr. LAUTENBERG, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 838, a bill to provide financial assistance to the States for computer education programs, and for other purposes.

S. 998

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1006

At the request of Mr. HECHT, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1006, a bill entitled the "Geothermal Steam Act Amendments of 1987."

S. 1019

At the request of Mr. RIEGLE, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1019, a bill to amend the Internal Revenue Code of 1986 to clarify the tax exempt treatment of self-insured worker's compensation funds.

S. 1070

At the request of Mr. RIEGLE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 1070, a bill to increase the amount authorized to be alloted under title XX of the Social Security Act.

S. 1181

At the request of Mr. PRYOR, the name of the Senator from the New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1181, a bill to amend the Federal Salary Act of 1967 and title 5 of the United States Code to provide that the authority to determine levels of pay for administrative law judges be transferred to the Commissions on Executive, Legislative, and Judicial Salaries.

S. 1188

At the request of Mr. SYMMS, the names of the Senator from Pennsylvania [Mr. HEINZ], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1199

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 1199, a bill to prevent suicide by youth.

S. 1203

At the request of Mr. GRASSLEY, the names of the Senator from Alaska [Mr. STEVENS], and the Senator from Missouri [Mr. BOND] were added as cosponsors of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1345

At the request of Mr. MCCONNELL, the names of the Senator from Wyoming [Mr. WALLOP], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal indentification records.

S. 1365

At the request of Mr. GRAHAM, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumption of service connection for certain diseases of former prisoners of war.

S. 1366

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1401

At the request of Mr. DECONCINI, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1401, a bill to restore, on an interim basis, certain recently amended procedures for determining the maximum attorney's fees which may be charged for services performed before the Secretary of Health and

Human Services under the Social Security Act and to require a report by the Secretary of Health and Human Services regarding possible improvements in such procedures.

S. 1522

At the request of Mr. RIEGLE, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1587

At the request of Mr. D'AMATO, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 1587, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic games.

S. 1673

At the request of Mr. CHAFEE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1673, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for other purposes.

SENATE JOINT RESOLUTION 119

At the request of Mr. RIEGLE, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of Senate Joint Resolution 119, joint resolution concerning the April 1986 accident at the Chernobyl nuclear powerplant in the Soviet Union.

SENATE JOINT RESOLUTION 168

At the request of Mr. MELCHER, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Mississippi [Mr. STENNIS], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 168, joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 172

At the request of Mr. KARNES, his name was added as a cosponsor of Senate Joint Resolution 172, joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. DOLE, the names of the Senator from Delaware [Mr. ROTH], and the Senator from Washington (Mr. EVANS) were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution to provide for the display of the National League of Families POW/MIA flag in the Capitol Rotunda.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the names of the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. DIXON], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from New Jersey [Mr. BRADLEY], the Senator from Louisiana [Mr. BREAUX], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE CONCURRENT RESOLUTION 78—WELCOMING THE DALAI LAMA OF TIBET ON THE OCCASION OF HIS VISIT TO THE UNITED STATES

Mr. PELL (for himself and Mr. HELMS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 78

Whereas His Holiness the Dalai Lama of Tibet is a spiritual leader to millions of Buddhists throughout the world, including many in the United States;

Whereas His Holiness the Dalai Lama has persistently promoted justice, offered hope to the oppressed, and upheld the rights and dignity of all men and women regardless of faith, nationality, or political views;

Whereas His Holiness the Dalai Lama is a world leader who has admirably and with dedication advanced the cause of regional and world peace through adherence to the doctrine of nonviolence;

Whereas His Holiness the Dalai Lama has, through his example, his teachings, and his travels, furthered mutual understanding, respect, and unity among nations and individuals; and

Whereas His Holiness the Dalai Lama will be visiting the United States in September 1987: Now, therefore, be it

Resolved by the Senate (House of Representatives concurring), That the Senate welcomes His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States, commends him for furthering the just and honorable causes that he has championed, and offers him the greetings and good wishes of the people of the United States.

SENATE CONCURRENT RESOLUTION 79—EXPRESSING SUPPORT FOR THE U.N. EFFORT TO END THE IRAN-IRAQ WAR AND END HUMAN RIGHTS VIOLATIONS IN IRAN

Mr. KERRY (for himself, Mr. NICKLES, Mr. HARKIN, Mr. GRASSLEY, Mr. FORD, Mr. WIRTH, Mr. SIMON, Mr. ADAMS, Mr. MOYNIHAN, Mr. HATFIELD, Mr. DIXON, Mr. WEICKER, and Mr. SARBANES) submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 79

Whereas the United Nations has passed nine resolutions condemning the violation of human rights in Iran;

Whereas the United Nations Subcommission on Prevention of Discrimination and Protection of Minorities stressed in Resolution 1987-12 that, to date, more than 200,000 Iranians have been imprisoned, tortured or executed because of their beliefs;

Whereas information on 14,000 of those persons executed has been recently published;

Whereas despite the persistent requests over the past six years by the United Nations and by many human rights organizations that the Iranian government allow a special representative of the United Nations Security Counsel to inspect Iranian prisons and to determine the true extent of torture in Iran, such requests have been ignored by the Iranian government;

Whereas executions, including executions of children and members of religious minorities, apparently still take place in Iran;

Whereas the Khomeini government forcibly dispatches children to the war fronts;

Whereas the Khomeini government has brought the domestic economy of Iran to the brink of ruin by pouring the resources of the country into war making;

Whereas Iran has rejected all proposals to end the seven year Iran-Iraq War.

Whereas Iran has not responded positively to United Nations Security Council Resolution 598 which calls for an end to the Iran-Iraq War;

Whereas the Khomeini government continues to attack and intimidate the other countries of the Persian Gulf region;

Whereas it is known that the Khomeini government supports terrorism and has used hostage taking as an instrument of foreign policy: Now, therefore, be it

Resolved by the United States Senate, the (House of Representatives concurring), That Congress—

(1) Expresses its solidarity with the citizens of Iran, who must endure war and unprecedented repression and extends its wish that the people of Iran will soon enjoy an end to that war and to internal repression;

(2) Supports an official U.S. policy of completely halting the shipment of any kind of armament to the government of Iran;

(3) Urges that the President make every effort to cooperate with the other nations of the United Nations to bring about an end to government sponsored torture in Iranian prisons and to pressure Iran to permit inspection of Iranian prisons by an international delegation; and

(4) Expresses support of all efforts made through the United Nations Security Council to pressure the Khomeini government to accept peace and to end the carnage caused by the seven years of war.

Mr. KERRY. On behalf of myself and several of my colleagues, I am submitting a concurrent resolution expressing support for U.N. efforts to end the Iran-Iraq war and condemning the continued human rights atrocities of the regime of Ayatollah Khomeini.

Joining me in sponsoring this resolution are Senator DON NICKLES, Senator TOM HARKIN, Senator CHARLES GRASSLEY, Senator WENDELL FORD, Senator TIMOTHY WIRTH, Senator PAUL SIMON, Senator BROCK ADAMS, Senator PATRICK MOYNIHAN, Senator MARK HATFIELD, Senator ALAN DIXON, Senator LOWELL WEICKER, and Senator PAUL SARBANES.

Mr. President, the blatant disregard for human rights is the expressed policy of the Government of Iran. In 1985, Sa'eed Raja'i-Khorrassani, Ayatollah Khomeini's personal envoy to the United Nations, stated unequivocally:

> We do not claim that we observe human rights standards, for the Bill of Human Rights and its contents are not criteria for us to judge by or to make decisions on . . . We urge our critics not to criticize us for violating what we do not believe in.

The Universal Declaration of Human Rights was one of the first documents of the global community's response to the horrors and barbarism of the Holocaust. While many nations of the world have not held themselves to the standards set forth in the Universal Declaration of Human Rights, I do not recall any government rejecting this document as has the regime of Ayatollah Khomeini.

While we recognize Iran's right to base its laws on social, cultural, and religious traditions, those laws must be in accord with the human rights obligations that every nation in the world has to it's own people.

Those of us who are sponsoring this resolution believe it is appropriate to move forward as expeditiously as possible with its passage. As we are all aware, Iranian President Ali Khamene'i addressed the United Nations earlier this week, the very body which promulgated the Universal Declaration of Human Rights.

Iran is among those nations which has ratified the U.N. International Covenant on Civil and Political Rights. To reject the legitimacy of basic human rights, as has the Khomeini regime, is to license the unrestrained and unlimited atrocities of a government against its own people. That is exactly what has happened, and is continuing to happen in Iran today.

The Khomeini regime vehemently accuses other nations of promoting violence and instability in the Persian Gulf. Yet, this is the same regime who refuses to abide by U.N. resolutions calling for a cease-fire and negotiated solution to the Iran-Iraq conflict, and who continues to wage an internal war against its own people.

The United Nations has passed nine resolutions condemning the violation of human rights in Iran. Yet, Iranians continue to be routinely and systematically denied even the most basic and fundamental of individual rights: the right to life, to freedom of thought and expression, to religious and political beliefs, and the rights of security of person and property. These are the actions of despots who must use repression to maintain their elitest position in Iran.

The U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities has stressed that more than 200,000 Iranians have been imprisoned, tortured, or executed because of their beliefs or their opposition to the Government of the Ayatollah Kohmeini. Information has been recently published on 14,000 of those persons executed by the Khomeini regime. These executions cannot be justified under any pretense of beliefs, religious or political. These executions amount to little more than de facto murders.

According to Amnesty International, executions in Iran are often preceded by no more than a summary trial lasting but a few minutes. Amnesty International knows of no political case before a Revolutionary Court in which the accused has been allowed to have a lawyer. Charges and verdicts are often kept secret, and there is no right of appeal. Most alarmingly, there are numerous reports of political detentions and executions of children and pregnant women in Iran.

Furthermore, Iran routinely uses torture against prisoners. Amnesty lists beatings on the feet, floggings, and hanging by the arms or wrists as common methods of abuse used on prisoners of conscience. There have also been regular reports of sexual abuse and mock executions. Such practices cannot be defended as necessary under any rational system of justice. Iran, today, is more reminiscent of Hitler's Germany than a nation which follows the humane teachings of the Koran.

The systematic violation of human rights in Iran is not limited to the prison and court system, but is inherent in the Government's policies as it conducts its war with Iraq. As with the court system, Iran does not discriminate by age. The regime continues to dispatch forcibly children to the war fronts. Iranian President Ali Khamene'i explained Iran's rationale in 1985, stating:

> Our enemies think if they publicize that the Islamic Republic sends youngsters to the war fronts, we will fear the negative publicity and will back down and stop mobilizing youngsters . . . The children and adolescents themselves cry and beg to be sent to the fronts.

In reality, the ayatollahs, far from being willing to sacrifice their lives in this so-called holy war, are content to send children to the war front to be used as cannon fodder.

No political conditions, including the war with Iraq, can justify such a blatant disregard for the barbaric human rights atrocities of the Khomeini regime.

Over the past 6 years, the United Nations and many other respected human rights organizations have repeatedly requested that a special representative of the U.N. Security Council be permitted to inspect Iranian prisons to determine the extent of torture used by the Government of Iran against its own people. These requests have been consistently rejected. The resolution we are introducing today, calls upon the Government of Iran to cooperate with the United Nations to halt the practice of state-sanctioned torture and political executions, and to open their prisons to inspection by respected international human rights organizations.

The resolution also calls upon Iran to embrace the efforts being made by the United Nations to bring an end to the fighting between Iran and Iraq and to make a good faith effort to negotiate a settlement to this dispute. To further this end, our resolution endorses the policy of our Government calling for a total embargo in the shipment of arms to Iran.

Finally, in our resolution, we express our solidarity with the people of Iran, who have been forced to endure countless hardships and injustices to maintain a repressive regime in power. While the criticisms in this resolution are aimed at the Ayatollah Khomeini's regime, we support the aspirations of the Iranian people in their efforts to throw off the yoke of tyranny. through this resolution, we are adding our angry voices to those of the rest of the international community in expressing our solidarity with the Iranian people themselves who have the misfortune to be ruled by despots.

AMENDMENTS SUBMITTED

CAMPAIGN FINANCE REFORM

BOREN AMENDMENT NO. 713

(Ordered to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the bill (S. 2) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; as follows:

At the appropriate place, add the following new section:

SEC. . Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by striking out "political party;" through the end of the paragraph and inserting in lieu thereof "political party.".

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

WEICKER AMENDMENT NO. 714

Mr. WEICKER proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the

Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 22, between lines 8 and 9, insert the following:

SEC. 229. COOPERATIVE MEDICAL RESEARCH WITH THE NATIONAL INSTITUTES OF HEALTH

Of the funds appropriated pursuant to section 201 or otherwise available to the Defense Agencies for research, development, test, and evaluation, the Secretary of Defense shall transfer $200,000,000 of the amount available for fiscal year 1988 and $200,000,000 of the amount available for fiscal year 1989 to the National Institutes of Health for the support of medical research conducted in the interest of the health of Armed Forces personnel.

MURKOWSKI (AND OTHERS) AMENDMENT NO. 715

(Ordered to lie on the table.)

Mr. MURKOWSKI (for himself, Mr. CRANSTON, Mr. SIMPSON, and Mr. MATSUNAGA) submitted an amendment intended to be proposed by them to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT.

(a) IN GENERAL.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of the Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section.".

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)), not later than 60 days after the date of the enactment of this Act.

McCAIN AMENDMENT No. 716

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. INDIAN SUBCONTRACT SET-ASIDE INCENTIVE PROGRAM.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Indian subcontract set-aside incentive

"(a) IN GENERAL.—The head of an agency named in clauses (1) through (4) of section 2303(a) of this title shall pay an amount determined under this section to any contractor who awards to an Indian organization or Indian-owned economic enterprise a subcontract for the performance of any work for which the contractor is responsible under a contract awarded to the contractor by such agency. The amount paid under this section shall be in addition to the amount otherwise payable (without regard to this section) to the contractor by such agency under the contract.

"(b) CALCULATION OF ADDITIONAL AMOUNT.—The additional amount paid by the head of an agency to a contractor under subsection (a) shall be equal to 5 percent of the amount of the subcontract awarded by such contractor to the Indian organization or Indian-owned economic enterprise.

"(c) ANNUAL REPORTS.—Not later than October 10 of each year, the Secretary of Defense shall submit to Congress a report containing the number and total amount of the subcontracts referred to in subsection (a) that were awarded by contractors referred to in such subsection during the preceding fiscal year and the number and total amount of the payments made to such contractors under this section during such fiscal year.

"(d) DEFINITIONS.—In this section, the terms 'Indian organization' and 'Indian-owned economic enterprise' have the same meanings provided for the terms 'organizations' and 'economic enterprise', respectively, in section 3 of the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1452).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410. Indian subcontract set-aside incentive.".

NOTICE OF HEARING

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a field hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources.

The subcommittee would welcome testimony from State and local officials, as well as interested citizens regarding S. 1435, to authorize certain elements of the Yakima River Basin water enhancement project, and for other purposes. The hearing is scheduled for October 19, 1987, beginning at 10 a.m. in room B of the Yakima Valley Visitors and Convention Bureau, 10 North 8th Street, Yakima, WA.

For further information regarding the hearing, you may wish to contact Russell R. Brown of the subcommittee staff at 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Water and Power, room SD-364, Dirksen Senate Office Building, Washington, DC 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 23, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. DIXON. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs be authorized to meet during the session of the Senate on Wednesday, September 23, 1987, to hear testimony on the impact of the proposed catastrophic health legislation on the Federal Employees Health Benefits Program and on Federal annuitants.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RESEARCH AND DEVELOPMENT

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources, Subcommittee on Research and Development be authorized to meet during the session of the Senate on Wednesday, September 23, 1987, to receive testimony on S. 1294, to promote the development of technologies which will enable fuel cells to use alternative fuel cells to use alternative fuel sources; S. 1295, to develop a national policy for the utilization of fuel cell technology; and S. 1296, to establish a hydrogen research and development program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 23, 1987, to conclude action of our response to the reconciliation instructions under the budget resolution; S. 1145, amendments to the Alaska Native Claims Settlement Act of 1971; S. 1084, and amendment No. 176, United States Uranium Enrichment Act; S. 1100, and amendment No. 177, Uranium Revitalization and Tailings Reclamation Act of 1987; S. 575, land conveyance to the Catholic Diocese of Reno/Las Vegas; H.R. 1366, to provide for the transfer of certain lands in the State of Arizona; S. 574, the Battle Mountain Pasture Restoration Act of 1987; S. 1012, to increase the amount authorized to be appropriated for property acquisition, restoration, and development, and for transportation, educational and cultural programs, relating to the Lowell Historical Park.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. DIXON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on September 23, 1987, beginning to mark up clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. DIXON. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, September 23, 1987, to mark up farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. DIXON. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 23, 1987, to hold a brief business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ARTHUR SCHLESINGER, JR. DISCUSSES "THE INTENTIONS OF THE FRAMERS"—INTERNATIONAL AFFAIRS

● Mr. PELL. Mr. President, the Center for Strategic and International Studies, known as CSIS, is celebrating its 25th anniversary. Originally established in 1962 as a part of Georgetown University, the center has been separated from Georgetown since July 1 of this year, functioning as an independent, nonpartisan policy research institute. It is now directed by Dr. Amos A. Jordan, and many of us have participated in its programs and benefitted from its publications.

On September 15 CSIS sponsored a conference organized by its very able director of European studies, Robert E. Hunter, which was of particular significance and timeliness. The subject: "The Constitution and Legislative-Executive Relations in International Affairs." Leading off the conference as its first speaker was Prof. Arthur Schlesinger, Jr., one of our Nation's most respected historians and scholars. Professor Schlesinger addressed the fundamental Constitutional issue of "The Intentions of the Framers" regarding the legislative and executive's role in U.S. foreign relations. In doing so he illuminated a number of key issues facing us in these very days.

Professor Schlesinger states the following general conclusion:

> The Framers, in short, envisaged a partnership between Congress and the President in the conduct of foreign affairs with Congress as the senior partner. Hamilton's comment in the 75th Federalist on the treaty-making power applies to the broad legislative-executive balance in international affairs: "The joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them."

He then adds, drawing on his own long experience in the conduct of our foreign relations:

> Yet beneath the exact allocation as laid down by the Framers lies a deeper principle. In the field of foreign affairs the Constitution commands above all a partnership between the legislative and executive branches. The terms of the partnership may vary according to the pressures, political and geopolitical, of the day. That, in my view, is the way it should be. The essential questions to foreign policy belong in the political arena. They must be argued out before Congress and the electorate. The salient question must be the wisdom of the measures proposed. But, however the balance shifts, the partnership must remain. Neither branch of government has a divine right to prevail over the other. Congress must understand that it cannot conduct foreign policy. The Presidency must understand that no foreign policy can last that is not founded on popular understanding and congressional consent. When we find means of making the partnership real, we remain faithful to the deeper intentions of the Framers.

Mr. President, these are wise words, and I commend them to my colleagues in all the branches of our Government. They deserve to be read in their entirety, and I ask that Professor Schlesinger's statement at the CSIS conference be printed in the RECORD.

The statement follows:

THE LEGISLATIVE-EXECUTIVE BALANCE IN INTERNATIONAL AFFAIRS: THE INTENTIONS OF THE FRAMERS

(By Arthur Schlesinger, Jr.)

Historians, whether in the school of John Fiske or in the school of Charles A Beard, have been traditionally preoccupied with the domestic origins of the Constitution—the chaos, real or alleged, of the Confederation; or the struggle, real or alleged, between property and democracy. This preoccupation doubtless reflected the isolationism prevailing in the United States in the placid times when "The Critical Period in American History" and "An Economic Interpretation of the Constitution" were written.

Yet the men who wrote the Constitution did not live in placid times. The new nation was a subversive republican experiment founded on principles that threatened all the monarchies of Europe. The achievement of a precarious independence offered no guarantee agains further attempts to extirpate republican principles. Already the British in the Northwest, the Spaniards in the South and Indians everywhere menaced the new republic. The Articles of Confederation gave Congress no effective power to raise revenues, enforce treaties create armies or wage war. "We have," Alexander Hamilton wrote in the 15th Federalist, "neither troops, nor treasury, nor government."

National Security.—The defenselessness of the confederated states against military attack—was a prime motive in the movement for constitutional reform.

Foreign trade was almost as urgent an issue in bringing about the Constitution. Great Britian excluded the new nation from the West Indies and discriminated against American ships in British ports. Because the Articles of Confederation gave each state the power to conduct its own trade policy, Congress could not enforce commercial treaties or retaliate against Britain by imposing restrictions on British trade. The revival of American trade required a national commercial policy. For this it was necessary to grant Congress the power to regulate commerce. It was this issue that led to the Annapolis convention in 1786, and the Annapolis convention issued the call to Philadelphia in 1787.

The Philadelphia convention, even if foreign policy did not bulk large in the debates, fully acknowledged the importance of national security as a motive for the new Constitution. In proposing the Virginia Plan, Edmund Randolph listed the failure to provide for national security as the first among the defects of the Articles of Confederation and inability to achieve "counteraction of the commercial regulations of other nations" as the third.[1] Hamilton similarly condemned the Confederation for deficiency in "all matters in which foreigners are concerned."[2] Twenty-five of the first thirty Federalist Papers dealt with national security and foreign relations.

The remedy for the new nation's international vulnerabilities was, in the view of the Framers, a strong central government empowered to create a standing army and navy, to regulate commerce and to enforce treaties. The idea, as Jefferson told Madison, should be "to make us one nation as to foreign concerns, and keep us distinct in domestic ones."[3] But, given the separation of powers, how should foriegn policy authority be distributed in the new government? Where should the new powers be located? Here the Framers were unambiguous in their decisions. The vital powers in international affairs were to be reserved for Congress.

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[1] C C Tansill, ed, "Documents Illustrative of the Formation of the Union of the American States (Washington 1927), 115.

[2] F W Marks III, "Independence on Trial: Foreign Affairs and the Making of the Constitution" (Baton Rouge, 1973), 142.

Article I of the new Constitution therefore gave Congress not only the exclusive appropriations power—itself a potent instrument of control—but the exclusive power to declare war, to raise and support armies, to provide and maintain a navy, to make rules for the government and regulation of the armed services and to grant letters of marque and reprisal—this last provision representing the 18th century equivalent of retaliatory strikes and enabling Congress to authorize limited as well as formal war. Even Hamilton, the convention's foremost proponent of executive energy, endorsed this allocation of powers. His own plan would have given the Senate "the sole power of declaring war."[4]

Much is latterly made of Hamilton's statement in the 23rd Federalist that the powers of natonal self-defense must "exist without limitation, because it is impossible to foresee or define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them. The circumstances that endanger the safety of nations are infinite, and for this reason no constitutional shackles can wisely be imposed on the power to which the care of it is committed. This power ought to be co-extensive with all the possible combinations of such circumstances."

"But Hamilton was not asserting these unlimited powers for the Presidency, as careless commentors have assumed. He was asserting them for the national government as a whole—that is, for Congress and the Presidency together. Indeed, Hamilton expressly rejected the notion that foreign policy was the peculiar prerogative of the President. "The history of human conduct," he wrote in the 75th Federalist, "does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate created and circumstanced as would be a President of the United States."

When one delegate argued that the warmaking power should be vested in the President, Elbridge Gerry of Massachusetts responded, evidently to general approbation, that the "never expected to hear in a republic a motion to empower the Executive alone to declare war."[5] No one can doubt the determination of the Framers, in the words of James Wilson, to establish a procedure that "will not hurry us into war; it is calculated to guard against it. It will not be in the power of a single man, or a single body of men, to involve us in such distress." By giving the power to Congress, Wilson continued, "We may draw a certain conclusion that nothing but our national interest can draw us into a war."[6] Lincoln accurately expressed the purpose of the Framers when he wrote sixty years later that "they resolved to so frame the Constitution that no one man should hold the power of bringing this oppression upon us."[7]

National defense was the first priority in the conduct of foreign relations, and the Framers intended to place it substantially in the hands of Congress. The next priority was trade policy. The Framers expected the foreign relations of the new republic would be primarily commercial rather than political in character. America's "plan is commerce," as Thomas Paine wrote in "Common Sense," "and that well attended to, will secure us the peace and friendship of all Europe, because it is the interest of all Europe to have America as free port"[8] Washington set forth the policy in his Farewell Address: "The great rule of conduct for us in regard to foreign nations is, in extending our commercial relations to have with them as little political connection as possible." Given the unmistakable priority the Framers gave commercial over political relations, it is signficant that the Constitution vested control over this primary aspect of foreign policy to Congress, assigning it the express and unqualified power "to regulate Commerce with foreign Nations."

While reserving the vital foreign policy powers for Congress, the Framers in the last weeks of the convention did provide the executive a role in the conduct of national security affairs. The convention authorized the President to receive foreign envoys. Abandoning earlier drafts giving the Senate power to negotiate treaties and appoint ambassadors, it now conferred these powers on the President, though he had to act with the advice and consent of the Senate. Instead of giving Congress the exclusive power to "make" war, as the draft before the convention provided, Madison and Gerry moved to replace "make" by "declare" in order to leave "to the Executive the power to repel sudden attacks."[9]

The President, moreover, was constitutionally designated commander in chief of the armed services. The Framers saw this, however, as a ministerial function, not as an independent source of executive authority. "Of all the cares and concerns of government," Hamilton observed in the 74th Federalist, "the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand." Making the President commander in chief not only made for military efficiency; it would also assure civilian control of the military establishment and guard against the ambitions of overreaching generals.

But Hamilton took care to say (in the 69th Federalist) that the designation "would amount to nothing more than the supreme command and direction of the military and naval forces." He contrasted this limited assignment with the power of the British king—a power that, he said, "extends to the declaring of war and to the raising and regulating of fleets and armies,—all which, by the Constitution under consideration, would appertain to the legislature." As Hamilton specified in presenting his own plan to the convention, the President should only "have the direction of war when authorized or begun."[10]

In modern times the commander in chief clause has become a particular vehicle of exaggerated claims for unilateral executive authority. Some politicians and pundits talk as if the President were commander in chief not just of the armed forces but of the nation. But the Framers never intended the commander in chief clause as a grant of independent or inherent power, nor has the Supreme Court ever ruled that this clause enlarges presidential power.

In marked contrast to the specific grants of authority made to Congress, the Constitution contributed little to presidential authority in foreign affairs. However, Article II gave the President general executive power; and, as the 64th and 75th Federalist Papers emphasized, the structural characteristics of the Presidency—unity, secrecy, decision, despatch, superior sources of information—illustrated "the benefits of the constitutional agency of the President in the conduct of foreign negotiations." Still, it must not be forgotten that, as one scholar has put it, "the delegates assumed that diplomatic negotiations per se would be rare, that foreign relations would be commercial in nature, and that treaties would be few."[11]

The Framers, in short, envisaged a partnership between Congress and the President in the conduct of foreign affairs with Congress as the senior partner. Hamilton's comment in the 75th Federalist on the treaty-making power applies to the broad legislative-executive balance in international affairs: "The joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them."

Still, the text of the Constitution was too full of generality, ambiguity, omission and overlapping grants of authority to settle the range of problems arising in the conduct of foreign affairs. The result, as E.S. Corwin famously put it, was to make of the Constitution "an invitation to struggle for the privilege of directing American foreign policy."[12] The struggle began almost at once. We hear much these days from Attorney General Meese and Judge Bork about the virtues of original intent. It can only be said that they appear more certain about the dictates of original intent than the original intenders were. For a short six years after the Philadelphia convention Madison and Hamilton, who had helped frame the Constitution, who had thereafter collaborated in writing the Federalist Papers and who were almost uniquely qualified to say what the sacred document 'really' meant, were engaged in bitter controversy over the constitutional allocation of powers in foreign affairs.

It was this debate that moved Justice Jackson in his opinion in the steel seizure case to his conclusive refutation of original intent: "Just what our forefathers did envision, or would have envisaged had they foreseen modern conditions, must be divined from materials almost as enigmatic as the dreams Joseph was called upon to interpret for Pharaoh. A century and a half of partisan debate and scholarly speculation yields no net result but only supplies more or less apt quotations from respected sources on each side of the question.

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[3] Jefferson to Madison, 16 December 1786, "Papers of Thomas Jefferson, J.P. Boyd, ed, (Princeton, 1950 —), X, 603.

[4] Transill, ed, "Documents," 980.

[5] Tansill, ed, "Document," 562.

[6] F.D. Wormuth and E.B. Firmage, "To Chain the Dog of War: The War Power of Congress in History and Law" (Dallas, 1986). 30.

[7] Lincoln to W.H. Herndon, 15 February 1848, Lincoln, "Collected Works," R.P. Basler, ed (New Brunswick, 1953), I, 451-452.

[8] Thomas Paine, "Common Sense" (Dolphin paperback), 31.

[9] Tansill, ed, "Documents," 562.

[10] Tansill, ed, "Documents," 979.

[11] Marks, "Independence on Trial," 155.

[12] E.S. Corwin, "The President: Office and Powers" (New York, 1940), 200.

The issue between Hamilton and Madison was President Washington's unilateral declaration of American neutrality in the war between Great Britain and France. Hamilton contended that the powers of declaring war and ratifying treaties bestowed by the Constitution on Congress were exceptions to the general executive power vested by Article II in the President and that the power to proclaim neutrality represented a legitimate exercise of general executive power. Madison insisted that Congress's war-making power must include everything necessary to make that power effective, including control of neutrality policy. Washington eventually came more or less to Madison's position, and neutrality became thereafter a congressional prerogative, with unfortunate consequences for the republic in the 1930s.

Presidential claims were more successful in other areas. Congress was not equipped structurally to direct many aspects of foreign policy. As Hamilton put it in the 75th Federalist, "Accurate and comprehensive knowledge of foreign politics; a steady and systematic adherence to the same views; a nice and uniform sensibility to national character; decision, secrecy, and despatch, are incompatible with the genius of a body so variable and so numerous." Even Jefferson as President Washington's first Secretary of State affirmed, "The transaction of business with foreign nations is Executive altogether."[13] This is the meaning of the proposition put forward by John Marshall in the House of Representatives in 1799 that the President is "the sole organ of the nation in its external relations, and its sole representative with foreign nations." But Marshall, as Professors Wormuth and Firmage have pointed out, never contended that "the President's exclusive power to communicate with other nations on behalf of the United States involved power to make foreign policy." [14] The "sole organ" doctrine was conceived as procedural, not substantive, in character.

Nevertheless even the power to communicate was capable of expansion. So the right to receive foreign envoys was soon translated into the right to recognize foreign governments. In similar fashion the executive began his long process of encroachment on the war-making power confided by the Framers to Congress.

Jefferson himself, the apostle of strict construction, sent a naval squadron to the Mediterranean under secret orders to fight the Barbary pirates, applied for congressional sanction six months later and then misled Congress as to the nature of the orders. He unilaterally authorized the seizure of armed vessels in waters extending to the Gulf Stream, engaged in rearmament without congressional appropriations, withheld information from Congress and invoked John Locke's doctrine of emergency prerogative to justify presidential action beyond congressional authorization.

Newspaper pundits today like to cite the Louisiana Purchase as a further example of unilateral presidential initiative exercised independently of Congress. I need not tell this audience how wrong this idea is. Congress set up the clamor for Louisiana, confirmed the envoys who negotiated the purchase, appropriated the funds for the purchase, ratified the treaty consummating the purchase and authorized the President to receive the purchase and to establish government in the newly acquired territory. Jefferson's constitutional doubts concerned the authority of the national government, President and Congress combined, to annex new territory. The Louisiana Purchase was definitely not an act of executive aggrandizement.

Other early Presidents did imitate Jefferson's unilateral initiatives. As Judge Sofaer has shown in his magistral work "War, Foreign Affairs and Constitutional Power: The Origins," unauthorized presidential adventurism thrived in the early republic. Whether the pattern this revealed legalizes unilateral war-making by modern Presidents is another matter. Sofaer's surmise is that early Presidents deliberately selected venturesome agents, deliberately kept their missions secret, deliberately gave them vague instructions, deliberately failed either to approve or disapprove their constitutionally questionable plans and deliberately denied Congress the information to determine whether aggressive acts were authorized—all precisely because the Presidents wanted their men in the field to do things they knew lay beyond the constitutional right to command. "At no time," Sofaer writes of the classical period, "did the executive claim 'inherent' power to initiate military actions." [15]

This is the vital distinction between early and contemporary Presidents—the distinction between the usurpation of power, which creates no constitutional precedent, and the illegitimate expansion of constitutional claims. This distinction is further illustrated in the case of two Presidents who undertook plainly unconstitutional acts in times of authentic national emergency when the life of the nation was genuinely at stake. Acting upon Locke's doctrine of emergency prerogative, Lincoln in 1861 and the second Roosevelt in 1941 did manifestly unconstitutional things—actions, as Lincoln later told Congress, that, "whether strictly legal or not, were ventured upon under what appeared to be a popular demand and a public necessity; trusting then as now that Congress would readily ratify them." But neither Lincoln nor Roosevelt claimed an inherent presidential right to do these things. The claim of inherent presidential power is a product of the late 20th century.

One Supreme Court decision has been invoked in recent days both as a broader justification of such inherent power and as a historical explanation of the legislative-executive balance, presumably as understood by the Framers. This is the celebrated Curtiss-Wright case of 1936. Those who invoke Curtiss-Wright have not read the decision with much care. For the Court in Curtiss-Wright did not decide anything about inherent presidential power in the field of foreign affairs. Rather the contrary: it affirmed the power of Congress to impose arms embargos and further affirmed the right of Congress to delegate to the President power to institute a particular embargo if he found that the embargo would contribute to the reestablishment of peace between the warring countries. The decision, in short, sanctioned presidential action within a framework ordained by Congress. It did not sanction independent presidential action. As Justice Jackson wrote in the steel seizure case, Curtiss-Wright "involved, not the question of the President's right to act without congressional authority, but the question of his right to act under and in accord with an Act of Congress."

In writing the decision, Justice Sutherland faced a potential embarrassment. For the year before a unanimous Court in the Schechter case had struck down the law establishing the National Recovery Administration as an unconstitutional and invalid delegation of congressional power to the President. It was therefore necessary for the Court in upholding the presidential action in the Curtiss-Wright case to distinguish delegation in domestic policy from delegation in foreign policy. Drawing this distinction led Sutherland into a long and dubious historical excursion. He argued that the power to conduct foreign policy did not derive from the Constitution but was an attribute of sovereignty, transferred directly from the British crown to the new American government. He also gave Marshall's famous phrase about the President as "sole organ of the nation in its external relations" a substantive interpretation, asserting "the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations—a power which does not require as a basis for its exercise an act of Congress." For these and other reasons, legislation in foreign affairs "must often accord to the President a degree of discretion and freedom from statutory restriction which would not be admissible were domestic affairs alone involved."

These views Justice Jackson dismissed as dicta—that is, as opinions aside from the point to be decided and therefore not part of the Court's holding. Nor indeed has the Court ever upheld the proposition that the President has an extra-constitutional source of power in international affairs.[16] The decision in Curtiss-Wright gave the Imperial Presidency rhetorical encouragement but not constitutional vindication.

My brief today is the intentions of the Framers, and I must leave subsequent changes in the legislative-executive balance to the masterful hands of Professor Burns. But I cannot refrain from noting the dilemma in which this historical recital places an administration fervently devoted to what the Attorney General has called "the Jurisprudence of Original Intention." [17] For no one can doubt that the original intent of the Framers was to deny the executive branch of government the power to bring the country into war. Their original intent was, beyond any conceivable or arguable question, to reject the heresy that foreign policy was the private preserve and property of the President. So far as presidential power in war-making and in foreign policy generally are concerned, the Attorney General's administration, like most administrations over the last forty years, denies, repudiates and tramples on the original intent of the Framers. Whatever happened to the Attorney General's passion for original intent when his President, without congressional authorization, initiated military action in Grenada, Lebanon, Libya and the Persian Gulf?

This should trouble the doughty champion of the Jurisprudence on Original Intention, but I doubt that it does. Fortunately the Attorney General does not believe in original intent as a neutral principle to be applied impartially across the board. He invokes it only when it promotes the purposes of the administration he serves. Still I do not think it unfair to ask the paladins of original intent either to apply it to foreign policy and the war-making power or to shut up about it altogether.

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[13] 24 April 1790. "The Complete Jefferson," S.K. Padover, ed. (New York, 1943), 138-139.

[14] Wormuth and Firmage, "To Chain the Dog of War," 181-182.

[15] A.D. Sofaer, "War, Foreign Affairs and Constitutional Power: The Origins" (Cambridge, Mass., 1976), 377-379.

[16] See C.A. Lofgren, "United States v. Curtiss-Wright Export Corporation: An Historical Reassessment," 83 "Yale Law Journal" (1973) and the discussion in Wormuth and Firmage, "To Chain the Dog of War," 180-183, 206-211.

[17] Edwin Meese, Address before the American Bar Association, 9 July 1985 (mimeographed), 15.

Nor, I must confess, does the administration's departure from original intent trouble me on constitutional grounds. As one who agrees with Woodrow Wilson that the Constitution is "the vehicle of a nation's life," and that its meaning is determined "not by the original intentions of those who drew the paper, but by the exigencies and the new aspects of life itself," [18] I am prepared for a modulation and adjustment of the Constitution in response to the perceived and imperative needs of the day—always within the framework of basic constitutional principles. As Justice Holmes put it in Missouri v. Holland, the words of the Constitution "have called into life a being the development of which could not have been foreseen by the most gifted of its begetters. . . . The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago."

We can agree, I think, first, that the original intent of the Framers on the legislative-executive balance in international affairs, is clear and indisputable and, second, that this original intent has never effectively controlled policy almost from the start of the republic and has been explicitly repudiated by most Presidents since President Truman's decision to go into Korea without congressional authorization in 1950.

Yet beneath the exact allocation as laid down by the Framers lies a deeper principle. In the field of foreign affairs the Constitution commands above all a partnership between the legislative and executive branches. The terms of the partnership may vary according to the pressures, political and geopolitical, of the day. That, in my view, is the way it should be. The essential questions of foreign policy belong in the political arena. They must be argued out before Congress and the electorate. The salient question must be the wisdom of the measures proposed. But, however, the balance shifts, the partnership must remain. Neither branch of government has a divine right to prevail over the other. Congress must understand that it cannot conduct foreign policy. The Presidency must understand that no foreign policy can last that is not founded on popular understanding and congressional consent. When we find means of making the partnership real, we remain faithful to the deeper intentions of the Framers.

In the end the nature of the balance is a political question. "If the people ever let command of the war power fall into irresponsible and unscrupulous hands," Justice Jackson reminded us in the Korematsu case," the courts wield no power equal to its restraint. The chief restraint upon those who command the physical forces of the country, in the future as in the past, must be their responsibility to the political judgments of their contemporaries and to the moral judgments of history."●

FREE TRADE? WHY ONLY THE UNITED STATES?

● Mr. HEINZ. Mr. President, lately, it seems that many people have been striving to downplay the role that the decline of manufacturing has had on the U.S. trade deficit in as many various ways as possible. They argue that the U.S. service sector is growing, so we do not need increased manufacturing. Or they argue that we can export high technology and information-intensive goods instead of traditional manufactured ones, and still maintain our competitive edge. It is this latter argument which is quite forcefully rejected in a recent article in Forbes magazine entitled, "Does Anyone Really Believe in Free Trade?"

This article examines the Brazilian Government's role in the development of its nascent computer industry in the early 1980's and shows that the Government was very active in protecting and encouraging its growth. Not only did the Brazilians outlaw the domestic production of computers by non-Brazilian firms, but they also passed the 1984 Informatica Law, which, "in effect, legalizes stealing—so long as the victims are U.S. technology exporters," says the author. Brazilian companies can hire United States educated engineers, buy and copy expensively developed and produced high technology, and then make inexpensive copies which they export back to the United States. This obviously undermines the U.S. computer industry, since its knowledge and product development are its most valuable resources.

I bring this article to Senators' attention because it uses the example of Brazil to make an argument I have been making for some time—that free trade is in everybody's interest as a global concept, but that happy state will not be reached simply by the United States accepting more imports. Rather achieving it will likely demand some hard-nosed tactics. This article clearly presents a good example of why our trade balance problems must be confronted not simply with a weakening dollar, but with a comprehensive trade policy that employs carefully thought-out tactics to achieve its objectives, such as is found in the trade bill recently passed by the Senate.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

DOES ANYONE REALLY BELIEVE IN FREE TRADE?

(By Norman Gail)

Never mind if the U.S. loses its manufacturing skills, we'll just import manufactured goods and pay for them by exporting high technology and knowledge-oriented products. Steel in, software out. Autos in, microchips out.

That's a comforting theory held by a lot of people. Is it workable? Increasingly it looks as if it is not workable. The whole concept is being seriously undermined as U.S. innovations in technology are adopted not only by Japan but also by such fast-developing countries as South Korea, Brazil, Taiwan, even India.

While these countries are more than happy to sell us manufactured goods, they closely control their own imports of technology goods they buy from us. Exports of computers and other high-technology products from the U.S. are still huge, but the long-term prospects are in question. In areas of medium technology, mini-computers in particular, developing countries are adapting or stealing U.S. technology or licensing it cheaply to manufacture on their own. Many of the resulting products are flooding right back into the U.S.

The Japanese developed this policy to a fine art: Protect your home market and then, as costs decline with volume, manufacture for export at small marginal cost. A good many developing countries have adopted the Japanese technique.

Against such deliberate manipulation of markets, what avails such a puny weapon as currency devaluation? Whether the dollar is cheap or dear is almost irrelevant. Free trade is something we all believe in until it clashes with what we regard as vital national economic interests.

These are the broad trends. Now meet Touma Makdassi Elias, 41, an engineer born in Aleppo, Syria. Elias has a master's degree in computer science from San Jose State, in Silicon Valley, and a doctorate from Cranfield Institute of Technology in England. Grounded in European and U.S. technology, Elias is now a Brazilian.

His company, Microtec, is Brazil's first and biggest producer of personal computers. Elias came to São Paulo eight years ago to teach night classes in engineering. In 1982 the Brazilian government banned imports of small computers. Seizing the opportunity, Elias started making the machines in the basement of a supermarket in the industrial suburb of Diadema.

Technology? "We worked from IBM technical manuals," Elias told FORBES." We had a product on the market by 1983. We started making 20 machines a month. Soon we'll be making 2,400. Now my brother may be joining our firm. He's a graduate of the Sloan School of Management at MIT. He's been managing an investment company in Dubai, in the Persian Gulf, but we need him here. Brazil is one of the world's fastest-growing computer markets."

There you have it in a nutshell: foreigners, some of them U.S.-educated, copying—stealing, to be blunt—U.S. technology and reproducing it with protection from their own governments. An isolated development? No, this is the rule, not the exception, in much of the world. How, under such circumstances, can the U.S. expect to reap the fruits of its own science and technology?

Time was when technology spread slowly. Communications were sluggish and nations went to great lengths to keep technological innovations secret. In northern Italy 300 years ago, stealing or disclosing the secrets of silk-spinning machinery was a crime punishable by death. The machines were reproduced in England by John Lombe only after he spent two years at risky industrial espionage in Italy. At the height of the Industrial Revolution, Britain protected its own supremacy in textile manufacture through laws banning both exports of machines and emigration of men who knew how to build and run them.

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[18] Woodrow Wilson, "Constitutional Government in the United States" (New York, 1908), 157, 192.

These embargoes on the export of technology were eventually breached. France sent industrial spies to England and paid huge sums to get British mechanics to emigrate. By 18— there were some 2,000 British technicians on the European continent, building machines and training a new generation of technicians. A young British apprentice, Samuel Slater, memorized the design of the spinning frame and migrated to the U.S. in 1789, later establishing a textile factory in Pawtucket, R.I. So, in the end, the technology became commonplace, but it took decades, and, in the meantime, England was profiting handsomely from its pioneering.

Not so today, when 30% of the students at MIT are foreigners, many destined to return to their native lands and apply what they learn of U.S. technology. What once was forbidden, today is encouraged. Come share our knowledge.

Consider the case of Lisiong Shu Lee, born in Canton, China in 1949, raised in Rio de Janeiro, now product planning manager for SID Informatica, one of Brazil's big three computer companies. Like many leading Brazilian computer technicians, Lee is an engineering graduate of the Brazilian air force's prestigious Aerospace Technical Institute near São Paulo. Born in China, raised in Brazil, educated in the U.S. "When I was only 24," Lee says, "I was sent to the U.S. to debug and officially approve the software for the Landsat satellite surveys devised by Bendix Aerospace," Lee later worked eight years with Digital Equipment's Brazilian subsidiary.

Like Microtec's Elias, Lee had learned most of what he knew from the Americans. In teaching this pair—and tens of thousands like them—U.S. industry and the U.S. academics created potential competitors who knew most of what the Americans had painfully and expensively learned. Theft? No. Technology transfer? Yes.

In Brazil over the past few years, the Syrian-born, U.S.-educated Elias played cat-and-mouse with lawyers representing IBM and Mircrosoft over complaints that Microtec and other Brazilian personal computer makers have been plagiarizing IBM's BIOS microcode and Microsoft's MS-DOS operational software used in the IBM PC. The case was settled out of court. Brazilian manufacturers claimed their products are different enough from the original to withstand accusations of copyright theft.

Where theft and copying are not directly involved in the process of technology transfer, developing countries find ways to get U.S. technology on terms that suit them. They get it cheaply. Before President José Sarney departed for his September visit to Washington, the Brazilian government tried to ease diplomatic tensions by announcing approval of IBM's plans to expand the product line of its assembly/test plant near São Paulo. IBM will invest $70 million to develop Brazilian capacity for producing the 5-gigabyte 3380 head disk assembly (HDA).

Ah, but there is a tradecff involved in the seeming concession by the Brazilians. The tradeoff is that IBM's expansion will greatly improve the technical capabilities of local parts suppliers to make a wider range of more sophisticated products. About a third of the key components in IBM's HDA catalog will be imported, but Brazilian suppliers will get help in providing the rest, some involving fairly advanced technologies.

But does what happens in Brazil matter all that much? Brazil, after all, is a relatively poor country and accounts for a mere $3 billion in the U.S. $160 billion negative trade balance. Brazil matters very much. For one thing, what happens there happens in similar ways in other developing countries—and some developed ones as well. Brazil, moreover, is fast adapting to the computer age. The Brazilian computer industry employs over 100,000 people. It includes everything from the gray market of São Paulo's Boca de Lixo district to the highly profitable overseas subsidiaries of IBM and Unisys. Both subsidiaries have been operating in Brazil for more than six decades and, for the time being, have been profiting from Brazil's closed-market policies. It includes many manufacturer/assemblers of micro- and minicomputers and of peripherals. Companies also are appearing that supply such parts as step motors for printers and disk drives, encoders, multilayer circuit boards, high-resolution monitors, plotters and digitizers. The Brazilian market is bristling with new computer publications: two weekly newspapers, ten magazines and special sections of daily newspapers.

Brazil is only a few years into the computer age. Its per capita consumption of microchips works out to only about $1.40 per capita among its 140 million inhabitants, vs. $100 in Japan, $43 in the U.S. and about $6 in South Korea. But given the potential size of the market and Brazil's rapid industrialization, it could one day absorb more personal computers than France or West Germany.

The point is simply this: In their natural zeal to make Brazil a modern nation rather than a drawer of water and hewer of wood, its leaders are determined to develop high-technology industry, whether they must beg, borrower of steal the means. Failing to develop high-technology industry would be to court disaster in a country where millions go hungry. But in doing what they must, the leaders of Brazil and other developing countries run strongly counter to the economic interests of the U.S.

Because of these nationalistic policies, foreign-owned firms are banned from competing in Brazil's personal computer and minicomputer market. Brazil's computer industry is not high tech, if that means being near the cutting edge of worldwide technological advance. But it does show the ability of Brazilian businessmen and technicians to shop for and absorb standard technology, without paying development costs. In computers, where knowledge is the most expensive component, it becomes cheap to manufacture if you get the knowledge free or almost free. The U.S. develops, Brazil copies and applies. There are perhaps a dozen Brazils today.

"We're a late entry and pick the best technology," says Ronald Leal, 36, co-owner of Comicro, a CAD/CAM equipment and consulting firm. "We don't waste money on things that don't work. In 1983 we saw a market here for CAD/CAM done with microcomputers. We shopped around the States and made a deal with T&W Systems, a $10 million California company that has 18% of the U.S. CAD/CAM market. T&W helped us a lot. We sent people to train and they came to teach us."

Comicro learned fast. Says Leal: "We developed new software applications that we're now exporting to T&W."

Brazil exporting computer designs to the U.S.? Only five years after IBM began creating a mass market for the personal computer, the U.S. home market is being invaded by foreign products—of which Comicro's are only a tiny part. Technological secrets scarcely exist today.

Aren't the Brazilians and the others simply doing what the U.S. did a century and a half ago—protecting its infant industries?

If that were all, the situation might not be so serious for the U.S. But pick up any U.S. newspaper these days and count the advertisements for Asian-made personal computers claiming to be the equivalent of the IBM PC but selling at maybe two-thirds of IBM's price.

According to Dataquest, a market research firm, Asian suppliers will produce nearly 4.5 million personal computers this year. At that rate, they should capture one-third of the world market by next year. Taiwan now is exporting 60,000 personal computer motherboards and systems monthly, 90% of which are IBM-compatible. Of these, 70% go to the U.S. and most of the rest to Europe. Korea, Hong Kong and Singapore together ship another 20,000 each month.

Dataquest says it takes only three weeks after a new U.S. made product is introduced before it is copied, manufactured and shipped back to the U.S. from Asia.

Thus the U.S. bears the development costs while foreigners try to cream off the market before the development costs can be recouped. That is the big danger. The days when a person could be executed for industrial espionage are gone.

President Reagan recently warned that the U.S. is being victimized by the international theft of American creativity. Too many countries turn a blind eye when their citizens violate patent and copyright laws. In 1985-86 U.S. diplomats successfully pressured Korea, Singapore, Malaysia, Taiwan, Hong Kong and Thailand to pass or at least to draft legislation enforcing patents and copyrights more strictly. Brazil is a major holdout.

The difficulties between Brazil and the U.S. over computers crystallized in the 1984 Informatica law, which Brazil's Congress passed overwhelmingly near the end of two decades of military rule. The law, in effect, legalizes stealing—so long as the victims are U.S. technology exporters. Complains the head of a leading multinational whose business has been curtailed under the new law: "They want our technology but want to kill our operations. This whole show is sponsored by a handful of sharp businessmen with connections in Brasilia who are making piles of money from their nationalism."

The new law formally reserved the Brazilian micro- and minicomputer market for wholly owned Brazilian firms. It allowed wholly owned subsidiaries of foreign companies—IBM and Unisys—to continue importing, assembling and selling mainframes, but not out of any sense of fairness. It was simply that Brazilian companies were unable to take over that end of the business.

Under the law, joint ventures with foreign firms were allowed only if Brazilians owned 70% of the stock and had "technological control" and "decision control."

The main instruments for implementing this policy were tax incentives and licensing of imports of foreign hardware and know-how, all to be approved by the secretariat of information [SEI].

In 1981 Brazil's then-military government decreed that SEI would control the computer and semiconductor industries and imports of any and all equipment containing chips. The implications are especially ominous for U.S. interests: Brazil's SEI is modeled, quite openly, on Japan's notorious Ministry of International Trade & Industry (MITI).

Brazil's computer policy today follows the line of a mid-Fifties report by MITI's Research Committee on the Computer.

In the 1950s and 1960s MITI used Japan's tight foreign exchange controls to ward off what its nationalist superbureaucrat of the day, Shigeru Sahashi called "the invasion of American capital." In long and bitter negotiations in the late Fifties, Sahashi told IBM executives: "We will take every measure to obstruct the success of your business unless you license IBM patents to Japanese firms and charge them no more than 5% royalty." In the end, IBM agreed to sell its patents and accept MITI's administrative guidance on how many computers it could market in Japan. How many Japanese products would be sold in the U.S. today if this country had imposed similar demands on the Japanese?

Some U.S. economists are describing the result of the Japanese policy as the "home market effect." They mean that protectionism in the home market tends to create an export capability at low marginal cost.

"Home market protection by one country sharply raises its firms' market share abroad," says MIT's Paul Krugman, reporting the results of computer simulations of international competition in high technology. "Perhaps even more surprising, this export success is not purchased at the expense of domestic consumers. Home market protection lowers the price at home while raising it abroad."

Brazil surely has similar intentions. IBM and other U.S. computer companies are transferring technology to Brazil as never before.

The Brazilians may have grasped a reality that the U.S. has been unable politically to address: that while there is no way to check the fast dissemination of technology today, the real prize in the world economy is a large and viable national market—a market big enough to support economies of scale and economies of specialization. In short, while a country can no longer protect its technology effectively, it can still put a price on access to its market. As owner of the world's largest and most versatile market, the U.S. has unused power.

Taiwan, Korea, Hong Kong and Singapore, lacking large internal markets, could develop only because they had easy and cheap access to the rich U.S. market.

Why doesn't the U.S. reciprocate? The Reagan Administration has threatened to restrict imports of Brazilian exports to the U.S. by Dec. 31 if Brazil doesn't 1) protect software with new copyright legislation, 2) allow more joint ventures with foreign firms, and 3) publish explicit rules curtailing SEI's arbitrary behavior.

But the Brazilians are hardly trembling in their boots. Brazilian officials hint that if Brazilian exports to the U.S. are curbed, Brazil won't be able to earn enough dollars to service its crushing external debt. Diplomats of both countries want to avoid a showdown, so they keep talking. And while they talk, the Brazilians do what they please.

U.S. Customs has responded to manufacturers' complaints by stopping pirated products at the border. But the Taiwanese now have such cost advantages that they can easily afford to license technology that they have already copied. The Koreans are more scrupulous, but pirated technology not reexported to the U.S. is very hard to control.

More than three years ago Edson de Castro, president of Data General, told a Commerce Department panel that foreign nations' computer policies "threaten the structure and future of the U.S. computer industry." De Castro explained why: "U.S. computer companies are reliant on international business and derive a substantial portion of revenues from exports. Because of the rapid pace of technological development, the industry is capital intensive. Growth and development rely heavily on an expanding revenue base. This can only come from full participation in established and developing global markets. Reliance upon domestic markets is not enough."

Yet after resisting the Brazilian government's demands for a decade, de Castro's Data General is selling technology for its Eclipse supermini to Cobra, the ailing government computer company. Other U.S. computer manufacturers are following suit.

Hewlett-Packard, in Brazil since 1967 with a wholly owned subsidiary to import and service the company's products, has just shifted its business into partnership with Iochpe, a Brazilian industrial and finance group. A new firm, Tesis, 100% Brazilian-owned, will make HP calculators and minicomputers under its own brand name.

"Only a few years ago HP refused to enter joint ventures, but now we have ones going in Mexico, China, Brazil and Korea," says a company executive. "In the past we felt since we owned the technology, why share the profits? Then we found we couldn't get into those foreign markets any other way."

Harvard Professor Emeritus Raymond Vernon, a veteran analyst of international business, says of world technology markets: "Except for highly monopolistic situations, the buyer has a big advantage over the seller. Countries like Brazil and India can control the flow of technology across their borders and then systematically gain by buying technology cheaply."

Vernon draws an ominous parallel: "A century ago the multinationals were in plantation agriculture and electric power. Now they're all gone because their technology and management skills were absorbed by local peoples. The same thing is happening in other fields today, including computers."

This is why it makes little difference whether the dollar is cheap or dear. In this mighty clash between nationalism and free trade, nationalism seems to be winning. Where does this leave the U.S. dream of becoming high-technology supplier to the world? Rudely shattered.

INFORMED CONSENT: MINNESOTA

● Mr. HUMPHREY. Mr. President, I once again bring attention to the issue of informed consent. I have received hundreds of letters from women in all 50 States expressing one common theme: All of them suffered medical or emotional trauma or both after undergoing an abortion, but were never told of such complications prior to the procedure. If this were the case involving other medical procedures, it would be a scandal of immense proportions. However, with abortion, the misinformation is allowed to continue.

My informed consent bill, S. 272, would eliminate the disparity between abortion and other operations. It would simply require that medical personnel supply women with the facts pertinent to the abortion procedure and its effects prior to the operation. Information of this type is amply provided for other medical procedures, and should not be denied for any reason. Therefore, I urge my colleagues to support my informed consent bill, S. 272.

I ask that three letters from the State of Minnesota be inserted in the RECORD.

The letters follow:

JUNE 18, 1987.

DEAR SENATOR HUMPHREY: Thank you for your interest in those of us who've had abortions and suffered greatly from them. An informed consent bill would help to keep others from the mistake I made.

I became pregnant when I was 20 years old. I was single and my boyfriend wanted nothing to do with a baby. I didn't want an abortion so I began going to pre-natal visits at the doctor—he assured me my "fetus" was a growing mass of tissue, nothing more, so I decided to abort. I was 4 and a half months along. A few years later I saw a fetal development and size of my "fetus". My baby was fully developed but needed time to grow.

I suffered tremendous guilt, shame and sadness for years. I struggled with a lack of trust relationships, fear of intimacy and fear of death (because I knew from the abortion how fragile life is). I felt like a murderer until I realized there is forgiveness from God and I could forgive myself.

I started a support group 2 years ago for those of us who've suffered from a wrong, uninformed choice for abortion. Forty women have attended our Conquerors, 9 step group. With the exception of 2 women, everyone has felt they were used by the abortionist system, they felt preyed-upon by someone using their crisis (pregnancy) for their gain (money).

Had I any idea what my baby's development was, I never would have had an abortion. I can say that with all certainty.

Thank you for the work you're doing.

Sincerely,

JANNA N. POAGE.

PLYMOUTH, MN.

FEBRUARY 13, 1987.

DEAR SENATOR HUMPHREY: I had an abortion 7 years ago. I was a junior in college pursuing a career. My boyfriend and I felt an abortion was the most "rational" thing to do at that time.

I went through the University Health Clinic and was referred to an abortion clinic out of state. The people were all very helpful to provide information on cost, procedure, directions to the clinic . . . yet no one gave us any information on fetal development, the risks to consider with abortion, nor the other options available to me.

I must of come across as a "together" young woman but inside I was very scared and confused. I believe now that if one person would have told me of the development of the baby inside me or suggested other options, that child would be 7 years old today.

I was raised in a Christian home where strong moral values were taught and deep down I knew abortion was contrary to those values. Yet I suppressed those thoughts and made a quick, uninformed and unchangeable decision. I deceived myself!

I now am married and have a beautiful 4½ month old daughter. After the experience of her developing within me, birthing from me and now developing among us I find my grief over my first child much more intense. Fortunately I believe in a loving and forgiving God and this has facilitated my healing.

I would strongly encourage and support an informed consent bill. Women need to know, before they make an irreversible decision, all the facts.

Your stand on this issue is greatly appreciated and I trust you will continue to support legislation that values human life.

Sincerely,

SUSAN SPIEGLE.

MAPLES, MN.

MARCH 2, 1987.

Hon. GORDON J. HUMPHREY: In February of 1973, at the age of 19, I had an abortion. I had absolutely no idea what was going on. My parents brought me to this clinic in Minneapolis, 140 miles from my home. I had a brief exam and then was told I was 3 months pregnant. The woman doctor told my parents and I that if I wanted the pregnancy terminated it would cost less money if I quick had the abortion that night at 8:30 p.m. Otherwise, it would cost more tomorrow (that next day) because I would have to be admitted to a hospital.

My parents were not happy with my pregnancy. My original feelings were that I wanted to have the baby but the pressure put on me that afternoon by the doctor and my parents was too much. So, that evening we came back to the dark clinic and the abortion was performed. I was scared and was crying but the doctor sternly scolded me. I was shocked when the actual procedure got underway—only then did I realize that they were sucking a baby out of me!

For 3 months I suffered severe depression. I didn't want to see anyone or go any place. It took over 10 years for a healing to take place in my mind and body. My next few pregnancies (after marriage) ended in miscarriages. But now, the Lord had blessed my husband and I with 2 children. Yes, there is a definite need for women to understand what abortion is.

Unsigned.

MONTEVIDEO, MN.●

HUDA BINGHAM JONES

● Mr. McCONNELL. Mr. President, I rise today, to pay tribute to a constituent of mine from Beattyville, KY, Mrs. Huda Bingham Jones. The National Federation of Republican Women [NFRW], the largest women's political organization in the country, overwhelmingly reelected Mrs. Jones as its first vice president at its convention in Orlando, FL. At that convention, held September 18-20, Mrs. Jones received the support of federation members representing clubs in 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

Her duties in this role will include starting new clubs in several States, and representing NFRW at functions when the president cannot attend.

Mrs. Jones has been involved with this organization since 1973 and has held many of its offices including member at large on the executive board, secretary, second vice president, and regional director.

Through an NFRW function known as the Comprehensive Advocacy Program, women throughout the country, both Democrat and Republican, are educated on political issues and encouraged to contact their elected representatives with their opinions. This promotion of nonpartisan awareness is indicative of the NFRW's commitment to the ideals of democracy upon which this Republic is based. I applaud their efforts to provide an educational service that leads to a more informed electorate.

Yet, Mrs. Jones' political service has not been limited to her participation in the NFRW. In my home State, she has held many offices with the Lee County Republican Women's Club as well as the Kentucky Federation of Republican Women.

Maintaining such an exhaustive political background is time consuming, but Mrs. Jones has found time for involvement in extensive civic functions as well. She is a member of the Beattyville Homemakers Club, the 4-H Club, Order of the Eastern Star, the Beattyville Women's Club, the Federated Women's Clubs of Kentucky, and the Daughters of the American Revolution.

I am pleased to take this opportunity, Mr. President, to salute Huda Jones and her commitment to community involvement and betterment. The Commonwealth of Kentucky is fortunate to have the benefit of her experience.●

ORDER OF BUSINESS

Mr. BYRD. Mr. President, while the distinguished Republican leader is on the floor I would like to see if we could get two or three consent requests ordered.

SESSIONS NOMINATION

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that at such time but not prior to 8 o'clock p.m. tomorrow, Thursday, September 24, as the majority leader after consultation with the minority leader asks the Chair to lay before the Senate the nomination of William S. Sessions to be Director of the FBI in executive session, there be not to exceed 10 minutes of debate equally divided between the majority and minority leader or their designees and that at the conclusion of the 10 minutes or the yielding back thereof a vote occur immediately without any intervening action or quorum call to vote on the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTIONS WITH RESPECT TO SESSIONS NOMINATION

Mr. BYRD. Mr. President, I ask unanimous consent that no other motions be in order with respect to the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—H.R. 2907

Mr. BYRD. Mr. President, I ask unanimous consent that at such time as the Treasury, Postal Department, and general Government appropriations bill, H.R. 2907, is called up, that debate thereon be limited to 1 hour on the bill, to be equally divided in accordance with the usual form, that no amendments be in order other than the committee reported amendments, and that no motion to recommit be in order either with or without instructions.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I guess the only indication I have on this side is it is after consultation with the Republican leader.

Mr. BYRD. Yes.

Mr. DOLE. In the event someone wants to talk to the majority leader.

Mr. BYRD. Yes, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

THE DEATH OF H.R. GROSS

Mr. GRASSLEY. Mr. President, I take this opportunity, even though it is late in the day, to bring to this body's attention the death last night of former Congressman H.R. Gross, who served in Congress from 1948 to 1974 from the Third District of the State of Iowa.

I think last night we on Capitol Hill lost a friend and a colleague. The passing of H.R. Gross marks the close of a life dedicated to public service.

His commitment and tenacity as a Congressman earned him a legendary reputation, one that stayed with him throughout his 26 years in the House of Representatives, and exists to this day.

Iowans will not soon forget H.R., nor will I.

Having grown up in the Third District of Iowa and succeeding H.R. in the House, this great Congressman has been and always will be an inspiration and a model to me as I now seek to serve the people of the entire State of Iowa in the U.S. Senate.

H.R. Gross was totally and thoroughly incorruptible. He was, in short, one of the finest people I have ever known. He was a newscaster at WHO Radio in Des Moines at the very same time President Reagan was a sportscaster there during the 1930's. H.R. Gross also ran unsuccessfully for Governor of Iowa in the 1930's. But it was back in 1948, as a newscaster for

KXEL Radio in Waterloo, IA, that a young H.R. Gross decided to make a bid for the House of Representatives.

He was seen as something of a renegade, as he chose to take on a popular Republican incumbent. But H.R. Gross pulled it off.

In the first few years that he served, H.R. became a vocal opponent to corruption in the Truman administration. Again, he was seen as something of a renegade, gaining a reputation as a traditional Republican opponent of a Democratic administration.

But when Eisenhower became President in 1952, H.R. didn't skip a beat. He was leading again the charge in the House of Representatives against corruption and mismanagement in Government, even though this was now a Republican administration.

Gradually, the term "renegade" was dropped. Instead H.R. Gross became known as the "Conscience of the House."

H.R. may have stepped on the toes of a good many colleagues to gain that reputation, but eventually a vast majority of legislators came to respect and admire him.

When H.R. Gross said he would go along with something, he would. He was a man of his word. And when H.R. let it be know he could not support something, he did not. There was no way to coax H.R. to do anything that did not set well with his conscience.

So what, some may ask, was the effect of such a man in Washington? In my judgment, and I think in the judgment of people who knew him well and studied the Washington political processes, the answer to that question is, in a word: considerable.

I would venture to say that no other individual in congressional history has had a greater impact on the House of Representatives, without being in a leadership position or chairman of a major committee. And it was from this vantage point of being a single Member of the House of Representatives that we can say that probably no person has had a greater impact on how that body worked and considered legislation, than H.R. Gross.

Most in this process, particularly in the House of Representatives, get run over when they are trying to do the people's work. But not H.R. If there is any person that you expected to see on the floor of the House of Representatives every day, it was H.R. Gross. In fact, H.R. routinely knew more about pending legislation than the floor managers did.

It was generally understood that most managers of legislation in planning their debate always considered what questions H.R. Gross would ask. There was a general understanding that he not only asked those questions, but he personally, not his staff, knew what was in that legislation. This was, my colleagues, because H.R. Gross spent nights and weekends poring over bills, statements, and the studies supporting the legislation.

No, there will not soon be another like H.R. Gross.

If there is one quote that best sums up H.R.'s remarkable tenure on Capitol Hill, I think it springs from Sir Gallahad: "His strength was as the strength of 10 because his heart was pure."

Those on the receiving end of his drive to rid the Government of waste and mismanagement often made light of H.R. as the man who never met a vote he liked. Well, the truth is he never met a shady deal he liked, or could tolerate.

You see, if you do not have anything to hide, and if you have not made any deals, you can be a man of courage, and that is what H.R. was, a man of courage.

H.R. fought for the taxpayers for 26 years, with five administrations and with virtually every Federal agency. He wanted to know where our tax dollars were going, and once there, how they were going to be spent.

If he did not get that information, you knew where H.R. was going to stand. H.R. had a solid reason for every vote he cast. And he did not care if it meant standing alone—and many times he did stand alone—because H.R. knew where he stood.

In fact, it was not uncommon, I am told, whenever spending bills were discussed in committee, for someone to comment, "Well, now what's H.R. gonna say about it?"

He proved a lot, H.R. did. He proved that one guy, standing alone, can turn back tides, can made a difference, can lend a voice to the working man, and the taxpayer.

H.R. is gone now. But his memory lives on: In the mind of this Senator, in the thoughts of Iowans, and in the annals of congressional history.

God bless you, H.R. Gross.

Mr. HARKIN. Mr. President, I want to thank my colleague from Iowa for his very pointed remarks of the passing of a great Iowan, a truly remarkable man, H.R. Gross. I want to associate myself with his remarks.

I first met H.R. Gross back 25 years ago in 1962 when I came here as an intern in the other body. While I might have at times disagreed with Congressman Gross' votes or maybe the way he stood on issues, I can say this: H.R. Gross' demeanor and his approach were always that of a gentleman. He never got mad. He never got even. He stuck to his ground, and he stuck to his principles, which were always high. I had a lot of respect for H.R. Gross, and I know a lot of us on the Democratic side shared that kind of respect for H.R.

I knew his brother and other family members. I had a good association with them over the years.

H.R. Gross really did embody some of the the best principles of what it means to be a true representative of the people. As my esteemed colleague said, we all knew how many times he spent hours poring over the record, poring over the bills, examining every little detail to make sure that things were not slipping through that perhaps other people should have known about.

So I join my colleague in mourning the passing of a truly remarkable human being and a person that I think over his years of public service brought honor and esteem not only to our profession of being public servants, but he brought a lot of honor and esteem to our State of Iowa. His passing will be mourned.

As my colleague, Senator GRASSLEY, said, it is going to be a long time before ever we see the likes of H.R. Gross again grace the Halls of this Chamber or the House of Representatives.

Mr. GRASSLEY. I thank my colleague for his kind remarks. I think that they emphasize a key point. It was probably one of H.R. Gross' strengths that he had as much support from the Democratic side of the aisle as he did from the Republican side of the aisle. People knew him to be an intellectually honest person who knew his subject matter thoroughly. And that was H.R.'s strength.

Mr. DOLE. Mr. President, I would just add one comment, having served with H.R. Gross for 8 years. He was a delightful man; very sharp. Every year he introduced H.R. 144—gross. He was a fascinating person to watch in action. He had respect, as has been indicated by both Iowa Senators.

He knew everything about the legislation. He knew everything about the House rules. And he used the rules—he did not abuse the rules—he used the rules to make a point and the point was generally fiscal responsibility.

I certainly associate myself with the remarks of both of my distinguished colleagues.

Mr. BYRD. Mr. President, I, too, served with H.R. Gross. He was a very tough but fair individual; bright; sat on the floor all the time. He covered that floor. He knew what was in every bill. He knew the House rules and he was absolutely fearless. And he stood up for what he believed.

And, as the Republican leader has said, fiscal responsibility ran through his speeches and his actions like a never-ending thread.

I have always felt that it is in the interest of this country to have an H.R. Gross. I join with others in expressing our sorrow and our regrets at the same time we express our affection and admiration for a great American.

UNANIMOUS-CONSENT AGREEMENT—HOUSE JOINT RESOLUTION 362

Mr. BYRD. Mr. President, I ask unanimous consent that at such time as the Senate considers the continuing resolution (H.J. Res. 362), it be considered under the following time limitation: that there be 1 hour on the joint resolution to be equally divided between the chairman of the Appropriations Committee and the ranking member, or their designees, and an additional 10 minutes under the control of Mr. Leahy; that no amendments be in order to the joint resolution; that no motions to commit the joint resolution be in order; and that the majority leader may call this joint resolution up after consultation with the Republican leader and, of course, after consultation with the managers on both sides.

Mr. DOMENICI. Mr. President, reserving the right to object and I will not object, I came to the floor when I knew this was coming up because I was not sure that in light of the vote today adopting the new Gramm-Rudman-Hollings fix with its timetable, which has a final sequester date of November 20, and knowing that there is at least some intention that we know where the final appropriations process is at the earliest possible time because part of the final determination as to where we are on that date depends on that, that perhaps since this bill had cleared the House days before the Gramm-Rudman-Hollings fix, maybe the time was too long. But I have, since that concern, talked with the leadership on our side, the leadership of the Appropriations Committee, and it is their considered opinion that by having this continuing resolution in effect for that long it is beneficial to the process of working the regular appropriations bills rather than harmful, for the longer that you have you may get more of those accomplished.

I am not quite certain of that and how all this is going to pay off, but since I was going to object on that basis I surely will not object because the leadership of the committee thinks it might be better to have it as the House sent it, which, incidentally, gives only a 10-day window between its expiration and the time we would have something in place to avoid a sequester, which will clearly be there as a result of what we did.

So I will not object, but I wanted everyone to understand what I had done and what my concerns were.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2907

Mr. BYRD. Mr. President, also while the distinguished Senator from New Mexico is on the floor and the Republican leader is on the floor, I ask unanimous consent that in respect to the Treasury, Postal Department, General Government appropriations bill, the majority leader, after consultation with the minority leader and the ranking manager and the manager, may call up that bill at any time.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object again, I happen to be the ranking member of that committee, and I do want to state for the record, I say to the majority leader, that to the best of our ability, and after talking to the Senate Republican staff, we have cleared this with anybody who might have an objection, and no one had an objection.

I only state this because clearly it is the first full year appropriations bill that we will be considering. Again, this is in light of just having passed the Gramm-Rudman-Hollings fix. This bill will fit within the crosswalks as allocated by the budget resolution.

In spite of that, no one seems to want to object to it. I helped produce it. Obviously, if there is no one that wants to object, we can consider it as is, and that is what we will do.

You might wonder how we are going to have a full appropriations bill through without any assessment of the Gramm-Rudman-Hollings necessities or requirements. I want you to know that I just did not do this. We asked everyone around who might have some concern, and they are fully aware that this funds that function right up to the level of the budget resolution. It has no savings in it as compared with savings that might be required on the domestic side by the Gramm-Rudman-Hollings fix.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader and I thank the Senator from New Mexico.

Mr. President, does any Senator have any further business?

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

RECESS UNTIL TOMORROW AT 8:20 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:20 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEICKER AMENDMENT TO BE TEMPORARILY SET ASIDE

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to set aside the pending amendment by Mr. Weicker temporarily tomorrow morning so that an amendment by Senator McCain may be accommodated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTES TO BEGIN AT 6 P.M.

Mr. BYRD. Mr. President, I expect a series of rollcall votes tomorrow evening beginning at the hour of 6 p.m. I would expect to go late.

I hope that we could get unanimous consent that after the first rollcall vote tomorrow evening, the succeeding rollcall votes could be limited to 10 minutes each, with the understanding that a call for the regular order would be made at the end of 10 minutes if the request by the majority leader is granted. It may not make friends for me, but if we are going to have the first rollcall vote, everybody is on notice; they are here. It is late in the day, and if we have to take 20 and 25 minutes on each rollcall vote tomorrow evening, we will rapidly use up the time that we may have saved otherwise.

So if the distinguished Republican leader would have no objection and we let our Senators have the understanding that rollcall votes would not last, after the first one, beyond 10 minutes, and a call for the regular order would enforce that, I will make it either this evening or in the morning, whichever. I make that request at this time.

The PRESIDING OFFICER. Is there an objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Republican leader. I know I have delayed him from going to the White House, I believe.

RECESS UNTIL 8:20 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 8:20 tomorrow morning.

The motion was agreed to and, at 6:38 p.m., the Senate recessed until

Thursday, September 24, 1987, at 8:20 a.m.

NOMINATIONS

Executive nominations received by the Senate September 23, 1987:

The Judiciary

STUART A. SUMMIT, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT VICE IRVING R. KAUFMAN, RETIRED.

LAURENCE J. WHALEN, OF OKLAHOMA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15 YEARS AFTER HE TAKES OFFICE, VICE WILLIAM A. GOFFE, TERM EXPIRED.

Department of Justice

FRANK H. CONWAY, OF MASSACHUSETTS, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 1990, REAPPOINTMENT.

Department of Housing and Urban Development

DEBORAH GORE DEAN, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE ALFRED CLINTON MORAN, RESIGNED.

Department of the Treasury

CYNTHIA JEANNE GRASSBY BAKER, OF COLORADO, TO BE SUPERINTENDENT OF THE MINT OF THE UNITED STATES AT DENVER, VICE NORA WALSH HUSSEY, RESIGNED.

EXTENSIONS OF REMARKS

ANGOLA: WAR, POLITICS AND FAMINE

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. LELAND. Mr. Speaker, Angola has been a country of great interest to Congress in recent years. It is one of the "front-line" states bordering the Republic of South Africa and the only one that has been repeatedly invaded by the South African Army. The Benguela railway, which runs through the center of Angola, is essential to the independence and economic growth of southern Africa. The Angolan oil fields, guarded by Cuban troops, are dominated by two United States companies. Angola has been central to the administration's efforts to end South Africa's illegal occupation of Namibia. And since 1985, the United States Government has been funding UNITA, the South African-backed insurgency operating in Angola.

It now appears that Angola will be the focus of congressional attention for another reason: 2.3 million of Angola's 8.5 million people will face starvation if they do not soon receive food assistance. The U.N. and the Angolan Government are currently preparing an urgent appeal for international assistance that could call for as much as 215,000 metric tons of cereals, 43,000 metric tons of supplementary foods, and $23 million in nonfood emergency aid. To date, the administration has not indicated how it will respond to this crisis.

I commend the following piece, prepared by the staff of the House Select Committee on Hunger, as a useful background for understanding the situation in Angola and examining the United States Government response to the needs in that country.

ANGOLA, WAR, POLITICS, AND FAMINE

Angola, devastated by a twelve year civil war, subject to repeated invasion by South Africa, and caught in the middle of an ongoing superpower conflict, is facing famine. The government has prepared an emergency relief plan which calls for massive levels of international assistance—levels unprecedented in Angola's history. The lack of food and other essential items have put millions of lives in imminent danger.

While the origins of the situation are complex and multiple, most outside observers attribute the plight of the Angolan people to the continued intervention of South Africa and the debilitating assault on the country's infrastructure by the forces of the National Union for the Total Independence of Angola (UNITA), and, as well, the disastrous Marxist economic policies of the government. The survival of the present social structure in South Africa is linked to that country's ability to dominate the Southern Africa region both militarily and economically, and the destabilization of surrounding states is a chosen means to that end. Classic guerrilla warfare tactics by UNITA have shattered Angola's agricultural sector and transportation grid and precipitated an otherwise avoidable human tragedy.

As a result on this on-going conflict, the United Nations agencies estimate that 2.73 million people out of a total population of 8.5 million are in immediate need of emergency assistance. The basic socio-economic structure of the society has virtually ceased to exist. Schools and medical facilities, where not destroyed, have little or no remaining supplies or trained personnel. Health conditions are among the worst in the world: morality rates for children under five years old are estimated at 325-375 per 1,000 and as many as one in fifty mothers die in childbirth. An estimated 10,000-15,000 women and children have been mutilated by landmines, four out of five children have no access to safe drinking water, and the number of reported cases of severe malnutrition throughout the country is rapidly escalating.

Over one quarter of the population of the country has been displaced by the war and some 690,000 are totally dependent on government assistance for their survival, eighty percent of whom are women and children. If famine is to be avoided, the Angolan people will need over 255,000 metric tons (MT) of emergency food aid, almost thirty-nine percent of the country's annual food requirements. The period of greatest shortfall will extend from September, 1987, to March, 1988.

The information which follows provides a brief background on the recent history of Angola and outlines the origins of the human disaster now stalking the country. In the coming months the U.S. Government, as a key actor in the region, will have to address the human crisis in Angola. Angola's crucial position in the region, its role in the struggle against South Africa's illegal control of Namibia and against apartheid, are such that the U.S. Government response to the situation will be noted in Africa and around the world.

ANGOLA'S FAILED DECOLONIZATION

Angola gained independence from Portugal in November, 1975, after fourteen years of bloody anti-colonial war. With the abrupt departure of the 300,000 Portuguese who had held all but the most menial positions in the country's modern economic sectors, Angola's economy, like that of Mozambique's, came to a virtual standstill. Unlike the situation in Mozambique where there was only one faction considered capable of governing, in Angola there were three entities vying for power: the Popular Movement for the Liberation of Angola (MPLA), UNITA, and the National Front for the Liberation of Angola (FNLA). The Alvor Accord of late 1974 established a coalition government of the three organizations in anticipation of nationwide elections. The agreement quickly disintegrated, resulting in a civil war which entailed intervention by Zairian, South African and Cuban troops and eventually military assistance by both the United States and the Soviet Union.

The question of who intervened first remains open to debate, but it was the intervention of significant numbers of Cuban troops on the side of the MPLA that resulted in its dominance at formal independence in 1975. The MPLA consolidated control over most of the country by March, 1976. South African involvement on the side of UNITA and the FNLA during the civil war cost those movements what support they had on the rest of the continent and resulted in worldwide recognition of the MPLA as the government of Angola. The FNLA soon collapsed, but UNITA continued its war against the MPLA. That struggle, of course, continues through the present.

Following independence, the entire economy, with the exception of the oil industry, entered a steady decline. The mass departure of the Portuguese left Angola with an inadequately trained human resource base to run the agricultural system it had inherited. The MPLA government worsened the situation by trying to impose a strong centralized economy, based on the Soviet model, which soon stifled what remained of the modern agricultural and industrial sectors. The decline of Angola's economy was rapid and comprehensive.

RECENT CHANGES IN ANGOLA'S ECONOMIC POLICIES

Recognizing the disastrous effects of its efforts to impose a centralized planned economy in Angola, the MPLA has attempted in recent years to put in place economic reforms. In 1985, Angola joined the Lome Convention in order to get preferential trade status with the European Economic Community (EEC). Angolan President Jose Eduard dos Santos, in August of 1987, announced that Angola would apply to join the International Monetary Fund in order to receive loans to undertake significant structural reforms. At the grassroots level, the government is breaking up collective farms and putting in their place a more flexible, decentralized system. This will include a greater emphasis on private ownership and a recognition of the profit motive, in part through the implementation of more realistic consumer and producer commodity prices. Progress as a result of these reforms has been slow, in large part because of the demonitization of much of the economy. The government-issued currency, the kwanza, is virtually worthless, and as a result the change in official prices has a minimal impact on what is essentially a barter economy.

The actions of UNITA have, in fact, made recovery from the economic decline impossible. Both UNITA and South Africa have set about to destroy the country's fragile infrastructure, exacerbating the serious decline in per capita agricultural output and placing its ability to effectively distribute what can be produced in serious doubt.

THE CIVIL WAR AND OUTSIDE INTERVENTION

The twelve year old civil war between the Angolan army, backed by Cuban troops and Soviet logistical and material support on one side, and UNITA, supported by South Africa and now the U.S. on the other, continues in a stalemate. Presently, it seems unlikely that either side is capable of all-out military victory without significant in-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

creases in external support. UNITA is in control of much of the southeastern part of the country and is able to stage hit and run assaults elsewhere. The MPLA is in control of the cities and central and northern regions of the country, as well as the Cabinda enclave to the north. There have been no elections in Angola and estimates of support for either the MPLA government or UNITA are regarded by most observers as extremely tenuous. While UNITA supporters claim that it represents the Ovimbundu, the largest tribal group in Angola, many of the MPLA forces fighting UNITA in the central region are themselves Ovimbundu.

UNITA has not only received military equipment and logistical support from South Africa, but it has also benefited from direct South African intervention. Angola is the only front-line state which has seen repeated mainforce invasions by the South African Defense Force (SADF). From 1976 to 1983, there were no less than twelve large-scale attacks by the SADF, and there were several incursions in 1985 and 1986 as well. During one of these invasions, South Africa occupied 55,000 square kilometers for a period of three years and carried out a scorched-earth policy that effectively eradicated much of the rural economic infrastructure. Prior to receiving assistance from South Africa, UNITA depended on aid from China and North Korea.

As a result of both South Africa's intervention on UNITA's behalf and UNITA's policies of terrorism, the credibility of the organization has been destroyed. UNITA has been publicly disavowed by the Organization of African Unity (OAU) and by each of its members. The MPLA, on the other hand, is officially recognized by practically every nation except the United States and the Republic of South Africa.

REGIONAL AND INTERNATIONAL COMPLEXITIES

I. Angola's Crucial Regional Role

Angola is squarely on the front-line of the struggle with South Africa. The country borders on Namibia and is the only front-line state to endure repeated South African invasions. While these incursions have ostensibly been in hot pursuit of forces of the South West African Peoples Organization (SWAPO) from Namibia, at times they have clearly been aimed at supporting UNITA and at disrupting Angola's economy. In both of these objectives, the South Africans have been highly successful.

Angola also could play a key role in the development of the region. A stable, prosperous Angola would be a threat to South Africa's strategy of regional domination. Oil-rich and fertile, Angola's economic potential (coffee, diamonds, oil and iron ore) coupled with its present oil revenues could, with economic stability, serve as the engine for the economic development of Southern Africa. In colonial times, the Benguela railway served as a major transportation link for Zaire's mineral-rich Shaba province, Zimbabwe and Zambia. Through the Southern African Development Coordination Conference (SADCC), Angolan economic prosperity would stimulate the region and would undercut the South African regime's contention that South Africa alone can provide conditions necessary to support a modern economy in the region.

II. Angola and the East Bloc

Since independence, Angola has relied heavily on technical and military assistance from the Soviet Union, Cuba and East Germany. At present it is estimated that some 30,000-37,000 Cuban troops are in Angola accompanied by 5,000-10,000 Soviet, Cuban and East German advisors. Numbers of Cuban troops have increased and declined in response to the perceived threat to the MPLA government from both South Africa and UNITA. While apparently unwilling to commit enough resources to ensure victory for the MPLA, the Soviets and Cubans continue to provide adequate assistance to prevent their defeat. In recent years, Cuban troops have made deliberate efforts to avoid direct confrontation with South African forces, and have been used primarily to guard key political and economic sites, such as Luanda and the Cabinda oil fields. There have been indications that the Cuban troops are tiring of their seemingly open-ended commitment; however, official statements in Havana, Luanda and Moscow are unequivocal in stating that the Cubans will stay as long as Angola wants them and South Africa remains a threat.

While the Eastern Bloc has provided substantial amounts of military aid and support to the Government of Angola since independence, little humanitarian and development assistance has been made available. Given Angola's enormous needs, this posture by the Soviet Union and other Eastern Bloc countries has become the major source of friction in the relationship.

III. Angola and the United States

U.S.-Angolan relations have been defined by superpower politics since the early 1970's. CIA support for the FNLA and UNITA during the early years of the civil war made the MPLA very wary of the U.S. The U.S. Government, in turn, has refused to recognize the Angolan regime because of the support it receives from Cuba and the Soviet Union. The U.S. is virtually alone in denying recognition to the Government of Angola. The Netherlands, Sweden, Italy, France, Portugal, Canada and the Federal Republic of Germany, among others, provide limited amounts of economic or humanitarian assistance to Angola. The United States, however, is Angola's largest trade partner outside of the Soviet bloc, and Angola is the U.S.'s third largest trading partner in Africa (primarily because of Chevron and Gulf Oil's dominant role in the Cabinda oil fields).

During the late 1970's, there were positive developments between the U.S. and Angola. In early 1976, Congress passed the Clark Amendment, banning any assistance to antigovernment forces fighting in Angola. The U.S. played a leading role in the Western Contact Group which resulted in a Namibian peace plan and the passage of U.N. Resolution 435 in 1978. To date, however, neither the plan nor the resolution have been implemented.

The issue of "linkage" became the dominant element of U.S.-Angolan relations after 1981. As part of the Reagan Administration's policy of constructive engagement, normalization of relations with Angola and the independence of Namiba were linked to the withdrawal of Cuban troops from Angola. This was in response to what the Administration perceived as legitimate security concerns on the part of South Africa. Administration-sponsored efforts to repeal the Clark amendment in August, 1985, were successful, and shortly thereafter an aid package of $15 million was disbursed through the CIA to UNITA. UNITA received another $15 million or more in military equipment in 1987 from the U.S. Government. Jonas Savimbi, UNITA's leader, has indicated that the recent escalation in military operations being waged by his forces against the government has been made possible by the resumption of U.S. support.

The Angolan government has continued to negotiate with the U.S. concerning the withdrawal of Cuban troops. Recent negotiations between U.S. Assistant Secretary of State Chester Crocker and representatives of the Angolan government broke down in July, 1987, with the State Department claiming that the Angolans were offering only previously rejected proposals. Subsequently, a joint communique issued by Angolan President Jose Eduard dos Santos and President Fidel Castro indicated that they had agreed to make "their common position more flexible". The State Department has called for more specific proposals on the issue of Cuban withdrawal.

THE CAUSES OF THE EMERGENCY

The primary cause of the impending famine is UNITA's and South Africa's war with the Government of Angola. The current famine exists following a period of above normal rainfall levels in most of Angola.

The most immediate effect of the war is the destruction of agriculture and essential infrastructure by the forces of UNITA. The attacks on road and rail links have made it impossible for farmers to deliver their crops to markets and for relief agencies to provide assistance. The widespread use of landmines in fields, roads and footpaths by UNITA has driven farmers, primarily women and their children, out of Angola's most productive regions and into the cities. The landmines, in combination with UNITA attacks on farm communities and agricultural infrastructure, have resulted in a fifty percent decrease in agricultural output in recent years. There have been reports of people starving by the sides of ripening maize fields that they were terrified of entering. The mines have mutilated 10,000 to 15,000 women and children, and amputees are now a common sight in all Angolan cities.

The war has forced the Angolan government to divert its technical, managerial and financial resources away from the social sector and into the military. As a result, the basic social services, both in the countryside and in the cities, are in steep decline. The situation for rural dwellers has worsened as the government has been unable to provide sufficient military convoys to deliver required assistance.

The oil revenues that in past years were able to sustain the crumbling Angolan economy have themselves begun to diminish. Oil revenues account for ninety percent of Angola's export earnings; the decline in world oil prices in the 1980's has had a major effect on the country's earnings. The price drop, combined with the fall of the U.S. dollar relative to other hard currencies, has resulted in a fifty-five percent drop in foreign currency earnings. The drop in available foreign currency had drastically curtailed Angola's ability to purchase essential commodities on the world market, including staple food for its urban population.

SCOPE OF THE EMERGENCY

Over a million people, almost half of Angola's urban population, face near famine conditions. Reports of malnutrition throughout the country have risen dramatically in the last year. 2.73 million people, thirty-one percent of the entire population, have been displaced or severely affected by the emergency. Another 400,000 have taken refuge in surrounding countries.

In this emergency, it is the women and children whose lives are most threatened. As many as one in fifty mothers die in childbirth, and Angola's infant mortality rate is, along with Mozambique's, the highest in the world—among children under five, there are 325 to 375 deaths per 1,000. Nationwide, only one in five have access to safe drinking water. Basic health care and public health conditions have descended to levels where it seems likely that famine conditions could result in the rapid spread of life threatening disease such as cholera. Reports of epidemics have become common in the slums that encircle most of the major cities. Basic education has also suffered, as enrollment in schools has dropped from thirty-seven percent in 1980 to one percent today.

To address the crisis, the Government of Angola, in conjunction with the United Nations, has put together an appeal for urgent humanitarian assistance. To meet the minimum requirements for the affected population, Angola will need over 255,000 metric tons (MT) of food aid over the next seven months. Most of the estimated 340,000 MT produced domestically will be consumed at subsistence levels in the countryside. The non-food aid needs are equally urgent. The International appeal calls for $6.5 million for transportation costs, $5 million for health projects, another $5 million for basic relief and survival supplies, $1.4 million to provide safe water and sanitation, and $5 million for agricultural inputs.

The major problem in Angola at the moment is transportation and secure access to affected populations. The International Red Cross has had to rely on expensive airlifts for almost all of its operations in the countryside. U.N. officials report that, until recently, it was the lack of military escorts, and not a lack of food, that was causing the most serious problem. As the small food stocks dwindle, it is essential that both food and additional transport capacity be quickly provided if the emergency operation is to succeed in reaching those in desperate need.

It is likely that any U.S. Government assistance in response to the Angolan emergency will be directed through the U.N. agencies or non-governmental organizations operating in the country, given the lack of formal relations. In the past year, the U.S. Government provided 12,410 MT of food commodities through UNICEF, and it recently notified UNICEF that another 24,000 MT would be contributed for the Angola emergency program. The dimensions of the emergency unfolding in Angola are such, however, that considerably larger donations of food and non-food relief commodities are increasingly likely. Both the United States and the international donor community are faced with a grave humanitarian situation requiring extraordinary action, notwithstanding the serious political complications existent.

THE TIME HAS COME TO FIX THE "NOTCH"

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. WALGREN. Mr. Speaker, the time has come to fix the so-called Social Security notch. In the 99th Congress as well as now in the 100th Congress, there have been over 100 cosponsors of legislation that would smooth out the harsh transition from the old computation of Social Security System to the new one. The time is now for the committee with responsibility to hold hearings and get the legislative ball rolling.

As we celebrate the Constitution, we have all been reminded that our system of government draws its strength, not from coercion, but rather from the willing participation of the people. It is critical to our national interest then, if we are to remain strong, that the people of this Nation know that they are being treated fairly by their Government.

Our respect for public trust has moved the Congress to reach deep down inside ourselves to correct wrongs when they occur. The House of Representatives just this week set aside over $1 billion in settlement of the wrongs that were done to Americans of Japanese ancestry who were imprisoned without trial during WW II. We have reversed ourselves on a number of occasions.

Currently, the Social Security notch is undermining this public trust for millions of older Americans. These men and women have worked hard over the years and looked forward to retirement. Suddenly they are surprised to learn that a neighbor, friend, or a relative is receiving $50, $75 or $100 more each month than they, not because that person worked harder or had a better job, but because Congress just happened to pick the year that this retiree was born as the cutoff date for a new law.

Such arbitrary and random discrimination deeply undermines our society. It can only create doubt, mistrust, and bitterness among our constituents. I have cosponsored H.R. 1917 which would revise the transition formula by spreading out the shift from the old to the new formula. This bill and others takes into account the need for changes to be fair and equitable. It has been long enough for us to realize our mistake. I urge my colleagues to join me in this effort to correct this injustice.

CIVIL LIBERTIES ACT OF 1987

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. PANETTA. Mr. Speaker, I was unable to be present on September 17, 1987, to record my vote on H.R. 442, the Civil Liberties Act of 1987. Pope John Paul II was visiting my district—my hometown, in fact—and I was asked to participate in the welcoming ceremonies. I did, however, request that my votes be paired against all amendments to the bill and for final passage of the bill. Had I been able to record my vote, I would have voted "no" on roll No. 320 and "aye" on roll No. 321.

Because of my strong support for H.R. 442, I would like to take a moment to discuss this issue. As you know, the treatment of Japanese-Americans in the months following the attack on Pearl Harbor has long been a source of controversy and debate in this country. On February 10, 1942, 10 weeks after America's entrance in the war, President Franklin D. Roosevelt signed Executive Order 9066 giving the Secretary of War and regional military commanders the power to exclude any and all persons from designated areas for security reasons. In the end, more than 120,000 persons of Japanese ancestry—two-thirds of whom were American citizens—were uprooted from along the coasts of California, Oregon, and Washington and interned in remote relocation centers.

Today, more than 40 years later, the controversy surrounding that decision continues. Congress moved in 1980 to address this sensitive issue by establishing a bipartisan Commission on Wartime Relocation and Internment of Civilians to examine the circumstances leading up to the exclusion of Japanese-Americans from the West Coast and their subsequent detention under armed guard.

After months of hearings and extensive examination of public records, the Commission reported in January 1983 that circumstances in this country during the war did not warrant the internment of thousands of Japanese-Americans. In support of this conclusion, the Commission reported that there was not a single documented act of espionage or subversion committed by an American of Japanese heritage on the West Coast. The Commission also noted the unequal treatment of suspected nationals, pointing out that no mass exclusion or detention was ordered against Americans of German or Italian descent.

Frankly, we all recognize the necessity of extraordinary measures in times of national crisis. Mandatory military service and gas and food rationing were but a few of the hardships and sacrifices that touched the lives of all Americans during World War II. For the thousands of young Americans who lost their lives in that conflict, the war exacted a price that can never be repaid.

The question before Congress and the Nation is whether, some 40 years after the fact, we should try to compensate for losses suffered by Americans of Japanese ancestry. I believe that we must come to terms with this tragic moment of our history. The education programs provided for in the bill will finally give this nearly forgotten casualty of World War II. Children in schools across the Nation will learn about the cruelties of war and racism. And through this learning they will be able to avoid such a tragedy from happening again.

I recognize that the loss of liberty and the personal stigma attached to internment can never be erased. At the same time we must remember that ethnic Japanese lost an estimated $810 million to $2 billion, after adjusting for inflation, as the result of the relocation. In this connection, I believe that there should be some kind of justifiable response to the financial losses incurred as the result of Federal policy.

Finally, the passage of this bill proves that the country is finally willing to take responsibility for the inequities that we have for so long tried to ignore. I applaud my colleagues for supporting this legislation and hope that in some way it helps heal the wounds of World War II.

CONSTITUENT HAS GOOD IDEA TO SAVE HUD MONEY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. STARK. Mr. Speaker, recently a constituent came to me with the following proposal. The condominium that he lives in was built as part of the subsidized housing section 235 Program. The project was financed when interest rates were much higher than they are today, with 15½ to 16½ percent 30-year mortgages. These mortgages continue to be faithfully paid by the homeowners and subsidized by HUD. As the interest rate is much lower now, he proposed that section 235 mortgages be refinanced.

Refinancing these mortgages would save the Government and section 235 homeowners a substantial sum of money. Given our ever-increasing national debt and our lack of adequate public housing we can't afford to waste this money that could be put to much better use.

Currently another type of low income housing project, which had locked-in low rents for 20 years for low income people because of federally guaranteed mortgages, is being phased out because the 20-year use restriction will be expiring. Many of the tenants in these projects will be turned out to find new places to live. Many of them won't be able to. This is just one example of where, if we picked up this money that is essentially being tossed down the drain, we could properly house those who cannot afford housing.

Earlier this year we passed a 2-year housing authorization bill. I voted for this bill although I do not think that the bill goes nearly far enough. It is an improvement, however, over this administration's continual proposals of deep, sharp cuts in these important programs. It is time to end this administration's hostility to public housing and build an effective national policy.

Reexamining policies we already have in place, such as the section 235 Program, and updating them to be effective by today's criteria is a step in this direction. To this end I am introducing legislation today that would require HUD to refinance section 235 housing mortgages that are at interest rates more than 3 percentage points above the average interest rate charged on similar new mortgages. A provision is provided to assist the homeowner with the refinancing.

To take full advantage of this savings Congress needs to act quickly. Delay in refinancing could cost additional millions of dollars if interest rates rise. I hope that my colleagues will take the time to consider this very worthy proposal and join me in this effort as a cosponsor.

PARALYZED VETERANS OF AMERICA SUPPORT ELEVATING THE VETERANS ADMINISTRATION TO CABINET LEVEL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. SOLOMON. Mr. Speaker, Jack Powell, who is doing an outstanding job as executive director of the Paralyzed Veterans of America, recently drafted and sent out a letter to the major newspapers in the country requesting readers to write their legislators to support legislation (H.R. 1707), elevating the VA to cabinet level.

Over 230 Members of the House of Representatives have already cosponsored this bipartisan legislation. According to the Congressional Budget Office the cost of implementing H.R. 1707 is insignificant, and the bill is the top priority of every veterans' organization in the country. I urge all of my colleagues to support this very important legislation.

Mr. Speaker, I wish at this time to submit into the RECORD the letter to the editor by the Paralyzed Veterans of America.

The letter follows:

PARALYZED VETERANS OF AMERICA,
Washington, DC, September 9, 1987.

DEAR EDITOR: The U.S. Congress now is giving serious consideration to legislation which would establish the Veterans Administration (VA) as a cabinet-level agency. If enacted, this measure will elevate the Administrator of the VA to the level of Secretary, thereby enabling our nation's veterans and their survivors and dependents to have their concerns represented at the highest level of the executive branch.

On the basis of size alone, the VA belongs in the cabinet. The VA, directly and indirectly, impacts virtually every American family. It already is larger than most cabinet-level agencies—State, Interior, Labor, Commerce, Education, Transportation, Energy, Justice, and Housing and Urban Development. The agency has an annual operating budget of more than $27 billion and administers the largest health care system in the Free World—including 172 hospitals, 229 out-patient clinics, 117 nursing homes and 16 domiciliaries. In addition, the VA ranks second only to the Department of Defense in number of personnel.

And if statistics aren't compelling enough, consider that the VA has as its mission the provision of medical care to our nation's veterans and is the first line backup to the Department of Defense during times of national emergency. Consider also some of its innovative programs which affect millions of Americans—such as the GI Home Loan and the GI Bill Programs—which have improved the economy and have provided educational and training opportunities.

The VA is the largest trainer of health care manpower in the U.S.—with nearly half of the physicians in the U.S. today having received all or part of their training through the VA. In fact, if you counted all the Americans who received medical attention from VA-trained health care personnel, it probably would cover virtually every American family.

Further, the agency's award-winning research program—second in size only to the National Institutes of Health—is working to confront the AIDS crisis and the mysteries of Alzheimer's Disease with the same intensity it used to find the cure for tuberculosis and develop the heart pacemaker.

In addition, the VA administers America's largest vocational rehabilitation and training programs, which have led to ever-increasing job opportunities and employment for disabled veterans.

Insurance policies offered by the VA would qualify the agency to be one of America's largest insurance companies.

Yet, in spite of all of this—the fact that the VA impacts all Americans, that it is the largest health care system in the Free World, the largest vocational trainer and equal to some of the largest insurance companies—the VA, operating as an independent agency, has been lost in the bureaucratic shuffle and is unable to present the concerns of its constituency directly at the cabinet level.

In a major bipartisan push now underway, 25 U.S. Senators and 194 Members of the House of Representatives have endorsed the proposal to elevate the VA to cabinet-level status (S. 533 and H.R. 1707).

The Paralyzed Veterans of America applauds this effort and we urge your readers to write their legislators to press for passage of this important legislation in time for Veterans Day 1987.

Sincerely,

R. JACK POWELL,
Executive Director.

IRELAND: HOG-WILD OVER EXPORTS

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. ECKART. Mr. Speaker, it is now September 23, 1987, and I rise to remind my colleagues that the ongoing debate over trade legislation continues to weight heavily on our agendas. New arguments continue to be added to the debate surrounding the trade bill. I find one particularly interesting and would like to draw your attention to it today.

For years, U.S. agriculture has supported the U.S. balance of trade with its surplus of exports. In fiscal year 1987, the United States exported $27.5 million of agriculture products while importing about $20 million worth—a surplus of $7.5 million for American trade. Although favorable, this agricultural balance is rapidly eroding.

Mr. Speaker, I insert into today's RECORD an article that appeared in an Ireland newspaper 2 months ago. This news article was brought to my attention by a constituent from my district in Ohio. It details a plan by Ireland's agriculture Minister to increase pork exports to the United States market.

We cannot allow our farmers to be at this unfair disadvantage. We need a strong, yet balanced, trade bill to allow our farmers a fair chance in the global marketplace.

The news article reads as follows:

IRELAND INCREASES PORK EXPORTS TO UNITED STATES

(By Time Ryan)

A new £140 million expansion plan for the pig industry involving the creation of 1,500 jobs, was today announced by the Minister for Agriculture, Mr. Michael O'Kennedy. And in a major breakthrough for the industry, two pigmeat processing facilities have been given licences to export to the lucrative US market.

Today's announcement is intended to bring the country's ailing pig industry into the top of the international league and follows, close on a similar plan for the beef industry launched by the Minister for Food, Mr. Joe Walsh, just two weeks ago.

The massive £140 million package will include the building of three new slaughtering facilities capable of handling up to 6,000 pigs per week. The factories are in Naas, Kilkenny and Mitchelstown.

The Naas factory is being built by Paschal Phelan of Master Meats, the Mitchelstown factory by Galtee Foods and the Granagh factory by Queally Bros. of Dawn Meats. Taken in conjunction with existing facilities, the total output of pigs in expected to rise to a total of three million per annum by 1992.

The factories awarded by the US export licenses are Galtee Meats in Mitchelstown and the Limerick Bacon Company. The failure of any slaughtering plant to obtain such a license up to now has been a cause of major concern. The market offers unlimited potential for Irish factories capable of meeting the American consumer needs.

Within the past two years members of the Limerick Bacon Company have travellied to the United States where extensive research into the market was carried out. To make an initial start, the company took the unusual step of importing Danish bacon, already approved for export to the States, and sliced it in accordance with their research findings.

Today's plan is being backed by both FEOGA, the agricultural grant section of the European Community, and the IDA.

Galtee Meats has long been to the fore in the pig processing industry and today's announcement of a US export licence was originally expected before the end of the year. However, detailed examination and continual upgrading of the slaughtering line caused the six-month delay.

The new plan will be warmly welcomed by the country's pig producers who have suffered constant decrease in margins during the last decade. Now considerable expansion is expected in sow numbers, in particular from farmers who have suffered from cutbacks in most other areas of output.

BROKEN PROMISES, BROKEN HEARTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. WALGREN. Mr. Speaker, I rise today to address one of the most crucial issues facing our Nation's elderly. That is the issue of pension security. A decade ago, people could depend on a sound pension throughout retirement. Most businesses had established federally insured retirement plans for their workers. From large corporations to small businesses, it was common practice for individuals to have a fully vested retirement after 10 years (sometimes less) of service.

All that has changed now. With the collapse of the steel industry in the last recession, the Pension Benefit Guarantee Corporation has been saddled with an unbearable burden. Its solvency was in question after assuming $2.2 billion of liabilities arising from the LTV Steel chapter 11 bankruptcy. While it is still uncertain whether the courts will uphold the recent decision by the PBGC to return three of the unfunded pension plans to LTV, in the worst case scenario the plans may fall back on the PBGC in poorer shape than they are now. This could push the PBGC's deficit as high as $4 billion.

Even more important than the funding questions—though I am sure it is related—is that the PBGC has recently begun to pursue policies that leave it unclear whether they are serving the interests of those retirees that the PBGC was set up to serve or whether the PBGC has been driven by its motivation for self-preservation. In the contract negotiations between the United Steelworkers Union and the LTV Corp., the steelworkers successfully negotiated a retroactive repayment to its retirees of most of the $400 per person early retirement bonus that had been lost when the PBGC picked up the retirement plan. Yet each step of the way the PBGC has moved to block the agreement first in court and then with threats to veto any restructuring proposal that includes the new pension arrangement.

Yesterday the PBGC returned to LTV the responsibility for funding and managing three of the plans that it had terminated in January. This move fills me with hope and fear. I have hope that perhaps this will be a strong signal to the business community that we take pension obligations seriously. Such strong action by the PBGC, if it is upheld, would act as a strong deterrent to future schemes that would put the pension guarantee system at risk for a corporate strategy of shedding obligations that become to difficult to continue.

But we should greet this news with skepticism as well. I believed the PBGC in January when it said that these plans were at risk. And I want to believe them now. But "Yes" cannot be "No" and something cannot be on and off at the same time. Either the plans are at risk or they are not. I am afraid, in spite of PBGC's assurances, that LTV will yet default on these plans and will return them to the PBGC with an even greater deficit than currently exists.

In light of all of this, there is nothing less that we should do than to overhaul the Federal pension guarantee system. We need to make it clear to the PBGC that they are to serve the retirees first and all other interests second. We need to address the need for more funds, not only by raising the insurance premiums charged to companies with pension plans, but also by strengthening the penalties for underfunded plans. No company should be able to walk away from its commitment to its employees without securing its promise to provide in the future. If a company files for chapter 11, the PBGC should have every means available to schedule repayment of its debt in a way that serves the retirees and protects the taxpayer from unnecessary losses; yet it should, as a government agency, avoid becoming embroiled in the daily decisions the management of that company will have to make.

All told, there have been 49 bills introduced in this session of Congress alone that address pension security issues. I have cosponsored a number of them that address the LTV situation in particular. I urge my colleagues on the committees of jurisdiction not to linger too long in their deliberations but to act with sureness and provide clear leadership to remedy this horrible situation.

We are now on the threshold of a day when the average age of all Americans will rise dramatically. One study shows that between the year 2010 and 2030 the number of elderly will rise from 39 million to 65 million. What we say now about the retirement security of our elderly will set important precedents for that day. For the sake of the aged of the future, we cannot afford to turn our backs on the elderly of today. Justice demands that we take every step to prohibit broken promises and prevent broken hearts.

DRUG MAKER PROFITS: WHY ARE THEY BLOCKING THE MEDICARE CATASTROPHIC PROTECTION BILL?

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. STARK. Mr. Speaker, it is reported that the pharmaceutical manufacturers have launched a $3.5 million campaign against H.R. 2470, the Medicare Catastrophic Protection Act and have pulled out all stops to block further consideration of this House-passed bill.

Following is data from the Congressional Research Service of the Library of Congress showing how this industry is very profitable relative to other American lines of business. With profits of this level, their action in opposing a generic drug amendment for Medicare beneficiaries simply displays gross greed.

They say they need more profits to do more research. An examination of the annual reports of the major drug makers shows they all spend more on sales and advertising and general overhead than they do on research. Our amendment making drugs more affordable to those with severe illnesses should increase sales. The drug firms should take some of the sales money they spend wining and dining doctors and use it for research. That would be good medicine for all concerned.

The Library's data follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 23, 1987.

To: Hon. Fortney H. (Pete) Stark.
From: Analyst in industrial organization and corporate finance economics division.
Subject: Pharmaceutical industry.

This memorandum is in response to your request for information on the pharmaceutical industry. You were specifically interested in information on the pharmaceutical industry's profits and how these profit levels compare with other industries.

Table 1 lists sales and profits for the drug industry as well as profits as a percentage of sales for years 1984-1986. These statistics were obtained from Business Week Corporate Scoreboard for various years. The industry composite is called drugs and is made up of firms that produce ethical, proprietary, medical and hospital supplies.

TABLE 1.—SALES AND PROFITS FOR DRUG INDUSTRY 1984–86

[Dollar amounts in millions]

Year	Sales	Profits	Profits as percent of sales
1984	$52,428.3	$5,700.2	10.87
1985	49,927.2	5,471.0	10.96
1986	58,967.0	6,604.4	11.26

Source: Corporate Scoreboard. Business Week, various issues.

You indicated that you were interested in how sales and profits in the drug indusry compared with other industries. We chose the beverage, fuel, and office equipment and computer industries to make the comparison. Tables 2-4 contain this data. We have enclosed Corporate Scoreboard annual reviews for years 1984-1986. If you are interested in obtaining complete copies of the Corporate Scoreboard please call 287-7130.

TABLE 2.—SALES AND PROFITS FOR BEVERAGE INDUSTRY

[Dollar amounts in millions]

Year	Sales	Profits	Profits as percent of sales
1984	$27,691.9	$1,524.5	5.51
1985	27,608.5	1,813.0	6.57
1986	32,125.9	2,216.0	6.90

Source: Corporate Scoreboard. Business Week, various issues.

TABLE 3.—SALES AND PROFITS FOR FUEL INDUSTRY

[Dollar amounts in millions]

Year	Sales	Profits	Profits as percent of sales
1984	$436,655.0	$19,650.1	4.50
1985	416,021.8	13,168.3	3.17
1986	309,637.5	9,798.0	3.16

Source: Corporate Scoreboard, Business Week, various issues.

TABLE 4.—SALES AND PROFITS FOR THE OFFICE EQUIPMENT AND COMPUTER INDUSTRY

[Dollar amounts in millions]

Year	Sales	Profits	Profits as percent of sales
1984	$115,019.7	$10,709.1	9.31
1985	116,999.1	9,078.1	7.76
1986	121,674.1	8,046.1	6.61

Source: Corporate Scoreboard. Business Week, various issues.

We are enclosing background material on the pharmaceutical industry from Standard and Poor's Surveys and the 1987 U.S. Industrial Outlook. If we can be of further assistance, please call 287-7577.

CONGRESSIONAL STUDY MISSION AND SYMPOSIUM ON THE CARIBBEAN BASIN INITIATIVE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. CROCKETT. Mr. Speaker, on September 18–20, the Foreign Affairs Subcommittee on Western Hemisphere Affairs, in conjunction with the Subcommittee on Economic Policy and Trade, cosponsored a study mission in Bridgetown, Barbados, on the Caribbean Basin Initiative [CBI].

The objective of this study mission was to expand the consultative mechanism which was considered a key element of the original Caribbean Basin Economic Recovery Act by hearing from a wider variety of groups affected by the CBI, including not only Government and the private sector, but also community groups, farm groups, church groups, labor groups, and academics.

The analysis, critiques, views, and recommendations which were presented during our meetings provided new insight into both the policy and implementation of the CBI. I would like to share a summary of these views with my colleagues by providing a copy of the concluding remarks of the study mission for the RECORD.

Concluding Remarks of Hon. George W. Crockett, Jr., Chairman, Subcommittee on Western Hemisphere Affairs, and Hon. Daniel A. Mica, Subcommittee on International Economic Policy and Trade

On behalf of the U.S. House of Representatives Foreign Affairs Subcommittees on Western Hemisphere Affairs and on International Economic Policy and Trade, we wish to express our most sincere appreciation to all the presenters and participants, to the Government of Barbados for its warm hospitality, to Ambassador Russo and the Embassy staff for their assistance and especially to the Development Group for Alternative Policies for their outstanding work in arranging the symposium.

Over the past two days we have engaged in a wide-ranging, thorough and particularly frank discussion of the problems facing the Caribbean nations, the shortcomings of the CBI, and paths we might pursue now to promote economic growth and development in the region. We believe we have had a most enlightening and successful symposium.

Our exchange of views has served a principal objective of the Study Mission: to consult with our friends in the Caribbean in order to obtain their unique but diverse perspective on the CBI and related issues. We have, as one participant put it: "Talked to, rather than at one another."

But consultation implies an on-going process. The Prime Minister of Barbados stressed yesterday the need to institutionalize consultations. We intend to follow up on this notion with our colleagues in the recently-formed Congressional "Friends of the Caribbean" group. As we review a variety of mechanisms that would provide for on-going consultations, it is imperative that we assure that all perspectives are represented: non-governmental and regional organizations; the academic and business communities; and government and Congressional leaders.

We believe that another primary goal of the Study Mission has been accomplished by our presence here: the reaffirmation of the United States' commitment to the promotion of economic growth and social equity in the Caribbean.

The Members of the Study Mission, even those of us who believe we know the region well, have learned an enormous amount in our two days of meetings. We have gained a greater and deeper appreciation of the strong economic ties between our countries, and especially of the significance of America's economy to the region. Our recognition of the need to strengthen and respond to growing regionalism among the islands and of the support the U.S. can offer in this regard has been sharpened. Perhaps most importantly, the vitality and seriousness that has characterized our sharing of ideas under-scores the fact that the Caribbean people—the region's human resources—more than compensate for the limitations on the area's natural resources.

Our mission is impressed and indeed overwhelmed by the number of concrete recommendations we have received in such a short span of time. Although we cannot list them all, several merit particular attention.

Within the general heading of aid: Special sensitivity must the paid to the needs of the rural poor, and in particular the needs of women; the infrastructure needs on-going development in order to sustain other areas of the economy; greater emphasis should be placed on the needs of the Caribbean and in particular the OECS states in development programs; development aid projects should recognize the contribution small entrepreneurs make to the economy; more scholarship and training opportunities (particularly in administration, management, and tourism) should be offered in both the Caribbean and the U.S., and assistance should be given for the development of higher education in the region; tourism should be recognized as a legitimate development sector, and accordingly, more resources should be devoted to this area; emphasis should be placed on sectors that produce for the domestic economies rather than exclusively for export; The need for more credit should be addressed through the greater involvement of A.I.D. with the Caribbean Development Bank, with particular reference to making credit available to those who now lack adequate access to it; we should review the effects of military aid in the reigon; and above all, we should do more to ensure that our aid packages in fact benefit those who they are intended to benefit.

Under the general rubric of trade: stronger support for intra-Caribbean trade; the pursuit of export diversification strategies; the establishment of the CBI as a treaty organization, with a permanent Secretariat that would serve, among other things, as a consultative mechanism; improved access to and assistance in penetrating the U.S. market for products from the region, as reflected in H.R. 3101, the Gibbons bill; elimination of a specific statutory expiration date for the CBI in order to provide more stable trade and investment incentives; better information on U.S. imports laws and regulations, by conducting informational seminars and offering training; assistance for tourism marketing in the U.S.; and greater efforts to focus CBI benefits on small producers in both agriculture and manufacturing.

Finally, within the umbrellas of investment: more investment in non-assembly enterprises; easing restrictions on the use of Section 936 twin plant funds, and better information on the use of Section 936 monies; the need for the U.S. to explore ways in which it can provide greater investment incentives and support; decoupling the convention tax exemption and the use of Section 936 funds from the requirement that a Tax Information Exchange Agreement be in place; enhanced emphasis on tourism, particularly the creation of a data bank with OPIC to gather information on investment opportunities within the sector, and an update of the Commerce Department's 1985 assessment of the investment potential in tourism; and consideration of an investment code to, among other things, protect workers rights.

Finally, we must pay attention to the relationships among these three areas of aid, trade, and investment so that all of our policies complement each other and help produce balanced development. We heard, for example, that it is not clear whether current policies produce more jobs than they cost. As we proceed, we must pay the necessary attention to such questions.

In conclusion, we make a commitment to you that we will not return to the United States and forget the extremely important and productive discussions we have had. Rather, we wish to announce that our respective Foreign Affairs Subcommittees, working closely with other relevant Committees intend to develop a legislative package based on the recommendations we have received here. The legislation would be complementary to HR 3101 by focusing on the areas that are within the purview of the Foreign Affairs Committee: development assistance, education and training, foreign investment promotion, tourism, and export marketing assistance. The process of preparing this legislation would offer the opportunity to continue the consultations begun here, and we would hope that all participants would consider contributing to this effort.

We hope that such a bill will take us a step closer in our partnership and help you, our Caribbean friends, on your path to economic prosperity and well-being for all your people. For, as one of our panelists said, perhaps the one thing we all agree on is that things cannot keep going on as they are.

DRAGO NAJMAN SOUNDS A WARNING ON UNESCO'S FUTURE

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. MOODY. Mr. Speaker, Dragoljub Najman is a well-known and highly respected international civil servant who has spent more than 30 years in top positions with UNESCO, the United Nations Scientific, Cultural, and Education Organization.

I have had the privilege of meeting Mr. Najman, a Yugoslavian national, on a number of occasions. I can tell my fellow House Members that his reputation for brilliance and insightfulness is both earned and well-deserved.

Many of us in this Congress are familiar with the disastrous and tragic disintegration of UNESCO that precipitated the withdrawals of the United States and Great Britain. And many in this Congress are also familiar with the central role in this disintegration played by UNESCO's Director General Amidou Mahtar M'Bow. Mr. M'Bow brought sighs of relief to many when he announced earlier in the year that he would not seek a third term at UNESCO's helm.

Drago Najman has published a thoughtful and well-reasoned article in today's New York Times which casts serious doubt on whether or not Mr. M'Bow is actually going to depart UNESCO at the end of his current term. Because M'Bow's departure is probably the single most important act, perhaps the only act, that can offer any hope of UNESCO being revived and rehabilitated, I urge my colleagues to give careful thought to Najman's observations.

A FATEFUL DECISION FOR UNESCO

(By Dragoljub Najman)

PARIS.—Today's meeting of UNESCO's executive board is without a doubt the most important in the agency's 41-year history. On the agenda whom to recommend to the General Conference as the next Director General. The decision may make or break UNESCO.

To understand what is happening in the only United Nations agency from which two founding members, the United States and Britain, have withdrawn, one must start with its orgins. The United Nations Educational, Scientific and Educational Organization began life with no fewer than three "original sins."

The first was that UNESCO's areas of responsibility were intrinsically areas of ideological confrontation. All United Nations agencies are political, and to talk about the "politicization" of this or that agency is not enlightening. However, only in UNESCO was ideological confrontation unavoidably on the agenda from the beginning. And while there can be compromises in politics, they are much more difficult in the field of ideology.

To live with the resulting problem, successive heads of UNESCO—from the British biologist Julian Huxley in the 40's to the French educator Rene Maheu in the 70's—tried to find gaps in the general ideological confrontation where it would be possible to develop limited areas of cooperation. They performed this task with considerable success over the years, but it called for fine judgment, sensitivity and an absence of partisanship.

Second, UNESCO was put in charge of organizing intergovernmental cooperation in areas where governments often have nothing or very little to say. How do you organize intergovernmental cooperation in the social sciences? Where are the ministries of social sciences? How do you organize such cooperation in the fields of communication when, in many countries, it is considered vital to the health of society that governments should have very little control over information? The same holds for culture once one goes beyond the superficial level of "exchanges."

Third, UNESCO was virtually the only agency not created to take charge of a big well-defined international system. If there was no Universal Postal Union, it would have to be invented: The coordination of the world's postal service into a coherent system requires it. If there was no International Telecommunications Union, the same would be true. UNESCO, on the other hand, was put in charge of areas—education, science, culture—that do not represent discrete systems at the international level. It therefore never had the same clear-cut management function, nor as well-defined a sense of limits.

These three characteristics have made UNESCO the most vulnerable of all international organizations. The crisis that it now faces results from the combination of these inherent weaknesses and the disastrous management provided by its current Director General, Amadou-Mahtar M'Bow, a Senegalese.

It has been a despotic management, demoralizing the secretariat and alienating many member countries. It has been an ideological management, deliberately substituting confrontation for cooperation. It has been a reckless management, wasting scarce resources and dissipating good will. The public image of the organization is catastrophically bad. It damages the whole cause of international cooperation by confirming the prejudices of its opponents.

If it does not want to destroy the organization, the executive board must emphatically reject the idea of a third mandate for Mr. M'Bow. He has said that he will not seek a third term, but if the board does not unite behind one of the many able candidates for the job, he is likely to get it anyway. That would spell the end of UNESCO.

The executive board should propose a candidate of unchallengeable integrity whose commitment to international cooperation, the free circulation of information and the defense of human rights would bring back the United States and Britain. It should propose a candidate capable of bringing the organization back to a program centered on "conflict-free zones" such as the promotion of scientific cooperation and the fostering of literacy.

Such a person (no matter where he or she came from) would easily be elected in November by the General Conference and turn the page on a tragic period in the life of UNESCO.

INAUGURAL ADDRESS OF THE PRINCIPAL CHIEF OF THE CHEROKEE NATION

HON. JAMES M. INHOFE

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. INHOFE. Mr. Speaker, on August 14, the Cherokee Nation swore in its new Principal Chief, Hon. Wilma P. Mankiller. Chief Mankiller's inaugural address outlines the current status and future goals of one of the most progressive tribes in the United States. Its significance extends beyond the Cherokee Nation and the State of Oklahoma to everyone involved in the efforts of Native American tribes to improve the well-being of their people. For that reason, I would like to submit Chief Mankiller's inaugural address for the RECORD.

Chief Mankiller's inaugural address follows:

Good afternoon. I'd like to tell you how truly delighted I am to be here today. There's no greater honor I've ever had than to be chosen by my own people to lead them and I think that feeling is shared by Deputy Chief John Ketcher and members of the Tribal Council.

I heard someone say this week, "How are all these "ordinary" people elected to the tribal council going to make the weighty decisions for the Cherokee Nation?" I can tell you quite frankly that "ordinary" people take very seriously the responsibility and trust that's been given them. So I think you'll see a change in these people who've been elected to make decisions for you, merely from the weight of that responsibility. People say that crisis changes people and turns ordinary people into wiser people or more responsible people. As crises develop within the Cherokee Nation and we begin to resolve those crises, you'll see many changes.

I'd like to talk just a little about the Cherokee Nation, where I see us today and where

I see us going in the future. I think I can say without the tiniest bit of false pride that we are one of the most progressive tribes in the U.S. today. That progress we enjoy today, the Cherokee Nation that you see today—a very progressive, large, diverse organization—is not the result of the work of one person. It's the work of many, many people. There are a lot of people who laid the foundation for the work we're doing today, beginning principally in this latest revitalization, with Chief Milam, moving to Chief Keeler, to Chief Swimmer, who was my immediate predecessor, and myself.

The tribal council members who have become more active and assumed more responsibility within the tribal government are responsible for much of that work. I don't ever forget that much of the good work at the Cherokee Nation and much of our success can be attributed directly to the hundreds of tribal citizens who become involved in our work, as well as the tribal employees who carry out the policies established by the tribal government. Many people only see the employees. They rarely get to see the inner workings of the tribal government, so I would like to thank all the tribal employees who make our government what it is today.

We've grown very rapidly in the last 15 years, just in the past 10 years that I've been associated with the tribe. That growth has been phenomenal and the manifestation of the growth over the past 15 years is all around you. You can see the new Hastings Hospital, Cherokee Nation Industries, Cherokee Gardens, rural health clinics, the headstart centers and many other examples of this growth. When I came to the Cherokee Nation 10 years ago, there were 200 or 300 tribal employees. There are now well over 700 permanent employees and several hundred more have seasonal employment.

That growth has not occured without problems. Growth is a painful process. I'd like everybody to remember that we're still growing, we're still young. In the totality of Cherokee history, 15 years isn't very long. And we've got many more painful processes to work through before we reach a point where we will level off.

Our overall goal determined by the last tribal council and the last chief and deputy chief was a goal of self-sufficiency. People outside our communities sometimes misinterpret self-sufficiency as total independence from federal aid. That's not at all what we mean. I personally think that the U.S. Government owes us much in federal aid. We paid for much of what we receive today in lost lives and lost land. Our interpretation of self-sufficiency could simply be described as capability, the capability to do things for ourselves . . . the capability to do things with some assistance from the BIA, but basically running the tribe ourselves . . . with some assistance from the IHS, but basically making the decisions ourselves. If you'll look where we are today, we're well on our way to self-sufficiency. Many people talk about self-sufficiency, self-reliance and self-determination in a rhetorical sense, but to translate that into reality is a very difficult task that I think the Cherokee Nation is doing fairly well.

We have an excellent group of elected officials, a very diverse group of people from various areas throughout the Cherokee Nation, from various backgrounds. We have some very serious challenges ahead of us. I will talk very briefly about one related to the Constitution. Because the rest of the United States is talking about the U.S. Constitution, I'm going to talk about the Cherokee Constitution.

In this election of 1987, the Cherokee voters overwhelmingly passed an amendment to our Constitution which would allow the council members to be elected by districts. One of the major tasks of this newly elected tribal council, the legislative body of the tribe, is to develop a plan for districting. That is a monumental undertaking. The voters have said "we want districting," but the details have to be worked out during the next four years.

I also think there's a need for a constitutional convention. In fact, our constitution requires us to have one within the next 15 years. The reason we review our constitution is the same reason the U.S. Government reviews its constitution—it should reflect the collective values of the Cherokee people. As time changes our values and needs, the constitution needs a new look and some amendments. This amendment we just passed is the first to our constitution, but I certainly don't think it's the last. The Cherokee Constitution, as you heard in our oaths, basically provides a legal infrastructure for our government.

That's our Bible, everything we do follows that so that's one of the very important challenges we have to undertake in the next four years. It's principally the task of the tribal council. Another important task we face is that of protecting tribal rights. By tribal rights, I mean the protection of these rights that are afforded us because we are a tribal government. This is something that I, the deputy chief and the tribal council are going to have to spend a great deal of time on. There are powerful anti-Indian lobbyists who are constantly trying to diminish tribal rights and I think that what we have to do is stay constantly alert to protect our tribal rights. Many of the services and programs we enjoy today are a direct result of the special government-to-government relationship with the U.S. government that has to be protected.

I also believe that we need to concentrate on the stimulation and development of the economy in this area. As I've told many of you before, we can't do economic development in a vacuum. We don't have the resources to do that by ourselves. We have to work in a team effort with the Oklahoma Chamber of Commerce, state government, local bankers and the business community to develop the economy of this area. Oklahoma in general is suffering from a depressed economy. I believe the Cherokees are suffering even more. Our people are very hard working. That's a well-known fact. You can look at Cherokee Gardens, Cherokee Nation Industries, many of the industries in Arkansas that recruit and bus Cherokees across the border into Arkansas because they are good workers. We have hard working people, but many of them don't have a place to work. One of our priorities is searching for ways to develop the economy of this area. That's critical.

We also must continue to move our health care system outward. When we proposed this eight or nine years ago, it seemed like a radical idea. At that time we didn't have rural health clinics and we were only developing a tribal specific health plan and talking about moving services closer to the people. Today that's a reality. We have many clinics in outlying areas and are looking at developing more. We should look very closely at our whole health care system and begin to place more emphasis on prevention and education. With all of the progressive work we do in economic development, protection of tribal rights and in running a very complex organization, we must not forget who we are. We must pay attention to the protection and preservation of tribal culture. There are many definitions of tribal culture, but we must sit down and define for ourselves those things we consider important to protect for future generations.

In the past, promotion of tribal culture has been viewed as a function of the community and family, not of tribal government. But we've reached a point where we need to assume a leadership role. We need to explore what we as a government can do to promote and protect our culture.

I don't think that anybody, anywhere can talk about the future of their people or of an organization without talking about education. Whoever controls the education of our children controls our future, the future of the Cherokee people and of the Cherokee Nation. There are many new programs I'm going to propose and I'm sure the council will propose, regarding education. We're doing a lot of innovative things in education but there's more we can do. We have always placed a great deal of importance on education and that has helped us as a people. We must continue to do that.

In our education programs, I would like to incorporate education about tribal government and tribal history. If we know where we've been as people, our history, our culture and our ancestry, we have a better sense of where we are today and, certainly, a better sense of where we're going.

I've talked about some of the battles we face in terms of education, economic development. It's easy to talk about these problems but it takes the teamwork of many people to address them.

Finally, while there are a lot of external threats to the Cherokee Nation, the really great threat is one that is internal.

As any young organization and as officials elected to tribal government, we must develop an environment where dissent and disagreement can be handled in a respectful way. Dissent is natural and good. Out of respectful dissent and disagreement comes change that is usually positive. As tribal officials we can set an example how to disagree in a respectful and good way. We all have many goals for our tribe that will require myself, the deputy chief, the tribal council, the tribal citizens and tribal employees working together to reach.

We certainly can't do it if we focus on our disagreements. If we begin to focus on the things that we agree, we can forge ahead. We come from different backgrounds and certainly we've going to disagree. We must figure a way to balance that and the things we can work on. The darkest pages in Cherokee history, the greatest tragedies that occurred to us as a people came when we were divided internally.

People say I'm, a positive person, that I focus on positive things. I do. We've done a lot. I'm very proud of the Cherokee Nation, I'm very proud of the many people in our communities, I'm very proud of our history, I'm proud to be Cherokee. But that doesn't mean I don't know there aren't a lot of serious problems in our organization, that there aren't a lot of serious problems we still face in the communities and that I don't realize how much work remains to be done. As we continue to work on these problems, we need to be aware that the things we do will have a profound effect on the future of the Cherokee Nation, its government and the Cherokee people.

We take our responsibility extremely seriously. We work very hard and we welcome your input. As I said, we didn't acquire instant wisdom by being elected but we do take our jobs seriously and I think you'll see that over the next four years.

This is a very exciting time for me, for all these people. I hope that in the next four years we return in a very real sense to the Golden Era of the Cherokee Nation where we have economic prosperity, where we begin to do some really innovative things in education, where we do more in the health care field, and continue the revitalization of our communities.

With that, I ask for your continued support throughout the next four years. You have certainly been supportive during this time, during the election and during the 18 months I served as principal chief prior to the election. I thank all of those who helped me. I wouldn't want to start thanking everyone from my kindergarten teacher on up, but I would like to thank my husband. Without his support, I could not have run for office, nor could I continue in this position. I won't ask him to stand up but I would like to thank my husband, Charlie Soap, for all his help and all his work. I, too, would like to recognize the family of Clarence Sunday, because Clarence Sunday helped me an awful lot, not only in the campaign but by talking through a lot of issues.

So with that, again, I'll like to thank you for your attention, hope you'll stay very involved in the Cherokee Nation and continue to give us your ideas, your support and your prayers.

WASTE REDUCTION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 23, 1987, into the CONGRESSIONAL RECORD:

WASTE REDUCTION

Local officials from Indiana communities frequently talk to me about how to get rid of wastes. They want to put it in landfills, burn it, or recycle it. These communities are struggling with a hard fact: we are producing far more waste than we can handle. I am persuaded that we need a new, preventive strategy which puts the emphasis on producing less waste in the first place.

The wastes overwhelming our capacity range from household garbage to agricultural, industrial, and municipal wastes. Yet, as communities and industries evaluate waste disposal options, few address the basic need to prevent waste as much as to manage it. Waste reduction—cutting the generation of waste to avoid its handling, treatment, and disposal—must become a central part of our thinking and our practice.

We produce about 400,000 tons of garbage a day in this country. Since the most efficient way to control waste is simply not to produce it, private-sector decisions about the type and quantity of materials produced will play a critical role in waste reduction efforts. In a society which increasingly clamours for plastics and disposable products ranging from diapers to razors to cameras, neither producers nor manufacturers have sufficient incentive to alter their products. Also, those who create and sell the goods which become municipal wastes generally do not have to dispose of them. While landfill shortages are leading to greater use of incineration and recycling, they are not increasing demands for waste reduction.

The outlook for significant hazardous waste reduction is different. There are major incentives for industries to reduce hazardous wastes in their production processes. An estimated $9 billion was spent by industry in 1985 to manage solid and hazardous waste. Producing less waste can quickly cut the costs of pollution control. Companies producing less hazardous waste reduce the high costs of handling and disposing of wastes; find it easier to comply with environmental regulations; and lower their long-term liabilities. A recent government report estimated that a 50% reduction in hazardous waste over five years might be possible.

Significant reductions in the amount and toxicity of waste can be achieved by changing production processes, using different raw materials (including waste by-products), and reformulating products. For example, a large producer of gift wrapping paper eliminated a substantial amount of toxic waste by switching to water-based printing inks, eliminating the use of hazardous solvents in its cleaning processes. Another company collected chemical waste before it reached the waste-water facility and treated it to produce fertilizer. Besides reducing environmental pollution, waste reduction efforts can increase plant efficiency and improve industrial products and processes—often without expensive new technology or equipment.

Even with these incentives, industry has been slow to adopt hazardous waste reduction practices, for a variety of reasons. Environmental regulations and industry practices tend to focus attention on waste treatment and disposal rather than reduction. Likewise, of the $16 billion spent last year by federal, state, and local governments on environmental protection, only $4 million was spent on waste reduction. Production people must make waste reduction decisions, but many do not know what wastes are being generated, and how these wastes can be avoided. There have been limited federal and state resources for programs offering in-plant assistance, waste audits, and research grants.

Government interest in waste reduction is growing among industrialized countries, with the Western Europeans taking the lead. Countries such as Austria, Denmark, France, and The Netherlands have large government programs funding research on new low-waste technologies. European programs generally cover both hazardous and nonhazardous wastes. Some countries have separated waste reduction programs from pollution control programs to emphasize that waste reduction is economically, as well as environmentally, sound. The Soviet Union has also recognized the importance of waste reduction, making low- and non-waste technologies an important part in planning industrial development.

Recent studies done for the Congress have indicated that greater federal leadership could help encourage widespread waste reduction in the US. Congress directed the Environmental Protection Agency in 1984 to move waste management away from land disposal. It should now give explicit instructions to encourage waste reduction as an alternative to incineration and underground wells. New Superfund requirements will collect some information about the release of toxic chemicals into the environment, but they will not include information about reducing these wastes. Congress may consider legislation which would coordinate and improve the collection of information on where and how waste reduction can occur. This would be part of a nonregulatory, five-year program of grants to states to provide education and technical assistance for industry waste reduction efforts. Strong federal leadership can help redirect resources and attitudes toward waste reduction. Once waste reduction becomes a common practice within the private sector, the federal role could be eliminated.

Waste reduction involves a fundamental shift in our way of looking at waste. But it is the most logical way to protect public health and the environment, while making industry more efficient and profitable. If hazardous waste reduction is incorporated into industrial processes and thinking, we may also see reductions in the sheer volume of municipal waste which threatens to overwhelm us. A strong demand from the public and firm leadership from federal, state, and local governments could give the private sector the boost it needs to begin effective waste reduction.

YEARNING FOR MAYBERRY, N.C.

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. NEAL. Mr. Speaker, North Carolinians are extremely proud of their native son, Andy Griffith, and his achievements as an actor. In the 1960s, we watched his "Andy Griffith Show" on CBS with delight and came to know well the characters in the fictional town of Mayberry, NC.

Occasionally, tourists come through North Carolina in search of Mayberry. We have to tell them there's no such place, but we point out that Mayberry resembled many towns in North Carolina and the South. Andy Griffith grew up in Mount Airy, in my congressional district, and now has a home near Manteo on the Outer Banks, so he certainly knows the territory.

In fact, some of my friends in Mount Airy would be disappointed if I didn't claim Mount Airy as the model for Mayberry. You'll recall that Mayberry was near Mount Pilot; well, Mount Airy is just up the road from Pilot Mountain. Mount Airy has a Mayberry Mall shopping center and a Mayberry theater.

The nine-season run of the "The Andy Griffith Show" ended nearly 20 years ago, but reruns are still popular nationwide. The Andy Griffith Show Appreciation Society, headquartered in Clemmons, NC, keeps the torch burning. It publishes The Mayberry Gazette, a quarterly newsletter billing itself as "The World Authority on Mayberry, NC."

John Meroney, a constituent of mine, edits The Mayberry Gazette. He recently published a tribute to the Griffith Show by Donna McCrohan, a New Yorker, who hopes that one day there may be a real-life Mayberry. As she points out, Mr. Griffith doesn't think that's such a great idea.

Mr. Speaker, because the Andy Griffith Show and Mayberry are cherished pieces of

Americana, I ask, without objection, that Donna McCrohan's article, entitled "Yes, Andy, There Is A Mayberry," be published in the RECORD. The article follows:

YES, ANDY, THERE IS A MAYBERRY

(By Donna McCrohan)

Recently, John Meroney and The Andy Griffith Show Appreciation Society raised an interesting question. They wondered whether a North Carolina town—any North Carolina town—would change its name to Mayberry. When the story reached Andy Griffith's ears, far from being tickled pink, he was embarassed that a town would be asked to exchange a name rich in heritage for a name from "just a comedy."

"Just a comedy" indeed! But you can't blame Andy Griffith for thinking the gesture was out of proportion to the significance of the show. After all, we have the advantage over him. He was involved in constructing the fiction. He knew Mayberry as props on a set. Our involvement was to enjoy the fiction. We've only known Mayberry as it was on television, a town on its way to becoming a legend.

Yes, Andy, there is a Mayberry. Just as there's a Camelot, a Brigadoon, a Shangri-la. You can drive your car all through North Carolina and not find it, but that doesn't mean it isn't there. Legends, unlike myths, are real. How much poorer our lives would be if proof deprived us of our legends.

And if the real-life Mayberry didn't live up to its name, what then? Then it would join the ranks of other towns in North Carolina that don't entirely live up to their names. Carthage, NC wasn't burned to the ground by Scipio Africanus. Ulysses and Achilles never fought the Trojans on the streets of Troy, NC. Let's face it. Even Washington, DC doesn't always live up to the name of George Washington.

That city names evoke other distinguished city names or people's names, real or imagined, is neither new nor undesirable. If this is "trying to turn a fantasy world into the real world"—"flawed thinking"—as a distinguished professor of English had remarked—what about Eldorado, NC, named for the mythical kingdom of gold? What, for that matter, about NASA, sending a name from the TV show "Star Trek"—the U.S.S. Enterprise—into space?

As for "The Andy Griffith Show" being "just a comedy," comedy is a noble calling, with positive social value. Shakespeare wrote comedy. Few scholars hold it against him.

If Ben Franklin were alive today, he'd probably be writing monologues for Johnny Carson instead of Poor Richard's Almanac. If Charles Dickens were alive today, he'd probably be writing situation comedies instead of Pickwick Papers. Both reached their audiences through the popular medium of the day: print. The equivalent of that medium in our day is television. Popular, universal television.

Whether this is good or bad is another question. But it would certainly be worse if there had never been an "Andy Griffith Show" which—had he been alive in the 1960s—would have been written by Mark Twain.

So we come to the question: Do you name a town after it? The suggestion was offered. There were no takers. Yet there was plenty of favorable comment. Apparently it wasn't a meaningless notion. Apparently, it struck a popular chord. There's a little Mayberry in every town in North Carolina.

Maybe in the future, some small town will become Mayberry for a day. Maybe years from now, a new North Carolina town will come into being and take the name Mayberry.

Either would be a boon to tourism.

Either would do honor to something very significant and very real—a moment in time and a combination of talents known as "The Andy Griffith Show" that celebrated the values we call "American."

Nobody ever said the show was The Bill of Rights.

But, in its own unassuming way, it's becoming part of our national heritage, commanding our affection and our respect. Andy Griffith and company have contributed to this heritage, and their combination—no less real than Camelot, Brigadoon, and Shangri-la—is Mayberry, U.S.A.

IN CHINA, KREMLIN WATCHING

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. COELHO. Mr. Speaker, much attention over the past several weeks has been given to the Reagan administration's efforts to reach an arms control agreement with the Soviet Union. And rightfully so, since these negotiations represent an historic opportunity to improve United States-Soviet relations.

These prospects should not overshadow the importance of enhancing our relationship with China, however. This decade, we have witnessed the awakening of the other Asian power, as the Chinese seek to make economic reforms and renew their diplomatic ties with the West. Pamela Harriman recently returned from a visit to China, and has shared some of her very insightful views in a column in the New York Times. I urge my colleagues to pay heed to her advice.

The column follows:

[From the New York Times, Aug. 19, 1987]

IN CHINA, KREMLIN WATCHING

(By Pamela C. Harriman)

WASHINGTON.—During a recent visit to China, I asked my dinner host, an urbane provincial official, what he thought of Mikhail S. Gorbachev's prospects for success with economic reforms. He said, somewhat unconvincingly, "I suppose he will succeed." Then, his face brightening, he added, "but not before the Chinese."

Without doubt, the Chinese, who have embarked upon their own ambitious program of economic reform and decentralization, take a wry pleasure in watching the Soviet Union, their former economic mentor, following the lead of its disciple.

China is seriously attentive to Soviet developments. How do the Chinese view them? What significance do they see in them for Chinese-Soviet relations? What are the implications of this perspective for America?

I recently led a small, invited delegation of Americans who explored these questions with senior Government officials and experts on China's relations with the Soviet Union.

Chinese specialists begin with the conviction that Mr. Gorbachev is serious and determined about economic reform. Moreover, they believe that Soviet restructuring is essential if the Soviet Union is to regain economic momentum, overcome the widening technological gap between East and West and maintain strategic parity with the United States.

Yet, even as the Chinese see Mr. Gorbachev solidifying his position internally, they are uncertain about his prospects for success.

Why are the Chinese reserved about Soviet prospects for reform while remaining doggedly optimistic about their prospects for success?

First, as one official said, the Soviet Union has had 70 years of centralized economic control and planning—nearly twice China's dosage. The fatherland of modern Communism, he seemed to say, will have a harder time disavowing its ideological identity than China has had.

Second, the Cultural Revolution discredited revolutionary utopian policies. Moreover, it severely weakened the bureaucracy and produced a total turnover in leadership. The Soviet Union's institutional apparatus and apparatchiks, in the Chinese view, are far more entrenched and resistant than those in China.

Third, China's foreign policy does not seriously compete for scarce resources with economic reform, as the Soviet Union's does. The Chinese see limits to the degree to which Mr. Gorbachev can shift priorities from the military to the civilian sectors without undermining military strength—the foundation of the country's claim to great-power status.

Finally, a visitor is struck by how strongly Chinese leaders are gripped by a sense of their nation's underdevelopment. "We are a poor country," one official said. "We have no choice but to reform."

The same wary fascination that characterizes the way the Chinese see Soviet domestic developments also pervades their view of Mr. Gorbachev's foreign policy initiatives, particularly as they affect Asia.

Chinese leaders describe the changes in Soviet posture toward Asia as evidencing shifts in "tactics and style" but not yet demonstrating changes in basic objectives.

The Chinese continue to insist firmly upon overcoming the "three obstacles" before high-level party-to-party relations can resume. They are: Soviet withdrawal of forces from Afghanistan (the Chinese view the recent withdrawal of six regiments as cosmetic); the withdrawal of forces from Mongolia and along China's border (the Chinese acknowledge greater progress here), and, most importantly, withdrawal of the Soviet-backed Vietnamese Army from Cambodia (where they see diplomatic scurrying but not much movement).

Nonetheless, from the Chinese perspective the tenor and tone of China-Soviet relations has improved—and the Chinese clearly are fascinated by the prospects of further improvement—but the fundamentals have not yet shifted decisively.

Yet despite their reservations about Soviet developments, the Chinese appear to want Mr. Gorbachev to succeed. An economically preoccupied Soviet Union poses less of a security threat to China's northern border, freeing China to concentrate more on its pressing economic agenda. An economically more vibrant Soviet Union is a healthier trading partner for China. And a steady widening of the United States-Soviet economic gap may make the Chinese—who are most comfortable with a superpower balance—uneasy over the long run.

What then does this Chinese-Soviet minuet mean for America? There appears to be little danger, for the foreseeable future, of any resumption of a Chinese-Soviet alliance, or even a Chinese tilt away from America, unless the Soviet Union makes fundamental concessions in Asia.

The Soviet Union has little to offer the Chinese that would warrant China's antagonizing the West and Japan, where the capital and technology China needs now lies.

America should not fear a gradual—and likely—Chinese-Soviet rapprochement so long as it is undertaken without the Chinese making concessions on basic regional interests we both share. Such a reduction of tensions could defuse an always dangerous border situation and facilitate progress on resolving regional conflicts that can erupt into broader confrontations.

It is important for America to continue pursuing a constructive relationship with China on its own merits, not as a corollary of our policy toward the Soviet Union. China, embodying one-fourth of mankind, is important to America today; as it gains in economic strength, its global significance will become even more profound.

SANDRA ANN ROBINSON OF THE ESSEX-NEWARK LEGAL SERVICES

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. RODINO. Mr. Speaker, It is a great pleasure to share with my colleagues the outstanding contributions of Sandra Ann Robinson. Sandra has recently completed her first term as the executive director of the Essex-Newark Legal Services. This exemplary organization offers legal assistance to the citizens of the city of Newark and Essex County in New Jersey. Sandra has played an important role in these activities. With kindness, intelligence and dedication, she has provided a vital lifeline to those in need of legal aid.

Mr. Speaker, with your permission I would like to submit for publication in the RECORD the following Newark Star-Ledger article on Sandra Ann Robinson.

[From the Newark Star-Ledger, Sept. 13, 1987]

LEGAL AID CHIEF GIVES THE "LITTLE MAN" LEGAL STATURE

(By Angela Stewart)

Not a day goes by in Sandra Ann Robinson's life when she is not faced with a crisis.

Her dilemmas run the gamut from how to keep a family of five from spending the night on the street to working out an agreement with the utility company so that a senior citizen will not freeze to death in a cold apartment.

Robinson arrives at her job at Essex-Newark Legal Services early and her car usually remains in the parking lot well beyond the standard quitting time of 5 p.m.

If there are several clients in the waiting room and it is 5:05 p.m., she personally sees to it that their needs are met. The problem could relate to anything from unemployment compensation to a divorce.

"She is about people," said Lucinda Williams of Newark, a client who said Robinson and her staff have helped her with an ongoing landlord-tenant dispute.

It is this dedication that resulted in Robinson being awarded a six-year contract extension as executive director of the countywide agency that provides legal representation to about 10,000 poor persons annually.

The motion by the board of trustees to extend her contract was approved by a 13-3 vote during a meeting in August. The meeting was attended by many staff members and clients who gave her their overwhelming stamp of approval.

"It's a life-giving commitment for her," said Teresa Donohue, a staff attorney who specializes in housing problems. "She is credible. She is willing to go the extra mile for the client."

Dennis Lowery, vice president of the board, said Robinson's contract extension has brought "stability" to an agency which has been plagued by controversy.

There have been problems with previous executive directors and appointments of new board members also have not gone without controversy.

About a year ago, the agency was placed on "month-to-month" funding by its parent group, the Legal Services Corporation in Washington, D.C., after a legal dispute erupted over the reappointment of a board member.

Legal Service workers nationwide have expressed concern over what they view as the "less-than-sympathetic" attitude of the Reagan administration toward legal aid programs for the poor.

Board President Joyce Morgan feels Robinson's extension has made clients feel "a lot more secure."

"We're going through troubled times. Sandra is a face they are familiar with. The community feels sure of her. They know what they've got."

Robinson, a Hackensack native where has worked for the agency for 15 years, completed her first term as executive director on June 30. She had previously worked as a staff attorney for the agency and as assistant executive director and then acting executive director.

She began her work with the legal service poverty program as a Reginald Heber Smith Graduate Fellow in the agency's "Joint Law Reform Project in 1973. It was during that time that she did extensive work helping residents of public housing developments like Stella Wright Homes and Baxter Terrace obtain rent abatements.

Since she has been executive director, Robinson has established an "open-door" policy which her subordinates and clients, alike, report make her very approachable. She has been accused of being a workaholic, but she said it is because she believes in what she is doing.

"She has kindness, softness and act as though she cares," noted Elizabeth Collins, a senior citizen volunteer for the agency. "I've seen her calm down clients who are very upset."

While her staff of 33 attorneys handle individual client cases, Robinson often finds herself becoming involved when the need arises. She also frequently calls upon the services of volunteer attorneys who also handle cases.

The Howard University Law School graduate admits that she has sacrificed salary and perhaps, prestige, to serve as an advocate for the poor, but people also sacrificed for her, she is quick to add.

"Somebody helped me to make it. My family was not rich. I received scholarships from my church and from other sources," said Robinson, who comes from a family of teachers, nurses and business professionals. "I want to give something back to the community," she said.

Those who know Robinson say one of her biggest assets is that she has expertise in several areas of law, including bankruptcy and matrimonial proceedings. She once worked for the law firm of McCarter and English.

She is eligible to practice before the U.S. Supreme Court, the U.S. District Court for the District of New Jersey, the United States Court of Appeals for the Third Circuit and the New Jersey Supreme Court.

Her professional affiliations include the Association of Black Women Lawyers of New Jersey, the Garden State Bar Association, the Essex County Bar Association and the New Jersey State Bar Association.

Noting all the people which daily fill the waiting room of the agency looking for help, Robinson said it would be "devastating" for legal aid for the poor to be abolished.

"People have to care about people," she says matter-of-factly. "When you can really help people, it's fulfilling."

PROGRESS IN THE WAR AGAINST INTERNATIONAL TERRORISM

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. BROOMFIELD. Mr. Speaker, I commend the fine efforts of the FBI in their successful capture of a suspected international terrorist who is wanted under U.S. law. Bold and imaginative operations as this one are necessary if the free world is to ultimately defeat the menace of terrorism. Attorney General Edwin Meese III has sent a clear signal to all terrorists that the long arm of American law can reach out and make them pay for their heinous acts against humanity. It is now clear to the world that terrorists can run, but they cannot hide.

The FBI arrested Mr. Fawaz Younis on Septmeber 13, 1987, in international waters in the Mediterranean Sea. Mr. Fawaz was lured aboard a boat with the promise of a drug deal and a shipboard party. After his arrest, the terrorist was put aboard a U.S. Navy vessel and was flown back to the United States where he pleaded not guilty at his arraignment at the U.S. District Courthouse in the District of Columbia.

In 1985, Mr. Fawaz and other accused terrorists hijacked a Royal Jordanian Airlines flight in Beirut. Two U.S. citizens and two U.S. nationals were aboard that flight and were threatened by the hijackers. Mr. Fawaz and his colleagues later released the hostages, and then destroyed the aircraft.

I am pleased to see that the FBI has prudently used the hostage-taking statute that the Congress passed in 1984 and commend the Department of Justice for this first arrest outside the United States by U.S. law enforcement officials of a suspected terrorist being sought under U.S. laws. I commend the following article on this successful operation to my colleagues in the House.

[From the Washington Post, Sept. 18, 1987]

TERRORISM SUSPECT IS TRICKED BY FBI, FLOWN HERE FOR TRIAL

(By George Lardner, Jr. and Nancy Lewis)

An accused Shiite Moslem terrorist, who officials said was arrested after being tricked onto an FBI-rented yacht in the Mediterranean, was brought to the United States yesterday to stand trial for hostage-taking.

Fawaz Younis, 28, an alleged ringleader of the 1985 hijacking of a Jordanian airliner with four Americans aboard, pleaded not guilty in a tense 10-minute hearing before U.S. Magistrate Jean F. Dwyer at the federal courthouse here. Marshals, some with automatic weapons beneath their jackets, ringed the courtroom, then took Younis back into custody at an undisclosed location.

Dressed in a black overshirt and black pants rolled up at the cuffs, Younis spoke only twice during the proceeding, indicating through an interpreter that he could not pay for an attorney. Occasionally he looked up at Dwyer as she explained his rights.

Attorney General Edwin Meese III, meanwhile, announced the unprecedented apprehension to reporters at FBI headquarters. Meese called the arrest a "unilateral action by the United States" and "an important step in our policy of bringing terrorists to justice."

Younis, who is Lebanese, was charged in a five-count indictment with conspiracy, destruction of an aircraft and hostage-taking, under recent legislation giving the United States "long-arm" jurisdiction over offenses committed outside the country if U.S. nationals are taken hostage. The hostage-taking count carries a maximum penalty of life in prison.

Meese refused to take questions and turned over the session with reporters to senior Justice Department officials who said they were reluctant to spell out details. But they outlined what amounted to an FBI "string" operation. Sources said it was dubbed "Operation Goldenrod."

Younis, they said, "voluntarily" came aboard a vessel that was rented and crewed by FBI agents. He was arrested in international waters on a warrant issued in Washington last Friday, the officials said. He was then flown to this country in U.S. military aircraft, arriving at Andrews Air Force Base early yesterday. The indictment against him was returned by a federal grand jury here on Tuesday.

The hijacking took place on June 11, 1985, when five Shiite Moslems armed with hand grenades and other weapons seized control of a Royal Jordanian Boeing 707 jetliner at the Beirut airport. They forced the crew to fly the plane, with about 70 passengers aboard, to Cyprus, Tunisia and Sicily before returning to Beirut the next day.

The hijackers demanded removal of all Palestinian guerrillas from Lebanon, severely beat several Jordanian skymarshals aboard the plane, and at one point said the passengers would be killed one by one unless their demands were met. At a news conference, one of the hijackers, identified as Younis, threatened to "deliver the corpses" to an Arab League leader they wanted to speak with.

Eventually, however, the terrorists blew up the plane after releasing all the people aboard, and escaped into the Shiite-controlled suburbs adjacent to the airport.

The hostages included two American citizens—Landry T. Slade, a professor at the American University of Beirut, and his teenage son—and two other American "nationals" whose names were not immediately available, officials said.

In his statement, Meese said he wanted to emphasize that "acts of terrorism are criminal acts, pure and simple" and must be dealt with as such.

"As President Reagan has said, terrorists throughout the world must know that 'they can run, but they can't hide,'" Meese said. He said Younis' arrest was "the first such operation, but it will most certainly not be the last."

At the courthouse, Younis' court-appointed attorney, Frank Carter, asked Dwyer to postpone the bond hearing until Tuesday so he can learn more about the way his client was brought to the United States. He also asked that Younis' dietary restrictions as a Moslem be respected.

FUNDS FOR FISHERIES RESEARCH

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. YOUNG of Alaska. Mr. Speaker, today I am introducting the Fisheries Research Funding Act of 1987. This bill is designed to provide additional money to acquire data on those marine resources that are important to our Nation's commerce and recreation.

As we all know, budgets are getting tighter while needs are expanding. In the case of fisheries research, we have seen decreases in both Federal and State funding levels. At the same time, American fishermen are taking more fish as U.S. harvesting and processing capabilities replace foreign efforts in our 200 mile zone. In addition, recreational fishing has shown tremendous growth. If these trends continue, we will soon reach the point where fishing—both commercial and recreational—may have to be curtailed because we do not know enough about what effects we are having on fish populations.

Our fisheries managers, both State and Federal, have done an excellent job with limited resources. However, they need help. My proposal will secure that help from commercial and recreational fishermen and processors.

Under this bill, recreational fishermen would pay an annual fee of $15 each; commercial vessels would pay $45 each; and processing vessels—both foreign and domestic—would pay $2 per ton of fish. At a minimum, this should raise $35 million each year. The money would be deposited in a fund and distributed to the regional fishery management councils, coastal states via the marine fisheries commissions, and the National Marine Fisheries Service. The money could only be spent for fisheries research.

Those subject to the various fees include only fishermen and processors operating in the U.S. exclusive economic zone; no one operating in State waters—out to 3 miles—would be required to pay any fees. Processing plants located on shore would also not be affected.

I recognize that this proposal will generate a great deal of controversy. Some fishermen I have talked with support it; others oppose it. However, unless someone comes up with a better idea that is fair and reasonable, I believe that this approach should be considered.

WE CAN REDUCE INFANT MORTALITY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. MILLER of California. Mr. Speaker, America ranks 17th in the world in infant mortality. Yet we know how to combat this problem. Prenatal care reduces premature births and low birthweights, the leading cause of infant mortality and disabilities. Today, we have new evidence not only that investment in prenatal care is effective in producing healthy babies, but also that it yields a high financial return.

A recent report from the Children's Research Institute of California demonstrates that the State's Medi-Cal Program spends $2,200 more to hospitalize a baby whose mother did not receive prenatal care than one whose mother did. It estimates that it would cost taxpayers $1,000 to provide adequate prenatal care for an indigent mother and to deliver a healthy baby, compared to the $19,000 the State now spends when a low-weight infant must be hospitalized.

California's 13-county prenatal project yielded similar results: For every $1 invested in prenatal care, the State saved $1.70. If all counties were providing prenatal care, the State would save more than $54 million each year in averted hospital costs.

As a result of these stunning findings, California has established a comprehensive prenatal program, and the State expects to save $22.4 million in the first year alone.

The human dividend is equally dramatic. In just 3 years, California's pilot program saw a one-third drop in low birthweights and a tenfold reduction in very low birthweights. But in communities where prenatal services were scarce, infant-mortality rates were as much as 11 percent higher than expected.

Sadly, finding prenatal care continues to be difficult for low-income women. In Orange County, one of the richest counties in the State, prenatal clinics turned away 2,000 indigent patients in 1985 alone.

This scenario is occurring across the country. Babies die needlessly or are born with preventable health problems because their mothers do not receive adequate health care during pregnancy. The California study reminds us that by extending services to pregnant women, we can save lives, reduce suffering, and at the same time save millions of taxpayers' dollars.

IMPERIAL CONGRESS

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. FAWELL. Mr. Speaker, some 15 years ago, Arthur Schlesinger wrote "The Imperial

Presidency" warning of the growing power of the highest office of the land. The pendulum has now swung completely the other way. If anything, we now have an "Imperial Congress."

Nowhere is this swing more evident than control, or lack thereof, over Federal spending. And what a mess Congress has made of it.

Since the Congress convened last January, it has missed five consecutive deadlines required by law for action on the budget.

One week before the fiscal year begins, Congress has not sent to the President even 1 of the 13 appropriation bills required to keep the Government running. The law requires that the House complete action on all of them by June 30.

The budget resolution, which is supposed to set overall spending levels, was passed more than 2 months late. The spending limits set by Congress' budget have been waived over 100 times by the Democrat-controlled House Rules Committee in the 99th Congress alone. In sum, the budget resolution has had little effect on limiting spending.

The "reconciliation" bill, which is the key legislation needed to make spending cuts to meet Congress' budget targets, was to be completed by June 15. We're still waiting for a reconciliation bill. However, since the massive reconciliation bill usually spends more than it saves, we are probably better off without it.

When Congress passed Gramm-Rudman almost 2 years ago, it put into law that the deficit would be reduced to $144 billion in 1987, and $108 billion in 1988. Neither of these targets will be met—a direct violation of this statute. In fact, the true deficit for fiscal year 1987, including private and public incurred debt, will be about $250 billion.

The law also requires that a bill "sequestering" excessive spending be reported to the full Congress for consideration by September 15. A special congressional committee violated the law by simply not reporting the bill.

The majority party in Congress has exhibited an almost total disregard for its responsibilities to manage the appropriation of funds for the U.S. Government. It has broken the letter and spirit of laws it passed less than 2 years ago. The taxpayers of this country should be outraged.

Yes, I am a member of the Congress. But, I'm not a member of the Democratic leadership or party. Let's face it: They control the agenda.

No one wants the draconian cuts of a sequestration bill, a $49 billion spending cut. Nevertheless, if the Democrats found themselves faced with the threat of such a cut, they would then be forced to take seriously the responsibilities they have as the majority party of Congress. They would have no alternative but to begin making the hard decisions prioritizing Federal spending—a responsibility they have dodged up to now.

Some have blamed the administration for the budget stalemate. It seems unfair to blame the President, however, when Congress has failed to send him even one of the 13 budget bills for his consideration. At least the President has sent—on time—budgets to Congress which set spending priorities. Congress, in its wisdom, has rejected these priorities. Congress has this power. But, Congress has not been willing to set alternative priorities and stick with them.

Congress' leadership is now proposing rolling all 13 appropriation bills and the reconciliation measure into one enormous continuing resolution. This CR would contain discretionary funding for the entire Federal Government, some $600 billion. It would, presumably, include everything but the kitchen sink—tax increases, new programs, cost-of-living increases, and every imaginable pork-barrel program.

The scenario is a familiar one: At the last minute, on October 1, as the Federal Government is about to shut down due to lack of funding, Congress would make a take-it-or-leave-it proposition. The President either signs this monstrosity of excessive spending and taxing or vetoes the entire measure, thereby shutting down the entire Federal Government—defense and all—an obviously impossible alternative.

This is a sad way to manage our Nation's finances. Congress has, in effect, abdicated its most important constitutional power—the power of the purse. By rolling 11 months of work and 13 appropriation and countless other measures into one giant bill, then threatening to shut down the Government if it's not signed, Congress has subverted the checks and balances so vital to our constitutional Government. The Congress has, in effect, rendered useless the President's power to review and veto individual bills.

Just as important, Congress bypasses orderly committee review and floor debate on many of these measures. The taxpayer gets bad legislation never put to the test of thoughtful congressional scrutiny and debate.

Many Members of Congress have worked all year on their committees carefully setting spending priorities. For example, in my Science Committee, we spent hundreds of hours in hearings and meetings deciding how best to spend limited funds for scientific research. All of this work suffers; the "continuing resolution" for the entire Government will decide how funds will be spent. A few Members of Congress' leadership will make all the final decisions. One begins to wonder why Congress spent the last 9 months legislating, when all that matters is the last 2 weeks of an expiring fiscal year during which the CR and reconciliation measure is slapped together.

It's difficult for one Member to change things. But I have joined with a number of my colleagues in urging President Reagan to veto any continuing resolution. Also, I'm cosponsoring two bills which would make it more difficult for Congress to resort to continuing resolutions. H.R. 3199 would provide the President with the opportunity to consider appropriation bills individually, even when lumped together in a continuing resolution. H.R. 3201 would require a 60-percent majority for passage of the catchall measures. I am also cosponsoring legislation giving the President line-item veto power which would allow him to trim the fat from spending measures.

TOWN OF BETHANY, NY

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to pay tribute to the town of Bethany, NY, on the occasion of its 175th anniversary.

The town was formed from neighboring Batavia on June 8, 1812. Bethany is located on the scenic White, Black, and Tonawanda Creeks and is the site of the only Genesee County park. This community of 1,876 residents has a long and distinguished history.

The town of Bethany has several historical landmarks including its town hall which dates back to 1832. This stately building, currently under renovation, was founded as a Methodist church and later served as the Bethany Academy, an institution of higher education, before assuming its current role as town hall. The former Genesee County Nursing Home also stands in town.

Bethany boasts such illustrious residents as Leonard Wells Volk, who was a world renowned sculptor. Leonard Volk's son, Stephen Douglass Volk, was a famous portrait painter whose portrait of Abraham Lincoln now appears on the Lincoln stamp.

This community has maintained a friendly, small town atmosphere where ties to family and friends remain strong. Farming is the main industry of the area and the citizens remain intensely proud of the brave pioneers who first cleared the land.

I extend my warmest regards to all residents of this town on its 175th anniversary. I know that my colleagues will join me in honoring the town of Bethany and in wishing the entire community continued success and good fortune in the years to come.

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. GEKAS. Mr. Speaker, on Wednesday, September 30, 1987, the city of Harrisburg, PA, will host the Capitol City's Celebration of Minority Enterprise Development Week at the Dr. Martin Luther King, Jr., City Government Center. The week is intended to focus on the role of the minority business owner and the growing and outstanding contributions minority business enterprises make to the local and national economy.

I can think of no better way to highlight the importance of minority businesses than to pay recognition to those minority business owners who have contributed to the economic vitality of the downtown area of the city. The following owners and their businesses will be recognized during Minority Enterprise Development Week: Eddie Ruth, Eddie's Men's Shop; Warren Chiu, Canton Inn; Carl Payne, C. Payne and Associates; Hsiao-Sheng Chen, Hunan Restaurant; James Williams, Williams Shoe Repair Service; James P. Wise, Shoes and Shine Store; and Kyong Kim, Young One Fashions.

Mr. Speaker, I would ask my colleagues in the U.S. Congress to join me in congratulating the city of Harrisburg for recognizing the role of the minority business owner through Minority Enterprise Development Week. I would also like to pay special tribute to those business owners being honored.

THE NURSING SHORTAGE RELIEF ACT OF 1987

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. WYDEN. Mr. Speaker, today I am introducing the Nursing Shortage Relief Act to help alleviate what has become a crisis in our health care industry.

Two major factors have combined to create this nurse scarcity. Registered nurses often don't stay in the profession. While 80 percent of registered nurses remain in the workforce, many pursue other careers in health care—like hospital management and nursing home administration—where hours are less demanding and pay is better.

As a result, hospital vacancy rates for registered nurses went from 6.3 percent in September 1985 to 13.6 percent in December 1986. The American Hospital Association recently reported that over 80 percent of hospitals had a shortage of registered nurses and 87 percent had extreme difficulty recruiting nurses for intensive care and coronary care units.

Secondly, potential nursing students are increasingly pursuing careers in health care administration and medicine. Since 1983, nursing school enrollments have dropped 20 percent. The number of annual nursing graduates is expected to fall from a high of 82,700 in 1985 to a low of 68,700 in 1995. While the declining number of college-age students plays some role in this, the problem is heightened by a 50-percent decline in the number of college freshmen planning to pursue nursing careers.

To attack the nursing shortage, we must keep nurses and get more people into the profession. That's what the Nursing Shortage Relief Act does. The bill authorizes Federal dissemination of information about ways hospitals can design programs to reduce nursing vacancies, restructure the hospital nursing role to make it more attractive as a career option, and test creative wage structures and benefits for nurses.

The bill encourages schools of nursing to include course work in long term and home health care settings and to train students in gerontologic nursing.

And, the bill establishes regional and local education programs to assess local areas' needs, identify potential nurses in that area and provide educational opportunities to those students.

Mr. Speaker, a similar version of this legislation has already been approved by the Senate. S. 1402, introduced by Senator KENNEDY, authorizes $5 million in grant authority for these programs. My bill authorizes up to $8 million for fiscal year 1988.

Mr. Speaker, I'm joined in introducing this bill by the two leaders of the Health and Environment Subcommittee, Mr. WAXMAN and Mr. MADIGAN, the chairman and ranking member, respectively. Mr. FLORIO, Mr. COOPER and Mrs. COLLINS and Mr. CHANDLER are also original cosponsors of the legislation. I hope others will join us in sponsoring the Nurse Shortage Relief Act.

MRS. R.A. (LEX) GREEN, WIDOW OF CONGRESSMAN, DISTINGUISHED FLORIDIAN

HON. BILL GRANT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. GRANT. Mr. Speaker, it is my sad duty to inform the House of Representatives of the passing of Mrs. Bessie Lucile Harris Green, the widow of former Congressman R.A. (Lex) Green of Starke, FL.

Mr. Green served in the House of Representatives from March 4, 1925, until his resignation on November 25, 1944. Mr. Green was a colorful politician and leader in our great State in a critical period of its development.

Prior to his election to Congress, he had served as county judge of Bradford County and as a representative of that county in the Florida Legislature.

Mrs. Green, 75, was a community and political leader in her own right. She moved to Starke more than 50 years ago from Gainesville.

She was a member of the Bradford County Democratic Executive Committee and Bradford Hospital Board of Directors. She was also a member of the United Daughters of the Confederacy and the Order of the Eastern Star.

Mrs. Green was past president of the Women's Club in Starke and past State executive board member of the Florida Federation of Women's Clubs. She was president of the Women's Missionary Union of the First Baptist Church in Starke.

She is survived by a daughter, Sandra Lucile "Lu" Green Sanders of Starke, and three sons, R.A. (Buzzy) Green, Jr., of Starke, William H. Green, of Tallahassee, and Michael Andreau Green, of Gainesville.

ROC WEEK—A TRIBUTE

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. FAUNTROY. Mr. Speaker, a unique tribute was paid recently in celebration of the sister-State relationship between the Commonwealth of Virginia and the Province of Taiwan of the Republic of China. This tribute took the form of a weeklong series of cultural events called "Roc Week in Richmond."

Roc Week was organized and sponsored by the Coordination Council for North American Affairs in association with the University of Richmond, the Virginia Museum of Fine Arts, the Richmond Children's Hospital, Philip Morris, U.S.A., and the Universal Leaf Tobacco Co.

These diverse organizations put together a delightful program of events that would enrich the lives of the people of the Richmond community by allowing them to share in the culture of the Chinese in Taiwan.

The program, which took place from September 14 through 19, included a Chinese historical costume show, presented by Mrs. Fredrick F. Chien during a charity luncheon to benefit children's hospital.

The program continued at the children's hospital, where Mrs. Chien introduced the Chinese Golden Dragon Acrobats and Magicians Group of Taipei, who did a benefit performance before an audience of handicapped children. The children were delighted by the magnificent display of acrobatics, dancing, magic, and comedy.

Other events of Roc Week included a Chinese film festival at the Virginia Museum of Fine Arts, during which six new films heralded as the finest in Chinese filmmaking were open free to the public. There was also a live demonstration of Chinese painting and calligraphy at the University of Richmond by renown artists, Helene Sze McCarthy and George Liu. A photograph exhibit of the work of China's first photojournalist, Long Chin-san was also on display free to the public all week at the Virginia Museum.

This fascinating series of events gave the people of Richmond a rare opportunity to learn first hand about the history, culture, and art through the generous efforts of the Richmond area organizations, in conjunction with the Coordination Council for North American Affairs.

TRIBUTE TO MR. HOWARD KELLER

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. CARDIN. Mr. Speaker, on November 19, Mr. Howard Keller will be honored at a surprise luncheon for his 50 years of service to the Federal Government.

Mr. Keller is currently the Chief of the Quality Assurance Division of the Defense Contract Administrative Service Management Area [DCASMA] in Baltimore. However, this is not the only office in which Mr. Keller has served. The Federal Government has benefited from Mr. Keller's service in all four services of the Department of Defense.

For more than 20 years, Mr. Keller has been in top management for the Defense Logistics Agency [DLA]. During his tenure, the commodities have become much more diversified, meaning that, as the Chief of the Quality Assurance Division, Mr. Keller has had to learn about an increasing variety of products from weapons systems to clothing, electronic equipment to shipboard furniture, spacecraft to missiles.

Mr. Keller has twice received the meritorious Civilian Service Medal; once for his contribution toward the finalization of project 60 into what is now known as DCAS, and the second time for his innovative ideas, positive attitude and significant accomplishments toward the efficiency and effectiveness of the DCASMA.

Additionally, Mr. Keller was selected as the Outstanding Civil Service Employee of 1975 and in 1978 as one of the 10 most outstanding employees of the Defense Logistics Agency. He received the DLA award for excellence in assisting small business in May 1982. He has received Certificates of Achievement in 1972, 1975, and 1977, the Special Accomplishment Award in 1983, and the Sustained Superior Performance Award in 1984. These are only a few of the many awards, recognitions, and commendations Mr. Keller has received during his tenure with the Federal Government.

In short, Mr. Keller has served his country for 50 years as an outstanding Federal employee. I am honored to have him as my constituent.

IN SUPPORT OF H.R. 1917

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. HORTON. Mr. Speaker, I join my colleagues today in urging consideration of H.R. 1917, sponsored by my good friend from California, ED ROYBAL. Almost three-quarters of a million people are affected by the notch situation in my State of New York, thousands of whom live in the 29th District, which I represent.

This important legislation has the support of more than 170 Members in the House. Although the costs of correcting this mistake are high, the resources in the Social Security trust fund are more than sufficient to make the necessary changes.

I voted against the Social Security amendments in 1977. Ten years later, the committee of jurisdiction has yet to even hold hearings on this issue, much less report a bill.

Mr. Speaker, as a member of the newly-formed "notch coalition," I have cosponsored legislation for the past several Congresses to correct the inequity of the notch years. Fifteen hundred senior citizens affected by the notch die each week, but the cause remains unaddressed.

Mr. Speaker, I urge prompt consideration and passage of legislation to correct the notch years problem. Our senior citizens deserve nothing less.

TRIBUTE TO MR. CLAUDE FINNELL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. HUNTER. Mr. Speaker, I am very proud to come before the House today to honor a man I, along with many others, consider an institution in California agriculture.

His name is Mr. Claude Finnell. On September 30, he is retiring from government service after a long and distinguished career. He has been the agricultural commissioner of Imperial County, CA, for the last 30 years and leaves behind a legacy virtually unequalled in the field of agriculture.

Claude Finnell was appointed as commissioner of agriculture in 1954. Since that time, he has been a tireless advocate of reforms and a true commander in a tough era of valley agriculture. His career began with the battle against the Kapra beetle that threatened to devastate grain in the valley. Throughout his career, he pioneered and implemented many pest control laws and regulations in California. His Pest Control Advisor Certification Program became a major aid in fighting the spread of dangerous pests.

He has served as a consultant to numerous California directors of food and agriculture, elected officials and the agricultural industry. His valued expertise has been requested before committees of this body, as well as State legislative committees and commissions. He has been a vital resource for training and equipping the next generation of agricultural leaders in California.

I had a chance to work closely with Claude on the hydrilla program, and I was struck by the dedication he possessed to seeing a project through to its final outcome. He is a tireless worker and the next generation of public servants can derive a great many lessons from the example of Claude Finnell.

Above all, I believe Claude Finnell will be remembered as someone who cared about people and the real problems they faced in every day life. He combined good will and common sense to help farmers find workable solutions to the wide array of problems in California agriculture.

ALLOW THE TERLITSKY FAMILY TO LEAVE THE SOVIET UNION

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. FEIGHAN. Mr. Speaker, I rise today to call the attention of my distinguished colleagues in the House to the tragic situation of the Terlitsky family of Moscow. Mark Terlitsky, his wife Svetlana Kredova, their daughter Olga Terlitskaya, and his mother Fanya Terlitskaya, have been trying to leave the Soviet Union for over 10 years. Although Mark's brother and Svetlana's sister were allowed to immigrate to the United States, the other family members haven't gotten the good news from the Moscow Visa Office for which they've long hoped.

Mark Terlitsky and his family first applied to emigrate from the Soviet Union in 1976, but their requests have always been denied, allegedly for "possession of state secrets." Mark Terlitsky was employed as an architect by Mosproject-2, an office that designs civic projects in Moscow, and as such was required during that time to hold a low-level security clearance. However, he never worked with any classified documents nor was he ever familiar with the details of any classified projects.

The family's situation has grown increasingly desperate since their first application for exit visas in 1976. Mark Terlitsky was demoted from architect to draftsman after 16 years of professional experience. His wife, an economics analyst, also lost her job. Both have been unable to find permanent employment. Their daughter, a talented violinist, has not been allowed to continue her education or pursue her musical career. In addition, Mark's mother is suffering from Alzheimer disease which leaves her with only a few years more of active life.

I urge Soviet leader Mikhail Gorbachev to reconsider Mark Terlitsky's request to allow his entire family to emigrate from the Soviet Union and to join the rest of their family in the United States whom they have not seen in nearly 11 years. And I urge my colleagues to continue to make vocal and repeated appeals to the Soviet leadership to allow the reunification of families who have been tragically separated as the Terlitsky family has been.

HONDA'S INVESTMENT

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. OXLEY. Mr. Speaker, last January, Honda Motor Co. announced that they would be investing some $450 million in their Anna, OH, engine plant facility, and many of us in the Fourth Congressional District of Ohio thought we had heard about everything for a while.

That is, of course, until Honda's most recent announcement last Thursday in Columbus, when Honda officials totally removed that notion. In fact, on September 17, 1987, Honda deepened their commitment to the production of high quality automobiles in the United States and Ohio by announcing a broad five-part strategy calling for, among other things, an additional $561 million investment in their Ohio operations, including plans for the construction of a second U.S. auto plant with a production capacity of 150,000 automobiles a year.

The new $380 million auto plant is to be built in East Liberty, OH, providing some 1,800 jobs alone.

Under their five-part strategy, Honda intends to export 70,000 American- and Ohio-made vehicles to Japan and other countries in 1991, increase United States research and development by nearly tripling employment in this area by 1991, increase domestic content to 75 percent by 1991, and expand Honda's production engineering in the United States, focusing on the development of new models here.

Honda also plans to invest about $150 million in their Anna, OH, engine plant located in my congressional district. By completion of the expansion, the engine plant will employ 1,500 people, 500 more than previously planned, and production capacity at the plant will climb to 500,000 units per year.

In 1991, Honda will have invested more than $1.7 billion in U.S. manufacturing, providing thousands of jobs. Now, Mr. Speaker, that is the definition of commitment in my book.

For those of us who have been talking for some time about the Honda commitment to the American auto market, American workers and American suppliers, the magnitude of this announcement may have been surprising, but the continued commitment it represents certainly is not.

Indeed, Honda continues their efforts to find domestic suppliers for their products, and in so doing they continue to spread economic benefits throughout the Midwest and in other areas of the country. In the Fourth Congressional District, Honda has suppliers in St. Marys, Upper Sandusky, Findlay, Lima, and Sidney, to name a few.

Unemployment rates for Shelby and Auglaize Counties have dropped from highs of 20.3 percent in Shelby and 16.6 percent in Auglaize in January 1983, to 5.6 percent and 6.1 percent in Auglaize in July 1987. Undoubtedly, Honda deserves a great deal of credit for this reduction.

By 1991, Honda will be directly responsible for some 8,650 jobs in the United States.

A U.S. Chamber of Commerce study claims that every 100 new manufacturing jobs in a community means an additional 64 nonmanufacturing jobs, in addition to many other benefits. According to these figures, Honda's new investment will result in an additional 1,472 jobs in the area by 1991.

Honda is now America's fourth largest automobile manufacturer, a position achieved largely because of tremendous cooperation, dedication, and a strong desire to improve and perpetuate a special beneficial relationship.

The Honda story is one of great success, and I congratulate and applaude all those who have contributed to this success.

As work continues on the omnibus trade bill, we in the Congress must ensure that we enact no provision which will jeopardize this relationship or discourage such investment and faith in American workers and suppliers.

ALAMEDA COUNTY GERIATRIC DENTAL CARE

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. DELLUMS. Mr. Speaker, I take great pride in calling to the attention of my colleagues a new program which will bring dental care to the nursing home elderly of Alameda County. This program is the result of the combined efforts of two concerned organizations in the Eighth Congressional District, the Alameda County Health Services Agency and the Alameda County Dental Society.

On Sunday, September 27, there will be a benefit to launch this effort and I commend to the House the following statement which describes this very worthwhile program.

The Alameda County Health Care Services Agency has joined together with the Alameda County Dental Society to cosponsor the Alameda County Geriatric Dental Care Program which is being launched to bring dental care to the residents of long term care facilities throughout the County. Recent surveys conducted by the California Dental Association have shown that 55-percent of the elderly residents are in need of care by a dentist and 20-percent are in need of acute dental care.

Despite the fact that each skilled nursing facility has, by law, a dental consultant providing dental care to the non-ambulatory patient at bedside, it is quite difficult to accomplish without portable dental equipment. The objectives of the program are to: (1) focus community attention on the dental health needs of the institutionalized senior population; (2) purchase the portable equipment needed to enable dental care to be provided by dentists wherever that care is not available; and (3) establish an ongoing community based committee with senior representatives dedicated to the dental care of the senior population.

Along with the Alameda County Dental Society and the Alameda County Health Care Services Agency, the program is being inititiated with the cooperation of Ombudsman, Inc., the Alameda County Commission on Aging and other groups and individuals committed to the wellbeing of senior citizens.

THE DEATH OF FANNIE ERLICH WEINSTOCK

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. WAXMAN. Mr. Speaker, I would like to take a few moments to honor the memory of my constituent, Fannie Erlich Weinstock, who passed away on June 15, 1987, at the age of 97.

Fannie Weinstock was dedicated and committed to helping out others less fortunate than herself. She was very active in working on behalf of human rights and community interests.

Honored with the Emma Lazarus Jewish Women's Organization's "Mother of the Year" award in the 1950's, Fannie Erlich Weinstock is survived by two children and five grandchildren.

THE 76TH NATIONAL ANNIVERSARY OF THE REPUBLIC OF CHINA

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. COLEMAN of Texas. Mr. Speaker, I would like to take this opportunity to point out to my colleagues that on October 10, 1987, we will be celebrating the 76th National Anniversary of the Republic of China.

In light of the significant contributions of the Republic of China to the security and economy of our own country, I would like to join my colleagues in the United States Congress in congratulating this great nation. In the past, Taiwan has always been an ally of the United States despite the derecognition of Taipei in 1979. Taiwan has developed a very close economic relationship with us and in fact has become the sixth largest trading partner of the United States.

In the last year or so, Taiwan's trade surplus has created many frictions. We obviously must do something to reduce this surplus, but we must also remember that we need to negotiate as friends and allies, and not as adversaries. The trade issues are extremely complex, but given Taiwan's willingness to work and cooperate with us, we can find solutions that will meet the needs and satisfactions of both countries.

Mr. Speaker, our two nations share a common history and a common destiny. We will continue to be close friends and allies. I would urge all of my colleagues in joining me in this congratulation of the Republic of China on their 76th National Anniversary, with the hope for a continued close relationship that meets the needs and desires of both nations.

A ROSH HASHANAH MIRACLE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. SOLARZ. Mr. Speaker, on the eve of one of the most joyous and sacred days of the Jewish calender—Rosh Hashanah—I rise to bring to the attention of my colleagues a remarkable story of religious conviction, individual courage, and community spirit.

Last July, a terrible explosion and fire rocked the community of Boro Park, in the heart of my Brooklyn district. We experienced the loss of four precious lives, and I continue to grieve for those who died and to pray for those who were injured. Yet from the depths of this tragedy emerged some stories filled with hope. Through a series of miracles, Miriam and Henry Steinberg, and their eight children, escaped the explosion unharmed and are preparing to celebrate the holiday in their new home. The Steinberg's "new lease on life" was made possible by the outpouring of generosity from the Boro Park community, an effort led by my close friend, Rabbi Morris Shmidman, executive director of the Council of Jewish Organizations of Boro Park.

I commend to my colleagues the following article which appeared in the New York Times. And I would like to wish all of the Members of this House—Jews and non-Jews alike—a happy and healthy New Year.

[From the New York Times, Sept. 23, 1987]

FOR A BROOKLYN FAMILY, A HOLIDAY OF RENEWAL

(By Aril Goldman)

When Rosh ha-Shanah begins at sundown tonight, the Steinberg family—Henry, Miriam and their eight children—will try to forget that they lost virtually everything in a thunderous explosion in Brooklyn this summer and will instead embrace what they have: each other and their faith.

The Steinbergs will gather around a new table covered with white linen in a new apartment just blocks from their devastated

Borough Park home. In accordance with the holiday custom, each member of the family will dip a slice of apple into honey and wish one another a sweet new year, 5748 on the Jewish calendar.

Just two months ago, the Steinbergs and two others families were left homeless by a blast that leveled three buildings at 18th Avenue near 50th Street in the heavily Jewish Brooklyn neighborhood. Four men were killed in the accident, which fire investigators attributed to the improper handling of propane tanks in a plumbing supply store on the ground floor.

The aftermath is a story of a community pulling together to help neighbors in distress and of the successful efforts of emergency and social-service agencies, both private and municipal. All the families have been resettled in the community in time for the Jewish New Year—traditionally a time for new beginnings—and money was collected for the burial of the dead.

THERE ARE SO MANY MIRACLES

It is also a story of miracles. For the Steinbergs, a Hasidic family of unshakeable faith, God's wonders did not cease with the creation of the world—according to Jewish tradition 5748 years ago tomorrow—or with the revelation of Moses on Mount Sinai, but continues in their lives day after day.

"There are so many miracles, I can't count them on my hand," Mrs. Steinberg said, cradling her 6-week-old son, Shmuel, in her arms. She tells of dreams in which rabbis long dead told her to be careful, and of her decision, just minutes before the blast at 10 A.M., to leave the apartment to keep an appointment with her obstetrician.

"It was a very hot day," recalled Mrs. Steinberg, who was nine months pregnant at the time. "I almost went back to the house for a drink. But I didn't want to walk up the steps again. If I had, I never would have come back live."

"I was three doors away and I heard the explosion," she added. "I turned and saw the whole building collapse, like a toy set of Legos."

A SPECIAL POWER

Her husband, who is a rabbi, was in the apartment, and, with the floor giving way beneath his feet, he crawled to the balcony and leaped to the safety of a nearby roof.

"Miracles, a million miracles," Mrs. Steinberg said. "He had a special power that pushed him to save his life."

Rabbi Steinberg, who received 25 stitches for cuts on his shoulder and left side, was the only family member injured. All the children were out of the apartment that day in summer camp.

Everything in the apartment was destroyed—the silver candelabra for the Sabbath, the porcelain honey dish for Rosh ha-Shanah, the fine china for the holidays, the jewelry and treasured holy books. "Usually, I bake challah and honey cake for the holidays," Mrs. Steinberg said. "But I don't have my electric mixer or my bowls. Even my hand mixer is gone."

Still Mrs. Steinberg—who speaks in a mixture of English, the Yiddish of the Hasidim and the Hebrew of her native Israel—is overwhelmed with thanks. "This year I have to go to shul early to daven to Hashem," using the words for synagogue, prayer, and God. "The only thing I am going to buy myself is a machzor," or holiday prayer-book.

"My son bought me a leather one with my name on it from Israel," she said lapsing into melancholy. "But that, too, is gone."

PEOPLE HAVE BEEN WONDERFUL

After the July 21 explosion, the American Red Cross found the family two rooms in a hotel in Borough Park. It was while living there that Shmuel was born, an active, healthy black-haired child with big brown eyes.

"When we get depressed," Mrs. Steinberg said, "we go and see Shmulie. The baby makes the whole family happy. When we see him, we forget everything painful."

With the help of the Council of Jewish Organizations of Borough Park, the family moved into a seven-room apartment earlier this week. The freshly painted apartment has a curious newlywed feeling about it. There are gift boxes, only half open, with toasters and new hats pouring out of them. They came from friends and anonymous contributors responding to appeals made in neighborhood synagogues.

"People have been wonderful," Mrs. Steinberg said. "But we can never replace what we had. It is like starting all over again.

RECALLING A LOST BIKE

While the family laments its many ritual objects and holy books, there are also the things that are universal to children, Hasidic or otherwise. Twelve-year-old Eliezer misses his bicycle, the one he bought with money he saved over the last year; 10-year-old Bracha wants her charm bracelets and her report card, the one with the good marks she got in school last year, and 6-year-old Shlomo cried for his fish tank.

The Council of Jewish Organizations of Borough Park raised some $13,000 to help resettle the three displaced families; nearly half of it went to the Steinbergs, by far the largest family involved.

"The mere knowledge that you are never alone, that you have friends and community people to help you, that is the most comforting thing and the nicest message of Rosh ha-Shanah," Rabbi Morris A. Shmidman, executive director of the council said.

"For us, our fate is determined on Rosh ha-Shanah," he continued. "In the prayers, it says, 'Who will live and who will die? Who by fire and who by water?'"

"When you see it before your eyes, some living and some dying in our community, you recognize the awesomeness of the day of judgment."

H.R. 3030—TITLE III—BORROWERS RIGHTS

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 23, 1987

Mr. JEFFORDS. Mr. Speaker, I rise to address an extremely important subject which will be debated on October 6 when this body considers H.R. 3030, the Agricultural Credit Act of 1987, and more specifically title III, the creation of an agricultural secondary market.

My esteemed colleagues on the House Committee on Agriculture, as well as several members of the House Banking Committee and the Energy and Commerce Committee, have expressed concern over a secondary market for agricultural lending. They recognize, as do I, that a secondary market is likely to cause further erosion in the financial condition of the Farm Credit System, as the System's best loans would be sold into the secondary market. Such a result could ultimately increase the need for financial assistance at a time when we are trying to minimize Federal outlays. In any event, assuming the existence of a secondary market, the committee debated how the market should ideally operate.

A key phrase used in our committee debate on the secondary market was that the "playing field must be level." No secondary market participant should be given an economic advantage—especially those advantages that could lead to the Farm Credit System's better loans being lost to competitors.

During the House Agriculture Committee consideration of H.R. 3030, many provisions were added, falling within the framework of "borrower rights." Currently, Farm Credit System borrowers: First, have rights beyond those provided to borrowers from commercial lenders; and second, have rights as owners of the farm credit institutions themselves. Yet, the rights added in committee went well beyond these present rights and, indeed well beyond the rights provided to borrowers of other credit institutions.

Yesterday, I was given a cost analysis of these additional borrower rights provisions in H.R. 3030. The first year cost of implementing the new borrower rights provisions in H.R. 3030 is likely to reach over $900 million; this equates to over $1,300 in increased interests costs for every borrower of the Farm Credit System. This cost is in addition to the present costs now associated with restructuring loans and forebearance and mainly result from provisions in H.R. 3030 relative to: First, the right of first refusal; second, homestead protection; and third, the holding period for foreclosures. This analysis points out that we are saddling some of the most financially troubled farm credit banks and associations with added requirements at a time when existing borrowers and the U.S. Congress can little afford such additional costs. We must not forget that a farmer cooperative lending institution must recover added costs from its members—in this case, its borrowers. Moreover, the U.S. Government can ultimately be at risk if, as contemplated under H.R. 3030, the institution is in need of Federal assistance. For purposes of illustration, I have attached to my statement a chart showing the most likely increase in interest costs to the average Farm Credit System borrower in each farm credit district resulting from the borrower rights provision in the bill.

I am not coming to the floor to argue against the borrower rights provisions in H.R. 3030, although I do believe that they are clearly excessive. My argument, which I intend to offer in the form of an amendment to H.R. 3030, title III, is that the playing field for all users of the agricultural secondary market must be level. If the Farm Credit System is being forced to undertake these borrower rights at the costs just referred to, then all institutions participating in the secondary market must step up and be counted by being required to provide borrowers those same rights. Either the provisions should apply equally to all users, commercial lenders as well as the Farm Credit System, or to none. I am told that farm mortgage loans without borrower rights attached will likely sell in a secondary market for much less than those that have such rights attached. To apply differential and costly borrower rights provisions to only the Farm Credit System, and not to others will lead to the result that most of us desire to avoid, the destabilizing of the Farm Credit System, exposure of taxpayers to an excessive future liability, and the reduction in the ability of the System to work out of the financial problems while assisting troubled farmers.

By granting a Federal guarantee to commercial lenders they will be receiving a substantial benefit. It is only fair to ask them to accept additional protection to farm borrowers during these difficult times.

Let's make the "planting field" level for borrowers from commercial lenders and Farm Credit System lenders.

Support my amendment on title III.

MOST LIKELY SCENARIO—ADDITIONAL COST OF BORROWER RIGHTS

	Volume (thousands) at March 31, 1987				Number of loans			Average loan size	Basis pts	Cost per borrower
	FLB	PCA	Total	Rights cost	PCA	FLB	Total			
Springfield	814,225	542,679	1,356,904	6,695	11,956	14,236	26,192	51,806	49	256
Baltimore	1,799,140	710,946	2,510,086	14,617	21,479	30,015	51,494	48,745	58	284
Columbia	3,894,369	955,653	4,850,022	70,098	28,884	67,695	96,579	50,218	145	726
Louisville	2,945,469	833,897	3,779,356	108,951	50,994	45,583	96,577	39,133	288	1,128
Jackson	1,827,651	469,180	2,296,831	70,715	7,839	24,148	31,987	71,805	308	2,211
St. Louis	3,684,783	544,766	4,229,549	139,674	23,841	48,130	71,971	58,767	330	1,941
St. Paul	5,506,908	1,840,655	7,347,563	176,669	38,168	70,765	108,933	67,450	240	1,622
Omaha	3,985,631	528,893	4,514,524	145,956	11,554	54,813	66,367	68,024	323	2,199
Wichita	3,691,179	578,427	4,269,606	51,396	8,828	50,433	59,261	72,047	120	867
Texas	2,333,526	920,052	3,253,578	41.023	14,139	34,341	48,480	67,112	126	846
Sacramento	4,105,183	2,045,142	6,150,325	43,069	12,054	20,305	32,359	190,065	70	1,331
Spokane	2,869,451	452,309	3,321,760	63,588	8,579	32,186	40,765	81,486	191	1,560

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, September 24, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 25

9:00 a.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

9:30 a.m.

Governmental Affairs

Federal Spending, Budget, and Accounting Subcommittee

To resume hearings to examine the results of a General Accounting Office survey regarding the accounting procedures and processing of seized cash and properties by Federal agencies.

SD-342

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

Business meeting, to mark up provisions of H.R. 2783, appropriating funds for fiscal year 1988 for the Department of Housing and Urban Development and related agencies.

SD-192

Environment and Public Works

Business meeting, to resume markup of proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

Finance

To hold hearings on the nomination of John K. Meagher, of Virginia, to be Deputy Under Secretary of the Treasury for Legislative Affairs.

SD-215

Judiciary

To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

SEPTEMBER 28

9:30 a.m.

Governmental Affairs

To hold oversight hearings to review inventory control and surpluses by Federal agencies.

SD-342

10:00 a.m.

Judiciary

To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

SEPTEMBER 29

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1645, authorizing funds for certain Indian educational programs.

SR-485

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit Subcommittee

To resume markup of S. 1665, Farm Credit Act of 1987.

SR-332

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study to review coastal zone management consistency provisions.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on Federal procurement decisions concerning Wedtech Corporation.

SD-342

10:00 a.m.

Judiciary

To continue hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.

SR-325

Small Business

Business meeting, to mark up S. 437, to permit prepayment of loans made to State and local development countries.

SR-428A

2:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

2:30 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on H.R. 2121, to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia, H.R. 1983, to authorize the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and S. 858, to establish the title of States in certain abandoned shipwrecks.

SD-366

SEPTEMBER 30

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the safety of military charter flights.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings on Federal procurement decisions concerning Wedtech Corporation.
SD-342

10:00 a.m.

Banking, Housing, and Urban Affairs
Business meeting, to consider proposed legislation to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers, H.R. 2741, to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games, and the nomination of William F. Sullivan, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships.
SD-538

Judiciary
To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court.
SR-325

2:00 p.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

OCTOBER 1

9.30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

2:00 p.m.

Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

OCTOBER 2

9:00 a.m.

Select on Indian Affairs
Business meeting, to mark up S. 1645, authorizing funds for certain Indian educational programs; to be followed by oversight hearings on implementation of the Indian Self-Determination and Education Assistance Act (P.L. 93-638).
SR-485

9:30 a.m.

Energy and Natural Resources
To hold oversight hearings on the implementation of the Reclamation Reform Act of 1982.
SD-366

OCTOBER 5

9:30 a.m.

Finance
Taxation and Debt Management Subcommittee
To hold hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 6

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on pipeline safety.
SR-253

10:00 a.m.

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1044, to establish the National Maritime Museum in San Francisco, California, S. 963, to amend the boundaries of Stones River National Battlefield, Tennessee, S. 761, to provide for the establishment of a Western Historic Trails Center in Iowa, and S. 1165, to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve in New Jersey.
SD-366

OCTOBER 7

9:00 a.m.

Select on Indian Affairs
To hold oversight hearings on certain provisions of the Omnibus Drug Enforcement, Education, and Control Act (P.L. 99-570).
SR-485

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

OCTOBER 8

9:30 a.m.

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on tourism marketing.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on government handling of Soviet and communist bloc defectors.
SD-342

OCTOBER 9

9:30 a.m.

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on government handling of Soviet and communist bloc defectors.
SD-342

OCTOBER 13

9:00 a.m.

Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.
SR-485

OCTOBER 15

9:00 a.m.

Select on Indian Affairs
To resume hearings on S. 721, to provide for and promote the economic development of Indian tribes.
SR-485

10:00 a.m.

Small Business
To hold oversight hearings on the Small Business Administration small business development center program.
SR-428A

OCTOBER 19

9:30 a.m.

Finance
Taxation and Debt Management Subcommittee
To resume hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 20

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

OCTOBER 21

9:00 a.m.

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), S. 1236, to authorize funds for certain programs of the Navajo-Hopi Relocation Program, and S. 795, San Luis Rey Indian Water Rights Settlement Act; to be followed by hearings on S. 1321, to declare that the United States holds in trust cer-

tain lands for the Camp Verde Yavapai Apache Indian community.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.

SR-253

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

OCTOBER 28

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

SR-485

NOVEMBER 4

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

NOVEMBER 5

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Kamehameha elementary education project as applied on the Navajo Reservation at Rough Rock, Arizona.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.

SR-253

NOVEMBER 10

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 12

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 19

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations.

SR-485

CANCELLATIONS

SEPTEMBER 24

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

SENATE—*Thursday, September 24, 1987*

(Legislative day of Tuesday, September 22, 1987)

The Senate met at 8:20 a.m., on the expiration of the recess, and was called to order by the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Hear, O Israel: The Lord our God is one Lord: And thou shalt love the Lord thy God with all thine heart, and with all thy soul, and with all thy might. And these words, which I command thee this day, shall be in thine heart: And thou shalt teach them diligently unto thy children, and shalt talk of them when thou sittest in thine house, and when thou walkest by the way, and when thou liest down, and when thou risest up.—Deuteronomy 6: 4-7.

God of Abraham, Isaac, and Israel, as we hear this foundational commandment given by Moses, and Thy people Israel celebrate this new year, may we join them in this solemn time of repentence and preparation for the forgiveness of God and for their Day of Atonement. May the wisdom of God as expressed through Moses be taken seriously in the confidence that You hear and heal and forgive and renew. To the glory of God we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 24, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. Mr. President, I yield my 5 minutes to Mr. PROXMIRE.

Mr. PROXMIRE. I thank my good friend, the majority leader.

LET'S HEAR IT FOR CONGRESS—NO. 3

Mr. PROXMIRE. Mr. President, this is the third in my series of speeches on what's right about the Congress. Keep in mind that I'm not talking about individual Members of the Congress. I'm talking about the Congress as a whole. And I'm not talking about 200 years of Congress. I'm talking about this 100th Congress and its immediate predecessors in the past 30 years or so.

Here is a body that has recently made an all-time botch out of fiscal policy. If the power of the purse is our main responsibility, and it is, we have failed more dismally in discharging that responsibility than Congress has ever failed before. The gigantic, swollen deficits and today's $2.4 trillion national debt can never let us forget that. Sure, this is a failure we share with the President, who originates the budget and has called on the Congress in the past 6 years for a taxing/spending combination that would have given us an increase in the national debt some $20 billion higher than it is. But we in the Congress have the ultimate spending authority. And we have failed.

And yet, fiscal policy is not the be-all and end-all of congressional activity. Congress has a much broader responsibility. Our business is enacting the laws in this American democracy that we proudly contend constitutes a government of laws and not of men. How has the Congress done in enacting the laws for this free society? For example, have we advanced justice? Have we provided a greater opportunity for all Americans regardless of race or creed, irrespective of economic position?

Mr. President, in the judgment of this Senator, the Congress has done a remarkable job in these areas in the past few years. We still have a long way to go, but in the past 30 years Congress has made great advances in giving 20 million black citizens the right to vote; a right largely denied many of them throughout American history. With the right to vote has come a spectacular improvement in access for blacks to places of public accommodation. Today, public restaurants, theaters, buses, and other public accommodations are available as a matter of absolute right to all persons everywhere in America. The Congress has passed laws that made facilities available that had been widely denied to blacks from the beginning of our country.

Congress continues to push effectively for much improved educational opportunities which could be so vital for the progress of our black minority. Congress also continues to struggle for the availability of improved housing for blacks.

Fifty years ago, the great Swedish scholar Gunnar Myrdal wrote a stinging indictment of American discrimination against its black citizens in "The American Dilemma." Myrdal's great book constituted a ringing challenge for this country. The Congress has answered that challenge. It has answered it well—not perfectly, but well. This struggle for civil rights has not been popular or politically rewarding in a country that is more than 80 percent white, but Congress has persisted. It is winning the battle.

In recent years, the Congress has responded as never before in providing assistance and opportunities for the physically and mentally handicapped. Our Constitution and years of custom have assigned to local communities the basic responsibility for education. But some educational responsibilities are simply too heavy for many local communities or even States to handle. This is specially true in the education of children who suffer cruel mental and physical disabilities that require extraordinary expenditure to overcome. Congress has stepped in and started to meet this challenge.

Mr. President, we are living through an era of failed Presidencies. And yet the American Government has in many respects progressed and improved. How can this be? Consider, the last six Presidents: Kennedy assassinated. Lyndon Johnson retired heartbroken in the ruins of the Vietnam war. Nixon driven out of office in disgrace. Ford repudiated after little more than 2 years in office. Carter overwhelmingly defeated by a landslide in his reelection attempt. And now Ronald Reagan leaving office with an administration which, in Iran, committed the most conspicuous foreign policy blunders in this century.

Through all of these executive branch sorrows and setbacks, the Congress has acted with responsibility and force. It has been the always belittled and never hailed Congress that has again and again brought an irresponsible executive branch to account, pulled the Government upright, and pushed it back under full sail. In the years this Senator has served in Washington, the American Government has accomplished a great deal. And Congress has consistently led the way.

NEW LIFE FOR RURAL HEALTH CARE IN SOUTHWESTERN WISCONSIN

Mr. PROXMIRE. Mr. President, rural hospitals play a vital role in America's health care delivery system. But the rural hospital confronts a difficult set of problems in fulfilling its mission. Remote, isolated locations, less generous salaries, low insurance coverage of the population, fewer cultural and professional opportunities deter physicians from accepting rural job offers, frustrating smalltown hospitals' efforts to attract and retain a talented staff. Medicare's new DRG system institutionalized inequity in rural hospital reimbursement rates, contributing to lower admissions, shorter patient stays and major advantages to urban competition. Together these conditions threaten the rural hospital's economic viability.

In addition, many rural economies, especially farming-based ones, teeter on the brink of catastrophe. Nationwide rural Americans suffer the highest poverty rate in two decades, over 20 percent. Rural unemployment rates soar above the national averages. The Washington Post reports that 2,000 people give up farming each week: In the last few years the rural economy has given up a half million jobs. For those country residents that remain, the number without health insurance continues to grow.

Amidst all these pressures, Mr. President, how can rural hospitals survive? No simple national answer exists. But a group of smalltown hospitals in southwest Wisconsin pioneered a model of cooperation that enables those hospitals to meet these challenges. In 1979, six rural hospitals in five counties forged the Rural Wisconsin Hospital Cooperative to share resources and contain costs while maintaining a comprehensive health care system for rural residents.

The difficulties faced by hospital administrators in recruiting and retaining physical therapists spurred the formation of the cooperative. In the spring of 1980, the cooperative implemented a collective physical therapy service. This shared service reduced duplicated efforts at recruitment and eased the isolation that accompanies rural placements. It was a smashing success. Encouraged by the results, the cooperative expanded its shared services into respiratory therapy, audiology, and speech-language pathology. By the end of 1979, 12 hospitals had joined the cooperative, allowing it to begin to provide the same sophisticated services that urban hospitals offered at a price rural hospitals could afford. The cooperative's innovative programs bolstered the strength and quality of rural hospitals across southwestern Wisconsin.

In early 1983, a new challenge confronted the rural hospitals of southwestern Wisconsin, the advent of health maintenance organizations [HMO's]. Reeling from sky-rocketing health insurance costs, the Wisconsin State government revamped its health-benefits plan: State employees who chose traditional indemnity coverage would pay a greater portion of their health insurance than those who opted for HMO's. Rural hospitals worried that big-city HMO's would carve up the rural health care market, further promoting the flow of country residents to city hospitals. As Tim Size, executive director of the Rural Wisconsin Hospital Cooperative, said:

> Rural patients might not be a banquet for those urban-based plans, but they'd certainly be a healthy snack.

But the cooperative was ready. Together, the hospitals of the cooperative pioneered the first rural health maintenance organization by a grass roots effort of rural hospitals and physicians: the HMO of Wisconsin.

If the HMO of Wisconsin wanted to attract and maintain a large patient base, it had to provide low-cost, high-quality service. In order to do this, the HMO took a bold step. Unlike many HMO's, HMO of Wisconsin gave doctors direct control in management—doctors hold half the seats on both the board and executive committee. Because of this deep involvement, doctors have more scope in making medical decisions and exercise more discretion over costs. Under this unique system, rural physicians and hospitals assume the financial risk by-passing health insurance companies. Insurance premiums stay in rural communities, preserving local hospitals and fortifying local economies.

Since its birth in 1983 when 18 small-town hospitals served 2,600 members, the HMO has spread throughout southwestern Wisconsin, boasting over 29,000 members, 2,000 physicians, and nearly 46 hospitals in 1987. In fact, Mr. President, the National Rural Health Care Association recognized this outstanding innovation and achievement by honoring the HMO of Wisconsin and the Rural Wisconsin Hospital Cooperative with its 1985 Outstanding Rural Health Program Award.

The success of these programs has implications for both Wisconsin and the Nation. For across America the rural hospital serves not only as a provider of health care but also as a pillar of the community. Country hospitals are often the largest employer or second largest just behind the public school system. As Sam Cordes, professor of agricultural economics at the University of Wyoming explains:

> Some farmers have become more dependent on off-farm income than farm income. If one of the major employers closes, such as the hospital, it can be a very serious economic setback for the rural community.

With the cost of health insurance escalating, more and more farmers opt to drop their policies and go uninsured, an extremely dangerous decision. Rural health programs, such as the HMO of Wisconsin, offer the farmer a local, cost-effective alternative.

Mr. President, the creativity and ingenuity of the Rural Wisconsin Hospital Cooperative and the HMO of Wisconsin helps to give small-town hospitals in southwestern Wisconsin a fighting chance. These hospitals demonstrate that rural health care can survive and succeed on its own. The battle for rural hospitals promises to be full of political struggles and economic challenges. But in the end, the question is not of politics or profits, but of innovation and adaptation.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved for his use later today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.
>
> Pending:
>
> Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

The ACTING PRESIDENT pro tempore. Under the previous order, the pending amendment, No. 712, will be temporarily laid aside for consideration of an amendment to be offered by the Senator from Arizona [Mr. McCAIN].

AMENDMENT NO. 686

(Purpose: To express the sense of Congress regarding Japan's contributions to global stability)

Mr. McCAIN. Mr. President, I have an amendment at the desk.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. McCAIN), for himself, Mr. WARNER, and Mr. DOLE, proposed an amendment numbered 686.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . SENSE OF THE CONGRESS REGARDING JAPAN'S CONTRIBUTIONS TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) The alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributor to democratic freedoms and economic prosperity enjoyed by both the United States and Japan.

(2) Threats to both the United States and Japan have significantly increased since 1976, principally as the result of the Soviet Union's occupation of Afghanistan, the continued expansion and buildup of Soviet military forces (particularly Soviet expansionist efforts in the South Pacific and the buildup of the Soviet Pacific fleet), the Vietnamese occupation of Cambodia, and instability in the Persian Gulf region (from which Japan receives 60 percent of its petroleum and one-third of its total energy requirements).

(3) In keeping with the declaration made at the 1983 Williamsburg summit meeting that "the security of our countries is indivisible and must be approached on a global basis", the Japanese government has raised its defense spending by an average of 5 percent per annum since 1981, rescinded a limit on annual expenditures for defense of 1 percent of the gross national product, and is fulfilling Prime Minister Suzuki's pledge to defend Japan's territory, airspace, and sea lanes to a distance of 1,000 miles by 1990.

(4) Congress applauds the actions referred to in paragraph (3) that have been taken by Japan and the Japanese commitment to implement a 1,000 mile defense capability. However, Japan has the world's second largest gross national product, is a major creditor nation, has a large private savings rate, but lags far behind other industrialized democracies in terms of the percent of gross national product devoted to national defense expenditures and expenditures for global security and stability.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

Mr. McCAIN. Mr. President, I bring before the Senate, for its consideration, an amendment that I think is very important.

Recent events in the Persian Gulf have highlighted the crucial importance of our allies, specifically the Japanese, in sharing the burden and responsibility that free world nations bear in maintaining freedom and economic stability throughout the world.

Mr. President, I would like to read the relevant parts of this amendment to make its intent clear to my colleagues. I would first like to emphasize that it is not an exercise in Japan bashing. It is a call to the Japanese to assert their rightful position in the community of nations, without rearming, to help maintain freedom throughout the world.

There are many ways to maintain freedom, Mr. President. One is through military buildup. Others, perhaps longer lasting and more permanent, involve economic assistance, development aid, and other economic means to help struggling nations throughout the world maintain their freedom and independence. This is best attained through a sound economy.

Mr. President, my amendment basically says it is the sense of the Congress—

that the United States would welcome an initiative by Japan to assume a politically acceptable and significant global security role consistent with its economic status by taking the following actions:

(1) Increase its Official Development Assistance program funding so that by 1992 it will be spending approximately 3 percent of its gross national product on such program.

(2) Devote increased Official Development Assistance expenditures primarily to regions of importance to global stability outside of East Asia, particularly Oceania, Latin America, and the Caribbean and Mediterranean nations.

(3) Devote any increase in its Official Development Assistance program primarily to concessional, untied grants and increase the portion of total expenditures made for such program for those multilateral financial institutions of which Japan is a member.

(4) Designate those nations that are to be recipients of its increased development assistance through consultation with its security partners.

(5) Expand its Official Development Assistance program without regard to its expenditures on defense, particularly expenditures for completion of the 5 year defense program for fiscal years 1986 through 1990.

Mr. President, Japan has the free world's second largest gross national product. Today 7 of the 10 largest banks in the world are Japanese. Last year the Japanese enjoyed an $81 billion trade surplus. I would compare that with the United States, which has a $185 billion trade deficit.

There is no doubt that since World War II the United States of America has not only assumed the military protection of the Japanese islands, but has also assumed a major burden in protecting Japanese interests throughout the world. In the years since the war, a veritable economic miracle has taken place in Japan.

In the Persian Gulf, however, the United States of America is spending an additional $1 million a day to protect the oil supply lines that go through the Strait of Hormuz. We are implementing the Carter doctrine, which says that the United States will take whatever steps are necessary to ensure the unimpeded flow of oil through the Persian Gulf.

Who is gaining from this, Mr. President? Only 7 percent of the United States imported oil from the Middle East. We learned some lessons about 10 or 12 years ago: One was that it is in the U.S. interest to decrease our dependence on gulf oil. Sixty percent of the Japanese oil supply, however, today comes from the Persian Gulf. The Japanese oil supply lines are being protected by the men and women of the U.S. Navy, Air Force, Army, and Marine Corps.

Mr. President, what is happening in the Persian Gulf only highlights the degree to which the United States is protecting Japanese vital national security interests.

I think it is important to point out on the amount that is being spent as far as percent of gross national product by the leading Western nations in the world: The United States of America is spending 7.14 percent of its gross national product on combined defense and economic foreign aid; West Germany, 4.87 percent; France, 4.88 percent; United Kingdom, 5.54 percent; Japan, a total of 1.29 percent. I believe, Mr. President, that that is totally unacceptable in a day and age where there is much need for not only military and security assistance, but also for economic assistance throughout the world.

The Japanese recently went over a landmark number. This year, 1 percent of their gross national product will be spent for defense. Is it in the United States or the world's interests for the Japanese to increase defense spending to 4 or 5 percent of GNP? I would suggest not.

First of all, it is not in our interests for that to happen. Second of all, and perhaps more importantly, it would be impossible, given the nature of the Japanese people and the nature of the Japanese constitution, for us to expect a large military establishment in the country of Japan.

I think it is clear that their construction, which many ascribe to General MacArthur, clearly indicates that whatever expenditures they make militarily will be strictly in the area of self-defense. Indeed, then Prime Minister Suzuki, in 1981, indicated that the Japanese would defend their sea lanes within 1,000 miles of their shores. It is very clear, however, that we cannot expect a military presence in the gulf on the part of the Japanese.

I would also suggest very strongly that if the countries of Asia saw a rapidly and dramatically rearming Japanese nation, it would send tremors throughout that part of the world, and cause great concern on our part.

What can the Japanese do? The Japanese clearly have the ability but lack the desire to greatly increase aid to countries throughout the world that are in need.

Mr. President, we are debating and we will continue to debate the amount of our military assistance to the Contras in Central America. No one knows exactly how that issue will be resolved. But the fact is that no matter what happens to the Contras, the United States of America is going to have to invest billions of dollars over the years in order to build up and maintain the economies of Latin America. I would suggest that one area in which the Japanese could be of enormous assistance to us is helping implement the Caribbean Basin Initiative which, unfortunately, is struggling for life.

Mr. President, I am not asking for an enormous increase of expenditures on the part of the Japanese, particularly given the size of their economic base. If the Japanese complied with this sense-of-Congress amendment they would simply go from presently 1.29 percent of gross national product to 4 percent of gross national product on spending for global security and stability. That would still place them lower in ranking than the major Western industrialized nations.

So, I reject any interpretation that this amendment is somehow a call for the Japanese Government and people to make enormous sacrifices. In fact, I believe this amendment could only be interpreted as a call for the Japanese to take up their rightful position in the world and fulfill an obligation that all wealthy nations have to help those who are less fortunate.

Mr. President, I have discussed this amendment with many people. I have received the assistance of staff on the Senate Armed Services Committee for which I am very grateful; my own staff; and I have consulted with other people who are perhaps much more knowledgeable on this issue than I.

One of the individuals that I have consulted with is Mr. Brzezinski, former National Security Advisor under President Carter. I received a letter back from him that I would like to quote:

> I fully endorse the proposed initiative, for it provides a constructive formula for enhancing Japan's international security role without at the same time stimulating political divisions or stirring anxiety among Japan's immediate neighbors. The time is certainly ripe for Japan to assume a larger global security role and the proposed legislation would do so in a non-threatening manner while contributing also to broader economic growth.

Mr. President, I do not view this amendment as threatening and I would not support one nor submit one to this body of that kind. But I think we must be aware of the realities of the political situation in the United States and throughout the world.

The American people are convinced that the United States is carrying a burden for the Japanese security-wise that we can no longer bear without significant change in Japanese policy. I agree.

I suggest that if the Japanese Government does not respond in a positive fashion to this kind of amendment, we may be coming back to this body and proposing amendments which are far more binding and could be perceived as threatening to the Japanese nation.

So, I hope that the Japanese Government and people will understand that there is enormous dissatisfaction today with the inability or disinclination of the Japanese people to take up their proper share of the burden. All nations should enjoy the wealth and prosperity that the Japanese, the United States, and the West Europeans do, in order that we may enhance not only the security of present Americans and Japanese but that of future generations.

Mr. President, one of the problems associated with Japan's economic assistance in the past is that they have used it as a method, often very effective, to take over markets in certain small Asian countries. That is understandable. It is not, however, what this amendment has in mind.

The kinds of contributions that we are seeking from the Japanese are not those which will lead to market dominance for Japanese products. In fact, it is crucial that much of this aid be funneled through multilateral organizations such as the World Bank, which will ensure that this aid not be used simply as another tool to gain economic advantage over trading competitors.

Again, Mr. President, I urge not only this body but the Japanese Government to fully understand and appreciate what we are intending here. We are not engaging in Japan-bashing nor are we threatening Japanese security, but I think they should be well aware that the patience of the American people has grown thin. Unless there is relatively rapid response by the Japanese to these kinds of initiatives, it could lead to an atmosphere of confrontation. That is certainly not in the best interest of Japan or the American people.

Mr. President, I yield to my colleague from Illinois for his comments.

Mr. DIXON. Mr. President, as usual, my distinguished friend from Arizona has made a very compelling case in support of his position.

I am privileged to announce that the majority side supports this amendment.

My understanding of the procedure, may I say, Mr. President, is that we will usefully employ the entire day in considering a great many amendments. Several quite controversial amendments will be considered this afternoon including a nuclear test ban question and I think at least two chemical amendments, and I believe that the order of business will be that all of these amendments will be stacked and voted upon after sunset this evening in view of the fact that this is a religious holiday.

I understand that my friend from Arizona does want a rollcall.

Mr. McCAIN. Yes.

Mr. DIXON. So he is asking for the yeas and nays.

Mr. McCAIN. Yes, I ask for the yeas and nays under the provisions of the unanimous-consent agreement.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DIXON. Mr. President, would my friend from Arizona be willing to agree that this evening when the majority leader is prepared to do so this amendment in its appropriate order be voted upon? I do not think there is any problem about its having the highest priority and being voted upon first, but I am not prepared to say precisely what time that vote will take place. I presume sometime shortly after 6:30 in the evening.

Mr. McCAIN. I would appreciate my friend from Illinois giving me that courtesy and whatever time that that vote is most appropriate to be called for is certainly satisfactory with me.

Mr. DIXON. I might interrupt by suggesting the majority leader is on the floor and may want to add to the understanding of the Senator from Arizona about when it might be voted upon.

Mr. BYRD. Mr. President, I believe the understanding is that we start voting at 6 o'clock today.

So I ask unanimous consent that at 6 o'clock the Senate proceed to vote on or in relation to the amendment by Mr. McCain and that no further amendments be in order at that time to that amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. I thank the majority leader for his courtesy.

I think the reason is obvious that I am requesting a recorded vote on this amendment, which I am convinced that the overwhelming majority of my colleagues are agreed to. I think it is important for every Member of this body to be on record as to our strong feelings concerning this very important issue.

Mr. President, I have no further comments on this amendment. I yield back the floor.

Mr. DIXON. Mr. President, I thank my friend from Arizona and the order will be that his will be the first rollcall then after 6 o'clock this evening.

AMENDMENT NO. 717

(Purpose: To amend section 2320 of title 10, United States Code, relating to rights of the United States in technical data developed under DOD contracts)

Mr. DIXON. Mr. President, on behalf of the managers of the bill, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, the McCain amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. Dixon), for himself, Mr. Bingaman, and Mr. Glenn, proposes an amendment numbered 717.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . RIGHTS IN TECHNICAL DATA

(a) In General.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the responsive rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense.";

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) by redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release or disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release or disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means, in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) Effective Date.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

Mr. DIXON. Mr. President, I rise to offer an amendment to the fiscal year 1988 Department of Defense authorization bill that will clarify the provisions in existing law regarding the appropriate relationship between the U.S. Government and its contractors and subcontractors in the important area of rights to technical data.

Mr. President, in 1983 I began a review of the Government's policies and practices in this area of rights to technical data, during the extensive review undertaken by the Senate Small Business Committee on ways to increase competition in Federal procurement policy. We recognized then, as today, that there is a need to carefully balance the rights of the United States to have access to the supporting technical data relating to the products and processes it purchases from its contractors. By the same token, it is critical that our contractors know that the results of their innovation are protected from others.

Within that context, the Congress, in 1984, tried to carefully spell out the respective rights of the Government and of contractors in the provisions of law enacted in the fiscal year 1985 DOD Authorization Act, and in the Small Business and Federal Procurement Competition Enhancement Act. Those laws directed both the civilian agencies and the Department of Defense, to develop within 1 year appropriate implementing regulations to carry out the policy guidance given by the Congress. Regrettably, the regulatory efforts were a failure. The civilian agencies were not able to meet their deadline at all. In fact, the civilian agencies did not publish a final rule until several months ago. Within the Department of Defense, a proposed rule was issued in September 1985. It was highly controversial and almost unanimously opposed by Congress, and by both the large and small business defense communities. In light of this controversy, DOD withheld issuing this version of the regulations, and issued only limited changes to the prior regulatory scheme in order to comply with the new law.

Hearings by the Senate Armed Services Committee and others, led to our consideration of the need for greater specificity in the legislative guidance given to the Department of Defense. As a result, in 1986, Congress revised the basic rights in technical data provisions applicable to the Department of Defense. Again, the Department was directed to develop implementing regulations. In response to that legislative mandate, on January 16, 1987, the Department of Defense issued proposed regulations for comment. Not surprisingly, these proposed regulations were also extremely controversial, and drew a great deal of comment and criticism from the intellectual property legal community, from the large and small business defense communities, and from the Hill. To its credit, the Department of Defense conducted its own public hearing on the proposed regulation, and the Defense Acquisition Regulatory Council used two field seminars to further explain the rationale for their recommendations. Further hearings by the Senate Armed Services Committee, under the leadership of Senator BINGAMAN, focused additional attention on the deficiencies of the Department's proposed implementing regulations. Nevertheless, while the Department did make significant revisions in the proposed rule in their final recommendations issued on April 16, 1987, there are still several areas where, in my judgment, the regulations fail to follow the clear mandate of the 1986 revised technical data rights provision of law.

I have received a letter signed by seven major defense and aerospace associations which calls attention to their conclusion that the final DOD technical data rights regulations do not conform to the law. I ask unanimous consent that this June 5, 1987, letter be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. It is because of this failure to comply with carefully balanced policy which Congress has previously spelled out, and the apparent unwillingess of the Department to make any further changes to their regulations, that I believe it is necessary for us to again consider clarifying the provisions of law relating to rights in technical data. That is what this amendment is all about, Mr. President.

I am pleased to be joined in this amendment by the chairman of the Senate Armed Services Committee's Subcommittee on Defense Industry and Technology, Mr. BINGAMAN. In addition, the distinguished Senator from Ohio, the chairman of the Senate Government Operations Committee, Mr. GLENN, is a cosponsor of this amendment. Senator GLENN was instrumental in initiating the changes made in the 1986 provisions.

EXPLANATION OF PROPOSED CHANGES TO TECHNICAL DATA STATUTE

Section 2320(a) of title 10 includes the basic "rights in technical data" provisions applicable to the Department of Defense.

(A) The law has always been a "technical data" law. However, the DOD final regulations refer only to rights in "data," a term separately defined in the regulations with a much broader scope than merely "technical data." In addition, the regulations seek to obtain rights for the Government in other types of information beyond technical data which a contractor or subcontractor is required to deliver or make available to the Government. Paragraph (1) of my amendment will make it clear that, the Secretary of Defense is authorized to define in the regulations the rights pertaining to an item or process in technical data.

(B) The final DOD regulations require contractors to allow use of their proprietary data needed to supply the Government with subcontractor supplies or services "without payment to the contractor of any fee, royalty or other charge by the subcontractor." In effect, by regulations, the DOD is permitting subcontractor direct sales to void any third-party responsibilities to pay a royalty or fee for the use of a contractor's property. The constitution prohibits the Government from interfering in the right of private contract. In addition, this provision interjects the Government between the holder of rights and those to whom the holder has agreed to let use those rights. Paragraph (2) of my amendment makes it clear that while nothing is intended to stop a subcontractor who legitimately has the right to use the technical data of the "rights holder" from selling directly to the Government, the government cannot by regulation waive a fee or royalty charge that may be imposed on that subcontractor.

(c) In the area of current law known as "mixed funding," where both the Government and the contractor have contributed funds toward the development of an item or process, the DOD regulations erroneously provide that "if the Government has funded a part of the development of an item * * * then the Government is entitled to unlimited rights in technical data." This "one dollar rule" was specifically rejected by the Congress last year in the 1986 revision. Paragraph (3) of my amendment makes it clear that, in cases involving "mixed funding" of development, all rights of the Government and of the contractor or subcontractor asserting the rights are to be determined by negotiation relating to such item or process.

(D) The regulations give specific authority to DOD and to the contracting officer, to "control" the contractor's use of privately developed items through individually created contract clauses. In the view of the experts, this provision is an attempt to circumvent the specific statutory provision that makes it clear that a contractor may not be required to sell or otherwise relinquish "technical data" (See 2320(a)(2)(F) of title 10).

Since even under existing law the government could not force a contractor to relinquish rights, in technical data, it appears that DOD is trying to prevent the contractor from using items or processes which are under the contractor's control. This should be an evaluation item in the solicitation, and a matter of competition, not prohibition. Paragraph (4) of my amendment makes it clear that a contractor cannot be forced to "refrain" from offering or using a product or process in a DOD contract simply because that item was developed at private expense.

(E) The DOD regulations suggest the use of direct licenses as an alternative to acquiring rights when the Government does not need to take possession of the technical data. However, the regulations make it clear to the contracting officer that licensing is not appropriate below certain dollar thresholds. This policy position does not follow the law, or even the logic of the balance of the DOD regulations. Paragraph (5) of my amendment makes it clear that the contractor's direct license of rights to a third party, if necessary to develop alternative sources of supply and manufacture, is an acceptable alternative means of meeting the government's need for competition for an identical item.

(F) The present law allows the United States to request greater rights in technical data than it may otherwise be entitled to if such rights were "accorded to the United States under 'DOD's data rights' regulation." The effect of this provision is to permit the Department of Defense to "determine" its own authority and then request greater rights using this statutory "bootstrap." Paragraph (5) of my amendment makes it clear that the Department will be able to negotiate with a contractor for greater rights in technical data that DOD would otherwise be entitled under the law in the two instances stated in the amendment.

(G) The definition of "private expense" in the regulations does not follow the statement of managers in the conference report on Public Law 99-500. Paragraph (10) of my amendment takes the basic current regulatory definition of "private expense" and makes it clear that "indirect costs" are "private expense" for purposes of this data rights law.

(H) Paragraph (8) of my amendment also adds an additional paragraph to the current law to ensure that the requirement for nondisclosure to a third party of technical data developed by a contractor at private expense, but legitimately able to be released by the Government under the law, is still subject to a prohibition on further release, disclosure or use by a third party. The regulations do not include such a prohibition in the clauses.

EXHIBIT 1

AEROSPACE INDUSTRIES ASSOCIATION,
1725 DESALES STREET NW.,
Washington, DC.

AMERICAN ELECTRONICS ASSOCIATION,
1612 K STREET NW.,
Washington, DC.

PROFESSIONAL SERVICES COUNCIL,
918 16TH STREET NW.,
Washington, DC.

ELECTRONIC INDUSTRIES ASSOCIATION,
2001 EYE STREET NW.,
Washington, DC.

SHIPBUILDERS COUNCIL OF AMERICA,
1110 VERMONT AVENUE NW.,
Washington, DC.

MOTOR VEHICLE MANUFACTURERS ASSN.,
1630 EYE STREET NW.,
Washington, DC.

COMPUTER BUSINESS EQUIPMENT MANUFACTURERS ASSOCIATION, 300 FIRST STREET NW., WASHINGTON, DC.

JUNE 5, 1987.

Hon. ALAN J. DIXON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR DIXON: For the past two years, industry has followed very closely the development of statutory changes and implementing regulations dealing with rights in technical data. The September 1985 Department of Defense proposed regulations did not meet the "balancing of interests" test which Congress directed in the Defense Procurement Reform Act of 1984 (P.L. 98-525). In light of the virtually unanimous opposition from Congress and industry, DoD withdrew those proposed regulations, issued a temporary interim regulation and then proceeded to draft new regulations. In the interim, with your leadership and support, Congress further modified the statutory requirements by enacting section 953 of the FY 1987 Appropriation Act (P.L. 99-500). The final DoD regulations to implement P.L. 98-525, as modified by P.L. 99-500, were issued on April 16, 1987, and became effective on May 18, 1987.

While the most recent regulations are a significant improvement over earlier versions, there are still several areas in which they do not conform to the statute or reflect the intent of Congress. During the public comment period, industry pointed out these areas to DoD and requested that the regulations be changed to conform to the statute. The statutory language is clear and unambiguous. The use of different words in the regulations at best creates confusion and suggests that a different interpretation is intended. The undersigned industry associations feel strongly that this is unnecessary and that the regulations should follow the statute.

We are deeply concerned that the regulations as written will be unevenly and unfairly administered and will adversely affect the defense industry and national security inerests by:

1. Making it more difficult for DoD to acquire systems which embody state of the art technology, in discouraging contractors from making government-related research and development investments.
2. Decreasing the ability of United States industry to compete in world markets for defense products.
3. Complicating the procurement process in direct contravention to recommendations of the Packard Commission.
4. Unnecessarily furthering the adversarial relationship between the government and industry.
5. Making it more difficult for defense contractors to attract and retain investment capital and technical and management talent.

The attached paper, which has been provided to the Defense Acquisition Regulatory Council in DoD and to the Office of Federal Procurement Policy in OMB, illustrates eight areas in which DoD's regulations fail to conform to the statute and, therefore, do not reflect the intent of Congress.

We appreciate your continuing interest in this matter.

Sincerely,

DON FUQUA,
President, Aerospace Industries Association.

J. RICHARD IVERSON,
President and Chief Executive Officer, American Electronics Association.

VIRGINIA LITTLEJOHN,
Executive Director, Professional Services Council.

JEAN A. CAFFIAUX,
Senior Vice President, Electronic Industries Association.

JOHN STOCKER,
President, Shipbuilders Council of America.

SHERIDAN BRINLEY,
Motor Vehicle Manufacturers Association.

VICO E. HENRIQUES,
President, Computer and Business Equipment Manufacturers Association.

AREAS IN WHICH THE REGULATIONS FAIL TO CONFORM TO THE STATUTORY LANGUAGE

1. MIXED FUNDING

Statute.—10 USC 2320(a)(2)(E) provides "in the case of an item or process that is developed in part with federal funds and in part at private expense the respective rights of the United States and of the contractor of subcontractor in technical data pertaining to such item or process shall be agreed upon as early in the acquisition process as practicable," based upon specific factors.

Regulation.—The policy statement in Part 227.472-5, provides that "if the government has funded a part of the development of the item, component or process, then the government is *entitled* to unlimited rights in technical data. However, the government should not acquire more data rights than it needs. Therefore, unless the contracting officer determines, during the identification of needs process, that unlimited rights are required, the government will obtain government purpose license rights if the contractor has or will contribute more than 50% of the development costs * * *".

Comment.—The regulation clearly does not comply with the statute which explicitly authorizes a contractor who has partially funded the development of an item, component or process to negotiate its rights in the data related to such items, components or processes. The 50% threshold created in the regulations is arbitrary, unwarranted and unsupportable based on the law.

2. INDIRECT FUNDING AS PRIVATE EXPENSE

Statute.—10 USC 2320(a)(2)(B) states that "* * * in the case of an item or process that is developed by a contractor or subcontractor exclusively at private expense, the contractor or subcontractor may restrict the right of the United States to use or release technical data." Section 2320(a)(3) also requires DoD to define in regulations the term "private expense".

The Conference Report states: "In addition, the conferees agree that as a matter of general policy "at private expense" development was accomplished without direct government payment. Payments by the government to reimburse a contractor for *its indirect costs* would not be considered in determining whether the government had funded the development of an item. Thus, reimbursement for independent research and development expenses and other indirect costs (capital funds and profits), although such payments are in indirect support of a development effort, *are treated* for purposes of this act as *contractor funds.*" (Emphasis added.)

Regulation.—Subpart 227.471, which defines "private expense", only sets forth independent research and development and bid and proposal costs as items which qualify as "private expense".

Comment.—We believe the intent of Congress in the statement of managers is clear and should be reflected in the definition of "private expense". Absent explicit coverage, as a practical matter, only IR&D and B&P will be accorded "private expense" treatment.

3. NONDISCLOSURE AGREEMENTS

Statute.—10 USC 2320(a)(2)(D) states only two specific instances when the government may release technical data in which it has received only limited rights, and only if "such release, disclosure or use is made subject to a prohibition that the person to whom the data is released or disclosed may not further release, disclose or use such data; * * *"

Regulations.—The definition of "limited rights" in Subpart 227.471 addresses release of limited rights data in only one of the two statutorily permissible areas, but does not prohibit further disclosure or provide for notice to the contractor or subcontractor asserting limited rights in other situations. The Policy Statement at Subpart 227.473-5 in connection with validation provides that "in appropriate circumstances, use of a nondisclosure agreement may be considered." The clauses at Subpart 252.227-7013, -7025, and -7037 do not contain these provisions which were set forth in the policy part of the regulations.

Comment.—The Policy Statement goes only part way towards meeting the statutory requirement and the actual contract clauses do not set forth any language that would clearly reflect the law or the policy.

4. TECHNICAL DATA VS. DATA

Statute.—10 USC 2320(a)(1) states "the Secretary of Defense shall prescribe regulations to define the legitimate interests of the United States and of a contractor or subcontractor in technical data * * *."

Regulation.—The regulations separately define the terms "data" and "technical data". The definition of "data" embraces all recorded information; the definition of "technical data" delineates data of a scientific or technical nature excluding software. The Policy Statement in Subpart 227.474-2 and the clauses in Subpart 252.227-7013 and -7025 use the broader term rights in "data" and not the proper term "technical data".

Comment.—This is a technical data regulation and the failure to be specific in this respect will create problems. There is no rationale provided for the failure to appropriately limit this regulation to technical data in all cases.

5. WARRANTY OF TECHNICAL DATA

Statute.—10 USC 2320(b)(7) requires the establishment of a regulation that "a contractor furnish written assurance at the time the technical data is delivered or is made available, that the technical data is complete and accurate, and satisfies the requirements of the contract concerning technical data."

Regulation.—Both the Policy Statement in Subpart 227.473-3 (b) and the clause in Subpart 252.227-7036 require that data "is complete, accurate and complies with all requirements of the contract."

Comment.—The regulation will inevitably lead to confusion because warranty of technical data is separately addressed in other clauses. No judicious contractor can warrant that a technical data package can be used by any as yet unidentified entity to manufacture the item depicted. The proposed language introduces substantial contingent liability which was not contemplated by the statute.

6. DIRECT LICENSING

Statute.—10 USC 2305(d)(1)(A) and (B) require "with respect to items that are likely to be required in substantial quantities during the systems service life, proposals to incorporate in the design of the major system items which the United States will be able to acquire competitively in the future" when planning for future competition for development of major systems. In planning for the award of a production contract for a major system, 10 USC 2305(d)(2)(B) requires that the head of the agency is to consider requiring "* * * proposals identifying opportunities to ensure that the United States will be able to obtain on a competitive basis items * * * that are likely to be reprocured in substantial quantities during the service life of the system."

Regulations.—The Policy Statement in Subpart 227.474-1 suggests the use of direct licensing as an option when the government does not need direct control of the technical data for competition (such as leader/follower contracting) but states that "* * * direct licenses are generally not appropriate for acquisition of items, components or processes having an estimated total acquisition cost of less than $50 M, RDT&E funds or $200M of production funds."

Comment.—This policy does not follow from any logic applied to what precedes it. In fact, direct licensing may be most applicable to items often produced by small business or under smaller dollar value contracts. Also, a deviation (DAR Case 86-148) allows the Army to disregard, on source selection, royalties/fees paid by the government for licenses. Thus, licenses direct to the government are greatly discouraged by the regulations and competitive procurement may become unavailable.

7. RIGHTS IN TECHNICAL DATA FOR MAJOR SYSTEMS AND SUBSYSTEMS

Statute.—10 USC 2320(a) requires that the technical data regulations "not impair any right of the United States or of any contractor or subcontractor with respect to patents or copyrights or any other right in the technical data otherwise established by law."

Regulation.—The basic Federal Acquisition Regulation in Subpart 52.203-6 has recognized the legislative mandate in establishing the rights of subcontractors to sell directly to the government without precluding "the contractor from asserting rights that are otherwise authorized by law or regulation." The Policy Statement in DFARS Subpart 227.473-2(b) and the clause in Subpart 252.227-7017 require contractors to allow use of their proprietary data needed to supply the government with subcontractor supplies or services without payment to the contractor of any fee, royalty, or other charge by the subcontractor."

Comment.—This is clearly a misappropriation of a contractor's property right in violation of the technical data rights law and the Competition in Contracting Act (P.L. 98-369), and deviates from the basic regulation (FAR) that was established pursuant to such law. The Competition in Contracting Act was designed to prohibit the appropriation of property rights and there is no justification for the differing language in the Defense regulations.

8. PROTECTION FOR PARTY ASSERTING RIGHTS IN TECHNICAL DATA

Statute.—10 USC 2320(a)(2)(F) states that a contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract, to sell or otherwise relinquish to the United States any rights in technical data except * * *".

Regulations.—The coverage at 227.483-1 (b)(1) states that "If Government control on the contractor's use of privately developed items, components, processes, or computer software is desired, special provisions must be included in the contract."

Comment.—It is not clear how 10 USC 2320(1)(2)(F) can be implemented if the *prime contract* calls for "control of privately developed items, components, processes or computer software." At 227.473-2(a)(2) the regulations clearly indicate that a documented record substantiating the need for greater rights in technical data is required before negotiating with the contractor, or subcontractor, to obtain these rights. The use of the word "control" in 227.473-1(b)(1) is confusing. It could lead to government needs assessments for rights in technical data on a program by program basis, which discriminate against privately developed items solely because of the availability of rights in technical data.

Mr. DIXON. It is my understanding that this entire matter has been thoroughly discussed on the other side. May I say to my friend from Arizona that I believe Carl Smith is fully conversant with this and it is also my understanding there is no objection on the other side to this amendment.

Mr. McCAIN. Will the Senator yield?

Mr. DIXON. I am delighted to yield.

Mr. McCAIN. It is my understanding also that this amendment has been cleared on this side. It is obviously highly technical in nature. Perhaps my friend from Illinois could explain to us for what reasons we did not go through this in the regular committee amendment process when we marked up the bill. I think that might be helpful.

Mr. DIXON. I think the answer to that is that we have been in extended conversations during most of the year trying to reconcile the disparate points of view between the Department of Defense and the various defense industries that were interested in this highly technical question. May I say to my friend from Arizona that this goes all the way back to the time when I was one of the principal sponsors of the Competition Enhancement Act that was considered by both the Small Business Committee and the Armed Services Committee several years ago contemporaneously and ultimately passed with the understanding that we would try to refine these differences.

I believe, quite frankly, largely at the staff level working with the defense industry and the Department of Defense over a very long period of time that actually encompasses a number of years, we have finally come to the ultimate agreement that is encompassed by this technical amendment.

I feel confident that I can represent that everyone on your side who would be interested in and involved in the process has been involved in the process up until this date. I am told by my colleagues here and staff that Carl Smith and others are acquainted with what we are doing right now.

Mr. McCAIN. If my friend will yield further, am I then to assume that, in general, the Department of Defense and the contractors are also agreeable to this amendment?

Mr. DIXON. I think that is entirely true. This has been a matter of consultation between what would be, if you could characterize it, adverse interests in the defense community over a period of years. It is a highly technical question concerning proprietary rights and other technical data interests, what the Government obtains in connection with those contracts, what these defense industry people retain on their own as part of their own work effort in the private sector.

Mr. McCAIN. Then this side would certainly be pleased to support this amendment.

Mr. DIXON. There is no further comment on this side, Mr. President.

The **ACTING PRESIDENT** pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 717) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, the Senator from South Dakota [Mr. DASCHLE] has an amendment that we are probably going to have to wait until the Senator from California arrives to complete, but I believe it may be cleared on both sides in a few minutes. Perhaps the Senator from South Dakota would like to seek recognition and go ahead and present the amendment, and then we can deal with it in the next few minutes, hopefully.

Mr. DASCHLE. I thank the Senator from Georgia.

AMENDMENT NO. 718

(Purpose: To amend title 10, United States Code, to require the advancement of certain Army and Air Force National Guard enlisted personnel to a higher grade on the retired list after thirty years of service.)

Mr. DASCHLE. Mr. President, I have an amendment that I send to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 718.

Mr. DASCHLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 81, between lines 6 and 7, insert the following:

SEC. 645. RETIRED GRADE OF CERTAIN RESERVE ENLISTED MEMBERS

(a) ARMY.—(1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members,".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members,".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

Mr. DASCHLE. Mr. President, under current law, all but one category of active duty or full-time members of the Armed Forces, authorized under title 10, and the National Guard, authorized under title 32, may retire at their highest grade held satisfactorily. Title 10 officers and enlisted, and title 32 officers may, if their grade at retirement is for some reason lower than a previous grade held satisfactorily, retire at the higher grade. Title 32 enlisted personnel—the active duty reserves and full-time National Guard members—may not.

Current statute—10 U.S.C., sections 3964—requires that "each warrant officer of the Air Force, and each enlisted member of the Regular Air Force, who is retired before or after this title is enacted is entitled, when his active service plus his service on the retired list totals 30 years, to be advanced on the retired list to the grade that is equal to the highest grade in which he served on active duty satisfactorily, as determined by the Secretary of the Air Force." Section 8964 makes the same provision for Air Force members. The current law, unfortunately, does not authorize such advancement for full-time or active duty enlisted members of the Guard and Reserves.

My amendment would amend these two sections of title 10 to include certain members of the Guard and Reserves among those allowed to retire at their highest grade held satisfactorily. The amendment addresses the retirement status of those men and women who serve in what is now called the AGR—Active Guard/Reserve—program. An AGR member is defined in the amendment as "a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve components."

Mr. President, in my view this is strictly an issue of fairness. Full-time enlisted Guard and Reserve members have been slighted by current retirement provisions. All other full-time members are allowed to retire at their highest grade held. It is time for us to make it clear that we support those who volunteer to spend their careers in the defense of this country—whether they serve in the officer of enlisted ranks.

As a strong supporter of the Guard and Reserves and their effective role in the total force, I am especially concerned that we maintain strong provisions to support recruitment and retention in the AGR program, which is responsible for the full-time support and training of these forces. Since the vast majority of these personnel are enlisted, this amendment is very important to preserving the effectiveness of the Guard and Reserves.

There are two categories of enlisted AGR personnel who stand to benefit from this amendment:

First, those whose service was interrupted for some reason and who returned to service at a lower grade; and

Second, those who have been the victims of administrative demotions—referred to as voluntary reductions in grade by some—due to the Department of Defense's attempts to correct the overgrade problem resulting from the conversion of military technicians to full-time military service.

Parenthetically, I should add that this amendment does not directly address the issue of administrative demotions, though that is an issue of continuing interest to me. I want to point out, however, that this amendment is, in part, intended to acknowledge the negative effects of administrative demotions, which occur in the enlisted ranks only, and to ensure that they do not have the additional impact of reducing retirement benefits.

Mr. President, my amendment to ensure enlisted AGR personnel equal protection under title 10 retirement provisions has broad-based support among the Armed Forces. About 2 years ago, the Enlisted Association of the National Guard of the United States [EANGUS] first pointed out to me the inequity of current retirement provisions. Everyone with whom I have discussed this issue agrees that reductions in grade, particularly reductions brought about through administrative demotion, cause substantial morale problems for the individuals directly involved and threaten to affect overall morale, recruitment, and retention in the enlisted ranks.

There is strong support for this action in Congress, and there is equally strong support at the Department of Defense. In fact, the Department of Defense ordered its sixth quadrennial review of military compensation [QRMC] to advise the Department on the appropriateness of the current retirement provisions as they affect enlisted AGR personnel.

The sixth QRMC has already reviewed the matter and decided to recommend to the President that enlisted AGR members, like title 10 personnel and title 32 officers, be allowed to retire at their highest grade held satisfactorily. The proposal has cleared the necessary hurdles—the sixth QRMC's steering committee and its coordinating council—and will be included with other matters in the sixth QRMC's report to the President due in November.

Some may be concerned about preempting the sixth QRMC's report to the President. Normally I might agree with that line of reasoning, but in this case, the recommendation has already been acknowledged, and its final announcement is only a formality. For those AGR members who have been harmed by the existing statute, this change has been long overdue. I see no valid reason to delay correcting the problem any longer. As I said earlier, it is simply a matter of fairness.

I am sure that cost is another question in the minds of my colleagues. The budgetary impact of this amendment should be minimal. The Pentagon reports that approximately 260 people, at most, were the victims of administrative demotions and would, therefore, benefit from this amendment. The number of AGR members whose service was interrupted is also expected to be low. The change in actual payments will be negligible, but the positive impact of the amendment will be immense.

As final notes, I should say:

First, that satisfactory service will be determined, as it has been, by the Secretaries of the Army and the Air Force;

Second, that the amendment does not authorize retroactive retirement payments; and

Third, that the effective date is the date of enactment.

In conclusion, Mr. President, let me say that allowing enlisted AGR personnel to retire at their highest grade held satisfactorily is the fair thing to do. This action will have a positive effect on morale in the enlisted ranks, which comprise the vast majority of our Reserve forces. It will also positively impact our recruitment and retention efforts. Passage of this amendment is a responsible and fair way to reaffirm our support for the Guard and Reserves and our commitment to those men and women who volunteer to devote their careers to the defense of the United States. This change is long overdue.

I might also add that Senator WILSON, the distinguished Senator from California, has asked to be a prime cosponsor of this amendment. I ask unanimous consent that his name be added at this time.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I think this amendment merits the support of the Senate and I ask for its support at this time.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from South Dakota for this very fine amendment. I understand the Department of Defense supports this amendment. The amendment would provide for equal treatment for Reserves for full-time enlisted personnel. I am pleased to say the managers of the bill on this side support the amendment.

Mr. DASCHLE. I thank my friend from Illinois.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask that I be added as an original cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I also congratulate my friend from South Dakota for correcting what is basically an inequity in the system. My understanding of this amendment is we are going to restore the same status and benefits to those who serve the same kind of career pattern only in the Guard and Reserves. To many of us, Mr. President, these kinds of small things do not seem to be very important. To those who are serving for many, many years in the Guard and Reserves, these are very important.

I would also like to add that our Guard and Reserve forces are being used in ways which certainly place them in larger and larger positions of responsibility, and at some risk, perhaps, being deployed in foreign countries.

I certainly believe it indicates that there is an urgent requirement for them to be placed in the same status as those who serve in other branches of the regular service.

I do express the support of this side for this important amendment and express my appreciation to the Senator from South Carolina for bringing this to the attention of the body. It will improve the morale of those members of the Guard and Reserve and also correct a basic inequity.

I yield the floor.

Mr. GLENN. Mr. President, I support the amendment offered by the distinguished Senator from South Dakota. The amendment would equalize treatment for certain Reserve full-time enlisted personnel with that of Active Force enlisted personnel for retirement. It would authorize Reserve full-time enlisted personnel to advance on the retirement list to the highest grade satisfactorily held after they complete 30 or more years of combined active and retired service. This authority exists for Active Force enlisted personnel. Since Reserve full-time enlisted personnel must complete the same minimum active-duty requirement of 20 years of active service for voluntary retirement, it is only fair that they be afforded the same benefit.

I wish to say that, although I support this amendment because it is the fair thing to do, I am concerned about the larger issue of the very sizable number of personnel we have in our Reserve forces full-time manning program, and the extraordinary growth of this program in the short 7 years of its existence. To my way of thinking this full-time manning program has never been adequately justified, especially not as the huge program it has become. This is an issue that the Subcommittee on Manpower and Personnel, which I chair, has been looking into. I want to put the Department of Defense on notice that it must do a better job of justifying this program and its current strength in terms of how this very large number of officers and enlisted personnel enhances the combat capability of the total force commensurate with its overall cost.

Mr. President, as to the immediate amendment before us, I want to commend the distinguished Senator from South Dakota for his leadership in providing equity to Reserve full-time enlisted personnel, and I urge my colleagues to support this amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I join in the comments of the Senator from Illinois and the Senator from Arizona. It does correct a basic inequity in the law. It does treat Reserve personnel on the same basis, if this amendment becomes law, as enlisted personnel in the active forces. I congratulate the Senator. I, too, would like to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I thank my colleagues, the Senator from Arizona, the Senator from Illinois, and the chairman, for their support.

I have been asked to add Senator HEFLIN as a cosponsor also.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 718) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. NUNN. It was my understanding that the Weicker amendment was pending and was being temporarily laid aside.

The PRESIDING OFFICER. The Weicker amendment will not recur until action on the McCain amendment has been completed.

Mr. DIXON. If I may interrupt my colleague, the manager of the bill, the distinguished Senator from Georgia, I believe, Mr. President, the understanding was that we may have considered the McCain amendment completely. The yeas and nays have been called for with a sufficient second. It is understood that it is stacked and will be the first rollcall tonight at 6 o'clock when we begin voting. I believe that is the order, Mr. President.

The PRESIDING OFFICER. Under the order of last night, the Weicker amendment will not recur until the vote has been taken on the McCain amendment.

Mr. DIXON. I thank the Chair.

Mr. NUNN. Mr. President, I would say that I understand the Chair's statement. I believe inadvertently that occurred because the original intent was to continue the Weicker amendment to be pending but temporarily lay it aside as we consider other amendments. I would say when the Senator from Connecticut comes to the floor, though I have some doubt about his amendment and we are working on a substitute, I believe we should accord him the privilege of having it placed back in consideration.

The PRESIDING OFFICER. If there is a request for regular order, the Weicker amendment will recur.

Mr. NUNN. That clarifies it, Mr. President. Is the bill open to further amendment at this point?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 719

(Purpose: To amend the definition of "cooperative projects" as used in the Arms Export Control Act in order to permit the procurement of munitions from NATO or a NATO subsidiary body under a cooperative project agreement)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I offer this amendment on behalf of myself and Senator QUAYLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself and Mr. QUAYLE, proposes an amendment numbered 719.

On page 114, between lines 13 and 14, insert the following new section:

SEC. . NATO COOPERATIVE PROJECT AGREEMENTS

Clause (C) of section 27(b)(1) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C)) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

Mr. NUNN. Mr. President, I am offering an amendment with Senator QUAYLE that would make a technical change in the authority of the U.S. Government to participate in NATO cooperative projects. In particular, the amendment would allow the United States to cooperate with other NATO members in the common procurement of munitions from the NATO Maintenance and Supply Agency.

For the last several years, I have been working with Senator WARNER, Senator QUAYLE, Senator ROTH, and others to encourage the members of NATO to pool their limited resources into cooperative weapons projects. By collaborating in the research, development, or production of conventional weapons, NATO can begin to make progress in reversing what Tom Callahan has termed the "structural disarmament" of the alliance.

One of the mechanisms for allied cooperation is the Quayle amendment to the fiscal year 1986 Defense Authorization Act. That amendment authorizes the Secretary of Defense to waive certain procurement requirements and procedures so that the United States can cooperate more effectively with its NATO allies. However, the Quayle amendment is still not sufficiently broad to allow the United States to join other NATO members in procuring defense articles and services from a NATO organization. Instead, it refers to cooperative procurement taking place only between countries.

I believe this was an inadvertent oversight.

This problem has come to my attention as an obstacle to an important experiment by NATO to consolidate its procurement of munitions through the NATO Maintenance and Supply Agency. Without the change in the law that Senator QUAYLE and I are proposing today, the U.S. Government and American businesses would be unable to participate fully in this initiative.

There has been a technical ruling that U.S. companies are not able to compete equally in the competition—this amendment is intended to cure that problem.

Mr. President, this amendment would slightly broaden the 1986 Quayle amendment to authorize the United States to buy munitions from NATO or a NATO subsidiary, as well as from individual NATO countries. I urge its adoption as a technical improvement to the body of law on NATO cooperative projects.

Mr. DIXON. Mr. President, I congratulate the manager and distinguished chairman of the Armed Services Committee on this amendment. It is supported on our side.

Mr. McCAIN. Mr. President, I also express the support of this side for the amendment. It is our understanding that it clarifies an unintended effect of last year's legislation. It applies to munitions only.

I understand from the remarks of my colleague from Georgia, our distinguished chairman, that it is important that we have this legislation so that we can function in a more efficient fashion with our NATO allies.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 719) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, we have other amendments that we are ready for at this time. I also have a joint officer management amendment that will not I hope be controversial but will take a little time to explain and I could go ahead with it.

I believe there are other Senators who want to be heard on this amendment, including the Senator from Virginia, who is on his way, and the Senator from California.

This is an amendment that has been worked out carefully in our committee.

Mr. DIXON. May I say to my friend from Georgia that I do have an amendment with the distinguished Senator from Alaska [Mr. STEVENS] that is not yet cleared on the other side by the ranking member on the jurisdictional subcommittee. We are awaiting the word of Senator GRAMM from Texas. I hope that the staff on the other side is discussing that with him. So I wonder if the Senator from Georgia could proceed with his amendment while we await approval of this other technical data amendment that Senator Stevens and I have.

Mr. NUNN. I thank my friend from Illinois.

AMENDMENT NO. 720

(Purpose: To make certain changes in the joint officer management program of the Department of Defense, to authorize for a temporary period of time one additional Assistant Secretary of Defense, to exclude certain transferred personnel from reductions in headquarters personnel required to be made under section 601 of Public Law 99-433, and to make a technical amendment to section 162(a) of title 10, United States Code, relating to the assignment of forces to combatant commands)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for himself, Mr. WARNER, Mr. GLENN, and Mr. WILSON proposes an amendment numbered 720.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new sections:

SEC. 812. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than two years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) Modification of Definition of Joint Duty Assignment.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) Joint Duty Assignment as Prerequisite for Promotion to General or Flag Officer Grade.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 813. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) Additional Assistant Secretary of Defense.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Temporary Increase in Level IV Positions.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 814. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) Exclusion.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 815. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

Mr. NUNN. Mr. President, this amendment would clarify and improve some of the joint officer management policies of the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Senator Warner, Senator Glenn, the chairman of the Manpower and Personnel Subcommittee, and Senator Wilson, the ranking minority member of the subcommittee, join me in cosponsoring this amendment.

Many Members of the Senate will remember the historic piece of legislation that the Congress approved last year to reorganize our Defense Establishment. After many years of work in Congress, particularly by the former chairman of the Armed Services Committee, Senator Barry Goldwater, and Congressman Bill Nichols of the House Armed Services Committee, sweeping changes in the various elements of the Defense Department were enacted into law.

The primary purpose of the new law was to strengthen the joint planning and operations of the four military services so that they could more effectively meet the demands of modern warfare. To achieve that goal, the law—enchanced the importance of the independent, objective advice of the chairman of the Joint Chiefs of Staff; strengthened the authority of our joint warfighting commanders; and established special personnel policies to better prepare and reward officers serving in joint positions.

In light of the complexity of these changes and the Defense Department's initial opposition to most of them, we realized that full implementation of the law would require a number of years. Therefore, it is too early to make a final judgment about how well the Pentagon is carrying out the letter and spirit of the Reorganization Act. There have been some positive developments, particularly in the areas of the Joint Chiefs of Staff and the warfighting commanders. At the same time, however, some aspects of implementation have been troubling, such as the resignation of Under Secretary of Defense Godwin from the position that was the centerpiece of the Packard Commission's acquisition recommendations. Our committee will be conducting oversight hearings on defense reorganization at a later point.

During the conference on the Reorganization Act, we recognized that actual implementation would probably reveal problems that would require legislative remedies. The Senate and House conferees anticipated that further work and changes in the joint officer management policies, in particular, could be necessary.

JOINT OFFICER MANAGEMENT POLICIES

In the course of our work on defense reorganization, it became clear that military planning and operations would be more effectively integrated only if service in joint duty positions was made more attractive and rewarding. Unfortunately, the military services have historically not considered duty on the Joint Staff of the JCS, the staffs of the warfighting commands, and other similar joint organizations to be as important as duty within the services themselves. Therefore, they have not assigned their best officers to joint duty. Moreover, those officers who did serve well in joint organizations were not fairly recognized with rewarding assignments, promotions, and educational opportunities. The result was that both their careers and their joint organizations suffered.

We have had some excellent people in joint positions, but usually those people have regretted it in terms of their career promotions. They have not regretted it in terms of their experience and, many times, their outstanding contributions, but, in terms of a career path, it has simply not been very promising for a military officer.

In response to this serious problem, the Congress developed specific policies, procedures, and requirements that constitute a special management system for officers serving in joint positions. I regret that while we undertook this far-reaching initiative, the Defense Department gave it only limited attention. Thus, only a small base of information and only a few existing policies were available to guide our work. For this reason, the conferees expressed a willingness to consider any adjustments to these personnel provisions that the Secretary of Defense believes are justified by actual implementation. In April of this year, Secretary Weinberger submitted such a package of proposed changes to the Congress.

Mr. President, the amendment that I am offering today with Senators Warner, Glenn, and Wilson fulfills the congressional promise to resolve any genuine problems uncovered by the implementation of the Reorganization Act. In general terms, it would clarify and improve several of the joint officer policies, procedures, and requirements.

For example, the law currently requires an officer, first, to attend a joint school and, second, to serve in a joint assignment in order to earn the joint specialty, the key to the new joint personnel system. The amendment loosens this rigid sequence of requirements to accommodate those careers in which it may not be possible to go to school before serving in a joint billet.

Another example of an unintended problem is raised by the 12- or 18-month tours that are served at remote or hardship locations, such as South Korea. This amendment makes it clear that these short tours in joint duty assignments can be counted toward the minimum lengths that are specified for joint credit. In the same way, an officer whose joint duty tour was curtailed for unusual personal reasons or as a result of a promotion would not lose credit for the joint service that he had performed. These examples illustrate how the amendment would forestall poor or counterproductive personnel management practices that could result from some of the Reorganization Act's provisions.

Because the joint officer management policies are fairly complicated, I will not try to explain in detail how this amendment would modify them. However, in shorthand terms, the amendment would make the following changes:

First, promote stability and continuity in joint duty assignments through the management of average tour lengths rather than minimum tour lengths for individual officers;

Second, reduce the average lengths of joint duty assignments from 3 to 2½ years for general and flag officers and from 3½ to 3 years for other officers;

Third, provide joint duty assignment credit for general and flag officers who serve 2 years and for other officers who serve 3 years;

Fourth, provide full or partial joint duty assignment credit for service that is less than the minimum length because it was a remote or hardship tour, curtailed by unusual circumstances, limited in length by regulation, or terminated as a result of a promotion;

Fifth, provide flexibility to the Secretary of Defense in awarding the joint specialty with respect to the sequence of joint education and a joint duty assignment and with respect to a second joint duty assignment substituting for joint education;

Sixth, provide authority to the Secretary of Defense to delegate to the Deputy Secretary of Defense certain waiver authorities concerning award of the joint specialty;

Seventh, make minor modifications to various promotion controls for officers who are serving, or who have served, in joint duty assignment;

Eighth, permit a limited number of inservice assignments to be designated by the Secretary of Defense, in consultation with the chairman of the Joint Chiefs of Staff, as joint duty assignments; and

Ninth, require qualified nuclear propulsion officers to complete a full joint duty tour prior to promotion to rear admiral (upper half) in lieu of promotion to rear admiral (lower half).

Of the 13 major recommendations made by the Defense Department, the amendment includes five without any change. Six other DOD recommendations were accepted with only limited modifications as reflected in this amendment. Finally, only two DOD recommendations were not included at all in this amendment.

ADDITIONAL ASSISTANT SECRETARY OF DEFENSE

Although the focus of the amendment is on joint officer management policies, it does address two other organizational issues. First, it would temporarily authorize a 12th Assistant Secretary of Defense through the end of this administration. This additional Assistant Secretary is related to the reorganization of Special Operations Forces mandated in the fiscal year 1987 Defense Authorization Act. Section 1311 of that act specified that 1 of the 11 authorized Assistant Secretaries of Defense be an Assistant Secretary for Special Operations and Low Intensity Conflict.

The Department of Defense has had difficulty in restructuring its Assistant Secretary positions to accommodate the newly specified Assistant Secretary within the old limit of 11. Although we believe that 11 Assistant Secretaries of Defense are sufficient, we are proposing that a 12th Assistant Secretary be temporarily authorized. This action would minimize organizational turbulence during the last 15 months of the current administration and require the incoming administration to make necessary changes during a period of normal organizational and personnel transition.

EXCLUSION FROM PERSONNEL REDUCTIONS

The other organizational matter addressed by this amendment would be the transfer of 1,600 personnel from the General Services Administration to the Defense Department. Although part of an initiative to improve real property management, this planned transfer will cause problems for DOD because these additional personnel would be added to an element of the Defense Department for which personnel reductions are mandated by the Goldwater-Nichols Act. We propose in this amendment to exclude the 1,600 people to be transferred from the required personnel reductions.

CONCLUSION

Mr. President, the amendment that I am offering has been carefully prepared with the help of the Defense Department. It should greatly facilitate the smooth implementation of the Goldwater-Nichols Reorganization Act while fully preserving the goals of that historic law. I urge my colleagues to approve this amendment.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am pleased to join my distinguished chairman along with the chairman of the Manpower and Personnel Subcommittee, Senator GLENN, and the ranking member of that subcommittee, Senator WILSON, in cosponsoring this amendment.

When this body passed the Goldwater-Nichols Department of Defense Reorganization Act of 1986, I indicated that I believed we had a responsibility to observe closely the impact of the provisions of this act on the Department and that we should be responsive to reasonable requests for modification if specific problems surfaced.

It became apparent rather quickly after enactment that there were practical problems implementing certain provisions relating to joint officer management policy.

The 3-year tour length for general and flag officers and the 3½-year tour for other officers was simply too long and interfered unnecessarily with reasonable career progression.

There was insufficient flexibility in the provisions to provide enough latitude in many cases for proper career officer management.

The nuclear propulsion officers in the Navy had specific problems meeting the joint officer career requirements along with the training and operational demands of their career specialty.

In response to a package of proposed changes submitted by Secretary Weinberger, we have worked with the Department to structure in this amendment appropriate modifications to the law.

I would like to commend the staff and the DOD in working together on this amendment.

I believe that this amendment includes the adjustments necessary to provide the jointness that is required in the officer corps of our armed services.

However, the proposed revisions contained in this amendment provide only the flexibility which we believe is required by the Department, and no more. Furthermore, in several instances, the proposed changes are interdependent.

For these reasons, I believe, and I hope that the chairman and others on the committee will agree, that the Senate must insist on its position on each and every one of the provisions contained in this amendment in any conference with the House. To permit these provisions to be altered in conference could result in only magnifying the adverse effects on the lives and careers of our military officers.

Mr. President, I join our distinguished chairman, and the chairman and ranking member of the manpower committee in working out this problem. We all recognized at the time we passed the Goldwater-Nichols Department of Defense Reorganization Act of 1986 that problems would occur. And I think this is an excellent example of how the Congress can work with a major department of the Federal Government in working out the problems that occur after some legislation is accepted.

I want to pay special recognition to several members of the staff, Mr. President, that worked on this: Romie Brownlee, Jim Locher, Rick Finn, all of whom worked with their counterparts so the speak in the Department of Defense to fashion these changes. The important thing we wish to stress here is simply that it is the judgment of the chairman and myself and others that these changes should remain steadfast through the conference with the House, and that we approach that conference having done this work with the determination to hopefully persuade the House to accept our recommendations.

For example, the 3-year tour length for general officers and flag officers and the 3½-year tour for other officers turned out simply to be too long and interfered universally with reasonable career progression. There was insufficient flexibility to provide enough latitude in many cases for proper career officer management. The key example and one which I have had some familiarity with is in the area of Navy in nuclear propulsion. Those officers had specific problems meeting the joint career officer requirements and Admiral McKee, who is currently the director of that area for the Department of Defense, was one of the very first to come forward and address Congress with the unique requirements of those careers in that area.

In response to a package of proposed changes submitted by Secretary Weinberger, we have worked with the Department to structure in this amendment an appropriate modification to the law. I would like to again commend all who participated. I think it is a satisfactory amendment.

Mr. GLENN. Mr. President, I am pleased to join the chairman and ranking minority member of the Committee on Armed Services and the ranking minority member on the Subcommittee on Manpower and Personnel which I chair in offering the amendment to make changes to title IV of the Department of Defense Reorganization Act of 1986. The amendment deals with officer personnel management provisions governing the qualifications, assignment, and promotion of officers in the joint arena which are crucial to the effective manning of joint activities and to the combat effectiveness of the services.

In the debate on the Defense Reorganization Act last year, I voiced concern that in our zeal to promote jointness that we not forget that the bottom line of whatever we do should enhance combat readiness. I felt we passed a good bill, except in the area of officer personnel management where I felt there were certain rigidities that were well motivated but strapped the services in making the most effective use of their resources. I think some of my colleagues shared this feeling. I know this same concern was raised in the hearings we had in our subcommittee and in the strategy hearings we had in the full committee this year.

In these hearings, we encouraged Department of Defense officials to review carefully the implications of the officer management provisions of the Department of Defense Reorganization Act, and to recommend to us responsible changes they would like to see, with the objective of facilitating the effective implementation of the principles of the act. In response, the Department of Defense has submitted what I believe is a very responsible proposal. Unfortunately, we did not receive it in time for consideration in our mark up of the bill before us today. That is the reason for this amendment, which accommodates most of the changes requested by the Department of Defense.

In brief, the amendment would:

First, adjust the average lengths of joint duty assignments from 3 to 2½ years for general and flag officers, and from 3½ to 3 years for other officers;

Second, allow credit for a joint duty assignment for general and flag officers who serve a prescribed tour of at least 2 years, and 3 years for other officers;

Third, allow accumulation of credit for periods of joint duty that are less than the prescribed 2 and 3 years when such duty is served in short tour—remote or hardship—locations or when a prescribed tour is curtailed for unusual circumstances or individual hardship;

Fourth, provide flexibility to the Secretary of Defense in awarding the joint officer speciality by allowing the sequencing of education and assignment, as determined by the Secretary of Defense to be consistent with sound personnel management, and to substitute a second joint duty assignment as fulfilling the requirement for joint professional military education;

Fifth, make some minor changes to promotion controls for joint duty officers;

Sixth, allow joint duty credit for a very limited number of inservice assignments; and

Seventh, allow delegations of certain waiver authorities to the Deputy Secretary of Defense.

The amendment also addresses three other issues. They include providing a 12th Assistant Secretary of Defense through the end of this administration; excluding 1,600 building management personnel to be transferred from the General Services Administration to the DOD from the personnel reduction required by the DOD Reorganization Act; and making a technical correction concerning the assignment of forces to combatant commands.

Mr. President, I believe the changes I have summarized are relatively modest and keep faith with the basic intent of the Department of Defense Reorganization Act to enhance officer manning in the joint arena. In fact, I believe the changes will give the services the kind of controlled flexibility that will allow them to do an even more effective job in manning joint requirements and remove obstacles that would be detrimental to effective officer management in the services.

Finally, I would like to commend the chairman of the Committee on Armed Services for his leadership in this area. I think we have a very responsible amendment and I urge my colleagues to pass it.

Mr. WILSON. Mr. President, I am pleased to join with the chairman of our committee, Senator NUNN, the ranking member, Senator WARNER, and the chairman of our Manpower and Personnel Subcommittee, Senator GLENN, in cosponsoring this amendment which provides needed flexibility to the joint officer management policies within the armed services.

These adjustments to the Goldwater-Nichols Department of Defense Reorganization Act of 1986 will provide for the requisite jointness we all agree is necessary for officers serving in senior, key military positions, while recognizing the need for flexibility in managing the careers of our professional military officers.

I agree completely with the statement of the ranking minority member of our committee, Senator WARNER, on the importance of maintaining the Senate position on the issues addressed by this amendment in the joint House-Senate conference on this bill.

I urge the adoption of this amendment.

Mr. McCAIN. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN Mr. President, I am supportive of this amendment. I think it is probably going to ease the transition for the Department of Defense in their efforts to comply with the Goldwater-Nichols Reorganization Act of 1986.

I would like to make a couple of comments on some specifics of the amendment as regard the nuclear propulsion officers. I think it is important to recognize that although they only comprise 7 percent of the naval officer corps, they comprise 30 percent of the flag officer corps. I think this amendment is correct in allowing them some latitude, but at the same time when they represent such a large percentage of the leadership in the flag officers, I think it is incumbent that they receive the same kinds of experiences and joint duty as we are requiring of other officers.

I also would like to comment that reducing the average lengths of joint duty assignments from 3 to 2½ years and from 3½ to 3 years for other officers is also appropriate. I think if we laid down rigid tours of duty, in fact longer ones than is average for some of our officers, it is a very serious mistake. Frankly, Mr. President, I am not particularly happy with the prescription of a certain length of time that any officer should serve in any billet. Quite often, the needs of a service are such that that officer has to be moved from one place to another, particularly in response to some sort of national emergency. I would have preferred to allow the Department of Defense more flexibility in that area.

But this brings up the major concern that I had about this entire pact, and one that I hope this committee and this Congress will watch very carefully in the future. And that is the great danger that we may have created an elite corps of officers along the lines of the German general staff that led the German Army to defeat after defeat. I am not here to comment on the qualities of leadership nor the ability of the German Army. But if there is a system which has proven in my opinion to be one which is not helpful to the good order and discipline of a military establishment it is the creation of an elite corps of officers who receive such preferential treatment that the remaining large percentage of the officer corps view themselves as second-class citizens.

And I believe that we are in danger in this legislation of creating such a body. I hope in the years ahead this personnel and manpower subcommittee as well as the entire committee will keep close watch so we have not created a monster that can cause great damage to the good order and discipline of the defense establishment.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the chairman and the ranking member on this amendment. This side supports the amendment, Mr. President.

I note that the Senator from Alaska is here with another amendment and we will be prepared to accept that shortly. So I think there is no further discussion on this amendment, Mr. President.

The PRESIDING OFFICER. Are there other Senators who wish to speak on this amendment?

Mr. NUNN. Mr. President, I think this is a good amendment. I think it makes a great deal of sense. I urge all of our colleagues to support it.

I was speaking to the amendment which is about to come up. I thought we had already disposed of this. I already am an author of this amendment. I will make my remarks applicable to the amendment of the Senator from Alaska when he brings it up. So I will cease and desist.

Mr. DIXON. We are moving so fast here. We have not disposed of the amendment by the distinguished Senator from Georgia. Would the President want to put the question on that?

The PRESIDING OFFICER. If there is no further debate, the question is on the adoption of the amendment.

The amendment (No. 720) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 715

(Purpose: To provide for the transportation of certain beneficiaries of the Veterans' Administration under the Department of Defense aeromedical evacuation system)

Mr. MURKOWSKI. Mr. President, I have an amendment at the desk, No. 715, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. MATSUNAGA, Mr. WILSON, Mr. NUNN, Mr. GLENN, and Mr. WARNER, proposes an amendment numbered 715.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. TRANSPORTATION OF CERTAIN BENEFICIARIES OF THE VETERANS' ADMINISTRATION ON DEPARTMENT OF DEFENSE AEROMEDICAL EVACUATION AIRCRAFT.

(a) IN GENERAL.—Section 5011 of title 38, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g)(1) The Secretary of Defense and the Administrator shall enter into an agreement that provides for the transportation of any primary beneficiary of the Veterans' Administration on any Department of Defense aircraft operating under the aeromedical evacuation system of the Department of Defense.

"(2) An agreement entered into under paragraph (1) of this subsection shall include the following provisions:

"(A) Transportation shall be furnished to a person on an aircraft referred to in paragraph (1) of this subsection only if—

"(i) the Administrator of Veterans' Affairs notifies the Secretary of Defense that the person needs or has been furnished care and services in Veterans' Administration medical facilities and the Administrator requests such transportation in connection with the travel of such person to or from the Veterans' Administration facility where the care and services are to be furnished or were furnished to such person;

"(ii) there is space available for such person on that aircraft; and

"(iii) there is an adequate number of medical and other service attendants to care for all persons being transported on such aircraft.

"(B) The persons eligible for transportation include persons located outside the continental United States and persons returning to their residences outside the continental United States.

"(C) A charge may not be imposed on any primary beneficiary of the Veterans' Administration or on the Veterans' Administration for transportation services furnished to such beneficiary by the Department of Defense under this section."

(b) IMPLEMENTATION REQUIREMENT.—The Secretary of Defense and the Administrator of Veterans' Affairs shall enter into an agreement required by section 5011(g) of title 38, United States Code (as added by subsection (a)) not later than 60 days after the date of the enactment of this Act.

Mr. MURKOWSKI. Mr. President, the amendment I am offering today, along with my distinguished colleagues Senators CRANSTON, SIMPSON, MATSUNAGA, WILSON, NUNN, GLENN, and WARNER is designed to accomplish one objective—to promote the efficient use of scarce resources in order to meet the growing demand for VA medical-care services. Unless we are willing to explore new and innovative methods to meet this challenge, I seriously doubt whether we shall have the capability to meet this expanding need. We are legislating at a time of enormous fiscal constraints and a time when medical care costs and demand for medical care services have increased significantly. The bottom line is—we must do more with less. We can do more with less by utilizing excess capacity within the Department of Defense aeromedical evacuation system to transport veterans in need of VA medical-care services at distant locations.

In May 1982, the Congress and the President took an important step in this regard when the Veterans' Administration and the Department of Defense Health Resources and Sharing and Emergency Operations Act was enacted as Public Law 97-174. This law was designed to promote greater sharing of health-care resources between the Veterans' Administration and the Department of Defense. Congress recognized the tremendous opportunities for reducing Federal health-care costs and enhancing the quality of health care through greater interagency sharing and coordination.

At first, there was great resistance to this legislation on the part of some within the Department of Defense and the Veterans' Administration and, in some cases, it remains so today. Unfortunately, there are those few in Government who, for whatever reason, are reluctant to remove the obstacles blocking greater coordination between these two departments of Government. But we are, Mr. President, making great progress and, as a result, millions of taxpayer dollars have been saved while improving access and the quality of care. According to VA and DOD statistics, there were 92 sharing agreements in effect at the beginning of fiscal year 1986; 79 of the VA's 172 medical centers had one or more sharing agreements with 201 military facilities. Most agreements relate to the provision of diagnostic and treatment clinical services and agreements in other areas, such as administrative services, research and training were also in effect. Most notably, Mr. President, this year the VA signed an agreement with the Air Force to share hospital beds in the VA's new medical center in Albuquerque, NM. This agreement represents the most significant of the sharing agreements negotiated thus far, because the agreement permits, for the first time, DOD to occupy space in a VA hospital. The implementation of this agreement will obviate the need for a major addition to the Air Force hospital at Kirtland Air Force Base, thereby saving the Air Force over $26 million in construction costs alone; $26 million, Mr. President, and this is just the tip of the iceberg. I believe that the VA and DOD can and should expand their efforts to share resources whenever appropriate and feasible.

One area where Department of Defense resources could be used to save substantial sums is the transportation costs associated with transferring a VA patient from one facility to another. In 1986, the Veterans' Administration spent over $100 million in veterans' travel costs to and from VA facilities.

During the review of Public Law 97-174, the General Accounting Office noted an opportunity for sharing between the Air Force and the VA. Savings to the Government could result if the military's aeromedical evacuation system could be used to transport VA beneficiaries on regularly scheduled flights to their destination which may be in the vicinity of a VA medical center to which the veteran is being transported. VA use of the aeromedical evacuation system, as with other VA/DOD sharing agreements, would not affect the established priorities for service and would be on a space-available basis. Mr. President, there is significant excess capacity on these flights. For example, during a 3-month period, April to June 1986, biweekly aeromedical flights from Alaska to CONUS had an average capacity for 31 litter and 78 ambulatory patients. Actual use for this period averaged 3 litter patients and 28 ambulatory patients. Unfortunately, such a sharing agreement is now effectively precluded because of DOD regulations. These regulations require the VA to reimburse the Department of Defense at a rate equivalent to first-class commercial air travel plus $1 between the destinations involved. Needless to say, this not only discourages the VA from using available space on aeromedical evacuation aircraft, but from a cost perspective makes it totally impractical for them to do so. Rather than make the most efficient use of these resources, the Air Force planes fly almost empty and the VA pays high travel costs.

Accordingly, Mr. President, my amendment is designed to promote the most efficient use of VA and DOD resources by requiring the Secretary of Defense and the Administrator of Veterans' Affairs to enter into an agreement to provide transportation to eligible veterans to VA facilities at no cost to the VA or the veteran.

I wish to reiterate that my amendment regarding the transport of veteran-patients on aeromedical evacuation flights would be strictly on a space-available basis. There is absolutely no requirement for additional flights, medical-care personnel or deviation from normal flight schedules or routing of such aircraft.

Adoption of this amendment would continue the process of cooperation that benefits the DOD, VA, the veteran and active-duty patients and the taxpayer.

Mr. President, as a consequence of the geographical location of my State of Alaska, obviously this will have a significant impact on Alaska's veterans. Since we do not have a VA hospital in our State, oftentimes the particular expertise offered by VA hospitals in the lower 48 has made it necessary for our veterans to travel great distances to receive VA health care. The availability of regularly scheduled Air Force aircraft flying from Alaska, carrying military personnel, would allow veterans, on a space-available basis, to fly to VA hospitals. It has significance all over the Nation.

I urge my colleages to support my amendment.

I understand that the amendment has been cleared, and I ask for any comments.

Mr. **DIXON.** Mr. President, I congratulate the distinguished Senator from Alaska for his very fine amendment.

GAO has sampled the space required fill rate of aeromedical flights and found significant excess capacity on many flights. This space was made available to leave, retired, and other personnel authorized to travel on a space available basis. This excess space could be used to reduce Government costs.

So this side does support the amendment by the distinguished Senator from Alaska.

Mr. **McCAIN.** Mr. President, I ask unanimous consent that my name be added as an original cosponsor of this amendment.

Mr. **MURKOWSKI.** I would be happy to have the Senator as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **McCAIN.** Mr. President, I should like to add my support for this amendment, and I ask my friend from Alaska to respond to a question.

It is my understanding at this time that in order for a veteran to be transported on one of these aircraft, the VA is required to reimburse the Air Force for full first-class airfare plus $1. Is that correct?

Mr. **MURKOWSKI.** That is the policy.

Mr. **McCAIN.** Therefore, it is cheaper for the Veterans' Administration to send someone in need of medical care on a commercial flight. Is that correct?

Mr. **MURKOWSKI.** That is correct.

Mr. **McCAIN.** It seems to me that this amendment was due long ago, and I am vey pleased that the Senator from Alaska has brought it to the floor.

I also think it is well to point out that many of these aircraft have substantial vacancies on board which cannot be filled because the VA simply does not want to and cannot afford the additional expenditures. So I think we may be able to achieve the goal of providing rapid and much needed medical treatment to our veterans. I applaud the efforts of the Senator from Alaska.

Mr. **MURKOWSKI.** That is a point I want to stress: The savings which can be realized from this are substantial, as has been pointed out. They can be used to provide further and better medical assistance to our veterans. That is the intent of this amendment.

Mr. **WILSON.** Mr. President, this is a very good amendment. I congratulate my friend from Alaska.

The junior Senator from Arizona has stated very succinctly the reasons why this should have our enthusiastic support. It does two things: It will vastly improve the quality of medical care for veterans, and it is one of those happy situations where we not only do not lose money in the bargain to achieve an improvement in care, but also, we are saving.

This is a substantial efficiency. The idea that we would have to see the Veterans' Administration take some of their resources and allocate it to pay for the costs that really they do not incur because of the space availability on a flight that is not going in any case—I quite agree with the Senator from Arizona—is an opportunity that we should have detected earlier.

But my thanks and my congratulations to the Senator from Alaska.

Mr. MURKOWSKI. I thank my friend from Illinois, the Senator from Arizona, the Senator from California, and the Senator from Georgia. And if there is no further discussion I would move for adoption of the amendment.

Mr. NUNN. Mr. President, I will just take a moment. I intended to speak to this amendment awhile ago when it was not pending.

Let me say again I think it is a good amendment and will make a lot of sense. It will help veterans and not hurt the Department of Defense. It will make better use of American military assets of transport in a very humanitarian way for those who serve the country.

I am proud to be a sponsor of the amendment.

Mr. CHAFEE. Mr. President, I have not completely followed this discussion but as I understand this amendment solely applies to those in Alaska receiving flights or space available on aircraft.

Mr. MURKOWSKI. No. This would apply to flights throughout the United States when space is available.

Mr. CHAFEE. We also have the problem talking about the change that was made in the Veterans' Administration on paying the travel. I would like to touch on that while I have the distinguished Senator from Alaska from the Veterans' Affairs Committee here.

What I am concerned with is the travel pay that was eliminated for those traveling I believe at what they said were commuting distances for whatever that is and it affects those veterans from my State who go from a point, say, in West Lynn up to the Roxbury, MA, hospital, which could be some 60 or 70 miles, and under the current VA rules that were promulgated last year they do not receive any mileage for that.

I would appreciate it, when the Senator is considering the legislation before his committee, if he would be good enough to inform me. I will stay in touch with him because there are some differences between a couple of bills that are in there and I would appreciate it if the Senator would give me an opportunity before he brings this out to discuss this with him, because, as I say, there are some features in the bill I have that are not in the Senator's bill and I hope we could give some consideration to those.

I have some legislation pending. Is the Senator familiar with that, and could he give me comments?

Mr. MURKOWSKI. The Senator is familiar with that legislation. The Senator from Rhode Island will be pleased to know that the Senate Veterans' Affairs Committee has ordered favorably reported legislation—which was introduced by Senator CRANSTON and myself—which would restore beneficiary travel reimbursement for certain veterans. The committee bill would require a modest deductible on the part of the veteran. I believe it is a fair and reasonable approach. I believe your legislation is similar to that passed by the House so the question of which approach will be adequate will certainly be subject to further discussion.

However, I believe that the savings achieved by this particular amendment—as a consequence of not having to pay the air fare—can be utilized for travel for veterans going to hospitals in areas such as the Senator from Rhode Island has outlined where perhaps air transportation is not necessary.

Mr. CHAFEE. I thank the Senator for that.

Mr. MURKOWSKI. I can assure the Senator from Rhode Island that the Senator from Alaska will be very pleased to work with him and his staff.

We are available at the Senator's convenience to discuss any portion of that legislation.

Mr. CHAFEE. I thank him and also I would like if he would add me as a cosponsor on this particular legislation here.

Mr. MURKOWSKI. I am pleased to add my colleague from Rhode Island on the bill and so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, if there is no further discussion, I would ask for adoption of the amendment.

The PRESIDING OFFICER. Are there other Senators who desire to speak on the amendment?

If not, the question is on agreement to the amendment of the Senator from Alaska.

The amendment (No. 715) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to add Senator STEVENS as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the President.

Mr. NUNN. Mr. President, while the Senator from Alaska remains on the floor, he has an amendment which places limitation on foreign firms in domestic military construction. That amendment, I must say to my friend from Alaska, is not acceptable and will require some debate and probably a rollcall vote. But we do have some time now. I believe the Senator from California has an amendment, which will not take very long. After that, it will be an appropriate time to have a debate and stack a vote on that amendment later this evening if the Senator from Alaska would present that amendment this morning.

Mr. MURKOWSKI. I wonder if the Senator from Georgia will accommodate a commitment I have with another Senator at 10 o'clock and allow me, say, at 10:45 or thereabouts, to come to the floor and begin debate on that.

Mr. NUNN. That will be fine, subject only to the Weicker amendment which may recur, but if it does not by that time, would the Senator be willing to have perhaps a 30-minute time agreement, 15 minutes on each side on that amendment and then we can stack the vote perhaps after the amendment of the Senator from Arizona, about 6:15 this evening?

Mr. MURKOWSKI. I think an hour evenly divided is about what it would require.

Mr. NUNN. I would hope it would not take that long but, Mr. President, if we could have that time agreement I would propose it now. I would propose that the amendment by the Senator from Alaska relating to military construction of foreign firms have 1 hour equally divided with no amendment to the amendment and we would leave the time for that debate somewhat flexible.

Mr. MURKOWSKI. I agree to the proposal of the Senator from Georgia.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Senator.

Mr. MURKOWSKI. I ask for the mutuality of our staffs could we get some idea of the time that would be most agreeable to the Senator from Georgia?

Mr. NUNN. I suggest to the Senator from Alaska take about the time he indicated and we do the best to accommodate him at that time.

Mr. MURKOWSKI. I appreciate the accommodation.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 721

(Purpose: To authorize the Secretary of the Navy to enter into long-term leases or charters for new tankers constructed in the United States)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. WILSON] for himself and Mr. CHILES proposes an amendment No. 721.

On page 8, between lines 9 and 10, insert the following new subsection:

(c) Lease or Charter of New Tankers.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for military useful tanker vessels constructed in the United States.

Mr. WILSON. Mr. President, I did not interrupt the clerk during the reading of this very brief amendment because his reading of it really makes the case for it with some slight additional arguments.

As could be inferred from the language, the actual text of this amendment, present law places a severe restriction on the Navy in terms of its ability to engage in long-term efficient and economic leases. Simply, current law prohibits the Department of Defense from entering into a lease agreement that extends beyond 18 months. Congress passed this restriction at a time when the number of lease agreement had gotten out of hand in the early 1980's.

Currently there is a real shortfall with respect to our tanker capability as it relates to military sealift.

We have gone a very considerable way in recent years in rebuilding the military strength. One area that I think we have neglected is the adequacy of our logistical support in terms of force projection.

Now the situation currently is that we have but nine 24,600-ton tankers constructed in the 1974-75 period, those under long-term leases. We have five 27,000-ton carriers constructed in the 1985-86 period.

I need not take a great deal of time to rehearse what Members of this body know all too painfully well, and that is that the U.S. shipbuilding industry has fallen upon the hardest of hard times. In fact the numbers are truly alarming. We have seen since 1982 a decline in the shipyards from 110 to only 74. Employment in those yards has fallen from 112,000 workers to only 85,000.

Mr. President, this amendment will do two things. It will save the Navy and therefore the taxpayers a very great deal of money.

Currently the Navy wastes millions of dollars because they can lease tankers only on a short-term basis and that is a very inefficient, very uneconomic basis.

Let me give you an idea of just how expensive it is.

The prices on these short-term contracts range from $14,000 per day to $30,000 per day, or to put that in clearer context the annual cost when you are leasing at $16,000 a day runs to $5,840,000 for 1 year.

Or, at the higher price of $30,000 per day, it comes to almost $11 million. Now that is really nonsensical. It is a wound that we have inflicted upon ourselves; more accurately, that Congress has inflicted upon the Navy. It makes no sense for us to continue to do that.

You will note that in his reading of the amendment, the clerk emphasized—and I think quite properly—the final phrase, "constructed in the United States." This amendment will also permit the Navy not to build ships, but, because they can lease them on a long-term basis, it will be a very significant stimulus to a very sick U.S. shipbuilding industry. The private sector will build; the taxpayers will lease. It is a very good arrangement for both.

Mr. President, I know of no objection to this legislation. I believe it is cleared on both sides. I urge its adoption.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from California for a very fine amendment which permits the Secretary of the Navy to use his authority under title 10 to lease and charter tankers to support naval requirements. This side supports the amendment.

The PRESIDING OFFICER. Are there other Senators desiring to speak to the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 721) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I believe that we are awaiting the arrival on the floor of others with amendments that will be acceptable to both sides. In view of that, and rather than suggesting the absence of a quorum, I ask unanimous consent that I be permitted to proceed as though in morning business for 5 minutes for the limited purpose of introducing a bill totally unrelated to this subject matter and for very brief remarks in connection with the introduction of such a bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. Dixon will appear later in the Record under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

AMENDMENT NO. 722

(Purpose: To void certain agreements relating to the site of the Soviet Union's Embassy in the District of Columbia)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. BYRD. Mr. President, are we setting aside temporarily the Weicker amendment?

The PRESIDING OFFICER. Under the previous agreement, the vote on the amendment of Senator McCain will occur at 6 p.m.

Mr. BYRD. And the amendment by Senator Weicker is not required to be temporarily set-aside?

The PRESIDING OFFICER. The Weicker amendment will recur after the vote on Senator McCain's amendment, as matters now stand. The Weicker amendment will recur after the vote on Senator McCain's amendment.

Mr. BYRD. We will have to make a different arrangement.

Mr. SYMMS. Mr. Leader, might I help with the order. This amendment that I am offering will require a rollcall vote. I assume that the leader would want to set that vote to follow the other votes that are stacked at 6 o'clock.

Mr. BYRD. Yes, I would like to do that.

Mr. President, for the moment, I suggest we proceed with the amendment by Mr. Symms. I think he has already gotten consent to have that amendment offered.

Mr. WARNER. Mr. President, if I might just interrupt for a moment, in listening I certainly concur with the majority leader that we have to work out some arrangement that was consistent with the understanding last night in connection with the Weicker amendment and the right for the majority leader to, at the appropriate time, put in a substitute.

Mr. BYRD. Yes.

Mr. WARNER. We will work in cooperation with the Senator.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. DIXON. Mr. President, will the Senator from Idaho yield just a moment to me?

Mr. SYMMS. Certainly. I will be happy to yield.

Mr. DIXON. May I say to my friend from Idaho that we have quickly examined the amendment. The content would indicate that some of the folks on the Foreign Relations Committee ought to have a look at it. So I do not know how long the Senator will take, but may I say to him that we will require some time over here to determine what our ultimate position will be. But I suspect that some on this side will want to oppose that amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. SYMMS. Mr. President, let the clerk read the amendment. Following the reading, I will make some comments about the amendment.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 722:

At the appropriate place in the bill, add the following:

(a) FINDINGS.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of * * * real property * * * where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) NEW AGREEMENT WITH SOVIET UNION.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) EMBASSY AGREEMENTS.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", enterd into force on May 16, 1969; and

(2) the Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

Mr. SYMMS. Mr. President, this is an issue that the Senate has previously visited this year. It was Vote No. 215 on July 30, 1987. At that time, this amendment was offered in the form of a sense-of-the-Senate resolution, whereas today it is offered as an amendment to the Armed Services Committee bill. But just to refresh the memory of Senators, Senator PELL moved to table this amendment. The motion to table was rejected by a vote of 71 to 26. This was originally offered as an amendment to the human rights to Haiti resolution that the distinguished Senator from Florida [Mr. GRAHAM] had offered and was then set aside. It was subsequently separated from Senate Resolution 248 by unanimous consent and was considered as a freestanding resolution, Senate Resolution 261. This resolution also passed unanimously by a voice vote. I want to remind my colleagues of this. I will be very brief in my explanation of it.

Soviet espionage agents have installed listening devices in the structure of the new American Embassy in Moscow, defying blatantly the spirit of the Embassy agreements and certain recognized norms of international relations. It is well know that Soviet espionage agents intend to use the new Soviet Embassy in this country as a platform to conduct highly sophisticated electronic surveillance to undermine United States national security. The location of the new Soviet Embassy was offered to the Soviets at a time when electronic surveillance techniques and the potential for their further development were not fully understood by the West. So the amendment would very simply have the State Department do what it already has the authority to do. It would void the current Embassy agreements. Then, there would be negotiations for a new agreement under which the Soviet Union will move its Embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

I know there will be people who oppose this amendment. They will argue that the Soviets originally wanted to locate a new Embassy at Chevy Chase. We objected, and then they chose the site in midtown Washington; we objected again, and subsequently the Mount Alto site was found and the United States was in favor of their building an Embassy on that site.

That may well be the case. But I think the record clearly shows that the proper course of action for our new Embassy in the Soviet Union would be to raze that Embassy. The next step should then be to have us move the Soviets out of the building they are moving into—where they are setting up all their spying apparatus. I believed we should renegotiate new agreements, the building that the Soviets now have could be put to some other good use. Whether we want to make it available for the Salvation Army, for the homeless or whomever, I do not know. But it could be put to some use other than where it would be used to spy on the Pentagon, the White House, the Capitol of the United States, the State Department, and other areas. So it is very self-explanatory. I think all Senators have had an opportunity to look at the issue. They have all voted on it once.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. I ask unanimous consent that the vote on the amendment take place immediately following the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Mr. McCAIN. Mr. President, I am seeking recognition to comment on the amendment.

The PRESIDING OFFICER. Does the Senator object?

Mr. McCAIN. I reserve the right to object, Mr. President.

Mr. PELL. Mr. President, the Symms amendment deals with the United States-Soviet agreement on location of embassies. This issue is properly within the jurisdiction of the Senate Foreign Relations Committee, and is dealt with in the Foreign Relations Authorization Act of 1987. That bill is on the calendar and I expect will be taken up promptly.

I therefore urge my colleague from Idaho to withdraw his amendment and to resubmit it during Senate consideration of the Foreign Relations Authorization Act. If he is unwilling to do so, I hope the Senate will defeat the Symms amendment.

The Foreign Relations Committee will hold a closed briefing on the United States-Soviet Embassy agreement and on the threat from Mount Alto on Tuesday afternoon. Further, the administration is currently engaged in a process of consultation on the future of the new U.S. Embassy complex in Moscow. Any action we take with regard to Mount Alto is certain to lead to a Soviet response against our facilities in Moscow.

The marginal gain to the Soviet Union from the Mount Alto location may well be far less than commonly imagined. The damage to U.S. national security interests from being ousted from our new facility in Moscow could be very substantial.

These issues cannot be discussed in public session on the floor of the U.S. Senate. For this reason the Foreign Relations Committee—the committee of jurisdiction—will consider these matters in detail in Tuesday's closed session. I invite interested colleagues to attend.

In the interim I urge defeat of the Symms amendment, because it could do serious, albeit unintended, damage to the national security of the United States. The Senate will have ample opportunity to revisit the issue during consideration of the Foreign Relations Authorization Act.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I am not sure that all interested Members here have had an opportunity to discuss this very important amendment. Frankly, I am not clear about the parliamentary procedure.

But I would request that Members be given an opportunity to debate and discuss my colleague's amendment.

Mr. DIXON. Mr. President, I want to join my friend from Arizona. It appears there was an earlier rollcall on this earlier this year. Frankly, it appears this Senator voted with the Senator from Idaho. It also appears however that some on this side opposed this amendment. It is sort of uniquely a Foreign Relations Committee question more than a question for our committee. This side has informed the chairman and others on the Foreign Relations Committee of the pendency of this amendment.

I dislike closing off debate on the amendment, Mr. President, in the event that others from this side might want to be heard against the amendment although this Senator has no reason to be heard against the amendment. So I wonder if the Senator from Idaho might accommodate us.

Mr. SYMMS. It is not the Senator from Idaho's intention to close off debate. I wanted to get the procedure in line, I say to my good friend, so we will vote on this amendment as I requested in my unanimous-consent request after the stacked votes. If we want to debate it here for the rest of the day, that is all right with me. I do not care.

If I could add one little bit of information that I neglected. On the resolution that has been introduced into the Congress, not on this amendment, the cosponsors of that resolution are Senators BYRD, CONRAD, HELMS, NICKLES, GRASSLEY, and McCAIN. On the resolution it carries the same thrust and text of this amendment.

Mr. McCAIN. Mr. President, I believe I still have the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that it be in order that further debate be made on this amendment pending agreement that a recorded vote be allowed on the amendment by the Senator from Idaho.

Mr. NUNN. Mr. President, reserving the right to object, and I hope not to object, there is no objection at all for going on and debating this amendment, whatever the Senator would choose. The Senator from Connecticut has been cooperative in coming over. He has been working out an amendment that will not take very long, I do not believe. Perhaps we could have that one go first depending on the Senator from Idaho.

I would like to have time to alert those people who know the most about this amendment which would be the Foreign Relations Committee on both sides of the aisle and the intelligence people on both sides of the aisle so if they choose to be heard they can come over. I have no objections whatsoever to getting a vote on this amendment after 6 o'clock this evening.

The PRESIDING OFFICER. The question is on the request of the Senator from Idaho. Is there objection?

Mr. NUNN. Would the Chair state the unanimous-consent request?

Mr. SYMMS. The unanimous-consent request, Mr. President, that I thought was already agreed to—maybe it has not been.

The PRESIDING OFFICER. It has not been agreed to.

Mr. SYMMS. The unanimous-consent request is that the vote on the Symms amendment occur immediately following the vote on the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank my distinguished chairman and the manager of the bill, and the distinguished Senator from Arizona.

Mr. McCAIN. Mr. President, I have a parliamentary inquiry. Are we going to move to the Dodd amendment at this time and still allow time for further debate on the Symms amendment, or are we going to continue with the Symms amendment, dispose of debate on the Symms amendment, and then move to the Dodd amendment?

Mr. NUNN. I say to my friend from Arizona, if he will yield, anyone can get the floor and any amendment is in order at this time. What I would suggest is we take the Dodd amendment first, if the Senator from Idaho is agreeable to that, and if the Senator from Connecticut gets the floor that could perhaps be disposed of rather quickly. We will send out word that the Symms amendment will be the next amendment and get the parties here. Then we will take that one up, debate it, and if we cannot get a time agreement to debate, fine. If not, perhaps we could conclude debate and have the votes stacked a little later.

The PRESIDING OFFICER. The Senator's amendment would have to be set aside to proceed with the other amendment.

Mr. NUNN. That would be up to the Senator from Idaho. Would he be willing to temporarily set this aside for a very brief time to take up the Dodd amendment? It is my understanding the Dodd amendment will not take very long.

Mr. DODD. If the Senator will yield, the Senator is correct.

Mr. McCAIN. We already agreed to vote.

Mr. SYMMS. Mr. President, the Senator from Idaho has no objection as long as we are going to vote on my amendment immediately following the vote on the McCain amendment. It is up to the managers of the bill.

Mr. NUNN. If he would agree to temporarily lay his amendment aside, it would be my hope we could get to it in 15 minutes and we could go ahead and begin debate on it.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Connecticut.

AMENDMENT NO. 723

(Purpose: Concerning United States policy with respect to Panama)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. DURENBERGER, Mr. D'AMATO, and Mr. KERRY, proposes an amendment numbered 723.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . POLICY TOWARD PANAMA.

(a) FINDINGS.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate re-

spect for and adherence to all provisions of the Panamanian constitution.

(b) Policy.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to relocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

Mr. DODD. Mr. President, there is a sense-of-the-Senate resolution that addresses itself to the issue of the preconditions in Panama. This is an amendment that I have worked on with my colleagues here over the last several days in an attempt to come up with language that, I believe, is acceptable to all sides.

It is an amendment that will put the Congress, particularly the Senate, on record, concerning the ongoing unrest and political instability in Panama and to spell out in very simple and clear terms what most of us in this Chamber believe to be the appropriate response by the United States as we look to the days ahead.

The future of democracy, Mr. President, in Panama is being seriously threatened by the flatering commitment of the Panamanian Government to democratic institutions, procedures, and values. It is being threatened by a military establishment that unfortunately has forgotten what its responsibility is to the people of Panama; namely, the defense of that nation—not the plundering of the treaty which is what they have been engaged in.

A broad-based coalition of the Panamanian society has said that enough is enough. Businessmen and labor leaders, students and teachers, peasants and priests, civic leaders and political organizers, have taken to the streets over recent months and weeks to demand respect for basic civil liberties, and a return to democratic processes guaranteed by the Panamanian constitution.

Mr. President, the United States and this body cannot ignore their plea. We must demonstrate in very concrete terms that we are prepared to do our part on their behalf. At the very least, we must speak out on their behalf and let them know that we are going to take very concrete actions that go beyond the sense-of-the-Senate resolution; that go beyond just the firing the shot across the bow, as we say through resolutions that merely threaten certain actions if there is not change. Rather, this resolution spells out very clearly what the next steps will be if there is not that change and those steps will be taken very quickly and very dramatically.

We must demonstrate, Mr. President, in very certain terms, that we are not going to let this Congress, this session of this Congress, complete its action without taking those steps if there is not some change.

This amendment, Mr. President puts General Noriega and his cohorts on notice that unless there is evidence of a renewed commitment to democratic processes and procedures, including firm civilian control over the Panamanian defense forces, the U.S. Congress will take the following very specific legislative action within 45 days after the enactment of these provisions.

No. 1, Mr. President, this resolution says we will stop all economic and military assistance of the Government of Panama. No. 2, we will halt all shipments of military equipment and spare parts to the Government of Panama. And No. 3, we will revoke Panama's sugar quota and reallocate it to other nations.

Mr. President, the first action, the stopping of all economic and military assistance, means that any new requests would be terminated or would be denied.

The second proposal, the halting of all shipments of military equipment and spare parts, means that regardless of whether or not there has been any agreement, any military equipment or spare parts sitting on docks waiting to be shipped, for example, would not be shipped. Thus, it would affect existing contracts.

The third proposal, of course, the revoking of the sugar quota and the reallocation of it to other nations, is designed to tell the private sector, if you will, in Panama—many of whom have remained silent or have supported, unfortunately, some of the activities of the Panamanian Government—that our actions will go beyond public assistance or governmental assistance government-to-government. Rather, they will learn that we are prepared to also deal with issues that affect them directly as private concerns in that country.

Mr. President, I hope that the leaders of Panama will be listening to what we say here today.

It would be disgraceful and unfortunate if we were to have to take these actions.

All we are saying today is that if there is no improvement, this is the next round. The next shot will not be across the bow. The next shot will be aimed directly and targeted to Panama.

I hope the Senate will adopt the amendment by an overwhelming vote and that the other steps will not be necessary. General Noriega has 45 days before the continuing resolution or an appropriations bill comes before this body, but the Senate will not adjourn in this calendar year 1987 without taking specific action against Panama if they fail to take the steps we have outlined in this proposal. The situation is serious. We want to let the Panamanians know that we are serious. This amendment provides that kind of notice.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, we wish to commend the distinguished Senator from Connecticut. Throughout his career as a public servant, he has devoted a great deal of time to issues in this hemisphere. While we sometimes do not always agree with him, we respect his knowledge and his study of these issues. In this particular instance, we are prepared to support him wholeheartedly.

It is my understanding that the Senator from Connecticut worked with the distinguished ranking member of the Foreign Relations Committee, the Senator from North Carolina [Mr. HELMS], and the Senator from New York [Mr. D'AMATO], and that this amendment reflects a work product of a bipartisan nature. Indeed, I think it is one that will gain the full support of this body.

I thank the Senator.

Mr. McCAIN. Mr. President, I join the Senator from Virginia [Mr. WARNER] in supporting this amendment.

First, I should like to express my appreciation to the Senator from Connecticut, as the chairman of the commission appointed by this body to monitor the peace efforts in Central America, for the courtesy and kindness extended to me as we have worked together in seeking not only to monitor but also to assist in the efforts for peace in Central America.

I am aware, as I know my friend from Connecticut is, that there will be times when we are in disagreement. But I believe that we have indicated that a very sensitive and difficult issue can be addressed in a bipartisan fashion.

I think his commitment to peace in Latin America and his involvement and expertise in these affairs is indicated by this very carefully crafted sense-of-Congress amendment. I emphasize that it is a sense-of-Congress amendment. There will be some people, as I am sure the Senator from Connecticut is aware, who believe that this is not strong enough. I think the Senator from Connecticut has just responded to those criticisms by stating unequivocally that within 45 days, before the Senate adjourns, action will be taken concerning the situation in Panama, whether it be primarily appropriations or other methods.

This situation that is existing in Panama today cannot be allowed to continue for a longer period of time. The people in Panama are suffering a deprivation of basic human rights which is unacceptable in this hemisphere, as we focus all our attentions on Nicaragua and El Salvador—and that attention is well deserved, I might add.

I should like to express my appreciation again to the Senator from Connecticut for bringing attention to the deplorable conditions existing in Panama. It appears that this condition is not showing the slightest improvement. I think this Nation can be proud of our record for two administrations, both the Carter and the Reagan administrations, in the fostering of human rights and democracy in Latin America. Eight nations, to my knowledge, have gone from totalitarian governments to freely elected ones, and this defies the predictions of many so-called experts on Latin American affairs. I suggest that not only does the credit go to the Carter administration and the Reagan administration but also to Members of this body, including the Foreign Relations Committee, who have devoted much effort in that direction.

The fact is that not only must we insure that the people in Latin America who have already achieved their human rights and basic freedoms—which we all cherish—maintain those, but also, we must move forward and work together to see that that also takes place and that that evolution takes place in other parts of Latin America, including Panama—which, by the way, happens to be the country of my birth, the Canal Zone, which is an area now of the Panamanian nation.

So, I want to congratulate my friend from Connecticut.

Also, it should be of interest to Members of this body and to the Panamanian Government that this amendment has widespread support on both sides of the aisle. There is not a sharp division. There may be unanimous agreement, but I think you will find overwhelming support when we have the vote later this evening.

Mr. DODD. Mr. President, I thank the distinguished Senator from Arizona and the distinguished Senator from Virginia for their kind comments.

I would be remiss if I did not say that if there are any commissions or committees appointed here, the extent to which they are successful is because the Members make them successful. I traveled to Latin America this past weekend and I feel fortunate to have as a cochairman someone who is thoughtful and as committed to these issues as I am. We hope that the efforts in Central America will be as successful as our commission in the coming weeks. I am grateful to the Senators for their comments.

I think it is important that the remarks of the Senator from Arizona be emphasized, that this is a strong bipartisan effort. The Senator from Arizona is absolutely correct. There are others who wanted to make this a statute, to make this a part of law, to stop all military and economic assistance now, and to cut off the sugar quota now. It is hard to argue with them, given the events of the last few months in Panama; but we would like to give the Panamanian Government one more opportunity to demonstrate that they are going to change. If they do not, this Senate will join the forces that have argued for a permanent prohibition against assistance and the sugar quota.

In the past, I have been a little negative about some of the restrictions we wanted. I felt that we may be going too far and that we were going to end up with a self-fulfilling prophecy. But I am convinced today that these leaders in Panama have not taken us seriously, and I hope that this resolution will convince them of our seriousness on this issue.

Mr. President, the yeas and nays having been ordered on this amendment, I ask unanimous consent that the vote on this amendment follow the vote on the Symms amendment when the votes occur later in the day.

The **PRESIDING OFFICER.** Is there objection?

Mr. DIXON. Mr. President, with the further understanding that the resolution will be considered without any further amendments.

The **PRESIDING OFFICER.** Is there objection? The Chair hears none and it is so ordered.

Mr. KENNEDY. Mr. President, I commend Senator Dodd for his leadership on this resolution, and I hope that, once again on this issue of democracy and human rights in Panama, it will be possible for all Senators to endorse this straightforward statement of our intent.

In this resolution, the Senate pledges to cut off all economic and military assistance to the Government of Panama, to suspend all shipments of military equipment and spare parts, and to prohibit the importation of certain Panamanian products unless, within 45 days, the Government of Panama takes certain concrete steps to restore the rule of law and democracy inside that country.

The people of Panama continue to struggle for their freedom against the organized forces of General Noriega's government. Just yesterday, in the front page of the government-sponsored newspaper, there were accusations that the leaders of the National Civic Crusade were making plans for a violent overthrow of the Government of Panama and were conspiring with the United States to abrogate the terms of the canal treaties. These allegations are, of course, pure fiction, and it is fortunate that the people of Panama know pure propaganda when they hear it.

I call the Senate's attention to the fact that Lucille Newman, a reporter for Cable News Network, was thrown out of Panama yesterday for the crime of reporting accurately the events of September 13 involving efforts by the Panamanian Defense Forces to suppress the peaceful demonstrations of Panamanian citizens seeking only the right to participate in the decisions that affect the future of their country.

This resolution should serve as a warning to General Noriega and as a solemn statement of the Senate's intent when it comes to future action by the Congress.

I urge my colleagues to give resounding approval to the Dodd resolution.

Mr. HELMS. Mr. President, this resolution is intended to reinforce the administration's actions thus far in suspending United States foreign aid to Panama and suspending shipments of military equipment and spare parts to Panama.

The dictatorship of General Noriega continues its oppressive and corrupt reign of terror.

As usual, when his domestic critics are focusing on the injustices of his regime, he has attempted to whip up anti-American sentiment.

He recently expelled the reporter for Cable News Network whose reports had provided dramatic demonstrations to the American people of the depth and breadth of the dissent in Panama and the desire for democracy. Lucia Newman was told to leave the country immediately or she would suffer "humiliation and physical abuse."

A member of the American Embassy in Panama was recently detained by Panamanian authorities. Despite the fact that he had his diplomatic immunity with him and showed it to his captors, Mr. David Miller had a gun held to his head and was held incommunicado for 8 hours.

Mr. President, these attempts by General Noriega to deflect attention away from himself will not succeed. The people of Panama are becoming more and more aware of the corruption that some of us have charged for years.

Two weeks ago during demonstrations to mark the 2d anniversary of the murder of Dr. Hugo Spadafora, several demonstrators were wounded and one was killed.

All opposition media in the country remains closed by the Noriega government.

Mr. President, the situation in Panama continues to worsen, not improve.

I recognize that some in the Congress have been willing to give Noriega the repeated benefit of the doubt. No such benefit is warranted any longer.

Democracy needs to come to Panama immediately. If it does not, the suspension of U.S. aid will become a permanent termination—until democracy is established.

I am pleased that the Senator from Connecticut has incorporated as the standards for improvement in Panama the four conditions that had been included in S. 1614, the D'Amato/Helms bill. This legislation has been cosponsored by a broad bipartisan group of Senators that currently includes Senators CRANSTON, KERRY, DURENBERGER, MURKOWSKI, SYMMS, DECONCINI, KENNEDY, MCCAIN, WILSON, GARN, and WARNER. This amendment, in resolution form, is essentially a nonbinding version of that bill which puts the Senate on record once again as supporting democracy in Panama. While I support the need to continue to built aid to Panama, it is disappointing that the Senator from Connecticut did not offer a mandatory cutoff.

The four conditions of the D'Amato/Helms bill and this resolution are that aid should be terminated unless and until—

First, the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

Second, the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

Third, a nonmilitary transitional government is in power; and

Fourth, freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

This amendment underscores the earlier Senate action of June 26, 1987, when the Senate voted, 87 to 2, to express the sense of the Senate concerning support for respect for human rights and evolution to genuine democracy in Panama.

These actions should serve notice to General Noriega that the Senate is intent on conditioning future United States aid to Panama on the establishment of democracy in Panama.

Mr. DURENBERGER. Mr. President, I rise today as a cosponsor and strong supporter of the amendment expressing the sense of the Senate that aid to Panama be cut off for 45 days unless progress toward democracy is made. The amendment further expresses the sense of the Senate that the sugar quota for Panama should be revoked for 45 days pending the fulfillment of the same conditions.

I have been on this floor many times since the current crisis in Panama began last June. The events are familiar to my colleagues. Col. Diaz Herrera, formerly the No. 2 man in the Panama Defense Forces, was forced out by General Noriega and went public with a series of allegations against the dictator. The charges included drug trafficking, vote fraud, massive corruption, and murder of political opponents. The charges were not new but they received further confirmation due to Herrera's firsthand knowledge of the events in question.

The Herrera accusations led to a tremendous outpouring of popular feeling against Noriega's tyranny. The broad-based National Civic Crusade was formed and included labor, business, professional, and political groups with the courage to speak out against Noriega's kleptocracy. Because of my long interest in supporting democracy in the Americas, I worked with a number of colleagues in drafting what became Senate Resolution 239 to support the democrats in Panama.

Senate Resolution 239 was passed on June 26 by an overwhelming vote of 84 to 2. The reaction from Noriega and his cronies was as rapid as it was predictable. The United States was denounced for "interventionism" and "Yankee imperialism." Noriega organized a government-led protest which resulted in an attack on the American Embassy in Panama City on June 30. In response to the Noriega government's assault on U.S. property, the State Department announced that economic and military aid to Noriega would be suspended. I applauded the overdue decision to suspend aid at that time and support the continued suspension of aid.

The democratic opposition staged a number of large rallies and successful general strikes. They greatly appreciated the strong message sent by the United States supporting their cause. But Noriega is determined to remain in power, determined to enjoy the fruits of his corruption, and determined to keep the Panamanian people under the control of his repressive apparatus.

Those who oppose Noriega's dictatorship have seen just what he plans to do to keep his stranglehold on Panama. He stifles the media to prevent Panamanians from seeing just how widespread opposition to his continued rule is. He keeps funneling profits to his handpicked elite in the military to buy their loyalty. And he keeps using the fig leaf of American interventionism to hide the fundamental fact that he is out of touch with the nation he governs.

This amendment is, if anything, not strong enough. I was an original cosponsor of S. 1614 which uses binding language to ensure that United States aid to Panama is not resumed until Noriega's dictatorship is history. If this government has learned anything about dealing with change in the Third World, it should have learned that we cannot continue to support—implicitly or explicitly—brutal and corrupt dictators who oppress their people.

It is deeply distressing to this Senator that media accounts have repeatedly indicated that the administration is considering a resumption of aid to Panama. I recognize the importance of United States strategic interests in Panama, especially the Panama Canal. We have nearly 10,000 members of the United States Armed Forces stationed in Panama, including the headquarters of the Southern Command.

But the undeniable fact of important United States interests in Panama in no way changes the fact that if we are to really stand for democracy in the world, we must make it very clear to General Noriega that he will have no support from the United States. He can play his game of occasional cooperation with U.S. narcotics interdiction, or occasional cooperation on other regional issues but he must not be allowed to think the United States will support him in any way. And the people of Panama must know that the United States will speak with one voice—a voice that says we support democracy, not tyranny.

There should be no one in this body that thinks it will be easy for democracy to prevail in Panama. Noriega has had years to gather information on likely opponents, to buy off supporters, and to strengthen his repressive regime. But we should not let difficulty prevent us from doing the right thing. This amendment is one step to ensure we continue on the correct path.

Mr. President, I ask unanimous consent that an article describing Noriega's military regime be printed in the RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

[From The Los Angeles Times, Sept. 21, 1987]

PANAMA-TURMOIL LEAVES NORIEGA STILL ENTRENCHED

(By Richard Boudreaux)

PANAMA CITY.—In four years under his command, Gen. Manuel A. Noriega likes to boast, the old National Guard has "exchanged night sticks for rocket launchers" and become a modern army.

Critics of Panama's dominant institution, now called the Panama Defense Forces, say it has another mission. They call it a mafia, run by uniformed gunmen who have muscled into a major share of the country's legitimate and illegitimate business and become fabulously rich.

Both images of the Panama Defense Forces are evoked these days to explain the survival of Central America's only traditional military dictatorship. After three months of popular unrest over Noriega, there is no sign that its 19-man military high command or nearly 20,000 troops are willing to overthrow him.

Opposition leaders, who still count on such a move, point to professional pride, financial greed, suspicion of civilians and fear of Noriega among his men as reasons why it has not yet happened.

"Noriega has succeeded so far in portraying the attacks on him as attacks on the military as an institution," said Richard Millett, a professor at Southern Illinois University, who visited Panama this summer.

The military has dominated Panama since a 1968 coup by the National Guard that brought then-Col. Omar Torrijos to power. Torrijos reigned as the nation's unchallenged strongman until his death in an airplane crash in 1981. Lacking Torrijos' popular appeal, the 49-year-old Noriega dominates the military through skillful maneuvering inside the officer corps.

After a decade of building files on real and potential foes as director of intelligence, he rose to commander in chief in 1983. Former colleagues say he then reneged on a deal to take turns in the post with two other officers.

As commander, Noriega has changed the name and expanded the role of the National Guard, nearly doubling its strength and putting officers in control of a host of lucrative enterprises from traffic fines to the sale of immigrant visas.

The system was shaken last June when Col. Roberto Diaz Herrera, after being eased out as Noriega's second-in-command, publicly denounced it as corrupt. He also accused Noriega of rigging the 1984 election of a docile civilian government and ordering the killing of a leading critic of the military—charges the general has denied.

Sensing a breach in the military, thousands of protesters took to the streets. They organized the broad-based National Civic Crusade to press for Noriega's removal, an investigation of the allegations against him and free elections to restore civilian supremacy.

DISSIDENT COLONEL ARRESTED

But Noriega moved to head off any dissent among active-duty officers by dispatching helicopters and troops to attack Diaz Herrera's home and arrest him.

Opposition activists now admit that they underestimated the general's staying power. But some believe that the sensational allegations and continuing street protests might still prompt disgruntled officers to act against Noriega if they ever find a leader.

"I don't think the murmur inside the institution has stopped," said Ricardo Arias Calderon, president of the Christian Democratic Party. "It just hasn't surfaced as a movement against Noriega."

Noriega has also countered the opposition with intense politicking among his men. He eats lunch daily with the high command, his advisers say, and visits the barracks often.

In public pep talks to the troops, he stresses professional solidarity and a twofold mission: to develop rural Panama through Peace Corps-style civic action projects and bolster national defense.

Under Noriega, the Defense Forces has set up Panama's first military academy and organized three new battalions for defense of the Panama Canal and the country's borders.

Institutional esprit de corps is reinforced by a network of social agencies that involve army wives in charity work and provide scholarships to army children.

Noriega's recent pep talks also provide a history lesson. In 1904, he says, the United States reduced Panama's army to a police force after helping Panama achieve its independence from Colombia. Today, he warns, the institution is threatened again by an "oligarchy" of Panamanian politicans backed by the United States, which has endorsed the Civic Crusade and suspended aid programs here.

"But they know that the slander and the offenses, the attacks and the pressures, have not produced a single scratch on the Defense Forces' solid wall of discipline, which has no price," Noriega declared at a military ceremony last month.

Renato Pereira, a civilian adviser to the general, said the conflict with Washington has strengthened Noriega by enabling him to pose as a shield against foreign interference.

"FIRMNESS OF CHARACTER"

"These attacks have allowed him to show a firmness of character that his fellow officers find reassuring," Pereira said. "If he had shown weakness, the Defense Forces would have expelled him."

Noriega and his aides do not speak openly about the financial incentives for loyalty. But well-informed civilians say that the Defense Forces and its individual officers hold interests in about 60% of Panama's commercial enterprises.

Income from these businesses is believed to be double the nominal annual defense budget of $200 million. It supplements officers' salaries, which range from $800 a month for lieutenants to $2,500 a month for colonels.

Military officers collect their own taxes on merchandise in the Colon Free Zone and on savings and loan companies in Panama. They monopolize the sale of explosives and profit from grain harvested by prison labor on the Pacific Island of Coiba.

The majors who command troops in Panama's 12 military zones have powers greater than those of provincial governors. They take hefty payments from bingo and liquor license fees as well as from off-duty police protection services, according to knowledgeable civilians.

"There are about 150 really juicy positions," said a former associate of Torrijos. "These officers have access to more wealth than they ever dreamed of. Some majors with $1,500 [monthly] salaries are living in $350,000 houses."

Military men began using rank for commercial gain under Torrijos. But the sources of corruption have multiplied since Noriega militarized the government's immigration and traffic police agencies in 1983.

In public statements before his arrest, Diaz Herrera admitted building his million-dollar mansion with his share in a racket that sold Panamanian visas and residence permits to thousands of Cuban immigrants for $15,000 each.

U.S. law enforcement officials are investigating allegations that Noriega himself has been skimming as much as 1.5% of the value of illegal drug shipments and drug-related money transfers passing through Panama for several years.

Most of the illicit wealth flowing to the military, Diaz Herrera said, is controlled by Noriega and a small group of trusted officers who manage its distribution.

"THEY'RE JUST STOCKHOLDERS"

"Most of the officers don't know where the money in their envelopes comes from," said a businessman with close ties to the military. "They aren't involved in the rackets. They're just stockholders in a company."

Opposition leaders believe Noriega's style of rule through competing lines of authority causes inevitable friction in the ranks, but they are uncertain how to exploit it.

The commander's inner circle is built around two colonels—the brothers Alberto and Lorenzo Purcell—and seven majors who served on his intelligence staff in the 1970s. Diaz Herrera identified them as a parallel advisory body that bypasses the high command.

Even the formal chain of authority was divided after Diaz Herrera was fired as chief of staff. Two colonels, Alberto Purcell and Elias Castillo, were promoted to fill the gap.

Analysts said Noriega's intent was to sow confusion by creating two heirs apparent one identified with the Defense Forces' business interests, the other with purely military matters.

In another case, Lt. Col. Eduardo Herrera Hassan, a respected officer visiting Panama from his diplomatic post in Israel, was suddenly put in charge of the riot police to control an anti-government rally on July 10.

Two civilians said Herrera complained to them about what happened that day. A lower-ranking officer, under direct orders from Noriega, ordered the police to fire shotguns at the protesters in order to tarnish Herrera's reputation and test his loyalty.

Some opposition strategists argue that the Defense Forces is so corrupt that no officer with enough power to move against Noriega can be trusted to accept subordination to civilian authority.

"You can't make a mafia into a professional army," said Miguel Antonio Bernal, a prominent dissident who favors all-out pressure to reduce the Defense Forces to a limited police role. "They are a bunch of gangsters, and they have to be looked at that way."

Other civilian leaders, accepting the armed forces at its current size, are counting on the right officers to lead a coup, clean up corruption and permit free elections.

SCOURGE ON THEIR HONOR

At least two "open letters" have circulated among officers in recent weeks, each appealing to them to dump Noriega as a scourge on their honor.

One letter to "friends in the armed forces" from Gabriel Lewis Galindo, a prominent industrialist in exile, urged "the many officers and troops who do not partake in any booty" to "stop letting yourselves be used" by a corrupt dictatorship.

The other, from Guillermo A. Cochez, a Christian Democratic lawmaker, said, "This struggle is not against the professional and democratic military that Panama deserves but against those who have discredited it."

Noriega has responded to such appeals by silencing news media that print them and trying to isolate his men from all but the most formal contact with outsiders. A prominent civilian said one officer told him he feared for his own life if the two were overheard talking politics.

These barriers, added to official secrecy about the military budget and exact troop strength, have only deepened a sense of ignorance among civilian leaders about inner politics in the Defense Forces.

"It's very difficult to know what's going on inside," Cochez said. "As far as we know, the entire Defense Forces will remain loyal to Noriega—until the moment he is overthrown."

Mr. D'AMATO. Mr. President, early in August, I, along with several of my colleagues, introduced legislation, S. 1614, eliminating military and most economic aid to Panama unless the President certifies to Congress that the Government of Panama has met four conditions:

First. That it has demonstrated substantial progress in the effort to assure civilian control over the armed forces and military leaders have been removed from nonmilitary activities and institutions;

Second. That it has established an independent investigation into allegation of illegal actions by members of the Panama Defense Forces;

Third. That a nonmilitary transitional government is in power; and

Fourth. That freedom of the press and all other constitutional guarantees to the Panamanian people have been restored.

I also cosponsored legislation offered by my good friend, the senior Senator from California, to prohibit the importation of sugars that are products of Panama into the United States unless the President certifies that the Government of Panama has met these same four conditions.

Senator DODD's nonbinding amendment makes it very clear to the leader of Panama, General Noriega, that this Congress intends to press for a cutoff of aid at the appropriate time. Before this session of the 100th Congress has adjourned, Congress will prohibit sugar imports from Panama as well as eliminate all military and government-directed economic aid to the representative military dictatorship of Panama unless these four conditions are met.

Let it be clear, however, that this action is not intended to rebuke the people of Panama. Rather, this legislation will demonstrate to the courageous people of that nation that the United States stands firmly at their side in their struggle for honest democracy and against the corrupt government illegally controlled by Gen. Manual Antonio Noriega.

For more than 4 years, our friends in Panama have suffered under one of the most corrupt and despotic regimes in all of Latin America. At the center of this web of intrigue and manipulation is General Noriega.

Just a few days ago, Noriega's strongarm squads, the Dobermans, broke up a peaceful demonstration held to mark the second anniversary of the torture and murder by decapitation of Dr. Hugo Spadafora, an outspoken critic of Noriega. The demonstrators' only crime: Expressing sympathy for a dead hero and his family, and making public their opposition to the dictator. One man was killed, many were wounded, and the remainder were terrorized.

A high-ranking official of the American Embassy who was watching the demonstration was arrested, roughed up and held incommunicado for many hours. Another American, a recently retired military officer, was publicly humiliated, along with his wife and children, and his car was stolen. Many of the peaceful demonstrators were beaten. Cars were smashed and burned. A CNN reporter who filmed this tragedy was threatened and later forced out of the country.

This, Mr. President is the way General Noriega and his thugs do business. Their message to the Panamanian people is clear: Do as we say or suffer the brutal consequences. Don't assemble in public. Don't speak your minds. Don't read anything except what we provide. Don't associate with foreigners. Do what the General says—or else.

In Panama, you can be arrested for waving a white handkerchief or marching in a peaceful procession. Your cars can be smashed and burned. You can be shot or beaten. In Panama, you must be quiet, bow down, and do as you are told.

But the Panamanian people have not stopped their protests. They have not bowed down. They have continued to defy their dictator. Every day, they are in the streets waving their banners and handkerchiefs. Every day, Panamanian housewives get out and beat on pots and pans to show their defiance. A recent Gallup poll showed that 75 percent of all Panamanians want Noriega to step down and leave politics to the civilians.

It is important for us to stand with them. We need to send a signal as clear as the overwhelming signs of opposition the Panamanians themselves continue to display with such daring and courage. One way to do that is to cutoff all aid that benefits the military rule of Panama.

If these four conditions are not met and we vote to cutoff aid, approximately $10 million remaining in the fiscal 1987 allocation and $13 million in proposed aid for 1988 would be affected. The amounts are small but the message will be great: We are no longer willing to support or indulge military repression and corrupt leaders in Panama.

In most of Latin America, our economic assistance is channeled through the private sector where it can have maximum impact. In Panama, most of it goes directly to the government. In other words, it passes through Noriega's hands and those of his cronies. An aid cutoff will have a minimal effect on the private sector. The results will be felt mainly in a government that treats the public treasury as its private purse. We can be confident that this aid cutoff will send a ringing message to its intended audience, where it will be heard loud and clear.

Let us be clear—and let our friends in Panama understand—that this prohibition on economic assistance is not a permanent action. We stand prepared to lift these restrictions once effective steps are taken to install a democratic civilian government in Panama. This means the permanent removal of the Panamanian military forces from the numerous nonmilitary activities in which some of them are now engaged.

I also want to see a speedy restoration of basic freedoms to the Panamanian people—the freedoms of the press, of assembly, and of free speech. Once these steps are taken, U.S. assistance will be resumed. Indeed, to help a young civilian government cleanup the mess that years of corrupt rule has created, the level of U.S. assistance should be not only restored, but possibly increased. I, for one, would certainly be prepared to actively pursue that possibility to help it restore honest and effective government to Panama.

However, the immediate need is to stop the flow of aid that is flowing into the pockets of Noriega and his corrupt cronies. We need to stand firm on the side of liberty, justice and democracy. I ask my colleagues in this Chamber to join me in sending this much-needed message to General Noriega and to the brave Panamanians who oppose him.

Mr. McCAIN. Mr. President, I thank my colleague from Connecticut for this kind words and again emphasize for those who feel that this resolution is not strong enough, there is a 45-day period, as my colleague from Connecticut just mentioned. This Senate will not go out of session until this issue is resolved one way or the other. I think it is entirely appropriate to allow a 45-day period.

I would also like to emphasize again this resolution is very specific, in fact in part A, section (2) where under policy it says:

> (2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough inves-

tigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

Those are very strong words. I hope that the message is received.

I yield.

Mr. DIXON. Mr. President, I understand that the Senator from Alaska [Mr. MURKOWSKI] is on his way to the floor. There is an amendment that he is prepared to discuss.

Does the Senator know, have we adopted the 1-hour time limitation on that amendment? I believe we did.

Mr. McCAIN. There is an understanding. There was an agreement.

Mr. DIXON. The Presiding Officer is indicating a 1-hour time limit equally divided.

Mr. McCAIN. Mr. President, I have an amendment that will take only about 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Is the Senator asking unanimous consent to set aside the previous amendment?

Mr. McCAIN. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized.

AMENDMENT NO. 724

Mr. McCAIN. Mr. President, I have an amendment that I intend to withdraw, but I want to bring up in order to bring to the attention of this body a situation that exists.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Arizona.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 724.

At an appropriate place in the bill, insert the following new section:

"Sec. xxx. (a) Effective 30 days after the date of enactment of this Act, no citizen or national of a country described in subsection (b) shall be permitted to lawfully enter the United States, either temporarily or permanently, unless prior to such entry such citizen or national has presented satisfactory evidence that such citizen or national has, within 12 months before such entry, been tested for the Human Immunodeficiency Virus (AIDS Virus) and such person does not carry that virus.

(b) A country referred to in subsection (a) is one that has as a requirement for entry into such country by a citizen or national of the United States that such United States citizen or national present evidence or certification that such United States citizen or national has been tested for or does not carry the Human Immunodeficiency Virus (AIDS Virus).".

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I will be brief on this amendment and then I will ask unanimous consent that it be taken down.

Recently an event took place concerning a port visit of a United States ship to Costa Rica. Because of some events that had taken place that were not directly related to that port visit, the Government of Costa Rica announced a regulation that requires crew members of any ship entering port in Costa Rica to present evidence of a negative AIDS test within the last year as a condition of disembarkation.

The U.S. Navy was informed of such a regulation and, of course, our Navy cannot conform to such a request nor do I believe in any way would it be appropriate to do so.

My amendment, Mr. President, says that if that regulation or imposition is placed on any American ship that is entering a foreign port, then it seems only fair and equitable that citizens of that nation who are entering the United States of America can also provide that same evidence.

I would hope that this issue could be resolved between the United States and the Government of Costa Rica in an equitable and fair fashion without this Senator's having to go to the floor of the Senate and propose an amendment which would, I think, cause certain discomfort to the citizens of that nation which is a close and good ally of our country.

At the same time, I find it an intolerable situation for any government to demand certification of each individual aboard that ship not having been afflicted with the AIDS virus or the HIV virus.

So, Mr. President, I hope that our friends and allies throughout the world who contemplate such action would be aware that this Senator stands ready to propose an amendment which would impose the same kind of regulation on their citizens visiting the United States as they would impose on American servicemen who are visiting their countries.

I would not think it is necessary to ask for approval of this amendment at this time, but I did want to bring up the issue and make very clear, at least, this Senator's concern and that of my colleagues that I have discussed this issue with.

Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I would like to take a few moments while we are waiting for the arrival of Senator MURKOWSKI to discuss the pending Dodd amendment and the issue of freedom of the press in Nicaragua.

All of us I believe were greatly encouraged over the announcement that the Sandinista government would allow La Prensa to reopen and begin publishing. We were told at that time that La Prensa would be placed under no censorship by the Nicaragua Government. We have also been informed that Radio Catholica was also allowed to begin rebroadcasting. Those measures are not only applauded but appreciated by Americans and those who are interested in freedom of the press and full implementation of the peace agreements.

Recently, in the last 48 hours or so, some rather disturbing information has been brought to light, including the information that Mr. Tomas Borge, who is the Interior Minister, gave when he met with radio news directors and other media persons. Mr. Borge said that the end of prior censorship "means that we depend on each medium to respect the will of the revolution of the people of Nicaragua and of the international community to stimulate peace, to contribute to peace and to not publish anything that works against peace, that destabilizes the process of peace, that provokes an economic destabilization inside the country."

Mr. President, I do not know how it looks to a lot of people, but that smacks of censorship of the worst kind. I do not believe that is in any way in compliance with the agreement signed by the President of Nicaragua, Mr. Daniel Ortega, that freedom of expression would be allowed in the country of Nicaraguan. That does not mean the kinds of restrictions that Mr. Borge has imposed. Also a bit of concern is Mr. Borge's characterization of La Prensa that "everyone knows it is funded by the CIA."

Mr. President, I do not know that La Prensa is funded by the CIA. I do know that the editor of La Prensa was assassinated by Somoza people; that it serves as a symbol of freedom of expression of the people of Nicaragua and, indeed, throughout Central America, and it is not an organization which lends itself to disparagement by anyone, much less Mr. Borge.

Mr. President, I mention this issue because I serve as the cochairman of the commission appointed by this body to monitor the progress of the peace agreements in Central America. Mr. President, I sound a warning at this time to my colleagues that it appears as if there may not be full compliance as far as freedom of expression is concerned, and I will use other opportunities to take the floor of the

Senate to address the other aspects of compliance or noncompliance with the other provisions of the August 7 agreement that was signed by the five Central American Presidents. But I urge the Government of Managua to refrain from any censorship of the Nicaraguan media, whether it be printed, radio, or television, and allow them the freedoms that are guaranteed to all peoples and have been most recently guaranteed by the signing of agreements on August 7 in Managua.

I yield at this time to my colleague from Alaska, who I believe has an amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank my friend from Arizona.

Mr. President, I understand that there is one, and perhaps two, amendments pending. I ask unanimous consent that they be set aside so that I may proceed with an amendment that I intend to offer on the defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I thank the Chair.

AMENDMENT NO. 725

(Purpose: To deny funds for projects in the United States that use the engineering, architectural, and construction services of any foreign country that does not provide such services of the United States access to the markets of the foreign country)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI], for himself and Mr. STEVENS, proposes an amendment number 725.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 192, between lines 11 and 12, insert the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

Mr. MURKOWSKI. Mr. President, I intend to offer an amendment today. It is a simple amendment. It simply says that firms from a country that will not allow American firms to bid—and I emphasize "bid"—on its government-funded projects cannot win U.S. military construction projects here in the United States. I want to point out—will not allow American firms to bid. We are not suggesting that they be allowed to get the job, but to simply have the opportunity to bid on the job.

Mr. President, my good friend from Georgia, Senator NUNN, unfortunately is not on the floor. But for the record I would like to note that we had hoped that they might accept the amendment, and it is still my hope that they might be inclined to vitiate the need for a rollcall vote as a consequence of this debate that is currently underway.

My rationale to suggest this is that the psychology associated with stacking votes loses something in the translation. Many of the Senators I know, due to the fact that their votes are going to be stacked later in the day, are not here. But I think we have a basic situation that we have to address from the standpoint of policy because as the debate proceeds we are going to get into whether or not this amendment belongs in the Defense Authorization Act.

Mr. President, I would suggest that because the very heart of our defense philosophy is alliance—that is, in partnership with our allies—it very much belongs in the Defense Authorization Act. The alliance is not strategic alone. The alliance goes beyond strategy. It is also economic. So the alliance connotates partnerships, it connotates fairness, it connotates equity and it extends strategic and military activity. And it does include economic activities. Make no mistake about it. Alliance depends upon the support of the United States and the people of the United States.

I say to you, Mr. President, that the United States is becoming more and more concerned with the selling of America. And it is no surprise.

I would offer in evidence an article from the December 22 Fortune magazine entitled "Competition, the Selling of America."

Why do I say the selling? Simply because we are unable to penetrate foreign markets in construction in the same manner that countries are able and welcomed to participate in construction markets in the United States. So the allegiance extends beyond strategic and military activities. It includes economic activities.

Alliance depends on the support of the peoples as I have indicated, and it will fail—it will fail, Mr. President—if the support erodes.

I contend with articles such as the one I just mentioned and an ad in the New York Times put out by a prominent business person, entitled "There is nothing wrong with America's foreign defense policy that a little backbone won't cure." This ad happens to be signed by Donald J. Trump. It is an open letter from Donald J. Trump on why America should stop paying to defend countries that can afford to defend themselves.

I think we have certainly a case in point in the Persian Gulf today. It takes no genius to figure out who are the major beneficiaries of our presence in the Persian Gulf. Our presence is there to keep the oil flowing. That is a correct position and one I support. But who are the beneficiaries? We get about 9 percent of our oil from the Persian Gulf; Western Europe, about 35 percent; our friends and allies, the Japanese, a significant portion, somewhere in the area of 65 percent. Who is paying the bill? The American taxpayer is paying the bill.

I think it is appropriate that we have participation.

So this brings us into the overall consideration of equity and fairness, markets that are closed to us, and markets that are open in this country.

I say to you, Mr. President, that there is a parallel because the American people are saying, hey, something is wrong. It is not a two-way strategy. It is not two-way trade. It is one-sided. And the one-sided nature of an alliance is causing erosion. And I ask unanimous consent to include, Mr. President, in the Record, those two articles to which I have referred.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Between the Lines of a Millionaire's Ad

(By Howard Kurtz)

New York, Sept. 1.—Donald J. Trump, the multimillionaire developer who has gotten into some well-publicized spats with city officials here, is using his cash to wade into the more exotic waters of foreign policy.

In full-page advertisements running Wednesday in The Washington Post, The New York Times and The Boston Globe, Trump argues that the United States should present Western Europe and Japan with a bill for America's efforts to safeguard the passage of oil tankers in the Persian Gulf.

When a prominent private person spends $94,801 to publicize such a message, it raises the age-old question: What's he running for?

"As far as I know, he has no plans to seek public office," said Trump spokesman Dan Kloress. "The reason Donald told me he's doing this is that he's sick and tired of seeing other countries take advantage of America."

Trump's wealth and flamboyance have made him a sought-after political property. New York Republican leaders tried unsuccessfully to draft him to run against Mayor Edward I. Koch (D) in 1989 or Gov. Mario M. Cuomo (D) in 1990. And a veteran Republican organizer in New Hampshire is circulating nominating petitions for Trump in the state's 1988 GOP presidential primary, although Trump said it was "highly unlikely" that he would run.

The Persian Gulf ad was developed with advertising executives who were part of the "Tuesday Team" that prepared the media ads for President Reagan's 1984 reelection campaign. But one of them, Tom Messner, said he knew of no larger political agenda, and Norma Foederer, an assistant at the Trump Organization, said any bid for office "was the furthest thing from his mind."

Trump "wrote the letter himself," Messner said. "The idea of doing it was his. We were merely expediters. We designed the ad, we recommended the newspapers, handled the money and placed it. Our creative input was minimal."

Trump, 41, developer of the $190 million Trump Tower here, an Atlantic City casino and other mega-developments, is a major contributor to local political campaigns.

In a running feud with Koch over whether the NBC television network will move to a Trump property on Manhattan's West Side or relocate to New Jersey, Trump has called the mayor a "moron," and his top advisers "jerks." Koch called Trump, who has been seeking tax abatements for the Manhattan property, "piggy."

Trump also embarrassed city officials recently by restoring a Central Park ice skating rink and turning a $500,000 profit on it after the city had botched the job.

There's Nothing Wrong With America's Foreign Defense Policy That a Little Backbone Can't Cure.

(An open letter from Donald J. Trump on why America should stop paying to defend countries that can afford to defend themselves)

To The American People: For decades, Japan and other nations have been taking advantage of the United States.

The saga continues unabated as we defend the Persian Gulf, an area of only marginal significance to the United States for its oil supplies, but one upon which Japan and others are almost totally dependent. Why are these nations not paying the United States for the human lives and billions of dollars we are losing to protect their interests? Saudi Arabia, a country whose very existence is in the hands of the United States, last week refused to allow us to use the mine sweepers (which are, sadly, far more advanced than ours) to police the Gulf. The world is laughing at America's politicians as we protect ships we don't own, carrying oil we don't need, destined for allies who won't help.

Over the years, the Japanese, unimpeded, by the huge costs of defending themselves (as long as the United States will do it for free), have built a strong and vibrant economy with unprecedented surpluses. They have brilliantly managed to maintain a weak yen against a strong dollar. This, coupled with our monumental spending of their, and others, defense, has moved Japan to the forefront of world economies.

Now that the tides are turning and the yen is becoming strong against the dollar, the Japanese are openly complaining and, in typical fashion, our politicians are reacting to these unjustified compliants.

It's time for us to end our vast deficits by making Japan, and others who can afford it, pay. Our world protection is worth hundreds of billions of dollars to these countries, and their stake in their protection is far greater than ours.

Make Japan, Saudi Arabia, and others pay for the protection we extend as allies. Let's help our farmers, our sick, our homeless by taking from some of the greatest profit machines ever created—machines created and nutured by us. "Tax" these wealthy nations, not America. End our huge deficits, reduce our taxes, and let America's economy grow unencumbered by the cost of defending those who can easily afford to pay us for the defense of their freedom. Let's not let our great country be laughed as anymore.

Sincerely,

Donald J. Trump.

The Selling Off of America

(By Jaclyn Fierman)

The Japanese are about to descend on Pearl Harbor again, not to bomb but to build. They will festoon this historic terrian with lagoons, golf courses, swimming pools, tennis courts, and luxury hotels—a billion-dollar vacationland that they hope will rival Waikiki. Set on a stretch of beach just west of the harbor, the resort will employ 6,000 people and add $24 million a year to state taxes. The most ambitious construction project in Hawaii's history, it dwarfs the considerable dabbling the Japanese have done there in the past.

The resort at Oahu's West Beach epitomizes the onslaught of foreign investment in the U.S. Real estate is only part of the action. Offshore investors are also buying up stocks, bonds, Treasury securities, assembly plants, factories, fish, forests, and whole companies, both large and small.

Just six years ago U.S. holdings abroad exceeded the value of foreign-owned assets in the U.S. by more than $100 billion. Today the positions are reversed. Foreign-owned companies are shaking the foundations of the U.S. construction industry, chipping away at domestic semiconductor manufacturers, and colliding with U.S. car producers. U.S. children are riding to school in buses operated by a Canadian company. American firemen depend on hydrants made by an Arab company in Illinois. Foreigners have bought land in practically every state, a piece of virtually every industry, and one-seventh of the federal debt.

Where did this immense foreign buying power come from? Raise your hands, America. The selling of America is, to a large extent, a byproduct of the nation's gargantuan trade deficit. The U.S. has stuffed the world's pockets with the dollars it pays for foreign products. The biggest beneficiary of America's import binge has been Japan. Despite its obsession with U.S. bagels, burgers, and diapers, Japan came out $50 billion ahead in trade with the U.S. last year and will achieve a surplus of $60 billion this year.

If Americans love foreign products, the foreigners, when it comes to assets, love to buy American. That was true even when the dollar was at nosebleed heights, and doubly so now that the dollar has dropped. The U.S. is cheap, a five-and-dime for countries whose currencies have appreciated up to 50% against the dollar in less than two years. Parking money in the bank no longer satisfies many investors. Increasingly they want U.S. stocks, bonds, and Treasury securities—known in the argot of international finance as portfolio investment. They also want bricks and mortar.

In total, foreigners owned about $1 trillion of U.S. assets at the end of last year. Foreign governments, which account for about 20% of that, put most of their money into U.S. Treasury securities. The hefty hunk of America held by foreign corporations and institutional and individual investors breaks down this way: $80 billion of Treasury securities, over $200 billion in corporate stocks and bonds, more than $180 billion in direct investments in U.S. companies, and more than $400 billion in bank deposits, agricultural land, and commercial properties.

The U.S. not only welcomes foreign money but courts it. Mayors and governors are bumping into each other in Europe and Asia at trade shows staged to woo foreign investment. Flat Rock, Michigan, seduced Mazda Motor into building an assembly plant there by waiving property taxes for 14 years. The state of Oklahoma has hired the London investment bank of Morgan Grenfell to lure capital from abroad.

And why not? Just as foreign investment by Coca-Cola, Ford, and other multinationals has benefited the rest of the world, capital coming the other way enriches the U.S. Says Lord Lever, a British businessman who served in the cabinets of Prime Ministers Harold Wilson and James Callaghan: "Europe got 20 times more out of American investment after the war than the multinationals did. Every country gains by productive investment."

A further word of comfort to the xenophobes: The U.S. is hardly being colonized. Foreigners own just 1% of U.S. real estate and farmland and claim less than 5% of corporate earnings. And while foreign companies get to repatriate their profits, the wages they pay and the value added in their manufacturing plants bolster America's gross national product.

Jobs are the most compelling reason to cheer about capital immigration. Foreign companies directly employ some three million Americans, or about 3 percent of the work force, and create jobs for countless more in shops where those workers spend their paychecks. Unsurprisingly, local merchants and politicans are the foreigners' biggest fans. Ever seen an authentic Japanese rock garden? One is in the works in Chattangooga, Tennessee. Looking for real Nuremberger bratwrust? Try Spartanburg, South Carolina.

The South, with its anti-union bias and cheap electric power, has long been a magnet for overseas investors and now claims one out of every four foreign jobs. Georgia, says Governor Joe Frank Harris, "has been blessed" with investment by more than 900 foreign companies. Texas counts 600 in Houston alone. New Yorkers, Californias, and Hawaiians are feeling the foreign invasion as overseas construction companies transform their skylines. In Alaska the Japanese control large parts of the fishing and timber industries and sign paychecks for 5 percent of the work force. High-tech industrial parks, some anchored by foreign companies like NEC Information System, have set once-depressed New England villages humming again.

The new foreign investor often is brassier and more belligerent than his predecesor of just ten years ago. Setting the style are men like Sir James Goldsmith, the controversial Anglo-French swashbuckler whose U.S. holdings include 3.5 million acres of timberland and 371 Grand Union supermarkets. "Foreign investment is an emotional issue in every country," he says. "But America, whether it likes it or not, is the only free world. It is bound to attract foreigners."

Goodyear plainly did not like it when the company attracted a $5-billion takeover bid from Goldsmith in November. Though Goldsmith eventually relented after Goodyear offered him $90 million more than he had paid for 11.5 percent of the company's stock, he forced management to retread. Goodyear put its oil and gas division on the block and has other restructuring plans in the works.

Another swaggering force from abroad is Sir Gordon White, commander of stateside expeditionary troops for Hanson Trust, the British holding company. One of Goldsmith's backers in the Goodyear assault, White burns plenty of rubber on his own. He has bought a bevy of U.S. companies that generate a total of $3 billion a year in sales for Hanson. Among them are Endicott Johnson, where American mothers drag their children for those dreaded "sensible" shoes, and Ball Park franks.

Early this year White made takeover history with the $930-million acquisition of SCM. White tendered for the company but withdrew the offer after a four-month scuffle. Then he turned around and bought control of SCM from arbitragers who had accumulated large blocks of stock during the tender offer. Some prominent members of the takeover community contend the ploy violated U.S. takeover laws, but the courts sided with White. He currently is sitting on a $5-billion war chest and says he is "quite prepared to act as a White knight [pun intended]" in future takeovers.

Britons have long been the biggest direct investors in the U.S. and now have more than $44 billion in American assets. (Direct, as opposed to portfolio, investment includes start-ups of new operations and purchases of more than 10% of a U.S. company.) The British spent a $6-billion bundle last year, nearly one-third of the $19.5 billion of foreign direct investment, and are at it again in 1986. Their purchases through September amounted to $8.7 billion. The Netherlands ranks second in direct investment. Led by Royal Dutch Shell, with its long-standing oil investments, Dutch holdings in the U.S. are worth over $36 billion.

Japan has amassed over $19 billion in direct investments—most of them in the Eighties—and has moved into third place. That total does not include all of Japan's towering real estate investments. This year alone, Japanese investors will spend more than $4 billion on real estate. The Japanese Economic Institute in Washington says Japanese corporations own 50% or more of at least 400 U.S. assembly or manufacturing companies, employing some 110,000 people.

Foreigners have also been busily fattening their portfolio investments. Institutional and individual investors increased their holdings of stocks and bonds by nearly $80 billion last year. Their appetite for corporate debt was voracious: Net purchases came to a stunning $49 billion, pushing the total value of their bonds over $80 billion. Foreigners also rode the Wall Street bull. They snatched up $30 billion in new shares, bringing their stock holdings to $126 billion.

Overseas investors boosted their holdings of Treasury securities 13% last year, to $220 billion. By taking so much of the national debt off America's hands, foreigners have made the government's enormous budget deficits less painful for the credit markets to absorb. Salmon Brothers estimates that foreign investors are buying up to 30% of the $190 billion in new government issues this year.

The biggest takers are the Japanese. The Security Dealers Association of Japan estimates that Japanese portfolio investments will be worth $45 billion at the end of the year, up from a trifling $300 million just four years ago. Japan's net purchases of Treasury securities have been averaging a steamy $8 billion a month. The pace has quickened since March, when the Japanese government eased restrictions on offshore investments by institutions. Pension funds can now send 30% of their assets abroad, up from 10% before. Japanese investors are also grabbing U.S. blue chips. Net stock purchases totaled $2 billion in the first half of this year.

Tax reform will make the U.S. even more attractive. The new maximum corporate tax rate—40% in 1987 and 34% in 1988—will be the lowest in the industrial world. Foreigners also see the U.S. as a technology hothouse and are supplying almost one-quarter of America's venture capital to ensure themselves a stake in new discoveries (see box, page 52).

America's attractiveness, though, transcends high-tech and taxes. For many companies, setting up shop in the U.S. is a strategic imperative. The potential customer base makes that of any other country look paltry. In 1983 Laidlaw Transportation Ltd. of Canada, the biggest school bus operator in North America, moved south of the border, where it saw considerably more room to grow. Business has quadrupled and Laidlaw now draws over $400 million—60% of its revenues—from U.S. Siemens, the Munich electronics giant, poured $750 million into U.S. operations this year to be closer to its biggest customers. Chairman Karlheinz Kaske says his company must have "a slice of the cake in the U.S." to achieve full economies of scale and cover its research-and-development budget.

Bertelsmann, Germany's leading media group, left New York publishing circles speechless recently when it paid almost $500 million—about 70 times fiscal 1986 earnings—for Doubleday. But relative to what Doubleday would have cost Bertelsmann if the Germans had bought when the dollar was high, the purchase was a steal. Says Bertelsmann Chairman Mark Woessner: "Anyone who wants to operate in the media market with enduring success must have a strong supporting leg in the U.S." Bertelsmann reckons it will pick up an extra $1.2 billion in sales by straddling the Atlantic, pushing total revenues over $5 billion.

For the discerning investor, America's vast industrial base has always been chockablock with good buys. Bargains abound, from Texas refineries to Silicon Valley start-ups. Says Hoong Bee Teck, assistant general manager of Singapore's Wearnes Technology: "We have been able to acquire several small computer-component manufacturers and make something of them because of our low overhead." U.S. movie theater owners, discouraged by competition from videocassette recorders and cable television, have been turning out the lights and dumping properties. But Garth Drabinsky, chairman of the Canadian company Cineplex, has put popcorn makers back to work in some 300 cinemas across the country. His U.S. theaters, among the most profitable in the nation, distinguish themselves with more hit movies, bubble gum-free seats, and fresher popcorn.

The growing protectionist mood in America has prompted some foreign manufacturers to lay down roots before their products get stuck behind costly or insurmountable trade barriers. First came the Japanese automakers; next, their suppliers. Others were not far behind. Goldstar, a South Korean company fined for dumping color televisions in the U.S., has built a TV and microwave-oven assembly plant in Huntsville, Alabama. Japanese semiconductor manufacturers, accused of dumping on American shores, have invested $200 million over the past 18 months to open or expand a dozen U.S. production facilities.

For wealthy individuals the U.S. is the safest haven in an unpredictable world.

They rest easier at night knowing their cash is stowed under the great American mattress. Residents of Hong Kong, which reverts to Chinese rule in 1997, have been socking away cash in the U.S. for years. Other Asians agree. Liem Sioe Liong, an Indonesian banker and manufacturer, bought San Francisco's Hibernia Bank (assets: $1.9 billion) because he wanted his money in a politically stable spot.

Chastened by the collapse in oil prices, Arabs are shunning things liquid. Rather than park their money in the bank—which is largely what OPEC did in the Seventies when it was awash in oil revenues—Arabs now are opting for long-term bonds and cash cows, businesses as dependable and all-American as department stores and health clubs. Typical of the new Arab spirit is Arabian Investment Banking Corp. Services, a Bahrain-based group that includes the ruling families, major banks, and businessmen in the Gulf States. Called Investcorp for short, the four-year-old firm took its first big plunge in the U.S. in 1984 when it bought Tiffany & Co. for $110 million. (It has since sold most of the elegant New York jewelry store to Tiffany management and General Electric Credit Corp.) Its less glamorous investments include Mueller Co., a 129-year-old company in Decatur, Illinois, that is the nation's premier fire hydrant producer. "We look for equity we can sell on the streets of Bahrain as easily as on the streets of New York," says Michael Merritt, the American who is Investcorp's executive director.

Perhaps no investment better embodies the security, stability, and yields that foreign investors covet than U.S. real estate. Translated literally, the Japanese word for real estate means immovable asset. A prized resource throughout the world, prime property is so scarce in Japan that it has become truly immovable—it rarely, if ever, changes hands. Starved for opportunities at home, Shuwa Corp., one of Japan's biggest real estate players, spent $620 million in October for Arco Plaza in Los Angeles and the ABC headquarters in New York. The British also have an appetite for real estate. They own close to $1 billion worth in Washington, D.C., alone, including a big piece of the Watergate complex.

The real estate research group at Salomon Brothers estimates that foreigners own $24 billion in developed U.S. property, still a minute share of the $2.3-trillion total but quadruple the level of 1980. Japan's stake, which includes nine of the 12 largest hotels on Waikiki, exceeds $4 billion. These numbers are only ballpark guesses by industry experts, who base their calculations on publicly announced deals and incomplete govermnment data. Actual foreign holdings almost surely are much higher.

It may surprise American homebuyers, but many foreigners find U.S. property dirt cheap. A square foot of prime midtown Manhattan office space is selling for around $350. A comparable square foot in Tokyo, if you can find one for sale, goes for $4,000. New York commercial real estate has been yielding about 7.5% lately, a shade higher than Treasury bills. Net operating income on many Tokyo buildings runs about 2%. Last year Japanese brokerage firms used the come-on "Let's Become Manhattan Landlords" to sell shares of New York's Rockefeller Center. They reportedly unloaded $175 million worth in one day.

The Japanese want to do more than just own U.S. properties; they want to build them. Last year their construction companies landed close to $2 billion in U.S. contracts, according to the trade publication *International Construction Week.* That was less than 1% of the total, but 18 times the amount in 1982 and more than enough to irk domestic competitors. Part of the reason they are winning contracts is that they can borrow money from Japanese banks at low interest rates and pass the savings along in their bids. They are also sticking their necks out as investors. "Japanese builders are willing to come in with U.S. developers and be their equity partners. That's very unusual," says Jack Shaffer, a director of Sonnenblick-Goldman, a New York mortgage banker that has ushered in much of the foreign real estate money.

Premier among the new Japanese builders is Kumagai Gumi, the most profitable construction company in Japan. Kumagai Gumi is expected to be the general contractor for the West Beach resort near Pearl Harbor and is also building hotels on Maui and Kauai. In New York City the company is participating in eight projects worth $1 billion with developer William Zeckendorf Jr. The most ambitious in the transformation of the old Madison Square Garden site from a parking lot into $550 million of commercial, retail, and residential space. Says Zeckendorf of his Japanese partners: "Unlike what others may tell you, I find they move quickly, have very specific goals, and are loyal."

Another groundbreaker in Hawaii is Halekulani Corp., a construction subsidiary of Japan's giant Mitsui Real Estate Development Co. Its 450-room hotel on Waikiki Beach, a $250-million project, employs 600 people. "Japan has no room for projects of this scale," say Shuhei Okuda, president of Halekulani. The company has another 300-room luxury hotel called Waikiki Parc under construction nearby.

The idea of foreigners buying and building U.S. skyscrapers hasn't seemed to faze Americans. What does rankle—as it does in most countries—is aliens owning farmland. They now own some 12.1 million acres of it in the U.S. Thirty states limit the amount foreigners can buy, and Minnesota forbids foreign ownership altogether. Kentucky still has a seldom enforced century-old law that allows the state to confiscate foreign-owned land unless the buyer becomes a U.S. citizen within eight years. Strictly speaking, Sheikh Hamdan bin Rashid al Maktoum of Dubai, who owns 1,010 acres in the state, will have to sell the land in seven years or become an American commoner.

The Japanese are beginning to arouse the same degree of xenophobia that the Arabs did at the height of OPEC's power. "We have closer cultural and linguistic ties with the English and the Dutch," says Jeffrey Rosensweig, international economist at the Federal Reserve Bank of Atlanta. "Their U.S. investments don't worry us as much as Asian or Arab investments." When a county manager in Virginia was planning a trip abroad to recruit foreign investment, executives of electronics and telecommunications firms in his area asked him to leave Asia off his itinerary. As one international investment banker puts it, "There are foreigners and there are foreigners."

Fujitsu discovered the meaning of that quip in October after announcing its $225 million bid for 80% of Fairchild Semiconductor, a maker of chips used in sophisticated weaponry. No one blinked when Schlumberger, a Netherlands Antilles company, bought Fairchild in 1979, but the government is making Fujitsu sweat while the National Security Council reviews the deal. "We're in a major competitive position with Japan," says Paul Freedenberg, an assistant secretary at the Commerce Department, which is reviewing the proposal. "We want to be careful."

Freedenberg should perhaps consider other things Fujitsu is bringing to the table, including new management skills. After studying more than 150 Japanese-owned companies in the U.S., Martin Starr of the Columbia business school found that their absentee rates were lower and product quality higher than at comparable American-owned companies. Half the Japanese-owned operations had defect rates of less than 0.5%. U.S.-owned factories generally have to chuck or repair between 3% and 5% of their output. Says Starr: "Japanese managers in the U.S. foster team spirit in the workers by linking incentives to group productivity."

In the South and Northeast, foreign investment has helped diversify and revive dying oil and mill towns. Spartanburg, South Carolina, whose survival 20 years ago was dependent on textiles and agriculture, is busy turning peach farms into industrial parks. Typical tenants: Alcoa Fujikura, a fiber-optics joint venture, and SEW Eurodrive, a West German maker of conveyor-belt drive systems.

Spartanburg has so many German and Swiss companies that locals have dubbed the stretch of Interstate 85 that runs through town the Autobahn. Some 7,000 Sparatans, as the natives are called, now work for 60 foreign companies that have invested $1 billion there. What foreigners find especially attractive is the town's cheap labor. "People here are willing to do a day's work for a day's pay," says Paul Foerster, executive vice president of operations at Spartanburg's Hoechst Fibers, a subsidiary of the German chemical giant, which plans to acquire Celanese for $2.85 billion.

While usually irreproachable, foreign investment can occasionally get so exploitative that it drains rather than creates capital. One egregious example is the fish-processing industry in Alaska. For most of the year a fleet of some 100 ships crowds Alaska's waters 50 miles offshore. The boats, over 300 feet long and six stories high, are floating factories that process Alaska's abundant supplies of pollock, cod, and other bottom fish. The flags they fly are foreign, mostly Japanese. Working aboard the ships are foreign nationals who pay no U.S. taxes. Alaska even loses out on sales of food and fuel. Foreign tankers resupply the ships in high-seas rendezvous.

The floating factories are equipped with processing lines that gut and skin the fish and with desalination plants that produce fresh water to wash them. The boats can turn five tons of fish worth $600 into one ton of a gloppy paste used to make surimi, a crab-meat substitute. Surimi sells for $3,000 a ton. Each ship can churn out 80 tons of paste a day.

Alaska has just begun to haul the processing industry onshore. State officials persuaded Nippon Suisan Kaisha and Taiyo Fisheries to invest in surimi plants at Dutch Harbor in the Aleutian Islands. The Nippon Suisan plant is wholly owned by the Japanese, and the Taiyo plant is a joint venture with Wards Cove, a Seattle company. Onshore revenues are minnowish compared with those offshore, but they buoy the economy and morale of Dutch Harbor. "They pay property taxes," says Mayor Paul Fuhs. "They pay state taxes. They have 40 employees who spend money here."

If we have convinced you by now that foreign investment is a great thing for America, let us add a caveat for mayors and governors: Look all these gift horses in the mouth. Don't give away more than you are going to get. You may even need—horrors—an MBA on your staff to run the numbers for you. Some areas seem so desperate for business that they will give away virtually anything to foreign or domestic corporations.

Consider the deal Toyota got to build an $800-million plant on the outskirts of Georgetown, Kentucky. When it begins churning out Camrys in 1988, Toyota will employ 3,000 people, add $24.4 million to bank deposits, and boost retail sales by $32.7 million a year. But at what price? The state promised Toyota 1,500 acres of free land, $47 million in new roads, and $65 million in employee training programs. Georgetown is stuck paying for new policemen and firemen and a sewer system to handle the 120 tons of waste Toyota will generate every day. The tab could run $8 million a year. Georgetown's current budget is only $2 million. "Let's just say the solons of Georgetown are not the most sophisticated financial minds around," sniffs Montgomery Securities auto analyst Ronald Glantz. (For more on Toyota, see Corporate Performance.)

As long as the U.S. sells itself intelligently, foreign investment is a windfall for the nation. When foreigners set up companies in the U.S., they increase not only output and employment but also the tax base, and that cuts down on the nation's budget deficit.

Granted, the U.S. gross national product would be higher if Americans owned all the production facilities on U.S. soil. If foreign investment were not replacing U.S. investment—if domestic auto producers, for example, were competitive enough to satisfy U.S. consumers—the country would be that much richer. But with General Motors laying off 29,000 workers in Michigan, Ohio, Missouri, and Illinois, the U.S. should roll out the red carpet for the seven Japanese manufacturers investing here.

A foreign-owned factory that hums around the clock is far preferable to an American-owned one that is shuttered. "I don't give a damn who owns my industries as long as they are successful," says British statesman Lord Lever. The U.S. shouldn't care either as long as the fire hydrants don't leak, the school buses run on time, and the cinema seats stay bubble gum free.

Mr. MURKOWSKI. Let me continue in the sense of reflecting and expanding on the alliance. We have demonstrated certainly our commitment to the free world is the alliance that we have with other countries. We have an army in Europe, a fleet in the Mediterranean, the Indian Ocean and the Pacific. Our allies can compete for contracts in our country in part because, Mr. President, we have helped defend those nations. In a partnership our firms should be able to compete for contracts in their countries.

This is really the sense of an alliance. That is why this belongs in this Department of Defense bill that is pending.

Our alliance is built upon a strong U.S. economy, an economy that furnishes goods and defenses to all members of the alliance, an economy that provides a market for our partners. And our economy, Mr. President, simply cannot do this if our partners can simply underbid our firms in our own country and our firms are not permitted to bid in theirs.

Let me tell you, Mr. President. I have met with the AGC. I have met with the architects, engineers, and professional groups. The construction market in the United States is eroding. It is getting smaller. The reason it is getting smaller is because foreign firms are open, as they should be, to come into our country and bid on contracts and take contracts. But the problem is where do our domestic firms go for relief if they cannot go to foreign countries? That is the problem, Mr. President. And it is a problem that appropriately belongs on all legislation affecting expenditures where we have Department of Defense contracts that are open to all comers, but there is no reciprocity.

The defense of the alliance depends in part on the U.S. industrial base and the help of the U.S. industrial base. If that base erodes because our businesses cannot bid on work overseas, the base upon which the alliance depends will erode. In other words, we will weaken our capability. We will not be able to contribute the strength that is apparent in our presence in Europe, the Mediterranean, the Indian Ocean, and the Pacific.

Make no mistake about it. We have somewhere between 30 and 40 ships in the Persian Gulf today—depending on whose figures you believe. We have approximately 15,000 personnel. Make no mistake about it, Mr. President. Our personnel are there to keep the oil flowing. Our personnel are in danger as evidenced by the special hazardous duty pay.

What we are saying to the world is we are prepared to have American military personnel die—die to keep the oil flowing. That is significant.

We have to be healthy, we have to have the availability of markets, and if the individual capacity of the support of the alliance is transferred overseas—in other words, if we weaken our economy to strengthen the economy of others—then our allies will no longer be able to depend upon us to provide the necessary support.

American engineering, construction, and architectural firms who have tried to do business particularly in Japan over the last 20 years have had the door basically slammed in their faces. Mr. President, they have been told in no uncertain terms that foreigners need not apply on public works projects in Japan. It is not because our firms are not competitive. On the whole, our firms are far superior in many aspects of construction and architectural technology to Japanese firms. But excellence alone has not opened the door to the Japanese construction market. The door to that market remains closed today, locked tight against foreign intrusion, as a result of closed Japanese bidding systems that exclude all but Japanese firms.

On the other hand, in the Pacific area and in the United States, Japanese firms have enjoyed free access to construction projects. To give some idea, to reflect on various activities: In Guam, at Andersen AFB we have approximately $11 million of military construction projects that have been awarded to a Japanese firm, Nippon Denwa; at our naval facility there, the contract for an ammunition wharf, $22 million, was awarded to Maeda Construction Co. Contracts on United States bases in Japan have been awarded to Japanese contractors in the amount of approximately $217 million. Only 5 percent of United States funded construction at our bases in Japan went to United States-owned firms.

Make no mistake about it: We are not talking about using labor. We are talking about our architects and construction firms being allowed to come into that country and bid. It is absolutely impossible to even process the license applications.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of contracts at United States bases in Japan, Guam, and the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Recent U.S. Milcon awards to Japanese firms on U.S. bases in United States and United States territories:

1. Fort Wainwright, AK: Housing project estimates $14 million: Firm: Konoike Construction:

Guam:

Andersen AFB:	
Aerial warehouse	$9,600,000
Shop addition	3,500,000
Firm: Nippon Denwa naval facility: Ammunition wharf (million)	22

Firm: Maeda construction.

Contracts on U.S. bases in Japan:

In fiscal year 1986 U.S. forces awarded $217 in Milcon, operation and maintenance arch./engineer and other facilities contracts.

Aggregate of contracts:	*Million*
Milcon and O&M	$182
Services	22
Architect/engineer	13
Total	217

Only $11 million or 5 percent went to U.S.-owned firms: 50 percent of architect/engineering to U.S. firms but it is done in the United States:

Breakdown:

Army:	*Million*
Milcon and Operation and Maintenance	$92.4
Architect/Engineer	10.7
Total	103.10

Only 5.3 percent of Milcon/O&M contracts went to U.S. firms ($4.9 million).

Navy:	*Million*
Facility projects (O&M Navy, and Marine Corp)	$68
Family housing (repair, maintenance)	11
Facilities support contract (grounds)	22
Architects/Engineer	2
Total	103

U.S. firms do 30 percent of design, no construction:

Air Force:	
Army O&M (108 projects)	$3.45
Air Force O&M (60 projects)	1.53
Army family housing (20 proj.)	2.19
AF family housing (11 proj.)	3.14
NAF 2 projects	.05
Architecture and engineering	00
Total	10.63

No contracts to U.S. firms.

Source: DOD.

Mr. MURKOWSKI. Mr. President, we also have a rather interesting contract in my State of Alaska. Fort Wainwright, the military base, is going to be gearing up for the new 6th Light Infantry Division. We anticipate that tomorrow there will be an award by the Corps of Engineers, an estimated $14 million renovation contract to Konoike Construction of Japan. I have no objection to this process. My objection is to the realism that there is no reciprocity.

In meeting with U.S. industry representatives in Japan, they have told me that they cannot even bid on U.S. Milcon projects. The market is basically closed. Subcontractor boycotts of U.S. firms is encouraged by the general contractors. We cannot even get an opportunity to bid on U.S. funded jobs in Japan. We are stymied. Japan simply represents, if you will, the realism that there is no reciprocity available to U.S. firms.

So the significance is real: Japanese participation in the construction market in the United States is growing by leaps and bounds. Japanese participation in the U.S. construction market was measured at $50 million in 1980. Today it is $2.2 billion.

There is no doubt that U.S. markets are open, and open to Japanese and other firms. Koreans are building a jail in my State. It is a turnkey jail. It comes over and is unloaded from Korean ships, and it is put up by a Korean construction company, using American labor, which is appropriate. About the only thing we are providing are the prisoners.

We have patiently sought to try to address this issue of reciprocity. We have negotiated to get the opportunity to participate in the Kansai airport project in Osaka, and the $62 billion in other public works projects that the Japanese are going to build in the coming decade.

I have addressed this matter in Tokyo and on the floor of the U.S. Senate. I have had personal meetings with Prime Minister Nakasone, and I am confident that even the Prime Minister cannot break through the bureaucracy, because of the relationship that exists between the private sector and the middle level of Japanese Government. We have met and talked and been patient, but nothing has happened. The time has come to act. We have the opportunity to act.

I am sure some of my colleagues will argue that it does not belong, but it does belong, because these are the things that undermine the relationships between allies. We must show consistency. We have been patient, and our patience is exhausted.

I commented briefly on the issue of Alaska and the fact that a bidder is being awarded a $13 million contract at Fort Wainwright in Fairbanks, AK. There were U.S. bidders. They were not as competitive. I am not opposing that. There was a lower U.S. bidder who was thrown out on a technicality. That is as it should be. I do not question that. But the fact is that a Japanese contractor, Konoike Construction, of Osaka, Japan, is going to be the award winner.

Mr. President, in my wildest imagination I could not have concocted a more convincing example of the lack of reciprocity in engineering and construction markets between United States and Japan because Konoike is expected to perform work on the Kansai project, which is in Konoike's hometown.

What an irony; the Army is about to award $13 million contract for construction of a U.S. military base to a Japanese firm, while Kansai airport, has become synonymous with the term "foreigners need not apply."

Well, the irony is not lost on this U.S. Senator from Alaska. Fairbanks is my home town, and I think it is an outrage that a firm from Osaka would win a contract in Fairbanks, AK, a Department of Defense contract, when firms from Fairbanks or any other American town, cannot even bid on contracts in Osaka on Japanese public works projects.

That—I address this to my colleagues—affects every Member of this body. Their contractors cannot bid, either. It is time to change the situation.

This amendment to the defense authorization bill can help keep this from happening. We are going to be sending a message. You can imagine what kind of message this body is going to send if this amendment is not adopted. As I said, it is simple, and I will repeat it: If any country will not allow American firms to bid on its Government-funded projects, then its firms cannot win U.S. military construction projects in the United States. It is quid pro quo. It is very simple.

We only want to bid—bid, not be handed jobs—on their public works projects. That is all. We are saying: "Come in; continue to bid on our Department of Defense public works projects but if you do, we want to be able to bid on projects in your home market. We have the right, and we have to enforce it.

I think my colleagues will agree that we have an extraordinary amount of leverage. I am sick and tired of the Government and the administration and the State Department, to a degree, not using leverage. The leverage is the market of the United States. It is the largest market in the world. We are the largest consumer of products made in Japan, Korea, and Taiwan. That is leverage. They have to have access to our market; and if we are not consistent in reminding them again and again that they must open up their markets to us, we are never going to achieve anything.

I have had conversations from time to time on this issue, with the folks at home, the construction industry in the United States, the professional architects and engineers, and they are all fed up. They have been losing market shares domestically, and they say, "We have no place to turn but the Congress of the United States."

We have a military appropriations budget for overseas construction that is out there. Our problem is getting into the Japanese market. The first excuse that is used in the conversation is "You have no experience in the Japanese market."

We are not tying in a mandatory requirement on the Department of Defense that they have to give contracts in Japan on our bases to United States construction firms. However, it would certainly be an ideal way for the United States first to get experience overseas, if the United States firms had an opportunity to work on Department of Defense contracts. We are not talking about labor, Mr. President. When a Japanese firm comes to the United States and does a job it does not bring in Japanese labor. It uses Japanese architects, engineers, designers, contractors, and so forth. We are only asking for the same right.

So, Mr. President, I would hope that consideration would be given.

We have a very, very significant problem in this country in losing market shares. We have a national security consideration. These are important things.

In the amendment I have attempted to provide certain safeguards and it is important I think to outline that we are not tying the hands of our military.

The way the amendment would work, Mr. President, is the U.S. trade representative shall determine which foreign countries deny fair and equitable market opportunities for U.S. companies seeking to participate in foreign government funded, that is, public works projects.

The USTR has already compiled an annual report on foreign trade barriers.

This amendment, would not require anything new from the USTR other than the publication of the listed nations in the Federal Register. Funds appropriated pursuant to authorization in this act shall not be used for any domestic Milcon project using foreign services from countries listed by the USTR unless the Secretary of Defense determines that, one, it would not be in the national interest; two, the services offered by U.S. firms, or firms from countries not on the USTR list, are not of a satisfactory class or quality of the services offered by firms from a list of countries, or are unavailable from U.S. firms or firms in other countries; three, The exclusion of certain foreign services would require that the project cost more than 20 percent.

So I would like to point out to my colleagues that we have looked at realism. We have looked at exceptions and we have I think constructed a responsible amendment that addresses the problems certainly as they exist as far as the issue of equity is concerned.

I am sure that my colleague from Illinois would like to comment from the particular point of view of the Department of Defense at this time. So I would reserve my remaining time to respond or answer questions or whatever.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska has 7 minutes.

Mr. DIXON. Mr. President, I will not take much time on this side regarding this amendment.

May I first, Mr. President, ask unanimous consent, totally unrelated to this amendment, to provide that no amendments in the second degree may be considered in connection with the Symms amendment which is already stacked for a vote later today?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. I thank the Chair.

Mr. President, I think that the Senator from Alaska has presented a very compelling case regarding his concerns about reciprocity with other countries in connection with these kinds of construction projects.

Regrettably, the Department of Defense has indicated to us that they are opposed to the adoption of this amendment on the DOD authorization bill because it is an extraneous matter relating to trade issues.

I would like to point out to my colleagues in the U.S. Senate that my warm friend, the distinguished Senator from Alaska, on an earlier occasion this year in connection with the debate on the trade bill persuaded the managers of the trade bill to take an amendment which can be found in the CONGRESSIONAL RECORD at page S8711 of the CONGRESSIONAL RECORD of June 25, of this year, which provided as follows, and it is entitled "Investigation of Barriers in Japan to Certain United States Services."

> The United States Trade Representative shall immediately initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural engineering, construction, and consulting services in Japan.

We have already adopted that amendment, Mr. President.

With all due deference to my distinguished colleague who has so eloquently expressed his concerns here, I would have to suggest that the proper place for that is in the trade bill and the proper manner to address that is in the discussions between our country and Japan in connection with those problems, and I believe that it is fair to state that our trade representative has already received the message.

Now, I understand the concerns of my friend from Alaska. But if we start putting every kind of trade concern that everyone in the U.S. Senate may have about the inconsistent practices of Japan and other countries on this DOD authorization bill we are going to have tremendous difficulties, we believe, in the conference between the two Houses.

Now, I think I am compelled to say that the amendment is extraneous to the DOD. The Trade Act of 1974 provides a means to assess unfair trade practices and provides the President the authority to retaliate. A similar provision in the pending trade bill that I have already referred to would direct the USTR to act under the authority of the Trade Act of 1974.

We have already directed the trade representative in June of this year when we adopted the distinguished Senator's amendment to act.

The Congress is inconsistent regarding open markets for DOD Milcon projects. Last year in the continuing we directed engine ocean dredging to be performed by U.S. firms unless it was 20 percent more costly. We directed all architect work for Milcon in Japan and NATO countries be performed by United States firms when the value of the contract exceeded $500,000. So we have done a lot of these things in the past.

I think it is a mistake to tolerate proliferation of this kind of conduct. So I would reluctantly suggest, Mr. President, that those of us who are managing the bill feel that this ought not to be adopted as an amendment to this bill.

I support, frankly, what the Senator from Alaska wants to do. I think he has appropriately done it in the proper manner on the trade bill in June of this year.

In view of the fact that the Department of Defense is opposed to the amendment, I feel that I would reluctantly have to offer a motion to table at the appropriate time, Mr. President. I do not want to foreclose my friend from Alaska closing on the question. I do not think there is anyone else here on this side who wants to be heard on the issue, Mr. President.

So I yield back the remainder of the time in opposition to the amendment unless my friend from Arizona wants to use it and suggest at an appropriate time, in view of my personal warm regard for the Senator from Alaska and my general support with the concept of what he is doing, but because I believe it is properly in the trade bill where he has already put it in June, at the appropriate moment I will reluctantly offer the motion to table.

I do not want to cut off the debate on his time. We withhold that unless he concludes.

Mr. MURKOWSKI. I wonder if I might direct a question to my good friend, the Senator from Illinois, who I think has certainly expressed the position of the Department of Defense and with his permission I wonder if I could pose a question?

Mr. DIXON. I am awfully sorry. May I apologize to the Senator from Alaska? My aide was talking to me about another question.

Mr. MURKOWSKI. Mr. President, I was simply referring to whether the Senator would be inclined to respond to some questions that I might bring to his attention concerning the statements he made in defense of the Department of Defense's opposition to my amendment.

Mr. DIXON. I will be glad to accommodate the Senator by attempting to answer any questions he might have. But may I caution him that I have no personal objection to what he is trying to do. My concern is I think he ought to do it on the trade bill. That is all.

Mr. MURKOWSKI. Well, if that is an affirmative answer, then I would proceed. I am pleased to have my good friend and colleague from Illinois acknowledge, from the standpoint of the psychology of my amendment, that he is supportive, and I understand his distinction.

However, I would ask my colleague if he is not aware that there is certain opposition in the administration to the trade bill and there is no necessary assurance that the trade bill will become the law of the land.

Mr. DIXON. I would have to concede that. Although I want to say to the Senator from Alaska that this Senator is a conferee on the trade bill and I earnestly hope that we can enter into very serious discussions with the administration, and particularly with Clayton Yeutter, the Trade Representative, who I greatly admire and who I think personally would like to see a bill emerge from this session of Congress.

I really believe that in the end there will be a trade bill, because I think we can resolve our differences with the administration and ultimately produce an acceptable bill.

Mr. MURKOWSKI. I appreciate the assurance that you as a conferee are going to support the trade bill.

I wonder, as you use the argument that this particular amendment is extraneous, if you feel it is inappropriate to separate the cost of defense from our budget deficit, our trade problems? And, in fact, to separate it from the argument that I used early in my debate on the merits of the alliance concept; and the fact, that the partnership goes beyond defense, it considers fairness, equity and also the continued strength of our country; and the very fact that we are excluded, I think my colleague from Illinois would certainly agree, from certain markets while we have welcomed other countries to come into our markets quite freely.

So while perhaps the Defense Department would take the argument that this, is an extraneous matter which does not the Senator from Illinois feel, as he stated, that while USTR may have gotten the message, that perhaps our friends in Japan have not gotten the message because we see no progress? I think he would concur.

Mr. DIXON. I do not have any reason to argue with my friend from Alaska about that. I hope our friends from Japan are getting the message more and more each day about our dissatisfaction with the unfair relationship that we often experience with them on a variety of subjects, including the one that the Senator is addressing here.

I want to make it perfectly clear to him again that the fundamental equities involved in what he has discussed appeal to this Senator. Unfortunately, the Department of Defense feels that that is extraneous to this bill, and I do believe that it is more properly dealt with in trade legislation.

Mr. MURKOWSKI. I wonder if my friend from Illinois would give us his opinion on what he would anticipate the message of the defeat of this amendment would be to our friends in Japan, as they see us taking up a Department of Defense bill and then debating the merits of whether it is extraneous or not. I wonder if indeed we would not appear to have taken up a very difficult issue and decided that we are not going to press them on it or extend our requests to any action-oriented alternatives. This amendment offers that alternative.

Mr. DIXON. May I say to my friend from Alaska that I think that the point we are making here—and I hope it is very clear in the RECORD——

The PRESIDING OFFICER. Will the Senator withhold?

The Senator from Alaska's time is drawing to a close. Do you wish the Senator from Illinios to respond on your time or his time?

Mr. DIXON. The Senator from Illinois does not want to use his time. With all affection for the Senator from Alaska, we think we have devoted enough time to the subject matter on this side. I have only withheld offering a motion to table out of courtesy to my colleague, who may want to close.

The PRESIDING OFFICER. The Senator from Alaska has 2 minutes and 25 seconds remaining.

Mr. MURKOWSKI. I would appeal to the Chair. In the manner in which the questions were posed, all the time is to be charged to me? That was not my understanding, although I did not ask for a clarification.

The PRESIDING OFFICER. If the Senator from Alaska asks that time be taken from the time of the Senator from Illinois, then with a unanimous-consent request, that is possible.

Mr. MURKOWSKI. I wonder if the Senator from Illinois would be willing to share the time taken in the questions so it is not all charged to me.

The PRESIDING OFFICER. The Senator has declined that up to this point.

Mr. DIXON. I want to be very courteous, Mr. President, to my colleague from Alaska. The difficulty I have here is, I have no problem with his inherent concern, but the Department of Defense does not want to accept the amendment. I think I have made my position clear. My friend from Arizona wanted to make some comments in opposition, as well.

But I do not feel inclined unduly to extend the time on a subject matter of this kind when our concern is only that it has already been dealt with on the trade bill. And while I have no problem with the subject matter at hand, we do not think it belongs on the Department of Defense authorization bill.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. MURKOWSKI. I wonder if my friend from Illinois would simply acknowledge my request to split the time on the questions only, which would give me about 2½ minutes.

I trust, Mr. President, this time is not running on my time.

The PRESIDING OFFICER. It is running on your time.

Mr. MURKOWSKI. I asked the question. I do not know how the Chair ruled, but it would seem inequitable that a private discussion going on should be on my time.

The PRESIDING OFFICER. Is there objection to the Senator from Alaska's request?

Mr. DIXON. I am sorry. What is the question?

The PRESIDING OFFICER. The Senator from Alaska has asked that the time that he is using wherein he is propounding questions to the Senator from Illinois be divided 50 percent on his time, 50 percent on the Senator from Alaska's time.

Mr. DIXON. If my friend from Alaska concludes his questions in 5 more minutes, I will give him five of mine.

Mr. MURKOWSKI. I have no intention of further questions. I just request that the time that we already used in questions be split equally.

Mr. DIXON. I ask unanimous consent that an additional 5 minutes be given to the Senator from Alaska for the presentation of his point of view.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI. I thank my colleague from Illinois.

I ask unanimous consent that Senator STEVENS be added to this amendment.

The PRESIDING OFFICER. Without objection, that is the order.

The Senator has 6½ minutes time remaining.

Mr. WARNER. I would ask my good friend if he would yield me so much time as I need to say I support his position.

Mr. MURKOWSKI. I so yield.

Mr. WARNER. The managers of the bill are now looking at what the options may be in terms of a voice vote vice a rollcall vote.

I commend my distinguished colleague for bringing this to the attention of the Senate. It is a sound policy judgment, and you have my strongest support.

Mr. MURKOWSKI. I thank the senior Senator from Virginia.

If I may, Mr. President, in my remaining time, address a question that has come before this body, and that is that the Department of Defense bill is not the place to attach a trade agreement.

I have already addressed that at great length under the concept of just what alliance with our allies means. It means partnership, it means fairness, it means equity, and it extends beyond strategic and military activities. Because if we have difficulties with our relationship based on economics, it undermines——

Mr. DIXON. Mr. President, I wonder if my friend from Alaska would yield for a moment for some brief remarks by the Senator from Arizona and we may have a voice vote perhaps on this question. I will be discussing it with the Senator from Alaska while the Senator from Arizona is talking.

Mr. MURKOWSKI. I yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

I just want to say that I share deeply and philosophically the intention of the Senator from Alaska's amendment here. In fact, I was proud to be a cosponsor of the amendment he placed on the trade bill which we passed not too long ago, which is now in conference.

I certainly understand his concern, particularly in the State of Alaska where there has been significant penetration by Japanese corporations. At the same time, the Japanese are about to begin construction of around an $8 billion project, an airport, the Kansai Airport, at Osaka, and the United States' participation so far has been to the tune of $1.4 million. There is clear protectionism here. There is a clear case that we are being very unfairly treated.

At the same time, I share the concerns of my distinguished colleague from Illinois as to whether or not it is appropriate to have this placed on the authorization bill.

I also have a little concern particularly about the aspect of the amendment that DOD would be precluded from contracting with construction firms of such nations for projects in U.S. territories unless the cost of alternative firms would be 20 percent greater. If it is 19 percent greater, it seems to me that we could impose a very large cost on the taxpayers.

It seems to me, and I am sure that my colleage from Alaska had very good reason for coming up with the 20-percent number—and there is historical legislative precedence for it in other bills—it still seems to me that is a pretty large number.

Let me say that I share his views that we have to do most everything we can to get back on a level playing field, which is clearly being denied us by the Japanese in these areas. I know it is a particularly sensitive issue in the State of Alaska. But I would also voice my concerns about whether it is appropriate to be placed on this bill or not.

I would suggest to my friend from Alaska that if he thinks that the trade bill will be vetoed, I can assure him that this bill is going to be vetoed if it contains the Nunn-Levin amendment.

I certainly understand his desire to have every vehicle possible in order to ensure passage, but the one thing I can also assure him of is that this bill is now a prime candidate, perhaps more so than the trade bill itself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MURKOWSKI. In answer to my colleague, with regard to 20 percent, that has a precedent. That is why it was chosen.

I would like to thank my friend from Illinois for agreeing to a vote. Naturally, I have some concerns about the disposition of this bill in conference, but there it will be judged on its merits, concerning the signals we will be sending to our neighbors should this be accepted.

Let me conclude, Mr. President, by reflecting on the basic argument of the Department of Defense that this should not be in this bill. They do not feel they should carry the weight of trade on their shoulders, that we have the U.S. Trade Representative.

We are not asking the Department of Defense, Mr. President, to carry more than their fair share. We are simply asking them to do their part. The USTR cannot do it alone. We have seen that. Nor can industry. The battle against foreign trade barriers takes place on many fronts and DOD simply should not be excused from the fight.

If you have any question about how it works in other countries, one only has to observe the policies of the Japanese Government. They work all their agencies in the matter in close interaction and harmony for whatever the objective is.

I would state our objective is an honorable one. It is simply a question of reciprocity. We are not asking for an unfair advantage, but simply a level playing field. Before us we have the opportunity to send our friends a very important message.

We continue to welcome them to come in to our country with their architects and their engineers, to be competitive, to participate in bids. But give us the same opportunity.

The vast, lucrative American military construction markets will remain open to foreign firms, as it should be. But in this amendment we are saying it will remain open only as long as foreign public works projects and construction markets are opened to American firms. It is a clear and simple, compelling message that must be sent. It is appropriate that it be sent from this body. The situation is not going to get any better unless we act now.

The time, Mr. President, is right. This is the right bill. I urge adoption of the amendment. I would ask if the time is appropriate for a voice vote.

The PRESIDING OFFICER. The time of the Senator has expired.

Does the Senator from Georgia wish to use more of his time?

Mr. NUNN. Mr. President, I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 725) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The DEPUTY PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GLENN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GLENN. Mr. President, what is the pending business?

The DEPUTY PRESIDENT pro tempore. The question recurs on Amendment No. 723 of the Senator from Connecticut.

Mr. GLENN. Mr. President, I ask unanimous consent that the pending business be set aside so we might take up other amendments.

The DEPUTY PRESIDENT pro tempore. Is there objection?

The Senator from Arizona.

Mr. McCAIN. I am not sure that is the agreed-upon procedure to set aside the other amendments, Mr. President.

Mr. GLENN. Temporarily set aside with the amendments set aside taking precedence after the two amendments have been disposed of.

The DEPUTY PRESIDENT pro tempore. Is there objection to the request of the Senator from Ohio? Without objection, it is so ordered.

AMENDMENT NO. 726

(Purpose: To amend section 2634(a) of title 10, United States Code, to permit the leased vehicle of a member of the Armed Forces to be transported at Government expense in connection with a permanent change of station)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The DEPUTY PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposes an amendment numbered 726.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 15 and 16, insert the following new section:

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES.

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "is owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

Mr. GLENN. Mr. President, this amendment redresses a matter that I believe was overlooked in previous action. In fact it might even result from a change in social condition as to who leases automobiles and who does not.

What this amendment does is it authorizes military members to ship leased vehicles when they are reassigned overseas if there are otherwise rank and duty station restrictions, and some still do pertain. We do not upset those restrictions at all but where they otherwise would not be authorized to ship overseas a privately owned vehicle, then they could just as well have a leased vehicle. Senator WILSON and Senator CHILES join me in sponsoring this amendment.

Mr. President, this amendment is a result of an inquiry from a constituent of Senator CHILES, as a matter of fact, who raised the question about why military personnel are allowed to ship only privately owned and not leased vehicles when they are reassigned overseas. Senator CHILES referred this question to me as the chairman of the Subcommittee on Manpower and Personnel of the Senate Armed Services Committee. We looked into it and found that under the current statute military members are authorized to ship only POV's—private owned vehicles. This authority does cover the vast majority of military moves. Almost everyone is covered. But we also found that there is a small though growing number of military personnel who lease instead of purchase automobiles. This is particularly true in the enlisted ranks where maybe they do not have the amount of a downpayment or do not want to take on that kind of indebtedness on a more limited pay scale and so they lease vehicles.

Now, under current statute these personnel are precluded from Government shipment of their leased vehicles. I see no reason, nor did our subcommittee see any reason, why we should not provide for these people in the same manner as those people who buy their vehicles. This amendment would provide such authority which would be further regulated by travel directives issued by the Department of Defense to ensure appropriate legal requirements are met.

Mr. President, although this amendment affects a relatively small number of military personnel, I believe it is important because it responds to a valid and a growing need.

I wish to thank Senator CHILES for his sensitivity to the needs of our military personnel and for bringing this matter to my attention.

This amendment affirms that we listen to our constituents and we take responsible action when it is appropriate. I believe this is responsible action and I urge my colleagues to support this amendment. I believe it has been cleared on both sides of the asile.

Mr. McCAIN. I ask unanimous consent to be made a cosponsor of this amendment.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I rise to support the amendment. Not only does this side agree with it but is very supportive of it. I think it is an important amendment. Even though, as my distinguished friend from Ohio pointed out, it may affect a small number of military personnel at this time, I do not think there is any doubt that the leasing business is one which continues to grow. I also am gratified to note that it probably affects the lowest-ranking or lower-ranking individuals in the armed services who are unable to purchase an automobile and are required to lease, and although unintentional the regulations as they are are discriminatory in nature.

I again express my appreciation to Senator GLENN and Senator WILSON for their stewardship of the Manpower and Personnel Subcommittee on which I am privileged to serve. I think this amendment is an example of their attention and concern and commitment to the morale of the men and women who are serving in the armed services, and I am pleased to support this amendment.

Mr. GLENN. I thank the distinguished Senator.

The DEPUTY PRESIDENT pro tempore. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio [Mr. GLENN].

The amendment (No. 726) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The DEPUTY PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I now ask unanimous consent that the pending amendment be laid aside so that I may offer a different amendment.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from California is recognized.

Mr. WILSON. Thank you, Mr. President.

AMENDMENT NO. 727

Purpose: To authorize the Secretary of the Air Force to enter into a real property exchange with the County of San Diego, California.

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The DEPUTY PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 727.

Mr. WILSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The DEPUTY PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (and improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) REPORT.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be enterd into by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

Mr. WILSON. Mr. President, this amendment is a very simple straightforward request for authority for the Secretary of the Air Force to enter into a land exchange with the County of San Diego in the State of California for the purpose of allowing the county to gain needed acreage for the construction of additional jail facilities.

The background for this request has to do with a situation not unfamiliar to Senators all over the country. Courts have been impressing upon local governments the need to expand jail facilities or face drastic court ordered action.

The situation in San Diego County is that on February 11, 1986, the board of supervisors declared an emergency in the county because of severe overcrowding of existing jail facilities.

On September 30, 1984, there were 4,195 inmates in custody representing 1,800 or 81.2 percent over the rated capacity of the existing jail facility.

There has been a 30-percent increase in the last year alone.

What that has led to, Mr. President, is the ironic and distinctly unacceptable situation that the sheriff has been compelled to release without booking more than 1,400 arrested suspects per month due to the lack of space, and current projections indicate that 6,500 additional adult detention beds will be needed by the year 2005 based upon conservative population projections and projections as to the criminal population requiring incarceration.

So, in short, the county and the city are in desperate need of additional jail space and along with the help of the Department of Defense they have located land that could be used to construct a new detention facility. This land, consisting of 22 acres adjacent to Air Force Plant 19 within the city of San Diego, is currently being used for outside storage and parking.

The county and the city are offering land that they currently control in exchange for this property and this amendment will simply authorize the Secretary of the Air Force to enter into negotiations for the eventual exchange of this property and, furthermore, after agreement is reached, the agreement would be sent with a report back to the House and Senate Armed Services Committee. No action could be taken until 30 days had elapsed after that report.

This is the kind of thing that I think we should be encouraging where the Federal Government and the Department of Defense find that they do have property that is surplus to the immediate need and they are offered in exchange of other property that can equally as well or better discharge their requirements and at the same time put them in a position to very substantially be a good neighbor to a host of local governments involved.

I know of no objection to this legislation. I would add only one point, Mr. President.

It is critical that we act in this year because the State of California, In response to this very urgent need, has authorized funding. But unless action is taken by the county, they will not be able to avail themselves of this if they have not acted within the fiscal year.

The DEPUTY PRESIDENT pro tempore. Is there further debate on the amendment.

Mr. McCAIN. Mr. President, I rise in strong support of the amendment.

I am appreciative, for more than passing reasons, that the Senator from California—who I might remind our colleagues was once mayor of the lovely city of San Diego and has a keen appreciation for the needs of San Diego County as well as the rest of his State—is making these facilities available and he has, I think, compellingly made the case for additional facilities.

As a Senator from a neighboring State, a considerable portion of the population of my State having a tendency to migrate to San Diego during the summer months, I am of course concerned about the treatment accorded to my fellow citizens, no matter what circumstances they might find themselves when they are vacationing in San Diego.

And it is a well-known fact in the Southwest—and my friend, Senator DECONCINI will corroborate with me—that on occasion there has been scurrilous statements made and various insults made toward the citizens of my State who have been generous enough to spend a great deal of our State's income over in San Diego.

In fact, it has been to the point where, on occasion, there have been songs played over the radio stations in San Diego casting aspersions on the ability of citizens of my State to absorb the sun and certain personal traits that they might have such as littering or other problems created for the city of San Diego.

So, I hope, along with the amendment, that I can receive the assurance of my distinguished friend and colleague from California that if any of my constituents happen to find themselves as guests of this new facility which is contemplated that they can receive the kind and hospitable reception as opposed to some of the treatment they have received from time to time. Rather than the well-deserved gratitude they should have received for the enormous expenditure of Arizona money, on occasion there has been a less than grateful response from the citizens of San Diego. I hope that my friend can put to rest any concerns that I might have in that area.

Mr. WILSON. Mr. President, let me try to allay the concerns of my friend from Arizona. I see both the Senators from Arizona on the floor and they are both men of great perspicacity. It is a common characteristic of these two that they have wisely sought recreation in my home city. Indeed, I believe both are property owners there, and we are proud to claim them as part-time residents.

With respect to the other residents of Arizona, it is quite true that for many, many years San Diego has enjoyed this sort of a westward migration. It is largely seasonal, but we actually find there are residents of Arizona present in San Diego at almost all times of the year.

Indeed, some candidates for high office in Arizona have even taken to advertising in the public media of the city of San Diego. It is even rumored that one candidate for Arizona office was circulating a petition on the beaches at Mission Beach. We are delighted with the opportunity to play host to our visitors and friends.

I can simply say to my friend from Arizona that, with respect to those hopefully few instances when a criminal element is visiting from Arizona, we hope that they will be accorded humane, if firm, treatment by the local authorities and placed in facilities that I trust will be humane if not too comfortable.

I would simply say that while I am delighted to have the support of both my friends from Arizona—and I am presuming that I have that of the senior Senator as well as the junior Senator—it seems to me only fair that they should make some recompense, having stolen our water.

Mr. DECONCINI. Will the Senator from California yield?

Mr. WILSON. I just wanted to see whether you were paying attention.

Yes, I will be happy to yield.

Mr. DECONCINI. I join my colleague from Arizona in his concern about our constituents who go there.

But I happen to have had a little experience—and I am glad not on the end of breaking any criminal laws—of visiting the jails in San Diego, both the Federal one and the county and city jail there. You have a new Federal jail, or at least it is about 7 years old now.

But you do need new facilities. I think it is very important, and I compliment the Senator from California, to move and get some of these things created, because you are in one of the fastest growing areas.

People from Arizona are ideal citizens, so I am not as worried as my colleague is that any of them will get picked up for anything. But I really have had firsthand experience.

As a matter of fact, I just placed a call to the district attorney there, Ed Miller, who is a friend of yours and a longtime friend of mine, not to talk about the jail, but to talk about some criminal laws that I wanted to confer with him about. He has mentioned to me on many occasions the problem the Senator from California has brought up today.

So I join my colleague and the Senator from Ohio, who I think are going to accept your amendment.

Mr. WILSON. I thank the Senator from Arizona.

Notwithstanding the levity and banter I had with the junior Senator, it is a very serious problem. And, as one of the distinguished Members of this body with great expertise in the matter of law enforcement, it does not surprise me in the least that the senior Senator from Arizona has remarked on this. It is a serious, indeed, an urgent problem. When we begin letting people go that should be behind bars, that is time, obviously, to address that question and do something about it.

Mr. GLENN. Mr. President, I certainly will not oppose the amendment. I must say I am a little taken aback at the way the debate has gone this morning.

I guarantee the distinguished Senator from California that for any Ohioans going to San Diego, we will try to make sure that they are law-abiding types so they do not need your new facilities out in San Diego.

Let me seriously address this for just a moment here. I am not familiar with the 22-acre property there, but I do know that area around the bay and that plant. that is very high priority, very valuable property. I do not know where this particular piece of land sits. It would seem to me that that would be a very high priority type real estate to be using for a facility rather than going off in a corner of the country somewhere or taking some other site. Maybe this is the best one. It is not for me to judge that.

I am not going to stand in the way of this authorization, and particularly so since the negotiation, once completed, has to come back to the Armed Services Committee for final approval. As I understand it, we have 30 days to vote on it, is that correct, if it comes back?

Mr. WILSON. That is correct.

Additionally, I would add one thing. There is in the amendment the expressed condition that if the fair market value of the property conveyed by the Government to the county of San Diego exceeds that of the fair market value of the land exchanged by the county, then the county must pay the difference to the Government, and the concern that the Senator has with respect to the value I think is thereby addressed.

Mr. GLENN. All I would ask is that the legislative history show that, when it comes back to the committee, we would want the Department of Defense to have assessed, as is included in the amendment, the activities at Department of Defense plant 19, the use of this area that is contemplated for transfer, the current use of it and any future use they might see for that area, so that we do not wind up with the Federal Government to be out of 22 acres that might be very, very valuable in the future and might be necessary for plant expansion or whatever.

As I understand also, the area there would require some redevelopment of parking and storage areas. That also should be addressed in this so that we do not end up acquiring new Federal property to provide that same kind of parking and storage area at a greater expense. Having said all that, and wanting that in the report when it comes back, I will certainly not stand in the way of this amendment. I am willing to accept the amendment. I do not want to stand in the way of whatever facilities they will see fit to construct.

Mr. WILSON. I thank my friend from Ohio, Mr. President. The concerns he has identified are also addressed in the amendment itself.

The PRESIDING OFFICER (Mr. DECONCINI). Is there further debate on the amendment? If not the question is on agreeing to the amendment.

The amendment (No. 727) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SUPERSONIC SLED TRACKS

Mr. WILSON. It is my understanding that the report language proposed in this year's committee report directed the Department of Defense to consolidate the test track activities of the Naval Weapons Center with those at Holloman AFB as soon as possible. It is also my understanding that no funding will be authorized beyond fiscal year 1988 for any activity at the Naval Weapons Center test track. Since the passing of our committee report it has been brought to my attention that the Naval Weapons Center operates two test tracks, one of which is similar to the track at Holloman, this is referred to as the "snort" track, and one which is very unique and utilized for high terminal and exterior ballistics testing, this track is called G-4. Is this your understanding also?

Mr. BINGAMAN. Yes; that is also my understanding.

Mr. WILSON. I would like to try to clarify the exact intent of the committee language at this time. It is my understanding that the track you were referring to was just the so-called snort track and any consolidation or funding constraints that we imposed were not to be applied against the G-4 track. Is that correct?

Mr. BINGAMAN. Yes; that is correct. It is anticipated that significant cost savings could be realized if the snort track were consolidated with the high speed test track at Holloman AFB. It was my intention to consolidate these two tracks, not disrupt the current testing that is being conducted at the G-4 track. I thank the distinguished Senator from California for bringing this to my attention, and assure you that I am totally supportive of continuing the testing being conducted on the G-4 track located at the Naval Weapons Center.

Mr. WILSON. I thank the Senator from New Mexico for his clarification.

Mr. DANFORTH. Mr. President, the Department of the Army has decided to move the engineer school now located at Fort Belvoir, VA, to Fort Leonard Wood in Missouri in order to consolidate training of both officers and enlisted personnel at the same site. Congress approved this initiative last year, and authorized three construction projects at Fort Leonard Wood, totalling $42,200,000. Construction has recently begun on these projects. The administration building and the academic facility constitute two sides of a U-shape complex that will include a third building which will house the school library. The library was requested in the Army's fiscal year 1988 construction request at a cost of $5,400,000. The Senate Armed Services Committee deferred this project. Unfortunately, the school cannot become functional until the technical library is constructed.

On behalf of myself and my colleague from Missouri, Senator BOND, I have an amendment which would rectify the situation by adding $5,400,000 to the Army's fiscal year 1988 authorization. I understand that funding has been authorized and appropriated by the House for the construction of the new Army Engineer School library.

Mr. President, I have an amendment, but if I can get the assurance of the chairman of the Armed Services Committee that in conference he will look favorably on the House position regarding the Fort Leonard Wood library, then I will not offer this amendment to the bill.

Mr. BOND. Mr. President, I just want to voice my support for my colleague from Missouri and to reiterate the importance of the timely construction of the engineer school library. The library is essential to the move of the Fort Belvoir engineering training to Fort Leonard Wood, because without the library training cannot begin at the school. There are several thousand volumes of technical material that will be transferred to Fort Wood and without the library in place to house the material, training at the engineer school will be delayed.

Mr. NUNN. I would like to assure my friends from Missouri that I have been advised of the adverse impact which deferring construction of this facility would have on the relocation of the Army Engineer School. When we get to conference, I will work toward a favorable resolution of this matter.

Mr. WILSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 728

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. NUNN, and Mr. WARNER, proposes an amendment numbered 728.

Mr. DECONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate point in the bill, insert the following provision:

( ) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated pursuant to Section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

Mr. DECONCINI. Mr. President, this amendment is rather simple and straightforward, and reflects the long-standing interest of many Senators in the issue of Stinger missiles' security protection or lack thereof.

This amendment is cosponsored by the distinguished floor managers of the bill, Senator NUNN and Senator WARNER.

Mr. President, I would like to thank both Senators and their staffs for working with me and my staff on this very important matter that I have been concerned with for several years.

I would also like to take this opportunity to commend the diligent efforts of the Armed Services Committee on both sides of the aisle. There has been a long, hard struggle here. There are so many important things in this bill. Senator NUNN and Senator WARNER, with their leadership, and that of my distinguished colleague from Arizona and the distinguished Presiding Officer, have been very instrumental in writing this bill which is so important for the institution of the Senate as for the U.S. national security.

As a member of the Appropriations Committee, I thoroughly recognize the vital need for this body to authorize defense spending.

Additionally, Mr. President, this bill contains many important provisions and recommends prudent spending levels. Programs such as the Apache helicopter are strongly supported, especially in light of an impending zero-zero option between the United States and the Soviet Union, which makes conventional weapons a crucial variable in Europe. Also, this bill contains people provisions for our Armed Forces. In particular, I would like to single out the objection that the committee included in the bill to an OMB provision that initiated a test program requiring user fees for outpatient care at military hospitals by military retirees and dependents.

I have opposed this for some time. I submitted a resolution opposing it. We have 22 cosponsors, and so I am grateful to the Armed Services Committee for adopting this objection to that OMB procedure.

Now, Mr. President, the amendment that I have at the desk would direct that not less than $4 million should be available, out of existing appropriated funds pursuant to section 201(a), solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both basic and reprogrammable mircoprocessor configurations. The results of the demonstration and testing on the basic configuration for Stinger shall be summarized and reported not later than July 1, 1988, and the results for the reprogrammable microprocessor configuration not later than January 1, 1989.

Last year Congress provided $1 million to study the feasibility of developing electronic safety devices for the Stinger. As I have argued on the floor numerous times, this concern for safety measures comes directly from the possibility that Stingers could fall into the wrong hands, into the hands of terrorists, into the hands of enemies that would use them some day, God forbid, against our own forces. This is high technology as we know and there is a great proliferation of this particular weapon system today by our country.

Consequently, in following through on last year's directions from Congress, the Army did let a contract to General Dynamics, the manufacturer of the Stinger, to conduct the study. Two other companies have also initiated proposals to address the safeguarding issue. The Army has issued a contract to General Dynamics to exhibit such a requirement on the Stinger but has failed to release funds to address the need of that contract. So, that is like saying it is a good idea but we are not going to do it.

I have monitored the situation over the last year and I have been very displeased with the foot-dragging of the Army and the reluctance to move forward on what Congress directed them to do.

While I am not endorsing nor am I advocating a particular system for safeguarding the Stinger or whether or not we can devise such a system that will protect the Stinger from being disarmed if captured, I am supporting money directed at such research and such development and to test it and to see potentially if this can be properly implemented. As we have read in the press lately, the Stinger is increasingly being used to support U.S. interests all around the world. This should not eventually be used against us, and if this weapon falls into the wrong hands, I would hope that we will have a system that can disarm it remotely if necessary.

So, Mr. President, ideally the safety device improves the chances of democratic resistance efforts that are permitted to have this weapon as well as our allies who may use it in overt actions and provide us with the safety that if indeed this weapon falls into the hands of the wrong people, it might be disarmed and thereby not used against our own forces, God forbid, some day or against civilian targets.

I thank the manager of the bill, and particularly the Senator presiding, and my colleague from Arizona for considering this amendment.

Mr. McCAIN. Mr. President, I rise in support of the amendment by my good friend, Senator DECONCINI, the senior Senator from Arizona. I think it is well to note that he has been concerned about this issue for some years, and I think his concern, frankly, Mr. President, is very well founded. This kind of a weapon in the hands of terrorists can wreak unbelievable havoc. I am reminded of a few years ago when there was an apartment in Rome near the airport that had been occupied by terrorists, and those terrorists were in possession of a very rudamentary missile which was not nearly of the sophistication nor the capabilities of the missile about which we are talking here.

I think there is very little doubt that history shows us that over time any new weapon, no matter how carefully guarded or how careful the owner is in the dispensation of that weapon, sooner or later will come to widespread use. I see no reason why that would not be the case with the Stinger missile. This missile, as I said, in the hands of the wrong people, can cause incredible damage to the lives and property of innocent civilians.

I think it is very clear as recently as a couple nights ago from the speech of the President of Iran at the United Nations that there are people in this world who would seek to inflict damage, death, and injury to American citizens in response to either real or perceived acts on the part of the United States Government.

(Mr. DECONCINI assumed the chair.)

Mr. McCAIN. I think it is clear the paper studies indicate there are two potential technical approaches, neither of which have been demonstrated. The Army indicates and has made a strong case that there is a strong possibility additional funds and additional time—they are talking roughly of 10 months—may be required to fix one of the models of the Stinger missile. It is clear that the Army did let a contract to conduct such a study some time ago and there are concerns about an electronic safety device and the possibility of its vulnerability, but I have every confidence that these differences can be worked out between the Department of the Army and our staffs and Congress so that we can embark on this very important effort in safeguarding these missiles if they should happen to fall into the wrong hands and preventing them from being used. I strongly support this amendment. I yield the floor.

Mr. GLENN. Mr. President, I rise to support this amendment and will accept it. I would make a couple of comments in the meantime, however.

I congratulate the senior Senator from Arizona [Mr. DeConcini] for offering this amendment. It is something that has bothered us for a long time. Can Stinger missiles that might fall out of inventory and into the wrong hands be used for purposes of terrorism or whatever? How can we stop that? That is the problem the Senator is trying to address. I might add that in the Governmental Affairs Committee, of which I chair, we have had hearings in which the Comptroller General, Mr. Boucher, has testified that we are having a lot of trouble finding the inventory numbers to match the Stingers that we now have in storage. We cannot locate all of them. If that does not chill you, I do not know what will. Because it means that some of these things may have gotten into terrorists' hands or white supremacy groups or whatever. We do not even know what organizations.

THE STINGER ELECTRONIC SAFETY DEVICES

Mr. WARNER. Mr. President, I join my friend from Arizona in cosponsoring this amendment and commend him for his diligent work and perseverance on this effort.

I share his concern over the possibility of this type of missile falling into the wrong hands and have considered the horrible consequences of terrorist use.

This amendment properly focuses the resources and efforts of the Army first on the basic Stinger, which is the model being used by those irregular forces we support. While it is encouraging to note the effectiveness with which these irregulars are using the Stinger, the concern is still there that these missiles might be captured, stolen, or otherwise fall into the hands of terrorists.

This amendment also provides funds for the development and demonstration of a safety device for the Stinger with reprogrammable microprocessor.

The Army has indicated that development and demonstration of a safety device for this Stinger configuration might require additional funds and money over and above that provided for in this amendment. Nevertheless, I agree that we should proceed with the development of a device for this configuration also.

The Army has also indicated their concern over the vulnerability of the Stinger when equipped with a safety device. Is it possible that we might undermine our own missiles with such a device?

We won't know, of course, until we build and test such devices.

This amendment properly provides for development and test of these devices. At some point in the future when we know the results of the tests provided for, then we can consider the questions of whether and how to install, retrofit, or deploy these devices.

With the terrorism that seems to be rampant around the world, we do not want to see Stingers added to that.

Having said that, I want to make absolutely certain that what we are approving today is not in any way a commitment to go ahead with installation of these devices on existing Stinger missiles. It is a study. It brings it through the development stage to see whether it works or not.

I, at the same time that I am for this, also am reminded all too well of the fact that it took us many years to make the Stinger workable, to get it up to the point where it was reliable.

When you start fussing around with systems to turn it off, we want to make absolutely certain that this cannot be back engineered by the Soviets or someone else to find ways of turning it off when we do not intend to turn it off.

There is a difference between the analog systems and the other systems. The analog or the digital system is what I am trying to say. And those require different approaches to them. We want to make certain that now we have the Stingers as a reliable missile we do not set something up that introduces a vulnerability into the system and makes it a less reliable weapon than it now is.

So I am all in favor of what the Senator is trying to do on this because it has been something that we have been concerned about for a long time. But we do have Stingers in second-party hands. Some of those may be able to even be subverted into third-party hands. We do not want to see that used for terrorism or for purposes for which we never intended when the missiles were built or were transferred to someone else.

I understand July 1 is the date by which the distinguished Senator would like to have an answer back on this. That is a very short timeframe to do something like this. I would presume a lot of work is already underway by some of these companies to see that they can meet that July 1 date.

With those comments I will accept the amendment on behalf of the majority. It will provide a demonstration and vulnerability testing without making the commitment to install them on existing Stingers until the results are available.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Arizona [Mr. DeConcini].

The amendment (No. 728) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair wants to thank the managers and members of the committee for accepting the amendment.

The clerk will call the roll.

(Mr. BINGAMAN assumed the chair.)

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that the distinguished junior Senator from Idaho [Mr. SYMMS] and myself be added as original cosponsors to amendment No. 721, earlier agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SANFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SYMMS AMENDMENT NO. 722

Mr. SANFORD. Mr. President, I rise to address the distinguished Senator from Idaho's amendment dealing with the Embassy treaties between this country and the Soviet Union.

It is easy for us, as Members of the Senate, to take offense at the efforts of the Soviet Union to plant surveillance devices in our new Embassy in Moscow. It is also appropriate for us to have some concern about the location of the new Soviet Embassy in this country. Certainly it sits on high ground. Certainly the conventional wisdom, if not the technical intelligence wisdom, is that the higher the ground the more you can see and the more you can hear. And so there is some cause for concern about the location of that Embassy.

But the suggestion of the Senator from Idaho that, because of those two conditions, we cancel the two treaties and start over is hardly a realistic approach.

All Members of this body share the Senator's concern for the security of our Embassy in Moscow, and more wish to cast a vote that appears to diminish their sense of outrage at this recent spying by the Soviet Union.

But there are implications here that need to be considered. And whether or not this amendment passes tonight, I would like the RECORD to reflect the fact that at some time, in conference or elsewhere, we are going to have to bring more sober thought to the consequences of canceling these two treaties.

This amendment does not require the new Embassy in Moscow to be torn down. That matter is under careful consideration by the administration, which has requested expert advice from a number of people. I am confident that the President is giving very careful thought as to what should be done about the Embassy there and the treaties.

Over the August recess I traveled to Moscow and had the opportunity to view the Embassy complex and discuss the situation with the personnel there. In light of that, I have two observations. First of all, this matter is on the President's desk. We should allow him to study the situation, make a recommendation, and then let's discuss it.

Second, we have moved 175 families into the compound in Moscow. The Soviets have moved into the living quarters of the compound at Mount Alto. At the present time, neither chancery building is occupied.

The effect of canceling these treaties would be that all of these families would have to move out. Well, what difference does it make to the Soviet Union if they have to move their people out? This does not present a large problem for the Soviet families currently living at Mount Alto. They can go to Chevy Chase, they can go on an open market to obtain their living accommodations. But in the Soviet Union, the situation is entirely different. Our people would simply be devastated. In that country, the Government controls all housing. Our people would have to take whatever accommodations the Soviet Union gave them.

I can tell you right now that the morale of the personnel of the American Embassy in the Soviet Union would plummet. If we forced all of those people who have finally found suitable living conditions, where their children can go to day schools, where they can have educational opportunities and recreational facilities, if we move them out in this kind of hasty action, the morale there will not be up to what it has to be if we are to maintain the kind of presence that we need to maintain in Moscow.

So I hope that we could leave the careful determination of this to a hearing of the Foreign Relations Committee. I think this is the kind of issue that needs to be carefully studied and decided. I hope that we do not vote hastily on a course of action that will have such drastic consequences for our people in Moscow.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATFIELD. Mr. President, I believe there is a time agreement on the amendment I am about to offer relating to underground nuclear testing. Is that correct?

The PRESIDING OFFICER. The agreement provides for a time limit on such an amendment of 2 hours equally divided.

Mr. HATFIELD. I thank the Chair.

AMENDMENT NO. 729

(Purpose: To impose certain limitations on underground nuclear testing)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator will have to obtain unanimous consent to set aside the pending amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. WIRTH, Mr. DECONCINI, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. SPECTER, Mr. MATSUNAGA, Mr. LEAHY, Mr. PROXMIRE, Mr. DASCHLE, Mr. KERRY, Mr. MITCHELL, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. RIEGLE, Mr. LEVIN, Mr. MELCHER, Mr. METZENBAUM, Mr. SARBANES, Mr. SANFORD, Mr. LAUTENBERG, Mr. WEICKER, Mr. FOWLER, Mr. BUMPERS, Mr. INOUYE, Mr. ADAMS, and Mr. MOYNIHAN) proposes an amendment numbered 729.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. UNDERGROUND NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The national interest of the United States would be served by the achievement of mutual, verifiable nuclear arms reductions with the Soviet Union and by mutual, verifiable limits on the number and yield of future underground nuclear explosions conducted by both nations.

(2) A 2-year, mutual moratorium by the United States and the Soviet Union on virtually all underground nuclear explosions above a verifiable low-yield threshold would be a crucial first step by both nations toward achieving the goals described in paragraph (1).

(3) A 2-year, mutual moratorium on underground nuclear explosions above a verifiable low-yield threshold would constitute a good faith step toward fulfilling the obligations of the United States and the Soviet Union under article VI of the Nonproliferation Treaty to pursue "effective measures relating to the cessation of the nuclear arms race at an early date" and under article I of the Limited Test Ban Treaty to seek "the permanent banning of all nuclear test ex-

plosions, including all such explosions underground."

(4) A level of weapon reliability sufficient to deter the use of nuclear stockpiles can be maintained at a greatly reduced rate and yield for underground nuclear test explosions.

(5) The task of monitoring the yields of explosions for compliance with a low-threshold moratorium can be made considerably easier by limiting test explosions to one small test area composed of strong-coupling rock, thereby allowing detection-identification of any off-site nuclear explosion, regardless of yield, to serve as sufficient evidence of violation of the moratorium.

(6) A 2-year moratorium on any underground nuclear test which has an explosive power greater than one kiloton could be verified with a high degree of confidence if the current external seismic monitoring network were supplemented by three in-country networks, each composed of four stations, deployed in the vicinity of each nation's primary test site and in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits.

(7) A joint research project between the United States and the Soviet Union to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low-threshold test ban treaty would contribute significantly to the prospect of concluding such a treaty in the future.

(b) LIMITATIONS ON NUCLEAR TESTING.—(1) Subject to paragraph (2), during the 2-year period beginning 270 days after the date of the enactment of this Act, funds may not be obligated or expended by any department or agency to conduct an underground nuclear explosion—

(A) with a yield greater than one kiloton, except for two designated test explosions, each with a yield not exceeding 15 kilotons;

(B) in weak-coupling geologic media;

(C) at a location that is not part of a single designated test area; and

(D) unless a public announcement of a proposed explosion has been made at least 30 days before the date of the explosion.

(2) The restriction in paragraph (1) shall cease to apply if—

(A) after the restriction has become effective, the President certifies to Congress that the Soviet Union—

(i) has conducted an underground nuclear explosion having a joint seismic yield estimate which indicates a yield greater than one kiloton, except for two designated explosions with a joint seismic yield estimate indicating a yield not greater than 15 kilotons;

(ii) has conducted an underground nuclear explosion in weak-coupling geologic media; or

(iii) has conducted an underground nuclear explosion at a location that is not part of a single designated test area; or

(B)(i) the President certifies to Congress that the Soviet Union has refused, after the restriction has become effective, to implement reciprocal, in-country monitoring arrangements; and

(ii) Congress has enacted a joint resolution approving such certification.

(c) TERMINATION FOR CERTAIN NEW AGREEMENTS.—The restrictions on testing contained in subsection (b) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union which makes reductions in the number or yield of underground nuclear explosions permitted under treaties between the United States and the Soviet Union signed before January 1, 1987.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "designated test area" means an area not exceeding 100 square kilometers within the Soviet Union or the United States, as the case may be, which—

(A) is located within the boundaries of a single existing nuclear weapons testing site in each country;

(B) incorporates competent or water-saturated strong-coupling rock that does not contain closely spaced underground tunnels or a cavity with a radius greater than 20 meters; and

(C) has been the site, before the effective date of the testing restrictions specified in this Act, of five nuclear calibration explosions having a range of of independently determined yields, conducted for the primary purpose of improving the accuracy of seismic monitoring techniques, without the use of diagnostic equipment, except equipment for a Continuous Reflectometry for Radius versus Time Experiment (CORRTEX), or any other method of ascertaining the yield of explosions which is mutually agreeable to the United States and the Soviet Union.

(2) The term "joint seismic yield estimate" means a composite estimate at a high confidence level which—

(A) is based on the concurrent employment of several independent methods for calculating yields of explosions at designated test sites using different seismic waves from an underground nuclear explosion; and

(B) has been the subject of a technical report, provided in both classified and unclassified form to the Committees on Armed Services and on Foreign Affairs of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Armed Services and on Foreign Relations of the Senate, and the Select Committee on Intelligence of the Senate, conducted by a scientific review panel convened under the auspices of the National Academy of Sciences and comprised of ten highly qualified seismologists designated as follows:

(i) one by the Chairman of the Select Committee on Intelligence of the Senate;

(ii) one by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives;

(iii) one by the head of the Air Force Technical Applications Center;

(iv) one by the Director of the Defense Intelligence Agency;

(v) one by the Director of Central Intelligence;

(vi) one by the head of the Defense Advanced Research Projects Agency;

(vii) one jointly by the directors of the national weapons laboratories;

(viii) one by the Director of the Geological Survey;

(ix) one by the Director of the Office of Technology Assessment; and

(x) one by the President of the National Academy of Sciences.

(3) The term "reciprocal, in-country monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through—

(A) the conduct by either country of up to six on-site inspections on the national territory of the other, each of which shall be allowed to commence within 10 days after the day on which either nation has presented to the other a formal request demonstrating the need for additional information to identify a specific ambiguous event or activity related to apparent violations of the restrictions specified in subsection (b)(1);

(B) designation by each country, not later than 30 days after the date of enactment of this Act, of a candidate designated test area, followed by an independent inspection by the monitoring country, beginning not later than 60 days after the date of enactment of this Act and ending not later than 180 days after such date, of—

(i) the geologic and material properties within each candidate designated test area, including the presence and disposition of any underground tunnels and cavities; and

(ii) complete drill cores and logs from five calibration test holes of appropriate depth within each candidate designated test area, the drilling of which has been observed and the locations of which have been selected by the side monitoring that area;

(C) the provision of at least 30 days advance notice of—

(i) the scheduled date, time, depth, and coordinates for each nuclear test explosion of one kiloton or less;

(ii) the scheduled date, time, depth, and coordinates for not more than two explosions, each with a planned yield in excess of one kiloton, but not exceeding 15 kilotons; and

(iii) the coordinates, dates, times, and yields of industrial explosions larger than 20 tons of high explosive to be conducted within the nuclear test-capable areas defined in clause (D);

(D) the emplacement by each country, on the national territory of the other, of twelve high performance seismic stations (four bore-hole instrument packages sited within 1,500 kilometers of each designated test area and eight additional seismic stations in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits) such that the combined internal and external seismic monitoring network of each nation will be capable of detecting and identifying all nuclear explosions with yields exceeding one kiloton—

(i) at known nuclear weapons tests sites of the other country; and

(ii) at sites in the other country having a current capability to accommodate a decoupled nuclear explosion with a yield exceeding one kiloton; and

(E) the conduct of a joint verification study by experts on nuclear test verification techniques from both the United States and the Soviet Union for the purpose of determining the number and locations in both countries of additional in-country seismic monitoring stations needed to monitor long-term compliance with the terms of a low-yield threshold test ban treaty.

(e) SPECIAL PROCEDURES FOR CONSIDERING LEGISLATION APPROVING PRESIDENTIAL CERTIFICATION.—(1) For the purpose of expediting the consideration of a joint resolution referred to in subsection (b)(2)(B)(ii), the procedures specified in paragraph (2) of this subsection shall apply.

(2)(A) For the purposes of subsection (b)(2)(B)(ii), "joint resolution" means only a joint resolution introduced after the date on which a certification by the President under such subsection is received by Congress the matter after the resolving clause of which is as follows: "That Congress approves the certification made by the President, dated ________________, with respect to the refusal of the Soviet Union to implement reciprocal, in-country monitoring arrangements in connection with underground nuclear testing.", the blank space therein being filled with the appropriate date.

(B) A resolution described in subparagraph (A) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subparagraph (A) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(C) If the committee to which is referred a resolution described in subparagraph (A) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(D)(i) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subparagraph (C)) from further consideration of, a resolution described in subparagraph (A), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(ii) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(iii) Immediately following the conclusion of the debate on a resolution described in subparagraph (A), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subparagraph (A) shall be decided without debate.

(v) If, before the passage by one House of a resolution of that House described in subparagraph (A), that House receives from the other House a resolution described in subparagraph (A), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee.

(ii) With respect to a resolution described in subparagraph (A) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(vi) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subparagraph (A), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. HATFIELD. Mr. President, I have sent this amendment to the desk on behalf of the Senator from Massachusetts, Senator KENNEDY, and myself, and 32 of our colleagues.

Mr. President, 5 months ago my colleagues and I, in fact, 11 of my colleagues and I, rose on this floor to introduce legislation to impose for 2 years a mutual and verifiable moratorium on virtually all underground nuclear testing.

The legislation, the Underground Nuclear Explosion Control Act, represented the first serious attempt in the history of this body to address forthrightly the technical objections to a temporary limitation on underground testing.

Mr. INOUYE. Mr. President, will my distinguished friend yield?

Mr. HATFIELD. I am happy to yield.

The PRESIDING OFFICER. The Senator from Hawaii.

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. INOUYE. Mr. President, it is my great pleasure and high honor to present to the U.S. Senate Lord Plumb, the President of the European Parliament, and a special delegation from the European Parliament visiting the United States. May we have a short recess so that Members may greet them personally?

RECESS

The PRESIDING OFFICER. Without objection, the Senate will stand in recess for 5 minutes.

Thereupon, at 2:06 p.m., the Senate recessed until 2:11 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BINGAMAN).

The PRESIDING OFFICER. The Senator from Oregon is recognized.

(Mr. DODD assumed the chair.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with consideration of the bill.

Mr. HATFIELD. Mr. President, by addressing those objections—by incorporating reliability testing, by incorporating CORRTEX, by incorporating a specific number of seismic stations in each country—the legislation sought to get to the heart of what had been a very superficial debate in this body over the viability and indeed the advisability of a temporary limitation on underground nuclear testing.

Since we introduced the Underground Nuclear Explosions Control Act, Mr. President, 22 additional Members of this body have added their names to the list of cosponsors.

So it is that I rise today on behalf of 33 Senators to propose our legislation as an amendment to this bill.

Not only is it high time we addressed this issue, it is past time we addressed it.

Our colleagues in the House of Representatives have voted on this issue no less than three times this year—and every time they have passed a limited moratorium on underground testing by an overwhelming margin. Every time, we have remained silent. We cannot justify our silence anymore.

Mr. President, this amendment is based on that legislation passed in the House of Representatives. It cuts off funding for underground testing above 1 kiloton—not for 12 months as theirs does but for 24 months provided that the Soviets do not test. It employs seismic monitoring, and it requires that each side designate a single test site for any explosions under the 1-kiloton limit.

But our amendment goes further. It allows an exception for two nuclear warhead reliability tests on each side during the 2 years. In addition to the installation of seismic monitoring networks in each country, it requires the use of a CORRTEX device to calibrate the designated test sites. Accordingly, it allows 9 months for the implementation of the required verification and monitoring arrangements. It requires onsite inspection on demand. And it holds the administration to the intent of the moratorium by putting a check on its ability to avoid the cutoff simply by claiming that the Soviets have refused to accept adequate verification and monitoring arrangements.

Mr. President, we cannot justify our silence anymore. The time has come for a vote on the substance and on merits of a limited mutual and verifiable moratorium on underground testing.

Gone is the debate over reliability testing. By the administration's own admission, only one test in 1986 was conducted for that purpose. Included in our amendment is an exception for two reliability tests under 15 kilotons by each side over the 2-year period.

Gone is the debate over verification. Unlike even the legislation passed in the House of Representatives, this amendment includes the administration's own steadfast requirement: The onsite calibration device commonly referred to as CORRTEX. That is, of course, in addition to the establishment of a verification network in each country including 12 high performance seismic stations, the announcement of all permitted tests 30 days in advance, and the creation of a joint research project designed to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low threshold test ban treaty.

The real issue here is weapons development, weapons development that fuels the arms race and threatens the future of unborn generations and the very future of our planet. That, and that alone, is what testing is all about.

Unfortunately, however, I doubt that testing will really be the focus of our debate today. In fact, I doubt we will spend much time at all talking about testing or weapons development or reliability or verification.

My guess is that this debate will focus instead on politics. The politics of arms control, and most of all the politics of a summit.

Mr. President, the opposition to this initiative was handed some good rhetoric last week. Along with an important arms control agreement on intermediate and short range missiles came plans for a summit between President Reagan and General Secretary Gorbachev. And along with the arms control agreement came the announcement that talks would soon resume with renewed vigor on a wide variety of arms control issues including underground testing.

I fully expect the opposition to this initiative to hinge not on its merits, but on the effect it will have on our President as the superpowers move toward a summit.

Mark my words, Mr. President, it will be suggested that this is no time to "tie his hands."

It will be suggested that there is already an agreement in principle to begin discussions leading to the goal embodied in this proposal.

It will be suggested that this is no way to do business—Congress "spelling out the terms of an agreement" before an agreement has been reached.

To my colleagues, I say this: I support the President and I applaud his efforts. In the months ahead, I will do what I can to see that the proposed agreement on intermediate and short range missiles is ratified by this Senate.

But I will not accept the proposition that we must restrain ourselves from a course of action which is immediately attainable, eminently reasonable and urgently necessary.

If the administration can move faster than we can—and nothing would please me more—this amendment explicitly provides that any agreement—I repeat any agreement—negotiated by the superpowers which limits the number or yield in tests automatically terminates the force of this law—no questions asked.

Let me repeat that: Any agreement which limits the number or yield. Not down to zero, not even down to the level we seek to impose. Any limitation from current levels.

We want to do nothing more than establish the framework for a little healthy competition—in fact the healthiest possible form of competition.

We want only to send this message: Mr. President, we have worked long and hard to come up with a pretty good plan—a plan so tough in its requirements that it is not at all clear the Soviets would accept it.

But if you want to come up with another plan, Mr. President—any plan—and you can do it faster than the implementation period of this amendment—our moratorium drops out of the picture entirely. The same is true during our moratorium.

That does not constitute tying the President's hands—that does not constitute undermining the President's negotiating room. If anything, our amendment strengthens the President's hand by bringing a desperately needed sense of trust and cooperation to the bargaining table.

In addition, our amendment would give the President an opportunity to discover something we all want to know, something we all must know as negotiations proceed in Geneva on this issue: Are the Soviets serious? When they stopped testing for 19 months—a moratorium which was extended three times and finally ended last February—were they serious?

Of course, it is conceivable that the Soviets were bluffing all along. It is hard to believe that they stopped all testing for 19 months for the sake of a bluff, but maybe they did. Maybe they knew what a great public relations ploy their moratorium would become, and how bad it would make the United States look in the eyes of world public opinion. Maybe they knew all along that the administration would never go along with their moratorium and that Congress lacked the political will to force the issue.

Maybe, but so what? So that if they were bluffing? Let's call them on it. If the Soviets make one false move—if they refuse to accept the stringent verification requirements of this amendment, if they do not announce their allowed tests in advance, if they test outside their designated testing area, if they conduct more than two tests over a kiloton or anything over 15 kilotons—the deal is off.

Do we have the courage to explore whether maybe, just maybe, the Soviets were serious? Are serious?

Do we have the courage to work toward the day when arms control moves from rhetoric to reality?

In the end, that is what we are really debating. Not stockpile reliability, not verification, not negotiating room.

This is a very simple, straightforward amendment. Mr. President, I would hope that as this debate proceeds we can again keep to the crux and to the essence of this whole amendment; that is, the question of halting some way the runaway technology that is fueling the arms race. We can develop limits, caps, and numbers on existing weapons or future production of weapons.

But my colleagues, let me say that we have done nothing to really deal with the cancer of the armament problem. The cancer is technology, and are we willing to at least set some parameters on the runaway technology that has already assumed the master role over those of us who like to think of ourselves as being in control. We have become victims of our own technology. This is the time to at least take some step toward gaining some control over it.

Mr. **KENNEDY** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Massachusetts. Who yields time?

Mr. **HATFIELD.** Mr. President, I yield to the Senator from Massachusetts 10 minutes.

The **PRESIDING OFFICER.** The Senator from Massachusetts.

Mr. **KENNEDY.** Mr. President, I welcome the opportunity to join with my colleague, the Senator from Oregon, and some 32 other cosponsors in urging the Senate to accept this amendment.

Passing this legislation will create the opportunity to establish a mutual and strictly verifiable 2-year limitation on Soviet and American underground nuclear explosions above a monitoring threshold of 1 kiloton. On behalf of 32 cosponsors, today we are offering this legislation as an amendment to S.1174, the National Defense Authorization Act for fiscal year 1988-89.

Next year will mark the 25th anniversary of the Limited Test Ban Treaty, ratified by the Senate in 1963 with overwhelming bipartisan support. In article I of this treaty, the United States, the Soviet Union, and the United Kingdom pledged to continue their negotiations in order to achieve "the permanent banning of all nuclear test explosions, including all such explosions underground."

I believe the time has come for binding legislation of limited duration that could provide the basis for a meaningful test-ban option in our future national security policy.

The Underground Nuclear Explosions Control Act of 1987 is not a "comprehensive" ban. However, it would lead to the installation of enhanced verification measures that would provide the technical data base needed to make a rational decision on whether to ban all nuclear explosions at some time in the future.

Our amendment would create the opportunity for both sides to reduce the explosive power of their nuclear tests to the lowest level consistent with effective verification and maintenance of a reliable nuclear deterrent. The amendment has many checks and safeguards built into it, and has been specifically designed to accommodate the concerns of some Senators about a complete test ban or an uninspected moratorium. This is an amendment that a majority of the Senate can endorse with confidence.

It sets up a strictly verifiable 2-year restriction on most but not all tests above 1 kiloton. If all the verification conditions are met, the restriction would take effect 9 months after enactment. This period will allow ample time to negotiate the enhanced verification measures the President is seeking for the Threshold Test Ban, measures which are already included in this amendment and which are required for the testing restriction to take effect.

Under this amendment, the Soviet Union must accept mutual onsite inspections, the installation of an incountry seismic monitoring network, and the calibration of its designated test site using the yield estimation device commonly referred to as CORRTEX or a method of equivalent accuracy.

To further assist verification, both sides will be required to announce all tests 30 days in advance and confine them to one small designated testing area. Over the 2-year period, each side will be allowed to conduct two tests that exceed the limitation, but, for the purpose of guaranteeing the "reliability" of each sides arsenal and assessing nuclear effects, these explosions are limited to 15 kilotons.

If the President negotiates a new agreement with the Soviet Union limiting nuclear tests if the Soviet Union conducts an unauthorized test, all restrictions would cease to apply.

In drafting this legislation, we have sought to satisfy concerns regarding verification and weapon reliability. We want the Senate to face the critical question: "Is it in our interest, and does it enhance international security, to slow down the nuclear weapons technology race with the U.S.S.R.?" I think the answer to that question is clearly "yes".

Sixty national church, labor, environmental, professional and arms control organizations representing millions of Americans have endorsed the Hatfield-Kennedy Nuclear Explosions Control Act. On May 19, 1987, the House of Representatives passed a similar test restriction for the second consecutive year by a vote of 234-187.

At its annual meeting in June of this year, the U.S. Conference of Mayors endorsed an immediate suspension of U.S. nuclear testing, contingent on a similar Soviet suspension of testing.

Leading authorities on seismology and nuclear weapons technology have likewise examined the provisions of this legislation and found them to be technically sound and a positive contribution to our national security.

Now, at long last, under new leadership the U.S.S.R. is challenging our preconceived notions and responding positively to U.S. requirements for effective verification. The U.S.S.R.'s willingness to respond positively to the administration's desire for improved verification of the Threshold Test Ban Treaty is only the latest in a series of Soviet concessions to United States views on the need for incountry monitoring systems and onsite inspections to verify a nuclear test ban.

But what about parallel movement in the U.S. negotiating position? What about the hopes and aspirations of millions of Americans and other citizens around the world who have marched and signed petitions and lobbied their governments for the achievement of a nuclear test ban? Are they to be disappointed yet again?

The Soviet Union has repeatedly indicated that it is willing to go far beyond the cautious agenda for nuclear testing negotiations announced last week. The U.S.S.R. has also stated that it will accept extensive and rigorous procedures for verification of a low threshold test ban. There are no remaining technical obstacles to the achievement of significant limitations on nuclear testing.

And what of the views of the more than 100 nations which are adhering to the Nuclear Nonproliferation Treaty? These nations are bound to wonder why the United States Government is willing to cooperate with the U.S.S.R. in improving verification of continued testing at 150 kilotons, while it refuses to implement verification measures which could be used to restrict tests to dramatically reduced yields.

To cast aside the present political opportunity afforded by this amendment, and by the parallel action of our House colleagues, will only deepen the cynicism already felt worldwide about the continuing failure of the nuclear weapon powers to conclude a meaningful restriction on nuclear testing. Unfortunately, the moral and political onus for failure to make progress toward a comprehensive test ban now rests with the United States. Senators should ponder the implications of that perception for our stature in the rest of the world.

The fervor often expressed in this body for intrusive verification must be matched by an equal fervor for concrete limitations. Words must be matched by deeds. The people of the world have waited 30 years for a nuclear test ban. Under the present negotiating agenda, they could wait another 30 years. In fact, unless we act today, they could wait forever.

Now is the time—not next year or in 10 years or some time in the next century—but now is the time to tell the world that the American people want real progress in the effort to end nuclear testing. I urge my colleagues to join with the cosponsors of this amendment in taking this important step toward strategic stability and a safer world.

In the time that remains, I wonder if I could inquire of my good friend from Oregon: Does the Senator from Oregon recall that in 1984 and 1986 the Senate went on record overwhelmingly—on June 20, 1984, by a vote of 77 to 22, in favor of resuming negotiations on a comprehensive test ban, and again in 1986 the Senate, in a bipartisan way, voted overwhelmingly for a similar proposal? We have seen the Senate take action in 1984 and 1986. The House of Representatives has also taken strong action on this issue on three different occasions.

I am sure that the Senator, as a prime supporter of both of those resolutions, recalls both the debate and the overwhelming bipartisan support for them at that time.

I would be interested whether the Senator from Oregon would agree with me that this legislation is consistent with the current negotiations that have been proposed by the administration; that there is no inconsistency between this particular amendment and the prospective negotiations; that we are basically heading in the same direction, at least in the first instance, and that is, to establish a reliable and foolproof system of verification.

What we are saying is this: If the Senate is willing to authorize funding for underground tests, which this particular bill does, we also have an important responsibility. Given the way in which Congress has voted in the past and the fact that we are committed as a country by the terms of the partial test ban treaty and the nuclear nonproliferation treaty, it is time for us finally to make progress in the area of banning nuclear tests. This amendment is consistent with steps we have taken in the past and is also consistent with what the administration has said would be the thrust of the negotiations in Geneva.

Mr. HATFIELD. I am happy to respond to the Senator from Massachusetts.

He is correct. This subject has been before the body for a number of years. In fact, the Senator from Massachusetts has been in the trenches on this issue, been the leader on that issue, on each and every occasion.

We have been down this path. We have analyzed the opposition. As we prepared this amendment, we went over it point by point. We went over it from the standpoint of opposition and of the administration to those previous efforts. We went over why they raised certain objections and how those objections were reflected in the debate on the floor by those who did not support our proposals. We have met every one of those objections with the present wording of the amendment.

There was always this question: Is it unilateral? Contrary to some of the information that has been disseminated about this amendment; there is nothing unilateral about this proposal. We are not doing one thing and saying the Russians are free to do something different. We are relying fundamentally upon a verification system in this, the absence of which was objected to in the previous debates we have had. We have specified the verification systems, we have increased the verification systems, both with seismic stations as well as with CORRTEX and with onsite inspection.

Then there was always the issue of reliability. We have provided for the tests for reliability. In fact, we have made it "for reliability or any other purpose" we need to test—one for each year.

Then some people worried: What would happen if we depend on the Soviets' good will. That is not true of this amendment. There again, poor homework. If people read this amendment, they would know there is a period for implementation, that we are not committed to anything during the implementation period. If the Soviets do not implement, we do not implement.

As the Senator recalls in the past debates, the opposition always seems to be floating around some kind of new ideas about why a limitation on testing is objectionable. It's never the right time but there is always a right time to add moneys to increase the proposed programs.

So, again, today we are going to have a lot of clatter. It is unilateral, puts us at a disadvantage. We are going to lose all our scientists. Those claims simply are not true. Again I say that people ought to read the amendment and not base therein conclusion on past debates, on past proposals.

The Senator from Massachusetts very effectively laid the groundwork. Today, we are talking about a new circumstance, a new environment, a new proposal. It is one that makes good sense. Even though personally I would like not to see any testing, we have accommodated those of our colleagues who objected to the past proposals the Senator introduced. And we have a new proposal that I think deserves reconsideration.

Mr. KENNEDY. The Senator has expressed it very well, I think, the steps that have been taken by those who have developed this amendment to meet and address criticisms or reservations that some Senators have expressed in the past about limitations on nuclear testing, particularly in the areas of verification and reliability. We have dealt with those concerns in this amendment.

Finally, would the Senator agree with me that every President since 1952—with the exception of the current administration—has endorsed the concept of negotiating limitations on nuclear tests with the Soviets. President Eisenhower favored it. President Kennedy favored it. President Johnson favored it. President Nixon favored it. President Ford favored it. President Carter favored it.

Every President has supported the idea of comprehensive ban on nuclear tests and every President has taken steps to advance that objective, except this President.

I am mindful of the extraordinary progress that was made during the Carter administration. Even when that administration abandoned the SALT II agreement, it continued negotiations in Geneva with the United Kingdom and the Soviet Union to achieve a comprehensive test ban.

Those negotiations made enormous progress. They came within an eyelash of being concluded.

At that time, it was much more difficult to get accommodation in verification, but even then, substantial progress was made.

We as a country are being challenged to come to grips with one of the most important problems in the nuclear arms race, not only for our country but for people throughout the world. We are being challenged to reverse course. This amendment provides a positive response, a way of telling the world that the American people also want to limit nuclear explosions.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. KENNEDY. I am glad to yield.

Mr. HATFIELD. The Senator has given an overview of the efforts of many Presidents to reach this particular thing. I think the Senator by modesty probably failed in his overview to recognize that there was only one President out of the last 25 years who really achieved a limitation in space in a ratified treaty. It was not the lack of interest that the Senator has indicated but I think there again it is the fact that there is only one President; namely, President Kennedy, who had achieved that.

I think, though, in 25 years it is about time to mark up another achievement and this does give us that opportunity.

Mr. KENNEDY. I thank the Senator.

I yield back whatever time remains.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, we have 5 or 6 Members who will oppose this and they will be recognized in short order.

I start out yielding myself what time I might need to open the opposition in the debate on the amendment before us.

First, I want to say, Mr. President, that I commend Senator HATFIELD and Senator KENNEDY for what I think is a very reasonable amendment and for their work in this whole area of nuclear testing, and I have listened with great interest to their opening comments on the amendment before us.

Last week's announcement that the United States and the Soviet Union will begin negotiations on nuclear testing is certainly ample evidence that the Senators have been successful in focusing international attention on the issue of testing which I think we all applaud.

The Reagan administration should give careful consideration and study to the provisions of the Kennedy-Hatfield moratorium as it formulates its position on the upcoming negotiations with the Soviets.

The comprehensive verification provision merits particular attention in the view of this Senator.

This proposal makes an important distinction between testing required to maintain the reliability of our nuclear stockpile and testing to develop new nuclear weapons, and I salute them also for that part of their amendment.

However, there are aspects of this proposal that I cannot support at this time.

To institute a 2-year moratorium with only 9 months' notice and to allow only two tests of significant kilotonnage is in my opinion to demand too much too soon.

I would suggest to the Senate and to the Senators supporting this amendment that in the report that accompanied this bill the Armed Services Committee mandates that the Department of Energy study the ramifications for the nuclear stockpile of further testing restrictions. This is the most appropriate and prudent action that the Congress can take as the United Sates prepares to negotiate with the Soviet Union on nuclear testing.

Mr. President, I do not think, as has been anticipated in the opening remarks by the proponents of this amendment, that the passage of this would tie the President's hand. I think that would be a gross overstatement because I do not believe that it would necessarily tie the President's hand.

But my objection to it, nevertheless, may fall into the same category of people who would make a statement to that effect.

I simply say that and I have to be careful when I say things today because everyone is accused of plagiarism today and I suspect that I have not said a lot of unique, and outstanding things in my life, but to give Orson Wells credit in the television commercial that is running now promoting a certain wine Orson Wells simply says that "Our company never sells a wine before its time."

And I think someone else said one time and I do read from time to time that "Everything in its own time."

I emphasize, Mr. President, that is not an original statement by the Senator from Nebraska. I do not know who said it, but I think someone else did previously.

I simply want to try and put this in perspective that this is not a bad amendment. I started out by saying that I thought even the amendment had a lot of merit. I simply say with the announcement last week that the United States and the Soviet Union were going into negotiations on this very subject that this is not the time for us to pass this type of an amendment, however worthy it be in the long run.

Just for the record, I would like to read briefly the joint statement that was put out by the Soviet Union and the United States when they announced last week that they were going into negotiations on the matter at hand. I quote from the United States-Soviet joint statement:

> U.S. and Soviet sides have agreed to begin before Dec. 1, 1987 full-scale, stage by stage negotiations which will be conducted in a single forum. In these negotiations, the sides as a first step will agree on effective verification measures threshold which will make it possible to ratify the U.S.-U.S.S.R. TTBT of 1974 and PNET of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete succession of nuclear testing as part of an effective disarmament process. This process, among other things, would pursue, as the first priority, the goal of the reduction of nuclear weapons and, ultimately, their elimination. For the purpose of the elaboration of improved verification measures for the U.S.-U.S.S.R. treaties of 1974 and 1976, the sides intend to design and conduct joint verification experiments at each others test sites. These verification measures will, to the extent appropriate, be used in further nuclear test limitation agreements which may subsequently be reached.

That is the end of the quote.

I would simply say, Mr. President, that given the movement that is going on very positively in this area today, and I give full credit for the role that they have played in bringing this about to both the Senator from Massachusetts and the Senator from Oregon and the other cosponsors of this amendment, I simply say that I know you are well-intentioned. If conditions were different than what I just outlined, I might well be a cosponsor of their amendment.

I just think it is the wrong time to pursue this despite the fact that it has great merit.

Mr. HATFIELD. Will the Senator yield for a question on my time?

Mr. EXON. I am glad to yield for a question on his time.

Mr. HATFIELD. The Senator raised two points in the earlier part of his remarks, one relating to the adequacy—or possible inadequacy—of the number of reliability tests permitted under this amendment.

Let me say for the record that within the last decade we conducted an average of about one reliability test a year. We based our formula in this amendment on that precedent. If the Senator thinks more reliability tests would be required, that could certainly be the subject of possible negotiation. But I did want the Senator to know we did not just pull the idea of one a year out of the air, but instead based it on the background and experience of the Department of Energy.

The second point the Senator made was on the question of the time for implementation. He suggested that 9 months might not be long enough. Again, I would entertain—and I am sure Senator KENNEDY and others would entertain—a figure that might satisfy the Senator. I might ask: What would be more in keeping with what he feels would be an adequate time?

In other words, what I am really saying to the Senator is that we appreciate the kind remarks and the analysis of the Senator. I think the Senator has pointed out, really more eloquently than either one of us could do, the fact that we have a totally new proposal before the body. The Senator from Nebraska has demonstrated his understanding of that by pointing out the specifics, and I appreciate that.

I would also like to indicate that this has been a composite amendment, born out of the composite thinking of many people. Some of those people voted against Senator KENNEDY's prior proposal and others cosponsored it. In the end, we worked out the corrtex question, we worked out the seismic stations. Maybe there are not enough seismic stations. So we are not locked into that. But my point to the Senator is that this may be the time when we meld our thinking on this subject. This can be the time when this body can take a stand, can take a position. My point is that I am willing to talk.

I would urge the Senator to review his point about the timing of this amendment. I think sometimes that we do not credit foreign governments and leaders of foreign governments with the depth of understanding and knowledge of our political system that they really have.

I am sure that anybody who has reached a position as head of state in Europe today has read European-American history and realize that a well-intentioned President went to Versailles after World War I. In good faith and with great idealism and with popular support, he negotiated a treaty. And yet the U.S. Senate never did ratify or approve that treaty, never did ratify the provisions of the League of Nations. Foreign leaders know very well that there is a most important role the U.S. Senate plays in any kind of an agreement a President may make abroad.

I am sure Mr. Gorbachev knows now that whatever he finalizes with a signature with President Reagan, we, the Senate, are going to have to ratify it. Therefore, it seems to me this is a excellent time for this kind of amendment, for this kind of initiative. It does not put the United States at a disadvantage, but instead puts everybody on an equal plane. No, let me take that back if the President is serious about negotiating limitations on testing, this provides strength for the President's hand. He can say to Mr. Gorbachev, "Look, we have here on record the U.S. Senate saying we want some kind of limitations on this. When we agree to something, I have good expectation to go home and get it supported. I can go home and not have to take the same chance President Wilson took."

So I think, frankly, I say to the Senator, this may be the best time, not the worst.

Mr. REID. Will the Senator from Nebraska yield?

Mr. EXON. For a question?

Mr. REID. No; for a statement.

Mr. EXON. I will be happy to yield to my friend from Nevada. He was next on the list.

I am going to take a few minutes off of our time to respond to what my friend from Oregon just said.

Once again, I find that I am not in direct opposition to what the Senator has said. Once again, I say to the Senator that the timing is simply not right. I have quoted Orson Wells, so I will not quote him again. That is my main objection to this amendment.

I will say, though, that with regard to the 9 months—and that is a very legitimate question that you brought up—my question is not just the length of time—9 months, 10 months, 6 months, 18 months.

I think that this is going to be one of the most difficult negotiating processes that we are going to have with the Soviet Union, because the reliability tests that we go to on an average basis does not necessarily mean that you will not need more or less tests in the future. The point is that a single problem that may be discovered in our nuclear deterrent may take one, two, three, five, six, or more tests to solve. If nothing is wrong, if nothing is amiss, then an extremely limited number of tests could be in order.

But the time element has to do with a combination of time, the number of tests that are necessary, and, of course, the yield. And all of these things have something to do with what we can expect to work out. I simply feel that it would be better at this time to leave that off to a later date.

I yield 20 minutes to the Senator from Nevada.

Mr. REID. I appreciate the manager of the bill's yielding the time.

Mr. President, we have before this body an amendment to a bill relating to the defense of this Nation. It is offered and supported by men and women of sincere conviction who are rightly and justly concerned about the terror of nuclear arms. But valid and sincere as are their concerns, the amendment they offer is, at best, wrong and counterproductive.

The past week may have been one of historic proportion. It is possible that Secretary Schultz and Foreign Minister Shevardnadze have cleared the final hurdles on the road to a treaty banning intermediate range ballistic missiles. If those obstacles have indeed been overcome, it is indeed a time for celebration. I see no need, however, to celebrate that occasion by legislatively abandoning America's ramparts or of hauling down the flag on our fortifications as a gesture of good will.

What is proposed to this body is a moratorium on the testing of most weapons, at the same time our Nation has hammered out a rational beginning in the process of creating a verifiable and acceptable procedure by which tests would be banned when weapons were abandoned.

There are apparently among us, at least some who believe that it is safe to rely upon the good will of the coalition against which we have armed and occasionally fought these 40 years past. While I am pleased, and indeed anxious, to test the willingness of the Warsaw Pact to negotiate and abide by arms control limitation treaties, I am most certainly not about to presume that the word is father to the deed.

The trouble with such negotiations, of course, is that they are long, slow, and laborious. By their attention to minute detail and in their seemingly interminable haggling over apparently endless issues, they cut against the grain of the American character.

We prefer the quick, straightforward, and simple solution; the handshake of the old West, where a man's word was his honor.

The Soviets, on the other hand, Mr. President, are hardened and experienced negotiators. They have come to the table, I believe, in large part because of the strategic defense initiative. They may well bargain to the point of peace, if they believe it in their own best interest.

If, however, we eliminate the reason for the Eastern bloc to negotiate, I can assure you they will take what we give and ask for more. The bear can be trained, Mr. President, but he is always hungry.

What my friends most sincerely offer is what they believe to be an easy solution. Unilaterally ban testing they say, and the Soviets will follow. Indeed, they may, for it is unquestionably in the military interest of the U.S.S.R. to see nuclear research in this Nation screech to a halt.

At this point our Nation and our allies, are outnumbered in central Europe in tanks, artillery, troops, and aircraft. Those weapons of war and mass destruction, including chemical munitions, would kill our young men and women in any conflict as sure as any nuclear bomb or missile.

We have an opportunity, a unique opportunity to put the world on the path to reduction of weaponry of all types. We may, if we are careful and persistent, place this globe on a road to that point where swords are indeed beaten into plowshares, and where when the lion lies down with the lamb the result is not always lamb chops.

The route, however, as history teaches us is neither easy nor quick. We cannot abandon our commitment to the defense of freedom; we cannot turn aside from the one policy we have developed which has finally convinced the Soviets it is in their best interests to negotiate.

Mr. President, the testing of nuclear weapons is vital to the defense of this Nation; it is a keystone in the policy which finally brought the Warsaw Pact to a serious bargaining position.

Mr. President, in the House of Representatives I supported a nuclear weapons freeze. The problem is nuclear weapons, not nuclear testing.

The use of nuclear weapons is a horrible thought. It is that horror which has maintained the peace; it may be that horror which in the end causes the abandonment of war as an instrument of national policy, at least among those nations whose power is capable of world destruction.

As long, however, as we rely upon those weapons to keep the peace, we must test them to maintain an effective and credible deterrence posture. We need to know that the weapons in our arsenal are safe and reliable. We need to know that they may survive any attack. We need to know their effect on our equipment and that of the enemy. It has been that testing program, which by creating smaller, more accurate and more efficient weapons, has enabled us already to substantially reduce the size of our nuclear arsenal.

Perhaps as importantly, we also need to test to know the future. We test those weapons to verify computer modeling, maintain scientific vitality, and to avoid technological surprises.

Finally, testing of nuclear weapons is directly related to the strategic defense initiative. As many of my colleagues know, I speak up when I believe the administration is in error. I also make it known when I believe they are correct.

When President Reagan proposed the strategic defense initiative I said I would support it. I did so because I believed we had the technological capability to create a situation in which the Soviets were forced to the bargaining table. I believe that policy is succeeding.

We all know, we have repeatedly seen, that the U.S.S.R. is terrified of SDI. They want to end it, and end it perhaps they will. But let the Russians end our defense initiative, only as part of a comprehensive program which eliminates the very threat against which SDI is designed to defend. That is the promise of our research, and of the massive amounts already spent, and it is promise which is bearing fruit.

We have just voted to reduce SDI to a figure which we will negotiate later with the House, but a figure which we hope can retain its vitality and viability as an effective tool in the search for peace.

That vote sends enough of a message to the Soviets that we are willing to search for peace. Without nuclear testing, however, SDI will cease to exist. It is simply inexcusable to abandon at this time the very means we have developed to create a realistic and acceptable end to the threat of war on this planet, and this body has already declined to do so.

We must remember, Mr. President, that we are dealing at the Nation's test site with highly complex scientific operations, which involve literally hundreds of scientists and engineers and thousands of highly skilled technicians. You neither create nor deactivate such a facility with the wave of some magic wand.

This amendment says that we could begin testing again if the Soviets continue their present weapons testing program, or if, in fact, they stopped and began again. Considering that their last test was on September 18, that seems a very great likelihood.

Mr. President, we have heard a lot of talk here about what Presidents have said and what they have done, but I would like to quote verbatim from an address given by President John F. Kennedy, on March 2, 1962. This is an excerpt from that address.

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium. Some urge us to try it again, keeping our preparations to test in a constant state of readiness. But in actual practice, particularly in a society of free choice, we cannot keep top flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the future, nor can large technical laboratories be kept fully alert on a standby basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient. We have explored this alterntive thoroughly and found it impossible of execution.

Mr. President, the Soviet Union for 19 months said that they were not going to test and they did not test, but they were doing the same thing they had done from 1959 until 1962. They were doing their tunneling, preparing their instrumentation, and everything else necessary to get the tests ready for firing.

In period following the expiration of their self-imposed moratorium, they have conducted 17 tests. We conducted only nine tests during that period.

It is my opinion, and I think that of the scientific community generally, that there is no way to prevent or detect the tunneling and installation of instrumentation. They simply are going to get ready. In our free society, you cannot emulate that deception and nothing in the proposed legislation, indeed, nothing we can do, will resolve that problem.

Again, as President Kennedy said, "This is not merely difficult or inconvenient. We have explored this alternative thoroughly and found it impossible of execution."

I would further submit, Mr. President, that there has been a general desire of all Presidents to do something about the nuclear arms race. No President, however, wanted it done by legislation. They wanted it done by treaty. That is the route to take. It can be a more deliberate and more thoughtful process, and certainly then can be brought to the Senate for our review. That is the constitutional process.

In any case, Mr. President, the proposition is simply impractical. There is no commitment from the Soviets in this amendment. There is no enforceable agreement that they close their test facilities and retrain or transfer their staff. There is nothing to prevent a Soviet cessation of testing only until all facilities are completely disrupted, and then a rapid resumption by them of a testing program.

The United States, Mr. President, is not a totalitarian society. If we close down operations at the test site it will take a very long time before we can retrain and retain the scientists, engineers, and skilled technicians who perform jobs so vital to our national defense. The Soviets can go on as they did in the period 1959-60.

Mr. President, before I close I would like to point out to my distinguished friend from Oregon that when he introduced S. 1106, the basis of this amendment, he said:

> This legislation will not end the arms race nor will it insure our future commitment to arms control. What it will do is offer us all—the Soviets, the Americans, and the literally billions of people in between who are now held hostage to the insanity of this arms race—a glimmer of hope that maybe tomorrow begins today.

In short, Mr. President, this amendment is offered only for its symbolic value. My colleagues must know that this is not a time for symbols. We have finally begun a rational approach to reducing nuclear arms. This is not the time to undercut the administration or its negotiators.

The administration has committed itself to negotiations which are aimed at a reduction in strategic nuclear weapons. Reduction in that arsenal may well reduce the need for testing. It is certainly the only rational reason for doing so.

Mr. President, we have before us two treaties which limit the testing of nuclear weapons at realistic limits acceptable to our national security. If this body is serious in its concern, those treaties could be quickly ratified. Rather than debating meaningless and counter-productive symbols, let's get on with the serious work of uniting to end the nuclear arms race.

Mr. President, there are, as Thomas Paine has told us, times that try men's souls. When Paine spoke of the summer soldier and the sunshine patriot, he looked to those who shrank from confrontation in times of crisis. He had, however, some advice for all of us in such circumstances.

"What we obtain too cheap, we esteem too lightly;" he said. " 'tis dearness only that gives everything its value."

The proposal before this body is one which on its face must appeal to those who seek a cheap and easy solution to the threat which confronts the world. If we have learned any lesson from history my friends, it is that in the search for a true and lasting peace, we must negotiate from strength, not from weakness, or the only peace this world will ever find will be the desperate peace of the vanquished, or the peace one finds in the silence of the grave.

The **PRESIDING OFFICER.** Who yields time?

Mr. **EXON.** Mr. President, on our time I thank my colleague from Nevada. I compliment him on his fine statement.

I yield 5 minutes to the Senator from Missouri.

The **PRESIDING OFFICER.** The Senator from Missouri is recognized for 5 minutes.

Mr. **BOND.** I thank the Senator.

Mr. President, I rise in opposition to this amendment.

I understand the goal of my colleagues who are supporting this measure—they want to reduce the likelihood of nuclear war. That is a laudable goal and one we all share. But a unilateral congressionally mandated test ban is the wrong way to pursue that goal.

Proponents of a test ban say that it will reduce the risk of nuclear war because it will keep the United States and the Soviet Union from developing new types of nuclear weapons. They further state that if the two countries are unable to monitor the reliability of their weapons, they will be less likely to rely on those weapons for a first strike. I must disagree with both of these propositions. First, over the years testing has allowed us to reduce greatly the size of our nuclear warheads and thus the potential overall size of our nuclear stockpile. Second, reducing the reliability of our nuclear deterrent will only serve to increase the unknown factors which could lead to nuclear war. If a country is unsure whether it can rely on its nuclear weapons, it may feel the need to use them in situations where it would not consider that use if it were more certain of their reliability.

Furthermore, at the current time a testing ban is not the top item of the agenda of our arms negotiators. They are trying to conclude an agreement to eliminate intermediate-range nuclear missiles. Completing the INF agreement should remain our top priority for the immediate future. A test ban treaty may very well be a laudable goal at some point, but it does nothing to reduce the threat posed by any of the thousands of warheads already in existence.

Mr. President, despite my concern that a test ban should not be our top arms control priority at this time, I oppose this amendment for another reason. I oppose it because it is not the role of the U.S. Congress to impose on the President unilateral conditions for negotiating arms control agreements. Especially at a time like the present when he is attempting to finalize the terms of a new arms control treaty with the Soviet Union.

The Constitution provides that the President shall negotiate treaties with other governments and the Senate shall either approve or disapprove those treaties. I believe the Senate should stick to its role of ratifying treaties and leave the negotiating of terms to the President. Our negotiators in Geneva have their hands full dealing with the Soviets. They do not need an additional adversary—the U.S. Congress—sitting at the table and limiting their negotiating options.

Last week the State Department announced that prior to December 1 of this year United States and Soviet negotiators will begin a new round of talks on limiting nuclear tests. How can we in the Congress enact a provision that will tie the hands of our negotiators just as they are beginning a new round of talks?

There are other problems with this amendment as well. Because the test ban which it establishes is not the result of give and take between our Government and the Soviet Government, it does not take into account other related issues which at the least should be considered before we enact testing limits. For example, under an extended test ban, the reliability of our nuclear weapons would surely deteriorate, making us more vulnerable to the Soviet's superiority in conventional forces. When agreements are negotiated between nations rather than being imposed by Congress, details such as these can be addressed between the parties.

Another problem raised by this amendment is that it establishes a temporary moratorium on testing. By definition it will end unless some additional moratorium is negotiated or imposed.

History has shown us all too clearly that the Soviets have a great advantage over the United States during testing moratoriums. In our free society we cannot keep our testing laboratories running and keep our scientists on the payroll until their services are needed again. Talented physicists are not going to put their careers and research on hold on the chance that someday they may have the opportunity to resume their work. Instead they will go into other fields. This is not true for the Soviets. They can keep their Government labs open and they can keep their scientists working, preparing for the next set of tests. We know that they can do this because they have done so in the past.

In the fall of 1961, when the Soviets broke out of the 2½-year-old testing moratorium, they did so with a series of more than 40 tests—the most extensive series of tests ever conducted. They could not have done so if they had not kept their scientists working, preparing for the tests for several years. The United States on the other hand was not able to maintain its readiness to test and for that reason it was many months before we were even able to conduct our first test. As President Kennedy put it:

> * * * In a society of free choice, we cannot keep top-flight scientists concentrating on the preparation of an experiment which may or may not take place on an uncertain date in the undefined future. Nor can large technical laboratories be kept fully alert on a stand-by basis waiting for some other nation to break an agreement. This is not merely difficult or inconvenient—we have explored this alternative thoroughly, and found it impossible of execution.

Similarly, earlier this year when the Soviets end their unilateral moratorium on testing, they began what has developed into a major series of tests—far in excess of the tests the United States is currently conducting. It is difficult to believe that the Soviets were not preparing these tests during the time that it claimed to have given up the testing of nuclear weapons.

A final concern that I have regarding the proposal before us is that we lack the ability to verify it. The measure sets forth detailed provisions for verifying the proposed ban on testing. Yet many experts believe that they are not adequate to meet the need. The proposal would limit most testing to 1 kiloton—a level at which we cannot accurately assess the difference between a nuclear detonation, an earthquake or other seismic activity. If we do enter into a testing agreement with the Soviets, we must be sure that it sets forth stringent, high confidence verifiability provisions.

Furthermore, the proposal would limit testing to one designated national testing site. This would create additional verification problems because we would have no way of ensuring that the Soviets will confine their testing to their designated site. The Soviet Union is a massive nation—with huge unpopulated spaces. If the Soviets were to conduct tests outside the designated test site we would be hard pressed to be able to monitor them.

Mr. President, we have learned over the past several years that unfortunately the Soviets do not always live up to their arms control commitments. The list of treaties the Soviets have violated is extensive. In his most recent report to Congress on Soviet noncompliance with arms control agreements, the President listed many such violations including past suspected violations of the Limited Test Ban Treaty.

With this dismal record of compliance, it is critical that we ensure that any new arms control agreement with the Soviets provide for enforceable verification. The proposed amendment fails to meet this requirement. As President Kennedy said in the same speech I referenced earlier:

> We know enough about broken negotiations, secret preparations, and the advantages gained from a long test series never to offer again an uninspected moratorium.

Mr. President, as I have stated, I believe the proposed amendment is not in the best interest of our Nation's security. It is a mistake for the Congress to attempt to usurp the President's constitutional authority by legislating the terms of arms control agreements. It is especially wrong to do so just as the President appears near to finalizing an agreement on an arms control measure. For these reasons I plan to oppose this amendment and I urge my colleagues to do the same.

I yield the floor. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The time is presently under the control of Senator HATFIELD and Senator EXON.

Mr. HATFIELD. I yield whatever time the Senator desires.

Mr. KENNEDY. Five minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

ON PRESIDENTIAL AUTHORITY AND ROLE OF THE SENATE

Mr. KENNEDY. Mr. President, opponents of this amendment argue that it represents an unwarranted intrusion into Presidential authority to conduct test ban negotiations. Once again we hear the refrain that it would "tie his hands" at the negotiating table.

But as my able colleague from Georgia noted the other day, the Constitution does not assign the Senate the decorative role of a "potted plant" when it comes to determining foreign and defense policies. Just as this body has done for the conduct of SDI tests, placing certain conditions on the expenditure of funds for underground nuclear tests is an entirely legitimate exercise of the legislative powers assigned to the Senate under the Constitution.

Under the terms of this amendment, any further restrictions would not take effect until 9 months following the date of enactment of this bill. This would provide the President with considerable time in which to negotiate a new agreement limiting nuclear tests.

The amendment also provides that any agreement negotiated before or during the 2-year period which reduces the number or yield of nuclear tests would automatically replace the restrictions in this amendment.

Given that the restrictions in this amendment expire in 2 years, the Soviets would have a strong incentive to negotiate in good faith lest they lose both the temporary restriction and the chance for a long-term agreement.

ON INTERFERENCE WITH THE CURRENT NEGOTIATIONS

We also hear the argument that we should set aside this amendment because the Soviet Union and the United States are now engaged in bilateral negotiations on nuclear testing, beginning with verification improvements to the Threshold Test Ban Treaty and then proceeding at some unspecified future date to unspecified further restrictions on nuclear tests, which in turn are said to be dependent on further reductions in nuclear weapons.

Let us be forthright on this matter. This amounts to negotiations on a test ban thrice removed.

Every Senator in this Chamber knows that the recent change in the nominal status of the test ban talks—from informal technical discussions to formal negotiations—has come about only as a response to strong congressional pressure. Every Senator in this Chamber also knows that for nearly 7 years, this administration has opposed the negotiation of any meaningful restriction on nuclear tests, and continues to oppose such restrictions.

Does any member of this body really believe that this administration is now seriously going to pursue a test ban simply because it has obtained the Soviet Union's assent to renaming the talks? The Soviets have their own long-term political reasons for wanting to appear flexible and forthcoming in their dealings with this administration.

But does this mean that those who believe in the importance of a nuclear test ban should fold up their tents and go home, just because the Soviets have decided in the near term to make a political accommodation to this administration's verification concerns?

In almost 7 years, this administration has accomplished precisely nothing in the area of limited nuclear tests. Now, in the 15 months remaining to it, the administration will be lucky to produce a protocol improving the accuracy of yield estimates for Soviet tests near the 150 kiloton threshold.

Given that the charges of Soviet noncompliance with this threshold were largely based on known errors in our own yield estimation methods, one can hardly regard the negotiation of this protocol as a major step forward in arms control. The administration's rigid and exclusive insistence on this part of the negotiating agenda has always been suspect. In my view it is little more than diplomatic busywork. It is designed to create an illusion of purposeful activity on the nuclear testing issue to deflect the mounting political pressure worldwide for a meaningful restriction on nuclear tests.

If the administration's new commitment to negotiate a test ban is sincere, why then the insistence on improving the verification of tests at 150 kilotons when the Soviet Union has stated it will accept intrusive measures and inspections to verify much lower limits on explosive power, including a comprehensive test ban. I believe the answer is that this administration harbors no serious intention of limiting nuclear tests.

For example, the current negotiating team on the nuclear testing issue is headed by Dr. Robert Barker, who also happens to be Secretary Weinberger's chief assistant for nuclear weapons programs. Notwithstanding his other virtues and his considerable nuclear weapons expertise, Dr. Barker is not an official who brings to the table a strong institutional or personal commitment to obtaining further limits on nuclear tests.

In fact, Dr. Barker recently testified that he believed that the Soviet Union and the United States should continue modernizing their nuclear weapons forever: Dr. Barker stated:

> We are never going to be finished because there may be a need tomorrow to modernize a weapons delivery system in a way which will require the Defense Department to turn to the Department of Energy and say, please design us a nuclear weapon with these kinds of characteristics.
>
> Nuclear weapons testing is never going to be done, and neither we nor the Soviets in my view are going to be finished.

Last week, ACDA Director Kenneth Adelman stated that the current and any likely future negotiations would not lead to a cessation of nuclear tests. Mr. Adelman explained that this might be achieved:

> Way, way, way down the road, when there's peace on earth and good will toward men.

So, it should be obvious to every Senator that nothing has really changed in the administration's approach to further limits on nuclear tests. The need for this amendment is as great today as it was before the administration announced the changed format of the negotiations. It is a change in form, but not in substance.

Renaming discussions on a threshold test ban protocol as "comprehensive test ban negotiations" will not bring us even one step closer to a stabilizing reduction in the yield and frequency of nuclear tests, and it will not bring us even one step closer to a comprehensive test ban. The only way to do that is to support this amendment.

ON CHEATING

Critics of this amendment have also charged, without a shred of supporting analysis, that the Soviet Union could cheat on its provisions without being detected by U.S. monitoring systems.

Those of my colleagues who have examined this amendment will attest to the fact that it contains very extensive and stringent verification provisions. The restrictions on testing are contingent on the Soviet Unions implementation and adherance to these verification provisions.

Earlier this year, three of the leading figures in Ameican seismic detection research—Drs. Archambeau, Evernden, and Sykes—examined the technical provisions of this bill and wrote Senators HATFIELD, DECONCINI, and myself as follows:

> After careful review of the bill and all its provisions we wish to express our strong support for its passage . . . the combined verification capability, . . . as provided for in the bill, should be an extreme deterrent to a tester who realistically considers the risks of clandestine testing and, conversely, should provide the monitor with a high degree of confidence in his ability to identify any violations, should they occur.

NUCLEAR WEAPONS SAFETY, SECURITY AND RELIABILITY

Another objection raised against this amendment is that it would allegedly interfere with continued testing to maintain the safety, security, and reliability of the nuclear arsenal.

SAFETY

Let me first deal with the question of warhead safety. After four decades of development, the safety design of nuclear weapons is well advanced. All U.S. nuclear weapons are already "one-point safe," meaning that they will not produce a significant nuclear yield even if the chemical explosives are triggered at one point by the penetration of a bullet or by fire.

Another safety improvement, the environmental sensing device, blocks triggering signals from reaching the chemical explosive until the weapon has traversed its intended launch-to-target sequence. These devices do not require nuclear explosive tests to confirm their reliability.

Another safety improvement has been the use since 1980 of "insensitive high explosive," which reduces the probability of plutonium dispersal in an accident. Warheads containing IHE are now available for high-yield and low-yield bombs, all U.S. cruise missiles, the Pershing II, and the MX. In cases where new warheads containing IHE have not been developed, there has usually been no intention to do so for institutional or technical reasons.

For example, the Navy had the option of incorporating insensitive high explosive in the new Trident II warhead, and chose not to. The Department of Energy has stated:

> Warheads which do not incorporate IHE are designed to prevent nuclear yield in both normal and abnormal environments and are not considered unsafe. The DOE has not provided, and will never provide, to DOD a warhead which is considered unsafe.

WEAPON SECURITY

In the area of nuclear weapon security, the primary issue today is not further technical refinement, but rather the fact that many weapons in the U.S. stockpile, including the weapons on board ballistic-missile submarines, still have no built-in coded security devices. This amendment would do nothing to interfere with the introduction of modern category D coded locks into currently unprotected weapons, because these electronic locks operate on components that do not require nuclear tests to certify their performance.

RELIABILITY

Regarding the need for nuclear tests to maintain the reliability of today's nuclear arsenal, the record shows that from 1965 to the present, there have been only 7 instances of problems in 6 weapons designs, leading to 11 nuclear tests.

This translates to an average of one test every 2 years. This amendment provides for two reliability tests over a 2-year period, twice the historical rate. Such tests involve the primary stage of a thermonuclear weapon, and can be conducted under 15 kilotons, as provided for in this amendment.

Moreover, out of the total of 39 tests conducted since 1958 to assess or remedy problems in the stockpile, only 5 tests involved weapons that had been in the stockpile more than 3 years. This statistic indicates that the vast majority of so-called reliability problems in the stockpile are really a function of the constant introduction of new weapon designs into the stockpile. Without a continuing process of warhead modernization, one could expect that the rate of required stockpile confidence tests would drop well below the level provided for in this amendment.

According to a recent report by Livermore Laboratory's Scientific and Academic Advisory Committee:

> The committee concludes that the endurance of the stockpile, already great, continues to improve.

The chairman of this committee, Dr. Fred Reines, of U.C. Irvine, has stated that U.S. nuclear weapons are designed:

> To last one hell of a long time. . . . We should not be prevented from thinking in a constructive way about the possibilities of test bans. We are not precluded from this by any means.

According to the conclusions of a forthcoming study by senior physicist Ray Kidder of the Livermore National Laboratory—a report which I requested in conjunction with LES ASPIN, chairman of the House Armed Services Committee—none of the examples of stockpile problems cited by the Department of Energy support the case that today's stockpile of thoroughly tested weapons requires continued nuclear explosive testing to maintain confidence in its reliability.

Finally, Mr. President, I think the Senate ought to understand that those who speak for the administration, for the Secretary of Defense as well as for the Secretary of State, have testified before the Armed Services Committee that they are opposed to any further limitation of nuclear tests even with complete verification.

Therefore, I do think, given the position of the administration, at a time when we are moving ahead to authorize the whole series of tests, varying from 20 to 30 a year, we have a responsibility to speak on behalf of the American people by presenting what Senator HATFIELD and I both agree is a responsible, sensible, balanced proposal so that there might be a significant slowdown in the advance of nuclear weaponry, by both the Soviet Union and the United States.

I yield back the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield 5 minutes to the ranking member of the Strategic Deterrence Subcommittee, the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment which would limit nuclear testing over 1 kiloton except for one test annually not to exceed 15 kilotons.

As has been made very clear in the recent discussions about the INF proposal to eliminate whole classes of nuclear weapons from Europe, we, and our allies depend on nuclear weapons to deter both nuclear and conventional conflict. And so long as we depend on nuclear weapons for deterrence, we must maintain unquestionable nuclear competence, which our experts at the national nuclear laboratories tell us requires continued testing.

Mr. President, testing contributes to the confidence in our deterrence in a number of ways.

Testing permits us periodically to remove weapons from the stockpile and determine their reliability. Our experience with this testing has uncovered examples of problems that would have seriously undermined the effectiveness of the stockpiled weapons.

Testing permits us to carry on weapons developments designed to make our stockpile safer, more reliable, and more resistant to unauthorized tampering or use.

Testing permits us to maintain the effectiveness of our nuclear weapons stockpile in the face of dedicated Soviet efforts to undermine that effectiveness. Such modernization has been required to deal with the effects of Soviet hardening, for example.

Testing permits us to determine the effects of nuclear weapons detonations on the survivability of U.S. command, control and communications systems, critical satellites, and other systems that contribute to deterrence and whose operation in wartime is essential to effective retaliation if deterrence fails.

Mr. President, the yield thresholds proposed in this amendment would not permit such essential testing to continue. As a consequence, the amendment would begin a process of eroded confidence in the reliability of our nuclear stockpile, would prevent us from completing programs designed to make our weapons safer and more secure, would prevent us from completing modernization programs that respond to Soviet activities that would not be constrained by a testing moratorium, and finally would erode confidence in the wartime effectiveness of land- and space-based command, control, communications, and intelligence functions.

Moreover, Mr. President, we have heard expert testimony in the Armed Services Committee that monitoring compliance with a 1-kiloton limit is not technically feasible for the foreseeable future. Monitoring compliance with the 15-kiloton threshold involves uncertainty of a factor of two or better, which would raise serious national security concerns if the Soviets chose to take advantage of such uncertainty.

Mr. President, the road to real arms control is not through the back door of limitations on nuclear testing. The road to real arms control is through tough negotiations on real proposals to reduce significantly the numbers of nuclear weapons in the arsenals of both sides. This is precisely what President Reagan has instructed his negotiators to do in the ongoing negotiation in Geneva. Our negotiators are not aided by actions of the Congress that propose unverifiable testing regimes that would serve to both undermine confidence in the existing stockpile and to preclude improvements designed to make our stockpile more effective, more safe and more secure.

Mr. President, I encourage my colleagues to join me in opposing this amendment. I am confident that would be in the best interests of the people of this country.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, we have heard today again a variety of reasons why one should oppose this amendment, and I have attempted to respond to those objections. I especially appreciate those concerns which address the basic parts of the amendment and the conditions of the amendment, particularly those concerns the Senator from Nebraska.

But, obviously, we have moved on in the debate to really address the question: Do we want arms control or do we not? I think some of the almost specious arguments about whether or not we are going to lose jobs, whether or not we are going to close down laboratories and lose our scientific community, are really not very relevant to this whole debate. Those who are probably in a better position to know than any of us here on the floor agree—that is, people who are associated with or who have been associated with the whole laboratory complex and the development of nuclear weapons. I would like to list a few who support this amendment.

Glenn T. Seaborg, who was associated with Lawrence Berkeley Laboratory at the University of California, was Chairman of the U.S. Atomic Energy Commission, and was a Nobel prize winner for chemistry; Richard L. Garwin, who has been a very distinguished scientist at Harvard University and also has been at the IBM Thomas Watson Research Center, Cornell, Columbia; J. Carson Mark, retired director of Theoretical Physics Division at Los Alamos Scientific Laboratory; Norris E. Bradbury, director, Los Alamos Scientific Laboratory, 1945 to 1970; Lynn R. Sykes, Lamont-Doherty Geological Observatory, Columbia University, member, Threshold Test Ban Delegation; Theodore B. Taylor, NOVA Corp. Damascus, MD, former Deputy Director for Science, Defense Atomic Support Agency. These are men who know.

Mr. President, these are men of known and world-known status in the field who certainly would have some sense of professional future for people in laboratory research and would certainly be concerned about the personnel and the basic science research. Mr. President, they support our amendment.

The one I really hate is the idea that somehow as long as we have nuclear weapons we have to test them. Again that is a very interesting point which comes back to whether we want to put any limitations on the Soviet Union. Do we want to be free to develop anything we want? If we do, the Soviet Union must be free as well. Whether it is for safety, whether it is for new weapons, whether it is for better accuracy, the questions are do you want a test ban, and do you want a limitation on armaments of this kind?

I think there are those who would argue that we should continue weapons development and escalate it. I have heard those arguments. I do not deny that people can make a very attractive argument on that basis. We live in a dangerous world, and as long as the Russians are here we are going to have to build those armaments. That is the argument. But they are locked in. We are locked in, we are locked into a horrible cycle of escalation that can only end in disaster.

Mr. President, you would think we were asking for a 200-year moratorium, not a 2-year moratorium. By the graphic concerns expressed that mean somehow putting ourselves at a disadvantage and the Soviet Union at an advantage, you would think we were talking about 200 years.

Mr. President, I raise this amendment before the body today, and I challenge anyone here to point to a single clause in this amendment that puts the Soviet Union at an advantage and the United States at a disadvantage.

I feel like the preacher who said: "If anybody knows why these two people should not be joined in marriage, speak now or forever hold your peace." There is silence—I will wait longer.

There is not one clause in this amendment that gives the Soviet Union some superior position and the United States some inferior position. My colleagues know that. It is a balance.

I have an interesting graph here—a visual aid, if you please. A group of scientists went to the Soviet Union to conduct research under the auspices of the National Resources Defense Council. That was in September. They had the opportunity, in fact it was almost an act of God, I suppose maybe an act of nature. As they had their instrumentation in place, as they were there doing seismic recording with their instrumentation, an earthquake started. Here are the lines indicating the earthquake recording on that instrumentation. Ten seconds later, by coincidence, there was a detonation by the Soviets, a detonation of TNT in a scientific test of some sort.

From any point in this Chamber, one can see clearly, between this side of the graph and this side, that we do have the technology, we do have the instrumentation, to record and be fully apprised of whatever seismic activity is going on in the Soviet Union. We can distinguish between that activity.

In fact, we have the testimony of scientists who are fully satisfied that it is possible, within the scope of this amendment, to be fully informed as to what seismic activity is occurring in the Soviet Union. Beyond that, it is possible to alert us instantaneously, almost, to the fact that the Soviet Union has violated the terms of this agreement. Should this become an agreement between the two countries, that violation in itself invalidates, cancels, wipes out—whatever other word you want to use—any obligation of the United States to maintain its moratorium.

What I am saying is simply this: There is nothing in this amendment that puts us at a disadvantage or at an advantage. No deal can ever be made that puts one party at a distinct disadvantage while the other party to the agreement enjoys a particular advantage. That is a fact of history.

All the President has to do is to say the Soviets have cheated. That is all the President has to do, and the deal is off. We do not require the President to present us with a seismic chart, scientific evidence that the Soviets have cheated. We do not have to get a confession from Gorbachev that they have cheated. It happens when the President says the Soviet Union has cheated. That's it.

Mr. President, I do not see how that can tie anybody's hands. Good faith? Yes, good faith is required, good faith on the part of the President. It is not a question of whether the Soviet Union lies or cheats or does anything. The President of the United States is the one who tells us, and his word alone would invalidate any further obligation under this amendment.

Mr. President, again I want to emphasize—contrary to my good friend from Nebraska, who feels this timing is not correct—I still feel this initiative gives a strengthened hand to the President, as we all wish him well, as he proceeds to a summit. I know of no better way we can strengthen the President's hands as he moves toward that opportunity than to say: "Mr. President, we are with you. We want to see an agreement." If, of course, he is serious.

All we are suggesting here is that there is a possibility of setting the stage for some kind of agreement that hopefully would last longer than 2 years. All we are asking for here is a ban of 2 years. That, in itself, is not going to be an inhibiting force in any way to the President, but rather a strengthening of his hands.

I think the timing is absolutely superb, and I hope my colleagues will agree with me.

Mr. President, how much time remains under my control?

The PRESIDING OFFICER. The Senator has 8 minutes remaining. The Senator from Nebraska has 26 minutes remaining.

Mr. HATFIELD. I thank the Chair.

Mr. EXON. Mr. President, I yield 3 minutes to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 3 minutes.

Mr. REID. I thank the Senator. I appreciate the time.

Mr. President, in answer to my friend from Oregon, I say that the one thing that has not been answered is what happened from 1959 to 1962 and basically what basically would happen again.

There is nothing to prevent the Soviets from doing their tunneling or instrumentation and, as they did in 1962, come back with a series of tests.

Mr. President, I ask unanimous consent to have printed in the RECORD, a letter from Roger E. Batzel of the Lawrence Livermore National Laboratory. I submit that this is very graphic in illustrating the problems that are before the Senate as a result of this amendment. I will read one paragraph:

> The administration and Congress should agree in principle to a strategic program which progressively limits nuclear testing only in concert with major arms reductions and other technology controls.

Mr. President, I submit that this is the important thing, as I mentioned before—nuclear weapons, not nuclear testing. We have the order reversed.

There being no objection, the material was ordered to be printed in the Record, as follows:

Lawrence Livermore National Laboratory,
May 13, 1987.

Adm. Sylvester R. Foley, Jr.,
Assistant Secretary for Defense Programs,
U.S. Department of Energy,
Washington, DC.

Dear Admiral Foley, We have reviewed the draft language of the Hatfield-Kennedy Underground Nuclear Explosions Control Act. This proposed measure raises a number of complex, technical issues. In offering our comments we have concentrated on technical matters.

There is now a substantial body of testimony by me and the other Laboratory Directors before various Congressional forums on the impact of nuclear testing limitations. (For example, see my testimonies submitted to the Foreign Relations Committee on January 15, the Senate Armed Services Committee on February 26, and the Senate Appropriations committee on March 25.) In these testimonies I explicitly stated the technical consequences of further test limitations and will not repeat all the detailed arguments here.

It is generally agreed that the major technology issues which affect stability are issues such as land-based MIRV's, singlets, targeting of mobiles and command posts, non-nuclear strategic defense, and the nuclear-conventional balance in Europe. Certain Congressional resolutions have distracted US-Soviet negotiations on such major issues by supporting a Soviet position which seeks to disproportionately weaken a US asset (technology) before addressing Soviet advantages (throwweight, number of accurate ICBM warheads).

The Hatfield-Kennedy proposal does not link test limits to arms reductions nor to limits on non-nuclear technology. Since warhead modernization is motivated by these factors, the Hatfield-Kennedy Bill does not address the fundamental issues despite its stated commitment to arms reductions. Test limits are not a "crucial first step". Serious negotiations on arms reductions are, as exemplified by the negotiations on Euromissiles. Even if some modest test agreement were needed to "break the ice," the administration proposal to exercise on-site TTBT verification measures provides this opportunity.

We support a strategy of arms control, arms reduction, and arms modernization which provides technological stability. The fundamental political, military, and economic conflicts between the major powers can then be addressed.

The administration and Congress should agree in principle to a strategic program which progressively limits nuclear testing only in concert with major arms reductions and other technology controls. The President has already made a proposal to the Soviets along these lines.

The verification measures proposed by the Kennedy-Hatfield proposal would not appear to be achievable technically or negotiable with the Soviets. If a 15 kt threshold had been chosen, it might be possible to verify observance of the 15 kt limit with an uncertainty of a factor of two or better, assuming that the procedures for carrying out the calibration explosions were well defined, that the internal seismic stations were in place for the calibration explosions, and that the explosion environments were well defined. These are all quite debatable assumptions. Verifying observance of compliance with the 1 kt limit is not technically within our grasp for the forseeable future. The provisions in this bill are clearly grossly inadequate to cover verification of such a limit. Specific comments on the various sections of the bill are attached.

Sincerely,

Roger E. Batzel,
Director.

Mr. CRANSTON. Mr. President, Senators will soon have an opportunity to vote on the Hatfield-Kennedy-Cranston amendment for a 2-year nuclear warhead testing moratorium.

The Soviet Union has made dramatic concessions in recent months to meet many of the demands of the harshest U.S. critics of a nuclear test ban. In April, the Soviets proposed that each nation explode a nuclear device at the other's test site for the purpose of calibrating seismometers. The U.S.S.R.'s draft test ban treaty submitted to the Conference on Disarmament this June contained provisions for an international network to transmit test data and mandatory onsite inspections. And in May the Soviets said the U.S. could use CORRTEX to measure the yield of some Soviet tests if the U.S. agreed to begin negotiations on a Comprehensive Test Ban. I would also point out that the Soviet Union has been unusually cooperative on verification issues in the ongoing INF talks. The Soviet move toward increased openness was most dramatically reflected when they permitted Members of Congress to inspect the sensitive Soviet radar installation at Krasnoyarsk during the last recess.

These are important concessions which could make it much easier for the United States and the Soviet Union to negotiate a Comprensive Test Ban Treaty. I hope these signs of openness and compromise on the part of the Soviets will help convince a few more of my colleagues here that the United States has a real opportunity. We can take a firm step toward controlling the nuclear arms race by ending nuclear explosions with yields in excess of 1 kiloton.

As some people have suggested, let's test the Russians, not weapons. Let's find out how far they—and we—are prepared to go. Let's undertake a mutual effort to observe a nuclear testing moratorium now, and move to begin negotiations in earnest for a test ban at the soonest possible date. I am delighted that the recent meeting between George Shultz and Soviet Foreign Minister Schevernadze has resulted in the promise to resume such negotiations.

Although I am a cosponsor and firm supporter of the Hatfield-Kennedy legislation, if it is adopted, I will offer an amendment which would have the effect of changing one small but significant part of this measure by eliminating the two so-called reliability tests provided for by this legislation.

The United States and the Soviet Union have an obligation under the Non-Proliferation Treaty to work toward a comprehensive test ban. I don't believe we should undermine this goal by allowing additional tests for any purpose. This proposed moratorium would be bilateral; the confidence of each side in its nuclear arsenals would gradually erode. This would not be a bad development: both sides would be less likely to think about using weapons which might not work.

I strongly urge my colleagues to support the nuclear warhead testing moratorium. We have nothing to lose—as the proposed moratorium would be contingent upon Soviet acceptance of our terms. But we have a great deal to gain if we can temporarily halt the superpowers' nuclear explosions, and begin working toward a permanent end to nuclear testing.

Mr. COHEN. Mr. President, in February 1984, Senator Biden and I traveled to Moscow and met with officials from the Soviet Foreign Ministry and Academy of Sciences. This was at the time when nuclear arms negotiations were on hold after the Soviets had walked out of the INF talks and had refused to set a date for resumption of the START negotiations. However, it was also following the President's January 1984, address in which he called for a joint examination of concrete actions that both countries could take to reduce the risk of confrontation. Such steps were among the subjects which Senator Biden and I discussed with Soviet officials in Moscow.

After returning to Washington, Senator Biden and I met with President Reagan and Secretary of State Shultz to discuss details of our discussions in Moscow and offer our recommendations. A few weeks later, in an April 1984, Senate floor statement, I outlined several concrete steps that I believed the United States should pursue to achieve progress toward the objective of reduced tensions and enhanced stability. Among these proposed steps were the ratification of the 1974 Threshold Test Ban Treaty [TTBT] and the 1976 Peaceful Nuclear Explosions Treaty [PNET].

Beginning in September 1984, the Senate repeatedly put itself on record in favor of proceeding to ratification, with any appropriate reservations, of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and returning to negotiations on a comprehensive test ban. I supported the amendments calling for these actions because I believed that the difficulties associated with TTBT and PNET ratification are resolvable and that negotiations are essential to make progress toward a comprehensive test ban.

Since 1984, the United States and Soviet Union have improved their relations in a number of areas, increasing cultural and educational exchanges and making progress in the nuclear arms control negotiations in Geneva. Up until last week, however, there was little movement forward on the question of nuclear testing.

Now, after a long and often frustrating hiatus, the United States and Soviet Union have agreed to full-scale, step-by-step negotiations on nuclear testing beginning before December 1, 1987. According to the joint United States-Soviet statement which resulted from the discussions between Secretary Shultz and Foreign Minister Shevardnadze last week, the United States and U.S.S.R.:

> As the first step [in these negotiations] will agree upon effective verification measures which will make it possible to ratify the [TTBT and PNET] and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process.

In addition, the United States and Soviet Union agreed to design and conduct joint verification experiments at each other's test sites. These experiments have the explicit purpose of improving verification so that the Threshold Test Ban and Peaceful Nuclear Explosions Treaties can finally be ratified. In addition, the experiments will be used, to the extent appropriate, in further nuclear test limitation agreements which may subsequently be reached. The TTBT and PNET have been criticized for relying on an exchange of essentially unverified data on nuclear test sites and tests. The Shultz-Shevardnadze agreement for joint verification experiments could help resolve some of the current verification concerns.

In sum, the United States-Soviet announcement takes us several steps forward. Further progress hinges on the resolution of critical issues, such as appropriate verification arrangements, that can only be worked out through negotiations. In addition, the continuing need to maintain warhead safety, security, and reliability must be carefully considered.

The amendment proposed by Senator HATFIELD and Senator KENNEDY which we are considering would institute a 24-month moratorium on underground nuclear testing over 1 kiloton, save for two designated test explosions with yields not to exceed 15 kilotons. The amendment also sets forth in detail provisions to verify a moratorium on nuclear explosive testing. Suffice it to say, Mr. President, that the monitoring provisions suggested by this amendment are the subject of controversy among technical experts as to whether they would be appropriate and adequate.

A question and answer paper—prepared by the amendment's authors, themselves—states that these provisions would "probably not" be sufficient, even in conjunction with the current United States global seismic monitoring network outside the Soviet Union, to monitor a permanent very low threshold test ban. Moreover, we cannot legislate Soviet acceptance of the detailed provisions in this amendment.

Mr. President, I have long believed that mutually acceptable provisions for verification improvements and a comprehensive test ban can only be achieved through negotiations and that a moratorium would not advance these efforts. I would note that this view reflects the position held by the United States during the comprehensive test ban negotiations conducted by the Carter administration between 1977 and 1980. On numerous occasions, the United States rejected proposals calling for a moratorium on nuclear testing. For example, Charles Flowerree, U.S. Ambassador to the Conference on Disarmament, stated on August 5, 1980:

> The United States has strongly and consistently held the position that a comprehensive test ban, in order to promote stability and mutual confidence among its participants, must be based on adequate measures of verification. A moratorium by definition would not be based on such measures.
>
> We are engaged in a detailed and technically complex process of elaborating adequate verification provisions. Although we are confident that effective and mutually agreeable solutions can be achieved, a moratorium on nuclear testing could seriously complicate efforts to develop satisfactory verification arrangements. It could even have the effect of lengthening the negotiating process.

Mr. President, I believe that these arguments ring as true today as they did 7 years ago. Accordingly, in the light of current developments, I believe that instituting a moratorium now would be an especially inappropriate step. The issues are indeed complex, but I am confident that—with good will and a lot of work on both sides—they can be resolved through negotiations.

Last week's announcement must give all of us who have been following this issue for so long hope that real progress toward a comprehensive nuclear test ban finally is being made. We must now turn our attention to ensuring that this opportunity is vigorously and sincerely pursued. We must directly address through the negotiating process the issues which have blocked progress on nuclear testing constraints. Now is the time, not for taking measures such as the proposed moratorium, but for moving forward with substantive United States-Soviet negotiations with the ultimate goal of a comprehensive test ban.

A VERIFIABLE TESTING MORATORIUM SHOULD BE A TOP PRIORITY

Mr. WIRTH. Mr. President, I am pleased to cosponsor the pending amendment, joining with the distinguished senior Senator from Massachusetts [Mr. KENNEDY] and the distinguished senior Senator from Oregon [Mr. HATFIELD], and others. The amendment, as has been previously explained, requires the United States to abide by a stringent 2-year limitation on the number and level of nuclear tests so long as verification procedures are adequate to assure that the Soviets are limiting themselves in the same respect.

Nuclear testing, Mr. President, under the terms of this amendment, would be limited to underground nuclear explosions of 1 kiloton with the exception that it permits up to two tests not to exceed 15 kilotons. The amendment provides for detailed verification—something that opponents of test bans have been demanding for years.

The verification provisions are specific, Mr. President. They call for 12 in-country seismic monitoring stations and would permit the Soviets to establish such stations in the United States if we are permitted to establish a like number of such sites in the Soviet Union. They provide for independent calibration of the seismic measuring devices. They permit six onsite inspections on demand. And, to facilitate verification, they limit underground nuclear explosions to one designated test area in each country.

The limits placed on testing and the advances in seismic measuring instrumentation make detection and identification of offsite violations of the agreement a virtual certainty, Mr. President. Any such incident would constitute a violation and would be grounds for a Presidential certification of noncompliance—grounds for immediate termination of the moratorium by the United States.

Cessation of testing is a universally recognized route to arms control. Why, then, Mr. President, does the administration oppose this amendment? Why, then, is there any opposition in this Chamber? As I understand it, opponents claim that verifying Soviet adherence to the limits proposed in the amendment is beyond the ability of our scientists. This is a red herring Mr. President. Verification technology has improved dramatically during the last decade since earlier treaties limiting underground nuclear testing were negotiated, but which remain unratified.

Some opponents of this amendment also claim that continued tests of nuclear weapons are necessary to ensure the reliability and safety of our weapons systems. But this is an insufficient justification for opposition, Mr. President, for several reasons. Existing nuclear weapons can be tested for reliability without exploding them. In fact, few explosive tests are conducted for the purpose of determining reliability. Furthermore, Norris Bradbury, former director of the Los Alamos National Laboratory, has stated that no reliability problem has been detected through an explosive test, and "in no case would it have been necessary to conduct a nuclear test to remedy the problem."

Likewise assertions that tests are necessary to ensure warhead safety fail to hold up. The main design safety features of the weapon preventing accidental detonation do not need explosive testing. All weapons in the stockpile are "one point safe," which means that no single system failure can trigger an explosion. Never, Mr. President, has the United States experienced even a partial accidental nuclear warhead detonation. The crash in Spain some years ago of a United States aircraft carrying nuclear weapons did not lead to a detonation, and the weapons were recovered with little contamination.

Opponents claim that, until the actual negotiation of a treaty similar to this legislation, testing must proceed in order to assure necessary progress is made in the development of new weapons essential to maintaining our national security in the face of constant Soviet advancement. But it is important to keep in mind, Mr. President, that this moratorium will restrict the United States only so long as the Soviet Union restricts itself in the same respect. By definition the Soviets cannot pull ahead of the United States in nuclear weapons technology to the extent that test explosions are a determinant of such progress; should the Soviets violate the moratorium, no further consideration or action on the part of the Congress or anyone else is needed: The restrictions on United States testing instantly and completely evaporate.

Mr. President, the United States already has over 30,000 nuclear weapons. I must confess that I cannot understand the logic of those who claim to favor efforts to end nuclear testing while opposing any verifiable mutual cessation of such testing until and unless a formal treaty is negotiated and ratified. Even if they do not so intend, their opposition is an invitation to continued testing by the Soviets and therefore a ticket to ever wilder, more expensive, more potentially deadly escalation of the nuclear arms race that began over 30 years ago. The effect of that position will not be, as they assert, to pressure the Soviets to come to the bargaining table.

Opponents of this amendment may claim that the terms of this amendment inappropriately restrict the authority of the President by, in effect, creating a situation with the effect of a treaty that he, as the chief of our Government's executive branch, has not negotiated. But that argument will not hold water, either, for two reasons. First, this provision in no way restricts the President's negotiating authority. Indeed, it creates an atmosphere far more conducive to treaty negotiations—since both nations basically, as long as they comply with the terms of this amendment, will be in compliance with what one might anticipate to be the basic terms of any testing treaty. Second, the amendment unquestionably gives the President the authority to terminate the moratorium in the event the Soviets violate its conditions either as to the limits on testing or to the provisions for permitting verification arrangements.

Mr. President, nuclear testing has been an item of concern with the American public since the mid-1950's. Bilateral discussions on a comprehensive test ban began under President Eisenhower, and every administration since—except the current one—has pursued that goal. As recently as last February 1987, 78 percent of Americans polled on the question favored stopping nuclear weapons testing as long as the Soviets agreed to do so, too.

Last week, Mr. President, the United States and the Soviet Union announced an historic arms control and disarmament breakthrough. As everyone in this body is aware, we have reached agreement in principle to eliminate intermediate-range nuclear forces. Equally encouraging, Mr. President, in the context of this amendment, was the news that both sides pledged to begin before December 1, 1987, negotiations leading to an agreement on verification measures that finally would enable the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976 to be ratified. Further, both nations agreed to move directly to negotiate further limitations on nuclear testing with the objective of drafting a comprehensive test ban—a measure absolutely essential to eventual major reductions in the nuclear arsenals of both countries. In this atmosphere of renewed willingness—after a hiatus of 7 years—to resume talks pointed toward further limitation of nuclear testing, we should not be contemplating more tests. Neither should we take seriously suggestions that this moratorium undercuts the position of our negotiators by giving away something for which we get nothing in return. We are giving away nothing. The moratorium proposed here is mutual. To the contrary, Mr. President we are getting something positive out of this moratorium. We are getting a further—and, I am hopeful, a permanent—reduction in the level of nuclear testing on our planet. We are increasing the possibility of finally putting a ceiling on the nuclear arms race that has raged for so long in both nations, and has posed a grave threat not just to the people and the civilizations of these two nations, but to all humankind.

The negotiation process no doubt will be long—and arduous. We would expect no less, because any treaty involving our national security must be meticulously negotiated to assure our security is maintained. But as long as both sides abide by the moratorium which the United States will join if this amendment is enacted, and as long as we have the technology and access to assure compliance with its terms by the Soviets, or ascertain violation by the Soviets and resume testing that in such a situation would be strategically necessary, I can think of no good reason for us not to stop testing now.

To reiterate some key points, Mr. President: Joining in the moratorium will in no way diminish our strength relative to the Soviets. We continue to participate in it under the terms of this amendment only so long as the Soviets verifiably participate fully as well. This moratorium is in the best interests of this Nation and of the Soviet Union. The world as a whole—and this Nation in particular—will be a safer place if this amendment is adopted and ultimately becomes law. Further, the moratorium which it would have the United States join is a critical milepost on the road to significant, mutual, verifiable nuclear arms reduction which will make the world a safer place for all its inhabitants. That is a major contribution for a simple amendment to one Senate bill, but a contribution that this amendment absolutely has the capability to make.

Once again, I compliment the principal authors of this amendment. I am proud to support this effort, and I urge all my colleagues to join in supporting the amendment.

Mr. PELL. Mr. President, I am pleased to be an original cosponsor of the amendment being offered by the Senators from Oregon and Massachusetts [Mr. HATFIELD and Mr. KENNEDY]. The proposal now has 34 cosponsors.

I believe that congressional approval of the concept of a mutual and verifiable moratorium on nuclear tests above the level of one kiloton could do much to get us back on track toward a permanent testing treaty. The proposal is both reasonable and practical. By calling for a moratorium of fixed duration, by specifying comprehensive verification provisions, and by incorporating safeguards providing for automatic termination if warranted, I believe the authors have crafted legislation which could lead to definite progress toward a complete ban without jeopardizing our national security in any way.

Mr. President, I was pleased last week by the agreement reached at the meetings between Secretary of State Shultz and Soviet Foreign Minister Shevardnadze that there are to be negotiations by December 1 on testing issues. As a first step, the sides hope to agree on additional verification measures which could lead to ratification of the 1974 Threshold Test Ban Treaty [TTBT] and the 1976 Peaceful Nuclear Explosions Treaty [PNET].

Earlier this year, on the basis of a Presidential commitment to support ratification of the TTBT and PNET, I chaired hearings by the Foreign Relations Committee on those two treaties. The committee reported them favorably with a reservation dealing with verification requirements.

The committee report noted that "most of the committee does not feel justified in concluding that additional verification measures beyond those which would be in place upon ratification are required for adequate verification. The record of the last 10 years with regard to Soviet component, and our own efforts to refine compliance assessments, are for most, no cause for alarm. The committee notes that all U.S. national security program objectives have been met while we have complied with the treaties and that, in the area of testing, there is no evidence of any Soviet cheating which produced some illicit benefits."

At the same time, however, the report said, "the committee recognizes that some enhancements in verification could be of value in providing additional evidence regarding Soviet compliance and could further dissuade the Soviets from misconduct."

Accordingly, the committee approved a verification provision which gave support to the administration's proposal for on-site inspection, but which also afforded the administration the necessary leeway either unilaterally or in order to reach a successful compromise with the Soviets.

Mr. President, I believe the way is open for the President to strike a good agreement with the Soviets which would open the way to ratification of the TTBT and PNET. Frankly, I believe that, had the administration not come up with an unwieldy and unworkable scheme for dual ratification, we could have had Senate consideration of those treaties by now, and the administration would now have the consent of the Senate for ratification. Because of the administration's performance in this matter, momentum was lost. That momentum can be regained now if both sides are willing. This new agreement is an encouraging sign.

Mr. President, approval of this amendment would place the Senate firmly on record in favor of further controls, and it would serve to give impetus to an early agreement in the new negotiations on TTBT and PNET verification.

It has been 24 years since President Kennedy achieved the first record on nuclear testing, the Limited Test Ban Treaty of 1963. In the time since, there have been dramatic improvements in our ability to monitor compliance with nuclear tests. There is no question in my mind that we can moitor compliance with the TTBT and PNET. I believe we can also agree on dramatically lower testing levels, as proposed in this amendment. With mutually agreed verification measures, we can take such steps without endangering our national security in any way.

We and the Soviets have pledged to other nations that we will strive to bring an end to nuclear testing. The actions set forth in this amendment would be a strong, positive step in that direction.

Mr. GLENN. Mr. President, I rise to speak in opposition to this amendment which would place restrictions on funding for nuclear testing. While I share the sponsors' frustration with the lack of progress in attaining a mutual and verifiable comprehensive nuclear test ban and I am sympathetic to what they are trying to achieve with this legislation, I believe that they are taking the wrong approach to this important issue.

In the past, I have joined with many of my colleagues in the Congress in calling upon the President to request Senate ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty, and to resume negotiations toward conclusion of a Comprehensive Test Ban Treaty. I am particularly heartened by the recent announcement that the United States and the Soviet Union will resume negotiations on the cessation of nuclear testing. Hopefully, we will soon see significant progress in this important area of arms control.

A mutual and verifiable comprehensive test ban will put a qualitative freeze on the nuclear arms race and effectively prevent the development of a new generation of nuclear weapons, and will make nuclear proliferation to other countries more difficult. Coupled with quantitative reductions in nuclear warheads by the superpowers, I believe a CTB will go a long way toward reducing the threat of nuclear war.

This legislation would prohibit the expenditure of DOD or DOE funds to carry out any nuclear explosions with a yield exceeding 1 kiloton, or any nuclear explosion that is conducted outside a designated test area as long as the Soviets refrain from nuclear testing.

Mr. President, I believe that a comprehensive nuclear test ban should come about as a result of negotiations between the United States and the Soviet Union in reaching a thorough, detailed agreement with provisions for compliance and verification.

In their article in the spring of 1987 edition of Issues In Science and Technology entitled, "Toward a New Test Ban Regime," seismologists Paul G. Richards and Allan Lindh put forward what I believe to be a realistic approach toward attaining a Comprehensive Test Ban Treaty. This would involve the superpowers first negotiating a Low-Yield Threshold Test Ban Treaty. Such a treaty would require that the United States and the Soviet Union not conduct nuclear tests with yields in excess of approximately 15 kilotons, and would require them to commit themselves to lowering this threshold in stages over a period of several years. (With the establishment of in-country monitoring facilities, many experts believe that the uncertainties of estimating the yields of nuclear tests at 15 kilotons are not likely to be much different than they are for the 150-kiloton threshold of the current threshold treaty). Additionally, the superpowers would commit themselves to reaching a very low yield of 1 kiloton in the foreseeable future. A Comprehensive Test Ban Treaty would be the ultimate goal of such negotiations.

A staged "test down" treaty leading toward a CTB would address uncertainties about verification. In-country monitoring under this approach would allow both the United States and the Soviet Union the opportunity to build up a needed data base of seismic information about each other. Concrete demonstration of verification capabilities would be made prior to a decision to move to a lower threshold in order to ensure that each threshold reduction would result in a still-verifiable treaty.

Mr. President, I believe that the approach I have outlined for attaining a comprehensive test ban treaty with the Soviet Union is both reasonable and responsible. As the superpowers seem to be making renewed effort toward attaining this important goal, I hope that this approach is seriously pursued.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, 20 minutes or so remain on our side and 10 or 12 minutes on the other side. I would be almost in a position now to yield back the remainder of the time. There were other Senators who had indicated that they might wish to talk on this subject, but they are not on the floor.

I would simply ask the Senator from South Carolina if he has any further comments that he would like to make on this subject. If so, I would be glad to yield whatever additional time the

Senator from South Carolina might need. It would not hurt anything to expedite the procedures of the Senate a little bit, and I think we have thoroughly aired this matter. I would hope that in the next few minutes we could yield back the remainder of the time and get on with the next amendment that is scheduled.

Mr. REID. Mr. President, will the Senator from Nebraska yield just about 3 minutes to the Senator from Nevada?

Mr. EXON. I am glad to yield 3 minutes of my remaining time to the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 3 minutes.

Mr. REID. Mr. President, I think it is interesting to note that during the Soviet surge after breaking out in the 1958 and 1961 moratorium within 3 months the Soviets detonated more megatonnage than the entire United States nuclear testing program from 1945 through 1961.

Recently, when the Soviets went into their so-called nuclear test moratorium for 19 months, from August 1985 to February 1986, they then detonated 17 nuclear test devices from just February to the present. The United States detonated nine. But for anyone to think that the Soviet Union during that 19 months was doing nothing is sadly mistaken. They were doing what I said they would do and what President Kennedy said we could not stop them from doing. That is, basically they were getting their testing ranges prepared and keeping them ready so that whenever they wanted to begin testing anew, they were able to do that, in a surge.

We are simply in a situation where you cannot work with the Soviets as the President of the United States said back in 1962.

Mr. KENNEDY. Mr. President, will the Senator just yield for a question on that?

The PRESIDING OFFICER. Does the Senator yield for a question from the Senator from Massachusetts.

Mr. REID. I have no time.

The PRESIDING OFFICER. Does the Senator from Nebraska yield time?

Does the Senator from Oregon yield time?

Mr. HATFIELD. Mr. President, I just want to take a few moments to set the record straight on the history. It has been implied, at least by the Senator from Nevada, that President Eisenhower announced that we were no longer obliged to live under the formal agreement of a test ban with the Soviet Union.

Let me set the record straight on that—the Soviet Union did not test before then.

Mr. REID. I said President Kennedy.

Mr. HATFIELD. The President of the United States made the announcement first. He announced that we would no longer be restrained and then the Soviet Union tested. Is that the understanding?

Mr. REID. That is right.

Mr. HATFIELD. I thank the Senator from Nevada. I wanted to make sure this was not an argument that somehow we cannot trust the Soviet Union. We have been down that path before, and this is not an appropriate reference.

Let me add, however, that there is plenty of evidence that the Soviet Union has violated treaties or violated agreements. No one could read history without knowing that.

But in this particular instance, President Eisenhower announced that we would no longer be restrained before the Soviet Union tested.

I wanted to make clear the sequence of that particular experience.

Mr. REID. Mr. President, will the Senator yield for just a 1-minute response?

The PRESIDING OFFICER. Does the Senator from Nebraska yield?

Mr. EXON. I yield 1 minute.

The PRESIDING OFFICER. The Senator from Nevada is recognized for 1 minute.

Mr. REID. Mr. President, that still does not answer the basic premise I made that the Soviets would be able to go ahead and do all the preparations for testing and would not be able to the controlled.

Mr. KENNEDY. Mr. President, will the Senator from Oregon yield 3 minutes to me?

The PRESIDING OFFICER. Does the Senator from Oregon yield?

Mr. HATFIELD. I yield.

The PRESIDING OFFICER. The Senator from Oregon yields. The Senator from Massachusetts is recognized for 3 minutes.

Mr. KENNEDY. Mr. President, will the Senator from Nevada agree with me that those were unilateral actions taken by the two nations and not bilateral?

Mr. REID. No question about it.

Mr. KENNEDY. So this amendment is bilateral in nature and it requires verification procedures which are intrusive and which did not exist when you had the unilateral declarations in the late 1950's.

Would the Senator also agree with me that now we have satellite technology which we did not have in the latter part of the 1950's or really in the very early part of the 1960's and, therefore, in terms of preparation and other kinds of activities those would be observable which was not possible in the late 1950's.

So the only point I would just mention is that I do think, as the Senator has correctly pointed out the history, we have to, as the Senator from Oregon has pointed out and as I have tried to put it in some kind of context.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 5 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I want to make this point. So long as we depend on nuclear weapons for deterrence, we must maintain unquestionable nuclear competence which our experts at the national nuclear laboratories tell us requires continued testing. That is the only way to have nuclear competence which is to have continued testing.

Now, Mr. President, I think our experts in the Defense Department deserve consideration in their views about this matter, and we have a very able Chairman of the Joint Chiefs of Staff. I would like to read a letter that he has written to Senator NUNN on this subject. It is dated May 4.

> DEAR MR. CHAIRMAN. During the next few weeks Congress will make the critical decisions that will shape our national security, not just for the coming fiscal year but for several years to come. As you make the tough choices in striking the proper balance between our conventional and strategic forces, I urge you not to take any action which would halt our ongoing efforts to modernize our strategic nuclear forces. I believe that even a limited ban on nuclear testing would have such an effect.

I want to repeat that sentence. He says, "I believe that even a limited ban on nuclear testing would have such an effect."

Mr. President, this is the Chairman of the Joint Chiefs of Staff speaking. And I continue with the letter:

> For the last four decades, our national security has depended squarely on credible nuclear forces to deter an attack against the United States and her allies, and to defend against such an attack if deterrence should fail. Notwithstanding recent progress in arms control negotiations, our national security will continue to depend upon strategic nuclear forces for the foreseeable future. Today we are confident of the reliability and effectiveness of our strategic forces. We have been able to maintain this confidence through a comprehensive program of nuclear testing which tests neither at higher yields nor in greater numbers than necessary. Limiting such tests to one kiloton, even with allowable low-yield excursions, would preclude us from certifying the performance, survivability, safety, and reliability of our nuclear stockpile.

Mr. President, continuing with this letter from the Joint Chiefs of Staff, I quote further:

> Any restriction which requires nuclear testing below the limits of the Threshold Test Ban Treaty, which we are currently observing, will affect the entire spectrum of our nuclear systems and, most importantly, our ability to modernize those systems. Such restrictions would eliminate or severely curtail, depending upon the limit, those tests critical to the deployment of such systems as the TRIDENT II, the Small Inter-

> Continental Ballistic Missile (SICBM) and the Short Range Attack Missile (SRAM II). In addition, depending upon the outcome of ongoing INF negotiations in Geneva, nuclear testing for the development and deployment of the follow-on to Lance, the Nuclear Depth Strike Bomb (NDSB), the Tactical Air-to-Surface Missile (TASM), the Artillery-Fired Atomic Projectile (AFAP), and nuclear bomb modernization could take on even greater importance. Furthermore, such restrictions would jeopardize our ability to hold at risk those targets which the Soviets are continually making more survivable through mobilization, hardening, and burial. I am referring not only to their nuclear forces but also to their command, control, and communications facilities and equipment. We must maintain the capability to develop and test suitable nuclear weapons, such as earth penetrating weapons, to hold these targets at risk.

Mr. President, this is the Chairman of the Joint Chiefs of Staff talking. This is the highest military man in the world, certainly in the United States. He is saying:

> We must maintain the capability to develop and test suitable nuclear weapons, such as earth penetrating weapons, to hold these targets at risk.
>
> Our own strategic deterrent also relies heavily on the survivability, in a nuclear environment, of our nuclear systems and our command, control, and communications systems. There are no substitutes for the underground nuclear tests which we use to evaluate the susceptibility of our systems to nuclear effects. Unless we continue our underground nuclear effects testing program, we will suffer major uncertainties about the survivability of many of these critical systems. A nuclear test ban below currently observed limits would preclude virtually all such tests.

I want to repeat that sentence from the Chairman of the Joint Chiefs of Staff. He says:

> A nuclear test ban below currently observed limits would preclude virtually all such tests.
>
> My assessment in this regard is not affected by whether the Soviets do or do not conduct such tests. I do not believe that our testing for the purpose of modernizing our forces will cause us or the Soviets to expand the arms race or to relax our efforts towards arms control. But I do know that without the flexibility to continue testing at current levels our nuclear deterrent will atrophy and the risks to our security will increase. It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program.

That is the Chairman of the Joint Chiefs of Staff, Mr. President.

He ends up with this sentence: "It is with that firm conviction in mind that I urge you not to constrain our current nuclear testing program."

Now we have given you not only our opinion, some of us on the Armed Services Committee, but we have given you the highest authority in the United States, the Chairman of the Joint Chiefs of Staff, and that should carry great weight with the Members of this body.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. EXON. Mr. President, I yield whatever time is necessary to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I join my colleagues from Nebraska and South Carolina in urging the Senate to reject this amendment. I do so, though, while, at the same time, I commend the Senator from Massachusetts and the Senator from Oregon for continuing to push this overall issue and put it on the forefront, because I think the agreement that has been entered into by the Soviet Union and the United States in the last few days with the visit of Foreign Minister Shevardnadze has been the result of a number of people expressing concern about testing for some time.

I think the Hatfield-Kennedy amendment goes too far. I believe the course the administration is on, with a step-by-step negotiation going on in finding a way to verify the existing agreements which have never been ratified by the Senate, I think that is the way to go. So I would not be in favor of this amendment.

But I do believe that the leadership that has been displayed in bringing this whole question of testing to the forefront has helped bring about a rational situation that begins in December with discussions going on between the administration and the Soviet Union that can lead to a step-by-step reduction of the number and quantity of tests and also can lead to verification procedures which will enable the Senate to consider and hopefully be able to ratify or give consent to ratification to the two treaties that are now pending and have been pending for some time.

The PRESIDING OFFICER. The time of the Senator has expired.

● Mr. HECHT. Mr. President, let me say from the outset that I am firmly opposed to the Kennedy-Hatfield amendment or, for that matter, any legislation aimed at forcing a ban on nuclear weapons testing. I always have been. I am amazed that anyone could ever doubt that the regular, thorough testing of nuclear devices is absolutely vital to our national security. Only through testing can we maintain an effective, up-to-date nuclear arsenal—which is our last line of defense, and a deterrent to a Soviet first strike.

Mr. President, we have all heard over time that the only avenue to peace is to lay down our arms—to stop preparing for the unthinkable prospect of worldwide war. Well, there is no question that nuclear war is the most abhorrent, revolting, frightening thought anyone could imagine. No one wants war. The United States does not wish to invade the Soviet Union or any of its satellites. We do not seek to dominate the world. What we do want is peace. Pure and simple. But, Mr. President, to preserve peace, I believe the realities of the nuclear age and the threat posed by the Soviet Union make it incumbent upon the United States to be strong, capable, and ready to defend ourselves as well as our allies.

Mr. President, the track record of the Soviet Union is well documented, and I think it demonstrates what we are up against. That record is dismal when we take a look around the world. If the Soviets are serious about peace and reducing the threat of nuclear war, let them make just one show of good faith. Let them remove their troops from Afghanistan, let them leave Angola and the rest of the African Continent, let them cease exporting their revolution to South and Central America, and, as President Reagan recently observed, let them tear down the Berlin wall. How in good conscience, Mr. President, with these facts clear, can we let our guard down? I don't think we can.

The recent Soviet overtures toward reductions in intermediate nuclear forces are a step in the right direction. In my mind, however, there is no question that the Soviets would not be at the negotiating table this very moment had Ronald Reagan not kept to his convictions that you can only have peace through strength. And, being strong means being able to test at will the devices we must never use. To jeopardize this ability as a political concession to the Soviet Union would be both foolish and ignorant.

Mr. President, if we are to have security, we need a nuclear deterrent. If we are to have nuclear weapons, we must be able to test them. Testing is security; it's that simple.

For the security of America and the free world, I oppose the Kennedy-Hatfield test ban amendment, and strongly recommend my colleagues oppose it as well.●

Mr. EXON. Mr. President, this side is prepared to yield back the remainder of our time if the Senator from Oregon is prepared to do likewise.

Mr. HATFIELD. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has approximately 6 minutes remaining. The Senator from Nebraska has approximately 12 minutes.

Mr. HATFIELD. Does the Senator from Massachusetts request any time to make any closing remarks?

Mr. KENNEDY. No; I do not.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Oregon is recognized for 3 minutes.

Mr. HATFIELD. Mr. President, I appreciate the ranking minority member from the Armed Services Committee bringing to the RECORD the very eloquent statement of the Chairman of the Joint Chiefs of Staff and others. But I think we have to bear in mind, Mr. President, the very character of the responsibilities assigned to people in our military. They must pursue, they are compelled to pursue, scientific research and testing for the continued development of weapons systems. But, Mr. President, that should not come as a surprise. That is the character of the responsibilities these people have.

I think that we have to bear in mind that the Washington Naval Armament Limitation Conference that was held here in Washington was probably the only conference in history that actually dismantled existing weapons—and it came out of an agreement led by our distinguished Secretary of State and the civilian leadership of our Government, Charles Evans Hughes. I do not think we will ever get a call for arms control out of the Joint Chiefs of Staff, and we should not look to that organization for that particular leadership on this issue.

As far as this amendment is concerned, all the excuses have been removed, all the excuses ever uttered on this floor in the past on the substantive questions raised under previous test-ban proposals are gone. Reliability tests were always an argument—that concern is removed by the provisions of this amendment. On-site inspection was an objection raised—that is removed with this amendment. The question of using CORRTEX has been raised as an argument—that has been removed in this amendment.

Those were the basic concerns. Except, of course, for the basic, fundamental question: Do you want arms limitation?

If we do, let us not say we want real limitations, and then fail to take that immediate and necessary required first step to limit our technology through a testing limitation. That is the only way we are going to get true arms control, bilateral and verifiable arms control.

I think this is an appropriate time to give the President that message from the Senate. I hope that our colleagues support the amendment proposed by Senator Kennedy and me and 32 other colleagues.

Mr. BUMPERS. Does the Senator from Oregon have any additional time?

Mr. HATFIELD. Whatever time I have, I will give to you.

Mr. BUMPERS. I thank the Senator.

Mr. President, does the Senator from Oregon have any time left?

The PRESIDING OFFICER. The Senator from Oregon has 2 minutes and 34 seconds remaining.

The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I rise in very strong support of this amendment. Some day I would like to think that historians will record that the Senate went on record doing something very courageous to end what everybody knows on a daily basis, on a yearly basis, for a long time now is sheer insanity.

Some of the best arms controllers I know have consistently said that if you want to stop the arms race, stop testing. Now, the administration would have you believe, when the Soviets went for 500 days without testing and challenging us to join them, that it was easy for them because they had done all their testing. I am not sure, I do not want to misspeak myself, but if I am not mistaken, we conducted about 26 tests during the time they refused to test.

You are not ever going to get the arms race controlled unless both sides take a big leap at the same time.

Sometimes there is a slight military risk that is worth taking if it is going to save civilization.

To say that we have to conduct these tests for reliability everybody knows is nonsense. You know that probably less than 5 percent of our tests are for reliability purposes.

We are testing nuclear weapons now for a whole host of new weapons that have not even been deployed.

So, Mr. President, I rise in support of the amendment just simply to say that it seems to me it is very carefully crafted to provide for on-site verification. You do not have to worry about technical means or whether the Soviets are cheating or not. You go on the ground and watch the test. It provides for almost everything the Pentagon has said they must have in any kind of a test ban. So what else can the authors of this amendment do?

They have drafted it and crafted it very carefully to meet every objection the Pentagon has had in the past and yet they still object, and the arms race proceeds apace.

I hope our colleagues will take just a small leap of faith. You lose nothing militarily and you gain a lot toward saving the planet. I yield the floor.

Mr. LEAHY. Mr. President, one of the challenges of being the President of the United States is to have the courage to seize opportunities that can lead to a safer world. This is true above all on issues of arms control.

No Member of Congress wants this country to sign an arms control agreement that is weighted in favor of the Soviet Union. But neither can we afford to sit idly by and watch opportunities to reverse the arms race and reduce the risk of nuclear war slip by. Perhaps more than anything else in the nuclear age, we depend on the President to reduce the likelihood of that terrible possibility from ever occurring.

When the Soviet moratorium on nuclear testing was announced 20 months ago, it was criticized by hardliners in the Pentagon and elsewhere as being politically motivated—as if any arms control proposal by any nation, including the United States, did not have a political component. President Reagan, heeding their advice, refused to accept the Soviet Union's challenge to follow its example.

The result was predictable and deeply disappointing. After extending and reextending their unilateral moratorium for 18 months, the Soviets finally resumed testing in February 1987, shortly after the United States exploded its first test of the new year.

In the 18 months of the Soviet moratorium, the United States conducted 25 nuclear tests. Not once during that period did even the most hard-line opponents of a test ban allege that the Soviets violated their unilateral moratorium.

The President's decision to ignore the Soviets' offer, like his decision to break out of the subceilings on strategic weapons in the SALT II Treaty, was a tragic mistake. The United States, and the world, are less—not more—secure because of it.

Those mistakes are compounded with each additional nuclear test, and with each B-52 bomber armed with cruise missiles added to our forces.

Mr. President, I have lost count of the number of times I have spoken on this floor to urge the President to stop testing nuclear weapons. Last year, instead of seizing an opportunity to take a major step toward stopping the arms race, the United States relentlessly continued its own full-scale testing program.

The administration said one reason it refused to join the Soviet moratorium was because of the risks it could pose for the reliability of our nuclear weapons stockpile. In other words, if we're going to rely on nuclear weapons, we'd better make sure they work.

The truth is that few U.S. nuclear tests have ever been for the specific purpose of diagnosing design flaws. Rather, the overwhelming majority of tests are for validating nuclear weapons designs and testing new concepts for future weapons.

In any event, this amendment disposes of that problem. It allows both sides to conduct two reliability tests under 15 kilotons during a 2-year testing moratorium. This would be perfectly adequate to meet the reliability concern.

Another principal reason cited by the administration for rejecting a moratorium was inadequate verification technology and procedures. This, however, is nothing more than a pretext for what is really a lack of political will. I would be the first to insist that verification is central to any meaningful arms control agreement. But there is little doubt that monitoring uncertainties in either a low-yield arms control regime or a comprehensive test ban could be reduced to acceptable levels with available technology for onsite monitoring at Soviet and United States sites, unilaterally derived calibration data, and exchange of geological information about each side's testing sites.

Again, this amendment satisfactorily resolves the verification problem. It provides that each side will have one designated test site, and includes detailed in-country monitoring and verification requirements. Twelve seismic monitoring stations would be allowed in each country and there would be arrangements for calibration of designated sites using the U.S.-designed CORRTEX technology or a mutually acceptable alternative procedure.

This should be acceptable to the administration, which has been praising CORRTEX for months. It has even insisted that Soviet seismologists who want to monitor the nuclear test site in the United States on the same basis as Natural Resources Defense Council seismologists have been allowed to do in the Soviet Union, must witness a CORRTEX demonstration.

Just this month, the administration and the Soviets agreed to begin talks on December 1 on verification measures relating to the threshhold test ban and peaceful nuclear explosions treaties. It may be that agreement will be reached to employ CORRTEX and other measures the administration feels are essential. The President has my support in those talks.

However, more talks, however hopeful, on possible progress toward verification of the TTBT do not lessen the need for this legislation. Initiation of this mutual, low-threshold moratorium with extensive verification arrangements could pave the way toward negotiation of a long-term treaty on testing.

I think the administration's objections to this legislation, and indeed to moving toward a complete halt to all nuclear tests obscure its real reason for opposing a testing halt. The administration is committed to continuing nuclear testing, both for its enormous buildup of nuclear weapons and because it wants to explore nuclear options for star wars. The unfortunate reality is that the administration does not want a testing halt, no matter how thoroughly verifiable.

I cannot stress too vigorously how deeply I disagree with this point of view.

As one who has repeatedly come up against this administration on issues of arms control, I strongly support this amendment. It is a responsible, moderate, workable response to the administration's criticisms of a testing moratorium. It even provides an escape clause, if the President certifies that the Soviets have conducted a test in violation of the legislation. The United States would not be bound unless the Soviets agree to the same testing restrictions.

What do we possibly have to lose by such an arrangement that outweighs its potential benefits? Without nuclear testing, neither side can perfect more dangerous or destructive nuclear weapons. By putting the arms race on hold, reductions in nuclear weapons stockpiles become the logical next step. That has been President Reagan's stated goal for 6 years, but instead he has led us in the opposite direction.

We can no longer sit back and watch the arms race escalate out of control because of a lack of political will to stop it. The President has left us with no other choice. The Congress must take this most important first step toward real arms reductions.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. Mr. President, I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, obviously, the proponents of this amendment are doing the world a great service in focusing on nuclear arms and emphasizing the tremendously dangerous situation that our world lives in with the continued buildup of nuclear arms.

However, Mr. President, it seems to me that the approach to limiting underground testing is predicated upon an extremely dangerous premise, if not an erroneous premise. We are being told that if we support this kind of effort, at least implicitly we are being told, somehow or another we are going to reduce the nuclear armaments in the world.

I submit that there are no experts involved in nuclear underground testing that support that proposition. None.

As a matter of fact, because of underground nuclear testing, the United States of America because we have produced new weapons that are more reliable, without testing would not have been able to put them on delivery systems. That is the issue.

We have been able to effectively reduce the quantity of American nuclear power in terms of a delivery by one-third. Nuclear testing has permitted us to have more confidence in the highly technical delivery systems of today. Thus, we have less nuclear weapons in terms of the delivery than we did before.

I submit, Mr. President, that there has been a lot of talk about the military wants everything and we ought to give them everything, and some say if you vote against this amendment, you are giving them what they want, which is more nuclear weapons.

Well, Mr. President, there are three nuclear laboratories in the United States run by civilians. They have operated under a very simple charge, a very simple mission: Maintain America's nuclear deterrence.

If there is anyone around who have been heroes of this era, it is them. Civilians. Civilian directors running laboratories in the Sandia Laboratory and Los Alamos Laboratory in New Mexico and Lawrence Livermore in California. And, Mr. President, not the generals but the directors of these laboratories have appeared before our committees. They have read this amendment. They have read this proposal. And they have told us that we ought not do it; that, as a matter of fact, what it will do is produce less reliable nuclear weapons; that it is apt to produce on the side of one or the other larger nuclear bombs rather than smaller ones because, as a matter of fact, the Soviet Union knows how to do that. They do not have highly sophisticated things. They do not need as much testing. Consequently, there is absolutely no deterrence built into this. It is built on the premise that the way to build down in terms of nuclear weapons is to build down in testing.

As a matter of fact, the opposite is true. Underground testing will not drive us or the Soviet Union to significant reductions in the arsenal of nuclear weapons. There is no one who says that.

Then why are we doing it? The experts, not the military generals but the civilian experts in charge of maintaining the deterrent, say that the best way to keep the deterrent as safe as possible, as slim as possible, to be able to use new technology with lesser weapons, less of a stockpile, it to be able to test.

So it seems to me we are putting the cart before the horse. We want less nuclear bombs, but we will get it by less nuclear underground testing, and nobody who is an expert is telling us that that is the case.

All of this that I am discussing and that others are discussing, and that the directors of the laboratories have discussed before the committees, all of it is before us, but, in addition, the truth of the matter is that the Soviet Union and the United States are probably going to enter into an agreement and we ought to let them do it. We ought not do it here on the floor of the Senate.

Mr. President, we have before us yet another proposal to impose further limitations on the testing of nuclear weapons. This legislation has some unique features to it, but it is similar to the various other proposals that have been introduced in both Houses. Whether you seek to strictly limit or ban testing for 1, or 2, or 3 years, the end result is the same—our country's ability to maintain an effective and credible nuclear deterrent would be seriously damaged.

I don't pretend to be an expert on nuclear weapons technology. But I do have access to some of the best minds in the world in this area at our nuclear weapons laboratories at Los Alamos and Sandia. I can tell you those people are plenty worried about the impact this proposed legislation could have on our national security.

This legislation is well-intentioned. But it is misguided and it is dangerous. It seeks to slow down the nuclear arms race by limiting nuclear testing.

The rationale is simple—limit testing and you slow down the development of nuclear weapons.

This rationale, however, is based on the assumption that innovations in nuclear warheads, as a result of testing, have been the principal drivers for new weapons systems.

That assumption is wrong.

It is the development of delivery vehicles, such as cruise missiles, that has produced our new weapons systems. Not the development of nuclear warheads. For practical and economical reasons, nuclear warhead designs are adapted to delivery vehicle designs. In other words, the delivery vehicles come first and then the warheads.

Thus, what fuels the arms race are the delivery vehicles—the missiles that carry the warheads. And limiting nuclear testing will do nothing to halt their development. It will not restrict the growth of defense technology.

What would happen, under the proposed testing limitations, is that we would continue developing new delivery vehicles and fitting them with newly designed warheads that have not been adequately tested.

This would only make our nuclear weapons unreliable and unsafe.

Some might ask—why design a new warhead?

The fact is you just cannot take an old warhead design and use it for a new delivery vehicle. New delivery vehicles often require new, more finely tuned, and sensitive warheads. And those new warheads need to be tested.

Either way, with improperly tested new warheads or old unadaptable warheads, the result is the same—a low level of confidence in our nuclear deterrent capability.

And we wouldn't even succeed in controlling the arms race.

As a matter of fact, because of the diminished confidence in our deterrent, I could foresee a scenario where some future administration would want to compensate by fielding more and higher yield nuclear weapons.

We would be worse off than we are today.

If we want to control and reverse the nuclear arms race, then let us work with the Soviets to stop building cruise missiles, ICBM's, and bombers. Let us move to rely less on our nuclear forces and more on conventional.

Let us focus on the broader issue of national security policy.

Should the United States redefine its national security policy and reduce its dependency on nuclear weapons, then it would make sense to seek further limitations on nuclear testing.

But we have not done that yet. We are still heavily dependent on our nuclear deterrent. And the only way you can ensure the effectiveness of that deterrent is through testing.

No amount of calculation or simulation of testing effects in laboratories has been able to replace actual nuclear testing, either as a means to discovering serious problems with our nuclear weapons, or later as a means of confirming that they have been dealt with successfully.

Mr. President, there is simply no substitute for nuclear testing. Our national labs have confirmed this. And I think the labs should know what they are talking about since nuclear weapons have been their business for over 40 years.

Recently, the director of Los Alamos National Labs, Dr. Sig Hecker, wrote to Secretary of Energy Herrington opposing the proposed legislation. I would like to read you some of his observations about the importance of testing. I think he puts it in a way we can easily appreciate.

Dr. Hecker acknowledges that testing is one of the most important elements of establishing competence in any high technology venture.

He states that testing is:

> Indispensable in the automotive industry where hydraulic shakers take an automobile frame through millions of cycles simulating road tests;
>
> In the aeronautics industry where wind tunnel tests help shape new designs;
>
> In aerospace where almost every component is flight tested before acceptance;
>
> And in almost every other industry imaginable.
>
> In fact, government tax payers, and consumers alike would consider it a breach of professional ethics not to test a product before placing it on the market.

As Dr. Hecker notes, it was Congress who recently created the Office of Operational Test and Evaluation in order to improve the Department of Defense's testing procedures.

It seems to me we should be consistent in our thinking.

The point is that the need for testing nuclear weapons is fundamentally no different than for any other technological system.

If anything, the need is greater.

Nuclear weapons are complex systems, which, in time, undergo changes that can affect their reliability. Due to chemically active materials used in warheads, a certain amount of deterioration is inevitable. Without nuclear testing, some potential reliability problems would fail to be discovered.

During the last 3 decades, over one-third of all nuclear weapons designs introduced into the stockpile have encountered reliability problems. Of these problems, 75 percent were discovered and subsequently corrected because of nuclear testing.

Every U.S. strategic missile except the Minuteman II reentry vehicle has experienced surprises in underground nuclear effects tests. Most of the surprises require redesign and retest, some repeatedly, in order to achieve the level of survivability our intelligence estimates say will be necessary.

Thus, so long as we rely on our nuclear deterrent, our goal should be adequate testing.

This raises another question. What is adequate testing?

According to the proposed legislation, adequate testing for the proposed 2-year limitation period would mean a 1-kiloton limit for all tests except two. The United States and the Soviet Union would each be allowed 2 "reliability" tests. The yield of these reliability tests could not exceed 15 kilotons.

The authors of this legislation state that this level of testing is "consistent with the historical U.S. rate for such tests."

This argument is simplistic and misleading.

According to Dr. Hecker, the claim of the adequacy of one test in each of 2 years up to 15 kilotons is not consistent with the experience of the two weapons design laboratories over the past 25 years.

Specifically, experience has shown that a single test can identify the existence of a problem which then is more than likely to raise questions about other weapon designs that can only be resolved by performing similar tests on those other weapons. That is, discovery of a problem in one design by nuclear testing often raises questions about other designs that only can be answered by further nuclear testing.

In these type of situations, under the proposed legislation, the U.S. would have to withdraw from the 2-year limitation agreement.

As to the 1 kiloton limit, it would effectively eliminate the ability of our national laboratories to ensure the reliability, safety, and survivability of our nuclear stockpile.

Crucial fission triggers of most stockpile weapons could not be tested at 1 kiloton. Important factors in the thermonuclear operation of most stockpile weapons could not be tested at yields of 10 kilotons or less. Many strategic nuclear systems cannot be tested at the full yield even under the present limit of 150 kilotons.

Some may ask—so what if we cannot maintain an effective nuclear deterrent?

If testing limitations were mutual and could be verified, then both United States and Soviet nuclear stockpiles would deteriorate at the same time. Both sides would lose confidence in their nuclear weapons, and be more reluctant to use them, thus creating a more stable nuclear relationship.

Well, I will tell you, I just do not buy that argument, particularly since the deterioration of the stockpiles would not occur at the same pace.

Since Soviet nuclear weapons are heavier and more simple in their design than United States weapons, they would generally be more durable. Just as importantly, our confidence in our nuclear stockpile would decrease much faster than theirs since we place so much more emphasis on security and safety considerations.

These imbalances would only create greater instability.

Consequently, for all the emphasis the proposed legislation places on verification methods and procedures, it again misses the point.

And the point is that the United States continues to rely on its nuclear deterrent for its national security. And nuclear testing is critical to ensuring that capability.

I do commend the authors of this legislation for their thoroughness in trying to address the verification issue. According to the measure, both the United States and the Soviet Union must:

First, accept on-site inspections upon demand.

Second, allow installation of an in-country seismic monitoring network.

Three, allow use of a Corrtex device to calibrate the designated test sites.

Four, announce all tests 30 days in advance and confine tests to one designated site each.

However, even these provisions are not enough to guarantee verification.

While nuclear explosions greater than 100 kilotons can easily be detected, identified, and located, we cannot accurately determine yields. Determinations of yields under 100 kilotons are even more uncertain.

I have some real problems with this legislation, as well as with other proposals that seek to reduce the current 150 kiloton testing threshold. While I support the goal of reducing nuclear testing, and maybe someday even eliminating the need for it, we must first reduce nuclear weapons.

Nuclear testing limitations cannot be used as a means to achieve this end because nuclear testing is not responsible for the nuclear arms race.

To the contrary, the knowledge gained from nuclear tests has made it possible for our country to reduce its nuclear stockpile by almost a third during the last two decades.

It is because of testing that the aggregate explosive power of our current stockpile is only one quarter of what it was in 1960. I suggest we consider these facts.

Mr. SHELBY. Mr. President, I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the vote on or in relation to the amendment occur after the vote on the Dodd amendment this evening.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, may I inquire of the Chair as to what the schedule is on amendments with time agreements?

The PRESIDING OFFICER. The chair will state that the pending amendment is the Dodd amendment which is scheduled to have a vote beginning at 6 p.m.

There are some amendments which have time agreements if the Senator from Oregon would like the Chair to elaborate.

Mr. HATFIELD. There is a time agreement of one hour having to do with a binary chemical weapon amendment by the Senator from Arkansas [Mr. Pryor].

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 730

(Purpose: To prohibit the expenditure of funds for the final assembly of lethal binary chemical weapons before October 1, 1988)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. Hatfield] for himself, Mr. Pryor, Mr. Danforth, Mr. Leahy, Mr. Cranston, Mr. Weicker, Mr. Metzenbaum, and Mr. Daschle, proposes an amendment numbered 730.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS FOR PRODUCTION OF LETHAL BINARY CHEMICAL MUNITIONS

(a) Expression of Congressional Policy Regarding Chemical Weapons.—It is the sense of Congress—

(1) that extraordinary progress has been made in recent months at the Chemical Weapons Disarmament Conference in Geneva by the United States, the Soviet Union, and 38 other nations in the negotiation of a treaty banning the production and stockpiling of chemical weapons;

(2) that any treaty banning the production and stockpiling of chemical weapons to which the United States becomes a party must include requirements for enforcement, for the on-site inspection on demand of all storage, production, and destruction facilities, and for the accounting of chemical weapons which may be developed in the future;

(3) that it is essential to the continued progress of negotiations on a verifiable treaty banning the production and stockpiling of chemical weapons that the Soviet Union demonstrate a good faith effort to address the requirements described in clause (2); and

(4) that a one-year delay on the final assembly of lethal binary chemical munitions by the United States could enhance chances for the successful negotiation of a multilateral and verifiable treaty banning the production and stockpiling of chemical weapons and would indicate to the Soviet Union and other negotiating nations the good faith commitment of the United States to conclude such a treaty.

(b) Temporary Prohibition on Use of Funds.—None of the funds appropriated or otherwise made available by this Act to or for the use of any department or agency of the Government may be obligated or expended for the final assembly of lethal binary chemical munitions before October 1, 1988.

(c) Definition.—As used in subsections (a) and (b), the term "lethal binary chemical munitions" has the same meaning given such term in section 818(b) of the Department of Defense Appropriations Authorization Act, 1976 (Public Law 94-106; 50 U.S.C. 1519).

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that this amendment may be considered at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Oregon will be in order.

Mr. HATFIELD. Mr. President, for 7 years, the administration has requested funds for the production of a new generation of nerve gas weapons. For 7 years we have come to this floor to oppose that request. Many of us have come to this floor to oppose the request in part because we believe that the United States captured the moral high ground in 1969 when President Richard Nixon declared a unilateral moratorium on the production of nerve gas weapons. That high ground ought not be abandoned quickly or easily.

We have also come to this floor because the administration's request has been financially and militarily unjustifiable. Mr. President, we have come to this floor to suggest to our colleagues that the production of an entirely new generation of nerve gas weapons is simply not necessary.

Of course the administration has changed its arguments over these past 7 years.

First the administration tried to tell us that our current stockpile was leaking. The administration went so far as to appoint a blue ribbon panel to examine this issue. The panel's conclusion: the stockpile was not leaking.

Congress denied the administration's request.

Then the administration tried to convince us that our stockpile was not sufficient "to force the other side into protective posture," the stated goal of our nerve gas program. From a variety of unclassified sources, we learned that the nerve gas weapons currently in our stockpile fired around the clock as 5 percent of the total artillery fire could sustain between a 35- and a 135-day war in Western Europe.

Again, Congress denied the administration's request.

Then the administration tried to convince us that Western Europe was vulnerable to a nerve gas attack by the Soviet Union. So we asked our NATO allies, the countries which were declared to be vulnerable. Mr. President, not a single one voted to store our nerve gas weapons. Western Germany even went so far as to ask that its current stockpile be removed. In its eagerness to secure West German cooperation, this administration agreed.

Congress delayed the administration's request.

Finally, renewed production of nerve gas became a bargaining chip, a carrot to get the Soviets to negotiate seriously. That is what we were told.

Finally we bought in and Congress granted the administration's request.

Mr. President, the United States is now back in the nerve gas business for the first time in 18 years. After almost 20 close votes in 6 years, Congress last year appropriated money for the production of a new generation of these ghastly weapons.

There is, however, one more decision to be made.

Congress last year delayed final assembly of these new weapons until October 1, this year, 1987. That is next week, Mr. President.

The real irony of this is that the Soviets recently accepted on-site challenge inspections and observers believe that a comprehensive agreement banning the production and stockpiling of these weapons could be achieved in a matter of months at the multilateral negotiations in Geneva.

Maybe it was our decision last year to appropriate production funds for these weapons that convinced the Soviets to take the negotiations seriously. I do not know.

What I do know is that the Soviets now are taking the negotiations seriously.

The question is whether we are going to take them seriously, too. The question is whether we are willing to risk an unnecessary and profoundly dangerous new arms race for no reason at all.

My appeal, Mr. President, is very simple: delay final assembly for 1 more year. That is all this amendment does—delay the final assembly of those components we have already produced.

Every Member of this body has heard the distinguished Senator from Arkansas [Mr. PRYOR] and me come to this floor year after year to oppose the administration's nerve gas request. Indeed, many of our colleagues are no doubt tired of the broken record: moral high ground, militarily unnecessary, fiscally irresponsible.

We have used these arguments. They are as valid today as the day we started this argument 6 years ago. But, Mr. President, we have lost on those arguments. Production is now underway. There can be no question about this Nation's resolve. The entire world, friend and foe alike, knows what we are now ready and willing to do.

But a week before final assembly begins, Mr. President, I want to remind my colleagues of something we all have learned the hard way over the years. It is all well and good to support a bargaining chip, but a bargaining chip ceases to be one when it becomes part of the stockpile. A bargaining chip, if it is a valid argument at all, is no longer a bargaining chip once it enters the stockpile.

That is the fundamental reality which should guide the vote of every Senator today. Before a bargaining chip is assembled, the theory is that it will be given up for the right deal. After it is assembled, the reality is that we will do virtually anything to hold on to it. If that includes forsaking a possible agreement, so be it.

Once these weapons are assembled and put into the stockpile, the potential for an agreement could go right out the window. Not because of Soviet intransigence in this case, but because of American economics.

To that handful of my colleagues who have changed their votes in recent years, who thought long and hard about changing their "no" votes to "yes" votes, I ask you to reconsider your position. We are no longer challenging production. Make a distinction between this amendment and the Hatfield-Pryor amendments of the past.

As the Senator from Virginia knows, he stood here on the floor of the Senate and argued against our amendments in the past because they banned production; this amendment does not stop production. All we are saying is let us not assemble these components for 1 more year.

That, Mr. President, is a critical distinction. I repeat, that is a critical distinction. It is a critical distinction between the votes you have cast in the past and the vote you are about to cast today.

Mr. President, I would like to keep the amendment in its prior form, as I know the Senator from Arkansas would, but we have yielded to the reality that if we can postpone assembly for 1 more year, God willing, we might achieve some kind of an agreement that we could then implement, execute, observe, and honor. But that agreement would be more difficult to achieve once our new weapons go into the stockpile.

If you vote with us today, you can favor production—even though I do not. If you vote with us today, you can favor replacing the existing stockpile. If you vote with us today, you can favor showing the Soviets that we mean business. That was not true in the past. That was not true of votes on this issue even last year.

But this year you can do all those things and still say you tried. You tried to avoid it. You tried to give it one last chance.

Mr. President, that is what this is all about. Those who vote for this amendment can say they gave peace one last chance.

For even the most pro-defense, most hawkish Senator—you can give peace a chance without giving an inch. For the life of me, I cannot imagine what the objection to that might be.

Mr. President, each Senator might—just might—make the difference. This vote is likely to be close. In fact, we have had the Vice President of the United States twice on this issue cast the deciding vote because of a tie. It was that close. Remember? I understand his mother called him both times and gave him Holy Columbia. I wish we could give her with a vote.

So let me say that to all the staff seated in the back of this Chamber, to all the staff listening on their televisions and their radios: This vote is likely to be close. Do not let your Senator come to this floor working from the assumption that this is the old nerve gas vote—revisit it, pro or con, up or down.

I beg of the staff—inform your Senators. Do not give your boss the shorthand description that this is the nerve gas amendment. Let him or her know that this is a different, a distinctively different, nerve gas amendment.

It is not, I should say, only a question of a weapon. I think we have—and the staff has—a moral responsibility to examine the difference.

Mr. President, I do not often address my remarks to the staffs. But I do know that in my own schedule, the complete chaos that exists in some days of my schedule leads me to settle for shorthand descriptions. But I say to the staff today: of all the votes that will be cast, this is one I hope you will take the time to intrude into the schedule of your Senator. Inform him or her that this is not the old nerve gas amendment.

I think this is the end of the line on this subject. I think this is the last inning, for if we do not seize this opportunity—this opportunity that will elude us within a week—we may never have the opportunity to address this issue again. We ask only to delay the final assembly of these weapons for 1 year.

What is it that people think they might lose in voting for this amendment? The current stockpile is certainly adequate for another year. The destruction schedule for the existing shells has fallen behind. No Western European ally has agreed to accept these new weapons. Let us bear in mind that the deployment of these are the only thing that makes them effective, the forward deployment. Because production facilities have been built and production itself is actually under way, there is no risk. We are not losing any time. United States resolve is not in question.

I want to emphasize these points, Mr. President. The current stockpile is unquestionably adequate for another 12 months. The destruction schedule for the unitary shells have fallen far behind and no Western European ally has agreed to accept these new weapons. That has to be underscored.

As a result, the amendment we offer today would not affect the timetable for replacing or deploying nerve gas weapons. All our amendment would do is to give the negotiations a chance to succeed. Again, I pose my question: what do we lose by waiting 1 year? For those of you who have swallowed the administration's arguments and are now prepared to spend several billions of dollars over the next decade for this program would you not like to know if it is really necessary?

The bottom line, Mr. President, is that passage of our amendment would do nothing to change the nerve gas modernization schedule and everything to support the conclusion of a comprehensive treaty banning these weapons entirely. By retaining our "bargaining chip" we stand nothing to lose and everything to gain.

Mr. President, I yield to my colleague from the State of Arkansas, the coauthor of this amendment, whatever time he desires.

The PRESIDING OFFICER. The Senator from Oregon has approximately 14 minutes and he yields to the Senator from Arkansas, Senator PRYOR.

Mr. PRYOR. Mr. President, I thank the distinguished Senator from Oregon for yielding to me. I will take only a few moments. Today this Chamber, Mr. President, stands poised to launch into a large and expensive program to build new chemical weapons.

I am very proud, Mr. President, to be able to cosponsor this very important amendment, a critical amendment with my good friend, Senator HATFIELD of Oregon.

We will take this dangerous step during the next fiscal year when U.S. manufacturing plants begin to churn out lethal chemical weapons for the first time since the Nixon administration banned production in 1971.

Mr. President, we owe it to ourselves to move very carefully as we consider resuming nerve gas production. We are in the midst of sensitive negotiations with the Soviets about chemical weapons and observers say we are closer to a treaty than we have been at any time in the last decade. An agreement seems to be close at hand.

That is why Senator HATFIELD's amendment for a 1-year moratorium on the final assembly lethal binary chemical weapons makes so much sense. A moratorium would be seen as a good faith gesture while continuing to hold out the threat of renewed production if a treaty is not agreed to.

Quite honestly, Mr. President, this amendment is not such a big deal; it will only really affect one-third of our offensive chemical program.

One segment the program, the Bigeye chemical bomb, is in such bad shape that the Navy had to disqualify it from testing last spring. In its fiscal year 1988 defense bill, the House of Representatives has eliminated all production funds for the Bigeye and the Senate has cut production funds by 80 percent. When speaking off the record, many Defense Department officials will tell you that the Bigeye is nowhere near ready for production.

The second segment of the offensive program is made up of research and development on future chemicals applications of the miltiple launch rocket system and alternatives to the troubled Bigeye bomb. None of these programs are ready for production and will not be affected by 1-year moratorium.

That leaves the third segment: the 155 millimeter binary chemical artillery shells. The 155's will be affected by this amendment. They do seem to be ready for production and a moratorium would set them back 1 year.

But Mr. President, a moratorium on 155's will not have much of an impact on our overall chemical stockpile. Although figures on our current stockpile size are classified, I think we can all agree that the one thing our military has an an ample supply of is unitary chemical artillery rounds.

So, while the production of 155 millimeter chemical rounds will be affected by the Hatfield amendment, the ultimate chemical deterrent referred to by opponents of this amendment will be mostly unchanged.

Mr. President, I am not going to talk about the immorality of chemical weapons or the horror of nerve gas. We have heard about all of that before and each of us knows how we feel.

I will say, however, that no matter how one feels about chemical weapons, it makes sense to support a moratorium on their production for 1 year. It will not weaken our military or set a bad precedent for the future. Therefore, I urge my colleagues to vote for the Hatfield amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. SHELBY. I yield to the Senator from Maine for a question.

Mr. COHEN. Is it the Senator's understanding that the amendment would in fact establish a moratorium for production of the 155 millimeter shell? Is that what the Senator said a moment ago?

Mr. PRYOR. It would establish a moratorium for a 1-year period for the final assembly of the 155 millimeter shell.

Mr. COHEN. I am pleased to hear the Senator correct that. I understood his statement was to put a moratorium on the production. His amendment would allow the production to go foward. Is that correct?

Mr. PRYOR. That is correct.

Mr. SHELBY. I yield myself such time as I may consume.

Mr. President, 2 years ago, and again last year, after exhaustive debate, the Congress determined that it is vital to the United States and NATO's security to produce a new U.S. chemical deterrent.

The reasons for that decision remain as compelling today as they were 2 years ago and even last year:

Binaries redress the dangerous imbalance in Europe in created by the Soviet Union's considerable superiority in chemical weapons. By virtue of their deep strike capability and a more persistent agent, modern binary weapons offer a more effective deterrent to a potential Soviet chemical attack.

Without these modern weapons, the U.S. chemical deterrent will not be credible. The existing U.S. stockpile is aging, deteriorating and increasingly unsafe. The new binary weapons will be much safer to handle and store, thus lessening the risk to military personnel and civilians who work or live in the vicinity of chemical weapons storage sites.

Without the modern binaries, the Soviet Union has no incentive to negotiate seriously on a chemical weapons ban. Our negotiators in Geneva attribute recent Soviet acceptance of

United States onsite challenge inspections for verification of a chemical weapons ban to the United States determination to go ahead with binary weapons production.

Anyone who thinks that the progress in negotiations to date is sufficient for the United States to postpone its binary program is sadly mistaken. First, any indication of flagging United States resolve will be interpreted by the Soviet Union as a signal that procrastination and the passage of time may allow them to achieve their goal of depriving the United States of a modern chemical deterrent without being required to relinquish their own.

Second, though considerable progress in the negotiations has been made, it will still be at least a year, if not longer, before a treaty will be achieved. There are still many difficult issues, including the critical issue of the implementation of verification procedures, that remain to be resolved. Anything less than a firm U.S. commitment to stick to its binary modernization program will be detrimental to the success of the negotiations.

What will bring the Soviet Union to the bargaining table in earnest? I do not think it is going to be a delay in the program. I do not believe it is going to be a delay in the final assembly of these chemical weapons. I do not believe it is going to be a ban here in Congress of these weapons. I think that is the wrong message at the wrong time.

We just have to look back a few years to the intermediate-range missiles. Senators will recall the problem we had in Europe, the problem we had with the Soviet Union, when we said we were going to deploy the intermediate-range missiles in Europe. They put every kind of pressure in the world on us. But when did they start to negotiate? They started to negotiate after that, not before.

I believe that if we go ahead with the binary program, the Soviet Union then has the incentive to negotiate in earnest, the incentive to reach an agreement. Otherwise, it is a unilateral situation, and I do not believe we want to deal with the Soviet Union from a position of weakness.

If we do not have these weapons, we are going in empty handed. I would like to think that we could go in with strength. We have to negotiate from strength. I believe it is not only a sound military reason, but also a political reason to do it. It is essential that we go ahead now with a modernization program of our binary weapons.

Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I do not think anyone can challenge the motivation of the two cosponsors of this amendment. I know that both are very good and dear friends of mine, and we have supported each other on a number of issues. We happen to differ on this one.

They are both men of great passion and conviction and are idealists. But the fact remains that deterrence is not based on passion and it is not based on conviction and it is not based on idealism. It is based on capability. The question is, do we have a capable deterrent, and what is the status of that deterrent today and its future tomorrow?

The Senator from Arkansas said that we have an agreement at hand. I hope so. I have been one who joined Democratic Members in pressing for a chemical weapons treaty and urged the administration to table one in Geneva.

I have gone to the Soviet Union to try to pressure them to come to the bargaining table to deal with this issue, because I think it is not secondary in importance, but certainly on a same level of importance as the reduction of nuclear weapons. So I favor very much arriving at an agreement with the Soviets upon the elimination of chemical weapons.

It is said that this amendment will accelerate the attainment of an agreement, and I suggest that it might prolong it. I believe that to the extent that we show a determination to go forward not only with the manufacturing process, not only with the modernization program, not only with the assembly, but also the actual deployment, we may force the Soviets to realize that we are serious in going forward.

Even if their negotiating approach is not affected, I would favor replacing the unitaries with binaries, purely from a safety point of view. The fact is that the binaries are safer for us. They are safer for our servicemen and servicewomen to handle or to be in proximity to. They are not lethal unless they are mixed; they are not mixed unless they are fired; they are not fired unless we are attacked.

I look at it from a safety point of view for our men and women who have to deal with our present dangerous, toxic chemical weapons. I want to remove and reduce that danger as much as possible.

So, until such time as we arrive at an agreement to eliminate all chemical weapons, I favor replacing what we have with binary stocks to the extent that we can.

I believe that we will in fact achieve an agreement sooner rather than later if we reject this amendment.

I know that the Senator from Oregon has said that, for example, this may be the last clear chance and has painted the argument in terms of an apocalyptic vision of what is going to take place in the event the amendment is defeated.

I want to give peace a chance. I also want to give safety a chance. So I am for peace and safety in opposing this amendment.

Second, the argument is made that we have to stop the assembly of these weapons, since once they get into the stockpile, that is the end of it; they will never be taken out.

I think, as the Senator from Alabama has just very directly pointed out, we produce Pershings, we produce ground-launched cruise missiles. These were in fact deployed. We now have an agreement—hopefully it will be completed in the near future—to remove those weapons. They entered the stockpile. We are now talking and negotiating their actual removal from West European soil.

So the argument once they get into the stockpile they will never be taken out simply does not stand up.

So I would like to urge my colleagues to reject the amendment no matter how nobly motivated, and I want to reiterate I do not question or challenge the intent of the two sponsors. They have been consistent over the years. No one has been more consistent than my friend from Oregon in trying to prevent, first, the building of facilities in the district of the Senator from Arkansas, the modernization plan itself, the manufacturing process, and now the assembly. He has been very consistent in his opposition, and he certainly is someone who is a credit to the view.

But I believe that we should not be persuaded by the argument the delay of final assembly is only for 1 year. It is 1 year this year, then next year it will also be 1 year. The Soviets may or may not throw out a little bit in the way of negotiating tactics, and then 1 more year from now we will be back here with the two Senators standing up saying "Give peace a chance just one more time and delay it again. A little progress is being made. Do not jeopardize it now."

I think, Mr. President, we will achieve agreement with the Soviets, which I desperately want, much sooner if we reject this amendment and if we, in fact, allow the assembly of the weapons to go forward.

The PRESIDING OFFICER. The time yielded to the Senator from Maine has expired.

Mr. SHELBY. Mr. President, I yield 8 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, I thank the distinguished floor manager. I may use all that now or may save some of it a little later.

Let me stress one thing that I think has been misunderstood about this.

What we are talking about is not whether the United States will have chemical weapons. We already have them. What we are talking about is whether the chemical weapons we have are going to be safe for our own troops to handle.

Now, we can argue all day about whether it is good for the United States to have chemical weapons and whether that is too hideous a weapon for war, although war is very hideous in its own right, of course.

What we have been talking about here and argued about, debated and voted on over the last couple years is whether we are truly going to have more safety for our own troops and for people in the areas where these weapons are stored.

At the present time our artillery shells are unitary shells. The gas mixture is in there. It is mixed. If it is broken, even if the seals are broken, if it leaks, if there is a corrosion effect, if whatever happens we have a leakage out of those shells, then the people around that shell are dead. That is the stark reality of it.

Now what the production provides is that we will go to binary shells. What makes those any better? They are still hideous weapons but what makes them any better?

Well, binary weapons mean that the active agents are not combined in the shell until it is already fired, until it has made so many revolutions, until it has gone through a certain G force and the mixture does not occur to make that a lethal shell until it has been fired and is on its way to do its job. That is what we are talking about producing.

In other words, it is safety for our own people, it is safety for our own troops handling this, it is safety for the people in the areas of Germany or here or Arkansas or wherever this material is handled that they be kept apart.

We could take those two components and right here on the floor of the Senate we could pour those chemicals apart and they would not harm anyone. We could go about our business. You combine those chemicals and you have a leak of a very few drops in this Chamber and everyone in the gallery and this whole Senate Chamber would be dead. Now, that is what we are talking about.

So we are not talking about whether the United States will have chemical weapons. We have them. They are unitary. They are dangerous. They are old. And I would not want to be around where they are being handled.

But what we are producing now beginning with the artillery shells, the 155 millimeter shells, is we are just going into production on shells that are safer for our own people.

Now, let me back up a little bit. What is the history of warfare? The history is where we have a present force of whatever it is—rifles, machine guns, planes, tanks, artillery shells—if you have a pretty good set of shells to use against the enemy they are less likely to start using theirs against you.

That is the whole theory behind deterrence. That is the whole theory behind the whole nuclear weapons setup. That is the whole theory behind what we are now negotiating on INF and want to start negotiating in START. If we say we have the deterrence, they would know we will use it and they are less likely to use it against us because of the fear of reprisal—mutual assured destruction.

Let us go back to the history of chemical warfare. It is to show that to be very, very true with chemical warfare I tell you. Go back to World War I. The Germans thought the allies did not have chemical weapons. What did they do? They used them, mustard gas. And it was hideous and it was horrible and we still have some of our very, very old people now still in veterans hospitals as a result of that gas used in World War I, World War I, mind you. Now, the British then had a small stock of gas, and it was used over in France, and when it was used for the first time the Germans withdrew their chemical weapons and never used them again in World War I.

We come up to World War II. In World War II both sides did not do it and both sides knew the other side had it, and it was not used in World War II.

Get to Vietnam, it is sort of a hazy situation over in Vietnam whether some was used or not used.

There is not any doubt what has happened in Afghanistan. The Soviets have used gas in Afghanistan because the Afghanis have not had a counterweapon that they could use, a counter-gas capability they could fire at the Soviets.

So I think it is very clear at least from those examples to me to indicate that the possession of those weapons is important.

What have the Soviets done? They are far, far ahead of us in chemical weapons capability. We know that. They have gone for the defensive measures also. They have their vehicles that are more gas-proofed than ours. They have gone into the whole area of gas protection much more completely than we have by far.

And we have a minimal capability to do it now, but it is in these unitary weapons and I think keeping a gas capability, a chemical weapons capability is very important just for its deterrence standpoint.

We have that in a minimal way now with the unitary weapons, but I want to see those weapons be more safe for our own people and our own troops in the depots in which they are stored and the transportation problems with these weapon systems.

And the binary production is exactly what we are talking about here, and that it is what, as I understand it, would be stopped by this.

I can understand the concern of the distinguished Senator from Arkansas, my colleague. He is concerned about the manufacture of this and the direct impact it has in his State and that is something to be concerned about, but I would submit that making these shells binary is safe. We do not combine those chemicals. We do not combine them until the weapon is actually fired.

The Bigeye bomb that we will also be discussing, the Bigeye is a weapon system that has had a lot of problems. There is not any doubt about that. And we have followed that very, very closely through the years. It has been one difficulty after another. And I wish they had those problems, but we are to the point now where they are down to the final stages of testing, as I understand it, and to stop the program now just when we are giving an additional range which is what it would do, that is an air-carried weapon now, to be delivered farther than just the 155 artillery shell, you can put it on an airplane, go out, in other words, you extend the range of your chemical deterrence capability. That is what the Bigeye would do. And we are in the final stages of testing on that one which will be debated shortly, I guess.

So I favor that kind of a deterrence against the Soviet superiority in chemical weapons. I favor having that counterdeterrence, but I want that counterdeterrence to be safe and that is what the binary weapons do; they keep the active ingredients separate. They are not combined until the shell is fired. That is why we need to defeat this amendment.

The **PRESIDING OFFICER.** All time has expired.

The Senator from Alabama has 10 minutes 50 seconds remaining.

Mr. **SHELBY.** I yield 5 minutes to the Senator from South Carolina.

The **PRESIDING OFFICER.** The Senator from South Carolina [Senator THURMOND] is recognized for 5 minutes.

Mr. **THURMOND.** Mr. President, I rise in opposition to the amendment that would prevent the obligation of funds for final assembly of binary chemical munitions.

Last year, after a long period of controversy, the Congress authorized production, including final assembly, of binary chemical munitions. This action was taken in view of facts that have not changed in the past year. These facts include the following.

Binary munitions are safer to store and handle than existing unitary munitions. The two agents become lethal only after they are mixed together in a process that does not begin until after the weapon is fired.

The unitary weapons in the existing stockpile are between 17 and 38 years old, and there are signs of deterioration. Some of these munitions are leaking, and they pose an increasing hazard to our military personnel.

In 1984, the National Academy of Sciences concluded that "about 90 percent of the inventory of chemical agents and nearly as much of the munitions inventory has little or no military value."

Mr. President, these factors, and the importance that the Warsaw Pact places on chemical warfare, have resulted in our senior military leadership identifying this lack of credible chemical deterrent as the most serious deficiency in our conventional defense posture.

Mr. President, that is important that our senior military leadership have identified this lack of credible chemical deterrent "as the most serious deficiency in our conventional defense posture."

Mr. President, the Senate last year defeated a similar amendment by a vote of 57 to 43. Several months ago, the House defeated an amendment with a similar intent by 230 to 191. I hope my colleagues will join me and maintain the bipartisan support that has existed for this critical military requirement by voting against this Hatfield amendment.

Mr. President, there is no question in my mind that in World War II the Germans would have used chemical weapons. They had the weapons, but they knew the American forces had the weapons. That is the reason they did not use them. We have got to have those weapons. We have got to have them ready and we have got to keep them up to date. They are subject to deteriorate as time passes, and so it will be a deterrent if we have these weapons in good shape.

And the binary weapons are much safer than unitary weapons. Because, as has been stated, these chemicals come together after the weapon has been fired. So there is no danger to military personnel in handling these kinds of weapons. There was danger in handling the unitary weapons. But the binary weapons are much safer and, in my opinion, we are very wise to go with that form of chemical agent.

I hope the Senate will not vote for this amendment.

The PRESIDING OFFICER. The Senator from South Carolina yields back the balance of his time.

Who yields time?

Mr. HATFIELD. Mr. President, with all due respect to my colleagues, I think we have heard again the same old tired arguments that were used 7 years ago. We already went through that "safety" charade—on the question of leaking canisters. As I indicated earlier, that was disproven by the President's own blue-ribbon commission.

Mr. President, we have been identified as presenting this in the context of apocalyptic concerns. There is something desperately dangerous about nerve gas. But is there anything so dangerous about a delay? Is there such a danger today that a 1-year delay in the assembly of this weapon is going to threaten our defense, going to threaten the Western alliance, going to weaken the United States?

Of course, I think we have to be concerned about the volatility of the world in which we live. None of us can predict the events of the next moment, let alone the next year. But I think we have to recognize that in the history of warfare—and I would cite Liddell Hart, who I think is probably the best of all military historians—when we are talking about a single weapons system, it has to be taken in the context of all weapons systems. By extrapolating here something out of our arsenals that we have had a moratorium on for all these years, how can that somehow be the pivotal point of whether or not we are going to have a valid arsenal or an ability to defend ourselves—to argue that is to take the whole thing out of context.

Bear in mind that it is not a matter of matching, as Liddell Hart says, the potential adversary numberswise. It is, instead, to determine whether or not you have an offensive or defensive capability and where you want to put it. It is also the matter of the totality of your arsenal, not on any one weapon system. Finally, it is the sufficiency. It is not a matter of item for item, 10 for 10, 20 for 20. That can be the basis of our policy, but our administrations, through Republicans and Democrats alike, have always said ours is a defensive posture that we are maintaining for the peace of the world.

Mr. President, all of us are concerned about the safety factor of any weapon that our young men and women are expected to handle. No one disagrees on that point, so let us not make that the argument. We all agree. There is no debate on that. The safest thing that we can do is to eliminate the weapon on a multinational basis.

Everyone so far today has had the hope or expectation we may get an agreement within a year. Hopefully that will come about even sooner.

If that agreement is concluded, in all probability it will include the elimination of this weapon. That is the objective of the conference, to eliminate the stockpiling and production if nerve gas weapons. I would say to my good friend, the manager of the bill, why pay money on something that all of us have high hope that we can eliminate why not a 1-year delay, a 1-year delay on this?

We are not affecting production. We are not affecting our will. We have already built the capacity to produce. We are not affecting our deterrence.

Do we want nerve gas so badly? Are we really willing to risk even the possibility of this treaty because we want to push this thing at this time? A breather of only 1 year on the assembly in no way affects our deterrence, our will, our capability.

Let me also add one other point again, to emphasize forward deployment. The burden ought to be on those who oppose this amendment to indicate one scintilla of evidence that our allies are willing to receive, even if we produce this particular weapon, to receive it. And if we want to go through that argument about the Ministers of NATO as against the political leaders of NATO, we can go through that again. The bottom line is that they are not willing to accept it.

But remember that the same people who were arguing 7 years ago that we had to have a bargaining chip are arguing that somehow that bargaining chip will be thrown away if we wait. It is not thrown away. If we have to have pressure and leverage on the Soviets to conclude what is happening at Geneva, they are fully aware of the fact that we have the components and we could move to assembly.

I think what we are really seeing here today is an attempt to turn the bargaining chip into an operational weapon.

Mr. WIRTH. Mr. President, I rise in support of this amendment to delay the final assembly of nerve gas weapons for 1 additional year.

While I remain steadfast in my opposition to the production of chemical weapons in all forms, I consider the present amendment as the best possible approach given our current circumstances.

Proponents of chemical weapons argue that our production and stocking of these weapons will deter the Soviets from using like weapons. They further argue that binary weapons reduce the danger inherent in the production, transport, and storage of chemical weapons.

So let's look at this amendment with respect to deterrence and danger.

This delay will not diminish what chemical weapon supporters claim to be the deterrent value of chemical weapons. The production facilities for binary weapons have been built, and production of component parts is actually underway. So our will and capability to produce chemical weapons is not in question.

Nor does this delay affect our ability to deploy binary chemical weapons in Europe as part of our forward defenses. At present the United States has no agreement for such deployment, and there is no guarantee that full assembly of binary weapons would force such an agreement. In fact, the only agreement we have in place with the Federal Republic of Germany is for the removal of unitary chemical weapons presently deployed on their soil.

Now to the danger of producing and storing chemical weapons.

Adding to our chemical weapons dilemma is the often-postponed, still-controversial, and still-delayed destruction program for our present stockpile of unitary, obsolete chemical weapons.

So if we proceed as planned, we could have not only a huge stockpile of unitary weapons to contend with, but an additional—albeit somewhat safer—stockpile of binary weapons that—positioned here in the United States—provide deterrence from a distance.

I agree with the sponsors of this amendment that—with the possibility of success in negotiations for a comprehensive ban on chemical weapon production and stockpiling—now is the time to show good faith by delaying our binary production.

Mr. DASCHLE. Mr. President, I rise in support of the Hatfield-Pryor-Danforth amendment to limit production of chemical weapons.

The Hatfield-Pryor-Danforth amendment would bar for 1 year the final assembly of 155 mm nerve gas artillery shells—shells which, if produced, will be added to this country's current, huge arsenal of chemical weapons. While the Pentagon complains that some weapons in its stockpile are too old to use, the fact remains that we could remove the unusable weapons from the stockpile and still have an overabundance of these artillery shells. We simply don't need to spend scarce financial resources on more chemical weapons.

Chemical weapons have devastating, morally indefensible results. While some speak of the need for chemical weapons as a means of deterring a Soviet chemical attack, the real-life effect of chemical weapons has been the death and suffering of innocent people. Both American and enemy soldiers will wear gas masks and protective gear during a chemical attack. Their movement will be inhibited, but they will be protected. The defenseless civilians who happen to live in the way of these weapons will not be so fortunate.

Finally, it is important to note that we are growing closer and closer to an international agreement to ban all chemical weapons. There are reports that such an agreement could be reached in 1988. As we near an agreement, it makes no sense—economic or otherwise—to add to our current stockpile weapons that would have to be destroyed.

Mr. President, I thank Senators HATFIELD, PRYOR, and DANFORTH for offering this important amendment. I am pleased to be a cosponsor, and I urge my colleagues to support it.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Who yields time?

Mr. GLENN. Will the distinguished floor manager yield me 2 minutes?

Mr. SHELBY. I yield 2 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I think if we applied the same kind of logic which has just been applied to chemical weapons, we would say that if we go ahead and unilaterally reduce our nuclear stockpiles first or reduce our tank supply first or reduce the number of ships first, then it will be somehow easier to negotiate.

That is rather tortured logic to me, because we are not negotiating in that situation from any equal capability, an equal capability we do not have to begin with. We are far inferior in this field of chemical weapons. It seems to me we would be going further downhill in our comparison with the Soviets as we try to negotiate with them.

I do not see that that makes any real sense.

We know that if we have a strong capability, they are more likely to respect that strong capability and negotiate in good faith. So I do not agree at all that the best way to negotiate is to say that they are weaker on that side and we will make ourselves more weak so we will be in a better negotiating posture. That to me makes very little sense.

I yield back the remainder of my time.

Mr. HATFIELD. I must say to the Senator from Ohio either I did not make my comments clear or his interpretation is totally without any foundation in fact. We already have the stockpile, whatever condition it is in. We already are producing the binary. We are not unilaterally doing anything except to say that we are delaying by 1 year the assembly of the component.

Mr. President, it comes right back to the same old problem: We are willing to risk anything that might create a war or hostility, but we are not willing to take one small step in the risk for peace or a limitation of arms. One year delay in the assembly is all we are asking. Is that too much to ask?

I yield my remaining time to the Senator from Arkansas.

Mr. PRYOR. Mr. President, how much time remains?

The PRESIDING OFFICER. The remaining time is 5 minutes 21 seconds.

Mr. PRYOR. For the proponents?

The PRESIDING OFFICER. For the proponents, 1 minute 33 seconds.

Mr. PRYOR. Mr. President, quickly, if I may respond to my friend from Ohio, Senator GLENN: One, there has been a lot of argument about deterrent, that we have to go into this new generation of nerve gas to have a deterrent. I think I am correct. Only about 5 years ago, one of the most eminent scientists in this world from Harvard University, testified before the Congress that today our present usable stockpile of chemical agents could kill everyone in the world five times over. Five times we could kill everyone, Mr. President. If that is not a deterrent, what is it?

Finally, my friend referred to Pine Bluff, AR, saying that the people there need not be afraid because this would be safer.

Mr. President, it may be an argument on the other side, but a lot of people in Pine Bluff want to go into the new generation of nerve gas simply because it is going to create something called jobs, j-o-b-s. Jobs drive too many military decisions in this body. I hope these points will be considered as we hopefully vote for the Hatfield amendment to postpone assembly.

Mr. HATFIELD. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SHELBY. Mr. President, I yield myself as much time as I shall consume.

Mr. President, I reject the argument that this is a tired argument, that this is the same argument we have had year after year. We talk about safety. If we delay the assembly of binary weapons, what are we really doing? We are putting it off. We are laying the predicate for another year. We are delaying it for another year.

What if a year hence we have not reached the negotiations with the Soviet Union? Where are we then? I predict then, if that happens, that the proponents of this amendment will say, "Let us delay it again. Let us do it again."

For whom is this safety? I say it is for the Soviet Union, not us, as the distinguished Senator from Ohio pointed out. If we have some weapons and they have them, I believe this will bring them to the bargaining table.

I do not know in the history of the Soviet Union where they have unilaterally, when they had a massive advantage, a distinct advantage, come and negotiated that advantage away.

I will stand before you like most of us here if not all. I would like to rid ourselves and rid the Soviets of chemical weapons, but the binary weapon is a big improvement. It is a safety improvement. But it would say, "We have them. Let us negotiate them away and let us allow verification that this is true, that we have gotten rid of them and you do it."

To go to the Soviet Union empty-handed I think is the wrong signal. It is the wrong message at the wrong time. As I said earlier, we have to have a strong message. I believe this Congress can send the strong message by going on and taking the next step with our chemical weapons. We owe that to our people who handle them, safe weapons, safe chemicals. Because of what the Senator from Ohio said, let us send a strong message and not a weak message.

I yield back the remainder of my time.

Mr. President, I ask unanimous consent that the vote on or in relation to the amendment occur after the vote on the Hatfield-Kennedy nuclear testing amendment this evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I had forgotten our time agreement. I believe we are ready at this time for the second amendment, the Bigeye amendment.

AMENDMENT NO. 731

(Purpose: To prohibit use of funds for the Bigeye bomb)

Mr. PRYOR. Mr. President, at this time, I send an amendment to the desk on behalf of myself, Mr. HATFIELD, Mr. DASCHLE, Mr. INOUYE, Mr. METZENBAUM, and Mr. HARKIN, and ask for its immediate consideration.,

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR), for himself, Mr. HATFIELD, Mr. DASCHLE, Mr. INOUYE, Mr. METZENBAUM, and Mr. HARKIN, proposes an amendment numbered 731.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 22, strike out "$4,967,627,000" and insert in lieu thereof "$4,965,578,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,207,823,000".

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,711,452,000".

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. RESTRICTIONS ON THE BIGEYE BOMB PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the BIGEYE binary chemical bomb, for the procurement of any component or subcomponent for such bomb, or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific legislation has been enacted after the date of the enactment of this Act authorizing the obligation and expenditure of funds for production of the BIGEYE binary chemical bomb.

(b) EXCEPTION FOR RESEARCH, DEVELOPMENT, TESTING, AND EVALUATION.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the BIGEYE binary chemical bomb program.

(c) LIMITATION ON FISCAL YEAR 1987 FUNDS.—Except as provided in subsection (b), the funds appropriated to carry out the BIGEYE binary chemical bomb program in fiscal year 1987, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program in fiscal year 1988.

Mr. PRYOR. Mr. President, we have had a healthy debate this afternoon about chemical weapons. Now it is time to turn to another part of this debate, because this relates not to chemical weapons or whether we are going into a new generation of nerve gas or not, but this is a question of our military procurement system and how a good weapon is made and a bad weapon defended.

Mr. President, we all remember the Divad antiaircraft gun. I know the memory of that weapon is clear. The Bigeye bomb today seems to be the Divad.

I wish my distinguished colleague from Illinois was on the floor now, Senator DIXON. He got on the floor and very succinctly, and as a bottom line, said, "Mr. President, very simply, the Divad is a gun that does not shoot straight"

He was successful in leading the fight to cancel the Divad gun.

Like the Divad, which was finally canceled, the Bigeye today is flunking its tests. Like the Divad, the Bigeye is being carried forward by sheer momentum, by stubbornness.

In short, Mr. President, we are on the eve of producing a badly flawed weapon.

Mr. President, my amendment does not cancel the Bigeye bomb but it does postpone its production.

There are three simple parts: First, it eliminates $5 million in this bill for fiscal year 1988 for Bigeye production. This is exactly what the House of Representatives has done.

Second, it prohibits the expenditure of $35 million for Bigeye production from the fiscal 1987 defense bill that Congress said could not be spent until fiscal year 1988.

Third, and very importantly, it directs the $5 million we save into a research and development account for accelerated work on a better, deep-strike chemical weapon.

Mr. President, that is what this proposed amendment does. No less, no more.

Mr. President, the Bigeye bomb is in very deep trouble.

Since 1963—imagine this, since 1963—for the past 24 years, the Bigeye bomb has been researched, studied, dissected, developed, and tested. But today, according to very recent test results and the General Accounting Office report, the Bigeye bomb is still barely functional.

Last February, this bomb went into its last set of operational testings. It passed this series of tests in order to then go into production. Then in March of this year testing on the Bigeye bomb was halted, it was stopped after the bomb was found to have functioned in only 6 out of 10 bomb drops.

A 60-percent success rate is a flunking score by even the most liberal of graders.

The bomb has been in the workshop all spring and all summer and the Navy now reports that the bomb is fixed, it is ready to go.

Now, Mr. President, I do not know how many times I have heard that about the Bigeye bomb or how many times we have heard that about other weapons systems. But each time it is said, and I say this respectfully, the Bigeye bomb comes out fighting but it still falls flat on its face.

Mr. President, the Bigeye bomb does not work.

According to a recent report by GAO, the biggest fix on the Bigeye bomb is a "fixed" testing program. GAO reports that the Navy's testing of the Bigeye, and I quote, "is unrealistic" and I quote further from the GAO report:

> The results of operational testing will not generate the information needed to determine if the Bigeye is ready for production.

In other words, Mr. President, because these tests are so skewed, because they are unreliable, even the Bigeye's miserable 60-percent success rate underestimates how bad off the Bigeye bomb really is.

Mr. President, I have a copy of an unclassified version of the GAO's recent report to the chairman of the House Foreign Affairs Committee, Congressman FASCELL of Florida, regarding Bigeye testing dated June 4, 1987. That was as recent as this summer. I ask unanimous consent that this unclassified version of this report to Chairman FASCELL be entered in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. GENERAL ACCOUNTING OFFICE,
Washington, DC, June 4, 1987.

HON. DANTE FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: In a June 26, 1986, letter, you requested GAO continue its work on examining the operational issues of the Bigeye bomb. This is a status report which provides an evaluation of the operational test plan. As you know, GAO was also assigned the task of monitoring and evaluating the operational tests of the Bigeye in the fiscal year 1987 Defense Authorization. This report does not address any operational test results, but only discusses the test plan.

We evaluated the Bigeye test plan on the basis of conformance with test plan criteria laid down by the Defense Department. Drawing upon both the DOD criteria for test plans, and the work of experts in defense OT&E, GAO found that the Bigeye test plan presents four major problems, and several minor ones.

DOD Directive 5000.3 specifies eight elements that must be present in an operational test plan: a statement of objectives; measures of effectiveness; operationally realistic scenarios; threat simulations; a list of required resources; a statement of known test limitations; data gathering methods; and data analysis methods.

GAO believes that the Bigeye test plan has four important limitations which will seriously affect the usefulness of the overall test program:

1. Unrealistic Mission Profiles: There is no explanation for why operational scenarios based on little or no threat are used as the basis for 60 percent of the test runs by the Air Force; only 11 percent of the Navy runs assume such scenarios. Similarly, there is no explanation for the absence in either service of test runs based on a scenario that assumes a high air and high ground fire environment. Given circumstances considered likely for the use of Bigeye—a full-scale ground war in Europe against the Warsaw Pact—it is unclear why the Bigeye scenarios assume a "moderate" threat level as the highest for testing purposes. While there may be a good reason for the choices made by DOD, no explanation is offered in the test plan. As things stand, it is clear that, whatever the reason, Bigeye will not be tested under operationally realistic conditions.

2. Absence of Data Analysis Plan. The Bigeye test plan contains no data analysis plan. In general, test experts believe that a data analysis plan is one of the core requirements for a properly conducted test, since it specifies how the collected data will be analyzed, including what defines the failure or success of the test. The absence of a data analysis plan can permit the collected data to drive the later analysis, thereby introducing the possibility of both problematic evaluation and bias. Furthermore, the lack of a plan prevents outside evaluators from thoroughly understanding the assumptions used by testers, along with the criteria for judging test results. In the case of Bigeye, numerous questions remain unanswered about how data will be evaluated precisely because there is no data analysis plan.

3. Proliferation of Independent Variables. There are at least 22 independent variables which affect testing of the Bigeye. "Independent" variables are, by definition, factors that can be controlled by testers in order to judge the effect of a variable on the performance of a weapon (e.g., day versus night flights, type of aircraft, number of bombs used, fuze time, height of bomb release, etc.). GAO believes that given only 33 missions and 22 independent variables, it will be very difficult, if not impossible, to decide what factors are responsible for the success or failure of the Bigeye. GAO also believes that some of these variables could have been controlled (e.g., using only one type of aircraft, only having daytime flights, only using one weapon at a time, or using crews of roughly equal experience). For example, only two night tests will be conducted, and there are so many other variables at work that even if both succeeded, or failed, it would be impossible to state that night employment was the factor responsible for success or failure.

4. Significance of Known Test Limitations. In the Bigeye test plan, DOD cites 10 limitations to achieving operational realism, ranging from the absence of electronic countermeasures to no correlation between simulant and lethal agent. While some of these limitations are necessary (to conform to existing law), GAO believes that the limitations raise two related problems. First, some of the limitations could be removed (e.g., by testing ECM effects in the laboratory, simulating hostile fire maneuvers through jinking); second, the test plan does not make any attempt to quantify the effects of the cited limitations. An adequate data analysis plan would have addressed this important problem.

In addition to these four major concerns with the Bigeye test plan, GAO has encountered problems with obtaining data on the Bigeye test results that we were promised would be made promptly available. DOD stated that data from the test runs would be sent to GAO in no more than 20 calendar days from the time they were available, approximately 10 days after each test run. However, GAO has not received one piece of data as of this writing, 105 days after we filed our first request on February 19.

While this information on the test plan has several new aspects, I am struck with a feeling of déjà vu. In our past work on Bigeye, we have encountered three of the same problems we face now: namely, a lack of realistic testing, an absence of a stated analysis plan (laying out, for example, the criteria detailing which tests will be counted and which not), and an inability to obtain data in a timely manner. The absence of realistic tests in the developmental phase of Bigeye testing is partially responsible for the current decertification of the weapon; and unclear criteria have led to questionable and varying rates of success and failure. Unfortunately, we see the same problems occurring again. Unless they can be resolved, the results of operational testing will not generate the information needed to determine if the Bigeye is ready for production.

A similar letter is being sent to the Chairman, Senate Armed Services Committee and to the Chairman, House Armed Services Committee. Staff from those committees were briefed orally on May 11, on this subject.

Sincerely,

ELEANOR CHELIMSKY,
Director.

Mr. PRYOR. Specifically, Mr. President, GAO notes to Chairman FASCELL four major problems with these tests. Not knowing what else to call them, I will call them "fudge" factors because in effect they help to fudge the results of the tests for the Bigeye bomb. One fudge factor really shocked me. It is this: bombing mission profiles for Bigeye testing, which are supposed to be realistic battle conditions, never assumed a high air or ground fire environment. In fact, in 60 percent of the Air Force missions, these tests assumed there was little or no threat to the bomber delivering the Bigeye bomb.

Mr. President, that is patently ridiculous. The GAO noted:

> Given circumstances considered likely for the use of Bigeye—a full-scale ground war in Europe against a Warsaw Pact—it is clear that Bigeye will not be tested under operationally realistic conditions.

Mr. President, it would appear that the Bigeye tests are rigged to make that bomb look better than it is.

In previous years I have discussed with my colleagues on this floor the Bigeye's many flaws and its many problems. One, it must be lofted or thrown over a target there by making accuracy elusive and endangering both the pilot and the plane. The ancient fuse that tells the bomb to spray a target is riddled with problems. The device that mixes binary chemicals is prone to failures, thereby often rendering the spray harmless.

Those are a few of the things that have made the Bigeye the Divad of 1987.

Mr. President, there is only $5 million in this year's bill for Bigeye production, but there is another $35 million from previous year funds that now, unless we do something, can become available this fall. This is not a great deal of money when we consider the enormity of the billions of dollars that we are discussing this afternoon in the defense bill.

Mr. President, it definitely puts a foot in the doorway to the spending of billions and billions of dollars on this program in the future. If this Senate wants a deep-strike chemical weapon, there are far better alternatives than the Bigeye bomb.

The Defense Secretary only recently identified those alternatives for Congress in a classified document. Mr. President, I have that classified document in this notebook, should any of my colleagues care to see it. It is excellent reading for those who are interested. I cannot go into its contents here, but I can say that it does contain alternatives to a Bigeye bomb that has failed and is going to continue to fail and they make enormous sense.

In recently talking off the record to people in the Department of Defense, I am told that many in that Department agree the Bigeye bomb is an embarrassment. But no one, no one is willing to go forward and state this in public very simply because it might hurt their career. So today we have the "party line" at DOD: We need one Bigeye bomb to fill the gap until effective deep-strike chemical weapons can be produced.

Mr. President, if that be the case, then we should make sure that our stop gap weapon works. Right now the Bigeye has only proven that it does not work. Defense spending is going to be tight for some years to come and we cannot afford to pour billions of dollars—in fact, ultimately, $2 billion—into a weapon that does not do its job. All I want to do is withhold production funds for the Bigeye bomb until it proves itself. In the meantime we need to accelerate our work to develop better substitutes, so that my amendment puts $5 million in the research and development account for those necessary defense agencies.

I intend for this money to be controlled by the Assistant Secretary for Atomic Energy for research on standoff deep strike chemical alternatives to the Bigeye bomb.

Mr. President, as you know I am not a big fan of chemical weapons, but I am a big fan of making good weapons when we make them and not wasting the taxpayer's dollars no matter what the project.

The Bigeye is in bad shape. Allowing it to go into production would be throwing critical defense dollars down the drain. If we are going to fund a chemical weapons program, we ought to have a delivery system that works. The Bigeye bomb fails that test.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PRYOR. I am glad to yield to the Senator from Oregon.

Mr. HATFIELD. I want to commend the Senator from Arkansas for continuing this battle. He has, like many have, grown weary, but he has not relented. He has been defeated but he has not been struck down, and he pursues this with admirable tenacity.

I admire him for it, and am proud to be a cosponsor of this amendment with the Senator from Arkansas.

Mr. President, I want to prepare people not to faint because I may say something positive about a weapon. In fact, I am prepared to say two things positive about this particular weapon. First of all, this turkey is a testament to the tenacity of those who pursue chemical weapons. For that kind of tenacity demonstrated here, I think they deserve some kind of a commendation. Second, of all the nerve gas weapons that I hate, I hate this one the least. I hate it the least, because this one does not work.

Anyone looking at this particular weapon has to really ask: Are we really concerned about the deficit? It is going to cost billions of dollars. Are we really concerned about balancing the budget? If ever we had an example of the squandering and waste of the taxpayers' money, it is on a weapon that just doesn't work.

Unless it is just a matter of being caught up in the fervor for nerve gas weapons, I do not know how anyone could support the continuation of the Bigeye.

I thank the Senator from Arkansas.

Mr. PRYOR. I thank the Senator from Oregon for his comments.

Mr. SHELBY. Mr. President, I yield myself 5 minutes.

Mr. President, I believe it is premature at this time to talk of canceling the Bigeye weapon when the test program on the weapon is not yet complete. We have had 10 tests out of a scheduled 58. It is about one-sixth of the tests. I believe that the Bigeye test program will be completed by the middle of October. At that time the Secretary of Defense is expected to make a preliminary judgment regarding the test results. But given the importance of binary weapons that we have been talking about for the last hour or so here on the floor, in modernizing our chemical deterrent the only prudent course, I submit, is to wait until the results of the whole tests here are evaluated.

We spent according to some figures about $125 million on the Bigeye. We are talking about $5 million more for a few more tests. By cutting the administration's request and what was it? It was $20 million to $5 million in the Armed Forces Committee. The committee has already effectively barred the Bigeye production until the President certifies that Bigeye has successfully completed the test program I just mentioned.

But what are the safety factors here? The Bigeye represents the United States only near-term option for addressing the imbalance in deep strike chemical weapons. I believe it would be wasteful, and I believe it would be damaging to the United States and our NATO allies to cancel the Bigeye program here before all the test results have been analyzed, and they have been evaluated.

I submit to you that when you have a car that you have gone through the production of the first test production, you have some flaws in it, and you might have a lot of flaws. But do you cancel the whole development program because of that? You work it out. I believe you are going to see a working out of the flaws here. Senators have talked here today about letting us start over—let us start over and develop a new program.

I have some statements that are not classified. The Department of Defense report on long-range standoff chemical weapons, and I quote:

> Given the mid to late 1990's initial operational capability for these alternate systems, if any, they cannot be viewed as a substitute for the Bigeye system in meeting this critical deficiency that we have in the United States of America. At the present time the Department of Defense has not identified specific candidates for developed operational requirements for standoff weapons for chemical agent delivery.

I think that is where we are today. We have not identified that. Let us keep this testing going. We are only talking about $5 million more. I believe it makes sense. I believe that we will work out the problems here.

Mr. President, I yield 5 minutes to the Senator from Maine.

Mr. COHEN. I thank the Senator for yielding.

I might just offer a couple of points. The Senator from Arkansas in his closing comments said that we ought to hold the money until this weapon proves itself. That sounds rational and reasonable and responsible on the face of it. But the problem is it is quite deceptive in its superficial appeal because he has already said the testing is skewed, or cooked, or phony, or false.

So in his opinion no matter what the test results prove it is going to be a turkey, according to the Senator from Oregon as well. So to say that hold the money until it proves itself sounds reasonable but the fact of the matter is it is never going to prove itself as far as the cosponsors are concerned because the tests have been cooked or phonied-up in order to accomplish that result.

No. 2, it seems to me if you adopt that argument what you are doing is saying that the Department of Defense, its civilian and military leaders, are deliberately putting this Nation at risk. It is deliberately putting this Nation at risk and it insinuates to me at least the most corrupt intentions on the part of our leadership.

I simply cannot believe that is the case, that the Secretary of Defense, that the Joint Chiefs of Staff and all of our military leadership would deliberately put this Nation at risk by producing a weapon that they knew in advance did not work, could not work, and nonetheless were driven by contractor greed in order to accomplish this result. I find that hard to accept as an argument.

The third point I would make is the Armed Services Committee has already in view of the testing results eliminated $20 million out of this particular program, reserving $5 million so they could continue to test. I do not know of a weapon yet that has successfully completed all of its tests without some flaws being revealed. That is why we have tests to reveal the deficiencies in any given weapons system.

So I think the Armed Services Committee has acted responsibly in saying, wait a minute, until we are satisfied that the deficiencies have been corrected, we do not want to go forward, and we do not want to start production. I think the Senators have failed to take this step into consideration.

Another point I would make is the GAO has recently filed a report indicating we have problems with a whole bunch of systems, the Phoenix missile, the Sparrow missile, the Sidewinder, and there may be more. I do not know what was used when a couple of years ago our F-14's knocked down some Libyan aircraft. I do not know what they were using because obviously these weapons do not work. You might as well scrap the Sidewinder, the Phoenix, and every other system we have. We were shooting down Libyan jets. Unfortunately we shot down one of our own recently with something. It was not just good intentions.

Another point that was made is that we ought to develop a better system. The Senator from Arkansas says let us take that $5 million and put it for a better deep strike system. One has to weigh how serious that argument is, whether he is really committed to a deep strike system in view of his rather consistent and, as the Senator from Oregon has indicated, rather admirable tenacity in trying to terminate these weapons in any event. But now he is holding out this sort of illusory $5 million program for a better system.

I believe the Senator from Oregon said it exactly right as far as his opinion is concerned: that he would rather have a chemical weapon that does not work than one that does. That, I believe, is quite the objective of postponing this for another year, setting aside $5 million for some illusory deeper, more penetrating, more effective system only to find next year that particular weapon is another year into the distance, and we will continue to be without the kind of capability the Bigeye will in fact produce.

So I hope the amendment will be rejected.

Mr. SHELBY. Mr. President, I yield 8 minutes to the distinguished Senator from Ohio.

Mr. BYRD. Mr. President, will the distinguished Senator from Ohio allow me to call up an amendment, briefly speak on it, and have others who are cosponsoring the amendment also speak on it at this time without the time being charged against the pending amendment?

Mr. GLENN. So long as we do not lose our time on this. Was the majority leader going to set aside this amendment temporarily?

Mr. BYRD. Yes.

Mr. SHELBY. I have no objection. I will agree to that, and we will come back to it.

Mr. WARNER. So far as I know, there is no objection on this side. Indeed, the action by the majority leader is consistent with the unanimous consent we have been working under in general terms for some days.

I wonder if I might be recognized for a few minutes in the nature of a colloquy, and I will later reserve time to debate.

Mr. GLENN. Mr. President, will the Senator yield for a question?

How much time remains on both sides on this amendment?

The PRESIDING OFFICER. The Senator from Alabama has 37 minutes, and the Senator from Arkansas has 32 minutes.

Mr. GLENN. That is a considerable amount. I thought if it were a few minutes, we could conclude this. I do not object.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object, I should like to inform the Chair that this is my amendment, and I am not going to object to having it laid aside.

I inquire of the majority leader as to the possible amount of time that the amendment he is substituting at this time on the agenda might take.

Mr. BYRD. It could conceivably take 30 minutes. The sponsors are Senator NUNN, Senator BUMPERS, Senator ADAMS, and Senator SASSER. Senator WARNER is not a cosponsor. The other Senators are cosponsors of the amendment, and most of them are on or near the floor, and I think they would want to say something with regard thereto.

Mr. WARNER. Mr. President, I will explain the reasons why I will be speaking in opposition. But I draw to the attention of the distinguished majority leader that while the proponents of this particular amendment certainly will have debate, I am quite certain there are others on this side; and it may be that the proponents of the pending measure, the Senator from Oregon and the Senator from Connecticut, would want to speak to it.

So, while we may have some debate here, there will be a subsequent debate before action, and I think that would be a courtesy to the two Senators who are absent, the proponents of the pending measure.

Mr. BYRD. Yes, the Senator is correct.

Mr. WARNER. This would be in the nature of introductory comments connected with the amendment, and then the debate would follow later this evening.

Mr. BYRD. The debate will occur later.

Mr. GLENN. It is now about 25 to 6. We have votes starting at 6 o'clock. Would those be set back?

Mr. BYRD. They would.

Mr. GLENN. To a later time?

Mr. BYRD. Yes.

What I am saying is that the vote which would have started at 6 o'clock would be delayed by just that much, because I am going to get consent that the time remaining on the pending amendment remain intact.

Mr. GLENN. I was trying to get an idea when this would come up again, whether we are going to have the votes on time at 6 o'clock, or whether this subject would delay the beginning of the voting period at 6 o'clock.

Mr. BYRD. It would delay the beginning of the voting period.

Mr. GLENN. The Senator from Virginia and I had a commitment at about 6 or 6:30. This discussion, then, would probably go through that time period. Is that correct?

Mr. BYRD. Very likely.

Mr. GLENN. A further question: The consideration of the Bigeye amendment of the distinguished Senator from Arkansas would come up, I presume, after the voting period. The proposal of the majority leader would be discussed, and we would have our voting period for the stacked votes, and this would be the pending business?

Mr. BYRD. The sequence of the pending amendment would not be disturbed at all. I am merely getting consent at this point to call up this amendment, tack it on to the Weicker amendment. I can, otherwise, get the Weicker amendment before the Senate by calling for the regular order. I do not want to do that. I want to get consent that time on the pending amendment stop running until a brief period in which those of us who are sponsoring this amendment might explain it, offer it, and then we will go back to the pending amendment and delay the rollcalls which would otherwise have begun at 6 o'clock by that much time.

Mr. SHELBY. And then, after we go back on the amendment we are on now, we will finish it, and then the voting will start. Is that correct?

Mr. BYRD. That is correct.

Mr. GLENN. I did not understand it that way. Is that correct, that we would go back and finish the time on this amendment before the voting period would start?

Mr. BYRD. That is right.

Mr. PRYOR. Mr. President, I should like the majority leader to know that I am not objecting in any way. I just did not want to see the present amendment before the Senate, the Bigeye bomb amendment, evaporate into the late evening hours; because I have found out that the earlier you vote and discuss things around here, the better mood we find our colleagues in. As darkness comes, people get very grumpy and testy and vote against everything. I am hoping that we can resolve this amendment in a reasonable time.

Mr. COHEN. Mr. President, will the Senator yield for a question?

Mr. PRYOR. I have yielded the floor.

Mr. COHEN. I inquire how much time the Senator would take to conclude his argument? We perhaps could complete this.

Mr. PRYOR. Several allegations have been made by the Senator from Maine.

Mr. COHEN. How long would that take?

Mr. PRYOR. I do not think that answering those assertions of the Senator from Maine would take much longer.

Mr. BYRD. Mr. President, let me see if I can clarify what the voting situation will be.

Presently, the order provides for the first rollcall vote to begin at 6 o'clock today. That vote would be followed by rollcall votes on other amendments that have already been ordered and stacked. If we follow the regimen that is in place, at the hour of 6 o'clock today, the debate on the pending amendment will stop and the rollcalls will begin and will be completed when all amendments that have been ordered in thus far have been disposed of, at which time the discussion would return to the Pryor amendment, and whatever remaining time there now is on that amendment will be available then.

What I am suggesting is that we be allowed a few minutes at this point to offer the amendment to the Weicker amendment, have a brief explanation of it, then return to the Pryor amendment, finish the time on the Pryor amendment, and delay the first rollcall vote until the time on the Pryor amendment has been consumed or yielded back. That would require unanimous consent; and if changing those votes to 6 o'clock or later is inconvenient to anyone, they may object.

Mr. President, have I sufficiently explained my request, not to have to repeat it?

The PRESIDING OFFICER. Is there objection to the request of the majority leader? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I shall shortly send to the desk an amendment sponsored by Senators NUNN, BUMPERS, ADAMS, and SASSER, in addition to myself, to the amendment proposed by Mr. WEICKER and Mr. HATFIELD.

Mr. President, briefly, this amendment does these things:

This amendment determines that the circumstances that are required to meet the conditions in section 4(A)(a) of the war powers resolution have in fact occurred and what we will be saying as part of the legislative history is that actually the President should have already sent a report up to the Congress in conformity with the requirements of that war powers resolution.

We are not saying, however, that he must submit a report within 48 hours, as required by the act.

He has 30 days within which to send the report. He can do it earlier, of course. At the end of the 30 days, or beginning at the time he sends the report, whichever is the earlier, there will be 60 additional days, as would be the case under the War Powers Act. But at the end of that 60 days, instead of, as would be the case under the War Powers Act, which says that "the President shall terminate any use of United States Armed Forces," we are not saying that. We are not saying that the President has to bring everything out of the Persian Gulf, we are not saying he has to bring all the helicopters, all the frigates, all the battleships. We are not saying that at all.

But we are targeting the War Powers Act. We are narrowing the focus, narrowing the thrust. We are saying that at the expiration of that time, the reflagging and the convoying of ships, has to stop, unless in the meantime the Congress has declared war or has extended the period by law.

We are also setting forth in this amendment certain specific items to be addressed in the report that the President sends to the Congress.

So, in reiteration or in summation, let me say we recognize and support the presence of the United States in the Persian Gulf. We are saying that the requirements of the War Powers Act have indeed fallen into place, and who could argue that hostilities are not imminent. Hostilities have already occurred.

We are saying that the President send up the report in 30 days rather than 48 hours as required by the War Powers Act and as required by the amendment offered by Mr. WEICKER and Mr. HATFIELD, and then we track pretty much the language, at least in its effect, of the War Powers Act except we do not say he has to bring out all or any of the U.S. Armed Forces from the Persian Gulf. We do not say that. We say stop the reflagging and the convoying. In so many words, within 60 days after the report if, meanwhile there has not been a declaration of war by the Congress or an authorization of these actions by the Congress, then reflagging and converging will terminate.

It is a rifle shot. So, the otherwise broad and far reaching and perhaps unforeseen implications of the War Powers Act would not come into play as they should otherwise. The actions that have occurred in the gulf actually fulfill the conditions under which the War Powers Act are invoked. I cannot deny that.

So this is an attempt on the part of the amendment sponsors to give the President some flexibility, give him some elbow room—30 days, not 48 hours—for the report, and then the final termination of the reflagging and convoying can be as much as 90 days—first 30 days, then the 60 days. This amendment supports the presence of our forces there. I hope that we may have bipartisan support. Others of the sponsors will speak to this.

Think in a rather broad-brush way, Mr. President, that suffices for my efforts at this point.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I congratulate the majority leader for proposing this amendment to the Weicker amendment. I understand the position of the Senator from Connecticut and I respect that because he sees the law books and he sees the law being ignored and he sees an act of hostility in the Persian Gulf. He reads the War Powers Act, and it says imminent hostilities.

I join the Senator from Connecticut in believing the imminent hostilities have occurred. And he sees the President not complying with the War Powers Act. So I agree with the Senator from Connecticut.

But I am a coauthor with Senator BYRD and others of this amendment, because what we really need now in the Persian Gulf and the debate that ensues on this whole subject is a surgical instrument and not a very, very heavy sledgehammer, and the War Powers Act has its usefulness but it also has its severe limitations, and I think we have to face those limitations and we have to deal with them.

So, on the one hand, we cannot ignore the law. We believe in the law, the spirit of the law as well as the letter of the law. On the other hand, we have a dangerous, volatile situation over in the Persian Gulf and it is not clear under the War Powers Act that would be triggered under the Weicker amendment what forces would have to be removed if indeed we trigger the War Powers Act, the President having failed to do so, and if indeed we do not give affirmative approval during the time required, do we have to, for instance, under the War Powers Act remove all forces from the Persian Gulf, if Congress does not give affirmative approval? Or, on the other hand, do we remove only those forces that have been put in the Persian Gulf to augment the new mission escorting and flagging, reflagging Kuwaiti vessels?

I do not know the answer to that. I am not sure anyone knows the answer to that.

The Byrd amendment goes right to the heart of the problem and that is the Congress of the United States and the American people in my view have not been convinced by this administration with clear and convincing evidence that reflagging and escort missions are in our strategic interest.

Now, I believe the American people and I know this Senator believes that having a strong military presence in the gulf, particularly at this juncture, is very important. And I would not want to vote for any amendment that required a pullout of American military forces from the gulf.

Maybe we have the right amount of force there; maybe we do not. But I do not believe that Congress can legislate that with the degree of care and sensitivity that needs to occur.

I think in these cases, the Commander in Chief, the President of the United States, the Department of Defense, and the Joint Chiefs have to make the decision about the military forces. But I think Congress does have the right and the obligation to require the administration to come up and convince us that this flagging operation or reflagging operation and this escort mission is in our strategic interest, and I do not think they have done that.

So the Byrd amendment does not require the removal of any military forces, not a plane, not a helicopter, not a ship.

But it does say to the administration "Either you come up in the given time period and convince the Congress that this reflagging and this escort mission is in our strategic interest or you cease and desist with this operation at the end of the given time," and the Byrd amendment also takes the 48 hours, gives the President more time, gives him 30 more days to make his report and pinpoint the key questions that would have to be answered, key questions relating to what is in our strategic interest, what are the plans of this administration.

The newspapers have reported that maybe Secretary James Webb asked the question, how do we tell under this policy when we win? The newspapers have quoted him as saying, how do we know we declare victory and when the flagging operation has worked?

That is a good question because the last thing we need is an open-ended commitment that none of us can define the accomplishment thereof and, so, I think this amendment carries out the wish and I think correct impulse of the Senator from Connecticut.

But I believe it does it with precision without requiring the removal of our military forces and without telling the parties in the Middle East that these forces are going to be removed.

There is nothing in this Byrd amendment that says to anybody in the Middle East—Iraq, Iran, any party there—that the Congress of the United States is about to jerk the rug from under the American policy as far as our military deployment and as far as our desire to maintain the international right of traffic in that crucial area of the world.

So, Mr. President, I think the Byrd amendment is the right response from the Congress under a very difficult set of circumstances where there are, I must admit, no good answers. There are no good answers when the President has already made a commitment which he did not seek nor get approval of Congress for before he embarked on it.

I believe this is the correct approach. There are a number of problems with the War Powers Act and I think we all have to address those problems. I think we have to start thinking about those problems.

Just one problem, for example, that is rather obvious in this situation. The War Powers Act can be triggered by an adversary. An adversary that understands, our law can come in, as the Iranians did—and I am not saying they read the War Powers Act and did it for this reason; they probably had their own different reasons—but an adversary can, by taking a hostile action against military forces deployed, can, bang, trigger the War Power Act and set off a 60-day debate in the Congress of the United States and cause great confusion. Now that is not a very good situation. We can, in effect, be jerked around by the jerks. And I think that is not very attractive.

There is another obvious loophole in the War Powers Act. The President of the United States can ignore it. What do we do when the President has people come up and brief us and tell us that hostile acts have occurred but sits down at the White House and says the War Powers Act has not been triggered and yet it has not been rendered unconstitutional? What do we do? Do we ignore the law? Do we say the law of the land does not mean anything? Or do we send the Sergeant at Arms down to force the President to take certain action?

Well, I do not think we can enforce or force the President to take action that he does not want to do unless we go to court. That could be an answer down the road. But nobody wants to do that.

Another obvious loophole that we have to understand is that if the War Powers Act is triggered, the President comes back with a report. If he triggered it himself, he comes back with a report. And the report would define, supposedly, those military forces that would have to be withdrawn in carrying out the action unless the President's approval was given.

If a President did not want to act in good faith—and I am not in any way alleging that this would occur; it would be ludicrous, but it could happen—the President could come back and say, "We have two rowboats and one helicopter that are involved in hostilities." And, therefore, the report itself becomes the instrument which defines what is withdrawn if there is no affirmative approval in the time limit. So we could end up, if there were games being played, with basically two helicopters and two rowboats being withdrawn.

Mr. WARNER. Will the Senator yield for a 1 second question?

Mr. NUNN. I did not mean to take this much time.

Mr. WARNER. That was the essence of my question; that we would each have about 3 or 4 minutes and then we were going to get into the general debate a little later. That was my understanding.

Mr. NUNN. I did not hear the first part. I would certainly yield the floor at this time.

Mr. President, but I do endorse the approach by the Senator from West Virginia and congratulate him on coming up with the best answer that I think we can come up with under an extremely difficult set of circumstances.

I apologize to my colleagues for taking this much time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I think we have to have a understanding as to the time.

I ask unanimous consent that Senators Warner, Adams, and Bumpers may have—how much time each?

Mr. BUMPERS. I do not really need to speak on this. I will be happy to waive my time.

Mr. BYRD. And Senator Sasser.

Mr. ADAMS. 3 minutes, Mr. Leader, is fine with me.

Mr. BYRD. All right.

Mr. WARNER. That is fine.

Mr. BYRD. And that the rollcalls which were ordered to begin at 6 o'clock begin upon the termination of the time that is to be allotted to these other cosponsors of the amendment, plus Mr. Weicker, I believe, had a question or a statement.

Mr. WEICKER. I do not have a statement. I just have one question prior to going up to study this amendment. Maybe the Senator from Virginia can respond, also.

Has this language been approved by the President?

Mr. WARNER. I will address that momentarily.

Mr. BYRD. Mr. President, I can address it for my part. This language has not been approved by anybody at the White House—anybody—as far as I know.

Mr. WEICKER. I thank the Senator.

Mr. BUMPERS. Will the leader yield for a question?

Mr. BYRD. Mr. President, did I get consent?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Did I get consent that the time for each of these cosponsors would be limited to 3 minutes each and that the votes under the previous order would then begin? I have cleared this with Mr. Pryor.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask the leader: When, then, would the votes begin? At what time? How many cosponsors are there? What is the total number of 3 minutes for each Senator?

Mr. BYRD. I would say probably 12, no more than 15 minutes.

Mr. BAUCUS. So the votes would begin at least by 6:15?

Mr. BYRD. Circa 6:15, yes; roughly.

Mr. BAUCUS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Mr. President, I do not reserve the right to object. It would be helpful to this Senator and perhaps other Senators if the distinguished leader would—is the amendment at the desk so we can see the final copy? Are you about to send it to the desk?

AMENDMENT NO. 732

Mr. BYRD. It is at the desk. I call it up. I ask unanimous consent that it be considered as called up and read.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

Strike all after subsection (a) of the amendment and insert in lieu thereof, the following:

(b) Congress expresses its support for:

(1) a continued US presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

(c)(1) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4(a)(1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and reregistration.

(e)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution which authorizes escorting of reregistered vessels in the Persian Gulf or the reregistration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. Amendments to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

Mr. BYRD. Will the Senator withhold that? If I have any modification, it would be to the expedited procedures.

Mr. WARNER. With the understanding that the modification would be to the expedited procedures part, I would withhold the request as a courtesy to my colleague.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request?

Mr. COHEN. Mr. President, reserving the right to object, could I ask the majority leader a question concerning the understanding of the Senator from Arkansas, Senator PRYOR? I was under the impression that as soon as this was introduced and we had a minimum of debate, we were going to

return to the Pryor amendment and finish it and then go to the rollcall votes.

Mr. BYRD. Yes, that was precisely the way I originally presented it to the Senate. But I had an objection from a Senator to our doing that, so we asked Mr. PRYOR if it would be agreeable with him to change it. I had an objection from a Senator who is not on the floor. He wished to state that he objected to doing it that way. The Senator had a right to object. It was his understanding that the votes would start at 6. He was not on the floor when I made that request.

Mr. GLENN. Was there objection to that? I was under the impression also that we were going ahead with the Pryor amendment and the vote would start then. Was there an objection to that request?

Mr. BYRD. Yes.

Mr. BUMPERS. If the leader would yield for an observation, and I just mentioned this to Senator PRYOR's staff, I do not believe he objected to that.

Mr. BYRD. No, Senator PRYOR did not object to that. Senator PRYOR is perfectly willing to go as we had earlier intended and to start with the votes and carry on with the remainder of the debate on his amendment after those rollcall votes that had been ordered occurred.

Mr. BUMPERS. But you did have an objection to finishing the debate on the chemical weapons and then starting a rollcall? You had an objection to that?

Mr. BYRD. Yes. The Senator from Montana called up and objected. He was not here on the floor.

Mr. BUMPERS. I believe I could talk the Senator from Montana out of that. He could not possibly have any legitimate reason for objecting to that.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, first I would like to say that the distinguished majority leader, the chairman of the Senate Armed Services Committee, the Senator from Arkansas, and the Senator from Washington have been the principal ones who have worked on this. I wish to express my appreciation to each of them for including me throughout yesterday and most of today.

Until we reached such a point, I felt in good conscience this Senator could not recommend to Senators on my side and others that this amendment be adopted. I make that clear to the distinguished majority leader and my good friend.

Mr. President, I have also been in consultation with the National Security Adviser at the White House who in turn has consulted with Mr. Baker and the President. Unequivocally, there is every hope that the Senate will not adopt this amendment nor adopt the amendment by the Senator from Connecticut. I will later this evening address the reasons.

The distinguished majority leader said it is like a rifle shot.

Indeed, it is, Mr. President, like a rifle shot. This amendment fires a warning shot across the bow of every ship in the gulf that is there in the pursuit of freedom and the freedom of navigation and peace, not only the U.S. ships, but allied ships. It sends a signal that you may be brought home.

I refer especially to the observations of the chairman of the Armed Services Committee. I will go into some detail later.

Mr. President, this amendment is really War Powers II with but a thin veil. We shall draw that veil back and look at it this evening. Certain provisions in it—and I shall momentarily hope to see the final draft—in this Senator's judgment do, in fact, trigger the War Powers Act.

There is a very serious question, I say most respectfully to the majority leader, that if this amendment is to be adopted, the President faces a dilemma: Which is the law that he must follow, the War Powers Act or this amendment?

It lays down a two-track piece of legislation.

Mr. President, this amendment will start the clock ticking, ticking in the sense that there is uncertainty about the commitment of U.S. forces, uncertainty about the commitment of our allied forces at the same time that the Secretary of State is working with Mr. Shevardnadze in the Security Council, at the time our allies are growing in numbers in terms of their support, at the time the citizens of the Gulf States have accepted increased risks by way of their cooperation to their overall effort.

I regret that we were not able to bridge the gap. An honest and good-faith effort was made but now we must do battle and battle we will do.

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. ADAMS. Mr. President, I thank the majority leader for the effort he has conducted and also the Senator from Virginia for his effort in working on this amendment.

Mr. President, it is a very simple but difficult proposition that we face with the War Powers Act. The President could solve it very easily by simply having the administration comply with the law of the land. That is where we got into trouble, because there is absolutely no question in the mind, I do not think, of any Senator in this entire Chamber that you have imminent hostilities when we are out picking up mines and preventing people from mining and when they do not stop we shoot at them. Not only that, we killed a number of them. We are in combat.

So that has to be recognized or this Senate does not live in the real world. We are representatives of the people and we must live in the real world.

What we have done in this amendment, and I compliment the majority leader for his leadership in it, and the chairman of the Armed Services Committee, is to say to the President, "All right, we all understand that a complete withdrawal from the Persian Gulf, which would be required by the Weicker amendment, might not be in the national interest of this country, but we have to have a national policy. We cannot operate with an administration policy, a congressional policy, a court policy.

"So, Mr. President, send up to us, and we have given additional time, your plans and what the policy is on the reflagging and escorting of these ships, because that is the provocative act. That is what starts the escalation."

We have been in the Persian Gulf for 40 years prior to this. We will probably be there for 40 years more. But it is the steady escalation and the prevention of that escalation that the Senate wants to have happen now so that we are not in a situation of having to respond to an undeclared war.

We have been on our feet for days, Mr. President, stating to the Members of the Senate and to the American public that it is the desire of the Senate, certainly this Senator, that we simply do not drift into a higher and higher level of combat as we did in Vietnam, as we did in Lebanon, without a check being applied.

The chairman of the committee, the distinguished Senator from Georgia, put it very well: As you start to work with this act to apply that check when the President ignores the law and ignores the Senate, it means that you have to use a rifleshot procedure, to go right at the thing we are concerned about, which is the reflagging and the convoy, stay on that subject, and to also give fair warning that this is going to have to be paid for and that the power of the purse is the ultimate enforcement.

Mr. President, I hope this amendment will be adopted and that we will proceed with it rapidly.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, it has now been almost precisely 1 week to the hour since we debated an amendment by Senator ADAMS, Senator HATFIELD, Senator WEICKER, and me trying to get this body to do its duty and invoke the War Powers Act because we argued we were in a position and had introduced American forces into imminent hostilities.

The argument on the other side was, first, the President has the right to conduct foreign policy.

Nobody aruges that.

Second, we were not in imminent hostilities.

Our amendment failed 50 to 41, and within 48 hours an admiral of the U.S. Navy said, "This is a hostile act."

Whether you like it or not, there are hostilities, and this body, it seems to me, has leaned over backward to cooperate with our President.

This amendment which several of us have worked on for the last 48 hours, thanks to the leadership of ROBERT C. BYRD, again makes every effort to cooperate with the President by saying, "We are not asking you to pull our ships out of the Persian Gulf. On the contrary, we support our presence there."

We are saying, "No more reflagging, no more escorting in convoy."

The Senator from Virginia said this is a two-track operation. Now the President does not know what to comply with.

He may not, but he knows what not to comply with because he has not complied with anything.

Mr. President, there are a lot of people in this body who have not read the War Powers Act. One of the reasons I am quite sure of that is because there is one little paragraph in this, section 3, right at the beginning of the War Powers Act, that I have not heard mentioned on this floor. It says, "The President, in every possible instance, shall consult with Congress before introducing United States troops into an area where hostilities might occur."

Well, the President has not even shown the U.S. Congress the courtesy of consulting. Or, if he has, it has been kept a magnificent secret from me. Then when we say: Mr. President, since we have to raise the money for this war, why do not you comply with the War Powers Act and give us a chance to decide and help you decide whether this is a correct policy, how far we want to go and so on? Not a peep.

So, whether we come back with a lesser amendment and say: Mr. President, we are giving you the benefit of every doubt we can conjure up; the word is sent over: Never; on the War Powers Act or this amendment or anything else.

So what we are saying, the Members of the United States Senate, the President is asking you not just to allow him to conduct foreign policy but also to conduct a war and with not so much as a "by your leave" from you.

The truth of the matter is, anything we could craft that would be meaningful, the President will veto. Anything we could craft that he would sign would be a toothless tiger.

I would rather fall on my sword or go down in flames doing my duty and abiding by the laws that are on the books than to do nothing. It is an abdication of responsibility of the highest order if this body does not take some action to keep the President from loosening the dogs of war. As it was said in Philadelphia: Do not put the right to conduct a war in the hands of the people who have to raise the money, and vice versa.

We have got a continuing resolution coming through here very shortly. If this amendment fails you can rest assured there will be an effort to cut off all funds. This matter is not just going to escalate in the Persian Gulf. If something is not done soon, it is going to escalate in the Congress and the American people are all going to be the losers, as are we.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, there will be more said on this when we return to it. I thank those who have worked with me to develop the language of the amendment. I thank them for their cosponsorship and I also thank the distinguished Senator from Virginia [Mr. WARNER], for the efforts that he gave to developing an approach other than that which is embodied in the Weicker-Hatfield amendment.

I am sorry I do not have the good sponsorship of the Senator from Virginia, but that is a matter that he has to decide.

Mr. President, I yield the floor.

VOTE ON AMENDMENT NO. 686

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Arizona [Senator MCCAIN]. The yeas and nays have been ordered. The clerk will please call the roll.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BYRD. This will be a 15-minute rollcall. What I want to emphasize is that following this rollcall vote all other back-to-back votes, I believe we got consent on yesterday, that they be 10 minutes each.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. Mr. President, both cloakrooms should state to Senators that I will call for the regular order at the end of the 10 minutes on each back-to-back vote. That means it will be cut off and Senators will not make the votes if they do as they usually do.

I am sorry to have to say that but I say it again. The Republican leader was here at the time I made this statement yesterday. So let us have everyone understand.

Mr. BUMPERS. Mr. President, if the Senator will yield, how many votes do we have? Five?

The PRESIDING OFFICER. The Chair will respond to the question. There are five votes that can be expected.

Mr. BYRD. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The yeas and nays have been ordered. The clerk will please call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—1

Simpson

NOT VOTING—3

Biden
Gore
Simon

So the amendment (No. 686) was agreed to.

Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The clerk will please state the pending amendment.

Mr. WARNER. Mr. President, I move to table the pending amendment.

The PRESIDING OFFICER. The Chair will state that under the previous unanimous-consent agreement there was no tabling motion to be in order to the Senator's amendment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, will the Chair please read the unanimous consent? It was not my understanding that we did not have the right to table.

The PRESIDING OFFICER. The Chair will state the unanimous-consent request agreement previously entered into, which was that the vote on the Symms amendment would occur without a motion to table being in order.

Mr. NUNN. I thank the Chair. What about the next amendment, so all Senators will know?

The PRESIDING OFFICER. The next pending amendment, the Chair will state, is the Dodd amendment to which the previous unanimous-consent agreement has been entered into, and a tabling motion would not be in order to the Dodd amendment.

Mr. NUNN. We have two more amendments. Can the Chair state the procedure?

The PRESIDING OFFICER. The Chair will state that the next pending amendment will be the Hatfield-Kennedy amendment to which there is no restriction on the unanimous-consent agreement that a motion to table be in order. And the Chair would further state that as regards the Hatfield-Pryor amendment, there has been no unanimous-consent agreement preventing any motion to table on that amendment.

Mr. EXON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair will please ask the Chamber to be in order so the Chair can hear the question being posed by the Senator from Nebraska. The Chair recognizes the Senator from Nebraska.

The Senate will please be in order so the Senator from Nebraska can be heard.

Mr. EXON. Mr. President, I do not know that I am going to put a point of order in. This is more or less of an inquiry.

This Senator was on the floor managing the opposition to the Hatfield-Kennedy amendment, and at that time I understood—and it was clear—that a tabling motion or an up-or-down vote would be in order. Maybe I understood incorrectly. But I also understood that that was a pattern for all of the other votes that were going to take place.

My inquiry of the Chair is, was there a specific prohibition against the tabling motion on the other amendments that the Chair has just ruled could not be tabled?

The PRESIDING OFFICER. The Senate will please be in order so the Chair can state the pending business.

The Chair will state to the Senator from Nebraska that the Senator from Nebraska is correct with regard to the Hatfield-Kennedy amendment.

Mr. EXON. Can we have order. I cannot hear. I can barely hear the Chair.

The PRESIDING OFFICER. Those Senators who are standing and engaged in conversation will please be seated in order that the Senate may conduct its business. Those Senators desiring to converse will please retire from the Senate.

The Chair will state to the Senator from Nebraska that on the Hatfield-Kennedy amendment that a motion to table that amendment is in order. The Chair would further state that with regard to the other pending amendments, the Hatfield-Pryor amendment, that there has been no unanimous-consent agreement to prevent the motion to table with regard to those amendments, and the Chair will state that with regard to the Symms and the Dodd amendment a unanimous-consent agreement has been entered into to prevent a motion to table those two amendments.

Does the Senator from Nebraska have a further reservation?

Mr. EXON. Mr. President, what would be the procedure to a motion to strike that previous arrangement? Would that require a unanimous consent in the body?

Mr. President, I ask unanimous consent that if it is the will of the body, that we have, and allow, a tabling motion on any and all of the amendments that would come before the body this evening.

The PRESIDING OFFICER. The Senator makes a unanimous-consent request.

Mr. SYMMS. Mr. President, I object.

The PRESIDING OFFICER. The Senator from Idaho reserves the right to object.

Mr. SYMMS. Mr. President, I made it very clear on that unanimous-consent report the purpose so that we would have an up or down vote on the Symms amendment. That is the way the unanimous-consent agreement was entered into. I would object to this.

The PRESIDING OFFICER. Objection is heard to the request of the Senator from Nebraska.

The question now occurs on the Symms amendment.

VOTE ON AMENDMENT NO. 722

The question is on agreeing to the amendment of the Senator from Idaho [Mr. SYMMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, will the Chair state in each instance during the remainder of the back-to-back votes that there is a time limitation of 10 minutes on each rollcall vote, and that regular order will be called for at the end of the time allotted?

The PRESIDING OFFICER. The majority leader is correct.

The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. BYRD. Regular order, Mr. President.

Mr. BAUCUS. Regular order, Mr. President.

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—70

Adams
Armstrong
Baucus
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
D'Amato
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Kerry
Lautenberg
Leahy
Levin
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Reid
Rockefeller
Roth
Rudman
Sasser
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—27

Bentsen
Bumpers
Chafee
Cranston
Danforth
Daschle
Dodd
Durenberger
Evans
Glenn
Hatfield
Inouye
Kassebaum
Kennedy
Lugar
Matsunaga
Metzenbaum
Moynihan
Pell
Proxmire
Riegle
Sanford
Sarbanes
Stafford
Stennis
Weicker
Wirth

NOT VOTING—3

Biden
Gore
Simon

So the amendment (No. 722) was agreed to.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 723

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Connecticut [Mr. DODD], amendment No. 723.

The yeas and nays have been ordered. By unanimous consent the time will be restricted to 10 minutes, at which time regular order will be called for. The clerk will please call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

Mr. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER (Mr. GRAHAM). Regular order has been called for. The clerk will tally the roll.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 266 Leg.]

YEAS—97

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—3

Biden
Gore
Simon

So the amendment (No. 723) was agreed to.

Mr. REID. Mr. President, I move to table the pending amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 729

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Hatfield amendment. The vote will occur for no longer than 10 minutes. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] would each vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced, 61 yeas, 36 nays, as follows:

[Rollcall Vote No. 267 Leg.]

YEAS—61

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Byrd
Chiles
Cochran
Cohen
D'Amato
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Quayle
Reid
Roth
Rudman
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—36

Adams
Baucus
Bumpers
Burdick
Chafee
Conrad
Cranston
Danforth
Daschle
DeConcini
Dodd
Fowler
Harkin
Hatfield
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Proxmire
Riegle
Rockefeller
Sanford
Sarbanes
Specter
Stafford
Weicker
Wirth

NOT VOTING—3

Biden
Gore
Simon

So the motion to lay on the table amendment No. 729 was agreed to.

(The following ocurred later:)

Mr. MOYNIHAN. Mr. President, I am a cosponsor of the Hatfield-Kennedy amendment on nuclear testing. Through a misunderstanding, I voted "yea" on a motion to table, intending to vote "nay." It will not change the outcome of the vote. I ask unanimous consent that I may be recorded as voting "nay."

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following tally has been changed to reflect the above order.)

VOTE ON MOTION TO TABLE AMENDMENT NO. 730

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Georgia has moved to table the Hatfield-Pryor amendment. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 730. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], would vote nay.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. The clerk will tally the votes.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 268 Leg.]

YEAS—53

Armstrong
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Chiles
Cochran
Cohen
D'Amato
DeConcini
Dixon
Dole
Domenici
Exon
Garn
Glenn
Graham
Gramm
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Nunn
Pressler
Quayle
Rockefeller
Roth
Rudman
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—44

Adams
Baucus
Bradley
Burdick
Byrd
Chafee
Conrad
Cranston
Danforth
Daschle
Dodd
Durenberger
Evans
Ford
Fowler
Grassley
Harkin
Hatfield
Heinz
Inouye
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Sanford
Sarbanes
Sasser
Specter
Stafford
Weicker
Wirth

NOT VOTING—3

Biden
Gore
Simon

So the motion to lay on the table amendment (No. 730) was agreed to.

(The following occurred later:)

Mr. McCLURE. Mr. President, on rollcall No. 268—that is the Nunn motion to table the Hatfield amendment—I was recorded in the negative. I had voted aye. I ask unanimous consent that the RECORD be corrected to reflect my correct vote. It will not change the outcome of that vote.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. McCLURE. I thank the Chair.

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NO. 731

The PRESIDING OFFICER. The question now recurs on the Pryor-Hatfield amendment, No. 731. The time remaining for debate is as follows: 37 minutes under the control of the managers, 31 minutes under the control of the proponents.

Mr. NUNN. Will the Senator yield so I can let Senators know what the rest of the evening looks like?

Mr. PRYOR. Mr. President, I ask unanimous consent that none of the time used by the distinguished manager come from the balance remaining on the leader's side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Ohio has the floor. The Senator from Ohio has been asked to yield to the Senator from Georgia. Does the Senator from Ohio yield? He yields.

Mr. NUNN. Mr. President, I am trying to see if the majority leader—he is on the floor.

Mr. President, to give the Senator some idea of where we are and where we have got to go, we have disposed of 48 amendments so far on this bill. Yesterday we had 60 amendments pending. We have done 17 amendments today and we now have 55 amendments remaining.

If someone thinks my arithmetic is wrong, there is another explanation. The reason is, the more amendments we get done the more people file, so we are in a situation where there is only one way we can avoid going late tomorrow night. We will go late tonight in any event, if the majority leader sees fit.

The only way we can avoid going late tomorrow night, and I have talked to the minority leader about this and the majority leader, and being in most of the day Saturday, is to get a unanimous-consent agreement tonight or tomorrow that would provide for the rest of the amendments under unanimous consent and provide a time certain for passage, and most importantly, provide there be no more amendments beyond those that are listed when we get the unanimous-consent agreement. But the problem is, I know it is frustrating for Senators to go late. Believe me, the managers of the bill, the Senator from Virginia and I, do not like to go late, but if we do not find a way to close off further amendments, we simply cannot pass this bill even next week.

So that is the situation. If we can all think about whether we are willing to have unanimous-consent agreements along that line, and we can get in view passing this bill perhaps Tuesday afternoon late with a time certain and closing out further amendments, then I think we could avoid a Friday night session and a Saturday session and get away at a reasonable time tomorrow afternoon. That is the only way I know we can do it.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. BYRD. Mr. President, I wonder if the distinguished Republican leader and I and the two managers at some convenient point this evening can meet, and if in the meantime our respective cloakrooms can get word to those Senators whose names are on the lists with amendments and have those Senators visit with us and let us see if we can really thin down the list, at least get some understanding as to the time the Senators who are going to be offering their amendments will agree to, that is the only way we can do it. We are going to have to sit down at some point and take a look at the lists and be with Senators whose names are on the list because I am sure otherwise it is just going to continue as it is going.

Would the distinguished Republican leader and the managers be willing to meet?

Mr. DOLE. Let me indicate to the majority leader and the chairman I certainly share that view. I am not certain, as I indicated to the distinguished manager of the bill with the Byrd amendment, which I am in the process of having analyzed, whether we could get a time agreement with that amendment pending. But I do think we can at least say no other amendments except the following. Otherwise, they draft them faster than you can pass them. You only gained 5 points today.

Mr. NUNN. Five net.

Mr. DOLE. Net of 5. That would be 11 more days. And so it would seem to me we ought to meet tonight and try to agree on that.

Mr. BYRD. Very well. If our respective cloakrooms—if the Republican leader would agree with respect to his cloakroom—could get the word out to Senators whose names are on the lists at the front tables to have them come to my office; shall we gather, say, at 7 o'clock?

Mr. WARNER. Mr. President, to facilitate the process, it seems to me we ought to set a specific time the four of us would meet with the understanding that Senators will try and communicate with the floor manager through staff or otherwise from the respective sides concerning their amendments.

Mr. BYRD. Very well. Seven o'clock, or would the Senator prefer 7:30?

Mr. WARNER. This Senator would prefer 7:30.

Mr. BYRD. Eight or 8:30?

Mr. WARNER. Eight. Why not just set it at 8 o'clock, take a crack at 8 o'clock, Mr. President.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. QUAYLE. Mr. President, what other amendments might be offered in some respect will be dependent on how we finally resolve the Byrd and Weicker amendments, so on that particular issue I do not believe you will be able to get on this bill what amendments may or may not be offered because, depending on how that all works out, there may be a lot of other amendments offered. So that part of the bill and that amendment, I just point out, will be very difficult because like myself, if in fact—and I have not read the Byrd amendment. I will be honest with you; I have not read it—it is pending, once we get to it, assuming that it is going to be acted upon one way or the other, I could not be in a position to tell you tonight or even tomorrow what amendments that I, and I know a lot of others, might offer. So I just have a caveat on that part of the bill. It would be very, very difficult to get a real understanding, I am afraid.

Mr. BYRD. Then if we could meet at 8 o'clock with Senators who do have amendments on the list, we could at least sit down and discuss them. I thank all Senators.

Mr. NUNN. For the benefit of Senators, for the rest of the evening, it would be my recommendation—and I have talked to the Senator from Virginia, so I think it is really a joint recommendation—that we stay in this evening until 11:30 or 12 o'clock, that we start back early in the morning. I see no need as I see it to stay up to 2, 3, 4 o'clock tonight because we are not going to finish the bill. That just makes the day tomorrow less productive. So it would be my recommendation we continue to take amendments until about 11:30 or 12 o'clock this evening. We do have a rollcall coming on the Pryor amendment. We have an amendment from the Senator from North Carolina that will require a rollcall vote later on this evening.

We have Senator BINGAMAN's amendment that we will be debating. We have a Kennedy amendment we will be debating. I am not certain either one of those will take rollcalls. They may be able to be cleared; a Dixon amendment that will also hopefully be worked out but we have to have a debate on that one; and a Roth NATO study amendment.

So I would inform all Senators that we are in business and we will be in business until about 12 o'clock. I hope we can move as many amendments as possible this evening.

Mr. WARNER. Mr. President, we all want to keep going. The Senator keeps moving from 11 to 11:30 to 12. It seems to me in a spirit of cooperation we should go out around 11 o'clock, with an early start in the morning. There are staffs and others we should think of. Shall we just have that as a target?

Mr. NUNN. I say two targets: One is the spirit of cooperation, the second is around 11 o'clock. If we can have both, that will help.

Mr. WARNER. I say to my good friend, we are proceeding on two tracks on War Powers and a lot of other ways and two tracks is fine with me.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I wonder if the floor manager might yield to a question. I appreciate the problems he is undergoing. When was the Byrd amendment originated? When did that appear?

Mr. NUNN. I believe—the Senator from West Virginia can correct me on this. It is an amendment to the Weicker amendment.—everyone has been under notice there would be a Byrd amendment to the Weicker amendment for about 24 hours.

Mr. WARNER. More than that; 48.

Mr. NUNN. Forty eight hours.

Mr. CHAFEE. Is the Weicker amendment still in existence or is this a substitute for it? I am not really clear.

Mr. BYRD. The Weicker amendment is in existence. The Byrd-Nunn, et al., amendment is a perfecting amendment. There are two.

Mr. CHAFEE. I see. But this was not one of the ones that added a problem to your list.

Mr. NUNN. I would say that there are a lot of problems on the list and I would not be honest if I did not say this was one of the obstacles we have to be able to scale before we can complete this legislation.

Mr. CHAFEE. A self-created obstacle in a way, I suppose we could term it.

Mr. NUNN. I tell the Senator from Rhode Island we did not bring this subject up.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. WARNER. Mr. President, this amendment submitted by the majority leader was well known to Senators it was going to come for the last 2 days. Yes, I view it as a problem legislatively. It was not put in there as a problem in terms of our procedure.

Mr. BYRD. May I say to the distinguished Senator, if the distinguished Senator will yield, if Mr. Weicker wishes to withdraw his amendment, I will withdraw mine. I did not ask for this pleasantry.

Mr. CHAFEE. I do not think anybody on this side feels confident to acknowledge he can persuade Senator Weicker to withdraw it. I will leave that challenge to the majority leader.

Mr. BYRD. I am not challenging. That is no challenge.

Mr. NUNN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia has yielded the floor. The Senator from Ohio has been recognized.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, if the distinguished Senator from Ohio——

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The Senator from Arkansas.

Mr. PRYOR. Mr. President, if the distinghished Senator from Ohio will be kind enough to yield for a period of say 2 to 3 minutes, the distinguished Senator from Florida, Senator Chiles, has an amendment that has been cleared on both sides of the aisle. It could be accepted, I understand, by voice vote. Then we could return to the Senator from Ohio, and get on with the debate.

I ask unanimous consent that that occur without losing time against the balance remaining.

Mr. GLENN. Mr. President, so as not to use up my time, I agree with that. The Senator from Florida says it will take a couple of minutes to get this finished.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 733

(Purpose: To provide for the participation of the Department of Defense in a cooperative program of research and development on semiconductor technology with a consortium established by the semiconductor industry.)

Mr. CHILES. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. Chiles) for himself, Mr. Bingaman, Mr. Wirth, Mr. Domenici, Mr. DeConcini, Mr. D'Amato, Mr. Cranston, Mr. Proxmire, Mr. McCain, Mr. Bentsen, Mr. Wilson, Mr. Graham, and Mr. McClure, proposes an amendment numbered 733.

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 22, between lines 8 and 9, insert the following new section:

SEC. 229. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) Findings.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) Purposes.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) Definitions.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) Authority To Make Grants.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) Memorandum of Understanding.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) Construction of Memorandum of Understanding.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) Advisory Council.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) Responsibilities of the Comptroller General.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) Export of Semiconductor Manufacturing Technology.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) Protection of Information.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Secretary of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) Authorization.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

Mr. CHILES. Mr. President, this amendment which I offer on behalf of myself, Senator Bingaman, and nine other cosponsors, sets out an administrative frame work for the Department of Defense participation in the SEMATECH research program.

It is fully consistent with the amounts authorized in the underlying bill.

Mr. President, today with the amendment I am offering with Senators Bingaman, Wirth, Domenici, DeConcini, and D'Amato we are taking an historic first step toward restoring our competitive base while additionally rebuilding bridges between the Congress, the Pentagon, and the industry. Specifically, the amendment will authorize $100 million for an industrial consortium designed to put America first in the area of semiconductor manufacturing technology.

The amendment has the full and enthusiastic support of the Pentagon. In that regard, I would like to recognize the significant assistance rendered by Dr. Bob Costello, the Assistance Secretary of Defense for Acquisition and Logistics as well as Dr. Ronald Kerber, the Deputy Undersecretary of Defense for Research and Technology and his outstanding assistant, Mr. Sonny Maynard. They intend to make SEMATECH a model program which will incorporate the best aspects of government-industry cooperation without needless regulation and micromanagement.

The goal of the SEMATECH consortium is to establish American preeminence in the manfuacture of computer chips. These chips are the very foundation of our electronics industries, including computers, telecommunications, robotics, and consumer electronics. As important, semiconductors are critical to our national defense. We depend on our high-technology advantage to offset the numerical superiority of our enemies.

SEMATECH's research will concentrate on manufacturing technology. Recent studies by the Defense Science Board and the Congressional Budget Office agree that our critical weakness in semiconductors is in the manufacturing area. We do top rate research but we have fallen behind our competitors in turing out high-quality chips at a low price.

SEMATECH's research will strengthen our national defense. As important, it offers the best hope to restore the international competitiveness of the semiconductor industry—and to strengthen our industrial base.

One of my concerns in crafting this legislation was to insure that SEMATECH's research ends up benefiting our commercial enterprises. The last thing we need is for this project to turn into a "black box" project, where the major breakthroughs are subject to military classification—and don't help us compete in commercial markets.

This amendment guarantees that both commercial and defense needs will be served. Along with an advisory board composed of other government and private sector experts, the Defense Department and SEMATECH participants will agree on a business plan to meet our semiconductor manufacturing technology objectives.

Once this plan is agreed to, the Defense Department will support SEMATECH through a grant governed by a memorandum of understanding. The role of DOD will simply be to support the business plan, not to dictate a separate research agenda or to participate as it might typically do under procurement contracts.

This amendment provides an administrative frame work for SEMATECH to succeed in both its civilian and military dimensions. It is fully consistent with the amounts authorized in the underlying bill. It simply gives us vehicle which we think will get us to the bottom line—a world class semiconductor industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF AMENDMENT

INTRODUCTION

Semiconductor technology has become vital to virtually every sector of the U.S. manufacturing and services economy, and plays an increasingly critical role in the national defense. In 1987 the Defense Science Board found that the U.S. international position in semiconductors was rapidly eroding, and that this trend had ominous national security implications. The Board found that the U.S. armed forces are developing a dangerous dependency on foreign components to provide the core technology for advanced weapons systems.

The Defense Science Board concluded that the U.S. commercial semiconductor industry provided the basis for semiconductor technologies with defense applications, and that a principal problem confronting the U.S. commercial semiconductor industry was the erosion of its position in semiconductor manufacturing. It recommended that, in order to reverse this trend, the Defense Department should invest in a consortium of domestic semiconductor producers to conduct research and development on advanced semiconductor manufacturing technology.

SEMATECH is a not-for-profit consortium formed by companies representing the majority of U.S. semiconductor production to conduct research and development in semiconductor manufacturing technology, with the objective of ensuring that the U.S. industry remains internationally competitive in semiconductor manufacturing. SEMATECH will address the concerns identified by the Defense Science Board in a manner consistent with the Board's recommendations—the formation of an R&D consortium in manufacturing technology. The organizers of SEMATECH are seeking participation by the Department of Defense in the consortium.

As the largest single beneficiary of technology developed by SEMATECH, the Defense Department has a strong interest in SEMATECH. The Committee has already approved $100 million for this effort in FY 88 and FY 89 which is contained in the pending bill.

The purpose of this amendment is to provide appropriate terms and conditions for Defense funding that will streamline complicated Defense operating requirements consistent with the innovative character of SEMATECH and make it clear that, while the Department of Defense will benefit from an investment in SEMATECH, the Department of Defense is not contracting with SEMATECH for goods or services and will not control SEMATECH decisions. As such, the amendment makes funding available to SEMATECH via a grant rather than procurement contract; requires, through a memorandum of understanding, matching funds, special consultations and audits, and cooperation with the National Laboratories and universities; and establishes an Advisory Council on Federal Participation in SEMATECH.

CONGRESSIONAL FINDING

The legislation sets forth a Congressional finding that it is in the economic and security interests of the United States for the Defense Department to support SEMATECH. The purpose of such support will be to facilitate research and development on advanced semiconductor manufacturing techniques and to develop techniques to employ manufacturing expertise for the manufacture of semiconductor products.

ADVISORY COUNCIL

The legislation establishes an Advisory Council on Federal Participation in SEMATECH. The purpose of the Council will be to advise SEMATECH and the Defense Department on appropriate technology goals and on a plan to achieve those goals. The plan shall provide for the development of high quality, high yield semiconductor manufacturing technologies that meet the commercial and national security needs of the United States. The Advisory Council will conduct an annual review of SEMATECH's activities to assess its progress in achieving the objectives of the plan, and will submit recommendations to SEMATECH for appropriate modifications of the plan on its technological goals.

The Advisory Council shall consist of twelve members, and shall be chaired by the Deputy Undersecretary of Defense for Research and Development. One other member shall be a representative from the Department of Commerce. Reflecting the fact that the National Laboratories, administered by the Department of Energy, are expected to have an important role in SEMATECH, the Deputy Secretary of Energy and the Chairman of the Federal Laboratory Consortium for Technology Transfer will be members of the Advisory Council. The Director of the National Science Foundation will be a member. In addition, the President will appoint seven members, including four who are eminent individuals in the semiconductor industry and related industries; two who are eminent individuals in the field of technology and defense; and one who represents small businesses.

AUTHORIZATION OF FUNDS

The legislation authorizes $100 million for both FY 1988 and FY 1989 for participation by the Department of Defense in SEMATECH, and these funds may not be expended for any other purpose. These funds will be made available by the Defense Department to SEMATECH in the form of a grant pursuant to Section 6304 of Title 31, United States Code. When the Government seeks to stimulate and support fundamental research, and to allow substantial scope for creativity and the exploration of promising new technological avenues, as is the case with SEMATECH, grants are the preferred form of funding. Use of a contractual mechanism, by contrast, is appropriate when the Government seeks to procure specific property or services, or to conduct a specific piece of research directed at a precisely defined problem, which is not the case here.

MEMORANDUM OF UNDERSTANDING

The legislation provides that the Secretary of Defense shall enter into a memorandum of understanding with SEMATECH, and that such memorandum, together with this amendment, alone shall govern the rights and obligations of the parties. The purpose is to provide an opportunity for the Defense Department to advise and consult with SEMATECH on terms similar to those of other participants. Such participation cannot work effectively, nor can SEMATECH's objectives be achieved, if the Defense Department unilaterally controls SEMATECH and dictates the terms of its operations.

The memorandum of understanding will contain provisions to ensure that the authorized funds are expended in an appropriate fashion consistent with the purpose of SEMATECH and in furtherance of U.S. national security interests. Specifically, the Memorandum of Understanding shall provide as follows:

(1) SEMATECH shall have a charter agreed to by its members, which will set forth the broad purposes and goals of the consortium.

(2) SEMATECH shall have an annual operating plan which is developed by SEMATECH in consultation with the Secretary of Defense and the Advisory Council. This will enable the Defense Department to ensure that SEMATECH's operations remain consistent with its objectives.

(3) The amount of funds made available to SEMATECH by the Department of Defense for research in any fiscal year may not exceed 50 percent of the total cost of such activities. The private participants in SEMATECH will have at least as great a stake as the Defense Department in SEMATECH being efficient and productive.

(4) In conducting research and development in the area of semiconductor manufacturing technology, SEMATECH shall cooperate with and draw on the expertise of the National Laboratories of the Department of Energy, as well as U.S. colleges and universities. SEMATECH will consult with the National Laboratories in developing research and development objectives, and it is anticipated that some research sponsored by SEMATECH will be conducted at the National Laboratories and at U.S. colleges and universities.

(5) The Advisory Council shall review SEMATECH's research activities and submit an annual report, describing the extent to which SEMATECH is achieving its research goals, to the Department of Defense and to the House and Senate Armed Services Committees. This will facilitate a continuing review of SEMATECH's progress by the Defense Department and the Congress. This audit will obviate the need for auditing by the Defense Contracts Auditing Agency.

(6) An independent commercial auditor shall be retained to determine the extent to which the funds made available to SEMATECH by the Defense Department have been expended in a manner consistent with this Section, with the charter of SEMATECH, and the annual operating plan of SEMATECH. On an annual basis the auditor shall submit a report setting forth his findings and determinations to the Defense Department and the Comptroller General.

(7) The Secretary of Defense will be permitted to transfer intellectual property owned and developed by SEMATECH, but only to U.S. defense contractors and only for use in connection with Department of

Defense requirements. A substantial part of the benefit the Defense Department will derive from SEMATECH will be the development of high quality, efficient manufacturing techniques which can be applied in the manufacture of products procured by the Defense Department. In order to derive such benefits, the Department must be able to transfer intellectual property developed by SEMATECH to U.S. defense contractors who, in some cases, may not be members of SEMATECH. In order to prevent such contractors from utilizing such intellectual property to compete against members of SEMATECH in the commercial marketplace, transfer of intellectual property by the Defense Department to U.S. defense contractors shall be only for use in connection with Defense Department requirements, and the Department shall not permit the commercial application of such intellectual property. SEMATECH will retain its rights to ownership and control of any intellectual property in its possession or that it develops or has developed. The term "intellectual property" as used here embraces any technological knowledge derived from participation in SEMATECH, however that knowledge may be embodied—in the form of patents, data rights, materials, apparatus, equipment, software, technical plans or data, designs, or knowledge thereof, or knowledge of processes, techniques, or patterns of work.

The memorandum of understanding, along with the Amendment itself, is designed to ensure that SEMATECH's activities are not distorted, restricted, or unnecessarily encumbered through the application of a variety of complex contract requirements. SEMATECH must be able to act quickly and flexibly to harness an entire industry in what is in large part a commercial effort in research and development. In light of the challenge facing SEMATECH—a consortium involving the U.S. semiconductor industry including hundreds of equipment and materials manufacturers, the National Laboratories, private research groups and colleges and universities—defense contract requirements would be unworkable. Indeed, many of the companies, the majority of whom have had no experience with the defense Department, will likely refrain from working with SEMATECH in the face of Defense contracting procedures.

In order to achieve the necessary flexibility for SEMATECH, the memorandum of understanding will not be treated as a contract for purposes of government procurement. The amendment would make the memorandum of understanding and the accompanying grant exempt from laws and regulations that govern government contracting. This includes the Truth in Negotiations Act, the cost accounting standards of the Defense Production Act, the Federal Acquisition Regulations, the Walsh-Healey Act, the Small Business Act, and the like.

In lieu of government contracting procedures, the memorandum of understanding will make the Defense Department investment subject to a variety of safeguards and protections. SEMATECH's operating plans will be reviewed by the Defense Department and the Advisory Council. The Advisory Council will annually review SEMATECH's operations and report to Congress. Independent commercial auditors will report to the Department of Defense and the Comptroller General. Government funds must be at least matched by private funding of SEMATECH. Taken together, these measures will assure that Defense Department funds for SEMATECH are appropriately and productively utilized.

EXPORT CONTROLS

The legislation clarifies that the export of materials, equipment and technology developed by SEMATECH shall be governed by the Export Administration Act of 1979 and the Export Administration Regulations (EAR) adopted pursuant to that Act, rather than the Arms Control Act of 1976 and the International Traffic in Arms Regulations (ITAR) adopted pursuant to that Act. It is essential to the ultimate success of SEMATECH that the technologies which it develops not be treated as munitions items under ITAR restriction.

SEMATECH is intended to ensure that the United States retains domestic semiconductor manufacturing capability by developing technology which U.S. firms need to remain internationally competitive. SEMATECH cannot substantially enhance U.S. industry competitiveness, however, if the technologies which it develops cannot be employed to commercial advantage because of ITAR restrictions. Those restrictions could preclude the international sale of equipment development by SEMATECH and prevent utilizing SEMATECH technologies in their commercial manufacturing facilities. Indeed, ITAR restrictions may deter many U.S. companies which would otherwise participate from joining SEMATECH at all. Such a result would defeat SEMATECH's basic purpose and largely negate its contribution to the U.S. defense industrial base.

SEMATECH will develop generic commercial manufacturing technology with potential military applications. At present the export of such dual use microelectronics technologies is regulated under the EAR, which enables the U.S. Government to regulate exports of dual use technologies to prevent the acquisition of technology with military applications by unfriendly nations. SEMATECH technology should be treated in the same manner, which will safeguard U.S. national security interests while permitting SEMATECH to make a strong contribution to the defense industrial base.

FREEDOM OF INFORMATION ACT

The legislation provides that any intellectual property transferred by SEMATECH to the U.S. Government shall not be disclosed pursuant to the Freedom of Information Act. SEMATECH cannot function if its technologies are freely disclosed to nonmembers, including foreign competitors, since such disclosure will substantially negate the benefits of membership. This provision removes any discretion on the part of U.S. Government officers or employees to disclose pursuant to the Freedom of Information Act intellectual property transferred by SEMATECH.

Mr. McCAIN. Mr. President, I rise in support of the amendment offered by my colleagues, Senator CHILES and Senator BINGAMAN, which would provide a framework for U.S. Government participation in SEMATECH. I believe that by supporting this research and development consortium, we will be materially contributing to a stronger U.S. defense posture. Let me explain why.

At present virtually all of the weapons systems employed by our Armed Forces depend on semiconductor technology. Semiconductors provide the guidance mechanisms for smart weapons and guided missiles. They provide the base component technology for air defense systems, reconnaissance satellites, command and communications systems, and antisubmarine warfare systems. In any confrontation with the Warsaw Pact, our Armed Forces will rely heavily on these advanced systems to offset the substantial numerical advantage enjoyed by our adversaries. Any deterioration of United States capability in semiconductors, therefore, is a very serious national security matter.

The U.S. semiconductor industry received much of its original impetus from U.S. defense and space research and development programs of the fifties and sixties, which spun off microelectronics technologies with commercial applications. However, in the past 15 years, the commercial semiconductor industry has increasingly driven the pace of technology development, and the Defense Department has sought ways in which to adapt these commercial advances to military uses more quickly and efficiently. In effect, the original flow of technology from the military to the commercial sector has been reversed. The Very High Speed Integrated Circuit Program [VHSIC] was in significant part designed to accelerate the insertion of the latest commercial technologies into military systems.

At present, however, the U.S. commercial semiconductor industry, whose innovativer dynamism has generated many technological breakthroughs with defense applications, is in serious difficulty. U.S. semiconductor companies have suffered massive losses in the mid-1980's and are disinvesting in some key product areas. The problems confronting semiconductor device producers have had an adverse ripple effect on the companies which produce equipment and materials for them; these firms have experienced economic difficulty, and in some key equipment and materials sectors, foreign firms have become dominant. The erosion of the U.S. microelectronics industry has given rise to a growing dependency on foreign sources for semiconductor components, equipment, and materials that are critical to our national defense.

SEMATECH is part of the United States response to that problem. It is designed to ensure that the U.S. semiconductor industry has access to state-of-the-art manufacturing technology, and that U.S. firms can produce the most advanced semiconductors exclusively with U.S.-origin equipment, chemicals, and materials.

SEMATECH will feature four basic types of activities. First, SEMATECH will sponsor R&D on advanced semiconductor manufacturing techniques, tools, and materials. Second, SEMA-

TECH will test and demonstrate production tools and techniques which result from this research on an actual production line. Third, SEMATECH will develop techniques for adapting the processes which are proven on the demonstration line to flexible manufacturing, so that manufacturing techniques developed in producing the technology driver can be applied to the manufacture of a wide variety of other products. Finally, and most importantly, SEMATECH will disseminate the results of these efforts to all of its members and to the Department of Defense. Under this amendment, the Defense Department will be permitted to transfer SEMATECH technologies to its contractors for the limited purpose of producing semiconductors for procurement by the Defense Department.

SEMATECH is structured to eliminate duplicative research by U.S. companies, and to maximize the results which each participant gets for its R&D dollar. SEMATECH will strengthen the U.S. microelectronics infrastructure by providing a basis for closer cooperation between the U.S. semiconductor device makers, on the one hand, and the producers of equipment, materials, and chemicals on the other hand. Such factors will help to ensure that the United States maintains an internationally competitive semiconductor industry—a vital element in the U.S. defense industrial base.

Mr. CHILES. Mr. President, I understand the amendment has been cleared on both sides.

I urge its immediate adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I want to say that I am proud to cosponsor the amendment.

Mr. President, I rise in support of the amendment which my colleague from Florida, Senator Chiles has offered. I am proud to be a cosponsor of the amendment. It has been a pleasure to work with Senator Chiles on this amendment and on its predecessor which was included in the trade bill passed by the Senate earlier this year. As Senator Chiles has already outlined, the purpose of this amendment is to clarify the mechanism whereby Government funding will be provided to the Semiconductor Manufacturing Technology Consortium, or SEMATECH, which is being put together by this Nation's semiconductor industry.

Mr. President, when the Defense Science Board Study on semiconductor dependency appeared earlier this year, I thought that the issues being raised were so important that they should be a focus of the Defense Industry and Technology Subcommittee's hearings on the defense authorization bill this spring. During our hearings in March, we investigated the need for this consortium in some detail with a variety of industry and government witnesses. In the end, we found ourselves in agreement with the Defense Science Board's fundamental conclusion that the semiconductor industry was so central to maintaining our qualitative edge over the Soviet Union in our weapons arsenal, that we could not afford to see that industry migrate abroad. We simply did not see how a strong research capability in this area could exist without being tied to an equally strong manufacturing capability. And we found ourselves in agreement with the Defense Science Board that the area in which our industry was suffering from the greatest disadvantage vis-a-vis the Japanese was manufacturing technology. As a result of those hearings, the committee did include a $100 million for SEMATECH in each of fiscal years 1988 and 1989 in this bill. Let me note that Senator Wirth, who joined our committee this year, made a major contribution to the committee's deliberations on this issue. Senator Wilson and Senator McCain also gave strong support to this bipartisan effort to get SEMATECH on track.

What was still lacking at the time we marked up this bill in April was an elaboration of the mechanism whereby the Department of Defense and other Federal agencies would interact with the industry consortium. As Senator Chiles has mentioned, he and I attempted to elaborate on that mechanism in an amendment which was included in the trade bill passed by the Senate in July.

That amendment was meant to be a first step in drawing out the industry and the Department of Defense on this matter. Since the project is designed to serve both national security and economic competitiveness goals, the amendment on the trade bill involved not only the Defense Department but other key Federal agencies including the Department of Energy and the National Science Foundation in an inter-agency council chaired by the Secretary of Defense which would be the government interface with SEMATECH.

In the intervening 2 months, Senator Chiles and I have received a great deal of comment both from the Defense Department and from industry on how to improve our amendment and the result is before the Senate today. Let me say that the Department of Defense from Secretary of Defense Weinberger on down has been very supportive of SEMATECH from the start. Assistant Secretary of Defense Robert Costello and Deputy Under Secretary of Defense Ronald Kerber have contributed greatly to coming up with a mechanism that will work both for Department of Defense and for industry.

From their perspective, the main problem with the amendment included in the trade bill was that we were trying to manage the Government interface with SEMATECH via an inter-agency committee. The amendment which we are offering today addresses that concern by putting the Secretary of Defense clearly in charge of the Federal effort. He will be assisted by an advisory council on Federal participation in SEMATECH which will be chaired by the Under Secretary of Defense for Acquisition and include representatives of other key Federal agencies notably the Director of Energy Research at DOE, the director of the National Science Foundation, and the chairman of the Federal Laboratory Consortium for Technology Transfer. In addition, there will be seven members from the private sector appointed by the President to this advisory council.

The Council will review the research activities of SEMATECH annually and report its findings to the Secretary of Defense and the Armed Services Committees of the Congress. By including representatives interested in both goals which SEMATECH is serving, namely advancing our national security and improving our economic competitiveness in this critical industry, the Council will help ensure that the research carried out by SEMATECH is useful to both purposes. The Council will also help coordinate industry, government, and university research efforts. The amendment notes the particular importance of drawing on the expertise of the Department of Energy's national laboratories in this effort. My senior colleague from New Mexico, Senator Domenici, is leading the effort to ensure the laboratories are given a mission in this area and the legal authority needed to carry it out.

Mr. President, the current version of the Chiles-Bingaman SEMATECH amendment is also an improvement from the perspective of industry. The industry's main concern was that we clarify the mechanism whereby the Department of Defense would provide funding to SEMATECH. The amendment before us today does precisely that by authorizing the Secretary of Defense to make grants to SEMATECH pursuant to a Memorandum of Understanding outlining certain terms and conditions protecting both parties. For example, one condition will be that the Department of Defense funds may not exceed 50 percent of total SEMATECH funding in any year. This will ensure that industry foots at least 50 percent of the bill for the SEMATECH Manufacturing Technology Research Program. It is my understanding that this will not be a constraint since industry has already committed a $100 million per year to SEMATECH. For industry, there are clear protections on intellectual property set forth in the amendment that they felt very strongly were required to ensure that there were no "free riders" gaining access to SEMATECH results without contributing to its financial support.

Mr. President, this amendment has the support of both the semiconductor industry and the Department of Defense. It represents an important milestone in putting together this enterprise which I believe is vitally important to this Nation. Let me again express my appreciation to Senator CHILES for having had the courage to be the first to put pen to paper in trying to establish this industry-government relationship and make it as productive as it possibly could be. And let me also express my thanks to those in the Department of Defense and industry who have contributed so heavily over the past several months to improving our original amendment and bringing us to the point today where I have great confidence that, if the Senate passes this amendment and it ultimately becomes law either on this bill, or the trade bill, or the defense appropriations bill, the Defense Department and the semiconductor industry will be able to promptly get on with this important enterprise. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I compliment the distinguished Senator from Florida, and my colleague from New Mexico. I am a cosponsor.

Mr. President, I support this important amendment, offered by my colleague from New Mexico [Mr. BINGAMAN] and my good friend from Florida [Mr. CHILES].

I support this amendment because it authorizes a modest Federal commitment that may save a vital American industry, vital not only to America's national defense.

The amendment specifically authorizes the Defense Department's annual share—$100 million—to the SEMATECH consortium. The SEMATECH program is a cooperative Government/private effort to strengthen our semiconductor technologies.

SEMATECH is a bold initiative, one which could reverse the declining trend in the U.S. semiconductor industry. It is our first step toward saving that industry that, in many ways, is the very heart of the electronics industry, which involves 2,500,000 jobs and contributes some $200 to $300 billion yearly to our gross national product.

Ten years ago, the United States dominated the world semiconductor industry. We stood at the forefront of designing and introducing new, critical types of semiconductors. Ten years ago the U.S. semiconductor industry held 100 percent of the world market in most of the key semiconductors.

What about today? We hold less than 40 percent of the entire business, and less than 10 percent of many of the key types of semiconductors. According to the recent Defense Science Board report, America has lost 19 to 25 key semiconductor products and processes to the Japanese.

After examining this issue in great detail, the Defense Science Board Task Force on Semiconductor Dependency presented in February the answers to three basic questions:

First, how important are semiconductors to U.S. national security? The answer was that they are invaluable to U.S. national security. U.S. military forces rely heavily on technologically superior weapons; without the edge in semiconductors, we could lose that technological advantage.

Second, should the United States rely on foreign countries, such as Japan, for our semiconductors? The answer was emphatically no. As we are now in this information age hostage to whoever controls semiconductors, our defense could become hostages to the same foreign suppliers.

Third, what will happen to the U.S. semiconductor industry without Government participation? Technological advances occur so fast in the semiconductor industry, that if we do nothing to change the current trend, U.S. firms will be driven out of the semiconductor market within a relatively short time. The Japanese will advance so far beyond us that we will not even be able to hold our current ground.

Subsequent to the publication of the Defense Science Board report, I asked for comments from various scientific and technical representatives in New Mexico. I would like to cite some noteworthy comments.

Col. J.P. Amor, commander of the Air Force Weapons Lab, stated:

> The ability to produce technologically superior systems is crucially dependent upon access to the absolute state of the art in electronic component and subsystem development. The decline of our semiconductor industry will directly compromise this access, because the state of the art and understanding its applications will reside outside the U.S.

Dr. Siegfried Hecker, Director, Los Alamos National Laboratory, stated:

> An important feature of Japanese semiconductor development strategy is the elimination of duplication in generic research. This is another area in which the national laboratories can make a valuable contribution. By coordinating efforts closely with each other and with industry, the national laboratories could provide a focal point for applied research to enhance mid- and long-term U.S. competitiveness in the semiconductor industry. Such a role would be complementary to that of the Semiconductor Manufacturing Technology Institute.

These two comments illustrate the enthusiasm and support within the scientific and industrial communities to forge new partnerships, to develop a new cooperation for our national semiconductor strategy. The sense of urgency to accomplish this, permeates all the discussion.

As we continue to discuss what coordination and support is needed, the Japanese Government has in place, a highly integrated system and a long history of facilitating Japan's drive for preeminence in high technology, including semiconductors. From 1962 to 1980, MITI organized four major initiatives involving semiconductor and computer technology.

In 1976, with MITI's blessings, the country's major electronics companies established the VLSI Technology Research Association. MITI provided some loans; the companies supplied the rest. The goals were to stop duplicative research and share findings among participants. By 1980 the Government had spent about $300 million and filed many patents.

Recently, the Japanese have formed a new consortium of 13 firms to develop the synchrotron x-ray fabrication system necessary to develop the 16 megabit and higher density DRAMS.

Nippon Telegraph and Telephone, with its sophisticated Government-owned laboratories, is working on x-ray fabrication techniques, and when the technology is perfected, it will be passed on to Japanese firms.

We must begin to see the world as it is, not what we would like it to be in terms of the competition.

Since the 1970's, virtually every major industrial nation, except the United States, has supported its semiconductor industry with large scale, Government research and development projects. Japan has been able to achieve technological parity with the United States in some fields as a result of such Government/industry consortium projects. Foreign industries seem to understand that if they don't work together, their factories will be forced to close and they won't work at all.

SEMATECH is a new U.S. model for bringing the best and most creative minds of the American semiconductor industry together with the financial resources of Government and industry. The sole purpose is researching better technology to manufacture semiconductors. What makes the concept both brilliant and exciting is that it is so innovative and yet traditionally American at the same time.

The product will be knowledge, which will benefit the entire Nation. Our Government's role is make America smarter, to get a leg up on those who seek to compete with us from around the world, while providing more jobs for the American electronics industry, this Nation's largest single employer.

The health of the U.S. semiconductor industry has some important ramifications for the future of the United States—our ability to provide independently for our national defense needs; the potential loss of our position as a world leader in technology; and our ability to produce other products through the application of flexible manufacturing systems, robotics, and statistical process control.

SEMATECH uses an innovative cost-sharing scheme with companies in the semiconductor service, equipment, and materials industries contributing the majority of the investment. The Semiconductor Industry Association indicated that these industries will provide $150 million a year, more than the Federal contribution of $100 million.

Commercial manufacturing techniques have suffered from a lack of emphasis in semiconductor R&D programs. The SEMATECH initiative will increase spending on this type of R&D in the United States by about one-third, a significant increase.

We must move quickly to select a site for SEMATECH and get on with this program. The site selection is important as a foundation from which SEMATECH can build successful research efforts; there must be strong research and development traditions, a growing industrial semiconductor presence, good sources for scientific and technical personnel, and the appropriate infrastructure for the SEMATECH partners.

I believe that sites in New Mexico meets these requirements. The Sandia National Laboratory near Albuquerque holds unique capabilities that set it apart from the wide field of competitors.

Sandia is building the premiere, state-of-the-art ultraclean room facility designed to support development and pilot production of ultra-large-scale integrated [ULSI] circuits in the 1990's. This facility would be available for SEMATECH's use and applications, giving it a technological advantage not available anywhere else in the world.

Sandia has established an environment that is conducive to cooperative partnerships. Without being exhaustive, let me cite a few examples that are applicable to semiconductors. The radiation-hardened microelectronics technology, developed at Sandia, is currently being transferred to U.S. industry. There are ongoing cooperative programs with Intel, IBM, and others on clean-room technology.

With regard to compound semiconductor technology, Sandia is working closely with Honeywell, Hughes, Texas Instruments, AT&T, Northrup, and Varian. Sandia has initiated cooperative programs in evaluating and characterizing new semiconductor process equipment, as well as joint programs in developing new processes, new equipment, and new materials.

Sandia has a long track record in semiconductor research. It is the only national laboratory producing advanced integrated circuits for national programs. Since the SEMATECH initiative consists of tasks ranging from research on advanced manufacturing techniques to a pilot production demonstration, Sandia has a combination of relevant experience not easily duplicated at other proposed locations.

The University of New Mexico is home of the center for high technology materials which has undertaken a substantial research and development effort in gallium arsenide [Gsas] semiconductor materials and devices. The UNM program in semiconductor diode lasers and arrays and other aspects of optoelectronic device development is unique in universities in this country. The Air Force Office of Scientific Research [AFOSR] awarded a university research initiative grant to the University of New Mexico in 1986, in recognition of their specialized expertise, to develop an optoelectronics research center.

Mr. President, I support this semiconductor amendment for its acknowledgement of the significance that semiconductors have for our national defense. Defense Department officials have likened the loss of a national chip-making capability to depending on foreign governments for guns and fighter jets.

I request that very careful consideration be given to the final decision as to the site selection for SEMATECH, for we must ensure that we take maximum advantage of our incumbent technical capabilities. We need every advantage we can get to move our semiconductor industry back to a position of world leadership.

In Chinese, the same word for "crisis" can also be translated into "dangerous opportunities." I believe that this is where we are now with respect to semiconductors. We have the chance to change this crisis into an opportunity. SEMATECH is a critical component of this new future.

I ask unanimous consent to have printed in the RECORD various letters on the subject.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LOS ALAMOS NATIONAL LABORATORY
OF THE UNIVERSITY OF CALIFORNIA,
Los Alamos, NM, April 2, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR PETE: Thank you for your letter of March 5 requesting our thoughts on the semiconductor industry competitiveness problem. We have studied the Defense Science Board report and agree with many of its recommendations.

However, we also agree with your comments that the high technology resources in New Mexico can play a significant role. The attached response discusses some specific initiatives that we offer for your consideration. These include organizing a workshop in New Mexico that would involve the national laboratories, universities, and private industry.

In addition to the specific suggestions made in the enclosure, I also want to mention that this issue of economic competitiveness in the semiconductor industry provides another example of why the charter of DOE should be expanded to include technology development beyond the scope of energy technologies. In my letter to you on November 25, 1986, I suggested that a broadening of the DOE charter would permit the national laboratories to make technological contributions to U.S. economic competitiveness. The semiconductor technology area is an excellent example that has both national security and economic security implications.

The DOE has looked into ways that the laboratories could help meet the challenge outlined in the DSB report. A workshop was held recently at the National Academy of Sciences to examine the roles that national laboratories could play in the semiconductor technology area. A report of that workshop should be released soon. Our response is incorporated in the attached recommendations to you. I wish to emphasize that the semiconductor technology area is only one of many that need attention and should be included in the expanded technology charter of DOE.

I hope that our thoughts are helpful to you as you consider this important topic. Please don't hesitate to call if we can provide additional information.

Sincerely,

S.S. HECKER,
Director.

LOS ALAMOS NATIONAL LABORATORY,
Los Alamos, NM, April 2, 1987.

(Response to Senator Domenici's Request for Comments on the Defense Science Board Report on Defense Semiconductor Dependency.)

We appreciate the opportunity to comment on the Defense Science Board Task Force Report on "Defense Semiconductor Dependency" and to suggest areas in which we think Los Alamos and the other New Mexico technology resources can help stem the erosion of the US semiconductor industry. At Los Alamos we have been concerned about the impact of a weakening semiconductor industry on national security for some time. Recently we participated in a National Research Council Workshop on the Semiconductor Industry and the National Laboratories. This proved to be a good forum for getting firsthand information on the problem from industry leaders.

The Task Force report provides an articulate description of the importance of semiconductor devices in US defense systems. Indeed, nuclear weapon systems, but more particularly conventional weapon systems, rely on sophisticated semiconductor devices for their operation and effectiveness. Advanced semiconductor devices are also essential for the supercomputers that we rely on for nuclear weapons design. If the industrial base for semiconductor device development and fabrication continues to erode at the present rate, the US defense complex will become more dependent upon foreign parts, and potentially, upon foreign systems. Domestic production capability for state-of-the-art semiconductor electronics is vital to our military strength. This encompasses the broad range of semiconductor devices including high-speed digital information processing components, such as memory and microprocessor chips, specialized signal processing chips, linear circuits, and sensors.

In conventional military hardware, we are striving for technological superiority of our weapon systems to offset a large numerical superiority of the Soviet military forces. This same strategy is applied to smaller conflicts so that we can risk fewer lives by using superior weapons. As indicated in the Task Force report, it is factors of 2-10 in capability that are necessary to make this strategy work. Moreover, it is important to evaluate how long this strategy can continue to remain effective. As seen so clearly with Japan, what once was an enormous lead has diminished to parity or worse in a few years. Even if we can regain the lead in semiconductor device development and fabrication, foreign competitors may be only a small step behind. Either by production or foreign purchase, the Soviet Union could close the gap between the capability of their military electronics and ours.

Soviet military electronics does not need to be superior, it just needs to be good enough to make larger forces superior in total strength. As the report states, the most sophisticated dynamic random access memory made by the Soviets is 64k bits compared with 1M bit in the US and Japan. But 64k-bit RAMs were the state-of-the-art only 4-5 years ago. The design cycle for military systems is generally this long or longer. The point is, technological superiority in military electronics may not continue to be enough to offset a factor of 2-10 in numerical superiority. Maintaining accurate intelligence on the semiconductor devices being produced by or available to our adversaries will be increasingly important to our defense strategy. The technology assessment capabilities of the national laboratories can help fill this need.

A second concern regarding our reliance on sophisticated military electronics is their potential vulnerability. To some degree, the more complex a system is, the more that can go wrong with it. Intrinsically, integrated circuits are extremely reliable, but they are also vulnerable to attack. Energetic radiation can disrupt or damage integrated circuits, intense laser radiation can disable sensors, and microwaves or EMP can destroy electronics. Operation in a nuclear environment is particularly problematic. Coupled with efforts to regain leadership in the design and fabrication of semiconductor devices, there needs to be an expanded effort to reduce the vulnerability of military electronics. The technical resources in New Mexico are well equipped to address this problem. Both Sandia and Los Alamos have programs on radiation-hardened electronics. Our laboratories conduct experiments and compile data on weapons effects. This is a base from which a broader joint effort to reduce vulnerability of military electronics could be launched by Sandia and Los Alamos.

The strengths that Los Alamos and Sandia have in this area could also be of benefit to the New Mexico universities. One of the recommendations of the Task Force report is to establish eight centers of excellence at universities, each emphasizing an aspect of electronics technology. Among these is a center for radiation hardening. It would be very appropriate for this center to be at a New Mexico university where it could take advantage of and complement the programs at our national laboratories.

Beyond the direct impact of a weakening semiconductor industry on our defense systems, there may be an even larger and more immediate impact on our national economic security. In commercial products, the margin needed for success is small. Factors of 10-50% in either cost or capability can mean the difference between capturing a market or losing it completely. As pointed out forcefully in the report, semiconductors are the essence of the computer and telecommunications industries that together form the basis for the information age. If we lose the ability to compete in these technologies for lack of state-of-the-art semiconductor devices, we will lose a large fraction of our future gross national product. Japan is an ally, but a strong economic competitor. What initially may be a small advantage in the cost or capability of their semiconductor devices could result in their domination of the entire information technology base. We could end up importing the bulk of our information handling hardware just as we now import most consumer electronics. As stated in the report, "This is perhaps the most ominous conclusion of the Task Force." Because the national laboratories have a broad interest in national security, we are concerned about losing economic leadership in the semiconductor industry.

As the functionality of semiconductor devices increases, the equipment and processing technology required to produce these devices becomes more expensive and takes longer to develop. Indeed, the cost of development for the next generation of integrated circuits would equal a large fraction of the worth of major semiconductor companies in the US. For example, in order to go from 1μm feature sizes used in current technology to the 0.25μm features required for 16- to 64M-bit DRAMs, a new lithography technology must be developed. The Japanese have committed to synchrotron sources for x-ray lithography with a $700M investment. To match this challenge requires commitment at the highest level. To date, the necessary commitment has not been made.

The national laboratories could fulfill a crucial role by developing critical technologies to a proof-of-effectiveness level. For example, if there are four contending technologies for a 0.25μm lithography, a single-focused project in each area could be pursued under joint government and industry sponsorship. Once proof-of-effectiveness was demonstrated, the high-risk, front-end development costs would be broadly spread and the risk of commercialization would be sharply reduced. The time frame for solving problems with the US manufacturing costs of 256k-bit RAM chips is too short for the national laboratories to make a significant impact, but they could help provide the technological edge for making 64M-bit RAM chips, which are projected to come in the next 10 years.

The national laboratories have particular expertise in accelerator and laser technology. At Los Alamos, we have been evaluating the potential for x-uv lithography using a free electron laser (FEL). Advances in accelerators and undulator design make it feasible to build a free electron laser radiating in the 10- to 100-nm range. Such a system could produce much greater flux than a synchrotron, reducing lithographic exposure times. Potential application of the newly discovered high-temperature superconducting materials could make such systems smaller and cheaper, enhancing their integration into semiconductor fabrication lines. Los Alamos also has particular expertise in excimer laser systems. Advanced sources of this type could be a valuable incremental step in achieving fine line lithography. Advanced laser systems also have application to direct processing of semiconductor devices using photo-deposition and photo-etching processes. Researchers at Bell Laboratories have expressed an interest in the Los Alamos x-uv FEL.

An important feature of Japanese semiconductor development strategy is the elimination of duplication in generic research. This is another area in which the national laboratories can make valuable contribution. By coordinating efforts closely with each other and with industry, the national laboratories could provide a focal point for applied research to enhance mid- and long-term US competitiveness in the semiconductor industry. Such a role would be complementary to that of the Semiconductor Manufacturing Technology Institute, which was announced in early March. Los Alamos has special capabilities in advanced materials, materials analysis, theoretical modeling, and high-speed characterization that could be contributed to the research base. We suggest that a workshop be organized including Los Alamos, Sandia, the major New Mexico universities, and representatives of the New Mexico semiconductor industry to initiate the coordination of effort within New Mexico and to define the areas in which the greatest technological impact can be made.

Another step to enhance the interaction of national laboratories and industry would be an expansion of industrial liaison programs. The specific problems confronting the industry are not widely known within the national laboratories just as the resources of the national laboratories are not widely known in industry. By laboratory personnel working in industry and vice versa, firsthand understanding of the key problems and potential solutions could be exchanged.

In summary, the erosion of the US semiconductor industry can have a profound impact on both the economic and military security of our nation. Because of this impact, the federal government must consider steps to reverse the current trend. The national laboratories have expertise and resources that can assist in accomplishing this goal. We at Los Alamos are anxious to work with the major technological resources in New Mexico to that end.

THE UNIVERSITY OF NEW MEXICO,
Albuquerque, NM, April 1, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you very much for the opportunity to provide you with some of our thoughts on the issue of Defense Semiconductor Dependency.

We believe that this issue is indeed very real and serious; that it extends beyond the very important, but relatively confined, scope of the Defense Science Board report into issues of the future economic competitiveness of our country in an increasingly international marketplace; that foreign inroads in the increasingly important compound semiconductor field that includes optoelectronics and ultra-high speed devices should be included in the definition of the problem; that there is a role for Universities in general and the University of New Mexico, specifically, in concert with the federal laboratories and industry, in providing research and educational leadership towards resolving the problem of international competitiveness in the semiconductor industry; and that these efforts are a necessary, but not sufficient, condition for reestablishing American technological leadership. Additional creative effort will have to be applied to the problems of short-term industrial horizons, capital formation, and scientific and technological education and popularization.

The Defense Science Board report amply conveys the severity of the Japanese inroads in semiconductor chip manufacturing. The statistics on the changing leadership in the DRAM market are very stark evidence of the rapidity with which technological superiority and market share are being lost. As just one more example, at the recent Solid State Circuits meeting held in February in New York, prototypes of new DRAM configurations were announced by several manufacturers, IBM as well as five Japanese companies announced a prototype 16-Mbit DRAM; Nippon Telephone and Telegraph (NTT) announced an eight times larger 64-Mbit DRAM. Access speed is another critical performance parameter for memory applications—the fastest access speed of 35 nanoseconds (35 billionth of a second) was reported by Hitachi for a 1-Mbit DRAM. While these are prototype results which are in the research and development stage, they do indicate that the Japanese are continuing their active research and development; history suggests that they will aggressively pursue the commercial production of these chips. I have attached a copy of a news report on this meeting which appeared in Science, the magazine of the American Association for the Advancement of Science.

Comparable problems are also evident in the development of advanced processing technology for new generations of semiconductor devices. A recent report issued by the National Academy of Sciences states: "The long-term Japanese commitment to the development of these critical technologies (referring to developing semiconductor technologies including beam-assisted processing, ultra-high resolution lithography, and compound semiconductors, etc.) is being carried out by at least 10 major industrial companies, whereas only a few U.S. companies maintain a comparable effort. The overall competitiveness of the United States in electronics has worsened dramatically relative to Japan in the last 5 years. The Japanese are now developing the science and technology needed for the future. Unless the United States responds to this challenge, this trend is likely to continue." (Advanced Processing of Electronic Materials in the United States and Japan, National Academy Press, 1986)

While the focus of the report is on the impact of the loss of technological leadership in the semiconductor industry on defense preparedness, it is also important to reflect on the impact of this loss in economic terms as well. As the world enters into the "information age", international economic and technological leadership will be increasingly intertwined. Thus, the semiconductor challenge, important as it is to the country's defense posture, is even more important as a measure of this country's future prospects in the international economic arena. We cannot complacently rely on our traditional industries and our natural resources to carry our economy into the information age. We must actively develop our scientific and technological capability for this international economic competition.

The Defense Science Board report deals primarily with silicon integrated circuits which are the most important segment of today's market in semiconductor chips. Compound semiconductors such as Gallium Arsenide (GaAs) are increasing important because of their use for optoelectronic, optical and high-speed (both analog and digital) applications. The Japanese have very effectively pursued the development of GaAs technology, as the report notes by indicating Japanese leadership over the United States in GaAs materials technology and almost all areas of non-silicon device technology. We can add colloquial evidence, we have posters of advanced semiconductor laser structures posted in the corridors of our research center; every one of these devices was designed and fabricated in Japanese research centers.

The Center for High Technology Materials at the University of New Mexico, one of the Centers of Technical Excellence within the Rio Grande Research Corridor, has undertaken a substantial research and development effort in GaAs semiconductor materials and devices. The UNM program in semiconductor diode lasers and arrays and other aspects of optoelectronic device development is unique in universities in this country; there are other efforts at many universities but none with the same focus on semiconductor optoelectronics, breadth of endeavor within the semiconductor and optics fields, and interactive, collaborative emphasis. Over the last several years, we have established a vertically-structured research effort that extends from semiconductor growth, through device fabrication, characterization, and anlaysis, to applications studies. Strongly coupled programs in laser spectroscopy and processing, in laser development, and in thin-film technologies are also included in our program. This effort was recognized last year with the award of a university research initiative grant by the Air Force Office of Scientific Research (AFOSR) for the development of an Optoelectronics Research Center at UNM.

Coupled with the extensive expertise and research strengths of Sandia National Laboratories and of the Air Force Weapons Laboratory in these same areas, this is a truly unique complex of resources, all located within a small geographic area, that can be applied to this nationally important problem. The Center for High Technology Materials already has extensive collaborative research arrangements and joint programs underway with these two government laboratories. For example, the AFOSR grant mentioned above stressed our expanding connections with the Air Force Weapons Laboratory in the areas of semiconductor optoelectronics and nonlinear optics. We are also closely connected with Sandia National Laboratories in these areas with joint faculty appointments, collaborative research projects and frequent technical interactions. This existing network of interconnections provides a very strong and yet diversified complex of research and educational resources in compound semiconductor optoelectronics.

In addition to research, the University has a major hole to play in education and training for the semiconductor industry. The Center for High Technology Materials has initiated a number of courses in semiconductor processing as well as in semiconductor-based optoelectronic devices; we have a large and expanding graduate student population that is being trained in semiconductor material and device technologies.

There is also a major initiative underway in Manufacturing Technology, in collaboration with Riotech and New Mexico State University. This effort could feed into many of the manufacturing technology-application concerns voiced in the report.

While investment in research and education is an important component of the search for an improved competitive position in semiconductor technology, it is important to recognize the need for a long term commitment for these efforts to come to fruition. Additionally, as is pointed out in the report, much of the semiconductor industry problem is due to structural factors such as capital formation, short-term industrial horizons, and industrial organization. These issues must also be addressed or we will carry out the research only to see it applied to commercial products by our overseas competitors.

We look forward to the opportunity to discuss these issues more fully with you and the members of your staff.

Sincerely,

S.R.J. Brueck,
Director.

Western New Mexico University,
Silver City, NM, March 24, 1987.
Hon. Pete V. Domenici,
U.S. Senate, Washington, DC.

Dear Senator Domenici: Thank you for the opportunity of commenting on the report on "Defense Semiconductor Dependency" which was published in February, 1987 by the Department of Defense.

My comments should be understood against a caveat highlighting my non-technological background.

I can understand DOD's concern with its increasing dependency upon Japanese and South Korean leadership in the development and production in semiconductor technology. I believe, however, that such concern should be muted, somewhat, by the fact that both those countries are, and have been for at least four decades, staunch American allies.

Given DOD's analysis of the reasons why Japan has been more successful vis-a-vis the United States in semiconductor technology, I am not certain that the measures proposed by the Department (pp. 11-13) would be adequate to address the dependency problem.

If the measures proposed, i.e. the establishment of centers of excellence for semiconductor science and engineering, etc., keep American semiconductor technology at the "cutting edge" of discovery and innovation, then they may merit support.

If the expectation is, however, that the measures proposed as recommendations on page 11 through 13 are to turn the tide of Japanese leadership in semiconductor technology then I think they will be futile because they are minute palliatives addressing a world-class industry based on a world-leadership class economy.

Once again, I appreciate the opportunity of commenting.

Sincerely yours,

Rudolph Gomez,
President.

SANDIA NATIONAL LABORATORIES,
Albuquerque, NM, March 30, 1987.
Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Thank you for your letter regarding the Defense Science Board report on the U.S. semiconductor industry and its importance to national security. We have been concerned about this issue and have been investigating the question of the role that the national laboratories might play in technology development directed toward this particular industry.

From our perspective, we believe the problems of the U.S. semiconductor industry are of vital importance to the nation's security, and we support the recommendations of the DSB report. The DSB recommendations are part of a national semiconductor strategy, another part of which is Semiconductor Industry/DOE Laboratory interactions which was the subject of a workshop/meeting held at the National Academy of Sciences (NAS) on February 24, 1987, largely at our instigation. In the report of the NAS workshop, there will be a recommendation for a National Laboratory Semiconductor Initiative (NLSI) in which Sandia would have a major role. Sandia's potential role should be completely coherent with the national semiconductor strategy and with the NLSI.

At the NAS meeting, we presented a proposal for what Sandia might do. Enclosed is a copy of some of our vugraphs. In addition, we are holding a technical meeting this spring to explore, in more detail, what we and other DOE national laboratories could contribute.

As you know, Sandia has extensive capabilities in semiconductor technology because of our radiation-hardened microelectronics activity. With the completion of RHIC II, we will have further enhanced our capabilities. We also believe that we could offer the industry a neutral site at which to perform collaborative development of new processing technology and processing automation. Therefore, we have proposed a center for silicon process integration to be part of the NLSI to allow the country to move the technology rapidly toward future generations of integrated circuits. Given the base of activity we already have, we believe we could establish a program in this area quickly if the industry and country decided it was desirable to do so.

Sandia has also done extensive research in compound semiconductors and devices which are the basis for the opto-electronics and optical communications industries. We also have good coupling to the Center for High Technology Materials at the University of New Mexico in this area. While it is clear that the most urgent problems of competition exist in the microelectronics area, the competition in opto-electronics is also fierce and actions are necessary in this area as well. We are completing a new clean room facility dedicated to compound semiconductor materials and device research. Again, Sandia is in a good position to help the nation; we are discussing possible programs with DARPA and other agencies.

In order for the country to move forward to protect this important high technology industry, decisions must be made at the highest level as to what is needed. We believe it is essential to have a national program established that transcends the departmental boundaries of the Executive Branch as the problem involves Commerce, Defense, and other departments. The DOE, through its laboratories, can help. Sandia's capabilities in semiconductor technology are unique among the national laboratories, and we hope to be able to contribute to the solution of this important problem.

Sincerely yours,

I. WELBER,
President, Sandia National Laboratories.

NEW MEXICO INSTITUTE
OF MINING AND TECHNOLOGY,
Socorro, NM, March 11, 1987.
Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR PETE: This is a response to your request for a discussion of the "Report of Defense Science Board Task Force on Defense Semiconductor Dependency". Rather than attempt a long-winded analysis, I will briefly list what I believe are key points, expanding on a few that I feel are particularly pertinent to New Mexico.

1. The report is accurate, not exaggerated, and points out a real and major danger to our military and commercial world position. This danger is due in significant part to our failure to support private enterprise with federal research and development efforts—as we discussed in your Washington office a month ago.

2. The entire field of materials research, of which semiconductors are only a part, should be addressed now rather than "solid-state devices" only. The whole field of materials will, in a few years, be in the same weakened position in our country now occupied semiconductors (solid-state devices).

3. The concept, advanced in the report, of a "Semiconductor Manufacturing Institute" is very good and should be supported. Although the report primarily considers the institute to be an industry consortium, it would do well to contain a significant national laboratory and university component (not just on a loaned basis). The suggested concentration of the institute on "advanced manufacturing techniques" is fine but cannot be divorced from the eight university centers of excellence for semiconductor science and engineering. The "forum of government/industry/university" mentioned is useful but the compartmentalization of efforts suggested by these three separate groups (pages 11-13 of the report) is not ideal. I believe the institute should involve national labs, industry, and universities working in intimate conjunction.

Frankly, Pete, we have a tendency in this country to compartmentalize or set up bureaucratic entities. Impermeable borders grow around these entities (empires?) and we lose out on vital interactions. We must change our thinking and correct this basic flaw—as Japan has done and China is doing. The three entities suggested in the report could lose contact with each other unless strong safeguards are included in force close interaction.

4. New Mexico is in a strong position to help. UNM's Center of Technical Excellence in High Technology Materials is in a position to act now and effectively. It has already received $2 million from Air Force Weapons Lab (Kirtland) and has financial and personnel support at a significant level from Sandia National Labs. This is a fine start and must continue and grow. The needed component is industry. Our general lack of a major in-state semiconductor industry is the real problem. Hopefully, we can attract such industry by the UNM effort now underway, otherwise, we will be forced back to the compartmentalized efforts addressed above. New Mexico probably could not now attract a "Semiconductor Manufacturing Technology Institute"—we don't have the manufacturers.

I believe we should try to have university centers with industrial components rather than, or in addition to, the single major industrial institute described in the report. In the end, such grouping will better serve our country's needs than a single national institute separate from eight university centers.

5. New Mexico must concentrate on a total materials program. In addition to the devices covered by the UNM center just cited, Tech's material science work, with its present industrial cooperation, concentrates on military and commercial materials—extremely hard cutting materials, special industrial composites, military armor, etc. The country and New Mexico needs a total materials effort.

6. The competition among states is strong. The University of Arizona just "pirated" M.I.T.'s two top material science professors. Pete, as you know, in the end it is people—the quality of the people—that will decide America's and New Mexico's success or failure. Not just money—reports, studies, meetings—but people. Bill Streiffer who set up UNM's center was marvelous but, through no fault of UNM's, we lost him. In my opinion, Pete, there are right now not enough top-notch people to go around. New Mexico must go all out (note Arizona) to bring in the very best people in materials work, and it will be tough. Failure to do that will doom us to less than outstanding work. Sandia Labs have some fine people and their support for UNM is critical. Tech will seek some help from Sandia also.

In summary, Pete, the report is excellent. The suggestions of an institute for manufacturing, eight university centers, and a forum are fine but follow an unfortunate tendency we have to compartmentalize. I urge you to support consideration of a much more closely knit effort. This problem needs careful thought but is not difficult to solve.

New Mexico can help by a combination of UNM, Sandia, Air Force Weapons Lab in the semiconductor effort and by Tech, industry, and Sandia in industrial materials development. Industrial involvement in the UNM semiconductor effort must be specially sought and developed.

Pete, there are my summary thoughts. I would be more than delighted at any time to expand on them with your staff to develop, as part of a team, a more complete statement.

Warmly,

LAURENCE H. LATTMAN.

DEPARTMENT OF THE AIR FORCE, AIR
FORCE WEAPONS LABORATORY
(AFSC),
Kirtland Air Force Base,
NM, March 30, 1987.
Hon. PETE V. DOMENICI,
U.S. Senate,
Washington, DC.

DEAR SENATOR DOMENICI: In response to your letter, 6 March 1987, I formed a cadre of key personnel to address you concerns and the findings of the Defense Science Board Task Force Report on Defense Semiconductor Dependency. In general, we are in agreement with the findings and trends identified by the Task Force. We certainly agree that ". . . the existence of a healthy U.S. semiconductor industry is critical to the national defense." I am convinced that the situation as it exists today, if left unabated, will have a serious impact on the ability of DOD to adequately perform its defense role. There is no question that future

DOD systems will become increasingly reliant upon electronics in system architectures. The ability to produce technologically superior systems is crucially dependent upon access to the absolute state of the art in electronic component and subsystem development. The decline of our semiconductor industry will directly compromise this access, because the state of the art and the understanding of its applications will reside outside the United States. It may, as well, have a serious negative impact on the reliability and maintainability of advanced systems. This is clearly an unacceptable situation.

The Air Force Weapons Laboratory is not directly involved in the research and development (R&D) of electronic systems and consequently we do not have extensive contact with the major U.S. semiconductor companies. Therefore, our direct dependence on the commercial products of these companies is relatively low. On the other hand, a significant portion of our activity at AFWL is indirectly dependent upon a strong U.S. semiconductor industry. AFWL is conducting a number of programs involving specific aspects of semiconductor technology. These programs, which are briefly outlined in the first attachment, are presently oriented toward the research, development, and demonstration of advanced semiconductor technology concepts in order to establish their feasibility and payoff for future military systems applications. The work is fully funded by us and does not directly depend upon the development and production of commercial semiconductor products. However, the success of these efforts is critically dependent upon the existence of a high quality infrastructure associated with the semiconductor industry. In order to achieve our R&D objectives in a timely and cost-effective way, we must be able to contract with companies who have the required personnel, equipment, facilities, and experience in state-of-the-art semiconductor technology and manufacturing development. It is clear, therefore, that to the extent that the U.S. semiconductor industry loses its technical leadership and commercial market to other countries, the associated infrastructure will also decline. From our point of view, such a decline will have a devastating effect on our ability to successfully pursue programs relating to the development of advanced systems.

As stated previously, we are in general agreement with the DSB Task Force Report, both in its findings and its recommendations. It is clear that both the DOD, in general, and AFWL, in particular, will face an unacceptable situation in fielding electronic systems (both in R&D and in production) if the current trend is allowed to continue. Specific comments addressing the five recommendations proposed are offered in Attachment 2.

We feel there is an outstanding potential to help curb the increasing dependency through the combined efforts of the Federal Laboratories, universities, and private industry within New Mexico. Although New Mexico is not as broadly based in high-tech semiconductor work as some regions of the country, we do have unique areas of expertise which can contribute to the Task Force's recommendations. First it is clear from an AFWL perspective that we would benefit most from an emphasis on the areas where our current interest and strengths lie—radiation hardened electronics and electro-optics. AFWL is already taking advantage of and augmenting capabilities within New Mexico, notably at some of the Rio Grande Research Corridor institutions. Strategic Defense Initiative (SDI) activities should, as well, be addressed for leveraging our position relative to our competitors.

In the area of radiation hardened electronics, AFWL is working closely with the Department of Energy's Sandia National Laboratories. Sandia has the foremost design and prototype manufacturing facility in the country for advanced semiconductor components for military systems. Where the existing capability is limited, however, is in the production of large quantities of components to meet systems needs. In line with the DSB Task Force's recommendations and with increased industry participation, the existing capabilities could be expanded to provide a comprehensive capability for development and production of highly reliable, radiation hardened military electronics. Similarly, the role of New Mexico's universities could be expanded through strengthening the related education programs and through more extensive participation in the R&D work on semiconductor materials as recommended by the Task Force. The latter area is complementary to the radiation hardened electronics programs and to the broader mission of the AFWL in research on materials for adverse environments, namely nuclear weapon and space environments.

In the electro-optics area, AFWL is providing funding for work at both Sandia National Laboratories and at the Center for High Technology Materials, University of New Mexico. This particular area is one in which we see substantial growth in the future, both for military systems and in commercial applications. With increased support as recommended by the Task Force, the existing activities could be augmented and expanded, establishing New Mexico in the forefront of the national capabilities in this area. The Air Force is presently expending more than $2 million per year in support of industrialization in New Mexico. This base of capability, coupled with the potential growth of DOD investment in electro-optics, both at AFWL and other DOD organizations, would provide the foundation for substantial industry growth within the state as well.

I hope these comments and recommendations will be of ultimate benefit in stabilizing and reversing the adverse trend in simiconductor dependency our country is experiencing. The Air Force Weapons Laboratory stands ready to met with you or members of your staff to further discuss the matter. My primary focal point is the Chief Scientist, Dr Arthur H. Guenther, telephone number (505) 844-9856. Dr Guenther also chairs the New Mexico Science and Technology Commission.

Thank you for the opportunity to express our thoughts.

Sincerely,

J.P. Amor,
Colonel, USAF Commander.

AFWL Programs Involving Semiconductor Technology

Several AFWL programs are currently under way which are heavily dependent upon advanced semiconductor technology. The three areas in which AFWL research programs are most heavily dependent on the semiconductor industry are advanced systems for the spaced arena, photonics, and high performance supercomputers. In this context, AFWL is dependent upon the research capabilities resulting from the infrastructure of a strong semiconductor manufacturing base and the timely availability of components for the supercomputer vendors.

I. ADVANCED SYSTEMS FOR SPACE

Radiation hardened electronics

Military systems operate in adverse environments and therefore must use specially hardened, high reliability, and easily maintained microelectronics that require unique design, fabrication, assembly, and test methods. These are currently produced through joint programs between the Government and industry.

Signal and data processing electronics

These are needed to meet the high speeds, low power, and weight requirements associated with the surveillance, acquisition, pointing, and tracking requirements of our advanced weapons and the carrier platforms, especially in the space systems arena. These requirements continually push the state of the art in technology and are critical to realization of functional advanced weapons supported by AFWL research activities. They must be long-lived and not suffer unacceptable performance degradation through aging.

Survivable advanced communications electronics

The ability to provide survivable command, control, and communications system depends extensively on the latest technology in semiconductors. Survivability in many of the subsystems is obtanined through development of specialized components for AFWL by industry.

II. PHOTONICS

A category of semiconductors of increasing importance is electrooptics, which is a combination of optical components and electronic circuits. These may be integrated onto a single chip or used as separate but interconnected components. Photonics is an area of sure explosive growth as requirements for higher speed, lighter weight systems evolve. Wafer level union of photonics and semiconductor functions is a key to future expansion and advancement.

Infrared detector arrays

These semiconductor components are a key element on our space surveillance platforms and serve as the eyes of the system. AFWL is working, in joint programs, with the semiconductor industry to make these critical components survivable for applications under the SDI program.

Semiconductor laser diode arrays.

AFWL has recently begun an ambitious program to determine if semiconductor laser diodes can be coupled together coherently. The payoff of this research will be to establish the means to increase the coherent laser power that can be produced from semiconductor laser diodes, allowing the inherent advantages of laser diodes (high efficiency, small size, high reliability) to be applied to a much wider range of military applications. This is the major area of interaction with the Center of High Technology Materials at the University of New Mexico. Laser diodes will be key elements in most future photonic applications as sources/detectors.

III. SUPERCOMPUTERS

Timely availability

The loss of U.S. semiconductor industry leadership would definitely have an adverse effect on U.S. supercomputer vendors and the timeliness of getting supercomputers into the Laboratory. Many of the projects at the Laboratory require the most powerful computational capability available and projections show this need increasing. The inability of supercomputer vendors to get state-of-the-art components could result in the highest performance machines being built overseas. We then would likely be back in the queue, almost certainly behind foreign companies and universities, and many of our projects would suffer by not having current generation supercomputer systems on line as soon as they are available.

Testimony to the importance of suprcomputers to Air Force programs is the recent Air Force Supercomputer Initiative, which will establish a supercomputer center (centered around a fully configured CRAY 2) located at the Air Force Weapons Laboratory. This resource will be networked with other Air Force R&D computer centers and major contractors and will be available via most forms of communication links. We are also exploring the possibility of being a node on TECHNET, thus making available to Air Force contractors, universities, and Federal laboratories in New Mexico a unique resource currently unavailable.

AFWL COMMENTS DSB TASK FORCE DEFENSE SEMICONDUCTOR DEPENDENCY

Recommendation 1—Establish a Semiconductor Manufacturing Institute. From a DOD perspective, this is intended to help improve the U.S. position relative to foreign competition for the production of electronic components. Because of AFWL's limited involvement with conventional (silicon) electronic components, we don't feel competent to make meaningful comments on the effectiveness of this approach in this case. Clearly, however, AFWL will benefit from increased competitiveness of U.S. industry, since the industry infrastructure so necessary to our specific programs will remain healthy. Finally, we would suggest that some portion of the Institute's activities should be oriented toward the longer-term payoff areas that AFWL is interested in—radiation hard electronics and electro-optics.

Recommendation 2—Establish Centers for Excellence for Semiconductor Science and Engineering at eight universities. We strongly support this recommendation. It has been our experience that such basic research initiatives are essential to (1) identify and investigate the new ideas and concepts which will provide improvements in the state of the art for both military and commercial applications and (2) increase the number of highly-qualified personnel in the field (researchers and students), which is essential to progress and growth within the industry and to the DOD personnel requirements for the development and acquisition of advanced electronic systems. In my opinion, the current DOD efforts and the existing university organizations and capabilities make the University of New Mexico a strong contender for such an initiative.

Recommendation 3—Increasing DOD funding for research and development in semiconductor materials, devices, and manufacturing infrastructure. We endorse this recommendation primarily because we recognize that our ability to conduct many of our research programs is strongly dependent on the related infrastructure. (An implementation plan could come from the forum/advisory group described in Recommendation 5.)

Recommendation 4—Providing a source of discretionary funds of DOD semiconductor suppliers. When commercial interests are inadequate to complement specific military needs, discretionary funds could fill the void. The advance planning, management, and control of the discretionary funds will be the key to their effective use. (The role of the advisory group, under Recommendation 5, can be very important in this regard.)

Recommendation 5—Establishing under the DOD a Government-Industry-University forum for semiconductors. We strongly endorse this recommendation since a strong forum can be an important element in providing the guidance and direction which will be needed to assure that the other recommended actions are wisely enacted. The application of funds, especially on Recommendations 3 and 4, should be dependent on the forum/advisory group formulating "a comprehensive and coherent strategy" as stated in the Task Force report. New Mexico's Rio Grande Research Corridor and Riotech Foundation could become a model for such synergism.

NMSU,
April 15, 1987.

Senator PETE DOMENICI,
SD-434,
Washington, D.C.

DEAR SENATOR DOMENICI: I have reviewed the material attached to your letter of March 6, 1987 in regard to the U.S. Semiconductor industry. In order to get a broader spectrum of input, I asked Dr. Morgan, Dean of Engineering, to have his faculty review the materials and give me their guidance on this topic.

Their responses are as follows:

1. The U.S. must maintain a leadership position in electronics and electronic devices.

2. There is currently an oversupply of electronics production capacity in the U.S. that may be a direct result of foreign firms capturing the marketplace. This competition is good in the long run.

3. Recently several firms that supply strategic specialized military components have installed their own manufacturing. Examples are McDonnell-Douglas, Westinghouse, Sandia, etc. These are specialized advanced military semiconductor producers. For example, Sandia specializes in Radiation Hardened Semiconductors.

4. While Motorola, Texas Instruments, Intel, National and Fairchild have lost market share for commercial semiconductors, we question how this necessarily weakens our defense capabilities. It certainly leaves capacity available. A squeeze on profit margin may or may not afffect research.

5. It could well be that the days of Silicon are almost over and electronics research should be directed toward other basic materials including biochips.

We agree that the U.S. must maintain leadership in electronic devices. We suggest that some of the trends are from a maturation of the semiconductor industry not a total loss of leadership. We support an effort to enhance research into electronic devices, materials and manufacturing methods but suggest that more money into existing centers might not be very productive. One might consider expanding research into universities with untapped talent who are limited by lack of facilities and funding in the electronic materials areas.

Sincerely,

JAMES E. HALLIGAN,
President.

U.S. SENATE,
Washington, DC, August 7, 1987.

Hon. CASPAR WEINBERGER,
Secretary of Defense,
The Pentagon,
Washington, DC.

DEAR MR. SECRETARY: We are writing to ask your support for SEMATECH, an industry-driven R&D consortium designed to restore the United States to a position of international competitiveness and self-sufficiency.

Semiconductors are of critical importance to virtually every U.S. weapons system. You have already expressed your own grave concern over the problem of growing U.S. semiconductor dependency on foreign sources, which was underscored by the Defense Science Board Report. We share that concern.

The most serious problems confronting the U.S. semiconductor industry are in the area of semiconductor manufacturing technology. While the U.S. remains the world leader in semiconductor design, the industry's ability to remain competitive in manufacturing is in jeopardy. SEMATECH is designed to reverse the growing U.S. vulnerability in semiconductor manufacturing. The consortium, which will be limited to U.S. companies, will develop leading edge semiconductor manufacturing technologies, prove and demonstrate these technologies on an actual production line, and disseminate the results to member companies—semiconductor device, equipment and materials firms, and the commercial defense systems user industry. SEMATECH will reduce the costs and risks associated with this type of R&D, and will enhance the competitiveness of the entire U.S. microelectronics industry.

There are several basic reasons why DOD should invest in SEMATECH. First, an investment in SEMATECH is the single best way to address the problem of growing DOD foreign dependence which was identified by the Defense Science Board. SEMATECH'S fundamental objective is to ensure that any advanced component needed by a U.S. user, including DOD and defense systems suppliers, can be manufactured in the United States exclusively with U.S. made equipment, processes, and materials—a capability which does not exist today. Second, SEMATECH will reduce the cost, improve the reliability, and shorten the delivery times of components needed by the U.S. armed forces—and given the importance of semiconductors to military systems performance, a DOD investment in SEMATECH will have a substantial leveraging effect on the overall U.S. defense posture. Finally, SEMATECH will advance all of the basic objectives which DOD has established in its ManTech programs for investments in the manufacturing base, including the need to bridge the gap between R&D (in which the U.S. excels) and actual large-scale production; and the need to provide higher quality weapons systems at lower cost with shorter delivery times.

In short, a DOD investment in SEMATECH will pay for itself in cost savings and ensure a U.S. capability to manufacture the most advanced microelectronic devices for defense systems.

The Defense Science Board recommended that DOD commit $200 million a year to upgrading semiconductor manufacturing technology. The Senate Armed Services Committee has authorized $100 million in FY88 and $100 million in FY89. With industry's commitment to provide fifty percent of the necessary funding, SEMATECH provides

DOD with a cost-effective vehicle in which the government's investment can be leveraged. We strongly support the SEMATECH approach and urge that the Department of Defense invest in SEMATECH and the restoration of U.S. leadership in semiconductor manufacturing technology.

Sincerely,

Jeff Bingaman.
Alfonse D'Amato
Dennis DeConcini
Jim McClure
John McCain
Pete Domenici
Pete Wilson
Harry M. Reid
Lawton Chiles
Tim Wirth
Lloyd Bentsen.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, the committee has reviewed the Chiles amendment. If the minority has cleared it, we will accept it.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I want to commend the Senator from Florida, and the Senator from New Mexico. I join with the Senator from New Mexico in supporting the amendment.

Mr. President, I am pleased to speak on behalf of the pending amendment, offered by my friends the distinguished Senator from Florida [Mr. CHILES] and the distinguished Senator from New Mexico [Mr. BINGAMAN]. I have supported from its conception the effort to establish SEMATECH and move it rapidly into a key role in providing support for our national security apparatus, and I welcome this clarification of the role the Department of Defense will play in SEMATECH.

Semiconductor technology is of major strategic importance to our national security. The Defense Science Board has outlined our growing national vulnerability, Mr. President, which is developing as a result of the difficulties confronting the commercial semiconductor industry, and has underscored the need for a coherent national response. Defense Department funding of generic research and development in semiconductor manufacturing by SEMATECH is an important part of that response.

The U.S. commercial semiconductor industry, as well as Defense Department microelectronics R&D programs, have emphasized semiconductor design rather than the manufacturing process itself, Mr. President. While we continue to lead the world in design, we are losing ground in production. Our ability to produce semiconductors at an affordable price has become increasingly problemmatic. SEMATECH addresses this issue. This industry-government consortium will focus on R&D to improve and update manufacturing technology and disseminate the results of its research to all member companies for application in their manufacturing facilities.

Mr. President, the benefits to the Defense Department from this program are obvious. Semiconductors are the building blocks of the high technology systems that our armed services use. The Department of Defense will be able to transfer SEMATECH technology to its contractors for application in the manufacture of products procured by the Services. The high yield, high efficiency manufacturing techniques developed by SEMATECH will translate into direct cost savings and improved performance in those products and the systems of which they are a part. More broadly, this project will enhance the overall manufacturing capabilities of the semiconductor manufacturers and thus will benefit indirectly the entire economy.

Perhaps of greatest long-term importance is the fact that SEMATECH's efforts in these respects will enable our domestic semiconductor industry to survive in the face of the tremendous competition it now faces and will continue to face in the future. That is of critical importance not out of a sense of ethnocentrism or chauvinism, but because we would be foolish, indeed, to permit ourselves to become dependent on foreign suppliers—even from the most dependable and friendly of our allies—for the semiconductors on which our weapons systems and command, control, and communications capabilities rely. During periods of international tension or hostilities, when supplies of semiconductors would be most badly needed, the sources in some nations might dry up. Even with respect to supplies from sturdy allies, supply routes might be interrupted.

Simply stated, we must be able to meet most or all of our need for those components of our critical national security systems—and semiconductors fall increasingly into that category.

There are risks, Mr. President, in Department of Defense participation in this effort. Earlier this week the Washington Post, in an editorial I will submit for the RECORD, worried that the Department of Defense may attempt to skew SEMATECH's research agenda toward specifically military requirements. The Post argues that "it will be important to keep SEMATECH insulated from the immediate interests of Pentagon procurement officials." The pending amendment does that, Mr. President.

The amendment streamlines the Department of Defense's role in SEMATECH and avoids burdening its operations with unnecessary controls and restrictions by funding SEMATECH with a grant rather than a Department of Defense procurement contract and providing that various accounting and procurement regulations normally applied to procurement contracts will not apply here. At the same time the amendment ensures, via a memorandum of understanding between SEMATECH and the Department of Defense, that SEMATECH will expend the grant funds in a manner consistent with specific goals and that the Department of Defense will receive this technology developed by SEMATECH so it can be applied to our national security requirements. This arrangement gives the consortium the flexibility it needs to proceed with its research agenda, while it enables the Department of Defense to ensure that the funds are properly utilized.

The SEMATECH consortium is a new venture, Mr. President, but Department of Defense support for generic manufacturing technology with national security implications is not. For example, the Air Force sponsored research and development with respect to the use of numerically controlled machine tools—the results of which spread throughout the U.S. machine tool industry and triggered one of the biggest surges in U.S. productivity since World War II. The Defense Department's ManTech Program and its predecessors sponsored research and development in the area of computer-aided manufacturing [CAM], an effort which, in the opinion of some experts, boosted significantly America's position in computer science and manufacturing technology. A similar effort is needed today in the area of semiconductor manufacturing.

Mr. President, SEMATECH is an example of how industry and government can and must cooperate in order simultaneously to invigorate our industrial base and protect and enhance our National security. The Washington Post hails SEMATECH as an "influential precedent for cooperation between the Federal Government and private companies." I welcome the Post to this position. SEMATECH is clearly in the national economic and national security interest. I urge my colleagues to support this amendment.

I ask unanimous consent that the editorial from the Post to which I referred in my remarks be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 21, 1987]

WHO PAYS FOR HIGH TECH?

If SEMATECH works, it is likely to become an influential precedent for cooperation between the federal government and private companies in research and development. A consortium of semiconductor producers, Sematech is being established to do something about the industry's weak point—its inadequate manufacturing technology. It is to cost $1.5 billion over the next six years, half of it public money and half from the companies. The appropriations are now making their way through Congress, which asked its Congressional Budget Office to look into the wisdom of this investment.

The American producers still dominate the world market for semiconductors, but their Japanese competitors, are gaining rapidly. It's a pattern that runs through many industries. The Americans are unbeatable in engineering design, but the Japanese are far ahead in manufacturing. The Japanese firms are now outspending American companies on semiconductor research, CBO says. Normal market economics doesn't work well in the fragmented American industry, because much of this investment pays no special return to the company that makes it. When a concept is developed, word spreads fast. Sematech is being set up to achieve manufacturing processes that can set the world standard in cost and reliability. CBO's description makes it pretty clear that any risks in this public investment are clearly outweighed by the risks of doing nothing.

The federal money would come from the Defense Department, not an entirely ideal arrangement. The Department is already spending several hundred million dollars a year on semiconductor research, but its highly specialized requirements do not reliably contribute to commercial efficiency. It will be important to keep Sematech insulated from the immediate interests of Pentagon procurement officials. The money can be more than justified by Defense's broad interest in a competitive American industry.

The alternative to funding Sematech, as the CBO suggests, is plain old protectionism. The administration's current attempts to protect the semiconductor industry are not working well, and will make more trouble as time passes. Putting money into technology is vastly preferable to imposing import quotas, and in more industries than this one. There should always be three criteria for federal support. The industry has to be a crucial one (sorry, shoemakers). It has to be able to draw up its own agenda for research. And it has to be willing to put up half of the money from its own pockets. Sematech meets all three conditions.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida [Mr. CHILES].

The amendment (No. 733) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHILES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 731

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, could we have order in the Senate, please?

The PRESIDING OFFICER. Order in the Senate. Those who have business other than that relative to the amendment currently under consideration please take that conversation off the Senate floor.

Mr. WARNER. Mr. President, could you advise the Chamber that the balance of the time remaining on this amendment so Senators could plan for the purpose of a rollcall vote which my understanding is comes immediately following the debate?

The PRESIDING OFFICER. Pursuant to the unanimous-consent agreement which none of the preceding has been counted against the time, there are 37 minutes under the control of the managers, and 31 minutes under the control of the proponent, Senator PRYOR.

Mr. WARNER. I thank the Chair.

Mr. PRYOR. Mr. President, so Members can plan their evenings a little better, I want to put the Senate on notice that I will not use that 30 minutes. I say a maximum of 10 to 12 minutes should be all that is required on this side.

Mr. SHELBY. Mr. President, I am not sure that I will use up the total 37 minutes. I do have two or three people who want to speak. I do not want to limit them. It is an important amendment. We will try to move along.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Thank you.

Mr. President, we are talking about one of the areas in which the United States is probably farther behind the Soviet Union in warmaking capability than any other area, and that is in the area of chemical weapons.

Mr. STENNIS. Mr. President, may we have order? May we have quiet?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Ohio.

Mr. GLENN. I thank the distinguished chairman.

Mr. President, that is why we are in opposition to this amendment. We have looked at the intelligence reports, we have heard the testimony, and we know what the Soviets are doing in this area. They are doing a great deal. They can conduct chemical warfare if they need to conduct chemical warfare.

We had the binary vote a few moments ago. The amendment was tabled not by as large a margin as I would have preferred. But it expressed the will of this Senate that we would indeed have a chemical capability in the United States, and that the program would go ahead.

If that decision is to be taken seriously, then we must take that chemical capability and say it will not only be applicable to 155-millimeter artillery range, but will also give the capability of extended delivery by developing the Bigeye which is the chemical weapon bomb that can be carried on aircraft?

That is what this vote on the Bigeye is all about.

We have spent some $57 million developing Bigeye to date. It has had a lot of problems. I am not here to defend everything that has happened on Bigeye. The good chairman here from Mississippi has followed this issue through the years and recalls some of the debates we have had on the Armed Services Committee. But this is a range extender for conducting that kind of warfare. It is exactly what this vote is all about.

I rise to strongly oppose the amendment of my colleague, my good friend from Arkansas, that would effectively terminate the Bigeye air-delivered binary chemical weapon. I would tell my colleagues that it is premature to make such a decision to come to any conclusion on the operational capability of the Bigeye weapon.

Currently, the independent operational test organizations of the Navy and Air Force are conducting an extensive operational evaluation of the Bigeye system that will include the delivery of 58 simulated weapons, and from three different types of Air Force and Navy tactical aircraft. To date, 27 of the total 58 weapons have been tested, less than half the planned program.

I understand that two technical problems were identified during the first 10 weapon drops. However, the testing was temporarily halted and the deficiencies corrected. And testing has now resumed on these 58 tests and is expected to be completed by the end of October. That is just about 5 weeks from now.

Mr. President, I would submit that no quantitative or qualitative decision can be made on the operational effectiveness of Bigeye until all of the testing is completed and all the data analyzed. That is why a test program is designed to have so many data points. I would submit that no intelligent decision can be made until at least most of those data points are collected.

We have a GAO report. I am aware that the GAO recently reported to the House Armed Services Committee, a report that was critical of the Bigeye program following the first 10 drops. That is where some problems were identified. We hope those corrections will prove effective in the last part of this testing program that is to be completed in the next 5 weeks. In other words, the criticisms that GAO identified were done when only one-sixth of the testing was completed and conclusions were already being drawn.

I remind my colleagues also that it was Congress that allowed the GAO to participate in an ongoing operational test program. That is a rather unusual arrangement to say the least.

Let me just review for the record the terms of the GAO participation in the Bigeye test program. I will read out of last year's defense authorization bill. And I quote the section that points out GAO's monitoring. It says "GAO Monitoring and Report."

> (d) GAO MONITORING AND REPORT.—(1) The Secretary of Defense shall provide for the involvement of the Comptroller General in monitoring the operational testing of the BIGEYE bomb.

This is the important provision:

> (2) After any such testing is completed, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such testing. The report shall include an assessment of such testing and any comments the Comptroller General considers appropriate.

I repeat the first part of that: "After any such testing is completed"—and it has not been completed yet.

My distinguished colleague from Arkansas pointed out some of the GAO comments. The GAO's review identified four areas of concern: unrealistic mission profiles, lack of data analysis plan, test limitations, and proliferation of independent variables.

I do not criticize that GAO report at all. I am a big supporter of GAO, and their work is excellent. But in a letter from Secretary of Defense Weinberger, commenting on those GAO findings, he says in the next to the last paragraph of an unclassified letter sent to us on June 28 of this year:

> The Bigeye TEMP and OT-IIB Operational Test Plan were provided to GAO in advance of OSD approval to allow GAO to comment prior to the start of testing. GAO chose not to contribute comments at that time, preferring to reserve their criticisms until after testing was well underway.

That is a disagreement, obviously, between GAO and the Secretary of Defense. I point it out for whatever evaluation Members wish to give.

The main point is that GAO is there now, observing these tests. The tests are to be completed by the end of October, an evaluation will be made, and we will know the tentative results of that shortly after the end of October, with the full report due after the first of the year—by next March, I believe. But we will know the results basically by the end of October or very shortly thereafter.

So I submit and remind my colleagues that the Bigeye test program is one of the programs being evaluated by DOD Operational Test and Evaluation Office; and that organization, established by Congress, has followed this program very closely. They would be the first to agree that no decision can be made on the operational capability of the Bigeye until testing is complete.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GLENN. I ask for 2 more minutes.

Mr. SHELBY. I yield 3 additional minutes to the Senator from Ohio.

Mr. GLENN. I thank the distinguished Senator.

Mr. President, there is one thing I do not want, and that is an unsafe Bigeye bomb being carried on airplanes. If, after these tests are completed, GAO comes back and says, "Yes, we still have problems with this thing," I can tell you that I am going to be one of those on this floor opposing the production. But I say right now, only some 5 or 6 weeks away from the final completion of the tests, when we can make a better, more educated decision on this, now is not the time to make the decision. At that point, I may wish to join the Senator in his efforts to stop production of Bigeye, but not before we have the tests complete.

I urge my colleagues to withhold judgment on the capability of the Bigeye system until we have adequate data to make such a decision. I intend to oppose this amendment, and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. I yield 4 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment to prevent the obligation of any funds for Bigeye binary bomb production.

The Congress addressed last year the serious imbalance in chemical warfare capabilities that exists between the Warsaw Pact and NATO. In so doing, the Congress agreed upon a roadmap by which U.S. chemical deterrent modernization would proceed to production. The events of the past year, especially the importance of conventional and chemical warfare imbalances in Europe in the context of INF reductions, underscore the necessity to continue with the binary modernization program.

One aspect of that program, the testing of the Bigeye bomb, has uncovered several minor problems that necessitated the interruption of the test program to make technical changes to improve system reliability.

Let me assure my colleagues that these are not complex technical problems of the sort that we are now addressing with the B-1 ECM. We are talking about two problems: One, the lubrication of an off-the-shelf fan mechanism that provides electrical power to the Bigeye bomb; and two, sealing a mechanism to prevent incursion of moisture.

Testing has now resumed to determine the adequacy of these changes. The President will not make the certification required of Bigeye production facilities if the initial test results from the reworked bombs are not favorable. Let me make clear for all my colleagues that we will not produce Bigeye if it doesn't work.

Mr. President, I, for one, sincerely hope that the corrections do fix the problems revealed in testing. I say this because the Bigeye represents the only near term solution to the most critical deficiency in our chemical deterrent posture and that is the capacity for deep strike attacks with persistent agent. Administration witnesses told the Armed Services Committee that it could take up to 10 years to develop and field an alternative to the Bigeye.

Mr. President, the Armed Services Committee fully understood the testing situation when making its recommendation on the Bigeye. Recognizing that production would be delayed, the committee reduced the request by $20 million of the $25 million requested. It is essential, in my judgment, that the Congress not preclude the option to proceed with production upon completion of satisfactory testing, which is what this amendment would do.

I urge my colleagues to join me in opposing this amendment, as I am certain it is not in the best interests of our country.

The PRESIDING OFFICER. Who yields time?

Mr. SHELBY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-four minutes and six seconds.

Mr. SHELBY. I yield myself 3 minutes.

Mr. President, I want to pick up from the debate earlier in the evening, and I believe then the Senator from Arkansas, my distinguished friend, claimed, among other things, that the Bigeye was barely functioning as of last February. I do not believe that is quite correct.

According to the report of the Armed Services Committee, on which I serve, "The committee has been advised, however, that an interruption in the Bigeye operational testing program to correct minor deficiencies in two bomb components"—minor deficiencies. That is what they are talking about there, not a barely functioning situation, but to correct minor deficiencies.

Second, what are some of the minor things that have been fixed? I will share with my colleagues just the last sentence of a letter from the office of the Secretary of Defense, dated September 23, 1987: "To date, there have been no failures attributable to the 'fixed' components, but we are continuing to watch test results closely * * *"

That is what they are doing now, they are testing.

The Senator from Maine said earlier that we need to trust in this situation the Department of Defense. They have an assessment on this program. I believe we are near the end, where we are correcting some deficiencies.

We are not asking for a lot of money here. We are asking to keep it going until the tests are finished and they are certified.

So it is not a turkey here. I think this will help bring the Soviets to the table. Let us not abandon a program right before it is finished, right before it is functional, right before we know it is safe and it is going to work.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Mr. President, my remarks will be very short. I know the hour is late. I will basically try to summarize a few of the points in debate raised this afternoon and this evening by the proponents of this production of the Bigeye bomb.

First, it has been said and I think my very close and dear friend, the Senator from Alabama, the member of the Armed Services Committee, has raised the issue that this amemdment would cancel the Bigeye Program.

Mr. President, frankly, personally I would like to cancel the Bigeye Program. I would love to cancel it. It has been looked at and studied since 1962, and the Bigeye bomb still does not work. However, I must admit my amendment does not cancel the Bigeye bomb. My amendment does not stop testing. My amemdment does not stop development. My amendment does not stop research.

My amendment, Mr. President, very simply says we are not going to produce a faulty weapon, we are not going to embark on a $2 billion program to manufacture a weapon that does not work, manufacture a weapon that has recently failed 4 out of 10 tests, to manufacture a weapon that I call the 1987 Divad. It is a repeat performance.

Mr. President, this particular weapon, this particular Bigeye bomb, is one of those typical Defense Department systems that has gathered legs over the years, has built its own constituency.

Mr. President, unless we say we are going to halt this program, temporarily, until the tests are made, until the General Accounting Office has given us a certification that this particular bomb is ready to produce, that it is what this amendment says, Mr. President.

Some have argued that the Soviets are far ahead of us in the area of chemical warfare and in the area to deliver a deep chemical strike.

Mr. President, this issue does not relate to this particular argument, simply because what we are talking about tonight is a flawed system that has failed its test, that is not ready to produce and we are saying let us continue in our research before we commit the millions and millions and ultimatley billions of dollars to produce.

Mr. President, also it has been stated, I think by probably three or four of the proponents and my good friends—I admire and respect all of them; I attribute to them no ulterior motives—but basically the argument has been put forth this afternoon and this evening that we are stopping testing. Others have said we are in the phase of testing, let us go ahead with the testing but let us produce the bomb at this time.

What that argument basically comes down to is very simple. Yes, the tests have not been adequate. Two, the Bigeye bomb has not met the tests that we are requiring for it and, third, and most importantly, let us continue testing of the Bigeye bomb but let us go ahead and fund the production cycle, begin the production of the Bigeye bomb.

My amendment simply would say and I say to my very good friends from Alabama, Maine, Ohio, and South Carolina, my amendment says let us do not do that. That is not a wise thing to do.

My good friend from Ohio was talking just a few moments ago about the Soviets and their capacity to deliver a deep strike capability and I think earlier today about the Soviets knowing that our munitions are deteriorating, and all of these arguments we have heard so many times.

Mr. President, I just ask you a question tonight: Do you think that the Soviets fear a bomb that is failing its tests? I think the Soviets probably would like for us to go ahead and start manufacturing one Bigeye bomb simply because it would give us a false sense of security that we now have a deep strike capability for delivering this type of nerve gas.

What we are talking about, also, tonight, Mr. President, is also very, very essential to this argument. This program in March, not 1967 or 1977, but in March 1987, was decertified. This program was decertified by the U.S. Navy. They said that the test results were such that we could not go forward and produce this bomb at this time.

So what happened? Did they go back to the drawing board? Did they go back and say that these tests have to be more rigorous and more strict? No.

What happened, they met after the decertification which was held, I believe, July 22, the ITV minutes of that particular meeting of the officers in attendance of that meeting. They said this would damage the credibility of this program if there was a long time period where nothing was happening.

Well, the credibility of the program is already damaged, not damaged by the long time period, but damaged by a very simple fact of life. The Bigeye bomb does not work. It needs more research and frankly it does not need to be produced at this time.

August 17, just a month ago, Mr. President, this same group of officers reassembled. I have the minutes of that particular meeting. What they did in paragraph 6 of the next-to-the-last paragraph this group in the Navy and those looking out after the production, in their opinion, hopefully, of the Bigeye bomb, they decided in recommendation 6 that they would grant three waivers, three waivers of testing so that they could go forward and have the full operational testing that would ultimately lead in this authorization bill, I can only assume lead to production of the Bigeye bomb before it was ready to produce.

So, Mr. President, I am not going to take further time of the Senate. I have documents that I wanted to enter into the record. I think that we generally know how we feel. Once again this is an issue not of chemical warfare, not philosophically where we have to go into the production of a new generation of chemical warfare, but whether or not we are going to commit ourselves tonight to billions of dollars of production money which is going to be dedicated to a very, very flawed bomb, the Bigeye bomb.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I yield 3 minutes to the Senator from Maine.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator is recognized.

Mr. COHEN. Mr. President, first let me make it clear I do not want to produce more jobs in Arkansas. The Senator from Arkansas has indicated this is a jobs issue in his State or district, and I certainly do not want to be causing more employment to be generated in Arkansas as opposed to any other State, but I do want to see our deterrent capability, enhanced, and that really is the only reason that I am taking the floor this evening.

The second point I would make is that the Senator from Arkansas has indicated the Soviets have no fear of a bomb that fails its test. I suppose the same argument could be made against many of our systems. The GAO, for example, has found some alleged flaws in the Phoenix missile, the Sidewinder, and Sparrow. Theoretically, if the argument is followed to the logical conclusion we ought to terminate those systems until such time as we find out what the deficiencies are because the Soviets will have no fear of those particular systems.

The Armed Services Committee has found difficulties in terms of the MX. Better cancel that now before the Soviets dismiss it as being an empty missile.

Another point that is made by the Senator from Arkansas is that the Navy or OTE had decertified the Bigeye and therefore that is some indication it ought to be terminated. The fact is that OTE decertified it so the deficiencies could be fixed before they went on with further testing, and now they are going through the further testing so it is not an argument to cite the decertification process is the reason to terminate this particular program.

The final point I would make is the tests on this particular system are going to be completed fairly soon. This bill, notwithstanding the hopes and wishes of the Senator from Georgia, might not be completed before they complete the tests on the Bigeye. We might still be here sometime in November, but even if we are able to achieve this nirvana and hopefully complete the bill by next Tuesday, we still have an appropriation process to go through. We will not have a House-Senate conference of the DOD bill before November and even if we do we still have the appropriations process to go through.

What the opponents of this system are arguing is that it belongs on a life-support system and they want the Senate tonight to pull the plug on that system.

Now, we cannot assume that this is being debated in the abstract. The Senator from Arkansas and the Senator from Oregon are very committed in their principles, certainly. They have been opposed to the production facilities from the beginning of the debate going back several years. They have been opposed to facilities. They have been opposed to binaries as a concept. They are opposed to this delivery system and they are saying they only want a safe delivery system.

The fact is the record shows that this is simply another argument to terminate the delivery system, to terminate the binary concept, and ultimately to dismantle the binary production facilities. I think it should be rejected by a wide margin.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I will be very quick on this. This amendment by the Senator from Arkansas is not necessary to ensure the funds are not expended on Bigeye production before we have shown that it works.

In last year's conference report on the fiscal 1987 defense authorization bill, we fenced all the fiscal 1986 and fiscal 1987 funds for Bigeye production until the President certifies that the production of Bigeye is in the security interests of the United States. So the last word is there. We will leave it up to the President on this, because they are doing the testing. If the tests comport, we ought to go forward with it. If the tests do not meet it, the President will not certify it.

Mr. President, I yield back the balance of my time.

Mr. CHAFEE. Mr. President, I wonder if I might ask a question on somebody's time?

The PRESIDING OFFICER. Before the Senator is recognized, does the Senator yield back the balance of his time?

Mr. SHELBY. I withhold the time.

Mr. CHAFEE. I wonder if the Senator would give me a couple of minutes?

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would ask the Senator from Arkansas about this. The suggestions are that if your amendment is sustained, it will be pulling the plug on the program. But as I read this, you are saying that the testing on the Bigeye can continue.

Mr. PRYOR. The Senator from Rhode Island is absolutely correct.

Mr. CHAFEE. I would be glad to hear from the Senator from Alabama if I am missing the beat here. Is there a suggestion that there could be production of this weapon with only the $5 million that is left?

Mr. SHELBY. It is my understanding that the $5 million is a positive step to keep the program going only if the President certifies, as I understand it, that the weapon is working. We deleted $20 million from the DOD request in the Armed Services Committee.

Mr. CHAFEE. I appreciate that. But let us assume that the President certifies to go forward with this. Then what would happen? You could not get far with $5 million, I presume. What would happen?

Mr. SHELBY. We have some money that has been fenced there from last year. We have some money already in the pipeline that has been held up subject to the testing being certified by the President.

Mr. CHAFEE. So then you would go into production?

Mr. SHELBY. Right.

Mr. CHAFEE. Now, let me ask the Senator from Arkansas a question. You would restrict it to the testing and some suggest that this ends the program. What is the alternative? Where do we go? I think we all agree that we have to have this deterrent. Where would we be if your amendment were adopted?

Mr. PRYOR. If I may respond to the distinguished Senator from Rhode Island, first, there is $35 million that we fenced last fiscal year pending the certification by the President that the Bigeye bomb was ready for production. That $35 million, coupled with an additional $5 million in the 1988 fiscal year, would then be a sum total of $40 million to begin the production stage of the Bigeye bomb.

The Senator from Rhode Island may not be aware that earlier this afternoon in the debate the Senator from Arkansas mentioned a classified secret letter from the Department of Defense—which I do have and I would certainly be glad to share this with him—suggesting alternatives should the Bigeye bomb not be the way we plan to deliver a deep-strike capability of the new generation of binary chemicals. So there have been suggestions.

In fact, as you know, and I think most of my colleagues know, I am against chemical warfare, period. My position is simple. I do not want to produce any weapon, whether I agree with it or not, that is faulty. I think that the recommendations by the Secretary of Defense that we do have in this classified document offer constructive alternatives to the Bigeye program.

The PRESIDING OFFICER. The time yielded to the Senator from Rhode Island by the Senator from Alabama has expired.

Mr. COHEN. Will the Senator yield me 1 minute?

Mr. SHELBY. I yield to the Senator from Maine.

Mr. COHEN. Just so I can respond to that issue, what the report the Senator from Arkansas is referring to basically deals with is follow-on systems. But you have to take into account what the report says in terms of when those systems conceivably could come on line.

Now, I do not know, the numbers are actually classified, but we are looking at a substantial period of time. So by, in effect, trying to hold this one back and terminate this, for all practical purposes you are pushing us into the same old argument of "Let's get a better system 5 or 10 years or more down the line."

The question is: Do you want to wait that length of time before going forward with a system that the President has to certify is fully capable of going into production because they have cured the deficiencies that have been identified?

Mr. CHAFEE. But is it fair to say you are killing the program when the Senator from Arkansas' amendment says you can continue the testing and everything; the only thing you cannot do is produce?

Mr. COHEN. Take the converse argument. If that is the case, what is the sense of him offering the $5 million deletion?

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. PRYOR. Mr. President, I hope I can clarify that. I am not deleting $5 million. I am transferring $5 million that might be used in production. I am transferring that to research and testing and development.

The second point I would like to clarify—and I am sorry the Senator from Maine has drawn an inference that the Senator from Arkansas is trying to kill the Bigeye program—I am trying to postpone it until it works. I am trying to postpone it until tests have been made. I am trying to postpone it until the General Accounting Office can say that this weapon is ready to be produced. Thus far we do not have that assurance from anyone. We are on the eve of producing the Bigeye bomb, one that does not meet its mission.

Mr. SHELBY. Mr. President, the Senator from Arkansas has just argued that he did not want to kill the Bigeye program. He only wanted, I believe these were his words, to postpone it until it worked. That is exactly what we have been talking about.

The President of the United States is going to certify this, one way or the other. If he does not certify that it is working, the money that has been fenced is not going to be extended. We would not move in that direction. But if the President of the United States certifies after these tests have been run—and I predict they will be run positively—then, in that event, we will move forward.

This is not a delay this way. We have the situation covered. We have the money fenced. We just want to go on. In the event the tests are positive and the President certifies, we are all protected.

I yield 2 minutes to the Senator from Ohio.

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, as I read this amendment by the distinguished Senator from Arkansas, it says that none of the funds appropriated in this or any other act may be used for procurement or assembly of the Bigeye binary chemical bomb for the procurement of any component or subcomponent for such bomb, and so on, "until specific legislation has been enacted after the date of the enactment of this act authorizing the obligation and expenditure of funds for production of the Bigeye binary chemical bomb."

That would mean that any option to proceed to production, even after the tests are completed, would have to await further positive action by the Congress.

In other words, say the tests come out perfectly OK. We got a good, clean bill of health on Bigeye. It looks good. It is working fine and correcting its problem area.

At that point, they would not be able to proceed with production unless there was specific legislation authorizing them to go ahead, even though this program was successful.

Mr. PRYOR. There would have to be an authorization for the production to be carried forward.

Mr. GLENN. That is specifically what we object to.

I have a copy of a letter from the Secretary of Defense, dated 19 May 1987, which states:

> Bigeye is one of the highest priority systems under consideration by the Department of Defense. Admiral Crowe and the Joint Chiefs have characterized the Bigeye as a key element in reestablishing credible chemical deterrence. Therefore, it is essential that we preserve the option to proceed with its production upon the completion of satisfactory testing. I appreciate your continued support for this vital program, and look forward to working with you to ensure that we produce an effective Bigeye system.

This was a letter to Senator NUNN, chairman of the Armed Forces Committee.

Mr. President, this amendment, in effect, would stop production even if the test program comes out satisfactorily. That is the reason we are opposing this strongly.

Mr. PRYOR. Mr. President, I yield back the remainder of my time.

Mr. SHELBY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

Does the Senator from Alabama seek recognition?

Mr. SHELBY. Mr. President, I move to table the amendment of the Senator from Arkansas and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alabama to lay on the table the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—49

Armstrong
Bingaman
Bond
Boren
Boschwitz
Breaux
Chiles
Cochran
Cohen
D'Amato
Dixon
Dole
Domenici
Exon
Garn
Glenn
Graham
Gramm
Hatch
Hecht
Heflin
Helms
Hollings
Humphrey
Johnston
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Quayle
Rockefeller
Roth
Rudman
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—48

Adams
Baucus
Bentsen
Bradley
DeConcini
Dodd
Durenberger
Evans
Ford
Fowler
Grassley
Harkin
Hatfield
Heinz
Inouye
Kassebaum
Bumpers
Burdick
Byrd
Chafee
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Conrad
Cranston
Danforth
Daschle
Pell
Proxmire
Pryor
Reid
Riegle
Sanford
Sarbanes
Sasser
Specter
Stafford
Weicker
Wirth

NOT VOTING—3

Biden
Gore
Simon

So the motion to lay on the table Amendment No. 731 was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the parliamentary situation as this Senator understands it, the Senate now returns to the Weicker amendment subject to recognition of the majority leader at some period thereafter.

The PRESIDING OFFICER. The Senator from Virginia is correct. Debate is in order on the Byrd perfecting amendment to the Weicker amendment.

Mr. BYRD. Mr. President, in the interest of moving ahead with other amendments tonight hopefully, and the meeting which had been earlier discussed will begin shortly in room 207, I ask unanimous consent that the pending Weicker amendment be temporarily set aside so that other amendments may be called up throughout the evening.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. I thank all Senators.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we definitely have another rollcall coming tonight. I know of one and that would be on the Helms amendment. I do not see the Senator from North Carolina on the floor, but we could bring that one up at the appropriate time if he so chooses.

We have other amendments. I do not know how many Senators desire to be recognized.

We have an amendment from the Senator from Louisiana; we have a Bingaman amendment; the Senator from South Carolina has an amendment; the Senator from Iowa has an amendment; we have a Dixon amendment; and we have a Roth amendment. So I think we have seven or eight more amendments we can handle this evening.

Mr. WARNER. Mr. President, the manager of the bill earlier enumerated a Kennedy amendment in his first recitation some 1½ hours ago. Is that a matter that is still——

Mr. NUNN. That is a health amendment relating to the Navy and I believe the staffs have taken a look at that. We have not signed off on it but I believe it is one that will not be controversial.

Mr. WARNER. I thank the Senator from Georgia.

Mr. BYRD. Mr. President, will it be possible for us to nail down some time agreements on these amendments just mentioned?

Mr. NUNN. We have the Johnston amendment. Mr. Leader, most of these amendments have just come to my attention. It might be more expeditious not to try to get a time agreement right now.

AMENDMENT NO. 734

(Purpose: To require a contingency plan to deal with disruptions in Persian Gulf crude oil supply)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for himself and Mr. MCCLURE, proposes an amendment numbered 734.

Mr. JOHNSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

"SEC. . REPORT OF CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

"(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of U.S. crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

"(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

"(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

"(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

"(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

"(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

"(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

"(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.".

Mr. JOHNSTON. Mr. President, this amendment is submitted on behalf of myself and the distinguished Senator from Idaho [Mr. MCCLURE].

The purpose of this amendment is to authorize and direct the Secretary of Defense to develop contingency plans to deal with conditions created by significant disruptions in the production and transportation of crude oil from the nations of the Persian Gulf.

I offer this amendment for a number of reasons. First, I believe that the economic well-being of this Nation and the free world is perilously linked to the availability of Persian Gulf oil. Second, I have seen no information that the U.S. Government has taken meaningful steps, other than the threat of military force, to be prepared to deal with conditions created by a major or prolonged disruption in Persian Gulf oil. Third, I am deeply concerned that the U.S. Congress and the American people have become totally complacent about domestic energy supply and about developing options to assure that this Nation and the free world can survive a major and prolonged Persian Gulf crude oil supply disruption. The purpose of my amendment is to develop and refine these options in the context of a careful contingency planning process.

There are also important domestic policy issues at stake as a result of the uncertainty which prevails in the Persian Gulf. If a major disruption in oil supply should occur, the Senate Energy and Natural Resources Committee will be called upon, under crisis conditions, to enact emergency energy legislation dealing with supply, conservation, and the allocation of available energy resources. This is exactly what happened in October 1973 as a result of the Arab oil embargo. It happened again in 1979 in the context of major energy price increases generated by armed conflict in the Middle East.

As chairman of the Senate Energy Committee, I feel a responsibility to do what is necessary and prudent to focus this administration's attention on the risks and the dangers which appear so obvious to me. Administration officials need to be asked now, before we are in a full blown crude oil supply crisis, to prepare contingency plans and to request Congress to enact any additional legal authority or programs which may be required to either avoid an oil supply crisis or to be prepared to effectively manage our way through such a crisis.

For that reason, Mr. President, I have included in section (b)(5) of the amendment language requesting the Secretaries of Defense and Energy to include in the Persian Gulf contingency report to the Congress any policy or legislative recommendations, including energy policy recommendations, they deem appropriate to improve the ability and the effectiveness of our Nation to prepare for and respond to any future crisis in domestic and/or world crude oil supply occasioned by a disruption in the Persian Gulf.

Finally, Mr. President, as chairman of the Senate Energy Committee, I must say that I hope that the report this amendment requires will realistically focus the attention of the public, the Congress and the executive branch on the critical importance of secure sources of energy supply to our national security and our economic well-being. I am appalled at the complacency that prevails in this country concerning what I view as the critical need to avoid undue reliance on insecure sources of imported oil.

As a nation, we are not, in my judgment, doing nearly enough to avoid increasing dependency on foreign oil. And because we have not and are not doing enough, we do not have options other than military force readily available. Further, our failure to create a policy and economic climate to stimulate domestic energy production means that we have not only lost national security options but we are losing independence in the exercise of our foreign policy.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent to be added as a cosponsor to that amendment.

The PRESIDING OFFICER. Without objection, the Senator from Alaska will be added as a cosponsor.

Mr. MURKOWSKI. I thank the Chair.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we need a copy of the amendment. We are trying to get a copy. We think this amendment is going to be accepted, but we cannot say that with certainty for the moment. We have a copy of the amendment coming.

Mr. JOHNSTON. Mr. President, while we are waiting for a copy, I ask unanimous consent that Senator BRADLEY, Senator MURKOWSKI, and Senator HECHT be added as coauthors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, this is a report amendment. As I understand it, Senator MCCLURE is a coauthor.

Mr. McCLURE. Yes.

Mr. WARNER. Mr. President, we have had an opportunity to examine the amendment. As a matter of fact, I think the amendment would be helpful to advise us all of the contingency plan in the event of a disruption in the Persian Gulf like the U.S. forces pulling out, and it would be helpful to know what it would be. No objection on this side.

Mr. NUNN. Mr. President, we have no objection to the amendment. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 734) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to

Mr. EXON. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

AMENDMENT NO. 735

(Purpose: To express the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any United States citizen)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 735.

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any citizen of the United States of America: *Provided, further,* That this Section shall not in itself be construed as legislative authority for any specific military operation".

Mr. HELMS. Mr. President, I am perfectly willing to enter into a time agreement if the distinguished manager of the bill is agreeable.

Mr. NUNN. Mr. President, could I inquire of the distinguished Senator from North Carolina? Does he intend to have another amendment to this amendment?

Mr. HELMS. No; I combined the two.

Mr. NUNN. This is the amendment that states the opinion of the Senate on the recent episode in the gulf?

Mr. HELMS. The Senator is correct.

Mr. NUNN. Mr. President, what does the Senator from North Carolina propose in the way of a time agreement?

Mr. HELMS. Twenty minutes equally divided.

Mr. NUNN. That would be fine.

Mr. President, I ask unanimous consent that on the amendment pending by Senator HELMS that there be a 20-minute time limit equally divided, with no amendment to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from North Carolina has 10 minutes.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I thank the Chair. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HELMS. I thank the Chair. May we have order, Mr. President?

The PRESIDING OFFICER. Senators will cease conversations.

Mr. HELMS. I hope the Chair will not charge time against me.

The PRESIDING OFFICER. The time is not being charged. The Senate will be in order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Throughout the summer there have been repeated efforts to have the Senate vote to undercut the President on the Persian Gulf matter. I said many times on this floor that had I been charged with being the architect of the plan, there would have been many variations from that which has in fact been implemented. But the last thing that this country needs now is for the President to be undercut on this issue in this region. The Senate has spent countless hours discussing the United States presence in the gulf and the War Powers Act. And I say again, Mr. President, that I am one of three Senators still serving in the Senate who voted against the War Powers Act back in 1973. My distinguished colleague from North Carolina, Senator Sam Ervin, repeatedly said it was patently unconstitutional and also opposed the legislation.

I expect a lot of the rhetoric that we have heard during the summer has been precisely that, not—Mr. President, may we have order? I cannot hear myself.

The PRESIDING OFFICER. The Senator from North Carolina deserves to be heard. The Senators will cease all conversations.

Mr. HELMS. Mr. President, I will move down to a seat closer.

Mr. President, as for the rhetoric we have heard this summer, I have a feeling that most of it had to do not with the Persian Gulf per se, but rather with the political season of 1988. In any case, the pending amendment will tell the country and certainly the fine men and women serving in our Navy exactly how this Senate feels about this Nation's rights under international law to navigate safely the Persian Gulf. Incidentally the amendment will tell exactly how the Senate feels about the President's actions to defend those rights.

According to yesterday's newspaper, Mr. President, the air strike against the Iranian ship was carried out by a special antiterrorist team trained and quartered at Fort Bragg, NC. I am especially proud of this fact.

The amendment just read by the clerk states that it is the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship or other vessels known to have on board any citizen of the United States of America.

I have combined two amendments. I had one contemplated to be a second-degree amendment, but I combined it. And the second-degree amendment, which is now a part of the pending amendment, clarifies that this amendment in itself does not provide legislative authority for any specific military operation.

The countless hours the Senate has spent this summer debating efforts to undercut our country's commitment to free navigation in the Persian Gulf has merely sent a signal to the Ayatollah that congressional support for the President's policy in the Persian Gulf is not firm. But I think the Ayatollah ought to get another message tonight, and I hope he will. Certainly I want the people serving in our Armed Forces who performed so decisively and effectively to get a message of support.

The Senate's previous apparent ambivalence may have sent a signal to the Ayatollah which encourages Iran to test our resolve in much the same way they did a few nights ago when our Armed Forces caught them laying the mines in the gulf. This Senator was proud of the manner in which our forces responded to this clear intentional Iranian provocation.

A poll was published in this morning's New York Times, stating how the American people reacted to the sinking of the Iranian ship in the Persian Gulf. The first question: "Do you approve or disapprove of U.S. Navy ships protecting foreign-owned oil tankers in the Persian Gulf?" Approve, 60 percent; disapprove, 32 percent.

Second question: "What are the chances that sending U.S. Navy ships to the Persian Gulf will get us involved in a war?" Likely, 55 percent; not likely, 36 percent.

"Are your feelings toward Iran generally favorable or generally unfavorable or neutral?" Favorable, minus 2 percent; unfavorable, 78 percent; neutral, 16 percent.

I do not know how you get to a minus 2. But that is the way I feel about the Ayatollah.

"How would you describe the importance of the Persian Gulf to the interests of the United States?" Get this, Mr. President. Very important, 76 percent; not very important, 15 percent.

Mr. President, I do not think I need to take too long.

Mr. President, it's about time we stood up to the Ayatollah. Iran—which is behind a great deal of international terrorism—has been harassing the United States and the rest of the free world for some time now.

While this latest provocation may be just another act in this pattern of harassment, this Senator believes that the Ayatollah is also testing us to see how we would react. Would the United States stand firm—or would we run with our tail between our legs at the first sign of trouble?

And that, Mr. President, is the issue before us with this amendment. Is the United States the kind of nation which fails to stand up for its rights under international law? Is the United States the kind of nation which cuts and runs from its commitments at the first sign of trouble?

It is not essential that each Senator agree with the U.S. commitment to the gulf. What we are talking about is the world's perception of the United States, and the principles for which we stand.

Under international law, American ships have every right to navigate the international waters of the Persian Gulf. This principle has been accepted and understood since the founding of our Nation.

The laying of mines in international waters—as well as any other military action which threatens neutral shipping in these waters—is also violative of international law. And the United States has every right under such law to defend its flag vessels and its citizens from these threats.

So, Mr. President, the question presented by this amendment is, Does the Senate believe the United States should defend its rights under international law or does this body believe we should cut and run or tie the President's hands at the first sign of trouble?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Does the Senator say he reserves the balance of his time?

Mr. HELMS. Yes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, will the Senator yield for a question because I have some concern about the language of this amendment?

Mr. HELMS. I yield on the Senator's time, of course.

Mr. DIXON. May I say that I have no problem about the first part of the amendment that says "It is the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship." That is not the problem. But would the Senator explain the circumstances that compels him to say "or other vessel known to have on board any citizen of the United States of America"?

Mr. HELMS. I do not want to be flippant with my friend, and I certainly shall not be, but I do not know how I can explain it any clearer than the English language of the amendment: "Sinking any Iranian vessel which threatens the safe passage of any American warship or other vessel known to have on board any citizen of the United States of America; provided, further, that this section shall not in itself be construed as legislative authority for any specific military operation."

Mr. DIXON. The Senator reads that in conjunction with the words "or other vessel known to have on board any citizen of the United States." Is that correct?

Mr. HELMS. That is correct.

Mr. DIXON. The Senator reads those two in conjunction?

Mr. HELMS. Yes.

Mr. DIXON. That answers my question.

The PRESIDING OFFICER. Who yields time?

Mr. PRYOR. Will the Senator from North Carolina yield for a question?

Mr. HELMS. May I ask the Senator is he in favor of the amendment or opposed to it?

Mr. PRYOR. I merely want to ask a question about the language.

Mr. HELMS. I yield.

Mr. PRYOR. Is there any reason the Senator limits the language to an Iranian vessel? What about a Cuban vessel? What about a Russian vessel? What about a Libyan vessel? Would the Senator from North Carolina be willing to include other countries, or a vessel of any foreign country?

Mr. HELMS. I guarantee the Senator that if any such provocation occurs, this Senator will probably lock arms with the distinguished Senator from Arkansas and offer an amendment similar to this, with respect to any other country that dares to do this sort of thing.

I want to limit it to the incident that is ripe, as the distinguished Senator from Texas has put it, instead of being speculative.

Mr. PRYOR. I wonder, if we exclude these other countries, are we saying that we are not going to feel as badly if they do any attacking, as we do about the Iranians?

Mr. HELMS. The Senator can list any other countries he wishes; but they had better not assume any such thing, because I hope the U.S. Navy will respond exactly as they did in this case, and I think they will.

Mr. PRYOR. I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

The Chair informs the Senate that if no one yields time, the time is taken from both sides.

Mr. DIXON. I say to my friend from North Carolina, without appearing to be facetious about it, that I wonder if we could take a moment to look at this language.

I understand what the Senator means to say and understand that he means it said in conjunction with those two sentences. But the formation of it gives us some pause on this side; because, if you read it in the disjunctive, you say that the U.S. Navy is fully justified in sinking any other vessel known to have on board a citizen of the United States, and you do not mean to say that. You mean to sink any Iranian vessel which threatens the safe passage of any other vessel known to have on board a citizen of the United States.

Does the Senator understand what I am saying?

Mr. HELMS. No, with all respect, I do not.

I don't have any pride of authorship, but it seems to be clear language to me.

Mr. DIXON. I appreciate what the Senator says, but it is not quite that clear.

Mr. HELMS. Mr. President, notwithstanding that the yeas and nays have been ordered on the amendment, I ask unanimous consent that a modification suggested by the Senator from Illinois be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I send the modification to the desk, and I thank the Senator.

The PRESIDING OFFICER. The amendment is so modified.

The modified amendment is as follows:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessels known to have on board any citizen of the United States of America; provided, further, that this Section shall not in itself be construed as legislative authority for any specific military operation".

Mr. HELMS. I thank the Senator from Texas for his drafting suggestion. He has delineated the issues as No. 1 and No. 2. That should clarify any ambiguity.

Is the Senator from Illinois willing to yield back his time?

Mr. DIXON. I am delighted to say to the Senator that I support his amendment.

Mr. HELMS. I thank the Senator.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment as modified. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Washington [Mr. EVANS] and the Senator from New Hampshire [Mr. HUMPHREY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—4

Chafee
Harkin
Hatfield
Pell

NOT VOTING—5

Biden
Evans
Gore
Humphrey
Simon

So the amendment (No. 735), as modified, was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, how long does the distinguished Senator wish to speak?

Mr. THURMOND. About 10 minutes.

Mr. BYRD. Will the Senator allow me to try to get this unanimous-consent order entered first?

Mr. THURMOND. Yes.

Mr. BYRD. I thank the distinguished Senator.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease audible conversation. The Senate will be in order.

Mr. BYRD. Mr. President, in room 207, we have just had a meeting with the Republican leader, the two managers of the bill, several Senators who are authors of the amendments which they will call up, staff, and myself. I am ready now to present a unanimous-consent request covering amendments and time limitations thereto as indicated in room 207.

I shall begin and go down the list alphabetically.

Mr. BINGAMAN, one amendment, verification of funding/energy, 30 minutes equally divided.

I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. BRADLEY, one amendment, SSBN, which would be offered under certain circumstances, 1½ hours equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. An amendment by Mr. BOSCHWITZ, nuclear risk reduction, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. An amendment by Mr. BUMPERS, SDI architecture, 30 minutes equally divided. The SDI architecture must ensure equal protection for all States.

Let me go to the next amendment momentarily.

Mr. DOLE. Mr. President, the distinguished manager on this side temporarily left the floor and he knows about these amendments.

Mr. QUAYLE. Mr. President, can there be a little more explanation about what these amendments cover? Have Senator NUNN and Senator WARNER already done that? I was not at the meeting. I apologize for that. I think I know what the Bradley amendment is. I have a rough idea. I have no idea what the Bumpers amendment on SDI architecture is. Knowing my good friend from Arkansas, that can be all sorts of things.

I do not know if Senator WARNER and Senator NUNN have signed off on these, but I have no idea what they are.

Mr. BUMPERS. I will tell you what my amendment will do. It is one that says that the SDI must protect all States. There must be no discrimination between the protection of population centers by States.

Mr. BYRD. The next amendment is by Mr. BUMPERS. It would require a report by the Navy on the feasibility and desirability of developing a successor to the Trident submarine, 15 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. The next amendment on which I have a time limitation is by Mr. BUMPERS, a sense-of-the-Senate on conventional arms control, 30 minutes equally divided.

Mr. QUAYLE. I am for that. I have a lot to say about it, though.

Mr. BUMPERS. Mr. President, as far as I am concerned, 30 minutes equally divided is sufficient on that.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Thirty minutes equally divided on arms control? I object.

Mr. BYRD. An amendment by Conrad-Sasser, 30 minutes equally divided, on burden sharing.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. The two managers were there and so were the two leaders.

Mr. NUNN. If the majority leader will yield, by my last count, we have had over 40 amendments filed today. Anyone who wants to get a certification from the two managers that we know everything in these amendments must realize we have not even seen a lot of these amendments, but we do know the title and have some idea. If you are going to insist on our knowing every word of every amendment before we get unanimous consent, we will be here the rest of the night trying to do that.

Mr. QUAYLE. The only concern I have on burden sharing is that there are a lot of ways you can discuss burden sharing. The amendment is very provocative. In 30 minutes, it is very difficult to get any kind of debate at all on this issue. Maybe people will not have anything to say.

These are very substantive amendments and we are signing off at 15 or 30 minutes. Nobody knows what the amendments are.

Mr. NUNN. On those that are objected to, perhaps the Senator from Indiana can take a look at those.

Mr. BYRD. We will pass that for the present time.

Mr. D'AMATO, drug interdiction, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. DANFORTH, the Missouri National Guard, 30 minutes.

Mr. DANFORTH. Mr. President, I think we can take 10 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. DIXON, drug interdiction.

Mr. DOLE. Is that the same as the D'Amato amendment?

Mr. DIXON. It may be the same. I think 30 minutes equally divided.

Mr. BYRD. Mr. DIXON, special tooling and test equipment.

The PRESIDING OFFICER. Did the majority leader ask unanimous consent on the Dixon amendment, or is that part of the D'Amato amendment?

Mr. DIXON. Make it 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. DIXON, special tooling and test amendment, 5 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. DOLE has four amendments. I do not have anything as to time on any of them.

Mr. DOLE. I think I have also added a fifth praising the operation in the Persian Gulf, where we were able to dispose of that Iranian vessel. That will not take long. Thirty minutes equally divided. Another would require ratification of SALT before United States adheres to its limits. We would agree to a time limit if others would. Another amendment on oil embargo on Iran. Another regarding Soviet compliance with the SALT limits before United States complies with SALT II sublimits. And then a Persian Gulf amendment.

I do not think it would take an hour. Well, let us make it 40 minutes on each side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ADAMS. Reserving the right to object, I wanted to inquire of the Republican leader on this Persian Gulf amendment. We would like to be able to obtain a time limit on the total Persian Gulf amendments that he wishes to offer.

Mr. DOLE. These and all the others?

Mr. ADAMS. The one on the Persian Gulf. I want to ask if the Republican leader would like to get a total agreement.

Mr. DOLE. The majority leader might be able to work out a trade to drop them all.

I will try to work that out.

Mr. BYRD. Mr. DOMENICI has the National Laboratories amendment, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. DOMENICI, on superconductor, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. EVANS would require an independent review at Hanford, WA, DOE safety enhancements with a view of restarting the end reactor. That is 1 hour equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. EVANS, asbestos removal at Fairchild, 10 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Evans-Adams, add funds for environmental restoration at Hanford, WA, DOE complex, 20 minutes equally divided.

Mr. DIXON. That might take a little longer than that, Mr. Leader.

Mr. FORD. Mr. Leader, may I inquire of you on this, is this the nuclear depository situation as it relates to Hanford? We are getting out of the nuclear—out of the Department authorization, I think, and into the Energy Committee field here. On the previous amendment, I started to say something about that. I do not want to object if that is what you want to put on the bill. It is going to be vetoed anyhow. But I wonder if you wanted to get into the energy field.

Mr. ADAMS. Would the leader yield so I may respond to that?

Mr. BYRD. Yes.

Mr. ADAMS. I would say to the distinguished Senator from Kentucky: no, this is not to go into that. This is waste cleanup which is part of the defense bill. It has nothing to do with the overall total nuclear waste; it is simply to move forward with the defense authorization.

Mr. FORD. It is still in the jurisdiction of the Department of Energy and it is the Energy Committee and the chairman is not here. I just want to be sure we were protected.

Mr. ADAMS. There is a division between the Department of Defense and the Department of Energy. This is not the overall subject.

Mr. GLENN. Mr. Leader, if I might further ask, does this involve money? Is it specific funds for cleanup or a resolution?

Mr. ADAMS. It is a specific amount and funds for cleanup and it has been discussed previously in the committee and it is, I believe, cleared by members—I will have to rely on my colleague from Washington, my senior colleague.

Mr. BYRD. I think I should withdraw this request until Senator JOHNSTON is here, who is the chairman of the committee, if I may.

Mr. GLENN. Mr. Leader, reserving the right to object further—we put together some plans in the past, of course, to cover the whole weapons production program, going through the whole cycle, wherever it runs. This would not address the whole problem. It would just address a very specific problem at Hanford, is that correct?

Mr. ADAMS. That is correct. This is a waste cleanup.

I see now that the Senator from Louisiana is in the Chamber. This is the Evans amendment which I understand has proceeded through the committee, which is on waste cleanup alone. It is not in the overall subject.

The PRESIDING OFFICER. The Chair would remind the Senators that the majority leader controls the floor and you should ask him to yield prior to the time you speak.

The majority leader.

Mr. BYRD. Mr. President, I renew my request on the Evans-Adams amendment, that there be a time limitation thereon of 20 minutes, equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. On an amendment by Mr. EVANS and Mr. INOUYE, funds for Navy Port Everett, WA, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. On an amendment by Mr. GRAMM, Davis-Bacon, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. Leader, that agreement was on the condition that I could have an up or down vote.

Mr. BYRD. I cannot put that request at this time, Senator. I can only put the request as to time limitation. If you would like me to withdraw the request, I would.

Mr. GRAMM. On that basis, Mr. Leader, then I would like to withhold.

Mr. BYRD. All right.

On an amendment by Mr. GRAMM, service contract, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Does that have the same conditions?

Mr. GRAMM. The third does not. I could go with a motion on the third one.

Mr. BYRD. An amendment by Mr. GRAMM, stockpile, 1 hour equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. All right. Now, Mr. HARKIN, NSC advisory-military officers should not serve in this position, 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I reserve the right.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Is that the one: no military officer can serve as the Chief of the NSC?

Mr. CHILES. A prohibition that any military officer can serve——

Mr. WARNER. I am familiar with the amendment. There should be a rather lively debate and I suggest 30 minutes equally divided is a minimum.

Mr. CHILES. I would object to the time agreement on that.

Mr. BYRD. All right.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. Mr. HEINZ, intelligence related, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I withdraw that request.

The PRESIDING OFFICER. Yes.

Mr. BYRD. Mr. HEINZ, two amendments on shipbuilding, 30 minutes equally divided on each.

Mr. WARNER. Mr. President, on those amendments, if the amendments comport with statements made to me by the Senator from Pennsylvania, who spoke of them, I would think that that should take some time. I would suggest we should, perhaps, defer it until I can get a better idea.

Mr. BYRD. All right. I withdraw both of those. I withdraw both of those requests.

Mr. HOLLINGS, drug testing, 20 minutes equally divided, Mr. HOLLINGS.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, I reserve the right to object on that one. I think until we find a little bit more about that and have a chance to discuss it, I object to it.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. All right. Three amendments by Mr. HELMS, one on INF, 30 minutes equally divided?

The PRESIDING OFFICER. Is there an objection?

Mr. METZENBAUM. Reserving the right to object, could we have a little idea what that amendment is?

Mr. HELMS. I will read it to the Senator.

> It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missile Treaty of 1972.

Mr. METZENBAUM. I thank the Senator.

Mr. BYRD. Thirty minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, it may be that the majority leader would want to withhold on this because I will agree to almost any time limit, provided I get an up or down vote. I have been here all afternoon waiting to offer an amendment. If I have an up or down vote on it that will be fine, but I will let the majority leader name the time.

Mr. BYRD. I think I should withdraw the request for now and we will have an opportunity for the managers and the distinguished Senator to discuss on it before we put the request.

Mr. HELMS. That is fine. I thank the Senator.

Mr. DOLE. Would the Senator yield? There is a Kasten amendment, sense of the Senate, on Japanese trade with Vietnam. I see he has agreed to 20 minutes equally divided.

Mr. BYRD. Yes. I inadvertently overlooked that one at the beginning. I make that request: Mr. KASTEN, sense of the Senate, Japanese-Vietnam trade. Twenty minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. All right.

We go to page 3. Mr. KENNEDY, a study on carriers, 10 minutes equally divided.

I am sorry, I withdraw that request.

Mr. LAUNTENBERG, CHAMPUS payment for charitable hospitals, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, so ordered.

Mr. BYRD. Mr. LAUNTENBERG, religious apparel, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. LEVIN, strategic/reallocation to conventional, 40 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Hearing none, it is so ordered.

Mr. BYRD. Levin-Dixon, cut SDI, reallocate to conventional, 60 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. WILSON. Reserving the right to object.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Thank you, Mr. President. Reserving the right to object, can I have the majority leader restate that amendment?

Mr. BYRD. Perhaps Mr. LEVIN should do it or Mr. DIXON.

Mr. LEVIN. That amendment would reallocate approximately $400 million from SDI to conventional forces, similar to the one that was offered in the committee.

Mr. WILSON. Objection.

Mr. BYRD. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BYRD. All right, Mr. LEVIN, authorizing funds for centers of advanced technology, 10 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. DOMENICI. What was that again, Mr. Leader?

Mr. BYRD. Authorizing funds for centers of advanced technology.

Mr. DOMENICI. Whose amendment was that?

Mr. BYRD. Mr. LEVIN's.

Mr. LEVIN. We would expect to work it out. We would only offer it if we work it out.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Will the Senator yield?

Mr. BYRD. Yes; I yield.

Mr. DOLE. I thought there were two Levin amendments on reallocation.

Mr. LEVIN. The first one the leader got the time agreement on. We expect on that one there will be a substitute which will be worked out, on the first one.

Mr. BYRD. That would be 40 minutes equally divided. Would you like to revisit that one?

Mr. DOLE. No; that is fine.

Mr. BYRD. All right, Mr. MCCLURE, authorize two new production reactors, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. THURMOND. Mr. President, that could be a very sensitive matter. I do not know just how long it would take.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request. It is so ordered.

Mr. BYRD. All right; Mr. PROXMIRE, establish a commission on freedom on the Department of Defense press, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection?

Mr. DOLE. Mr. President, I understand that has been modified; a GAO study.

Mr. PROXMIRE. Modified to provide for a GAO study.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. QUAYLE, nuclear warhead for ATACKS.

Mr. QUAYLE. I may not offer it. I withhold on that. It may not be necessary to offer it. I have not had a chance to converse with the chairman of the Senate Armed Services Committee on that.

Mr. BYRD. Very well. Mr. QUAYLE, an INF agreement verification procedures, 1 hour equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, so ordered.

Mr. BYRD. Mr. QUAYLE, SDI report, 1 hour equally divided.

Mr. QUAYLE. That is a report that we have already had in there. I would not think that would take more than 10 minutes.

Mr. BYRD. All right, 10 minutes equally divided.

Mr. QUAYLE. I do not think there is any problem with that.

Mr. BYRD. Ten minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. QUAYLE, European troops. I do not have any time set for it here.

Mr. QUAYLE. Thirty minutes, or an hour equally divided.

Mr. NUNN. We find ourselves in the same position as the Senator from Indiana a while ago. I do not know what that amendment does.

Mr. QUAYLE. It will reaffirm the U.S. commitment to NATO. There will be some language—I have not finished drafting it—some language on what the troop levels should or should not be. But basically it is a reaffirmation post-INF zero-zero that we are committed to NATO in many ways. I just do not have the finished draft yet. He asked for an amendment. I said I would have an amendment in this area.

Mr. BYRD. Thirty minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. QUAYLE has an amendment on SALT.

Mr. QUAYLE. This will only be if in fact the Bumpers amendment would be adopted.

Mr. BYRD. Pardon me?

Mr. QUAYLE. This would only be if the Bumpers amendment would be adopted. I would probably have more than one SALT amendment, and that is just contingent upon that so I would just say there would be no necessity in offering that at this particular time.

Mr. BYRD. Mr. QUAYLE, an amendment on nuclear weapons programs.

Mr. COHEN. Could I inquire of the Senator from Indiana, if he was not in room 207, how these amendments were proposed?

Mr. QUAYLE. Pardon?

Mr. COHEN. I thought the Senator indicated he was not in room 207. I was wondering where these amendments emanated from.

Mr. QUAYLE. They emanated throughout the day. I talked to people. As they asked me if I had any amendments, I gave them a description of them. I presume that the efficient Republican staff we have indicated that Senator QUAYLE was to offer these amendments.

Mr. COHEN. The amendments were in 207 and the Senator was not.

Mr. QUAYLE. No. The amendments were here with the staff and the staff was over in 207 I think.

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I take it I do not propose any time limitation?

Mr. QUAYLE. That amendment is already incorporated in the INF resolution.

Mr. BYRD. Very well. All right, Mr. ROTH, base closure reform, 10 minutes equally divided.

Mr. WARNER. Mr. President, we are of the opinion that might not be offered but lets just reserve it.

Mr. DOLE. He has modified it to European bidding workload program.

Mr. WARNER. It is a different amendment.

Mr. BYRD. Yes. That has changed. European bidding workload program. All right, I make no request on that.

Mr. SHELBY, prohibition on sale of Toshiba products in military exchanges, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. DOLE. Mr. President, will the majority leader yield? Were there two Roth amendments, North Atlantic Assembly study on NATO, 10 minutes equally divided.

Mr. BYRD. Yes. I had the wrong line marked out. North Atlantic Assembly study on NATO, 10 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. SIMON, sense of the Senate regarding early SDI deployment. I do not have any time marked down for that one. I will go to the next one.

SPECTER-HEINZ-LAUTENBERG-BRADLEY, restore TAO fleet oiler ship, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. WALLOP, create strategic defense force, 2 hours equally divided.

Mr. WALLOP. Mr. Leader, I would say that for reasons still beyond my comprehension that continues to be characterized in that way. It does not create a strategic defense force. It assigns the Secretary of Defense the task of assigning the mission to defend the United States somewhere within the Armed Forces of the United States. It does not create a new force at all.

Mr. BYRD. Very well. Could we do with less time?

Mr. WALLOP. Probably not at the moment. I would try to work that out over the course of time, but at the moment I would prefer to leave it at that.

Mr. BYRD. Very well, 2 hours equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. WARNER, authorize the SDI Institute, 30 minutes equally divided; Mr. WARNER, DOE safety oversight, 30 minutes equally divided; Mr. WARNER, FEMA add-on, 30 minutes equally divided; Mr. WEICKER, special access programs, 30 minutes equally divided.

The PRESIDING OFFICER. Is there an objection to any of those requests? If not, without objection, it is so ordered.

Mr. COHEN. Mr. President, could I inquire, on the last amendment I was not clear. "Special access" means something different to the Armed Services Committee or to the Intelligence Committee than perhaps to health and education. Could I inquire as to what "special access" means in this context?

Mr. NUNN. I am informed by staff that this does not touch any intelligence activities. It is strictly Department of Defense.

Mr. COHEN. Could I inquire whether the chairman of the Armed Services Committee might entertain a motion that we abolish the Armed Services Committee and have 10 minutes equally divided on that?

Mr. NUNN. I say to the Senator from Maine, I have been talking to the majority leader long and hard about seeking another chairmanship, almost any one.

Mr. BYRD. Is that agreeable, 20 minutes equally divided.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. BYRD. Mr. WILSON, add funds for P-3's. He scratched that. All right.

Mr. WILSON, regarding M113A3 for Guard Reserves, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. WILSON, cost effectiveness at the margin, 1 hour equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. Wilson, shipboard IFF, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. Wilson, space launch recovery, 1 hour equally divided.

Mr. NUNN. Mr. Leader, I have to object to that one at this point in time. It is a very, very large program that is starting. I think there may be merit for it, but I am told it is a $5 billion program that is being requested as an amendment, as a long run. So I think we probably ought to have maybe an hour per billion dollars or something like that.

Mr. FORD. Mr. President, will the distinguished Senator, the majority leader, allow me to ask the chairman of the Armed Services Committee a question? Why are so many amendments from members of the Armed Services Committee? We have 15 or 20 right here tonight. Even the one who objected a while ago had 7 or 8. He was not even in the meetings that developed the amendments and the time agreements.

Mr. NUNN. I say to my friend that I will think about that overnight, and I will try to get an answer tomorrow after consulting with Members.

Mr. FORD. Even other committees, Energy and other committees, are being involved, and are putting them on the DOD authorization bill. I am willing to stay Saturday, and I think those who have been objecting to time agreements ought to be under the impression that Saturday is an all-day, right here. I am willing to start at 8 o'clock Saturday morning.

Mr. NUNN. I have to say, and my impression is based on this list, that we are going to have to stay much later this evening than I had anticipated, all day tomorrow, probably all night tomorrow night, and all day Saturday, and if the leader will consent, Sunday also. I see no other way to do it. We have had 40 new amendments today—40. We have handled 17, and we have gotten 40 new ones. [Laughter.]

Mr. BYRD. Mr. Wilson, Presidio Army Hospital, 1 hour equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. Wilson, military spouses, 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. An amendment by Mr. Johnston on bioenvironmental hazards research, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, reserving the right to object, will the distinguished majority leader restate the amendment?

Mr. BYRD. Yes. Johnston amendment on bioenvironmental hazard research, 10 minutes equally divided. Mr. Johnston is here, if he wishes to speak.

The PRESIDING OFFICER. The Chair heard no objection. Is there objection?

Mr. DOLE. I am reserving the right to object.

Mr. CHAFEE. What does that do, briefly?

Mr. JOHNSTON. It allocates within available funds the ability to do research on bioenvironmental hazards which are hazards created by the explosives and that sort of thing. I hope to get it cleared. If I do not get it cleared, I will not bring it up.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

Mr. BYRD. Mr. President, the agreements that have been entered into now will allow tabling motions because tabling motions were not excluded in any of the requests. Several of the requests were withdrawn. There were others which I had no indication because Senators did not attend the meeting, and therefore no indication as to what might be agreeable.

I could go over the remaining list which would lay it in the record.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. BYRD. Mr. Inouye, Fort Derussy, 10 minutes equally divided. He was there, and both managers were. So I put that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. Leader, I was managing on the floor, and thus was not at the committee meeting. But I have a small business amendment I am attempting to clear through Senator Bumpers and Senator Weicker. If it is not cleared, it might require 20 minutes equally divided. I hope to have it cleared so it is simply accepted.

Mr. BYRD. Mr. President, I ask unanimous consent that second-degree amendments to the amendments that have been agreed to not be in order.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, there was some concern expressed in S-207, at least on some amendments.

Mr. LEVIN. Mr. President, reserving the right to object, does this request apply only to those amendments where time agreements have now been ordered?

Mr. BYRD. Yes.

Mr. LEVIN. One other question, if I could, of the leader: Do I understand the intent tonight is to limit amendments to those which the leaders will enumerate?

Mr. BYRD. Hopefully. Or else there is just no end. This could go on and on and on.

Mr. METZENBAUM. Mr. President, is the distinguished majority leader aware of the fact that I have two amendments that I mentioned?

Mr. BYRD. Yes. I do not know how to proceed on those.

May I clear the other request first?

The PRESIDING OFFICER. Does the Senator from Kansas object to the request of the leader?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. What is the unanimous consent request?

I will have to object to that if that is applicable to my amendment, the three amendments which the Senator has not put in. We may get a time agreement.

Mr. BYRD. The request only pertains to those amendments on which we have already agreed as to time.

Mr. HELMS. I am obliged to object.

Mr. President, I have a total of four. All I am saying is that I regard the time agreement and those second-degree amendments as two separate and distinct matters, and the majority leader will include my three amendments as to the second-degree amendment. That is fine. Then we will work on the time agreement. I have no objection to time agreements.

Mr. NUNN. I say to the majority leader that perhaps we could get every amendment on the whole list, and do that, even those we have not gotten time agreements on. Maybe we could do everything in second-degree amendments through the whole list.

Mr. WARNER. Mr. President, it seems to me fair to announce an intention to do that. But there may be some Senators who are not listening at the moment.

Mr. LEVIN. Mr. President, reserving the right to object, I uderstand one of Senator Helm's amendments relates to the ABM Treaty, although I am not certain. If it does, I would like to reserve the right to offer a germane second-degree amendment to that. I do not know what is in it. I would like to reserve the right until I can read it.

The PRESIDING OFFICER. The Chair has not heard an objection to the unanimous consent.

Mr. HELMS. Yes. You did. You forgot it.

The PRESIDING OFFICER. Objection is now heard.

Mr. KENNEDY. Mr. President, will the majority leader yeild?

My BYRD. I yield.

Mr. KENNEDY. On the list of the Armed Services Committee there are three amendments which I offered. The one on the PRIMUS, which I believe will be agreed to, 10 minutes ought to be enough.

On the one dealing with the military facility, that can be 10 minutes.

The third deals with the aircraft carrier study, which I have given to the Senator from Virginia. I will be glad to enter into any time limit he would be agreeable to. I hope we can have a 30-minute limit on that one. I want to at least assure that those amendments will be included.

Mr. WARNER. I am confident that we can work our with the Senator from Massachusetts his wishes. He has spoken with this Senator.

Mr. BYRD. Let me see if I heard the Senator correctly. Ten minutes equally divided on the Watertown Army Lab MilCon; 10 minutes equally divided on PRIMUS/NAVCARE clinic funding; 30 minutes equally divided on the carrier study.

Mr. GLENN. Mr. President, reserving the right to object, this involves the carrier study?

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That completes the list of amendments on which I have indications as to time limitations.

Mr. METZENBAUM. Mr. President, there are two amendments: one has to do with the M-1A1 tank, 20 minutes equally divided; and one has to do with burdening, also 20 minutes.

Mr. GRAMM. What was the last one?

Mr. METZENBAUM. Burden sharing.

Mr. BYRD. I had a question a moment ago as to what that involved.

Mr. QUAYLE. What is burden sharing?

Mr. METZENBAUM. The amendment two other Members are offering having to do with the Europeans and Japanese picking up a greater share of the burden. I believe their amendment is a substantive amendment. Mine is a sense-of-the-Senate resolution in the same direction.

Mr. QUAYLE. If it is a sense-of-the-Senate resolution, I have no objection.

Mr. BYRD. That is burden sharing.

Mr. METZENBAUM. Burden sharing. The tank one is different.

Mr. BYRD. How much on the burden sharing?

Mr. METZENBAUM. Twenty minutes on each.

Mr. BYRD. Twenty minutes on each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. How much on the M-1A tank?

Mr. METZENBAUM. Twenty minutes.

Mr. BYRD. Twenty minutes equally divided.

The PRESIDING OFFICER. Without objection, if is so ordered.

Mr. BYRD. Mr. President, an amendment by Mr. Sasser—this has just been handed to me—on section 801-802 housing program, 10 minutes equally divided.

Mr. WARNER. Mr. President, is the Senator from Tennessee present on the floor?

Mr. DIXON. May we ask what that amendment is?

Mr. BYRD. I temporarily withdraw that request, until we find out more about the amendment.

Mr. KERRY. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. KERRY. While I understand that you are only propounding this request as to those amendments on which you have a time agreement at this moment, I inquire what the process will be and how we might proceed to at least get cloture as to the number of amendments, even though we cannot get time agreements on them.

Mr. BYRD. I was going to state the remaining amendments on the list which I have not presented for time agreements and then try to get consent that that is all. There would be no more amendments, other than those have been listed.

We had, I believe, two amendments from Mr. Heinz and passed those over.

Mr. HEINZ. Mr. President, I only need two of those amendments, one on intelligence activities and one possible amendment regarding a shipbuilding program.

Mr. BYRD. Without Mr. Boren or Mr. Cohen, I would hestitate to put the request on an amendment that is intelligence related.

On the shipbuilding amendment, Mr. Heinz indicates 30 minutes equally divided, does he?

Mr. Heinz has only one shipbuilding amendment, rather than two.

Mr. WALLOP. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. WALLOP. Do I correctly understand that what the leader is attempting to do is to limit the amendments to what will be listed?

Mr. BYRD. To those that are listed.

Mr. WALLOP. There are some of us who have serious reservations about doing that, until we see the outcome of the Bumpers amendment or the outcome of the War Powers amendment.

I would really like to get on with this thing, but there is an honest difference of opinion that might require additional amendments.

Mr. NUNN. I suggest to the Senator from Wyoming that on those big amendments, and they are big and they are important, perhaps we could have a reservation of two amendments on each of them, depending on whether they pass, to be under the auspices of the minority leader, and the amendments would have to have germaneness to that subject. Then we would build in possibly two amendments to each of those, and to somehow close this list out.

Mr. WALLOP. I would like to cooperate on this thing. I am as tired as the majority leader and the chairman of the committee. But I would hate to foreclose options on those two items, were they to succeed.

Mr. NUNN. Even three amendments. I am trying to get some way to close this thing out.

Mr. WALLOP. It is really impossible. I think the Senator from Georgia understands that it is really impossible to know what tactic would be most available and most attractive to pursue. If you just exempt those two on that basis, I would be perfectly willing to try to do that. That would be fine, if we could exempt those two and say that if those two are adopted, there would be no other amendments in relation to that.

Mr. NUNN. In relation to that. I would say that would be real progress.

Mr. WALLOP. If the majority leader will agree to that.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Objection to what?

Mr. BYRD. There has not been any request.

The PRESIDING OFFICER. The Senator will state the unanimous-consent request.

Mr. BYRD. I did not, I say most respectfully to the Chair. I think I was responding to a question from Mr. Kerry.

The PRESIDING OFFICER. The Chair is having some difficulty hearing. The Senate will be in order. Senators will cease audible conversation. It is difficult to hear.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I wonder if it might be possible, while we have the master lists worked on by both sides for 2 or 3 days—and we cannot get time agreements on some—is there some way we could agree that the amendments that the majority leader has listed and some others we skipped over would be the only amendments in order, and then the two exceptions would be any War Powers amendments or any SALT amendments?

Then at least you have some limits so the staff did not wake up in the middle of the night and draft some more amendments because they cannot sleep.

Mr. BYRD. I have had some requests passed to me.

Mr. DOLE. I know we had three right here.

Mr. WARNER. They are about to come.

Mr. BYRD. Mr. President, I like what the Republican leader suggested. I was going to read the request.

Mr. HELMS. It is difficult to hear the distinguished majority leader, as close as I am to him. Could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair.

Mr. BYRD. Mr. President, I thank the Chair and the able Senator from North Carolina.

I intended to read the list of the remaining amendments on which we have not presented any time agreements and see if we could get agreement that that be all, and I like the Republican leader's suggestion.

If other Senators are agreeable with the Republican and Democratic leaders just submit their list.

As a matter of fact, the list is what I have been working from and the remaining amendments on the list will just be all we will entertain, and we are not setting any time limit on them at the moment, but we say that is the complete list of amendments and no more.

Mr. DOLE. That is it.

Mr. McCLURE. Except those two exceptions.

Mr. BYRD. Except those two exceptions. I make that request.

Mr. HOLLINGS. You make a point; you go ahead and make any request.

Mr. BYRD. Yes. Mr. HOLLINGS has an amendment on drug testing, and he would agree to 1 hour equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, there is what we call the ATACKS amendment which had been on the list, dealing with nuclear tip warheads on artillery shells. If we could have a half-hour on that I think we could probably work that out. That would be listed as my amendment. Others have put it in. But if we could just be sure that is on the list. Hopefully we can work that out.

Mr. BYRD. It is not on the list.

Mr. WARNER. If I could address the leader.

Mr. BYRD. Could I proceed with this request first?

Mr. WARNER. Kennedy's, absolutely.

Mr. KENNEDY. A half-hour—I think we could probably do it in 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Mr. President, reserving the right to object, I have earlier said on that ATACKS amendment I was thinking about offering, had indicated I wanted to reserve the option to offer, after conferring with the chairman of the Armed Services Committee I did not think it would be necessary.

Mr. KENNEDY. Hopefully it will not. I think, hopefully, we can work it out.

Mr. QUAYLE. What is your amendment, a prohibition?

Mr. KENNEDY. Against nuclear tip warheads.

Mr. QUAYLE. Even the study?

Mr. KENNEDY. We continue the moratorium we had.

Mr. QUAYLE. The issue is the study of it.

Mr. KENNEDY. It permits studies.

Mr. QUAYLE. It permits the study. I do not think we are going to have a problem on it. I would not object. The Senate Armed Services Committee chairman is talking. It is not precluding the study of dual capability. I have no objection.

The PRESIDING OFFICER (Mr. WIRTH). The Senate will be in order. The unanimous consent is for a half-hour. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished leader.

I ask for three brief amendments on behalf of the Senator from Arizona [Mr. McCAIN] not to exceed 15 minutes, an amendment relating to Indian contracting; on behalf of myself, a contract relating to the morale, welfare and recreational funds not to exceed 30 minutes; and on behalf of Senator GRAMM not to exceed 20 minutes an amendment dealing with the alcoholic beverage sales on military bases.

Mr. FORD. Mr. President, I want to object to the third.

Mr. BYRD. Mr. President, the distinguished ranking manager was listing some amendments. I was distracted. The distinguished manager was distracted. Would he repeat those?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WARNER. I thank the majority leader. I shall be brief.

On behalf of the Senator from Arizona, an amendment not to exceed 15 minutes equally divided on Indian contracting; on behalf of myself not to exceed 30 minutes on the issue of morale, welfare, and recreational funds; on behalf of the Senator from Texas not to exceed 20 minutes an amendment relating to alcoholic beverages on military bases.

Mr. FORD. Mr. President, I have talked with the Senator from Texas about the third one there.

Mr. WARNER. Let us take the first two. Could we note the existence without fixing a time agreement on the third one?

Mr. FORD. Yes, and maybe we can work it out.

The PRESIDING OFFICER. Is there objection on the first two amendments? Without objection, it is so ordered.

The majority leader.

Mr. BYRD. Would the Chair put the request on the first two?

The PRESIDING OFFICER. On the first two there was no objection.

Mr. BYRD. I thank the Chair.

Mr. CHAFEE. Mr. President, I would ask——

Mr. WARNER. That requested third amendment goes on the list.

Mr. BYRD. The third amendment goes on the list. I yield.

Mr. THURMOND. I believe I had the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. We will not have any falling out. Does the Senator want me to yield to him at the moment?

Mr. THURMOND. Yes, I want to get the floor for a few minutes.

Mr. BYRD. Yes. May I finish with the remaining few?

Mr. THURMOND. I thought the Senator was through.

Mr. CHAFEE. I wish to make a request. I have one coming in dealing with the Rhode Island National Guard. I am not sure I am going to submit it, but if I do, I would agree to a 20-minute time limit if the manager will agree to it. If he does not agree to that time limit, that would be all right.

Mr. NUNN. Let us go ahead and get that one.

Mr. BYRD. All right, 20 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. QUAYLE. I have one dealing with a missile proliferation report.

Mr. BYRD. One dealing with a report on missile proliferation, 5 minutes equally divided.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that those amendments that have been listed constitute the entirety of the amendments that may be called up with the exception of the two exceptions.

Mr. HELMS. Mr. President, reserving the right to object, what happened to the other three amendments?

Mr. BYRD. They are included. They are on the list.

Mr. HELMS. I just want to be careful.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that those amendments which have been listed and on which time agreements have been entered and those amendments on which time agreements have not been entered but which are listed, including technical amendments which the managers may have to offer, with the exception of the two exceptions, constitute the list of the amendments in their entirety which would be offered to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, reserving the right to object, and I think this is precisely what we need to do, but this does not in any way pertain to any war powers amendments or SALT amendments.

Mr. McCLURE. That is correct.

Mr. BYRD. That is right.

The PRESIDING OFFICER. With those two exceptions I believe by the majority leader.

Mr. BYRD. Yes.

Mr. WARNER. The exceptions are war powers and SALT.

The PRESIDING OFFICER. The majority leader propounded the request.

Mr. LEVIN. Reserving the right to object.

Mr. HELMS. The Senator did say three amendments?

Mr. BYRD. Yes, the Senator's three amendments that are on the list.

Mr. HELMS. I cannot hear. The Senator said three, and that is correct.

Mr. BYRD. Yes, three amendments.

Mr. HELMS. I thank the Senator.

Mr. LEVIN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. LEVIN. If the majority leader will yield for a question, does this now preclude second-degree amendments to the amendment which had been listed?

Mr. BYRD. Mr. President, this is the list of amendments, period. If those amendments are not on this list they cannot be offered first-degree or second-degree.

Mr. LEVIN. I would like to then reserve an amendment to a Helms amendment on ABM which I understand is one of the three. I have not had an opportunity to read it but I do believe one of the three amendments of my friend from North Carolina relates to the ABM. I would then like to reserve the right to offer a second-degree amendment.

Mr. HELMS. That suits me fine. I would like to reserve the same right as to the second-degree amendment of ABM.

Mr. LEVIN. I do not have one.

Mr. WILSON. Point of parliamentary inquiry.

Mr. LEVIN. I have no objection.

The PRESIDING OFFICER. The majority leader has propounded a unanimous-consent request. Is there objection?

Mr. WILSON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from California reserves the right to object.

Mr. WILSON. Mr. President, let me inquire of the distinguished majority leader, there has been so much discussion frankly I am not clear exactly what is being proposed here. He is now offering an agreement that relates to those amendments on which there has been no time agreement, is that correct?

Mr. BYRD. Yes, they are listed. They may be called up. There is no time agreement on them.

Mr. WILSON. All right. I have a request for one addition.

Mr. BYRD. Will the Senator identify it?

Mr. WILSON. Yes. It would be a Defense Intelligence Agency manpower exemption amendment. I would be agreeable to a time agreement, but I do not believe the other side will.

Mr. BYRD. We will add that to the list.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request?

Mr. BYRD. Can we foreclose this? I see notes coming in on both sides.

Mr. LEVIN. I was wondering if I could find out, is the second-degree amendment then on the list to the Helms amendment?

Mr. DOLE. There is no limitation on the Helms amendment.

Mr. BYRD. I said there would be no other amendment.

Mr. LEVIN. I would ask the second-degree amendment to the Helms amendment be added to that list.

Mr. BYRD. Why does not the Senator just add an amendment and not make it a second-degree amendment? Because if you get to asking for second-degree amendments, you unravel the whole thing.

Mr. NUNN. I would suggest to our colleague from Michigan that he simply list an amendment that would be related to ABM.

Mr. LEVIN. I would be happy to do it that way.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Ohio reserves the right to object.

Mr. GLENN. Reserving the right to object, I just want to get more detail on what Senator WILSON talked about on defense manpower. What was the time limit you asked for?

Mr. BYRD. There is no time limit.

Mr. GLENN. OK; fine.

The PRESIDING OFFICER. Is there objection? The Chair hears none and it is so ordered.

Mr. BYRD. Happy day.

The text of the agreement follows:

Ordered, That during the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, the following amendments be the only amendments in order, and that where time agreements are listed, the time be equally divided and controlled in the usual form, and that the amendments be first degree amendments and that no amendments be offered in the second degree: Provided, That there be no limitation on the number of amendments that may be offered relating to SALT or to War Powers:

Bingaman—Verificaton funding/energy, 30 minutes.

Bingaman—Kennedy—NSF.

Bradley—U.S. undertake all SSBN overhauls on schedule no funds in this or any other bill shall be used to dismantle any SSBN before 30 years service, 1½ hours.

Bradley—U.S. missile dismantlement.

Boschwitz—Nuclear risk reduction center, 30 minutes.

Bumpers—Establish 6-month sunset provision on reflagging Kuwaiti ships.

Bumpers—Any SDI architecture must ensure equal protection for all states.

Bumpers—Require a report by Navy on feasibility and desirability of developing successor to Trident submarine, 15 minutes.

Bumpers/Leahy—SALT subceiling compliance.

Bumpers—Sense of Senate on convention arms control.

Byrd—3 amendments.

Byrd—Morgantown Air Force Reserve.

Chafee—Rhode Island National Guard, 20 minutes.

Conrad/Sasser—Burdensharing.

D'Amato—Drug interdiction, 30 minutes.

Danforth/Bond—Fort Leonard Wood—silicon add.

Danforth—Funds for Missouri National Guard, 10 minutes.

Dixon/Bumpers—Small business.

Dixon—Drug interdiction, 30 minutes.

Dixon—Special tooling and test equipment, 5 minutes.

Dodd—Terminate economic/military aid to Panama.

Dodd/Weicker—Prohibit any assistance to Contras.

Dole—Persian Gulf, praise of operation.

Dole—Require Senate ratification of SALT before U.S. obliged to adhere to its limits.

Dole—Oil embargo on Iran.

Dole—Require Soviet compliance with all SALT limits before U.S. comply with SALT II limits.

Dole—Persian Gulf.

Domenici—National Laboratories, 30 minutes.

Domenici—Superconductor, 30 minutes.

Evans—Require an independent review at Hanford, WA, DOE safety enhancements with view to restarting the end reactor, 1 hour.

Evans—Asbestos removal at Fairchild, 10 minutes.

Evans/Adams—Add funds for environmental restoration at Hanford, WA, DOE complex, 20 minutes.

Evans/Inouye—Funds for Navy Port, Everett, WA, 30 minutes.

Gramm—Davis/Bacon.

Gramm—Service contract.

Gramm—Stockpile, 1 hour.

Gramm—Alcohol beverage sale on military bases.

Harkin—NSC advisory-military officer should not serve in this position.

Heinz—Intelligence related.

Heinz—Shipbuilding, 30 minutes.

Helms—INF.

Helms—ABM.

Helms—Persian Gulf.

Helms—State Dept. Americanization.

Hollings—Drug testing, 1 hour.

Inuoye—Fort DeRussy, 10 minutes.

Johnston—Secretary of Defense draw up oil supply contingency.

Johnston—Bio-environmental hazard research, 10 minutes.

Kasten—Sense of the Senate, Japanese/Vietnamese trade, 30 minutes.

Kennedy—Carriers study, 30 minutes.

Kennedy—Restore PRIMUS/NAVCARE clinic funding, 10 minutes.

Kennedy—Watertown Army lab milicon, 10 minutes.

Kennedy—ATACKS, 30 minutes.

Lautenberg—CHAMPUS payment for charitable hospitals, 30 minutes.

Lautenberg—Religious apparel, 1 hour.

Levin—Cuts strategic/reallocate to conventional, 40 minutes.

Levin—Authorizing funds for centers of advanced technology, 10 minutes.

Levin—ABM.

Levin—Cuts strategic/reallocate to conventional.

Levin/Dixon—Cut SDI, reallocate to conventional.

Metzenbaum—M1A1 tank, 20 minutes.

Metzenbaum—Burdensharing, sense of Senate, 20 minutes.

McCain—Indian Contacting, 15 minutes.

McClure—Authorize 2 new production reactors, 30 minutes.

Nunn-Warner—Technical amendments.

Nunn—2 MAF amphibious lift requirement.

Proxmire—Sense of Congress on early deployment of SDI.

Proxmire—GAO study, 20 minutes.

Quayle—Nuclear warhead for ATACKS.

Quayle—INF, 1 hour.

Quayle—SDI report, 10 minutes.

Quayle—European troops, 30 minutes.

Quayle—SALT.

Quayle—Missile proliferation, 5 minutes.

Roth—Base closure reform.

Roth—European workload program.

Roth—North Atlantic assembly study on NATO, 10 minutes.

Sasser—801, 802 housing.

Shelby—Prohibition on sale of Toshiba products in military exchanges, 20 minutes.

Simon—Sense of Senate regrading early SDI deployment.

Specter/Heinz/Lautenberg/Bradley—Restore TAO fleet oiler ship, 30 minutes.

Wallop—Assign strategic mission within the armed services, 2 hours.

Warner—Contact on morale/welfare/recreational funds, 30 minutes.

Warner—Authorize SDI institute, 30 minutes.

Warner—DOE safety oversight, 30 minutes.

Warner—FEMA add-on, 30 minutes.

Weicker—Special access programs, 20 minutes.

Weicker—War Powers.

Wilson—Regarding M113A3 for guard/reserves, 20 minutes.

Wilson—Cost effectiveness at the margin, 1 hour.

Wilson—Shipboard IFF, 10 minutes.

Wilson—Space launch recovery.

Wilson—Presidio army hospital, 1 hour.

Wilson—Military spouses, 30 minutes.

Wilson—Strike Levin/Nunn language.

Wilson—Defense intelligence manpower exemption.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

TRIBUTE TO JUDGE EMORY M. SNEEDEN

Mr. THURMOND. Mr. President, I regret to announce that today Judge Emory M. Sneeden passed with cancer at Duke University at Durham, NC.

He was a remarkable man. He was a friend of most of the Senators here and I wish to take about 12 minutes to pay tribute to him.

He was born in Wilmington, NC, and educated at Wake Forest, including a law degree. He had a certificate from the Hague Academy of International Law and was a graduate of the Graduate School of Business at the University of Pittsburgh.

He married Margie Carden of Columbia, SC, and they have two children, a daughter, Sharon Sneeden Clapper, and a son, David Michael Sneeden, and a number of grandchildren.

Mr. President, Judge Sneeden was one of the finest men I have ever known. He served his country well in war. He served it well in peace. He had a remarkable military record.

He entered the U.S. Army as a private in World War II and served in a parachute field artillery battalion in the Pacific. He was a gunner in a parachute field artillery battalion, battery commander, and company commander. Then he returned to private life.

He returned to active duty during the Korean war. He served in Korea and Vietnam during the conflicts in those countries. He transferred from infantry to the Judge Advocate General's Corps, following the war in Korea. He was a defense counsel and prosecutor in the Judge Advocate's Corps.

After graduation from the U.S. Army War College in 1970, he served as personnel chief of the Judge Advocate General's Corps and later as executive to the Judge Advocate General of the Army. He was promoted to brigadier general while serving as senior counsel to the Commander XVIII Airborne Corps, Fort Bragg, NC. He was appointed Chief Judge of the Army and retired from that position in 1975.

A remarkable record.

He was awarded three Legion of Merits, the Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, and 18 other medals and awards.

Mr. President, in addition to his outstanding military record, he served will in civilian life. Here in Washington, he served as legislative assistant and adminsistrative assistant in my office and performed in a most competent manner.

He has written many legal papers and he was much in demand as a speaker. He spoke at the Harvard Law School and the School of Government there and many other places.

On the Judiciary Committee of the U.S. Senate, he served as minority counsel to the Republicans and as chief counsel to the full committee.

He served as an associate dean and lecturer in law at the University of South Carolina Law School.

He was a partner in the McNair Law Firm and he served as a U.S. Circuit Judge for the Fourth U.S. Circuit.

Mr. President, this was a man for all seasons. He was a man of unquestioned character and integrity. He was a man of great courage—physical courage on the field of battle, moral courage in civilian life; a man of great capacity and ability, and yet a man of tremendous compassion.

He was a fine gentleman, a true patriot, a brave soldier, and a loyal friend.

Most of the Senators here knew him and admired him.

In my opinion, no one has ever served on the staff of a U.S. Senate committee who was more able, more dedicated, more sincere and loved his country more than Judge Sneeden. I was very proud to claim his fine friendship.

He performed nobly in time of war and he performed nobly in time of peace. We all are very proud of him.

I wish to extend my deepest sympathy to his lovely wife, Margie, and his daughter, Sharon Sneeden Clapper, and to his son, David Michael Sneeden, and to his grandchildren.

I ask unanimous consent that a full biography of Judge Sneeden be printed in the RECORD.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

JUDGE EMORY M. SNEEDEN

Home Address: Columbia, South Carolina.

Office address: The McNair Law Firm, PA, Attorneys and Counselors At Law, Eighteenth Floor, Bankers Trust Tower, Post Office Box 11390, Columbia, South Carolina. Washington office: 1155 Fifteenth Street, NW., Washington, DC.

Personal data: Birth Place: Wilmington, North Carolina. Date of Birth: May 30, 1927. Marital Status: Married to Margie Carden Sneeden. Children: Sharon Sneeden Clapper and David Michael Sneeden and a number of Grandchildren.

Education: Wake Forest University, B.S. degree, 1949. Wake Forest University School of Law, J.D. degree, 1953. Certificate, The Hague Academy of International Law, The Hague, Netherlands, 1961. Graduate, Management Program for Executives, Graduate School of Business, University of Pittsburgh, Pittsburgh, Pennsylvania, 1972.

Experience:

From 1975 until March, 1977, served as Legislative Assistant and Administrative Assistant to U.S. Senator Strom Thurmond. During the same period specialized in Antitrust Legislation and served as Senator Thurmond's counsel on the Antitrust and Monopoly Subcommittee, Committee on the Judiciary, U.S. Senate.

Appointed by Senator Thurmond in March, 1977, on his becoming Ranking Minority Member on the Committee on the Judiciary, to the position of Minority Chief Counsel and Staff Director, Subcommittee on Antitrust and Monopoly and to the position as Chief Minority Counsel to the Full Committee. In 1981, when the Republican Party became the majority party, served as Chief Counsel, Committee on the Judiciary.

August, 1978-April 1982, Associate Dean and Lecturer-in-Law, School of Law, University of South Carolina, Columbia, South Carolina.

On leave 1979-81, served as Chief Minority Counsel and later as Chief Counsel, Committee on the Judiciary, U.S. Senate.

Partner in the Columbia, South Carolina Law Firm of McNair Glenn Konduros Corley Singletary Porter & Dibble, PA, since 1982.

Military service:

Entered the U.S. Army as a private in World War II and served in a parachute field artillery battalion in the Pacific. Returned to active duty during the Korean war. Served in Korea and Vietnam during the conflicts in those countries. Transferred from Infantry to the Judge Advocate General's Corps, following the war in Korea.

Gunner in a parachute field artillery battalion, Battery Commander, Company Commander, Defense Counsel and Prosecutor. After graduation from the U.S. Army War College in 1970, served as personnel chief of the Judge Advocate General's Corps and later as the Executive to the Judge Advocate General of the Army. Promoted to brigadier general while serving as senior counsel to the Commander XVIII Airborne Corps, Fort Bragg, North Carolina. Appointed Chief Judge of the Army and retired from that position in 1975.

Awards: The Legion of Merit (3 times), Air Medal, Senior Parachute Badge, Republic of Vietnam Parachute Badge, 18 others.

Memberships: Member of the bars of the Supreme Court of South Carolina, (1953); United States Court of Military Appeals, (1956); United States Supreme Court, (1959) and the United States Army Court of Military Review, (1971). Member of the Board of Trustees, Fork Union Military Academy, Fork Union, Virginia, since 1976. Member of the Founders of The Strom Thurmond Center, Inc., Clemson University, Clemson, South Carolina, since 1981.

Recent publications: "Standing of Foreign Governments to Bring Antitrust Suits: Congress Responds to Pfizer v. India", 19 Harvard Journal on Legislation, 253-285, 1982 (Co-Author). "Illinois Brick—Do We Look To The Courts or Congress"? XXIV The Antitrust Bulletin, 205-231, (Summer 1979). "Prepared statement" filed with the Committee on Judiciary when appearing as a witness reference the Proposed Amendments to the Clayton Act Hearings on S. 300, The Antitrust Enforcement Act (Illinois Brick), 96th Congress, 1st Session, reprinted in the Congressional Record, S. 3837-S.3838 daily ed., April 2, 1979. "Oil and Coal A Political Football", Guest Column, Swann Oil Energy Digest, Volume 3, Number 22, November 15, 1978.

Recent major speaking engagements:

Member of Panel American Enterprise Institute with David Cortright and the Honorable Melvin Laird, moderator, Mr. Cortright contended that soliders, sailors, marines and uniformed air force personnel should unionize. I took the opposite view. Washington, D.C., 1977.

Dinner speaker, American National Standards Institute 60th Anniversary Evaluation and Forecast. "The Congressional Counsel and a Look Into the Future", Washington, D.C., 1978.

Seminar speaker, The Brookings Institute, Seminar for Business Executives, "The Congressional Counsel", Washington, D.C., 1980, 1981.

Seminar Faculty Member, The World Trade Institute at The World Trade Center, Seminar: Antitrust Compliance For The Multi-national Company, "Current Legislative Developments Concerning Antitrust", New York, New York, 1981.

Guest Lecturer, all General Counsel, member companies, Grocery Manufacturers of America, Arlington, Virginia, 1981.

Seminar speaker together with Judge Stephen Breyer, 1st U.S. Circuit Court of Appeals, Harvard University, School of Law and the Harvard University, School of Government, "The Committee on the Judiciary, U.S. Senate, Past and Future", Cambridge, Massachusetts, 1981.

U.S. Senate staff:

Legislative initiatives, which required major staff work on my part: Labor Law Reform Act; Prohibition to Unionization of the Military; The Hart, Scott, Rodino Antitrust Improvements Act; The Antitrust Enforcement Act of 1978; Horizontal and vertical divestiture proposals addressing the petroleum industry 1977 and 1978; The Criminal Code; The Soft Drink Bottlers Bill; The Antitrust Procedural Improvements Act of 1979 and others.

Commended by letter for legislation, nominations and other staff work by the following U.S. Senators: Strom Thurmond, Max Baucus, David L. Boren, Robert Dole, J. James Exon, Barry Goldwater, Howell Heflin, Patrick J. Leahy, Richard G. Lugar, Charles McC. Mathias, Jr. and Howard M. Metzenbaum.

Commended in 1980 in the Congressional Record for legislative staff work by the following Senators: Strom Thurmond, Birch Bayh and Dennis DeConcini.

Commended for service as Chief Minority Counsel by Resolution unanimously passed by the Committee on the Judiciary United States Senate, 96th Congress, 2d Session, October 4, 1980.

Mr. HOLLINGS. Will the Senator yield?

Mr. THURMOND. Mr. President, I yield to my distinguished colleague, Senator HOLLINGS.

Mr. HOLLINGS. Mr. President, I want to join in the sentiments expressed by my senior colleague. The loss of Emory Sneeden is a tragedy and I extend my deepest sympathy to the family.

I have known Emory as an outstanding and distinguished judge, as the highly competent staff director at the Senate Judiciary Committee, and as a fine friend and thoughtful and caring husband and father to his wife and family.

Emory prided himself on his integrity and thoroughness—and the highest quality of work on any job he encountered. Many of my Democratic colleagues on the Judiciary Committee would often comment to me on how fair Emory treated them in every respect—and how he saw no difference in responding to the concerns of the majority and minority alike.

His time on the bench was equally distinguished—a facts that Senate THURMOND and I are especially proud of.

Again, I wish to extend my sympathies to Emory's family and let them know that we have all last a man that was a fine and decent friend.

Mr. President, I intend to have more extensive remarks tomorrow. But I did want to join my colleague tonight in expressing regret for this tragic loss.

I thank the distinguished Senator.

Mr. KENNEDY. Will the Senator yield?

Mr. THURMOND. I now yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, Judge Sneeden represented the minority at the time when I was chairman of the Judiciary Committee. But he did not represent just the minority, he represented the finest traditions of the Judiciary Committee. Through his work and others, it made the workings of that committee one of the most constructive and productive committees.

Judge Sneeden was an invaluable help to not only the minority, but I think all of the members of the majority also felt he was an invaluable help to them.

I acknowledge, as the Senator from South Carolina has, his extraordinary service in time of war, in time of peace, as a member of a legislative staff serving the Senate, and also as a very distinguished member of the judiciary.

I, too, join with the distinguished Senator from South Carolina in extending my condolences to the members of the family and to say that this was an extraordinary individual and this institution was better served because of his service.

Mr. THURMOND. I thank the able Senator from Massachusetts. I now yield to the able minority leader.

Mr. DOLE. Mr. President, many of us had the opportunity, at least this Senator did, know Emory Sneeden quite well. I can see him seated next to Senator THURMOND right now in this Chamber.

He was a friend. He was courteous. He was kind. He was a gentleman. He will be missed by all of us. He was never looking for anything but how to serve the Senate and how to serve the distinguished Senator from South Carolina.

I certainly want to join in expressing my sympathy to his wife, Margie, and to his children and grandchildren. I want to express my appreciation for the many, many hours of service that this man has given to this country.

Mr. THURMOND. I thank the able minority leader.

I now yield to the distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, I thank my freind from South Carolina.

Obviously, I share the sentiments of the sadness eloquently expressed here this evening about Emory. At a later time, I will amplify on these remarks, but at the present time I will simply say that I do share in the sadness which I know will be expressed later on by all who knew him.

He was a great American. He loved this country faithfully, and he served it faithfully in time of war and peace. He was a role model for a lot of people. He set examples that we all ought to follow. Everything he did from leadership in combat to steady and sound judgment in the Fourth Circuit Court of Appeals was a mark of greatness.

Most of us here knew him best as chief counsel of the Committee on the Judiciary, and particularly his unfailing courtesy and exceptional intellect in dealing with the many difficult and controversial matters that came before that committee.

In short, Mr. President, I am thankful for his life, grateful for the opportunity of having known him, and will sorely miss the warmth of his friendship.

Mr. THURMOND. I thank the distinguished Senator from North Carolina.

Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks of our distinguished colleague from South Carolina. It was my privilege also to know the judge and to work with him.

During the years when I was with the Department of Defense, I came many times to visit my distinguished colleague.

Emory Sneeden was a Southern gentleman in the true meaning of that word.

Mr. THURMOND. I thank the distinguished Senator from Virginia.

Mr. SIMPSON. Mr. President, I want to say a swift word about Judge Emory Sneeden. Others have paid tribute to him. My tribute will be short.

He was a dear man. I met him first when I came to this place. He served Senator THURMOND as his chief of staff and counsel. He was very kind to me and very helpful to me as I took on my duties as chairman of the Subcommittee on Immigration and Refugee Policy.

I heard Senator KENNEDY speak a few moments ago about him. Senator KENNEDY was the ranking member and I was the chairman of the Immigration and Refugee Policy Subcommittee. Emory Sneeden was just as supportive and helpful to one as the other. He was a person I shall never forget. He was very kind to me and very supportive. He was very much a counsel in every respect.

I send my sympathy to his wife and children.

Mr. HATCH. It is with a great deal of sadness that I note the passing of a great friend and patriot Emory Sneeden. Emory was one of the finest people who ever served on the Hill and for our country. He was always a gentleman, a friend, a patriot, a family man, and a moral force for good. I'm so happy I had the privilege of knowing him. His life was a great one. He made a difference. He lived for the benefit of all of us. I can remember many times when he took the time to help this Senator as a member of the Judiciary Committee and as a U.S. Senator.

I express my sincere condolences to his good wife, children and grandchildren.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

Mr. DIXON. Mr. President, I am prepared to send another amendment to the desk but my friend from Rhode Island asks that I yield to him for a brief statement.

Mr. CHAFEE. I thank the distinguished Senator from Illinois.

EXPLANATION OF A VOTE

Mr. CHAFEE. Mr. President, in the last rollcall vote which we had on an amendment by the distinguished Senator from North Carolina, in which it said it was the sense of the Senate that the U.S. Navy is fully justified in sinking any Iranian vessel which threatens the safe passage of any American warship, with that portion of the resolution I completely agree. I voted no on the resolution because of the following section. I just want to make it clear publicly that I support what our Nation and our Navy did in the Persian Gulf the other day. My only reason for voting against this resolution was the second part, which I did not feel was appropriate.

I thank the distinguished Senator.

AMENDMENT NO. 736

(Purpose: To provide for the payment of the cost of production special tooling and production special equipment)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. STEVENS, and Mr. GRAMM, proposes an amendment numbered 736.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) TREATMENT OF PAYMENT.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) RIGHT OF UNITED STATES TO SPECIAL TOOLING AND TEST EQUIPMENT.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) EFFECTIVE DATE.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

Mr. DIXON. Mr. President, this is a amendment agreed to by the managers on both sides. It is an amendment sponsored by myself, the distinguished Senator from Alaska [Mr. STEVENS], and the distinguished Senator from Texas [Mr. GRAMM]. Senator GRAMM is the ranking member on the jurisdictional subcommittee of the Armed Services Committee. The distinguished senior Senator from Alaska is the ranking member on the jurisdictional subcommittee of the Appropriations Committee.

I am pleased that Senator STEVENS worked very closely with me on the drafting of this amendment. He has been in the forefront on this issue and his advice has, I feel, made the amendment workable and even-handed.

This amendment clarifies the application of existing law regarding the payment by the Department of Defense to contractors who are required to use special tooling and special test equipment in the performance of defense contracts.

Under the prior, longstanding, policies of the Department of Defense, whenever a contractor was required to purchase tooling and test equipment that was unique to a particular contract, the Department of Defense would reimburse the contractor in full for that equipment. In 1985, however, the Navy experimented with a controversial policy of reimbursing contractors for only a portion of the full cost of acquiring the needed special tooling and special test equipment.

Last year, as part of the Department of Defense Appropriations Act, and as a means of achieving the outlay reduction targets required by the Gramm-Rudman-Hollings law, Congress for the first time addressed this matter legislatively and adopted a modification of the Navy position. Under the law adopted last year, the Secretary of a military department may generally reimburse contractors for only up to 50 percent of the total cost of acquiring that special tooling and test equipment, except in such limited circumstances such as:

When the contractor could not handle the additional financial exposure;

When the equipment is to be used for "final production acceptance test"; or

When the entire purchase of the item is to be made in 1 year.

Unfortunately, even the enactment of this provision was controversial, and confusing. While the bill language purports to provide one policy, the joint explanatory statement of the managers accompanying the bill provides a very different, and in at least two instances, contradictory, explanation of the provision. Understandably, this conflict created enormous difficulty for the Department of Defense in interpreting and implementing the provision. It also caused difficulty for the contracting community in anticipating what the Government's reimbursement policy would be, and in trying to price proposals in response to this limitation.

Mr. President, on May 29, 1987, I wrote to Under Secretary of Defense Godwin asking for his assistance in resolving the conflicting guidance. Finally, on August 3, I received the Secretary's response. He concluded, in essence, that there was nothing that the Department of Defense could do in its regulations to provide any further guidance than what the plain meaning of the law was. That is a novel theory for the Department, since they seem to be ready to interpret any law with a great deal of enthusiasm.

Mr. President, I ask unanimous consent that the text of my letter, and the Secretary's response, be inserted in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DIXON. I know that the Department of Defense has generally opposed any legislation in this area, including last year's appropriations provisions. In a May 14, 1987, letter to Congressman BILL CHAPPELL, the chairman of the House Defense Appropriations Subcommittee, Under Secretary Godwin commented on selected issues raised in an Appropriations Committee's staff report on the Navy's acquisition policies by stating:

> We agree with the conclusion of the Committee staff report that this effect of (requiring contractor investment in production special tooling and production special test equipment) will be to increase total cost to the Government in then-year dollars because contractors will have to be compensated for the increased risk and additional financing expense created by this approach. In this area, the Department's actions are constrained by the fact that the FY 1987 Defense Appropriations Act requires at least partial contractor funding of PST/PSTEE in most circumstances . . . We believe the House Appropriations Committee should act on the conclusion of its staff report by recommending against such a provision in FY 1988.

I am opposed to the changes in policy, as well. I would not be offering this amendment if I was assured that Congress will not renew the provision in the next appropriations bill and that the Navy—and now DOD-wide—policy would be rescinded and the prior practice restored. Regrettably, Mr. President, at this point I do not have that view. Consequently, I am offering this provision to ensure that an appropriate policy is clearly, and correctly, stated.

The key elements of this amendment have already passed the Senate as part of the technical corrections to the fiscal year 1987 appropriations provisions included in the fiscal year 1987 supplemental appropriations bill. However, these changes were not included in the final version of that supplemental bill that was approved by the Congress.

Basically, the policy spelled out in this amendment follows only a few basic rules and will be implemented under regulations issued by the Under Secretary of Defense for Acquisition:

First, if a contractor is required to have special tooling and special test equipment for "final production acceptance test," the contractor is entitled to be reimbursed for such equipment in full as a direct cost.

Second, if the United States does not intend to purchase future quantities of the item initially required in the contract, then the contractor is entitled to be reimbursed for such equipment in full as a direct cost.

Third, if the United States does not intend to purchase additional quantities of the same item as initially required in the contract, then the contractor is entitled to be reimbursed as a direct cost for at least 50 percent, and possibly up to 100 percent, of full acquisition cost of such tooling or test equipment in the first year, and the balance of the acquisition cost, if any, according to an amortization schedule mutually agreed upon between the Government and the contractor. Exceptions to this proposed funding may be approved in advance, by the Secretaries of the Services, on a case-by-case basis, under criteria established by the Undersecretary of Defense for Acquisition.

Finally, in the event that a contract is terminated for any reason other than the failure of the contractor to perform the contract, or if the program for which the special tooling or test equipment was acquired is canceled for any reason other than the contractor's failure to perform, the contractor is entitled to be reimbursed for any outstanding balance of the cost of such equipment. In each of these circumstances, the Government may take title to that equipment when it has reimbursed the contractor in full for the cost.

Mr. President, this is an acquisition policy issue that falls squarely within the jurisdiction of the Senate Armed Services Committee. It is a program that we in the Senate Armed Services Committee should take responsibility for, and take action on, if appropriate.

I hope that this amendment will be agreed to.

EXHIBIT 1

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, August 3, 1987.

Hon. ALAN J. DIXON,
U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your recent letter regarding the Department of Defense (DOD) implementation of the special tooling and special test equipment (ST&STE) provision of Section 9105 of the DOD Appropriations Act of 1987 (Public Law 99-500).

The discrepancy mentioned in your letter appears to be between Section 9105 of Public Law 99-500 and the conference report language which accompanied the law. Section 9105 provides "That no contractor may be reimbursed directly under a contract . . . for more than 50 percent of the full acquisition cost of production special tooling and production special test equipment . . ." The conference report provides ". . . that contractors will carry as much of the financing as possible up to 50 percent." The statutory language established a floor which requires contractors to finance at least 50 percent of the cost of ST&STE, whereas the conference report language establishes a ceiling for which contractors should not carry more than 50 percent. In preparing our interim regulation, we followed Section 9105 because conference language is not law. With regard to the portion of ST&STE costs to be borne by the contractor, the statute is quite clear. The statute does not prohibit the DOD from requiring a contractor to finance more than 50 percent. Therefore, DOD's interim regulation is entirely consistent with Section 9105.

The other key point raised in your letter concerns payment for any unamortized balance of ST&STE costs in the event of termination for any reason other than failure of the contractor to perform. The statute states "Provided further, the contract may provide that if such a contract is terminated for any reason that does not reflect failure of the contractor to perform, the contractor shall be entitled to be paid by the United States for the cost of any tooling and test equipment which has not been fully amortized . . ." (underline for emphasis added). The word "may" in the statute is permissive. Accordingly, a contracting officer has the flexibility to decide what arrangements to make for reimbursement of unamortized ST&STE costs.

I appreciate your interest and support in this important matter.

Sincerely,

RICHARD P. GODWIN.

U.S. SENATE,
Washington, DC, May 29, 1987.

Hon. RICHARD P. GODWIN,
Under Secretary of Defense for Acquisition, The Pentagon, Washington, DC.

DEAR MR. SECRETARY: It has been brought to my attention that there is a possible serious discrepancy between the Department of Defense's interim regulations and the 1987 fiscal year Continuing Resolution relative to contractor participation in tooling and testing equipment costs. I understand that your regulations make the contractor liable for paying any percentage of the tooling and testing equipment up to 100 percent and does not guarantee the recovery of costs in the event of termination. Instead, both decisions are left to the discretion of each individual contracting officer.

I think the intent of Congress is clear:

"That no contractor may be reimbursed directly under a contract awarded 90 days after the effective date of this Act, where the purchase of additional quantities of like items is contemplated in subsequent years, for more than 50 percent of the full acquisition cost of special tooling and production test equipment as a direct cost. . . ."

"Provided further, that the contract may provide that if such a contract is terminated for any reason that does not reflect failure of the contractor to perform the contractor shall be entitled to be paid by the United States for the costs of any tooling and test equipment which has not been fully amortized. . . ."

The conferees clearly stated the intent and spirit of the law in the report: "But it is clearly expected that contractors will carry as much of the financing as possible up to 50 percent." And: "Which entitles a contractor to be paid for the unamortized balance of any tooling remaining in the event of termination except for failure of the contractor to perform."

However, it appears upon review of the published regulations, dated January 16, 1987, DoD's policy statement is not so clearly stated. I am informed that least one service is interpreting the law and regulation to mean that a contractor can be required to pay up to 100 per cent of the special tooling and testing equipment.

I believe the intent of Congress and the Armed Services Committee on which I serve is to create a foundation on which Congress, the Department, and Industry can build to seek a single goal: to maintain a viable industrial base on which this country can rely. We all should be cooperating to create the formula which will ensure this goal. If we can solve the problems I point out in this letter we will be taking a step in that direction.

I look forward to your prompt reply.

Respectfully,

ALAN J. DIXON.

Mr. STEVENS. Mr. President, I am delighted to be a cosponsor on this amendment with the senior Senator from Illinois [Mr. DIXON]. This amendment codifies the policy contained in section 9105 of the Defense Appropriations Act adopted last year.

This policy requires contractor financing of up to 50 percent of the cost of production tooling for the manufacturing of defense-related equipment. This is in line with section 9105 to achieve this cost sharing arrangement between the Government and industry for production tooling. Under this procedure, contractors are reimbursed for these costs in accordance with an amortization schedule over the term of the program. This in turn eliminates the need for the Government to assume the enormous up front costs for tooling and thereby defers outlays. Last year, Mr. President, the Appropriations Committee adopted section 9105 as a means to defer better than $500 million in outlays which would have otherwise been incurred in fiscal year 1987.

In addition to the outlay benefits, there are cost saving features in the implementation of this policy. Under this approach, the contractor and the Government must now agree to program tooling requirements. Since the contractors assume a portion of this financial risk, there is now a significant incentive to decrease costs because the contractor seeks to minimize financial exposure. This means test is a fiscal element which did not exist when the Government assumed full cost up front.

Again, this policy has been in effect since last year. Now that the Defense Department has had some experience with administering the policy, the amendment not only codifies section 9105, it also enhances the Government's negotiating position.

The Appropriations Committee was faced with a hard choice when this policy was implemented. In view of the severe outlay constraints contained in the budget resolution, our alternatives were to either significantly decrease programs or alter the manner in which programs are financed. By adopting this tooling policy, we elected to find new financing procedures which seem to have survived the test of time. I am delighted to join my colleague, Senator DIXON, and I commend him for raising this initiative to establish this policy as permanent law.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 736) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, may I suggest as the manager of the bill that we are waiting for amendments to be offered. Mr. President, there are about 90 amendments. I wonder whether some Senator who has several in hand might want to come to the floor and offer amendments.

The PRESIDING OFFICER. If the Senator from Illinois would suggest, we can go to third reading of the bill.

Mr. DIXON. The Senator from Illinois would be delighted to suggest that but about 90 Senators would object if I did.

Mr. SIMPSON. Mr. President, I think we better check with the majority leader before we do that. It is an interesting request, when you call for that. I do not choose to call for that.

AMENDMENT NO. 737

(Purpose: To record the sense of the Senate that no treaty on intermediate nuclear forces should be concluded unless verifiable nor signed until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missiles Treaty)

Mr. HELMS. Mr. President, is the bill open to amendment?

The PRESIDING OFFICER. The bill is open to amendment.

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 737.
>
> Add at the end of the bill the following new section.
>
> "SEC. . It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anti-Ballistic Missile Treaty of 1972.".

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, the pending amendment is, in my judgment, simple and straightforward. It is in the English language and is quite understandable.

Mr. President, my amendment merely requires that any proposed INF treaty is fully and effectively verifiable, and it warns the President not to sign any INF Treaty until the Soviets stop violating the existing ABM Treaty. These purposes are only logical and reasonable.

Perhaps the Senate needs to be reminded of certain basic facts about arms control and its history.

First, on May 9, 1972, the United States in an official statement to Congress announced its intentions on withdrawing from the SALT I ABM Treaty as follows:

> The United States [SALT I] Delegation believes that an objective of the follow-on negotiations should be to constrain and reduce on a long-term basis threats to the survivability of our respective strategic retaliatory forces . . . If an agreement providing for more complete strategic offensive arms limitations were not achieved within five years, United States supreme interests could be jeopardized. Should that occur, it would constitute a basis for withdrawal from the ABM Treaty.

Second, 15 years after the United States made the policy declaration of May 9, 1972, the United States has still not yet achieved the objective of "an agreement providing for more complete strategic offensive arms limitations."

Third, President Reagan reported to Congress on June 3, 1986, that there was a "growing strategic imbalance between the United States and the U.S.S.R." President Reagan added that the Soviet Union now has a "first strike capability" which was "seriously eroding the stability of the strategic balance," and which has resulted in a "loss in the survivability of United States strategic forces."

Fourth, I would point out that article XV of the SALT I ABM Treaty, which was ratified on October 3, 1972, states:

> Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of the Treaty have jeopardized its supreme interests.

Fifth, President Reagan reported further to Congress that the siting, orientation, and capabilities of the Soviet Krasnoyarsk ABM battle management radar "directly violates" three provisions of the SALT I ABM Treaty. Both the Senate and the House of Representatives have now each voted unanimously that the Krasnoyarsk radar is a violation of the SALT I ABM Treaty.

Sixth, President Reagan has also reported further to Congress that it is "highly probable" that the Soviet Union has conducted multiple tests of surface-to-air missile interceptors and radars in a prohibited ABM mode, and has developed a prohibited mobile ABM system. The President has also reported to Congress that "all Soviet large phased array radars * * * have the inherent capability * * * of contributing to ABM battle management, * * * and LPARs have always been considered the long lead time elements of a possible territorial defense." President Reagan added that the Soviet Union "may be developing a nationwide ABM defense" in direct contravention of article I of the ABM Treaty, the most important provision of the treaty.

Mr. President, I believe that the Soviet strategic offensive and defensive buildups have placed the supreme interests of the United States in peril. I believe further that the President should be required to report to the Senate on an urgent basis whether the United States should withdraw from the SALT I ABM Treaty.

Therefore, Mr. President, my amendment provides simply that the United States should not condone or forgive Soviet violations of all existing arms control treaties, particularly the ABM Treaty, by signing a new arms control treaty in the face of an expanding pattern of Soviet violations.

Finally, I would remind the Senate that the following language, which captures the thrust of my amendment, passed the Senate 90 to 2 last January.

This is the language:

> The Senate declares that an important obstacle to the achievement of acceptable arms control agreements with the Soviet Union has been its violations of existing agreements, and calls upon it to take steps to rectify its violations of such agreements and, in particular, to dismantle the newly-constructed radar sited at Krasnoyarsk, U.S.S.R., since it is a clear violation of the terms of the Anti-Ballistic Missile Treaty.

That is the exact language of the action taken by the Senate by 90 to 2 this past January.

So I would emphasize that that language is in all essential ways identical to the language of the pending amendment.

In conclusion, Mr. President, I will inform the Senate of some new administration assessments on Soviet violations of the ABM Treaty. These assessments are unclassified, and I have just received them. They point to the fact that the administration is coming ever closer to concluding that each of the nine Pechora-Krasnoyarsk class radars is an ABM battle management radar, and thus each of the nine radars is itself a separate violation of the ABM Treaty.

NEW ADMINISTRATION UNCLASSIFIED ABM ASSESSMENTS

1. All LPARS (Large Phased Array Radars), such as the Pechora-Krasnoyarsk class radars * * * also have the inherent capability * * * of contributing to the ABM battle management. Taken together, the Pechora-Krasnoyarsk class radars and other Soviet ABM-related activities give us concern that the Soviet Union may be preparing an ABM defense of its national territory.

2. LPARS have always been considered to be the long lead-time elements of a possible territorial defense. A standard role for the Pechora class LPARS is acquisition of attack characterization data that could aid in planning the battle for Soviet defensive forces and deciding timely offensive responses. * * * Thus, LPARS also have the inherent capability of contributing to ABM battle management.

3. The introduction of Soviet mobile ICBM's certainly complicates the dividing line between the allowed Soviet National Command Authority defense, and a prohibited ICBM defense.

4. The Pechora-Krasnoyarsk class radars are the world's most powerful radars.

5. The Pechora-Krasnoyarsk class radars can track large numbers of objects very accurately, and the data from these radars can be used for any number of purposes to include early warning, attack assessments, battle management, and other kinds of ABM-related functions.

6. The redundant, overlapping, internetted coverage that the Pechora-Krasnoyarsk

class radars provide by virtue of their size and phased array nature of the radar is much better than you need for early warning.

7. Even radars in the Moscow area that are acknowledged by the Soviets to be ABM radars are not hardened.

DEFINITION OF ABM TREATY.—As used in my amendment, the term "ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems (23 UST 3435; TIAS 7503; signed at Moscow May 26, 1972).

Mr. President, I yield the floor.

Mr. DIXON. Mr. President, I simply want to say to my colleagues, wherever they are, that this is a contentious amendment. My friend has offered it and he has that right. We are in business here. At the appropriate time I will make a motion to table.

Colleagues are inquiring about whether there will be further rollcalls tonight. They are advised that shortly, at the end of this debate, there will be a rollcall vote.

Mr. President, this amendment would express the sense of the Senate on two points relating to the emerging INF Treaty. First, that it should be unquestionably verifiable. I think all of us agree with that objective. Second, the second part of the amendment would hold the INF Treaty hostage to the resolution of the Karasnoyarsk radar violation. On that point I think this side has some problems.

Mr. President, throughout the INF negotiations, the United States has labored mightily to keep the Soviet Union from holding INF hostage to other issues.

The Soviets tried repeatedly to link INF to an agreement on defense in space, but we resisted, and in the end we prevailed. This was a triumph, I think for U.S. diplomacy, and I commend the administration for its perseverence.

Regrettably, Mr. President, now, however, the Senator from North Carolina proposes to establish a new linkage between INF and issues under discussion in the standing consultative commission, as well as the defense-in-space area in Geneva; that is, issues related to Soviet compliance with the ABM Treaty.

I do not think anyone here condones Soviet violations of existing arms control agreements.

I certainly do not condone the Krasnoyarsk violation. In fact, the Senate, by an 89 to 0 vote on September 16, clearly does not countenance this violation either. But that does not mean that INF should arbitrarily be put on the shelf while we continue our efforts to convince the Soviets that they must correct the Krasnoyarsk violation.

Mr. President, I believe there is a very good chance that the Senate will engage in ratification proceedings on the INF Treaty next spring. One of the issues that will be carefully considered is whether the INF Treaty should be ratified given the past record of Soviet noncompliance. But the time to consider that, Mr. President, is in the course of the debate on that treaty, not during debate on this DOD authorization bill.

Now, I want to make two more points, Mr. President, before I move to table. The first is this: My friend from North Carolina and others on that side have been critical over the past several weeks often of people on this side in connection with things that they are doing that those on the other side would suggest are attempts to advise the administration about the course of conduct it ought to follow in connection with foreign policy.

Now, here is my friend from North Carolina, on a treaty that we have not yet considered in the Senate, wanting to set out the parameters of what we ought to do about that great debate long prior to the time it begins. Now, if there are any others on this side who care to be heard—and I see the Senator from Arkansas is rising—at this time, Mr. President, I will yield the floor with the understanding that at the appropriate time I will offer a motion to table.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I wonder if the Senator from North Carolina would assure this body that the United States is in compliance with the ABM Treaty?

Mr. HELMS. Well, I will answer the Senator's question by asking him, does he have any information of the United States violating the treaty? Is he making a charge to that effect?

Mr. BUMPERS. I just wonder, first of all, could the Senator answer the question?

Mr. HELMS. You answer my question and maybe you will answer your own with that.

Mr. BUMPERS. You are asking the President not to submit an INF Treaty until he can certify that the Soviet Union has not violated the ABM Treaty, and I just wondered why the Senator did not also say "and that the United States has not violated it."

Mr. HELMS. If the Senator wants to try to modify it, let him proceed.

Mr. BUMPERS. Will the Senator modify his amendment accordingly?

Mr. HELMS. No. But the Senator can attempt to do it by adding an amendment. There is no restriction on it. I would like to have a vote on that.

Mr. BUMPERS. I am sorry, Senator.

Mr. HELMS. Pardon?

Mr. BUMPERS. I am sorry, I did not get your last comment.

Mr. HELMS. This is an amendment that was not covered by the unanimous consent previously in terms of—there has been so much confusion on the floor, so much talking, let me ask the Chair, is it in order on this amendment for there to be a second-degree amendment?

The PRESIDING OFFICER. The Chair would note first the only amendments that can be offered in either the first degree or the second degree are those which were agreed upon that were on the unanimous consent list propounded by the majority leader, so we are constrained to those amendments. The question then becomes, can one of the amendments on that list become offered as an amendment in the second degree to one of the other amendments.

Mr. BUMPERS. Can the Chair repeat that. I did not understand the parliamentary situation.

The PRESIDING OFFICER. The parliamentary inquiry propounded by the Senator from North Carolina is the following: Can the amendments in the second degree be offered to amendments that are on the list? The Chair would say that no, they cannot, unless those amendments in the second degree are on the list that was agreed upon. No further amendments beyond that can be offered.

The thrust of that interpretation comes from the exchange between the Senator from Michigan and the majority leader in which the Senator from Michigan inquired if his amendment could be offered and considered in the second degree to the amendment offered by the Senator from North Carolina. For the purpose of clarification of the situation, the majority leader, as the Chair remembers, responded by saying the only amendments that will be considered are those which are on the list, if the Senator from Michigan will only put his on the list. The Chair would interpret that as the amendment of the Senator from Michigan could be offered to the amendment of the Senator from North Carolina. Only amendments in the second degree could be offered to those on the list. No other amendments could be offered.

Mr. LEAHY. Further parliamentary inquiry, Mr. President. Would those amendments, even if they were on the list—I ask this not so much because of the amendment of the Senator from North Carolina but because this question is apt to recur on other amendments—would it be also in the Chair's ruling that if amendments, even amendments on the list were to be offered, they would have to be germane?

The PRESIDING OFFICER. There was no discussion of germaneness. Only the amendments on the list in the unanimous consent request propounded by the majority leader can be offered.

Mr. McCLURE addressed the Chair.

Mr. LEAHY. I thank the Chair.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. McCLURE. Mr. President, parliamentary inquiry. Will the Senator yield for a parliamentary inquiry?

Mr. HELMS. I yield for that purpose.

The PRESIDING OFFICER. The Senator from Idaho will state it.

Mr. McCLURE. Mr. President, I sat and listened very carefully to the exchange that went on here earlier, and it was my understanding it was the intention of the majority leader's request that rather than having the Senator from Michigan offer a second-degree amendment he put his proposed amendment on the list as a first-degree amendment. And there was no objection to that process. I remember the majority leader saying at that time that if we open it to second-degree amendments, this whole thing will come unraveled.

I think very clearly it was the intention of the majority leader in propounding that request and certainly the understanding of a number of Members on this floor that that unanimous consent agreement precluded second-degree amendments to all of those, whether they had a time limitation or were simply on the list.

Before the Chair makes the ruling in regard to this, I wonder if it might not be well to set aside this ruling and reserve it until such time as the majority leader can be heard from as to the intention of his request.

Mr. LEVIN. Will the Senator from Arkansas yield?

Mr. BUMPERS. I do not have the floor.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I will be delighted to yield.

Mr. LEVIN. I would like to second the suggestion that we wait.

Mr. HELMS. Providing I do not lose my right to the floor.

Mr. LEVIN. I would like to second the suggestion that we wait for the majority leader to come back before the Chair makes an interpretation. My understanding was that any amendment on that list could be offered either as a first-degree amendment or as a second-degree amendment, in effect, as I sought the right to offer a second-degree amendment to the amendment of my friend from North Carolina on ABM and I was told, "Well, no, just put it on the list and then you can offer it as a second-degree amendment." Now, that was my interpretation, but I may be wrong and I would suggest that we await the majority leader's comment on it. He is now on the floor. In any event, I do not wish to offer the second-degree amendment on this amendment.

Mr. HELMS. I understand. Mr. President, I will be delighted to yield to the majority leader.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. He yields to the majority leader.

Mr. BYRD. Who has the floor?

Mr. HELMS. I have yielded to the Senator.

Mr. BYRD. Mr. President, I understand that there is a question that has arisen as to whether or not——

Mr. BUMPERS. Mr. President, I cannot hear the majority leader. I do not believe his microphone is on.

Mr. BYRD. Mr. President, I believe that the question has arisen as to whether or not any amendment on the list could be offered as a second-degree amendment to any other amendment on the list. I put the request that only those amendments could be offered that were on the list, period, but that no amendment could be offered as an amendment in the second degree.

As proof of that, I believe my distinguished friend from Michigan, Mr. LEVIN, was talking with respect to offering an amendment in the second degree. I said no, if we start that, the Senator will remember—I said if we start that we are going to have the whole thing unravel. I used the word, and I said why does not the Senator put his amendment on the list and offer it as a first-degree amendment? Mr. NUNN was standing here and not only nodding his approval but said something to the effect that is the way it ought to be done. That was the request.

Mr. HELMS. I am sorry. I cannot hear the Senator. I am not understanding at all what the Senator is saying.

Let me say to my friend, he will recall that I asked for order in the Senate three or four times while this complicated unanimous-consent request was being made. My impression was that my amendment and others in the same category were just being set aside with respect to application of the unanimous-consent request. But if that is the way the Senator is stating it, that is the way it was agreed to, I have no problem with it.

Mr. BYRD. No. That was with respect to time limits on the Senator's amendment.

Mr. HELMS. Yes, I understand but at the time, with the confusion and noise, I did not. I am sorry.

Mr. BYRD. It was not with respect to the second-degree question because that was the understanding Mr. NUNN, myself, and I know Mr. NUNN was here and participated in that colloquy. Mr. McCLURE was sitting here and heard everything that was said because I looked over at him when I used the word "unravel." So if the Chair did not hear it, and the Parliamentarian did not hear it, it was a clear understanding on the part of those of us who were participating here, and on the part of myself. And I was the one who put the request that amendments listed could be only offered as first-degree amendments, and not as second-degree amendments.

Mr. LEVIN. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. LEVIN. If that is the understanding of the body and that is the Chair's understanding, I will yield to it. But my understanding was different. I wanted the opportunity to offer a second-degree amendment to Senator HELMS' amendment and I was told the whole thing might unravel if I put it that way, and that it was better to list it as an amendment on the list with my understanding being I then could offer it as a second-degree amendment.

If I am in error, and the understanding is different, I am more than happy to yield to the body. But I would like the Chair and the Parliamentarian to rule on their understanding of it because my understanding was it would not be precluded as a second-degree amendment to the Helms amendment providing it was on the list.

Mr. BYRD. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, let me just say to the majority leader, I think the majority leader stated it exactly correctly because what we are asking the Senator from Michigan to do is not to put the amendment in the second degree on to the Helms amendment because if the Senator insisted on doing that it was going to undo every other Senator's willingness to refrain from putting it on. So we asked the Senator from Michigan to list the amendment and in his own right so that if the Helms amendment is adopted the Senator then could come back and put on that amendment.

That was the clear understanding that I had and otherwise the purpose for the request to the Senator from Michigan would have been useless.

Mr. HELMS. addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, the unanimous consent that what the majority leader has just restated is perfectly acceptable to me. I agree with it. I was simply wondering if the distinguished Senator from Arkansas wished to offer that amendment. I am tempted to say——

Mr. BUMPERS. Will the Senator yield?

Mr. HELMS. I do not yield the floor.

Mr. BUMPERS. I simply want to clarify.

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. I thank the Chair.

I will be interested to see if the Senator from Arkansas will seriously entertain the idea of offering an amendment charging the United States with violation of the ABM Treaty. I know of no violation. Perhaps he does. Perhaps he wants to make a charge against the United States. That is the point I am making. But it satisfies me completely that there be no second-degree amendment.

Mr. McCLURE. Would the Senator yield for a parliamentary inquiry?

Mr. HELMS. Yes.

Mr. McCLURE. Since there is some confusion about what the unanimous consent meant, I wonder if we could now, after the discussion has been had, have a ruling from the Chair as to the effect of the unanimous-consent agreement.

The PRESIDING OFFICER. The Chair would note that the Chair listened very carefully to the propounding of the unanimous-consent request. It reached the point where the unanimous consent was that there would only be amendments on the list, that there will be none offered in the second degree. There was no specific request that the Chair remembers that none of those amendments in fact could then be offered in the second degree, and the Chair would ask the majority leader if he might like to clarify the unanimous-consent request to take that further step. And we would then have absolute clarification, and we can proceed as expeditiously as possible.

Mr. BYRD. Mr. President, I know precisely what I said. I know what I intended. I know what others contributed as far as the conversation was concerned. I also know there was so much noise going on in the Chamber that the Chair could not hear from this position, I am sure.

I ask unanimous consent, Mr. President, that the amendments on the list be only first-degree amendments, that no amendment be in order as a second-degree amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

I certainly thank the majority leader. I am sorry the noise on the floor created some confusion.

Let me emphasize to both the Senator from Arkansas and the Senator from Illinois who, as I understand it, if I am understanding them now with all of the still on going conversations, that they suggested that I was trying to establish a linkage to an agreement; not so. Nothing could be further from the truth. The linkage that I am talking about is a linkage to the violations by the Soviet Union repeatedly to agreements that they signed and we signed.

It is beyond me why any Senator would vote to table this amendment based on what it truly says and what it truly means. It may be late at night and some Senators will not understand it. But they had better read the amendment lest it come back to haunt them. I am saying that this Government ought not to enter into a treaty unless it is absolutely verifiable, and until and unless the Soviet Union corrects all of the violations, deliberate violations of the previous treaty. That is all the amendment says. I will be mystified if any Senator opposes it.

I yield the floor.

Mr. BUMPERS. Mr. President, I wonder if the Senator from North Carolina could tell us what kind of verification would be acceptable to him.

Mr. HELMS. Has the Senator read the amendment?

Mr. BUMPERS. Yes. It says that a treaty is unquestionably verifiable.

Mr. HELMS. Exactly, "unquestionably."

Mr. BUMPERS. That is sort of like beauty. That is in the eyes of the beholder. Does the Senator want on-site inspection or is he willing to accept the President's word on what is unquestionably verifiable?

Mr. HELMS. Senator, you know what "unquestionable" means. I know what it means. You can haggle over rhetoric all you want to. But I am stating that we had better not go down that primrose path again that we have gone down so many times before. I am saying unquestionably verifiable. That is plain English.

Mr. BUMPERS. Senator, if I can make an observation.

It is that for years we have demanded the Soviets agree to on-site verification and when the Soviets agreed to on-site verification we backed away from it, and said we were only kidding. And we would not agree to it even though we had made such demands on the Soviet Union for many years. And my question to the Senator is simply I cannot imagine President Reagan submitting a treaty to us to ratify unless he felt sure in his own mind that it would be unquestionably verifiable. Would the Senator agree with me on that?

Mr. HELMS. I will agree that it is unique for the Senator to express full confidence in a President he so often and vociferously criticizes.

Mr. BUMPERS. Senator, I am not asking for personal attacks. I am just asking a question.

Mr. HELMS. In that event why does not the Senator make his own comments on the amendment?

Mr. BUMPERS. This is your own amendment, Senator, and I am asking you a question, and I would like for you to give me an honest answer. That is all I am asking. People here have a right to know what is in this amendment so they will know how to vote. I ask you, is on-site verification satisfactory? If the President says we agree to on-site verification, is that satisfactory?

Mr. HELMS. Mr. President, I have tolerated this for some time but the Senator needs to understand that any question should be directed to the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. BUMPERS. Mr. President, if I may address this question to the Senator from North Carolina to answer or not answer: Would on-site verification satisfy the Senator as being a verifiable treaty?

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS. Mr. President, I am trying to abide by the rule of the Senate. I addressed the Chair and addressed a question to the Senator from North Carolina to which he has not responded.

The PRESIDING OFFICER. If the Senator from Arkansas is asking the Chair for a substantive opinion on the question offered by the Senator from Arkansas, the Chair cannot respond.

Mr. BUMPERS. I take it by the Senator's silence that he does not have any feeling about it.

Let me address a question to the distinguished floor manager. Can he tell us what an optical airborne adjunct device is? Either one of the floor managers.

Mr. QUAYLE. Mr. President, will the Senator yield for an answer?

Mr. BUMPERS. Mr. President, I have addressed the question to either of the floor managers.

Mr. QUAYLE. Mr. President——

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS. That is fine, if the Senator is a floor manager. Can you tell us what an airborne optical adjunct is?

Mr. QUAYLE. It is an airplane that has radar and sensor components used for command and communications on what it sees. It is very important in any kind of potential defensive capabilities.

Mr. BUMPERS. Is that the only use to which the United States has put one?

Mr. QUAYLE. I think you are getting into an area that you might not want to get into in open discussion. I think that in the unclassified version, that project is still in the research and development and validation area. I do not think I can say much more than that. That is what the plane is for.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, this amendment, if it were adopted, would be a signal that we do not want an INF Treaty submitted to the Senate. It is a treaty-killer amendment before the treaty is born.

The President has said Krasnoyarsk is a violation of the ABM Treaty and so have we. By an overwhelming vote, the Senate is on record as saying that Krasnoyarsk is a violation of the ABM Treaty and the President has also said that.

He also told us something else: He is on the verge of a major breakthrough despite that violation, which should be proportionately responded to. He is going to send a treaty, hopefully, to the Senate for ratification. We tell him, if we adopt this amendment, which I hope we will not, "Don't do it. We don't want that treaty." I do not think we ought to tell the President that we do not want him to send an INF Treaty to the Senate. This is a treaty-killer amendment, and I hope it is resoundingly defeated.

Mr. DIXON. Mr. President, I move to table the amendment of the Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for not more than 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if this amendment is tabled. I think I am correct in saying that this will be the last rollcall vote today.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2907

Mr. BYRD. Mr. President, I ask unanimous consent—and this has been cleared with the distinguished Republican leader, who is here—that on tomorrow, at 8:30 a.m., the Senate will proceed to the consideration of H.R. 2907, an act making appropriations for the Treasury Department; that there be a time limitation thereon of 30 minutes. The order has already been entered that there be no amendments other than committee amendments. I ask unanimous consent that the vote on the appropriations bill begin at 9 o'clock tomorrow, without an intervening quorum call.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CONSIDERATION OF SENATE JOINT RESOLUTION 187 TEMPORARILY POSTPONED

Mr. BYRD. Mr. President, I ask unanimous consent that notwithstanding Public Law 99-177, the Senate temporarily postpone consideration of Senate Joint Resolution 187, a joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985, until no later than the close of business on Friday, October 2, 1987; that it be in order to consider the resolution under the statute, notwithstanding section 254(a) of the act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor, and I thank all Senators.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of S. 1174.

Mr. BYRD. Mr. President, the first vote will begin at 9 o'clock. It will be a 30-minute rollcall, but the call for the regular order will occur after 30 minutes.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from North Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kentucky [Mr. MCCONNELL], the Senator from Vermont [Mr. STAFFORD], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 28, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—62

Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Specter
Warner
Wirth

NAYS—28

Armstrong
Bond
Boschwitz
Cochran
Conrad
DeConcini
Dole
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kasten
McCain
McClure
Nickles
Pressler
Quayle
Shelby
Simpson
Symms
Thurmond
Wallop
Weicker
Wilson

NOT VOTING—10

Adams
Biden
Gore
McConnell
Mikulski
Simon
Stafford
Stennis
Stevens
Trible

So the motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I note the distinguished chairman of the Armed Services Committee is departing from the floor. I again express my appreciation to the majority leader and the distinguished chairman for the progress we have made today on the bill.

Mr. BYRD. Mr. President, my thanks go to the chairman of the committee, the ranking manager, and the Republican leader for their cooperation, and also to all Senators for their cooperation and assistance.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MC CAIN AMENDMENT NO. 686

Mr. SIMPSON. Mr. President, I do very much appreciate the authentic intent behind the amendment offered by my good friend from Arizona, Senator JOHN MCCAIN. Certainly we are all sensitive to the fact that the more simple bipolar world of so many years ago has dramatically changed and that the burden of maintaining global security must be shared among all of our allies. Nevertheless, I did oppose this amendment because I do not believe that this is the proper approach to achieve our objective of having a greater sharing of these immense responsibilities.

The concerns behind this amendment are quite legitimate—the developed world should indeed set global security and economic development as being high on our list of priorities. Our own economic well-being is vitally dependent upon it. I only object to the setting of standards for others when we in the United States fall far short of those same standards. How can we demand that other nations increase their foreign aid budgets when our own foreign aid budget is in a state of disarray? We cannot expect others to make a commitment to foreign aid if we are not prepared to set the example. Our own foreign aid constraints have forced us to close consulates and allow others to deteriorate, and we have diminished our commitments to our allies in the developing world. Of all of the industrialized nations in the world, the United States has one of the lowest records of foreign aid appropriation as a percentage of GNP. Our foreign aid budget for fiscal year 1988 is expected to be less than $17 billion, or approximately .0017 of our total budget. I do not believe that this is an excessive amount out of a total annual budget of $1 trillion. When we consider that over half of that amount goes to just two countries for which we have longstanding commitments for peace in the Middle East, Israel, and Egypt, there is not much left for all of our other allies around the world.

I also believe that other methods of persuasion might be more appropriate in addressing what I consider to be a very serious problem. We are on close negotiating terms with the Japanese and they are one of our finest allies. I believe that we should treat them as such.

This amendment will undoubtedly be considered as another affront to the Japanese, especially since it follows smack on the heels of some pretty heavy Japan-bashing on the trade bill. Maybe we should face up to our own inadequacies in this area before we start criticizing others.

We should also acknowledge that Japan has indeed increased its foreign assistance over the past several years. I do understand the concerns about tied-aid—I don't like it either—but we should not overlook the basic thrust of their country's efforts. We should not be condeming Japan simply because the aid is not exactly of the form that we would like it to be.

By interfering and telling other nations how they should allocate their own resources, I am fearful that we will only fuel anti-American sentiment. I shudder to think how the U.S. Congress would react if our roles were reversed on this one. We don't need this now.

A-6F

Mr. GLENN. Mr. President, I would like to engage in a colloquy with my distinguished colleague and friend from the Armed Services Committee, Senator JOHN McCAIN of Arizona, regarding an issue of considerable professional and personal interest to both of us—Navy and Marine Corps air combat capability.

Although on balance I believe that this year's National Defense Authorization Act currently before the Senate is a sound one, there is one provision in the bill concerning our conventional forces that gives me particular concern.

Specifically, the bill contains a provision that would terminate further development and production of the Navy and Marine Corps' new, long range, night/all weather medium attack bomber—the A-6F Intruder II. The A-6F is a follow-on to the A-6E and is the latest version of this combat proven, carrier and land based A-6 series aircraft.

Prior to the committee's termination action, the Navy's plan was to develop and procure 150 A-6F's in the early 1990's to provide increased operational capability for the current medium attack bomber force, and to meet increased total A-6 inventory requirements.

The final part of the plan was to replace the entire A-6 force with the next generation, long range all weather attack aircraft, the advanced tactical aircraft [ATA], beginning some time in the 1990's. Mr. President, I would remind my colleagues that the ATA is a classified program and, its development is being managed similarly to the ATB strategic bomber. Most details of the program such as cost, schedule, and capability are classified.

The committee based its action to the A-6F program on information contained in a center for naval analysis [CNA] study, which expressed concern over the potential combat survivability of the A-6 series aircraft when compared with the ATA, as well as the fact that the A-6F would compete with the ATA for limited development funds. Citing the projected vulnerability of the A-6F, the committee decided that it was not feasible to proceed with both the A-6F and ATA programs, and directed the Navy to terminate further development and procurement of the A-6F. The committee further directed the Navy to proceed expeditiously with development of the ATA.

Mr. President, my concern over the committee's decision to terminate the A-6F program is that it could result in a serious degradation in the Navy and Marine Corps' night all weather combat capability. That concern is shared by the Chief of Naval Operations, Adm. Carl Trost. As detailed in a letter last April to the Armed Services Committee chairman, Senator NUNN, Admiral Trost stated that termination of the A-6F program "raises serious concerns over our medium attack capability to meet the threat of the 1990's." Admiral Trost further continued that "our aging A-6E force is becoming increasingly vulnerable to the threat and our existing A-6 inventory falls short of our requirements."

Mr. President, I ask unanimous consent that the full text of Admiral Trost's letter be made part of the RECORD.

The letter follows:

Hon. SAM NUNN,
Chairman, Committee on Armed Services, Washington, DC

DEAR MR. CHAIRMAN, the recent action of the Conventional Forces and Alliance Defense Subcommittee of the Senate Armed Services Committee, which recommended and approved deletion of A-6F aircraft funding, raises serious concern over our medium attack capability to meet the threat of the 1990's. Our aging A-6E force is becoming increasingly vulnerable to the threat and our existing A-6 inventory falls short of our requirements. Transition to an all ATA force will take 12 to 15 years by our estimates, leaving a gap in our warfighting capability. The A-6F bridges that gap and meets the threat. Additional information is included as an enclosure.

I fully appreciate the Senate's difficult task in making these tough decisions in an austere budget environment. Your consideration and support for A-6F and ATA as you proceed through committee hearings and on to conference would be greatly appreciated.

Sincerely,

C.A.H. TROST,
Admiral, U.S. Navy.

Mr. McCAIN. Mr. President, I completely agree with my colleague from the Armed Services Committee, Senator GLENN.

The problem basically is this: there is an ever-increasing requirement for all services' that both their fixed wing and rotary wing aircraft be able to fight at night and in bad weather. The night strikes earlier this year against Libya by Navy A-6's and Air Force F-111's are a good example. And just 3 nights ago an Army helicopter once again clearly demonstrated the value of an effective night attack system for rotary wing aircraft.

In my opinion, Mr. President, the Navy's plan to meet the night/all weather attack requirement by bridging the operational and inventory gap between the A-6E and the ATA with the A-6F is a sound approach. Failure to implement that plan could indeed result in the degradation of our Navy and Marine Corps night attack capability below acceptable levels.

What particularly concerns me is what happens to our air combat capability if the introduction of the ATA is delayed by technical or cost difficulties. As you know Mr. President, the ATA along with the Advance Tactical Fighter (the ATF) and the Advanced Technology Bomber (the ATB) will be the foundation for both our conventional and our strategic air combat capability well into the next century.

I know my friend from Ohio would agree with me that these new aircraft are critical to our defense and war fighting needs. However, the development of such revolutionary aircraft is not without technical risks, cost risks, and schedule risks. If, after canceling the A-6F, the ATA, which I understand is in the early stages of development, is delayed for any reason, serious operational problems could result. Even if the ATA program remains on schedule, Admiral Trost estimates in his letter to Senator NUNN that the transition to an all-ATA force would "take 12 to 15 years."

Mr. President, there is another factor that should be considered when reviewing this important issue—that factor is the status of the A-6F program. Currently the A-6F program is two-thirds of the way through a $735 million firm, fixed-price development contract. The first A-6F full-scale development aircraft was delivered in August, and it has already completed four successful aerodynamic test flights. To date, the Navy has obligated $500 million to the $735 million capped development funds.

So you can see Mr. President, the A-6F program is proceeding on schedule and has already achieved a most important milestone—its first successful test flight. To terminate the A-6F program at this time not only would end what to this point has been a very successful development program, it would cost the Government many millions of dollars in termination costs. Last June, in a letter to my distinguished colleague from New York, Senator D'AMATO, the Secretary of the Navy, James Webb, said that termination costs could not yet be accurately determined but would range "between $150 million and $600 million."

Mr. President, I ask unanimous consent that the full test of Secretary Webb's letter be made part of the RECORD.

In summary I say to my good friend and colleague Senator GLENN, that we must alert our colleagues of this possible degradation of the Navy and Marine Corps' air combat capability. Furthermore, our colleagues need to be fully aware that the Senate proposal to terminate the A-6F program will be a major issue in conference since the House of Representatives has fully authorized the program correctly citing it as the Navy's only all-weather attack aircraft.

Senator GLENN, I believe you put the A-6F requirement clearly in perspective when you stated recently that the A-6F will provide a combat bridge between the A-6E and the ATA in much the same way as the B-1 is providing a bridge between the B-52 and the ATB. I agree with that analogy, and, together with you and the other members of the Armed Services Committee, I intend to follow this issue very closely as we proceed in conference.

The letter follows:

THE SECRETARY OF THE NAVY,
Washington, DC, 29 June 1987.

Hon. ALFONSE M. D'AMATO,
U.S. Senate, Washington, DC.

DEAR SENATOR D'AMATO: Thank you for your recent letter concerning the A-6F program. Both the A-6F and the ATA, as presented in the President's budget, have my full support.

The A-6F is being developed to meet the threat of the 1990's and fill a critical shortfall in our existing A-6 inventory. This new A-6F Intruder will be more survivable in combat than the A-6E and will increase the striking power available to our battle group commanders. It will meet the threat and bridge the gap until the ATA is operational throughout the fleet.

The ATA has been accelerated to the maximum extent considered prudent. Further acceleration of the program would involve increased subsystem concurrency, less time for testing, and higher technological risks. Production schedule risks would increase because of the time required to integrate the spectrum of Navy weapons planned for ATA employment and to fully expand the flight envelope.

A-6F program termination costs cannot yet accurately be determined, but we estimate that they would range between $150 million and $600 million. As A-6F engines and avionics are common with other aircraft programs, namely F/A-18 and F-14, unit costs of these common components would likely rise without A-6F procurement.

In summary, we need both the A-6F and the ATA to meet our warfighting requirements. As we transition to ATA, our planned A-6F line will continue to meet inventory needs and reduce the risk of unexpected delays in ATA introduction or unplanned A-6 attrition caused by a national emergency.

Your continued support of Navy programs is appreciated. If you desire, I can arrange a briefing on the ATA program.

Sincerely,

JAMES H. WEBB, Jr.

ORDER TO PLACE SENATE JOINT RESOLUTION 191 ON THE CALENDAR

Mr. BYRD. Mr. President, this request has been cleared on both sides.

Mr. President, I ask unanimous consent that Senate Joint Resolution 191 be placed on the calendar. This is a joint resolution introduced earlier today by Senators CRANSTON and D'AMATO dealing with the temporary extension of FHA lending authority.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PLACE HOUSE JOINT RESOLUTION 362 ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that House Joint Resolution 362, the continuing resolution, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, we have not had morning business today. I ask unanimous consent that there be a period for the transaction of morning business and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

WILLIAM MILES HODGE, SR., BUSINESSMAN AND CIVIC LEADER

Mr. THURMOND. Mr. President, on Saturday, August 8, 1987, William Miles "Bill" Hodge, Sr., a man described by friends and colleagues as a key figure in Sumter, SC's growth and development over the past 40 years, died at the age of 70. Mr. Hodge was a benefactor of the people of Sumter. He not only was a successful realtor and developer, but was a great public servant who will be remembered with fond memories by his host of friends for years to come.

As president of Hodge-Pike Investment, Inc., president of Hodge Land Co. & Real Estate, and founder of Hodge Real Estate-Insurance Agency, Bill Hodge was an astute and successful businessman of utmost integrity. Bill Hodge played a major role in many of the significant changes Sumter has seen since World War II. He was instrumental in the renovation of the Sumter County Courthouse and construction of major public facilities including an exhibition center, health center, law enforcement center, and municipal building for the community of Sumter.

Bill was widely respected as a public-spirited citizen. He was a true patriot, serving his country in the European theater during World War II and serving his fellow man throughout his life in numerous capacities. His political service included appointment by the Governor to a State highway committee, chairing of the South Carolina Democratic Party and serving as delegate or alternate to four Democratic National Conventions.

Extensive involvement in church, civic, and military affairs characterized his devotion to God, community, and country. Mr. Hodge served on the Sumter County Board of Commissioners for 18 years, seven of them as chairman; he served a 4-year term on the Sumter County Council; and he was mayor of Sumter from 1976-80. He was a man with a vision for the future who possessed the dedication and ability to realize his dreams.

Bill's life will serve as a role model for years to come. We are saddened by the death of Bill Hodge, and Nancy and I join with my colleagues in extending deepest sympathy to his lovely wife, Reona Patricia, and their seven children during this time of bereavement.

Mr. President, I would like to ask unanimous consent that an article and and editorial on Mr. Hodge from the Sumter Daily Item be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sumter Daily Item, Aug. 9, 1987]

W.M. HODGE, CIVIC LEADER, DIES AT AGE 70

William Miles "Bill" Hodge Sr., a man described by friends and colleagues as a key figure in Sumter's growth and development over the past 40 years, died early yesterday at the Tuomey Hospital. He was 70.

A memorial service will be held at 3 p.m. Monday at Grace Baptist Church on Calhoun Street.

As a Realtor, developer and public servant, Mr. Hodge played a role in many of the changes Sumter has seen since World War II. He was president of Hodge-Pile Investment, Inc., and vice president of Hodge Land Co. Inc.

He was founder of Hodge Real Estate-Insurance Agency and president of Hodge Land Co. and Real Estate.

He was on the county board of commissioners for 18 years, seven of them as chairman. He also served a four-year term on Sumter County Council after it was created in 1968. He was mayor of Sumter from 1976 to 1980.

He was instrumental in the renovation of the Sumter County Courthouse and construction of the Sumter County Exhibition Center, the city-county office building, the Santee-Wateree Mental Health Center and city-county law enforcement center.

In addition, he served on The Tuomey Hospital expansion committee, was past president of the Sumter Junior Chamber of Commerce and was a board chairman of American Pioneer Corp., which owns American Pioneer Life Insurance Co.

He helped begin efforts to attract industry to the area through development of the Sumter Industrial Park.

"He's done a lot for Sumter, stuff people don't even know about. He was a big asset," O.D. Harvin, chairman of the board of commissioners when Mr. Hodge was first appointed, said. "I have nothing but the highest respect for that fella. He's one of the finest citizens Sumter County ever produced."

Robert E. Graham was a long-time friend to Mr. Hodge, and both of them served in local government.

"There's so much, it's hard to know where to begin. He was a mighty good friend of mine. We both grew up together," Graham said. "He was on county council when I was the mayor. I think our personal relationship helped the county and city relationship."

Clifton G. Brown, likewise a former mayor of Sumter and a friend to Mr. Hodge for more than 55 years, said the community has lost a unique man.

"Bill Hodge has been a force for good in Sumter and in South Carolina," Brown said. "He was a dependable, loyal and devoted person to the institutions and causes he served and to his many friends and family. He served with distinction, uncommon abilities and the courage of his convictions."

"I served with him," Morris Mazursky, who was on city council when Mr. Hodge was mayor, said. "I feel that he was one of the finest public servants Sumter County has ever produced."

Sen. Strom Thurmond, R-S.C., called Mr. Hodge a "public-spirited citizen" and "a true patriot" who will be missed by all who knew him.

"He was a man of courage, ability and dedication. He served his city, county and state very well," Thurmond said. "In all these capacities, he served with faithfulness and diligence and was highly respected by all who knew him. I feel a deep loss in his passing and extend my deepest sympathies to his family."

Mr. Hodges was born Feb. 12, 1917, in the Concord section of Sumter County, the son of John Thomas and Eva Flake Hodge. He graduated from Edmunds High School and worked as a manager in a chain of shoe stores before joining the Army in January of 1941 as a private.

After attending officers' training, he was commissioned as a captain and served in the European Theater during World War II, where he was wounded in action. After recovering from his wounds, Mr. Hodge was assigned as medical administrative officer for the 26th General Hospital in Italy.

Other professional and civic associations include his service as chairman of the South Carolina Democratic Party and state president of the Young Democrats. He was a delegate or alternate to four Democratic national conventions.

He was also a governor's appointee on a state committee studying the state highway department and was co-chairman of the Sumter Urban Area Transportation Study Committee.

Mr. Hodge was a past commander of the Sumter American Legion Post 15 and was a member and trustee of the Grace Baptist Church, where he served as chairman of the church building committee when it moved its sanctuary from Washington Street to Calhoun Street.

He was a strong supporter and friend of Shaw Air Force Base, serving for many years as a member of the Shaw-Sumter Community Council. He was a member of the Lions Club, a supporter of Morris College and a member of the Sunset Country Club building committee.

He is survived by his wife, Mrs. Reona Patricia Christensen Hodge; three sons, William Miles Hodge, Jr., and Joel Padgett Hodge, both of Sumter, and Lawrence Thomas Hodge of Hilton Head;

Four daughters, Patricia Hodge Croft and Katherine Hodge Bledsoe of Sumter, Joanne Hodge Greer of Macon, Ga., and Eva Marie Hodge Reynolds of Columbia;

Two brothers, James Thomas Hodge of Union and Clifford Padgett Hodge of Sumter.

Two sisters, Leila Hodge Lucas and Amelia Hodge Teal, both of Sumter; and 15 grandchildren.

Memorials may be made to the Grace Baptist Church Building Fund or a charity of one's choice.

The family will receive friends at the home, 765 Mattison Ave.

Elmore-Hill Funeral Home is in charge of arrangements.

[From the Sumter Daily Item, Aug. 10, 1987]

A LEADING CITIZEN

Sumter lost a leading citizen Saturday when W.M. "Bill" Hodge Sr. died, and the term "leading citizen" can be truly applied.

Hodge was a leader in Sumter's city and county government, and he was a leader in its civic life. His work touched nearly every aspect of Sumter's development over the past 40 years.

His credits included the renovation of the Sumter County Courthouse and the construction of the Sumter County Exhibition Center, the city-county office building, the Santee-Wateree Mental Health Center and city-county law enforcement center.

That alone would qualify as a full career for most, but for Hodge, it was only a part. He was, at various times in his life, a soldier, a businessman, a public officeholder, an industry hunter, a political leader and an elder statesman.

He was on the old county board of commissioners for 18 years, seven as chairman. He was on Sumter County Council after it was created in 1968, and he was mayor from 1976 to 1980.

He was chairman of the South Carolina Democratic Party and was a delegate or alternate to four Democratic national conventions.

Hodge particularly understood the complex relationship between Sumter and Shaw Air Force Base, and he was devoted to nurturing that relationship.

"We've spent a lot of time and effort convincing the people of Sumter that Sumter would be in a bad condition from an economic standpoint if it hadn't been for Shaw," Hodge said during an interview recently.

His efforts didn't go unnoticed. Hodge is one of only three Sumter residents who have received an Air Force scroll of appreciation—the highest honor the Air Force can give a civilian.

Those who knew him best held him in highest regard. He could be a tiger for the right cause, but he was also a gentle and caring man.

His friends and admirers were legion. Philip R. Ballinger, the executive vice president of the Greater Sumter Chamber of Commerce, was one of them. "He was the best example I ever knew of the idea that man's love of God is best reflected in his love for his fellow man," Ballinger said.

In earlier days we erected statues to our leaders. If that were the custom today, Hodge would stand in the first rank.

BICENTENNIAL MINUTE

SEPTEMBER 24, 1963: FIRST OFFICIAL SENATE PHOTOGRAPH

Mr. DOLE. Mr. President, 24 years ago today, on September 24, 1963, the Senate sat for its first official photograph. I say "official" because although there had long been a rule against photographs in the Senate Chamber, from time to time enterprising photographers had taken some elicit shots. But in 1963, when the Capitol Historical Society first prepared for publication of its guidebook, "We The People," it convinced the Senate to pass a special resolution permitting it to take an official photo of the Senate.

Not everyone liked the idea. "Vanity, vanity, all is vanity," said Senator Richard Russell, who worried that the photo session was setting an unhealthy precedent. Republican Leader Everett Dirksen warned that the photographer would like to have Senators in their seats, not walking around. Senator Russell added that if that were the case they should add a footnote to the photograph that "This is the only time in the session of 1963 that every Senator was in his own seat."

The photographic session was scheduled for September 24, at the same time that the Senate was to vote on the Nuclear Test Ban Treaty. I suppose it is debatable whether the leadership arranged to take the picture then because so many Senators would be in the Chamber for this important vote, or if they scheduled the photograph to insure that Senators would be there.

The photograph appears on pages 108 and 109 of the 1963 edition of "We The People," which is still being published. One can compare the 1963 picture to those the Senate has sat for in recent years. Back then, Members did not turn to face the camera. Many appear to be writing at the desks. Senator Jacob Javits had a copy of the New York Times tossed on the floor beside his desk. A weary looking Mike Mansfield, then the Democratic leader, is rubbing his eyes. All in all, it is a marvelous historical document.

NEW SPEED LIMIT WORKING IN MISSISSIPPI

Mr. COCHRAN. Mr. President, when Congress approved the highway bill earlier this year, it permitted individual States to raise the speed limit on rural segments of interstate highways to 65 miles per hour.

There was concern expressed by some that this would make highway travel more dangerous and result in an inevitable increase in automobile accidents and deaths.

The Senate has a responsibility to monitor this situation and learn as much as we can about how the change is working and whether or not the predictions of critics were correct.

A recent report from the Mississippi Highway Safety Patrol in my State contains same very good news on this subject. The chief of our highway patrol says:

"The change to 65 mph on rural interstates this spring has not been a problem for our State."

Traffic-related highway fatalities in Mississippi are down 6 percent thus far this year from 1986.

Mr. President, I ask that an editorial in the Meridian Star that discusses these findings be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Meridian Star, Sept. 14, 1987]

NEW SPEED LIMIT WORKS IN STATE; FATALITIES DOWN

Fatality statistics and comments from state Highway Patrol officials indicate that raising the speed limit to 65 miles per hour on rural interstates in Mississippi has been both successful and safe.

Especially encouraging is the decrease in traffic-related fatalities compared to the same time last year. At this time a year ago, 543 traffic-related deaths had been recorded in the state. That compares to 509, or a 6 percent drop this far in 1987.

"The change to 65 mph on rural interstates this spring has not been a problem for our state," said D.D. Cvitanovich, Highway Patrol chief.

Three factors made large contributions to the success of the change in the speed limit: the heavy advertising campaign that accompanied the change, the patrol's visibility on our highways and the cooperation of the public.

The awareness campaign was conducted by the state Highway Department and the Highway Patrol to alert motorists of areas where higher speeds would be permitted. Fewer motorists appear willing to exceed the new limit on rural interstates than were going over the old limit.

"Most everyone in the country was running 65 mph anyway" and the only difference is that now "they are running legal," one officer said. Whatever the reason, the public is cooperating.

Chief Cvitanovich said troopers had faced an uphill battle in attempting to enforce the 55-mph limit during the period Congress debated the issue, noting that "it's hard to write a violation for exceeding 55 mph one day and 65 the next."

The patrol also found the tactic of stationing its cars over a wide area to increase visibility works better than heavy concentration in individual areas.

Mississippians have obviously adjusted well to the change.

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 68

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with Section 7104(e) of Title 5, United States Code, I hereby transmit the Eighth Annual Report of the Federal Labor Relations Authority, which covers Fiscal Year 1986.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT—PM 69

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 26 of the Occupational Safety and Health Act of 1970 (Public Law 91-596; 29 U.S.C. 675), I transmit herewith the 1986 annual reports on activities under that law of the Department of Labor, of the Department of Health and Human Services, and of the Occupational Safety and Health Review Commission.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

REPORT ON WORLD FOOD NEEDS AND PRODUCTION AND AGRICULTURAL TRADE—MESSAGE FROM THE PRESIDENT—PM 70

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

I hereby transmit the report on World Food Needs and Production and Agricultural Trade prepared by my Special Assistant for Agricultural Trade and Food Assistance pursuant to the requirements of Section 1113 of the Food Security Act of 1985 (Public Law 99-198 of December 23, 1985).

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I transmit herewith the Fifteenth Annual Report on the Administration of the Federal Railroad Safety Act of 1970 (45 U.S.C. 421 et seq.) as required by the Act. This report was prepared in accordance with Section 211 of the Act and covers calendar year 1985.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with the provisions of Public Law 91-230, as amended (20 U.S.C. 1209(d)), I herewith transmit the 1986 annual report of the National Advisory Council on Adult Education.

RONALD REAGAN.

THE WHITE HOUSE, *September 24, 1987.*

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 1:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker pro tempore [Mr. FOLEY] has signed the following enrolled bill and joint resolution:

S. 1532. An Act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate; and

H.J. Res. 324. Joint resolution increasing the statutory limit on the public debt.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. STENNIS).

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month".

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 57. A concurrent resolution expressing the sense of the Congress respecting the designation of jazz as a rare and valuable national treasure; and

H. Con. Res. 191. A concurrent resolution welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States.

At 3:24 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill and joint resolution, in which is requests the concurrence of the Senate:

H.R. 2783. An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; and

H.J. Res. 355. Joint resolution designating September 27, 1987, as "Gold Star Mothers Day".

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2783. An Act making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

H.J. Res. 234. Joint resolution to designate the month of November in 1987 and 1988 as "National Hospice Month"; to the Committee on the Judiciary.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 57. A concurrent resolution expressing the sense of the Congress respecting the designation of jazz as a rare and valuable national treasure; to the Committee on the Judiciary.

H. Con. Res. 191. A concurrent resolution welcoming His Holiness the Dalai Lama of Tibet on the occasion of his visit to the United States; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, he had presented to the President of the United States the following enrolled bill:

S. 1532. An act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, with an amendment in the nature of a substitute:

S. 322: A bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr. in the District of Columbia (Rept. No. 100-168).

S. Res. 192: An original resolution relative to expenditures by the Select Committee on Intelligence (Rept. No. 100-169).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment and an amendment to the title:

H.R. 60: A bill to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection (Rept. No. 100-170).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

H.R. 2249: A bill to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police (Rept. No. 100-171).

By Mr. FORD, from the Committee on Rules and Administration, with an amendment and with a preamble:

H.J. Res. 309: A joint resolution to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress to recognize achievement in civic literacy by students, classes, and schools throughout the Nation in grades 5 through 8, and for other purposes (Rept. No. 100-172).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 1085: A bill to create an independent oversight board to ensure the safety of U.S. Government nuclear facilities, to apply the provisions of OSHA to certain Department of Energy nuclear facilities, to clarify the jurisdiction and powers of Government agencies dealing with nuclear wastes, to ensure independent research on the effects of radiation on human beings, and for other purposes (Rept. No. 100-173).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 285: A resolution to pay a gratuity to Nola Frederick.

S. Res. 286: A resolution to pay a gratuity to Jerline Parks.

S. Res. 287: A resolution to pay a gratuity to Robinnia Grace Elaine Richardson.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Alan Greenspan, of New York to be United States Alternate Governor of the International Monetary Fund for a term of five years;

John S. Herrington, of California, to be the Representative of the United States to the Thirty-first Session of the General Conference of the International Atomic Energy Agency;

James H. Michel, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: James H. Michel.

Post: Ambassador to Guatemala.

Contributions, amount, date, and donee.

1. Self: None.

2. Spouse: $15, October 16, 1983, Dollars for Democrats; $20, June 8, 1984, Dollars for Democrats; $25, October 6, 1984, Democratic Campaign Fund; $25, March 22, 1985, Dollars for Democrats.

3. Children and spouses: Mark, Kurt, Linda, and Paul, none.

4. Parents: Paul J. Michel, Margaret K. Michel, none.

5. Grandparents: Oscar and Wilhemina Scheitlin, deceased. Peter and Hanna Michel, deceased.

6. Brothers and spouses: None.

7. Sisters and spouses: Margene Jerrolds, $25, March 1986, Citizens for Pete Fields. Larry Jerrolds, none.

Stephen J. Ledogar, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as United States Representative to the European Conventional Arms Negotiations and the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations.

Nominee: Stephen J. Ledogar.

Post: U.S. Representative to the European Conventional Arms Negotiations and the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse: None.

3. Children and spouses: Lucy (age 17); Charles (age 15); Wife: Marcia H. Ledogar (nee Marcia Baldwin Hubert), none.

4. Parents: Mrs. Margaret C. Ledogar; Edward J. Ledogar (deceased 1966), none.

5. Grandparents: Mr. & Mrs. Joseph Ledogar; Mr. & Mrs. James J. Meany, (all grandparents deceased more than 20 years ago), none.

6. Brothers and spouses: Robert J. Ledogar/Eleanor Price, none. Edward J. Ledogar (divorced). Approximately $300. Approximately $75 per year. Sustaining member of the Republican National Committee.

7. Sisters and spouses: Anne M. Leyden (nee Ledogar)/John Leyden, none.

Leonard Rochwarger, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

Nominee: Leonard Rochwarger.

Post Ambassador to Fiji, Tonga, Tuvalu and Kiribati.

Contributions, amount, date, donee.

1. Self—Leonard Rochwarger POLITICAL CONTRIBUTIONS TO FEDERAL CAMPAIGNS—January 1982, to December 1986:

March 24, 1982, Friends of Henry Nowak, $100.

October 18, 1982, Committee to re-elect John LaFalce, $100.

October 28, 1982, Citizens for Jack Kemp, $1,000.

September 19, 1983, John Glenn Presidential Committee Inc. (Cocktail Reception), $250.

February 6, 1984, Friends of Henry Nowak, $100.

June 20, 1984, Citizens for Jack Kemp, $1,000.

August 17, 1984, Victory, 1984, New York State Reagan/Bush Campaign, $5,000.

October 9, 1984, Friends of Rudolph Boschwitz, $1,000.

October 11, 1984, Friends of Al D'Amato, $1,000.

March 21, 1985, Citizens for Jack Kemp, $1,000.

April 1986, Friends of Al D'Amato, $1,000.

August 7, 1986, Citizens for Jack Kemp, $1,000.

October 16, 1986, Campaign for Prosperity (PAC), $5,000.

2. Spouse—Arlene Joan Rochwarger, political contributions to Federal campaigns, January 1982 to December 1986: May 1986, Al D'Amato for Senator, $885.

3. Children and spouses: Jeffrey Alan Rochwarger, son, political contributions to Federal campaigns, January 1982 to December 1986:

June 1984, Citizens for Jack Kemp, $1,000.

June 1985, Citizens for Jack Kemp, $1,000.

June 1986, Citizens for Jack Kemp, $1,000.

October 1986, Committee to re-elect John LaFalce, $1,000. Spouse: Dawn Rochwarger, none. Michelle Rochwarger, daughter, none.

4. Parents: Max Rochwarger and Sarah Rochwarger, deceased.

5. Grandparents: Leonard and Ida Rochwarger, deceased. Bernard and Ida Wallace, deceased.

6. Brothers and spouses: none.

7. Sisters and spouses: Rosalyn (Rochwarger) Kershanbaum, none. Spouse: Albert Kershanbaum, none.

Max L. Friedersdorf, of Florida, for the rank of Ambassador in his capacity as United States Representative to the Conference on Disarmament.

Nominee: Max L. Friedersdorf.

Post: Rank of Ambassador.

Contributions, amount, date, donee.

1. Self: $100, October 1984, Reagan-Bush.

2. Spouse: None.

3. Children and spouses: Kristine Wilkes, Fritz Friedersdorf, (James C. Wilkes III). None.

4. Parents: Lola Friedersdorf, father deceased, none.

5. Grandparents: Deceased, none.

6. Brothers and spouses: John Friedersdorf, Jr. (Marjorie), Frank Friedersdorf (Patricia), none.

7. Sisters and spouses: Betty Winslow (Fred), Barbara Hamilton, divorced, none.

Peter R. Sommer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Nominee: Peter R. Sommer.

Post: U.S. Ambassador to Malta.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse: Not available.

3. Children and spouses: Sacha, age 15, Noelle, age 14, none.

4. Parents: Stanley Sommer.

To the best of my knowledge, from 1982 until now, my father, Stanley L. Sommer, made the following contributions to Congressional political campaigns: Senator Hollings, $500. Senator Inouye, $250. Senator Laxalt, $300. Senator Thurmond, $400. Cong. Vic Fazio, $200. Congressman Melvin Price, $300. Congressman Dan Daniels, $200. Congressman Nick Mavroules, $500. Congressman Richard Ray, $400. Congressman William Dickinson, $300. Congressman Bob Badham, $200. Congressman Tim Hartnett, $200. Congressman Joe Addabbo, $500. Congressman Norm Dicks, $400.

5. Grandparents: N/A, none.

6. Brothers and spouses: Michael Sommer, Connie Sommer, none.

7. Sisters and spouses, N/A, none.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was received by the Senate on July 27, 1987, and appeared in its entirety in the CONGRESSIONAL RECORD of July 28, 1987, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DIXON:

S. 1715. A bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability; to the Committee on Finance.

By Mr. MATSUNAGA:

S. 1716. A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1717. A bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 191. A joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 285. A resolution to pay gratuity to Nola Frederick; placed on the calendar.

S. Res. 286. A resolution to pay a gratuity to Jerline Parks; placed on the calendar.

S. Res. 287. A resolution to pay a gratuity to Robinnia Grace Elaine Richardson; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DIXON:

S. 1715. A bill to amend the Internal Revenue Code of 1986 to provide that certain transfers of a commodity pledged as collateral for Commodity Credit Corporation loans not be taken into account in computing Federal income tax liability; to the Committee on Finance.

TAX TREATMENT OF CERTAIN COMMODITY TRANSFERS

Mr. DIXON. Mr. President, I rise today to introduce vital legislation which will clarify income tax liabilities for the thousands of farmers actively participating in the Pik and Roll Program.

Pik and Roll is a Government marketing program. It was implemented in order to boost the farm economy while at the same time, allowing the Government to reduce its own large surplus of grain. The program enhances the movement of grain out of Government's inventory and farmers' bins, and places that grain where it can do the most good—in the marketplace.

For the past year, farmers, tax advisers, and county and State agricultural stabilization and conservation service [ASCS] offices have been actively involved in the Pik and Roll procedure. As we all understood the process, a farmer secured a loan, and pledged his grain as collateral. The farmer then used his commodity certificates to pay off his loan. By eliminating the outstanding obligation, the grain utilized to secure the loan would be reverted back to its rightful owner—the farmer.

However, a recent regulation issued by the U.S. Department of Agriculture [USDA] has wreaked havoc in the Pik and Roll Program. In essence, this USDA ruling creates a "fictional sale" within the Pik and Roll procedure. In all fairness, this fictional sale, when applied to farmers who have grain held in the 3-year reserve program, provides a great benefit. It allows these farmers to avoid a penalty for early redemption of their grain and reduces Government's surplus inventory. However, when applied to the majority of farmers—farmers participating in the 9-month loan program—it creates a devastating tax consequence.

The USDA regulation states that a farmer cannot redeem his loan with commodity certificates. He must first sell the grain under loan, that is, grain pledged as security for the loan, to the Commodity Credit Corporation. With the proceeds of this sale, the farmer then pays off the loan. Commodity certificates can only be used to purchase commodities, hence, the farmer can only repurchase his grain with the commodity certificates.

The whole process is nothing more than a paper shuffle. However, the IRS has ruled that based on the USDA's fictitious sale, a taxable event has taken place. Based on this IRS ruling, farmers who follow the Pik and Roll procedure run the risk of having the value of the redeemed corn—essentially equivalent to the loan amount—count as income against the current tax year. This could foster a situation where many farmers could face having to pay double taxes on the sale of a single crop in one calendar year.

In my conversations with the USDA and the Treasury Department's Internal Revenue Service, there is unanimous agreement that what is taking place is merely a paper transaction. The problem has been recognized and discussions have freely taken place. Reaching an accord, however, has proven to be more elusive.

Mr. President, it is my hope that a timely resolution of this problem can be achieved. However, if the USDA and Treasury cannot act with resolve, we in Congress must. To that end, Mr. President, I am introducing legislation today which will address this problem in a straight forward fashion.

This legislation directs the IRS to treat the paper shuffle of grain, pledged as collateral, as neither a sale nor a taxable event. For Federal income tax purposes, these transfers do not result in a sale of the commodity.

This legislation applies only to loan redemptions occurring after December 31, 1985. Additionally, for those taxpayers who have computed their Federal tax liability on the basis of such transactions occurring in 1986, a provision is provided which allows them to elect to continue their tax plan on that basis.

Mr. President, the Pik and Roll Program has been a significant factor in reducing our vast grain surpluses and stimulating farm prices. It is imperative that we take action today by passing this legislation to rectify this untenable tax situation. In so doing, we provide farmers with the assurance they need to continue to participate in the program.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1715

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF TRANSFERS OF COMMODITIES USED TO SECURE COMMODITY CREDIT CORPORATION LOANS.

(a) IN GENERAL.—Section 77 of the Internal Revenue Code of 1986 (relating to commodity credit loans) is amended by adding at the end thereof the following new subsection:

"(c) TREATMENT OF TRANSFERS OF COMMODITIES SECURING COMMODITY CREDIT CORPORATION LOANS.—

"(1) IN GENERAL.—In the case of any transaction to which paragraph (2) applies, any transfer described in paragraph (2)(B) shall not be considered a sale of the commodity in computing the Federal income tax liability of the taxpayer under this chapter.

"(2) TRANSACTIONS TO WHICH SUBSECTION APPLIES.—A transaction is described in this paragraph if it involves—

"(A) a loan between the taxpayer and the Commodity Credit Corporation which is secured by a commodity of the taxpayer,

"(B) a transfer of such commodity to the Commodity Credit Corporation with the proceeds of such transfer used to repay the loan described in subparagraph (A), and

"(C) the repurchase of such commodity by the taxpayer with a commodity certificate."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to loan redemptions occurring after December 31, 1985, in taxable years ending after such date.

(2) ELECTION BY TAXPAYER.—In the case of a taxpayer who took any transfer occurring during 1986 into account in computing his Federal tax liability, such taxpayer may elect not to have the amendment made by this section apply to such transfer.

By Mr. GRASSLEY (for himself, Mr. HARKIN, and Mr. ROCKEFELLER):

S. 1717. A bill to assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes; to the Committee on Armed Services.

UNIFORM REGULATORY JURISDICTION ACT

Mr. GRASSLEY. Mr. President, today, I am introducing a bill entitled "The Uniform Regulatory Jurisdiction Act of 1987." This bill provides that the end-user transportation services offered by any gas distribution company are solely within the regulatory jurisdiction of the State commission in which the gas is consumed. Presently, a problem exists when transportation service is offered by a distribution company whose main lines, simply because of geographic location, cross State boundaries. By crossing State lines, the company enters into interstate commerce, and therefore comes under the Federal Energy Regulatory Commission's jurisdiction. Because these companies' activities are primarily local, they should be under State, not Federal jurisdiction.

As we are all aware, the natural gas industry has been undergoing major structural changes in recent years as a result of the gradual deregulation of the natural gas marketplace. Many of those changes have been dictated by the current oversupply situation in which this country currently finds itself and the concurrent dramatic decline in both gas and oil prices. As part of those industry changes, some of the functions that have been performed historically by the interstate pipeline industry are now being undertaken not only by distribution companies but by end-users themselves. While this is a natural outgrowth of increased competition, certain unforeseen consequences in the exercise of regulatory oversight have occurred.

In particular, local transportation of customer-owned gas is a significant new service being offered by gas distribution companies. Such transportation by distribution companies is truly a local matter and there is no question in the vast majority of cases that it falls within the jurisdiction of the State commission in which the gas is ultimately consumed.

The problem arises when the same type of transportation is offered by a distribution company whose service area, by geographic happenstance, crosses State lines. Typically, these types of companies are located in metropolitan areas which have expanded into contiguous States. The distribution companies serving those areas have merely followed the growth.

Logically, the transportation offered by these companies would also be subject to State commission jurisdiction. After all, the terms and conditions of that end-user transportation, like that of the other wholly intrastate distribution companies, would have some impact upon the distribution company's retail consumers in that particular State.

However, the simple act of crossing State lines has caused that end-user transportation by certain distribution companies to be subject to FERC jurisdiction because, technically, they are transporting gas in interstate commerce. So, we now have FERC regulating certain activities of distribution companies, not because it is necessary to preserve regulatory oversight, but simply because of geographic accident. I am sure that FERC would prefer not to be in the business of regulating distribution companies. FERC has more than enough work regulating the true interstate pipeline activities.

We have here a situation which truly was not, and could not have been, contemplated by the drafters of the Natural Gas Act in 1938. After all, it was never thought that retail consumers would actually undertake the functions that have historically been provided by the interstate pipelines and the distribution companies that serve them.

Mr. President, another issue involved in this conflict regard the protection of States' rights. The regulation of these distribution companies' rates and services is under the exclusive domain of the State commission in which the companies operate. End-user transportation should be no exception. And it isn't in most States—except where facilities cross State lines. I believe that this legislation will aid in the preservation of State's rights by putting regulatory jurisdiction under the authority of the States where it belongs.

Both the Iowa State Commission and the Iowa Office of Consumer Advocacy strongly support this bill. The commissions in Maryland, Virginia, the District of Columbia, and West Virginia also endorsed this bill. Indeed, the National Association of Regulatory Utility Commissioners just recently passed by unanimous vote a resolution endorsing this legislation and urging Congress to pass it.

Therefore, Mr. President, I urge my colleagues to join me in protecting consumers and preserving States' rights by supporting this legislation.

By Mr. CRANSTON (for himself and Mr. D'AMATO):

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes; ordered placed on the calendar by unanimous consent.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

Mr. CRANSTON. Mr. President, this joint resolution is needed to avoid an interruption of FHA's authority to insure home mortgages on October 1.

This legislation would provide a short-term extension of FHA authority through November 1, 1987 and make it clear to everyone who cares about affordable home ownership that Congress is determined to prevent any further shutdown of FHA insurance authority. Last year, FHA was forced to shut down six times for a total of 51 days.

That was simply inexcusable. It caused needless harm to the housing industry and to hundreds of thousands of homebuyers.

The Housing and Community Development Act of 1987, which overwhelmingly passed the Senate and House earlier this year, would provide permanent FHA insurance authority so that we will never have a recurrence of the shameful failure that we saw in the last Congress.

Conference negotiations are well underway on that bill. They are proceeding in a positive spirit of bipartisan cooperation. I am confident that we will shortly have a conference agreement that the President should promptly sign into law.

However, the October 1 deadline is approaching fast, and we should make it very clear that Congres has no intention of letting anyone "play chicken" with FHA insurance.

The House is ready to pass this legislation as soon as the Senate sends it over.

I urge my colleagues to pass this measure without delay.

ADDITIONAL COSPONSORS

S. 1332

At the request of Mr. MOYNIHAN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1332, a bill to establish a remedial education treatment program as an alternative to criminal incarceration for first-time juvenile offenders who are determined to be learning disabled as a means of reducing recidivism rates among such offenders.

S. 1365

At the request of Mr. CRANSTON, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

S. 1367

At the request of Mr. CHILES, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1367, a bill authorizing the Secretary of the Interior to preserve certain wetlands and historic sites in the St. Johns River Valley, FL, and for other purposes.

S. 1393

At the request of Mr. HEINZ, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1436

At the request of Mr. DANFORTH, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1436, a bill to amend the Hazardous Materials Transportation Act regarding the transportation by rail of certain materials, and for other purposes.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1469

At the request of Mr. BOSCHWITZ, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1484

At the request of Mr. GRASSLEY, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Vermont [Mr. STAFFORD] were added as cosponsors of S. 1484, a bill to provide permanent authorization for White House Conferences on Rural Development and the Family Farm.

S. 1600

At the request of Mr. FORD, the names of the Senator from Connecticut [Mr. DODD], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1631

At the request of Mrs. KASSEBAUM, the name of the Senator from Nevada [Mr. HECHT] was added as a cosponsor of S. 1631, a bill to assure additional protection in connection with the transportation of radioactive materials.

SENATE JOINT RESOLUTION 41

At the request of Mr. GLENN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week".

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November, 1988, as "National Hospice Month."

SENATE JOINT RESODUTION 144

At the request of Mr. WIRTH, the names of the Senator from Delaware [Mr. ROTH], the Senator from Utah [Mr. HATCH], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Idaho [Mr. SYMMS], the Senator from Connecticut [Mr. DODD], the Senator from Utah [Mr. GARN], the Senator from Nebraska [Mr. EXON], the Senator from North Dakota [Mr. BURDICK], the Senator from Nevada [Mr. REID], the Senator from Vermont [Mr. STAFFORD], the Senator from Oklahoma [Mr. BOREN], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 144, a joint resolution designating the week beginning October 18, 1987, as "Financial Independence Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. D'AMATO, his name was added as a cosponsor of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE RESOLUTION 219

At the request of Mr. DASCHLE, the names of the Senator from Illinois [Mr. DIXON], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Resolution 219, a resolution expressing the sense of the Senate with respect to the use of ethanol, methanol, and other oxygenated fuels as an accepted air pollution control strategy in nonattainment areas designed by the Environmental Protection Agency.

SENATE RESOLUTION 271

At the request of Mr. KASTEN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Utah [Mr. GARN], and the Senator from Nebraska [Mr. KARNES] were added as cosponsors of Senate Resolution 271, a resolution expressing the sense of the Senate with respect to Japanese trade with the Socialist Republic of Vietnam.

AMENDMENT NO. 686

At the request of Mr. MCCAIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of Amendment No. 686 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

AMENDMENT NO. 715

At the request of Mr. MURKOWSKI, the names of the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of Amendment No. 715 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

SENATE RESOLUTION 285—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO NOLA E. FREDERICK

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 285

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Nola E. Frederick, widow of George E. Frederick, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 286—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO JERLINE PARKS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 286

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jerline Parks, widow of Billy J. Parks, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 287—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO ROBINNIA GRACE ELAINE RICHARDSON

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 287

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Robinnia Grace Elaine Richardson, widow of Thomas R. Richardson, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of his death, a sum to equal six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

DIXON (AND OTHERS) AMENDMENT NO. 717

Mr. DIXON (for himself, Mr. BINGAMAN, and Mr. GLENN) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . RIGHTS IN TECHNICAL DATA.

(a) IN GENERAL.—Section 2320(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall prescribe regulations to describe the respective rights of the United States and of a contractor or subcontractor in technical data pertaining to an item or process.";

(2) by adding at the end of paragraph (1) the following new sentence: "Except as otherwise specifically provided by law, such regulations may not impair the right of a contractor or subcontractor to receive a fee or royalty for the use of technical data developed exclusively at private expense by the contractor or subcontractor.";

(3) in paragraph (2)(E)—

(A) by striking out "shall be agreed upon" and inserting in lieu thereof "shall be determined on the basis of negotiations relating to such item or process"; and

(B) by adding at the end the following new clause:

"(iv) Such other factors as the Secretary of Defense may prescribe.";

(4) by striking paragraph (2)(F) and inserting in lieu thereof the following:

"(F) A contractor or subcontractor (or a prospective contractor or subcontractor) may not be required, as a condition of being responsive to a solicitation or as a condition for the award of a contract—

"(i) to sell or otherwise relinquish to the United States any rights in technical data except—

"(I) rights in technical data described in subparagraph (C); or

"(II) under the conditions described in subparagraph (D); or

"(ii) to refrain from offering to use, or from using, an item or process developed exclusively at private expense."

(5) in paragraph (2)(G)—

(A) by striking out "may" before the dash;

(B) in clause (i)—

(i) by inserting "may" before "negotiate"; and

(ii) by striking out "or" at the end of such clause;

(C) in clause (ii)—

(i) by inserting "may" before "agree";

(ii) by striking out "otherwise accorded to the United States under such regulations" and inserting in lieu thereof "of the United States pertaining to an item or process developed exclusively or in part with Federal funds"; and

(iii) by striking out the period at the end and inserting in lieu thereof a semicolon and "or"; and

(D) by adding at the end of such paragraph the following new clause (iii):

"(iii) may permit a contractor or subcontractor to license directly to a third party the use of technical data pertaining to an item or process developed by such contractor or subcontractor exclusively at private expense, if necessary to develop alternative sources of supply and manufacture.";

(6) in paragraph (3), by striking out "terms 'developed' and 'private expense'" and inserting in lieu thereof "term 'developed'";

(7) redesignating paragraph (4) as paragraph (5);

(8) by inserting after paragraph (3) the following new paragraph (4):

"(4) The Secretary of Defense shall include in each contract awarded by the Department of Defense that requires technical data to be delivered to the United States a provision relating to the release or disclosure of technical data developed by the contractor or subcontractor exclusively at private expense. Such provision shall prohibit—

"(A) the release of disclosure of such data (developed exclusively at private expense) by the Government to a person outside the Government;

"(B) the release of disclosure of such data by a contractor or subcontractor (other than the contractor or subcontractor that developed the data) to a person outside the Government; and

"(C) the use of such data by a person outside the Government,

except in accordance with and subject to the same limitations and requirements applicable to the release or disclosure of technical data under paragraph (2)(D). The Secretary shall also require each contractor awarded a contract described in the first sentence of this paragraph to include the same provision in each subcontract entered into by such contractor under such contract.";

(9) in paragraph (5), as redesignated by clause (7), by striking out "For purposes of this subsection" and inserting in lieu thereof: "In this subsection"; and

(10) by inserting after paragraph (5), as redesignated by clause (7), the following new paragraph:

"(6) In this subsection and in section 2321 of this title, the term 'private expense' means in connection with an item or process, that the cost of development of the item or process has not been paid for in whole or in part with Federal funds and that such development was not required as an element of performance under either a contract with the United States or a subcontract awarded under such a contract. In determining the cost of such development, indirect costs of such development (including independent research and development and bid and proposal costs) shall be deemed not to have been paid in whole or in part by the United States.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to contracts, and to the extensions, modifications, and renewals of contracts, made more than 120 days after the date of the enactment of this Act.

DASCHLE (AND OTHERS) AMENDMENT NO. 718

Mr. DASCHLE (for himself, Mr. McCAIN, Mr. NUNN, Mr. HATFIELD, Mr. WILSON, and Mr. HEFLIN) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 81, between lines 6 and 7, insert the following:

SEC. 645. RETIRED GRADE OF CERTAIN RESERVE ENLISHED MEMBERS

(a) ARMY. (1) Section 3964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Army," and inserting in lieu thereof "each enlisted member of the Regular Army, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or, in the case of members of the National Guard, full-time duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 3964 in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3964. Higher grade after 30 years of service: Army warrant officers; regular enlisted members; certain reserve enlisted members.".

(b) AIR FORCE.—(1) Section 8964 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "Each";

(B) by striking out "and each enlisted member of the Regular Air Force," and inserting in lieu thereof "each enlisted member of the Regular Air Force, and each reserve enlisted member described in subsection (b),";

(C) by adding at the end the following new subsection:

"(b) A reserve enlisted member referred to in subsection (a) is a Reserve who, at the time of his retirement, is serving on full-time active duty or full-time duty, in the case of members of the Air National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components."; and

(D) by striking out the heading of such section and inserting in lieu thereof the following:

"§ 8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members".

(2) The item relating to section 8964 in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8964. Higher grade after 30 years of service: Air Force warrant officers; regular enlisted members; certain reserve enlisted members.".

(c) CONFORMING AMENDMENTS.—(1) Sections 3965 and 3966(b)(2) of such title are amended by striking out "Regular".

(2) Sections 8965 and 8966(b)(2) of such title are amended by striking out "Regular".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any reserve enlisted member described in section 3964(b) or 8964(b) of title 10, United States Code (as added by subsections (a) and (b) of this section), who completes 30 years of service in the Armed Forces before, on, or after the date of the enactment of this Act. No person may be paid retired pay at a higher rate by reason of the enactment of this Act for any period before the date of the enactment of this Act.

NUNN (AND QUAYLE) AMENDMENT NO. 719

Mr. NUNN (for himself and Mr. QUAYLE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . NATO COOPERATIVE PROJECT AGREEMENTS.

Clause (C) of section 27(b)(I) of the Arms Export Control Act (22 U.S.C. 2767(b)(1)(C) is amended by inserting "or for procurement by the United States of munitions from the North Atlantic Treaty Organization or a subsidiary of such organization" after "member country".

NUNN (AND OTHERS) AMENDMENT NO. 720

Mr. NUNN (for himself, Mr. WARNER, Mr. GLENN, and Mr. WILSON) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new sections:

SEC. 812. JOINT OFFICER MANAGEMENT POLICIES

(a) NOMINATION AND SELECTION FOR THE JOINT SPECIALTY.—(1) Section 661(b)(2) of title 10, United States Code, is amended by inserting at the end as a flush sentence the following: "The authority of the Secretary of Defense under this paragraph to select officers for the joint specialty may be delegated only to the Deputy Secretary of Defense."

(2) Section 661(c) of such title is amended—

(A) in paragraph (2), by striking out the second sentence; and

(B) by inserting at the end the following new paragraph:

"(3)(A) In the case of an officer who has completed both the educational program referred to in paragraph (1)(A) and a full tour of duty in a joint duty assignment referred to in paragraph (1)(B), the Secretary of Defense may waive the requirement that the educational program precede such tour of duty if the Secretary determines that such waiver is necessary in the interests of sound personnel management.

"(B) In the case of an officer who has completed two full tours of duty in a joint duty assignment, the Secretary of Defense may waive the educational program requirement referred to in paragraph (1)(A) if the Secretary determines that it would be impractical to require the officer to complete such a program at the current stage of the officer's career and that the types of joint duty assignments completed by the officer have been of sufficient breadth to prepare the officer adequately for the joint specialty.

"(C) The authority of the Secretary of Defense to grant a waiver under this paragraph may be delegated only to the Deputy Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.".

(b) LENGTH OF JOINT DUTY ASSIGNMENTS.—Section 664 of such title is amended to read as follows:

"§ 664. Length of joint duty assignments

"(a) AVERAGE LENGTH OF JOINT DUTY ASSIGNMENTS.—The average length of a joint duty assignment shall be—

"(1) not less than 2½ years, in the case of general and flag officers; and

"(2) not less than 3 years, in the case of other officers.

"(b) FULL TOUR OF DUTY IN JOINT DUTY ASSIGNMENTS.—(1) A general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer has completed a tour of duty in such an assignment of not less than 2 years.

"(2) An officer other than a general or flag officer shall be considered to have completed a full tour of duty in a joint duty assignment if the officer—

"(A) has completed a tour of duty in a joint duty assignment of not less than 3 years;

"(B) has completed a tour of duty in a joint duty assignment for which the normal tour of duty is prescribed by regulation to be at least 2 years, but not more than 3 years; or

"(C) in the case of an officer with a critical occupational specialty involving combat operations, has completed a tour of duty in a joint duty assignment of not less than 2 years.

"(3) Notwithstanding paragraphs (1) and (2), an officer shall be considered to have completed a full tour of duty in a joint duty assignment upon completion of a cumulative total of 2 years of service in joint duty assignments as a general or flag officer or a cumulative total of 3 years of service in joint duty assignments as an officer other than a general or flag officer, if one or more tours of duty in a joint duty assignment included in the total of cumulative service—

"(A) was a tour of duty for which the normal tour of duty is prescribed by regulation to be less than 2 years; or

"(B) was terminated because of—

"(i) reassignment for unusual personal reasons beyond the control of the officer or the armed forces, including extreme hardship and medical conditions;

"(ii) reassignment of the officer to another joint duty assignment immediately after the officer was promoted to a higher grade if the reassignment was made because no joint duty assignment was available within the same organization that was commensurate with the officer's new grade; or

"(iii) other unique circumstances associated with the assignment.

"(4) In computing the cumulative service of an officer in joint duty assignments for the purposes of paragraph (3), a tour of duty in a joint duty assignment that was completed more than 8 years before the date of computation shall be excluded.

"(c) EXCLUSIONS.—In computing the average length of joint duty assignments for purposes of subsection (a), the Secretary of Defense shall exclude the following service:

"(1) Service in a joint duty assignment if the full tour of duty in that assignment was not completed by the officer because of—

"(A) retirement;

"(B) release from active duty;

"(C) suspension from duty under section 155(f)(2) or 164(g) of this title; or

"(D) termination of an assignment for any of the reasons prescribed in subsection (b)(3)(B).

"(2) Service in a joint duty assignment if the full tour of duty for that assignment was prescribed by regulation to be less than 2 years.

"(3) Service in a joint duty assignment, in the case of an officer other than a general or flag officer who completes a full tour of duty in that assignment, if the normal tour of duty for that assignment was prescribed by regulation to be at least 2 years, but not more than 3 years.

"(4) Service in a joint duty assignment, in the case of an officer other than a general or flag officer with a critical occupational specialty involving combat operations who completes a tour of duty in that assignment, if the tour of duty for that assignment was not less than 2 years.

"(d) DEFINITION.—In this section, the term 'tour of duty in a joint duty assignment' includes a tour of duty in which an officer serves in more than one joint duty assignment within the same organization, but without a break between such assignments.".

(c) PROMOTION POLICY OBJECTIVES.—Section 662(a) of such title is amended—

(1) in paragraph (1), by inserting "to the next higher grade" after "promoted"; and

(2) in paragraph (3)—

(A) by striking out "(other than officers covered in paragraphs (1) and (2))" and inserting in lieu thereof "(other than officers who are serving on, or who have served on, the Joint Staff or who have the joint specialty)";

(B) by inserting "to the next higher grade" after "promoted"; and

(C) by inserting "(other than officers who are serving on, or have served on, the headquarters staff of their armed force)" after "armed force".

(d) NOTICE OF EXERCISE OF WAIVER AUTHORITIES AND EXCLUSIONS.—Section 667 of such title is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (12), respectively;

(2) by inserting after paragraph (7) the following new paragraph (8):

"(8) The number of times, in the case of each category of exclusion, that service in a joint duty assignment was excluded in computing the average length of joint duty assignments."; and

(3) by inserting after paragraph (10), as redesignated by clause (1) of this subsection, the following new paragraph (11):

"(11) The number of times a waiver authority was exercised under this chapter (or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments) in the case of each such authority, an analysis of the reasons for exercising the authority, and the number of times in which action was taken without exercise of the waiver authority compared with the number of times waiver authority was exercised (in the case of each waiver authority under this chapter or under any other provision of law which permits the waiver of any requirement relating to joint duty assignments).".

(e) MODIFICATION OF DEFINITION OF JOINT DUTY ASSIGNMENT.—Section 668(b)(1)(B) of such title is amended by striking out the period and inserting in lieu thereof ", except for not more than 100 assignments which are designated by the Secretary, in consultation with the Chairman of the Joint Chiefs of Staff, as providing significant experience in joint matters.".

(f) JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER GRADE.—(1) Section 619(e)(1) of such title is amended by striking out "served in a joint duty assignment" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment. Until January 1, 1992, a qualified nuclear propulsion officer may be promoted to rear admiral (lower half) without meeting the requirement of the preceding sentence, but may not be selected for promotion to the grade of rear admiral (upper half) unless such officer has completed a full tour of duty in a joint duty assignment".

(2) The Chairman of the Joint Chiefs of Staff, after consultation with the Chief of Naval Operations, shall initiate and carry out a plan for ensuring that an appropriate number of qualified nuclear propulsion officers serve in joint duty assignments. The Chairman shall submit a copy of such plan to the Committees on Armed Services of the Senate and House of Representatives at the earliest practicable date, but in no event later than one year after the date of the enactment of this Act.

SEC. 813. ADDITIONAL ASSISTANT SECRETARY OF DEFENSE AND ADDITIONAL POSITION IN EXECUTIVE SCHEDULE

(a) ADDITIONAL ASSISTANT SECRETARY OF DEFENSE.—Notwithstanding section 136(a) of title 10, United States Code, until January 20, 1989, the Department of Defense is authorized a total of 12 Assistant Secretaries of Defense, appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) TEMPORARY INCREASE IN LEVEL IV POSITIONS.—Notwithstanding section 5315 of title 5, United States Code, until January 20, 1989, the number of Assistant Secretaries of Defense authorized as positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code, is increased by one to a total of 12.

SEC. 814. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND CERTAIN OTHER ACTIVITIES

Section 601 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 194 note) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) EXCLUSION.—In computing and making reductions under this section, there shall be excluded not more than 1,600 personnel transferred during fiscal year 1988 from the General Services Administration to the Department of Defense for the purpose of having the Department of Defense assume responsibility for the management, operation, and administration of certain real property under the jurisdiction of that Department.".

SEC. 815. ASSIGNMENT OF FORCES TO COMBATANT COMMANDS

Section 162(a)(2) of title 10, United States Code, is amended by striking out the period and inserting in lieu thereof "or forces assigned to multinational peacekeeping organizations.".

WILSON (AND OTHERS) AMENDMENT NO. 721

Mr. WILSON (for himself, Mr. CHILES, Mr. SYMMS, and Mr. MCCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 8, between lines 9 and 10, insert the following new subsection:

(c) LEASE OR CHARTER OF NEW TANKERS.—Subject to section 2401 of title 10, United States Code, the Secretary of the Navy may enter into long-term leases and charters for militarily useful tanker vessels constructed in the United States.

SYMMS AMENDMENT NO. 722

Mr. SYMMS proposed an amendment to the bill (S. 1174) supra; as follows:

(a) FINDINGS.—The Congress finds that—

(1) Soviet espionage agents have installed listening devices in the structure of the new American embassy in Moscow in blatant defiance of the spirit of the embassy agreements and certain recognized norms of international relations;

(2) this Soviet espionage effort has been so extensive and insidious as to require the virtual rebuilding of a large part of the new American embassy in Moscow, the construction of which has cost American taxpayers tens of millions of dollars;

(3) it is well known that Soviet espionage agents intend to use the new Soviet embassy in this country as a platform to conduct highly sophisticated electronic surveillance of the United States Government offices and even the private telephone calls of American citizens;

(4) the purpose of this surveillance can be none other than to undermine the national security of the United States and further the expansionist ambitions of the Soviet Union;

(5) the location of the new Soviet embassy at a site nearly 350 feet above sea level is ideal for this type of surveillance, having been offered to the Soviets at a time when electronic surveillance techniques and potential were not fully understood in the West;

(6) subsection (b) of 22 U.S.C. 4305 specifically allows the Secretary of State to "require any foreign mission to divest itself of . . . real property . . . where otherwise necessary to protect the interests of the United States"; and

(7) Congress, through enactment of such subsection, has clearly expressed the desire that the Secretary exercise such authority when necessary to protect the vital security interests of the United States.

(b) NEW AGREEMENT WITH SOVIET UNION.—The President shall—

(1) void the current embassy agreements; and

(2) enter into negotiations for a new agreement under which the Soviet Union will move its new embassy to a site in the District of Columbia that is not more than 90 feet above mean sea level.

(c) EMBASSY AGREEMENTS.—For the purposes of this section the term "embassy agreements" means—

(1) the "Agreement between the United States of America and the Union of Soviet Socialist Republics on Reciprocal Allocation for Use Free of Charge of Plots of Land in Moscow and Washington", entered into force on May 16, 1969; and

(2) the Agreement between the United States of America and the Union of Soviet Socialist Republics on Conditions of Construction of Complexes of Buildings of the Embassy of the United States of America in Moscow and the Embassy of the Union of Soviet Socialist Republics in Washington", entered into force on December 4, 1972.

DODD (AND OTHERS) AMENDMENT NO. 723

Mr. DODD (for himself, Mr. CRANSTON, Mr. KENNEDY, Mr. DURENBERGER, Mr. D'AMATO, and Mr. KERRY) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. POLICY TOWARD PANAMA.

(a) FINDINGS.—The Congress finds that—

(1) the executive, judicial, and legislative branches of the Government of Panama are now under the influence and control of the Panamanian Defense Forces;

(2) a broad coalition of church, business, labor, civic, and political groups have joined to call for an objective and thorough investigation into the allegations concerning serious violations of law by certain officials of the Government of Panama and the Panamanian Defense Forces, and have insisted that General Noriega and others involved relinquish their official positions until such an investigation has been completed.

(3) the Panamanian people continue to be denied the full rights and protections guaranteed by their constitution, as evidenced by continuing censorship and the closure of the independent media, arrests without due process, and instances of excessive force by the Panamanian Defense Forces; and

(4) political unrest and social turmoil in Panama can only be resolved if the Government of Panama begins to demonstrate respect for and adherence to all provisions of the Panamanian constitution.

(b) POLICY.—Therefore, it is the sense of the Congress that the United States should—

(1) cease all economic and military assistance provided pursuant to the Foreign Assistance Act of 1961 and the Arms Export Control Act to the Government of Panama, except that the United States should continue to make available assistance to meet immediate humanitarian concerns,

(2) suspend all shipments of military equipment and spare parts to the Government of Panama or to any of its agencies or institutions, and

(3) prohibit the importation of sugars, syrups, or molasses that are products of Panama into the United States and to reallocate among other foreign countries such quantities of sugar, syrups, and molasses that would have been imported from Panama but for such prohibition;

unless no later than 45 days after the date of enactment of this act—

(1) the Government of Panama has demonstrated substantial progress in the effort to assure civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from nonmilitary activities and institutions;

(2) the Government of Panama has established an independent investigation into allegations of illegal actions by members of the Panama Defense Forces;

(3) a nonmilitary transitional government is in power; and

(4) freedom of the press and all other constitutional guarantees to the Panamanian people are restored.

McCAIN AMENDMENT NO. 724

Mr. McCAIN proposed an amendment to the bill (S. 1174) supra; as follows:

At an appropriate place in the bill, insert the following new section:

"SEC. . (a) Effective 30 days after the date of enactment of this Act, no citizen or national of a country described in subsection (b) shall be permitted to lawfully enter the United States, either temporarily or permanently, unless prior to such entry such citizen or national has presented satisfactory evidence that such citizen or national has, within 12 months before such entry, been tested for the Human Immunodeficiency Virus (AIDS Virus) and such person does not carry that virus.

(b) A country referred to in subsection (a) is one that has as a requirement for entry into such country by a citizen or national of the United States that such United States citizen or national present evidence or certification that such United States citizen or national has been tested for or does not carry the Human Immunodeficiency Virus (AIDS Virus).".

MURKOWSKI (AND STEVENS) AMENDMENT NO. 725

Mr. MURKOWSKI (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1174, supra; as follows:

On page 192, between lines 11 and 12, insert the following:

SEC. . DENIAL OF FUNDS FOR PROJECTS USING CERTAIN SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

(a) IN GENERAL.—

(1) Funds appropriated pursuant to an authorization contained in this Act may not be used to carry out within the United States, or within any territory or possession of the United States, any military construction project of the Department of Defense which uses any service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

(2) Subsection (a) shall not apply with respect to the use of a service in a military construction project if the Secretary of Defense determines that—

(A) the application of subsection (a) to such service would not be in the national interest,

(B) services offered in the United States, or in any foreign country that is not listed under subsection (c), of the same class or kind as such service are insufficient or are not of a satisfactory quality, or

(C) exclusion of such service from the project would increase the cost of the overall project by more than 20 percent.

(b) DETERMINATIONS.—

(1) By no later than the date that is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for services of the United States in procurement, or

(B) fair and equitable market opportunities for services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

(c) LISTING OF FOREIGN COUNTRIES.—

(1) The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

(2) Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

(3) The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

(d) DEFINITIONS.—For purposes of this section—

(1) The term "service" means any engineering, architectural, or construction service.

(2) Each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

(3) Any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.

GLENN (AND McCAIN) AMENDMENT NO. 726

Mr. GLENN (for himself and Mr. MCCAIN) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 65, between lines 15 and 16, insert the following new section:

SEC. 624. AUTHORITY TO TRANSPORT VEHICLES LEASED BY MEMBERS OF THE ARMED FORCES

The first sentence of section 2634(a) of title 10, United States Code, is amended—

(1) by inserting "or leased" after "owned" in the matter preceding clause (1); and

(2) by inserting "or leased" after "vehicle owned" in the matter preceding clause (1).

WILSON AMENDMENT NO. 727

Mr. WILSON proposed an amendment to the bill (S. 1174) supra; as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) AUTHORITY TO EXCHANGE.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey certain real property (an improvements thereon) adjacent to Air Force Plant 19 in San Diego, California, to the County of San Diego, California, in exchange for certain real property (and improvements thereon) located in San Diego County, California.

(b) CONDITION.—If the fair market value of the real property and improvements conveyed to the County of San Diego under subsection (a) exceeds the fair market value of the real property and improvements conveyed to the United States by the County of San Diego, the County shall pay to the United States an amount equal to the difference. The Secretary shall deposit any funds received under this subsection as miscellaneous receipts in the Treasury.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal discription of the real property exchanged under this section shall be in accordance with surveys that are satisfactory to the Secretary. The costs of such surveys shall be borne by the County of San Diego.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interests of the United States.

(e) REPORT.—Before the Secretary of the Air Force enters into an agreement authorized under subsection (a) for an exchange of real property with the County of San Diego, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the details of such proposed agreement. The report shall also include the following information:

(1) An assessment of the impact of the proposed exchange on—

(A) current activities of the Department of Defense at Plant 19;

(B) the potential disposal of Plant 19 to a private concern; and

(C) the ability of Plant 19 to support potential or programed future missions of the Air Force.

(f) An agreement for an exchange authorized by subsection (a) may not be entered by the Secretary of the Air Force for a period of 30 days after the date on which the report referred to in subsection (e) has been received by the committees named in such subsection.

DECONCINI (AND OTHERS) AMENDMENT NO. 728

Mr. DECONCINI (for himself, Mr. NUNN, Mr. WARNER Mr. SYMMS, and Mr. MCCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

At the appropriate point in the bill, insert the following provision:

(□) STINGER ELECTRONIC SECURITY SYSTEM.—Of the funds appropriated pursuant to Section 201(a)(1)(A), not less than $4,000,000 shall be available solely for purposes of demonstrating and testing alternative electronic safety devices that can be installed or retrofitted on Stinger air defense missiles in both the basic Stinger configuration and the reprogrammable microprocessor configuration. The results of demonstration and testing on the basic Stinger configuration shall be summarized and reported to the Congress not later than July 1, 1988, and the results on the reprogrammable microprocessor configuration not later than January 1, 1989.

HATFIELD (AND OTHERS) AMENDMENT NO. 729

Mr. HATFIELD (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. WIRTH, Mr. DECONCINI, Mr. PELL, Mr. STAFFORD, Mr. DANFORTH, Mr. SPECTER, Mr. MATSUNAGA, Mr. LEAHY, Mr. PROXMIRE, Mr. DASCHLE, Mr. KERRY, Mr. MITCHELL, Mr. SIMON, Mr. HARKIN, Ms. MIKULSKI, Mr. CONRAD, Mr. BAUCUS, Mr. BURDICK, Mr. RIEGLE, Mr. LEVIN, Mr. MELCHER, Mr. METZENBAUM, Mr. SARBANES, Mr. SANFORD, Mr. LAUTENBERG, Mr. WEICKER, Mr. FOWLER, Mr. BUMPERS, Mr. INOUYE, Mr. ADAMS, and Mr. MOYNIHAN) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. UNDERGROUND NUCLEAR TESTING

(a) FINDINGS.—The Congress makes the following findings:

(1) The national interest of the United States would be served by the achievement of mutual, verifiable nuclear arms reductions with the Soviet Union and by mutual, verifiable limits on the number and yield of future underground nuclear explosions conducted by both nations.

(2) A 2-year, mutual moratorium by the United States and the Soviet Union on virtually all underground nuclear explosions above a verifiable low-yield threshold would be a crucial first step by both nations toward achieving the goals described in paragraph (1).

(3) A 2-year, mutual moratorium on underground nuclear explosions above a verifiable low-yield threshold would constitute a good faith step toward fulfilling the obligations of the United States and the Soviet Union under article VI of the Nonproliferation Treaty to pursue "effective measures relating to the cessation of the nuclear arms race at an early date" and under article I of the Limited Test Ban Treaty to seek "the permanent banning of all nuclear test explosions, including all such explosions underground."

(4) A level of weapon reliability sufficient to deter the use of nuclear stockpiles can be maintained at a greatly reduced rate and yield for underground nuclear test explosions.

(5) The task of monitoring the yields of explosions for compliance with a low-threshold moratorium can be made considerably easier by limiting test explosions to one small test area composed of strong-coupling rock, thereby allowing detection-identification of any off-site nuclear explosion, regardless of yield, to serve as sufficient evidence of violation of the moratorium.

(6) A 2-year moratorium on any underground nuclear test which has an explosive power greater than one kiloton could be verified with a high degree of confidence if the current external seismic monitoring network were supplemented by three in-country networks, each composed of four stations, deployed in the vicinity of each nation's primary test site and in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits.

(7) A joint research project between the United States and the Soviet Union to determine the number, type, and locations of additional in-country seismic monitoring stations necessary to verify long-term compliance with the limitations of a low-threshold test ban treaty would contribute significantly to the prospect of concluding such a treaty in the future.

(b) Limitations on Nuclear Testing.—(1) Subject to paragraph (2), during the 2-year period beginning 270 days after the date of the enactment of this Act, funds may not be obligated or expended by any department or agency to conduct an underground nuclear explosion—

(A) with a yield greater than one kiloton, except for two designated test explosions, each with a yield not exceeding 15 kilotons;

(B) in weak-coupling geologic media;

(C) at a location that is not part of a single designated test area; and

(D) unless a public announcement of a proposed explosion has been made at least 30 days before the date of the explosion.

(2) The restriction in paragraph (1) shall cease to apply if—

(A) after the restriction has become effective, the President certifies to Congress that the Soviet Union—

(i) has conducted an underground nuclear explosion having a joint seismic yield estimate which indicates a yield greater than one kiloton, except for two designated explosions with a joint seismic yield estimate indicating a yield not greater than 15 kilotons;

(ii) has conducted an underground nuclear explosion in weak-coupling geologic media; or

(iii) has conducted an underground nuclear explosion at a location that is not part of a single designated test area; or

(B)(i) the President certifies to Congress that the Soviet Union has refused, after the restriction has become effective, to implement reciprocal, in-country monitoring arrangements; and

(ii) Congress has enacted a joint resolution approving such certification.

(c) Termination for Certain New Agreements.—The restrictions on testing contained in subsection (b) shall cease to apply if supplanted by an agreement, accord, or treaty between the United States and the Soviet Union which makes reductions in the number or yield of underground nuclear explosions permitted under treaties between the United States and the Soviet Union signed before January 1, 1987.

(d) Definitions.—For purposes of this section:

(1) The term "designated test area" means an area not exceeding 100 square kilometers within the Soviet Union or the United States, as the case may be, which—

(A) is located within the boundaries of a single existing nuclear weapons testing site in each country;

(B) incorporates competent or water-saturated strong-coupling rock that does not contain closely spaced underground tunnels or a cavity with a radius greater than 20 meters; and

(C) has been the site, before the effective date of the testing restrictions specified in this Act, of five nuclear calibration explosions having a range of independently determined yields, conducted for the primary purpose of improving the accuracy of seismic monitoring techniques, without the use of diagnostic equipment, except equipment for a Continuous Reflectometry for Radius versus Time Experiment (CORRTEX), or any other method of ascertaining the yield of explosions which is mutually agreeable to the United States and the Soviet Union.

(2) The term "joint seismic yield estimate" means a composite estimate at a high confidence level which—

(A) is based on the concurrent employment of several independent methods for calculating yields of explosions at designated test sites using different seismic waves from an underground nuclear explosion; and

(B) has been the subject of a technical report, provided in both classified and unclassified form to the Committees on Armed Services and on Foreign Affairs of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Armed Services and on Foreign Relations of the Senate, and the Select Committee on Intelligence of the Senate, conducted by a scientific review panel convened under the auspices of the National Academy of Sciences and comprised of ten highly qualified seismologists designated as follows:

(i) one by the Chairman of the Select Committee on Intelligence of the Senate;

(ii) one by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives;

(iii) one by the head of the Air Force Technical Applications Center;

(iv) one by the Director of the Defense Intelligence Agency;

(v) one by the Director of Central Intelligence;

(vi) one by the head of the Defense Advanced Research Projects Agency;

(vii) one jointly by the directors of the national weapons laboratories;

(viii) one by the Director of the Geological Survey;

(ix) one by the Director of the Office of Technology Assessment; and

(x) one by the President of the National Academy of Sciences.

(3) The term "reciprocal, in-country monitoring arrangements" means arrangements between the United States and the Soviet Union to supplement national technical means of verification through—

(A) the conduct by either country of up to six on-site inspections on the national territory of the other, each of which shall be allowed to commence within 10 days after the day on which either nation has presented to the other a formal request demonstrating the need for additional information to identify a specific ambiguous event or activity related to apparent violations of the restrictions specified in subsection (b)(1);

(B) designation by each country, not later than 30 days after the date of enactment of this Act, of a candidate designated test area, followed by an independent inspection by the monitoring country, beginning not later than 60 days after the date of enactment of this Act and ending not later than 180 days after such date, of—

(i) the geologic and material properties within each candidate designated test area, including the presence and disposition of any underground tunnels and cavities; and

(ii) complete drill cores and logs from five calibration test holes of appropriate depth within each candidate designated test area, the drilling of which has been observed and the locations of which have been selected by the side monitoring that area;

(C) the provision of at least 30 days advance notice of—

(i) the scheduled date, time, depth, and coordinates for each nuclear test explosion of one kiloton or less;

(ii) the scheduled date, time, depth, and coordinates for not more than two explosions, each with a planned yield in excess of one kiloton, but not exceeding 15 kilotons; and

(iii) the coordinates, dates, times, and yields of industrial explosions larger than 20 tons of high explosive to be conducted within the nuclear test-capable areas defined in clause (D);

(D) the emplacement by each country, on the national territory of the other, of twelve high performance seismic stations (four bore-hole instrument packages sited within 1,500 kilometers of each designated test area and eight additional seismic stations in regions where peaceful nuclear explosions may have created suitable decoupling cavities in thick salt deposits) such that the combined internal and external seismic monitoring network of each nation will be capable of detecting and identifying all nuclear explosions with yields exceeding one kiloton—

(i) at known nuclear weapons tests sites of the other country; and

(ii) at sites in the other country having a current capability to accommodate a decoupled nuclear explosion with a yield exceeding one kiloton; and

(E) the conduct of a joint verification study by experts on nuclear test verification techniques from both the United States and the Soviet Union for the purpose of determining the number and locations in both countries of additional in-country seismic monitoring stations needed to monitor long-term compliance with the terms of a low-yield threshold test ban treaty.

(e) Special Procedures for Considering Legislation Approving Presidential Certification.—(1) For the purpose of expediting the consideration of a joint resolution referred to in subsection (b)(2)(B)(ii), the procedures specified in paragraph (2) of this subsection shall apply.

(2)(A) For the purposes of subsection (b)(2)(B)(ii), "joint resolution" means only a joint resolution introduced after the date on which a certification by the President under such subsection is received by Congress the matter after the resolving clause of which is as follows: "That Congress approves the certification made by the President, dated ____________, with respect to the refusal of the Soviet Union to implement reciprocal, in-country monitoring arrangements in connection with underground nuclear testing.", the blank space therein being filled with the appropriate date.

(B) A resolution described in subparagraph (A) introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subparagraph (A) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate. Such a resolution may not be reported before the 8th day after its introduction.

(C) If the committee to which is referred a resolution described in subparagraph (A) has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(D)(i) When the committee to which a resolution is referred has reported, or has been deemed to be discharged (under subparagraph (C)) from further consideration of, a resolution described in subparagraph (A), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(ii) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(iii) Immediately following the conclusion of the debate on a resolution described in subparagraph (A), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(iv) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subparagraph (A) shall be decided without debate.

(v) If, before the passage by one House of a resolution of that House described in subparagraph (A), that House receives from the other House a resolution described in subparagraph (A), then the following procedures shall apply:

(i) The resolution of the other House shall not be referred to a committee.

(ii) With respect to a resolution described in subparagraph (A) of the House receiving the resolution—

(I) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(vi) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subparagraph (A), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

HATFIELD (AND OTHERS) AMENDMENT NO. 730

Mr. HATFIELD (for himself, Mr. Pryor, Mr. Danforth, Mr. Leahy, Mr. Cranston, Mr. Weicker, Mr. Metzenbaum, and Mr. Daschle) proposed and amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PROHIBITION ON USE OF FUNDS FOR PRODUCTION OF LETHAL BINARY CHEMICAL MUNITIONS.

(a) Expression of Congressional Policy Regarding Chemical Weapons.—It is the sense of Congress—

(1) that extraordinary progress has been made in recent months at the Chemical Weapons Disarmament Conference in Geneva by the United States, the Soviet Union, and 38 other nations in the negotiation of a treaty banning the production and stockpiling of chemical weapons;

(2) that any treaty banning the production and stockpiling of chemical weapons to which the United States becames a party must include requirements for enforcement, for the on-site inspection on demand of all storage, production, and destruction facilities, and for the accounting of chemical weapons which may be developed in the future;

(3) that it is essential to the continued progress of negotiations on a verifiable treaty banning the production and stockpiling of chemical weapons that the Soviet Union demonstrate a good faith effort to address the requirements described in clause (2); and

(4) that a one-year dalay on the final assembly of lethal binary chemical munitions by the United States could enhance chances for the successful negotiation of a multilateral and verifiable treaty banning the production and stockpiling of chemical weapons and would indicate to the Soviet Union and other negotiating nations the good faith commitment of the United States to conclude such a treaty.

(b) Temporary Prohibition on Use of Funds.—None of the funds appropriated or otherwise made available by this Act to or for the use of any department or agency of the Government may be obligated or expended for the final assembly of lethal binary chemical munitions before October 1, 1988.

(c) Definition.—As used in subsections (a) and (b), the term "lethal binary chemical munitions" has the same meaning given such term in section 818(b) of the Department of Defense Appropriations Authorization Act, 1976 (Public Law 94-106; 50 U.S.C. 1519).

PRYOR (AND OTHERS) AMENDMENT NO. 731

Mr. PRYOR (for himself, Mr. Hatfield, Mr. Daschle, Mr. Inouye, Mr. Metzenbaum, and Mr. Harkin) proposed an amendment to the bill S. 1174, supra; as follows:

On page 3, line 22, strike out "$4,967,627,000" and insert in lieu thereof "$4,965,578,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,207,823,000".

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,711,452,000".

On page 114, between lines 13 and 14, insert the following new section:

SEC. 812. RESTRICTIONS ON THE BIGEYE BOMB PROGRAM

(a) In General.—Except as provided in subsection (b), none of the funds appropriated pursuant to an authorization contained in this or any other Act may be used for procurement or assembly of the BIGEYE binary chemical bomb for the procurement of any component or subcomponent for such bomb or for the procurement of any construction facilities or equipment associated with the production of such bomb until specific legislation has been enacted after the date of the enactment of this Act authorizing the obligation and expenditure of funds for production of the BIGEYE binary chemcial bomb.

(b) Exception for Research, Development, Testing, and Evalaution.—The requirements of this section shall not apply to funds obligated solely for the purpose of carrying out research, development, testing, and evaluation in connection with the BIGEYE binary chemical bomb program.

(c) Limitation on Fiscal Year 1987 Funds.—Except as provided in subsection (b), the funds appropriated to carry out the BIGEYE binary chemical bomb program in fiscal year 1987, and which remain unexpended on the date of the enactment of this Act, may not be used to carry out such program in fiscal year 1988.

BYRD (AND OTHERS) AMENDMENT NO. 732

Mr. BYRD (for himself, Mr. Nunn, Mr. Bumpers, Mr. Adams, and Mr. Sasser) proposed an amendment to amendment No. 712 proposed by Mr. Weicker to the bill S. 1174, supra; as follows:

Strike all after subsection (a) of the amendment and insert in lieu thereof, the following:

(b) Congress expresses its support for:

(1) a continued US presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a ceasefire as called for by United Nations Security Council Resolution 598, and take early

action toward imposing sanctions on any party which refuses to accept a cease-fire.

(c)(1) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4 (a) (1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and reregistration.

(e)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution which authorizes escorting of reregistered vessels in the Persian Gulf or the reregistration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the bill. A motion further to limit debate is in order and not debatable. Amendments to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(f) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

CHILES (AND OTHERS) AMENDMENT NO. 733

Mr. CHILES (for himself, Mr. Bingaman, Mr. Wirth, Mr. Domenici, Mr. DeConcini, Mr. D'Amato, Mr. Cranston, Mr. Proxmire, Mr. McCain, Mr. Bentsen, Mr. Wilson, Mr. Graham, and Mr. McClure) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 22, between lines 8 and 9, insert the following new section:

SEC. 229. SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

(a) Findings.—The Congress finds that it is in the national economic and security interests of the United States for the Department of Defense to provide financial assistance to Sematech for research and development activities in the field of semiconductor manufacturing technology.

(b) Purposes.—The purposes of this section are—

(1) to encourage the semiconductor industry in the United States—

(A) to conduct research on advanced semiconductor manufacturing techniques; and

(B) to develop techniques to use manufacturing expertise for the manufacture of a variety of semiconductor products; and

(2) in order to achieve the purpose set out in clause (1), to provide a grant program for the financial support of semiconductor research activities conducted by Sematech.

(c) Definitions.—In the section:

(1) The terms "Advisory Council on Federal Participation in Sematech" and "Council" mean the advisory council established by subsection (g).

(2) The term "Sematech" means a consortium of the United States semiconductor industry established for the purposes of (A) conducting research concerning advanced semiconductor manufacturing techniques, and (B) developing techniques to adapt manufacturing expertise to a variety of semiconductor products.

(d) Authority To Make Grants.—The Secretary of Defense shall make grants, in accordance with section 6304 of title 31, United States Code, to Sematech in order to defray expenses incurred by Sematech in conducting research on and development of semiconductor manufacturing technology. The grants shall be made in accordance with a memorandum of understanding entered into under subsection (e).

(e) Memorandum of Understanding.—The Secretary of Defense shall enter into a memorandum of understanding with Sematech for the purposes of this section. The memorandum of understanding shall include provisions which require the following:

(1) That Sematech have—

(A) a charter agreed to by all representatives of the semiconductor industry that are participating members of Sematech; and

(B) an annual operating plan that is developed in consultation with the Secretary of Defense and the Advisory Council on Federal Participation in Sematech.

(2) That the amount of funds made available to Sematech by the Department of Defense in any fiscal year for the support of research and development activities of Sematech under this section may not exceed 50 percent of the total cost of such activities.

(3) That Sematech, in conducting research and development activities pursuant to the memorandum of understanding, cooperate with and draw on the expertise of the national laboratories of the Department of Energy and of colleges and universities in the United States in the field of semiconductor manufacturing technology.

(4) That the Advisory Council on Federal Participation in Sematech review the research activities of Sematech and submit to the Department of Defense and the Committees on Armed Services of the Senate and the House of Representatives an annual report containing a description of the extent to which Sematech is achieving its research and development goals.

(5) That an independent, commercial auditor be retained (A) to determine the extent to which the funds made available to Sematech by the Department of Defense for the research and development activities of Sematech have been expended in a manner that is consistent with the purposes of this section, the charter of Sematech, and the annual operating plan of Sematech, and (B) to submit to the Secretary of Defense, Sematech, and the Comptroller General of the United States an annual report containing the findings and determinations of such auditor.

(6) That the Secretary of Defense be permitted to transfer intellectual property owned and developed by Sematech only to Department of Defense contractors and only for use in connection with Department of Defense requirements and that the Secretary not be permitted to transfer such property to any person for commercial use.

(7) That Sematech take all steps necessary to maximize the expeditious and timely transfer of technology developed and owned by Sematech to the private sector participants in Sematech in accordance with the terms and conditions set forth in the agreement between Sematech and its private sector participants and for the purpose of improving manufacturing productivity of United States semiconductor firms.

(f) CONSTRUCTION OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding entered into under subsection (e) shall not be considered a contract for the purpose of any law relating to the formation, content, and administration of contracts awarded by the Federal Government and subcontracts under such contracts, including section 2306a of title 10, United States Code, section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168), and the Federal Acquisition Regulations; and such provisions of law shall not apply with respect to the memorandum of understanding.

(g) ADVISORY COUNCIL.—(1) There is established the Advisory Council on Federal Participation in Sematech.

(2)(A) The Council shall advise Sematech and the Secretary of Defense on appropriate technology goals for the research and development activities of Sematech and a plan to achieve those goals. The plan shall provide for the development of high-quality, high-yield semiconducting manufacturing technologies that meet the national security and commercial needs of the United States.

(B) The Council shall—

(i) conduct an annual review of the activities of Sematech for the purpose of determining the extent of the progress made by Sematech in carrying out the plan referred to in subparagraph (A); and

(ii) on the basis of its determinations under clause (i), submit to Sematech any recommendations for modification of the plan or the technological goals in the plan considered appropriate by the Council.

(3) The Council shall be composed of 12 members as follows:

(A) The Under Secretary of Defense for Acquisition, who shall be Chairman of the Council.

(B) The Director of Energy Research of the Department of Energy.

(C) The Director of the National Science Foundation.

(D) The Undersecretary of Commerce for Economic Affairs.

(E) The Chairman of the Federal Laboratory Consortium for Technology Transfer.

(F) Seven members appointed by the President as follows:

(i) Four members who are eminent individuals in the semiconductor industry and related industries.

(ii) Two members who are eminent individuals in the fields of technology and defense.

(iii) One member who represents small businesses.

(4) Each member of the Council appointed under paragraph (3)(F) shall be appointed for a term of 3 years, except that of the members first appointed, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, and 3 shall be appointed for a term of 3 years, as designated by the President at the time of appointment. A member of the Council may serve after the expiration of the member's term until a successor has taken office.

(5) A vacancy in the Council shall not affect its powers but, in the case of a member appointed under paragraph (3)(F), shall be filled in the same manner as the original appointment was made. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term.

(6) Seven members of the Council shall constitute a quorum.

(7) The Council shall meet at the call of the Chairman or a majority of its members.

(8)(A) Each member of the Council shall serve without compensation.

(B) While away from their homes or regular places of business in the performance of duties for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(9) Section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Council.

(h) RESPONSIBILITIES OF THE COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(1) review the annual reports of the auditor submitted to the Comptroller General in accordance with subsection (e)(5); and

(2) transmit to the Committees on Armed Forces of the Senate and the House of Representatives his comments of the accuracy and completeness of the reports and any additional comments on the report that the Comptroller General considers appropriate.

(i) EXPORT OF SEMICONDUCTOR MANUFACTURING TECHNOLOGY.—Any export of materials, equipment, and technology developed by Sematech in whole or in part with financial assistance provided under this section shall be subject to the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) and shall not be subject to the Arms Export Control Act.

(j) PROTECTION OF INFORMATION.—(1) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of Sematech that are funded in whole or in part by financial assistance provided under this section:

(A) Information on the business operations of Sematech and its members.

(B) Trade secrets of Sematech or its members.

(2) Notwithstanding any other provision of law, intellectual property owned and developed by Sematech or its members may not be disclosed by any officer or employee of the Department of Secretary of Defense except as provided in the limitation included in the memorandum of understanding pursuant to subsection (e)(6).

(k) AUTHORIZATION.—Of the amounts appropriated pursuant to section 201(a)(4), $100,000,000 of the amount appropriated for fiscal year 1988, and $100,000,000 of the amount appropriated for fiscal year 1989, may be obligated only to carry out this section.

JOHNSTON (AND OTHERS) AMENDMENT NO. 734

Mr. JOHNSTON (for himself, Mr. McCLURE, Mr. MURKOWSKI, Mr. BRADLEY, and Mr. HECHT) proposed an amendment to the bill (S. 1174) supra; as follows:

At the end of Title VII, add a new section as follows:

SEC. . REPORT ON CONTINGENCY PLANS TO DEAL WITH DISRUPTIONS IN PERSIAN GULF CRUDE OIL SUPPLY

"(a) Within 120 days of the enactment of this Act, the Secretary of Defense, with the assistance of the Secretary of Energy, is authorized and directed to prepare and submit to the Armed Services Committees of the House of Representatives and the United States Senate, and to the Senate Energy and Natural Resources Committee and to the House Committee on Energy and Commerce, a report on Department of Defense contingency plans for dealing with significant disruptions in the supply of U.S. crude oil produced by the nations of the Persian Gulf region. If the Secretary finds it necessary to classify the report or any portion thereof, a nonclassified version containing any energy policy recommendations made by the two Secretaries shall be prepared for transmittal to such committees.

"(b) In preparing the contingency report required by this Section, the Secretary of Defense shall:

"(1) Ascertain the extent of current dependency of the United States Armed Forces, the United States civilian economy, and the nations of the free world (with specific reference to NATO allies and to Japan) on crude oil produced in the Persian Gulf region;

"(2) Prepare a range of estimates on the types of supply disruptions which could occur and their impact on, and the duration of, reduced availability of crude oil supply from the producing nations of the Persian Gulf;

"(3) Develop a range of contingency plans for dealing with potential supply disruptions and crude oil shortages from the Persian Gulf, including but not limited to the role and use of existing domestic crude oil production, other non-Persian Gulf sources of world crude oil supply, the Strategic Petroleum Reserve, and the use of any emergency power or authority provided for by existing law;

"(4) Identify and review any bilateral or multilateral agreements (including the International Energy Agreement) which commit or obligate the United States to furnish crude oil or petroleum products to other nations; and

"(5) Set forth the policy and legislative recommendations of the Secretaries of Defense and Energy for improving the ability of the Department of Defense and the United States to effectively respond to problems created by significant disruptions in Persian Gulf crude oil production, transportation and supply.

"(c) The Secretaries of Defense and Energy shall include in the Persian Gulf contingency report estimates of the total annual and per barrel cost of Persian Gulf crude oil to the world's economy and to the United States' economy and the total annual and monthly cost of maintaining at current or projected levels a military presence in the Persian Gulf region.".

HELMS AMENDMENT NO. 735

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill (S. 1174) supra; as follows:

Add at the end of the bill the following new section:

"SEC. . It is the sense of the Senate that the United States Navy is fully justified in sinking any Iranian vessel which threatens (1) the safe passage of any American warship or (2) other vessel known to have on board any citizen of the United States of America; provided, further, that this Section shall not in itself be construed as legislative authority for any specific military operation".

DIXON (AND OTHERS) AMENDMENT NO. 736

Mr. DIXON (for himself, Mr. STEVENS, and Mr. GRAMM) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . PRODUCTION SPECIAL TOOLING AND PRODUCTION SPECIAL TESTING EQUIPMENT COSTS

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of a military department shall reimburse a contractor for the cost incurred by the contractor for the acquisition of production special tooling and production special test equipment necessary for the performance of a contract awarded by the Secretary as follows:

(1) If at the time the contract is entered into, the Secretary anticipates that the United States will subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall negotiate with the contractor on the purchase of special tooling and special test equipment required by the contractor to perform the contract. The negotiations shall be based on regulations prescribed by the Under Secretary of Defense for Acquisition. Such regulations shall provide that the contractor be paid—

(A)(i) not less than 50 percent of the negotiated full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred; and

(ii) the balance of such cost in accordance with an amortization schedule mutually negotiated by the contractor and the Secretary; or

(B)(i) an amount other than the amount specified in subparagraph (A)(i) for the cost incurred by the contractor for the acquisition of such tooling and equipment after such cost is incurred, if the payment of such amount is approved in advance, on a case-by-case basis, by the Secretary of the military department concerned under criteria established by the Under Secretary of Defense for Acquisition; and

(ii) the balance of such cost in accordance with an amortization schedule negotiated by the contractor and the Secretary.

(2) If at the time a contract, other than a multiyear contract, is entered into, the Secretary anticipates that the United States will not subsequently contract for the procurement of quantities of the same or similar items in addition to the quantity of such items initially purchased under the contract, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(3) The Secretary shall negotiate provisions which ensure that if the contract, or the program with respect to which the contract was awarded, is terminated before the original procurement schedule negotiated by the Secretary and the contractor has been completed and such contract or program is not terminated for any reason that reflects a failure of the contractor to perform the contract, the Secretary shall reimburse the contractor for the full cost incurred by the contractor for the acquisition of such special tooling and test equipment, subject to the availability of appropriations.

(4) If the production special tooling and production special test equipment is used by a contractor solely for final production acceptance testing, the Secretary shall pay the contractor the full cost incurred by the contractor for the acquisition of such special tooling and test equipment after such cost is incurred.

(b) TREATMENT OF PAYMENT.—Costs incurred by a contractor for the acquisition of production special tooling and production special test equipment for which reimbursement is made under this section shall be considered direct cost incurred by the contractor.

(c) RIGHT OF UNITED STATES TO SPECIAL TOOLING AND TEST EQUIPMENT.—In any case in which the United States makes payment to a contractor for the full cost incurred for the acquisition of special tooling and test equipment under the circumstances described in subsection (a), the United States shall have the right to take title to the special tooling and special test equipment paid for by the United States.

(d) EFFECTIVE DATE.—This section shall be effective in the case of contracts entered into on and after the date of the enactment of this Act.

HELMS AMENDMENT NO. 737

Mr. HELMS proposed an amendment to the bill (S. 1174), supra; as follows:

Add at the end of the bill the following new section.

"SEC. . It is the sense of the Senate that the Senate ought not to consent to the ratification of any treaty with the U.S.S.R. to limit intermediate nuclear forces unless any such proposed treaty is unquestionably verifiable nor should any such treaty be signed unless and until the President has certified to Congress that the U.S.S.R. is no longer violating the Anit-Ballistic Missile Treaty of 1972.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 24, 1987 at 11 a.m., to hold a hearing on the Treaty on Fisheries Between Governments of Certain Pacific Island States and the United States, Treaty Doc. 100-5; and the International Wheat Agreement, Treaty Doc. 100-1.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. SASSER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet briefly in the Capitol during the session of the Senate on Thursday, September 24, 1987, immediately following the first vote on the floor, to consider and vote on pending non-controversial business items.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

STATE-LOCAL FISCAL NOTE ACT CLEARS CONGRESS

● Mr. SASSER. Mr. President, yesterday afternoon this body passed the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.

I am pleased to note that section 204 of this important legislation incorporates in expanded form S. 1530, which I introduced on July 23 of this year, to extend the authorization for the State and Local Government Cost Estimate Act of 1981. Indeed, I note with satisfaction that the Senate has voted to extend the authorization for this fiscal note act on a permanent basis.

S. 1530 had been polled unanimously out of the Subcommittee on Government Efficiency, Federalism, and the District of Columbia on September 15. I'd like to express my appreciation to my distinguished colleague, Senator CHILES, and his staff on the Budget Committee for their assistance in incorporating this important legislation into the deficit control measure.

The State and Local Government Cost Estimate Act of 1981 contained a 5-year authorization, due to expire this September 30, for the Congressional Budget Office to prepare estimates of the impact of Federal legislation on State and local governments. The CBO previously had been preparing such fiscal notes to calculate the cost impact of bills on the Federal Government, under the Congressional Budget Act of 1974. Too often, however, national legislation imposed significant costs as well on State and local governments. Without the relevant data, it was impossible for the Congress to take appropriate account of these costs in legislating national policy.

For that reason, I along with Senators ROTH, NUNN, and DANFORTH introduced legislation in 1980 to extend the fiscal note process to evaluate the cost of Federal legislation to State and local government. Hearings were held on this legislation late in the 96th Congress before the Subcommittee on Intergovernmental Relations, which I then chaired.

The following year, together with Senator DURENBERGER and several cosponsors, I reintroduced that legislation as S. 43. The bill was reported favorably by the Committee on Governmental Affairs and the Senate Budget Committee. Then, owing to time constraints late in the session when S. 43 was brought on for consideration, we passed the virtually identical companion House bill, H.R. 1465, introduced by Representative ZEFERETTI. The State and Local Government Cost Estimate Act was signed into law by President Reagan on December 23, 1981.

Following my introduction of S. 1530 this past June, the Subcommittee on Government Efficiency, Federalism and the District of Columbia held a hearing on July 30 to receive testimony about the operation of the State and local fiscal note process. The testimony and statements we received from the CBO, the General Accounting Office and others were most encouraging.

For instance, the act had only required the CBO to prepare fiscal notes on legislation, other than tax and appropriations measures, which posed an estimated State and local impact in excess of $200 million. The CBO, however, has found it feasible to estimate the State and local impact of all affected legislation, rather than just those which trigger the $200 million threshold. The subcommittee was told of examples, such as last year's immigration reform bill, in which State and local fiscal notes were critical to the adoption by Congress of provisions designed to eliminate or to minimize the cost of Federal mandate legislation to local governments.

We also heard the outlines of some suggestions to improve the State and local fiscal note process. For example, some suggested that it might be advisable to extend it now to tax measures and other legislation not previously affected. Others also suggested that the data in these fiscal notes could and should be used even more effectively, both by Members of Congress and by public interest organizations representing States and localities. The subcommittee plans to hold additional hearings, hopefully in the near future, to explore these and other ways in which the present act could be further improved.

But to reiterate, on this day I am appreciative that the Senate has indicated its support for the present State and local fiscal note program. We are all only too aware that this is a time of budget constraints at all levels of government. It is, therefore, doubly important to reaffirm to States and localities our commitment to work as partners, not adversaries, in reducing the cost of government to the American taxpayer. The fiscal note program we have just permanently authorized is a step in the right direction.●

NATIONAL SAFETY BELT USAGE DAY

● Mr. D'AMATO. Mr. President, I support Senate Joint Resolution 184, legislation to designate October 15, 1987 as "National Safety Belt Usage Day." This resolution will serve to promote valuable safety devices—seatbelts and child car seats.

Over the last decade, 470,000 Americans have died on our highways. Each year, 22,000 Americans die in the front seats of passenger cars, while 300,000 Americans are injured seriously enough to require hospital treatment. These statistics simply cannot be ignored.

Because of these figures, 29 States and the District of Columbia have enacted mandatory seatbelt laws since 1984. In 3 short years, it has become apparent that deaths and injuries from traffic accidents have declined due to seatbelt use. Department of Transportation studies show that safety belts saved 1,760 lives in these States in 1986. Thousands of injuries have also been averted due to the increase in safety belt use.

While most Americans recognize that seatbelts reduce the risk of death or critical injury in the event of a traffic accident, less than one-half of all Americans use their safety belts. However, through enforcement of State laws and an increase in public awareness and acceptance of seatbelt use, we can expect continued and increased usage in the years to come.

Mr. President, my home State of New York enacted a mandatory seatbelt law effective January, 1985. Since that time, nearly 500 New Yorkers are alive who might not have been had this law not been passed. It is also estimated that 45,000 New Yorkers have escaped serious injury because of this law. It is my hope that through increased use and awareness of seatbelts and child car seats we will be able to save even more lives. I am pleased to lend my support to Senate Joint Resolution 184 and I urge my colleagues in the Senate to join me in cosponsoring this legislation.●

OREGON SAT SCORES RANK SECOND IN NATION

● Mr. PACKWOOD. Mr. President, this week the college board announced scholastic aptitude test [SAT] scores for 1987. I am elated to report that Oregon, for the third straight year, ranked second nationwide among those States where at least 20 percent of high school seniors participated in the test.

The SAT is our Nation's most widely used college entrance exam and was taken last year by almost 1.1 million students, about 38 percent of the Nation's high school graduates. Today, for the first time in nearly 20 years, SAT scores have begun to rise, and the high school graduation rate has increased in 39 States. While it is important to take certain precautions in interpreting the test scores and not accord undue emphasis to statistical comparisons, the scholastic aptitude test does serve a valuable purpose as our principle gauge of performance levels among students, individual schools, districts, and the States.

More important than the test scores themselves, however, is the fact that, this year, more Oregon students than ever before took the college entrance exam. According to the college board, 14,189 members of the State's graduating high school class tackled the SAT in the spring of this year, compared to 13,143 last year. This speaks well for the State and for Oregon educators who are putting an increased emphasis on the importance of higher education and, as a consequence, are stimulating greater participation in the tests.

Oregon's showing on the test scores is particularly impressive given the large numbers of students who took the SAT. Usually, the more students taking the test, the lower the average score. For example, Mississippi scored extremely high, beating out Oregon, but only 3 percent of the graduating class took the exam—the brightest students—compared to 49 percent of Oregon's graduating class who took the test. The increasing numbers of students taking the SAT is an encouraging sign. It indicates that a great many more students are actually considering pursuing a college education. A highly educated population, as we all know, is the key to a strong economy. I congratulate Oregon educators for their role in strengthening the State's educational system and for fostering in the schools and throughout the communities a higher regard for learning.●

THE BORK NOMINATION

● Mr. DANFORTH. Mr. President, I have followed the hearings on the Bork nomination with great interest. I believe there is a strong chance that Judge Bork will not be confirmed. This would be an outrage. The hearings by the Judiciary Committee have established that Judge Bork is a person of great intellect and that his views are in the mainstream of thinking about the proper role of the Court.

I was deeply impressed by his intelligence and the precision of his answers. He spent 5 days in the witness chair—a marathon. He handled line drives, fast grounders, slow rollers, bunts, pop flies, and foul balls with the skill of Ozzie Smith. If the Bork nomination is rejected, it will not be the result of the hearings.

Judge Bork's problem is that he is the target of an amazing lobbying campaign by liberal interest groups. I have never seen such intensity and total commitment. Intensity and commitment are what win close fights in the Senate. The stop-Bork drive is a Who's Who of liberal activism: the National Abortion Rights Action League, People for the American Way, the American Civil Liberties Union, the Alliance for Justice, the Leadership Conference on Civil Rights, the national AFL-CIO leadership, Common Cause, Public Citizens Litigation Group, and others. On this nomination, these groups have intensity and commitment to burn.

In this context, I take note of an article in the September 21 edition of Legal Times entitled "Working the Bork Hearings—In Fund Raising and Spin Control, Liberals Outflank Their Foes." I ask that the article in Legal Times be inserted in the RECORD, at the end of my remarks. Judge Bork's opponents have a clear view of what they are fighting for. They are fighting for power, in the form of control over appointments to the Supreme Court. They are intense and committed. In order to confirm Robert Bork, the Senate will have to walk across hot coals.

The stop-Bork groups want an activist Court that takes power away from Congress and State legislatures and places it in the hands of judges. Stop-Bork groups favor most of the judge-made law of recent years. They favor powerful judges and weak legislatures. Robert Bork is an advocate of judicial restraint, not judicial activism. He is a champion of democratic values, as against judicial elitism. Therefore, he must be stopped.

The question isn't Robert Bork's intellect or his credentials or his character or his judicial philosophy. Robert Bork is brilliant. His integrity is beyond question. His philosophy of judicial restraint is in the mainstream of American jurisprudence.

I support Judge Bork because he believes in judicial restraint, as do I. He believes the duty of judges is to interpret the law, not to make the law.

He would be a superb Justice. We may get him, but we may not. If we do not, it will be because political activists in Washington approached the nomination as a raw struggle for power, pulled out every stop, and lobbied a brilliant jurist and a wonderful human being into rejection by the Senate.

The material follows:

[From the Legal Times, Sept. 21, 1987]

WORKING THE BORK HEARINGS—IN FUND RAISING AND SPIN CONTROL, LIBERALS OUTFLANK THEIR FOES

(By Anne Kornhauser)

When Sens. Edward Kennedy (D-Mass.) and Patrick Leahy (D-Vt.) needed some information about a free-speech case on the second day of Judge Robert Bork's confirmation hearings last week, they got the word out to the American Civil Liberties Union. The next day, hundreds of copies of a memorandum explaining the case and Bork's position on it appeared in the hearing room.

And when it seemed as though Bork was contradicting himself on such issues as free speech and sex discrimination, three different position papers comparing "the new Bork" and "the old Bork" were quickly prepared and distributed at the hearings. They had been compiled overnight by the ACLU, the National Abortion Rights Action League (NARAL), and the Leadership Conference on Civil Rights.

The anti-Bork activists were clearly out in force, with lobbyists for the various anti-Bork coalitions making up the plurality of the often surprisingly sparse audience in the historic Russell Senate Office Building Caucus Room. They appeared en masse during the breaks to caucus with senators, their staffers, and each other, and to answer the ceaseless flow of questions from the more than 150 journalists covering the most contentious judicial nomination in 18 years. With ample financial resources, some of it the result of a highly successful direct-mail effort, the anti-Bork forces have also been conducting an intense media campaign.

Almost invisible, however, were the pro-Bork lobbying groups.

Smaller in number and with fewer resources because of a far-less successful fund-raising effort—and with some proponents feeling confident enough to stay away—the leaders of the various pro-Bork groups opted for the most part to watch the hearings on television and to field press inquiries from their offices.

"We have limited resources," explains Patrick McGuigan, legal affairs analyst for the conservative Coalitions for America, "so there's not a lot of interaction with people on the Hill." Adds McGuigan: "I trust them [the White House] to do their job."

In the hearing room to grant interviews were such representatives from the White House as counsel A.B. Culvahouse, lobbyist Thomas Korologos, and former Bork clerk Peter Keisler, who now works for Culvahouse.

But there was far less interplay among the senators on the committee, their staffs, and the conservatives at the hearings. By contrast, the squads of anti-Bork activists were constantly feeding the panel and the press with proposed questions and fresh materials relating to Bork's most recent statements at the hearings.

Some pro-Bork lobbyists just did not think to show up. "I guess I probably should be there," acknowledges Daniel Casey, executive director of the American Conservative Union.

Among the legions of anti-Bork lobbyists attending the hearings, many of whom are members of a large anti-Bork coalition, were longtime civil-rights advocate and attorney Joseph Rauh; Democratic Party consultant Ann Lewis; Morton Halperin, Leslie Harris, and Jerry Berman of the Washington ACLU office; Nan Aron, executive director of the Alliance for Justice; Ralph Neas, executive director of the Leadership Conference on Civil Rights: Kate Michelman, executive director of NARAL; and representatives from the AFL-CIO, Planned Parenthood, the National Association for the Advancement of Colored People, Common Cause, People for the American Way, the Federation of Women Lawyers, the Urban League, and Public Citizen Litigation Group.

ANTI-BORK WING'S IMPACT STRONG

The impact of both sets of ideological pressure groups on the questions and debate was immediately apparent, although far more striking in the case of the anti-Bork wing.

In his opening remarks on Tuesday, for example, Sen. Robert Byrd (D-W. Va.) paraphrased the Public Citizen Litigation Group report on Bork when he cited an apparent pattern in Bork's opinions that gave victories to business and the executive branch.

On the other side, remarks by Sen. Orrin Hatch (R-Utah) about how Bork's opponents were emphasizing only selected parts of his record echoed McGuigan's press releases. McGuigan acknowledges that he communicated with Hatch the week before the hearings to underscore the selectivity issue.

Anti-Bork lobbyists seemed particularly adept at picking up concerns voiced by the undecided senators. When Sen. Arlen Specter (R-Pa.) first expressed confusion over Bork's conflicting statements and changed positions, the liberals jumped in with yet more position papers highlighting the differences in past and present statements by Bork and heaped them on Specter and the other senators.

By last Friday, after carefully observing the questioning by the swing senators and after talking privately with Senate staffers, Bork's opponents were feeling quite optimistic about getting the votes of both DeConcini and Specter. They remained unsure about Heflin.

The anti-Bork lobbying campaign included: regular 8 a.m. meetings of leaders of the various anti-Bork groups at the ACLU office across the street from the hearing room; daily satellite-made transcripts of the proceedings; and access to "legal experts" who were produced within hours to answer reporters' questions.

Some lobbyists fed questions for Bork to friendly senators during the breaks. Rauh, for example, was seen conferring with Sen. Howard Metzenbaum (D-Ohio). Rauh refused to divulge the content of their conversation but did acknowledge that "Howard and I are old friends."

LOOKING BEYOND JUDICIARY

The anti-Bork lobbyists are already looking beyond the Judiciary Committee hearings. At the beginning of last week, the ACLU twice held briefings for about 40 Hill staffers of non-judiciary committee senators in preparation for the impending floor fight. It is expected that even if Bork is denied committee approval, his nomination will still go to the floor. According to the ACLU's Harris, the purpose of the briefings was "to give context so they understand, for example, the arcane debates on the 14th Amendment."

The pro-Bork activists spent much of last week struggling to release material defending the consistency of Bork's testimony and praising his candor. This material did not arrive at the hearings until last Friday, the fourth day of the hearings. McGuigan lamented that he only had access by last Thursday to a partial transcript of the first day of the hearings.

The biggest indication that the conservatives were short on resources was the absence of a pro-Bork media campaign. Bork's opponents have hit the airwaves and newspapers with a flurry of paid ads.

Last week, People for the American Way ran full-page ads in dozens of papers across the country. On radio and in television, the group aired sports prepared by Washington consultant Joseph Rothstein. The group's director, Arthur Kropp, had said at the outset of the Bork battle in June that his organization would not air television ads, but Kropp told reporters last week that "an outpouring of support" received from a direct-mail campaign had made it possible to do a $2 million media buy.

By contrast, the conservatives have done smaller mailings that have generated little income. Although recent media reports have maintained that millions of dollars are pouring in from both sides of the Bork fight, top direct-mail consultants and conservative activists paint a different picture.

Republican direct-mail consultant Bruce Eberie says he has mailed out about one million letters for pro-Bork groups, which have netted about $300,000 for the cause.

MONEY-RAISING NOT EASY

Some conservative consultants say Bork's confirmation is a hard issue on which to raise money, because their regular donors are optimistic about his confirmation. Sandra McPherson of the National Conservative Political Action Committee says her group has only done one mailing to 450,000 people.

"We're not doing any further mailings on it," she says, "primarily because the signs are showing up that Bork will be successful. We feel pretty confident."

Eberle agrees. "Bork has become a better issue for the left than for the right," Eberle says, because conservatives have minimized the Bork opposition.

Conservative activist Casey adds that his organization's fund-raising results have been "about average" on Bork. "In a sense, it's not one of our issues," Casey says. He contends that the most successful fund-raising issues for conservatives are in the areas of foreign policy and economics. "On civil-rights issues, we can't compare," he observes.

But Richard Viguerie, the right's pre-eminent direct-mail fund-raiser, says his Bork mailings "are doing 50 percent better than average" and that conservatives are simply not doing enough of it. "The conservatives really didn't get their act together on lobbying on Bork as the liberals did," Viguerie says.

"The battle is not being fought properly," Viguerie complains. "Most people feel it's not going well for Bork because he's followed liberal advice. He's tried to position himself as more moderate and I think that's hurt him," says Viguerie.

But if the conservative direct mail is not generating vast amounts of money, it is generating a lot of mail on the Hill. Undecided senators have been the biggest recipients. Heflin reports his above-normal volume of mail is about fifty-fifty on Bork; DeConcini's is about three-to-two in Bork's favor.

In an effort to capitalize on their momentum, the anti-Bork activists will spend much of this week preparing for testimony and developing questions for friendly witnesses, according to the ACLU's Berman.

Witness lists were still not released by Biden's office by the end of last week, leaving both camps unsettled. About 200 groups thus far have filed requests with Biden to have their representatives testify. And with Bork on the defensive much of the first week of the hearings, conservative activists who did bother to request to testify may soon have regrets.

One is McGuigan, who says he did not ask to be included on the witness list because he feared "the attention might get drawn to things other than substance—like partisanship."●

CENTENNIAL OF THE MICHELSON-MORLEY EXPERIMENT

● Mr. GLENN. Mr. President, although most people probably wouldn't recognize his name, Albert Abraham Michelson was one of this country's most formidable scientists. His work in optical physics has profoundly affected our understanding of the world. This year, Ohioans take special pride in celebrating the one hundredth anniversary of what is arguably Michelson's greatest experiment, a critical examination of the so-called luminiferous ether, performed in collaboration with chemist Edward Morley at the Case School of Applied Science (now Case Western Reserve University) in Cleveland, OH. Their conclusion, that the ether does not exist (and therefore does not serve as the medium through which light is conducted), forced a rethinking of the composition of space—a rethinking that may have produced the space-time notions of the physical universe embodied in Einstein's theory of special relativity.

Before the Michelson-Morley experiment, the entirety of space was believed to be filled by the ether, an indescribable medium through which the earth, planets, and even light were supposed to move. For centuries, the world's brightest scientific minds had wrestled with the ether's exact composition and the precise method by which it conducted the energy and objects it surrounded. The idea of such a substance gained increasing prominence in the 19th century as scientists began searching for ways to detect and thereby prove its existence. One possibility followed from the basic assumption that the ether was stationary and that earth moved through it at a calculable rate. In pursuit of this figure, scientists devised instruments designed to measure the speed of light through other media, hoping to demonstrate the probability of a similar effect as light traveled through the stationary ether of outer space. None of these "ether draft" experiments of the mid-1800's succeeded conclusively in providing the existence of a stationary ether.

Intrigued by these failures, a young Albert Michelson began seriously contemplating the ether problem in the fall of 1880. Born in Prussian Poland of Jewish parents, Michelson was brought to this country in 1855. A short year later, the family resettled to San Francisco. Albert spent his youth in California and there developed an abiding interest in the sciences. In 1869, Michelson traveled alone cross country to personally request an over-quota appointment to the U.S. Naval Academy at Annapolis. After initially rejecting the request, President Grant acceded and Michelson began at the Academy that year. Upon graduation 3 years later, Ensign Michelson was assigned as a lecturer in physics. It was during this time that Michelson, fully immersed in the day's leading theories of light, electricity, and the ether, began to focus on the need to challenge the conventional wisdom.

In 1880, on a year's leave of absence from the Navy, Michelson traveled to Germany to study and work at the University of Berlin. Naturally inquisitive and particularly interested in optics, Michelson devoted most of his time to the development of a method to observe the conduct of light through the ether. It was while in Berlin that Michelson constructed an instrument he called an interferential refractometer (later renamed the interferometer) which was to be the key to the Michelson-Morley success. The idea of the experiment Michelson pondered was simple. He would project a beam of light in the direction in which the Earth is traveling in its orbit and simultaneously project a beam at right angles to the first; if the stationary ether existed, it would retard the first beam. The second beam, at exact right angles to the first, would arrive ahead of the first (even though the distances were the same) by a length of time determined by the velocity of the Earth. The difference would be directly observable through the interference patterns of the two light beams at a common point. After 6 months of patient, detailed study, the results appeared negative. Michelson detected no significant lag in the first beam. The 1881 ether drift experiment had demonstrated the absence of a stationary ether.

Michelson was now convinced the ether was moving and that his interferometer simply could not detect its motion. In 1882, after further study in Germany and France, Michelson was appointed to the faculty of the Case School of Applied Science in Cleveland. Six roller coaster years of professional success and personal crises ensued. The stress and intensity of his work contributed to Michelson's near mental breakdown in 1885. He was sent to New York for a year to recover. Then, in 1886, a devastating fire forced the relocation of Michelson's laboratory to Western Reserve University, the home institution of Edward Morley. Despite this setback, Michelson persevered. He and Morley used a refined interferometer to establish a new standard of length for the meter (work which greatly influenced Michelson's subsequent receipt of the Nobel Prize) and performed numerous speed of light measurements, experiments considered extremely important to this day. In July 1887, the two men began a repeat of Michelson's 1881 ether drift experiment. With better equipment and revised techniques, Michelson hoped once and for all to prove the existence of the ether. A month later, the results were conclusive—once again no significant lag had been detected. The contradiction between conventional ether theory of the time and the new results obtained in this latest experiment was astounding. Not only was the existence of a stationary ether called into question, the likelihood of any ether existing at all was considerably diminished. The field was opened to a new way of thinking about the physical world.

Mr. President, Albert Michelson's ingenuity and determination engendered a fundamental change in our view of the universe around us. But it is the spirit of his genuis as much as his achievements themselves which we celebrate this year; that spirit which says no problem is unresolvable for the perseverent individual, no boundary so rigid as to be unchallengable, and no objective so difficult as to render it unachievable. Surely it is that same spirit which is the source of our greatness as a nation. I am proud to join my fellow Ohioans in saluting the work and life of this outstanding American scientist on the centennial of one of his most important successes.●

HERE LIES FREE TRADE, R.I.P.

● Mr. HEINZ. After the rise of the dollar, between 1981 and early 1985, and the subsequent increase in the U.S. trade deficit, many economists argued that the only necessary, and possible, tool needed to eliminate this growing trade deficit was the weakening of the dollar. The last few years, however, have proved them wrong. The dollar is at roughly 40 percent below 1980 levels, and the deficit continues to increase.

A recent article in the New York Times by Jeff Faux, president of the Economic Policy Institute, entitled "Here Lies Free Trade, R.I.P." dispels the facile notion that the weakening of the dollar will solve all of our trade deficit problems and argues that the primary reason for this situation is the lack of a truly free international trading system.

The author contends that much of the deficit problem is attributable to the protectionist practices of foreign governments, practices which naturally hinder U.S. sales abroad. He argues that the trade deficit cannot be solved merely by a weakening of the dollar, but rather it demands a strong governmental role in making U.S. businesses more competitive in the international market.

I bring this to Senators' attention because it closely correlates with what I have been saying for some time now: that the trade deficit problem must be addressed through a broader plan of attack than simply by weakening the dollar. Strong trade legislation, like that passed by the Senate, is also necessary to break down foreign trade barriers and to move the international trading system in a more market-oriented direction.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, Aug. 31, 1987]

HERE LIES FREE TRADE, R.I.P.

(By Jeff Faux)

WASHINGTON.—The failure of the nation's trade deficit to shrink has become a major embarrassment to the economic profession. According to conventional theory, the declining value of the dollar is supposed to make American goods cheaper and foreign goods more expensive, thereby enabling American producers to win back markets they lost when the dollar rose in the early 1980's. As a result, the trade deficit should have been dropping sharply for some time.

Instead, the excess of imports over exports remains at record levels, and each month's dismal figures put the United States further in debt to the test of the world. Now that the dollar is roughly 40 percent below its early 1985 levels, the persistent trade deficit should make even the most conservative thinkers suspect that we face a more profound problem than they have admitted.

Part of the problem is the rapidly changing nature of global competition. Most economists assumed that as the dollar dropped we would regain the markets we lost when it rose. But the high dollar lured new foreign firms into markets that had been held by Americans.

These competitors have not disappeared with the lower dollar but are fighting more fiercely to keep their market shares. Since many of them are subsidized by their governments, they are willing to take lower profits, often losses, to maintain production and employment at home.

Another source of misjudgment about the trade deficit is the stubborn resistance among economists to the possibility that classical notions of free trade might not be appropriate to the changing economic era. Economists have thus underestimated the problem of the trade deficit.

When the Japanese first began to make inroads into our manufacturing markets, prominent economists told us not to worry. The Japanese were dismissed as makers of cheap copies of American products.

When we lost large segments of our markets in autos, steel and consumer electronics, the conventional wisdom was that the Japanese culture was not creative and entrepreneurial enough to challenge our dominance in high technology.

Then we fell behind in semiconductors and robotics and lost our seemingly insurmountable lead in super-computers. The mainstream response was that America would always be the financial center of the world. At last count, eight of the largest 10 international financial institutions were Japanese. Then we were told that things would straighten out once the dollar came down.

All of these predictions were made on the basis of classical economic models that assumed, among other things, that all markets are free and competitive. In the real world, American companies compete in markets that are not free and therefore do not behave as predicted in the textbooks. Governments all over the globe are subsidizing exports, restricting imports and targeting domestic industries for expansion in a scramble for shares of stagnant world markets.

Managed trade, not free trade is now the norm. Trade relations between countries will become subject more to political negotiation and less to supply and demand in unregulated markets.

Once this reality is understood, it will be clear that we must abandon the expectation that the falling dollar will solve our problems. We must get on with the task of making our businesses more competitive and the messy but essential political work of government-to-government negotiations that expand or restrict United States markets according to principles of reciprocity and informed judgments about what is good for the American economy.

To help political leaders make these judgments, American economists will need to catch up to their European and Japanese counterparts in understanding the new, mixed-market environment.

Although absolute ideas die hard, eventually they do die. With each month, the gloomy statistics add more nails to the coffin of the venerable free trade theory. Parts of the theory will remain a useful tool for analyzing the behavior of certain markets, but as a general model free trade no longer describes the reality of the international marketplace.●

GORBACHEV ARTICLE ON PRAVDA AND IZVESTIA

● Mr. GORE. Mr. President, several days ago, when progress on the INF Treaty was announced in Washington, DC, Soviet Foreign Minister Shevardnadze—in his press conference—referred several times to an article by General Secretary Gorbachev in Pravda which the Foreign Minister characterizes as a major statement of Soviet views.

So far as I know, the U.S. press has not carried any information concerning Gorbachev's article. I have obtained a full English translation of the article and I believe that its contents are a matter of interest to every Member, regardless of their disposition toward Gorbachev's ideas. With permission, therefore, I submit this translation for publication in the RECORD.

The text follows:

MIKHAIL GORBACHEV'S ARTICLE FOR PRAVDA AND IZVESTIA

"The 42nd Session of the United Nations General Assembly opened a few days ago. It is this fact that suggested the idea of this article. Objective processes are making our complex and diverse world increasingly interrelated and interdependent. And it increasingly needs a mechanism which is capable of discussing its common problems in a responsible fashion and at a representative level and provides a place for the mutual search for a balance of differing, contradictory, yet real, interests of the contemporary community of states and nations. The United Nations organization is called upon to be such a mechanism by its underlying idea and its origin. We are confident that it is capable of fulfilling that role. This is why in the first autumn days, when the period of vacations is over and international political life is rapidly gathering momentum, when an opportunity for important decisions in the disarmament field can be discerned, we in the Soviet leadership deemed it useful to share our ideas on the basic issues of world politics at the end of the 20th century. It seems all the more appropriate since the current session of the United Nations General Assembly is devoted to major aspects of such politics.

"It is natural that what we would like to do first of all in this connection is to try and see for ourselves what the idea of the establishment of a comprehensive system of international security—the idea advanced at the 27th CPSU Congress—looks like now that 18 months have passed since the congress. This idea has won backing from many states. Our friends—the socialist countries and members of the nonaligned movement—are our active coauthors.

"The article offered to you deals primarily with our approach to the formation of such a system. At the same time it is an invitation for the United Nations member states and the world public to exchange views.

I.

"The last quarter of the 20th century has been marked by changes in the material aspect of being—changes revolutionary in their content and significance. For the first time in its history mankind became capable of resolving many problems that were hindering its progress over the centuries. From the standpoint of the existing and newly-created resources and technologies, there are no impediments to feeding the population of many billions of people, from giving them education, providing them with housing and keeping them healthy. Given the obvious differences and potential of peoples and countries, there is now the prospect for ensuring living conditions for the inhabitants of the earth.

"At the same time dangers have emerged which put into question the very existence of the human race. This is why new rules of coexistence on our unique planet are badly needed, and they should conform to the new requirements and the changed conditions.

"Alas, many influential forces continue adhering to outdated concepts concerning ways to ensure national security. As a result, the world is in an absurd situation whereby persistent efforts are being made to convince it that the road to an abyss is the most correct one.

"It would be difficult to appraise in any other way the point of view that nuclear weapons allegedly make it possible to avert a world war. It is not simple to refute it precisely because it is totally unfounded, for one has to dispute something which is being passed off as an axiom—since no world war has broken out after the emergence of nuclear weapons, obviously it is these weapons which have averted it. It seems that it is more correct to say that a world war has been averted despite the existence of nuclear weapons.

"Some time back the sides had several scores of atomic bombs apiece, then each came to possess hundreds of nuclear missiles, and finally, the arsenals grew to include several thousand nuclear warheads. Not so long ago Soviet and American scientists specially studied the issue of the relationship between the strategic stability and the size of the nuclear arsenals. They arrived at the unanimous conclusion that 95 percent of all nuclear arms of the U.S. and USSR can be eliminated without stability being disrupted. This is a killing argument against the 'nuclear deterrence' strategy that gives birth to a mad logic. We believe that the five percent should not be retained either, and the stability will be qualitatively different.

"Not laying claims to instructing anyone and having come to realize that mere statements about the dangerous situation in the world are unproductive, we began seeking an answer to the question of whether it was possible to have a model for ensuring national security which would not be fraught with the threat of a world-wide catastrophe.

"Such an approach was in the mainstream of the concepts that has taken shape during the process of evolving the new political thinking, which is permeated with a realistic view of what is surrounding us and what is happening around us, and a realistic view of ourselves, a view characterized by an unbiased attitude to others and an awareness of our own responsibility and security.

"The new thinking is the bridging of the gap between the word and the deed. And we embarked on practical deeds. Being confident that nuclear weapons are the greatest evil and the most horrible threat, we announced a unilateral moratorium on nuclear tests which we observed, let me put it straight, longer than we could have done. . . . Then came the January 15, 1986 Statement putting forth a concrete program for a stage-by-stage elimination of nuclear weapons. At the meeting with President Reagan in Reykjavik we came close to the realization of the desirability and possibility of complete nuclear disarmament. And then we made steps which made it easier to approach an agreement on the elimination of two classes of nuclear arms—medium- and short-range missiles.

"We believe that it is possible and realistic. In this connection I would like to note that the Government of the Federal Republic of Germany assumed the stand which is conducive to it to a certain extent. The Soviet Union is proceeding from the premise that a relevant treaty could be worked out before the end of the current year. Much has been said about its potential advantages. I will not repeat them. I would only like to note that it would deal a tangible blow at concepts of the limited use of nuclear weapons and the so-called 'controllable escalation' of a nuclear conflict. There are no illusory intermediate options. The situation is becoming more stable.

"This treaty on medium- and shorter-range missiles would be a fine prelude to a breakthrough at the talks on large-scale—50 percent—reductions in strategic offensive arms in conditions of the strict observance of the ABM Treaty. I believe that, given the mutual efforts, an accord on that matter could become a reality as early as in the first half of the next year.

"While thinking of advancing toward a nuclear weapon-free world, it is essential to see to it even now that security be ensured in the process of disarmament, at each of its stages, and to think not only about that, but also to agree on mechanisms for maintaining peace at drastically reduced levels of nonnuclear armaments.

"All these questions were included in proposals set forth jointly by the USSR and other socialist countries at the United Nations—the proposals for the establishment of a comprehensive system of international peace and security.

"What should this be like, as we see it?

"The security plan proposed by us provides, above all, for continuity and concord with the existing institutions for the maintenance of peace. The system could function on the basis of the UN Charter and within the framework of the United Nations. In our view, its ability to function will be ensured by the strict observance of the Charter's demands, additional unilateral obligations of states, as well as confidence measures and international cooperation in all spheres—political-military, economic, ecological, humanitarian and others.

"I do not venture to foretell how the system of all-embracing security would appear in its final form. It is only clear that it could become a reality only if all means of mass annihilation were destroyed. We propose that all this be pondered by an independent commission of experts and specialists which would submit its conclusions to the United Nations organization.

"Personally, I have no doubt about the capability of sovereign states to assume obligations in the field of international security now. Many states are already doing this. As is known, the Soviet Union and the People's Republic of China have stated that they will not be the first to use nuclear arms. The Soviet-American agreements on nuclear armaments are another example. They contain a conscious choice of restraint and self-limitation in the most sensitive sphere of relations between the USSR and the United States. Or take the Nuclear Nonproliferation Treaty. What is it? It is a unique example of a high sense of responsibility of states.

"In the present-day reality there already exist 'bricks' from which one can start building the future system of security.

"The sphere of the reasonable, responsible and rational organization of international affairs is expanding before our very eyes, though admittedly timidly. Previously unknown standards of openness, of the scope and depth of mutual monitoring and verification of compliance with adopted obligations are being established. An American inspection team has visited an area where exercises of Soviet troops are held, a group of United States Congressmen has inspected the Krasnoyarsk radar station, American scientists have installed and adjusted their instruments in the area of the Soviet nuclear testing range. Soviet and American observers are now present at each other's military exercises. Annual plans of military activity are being published in accordance with accords within the framework of the Helsinki process.

"I do not know a weightier and more impressive argument in support of the fact that the situation is changing than the stated readiness of a nuclear power to voluntarily renounce nuclear weapons. References to a striving to replace them with conventional armaments in which there supposedly exists an imbalance between NATO and the Warsaw Treaty Organization in the later's favor are unjustified. If an imbalance or disproportions exist, let us remove them. We do not tire of saying this all the time, and we have proposed concrete ways of solving this problem.

"In all these issues the Soviet Union is a pioneer and shows that its words are matched by its deeds.

"The question of the comparability of defense spending? Here we will have to put in more work. I think that given the proper effort, within the next two or three years we will be able to compare the figures that are of interest to us and our partners and would symmetrically reflect the expenditures of the sides.

"The Soviet-American talks on nuclear and space arms, the convention on the prohibition of chemical weapons, which is close to being concluded, will intensify, I am sure, the advance to detente and disarmament.

"An accord on defense strategy and military sufficiency could impart a powerful impulse in this direction. These notions presuppose such a structure of the armed forces of a state that they would be sufficient to repluse a possible aggression but would not be sufficient for the conduct of offensive actions. The first step to this could be a controlled withdrawal of nuclear and other offensive weapons from the borders with a subsequent creation along borders of strips of rarefied armaments and demilitarized zones between potential, let us put it this way, adversaries, while in principle we should work for the dissolution of military blocs and the liquidation of bases on foreign territories and the return home of all troops stationed abroad.

"The question of a possible mechanism to prevent the outbreak of a nuclear conflict is more complex. Here I approach the most sensitive point of the idea of all-embracing security: Much will have to be additionally thought out, rethought and worked out. In any case, the international community should work out agreed-upon measures for the event of a violation of the all-embracing agreement on the nonuse and elimination of nuclear arms or an attempt to violate this agreement. As to potential nuclear policy, it appears possible and necessary to consider this in advance and prepare collective measures to prevent it.

"If the system is sufficiently effective, then it will provide even more effective guarantees of averting and curbing a nonnuclear aggression.

"The system proposed by us precisely presupposes definite measures which would enable the United Nations organization, the main universal security body, to ensure its maintenance at a level of reliability.

II.

"The division of the world's countries into those possessing nuclear weapons and those not possessing them has also split the very concept of security. But for human life security is indivisible. In this sense it is not only a political, military and legal, but also a moral, category. And contentions that there has been no war for already half a century do not withstand any test on the touchstone of ethics. How can one say there is no war? There are dozens of regional wars flaring up in the world.

"It is immoral to treat this as something second-rate. The matter, however, is not only in the impermissible nuclear haughtiness. The elimination of nuclear weapons would also be a major step toward a genuine democratization of relations between states, their equality and equal responsibility.

"Unconditional observance of the United Nations Charter and the right of peoples sovereignly to choose the roads and forms of their development, revolutionary or evolutionary, is an imperative condition of universal security. This applies also to the right to social status quo. This, too, is exclusively an internal matter. Any attempts, direct or indirect, to influence the development of 'not one of our own countries' to interfere in this development should be ruled out. Just as impermissible are attempts to destabilize existing governments from outside.

"At the same time the world community cannot stay away from conflicts between states. Here it could be possible to begin by fulfilling the proposal made by the United Nations Secretary-General to set up under the United Nations organization a multilateral center for lessening the danger of war. Evidenly, it would be feasible to consider the expediency of setting up a direct communication line between the United Nations headquarters and the capitals of the countries that are parmanent members of the Security Council and the location of the chairman of the nonalignment movement.

"It appears to us that with the aim of strengthening trust and mutual understanding it could be possible to set up under the aegis of the United Nations a mechanism for extensive international verification of compliance with agreements to lessen international tension, limit armaments and to monitor the military situation in conflict areas. The mechanism would function using various forms and methods of monitoring to collect information, and would promptly submit it to the United Nations. This would make it possible to have an objective picture of the events taking place, to detect preparations for hostilities in time, impede a sneak attack, take measures to avert an armed conflict and prevent it from expanding and becoming worse.

"We are arriving at the conclusion that wider use should be made of the institution of United Nations military observers and United Nations peace-keeping forces in disengaging the troops of warring sides and observing ceasefire and armistice agreements.

"And, of course, at all stages of a conflict extensive use should be made of all means of a peaceful settlement of disputes and differences between states, and one should offer one's good offices, one's mediation with the aim of achieving an armistice. The ideas and initiatives concerning nongovernmental commissions and groups which would analyze the causes, circumstances and methods of resolving various concrete conflict situations appear to be fruitful.

"The Security Council's permanent members could become guarantors of regional security. On their part, they could assume the obligation not to use force or the threat of force, to renounce demonstrative military presence. This is so because such a practice is one of the factors fanning regional conflicts.

"A drastic intensification and expansion of the cooperation of states in uprooting international terrorism is extremely important. It would be expedient to concentrate this cooperation within the framework of the United Nations organization. In our opinion, it would be useful to create under its aegis a tribunal to investigate acts of international terrorism.

"More coordination in the struggle against apartheid as a destabilizing factor of international magnitude would also be justified.

"As we see it, all the above-stated measures could be organically built into an all-embracing system of peace and security.

III.

"The events and tendencies of the past decades have expanded this concept, imparting new features and specificities to it. One of them is the problem of economic security. A world in which a whole continent can find itself on the brink of death from starvation and in which huge masses of people are suffering from almost permanent malnutrition is not a safe world. Neither is a world safe in which a multitude of countries and peoples are strangling in a noose of debt.

"The economic interests of individual countries or their groups are indeed so different and contradictory that consensus with regard to the concept of the new world economic order seems to be hard to achieve. We do hope, however, that the instinct of self-preservation should snap into action here as well. It is sure to manifest itself if it becomes possible to look into the chain of priorities and see that there are circumstances, menacing in their inevitability, and that it is high time that the inert political mentality inherited from the past views of the outside world be abandoned. This world has ceased to be a sphere which the big and strong divide it into domains and zones of vital interests.

"The imperatives of the times compel us to institutionalize many common sense notions. It is not philanthropy which prompted our proposal to agree on the reduction of interest payments under bank credits and the elaboration of extra benefits for the least developed nations. This holds a benefit for all, namely a secure future. If the debt burden of the developing world is alleviated, the chances for such a future will grow. It is also possible to limit debt payments by each developing country to the share of its annual export earnings without detriment to development, to accept export commodities in payment for the debt, remove protectionist barriers on the borders of creditor-nations and stop adding extra interest when deferring payments under debts.

"There may be different attitudes to these proposals. There is no doubt, however, that the majority of international community members realize the need for immediate actions to alleviate the developing world's debt burden. If that is so, it is possible to start working out the program through concerted efforts.

"These words 'through concerted efforts' are very important for today's world. The relationship between disarmament and development, confirmed at the recent international conference in New York, can be implemented if none of the strong and rich keep themselves aloof. I already expressed the view that Security Council member states, represented by their top officials, could jointly discuss this problem and work out a coordinated approach. I confirm this proposal.

"Ecological security. It is not secure in the direct meaning of the word when currents of poison flow along river channels, when poisonous rains pour down from the sky, when the atmosphere polluted with industrial and transport waste chokes cities and whole regions, when the development of atomic engineering justifies taking unacceptable risks.

"Many have suddenly begun to perceive all that not as something abstract, but as quite a real part of their own experience. The confidence that 'this won't affect us,' characteristic of the past outlook, has disappeared. They say that one thorn of experience is worth more than a whole wood of instructions. For us, Chenobyl became such a thorn. . . .

"The relationship between man and the environment has become menacing. Problems of ecological security affect everyone—the rich and the poor. What is required is the global strategy of environmental protection and the rational use of resources. We suggest starting its elaboration within the framework of the UN special program.

"States are already exchanging appropriate information and are notifying international organizations of developments. We believe that this order should be legitimatized by introducing the principle of governments' giving annual reports about their conservationist activity and about ecological accidents, both those that occurred and those that were prevented on the territory of their countries.

"Realizing the need for opening a common front of economic and ecological security and starting its formation mean defusing a delayed-action bomb planted deep inside mankind's existence by history, by the people themselves.

IV.

"Human rights. One can name all the top statesmen of our times who threatened to use nuclear weapons. Some may object: It is one thing to threaten and another to use. Indeed, they haven't used them. But campaigning for human rights is in no way compatible with the threat to use weapons of mass destruction. We maintain that it is unacceptable to talk about human rights and liberties while intending to hang overhead, in outer space, the 'chandeliers' of exotic weapons. The only down-to-earth element in that exoticism is the potential of mankind's annihilation. The rest is in dazzling wrapping.

"I agree: The world cannot be considered secure if human rights are violated in it. I will only add: If a large part of this world has no elementary conditions for a life worthy of man, if millions of people have the full 'right' to go hungry, to have no roof over their head and to be jobless and sick indefinitely when treatment is something they cannot afford, if, finally, the basic human right, the right to life, is disregarded.

"First of all, it is necessary that national legislation and administrative rules in the humanitarian sphere everywhere be brought in accordance with international obligations and standards.

"Simultaneously it would be possible to turn to coordinating a broad selection of practical steps, for instance, to working out a world information program under UN auspices to familiarize peoples with one another's life, life as it is, not as someone would like to present it. That is precisely why such a project should envisage eliminating from the flow of information the enemy image stereotypes, bias, prejudices and absurd concoctions and the deliberate distortion and unscrupulous violation of the truth.

"There is much promise in the task of coordinating unified international legal criteria for handling in a humanitarian spirit issues of family reunification, marriages, contacts between people and organizations, visa regulations and so on. What has been achieved in this within the framework of the all-European process should be accepted as a starting point.

"We favor the establishment of a special humanitarian cooperation fund of the United Nations formed from voluntary state and private contributions on the basis of the reduction of military spending.

"It is advisable that all states join the UNESCO conventions in the sphere of culture, including the conventions on protecting the world cultural heritage and on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.

"The alarming signals of recent times have pushed to the top of the agenda the idea of creating a worldwide network of medical cooperation in treating most dangerous diseases, including AIDS, and combating drug addiction and alcoholism. The existing structures of the World Health Organization make it possible to establish such a network on relatively short notice. The leaders of the world movement of physicians have big ideas about this.

"Dialogue on humanitarian problems could be conducted on a bilateral basis, within the forms of negotiation that have already been established. Besides, we propose holding it also within the framework of an international conference in Moscow: We made the proposal at the Vienna meeting in November last year.

"Pooling efforts in the sphere of culture, medicine and humanitarian rights is yet another integral part of the system of comprehensive security.

V.

"The suggested system of comprehensive security will be effective to the extent in which the United Nations, its Security Council and other international institutes and mechanisms will effectively function. It will be required to enhance resolutely the authority and role of the UN, the International Atomic Energy Agency. The need for establishing a world space organization is clearly felt. In the future it could work in close contact with the UN as an autonomous part of its system. UN specialized agencies should also become regulators of international processes. The Geneva Disarmament Conference should become a forum that would internationalize the efforts on transition to a nuclear-free, nonviolent world.

"One should not forget the capacities of the International Court either. The General Assembly and the Security Council could approach it more often for consultative conclusions on international disputes. Its mandatory jurisdiction should be recognized by all on mutually agreed-upon conditions. The permanent members of the Security Council taking into account their special responsibility, are to make the first steps in that direction.

"We are convinced that a comprehensive system of security is, at the same time, a system of universal law and order ensuring the primacy of international law in politics.

"The UN Charter gives extensive powers to the Security Council. Joint efforts are required to ensure that it could use them effectively. For this purpose, it would be sensible to hold meetings of the Security Council at the foreign ministers' level when opening a regular session of the General Assembly to review the international situation and jointly look for effective ways to improve it.

"It would be useful to hold meetings of the Security Council not only at the headquarters of the UN in New York, but also in regions of friction and tension and alternate them among the capitals of the permanent members states.

"Special missions of the Council to regions of actual and potential conflicts would also help consolidate its authority and enhance the effectiveness of the decisions adopted.

"We are convinced that cooperation between the UN and regional organizations could be considerably expanded. Its aim is to search for a political settlement of crisis situations.

"In our view, it is important to hold special sessions of the General Assembly on the more urgent political problems and individual disarmament issues more often if its efficiency is to be improved.

"We empahatically stress the need for making the status of important political documents passed by consensus at the United Nations more binding morally and politically. Let me recall that they include, among others, the final document of the First Special Session of the United Nations General Assembly Devoted to Disarmament, the Charter of Economic Rights and Obligations of States, and others.

"In our opinion, we should have set up long ago a world consultative council under UN auspices uniting the world's intellectual elite. Prominent scientists, political and public figures, representatives of international public organizations, cultural workers, people in literature and the arts, including laureates of the Nobel Prize and other international prizes of worldwide significance, and eminent representatives of the churches could seriously enrich the spiritual and ethical potential of contemporary world politics.

"To ensure that the United Nations and its specialized agencies operate at full capacity, one should come to realize that it is impermissible to use financial levers for bringing pressure to bear on it. The Soviet Union will continue to cooperate actively in overcoming budget difficulties arising at the United Nations.

"And, finally, about the United Nations Secretary-General. The international community elects an authoritative figure enjoying everybody's trust to that high post. Since the Secretary-General is functioning as a representative of every member state of the organization, all states should give him maximum support and help him in fulfilling his responsible mission. The international community should encourage the United Nations Secretary-General in his missions of good offices, mediation and reconciliation.

"Why are we so persistent in raising the question of a comprehensive system of international peace and security?

"Simply because it is impossible to put up with the situation in which the world has found itself on the threshold of the third millenium—facing the threat of annihilation, in a state of constant tension, in an atmosphere of suspicion and strife, expending huge funds and quantities of the labor and talent of millions of people only to increase mutual mistrust and fears.

"One can speak as much as he pleases about the need for terminating the arms race, uprooting militarism, or about cooperation. Nothing will change unless we start acting.

"The political and moral core of the problem is the trust of the states and peoples in one another, and respect for international agreements and institutions. And we are prepared to switch from confidence measures in individual spheres to a large-scale policy of trust which would gradually shape a system of comprehensive security. But such a policy should be based on the community of political statements and real positions.

"The idea of a comprehensive system of security is the first plan for a possible new organization of life on our common planetary home. In other words, it is a pass into the future where security of all is a token of the security for everyone. We hope that the current session of the United Nations General Assembly will jointly develop and concretize this idea."●

CITIZENS FOR DECENCY THROUGH LAW ON JUDGE ROBERT H. BORK

● Mr. ARMSTRONG. Mr. President, in a few weeks the full Senate will debate the nomination of Judge Robert Bork to the Supreme Court of the United States. In preparing for that debate, my colleagues will no doubt review many articles, studies, and statements on Judge Bork, both pro and con. In the spirit of helping Senators have access to all sides of the question, I am inserting into the RECORD a brief analysis of Judge Bork's judicial philosophy prepared by the Citizens for Decency Through Law of Scottsdale, AZ. I hope my colleagues find this statement of use as they reflect on this important matter.

I ask that the statement be printed in the RECORD.

The statement follows:

ANALYSIS OF ROBERT H. BORK'S JUDICIAL PHILOSOPHY, CITIZENS FOR DECENCY THROUGH LAW, INC., SCOTTSDALE, AZ

SUMMARY

Citizens for Decency through Law, Inc. strongly urges the United States Senate to confirm Judge Robert Bork as an Associate Justice of the United States Supreme Court. Judge Bork's lengthy and distinguished legal career provides him with superb qualifications to serve on the Court. His understanding of the role of the judiciary, and his approach to constitutional interpretation are consistent with the separation of powers provided for by the authors of the Constitution. Specifically Judge Bork understands, as does the Supreme Court, that obscene and pornographic material is outside the protection of the first amendment, and can constitutionally be proscribed by communities and states.

INTRODUCTION

Judge Robert Bork has been described by opponents as a "rigid, ideological conservative." He also has been derogatorily characterized as "against abortion," "against pornography" and "against homosexual rights." In fact, he is none of these things. Those who accuse him reveal only their own ignorance of the intricacies of constitutional law and judicial philosophy, or worse, their talent for character assassination and outright dishonesty.

Even Judge Bork's enemies acknowledge his brilliant scholastic and jurisprudential record. Justice Stevens, considered a moderate-to-liberal member of the high Court, has taken the rare step of publicly defending Judge Bork. Justice Stevens has praised Bork's qualifications and called him a "welcome addition to the Court." Federal judges surveyed by the L.A. Times would vote to confirm Bork by a better than 2-to-1 margin. Leading law professors—liberal and conservative—have publicly vouched for Bork's academic credentials and urged his confirmation.

But credentials are no longer the issue. His "ideology"—as his critics so crudely refer to a judicial philosophy developed over four decades of learning—has been made the central issue of the upcoming confirmation hearings. These attacks must be answered by a defense of Judge Bork's principled and reasoned approach to jurisprudence. This memorandum shall do three things:

(1) Explain the judicial philosophy of Judge Bork with regard to the constitutional role of the judiciary, and the judge's obligation to interpret the Constitution by discerning the intent of the Framers;

(2) Show that Judge Bork's judicial philosophy does not favor the political goals of conservatives or liberals;

(3) Show that Judge Bork's judicial philosophy is not only correct, but required by the Constitution.

SEPARATION OF POWERS

Judge Bork's veiws on the role of the judiciary can be summed up quite easily: "A judge is not a legislator." It seems a simple and obviously true proposition, yet most attacks on Judge Bork focus on his refusal to act like a legislator. But the President cannot make rulings on guilt or innocence—that is for the judiciary. The Congress cannot negotiate treaties—that is for the President. And the judiciary cannot make laws—that is for the Congress. Obviously Judge Bork understands the constitutionally required separation of power better than his critics. Invariably, their concern is not the Constitution, but the bottom line on particular issues. That is why they rail against Judge Bork for being "against abortion," even though he has never publicly expressed any view on the wisdom or morality of the practice.

Judge Bork is not, in a legal sense, "against' abortion. In fact, given his self-avowed libertarian leanings, he quite possibly might oppose any restrictions by the state on the practice of abortion, if he were a voting member of Congress. But as a judge, his personal views about abortion are completely irrelevant. When asked to decide whether a state law outlawing abortion violates the Constitution, the question for a judge is not: "Should abortion be illegal?" but "Does the Constitution prevent states from outlawing abortion?" The Judge may believe strongly that women should be free to obtain abortions, but unless he finds something in the Constitution that says otherwise, he must let the law stand as constitutional. But the approach taken by a divided Supreme Court, in Bork's words, "confuses the constitutionality of laws with their wisdom." [1] Believing that abortion should be legal, the Court has ruled that the Constitution requires it to be legal.

In his 1971 law review article "Neutral Principles and Some First Amendment Problems," Bork describes the proper role of the judiciary:

"Nothing in my argument goes to the question of what laws should be enacted. I like the freedoms of the individual as well as most, and I would be appalled by many statutes that I am compelled to think would be constitutional if enacted. But I am also persuaded that my generally libertarian commitments have nothing to do with the behavior proper to the Supreme Court." [2]

SUBSTANTIVE DUE PROCESS

The theory of substantive due process, culminating in the "right to privacy" line of abortion cases, is a prime example of what ails present methods of constitutional interpretation. At the same time, substantive due process provides us with historical evidence that judicial activism can be used to either "conservative" or "liberal' political ends.

Substantive due process is the judicially created notion that there inhere within the 14th Amendment due process clause some substantive rights retained by individuals; that the words ". . . nor shall any State deprive any person of life, liberty or property, without due process of law . . ." not only guarantee procedural rights, as the language clearly indicates, but also give rise to separate substantive rights. These substantive rights, which cannot be deprived even if due process is given, supposedly arise from an individual's "liberty" interest. But what are these rights? There is no way of telling—until the Supreme Court tells us.

Essentially, substantive due process is a fiction created by the judiciary to strike down legislation with which the judiciary disagrees. Although now used nearly exclusively to "liberal" political ends, the doctrine was originally created in the 1930's by conservative Supreme Court justices who sought to stop President Roosevelt's New Deal legislation. These justices disagreed with Roosevelt's progressive legislation, and created substantive due process as a means to protect free market capitalism.

Faced with President Roosevelt's court-packing scheme, the Supreme Court eventually changed its view of the New Deal legislation. The doctrine of substantive due process fell out of favor, until it was revived in the 1960's in the case of *Griswold* v. *Connecticut.*[3] But this time liberal judges were the activists, using the theory of substantive due process to protect non-economic "privacy" interests discovered floating in the "penumbras" of the Bill of Rights. But all that talk about "penumbras" and "privacy" means only that the Supreme Court didn't like the fact that Connecticut prevented the use of contraceptives, even by married couples. But the Court needed some justification to strike down the law.

Eight years later the Supreme Court informed us that this "zone of privacy" also protected a women seeking to abort her child.[4] But in 1986 we found out that it doesn't protect homosexual sodomy.[5] As

Judge Bork points out in his criticism of *Griswold*, this kind of judicial creation does not provide any "neutral principles" upon which to base a decision. That leaves only the subjective value preferences of whoever happens to be on the Court. Judge Bork prophetically saw that the lack of guiding principles in *Griswold* would lead to the confusion of extending the right to one group (women seeking abortions) and not another (homosexuals):

"*Griswold*, then, is an unprincipled decision, both in the way in which it derives a new constitutional right and in the way it defies that right, or rather fails to define it. We are left with no idea of the sweep of the right of privacy and hence no notion of the cases to which it may or may not be applied in the future. The truth is that the Court could not reach its result in *Griswold* through principle. The reason is obvious. Every clash between a minority claiming freedom and a majority claiming the power to regulate involves a choice betwen the gratifications of the two groups. When the Constitution has not spoken, the Court will be able to find no scale, other than it s own value preferences, upon which to weigh the respective claims to pleasure." [6]

If Judge Bork truly were a "rigid, conservative ideologue," he certainly would have supported the use of substantive due process to strike down liberal legislation in the 1930's. But Judge Bork has made clear his view that substantive due process is wrong when used to conservative ends, wrong when used to liberal ends. He has been just as critical of the use of substantive due process to protect the free market as to create a "right to privacy." He would not be a "conservative activist" on the Supreme Court.

When the Court acts to strike down majority legislation without explicit authority from the Constitution, all that has happened is that the power to make law has been shifted from elected representatives to five unelected lawyers. Right now liberals are happy with substantive due process, because it has served their political ends. But once upon a time it served the interests of conservatives, and it may do so again. That is why it is in the interest of all to support the confirmation of Judge Bork, who would apply "neutral principals" in a manner that would serve the political interests of neither the left or the right, and return the "imperial judiciary" to its proper role under the Constitution.

INTENT OF THE FRAMERS

Judge Bork's intellectual pursuit of a theory of constitutional interpretation that is "neutrally derived, defined and applied," [7] led him to what is now called an "original intent" methodology. Essentially, proponents of this methodology assert the seemingly non-controversial view that the Constitution means what its authors intended it to mean.

An example of Judge Bork's method of constitutional interpretation is given in the 1971 "Neutral Principles" article. Specifically, Judge Bork takes the correct view that pornography was never intended to be protected by the first amendment guarantee of free speech. This is the same view taken by the United States Supreme Court in every decision on the subject—that category of material that is legally "obscene" is outside the protection of the first amendment. And this is why Citizens for Decency through Law, Inc. supports the confirmation of Judge Bork. His correct view of the Constitution leads him to the correct legal view on particular issues, including the issue with which CDL is concerned. Again, Judge Bork recognizes that the question for a judge is not: "Should obscene material be banned?" but "Does the Constitution forbid the banning of obscene material?"

To answer that question, Judge Bork examines the free speech clause of the first amendment in an attempt to discern what the Framers intended it to protect. At the time he wrote the 1971 article, Judge Bork believed the Framers intended the first amendment to protect only explicitly political speech:

"I am led by the logic of the requirement that judges be principled to the following suggestions. Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic." [9]

In contrast to critics' portrayal of Judge Bork as a rigid, inflexible conservative, he has since amended his view, stating that the Framers intended more than explicitly political speech to be protected by the first amendment. Nevertheless, his inquiry remains the correct one: "What did the Framers of the first amendment intend that provision to protect?" rather than "What limitations do we think should be placed on speech?" The latter is a question to be debated by the legislative branch of government. But when judges start talking about the "broad principles" contained in the first amendment, this invariably means they are departing from the intent of its authors, and substituting their ideas of what should be constitutionally protected for what actually is protected. Judge Bork, on the other hand, is committed to the principle that a written Constitution is meaningless if we pay no attention to the intent of the men who wrote it. Without the anchor of "original intent," judges would be free to make their own value preference a part of constitutional law, thus essentially usurping the law-making function from the legislative branch. Judge Bork would resist the temptation to impose this will on the country, and would return the judicial branch to its proper role of interpreting, not making law.

FOOTNOTES

[1] R. Bork, "Neutral Principles and Some First Amendment Problems," 47 INDIANA L.J. 1, at 28.

[2] Id., at 21.

[3] 381 U.S. 479 (1965).

[4] *Roe* v. *Wade*, 410 U.S. 113 (1973).

[5] *Bowers* v. *Hardwick*, 106 S.Ct. 2841 (1986).

[6] Bork, 47 INDIANA L.J. at 9.

[7] Id., at 23.

[8] Id.

[9] Id., at 20.●

INFORMED CONSENT: MISSOURI

● Mr. HUMPHREY. Mr. President, there is no person in any State that is immune to the complications that can follow medical procedures. For the patient's own protection, medical personnel must inform them about the possibilities of complications before a procedure is initiated.

In the case of abortion, however, such informed consent is neither required nor often provided. My office has received hundreds of letters from women in every State that indicate many people are being denied appropriate information about the abortion procedure and its effects.

To rectify this situation, I ask my colleagues to support my informed consent bill, S. 272. It would allow those considering abortion to be told the pertinent facts so they can make an informed decision. Anything less is an abridgement of a woman's rights.

Mr. President, I also ask that a letter be inserted into the RECORD.

The letter follows:

FEBRUARY 14, 1987.

HON. GORDON J. HUMPHREY: My abortion took place in 1975 in southern California. I went into a Planned Parenthood hoping to have an IUD implanted after being on the pill. Since my period had not started, a pregnancy test was given resulting in a positive test. I was married at the time but I was so unsure about our marriage. The news so shocked me. I know that even though we took some time to "think" about it, I was not stable enough emotionally, physically and mentally to make the decision.

After a week or so my husband and I went back to the Planned Parenthood center to schedule an abortion. We sat down with a "counselor" who only asked us basically the questions "why have you decided on an abortion?" and "Are you sure?" The only information she provided was the standard medical procedure that we needed to know, i.e., what was expected of us in preparation, the procedure and anesthesia to be used and proper care, etc. There were no pictures of fetal development, no mention of possible consequences or complications. I know that if I was shown a picture of the fetus at that stage, I would have used some common sense. The counselor fed me just the information needed to satisfy my emotional state of being!! I strongly urge for adequate logical, realistic, complete counseling to be done. I support you in your work!

May God Bless You!

REBECCA FALKNER,
Missouri.●

GRAMM-RUDMAN-HOLLINGS

● Mr. PELL. Mr. President, since the Gramm-Rudman-Hollings proposal for automatic Federal Government spending cuts was first presented to the Senate I have consistently opposed and voted against it.

Yesterday, for the first time, I voted in support of legislation that included a new version of the Gramm-Rudman-Hollings deficit reduction provisions. I did so with great reluctance. I remain opposed to the basic concept of automatic mindless budget cuts that take effect without the considered judgment and by the specific vote and approval of the people's elected representatives in Congress. As I have said repeatedly, running our government and determining its budget by complex, incomprehensible formulas seems to me to be an abdication of the responsibility of the Congress to determine the policies of the nation using its own best judgments.

The revised version of Gramm-Rudman-Hollings approved by the Senate yesterday was included in legislation that provided for an essential increase in the debt limit for the U.S. Government. The existing temporary debt limit authorized by the Congress expired at midnight last night, and unless a new authorization for the existing indebtedness of the government was quickly approved by the Congress, we faced the prospect that the U.S. Government would soon be unable to pay the interest due on its existing debt, and would default, for the first time in history, on its financial obligations bringing our government to a grinding halt.

It was with the threat of such a default in mind that, despite my continued objections to the Gramm-Rudman-Hollings provisions, I vote for the debt ceiling legislation.

I hope the Gramm-Rudman-Hollings automatic spending cuts never take place, and they will not take place if the President and the Congress agree to take the actions necessary, including both revenue increases and spending restraints, that are necessary to reduce the Federal budget deficit.

I believe reducing the Federal Government deficit is essential to the continued economic well-being of our Nation. As I have in the past, I will continue to work for reductions in our budget deficits. And I will work to see those deficit reductions are made the right way, by the considered votes of the Congress, and not by computer-driven mindless automatic formula cuts.●

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

ADJOURNMENT UNTIL TOMORROW AT 8:15 A.M., CONSIDERATION OF H.R. 2907

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 8:15 tomorrow morning; that there be 5 minutes to be equally divided between the two leaders, and that at the conclusion of the 5 minutes, the Senate proceed to the consideration of the Treasury-Postal Service appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

NO RESOLUTIONS OR MOTIONS, OVER UNDER THE RULE, TO COME OVER, AND CALL OF THE CALENDAR WAIVED

Mr. BYRD. Mr. President, I ask unanimous consent that no resolutions or motions over under the rule come over tomorrow and that the call of the calendar under rule VIII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the distinguished majority leader outlined the bill to be brought up at 8:30 a.m. Perhaps just as a precaution he might state what time he expects a vote to occur on that bill.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the same restrictions as heretofore ordered until the hour of 8:15 tomorrow morning; that following the order for the two leaders there be 10 minutes of morning business, to be equally divided between Senators ROCKEFELLER and DASCHLE; that at the conclusion of that time, namely 15 minutes in total, the Senate then proceed to the consideration of the Treasury-Postal Service appropriations bill.

The PRESIDING OFFICER. Without objections, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow, following the adjournment, at the hour of 8:15 a.m. There will be 15 minutes for morning business, which has already been allocated under the order, and then at about 8:30 a.m. the Senate will proceed to the consideration of the Treasury-Postal Service appropriations bill. There will be 30 minutes on that bill to be equally divided. No amendments will be in order.

A vote has been ordered to begin at circa 9 o'clock. That rollcall vote in the morning, the first, being early, will be a 30-minute rollcall vote. I should say again that it will be my expectation to call for regular order at the end of 20 minutes.

Then the Senate will resume consideration of the Department of Defense authorization bill with a plethora of amendments awaiting in the wings. There will be rollcall votes throughout the day.

It is conceivable that we could have an all-night session tomorrow night. It is conceivable, and not only conceivable, but it is more than possible. It will be the same with respect to a Saturday session. I hope tomorrow we can eliminate a good many of the amendments, have a good day's work, and reach a time agreement, hopefully, on final passage of this measure no later than Tuesday evening.

If all of these things break, if we get the time agreements, if we wipe out a lot of amendments, perhaps we can wipe out a Saturday session or wipe out a session tomorrow night, and if we have a lot of luck, we might be able to wipe out most amendments.

In spite of that, let me ask unanimous consent that it be in order to ask for the yeas and nays at this time on passage of the Treasury-Postal Service appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, if my good friend has any further business or reflections or statements to make, I will be glad to yield.

Mr. WARNER. Mr. President, only to indicate that I think all Members should check with their respective cloakrooms concerning the possible holding of caucuses in the morning. I know on our side the distinguished Republican leader is planning to hold a caucus in the morning.

Mr. BYRD. Mr. President, the able Virginian has just made a good suggestion. I should like to put my own cloakroom on notice that we should alert Senators that there will be a conference of Democrats at the hour 10 o'clock tomorrow morning, which will coincide with the same hour during which our Republican friends will be meeting.

Effort is going to be made there to reduce the number of amendments and further reduce the time and hopefully to help us to have that luck we were talking about with respect to spending less time in this Chamber over the next few days.

Mr. WARNER. Mr. President, the majority leader is correct. The Republican leader has now, I am told, confirmed that there will be a caucus at 10 o'clock in his office, S-230. All Members are requested to attend.

I thank the Chair and I thank my good friend, the distinguished majority leader.

Mr. BYRD. Mr. President, I thank my friend.

ADJOURNMENT UNTIL 8:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 8:15 tomorrow morning.

The motion was agreed to and, at 12 midnight, the Senate adjourned until Friday, September 25, 1987, at 8:15 a.m.

HOUSE OF REPRESENTATIVES—*Friday, September 25, 1987*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. Foley].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
September 23, 1987.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on Friday, September 25, 1987.

Jim Wright,
Speaker of the House of Representatives.

PRAYER

The Reverend Ronald F. Christian, assistant to the bishop, American Lutheran Church, Fairfax, VA, offered the following prayer:

O God:
We acknowledge You as our Creator;
We honor You as our King;
We pray to You as our Father.
Hear us, O God:
In our quest for the new and the better, remind us of our limitations;
In our Nation's pride and personal conceit, help us to recall Your rule and reign;
In our uncertainties and despair, give to each of us that which we need, not want, so that Your will may be done and Your kingdom may come to us.

For Yours is the power and the glory! Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
September 23, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received at 4:47 p.m. on Wednesday, September 23, 1987, the following message from the Secretary of the Senate: That the Senate agreed to the conference report on H.J. Res. 324.

With great respect, I am,
Sincerely yours,

Donnald K. Anderson,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled joint resolution and bill on Thursday, September 24, 1987:

H.J. Res. 324. Joint resolution increasing the statutory limit on the public debt; and

S. 1532. An act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC.
September 24, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit sealed envelopes received from the White House as follows:

At 4:48 p.m. on September 24, 1987 and:

(1) Said to contain a message from the President wherein he transmits the 1986 annual reports of the Department of Labor, the Department of Health and Human Services, and the Occupational Safety and Health Review Commission under the Occupational Safety and Health Act of 1970;

(2) Said to contain a message from the President wherein he transmits the Fifteenth Annual Report on the Administration of the Federal Railroad Safety Act;

(3) Said to contain a message from the President wherein he transmits the eighth annual report of the Federal Labor Relations Authority;

(4) Said to contain a message from the President wherein he transmits the annual report for 1986 of the National Advisory Council on Adult Education; and

(5) Said to contain a message from the President wherein he transmits the report on World Food Needs and Production and Agricultural Trade.

With great respect, I am,
Sincerely yours,

Donnald K. Anderson,
Clerk, House of Representatives.

ANNUAL REPORT OF THE FEDERAL LABOR RELATIONS AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of Thursday, September 24, 1987, at page 25183.)

ANNUAL REPORT ON THE ADMINISTRATION OF THE FEDERAL RAILROAD SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce.

(For message, see proceedings of the Senate of Thursday, September 24, 1987, at page 25183.)

ANNUAL REPORT OF THE NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of September 24, 1987, at page 25183.)

ANNUAL REPORT ON ACTIVITIES UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate of September 24, 1987, at page 25183.)

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

REPORT ON WORLD FOOD NEEDS AND PRODUCTION AND AGRICULTURAL TRADE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Agriculture and the Committee on Foreign Affairs.

(For message, see proceedings of the Senate of September 24, 1987, at page 25183.)

ENROLLED JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker pro tempore:

H.J. Res. 324. Joint resolution increasing the statutory limit on the public debt.

SENATE ENROLLED BILL SIGNED

The SPEAKER pro tempore announced his signature to an enrolled bill of the Senate of the following title:

S. 1532. An act relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House will stand adjourned to meet at noon on Tuesday next.

There was no objection.

Accordingly (at 10 o'clock and 6 minutes a.m.), under its previous order, the House adjourned until Tuesday, September 29, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2145. A letter from the Solicitor, U.S. Commission on Civil Rights, transmitting the Commission's annual report on the Government in the Sunshine Act for calendar year 1986, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

2146. A letter from the Associate Administrator for Congressional Affairs, General Services Administration, transmitting copies of lease prospectuses at various locations, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

2147. A letter from the Acting Secretary of Commerce, transmitting the monthly report on imports during May 1987 of strategic and critical materials from countries of the Council for Mutual Economic Assistance, pursuant to 22 U.S.C. 5092(b)(2); jointly, to the Committees on Foreign Affairs and Ways and Means.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEREUTER:

H.R. 3342. A bill to improve grain quality by revising U.S. grain standards and providing Commodity Credit Corporation bonuses to create greater economic incentives for production and sale of high quality grain; to the Committee on Agriculture.

By Mr. FLORIO (for himself, Mr. Eckart, Mr. Bates, Mrs. Collins, Mr. Richardson, Mr. Scheuer, Mr. Sharp, and Mr. Waxman):

H.R. 3343. A bill to amend the Consumer Product Safety Act and related laws to improve the performance of the Consumer Product Safety Commission, to authorize appropriations for that act, and for other purposes; to the Committee on Energy and Commerce.

By Mr. JEFFORDS (for himself, Mr. Stenholm, Mr. Gunderson, Mr. Coelho, Mr. Boehlert, Mr. Coleman of Missouri, Mr. Horton, Mr. Houghton, Mrs. Johnson of Connecticut, Mr. Kastenmeier, Mr. Martin of New York, Mr. McDade, Mr. Obey, Mr. Penny, Mr. Petri, Mr. Roth, Mr. Schuette, Ms. Slaughter of New York, Ms. Snowe, Mr. Swift, Mr. Tauke, Mr. Taylor, and Mr. Wortley):

H.R. 3344. A bill to effect any reduction in net expenditures for milk price support activities required by the Balanced Budget and Emergency Deficit Control Act of 1985; to the Committee on Agriculture.

By Mr. BROOKS:

H.R. 3345. A bill to amend and extend the Office of Federal Procurement Policy Act, and for other purposes; to the Committee on Government Operations.

By Mr. PICKLE (for himself, Mr. Gibbons, Mr. Rangel, Mr. Stark, Mr. Gephardt, Mr. Downey of New York, Mr. Guarini, Mr. Matsui, Mr. Dorgan of North Dakota, Mrs. Kennelly, Mr. Donnelly, Mr. Andrews, Mr. Levin of Michigan, Mr. Moody, Mr. Vander Jagt, Mr. Frenzel, Mr. Schulze, Mr. Daub, Mr. Brown of Colorado, Mr. Chandler, Mrs. Bryon, and Mr. Owens of Utah):

H.R. 3346. A bill to amend the Internal Revenue Code of 1986 to provide additional rights and protections for taxpayers in dealings with the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. Edwards of California, Mr. Synar, Mr. Boucher, Mr. Bryant, Mr. Gekas, Mr. Fish, and Mr. Swindall):

H. Res. 274. Resolution providing for the release of certain materials relating to the inquiry into the conduct of U.S. district judge Alcee L. Hastings; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, Ms. SNOWE introduced a bill (H.R. 3347) for the relief of Bibianne Cyr; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 956: Mr. Pepper.

H.R. 1199: Mr. Hochbrueckner and Mr. Clinger.

H.R. 1721: Mr. Darden.

H.R. 2384: Mr. Espy, Mr. Fuster, Mr. Jontz, Mr. Cardin, and Mr. Sunia.

H.R. 2707: Mr. Foglietta and Mr. Daub.

H.R. 2719: Mrs. Schroeder.

H.R. 2833: Mr. Smith of New Jersey and Mr. Owens of New York.

H.R. 2870: Mr. Mfume, Mr. Gonzalez, Mr. Clay, Mr. Rodino, and Mr. Lewis of Georgia.

H.R. 2895: Mr. Roberts.

H.R. 2922: Mr. Wolf.

H.R. 2928: Mr. Lewis of Georgia, Mr. Owens of Utah, and Mr. Fawell.

H.R. 2986: Mr. Penny.

H.R. 3180: Mr. Bustamante, Mr. Lewis of Georgia, Mr. Oberstar, and Mr. Saxton.

H.R. 3200: Mr. Emerson, Mr. McCandless, Mr. Clinger, Mr. Shays, Mr. Hastert, Mr. Horton, Mr. Fawell, Mr. Shaw, Mr. Stump, and Mr. Hammerschmidt.

H.R. 3325: Mr. Wright, Mr. Foley, Mr. Anderson, Mr. Roe, Mr. Mineta, Mr. Oberstar, Mr. Nowak, Mr. Rahall, Mr. Applegate, Mr. de Lugo, Mr. Savage, Mr. Sunia, Mr. Bosco, Mr. Borski, Mr. Kolter, Mr. Valentine, Mr. Towns, Mr. Lipinski, Mr. Rowland of Georgia, Mr. Wise, Mr. Gray of Illinois, Mr. Visclosky, Mr. Traficant, Mr. Chapman, Mr. Lancaster, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. DeFazio, Mr. Cardin, Mr. Grant, Mr. Skaggs, Mr. Hayes of Louisiana, Mr. Perkins, Mr. Shuster, Mr. Stangeland, Mr. Gingrich, Mr. Clinger, Mr. Molinari, Mr. Shaw, Mr. McEwen, Mr. Petri, Mr. Sundquist, Mrs. Johnson of Connecticut, Mr. Packard, Mr. Boehlert, Mr. Gallo, Mrs. Bentley, Mr. Lightfoot, Mr. Hastert, Mr. Inhofe, Mr. Ballenger, Mr. Upton, Mr. Taylor, Mr. Hefner, and Mrs. Lloyd.

H.J. Res. 112: Mr. Beilenson, Mr. Hamilton, Mr. Dellums, Mr. Lowry of Washington, Mr. Martinez, and Mr. Smith of Florida.

H.J. Res. 228: Mr. Valentine, Mr. Gallegly, Mr. Applegate, Mr. Thomas A. Luken, Mr. Hastert, Mr. Campbell, Mr. Owens of Utah, Mr. Nelson of Florida, Mr. Synar, Mr. Hansen, Mr. Porter, Mr. Skeen, Mr. Kastenmeier, Mr. Inhofe, Mr. Duncan, Mr. Bosco, Mr. Bliley, Mr. Bates, Mr. Mack, Mr. Traficant, Mr. Torres, Mr. Torricelli, Mr. Archer, and Mr. Perkins.

H.J. Res. 360: Mr. Carper, Mr. Craig, Mr. Kostmayer, Mr. Espy, Mr. Conyers, and Mr. Hughes.

H. Con. Res. 184: Mr. DeLay, Mr. Fawell, Mr. Lewis of Georgia, and Mr. Hyde.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

(Omitted from the Record of Sept. 22, 1987)

H.R. 1082: Mr. Savage.

SENATE—*Friday, September 25, 1987*

The Senate met at 8:15 a.m., and was called to order by the Honorable William Proxmire, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Come now, and let us reason together, saith the Lord: Though Your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.—Isaiah 1:18.

Gracious, kind Father in heaven, the compelling words of the prophet Isaiah remind us of Your loving and compassionate grace—forgiveness and cleansing from sin. Be patient with us for the caricature we hold in our minds about You, viewing You as an impersonal, indifferent, inflexible judge who delights in punishment. Be patient with us for arrogance and pride which refuses to acknowledge our sin or ignorance of Your love which causes us to be overcome by our sin or indifference which keeps us from coming to You for absolution and pardon so graciously offered in Your Son. Praise and thanksgiving unto You for the unconditional, universal love of Him in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER.** The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, September 25, 1987.

To the Senate:

Under the provisions of Rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable William Proxmire, a Senator from the State of Wisconsin, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. **PROXMIRE** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

LEADER TIME YIELDED

Mr. **BYRD.** Mr. President, I have the approval of the distinguished Republican leader to yield to the able Senator from Wisconsin [Mr. Proxmire] our combined time of 5 minutes.

The **PRESIDING OFFICER** (Mr. Byrd). The Senator from Wisconsin [Mr. Proxmire] is recognized for 5 minutes.

Mr. **PROXMIRE.** I want to thank my good friend, the majority leader for so graciously yielding me his time.

WHY SHOULDN'T UNITED STATES INFLATE ITS WAY OUT OF DEBT? HERE'S WHY:

Mr. **PROXMIRE.** Mr. President there is a quick, easy, painless solution to our colossal national debt and deficit problem. It's also absolutely the wrong way to go. It will endanger and maybe destroy our marvelously productive economy. It will certainly impoverish tens of millions of Americans. But it is a way that has an increasingly seductive appeal. For weeks now the Congress has been huffing and puffing and moaning and groaning about our huge deficit and the necessity of reducing it. By a big majority the Senate has once again shown it doesn't have the stomach to cut spending across the board, increase taxes if necessary and get serious about solving the most irresponsible and reckless fiscal policy in this Nation's history.

Instead of taking decisive action to reduce the deficit, Congress repaired the automatic cutting mechanism in the Gramm-Rudman law. What did this repair entail? First, the deficit targets were relaxed, especially for the next 2 fiscal years, fiscal year 1988 and 1989. The Congress will not have to face serious cuts in spending until after the 1988 election. Another negative aspect of the bill was the increase in the national debt to $2.8 trillion. That level should last until May 1989, after the election.

This bill, however, did do some good. It reinstated the automatic cut mechanism. It made it tougher to use one-shot savings to reduce the deficit. These changes make good sense.

The record of the last few years cannot help but raise a suspicion. Assume the country gets through the next election and meets the relaxed deficit goals in the new law. Then comes 1989 and a new President. The debt limit will providentially expire about 4 months into the first term. The budget under consideration at that time will require some big cuts to meet the new deficit targets. Will that target be relaxed once again?

And if that weren't enough, some year along the line—1988 or 1989 or 1990—the next recession will hit. No one knows when it will come. We do know that it will come. And when it comes it will be a real killer. The Federal Government will not be able to fight the next recession with countercyclical fiscal policy unless it is willing to run a series of annual $400 or $500 billion deficits for 2 or 3 years.

So what's the "easy, painless" seductive and wrong solution? This solution is to pursue the policy virtually every country that has driven itself deeply into debt has pursued throughout history. It is to inflate the currency. And by 1989 or 1990 that is likely to be enticing for more than just the Members of the Congress. A deliberate and very big inflationary program would have short-term benefits for many people. Think of it. Inflation brings a barrel full of happiness to debtors. And this country today has more debtors than ever before in history. Superinflation will help those debtors. It will mean the debtor pays back his debt in cheaper currency. If the Federal Government through the Federal Reserve Board deliberately inflates the currency tenfold or by 1,000 percent, that would overnight cut the national debt and the deficit too by a factor of 10. Let's assume that sometime in the next 2 or 3 years the long overdue recession hits our country. Assume the deficit swells to somewhere between $300 and $600 billion and the national debt quickly climbs to $4 or maybe $5 trillion. Then assume the Fed opens the monetary floodgates. It buys $2 or $3 trillion of that debt. Inflation streaks ahead by tenfold or 1,000 percent. The $4 trillion national debt shrinks promptly to $500 billion in real terms. The $500 billion annual deficit fades all the way down to a mere $50 billion in real terms. Presto. There's no painful cutting of any popular social program or military program. There's no election losing tax increase. The nightmare deficit problem has vanished. The national debt has been cut down to size in real terms. In fact, the Congress can revalue the currency. It can make 10 or the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

old dollars the equalivalent of 1 new dollar.

Now, of course, with this kind of solution there will be king-size headaches in cost-of-living adjustments. Inflation will, indeed, raise the cost of government in many respects. But not in one vital and rapidly growing respect. It will not increase the interest payments on the debt the Federal Government has already accumulated if it is sufficiently long term. For several months now the Government has been wisely moving its borrowing more and more into the long-term market. The "real" burden of this debt will be greatly lessened by the inflation. Since interest on the national debt is the most rapidly rising cost of Government, this short-run benefit of inflation will be specially appealing to the Congress.

Of course, this kind of inflation will exact a big political price from the millions of Americans on fixed income. On the other hand American households are in debt as never before. Those households will benefit from the inflation that enables them to pay back their debt in much cheaper dollars. But how about the savings of American households? Won't those savings suffer from inflation? If they're liquid they certainly will. But savings and especially liquid savings have sharply dropped as a percentage of income in America in recent years. In fact, they may this year actually be negative. The huge debt of American businesses also would become a lighter burden with a sudden massive inflation.

So, not only would the inflation bring a quick and easy solution to the Government's huge debt problem. It would help American households and American business with what is becoming their biggest and most serious problem. So, inflation, big inflation would have solid and, understandable political appeal.

So, what's wrong with it? Plenty. First, it would shoot prices up out of sight and make it impossible for more than 100 million American workers to stay abreast of the soaring cost of living. Second, it would swiftly drive interest rates right through the roof as lenders would insist on an inflation premium that would probably exceed the actual inflation. Third, in this kind of unstable, volatile environment business would be unable to plan or build on any kind of a reliable future. Fourth, wage and price controls would become politically irresistible. When enacted they would slap a counterproductive, bureaucratic lock on our economy.

No matter how the Congress twists and turns there is no way we can escape from the ultimate necessity of cutting Federal spending and cutting it everywhere—every program without exception must be included. We also have to raise Federal taxes and raise them big. There is no realistic way we can escape from a reduction in the American standard of living to make up for living beyond our means for the past 7 years. Inflation won't save us. Only thrift and sacrifice will.

THE TREATMENT OF WOMEN IN THE MARINES AND NAVY

Mr. PROXMIRE. Mr. President, the findings of a recent report document a serious problem on the treatment of women in the Marines and the Navy.

The report, prepared by the Pentagon's Defense Advisory Committee on Women in the Services, cites widespread professional and personal mistreatment against military women in the Pacific. Among some of the abuses mentioned were sexual and verbal harassment, lack of advancement opportunities for women, and commanders who ignored complaints from enlisted women. One of the most demeaning and appalling examples of the mistreatment concerns a Navy captain who offered to "sell" female sailors to Koreans.

The treatment of military women in the Pacific is totally unacceptable and the response of the Department of Defense is equally unacceptable. Instead of proposing a commission to study the abuses against women, the Secretary of Defense and the Secretary of the Navy must take strong action to make sure that this intolerable situation does not continue. Secretary Weinberger and Secretary Webb must send a strong message throughout the services that this behavior is repugnant to the military and will not be tolerated. This action should include plans of restitution for the victimized women plus strict and swift disciplinary action against those responsible for the abuses.

In addition, the Department of Defense must take long-range action to ensure the professional treatment of women in the military. This action should include the presence of more women at the policymaking level advising Secretaries Weinberger and Webb as a way of giving the female sector of the military representation. The Department of Defense must also make a concerted effort to increase the career opportunities for women in the services. By taking action to eliminate discriminatory practices and increase opportunities for women at all levels of service, the Department of Defense will send a strong message that abuses against women will not be tolerated and that they are committed to the professional status of women in the military.

I urge my colleagues to look into the scandal in the Pacific and the broader issues of women in the military, and hope that they will join me in developing a solution to this chronic and intolerable problem.

I ask unanimous consent that the article from the Washington Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1987]

PENTAGON UNIT FINDS SEXUAL HARASSMENT—WIDESPREAD PROBLEMS IN PACIFIC REPORTED

(By Molly Moore)

Pentagon advisers have accused Navy and Marine Corps leaders of condoning "overt and blatant sexual harassment" of women in the services and discrimination that hampers their chances of promotion.

The advisory group said it found the problems to be widespread and cited one case in which women assigned to a naval salvage vessel accused their commander of "public sex" aboard the ship and of attempts to "sell" female sailors to Koreans during a tour in the western Pacific.

Defense Secretary Caspar W. Weinberger, responding to the investigation by the Defense Advisory Committee on Women in the Services announced yesterday that he has established a task force to review policies and recommend changes.

"Sexual harassment is contrary to our policy," said David J. Armor, the Pentagon's personnel chief, "The secretary has decided that his past statements have not been sufficient."

But Armor said the military faces a difficult task in attempting to change the attitudes that have fostered the "morally repugnant" actions of many male officers and enlisted personnel described in the committee's study.

Some of the major problems cited in the report, which was compiled after an investigation of U.S. Navy and Marine Corps facilities in the Pacific, included:

Charges that ranking officers block the efforts of women to report cases of sexual abuse, including the case involving the skipper of the salvage ship USS *Safeguard*, who is accused of attempts to "sell" female sailors to Koreans, "fraternization" with enlisted female sailors and "public sex," a charge that the goverment refused to clarify.

Incidents of abusive behavior toward women ranging from "verbal abuse to overt and blatant sexual harassment" at every installation visited by the committee's investigating team.

A widespread perception among female officers and enlisted personnel that the command structure of the Navy and Marine Corps is seeking "to force women out of the armed forces" by hampering promotional opportunities for women and condoning sexual harassment by allowing on-base activites such as noontime burlesque shows and meals at base clubs in the Philippines that emphasize sexually oriented entertainment.

Inadequate housing and recreational facilities and isolation at overseas bases that "contribute to conditions in which extremist behavior [lesbianism] is fostered."

Seven members of the committee conducted their investigation of Pacific naval and marine bases Aug. 4-18. The agency reported similar findings last year after a tour of U.S. military facilities in Europe. The group reported then that women found "an indecisive, if not uninterested, attitude among the chain of command when confronted with episodes of sexual harassment."

In its most recent report, the committee wrote, "it has been alleged that the hierarchies of the Navy and Marine Corps, in particular, continue to project attitudes that are biased against women, in part as a means of fostering the macho mystique that is intrinsic to military service."

In the aftermath of the incidents reported aboard the USS *Safeguard*, the Navy has launched its own investigation of harassment and discrimination against female members of the service. The ship's skipper, Lt. Cmdr. Kenneth D. Harvey, 40, has been removed as commander and is awaiting further action pending the outcome of a Navy investigation.

The study also found that women in the Navy and Marine Corps believe that in many cases they are discriminated against in the promotion process. The report stated that the Navy's policies on barring women from certain combat-related jobs are far more restrictive than Congress intended.

"This trip revealed once again the pervasive problem that the services have in managing their people," the report said.

Defense Department personnel chief Armor said the new task force would study the issues of promotions and treatment of women in the military, as well as allegations that the different services are inconsistent in the types of jobs categorized as combat positions that exclude women.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 10 minutes to be equally divided.

SENATOR JOE BIDEN

Mr. DeCONCINI. Mr. President, I would like to take this opportunity to pay tribute to a friend of mine and colleague of all of us, Senator Joe Biden. While I regret his decision to pull out of the 1988 Presidential race, I respect that decision and salute him for the courage and dignity with which he confronted his current political problem.

I have known Joe Biden since coming to the Senate in 1977. I know him to be a man of ideals, great integrity, genuine personal warmth and a sense of humor, one with ideals that are firmly planted in the country, a dedicated family man, and someone who believes that this country can change and be better and wants to participate in that.

Joe Biden is a decent, honorable, and caring human being. I am especially impressed that as chairman of the Senate Judiciary Committee, Joe Biden has not allowed his personal problems to affect his conduct in the confirmation hearings on the nomination of Robert Bork, and he has conducted himself in an absolutely impartial manner even though he has very strong feelings on this subject matter.

The temptation to tilt one way or the other has to be very great when you made up your mind and feel very strongly on the issue. Senator Biden has demonstrated his leadership.

Anyone who has closely watched the Bork hearings would have to concur that Senator Biden has conducted them with great acumen, has been fair to all witnesses and to members of the committee, extending himself, quite frankly, beyond the patience this Senator would have.

Joe Biden has freely admitted that he made some serious mistakes during his Presidential campaign. It may have been too much to take on as chairman of the Judiciary Committee under the circumstances and also run a full-fledged Presidential campaign at the same time.

But he makes no excuses for this. He has apologized and promised to learn from those mistakes. It takes a very strong man to stand before the cameras of the media and before the people of this country to admit mistakes, to indicate that he has learned from them. My hat is off to him.

I sincerely regret that Joe Biden's voice will not be part of the 1988 Presidential dialog and debate. I have not chosen a candidate to endorse because they are so many that I know well, including a former colleague here and a former Governor of my State of Arizona.

His voice and ideals would have enriched the campaign. I hope that in spite of his current adversities, Joe Biden will continue to value public service and will continue to contribute to making this country and the world a better place for future generations.

Mr. President, I would like to enter into the Record at this time an article entitled "Was Biden an Echo * * * Echo * * * Echo * * * Echo," which indicates how ludicrous it is to pick on people who happen to list quotes from people's texts. I ask unanimous consent that the article from the New York Times of September 21, 1987, be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the New York Times, Sept. 21, 1987]

Was Biden an Echo . . . Echo . . . Echo . . . Echo . . . Echo?

(By Conrad Teitell)

Senator Joseph R. Biden Jr. has been taking flak for speeches in which, without crediting the source, he echoed the words of Robert F. Kennedy and the British Labor Party leader, Neil Kinnock. He has also borrowed language (not to mention gestures) from John F. Kennedy's inaugural address.

I come not to criticize or praise Senator Biden, but to show that honorable men before him have appropriated words without later having to eat them.

President Kennedy's famous statement "Ask not what your country can do for you; ask what you can do for your country" is a case in point. Mr. Kennedy did not say, "As Warren Harding—addressing the 1916 Republican National Convention in Chicago—said, 'We must have a citizenship less concerned about what the Government can do for it and more anxious about what it can do for the nation.' "

To be fair, Harding didn't let slip that he was paraphrasing Le Baron Russell Briggs, who wrote in 1904, "The youth who loves his Alma Mater will always ask, not "What can she do for me?' but 'What can I do for here?' "

Then again, Briggs didn't credit Oliver Wendell Holmes Jr. who in 1884 said, "It is now the moment . . . to recall what our country has done for each of us, and to ask ourselves what we can do for our country in return."

Franklin D. Roosevelt wasn't afraid to say, "The only thing we have to fear is fear itself" in his 1933 inaugural address without crediting Henry David Thoreau, who in 1851 said, "Nothing is so much to be feared as fear."

Thoreau himself—apparently in a moment of quiet desperation—had overlooked the Duke of Wellington's 1831 comment that "the only thing I am afraid of is fear."

Nor did Wellington admit that he was merely citing Francis Bacon, who said in 1623, "Nothing is terrible except fear itself." And Bacon did not fess up that Montaigne in 1580 said, "The thing I fear most is fear." Montaigne, of course, didn't let on that he had been flipping through his Bible and came across "Be not afraid of sudden fear" (Proverbs 3:25).

In 1940, Churchill's statement to the House of Commons—"I have nothing to offer but blood, toil, tears and sweat"—had its 1823 antecedent in Byron's words: "Year after year they voted cent per cent,/Blood, sweat and tear-wrung millions. . . ." Byron's prescursor was John Donne who said in 1611, "Mollify it with thy tears, or sweat, or blood."

As you can see, there is no new thing under the sun (Ecclesiastes, 1:9). Remember, borrowing is the soul of wit. So keep your book of familiar quotations handy in case you're called upon to say a few words.

TRIBUTE TO EMORY SNEEDEN

Mr. DeCONCINI. Mr. President, I also want to pay tribute to General Sneeden. Last night I learned late in the evening that he had passed away. He is someone who had become a friend of mine and Senator Thurmond. A number of Senators made statements on this matter. I want to echo those statements. I worked with him for many years in the Judiciary Committee. He was indeed a tribute to his profession and someone who crossed party lines and assisted this Senator a great deal. My heart goes out to that family.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATIONS FISCAL YEAR 1988

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now proceed to the consideration of H.R. 2907, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2907) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1989, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations with amendments.

Mr. DECONCINI. Mr. President, it is an honor for this Senator to bring before the Senate, the fiscal year 1988 Treasury, Postal Service, and general Government appropriation bill. I believe that the bill, as reported by the full Appropriations Committee, is an excellent bill that warrants the overwhelming support of the Senate.

Mr. President, prior to markup of this bill, the committee went through nearly a month of the most agonizing debate over its so-called 302(b) budget allocations. The distinguished chairman of our committee; Senator STENNIS, Senator HATFIELD; Senator JOHNSTON; Senator BURDICK; and I all offered plans to try to reach a compromise among our colleagues regarding the proper allocation of the budget "pie" that has been delegated to the Appropriations Committee. It was not a pleasant experience. There was much pain and suffering. Some sharp words were exchanged over the various plans for dividing up our budget totals. But we finally reached an agreement; we met our obligations under the Budget Act; and I am pleased to say that the bill that is before you is within the 302(b) budget allocation that was finally given to the Treasury, Postal Service Subcommittee. In fact, this bill is $312.7 million under its 302(b) allocation for budget authority and approximately $5.8 million under in outlays. Both the Congressional Budget Office and the Senate Budget Committee have scored our bill accordingly.

FUNDING SUMMARY

Mr. President, the Treasury appropriations bill as reported out of committee provides a total of $15.056 billion in new budget authority, plus another $11 million in reappropriations that have resulted from enactment of the Supplemental Appropriations Act of 1987, Public Law 100-71, for a total aggregate amount of $15.067 billion. Total outlays for the bill, including prior year outlays, are $15.144 billion.

The bill is approximately $1 billion or about 6 percent over current fiscal 1987 enacted levels and $450 million or about 3 percent over the President's fiscal year 1988 budget estimates. However, of this amount over fiscal 1987 levels, $505.2 million is for Presidentially requested mandatory items in the bill.

The bill is also $282.8 million below the House-passed bill. Of the six line item accounts in the bill, the committee has recommended the President's budget or lower in 47 or 77 percent of those accounts. In fact, if you were to subtract out the one major account where we are over the President—postal subsidies—this bill would be about $67 million below the President's request. So I believe that the bill is fiscally responsible. It meets the budget allocation targets imposed by the committee. It is substantially below the levels in the House-passed bill. And it is only slightly over the President's budget request for fiscal 1988.

Mr. President, the size of the bill is only one part of the story of the bill. The most important elements of this bill, in my view, are the funding priorities that the committee has approved within the "budget targets." The committee deserves great credit, and especially the distinguished chairman and ranking member, Senator STENNIS and Senator HATFIELD, respectively, for reporting a bill that funds some of the most important Government programs and agencies in our system. I will highlight some of the major provisions of the bill at this point.

TITLE I: DEPARTMENT OF THE TREASURY

Title I of the bill contains funding for most offices of the Department of the Treasury, including some of the most important law enforcement and revenue-raising agencies in the Federal Government. Total funding under title I is $7.311 billion or about $116.6 million over the President, but $84.9 million below the House.

Included in this title of the bill are the following major initiatives: $225 million for the Bureau of Alcohol, Tobacco and Firearms, including an additional $10 million for the highly successful armed career criminal program; $1.147 billion for the U.S. Customs Service, including:

One, an additional $75 million and 1,735 positions for a major improvement of the commercial operations of the Customs Service that will generate an estimated $300 to $400 million in additional revenue in fiscal 1988 and $1 billion a year thereafter; and

Two, $150 million for the Customs air interdiction program, including funding to continue the asset improvement program started under the omnibus drug bill and other legislation last year; $12 million for the installation of a drug interdiction aerostat radar surveillance system on the island of Puerto Rico; $4.989 billion for the internal revenue service, including: First, an additional $58 million over the President's request for taxpayer Service programs; second, an overall increase of $544.4 million over fiscal year 1987 enacted levels to continue the President's revenue initiative at IRS in fiscal 1988; and $373 million for the U.S. Secret Service, including $29.9 million for protection of our Presidential candidates.

TITLE II: U.S. POSTAL SERVICE

The committee has recommended $517 million for continuation of the Postal Service subsidy program at the "bare minimum" level necessary to maintain current rates for most categories of mailers under current law, for most of fiscal year 1988.

TITLE III: EXECUTIVE OFFICE OF THE PRESIDENT

The committee has recommended a total of $107.3 million for the Executive Office of the President agencies, a cut of about $427,000 below the President's request and $600,000 below the House. The committee recommendations include continuation of the White House Conference for a Drug Free America and enhanced funding for the National Critical Materials Council.

TITLE IV: INDEPENDENT AGENCIES

Mr. President, the bill also includes funding for a number of important independent agencies, including the General Services Administration; the Federal Election Commission; the National Archives and Records Administration, the Office of Personnel Management; and the U.S. Tax Court. Total funding under title IV of the bill is $7.120 billion of $111 million below the President's budget and $157 million below the House-passed bill.

Included under this section of the bill are several important programs, projects, and activities, including: $83.5 million for a major capital improvement program to repair and rebuild our Southwest border stations and facilities at our ports of entry from Texas to California; authority to initiate or design new Federal buildings in Oakland, CA; San Francisco, CA; Baton Rouge, LA; and a new headquarters building for the Environmental Protection Agency in Washington, DC; and $13 million for four major strategic materials research projects and/or studies under the auspices of the National Defense Stockpile Transaction Fund.

TITLES V AND VI: GENERAL PROVISIONS

Mr. President, this bill also includes a number of general provisions that have been carried in the Treasury, Postal Service bill for years and which the House has included in its bill year after year. We have also deleted some of those provisions that are no longer necessary. The committee has also included or deleted several important general provisions at the request of the administration, including:

Deletion of three provisions dealing with goals and commodities in the stockpile.

Inclusion of language requested by the President to authorize a new productivity "shared savings" program directed by OMB.

Inclusion of language authorizing OPM to start the process of establishing an improved pay scale for the uniformed division of the Secret Service.

Inclusion of language allowing the GSA to proceed with industrial funding within the Federal Supply Service to improve the way our agencies purchase supplies and services; and

Inclusion of language clarifying a provision in the newly passed Federal Employee Retirement Act that will facilitate recruitment and retention of top-flight law enforcement managers in our Federal law enforcement agencies.

The committee has included language in titles V and VI of the bill that would: Restrict the transfer of appropriated funds between Government agencies; limit the apportionment of permanent appropriations derived from user fees to pay Customs overtime for commercial business purposes; require cutbacks in Federal space and services for any agency that does not pay its budgeted share of standard level user charges [SLUC] to GSA; facilitate the implementation of the Federal motor vehicle provisions of the 1985 Reconciliation Act and promote private sector participation in the management of Federal motor vehicle fleets; and clarify current law with regard to certain reappointments to the Merit Systems Protection Board.

The committee has also included an important general provision in the bill that would place certain restrictions on the use of so-called detailees from Federal agencies and curb abuses in this regard, beginning in fiscal year 1989, with rigid reporting requirements beginning in fiscal year 1988.

CONCLUSION

Mr. President, that concludes my summary of the Treasury, Postal Service appropriation bill as reported by the committee. It is a good bill. It is a fair bill. It is fiscally sound and it funds some of our most important Federal programs within an overall budget ceiling that has been imposed on us by the committee and the congressional budget resolution. I should also point out in closing that the funding recommended by the committee in this bill for two of our major revenue-raising agencies—IRS and Customs—will generate at least an additional $2 billion in new revenue in fiscal year 1988.

So, Mr. President, I urge my colleagues to support this bill overwhelmingly.

Mr. President, I would like to yield to my distinguished ranking member on the Treasury Subcommittee, Senator DOMENICI, for his comments on the bill, but before I do I would like to pay tribute to him and thank him for his truly outstanding job on this bill.

My good friend and ranking member is a busy Senator. He wears many important hats, including that of ranking member of the Senate Budget Committee. In the Budget Committee realm of "trillion dollar budgets," the relatively meager sums contained in the Treasury, Postal Service bill must look minor and unimportant by comparison. Nevertheless, Senator DOMENICI has tackled his role as ranking member on our subcommittee with great enthusiasm; great depth and foresight; and with his usual great skill. He has rolled up his sleeves and learned this bill inside and out. He took time out of his busy schedule during the August recess to come to Nogales, AZ, to hear from my business constituents about Customs problems and the terrible problem of drug trafficking along our Southwest border. He has worked with this Senator in the truest form of bipartisanship and I am very grateful for his work on this bill.

I also want to thank his great staff director, Rebecca Davies, who is a real pro on all budget matters, and especially on this particular bill. She has served Senator DOMENICI and the entire committee well and we are grateful to her for her efforts.

Bobby Mills of my staff and the support people have been extremely helpful, and I think that is why we can with a slight bit of pride today be the first appropriations bill brought before the Senate and hopefully our colleagues will agree with us that this makes good sense. It is fiscally sound.

I yield to my friend from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, might I first say to my distinguished colleague from Arizona it was a real pleasure to work with him on this bill. Obviously, a bill called Treasury, Postal Service, and General Government does not really say much. No one really would guess what is in this bill just by looking at that title, but this bill funds an important portion of our Government. It funds everything from the Internal Revenue Service to the General Services Administration to the Customs Service, to that part of our national Government's commitment to the Postal Service where we reimburse the Postal Service of our country for certain categories of mail that receive free or reduced rates.

I am in this position today. If we are going to follow on the game plan that was produced by the budget resolution and the allocations given by the Appropriations Committee to the subcommittees, there is no question that this bill is well within those levels.

There is probably one major item that the administration objects to. I think it is fair to say that I do not know what all of their objections would be yet because we have not had a chance to talk to them about it. And I only mention this because obviously we are apt to get in a very protracted war with the White House once we know whether the Gramm-Rudman-Hollings fix is law or not. We have kind of changed the rules in midstream, if that is the case.

So I do not know what the reaction will be. But I think the Senate should know that at this particular time there is one major objection. It is a very long-standing objection of the White House and our President. It is about $517 million, the payment to the Postal Service for the revenue losses associated with carrying certain categories of mail at free and reduced rates.

Examples being that nonprofit associations, libraries, as well as the blind get to use free or reduced mail rates. We pay the Post Office for that. There are many others. Free mail for the blind is a perfect example of one that everyone agrees on, including the President. There are many that may be close calls. Nonetheless, we saw no way in this bill to do anything but fund the requested reimbursement level because the law on the books says these subsidies should exist.

I mean it is not a question of appropriations coming along and saying let us not fund it. The U.S. Postal Service does not have any way to collect the money for it at this point. It would have to take a postal rate increase action and that is not possible until the end of the fiscal year. We have a law on the books that allows these reduced rates. We must reimburse them until another source of revenue is available. This is the so-called "revenue foregone" issue. This has been with us for some 6 years, and it is with us again. Everybody should know that the $517 million is in there. The President recommended about $32 million as I understand—$32 million to continue only free mail to the blind.

Having said that, Mr. President, let me repeat, this bill is clearly within the allocations that were given to our subcommittee by the Appropriations Committee of the total amounts crosswalked to the committee under the budget resolution.

All of the subcommittees have received appropriation targets. When you add them up, they are within the overall budget resolution allocation for appropriations. That is what we are going to follow as a plan on the discretionary spending side. This bill is well within our targets. Once we have Gramm-Rudman-Hollings II in place, that may be the game plan for getting $23 billion in deficit reduction, and there is some other plan elsewhere to get the $23 billion. I do not see how we as appropriators, in particular this subcommittee, being asked to get things done can wait any longer. We are finished. Our work is done. I think we have done a credible job, and I think the Senate ought to pass this. By the time we go to conference, by the time we decide whether to present a free-standing bill or something else to the President, there will be ample time to take another look at what is the final judgment of the majority of the U.S. Congress and the President, if they decide to work together and see what their judgment is with reference to how we might achieve the $23 billion in savings.

Mr. President, I would like to join my good friend, and the distinguished chairman of the Senate Treasury, Postal Service and General Government Appropriations Subcommittee, Mr. DeConcini, in urging my colleagues to support this appropriations bill.

The bill provides a total of $15,056,250,000 in funding for fiscal year 1988 for important programs of the U.S. Department of the Treasury, the Postal Service, the Executive Office of the President, and other independent agencies. Included among these other agencies are the General Services Administration, the Office of Personnel Management, the Federal Election Commission, and the National Archives.

Of the total amounts assigned to the Appropriations Committee in the fiscal year 1988 budget resolution adopted by the Congress, the committee allocated $15.38 billion in budget authority and $15.15 billion in outlays to the Treasury, Postal Service, and General Government Subcommittee. The bill we present here today is under these spending allocations made to the subcommittee.

The total $15.1 billion funding level recommended for fiscal year 1988 is $450 million above the level of the President's request and $283 million below the total funding level recommended in the House-passed bill. It is also $1 billion above the total fiscal year 1987 appropriations level for programs funded in this bill.

The $1 billion increase over the current year funding level is attributable to a $544 million increase above the current funding level for the Internal Revenue Service—still $83 million short of the increase requested by the President for fiscal year 1988—and a $494 million increase over the current level for two payments the Federal Government is required to make by law. These two payments include the payment for the Government's share of health benefit cost for annuitants, survivors, and certain other Federal employees; and the payment to the Civil Service Retirement and Disability Fund.

Consistent with the assumptions of the budget resolution adopted by the Congress, with few exceptions, savings in civilian travel and overhead and management have been assumed in all accounts included in this bill. Even with these small reductions, this bill provides adequate appropriation levels to meet the fiscal year 1988 needs of the important programs and activities it funds.

The bill recommends a total $7.3 billion in appropriations for the U.S. Department of the Treasury; $517 million for the U.S. Postal Service; total funding of $107 million for the Executive Office of the President; and a total of $7.1 billion for those independent agencies it funds.

Included in the total funding recommended for the Treasury Department is $30 million for the Federal Law Enforcement Training Center; $225 million for the Bureau of Alcohol, Tobacco, and Firearms; and $373 million for the U.S. Secret Service. These appropriation levels will continue the missions of these important law enforcement agencies in fiscal year 1988. Also included is $1.1 billion in appropriations for the U.S. Customs Service. This funding level will permit customs to continue to place a strong emphasis on the interdiction and enforcement of illegal drugs, in keeping with the Anti-Drug Abuse Act and additional resources provided in the Omnibus Drug Supplemental Appropriations Act of last year. It will also allow for a major enhancement of Customs' commercial operations to bolster the enforcement and processing of cargo at key ports of entry throughout the Nation.

For the Internal Revenue Service [IRS], a total funding level of $4.989 billion is recommended. Although this level of funding is $83 billion below the President's requested level for fiscal year 1988, the committee has directed that this reduction be achieved in travel, administrative, and overhead and management savings so as not to impact the revenue increase associated with enhanced IRS revenue collection activities. At the same time, the committee has recommended that IRS taxpayer service and counseling for the elderly be sufficiently funded in light of the fact that taxpayers will be dealing with the numerous changes made by the Tax Reform Act of 1986 in this next filing season.

For the U.S. Postal Service, the committee is recommending a $517 million payment for the revenue loss associated with carrying certain categories of mail at free and reduced rates. The President requested $32 million to continue only free mail for the blind. The committee's recommendation will allow current rates to continue for all categories of free and reduced mail until a postal rate increase action can be taken to cover some of this revenue loss. This one item funded in this bill has been a source of disagreement between the administration and the Congress for years now. I understand that its inclusion again this year will make the bill objectionable to the administration.

The committee's funding recommendations for the General Services Administration include $83 million to commence a major capital improvements initiative along the Nation's Southwest border. The state of most of our cargo processing facilities at our Southwest border ports is a disgrace to this country. The repair, upgrade, and expansion of these facilities will eliminate traffic congestion and provide the capacities and capabilities necessary to perform necessary inspection functions while facilitating the flow of trade across the border.

The committee has approved a number of provisions requested by the administration. These include language on the shared savings program to provide incentives for productivity improvements in Federal agencies, and a provision granting OPM and the Secretary of the Treasury the authority to increase pay rates for the Uniformed Division of the Secret Service in order to place it on an equal pay and benefit scale with other law enforcement organizations in the Washington metropolitan area. The bill also includes the administration's proposal to authorize full cost recovery of all management, operation, and overhead expenses in the prices charged for goods and services provided to customer agencies by GSA's Federal Supply Service. This so-called industrial funding program eliminates the requirement to appropriate funds to the Federal supply service for operating expenses. Under this new system, agencies must reflect the full cost of their operations, using GSA facilities and services only when they are cost-effective. I might add that, although the committee supports this industrial funding concept, it was also assumed in the budget resolution and the savings resulting from its enactment have been included in the budget totals assigned to the Appropriations Committee.

I want to close again by thanking the chairman of the subcommittee, Mr. DeConcini, from my neighboring State of Arizona for his leadership and hard work. There are many items we can be proud of in this. We do not have enough time today. But clearly he mentioned one, the Internal Revenue Service. I have been an advocate and my friend, the chairman, has joined with me very willingly, that if we are going to spend extra money on the Internal Revenue Service to enforce, and we should, then we ought to spend extra money for helping our citizens understand that complicated tax law and make sure that every available resource is there for service to the taxpayer. We have enhanced the service here. We have also enhanced the money available for collection activities by increasing the Internal Revenue Service's budget for those people who do the audits and the like.

I want to also say we have had excellent staff work. This is a very difficult bill when you have $15 billion. You are putting together a very detailed appropriations bill. The staff has been tremendous, Senator DECONCINI's staffer, Robert Mills, and my particular staff assistant, Becky Davies, and I thank them both and others.

With the explanation that I have made, I recommend that the U.S. Senate approve this appropriations bill. We will have in due course ample opportunity to see if there are some changes in the signals around here in order to achieve the deficit reduction required.

I yield the floor.

Mr. DECONCINI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I want to thank my distinguished colleague. I also want to thank the chairman and ranking member of the Appropriations Committee for several things: No. 1, for their leadership in getting these bills moving as soon as the allocations were made, and once we knew what the House was doing. And, second, for their particular courtesy shown to me last week in markup session where I had to be at the nomination hearings of Robert Bork in the Judiciary Committee, and they provided us some special consideration and understanding so that we could pass this bill.

At this moment I would be glad to yield to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, I think the subject matter has been well covered. I want to highly commend and especially thank the Senator from Arizona and also former chairman of our committee, the Senator from Oregon, who is on the floor.

This exceptionally fine work is on highly important measures that are in this bill. It has been handled well by Mr. Mills. I want to mention him and also, Rebecca Davies, and Ms. Marilyn Washington.

I especially thank the Senator from Oregon, as I say, and we could not have had a better active member of the committee than the Senator from New Mexico, who has just covered this in a very fine statement, and Senator DECONCINI who covered this. I will not repeat. They covered the important language. It is a very, very fine estimate of the work that has been done. I thank them again.

I yield the floor, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. HATFIELD. Thank you, Mr. President. Thank you, Mr. Chairman, for yielding.

I, too, want to join with our chairman, Senator STENNIS, in commending the subcommittee chairman, Senator DECONCINI from Arizona, and the ranking member, Senator DOMENICI from New Mexico.

Mr. President, I think the legitimate question might be asked why on September 25 are we having our first appropriation bill? I think it is very important for the record to say that the Senator from Arizona, and the Senator from New Mexico have been very diligent about their work as has the entire Appropriations Committee.

I think it is important to note that the Gramm-Rudman-Hollings law said that the budget resolution should be adopted by April 15.

That did not happen until July, just before we went on our August recess. So the timeframe in itself was delayed a great deal by the budget procedure, not to the fault of anyone, but just to the procedures that we have established but failed to follow.

Then let me add one additional factor under the Gramm-Rudman-Hollings measure; adopting different rules for the House Appropriations Committee than for the Senate Appropriations Committee. The Gramm-Rudman-Hollings Act said that if by May 15, 1 month after the budget resolution is required to be reported by law, the Budget Committee has not reported that resolution or that resolution has not been adopted, the House of Representatives may proceed to consider the bills but not the Senate.

So there again the impediment was upon us, in the tradition that every thing the budget procedure tends to stumble, we get ratcheted down on the Appropriations Committee.

There has been nothing but outstanding work by the members of the Appropriations Committee. But under the kind of straitjacket and the kind of restrictions that have been applied to the Appropriations Committee, through either the Budget Act or by Gramm-Rudman-Hollings, it has been very difficult to make a report to the floor of our bills.

We have reported 6 of the 13 bills from the Appropriations Committee. The first one reported was energy-water, which was reported a week ago and has been on the calendar. We have five others that are presently on the calendar, once this Treasury-Postal Service-General Government bill has been acted upon.

We have four other appropriations bills in the committee that are in the process, that in the next few weeks—perhaps more than 2 and maybe within 1 week or 10 days—will report. The House of Representatives has not acted upon the remaining three.

I am very hopeful, that we can proceed with all expeditious manner to act upon these bills, because I suppose we can assume that we will pass the pending CR which extends the time to November 10. I am very hopeful that we will work all 13 bills through the normal process in this extended period that has been given us through the CR, or will be given us, so that Congress may act on each one separately and the President may have the right to work out his views on each one separately.

I do not think anyone on the Appropriations Committee looks forward to trying to do the Nation's business through one bill, the CR. That is a very poor way of funding the Nation's Government. I am very hopeful that we can avoid that with the adoption of the CR, which will extend our time to November 10. Speaking now only on my own behalf, but having talked to the chairman and knowing of his desire and knowing of his concern about moving the appropriations process along, I can assure this body that we will report as quickly as possible each bill during that period and seek to move to conference and move that bill on down to the White House.

I say again that there has been a marvelous and magnificent performance here of leadership in the committee and in the full committee—Senator DECONCINI and Senator DOMENICI—in providing us this bill this morning. I am very hopeful that we can act on the others very quickly.

Mr. BINGAMAN. Mr. President, I would like to lend my strong support for the adoption of H.R. 2907, the Treasury, Postal Service, and General Appropriations Act for fiscal year 1988. Let me congratulate my colleagues, the chairman of the Appropriations Subcommittee, Mr. DECONCINI and the ranking member, my senior colleague from New Mexico, Mr. DOMENICI, for their fine work in bringing this important bill to the Senate in such a diligent manner.

The bill appropriates $15.1 billion for the Treasury Department, the U.S. Postal Service and certain other agencies for fiscal 1988. Although the bill exceeds the President's budget request by $450 million, I believe it is below the President's request on most items. In fact the bill is $282 million less than the version passed by the House of Representatives on July 15, 1987. The one major item where the committee is in disagreement with the administration is in the area of postal subsidies. Despite White House objections the bill provides $445 more than the administration's request for postal subsidies for free and reduced-rate mail, which provides cheaper rates for nonprofit groups, rural newspapers, and libraries.

I fully support maintaining the postal subsidies. Many of the worthy groups, like the National Federation of the Blind and others, absolutely rely on the subsidy and without it, their important services would be severely hampered. As a result I support the continuation of the postal subsidy.

There are also a number of items covered in this bill which are important to all Americans, particularly those in New Mexico and other border States. There are included needed increases for Customs Service funding which are intended to help stop the flow of illegal drugs into the United States.

The bill also includes language urging incentives to boost productivity of Federal employees and clarifying rules governing retirement of Federal law enforcement officials.

For these reasons, I support adoption of this bill.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that the committee amendments to H.R. 2907 be considered and agreed to en bloc.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The committee amendments agreed to are as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE TREASURY

[Office of the Secretary

[SALARIES AND EXPENSES

[For necessary expenses of the Office of the Secretary including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $56,650,000.

[INTERNATIONAL AFFAIRS

[For necessary expenses of the international affairs function of the Office of the Secretary, hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $24,391,000.]

Departmental Offices

SALARIES AND EXPENSES

For necessary expenses of Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs and improvements of, and purchase of commercial insurance policies for real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $95,000 for official reception and representation expenses; not to exceed $200,000 for unforseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex, $77,165,000 (31 U.S.C. 301, 332, 325(c); 5 U.S.C. 301).

Federal Law Enforcement Training Center

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed eight for police-type use); and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; not to exceed $3,000,000 for major maintenance and facility improvements, and related equipment for the Federal Law Enforcement Training Center facility to remain available until expended; *not to exceed $200,000 for the development of a Master Plan for future land and facility use at Glynco, Georgia, to remain available until expended;* not to exceed $5,000 for official reception and representation expenses; and services as authorized by 5 U.S.C. 3109: *Provided,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; acceptance of gifts; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the [Center;] *Center: Provided further, That the Federal Law Enforcement Training Center shall hire and maintain an average of not less than 325 direct full-time equivalent positions for fiscal year 1988: Provided further, That the new residential facility at the Federal Law Enforcement Training Center at Glynco, Georgia, shall be designated as the "Aubrey A. 'Tex' Gunnels Dormitory Complex";* [$26,133,000] *$30,000,000.*

Financial Management Service

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, [$270,004,000] *$196,667,000,* of which not to exceed $7,213,000 shall remain available until expended for systems modernization initiatives.

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of [three] *five* hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; *for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement;* [$218,226,000] *$225,000,000,* of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1988, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further, That funds made available under this Act shall be used to maintain a base level of 3,451 full-time equivalent positions for fiscal year 1988.*

United States Customs Service

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to [five hundred motor vehicles for replacement only, including four hundred and ninety for police-type use;] *one thousand motor vehicles for replacement only, including nine hundred eighty for police-type use and commercial operations; for additional purchase of up to 500 new passen-*

ger motor vehicles for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed [$10,000] *$20,000* for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; [$963,090,000] *$986,809,000,* [of which $499,198,000 shall be derived from the Customs User Fee Account and shall be used for commercial operations only, pursuant to Public Law 99-509;] of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed [$1,000,000] *$4,000,000,* to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: [*Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program:] *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1988: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than [15,837] *16,361* full-time equivalent positions in fiscal year 1988: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1988: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1988: [*Provided further,* That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District:] *Provided further,* That $600,000 shall be available only for the purchase of 6 additional mobile X-Ray Systems for the United States Customs Service.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; [$86,210,000] *$150,000,000: Provided, That no aircraft or other related equipment, shall be transferred on a permanent basis to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1988.*

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-473 and Public Law 98-573; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $486,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

PAYMENT TO THE GOVERNMENT OF PUERTO RICO

For payment of a grant to the Government of Puerto Rico, $12,000,000 to remain available until expended, for the purchase and installation of an aerostat radar drug interdiction surveillance system.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $44,000,000, of which $965,000 shall remain available until expended for research and development projects and of which $100,000 may be used to host the International Mint Directors' Conference in the United States in 1988, including but not limited to reception and representation expenses: Provided, That such fees as are collected from participants at the International Mint Directors' Conference shall be merged with and credited to this account, notwithstanding the provisions of 31 U.S.C. 3302.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; [$241,426,000] *$217,000,000.*

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $400,000, to remain available until expended.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$87,165,000] *$86,382,000,* of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,702,576,000] *$1,680,020,000,* of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided, That of the total amount appropriated under this heading, $16,900,000 shall be available for the Statistics of Income Program in fiscal year 1988.*

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; [$1,856,581,000] *$1,810,000,000.*

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of this Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further, That of the total amount appropriated under this heading, no less than $318,468,000 shall be available for taxpayer service programs: Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,650,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,650,000 can be devoted to program requirements; [$1,483,528,000] *$1,412,657,000.*

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed [5] *3* per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed [$7,500] *$12,500* for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions in fiscal year 1988; and for uniforms without regard to the general purchase price limitation for the current fiscal year; [$369,999,000] *$373,000,000*, of which [$6,000,000] *$6,500,000* shall remain available until expended for continued construction *at the James J. Rowley Secret Service Training Center*, and of which $29,911,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

Department of the Treasury—General Provisions

Section 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

Sec. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communication in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

Sec. 103. Not to exceed [1] *3* per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

[Sec. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.]

SEC. 104. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made.

(b) Specific Entries.—The entries referred to in subsection (a) are as follows:

Entry Number:	*Date of Entry:*
144549	*March 26, 1976*
150297	*April 27, 1976*
152729	*May 11, 1976*
156068	*May 26, 1976*
161653	*June 23, 1976*
168759	*July 30, 1976*
173393	*August 25, 1976*
175173	*September 3, 1976*
178811	*September 23, 1976*
108842	*November 18, 1976*
113000	*December 9, 1976*
115229	*December 21, 1976*
120070	*January 17, 1977*
120908	*January 20, 1977*
121403	*January 24, 1977*
130005	*March 10, 1977.*

Sec. 105. The Department of the Treasury shall undertake a study analyzing the economic impact and administrative complexity resulting from section 453(c) of the Internal Revenue Code, and recommending revenue-neutral alternatives to this section which would minimize that impact and complexity. The study shall also analyze the impact of the effective date of section 453(c) on fiscal year taxpayers. The study shall be completed as soon as practicable but no later than August 15, 1988.

This title may be cited as the "Treasury Department Appropriations Act, 1988".

TITLE II—UNITED STATES POSTAL SERVICE

Payment to the Postal Service Fund

For payment to the Postal Service Fund [for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004 and] for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; [$556,507,000] *$517,000,000*: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1988.

United States Postal Service—Administrative Provision

Section 1. None of the funds appropriated in this Act or made available by 39 U.S.C. 2401(a) shall be used by the United States Postal Service or any other governmental agency for the purpose of locating a regional mail distribution center in the Westchester Business Park on Westpark Drive in the Town of North Castle, New York, for a period of one hundred and eighty days.

This title may be cited as the "Postal Service Appropriation Act, 1988".

TITLE III—EXECUTIVE OFFICE OF THE PRESIDENT

Compensation of the President

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided, further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

[Executive Residence at the White House

[operating expenses

[For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,403,000, of which $2,400,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.]

Office of Administration

salaries and expenses

For necessary expenses of the Office of Administration; [$16,309,000] *$16,000,000* including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

White House Conference for a Drug Free America

salaries and expenses

For necessary expenses of the White House Conference for a Drug Free America, $2,500,000.

The White House Office

salaries and expenses

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; [$26,926,000] *$26,426,000*.

Executive Residence at the White House

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,403,000, of which $2,400,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

Official Residence of the Vice President

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

Special Assistance to the President

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; [$2,183,000] *$2,163,000.*

Council of Economic Advisers

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); [$2,580,000] *$2,500,000.*

Office of Policy Development

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; [$3,058,000] *$3,000,000.*

National Critical Materials Council

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; [$350,000] *$500,000: Provided, That the Council shall hire and maintain no fewer than five full-time permanent positions to carry out the requirements of Public Law 98-373.*

National Security Council

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; [$5,203,000] *$5,000,000.*

Office of Management and Budget

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; [$39,913,000] *$38,000,000,* of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): [*Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the review of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs:] *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Office of Federal Procurement Policy

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; [$2,466,000] *$2,300,000.*

Unanticipated Needs

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1988".

TITLE IV—INDEPENDENT AGENCIES

Administrative Conference of the United States

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.) including not to exceed $1,000 for official reception and representation expenses; [$1,881,000] *$1,865,000.*

Advisory Commission on Intergovernmental Relations

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended, 42 U.S.C. 4271-79; [$1,390,000] *$1,378,000,* and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

Advisory Committee on Federal Pay

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $200,000.

Committee for Purchase from the Blind and Other Severely Handicapped

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, [$825,000] *$875,000.*

Federal Election Commission

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended, $14,174,000.

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

[The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)),] *For additional expenses necessary to carry out the purposes of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $83,483,000 to be deposited into said Fund. The revenues and collections* shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of [$2,913,772,000] *$3,016,035,000,* of which (1) not to exceed [$151,850,000] *$177,536,000* shall remain available until expended for construction of additional projects [as authorized by law] at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Arizona:

Tucson, Federal Law Enforcement Building, Site acquisition only, $1,500,000

District of Columbia:

Environmental Protection Agency, Design, $14,000,000;

International Cultural and Trade Center, Design, $3,700,000 (to be transferred to the Pennsylvania Avenue Development Corporation for reimbursement).

Louisiana:

Baton Rouge, Federal Building and Courthouse, Design, $3,000,000

Michigan:

Detroit, Ambassador, Bridge Cargo Inspection Facility, Site, $3,800,000

New Jersey:

Camden, Federal Building, Courthouse Annex, [Site, $300,000] *Site and Design, $1,486,000*

Virgin Islands:

St. Croix, Federal Building, Courthouse, Site, $550,000

Construction Projects, less than $500,000, $1,000,000:

Other Selected Purchases including options to purchase, [$150,000,000] *$148,500,000*: *Provided*, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $50,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed [$426,983,000] *$527,428,000*, which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:

Alabama:

Birmingham, Federal Building, Courthouse, $3,899,000

California:

Fresno, Sisk Federal Building, Courthouse, $2,879,000

Los Angeles, Federal Building, $10,422,000

San Francisco, Federal Building, Courthouse, $16,962,000

District of Columbia:

Central Heating Plant, $15,500,000

West Heating Plant, $9,201,000

Elevator Replacement, $26,700,000

Forrestal Building, $2,578,000

GSA Regional Office Building, $1,036,000

Agriculture Administration Building, $530,000

Agriculture South Building, $3,360,000

Courthouse, $1,887,000

Perkins Federal Building, $1,644,000

GSA Headquarters, $929,000

Hoover Federal Building, $1,627,000

Department of the Interior, $1,858,000

New Post Office, $1,006,000

Veterans Administration, $1,355,000

Florida:

Miami, Federal Building, $11,481,000

West Palm Beach, Post Office, $2,900,000

Georgia:

Atlanta, Federal Annex, $2,400,000

East Point, Federal Archives and Records Center, $1,102,000

Illinois:

Chicago, Dirksen Federal Building, Courthouse, $7,334,000

East St. Louis, Post Office, Courthouse, $3,762,000

Iowa:

Des Moines, Federal Building, $1,300,000

Louisiana:

New Orleans, F. Edward Hébert Federal Building, $12,525,000

Maryland:

Baltimore, Appraisers Stores, $2,668,000

Bethesda, Federal Building, $700,000

Massachusetts:

Boston, McCormack Post Office, Courthouse, $2,200,000

Missouri:

St. Louis, Mart Federal Building, $28,964,000

St. Louis, Federal Center #104, $8,983,000

New Jersey:

Trenton, Post Office, Courthouse, $2,823,000

New York:

Brooklyn, Federal Building No. 2, $11,472,000

New York, Foley Square Courthouse, $4,655,000

New York, 201 Varick Street, $14,475,000

North Carolina:

Raleigh, Federal Building, Post Office, Courthouse, $9,640,000

Pennsylvania:

Philadelphia, Byrne Courthouse, $6,875,000

Pittsburgh, Post Office, Courthouse, $16,572,000

Texas:

San Antonio, Post Office, Courthouse, $8,154,000

Virginia:

Arlington, Federal Building No. 2, $4,080,000

Arlington, Pentagon, $8,080,000

Minor Repairs and Alterations, $167,427,000

Capital Improvements of United States-Mexico Border Facilities:

Arizona:

Nogales, $3,292,000

California:

Calexico; San Ysidro/Otay Mesa, $21,255,000

New Mexico:

Santa Teresa, $5,100,000

Texas:

Brownsville; El Paso; Hidalgo; Laredo; Los Ebanos, $36,486,000

Other Approved Border Facility Projects, Arizona; California; New Mexico; and Texas, $17,350,000: *Provided further*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1989, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,105,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed [$1,193,400,000] *$1,169,532,000* for rental of space; (5) not to exceed $845,384,000 for real property operations; (6) not to exceed $48,014,000 for program direction and centralized services; and (7) not to exceed $115,036,000 for design and construction services which shall remain available until expended: *Provided further*, That the Administrator of General Services is hereby directed to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed 30 years, for the payment of the purchase price, which shall not exceed $141,700,000, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract: *Provided further, That the Administrator of the General Services Administration is hereby directed to enter into an agreement, pursuant to a competitive selection process, for the lease-purchase of a building in San Francisco, California, during fiscal year 1988 of not less than 430,000 but not more than 550,000 office occupiable square feet on a site donated by that city. The agreement shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building, which shall not exceed the cost per square foot of the Oakland Federal Building project authorized by this Act, and shall provide for title to the building to vest in the United States on or before the expiration of the contract term upon fulfillment of the terms and conditions of the agreement*: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration *with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Other Approved Border Facility projects; and the San Francisco, California Federal building project*, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus[: *Provided further*, That notwithstanding any other provision of law the Administrator of General Services is authorized, under section 210(h) of the Federal Property and Administrative Services Act of 1949, to acquire the building in Chicago, Illinois, approved under this heading in fiscal year 1987, from any commercial or private entity, through a lease to ownership transaction. Said lease shall not exceed 30 years, on such terms and conditions as he deems appropriate. These terms and conditions may include an option to permit the Federal Government, if the Administrator deems that it is in the best interest of the Federal Government, to execute a succeeding lease]: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: [*Provided further*, That not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall submit under the Public Buildings Act of 1959, a prospectus for acquiring by purchase or lease-purchase (1) a building which has not to exceed 1,400,000 occupiable square feet for the Environmental Protection Agency, and (2) a building which has not to exceed 1,800,000 occupiable square feet for the Department of

Transportation. The lease-purchase shall provide for annual lease or installment payments from funds available for the rental of space in the Federal Buildings Fund over a period not to exceed 30 years for the payment of the purchase price of such building and reasonable interest thereon and shall provide for title to the building to vest in the United States on or before the last day of the term of the lease-purchase transaction. If a lease-purchase prospectus for a building described in this paragraph is approved under the Public Buildings Act of 1959, the Administrator of General Services may enter into a transaction for the lease-purchase of such building in accordance with the terms specified in such approved prospectus and applicable provisions of law and may make annual lease or installment payments from funds available for the rental of space in such fund:] *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056 as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this fund during fiscal year 1988 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of [$2,913,772,000] *$3,016,035,000* shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

[Federal Supply Service

[OPERATING EXPENSES

[For expenses authorized by law, not otherwise provided for, necessary for supply distribution (including contractual services incident to receiving, handling and shipping supply items), procurement (including royalty payments), inspection, standardization, property management, and other supply management activities, transportation activities, transportation audits by in-house personnel; utilization of excess and disposal of surplus personal property, and the rehabilitation of personal property including services as authorized by 5 U.S.C. 3109; $176,749,000: *Provided,* That the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected, for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 percent of the overpayments collected annually.

[General Management and Administration

[SALARIES AND EXPENSES

[For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $124,159,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That funds appropriated in this Act for General Management and Administration shall be available only to the extent set forth for each activity contained in the Program and Financing schedule submitted in support of the Budget: *Provided further,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.]

Federal Property Resources Service

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; the National Defense Stockpile established by the Strategic and Critical Materials Stock Piling Act, as amended (50 U.S.C. 98, et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061, et seq.) including services as authorized by 5 U.S.C. 3109 and reimbursement for recurring security guard service; [$43,248,000, of which $12,248,000 shall be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5), and of which $31,000,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile shall remain available through fiscal year 1989] *$12,134,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-5), and in addition, $31,080,000 for the transportation, processing, refining, storage, security, maintenance, rotation, and disposal of materials contained in or acquired for the stockpile by reimbursement from the National Defense Stockpile Transaction Fund.*

National Defense Stockpile Transaction Fund

[For the fiscal year ending September 30, 1988, in addition to any other funds previously appropriated or appropriated under this Act, $5,000,000 is appropriated, to remain available until expended, for a grant for continued construction of a strategic materials research facility at the University of Massachusetts at Amherst, pursuant to sections 2 and 8(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(a) and 98g(a)), and notwithstanding section 9 of such Act (50 U.S.C. 98h). For the fiscal year ending September 30, 1988, in addition to any other funds previously appropriated or appropriated under this Act, $5,000,000 is appropriated, to be available until expended, for a grant for construction of a strategic materials research facility at the University of Hawaii at Manoa, pursuant to sections 2 and 8(a) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98a and 98g(a)), and notwithstanding section 9 of such Act (50 U.S.C. 98h).] *For the fiscal year ending September 30, 1988, in addition to the funds previously appropriated for the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there are hereby appropriated, to remain available until expended, the amounts for the following:*

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant for construction of a strategic materials research facility, $4,000,000;

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $4,000,000;

University of Arizona pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Advanced Studies for Copper Recovery and Utilization, $4,000,000; and

University of New Mexico pursuant to 50 U.S.C. 98a and g for a grant to study replacements for metallic alloys that use critical materials, $1,000,000.

During the fiscal year ending September 30, 1988, not to exceed [$5,000,000] *$36,080,000,* in addition to amounts previously appropriated, all to remain available until expended, may be obligated from amounts in the National Defense Stockpile Transaction Fund, for the acquisition and upgrading of strategic and critical materials under section 6(a) (1) and (3) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a) (1) and (3)), transportation, storage, and other incidental expenses related to such acquisition and upgrades, development of current specifications of stockpile materials and the upgrading of existing stockpile materials to meet current specifications (including transportation, when economical, related to such upgrading), testing and quality studies of stockpile materials, studying future material and mobilization requirements for the stockpile [under section 9(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98(h)(b)), as amended by Public Law 99-661] *and other reasonable requirements for management of the stockpile, including relocation, operating, and management expenses incident to operating the stockpile, are hereby authorized to the extent provided in Appropriations Acts.*

General Management and Administration

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,500,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: Provided, That funds appropriated in this Act for General Management and Administration shall be available only to the extent set forth for each activity contained in the Program and Financing schedule submitted in support of the Budget: Provided further, That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, [$47,000,000] *$15,000,000*, to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; [$32,588,000] *$30,000,000*.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; [$24,649,000] *$24,334,000*: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; [$1,128,000] *$1,198,000*: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with [(1)] *the* cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129)[; and (2) appropriations or funds available to other agencies, and transferred to the General Services Administration, in connection with property transferred to the General Services Administration pursuant to the Act of July 2, 1948 (50 U.S.C. 451ff), and such appropriations or funds may be so transferred, with the approval of the Office of Management and Budget].

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

[SEC. 3. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements, performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.]

SEC. [4] *3*. Not to exceed [1] *3* per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. [5] *4*. Funds in the Federal Buildings Fund made available for fiscal year 1988 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

[SEC. 6. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States.]

SEC. 5. For expenses of transportation audit contracts and contract administration, the annual limitation of $5,200,000 through September 30, 1989, in the Supplemental Appropriations Act, 1985, Public Law 99-88, payable from overcharges collected for expenses of transportation audit contracts and contract administration, is hereby superseded by Public Law 99-627 establishing permanent authority for these expenses at not to exceed 40 per centum of the overpayments collected annually.

SEC. 6. The Administrator of General Services shall acquire space for the Bureau of Mines at the lowest quality solicitation for offer price option in the suburban Washington Metropolitan region.

SEC. 7. The General Services Administration shall transfer without compensation or reimbursement to the Veterans' Administration a tract of land located in the NW ¼ of Section 39, Township 10 North, Range 3 East, New Mexico Principal Meridian, consisting of 5.081 acres, more or less, in Bernalillo County, New Mexico, that:

(1) was formerly part of the Veterans' Administration Medical Center, Albuquerque, New Mexico;

(2) was transferred to the State of New Mexico at no cost for use as a highway corridor in 1974; and

(3) was subsequently retransferred by the State of New Mexico to the General Services Administration at no cost.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, [$116,266,000] *$117,000,000*, of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $6,000,000 for design and planning of a new archival facility *in Maryland* shall remain available until expended.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; [$102,360,000] *$102,000,000* in addition to [$65,746,000] *$68,746,000* for administrative expenses for the retirement and insurance programs to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C. No part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose. The President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1988, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $1,788,931,000, to remain available until expended.

Payment to Civil Service Retirement and Disability Fund

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,720,913,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-775), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

Merit Systems Protection Board

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; [$21,114,000] *$21,000,000,* together with not to exceed [$1,600,000] *$1,200,000* for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

Office of Special Counsel

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $4,701,000.

Federal Labor Relations Authority

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; [$17,951,000] *$17,801,000*: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government Service, and compensation as authorized by 5 U.S.C 3109.

United States Tax Court

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; [$28,120,000] *$27,877,000*: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

This title may be cited as the "Independent Agencies Appropriations Act, 1988".

TITLE V—GENERAL PROVISIONS

This Act

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

[SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

[SEC. 510. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.]

SEC. [511] *509.* None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. [512] *510.* None of the funds made available by this Act shall be available for any activity or for paying the salary of any government employee where funding an activity or paying a salary to a government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. [513] *511.* None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, out of the Treasury Department.

SEC. [514] *512.* No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. [515] *513.* No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitle-

ment, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any member or committee of Congress as described in paragraph (1) of this subsection.

SEC. [516] *514.* Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purpose or special mission automobiles.

SEC. [517] *515.* No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverages for abortions.

SEC. [518] *516.* The provision of section [517] *515* shall not apply where the life of the mother would be endangered if the fetus were carried to term.

[SEC. 519. Effective March 30, 1988, none of the funds made available by this Act may be used to store, to maintain or to protect more than 83,000,000 troy ounces of silver deposited in the National Defense Stockpile.

[SEC. 520. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.]

SEC. [521] *517.* No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

[SEC. 522. None of the funds made available by this Act shall be used for the payment of the salary of any employee of the General Services Administration located and assigned to Region 2 for the performance of any activities relating to the operation, management, or direction of the Federal Supply Service which were administered by General Services Administration employees located and assigned to Region 1 prior to January 1, 1986.

[SEC. 523. None of the funds appropriated by this Act may be used for implementing any test or program of the "port of arrival immediate release and enforcement determination" at any port not already included in the test on June 23, 1987.]

SEC. [524] *518.* None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. [525] *519.* None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land on which the Beltsville Agricultural Research Center is located at Beltsville, Maryland, without the specific approval of Congress.

[SEC. 526. Not later than October 1, 1988, the amount made available pursuant to section 519 of the Treasury, Postal Service and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591 shall be obligated, in addition to the current upgrading program for chromium and manganese authorized by Public Law 99-661, for the upgrade and acquisition of first tier strategic materials as defined in the Office of Technology Assessment of "Strategic Materials: Technologies to Reduce United States Import Vulnerability" authorized by section 9(b)(2) (A) and (C) of the Strategic and Critical Materials Stock Piling Act. The funds used in this section for upgrading shall not exceed $2,000,000.]

SEC. [527] *520.* None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing or disposal of any portion of land on which the Phoenix Indian School is located at Phoenix, Arizona without the specific approval of Congress.

SEC. [528] *521.* None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas administered by the Corps of Engineers, Department of the Army without the specific approval of Congress.

[SEC. 529. The Administrator of the General Services Administration, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, shall acquire, by means of a lease of up to 30 years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

[SEC. 530. Funds in this Act shall be available as authorized by 5 U.S.C. 4502(d).

[SEC. 531. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1988.]

SEC. 522. Notwithstanding any other provision of law, funds appropriated by this Act are available to pay rates of basic compensations of officers and members of the United States Secret Service Uniformed Division at rates higher than provided under section 501 of the District of Columbia Police and Firemen's Salary of 1958 (D.C. Code, sec. 4-416), if and to the extent that payment of such higher rates is authorized by the Office of Personnel Management, under the procedures used in the administration of section 5303 of title 5, United States Code, on the basis of a determination by the Office that the recruitment or retention of such officers and members is, or is likely to become, significantly handicapped by higher pay rates paid by Federal or non-Federal law enforcement organizations in the metropolitan Washington, D.C., area.

SEC. 523. Funds appropriated by this Act may be available for use by other agencies of the Government only for the performance of the work for which the funds were appropriated in this Act and only when such work can be accomplished more efficiently and/or at a lesser cost to the Government: Provided, That such funds shall only be made available as a result of a written memorandum of understanding between the heads of the agencies that are party to such agreement: Provided further, That any such agreement involving $1,000,000 or more must be approved in advance by the Committees on Appropriations of the House and the Senate.

SEC. 524. None of the funds appropriated under this Act may be used to apportion or impose any administrative limitation upon the amount of user fees established by subsection (a) of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) that are used to fund customs overtime inspectional services, or to reimburse any appropriation for customs overtime inspectional services pursuant to subsection (f) of section 13031 of such Act and 19 U.S.C. 1524.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SEC. 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-5924.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

[SEC. 607. Funds made available under this Act or any other Act for employing agency contributions prescribed by the Civil Service Retirement System (5 U.S.C. ch. 83) and the Federal Employees' Retirement System Act of 1986 (Public Law 99-335), as amended, for any Executive agency, as defined in 31 U.S.C. 102, with direct pay costs in fiscal year 1988 of over $15,000,000, shall be available only for such purpose. If the total amount obligated for fiscal year 1988 for such employing agency contributions is less than the estimate for such contributions reflected in the President's Budget, then the difference between the estimated and actual obligations shall not be available for obligation. This section shall not apply to funds made available for the Veterans Administration's medical care appropriation.]

SEC. [608] *607*. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. [609] *608*. No part of any appropriation contained in this or any other Act, shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. [610] *609*. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided*, That when the Administrator of General Services delegates responsibility to protect property under his charge and control to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

[SEC. 611. None of the funds available under this or any other Act shall be available for administrative expenses in connection with the designation for construction, arranging for financing, or execution of contracts or agreements for financing or construction of any additional purchase contract projects pursuant to section 5 of the Public Building Amendments of 1972 (Public Law 92-313) during the period beginning October 1, 1976, and ending September 30, 1988.]

SEC. [612] *610*. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. [613] *611*. No part of any appropriation contained in, or funds made available by this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration [for the fiscal year for which appropriations were granted]: *Provided, That the amount of space and service levels provided will be adjusted commensurate with the amounts appropriated, or otherwise made available therefor in Appropriations Acts.*

SEC. [614] *612*. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1988, or September 30, 1989, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1987, as incorporated in section 101(m) of Public Laws 99-500 and 99-591, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1988, and that portion of fiscal year 1989, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1989, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1988.

[(b) Notwithstanding the provisions of section 9(b) of Public Law 92-392 or section 704(b) of Public Law 95-454, the provisions of subsection (a) of this section shall apply (in such manner as the Office of Personnel Management shall prescribe) to any prevailing rate employee to whom such section 9(b) applies, except that the provisions of subsection (a) may not apply to any increase in a wage schedule or rate that is required by the terms of a contract entered into before the date of enactment of this Act.]

[(c)] *(b)* Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

[(d)] *(c)* For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1987, shall be determined under regulations prescribed by the Office of Personnel Management.

[(e)] *(d)* Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1987, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

[(f)] *(e)* The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1987.

[(g)] *(f)* For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

[(h)] *(g)* Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

[(i)] *(h)* The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

[SEC. 615. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.]

SEC. [616] *613.* During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. [617] *614.* (a) If any individual or entity which provides or proposes to provide child care services for Federal employees during fiscal year 1988 or any fiscal year thereafter, applies to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such individual or entity provides or proposes to provide such service, such officer or agency may allot space in such a building to such individual or entity if—

(1) such space is available;

(2) such officer or agency determines that such space will be used to provide child care services to a group of individuals of whom at least 50 percent are Federal employees; and

(3) such officer or agency determines that such individual or entity will give priority for available child care services in such space to Federal employees.

(b)(1) If an officer or agency allots space during fiscal year 1988 or any fiscal year thereafter, to an individual or entity under subsection (a), such space may be provided to such individual or entity without charge for rent or services.

(2) If there is an agreement for the payment of costs associated with the provision of space allotted under subsection (a) or services provided in connection with such space, nothing in title 31, United States Code, or any other provision of law, shall be construed to prohibit or restrict payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(3) For the purpose of this section, the term "services" includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone service), and security systems (including installation and other expenses associated with security systems).

SEC. [618] *615.* Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

[SEC. 619. None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with organization participation in the 1987 and 1988 Combined Federal Campaign other than repromulgating and implementing the 1984 and 1985 Combined Federal Campaign regulations, unless such regulations provide that any charitable organization which participated in any prior campaign shall be allowed to participate in 1987 and 1988 campaign: *Provided further,* That none of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing new regulations dealing with the Combined Federal Campaign ("CFC") which require or allow the Office of Personnel Management to directly or indirectly determine the eligibility of any agency to participate in the CFC (other than the local service of those agencies which perform a substantial preponderance of their services in the United States) if that agency is a member of a qualified federated group.]

SEC. 616. (a) None of the funds appropriated by this Act or any other Act shall be used for preparing, promulgating or implementing any regulations dealing with the organization and participation in the 1988 Combined Federal Campaign (CFC) other than repromulgating and implementing the regulations used to conduct the 1984, 1985, 1986, and 1987 Combined Federal Campaign, unless such revised regulations conform to the provisions of subsection (b) as follows:

(b) 1. Eligibility.

(A) Eligibility rules relating to lobbying, litigation, or public policy advocacy shall be no more restrictive than the law and regulations require for organizations under sections 501(c)(3) or 501(h) of the Internal Revenue Code.

(B) Any other eligibility criteria (such as the definition of health and welfare) for individual charities and federations shall be at least as inclusive as those in the regulations used in 1984, 1985, 1986, and 1987, and shall allow the participation of the plaintiffs in (D.D.C.) Nos. 83-0928, 86-1367.

(C) Public accountability standards such as boards of directors, audits, etc., shall remain similar to the existing criteria. Office of Personnel Management (OPM) shall provide for those instances in which smaller organizations shall be allowed to submit a Form 990 in lieu of an independent audit.

2. National Eligibility.

Any agency which otherwise complies with eligibility requirements and has provided services, benefits, assistance, or conducted program activities in 15 or more different States over a three-year period shall be given a letter of national eligibility by OPM that will permit it to participate in any local CFC to which it submits a copy of the letter, or alternatively, OPM may issue a national list incorporating such agencies. Eligibility requirements relating to International Service Agencies shall remain the same as the existing requirements. Any agencies attaining national eligibility hereunder and any agency which is a member of International Service Agencies shall not be required to demonstrate local presence to participate.

3. Federation Certification.

The participating federated groups of charitable organizations, certified by OPM or a Local Federal Coordinating Committee (LFCC) as meeting the eligibility criteria shall be authorized to certify the eligibility of their respective member agencies to participate in the CFC; except that, OPM for national federations and LFCC's for local federations shall retain authority to require voluntary agencies to provide information supporting certification decisions, and, if after a hearing on the record it is determined that such information is deficient, to bar the agency from participation in the CFC for a period of one year.

4. OPM Oversight.

OPM shall exercise oversight responsibility to ensure that—

(A) the new regulations are uniformly and equitably implemented in all local CFC's;

(B) the local federal coordinating committee allows all federations to fairly compete for the role of Principal Combined Funding Organization (PCFO);

(C) all PCFO's consult with all participating federations on CFC plans, preparations and operations, and all campaign materials prior to their printing, and all PCFO's include all participating federations in campaign events and other activities;

(D) all participating federations have access to all CFC reports, budgets and audits; and

(E) a federation that has been found pursuant to a hearing on the record to have violated the regulations may be prevented from serving as PCFO for a period of one year.

5. Consultants.

PCFO's shall be prohibited from delegating decisionmaking authority to unrelated private consultants.

6. Undesignated Funds.

A national formula shall be established for sharing the undesignated contributions received from donors in each local CFC among the participating federated groups that requires the local United Way to retain no more than 82 percent of undesignated funds and the remainder of undesignated funds to be transferred to other national federations participating in the CFC in accordance with a formula established by OPM after consultation with such other federations; and provided that, OPM shall adjust this formula for CFC's after 1988 in response to campaign experience, but in no event shall the local United Way be allocated more than 82 percent of undesignated contributions.

7. Write-ins.

In each local CFC the option available to Federal employees to write-in charities that are not listed in the campaign brochure shall be eliminated, provided that any eligibility process allows any charity to demonstrate its local eligibility.

8. Release of Names.

The names of contributors shall be released to the recipient organization unless a contributor indicates that his or her name is not to be released, but no list of contributors may be sold.

9. Brochures.

The names and brief description of the programs of the participating voluntary agencies shall be published in each local CFC brochure arranged by federated group, with CFC organization code numbers corresponding to each agency and federated group.

10. Employee Coercion.

Protection against employee coercion shall be strengthened and clarified.

11. New National Federations.

OPM may admit new national federated groups of at least 15 organizations, and may withdraw federation status from any previously accredited federated group for a period of one year if after a hearing on the record it is determined that the federated group has not complied with regulatory requirements.

12. Compliance.

OPM is authorized to bar from CFC participation for a period not to exceed one year any voluntary agency it determines, after a hearing on the record, has failed to comply with a reasonable request by OPM to furnish it with information relating to such agency's accounting and auditing practices.

[SEC. 620. None of the funds appropriated by this or any other Act may be used prior to July 15, 1987, to repeal, amend, or modify any policy, procedure, or practice contained in subpart 19.5 of title 48 of the Code of Federal Regulations (as such subpart was in effect on July 31, 1986) except if such subpart requires modification to implement the amendments made by section 911 (relating to small business set-asides) of H.R. 4438 (99th Congress, 2d Session), or the amendments made by any successor provision to such section, if such bill is enacted into law.]

SEC. 617. Of the funds appropriated in this or any other Act, estimated productivity savings resulting from specified program functions participating in the Shared Savings Plan in the President's Productivity Improvement Program (Executive Order 12552) shall be withheld from obligation unless estimated savings are not achieved: Provided, That notwithstanding any fiscal year limitations on the availability of appropriations, a portion of the estimated savings shall be made available for obligation in the fiscal year after the fiscal year in which the savings occur to be used as bonuses for employees (as authorized by 5 U.S.C. 4501 et seq.) and for future productivity improvements to carry out those purposes authorized by law: Provided further, That 50 per centum of the savings shall lapse or be deposited into miscellaneous receipts of the Treasury with the exception of amounts in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law.

SEC. 618. Section 7 of the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) is amended as follows:

(a) by striking out "and" at the end of subsection (6)

(b) by striking out the period at the end of subsection (7), inserting a semicolon in lieu thereof, and adding "and" at the end

(c) by adding at the end of section 7:

"(8) any contract for motor vehicle fleet management services pursuant to Federal Motor Vehicle Expenditure Control requirements contained in subtitle C of title XV of the Consolidated Omnibus Reconciliation Act of 1985, Public Law 99-272.".

SEC. 619. (a) Section 109 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 756) is amended as follows:

(1) In section 109(a) (40 U.S.C. 756(a)), by striking out everything after the second sentence and inserting in lieu thereof "The General Supply Fund shall be available for use by or under the direction and control of the Administrator for paying the direct and indirect costs of carrying out the functions of the Administrator with respect to (1) the operation of a system for supplying personal property (including the purchase from or through the Public Printer, for warehouse issue, of standard forms, blankbook work, standard specifications, and other printed material in common use by Federal agencies not available through the Superintendent of Documents) and nonpersonal services for the use of Federal agencies in the proper discharge of their responsibilities, including carrying out the functions of the Administrator with respect to the repair, rehabilitation, and conversion of personal property; (2) the utilization of excess personal property and the donation, sale or other disposal of surplus personal property pursuant to this Act; (3) the sale for executive agencies of personal property pursuant to section 201(c) of this Act, or any other Act; (4) the utilization and disposal of abandoned, seized, and forfeited personal property pursuant to this Act, or any other Act; and (5) travel and transportation management and services pursuant to this Act, or any other Act.".

(2) In section 109(b) (40 U.S.C. 756(b)), (a) by striking out the second sentence and inserting in lieu thereof "Such prices shall be fixed at levels so as to recover all direct and indirect costs of furnishing supplies and services."; and (b) by adding at the end thereof "With respect to any transaction under subsections (a) (3), (4), and (5), except where the proceeds from the transaction are to be credited to the General Supply Fund, the Administrator, at his discretion, may establish, and agencies shall pay, a charge fixed at levels so as to recover all direct and indirect costs of carrying out such functions. The Administrator, considering the proceeds of sale from surplus personal property which are credited to the fund, may reduce any charge pursuant to subsections (a) (3) and (4) by such amount as he deems appropriate. The indirect costs included in the prices and charges fixed by the Administrator pursuant to this section shall not exceed the limitations if any, specified in annual appropriations Acts.".

(3) In section 109(c) (40 U.S.C. 756(c)), (a) by inserting "(1)" after the word "with"; and (b) inserting after the semicolon "(2) the proceeds from sales of surplus personal property made by the Administrator pursuant to section 203 of this Act, except proceeds from sales which are subject to sections 204 (b), (c), or (e) of this Act, or which otherwise are required to be paid to the agency or organization which reported the property for disposal; and (3) any charges paid under this section, and expenses or charges paid under section 204(c) of this Act, or any other Act;".

(4) In section 204 (40 U.S.C. 485), (a) by striking out "and (e)" in subsection (a) and inserting in lieu thereof "(e), and (h)"; (b) by striking out the period at the end of subsection (c) and inserting in lieu thereof ", including any charges imposed by the Administrator pursuant to section 109 of this Act."; and (c) by adding immediately after subsection (g) the following new subsection:

"(h) Proceeds from sales by the Administrator of surplus personal property, except proceeds from sales subject to subsections (b), (c), or (e) of this section, or which otherwise are required to be paid to the agency or organization which reported the property for disposal, shall be credited to the General Supply Fund in accordance with section 109(c) of this Act.".

(b) Section 3726 of title 31, United States Code, is amended as follows: Subsection (c) (31 U.S.C. 3726(c)) is amended to read as follows:

"(c) Expenses of postpayment transportation audit activities, including contracts, contract administration, and other direct and indirect costs, shall be financed from overpayments collected from carriers on transportation bills paid by the Government and other similar type of refunds. Payment to any contractor shall not exceed 50 percent of the overpayment identified by any contractor audit.".

(c) Subsection (d) is amended by redesignating it as subsection (e) (31 U.S.C. 3726(e)).

(d) Subsection (e) is amended by redesignating it as subsection (f) (31 U.S.C. 3726(f)).

(e) Subsection (f) is amended by redesignating it as subsection (g) (31 U.S.C. 3726(g)).

(f) Subsection (g) is amended by redesignating it as subsection (h) (31 U.S.C. 3726(h)).

(g) A new subsection (d) (31 U.S.C. 3726(d)) is added, which reads as follows:

"(d) The General Supply Fund provided for in section 109 of the Federal Property and Administrative Services Act, as amended, (40 U.S.C. 756), shall be available for use by or under the direction and control of the Administrator for paying all elements of cost of the expense of prepayment transportation audit of transportation billings, including reclaims, by the General Services Administration, or its agents under conditions the Administrator will prescribe. Payment by agencies for which prepayment audits are performed by the General Services Administration shall be at prices fixed by the Administrator at levels which will recover so far as practicable all such elements of cost. The provisions of this subsection shall not inhibit the delegation of prepayment audit authority to another agency nor shall this subsection be applicable when prepayment audit authority has been delegated to another agency or agencies as provided in subsection (f) of this section.".

(h) This provision shall take effect on October 1, 1987.

SEC. 620. Section 1202(b) of title 5, United States Code, is amended by adding a new sentence as follows: "Any new member serving only a portion of a seven-year term in office may continue to serve until a successor is appointed and has qualified, except that such member may not continue to serve for more than one year after the date on which the term of the member would otherwise expire, unless reappointed.".

SEC. 621. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 622. Notwithstanding any other provision of law, for the fiscal year ending September 30, 1989, when any individual Federal employee is detailed to an executive *branch agency other than his or her employing agency for a period of 60 days or more, the detailing agency shall bill the executive branch to which said employee has been assigned for all salaries and expenses of said employee for the period of assignment after 60 days and shall be fully reimbursed for all such costs: Provided, That all executive branch agencies shall submit a quarterly report to the House and Senate Committees on Appropriations on all reimbursable and nonreimbursable detailees used by such agency during the fiscal year ending September 30, 1988.*

SEC. 623. Title 5 U.S.C. section 8401(17)(B) is amended by deleting the words "10 years" and inserting in lieu thereof "3 years".

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1988".

AMENDMENT NO. 738

Mr. DeCONCINI. Mr. President, I ask unanimous consent that an amendment be in order to make four technical corrections in the bill, and I send to the desk an amendment on behalf of myself and Senator DOMENICI and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself and Mr. DOMENICI, proposes an amendment numbered 738.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 3 and line 7, delete the citation "453(c)" and insert in lieu thereof the citation "453C";

On page 44, line 4, after the comma, delete the words through the first comma on line 8.

On page 72, line 9, beginning with the word "for", delete the line-type through the word "granted" on line 10;

On page 81, line 19, delete the word "national".

Mr. DeCONCINI. Mr. President, the technical amendment at the desk makes four noncontroversial corrections in the text of the bill. None of them will affect the substance of the bill. Each change affects a printing or drafting error in the bill before the Senate.

I urge the adoption of the amendment.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment.

The amendment (No. 738) was agreed to.

Mr. CRANSTON. Mr. President, I would like to ask my distinguished colleague, Mr. DECONCINI, chairman of the Subcommittee on Treasury, Postal Service, and General Government, for his assistance in clarifying the intent of language in H.R. 2907—the Treasury, Postal Service, and General Government appropriation bill—with regard to Customs Service operations at the San Jose Airport in California.

I would like the comments of the Senator from Arizona as to whether the moneys set aside under the bill for additional Customs Service presonnel would include the personnel necessary to cover pending Aeromexico Airline flights landing at the San Jose Airport.

Mr. DeCONCINI. Yes, the bill would have sufficient staffing levels to cover the situation at San Jose. I understand that for over 7 years now, the San Jose Airport has been working in conjunction with Aeromexico Airlines to initiate passenger service into the San Jose area. The last restriction inhibiting initiation of passenger service is the lack of U.S. Customs Service and other FIS personnel to provide customs inspections for landing in San Jose. While initially there would only be one flight into the airport, a steady growth of service between Mexico and the San Jose Airport is anticipated.

Presently Customs officers travel to Oakland Airport from the San Francisco Airport to service international flights. San Jose and Oakland Airports are nearly equidistant from the San Francisco Airport. The same procedure would be appropriate for San Jose. In order to provide this service, the Customs Service would need only to increase its personnel at the San Francisco Airport by three full-time persons. These additional persons would be covered by the 1,735 additional personnel provided for in this appropriation bill.

Mr. CRANSTON. I am told San Jose is prepared to construct immediately all the necessary facilities for the Customs Service to operate at the airport. The airport and city of San Jose are committed to assist the Customs Service in implementing the new customs service. I believe the cost would be small in comparison to the enormous benefit Aeromexico service would provide to the economic activity in the San Jose, and south San Francisco Bay areas.

Mr. DeCONCINI. Yes, I agree.

Mr. CRANSTON. I thank the Senator for his clarifications.

LOAN PROGRAM STUDY

Mr. BUMPERS. In Senate Report 99-425 accompanying H.R. 5161, the 1987 appropriations bill for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies, this committee directed the Small Business Administration to conduct a study of the section 7(a) Loan Guaranty Program to evaluate the impact of the program on tax revenues, employment and job creation, and other appropriate economic factors. SBA was to conduct the study and submit a report to Congress no later than June 1, 1987.

SBA determined in January 1987 that the Internal Revenue Service would be the best source of information for the study, and signed an agreement with the IRS in May 1987 under which the IRS will process the loan program information and provide data to SBA. SBA has requested an extension of the June 1, 1987, report date. Because the authorizing committee anticipates reviewing the loan program information during its consideration of reauthorization legislation for the SBA, we direct the SBA to submit an interim report of the IRS findings to this committee by April 1, 1988, and we encourage the IRS to complete its review by August 1, 1988. A final report shall be submitted to Congress by SBA no later than September 1, 1988.

Mr. DeCONCINI. Senator BUMPERS, I acknowledge the importance of the loan program information the IRS is to provide to the authorizing committee as well as the need for the committee to review that information prior to its consideration of legislation reauthorizing the Small Business Administration and its various programs. Therefore, I direct the Internal Revenue Service to promptly begin its review of the information necessary to complete the study of SBA's Business Loan Program, and to provide the SBA with a final report by August 1, 1987.

Mr. BUMPERS. I thank the Senator from Arizona for his support of the efforts of the Small Business Committee to move forward with this review of SBA's Business Loan Program. It is essential that the committee have at least preliminary data from the IRS on hand early in 1988 as it begins to consider SBA reauthorization legislation. Any further delay would render the IRS study immaterial for use during the 1988 and 1989 appropriations cycle.

SBA LOAN ASSET SALES

Mr. DeCONCINI. I understand that the Senator from Arkansas wishes to discuss the sale of loan assets of the Small Business Administration.

Mr. BUMPERS. I thank the Senator from Arizona. The Appropriations Committee has included provisions in its bill making appropriations for the Small Business Administration, at the request of the authorizing committee, which prohibit the sale of direct loans made by the Small Business Administration under the authority of the Small Business Act and the sale of loan guarantees made by the SBA under the authority of the Small Business Investment Act. The restriction applies only to sales to third parties of disaster assistance direct loans and debentures issued by Certified Development Companies and Small Business Investment Companies which were held by the Federal Financing Bank on September 30, 1987. The restriction has no application to any plan concerning prepayment of loans by borrowers, nor does it affect sales of loan guarantees made under section 7(a) of the Small Business Act, or sales of debenture guarantees which were not held by the Federal Financing Bank on September 30, 1987.

Mr. DeCONCINI. I understand the Senator from Arkansas is concerned that, despite the prohibition on certain loan asset sales in that bill, the Treasury Department may choose to proceed with certain proposed sales of SBA loan assets.

Mr. BUMPERS. That is right. The authorizing committee would like to discourage the Treasury Department from circumventing the intent of the Senate Appropriations Committee by offering for sale loan assets held by the Federal Financing Bank on behalf of the Small Business Administration.

Mr. DeCONCINI. Why does the Senator oppose the sale of certain loan assets, which could significantly reduce our budget deficit?

Mr. BUMPERS. The Small Business Administration proposes to sell upward to 3 billion dollars' worth of SBA loan assets at the projected return of less than 33 percent of face value. In many cases, the sale could bring as low as 15 cents on the dollar. The White House originally intended to raise $643 million from these sales, which would include selling $500 million in development company loans, $740 million in disaster loans, and approximately $1 billion in business loans.

Selling these loans at such fire-sale prices may produce an immediate positive effect on the deficit, but due to the proposed requirements that these loans be sold promptly and without recourse, that positive effect could be more than offset by a longer run increase in the deficit. If the SBA should continue to maintain these loans, we will have a greater yield for the taxpayer as it would be approximately 93 percent on disaster loans, and 80 percent on SBA-originated direct loans. Furthermore, if SBA should forgo the benefit of future loan repayments by borrowers to help finance the loan program, it will put itself in the compromising position of tapping the Treasury in the near future in order to recapitalize the loan programs.

In addition, we must be concerned with the position of the taxpayer, or consumer, as we consider the impact of these savings. The principal concern is the possible loss of forbearance granted by SBA to the borrower. In virtually all of its loan programs, SBA has a policy of being more lenient with borrowers in comparison with private lenders. Therefore, asset sales could expose holders of SBA loans to more strict guidelines, upsetting their personal and business financial stability.

Mr. DeCONCINI. In light of those arguments, I agree that Treasury not circumvent the intent of the Appropriations Committee and forgo the sale of any SBA loan assets held by the Federal Financing Bank.

DRUG INTERDICTION PROGRAMS IN THE CUSTOMS SERVICE

Mr. DeCONCINI. Mr. President, the committee-reported bill contains a total of $150 million for the Customs Service air interdiction program—an important program for our on-going war on drugs.

Included under the Operation and Maintenance, Air Interdiction Program line item account is a total of $31,200,000 to continue the P-3/360 degree radar surveillance aircraft program and to proceed with follow-on P-3/360-degree platforms, beginning in fiscal year 1983.

The committee has included language in its report—Senate Report 100-160—which would place certain reporting requirements and performance milestones on the followup—P-3/360-degree radar-equipped aircraft. However, I want to clarify for the Senate that the committee in no way intended to halt work on the followup P-3/360-degree radar surveillance aircraft—merely to require the Customs Service to closely scrutinize the performance of the initial prototype P-3 surveillance aircraft and report periodically to the committee regarding the progress and performance of the prototype. The committee report language should not send any signal whatsoever to the Office of Management and Budget or to the Drug Enforcement Policy Board at the Justice Department that the Customs Service should not proceed with the follow-on P-3/360-degree radar surveillance aircraft program.

Mr. President, as the committee report indicates, the combination of a fleet of P-3/360-degree radar surveillance aircraft and the loaned Navy E-2C aircraft will provide the Customs Service, as the lead drug interdiction agency, with a significant air surveillance capability to combat the narcotics smuggler.

Mr. CHILES. Mr. President, each appropriations bill is subject to a spending limit known as a 302(B) allocation. As chairman of the Senate Committee on the Budget, I am pleased to report that the Treasury-Postal appropriations bill, H.R. 2907, is under its 302(B) budget authority ceiling by $0.3 billion and under its 302(B) outlay ceiling by less than $50 million. I commend the distinguished chairman of the subcommittee, Senator DeConcini, and the ranking minority member Senator Domenici for their success in crafting this bill.

Mr. President, I have a table from the Budget Committee showing the official scoring of the Treasury-Postal appropriations bill, and I ask unanimous consent that it be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2907—TREASURY—POSTAL—SPENDING TOTALS

[Senate-reported, dollars in billions]

Bill scoring	Fiscal year 1988	
	Budget authority	Outlays
H.R. 2907, Senate-reported (new BA and outlays)	15.1	13.4
Outlays from prior-year BA and permanent appropriations		1.8
Bills enacted this session: 1987 Supplemental Public Law 100-71	+(1)	+(1)
Adjustment to conform mandatory programs to resolution assumptions	−(1)	−(1)
Bill total	15.1	15.1
Subcommittee 302(b) allocation	15.4	15.2
Difference	−0.3	−(1)
Comparisons		
Bill total above (+) or below (−):		
President's request	+0.5	+0.4
House-passed bill	−0.3	−0.3

[1] Less than $50 million.

Details may not add to totals due to rounding.

Prepared by the Senate Budget Committee.

Mr. DeCONCINI. Mr. President, I yield to the distinguished ranking member for any further comments he has before we conclude and go to final passage of the bill.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I say to my friend the chairman of the subcommittee, who is here, and my friend from Oregon, the ranking member of the committee, that I alluded a while ago to the fact that we do not know if we have a Gramm-Rudman-Hollings II or not, because the President has not decided. The ranking member expressed a desire that we send one bill at a time to the President, because everybody has been saying that one big continuing resolution, with all the full-year bills, is not the way to do business. But I suggest that we all ought to be thinking about an anomaly.

Under the new Gramm-Rudman-Hollings fix, one, two, three, or four appropriations bills may get passed at a new appropriation level with new program targets, but others may not be passed in time for the November 20 sequester. The Senator from Oregon will recall that we had a dialog on the floor. It may be that those that are in at the lowest level, because they are still at last year's level, may get hit just as much or more than those programs that are in at newly adjusted levels because we have worked our will through the appropriations process. So we have 45 or 50 days to think that problem through.

I wanted to make sure, before we closed, that everybody knows that this new situation adds to the complexity of one bill or many bills and the effect on programs and the desires of the Appropriations Committee as they set new appropriation levels.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. Is all time yielded back?

Mr. DECONCINI. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Alaska [Mr. STEVENS] and the Senator from Virginia [Mr. TRIBLE] are necessarily absent.

I further announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Regular order has been called for.

Are there any other Senators in the Chamber who wish to vote or to change their vote?

The result was announced—yeas 84, nays 7, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—84

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Thurmond
Warner
Wilson
Wirth

NAYS—7

Gramm
Helms
Nickles
Proxmire
Roth
Symms
Wallop

NOT VOTING—9

Biden
Boschwitz
Dodd
Gore
Humphrey
Simon
Stevens
Trible
Weicker

So the bill (H.R. 2907) was passed.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GRAHAM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senate insist on its amendments and requests a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. DECONCINI, Mr. PROXMIRE, Ms. MIKULSKI, Mr. STENNIS, Mr. DOMENICI, Mr. D'AMATO, and Mr. HATFIELD conferees on the part of the Senate.

Mr. DECONCINI. Mr. President, I thank the Senate for their cooperation and I thank the members of the Appropriations Committee who were here this morning in support of the bill.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 1174, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

(2) Byrd Amendment No. 732 (to Amendment No. 712), of a perfecting nature, to provide that Congress express its support for (1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf; (2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in the region; and (3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the Calendar Order 336. This is the joint resolution on the continuing appropriations.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 362) making continuing appropriations for the fiscal year 1988 and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, House Joint Resolution 362, is the first continuing resolution for the fiscal year 1988. I hope it is the last. This resolution provides what we refer to as a temporary, stopgap funding for the Federal Government for the period October 1, 1987 until November 10, 1987 or until the enactment of the regular, annual appropriation bills, whichever comes first.

This is a simple, clean, noncontroversial continuing resolution which provides temporary, restrictive funding for the functions of Government at the current level of operation, that is, the level of operation for the current fiscal year 1987.

This House joint resolution covers all programs, projects and activities included under the regular, annual appropriation bills, of which there are 13 in number.

The House of Representatives has passed and has sent to the Senate, 10 of the 13 annual appropriation bills for fiscal year 1988. The Senate Committee on Appropriations has reported six of these appropriation bills as of this date; and we anticipate reporting all of the 13 annual bills between now and November. The defense appropriation bill, the agriculture appropriation bill and the foreign operations appropriation bill have not been reported or taken up in the House of Representatives as of this date.

The proposed termination date in this continuing resolution is November 10, 1987. This should be sufficient time to enable the Senate to consider all thirteen of the fiscal year 1988 appropriation bills.

Mr. President, a brief explanation of this proposed continuing resolution includes the following principal points:

The resolution provides interim funding at a rate of operations not in excess of the current rate of operations and under the current terms and conditions in effect during the fiscal year 1987 for the 13 regular, annual appropriation bills. This resolution is clean of extraneous matters. It simply continues the current terms and conditions which are in effect during this current fiscal year, 1987, for the duration of this resolution which is for 40 days.

For the foreign operations appropriation bill, the rate of operation shall not be in excess of the current rate or the rate provided for in the budget estimate, whichever is lower.

The funding made available by this resolution continues to be available until November 10, 1987, or until the enactment of the regular appropriation acts.

New starts are prohibited during this interim time period. The resolution also carries the usual, necessary technical provisions relating to obligation or expenditures made during the duration of the continuing resolution.

I emphasize, again, that this is a clean, simple, traditional continuing resolution, without any controversy to my knowledge, and I urge the Senate to pass it without amendment. This will clear this matter for the President's approval as soon as possible. I know of no problems in connection with this measure and I urge the Senate to approve this in its present form.

Mr. President, let me give a one-sentence summary.

In the Appropriations Committee, we consider this a highly important matter, necessary to carry on the functions of Government. I am happy it has gotten this far. Without further ado, I thank the Chair and yield the floor.

The **PRESIDING OFFICER**. Who yields time? If neither side yields time, time will be divided equally between the two sides.

Mr. **HATFIELD** addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Oregon.

Mr. **HATFIELD**. Mr. President, this continuing resolution is what a continuing resolution ought to be—of limited duration, with a straightforward funding formula for all the agencies and activities covered. I hope it will be passed expeditiously and free of amendment.

The appropriations process is moving along well. The House has passed 10 of the 13 regular appropriations bills, and the Senate Appropriations Committee has reported 6 of those 10. Our chairman is pressing forward to complete markup on all our bills and bring them to the Senate as soon as possible, and I understand that the majority leader has committed to give us floor time for those bills as they become available. But we do not yet have any appropriations bills for fiscal year 1988 enacted into law, and so this measure is necessary to continue the spending authority necessary for Government operations.

This continuing resolution establishes the current rate of spending as the level of spending for the agencies and activities normally funded in the following 12 bills: Agriculture, Commerce, Defense, District of Columbia, Energy and Water, HUD, Interior, Labor-HHS, Legislative, Military Construction, Transportation, and Treasury. The rate of operations for the activities normally funded under the foreign operations bill is established at the current rate or the rate provided for in the budget request, whichever is lower.

The resolution expires on November 10, 1987. If any regular appropriations bill is enacted into law before that time, and I expect there will be several, then the funding levels, terms, and conditions established by that regular bill will supercede those set by this resolution.

Two amendments were adopted during consideration of this measure in the House. The first waives section 502(a)(1) of the National Security Act of 1947 to continue the authority for appropriations providing for intelligence activities. The second allows the continued obligation of funds already appropriated in fiscal year 1987 for assistance to the Contras, and establishes a monthly rate of $2,650,000 for humanitarian assistance to the Contras.

According to the Congressional Budget Office, this measure is within the total 302(b) allocation of the Committee on Appropriations for fiscal year 1988.

Again, Mr. President, I believe we ought to pass this measure promptly and move on to our regular appropriations process.

Mr. **LUGAR**. Mr. President, I rise for the purpose of engaging in a colloquy with the distinguished chairman of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Appropriations Committee, Senator BURDICK.

Section 101(a)(1) of House Joint Resolution 362 provides that funding continue "under the current terms and conditions and at a rate for operations not in excess of the current rate" for, among other provisions, section 1241(a)(1) of the Food Security Act of 1985. Section 1241(a)(1) provides that the Commodity Credit Corporation shall fund the Conservation Reserve Program for fiscal years 1986 and 1987.

As the distinguished Senator is aware, some people have expressed uncertainty regarding whether cost-share payments and annual rental payments can be paid using funds of the CCC after October 1 and during the life of this resolution.

Mr. President, it is my understanding that section 101(a)(1) of this continuing resolution would allow cost-sharing payments and annual rental payments for the conservation reserve to be paid from CCC funds throughout the life of the resolution. Is that the understanding of the distinguished chairman?

Mr. **BURDICK**. Yes it is, Mr. President. It is my understanding that the language of the continuing resolution would allow funding of the Conservation Reserve Program to continue in the same manner during the life of this resolution as it has for the 2 preceeding fiscal years.

Mr. **LUGAR**. I thank my friend, the honorable chairman of the subcommittee.

Mr. **BURDICK**. I thank my friend, the distinguished ranking minority member on the Agriculture Committee.

Mr. **LEAHY**. It is my understanding that House Joint Resolution 362, the first continuing resolution for fiscal year 1988, extends all the conditions and limitations in force in fiscal year 1987. In particular, it is my understanding that the continuing resolution extends, for the term of the resolution, the moratorium on the prepayment of certain rural rental housing loans financed under section 515 of the Housing Act of 1949 which is contained in section 634 of the fiscal 1987 continuing resolution and which was extended in the fiscal 1987 supplemental appropriations bill. Am I correct?

Mr. **BURDICK**. The Senator is correct.

Mr. **ADAMS**. Mr. President, obviously a continuing resolution is needed and has to be passed by this body. I want to make two points, however.

First, the need for a continuing resolution provides further evidence—as if any of us needed further evidence—to support the conclusion that budget process has broken down. As I indicated in my remarks to this body when we considered the Gramm-Rudman-Hollings fix on the debt ceiling, I believe that things have gotten out of hand. It is time to go back to basics, back to a system which allows the budget to establishes some priorities rather than continuing to move toward a system where the budget dictates decisions to the authorizing and appropriating committees.

Second, there is a specific provision in this bill—the humanitarian aid to the Contras—which deeply disturbs me. As my colleagues know, I oppose continued Contra funding. I believe that the Congress and the country would have profited from a full and free debate of this request.

This Senator wants to see peace and democracy in Central America. If we are to achieve this goal, we must support the peace process currently underway in Central America. I have serious doubts about whether or not this $3.5 million will make a positive contribution to that effort. As we all know, money is fungible, and the General Accounting Office has found that extensive deficiencies in our ability to account for previous humanitarian aid we have sent to the contras. The fact that these funds are to be distributed by the Central Intelligency Agency and the Department of Defense, instead of an international humanitarian organization, gives me further pause. But, President Arias has told us that he does not believe that this aid will damage the peace effort in Central America. As the architect of the present peace initiative, we must give his opinion a great deal of respect.

In spite of my deep reservations about this $3.5 million, I will not vote against this bill today for two reasons. First, I believe we must give the Arias peace plan every chance to succeed. Second, voting against the bill could endanger the normal operations of the Federal Government which would have serious ramifications for us all.

Let me go on record to make it clear, however, that I cannot support additional funds for the Contras. The position of this administration to request an additional $270 million for the Contras sometime after the start of the new fiscal year is counterproductive to the pease process and should be rejected by the Congress. I will work with my colleagues on the Foreign Relations Committee and throughout the Congress to defeat any such request.

Mr. INOUYE. Mr. President, House Joint Resolution 362 provides such amounts as may be necessary to continue programs, projects, and activities which were conducted in fiscal year 1987 and for which funding was provided in the Foreign Assistance and Related Programs Appropriations Act, 1987. A proviso to the bill which passed the House establishes the rate of operations under foreign assistance and related programs at the current rate or the rate provided for in the budget estimate, whichever is lower.

This formula for funding of foreign assistance and related programs under the continuing resolution is more stringent than that applied to programs, projects, and activities funded under other appropriations acts. I support this more restrictive language, because a formula which set the rate of spending under the continuing resolution at the current rate of operations would run the risk of thwarting congressional priorities for the fiscal year 1988 budget.

Funding for foreign assistance and related programs under the fiscal year 1988 budget resolution is sharply reduced from that which was available in the Foreign Assistance and Related Programs Appropriations Act, 1987. We cannot accommodate, even for the period of a short-term continuing resolution, spending at the fiscal year 1987 rate of operations. Although I would, personally, favor increased funding for foreign assistance, we must recognize the programmatic implications of the budget resolution. We must adjust spending downward.

Therefore, the Appropriations Committee has agreed with the action of the House to move now to restrict fiscal year 1988 foreign assistance funding. The committee may determine at a later date to provide more or less funding for individual projects or accounts and, therefore, believes that it is best to act now to preserve its options for funding under a regular bill.

There is, however, one fault in this formula for the continuing resolution. As noted by my counterpart on the House Foreign Operations Subcommittee, Chairman DAVID OBEY, for fiscal year 1987, the administration has requested a separate line-item for economic assistance for sub-Saharan Africa. Since no such line item was included in the fiscal year 1987 appropriations act, using the formula contained in House Joint Resolution 362 for foreign assistance funding would result in no funding being made available for sub-Saharan Africa.

To correct this fault, I wish to make it known that for the purpose of determining the rate of operations for development assistance under the continuing resolution, it is the intention of the committee that the fiscal year 1987 request level for each of these accounts be considered as including an amount for sub-Saharan Africa.

The committee incorporates into the development assistance accounts the following levels for annual funding of programs, projects, and activities in sub-Saharan Africa: Agriculture, Rural Development and Nutrition—$198.8 million; Population—$18.5 million; Health—$29.9 million; Child Survival Fund—$14 million; Education and Human Resources—$66 million; Energy and Selected Development Activities—$27.3 million; Sahel Development Program—$72.2 million.

Mr. President, the committee expects the Agency for International Development not to exceed the rate of operations implied by this level of funding.

Mr. BINGAMAN. Mr. President, I am opposed to the continuing appropriations resolution and I will vote against it primarily because it contains $3.5 million in aid to the Contras.

The continuing appropriations resolution is the omnibus catch-all spending bill which will allow the Federal Government to continue its operations in the absence of permanent appropriations. I think it is unfortunate we cannot finish our consideration of the annual appropriations bills in a more timely manner necessitating the need for a continuing. I am pleased, at least, that the continuing has not become the vehicle for nongermane legislative items as is the usual practice.

I still feel, however, that I cannot in good conscience vote for aid to the Contras which is to be administered by the CIA and the Department of Defense. I have consistently opposed aid to the Contras and I feel compelled to maintain that position here today.

I regret the bill cannot be amended to remove the aid and I, therefore, must oppose the entire bill in favor of a more orderly process where debate can more freely occur.

I oppose this measure and urge my colleagues to do the same.

Thank you, Mr. President.

Mr. KENNEDY. Mr. President, the Senate will vote shortly on a continuing resolution that will keep the Government in operation until November 10. Included in this bill, is $3.5 million in so-called humanitarian aid to the Contras as well as an extension of the intelligence agencies' authority to deliver lethal aid currently in the pipeline to the Contras.

It is difficult to understand the need for this Contra assistance at this time. If this aid is critical to the survival of the Contras, they are in worse shape that we thought and this level of aid will not help; if it is not critical to the Contras, we should not be sending it in the midst of delicate negotiations of the Arias plan.

The administration has repeatedly pledged not to abandon the Contras when the current $100 million runs out on September 30. Vice President Bush has pledged not to let the Contras twist in the wind—despite assurances by the National Security Advisor that enough aid is available to sustain the Contras "at least through November." And Secretary Shultz' announcement of the administration's intention to seek $270 million in new aid to the Contras reveals the administration's disdain for the Arias peace plan.

It is time this administration recognized that its right wing agenda is not working in Central America. The Contras are not, have never been, and never will be a serious threat to the Sandinistas. The Nicaraguan people do not support them, nor do the American people. A Harris poll published on

August 14 indicates that a "massive 67-29 percent" of the American people oppose the $100 million in military aid to the Contras. The same poll indicates that 58-36 percent oppose all aid to the Contras.

When this continuing resolution before us expires, the deadline for compliance with the Arias peace plan will have arrived. The United States will then face a decision whether to undermine this historic accord by continuing a failed policy to undermine this historic accord by continuing a failed policy or to provide its full support to this historical accord. When the deadline of November 7 arrives, compliance will not be perfect, some of the deadlines will need adjustments, some of the mechanisms will be altered. But we've tried the administration's plan for 7 years. The time has now come to try the Central Americans' plan. I am one Senator who will work to ensure that the United States takes those steps asked of us by the Arias plan, including no more aid to the Contras after November 7, whether that aid is in the pipeline or not.

The Arias peace plan is crystal clear on calling for an end to U.S. aid to the Contras. It states:

> The Governments of the five Central American States shall ask the Governments of the region and outside of the region which, openly or covertly, provide military, logistic, financial, or propagandistic, or manpower, arms, munitions and equipment aid to irregular forces or insurrectional movements to cease that aid, as an indispensable element for achieving a stable and lasting peace in the region.

Cessation of such aid shall go into effect on November 7.

Assistance for repatriation, relocation, and reintegration into normal life of the Contras is permitted. Not lethal aid, not the broadly defined humanitarian aid, not intelligence sharing, not CIA overflights.

The authority extended to the intelligence agencies to deliver lethal aid already in the pipeline will expire on November 10. That authority should not be renewed once the Arias peace plan is in effect. Should we decide that some further assistance is needed—as defined and permitted by the accord—there are plenty of public ways to provide that aid. Once we cease lethal aid, we no longer need covert supply routes.

The next month and a half is critical to the achievement of peace in Central America, and significant progress has already been made since the peace plan was signed on August 7. Let us commit ourselves fully to supporting that effort rather than attempting to scuttle the plan at every turn.

There are many ways the United States can promote democracy in Nicaragua. The press, the church, the democratic parties, the farmers, the business men and women all need our assistance. Those are the members of the true democratic opposition in Nicaragua—not Ronald Reagan's Contras. Let us pledge full support to those in Central America who support democracy the right way, by supporting enforceable and verifiable agreements among the countries of the region, not the far-right way by sending more guns to the Contras.

The PRESIDING OFFICER. Is there further debate on the joint resolution?

Mr. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be equally charged against both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the chairman of the committee, Mr. STENNIS, and I as ranking member, are not aware of anyone who has asked to speak on this particular bill.

As you know, there are no amendments in order because of the unanimous consent agreement. The Senator from Vermont [Mr. LEAHY], has a separate standing 10-minute allocation under the unanimous consent, and therefore, Mr. President, I am ready to yield back the remaining period of the time under my control.

Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. That will be the order.

The Senator from Mississippi.

Mr. STENNIS. Mr. President, regarding the time Senator LEAHY has, 10 minutes under special dispensation, I make no reference to that. The general bill is all that we have, and all that we have knowledge about is there is no other request for time from any source, Mr. LEAHY excepted. I therefore yield back the time, unless anyone wants to use it. I yield back the time.

The PRESIDING OFFICER. The Senator from Mississippi yielded back his time. The Senator from Oregon has yielded back his time.

The majority leader is now recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I shall suggest the absence of a quorum to give Senator LEAHY time to get here from his office. He did not realize that this was going to be called up so quickly.

In the meantime, there will be a rollcall vote requested. And I suggest that we not go forward with that rollcall vote before the two caucuses.

So I ask unanimous consent that once Senator LEAHY has completed his remarks prior to the caucus that this continuing resolution be temporarily laid aside until later in the day at which time the two leaders will consult with the two managers and will set a definite time for a vote.

The PRESIDING OFFICER. That will be the order.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

CONTINUING RESOLUTION AND AID TO THE CONTRAS

(Later the following occurred:)

Mr. LEAHY. Mr. President, the Senate is about to vote on a continuing resolution to fund the Federal Government until November 10. If the past is any guide, on November 10, the Senate will have to vote on yet another continuing resolution. We have fallen into a very bad pattern of funding the Government for large portions of the fiscal year through these continuing resolutions.

I hope that this year, under the leadership of the distinguished majority leader, the Senate will pass all the normal appropriations bills. We passed one this morning. He has said we are going to get to work on the bills, and in that he has my strong support.

But, I have a special concern about this continuing resolution which makes it impossible for me to vote for it. It contains $3.5 million in additional nonlethal aid to the Nicaraguan Contras, and renewed authority for executive branch agencies to remain involved in the Contra war to overthrow the Government of Nicaragua.

Mr. President, I am deeply opposed to the unworthy and failed policy of aiding the Contras. Our Nation stands for something better and more positive. We should be supporting the Central American peace process now underway, not providing the money to buy more guns for Nicaraguans to kill Nicaraguans.

Just this week, Witness for Peace released a devastating report documenting Contra human rights abuses and atrocities in their war against the Nicaraguan Government. It is a stain on the honor of this great Nation that the American taxpayers' money is going to pay for this bloody, losing fight against the Sandinistas.

Some Contra aid opponents have argued privately that we should ignore this small amount for nonlethal humanitarian assistance in the interests of not provoking a premature confrontation with the administration while the peace negotiations in Central America are in progress. We should focus, they suggest, on fighting the administration's request for $270 million in military aid that we all know is coming soon.

I respect these arguments. I will work with other Senators to defeat the $270 million in more military assistance when that request comes before the Senate. But, I cannot vote for any money to support the Contra war, even if it is a token amount and is disguised as humanitarian aid, as the administration likes to call nonlethal assistance to the rebels.

Therefore, I will vote against this continuing resolution.

We have seen in the past that this so-called humanitarian aid is practically anything that does not go bang or explode. That really does not foster peace in Central America. It also allows other agencies of the U.S. Government to be involved in the war there.

At some point, Mr. President, we are going to have to ask ourselves what are the security interests of the United States in Central America. Is it in our security interest to support the Contras in their effort to overthrow the Government of Nicaragua?

If that is so, then we should ask ourselves at least two questions: Why do we continue to have diplomatic relationships with Nicaragua? And why do we, with the most powerful Army, Navy, and Air Force in the world, have to call on a group of Contras, who continue to commit atrocities against civilians, to in effect carry the banner of the United States of America?

I think it is because we do not really see our security interests threatened by Nicaragua. Let us be honest with the American people. Let us have a straight up or down vote on our policy there. Let us vote and see whether the American people support further aid to the Contras or not. That is a far better way, a far more honest way to decide this question, than this piecemeal approach. That is why I will vote against the continuing resolution.

I thank the distinguished majority leader for protecting my right to be able to speak on this issue.

I yield back the remainder of my time.

The **PRESIDING OFFICER.** The Senator yields back the remainder of his time.

Mr. **BYRD.** Mr. President, I shall suggest the absence of a quorum for the moment.

The **PRESIDING OFFICER.** The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. **BYRD.** Mr. President, I ask unanimous consent that the continuing resolution be temporarily laid aside, and that the Senate resume consideration of the DOD authorization bill.

I have an understanding with the distinguished Senator from Illinois [Mr. DIXON] that if Mr. LEAHY comes to the floor in the next few minutes arrangements will be made for Mr. LEAHY to proceed inasmuch as he has 10 minutes under his control on the continuing resolution.

So I make that request.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Illinois.

Mr. **DIXON.** Mr. President, my friend, the distinguished Senator from Delaware, has two amendments. I wish he would accommodate me by offering the amendment to provide $50,000 for North Atlantic Interparliamentary Assembly study first because that is acceptable to our side. And there is some question about the other one.

Would he do that, please?

Mr. **ROTH.** Yes, I will be happy to.

The **PRESIDING OFFICER.** The Senator from Delaware is recognized.

AMENDMENT NO. 739

Mr. **ROTH.** Mr. President, I send an amendment to the desk on behalf of the distinguished senior Senator from Georgia, and myself, and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. NUNN, proposes an amendment numbered 739.

On page 43, after line 21, insert the following new section:

Sec. . of the funds appropriated pursuant to Sec. , $50,000 shall be provided to the North Atlantic Interparliamentary Assembly for a Study on the Future of the North Atlantic Treaty Organization.

Mr. **ROTH.** Mr. President, I believe that every member of this body will agree with me when I assert that a mainstay of our defense and security is now, as it has been in the past, the North Atlantic Treaty Organization. Currently, our day to day attention is frequently focused upon the troubled regions of Central America and the Persian Gulf. However, these situations should not distract us from the primary threat to the peace and security of the free world, namely, the massed forces of the Warsaw Pact, ranging from the east bank of the Elbe into the very heart of the Soviet Union.

That threat has been effectively deterred by the solidarity and cohesion of NATO's 16 Nations. We may not field as many troops as the Warsaw Pact and we may suffer from marked inferiority in such areas as tank and artillery forces but, nevertheless, the fact that the United States and the nations of Western Europe have been willing to stand shoulder to shoulder in their common defense has formed a bastion which Moscow and its satellites have proved unwilling to assault.

However, the fact that NATO has proved successful in the past should not be allowed to blind us to potential future problems. Already we have witnessed serious intra-NATO disputes over counterterrorism policy, defense burden sharing and our overall perception of the nature and extent of the Warsaw Pact threat. All of these disputes, taken singly or together, have the capacity to inflict serious damage upon the alliance and, consequently, upon our own National Security.

If these potential problems are to be dealt with, we must learn to plan and to anticipate. A problem foreseen is a problem mitigated. Consequently, I believe it is of the utmost importance that the NATO allies now begin to discuss their serious differences with a view to resolving them before they inflict serious damage upon the fabric of the alliance.

In addition, we must be cognizant of the fact that the NATO alliance has evolved radically since its establishment. What was once a lop-sided alliance of a debilitated Western Europe and a militarily potent United States now has become power of equal abilities. Western Europe has prospered economically for the last 10 years and that prosperity has been mirrored by self-assertion in the international arena, often leading to serious arguments with Washington. Clearly, if NATO is to survive and prosper, its structures must alter and evolve to shape themselves to these new economic and political realities.

Pending arms control agreements point up the need for this reappraisal of the roles and structures of NATO. Traditionally, the Western Alliance has sought to counterbalance its conventional inferiority with nuclear weaponry. In the new political climate of the 1980's, this strategy increasingly appears politically unviable. Indeed, the United States and the Soviet governments, even now, are discussing the scrapping of their intermediate and short range nuclear weaponry which would be most relevant to a European conflict. Such an agreement would constitute significant a step forward for arms reduction, but, simultaneously, would expose our woeful conventional inferiority. Clearly, if this situation is to be dealt with, the alliance must now begin to discuss its various conventional defense budgets and its overall conventional strategy.

To this end, the Standing Committee of the North Atlantic Assembly, in which I and several other Members of this body play an active part, has proposed to embark upon a study of the future of the North Atlantic Treaty Organization, taking a look forward into the 1990's in an effort to discern the problems we will face and the strategies we must adopt to mitigate those problems. The Standing Committee has asked me to chair this study committee, which is composed of political representatives from most NATO nations, and I am happy to say that I am joined on the study committee by my distinguished colleague, the senior Senator from Georgia, and by Congressmen BILL RICHARDSON and DOUG BEREUTER from the House of Representatives.

This project has received strong support from the President of the Assembly, Mr. Ton Frinking of the Netherlands, the Secretary General of the Assembly, Mr. Peter Corterier and the leadership of the various national delegations. Many members of the alliance, including West Germany, Denmark, Norway, Spain, Turkey, the Netherlands, and Belgium have committed themselves to supporting this study financially. Consequently, the study committee has already been able to hold a most instructive hearing with such distinguished figures as Mrs. Harold Brown, Richard Perle, Richard Burt, Brent Scowcroft, Eugene Rostow, Irving Kristol, and Earl Ravenal. The purpose of the amendment which I send to the desk on behalf of myself and the Senator from Georgia is quite simple, Mr. President. It provides for $50,000 to be taken from the authorization for title III, operations and maintenance to finance the U.S. contribution for what I believe is a most worthwhile undertaking. I trust that my colleagues will agree that this is, indeed, a most important topic and that they will accept this amendment without objection.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from Delaware on this fine amendment, which is cosponsored by the distinguished chairman of the Armed Services Committee. This side is prepared to accept this amendment and will support the amendment.

Mr. President, I announce to all my colleagues, wherever they may be around the Capitol, that when this amendment is disposed of, there are still 88 amendments. The store is open; we are doing business. All Senators are invited to the floor. We will begin to call on them, because we want to dispose of amendments.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. I yield time to the distinguished chairman of the committee.

Mr. NUNN. Mr. President, I am pleased to be a cosponsor of this amendment with my friend from Delaware.

This is a very important study at a very important time in the life of NATO, particularly in light of the INF probable agreement that is emerging.

NATO is going to have to do a lot of rethinking of its overall posture in the world relating to conventional arms, conventional arms control, and nuclear arms control. So this study, I think, will be very helpful.

The United States will be participating. We will be having our overall participation, joined in financially by other countries in the alliance.

I think this is a worthy amendment, and I congratulate the Senator from Delaware. I urge its acceptance.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. I yield whatever time is required by the distinguished Senator from California.

Mr. WILSON. Mr. President, I join my colleagues. There is certainly no opposition on our side.

In fact, I think the Senator from Delaware is to be commended. This is not just appropriate or timely. I would add that I think he is quite correct in making the assessment that it is overdue. With the importance of the prospective INF agreement, it assumes even greater importance than otherwise. So we enthusiastically support the amendment.

Mr. ROTH. Mr. President, I thank the distinguished Senators for their support and encouragement.

I yield back any time I may have remaining.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DIXON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 739) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, the Senator from Delaware has another amendment. We are prepared to go to it.

I regret to tell the Senator from Delaware that we will oppose the amendment, but we are prepared to discuss it and have the rollcall.

At this time, a conference is beginning on our side, but I am advised by the majority leader and the distinguished manager of the bill that we should proceed with the order of business.

What is the time limit on the amendment? Does the Senator from Delaware know?

Mr. ROTH. I think it is 10 minutes equally divided.

Mr. DIXON. That would be satisfactory.

AMENDMENT NO. 740

(Purpose: To extend to major non-NATO allies rights to compete on certain maintenance contracts)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 740.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, after line 10, insert the following new section:

SEC. . ELIGIBILITY OF MAJOR NON-NATO ALLIES TO COMPETE ON CERTAIN MAINTENANCE CONTRACTS.

(a) IN GENERAL.—Any major non-NATO ally shall be eligible to bid under competitive procedures and any Department of Defense contract for maintenance, repair, and overhaul associated with the European workload program. Any contract with such a non-NATO ally may be carried out in the ally's facilities or in facilities in NATO/Europe.

(b) DEFINITION.—For purposes of subsection (a), The term "Major Non-NATO Ally" has the meaning given that term by Section 1105(g)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

The PRESIDING OFFICER. There is no prearranged time limit on this amendment. Do Senators wish a time limit?

Mr. DIXON. Mr. President, the time limit indicated by the distinguished Senator from Delaware would be satisfactory to the manager on this side—10 minutes equally divided.

I say to the Senator from Delaware that he will recall that the majority leader, when he took up this bill, asked that we set aside time for the distinguished Senator from Vermont to make a brief statement. May we do that before we get into this amendment?

Mr. President, I ask unanimous consent for 10 minutes equally divided on the amendment.

The PRESIDING OFFICER. Without objection, the time on the amendment of the Senator from Delaware will be 10 minutes. That amendment will be set aside, and the Senator from Vermont is recognized for 10 minutes.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Illinois and the distinguished Senator from Delaware for yielding.

(Mr. LEAHY's statement is printed earlier in the RECORD under proceedings on the continuing resolution.)

AMENDMENT NO. 740

The PRESIDING OFFICER. The matter before the Senate is the amendment of the Senator from Delaware.

Mr. DIXON. Mr. President, while the Senator from Delaware is preparing, may I make another statement regarding this whole subject matter?

I want to again say to all Senators that I hold in my hand the list of amendments which constitutes several pages in today's calendar of business. There are still 88 amendments remaining, 87 after we deal with the amendment from the distinguished Senator from Delaware, and we expect to be in business until we finish, Mr. President. That is sad news but the leader and the chairman of the committee are conferencing now. I believe it is essential that we finish the bill and the sooner Senators come over here and get rid of their amendments the sooner we can finish and go home.

Mr. WARNER. The Senator realizes there is a caucus going on now. That is what they are trying to do now.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I sent an amendment to the desk.

Mr. WARNER. Mr. President, I wonder, if the Senator would forebear for a moment, I have just arrived. I arrived here at 7 o'clock, but just now in the Chamber.

The PRESIDING OFFICER. The amendment has been reported previously. Does the Senator from Delaware yield to the Senator from Virginia?

Mr. ROTH. I am happy to yield to the Senator so long as I do not yield any of my time.

I yield 1 minute.

Mr. WARNER. Mr. President, I acquaint Senators that the Republicans are now caucusing in an effort to gather and sequence amendments. So I think we are fully in compliance with the leadership and the managers.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the amendment which I sent to the desk is designed to place into the Senate DOD authorization bill certain language which has already been adopted in the House of Representatives. This language will enable non-NATO allies to bid on contracts for maintenance, repair, and overhaul which are put out to offer under the European Workload Program.

Currently, the United States does not attempt to maintain all of the militarily related equipment which it deploys in NATO Europe. Rather, it puts these contracts out to bid to NATO allies. This amendment simply extends to non-NATO allies of the United States the right to bid on those contracts.

The Secretary of Defense, in consultation with the Secretary of State, shall determine which nations may be designated as a major non-NATO ally. In the light of certain political and geographic realities, the practical effect of this amendment will be to allow the state of Israel to bid on contracts under the European Workload Program. Israeli expertise in military maintenance, particularly with regard to aircraft and aviation technology is broadly recognized. Consequently, I believe it is fair to say that both Israel and the Untied States will benefit through the extension of this program.

In addition, in the aftermath of the abandonment of the Lavi project, I believe it would be timely for the United States to make some moves toward assisting Israel's aircraft industry. Of course, this amendment does not allocate any increased funding to Israel or its military infrastructure. It merely grants the right, and I emphasize the right, to bid on certain DOD contracts which, are currently restricted to NATO members. Nevertheless, I believe that this constitutes a worthwhile gesture and I ask my colleagues to support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I must rise regrettably to oppose this amendment. The Department of Defense opposes this amendment, Mr. President.

The Defense Department requires that maintenance work on U.S. military equipment stationed overseas be performed by companies in the theater in which the equipment is stationed. Now that is the key issue here, Mr. President, in the theater where the equipment is stationed.

This includes both routine maintenance and unanticipated repair for major equipment like F-16 aircraft in Belgium, F-111 aircraft in Great Britain, Sidewinder missiles in West Germany, and the like.

Now, major non-NATO allies of ours like Israel, Egypt, South Korea, Japan, and Australia are permitted now to bid to do the work in the theater.

The problem with the amendment of my distinguished friend is that it would permit them to bid to do the work outside the theater. It is the opinion of the Department of Defense and it is the opinion of the Armed Services Committee that this would appreciably affect the readiness and preparedness of our forces in Europe. In other words, from the standpoint of depot maintenance and from the standpoint of building your industrial base in Europe, it is advantageous for us to have the work done right there in Europe.

I want to stress to my colleagues who will vote on this amendment shortly this does permit competitive bidding already by these friends and non-NATO allies of ours if they will do the work in Europe in the theater or any theater for that matter, but since it is specifically mostly for Europe, let us talk about Europe.

So instead of taking the airplanes to Israel, Egypt, or Korea somewhere to work on them, you have to repair and do the work on the maintenance and repair work in the theater in question.

So I must reluctantly advise my friend from Delaware that for good and sufficient reasons regarding the readiness and preparedness of our military forces in particularly Europe, but in all other theaters of the world, we think this is an unacceptable amendment and at the appropriate time I regret that I will be required to move to table the amendment to be offered by my distinguished friend from Delaware and if there are no other comments on this side, I would be willing to yield the remainder of my time so my friend can conclude.

Mr. ROTH. Mr. President, I would be brief.

I would just point out that in no way does this adversely affect, in my opinion, the maintenance of equipment in a theater. All my amendment does is to permit, and I want to emphasize, to permit the Secretary of Defense to allow such maintenance contracts to be performed outside, out of the theater when that is in the interest of security.

There is nothing in this amendment that requires it be done. I am shocked that the Secretary of Defense does not want to have this flexibility. It seems to me that we know the Israelis in particular have tremendous technical expertise in these areas. Why we should not permit them the opportunity where appropriate and I emphasize the words "where appropriate" is hard for me to understand.

Why should we not open the door to those countries determined by the Secretary of Defense entirely in his discretion to bid on contracts where it can be done better by and at a lower cost perhaps in Israel, rather than in Europe.

So, Mr. President, I would just point out that this amendment was adopted on the House side, and I would hope that the Senate would do the same so that it becomes part of the ultimate legislation.

I yield back the floor. I yield any time I have back.

The PRESIDING OFFICER. The Senator from Delaware has yielded back his time.

Mr. DIXON. May I say to my friend from Delaware, if it is satisfactory to him, I will withhold making a motion to table and the subsequent rollcall until the two conferences are finished. Because conferences on both sides are presently trying to determine how we get rid of these amendments and how we prioritize, it would be, I think, an accommodation to let them continue to talk until they finish.

The PRESIDING OFFICER. Both Senators have yielded back their time.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

RECESS FOR 20 MINUTES

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 10:14 a.m., recessed until 10:33 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WIRTH).

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

EXTENSION OF RECESS FOR 20 MINUTES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the recess be extended for an additional 20 minutes.

There being no objection, the Senate, at 10:33 a.m., recessed until 10:54 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WIRTH).

RECESS UNTIL 11:10 A.M.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the recess be extended for 15 additional minutes.

There being no objection, the Senate recessed at 10:54 a.m. until 11:10 a.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. WIRTH).

RECESS FOR 5 MINUTES

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate stand in recess for an additional 5 minutes.

There being no objection, the Senate, at 11:10 a.m., recessed until 11:16 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WIRTH).

Mr. DIXON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending question is the amendment offered by the Senator from Delaware [Mr. ROTH].

Mr. DIXON. Mr. President, may I say I am prepared to offer a motion to table the amendment by the Senator from Delaware as soon as he returns to the floor. I will advise the Chair, who was not here on the prior discussion, that both sides had completed their debate and yielded back the balance of their time. I think we are prepared to go to the rollcall on this amendment if the Senator from Delaware is prepared to do that.

The PRESIDING OFFICER. All time has been yielded back. Therefore, nobody has any further time for debate.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I move to table the amendment by the distinguished Senator from Delaware and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois [Mr. DIXON] to table the amendment of the Senator from Delaware [Mr. ROTH]. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The results were announced, yeas 49, nays 48, as follows:

[Rollcall Vote No. 273 Leg.]

YEAS—49

Adams
Baucus
Bentsen
Boren
Bradley
Breaux
Bumpers
Byrd
Chiles
Cochran
Conrad
Daschle
Dixon
Dodd
Dole
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McCain
McClure
Metzenbaum
Moynihan
Nunn
Pryor
Quayle
Reid
Rockefeller
Sanford
Shelby
Stennis
Trible
Warner
Wirth

NAYS—48

Armstrong
Biden
Bingaman
Bond
Boschwitz
Burdick
Chafee
Cohen
Cranston
D'Amato
Danforth
DeConcini
Domenici
Durenberger
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McConnell
Melcher
Mikulski
Mitchell
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Riegle
Roth
Rudman
Sarbanes
Sasser
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Wallop
Wilson

NOT VOTING—3

Gore
Simon
Weicker

So the motion to lay on the table amendment No. 740, was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1988

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, all time has been consumed on the pending resolution. There is a request for a rollcall vote. I have discussed with Mr. DOLE having that vote right now. He indicated that it would meet his approval.

I, therefore, ask unanimous consent that the Senate proceed now to the consideration of the continuing resolution.

I ask that the vote occur now.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 362) making continuing appropriations for the fiscal year 1988, and for other purposes.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The joint resolution having been read the third time, the question is, Shall it pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

SEVERAL SENATORS. Regular order, Mr. President. Regular order.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—70

Adams
Bentsen
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stennis
Stevens
Thurmond

NAYS—27

Armstrong
Baucus
Biden
Bingaman
Conrad
Daschle
Durenberger
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Karnes
Kasten
Leahy
McCain
McClure
Proxmire
Roth
Stafford
Symms
Trible
Wallop
Warner
Wilson
Wirth

NOT VOTING—3

Gore
Simon
Weicker

The joint resolution (H.J. Res. 362) was passed.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. INOUYE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the Byrd amendment in the second degree to the Weicker amendment.

Mr. DIXON. Mr. President, I ask unanimous consent that be set aside in order to proceed to other business.

Mr. QUAYLE. Reserving the right to object, we are going to set it aside to take up—I think we ought to specify what amendments, so it will come back. Otherwise you will set it aside indefinitely. I do not think you want to do that.

Mr. DIXON. Mr. President, my present understanding is that the distinguished Senator from Indiana has three amendments that are his amendments that have been cleared on this side. It is my understanding that the distinguished senior Senator from Hawaii has an amendment that is about to be cleared on their side; that the senior Senator from Pennsylvania, has an amendment cleared on their side under consideration. It probably will be cleared on our side. It is my understanding that the President, the occupant of the Chair, has an amendment that is being cleared on both sides; and that the Senator from Michigan [Mr. LEVIN] has an amendment that should be ready in about 45 minutes.

So I think we have seven probable amendments that could be disposed of, probably within the next hour timeframe if everything goes well.

Mr. QUAYLE. Reserving the right to object, the unanimous-consent request would then be amendment by amendment? Or are you asking unanimous consent en bloc?

I will offer an amendment, once the amendment is disposed of. Then the Byrd-Weicker amendment will come back and we will have to ask unaimous consent for that.

I think we probably ought to do it either en bloc, if we can get agreement on these amendments, or do it amendment by amendment.

Mr. WARNER. Mr. President, reserving the right to object, if I understood the manager of the bill, the acting manager, he stated that the senior Senator from Hawaii had an amendment that was about to be cleared.

We have made efforts to clear it. It is my understanding that the Senator who is the ranking member of the subcommittee having jurisdiction desires to come to the floor. He will have to speak for himself. It may be in opposition or it may be colloquy, but we are doing everything we can to expedite the amendment.

Mr. DIXON. Could I respond to my friend from Virginia by saying, if we could get to these amendments, they do not necessarily have to be agreed to. We can have rollcalls. We had one already today on the amendment by the Senator from Delaware.

We have people here ready to have their amendments considered. The Senator from Pennsylvania is ready; the Senator from Indiana is ready. I just want to move some business.

Mr. QUAYLE. Mr. President, reserving the right to object, my I suggest to my dear friend from Illinois that I am about to submit one of those three amendments. Before I offer that I will ask unanimous consent to set the Byrd-Weicker amendment aside in order to have my amendment go to the desk and I suggest that each offeror of an amendment do that. Therefore, you will have a clearing procedure here that the amendments, at least for the time being, will be basically those agreed upon. If that is all right, I would be ready to proceed. I have an amendment ready to offer.

Mr. DIXON. That is agreeable on this side, Mr. President, although I think it would be more expeditiously done if we just set aside the Byrd-Weicker amendment and go to his amendments as they come up from time to time, because we are working assiduously on them and we will have a decent number of them if we do not waste time discussing them.

Mr. QUAYLE. I do not think we are going to waste a lot of time. I think we are going to run into problems of which amendments you want to have come up.

Mr. DIXON. Mr. President, I ask unanimous consent that the Byrd amendment be temporarily set aside so we may consider three amendments by the Senator from Indiana.

Mr. WARNER. Mr. President, reserving the right to object, and it is not my intention to object, but you seek to set aside the Weicker amendment which presently has an amendment to it by the distinguished majority leader. The majority leader is still on the floor. There is one procedural aspect of the majority leader's amendment which possibly can be completed now.

At the time I asked for the yeas and nays, I wanted to allow him time to make possible changes to his amendment. I wonder if we might complete that procedural change before we lay these amendments aside.

Mr. BYRD. Mr. President, I am not in a position at the moment to supply the language. I am sure I will have one change. I want to have a few minutes in which to go over this language carefully on the expedited procedures.

Mr. WARNER. Mr. President, that satisfies me.

Mr. BYRD. I have no objection to getting the yeas and nays now if I am permitted to make the expedited procedural modification.

Mr. WARNER. That is quite agreeable. Could I restate my request for the yeas and nays on both the Byrd amendment in the nature of a substitute and the pending Weicker amendment?

Mr. BYRD. I misspoke myself. I would ask the Senator to withhold that.

Mr. WARNER. I will withhold.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Reserving the right to object, may I have some clarification as to what the amendments are? I keep hearing that there is this amendment and that amendment. What, specifically, is the amendment about that is about to be offered by the Senator from Indiana?

Mr. QUAYLE. Will the Senator yield for a response?

Mr. EXON. Yes.

Mr. QUAYLE. Mr. President, I will tell my friend from Nebraska that I have three amendments that have been cleared by both sides. They all deal with reports.

One is a report requirement of what NATO's military requirements may be after an INF agreement is reached.

A second amendment will be a report on the manpower for implementing the missile proliferation accord the United States reached with seven other nations.

One of the problems that I think we have, as we reduce United States and Soviet missiles, is the spread of missile technology to other nations. I brought this up in the committee and asked if the Defense Department had enough staff to monitor missile proliferation activities.

What this amendment does is to get a study on how the Department of Defense will implement the missile technology control regime, which the United States entered into April 16 of this year.

The third amendment is an amendment the Senator will be very familiar with. It is a consolidation of the existing SDI reports. Presently, there are three separate SDI reports. There is the annual report, the Quayle report, and also a Warner report on accidental launching. What we do is take those three reports and consolidate them into one.

You can see that these amendments are very noncontroversial. I predict, if we are able to proceed, we will dispose of three amendments in a period of less than 10 minutes.

Mr. EXON. Mr. President, I appreciate that fine explanation. Two of those amendments are under the jurisdiction of the subcommittee I chair. Now that I know what they are, I fully support them and have no objection.

Mr. QUAYLE. I thank the Senator.

The PRESIDING OFFICER. There is a request to set aside the Byrd-Weicker amendment so that the three amendments of the Senator from Indiana may be offered. Without objection, it is so ordered.

AMENDMENT NO. 741

(Purpose: To require the Secretary of Defense to submit a report to Congress regarding adequacy of NATO defenses in light of the proposed INF treaty)

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. QUAYLE) proposes an amendment numbered 741.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT REGARDING NATO DEFENSES.

(a) IN GENERAL.—The Secretary of Defense, in consultation with the Supreme Allied Commander, Europe, shall submit to Congress a report on the options available to the North Atlantic Treaty Organization (NATO) to ensure continued deterrence against war in Europe and continued NATO unity in light of the proposed Intermediate Range Nuclear Treaty (INF) between the United States and the Soviet Union. The report shall include, at a minimum, the following:

(1) Requirements for nuclear modernization of NATO.

(2) Non-nuclear forces that would be needed to support the operational concept of Follow-on-Forces Attack (FOFA).

(3) The status of improvements being made in the air defenses of NATO in Europe.

(4) Possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (a) not later than January 31, 1988, or before the President submits to the Senate for its advice and consent any treaty relating to intermediate range nuclear missiles in Europe, whichever occurs first.

Mr. QUAYLE. Mr. President, in summary, this amendment requests a report on the military requirement that NATO may have after an INF agreement, which I assume at some time will be approved by the Senate.

If that does happen, I think, we have to figure out what we are going to do as we move toward zero-zero.

There are four specific issues I ask the report to examine that deal with potential modernization programs, including conventional modernizations.

Also, I have been a strong proponent of looking at the air defense requirement, particularly, ATBM. INF will not touch Soviet missiles of 500 kilometer range or less. As a matter of fact, I believe that the really important issue will be not the SS-20 but the SS-21 and the SCUD upgrades and other shorter range ballistic missiles that fall below the 300-mile range presently in the treaty. My amendment would require an analysis of what extended air defense might be needed to cope with these remaining shorter range missiles.

Finally, Mr. President, I ask this report to look at possible conventional arms control proposals. Obviously, after we get beyond zero-zero in INF, we must examine what we ought to do in the conventional area.

I have a lot of concern with the proposed treaty but want to wait and see what the final details are. One of its positive features, though, is the unequal reductions it calls for. I believe unequal reductions would have to be applied to a conventional arms control agreement as well because of the vast conventional superiority the Warsaw Pact has in relationship to NATO. This will be covered in the report. We will have a better survey of the post-INF landscape.

I think in the spirit of trying to get information, I offer this amendment and am glad to have the support of the other side, particularly the chairman of the subcommittee.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have looked at this amendment and I think it is an important step in the right direction. I hope we can dispose of this matter favorably.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, as chairman of the Conventional Subcommittee, I wonder if I can ask my good friend a question on this.

We have worked very closely on conventional capability. As I read this amendment, there is no judgment rendered in the amendment on the current state of the conventional balance, nor is there any prejudgment as to what changes would be necessary, if any, in that balance, or as to what conventional arms control proposals would be appropriate.

This simply asks the Defense Department for a study as to what, in their judgment, would be necessary if anything relative to conventional capability or conventional arms control would have an effect on the balance. Is that correct?

Mr. QUAYLE. Yes; the Senator is correct.

What we looked at in the conventional area—and the Senator is a very astute Senator in this area and I enjoy working with him and look forward to further working with him in this area—there are two things that the amendment deals with in the conventional area. One, we want to look at potential conventional modernization programs that would be necessary in a post-INF environment because we are going to be relying more and more on conventional forces to provide for peace.

One of the other elements—and I know we have talked a lot about this, and it is going to be a major issue of discussion—is what should we be doing with any kind of conventional arms control proposals.

I think this is going to be on the table. I think we are going to be discussing this. I know the Senator from Michigan talked to me privately about how we can begin to develop the consensus of what we ought to do.

There is really no prejudging. We are asking for—the Senator from Michigan and I worked together on this committee and other committees—information. We want to get the thinking of NATO, the thinking of our military planners over there. We want to start to lay it on the table. The best way to come to good conclusions and good decisions and make good public policy is to get as much information on the table as possible.

That is the thrust of the amendment.

Mr. LEVIN. I thank my friend for that assurance because he knows as he participated in scheduled hearings on the conventional weapons and on conventional arms control. I wanted to be certain there was nothing in this amendment or assumption behind it relative to a conclusion. We are simply seeking facts and opinions. We make no assumptions or conclusions ourselves in this amendment.

Mr. QUAYLE. There are no conclusions. Let me read it. Nonnuclear forces that would be needed to support the operational concept of the follow-on forces attack. That is a very important concept that we have in our military doctrine. And the other one, possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces. The report in no way says what the numbers should be, asking simply for information. We hope to get a very detailed, thorough report. I think this is going to be a very important report. I think what they say on this will be very instrumental in the deliberations in our subcommittee and quite frankly, in the entire Senate.

Mr. President, my amendment requests a report on the problems and opportunities NATO will face after the INF Treaty is signed and the nuclear missiles are destroyed.

There are two reasons for requesting this report at this time. First, both the United States Department of Defense and NATO military and political authorities have been conducting studies on a post-INF Europe since the Iceland summit in 1986. Since one set of analysis is being done for the executive branch, and the other set for NATO, the results will not necessarily be made available to Congress. The report requested under my amendment would have to draw from these other studies, thus providing Congress with their insights.

Second, there are other questions which I believe many of my colleagues share with me that may not be addressed by ongoing official studies, yet are an integral part of the balance of forces equation in Europe, both before and after the elimination of INF missiles.

Specifically, my amendment requests analysis in four general areas: nuclear modernization, nonnuclear modernization, air defense requirements and progress, and nonnuclear arms control possibilities. This amendment simply asks for information. It does not prejudge or in any way anticipate the answers.

But it is important to note two things the request in my amendment does do. It acknowledges that the Supreme Allied Commander, Europe, may have views that differ from the Joint Chiefs of Staff, and that these views should be explicitly taken into account by the Secretary of Defense in responding to this request.

Furthermore, this request recognizes the NATO's continuation and success is at least as dependent on political unity and will as it is on maintenance of military force and deterrence of war, and that the effect of an INF agreement on these intangibles should be a primary factor is considering force deployment and arms control options after INF.

The Senate must be fully aware of all the costs and opportunities represented by the INF Treaty. Passage of this amendment will ensure that the Congress recieves the best information and analysis on some of the key issues. This information will be central to the Senate's consideration of INF Treaty ratification.

Mr. LEVIN. I thank my friend.

I ask unanimous consent I be listed as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 741) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 742

Mr. QUAYLE. Mr. President, in accordance with the unanimous-consent agreement, I send my second amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 742.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, add the following new section:

SEC. . REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.

(a) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime, describing the number and skills of personnel currently available in the Department of Defense to perform these functions, and assessing the adequacy of these resources for the effective performance of this mission.

(b)(1) The report described in subsection (a) shall identify the total number of current Department of Defense full-time employees or military personnel, the grades of such personnel, and the special knowledge, experience, and expertise of such personnel to carry out each of the following Missile Control Technology Regime tasks:

(A) Review of private-sector export license applications and government-to-government cooperative activities.

(B) Intelligence analysis and activities.

(C) Policy coordination.

(D) International liaison activity.

(E) Enforcement and technology security operations.

(F) Technical review.

(b)(2) The report shall contain the Secretary's assessment of the adequacy of staffing in the categories specified above in sections (b)(1)(A-F), and shall make recommendations on measures, including legislation if necessary, to eliminate any identified staffing deficiencies, and to improve interagency coordination.

Mr. QUAYLE. Mr. President, a few months ago this Nation signed a very important agreement concerning missile proliferation that quite frankly has been overlooked in the debate of where we are going to go in the future with ballistic missiles and particularly with nuclear weapons. We have been consumed and perhaps rightly so with INF, with START, although I believe there are other issues such as missile proliferation that we ought to be talking about with the Soviet Union. But this missile proliferation agreement was signed on April 16 with important countries: Britain, France, Germany, Italy, Japan, and Canada. Unfortunately, some very important countries are missing, particularly China, India, and the Soviet Union.

But if we are going to come to grips with nuclear ballistic missiles, we are going to have to look at the potential for missile proliferation beyond the two countries of the United States and the Soviet Union. I wish the Soviet Union were a signatory of this agreement. I hope at some time they will be. But it is a very important accord, as a matter of fact a historic accord that was signed. There was not much discussion about it. There should be.

This ballistic missile accord was a major step forward. The question is about some of the nonsignatories, like Brazil, India, China, particularly the Soviet Union, and hopefully they will come to the table and the sooner the better. Mr. President, since we have this accord, which, I believe, is a very good one, my amendment simply asks the Defense Department to look at how we are going to use the staff within the Department of Defense to implement the accord. How many times have you heard the discussion on this floor about compliance, about verification, about carrying out the treaty?

My own personal bias is that this report is probably going to come back and show there is inadequate personnel assigned to this area to deal with the implementation of this treaty. I think that is what is going to come back. My own first choice is really to add some personnel but questions about how best to do it were raised.

So I think this amendment which has been accepted on both sides will give us the facts, will give us the information that we can in fact see. I assume and I know it will be accepted.

The **PRESIDING OFFICER.** Is there further debate?

Mr. **QUAYLE.** Mr. President, my amendment requests a report from the Secretary of Defense on the manpower required to implement the missile technology control regime agreement announced earlier this year. We are all concerned about curbing the spread of dangerous technology. It's essential for true arms control.

That's the reason the United States, Britain, France, Italy, Germany, Canada, and Japan agreed last April to ban the export or transfer of cruise or ballistic missile technology to any nation that might use it for military purposes.

My concern is that we simply haven't dedicated enough full-time experienced staff to implement this agreement. The information I have is that we have no more than two experienced Government officials working full-time on this task.

If this information is even remotely correct, we are in trouble. To give you some idea of what's needed, the Defense Department currently has at least 170 officials working full-time just to monitor East-West technology transfers. There are over 250 officials Governmentwide assigned to this task.

To control the spread of dangerous technology including missile technology, requires people. My amendment gives the Defense Department an opportunity to identify just how many will be required.

I would probably add slots right now for this task but I think the Defense Department should tell us what it needs first. Their needs, however, will depend on what other resources agencies have dedicated to support or follow-up the Defense Department's efforts.

This is the information we need and will get from the Defense Department report.

Mr. President, I could say more about this issue and just how pressing the missile proliferation problem is. In fact, I already have. Rather than speak any further, I ask unanimous consent that the full text of an op-ed on missile proliferation I wrote for the Washington Post be printed following my remarks along with a chart reviewing the current missile inventories and development efforts of the Third World.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MISSILE WOES

(By Dan Quayle)

Not all military threats are created equal. Some are publicized but unlikely. Others get scant attention but are quite real.

Take missile proliferation. Its most recent manifestations—the cruise missile attack against the USS Stark and the Chinese sale of Silkworm cruise missiles to Iran—are bad enough.

Yet worse may be in store: smaller nations are developing ballistic missiles, and some will soon export them.

The Senate Armed Services Committee got an early warning about this when it held hearings in April 1986 on the emerging tactical ballistic missile threat in Europe, Asia and the Middle East. At that session, I released a Congressional Research Service report detailing the spread of missile technology to the Third World. The report examined missile development programs in India, Brazil, Pakistan, Argentina, Israel, South Korea and Taiwan, as well as existing missile arsenals in Syria, Egypt, Iraq, Libya and North Korea.

That was a year ago. Now no fewer than six new, large military ballistic missile programs are under way—and Libya and South Africa have programs of their own. Specifically, since April 1986:

Argentina has successfully tested its first solid-fuel rocket and announced plans to mass produce a longer-range version in late 1987 capable of reaching the Falklands.

Brazil has revealed plans to flight test a theater ballistic missile in mid-1988. Developed for export by the firm Avibras, this missile would have characteristic identical to Soviet missiles now deployed in Europe and in the Middle East. A rival Brazilian firm, Engesa, has announced it will compete by extending the range of the ballistic missile it is now testing.

Libya has begun development of a tactical ballistic missile to replace the Soviet missiles it actually fired against Italy last year.

South Africa has announced plans to develop long-range military missiles by the firm Armscor.

Taiwan has begun development of a ballistic missile that could reach Canton, Shanghai and Nanking.

India has announced it will test a variety of tactical missiles and intercontinental-range rockets in 1987. Meanwhile, our exports of supercomputers and antenna equipment have been held up for fear that they might be used in India's military missile effort.

Pakistan has begun a rocket program of its own in response to India's activity.

These are the facts. The question is, what are we going to do about them?

Much was made earlier this year of the missile technology export control agreement President Reagan reached with Canada, France, Germany, Japan, Italy and Great Britain. In fact, this ban on specific dangerous missile technology exports was generally praised.

There's been silence, however, on just how far we intend to promote it diplomatically. Merely controlling the missile exports of our closest allies is hardly going to do the trick. The problem is much bigger. For starters, none of the smaller nations now developing military ballistic missiles is even covered by the accord. Nor are the two largest missile technology suppliers—the People's Republic of China and the Soviet Union. Getting all of these nations signed on should be priority No. 1.

Our second priority should be to implement the obligations we've taken on. Right now the United States has only two experienced full-time government people working missile proliferation export control issues. Yet at least 80 full-time people work on nuclear export controls and well over 250 on East-West technology export control. If we are serious about enforcing missile exports controls, comparable numbers of experienced staff must be hired to monitor missile activities.

These steps should buy us time. With time, three other things can be accomplished.

First, we need to renew our security assurances to some of the problem nations listed above. Taiwan, South Korea, Pakistan and Israel, in particular, need to recognize that they have more to gain from maintaining their security ties with the United States than from developing offensive ballastic missiles of their own. Second, we need to make it expensive for fledgling nations to have missile forces. We should make it very clear that their emerging missile forces will remain extremely vulnerable to highly precise, stealthy, conventional long-range cruise missiles unless they spend heavily for air defense, missile hardening and mobile basing to protect them.

Finally, we need to develop antitactical missile defenses to protect our forces and allies abroad. The better these defenses are, the stronger we can make our alliances and the further we can reduce other nations' attraction to cruise or ballistic missile as a quick, cheap way to increase their regional influence.

This last point is critical. So long as nations think they can make a quantum jump in military power easily by acquiring missiles, many will try. What we've got to do is make sure that missile technology is difficult, expensive and militarily counterproductive for them. If we don't, this technology will spread faster than we can cope with it—so fast that it will make our current crisis in the Persian Gulf the least of our missile woes.

BALLISTIC MISSILES IN THE THIRD WORLD

Country	Ballistic missile program	Description
Argentina	Condor	100 km range, 400 kg payload.
Do.	Condor (upgrade)	800 km range under development, could be used against Falklands.
Brazil	X–40 (or SS–60)	68 km range, 147 kg payload, unguided, now in service.
Do.	SS–300 [1]	300 km range, 1,000 kg payload, similar to Soviet Scud-B now deployed in Middle East, to be operational by 1990.
Do.	MB/EE 150 [1]	150 km range, 500 kg payload, to be operational by 1990.
Do.	MB/EE 150 [1] (follow-ons).	350 km and 600 km range versions under development.
Do.	SS–1000 [1]	1,200 km range, 1,000 kg payload, under development.
Do.	Sonda IV	240–975 km range, 500 kg payload, operational space launch vehicle.
Do.	VLS	Space launch vehicle under development for low-earth orbit payloads, 1st launch expected 1989.
Egypt	SCUD–B	300 km range, U.S.S.R. supplied.

BALLISTIC MISSILES IN THE THIRD WORLD—Continued

Country	Ballistic missile program	Description
Do	FROG-7	70 km range, unguided, U.S.S.R. supplied.
India	Prithvi [1]	150 km range, 1,000 kg payload set for production by 1993.
Do	IRBM or ICBM [1]	Development reported.
Do	SLV-3	Operational space launch vehicle, could be converted into military IRBM 6 months after decision.
Do	ASLV	For space launch, tested 1987 (failure), 150 kg payload into low-earth orbit.
Do	PSLV	For space launch, 1,000 kg payload into low-earth orbit expected 1988–89.
Do	GSLV	For space launch, 1,000 + kg payload into geosynchronous orbit, first launch expected 1991.
Iraq	SS-21	120 km range, Soviet supplied.
Do	SCUD-B, FROG-7	Soviet supplied.
Do	ASTROS MLRS [1]	Brazilian supplied uses X-40 missiles.
Israel	Jericho	452–565 km range, 1,000–1,500 kg payload, operational.
Do	Jericho II	820–1,450 km range, in flight testing.
Do	Lance	130 km range, U.S. supplied.
Libya	SCUD-B, FROG-7	Soviet supplied.
Do	ASTROS MLRS [1]	Brazilian supplied.
Do	Iltissalat [2]	500 + km range missile project under development.
North Korea	FROG-7	Soviet supplied.
Pakistan		Begun development of space launch vehicle.
South Africa	SSM [2]	Development of long-range missile announced by ARMSCOR.
South Korea	Korean SSM (version I).	180 km range, adaption of U.S. supplied Nike-Hercules.
Do	Korean SSM [1] (version II).	220 to 250 km range.
Do	Honest John	7–37 km range, unguided, U.S. supplied.
Syria	SS-21, SCUD-B, FROG-7.	Soviet supplied.
Taiwan	Ching Feng	100 + km range, similar to U.S. Lance.
Do	Intermediate Range SSM.	960 km range, development reported.
Do	Honest John	U.S. supplied.

[1] New development detailed 1987 CRS report.

[2] Single-source report.

Mr. DIXON. Mr. President, this amendment is a good amendment. We can accept it. I congratulate my friend from Indiana. The report required by this amendment will provide the Congress with needed information on what additional manpower if any the Defense Department will require to perform its role in implementing the multinational agreement signed in April limiting the proliferation of missile technology.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 742) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 743

(Purpose: To consolidate reporting requirements relating to the Strategic Defense Initiative program)

Mr. QUAYLE. Mr. President, in accordance with the unanimous-consent request I send to the desk my third amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 743.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 24, beginning with line 20, strike out all down through line 14 on page 25 and insert in lieu thereof the following:

SEC. 234. REPORTS ON STRATEGIC DEFENSE INITIATIVE PROGRAMS

(a) IN GENERAL—At the time of the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each of the fiscal years 1989 and 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and other programs, if any, relating to defense against ballistic missiles. Each such report shall include the following:

(1) Details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles.

(2) A clear definition of the objectives of the Strategic Defense Initiative.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organization, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the antiballistic missile treaty.

(6) A review of possible Soviet countermeasures to specific Strategic Defense Initiative programs and an evaluation of the adequacy of the SDI programs outlined in this report to respond to such countermeasures.

(7) Details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials:

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending the United States Armed forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads,

(B) defending against an accidental launch of strategic ballistic missiles against the United States.

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits;

(E) providing early warning and attack assessment information and the necessary survivable command, control, and communications to facilitate the use of U.S. military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of U.S. population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(a) For each of the near-term military mission's listed in (8), the report shall include—

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish these missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach these operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of these architectures or systems against current and projected Soviet threats.

(b) REPEALS.—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3843), are repealed.

The PRESIDING OFFICER. The Chair reminds the Senator that we have an agreement on this of 10 minutes equally divided.

Mr. QUAYLE. I thank the Chair.

Mr. President, I will not take my 5 minutes. This amendment is an amendment that in fact would consolidate SDI reports. As I already stated to my friend from Nebraska, presently we have on the books three SDI reports essentially. We have the annual SDI report, we have the Quayle SDI report that looks at early deployment options, and we have the Warner SDI report that looks to defensive capabilities against an accidental launching.

What I would do in this amendment is essentially consolidate these three reports into one report. This makes great sense. We really have not changed anything from the last language. It has been worked out on both sides.

Mr. President, I rise to offer the following amendment to the bill—S. 1174—to authorize appropriations for fiscal years 1988 and 1989 for the Department of Defense activities. The overall purpose of this amendment is to consolidate reporting requirements relating to the strategic defense initiative program. Specifically, this amendment consolidates two existing and one proposed reporting requirement—first, the SDI annual report originally requested in section 1102 of the DOD Authorization Act of 1985, second, a report requested in section 234 of the current bill, S. 1174, that would report on the defense of the United States against accidental launch—offered in committee by Senator WARNER—and third, a report originally requested in section 215 of the DOD Authorization Act of 1987—the Quayle report—that would report on the SDI deployment schedule.

There are two specific purposes for this amendment. First, the report required by section 234—defense against accidents—and the one required by section 125—SDI deployment schedule—relate to evolving R&D programs. Therefore, it is only natural that Congress should receive periodic updates and recommendations, as is the purpose of the SDI annual report. In submitting the first SDI deployment schedule report on May 1987, the SDI office stated that it had produced only a preliminary document and that submittal was not intended as a final report. Hence, these two existing reports should be included as part of the proposed SDI annual report. Second, to lessen the burden on the SDI office for responding to congressional report requirements, the reports should be consolidated into one report instead of three. Each report, if done as individual reports, would require a security review, printing and other administrative details that would slow the overall report process down. This amendment reduces these requirements by almost half, meaning we will all receive our information in a more timely manner.

The PRESIDING OFFICER. Is there further debate?

Mr. DIXON. Mr. President, I congratulate again my colleague from Indiana. This is a very good amendment. This side is very happy to accept it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. QUAYLE. I yield back the balance of my time.

Mr. DIXON. I yield back the balance of my time.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Indiana [Mr. QUAYLE].

The amendment (No. 743) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, I am about to propound a unanimous-consent request to go to an amendment by the distinguished Senator from Pennsylvania as previously agreed to. But may I say, and I do not mean this critically of the other side, we have just disposed of three amendments by my friend, the manager on the other side from Indiana. We are going to an amendment by the Senator from Pennsylvania. My friend from Hawaii has been trying for at least an hour now to get an amendment that affects his State cleared on the other side. I wish we could try to accommodate some people over here a little bit as well because the Senator has been assiduously working the floor to get clearance.

We would very much appreciate a little consideration for those on our side who are waiting for clearance as well.

I might say after the Senator from Pennsylvania's amendment, we plan to go to an amendment that will probably require a rollcall by the Senator from New Jersey on religious apparel. I would ask please the other side try to accommodate some of our Members who are really wanting to bring up their amendments.

I ask unanimous consent that the Weicker-Byrd amendment be temporarily set aside, Mr. President, so that we can go to an amendment by the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, first, let me thank the Senator from Illinois for his accommodation of this Senator.

As to the matter of clearance for the Senator from Hawaii, this Senator is not one who is objecting in any way to that amendment. Indeed, I do not even know what it is.

I say to the manager of the bill that, in all likelihood, although this amendment can be debated quite briefly, I am going to request a rollcall vote on the amendment. If it would accommodate people, I would be happy to agree to postpone the vote until after the vote on the Lautenberg amendment, so that we did not interrupt people unnecessarily. I do not now make that request.

Mr. DIXON. Mr. President, this side is going to support the amendment of the Senator from Pennsylvania. However, if he still wants a rollcall vote and the Senator from New Jersey has no objection, I think we would just as soon go ahead and dispose of this amendment, and then we would immediately go to the amendment of the Senator from New Jersey.

AMENDMENT NO. 744

(Purpose: To restrict certain United States contributions to international organizations until certain actions to eliminate abuses of the United Nations system are undertaken)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DASCHLE). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ), for himself, Mr. COHEN, Mr. NICKLES, Mr. QUAYLE, Mr. MCCAIN, Mr. KASTEN, and Mr. BOREN proposes an amendment numbered 744.

Mr. HEINZ. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for each fiscal year by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

Mr. HEINZ. Mr. President, the amendment I have sent to the desk is cosponsored by several Senators—Senator COHEN, Senator NICKLES, Senator QUAYLE, Senator MCCAIN—and I suspect there will be others who may want to consider cosponsoring it. It is an amendment to the DOD authorization bill, which we are dealing with today.

Mr. President, the Defense authorization bill we are considering deals with our Government's most important function—the security of the United States. But our liberty cannot be ensured by weaponry alone, because Soviet military power is not the only threat we face. We also face a very real threat from Soviet espionage.

I am offering an amendment, along with Senators COHEN, NICKLES, QUAYLE, and McCAIN, that will help neutralize one Soviet espionage weapon, their abuse of the U.N. system. These flagrant abuses by the Soviets and by Warsaw Pact countries, their satellites, use American taxpayer dollars to subsidize Soviet espionage against the West and trample on the international principles of the United Nations.

The amendment I have sent to the desk, as I have said, deals with the United Nations, and it relates directly to our national defense. It deals with espionage, and the problem there is real. The danger is clear and present. The last Soviet national in the U.N. Secretariat who was arrested for espionage, Gennadiy Zakharov, was caught trying to gain access to classified technical information relating to the design of American fighter jet engines. That arrest was almost exactly a year ago, just on the eve of the Reykjavik summit. Although the consequences of that arrest are now history, the wider problem, which is the number of Soviet agents at the United Nations, the excessive use of secondment, the issue of salary skimming, all of which are related—none of those problems have been addressed to date. As a result, we still face an intelligence threat from the abuse of the United Nations, an institution that was created to promote, not to undermine, world peace. The threat we face is an avoidable threat, but we are not taking the measures we need to take to halt it.

As a starting point, it seems to me self-evident that taxpayers' dollars—and the United States is a very generous funder of the United Nations, to the tune of some $210 million a year—have no place in KGB pockets and that the KGB has no place at the U.N. Secretariat.

My amendment would withhold 50 percent of the United States assessed contribution to the United Nations in fiscal year 1988 until the President certifies that there has been significant progress in eliminating the worst Soviet abuse at the United Nations, which help them use the United Nations as a base for espionage activities. I offered a similar amendment to last year's continuing resolution. I emphasize that because it failed narrowly, but on the procedural issue of whether it was germane legislation on an appropriations bill. Although there was very little argument against the substance of my amendment, I want to point out, in case people are confused by either last year's vote or the way they may have voted last year, that what is most significant is that, although we had a very close vote on a procedural issue, where all amendments that were not germane were being tabled, another year has passed since that time and nothing has been done to end the abuse at the United Nations that this amendment specifies.

It is time the Senate went on record demanding that this Soviet trampling of the U.N. Charter come to an end.

The abuses I single out are the excessive secondment of Soviet bloc nationals to the U.N. system, the skimming of salaries from these employees for the benefit of Soviet bloc hard currency accounts, and the blatant control of Soviet bloc nationals in the U.N. Secretariat by their countries' missions to the United Nations.

Secondment is the assignment of individuals to U.N. work on a temporary, contract basis, as opposed to a career basis. It is a legitimate practice when properly controlled, because it allows poor member countries of the United Nations to keep their best-trained personnel and also allows some technically oriented U.N. agencies to exploit the skills of some highly expert personnel who would not be available on a permanent basis. But the Soviets use secondment to keep total control over their citizens in the Secretariat, and to control certain positions in the Secretariat over a long period of time.

Over 98 percent of Soviet employees are under secondment in the Secretariat. There are 200 in New York City and 800 worldwide.

This helps the Soviet bloc to use these supposedly U.N. personnel as de facto, on the job, day in and day out, extensions of their intelligence services. Virtually all Soviets working for the United Nations are on secondment. Last year, the United Nation's own reform committee suggested that there be a cap of 50 percent on secondment levels for each member state. My amendment gives that recommendation some force by tying U.S. funding to ending the Soviet bloc's flagrant abuse of the secondment process.

The other key abuse I address in this amendment is the salary skimming used by the Soviet bloc to gain dollars for their espionage operations. The Soviets are estimated by the U.S. intelligence community to skim some $20 million a year from their nationals who work for the United Nations. The Soviets are not the only ones who skim the salaries. My amendment does not specify the Soviets—it covers any country that undermines the independence of U.N. personnel by taking part of their paycheck.

Mr. President, the information that I have presented to our Senate colleagues in support of this amendment is derived most specifically from the report of the U.S. Senate Select Committee on Intelligence entitled "Soviet Presence in the U.N. Secretariat." That report was issued just over 2 years ago in May 1985.

I have checked with the Intelligence Committee and with members in our intelligence community in a position to know, and they assure me that as they look back at this report issued 2 years ago, with the benefit of additional information, its accuracy remains intact and has been verified and, secondly, they warrant that everything in this report remains virtually unchanged and therefore accurate today.

Mr. HEINZ. Mr. President, I thank my colleagues.

Let me just say in conclusion that if there are any of our colleagues who have doubts about this amendment I urge them to consider two more factors.

First, the successful effort by Senator KASSEBAUM to reform the U.N. budget system not only is successful in starting to bear fruit, but that success is a result of pressure brought in the very first instance here by the Senate, and finally agreed to by the Congress.

Second, I urge everybody to consider that the importance of the abuse of secondment, particularly by the Soviet bloc, is recognized by the administration.

The Reagan administration is now supporting the idea of a resolution in the General Assembly of the United Nations calling for a limit on the secondment of the assignment of U.N. personnel. My amendment will give the U.N. the incentive that it very much needs to make real changes.

Mr. President, I have to say that we cannot necessarily guarantee that the United Nations will heed this warning shot across its bow. I hope it does. I hope so because I consider myself a friend of that organization. I must say, however, I have been deeply disappointed in the response over the last 2 years by that organization to our requests for them to make these changes, which are not just consistent with the U.N. Charter, but are in effect urged by any literal or other reading of the U.N. Charter.

So I urge my colleagues to support this amendment.

I would only ask one other favor of my colleagues and that is their consent to print in the RECORD at this point an article I authored earlier this year for the Reserve Officers Association national security report that elaborates in greater length on the points I have made here on the Senate floor today. I so ask unanimous consent.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

U.N. CHARTER IS NOT A LICENSE FOR SOVIET SPIES

(By Senator John Heinz)

How do you as an American taxpayer react to the proposition that your taxes are going to pay for up to 200 Soviet spies employed by the United Nations to work against the United States? How do you feel about your hard-earned money, contributed by our country to the UN, being directly funnelled to help finance Soviet intelligence operations against the West?

The answer to these questions is obvious. The American taxpayer should not be financing Soviet espionage under any guise. The fact of the matter, however, is that these sorts of Soviet abuses of the United Nations system occur. These abuses are documented in public reports issued by the Senate Select Committee on Intelligence, which outline the ways in which Soviet espionage and foreign policy ends are served by Soviet nationals in the UN Secretariat, the permanent staff of the UN organization.

The Reagan Administration has started to crack down on espionage abuses by members of the Soviet embassy to the United Nations in New York by expelling Soviet diplomats identified as spies and placing restrictions on those who remain. It is time to take action to eliminate the Soviet spy nest that operates within the UN itself.

As Pennsylvania's senior United States Senator, I plan to force Congressional action this year to insure that the KGB infiltration of the United Nations is confronted, and that American subsidies to Soviet espionage are stopped.

Vivid proof of Soviet abuse of the UN system was the arrest and expulsion of the confessed Soviet spy Gennadiy Zakharov, who was in theory a UN civil servant. Zakharov, and every one of the other 800 Soviets who work for the UN, must take an oath to work only for the international purposes of the UN, and to not take instructions from any external authority or government. Clearly, Zakharov's oath was worthless.

Article 100 of the United Nations Charter, the legal basis of the UN system, states that in performing their work UN employees "shall not seek or receive instructions from any government or from any other authority external to the organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the organization." That is the basic code of conduct for all UN employees.

Soviet practice at the UN rips that code to shreds. The US intelligence community estimates that up to 200 of the 800 Soviet UN employees are full-time Soviet intelligence agents. The one quarter who are regular agents keep close tabs on the others, who must respond to their requests. And all 800 Soviet UN employees must report to the Soviet mission to the United Nations, which briefs and monitors them, a blatant violation of their oath as international civil servants.

To add insult to injury, the Soviet intelligence apparatus uses American taxpayers' dollars, skimmed off the salaries of Soviet nationals who are UN employees, to finance spying against the United States.

The kickback scheme, under which Soviet employees of the UN turn over their paychecks to the Soviet mission and get only a portion in return, nets the Soviets some $20 million a year, according to US intelligence estimates. This money helps underwrite Soviet diplomatic and espionage activities in the US. Some other countries are rumored to skim the pay of their citizens who work for the UN, but the Soviets are the only ones who use the dollar proceeds of this salary-skimmed directly against the United States—for espionage and subversion.

Another Soviet abuse that tramples on the UN Charter is known as secondment. Under this practice, instead of joining the UN as a career civil servant, persons are assigned temporarily to the UN. This practice was created to protect the smaller UN member countries, who wish to have a presence in the Secretariat but who fear losing their best educated citizens to the relatively comfortable and well-paying United Nations system.

Everyone uses secondment to some extent. The United States has about 20 percent of our citizens working in the UN on temporary assignment. The Soviets, however, have virtually 100 percent of their nationals working at the UN on short-term contracts. This directly violates the letter and spirit of the UN Charter, but it allows the Soviets to keep their citizens in the UN in line and in liege to Soviet, not UN, interests.

Last September the Senate considered my amendment to withhold all UN assessed contributions to the UN until the Secretary General, Mr. Javier Perez de Cuellar, at least undertook an investigation of the Soviet abuses I have described. It fell by a vote of 46-53 on procedural grounds. I believe that with enough education about Soviet abuse of the UN system, a vote on the merits of this issue will produce victory for my proposal.

The United Nations has been put on notice by the Congress that Soviet abuse of the Secretariat will not be tolerated. In 1985, a law was passed requiring US State Department efforts to end the salary kickbacks I described earlier. Last year the US reduced its assessed contribution to the UN because no progress has been made in eliminating the kickback scheme.

But when the US asked the Secretary General of the UN to investigate the salary-skimming scheme, he answered that he had no evidence of the practice and that investigating it would violate the privacy of UN staffers. He gave America, and American taxpayers, the back of his hand.

Unless clear steps are taken by the UN itself to address the Soviet bloc assault on its integrity, Congress must take very strong action, using our budget contributions as leverage, to speed the process along. I plan to initiate this strong action by proposing an amendment that will force the United Nations to confront the cancer within its heart, the Secretariat.

Americans stand for justice and peace not only at home but around the world. They would like to think that the United Nations, an organization created with American support to uphold these values, can make a contribution to a better world. But Americans demand that the UN start by putting its own house in order. This means an end to Soviet bloc espionage that mocks the goals for which the organization was established.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DIXON. Mr. President, I am willing to offer the sufficient second. Does the Senator know we are willing to accept this on our side?

Mr. HEINZ. Yes. I tell him why I am going to have to ask for a vote on this amendment. As I mentioned at the outset last year this amendment was, although narrowly, nonetheless defeated on a procedural vote. I do not want the administration or the prople at the United Nations to think that this is one of those exercises that we kind of took the amendment to dispose of it in conference.

Mr. DIXON. Very well.

Mr. HEINZ. I need a record vote to put the Senate on record on the merits.

Mr. DIXON. If I may say, then, this amendment appropriately addresses a flagrant and unacceptable situation in the United States concerning the assignment of members in the Secretariat. The manager on this side will accept it.

Mr. President, may I further say after this rollcall a debate will begin on Senator LAUTENBERG's amendment on wearing apparel, 1 hour evenly divided, and there will be another rollcall after this rollcall.

My friend from Pennsylvania is asking for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEINZ. Mr. President, I ask unanimous-consent that Senators McCLURE and SYMMS be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Pennsylvania. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON] and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

I further announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays zero, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—95

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NOT VOTING—5

Gore
Kassebaum
Simon
Stennis
Weicker

So the amendment (No. 744) was agreed to.

AMENDMENT NO. 745

(Purpose: To authorize the Secretary of the Army to convey certain lands at Fort DeRussy, HI, to the State of Hawaii and the city and county of Honolulu, HI)

Mr. INOUYE. Mr. President, I believe the schedule calls for the recognition of the Senator from New Jersey [Mr. LAUTENBERG] at this stage. However, he has most graciously yielded to me time to bring up my amendment with the understanding that his place will not be lost.

The PRESIDING OFFICER. If the Senator will suspend, the regular order is the Byrd-Weicker amendment. Without objection, that amendment will be set aside.

The Senator from Hawaii.

Mr. INOUYE. Mr. President, I call up my amendment which is already at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 745.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. 2826. LAND CONVEYANCE, FORT DE RUSSY, HAWAII

(a) IN GENERAL.—Notwithstanding any other provision of law restricting the sale, lease, rental, or other disposition of any lands which comprise a portion of Fort DeRussy, Hawaii, the Secretary of the Army may convey to the City and County of Honolulu, Hawaii, at fair market value (as determined by the Secretary), all right, title, and interest of the United States in and to not to exceed 45 acres of land (together with improvements thereon) which lie northeast of Kalia Road in Honolulu and which constitute a portion of Fort DeRussy, Hawaii.

(b) AUTHORITY OF THE SECRETARY TO ACQUIRE OTHER LANDS AND CONSTRUCT REPLACEMENT FACILITIES.—The Secretary may acquire land in the vicinity of Honolulu, Hawaii, and design and construct on such land such facilities as may be necessary to replace those facilities on the land conveyed pursuant to subsection (a). The Secretary may also relocate activities currently located on the land conveyed pursuant to subsection (a) to the replacement facilities.

(c) USE AND DISPOSITION OF FUNDS.—The proceeds of the sale authorized by subsection (a) shall be available without fiscal year limitation to acquire land and replacement facilities authorized to be acquired and constructed pursuant to subsection (b) and to pay associated relocation costs. Any funds which may remain after the acquisition of such land and replacement facilities and the payment of associated relocation costs shall be deposited in the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City and County of Honolulu.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance authorized in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Thank you very much, Mr. President. This amendment authorizes the Secretary of the Army to convey title to the inland portion of Fort DeRussy to the State of Hawaii and to the city and county of Honolulu, if he so wishes.

For the past 4 years, this provision has been a part of the defense bill as it left the Senate.

For the past 4 years, there was different language. This amendment has discretionary language, as the Secretary wishes. This language has been cleared on both sides.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, it is not my intention to interfere with matters of concern to Hawaii, but I want to focus solely on the welfare of our armed services personnel who use the beachfront portion of Fort DeRussy which is provided. This is used by our Armed Forces personnel for a recreation center and has been for a long time. That is my concern. I do not want the welfare of our Armed Forces personnel to be damaged by the adoption of this amendment, and in no way would their future welfare be jeopardized in any respect.

If the Senator from Hawaii can give assurance on that point, it would be helpful.

Let me ask further if this amendment has been part of the bill for the past 4 years, why it has been apparently rejected or stricken in conference?

Third, if the Senator from Hawaii can tell us whether or not the administration supports the pending amendment.

Mr. INOUYE. This amendment was drafted by the Secretary of the Army and approved by the Secretary of Defense. I submitted the amendment in behalf of the Secretary of the Army.

I can further assure my friend that if this conveyance is made at fair market value, the State of Hawaii will be prohibited from reselling this or leasing this to private concerns to build hotels or anything else. The State of Hawaii intends to make this into a park, thereby enhancing the value of the R&R center for the military.

Mr. HUMPHREY. I thank the Senator for his response. I thought we should establish through colloquy the legislative intent.

Is that the only beach which the Armed Forces personnel may use because of the easy access in the Honolulu area?

Mr. INOUYE. With a few exceptions in Hawaii all beaches are public beaches. This beach is owned by the U.S. Government and it will stay so.

Mr. HUMPHREY. Perhaps a better way to phrase the question would be to ask if this is the only beach in the Honolulu area to which the Department of Defense armed services personnel have first rights of access?

Mr. INOUYE. No. You have several beaches in Honolulu, one being at the Marine air base. The whole island is the State of Honolulu, technically. There are several beaches available to the military. Obviously, of the beaches, the beach at Waikiki is the most desirable.

Mr. HUMPHREY. This is the only beach at Waikiki which the Armed Forces have the first right of refusal.

Mr. INOUYE. That is right. And it will be preserved.

Mr. HUMPHREY. I do not want to impinge upon the enjoyment of that historic right in any way.

Mr. INOUYE. I guarantee we will not.

Mr. HUMPHREY. I thank the Senator.

Mr. WARNER. Mr. President, I wish to first thank the distinguished ranking member of the Subcommittee on Armed Services, Mr. HUMPHREY. He brought up very valid questions. I may say there are two sailors back here who enjoyed the benefits of this beach. I would say there is more romance and lore connected with that small piece of beach than anything else in Hawaii.

I have sat through the Armed Services Committee conferences and have watched this committee go back and forth. I thought there would be a concern that somehow there would be a compromise of all that glorious chapter in history created by the men and women of the armed services who have enjoyed the beach for years.

However, I recognize your problem, that there is that little uncut diamond of Waikiki Beach. It should not be developed. It should be kept as a park. It would be my hope that somehow there would still be a little preferential treatment to the benefit of the Armed Forces, along with the other general public who would still have access. I am sure the Armed Forces will be good trustees as this progresses.

Mr. INOUYE. I am sure.

Mr. HUMPHREY. Mr. President, if the Senator will respond to one further question, I want to be sure that the parcel which is not involved in this amendment, the beachfront parcel, the parcel which is at the Pacific Ocean, is in no way affected by this amendment. In no way will access by Armed Forces personnel to that beachfront parcel be affected by this amendment.

Mr. INOUYE. The beachfront parcel is not affected by this law. In fact, beachfront is protected by law.

Mr. HUMPHREY. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

Mr. CHAFEE. The distinguished Senator from Hawaii and I have discussed this privately. It is my understanding that should the city and county of Honolulu decide to no longer maintain title to this property, it would not have the right to sell it to some developer.

Mr. INOUYE. The Senator is correct.

Mr. CHAFEE. It either would remain in perpetuity as a park or else would revert to the Armed Forces of the United States.

Mr. INOUYE. That will be one of the conditions that the Secretary of the Army will face in his conveyance.

Mr. CHAFEE. I thank the Senator.

Mr. WARNER. Mr. President, in all likelihood we will now proceed to an amendment to be offered momentarily by the Senator from New Jersey. I wonder if the Senator would forebear for just a matter of 2 or 3 minutes. Another colleague has been waiting literally for 3 days to do an amendment which I think has been cleared on both sides. It is cleared on this side. I will inquire of the manager.

Mr. INOUYE. May we dispose of this amendment?

Mr. WARNER. Certainly.

The PRESIDING OFFICER. Is all time yielded back?

Mr. GLENN. We have no objection. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 745) was agreed to.

Mr. INOUYE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I have an inquiry. If I do forebear as the majority manager requested, is it understood that the Chair will recognize me next?

Mr. WARNER. That is our understanding; yes.

Mr. McCLURE. Will the Senator yield for a unanimous consent request?

Mr. LAUTENBERG. I am happy to yield for that purpose.

Mr. McCLURE. I ask unanimous consent that the pending amendment be temporarily set aside so that the Senator from Idaho may offer an amendment which has been agreed to on both sides, and that the Senator from New Jersey would then be recognized to offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 746

(Purpose: To provide for an acquisition strategy for a new production reactor)

Mr. McCLURE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. McCLURE] for himself and Mr. SYMMS offers an amendment number 746.

Mr. McCLURE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 216 following line 8, insert the following new section:

SEC 3133. ACQUISITION STRATEGY FOR A NEW PRODUCTION REACTOR.

(a) The Secretary of Energy shall submit to the committee on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the secretary for new production capacity as soon as possible after the date of enactment of this act, but not later than February 1, 1988.

(b) The report in subsection (a) should contain but not be limited to, an evaluation of the alternative sites and technologies, including all safety features considered, their associated costs and schedules, and the recommendation of the Secretary of Energy with respect to the preferred alternatives. The report in subsection (a) shall also include the recommendations of the Secretary of Energy with respect to an acquisition strategy, either in a phased approach or concurrently, for eventual procurement of two reactors with different technologies in different locations.

Mr. McCLURE. Mr. President, as I mentioned just a moment ago, this has been discussed extensively by staff over the last 3 days. I believe it has been cleared on both sides of the aisle.

M. GLENN. Mr. President, I have been advised that while these discussions have taken place, there may be some of this—while we are happy to accept it this morning as a result of these discussions—wording that we may want to reconsider in conference. But we will be glad to accept it this morning with that proviso.

Mr. McCLURE. I understand.

The PRESIDING OFFICER. Is there further debate?

Mr. THURMOND. Mr. President, I support the amendment of my friend from Idaho. The amendment essentially puts into legislative language the reporting requirement that the Senate Armed Services Committee included in its report on the fiscal year 1988-89 defense authorization bill.

Mr. President, I believe it is important that the Department of Energy does not perceive in this study request any lessening in the urgency that the Armed Services Committee believes should attend the procurement of a new production reactor. Our present nuclear materials production complex is fragile indeed, and we can ill afford today the indecision that accompanied earlier consideration of a new production reactor. I would hope that the Department of Energy is able to complete this study before the February 1988 deadline, and that the initiation of planning and design activities on a new reactor can proceed on the urgent basis that is fully justified by the criticality of the requirement.

Mr. WARNER. Mr. President, I have worked with my distinguished colleague on this amendment. There is no objection on this side.

Mr. McCLURE. Mr. President, I thank the Senator from Virginia, and the managers on both sides of the aisle for working with us in developing this language.

Mr. SYMMS. Mr. President, I am pleased to cosponsor the amendment offered by Senator McCLURE that provides for an acquisition strategy for a new production reactor.

Recent events have severely damaged this Nation's nuclear materials production capability. It's become quite clear that we may well be vulnerable to the disruption of our nuclear materials supply so that the requirements of the President's nuclear weapons stockpile memorandum cannot be met. The decision by the Department of Energy 2 years ago to delay the construction of a new production reactor was unfortunate, if not disastrous, and not only because that reactor was slated to be built in Idaho.

The Senate Armed Services Committee recognized the seriousness of the matter by providing language to this National Defense Authorization Act for fiscal year 1988 and 1989. This language includes a provision that directs the Secretary of Energy to submit a report to the Committee on Armed Services in both Houses of Congress, describing an acquisition strategy for a new production reactor as soon as possible. However, I believe the committee did not go far enough in that language, for they focused primarily on one new production reactor, and only suggested a two-phase approach where work would begin on one new reactor and planning initiated for a second new reactor.

The amendment Mr. MCCLURE and I are offering directs the Secretary of Energy to include in the acquisition strategy report recommendations for eventual procurement of two reactors with different technologies in different locations. This direction includes the requirement that DOE also look at whether these reactors would be constructed in a phased approach or concurrently.

The Nation's material's production complex is aged, and therefore very fragile. One new reactor cannot take the place of the five reactors we had operating in 1985. We must begin now, not only to plan for replacements for these reactors, but to build them, as quickly and as safely as possible.

Much of the world has changed since the present production reactors began operating. Safety and environmental concerns have heightened, and rightly so, to such an extent that they share equal status with the Nation's need for these critical materials. We can no longer make our decisions with respect to the future of our weapons complex in a vacuum; we must weigh the safety and environmental goals against the very security of our Nation as a whole in an effort to achieve both goals.

Nuclear arms control treaties must never be predetermined by our own shortsighted decisions. However, history shows us that budgetary constraints have made DOE defer repeatedly a program to address the future materials requirements until the matter has reached this crisis level. If once again we agree to a piecemeal, patch up program for our critical nuclear material production, we will very quickly be facing a similar crisis.

I am convinced that this legislation is necessary to guarantee that the question of cost and funding for the urgently needed replacement reactors will be addressed now by all of us: Congress, the Department of Defense and the Department of Energy. Two reactors begun concurrently at two sites will protect the Nation from the present situation ever happening again. Concurrent construction would minimize or resolve the possibility that technologies and regulatory risks associated with some reactor types could delay the deployment of an NPR. It will also provide us with a unique opportunity to draw from our most advanced state-of-the-art technologies so that within 10 years we will be able to open the door on the safest, most environmentally benign reactors that this country has ever built for any purpose.

Mr. McCLURE. Mr. President, a short history lesson on this subject would help the Members understand and better appreciate the genesis of this amendment that Senator SYMMS and I bring to the desk.

Four years ago, the Department of Energy embarked on a course that would have lead to the design, siting, and construction of a new production reactor to compliment and ultimately replace reactors in our aging complex of existing materials production reactors, located at Hanford, WA, and at Savannah River, GA. If the department's plan had gone forward, construction activities on a new production reactor [NPR] would be in full swing by now, and we would have had the new facility in operation by the early 1990's.

Unfortunately, the plan was derailed in its infancy, and we find ourselves today at the same crossroads where we were 4 years ago, only this time, with far more serious implications surrounding the issue than ever before.

A lot of things concern me about the Department's cancellation of its original NPR plans, not the least of which is the fact that the facility would be sitting in Idaho, had we moved forward. But even more troublesome than the loss to Idaho is the loss to the Nation of 4 years of precious time that we now realize, with perfect hindsight, was so important.

We cannot get those 4 years back, but we can begin now to initiate and implement a plan that will provide the new materials production capacity that will surely be required in the not-to-distant future.

The facts that were perhaps unclear 4 years ago are crystal clear today: we have a materials production complex that is showing its vulnerability to aging and safety concerns which—whether real or perceived—cannot be ignored.

The amendment we offer today augments the directive that Congress has already laid out in every defense-related appropriations and authorization vehicle now moving through Congress: the Department of Energy must proceed with the planning, design, siting, and construction of new production capacity in the next fiscal year. This amendment augments that directive by delineating an aquisition strategy that will consider the procurement of not one, but two reactors—either concurrently or in a phased approach—using two different technologies at two different locations.

I am convinced that the Department of Energy, in its deliberations over a new production reactor aquisition strategy, will ultimately see the merit, if not the absolute necessity, of a two-reactor approach. From the perspectives of need, safety, and national security, it makes utmost sense to consider two reactors, two different technologies, and two separate locations. This amendment recognizes that fact, and is meant to enhance, rather than sidetrack, the Department's already difficult task of coming to grips with the Nation's materials production needs.

I intend to pursue this subject matter in greater detail at a hearing that the Committee on Energy and Natural Resources has scheduled for October 20, but for today, I am satisfied that adoption of this amendment will get us on the right track toward providing an adequate and secure supply of nuclear materials to meet our future defense needs.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, I wish to thank the Senator from New Jersey.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Idaho [Mr. MCCLURE].

The amendment (No. 746) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. I thank the Senator from New Jersey.

AMENDMENT NO. 706

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. QUAYLE. Mr. President, parliamentary inquiry: Does the Senator from New Jersey have to set aside the Weicker-Byrd amendment?

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from West Virginia and the Senator from Connecticut will be temporarily set aside.

Mr. QUAYLE. For this amendment?

The PRESIDING OFFICER. Yes.

The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. Lautenberg] (for himself, Mr. Simon, Mr. Wilson, Mr. Specter, Mr. Bradley, Mr. Proxmire, Mr. Pryor, Mr. DeConcini, Mr. Metzenbaum, Mr. Bingaman, Mr. Daschle, Ms. Mikulski, Mr. Kerry, Mr. Levin, Mr. Reid, and Mr. Wirth), proposes an amendment numbered 706.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill:

SEC. . WEARING OF RELIGIOUS APPAREL BY MEMBERS OF THE ARMED FORCES WHILE IN UNIFORM.

(a) In General.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 774 as section 775; and

(2) by inserting after section 773 the following new section 774:

"SEC. 774. RELIGIOUS APPAREL: WEARING WHILE IN UNIFORM.

"(a) General Rule.—Except as provided under subsection (b), a member of the armed forces may wear an item of religious apparel while wearing the uniform of the member's armed force.

"(b) Exceptions.—The Secretary concerned may prohibit the wearing of an item of religious apparel—

"(1) In circumstances with respect to which the Secretary determines that the wearing of the item would interfere with the performance of the members' military duties; or

"(2) If the Secretary determines, under regulations under subsection (c), that the item of apparel is not neat and conservative.

"(c) Regulations.—The Secretary concerned shall prescribe regulations concerning the wearing of religious apparel by members of the armed forces under the Secretary's jurisdiction while the members are wearing the uniform. Such regulations shall be consistent with subsections (a) and (b).

"(d) Religious Apparel Defined.—In this section, the term religious apparel means apparel the wearing of which is part of the observance of the religious faith practiced by the member.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 774 and inserting in lieu thereof the following:

"774. Religious apparel: wearing while in uniform.

"775. Applicability of chapter.".

(c) Regulations.—The secretary concerned shall prescribe the regulations required by section 774(c) of title 10, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the date of the enactment of this Act.

Mr. LAUTENBERG. Mr. President, today I am offering an amendment to permit the wearing of neat and conservative religious apparel in the military. Under my amendment, such apparel would be permitted only if it does not interfere with the performance of military duty.

This amendment tracks S. 248, legislation I introduced earlier this year. That legislation now has 23 cosponsors, including Senators Moynihan, Grassley, Simon, Wilson, Specter, Bradley, Proxmire, Pryor, Levin, Leahy, DeConcini, Metzenbaum, Bingaman, Daschle, Wirth, Pell, Mikulski, Kerry, Gore, D'Amato, Reid, Inouye, Melcher, and Heflin.

Last year this amendment was defeated on the Senate floor by only two votes. Language identical to this amendment was approved as part of the House version of the Department of Defense authorization bill this year by voice vote, as it was last year.

I introduced this legislation in response to the 1986 Supreme Court 5-to-4 decision in Goldman versus Weinberger. In Goldman, the Court held that the military's perceived need for uniformity of dress, and for discipline, overrode the first amendment right of an Orthodox Jewish serviceman, Dr. Goldman, to fulfill his traditional Jewish obligation by wearing a yarmulke. Our amendment would permit Dr. Goldman to serve his country while at the same time allowing him to remain true to his religion. And it would permit others like him, of whatever faith, to do the same.

Because this amendment, and this issue, is broader than any one religion. It concerns the right of people of all faiths to serve their country without having to forsake their religious beliefs and practices. it would affirm the religious and ethnic diversity that have made America strong, not weak.

The primary philosophical objection to this amendment has been that wearing visible items of religious apparel may threaten the military uniformity necessary in building unit cohesion. While I appreciate and agree with the importance of unit cohesion and esprit de corps in the Armed Forces, I do not believe that wearing neat and conservative religious apparel threatens this principle.

To the contrary, it would strengthen morale by affirming that the military is a humane and tolerant institution. And as Justice Brennan made clear in his moving dissent to the majority opinion in Goldman, allowing religious apparel to be worn with a U.S. military uniform is an eloquent reminder that the shared and proud identity of U.S. servicemen embraces and unites religious and ethnic pluralism.

Although uniformity is claimed as an important value, the services easily permit other manifestations of religious diversity. Service members attend Christian, Islamic, Jewish, and other religious services. Barracks mates see Mormons wearing temple garments, and Catholics wearing crosses and scapulars. It is obvious that our services are made up of people from different faiths and ethnic backgrounds, and that diversity is America's greatest asset. It is no secret, nor should it be.

Further, I should point out that the record here and abroad on the wearing of religious apparel supports my position. In the Goldman case, for example, it was established that Captain Goldman himself, as well as many other members of the armed services, had worn yarmulkes for many years in the military service without any apparent disruption, difficulty, or adverse impact on military effectiveness.

And the dissenting justices pointed out there was no evidence in the record that the discipline of the Armed Forces would be subverted if Orthodox Jews are allowed to wear yarmulkes with their uniforms, nor did the Air Force offer any basis for such a contention as a general proposition.

Further, for decades, our own Army accepted Sikhs and allowed them to wear their turbans. It still allows them to reenlist under those conditions. Would an Army that believed that the wearing of turbans impaired morale permit these Sikhs to enlist year after year? I think not.

The Army has stoppped enlisting Sikhs since its lawyers voiced concern that if the Army tolerated Sikh turbans, it would have to allow saffron robes as well. So in changing its enlistment policy toward recruits who wear turbans as a matter of religious practice, the Army was objecting not to turbans but to saffron robes. It is my position that the wearing of robes might interfere with the performance of military duty, and would therefore probably not be permitted under the terms of this amendment. However, that would be a decision left for the services to make in the first instance, as would all decisions under this amendment.

There is ample evidence from other countries that wearing religious apparel does not interfere with the fighting spirit of the military unit. The Israeli Defense Forces, for example, have many servicemen who go into battle wearing yarmulkes. After successes in four separate wars, it is hard to argue that the yarmulke in any way interfered with their ability to wage successful war.

Furthermore, research by the Congressional Research Service indicates that in Canada, New Zealand, and India, Sikh and Jewish soldiers are permitted to wear their religious headwear and their religious artifacts with other standard items of clothing.

In the United Kingdom, Sikh members of the services are permitted to wear turbans, and to keep their hair long, if they choose. And the queen's regulations for the Royal Air Force, which generally require all personnel to remove their headdress while on duty before a judge or magistrate, specifically exempt members of the Jewish faith or other religions which require the head to be covered on solemn occasions.

Our own experience, and that of other countries on this question speaks for itself. There is simply no evidence that the wearing of visible religious apparel interferes with uniformity or unit cohesion.

Our citizens in uniform should not be deprived of their basic constitutional rights, such as the free exercise of religion, the minute they enter the military. There must be a compelling and supportable argument justifying such a prohibition. None has been made.

Some of the services have argued that the neat and conservative standard will be hard to apply, forcing them to make delicate and difficult distinctions between religious garb. But the services have a successful record of using the neat and conservative standard to distinguish acceptable from unacceptable jewelry. If we can make this distinction for neat and conservative jewelry, why can't we make it for religious apparel.

Certainly, the wearing of apparel central to the practice of one's religious beliefs is more important and worthy of review than the wearing of jewelry. The Air Force permits the wearing of up to three rings and one identification bracelet of neat and conservative but nonuniform design. This jewelry is permitted even if, as if is often the case with rings, it associates the wearer with a denominational school or a religious or secular fraternal organization. These items are not deemed to be unacceptably divisive. I cannot see why religious apparel that is neat and conservative would be.

In closing, I want to emphasize, once again, that this amendment is not confined to the wearing of yarmulkes, but addresses the wearing of any item of apparel that is part of the member's religious observance.

I would also like to note, for the record, that when this amendment was considered in the House, Representative DICKINSON, the ranking minority member of the House Armed Services Committee said on the floor of the House that he could think of no good reason why he should oppose this bill.

I urge my colleagues to approve the amendment, so that the practice of religion and service to one's country need not be in conflict.

Mr. President, I ask for the yeas and nays, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous-consent agreement, 30 minutes have been assigned to each side. The Senator from Ohio is recognized.

Mr. GLENN. I yield 5 minutes to the Senator from Alaska.

Mr. MURKOWSKI. I thank the Senator from Ohio.

Mr. President, I rise as the ranking minority member of the Committee on Veterans' Affairs. At the request of numerous organizations representing service members and veterans of all faiths, I feel compelled to express my concern regarding the amendment of the Senator from New Jersey, which would allow service members to wear religious apparel while in uniform. The American Legion, with over 2.5 million members, and the Military Coalition, representing 16 of the largest organizations for military personnel, do not support the amendment of the Senator from New Jersey.

Let me read the list of these organizations. They are as follows: Air Force Sergeants Association, Association of Military Surgeons of the United States, Commissioned Officers Association, Fleet Reserve Association, Marine Corps Reserve Officers Association, National Association for Uniformed Services, National Military Family Association, Naval Enlisted Reserve Association, Naval Reserve Association, Non-Commissioned Officers Association, Reserve Officers Association, the Retired Enlisted Association, the Retired Officers Association, U.S. Army Warrant Officers Association, U.S. Coast Guard CPO Association, and U.S. Coast Guard CWO and WO Association.

We have letters that have come to the committee, in the minority office, from the chief petty officers of the Coast Guard, the Adjutant Generals Association of the United States, assembled in Salt Lake City, and several others.

Mr. President, I am certainly aware that many Americans wear religious apparel in obedience to the doctrines of their faith. If the issue were simply a recognition of the role of faith and religion in our lives, there would be no debate. But that is not the issue, and I point out that religious freedom is certainly not in issue here. What is at issue here is good order and discipline brought about by uniformity in appearance and the ability to enforce standards.

The Senator from New Jersey has said it would be only if it does not interfere with official duties. The problem is, who is going to make that determination? Uniformity and cohesion, the fabric which binds a military unit together, cannot be achieved when the military uniform is not uniform. This amendment will fray that fabric. That is the issue.

The Department of Defense currently uses a directive which relies on visibility as the primary criterion with respect to dress and appearance. It provides the best means of accommodating the widest variety of religious practices without promoting religious tension. The wearing of religious apparel can be permitted during religious services and in some cases in the barracks or dining hall. Otherwise, visible wear is not permitted. That standard is one that can be evenly applied across the board. As Justice Stevens noted, concurring in the Goldman case, visibility is a "neutral, completely objective standard * * * not motivated by hostility against, or any special respect for, any religious faith."

Mr. President, if this amendment is adopted the Department of Defense could not apply this important standard of visibility. As a result, military leadership—unit commanders—will be placed in the difficult position of having to choose not just among turbans or crosses or whatever, but among religions and the reasonableness of the ways in which our service members may choose to express their religious preferences. And, you can be sure that, if the wearing of an item is disapproved, allegations will be made that the commander's decision is based on religious intolerance. And, you can be just as assured that the commander will have to defend himself against the lawsuit that will inevitably be filed.

And believe me, Mr. President, there is a wide variety of religious symbolism in this country. I am told—and I have a list—that the Veterans' Administration alone has some 25 different religious symbols which can be embossed on the grave markers provided for deceased veterans. There are also many different items of religious apparel which can relate to the practice of faith. This amendment does not say, Mr. President, nor can it constitutionally say, that the wearing of a specific item of religious apparel is permitted. It says that any item of religious apparel, such as, a turban, cross or whatever, "if neat and conservative"—a very subjective standard, I might add—can be worn so long as it relates to the practice of faith by the military member. What may be neat and conservative to one military commander may not be so to another.

I submit that any of the 25 emblems I hold in my hand could adorn a military uniform if the uniform is defined as uniform.

Although the print is getting a little smaller each year, I refer to Webster's dictionary for the definition of "uniform:" "Having always the same form; not varying." If we going to have uniformity, we had better have uniformity.

Mr. President, I suggest to my colleagues that this amendment creates many more problems than it solves. The issue is not religious freedoms. The issue is whether we write into law an arbitrary standard and then tell our military leaders to apply it as best as they can. Right now, they apply a very logical, neutral standard. I suggest to my colleagues that they ought to be permitted to continue to apply that visibility standard.

Mr. GLENN. Mr. President, I yield 5 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I consider this an unfortunate amendment and hope that it will not succeed.

First, I should like to emphasize the points that the distinguished Senator from Alaska has made. If this amendment were adopted, it would open the floodgates to all kinds of litigation in the Armed Forces in the interpretation of what the Senator from New Jersey means.

For example, what does his amendment mean in requiring that an allowed item of apparel be "part of the religious observance of the faith practiced by the member?" If the commanding officer attempts to question whether an article that the sailor or soldier is wearing is a piece of religious apparel, there are bound to be disputes as to what qualifies as part of the religious observances. That's point No. 1.

Point No. 2: Who is to judge what is neat and conservative? In my view, it is impossible to judge that. That is a standard that is certainly going to be litigated every time it arises.

Third, the Senator's amendment says that the item must not significantly interfere with the performance of the member's military duties. Note the words "significantly interfere."

Mr. LAUTENBERG. Mr. President, will the Senator yield?

To set the RECORD straight, the word "significantly" is not in the amendment. I just point that out to the Senator.

Mr. CHAFEE. The Senator must have changed the amendment from the one he submitted here, because the word "significantly" was in the printed amendment we have—in the original bill.

Mr. LAUTENBERG. That was last year's.

Mr. CHAFEE. In either case, with or without that word, we are opening the way to litigation in this. Those are the points that were raised by the Senator from Alaska, and I agree with them.

More important however, is the fact that the United States is made up of all sorts people from diverse backgrounds and of diverseidigious faiths, and that has been one of our great strengths. One of our other strengths has been that in this country we have not permitted diversity to breed divisiveness.

One of the great levelers of our society is the Armed Forces. When people enter the armed services, they become part of an institution that is not just for the rich, for the poor, the black, the white, the Episcopalians, the Greek Orthodox, Muslims, or what-have-you. There are no variations from the rules and regulations. They apply to everyone uniformly.

Indeed, our service men and women wear a uniform to make them part of the whole. The very word "uniform" says it all; it refers to unity, to making the unified effort. It is this unity that the United States has been able to achieve in our Armed Forces that has contributed to our victories in the wars.

I believe that one person wearing a crucifix or another symbol, hanging next to his pocket, for example, may promote divisiveness in his unit.

It has been pointed out that other countries do have this; that in the Israeli defense forces, which are surely one of the most efficient military forces in the world, yarmulkes and other forms of demonstration of religious faith are permitted. But in those countries there is a more homogenous population, and people tend to come from a more uniform religious background. Such is not true in the United States.

I think we would be making a big mistake to permit in this way the accentuation of the differences between the members of our military forces.

There is no need for this change. Indeed, we are now a voluntary service: anyone who comes into our military services comes in accepting the rules as they are. No one is allowed to be an exception to those rules. If they don't like the rules, they do not have to enlist.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Jersey.

Mr. LAUTENBERG. I yield to the Senator from Michigan 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. LEVIN. Mr. President, I support the Lautenberg amendment, and I hope we will today reverse the narrow vote by which a similar amendment was tabled in the closing days of the 99th Congress.

The only reason we are considering this amendment today is a few years ago the Supreme Court in a 5-to-4 decision upheld the right of the Air Force to deny a captain the right to wear a yarmulke. The Court decided the Air Force desire for uniform dress overrode the serviceman's right.

Orthodox Jewish members have always worn the yarmulke. They have done so without any impairment of military performance, without any impairment to the morale of the Armed Forces or the esprit de corps.

Justice Brennan, in a dissent to that Supreme Court opinion that I referred to, said that the practical effect of the Court's decision, was that "under the guise of neutrality and evenhandedness, majority religion is favored over distinctive minority faith" and pointed out that this is a result that the first amendment was intended to prevent. Justice Brennan concluded that the Court and Air Force had been presented with a painful dilemma, a choice between fulfilling a religious obligation and serving their country, and then expressed the hope that Congress will correct this wrong.

That is what I hope we do today. The accommodation we were seeking for certain religious apparel is one that already exists for decorative jewelry. The Air Force, which prohibits the wearing of a yarmulke for religious reasons, allows its personnel to wear up to three rings and one identification bracelet. The rings are permitted even if they identify the wearer as a member of a religious group or fraternal order. In other words, the neat and conservative standard which my friend from Rhode Island says is so difficult to interpret is already part of the Air Force regulations. They apply that standard to jewelry.

So these are not some words which are pulled in from the sky. The neat and conservative standard is already in the Air Force regulations and they have had practice in applying it. It has not opened up the floodgates or Pandora's box.

No one has ever argued that the regulation is the Air Force allowing jewelry which is neat and conservative and which can be religious in its symbolism has had a negative effect on morale.

Mr. President, in April 1984, President Reagan addressed the Baptist Fundamentalism Convention. He quoted the words of a rabbi, a 6th Fleet chaplain who attended the wounded at the Marine barracks explosion in Beirut, where 241 American servicemen died, and this is what the chaplain wrote and this is what the President of the United States quoted:

> Working with the wounded, sometimes comforting, simply letting them know help is on the way. . . .

the rabbi wrote—

> . . . my yarmulke was lost.

His yarmulke was lost.

> The last I remembered it, I used it to mop somebody's brow. Father Burelli, the Catholic chaplain, cut a circle out of his cap, a piece of camouflage cloth which would become my temporary head covering. Somehow . . . .

the rabbi wrote—

> . . . that chaplain wanted those Marines to know not just that we were chaplains, but that he was Christian and I was Jewish. Somehow we both wanted to shout a message in a land where people were killing each other based on their differences in religion that we Americans still believed that we could be proud of our particular religions and yet work side-by-side when the time came to help us to comfort and to ease pain.

The President quoted that in an emotional setting about religious diversity, about the specifics of a Rabbi taking off a yarmulke in order to help the wounded. These yarmulkes have never created a problem. If they do under this amendment, if they do, then the military discipline must dominate as it should, because this amendment says that if the wearing of this religious apparel would interfere with the performance of the member's military duties, then it can be prohibited. This amendment says that if apparel is not neat and conservative, the same standard that the Air Force has used on jewelry, then the apparel can be prohibited.

So this amendment preserves a balance. What it says is that if the apparel interferes with military duty or if it is not neat and conservative, it may be prohibited, as it should be.

But for heaven's sake, if it does not interfere with military duty and if it is neat and conservative, let us then preserve the pluralism that this country has always stood for.

The PRESIDING OFFICER (Mr. WIRTH). The time has expired.

Mr. LAUTENBERG. I yield 5 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 5 minutes.

Mr. WILSON. Thank you, Mr. President, and I thank my friend from New Jersey.

Mr. President, I have listened to this debate. I have participated in it in years past.

I think the Senator from Michigan touched us with his quotation of that rather stirring episode from the annals of real combat by an elite U.S. fighting force. I think anybody who had had contact with either the Marines, the Navy, the Air Force, the Army, knows that for many of the young men and women who are engaged in the armed services on our behalf, there is a great comfort in the presence of those chaplains of their particular faith.

What is the concern here? The concern is that religious headgear or religious apparel will interfere with the performance of a military mission, but this statute by its expressed language prohibits that. And it will not operate in a discriminatory fashion.

It is not in any way to demean the uniform, because it is prescribed to be neat and conservative.

Now, does that mean that it is left to the endless discretion of commanding officers who will come up with a hodgepodge of different decisions? I do not think so, Mr. President. I think we can trust the discretion, certainly, of the service Secretaries of the different services to prescribe through a regulation what is an acceptable standard.

You cannot put a helmet on over something that is very large, very cumbersome, very unwieldy. If we are to carry this to extreme and insist that uniforms are to be absolutely uniform, that we must insist on total uniformity, then we might even go to the absurd length of saying that we will not permit those who wish to wear crosses beneath their shirts, we will not permit them to wear the Star of David, we will not permit them to wear some other emblem on the chain. If that emblem were as big as a softball, even though it might be a legitimate religious symbol, it cannot meet the tests that are prescribed by this statute.

If there is a concern about interfering with the performance of a military mission, I would remind Senators that the practical effect of this statute largely will be to focus upon the wearing of yarmulkes by orthodox Jews. There is more than a little history, Mr. President, to demonstrate the fact that the wearing of this particular religious apparel does not interfere in the performance of military missions.

A military organization called the Israeli Army has made it rather clear that they have not suffered any loss of efficiency, of effectiveness, of fighting capability by virtue of the fact that many of their members wear this religious apparel.

So, Mr. President, let us dispense with the odd case with the horrible possible examples. The language here is clear enough to prevent them and at the same time to allow those young men and women in our armed services to in fact enjoy much of what it is that they are fighting for and that is an America whose tradition is not simply to tolerate diversity but to celebrate it, to sanctify it. That is why so many of our ancestors came here, for that and for opportunity of an economic kind. But they came to escape religious persecution and more to be able to worship as they choose.

If wearing religious apparel satisfies that basic need at no cost to the performance of military missions and at no cost to the preservation of the integrity of the American services' uniform, it is to be encouraged, not discouraged.

Mr. LAUTENBERG. Mr. President, I yield 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. METZENBAUM. Mr. President, it is almost amazing to me that we are standing here on the floor debating this issue. This is a nation that for so long has recognized the right of every person to pray as they believe, to worship as they believe. And certainly those in our military have the right to observe in their special way, without doing harm to anyone else, the right to wear a little hat, a little hat called a yarmulke on their head.

It seems to me that for us to have to make an issue of this is almost unbelievable in this day and age. Canada, New Zealand, and India permit their soldiers to wear an item of dress if that be their inclination.

As I see it, the right to wear an item of identification, an item of religious apparel, as long as it does not interfere with the military obligations and the military responsibilities of the individual, comes down to a simple question of civil rights, a simple question of civil liberties. And I so strongly feel that this legislation, which should have passed the last time it was on the floor, should be enacted as promptly as possible today. Why there would be any opposition, I have difficulty in understanding.

I understand an argument has been made that it is a matter of diversity. True, there is diversity. You go to Arlington Cemetery, you go to any of the military cemeteries, and there is a matter of a different kind of identification with respect to some graves as distinguished from others. And that is entirely as it should be.

But if there were some harm, if there were some loss, if there were some kind of ineffectiveness that might be caused to the American military forces by reason of recognizing the right of an individual to wear that piece of apparel that he or she wants to wear for religious purposes, then I would say this legislation should not pass. But that is not the case.

The fact is, nothing different will happen. In probably 90 percent of the cases the wearing of the little cap will probably never even be noticed by most members of the military. And for those who do notice it there will be kind of a respect that those individuals give to a fellow human being who has a strong religious commitment.

I think that to delay further in passing this amendment—and I commend my colleague from New Jersey who has fought for the passage of this amendment. Was it 2 years ago?

Mr. LAUTENBERG. It was earlier this session.

Mr. METZENBAUM. Earlier this session. It almost passed at that time. It should have passed.

Today I hope that the Senate, by an overwhelming vote, indicates its support for this necessary amendment.

I commend my colleague for being its sponsor and I am pleased to be a cosponsor with him of the proposed amendment. I hope the Senate will pass it by an overwhelming margin.

Mr. LAUTENBERG. I thank my colleague from Ohio.

Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. Seven minutes and 46 seconds.

Mr. LAUTENBERG. I ask the distinguished manager of the bill if I could take a couple more minutes now out of our time.

Mr. GLENN. I believe the distinguished Senator from Rhode Island would be next in normal rotation. Are you in a hurry?

Mr. CHAFEE. I just have one statement I want to make in response to the Senator from Ohio.

Mr. GLENN. I yield 2 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I think we ought to make it clear that this is not an amendment dealing with yarmulkes. The suggestion that this is solely to correct the Supreme Court case is not accurate.

This deals with any form of dress or article that meets the specifications within the legislation. Under this change, the serviceman or woman may wear any item of religious apparel—there is no reference to headgear in this, and I think that is important to remember. So we could be talking about turbans, we could be talking about crucifixes, we could be talking about any religious apparel or symbol one can imagine. Who knows which we are talking about?

Also I would like to make a point on the suggestion that New Zealand is a nation that permits this same variety of religious apparel to be worn as part of the uniform. We checked with the New Zealand Embassy and such is not true with New Zealand.

Finally, I would like to get back to the difficulties in the interpretation of this amendment. For example, is saffron a color that is neat and conservative? I pose that question. How about a saffron robe? Is that neat and conservative? we get into all kinds of interpretations here and difficulties that all lead not only to litigation, like the Supreme Court case we have already seen, but also to divisiveness. I believe that what we are trying to achieve in the military forces is uniformity, and not divisiveness.

For this and the other reasons I outlined, I hope this amendment will be rejected.

Mr. LAUTENBERG. Mr. President, I have so much respect for my colleague from Rhode Island. His service in the military is widely known. His service to the country on behalf of the services is greatly respected.

I would, however, take the liberty of disagreeing. My rank in the Army during World War II serving in Europe was corporal. And one of the things I always wanted was a garrison cap with a peak. I was never able to get that because my mother had been widowed while I was in the service. My father died as a very young man and I was required to send home whatever support I could to my family.

I did not like it when some of the other guys were looking quite so spiffy as they did and I had to stay with GI issue. I trimmed it up nice and neat. I kept my combat boots polished and I always looked pretty good. It sure did not affect my regard or my relationship for my colleagues.

Frankly, I do not see that we can discuss discipline in the military as if it hinged upon the kind of religious identification that one wears to manifest that affiliation. It is incredible to me that one would think that we could not discipline our troops, that a field commander could not say: "Follow my orders" because one guy is wearing a skullcap or another guy is wearing something else, when he has the liberty within this amendment to say: "Listen. Take that off. It interferes with your duty." We have given all the license necessary.

Frankly, I would have to tell you that if that is what our military service is dependent upon, solely conformity in the uniform, we are in deep trouble. There is a lot more to discipline. There is a belief in country. There is a belief in individuality. There is a belief that says, "I can stand up and I can be a good American and a good Jew or a good Muslim or whatever else I want to be and not be separated out from any others because I choose to wear an item of identification."

Mr. President, we are deciding a fundamental issue about America, about whether or not being a good American constitutes sticking up for your country and at the same time sticking up for a heritage and a religion.

We have seen in recent years that people have stood up and said, "Yes, my grandparents were Greek and my grandparents were Italian and my grandparents were Catholic," and so forth and so on. We have all sorts of salutes and festivals and parties and conferences devoted to recognizing differences in ethnicity and differences in religion, and it is widely respected.

Mr. President, we are at a point in time when we have debated this issue, I think, infinitely longer than it should be, and I want to correct my response to my colleague, my distinguished colleague from Ohio, that I had forgotten exactly what the timing was that we had considered this amendment before. It was last year when we were reviewing the defense authorization bill.

Mr. President, I hope that my colleagues will recognize that diversity is a precious characteristic of the American being and let us salute it and let us say at the same time that uniformity in purpose, uniformity in understanding our roles in society, that is what is going to provide the kind of discipline, courage, and commitment that we need. It is not going to be whether someone wears a yarmulke indoors, because immediately when it interferes with the performance of their duty the commander says: take it off. You are not able to perform your function as you should. Or if someone chooses to wear a turban: take it off. You are not able to perform a function.

If there is a challenge, so what? If there is a challenge if the court, frankly I think that is also an availability of redress that has long been part of our system and should continue that way.

No, we do not want to create lawsuits, and we do not want to create problems. What we want to do is say: You are free in spirit, you are free to make your choice when you serve in the military just as you are when you live your life every day in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I truly regret having to rise to oppose the amendment by the distinguished Senator from New Jersey. Perhaps this is, of all times of year, the very worst time to be opposing this on the floor of the U.S. Senate, from my standpoint. It is a time of high feelings in the Jewish community. It is the time of Rosh Hashanah, the time of Yom Kippur, of introspection, of family, of very deeply held religious beliefs and thoughts and feelings during this most holy time of the year for people of that faith.

So I truly do regret that I must oppose this amendment to authorize military members to wear religious apparel as part of the official uniform.

I have very great respect and understanding for the motivation of the sponsors of the amendment. Freedom of religious expression was one of the keys upon which this whole Nation of ours was founded and it is one of the freedoms which our military personnel are sworn to defend. I am afraid that this amendment, if passed, could undermine the essential discipline which is so key and so essential to our military services.

The issue of wearing items of religious apparel with the military uniform was considered by the Supreme Court in the case of Goldman versus Weinberger. In this case the Supreme Court, and I believe very appropriately, sustained an Air Force regulation governing wearing of the uniform which had the effect of prohibiting members from wearing religious apparel as part of uniform.

Mr. President, at the direction of the Congress the Secretary of Defense appointed a high-level group which included the Chiefs of Chaplains of each of the military services to review this entire issue. This review led to the publication of a new DOD directive, Department of Defense directive entitled "Accommodation of Religious Practices Within The Military Services."

Under the policy in this new directive, "Requests for accommodation of religious practices should be approved by commanders when accommodation will not have an adverse impact on the military readiness, unit cohesion, standards, or discipline."

The new policy relies on visibility, relies on visibility, I repeat, as the primary criterion with respect to the wearing of religious items with a military uniform.

Military members may wear religious items not visible or otherwise apparent. But wearing a visible religious item with the uniform is only permitted in certain limited circumstances such as in places of worship.

Mr. President, under this amendment, military members would be allowed to wear an item of religious apparel if the wearing of the item of apparel is part of the religious observance of the religious faith practiced by the member and if the item of apparel is neat and conservative. "Neat and conservative."

These criteria may sound simple and straightforward. But they will ultimately put military commanders in the precarious position of making extremely sensitive judgments on difficult matters of belief and religious practice, whether a platoon commander, a company commander, regimental commander, squadron commander, a ship's captain, or whatever.

For example, military commanders will have to decide whether a service member is, in fact, a follower of a particular religious faith. Not an easy thing to do in itself. Military commanders will have to decide whether the wearing of an item of religious apparel is truly a part of the religious observance of that particular faith. Certainly they cannot be expected to be experts in what is truly a matter of faith in all different religions we have in our country.

Military commanders will further have to make a judgment over whether a particular item of apparel is neat and conservative.

Military commanders will have to decide whether the wearing of the item interferes with the performance of the member's military duties.

Mr. President, these are very, very subjective judgments and to allow the wearing of some items of religious apparel and not others would inevitably create the impression of favored treatment for selected faith groups. But, Mr. President, I would like to address in a little more detail an item that is of particular concern and, to me, goes right to the heart of this whole thing. Because in addition to the above and the impositions on military commanders, in addition to that we have an impact of this inequity on unit cohesion and morale. Such an approach should raise legal challenges under the vague criteria of this amendment but let me address cohesion and morale, briefly.

Mr. President, when we have members come into the military they are sent through a boot camp, recruit training, and it is not just to make life obnoxious for those in the military. It has a purpose quite often not understood by those who have had only a short time in the military or have never been in the military themselves. It is the creation of a unit cohesion and morale where the individual members operate as one. The drill ground is not just to see if you can move a number of people around en bloc. It is so that people get ingrained into them, into their very bones, the idea that when a command is given they react and they react now and they do not question that command.

How do you get people to that state where, in combat, if you are going into combat a man knows if he jumps out of a foxhole and he goes over into machinegun fire to try to take an enemy ridge or throw hand grenades or whatever has to be done to win the battle, that he puts his life at risk for the other people that he is with? I have seen that happen and many Members of this body have been in combat and they have seen that happen. They have seen people deliberately risk their lives for others in their unit, because of that spirit of cohesion and the spirit of belonging to that unit, the fact that those lives of other men in that unit, be it a platoon or squadron or whatever, depend on them to do what they have been ordered to do without fear, favor, or question. No questioning, no debating. You react.

How do you instill that kind of sameness, of likeness, of lack of diversity which the military admittedly has? Lack of diversity is the very heart of it.

There is no debating. Each person knows they are the same and have the same responsibility. How do you get that?

You start off in boot camp. You strip off the civilian clothes, beards, hair, appurtenances, whatever they are in boot camp and you have a human body there that is taken down to the basic elemental levels of being a human being. You put them through all kinds of crude experiences and you put them through as a unit, together, and as they finally come together as a unit, they feel that they are part and parcel of that unit more than they are individuals themselves. And that does not overstate it.

I remember when I was a brand new second lieutenant I was in a squadron once, my squadron commander was Keith Haines. I have told this story on the floor of the Senate here before. I came in one day, back in World War II, and some of the people were coming back from Guadalcanal and those places and the marines were being written up for all the things that have happened there in World War II in some of those battles. I was sort of making light of it a little bit, even though I was a brand new second lieutenant in the Marine Corps. I said: "But, Major, what makes the Marines any better than any other unit?" And he got very serious. It was no longer a joke.

He said words that I remember, and these apply to all services, not just the Marine Corps. He said, "Marine training makes each Marine more afraid of letting his fellow Marines and his country down than he is of getting hurt himself." How on Earth do you build that into people? That is what wins battles. It is not a joke. It is not something that we can degrade with impunity and can say, "Well, OK, that is fine."

Part of this whole thing is that out of this boot camp, out of this training of a military person, comes a spirit of belonging to that unit, of having a responsibility to your fellows in that group, whatever it is, that goes beyond your protection of your own life.

It is hard to believe, is it not? We can take people and mold them into that kind of selflessness with military training. That is the very objective of boot camp in military training, to accomplish exactly that.

Part of that is not only the reaction to orders, not only by saluting and saying, "Yes, sir, Captain Warner, I salute you."

I have the appurtenances, whatever they are, in military courtesy, and I put my hand a certain way, and I show my honor for the rank you have and my honor for you in that position.

Well, it is not just that. It is also the looks. It is also looking the same, standing up tall and standing straight, and saying, "Yes, I am proud to be one arm's length from this man next to me and I know if someone says 'right face,' we all do it together. If someone says 'left face,' we do it together. And if in combat, someone says 'Go out to that foxhole and shoot at somebody and risk your life,' you will do it."

That is about as hard a thing to build into people, and yet that is what wins battles.

I do not believe for one minute I have overdramatized this. That is what wins battles, and that is cohesion and morale.

Supreme Court Justice Stevens noted in concurring in the Goldman case that visibility is "a neutral, completely objective standard * * * not motivated by hostility against, or any special respect for, any religious faith."

The task of accommodating our Nation's traditional respect for the individual with the disciplinary needs of the Armed Forces is not an easy one. To make allowances for one faith group while not accommodating others would introduce vague criteria and promote continuing controversies along religious lines. The inevitable divisiveness that would result from such a policy is not in the best interest of the Armed Forces of the Nation.

Are we to have only the yarmulke, the symbol by certain members of the Jewish faith? Are we to say that the Sikhs cannot have turbans, daggers, steel bracelets, which are religious items in their beliefs? They serve in our Armed Forces.

And how about the Church of Perfect Liberty? I am not familiar with them too much except to know that they must wear a badge over their left breast. But they are Americans as I am.

How about the Hare Krishnas, with their sacred red beads, rosary bags with prayer beads, facial markings?

Women are in the armed services now.

Where do we draw the line? I do not know. I do not know where we stop when we start down this line.

So, Mr. President, the military and the civilian leadership of the Department of Defense are united in their opposition to this amendment.

Their opposition is expressed in four letters which I have. I will ask unanimous consent that they be included in the RECORD.

First, how much time have I remaining?

The PRESIDING OFFICER. Five minutes remain.

Mr. GLENN. I have a statement from the Secretary of Defense, Caspar Weinberger, an eloquent statement opposing this amendment.

The second letter is a 20-star letter, as we call it, from the Joint Chiefs of Staff. I will submit that.

The third letter is from the Chief of Staff of the Army as a supplement to the 20-star letter he previously signed. These all state their heartfelt objections to this amendment.

The fourth letter is from the commandant of the Marine Corps.

Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, September 21, 1987.

HON. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that on Tuesday, September 22, 1987, the Senate will debate an amendment offered by Senator Lautenberg to the Defense Authorization Bill that would grant Service members statutory authority to wear visible items of religious apparel while in uniform. The Joint Chiefs of Staff, as well as the Deputy Secretary of Defense, have written to you previously expressing opposition to this proposed legislation. I wish to add my personal appeal for your support in opposing this amendment.

The proposed legislation, which would grant Service members a statutory right to wear "neat and conservative" religious articles, would force commanders to apply subjective criteria in distinguishing among religious practices qualifying for statutory protection. As a matter of constitutional law, military commanders have "no business drawing distinctions between . . . persons [of different religious beliefs] when enforcing commands of universal application." *Goldman* v. *Weinberger,* 106 S. Ct. 1310 (1986) (Stevens, J., concurring). Moreover, requiring commanders to make such determinations would undoubtedly have an adverse effect on military discipline as a result of inconsistencies in application, charges of religious favoritism, and the likelihood of litigation.

Permitting the wearing of visible religious apparel by military members would also detract from uniformity. The uniforms of the Armed Forces are cherished symbols of Service pride, history, and traditions. Authorizing individual members to modify the uniform would clearly operate to the detriment of order and discipline by fostering resentment and divisiveness among members.

Current DoD policy accommodates individual religious beliefs and practices to the full extent consistent with operational effectiveness. Military members may wear visible religious apparel in uniform while in designated living and worship areas and may wear non-visible religious articles at all times. This policy, based on an objective standard of visibility, strikes a responsible balance between individual rights and military necessity.

I strongly urge your support in opposing the proposed religious apparel legislation.

Sincerely,

CASPAR WEINBERGER.

OFFICE OF THE CHAIRMAN,
THE JOINT CHIEFS OF STAFF,
Washington, DC., September 21, 1987.

HON. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are writing once again to express our strong opposition to the passage of legislation that would permit the wearing of visible religious apparel while in uniform other than at religious observances. The detailed arguments for this position are clearly stated in the 1985 Joint Services Study on Religious Matters. While we fully concur in those arguments, we want to take this added opportunity to express our combined professional judgment on this vital issue.

We are concerned with two fundamental issues. The first is the adverse effect on unit cohesion. Anything that degrades unit cohesion damages combat effectiveness. Allowing the wearing of visible religious apparel undermines the concept of uniformity which is so crucial to maintaining unit identity in all the Services. Moreover, the Service uniforms have been a source of pride and are part of the traditions which every Service values so dearly. Tampering with the integrity of the Service uniforms, which are themselves symbols of individual Service traditions, could only have a detrimental impact on the order, discipline, and general welfare of the separate Services.

Second, this legislation would require leaders at every echelon to make determinations regarding what set of beliefs, and the required practices of the professed religion. Requiring such determinations would undoubtedly lead to inconsistencies in application, possible charges of religious favoritism, the probability of litigation, and the certainty of negative effects on unit cohesion.

The diversity of our society is one of our Nation's greatest strengths. While we support the accommodation of the individual needs of our Service members, this support must be tempered with the overriding requirement for combat effectiveness. The passage of this legislation would degrade unit cohesion and disrupt the good order and discipline which are so crucial to victory in battle. We, therefore, strongly advise against passage of this legislation.

William J. Crowe, Jr., Chairman, Joint Chiefs of Staff; Larry D. Welch, General, U.S. Air Force, Chief of Staff; Carl E. Vuono, General, U.S. Army, Chief of Staff; Alfred M. Gray, Jr., General, U.S. Marine Corps, Commandant of the Marine Corps; H. Hardisty, Admiral, U.S. Navy, Acting Chief of Naval Operations.

DEPARTMENT OF THE NAVY,
HEADQUARTERS, U.S. MARINE CORPS,
Washington, DC, September 22, 1987.

HON. SAM NUNN,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I remain unalterably opposed to the passage of legislation that would permit the wearing of visible religious apparel while in uniform at other than religious services. The 1985 Joint Services Study on Religious Matters reached the same conclusion. I fully support the findings of that study, and the Department of Defense has adopted the recommendations on matters of religious accommodation. This letter is written to express my professional concerns on this proposed legislation.

I am concerned over three basic issues. The first is the adverse effect on unit cohesion. Anything that degrades unit cohesion damages our combat effectiveness. We can all remember the devastating effects that racial problems had on the espirit of our units. We cannot permit this type of division to again exist. Both the diversity of our society and our freedom of expression are great strengths of this Nation; however, those very characteristics make the establishment of uniformity more important in our military than in one drawn from a more homogeneous, structured society.

My second concern is that this legislation would require commanding officers at every echelon to make determinations as to what constitutes a religion, a religious practice, or a "neat, conservative" appearance in religious apparel. Our courts have great difficulty in wrestling with these very questions in a measured academic setting. To ask our leaders to make these same determinations in their dynamic environment, while principally oriented on other matters, invites inconsistencies, charges of favoritism, and litigation. All of these will have a negative effect on our ability to get the job done.

My final concern is what I see as a very real potential for a negative backlash if this legislation is passed. In any closed society like our military, people want to know that all are being treated impartially. Anything that distinguishes one group from another can cause friction if there is any perception of special consideration. The emotional potential of visible religous differences concerns me deeply, and is a challenge we would be well advised to avoid.

Although freedom of religion is guaranteed in the Constitution, the right to serve as a Marine is not. If religious beliefs cannot conform to service requirements, our laws recognize that military service may not be appropriate. I believe that this recognition of the primacy of religious beliefs is sufficient, and should not be extended to conduct within the Service. Your support on this issue is greatly appreciated. I strongly urge that you continue to oppose this legislation and encourage your colleagues to do the same.

Sincerely,
A.M. GRAY,
GENERAL, U.S. MARINE CORPS,
Commandant of the Marine Corps.

SEPTEMBER 22, 1987.

Hon. JOHN GLENN,
U.S. Senate,
Washington, DC.

DEAR SENATOR GLENN: Thank you for your support again this year on the religious apparel issue.

I am convinced that the Lautenberg Amendment, if enacted, would have negative impact on the cohesiveness and teambuilding we've worked so hard to achieve, and more importantly, would put our first-line commanders in the untenable position of choosing among religions and religious beliefs and practices.

I assure you of our manifest support for your lead.

Sincerely,
CARL E. VUONO,
GENERAL, U.S. ARMY,
Chief of Staff.

Mr. GLENN. There is strong opposition to this amendment from the Reserve Officers Association, the Adjutant General of the United States, the Reserve Forces Policy Board, the Civil Air Patrol, and the Military Coalition.

Mr. President, these expressions of opposition to the amendment represent the views of our top military and civilian leaders. They are not being just nasty. I wish we could accommodate this amendment. I truly do. But I, along with them, believe that this does start us down a track that we need not go down and gets us very little.

Mr. President, I reserve the remainder of my time.

Mr. WARNER. Mr. President, will the Senator yield 20 seconds?

Mr. GLENN. How much time remains, Mr. President?

The PRESIDING OFFICER. Four minutes.

Mr. GLENN. I yield.

Mr. WARNER. Mr. President, I express my appreciation to the distinguished Senator, formerly of the U.S. Marine Corps, and salute him. I wish to say I have been privileged to serve with him for nearly 9 years in this Chamber and I have never heard a finer, more heartfelt statement on a question of great gravity for the present and future Armed Forces of the United States.

Mr. GLENN. I thank the distinguished Senator for his comments.

Mr. McCAIN. Will the Senator yield to me?

Mr. LAUTENBERG. Mr. President, I have reserved the remainder of my time.

Mr. GLENN. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to express my appreciation to the Senators who have spoken so eloquently in favor of this amendment. However, I am in disagreement with the amendment. I think it is worthy of note that we have, as a matter of fact, on the floor right now two former Secretaries of the Navy and a career Marine officer who also are in opposition to this, not because of any religious reasons, but because of a desire to preserve the uniformity that we feel is so necessary for the good order and discipline in the Armed Services.

My friend from Ohio has already included in the record the statements from the Joint Chiefs and from the Secretary of Defense. I think it might be interesting to hear from our Commandant in the Marine Corps who said his Marines have a habit of doing thing in a succinct fashion. He said.

> Although freedom of religion is guaranteed in the Constitution, the right to serve as a Marine is not. If religious beliefs cannot conform to Service requirements, our laws recognize that military service may not be appropriate. I believe that this recognition of the primacy of religious beliefs is sufficient, and should not be extended to conduct within the Service.

I think he sums up the argument here. It is one that should be paid close attention to. These messages are from the men that we have asked to lead our Armed Services. These are the men we have placed in positions of responsibility to defend this Nation. I would suggest it would be very difficult to ignore their unanimous opinion on this issue just as it would be difficult to ignore the important statement just made by my friend from Ohio, Senator GLENN.

I yield back the remainder of my time.

Mr. D'AMATO. Mr. President, I rise today to lend my support to the amendment offered by my good friend, the junior Senator from New Jersey, to allow military personnel to wear certain religious apparel. I have joined the Senator from New Jersey in introducing legislation on this matter.

In the last Congress, an amendment to the defense authorization bill encompassing legislation I introduced to this same effect was narrowly defeated on the Senate floor. Although incorporated into the House version of the bill, the provision was unfortunately dropped from Conference.

Frankly, Mr. President, I am at a loss as to why this legislation has engendered opposition. Service to one's religion and service to one's country are not mutually exclusive. I question whether we can afford to preclude a certain group within our society from voluntary military service because of centuries-old legitimate religious beliefs concerning the wearing of certain religious apparel.

This amendment corrects an injustice affirmed last year by the Supreme Court. On March 25, the Supreme Court ruled 5 to 4 in favor of a lower court ruling that the Department of Defense was within its rights in not allowing the wearing of a yarmulke indoors by military personnel.

The case, Goldman versus Weinberger, involved an Air Force officer who, though serving as a psychologist, was an ordained Rabbi. As an Orthodox Jew, Capt. S. Simcha Goldman wore his yarmulke at all times. The Air Force insited that this was not within regulations. The case eventually reached the Supreme Court.

Mr. President, this amendment offers a reasonable solution to this problem. This bill allows the wearing of all neat and conservative religious apparel. Specifically, the bill allows members of the Armed Forces to wear any neat and conservative item of apparel if the wearing of such apparel is part of the religious observance of the member. Such apparel would not be allowed if such apparel interferes with performance of military duties.

No one disagrees that obtrusive and possibly interfering apparel should not be allowed, especially if such apparel would hinder the effectiveness of the service man or woman nor the effectiveness of other military personnel. Similar regulations exist regarding jewelry. This is a straightforward amendment that strengthens the right of freedom of religion in this country. Individuals in our Armed Forces should not be compelled to forsake the very freedoms they are in uniform to protect.

Mr. President, I commend the many organizations and the junior Senator from New Jersey for their hard work on this important matter. I urge my colleagues to join with me on this amendment.

Mr. HELMS. Mr. President, this proposal presents a difficult issue for this Senator, and I believe, for many of my colleagues. The question of permitting the wearing of religious apparel as part of the U.S. military uniform is one that divides not only Americans, but members of the religious groups affected as well.

When this issue was presented to the Senate last year, it failed on a vote of 51 to 49. When an issue is so narrowly divided, it usually means that there are good arguments on both sides.

My colleagues have heard most of them. In the first place, there is the question of whether or not Congress ought even to get involved in legislating any aspects of the U.S. military uniform.

Since the time that Congress defeated a proposal at the close of the 18th century to require officers to wear wigs, the civilians in Congress have wisely concluded that military attire was best regulated by the military.

Is that a copout? I don't think so. It is difficult for civilians to understand the particular needs of a military society—a society different in concept and purpose than civil life.

It is essential to the principles of command and obedience that all military men and women of a certain rank receive equal treatment. Military orders are often arbitrary and difficult. If religious insignia are permitted, the seed of separation and distrust will be admitted to military ranks.

Do we really want someone who is wearing a yarmulke to start thinking he is getting a hard time because his officer is wearing a cross or a crescent? Or someone who is wearing a cross to think that this problem is because his officer is wearing a yarmulke? Such problems promise to destroy the morale an discipline so necessary to an effective military.

It has been pointed out in debate that the Israeli Army permits the wearing of religious apparel, without any such effects on military morale or discipline. Yet, in the Israeli Army, these issues do not come up, since the underlying Jewishness of all personnel is never called into question.

Moreover, there is the problem of defining permitted insignia in words of law. The proposal we have before us permits something "neat and conservative." What does that mean? Does it extend to Christian, Muslim, or Buddhist insignia or objects? Not even Solomon could find a formula that would not result in a tangle of appeals by all sides.

Finally, the question of dietary requirements naturally comes up. If the yarmulke is allowed, doesn't the same logic require kosher food? If kosher food, what about other religions that object to pork? Or object to beef? Or insist on vegetarian food? And if vegetarian food is permitted for religious reasons, what about those who want it for nonreligious reasons? Such external expressions of religious belief undermine the urgent unity of purpose necessary for military command.

However, someone might ask, aren't all of these reasons of pragmatism and policy, excuses, perhaps, that do not reach to the real depths of the matter? It is true that they do deal with the practical world, and do not treat with the religious problems involved. The right question we should be asking ourselves is this: Does God demand that religious exercises take precedence over all secular requirements?

I think that the answer goes to the fact that military duty itself is not a purely secular obligation. The duty to defend our Nation, our culture, and our freedoms is itself a duty owed to God. When David was fleeing from Saul, he came to Nob and asked the priest Ahimelech for bread for himself and his men. Ahimelech said that he had no regular bread, but only the consecrated bread which could be eaten only by the priests.

Yet Ahimelech did not hesitate to give the consecrated bread to David. His single requirement was that the men must have kept themselves pure; he said that the military circumstances of their mission made the mission itself holy. For this reason, the ritual requirements could be set aside. And as if to emphasize his commitment to that mission, Ahimelech gave David the sword of Goliath.

I believe that our soldiers today are in much the same situation. They are engaged upon a noble mission, an obligation that is itself a holy duty. In following that duty, military personnel are maintaining the purity of the purpose of their hearts.

The practical requirements of military life make it difficult, even dangerous in a command situation to introduce practices that bear witness to the requirements of religious ritual. If Jews, or Christians, or any other religious group in the military bear their hearts in the proper disposition toward God, my personal belief is that God may be willing to set aside exterior observances which might lead to disunity.

Mr. President, I expect this body to be closely divided on this issue. Yet while we may differ on this one question, I know both proponents and opponents of this issue can at least agree that religious principles are important when we are making decisions—sometimes painful decisions—about the best way to protect our Nation and our way of life. About that much, there is no doubt.

Mr. ADAMS. Mr. President, I intend to vote for this amendment but I do not do so with enthusiasm. My lack of enthusiasm springs from two sources. First, in my view, this is an issue which should never have gone to the courts and never come before the Congress. In the past, the military services have been able to accommodate individuals on a case by case basis. Those informal agreements seem to have served everyone's interest. I just wish that we were able to return to a time when people spoke with each other instead of sued each other. Second, I have to tell you that I was shocked by the level of lobbying that has gone on about this issue. I have had more calls from constituents on this issue than I had on SDI; I had more requests for visits from DOD on this issue than I did on a comprehensive test ban. There are some really vital issues that need to be addressed in this bill—and while this issue is important, the fate of the nation does not hang on it. I expected that the folks who care about this issue would have taken the opportunity to raise some other concerns when they came to visit—but they never did. And I find that very disturbing.

Having expressed my frustration about the attention this amendment received, let me turn to the substance of the issue. Let me begin, Mr. President, by establishing the basic premise from which I believe both sides are operating: Individuals have the right to be true to their faith while serving their country; and the country has an obligation to do everything it can to make its military a sound functioning organization. I believe that morale and the patriotism of our young people is more important than rigid restrictions which offend their freely and deeply held religious beliefs. I support the amendment.

Mr. LAUTENBERG. Mr. President, I heard the arguments about discipline and I heard the views of high officers. This view comes from a low World War II corporal. I happen to be elite in this body because I was not a major or a colonel. I saw my service from other aspects. That was the people I served with, who I depended upon, who depended upon me.

Whenever there was a difficult problem they never asked one another what their religion was, and the fact that one chooses to manifest their religion in one way or another absolutely could not interfere with their performance of duty. I think what we are doing is raising a straw horse.

I respect very much the Joint Chiefs and the organizations, but America was and is, a nation of diversity, a nation of different religions, a nation of different ethnics, and each one of those things is part of our precious heritage.

Mr. President, I have a letter from Congressman SOLARZ. He writes:

> I am delighted to send to you this camouflage yarmulke as you prepare to offer the religious apparel amendment on the Senate floor.
>
> This yarmulke is similar to the one worn by one of my constituents who received an Army citation while on duty during the hostilities in Grenada.

Mr. President, I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 17, 1987.

Hon. FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR FRANK: I'm delighted to send to you this camouflage yarmulke as you prepare to offer the religious apparel amendment on the Senate floor.

This yarmulke is similar to the one worn by one of my constituents who received an Army citation while on duty during the hostilities in Grenada. I think it's an eloquent symbol of the need for Congress to pass legislation which will allow individuals to serve their country without forsaking their religious beliefs.

I have sent a yarmulke to Chairman Nunn and to several other Senators who voted against the amendment last year.

I hope this is helpful. Good luck on the floor!

Sincerely,

STEPHEN J. SOLARZ,
Member of Congress.

Mr. LAUTENBERG. Mr. President, I will conclude by asking my colleagues as they consider their vote to remember the fundamentals about the country and ask themselves a question about whether or not one can stay true to one's religion and serve as a good, loyal citizen of this country.

The Senator from Arizona quoted the Marine Corps Commandant, that everyone is not, and I paraphrase, guaranteed entry into the Marine Corps. But does that mean if I choose to wear headgear or I choose to wear a cross or I choose something else that identifies me, I ought to be disqualified from service in the Marine Corps if I am qualified in every other way? I think not.

This is not the substance of what we are talking about. It is up to the corps to promote the services, to build morale, maintain discipline and it is not going to be affected by permitting someone to manifest their religious affiliation by the wearing of a small, neat piece of gear and ready to take it off if their commander says, "Look, that interferes with your duty as far as I am concerned."

When one is in combat, one better wear a helmet. If one is wearing headgear and it does not interfere with the helmet, it stays on. If it does interfere, whatever the headgear, it has to come off.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Ohio has 1 minute 12 seconds remaining.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I have not had a chance to hear all of this debate. I have great respect for my friend from New Jersey. I know his motives are good, his objectives are sincere and so are those who want to pass this amendment. We worked every way we knew how to see if we could accommodate this very legitimate and sensitive desire on the part of people who feel deeply about both their religion and their patriotism. The problem is we cannot find a way at this juncture to accommodate the uniformed services and the need for discipline and uniformity in the services with this particular amendment and the precedent it would set for other religions. That is the problem, the precedent. I do not know of any way to solve the problem at this juncture. So I have great respect for my friend from New Jersey in what he is trying to accomplish. Perhaps we will find a magic formula some day but at this juncture I would support the motion to table.

The PRESIDING OFFICER. The time of the Senator from Ohio has expired.

Mr. GLENN. I move to table the amendment of the distinguished Senator from New Jersey. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WARNER. Mr. President, I wonder if it would be possible——

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER (continuing). If the distinguished manager of the bill and I might be recognized for a moment just to assist Senators in their work on the bill and then the vote would commence.

Mr. LAUTENBERG. Reserving the right to object——

The PRESIDING OFFICER. Is there objection?

What is the unanimous-consent request?

Mr. WARNER. That the managers of the bill be permitted 1½ minutes within which to address the Senate and then the vote occurs.

Mr. LAUTENBERG. I have no objection.

The PRESIDING OFFICER. Without objection, the managers of the bill are recognized for 1½ minutes.

Mr. WARNER. Mr. President, as Senators know, the distinguished chairman and I have established a group of staff persons located in the Vice President's office just off the Chamber for the purpose of receiving amendments. As I understand the chairman, and I concur in his judgment, if we cannot get those amendments in written form now, it is extremely difficult to make an evaluation as to how we might sequence them and the time consumed.

Perhaps the chairman would want to address this.

Mr. NUNN. The Senator from Virginia is absolutely correct. He suggested it. It was a very good suggestion and now we have carried that out. We set up staff people in the Vice President's office so that we could examine the amendments. Those that we cannot accept we can work out. There may be changes in some that would make them acceptable. Those that we cannot accept at least we have some knowledge of, on both sides, and that expedites the situation.

The other purpose is try to find some order of amendments, and we also are trying to find Senators who are willing to bring up amendments both tomorrow and Monday with the idea that we are working hard, people know we are working hard to see if we can have a way of leaving here about 5 o'clock this afternoon for those who have crucial business so that we can avoid rollcall votes tonight, avoid rollcall votes Saturday, and avoid rollcall votes on Monday.

But the only way we can do that is if we reach a time agreement to complete the bill at an hour certain on Tuesday afternoon at 6 o'clock. The only way we can do that is if we get amendments in and know what we are dealing with and get this unanimous-consent request which I hope can be propounded in the next hour and a half by the leadership. So we must have the amendments. That is the point.

Mr. WARNER. Mr. President, in fairness, if I may say to my good friend from Georgia, the majority and minority leaders and the managers are considering possibly if the amendments are not filed in writing today they will be eliminated from the list for consideration.

Now that would be in the form of a UC request which would be stated later.

The PRESIDING OFFICER. The time under the unanimous-consent agreement has expired. The vote now occurs on the motion by the Senator from Ohio to table the amendment of the Senator from New Jersey. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "nay."

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

Mr. DIXON. Regular order, Mr. President.

The result was announced—yeas 42, nays 55, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—42

Armstrong
Baucus
Bond
Byrd
Chafee
Cochran
Cohen
Conrad
Dodd
Dole
Durenberger
Evans
Exon
Fowler
Garn
Glenn
Gramm
Hatfield
Hecht
Helms
Hollings
Johnston
Kassebaum
Lugar
McCain
McClure
Murkowski
Nickles
Nunn
Quayle
Rudman
Sanford
Shelby
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NAYS—55

Adams
Bentsen
Biden
Bingaman
Boren
Boschwitz

Bradley
Breaux
Bumpers
Burdick
Chiles
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Domenici
Ford
Graham
Grassley
Harkin
Hatch
Heflin
Heinz
Humphrey
Inouye
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Specter
Wilson
Wirth

NOT VOTING—3

Gore
Simon
Weicker

So the motion to lay on the table amendment No. 706 was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The vote now occurs on the amendment offered by the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the yeas and nays be vitiated.

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment offered by the Senator from New Jersey. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

Mr. DIXON. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—55

Adams
Bentsen
Biden
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chiles
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Domenici
Ford
Graham
Grassley
Harkin
Hatch
Heflin
Heinz
Humphrey
Inouye
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Specter
Wilson
Wirth

NAYS—42

Armstrong
Baucus
Bond
Byrd
Chafee
Cochran
Cohen
Conrad
Dodd
Dole
Durenberger
Evans
Exon
Fowler
Garn
Glenn
Gramm
Hatfield
Hecht
Helms
Hollings
Johnston
Kassebaum
Lugar
McCain
McClure
Murkowski
Nickles
Nunn
Quayle
Rudman
Sanford
Shelby
Simpson
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—3

Gore
Simon
Weicker

So the amendment (No. 706) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the Lautenberg amendment was agreed to.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I make the situation known to my colleagues, if they would give me a moment's attention?

We now have a list of 13 amendments with 13 Senators prepared to go. We are going to proceed in a moment to an amendment by the distinguished Senator from South Carolina, Senator HOLLINGS. When that is disposed of, and I understand that to be an amendment that will not take much time and will be agreed to by both sides, we will go to an amendment by the majority leader which has been agreed to and will not take much time.

The next amendment therefore will be an amendment by the minority leader, which has been agreed to and will not take much time.

The fourth amendment will be one by the distinguished Senator from North Carolina. That probably will be opposed. I think we can get a time agreement. That will be the fourth amendment.

The fifth amendment will be by the distinguished Senator from North Dakota, Senator CONRAD, and we hope to have a time agreement on that but there may be a contest on that fifth amendment.

The sixth and seventh amendments will be by the distinguished senior Senator from Massachusetts, Senator KENNEDY. There will be a time agreement on one and maybe both will be agreed to.

The eighth amendment will be by the distinguished Senator from Ohio, Senator METZENBAUM, and that, I think, will be agreed to.

The ninth amendment by the Senator from Iowa, Senator HARKIN, may be agreed to, but may not—no—it will not be. It will take a little time. We will have a time agreement.

The 10th amendment will be offered by Senators EVANS and ADAMS of Washington. That will be agreed to.

There will then be a colloquy concerning the Toshiba amendment of the Senator from Alabama, Senator SHELBY.

We will then go to the amendment by the Senator from Tennessee, Senator SASSER. Then to the amendment by the manager on this side on drug interdiction. All of that should be a thing we can do in 2 hours, I would hope, if everyone will be relatively brief.

Now, at this time, I yield the floor.

Mr. QUAYLE. Will the Senator yield for a comment?

Mr. DIXON. I yield.

Mr. QUAYLE. Mr. President, just going down the list, I think what we ought to do is get an understanding of which ones have been agreed to on both sides.

Mr. DIXON. May I say to the Senator from Indiana, my understanding is that the first amendment we will take, by the Senator from South Carolina, Senator HOLLINGS—I understand that to be agreed to.

Mr. QUAYLE. That is correct.

Mr. DIXON. The next amendment by the distinguished majority leader I understand to be agreed to.

Mr. WARNER. That is correct.

Mr. QUAYLE. Yes.

Mr. DIXON. The next amendment by the distinguished minority leader I understand to be agreed to.

Mr. QUAYLE. Correct.

Mr. DIXON. The fourth amendment by the distinguished senior Senator from North Carolina I understand is not agreed to; the diplomatic immunity amendment. I understand we will have to oppose on this side but I think it can be very brief.

Mr. QUAYLE. OK.

Mr. DIXON. The fifth amendment by the distinguished Senator from North Dakota, I think, is not agreed to. We will agree.

Mr. QUAYLE. We were looking at a draft. I have not seen the final version. We were fairly close. There is a couple of modifications——

Mr. DIXON. Perhaps the Senator's aide could come over here and talk to the minority manager.

Mr. QUAYLE. There are a couple of modifications that we had suggested.

Mr. DIXON. Let us try to work that out. The sixth amendment, there are two amendments, the sixth and seventh, will be by the distinguished senior Senator from Massachusetts.

Mr. QUAYLE. Those are agreed to.

Mr. DIXON. We believe they are agreed to. That is good.

The eighth amendment by the Senator from Ohio is a study on the M-1 tank. I thought that was agreed to.

Mr. QUAYLE. My understanding is that it is agreed to. I just talked to our staff and that is agreed to.

Mr. DIXON. That is excellent. That is agreed to. That is agreed to.

The ninth amendment by the distinguished Senator from Iowa, Senator HARKIN, NSC adviser.

Mr. QUAYLE. That has not been agreed to yet.

Mr. DIXON. That is not agreed to. We will have to have a time agreement on it.

Mr. QUAYLE. I do not believe there is a time agreement on that amendment.

Mr. DIXON. The next amendment, thereafter, I believe, is agreed to: Nuclear waste cleanup, by Senators EVANS and ADAMS of Washington. I thought it was agreed to at least on this side. No?

Mr. QUAYLE. I do not believe that has been agreed to yet.

Mr. DIXON. Well, can you talk? It is agreed to on our side.

Mr. QUAYLE. It is uncertain on our side at this time.

Mr. WARNER. It is all right.

Mr. DIXON. That is agreed to.

Mr. QUAYLE. I stand corrected. That is agreed to.

Mr. DIXON. The one thereafter by the distinguished Senator from Alabama, Senator SHELBY, on the Toshiba question. I think in the end there will be a withdrawal of the amendment and a colloquy, in view of the fact that that is in the trade bill and would more properly be there. So I believe that will just be a colloquy.

Mr. QUAYLE. All right.

Mr. DIXON. Thereafter, I understand the amendment by the distinguished senior Senator from Tennessee, Senator SASSER, extending section 808 housing, is agreed to on this side. He thought it was agreed to on your side, may I say.

Mr. QUAYLE. Yes.

Mr. DIXON. Agreed to. That is excellent.

Thereafter we will go to one by the manager on this side on drug interdiction which has been agreed to on your side.

Mr. QUAYLE. Correct.

Mr. DIXON. That is excellent. That should be about 2 hours work and I am ready to yield back the floor.

Mr. QUAYLE. The only question is the final language on the Conrad amendment. We still do not have agreement nor a time agreement on the Harkin amendment?

Mr. DIXON. That is affirmative. And the Helms amendment. But I think most of those amendments will be agreeable to reasonable time limits. The Senator from North Carolina has always been very agreeable.

Mr. DOMENICI. Might the distinguished manager yield for a question and observation?

Mr. DIXON. Yes, of course.

Mr. DOMENICI. I have a Domenici-Bingaman amendment regarding semiconductors in the national labs. I understand it has been agreed to.

Mr. DIXON. It has been agreed to on this side.

Mr. DOMENICI. It has been agreed to on our side. That is what I understood.

Mr. DIXON. If that has been agreed to, it just went on the list.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DIXON. I yield back the floor.

Mr. WARNER. Mr. President, as a followup on this, the distinguished Republican leader is on the floor. The distinguished majority leader was, momentarily.

The leadership and the managers of the bill are going to retire for the purpose of trying to chart a course.

The leadership that manages the bill is going to retire for the purpose of trying to chart a course. Are we to understand that this would take about 2 hours and for the convenience of Senators there will be no rollcall votes?

Mr. DIXON. No. I thank my distinguished friend for asking. This will take about 2 hours, but my present understanding is that there will be at least two rollcalls, probably two rollcalls, on the amendment by Senator HELMS and on the amendment by Senator HARKIN. There will be two rollcalls in the 2 hours.

Did you want a rollcall?

Mr. DOLE. I do not think so.

Mr. DIXON. I thank the Senator. We are ready to yield back.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. EXON. Mr. President, will the Senator yield for a brief statement?

Mr. HOLLINGS. Yes.

Mr. EXON. In order to clarify things and make sure that we are in total agreement, we have been trying to work out these agreements. The Senator from Wisconsin has indicated to me that he will not be offering the amendment on early deployment of SDI. The Senator from Wisconsin is on the floor at this time. If he can verify that, that would be one more we can strike off the list.

Mr. PROXMIRE. Mr. President, I verify that. The Senator from Nebraska is correct.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 747

(Purpose: To authorize a testing program for drug, chemical or alcohol dependency or use prior to enlistment or reenlistment into an Active, Reserve, or National Guard Unit)

Mr. HOLLINGS. Mr. President, on behalf of Senator DOLE, Senator WILSON, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is the Byrd amendment to the Weicker amendment.

Mr. HOLLINGS. I ask unanimous consent that it be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, Mr. DOLE, and Mr. WILSON, proposes an amendment numbered 747.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14 insert the following new section:

"SECTION. TESTING PROGRAM FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY PRIOR TO ENTRY OR REENTRY INTO THE ARMED FORCES.

(a) Under uniform regulations prescribed by the Secretary of Defense, testing shall be required for drug, chemical, and alcohol use and dependency for any individual prior to entry into the Armed Forces.

(b) Testing required under paragraph (a) shall be conducted as part of a pre-registration physical prior to entry into Active, Reserve, or National Guard Units whether under the direct accession or delayed entry programs.

(c) Failure to consent to the testing program prescribed in paragraph (a) shall disqualify an individual for entry into the units described in paragraph (b).

(d)(1) The Secretary of Defense shall prescribe regulations to implement this Section not later than 45 days after the date of the enactment of this Act.

(2) The effective date for initiation of the testing program prescribed by this Section shall be no later than 180 days after the enactment of this Act."

The PRESIDING OFFICER. Under the previous order, debate on this amendment is limited to 1 hour, equally divided.

Mr. HOLLINGS. Mr. President, 2 years ago, I successfully offered an amendment to the fiscal year 1985 Defense authorization bill requiring that a DOD study be conducted on the feasibility of testing for drug use and dependency prior to entry into the Armed Forces.

The DOD study required by the amendment recommended that drug testing not become law. The recommendation was based upon estimates indicating that the costs to test would be greater than the savings resulting from the disqualification of applicants for military service who tested positive for drugs. The costs utilized in that study are at great variance with cost data I had received prior to the introduction of my amendment and with information I have received this year from the DOD.

Mr. President, the foundation of our military strength can be found in the discipline of our troops as much as—if not more—than all the sophisticated strategic and conventional weaponry possessed by our Armed Forces. Discipline is of the utmost importance for a successful military posture, and I do not know how you can have it unless a rigid program is in place to limit drug and alcohol abuse in the military. The DOD presently spends a considerable amount of time countering this problem. To its credit, much greater emphasis is placed today on coping with drug and alcohol problems than just 5 years ago.

But, Mr. President, I am of the opinion that if we took one additional step—to reduce the number of abusers before they entered the service—we could save millions of dollars and an incredible amount of lost time due to disciplinary and rehabilitation actions.

The 1985 DOD study asserted that a drug screening program conducted at the military entrance processing station [MEPS]—the location where all nonprior service applicants for Active or Reserve forces are processed—would cost between $6.2 million and $7.8 million, and the cost for contracting out this screening would be $9.2 million to $12.2 million depending upon the number of drugs to be tested for. The study further asserted that discharges from basic training due to drug usage was $8.5 million for 1984. The study assumes that because applicants could take precautionary steps to prevent a positive test that, at best, only 50 percent of the $8.5 million in discharge costs—or $4.2 million—could be saved. Thus, the study asserted that this $4.2 million represented only half of the approximate $8 million screening program, and thus, it was uneconomical to initiate a testing program.

Mr. President, I disagree with the findings in the study and use cost information provided by the Office of the Secretary of Defense [OSD] to refute the study's analysis. Further, I believe the time to start catching the users is before they become members of the Armed Forces, when the Government has no obligation to them—and has not wasted money sending them to boot camp and beyond. What is incomprehensible to me is the fact that the preenlistment physicals conducted by the Armed Forces do not—I repeat, do not—require any type of drug screening. The DOD ostensibly does not use urinalysis testing for drugs since individuals at the MEPS are considered to be civilians. But they do test for AIDS. The first tests occur in the Navy and Marine Corps during the boot camp and in the Army and Air Force during recruit training.

There is a very good reason why the testing comes so late in the cycle. If drug screening occurred before the applicants were sworn in, the recruiting objectives of the All-Volunteer Force would probably not be met. I have been told by DOD representatives in the "enlistment accession" area, and I should emphasize that this is not an official statement by the DOD, that when testing does take place that up to 65 percent of new recruits test positive for marijuana usage and between 12 percent to 15 percent test positive for cocaine usage. Mr. President, if these are accurate figures—or even close to the norm—does not it make sense that if we could stop some of the abusive users from entering the services that we would be ahead of the game?

I would like to share information received from DOD regarding drug/alcohol rehabilitation costs and treatment.

DRUG AND ALCOHOL TREATMENT COSTS IN THE DOD

[Dollar amounts in millions]

	Fiscal year—		
	1984	1985	1986
Drug/alcohol treatment and rehabilitation costs	$91.2	$91.2	$95.3
Drug/alcohol discharge costs	178.9	184.8	213.6
Total costs	270.1	276.0	308.9
Number of enlistees discharged for drug and alcohol abuse:			
First term	13,286	12,425	(1)
Career	3,736	3,997	
Total	17,002	16,422	

(1) Not available.

Note: These costs do not include costs for drug/alcohol lost time and disciplinary action at the unit level. Estimates provided by the DOD in 1985 placed these costs between $75 and $100 million per year.

Mr. President, while these estimates include both drug and alcohol related costs, partial 1986 data provided to me indicates that roughly half of the costs are drug related. This, I believe these figures—both in costs and actual discharges—illustrate the severity of the problem. The figures used in the previous DOD study, that is, $8.5 million for discharges in basic training due to drugs, do not relate to other figures on drug abuse released by the Department. I am not here to refute the numbers in the study. I am here to work for military discipline and to save money in the DOD's budget for more important priorities than busting drug users in boot camp.

I recognize the roadblocks that DOD will throw in the way of screening. They will need equipment. They will need personnel. The schedule and processing cycle at the MEPS is critical. The testing validity and reliability is not necessarily accurate. What is to be done about consent and other legal ramifications. There are many elements to be considered in establishing an effective program. That is why my amendment gives the Secretary of Defense 45 days to prepare the regulations establishing the screening and 180 days before screening begins. Both of these schedules commence from the date of enactment of the act.

Mr. President, we do not need drug users in the military—and we should stop making it easy for them to join. A drug screening program is definitely a long overdue step in this process.

Mr. President, I have discussed this amendment with the distinguished chairman of our Manpower Committee, the distinguished Senator from Ohio. I will summarize what this does with reference to drug testing taking place prior to enlistment.

Incredible as it may seem, if a man or woman offers himself or herself to military service, they are given a complete physical with respect to eyes, sight, blood, heart, AIDS, and all types of other things. They do a urinalysis to determine whether a person has diabetes. But they will not take that same urinalysis and determine whether they are under a drug dependency or use. As a result, at a later time they are tested, in boot camp or during boot training, for drug usage. But, by then we have assumed the liability or responsibility for treatment, for rehabilitation, and in a lot of cases for discharge, and, of course, in many instances, disciplinary costs.

The Pentagon has been dragging its feet on this and the DOD wanted a study. Their study said it was not cost effective. The actual cost to test these people was anywhere between $6 and $10 million, and the discharge cost in 1984 was only $8 million.

So the DOD-asserted testing would cost $2 million and it was not cost effective.

Obviously they did not include the cost for treatment, for rehabilitation, and for disciplinary action.

As a result, we are looking at figures for drug and alcohol treatment, rehabilitation, and the like—in the defense appropriations bill that I have worked on for years—that amount to nearly $400 million. They allude that over half of that is drug related. What we are doing is spending a couple hundred million dollars in rehabilitating and treating cases.

So, Mr. President, it is only logical and reasonable that we test at the beginning—before an individual goes into the service—for drugs as well as for the many other things checked in a physical. This bill provides for that.

I have discussed this with the distinguished chairman. I am glad to yield at this point.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I think the distinguished Senator from South Carolina deserves a lot of credit for bringing this to our attention. I believe that 43 or 44 percent of our costs in the military involve personnel costs.

Mr. HOLLINGS. That is correct.

Mr. GLENN. That means we are not just dealing with weapons systems, hardware, but with people in 43 percent of that military budget.

What does that mean costwise? It means high costs if you have somebody prone to drugs. I would say legal drugs of illegal drugs, and that means alcohol and the hard drugs.

Why do we take people in and have lost time in the military where we have limited numbers of people? We have not only lost time but maybe that person is locked up part of the time. We have medical costs for those people that could have been foreseen had they not been brought into the military to begin with.

Mr. President, we have military rehabilitation programs, adding more costs. Then if we finally bounce them out on a discharge, we have to take care of them as veterans because we did not have sense enough to look at them to begin with to see if they were drugs, hopheads, or drunks of some kind before we took them into the military.

Mr. President, I am for rehabilitating these people and for the strongest kind of program that deals with the legal and the illegal. Alcohol is every bit a drug as is cocain, morphine, and all the other hard drugs that we all get so excited about these days.

Mr. President, let me add that about 80 percent of our problem in the civilian and in the military on drugs is on the legal drugs, alcohol. If we can show that a person is an alcoholic or prone to that direction or heavily dependent before they come into the military, we save oursselves a tremendous amount of money. But that is not my major reason, really, for supporting this. My main reason for supporting this is we do not want people in the military that have these problems if we can possibly prevent it because of the combat efficiency.

We only have people being brought into the military because they have to function, they may have to operate weapons system. It is not like going down to the local bank or the local office and performing your daily vocational chores, whatever they may be. This may be a life or death situation. We are talking about people coming into the services and we do not want those people in who already have a drug problem or an alcohol problem and saddle the military with the problems they developed in civilian life already. They are escaping, somehow, some of them, into the military.

I note that the distinguished sponsor of this, the Senator from South Carolina, Senator Hollings, has included alcohol in this amendment. I do not quite know how we check on that, but I think it is something we can try to work out.

I am glad he included the alcohol part of it even though our tests for alcohol, I suppose, would mean if a man showed up for a blood test, he had a high alcohol content we would not let him in.

Mr. HOLLINGS. It would be the only way to get him in.

Mr. GLENN. The Senator may be right.

Mr. HOLLINGS. I want to yield whatever time necessary to the distinguished Senator from Kansas.

Mr. GLENN. That is fine. I yield the floor.

Mr. DOLE. Mr. President, for all the reasons stated by both the distinguished Senators from South Carolina and Ohio, I am very pleased to be a cosponsor of this amendment.

Mr. President, I am pleased to join the Senator from South Carolina in cosponsoring this amendment. Senator Hollings is indeed serving our country well by advancing this simple proposition: We should test all people for drug, chemical, and alcohol abuse before they enter the Armed Forces of the United States. America's defense will benefit, but in the long run, it is the men and women who selflessly defend our country who will benefit most.

Senator Hollings has already outlined the costs of pre-enlistment testing, and responded to some arguments advanced against it. I shall not dwell on these. I would like, for a moment, to call attention to some of the incalculable—but nevertheless real—costs of substance abuse in the military.

Drugs and alcohol exact costs which have nothing to do with the costs of testing, rehabilitation, or discharge. Drugs and alcohol cause mistakes and accidents. Every piece of damaged or lost equipment costs money. Every hour of training missed costs money. Every injury costs money.

Drugs and alcohol also exact costs which have little to do with money. The U.S. Armed Forces have a mission to perform—and it is simply incompatible with drug and alcohol abuse. Individual mistakes and poor performance decrease the effectiveness and readiness of our forces. Drugs and alcohol cause their abusers to let down every member of their unit. Let's face it—the whole country is the loser.

I think we should look at this measure as an opportunity, not a burden. The young people who serve our country are very special—they are America's finest. They have pledged their honor, skill, and discipline to our defense. I think we should send the message out loud and clear: If you want to join America's finest, stay away from drugs.

It is a good amendment. It is long overdue for all the reasons stated. I certainly applaud the distinguished Senator from South Carolina.

Mr. WARNER. Mr. President, I likewise associate myself with the remarks of the distinguished sponsors of this bill and ask to be a cosponsor and indicate that this side is prepared to accept the amendment.

Mr. GLENN. This side is prepared to accept the amendment unless there are other remarks.

Mr. HOLLINGS. I yield to the distinguished Senator from California, a cosponsor of the amendment.

Mr. WILSON. Mr. President, I rise to commend my good friend from South Carolina. I think he has taken a very, very important step. It is essential that the military services conduct this kind of testing. It is essential for the very reason that in a combat situation other lives will depend upon the performance of those who may have an addiction or dependency that simply does not permit them to function as in fact they must. That becomes increasingly important in an increasingly technologically demanding age. But the most significant thing is that the common sense of the Senator from South Carolina makes abundantly clear it is not sensible for us to conduct this testing late in the process. We should be doing it the earliest possible moment to save embarrassment to the services, to save expense to the taxpayer, and to delude no one as to the capability of some prospective applicant for service who is incapable by virtue of his dependency of rendering the type of service we must expect.

I commend my friend. I think there is no good reason not to accept this amendment. I am pleased that he is listing me as a cosponsor.

Mr. HOLLINGS. Mr. President, I thank my distinguished cosponsor, the Senator from California, and the Senator from Kansas. I yield back our time.

Mr. GLENN. I am happy to accept the amendment on this side of the aisle. I think the other side already accepted it.

The PRESIDING OFFICER. All time is yielded back.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Will the Senator from South Carolina be willing to answer a couple questions? I strongly support the amendment, but I am curious, at what stage, if at all, are enlistees tested for AIDS?

Mr. HOLLINGS. I had not studied that particular subject, in all candor.

Mr. BUMPERS. Can the distinguished floor manager answer that question?

Mr. GLENN. I am told by staff that eveyone now is checked for AIDS in their blood test when they come in for their enlistment physical.

Mr. BUMPERS. I appreciate that answer. I have been seeing statistics on what percentage of the military had been checked for AIDS and I did not know whether that was just enlistees or whether they were testing all members of the armed services for AIDS.

Mr. GLENN. I am told that they are testing everyone now coming in. I think there is random testing of those already in. There is systematic testing of everybody on active duty, I am told.

Mr. BUMPERS. I thank the distinguished floor manager and I thank the distinguished Senator from South Carolina.

Mr. HOLLINGS. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 747) was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. HOLLINGS. I thank the distinguished Senator from Ohio and the manager of the bill, the Senator from Illinois, very much for their courtesy.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. At this point in time the amendments to be before us by agreement between the two sides are the amendments of the majority and minority leaders. Thereafter, may I say to my friend from North Carolina, he will be next up. We are waiting for the majority and minority leaders.

Does the distinguished Senator from North Carolina mind proceeding now?

Mr. HELMS. I will be delighted, and I will offer this to the distinguished manager of the bill: if the majority leader should arrive and desire that I lay aside my amendment temporarily so that he can complete this, I will do that.

Mr. DIXON. I thank the Senator from North Carolina. If the minority or majority leader, either one, comes in, we would be glad to accommodate them. We realize they are involved in other matters.

I wonder if my friend would agree to a time agreement on this amendment.

Mr. HELMS. Let us consider for openers an hour equally divided. I do not intend to take 30 minutes, but I would like to have at least 30 minutes, latitude.

Mr. DIXON. Mr. President, I ask unanimous consent that there be a time agreement on the amendment of the distinguished Senator from North Carolina of 1 hour equally divided with no amendments to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair will advise that the pending amendment is the Byrd amendment to the Weicker amendment.

Mr. DIXON. Mr. President, I ask unanimous consent that the Byrd-Weicker amendment be set aside so that the amendment by the distinguished Senator from North Carolina, according to the unanimous-consent agreement, may be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 748

(Purpose: To make certain members of foreign diplomatic missions and consular posts in the United States subject to the criminal jurisdiction of the United States with respect to crimes of violence, trafficking in drugs, reckless driving, or driving under the influence of alcohol or drugs)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 748.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with because it is a lengthy amendment and I will attempt to describe it, and I think I can.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new section:

SEC. . (a) notwithstanding any other provision of law and, particularly, the Vienna Convention on Diplomatic Relations, done on April 18, 1961, and the Vienna Convention on Consular Relations, done on April 24, 1963, members of a foreign diplomatic mission (other than diplomatic agents) and members of a foreign consular post (other than consular officers) shall not be entitled to immunity from the criminal jurisdiction of the United States (or of any State) for any crime of violence, as defined in section 16 of title 18, United States Code, or for reckless driving or driving while intoxicated or under the influence of alcohol or drugs.

(b) For purposes of this Section—

(1) the term "consular officer" has the same meaning as is given to such term in Article 1(1)(d) of the Vienna Convention on Consular Relations;

(2) the term "diplomatic agent" has the same meaning as is given to such term in Article 1(e) of the Vienna Convention on Diplomatic Relations;

(3) the term "members of a foreign consular post" is used within the meaning of Article 1(1)(g) of the Vienna Convention on Consular Relations; and

(4) the term "members of a foreign diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations.

(c) This Section may be cited as the 'American Citizen Protection Act of 1987.'

(d) Notwithstanding any other provision of law or of this Act, if the President, in considering factors of reciprocity and perceived obligations of international law, determines and so certifies to Congress that the national interest of the United States requires the exclusion of certain individuals from the coverage of the provisions of Section 1 of this Act, then the President may exclude from such coverage up to 5,000 foreign nationals who are family of foreign diplomats or support staff of foreign diplomatic or international missions in the United States; provided, however, that the assertion of diplomatic immunity on behalf of a person so excluded shall be made in the appropriate judicial forum only by the Ambassador to the United States from the sending foreign sovereign of which such person is a national and such person shall immediately thereafter be declared persona non grata, forthwith expelled from the United States, and denied re-entry. The President shall direct the Office of Foreign Missions to publish in the Federal Register not less than once annually a list of foreign nationals, if any, excluded pursuant to the provisions of this Section.

(e) Section 1732 of Title 22 of the United States Code is hereby reenacted and made a part hereof and incorporated herein by reference."

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

Mr. President, the pending amendment could not possibly possess a greater clarity of purpose or need nor does Congress have a greater opportunity and responsibility to protect the thousands of American citizens who have been assaulted, robbed, raped, and otherwise humiliated and violated by thugs who are going scot free because they enjoy diplomatic immunity and therefore cannot be held responsible under our system of jurisprudence for their crimes of violence and mayhem against the American people.

It is time that we did something. We should not, we must not delay further in protecting the innocent law abiding people of this country. In fact, we have delayed too long already. Many Americans have paid the price for our unwillingness to face up to our responsibility to protect them.

The American public especially in cities with embassies and consulates and international missions or organizations have been absolutely mutilated, often with the perpetrators of the crimes laughing in their faces and saying, "You can't touch me; I have diplomatic immunity." These have involved people who have committed violent crimes, even murder, trafficking in drugs, reckless driving, theft, rape, driving under the influence of alcohol or drugs or both, and they go scot free. If this Senate has any conscience whatsoever, it will start today to put an end to this travesty. So the issue is simply this: Does the Senate wish to protect the public from violent and related crimes committed by the family and support staff of diplomats who are presently free to commit criminal acts with complete impunity?

These criminals are free to do so with impunity because the Department of State cloaks them with immunity from prosecution, often identical in practical effect with that enjoyed by the foreign ambassadors themselves.

At the outset, let me assure the Senate that this issue is not abstract. It is very real. It is in fact monumental. It is on the minds of many Americans, indeed perhaps most Americans who cannot understand why approximately 35,000 foreigners in the United States are given the right to victimize the American people with no legal repercussions whatsoever. What a tragedy.

So it is not abstract, Mr. President. And to bring that point home, let me briefly describe a few examples of the criminal conduct which has been committed if not encouraged by an excessive grant of immunity by the Department of State to people who in fact are nondiplomats. All right. These examples are but just a few of those which were brought to my attention during a recent hearing held before the Foreign Relations Committee.

Take the case of Kenneth Skeen, a young man, a carpenter, a young man who had honorably served his country in the military. He was gunned down by the son of a Brazilian diplomat on a street here in the District of Columbia. He was gunned down while working on a second job. He held two jobs trying to make ends meet to get ahead to fulfill what we call the American dream. But that dream was shattered by an irresponsible, violent, criminal foreigner who had previously been charged with assault but once again had simply been turned loose on the society again because his father happened to be a diplomat.

While the assailant was set free unharmed and with all the evidence of his crime either destroyed or erased from the books, his victim, Kenneth Skeen lay in a hospital bed incurring massive medical bills which he could not pay. He lost his job. Even now he suffers a 20 percent disability, a significant handicap for a carpenter. The disability has virtually destroyed the use of one of his hands.

When the media learned of the incident, a police spokesman explained that "Since he had diplomatic immunity—I am talking about the son of the Ambassador—he is considered not to have been arrested. That is international law . . ." The police spokesman said that. And the official State Department line was even more enlightening. The State Department said, "Mediation procedures to settle disputes between diplomats and American citizens begin with the aggrieved citizen's filing of a written claim with supporting details to the Office of Protocol. We use our good offices"—this is the State Department talking, Mr. President— "when appropriate, to bring the matter to the attention of the diplomat's Embassy with a request"—get that, Mr. President— "that the Embassy use its best efforts to promote a just settlement of the dispute."

The little girl in the comic pages used to say. "I may throw up."

Senator BYRD, who was at that time the distinguished minority leader of the Senate, said of this case that it seemed "inconceivable to me that the relative of a diplomat can carry a gun in this country and shoot an American citizen and cannot be arrested; cannot be brought to trial; can just be turned loose on the street."

Amen to Senator BYRD. He was exactly right. Unfortunately, there are countless other examples that American citizens have suffered at the hands of foreign criminals, and no other characterization of them is proper. They are foreign criminals.

Take the case of "Holly," who was a young school girl who went to a freind's house for a party. Because she was not old enough to drive, she relied on others. Unfortunately, those in whom she has placed her trust were not trustworthy. In fact, before the night was over, two of the young men who were sons of embassy personnel—not sons of Ambassadors, just sons of personnel at the Embassy—raped "Holly." Throughout the assult they taunted her with their "diplomatic immunity" and her powerlessness to do anything to them. Indeed, both men were never charged, nor were they expelled from this country. In fact, several months after the incident one of the rapist and his family moved into a house across the street from "Holly." And still our State Department did nothing to help this young girl or her family.

Do you see why I am offering this amendment, Mr. President?

As recently as Monday of this week, our own President, President Ronald Reagan spoke before the United Nations in New York City. At the U.N. speech there was present a delegation of Iranians and Lybians who refused to be searched, refused to subject themselves to the metal detection measures and otherwise refused to assure our Secret Service that our President's safety would not be jeopordized. They sat right in front of President Reagan and during his address to the General Assembly, and in essence because these guys claimed diplomatic immunity, our Government feigns that it is powerless to protect our President in his own country.

This amendment proposes to provide some protection.

Mr. President, I would like to ask my distinguished colleagues to ponder this one last chilling thought: If one of those Iranians or Libyans at the United Nations had in any way harmed President Reagan, our State Department would claim that legally, there is nothing they, or any of us, could do—we would have to allow them to go free because even though our country no longer has diplomatic relations with these two countries, the individuals are still afforded the plea of "diplomatic immunity."

Mr. President, let me say again that I agree wholeheartedly with the remarks sometime back by the distinguished Senator from West Virginia, Mr. BYRD, who is now the majority leader in the Senate. I believe it is inconceivable that such crimes are allowed to occur with no recourse, no means of justice, no due process of law. And I believe, obviously, it is time for the Senate today to begin the process of putting an end to the legal loophole that has allowed our citizens to be victimized by families and support staff members of foreign diplomats.

During this bicentennial year, I think it is high time that we return to the citizens of America the rights they were guaranteed 200 years ago in the Constitution.

Mr. President, I can anticipate, and I hope I do so in error, the arguments against this amendment. We are going to hear: Oh, dear, we must not risk violating treaties. Well, before that argument is made, I want to say that I have an answer to it. I have it right here, existing law. We are going to hear the plea that: Oh, we must not do this, because there might be retaliation in foreign countries against our own diplomats. Well, this amendment takes care of that. We can offer protection. We will have protection, and there is no chance of retaliation.

So when these arguments are made, I am prepared to respond to them. I hope they will not be made. Instead, I hope that the Senate would readily agree to provide the American people, the innocent, law-abiding citizens of this country, the right to walk their streets, enjoy the privacy of their homes, and the other measures of safety to which they are entitled, and certainly to make them safe against thugs who cannot even be arrested and prosecuted, as matters now stand, because they possess diplomatic immunity.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, I yield to the Senator from Rhode Island such time as he may need in opposition.

The PRESIDING OFFICER. The Senator from Illinois has yielded to the Senator from Rhode Island such time as he requires.

Mr. PELL. I thank the Senator from Illinois very much.

Mr. President, this amendment involves a fundamental principle of international law. The roots of this doctrine are based in antiquity.

The reason for immunity is simple and basic: It is to assure that diplomatic representatives are able to carry out the official business of their governments without undue influence or interference from the host country.

Here, I must state something in a more personal vein, because I believe I am the only Member of this body who served as a diplomat behind the Iron Curtain. I can recall being accused of espionage in the Soviet press and in the Czechoslovakian press.

Countries that are unfriendly to us behind the Iron Curtain are capable of manufacturing accusations of crimes. If they manufacture it and say that U.S. citizen John Jones, second secretary, was guilty of a crime, of driving a car under the influence of alcohol, and so forth, there is no way that you could prove them wrong, because John Jones would be locked up in that country, behind bars.

I think this amendment would be very harmful to the interests of our diplomats behind the Iron Curtain.

I know how much I relied on the doctrine of immunity in my own work there.

I can remember another time when an employee of mine, an interpreter, who had been badly beaten up and abused, was brought into the consulate general, which does not have immunity. As the Senator from North Carolina knows consular archives have immunity. I put a sign on the door saying "Consular Archives," and he was not interfered with.

I understand the anquish of those who have been unfortunate victims of criminal acts perpetrated by foreign representatives in our country. Diplomatic immunity should not be used as a shield to permit criminal actions.

Having said that, however, equal concern should be evidenced about the freedom and even the lives of those who represent the United States at foreign posts throughout the world.

Diplomatic immunity is built on a system of reciprocity. What we impose on foreign diplomats in this country will without a doubt be imposed on our Foreign Service officers overseas.

We know that these crimes the Senator for North Carolina has pointed out are dreadful, awful crimes and they do occur, but we do not know with what crimes our own diplomats will be accused. They will be accused of something manufactured, and we will have no way of escaping the harm that can be done.

Do we really want to adopt an amendment which we know will result in our Foreign Service officers and their families being subject to legal and political systems that are often sharply at variance with ours or are controlled by states that would use them to harass and intimidate American citizens?

At first blush, this amendment of the Senator from North Carolina has great appeal and seems to make perfect sense. We share with him the abhorrence of the dreadful crimes that have been committed by foreign diplomats in this area and other areas.

Look at the result of passing this. I know from personal experience the chagrin and the harm that will bring on our own people behind the Iron Curtain in hostile environments.

I strongly urge my colleagues to oppose this amendment.

Mr. HELMS. Mr. President, the distinguished chairman of the Foreign Relations Committee, Senator PELL, is one of my treasured friends. We work together hand in glove, and I enjoy it, and I respect and admire him. But the Senator apparently has not taken into consideration that under this amendment the President is allowed 5,000 exemptions—5,000—which he can grant at his discretion.

I notice the clerk looking at the amendment. It is on page 2.

So far as retaliation against the sons of our diplomats overseas or the sons of employees of our embassies overseas is concerned, if they rape somebody over there, I hope the country throws the book at them. I have no sympathy for them whatsoever. Or if they rob or drive drunk or deal in drugs, or whatever. However, let me say this: They are already protected in terms of their rights if they are improperly arrested and charged and/or imprisoned.

I cite the law on the books. It is title 22, Foreign Relations and Intercourse, page 1701, "Release of citizens imprisoned by foreign governments:"

> Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall

It does not say "may."

> shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.

If that is not protection, I do not know what it is. So I do not want to hear any more about retaliation. It just is not so.

I say again that if any of these personnel, including any American Ambassador, go overseas and commit mayhem, violate the law, rape, pillage, burn, steal, throw them in jail, just as I want the thugs who are raping and pillaging and burning and destroying in this country to be dealt with.

Mr. President, a distinguished attorney, Pamela Trescott, appeared before the Foreign Relations Committee at its recent hearing on this subject. She is distinguished in many ways. She is an attorney at law, practicing in California, and an authority and a lecturer on diplomatic immunity.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HELMS. I thank the Chair. I hope the time will not be charged against me while we are getting order in the Senate.

The PRESIDING OFFICER. Without objection, the time will not be charged.

The Senator from North Carolina may proceed.

Mr. HELMS. I thank the Senator.

Miss Trescott spent 4 years serving in the International Trade Administration of the U.S. Department of Commerce. She was based here in Washington. She was based in Beijing and Taiwan. She conducted the legal aspects of a study over 3 years which resulted in a very fine book on this subject.

Among other things, this distinguished attorney and scholar told the committee that the Vienna Convention and the numerous articles that have interpreted that treaty repeat consistently: "It is the work, rather than the official, which must be protected."

Then she went on to say: "It must then be also noted that it was the intention of the Vienna Convention that such officials obey all ordinary laws governing their private actions."

I might add that this lady herself was a victim of a crime by a person enjoying diplomatic immunity.

She said, "Clearly, the Congress of the United States has the constitutional right to pass legislation," in this respect. "Frankly," she said, "I think there is strong argument that the bill before you"—and she was talking about the legislation that I introduced some months back, Mr. President—"may not be inconsistent with the Vienna Convention." Then she went on to say that, "It should be noted that since 1884"—a pretty fair period of time, Mr. President—"the Court has held that 'so far as a treaty made by the United States with any foreign nation can become the subject of judicial cognizance in the courts of this country,' talking about the treaty, 'it is subject to such acts as Congress may pass for its enforcement, modification, or repeal.' "

Now, that has been the law since 1884.

So, Mr. President, I really hope I will not hear a whole lot about retaliation or about treaties or whatever. We have a duty to act now at this late time to protect Americans from being victimized by thugs who enjoy diplomatic immunity.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. DIXON. Mr. President, I am delighted to yield some more time to my colleague from Rhode Island if he wants it. How much time does this side have?

The PRESIDING OFFICER. Twenty-five minutes.

Mr. DIXON. I yield 3 more minutes to my friend from Rhode Island.

Mr. PELL. Mr. President, I repeat that the appeal of this amendment is very great, but when you look at its reach and impact then one starts questioning it.

Now under the law, as the Senator from North Carolina has pointed out, our President can demand that the foreign government release one of our diplomats who has been accused of a crime. He can demand that, but there is no law that says that foreign government has to comply.

My recollection is that in the world today, of about 150 or 160 nations, only 25 of them democracies, not all of which meet our standards of democracy; so I do not think we would have much luck in pursuing this argument.

I would hope very much indeed that this amendment, appealing as it is, would not pass because of the very real harm it will surely do to our diplomats in unfriendly countries around the world.

Mr. DIXON. Mr. President, I yield myself 2 minutes simply to say that as a manager of the bill, the Armed Services Committee does oppose this amendment, which would wipe out in effect diplomatic immunity, would expose our diplomats to arrest overseas, other countries would obviously retaliate, and we feel that this is very bad and would have a bad impact on our intelligence operations around the world.

So for that purpose we do oppose the amendment.

We yield back the remainder of our time on this side, Mr. President, and subject to whatever time my friend from North Carolina has, I would move to table after accommodating him for his close.

Mr. HELMS. Mr. President, I thank the Senator very much. That is his judgment on the motion to table.

Mr. President, I ask unanimous consent that the distinguished Senator from New York [Mr. D'AMATO] be a cosponsor of the amendment. He was also a cosponsor of the bill that I introduced some time back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I yield 7 minutes to the distinguished Senator from New York [Mr. D'AMATO].

The PRESIDING OFFICER. The Senator from New York is yielded 7 minutes.

Mr. D'AMATO. Mr. President, I am pleased to rise in support of this amendment offered by my distinguished friend and colleague from North Carolina, Senator HELMS.

The real purpose of this amendment, Mr. President, is to see to it that the well-established and necessary process of diplomatic immunity does not continue to be abused. This amendment is rather important to the people of my State where there are so many diplomatic missions including those from the United Nations. On a daily basis the citizens in the New York metropolitan area find themselves under constant assault. Do they find themselves under assault by the diplomats, the Ambassadors, the Deputy Ambassadors? No. They are under assault by the staff of diplomats, those who drive cars, the sons and daughters of staffers, and the families of diplomats, their sons and daughters.

It is not the purpose of diplomatic immunity to cover everyone who comes in who works for a mission. It is not the purpose of diplomatic immunity to provide tens of thousands of foreigners in this country with the ability to create mayhem.

We have situation after situation where the people of my State and, indeed, many throughout this country have been victimized by those who run them down deliberately, by those who create monstrous attacks on their person, be it murder, rape, or the most heinous crimes by those who have total disregard for the norms of civilization.

It is absolutely ludicrous for the State Department to oppose this kind of legislation, which says that we will give diplomatic immunity to real diplomats, but not extend it to literally every Tom, Dick, and Harry, or anyone associated with, anyone who works with, or the family members of those attached to the diplomatic service. If our diplomats or their families, or their low-level staffers, are engaged in those kinds of activities, then they should be subjected to the rule of law.

What we are calling for here is the rule of law as I would hope that we would support and pass this legislation.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from New York yielded the floor.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I think all has been said that needs to be said and I thank the distinguished Senator from New York for his fine comments. He has been a leader in this area and if the distinguished Senator from Illinois is willing to yield back his time I will.

I yield back my time.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Illinois has moved to table.

The yeas and nays have been requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois [Mr. DIXON] to table the amendment of the Senator from North Carolina [Mr. HELMS].

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Maine [Mr. COHEN], the Senator from Arizona [Mr. MCCAIN] and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from Connecticut [Mr. WEICKER] is absent due to illness.

Mr. DIXON. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced, yeas 48, nays 46, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—48

Adams
Baucus
Bentsen
Biden
Bingaman
Boschwitz
Bradley
Breaux
Burdick
Chafee
Cranston
Danforth
Daschle
Dixon
Dodd
Durenberger
Evans
Fowler
Glenn
Graham
Harkin
Hatfield
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Rockefeller
Sanford
Sasser
Stafford
Stennis
Stevens
Wirth

NAYS—46

Armstrong
Bond
Boren
Bumpers
Byrd
Chiles
Cochran
Conrad
D'Amato
DeConcini
Dole
Domenici
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Humphrey
Karnes
Kassebaum
Kasten
McClure
McConnell
Mikulski
Murkowski
Nickles
Packwood
Pressler
Quayle
Riegle
Roth
Rudman
Sarbanes
Shelby
Simpson
Specter
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—6

Cohen
Gore
McCain
Simon
Symms
Weicker

So the motion to lay on the table amendment No. 748 was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. I move to table the motion to reconsider.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I will shortly go to the Sessions nomination. That does not require unanimous consent, but I hope we will get unanimous consent to go to the Sessions nomination. There will be a rollcall vote on the nomination. I have had one or two or three Senators say they would like to speak for 1 minute and put their statement in the Record. Others have said they would put their statements in the Record. Which Senators want to speak very briefly? Mr. Bentsen and Mr. Gramm. Any others? Mr. Thurmond.

EXECUTIVE SESSION

Mr. BYRD. I ask unanimous consent that the Senate now go into executive session to take up the nomination of Mr. Sessions and that there be a time limitation of 3 minutes thereon, 1 minute to be under the control of Mr. Bentsen, 1 minute under the control of Mr. Gramm, and 1 minute under the control of Mr. Thurmond, and that any Senators who wish to put statements in the Record may do so; that the Senate then proceed to vote without further debate; that upon the disposition of the nomination, the Senate return to the consideration of the Department of Defense authorization bill.

The PRESIDING OFFICER. Is there objection to the request?

Mr. JOHNSTON. Will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. JOHNSTON. I wonder if he might outline the proceedings for the rest of the evening, if any.

Mr. BYRD. Yes. Following the Sessions nomination—we can do it now but this may take a little while—following the Sessions nomination I was going to try to get an agreement with respect to the DOD authorization bill, hoping that we could agree on a final day and time for at least completion of action on all amendments other than the War Powers amendments and the SALT II amendment. But that will require a little discussion. There will be other rollcall votes today. If the agreement were to be entered as an order by the Senate, the Senate would be in tomorrow between the hours of 10 and 2, no rollcall votes, but for Senators who have amendments to call up, if they want to debate them that is fine. We have time agreements on most of the amendments. I am going to try to get a time agreement on all remaining amendments with the exception of the two I mentioned earlier, and that any rollcall votes ordered on amendments tomorrow would be stacked for Tuesday. Further, I would ask that the Senate be in on Monday for the same purpose, debating the amendments so that Senators would have an opportunity to call up their amendments, order rollcall votes on them if they want. If they are acceptable and are accepted, then that is just that much out of the way. And then we would come in Tuesday at an early hour and begin taking up amendments, voting thereon, with a final vote to occur, say, no later than 10 o'clock that evening, and the only two remaining amendments at that time that would be debatable would be the two I mentioned. Otherwise, amendments that had not been debated but which are listed on the list in the Congressional Record and the Calendar of Business would still be called up as we always do under a unanimous-consent agreement—called up, they could get a vote thereon but have no debate.

Mr. WARNER. Mr. President, as the leadership is generally discussing, the two amendments, of course, are the War Powers and the SALT II?

Mr. BYRD. Yes. So if that is sufficient for now, may we then proceed to the Sessions nomination?

Mr. JOHNSTON. I thank the leader.

The PRESIDING OFFICER. The question is on the unanimous-consent request on the Sessions nomination. Is there objection? The Chair hears none, and it is so ordered.

The clerk will report the nomination.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of William S. Sessions of Texas to be Director of the Federal Bureau of Investigation.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, I rise today to voice my strong support for Judge William S. Sessions to be Director of the Federal Bureau of Investigation.

As my colleagues are well aware, Judge Sessions has had a long and impressive record as a trial judge, prosecutor and practicing attorney. Judge Sessions' extensive background has prepared him well for this position.

He is a 1956 graduate of Baylor University, and a 1958 graduate of the Baylor School of Law. From 1959-69 Judge Sessions was in the private practice of law in Waco, TX. Beginning in 1969 he served as Chief of the Government Operations Section in the Criminal Division of the Department of Justice, where he remained until 1971. From 1971-74 he served as the U.S. attorney for the western district of Texas. In 1974 Judge Sessions was nominated by President Ford, and confirmed by the Senate, to be a U.S. district judge for the western district of Texas. Presently Judge Sessions serves as the chief judge of that court.

As a Federal district court judge he has demonstrated that he is an able jurist. He has the reputation as a tough, but fair judge, and one who has ensured the even-handed administration of justice.

The position of Director of the FBI is one of the most important in all of law enforcement and I believe Judge Sessions possesses the knowledge, judgment, integrity, and experience to serve in an exemplary manner as director and I look forward to working with him in the future. Judge Sessions is clearly qualified and should be confirmed by the Senate. I urge my colleagues to vote for his confirmation.

Mr. BENTSEN. Mr. President, I had the pleasure of appearing in support of the nomination of this distinguished jurist to be head of the FBI along with my colleague, the junior Senator from Texas [Mr. Gramm]. It was the most unusual confirmation hearing I have ever heard. As we listened to Republican and Democrats alike all the way around as they made their statements about this man, my friend from Vermont said it sounded as though we were canonizing this man.

I think we are exceedingly fortunate to have a man of such ability and integrity to fill this position. As a judge for the western district of Texas, this man was known not only for his ability and integrity but also as an able administrator. I strongly support this nomination.

Mr. President, before the Senate acts on the nomination of Judge William Sessions as Director of the Federal Bureau of Investigation, I would like to say a few words about this distinguished Texan.

During the Judiciary Committee hearings last week, members of this Senate and people around the country had an opportunity to observe Judge Sessions and hear his views on important issues that he is likely to face as Director of the FBI. Those hearings demonstrated to this Senate and the Nation what I have known about Judge Sessions for some time, that he is a man of character, a man with the experience necessary to perform this job, and a man that should be confirmed to restore leadership at the FBI. Judge Sessions is eminently qualified to serve as FBI Director;

qualified by temperament, by his even-handed approach to issues, by his unquestioned integrity, by his legal training and by the ability he has shown during years of service to the cause of justice.

After 10 years of private practice on the defense side of the criminal bar, Judge Sessions joined the Justice Department as Chief of its Government Operations Section. From there he moved on to the position of U.S. attorney for the western district of Texas. Rounding out his legal experience has been over 12 years of service as a Federal district judge in that same western district, including service as Chief Judge of the district since 1980.

That recitation of Judge Session's background makes it clear that he has the experience necessary to serve as an effective administrator in this important post. A closer look at his record as a Federal judge makes this point even clearer—despite the fact that the western district of Texas is one of the largest districts geographically in the country as well as one of the fastest growing districts in terms of population, Judge Sessions has administered that district so effectively that he has consistently been recognized by his peers as running one of the most efficient districts in the country. That sort of administrative experience and performance will serve him and the country well as Director of the FBI.

Judge Sessions is well known for his tough, law-and-order reputation drawn from his strong stand against drug peddlers. He is just as well known for his fair and impartial administration of justice. I believe that this is exactly what this country needs as director of the FBI—a tough but fair champion of law enforcement.

Judge Sessions fills the bill, and I urge the Senate's confirmation of his nomination. This important position has been vacant for too long now and it is time that FBI leadership was restored. Judge Sessions will do just that.

Mr. DOLE. Mr. President, I heartily endorse the nomination of William S. Sessions as Director of the Federal Bureau of Investigations.

During the last 12 years, Bill Sessions has served as a Federal district judge in Texas, where he earned the reputation of being tough, law and order judge—but an honest and fair one as well.

Before President Ford named him to the Federal bench, Bill Sessions served as a U.S. attorney in the western district of Texas, and prior to that in the Criminal Division of the Justice Department.

I can think of no better qualities for the Director of the FBI.

Judge Sessions received the enthusiastic support of both Democrats and Republicans on the Judiciary Committee. And I trust the full Senate will agree with the committee's endorsement.

Mr. BIDEN. Mr. President, today, I urge my colleagues to support the nomination of William S. Sessions of Texas to be the next Director of the Federal Bureau of Investigation.

I would first like to thank the majority leader, Senator BYRD, for moving so quickly on this important nomination. The post of the FBI Director has been vacant for more than 5 months. And yet, despite the Senate's busy floor schedule, the majority leader brought this nomination before the full Senate expeditiously.

This is only the third time that the Senate has voted on an FBI nominee since the law was passed requiring Senate advice and consent on the President's nominee for the FBI Director. Judge Sessions' predecessor—William H. Webster—is one of this country's finest public servants, and based on the record developed during the committee's hearings, Judge Sessions should continue in this fine tradition.

The FBI has immense resources, and awesome responsibilities. It employs 22,000 women and men, and its annual budget is almost $1.5 billion. Congress provided these resources to enable the FBI to pursue many high-priority criminal investigative programs aimed at organized crime, drug trafficking, terrorism and white-collar crime. In addition, the FBI takes the lead with respect to Federal counterintelligence policy.

As the FBI seeks to protect our citizens, it must also remain true to the principles of liberty that form the birthright of every American citizen.

At the outset of the hearings on Judge Sessions' nomination, I outlined the four key criteria that I believed the committee should rely on in considering this nomination:

First, whether the nominee possesses the personal background and character to be the Director of the foremost Federal law enforcement agency.

Simply put, Judge Sessions' background exemplifies the integrity and strong moral character that we have come to expect in an FBI Director. He has been a practicing attorney, a section chief in the Criminal Division of the Department of Justice, a U.S. attorney, and for the past 13 years a U.S. district court judge. Those who have known Judge Sessions, consistently praised his character and integrity. I might note that at the nomination hearing, not a single person came forward to testify against him.

Second, whether the nominee has the qualities of leadership to head the FBI—the Nation's chief law enforcement agency.

For the past 7 years, Judge Sessions has been the chief judge of the U.S. District Court for the Western District of Texas—geographically one of the largest districts in the United States. Judge Sessions' tenure as chief judge has demonstrated his management and leadership abilities, as did his tenure as a U.S. attorney. His extensive experience has given him an understanding of the needs and challenges facing the law enforcement community—a point that came out clearly in the hearings. Under questioning from committee members, he reaffirmed the FBI's existing criminal investigative priorities—terrorism, white-collar crime, organized crime, and narcotics—and committed to undertake a thorough review of these priorities to ensure that the FBI's resources are marshalled in an efficient and effective manner.

Several of my colleagues and I also expressed our serious concern about the importance of the FBI's national security responsibilities. The Bureau is in a unique position to lead this Nation's counterintelligence initiatives. The FBI is the only agency that gives top priority to counterintelligence. Moreover, the FBI is the only agency that can routinely conduct domestic counterintelligence activities. Judge Sessions pledged to continue the priorities that his predessor placed on the FBI's national security role, and to devote the time that is necessary to quickly become knowledgeable about the FBI's counterintelligence responsibilities.

Third, whether the nominee is willing and able to ensure that the FBI is insulated from partisan influences and political manipulation. In my view, this was the single most important issue that the committee addressed during the confirmation hearings.

Judge Sessions, assured the committee that he was committed to maintaining the FBI's independence in the conduct of its investigations. He also assured me that he had received a pledge from the Attorney General that he would not be hindered in any way in fulfilling his oath to fully and completely investigate matters within the FBI's jurisdiction, wherever it might lead.

Based on Judge Sessions' testimony, and on his record during 20 years of public service, I am confident that he will be willing and able to steadfastly resist any attempt to allow political motives to influence the bureau's investigative priorities.

Finally, whether the nominee is committed to the rule of law, and committed to ensuring that the Bureau protect and uphold the individual rights that the Constitution guarantees and that we cherish as a free people.

Specifically, Judge Sessions was asked about his views on the protections afforded to speech under the first amendment. Judge Sessions assured the committee that "the FBI has no intent to investigate individuals or organizations involved in lawful, constitutionally protected activities * * *. An investigation can not be initiated solely upon an individual's advocacy of unpopular ideas or political dissent."

Several committee members also questioned the nominee about the protections afforded by the fourth amendment, which protects American citizens against unreasonable searches and seizures, and I asked about his views on the Supreme Court's fifth amendment ruling in the Miranda case. Judge Sessions assured the committee that the FBI would not run roughshod over the rights and liberties guaranteed under the Constitution and the laws of the United States. According to Judge Sessions, while the FBI's investigative activities "are critical to all of us, * * * the citizens' rights are of equal, if not greater importance. * * * "

Judge Sessions' extensive law enforcement experience, his commitment to the rule of law, and his unquestioned moral character and personal integrity make him an outstanding choice to lead our Nation's foremost law enforcement agency.

Once again, I would like to thank the majority leader for allowing the Senate to take prompt action on this important nomination. I urge my colleagues to support confirmation of William S. Sessions to be the next Director of the Federal Bureau of Investigation.

Mr. DeCONCINI. Mr. President, I would like to take this opportunity to express my strong support for the nomination of Judge Richard S. Sessions to be the next Director of the Federal Bureau of Investigation. Judge Sessions' record, both on the bench and as a practicing attorney, demonstrates that he is a man of great ability and integrity who will serve his country well as Director of the FBI.

Having listened to answers provided by Judge Sessions to questions from myself and my colleagues on the Judiciary Committee, I believe he will continue to address the problems facing our Nation which the Bureau has been called upon to battle. Judge Sessions has given his word that he will continue to make the fight against organized crime a priority of the Bureau under his direction. He has stated that national security will remain of great concern and receive the attention of the FBI in the coming years. And he has agreed to devote what time is necessary to gain a working knowledge of counterintelligence duties of the Director.

For nearly 10 years the FBI has had a superbly qualified individual at the helm in Judge William Webster. In approving Judge Sessions as the successor to Judge Webster, continued progress on efforts to stave off the tide of criminal activity is assured. It has been said of the nominee that he is a law and order west Texas judge, given to strict enforcement of the law when it is determined a criminal act has been committed. As a former prosecutor, I support this type of judge, and am pleased to cast my vote in favor of Judge William Sessions as the next Director of the Federal Bureau of Investigation.

Judge Sessions, I wish you well as you assume your new responsibilities with the Bureau, and look forward to working closely with you as a member of the Judiciary and Intelligence Committees. I am certain that the commitments you made during the confirmation hearings will be adhered.

Thank you, Mr. President.

Mr. GRAMM. Mr. President, I am happy to join with Senator Bentsen and other Senators in recommending the confirmation of Judge Bill Sessions. Whether it was his service in the Justice Department, his service as a U.S. attorney, his service as a Federal judge, or his service as a chief judge, everything that Bill Sessions has ever done in his life has been marked with several characteristics: No. 1, knowledge; No. 2, integrity; and, No. 3, effectiveness. I believe he will bring all those talents to bear as head of the FBI. Certainly, when we consent to his nomination today there are going to be no celebrations in the halls of organized crime. I hope he will be confirmed unanimously. I think he deserves that vote of confidence. I urge my colleagues to vote for Judge Sessions.

The PRESIDING OFFICER. Does the Senator yield back the balance of his time?

Mr. GRAMM. I do.

The PRESIDING OFFICER. Mr. Bentsen?

Mr. BENTSEN. I yield back the balance of my time.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of William S. Sessions to be Director of the Federal Bureau of Investigation? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Rhode Island [Mr. Pell], the Senator from West Virginia [Mr. Rockefeller] and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] and the Senator from Rhode Island [Mr. Pell] would each vote "yea."

Mr. SIMPSON. I announce that the Senator from Maine [Mr. Cohen], the Senator from Utah [Mr. Garn], the Senator from Oregon [Mr. Hatfield], the Senator from Arizona [Mr. McCain], the Senator from Idaho [Mr. McClure] and the Senator from Idaho [Mr. Symms] are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona [Mr. McCain] would vote "yea."

Mr. DIXON. Regular order, Mr. President.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 279 Ex.]

YEAS—90

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—10

Cohen
Garn
Gore
Hatfield
McCain
McClure
Pell
Rockefeller
Simon
Symms

So the nomination was confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

Mr. BYRD. Mr. President, I am about to propound a unanimous-consent request. Before I propound it, and I am going to wait until the Republican leader and the Republican manager are on the floor, let me say a few words which may help to save time later.

If this agreement is objected to, the Senate will continue this session and there will be more rollcall votes today. The Senate would be in session tomorrow and there would be rollcall votes.

Remaining are 40 amendments with time agreements on them and 30 amendments without time agreements. So, the managers have been working diligently and we still have 70 amendments.

One might understand what a drain it would be on the Senate's time to have to go through these amendments and have rollcall votes on so many of them and what that would mean with respect to Santa Claus.

Santa Claus is coming on time. We may not be there to see our stocking filled when Santa comes.

Let me describe what the agreement would do.

If the agreement is entered into, there are a number of amendments lined up. Mr. DIXON will be in a position, he and the ranking manager or the designee of the ranking manager, and, of course, the manager is here also—but there are a number of amendments lined up there. I am taking my time because I have got time.

There are a number of amendments that are lined up that would not require a rollcall vote with the exception of two of them. The managers are ready to continue this evening in the event agreement is entered into. They are ready to continue this evening to discuss those amendments and accept them if the offerors are here to offer them.

If the offerors make for the doors and the airports, then the managers would not be able to accept the amendments. But there are a number of them—I understand there are about 6 or 8 or 10 in that category.

Those would be done. There would be no more rollcall votes today if the agreement is entered.

Then, tomorrow the Senate would begin at 10 o'clock. The Senate would come in tomorrow and would start on the amendments at 10 o'clock. There would not be any rollcall votes but Senators who have agreements on their amendments could call them up, utilize the time on the amendment, debate the amendments Those who do not have time on the amendments could call up their amendments, hopefully, and agree to times tomorrow on their amendments. Any rollcall votes that would be ordered tomorrow on those amendments would be put over until Tuesday next.

The Senate then would come in again on Monday and at about the same time? At 9 o'clock on Monday we would resume debate on amendments in the very same fashion as I have outlined for tomorrow.

On Tuesday all remaining amendments, with the exception of the amendment on War Powers, the Byrd-Weicker amendment, and the SALT II amendment, would be disposed of. This means that on Tuesday we would begin voting early. The first rollcall vote would occur at 8:30 and it would last a half-hour on that first rollcall. Any rollcalls that are stacked immediately thereafter would be 10-minute rollcall votes, and the regular order would be called. It has worked fine. The regular order would be called at the end of 10 minutes, and we could move expeditiously as we did the other night in that same manner.

At the hour of 8 o'clock, any amendments that had not been called up by that time would still be entitled to a vote but no debate. Also, any amendments on which time has not yet been entered, I would hope we could limit to 30 minutes equally divided—with the exception of the two. Senators might want to think about that for a moment.

This would mean, then, at some time after 8 o'clock, beginning with 8 o'clock but sometime later that evening or the early morning of Wednesday, while the North Star is still up there moving, the Senate would complete action on all the rollcalls of all the amendments with the exception of the two that I have mentioned: War Powers and SALT II.

They are open for debate.

So, woe be unto him who is not here next Tuesday because there are going to be a lot of rollcall votes that day.

Let us take the alternative. If the agreement is not entered into, we will continue with rollcall votes this evening as long as the managers are willing to, and tomorrow we will start earlier than 10 o'clock, and on Monday and Tuesday and Wednesday.

Mr. President, I am ready to present the request now.

(Mr. GLENN assumed the chair.)

Mr. DOLE. If the majority leader will yield, the distinguished ranking member on this side cannot be here for about 5 or 6 minutes. I would like to withhold for that long.

I would like to clarify a couple of things that I think Members ought to understand. Sometimes you cannot have it both ways. Not everybody will be able to offer their amendments at their own leisure on Tuesday, as I understand it, but they can stay here tomorrow and offer their amendments, stay here tonight and offer their amemdments, and be here on Monday and offer their amendments, as I understand.

Mr. BYRD. That is right.

Mr. DOLE. If we cannot get an agreement, there will be rollcall votes into the night, there will be rollcall votes tomorrow, and maybe not rollcall votes on Monday, but there will be a lot of votes starting then on Tuesday morning at 8:30. Then at 10 o'clock p.m. Tuesday evening, would we dispose of amendments if we took them up after we made all the rollcalls or would we stack votes again?

Mr. BYRD. After all the stacked votes have been completed on Tuesday, beginning at 8 o'clock—that is the deadline in the request, and we can change that to earlier or later—at 8 o'clock is the final call. The door is shut to add-ons.

Mr. DOLE. But at that time, the amendments could have an up-or-down vote.

Mr. BYRD. Yes.

Mr. DOLE. So if it was nobody's fault of their own, if somebody was left with a legitimate amendment, they could have the amendment read and have any kind of vote.

Mr. BYRD. Yes. The first vote would be on the stacked votes.

Mr. DOLE. And after the stacked votes, say the Senator from Kansas offered an amendment, would they vote on my amendment then or stack that until 8 in the evening?

Mr. BYRD. Eight in the evening is when the cutoff comes. At 8 o'clock in the evening, any votes that have been stacked, that have not yet occurred, will occur, and votes would occur prior to that time, of course. But what I am saying is that at 8 o'clock all debate is off and from there on if we have stacked votes remaining, we continue those stacked votes at the end of which Senators who are on the list of amendments still may call up those amendments but without debate thereon and get a vote. The two amendments on which there is no agreement would be the War Powers amendment and the SALT II. They would be open to debate.

Mr. BUMPERS. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. BUMPERS. No. 1, there will be no votes on Tuesday before 8 p.m.?

Mr. BYRD. Yes.

Mr. BUMPERS. If amendments have been offered, there will be votes on Tuesday that have been ordered on Saturday and Monday, is that right?

Mr. NUNN. Yes, but at 8:30 a.m.

Mr. BUMPERS. I misunderstood that. There would be no votes prior to 8 a.m. on Tuesday?

Mr. BYRD. There would be no votes tomorrow; no votes on Monday. The first vote would occur at 8:30 a.m. on Tuesday.

Mr. BUMPERS. And when all the stacked votes are disposed of, any Senator who has an amendment and wishes to call it up and ask for a rollcall vote at the conclusion of those stacked votes will have a right to do so?

Mr. BYRD. If the conclusion of the stacked votes is reached sometime before 8 o'clock, they will still have remaining time for the amendment. But after 8 p.m., there would be no further debate. But Senators who have amendments which are on the list, who have not called them up and asked for the yeas and nays on them, or not debated, they would still be entitled to call up their amendment but they would not have the privilege of debate. They would have the vote, though, if they asked for the vote.

Mr. BUMPERS. Then at the conclusion of all that, the only two amendments that will still be pending will be the SALT II and the War Powers Act.

Mr. BYRD. That is correct.

Mr. BUMPERS. Will the majority leader yield for still another question?

Mr. BYRD. Yes.

Mr. BUMPERS. At this moment, if somebody called for regular order, the amendment pending is the amendment of Weicker, Byrd, and Hatfield?

Mr. BYRD. That is true, but the request as worded would not cover that.

Mr. BUMPERS. The SALT II amendment, of course, has not been laid down, but this agreement in no way vitiates our right to lay that down.

Mr. BYRD. That amendment is on the list. That is right.

Mr. BUMPERS. Now the second question: Does this agreement have the effect of withdrawing the Weicker-Hatfield amendment once all those stacked votes are over with?

Mr. BYRD. No. The amendment is still pending.

Mr. BUMPERS. Once it is all over, that amendment would then be the pending business?

Mr. BYRD. That is correct.

Mr. BUMPERS. And subsequent to the disposition of that, then the SALT II amendment would be in order?

Mr. BYRD. That is correct.

Mr. BUMPERS. I thank the Senator.

Mr. QUAYLE. Once we get beyond the votes on Tuesday a.m. and go through the day and start voting at 8 p.m. that night, will then a motion to table be in order for each one?

Mr. BYRD. A motion to table is not waived and would be in order.

Mr. QUAYLE. Throughout the day, say we have four stacked votes coming in Tuesday at 8:30 and we go to 9:30 under the 10-minute rule after the first vote, the first amendment up requires debate and a rollcall, would we just have the debate and then the rollcall or do you intend to stack votes throughout the day?

Mr. BYRD. No. The stacked votes would be those that are ordered for rollcalls on this evening, tomorrow, and Monday.

Mr. QUAYLE. In other words, we will have regular order throughout the day Tuesday, that if you have a request for a rollcall vote, you could have a motion to table, and if that would fail, you could have a rollcall vote up or down on that particular amendment which would be two rollcalls, possibly, on the same amendment, which could chew up a lot of time.

Mr. BYRD. That is true.

Mr. QUAYLE. I am just thinking this thing through. I do not know myself if we might want to stack votes throughout the day which would save more time for debate, obviously. Then we would still have in the order, if there was an amendment we wanted to have a tabling motion on, we could still table after 8 p.m., but in the day we would be taking amendments and debating.

I just offer that as an observation to try to make sure that there is as much time because you have, I think the chairman said, something like 30—I will tell you, the amendments that bother me are not the agreed-upon amendments. We have 30-some amendments that do not have time agreements. Now, obviously in those 30-some amendments there are some very contentious, substantive amendments and those are the ones that get drawn out with a number of votes throughout the day.

I hope we do not get bogged down in that because a lot of our Members are really going to be saying, "Hey, what have you done to us?"

I just bring that up as an observation.

Mr. BYRD. Throughout the day there will be rollcall votes. The Senate, of course, may at any time order a stacked vote and the managers may try to stack as many as possible. But I would not want Members to leave here under the understanding/misunderstanding that after the first two rollcall votes, which will be ordered this evening under this agreement, there would be no more rollcall votes until 8 o'clock Tuesday.

Mr. QUAYLE. 8:30. 8:30 a.m. Tuesday.

Mr. BYRD. Well, I am glad the Senator reminds me. I have inadvertently overlooked the fact that we are beginning at 8:30 a.m. and drawing the line at 8 o'clock p.m. and so from here on out I will be clear on this.

Mr. DOLE. If the Senator will yield, I think there is another thing that we can probably do and that would be to sequence the amendments. If there are going to be a number of amendments, hopefully the debate on some of these will be taken care of tomorrow, some will be taken care of on Monday, but there are going to be some left on Tuesday and hopefully we could alternate them.

I do not know how many from each side there are going to be. I think probably there is a fairly equal number. I think in fairness we should figure out some sequence where we would take turns on each side. Maybe we could get the two managers to sort of work that out.

It is whatever the majority leader would like to do, but if we got into a real crunch at 8 o'clock on Tuesday night and someone on either side somehow got cut off, would there be any way that upon agreement of the two leaders the time could be extended for, say, 30 minutes without discussing the whole thing again? Is that possible?

Mr. BYRD. I do not think under the agreement we ought to allow that.

Mr. DOLE. OK.

Mr. BYRD. Because if we allowed for one, others would expect the same. If I may now, I will put the request.

Are there further questions? I will be glad to yield to Mr. NUNN.

Mr. DIXON. I wonder if the majority leader will yield so that the chairman could discuss the pending amendments that are still remaining for today.

Mr. BYRD. Very well.

Mr. President, I yield the floor.

Mr. NUNN. Mr. President, I hope that this unanimous-consent agreement will be entered into because it would I think facilitate the work of the Senate and it would allow us to complete most of the amendments on the DOD bill by Tuesday night.

I do hope that everyone will recognize that even if this goes through, and I hope it will, we would have no more rollcalls this evening or Saturday or Monday. We have about 18 amendments that could be handled tonight. The Senator from Illinois has been working on this list very assiduously over the last several hours. What we have is a Conrad amendment tonight that will be debated immediately following this unanimous-consent request and there will be a rollcall on that amendment Tuesday morning, 8:30, if we get this unanimous-consent request. Otherwise, we would have a rollcall on it this evening.

The Senator from Massachusetts [Mr. KENNEDY] has two amendments that have been agreed to. They can be handled this evening if we can have the Senator from Massachusetts here to present those. Then we have a Metzenbaum amendment that will also be accepted. If we could get the Senator from Ohio to remain and handle this after the unanimous consent, we ought to be able to do that. And I would like to do them in this order, although any Senator who could be recognized could, of course, get their amendment up:

Mr. HARKIN has an amendment, 10 minutes equally divided. That would perhaps take a rollcall vote that would have to be rolled over until Tuesday; an Evans-Adams amendment on nuclear waste cleanup which will also be agreed to; we have a Shelby amendment on Toshiba on which there will be a colloquy; we have a Sasser amendment which is agreed to; a Domenici amendment which is agreed to; a Proxmire amendment which is agreed to; a Bingaman amendment which is agreed to; a Danforth amendment which is agreed to; and another Kennedy amendment.

That would give us approximately 15 amendments that we could handle in 1½ hours, 2 hours this evening and the committee will be here and the minority will be here and the majority will be here.

We will be in business this evening as long as we can be productive. We will also be in business starting at 10 in the morning as long as we can be productive on Saturday, and we will be in business all day Monday. So those who may get caught in a squeeze on Tuesday, or may fear getting caught in a squeeze on Tuesday should be aware that they will have a lot of opportunities to present their amendments with enough time to have legitimate debate on them.

I hope this agreement would go through, but everyone should understand that the only way we are going to prevent a real roadblock on Tuesday is to have people stay this evening and come in Saturday and come in Monday. I hope no one will complain on Tuesday if they are left out and if they have not availed themselves of an opportunity over the next 2 days and this evening to get their amendment up.

Mr. WILSON. Will the distinguished chairman of the committee yield for a question?

Mr. NUNN. I will be glad to yield.

Mr. WILSON. I thank my friend from Georgia.

The question I had, pursuant to the point he has just made about people having their feelings hurt on Tuesday, maybe I missed it, but I have not heard any discussion as to whether or not there are going to be time limits with respect to debate on Tuesday.

Mr. NUNN. Well, there are already a whole series of time agreements and in addition to those that we have, I believe the Senator's unanimous-consent request will have a portion thereof which will state that those amendments which have not got time agreements would be limited to 30 minutes, 15 minutes equally divided, that would be part of the unanimous-consent request, which would cover about 43 amendments.

Mr. WILSON. Let me ask this question. There are some, as the Senator has observed, already having a time agreement. I can foresee a situation in which we have a sufficient number of pending amendments with time agreements that will exceed the time, particularly with us taking rollcall votes all through Tuesday, so that we have the situation of 10 pounds for a 2-pound bag.

Mr. NUNN. I say to the Senator from California that is certainly theoretically possible and could even happen but that depends on whether we can get Senators to come in tonight, the rest of this evening and any time Saturday and any time Monday. And those who are worried about getting caught in that squeeze should avail themselves of that, and I would assume also that it is a matter of who gets recognized on Tuesday.

At this point we do not have any order, and even those Senators who do not have time agreements, they would have just as much right to recognition and getting their amendment up under a 30-minute limitation if that unanimous consent is agreed to as those with time agreements. I do not think there is any precedent or priority set here.

Mr. WILSON. If I may say so, I think that makes all the more imperative and all the wiser the suggestion that the minority leader has made about actually agreeing upon a sequence because the travel plans of various Members are such that some will be available Saturday, some will not be available until Tuesday.

Mr. NUNN. I would agree with the Senator from California and the minority leader completely on the desirability of sequence. I will stay and work as long as possible this evening but a sequence requires 50 to 60 Senators to sit around and agree I guess unless somebody stands up and just propounds a unanimous consent. That would be fine with me. As far as I am concerned, we can take this list as they are listed here and have that as the sequence. But I know it is not easy to get a sequence unless somebody simply asserts that will be the sequence and asks unanimous consent. If someone else knows how you get a sequence, I am open to suggestion.

Mr. ADAMS. Will the manager yield for an observation?

Mr. NUNN. I will be glad to yield.

Mr. ADAMS. I might suggest that those with time agreements be given precedence which would of course mean that your time agreements would snap through your amendments quickly and you would not have one amendment that did not have a time agreement absorbing all the time. I think that might meet the problem of the Senator from California, at least to the greatest degree possible. I do not mean setting in absolute order, but if those time agreements were to be allowed to go first that would, of course, mean that you compressed all of those, and everyone who agreed to a time agreement would of course go on the list of precedence.

Mr. NUNN. I say to my friend in the unanimous-consent agreement that I have heard proposed to be entered into every amendment would have a time agreement. You would have all those on the list now that already have time agreements, and then every other amendment would have a 30-minute time agreement.

Mr. ADAMS. I thought that might happen.

Mr. NUNN. All animals would be equal.

Mr. WARNER. Mr. President, I think we should further clarify that we would alternate amendments. I think that is important.

Mr. NUNN. I say that would be the spirit of the agreement. The problem is the Senator from Virginia knows if we have a Republican amendment up, and if we cannot find a Democrat on the floor, we might want to take two. So I prefer it be left to the managers with that being the spirit of the agreement.

Mr. WARNER. I understand that as long as we work in that spirit, and indeed not just be Democrat or Republican. This is a bipartisan bill. I think it has been quite bipartisan to date with maybe one exception.

Mr. NUNN. I think since the summer and early fall it has gotten very much cooperation. We have had tremendous cooperation from the Senator from Virginia and the Senator from Kansas. We could never put this kind of proposal together without them and hopefully it will go through. I would say they deserve a great deal of credit for helping work it out; working on it whether or not it goes through, and I hope it will.

Mr. DOLE. If the majority leader will yield for one suggestion, I do not know whether it is good or not, but I think there may be some merit. In other words, if we came in at 8:30 Tuesday morning, we vote on all the amendments that were stacked, we stack all the votes during the day, and start voting at 8'clock at night. If not, maybe we should extend that 8 p.m. to say 10 p.m.

I get the feeling just from people I know on this side with amendments, if they took their 30 minutes and you had a 15-minute rollcall, you are going to be lucky to have more than six or seven amendments during that day, and 25 Members are going to be forced to just have theirs read and have a vote on it. So we would save a little time, maybe extend the time.

Mr. NUNN. May I, if the Senator will yield? I think that is a good suggestion. I think the Senator from Indiana's suggestion and the minority leader's suggestion would be a good way to proceed. In other words, what we debate this evening is stacked for Tuesday morning, what we debate tomorrow is stacked for Tuesday morning, what we debate Monday is stacked for Tuesday morning, would all occur when we come in on Tuesday. From that point on all amendments that are debated thereafter or during the day on Tuesday we would not vote on those amendments as we go along but stack those begining that night. That would give us the whole day without rollcalls but would give us the day for debate.

Mr. DOLE. That probably would give us at least 8 or 9 hours for amendments.

Mr. NUNN. I would assume we would not have Senators leave for the day and not come back because there is no rollcall vote. We would have to keep people here. If they did, it would be at their peril.

Mr. WARNER. Mr. President, with reference to tomorrow's session, we would start at whatever hour the leadership agrees, then we would proceed in an orderly way. But if there came a time, say midafternoon Saturday, when there was no visible work, it would seem to me to be unfair to hold all the staff and infrastructure thinking maybe a Senator might appear at around 6 o'clock. I mean, let us face facts. The managers of the bill will endeavor to keep a very orderly business day up to a point where there is appearance and likelihood and no messages, no communications from other Senators.

Mr. DOLE. No telegrams.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the request will be as follows:

Mr. President, I ask unanimous consent that at 8 o'clock p.m. on Tuesday next all debate on amendments to the DOD bill cease with the exception of the two amendments, one dealing with war powers, the other dealing with SALT II;

With respect to war powers, I ask unanimous consent that no call for the regular order bring it back before the Senate prior to the conclusion of all votes on all other amendments; provided further that the Senate come in at 8:30 on Tuesday morning next;

I ask unanimous consent that the Senate come in at 8:30 a.m. on Tuesday next, that the time of the two leaders be waived, that the Senate proceed immediately to the DOD bill, and the pending amendment at that time, which will be the Conrad amendment. The yeas and nays will have been ordered thereon, and there will be no further debate at that time on that amendment;

From the disposition of that amendment the Senate go to the Harkin amendment, on which all debate will have been used up, and the vote on or in relation to that amendment and on or in relation to, by the way, the Conrad amendment, begin;

That on Monday the Senate come in at 9 o'clock, the time of the two leaders be waived—I have to have 10 minutes on each of those days, 5 minutes;

And the Senate come in at 9 o'clock on Monday; and that the Senate come in tomorrow at 10 o'clock a.m. and proceed immediately to the DOD authorization bill;

That any rollcall votes ordered this evening beyond the Conrad and Harkin amendments—and I understand there will not be any—that on Tuesday morning then the rollcall votes that are ordered following the Harkin amendment this evening occur following which all rollcall votes that are ordered on amendments tomorrow proceed, following which all rollcall votes ordered on Monday will occur; after which other amendments be called up during the day and that no motion to waive the tabling motion is included in this agreement;

Provided further that time on any amendment on which time thus far has not been entered or on which time thus far has been entered exceeding 30 minutes be limited to 30 minutes to be equally divided and controlled in accordance with the usual form.

The PRESIDING OFFICER. Is there further discussion?

Mr. DOLE. Mr. President, reserving the right to object and I shall not object, I think there is an understanding that has been working very well. There will be a lot of competition on Tuesday with that time limit on who is going to be recognized, who is going to be offering their amendments, and who is going to have the yeas and nays.

And I think the managers do not have any problem. I think they have been able to work out a sequence where we could rotate at least if there was anything to rotate. Maybe we will run out of amendments.

And, second, with reference to the so-called SALT amendment and the war powers amendment that would in addition cover any second-degree amendments, the distinguished majority leader has a second-degree amendment pending to the war powers amendment, and there may be second-degree amendments I assume; in other words, just lifting that out of the agreement and nothing changes insofar as those two are concerned.

Mr. BYRD. As of now, nothing changes on the war powers amendment. It does have a pending second-degree amendment. The SALT II amendment was included in the list last evening. And I believe that we said no amendments will be offered to any amendment in the second degree. Is that not accurate, which would rule out any second-degree amendments to the SALT amendment. That is right. There were two exceptions. so there will be no limitations. The order that has already been entered—to wit, that there be no limitation on the number of amendments that may be offered relating to SALT or to war powers—would continue as heretofore.

Mr. WARNER. Mr. President, reserving the right to object, and I shall not, I commend the leadership for reaching this point.

Two items: It is clear that the amendment pending by the majority leader on the war powers may well be corrected in terms of the expedited language.

Mr. BYRD. Yes.

Mr. WARNER. Second, in our discussions forming this UC, in the office of the majority leader, he indicated that 2 o'clock on Monday would be the time to take up the bill, and I believe he acceded to that request.

Mr. BYRD. I did.

Mr. NUNN. It would be 10 o'clock.

Mr. WARNER. That would make the Saturday and Monday sessions uniform in the starting hour.

Mr. BYRD. That is correct.

Mr. EXON. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. EXON. I will not object. I think it is a good arrangement.

Last night, there was a discussion that there would be no second-degree amendments on any of the suggested amendments that were listed. I believe I understood in conversation today that there were some amendments that were not on the list.

Is it also clear, and is it a part of the majority leader's unanimous-consent request, building upon the agreement of last night, that except for the war powers resolution and the SALT resolution, no second-degree amendments are in order on any amendments that are offered under the agreement we just entered into. Is that correct?

Mr. BYRD. That is correct. No amendment to an amendment may be offered. Only those amendments that are listed may be offered. There are two exceptions, as the distinguished Senator has stated.

The PRESIDING OFFICER. Is there further discussion or objection?

Mr. CONRAD. Mr. President, reserving the right to object—and I certainly will not object—if it would be of assistance, I would be glad to withhold the presentation of my amendment until Monday morning. I know there are other Senators who are very eager to get up tonight. I would be happy to postpone mine until the first thing Monday morning, if that would be of my assistance.

Mr. BYRD. My guess—and the managers are here—is that anything we can do tonight can help.

Mr. CONRAD. I am prepared to go ahead tonight.

The PRESIDING OFFICER. Is there further discussion or objection?

Without objection, the unanimous-consent request propounded by the majority leader is agreed to.

Mr. BYRD. Any work we can do will be that much out of the way.

I thank the manager of the bill, Mr. NUNN; the minority manager, Mr. WARNER; and all other Senators, and in particular Senators BUMPERS, ADAMS, and SASSER. All these Senators met on several occasions and worked out this agreement, worked toward it. It certainly required a great deal of effort, and I thank them very much.

Mr. President, there will be no more rollcall votes tonight, no rollcall votes tomorrow, and no rollcall votes on Monday. But Senators, in their own interest, who have amendments, should call them up tonight if they are on this list on the yellow sheet; and on tomorrow and Monday, if Senators want to assure themselves of time for debate, that would be the best time to do it.

The text of the agreement is as follows:

Ordered, That during the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, the following amendments be the only amendments in order; that time on any amendments, where no time agreement is listed, or where the time agreement exceeds 30 minutes, shall be limited to 30 minutes, to be equally divided and controlled in the usual form; that the amendments be first degree amendments and that no amendments be offered in the second degree, with the exception of those offered to the War Powers Act amendments and SALT amendments; and that any vote ordered to occur on an amendment shall be deemed to be a vote on, or in relation to, that amendment: Provided, That there be no limitation on the number of amendments that may be offered relating to SALT or to War Powers:

Bingaman—Verification funding/energy, 30 minutes

Bingaman-Kennedy—NSF

Bradley—U.S. undertake all SSBN overhauls on schedule no funds in this or any other bill shall be used to dismantle any SSBN before 30 years service, SALT compliance, 1½ hours

Boschwitz—Nuclear risk reduction center, 30 minutes

Bumpers—Any SDI architecture must ensure equal protection for all states

Bumpers—Require a report by Navy on feasibility and desirability of developing successor to Trident submarine, 15 minutes

Bumpers/Leahy—SALT subceiling compliance

Bumpers—Sense of Senate on convention arms control

Byrd—3 amendments

Byrd—Morgantown Air Force Reserve

Chafee—Rhode Island National Guard, 20 minutes

D'Amato—Drug interdiction, 30 minutes

Danforth—Funds for Missouri National Guard, 10 minutes

Dixon/Bumpers—Small business

Dixon—Drug interdiction, 30 minutes

Dole—Require Senate ratification of SALT before U.S. obliged to adhere to its limits

Dole—Oil embargo on Iran

Dole—Require Soviet compliance with all SALT limits before U.S. comply with SALT II limits

Dole—Persian Gulf

Domenici—National Laboratories, 30 minutes

Evans—Require an independent review at Hanford, WA, DOE safety enhancements with view to restarting the end reactor, 1 hour

Evans—Asbestos removal at Fairchild, 10 minutes

Evans/Admas—Add funds for environmental restoration at Hanford, WA, DOE complex, 20 minutes

Evans/Inouye—Funds for Navy Port, Everett, WA, 30 minutes

Glenn—DOE safety oversight

Gramm—Davis/Bacon

Gramm—Service contract

Gramm—Stockpile, 1 hour

Gramm—Alcohol beverage sale on military bases

Harkin—NSC advisory-military officer should not serve in this position

Heinz—Shipbuilding, 30 minutes

Helms—INF

Helms—ABM

Helms—Persian Gulf

Helms—State Dept. Americanization

Johnston—Bio-environmental hazard research, 10 minutes

Kasten—Sense of the Senate, Japanese/Vietnamese trade, 30 minutes

Kennedy—Carriers study, 30 minutes

Kennedy—Restore PRIMUS/NAVCARE clinic funding, 10 minutes

Kennedy—Watertown Army lab milicon, 10 minutes

Kennedy—ATACKS, 30 minutes

Lautenberg—CHAMPUS payment for charitable hospitals, 30 minutes

Levin—Cut strategic/reallocate to conventional, 40 minutes

Levin—Authorizing funds for centers of advanced technology, 10 minutes

Levin—ABM

Levin—Cut strategic/reallocate to conventional

Levin/Dixon—Cut SDI, reallocate to conventional

Metzenbaum—M1A1 tank, 20 minutes

Metzenbaum—Burdensharing, sense of Senate, 20 minutes

McCain—Indian Contacting, 15 minutes

McClure—Authorize 2 new production reactors, 30 minutes

Nunn/Warner—Technical amendments

Nunn—2 MAF amphibious lift requirement

Proxmire—GAO study, 20 minutes

Quayle—Nuclear warhead for ATACKS

Quayle—European troops, 30 minutes

Quayle—SALT

Roth—European workload program

Sasser—801, 802 housing

Shelby—Prohibition on sale of Toshiba products in military exchanges, 20 minutes

Simon—Sense of Senate regarding early SDI deployment

Specter/Heinz/Lautenberg/Bradley—Restore TAO fleet oiler ship, 30 minutes

Wallop—Assign strategic mission within the armed services, 2 hours

Warner—Contact on morale/welfare/recreational funds, 30 minutes

Warner—Authorize SDI institute, 30 minutes

Warner—DOE safety oversight, 30 minutes

Warner—FEMA add-on, 30 minutes

Weicker—Special access programs, 20 minutes

Weicker—War Powers

Wilson—Regarding M113A3 for guard/reserves, 20 minutes

Wilson-Cost effectiveness at the margin, 1 hour

Wilson—Shipboard IFF, 10 minutes

Wilson—Space launch recovery

Wilson—Presidio army hospital, 1 hour

Wilson—Strike Levin/Nunn language

Wilson—Defense intelligence manpower exemption

Ordered, That any rollcall votes ordered on amendments on Friday, Sept. 25, 1987, be stacked and occur in order after the vote on, or in relation to, the Conrad amendment, which amendment will be pending upon resumption of the bill on Tuesday, Sept. 29, 1987.

Ordered further, That the Senate convene on Saturday, Sept. 26, 1987, at 10 a.m., with the Leadership time waived, and proceed to debate amendments on the above list as they are offered, with any rollcall votes that might be ordered to be stacked and to occur in sequence on Tuesday, Sept. 29, 1987, following the votes stacked on Friday, Sept. 25, 1987.

Ordered further, That on Monday, Sept. 28, 1987, the Senate convene at 10 a.m., the Leadership time being waived, and immediately proceed to the DOD bill, with any rollcall votes ordered on amendments on Monday to be stacked, and to occur in sequence on Tuesday, Sept. 29, 1987, following the votes stacked on Friday, Sept. 25, 1987 and Saturday, Sept. 26, 1987.

Ordered further, That on Tuesday, Sept. 29, 1987, the Senate convene at 8:30 a.m., the Leadership time being waived, and immediately proceed to the DOD bill, with a vote on, or in relation to, the pending Conrad amendment to occur.

Ordered further, That following the disposition of the Conrad amendment, votes occur on, or in relation to, the amendments stacked on Friday, in sequence, to be followed by votes on, or in relation to, the amendments stacked on Saturday, in sequence, to be followed by votes on, or in relation to, the amendments stacked on Monday, in sequence.

Ordered further, That at the hour of 8 p.m. on Tuesday, Sept. 29, 1987, all debate on amendments to the DOD bill cease, with the exception of amendments dealing with the War Powers Act and dealing with SALT: Provided, That no call for the regular order will bring back the War Powers Act amendment before the conclusion of all rollcall votes on all other amendments.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, may I now announce the order in which we are going to proceed tonight.

The PRESIDING OFFICER. The Senate will be in order, so that the Senator from Illinois can be heard. Senators will cease conversation.

Mr. DIXON. Mr. President, here is the order in which we will proceed. If a Senator is not here at the time his amendment is called up, we will simply go to the next in order.

The first amendment will be by Senator CONRAD. The next amendment thereafter will be by Senator KENNEDY, and thereafter another amendment by Senator KENNEDY.

That will be followed by an amendment by Senator METZENBAUM, the Kennedy amendments and the Metzenbaum amendment being agreed to. Then an amendment by Senator HARKIN, which is going to take a little time, but it will be stacked for Tuesday.

Then an agreed-to amendment by Senators EVANS and ADAMS, an agreed-to amendment thereafter by Senator SHELBY; then one by Senator SASSER; then one by Senator DOMENICI; one by Senator PROXMIRE; one by Senator BINGAMAN; one by Senator DANFORTH; one by Senator KENNEDY; and two amendments by the distinguished majority and minority leaders.

That is the order of business for tonight. If I understand correctly, the Senator from North Dakota is prepared to proceed with his amendment.

AMENDMENT NO. 749

(Purpose: To express the sense of Congress that the President should enter into negotiations with members of mutual defense alliances with the United States for the purpose of achieving a more equitable distribution of the financial burden of support of such alliances)

Mr. CONRAD. Mr. President, I ask unanimous consent to set aside the Weicker-Byrd amendment for the purpose of presenting an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 749.

Mr. CONRAD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCES.

(a) FINDINGS.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and other countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden * * * assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the vitality, effectiveness, and cohesion of the alliances between those countries and the United States.

(b) POLICY.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) if, in the judgment of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distributions of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

Mr. CONRAD. Mr. President, the National debt has more than tripled during the last 10 years. The budget deficit has tripled in the last 6 years.

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order. The Senator is entitled to be heard. Senators will cease conversation. Staff will sit down and stop talking or get out of the Chamber.

Mr. CONRAD. I thank the Chair.

Real interest rate are at near record levels, and our trade deficit is out of control. In just 1 year, 1986, we wiped out all of the trade surplus that had accumulated since World War II. The United States has now become a debtor nation for the first time since 1914. In fact, the United States is now the world's largest debtor nation.

It is clear that the President and Congress must deal with the budget deficit. That is the chief underlying cause of our economic problems. One of the major components of our budget deficit is the $100 billion that the United States spends each year to provide the defense umbrella for Japan and Western Europe. The greatest danger to America's alliances today does not spring from diminished American military capability, but rather from American economic vulnerability.

Forty years after the end of World War II, America can no longer afford to provide the defense umbrella for our allies in Japan and Western Europe, and it is time for the United States to insist that our allies pay their fair share of defending the free world. Ironically, no one has expressed this point more succinctly than the secretary of the French Parliaments's National Defense Committee, Jean-Pierre Bechter. In the July 13, 1987, edition of the Washington Post, he asked: "Do you think 320 million Europeans can continue forever to ask 240 million Americans to defend us against 280 million Soviets?"

The answer, Mr. President, is that our allies will continue to ask Americans to defend them against our adversaries unless we insist that they do more. That is why the distinguished Senator from Tennessee, Senator SASSER, and I have proposed this amendment to the Department of Defense authorization bill. The amendment expresses the sense of the Senate that the President should negotiate with our allies for a more equitable distribution of the cost of supporting our alliances. The amendment also asks the President to report to Congress on the progess of his negotiations, and it provides that if the negotiations do not reflect substantial progress within 1 year, the Congress will consider whether additional legislation is necessary to achieve a more equitable distribution of defense burden sharing.

By any standard, it is clear that the burden of defending our alliances with Japan and Western Europe is not being shared equally. The United States has consistently spent more than 6 percent of its GNP on defense, while our allies in Western Europe, on average, have spent about 3.5 percent, and our allies in Japan have spent only 1 percent of GNP on defense.

People at home and abroad are beginning to recognize that the United States bears a disproportionate share of the cost of defending our alliances. In its July 11, 1987 issue, the Economist magazine declared as follows:

> In July 1987 Western Europe should be preparing itself for the next step towards full maturity. Because two things have changed, it may now be possible—as it has long been desirable—for the Europeans to take back more of the responsibility for their own defence from the Americans who came to the rescue 40 years ago. Why is it so desirable? Not just for the reason usually given—that 241M Americans with an income a bit over $4 trillion last year do not see why 374M Europeans with nearly $3½ trillion should need 300,000 American servicemen and about $100 billion a year of the American defence budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it.

Federal Reserve Board Gov. Edward Kelley agrees that Europe and Japan should shoulder a greater share of the Western defense burden. In the July 31, 1987 issue of Investor Daily he said:

> My proposal is: If one can imagine sharing [the burden] equally at say somewhere around 4 percent, then that would knock around $100 billion off the budget deficit right there. It seems to me an eminently reasonable suggestion.

Shortly after he left the Presidency, Dwight Eisenhower declared: "For eight years in the White House I believed * * * that a reduction of American strength in Europe should be initiated as soon as European economies were restored * * *." The European economies have improved, but they have not assumed a greater share of the cost of defending the Western alliance.

Mr. President, this amendment is not a question of less defense for the United States and its allies. This amendment is a question of who pays for the defense of the United States and its allies. The United States can—and should continue to be a good friend to the Japanese and the Europeans, but the United States can be a good friend by helping our allies to help themselves, not by substituting our efforts for theirs. The time has come to insist that our allies do more to share the burden of our mutual defense.

Mr. President, the United States is a great Nation and it must be allied with great nations. The current structure of defense burden sharing, however, threatens the greatness of America and weakens our allies. Just as the end of World War II required an act of creative statemanship to rebuild Japan and Western Europe, so too must the changes since World War II require an act of American courage to restructure our defense alliances. The amendment before the Senate is an important first step toward achieving those goals, and I urge my colleagues to adopt it.

Mr. President, I ask unanimous consent to have printed in the RECORD articles that support the statements that I have made.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1987]

WESTERN EUROPE REEVALUATES ITS DEFENSE—DEBATE FOLLOWS PROPOSED ARMS CUTS

(By Edward Cody)

PARIS, July 12.—Faced with the prospect of reduced U.S. nuclear forces here, West European leaders are reviving the distant hope of an integrated European defense as a more independent guarantee of the continent's security.

Although the idea is decades old, proposals to improve European military cooperation have intensified sharply as the United States and the Soviet Union move toward agreement on eliminating their intermediate-range nuclear missiles in Europe. In some ways, the swiftness of this renaissance has provided a measure of West European uneasiness over the U.S.-Soviet bargaining and what it portends for Europe.

The U.S.-Soviet missile accord, which many Europeans assume will be completed by the end of the year, has been widely interpreted here as an important psychological step in a process that eventually could lead to a reduced U.S. military presence in Europe and less commitment to its defense.

Thus, appeals for greater European defense integration have blossomed across the continent since the United States called on NATO countries to approve the deal earlier this year despite reluctance in the major European capitals.

"The danger lies in the process getting started," said Jean-Pierre Bechter, secretary of the French Parliament's National Defense Committee. "With the signature of this treaty, we are entering a period at the end of which Europe must be ready to solve its own defense problems. Do you think 320 million Europeans can continue forever to ask 240 million Americans to defend us against 280 million Soviets?"

A number of European and U.S. strategists believe Moscow's long-term strategy is to proceed from missile reductions to troop reductions, which could further lessen U.S. ties to the continent.

Since Moscow has a large advantage in the number of conventional forces in Europe, such proposals may be relatively easy for the Soviets to make and have wide popular appeal in Western Europe, while posing a dilemma for NATO leaders.

Ideas for integrating European defenses traditionally have sounded good in politicans' speeches, but they have faced seemingly insurmountable problems that have prevented their realization.

France's refusal since 1966 to participate in NATO's integrated command, for example, makes cooperation difficult with this country. Similarly, Britain's special relationship with the United States, with sharing of nuclear technology and information, sets it apart from other European nations.

Rival national interests frequently have prevented practical, step-by-step defense cooperation even when it offered economic benefits. France, for example, recently decided to proceed alone with development of an advanced warplane after failing to reach agreement on a parallel European fighter project with Britain, West Germany, Italy and Spain.

Disputes over design have also delayed for several years a project to build a Franco-German combat helicopter even as the political and economic incentives for joint development mount.

French officials and commentators in particular have voiced fears that a reduction in U.S. nuclear commitment in West Germany, or an impression of it, could encourage ideas about neutrality and reunification with East Germany at the expense of the North Atlantic Treaty Organization. Any steps toward Franco-German military cooperation have been seen as a way to remove that possibility from the horizon.

"The Federal Republic is now entitled to feel abandoned by the United States, although constrained to toe the line in a U.S.-manipulated NATO that can no longer assure its defense," wrote former foreign minister Michel Jobert in a stiff version of these fears. "Hence the Germans' swing toward what they traditionally call their own way—a swing uniting Social Democrats, Greens, the liberals of Hans-Dietrich Genscher and also, as we will see, Chancellor Helmut Kohl's Christian Democrats."

A strategic corollary to these concerns is that in an East-West crisis, West German authorities could be tempted to break ranks with the allies and seek conciliation on their own. This facet has been underlined by repeated West German objections that the prospective intermediate-range nuclear accord would leave NATO and Warsaw Pact ground forces within Europe armed with short-range weapons whose targets would lie in the two Germanys.

In addition, a high-ranking French official warned that recent Soviet arms initiatives have set in motion "a dangerous dynamic" that could lead to Soviet suggestions for further reductions and perhaps momentum toward a denuclearized Europe. This prospect has raised concern in Britain, France and the United States, whose arms control officials point to the Warsaw Pact's advantage in conventional and chemical weapons.

In West Germany, however, Kohl's government has favored following up on the prospective intermediate-range accord with talks on short-range weapons, or those under the 300-mile range. France and Britain, differing sharply with the Germans, have objected particularly to this idea because, officials here said, such negotiations could lead to Soviet demands for reductions in the French and British nuclear arsenals as well.

Against a background of these competing national concerns, Kohl offered the suggestion that has drawn the most public attention so far. He proposed June 19 that France and West Germany form a joint brigade of soldiers as a symbol of their determination to work together for European defense.

The idea of French and German young men training and living together, sharing languages and equipment, elicited favorable comment in both countries, which are scheduled to conduct joint military exercises next September.

French President Francois Mitterrand, while stopping short of rejecting the idea, has emphasized practical difficulties and historical obstacles to a joint brigade—Germany and France have fought each other in three wars since 1870.

French Defense Minister Andre Giraud said last week that such a brigade would have to stay out of the NATO command structure and come under protection of French nuclear arms.

"The brigade is a real possibility that has mostly symbolic value, but symbols are important in this kind of thing," commented another senior French official.

Kohl's propsoal came in reaction to a more sweeping idea from Alfred Dregger, a prominent West German Christian Democrat. He said Europe should create its own security arrangements, with France broadening its nuclear umbrella to cover West Germany. This suggestion reflected resentment among conservative West Germans about the Reagan administration's eagerness to conclude an agreement on all medium-range missiles in the face of European and particularly West German reservations. Despite NATO's acquiescence, a high French official said, reservations were strong in Britain, France and West Germany about the wisdom of removing shorter-range intermediate missiles.

The Socialist former prime minister of France, Laurent Fabius, at about the same time also urged France to think about extending their nuclear protection to West Germany as a part of increased defense integration. But other French and German officials quickly pointed out the difficulty of doing so while France remains outside the NATO command and West Germany remains a key element within it.

British Foreign Secretary Geoffrey Howe, joining the movement in favor of defense integration, called in a March 16 speech for increased "partnership" between France and Britain because, he said, Europe should recognize it no longer dominates U.S. thinking as much as in the past.

"I believe that we should recognize a greater responsibility on the part of Europeans for the defense of Western Europe—in other words for a more truly equal second pillar of the alliance," Howe said.

Howe's comments, followed by a visit to France by British Defense Secretary George Younger, generated speculation that Britain also was seeking to increase the stature of the West European Union as a counterpart to the U.S.-dominated NATO structure.

[From The Economist, July 11, 1987]

EUROPE'S BRAVER COLOURS

Forty years ago, in July 1947, an American called Dwight Griswold arrived in Greece to take over from a broke Britain the job of helping the Greeks fight off a communist guerrilla army. Out of the Truman doctrine, which sent him there and saved Greece, grew the North Atlantic alliance. So began two-fifths of a century in which the western tip of Eurasia, preserved for democracy and market economics by the long arm of American protection, has picked itself up out of the ruins of war, rebuilt its wealth, started groping towards some sort of unity, and now has the pleasure of hearing Russians say that market economics are the right idea after all.

In July 1987 Western Europe should be preparing itself for the next step towards full maturity. Because two things have changed, it may now be possible—as it has long been desirable—for Europeans to take back more of the responsibility for their own defence from the Americans who came to the rescue 40 years ago.

FOR SAFETY'S SAKE, AND SELF-RESPECT

Why is it so desirable? Not just for the reason usually given—that 241m Americans with an income of a bit over $4 trillion last year do not see why 374m Europeans with nearly $3½ trillion should need 300,000 American servicemen and about $100 billion a year of the American defence budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it. The comforters point out that American irritation about this is nothing new: remember the Mansfield amendment, they say, and the Nunn amendment. True: yet the irritation goes on growing. Do not be too comforted, Europeans.

President Reagan will pull no soldiers out of Europe; but the most pro-European man in his cabinet doubts whether the line can long be held after that. A bipartisan commission luminous with great names, from inside and outside government, will later this year tell America that its defence policy needs serious changes, including more attention to non-European parts of the world. It has to be reckoned that, sooner or later, America will do less to defend Western Europe.

For safety's sake, Europe must therefore get ready to do more to defend itself. It should also do so for the sake of self-respect. A Europe which makes better wide-body jets and cleaner car engines than America, which faces down America in many a trade battle, which has invested more in America than America has in Europe, should not stand with dropped jaw when asked to do a bit more for defence. The contrast between its military dependence on the United States, and its independence in almost everything else, is bad for Europe. It makes it feel embarrassed, and so readier to snarl wrongly at America over issues like Grenada and Libya, and America snarls back over trade. A lopsided alliance has come to be a bad-tempered alliance. It will be healthier for Europe, as well as calming for America, if the military burden is better shared.

It may at long last be possible to do this, because two new things are happening. First, the sort of Europeans who take such decisions about defence have just been given an incentive to act. Europe's left is generally reluctant to spend more on soldiers, because it wants to spend more on health and schools. It is the conservative half of European politics that is likelier to raise defence spending; but Europe's conservatives saw no reason to do so while they reckoned they could take America's contribution for granted. Their inertia has now been jolted. In the Euromissile deal between America and Russia, many of these conservatives see evidence that the Americans are washing their hands of Europe. They are wrong, in our view; but their mistake could prove useful. In 1987, the ritual talk about improving Europe's defence performance has suddenly taken on a new reality. Nervous European fingers may now be readier to open up European wallets.

Second, the size of the extra effort Europe needs to make may be reduced by what is happening in Russia. If Mr. Gorbachev's zeal for economic reconstruction leads him to accept large cuts in the armies which face each other in Europe, not all of the departing American soldiers will need to be replaced by Europeans.

It would be wrong to count too much on this. The sort of army-cutting deal the West wants is one which brings the two alliances closer to equality, and this means bigger cuts by Russia and its allies. Mr. Gorbachev's generals may not be willing to let him go that far. Mr. Gorbachev himself has made a deal harder to reach, by saying that it should cover the whole area from the Urals to the Atlantic; that involves more countries, and needs a lot more inspectors, than an agreement for central Europe alone. Still, Mr. Gorbachev wants more economic co-operation with the West. He may decide to pay the arms-cutting price. If he does, the transfer of defence responsibilities from American to European shoulders will be smaller than it would otherwise have been, and easier to arrange.

How big a transfer should be aimed for? Very roughly, in terms of the forces now stationed in Europe, the Europeans could by the early 1990s be doing the work of two of the five-plus American divisions on this side of the Atlantic. That makes the total transfer sound smaller than it really would be, since Europe would also have to do more in the way of things like back-up units, supply lines, warships and military aircraft. But this rough guess can help Europeans work out how many extra men and how much extra money they would have to supply.

Some of the extra men could be found by moving parts of the French and Spanish armies into West Germany (though the French move would simultaneously cut the size of the reserves France now theoretically provides). France could also help by reopening the supply routes and airfields it shut to allies in 1966. "Mixed brigades" add nothing, if they just mix existing French soldiers with existing German ones.

Some of the extra money could be made available by cutting arms bills, if every West European country would buy its weapons from the most efficient producer instead of giving the order to its own local factory. That could mean German Leopards for everybody's tank divisions, British Rapiers for anti-aircraft defences, the excellent French FAMAS rifle for the Euroinfantry. Since Dwight Griswold's day, when a family car cost about $1,000, many manufactured goods sold on free markets have risen in price about tenfold. Many military things have risen a hundredfold—partly because they are ordered by cost-unconscious generals from sheltered monopolies, in rather the way Russia still orders almost everything. If Europe would rearm through competitive tender, the cost of doing so could fall dramatically.

How nice if Europeans could be counted on to be co-operative with soldiers, competitive on weapons. They cannot, so they will have to find more young men and women, and more money to pay and equip them: at least one extra percentage point of GNP, either from higher taxes or from the non-defense parts of their budgets.

At which point a finger of warning has to be raised. People in Atlanta and Omaha and Los Angeles, watching the first American troops pull out of Europe, may clamour for more. People in Saarbücken and Lille and Leeds, asked to pick up the bill for replacing the Americans, may refuse. People in the Kremlin, seeing a plum drop ripely towards their laps, may wave aside all talk of troop-cutting agreements. To be safe, Europe needs at least as much defence as it has now, and a solid American component has to remain part of it. A botched attempt to change the present state of things could leave Western Europe without even the fragile security it has now.

DON'T START UNTIL EVERYBODY'S READY

If it is not to be botched, Europe and America need to start some careful planning now. This could have either of two desirable outcomes. Europe may decide, on reflection, that it cannot take over much of the job America does for it, and pro-European Americans will then wearily start to rally their people for a continuation of things as they are. That would at least have the merit of making Europe face up honestly to the fact of its dependence. Much better, Europe will smoothly and amiably take over some of America's present work. This may not save the Americans any money (it costs as much to keep troops in America as in Europe), but it will give them a lot of extra flexibility. The withdrawn men can be re-equipped and re-trained for other sorts of war than the armoured slog of central Europe's plain, and they will not need Europe's permission to be flown to such wars. American shoulders will relax, as some of the European weight moves for them. European shoulders will be squarer, as they take it over.

Be prepared for European bleating about penury, American bellowing about justice. Start from the thought that an America which is no longer much richer than Europe is unlikely to go on forever spending 7% of its GNP on defence, of which it uses a third or more for Europe's benefit, when most European countries spend only 3-4% of theirs. The planning can begin when Mrs. Thatcher meets President Reagan next Friday, a couple of days after the 40th anniversary of Dwight Griswold's arrival in Greece.

[From the Investor Daily, Aug. 31, 1987]

FED'S KELLEY SAYS UNITED STATES SHOULD SHIFT DEFENSE BURDEN TO LOWER DEFICIT

WASHINGTON (Reuter).—Federal Reserve Board Gov. Edward Kelley believes Europe and Japan should shoulder a greater share of the Western defense burden to help reduce the $160 billion U.S. budget deficit.

In an interview with Reuters, Kelley argued that the budget deficit is one of the keys to reducing the massive American trade deficit, and more defense spending overseas was preferable to increased taxes in the U.S.

"Since World War II the United States has had a policy of carrying a larger share of the burden of the (western) world's defenses," Kelley said.

"We spend about 6.5% of gross national product on our defense, the U.K. has about 5.3% and then it tails down very, very rapidly after that to Japan with only 1%," he said.

JOINED BOARD RECENTLY

Kelley, a former Texas businessman, entrepreneur and lifelong associate of Treasury Secretary James Baker, joined the board of the U.S. central bank two months ago.

"My proposal is: if one can imagine sharing that equally at say somewhere around 4%, then that would knock around $100 billion off the budget deficit right there," he said.

When asked if such a move would be preferable to a tax increase, a policy many Democrats have advocated as a solution to the budget deficit, Kelley said it certainly would.

"I hope this catches on, I think it's a very important idea," he said.

Kelley pointed out that the U.S. was now a debtor nation, with large trade and budget deficits, while both Europe and Japan had huge economies compared with the situation just after the war.

"It seems to me an eminently reasonable suggestion . . . this situation as a whole in the early years after World War II has never really changed," Kelley said, noting that several congressional resolutions were voicing similar concerns.

"We are now in a situation where it's just very difficult for the United States to just continue on that way," he said.

Political analysts believe the issue could emerge during next year's presidential election campaign.

By reducing the budget deficit and curbing overspending—and thus the demand for imports—Kelley said the trade deficit could be greatly improved.

As it is, the Fed official noted there are definite indications the trade deficit is beginning to reverse.

"I think that there's every indication that exports are beginning to do better in physical terms and it would appear that imports are beginning to tail off," he said.

But he warned that it would be very difficult to cut the trade deficit, which exceeded $166 billion last year, below $50 billion.

PROBLEMS WITH IMPORT BILL

A huge import bill for energy products and an emerging world surplus for agricultural produce, formerly a significant U.S. export, would make balancing the trade deficit extremely difficult. Kelley said this structural deficit was probably above $50 billion.

Turning to the outlook for the U.S. economy, he predicted economic growth in the third quarter would match if not better the 2.6% annual rate of growth recorded in the second quarter.

Continued expansion, he said, would reflect increased exports and the prospect of a sustained substantial increase in durable goods orders.

But Kelley said there were conflicting trends affecting the inflation outlook. Energy inflation, barring an upset in the Gulf, was probably close to peaking while food inflation, the other main source of recent price increases, was unlikely to continue.

On the other hand, production costs and wage increases were moderate and were matched by productivity gains while commodity prices were mixed.

"I think the Fed definitely has to be vigilant. I think there are conflicting trends and we're just watching very closely, it's very difficult to tell where you are right now with inflation," Kelley said.

[From the Atlantic Monthly, August 1987]

IKE WAS RIGHT

(By James Chace)

Not long after he left the Presidency, Dwight D. Eisenhower declared, "For eight years in the White House I believed and have announced to my associates that a reduction of American strength in Europe should be initiated as soon as European economies were restored. . . . I believe the time has now come [for] withdrawing some of those troops." More than three decades later the troops—some 350,000 of them—are still there. But now NATO Europe, including France and Spain, is the second most powerful economic grouping in the world—at a time when America strains under the twin burdens of huge fiscal and trade deficits. NATO Europe's population—373 million—is greater than that of the United States or the Soviet Union. The Europeans have more than 3.1 million men under arms, the United States 2.1 million, the Soviet Union roughly 4 million. (Other members of the Warsaw Pact have 1.2 million, but these forces would be highly unlikely to participate in any attack on the West.) But according to official estimates that originated in the Office of the Secretary of Defense, European defense spending is $83 billion a year—far less than the $134 billion the United States allocated for the conventional defense of Europe in the defense budget of $314 billion requested for fiscal year 1986. (Defense Department figures for total U.S. spending on the defense of Europe are even higher.) To say that we must wait for European unity before we can withdraw any American forces is to beg the question. Elected West German officials at the highest levels have recently made clear to American officials that they are amenable to the withdrawal of U.S. troops by the next American presidential election, or soon thereafter, as long as the withdrawal is gradual.

Our Asian commitments are far less costly. Asia absorbs $42 billion of the United States defense budget annually. Since 1955, however, Japan has spent only one percent of its gross national product on its own defense (though for fiscal year 1988 the Japanese, with great anguish, decided to increase their spending by four thousandths of a percentage point, to the equivalent of $22 billion). The U.S. trade deficit with Japan rose to $51.5 billion in 1986, by far the largest with any single country. And more than three decades after the end of the Korean War we still station about 43,000 soldiers in South Korea, costing $4.8 billion a year. Our trade deficit with South Korea last year was $7.1 billion.

Under these conditions it is hardly surprising that responsible leaders in the United States Senate have called for significant cuts in the number of American military personnel stationed abroad. In the early 1970s Mike Mansfield, then the majority leader of the Senate, called for unilateral withdrawal of U.S. troops from Western Europe. In 1984 Senator Sam Nunn, of Georgia, proposed that 90,000 American soldiers be withdrawn from Europe within five years unless the Europeans increase their conventional forces so as to make it easier for Europe to be defended without the early use of nuclear weapons. Nunn's bill was defeated, but by a margin of only 55 to 41.

These proposals represent piecemeal approaches to any meaningful restructuring of the alliance. Moreover, talk of troop withdrawal merely threatens the Europeans and aggravates the resentments inherent in any alliance when the protector threatens to withdraw its protection. Too often the United States makes such threats for reasons that have very little to do with the alliance itself. How often, for example, has Washington insisted that the European allies line up with the United States on affairs outside the NATO region, such as the defense of the Persian Gulf or an economic boycott of Iran? Then, when the allies refuse to do so, critics in America call for withdrawing troops as a kind of punishment. In fact the alliance was formed solely to guard against a Soviet invasion of Western Europe or the Eastern Mediterranean. It has no other purpose.

Every time the question of reducing the U.S. troop commitment in Europe is raised, so is the specter of a neutralist Europe, dominated by the Soviet Union. This specter—the so-called Finlandization of Europe—is imaginary. The European states are rich and powerful. They have large and efficient armies; the London-based International Institute for Strategic Studies has concluded that the Warsaw Pact would not necessarily see "its numerical advantages as being sufficient to risk an attack." In an address at Columbia University this spring the former West German Chancellor Helmut Schmidt said of Russian conventional superiority that it "doesn't really matter." Schmidt pointed out that "there are 500,000 [West German] soldiers on the spot, and this number can grow quickly to 1.3 million in less than a week." And a small though effective nuclear strike force already exists in France and Britain.

To surrender sovereignty is a self-destructive act that no European state is likely to commit. As it is, Europe is already independent in its support of American policy initiatives from Afghanistan to Central America. Where European and American interests coincide—along the Iron Curtain—the Europeans have every intention of lining up with their American allies to counter any Soviet military thrust westward. Furthermore, American strategic nuclear weapons can remain in the European theater on submarines and on aircraft, even if medium-range and short-range missiles—the so-called zero-zero option—are withdrawn from European soil as a result of a Reagan-Gorbachev arms agreement. Gorbachev has even proposed to "rectify" conventional force imbalances "not through a buildup by the one who lags behind but through reduction by the one who turns out to be ahead."

Distrustful Europeans often ask, "Will the American nuclear guarantee hold? In other words, Will America risk the destruction of Wichita for Hamburg? It is, of course, an unanswerable question, short of nuclear war. Yet the very uncertainty of the answer makes the American deterrent credible. As the British strategist Sir Michael Howard notes: "If there is one chance in a hundred of nulcear weapons being used, the odds would be sufficient to deter an aggressor even if they were not enough to reassure an ally."

The greatest danger to America's alliances today does not spring from any diminished American nuclear capability, whatever the outcome of a Reagan-Gorbachev summit. Rather, it comes from American economic weakness, from an unwillingness to take measures to repair our economy, and from an unwillingness to change the structure of alliances in a way that would honestly reflect a measure of America's diminished role in the world.

Shifting responsibility to the Europeans for managing the bulk of their ground defenses could save substantial sums in the U.S. budget David Calico, of The Johns Hopkins School of Advanced International Studies, suggests that by demobilizing six of its ten NATO divisions, about 100,000 soldiers, the United States would realize an annual saving of at least $30 billion. Four U.S. divisions would remain in Europe to cover the part of the Central Front for which the United States has direct responsibility.

If the Europeans were to assume a much larger share of the burden of defense, it would be sensible to let them be in charge. This would mean appointing a European, rather than an American, Supreme Commander of all forces in Western Europe.

The new alliance structure would be immeasurably strengthened by a new European defense system along the lines of the European defense community proposed in the early 1950s. Helmut Schmidt and the former French President Valéry Giscard d'Estaing have already suggested integrating French, West German, and Benelux forces. But any such West European defense system, as Mr. Schmidt pointed out in his speech to Columbia, is likelier to come about if the United States starts to withdraw its forces.

A new European defense system should logically include new provisions for nuclear defense. At this time the United States still maintains a special relationship with Great Britain, allowing Britain to share American nuclear secrets and use its nuclear technology. Such a relationship inhibits any serious cooperation between Britain and France in the construction of a nuclear force. Nonetheless according to The New York Times, the two European nuclear powers have recently started talking seriously about coordinating their defense and consulting more closely on it. David Owen, the former British Defense Minister and the leader of the Social Democrats, has argued that Britain must break its dependence on American nuclear weaponry, as the French have done already. Ending the special nuclear relationship between the United States and Great Britain, however, would not guarantee an Anglo-French nuclear force. And the West Germans will rightly insist on some say in any such force if it is to complement the American nuclear deterrent. But with a European commander of NATO and a reduction of U.S. troops, the likelihood of Owen's proposals being implemented would be far greater than it is at present. In any case, this would have to be a European initiative, and would not so much replace the American deterrent as provide the Europeans with insurance if they distrust the American commitment to use nuclear weapons to defend the continent.

In the Far East the costs of alliance are necessarily smaller, and in any case it is highly inadvisable in the near term for the United States to withdraw any of the U.S. soldiers in South Korea. The internal struggle for democracy there would almost certainly be adversely affected if U.S. troops departed, leaving the army of a repressive government as the sole military force left in South Korea. Nonetheless, Washington might make clear to the Tokyo government the need for Japan to pay more of the cost of maintaining these troops in place, before Congress insists on some measure of reduction. Tokyo would surely prefer to help underwrite some of the costs of the U.S. troops now stationed on the Asian peninsula, rather than to risk withdrawal of American forces.

The role the United States plays in maintaining the balance of power in the Far East may well become more important as China gains in economic and military strength. With the revival of Chinese power America's security treaty with Japan is more significant than ever before. Japan should not be encouraged to become a nuclear power, for Japan is not anchored within a regional organization the way West Germany, Britain, and France are. Should Japan reassert itself as a military power—even without nuclear weapons—it is likely that China and the Soviet Union would draw together to counter Japanese power. Only the United States has the capability to restrain Japan in a way that both China and the USSR—to say nothing of the smaller Asian powers and Japan itself—can accept. With the rise of China and Japan and the continuing strong military presence of the USSR, the United States has become the determining force for peace in the region.

The costs of an effective foreign policy are real. Although we have come to the end of an era wholly dominated by two superpowers, this need not mean the curtailment of U.S. power. It does, however, require a realignment of power. Unless we move both to replenish our hollow economy and to restructure our antiquated alliances, we risk presiding over the collapse of a world order that has, after all, preserved a rough balance of power for almost half a century.

Should American budgetary, tax, and defense policy remain roughly unchanged, a recession could lead to a shortfall in tax revenues and the growth of the federal deficit to a figure far greater than the current $221 billion. This scenario is very likely to begin with a dramatic fall in the stock market. Such a catastrophe would undermine the economic foundations of the Western world, and with them the very notion of political and military security. By showing a willingness now to redress our economic profligacy at home while changing the terms of our alliances abroad, America can yet restore its power and purpose.

Mr. SASSER. Mr. President, I rise in support of the amendment offered by my good friend from North Dakota. I commend him for focusing attention on an issue of great importance—burden sharing.

I have spoken out in support of greater defense burden sharing by our allies on several occassions. And I intend to keep coming back to this question until we see a greater degree of defense spending by our allies around the world for our common defense.

In my view, Mr. President, we are well past the time when our allies should rely as heavily as they do on the United States for their defense. Our allies in Europe are certainly no longer the war ravaged coutries which limped away from World War II victorious, but economically decimated. On the contrary: Europe long ago regained its economic strength. Europe now boasts a collective economy which is almost as large as that of the United States. And yet, our European allies' contribution to NATO defense efforts simply does not compare to the United States contribution. Americans pay over $1,000 a year for defense. Europeans—on average—pay barely $200 a year. As the findings of our excellent amendment indicate, the United States is currently spending 6 percent of its gross national product on defense, while our NATO allies spend an average of 3.5 percent of their gross national products on defense. Japan devotes only 1 percent—1 percent—of its gross national product to defense. Japan, our close military and political ally is certainly capable of contributing more toward the allied defense effort than 1 percent. Clearly, more equitable arrangements with our allies can—and should be made.

The current situation in the Persian Gulf is an excellent illustration of the importance of burden sharing. Our European friends get about 40 percent of their oil from Kuwait and Japan gets 70 percent of its oil from Kuwait.

The United States gets less than 7 percent. Our mutual interest in preserving the freedom of the seas did not immediately result in our allies joining us to present a unified front to check the actions of those who would jeopardize that freedom. Fortunately, that situation has improved somewhat, but equity would demand that risk taking bear a closer relationship to burden sharing.

We do have our NATO allies' commitment to increase their defense contribution annually by 3 percent above inflation. We have had that commitment since 1978. So far most members have not followed through on that commitment.

The amendment that we propose would help to establish a more equitable balance. It calls on our allies to increase their contribution to our mutual defense efforts and shoulder their fair share of the cost of maintaining the national security of our respective nations. It calls on the President to negotiate with Japan and our European allies to achieve a more equitable distribution of the financial burden of our maintaining our defense by establishing a schedule of increases in their defense spending or a system of offsetting payments. It requires the President to submit a progress report within 1 year of the enactment of this amendment so that Congress can assess any progress made and consider whether followup legislation would be appropriate.

Mr. President, much has been said about the urgency of bringing the national deficit under control. Much has been said about the importance of not compromising our national security in our eagerness to do so. It seems to me that a logical and reasonable step to achieve these goals would be to insist that Japan and our European allies carry their fair share of the financial burden for maintaining our mutual defense, and I urge my colleagues to support this amendment.

Mr. CONRAD. Mr. President, I also ask unanimous consent that Senator SASSER and Senator METZENBAUM be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Finally, Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CONRAD. I thank the Chair. I thank the acting floor manager of this bill for his patience and assistance in getting this amendment up.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, I heartily congratulate the distinguished Senator from North Dakota on his excellent amendment, that this side enthusiastically supports, and on his patience. He has been here all day awaiting his turn and he has accommodated many of his colleagues and his courtesy, fairness, and understanding are greatly appreciated by the managers.

Mr. President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, let me add my congratulations for the efforts which have been made by Senator CONRAD.

This is a critical issue. We have to find ways in a creative manner to put pressure upon our allies to do a fairer share. They have not, for the most part, and this I believe will add another bit of pressure to get our allies to do what they should have done a long time ago which is to share in a much fairer way the common defense.

I congratulate my friend. We are all frustrated in our search for ways to put this pressure on it. He has given us another mechanism that will apply some of that pressure and hopefully it will help.

The PRESIDING OFFICER. Who yields time?

Mr. QUAYLE. Mr. President, I yield myself such time as I may consume.

Mr. President, I certainly understand the thrust of the sense-of-the-Congress resolution relating to the support of the mutual defense alliances. As a matter of fact, I think we do have to do perhaps a better job in the allocation of resources and how we are going to provide for the collective national security of all our allies.

I assume that this sense-of-the-Senate resolution will be adopted overwhelmingly.

I do have some concerns, maybe not enough to vote against it, on what we are really asking. It does say on page 3, though it says:

> * * * the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan * * *

This is another thing:

> * * * or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; * * *

I might point out that maybe we ought to insert the United States there because what the United States has been doing is cutting its defense spending. I think it is sort of easy to get up and blame it on our NATO allies for not increasing their defense spending, but we certainly have not been doing a good job recently.

I am not exactly sure what that means, what it includes. I think the author of the amendment wants to create as much flexibility so this is in effect a sending of a message of sorts. So we send messages around here. This is another way to send messages to our allies that we expect to do more, but as we tell our allies to do more I suppose they expect us to do more or at least about the same.

So I hope that as we try to convince others to do more we will in fact heed the advice that we give to others, and that is that we ought to make sure our own house is in order, and I am not exactly sure that we are a great example, particularly in defense spending where we are really at close to an all-time low in our history as far as the percentage of the gross national product. It is approaching the levels where we were in 1979, and there is a strong bipartisan understanding, and I know that the Acting President of the Senate was one of those who said that we need to spend more in defense at that time. He was one of the moving forces here that said we need to indicate not only our political will with some votes and support for defense spending and as a result we did reverse that.

Now, in the last few years we are getting back down to that particular level.

So I think perhaps what is good for allies is also good for the United States, and I wish that there would be some reference to that. But I understand the thrust. I understand the messages. I understand the symbolism and things of that sort and we can all do a better job. NATO can do a better job, Japan can do a better job, and so can the United States.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, I promised the Senator from Tennessee 2 minutes in support of the amendment. I yield to him.

Mr. SASSER. Mr. President, I thank my friend from Illinois.

Mr. President, I rise in support of the amendment introduced by the Senator from North Dakota, Mr. CONRAD, and I commend him for introducing this amendment here today and calling the attention of the Senate to the disparity that exists between the contribution of the United States to the common defense of the free world and the contribution made by our NATO allies, other countries in Western Europe and, or course, our friends in Japan.

I think it is important that we continue to send the signal to our allies that it is time for them to do more in the common defense of the free world.

For too long the American taxpayer has been asked to shoulder a disproportionate burden of the defense of the free world and, of course, a strong argument can be made for this. At one point in our history when Europe was devastated after World War II, the burden fell upon our country to provide a shield then against the potential aggressor, but now we find that many economies in Western Europe are more prosperous than ours. Certainly the Japanese economy is doing extraordinarily well and it is time that we had more help, and I think recent events in the Persian Gulf have served to illustrate the point that we are discussing here today.

In an area in which Western Europe draws about 50 percent of its oil from, the Japanese get about 60 to 70 percent of their oil by tanker out of the Persian Gulf, while the United States gets less than 10 percent of its oil out of the gulf, we see a disproportionate number of U.S. Naval vessels defending that oil lifeline.

We now have over 40 naval vessels with over 25,000 men aboard them defending oil moving by tanker out of the Persian Gulf going predominantly to Japan and to Western Europe.

So, Mr. President, I think the amendment that my friend from North Dakota commends to the Senate today is one that we should give due attention to. I want to urge my colleagues to support it because we will be sending, I think, the proper signal to our friends in Western Europe as well as our friends in Japan.

I thank the Chair and I thank my friend from Illinois for yielding me the 2 minutes.

The PRESIDING OFFICER. Who yields time?

Mr. CONRAD. Mr. President, let me just ask unanimous consent for 1 minute.

Mr. DIXON. I yield to the Senator.

The PRESIDING OFFICER. The Senator from North Dakota has 8 minutes remaining.

Mr. CONRAD. Let me just acknowledge the efforts of the Senator from Tennessee with respect to the effort that he has made consistently on this question, both in the Budget Committee and in his work on what has occurred most recently in the Persian Gulf. I think all of us in this body recognize the effort that he has made and are very appreciative of the leadership that he has provided.

I also want to acknowledge the leadership Senator NUNN provided in this area, with the amendment he offered a number of years ago and the report required of what our European allies are doing with respect to their increases in taking on a greater share of the defense burden.

And I also want to thank and commend Senator LEVIN, who has also had a sharp interest in this area, who has offered amendments in the past and whose support for this amendment I very much appreciate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Mr. President, if all time has been yielded back, I am prepared——

Mr. QUAYLE. No, it is not.

The PRESIDING OFFICER. All time has not been yielded back.

The Senator from Indiana.

Mr. QUAYLE. Mr. President, I yield 5 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 5 minutes.

Mr. EVANS. Mr. President, this is a common day in the life of the Senate. We can hardly get through a day without picking up our Louisville sluggers, as we end this baseball season, to bash someone. Usually it is an adversary and, quite often, unfortunately, it is our friend.

I understand perfectly the desire of the Senator from North Dakota and I share that desire. But, frankly, I think we handled in a positive and good manner just last night a very similar proposal by Senator MCCAIN, of Arizona, which was a proposal which, I think, takes care, in this bill at least, of what we are attempting to do in talking to our allies as we frequently do from the floor of the Senate.

But, Mr. President, I think this one is too narrow. It deals solely with defense expenditures as a percentage of the gross national product or of our total budget. But we forget too often who it was that demilitarized Japan, for instance. We did. We created for them, and in conjunction with them, a constitution after World War II which deliberately said: "You are to be demilitarized and have forces that only are legitimate for coastal defense and for the defense of your own country." And, of course, as a result, their total military expenditures look small against their gross national product.

The same thing was essentially true in Germany. Having felt the fervor of two world wars, both initiated by Germany, it was the fervent desire of the United States and of our European allies not to rebuild a military machine. I think we have got to be a little careful.

We cannot have it both ways. On the one hand, we do not want to remilitarize the rest of the world, even our friends. On the other, we want them to do more.

Mr. President, sometimes we can get lost in charts and percentages. I think we have a broader interest here. And if we look at the broader interest, there is a way, and a way which was really set forth pretty well by Senator MCCAIN last night, to encourage, for instance, as is now being done, a broader involvement of Japan in foreign aid programs, to lift some of that burden from the United States which also has been a rather large burden percentagewise as well as dollarwise, to lift some of that burden from the United States and spread it to our allies. That allows them to participate much more broadly in the overall defense, both economic and military, of the Western world without deliberately breaking the constitution which we ourselves imposed on Japan.

There are differences of opinion between ourselves and our allies as to what value to place on the support facilities they provide for American troops who are stationed in those countries. I do not think there is much difference of opinion, certainly not between myself and the Senator from North Dakota, and I suspect other Members of the Senate, in our desire to try to even out responsibilities, especially during a time when we are facing severe financial problems at home.

But let us look more fundamentally at what we are doing. This is not a question of defending our NATO allies. At least it ought not to be. Every single dollar which goes into the national defense of the United States, whether it is to support NATO allies, to support our forces in the Pacific, or to support our own forces here at home——

The PRESIDING OFFICER. (Mr. BREAUX). The time of the Senator from Washington has expired.

Mr. QUAYLE. I yield the Senator an additional 5 minutes.

The PRESIDING OFFICER. There are only 2 minutes remaining.

Mr. QUAYLE. I only have 2 minutes? I yield him 2 minutes.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. I thank the Chair.

The problem is that, as I have said, we are dealing too narrowly with what we are about in this amendment. We should consider more broadly that every dollar we spend, wherever we spend it, in the national defense of the United States is not spent on behalf of Western allies or on behalf of Japan or on behalf of Germany. It is spent because we believe it is in our best interest to spend that money. If we did not believe that, we ought not to spend it. And that is a personal decision of the United States and that is the framework in which we ought to make our decisions on spending. If we think in the United States' best interest we should spend only 4 percent or 3 percent or 2 percent on national defense, or equal what our allies are spending, then someone ought to get up on the floor of the Senate and move that we reduct our budget to accomplish that.

So it is not just the defense of our allies, and it certainly ought not to be the bashing of our allies in these last few weeks of the baseball season of the United States. Rather, it ought to be an understanding that the money we spend is on our behalf and in the best interests of the United States. And I have not seen anyone yet suggest that we reduce it drastically to equal the amounts others may be spending. They are spending in different ways, in a broader sense.

I think we have taken care of any message to our allies with the significant resolution of Mr. McCain's of last night, and I think that makes even this sense-of-the-Senate resolution unnecessary.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. GLENN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Who yields time? The Senator from North Dakota has 7 minutes and 7 seconds remaining.

Mr. DIXON. May I have unanimous consent to give 1 minute to the distinguished Senator from Ohio?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GLENN. I thank the distinguished floor manager. I did not realize we were out of time on this. I support very much the views of the Senator from North Dakota. We have pushed for this kind of a sharing for many years.

As far as the Japanese, no one could have foreseen the booming Japanese economy at the end of World War II where we set a Constitution for Japan and where they self-imposed a 1-percent GNP limit on their own defense.

I, for many years, have thought that we could not violate the Japanese sensitivities on this, nor their Constitution, nor their own self-imposed limit. But if they would, in all their prosperity that we are helping to provide and helped set the stage for post-World War II—the least they could do is share some of our expenses on keeping the sealanes open in the Persian Gulf; get a bigger share of the base support that we provide in Japan.

There are many ways in which Japan could support our effort without getting an expeditionary force that still to this day scares the devil out of other Asiatic nations. They do not want to see a great restage of co-prosperity sphere once again reactivated. But there are other ways in which a booming Japanese economy can well support our efforts in their behalf as we provide an umbrella for them so they do not have to do some of these things. I have urged that for a year. I think the Senator from North Dakota is on the right track. I thank you very much.

The PRESIDING OFFICER. The Senator from North Dakota has 7 minutes remaining.

Mr. CONRAD. Several responses are required, I think, by the questions raised by the Senator from Washington. No. 1, this is certainly not intended to be bashing of our allies. Not at all.

This amendment asks our President to enter into negotiations with our allies over the next year to try to achieve some more equitable sharing of the defense burden.

I think we all recognize that we have a joint requirement for defense. Then the question becomes: How does one share that burden? How do the countries involved share that burden?

For 40 years, the United States has taken the largest share of that burden—understandably. But now there is a new reality.

The new reality is that Japan and Western Europe are economically resurgent, fully able to take a more fair share of the burden, and we need them to do it. We simply cannot afford much longer to proceed as we have over the last 40 years.

Next, the Senator makes the point that this is narrowly drawn. Quite the contrary. In fact, when we compare this to the proposal of Mr. McCain, which centered on foreign aid—that is it asked that our allies take on a greater foreign aid responsibility—we are asking something much broader. We are asking that the President negotiate with our allies to do one of two things, or a combination. Those two things are for them to increase their defense expenditures or to have offsetting payments to us.

Offsetting payments could also be in the area of foreign aid. So, in fact, this amendment is drawn more broadly, not more narrowly.

But most important, I think, we should leave the argument in this way. We have a deficit in this country that is out of control. That deficit is causing us to have a trade deficit that is out of control.

One of the reasons we have such a large deficit is because we have been providing a disproportionate share of the defense burden. It is time to ask our allies to pick up more of the fair share.

Thank you, Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator yield back the balance of his time?

Mr. CONRAD. I would be happy to provide additional time if there are others on this side. If not, I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator yields back his time and all time has expired. The yeas and nays have been ordered and the vote will be postponed under the unanimous-consent agreement until Tuesday.

The Senator from Illinois.

Mr. DIXON. Mr. President, some of these amendments are falling by the wayside, may I say, so that as I announce the next amendment in order, if some think that there is something that departs from the original script, it is because some of the amendments are falling by the wayside.

The next amendment will be by Senator Harkin, who is here, followed by an amendment by Senators Evans and Adams, who are here, followed by an amendment by Senator Sasser, and then we will go on from there.

I would say to my colleagues that the list is dwindling.

AMENDMENT NO. 752

(Purpose: To prohibit any active duty commissioned officer of the Armed Forces of the United States from serving as the Assistant to the President for National Security Affairs, and for other purposes)

Mr. HARKIN. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. Harkin) for himself, Mr. Matsunaga and Mr. Bumpers proposes an amendment numbered 752.

At the appropriate place insert: That, notwithstanding any other provision of law, no person serving on active duty as a commissioned officer of the Armed Forces of the United States may serve as the Assistant to the President for National Security Affairs or otherwise be employed within the Executive Office of the President as the primary assistant to the President on national security affairs.

The PRESIDING OFFICER. The Senator from Iowa is recognized under the consent order for 15 minutes in support of this amendment.

Mr. HARKIN. Mr. President, I do not intend to take the full 15 minutes. I would like to describe the amendment and give a little bit of the history of it.

As memories of the Iran-Contra hearings begin to fade, we must do everything in our power to prevent a reoccurrence of this sad chapter in our Nation's history. The events and causes of the breakdown in executive power which allowed a lieutenant colonel, reporting to a vice admiral, to divert and distort the foreign policy of the United States are complex, and will never be fully known. We cannot prohibit the future misuse of power, but we can begin to change some elements that might contribute to future deficiencies in the operation of the National Security Council.

The National Security Council [NSC] is the central decisionmaking body on national security affairs for the executive branch of Government. The President's national security adviser, as the leader of the NSC staff, has "certain functions which" according to the review board chaired by Senator John Tower, "appear essential to the effective discharge of the President's responsibilities in national security affairs." These functions include: acting as an "honest broker" for the NSC process and providing advice to the President "unalloyed by institutional responsibilities and biases."

We must ask ourselves if an active duty officer should ever serve as the national security adviser. Could he or she act as an "honest broker" uninhibited by "institutional responsibilities and biases?" Consider, for example, the conflicting advice emanating from the Department of Defense and the Department of State on crucial issues such as arms control negotiations, treaty interpretations, reflagging vessels in the Persian Gulf, and so on. Would there not be the strong possibility that an active duty military officer serving as the national security adviser might be biased toward the Department of Defense position on these crucial issues? Consciously or subconsciously, would that officer not lean toward the organization he or she serves? The organization which is responsible for his or her next promotion?

This amendment would not exclude outstanding military officers from serving in this post. Truly dedicated officers should be willing to resign their commissions, despite possible sacrifices in retirement benefits or career growth. Gen. Brent Scowcroft, one of the most respected former national security advisers who resigned his commission before he became the adviser concluded that:

> The job of National Security Adviser could not be separated from the President in all his aspects as a political leader * * * and therefore it was incompatible to remain on active duty.

Mr. President, in fact, since this position was created in 1953, only one person has served in that position and still remained on active duty in the military force of the United States. Of course, that was Admiral Poindexter. He is the only one to have remained on active duty and served in that position.

This amendment would not prohibit active duty officers from serving under the civilian adviser on the NSC staff.

Mr. President, we are not suggesting for a minute that the Iran-Contra affair could have been avoided if only Vice Admiral Poindexter had resigned his commission before he became the national security adviser. But we do believe that future national security advisers will be able to better serve the President if they are out of uniform.

Admiral Poindexter stated that he had always tried to make a clear distinction between the two hats he had simultaneously worn: as national security adviser and as Navy admiral. He stated that he appeared before the joint committee in civilian clothes because he handled the Iran-Contra affair as a civilian. Mr. President, I believe that the national security adviser should not only appear to be a civilian, but he ought to indeed be a civilian.

The position of national security adviser was established in 1953 to help the President handle the complex and critical issues affecting our country's national security. All previous NSC advisers have been civilians. I believe that this is a valuable tradition that should be continued.

Mr. President, I also want to say that I offer this amendment on behalf of both Senator MATSUNAGA and Senator BUMPERS.

I have discussed this amendment with the distinguished chairman of the Armed Services Committee, Senator NUNN from Georgia.

I have also discussed it with the distinguished chairman of the Iran-Contra investigation, the Select Committee on the Iran-Contra Investigation. That select committee is due to issue a report very soon on their findings and offering suggestions, recommendations for certain changes in procedures, as I understand it.

In discussing this with the distinguished chairman of the select committee, it occurred to this Senator that perhaps the best course would be for this Senator, and others so inclined to support this amendment, to write a formal letter to the chairman of that select committee, and indeed to all the members of the select committee, laying out the history of this position of being a national security adviser, pointing out the tradition that all former advisers had been civilians; pointing out, I think the very sage, very wise, advice of General Scowcroft, and requesting, or at least suggesting to the select committee, that they incorporate this in the body of recommendations that they will be making when they issue their report.

The chairman of the Select Committee on the Iran-Contra Investigation, Senator INOUYE, told me that he would indeed give this serious consideration, as I am certain all other Senators who serve on that select committee will.

So, Mr. President, I do not want to cut off others who may want to speak on this amendment, but since the select committee is due to issue that report soon, I think the wisest course might be to write a letter to that select committee and, as I said, request that they put this as part of their recommendations, that the national security adviser should indeed be a civilian, and that if an active duty officer were to be appointed to that position that that active duty officer resign his or her commission before assuming that position.

Therefore, I withdraw the amendment at this time.

The PRESIDING OFFICER. Does the Senator from Iowa ask unanimous consent to withdraw his amendment?

Mr. HARKIN. I am not certain that I need that.

The PRESIDING OFFICER. The Senator from Iowa does.

Mr. HARKIN. Mr. President, I ask unanimous consent that I may withdraw the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is withdrawn.

Mr. NUNN. Mr. President, I think the Senator from Iowa has made a wise and correct decision not to vote on this amendment at this time, because the select committee headed by Senator INOUYE will be making a report very shortly, I think within 2 or 3 weeks. They may very well decide to make this kind of recommendation.

I believe the Senator has an amendment that deserves very careful consideration by the committee and by the Senate in the weeks ahead.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, the next amendment on the list is to be by the distinguished Senators from Washington, Senators EVANS and ADAMS.

If they will yield to me, we were ready to recognize the two Senators for the amendment, but they were off the floor. Senator DOLE is leaving and wants us to let him come over here and quickly offer his amendment to be voted on next Tuesday. He is coming in right this moment and will very quickly do this.

Mr. EVANS. I would be most pleased.

Mr. ADAMS. I would be most pleased also, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 753

(Purpose: To commend the Armed Forces of the United States for their successful operation in thwarting Iranian mine-laying activities in the Persian Gulf)

Mr. DOLE. Mr. President, I send an amendment to the desk for myself, Mr. SYMMS, Mr. WALLOP, Mr. QUAYLE, Mr. WARNER, Mr. WILSON, and Mr. COCHRAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Kansas [Mr. DOLE], for himself, Mr. SYMMS, Mr. WALLOP, Mr. QUAYLE, Mr. WARNER, Mr. WILSON, and Mr. COCHRAN, proposes an amendment numbered 753.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

> The Senate finds that:
>
> The Armed Forces of the United States are engaged in escort operations in the Persian Gulf in support of American national

security interests and the principle of freedom of navigation;

The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in on-going activities to disrupt shipping in the Persian Gulf;

On September 21-22 a joint operation of United States Army and Naval forces succeeded in detecting in the act, tracking and neutralizing an Iranian mine-laying activity;

The success of that joint operation, by serving notice on Iran that the United States will react decisively and effectively to such activity, may lead to a reduced risk to American interests and armed forces from such activity;

There is precedent throughout American history for Congress to recognize and commend similar operations by United States Armed Forces, including the action of the Congress February 3, 1801, in praising "the gallant conduct" of the members of a United States Naval force in the Wars with the Barbary Powers.

Therefore, it is the sense of the Senate of the United States that:

1. The members of the United States Armed Forces who participated in the September 21-22 operation acted in the finest traditions of the Armed Forces, and displayed exemplary professionalism, skill and dedication.

2. The aforementioned members of the Armed Forces, and all United States Armed Forces personnel who supported their operation, are commended for their participation in this important and successful endeavor.

CONGRATULATIONS TO THE ARMY AND NAVY

Mr. DOLE. Mr. President, the amendment I have sent to the desk is, in my view, simple, straightforward—but very important.

About a dozen years ago, the United States wound up a highly controversial and divisive involvement in the Vietnam war. Unfortunately, as the arguments over that war raged in our country, many people lost sight of one simple fact—no matter what your view of the war, there should have been no dispute that the American service men and women, who served in Vietnam, deserved the whole-hearted support, and thanks, of their country. They risked their lives, they made enormous sacrifices—and some who made those sacrifices serve with us in the Senate today.

No matter what you thought of the war, you cannot deny they did their duty, and did it well.

I do not want to see the same mistake which led us to deny our Vietnam veterans their "due thanks," and honor, made all over again.

THEY DESERVE OUR SUPPORT

The U.S. involvement in the Persian Gulf is controversial. We have had a lot of debate on it in the last 2 or 3 weeks. But there should be no controversy whatsoever about the proposition that all of the American service men and women now on duty in the gulf, and in support activities nearby, are serving their country in the finest traditions of our armed services.

They are doing their duty, and doing it well. They deserve our support, and our thanks, for that—no matter what any of us, as individuals, think of our Persian Gulf policy.

SUCCESSFUL JOINT OPERATION

This resolution is intended to commend the skill and dedication of one group of servicemen—the men of the U.S. Army and Navy, who undertook, and successfully completed, a joint operation September 21-22, to detect in the act, track, and neutralize, an Iranian mine-laying operation.

The involvement of these American forces was an act of "self defense." It was successful. It sent a much-needed message to Iran—that we will not stand idly by while the Ayatollah continues his reckless policies, and continues to foment tension in the gulf, and the surrounding region; that we will react swiftly and effectively; and that, in so reacting, we will make the gulf, in the long run, a safer and more stable region.

PRECEDENT IN OUR HISTORY

There is great precedent in our history for the Congress recognizing, and commending, the action of American servicemen and women around the world. In our own research, we have uncovered one instance as far back as 1801, when Thomas Jefferson was President. In that year, Congress passed a resolution praising the gallant conduct of American sailors who, during the war with the barbary states, captured a ship manned by enemy forces from an area which is now part of Libya.

While budgetary constraints will not allow us to match the gesture of the Congress on that occasion in awarding a commemorative sword to the commander of our forces, and a month's pay to his subordinates, we certianly should not fail to match the Congress of 1801 in taking note of the outstanding performance of our contemporary servicemen and women.

URGE SUPPORT FOR AMENDMENT

Mr. President, this amendment should not be controversial. But, unlike many noncontroversial amendments, this one is very heavy on substance—because it takes note of, and commends, the greatest resource this country has: the skill and patriotism of our men and women, who serve all of us around the globe.

Mr. President, I understand from a previous discussion with the managers on each side that they would be willing to accept the amendment.

I have never so far in this debate delayed the Senate at any time but I am wondering if they would object to the yeas and nays on, say, Tuesday morning?

Mr. DIXON. Mr. President, we would be agreeable to that and it could be the second vote stacked on Tuesday morning immediately subsequent to the Conrad amendment vote.

Mr. DOLE. I ask for the yeas and nays.

Mr. ADAMS. If the minority leader will yield, I certainly think that would be a very good idea. I commend him for putting in this amendment. I think it simply reinforces what we have been talking about, that we are involved in ultimate hostilities and I appreciate his having submitted this amendment and I shall support it.

Mr. DOLE. I may disagree about the open hostilities but I thank the distinguished Senator from Washington.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas has the time.

Mr. DOLE. I will be happy to yield the floor.

Mr. NUNN. Mr. President, I commend the Senator from Kansas. I, too, would like to join as a cosponsor on this amendment. I think it is an excellent amendment. I think it is important for men and women who are serving our country in the Persian Gulf and elsewhere in the world to know that the Senate of the United States stands behind them. I think it is also important while we debate the War Powers Act the Senate recognize the men and women acted bravely and believe that we had every right to take the action we did in the Persian Gulf the other day.

Interestingly enough, as to the action taken by those men and women that the Senator calls attention to this evening in his amendment, even if the Byrd amendment passed, which I have cosponsored, it would not in any way preclude American military personnel from responding in the Persian Gulf to that kind of mine-laying activity. So there would be nothing in the Byrd amendment, if it passed and became law and the 90 days expired and there was no affirmative action, that would prevent us from taking action to prevent mining in international waters.

Also I think our men and women should know, particularly since there is an awful lot of news coming out on this whole subject and there are some misstatements being made about the intent of the Byrd amendment, that if the Byrd amendment passed and became law, the administration would have every right to come up and convince Congress that the flagging was a wise policy. And there are many of us who would perhaps vote with the administration to continue the flagging even though we did not feel it was the right policy to begin with, and I still think it was a mistake. So they would have every opportunity to convince us that the flagging was in the national security interest. Congress could agree with it then.

Also, I think it should be noted and said loud and clear that even if they failed to convince the Congress that the flagging of Kuwaiti vessels was a wise policy, there would not be one single military person or not a single ship or plane that would have to come out of the gulf by reason of the Byrd amendment.

That is not true of the underlying amendment, but it is true of the Byrd amendment. I think it is important for that to be underscored. The only thing that would have to be terminated would be the flagging itself and the escorting of those reflagged vessels. That is far different from what some are saying in describing this amendment as requiring a pullout of American military forces in the Persian Gulf. It does not require the pullout of a single ship, plane, or any part of our military force.

So I thank the Senator from Kansas for offering this amendment. I think it is a good amendment, and I look forward to voting for it on Tuesday when the roll is called.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The yeas and nays are requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Mr. President, I rise in support of the amendment of the majority leader which commends our Armed Forces for the manner in which they are performing their duties in the Arabian Gulf.

The recent thwarting of Iranian mine-laying activities by our army and naval forces to protect shipping and the rights of international passage in the Arabian Gulf is a clear indication of the skill and professionalism of our military personnel on station in the gulf region.

I note that the majority leader has cited as precedence the situation in 1801 when President Jefferson, acting when Congress was not in session, dispatched a naval squadron to the Mediterranean where war with the Barbary Powers seemed imminent.

The act of the Congress, upon learning of the success of the operation, and passing a resolution praising the gallant conduct of the U.S. Navy ship involved is an example which we should emulate—though we might not include a commemorative sword and pay bonuses—I wholeheartedly support this amendment and the immediate transmission of a message from the Senate of the United States to our forces in the gulf region: "Well done."

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I yield the floor.

The PRESIDING OFFICER. If all time has been yielded back on the amendment of the Senator from Kansas, the yeas and nays having been ordered, the vote will be postponed until Tuesday. The Senator from Illinois, the manager of the bill.

Mr. QUAYLE. Mr. President, I also congratulate the Republican leader on his amendment. I think it is a good one. I think we will get into the debate later on of the War Powers Act, what the effect of it is. I do not think now is the right time to debate that, whether in fact it is withdrawing or not withdrawing or what the ramification will be. That will be a debate we will have sometime next week.

The PRESIDING OFFICER. Are there additional amendments?

Mr. EVANS addressed the Chair.

Mr. DIXON. Mr. President, the next amendment would be the amendment by the distinguished Senators from Washington, Senators EVANS and ADAMS. I may say, since there are several other amendments, this will not be a contested amendment. It is agreed to on both sides. I understand that the unanimous-consent agreement would grant 30 minutes evenly divided so that even on an agreed amendment there would be 15 minutes if the two sponsors care to use it. Is that correct?

The PRESIDING OFFICER. The Chair would state to the Senator from Illinois that on this amendment the previous agreement allows 20 minutes evenly divided.

Mr. DIXON. I thank the Chair.

AMENDMENT NO. 754

(Purpose: To provide for expedited cleanup of defense nuclear wastes at Hanford, Washington)

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mr. EVANS] (for himself and Mr. ADAMS), proposes an amendment numbered 754:

On page 199, increase the amount on line 2 by $54,000,000.

On page 206, increase the amount on line 22 by $7,000,000.

On page 206, increase the amount on line 24 by $17,500,000.

Mr. EVANS. Mr. President, I ask unanimous consent to add Senator HATFIELD as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I offer an amendment today that attempts to redress a severe environmental problem that has been allowed to go unresolved for over 40 years. Simply put, the Hanford Nuclear Reservation in my State contains a huge amount of high-level radioactive and transuranic wastes resulting from the production of special nuclear materials that the Federal Government has not disposed of permanently. We have delayed far too long and to date have done far too little to implement plans for the safe and permanent disposal of these wastes at Hanford. For budgetary reasons, the Department of Energy simply has not lived up to its responsibility to provide adequate funds for the cleanup effort at Hanford. We can no longer afford to delay this crucial cleanup process. This amendment seeks to accelerate the expected cleanup effort at Hanford and ensure that the comprehensive cleanup job is not delayed further.

By volume, Hanford stores about 63 percent of our Nation's high-level radioactive waste. It comes in a variety of forms, including liquid, sludge, salt cake, slurry, calcine, and capsules. The magnitude of this waste disposal and storage problem at Hanford is increasing year-by-year. Hanford now stores approximately 203,000 metric tons onsite of all the waste forms, compared to 111,000 metric tons at the Savannah River plant and 9,700 metric tons at the Idaho Chemical Processing plant. The projection for the future volume at Hanford is for 217,000 metric tons in 2015 at Hanford, while the total for the Savannah River site decreases to 56,000 tons. Hence the projections clearly show that the permanent disposal problem at Hanford will continue to worsen in the next two decades, which increases the need for immediate action.

Mr. President, I served as Governor for the State of Washington for 12 years. During my tenure as Governor, I received repeated assurances from the representatives of the Atomic Energy Commission that these wastes were being stored safely. They stated that the Federal Government had the proper technology for safe storage and that there was no cause for worry about the contamination of the surrounding environment, including the Columbia River. Yet then the single-shelled tanks on the reservation began to leak liquid radioactive wastes into the accessible environment. We still don't know accurately the consequences of that contamination. In fact, today we don't know precisely what types and how much radioactive waste and mixed chemical wastes are in those 149 single-shell tanks. The current DOE plan doesn't call for full characterization of the single-shell tank wastes untl the mid-1990's.

In response to Public Law 97-90, the Energy National Security and Military Applications of the Nuclear Energy Authorization Act of 1982, the Secretary of Energy submitted the defense waste management plan to the Congress on May 25, 1983. This plan outlined the administration's plan and schedule for the disposal of high-level and transuranic wastes resulting from atomic energy defense activities in each of the six States where such waste is located. I was not serving in the Senate at that time and therefore was not able to review its priorities and schedule. I frankly do not agree with its priorities and schedule with respect to the Hanford Nuclear Reservation. Furthermore, I am concerned with the delays that have been encountered in projected Hanford schedules, as well as cost overruns at the Savannah River project, since that time that have further postponed Hanford's overall cleanup schedule.

The awareness of the urgency of the need to clean up Hanford among citizens of the Pacific Northwest has increased dramatically over the past year. The Department of Energy's Richland Operations Office formed a distinguished panel of experts and citizens to review the draft environmental impact statement [EIS] issued by DOE in March 1986. This group was called the Northwest Citizens Forum on Defense Waste, chaired by Bernard J. Coughlin, S.J., the President of Gonzaga University. The purpose of this effort was to educate the citizens of our region about the magnitude and nature of the defense waste problem at Hanford, and to involve the public in a discussion of the options of the various cleanup options. It turned out to be a successful effort to develop a broad concensus about how to proceed. The panel's recommendations were submitted to the Department on August 6, 1986. A copy of its summary is enclosed for the RECORD. Our amendment is fully in accord with the recommendations of the panel to accelerate the cleanup effort at Hanford.

The Department of Energy has taken many of these recommendations into account when drafting the final EIS for disposal of the various wastes at Hanford. I understand the final EIS will be issued in the next several months. Therefore, it is particularly timely that the Senate adopt this amendment that provides adequate funding levels to move forward in a comprehensive way to dispose of these wastes permanently at the Hanford site. The issue has moved from a conceptual problem of developing alternatives and forging consensus in the Pacific Northwest, to one of providing adequate funding on an adequate schedule by the Congress in Washington, DC.

This amendment includes increased funding for all aspects of waste management at the Hanford site. We must move forward in a comprehensive way since each aspect of the waste management operation is related—from separation of the different waste forms at the chemical reprocessing facility to final vitrification of the waste and onsite storage. The following is a brief description of the amendment and a table outlining the anticipated areas of increased funding.

The heart of this amendment is accelerated funding for the vitrification plant at Hanford [HWVP], which is the last and most important phase of the permanent disposal process. The Department has pushed back the construction schedule and operation date for this plant, from originally 1996 to currently 1998 and perhaps even later if funds are diverted elsewhere. I believe this is an arbitrary construction schedule that is being modified for primarily budgetary reasons.

From an engineering standpoint, the development and construction of the vitrification plant can and should be accelerated. The technology is well-known and has been demonstrated at the defense waste processing facility [DWPF] at Savannah River. I am pleased that the Department has included a line-item request in fiscal year 1988 for the first time for HWVP of $7.5 million. This amendment increases the capital item to $25 million, and the operating funds to $21 million.

(1) Waste management:

(a) Operations: an increase of $11 million to a total of $83.0 million. Primarily for operations at B-Plant to bring it from standby mode to readiness mode in order to separate the initial waste streams from PUREX.

(b) Capital: no increase.

(2) Hazardous waste/environmental compliance:

(a) Operations: an increase of $4 million to $10 million to increase activities with the state regulatory authorities for compliance with RCRA and CERCLA;

(b) Capital: an increase of $5 million to $8 million to procure additional monitoring wells and equipment to RICRA/CERCLA compliance.

(3) Disposal activities:

(a) Grouting (low-level wastes):

(1) Operating: an increase of $8 million to a total of $22 million. Supports an accelerated schedule for transportable grout facility and initial grout vaults for permanent disposal. Construction on first vault was initiated in 1987.

(2) Capital: an increase of $2 million (from General Plant Projects) to support this schedule.

(b) Saltwell pumping: an increase of $1 million to a total of $1 million.

(c) Technology development: an increase of $12 million to a total of $23 million. Supports a range of technology development activities for final disposal necessary to meet accelerated schedule.

(d) Vitrification plant (high-level waste):

(1) Operating: an incrase of $14 million to a total of $21 million. Supports an accelerated schedule for the advanced conceptual design of the vitrification plant. Advanced conceptual design should be completed in 1988, ready for final design in 1989.

(2) Capital: an increase of $17.5 million to a total of $25 million. Supports the accelerated schedule for advanced conceptual design.

(3) Landlord: an increase of $1 million to a total of $28 million. Necessary to support increased maintenance, repair and replacements for facilities and systems being upgraded.

(4) D&D: an increase of $3 million to a total of $9 million. Supports work on decontamination of a hot cell in which the liquid ceramic melter was tested.

Mr. President, it is imperative that we move expeditiously to fund these projects on an accelerated schedule. The longer we wait to immobilize these radioactive wastes in a permanent, stable form, the greater the potential for the contamination of the site and surrounding environment. The longer we wait, the more fragile the remarkable consensus becomes that has recently developed behind this cleanup effort. The longer we wait, the more money we have to spend on expensive, double-shelled tanks for the purpose of temporary storage. Yet poorly designed, environmentally dangerous temporary storage is what our State has suffered since 1945.

I believe that Hanford and the citizens of our State have borne a disproportionate share of our Nation's defense burden. I am a strong supporter of providing the necessary materials for our Nation's nuclear deterrent capability. Hanford has made an important contribution over the past four decades to our Nation's security. But the Hanford environment has suffered, perhaps irreparably, in that process. The time is long overdue for Congress to correct the balance between materials production and environmental protection and restoration. This amendment is a good place to start. I urge that the Senate adopt this amendment and thank the managers of the bill for their cooperation.

Mr. ADAMS. Mr. President, I am pleased that my senior colleague and I were able to join together in developing this amendment and delighted that the managers of the bill are prepared to accept it. The amendment would provide an additional $78.5 million over the amounts originally authorized by the committee for the cleanup of both radioactive and hazardous wastes at the U.S. Department of Energy's Hanford Reservation; wastes that have resulted from more than four decades of nuclear weapons production activities.

I want to stress to my colleagues that this increased funding represents increases in projects and activities already approved by the administration and authorized by the committee for Hanford. Our purpose in this amendment is to allow those projects and activities to proceed at a faster pace than would have otherwise been possible. The activities that will receive increased funding include construction of the high-level waste vitrification plant, CERCLA and RCRA hazardous waste site cleanup and monitoring wells, continued work on waste processing facilities at the B plant, and the grout disposal facility, among others.

We can simply not continue to engage in the sort of stop-gap measures now being used to manage wastes at Hanford. The virtrification facility is a necessary alternative to the reliance on aging storage tanks and the expenditure of millions of dollars for new tanks to replace them. Under DOE's current schedule, it will be a decade before it will even decide on whether it needs to characterize the high-level wastes stored in all of the 149 old, single-shell tanks. We should not be taking this long to fully understand the quantities, characteristics and technical problems of the wastes in these old, leaking tanks. DOE has an immediate need for increased funding to comply with RCRA and CERCLA for hazardous waste sites at Hanford; a requirement all the more critical as a result of DOE's long-debated decision in May to comply with RCRA for its mixed hazardous and radioactive wastes in the so-called byproduct rule. These activities must be accelerated and I deeply appreciate the fact the distinguished chairman and ranking member of the Armed Services Committee have recognized the importance of this fact.

Mr. President, when I sought this office, I made it clear to the people of Washington State that I was extremely concerned about the safety of all the Department of Energy's activities at Hanford. Aside from the dangers posed by millions of gallons of high-level nuclear waste, I took the position that operation of the N reactor should be suspended while we determined that it was safe to operate and our national defense needs justified its continued operation. Indeed, shortly after I came to the Senate, I called for a full environmental impact statement on the resumption of operation of the N reactor. In July I joined with the Natural Resources Defense Council in a lawsuit to compel DOE to complete this full environment impact statement when DOE decided to consider only the very limited impacts of already planned safety modifications.

Throughout the past 9 months I have become increasingly concerned about the safety of the N reactor both because of the findings of a number of independent safety studies and because of DOE's repeated claims that it intended to restart the reactor regardless of whether or not all of the safety problems had been fully addressed prior to restart. DOE continues to claim that it can restart the reactor without completing major safety analyses or modifications recommended by outside investigators.

All of the evidence I have seen and all the briefings I have received, convince me that national security needs do not outweigh the risks of operating the reactor. Consequently, I support the recommendations of the Armed Services Committee to place the reactor in standby status. Standby status would preserve the reactor as source of production capacity in the event of a national security emergency while allowing completion of the requisite safety analyses and planning for safety modifications. I would refer my colleagues to the report of the Armed Services Committee and the additional views of Senator DIXON for a clear and objective statement of the case on these points.

While I have opposed continued operation of the N reactor, that position has not given me much pleasure. There is no question that the action recommended by the committee will have a significant impact on the people and the economy of the tricities. To some extent, there is no way to avoid this problem whether the N reactor is placed in cold standby status by legislation or whether it is closed—as it will be in the next few years, no matter what the Congress does—as a result of age.

But there are ways to minimize the burden. This amendment, which increases funding for various defense waste cleanup activities at the Hanford reservation, is certainly a first and necessary step towards addressing the economic impact that closing the N reactor will have. And in that context, I think it is extremely significant that this committee, which recommended placing the N reactor in cold standby status, is willing at the same time to increase funding for clean up. There have been those who have argued that the only way we can get the funding we need to clean up the residue of the past is to continue to operate the reactor and accept waste in the future. This amendment demonstrates that such claims are false. The Congress is willing to act on the moral mandate created by past action and make a commitment to a better future for the people of Hanford. Before debate on this bill concludes, I think we will see further evidence of that commitment.

Again, I thank the members of the Armed Services Committee for their assistance and I express my appreciation to my senior colleague. Even though Senator EVANS and I may disagree on our approach to the N reactor, I believe we share a commitment to clean up past wastes and do whatever we can to improve conditions in the future.

I thank the managers of this bill both on the Republican and the Democratic side for accepting this amendment and for recognizing the moral commitment of the United States to deal with the problem of this enormous amount of nuclear waste.

Mr. President, we have had statements made that what may or may not happen to N reactor in Hanford would deter the Congress from meeting its obligation to clean up this horrifying waste residue. This action today shows clearly the commitment of the Armed Services Committee, and the work that has been done by many parties to increase the funding available at Hanford just as we support the increase of funding being made available at other waste sites containing nuclear waste.

Mr. President, regardless of what may or may not happen to the N reactor, this will have a significant impact on the people of the tricities area. I have a deep concern because whether it is from the actions of the Armed Services Committee because of potential swelling of the shell and the reactor heating at Hanford and thus making it inoperable through age or whether or not it is in a standby condition, we have an enormous problem of diversification at the tricities. This is part of meeting that problem. I am very grateful to my senior colleague, Senator EVANS, for joining in this effort for a restart to move on an environmental problem and to provide to the work force in the tricities area the abilities to work on the cleanup of the environment.

It has been a tragic thing, Mr. President, that we have not been able in the past to have a continuous program to do this. I am grateful to this committee and to my colleagues for recognizing this problem and moving forward with it. It is important to the future of the people of the State of Washington, to the tricities area surrounding Hanford, and to the people of the United States that we understand the commitment that we have as we are creating nuclear products that we must handle the waste from.

I am grateful to the chairman and to the acting manager, and Mr. President, I yield back the balance of my time.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. Who yields the floor? The Chair will state the Senator from Washington, Senator EVANS, the sponsor has 3½ minutes remaining. The Senator from Illinois has 10.

Mr. EVANS. I yield back the balance of my time.

Mr. DIXON. Mr. President, we congratulate the two sponsors, the distinguished Senators from Washington. We accept the amendment.

Mr. QUAYLE. Mr. President, we have no objection to the amendment.

Mr. DIXON. I yield back the balance of our time.

The PRESIDING OFFICER. Does the Senator seek the yeas and nays?

Mr. ADAMS. Mr. President, I think we can call for a voice vote on this. It has been accepted by all parties.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Washington [Mr. ADAMS].

The amendment (No. 754) was agreed to.

Mr. ADAMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EVANS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, in the evolutionary process of this thing, we are going to go now to the distinguished Senator from New York for an amendment.

The PRESIDING OFFICER. The Senator from New York is recognized.

AMENDMENT NO. 755

(Purpose: To direct the Comptroller General to conduct a study with respect to illegal drug smuggling into the United States, and to provide funds for the LEDET program)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO), for himself, and Mr. DECONCINI, Mr. WILSON, Mr. DIXON, Mr. GRAHAM and Mr. MURKOWSKI, proposes an amendment numbered 755.

Mr. D'AMATO. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) AUTHORITY TO CONTRACT OUT.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) REPORT.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services, the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) TRANSFER OF FUNDS.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts:

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

Mr. D'AMATO. Mr. President, first let me thank the chairman of the Armed Services Committee, Senator NUNN and his staff, who have put in quite a bit of time and effort in helping to work out an amendment which I think is second to none in importance in terms of the drug interdiction effort and the use of our military.

I would like to thank the cosponsors of the amendment, Senator DECONCINI who has worked tirelessly in this area, Senator DIXON who has been so gracious in providing us with the opportunity to move forward, Senator MURKOWSKI, and Senator GRAHAM from Florida who would like to have been with us here tonight to add his strong support. In the short period of time that he has been with this body, he has certainly demonstrated a keen awareness and interest in this area; and I thank Senator WILSON for his help and cooperation.

Mr. President, I am not going to make a long speech. Others have important areas. Let me say what this amendment does. It has two aspects.

First, our amendment begins by providing the Coast Guard with 200 additional drug interdiction personnel, $3 million this year, and $6 million next year, from the Navy. This strengthens the Coast Guard law enforcement detachments—or Ledets—assigned to Navy ships.

On April 8, 1987, a Coast Guard Ledet team assigned to the U.S.S. *Gemini* proved the usefulness of this program when it seized 498 pounds of cocaine.

Second, and more importantly, this amendment sets the stage for extensive Senate consideration of the role of the military in drug interdiction.

This is one of the few issues we were unable to find any consensus on during last year's debate on the Anti-Drug Abuse Act.

At that time, the Joint Chiefs of Staff said we would need to deploy 90 AWACS, and 800 helicopters, and use 180,000 hours of flight time to close our borders to drugs.

I believe their estimates were extreme and melodramatic, but they were the only ones we had.

As a result, many Senators were convinced that if the military took on any more responsibility for drug interdiction, military preparedness would suffer great harm.

This amendment guarantees that the next time we take up this issue, we will have the facts we need.

It directs a careful, thorough, and objective GAO examination of how the military can be more fully utilized in the war on drugs.

The amendment calls for a GAO study in 10 major parts.

Part 1 examines the national security impacts of massive drug smuggling.

We need to know if hostile States or terrorist organizations might be able to exploit our failure to control our own borders.

We must consider the extent to which drug networks are undermining our relationships with friendly governments, and the social costs of drug abuse in our own country.

Part 2 looks at how our drug interdiction efforts suffer from a lack of resources.

The international illegal narcotics industry takes in more than $100 billion a year.

Yet, we commit less than $4 billion a year to our fight against them.

How does the Coast Guard's lack of responses force it to scale back its interdiction plans, including its requests for Department of Defense assistance?

How does the Defense Department's lack of resources affect its ability to respond to the Coast Guard?

Part 3 of our amendment mandates a study of the so-called Bennett amendment.

Every year since 1985, Congressman BENNETT has offered his amendment, and every year the House has passed it.

The Bennett amendment amends posse comitatus to allow full involvement of the U.S. military in drug enforcement operations outside the United States.

I join my good friend, the mayor of New York City, Ed Koch, in supporting the Bennett amendment.

It is a perfectly appropriate response to a drug epidemic that kills our youth, saps our productivity, batters our cities with crime, and weakens confidence in the police and government officials.

However, this may not be the time to debate the Bennett amendment in the Senate.

It is time to learn what the Bennett amendment would do, and what it would cost, if it became law.

When we face the Bennett amendment again next year, as we surely will, we will be able to form more fully reasoned judgments about it.

Part 4 of this study examines a cooperative effort involving Federal drug enforcement agencies and the National Guard along our border with Mexico. If it is successful, this interdiction effort could form a model for other such efforts around the Nation.

Part 5 examines the advisability and cost effectiveness of placing the entire drug interdiction effort in the hands of the Defense Department.

It is often said that defending this Nation against drug trafficking is as important as any other defense function.

The most effective, expensive, and complex pieces of equipment employed in drug interdiction were developed by the Defense Department. In many cases, they are owned, operated, and crewed by the military.

It is time to address the possibility of using the Defense Department to coordinate and plan a national drug interdiction campaign as a matter of national defense.

Finally, parts 6 through 10 will look at the complex problem of interdicting airborne drug smugglers. Is it still true that 19,000 planes, carrying drugs, cross our borders every year, and that we stop only about 1 percent of them?

It is time to pull together the air interdiction efforts of the Coast Guard and the Customs Service, and the assistance the Department of Defense provides them.

It is time we had a more comprehensive and coordinated perspective. How does the system work? Where are its gaps and overlaps?

If you add resources for the Customs Service, but cut the Coast Guard budget, and do nothing to increase Defense Department involvement, how does that affect the overall effort?

We need answers to these questions.

We need them to make the best possible use of scarce resources, and to provide the best drug interdiction effort possible.

We are spending more money on drug interdiction than ever. We are seizing more drugs, and we are arresting more drug traffickers, than ever.

But we are not stopping the flow of drugs, and we are not dismantling the drug networks.

We need a much more coordinated approach. We need more reliable information on the most productive use of our resources.

Above all, we need a war plan in which we all believe.

This amendment represents an effort to move us toward those goals, and I urge its adoption.

Mr. GRAHAM. Mr. President, the Senate's support of these amendments clearly demonstrates our concern for the terrible toll exacted by illegal drug smuggling. Further it underscores our determination to stop at nothing to win the war against drugs.

Our borders are open to anyone who chooses to violate them by smuggling in deadly, illicit drugs. This year's assault on Americans waged by cocaine and heroine dealers could easily be next year's terrorist mission. Outlaws violate our borders with impunity now and the results destroy national productivity, community law and order, family relationships and individual lives.

That is tantamount to an act of war.

We have to see the problem clearly for what it is. We cannot focus solely on the cargo and ignore the carrier. The fact that coca plants grow wild in Colombia only translates to a proliferation of crack houses and child addicts in our cities through the grim work of smugglers.

We need to track and apprehend the criminals who traffic in—and profit from—human tragedy.

This is not restricted to a law enforcement issue. The sovereignty of our borders is openly disregarded by drug smugglers every day. This is first an issue of national security. Local law enforcement in areas heavily impacted by illegal drug trafficking has been steadfastly courageous under battle conditions.

Local law enforcement should not be our front line of defense. It is the constitutional mandate of our military to protect the Nation's borders.

Education about the perils of drug abuse is vital and can be effective and should be continued. But we have to send an unmistakable message here. Enforcement is the first step. If we are unwilling to commit the resources we need to stop the flow of drugs into this country—if we, as the Federal Government, are ambivalent about saying "No"—how can we ask school children to stand up and say "No" to drugs?

These amendments represent a small step—but a significant one. By setting up the mechanism for an annual report on Department of Defense resource availability, we are forced to evaluate what we can and should be using in the war against illegal drugs.

By thoroughly analyzing those resources in a General Accounting Office report, we can better formulate strategy and direct the might of this great Nation against a growing band of international criminals who practice their own brand of terrorism—the destruction of our society through the importation of illegal drugs.

Mr. DIXON. Mr. President, I rise as a cosponsor of the amendment introduced today by my distinguished colleague from New York, Senator D'AMATO. This amendment commissions a report by the General Accounting Office on the impact of increased Department of Defense assistance to drug law enforcement.

I have actively supported attempts to increase the role of the Department of Defense in the drug law enforcement efforts. I believe that we must apply all the resources available, including military forces, in our war against drugs. Last year, I proposed an amendment to the Anti-Drug Abuse Act of 1986, which would have given the Department of Defense far greater responsibilities in drug interdiction efforts.

There was a heated debate on how increased assistance by the Department of Defense would effect drug enforcement efforts and military preparedness. Unfortunately, this debate was based only on speculation.

Mr. President, we need more than speculation when formulating our Nation's antidrug policy. The report mandated by this amendment would provide us with the information we need to know.

We need to know the national security implications of illegal drug smuggling into the United States. We need to know the kind and number of penetrations by drug smugglers of our national borders and potential for hostile states and terrorist organizations to exploit this situation.

We need to know the costs, the operational readiness impact, and the potential to improve Federal drug interdiction activities through increased Department of Defense assistance in drug enforcement. We need to know the results of cooperation between National Guard units and Federal law enforcement agencies.

Mr. President, this study will provide us with the answers to those questions. This report will arm us with the information we need to intelligently know to mobilize all of our resources in the war on drugs.

Mr. DeCONCINI. Mr. President, the drug problem in the United States has reached crisis proportions and shows every indication of increasing in severity. It is a problem of extreme complexity because of the overwhelming demand for illegal drugs in this country, because the enemy—the drug trafficker—has an unlimited supply of funds at their disposal, and because the United States has never devoted the time, energy, and funding necessary to fight the problem of drug abuse effectively.

I believe the amendment introduced today by my good friend from New York, Senator D'AMATO, is a step in the right direction. There is no other Senator in this body who has worked harder and spent more time to combat the drug epidemic in this country than Senator D'AMATO.

I would also like to acknowledge the contributions of Senators DIXON, GRAHAM, and the distinguished chairman of this committee, Senator NUNN, for their fine work on this amendment. But if anybody deserve credit, it is the author of the amendment the D'Amato legislation is patterned after, Representative CHARLES BENNETT from Florida. Representative BENNETT'S amendment would authorize the Secretary of Defense, upon request from the head of a Federal drug enforcement agency, to assign members of the Armed Forces under the Secretary's jurisdiction, to assist drug enforcement agencies in searches, seizures, and arrests outside the land area of the United States. This amendment has overwhelmingly, in each of the past 3 years, passed the House of Representatives. Although I am in favor of the Bennett amendment, I do not believe we have sufficient votes in the Senate for its passage.

The General Accounting Office report authorized by the D'Amato amendment will study the costs, operational effects, and methods of implementation of increased Department of Defense assistance to drug law enforcement under the provisions of the Bennett amendment. GAO will assess the national security implications of massive illegal air, land, and sea-borne smuggling of illegal narcotics into the United States. This would include estimating the kind and number of penetrations by smugglers of our borders and potential for hostile state and terrorist organizations to exploit this situation.

The study will also examine a concept I have favored in the past—the use of National Guard personnel and assets in the war on drugs. A cooperative drug interdiction operation involving the United States Customs Service and National Guard units from Arizona, Utah, Wisconsin, and Missouri, was launched in Arizona August 29, 1987. The operation was conducted along the United States-Mexico border.

I believe the use of the military for drug interdiction could have a major impact on drug trafficking. By combining the resources, expertise, and manpower of the Department of Defense with Federal law enforcement agencies now involved in drug interdiction the United States will finally have a real war on drugs.

Mr. D'AMATO. Mr. President, I thank the distinguished manager of the bill for his graciousness and also Senator DOMENICI for allowing me the opportunity to offer this amendment at this time. I move the adoption of the amendment.

The PRESIDING OFFICER. Do the Senators yield back the balance of their time?

Mr. DIXON. Yes.

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New York [Mr. D'AMATO].

The amendment (No. 755) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. Mr. President, the distinguished Senator from New Mexico has an amendment.

AMENDMENT NO. 756

Mr. DOMENICI. Mr. President, I sent to the desk an amendment in behalf of myself, Senator BINGAMAN, and Senator MCCLURE, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will call the vote.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. BINGAMAN, and Mr. MCCLURE, proposes an amendment numbered 756.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

PART D.—THE DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE.—

SEC. 3141. FINDINGS.

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal U.S. industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximatrely 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses for such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

SEC. 3142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOLGY RESEARCH INITIATIVE.

The Secretary of Energy shall initiate and carry out a progam of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program hereinafter in this subtitle referred to as the "Initiative"). The Secretary shall carry out the Initiative in a way as to complement the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 3143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) MISSION OF NATIONAL LABORATORIES.—Each national laboratory of the Department of Energy shall participate in research and development projects under the Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in Section 3142, to the extent that such participation does not detract from the primary mission of the national laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in Section 3142 and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) REQUIRED PROVISIONS.—The Initiative shall include provisions for one or more national laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 3144. PERSONNEL EXCHANGES.

The initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in Section 3142 and the national laboratories of the Department of Energy that are participating in such initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 3145. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL.

The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherance of this initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 3143(a).

SEC. 3146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH.

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 3147. COST-SHARING AGREEMENTS.

(a) PERMITTED PROVISIONS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory may include in any research and development agreement entered into with a domestic firm in connection with such initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) The director of each national laboratory of the Department of Energy that is participating in the Initiative shall submit a proposal to the Department of Energy defining cost sharing arrangements and the appropriate level of funding for approval.

(c) LIMITATIONS.—(1) Not more than an amount equal to 1 percent of any National Laboratory's annual budget shall be received from non-appropriated funds derived from contracts entered into under the initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of non-appropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 3148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE.

(a) PROVISIONS RELATING TO DISAPPROVAL AND MODIFICATION OF AGREEMENTS.—If the Secretary of Energy or his designee desires an opportunity to disapprove or require the modification of any such agreement under section 3147, the agreement shall provide a 90-day period within which such action be taken beginning on the date the agreement is submitted to the Secretary.

(b) RECORD OF AGREEMENTS.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 3149. AVOIDANCE OF DUPLICATION.

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in such initiative.

SEC. 3151. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is a authorized to be appropriated to the Department of Energy for each fiscal year FY88 and FY89, the additional sum of $25,000,000 for the activities of the Department of Energy under the Initiative.

(b) RELATIONSHIP TO OTHER FUNDS AVAILABLE TO THE DEPARTMENT OF DEFENSE.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 3152. TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary of Energy shall adopt procedures to provide for the timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, executive orders, and regulations followed by the Department of Defense.

(b) PLAN FOR COMMERCIALIZATION ENHANCEMENT.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Energy and Natural Resources of the Senate, and the Committee on Science and Technology of the House of Representatives.

Mr. DOMENICI. Mr. President, I wish to offer an amendment relating to semiconductor research. My amendment would establish a semiconductor technology research excellence initiative within the Department of Energy. It would begin in DOE's national laboratories as full-fledged partners with the Department of Defense, the U.S. semiconductor industry, and our universities in a national effort to regain American leadership in semiconductor manufacturing.

Under my amendment, the Secretary of Energy would initiate and carry out a program of research on semiconductor manufacturing technology and on the practical applications of that technology. The national laboratories would conduct research and development activities relating to silicon and compound semiconductors, including research and development of such advanced semiconductor manufacturing technologies as ultra clean processing, processing for ultra high density silicon circuits, and improved compound semiconductors and devices.

These R&D projects would be entered into through cost-sharing agreements with private firms and universities. These agreements would allow access to the facilities and equipment of the labs, and would provide for exchanges of personnel.

Mr. President, in recent years we have all been educated on semiconductors and the decline of our country's ability to compete with the Japanese in this critical high technology area. We all understand the importance of semiconductors to our economy and our national security.

Earlier this year, the report by the Defense Science Board task force on defense semiconductor dependency stressed that semiconductors are increasingly central to national defense. U.S. military forces rely on the latest state-of-the-art electronics to overcome the numerical advantage held by the Warsaw Pact—whether you're talking about tactical aircraft, tanks, ships, or missiles. That is our defense strategy—defeating brawn with brains. And semiconductors are the cutting edge of modern electronics.

Both the administration and Congress agree on the urgency of addressing the problems facing the U.S. semiconductor industry. Funding has been requested to implement the recommendation of the Defense Science Board task force calling for a cooperative program of research on semiconductor manufacturing technology and its practical applications—now known as sematech. Senators BINGAMAN and CHILES have sponsored an amendment to this bill which would authorize $100 million for each of fiscal year 1988 and fiscal year 1989 for this proposal. I strongly support this authorization and commend my good friends for their initiative.

My amendment will strengthen their initiative by including DOE's national laboratories in this national effort. The national labs would complement the overall sematech work program.

Both the Semiconductor Research Corp., and the Semiconductor Industry Association believe that close collaboration with our national laboratories is essential for an effective national strategy for semiconductors. This was also the finding of the joint planning workshops sponsored by the National Academy of Sciences in February and May of this year.

According to the report recently issued by the Academy, "The workshop participants concluded that the facilities and expertise at the laboratories represent a valuable set of resources that should be utilized effectively to augment the research capabilities of industry and universities." A number of national laboratories have already submitted proposals for semiconductor research and manufacturing. Brookhaven has proposed the development of synchrotron x-ray lithography. Lawrence Berkeley has proposed the establishment of a process analysis and diagnostics program.

In my State, Sandia has proposed a center for compound semiconductor technology and a center for ultra clean semiconductor processing. The former would be of particular significance to our strategic forces and our space program. It would expand on Sandia's existing center for radiation-hardened compound semiconductors.

During the past decade, Sandia has been the leader in this area. It has transferred its know-how to several commercial firms which are now manufacturing their own radiation-hardened semiconductors. Sandia taught National Semiconductor Corp. how to harden its semiconductors. Other customers include NASA for its project Galileo spacecraft which will enter Jupiter's atmosphere. Sandia radiation-hardened semiconductors are also orbiting the Earth in Spot, a French photoreconnaissance satellite.

Sandia's proposed center for ultra clean semiconductor processing would seek to develop techniques and practices for the reduction of contamination and defect levels in semiconductor processing. This is critical if we hope to manufacture the advanced semiconductors of the next decade. The development of semiconductors that are smaller, faster, and have greater information storage capacity requires manufacturing facilities and equipment that are free of defects and of the impurities found in the air.

The Japanese have already implemented a program in contamination control at Tohuku University. The United States cannot afford to lag behind.

In short, Mr. President, the national labs have much to contribute to the semiconductor effort. We must take advantage of their resources.

The report by the National Academy of Sciences lists four "basic attributes" organizations must have in order to respond to the challenge we face in semiconductors: (1) outstanding people capable of performing semiconductor research; (2) relevant technical experience, capabilities, and facilities; (3) an organizational environment that will support a productive response to critical needs in semiconductor technology; and (4) available mechanisms for transferring technology efficiently and effectively to potential users.

The labs possess each and every one of these attributes, and they are ready to contribute. My amendment would see to it that they do so in the most effective manner.

Mr. President, I send letters of support from the Semiconductor Industry Association, and I ask unanimous consent that they be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEMICONDUCTOR INDUSTRY ASSOCIATION,
Cupertino, CA, September 21, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: I am pleased to inform you that the SIA endorses S. 1480 as amended. As was pointed out by the National Academy of Sciences in its recent report entitled, "The Semiconductor Industry and the National Laboratories," "In addressing the potential role of the DOE national laboratories, the workshop participants concluded that the facilities and expertise at the laboratories represent a valuable set of resources that should be utilized effectively to augment the research capabilities of industry and universities."

A number of proposals considered at the National Academy of Sciences Workshops between the semiconductor industry and the National Laboratories meet the criteria of the Bill. For example, two outstanding proposals include the Center for Ultra-Clean Semiconductor Processing and the Center for Component Semiconductor Technology.

The SIA believes that there should be a role for the National Laboratories in conducting semiconductor research. We also believe that this research should be separately funded and not simply be a reallocation of funds from the Department of Defense for Sematech. Finally, the SIA believes that the industry interface with such research by the National Labs should be provided by the Semiconductor Research Corporation (SRC) as part of their generic role of coordinating all external research for the semiconductor industry.

Sincerely,

WARREN DAVIS,
Vice President.

SEMICONDUCTOR RESEARCH CORP.,
September 21, 1987.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The Semiconductor Research Corporation strongly supports "The Department of Energy National Laboratory Cooperative Research Initiatives Act" (S. 1480). The National Laboratories of the Department of Energy are a major national resource. They should be given a mission to participate in research on advanced semiconductor manufacturing technology, so vital to the national security and economic interests of the United States. We believe that your bill, S. 1480, would accomplish this purpose.

The semiconductor industry has recognized the desirability of a role for the national labs in SEMATECH, a private sector-driven consortium composed of major U.S. semiconductor manufacturers in partnership with government. The industry has proposed a mechanism for a laboratory/industry partnership in its business plan for SEMATECH. We envisage that the research of the national labs in this area should be designed to complement the overall SEMATECH work program.

The joint planning workshops sponsored by the National Academy of Sciences in February and May put into motion the first steps toward matching the semiconductor industry's and the national labs' R&D efforts. Collaboration on the specific technological objectives of each national laboratory with industry will continue to be explored and identified as a result of future workshops to be sponsored by the SEMATECH consortium.

We envisage that the Secretary of Energy would be part of a "National Advisory Committee on Semiconductor Research and Development" composed of government and private sector members. The committee would provide a focal point for coordinating, devising and implementing an effective national strategy for semiconductors. Indeed, if the national labs are to provide beneficial support to SEMATECH, more coordinated programs between the labs and SEMATECH will be necessary.

We believe that in developing technology roadmaps for SEMATECH, those programs involving the labs would eliminate duplication of efforts. However, the urgency of the problem demands a change in the nature and pace of the research pursued. Needless to say, mobilizing the national labs in coordination and collaboration with industry efforts requires the immediate attention of federal policymakers in order that such efforts can provide timely answers.

In establishing a National Laboratory Cooperative Research Initiative, the bill would make a number of recommendations in anticipation of the formation of research consortium such as SEMATECH. Since SEMATECH was established in May, 1987, we have a few recommendations that could improve the proposal. We believe (1) The legislation should specify coordinating the research of the national labs under this initiative with the semiconductor industry's new R&D consortium, SEMATECH. (2) The legislation should clarify that any funds expended by the Department of Energy on such projects would be in addition to the funds expended on SEMATECH by the Department of Defense. We do not view a national labs' semiconductor research initiative as an alternative to DoD efforts, and do not anticipate that such an effort should result in a substitution or dilution of the Defense Department's funding level for SEMATECH of $100 million per year for the next five fiscal years. (3) Finally, we believe that DOE should fully fund the research of the national labs, and that the proposed cost sharing arrangements with industry in this case would not be necessary.

We strongly support S. 1480 and federal funding in the Energy Department's Budget for the National Laboratories to conduct semiconductor manufacturing research in coordination with SEMATECH. We firmly believe that a coalition of SEMATECH and the national labs would strengthen the future competitiveness of the semiconductor industry.

Sincerely yours,

LARRY W. SUMNEY,
President.

APPENDIX A.—DOE NATIONAL LABORATORIES LIST OF CAPABILITIES

AMES NATIONAL LAB

Ames has research programs in device modeling and advanced techniques for compound semiconductor materials growth.

ARGONNE NATIONAL LABS

Argonne has developed the highest sensitivity trace contamination analysis capability in the world and also has extensive surface analysis capabilities.

BROOKHAVEN NATIONAL LAB

Brookhaven is the U.S. leader in synchrotron radiation light sources which may be required for submicron integrated circuit lithography.

LAWRENCE-BERKELEY LABS

Lawrence-Berkeley has programs in the growth of high purity semiconductors, extensive atomic-level analytical capabilities for microanalysis of semiconductor materials and structures in the Center for Advanced Materials.

LAWRENCE LIVERMORE NATIONAL LABS

Lawrence-Livermore has major programs in computer simulation and design of advanced components, advanced packaging concepts and beam processing.

LOS ALAMOS NATIONAL LABS

Los Alamos has strong capabilities in basic materials research and analysis, lasers, accelerators and is the world leader in super computers and computer simulation.

OAK RIDGE NATIONAL LABS

Oak Ridge has programs in materials growth, characterization and analysis and surface modification of semiconductor materials by use of ion and laser beams, with user facilities in these areas.

SANDIA NATIONAL LABS

Sandia performs major research and development in silicon and compound semiconductor technology (400 people/$70M annual budget) and is the only national lab producing advanced integrated circuits for national programs.

SERI

SERI has a major research program in the growth of exotic compound semiconductor structures and application of these to photovoltaics.

Mr. DOMENICI. Mr. President, I want to thank my distinguished colleague, Senator BINGAMAN for his assistance on this measure, and all of those who have worked with us from the Department of Energy, the Department of Defense, and staffs of the Armed Services Committee and the Energy Committee.

Essentially, Mr. President, there is an effort to start in motion not a competitor to Sematech, which we have decided we want to fund as a national and new change in the institutional approach to use Federal Government dollars and private sector dollars in an effort to create a new institution to play some catchup in the manufacturing of computer chips from the industrial standpoint.

This does not in any way interfere with the site selection that is going on there. But rather sets in motion within the Department of Energy. It does a great deal of research and requires a great deal of knowledge on may subjects as they work for the Department of Defense and the Department of Energy. It sets in motion a coordinating mechanism and $25 million is authorized so that these national laboratories can work together in the evolution of new manufacturing technologies in the semiconductor field. It is common knowledge that is where we are losing ground. This amendment would permit us to take advantage of their expertise and would have the Department of Energy and the Department of Defense cooperating so that the private sector can begin to work with the national laboratories toward this objective.

I think we are going to have to do more of this new arrangement so as to speak using institutions that have had certain missions in the past with a little more variety and a little more diversification. We are going to have to focus on academic and the private sector working with these national laboratories. This is an effort to see if we cannot get that started.

I believe if we can that we are going to be surprised at the synergism and great new accomplishments that will be forthcoming.

This is supplemental to a lot of work that has already been devoted to this area. A lot of amendments have been adopted in the House. There has been substantial funding in the appropriations process, at least starting in the House in some of these areas which I hope we will continue, and I hope that this amendment will be accepted.

It is my understanding that the managers on both sides have cleared this amendment, and if that is the case, I hope we will adopt it expeditiously.

Mr. DIXON. Mr. President, we support the amendment on this side and yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 756) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I thank the distinguished floor managers for their cooperation this evening.

Mr. DIXON. I thank the distinguished Senator from New Mexico.

Mr. President, is the Senator from California ready Now?

Mr. WILSON. Yes.

The PRESIDING OFFICER. The Senator from California is recognized.

AMENDMENT NO. 757

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from California [Mr. WILSON] for himself and Mr. GLENN proposes an amendment numbered 757.

Mr. WILSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

Sec. . Sense of the Senate Regarding the Contributions and Roles of Spouses of Military Personnel in Supporting the Military Community

The spouses of military personnel have contributed greatly to the well-being and to the support of the military community in the Armed Forces for decades;

The spouses of military personnel have voluntarily lent their time and talents to support military personnel, their families, and the military community as a whole, in time of war and in time of peace;

In 1987, when more than 72% of all active duty military officers and 52% of all active duty enlisted military personnel are married, the voluntary service of spouses of military personnel in support of the military community is ever increasing in scope and importance;

At the same time, the pressures on the spouses of military personnel to be employed outside of the home are increasing, reflecting American society as a whole;

Neither the Armed Forces, the Congress, nor the American people have a right to expect or demand that spouses of military personnel voluntarily contribute their time or talents to support the Armed Forces or the military community, beyond that expected of all good citizens.

Therefore, it is the sense of the Senate that the spouses of military personnel are to be thanked and congratulated for their unswerving support and work on behalf of military personnel, their families and the military community as a whole.

And further, it is the sense of the Senate that the decision by spouses of military personnel to be employed, either in addition to or rather than voluntarily participating in activities relating to the Armed Forces, must be viewed as a personal decision which is of no official consequence to the Armed Forces.

Mr. DIXON. Mr. President, the Senator from Ohio has asked me whether his name has been placed on the amendment as a cosponsor.

Mr. WILSON. I have done that, and I am honored to have him as a cosponsor. My friend from Ohio is the chairman of the Armed Services Manpower Subcommittee, and I think it is more than understandable that he shares my concern in this subject.

Mr. President, the amendment I have just sent to the desk is a sense-of-the-Senate resolution which I offer on behalf of myself and Senator GLENN. It relates to the contributions and the roles of spouses of military personnel in supporting the military community. Without going through all the "whereases" it does recite, quite properly, the enormous contribution that has been made over the decades of military service by the spouses of military personnel who have voluntarily lent all kinds of time and energy and skill to any number or activities that have vastly increased the quality of life for military families.

For anyone who has been on active duty, it is no secret that the contribution made by these spouses, in providing the direction, the staffing of such things as thrift shops, Red Cross operations, and all kinds of family guidance centers, has been not only of inestimable value but also has saved the taxpayers untold millions upon millions of dollars and has provided a source of womanpower without which life on military bases across the Nation and across the world would not have begun to be nearly as fulfilling for our Armed Forces personnel and their dependents as it should be.

So, taking proper note of that and expressing gratitude, as we should, it is with particular alarm that I have noticed in recent press accounts that some military commanders apparently take for granted that that voluntary role should be something other than just that, voluntary, and have sought to virtually impress the wives of military personnel into a false voluntarism and in many cases one not dedicated to the kind of activities that have enriched the lives of other military families, but really have sought to impress wives into the kind of social observances that apparently the commanders, themselves, thought appropriate.

Specifically, for the past couple of months, I have been following with great concern a story concerning the apparent attempt by the base commander at Grissom Air Force Base in Indiana to require that the wives of senior officers on that base not be employed outside the home, apparently so that the wives could attend to their duties, as he has seen them, as Air Force wives.

According to a news report contained in the Washington Post on September 16 of this year, when one of the wives concerned asked the base commander just exactly what he believed her job to be, he replied that her job was to attend officers' wives clubs, coffees, luncheons, and social functions.

Mr. President, while one might hope that this incident would be an isolated one that could be written off as extraordinarily bad judgment on the part of a single base commander, apparently that is not the case, unhappily. The response to these stories has been any number of letters, not just from Air Force wives at Grissom Air Force Base, nor from the Air Force, but from the services and from any number of people who have been active duty personnel and who are now retirees, those who have expressed the same unhappy phenomenon.

I have here a fistful of letters. I am going to pick a few that I think make the point.

One, written with some tongue and cheek, but I think with clear point, says:

> Not once in my 10 years of "work" has my employer asked my husband to participate in a bake sale, buy and engrave a baby gift, etc., with the implicit understanding that my career would suffer if he should choose not to.

Another, much more to the point, speaking clearly and simply, says:

> If the Air Force is really serious about eliminating family irritants and enhancing morale, then it is time for them to establish a supportive, written policy which will do away with this kind of treatment once and for all. I can assure you that it would do more to promote good morale and enhance pilot retention than passing out leather flight jackets and will cost a great deal less.

I think those points are extraordinarily well taken.

Let me add a couple more. I think these letters are worth a few moments of time. One notes that in 1982 Senate hearings, a wife's "evaluation" on her husband's officer evaluation report was discussed. Both favorable and unfavorable remarks were made about wives' volunteer activities on officer evaluation reports. One conclusion drawn by that writer from that unhappy circumstance was:

> I know the importance of voluntarism to the military community. The quality of service life would not be what it is without volunteers. But volunteer work should be just that—volunteered.

Mr. President, amen to that comment.

Finally, this one states the conclusion succinctly, clearly, and forcefully:

> Decisions about spousal employment should be made by the family members involved, not by service policy or pressure."

Mr. President, I think these stories and these letters make clear that this is not an isolated problem, nor is it a trivial one. Morale is important. We worry about things like sexual harassment on the floor of the Senate. There are other kinds of pressures, some of them explicit, some of them subtle, that relate to career pressures. They have no place in our career military.

Mr. President, I ask unanimous consent that these stories and these letters that they report be printed in the RECORD along with three articles from the Air Force Times covering the story.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

YOUR TURN: SHOULD SENIOR WIVES WORK? READERS RESPOND

(By Jay Blucher)

Life in the Times has received numerous letters in response to our Aug. 3 story, "The Right to Work: Grissom Wing Commander is making that choice impossible, say some senior wives." The letters have come from all corners—men and women, active-duty members and spouses, and retirees. They have come from members of all services, too, indicating that this problem is more than a Grissom AFB, or even an Air Force, concern. We're printing some of these letters (edited for space) on this and several following pages.

There also has been an outpouring of concern from some Air Force officials, womens' rights groups, civil liberties groups and several U.S. Congressmen. Their efforts have focused national attention on the situation, and recently culminated with the Air Force announcing that it will convene a blue-ribbon panel to examine the issues concerning spouses who work.

While specific members of the panel remain to be named, according to Air Force public affairs officials, "The panel will be representative of a cross-section of people familiar with Air Force family issues." The Secretary of the Air Force, Edward C. Aldridge Jr., and Gen. Larry D. Welch, Air Force Chief of Staff, announced creation of the panel on Aug. 11. Air Force officials declined further comment concerning either the composition or charter of the panel.

For those who come late to the story: months ago, at Grissom, AFB, Ind., a handful of senior commanders' wives decided to personally challenge one Wing Commander's interpretation of their right to work, or even go to school. These women claimed that Col. Gary Ebert, Commander of the 305th Air Refueling Wing, pressured them to quit their jobs so they could participate in volunteer and social activities on base—or else their husbands would neither get promoted nor receive favorable duty assignments.

Nattaya Leuenberger and Judy Croxton, along with several other Colonel's wives who remained anonymous out of fear for their husbands' careers, made a stand against what they believe is an archaic, unofficial, yet well-understood Air Force policy for senior commanders' wives to support their husbands' military careers by not working outside the home.

The women discussed the pressures brought to bear on them by both Ebert and the Air Force. They realized their husbands' military careers and reputations might be tarnished by their actions.

After their story appeared in both Life and the Times and the local Indianapolis Star, General Welch and Secretary Alridge wrote a letter to Air Force Times, stating their position on working wives. This letter is included on the following pages.

At the same time, these women and their husbands were questioned, under oath, before an 8th Air Force inquiry panel, ostensibly being conducted to determine the facts in the matter. However, the questioning indicated that the inquiry was meant to go far beyond mere fact-finding. Sources said the inquiry was questioning the veracity of the wives' story, the reporters who wrote the story and Air Force Times as well.

Frank O'Dell, Anchorage, Alaska:

Thanks for having the courage to expose the stone age U.S. Air Force practice of canning 0-5S and 0-6S whose wives fail to fit the "kiss the C.O.'s wife's butt" mold. In the real world, many of these women serve the American public as productive members of society rather than unpaid tea pourers. Shame on Colonel Ebert and the mind-set of these people.

Senior Navy wife, San Diego:

Frankly, my required participation in (wives club) activities seems demeaning to my husband. I would assume he would want me to be judged on his own merit rather than my attendance at last week's function (always conspicuously scheduled during daytime hours so working wives cannot easily attend).

Not once in my 10 years of work has my employer asked my husband to participate in a bake sale, buy and engrave a baby gift, etc., with the implicit understanding that my career would suffer if he should chose not to.

Sylvia Holben Allen, Pope AFB, N.C:

If the Air Force is really serious about eliminating family irritants and enhancing morale, then it is time for them to establish a supportive, written policy which will do away with this kind of treatment once and for all. I can assure you that it would do more to promote good morale and enhance pilot retention than passing out leather flight jackets and will cost a great deal less.

An officer's wife, Fort Irwin, Calif.:

Colonel Ebert showed his true colors when he said, "I can't expect my wives to participate in all these things." He probably was on his guard during the interview, otherwise he'd have said "my girls."

Despite his denials, he obviously expects a "two-for-one" package deal from his married officers. Too bad he can't understand that the contributions women who happen to be married to soldiers can make go beyond social functions—let alone that women, as human beings, have needs and goals beyond those of their husbands. All of the services, by pretending these commanders don't exist, are condoning their conduct.

Just in case those stories I've heard about my husband getting in trouble for comments I make are true, please withhold my name.

Lieutenant Colonel, USAF, California:

Re: The official Air Force policy on working spouses. I would certainly be the last to dispute what Secretary (E.C.) Alridge and Gen. (Larry D.) Welch said it was—it's their policy. However, in the real world, what's policy and what is don't always jibe—kind of like the AF policy on working spouses. Anyone who believes service members and their spouses aren't harassed over this issue still believes in the Easter Bunny or suffers severe self-delusion. (Add Mrs. (Judie) Chain to the list of those deluded. The wife of CINCSAC wrote a marvelous article about how things "ought" to be. Trouble is, they ain't!)

The Secretary and the General have a serious credibility problem. They may believe their policy is understood and is being carried out according to their wishes—but most of their commanders don't share their commitment.

Let true volunteerism prevail or pay for spousal services rendered. High pressure tactics are counterproductive. And let that for which there is little or no demand die a natural death. Those activities truly worthy of support will survive.

Lieutenant Colonel, USAF, Pentagon:

Hats off to our leaders for responding to the working wives issue: Thumbs down to the staff officers who put together the masterpiece of double speak SECAF and the chief sent to your paper: while the USAF "fully supports the work aspirations of spouses," they also "do expect the spouses of commanders and others . . . to participate in the Air Force community in a constructive way."

Give us a break! Full-time employment, together with family and homemaking responsibilities, leaves wives little time for anything other than infrequent and token participation in OWC and other unofficial activities. Local commanders expect much more, and have considerable means to reflect and enforce their preferences through the husband's OER (Officer Effectiveness Report) and work environment.

Why don't we quit beating around the bush and state the policy clearly and unequivocally. A wife's place is at the club, not at the office.

Rosemary A. Locke, former president, National Military Family Association, Arlington, Va.:

Courage is expected in the military community. Rare, however, are service wives who go public about command pressure not to work for pay.

Unfortunately, the Air Force wives at Grissom are not an isolated group, and the problem is not confirmed to the Air Force. I took part in the final report, Military Spouse and Family Issues, Europe 1982. During that 6-week survey, some Army wives privately related similar harassment as described by the courageous women at Grissom.

In 1982 Senate hearings, a wife's "evaluation" on a husband's OER was discussed. Both favorable and unfavorable remarks were made about wives' volunteer activities on OERs.

I know the importance of volunteerism to the military community. The quality of service life would not be what it is without volunteers. But volunteer work should be just that volunteered.

Decisions about spousal employment should be made by the family members involved, not by service policy or pressure.

Major, USAF, Oklahoma:

The problem really stands out at the Colonel and above level, but I've seen it all the way down to the senior Captain level.

Some commanders see the Air Force as an elite fraternity (especially at the higher levels). If one wants to join, one must agree to certain initiation rites (i.e., hazing), including the wife's (viewed as sorority girls) sacrifice of individual freedoms and personal identity.

They don't see this problem as what it truly is: a form of sexual harassment and discrimination rolled into one. To join the "club," the wife must do her "duties" or the husband doesn't get to play.

I, for one, will never sacrifice my wife to this practice: for every man who stands up and fights for his rights and his wife's rights, a brick will be removed from a wall that needs to be destroyed.

Carolyn Smith, Grissom AFB, Ind.:

As the wife of a senior officer stationed at Grissom AFB, I feel compelled to reply to the recent article which seriously misrepresented the condition that exists in the 305th Air Refueling Wing.

Mr. WILSON. Mr. President, I must say that I was surprised and somewhat dismayed to learn that even today when as many as 70 percent-plus of military officers and more than 50 percent of enlisted personnel are in fact married, and when so many wives in American society, not just military wives, but wives find it necessary for economic reasons to bring a second income into the home, and when even if it is not economically required they seek employment themselves in something that provides a meaning to their lives and an outlet for their skills, talents, and energies that a base commander would presume to demean much less to seek by direct coercion to prevent a wife from seeking employment of any kind outside the home, that is simply not acceptable.

As that last letter said that is a decision to be made by the family involved and by no one else. It can be of no consequence officially to the services.

Mr. President, as the ranking member and the former chairman of the Manpower and Personnel Subcommittee, I have had occasion to learn about the tremendous contributions made by military spouses. As I have indicated, they are invaluable, but as one letter indicated, they must in fact be just that, volunteered. It is appropriate that we celebrate the contribution that is made. It is also appropriate that we make clear to base commanders and not simply the Air Force, but to all the services that we will not look with favor upon any military policy written or unwritten that seeks to continue this kind of coercion upon military spouses.

Mr. President, the Secretary of the Air Force and the Chief of Staff have now convened a blue ribbon panel to look into issues involving pressures on military spouses. I commend that effort. But at the same time I think there should be no doubt there should simply be no policy, official or unofficial, of any armed services that encourage or permits or tolerates a situation of the kind that apparently has occurred there at Grissom Air Force Base to exist because it is simply not acceptable.

Mr. President, I urge the adoption of the resolution expressing the sense of the Senate.

The PRESIDING OFFICER. The Senator yields the floor?

The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the Senator from California for his statement regarding the spouses of military personnel. We support his amendment.

I yield back the remainder of the time.

The PRESIDING OFFICER. The question occurs on the adoption of the amendment of the Senator from California.

The amendment (No. 757) was agreed to.

Mr. WILSON. Mr. President, I thank the Chair.

AMENDMENT NO. 758

Mr. DIXON. Mr. President, at this time I send to the desk an amendment by the distinguished Senator from Tennessee, Senator SASSER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Illinois (Mr. DIXON) for Mr. SASSER proposes an amendment numbered 758.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . Notwithstanding the requirements of the Competition in Contracting Act, 10 U.S.C. 2304, et seq. or any other provision of law, the Service Secretaries are authorized to modify the agreements authorized by section 802 of the Military Construction Authorization Act of 1984, as amended (10 U.S.C. 2821 note) and existing on the date of enactment of this Act to reflect the amendments made by section 2713 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661), to permit a 25-year guarantee period and to allow for cost escalation of the entire rental payment over the guarantee period.

Mr. SASSER. Mr. President, I believe the amendment has been cleared on both sides. This amendment has the effect of grandfathering three section 802 military family housing projects under the 1987 amendments passed by the Congress last year to extend the term of the housing agreements from 15 to 25 years.

Without this amendment, previously approved family housing projects at Fort Campbell, KY; Fort Hood, TX; and Norton Air Force Base, CA, will not be built.

The Department drafted this amendment and indicates it will apply only to these three projects.

Mr. President, under this amendment, prior to executing the projects, a new economic analysis will have to be prepared, to show that in each case, the agreements, as modified, are cost effective when compared to the alternative means of furnishing the same housing facilities.

Mr. President, as chairman of the Subcommittee on Military Construction Appropriations Subcommittee, I believe the private sector can play a substantial role in providing much needed housing for our military families. I urge the adoption of this amendment.

Mr. DIXON. Mr. President, the amendment in question has to do with section 802 housing. It has been cleared on both sides.

We yield back the remainder of our time in connection with the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Virginia desires to be heard?

Mr. WARNER. Mr. President, my understanding is it has been cleared on this side and we can proceed.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. WARNER. No.

The PRESIDING OFFICER. All the time has been yielded back.

The question occurs on adoption of the amendment.

The amendment (No. 758) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there other amendments?

AMENDMENT NO. 759

(Purpose: To set aside funds for verification research by the Department of Defense and to increase the amount authorized to be appropriated to the Department of Energy for verification research)

Mr. DIXON. Mr. President, I send to the desk an amendment by the distinguished Senator from New Mexico, Senator BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON) for Mr. BINGAMAN, for himself, Mr. KENNEDY, and Mr. DOMENICI proposes an amendment numbered 759.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 8 and 9, insert the following:

SEC. . NUCLEAR MONITORING RESEARCH PROGRAM.

Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201(a)(4) for research; development, test, and evaluation, $25,000,000 of the amount appropriated for fiscal year 1988 may be obligated only for the nuclear monitoring research program of the Defense Advanced Research Projects Agency.

On page 199, line 4, strike out "$95,500,000" and insert in lieu thereof "$120,500,000".

On page 210, line 4, strike out "$166,500,000" and insert in lieu thereof "$191,500,000".

Mr. BINGAMAN. Mr. President, the amendment which I am offering together with Senator KENNEDY and Senator DOMENICI would increase funding for verification research at DARPA by $4.6 million—from $20.4 million to $25 million—and at DOE by $25 million—from $95.5 million to $120.5 million. There would be corresponding undistributed reductions in DARPA's $1 billion budget and DOE's $8 billion budget.

This amendment would give higher priority to the verification research programs at DARPA and DOE. It is needed because the proposed budget levels are inadequate to develop verification options for our negotiators in a timely fashion.

The verification mission is basically an orphan in both of these agencies and in the Government as a whole. Compared to the advocates for developing new weapons technologies, the advocates for developing new verification technologies and strategies wield little influence.

If we are seriously going to pursue nuclear testing negotiations starting in December, those working in our universities, DOE national laboratories, and industry on seismic and nonseismic means of nuclear test verification are going to need greater support than they have been afforded in recent years.

My amendment would permit vitally needed additional research in several areas. It would allow the Department of Energy to develop a deployable seismic verification system to provide an improved in-country seismic monitoring capability and to produce five units which might be ready for deployment in 1989. This would cost $12 million.

My amendment would permit continued improvement in our ability to detect nuclear detonations in the atmosphere and in space and thus to verify the Nuclear Non-proliferation Treaty. In particular, instruments needed for the boost surveillance and tracking system will be kept on course in their development. This will cost $8 million.

We need to support improved verification capabilities at lower yield, including applying the CORRTEX hydrodynamic yield measurement technique at such yields. That will cost $5 million.

DARPA needs to reinvigorate its seismic verification research effort and follow up on progress being made in its current program and by university researchers across the country. I am proposing $4.6 million for that purpose.

Without the additional funding, DOE and DARPA will be unable to respond to anticipated requirements for nuclear test verification and no new concepts for verification R&D can be initiated.

That should not be the posture we are in when we are pursuing negotiations with the Soviets where we know verification will be the key issue.

Mr. President, I believe the amendment has been cleared on both sides and I would urge its adoption.

Mr. KENNEDY. Mr. President, I am pleased to consponsor this amendment with my colleagues from New Mexico to increase funds for DOE verification technology and DARPA nuclear monitoring research. The country needs a readily deployable, in-country seismic monitoring capability; and it needs to revitalize the university research base that will sustain and improve our seismic monitoring expertise in the future and contribute to the resolution of critical technical issues.

I want to emphasize my support for Senator BINGAMAN's statement of the allocations of this increased funding; in particular that $12 million of the $25 million increase for DOE verification technology, or half of the increase ultimately appropriated for fiscal year 1988, will be spent to accelerate the procurement of the deployable seismic verification system [DSVS]; and that at least half of the ultimate increase in DARPA funds for nuclear monitoring research will be used to augment funding for seismological research performed at individual universities and under the aegis of the Incorporated Research Institutions for Seismology, a nationwide consortium of some 50 universities. I sincerely hope that, under the pressure of future funding reductions, this weighting of priorities will be adhered to.

In recent years, there has been tendencies in some areas to spend scarce research funds on peripheral projects, rather than on resolving the remaining disputed issues regarding the limits of our capabilities. There is no merit in spending money on verification for its own sake. The money is well spent only if it augments our monitoring capabilities, helps to resolve critical technical issues, and contributes to our understanding of the possibilities for future arms control agreements.

Mr. DIXON. Mr. President, this amendment by the distinguished Senator from New Mexico refers to nuclear monitoring research programs. It is the jurisdictional subcommittee. It is supported by the ranking member on the subcommitee and has been cleared by both sides.

I yield back the balance of my time.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, it is my understanding that this amendment was accepted based on some allocation of the funds and that allocation formula is acceptable to this side as is the amendment.

The PRESIDING OFFICER. Does the Senator yield back time?

All time has been yielded back. The question occurs on adoption of the amendment.

The amendment (No. 759) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. DIXON. Mr. President, may I announce to Senators wherever they may be paying attention to this proceedings that we will await a brief period in the event that any Senator anywhere would care to come to the floor and this evening still avail herself or himself of the opportunity of offering an amendment this evening.

I yield to the distinguished manager of the bill on the other side to offer the final amendment of the evening.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am sure my good friend from Illinois meant this is not necessarily the final amendment of the evening. There could be others that come forward.

AMENDMENT NO. 760

(Purpose: To authorize funds for two military construction projects at Lambert Field, Bridgeton, Missouri)

Mr. WARNER. Mr. President, I now send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Virginia.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER), for Mr. DANFORTH for himself, and Mr. BOND, proposes an amendment numbered 760.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 179, line 11, strike out "$149,816,000" and insert in lieu thereof "$154,116,000".

Mr. DANFORTH. This amendment is primarily technical in nature. It is designed to correct an oversight involving the authorization of $4.3 million for two critical construction projects for the Air National Guard at the Lambert-St. Louis International Airport.

The increased number of primary aircraft assigned to the 131st Tactical Fighter Wing requires improved maintenance and operational support functions. Authorization of $3.1 million for additions and renovation to the composite squadron operation's buildings will alleviate substandard and overcrowded facilities.

There is also a need to construct a munition maintenance and storage facility to allow movement of the unit's munition combat operational and training functions from its current substandard and unsafe facilities. This project will require $1.2 million.

I understand both of these projects were included in the original draft of the National Guard Bureau's fiscal years 1988 and 1989 military construction request. They were dropped because of a misinterpretation of language in a Senate Appropriations Committee report which called for a feasibility study for moving the Air National Guard from the west to the north end of Lambert Field. Apparently, there was a belief that expansion of existing facilities would be inappropriate if the movement of those facilities was imminent.

The reality of the situation, however, is that a 2-year study to develop a master plan for Lambert Field is only now beginning. It will be at least 8 to 10 years, if ever, before a move by the Air Guard could occur. In the meantime, the military construction is vital for the 131st Tactical Fighter Wing to accommodate new aircraft and to carry out their training responsibilities.

Mr. WARNER. Mr. President, this amendment has been cleared on both sides.

Mr. DIXON. Mr. President, it is a very excellent amendment by the distinguished senior Senator from Missouri that we are delighted to support on this side, and I thank the manager on the other side and yield back our time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, all time has been yielded back.

The question occurs on adoption of the amendment.

The amendment (No. 760) was agreed to.

Mr. WARNER. I thank the Chair and move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the distinguished Senator from Illinois, the chairman of the Armed Services Committee, Mr. NUNN and myself, we are present here on the floor or in proximity to the floor and we shall wait a reasonable period of time. We have waited some 12 minutes. Perhaps another 5 minutes and then, subject to the wishes of the majority leader, I would presume that this bill will be set aside in order to handle the routine closing business of the Senate.

So, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader.

AMENDMENT NO. 751

(Purpose: To increase the amount authorized to be appropriated for Air Force Reserve construction in order to provide for the construction of a civil engineering training facility at Morgantown, WV.)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 751.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 180, line 7, strike out "$55,300,000" and insert in lieu thereof "$55,900,000".

Mr. BYRD. Mr. President, the amendment I am offering would increase the fiscal year 1989 authorization for the Air Force Reserve by $600,000, from $55,300,000 to $55,900,000. The purpose would be to construct a needed Air Force Reserve training facility in West Virginia.

On March 18, 1987, the U.S. Air Force announced that Morgantown, WV, had been selected as the site for a 50-person civil engineering Air Force Reserve unit. Subsequent testimony indicated that the proposed Morgantown Air Force Reserve civil engineering training facility could be accelerated into fiscal year 1989. Further testimony indicates that the design will be at least 35-percent complete by January 1988 and finished by July 1988. Construction would start in March 1989 and be completed by October 1989.

The facility would consist of a 4,000-square-foot preengineered metal structure with a brick veneer. The space provided would house administrative areas, classrooms, tool storage, and mobility equipment storage. Currently, there is no appropriate facility available. Only interim rental facilities are available to conduct minimal organizational functions. If the facility is not provided, the Department of the Air Force indicates that management of personnel and resources will be cumbersome and ineffective, the training environment will be counterproductive, the unit's ability to augment the Active Force upon mobilization will be severely constrained, and security of such Government resources as mobility equipment will be compromised.

In summary, Mr. President, I urge the adoption of this amendment which would authorize $600,000 for an Air Force Reserve civil engineering training facility at Morgantown, WV, for fiscal year 1989.

I thank the very able chairman of the committee, Mr. NUNN, and the very distinguished ranking minority member, Mr. WARNER, as well as the able chairman, Mr. DIXON, and the distinguished ranking minority member, Mr. HUMPHREY, of the Subcommittee on Readiness, Sustainability and Support for their consideration and support in this matter.

Without imposing further on the time of the amendment or the time of the managers who have been here long, and they are tired, I will rest my case.

Mr. WARNER. Mr. President, we are delighted that you have this amendment. It has been carefully reviewed on this side. It has been reviewed by the appropriate National Guard, Air Guard, Department of Defense, and it is a very good amendment. It is supportive of the efforts of the Reserve and the Guard in the State of West Virginia which, incidentally, Mr. President, borders on our State, that is mine, Virginia.

I feel each time that we strengthen the Reserve and Guard in West Virginia it brings a measure of protection to the Commonwealth of Virginia. So, I am very pleased to provide my strong endorsement and I thank the majority leader.

Mr. BYRD. I thank my very good friend from our neighboring State of Virginia for his kind comments and the support of the amendment.

The PRESIDING OFFICER. If all time has been yielded back, the question is on agreeing to the amendment.

The amendment (No. 751) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I also thank Mr. NUNN for his approval and support of the amendment.

THE A-6F FIGHTER PROGRAM

Mr. MOYNIHAN. Mr. President, I rise to give my full support to continuation of the Navy's A-6F Fighter Program. The A-6 fighters are all-weather, carrier-based attack aircraft. Their mission is to destroy moving and fixed targets on sea and land, in all weather and in darkness. They have proved remarkably successful.

The A-6F was developed to bridge the gap between the existing A-6E and the advanced tactical aircraft [ATA]. The chief of Naval operations estimates that the ATA will not be operational throughout the fleet for 12 to 15 years. As this aircraft program is classified, little can be said about it and the facts can prove elusive. But it is not uncommon for advanced weapons systems to fall behind schedule.

I fear that the A-6E will not be able to meet its ever-more-complex mission before the ATA is widely available. The Secretary of the Navy writes, "The A-6F is being developed to meet the threat of the 1990's and fill a critical shortfall in our existing A-6 inventory. This new A-6F Intruder will be more survivable in combat than the A-6E and will increase the striking power available to our battle group commanders." I believe continuation of the program is vital if we are to avoid a gap in our war-fighting ability. The shortfall of A-6E's is serious, and unforseen events could worsen it.

The A-6F has many advantages over its predecessor. Its improved reliability and maintainability will allow it to fly 16 percent more hours than the A-6E. Its General Electric 404 engines will provide the thrust and fuel economy necessary for improved maneuverability and, therefore survivability. The A-6F will have 10 times the target recognition/acquisition capability, improved terrain clearance, and improved bombing accuracy. Its radar will allow the crew to better identify ships at great distance, thus allowing improved target selection. In all, it is a fearsome aircraft.

Terminating the program is not without cost. Grumman estimates it at over $300 million. In addition, the cost of components used in the A-6F as well as other Grumman aircraft would rise as much as $90 million because of the reduced demand. And the Government's share of assisting some 13,000 dislocated workers in eight States would not be insignificant.

In sum, the A-6F is an aircraft the Navy wants and the country needs. It is another in the distinguished line of Grumman planes that has served us so well. With it, the Nation's carrier-borne strike capability will remain powerful during the transition to the next generation of attack aircraft. Without it, we may face a period of vulnerability that could be avoided, and should be.

MICHAEL P. METCALF

Mr. CHAFEE. Mr. President, I rise to express my deepest regret on the passing of Michael P. Metcalf, chairman and chief executive officer of the Providence Journal Co. and the publisher of the Providence Journal and Evening Bulletin, Rhode Island's only statewide newspapers

Michael Metcalf was a Rhode Islander of longstanding. His grandfather, Stephen O. Metcalf, was elected president of the Journal Co. in 1904, a position he held until 1941, when he was succeeded by his son, Michael's father, George Pierce Metcalf. Michael followed in the footsteps of his father and transformed the Journal into a diversified communications company, specializing in newspapers, cable television, broadcasting, and telecommunications.

Michael Metcalf was a business giant and a friend of Rhode Island. The Journal's commitment to preserve the historic downtown Providence area and its investment in the Providence Performing Arts Center were just two of many achievements which reflect Mr. Metcalf's unequalled leadership. This was his way of giving something back to a city and State that meant so much to him.

Rhode Island will miss Michael Metcalf, a man committed to excellence and to the people of Rhode Island. I know I speak for all Rhode Islanders when I express my deepest sympathy for his wife Charlotte and his family.

TRIBUTE TO JUDGE EMORY SNEEDEN

Mr. HEFLIN. Mr. President, I wish to take a moment to extend my deepest sympathy to the family of Judge Emory Sneeden, who passed away yesterday. I was deeply saddened by his death and will never forget his friendship and his manner.

Emory Sneeden was a great man who was dedicated to our country, and who served it faithfully throughout his lifetime. During World War II, he volunteered for duty in the U.S. Army and served as a private in a parachute field artillery battalion in the Pacific. When the fighting was over, he went to college and earned his law degree, but then again volunteered his services to his country at the outbreak of the Korean war, and later served in Vietnam. Throughout this service he served as a gunner in a parachute field artillery battalion, as a battery commander, and as a company commander.

Following the Korean war, Emory Sneeden transferred to the Judge Advocate General's Corps, and served in the positions of defense counsel and prosecutor. In 1970, he graduated from the U.S Army War College, and then served as personnel chief of the Judge Advocate General's Corps, and as executive to the Judge Advocate General of the Army. While serving as senior counsel to the Commander VIII Airborne Corps, in Fort Bragg, NC, he was promoted to the rank of brigadier general. He was later appointed as Chief Judge of the Army and retired from that position in 1975.

As many of my colleagues know, after Emory Sneeden retired from the Army, he was appointed by our colleague, the senior Senator from South Carolina, as legislative assistant and as administrative assistant. In 1977, he was appointed by Senator THURMOND as minority chief counsel of the Senate Judiciary Committee, and then served as majority chief counsel. Throughout this service, he was completely thorough in every legislative effort or Judiciary Committee matter in which he was involved, and well-served all Members of the Senate. Furthermore, he was a good friend to me and to many others.

In 1984, Emory was nominated and confirmed by the Senate as a U.S. Circuit Judge for the Fourth Circuit U.S. Court of Appeals, where he continued to serve our country and South Carolina in an outstanding capacity. He also served as an associate dean and lecturer at the South Carolina School of Law, and was a partner at the McNair law firm. Throughout his life, he worked to strengthen the law in our Nation.

As is quite clear, Judge Sneeden had a most distinguished and successful career. Yet he will be remembered for much more. He was a man of unquestioned integrity, and of tremendous loyalty to our Nation, and to the U.S. Senate. He was a man of great character and compassion. He was also a man who was absolutely devoted to his family, and to his many friends. He will be greatly missed.

TAX POLICY INFORMATION ACT OF 1987

Mr. KASTEN. Mr. President, I have introduced a bill, S. 1709 the Tax Policy Information Act of 1987, which would improve the tax policy revenue estimating process, provide more accurate information to the Congress and the executive branch, and provide for improved measurement of tax expenditures.

Improving the revenue estimating process is particularly needed now that the revenue considerations are of overriding importance during the tax policy decisionmaking process and revenue estimates drive policy decisions critically affecting millions of individuals and businesses.

Mr. President, in order for my colleagues to better understand this problem, I ask unanimous consent that the full text of my bill S. 1709, the Tax Policy Information Act of 1987, and a series of articles that appeared in the November and December 1986 issues of Tax Notes, be printed in the RECORD. These articles describe the problems with the current congressional revenue estimating process and the increased influence that revenue estimators exert over the policy decisions of lawmakers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1709

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Tax Policy Information Act of 1987".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Declaration of purpose.

TITLE I—AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

Sec. 101. Definition of tax expenditures.
Sec. 102. Definition of revenue loss or gain.
Sec. 103. Alternative tax expenditures budgets.
Sec. 104. Full disclosure of economic assumptions and methodology.

TITLE II—AMENDMENTS TO INTERNAL REVENUE CODE

Sec. 201. Tax expenditures budget.
Sec. 202. Responsiveness to congressional requests.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Improved data
Sec. 302. President's budget.
Sec. 303. Technical and conforming amendments.

TITLE IV—EFFECTIVE DATE; APPLICATION

Sec. 401. Effective date; application.

SEC. 2. DECLARATION OF PURPOSE.

The Congress declares that it is essential that—

(1) Congress be fully informed and presented with all relevant information making vital tax policy decisions;

(2) official government information publications should, in an impartial manner, analyze and inform Congress about all major competing views regarding tax policy;

(3) official government information publications should not implicitly endorse particular points of view regarding tax policy;

(4) the methods, assumptions, and procedures used by the congressional staff conducting revenue gain and loss estimates should not be hidden but should be disclosed to the public so that the methods may be analyzed by outside analysts and improved, and the quality of the tax policy process enhanced; and

(5) since the timeliness of revenue gain or loss estimates and other information is critical, members of Congress should not be routinely denied access to critical data.

TITLE I—AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SEC. 101. DEFINITION OF TAX EXPENDITURES.

Section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(3)) is amended to read as follows:

"(3)(A) The term 'tax expenditures' means those revenue losses (or gains) attributable to provisions of the Federal tax laws that allow a special exclusion, exemption, or deduction from gross income or that provide a special credit, a preferential (or discriminatory) rate of tax, or deferral (or acceleration) of tax liability. Tax expenditures may be either positive or negative.

"(B) For purposes of this paragraph, the term 'special', when used with reference to an exclusion, exemption, deduction, credit, or deferral, means an exclusion, exemption, deduction, credit, or deferral that is inconsistent with either definition of income in subparagraph (C).

"(C) For purposes of this paragraph, the term 'income' shall mean either—

"(i) comprehensive income, the algebraic sum of the market value of—

"(I) all rights exercised in consumption, and

"(II) changes in net wealth; or

"(ii) real income, gross receipts less all nonconsumption expenditures.

For purposes of clause (ii), in determining real income, nonconsumption expenditures shall be deducted from gross receipts (rather than being amortized or depreciated).

"(D) For purposes of this paragraph, 'nonconsumption expenditures' means any expenditure incurred primarily for the production of income including, but not limited to, capital expenses, research, development, and exploration expenses, principal payments on debt, interest expenses, savings, labor expenses, cost of inventory and other expenses incurred primarily for the production on income.

"(E) For purposes of this paragraph, 'gross receipts' means all receipts including, but not limited to, loan proceeds, gross profits, proceeds from the sale or other disposition of assets, and salary income.

"(F) For purposes of this paragraph—

"(i) 'preferential rate of tax' means a rate of tax that is less than the maximum statutory or normal rate, including progressive abatements in the rate of tax with declining taxable income, and

"(ii) 'discriminatory rate of tax' means a rate of taxation that is greater than the maximum statutory or normal tax rate, including, but not limited to, windfall profits taxes or surtaxes.

"(G) For purposes of this paragraph, 'exclusion' or 'exemption' means any income not subject to tax, including personal and dependent exemptions.".

SEC. 102. DEFINITION OF REVENUE LOSS OR GAIN.

Section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(3)), as amended by section 101, is further amended by adding at the end thereof the following:

"(H) For purposes of this paragraph, the terms 'revenue loss' and 'revenue gain' mean—

"(i) the expected loss (or gain) in Federal tax receipts because of a particular provision, or set of provisions, assuming no change in taxpayers' economic behavior as a result of the enactment of the particular provision or set of provisions (in this section referred to as a 'static' revenue loss or gain); or

"(ii) the expected loss (or gain) in Federal tax receipts because of a particular provision or set of provisions given the expected changes in the economic behavior of taxpayers, with incentive, feedback, inflation, intertemporal and other multiperiod effects being calculated on the basis of the present state of economic knowledge and the effects of similar provisions in the past (in this section referred to as a 'dynamic' revenue loss or gain).".

SEC. 103. ALTERNATIVE TAX EXPENDITURES BUDGETS.

(a) TAX EXPENDITURES BUDGET.—Section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(3)), as amended by sections 101 and 102, is further amended by adding at the end thereof the following:

"(I)(i) The term 'tax expenditures budget' means an enumeration of tax expenditures, as defined in subparagraph (A).

"(ii) The tax expenditures budget shall reflect the alternatve definitions of income set forth in subparagraph (C) and the alternative definitions of revenue loss or gain set forth in subparagraph (H).".

(b) REPORTS.—Section 308(a) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 639(a)) is amended by adding at the end thereof the following:

"(3) In the case of a bill, resolution, or conference report providing for increased or decreased tax expenditures for a fiscal year, the report required by paragraph (1) or (2) shall include—

"(A) an estimate of the effect that the increased or decreased tax expenditures will have on the tax expenditures, budget as defined in section 3(3)(I), as set forth in the report accompanying the most recently agreed to concurrent resolution for such fiscal year; and

"(B) a projection, for the period of 5 fiscal years beginning with such fiscal year, of the tax expenditures that will result from the bill or resolution in each fiscal year in such period.

If the committee determines that an estimate for such fiscal year is impracticable and states in its report the reason for such impracticability, the committee may, subject to section 312, defer making such estimate available for not more than 6 months.".

SEC. 104. FULL DISCLOSURE OF ECONOMIC ASSUMPTIONS AND METHODOLOGY.

Section 301(e)(5) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 632(e)(5)) is amended to read as follows:

"(5) the economic assumptions and methodology that underlie each of the matters set forth in such concurrent resolution, with technical explanations (setting forth the economic data, assumptions, and methodology in sufficient detail to permit replication of the results by nongovernmental analysts) being made available to the public separately from the report.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE

SEC. 201. TAX EXPENDITURES BUDGET.

Section 8022(3) of the Internal Revenue Code of 1986 (relating to duties of the Joint Committee on Taxation) is amended to read as follows:

"(3) REPORTS.—

"(A) IN GENERAL.—To report, from time to time, to the Committee on Finance and the Committee on Ways and Means, and, in its discretion, to the Senate or the House of Representatives, or both, the results of its investigations, together with such recommendations as it may deem advisable.

"(B) COORDINATION WITH THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—To use to the maximum extent possible in its reports, publications, and analyses, (including any tax rate studies) the same definition of such terms as 'tax expenditure', 'income', and 'revenue loss or gain' as are used in section 3(3) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(3)).

"(C) AVAILABILITY OF TECHNICAL EXPLANATION.—To make available to the public a technical explanation setting forth the data, assumptions, and methodology used in each report in sufficient detail to permit replication of the results by non-governmental analysts."

SEC. 202. RESPONSIVENESS TO CONGRESSIONAL REQUESTS.

Section 8022 of the Internal Revenue Code of 1986 (relating to the duties of the Joint Committee on Taxation) is amended—

(1) by redesignating paragraph (4) as paragraph (5), and

(2) by adding after paragraph (3) the following new paragraph:

"(4) REVENUE ESTIMATES.—To provide, upon the request of—

"(A) 2 members of the Senate (1 of whom is a member of the Senate Finance Committee), or

"(B) 2 members of the House of Representatives (1 of whom is a member of the House Ways and Means Committee),

a revenue loss or gain estimate within 60 days from the date of such request. If the Joint Committee determines that it is impracticable to provide such estimate within 60 days, the Committee may, subject to section 312 of the Congressional Budget and Impoundment Control Act of 1974, defer its estimate for 6 months.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. IMPROVED DATA.

Title III of the Congressional Budget and Impoundment Control Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 312. ELIMINATION OF DATA INADEQUACIES.

"(a) IN GENERAL.—If a committee elects, pursuant to section 308(a)(3), to defer making an estimate available, the committee shall work with an official designated by the appropriate department or agency to compile existing data and information and to ensure that the estimate is made available not later than 6 months after the date on which it would otherwise be required to be made available. The official designated by an agency or department shall cooperate to the maximum extent possible with the committee and its staff.

"(b) COLLECTION OF NEW DATA.—If, upon receiving a request from a committee for data or information, a department or agency determines that there is insufficient existing data and information upon which to base an estimate, the agency or department shall begin collecting new data not later than 6 months after the date on which the request is made.

"(c) MAKING ESTIMATES AVAILABLE.—If a determination is made under subsection (b) that existing data and information are insufficient, the committee involved shall nonetheless make an estimate available within the 6-month period prescribed in section 308(a)(3), designating such estimate as provisional.".

SEC. 302. PRESIDENT'S BUDGET.

The budget submitted by the President pursuant to section 1105 of title 31, United States Code, for fiscal year 1989, and each budget submitted thereafter, shall include the alternative tax expenditures budgets described in section 3(3)(I) of the Congressional Budget and Impoundment Control Act of 1974 (as added by section 103 of this Act).

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Powers of Joint Committee on Taxation.—Section 8021 of the Internal Revenue Code of 1986 (relating to powers of the Joint Committee on Taxation) is amended by striking "section 6103(d)" and inserting in lieu thereof "section 6103(f)".

(b) Submission of Technical and Conforming Amendments.—Not later than 120 days after the date of the enactment of this Act, the Secretary of the Treasury, or his delegate, shall submit to the House Ways and Means Committee, the Senate Finance Committee, the House Budget Committee, and the Senate Budget Committee, a draft of any technical and conforming amendments to the Internal Revenue Code of 1986 or the Congressional Budget and Impoundment Control Act of 1974 that are necessary to reflect the amendments made by this Act.

TITLE IV—EFFECTIVE DATE; APPLICATION

SEC. 401. EFFECTIVE DATE; APPLICATION.

(a) Effective Date.—The amendments made by this Act shall become effective on the date of the enactment of this Act.

(b) Application.—The amendments made by title I of this Act shall apply to the second fiscal year beginning after the date of the enactment of this Act and each fiscal year thereafter.

Revenue Estimators Play a New Role as Numbers Dictate Policy

(By Jack Teuber)

During debate on the Tax Reform Act of 1986, where the constraints of revenue neutrality weighed heavily in the policy decisions of congressional taxwriters. The revenue estimating staff of the Joint Committee on Taxation (JCT) played as important a role as any of the elected officials they were hired to serve. As Congress struggles to trim the budget deficit in 1987 and beyond, the estimates generated by the JCT will continue to exert a powerful influence over the policy decisions of the nation's lawmakers. The extent to which this influence has been exploited has been questioned by some, and as a result, the role of the estimators has come increasingly into the public focus.

If the revenue estimators previously were thought of as back-room number crunchers, the events of August 16, 1986 changed all that. Senate Finance Committee Chairman Bob Packwood, R-Ore., in unusual public criticism of a congressional staff, assailed the JCT estimators for their reestimation of the revenue effects of the tax reform bill. At a press conference that long will be remembered for its "kill the messenger" tone, Packwood told reporters that neither he nor his fellow Senate conferees could put their faith in the numbers the JCT was producing. "We've been unintentionally mislead," he lamented, laying the blame at the feet of "the unknowable, untouchable estimators." News that the conference agreement framework that he and Ways and Means Chairman Dan Rostenkowski, D-Ill., had worked out would fall $10 billion short of revenue neutrality prompted Packwood to ask, "Who are we to rely upon?"

WHO THEY ARE

The staff of the JCT historically has kept a low profile on Capitol Hill. However, when Packwood unveiled his plan to dramatically lower individual and corporate tax rates last April, he literally thrust JCT Chief of Staff David Brockway into the spotlight. Since that time, because of the nature of the tax plan and the personalities involved in its evolution, the JCT periodically has found itself to be the center of unwanted attention.

The JCT was created in 1926 to provide technical legislative options and revenue estimates to members of Congress. Of the 46 individuals presently employed on the JCT's professional staff, 23 are attorneys and 16 are economists. In addition, the staff has two accountants, a computer programmer, and other support personnel. The attorneys are responsible for aiding in the drafting of proposed legislation, helping individual members with tax proposals, and providing ideas and alternatives to members of the taxwriting committees and their staffs. Brockway summed up the staff's mission this way. "By and large, what we are is a very large law firm/economic consulting firm working for Congress."

Just as the staff attorneys must be well versed in tax law before being hired, so too must the estimators have a background suitable for the task at hand. Whereas in the past, some economists came to the staff equipped with only their bachelor's degree and some practical experience, today, advanced degrees are the norm. As the demands placed on the estimating staff became more complex, the committee began to hire economists with PhDs in response to increasing pressure for accurate numbers, the computerization of the process, and the growth in tax-related legislative proposals. Of the 12 economists now charged with estimating revenues, five have PhDs, while the remainder possess related advanced degrees.

The JCT economists work closely with the staff attorneys to determine the revenue effect of proposals on which they have been asked to work. The increasing number of these requests has resulted in significant growth in the size of the revenues estimating staff. In 1974, there were just four economists and one chief economist on the staff. "They've got more revenue estimators than they used to have because there's more pressure on that end," commented Peter Davis, a former JCT estimator who now is with Prudential Bache. But, he added, "they're smart. They've kept it to a manageable size."

UNIQUE PRESSURES

Even though the size of the staff has grown considerably, the demands placed upon those who supply the numbers have not eased. "It has gotten worse since I left, no question about it," Davis said. "The staff is under more pressure than ever before," Bernard A. Schmitt, the JCT's Chief of Revenue Analysis, agrees. "When I got here, the main idea was, just giving a ranking . . . of all the different options. But when you get to shuffling the whole tax code and trying to hit absolute zero over a number of years, it just tremendously increases the pressure."

While the JCT staff primarily dedicates itself to assisting the members of the two tax-writing committees, it also must respond to requests from other members of Congress. The recent spate of tax reform proposals from various members forced the JCT into the position of juggling its workload to respond to the most pressing initiatives. When asked if the staff should be increased in size to give equal treatment to all proposals, Davis responded, "No. The answer is to tell some of these people that the staff is not going to estimate their proposals. . . . If somebody calls up with a really far out proposal and it's a lot of work, we'd sit on it because you can't take that kind of time. You could be doing 10 proposals for other people."

In addition to the time pressures associated with the job, the JCT staff also has to endure the suspicion, existing both inside and outside of Congress, that it has its own tax policy agenda. This suspicion is not helped by the fact that the staff has to decide which proposals to give top priority. Concerns that the JCT is biased were made public during the tax reform conference when Sen. Malcolm Wallop, R-Wyo., said that the revenue estimates "were slanted to the JCT's own agenda." Calling the estimates, which had changed because of shifts in economic projections, "the most movable feast that you can imagine," Wallop asserted that the JCT "should stay the hell out of the fray."

In the case of the tax reform bill, the JCT could not help but be involved in the fray because it was talking place in its own backyard. Both the Administration and Congress had agreed to the principle that the tax bill should not raise more revenue than it lost, or vice versa. This requirement put the staff in the position of having to deliver the bad news to members or lobbyists when their proposal would cost more than the revenue constraints of the bill allowed. for the first time, the numbers alone dictated what could and could not be done. Members accustomed to back-room deal-making and trading favors with one another were forced to include another party in their neogitations: the revenue estimators.

"This bill has to be the height of importance of the revenue estimators," Davis said. Because of the impact of the estimates, "they did things that were absolutely bad tax policy. . . . The only way to get the rates down . . . is to go for the bucks. . . . In my opinion, and this is a big admission for a former revenue estimator, the bill was too revenue-driven."

The power placed in the hands of the estimators made them easy scapegoats, some observers claim. "They worked real hard to get better numbers than they ever did before," commented Robert S. McIntyre, Director of Federal Tax Policy for Citizens for Tax Justice. "Anybody who is crunching numbers has power until they lose credibility," he added. One congressional aide asserted, "I've never heard anyone complain about the substance of what they've received. . . . The question is not whether to shoot the messenger, but whether the numbers are ultimately correct."

The unique status that the JCT estimators acquired through the tax reform process overshadows that of other estimating groups in Washington. While other organizations, including Treasury's Office of Tax Analysis (OTA) and the Congressional Budget Office's Tax Analysis Division (CBO), figure into the estimation process either before or after legislation is acted upon, the JCT is the only official source for estimates during congressional debate. Even though Treasury might produce an estimate of a provision that differs from the JCT's estimate, if those differences cannot be resolved, Congress must accept the JCT's figure.

Fortunately, there is dialog between the two groups. "For purposes of the work of the [Finance] Committee, the numbers from the Joint Committee are what matter," said John O. Colvin, Chief Council for the Finance Committee. However, "if there's a big difference [between Treasury's and JCT's numbers], we usually say, 'Why don't you two folks talk to each other and see what's behind the difference?' "

TREASURY

Treasury's OTA revenue estimating staff is comprised of seven economists. In addition, a separate staff works on economic modeling and computer applications. These staffs are responsible for estimating the revenue effects of proposals the Administration sends to Capitol Hill. Once the legislative proposal has been sent to Congress, the estimators work on alternatives to those proposals, including estimates of options being debated in Congress. The nature of the job leads to cooperation between the JCT and OTA staffs. To facilitate the comparison of numbers, the individual income tax model that was developed by OTA is used by both OTA and the JCT.

While the JCT has to work for a number of bosses, the revenue estimating staff at OTA serves the current Administration. As is true in much of the government's bureaucracy, those in the top policy positions at Treasury often change, but the estimators tend to be career technicians.

While the revenue estimators at Treasury perform their tasks well, they are more susceptible to political pressures than the JCT staff, according to University of New Hampshire Economics Professor Ralph Bristol, a long-time Treasury economist who held the post of Chief of Tax Statistics. "Sometimes at Treasury, the politicians will want to take a different tack than the estimators. They won't fudge the numbers, but they'll be working with a phoney forecast to begin with," added a former estimator. "The underlying economic assumptions are always a political decision over at OMB and the White House. However, [OTA's] revenue estimates based on those assumptions are very technically precise and are not influenced by politics."

Although it could be argued that the JCT staff is susceptible to the same political pressures that OTA is under—since JCT's estimates are based on CBO economic assumptions—most economists agree that CBO's assumptions are less politically motivated than OMB's. "I've never seen a number cooked [at CBO]," Davis commented, adding that he begins with the CBO baseline when making forecasts for his Wall Street clients.

CONGRESSIONAL BUDGET OFFICE

CBO plays a less visible role in the revenue estimating process than does the JCT or OTA. The chief task for this office involves estimating tax receipts for budgetary purposes. "We have to use the Joint Committee's estimates of new legislation until we decide we want to revise them, and they have to use our economic assumptions" in preparing their estimates, according to Rosemary Marcuss, Assistant Director of CBO's Tax Analysis Division. "Once a bill is enacted, then CBO continues to assess the effects on revenues under current law. The Joint Committee does not go back and regularly look at receipts under current law," she said.

In the field of revenue estimating, "there are really two different processes," Marcuss indicated. In the tax legislative process, all the revenue estimates on Capitol Hill are done by the JCT. In the budget process, however, "Congress depends upon CBO to estimate taxes under current law for Congress' view of the five-year deficit." CBO's part of the revenue estimating process largely takes place after a tax bill already has become law. To accomplish these tasks, the Tax Analysis Division employs nine tax analysts in addition to the assistant director, deputy assistant director, and the chief of revenue estimating.

However, the staff does communicate with the JCT, and prior to the release of revenue estimates of the tax reform bill, CBO did its own estimate of the bill. "We were satisfied that their numbers were conservative in the sense that they weren't always assuming the most revenue . . . for the big structural parts. We think the Joint Committee did a decent job," she said.

INDEPENDENT SHOPS

Recently, the private sector has been getting into the revenue estimating game. Up until this time, revenue estimates were not readily available to the numerous interest groups that seek to influence tax policy. However, reliable and detailed economic models in the hands of former government estimators have provided a new means through which lobbyists can get the numbers to back up their proposals.

Policy Economics Group (PEG), formerly deSeve Economics Associates, is perhaps the most well-known of these private economic shops. "Our services offer the unparalleled capability to analyze the revenue and tax liability effects of actual and simulated changes in the Federal and state tax codes," claims the introductory letter sent to prospective clients by PEG President Thomas E. Vasquez. Besides Vasquez, who formerly was the Deputy Director of OTA, PEG employs three former members of the OTA staff and one ex-JCT estimator. PEG uses the basic income tax model developed by OTA, but has tailored it to its needs.

Vasquez founded PEG because "he perceived the need for the equivalent of a private sector Office of Tax Analysis," according to Darwin G. Johnson, PEG Senior Vice President and former Chief of the Fiscal Analysis Branch of the Budget Review Division at OMB. The services PEG offers include providing estimates of the effect of tax reform on Federal and state income tax liabilities, the development of individual and corporate tax models and data bases, and analysis of the tax and economic impact of changes in law and regulatory environments for corporate and industry decision-makers.

Fiscal Policy Associates (FPA) is another private sector estimating group. Unlike PEG, which was established for the explicit purpose of providing revenue estimates, FPA's revenue estimating services are a by-product of its economic modeling expertise. Its revenue estimating capacities were developed initially when the group, which is comprised of three former Treasury economists, needed a model to estimate the average marginal tax rates for various kinds of income. The firm has since employed this macro model to make estimates for various interest groups.

Given the fact that the government estimators have never had to face competition from groups like PEG, Fiscal Policy Associates, and others from the private sector, there is bound to be some discomfort and turf fights, observers noted. "It's a real sea change in the whole process," Prudential Bache's Davis said. "It used to be that there was nowhere else to go . . . The people who wanted to undermine the system couldn't get their hands on any credible estimates."

However, according to one former estimator, the numbers produced by competent private economists probably will be received by the JCT "the same way as if they had come from Treasury. . . . Except that I'd get a little nervous because I know [the private estimators are] picking up 25 grand to crank out a capital gains estimate."

Groups that rely on the estimates produced by PEG and other private revenue estimators may have a better idea of what their proposal will cost before they petition a member, but the JCT still gets the last word. "I think it would be helpful to know the cost [of a proposal that an interest group is promoting]," said Colvin, "but we use Joint Committee numbers."

There are those who believe that the entrance of private groups into the revenue estimating field will benefit the process in the long run. Gerard M. Brannon, former Director of OTA, advocates a more open exchange of the assumptions that underlie revenue estimates and of the models that are used to generate these numbers. "That's the way that scientific problems are solved," he noted. In addition, the existence of private organizations "provides people from the Treasury and JCT with an alternative" if they wish to leave their current position, PEG's Johnson commented. He added, however, "I don't think that someone who is looking for a sabbatical would want to come and join our firm." The clients of the private estimators "have higher expectations" then government policymakers, he said.

INTERACTION BETWEEN ESTIMATORS

The revenue estimating community is not very large. "There are about 30 or 40 people on the face of the earth who know how to do a revenue estimate on the U.S. tax code," Davis asserted. Given the limited number of people actually involved in the process, interaction among them is inevitable, and from the point of view of the JCT, it's preferable.

"Historically, we've had a very good working relationship with Treasury," said JCT's Schmitt. "It's the only place that has the same kind of group that we have. . . . They will always have slightly different answers because their numbers are based on the Administration's forecasts" and the JCT uses the CBO's forecasts. "But it's just good to have somebody to bounce things off of to see if it makes sense."

Comparing results increases the accuracy of the numbers. "Technically, there's an agreement [between JCT and OTA to compare numbers] because it's difficult stuff to do. . . . You can make mistakes, especially when you're tired." Davis recalled, adding that in each staff there are "counterparts that you're going to share stuff with like he's your brother." Schmitt called the process similar to "double-entry bookkeeping. . . . To have somebody independently doing the same thing, if they get a different answer, then you try to figure out why."

This contact between OTA and JCT extends to other parties, including CBO. "We do a lot of working together but we don't ever come out with two different views of the same item," Marcuss said. "Congress does not want two competing . . . estimates. It's in no one's interest." Like OTA and JCT, CBO tries to work out any differences in estimates on the staff level. "The last thing you want is senators on the floor or in committee debating revenue estimates, because they don't know a damn thing about them," Davis stated.

The JCT staff will even look to outside sources to get the information that it needs. When a private group presents a differing estimate than the JCT has calculated, the staff is willing to sit down with the group and go over the estimate. "They'll listen to you. They may not be totally sympathetic to your view, but they'll give you an opportunity to state your case," said Frank McDermitt, a former member of the Finance Committee staff. There's "a lot of contact between people to try to get the best information," Schmitt said. Backing up these claims, PEG's Johnson attested to the fact that "a lot of time, we can actually provide assistance to the estimating process" by sharing analyses with JCT and OTA.

CONCLUSION

While there are a number of actors in the revenues estimating process, ultimately the task falls to the JCT economists. Historically, the staff simply has provided estimates for members of Congress, but the requirement that the tax reform bill be revenue-neutral give the JCT estimators an unprecedented role in the tax policy process. The drive to reduce the deficit in the upcoming Congress will underscore the importance of the numbers, and the JCT once again will find itself in a powerful position.

Increasingly, the methods that it uses will come under scrutiny, and there will be more debate around the estimates themselves. Only time will tell whether Congress will continue to rule by the numbers. If it does, it must accept the newfound place that the estimators have in the process. If not, the process must change in some way.

WITH REVENUE ESTIMATORS IN THE SPOTLIGHT, THEIR METHODS COME UNDER SCRUTINY

(Jack Teuber)

Every craftsman has his preferred tools, those instruments that he believes enable him to produce consistently fine work. This is also true for those who practice the craft of revenue estimating. The economists who toil so that the nation's tax policymakers can base their decisions on reliable numbers employ a number of tools in their task. These tools, which include computer models, taxpayer data, and economic theory, invariably differ from economist to economist, or from organization to organization; hence, different estimates of various tax proposals often result.

While these differences may cause some debate, the constraints of revenue neutrality, which focused attention on the revenue estimators in the first place, have drawn attention to how the estimates are calculated. In particular, the estimators have been criticized for not taking human behavior into account when preparing their numbers. (For a story on who the estimators are and their effect on the tax policy process, see Tax Notes, November 24, 1986, p. 698.)

In spite of the following criticisms, the estimators on the congressional Joint Committee on Taxation (JCT) have been praised for their work on the recently enacted tax reform bill. The JCT staff, which includes the economists who produce the estimates used by congressional taxwriters, are "the heroes of the tax reform process," according to Norman Ture, President of the Institute for Research on the Economics of Taxation (IRET) and former Treasury Under Secretary for Tax and Economic Affairs. "As tax technicans, they're remarkable," Ture said, although he admittedly disagrees with the method the JCT used in arriving at its figures. Gary Robbins, a former Treasury economist and founder of the economics firm Fiscal Policy Associates (FPA), agreed. "The guys who do this stuff do their best. . . . It's a nasty job."

BEHIND THE NUMBERS

"Unlike the other forecasting methods, the CBO model is well-documented and open to scrutiny and constructive criticism by tax professionals (or anyone else)." This excerpt from a 1983 Congressional Budget Office (CBO) revenue forecasting study touched on a sensitive issue for those making revenue estimates. The rise in prominence of the numbers and of those who calculate them in the tax policy process has been a source of frustration for many who seek to influence that process. Perhaps even more frustrating is that the assumptions behind JCT's estimates remain a mystery.

"They're not inclined to give anybody any more information than is required," commented one observer. However, those doing the estimates see themselves as "between a rock and a hard place." While the congressional estimators want their methods to produce accurate and reliable forecasts, they fear that the system will be placed in jeopardy if their assumptions are held up to public scrutiny. The secrecy behind the estimates has "granted them great leeway to do great mischief . . . and it distorts the choices facing Congress," asserted FPA's Robbins.

JCT Chief of Staff David Brockway summed up the dilemma this way: "We're very reluctant about opening up in terms of the mechanics of what goes into any estimate. Because then all the outside groups are going to come in and they'll attack all of those assumptions that go against them and won't tell you anything about what goes with them. Once they know how your model works, they won't give you straight information, and we're basically a prisoner of the information that we can get from them. If they understand exactly how it's going to be used, there's a question about the quality of information that we're going to get."

Bernard J. Schmitt, JCT Chief of Revenue Analysis added that when someone disagrees with an estimate they are free to question what went into the numbers. "We'll invite them in and have them tell us what they think we missed. . . . We prefer that rather than us saying. Here are all our details pick us apart."

Another estimator echoed Brockway's concerns commenting that lobbyists "are looking for any chink they can use, no matter how miniscule to raise a doubt in the mind of their congressman." Once the doubt is raised the credibility of the estimators may come into question. If members of Congress doubt the validity of the numbers produced by the JCT, the whole process might be thrown into a tailspin.

These fears, and perhaps a little territoriality, have kept the JCT from making the assumptions behind its numbers public. This tendency extends to the Treasury Department's Office of Tax Analysis (OTA), which only makes the ingredients of its revenue estimating models known after the model has been superseded by a more useful one. In this way, Treasury leaves itself open to a certain level of criticism, but since that criticsim will come after the fact the partisan and special interest bickering over the tools employed in generating an estimate tend to be minimized. (A description of the revenue estimating models used by JCT OTA, and others in the field appears in the box accompanying this story.)

Despite the arguments against opening the process up there are those who believe that the estimators, and ultimately the tax policymakers, would benefit from a little more candor. "In a completely reasonable and rational world the Joint Committee would specify their assumptions and the data on which they were based." Gerard M. Brannon, former director of OTA commented.

"Concentrates on the modeling of the effects of economic changes on the tax system." While the OTA staff performs a similar function, "we think our organization is better set up to do that in a more detailed way," she said. Because CBO effectively combines the functions of OMB and OTA, the staffs are in closer communication and are able to concentrate on adjustments to the model, she added.

Private estimating groups such as Fiscal Policy Associates (FPA) and Policy Economics Group (PEG), have their own models FPA's model originally was developed to calculate effective tax rates and since has been used to provide revenue estimates PEG has dedicated itself to private sector revenue estimating from the beginning PEG President Thomas E. Vasquez, who formerly was a deputy director at OTA played a major role in designing the individual model used during the tax reform process while he was with Treasury. That experience, combined with a model based on the public use data tapes, makes PEG perhaps the most sophisticated of the private sector revenue estimating groups.

However, he admitted that the opportunity to critique the assumptions that go into JCT's revenue estimates probably would not come along anytime soon.

HUMAN BEHAVIOR

Critics of the JCT claim that the effect of behavioral changes should have more of an influence on the estimating process than they believe it does. The debate on the issue of "static" versus "dynamic" revenue estimates has intensified as the importance of the numbers has increased. In the past, estimates were important, but they did not control policy, and consequently, the debate over the relative merits of taking human response into account was not fueled with the passion that it is today. Because estimates are uncertain, some claim that trying to calculate the behavioral response to a change in the law only exacerbates that uncertainty. Others claim that reaction to tax legislation causes real effects that should be accounted for, especially in a revenue-neutral environment.

EPA's Robbins charges that the JCT takes behavioral responses into account "to the degree that it suits them." In particular, he and others who would place more emphasis on behavorial changes say that the estimated revenue gains from certain provisions in the Tax Reform Act of 1986—such as the capital gains, passive loss, and minimum tax provisions—are greatly overstated.

Commenting on the estimated $30 billion that the individual and corporate minimum tax provisions are expected to bring in over the next five years. Robbins predicted that "if you get a third of that, you'll be lucky." IRET's Ture agreed that the AMT estimate was excessive, and urged "the greatest caution and concern on relying on that number."

The revenue from these and other provisions of the tax bill were overstated, Robbins continued, because of a desire on the part of tax policymakers to crack down on those perceived to be taking advantage of the system. "They were interested in getting these evildoers," Robbins commented. In reality, according to Robbins and Ture, people will respond to the threat of the minimum tax and will act to reduce their liability, thus reducing the revenue raised from the provisions.

They also claim that the elimination of the capital gains exclusion, which effectively raises the tax on long-term capital gains from 20 percent to 28 percent, will not raise as much revenue as has been estimated. It should be noted, however, that the JCT did not provide an estimate of how much the repeal of the exclusion and the increase in the capital gains rate is expected to bring in. Instead, this estimate was included as part of the total revenue lost through the individual rate cut.

According to Ture, the capital gains provision "is almost certainly not the revenue gain that they have predicted. There will be a portfolio shift that will result in a revenue loss. This turns capital gains into a significant net revenue loser." (The revenue effects of a capital gains tax differential have long been debated, with some arguing that the lower the rate, the more revenue gained, since a lower rate encourages more discretionary realizations, and thus results in more revenue. For prior coverage of this issue, see *Tax Notes*, May 19, 1986, p. 647.)

Robbins explained the problem associated with not taking behavioral changes into account this way: "One of the problems with static revenue estimates is that they give you a distorted view of where the revenue will come from."

Answering these charges, the JCT claims that behavioral response is built into their estimates, but not to the dramatic proportions that its critics would like. "When we do estimates of individual provisions, we take into account behavioral response as a general rule. We don't take into account any possible changes in macroeconomic aggregates," said Randall W. Weiss, JCT Deputy Chief of Staff.

Expanding on this, Brockway stated, "The estimates for any specific provision will be changed an awful lot based on dynamic response. It's just that we don't build into it what a lot of taxpayers in the past have wanted, [which] is to have some assumption that, 'If you give me this break, then I'll employ a lot more people and they'll pay a lot more taxes.' That type of analysis is not included. . . . Our operating assumption is that the economy is going to stay the same size regardless."

"What we're saying is, 'Assuming the economy performs the way it would under present law and the way CBO has projected, this is what we think is going to happen,'" Brockway continued. Recognizing that the economy will almost certainly vary from the forecasts, he underscored the fact that "these things are only estimates . . . so there is a reason to have some caution about whether these things are gospel." There is "a very high degree of judgment that you have to exercise [in calculating the behavioral response]. . . . It's still not something that is beyond debate," Brockway admitted.

"I'm sure that some tax legislation will have an effect on the economy," he continued. "I'm sure this tax bill will, Except I don't know whether it's going to improve it or hurt it. I don't know whether it's going to increase interest rates or decrease interest rates. I don't know whether it's going to have a shift toward more equity and less debt, or less equity and more debt. Everybody's got a different opinion out there right now about what's going to happen to the economy. The end run effect is more of a political viewpoint of what you think is going to happen because of this bill."

Howard W. Nester, Deputy Director of the OTA revenue estimating staff, asserts that behavioral response must be included to the best of the estimators' ability to arrive at reliable conclusions. "In some instances, explicit modeling of taxpayer response is necessary because the economic forecast either does not or cannot effectively take it into account. Examples include capital gains realizations. . . . In other instances, estimating taxpayer response is very simply a necessary step to more accurately portray the ultimate effect of a tax proposal on tax receipts. Examples include shifting of portfolio holdings by individuals, additional or altered borrowing patterns, and effects on mergers and acquisitions in response to changes in tax law."

However, Nester also sides with his counterparts at JCT over the problems inherent in calculating behavioral response. Chief among these difficulties is the lack of necessary data to determine relevant elasticities. In situations where the data may be available, "information on the pattern and timing of the response over the budget period is lacking," he asserts. "In such cases, where behavioral responses are a major element in forecasting the revenue effect of the proposal, the estimator combines any associated information with his past experience and best judgment to produce an estimate."

Economists differ over the utility of numbers generated using behavioral response, but they agree that no current method for determining elasticities has the confidence of the entire economic community. "It is certainly true that taxes affect behavior and you've got to take that into account . . . [but] there's not a hell of a lot of firm knowledge in that area," said Ralph Bristol, formerly the Chief of Tax Statistics at Treasury and now a Professor of Economics at the University of New Hampshire. "We have no good elasticity numbers," echoed Attiat Ott, Professor of Economics at Clark University.

Ott claims that for policymaking purposes, it is not necessary to take behavior into account. The numbers, she said, should serve as "reference points" for those shaping the tax laws. "No one should expect these numbers to be totally accurate. . . . They are forecasts based on events as they are now," she said. Claiming that estimates of specific provisions are done primarily for political purposes, she added that the most important numbers are the total revenue changes affected by any bill. While it is extremely difficult to predict accurately how much revenue will be raised or lost by each particular provision, she believes that the estimators should be able to forecast a bill's overall revenue effect within a reasonable margin of error.

The ultimate purpose of revenue estimates is to provide policymakers with useful and comparable numbers when they are weighing different policy options. As such, the numbers have to be consistent with one another. Just as estimates based on different economies forecasts are difficult to compare, so would numbers based on behavioral response be difficult to compare with numbers generated using the static method. "Part of their job is to be consistent," said former OTA director Harvey Galper, now with The Brookings Institution and a senior associate with the private estimating firm of Policy Economics Group. "They try to set a consistent set of rules."

Galper, who argued that it is "a simplistic view" to believe that JCT does not take behavior into account when estimating revenues, said that static estimates are useful for some purposes, such as determining a bill's distributional effects. Bristol cited another benefit, saying that with static estimates, there is less of a chance that an estimator's bias will creep into the number. "Everyone can agree on static estimates," he said. Even FPA's Robbins, a staunch defender of the use of behavioral response, noted that "if you're given a chance to make an error, you'll make it in favor of the side that you believe in."

CONCLUSION

While the business of revenue estimating employes complex computer models and detailed statistical data, human judgment still controls the numbers that are ultimately produced. Disagreements among economists lead to different assumptions about what should be included in calculating the revenue effect of a tax provision. Human response to tax changes, which economists have been unable to quantify to the satisfaction of their peers, is the most controversial element in the revenue estimating process.

Uncertainty about the degree to which this is taken into account by the JCT has prompted anger and resentment by some, who feel that their proposals have been estimated unfairly. However, the current system provides an effective deterrent to unrealistic estimates. The spread of estimating capacity to the private sector, in addition to the resources available elsewhere in the government, act as a check on the JCT. "The public should have a certain amount of confidence in what the JCT does" because of these checks, said OTA's Nester. If there was a disagreement between OTA and JCT over the estimates of the tax reform bill, he said, it may have been recommended that the President not sign the bill.

The Suspicion That Results From the Revenue Estimators' Evolving Role Is Not Easily Overcome

(Jack Teuber)

Many people, both inside and outside Congress, are unhappy with the dominant role that the revenue estimates from the Joint Committee on Taxation (JCT) played in the tax reform process. Despite this displeasure, it appears that the spotlight will continue to focus on the estimates, and those who produce them, as policymakers struggle to reduce the Federal budget deficit in 1987 and beyond. In this context, the question arises as to what, if anything, can be done to improve the estimating process and to reduce the tension and suspicion that may come to plague it.

In the past, policymakers were accustomed to making decisions on particular issues, and then receiving estimates of the effect of the provisions on total tax receipts. While the estimates played a vital role in projecting the end result of legislation, the numbers did not dictate policy. However, the requirement that the tax reform effort be revenue-neutral changed all this.

During congressional debate on the 1986 Act, members were forced to allocate a scarce resource—revenue—among a host of competing interests. An attempt to restore or implement a revenue-losing proposal had the greatest chance of success if it were accompanied by a revenue-raising proposal of corresponding size. In practical terms, this meant that a member had to gore somebody else's ox to save his own sacred cow. In the aggregate, this zero-sum process resulted in the loss of a number of popular preferences, such as those for state and local sales taxes and individual retirement account contributions, because of their high revenue cost and the perception of who ultimately received their benefits.

The revenue estimators also caused some trouble for themselves. In one instance, the Senate conferees were told that a provision would raise $10 billion. However, at a subsequent meeting, it was revealed that a mistake had been made and that the provision in question would actually lose $10 billion. This, combined with discrepancies between some preliminary estimates and more detailed figures provided to members at a later time, created some suspicion of the JCT's motives.

REESTIMATE BLUES

In addition to the battles that took place on a provision-by-provision basis, members had to determine how much of the total tax burden would be shifted from individuals to corporations. This proved to be one of the most contentious issues facing the House and Senate conferees working on the tax bill.

Just after the start of the month-long conference on the 1986 Act, JCT did a re-estimate of the revenue effects of the House and Senate versions of the bill. This July re-estimate, which members of the JCT staff say was done to minimize the impact of the Congressional Budget Office's August 15 quarterly economic forecast, caused some consternation among members that foreshadowed the events of the coming month. Using an economic forecast that they hoped would be roughly equivalent to CBO's August 15 forecast, the JCT staff found that the Senate's version of the bill fell $21 billion short of revenue neutrality. The House reform package, however, picked up an extra $38 billion.

It caused no pain for the House negotiators to disburse their theoretical revenue surplus, but the Senate conferees considered themselves at a disadvantage right from the start. Since the taxwriters had agreed to stick with the Senate bill's low rates, the Senate conferees were faced with raising a substantial amount of their revenue shortfall from corporate America, without getting any concessions from the House in return. Reluctantly, the Senate negotiators altered their bill so that it would pass the revenue test. However, the revenue estimates would return to haunt the Senate conferees.

When CBO released its official quarterly economic forecast August 15, which came as the conferees appeared to be nearing an agreement, JCT re-estimated the effects of the tentative compromise. The results of this estimate showed that the corporate tax increase in the compromise fell $10 billion short of the tax cut for individuals. Once again, the Senate conferees were faced with raising more revenue from corporations.

JCT claims that the economic forecast used for the July estimate was based on information that CBO was using to prepare its August projection. However, in the intervening month, the forecast changed in ways that could not have been predicted, thus throwing the numbers off further, according to the JCT staff.

To say the least, this news was not well received by the Senate conferees. Finance Committee Chairman Bob Packwood, R-Ore., vented his anger and frustration in front of the reporters who had gathered in anticipation of agreement on the bill. "That $10 billion figure will not be the number in September. . . . That I'm willing to bet on," Packwood asserted. The re-estimates, each of which had forced the Senate conferees to stiffen the tax burden on corporations with no corresponding compromise from their House counterparts, resulted in a loss of confidence in the JCT. "I can't blame the Senate conferees for no longer relying on the numbers," Packwood said.

FUEL FOR THE FIRE

In addition to the problems that were caused by the re-estimates of the tax bill, some tension between the JCT staff and members of Congress can be attributed to longstanding logistical problems. For every tax bill that Congress passes, there are hundreds of tax bills introduced for which members would like revenue estimates. The JCT staff, limited by finite resources, must then prioritize the requests. The needs of the chairmen of the tax-writing committees come first, followed by the needs of the Ways and Means and Finance committee members. Even among committee members, there appears to be a ranking process, with the more senior members of the panel getting a greater share of the staff's time than the junior members. Finally, those members who are not on the tax-writing committees are given consideration when time and other resources allow.

"I think the process has gotten to the point where it's a 'free good' for the members, and they just put too much demand on it," commented Peter Davis, a former JCT estimator who now is with Prudential Bache. "It's important for them to explore the options, but sometimes it can go overboard. It means that at times, [the estimators are] working on something that will never be enacted to the detriment of something that is certain to be enacted. . . . You've got to put your effort where you think it is most important," Davis stressed.

This allocation of resources "clearly causes a perception problem," according to David Raboy, who recently left the staff of Finance Committee member William V. Roth, Jr., R-Del., to join Patton, Boggs and Blow. Although the revenue estimates can be generated only by the estimators at the JCT, members should place more reliance on committee staff members in the search for policy suggestions, he said, "As long as you have a hierarchical structure, the chairmen are going to be taken care of," and other members are going to have to accept this, another aide added.

LINGERING DOUBTS

Now that the latest tax reform bill is complete, the question is whether the suspicion and anger that was directed at the JCT will jeopardize its credibility in the future. "They're going to have to find a way to eliminate the perception that they're political," Raboy commented. The requirement that the 1986 Act be revenue-neutral fueled the perception that the JCT "played more of a role in the policy decisions than they should have," he said, adding that "suspicions will linger."

One former member of the JCT staff, who asked not to be identified, was unsure whether the tension that arose during the tax reform debate would continue into the 100th Congress. "There are times when members want to blame the Joint Committee," he said, indicating that the staff often serves as a convenient scapegoat for politicians. The estimators "are about as out of the political process as they can be. . . . They ought to have the independence to call the shots and let them fall wherever they have to fall," he said. "I don't know any other way to operate."

"It is imperative that you avoid politicizing revenue estimates. That would be a disaster," said a Senate aide, who also asked for anonymity. Most aides to congressional taxwriters feel that the estimates from the JCT are nonpartisan and that the estimating staff does an admirable job given the pressure it is under. Criticisms of the JCT's estimates are politically motivated, the aide said, and will continue as long as the numbers differ from the critics' interests.

"Whatever the private opinion of someone [on the JCT staff], I don't believe that it interferes with them providing results for the Finance Committee," asserted John O. Colvin, Finance Chief Tax Counsel during the tax reform debate. Colvin, who will occupy the Minority Chief of Staff position on the Finance panel in the 100th Congress, declined to comment on what Packwood had said about the JCT in August. "I'd rather not get into it since it's an area that he's talked about," Colvin said. Another Senate aide blamed Packwood's outburst on "the heat of the moment. People felt that they got burned."

In addition to the suspicions that may linger among members of Congress, the JCT's credibility has been called into question by some outside of government. "We saw the revenue estimates tainted by the people doing them more than ever before," charged Gary Robbins, an economist who formerly was with the Treasury Department. Robbins, who is one of the principals with Fiscal Policy Associates, a private estimating group, asserted that the numbers produced by the JCT during the tax reform debate were tailored to fit the staff attorneys' policy objectives.

These allegations are denied by those doing the estimates. "The test is not whether you've got your own views, but to be able to distance yourself enough from them and give advice calibrated to the views of whoever you're giving it to," said JCT Chief of Staff David H. Brockway. When the estimates differ from what was anticipated, "you try and explain, but they're not terribly interested in listening." This problem is exacerbated if the person whose proposal is being evaluated already is dubious about the motives of the JCT staff. "It is something that they have to accept on faith . . . and that makes them very, very anxious," Brockway commented.

"When you go through a major transaction like this you don't know where the friction is going to come out, but it's going to pop out somewhere," Brockway continued. Even time may not ease the tensions that have developed. "Over a very long period of time, some people's confidence is restored. But frequently, never. Even people that you have a very good relationship with, if you give them an answer that they don't like or even one they don't understand, they're really wondering what your motives are."

One of the more obvious problems that the estimators face is a lack of time. In many instances, the JCT has been called on to make an estimate of the revenue impact of a provision during a markup session. Often, the information needed to make an accurate estimate is unavailable to the economists at that moment and the best they can do is make an educated guess. In these situations, the legislators do not want to hear that their expert staff does not know the answer to a particular question, and likewise the staff does not want to appear unprepared. While the JCT estimators may emphasize that an estimate is only a rough guess, the numbers, no matter how conditional, tend to stick in the minds of members and their staffs. This has resulted in problems in the past, and is likely to continue as long as on-the-spot estimates are requested.

NO EASY ANSWER

There seems to be little consensus as to what can be done to ease tensions between the estimators and the policymakers. "I really don't know what you do about it," Brockway said, admitting that it is "a real problem."

One theme that repeatedly surfaced in discussions with those involved in the process is that members of Congress need to become more familiar with the difficulty of making estimates. In addition to focusing lawmakers' attention on how the estimates are produced, familiarity with the process would lead to a better understanding of the pressures to which the estimators are exposed. "I think that there is an educational process that needs to take place at the congressional level," said one Treasury Department economist. "The users of the estimates should be more aware of what they are looking at." The policymakers at Treasury "are made aware of what's happening and are pretty satisfied," the economist said.

If it seems unrealistic to expect lawmakers to take the time to appreciate the task of the estimators, so too would it be too much to ask for stability in the tax laws over a period of time. "One thing that would really be good is several years of law without major changes," the Treasury economist said. A lull in major tax legislation "would allow us to do the kind of empirical research that would allow us to improve our methods." Private sector revenue estimating organizations point to the fact that they are able to take empirical research into account and update their facilities accordingly.

The stretching of the JCT's resources that took place during the course of the tax reform process has led some to conclude that an increase in those resources would ease the burden on the staff. "More staff, more money, and more time" were frequent suggestions. An increase in the number of estimators would enable the JCT to handle more requests from members. In addition, a larger staff could be used to increase the amount of computer modeling. In the wake of tax reform, "perhaps it's time to do some updating," a former estimator said. A Senate aide also stressed that newer computer hardware would help the process. "They're working with 1970s technology," he said.

However, even those who favor additional resources temper their enthusiasm with the realization that "the margin gain from additional resources drops off sharply," in the words of one estimator. "If you have enough people during the crunch time, then you will have too many people during the slack period," a former JCT economist commented. "There are plenty of them to do the work if the members of Congress would just spread their requests out," added a Senate aide.

Time, or the lack of it, during the drafting of a tax bill is one resource that cannot be increased through the appropriations process. Current and former estimators are full of stories about working all night so that members will have the numbers the next day. The nature of taxwriting is such that "hundreds of things happen all at once," a Senate aide said. "Errors just get made."

Raboy suggested that the best way to end the criticism of the estimates is to present a range of estimates to the members and let them decide on the estimate to use. By giving the members a best, worst, and compromise scenario, the burden of deciding which set of estimates to use for legislative purposes would be left to the legislators. Not surprisingly, this proposal was criticized by others who maintain that members will choose the estimate that best suits their needs. "I don't think that it will further the process at all," one aide said.

A POSITIVE INFLUENCE

The recent arrival of private sector revenue estimating organizations may, in time, prove to be the greatest help in diffusing tensions surrounding the estimates. Most of the private estimating shops were created and staffed by individuals who were intimately involved in the governmental estimating process. The private economists, who until recently had no place to practice their estimating skills outside of government, are beginning to mimic the longstanding practice of the attorneys on Capitol Hill and at Treasury. "Until the last three or four years, economists worked on the inside," while their counterparts in the legal profession left the government for lucrative jobs in the private sector, said former Treasury estimator Barry Dennis.

Dennis, who now works as an estimator with Price Waterhouse's sector estimating group, maintains that the flow of personnel from the secretive world of the JCT to the private sector will inevitably open the revenue forecasting process up. Previously, there was very little dialogue between the estimating staffs and outside groups, he noted. "Its definitely changing. Now we're talking," Dennis said. The additional resources available to private sector economists give them the opportunity to concentrate on estimates that might be given a low priority by the harried JCT staff. The sharing of this information, Dennis maintained, ultimately works to the advantage of the JCT estimators.

Estimates that are generated by their former colleagues are less likely to be viewed skeptically by the government estimators. In addition, the techniques and the assumptions that are behind the government-produced numbers also are taken to the private sector by economists who choose to leave. In the long run, the leakage of talent from the government to the private sector will act to reduce what is seen as the JTC's "monopoly" on the numbers. The one danger inherent in this, Dennis warned, is that the most talented individuals will leave for the increased pay and reduced stress of the private sector. Because revenue estimates are learned from hands-on training, this drain could eventually haunt the government, he said.

CONCLUSION

The JCT will face a difficult set of circumstances when the 100th Congress convenes. Like the 1986 Act, the technical corrections bill, which Congress is expected to take up early in the session, will be subject to the constraint of revenue neutrality, Senate sources say. This again will force the JCT to be the bearer of bad news when members' proposals are estimated to have too high a cost to be included in the bill. Tensions between members and lobbyists and the estimators at the JCT, which may linger in the aftermath of tax reform, are bound to arise again during the upcoming process.

There are those who believe that the change in leadership at the Finance Committee will help to quell criticism of the JCT. Sen. Lloyd Bentsen, D-Tex., and the incoming staff are said to have a better relationship with the JCT than did their predecessors. Beyond the shift in personnel, there seems to be little else that can be done to ease the problems that may crop up. Radical change in the way that the JCT operates or in how it produces its estimates seems unlikely. And members and others are unlikely to be any more understanding when the numbers do not suit their needs than they have been in the past.

While direct institutional change may not be forthcoming, the passage of time may erode some of the traditional barriers that have contributed to mutual suspicion between the estimators and the policymakers. It appears that those who make and seek to influence policy will have to become accustomed to the estimators' new role in the process. The estimators, who are only the tools of and not the architects of revenue neutrality, also must settle into their new position. As more of them shift from government estimating to the private sector, the process may open up so that both the estimates and the estimators become less mysterious.

UNITA: FIGHTING THE COMMUNISTS IN ANGOLA

Mr. HELMS. Mr. President, on September 19 and 20, the Communist forces in Angola suffered heavy casualties. The Communists have been engaged in a dry season offensive against UNITA. Mr. President, this has become an annual affair for the 30,000 foreign Communist Soviet, Cuban troops. This year alone, the MPLA received over $900 million in military aid from the Soviets.

Mr. President, I have at hand two UNITA military communiques from the battle in Angola. In the recent battles around Mavinga, which is in the southeastern corner of Angola, UNITA has destroyed five T-55 tanks, eight BTR-60 assault vehicles, four supply trucks, and two MI-8 Soviet made helicopters.

UNITA intelligence has been able to determine that the Communist troops were to have captured Mavinga by September 20. However, along with the destruction of millions of dollars of Communist forces' equipment, UNITA has inflicted over 300 casualties among the 21st, 47th, and 59th Communist brigades.

A captured Angolan helicopter pilot, Sebatiao Antonio, said relations between the Soviet and Cuban pilots, who exclusively fly the MI-23 gunships, and the Angolan pilots is very tense because the Angolan pilots refuse to fly combat missions to the Mavinga front, fearing UNITA's antiaircraft weapons.

Mr. President, I ask unanimous consent that these two UNITA military communiques be printed in the RECORD.

There being no objection, the communiques were ordered to be printed in the RECORD, as follows:

[Communique No. 41/87]

From the Chief of Staff of UNITA's Armed Forces [FALA].

Subject: Update on the offensive.

Released: September 21, 1987.

Military confrontations at the Mavinga front have increased considerably in the last 48 hours. Thus, on September 19th and 20th, the combined Soviet/Cuban/MPLA forces suffered heavy losses.

At this very moment, the enemy is having a lot of difficulties evacuating the wounded soldiers to avoid UNITA's anti-aircraft guns. The number of enemy wounded soldiers belonging to the 21st, 47th, and 59th brigades has reached more than 300 and 15 FAPLA (MPLA armed forces) were captured.

Sebastiao Antonio, the Angolan helicopter pilot who was captured on September 18th, when his helicopter was shot down by UNITA forces, said that the relations between the Soviets and the Cuban pilots who exclusively fly the MI-23s and the Angolan pilots are very tense because the Angolan pilots refuse to fly combat missions to the Mavinga front, fearing UNITA's anti-aircraft missiles.

Sebastiao Antonio was trained in the Soviet Union for three years. From September 14th to the 20th, UNITA sustained 27 dead, 116 wounded, and 11 missing.

The military operations at the Kanage-Lucusse front have subsided and UNITA is getting ready to counterattack the enemy forces.

Jamba, Angola, September 21, 1987.

DEMOSTENES AMOS CHILINGUTILA,
General, Chief of Staff of FALA.

[Communique No. 40/87]

From the Chief of Staff of UNITA's Armed Forces [FALA].

Subject: Update on the offensive.

Released: September 18, 1987.

In their insistence on capturing the town of Mavinga, on September 18th, the MPLA's brigades, under the Soviet military advisers command, suffered heavy losses.

After fierce fighting in the areas of the Lomba river, the MPLA's 21st brigade sustained more than 100 casualties, while three T-55 tanks, seven BTR-60 assault vehicles were destroyed and one bridge-type vehicle TMM was captured.

Two T-55 tanks, one BTR-60 assault vehicle and four supply trucks were destroyed when UNITA's forces attacked the enemy 26th brigade.

On the same day, UNITA's anti-aircraft guns shot down 2 MI-8 Soviet made helicopters at Mavinga front. Two of its occupants, both Angolan nationals, Sebastiao Antonio and Daniel Francisco were captured. Unfortunately, Daniel Francisco died a few minutes after he was captured, due to the severe burns he suffered.

UNITA's intelligence has learned that the enemy brigades involved in the Mavinga front received instructions to capture Mavinga by September 20th, on the eve of the arrival of the MPLA's president, Eduardo dos Santos, to France.

UNITA foresees heavy fighting within the next few days because the Russians and the Cubans placed all their stakes in the capture of Mavinga to enhance Eduardo dos Santos' European visit. UNITA deplores the present bloodshed because it does not serve the Angolan people's interests.

Although UNITA favors national reconciliation, it wants to show to the notorious forces of occupation of our country that they will not reach Mavinga neither during the dos Santos trip to Europe nor after it.

Jamba, Angola, September 18, 1987.

DEMOSTENES AMOS CHILINGUTILA,
General, Chief of Staff of FALA.

SUSAN SHAW

Mr. BURDICK. Mr. President, this fall marks the first time in 15 years that I won't have the able assistance of Susan Shaw in my Senate Office.

Susan came to my staff in 1971 and has served by my side through budget battles and floor fights, appropriations markups and campaigns. Her knowledge of the legislative process and of North Dakota have proven invaluable and she is an asset that is not easily replaced. Susan will be sorely missed both by me and the many friends she has made in North Dakota over the years.

And there are many in North Dakota who have directly benefited from Susan's hard work and dedication. Whether we were fighting to keep small post offices open, or for lower postage rates for nonprofits, for fair benefits and cost-of-living adjustments for our retirees, or for a solid and respectable civil service, or for our veterans programs, or consumers' rights, or for access to affordable meals and nutrition assistance for our children and needy—she helped make a difference.

In each instance, Susan has made an important contribution and I want to thank her personally and publicly for a job well done.

On this occasion, I want her to know that she takes with her my best wishes for a bright and happy future and especially, my thanks for so many good years.

EMORY M. SNEEDEN: IN MEMORIAM

Mr. HOLLINGS. Mr. President, with yesterday's tragic news of Emory M. Sneeden's death, the U.S. Senate mourns the loss of a treasured friend and an esteemed former staff member.

The life of Emory Sneeden is the classic story of an American patriot. While still a teenager, he served his country in combat in the Pacific during the Second World War. He returned to active duty during the Korean war, and later served in Vietnam. In the course of a distinguished military career, abundantly endowed with both courage and intelligence, Emory rose from gunner in a parachute field artillery battalion to battery commander, company commander, defense counsel, and prosecutor. His decorations for valor and meritorious service are numerous, and have been cited in the RECORD previously. He retired in 1975 as a brigadier general and chief judge of the Army. Emory's advance through the ranks from private to general speaks volumes about the man's ability, pluck, and dedication.

But Emory was not one to rest on his laurels. The real measure of Emory's caliber is not what he retired from, but what he retired to. Emory went on to a second brilliant career, serving as administrative assistant and confidant to the senior Senator from South Carolina, as chief counsel of the Senate Committee on the Judiciary, as a U.S. circuit judge for the fourth U.S. circuit, and as assistant dean and lecturer-in-law at the University of South Carolina School of Law. From 1982 until his death, Emory was a partner in the McNair law firm in Columbia, SC.

As many a Senator can testify to, Emory Sneeden was a man of great character and personal integrity, a gentleman of the old school. He brought fresh meaning to the old notion that a man's word is his bond. Many of my Democratic colleagues on the Judiciary Committee would often comment to me on his fairness and evenhandedness as chief counsel, his insistence that the concerns of majority and minority Members be responded to with equal thoroughness.

It is a tragedy that a man so full of life, with so much still to offer, should be taken from us in his prime. Our hearts go out to his wife Margie and to his children and grandchildren. We shall miss Emory Sneeden very, very much.

A FALL FROM CLIFF WALK CLAIMS RHODE ISLAND MAN'S LIFE

Mr. PELL. Mr. President, I rise to share with my colleagues the sad news of a young college student who apparently fell to his death this week from Cliff Walk in my hometown of Newport, RI.

The body of Brian Putney, a 20-year-old Salve Regina College student from Cumberland, RI, was found Wednesday morning after he apparently fell about 50 feet from a section of Cliff Walk behind the college.

This young man's death, apparently as the victim of a tragic accident, underscores what I have been saying for years. We must do what we can at the Federal level to assure that Cliff Walk, which is part of our National Recreational Trail System, is safely passable.

At my invitation, National Park Service Director William Penn Mott, Jr., recently visited and toured Cliff Walk. He saw for himself how dangerous the walk is becoming because of storm damage and neglect.

The National Park Service designated Cliff Walk as a National Recreational Trail 12 years ago. Although the national honor was most welcome, it has not focused enough Federal attention on Cliff Walk to assure its protection and preservation.

Cliff Walk is a place of unique natural and architectural beauty—a priceless part of our Nation's heritage. Hundreds of thousands of visitors from throughout our Nation and from other countries enjoy this unique beauty each year.

This magnificent 3.5-mile walk, with the ocean's rugged coastline on one side and some of Newport's most elegant and historic mansions on the other, is gradually losing a continuing battle with the elements.

Sections of Cliff Walk are crumbling into the ocean and other sections have eroded away until visitors are forced to leap from rock to rock along the coast.

The need is urgent to assure continued public use and enjoyment of this nationally recognized recreational, cultural, and historic treasure. We must act soon or we may lose much of the substantial Federal investment that already has been made in Cliff Walk.

It seems clear that one way to assure continued Federal protection of Cliff Walk is to make it a unit of the National Park Service. I am sure Cliff Walk is a national treasure worthy of such a constant Federal commitment.

In the past, the maintenance of Cliff Walk has been approached on a "catch-as-catch-can basis." We always seem to be a day late and a dollar short. It has become all too evident that we are gradually losing the battle to make Cliff Walk safe for our citizens.

I, myself, have fallen from Cliff Walk and had to go to the hospital so I do not recommend going on it unaccompanied because of the potential danger of a fall. Unless we do something soon, we face the choice of either closing it to the public or risking the chance that it will claim yet another life.

My deepest sympathy goes to the family, friends, and teachers of Brian Putney. I, for one, am resolved to redouble my efforts to assure that Cliff Walk shall be made safely passable.

The United States must not lose this unique, international attraction, but we also must not let another life be lost through inaction.

Mr. President, in memory of the student who lost his life this week, I ask unanimous consent that articles from the Providence Journal of September 24 and September 25 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Providence Journal, Sept. 24, 1987]

STUDENT FOUND DEAD BELOW CLIFF WALK

NEWPORT.—A 20-year-old Salve Regina College student from Cumberland died Tuesday night or yesterday morning, apparently after falling from the Cliff Walk behind the college, police said.

A jogger found the body of Brian Putney, 20, of 10 Grant Lane, Cumberland, about 7:30 a.m. yesterday at the foot of a 50-foot cliff near Shephard Avenue, behind the college library. The jogger, whose name was not released, told college officials, who called police.

Police Lt. Joseph Subin said it appears that Putney's death was accidental, but he said police are awaiting the results of an autopsy before making a final determination. Dr. Kristin G. Sweeney, deputy chief state medical examiner, is scheduled to perform the autopsy today.

Subin said Putney, a sophomore, fell from a spot about 40 feet off the path of the Cliff Walk, a 3½-mile trail that winds along ocean cliffs beyond the lawns of some of the city's most opulent mansions. He said the police do not know when Putney died.

Students, faculty and staff at the college gathered in Ochre Court at noon yesterday for a Mass in Putney's memory. Another memorial Mass was celebrated last night at the Watts Sherman Student Activities Center.

[From the Providence Journal, Sept. 25, 1987]

SALVE REGINA'S 40TH IS MUTED BY STUDENT'S DEATH

(By Maria Miro Johnson)

NEWPORT.—The celebration yesterday of Salve Regina College's 40th anniversary was tempered by sadness over the death of sophomore Brian Putney, who apparently fell from the Cliff Walk behind the college Tuesday night.

Sister Therese Antone, vice president of institutional advancement, said the administration has put plans for a more elaborate celebration of its milestone on hold.

"The celebration is not a celebration today," she said. "We are in a very sorrowing state—the student body, the faculty and administration. Given what happened, we are very saddened, very concerned with the student's family. It was a tragic accident.";

One student described the campus mood as low key.

In a small section of the cafeteria yesterday, a simple banner, a small ice sculpture and a spread of dessert sufficed as a message to the students that the school is proud to be middle-aged.

"When you have a small, unendowed institution that is, you know, just growing—competing, really, with places like Yales and Harvards and Georgetowns and the Ivy League circuit—everything we do, even though it is of the highest quality, does not get the recognition," said Sister Antone.

The Catholic school's enrollment of 2,200 students, from 35 states and several foreign countries, is the largest in its history.

"For a school to grow the way we have grown, particularly in the last 10 to 15 years, is pretty noteworthy," she said. Among the school's graduates are Secretary of State Kathleen O'Connell and former Atty. Gen. Arlene Violet.

Some students were surprised to learn the college is so young. Nineteen-year-old Tom Judd of Watertown, Conn., said, "I thought it started at the beginning of time."

"The teachers, they're really, really interested in the student," he said, "and want to make you the best person you can possibly be."

When it opened, the college's purpose was to provide a Catholic education for women, as Providence College did for men. It opened with 51 students, five faculty members and one building.

Today, Salve Regina College has 126 full-time faculty members and about 100 part-time teachers. It offers 40 undergraduate programs and 9 graduate programs.

In 1985, the college was recognized in U.S. News & World Report as one of the top 10 small comprehensive colleges in the East.

On Sunday the college will hold an open house from 1 to 4 p.m. for high school seniors, parents and junior college students.

Registration will begin at 12:30 p.m. in Ochre Court, Ochre Point Avenue.

BICENTENNIAL MINUTE

SEPTEMBER 25, 1789: SENATE PASSES BILL OF RIGHTS

Mr. DOLE. Mr. President, 198 years ago today, on September 25, 1789, the Senate of the first Congress approved a package of 12 amendments to the Constitution. Ten of these amendments were approved by the States, and we honor them today as our Bill of Rights.

The framers of the Constitution had not considered it necessary to guarantee specifically the rights of citizens, believing that the States bills of rights would be sufficient. However, when the Constitution reached the State ratifying conventions, much of its opposition centered on the lack of a bill of rights. James Madison's pledge to introduce such a bill as a first order of business in the New Congress helped with the Constitution's approval. As a leader in the House of Representatives, Madison felt duty-bound to lead the fight for a bill or rights.

On August 25, the Senate received 17 House-passed amendments. The Senate consolidated these to 12. For instance, they consolidated separate amendments against the establishment of a religion, and in defense of freedom of speech and of the press, into a single amendment, which we now honor as the first amendment. After the Senate returned the amendments with changes, the House called for conference committee, and appointed James Madison, Roger Sherman, and John Vining as its conferees. The Senate appointed Oliver Ellsworth, Charles Carroll, and William Paterson—meaning that four of the six conferees had been delegates to the Constitutional Convention. The Senate conferees reported back on September 24, and the following day, the Senate voted to send the 12 amendments to the States. The States adopted 10, rejecting 2, which would have fixed the size of the House of Representatives, and would have prevented any congressional salary increase to take place during the Congress in which it was passed.

ANDREW LYTLE

Mr. SASSER. Mr. President, I rise to honor a man who, by painstakingly, lovingly recreating the history of the Old South, has helped to create the cultural history of the New South.

Andrew Lytle has lived a life in words and in his own imagination. He has also lived a life deeply rooted in the soil of his native region.

His work is a testament to the enduring values of that soil—to the natural harmony and natural order it represents.

Through a lifetime of study and a lifetime of work, Andrew Lytle has crafted a refuge from the modern urban dilemma. His work depicts, in opposition to the chaotic maze of technology and industrialization, the orderly progression of the seasons and the eternal cycle of birth, decay, and rebirth.

Culture and agriculture, intimately bound together, were Mr. Lytle's birthright, and the representation of their union is surely his most lasting legacy.

Mr. Lytle was born in Murfreesboro, TN, in 1902. His father was a farmer and lumberman. He attended, Exeter College at Oxford, received his undergraduate degree from Vanderbilt University, and his masters from Yale University School of Drama.

He has taught history at the University of the South. He has lectured on American literature at Vanderbilt, the Universities of Florida, Oregon, North Carolina, and at numerous other centers of learning throughout the country.

His writings represent a distinguished body of creative, critical, and historical work.

He is, in short, one of the most eminent men of letters of this century—honored both in his own land and throughout the country.

His central novel "The Velvet Horn" summons up the eternal verities—the wheel of nature, the spirit of place, the bond between men and women and the earth—in compellingly beautiful prose.

It is a masterpiece of the highest order, and ranks with "Absalom, Absalom!" "The Fathers," and "All the King's Men," in its brilliant evocation of the Old South passing irrevocably into the chaos of the modern age.

Finally, in his most recent work, "A Wake for the Living," Mr. Lytle draws together in a beautiful family memoir all the fine threads of a lifetime of passionate contemplation and belief.

Mr. President, Andrew Lytle has lived a life of deep commitment to his craft and intense devotion to his faith. He is one of the true giants of modern American letters, and his work is a monument to the finest products of the human spirit.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 3:04 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker pro tempore [Mr. FOLEY] has signed the following enrolled joint resolution:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. STENNIS].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 253. A bill to convey Forest Service land to Flagstaff, Arizona (Rept. No. 100-174).

S. 578. A bill to amend the National Trails System Act to designate the Trail of Tears as a National Historic Trail (Rept. No. 100-175).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

S. 1259. A bill to direct the Secretary of the Interior to permit access across certain Federal lands in the State of Arkansas, and for other purposes (Rept. No. 100-176).

S. 1297. A bill to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes (Rept. No. 100-177).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 242: A bill to provide for the conveyance of certain public lands in Oconto and Marinette Counties, Wisconsin (Rept. No. 100-178).

H.R. 797: A bill to authorize the donation of certain non-Federal lands to Gettysburg National Military Park and to require a study and report on the final development of the park (Rept. No. 100-179).

H.R. 990: A bill to direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, California (Rept. No. 100-180).

H.R. 1205: A bill to direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Putnam County, Florida, and to direct the Secretary of the Interior to convey certain mineral interests of the United States in such land to the State of Florida (Rept. No. 100-181).

By Mr. HOLLINGS, from the Committee on Appropriations, with amendments:

H.R. 2763: A bill making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1988, and for other purposes (Rept. No. 100-182).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 288: An original resolution to permit amendments to bills implementing trade agreements under section 151(d) of the Trade Act of 1974 if such amendments relate to the domestic or foreign waterborne commerce of the United States (Rept. No. 100-183).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 247: A bill to designate the Kern River as a national wild and scenic river (Rept. No. 100-184).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments:

H.R. 799: A bill to designate a segment of the Kings River in California as a wild and scenic river (Rept. No. 100-185).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1012. A bill to increase the amount authorized to be appropriated for property acquisition, restoration, and development, and for transportation, educational, and cultural programs, planning to the Lowell National Historical Park; to continue the term of a member of the Lowell Historic Preservation Commission pending the appointment of a successor; to adjust a quorum of the Commission in the event of a vacancy; and to delay the termination of the Commission.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 31, August 6, September 9, and September 11, 1987, at the end of the Senate proceedings.)

*Maj. Gen. Fred Hissong, Jr., U.S. Army, to be lieutenant general (Ref. 526).

*Rear Adm. Albert J. Herberger, U.S. Navy, to be vice admiral (Ref. 527).

**In the Air Force there are two promotions to the grade of colonel and below (list begins with Henry P. Fowler, Jr.) (Ref. 528).

**In the Air National Guard there are 10 promotions to the grade of lieutenant colonel (list begins with Gerald A. Brangenberg) Ref. 529).

**David R. Francis, U.S. Air Force, to be appointed to a grade no higher than major (Ref. 530).

**In the Navy Reserve and the Marine Corps there are 25 appointments to the grade of second lieutenant (list begins with Curtis R. Adair) (Ref. 531).

**In the Navy Reserve and the U.S. Navy there are 43 appointments to the grade of ensign (list begins with Brian K. Britton) (Ref. 532).

**In the Air Force there are 1,727 appointments to the grade of captain (list begins with Joseph A. Abbott) (Ref. 533).

**In the Navy there are 995 promotions to the grade of lieutenant commander (list begins with Robert Harold Abrams) (Ref. 534).

**In the Navy there are 881 appointments to the grade of captain and below (list begins with James Lloyd Abbot III) (Ref. 542).

*In the Army National Guard there are 33 appointments to the grade of major general and below (list begins with Richard L. Chastain) (Ref. 568).

*Lt. Gen. Clyde D. Dean, U.S. Marine Corps, to be placed on the retired list in the grade of lieutenant general (Ref. 569).

*Lt. Gen. D'Wayne Gray, U.S. Marine Corps, to be placed on the retired list in the grade of lieutenant general (Ref. 570).

*Louis H. Buehl III, U.S. Marine Corps, to be lieutenant general (Ref. 571).

*William G. Carson, Jr., U.S. Marine Corps, to be lieutenant general (Ref. 572).

*Ernest T. Cook, Jr., U.S. Marine Corps, to be lieutenant general (Ref. 573).

*Edwin J. Godfrey, U.S. Marine Corps, to be lieutenant general (Ref. 574).

*John I. Hudson, U.S. Marine Corps, to be lieutenant general (Ref. 575).

**In the Air Force there are 28 appointments to the grade of colonel and below (list begins with Charles H. Miller) (Ref. 576).

**In the Air Force there are 9 appointments to the grade of lieutenant colonel and below (list begins with Helen L. Capron) (Ref. 577).

**Robert W. Ritter, U.S. Air Force, to be lieutenant colonel (Ref. 578).

**In the Air Force Reserve there are 17 appointments to the grade of lieutenant colonel and below (list begins with Ronald V. Dorst) (Ref. 579).

**In the Air National Guard there are 26 promotions to the grade of lieutenant colonel (list begins with Lyle E. Allen) (Ref. 580).

**In the Army there are two appointments as permanent professors at the U.S. Military Academy (list begins with Dennis R. Hunt) (Ref. 581).

**In the Navy Reserve there are 33 appointments to the grade of lieutenant (list begins with Gerald R. Chandler) (Ref. 582).

**In the Navy Reserve there are 49 appointments to the grade of captain and below (list begins with Edward C. Ebersole) (Ref. 583).

**In the Air Force Reserve there are 1,244 promotions to the grade of lieutenant colonel (list begins with Bobby J. Abernathy) (Ref. 584).

**In the Air Force there are 1,081 appointments to a grade no higher than captain (list begins with Richard J. Acosta) (Ref. 585).

**In the Army Reserve there are 64 promotions to the grade colonel and below (list begins with John T. Barber) (Ref. 586).

**In the Army National Guard there are 78 promotions to the grade colonel and below (list begins with Alfred E. Childres) (Ref. 587).

**In the Army there are 150 promotions to the grade of colonel (list begins with James R. Baker) (Ref. 588).

*Adm. James A. Lyons, Jr., U.S. Navy, to be placed on the retired list in the grade of admiral (Ref. 594).

*Vice Adm. David E. Jeremiah, U.S. Navy to be admiral (Ref. 595).

*Rear Adm. Leon A. Edney, U.S. Navy, to be vice admiral (Ref. 596).

*Vice Adm. Dudley L. Carlson, U.S. Navy, to be placed on the retired list in the grade vice admiral (Ref. 603).

*Rear Adm. John R. Wilson, Jr., U.S. Navy, to be Chief of Naval Research for a term of three years (Ref. 604).

**In the Air Force there are 16 promotions to the grade of lieutenant colonel and below (list begins with James G. Grizzard) (Ref. 605).

*Ernest C. Cheatham, Jr., U.S. Marine Corps, to be placed on the retired list in the grade of lieutenant general (Ref. 613).

*John Phillips, U.S. Marine Corps, to be placed on the retired list in the grade of lieutenant general (Ref. 614).

Total: 6,531.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS:

S. 1718. A bill to repeal the provisions of the Tax Reform Act of 1986 which require partnerships, S corporations, and personal service corporations to adopt certain taxable years; to the Committee on Finance.

By Mr. McCLURE (by request):

S. 1719. A bill to authorize the study of the transfer of the Southeastern Power Administration out of Federal ownership; to the Committee on Energy and Natural Resources.

By Mr. ROCKEFELLER:

S. 1720. A bill to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself, Mr. BENTSEN, Mr. DECONCINI, and Mr. MURKOWSKI):

S. 1721. A bill to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; to the Select Committee on Intelligence.

By Mr. INOUYE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER):

S. 1722. A bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and for other purposes; to the Committee on Rules and Administration and the Select Committee on Indian Affairs, jointly, by unanimous consent.

By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 1723. A bill to authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD; from the Committee on Rules and Administration:

S. Res. 288. An original resolution to permit amendments to bills implementing trade agreements under section 151(d) of the Trade Act of 1974 if such amendments relate to the domestic or foreign waterborne commerce of the United States; placed on the calendar.

By Mr. BYRD (for himself and Mr. WARNER):

S. Res. 289. A resolution establishing "Mining Awareness Week"; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLURE (by request):

S. 1719. A bill to authorize the study of the transfer of the Southeastern Power Administration out of Federal ownership; referred to the Committee on Energy and Natural Resources.

AUTHORIZATION OF TRANSFER THE SOUTHEASTERN POWER ADMINISTRATION OUT OF FEDERAL OWNERSHIP

● Mr. McCLURE. Mr. President, today I am introducing by request of the Department of Energy a bill which would authorize the study of the transfer of the Southeastern Power Administration out of Federal ownership, management, or control. While I would note that there has in the past been little congressional support for the transfer of any of the lower 48 power marketing administrations out of Federal control—in fact, I have been and remain adamantly opposed to such transfers—the bill I am introducing by request today nevertheless represents part of the fiscal year 1988 budget request submitted by the administration.

Mr. President, I ask unanimous consent that the text of the bill along with the transmittal letter from the Department of Energy be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1719

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the executive branch may expend funds and prepare or evaluate studies designed to transfer out of Federal ownership, management or control, in whole or in part, the facilities and functions of the Southeastern Power Administration.

DEPARTMENT OF ENERGY,
Washington, DC, June 10, 1987.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is proposed legislation to authorize a study of the costs and benefits of a potential transfer of the Southeastern Power Administration out of Federal ownership, management or control. The purpose of this study would be to provide a sound analytical basis that would allow the Congress and the Administration to conduct an informed dialogue on these issues.

BACKGROUND OF THE LEGISLATION

There are a number of good historical reasons why the Federal Government entered into the business of developing the Nation's hydroelectric resources. Yet now when growth in Federal programs over a period of time has strectched the management and financial capabilities of the Federal Government to the limit, we need to examine Federal responsibilities closely to determine where they can be reduced. We particularly need to revive those activities of a commercial nature that can be performed as easily by the private sector or at another level of government. We believe that commercial operations like the Southeastern Power Administration (SEPA) can be managed as well by public or private entities that are closer and more responsive to the areas and customers that they serve.

Section 208 of the Urgent Supplemental Appropriations Act, 1986, (Pub. L. No. 99-349, § 208), prohibits the executive branch from using funds to prepare or review studies, or solicit or draft proposals on a transfer of the Federal power marketing administrations out of Federal ownership, management or control until specifically authorized by Congress. This ban necessitates the attached legislative proposal to allow investigation into the feasibility of a SEPA transfer.

The Administration understands clearly its responsibility to prove that there are sufficient benefits from such a transfer to warrant proceeding, particularly regarding the benefits to power consumers in the affected regions and taxpayers in general. We believe options can be identified that would substantiate benefits to both of these groups, without causing significant increases in power rates. The purpose of the proposed study is to identify the range of options available for such a transfer and develop an analysis including identification of customer impacts, that will assist Congress and the Administration in arriving at a reasoned decision.

SEPA is one of the smaller power administrations, and has an installed capacity of 3,092 megawatts of power in ten states. SEPA is unique in that it owns no transmission lines. SEPA's size would simplify a thorough evaluation of the consequences of its sale.

In performing this study and preparing an evaluation, we will work closely with Congress and the people in the region served by SEPA. We will seek out proposals that protect area interests and the general taxpayer. We understand clearly that our proposal must satisfy the public and Congress before there is any chance of acceptance.

The study proposed in this legislation would allow the transfer of SEPA to be examined in depth, but the legislation would not authorize a transfer. Once the study has been completed and evaluated, we intend to present the results to Congress along with the supporting analysis and comments from the public. Congress then would have an opportunity to assess in detail the merits of a transfer. No final action to divest SEPA will be taken without further Congressional review and action.

COST AND BUDGET DATA

Enactment of this legislation will result in a budget authority requirement by the Department of Energy in the amount of $200,000. This cost would not be charged to SEPA's customers. The Office of Management and Budget advises that the enactment of this legislation would be in accord with the President's program.

Sincerely,

J. MICHAEL FARRELL,
General Counsel.●

By Mr. ROCKEFELLER:

S. 1720. A bill to protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes; to the Committee on Energy and Natural Resources.

WEST VIRGINIA NATIONAL INTEREST RIVER CONSERVATION ACT

● Mr. ROCKEFELLER. Mr. President, I am very pleased this morning to introduce legislation that will not only protect the magnificent rivers of southern West Virginia, but will give our State's tourism industry an enormous boost. Our bill will extend Federal protection to the Bluestone, Gauley, and Meadow Rivers. Similar legislation introduced by our colleague from West Virginia, Congressman NICK JOE RAHALL, has already passed the other body with overwhelming bipartisan support.

In 1978, when the New River was designated a national river, the legislation called for a study of the tributaries of the New. These studies, performed by the Park Service, determined that the Bluestone, Gauley, and Meadow were outstanding rivers in terms of their scenic, natural, recreational, and cultural values. The studies have generated much support and excitement in my State. As a result, I propose that a portion of the Gauley River be established as a national recreation area, and that the lower portions of the Meadow and the Bluestone be designated as the State's first wild and scenic rivers. This bill will also allow for much-needed boundary modifications in the New River Gorge National River.

Protecting these rivers in their pristine state will give people the opportunity to enjoy their unmatched beauty for years to come. Federal designation of these rivers will go a long way toward luring more tourists to southern West Virginia. Each year, 700,000 tourists visit the New River Gorge National River. Being part of the National Park System will provide increased awareness—both nationally and internationally—to the recreational opportunities available on these rivers. It will give West Virginia's wild, wonderful rivers more publicity than we could ever buy.

The recently funded New River Parkway, the just-completed West Virginia Turnpike, and the soon-to-be-completed Interstate 64 will enable tourists to visit these areas on modern, safe, and convenient highways. Indeed, West Virginia's interstate system is now among the most elaborate and accessible in the Nation.

The Gauley River National Recreation Area will cover a 24.5-mile segment from Summersville to Swiss. With its boulder-strewn rapids, high ledges, narrow chutes, and tortuous channels, this area provides one of the most spectacular whitewater experiences in the country. In 1986, whitewater recreation on the Gauley alone pumped over $16 million into the local economy.

The Meadow River, from the Route 19 Bridge to its confluence with the Gauley, is in a wild and primitive condition. For rafting enthusiasts, it's even more demanding than the Gauley due to its narrow channel and steep grade.

One of the most pristine rivers in the United States is the Bluestone. Well known for its beauty and magnificent gorge, superb opportunities exist for fishing, camping, rafting, and canoeing on the Bluestone.

The Greenbrier River was also studied under the legislative mandate. The study, conducted by the Forest Service, determined that 133 miles of the river were eligible for Federal protection. Under the provisions of the 1968 Wild and Scenic Rivers Act, 106 miles were classified as scenic and 27 miles were judged to be recreational. The Forest Service recommended that the river be protected by the State Natural Stream Preservation Act—not by the Federal Government through congressional action.

I have received hundreds of letters, numerous phone calls, and have met with many residents of Pocahontas and Greenbrier Counties on the prospect of including the Greenbrier in the system of federally protected rivers. To give people a chance to be heard on the proposal, I sponsored public meetings in Durbin, Marlinton, and Lewisburg. What I heard from my constituents was an overwhelming desire to protect their river—but not through designation as a scenic river.

Moreover, any plan that is put forth to protect the Greenbrier must address the issue of flood control. In 1985, the region was devastated by a flood. Currently, the Corps of Engineers is preparing a feasibility study that will suggest various alternatives for flood protection. This study will be ready for release and public discussion in January 1988.

Based on what I have heard from my constituents and the unresolved flood control issue, I have decided not to include the Greenbrier River in this legislation. Since there is an enormous interest in protecting the river, I will offer my assistance in developing a local plan that will protect the river—while not precluding effective flood control.

Mr. President, without a doubt, the rivers that I have proposed for Federal designation are worthy of inclusion in the system of wild and scenic rivers. Enactment of this legislation will complement the existing New River Gorge National River and greatly enhance the economic development of southern West Virginia through tourism. I urge my colleagues to pass this legislation as soon as possible.●

By Mr. COHEN (for himself, Mr. BENTSEN, Mr. DECONCINI, and Mr. MURKOWSKI):

S. 1721. A bill to improve the congressional oversight of certain intelligence activities, and to strengthen the process by which such activities are approved within the executive branch, and for other purposes; to the Select Committee on Intelligence.

INTELLIGENCE OVERSIGHT ACT

● Mr. COHEN. Mr. President, I am introducing today, along with three members of the Intelligence Committee, Senators BENTSEN, DECONCINI, and MURKOWSKI, a bill entitled the Intelligence Oversight Act of 1987, which is an effort to strengthen the statutory framework already existing in this area and to ensure that Congress will continue to play an active, effective role in the oversight of U.S. intelligence activities, including covert actions.

It is important to recognize at the outset that this bill would place no new restrictions upon the President, either in the conduct of intelligence activities generally or of covert actions in particular. Rather, it is aimed at strenthening the congressional oversight process, by clarifying the responsibilities and roles of both branches and removing the other ambiguities under current law. To be sure, the effectiveness of any law will ultimately depend upon the mutual trust and good faith of both parties, but it nevertheless behooves us—in the interests of good government—to make our mutual responsibilities under the law as clear and certain as we can.

As has been reported in the press in recent weeks, the President has, in fact, taken a number of concrete steps in this direction. These were reported to the Intelligence Committees last August. He has told us that there will not be oral findings in the future, that such findings will not authorize covert actions retroactively, and that all covert programs will be periodically subjected to review. These steps are welcome and commendable. But one is nevertheless obliged to recognize that these are policies which do not have the force of law, which may be subject to exceptions or waivers approved by the President in special circumstances—ones that would be highly classifed—and which are not binding upon any future administrations.

The bill I am introducing today accepts and builds upon the commitments already made to the Intelligence Committees by the President. It does not purport to be the final answer, but it does represent a comprehensive attempt to restructure, and where necessary, improve the current system of intelligence oversight.

Appended to the bill is a lengthy section-by-section analysis which sets forth its purposes in great detail. I wish only to highlight several of them here.

First, the bill would place all of the laws bearing upon intelligence oversight in one place in the United States Code, and would restructure those laws in a logical, coherent fashion. Accordingly, the Hughes-Ryan Amendment, which was an amendment to the Foreign Assistance Act of 1961, would be moved to that portion of the intelligence oversight statute which deals with limitations on the funding of intelligence activities. Moreover, the limitation set forth in Hughes-Ryan would be expanded to cover agencies of the executive branch other than CIA which may be used to carry out covert actions. This has been the policy within the executive branch for several years, although Hughes-Ryan itself only applies to CIA.

Second, the bill would eliminate much of the ambiguity under current law by specifying those congressional oversight requirements which pertain to intelligence activities and those which pertain to covert actions—termed in the bill "special activities." Under current law, these requirements are unclear.

Third, the bill would, for the first time, provide explicit statutory authority for the President to authorize covert actions, or "special activities," in support of U.S. foreign policy objectives, provided they are authorized in accordance with the requirements set forth in the bill. As I mentioned at the outset, these requirements do not entail new restrictions on covert actions, but are designed to improve the ability of the Intelligence Committees to carry out their oversight of this vital area.

Recent experience has demonstrated that the current system has numerous flaws. This bill addresses them. It provides for written authorization of covert actions and prohibits retroactive authorizations. It requires the congressional oversight committees to be advised of all findings within 48 hours of their being signed, but permits such notice to be limited to the leadership of both Houses and the chairmen and vice chairmen of the Intelligence Committees where the President deems such limited notice essential to protect vital U.S. interests. It provides that the Intelligence Committees be made aware of precisely who within Government and outside Government will be used to carry out covert actions, and it puts to rest the notion that the President may authorize, under the rubric of covert actions, activities which would violate the statutes of the United States.

I hope this bill will receive serious consideration, both by my colleagues in the Senate and on the Intelligence Committee and by those outside Congress with an interest in this subject. It represents a balanced, comprehensive approach to congressional oversight of intelligence activities, which, to my mind, would constitute a decided improvement over the current system.

In addition to the bill and a section-by-section analysis, I am submitting the letter the President sent to the Intelligence Committee which I referred to earlier, and I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Oversight Act of 1987."

SECTION 1. Section 662 of the Foreign Assistance Act of 1961 (22 U.S.C. 2422) is hereby repealed.

SEC. 2. Section 501 of Title V of the National Security Act of 1947 (50 U.S.C. 413) is amended by striking the language contained therein, and substituting the following new sections:

"SEC. 501. GENERAL PROVISIONS.

"(a) The President shall ensure that the Select Committee on Intelligence of the Senate and the Permanent Select Committee of the House of Representatives (hereinafter in this title referred to as the 'intelligence committees') are kept fully and currently informed of the intelligence activities of the United States as required by this title. Such activities shall ordinarily be conducted pursuant to consultations between the President, or his representatives, and the intelligence committees, prior to the implementation of such activities, although nothing contained herein shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities.

"(b) The President shall ensure that any illegal intelligence activity or significant intelligence failure is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity or intelligence failure.

"(c) The President and the intelligence committees shall each establish such procedures as may be necessary to carry out the provisions of this title.

"(d) The House of Representatives and the Senate, in consultation with the Director of Central Intelligence, shall each establish, by rule or resolution of such House, procedures to protect from unauthorized disclosure all classified information and all information relating to intelligence sources and methods furnished to the intelligence committees or to Members of Congress under this section. In accordance with such procedures, each of the intelligence committees shall promptly call to the attention of its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities requiring the attention of such House or such committee or committees.

"(e) Nothing in this Act shall be construed as authority to withhold information from the intelligence committees on the grounds that providing the information to the intelligence committees would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

"(f) As used in this section, the term 'intelligence activities' includes, but is not limited to, 'special activities,' as defined in subsection 503(e), below.

"SEC. 502. REPORTING INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES.

"The Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall keep the intelligence committees fully and currently informed of all intelligence activities, other than special activities as defined in subsection 503(e), below, which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity; provided that such obligation shall be carried out with due regard for the protection of classified information relating to sensitive intelligence sources and methods. In satisfying this obligation, the Director of Central Intelligence and the heads of all departments and agencies and other entities of the United States Government in intelligence activities shall furnish the intelligence committees any information or material concerning intelligence activities other than special activities which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"SEC. 503. APPROVING AND REPORTING SPECIAL ACTIVITIES.

"(a) The President may authorize the conduct of 'special activities,' as defined herein below, by departments, agencies, or entities of the United States Government when he determines such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States, which determination shall be set forth in a finding that shall meet each of the following conditions:

"(1) Each finding shall be in writing, unless immediate action by the United States is required and time does not permit the preparation of a written finding, in which case a written record of the President's decision shall be contemporaneously made and shall be reduced to a written finding as soon as possible but in no event more than forty-eight (48) hours after the decision is made;

"(2) A finding may not authorize or sanction special activities, or any aspect of such activities, which have already occurred;

"(3) Each finding shall specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any way in such activities; provided that any employee, contractor, or contract agent of a department, agency or entity other than the Central Intelligence Agency directed to participate in any way in a special activity shall be subject either to the policies and regulations of the Central Intelligence Agency, or to written policies or regulations adopted by such department, agency or entity, in consultation with the Director of Central Intelligence, to govern such participation;

"(4) Each finding shall specify, in accordance with procedures to be established pursuant to subsection 501(c), any third party, including any foreign country, which is not an element of, contractor or contract agent of, the United States Government, or is not otherwise subject to U.S. Government policies and regulations, who it is contemplated will be used to fund or otherwise participate in any way in the special activity concerned; and

"(5) A finding may not authorize any action that would be inconsistent with or contrary to any statute of the United States.

"(b) The President, the Director of Central Intelligence and the heads of all departments, agencies, and entities of the United States Government authorized to fund or otherwise participate in any way in a special activity shall keep the intelligence committees fully and currently informed of all special activities which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government. In satisfying this obligation, the intelligence committees shall be furnished any information or material concerning special activities which is in the possession, custody or control of any department, agency, or entity of the United States Government and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities.

"(c) The President shall ensure that any finding issued pursuant to subsection (a), above, shall be reported to the intelligence committees as soon as possible, but in no event later than forty-eight (48) hours after it has been signed; provided, however, that if the President determines it is essential to limit access to the finding to meet extraordinary circumstances affecting vital interests of the United States, such finding may be reported to the chairmen and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. In either case, a certified copy of the finding, signed by the President, shall be provided to the chairman of each intelligence committee. Where access to a finding is limited to the Members of Congress identified herein above, a statement of the reasons for limiting such access shall also be provided.

"(d) The President shall promptly notify the intelligence committees, or, if applicable, the Members of Congress specified in subsection (c), above, of any significant change in any previously-approved special activity.

"(e) As used in this section, the term 'special activity' means any activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity, but which is not intended to influence United States political processes, public opinion, policies or media, and does not include activities to collect necessary intelligence, military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1548), diplomatic activities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President, or activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to the law enforcement authorities of foreign governments."

SEC. 3. Section 502 of Title V of the National Security Act of 1947 (50 U.S.C. 414) is redesignated as section 504 of such Act, and is amended by adding the following new subsection (d):

"(d) No funds appropriated for, or otherwise available to, any department, agency, or entity of the United States Government, may be expended, or may be directed to be expended, for any special activity, as defined in subsection 503(e), above, unless and until a Presidential finding required by subsection 503(a), above, has been signed or otherwise issued in accordance with that subsection."

SEC. 4. Section 503 of Title V of the National Security Act of 1947 (50 U.S.C. 415) is redesignated as section 505 of such Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. REPEAL OF HUGHES-RYAN AMENDMENT

Current statutory provisions for intelligence oversight include the general requirements to inform the House and Senate Intelligence Committees in Title V of the National Security Act of 1947, as amended in 1980, and the requirement of Presidential approval for CIA covert action in Section 662 of the Foreign Assistance Act of 1961, as amended (22 USC 2422—the Hughes-Ryan Amendment). The differences in language and scope between these provisions have been a source of unnecessary confusion. Therefore, Section 1 of the bill would repeal the Hughes-Ryan Amendment in order to substitute a new Presidential approval requirement as an integral part of a more coherent and comprehensive statutory oversight framework for covert action (or "special activities") and other intelligence activities. The superceding Presidential approval requirement is contained in the proposed new sections 503 and 504(d) of the National Security Act of 1947, discussed below.

This change is intended to bring current law more closely into line with Executive branch policy which requires Presidential approval for covert action by any component of the U.S. Government, not just by the CIA. Section 3.1 of Executive Order 12333, December 4, 1981, states, "The requirements of section 662 of the Foreign Assistance Act of 1961, as amended (22 USC 2422), and section 501 of the National Security Act of 1947, as amended (50 USC 413), shall apply to all special activities as defined in this Order." Replacing Hughes-Ryan with a comprehensive Presidential approval requirement for covert action (or "special activities") by any U.S. Government entity gives statutory force to a policy that has not been consistently followed in recent years.

SECTION 2. OVERSIGHT OF INTELLIGENCE ACTIVITIES

Section 2 of the bill would replace the existing Section 501 of the National Security Act of 1947 with three new sections that prescribe, respectively, general provisions for oversight of all intelligence activities, reporting of intelligence activities other than special activities, and approval and reporting of special activities. This revision of current law has three principal objectives.

The first is to clarify and emphasize the general responsibilities of the President to work with the Congress, through the House and Senate Intelligence Committees, to ensure that U.S intelligence activities are conducted in the national interest. Current law does not fully address the obligations of the President. Nor does the existing statute reflect the commitment to consultation with the Congress made by the President as a result of the lessons learned from the Iran-Contra inquiries.

The second objective is to eliminate unnecessary ambiguities in the law. Experience under the current statute has indicated significant areas where Congressional intent may be subject to misinterpretation by Executive branch officials, as well as gaps in the law where Congress did not adequately anticipate the need for statutory guidance. Examples are the uncertain meaning of the requirement to report "in a timely fashion," the absence of an explicit provision for written Presidential Findings, and the need to specify those responsible for implementing covert actions. The aim is to clarify the intent of Congress with respect to oversight of intelligence activities so as to reduce the possibilities for misunderstanding or evasion. For purposes of clarity, a distinction is made between the detailed provisions for special activities, which are instruments of U.S. foreign policy, and the requirements for other intelligence activities (i.e., collection, analysis, counterintelligence) that are less controversial.

A third objective is to provide statutory authority for the President to employ special activities to implement U.S. foreign policy by covert means. Congress has not previously done so, except to the extent that the CIA was authorized by the National Security Act of 1947 "to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." Current law requires Presidential approval and the reporting to Congress of "intelligence operations in foreign countries, other than activities intended solely for obtaining necessary intelligence." This does not provide affirmative statutory authority to employ covert means as a supplement to overt instruments of U.S. foreign policy. Nor does it specify what types of activity are intended to be covered by the legal requirements for covert action. This has called into question the legality of covert actions, such as arms transfers, undertaken as alternatives to overt programs with express statutory authority. Congress should expressly authorize covert action as a legitimate foreign policy instrument, subject to clearly defined approval and reporting requirements.

The overall purpose of this bill is to use the lessons of recent experience to establish a more effective statutory framework for executive-legislative cooperation in the field of intelligence. Such legislation is not a guarantee against conflicts between the branches or abuses of power. It can, however, help minimize such conflicts and abuses by emphasizing the mutual obligations of the President and Congress and by eliminating unnecessary legal ambiguities that invite misunderstanding on both sides.

SECTION 501. GENERAL PROVISIONS

The new Section 501 of Title V of the National Security Act of 1947 would specify the general responsibilities of the President and the Congress for oversight of intelligence activities.

(a) Presidential Duties and Prior Consultation

Subsection (a) would place a statutory obligation upon the President to ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (referred to in the bill as the "intelligence committees") are kept fully and currently informed of the intelligence activities of the United States as required by this title. Current law imposes such duties on the DCI and agency heads, but not on the President himself. Overall responsibility should be vested in the President because of the importance and sensitivity of secret intelligence activities that may affect vital national interests and because the President may have unique knowledge of those activities that he is best suited to ensure is imparted to the intelligence committees. The terms and conditions for keeping the committees "fully and currently informed" are those set forth in Sections 502 and 503, discussed below.

In addition, subsection (a) would provide that U.S. intelligence activities shall ordinarily be conducted pursuant to consultations between the President, or his representatives, and the intelligence committees, prior to the implementation of such activities. This is consistent with the intentions of the President as stated in his letter of August 8, 1987, to the Chairman and Vice Chairman of the Senate Intelligence Committee. It applies to all U.S. intelligence activities, including collection, analysis, counterintelligence, and special activities. Additional Presidential reporting requirements for special activities are set forth in Section 503, discussed below. This new general provision for prior consultation with the intelligence committees would supplement current requirements for keeping the committees informed of "significant anticipated intelligence activities." The requirement for prior consultations is a more complete reflection of the need for executive-legislative cooperation in the formulation of intelligence policies. For example, the President or his representatives should ordinarily consult the intelligence committees on proposed Presidential Findings prior to their approval by the President.

Subsection (a) would also retain the qualification in current law that nothing contained in the prior consultation or prior notice requirements shall be construed as requiring the approval of the intelligence committees as a condition precedent to the initiation of such activities. The parallel provision of existing law is clause (A) of paragraph 501(a)(1).

(b) Illegal Activities and Significant Failures

Subsection (b) would require the President to ensure that any illegal intelligence activity or significant intelligence failure is reported to the intelligence committees, as well as any corrective action that has been taken or is planned in connection with such illegal activity or failure. Under current law, paragraph 501(a)(3) imposes this duty on the DCI and agency heads, subject to certain conditions. The purpose is to place an unqualified statutory obligation on the President to ensure reporting of such matters to the committees. The President should establish procedures for review within the Executive branch of intelligence activities that may have been illegal and for reporting to the intelligence committees when a determination is made that there are reasonable grounds to believe that the activity was a violation of the Constitution, statutes, or Executive orders of the United States. The President should establish procedures for the reporting of activities determined to be significant intelligence failures. The current provision requires the reporting of an illegal activity or significant failure "in a timely fashion." This language is deleted because of its ambiguity. The intent is that the committees should be notified immediately whenever a determination is made under procedures established by the President in consultation with the intelligence committees.

Another difference from existing law is that the requirement to report illegal activities or significant failures would not be subject to the preambular clauses in the current subsection 501(a) which could be interpreted as qualifying the statutory obligation to inform the intelligence committees.

(c)-(f) Other General Provisions

Subsections (c) through (e) would retain provisions of existing law. Subsection (c) is identical to the current subsection 501(c) that authorizes the President and the intelligence committees to establish procedures to carry out their oversight obligations. Subsection (d) is the same as the current subsection 501(d) that requires the House and Senate to establish procedures to protect the secrecy of information furnished under this title and to ensure that each House and its appropriate committees are advised promptly of relevant information. Subsection (e) repeats the current subsection 501(e) which makes clear that information may not be withheld from the intelligence committees under this Act on the grounds that providing the information to the intelligence committees would be unauthorized disclosure of classified information or information relating to intelligence sources and methods.

Subsection (f) states that the term "intelligence activities," as used in this section, includes, but is not limited to, "special activities," as defined in subsection 503(e), discussed below.

SECTION 503. REPORTING INTELLIGENCE ACTIVITIES OTHER THAN SPECIAL ACTIVITIES

The new section 502 is intended to be substantially the same as the current requirements of subsections 502(a) (1) and (2) insofar as they apply to intelligence activities other than special activities. This distinction between special activities and other intelligence activities is discussed more fully with respect to section 503, below.

Fully and Currently Informed

Section 502 would require the Director of Central Intelligence (DCI) and the heads of all departments, agencies and other entities of the United States involved in intelligence activities to keep the intelligence committees fully and currently informed of all intelligence activities, other than special activities as defined in subsection 503(e), which are the responsibility of, are engaged in by, or are carried out for or on behalf of any department, agency, or entity of the United States, including any significant anticipated intelligence activity. The special procedure for prior notice to eight leaders in the current clause (B) of paragraph 501(a)(1) would be deleted, since it was intended to apply to special activities, to be governed by section 503, discussed below.

Section 502 also would provide that, in satisfying the obligation to keep the committees fully and currently informed, the DCI and the heads of all departments and agencies and other entities of the United States involved in intelligence activities shall furnish the intelligence committees any information or material concerning intelligence activities (other than special activities) which is within their custody or control, and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. This requirement is subject to the provision for protection of sensitive intelligence source and methods, discussed below.

Protection of Sensitive Sources and Methods

The obligation to keep the intelligence committees fully and currently informed under this section is to be carried out with due regard for the protection of classified information relating to sensitive intelligence sources and methods. This provision is similar to the second preambular clause in the current subsection 501(a) which imposes duties "to the extent consistent with due regard for the protection from unauthorized disclosure of classified information and information relating to intelligence sources and methods." The proposed new language more accurately reflects and is intended to have the same meaning as the legislative history of the similar preambular clause in existing law.

The first preambular clause in the current subsection 501(a) would be deleted. It imposes obligations "[t]o the extent consistent with all applicable authorities and duties, including those conferred upon the executive and legislative branches of the Government." This clause creates unnecessary ambiguity in the law, because it has been interpreted by some as Congressional acknowledgement of an undefined constitutional authority of the Executive branch to disregard the statutory obligations. Recent experience indicates that legislation qualifying its terms by reference to the President's constitutional authorities may leave doubt as to the will of Congress and thus invite evasion. Legitimate Executive branch concerns are adequately met by the provision for due regard for protection of sensitive intelligence sources and methods, discussed above.

SECTION 503. APPROVING AND REPORTING SPECIAL ACTIVITIES

Special activities (or covert actions) raise fundamentally different policy issues from other U.S. intelligence activities because they are an instrument of foreign policy. Indeed, constitutional authorities draw a distinction between Congressional power to restrict the gathering of information, which may impair the President's ability to use diplomatic, military, and intelligence organizations as his "eyes and ears," and Congressional power to regulate covert action that goes beyond information gathering. There is little support for the view that such special activities are an exclusive Presidential function. Congress has the constitutional power to refuse to appropriate funds to carry out special activities and may impose conditions on the use of any funds appropriated for such purposes.

Under current law, however, the Congressional mandate is ambiguous, confusing and incomplete. There is no express statutory authorization for special activities; the requirement for Presidential approval of special activities applies only to the CIA; and Presidential approval procedures are not specified. There is a question whether Congress has intended that the President have authority to conduct special activities which are inconsistent with or contrary to other statutes. The statutory requirements for informing the intelligence committees of special activities are subject to misinterpretation, and the scope of activities covered by the law is undefined. This bill seeks to remedy these deficiencies so that covert actions are conducted with proper authorization in the national interest as determined by the elected representatives of the American people—the President and the Congress—through a process that protects necessary secrecy.

(a) Presidential Findings

Subsection (a) would provide statutory authority for the President to authorize the conduct of special activities by departments, agencies or entities of the United States when he determines such activities are necessary to support the foreign policy objectives of the United States and are important to the national security of the United States. This determination must be set forth in a "Finding" that meets certain conditions. The importance of this requirement is underscored by Section 3 of the bill, discussed later, which prohibits expenditure of funds for any special activity unless and until such a Presidential Finding has been issued.

The current Presidential approval provision in the Hughes-Ryan Amendment (22 USC 2422) requires a finding by the President "that each such operation is important to the national security of the United States." The proposed new subsection 503(a) would require the President to make an additional determination that the activities "are necessary to support the foreign policy objectives of the United States." This conforms the statute to the Executive branch definition of "special activities" in section 3.4(h) of Executive Order 12333 which refers to "activities conducted in support of national foreign policy objectives abroad." The President should determine not only that the operation is important to national security, but also that it is consistent with and in furtherance of established U.S. foreign policy objectives.

In addition to reflecting these Presidential determinations, Findings must meet five conditions. First, paragraph 503(a)(1) would require that each Finding be in writing, unless immediate action is required of the United States and time does not permit the preparation of a written Finding, in which case a written record of the President's decision would have to be contemporaneously made and reduced to a written Finding as soon as possible but in no event more than 48 hours after the decision is made. This requirement should prevent a President's subordinate from later claiming to have received oral authorization without further substantiation than the subordinate's undocumented assertion. It is also consistent with the President's current policy of requiring written Findings.

Second, paragraph 503(a)(2) would restate emphatically the current legal ban on retroactive Findings. It would provide that a Finding may not authorize or sanction special activities, or any aspects of such activities, which have already occurred. This is also consistent with the President's current policy.

Third, paragraph 503(a)(3) would require that each Finding specify each and every department, agency, or entity of the United States Government authorized to fund or otherwise participate in any way in the special activities authorized in the Finding. This requirement is consistent with section 1.8(e) of Executive Order 12333 which states that no agency except the CIA in peacetime may conduct any special activity "unless the President determines that another agency is more likely to achieve a particular objective."

Fourth, paragraph 503(a)(4) would require that each Finding specify, in accordance with procedures to be established, any third party, including any third country, which is not an element of, contractor of, or contract agent of the U.S. Government, or is not otherwise subject to U.S. Government policies and regulations, whom it is contemplated will be used to fund or otherwise participate in any way in the special activity concerned. The purpose is to require the President's approval and notice to the intelligence committees when third countries, or private parties outside normal U.S. government controls, are used to help implement a covert action operation. The intent is that procedures be established in consultation with the intelligence committees to determine when the involvement of a third party constitutes use "to fund or otherwise participate" in a special activity and to determine when a private party is not "subject to U.S. Government policies and regulations."

Fifth, paragraph 503(a)(5) would establish that a Finding may not authorize any action that would be inconsistent with or contrary to any statute of the United States. This is similar to section 2.8 of Executive Order 12333, which states that nothing in that Order "shall be construed to authorize any activity in violation of the Constitution or statutes of the United States." Current CIA policy is to conform its operations to any federal statutes which apply to special activities, either directly or as laws of general application. This provision is not intended to require that special activities authorized in Presidential Findings comply with statutory limitations which, by their terms, apply only to another U.S. Government program or activity. For example, a statutory restriction on the overt Defense Department arms transfer program would not apply to covert CIA arms transfers authorized in a Finding, even if the CIA obtained the arms from the Defense Department under the Economy Act. When the Congressional concerns that led to the restriction on the Defense Department program are relevant to the similar covert CIA activity, those factors should be taken into account by the intelligence committees.

(b) Fully and Currently Informed

Subsection 503(b) would place a statutory obligation on Executive branch officials to keep the intelligence committees fully and currently informed of special activities and furnish the intelligence committees any information or material concerning special activities which they possess and which is requested by either of the intelligence committees in order to carry out its authorized responsibilities. This subsection differs in four respects from the parallel provisions of

Section 502 that apply to other intelligence activities.

The first difference is that the obligation would be placed on the President, as well as on the DCI and the heads of departments, agencies, and entities of the U.S. Government. The President may have unique information concerning a special activity that should be imparted to the committees.

The second difference is that the obligation would be placed on the heads of departments, agencies, and entities of the U.S. Government "authorized to fund or otherwise participate in a special activity"—rather than just those directly involved in the activity. This conforms to the terms of the presidential Finding requirement in subsection 503(a)(3).

The third difference is that the requirement to inform the committees of "any significant anticipated intelligence activity" would be deleted. In the case of special activities, that requirement would be superceded by the requirements in subsections 503(c) and (d), discussed below, for reporting presidential Findings and significant changes in special activities, as well as by the general provision in subsection 501(a) for prior consultations with the intelligence committees.

The fourth difference is that the obligation to inform the committees would not be subject to a general proviso that such obligation shall be carried out with due regard for the protection of classified information relating to sensitive intelligence sources and methods. Instead, a specific statutory procedure would be established in subsection 503(c) for limiting the number of Members of Congress to whom information would be imparted in exceptionally sensitive cases. Moreover, sensitive sources and methods would also be protected under the procedures established by the President and the intelligence committees pursuant to subsection 501(c) and by the House of Representatives and the Senate pursuant to subsection 501(d).

(c) Notice of Findings

Subsection 503(c) would require the President to ensure that any Findings issued pursuant to subsection (a), above, shall be reported to the intelligence committees as soon as possible, but in no event later than 48 hours after it has been signed. If, however, the President determines it is essential to limit access to the Finding to meet extraordinary circumstances affecting vital interests of the United States, such Finding may be reported to 8 Members of Congress—the chairman and ranking minority members of the intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate. This procedure is similar to the existing provision in clause (B) of the current paragraph 501(a)(1) for limiting prior notice of "significant anticipated intelligence activities" to the same 8 congressional leaders.

The principal differences from existing law are the elimination of the preambular clauses in the current subsection 501(a) that qualify clause (1)(b) and the delection of the separate provision in the current subsection 501(b) for "timely" notice when prior notice is not given. These current provisions have created confusion because they appear, on the one hand, to require notice of Findings to at least the 8 leaders while, on the other hand, leaving open the possibility of postponement of notice until some time after a Finding is implemented. The proposed new subsection 503(c) changes the point of reference in the law from notice prior to the initiation of an activity to the more logical point of notice immediately upon the issuance of a Finding.

Subsection 503(b) would also require that in all cases a certified copy of the Finding signed by the President shall be provided to the chairman of each intelligence committee and that, if access is limited, a statement of the reasons for limiting access to the Finding concerned shall accompany the copy of the Finding.

(d) Notice of Significant Changes

Subsection 503(d) would require the President to ensure that the intelligence committees, or, if applicable, the 8 leaders specified in subsection (c), are promptly notified of any significant change in any previously-approved special activity. The intent is that such changes should be reported insofar as practicable prior to their implementation, in accordance with procedures agreed upon by the intelligence committees and the President. Such procedures currently exist in the form of agreements entered into between the DCI and the Chairman and Vice Chairman of the Senate Intelligence Committee in 1984 and 1986. Any change in the actual terms and conditions of a Finding would have to be reported in accordance with subsection 503(c).

(e) Definition of "Special Activities"

Section 503(e) sets forth a definition of the term "special activities". Not heretofore used or defined in statute, the term has nevertheless been used since 1978 in two Executive orders as a euphemism for the more colloquial term "covert actions". The term is adopted here not only because of its previous use within the Executive branch but as a more appropriate designation of such activity by the United States.

As stated, the definition of "special activities" set forth in section 503(e) is based upon the definition of the term now set forth in section 3.4(h) of Executive order 12333, issued by President Reagan on December 4, 1981. Indeed, the first and principal clause of the definition is taken verbatim from the definition in the Executive order. The exclusionary clauses, exempting certain activities from the scope of the definition, are for the most part modifications of, or additions to, the exclusions contained in the Executive order definition.

As defined in section 503(e), a "special activity" is any activity conducted in support of national foreign policy objectives abroad which is planned and executed so that the role of the United States Government is not apparent or acknowledged publicly, and functions in support of such activity. The definition covers all covert activities undertaken by the United States to support its foreign policy objectives towards other countries regardless of the department, agency, or element of the United States Government used to carry out such activities. While it applies to those activities conducted in support of national foreign policy objectives abroad, the term encompasses those activities conducted by the United States Government within the territory of the United States, so long as they are intended to support U.S. objectives abroad. The definition applies only to activities in which the role of the U.S. Government is not apparent or acknowledged to the public. Thus, activities of the United States Government conducted in support of national foreign policy objectives which are made known to the public, or which would be made known to the public or press if the Government were asked, are not covered by the definition.

The definition also makes clear that special activities shall not be intended to influence U.S. political processes, public opinion, policies or media. The purpose of this language is to preclude the use of the authority contained in this bill to plan or execute special activities for the purpose of influencing U.S. public opinion. While it is recognized that some special activities may occasionally have an indirect effect on U.S. public opinion, no such activity may be instituted for this purpose, and to the extent such indirect effect can be minimized in the planning and execution of special activities, it should be done. This portion of the definition reiterates what has been longstanding policy and practice within the Executive branch.

The definition further specifies four broad areas of activity undertaken by the United States Government in support of foreign policy objectives which are not included within the definition of special activities even if planned and conducted so that the role of the United States Government is not apparent or acknowledged publicly. These include activities to collect necessary intelligence, military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1548), diplomatic activities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President, or activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to the law enforcement authorities of foreign governments. An explanation of each of these exclusions follows.

The exclusion of U.S. activities to collect necessary intelligence is intended to cover all activities of the United States Government undertaken for the purpose of obtaining intelligence necessary for the national security of the United States. While such activities clearly require oversight by the Congress, they are excluded from the definition of "special activities", inasmuch as they are subject to separate authorization and oversight, and often do not require specific approval by the President. This exclusion reiterates the longstanding policy contained in the Hughes-Ryan amendment (24 U.S.C. 2422) (1974) and in subsequent Executive orders.

The exclusion of military operations conducted by the armed forces of the United States and subject to the War Powers Resolution (50 U.S.C. 1541-1548) is new, appearing in neither statute or Executive order heretofore. The purpose of this exclusion is to clarify a problem of interpretation namely, when is a military operation undertaken by the United States reportable as a "special activity" or covert action? The definition sets forth a clear dividing line: if the military operation concerned is carried out covertly by U.S. military forces and it is not required to be reported to the Congress under the War Powers Resolution, then it is a "special activity" which is reportable to the intelligence committees under this statute. The exclusion would not apply to covert assistance given by the United States to the military forces, or to support the military operations, of a third party, either governmental or to private entities.

The third area excluded from the definition of special activities is diplomatic activities carried out by the Department of State or persons otherwise acting pursuant to the authority of the President. This represents a modification of the comparable exclusion in Executive order 12333. Although most diplomatic activities of the United States are publicly acknowledged, it is recognized that there are many diplomatic contacts and deliberations which are necessarily secret. The definition of special activities excludes these activities so long as they are undertaken by the Department of State, or by persons—either government officials or private citizens—who are acting pursuant to the authority of the President. It would not exclude diplomatic activities which are carried out by persons who are not employees of the Department of State—either governmental or private—whose authority to carry out such activities on behalf of the United States is not already established by law or Executive branch policy.

The fourth and final area excluded from the definition of special activities are activities of the Department of Justice or federal law enforcement agencies solely to provide assistance to law enforcement authorities of foreign governments. This exclusion is also new, reflected neither in law nor Executive order heretofore. Its incorporation here is intended to clarify a problem of interpretation which has existed under the current framework, namely, do law enforcement activities undertaken covertly by U.S. Government agencies outside the United States qualify as special activities? The formulation contained in the proposed definition would exclude assistance provided covertly to third countries by U.S. law enforcement agencies. It would not exclude law enforcement activities actually carried out covertly and unilaterally by such agencies outside the United States. It would also not exclude either assistance to law enforcement agencies of third countries, or carrying out law enforcement activities outside the United States, by elements of the U.S. Government which do not have law-enforcement functions.

SECTION 3. LIMITATION ON USE OF FUNDS FOR SPECIAL ACTIVITIES

Section 3 of the bill redesignates section 502 of the National Security Act of 1947, which concerns the funding of intelligence activities, as section 504 of the Act and adds a new subsection (d) which deals with the use of funds for special activities.

This provision is intended to carry forward and expand the limitation currently contained in 22 U.S.C. 2422 (the Hughes-Ryan Amendment), which would be repealed by Section 1 of the bill. The Hughes-Ryan amendment restricts the use of funds appropriated to CIA to carry out actions outside the United States "other than the collection of necessary intelligence", unless and until the President had determined that such actions were important to the national security.

Section 504(d) would similarly provide that appropriated funds could not be expended for special activities until the President had signed, or otherwise approved, a Finding authorizing such activities, but it would expand this limitation to cover the funds appropriated for any department, agency, or entity of the Government, not solely CIA. It would also cover non-appropriated funds which are available to such elements from any source, over which the agency involved exercises control. These might include funds offered or provided by third parties, funds produced as a result of intelligence activities (i.e. proprietaries), or funds originally appropriated for an agency other than the agency who wishes to expend the funds. The limitation contained in section 504(d) would also apply whether or not the agency concerned actually came into possession of the funds at issue. So long as the agency concerned had the ability to direct such funds to be expended by third parties—governmental or private—it could not do so until a presidential Finding had been signed, or otherwise approved, in accordance with the requirements of section 503(a).

SECTION 4. REDESIGNATION OF SECTION 503 OF NATIONAL SECURITY ACT OF 1947

Section 4 redesignates section 503 of the National Security Act of 1947 as section 505, to conform to the changes made by the bill.

TEXT OF THE PRESIDENT'S LETTER ON NEW GUIDELINES FOR COVERT OPERATIONS

Hon. DAVID L. BOREN,
Chairman, Senate Select Committee on Intelligence, U.S. Senate, Washington, DC.
cc: The Honorable Louis Stokes and the Honorable Henry J. Hyde.

DEAR CHAIRMAN BOREN: In my March 31, 1987, message to Congress, I reported on those steps I had taken and intended to take to implement the recommendations of the President's Special Review Board. These included a comprehensive review of executive branch procedures concerning Presidential approval and notification to Congress of covert-action programs—or so-called special activities.

In my message, I noted that the reforms and changes I had made and would make "are evidence of my determination to return to proper procedures including consultation with the Congress."

In this regard, Frank Carlucci has presented to me the suggestions developed by the Senate Select Committee on Intelligence for improving these procedures. I welcome these constructive suggestions for the development of a more positive partnership between the intelligence committees and the executive branch.

Greater cooperation in this critical area will be of substantial benefit to our country, and I pledge to work with you and the members of the two committees to achieve it. We all benefit when we have an opportunity to confer in advance about important decisions affecting our national security.

Specifically, I want to express my support for the following key concepts recommended by the committee:

1. Except in cases of extreme emergency, all national security "findings" should be in writing. If an oral directive is necessary, a record should be made contemporaneously and the finding reduced to writing and signed by the President as soon as possible, but in no event more than two working days thereafter. All findings will be made available to members of the National Security Council (N.S.C.).

2. No Finding should retroactively authorize or sanction a special activity.

3. If the President directs any agency or persons outside of the C.I.A. or traditional intelligence agencies to conduct a special activity, all applicable procedures for approval of a finding and notification to Congress shall apply to such agency or persons.

4. The intelligence committees should be appropriately informed of participation of any Government agencies, private parties, or other countries involved in assisting with special activities.

5. There should be a regular and periodic review of all ongoing special activities both by the intelligence committees and by the N.S.C. This review should be made to determine whether each such activity is continuing to serve the purpose for which it was instituted. Findings should terminate or "sunset" at periodic intervals unless the President, by appropriate action, continues them in force.

6. I believe we cannot conduct an effective program of special activities without the cooperation and support of Congress. Effective consultation with the intelligence committees is essential, and I am determined to ensure that these committees can discharge their statutory responsibilities in this area. In all but the most exceptional circumstances, timely notification to Congress under Section 501(b) of the National Security Act of 1947, as amended, will not be delayed beyond two working days of the initiative, of a special activity. While I believe that the current statutory framework is adequate, new executive branch procedures nevertheless are desirable to ensure that the spirit of the law is fully implemented. Accordingly, I have directed my staff to draft for my signature executive documents to implement appropriately the principles set forth in this letter.

While the President must retain the flexibility as Commander in Chief and chief executive to exercise those constitutional authorities necessary to safeguard the nation and its citizens, maximum consultation and notification is and will be the firm policy of this Administration.

Sincerely,

RONALD REAGAN.●

● Mr. BENTSEN. Mr. President. I am pleased today to join my colleagues in introducing the "Intelligence Oversight Act of 1987." This legislation continues the pattern of statutory strengthening of the intelligence oversight process that was established 40 years ago by the National Security Act of 1947. In the ensuing years, Congress has enacted other legislation in this area, including most recently the Foreign Intelligence Surveillance Act of 1978, the Intelligence Oversight Act of 1980, and the Intelligence Identities Protection Act of 1982. Each of these pieces of legislation responded to a requirement that was identified at the time, ranging from the need to strengthen our counterintelligence capabilities in the first instance to a life-and-death situation where CIA agents' identities were being publicly revealed in the past. The legislation we are introducing today, too, grows out of our own recent experience.

One of the lessons that we learned during the investigation of the Iranian arms sales and diversion of profits to the Contras is that current oversight statutes, particularly in the area of covert action reporting, are simply not specific enough. Indeed, it had become obvious during the preliminary investigation conducted by the Select Committee on Intelligence late last year that there were gaps and loopholes in our oversight laws and that there were some individuals within the executive branch who exploited these loopholes as a means of avoiding congressional notification of a covert operation.

To be specific, there is currently a statutory requirement that the oversight committees of Congress be notified in advance of covert actions, or must be notified "in a timely fashion" after the fact. This loophole of "timely fashion" was broad enough to allow the administration not to report the Iranian arms sales for some 18 months. I doubt they would have reported them even then, except that a small newspaper in the Middle East broke the story in November of last year.

The legislation that we are introducing today closes that loophole by requiring that the President provide written notification to the Oversight Committees of the Congress within 48 hours after he has authorized a covert action. If he believes that the action is too sensitive to reveal to the entire membership of the Intelligence Committees, he would be authorized to limit notification to the chairmen and ranking members of those committees, the majority and minority leaders of the Senate and the Speaker and minority leader of the House. Notification of these eight individuals would ensure that we do not have another situation where our country is embarked on a course of action with potentially grave foreign policy implications without notifying the Congress that such was about to be done.

Unlike present law, which does not require Presidential approval for covert activities conducted by agencies other than the CIA, this legislation spells out for the first time that the President must personally approve each covert action or "special activity," as they are sometimes called. So that there will be no doubt as to what the President has authorized and when he authorized it, our legislation requires that a Presidential finding be in writing and that a copy of each finding must be transmitted to the Intelligence Committees within 48 hours after it is signed. Retroactive findings such as were used in the Iran arms sales would be prohibited.

In other sections, this legislation would spell out for the first time the statutory power of the President to authorize covert actions. It also provides that no finding which authorizes a covert action can operate contrary to statute and that no funds can be used for a covert action unless there is a finding. Taken together, it seems to me that these requirements represent a reasonable approach to the problem of regaining control over covert actions, while at the same time not in any way harming or endangering our Nation's ability to conduct such operations.

Mr. President, I would like to close this statement on a more personal note. I have been a member of the Select Committee on Intelligence for almost 7 years now. In time of service on the committee I am the senior member on the Democratic side. During these years it has been my privilege to have had weekly, and sometimes almost daily, contact with the men and women of our Nation's intelligence services. The work that they do for our country is absolutely invaluable, and many of them routinely put their lives on the line with little or no public recognition.

Indeed, when public recognition does occur, it can sometimes mean death, as in the case of William Buckley who was CIA station chief in Beirut. Buckley was taken hostage, tortured, and killed because of what he was doing for his country—our country. There are similar men and women all over the world doing their jobs in silence and without public praise. In the lobby of the CIA headquarters building in Langley, VA, there are rows of gold stars carved into the wall. Each of those stars represents a CIA employee who was killed serving his country. Beneath the stars is a display case in which has been placed an open book. There are names in the book representing most of the stars on the wall, but there are blank lines as well, for some of these CIA employees still cannot be publicly identified, even 35 years later.

Mr. President, I end with these sentiments because I want to make it clear that in sponsoring this legislation today, I am not aiming it at the men and women of the intelligence community. I am not criticizing them for the job they do for us each and every day. No; I am introducing this legislation as a way of strengthening the oversight process, continuing the pattern of the past 40 years, and making our Nation's partnership between the legislative and executive branches in this area a stronger and even more productive one.●

Mr. MURKOWSKI. Mr. President, events of recent months have highlighted the importance of congressional oversight of intelligence activities. The oversight function, performed by the two Select Intelligence Committees—one in the House and one in the Senate—is the means by which this democracy reconciles the people's right to know with the intelligence agencies need for secrecy.

Under existing law the intelligence agencies are obliged to keep the two communities currently informed of significant intelligence activities, including covert action. However, ambiguities inherent in existing statutes were dramatically highlighted during the recently concluded congressional investigation of the Iran-Contra affair. It is important that these ambiguities are eliminated so that the ground rules are clearly understood in both the Executive and the Congress and the temptation to look for loopholes is reduced.

As an outgrowth of painstaking negotiations on these issues between the staffs of the Senate Intelligence Community and the National Security Council, the committee sent a letter to the President's National Security Adviser. The legislation closely follows the provisions contained in that letter.

This bill does not impose new and more onerous burdens upon the intelligence agencies. Rather, it clarifies and rationalizes existing law. For example, this bill will, for the first time, explicitly empower the President to authorize covert actions and establish a Presidential "finding" as the authorizing document.

I am pleased to join with my distinguished colleague from Maine, the vice chairman of the Senate Select Committee on Intelligence, in cosponsoring this legislation.

By Mr. INOUYE (for himself, Mr. EVANS, Mr. BYRD, Mr. CRANSTON, Mr. SIMPSON, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. MURKOWSKI, Mr. MCCAIN, Mr. BINGAMAN, Mr. BOSCHWITZ, Mr. COCHRAN, Mr. CONRAD, Mr. DOMENICI, Mr. GORE, Mr. GRAMM, Mr. LEVIN, Mr. MATSUNAGA, Mr. PELL, Mr. REID, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. RUDMAN, Mr. STAFFORD, Mr. SANFORD, Mr. SIMON, Mr. WIRTH, Mr. BOREN, and Mr. MELCHER):

S. 1722. A bill to authorize the establishment of the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indians, and for other purposes; by unanimous consent, referred jointly to the Committee on Rules and Administration and the Select Committee on Indian Affairs.

NATIONAL AMERICAN INDIAN MUSEUM AND MEMORIAL ACT

Mr. INOUYE. Mr. President, the city of Washington is often referred to as the city of monuments. In addition to nationally renown monuments, such as the Washington Monument, the Lincoln Memorial, the Martin Luther King Library, the Jefferson Memorial, the Emancipation Monument, and the James Madison Library, there are hundreds upon hundreds of other monuments and statues. The U.S. Capitol Building houses over 150 statues. Each State is entitled to honor two of its most distinguished citizens and residents.

For example, the State of Hawaii has so honored King Kamehameha, the first Polynesian Hawaiian king, and Father Joseph Damien de Veuster, the so-called leper priest of Kalaupapa, who someday will hopefully achieve sainthood. It has been said that nearly every civil war general is honored by a statue erected in a circle or intersection of Washington. Sadly, among these hundreds of statues and monuments, there is not one to honor

American Indians—the first Americans.

History records the wisdom, gallantry, and the leadership of many great Indian chiefs and leaders, such as Geronimo, Sitting Bull, Crazy Horse, Chief Joseph, Seattle, Quantah Parker, Barboncito, to name a few. But there are no statues or monuments in Washington, the city of monuments, to honor or remember these great Americans.

The history of American Indians has many sad and tragic chapters. One of the most tragic chapters is that of the so-called Indian wars—a period covering 90 years, beginning in the early 1800's—which left the Indian population decimated.

It may interest my colleagues to know that 200 years ago, at the time we began our formal relationship with Indian nations, there were at least 12 million Indians residing in the continental United States. At the end of the Indian wars, 250,000 remained in our land.

During that time, the American Government systematically violated provisions of treaties that recognized Indian sovereignty over lands, and began pushing and forcing Indians out of the fertile areas of our continent that they had traditionally occupied, into arid, mountainous, uninhabitable regions of our country. Pursuant to Federal policy and legislation, all Indians residing east of the Mississippi River were targeted for removal to lands west of the Mississippi. In the famous Trail of Tears, the Cherokees were removed from Tennessee and Georgia, and North Carolina to the so-called Oklahoma Indian Territory. During what is known as the Long Walk, the Navajos were forced to walk from Fort Sill, OK, to Fort Sumner, NM. But when the Navajos finally arrived in New Mexico, the commanding officer observed:

> Would any sensible man select a spot for a reservation for 8,000 Indians where the water is scarcely bearable, where the soil is poor and cold, and where the mesquite roots 12 miles distant are the only wood for the Indians to use?

And when gold was discovered, the Black Hills were taken from the Sioux tribes in violation of their 1868 treaty—an action that the U.S. Supreme Court later described as "a more ripe and rank case of dishonorable dealing will never, in all probability, be found in our history." These are just the better known examples.

During this period, the following directive was issued by Army Gen. Madison Mills, and I wish to quote from the Surgeon General's January 13, 1868 message:

> Medical officers in your department (understand) the importance of collecting for the Army medical museum specimens of Indian cranial and of Indian weapons and utensils, so far as they may be able to procure them . . . the Surgeon General is anxious that our collection of Indian cranial, already quite large, should be made as complete as possible, and that we should be preserve likewise illustrations of the weapons of the fast disappearing tribes.

This directive was sent to the officers and men who were serving our national interest in the Indian wars. As a result, history shows that sacred Indian burial grounds were desecrated; recently killed Indians were stripped of their flesh, and the skeletal remains were shipped to Washington. There is no way of knowing exactly how many skulls and bones were sent to Washington in response to this directive. Obviously, many hundreds, because today, we have in the Smithsonian Institution, in boxes, crates, and on shelves, the skeletal remains of over 18,000 Indians. Many of them were sent to Washington in response to the call of the Army surgeon general, and most of these remains serve no scientific, archaeological, or medical purpose. Most of these skeletal remains have no identity other than the general area from which they came. These remains cry out for a proper resting place. If there are spirits, and many believe that there are, they too must be seeking a resting place.

Today, as the Nation commemorates the American Indian by designating this day, National Indian Day, I am honored, together with many of my colleagues, to introduce a measure that will finally provide a proper resting place for these spirits and skeletal remains. It will also provide an appropriate exhibit facility—a museum—to exhibit the history, the culture, the extraordinary artifacts, and the many significant contributions of the Indians who resided on this continent and their descendants.

At this moment, in a warehouse in the Bronx, is a priceless treasure trove of Indian artifacts that were collected by George Gustav Heye during his lifetime. There are so many of these artifacts that they are still in the process of being cataloged.

It has been said that there are over 1 million artifacts in the collection—hundreds of pre-Columbian tomahawks, pre-Columbian arrowheads, hundreds of Navajo rugs, hundreds of Indian baskets, an unequalled collection of Indian pottery, headdresses, buffalo robes, cradle boards, medicine bundles, burial moccasins, wampum belts, totem poles, ceremonial dresses, spiritual masks, catlinite peace pipes, dugout canoes, wood carvings from the Pacific Northwest and Alaska, whole sections of longhouses, hundreds of rare Kachina dolls, and weapons of war, including the rifles of Geronimo, Sitting Bull, and Crazy Horse. It is a mind-boggling collection with no exhibition area. I visited this warehouse. The first thought that came to my mind upon concluding my tour was "how obscene!" priceless, sacred items, placed in corrugated boxes. Items that would find a place of honor in any of the world's great museums, are found on shelves and not even labeled.

Under the provisions of this bill, this collection can be exhibited, viewed and studied by Indians, so that they can have access to their glorious past and the many contributions that their ancestors have made to America. Non-Indians will have the opportunity to develop a better understanding of the precious contributions that this country's native people have made to our history.

The Smithsonian Board of Trustees has found this collection to be of such priceless value, that they have gone on record favoring the transfer of this collection to Washington, and have taken the first step by setting aside for this museum, property at the foot of the Capitol, between the Botanic Garden and the Air and Space Museum. This spot is the only remaining unoccupied site on the Mall.

I believe the time has come to honor and remember the greatness of the first Americans, their wisdom, their leadership, their valor, and their contributions to the people of the United States.

Mr. President, I ask unanimous consent that a letter that was sent to our two leaders, Senator BYRD and Senator DOLE, by Senator WENDELL FORD, chairman of the Committee on Rules, and Senator STEVENS, the ranking minority member, and DANIEL EVANS, the vice chairman of the Select Committee on Indian Affairs to myself be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC, September 25, 1987.

Hon. ROBERT C. BYRD,
Majority Leader,
Hon. ROBERT DOLE,
Minority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER AND SENATOR DOLE: A bill to establish a museum and memorial to the American Indian as part of the Smithsonian Institution will be introduced today by the Chairman of the Indian Affairs Committee and 26 cosponsors. This bill authorizes the transfer of the collection of the Museum of the American Indian, Heye Foundation, in New York to the Smithsonian Institution and provides for the establishment of a permanent exhibition facility in the City of New York. The bill also provides that the skeletal remains of American Indians which are currently in the possession of the Smithsonian Institution, which have no scientific or archaelogical value to the institution, and which are not subject to any claim or dispute by any Indian tribe or group of Alaska Natives, would be interred in the memorial established under the bill.

Because of the importance of this bill to our respective committees, we are writing to request that you seek the unanimous consent of the Senate to have the bill jointly referred to the Committee on Rules and Administration and the Select Committee on Indian Affairs.

We very much appreciate your assistance in this matter.

Sincerely,

WENDELL H. FORD,
Chairman, Committee on Rules and Administration.
TED STEVENS,
Ranking Minority Member, Committee on Rules and Administration.
DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs.
DANIEL J. EVANS,
Vice-Chairman, Select Committee on Indian Affairs.

Mr. INOUYE. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1722

TITLE I

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the National American Indian Museum and Memorial Act.

SEC. 102. The Congress finds that—

(1) there is no national museum devoted exclusively to the history and art of cultures indigenous to North America, specifically Indians, Eskimos and Aleuts;

(2) although the Smithsonian Institution employs 5,500 people, operates 14 museums and galleries and 5 major research facilities, none of its institutions are devoted to Native American art and history;

(3) the Museum of the American Indian, Heye Foundation, located in New York City, has an unequalled assemblage of over 1,000,000 Indian art objects and artifacts and is the largest such collection in the world;

(4) the library of the Museum of the American Indian houses 40,000 volumes relating to the archaeology, ethnology and history of Native American peoples;

(5) the collection of the Museum of the American Indian, Heye Foundation, of art, artifacts, specimens and books is inadequately housed in three separate facilities totalling 90,000 square feet, with 95 percent of the collection of art and artifacts stored in 20,000 square feet and the collection of books kept in a 15,000 square foot library;

(6) the collection of the Museum of the American Indian, Heye Foundation needs a minimum of 400,000 square feet to adequately exhibit and store art and artifacts and to provide space for scholars and researchers;

(7) the transfer of the collection of the Museum of the American Indian, Heye Foundation to the Smithsonian Institution would—

(A) create an institution whose capabilities for exhibition and research would be unrivaled in scope and would give all Americans the opportunity to learn of the cultural legacy and historic grandeur of the American Indian people; and

(B) provide—

(i) a meeting place for scholars,

(ii) a significant, national facility for the exhibition of Indian art and artifacts,

(iii) a stage for the performing arts,

(iv) curation and other learning opportunities for American Indian people, and

(v) traveling exhibitions to other areas of the country;

(8) approximately 300 skeletal remains of Indians were collected from battlefields and burial grounds and sent to the Army Medical Museum by orders of the Surgeon General of the United States Army and were afterwards transferred to the Smithsonian Institution where they are still stored;

(9) the Smithsonian Institution has acquired a vast collection of Indian skeletal remains through—

(A) archaeological excavations,

(B) transfers from the United States Army of specimens collected during the Indian Wars era, and

(C) donations from private individuals and museums;

(10) the existence of this collection has been estimated to contain the remains of approximately 18,000 Indians, Eskimos, and Aleuts and has concerned many Indian tribes and bands who are determined to provide an appropriate resting place for their ancestors;

(11) a national memorial should be constructed in a suitable location on the Mall in the District of Columbia for the purpose of—

(A) interring those skeletal remains presently in the custody of the Smithsonian Institution which are not suitable for scientific inquiry, giving due regard to the religious and ceremonial beliefs and practices of those Indians, Aleuts and Eskimos whose ancestors may be included in the Smithsonian collection,

(B) commemorating and memorializing those Indian nations that have disappeared in the process of European settlement on this continent, and

(C) recognizing the Indian tribes and nations that live on their ancestral lands within the United States and acknowledging their historical contribution to American society;

(12) an extraordinary site on the National Mall in the District of Columbia (U.S. Government Reservation No. 6) which has been reserved for the use of the Smithsonian Institution is available for construction of a suitable building to permanently house the collection of the Museum of the American Indian, Heye Foundation; and

(13) the site should also contain a memorial to inter the remains of American Indians and Alaska Natives whose tribal affiliation is not capable of identification and whose remains are also unsuited for scientific inquiry.

SEC. 103. (a) There is established within the Smithsonian Institution a living memorial to American Indian people and their traditions which shall be known as the "National Museum of the American Indian, Heye Foundation" (hereinafter referred to in the Act as the "Museum") which shall provide for—

(1) the advancement of the study of anthropology, particularly in connection with that of the aboriginal peoples of the Americas and the study of their languages, literature, history, art, and life;

(2) for the collection, preservation, and exhibition of objects of artistic, historic, literary, and scientific interest related thereto; and

(3) programs of research and study.

(b) The area bounded by Third Street, Maryland Avenue, Independence Avenue, Fourth Street, and Jefferson Drive, in the District of Columbia, is hereby appropriated to the Smithsonian Institution as the permanent site of the Museum.

(c) The Board of Regents of the Smithsonian Institution is authorized—

(1) to accept a deed or other instrument donating and transferring to the Smithsonian Institution all assets of the Museum of the American Indian, Heye Foundation established under the foundation deed executed and delivered by George Gustav Heye on May 10, 1916 in the City of New York;

(2) to prepare architectural and engineering designs, plans, and specifications, and to construct at the site specified in subsection (b) of this section a building at least 400,000 square feet in size to house the Museum;

(3) to prepare architectural and engineering designs, plans, and specifications, and to construct at the Museum Support Center of the Smithsonian Institution in Suitland, Maryland, a building suitable for the care, conservation, and study of the collection of the National Museum of the American Indian, Heye Foundation; and

(4) to prepare architectural and engineering designs, plans, and specifications, and to construct or otherwise acquire a permanent exhibition facility in the City of New York as part of the Museum in a site as may be designated by the City of New York.

SEC. 104. (a) The identity of the Heye Foundation collection and its name and purposes shall be preserved, and the collection shall not be merged with the collection of the Smithsonian Institution.

(b) Subject to limitations expressly provided by law and, in the case of a gift, subject to applicable restrictions under the terms of such gift and provided that such gift is made upon terms and conditions that are in harmony with the purposes of the Heye foundation deed, the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

(c) All endowments for the benefit of the Museum of the American Indian, Heye Foundation in existence at the time of the transfer authorized in section 103(c)(1) shall be maintained for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution.

SEC. 105. (a) There is established within the Smithsonian Institution a Board of Trustees to be known as the Trustees of the National Museum of the American Indian, Heye Foundation (hereinafter referred to in the Act as the "Board of Trustees"). The Board of Trustees—

(1) shall provide advice and assistance to the Board of Regents of the Smithsonian Institution on all matters relating to the administration, operation, maintenance, and preservation of the Museum; and

(2) shall have sole authority to—

(A) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of property acquired pursuant to section 103(c)(1);

(B) subject to any limitations otherwise expressly provided by law, and, in the case of any gift, subject to any applicable restrictions under the terms of such gift, sell, exchange, or otherwise dispose of any property of whatever nature acquired pursuant to the provisions of this Act, provided, that the proceeds from the sale of any property acquired pursuant to section 103(c)(1) shall be designated for the exclusive benefit of the Museum and accounted for separately from other funds of the Smithsonian Institution;

(C) purchase, accept, borrow, or otherwise acquire additional artifacts or any other real or personal property for the National

Museum of the American Indian, Heye Foundation;

(D) preserve, maintain, restore, loan, exchange, sell or otherwise dispose of such additional artifacts or any other real or personal property;

(E) determine policy as to method of display of such artifacts contained in the Museum.

(b) the Board of Trustees shall—

(1) designate a chairman from among its members;

(2) adopt bylaws to carry out its functions;

(3) report annually to the Board of Regents on the acquisition, disposition, and display of artifacts and on other matters within its discretion; and

(4) submit an annual report to the Congress which shall include the proceedings of the Board and a full account of the Board's financial operations for the preceding fiscal year.

(c) The initial Board of Trustees shall consist of those members of the Board of Trustees of the Museum of the American Indian, Heye foundation who are serving as of the date of the transfer authorized under section 103(c)(1) and are willing to serve as Trustees of the National Museum of the American Indian, Heye Foundation and such others appointed by the Board of Regents for a total of twenty-one (21) members, all of whom shall be appointed to serve for a three-year term. In addition, the Secretary, and an Assistant Secretary of the Smithsonian Institution to be appointed by the Secretary, shall serve as ex-officio, nonvoting members of the initial Board of Trustees.

(d) Successor members of the Board of Trustees shall be appointed by the Board of Regents. The Board of Regents shall appoint successor members to the Board of Trustees as follows:

(1) twenty-one members, to be selected from nominations submitted by the Board of Trustees, of whom at least seven shall be of American Indian or Alaska Native ancestry; and

(2) the Secretary of the Smithsonian Institution, and an Assistant Secretary of the Smithsonian Institution to be appointed by the Secretary, who shall serve as ex-officio, nonvoting members.

(e) Following the expiration of the term of the initial Board of Trustees, the terms of office of the successor members of the Board of Trustees shall be as designated by the Board of Regents at the time of appointment on recommendation by the Board of Trustees, and shall expire one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

(f) A majority of the members of the Board of Trustees, not including ex-officio members, shall constitute a quorum and any vacancy in the Board of Trustees shall not affect its power to function.

(g) Members of the Board of Trustees shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 106. (a) The Board of Regents may appoint and fix the compensation and duties of the Director, in consultation with the Board of Trustees, and of such other officers and employees of the Museum as may be necessary for the efficient administration, operation, and maintenance of the Museum.

(b) The Director and two other employees of the Museum may be appointed and compensated without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, and Chapter 51 and subchapter III of Chapter 53 of Title 5 of the United States Code.

(c) All of the employees of the Museum of the American Indian, Heye Foundation who are serving on the date of the transfer authorized under section 103(c)(1) shall be offered employment by the Smithsonian Institution under its usual terms of employment and may be appointed without regard to the provisions of Title 5 of the United States Code governing appointments in the competitive service, and Chapter 51 and subchapter III of Chapter 53 of Title 5 of the United States Code.

SEC. 107. The faith of the United States is pledged that the United States shall provide such funds as may be necessary for the upkeep of the Museum and the administrative expenses and costs of operation thereof, including the protection and care of collections acquired by the Board of Regents, so that the Museum shall at all times be properly maintained and collections contained therein shall be exhibited regularly to the general public free of charge.

SEC. 108. (a) There is authorized to be appropriated to the Smithsonian Institution the sum of $3,000,000 in fiscal year 1988, and such sums as may be necessary for the succeeding fiscal year to carry out the purposes of this Act.

(b) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the museum building authorized in section 103(c)(2).

(c) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, in consultation with the Board of Trustees, of the building authorized in section 103(c)(3).

(d) There is authorized to be appropriated to the Smithsonian Institution such sums as may be necessary for the planning and construction, or other acquisition, of a permanent exhibition facility as authorized in section 103(c)(4).

(e) Any sums appropriated to carry out the purposes of this section may be transferred to the General Services Administration which, in consultation with the Smithsonian Institution, is authorized to enter into contracts and take such other action, to the extent of the sums so transferred to it, as may be necessary to carry out such purposes.

TITLE II

SEC. 201. (a) Within the structure authorized in section 103(c)(2), there shall be established a memorial to the American Indian which shall—

(1) honor and commemorate the contributions made by Indians and Alaska Natives to the United States; and

(2) provide a suitable place for the permanent disposition of certain skeletal remains, as identified in section 202 of this title, of American Indians and Alaska Natives.

(b) It is the intent of the Congress that the memorial and museum authorized in section 103(c)(2) should be completed within five (5) years after the date of enactment of this Act.

SEC. 202. Before the close of the fifth fiscal year after the date of enactment of this Act, the Secretary of the Smithsonian Institution shall determine, to the fullest extent possible, the geographical and tribal origin of all skeletal remains of Indians and Alaska Natives that are under the control of the Smithsonian Institution.

SEC. 203. (a) Upon completion of the construction of the memorial authorized in section 201 of this title, the Secretary of the Smithsonian Institution shall inter in the memorial all skeletal remains of Indians and Alaska Natives under the control of the Smithsonian Institution with respect to which the Secretary of the Smithsonian Institution has submitted to the Congress a written statement certifying after completion of the determinations required under section 202 of this title—

(1) that such remains—

(A) have not been identified by the Secretary of the Smithsonian as having been—

(i) associated with a specific Indian tribe or group of Alaska Natives, or

(ii) acquired from a specific archaeological or burial site, and

(B) are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives, or

(2) that—

(A) such remains have been identified by the Secretary of the Smithsonian Institution as having been associated with a specific Indian tribe or group of Alaska Natives,

(B) such tribe or group requests the interment of such remains in the memorial, and

(C) such remains are not likely to be the subject of any claim or dispute by any Indian tribe or group of Alaska Natives.

(b) The Secretary of the Smithsonian Institution shall consult with Indian tribes and groups of Alaska Natives to develop proper interment ceremonies, in accordance with Indian and Alaska Native religious practices, that shall be followed in interring skeletal remains.

SEC. 204. (a) The Board of Trustees of the Museum of the American Indian, Heye Foundation shall establish a Board of Design for the memorial which shall consist of seven members, a majority of whom shall be of American Indian or Alaska Native ancestry.

(b) The Board of Design is authorized to:

(1) receive designs for the memorial, and where practicable, to extend a preference to designs submitted by American Indians and Alaska Natives; and

(2) in consultation with and subject to the approval of the Board of Trustees and the Board of Regents, make a final selection from among the designs submitted.

SEC. 205. There is authorized to be appropriated for each fiscal year such sums as are necessary to carry out the provisions of title II of this Act.

SEC. 206. For the purposes of this Act—

(1) The term "Indian" means a person who is a member of an Indian tribe, including any individual who is an Alaska Native.

(2) The term "Alaska Native" means any Eskimo, Aleut, Alaska Indian, Inuit, or Inupiat.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which—

(A) is recognized by the Federal Government as eligible for special programs and services provided to Indians because of their status as Indians, or

(B) was terminated by Federal law after 1940.

(4) The term "Board of Trustees" means the Board of Trustees of the National

Museum of the American Indian, Heye Foundation.

(5) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

Mr. EVANS. Mr. President, I am pleased to join as a cosponsor of this legislation to establish a National Museum of the American Indian. This bill would provide a suitable location for the world's greatest collection of American Indian artifacts. And it would provide an honorable final resting place for the remains of many thousands of native Americans, now stored in boxes at the Smithsonian Institution.

The Museum of the American Indian, Heye Foundation is truly a national treasure, but it is fast becoming a national disgrace. George Gustav Heye collected artifacts from most of the indiginous cultures of the Western Hemisphere. The breadth of the collection is beyond the imagination of most, including myself. But the physical setting of the collection is shocking, and certainly jeopardizes its security and long-term safety from physical deterioration.

I commend the trustees and staff of the Heye Foundation Museum for their generosity in offering this collection as part of the Smithsonian Institution and for their willingness to consider a solution to the dilemma presented by the sad state of the Heye collection which looks beyond the somewhat narrow confines of the city of New York. I also commend the tireless efforts of Smithsonian Secretary Robert Adams and Indian Affairs Committee Chairman INOUYE to bring this proposal to fruition. Their vision will help add to the Smithsonian Institution what could be considered the most important addition of the era.

Mr. President, I am pleased to note that several of my colleagues in the Senate leadership and members of the Select Committee on Indian Affairs have chosen to join us as cosponsors of this legislation. I urge all the remaining Members of the Senate, and our colleagues in the House of Representatives, to join us in what should truly be seen as a national initiative.

Mr. DOMENICI. Mr. President, I am very proud to join with the distinguished chairman of the committee [Mr. INOUYE] in sponsoring this bill to provide native American art and culture a place of honor in our Nation's Capital.

This bill will assure that the magnificent collection of Indian artifacts owned by the George Gustav Heye Foundation of New York will receive proper care and display. This collection contains over 700,000 important articles, and a 40,000-volume collection of books.

The foundation is seeking a facility for the proper exhibition and storage of this great collection. Happily, a vacant site on The Mall here in Washington has been reserved for the use of the Smithsonian Institution. It is available.

At the present time, this fine collection is located in three separate sites. Less than 5 percent of the artifacts are on public display. The storage facilities are sadly inadequate, and the collection is threatened with serious deterioration.

This collection, the very best Indian collection in the world, features everything from beaded ceremonial dresses and burial moccasins to medicine bundles and peace pipes.

And what better and more appropriate location for the construction of a Museum of the American Indian than on The Mall here in Washington, a location offering national and international exposure.

Specifically, this bill will:

First, establish the National Museum of the American Indian.

Second, authorize transfer of the Heye Foundation to the Smithsonian Institution, while maintaining the collection's identity.

Third, establish a memorial to the American Indian, recognizing the great contributions that Indians and Alaska Natives have made to the United States, providing a suitable place for the displaced skeletal remains.

Fourth, authorizes $3,000,000 in fiscal year 1988 to complete a feasibility study, plus an amount yet to be determined for planning, construction, and operation of facilities on The Mall, as well as in Suitland, MD, and New York City.

This bill affords all Americans a wonderful opportunity to reflect upon the historical, artistic, and cultural heritage of those indigenous to North America: Indians, Eskimos, and Aleuts.

Through this legislation, Congress and the American people will be able to commemorate and memorialize those Indian nations that disappeared in the process of European settlement on this continent. We can educate all our citizens about the Indian tribes and nations that now live on their ancestral lands within the United States, and acknowledge their many great contributions to our society.

Mr. President, I urge the Senate to take early and favorable action on this important proposal.

Mr. BYRD. Mr. President, I ask unanimous consent that Senator INOUYE's Indian museum bill, S. 1722, be jointly referred to the Committee on Rules and the Select Committee on Indian Affairs.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 1723. A bill to authorize the establishment of certain regional exhibition facilities as part of the Museum of the American Indian, and for other purposes; referred to the Select Committee on Indian Affairs.

AMERICAN INDIAN REGIONAL MUSEUM ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce the American Indian Regional Museum Act—legislation I hope will help take the rich national collection of Indian art and artifacts closer to the citizens of this Nation.

I was pleased to join many of my colleagues earlier today in introducing the National American Indian Museum and Memorial Act. That legislation would establish the National Museum of the American Indian within the Smithsonian Institution. I strongly support Senators BYRD and INOUYE in their desire to bring this important collection to the Smithsonian and our Nation's Capital.

My legislation, which is cosponsored by Senator INOUYE, would go one step further. It would authorize the Smithsonian, with the cooperation of the National Park Service, to establish five regional museums in the United States so that more of our citizens can enjoy our national treasure of Indian art and culture. It is incumbent upon us to make these treasures as available to as many Americans as possible. The regional museums would do that, and in so doing, enrich and educate the American people.

For too long, we have witnessed a steady erosion and removal of artifacts from Indian religious and sacred sites in every region of the country. The cultural legacy of the American Indian, as defined by art, is slowly disappearing from our pueblos and reservations. My legislation is a small step toward ensuring that some of these artifacts are returned to the area from which they were collected.

I strongly endorse the proposed creation of a National Indian Museum on The Mall in Washington as part of the Smithsonian family of museums; however, the time has come for a family of satellite museums to make these native treasures more available to all Americans.

The statistics clearly reflect why my legislation is needed. It is anticipated that the current museum in New York only displays 5 percent of its available collection of 1 million native American objects. This means that over 950,000 objects are unavailable for public viewing and appreciation. Can there be any doubt that it would be far better to showcase this art—especially in the very areas that it was first found?

I have long been concerned about the need for regional museums. Growing up in southwestern New Mexico—the location of the historic Mimbres Valley and rich Mimbres culture—there was little opportunity for me or others to see the artifacts collected from the region. Unfortunately, most of these artifacts are found exclusively in museum collections on the east coast and not in the Southwest.

In 1983, I participated in a hearing in New Mexico on the issue of cultural resource management. At that hearing, Federal, State, and local officials, archeologists, and Indian leaders clearly stated that our cultural heritage was improperly protected and preserved. After this hearing, I asked the General Accounting Office to review the management of cultural resources on public lands in the Southwest and the extent of the loss of these resources. Its tentative findings reveal alarming incidents of theft and vandalism at Indian and other cultural sites.

This threat to our cultural legacy creates another incentive to establish regional museums. The presence of the museums with their educational and interpretive programs will help increase awareness of the importance of preserving and protecting the remnants of our past.

My legislation also requires that a comprehensive interpretive program be implemented to explain the relevance of the art displayed. This interpretive program will be an important educational tool in appreciating and understanding Indian culture.

The legislation also calls for an active exhibit program that would travel within each region to bring the art and history to schools and local communities, which may not otherwise be able to host such an exhibit. Returning the art and artifacts to their native regions is an integral part of this legislation.

I would hope that parents in New Mexico would not have to bring their children all the way to Washington to view objects that may have been taken from their own backyards decades ago. Certainly, excellent private and public museums in every State have done important work in preserving and protecting our history and culture. I hope my legislation will be viewed as an important addition to those efforts.

While we are celebrating that great document, our Constitution, we should also recognize that the land is filled with other treasures that must be preserved, protected, and appreciated.

Mr. President, I ask unanimous consent to print the bill in the RECORD at this point:

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1723

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "American Indian Regional Museum Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) the collection of Indian art and artifacts of the Museum of the American Indian represents a genuine national treasure that deserves to be shared by all citizens of this country;

(2) although this museum contains over 1,000,000 art objects and artifacts collected from Indian tribes throughout the United States and is the largest such collection in the world, there are no regional facilities where these artifacts can be displayed for the enjoyment and appreciation of all citizens;

(3) only 5 percent of the permanent collection of the Museum is on public display leaving the remaining 95 percent unavailable for viewing by the American public;

(4) many of these artifacts have been taken from Indian communities, and there is little opportunity for these objects to be returned to the areas from which they were collected;

(5) this denies many people the ability to appreciate the rich legacy of the American Indian and Alaskan Native heritage;

(6) additionally, there is no national interpretative or educational program to provide local schools and communities the opportunity to enjoy the significant collection; and

(7) in order to enrich our appreciation of the cultural achievements of the Indian people, it is necessary to create a national system of regional facilities where these artifacts can be properly displayed and appreciated.

REGIONAL FACILITIES

SEC. 3. (a) At such time as the United States acquires the Museum of the American Indian, Heye Foundation, the Board of Regents of the Smithsonian Institution, in consultation and cooperation with the Secretary of the Interior, is authorized to establish, in each of the southwestern, northwestern, northeastern, and southeastern parts of the United States, and in the States of Hawaii and Alaska, a suitable facility for the purpose of using each such facility as a permanent regional exhibition facility as part of the Museum of the American Indian, and to prepare such architectural and engineering designs, plans, and specifications of such facilities as may be necessary for purposes of this Act. Each such facility shall be operated and maintained as a regional facility and as part of such Museum.

(b)(1) Each facility established pursuant to this section shall provide exhibit space for Indian artifacts as well as serve as a comprehensive interpretative and educational center that would highlight the significant historical, artistic, and cultural achievements of the Indian people of the region in which such facility is established.

(2) It shall be the function of each such facility, among others, to sponsor and coordinate a variety of traveling representative exhibits to schools and to local communities in each region. Such exhibits shall stress the rich cultural legacy of the Indian people and increase educational awareness among citizens in each region.

ADVISORY COUNCIL

SEC. 4. The Board of Regents of the Smithsonian Institution shall appoint an Advisory Council within each region to work with the Institution to establish museum policy with respect to such regional facilities, to oversee museum curation and acquisitions for such facilities, and to provide necessary technical assistance. Each Advisory Council shall have not less than eleven members, and shall be composed of individuals knowledgeable and experienced in the Indian arts and cultures of the region in which such regional facility is established. Preference for membership on an Advisory Council shall be given to American Indians and Alaskan Natives.

AUTHORIZATION

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. MOYNIHAN, the name of the Senator form Idaho [Mr. SYMMS] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 418

At the request of Mr. WALLOP, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 418, a bill to amend the Tax Reform Act of 1986 to restore the preferential treatment for capital gains, and for other purposes.

S. 629

At the request of Mr. BINGAMAN, the names of the Senator from Montana [Mr. MELCHER], the Senator from Maryland [Mr. SARBANES], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 629, a bill to establish literacy progams for individuals of limited English proficiency.

S. 840

At the request of Mr. THURMOND, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 1069

At the request of Mr. BINGAMAN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1069, a bill to revise and extend the older American Indian Grant Program under the Older Americans Act of 1965, and for other purposes.

S. 1081

At the request of Mr. BINGAMAN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such progam and plan.

S. 1188

At the request of Mr. Symms, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1348

At the request of Mr. Bingaman, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 1348, a bill to establish in the Department of Education an Office of Comprehensive School Health Education, and for other purposes.

S. 1484

At the request of Mr. Grassley, the name of the Senator from Idaho [Mr. McClure] was added as a cosponsor of S. 1484, a bill to provide permanent authorization for White House Conference on Rural Development and the Family Farm.

S. 1518

At the request of Mr. Rockefeller, the names of the Senator from Virginia [Mr. Trible], the Senator from Delaware [Mr. Biden], and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 1518, a bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

S. 1520

At the request of Mr. Baucus, the names of the Senator from California [Mr. Cranston], the Senator from Ohio [Mr. Metzenbaum], the Senator from Connecticut [Mr. Weicker], the Senator from New Mexico [Mr. Bingaman], the Senator from Florida [Mr. Chiles], and the Senator from Oklahoma [Mr. Boren] were added as cosponsors of S. 1520, a bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 1541

At the request of Mr. Reid, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 1541, a bill to provide veterans' benefits to persons who served as seamen in the U.S. merchant marine during World War II.

S. 1600

At the request of Mr. Ford, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1622

At the request of Mr. Daschle, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 1622, a bill to amend the Internal Revenue Code of 1986 to treat rural electric or telephone cooperatives in the same manner as other cooperatives for purposes of the book income preference under the minimum tax.

S. 1623

At the request of Mr. Daschle, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 1623, a bill to amend the Internal Revenue Code of 1986 to permit rural telephone cooperatives to have qualified cash or deferred arrangements, and for other purposes.

S. 1647

At the request of Mr. Chiles, the names of the Senator from North Dakota [Mr. Burdick], the Senator from Arizona [Mr. DeConcini], and the Senator from Iowa [Mr. Grassley] were added as cosponsors of S. 1647, a bill to reform the laws relating to former Presidents.

SENATE JOINT RESOLUTION 177

At the request of Mr. Thurmond, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of Senate Joint Resolution 177, a joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month."

SENATE JOINT RESOLUTION 184

At the request of Mr. Riegle, the names of the Senator from South Carolina [Mr. Hollings], the Senator from New Jersey [Mr. Bradley], the Senator from New Jersey [Mr. Lautenberg], the Senator from West Virginia [Mr. Rockefeller], the Senator from Mississippi [Mr. Stennis], the Senator from Hawaii [Mr. Matsunaga], the Senator from Massachusetts [Mr. Kerry], the Senator from Indiana [Mr. Quayle], the Senator from Minnesota [Mr. Durenberger], the Senator from Mississippi [Mr. Cochran], the Senator from Arizona [Mr. McCain], the Senator from Kansas [Mr. Dole], the Senator from Oregon [Mr. Packwood], the Senator from North Carolina [Mr. Helms], the Senator from Colorado [Mr. Armstrong], the Senator from Maine [Mr. Cohen], the Senator from Oklahoma [Mr. Nickles], the Senator from Connecticut [Mr. Dodd], the Senator from Maryland [Ms. Mikulski], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the name of the Senator from New Hampshire [Mr. Humphrey] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

AMENDMENT NO. 706

At the request of Mr. Melcher, his name was added as a cosponsor of amendment No. 706 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

SENATE RESOLUTION 288—ORIGINAL RESOLUTION REPORTED RELATING TO AMENDMENTS TO TRADE AGREEMENTS IF SUCH AMENDMENTS RELATE TO DOMESTIC OR FOREIGN WATERBORNE COMMERCE OF THE UNITED STATES

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 288

Resolved, That, with respect to the Senate, the provisions of section 151(d) of the Trade Act of 1974 (19 U.S.C. 2191(d)) (relating to the prohibition of amendments) shall not apply to an amendment to an implementing bill or approval resolution relating to the domestic or foreign waterborne commerce of the United States.

SENATE RESOLUTION 289—ESTABLISHING MINING AWARENESS WEEK

Mr. BYRD (for himself and Mr. Warner) submitted the following resolution; which was placed on the calendar:

S. Res. 289

Whereas, the minerals extracted from the earth have opened doors to progress throughout history and are vital to the continuation of civilization;

Whereas, modern mining machinery, equipment and services permit the best available mining and reclamation technology on industry properties;

Whereas, the mining industry has made and will continue to make essential contributions to the industrial development of the United States, its standard of living, national security, and international competitiveness;

Whereas, the ability of the domestic mining industry to survive and prosper at home and in the international market is vital to the economic well-being and world leadership position of the nation: Now, therefore, be it

Resolved, that the Senate of the United States hereby proclaims April 24-30, 1988, Mining Awareness Week, in recognition of the domestic mining industry, which created, established and maintained our Nation's industrial cornerstone resulting in benefits to the entire world.

AMENDMENTS SUBMITTED

TREASURY, POSTAL SERVICE, EXECUTIVE OFFICE OF THE PRESIDENT, AND INDEPENDENT AGENCIES APPROPRIATION, 1988

DECONCINI (AND DOMENICI) AMENDMENT NO. 738

Mr. DECONCINI (for himself and Mr. DOMENICI) proposed an amendment to the bill (H.R. 2907) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 17, line 3 and line 7, delete the citation "453(c)" and insert in lieu thereof the citation "453C";

On page 44, line 4, after the comma, delete the words through the first comma on line 8.

On page 72, line 9, beginning with the word "for", delete the line-type through the word "granted" on line 10;

On page 81, line 19, delete the word "national".

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

ROTH (AND NUNN) AMENDMENT NO. 739

Mr. ROTH (for himself and Mr. NUNN) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 43, after line 21, insert the following new section:

SEC. . Of the funds appropriated pursuant to Sec. , $50,000 shall be provided to the North Atlantic Interparliamentary Assembly for a Study on the Future of the North Atlantic Treaty Organization.

ROTH AMENDMENT NO. 740

Mr. ROTH proposed an amendment to the bill (S. 1174) supra; as follows:

On page 37, after line 10, insert the following new section:

SEC. . ELIGIBILITY OF MAJOR NON-NATO ALLIES TO COMPETE ON CERTAIN MAINTENANCE CONTRACTS.

(a) IN GENERAL.—Any major non-NATO ally shall be eligible to bid under competitive procedures and any Department of Defense contract for maintenance, repair, and overhaul associated with the European workload program. Any contract with such a non-NATO ally may be carried out in the ally's facilities or in facilities in NATO/Europe.

(b) DEFINITION.—For purposes of subsection (a), The term "Major Non-NATO Ally" has the meaning given that term by Section 1105(g)(1) of the Department of Defense Authorization Act, 1987 (Public Law 99-661).

QUAYLE (AND LEVIN) AMENDMENT NO. 741

Mr. QUAYLE (for himself and Mr. LEVIN) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT REGARDING NATO DEFENSES.

(a) IN GENERAL.—The Secretary of Defense in consultation with the Supreme Allied Commander, Europe, shall submit to Congress a report on the options available to the North Atlantic Treaty Organization (NATO) to ensure continued deterrence against war in Europe and continued NATO unity in light of the proposed Intermediate Range Nuclear Treaty (INF) between the United States and the Soviet Union. The report shall include, at a minimum, the following:

(1) Requirements for nuclear modernization of NATO.

(2) Non-nuclear forces that would be needed to support the operational concept of Follow-on-Forces Attack (FOFA).

(3) The status of improvements being made in the air defenses of NATO in Europe.

(4) Possible effects of a conventional arms control agreement on the military balance between NATO and Warsaw Pact forces.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (a) not later than January 31, 1988, or before the President submits to the Senate for its advice and consent any treaty relating to intermediate range nuclear missiles in Europe, whichever occurs first.

QUAYLE AMENDMENTS NOS. 742 AND 743

Mr. QUAYLE proposed two amendments to the bill (S. 1174) supra; as follows:

AMENDMENT No. 742

At an appropriate place in the bill, add the following new section:

SEC. . REPORT ON MANPOWER REQUIRED TO IMPLEMENT THE MISSILE TECHNOLOGY CONTROL REGIME.

(a) Not later than February 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report identifying the functional responsibilities of the Department of Defense for implementing the Missile Technology Control Regime, describing the number and skills of personnel currently available in the Department of Defense to perform these functions, and assessing the adequacy of these resources for the effective performance of this mission.

(b)(1) The report described in subsection (a) shall identify the total number of current Department of Defense full-time employees or military personnel, the grades of such personnel, and the special knowledge, experience, and expertise of such personnel to carry out each of the following Missile Control Technology Regime tasks:

(A). Review of private-sector export license applications and government-to-government cooperative activities.

(B). Intelligence analysis and activities.

(C). Policy coordination.

(D). International liaison activity.

(E). Enforcement and technology security operations.

(F). Technical review.

(b)(2) The report shall contain the Secretary's assessment of the adequacy of staffing in the categories specified above in sections (b)(1)(A-F), and shall make recommendations on measures, including legislation if necessary, to eliminate any identified staffing deficiencies, and to improve interagency coordination.

AMENDMENT No. 743

On page 24, beginning with line 20, strike out all down through line 14 on page 25 and insert in lieu thereof the following:

SEC. 234. REPORTS ON STRATEGIC DEFENSE INITIATIVE PROGRAMS.

(a) IN GENERAL.—At the time the submission by the Secretary of Defense to the Congress of his annual budget presentation materials for each of the fiscal years 1989 and 1990 (but not later than March 15 of the calendar year in which such fiscal year begins), the Secretary of Defense shall transmit to Congress a report on the programs that constitute the Strategic Defense Initiative and other programs, if any, relating to defense against ballistic missiles. Each such report shall include the following:

(1) Details of all programs and projects included in the Strategic Defense Initiative or relating to defense against strategic ballistic missiles.

(2) A clear definition of the objectives of the Strategic Defense Initiative.

(3) An explanation of the relationship between each such objective and each program and project associated with the Strategic Defense Initiative or defense against strategic ballistic missiles.

(4) The status of consultations with other member nations of the North Atlantic Treaty Organizations, Japan, and other appropriate allies concerning research being conducted in the Strategic Defense Initiative program.

(5) A statement of the compliance of the planned SDI development and testing programs with existing arms control agreements, including the antiballistic missile treaty.

(6) A review of possible Soviet countermeasures to specific Strategic Defense Initiative programs and an evaluation of the adequacy of the SDI programs outlined in this report to respond to such countermeasures.

(7) Details on the funding of programs and projects for the Strategic Defense Initiative, including—

(A) prior and current year funding levels for all such programs, projects, and tasks in the Strategic Defense Initiative budgetary presentation materials;

(B) the amount requested to be appropriated for such programs, projects, and tasks for the fiscal year for which the budget is submitted; and

(C) the amount programmed to be requested for the following fiscal year.

(8) Details on what Strategic Defense Initiative technologies can be developed or deployed within the next 5 to 10 years to defend against significant military threats and help accomplish critical military missions. The missions to be considered include—

(A) defending the United States Armed Forces abroad and United States allies against tactical ballistic missiles, particularly new and highly accurate Soviet shorter range ballistic missiles armed with conventional, chemical, or nuclear warheads;

(B) defending against an accidental launch of strategic ballistic missiles against the United States;

(C) defending against a limited but militarily effective Soviet attack aimed at disrupting the National Command Authority or other valuable military assets;

(D) providing sufficient warning and tracking information to defend or effectively evade possible Soviet attacks against military satellites including those in high orbits;

(E) provide early warning and attack assessment information and the necessary survivable command control, and communications to facilitate the use of U.S. military forces in defense against possible Soviet conventional or strategic attacks;

(F) providing protection of U.S. population from a Soviet nuclear attack; and

(G) any other significant near-term military mission that the application of SDI technologies might help to accomplish.

(9) for each of the near-term military missions listed in (8), the report shall include

(A) a list of specific program elements of the Strategic Defense Initiative that are pertinent to these applications;

(B) the Secretary's estimate of the initial operating capability dates for the architectures or systems to accomplish these missions;

(C) the Secretary's estimate of the level of funding necessary for each program to reach these operating capability dates; and

(D) the Secretary's estimate of the survivability and cost effectiveness at the margin of these architectures or systems against current and projected Soviet threats.

(b) Repeals.—Section 1102 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2431 note), and section 215 of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 3843), are repealed.

HEINZ (AND OTHERS) AMENDMENT NO. 744

Mr. HEINZ (for himself, Mr. Cohen, Mr. Nickles, Mr. Quayle, Mr. McCain, Mr. McClure, Mr. Kasten, and Mr. Boren) proposed an amendment to the bill (S. 1174) supra; as follows:

At the end of the bill, add the following new section:

Sec. . (a) The Congress finds that the use of salary remission arrangements whereunder the nationals of member states of the United Nations serving as employees of the United Nations Secretariat or its specialized agencies are required to turn over their salaries to their national governments and retain only a portion of the salary paid to them by the United Nations violates the United Nations Charter and seriously compromises the independence of the United Nations' international civil service.

(b) The elimination of salary remission arrangements that compromise the independence of the international civil service should be a high priority of the United States in its efforts to reform the personnel practices of the United Nations system.

(c) Fifty percent of the funds made available for each fiscal year by any provision of law to meet the obligations of the United States for assessed contributions to the United Nations and its specialized agencies may not be obligated until the President certifies to the Congress that significant progress has been made within the United Nations Secretariat and the United Nations specialized agencies in eliminating—

(1) the excessive use of secondment by member states whereunder nationals of the member states serving as employees of the United Nations Secretariat are seconded to such employment on fixed-term contracts and not allowed to become regular career employees of the United Nations, with a view to implementing the recommendations of the Group of 18 with respect to limits on the use of secondment; and

(2) the blatant control of nationals of member states serving as employees of the United Nations Secretariat or the specialized agencies through regular supervision, consultation, and evaluation of such nationals of member states by their permanent missions to the United Nations or to the specialized agencies of the United Nations.

INOUYE AMENDMENT NO. 745

Mr. INOUYE proposed an amendment to the bill (S. 1174) supra; as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. 2826. LAND CONVEYANCE, FORT DeRUSSY, HAWAII.

(a) In General.—Notwithstanding any other provision of law restricting the sale, lease, rental, or other disposition of any lands which comprise a portion of Fort DeRussy, Hawaii, the Secretary of the Army may convey to the State of Hawaii the City and County of Honolulu, Hawaii, at fair market value (as determined by the Secretary), all right, title, and interest of the United States in and to not to exceed 45 acres of land (together with improvements thereon) which lie northeast of Kalia Road in Honolulu and which constitute a portion of Fort DeRussy, Hawaii.

(b) Authority of the Secretary To Acquire Other Lands and Construct Replacement Facilities.—The Secretary may acquire land in the vicinity of Honolulu, Hawaii, and design and construct on such land such facilities as may be necessary to replace those facilities on the land conveyed pursuant to subsection (a). The Secretary may also relocate activities currently located on the land conveyed pursuant to subsection (a) to the replacement facilities.

(c) Use and Disposition of Funds.—The proceeds of the sale authorized by subsection (a) shall be available without fiscal year limitation to acquire land and replacement facilities authorized to be acquired and constructed pursuant to subsection (b) and to pay associated relocation costs. Any funds which may remain after the acquisition of such land and replacement facilities and the payment of associated relocation costs shall be deposited in the Treasury as miscellaneous receipts.

(d) Legal Description and Surveys.—The exact acreage and legal description of the real property to be conveyed under this section shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city and county of Honolulu.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance authorized in subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

McCLURE (AND SYMMS) AMENDMENT NO. 746

Mr. McCLURE (for himself and Mr. Symms) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 216 following line 8, insert the following new section:

SEC. 3133. ACQUISITION STRATEGY FOR A NEW PRODUCTION REACTOR.

(a) The Secretary of Energy shall submit to the committee on Armed Services of the Senate and House of Representatives a report describing the acquisition strategy of the secretary for new production capacity as soon as possible after the date of enactment of this act, but not later than February 1, 1988.

(b) The report in subsection (a) should contain but not be limited to, an evaluation of the alternative sites anddn technologies, including all safety features considered, their associated costs and schedules, and the recommendation of the Secretary of Energy with respect to the preferred alternatives. The report in subsection (a) shall also include the recommendations of the Secretary of Energy with respect to an acquisition strategy, either in a phased approach or concurrently, technologies in different locations.

HOLLINGS (AND OTHERS) AMENDMENT NO. 747

Mr. HOLLINGS (for himself, Mr. Dole, and Mr. Wilson) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14 insert the following new section:

"SEC. . TESTING PROGRAM FOR DRUG, CHEMICAL, AND ALCOHOL USE AND DEPENDENCY PRIOR TO ENTRY OR REENTRY INTO THE ARMED FORCES.

"(a) Under uniform regulations prescribed by the Secretary of Defense, testing shall be required for drug, chemical, and alcohol use and dependency for any indivdual prior to entry into the Armed Forces.

"(b) Testing required under paragraph (a) shall be conducted as part of a pre-registration physical prior to entry into Active, Reserve, or National Guard Units whether under the direct accession or delayed entry programs.

"(c) Failure to consent to the testing program prescribed in paragraph (a) shall disqualify an individual for entry into the units described in paragraph (b).

"(d)(1) The Secretary of Defense shall prescribe regulations to implement this Section not later than 45 days after the date of the enactment of this Act.

"(2) The effective date for initiation of the testing program prescribed by this Section shall be no later than 180 days after the enactment of this Act."

HELMS AMENDMENT NO. 748

Mr. HELMS submitted an amendment to the bill (S. 1174) supra; as follows:

Add at the end of the bill the following new section:

Sec. . (a) notwithstanding any other provision of law and, particularly, the Vienna Convention on Diplomatic Relations, done on April 18, 1961, and the Vienna Convention on Consular Relations, done on April 24, 1963, members of a foreign diplomatic mission (other than diplomatic agents) and members of a foreign consular post (other than consular officers) shall not be entitled to immunity from the criminal jurisdiction of the United States (or of any State) for any crime of violence, as defined in section 16 of title 18, United States Code, or for reckless driving or driving while intoxicated or under the influence of alcohol or drugs.

(b) For purposes of this Section—

(1) the term "consular officer" has the same meaning as is given to such term in Article 1(1)(d) of the Vienna Convention on Consular Relations;

(2) the term "diplomatic agent" has the same meaning as is given to such term in Article 1(e) of the Vienna Convention on Diplomatic Relations;

(3) the term "members of a foreign consular post" is used within the meaning of Article 1(1)(g) of the Vienna Convention on Consular Relations; and

(4) the term "members of a foreign diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations.

(c) This Section may be cited as the "American Citizen Protection Act of 1987."

(d) Notwithstanding any other provision of law or of this Act, if the President, in considering factors of reciprocity and perceived obligations of international law, determines and so certifies to Congress that the national interest of the United States requires the exclusion of certain individuals from the coverage of the provisions of Section 1 of this Act, then the President may exclude from such coverage up to 5,000 foreign nationals who are family of foreign diplomats or support staff of foreign diplomatic or international missions in the United States; provided, however, that the assertion of diplomatic immunity on behalf of a person so excluded shall be made in the appropriate judicial forum only by the Ambassador to the United States from the sending foreign sovereign of which such person is a national and such person shall immediately thereafter be declared persona non grata, forthwith expelled from the United States, and denied re-entry. The President shall direct the Office of Foreign Missions to publish in the Federal Register not less than once annually a list of foreign nationals, if any, excluded pursuant to the provisions of this Section.

(e) Section 1732 of Title 22 of the United States Code is hereby reenacted and made a part hereof and incorporated herein by reference."

CONRAD (AND OTHERS) AMENDMENT NO. 749

Mr. CONRAD (for himself, Mr. Sasser, and Mr. Metzenbaum) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. SENSE OF CONGRESS RELATING TO SUPPORT OF MUTUAL DEFENSE ALLIANCE.

(a) Findings.—Congress makes the following findings:

(1) Japan, the member nations of the North Atlantic Treaty Organization (NATO), and othr countries rely heavily on the United States to protect their national security under mutual defense alliances.

(2) The United States spends more than $100,000,000,000 annually to provide the defense umbrella for the allies of the United States.

(3) The financial burden * * * assumed by many NATO allies and Japan is not commensurate with their economic resources, and, as a result, the United States is forced to bear a disproportionately large share of the financial burden of supporting such mutual defense.

(4) While the United States is currently spending 6.5 percent of its gross national product on defense, our NATO allies spend an average of 3.5 percent of their gross national products on defense and Japan spends only 1.0 percent of its GNP on defense.

(5) The greatest weakness in the ability of the United States to provide for the mutual defense of the United States and its allies is not the military capability of the United States, but rather the economic vulnerability of the United States.

(6) The level of Federal spending must be reduced in order to reduce the Federal budget deficit and revitalize the economy.

(7) The continued unwillingness of the allies of the United States to increase their contributions to the vitality, effectiveness, and cohesion of the * * * alliances between those countries and the United States.

(b) Policy.—It is the sense of Congress that—

(1) the President should enter into negotiations with countries which participate in mutual defense alliances with the United States, especially the member nations of the NATO and Japan, for the purpose of reaching an agreement on a more equitable distribution of the burden of financial support for the alliances;

(2) the objective of such negotiations with the member nations of NATO and Japan should be to establish a schedule of increases in defense spending by our NATO allies and Japan or a system of offsetting payments that is designed to achieve, to the maximum practicable extent, a division of responsibility for defense spending between those allies and the United States that is commensurate with their resources; and

(3) the President should report to Congress, within one year after the date of the enactment of this Act, on the progress of such negotiations.

(4) if, in the judgement of the Congress, the President's report does not reflect substantial progress toward a more equitable distribution of defense expenses among the members of a mutual defense alliance, the Congress should review the extent of the distribution of the mutual defense burden among our allies and consider whether additional legislation is appropriate.

D'AMATO (AND OTHERS) AMENDMENT NO. 750

(Ordered to lie on the table.)

Mr. D'AMATO (for himself, Mr. DeConcini, Mr. Wilson, Mr. Dixon, and Mr. Graham) submitted an amendment intended to be proposed by them to the bill (S. 1174) supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES.

(a) In General.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) AUTHORITY TO CONTRACT OUT.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) REPORT.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) TRANSFER OF FUNDS.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts:

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

BYRD AMENDMENT NO. 751

Mr. BYRD proposed an amendment to the bill (S. 1174) supra; as follows:

On page 180, line 7, strike out "$55,300,000" and insert in lieu thereof "$55,900,000".

HARKIN (AND OTHERS) AMENDMENT NO. 752

Mr. HARKIN (for himself, Mr. MATSUNAGA, and Mr. BUMPERS) proposed an amendment to the bill (S. 1174) supra; as follows:

At the appropriate place insert:

SEC. . That, notwithstanding any other provision of law, no person serving on active duty as a commissioned officer of the Armed Forces of the United States may serve as the Assistant to the President for National Security Affairs or otherwise be employed within the executive Office of the President as the primary assistant to the President on national security affairs.

DOLE (AND OTHERS) AMENDMENT NO. 753

Mr. DOLE (for himself, Mr. SYMMS, Mr. WALLOP, Mr. QUAYLE, Mr. WARNER, Mr. WILSON, Mr. COCHRAN, and Mr. NUNN) proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place, insert the following:

The Senate finds that:

The Armed Forces of the United States are engaged in escort operations in the Persian Gulf in support of American national security interests and the principle of freedom of navigation;

The government of Iran, through the use of its armed forces and revolutionary guards, is engaging in ongoing activities to disrupt shipping in the Persian Gulf;

On September 21-22 a joint operation of United States Army and Naval forces succeeded in detecting in the act, tracking and neutralizing an Iranian mine-laying activity;

The success of that joint operation, by serving notice on Iran that the United States will react decisively and effectively to such activity, may lead to a reduced risk to American interests and armed forces from such activity;

There is precedent throughout American history for Congress to recognize and commend similar operations by United States Armed Forces, including the action of the Congress February 3, 1801, in praising "the gallant conduct" of the members of a United States Naval force in the Wars with the Barbary Powers.

Therefore, it is the sense of the Senate of the United States that:

1. The members of the United States Armed Forces who participated in the September 21-22 operation acted in the finest traditions of the Armed Forces, and displayed exemplary professionalism, skill and dedication.

2. The aforementioned members of the Armed Forces, and all United States Armed Forces personnel who supported their operation, are commended for their participation in this important and successful endeavor.

EVANS (AND OTHERS) AMENDMENT NO. 754

Mr. EVANS (for himself, Mr. ADAMS, and Mr. HATFIELD) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 199, increase the amount on line 2 by $54,000,000.

On page 206, increase the amount on line 22 by $7,000,000.

On page 206, increase the amount on line 24 by $17,500,000.

D'AMATO (AND OTHERS) AMENDMENT NO. 755

Mr. D'AMATO (for himself, Mr. DECONCINI, Mr. WILSON, Mr. DIXON, Mr. GRAHAM, and Mr. MURKOWSKI) proposed an amendment to the bill (S. 1174 supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . STUDY RELATING TO CAPABILITIES FOR THE CONTROL OF DRUG SMUGGLING INTO THE UNITED STATES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a comprehensive study regarding illegal drug smuggling into the United States and the current capabilities of the United States to deter such smuggling. In carrying out such study, the Comptroller shall—

(1) assess the national security implications of illegal drug smuggling into the United States;

(2) assess the magnitude, nature, and operational impact that current resource limitations have on the drug smuggling interdiction efforts of Federal law enforcement agencies and the capability of the Department of Defense to respond to requests for assistance from those law enforcement agencies;

(3) assess the impact on military readiness, the costs that would be incurred, the operational effects on military and civilian agencies, the potential for improving drug interdiction operations, and the methods for implementing increased drug law enforcement assistance by the Department of Defense under section 825 of H.R. 1748 as reported in the Senate on June 2, 1987, as if such section were enacted into law and were to become effective on January 1, 1988;

(4) assess results of a cooperative drug enforcement operation between the United States Customs Service and National Guard units from the States of Arizona, Utah, Missouri, and Wisconsin conducted along the United States-Mexico border beginning on August 29, 1987, and include in the assessment information relating to the cost of conducting the operation, the personnel and equipment used in such operation, the command and control relationships in such operation, and the legal issues involved in such operation;

(5) determine whether any cost savings and increased effectiveness and efficiencies could be expected to result if the national drug interdiction effort were consolidated under the authority of the Department of Defense;

(6) determine what assets are currently available to and under consideration for the Department of Defense, the Department of Transportation (for the Coast Guard), and the Treasury Department (for the Customs Service) for the detection of airborne drug smugglers;

(7) assess the current plan of the Customs Service for the coordinated use of such assets;

(8) determine the cost effectiveness and the capability of the Customs Service to utilize effectively the detection output of the systems employed by or planned for the Department of Defense, the Coast Guard, and the Customs Service, respectively, to detect airborne drug smugglers;

(9) determine the availability of current and anticipated tracking, pursuit, and apprehension resources to utilize the capabilities of such systems; and

(10) at a minimum, assess the detection capabilities of the Over-the-Horizon Backscatter radar (OTH-B), ROTHR, aerostats, airships, and the E-3A, E-2C, P-3, and P-3 Airborne Early Warning aircraft (including any variant of the P-3 Airborne Early Warning aircraft).

(b) AUTHORITY TO CONTRACT OUT.—The Comptroller General may contract for the performance of all or any part of the study required under subsection (a) with the Rand Corporation, the Center for Naval Analysis, or any other Federal contract research center, but the Comptroller General shall retain management, direction, and control of the study.

(c) REPORT.—Not later than March 31, 1988, the Comptroller General shall report the results of the study required under subsection (a), together with such comments and recommendations as he considers appropriate, to the Committees on Armed Services, the Committees on the Judiciary, and the Committees on Appropriations of the Senate and the House of Representatives, the Senate Caucus on International Narcotics Control, and the House Select Committee on Narcotics Abuse and Control. The Comptroller General shall submit the report in both classified and unclassified form.

(d) TRANSFER OF FUNDS.—Of the funds appropriated pursuant to the authorizations contained in this division, the Secretary of Defense shall transfer to the Secretary of Transportation funds to provide for the Law Enforcement Detachment program of the Coast Guard in the following amounts:

(1) $3,000,000 for fiscal year 1988.

(2) $6,000,000 for fiscal year 1989.

DOMENICI (AND OTHERS) AMENDMENT NO. 756

Mr. DOMENICI (for himself, Mr. BINGAMAN, and Mr. McCLURE) proposed an amendment to the bill (S. 1174) supra; as follows:

PART D—THE DEPARTMENT OF ENERGY SEMICONDUCTOR TECHNOLOGY RESEARCH EXCELLENCE INITIATIVE

SEC. 3141. FINDINGS.

Congress makes the following findings:

(1) Semiconductors and related microelectronic devices are key components in computers, telecommunications equipment, advanced defense systems, and other equipment.

(2) Aggregate sales of such equipment, in excess of $230,000,000,000 annually, comprise a significant portion of the gross national product of the United States.

(3) The leadership position of the United States in advanced technology is threatened by (A) competition from foreign businesses which is promoted and facilitated by the increasingly active involvement of foreign governments, and (B) other changes in the nature of foreign competition.

(4) The principal cause of the relative shift in strength of the United States and its semiconductor competitors is the establishment of a long-term goal by a major foreign competitor to achieve world superiority in semiconductor research and manufacturing technology and the pursuit of such goal by that competitor by effectively marshalling all of the government, industry, and academic resources needed to achieve that goal.

(5) Although the United States semiconductor industry leads all other principal U.S. industries in terms of its reinvestment in research and development, this has been insufficient by worldwide standards.

(6) Electronic equipment is essential to protect the national security of the United States, as is evidenced by the allocation of approximately 35 percent of the total research, development, and procurement budgets of the Department of Defense to electronics research.

(7) The Armed Forces of the United States will eventually depend extensively on foreign semiconductor technology unless significant steps are taken, and taken at an early date, to retain United States leadership in semiconductor technology research.

(8) It is in the interests of the national security and national economy of the United States for the United States to regain its traditional world leadership in the field of semiconductors.

(9) The most effective means of regaining that leadership is through a joint research effort of the Federal Government and private industry of the United States to improve semiconductor manufacturing technology and to develop practical uses for such technology.

(10) In order to meet the national defense needs of the United States and to insure the continued vitality of a commercial manufacturing base in the United States, it is essential that priority be given to the development, demonstration, and advancement of the semiconductor technology base in the United States.

(11) The national laboratories of the Department of Energy are a major national research resource, and the extensive involvement of such laboratories in the semiconductor research initiatives of the Federal Government and private industry would be an effective use of such laboratories and would help insure the success of such initiatives.

SEC. 3142. ESTABLISHMENT OF THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH INITIATIVE.

The Secretary of Energy shall initiate and carry out a program of research on semiconductor manufacturing research technology and on the practical applications of such technology (such program hereinafter in this subtitle referred to as the "Initiative"). The Secretary shall carry out the initiative in a way as to complement the activities of a consortium of United States semiconductor manufacturers, materials manufacturers, and equipment manufacturers, established for the purpose of conducting research concerning advanced semiconductor manufacturing techniques and developing techniques to adopt manufacturing expertise to a variety of semiconductor products.

SEC. 3143. PARTICIPATION OF NATIONAL LABORATORIES OF THE DEPARTMENT OF ENERGY.

(a) MISSION OF NATIONAL LABORATORIES.—Each national laboratory of the Department of Energy shall participate in research and development projects under the Initiative in conjunction with the Department of Defense, any consortium, college or university carrying out any such project for or in cooperation with the consortium referred to in Section 3142, to the extent that such participation does not detract from the primary mission of the national laboratory.

(b) AGREEMENTS.—The Secretary of Energy shall enter into such agreements with the Secretary of Defense, with any consortium referred to in Section 3142 and with any college or university as may be necessary to provide for the active participation of the national laboratories of the Department of Energy in the Initiative.

(c) REQUIRED PROVISIONS.—The Initiative shall include provisions for one or more national laboratories of the Department of Energy to conduct research and development activities relating to research on the development of semiconductor manufacturing technologies. Such activities may include research and development relating to materials fabrication, materials characterization, design and modeling of devices, and new processing equipment.

SEC. 3144. PERSONNEL EXCHANGES.

The initiative shall include provisions for temporary exchanges of personnel between any domestic firm, the consortium referred to in Section 3142 and the national laboratories of the Department of Energy that are participating in such initiative. The exchange of personnel shall be subject to such restrictions, limitations, terms, and conditions as the Secretary of Energy consider necessary in the interest of national security.

SEC. 3145. OTHER DEPARTMENT OF ENERGY RESOURCES, IN GENERAL.

The Secretary of Energy may make available to the Department of Defense, to any other department or agency of the Federal Government, and to any consortium that has entered into an agreement in furtherence of this initiative any facilities, personnel, equipment, services and other resources of the Department of Energy for the purpose of conducting research and development projects under the Initiative consistent with section 3143(a).

SEC. 3146. BUDGETING FOR SEMICONDUCTOR MANUFACTURING TECHNOLOGY RESEARCH.

The Secretary of Energy, in preparing the research and development budget of the Department of Energy to be included in the annual budget submitted to the Congress by the President under section 1105(a) of title 31, United States Code, shall provide for programs, projects, and activities that encourage the development of new technology in the field of semiconductors.

SEC. 3147. COST-SHARING AGREEMENTS.

(a) PERMITTED PROVISIONS.—The director of each national laboratory of the Department of Energy that is participating in the Initiative or the contractor operating any such national laboratory may include in any research and development agreement entered into with a domestic firm in connection with such initiative a cooperative provision for the domestic firm to pay a portion of the cost of the research and development activities.

(b) The director of each national laboratory of the Department of Energy that is participating in the Initiative shall submit a proposal to the Department of Energy defining cost sharing arrangements and the appropriate level of funding for approval.

(c) LIMITATIONS.—(1) Not more than an amount equal to 1 percent of any National Laboratory's annual budget shall be received from non-appropriated funds derived from contracts entered into under the initiative in any fiscal year except to the extent approved in advance by the Secretary of Energy.

(2) No Department of Energy National Laboratory may receive more than $10,000,000 of non-appropriated funds under any cooperative research and development agreement entered into under this subsection in connection with the Initiative except to the extent approved in advance by the Secretary of Energy.

SEC. 3148. DEPARTMENT OF ENERGY OVERSIGHT OF COOPERATIVE AGREEMENTS RELATING TO THE INITIATIVE.

(a) PROVISIONS RELATING TO DISAPPROVAL AND MODIFICATION OF AGREEMENTS.—If the Secretary of Energy or his designee desires an opportunity to disapprove or require the modification of any such agreement under section 3147, the agreement shall provide a 90-day period within which such action be taken beginning on the date the agreement is submitted to the Secretary.

(b) RECORD OF AGREEMENTS.—Each National Laboratory shall maintain a record of all agreements entered into under this section.

SEC. 3149. AVOIDANCE OF DUPLICATION.

In carrying out the Initiative, the Secretary of Energy shall ensure that unnecessarily duplicative research is not performed at the research facilities (including the national laboratories of the Department of Energy) that are participating in such initiative.

SEC. 3151. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to the Department of Energy for each fiscal year FY 88 and FY89, the additional sum of $25,000,000 for the activities of the Department of Energy under the Initiative.

(b) RELATIONSHIP TO OTHER FUNDS AVAILABLE TO THE DEPARTMENT OF DEFENSE.—Funds available to the Secretary of Energy in connection with activities of the Department of Energy under the Initiative shall be in addition to amounts available to the Department of Defense for semiconductor manufacturing technology research and development.

SEC. 3152. TECHNOLOGY TRANSFER.

(a) IN GENERAL.—The Secretary of Energy shall adopt procedures to provide for the timely and efficient transfer of semiconductor technology developed under the Initiative pursuant to applicable laws, executive orders, and regulations followed by the Department of Defense.

(b) PLAN FOR COMMERCIALIZATION ENHANCEMENT.—(1) Not later than one year after the date on which funds are first appropriated to conduct the Initiative, the Secretary of Energy shall transmit to the committees of Congress named in paragraph (2) a plan for the transfer of semiconductor technology and information generated by the Initiative.

(2) The committees of Congress referred to in paragraph (1) are the Committees on Armed Services of the Senate and House of Representatives, the Committee on Science and Technology of the House of Representatives.

WILSON (AND GLENN) AMENDMENT NO. 757

Mr. WILSON (for himself and Mr. GLENN) proposed an amendment to the bill (S. 1174) supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . Sense of the Senate Regarding the Contributions and Roles of Spouses of Military Personnel in Supporting the Military Community—

The spouses of military personnel have contributed greatly to the well-being and to the support of the military community in the Armed Forces for decades;

The spouses of military personnel have voluntarily lent their time and talents to support military personnel, their families, and the military community as a whole, in time of war and in time of peace;

In 1987, when more than 72% of all active duty military officers and 52% of all active duty enlisted military personnel are married, the voluntary service of spouses of military personnel in support of the military community is ever increasing in scope and importance;

At the same time, the pressures on the spouses of military personnel to be employed outside of the home are increasing, reflecting American society as a whole;

Neither the Armed Forces, the Congress, nor the American people have a right to expect or demand that spouses of military personnel voluntarily contribute their time or talents to support the Armed Forces or the military community, beyond that expected of all good citizens.

Therefore, it is the sense of the Senate that the spouses of military personnel are to be thanked and congratulated for their unswerving support and work on behalf of military personnel, their families and the military community as a whole.

And further, it is the sense of the Senate that the decision by spouses of military personnel to be employed, either in addition to or rather than voluntarily participating in activities relating to the Armed Forces, must be viewed as a personal decision which is of no official consequence to the Armed Forces.

SASSER AMENDMENT NO. 758

Mr. DIXON (for Mr. SASSER) proposed an amendment to the bill (S. 1174) supra; as follows:

At the end of the bill, add the following new section:

SEC. . Notwithstanding the requirements of the Competition in Contracting Act, 10 U.S.C. 2304, et seq. or any other provision of law, the Service Secretaries are authorized to modify the agreements authorized by section 802 of the Military Construction Authorization Act of 1984, as amended (10 U.S.C. 2821 note) and existing on the date of enactment of this Act to reflect the amendments made by section 2713 of the National Defense Authorization Act for fiscal year 1987 (Public Law 99-661), to permit a 25-year guarantee period and to allow for cost escalation of the entire rental payment over the guarantee period.

BINGAMAN (AND OTHERS) AMENDMENT NO. 759

Mr. DIXON (for Mr. BINGAMAN, for himself, Mr. KENNEDY, and Mr. DOMENICI) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 22, between lines 8 and 9, insert the following:

SEC. . NUCLEAR MONITORING RESEARCH PROGRAM.

Of the funds appropriated or otherwise made available to the Department of Defense pursuant to section 201(a)(4) for research, development, test, and evaluation, $25,000,000 of the amount appropriated for fiscal year 1988 may be obligated only for the nuclear monitoring research program of the Defense Advanced Research Projects Agency.

On page 199, line 4, strike out "$95,500,000" and insert in lieu thereof "$120,500,000".

On page 210, line 4, strike out "$166,500,000" and insert in lieu thereof "$191,500,000".

DANFORTH (AND BOND) AMENDMENT NO. 760

Mr. WARNER (for Mr. DANFORTH, for himself and Mr. BOND) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 179, line 11, strike out "$149,816,000" and insert in lieu thereof "$154,116,000".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that hearings have been scheduled before the full Committee on Energy and Natural Resources.

The hearings will take place on October 13, 14 and 15, 1987, beginning at 9:30 a.m. and concluding at approximately 12 noon. The hearings will be held in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearings is to receive testimony concerning S. 1217, a bill introduced by Senator MURKOWSKI to amend the Mineral Leasing Act of 1920 to authorize the Secretary of the Interior to lease, in an expeditious and environmentally sound manner, the public lands within the Coastal Plain of the Arctic National Wildlife Refuge, Alaska for oil and gas exploration, development and production.

On October 13 the committee will hear primarily from elected officials, affected Federal agencies, and the State fo Alaska. Those supporting the Murkowski bill will appear on the 14th and those opposed to the legislation will be scheduled on the 15th. In an effort to make as detailed and as substantive a record as possible, it will be necessary to limit the number of witnesses to approximately 10 witnesses per day. After these hearings have been completed we will assess what, if any, additional information or hearings may be needed to give the committee all the facts regarding this issue.

If you have any questions about these hearings, please contact Tom Williams of the committee staff at (202) 224-7145.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President. I would like to announce for the information of the Senate that the closed hearing originally scheduled on October 1, 1987 at 2 p.m. in room S-407 on the status of the Department of Energy's efforts to address questions on environmental and safety issues concerning the defense materials production reactors located in the United States has been rescheduled.

The closed hearing will now take place on October 20, 1987 at 9:30 a.m. in room S-407 in the Capitol Building in Washington, DC.

For further information, please contact Mary Louise Wagner at (202) 224-7569.

SUBCOMMITTEE ON WATER AND POWER

Mr. BRADLEY. Mr. President, I would like to announce for the information of the Senate and the public, a change in the scheduling of a field hearing before the Subcommittee on Water and Power of the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for October 19, 1987, beginning at 10:30 a.m., rather than the previously announced time of 10 a.m. This hearing is regarding S. 1435, to authorize certain elements of the Yakima River Basin Water Enhancement project, and for other purposes, and will be held in Yakima, WA.

For further information regarding the hearing, you may wish to contact Russell R. Brown of the subcommittee staff at 224-2366. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Subcommittee on Water and Power, room SD-364, Dirksen Senate Office Building, Washington, DC 20510.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the information of the Senate and the public, a change in the scheduling of an oversight hearing before the Senate Committee on Energy and Natural Resources to receive testimony from government and public witnesses regarding the implementation of the Reclamation Reform Act of 1982.

The hearing is scheduled to take place on October 2, 1987 and will begin at 9 a.m. rather than the previously announced time of 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building.

For further information regarding the hearing you may wish to contact Russell R. Brown, senior professional staff, telephone (202) 224-2366. Written inquiries regarding the hearing may be addressed to the Committee on Energy and Natural Resources, room SD-364, Dirksen Senate Office Building, Washington, DC 20510.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GLENN. Mr. President, I ask unanimous consent that the full committee on Environment and Public Works be authorized to meet during the session of the Senate on September 25, beginning to mark up clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. GLENN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Friday, September 25, 1987, to hold a markup on the following bills:

S. 1475. Clinical staffing recruitment and retention program; and

H.R. 2937. Miscellaneous technical and minor amendments of laws relating to Indians, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GLENN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 25, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET AND ACCOUNTING

Mr. GLENN. Mr. President, I ask unanimous consent that the Subcommittee on Federal Spending, Budget and Accounting of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, September 25, to hold hearings on proposed legislation relating to seized property and cash.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. GLENN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Friday, September 25, 1987 to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATIONS BY SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Mr. Joshua Bolten, a member of the staff of the Committee on Finance, to participate in a program in the People's Republic of China, organized by the U.S.-China Friendship Program, and sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the U.S.-Asia Institute, from August 8-25, 1987.

The committee has determined that participation by Mr. Bolten, in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, in conjunction with the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Linda Krueger, a member of the staff of Senator ALAN CRANSTON, to participate in a program in the People's Republic of China, organized by the U.S.-China Friendship Program, and sponsored by the Chinese People's Institute of Foreign Affairs, in conjunction with the U.S.-Asia Institute, from August 8-24, 1987.

The committee has determined that participation by Ms. Krueger, in the program in the People's Republic of China, at the expense of the Chinese People's Institute of Foreign Affairs, in conjunction with the U.S.-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Caroline Haynes, a member of the staff of Senator ALAN K. SIMPSON, to participate in a trip to Seoul, South Korea, sponsored by the Ilhae Institute of Seoul, South Korea, from August 22-29, 1987.

The committee has determined that participation by Ms. Haynes in the program in South Korea, at the expense of the Ilhae Institute of Seoul, South Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Mark Fleming, a member of the staff of Senator JESSE HELMS, to participate in a trip to Seoul, South Korea, sponsored by the Ilhae Institute of Seoul, South Korea, from August 9-17, 1987.

The committee has determined that participation by Mr. Fleming in the program in South Korea, at the expense of the Ilhae Institute of Seoul, South Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Andrew Samet, a member of the staff of Senator DANIEL P. MOYNIHAN, to participate in a program in the Republic of China on Taiwan, sponsored by Soochow University, from August 17-24, 1987.

The committee has determined that participation by Mr. Samet in the program in the Republic of China on Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request of the staff of Senator JAMES A. MCCLURE, to participate in a trip to Seoul, South Korea, sponsored by the Ilhae Institute of Seoul, South Korea, from August 22-29, 1987.

The committee has determined that participation by Ms. West in the program in South Korea, at the expense of the Ilhae Institute of Seoul, South

Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David Starr, a member of the staff of Senator HOWARD M. METZENBAUM, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from August 23-29, 1987.

The committee has determined that participation by Mr. Starr, in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Marjorie Chorlins, a member of the staff of Senator JOHN C. DANFORTH, to participate in a program in the Republic of China on Taiwan, sponsored by Soochow University, from August 16-23, 1987.

The committee has determined that participation by Ms. Chorlins in the program in the Republic of China on Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Alex Netchvolodoff, a member of the staff of Senator JOHN C. DANFORTH, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenasuer Stiftung, from August 23-29, 1987.

The committee has determined that participation by Mr. Netchvolodoff, in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Richard J. Tarplin, a member of the staff of Senator CHRISTOPHER J. DODD, to participate in a program in the Federal Republic of Germany, sponsored by the German Academic Exchange Service, from May 16-26, 1987.

The committee has determined that participation by Mr. Tarplin, in the program in the Federal Republic of Germany, at the expense of the German Academic Exchange Service, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. William Mansel Long, a member of the staff of Senator HOWELL HEFLIN, to participate in a program in the Republic of China on Taiwan, sponsored by Soochow University, from August 14-24, 1987.

The committee has determined that participation by Mr. Long in the program in the Republic of China on Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Lisa Learner, a member of the staff of Senator DONALD W. RIEGLE, JR., to participate in a program in the Republic of China on Taiwan, sponsored by Soochow University, from August 16-23, 1987, and in Thailand for 4 or 5 days following the Taiwan trip, sponsored by the Thai Food Processors Association.

The committee has determined that participation by Ms. Learner in the program in the Republic of China on Taiwan, at the expense of Soochow University, and in Thailand, at the expense of the Thai Food Processors Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Jeb Hensarling, a member of the staff of Senator PHIL GRAMM, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from August 17-24, 1987.

The committee has determined that participation by Mr. Hensarling in the program in Taiwan, Republic of China, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Fran Goodwin, member of the staff of Senator NANCY KASSEBAUM, and Ms. Susan Johnson, a member of the staff of Senator BILL BRADLEY, to participate in a trip to Seoul, South Korea, sponsored by the Ilhae Foundation of Seoul, South Korea, from August 22-29, 1987.

The committee has determined that participation by Ms. Goodwin and Ms. Johnson, in the program in South Korea, at the expense of the Ilhae Foundation of Seoul, South Korea, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Annie Lesher, a member of the staff of Senator DAVID PRYOR, and Mr. Alexander Polinsky-Lav, a member of the staff of Senator DAVE DURENBERGER, to participate in a program in Bangkok, Thailand, sponsored by the Thai Food Processors Association from August 27 to September 1, 1987.

The committee has determined that participation by Ms. Lesher and Mr. Polinsky-Lav in the program in Thailand, at the expense of the Thai Food Processors Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. W. Lamar Smith, a member of the staff of Senator WILLIAM PROXMIRE, to participate in a program in Taipei, Taiwan, sponsored by Soochow University, from August 16-23, 1987.

The committee has determined that participation by Mr. Smith in the program in Taipei, Taiwan, at the expense of Soochow University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Marjorie Chorlins, a member of the staff of Senator JOHN C. DANFORTH, to participate in a program in Bangkok, Thailand, sponsored by the Thai Food Processors Association from August 27 to September 1, 1987.

The committee has determined that participation by Ms. Chorlins in the program in Thailand, at the expense of the Thai Food Processors Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ira H. Goldman, a member of the staff of Senator PETE WILSON, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from August 22-30, 1987.

The committee has determined that participation by Mr. Goldman in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Randy Scheunemann, a member of the staff of Senator DAVE DURENBERGER, to participate in a program in the Federal Republic of Germany, sponsored by the Konrad Adenauer Stiftung, from August 22-29, 1987.

The committee has determined that participation by Mr. Scheunemann in the program in the Federal Republic of Germany, at the expense of the Konrad Adenauer Stiftung, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. Christopher Manion, a member of the staff of the Committee on Foreign Relations, to participate in a program in Turkey and Northern Cyprus, sponsored by the Foreign Policy Institute of Turkey, from August 22, to September 9, 1987.

The committee has determined that participation by Dr. Manion in the program in Turkey and Northern Cyprus, at the expense of the Foreign Policy Institute of Turkey, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Andrew K. Semmel, a member of the staff of Senator RICH-

ARD G. LUGAR, to participate in a program in the Republic of Korea, sponsored by the Ilhae Institute from August 22 to August 30, 1987.

The committee has determined that participation by Mr. Semmel in the program in the Republic of Korea, at the expense of the Ilhae Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. David Apgar, a member of the staff of Senator BILL BRADLEY, to participate in a program in Thailand, sponsored by the Thai Food Processors Association, from August 27 to September 1, 1987.

The committee has determined that participation by Mr. Apgar in the program in Thailand, at the expense of the Thai Food Processors Association, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Keith McCormick, a member of the staff of Senator FRANK H. MURKOWSKI, to participate in a program in the Republic of Korea, sponsored by the Ilhae Foundation from August 22 to August 29, 1987.

The committee has determined that participation by Mr. McCormick in the program in South Korea, at the expense of the Ilhae Foundation, is in the interest of the Senate and the United States.●

SVETLANA BRAUN—GOOD NEWS

● Mr. LEVIN. Mr. President, I note, with great joy, that a commission of the Presidium of the Supreme Soviet has made the recommendation to the full Presidium that Svetlana Braun be allowed to emigrate and join her husband, Keith Braun, in Michigan.

Keith and Svetlana were married in Moscow in August of 1984 and have been fighting since that time to be together in the United States. Although Svetlana has not been given permission as of this date, I hope that the Soviets will notify her quickly that she will, indeed, receive her exit visa.

Keith has been an unrelenting activist on behalf of divided spouses. I admire his tenacity and energy in what has been a long and frustrating matter of heartbreak and disappointment. Although he will welcome his wife soon to Michigan, I know that he will continue to work on behalf of the 13 divided spouse couples still waiting for reunification in the United States.

Keith and Svetlana will begin the Jewish New Year together—I wish them both a year of sweetness, happiness, and peace.●

TIMBERLINE LODGE 50 YEAR ANNIVERSARY

● Mr. HATFIELD. Mr. President, this week marks a very special anniversary in the State of Oregon—the 50th anniversary of Timberline Lodge. Perched majestically on the slope of Mount Hood, Timberline Lodge has become a symbol of pride for all Oregonians. I would like to take a moment to share with my colleagues some of the history of this unique State treasure.

The plan to build a lodge on Mount Hood in Oregon's Cascade Mountains originated in the early 1920's. A group of Portland businessmen, seeing the recreational potential of the mountain, formed a committee to orchestrate the construction of a lodge for skiers and mountain climbers. In late 1929, under the Hoover administration, the committee was given initial permission by the Forest Service to build such a lodge. A conflict arose, however, between members of the business community, who thought a lodge would boost tourism in and around Portland, and preservationists, who were afraid that the natural beauty of the mountain would be compromised. The architects resolved the conflict, designing a building integrated into the mountain surrounding it. The design was submitted to the Forest Service and finally approved nearly 10 years after the committee first met.

By the time the design was approved, the Depression was on, and money to begin construction was hard to find. So it was that the Director of the Works Progress Administration (WPA) in Oregon, Emerson Griffith, became involved in the efforts to build Timberline. He promptly sent an application to the National WPA director asking for a grant of $250,000. The application was approved and construction began in 1936. Since it was the height of the Depression, the work force was changed every 2 weeks to give more men the opportunity to work.

The lodge which emerged is both rustic and stately in design, the product of much collaboration between architects. Built literally to fit into the mountain, it is protected from snow drifts and high winds. Margery Smith oversaw the interior design and combined traditional Indian designs with other indigenous handicrafts including woodcarving and blacksmithing. When it opened, the interior coordinated perfectly with the architecture of the lodge.

In September 1937, President Franklin Roosevelt dedicated Timberline Lodge and with his presence at the ceremony came national recognition. He and his entourage were the first guests as it was finished just in time for the dedication.

The lodge was run successfully for more than a decade by a group of Portland businessmen. Eventually the businessmen found the operation of the lodge to be too time-consuming, however, and turned it over to private resident managers. This new management team unfortunately allowed the lodge to deteriorate, and in 1954 it was closed because of unpaid debts.

The turning point for Timberline Lodge came when Dick Kohnstamm took over its management a year later. Kohnstamm arrived to find the entire complex badly in need of costly restoration, and promptly created the RLK Co. to assist in the project. Between 1955 and 1966, the RLK Co. invested half a million dollars for the restoration of the lodge and surrounding ski lifts.

Skiers began to return, as did visitors who just wanted to take advantage of the natural beauty surrounding the lodge. Kohnstamm presented the Forest Service with a plan to build new facilities to accommodate them. They approved his plan but told him that he would need to raise the money himself. After a successful appeal to Congress for the necessary funds to finance the new construction, Kohnstamm proceeded with his plans.

The East Wing Convention Center was finished by 1975, and Kohnstamm immediately initiated construction of the Palmer chairlift. Many people said the chairlift construction would be made impossible by the conditions on the mountain, but Kohnstamm proved them wrong. He raised the money by offering a package of unlimited lift tickets until the year 2000 to skiers for $2,000, and after three tough winters, the lift was finally built. A day lodge for skiers was opened in 1981. As Kohnstamm explains, "My whole philosophy of operating the lodge is that it should be a celebration of life. I wanted to see Timberline successful, and that's happening."

But Dick Kohnstamm is the first to admit that no single person can be given credit for the operation of the lodge. The Friends of Timberline, a non-profit organization established in 1975 to assist in the restoration of the entire lodge, continues to help. The group's immediate goal was to restore the lodge's interior furnishings to their original condition. With donations and the help of many groups and individuals throughout Oregon, the Friends of Timberline completed the initial restoration and kept on going. With the cooperation of the Forest Service and Kohnstamm, the Friends of Timberline now pay a lodge curator to keep the history of the lodge current, and have a small financial base from which funds are drawn to pay for continuing restoration and upkeep of the lodge.

Over the years Timberline Lodge has become a source of great pride for the State of Oregon. As Emerson Griffith described the sentiments of the many workers involved in the project when the lodge was finally finished: "Eyes glistened as they organized Timberline Guild and pledged themselves to meet each year at Timberline Lodge to drink a toast to a job well done." The same spirit of pride surrounds the lodge today. Dick Kohnstamm summed up the feelings of most Oregonians when he said: "Everybody thinks they own Timberline."

Mr. President, I ask all of my colleagues to join me in wishing a happy 50th anniversary to Timberline Lodge.●

SOVIET JEWRY

● Mr. BOREN. Mr. President, once again it is my privilege to join my colleagues in the congressional call to conscience vigil for Soviet Jewry. Although there has been some recent improvement, tremendous obstacles still face many Soviet citizens who have applied for permission to emigrate from the Soviet Union. The persecution and restrictions facing many Soviet citizens, particularly those who consistently practice their religion, are well documented. These activities by the Soviet Government are clearly in violation of the Geneva accords. Many of us in the Senate will continue to call upon the Government of the Soviet Union to recognize the rights of their fellow citizens.

At this time, I am particularly concerned with two Soviet citizens, Valery and Svayonia Federov, who have a 7-month-old child. In the summer of 1986, Svayonia, who was pregnant, was witness to a quarrel between a drunken woman who was trying to steal money from a flower salesman. Svayonia intervened and the drunken woman turned on Svayonia who, in self defense, hit the woman with her purse. Valery Federov, Svayonia's husband, stopped the fight and took them both to militia headquarters to report the incident. A criminal case was opened and then withdrawn on August 17, 1986.

More than 4 months later and after the baby was born, in December of 1986, the Federovs were called to militia headquarters where they were informed that the case had been reopened, implicting both of the Federovs. The new charges included testimony, given by unidentified witnesses neither present nor mentioned in the initial report, that Svayonia beat the drunken woman out of sheer hooliganism. I have written general Secretary Gorbachev asking for his personal attention to the rights of the Federovs who are trying to emigrate from the Soviet Union.

As our own Government is presently involved in intense negotiations with the Soviet Union, it is appropriate that the Congress direct its attention to the fate of thousands of Soviet Jews and others within the Soviet Union who are being denied their basic human rights. We must persist in demanding attention to this problem whenever representatives of the United Sates and the Soviet Union meet for discussions. Soviet officials must know that these serious questions of human rights will not be ignored by the Government of the United States.

I am proud that so many groups and individuals here in our own country and around the world continue to take an active interest in the problems conforting these people in the Soviet Union. In my own State of Oklahoma, several groups, who are affiliated with national and international organizations, speak out and challenge Soviet policy regarding emigration. I commend these efforts and call upon the Soviet Government to recognize the strong and growing worldwide commitment to securing human rights for all people everywhere.●

INFORMED CONSENT: MONTANA

● Mr. HUMPHREY. Mr. President, letters continue to arrive in my office from women in every State, detailing the negative consequences they suffered from past abortions. Complications occur in other serious medical procedures as well, but in the case of abortion, patients are often not told about the potential effects prior to the operation. In other words, women are being denied the right to informed consent.

I urge my colleagues to support my informed consent bill, S. 272, which would require that medical personnel secure informed consent from women considering an abortion. This would help remove the disparity between abortion and other medical procedures, and allow the patient to make an educated decision on an operation that cannot be undone.

I ask that the following letter, sent to my office from a woman in Montana, be printed into the CONGRESSIONAL RECORD by unanimous consent.

The letter follows:

JUNE 12, 1987.

DEAR SENATOR HUMPHREY. I had an abortion eight years ago. I'm 29 years old now and happily married.

Abortion is a very devastating experience, I would not recommend for any woman for any reason. I did not have any counseling before or after, I just paid the $350 and the doctor and nurses did the rest and then I left and that was that. I never discussed it with anyone at the time until now. When I had the abortion, all I was thinking was panic, being pregnant and unmarried, it seems so insane now. It's a very unpleasant matter to discuss or even think about. I try to forget, but it haunts me at times. The personal anguish can't be described. Aside from it being very painful physically, the emotional pain continues. When a woman makes that choice, she doesn't realize what it will be like, she only feels panic and abortion is a quick and final solution or so it seems at the time. I really have to wonder about M.D.'s who kill for pay, and distrust them.

Sincerely.

A WOMAN,
Montana.●

REMIC'S

● Mr. CHAFEE. Mr. President, on August 17, 1987, Fannie Mae issued $500 million of REMIC securities. The offering sold out almost immediately.

As the author of the Real Estate Mortgage Investment Conduit [REMIC] legislation and one who was committed to the full participation of the secondary market agencies, I am especially gratified about the response to the Fannie Mae offering because this is precisely what we intended in developing the REMIC legislation.

Fannie Mae's REMIC provided incentives for lenders who produced the mortgages for this issue. One piece of the REMIC, known as the thrift plus certificate was specifically designed for investment by thrift institutions. This tranche contains a feature guaranteeing the maximum term of the security, enabling it to qualify as a liquidity investment for thrift institutions.

In another significant departure from previous REMIC's, Fannie Mae will provide monthly updated information on the REMIC that will allow investors accurately to price Fannie Mae REMIC's at any time.

Mr. President, I introduced the legislation creating REMIC's to serve a number of purposes, but my paramount concern was to provide lower mortgage interest rates for home buyers. Fannie Mae's REMIC helps that goal. Its innovations set new standards for the REMIC'S market, and Fannie Mae's presence in the market in general helps further the market acceptance of the REMIC instrument overall.

Contrary to some of the comments raised during the REMIC legislation debate, REMIC'S are a beneficial tool for thrifts. I think the thrift response to Fannie Mae's "thrift plus" certificates demonstrates that. REMIC'S help mortgage originators by creating an efficient mechanism to sell their mortgages. In addition, REMIC'S are a useful portfolio management tool. By improving the efficiency of the mortgage finance system REMIC'S will reduce the interest rates home buyers must pay to finance their homes.

I applaud Fannie Mae's contribution toward making REMIC'S work, and I urge them to maintain the effort.●

TRIBUTE TO RACHEL CARSON

● Mr. LEAHY. Mr. President, this Sunday marks the 25th anniversary of the publication of "Silent Spring" by Rachel Carson. This extraordinary book sparked an international controversy over the use of pesticides, a controversy that rages on today. In graceful prose written for laymen, Rachel Carson exposed the dangers of the indiscriminate use of synthetic chemicals on our farms, in our homes and gardens, and on our public lands. Today, the debate about pesticide use often gets mired down in technical scientific and legal arguments that mean very little to our citizens or our legislators for that matter. Perhaps we need another "Silent Spring" to reawaken America to the urgency of pesticide law reform.

Rachel Carson was already a well-known writer and scientist when "Silent Spring" was published in September 1962. After earning a masters degree in zoology and working 15 years as a marine biologist for the U.S. Fish and Wildlife Service—two remarkable accomplishments for a woman of her time—Miss Carson produced a best-selling book titled "The Sea Around Us." Praised as a masterpiece of lyrical scientific writing, "The Sea Around Us" stayed on the bestseller lists for over 1½ years, and garnered honors and awards from around the world. As she published other books and articles, she sealed her reputation as "an eloquent interpreter of natural science for the public."

Rachel Carson's interest in the misuse of pesticides grew from a friend's request for assistance in stopping the spraying of DDT in her bird sanctuary. As appalling facts were uncovered, Miss Carson realized that the public was uninformed about the hazards of pesticides and that a book needed to be written. After 6 years of gathering evidence from scientists in America and Europe and drafting and redrafting the manuscript, "Silent Spring" first appeared as a serial in the New Yorker and later as a book.

"Silent Spring" detailed the harm wrought on soil, air, water, wildlife, and humans from the "rain of chemicals." Although she strongly protested the use of chlorinated hydrocarbons, of which DDT is one, she never advocated total elimination of chemical pesticides. Rather, she advocated more judicious application of chemicals coupled with biological controls.

Unlike Miss Carson's previous work, "Silent Spring" was not greeted with universal praise. The chemical industry, unaccustomed to anything but praise for the "economic miracle" of pesticides, immediately sought to ridicule and discredit the book. However, the serials in the New Yorker caught the eye of President John F. Kennedy, who proceeded to appoint a Presidential Scientific Advisory Committee to study the effects of pesticides on the environment. The committee's report affirmed and vindicated Rachel Carson by backing the main points of her book.

Mr. President, we have been slow to heed many of Rachel Carson's warnings. Twenty-five years ago she warned us against the chlorinated hydrocarbons—DDT, chlordane, heptachlor, and others—chemicals that have all since made headlines. It was only last month that the last manufacturer of chlordane and heptachlor agreed to stop selling them. The battle isn't over yet; the courts have been asked to decide whether the remaining stocks should be pulled out of the chain of distribution.

Twenty-five years ago Rachel Carson warned us that pesticides could leach into ground water. Evidence has proved her correct. EPA now tells us that 23 different pesticides have been detected in the ground water of 24 States. Mr. President, 97 percent of our rural communities depend on ground water for their drinking water. When are we going to take action to prevent further contamination of this irreplaceable resource?

Fifteen years ago Congress ordered the Environmental Protection Agency to reevaluate the health and safety data on 600 of the pesticides then on the market. To date, the Agency has thoroughly reviewed only a handful of those chemicals, a sorry record indeed. Congress has to shoulder some of the responsibility, though; we have not given the Agency sufficient resources to do the job.

We have the opportunity to right some of these wrongs in this Congress. My good friend from Indiana, Senator LUGAR, and I have introduced a comprehensive bill to reform our pesticide laws. Senator DURENBERGER and I have introduced a bill to prevent contamination of our ground water resources. These issues have dragged on for far too long; reform is long overdue. I want to send a bill to the President, and when farm credit is settled, I want the committee to take up FIFRA.

On this anniversary of the publication of "Silent Spring," a book widely credited with inspiring the environmental movement, I want to say again that pesticide reform is at the top of my agenda. I urge other Senators to give it priority as well.●

NEW YORK BIGHT RESTORATION ACT OF 1987

● Mr. D'AMATO. Mr. President, I am pleased to rise today as an original cosponsor of the New York Bight Restoration Act of 1987, S. 1714, which was the result of the combined efforts of my distinguished colleagues, Senators MOYNIHAN, LAUTENBERG, and BRADLEY. This legislation will require the Environmental Protection Agency to take a closer look at the dumping practices which have caused the deterioration of the bight area. It is essential that we identify the sources of these pollutants, determine the effects that they have upon our water, and develop a plan to clean up the bight area.

I strongly believe that a study of the entire bight area is long overdue. As referred in the list of sponsors, this is an issue transcending State lines. The pollution is not just in one concentrated area of the bight, it is widespread throughout the entire area. It is imperative that we discover the sources of the garbage and pollution that are relentlessly bombarding our beaches. New York's beaches have long been treasured by the thousands of citizens who flock to its shores all year round.

The pollutants that have been washing ashore pose hazards not only to bathers, but to the marine life in the water. This summer has witnessed a rash of fish kills along Long Island's beaches and along the Jersey shore.

How much longer can New York's beaches survive under the effects of tons of raw sewage and countless other contaminants dumped into our waters every year? The dumping of several billion gallons of raw sewage and more than 7 million wet metric tons of dredged material into the bight every year must be stopped. We must find alternative methods of disposing of this waste. We must act now to restore the bight area before it is too late.

On June 23 of this year, local health officials in Nassau County, NY, were forced to close down the shorefront at East Atlantic Beach due to garbage that washed ashore. The refuse was identified as hospital waste and included blood vials, surgical tubing, and discarded syringes with needles attached. Again, on June 24, a total of 10 beaches in Hempstead Harbor were closed after the waste treatment plant serving the village of Roslyn began dumping untreated sewage into the harbor at the alarming rate of 5,000 gallons per hour. The affected areas extended the length of the harbor from Bar Beach to the privately owned IBM Beach on the west shore and from Tapan Beach to Morgan Park Beach on the eastern shore of the harbor. Can we allow our children to swim in waters that contain this kind of pollution?

This legislation, which amends the Marine Protection, Research, and Sanctuaries Act of 1972, requires EPA to conduct a study to determine what is currently being dumped into the bight area; learn what effect this material has on the bight area; and find alternate means for handling material that results in continued degradation of the bight. EPA must also set standards for some of the more common hazardous pollutants that are destroying the bight, such as heavy metals and PCB's.

We need to take a serious look at the pollution of our waters. It is a shame to watch this natural resource deteriorate before our very eyes. I call upon my colleagues to act upon this legislation. Our water is too precious a resource to let go to waste.●

CONGRESSIONAL OVERSIGHT OF INTELLIGENCE ACTIVITIES

● Mr. DECONCINI. Mr. President, I am pleased to join my colleagues in sponsoring the Intelligence Oversight Act of 1987 which, through strengthening and clarifying provisions, amends the National Security Act of 1947.

Since last November, when the Nation was stunned to learn that the United States had, in direct contravention to official policy, secretly sold arms to the regime of the Ayatollah Khomeini and that profits from those sales had been turned over to the Contras, it has been evident that the process under which intelligence activities are conducted was weak, confused, and inadequate.

In response to those startling revelations, the Senate Select Committee held hearings, which were followed by the hearings of the Special Iran-Contra Committee. These investigations revealed that a small group of people, under the direction of the National Security Council, secretly devised and directed major foreign policy initiatives, which included activities of questionable legality and resulted in severely damaging the national interest.

As rationale, the committees repeatedly heard that congressional intent pertaining to the conduct of activities such as these was unclear. This legislation is offered to eliminate any such ambiguity. It addresses the shortcomings of the current process, and results from the thorough examination of congressional oversight of these matters undertaken by the Senate Intelligence Committee during the last several months.

I want to make clear that this legislation would in no way compromise the President's ability to rely on the intelligence community to gather the information he needs to establish foreign policy. But it does assign to the President the responsibility to make certain that consultations between the intelligence committees and him, or his representatives, occur before the initiation of any intelligence activity. Through these prior consultations with the intelligence committees, increased cooperation between the Congress and the executive branch, as these two branches of Government formulate intelligence policy, should result.

This bill also mandates specific conditions to be met by the President in the planning and execution of special activities—covert actions: Only the President could authorize a special activity; such authority must be set forth in a written finding, which cannot be retroactive, and which must enumerate every Government entity and/or third party which will participate in that activity. Furthermore, no special activity could be undertaken which violated the laws of the United States.

This legislation would also place responsibility for congressional notification with the President, who must, as soon as possible, and no later than 48 hours after he has signed the finding, ensure that the intelligence committees are notified of the special activity. Should the President determine extraordinary circumstances prevail at the time the finding is made, then notification would be required of only eight Members of Congress, the chairmen and vice chairmen of the two intelligence committees, the Speaker and minority leader of the House of Representatives and the majority and minority leaders of the Senate. The appropriate Members of Congress must also be notified if the special activity is changed in any significant way.

Mr. President, this bill, through the establishment of a strong and unambiguous statute, would protect the national interest and enhance our democratic process by making certain that those elected to serve their country, the President and the Congress, have clearly defined roles in the evolution and execution of our Nation's intelligence activities.

Mr. President, I ask unanimous consent that this statement be inserted in the RECORD at the appropriate place.●

GOVERNOR DUKAKIS' VISION OF NATIONAL SECURITY

● Mr. KERRY. Mr. President, as the Nation faces the 1988 Presidential election, one essential goal must be to develop a coherent alternative vision of national security to the one pursued by President Reagan over the past 6½ years.

The administration has too often equated spending money on weapons with national security, even as it has demonstrated managerial incompetence in weapons purchasing and disregard for the law and international institutions in its foreign policy.

Today, Gov. Michael Dukakis delivered a speech at Georgetown University in which he declared his vision of the real elements of national security.

Instead of rhetoric about decades of neglect and evil empires, Governor Dukakis offered a pragmatic approach for the coming decade—an approach of stabilized defense spending, arms control on offensive and defensive strategic systems, a halt to nuclear testing and antisatellite weapons development, and the willingness to do what is necessary to make sure that no adversary doubt U.S. resolve to defend itself or its allies in a conventional conflict.

In this thoughtful speech, Governor Dukakis talked about risk reduction, coping with terrorism, halting nuclear proliferation, reinforcing conventional defense, protecting our sealanes, controlling Third World arms purchases, making international institutions work for the United States, rather than against it, as among his national security goals.

It's refreshing to hear a Presidential candidate provide a tough, but pragmatic approach to these issues. I believe Governor Dukakis' approach provides a firm foundation for the Nation as it faces the 1988 election and urge my colleagues to take the opportunity to take a look at it now as we begin to consider the direction our Nation shall take for the future.

I ask that the text of Governor Dukakis' speech be inserted in the RECORD.

The speech follows:

THE ELEMENTS OF OUR NATIONAL SECURITY

(Governor Michael S. Dukakis)

I am an internationalist.

I believe that we must be tough and strong and involved—in our relations with the Soviet Union; in Europe and in our own hemisphere; in the Middle East and the Far East; in the struggle against apartheid in South Africa; and in the world economy.

Of course, it's easy to talk about being tough and strong and involved. We've been getting that kind of rhetoric from the White House for nearly seven years.

But it's another thing to be tough; to be strong; and to use our strength for the right reasons and the right goals.

During the next weeks and months, I will be setting forth my vision of America's place in the world; my views on our relations with the Soviet Union; on how we build a competitive America; on how we promote democracy and human rights around the globe.

It is an optimistic vision. A vision of an America that is proud and strong and confident; that respects the rule of law; that works in concert with our allies and friends; and that pursues a foreign policy that gives life to the principles and values upon which our nation was founded.

This afternoon, I want to apply this vision to a specific challenge: the national security of the United States.

From the day it took office, the current Administration has equated defense spending—especially on nuclear weapons—with national security.

Almost two trillion dollars later, the nuclear balance of terror is unchanged. NATO forces remain inadequate to the task of defending Europe without early resort to nuclear weapons. There are serious weaknesses in our conventional capability. We have gone from being the largest creditor nation to the largest debtor nation on earth. The defense budget has become a bitter partisan issue. And the choices that will be available to the next President of the United States will be sharply constrained.

The next President must, at the very least, stabilize defense spending. He will have no other choice. We do not have the resources to continue throwing money at the Pentagon. And we have important obligations, as well—to compensate fairly the men and women of our armed forces; to strengthen our conventional capabilities; and to meet our commitments around the globe.

We may be able to make significant cuts below current levels of defense spending—if negotiations with the Soviet Union go well. But that will not happen overnight. And we should not assume—or promise—that it will.

The next President, like all modern Presidents, will be required to respond to grave international risks—important diplomatic opportunities—and critical security questions.

How can we reduce the risk of nuclear war?

How can we improve the ability of our conventional forces to respond to threats, and to secure our vital interests, quickly and successfully around the globe?

How do we cope with terrorism?

How do we manage the Defense Department in a way that reflects the common sense and protects the pocketbooks of the American people?

How do we restore professionalism and accountability and integrity to the national security planning process of our country?

How do we use our strength in a way that not only protects our interests, but promotes human rights, encourages democratic values and fosters economic opportunity around the world?

The answer to these questions begins with some very good news.

The news that the United States and the Soviet Union have agreed, in principle, to eliminate short and medium range missiles from Europe. I strongly support this agreement. And I hope the verification issues will be carefully and promptly resolved and that the Senate will consent to ratification of the new treaty.

The INF Treaty is important not because of the number or type of weapons involved. The superpowers have deployed twice as many warheads since 1981 as will be destroyed under this agreement.

The treaty is important because it will set the stage for the next President of the United States to negotiate deep cuts in strategic weapons and for a comprehensive test ban treaty—in short, to reduce the risk of nuclear war.

What do I mean by that? How did we get where we are today?

It has been forty-two years since the *Enola Gay* dropped a 13 kiloton bomb on Hiroshima, ending a long and brutal war, and revolutionizing the way we thought about our security.

For a time, we held a monopoly on nuclear weapons, and made them the backbone of our defense. To contain the massive Soviet armies that were in the process of stifling the right of self-determination throughout half of Europe, we had no choice.

But as the Soviet nuclear program developed, and their arsenal came to match our own, the strategic rationale for building yet more nuclear weapons grew weaker as the stockpiles on both sides grew higher.

This was clear 26 years ago to General Douglas MacArthur: "Global nuclear war," he said "has become a Frankenstein that will destroy both sides. No longer is it a weapon of adventure—the shortcut to international power. If you lose, you are annihilated. If you win, you only lose."

Any yet both sides went on building. Six thousand warheads by 1970; fourteen thousand by 1979; and today, together, the superpowers have twenty-two thousand strategic warheads. Each far more destructive than the bomb that devastated Hiroshima. Counting theater and battlefield weapons, we, together, have more than 50,000. The U.S. has the capacity to destroy the Soviet Union forty times over; and they can do the same to us.

The nuclear standoff has been matched in central Europe by the largest peacetime build-up of conventional military power in world history. More than six million men and women are on active duty on both sides of what we used to call the Iron Curtain, and they account for nearly 2/3 of the world's trillion dollar annual budget for military purposes.

Our rivalry with the Soviet Union was born in the bitter aftermath of the second World War. It quieted for a time after Stalin's death; again after the Cuban Missile Crisis; again during the detente of the Nixon years.

But Soviet policies have made a lasting change in our relationship impossible.

Today we have an opportunity—not a guarantee, but an opportunity—for something far more significant.

Because Mikhail Gorbachev and the people around him appear to reflect a real change—a new generation of Soviet leaders—more pragmatic, less ideological; leaders who have inherited a nation on its way to becoming a third rate economic power.

French President Francois Mitterand has said he believes Gorbachev is the first Soviet leader since the Revolution to understand the flaws of the Communist system.

The Soviet Union's rate of economic growth has fallen in every five-year plan since the 1950's; Soviet farmers are less than one-seventh as productive as ours; alcoholism and poor health care have chopped six years off the life span of the average Russian male: infant mortality is up; the birth rate is down; and a majority of the population, for the first time under Communist rule, will soon be made up of non-Russian nationalities—whose loyalties to the Kremlin are tenuous at best.

In Gorbachev's own words, the Soviet Union will not enter the twenty-first century as world power if it continues to perform as it has during the past decade.

The time has come not only for the Soviet Union, but for both superpowers, to realize there is no finish line to this arms race.

Each weapons system produces a countersystem. We invented atomic bombs in 1945; the Soviets followed four years later. We exploded the hydrogen bomb in 1953; the Soviets in 1954. Khrushchev launched Sputnik and invented ICBM's in the late 1950's; we deployed Polaris and the Minuteman in the early 1960's. We went to multiple warheads; so did they. They built the SS-18; we countered with MX and D-5. We are developing a mobile missile; they beat us to the punch.

The price tag of the arms race goes up and up, but the product has no value. There is no return on the investment.

Meanwhile, we are saddled with a $160 billion budget deficit and a $170 billion trade deficit. The Soviet economy can't produce a decent personal computer, and Cessnas are landing in Red Square.

What is the alternative to this endless and fruitless competition?

The first step is to be clear.

Our goal should be to prevent the use of a single nuclear weapon, whether strategic or battlefield, whether by calculation or miscalculation, by the superpowers, by a regional power or by terrorists.

That is our goal. That is why we negotiate with the Soviet Union. It is why we must maintain an effective nuclear deterrent. It is why we must reduce our reliance on nuclear weapons for the defense of Europe. And it is why we must do everything in our power to stop the spread of nuclear arms.

My objective as President will be to do more than control the arms race. We have the opportunity to stop it. To reverse it. And the way to stop the arms race is to stop building and testing nuclear weapons.

That is the way John Kennedy halted atmospheric explosions in 1963. And that is the approach I would take as President of the United States.

We should initiate a verifiable moratorium on underground testing, and on ballistic missile flight testing, to set the stage for serious negotiations.

Negotiations:

That make deep cuts, 50 percent or more, in all stragetic arms;

That ban the testing and deployment of anti-satellite weapons;

That prohibit all underground nuclear tests.

There is an agreement waiting to be made. If we have strong national leadership. If we remove Star Wars as an obstacle to arms reductions by agreeing to abide by the traditional interpretation—the correct interpretation—of the ABM Treaty, while insisting that the Soviets do the same. Construction of the Krasnoyarsk radar must stop.

Obviously, what we can do will depend on what the Soviets are willing to do—about numbers and types of weapons, about verification procedures, about the resolution of disputes over the interpretation of treaties.

Obviously, we will be guided far more by what Soviet leaders do than what Soviet leaders say.

Obviously, we cannot rule out the need for nuclear modernization—even if arms reductions talks succeed—where modernization is necessary to maintain a stable and survivable deterrent.

And we will not base our policies today on any assumptions about the nature—or the identity—of Soviet leaders tomorrow.

But we must take the initiative: to reduce our nuclear arsenals; to build confidence between the superpowers; to let everyone on this planet know that the United States is committed to reducing the threat of nuclear war.

And we should do much more than this Administration has done to stop the spread of nuclear arms.

Israel, India, Pakistan and South Africa are on the threshold of joining the five nuclear powers; others are waiting in the wings. Some of these countries are in regions of turbulence and unrest; some are bordered by bitter enemies; some are highly vulnerable to terrorism.

We know that Colonel Qadhafi has tried to buy a bomb. We know the Baader-Meinhof gang in Germany tried to steal one. And if the Shah of Iran had built or bought a bomb, we know who would have it now.

The next President must lift this issue to the top of the world agenda. He must be tough on a country like Pakistan that has violated our laws to help build a bomb. He must make certain that the components of nuclear weapons are guarded as carefully as the weapons, themselves. And he must work with the leaders of other industrialized nations—including the Soviet Union—to control trade in nuclear materials and to police their use.

And he must be tough and strong and effective in the fight against international terrorism. Terrorism is not a political issue; it's a law enforcement issue. It requires first-rate police work; good intelligence; good international cooperation; tough penalties; and a firm policy of no concessions to those who commit or who sponsor terrorist acts.

But our greatest need, our greatest vulnerability, is in our conventional strength.

Why? Because if it is necessary to use military force in the future, we are much more likely to use our conventional forces than our nuclear forces. That has been true for a generation.

Because conventional weakness invites conventional war. And a conventional war could rapidly escalate into a nuclear exchange.

And because we have badly neglected our conventional military needs.

Nowhere is that more true or more important than in Europe, the defense of which remains the heart and soul of our national security strategy.

I do not agree with those who oppose the INF agreement. The advantages of that agreement for our long term security are too great. But I do share their commitment to the NATO alliance, and I understand their concern about NATO's defense.

As President, I will commit this nation to a partnership with our allies to achieve a true balance of forces in Europe. A balance we can, should and will achieve: by negotiation if possible, by the build-up of conventional forces, if that's what it takes.

"This goal", as Sam Nunn has pointed out, "will not be easy or quick. It will require allied solidarity, public education and a bipartisan commitment throughout the alliance. But it is a goal that must be pursued."

Soviet Secretary Gorbachev has called for what he terms a "reasonable sufficiency" of forces. "In the European building" he says, "every apartment is entitled to protect itself against burglars, but only in such a way as not to demolish the next door apartment."

Those are interesting and promising words. But they have yet to be tested. And we should attest them. By seeking mutual reductions in conventional forces; by asking the Soviets to restructure their forces to defensive positions; by devising verification and confidence-building measures that will make a surprise attack almost impossible.

And by making clear our determination—if negotiations fail—to build a conventional military capability that is tough and strong and versatile and equal to the task of defending Europe.

Can that be done?

Yes, if our allies are willing to do their share. Because although we care deeply about European security, we cannot, and should not, care more than the Europeans.

Yes, if the next President doesn't squander billions on Star Wars and on redundant nuclear arms.

Yes, if we invest in conventional forces that can protect the sea lanes, in a better-equipped and better organized Army, and in airlift and sealift that will get our forces where they are needed, when they are needed.

Over the past decade, the Soviet Union has produced three times as many tanks, four times as many armored vehicles, and nine times as many artillery and rocket launchers as the United States.

And yet, the Administration wants to spend nearly $100 billion over the next five years on weapons systems we do not need, and cannot afford: on nuclear carriers, the MX, Midgetman missiles, Star Wars, antisatellite weapons, and more warheads.

For the same amount, assuming it were available:

We could convert 3 army light divisions into mechanized units, with more tanks, more fighting vehicles, more anti-tank missiles, more helicopters, and more air-defense systems;

We could buy 440 more tactical fighters;

We could improve our anti-submarine capabilities against increasingly quiet Soviet submarines;

We could strengthen airlift and sealift to meet the need for rapid mobilization and deployment;

We could purchase needed ammunition and spare parts;

We could provide additional training and equipment for our National Guard and Reserve; and

We could deposit the remaining $50 billion in the Treasury of the United States.

We could even buy a minesweeper or two.

But we must recognize that the weapons we buy will be only as good as the troops who use them. We must recruit, train and fairly compensate the men and women of our armed forces. Their dedication—and their morale—are the most important ingredients of a strong national defene.

And we must recognize, as well, that the threats to our security, and to our friends and allies, and to world peace, do not all emanate from the Soviet Union.

For seven years, a war has been raging in the Persian Gulf—longer than World War II. Hundreds of thousands of human beings have been killed and maimed and crippled.

Where has the international community been? Where have the five permanent members of the UN Security Council been—the five nations who under the UN Charter have a special responsibility for stopping conflict—before it threatens to engulf the entire Middle East.

I'll tell you where they've been. Everyone of them, at one time or another, has been supplying arms to the combatants. They—and dozens of other nations who have been making money off this war.

We need a ceasefire and an embargo on foreign arms sales to both countries—and we needed it six and a half years ago. Because that's what strong and tough and effective international leadership is all about.

Not putting flags on Kuwaiti tankers. Or supplying arms to the Ayatollah. Or "tilting" towards Iraq—the country that started the war; that has used chemical weapons; and that is responsible for 60-70 percent of attacks on tankers in the Gulf, one of which took the lives of 37 Americans.

All this may not happen overnight. And it hasn't been made any easier by an Administration that has disparaged international law and international institutions from the day it took office.

But it can be done. If we are persistent. If we have the patience to do the hard work of international diplomacy. And if we back up what we say with what we do.

Six and a half years ago, we were promised a stronger defense.

But we haven't gotten what we've gone into debt for.

Improvements in equipment, readiness, morale and capability simply do not match the investments we've made. Defense planning and procurement has been grossly inefficient, unrealistic, confused and unprofessional.

The Navy began construction of a 600 ship Navy it can not man; the Air Force drew up plans for a 40 wing Air Force it cannot sustain; the Army began an armored buildup it cannot afford.

High tech miracle weapons have had high-priced technical problems. The M-1 tank, the Bradley infantry vehicle, the Sergeant York, the B-1 bomber: all have cost much more and done far less than advertised.

The Army's new helicopter program is in disarray; its tactical communications capabilities are in bad shape; and even its new "high mobility multi-purpose wheeled vehicle"—its new jeep—has serious cost and performance problems.

In Grenada, communications between our forces were so bad that an Army lieutenant seeking air support for his troops had to call Fort Bragg from a phone booth—using his AT&T credit card.

We need new leadership that will insist on discipline and accountability; that will give us some stability in defense spending with long term planning and multi-year procurement; that will resist sacrificing military preparedness in order to protect big weapons projects; that will require serious competition, independent testing and appropriate warranties on the weapons and equipment we buy.

Leadership that will make it possible for our armed services to compete against our adversaries instead of each other.

Leadership determined to get the American taxpayer a dollar's worth of security for every defense dollar we spend.

Two weeks ago, Richard Godwin, the man assigned only a year ago to straighten out the procurement process at the Pentagon resigned in disgust. He said he didn't have sufficient authority to get the job done.

Authority within the Executive branch comes from one place: the Oval Office.

And in a Dukakis Administration, it will be the Commander in Chief—not an Admiral or a Lieutenant Colonel—who will be accountable for the national security operations and policies of the United States.

A Chief Executive who will stand by his word and who will be accountable to the law; to the Constitution; to our values; and to our people.

Because we can't afford four more years of a policy that talks tough and sells guns to terrorists.

And we can't afford to have a Secretary of State trying to do one thing, while the National Security Adviser is doing another and the Secretary of Defense something else.

For me, the saddest day of the Iran-contra affair was the day that Secretary of State Shultz testified. The chief foreign policy adviser to the President; our leading diplomat; the point man in the fight against international terrorism—without control over—or even a voice in—one of the most important and disastrous foreign policy decisions we've ever made.

Good government—especially when it involves our national security—must begin with good people.

With a National Security Council that understands its responsibilities and its limits; and with a National Security Adviser who does the job quickly and professionally.

With good intelligence, careful analysis and sound planning that will produce for the President the kind of thoughtful, hard-headed, and honest assessments he will need to make good decisions.

I will appoint those kinds of people. I will insist on that kind of process. And I will read those assessments.

I have focused this afternoon on what must be a comprehensive national security strategy. But national security is a coat of many colors.

We need a strong national defense.

And we need strong, professional, fiscally responsible management of our national security policies and resources.

But we also need a strong and growing economy; quality schools for our children; a well-trained and highly-skilled workforce; and a civilian science and industrial research program that is second to none.

We must be united. By our commitment to freedom and equality and opportunity—at home and overseas.

We must work together with our allies and with the international community—to increase respect for international law and to respond firmly to those who do not.

We must understand what Carlos Fuentes meant when he said that the "great weakness of the Soviet Union is that they are surrounded by satellites, and not by friends."

For it is something far more powerful than guns and missiles that has sustained us as a nation; that has served as a beacon of hope and inspiration to immigrants and democrats and freedom fighters around the globe for the past two centuries.

Ultimately, our nation will stand or fall on how well we understand the source of our own strength.

On how truly we respond to that understanding.

On how true we are to ourselves.●

THE CALENDAR

Mr. BYRD. Mr. President, I understand there is a little business that can be disposed of at this time.

I inquire of the distinguished acting Republican leader [Mr. Warner] if Calendar Order 317 and Calendar Order 335 have been cleared on his side of the aisle.

Mr. WARNER. Mr. President, the majority leader is correct.

Mr. BYRD. I thank the Senator.

Mr. President, I ask unanimous consent that the Senate proceed seriatim to the consideration of those two items.

The PRESIDING OFFICER. Without objection, it is so ordered.

HISTORIC PRESERVATION FUND AUTHORIZATION

The bill (H.R. 1744) to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund, was considered, ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF CERTAIN HOUSING AND COMMUNITY DEVELOPMENT PROGRAMS

The joint resolution (S.J. Res. 191) to provide for the extension of certain programs relating to housing and community development, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. Res. 191

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF PRIOR EXTENSIONS.

Each provision of law amended by Public Law 99-430 is amended by striking out "September 30, 1987" wherever it appears and inserting in lieu thereof "October 31, 1987".

SEC. 2. ADDITIONAL EXTENSIONS.

(a) Solar Bank.—The last sentence of section 505(a) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987".

(b) Authority To Purchase Second Mortgages.—

(1) Federal National Mortgage Association.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking out "until October 1, 1987" and inserting in lieu thereof "through October 31, 1987".

(2) Federal Home Loan Mortgage Corporation.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "until October 1, 1987" and inserting in lieu thereof "through October 31, 1987".

(c) Limitation on Amount To Be Insured Under National Housing Act.—Section 531 of the National Housing Act is amended by striking out "for fiscal year 1986" and inserting in lieu thereof "for any fiscal year".

(d) Prepayment Moratorium.—The second paragraph under the heading "Farmers Home Administration" in chapter X of title I of Public Law 100-71 is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESOLUTION PLACED ON CALENDAR—MINING AWARENESS WEEK

Mr. BYRD. Mr. President, I ask unanimous consent that I may submit on behalf of myself and have placed on the Calendar a resolution proclaiming April 24-30, 1988, as Mining Awareness Week, Senate Resolution 289.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Might I ask the distinguished majority leader if I could be listed as a cosponsor?

Mr. BYRD. Mr. President, I would consider that an honor. I thank the distinguished Senator. I make that unanimous consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOLD STAR MOTHERS DAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 355 designating September 27, 1987, as "Gold Star Mothers Day."

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 355) designating September 27, 1987, as "Gold Star Mothers Day."

Mr. BYRD. Mr. President, House Joint Resolution 355 designates September 27, 1987, as Gold Star Mothers Day.

On September 14, 1940, President Franklin D. Roosevelt issued a proclamation designating the last Sunday in September as "Gold Star Mothers Day." In order to continue and reemphasize this tradition, I urge my colleagues to support House Joint Resolution 355 which designates September 27, 1987 as "Gold Star Mothers Day."

As my colleagues may recall, "Gold Star Mothers Day" are those who have lost a son or daughter while serving in the Armed Forces. In honoring these women, we honor the memory of all those whose lives were sacrificed in our wars.

This year's Gold Star Mothers Day is especially significant for West Virginia's veterans. On September 27, 1987, I will be participating in the dedication of the New Veterans' Administration West Virginia National Cemetery in Pruntytown, WV. I am very pleased that I was able to secure approximately $2 million in Federal funds to establish this new and much needed resting place for our West Virginia veterans.

Again, I urge my colleagues to support House Joint Resolution 355 which designates September 27, 1987 as "Gold Star Mothers Day."

The PRESIDING OFFICER. The joint resolution is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 355) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the order entered earlier today provided that any rollcall votes ordered on amendments between now and Tuesday not occur until Tuesday. I do not anticipate any rollcall votes on motions to recess or adjourn. Conceivably, there would be the need for a rollcall vote on a motion to instruct the Sergeant at Arms. I do not anticipate the need for that in this situation.

But in the event that should be necessary, I think I should clarify the agreement to the extent that any necessary parliamentary motions of that kind would possibly require a rollcall vote. So I should like to make that exception. Otherwise, it could be that the Senate would not be able to, in some situations, function. I suppose that all Senators understand that situation could arise. The case we usually find in which I ask that the Sergeant at Arms be instructed to request the attendance of absent Senators is not normally what I would expect to happen tomorrow or Monday, but in the event it does I would think Senators should be in notice by the RECORD that that action might occur.

Mr. WARNER. Mr. President, there is no objection.

Mr. BYRD. Mr. President, I thank my friend.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I ask the distinguished Senator from Virginia, the acting Republican leader, if the following nominations have been cleared on the other side of the aisle, beginning with nominations under the Department of State on page 6 of the Executive Calendar, all nominations on that page, and nominations on page 7 under International Atomic Energy Agency and International Monetary Fund.

Mr. WARNER. Mr. President, the majority leader is quite correct in his representation. They are all cleared.

Mr. BYRD. I thank the Senator.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session; that the Senate consider and confirm the nominees en block that were heretofore mentioned, and that the President be immediately notified of the confirmation of the nominees; that the motion to reconsider be laid on the table; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

James H. Michel, of Virginia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guatemala.

Stephen J. Ledogar, of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as United States Representative to the European Conventional Arms Negotiations and the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations.

Leonard Rochwarger, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Tonga, Ambassador Extraordinary and Plenipotentiary of the United States of America to Tuvalu, and Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Kiribati.

Max L. Friedersdorf, of Florida, for the rank of Ambassador in his capacity as United States Representative to the Conference on Disarmament.

Peter R. Sommer, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

INTERNATIONAL ATOMIC ENERGY AGENCY

John S. Herrington, of California, to be the Representative of the United States of America to the Thirty-first Session of the General Conference of the International Atomic Energy Agency.

INTERNATIONAL MONETARY FUND

Alan Greenspan, of New York, to be United States Alternate Governor of the International Monetary Fund for a term of five years.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, does the distinguished Senator on the other side of the aisle, my friend, the acting leader, have anything further he would wish to say today or any business he would like to transact?

Mr. WARNER. Mr. President, nothing other than again to congratulate the majority leader for his distinguished leadership and again the Republican leader in structuring one of the more complicated unanimous-consent agreements that I have heard in my 9 years in this body.

Mr. BYRD. I thank the Senator. And again I want to thank him for his work in helping to formulate the agreement and his work in helping to get the support of other Senators in acquiescence thereto.

I also failed to mention today the work of the two whips, the majority whip and the minority whip, Mr. CRANSTON and Mr. SIMPSON, and the chief deputy whip, Mr. MATSUNAGA, and the respective whips on both sides who worked so diligently to help the leadership put together this extremely difficult agreement.

I would be recreant in my duty if I did not also thank our fine people here at the desks in front of us, the members of the Policy Committees on both sides, because without their work we would not be able to proclaim at this hour that we have achieved the agreement.

Mr. WARNER. Mr. President, I know the majority leader would like to include in that the respective staffs of the minority and majority of the Senate Armed Services Committee.

Mr. BYRD. Absolutely. I thank the Senator for reminding me. They have sat here all day, as we sit here every day when we have this bill before the Senate. They are our experts. They have given us the best in cooperation, and we profit by their expertise and their dedication to this institution.

Mr. WARNER. Mr. President, the majority leader and I note the presence of the distinguished manager of the bill, the Senator from Georgia.

Mr. BYRD. Mr. President, I yield the floor if the distinguished Senator from Georgia would like to speak.

Mr. NUNN. Mr. Leader, I have nothing whatsoever to add to the dialog at this hour except to say that I am very grateful to the Senator from Virginia and the Senator from West Virginia for all the splendid and dedicated work they have done in getting this time agreement. We have a couple of major hurdles yet in front of us but we have cleared some major hurdles this week. I thank the Senator from West Virginia for his tremendous leadership and our colleague, friend and ranking Republican from Virginia.

Mr. WARNER. Mr. President, I very much appreciate the sentiments of our distinguished manager of the bill from Georgia, Mr. NUNN. I think perhaps as we close tonight, if I might say, we have in our hearts the welfare and rapid recovery of our colleague who was removed from us temporarily for medical reasons and indeed that absence contributed to the decision to postpone the important debate that this body will eventually have on the War Powers Act. We wish him well.

Mr. BYRD. Mr. President, I share in those good wishes. Senator WEICKER has once again demonstrated his supreme dedication to the service of his people in this great institution.

I also want to thank my friend, SAM NUNN, for his compliments. Someone has said that a compliment is like a kiss through a veil and Mark Twain said, he could live for 2 months on a good compliment. I certainly will bask in the recollection of the compliment that I have received from the distinguished Senator from Georgia for more than 2 months.

Mr. President, I have been on the floor, I guess, almost constantly, about as near as one could be, for 21 years in various positions of leadership, and I have yet to see a Senator who is a better chairman and better manager of a bill than is the Senator from Georgia. That is putting it rather mildly.

I also have never seen a team work better on this floor than these two Senators, Senator NUNN and Senator WARNER. They know when to press hard. They know when to compromise. The manager of a bill should know that he is going to have to compromise now and then on an amendment. I think that other Senators would do well to watch and emulate these two fine Senators. I do not cast those words out carelessly. It really is a matter of satisfaction and a degree of joy to see this kind of teamwork by the leaders of our two parties in their respective positions here as they have been managing this bill.

The Senator from Georgia and his counterpart, Mr. WARNER, have conducted thorough hearings. They have not gone into hearings without much aforethought. There is very careful and logical strategy in the hearings they have conducted, not only on this bill but on other matters as well. And they are not just looking at the necessities of the moment. They are looking into the future as they have planned their hearings. I salute them.

I look upon their work with wonderment and with admiration, and I hold the fondest of affections for both of them.

Mr. WARNER. Mr. President, I am deeply touched by the sentiments expressed by this veteran of the U.S. Senate, the most respected leader.

I would say that it is a learning process to observe the Senator. It is a pleasure to work with him. I think the success we have had thus far on this particular piece of legislation, highly controversial though it is, was due to the complete access he has given the managers of the bill at all times to his office, where we can go and be joined by the Republican leader and try to solve the unforeseen problems that have arisen.

This is a very positive way to end a long, hard week.

Mr. BYRD. I thank the able Senator.

Mr. NUNN. I also thank the majority leader.

Mr. President, I was saying to the majority leader this afternoon that I though I ought to pay part of the rent on his office, I have spent so much time there these past few days.

I thank my colleagues, and I will see them tomorrow.

Mr. WARNER. I thank the Senator.

Mr. BYRD. Mr. President, I want to make sure, before I move to recess over, that the time has been set for tomorrow and Monday and Tuesday.

The PRESIDING OFFICER. The Chair states that the order does include times for tomorrow and Monday.

Mr. BYRD. Is the time for tomorrow 10 o'clock?

The PRESIDING OFFICER. The majority leader is correct.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to, and at 8:34 p.m. the Senate recessed until tomorrow, Saturday, September 26, 1987, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 25, 1987:

UNITED NATIONS

HERBERT STUART OKUN, OF THE DISTRICT OF COLUMBIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

MARK D. SILJANDER, OF MICHIGAN, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE FORTY-SECOND SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DEPARTMENT OF DEFENSE

EVERETT ALVAREZ, JR., OF MARYLAND, TO BE A MEMBER OF THE BOARD OF REGENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES FOR A TERM EXPIRING MAY 1, 1993, VICE PERRY ALBERT LAMBIRD, TERM EXPIRED.

NATIONAL MEDIATION BOARD

JOSHUA M. JAVITS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1989, VICE CHARLES L. WOODS, TERM EXPIRED.

NATIONAL TRANSPORTATION SAFETY BOARD

JOSEPH TRIPPE NALL, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1992. (REAPPOINTMENT)

CONFIRMATIONS

Executive nominations confirmed by the Senate September 25, 1987:

DEPARTMENT OF STATE

JAMES H. MICHEL, OF VIRGINIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUATEMALA.

STEPHEN J. LEDOGAR, OF CONNECTICUT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING THE TENURE OF HIS SERVICE AS UNITED STATES REPRESENTATIVE TO THE EUROPEAN CONVENTIONAL ARMS NEGOTIATIONS AND THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR MUTUAL AND BALANCED FORCE REDUCTIONS NEGOTIATIONS.

LEONARD ROCHWARGER, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FIJI, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF TONGA, AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO TUVALU, AND AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KIRIBATI.

MAX L. FRIEDERSDORF, OF FLORIDA, FOR THE RANK OF AMBASSADOR IN HIS CAPACITY AS UNITED STATES REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT.

PETER R. SOMMER, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MALTA.

DEPARTMENT OF JUSTICE

WILLIAM S. SESSIONS, OF TEXAS, TO BE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION FOR THE TERM OF TEN YEARS.

INTERNATIONAL ATOMIC ENERGY AGENCY

JOHN S. HERRINGTON, OF CALIFORNIA, TO BE THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE THIRTY-FIRST SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY.

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

CRIMES AGAINST OLDER AMERICANS INFORMATION AND COORDINATION ACT OF 1987

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. GUNDERSON. Mr. Speaker, what is the most common crime against our elderly?

How many older Americans are robbed each year?

Where ought we focus our crime pervention efforts to better protect our grandparents?

No one knows.

The reason? There exists limited statistical data and information on crimes committed against older Americans.

Over 20 years ago, abuse and exploitation of children emerged onto the national scene and we took action to respond to this situation. In the 1970's, public attention was focused on domestic violence involving spouses. During the 1980's, our focus is turning toward crime against older Americans, including elder abuse, exploitation, maltreatment, and neglect. It is now time for the Federal Government to take the necessary steps to address this national tragedy against older Americans.

The House Select Committee on Aging in 1981 issued a landmark report entitled "Elder Abuse: An Examination of a Hidden Problem." Within this initial congressional investigation of elder abuse throughout our country, the committee estimated that annually 4 percent or 1 out of every 25 older Americans may be a victim of some degree of emotional, financial, or physical abuse. Earlier this year, the American Medical Association Council on Scientific Affairs reported that estimates of elder abuse affect approximately 10 percent of those individuals over age 65. A clear indication that over the past 6 years there has been an increase in the incidence of crime against older Americans.

Keeping in mind the unfortunate increasing incidence and prevalence of crimes against older individuals, the scenario becomes more complicated as we recognize the demographic changes occurring in the United States. Demographic statistics today tell us that older Americans have become the fastest growing segment of our society. U.S. Census Bureau numbers indicate that our older population doubled between 1950 and 1980, and are expected to double again by 2030, when those over the age of 65 are projected to make up 21.2 percent of our total population or 64.6 million older individuals.

As mentioned above, there are a number of factors that together exacerbate the situation of crime against older Americans, however our systematic knowledge is limited as we look at the cause, circumstance, and conditions facing a potential elderly crime victim. Also, there is minimal information gathered to develop an accurate profile of those who abuse the elderly.

Federal efforts to obtain data and statistics about the complex phenomenon of crime against the elderly must be heightened in an effort to correct such inappropriate acts. And to this end provide for constructive assistance and support toward the prevention of future crimes against older Americans.

For these reasons, I have introduced legislation responding to the void in statistical data and information regarding crime against older Americans, such as elder abuse, exploitation, maltreatment and neglect.

H.R. 3336, "Crimes Against Older Americans Information and Coordination Act," is a two-prong approach against the complex situation of crime involving older Americans.

First, this bill provides for the acquisition of statistical data about crimes against older individuals. This data would be collected by the Federal Bureau of Investigation [FBI] through an expanded Uniform Crime Report [UCR] Program. The UCR Program would gather information including the age, sex, ethnicity, living arrangements and other characteristics of the victim and the offender, and their relationship, if any.

The UCR is our Nation's main source of information about reported crimes and arrests covering roughly 97 percent of our U.S. population. On a monthly basis, law enforcement agencies submit UCR reports that summarize the type of crime, the number of offenses, and arrests.

Providing for more data collection expands our analytical ability to interpret crime statistics involving the elderly and gain a better perspective on the incidence and prevalence of crime against elderly individuals.

Second, the bill establishes within the Justice Department's Office of Justice Programs a "National Reference Center on Crimes Against Older Americans." This Center will:

Compile, publish and disseminate an annual report of research conducted on crimes against the elderly;

develop and maintain an information reference service on all private and public initiatives for the prevention and identification of crimes against the elderly, including elder abuse, exploitation, and neglect;

serve as liaison with the various Federal agencies and departments that carry out programs for the elderly; and,

study the national incidence of crimes against the elderly with a focus on differences between rural and urban areas of the United States.

I encourage you to consider cosponsoring H.R. 3336, "Crimes Against Older Americans Information and Coordination Act."

As our collective knowledge and insight into the dynamics of crime against older Americans becomes more sophisticated, our response for the prevention, intervention, and treatment will become more effective. H.R. 3336 commences our efforts to address the hidden shameful situation of crime against older Americans.

The text of H.R. 3336 follows:

H.R. 3336

A bill to provide for the acquisition of statistical data about the incidence of crimes against the elderly, to establish the National Center on Crimes Against Older Americans, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crimes Against Older Americans Information and Coordination Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) crime against the elderly is a complex situation with dynamic and varying origins;

(2) estimates are that between four and ten percent of Americans over the age of 65 are victims of crime, and more specifically abuse and neglect;

(3) an appropriate response to crime against the elderly is prevention, education, and greater public awareness but a major barrier exists: the lack of sufficient data reflecting the circumstances, cause and nature of crime against older individuals; and

(4) because of the definite lack of systematic statistical data regarding the incidence and prevalence of crime against the elderly, further data collection and research to determine the most effective intervention methods and techniques to respond to this national disgrace is necessary.

SEC. 3. MODIFICATION OF UNIFORM CRIME REPORTING PROGRAM.

As soon as practicable, but in no case later than January 1, 1990, the Attorney General shall modify the uniform crime reporting program in the Federal Bureau of Investigation to include to the extent known data on the age, sex, ethnicity, living arrangements, and other characteristics of the victim of the offense and the offender, and the relationship, if any, of the victim to the offender, for types of offenses against the elderly.

SEC. 4. NATIONAL REFERENCE CENTER ON CRIMES AGAINST OLDER AMERICANS.

(a) ESTABLISHMENT.—The Attorney General shall establish and maintain within the Office of Justice Programs of the Department of Justice an entity to be known as the "National Reference Center on Crimes Against Older Americans".

(b) FUNCTIONS.—The National Reference Center on Crimes Against Older Americans shall—

(1) compile, publish, and disseminate an annual report of research conducted on crimes against the elderly;

(2) develop and maintain an information reference service on all private and public initiatives for the prevention and identification of crimes against the elderly, including elder abuse, neglect, and exploitation;

(3) study the national incidence of crimes against the elderly with a focus on differ-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ences between rural and urban areas of the United States;

(4) serve as a liaison with the various Federal agencies that carry out programs for the elderly; and

(5) provide individuals, and to private and public organizations and agencies, technical assistance to reduce and prevent crimes against older individuals.

(c) AVAILABILITY OF INFORMATION AND SERVICES.—The information and services described in subsection (b) shall be made available to older individuals, State and local law enforcement organizations, the Administration on Aging, State and local aging agencies, and private sector aging organizations.

TRIBUTE TO FREDERICK CARL FRIESEKE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. SCHUETTE. Mr. Speaker, I am privileged to have the opportunity to make a statement on behalf of Mr. Frederick Carl Frieseke, an American impressionist painter who was born in the 10th Congressional District city of Owosso, MI.

I would like to bring to the attention of my colleagues the fact that on Sunday, September 27, 1987, Owosso will be honoring Frederick Carl Frieseke with a day-long schedule of festivities to remember this great artist. These celebrations are being sponsored by the Shiawassee Arts Council, Owosso Historical Commission and the city of Owosso.

Frederick Carl Frieseke is indeed deserving of this special day of honor. He was born on April 7, 1874, the son of Mr. and Mrs. Herman Frieseke, a successful brick manufacturer in Owosso. From his early years in Owosso Frieseke realized his interest in the arts. He later studied in Chicago and New York before moving to France in 1898. His work has impressed many and continues to live on in numerous museums throughout the world.

During the festivities on Sunday there will be a marker dedication at the home where Frieseke grew up on 654 N. Water Street, in Owosso. The bricks from his father's plant still frame the home where this renowned impressionist began his career. Following, please read the words which are written on the marker and so eloquently summarize his life:

OWOSSO, MI, BIRTHPLACE OF FREDERICK CARL FRIESEKE

An internationally famous American Impressionist painter. He studied at the Art Students League in New York and the Art Institute of Chicago before moving to France in 1898. His garden at Giverny was the setting for many of his finest paintings which render light and sunshine in brilliant colors. Flowers and female figures, including his wife and daughter, were among his favorite subjects. His painting, "Lady With a Sunshade," hangs in the Owosso Public Library, a gift, in memory of his grandmother.

Born April 7, 1874; died August 27, 1939.

Mr. Speaker, I hope you and our colleagues will join me, the Shiawassee Arts Council, Owosso Historical Commission, and the city of Owosso in honoring one of America's greatest impressionist painters, Frederick Carl Frieseke.

PERMANENT STATUS FOR POLAND'S REFUGEES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. FLORIO. Mr. Speaker, in the United States today, there are between 7,000 and 10,000 Polish refugees. These individuals fled from their country soon after the military regime of Gen. Wojciech Jaruzelski clamped down on the freedoms of the Polish Solidarity movement with martial law.

But now, these individuals are facing deportation at the end of the year.

For these thousands of Polish citizens, martial law meant giving up their freedoms. The fear of political persecution is widespread in Poland. It is often not just a matter of professing the freedom to speak. The only decision that they could make under the circumstances was to come to the United States where they would be protected in their beliefs and their freedoms.

While in the United States, they have enjoyed a measure of relief from what they would have encountered had they remained in Poland. Under a special status assigned to them by the Immigration and Naturalization Service, known as Extended Voluntary Departure [EVD], they are allowed to stay in this country as long as the situation in Poland warrants that.

At best, Extended Voluntary Departure is a tenuous situation for these Polish exiles. Every 6 months, the INS must go back to the criteria for assigning EVD and determine whether or not the situation in Poland has changed.

The basis for that appraisal comes from the State Department. The State Department had consistently recommended that conditions inside Poland did not warrant the return or deportation to Poland.

That is until last June. Last June, the State Department advised the INS that the conditions inside Poland had improved enough for the refugees to go back.

However, that assessment from the State Department is not an accurate reflection of the internal situation in Poland. Solidarity is still outlawed, and the freedom to speak and to practice one's faith are still severely circumscribed by government proclamation.

For these refugees, returning to Poland in 1987 is the same as it would have been in December 1986, June 1986, or January 1981, for that matter.

The political situation in Poland has rendered living there very difficult for these people.

In fact, if they were to return to their native Poland, they would be subjected to intimidation and discrimination at the hands of the Polish Government. Housing would be contingent on the Polish Government's willingness to forgive these refugees. Employment would be contingent on the Polish Government's willingness to forgive.

And what crime would these individuals be charged with? Since what they have done is essentially to seek asylum in the United States, that is an offense against the Polish state, and there are penalties for what the Polish state considers as treason.

The harassment that these individuals would face upon their return to Poland would be not only discrimination but also potentially, imprisonment. The penalty for treason is a stiff jail term.

For now, these Poles have a measure of relief from the threat of deportation. Despite the State Department's recommendation that they be returned to Poland, the INS and Attorney General Edwin Meese have extended their stay until the end of this year.

But at the end of this year, the threat of deportation or the last-minute save from the INS will have to be replayed all over again.

My colleague from Illinois, WILLIAM LIPINSKI, has introduced legislation that would remedy the residency status of the Polish refugees. H.R. 2692 would grant permanent resident status to Polish refugees arriving in the United States before July 21, 1984.

It would do what the INS in its periodic, 6-month recommendation cannot do, that is give the Polish refugees peace of mind and a chance to get on with their lives without the fear at the end of each 6 months they might find themselves on a return trip to Poland.

Merely extending their lease on residence every 6 months is not a solution. That is a Band-Aid approach, and every 6 months a new bandage has to be applied.

Because of the threat of deportation, these individuals are finding it difficult to make any long-term commitments in the United States. Whereas they would like to contribute to our society, and indeed they already have, banks do not lend money, and employers do not hire for long lengths of time.

In the 99th Congress, the Immigration Reform and Control Act was enacted, paving the way for the millions of undocumented illegal aliens already in this country to receive amnesty and to join our society.

But in order to receive amnesty, aliens had to prove residence in the United States before November 21, 1982. For the vast majority of Poles who fled to the United States after martial law was imposed in their country, that cutoff date was too early.

Some have argued that granting permanent residence status to the Polish refugees would set a precedent for all the other refugee groups seeking permanent asylum in the United States. On the contrary, there are only three refugee groups, including the Polish exiles, who are granted Extended Voluntary Departure status by the INS.

The Poles who have come to the United States want an opportunity to be contributors to our society. H.R. 2692 would give them that opportunity.

100TH ANNIVERSARY—GORTON HEATING OF CRANFORD, NJ

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. RINALDO. Mr. Speaker, the debate surrounding the state of our Nation's competitive position and basic industries has focused on steel, autos, textiles, and other giant industries. At times, this has caused us to overlook the growth of many small and enterprising companies that have been innovative and successful. One such firm that is celebrating its 100th anniversary is Gorton Heating Corp. of Cranford, NJ.

Over the past century, Gorton Heating Corp. has risen to prominence as an innovative producer of valves. It was started in 1887 in New York City and was originally known as Gorton-Lidgerwood Co. By 1932, the Lidgerwood name was changed when Mr. Gorton and Henry Feil formed a partnership. With $1, they bought the company at the height of the Depression. Their struggle through those lean years developed a sense of pride in quality workmanship.

In 1955, Glenn Klinefelter joined Gorton's sales force, and became president of Gorton in 1969. After his death, his widow, Marie Klinefelter, became owner and president of Gorton. With no previous experience in business, Mrs. Klinefelter successfully guided the company through a period of unprecedented growth and prosperity by adopting new engineering techniques, design and markets for its products.

On this 100th anniversary of Gorton Heating, I wish to congratulate Mrs. Klinefelter and the employees of Gorton Heating on their successful growth and wish them continued success.

H.R. 1917—CORRECT THE NOTCH

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. KOSTMAYER. Mr. Speaker, I rise today in support of H.R. 1917, legislation to correct the Social Security benefit formula known as the "notch." It is our duty as representatives of the American people to take immediate action on this urgent legislation.

The 1977 amendments to change the methods of computing Social Security have created a drastically precipitous "notch" between the earnings of those born before 1916 and those born in the years 1917 to 1921. H.R. 1917 would phase in a new benefit formula over a 10-year period, making the transition smoother and more equitable.

With over 9 million Americans affected by the notch, it is imperative that the Ways and Means Committee give H.R. 1917 a full and fair hearing. I am concerned that the committee has still not taken the very first step toward consideration of the bill.

Mr. Speaker, I offer you some disturbing statistics that describe a condition that should not exist in our country. The average annual benefit for a beneficiary born in 1921 is $856 less than for a beneficiary born in 1910 and $1,308 less than for a beneficiary born in 1916, according to 1986 Social Security Administration statistics. Furthermore, the average benefits of those born between 1919 and 1921 are less than the average benefits of beneficiaries born in any year in this century.

For these reasons, Mr. Speaker, I urge the Ways and Means Committee to act on this legislation immediately. These inequities are wholly inexcusable, and must be changed. The National Committee to Preserve Social Security and Medicare estimates that 636,000 notch babies have died since 1979, waiting for the notch inequity to be corrected. This works out to 218 a day. Many notch babies are World War II veterans who risked their lives for their beloved country. As United States citizens, they deserve fair and equitable treatment. I urge my colleagues to support consideration and eventual passage of this legislation.

THE TAXPAYER SAFEGUARD AND PROTECTION ACT OF 1987

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. PICKLE. Mr. Speaker, today I am introducing the Taxpayer Safeguard and Protection Act of 1987. This legislation is the result of the House Ways and Means Committee's ongoing review of complaints and concerns about the IRS expressed by taxpayers and tax practitioners alike.

It is vital that all taxpayers receive fair treatment from the Internal Revenue Service. The success of this country's self-assessment system is based on the cooperation of taxpayers and their willingness to work with the IRS in resolving their tax problems.

In recent years, Congress has enacted various improvements in taxpayer safeguards. I am concerned, however, that additional safeguards are needed to assist taxpayers in cases where the tax system continues to falter, and to protect taxpayers' interests.

Mr. Speaker, the Taxpayer Safeguard and Protection Act of 1987 will provide needed improvements in the areas of disclosure of rights and obligations of taxpayers, levies, exemptions, liens, interest disputes, toll-free telephone access, disclosure of taxpayer return information, and taxpayer services. My purpose in introducing this legislation is to provide further means to ensure that taxpayers are treated justly and equitably, and that their complaints and concerns are addressed fairly, professionally, and in a timely manner.

Many of my colleagues have demonstrated a strong desire to protect the rights of the taxpayers of this country and have cosponsored this legislation.

I submit a summary of the Taxpayer Safeguard and Protection Act of 1987, and its major provisions for the RECORD:

SUMMARY OF MAJOR PROVISIONS OF TAXPAYER SAFEGUARD AND PROTECTION ACT OF 1987

CONGRESSIONAL OVERSIGHT

The IRS would be required to report to the Committees on Ways and Means and Finance, by July 1, 1988, on its efforts to improve the quality of taxpayer notices, the identification and resolution of continuing taxpayer problems, and actions of the IRS Taxpayer Ombudsman on behalf of taxpayers.

A sense of the Congress resolution would be included stating that the level of taxpayer services should be improved, so that taxpayers can comply with the Tax Reform Act of 1986; that the IRS improve its handling of taxpayer inquiries and correspondence; that IRS take steps to insure that taxpayers do not incur unnecessary legal, accounting, or other expenses as a result of IRS delays, errors, or multiple submissions of information to the IRS; and, that the IRS conduct interviews with taxpayers at a reasonable time and place convenient to the taxpayer and the interviewer and continue to allow the taxpayer to make a recording of the interview at his or her own expense and with his or her own equipment.

STATEMENT OF RIGHTS AND OBLIGATIONS OF TAXPAYERS

The IRS would be required to prepare and distribute to taxpayers a clear and concise statement of their rights and obligations under the Internal Revenue Code.

LEVY AND SALE

Where property has been wrongfully levied upon, the IRS would be required, to the extent practicable, to return the property to the rightful owner within 14 days. If the property has been sold, the taxpayer would be entitled to receive the greater of the proceeds of the sale or the fair market value of the property immediately before levy.

After property has been seized by the IRS, the taxpayer would be given the right to request the sale of the property within 60 days, or such longer period as the taxpayer requests.

The 10-day period that a taxpayer has before the IRS may levy on the taxpayer's property would be increased to a 20-day period.

EXEMPTIONS FROM LEVY

New exemptions from levy would be added for: (a) public assistance payments; (b) Supplemental Security Income payments; and, (c) government training and skill development allowances. Also, the current exemption for certain military service-connected disability benefits would be clarified.

The exemption from levy for fuel, provisions, furniture, and personal effects would be increased to a $3,000 maximum value. The exemption for books and tools of a trade, business or profession would be increased to a $2,000 maximum value. The exemption for weekly wages would be increased to $150 plus $50 for each dependent.

Exemptions from levy would be made inapplicable to the collection of employment trust fund taxes.

LIENS

If an erroneous tax lien has been filed by the IRS, a certification of release of the lien would be required to be filed stating that the original filing was due to IRS error.

INTEREST DISPUTES

The Tax Court would be granted jurisdiction to correct errors in IRS's computation of interest due from the taxpayer.

TOLL-FREE TELEPHONE ACCESS

The IRS would be required to maintain toll-free telephone service for taxpayers to notify the IRS of potential administrative errors; the IRS would be required to provide a written certification of contact. In addition, the IRS would be required to provide a separate toll-free number for taxpayers having emergency problems associated with any Federal tax levy or lien.

DAMAGES FOR DISCLOSING RETURN INFORMATION

If a return preparer discloses confidential tax return information without authorization, the preparer may be prosecuted for a criminal violation under present law. A provision would be added authorizing the taxpayer to sue the return preparer for civil damages where there is no criminal prosecution.

KMEX TELEVISION, LOS ANGELES, CA, 25TH ANNIVERSARY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. ROYBAL. Mr. Speaker, I rise today to congratulate television station KMEX of Los Angeles, CA, on 25 years of service to the Hispanic community. For more than 23 years KMEX was the only Spanish language television station serving Hispanics on a continental basis. This pioneering effort allowed the Hispanic community of Los Angeles the opportunity to play a more active part in its political, social, and cultural environment.

Since its inception on September 29, 1962, KMEX has hosted a variety of programs dealing with issues relevant to the Hispanic community and the community at large. KMEX was the first station in the United States to produce a Spanish language morning magazine program. This program, "Mundo Latino," began as a local program which moved to national broadcast and finally international broadcast in 1987, when it became the first weekday morning program linking Los Angeles, Miami, and Mexico City. KMEX was the first Spanish language station to broadcast all political conventions as well as election coverage live with Spanish language commentary, beginning with the Presidential elections of 1978.

In addition to recognizing KMEX television for its revolutionary approach to Hispanic television, I would like to commend the station and all those involved for its outstanding record of public service to the community. "Navidad En El Bario," a nonprofit organization which began at KMEX, conducts annual telethons and raises hundreds of thousands of dollars to benefit the needy of the community at Christmas time. In 1985 KMEX led a movement among its sister stations to raise money for disaster relief and other charitable causes. More than $20 million was raised for victims of the earthquake in Mexico City, the mudslides in Puerto Rico, the floods in Colombia and the earthquake in El Salvador.

KMEX television provides an invaluable service to a very unique community. During the past 25 years of its existence, this organization has proved itself as a source of information, a link for members of the Hispanic community and an important part of that community's social service network. For this exemplary record I would like to commend KMEX and its president and general manager Danny Villanueva for a quarter of a century of service to the Hispanic community.

GRAMM-RUDMAN ON DAIRY

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. JEFFORDS. Mr. Speaker, I have introduced a bill that addresses a serious problem arising from the new Gramm-Rudman Act passed this week.

My concern is for provisions in this act that are designed to obtain savings from the dairy program. We fixed this same problem in the original Gramm-Rudman legislation passed in March 1986. But due to an oversight, this same corrective piece of legislation was not included in the final conference agreement this year.

Therefore we are forced to reintroduce a bill that will correct this problem in the Gramm-Rudman mechanism. This should not be controversial as it only serves to address a Government support price cost peculiar to the dairy program.

The present cost-saving provisions contained in Gramm-Rudman call for an across-the-board cut in milk price support for all milk produced in the United States—or 143 billion pounds. The Commodity Credit Corporation, however, is expected to buy only 3 percent, or 5 billion pounds, of this in fiscal year 1988 in carrying out price support operations.

This means that producers of nearly all of the milk in the United States do not receive payment through a Government program but receive prices determined by the commercial market which are above the support price. Herein lies the problem.

Government savings under present Gramm-Rudman can only be effected by reducing the support which effects the price of all milk marketed in the United States. However, as I noted earlier, the Government is expected to buy only 5 billion pounds in fiscal year 1988.

This would mean that to achieve a savings of, say, $50 million in fiscal year 1988, a $1 per hundredweight cut in the support price would be necessary. This would also mean that, using the across-the-board method under the present Gramm-Rudman, every dairy producer in the United States would also have their income reduced accordingly, resulting in over $1 billion in lost income to our Nation's agriculture economy. And all this would occur while only looking for $50 million in budgetary savings.

My bill would allow, as it did in 1986, for a temporary assessment on each dairy producer in the United States to achieve the necessary savings. This method would produce a $50 million budgetary savings, for example, while only costing dairy farmers an equal amount—not the over $1 billion in lost income as provided for in the present Gramm-Rudman Act.

Mr. Speaker, dairy producers have reduced their program costs by over $1 billion since 1986. These same dairy producers are willing to contribute their fair share to achieve budget savings required by law. But extracting that share through price support cuts would place a totally unfair burden on them.

My bill will correct this unequal treatment inadvertently contained in the present Gramm-Rudman agreement.

H.R. 3344

A bill to effect any reduction in net expenditures for milk price support activities required by the Balanced Budget and Emergency Deficit Control Act of 1985

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(d)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(2)) is amended by—

(1) in subparagraph (A) by striking "During the period beginning on April 1, 1986, and ending on September 30, 1987," and inserting "Beginning after March 31, 1986,",

(2) in subparagraph (B) by striking "subparagraph (E)" and inserting "subparagraphs (E) and (F)", and

(3) by adding at the end the following:

"(F)(i) The Secretary—

"(I) notwithstanding the Balanced Budget and Emergency Deficit Control Act of 1985 and any order issued by the President under section 252 of such Act for a fiscal year; and

"(II) in lieu of making any reduction in payments for the purchase of milk or the products of milk under this subsection during such fiscal year under any such order;

shall provide for the reduction (measured in cents per hundredweight of milk marketed) under subparagraph (A) during the period beginning on October 1 and ending on September 30 of such fiscal year as the sole means of achieving any reduction in budget outlays under the milk price-support program that otherwise would be required under either such order and only for the purpose of substituting for any reduction in payments made by the Secretary for the purchase of milk or the products of milk under either such order.

"(ii) The aggregate amount of any reduction under subparagraph (A) resulting from the operation of clause (i) may not exceed the aggregate amount of the reduction in budget outlays under the milk price-support program, as estimated by the Secretary, that otherwise would have been achieved under either such order by reducing payments made by the Secretary for the purchase of milk or the products of milk under this subsection during such fiscal year.".

SMALL BUSINESS SUCCESS: A SALUTE TO THE J.T. HANDY CO. OF CRISFIELD, MD

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. DYSON. Mr. Speaker, I rise today to salute a company that is prospering in these times of economic hardship. At a time when the United States is running up record trade deficits and has become for the first time a net debtor Nation, one small company in the First District of Maryland is expanding its exports to Japan.

In 1980, Mr. Terrence Conway became the new owner of the John T. Handy Co., which had been selling soft-shelled crabs to local distributors. The company was then occupying a small building in downtown Crisfield and employing 70 local workers.

Two years later, Mr. Conway borrowed $500,000 to transform an old oyster and tomato processing plant into a modern soft-shell crab processing plant, located on five waterfront acres, and equipped it with the modern machinery.

In the last 5 years, the company has quardrupled sales, which reached an estimated $7 million last year alone. The company now exports approximately 6 million soft-shell crabs a year. More importantly, 27 percent of these sales are exports, with most going to Japan. And with the help of a $1.5 million line of credit from the Export-Import Bank of the United States, J.T. Handy hopes to increase its exports by 30 percent more this year.

The growing success of this small business in my district shows that, given the right tools and management, American companies can compete with their counterparts abroad. The J.T. Handy Co.'s spectacular growth can be attributed to several crucial factors: Involved and guiding management, finding a viable and expanding market, increasing productivity through investment in capital goods and workers, and marketing savvy in pleasing discriminating customers as far away as Japan.

Given these proper conditions, Mr. Speaker, I believe that American companies can compete with international competitors. The success of that J.T. Handy Co. of Crisfield, MD, is concrete proof of that.

MORAINE VALLEY MARKS 20TH ANNIVERSARY

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. FAWELL. About 75 years ago, the concept of the community college was born. As this concept evolved over the years, it came to envision an institution of higher learning which would offer educational opportunities of high quality directed especially at the practical needs of the immediate community. Through its facilities, all people would have access to learning programs to improve their vocational and avocational skills, and also enjoy cultural or recreational activities.

In 1967, the people of southwest Cook County, IL, created Moraine Valley Community College through a public referendum. Moraine Valley was formed with the belief that education beyond the high school level would contribute to the improvement of society. But more particularly, and more importantly, the supporters of the referendum were confident that this kind of education would open the minds of the students, broadening their vistas of the present, past, and future, and significantly enriching their lives.

Moraine Valley Community College has earned the highest commendations for its varied and invaluable educational service. Beginning with 50 courses and 1,200 students in September 1968, the college now offers more than 950 courses to a student body of 16,000. Over the last two decades, they have served more than 200,000 students in credit classes, and more than 60,000 in continuing education and other noncredit classes.

Mr. Speaker, the administration, faculty, students and supporters of Moraine Valley are gathering this month for a series of celebrations of their 20th anniversary. I know that my colleagues in the House will join me in enthusiastic congratulation to the college for its excellence in education and service to the community.

EAGLE SCOUT JOSEPH SOLCANI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Joseph Solcani. He will be recognized on Sunday, November 15, for achieving the highest rank in Scouting, Eagle Scout.

In becoming an Eagle Scout, he will join the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological, and more. His accomplishment becomes even more notable when it is viewed cumulatively. That is, the entire sum of achievements and the perseverance of character demanded illustrate just what high caliber young man Joseph is.

In today's society, our youth are truly bombarded with a variety of lifepaths to choose from. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though some credit should be given to the family of this young man and to the scout leaders who provided support, Joseph today knows that he can participate in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing Joseph the best of luck in his future endeavors.

A TRIBUTE TO SALVATORE TRAFICANT

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to a very special resident of the 17th Congressional District, and a person who is very dear to me personally, Mr. Salvatore P. Traficant. Mr. Traficant is my uncle, and a man I have been close to for many years. It is with deep sorrow and pain that I inform my fellow Members of the U.S. House of Representatives that my uncle is extremely ill with terminal cancer.

Mr. Traficant was born on June 8, 1923, and his proud parents were Salvatore and Frances Traficant. He was a diligent and tireless worker for the Packaging Corp. of America for 20 long years, before spending numerous years as an independent trucker. In addition, he was slavishly devoted to local 377 of the Teamster's Union, of which he was one of the most active members in the local's history. He retired from his long and dignified career in the trucking industry in 1982. I am proud to note that during my tenure as Mohoning County Sheriff from 1981 to 1985, Mr. Traficant was an able and hard-working Reserve Deputy for the Mahoning County Sheriff's Department.

Mr. Traficant has devoted countless hours of service to his parish, St. Katherine's Church in Lake Milton, OH. All of his neighbors in Lake Milton have the upmost respect and high regard for him. Mr. Traficant is deeply loved by his wife, Sarah Caspary Traficant, and is adored with the utmost devotion by his children, Edward L. Traficant, Salvatore P. Traficant, Linda Traficant Brinko, and Carol Caspary Galner. And I must mention that his doting grandchildren, Edward, Michele, Anthony, Lori, Steve, and Melissa think he is the most beautiful person on the face of the Earth.

Salvatore, I want you to know that you are in my thoughts and prayers constantly these days. Many of the happiest and most cherished moments of my life revolve around you, and I intend to love you and help you all that I can. Thus, it is with thanks and special pleasure that I join the residents of the 17th Congressional District in paying tribute to the outstanding character and tremendous courage of my wonderful uncle, Mr. Salvatore P. Traficant.

BUTTON THE LOOSE LIPS IN CONGRESS

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 25, 1987

Mr. LUNGREN. Mr. Speaker, perhaps the single most important issue to emerge from the Iran-Contra hearings is that of trust between the executive and legislative branches of Government. Among other witnesses, Lt. Col. Oliver North made exceedingly clear to the committee that there is a general unwillingness by the White House to share secrets—especially where they concern covert operations—with the Congress.

Much of the executive branch's recalcitrance about sharing sensitive information derives from a legitimate fear that some leaks of such materials, whether inadvertent or deliberate, have been attributable to committee members and staff. And while the Tower Commission maintained that Congress may receive a disproportionate blame for leaks, it also argued that the large number of staff and Members of Congress reviewing covert activities "provides cause for concern and a convenient excuse for Presidents to avoid congressional consultation." Congressman LEE H. HAMILTON, former chairman of the House Intelligence Committee, said it best: "Leaks are inevitable when so many people handle secrets."

Mr. Speaker, intelligence collection and the conduct of espionage are uniquely sensitive activities requiring the utmost secrecy. As I see it, the singular nature of these activities dictates a specially structured oversight process, not one that mimics ordinary congressional procedure. Legislation introduced by my colleague, Representative HENRY HYDE, to merge the House and Senate committees into a single panel is a step in that direction.

The article reprinted below from the July 26, 1987, edition of the San Diego Union explains in detail some of the problems we have had in guarding our secrets. It also endorses the idea of forming a joint intelligence committee.

[From the San Diego Union, July 26, 1987]

BUTTON THE LOOSE LIPS IN CONGRESS

(By Robert J. Caldwell)

President Reagan, who must have grimaced last week at the portrait of administration disarray painted by the testimony of Secretary of State George P. Shultz, might be forgiven for grimacing again at the thought of what an angry Congress might do in the wake of the Iran-*Contra* affair.

Lawmakers might, for example, attempt to encroach further on a president's constitutional authority to conduct foreign policy. Certainly, Congress can be expected to subject the administration to far greater scrutiny during its final 18 months. In addition, there almost certainly will be some effort to draw a tighter leash on covert operations, or at least to ensure that Congress is told about all covert activity.

But is it possible that there also might be something of a pleasant, if still modest, surprise waiting for Mr. Reagan? A Congress stung once again by accusations that it cannot be trusted completely because it leaks too many secrets may, in fact, surprise almost everyone by tacitly acknowledging the criticism and tightening up its own security measures.

Ironically, that very suggestion was offered last week by Sen. Daniel K. Inouye, the Hawaii Democrat who is chairman of the Senate committee probing the Iran-*Contra* affair. It was Sen. Inouye who sternly lectured Marine Lt. Col. Oliver North for citing Capitol Hill leaks as justification for misleading Congress, lying and otherwise withholding information.

With an air of injured innocence, Inouye protested that most leaks of classified information come from the executive branch, rather than from Congress. Then Inouye cited decorations he had been awarded for his service as an intelligence committee chairman during the 1970s.

And Inouye added that he had been congratulated recently by Lt. Gen. William E. Odom, head of the supersecret National Security Agency (NSA), for avoiding the disclosure of any U.S. secrets during the lengthy Iran-*Contra* investigation and hearings.

Inouye's rebuttal seemingly put the upstart North in his place and shredded the assertion that Congress could not be trusted with the nation's secrets.

But, in fact, Inouye was hardly less guilty than North of stretching the truth. For starters, Inouye misstated his conversation with Odom. The NSA director sought subsequently to correct the record with a clarifying letter to Inouye.

The letter, made public via (what else?) a leak to the *Washington Times*, began by noting that Odom had only telephoned Inouye because a committee witness had mentioned classified intercepts, a breach of security. Then Odom added:

"I did not say that there have been no leaks by the (Iran-*Contra*) committees. I simply do not know whether or not that is true. I have been told that there have been some leaks of non-SIGINT (signals intelligence) material.

"I do not . . . believe you have accurately conveyed in your public references to me what I actually said about leaks," Odom wrote.

Telling as it was, the Odom-Inouye exchange was the merest hint of Congress's larger problem in safeguarding classified information. Even a cursory examination of the record since Vietnam and Watergate discloses grave lapses in Congress's ability to protect secret information shared by the executive branch.

A 1985 *Washington Post* article by former CBS correspondent Daniel Schorr reported significant examples from the 1970s and early 1980s. Schorr wrote that Central Intelligence Agency operations in Chile, Angola, Nicaragua, El Salvador and Libya all leaked after CIA officials briefed congressional committees. These projects were controversial and opposed by some in Congress.

The purpose of such leaks was apparent: To expose the operations in question and thus cause them to fall or be cancelled.

Schorr's article went on to note that ". . . it has never been suggested that a member of Congress could be disciplined other than by Congress itself. This is relevant because . . . the exposure of convert intelligence operations is frequently a form of congressional whistle-blowing. A leak often occurs when a clandestine plan runs into substantial opposition during a (CIA) briefing for congressional committees."

Schorr wrote that "the late Rep. Leo Ryan told me (in 1975) that he could condone such a leak if it was the only way to block an ill-conceived operations." Ryan, a San Francisco Democrat who was killed in Guyana in 1978 by a follower of the Rev. Jim Jones, was a prominent liberal opponent of many CIA covert operations.

The 1974 Huges-Ryan Act required that all covert operations be reported to no fewer than eight congressional committees. The hundreds of members of these committees and their staffs made maintaining secrecy almost impossible.

Then-CIA Director William Cobly was later to write (in *Honorable Men, My Life in the CIA*): "Thus, by mid-1975, appearances on the Hill had become a pervasive aspect of my job as DCI (director of central intelligence) and I was going up there to report on every new step taken in the Angola, Kurdish and other covert operations currently under way, as well as testifying on practically everything the CIA had ever done during the last three decades. . . .

"Sadly, the experience demonstrated that secrets, if they are to remain secret, cannot be given to more than a few congressmen. Every new project subjected to this procedure during 1975 leaked and the covert part of CIA's covert actions seemed almost gone," Colby wrote.

Since the mid-1970s, the reporting requirements have been amended in an effort to maintain some semblance of security. Today the CIA reports to two committees, the select committees on intelligence in the House and Senate. But that still divulges many of the nation's most closely held secrets to nearly 100 persons on Capitol Hill—32 senators and representatives and about 60 staff members.

And not all members of Congress's intelligence committees have risen above using leaks or threatening to use leaks to stop intelligence programs they oppose.

Liberal Sen. Joseph Biden, D-Del., told reporter Brit Hume last year that he had "twice threatened to go public with covert action plans by the Reagan administration that were harebrained," and thereby halted them.

Rep. Henry Hyde, R-Ill., now the ranking minority member of the House Select Committee on Intelligence, charged in 1984 that "the calculated, politically motivated leaking of highly sensitive information has become a Washington art form." Hyde also charged that security and proper congressional oversight had suffered from purely partisan politics, reflected in the politicization of the House Select Committee on Intelligence in particular.

The same point was made dramatically by retired Adm. Bobby Inman, a former deputy director of the CIA and one of the nation's most respected intelligence experts. Inman resigned as a consultant to the committee in 1982, protesting that partisan politics were being played within the committee, and that this was distorting the intelligence function.

"If the country doesn't establish a bipartisan approach to intelligence, we are not going to face the problems of the next 50 years," Inman said.

Yet the leaks continued. Not long after Hyde's 1984 lament, CIA officials briefed the Senate Select Committee on Inteligence about information indicating that the government of India was considering a preemptive strike against Pakistan's nuclear facility.

Word of the briefing leaked, reports appeared in the U.S. press, and the Indian government thereby was warned that its innermost security had been breached. The subsequent Indian investigation exposed and eliminated a French intelligence ring that had been an important source of information for the CIA.

A year later Sen. Patrick Leahy, D-Vt., vice chairman of the Senate Intelligence Committee, inadvertently disclosed a top-secret communications intercept during a television interview. The intercept, apparently of Egyptian President Hosni Mubarak's telephone conversations, made possible the capture of the arab terrorists who had hijacked the cruise ship Achille Lauro and murdered an American citizen.

Another 1985 leak followed a top-secret, closed-door briefing of the two intelligence oversight committees by Secretary of State Shultz. The leak, prominently reported in the press, told of a CIA operation to destabilize the regime of Libyan dictator Col. Moammar Gadhafi. By some accounts, the reports cost the life of at least one Egyptian operative involved in the operation.

And this year Sen. David Durenberger, R-Minn, a former chairman of the Senate Intelligence Committee was investigated by the Senate Ethics Committee for allegedly leaking classified information. Durenberger reportedly told a pro-Israel lobbying group during a private meeting in Florida last March that the United States had recruited an Israeli military officer to provide information to the CIA during Israel's 1982 invasion of Lebanon.

Clearly, no one can pretend plausibly that congressional leaks are not a problem. And, just as clearly, there is no chance that Congress will relinquish its current legal right to be informed of covert intelligence actions.

The obvious corrective, therefore, is to restrict further the numbers of senators, representatives and congressional staffers provided access to the nation's most sensitive intelligence secrets.

Sen. Inouye said last week that "the time may be coming" to disband the separate House and Senate intelligence committees replacing them with a single, small, joint commitee.

Rep. Hyde agrees and is co-sponsoring with Rep. Dan Lungren. R-Calif., a resolution proposing a single, small committee with minimal staff. The Hyde-Lungren measure, which now has about 110 co-sponsors, would meet the legal requirements of congressional consultation while reducing the numbers of those on Capitol Hill with access to the most sensitive intelligence information from nearly 100 to fewer than 40.

The case in favor of this reform is overwhelming. If Congress is serious about protecting vital secrets, it will join with the Reagan administration to do just that.

It is ironic that this prospective reform should spring in part from a constitutional confrontation in which Congress was told too little, not too much. But the need to better protect classified information shared with Congress is urgent, and hardly contradicted by the secrecy that attended the Iran-Contra affair.

SENATE—*Saturday, September 26, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Reverend R.C. Halverson, Jr., Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

Let us pray together.

Father in Heaven, we know that leaders can fall in a moment of poor judgment, to which we are all prone. And nations can collapse overnight due to the absence of good advice. Therefore, we urgently pray for an outpouring of devine wisdom upon our leadership and our Nation. Raise up prophets, priests and sages who will bodily and faithfully declare Your counsel to men. And grant leaders the discernment to surround themselves with godly advisers that their decision might bring about strength and stability.

We pray this so that we may live peaceably in a kingdom founded on justice and righteousness, through Christ, Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 26, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

LEADER TIME YIELDED

Mr. BYRD. Mr. President, I ask unanimous consent that the two leaders may have 2½ minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I have been authorized to yield this time to Mr. PROXMIRE.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader.

HOW EVEN A LOSING TAKEOVER CAN DESTROY A HIGHLY COMPETITIVE COMPANY

Mr. PROXMIRE. Mr. President, the Senate should, as soon as possible, pass legislation controlling the damage to our competitive economy wrought by corporate takeovers. Here's why: Anyone who thinks corporation management has any real chance to win a worthwhile victory when a raider sets the corporation in its sights should consider what has happened to the Borg-Warner Corp. Borg-Warner has a long and proud record as a highly competitive, efficient manufacturing firm. In recent years it has been a classic business school case of an old line manufacturer that brilliantly diversified its manufacturing businesses adding chemical and other products and moving into a number of other businesses including services. Borg-Warner seemed to be doing everything right. It maintained a very low debt equity ratio, so it could survive inevitable recessions. It pushed its resources heavily into research and development to stay on the curring technological edge. It spent heavily to keep its work force trained, competent and holding down worker turnover. It invested in the newest and most efficient equipment. It was rewarded for its efficiency with an enviable return on its equity. And it was more than a highly efficient business entity. It was a good, in fact, an excellent corporate citizen of its community: Chicago. For years it has been a leading contributor to Chicago charities, schools and cultural activities.

In a superlative article in the September 20, Chicago Tribune, Matt O'Connor describes vividly what happened after Merrill Lynch Capital Partners Inc., got Borg-Warner in its sights, and began the takeover process. It was a battle royal. Borg-Warner management won. Merrill Lynch lost. But the Borg-Warner victory has left this excellent, highly competitive company a staggering wreck. Borg-Warner management took the one surest route to victory. It skyrocketed its debt by a whopping tenfold. In 1986—1 year ago Borg-Warner owed $440 million. Today—a year later Borg-Warner's debt is a whopping $4.2 billion. That's an approximate tenfold increase in debt. In that same year Borg-Warner's equity sank from $1.53 billion all the way down to $200 million. Borg-Warner's equity fell to one-eighth of its 1986 level. Results: Borg-Warner's healthy equity debt ratio of better than 3 to 1 in 1986 became a highly dangerous 1-to-20 ratio in 1987. Here is a case in which a threatened corporate raid converted a healthy corporation able to survive serious recession into a firm that has become a corporate basket case. A few months into the next recession and Borg-Warner will be gone. Indeed, even without a recession the kind of rise in interest rates that many experts are predicting over the next 2 or 3 years could push Borg-Warner into insolvency.

Faced with this grim situation the options for Borg-Warner's fine management are very limited. The corporation will have to sharply reduce or eliminate its excellent and productive research program. It will have to reverse its highly successful diversification program. It will, for example, sell its highly rated chemical business and other critical parts of its diversified operation to pay off $750 million in debt this year and $2 billion next year. It will certainly have to reduce and perhaps eliminate its role as a leading corporate citizen of Chicago with its contributions to charities and education.

Mr. President the Borg-Warner experience is not uncommon for firms that resist takeovers and win. Union Oil of California succeeded in beating a threatened takeover a few years ago by skyrocketing its debt from $1.2 to $5.2 billion. Like Borg-Warner it used the cash to buy its stock and push the price out of reach of the raider. But in the process UNOCAL took on a debt that—according to its Chief Executive Officer Fred Hartley required a daily payment of $3 million in interest. Yes, I said a daily payment of $3 million.

Now some will say that UNOCAL and Borg-Warner have only themselves to blame. They increased the debt. The raiders didn't. So it's their

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

problem. Are they really to blame? Mr. President, this reminds me of the old French proverb: "The beast is wicked. You attack it. It defends itself." Both Borg and UNOCAL were right to use their biggest weapon to win. If they had not taken the big debt route, they almost certainly would have lost. And then what would the raider have done? He would have used the available credit of the target company to raise the money to repay the debt the raider incurred in raising the billions to win the takeover fight. Borg would have been plunged into debt in either event. Merrill Lynch would also have moved in to promptly liquidate Borg-Warner's prize assets. Borg-Warner would have been shoved up to its eye balls in debt. It would have had to reverse its diversification. It would also have lost its excellent and highly successful management.

So win or lose in the Borg-Warner case as in so many of these cases, American competitiveness takes it on the chin. Mr. President, the plight of Borg-Warner represents an eloquent argument for legislation that would give corporate management a genuine fighting chance to make their case fully and fairly to their stockholders before tender offers are acted on.

Mr. President, I ask unanimous consent that the first 13 paragraphs of the article to which I referred by Matt O'Connor in the September 20, 1987 Chicago Tribune be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Borg Won, But Victory Took Its Toll

(By Matt O'Connor)

Victory over corporate raiders has come at a steep price for Borg-Warner Corp.

This mainstay of Chicago corporate and civic life has turned inward as a private company laden with debt. The conservatively managed company's debt soared nearly 10-fold in a burout last April led by a Merrill Lynch & Co. subsidiary.

Borg-Warner, which rarely allowed its debt to exceed one-fourth of its shareholders' equity, suddenly had $21 of debt for every $1 of equity.

"That's startling," said Clarence E. "Red" Johnson, Borg-Warner's former president and chief executive officer who quit in June. "It's a tremendous debt burden."

Life will never be the same again at Borg-Warner.

Saddled with $4.2 billion in debt, the company has been left more vulnerable to economic downturns or interest rate increases.

Management, which once concentrated on products and operating results, has had to shift its focus to boosting cash flow and reducing the huge debt.

The short-term focus threatens long-term research and development projects, raising the danger that this diversified company could be hurt competitively.

With cash so limited, Borg-Warner's proud history as one of Chicago's strongest corporate contributors to charities, schools and cultural groups appears doomed. Among the possible victims is a housing rehabilitation project on Chicago's Far South Side that depends on Borg-Warner for half its budget.

Under the strain, Borg-Warner's veteran management team split up, and a closeness between management and employees collapsed. In outlying operations like its Muncie, Ind., auto parts plant, workers and community leaders fret over possible cuts yet to come.

"That is the kind of corporate raiding that is, in my judgment, destructive rather than constructive," said Donald D. Lennox, the retired head of Navistar International Corp. who often held up Borg-Warner as a model of an old-line manufacturer's successful diversification into service businesses.

"Here is a company that the management had built to be a healthy, well-performing organization, and in order to defend themselves, it had to be disassembled," Lennox said.

The worst is yet to come.

Forced to pay off about $750 million in debt this year and another $2 billion by the end of next year, Borg-Warner will have to sell off major parts of its diversified business, perhaps even its prized chemicals subsidiary.

THE GOLDEN GAVEL PRESIDING OFFICER

Mr. PROXMIRE. Mr. President, I compliment the Presiding Officer [Mr. Breaux]. He really deserves a golden gavel. He is a man who I understand has presided for more than 75 hours. He is the Judge Wapner of the Senate. In fact, I think he has more charisma than Judge Wapner and I am sure more endurance.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin yields the floor.

The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, just a few reminders with respect to the final agreement.

First, there will be no rollcall votes today unless a parliamentary motion would become necessary, which is always understood to be appropriate even in the face of my assurances there will be no rollcall votes. We will do that always. If I do not say it, I think every Senator understands that if it becomes necessary to get a quorum or if we have to have the yeas and nays on a motion to adjourn or recess, the Senate cannot straitjacket itself and make it so impossible for it to function that we cannot do so. That would be unreasonable.

I expect no rollcall votes, and we will try to avoid it if parliamentary situations should arise, but that might be beyond my capacity.

Second, Mr. President, no amendment may be called up if it is not listed in the agreement, with two exceptions, one being amendments dealing with the War Powers Resolution and amendments dealing with SALT II.

Third, all debate will cease at 8 p.m. on Tuesday next.

Additionally, there will be a series of rollcall votes at the beginning of Tuesday morning starting at 8:30 a.m. and the first rollcall vote will be a 30-minute rollcall vote with the call for the regular order at the end of the 30 minutes or thereabouts.

The rollcall votes that will occur seriatim on Tuesday morning will be those which have been stacked by agreement on amendments and they will occur in sequence with reference to the order of their stacking.

I believe two have already been ordered and in the interest of saving time, as much time as possible on Tuesday, if I have not gotten consent already I will seek consent that all back-to-back votes subsequent to the first vote will be 10-minute rollcalls and that means 10 minutes. We have gotten into a bad mode here of having 10-minute rollcalls which actually are 20 minutes or 25.

But it will not happen on Tuesday. I say this because Senators are going to be very, very hard-pressed to get their amendments up and have time for debate, even on those amendments that have a time limitation agreed to, as the day wears on.

If I have not mentioned it already, no amendment will have more than 30 minutes, but all amendments are restricted to 30 minutes or less, the "less" being those times that have already been agreed on.

A motion to table is available on every amendment under this agreement. Even though the yeas and nays are ordered on an amendment, this does not waive a Senator's right to move to table when the time comes.

I urge Senators to come to the floor today and Monday and call up their amendments and have debate thereon. This is the one assurance that they will have time, at least 30 minutes, on their amendments.

Mr. President, in the spirit of agreement and in the spirit of having the Senate come to grips with the amendments that have been listed, and in the spirit of avoiding any effort to make an end run around that agreement—I think it was the intent of all that we limit ourselves to this agreement—I ask unanimous consent that no motion to recommit with or without instructions be in order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I believe I have laid out some of the basics that all of us ought to keep in mind as we proceed on this agreement.

Mr. NUNN. Mr. President, I thank the majority leader for laying out the procedure that we are operating under now by unanimous consent and after an awful lot of work on both sides of the aisles to reach this rather elaborate but I think very efficient and effective procedure in terms of dealing with the amendments.

I want to emphasize one point that the majority leader has already made. We are here today to do business. We know of about five amendments we can deal with today. I would hope we could deal with more than that. I would hope we could have other Senators come over. I think all Senators ought to recognize what they are faced with unless they come over today or Monday, and that is we have got, I am informed, 50 amendments left.

We have 50 amendments left. We come in Tuesday morning at 8 o'clock. We begin voting shortly thereafter. We will have four or five, maybe more rollcall votes. So, assuming we have a good many rollcall votes, we will probably start on new amendments at about 10 o'clock. Now, we are going to quit debating at 8 o'clock.

Mr. BYRD. At 8 p.m., as I had to be reminded so many times yesterday.

Mr. NUNN. At 8 p.m. that evening. So that gives us approximately 10 hours of debate. Now, if each amendment takes 30 minutes—and some of them will take less than that, but we have a number of them that are 30-minute agreements—and if each of those, let us say there are 30 to 35 of them, takes 30 minutes, that is more than 10 hours. And there are a number of them that will take 15, 20 minutes. So unless we deal with amendments today and Monday, there is just a mathematical impossibility of dealing with all of them in accordance with the full amount of time that the authors of the amendments would like on Tuesday.

So I encourage Senators that are in town today to come on over and let us handle the amendments today, have the debate today. If we can agree to them, we will; if we cannot, we will set a rollcall for Tuesday.

I thank the Senator from Washington State, because he is prepared to do exactly that.

Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, which is S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

(2) Byrd Amendment No. 732 (to Amendment No. 712), of a perfecting nature, to provide that Congress express its support for (1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf; (2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in the region; and (3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

(3) Conrad Amendment No. 749, to express the sense of the Congress that the President should enter into negotiations with members of mutual defense alliances with the United States for the purpose of achieving a more equitable distribution of the financial burden of support of such alliances. (A vote will occur on the amendment on Tuesday, September 29.)

(4) Dole Amendment No. 753, to commend the Armed Forces of the United States for their successful operation in thwarting Iranian mine-laying activities in the Persian Gulf. (A vote will occur on the amendment on Tuesday, September 29.)

AMENDMENT NO. 761

(Purpose: To provide for removal, disposal, and replacement of asbestos insulation at the central steam plant, Fairchild AFB)

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from Washington.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. ADAMS, proposes an amendment numbered 761.

At the appropriate place in the bill add the following:

"Replace asbestos insulation in the amount of $2,050,000 at Fairchild Air Force Base, Washington."

Mr. EVANS. Mr. President, I rise today to offer, on behalf of myself and Senator ADAMS, an amendment to expedite the process of removing asbestos insulation from the heating plant, steam tunnels, and pits at the central steam plant at Fairchild Air Force Base in our State. Insulation of a safe type is to be installed in place of the asbestos insulation.

Our amendment would add $2,050,000 to the bill to make sure that this necessary project is completed as quickly as possible. From my perspective, it is curious that the Air Force has not made this project a higher priority item. Every day that this project is delayed results in prolonging the unacceptable exposure of workers in the plant to the potential dangers of asbestos.

As of February 1987 the project was 35-percent design complete—the standard threshold for committing funds to a project. We should delay no longer in getting this project underway.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment of the Senator from Washington, Senator EVANS?

Mr. NUNN. Mr. President, we believe this is a good amendment. We think it should be accepted by our colleagues. I assume it has also been cleared on the Republican side of the aisle.

I urge that this amendment be accepted.

The ACTING PRESIDENT pro tempore. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (No. 761) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay motion on the table.

The motion to lay on the table was agreed to.

Mr. EVANS. May I inquire of the managers of the bill, I have a second amendment which it was my understanding had been cleared. I understand that perhaps there is still something to be done on it. It is a simple amendment that carries forward an agreement between the U.S. Navy and the Tulalip Indian tribes. It seems to me it is fairly straightforward. It is my understanding that an agreement had been reached between the tribes and the Navy and all the problems that had existed had been cleared away.

Mr. NUNN. I say to our friend and colleague from Washington that that amendment is being worked on right now by staff on both sides. It has not been cleared yet. If the Senator could be here for perhaps another 30, 40 minutes, we could let the Senator know one way or another this morning.

Mr. EVANS. I say to the manager, I hope we can do it in 3 or 4 minutes.

Mr. NUNN. What I am saying is that I do not think it would take long to handle the amendment, but we have not completed reviewing it. The review itself will take about another 30 minutes.

Mr. EVANS. I thank the Senator.

AMENDMENT NO. 762

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposed an amendment numbered 762.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

Notwithstanding any limitation on amounts that may be otherwise paid for travel and transportation allowances, a civilian employee of the Department of Defense or Department of Transportation or a member of the Armed Forces of the United States, accompanying a member of Congress, an employee of such a member, or an employee of Congress on official travel may be authorized reimbursement for actual travel and transportation expenses in an amount not to exceed that approved for official Congressional travel when that travel is directed or approved by the Secretary of Defense or the Secretary of the executive agency or military department, or a designee of the Secretary concerned, having jurisdiction over the employee or member.

Mr. BYRD. Mr. President, this amendment has been cleared on both sides.

The ACTING PRESIDENT pro tempore. Is there additional debate on this amendment?

Mr. NUNN. Mr. President, it is my understanding both sides have looked at this amendment and cleared it and I urge its adoption.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time?

Mr. BYRD. Yes.

Mr. QUAYLE. It is cleared on this side.

The ACTING PRESIDENT pro tempore. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 762) was agreed to.

QUORUM CALLS WAIVED ON TUESDAY NEXT

Mr. BYRD. Mr. President, I ask unanimous consent that quorum calls before rollcall votes be waived on next Tuesday.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

TIME LIMITATION FOR ROLLCALL VOTES ON TUESDAY NEXT

Mr. BYRD. Mr. President, I had indicated earlier this morning and there was some discussion of it on yesterday that there be a 10-minute limitation on all rollcall votes that are back-to-back subsequent to the first rollcall vote. We all know that at the beginning of the Congress we got a standing order that rollcall votes be limited to 15 minutes, and we also all know that the order is honored in the breach.

So I ask unanimous consent that the initial rollcall vote on next Tuesday be limited to 30 minutes and that the initial rollcall vote at 8 p.m. next Tuesday be limited to 20 minutes and that all subsequent back-to-back votes shall be limited to 10 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection to the request? Hearing none, it is so ordered.

AMENDMENT NO. 763

(Purpose: To require a report from the Secretary of Defense regarding nuclear deterrence in Europe and the maintenance of NATO's flexible response strategy, in the event of an arms control agreement between the United States and the Soviet Union)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 763.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) DEADLINE FOR REPORT.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate—range nuclear forces (INF) in Western Europe, whichever date is earlier.

PRESERVING NATO'S STRATEGY OF DETERRENCE

Mr. BYRD. Mr. President, it now appears likely that a treaty eliminating intermediate-range nuclear forces of the United States and the Soviet Union will be concluded in all likelihood in the near future. This amendment is to require a report from the Secretary of Defense on the key military implications of such a treaty for the preservation of NATO's strategy of deterrence and flexible response.

This is an extremely important subject which the Senate must examine critically as well as carefully as part of its deliberations concerning advice and consent on the making of any treaty. What will the political and military landscape of Europe and the alliance be as a result of a successful ratification of any INF treaty? We are all concerned about verification questions, about Soviet compliance with treaties. But besides the matter of verifiability of a new treaty, there are a series of benchmarks with which I intend to assess the merits of such a treaty in the areas of force structure, alliance planning and costs. The Senate must have the information necessary to assure itself that the proposed treaty is in the security interests of the United States and its allies. We also want to make absolutely certain that the remaining nuclear forces in Europe are sufficient in number and in type to preserve NATO's strategy of deterrence.

Mr. President, this point deserves special emphasis. As the Secretary

General of NATO, Lord Carrington, commented earlier this month, the proposed agreement will "change the landscape of Europe * * * perhaps as profoundly as any development in a generation."

What are those challenges? One challenge is to avoid a dangerous momentum toward a Europe free of nuclear weapons but with a massive imbalance of conventional forces, an outcome which could be created by a false sense of optimism engendered by this treaty. The road would then be open for a new round of Soviet intimidation tactics in Europe. Another challenge will be making decisions on modernization of forces in both the nuclear and nonnuclear fields which will maintain the balance of deterrence if Europe.

The NATO alliance, as part of its decision to reduce the total number of nuclear weapons deployed in Europe, has committed itself to modernization of certain nuclear delivery systems. This commitment exists with or without an ares control agreement. What this report requires is an examination by the Secretary of Defense of those modernization requirements in the event a treaty is concluded.

The report will also focus on the relationship of the balance of conventional forces in Europe to the remaining nuclear forces, and on the prospects for any agreements limiting nonnuclear forces and the impact such an agreement might have on maintaining deterrence.

One of the alternatives to further nuclear modernization could be an improvement in conventional forces, especially those employing advanced technologies. I am a strong supporter of modernizing the conventional forces, but as we all know, the budgetary pressures on the conventional forces in coming years will be heavy. For that reason, the report will also include a discussion of the prospects for substituting advanced conventional munitions for nuclear weapons.

This information will be very critical in my judgment to the Senate in its consideration of any treaty eliminating INF from Europe. The Senate may wish to attach reservations or understandings concerning modernization requirements for other systems in the course of its consideration of any treaty eliminating INF in Europe. Above all, Mr. President, I will wish to assure myself and I am sure that the Senate will wish to assure itself as well, so that in turn the American people may be assured, so that in turn our allies may be assured that any arms control treaty preserves deterrence in Europe and contributes to the unity and effectiveness of the NATO alliance.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator yields the floor. The Senator from Indiana?

Mr. QUAYLE. Mr. President, let me congratulate the majority leader on this amendment. I think it goes to a very important issue. As a matter of fact, I have a similar amendment, very much along the lines of this amendment, that has already been adopted. I think what we have done is to underscore the importance that we get a firm grasp on how our deterrence in Europe is going to be handled, post-INF.

Mr. BYRD. Precisely.

Mr. QUAYLE. We look forward to accepting this amendment, look forward to working with the majority leader and others so we can basically combine the two, because what we want is some specific information on strategies, on deterrence, potential nuclear modernization, conventional modernization. What we are going to do is acquire extended air defense, things like this, to show there is not going to be any decoupling. This is what a lot of people fear on the INF, that this could be the beginning of a potential decoupling.

I think this is going to help us do a better job with the resources that we have, looking to new resources we may have, and some new problems, because, very frankly, we are going to be relying, in a post-INF situation, more on conventional deterrence than we have in the past. Therefore, I think what we do in our modernization program is very important, both conventionally and also some of the nuclear modernization programs.

We have to focus also on what we are going to do about battlefield weapons and what we are going to do about our troops.

I congratulate the majority leader on a very good amendment going in a good direction. We need to have specific information and get a good report so we can figure out what we need to do here in the Senate and in the Congress to facilitate a policy of deterrence and peace which has lasted in Europe for an initial 40-some years.

I congratulate the majority leader.

Mr. BYRD. I thank the distinguished Senator.

Mr. NUNN. Mr. President, I would certainly like to be added as a cosponsor of this amendment. The Quayle amendment, which has already passed in this bill, has a good portion of this same thrust. It has a little bit different direction on some of the questions asked in the report, but I think both of them combined can be a very strong message to the Department of Defense and to our European allies that the Congress is going to take seriously the changes that may be brought about by the INF agreement if it is signed and if it is ratified.

I believe this is going to be one of the major thrusts of our Armed Services Committee in examining the IMF Treaty. The Foreign Relations Committee will have primary jurisdiction over the treaty. We will be looking, certainly, at the treaty itself and those issues, but we will be looking more broadly.

We will be taking a look at what the post-INF environment is going to be like as far as deterrence in Europe. I think it is enormously important. I believe the information which flows from the Byrd report and the Quayle report will be very helpful to both our committee and in stimulating the administration in the right direction.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I ask unanimous consent that his name be added as a cosponsor to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment.

Mr. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. A vote on this amendment will occur on Tuesday evening.

AMENDMENT NO. 764

Mr. EVANS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself, Mr. ADAMS, and Mr. INOUYE, proposes an amendment numbered 764.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . The Secretary of the Navy is authorized to provide to the Tulalip Tribes of Washington, $3,400,000 from the authorization for appropriations provided in section 2204(a)(1), to settle tribal claims for loss of access to and displacement from usual and accustomed fishing grounds and stations arising from the construction and operation of the Navy Homeport at Everett, Washington, pursuant to the Memorandum of Agreement dated July 22, 1987 between the United States Navy and the Tulalip Tribes of Washington. Before payment in final settlement of the tribal claims is made, the Navy must obtain from the Tulalip Tribes a release by which the tribes waive any claims against the United States for displacement from the Homeport site while the site is owned by the United States, and for additional displacement resulting from Homeport construction-related activities in Port Gardner to the extent provided by the Memorandum of Agreement. The release will also waive any claims the tribes may have against the United States or any or its successors in interest for loss of access resulting from the permanent structures constructed for the homeport. Nothing herein shall be construed to diminish in any way the reserved rights of the Tulalip Tribes of Washington, except as provided in the Memorandum of Agreement.".

Mr. EVANS. Mr. President, I rise on behalf of myself and Senators ADAMS and INOUYE to offer an amendment to S. 1174, the Department of Defense authorization bill. This amendment would effectuate a settlement between the U.S. Navy and the Tulalip Tribes of Washington allowing the Navy to proceed with construction of the homeport facility at Everett, WA.

The agreement between the Navy and the Tulalip Tribes provides for the resolution of the tribes' claims for displacement resulting from loss of access to treaty secured fishing areas within the 45-acre homeport site, and for displacement outside the homeport site during construction of the homeport facility. In addition, the agreement provides for cooperation between the Navy and the Tulalip tribes in fish and water quality protection, and for support by the Navy of tribal resource enhancement efforts.

Under the terms of the agreement, the Navy will provide $3.4 million to the Tulalip Tribes to compensate them for lost access and displacement claims arising from the construction and operation of the homeport facility. The agreement is based on Navy estimates of in-water construction time, outside the approximate 45-acre area where the homeport area is to be located. The tribes expressly reserve claims that may arise from Navy induced, fish habitat and/or other resource damages. The agreement between the Navy and the Tulalip Tribes is an expressed condition to the 404 permit granted by the Army Corps of Engineers allowing the Navy to proceed with construction of the Everett homeport facility.

Mr. President, I ask unanimous consent that the Memorandum of Agreement between the Department of the Navy and the Tulalip Tribes of Washington be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

NAVY HOMEPORT, EVERETT, WA—TULALIP TRIBES OF WASHINGTON MEMORANDUM OF AGREEMENT

The purpose of this agreement is to provide for the resolution of the Tulalip Tribes' claims for displacement resulting from loss of access to its treaty secured fishing area within the 45-acre Homeport site while the Homeport site is owned by the United States of America; for permanent displacement caused by any remaining, presently-planned, fixed Homeport structures should the United States of America dispose of the Homeport site; for displacement caused by Homeport construction; to provide for Navy/Tulalip cooperation in fish/water quality protection; and to support tribal resource enhancement efforts.

The United States of America, through the Department of the Navy, and The Tulalip Tribes of Washington, through their duly authorized representatives, hereby agree as follows:

1. Legislative authorization will be needed before payment pursuant to this Agreement can be made. The Navy and Tribe will immediately seek, cooperatively, such legislative authorization.

2. The Navy will pay, upon Congressional authorization, from available appropriations, $3.4 million to settle tribal access/displacement claims from construction and operation of the Navy Homeport. This payment will compensate the Tribe for any claims it may have for displacement of the Tribe from the Homeport site while the Homeport site is owned by the United States of America; additional displacement resulting from Homeport construction-related activities in Port Gardner for the period of time specified in paragraph 3; and for any claims the Tribe may have against the Navy or its successors in interest for displacement caused by presently-planned, fixed structures within the approximate 45-acre area, as identified in the Navy's section 404 permit application, constructed for the Homeport. The Agreement also supports tribal resource enhancement efforts.

3. The construction impact component of this monetary settlement is based on Navy estimates of in-water construction time, outside the approximate 45-acre area where the Homeport is to be located, not exceeding 104 days within the construction period, and to be limited to two years, provided that, if after the first year in which dredging activities begin, the Navy is delayed in further in-water construction for a year or longer, but not exceeding four years, the additional, unused and compensated construction time may be allocated for use in the next year during which construction is resumed.

4. Any fixed (including anchored) Navy-related equipment or other objects which interfere with Tulalip fishing activities outside the approximate 45-acre area and for longer than the estimated 104 days within the time specified in paragraph 3 shall be additionally compensated by the Navy. The additional compensation agreed to by the parties will be based on prevailing fish market rates and on the impact findings in the July 7, 1987 fishery economist report by Robert Stokes.

5. The Navy shall not unreasonably deny tribal requests for data and/or access to implement any tribal monitoring and impact studies associated with Homeport construction and operation.

6. Navy and Tribal technical staff shall continue to discuss procedures and elements for Navy fish/water quality monitoring and studies, with the intent of addressing tribal concerns.

7. The Tribes expressly reserves claims that may arise from Navy-induced, fish habitat and/or other resource damages.

8. If the legislation necessary for payment to the Tribe has not been enacted by March 31, 1988, this Agreement shall be deemed terminated as of that date.

9. This Agreement creates no new cause of action for either party and implies no concession of law or fact by either party.

Further details of this settlement, including any terms for additional legislative proposals discussed by the parties, shall be specified in additional memoranda of agreement as needed, consistent with this Agreement. Such document(s) shall be prepared and executed as expeditiously as possible. The parties also recognize that it may become necessary to prepare and execute post-legislation agreement documents and also agree to do so as expeditiously as possible.

● Mr. ADAMS. Mr. President, I am pleased to rise as a cosponsor of this amendment. As my colleagues know, there has been a great deal of debate in this body about the general issue of homeporting. It has been a healthy debate and, from my perspective, one which has resulted in the correct decision: we are going ahead with the homeporting program.

Part of the process of going forward with the Everett homeport involves a series of actions by the State, by the Corps of Engineers, and by the Tulalip Indian Tribes. At this point, the State has acted, the corps acted earlier this week, and now the Congress needs to act to implement an agreement reached with the Tulalip Tribes on July 22 of this year. The amendment before us simply authorizes the Secretary of the Navy to provide, from already appropriated funds, $3.4 million to resolve tribal access/displacement claims associated with the Everett homeport. It is the expectation of the Tulalip's, the Navy, and the authors of the amendment, that the payment hereby authorized will be made promptly. Indeed, it is my expectation that if there are unreasonable delays associated with the payment, the Navy will compensate the tribe for the loss of access to the funds to which they are entitled.

Finally, Mr. President, let me express my thanks to my senior colleague, Senator EVANS, and the chairman of the Indian Affairs Committee, Senator INOUYE, for their cooperation and consideration on this issue. I appreciate as well the cooperation of the managers of this bill and urge my colleagues to support this amendment.●

Mr. EVANS. Mr. President, I understand this amendment has been cleared on both sides of the aisle.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment.

Mr. NUNN. Mr. President, has the Senator completed his presentation?

Mr. EVANS. I have.

Mr. NUNN. Mr. President, I was momentarily diverted. I apologize to the Senator.

Mr. President, we have examined this amendment. We had considered concern about some of the possible legal implications and we did feel it was necessary to check this out with the Department of Defense and the Department of the Navy.

We have checked this out. We have a letter from Rear Adm. J.C. Doebler, Director, Shore Activities Division, U.S. Navy, dated September 25, 1987. This letter states the Navy's point of view:

> The Navy supports amending the Department of Defense Authorizations for fiscal year 1988 to provide $3.4 million from available appropriations to settle claims with the Tulalip Indians arising from the Everett, Washington homeport. I have enclosed the text of the amendment as I understand it was introduced by Senators Evans and Inouye.

The letter continues on.

Mr. President, the Navy has examined the legal implications, and does support this amendment. We were, as I said, concerned about the legal implications. Sometimes one act can lead to implication of further liability, and so forth. But the Navy has satisfied themselves with this and I know it has been cleared on this side. I believe it has been cleared on both sides. I urge adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. EVANS. Mr. President, I thank the Senator from Georgia. I understand his concerns, especially when you get to a combination of the intricacies of military agreements along with the intricacies of tribal treaty arrangements. That is why I felt it was important to include the entire text of the memorandum from the Navy along with the amendment.

The ACTING PRESIDENT pro tempore. Is there additional debate on the amendment of the Senator from Washington? If not, all time is yielded back. The question is on agreeing to the amendment.

The amendment (No. 764) was agreed to.

Mr. EVANS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

AMENDMENT NO. 765

Mr. PROXMIRE. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Wisconsin [Mr. PROXMIRE] proposes an amendment numbered 765.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill insert a new section as follows:
>
> SEC. . The Comptroller General shall conduct a study of allegations of censorship in the Department of Defense newspaper, Stars and Stripes. The report of the Comptroller General shall be transmitted to the Congress not later than 90 days after the date of enactment of this Act and such report shall include the Comptroller General's findings regarding the validity of the allegations and any recommendations concerning those allegations which the Comptroller General believes appropriate.

Mr. PROXMIRE. Mr. President, this amendment requires an investigation into charges of censorship at Stars and Stripes newspapers operating under the Department of Defense. The investigation would be conducted by the Comptroller General in cooperation with Sigma Delta Chi—the national journalistic society.

Why is this amendment necessary? Current regulations of the Department of Defense requires that there be a free flow of news and information to all military personnel without censorship or news management. The mission of Stars and Stripes, the newspaper of our military personnel abroad, is to bring DOD personnel and their dependents the same international, national, and regional news and opinion from commercial sources available to newspapers throughout the United States.

There is no quarrel with their guidance or with the governing regulations promising a press free from censorship.

The problem is that it has not been followed. In the past 5 years I have heard from not one but a dozen high ranking editors, reporters, and other officials working directly for Stars and Stripes in Europe or the Pacific. And they all tell the same story. Military commanders have killed stories, censored the content of stories and manipulated the timing of stories.

I am not talking about the routine decisionmaking that every newspaper engages in day by day. I am talking about outright censorship of stories considered by military commanders to be sensitive, political, or not representative of current Department of Defense policies.

Listen to the points made by those reporters and editors who have served on Stars and Stripes in recent years:

> This publication is censored on a regular basis by the newspapers commander/editor/editor in chief.
>
> I can assure you Senator that if a panel of civilian journalists are appointed they will find censorship of Stars and Stripes.
>
> I am appealing * * * for relief from what I consider improper censorship of Pacific Stars and Stripes.
>
> I know first-hand how news is managed or censored, why and by whom.

There are many specific examples of censorship, Mr. President. At one point the Pentagon tried to eliminate all investigative reporting entirely.

One editor in chief is quoted in the Columbia Journalism Review as saying:

> The degree of command influence became intolerable to me. It was getting progressively worse. It got to the point where I was getting calls on weekends from underlings speaking for generals and admirals * * * I just got sick of it.

Since this is a first amendment issue involving our troops abroad on the frontlines—those who we are asking to defend our Constitution and all its amendments—I think the only reasonable way to proceed is to have an impartial investigation into the charges and see who is right.

Mr. President, that is exactly what the amendment does. I understand it has been cleared on both sides. I ask for its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. NUNN. Mr. President, we have looked over the amendment. I think the Senator has a good approach. As usual, he has been very diligent in looking at this whole question of censorship in this particular case. It is a military publication. There are I think legitimate concerns about what is occurring. I think the GAO report is the appropriate method to find out exactly what the facts are.

I congratulate the Senator from Wisconsin for this amendment and I urge its adoption.

Mr. QUAYLE. Mr. President, I also want to congratulate the Senator from Wisconsin. We have worked with him on this amendment. This approach to get this study and recommendation about the allegations that he brings up is very straightforward, simple requirement. I think that the Senator is asking for a few facts done by an independent study and I think it would be well worthwhile.

Mr. PROXMIRE. Mr. President, I thank the managers of the bill.

The ACTING PRESIDENT pro tempore. Is there further debate?

All time is yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. 765) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 766

(Purpose: To modify certain provisions of the Small Business Act relating to the small business set-aside program)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from Illinois.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] for himself, Mr. BUMPERS, and Mr. WEICKER proposes an amendment numbered 766.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . SMALL BUSINESS SET-ASIDE PROGRAM.

(a) FAIR PROPORATION OF FEDERAL CONTRACTS; AWARD AT FAIR AND REASONABLE PRICES.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to last sentence; and

(3) by striking the period, inserting in lieu thereof a comma, and the words "determined on the basis of an evaluation of the prices offered in response to the solicitation by all eligible offerors, by other techniques of price analysis, or by cost analysis for the purpose of establishing that the anticipated contract award price will be fair and reasonable to the Government."

(b) SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

(c) SUBCONTRACTING LIMITATIONS.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(A) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(B) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(C) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(D) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(2) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

(d) REPEALER.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

(e) CONFORMING AMENDMENTS.—Section 8(a)(14)(15) U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B) by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

(f) INITIAL REVIEW OF SIZE STANDARDS.—Section 921(h) of the "Defense Acquisition Improvement Act of 1986" (Public Law 99-661) is amended by striking in the last sentence the words "until October 1, 1987" and substituting in lieu thereof the words "prior to March 31, 1988".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987, or the date of the amendment of this Act, whichever is later.

Mr. DIXON. I am offering this amendment to make essential corrections to section 921 of last year's DOD authorization bill. This provision makes a series of substantial changes to the Small Business Act, which I believe will adversely affect small business participation in the Federal procurement process.

They were included by their House sponsors for the purpose of making reforms to the procurement programs authorized by the Small Business Act that foster such small business participation. Specifically, they fundamentally changed the so-called small business "set-aside" programs that have been in operation for many years. These programs have frequently provided many in the small business community with their only opportunity to supply critical goods and services to the Government, on a competitive basis, when unrestricted competition with large firms may have precluded them. I believe that the Government has benefited substantially from such small business participation by increasing the number of quality suppliers, thus fostering the maintenance of our defense industrial capabilities.

Last year, these amendments to the Small Business Act were incorporated into the House version of the bill, H.R. 4428, during full committee markup, by the chairman of the House Armed Services Committee with the strong support of the chairman of the House Small Business Committee. There was no opportunity for any hearings on the provision by either the House Armed Services Committee or the House Small Business Committee. The Senate version of the fiscal year 1987 DOD authorization bill did not contain any comparable provisions. Unfortunately, the Senate Small Business Committee's request to appoint conferees was not favorably considered. Thus, the Small Business Committee had no direct role in shaping these amendments to the Small Business Act.

Working closely with my good friend from Michigan, Senator CARL LEVIN, who serves with me on both the Small Business Committee and the Armed Services Committee, strong efforts were made to protect the interests of the small business Government contractors. When it became clear that the House would not agree to delete the provisions, we sought to create the opportunity for careful analysis by the small business community, the Small Business Administration, and the procuring agencies. To this end a compromise was reached. The effective date for these amendments was delayed until October 1, 1987.

This time delay was sought and used to allow those affected by the amendments to voice their concerns and suggest corrective action. In December of 1986, Senators BUMPERS, WEICKER, and I sent letters soliciting comments from a broad array of business interests, large as well as small business, and the major Federal procuring agencies. Based on those responses, I began crafting S. 1559, the "Small Business Federal Contracting Restoration Act of 1987," the bill upon which this amendment is based. That bill, and this amendment are focued on the severe implementational problems noted by the procuring agencies and the prediction of their adverse effects on small business participation in the Federal market.

For example, responding for the Department of Defense, the Undersecretary of Defense for Acquisition noted that DOD supported the intent of the 1987 legislation, but would be hard pressed to implement it without adding significant administrative burdens to an already burdened requisition process.

The concerns are not confined to the Defense Department, for the changes made by section 921 affect all the procuring agencies. The Associate Administrator for Acquisition Policy at the General Services Administration stated, "GSA has serious concerns with the sweeping changes contained in these provisions," referring to the section 921 amendments to the Small Business Act. She further stated:

> We recognize that these provisions are intended to improve the procurement assistance programs authorized by the Small Business Act. While we appreciate the problems these changes are designed to correct, we are concerned about the impact of the provisions on GSA's small business and disadvantaged business, business programs, as well as the efficiency and economy of the procurement process. We believe that the

provisions will complicate the procurement process, result in delays in contract awards to the detriment of small business and section 8(A) firms, and impose a significant administrative burden.

Mr. President, I ask unanimous consent to have these letters from the Department of Defense and the General Services Administration and similar letters from other agencies inserted into the RECORD following my remarks.

In addition to the agencies, many small business respondents expressed concern with the changes made by section 921. So to further define the issues, and explore the implications of the amendments to the Small Business Act made by section 921, I chaired hearings by the Small Business Committee's Subcommittee on Government Contracting and Paperwork Reduction.

During testimony before that subcommittee, the Associate Administrator for Procurement Assistance of the Small Business Administration, the Director of Procurement at the Department of Energy and the Director of the Office of Small and Disadvantaged Business Utilization for the Office of the Secretary of Defense reached consensus in support of most aspects of the amendment that I am introducing this morning. The only area of discord was DOD's support for including small purchases, which are already reserved for small business, in the process for establishing annual goals for small business participation. This amendment will not prohibit DOD from continuing its voluntary practice in this regard, but will free the civilian agencies from the substantial burdens they forecast from that aspect of section 921's changes to the Small Business Act.

The amendment that I have offered today addresses most of the concerns expressed by the procuring agencies. At the same time, Mr. President, I want to make clear that I have not abandoned other parts of section 921 that sought to expand the breadth of small business participation within all sectors of the Federal procurement market and to address the issue of disproportionate numbers of contracting opportunities being set-aside for exclusive small business participation in certain industry categories.

During the subcommittee hearing, we received both testimony and strong statements for the record from representatives of the architect-engineer and land surveying professions, construction general contractors, and waste management firms expressing their concerns with excessive numbers of small business set-asides being concentrated in their industry categories. The subcommittee also received some very constructive suggestions for addressing this problem from Karen Hastie Williams, a former Administrator of the Office of Federal Procurement Policy [OFPP] and Sharon Fischer, a small business specialty contractor representing the American Subcontractors Association [ASA]. The Small Business Committee, and the subcommittee which I chair, intend to explore these concerns and the constructive suggestions offered during our recent hearing. To provide time for this process, my amendment would delay the effective date for these aspects of the section 921 changes to the Small Business Act for an additional 6 months, that is, until March 31, 1988. During that period, we can explore and carefully fashion an appropriate legislative "test program" of the constructive suggestions made by ASA and the former OFPP Administrator. It has been suggested that the Office of Federal Procurement Policy Act already provides the authority to conduct such a test. We will explore this potential avenue for testing changes to the small business set-aside program, that will simultaneously expand the breadth of small business participation and correct adverse impacts flowing from excessive numbers of set-asides in certain industry categories.

Mr. President, I ask unanimous consent to insert a section-by-section analysis of my amendment in the RECORD following the text of my remarks. It provides a clear explanation of what my amendment does and what it does not do.

Mr. President, both the Federal procurement agencies and segments of the small business community called to us for help. They sought our assistance in correcting legislation that will significantly impact on how the agencies conduct their procurements and how small business Government contractors compete for those contracting opportunities and perform the resulting contracts.

So, in closing, Mr. President, I would remind my colleagues that these amendments to the Small Business Act were adopted with little input from the overall small business community or from the Federal agencies that would be charged with implementation. Clearly, the implementational problems were not adequately assessed by the sponsors of the provisions. Now, 1 year later, after a solicitation of comments and hearings, I have determined that the amendments to the Small Business Act made by section 921 of the fiscal year 1987 Department of Defense Authorization Act are not viable. They may not resolve the problems sought to be addressed by their sponsors, in the Congress and within the business community. In fact, many of section 921's provisions are likely to create additional problems and administrative burdens for all participants in the Federal procurement process, buyer and seller alike.

Mr. President, I strongly urge the adoption of this amendment, which has the support of the chairman and ranking minority member of the Committee on Small Business.

I thank the Chair and yield the floor.

Mr. President, let me briefly say to my colleagues that this is what happened in the DOD bill conference last year.

In the House, then-Congressman Parren Mitchell had a bill to substantially change the various laws affecting small business procurement with respect to Federal Government activities. That bill was considered on a markup in the Small Business Committee, the jurisdictional committee in the House, and was defeated I am told by a vote of 26 to 22. Thereafter, the distinguished Congressman prevailed upon the chairman of the House Armed Services Committee, the distinguished Congressman from Wisconsin [Mr. ASPIN], to adopt the language in the DOD authorization bill, and when we got to conference no one in the Senate had any information about the bill at all.

It was a highly contentious conference, as my friend, the chairman, who is here on the floor, can attest.

What we finally did, the distinguished Senator from Michigan [Mr. LEVIN] and I finally decided that we would take the provisions of the House bill regarding small business procurement but not let them go into effect until October 1 of this year, which is a date almost upon us.

Thereafter, I introduced a bill in the Senate with the distinguished chairman of the Senate Small Business Committee, Senator BUMPERS of Arkansas, and the distinguished ranking member, Senator WEICKER of Connecticut.

We held hearings and what I am introducing is an amendment refining everything that developed at those hearings with reference to the matters that are not in much dispute. Matters that we feel should not have been changed in the law.

May I say for the record we do not change the 30-percent provision that was adopted in the bill last year. That is highly contentious, very controversial because it down-sizes small businesses and various businesses profit from it, other businesses lose from it, Mr. President. We did not change that. We delayed that in order to revisit that provision at a later date. We think the whole Congress ought to be involved in this process.

What this amendment does is to correct the things we could correct in apt time before October 1. It has been cleared on both sides. Senator PHIL GRAMM, who, as members of the Armed Services Committee know, is the person who watches these things most closely on the other side in the Armed Services Committee, has been fully advised. He examined it carefully. His aides have gone over it with a fine-tooth comb. What I am putting in now has been thoroughly cleared on both sides.

I ask unanimous consent that an explanation of the amendment be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

Section . This section makes amendments to the Small Business Act regarding the so-called "small business set-aside program" authorized under Section 15(a) of the Act. It addresses concerns raised by the Federal procuring agencies and representatives of small business government contractors concerning the amendments made to the small business procurement assistance programs made by Section 921 (Small Business Set-Aside Programs) of Public Law 99-661, the "National Defense Authorization Act for Fiscal Year 1987".

Subsection (a) Fair Proportions of Federal Contracts; Award at Fair and Reasonable Prices.—Subsection (a) deletes the change made by Section 921 that set-asides be measured on the basis of a fair proportion of small business awards in "industry categories" rather than on the basis of the totality of federal contract awards. The changes made by Section 921 would have required the Federal procuring agencies to measure their small business and small disadvantaged business participation on the basis of Standard Industrial Classifications (SICs). Given that there are 1103 SICs, this effort to increase the breadth of small business participation in the federal procurement process was universally deemed unworkable by the Federal procuring agencies. A more workable method of addressing the problem of a disproportionate number of small business set-asides being concentrated in a few industry categories will need to be devised.

Although this subsection deletes the statutory direction to the Small Business Administration regarding the segmentation of certain Standard Industrial Classifications to reflect geographic and economic considerations, the amendment is not intended to convey that SBA may ignore such considerations in its process for setting size standards. The importance of adequately considering geographic segmentation in the process of setting size standards recently was emphasized in a court decision regarding the methods used by SBA in establishing revised size standards for the dredging industry. In *California Dredging Co.* v. *Sanders*, the district court made specific note of the fact that geographic market considerations could result in a firm becoming "dominant" within a specific geographic market while still meeting a size standard devised on a national basis. The court noted that a basic ingredient in the size standard setting process must be a consideration of market dominance.

Subsection (a) also provides an explanation of "fair and reasonable price" as included by Section 921. The explanation informs federal contracting officers that a "fair market price" is based upon the offers received from eligible small business concerns participating in a competition restricted to small firms. However, should the contracting officer want further confirmation of the reasonableness of the prices received, this provision makes clear that the techniques of price analysis or cost analysis are available as they would be in evaluating prices received in an unrestricted competition. As with all procurements, the objective is to assure that the anticipated contract price to the government is fair and reasonable. No similar change is made to the 8(a) program.

Subsection (b) Small Business Purchase Reserve Excluded from Annual Goals.—Subsection (b) modifies the changes to the Small Business Act made by Section 921 regarding the contract awards to be considered during the annual process of establishing goals for small business and small disadvantaged business participation. Under other provisions of the Small Business Act, all "small purchases" are reserved for exclusive small business competition. This subsection would return to the goaling practice existing prior to the enactment of Section 921, but gives recognition to the increase in the small purchase threshold from $10,000 to $25,000.

Subsection (c) Subcontracting Limitations.—Subsection (c) makes several changes to section 15(o) of the Small Business Act. The first is to clarify that a small business concern's "requirement" to ensure that a minimum level of the concern's personnel are used on each contract is not a mandatory contract clause that would result in a termination of the contract, but should be a "best efforts" requirement. It is recognized that this requirement exists, by regulation, in the 8(a) program. Further, the effective date for this provision has been changed to apply to solicitations issued on or after October 1, 1987.

Subsection (d) Repealer.—This subsection repeals section 15(p) of the Small Business Act, which created the requirement for a contracting officer to disclose the identity of the firms expected to be solicited under a competition restricted to small business. The release of information concerning the identities of competitors in the federal procurement process prior to the closing date for receipt of bids or proposals has always been strictly avoided by procurement professionals because of its anti-competitive potential. This provision was particularly opposed by the federal procuring agencies because of the potential additional burdens placed upon a contracting officer. In addition, it was noted that the Small Business Administration already maintains a procedure to receive and evaluate protests concerning the size of a company seeking to receive a small business set-aside contract.

Subsection (e) Conforming Amendments.—This subsection makes corresponding changes to the procurement programs authorized by Section 8(a) of the Small Business Act, which are designed to assist small business owned and controlled by socially and economically disadvantaged individuals.

Subsection (f) Initial Review of Size Standards.—This subsection delays the implementation of the reductions in size standards for the four industries designated in Section 921: construction; architectural and engineering services (including surveying and mapping services); ship building and ship repair; and refuse systems and related services. Under this provision, SBA was required to propose size standard reductions which would result in no more than 30 percent of the total contract opportunities being awarded under set-asides, thus assuring that at least 70 percent of contract opportunities would be available under unrestricted competition. SBA's report to the Congress, required under Section 921, reflected severe size reductions in the size standards for general and specialty construction contractors and no size standard changes for other industry groups that believed procurement data supported size standard reductions. The delay in implementation will afford additional time to evaluate the utility of this provision in addressing the problem of a disproportionate number of small business set-asides being concentrated in a limited number of industry categories.

Subsection (g) Effective Date.—This subsection establishes the effective date for these modifications to the Small Business Act.

Mr. DIXON. Mr. President, I also ask unanimous consent that some of the important testimony from the committee hearings, agency input pertaining to the amendment and the interpretation of the congressional intent be placed in the RECORD at this time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF DEFENSE,
Washington, DC, February 6, 1987.

Hon. ALAN J. DIXON,
U.S. Senate, Washington, DC.

DEAR SENATOR: This is in reply to your request for our comments regarding any problems we foresee in implementing the provisions of the "Defense Acquisition Improvement Act of 1986," Title IX of the "Department of Defense Authorization Act, 1987," Public Law 99-661. This law pertains to the encouragement of participation by small business concerns and small disadvantaged business concerns in the Federal procurement process.

The Department of Defense [DOD] continues its strong support for its Small and Disadvantaged Business Program. This is demonstrated by the fact that our dollar awards to small and disadvantaged businesses were higher this past fiscal year than ever before in the 34 years of our program. We support the intent of the legislation; however, we believe that there will be difficulties in implementing some of its provisions as noted in the enclosure.

Sincerely,

Enclosure.

DIFFICULTIES OF ACCOMPLISHING REQUIREMENTS OF PUBLIC LAW 99-661

Difficulties will be experienced in accomplishing the provisions of Sec. 921(a) of Public Law 99-661. This section requires DoD to award a fair share of its prime contract awards to small business in each specific industrial classification. In the past the fair share standard has been based on the total of DoD prime contract awards. Naturally, this requirement adversely affects our goaling process in that separate goals will have to be established for over 800 Standard Industrial Code (SIC) classifications for products and 303 SIC's for services. It must be recognized that no procurement award history has been kept based on SIC identification but rather on Federal Stock Class identification. In this regard, the Small Business Administration published in the

Federal Register the new SIC's on January 6, 1987, to be used by the general public and Federal agencies. This information must now be cross-referenced to existing Federal Stock Class identification, and time is required to train personnel to accomplish the requirement.

To award a fair share by each SIC requires at least three elements of information. These are a determination of what the fair share is, what the fair share should be (which required a comprehensive knowledge of capability and capacity of the nation's small business community), and data on the last two years' procurement history for each SIC. This represents a major administrative task when considering that a goal must be developed for each of approximately 1100 individual products and services.

Sec. 921(b) states that "A contract may not be awarded under this subsection if the award of the contract would result in a cost to the awarding agency which exceeds a fair market price." Further, it should be noted that House Report 99-178, "National Defense Authorization Act for Fiscal Year 1987" in Section 911 states ". . . The cost of a set-aside contract to the awarding agency would not be allowed to exceed a 'fair market price,' a term which is already defined in Federal Acquisition Regulations (FAR)." In this regard, it should be noted that FAR 19.806 deals with fair market price as it pertains to the Section 8(a) Small Disadvantaged Business Program under which awards are made on a sole source basis. This section does not pertain to set-asides which are made on the basis of competition and the consideration that the price must be "fair and reasonable."

To determine that a price is a "fair market price" in the Section 8(a) program requires a review of procurement history (search of individual contract files for each award) whereas a "fair and reasonable price" invariably is the lowest price offered on a competitive procurement where there are two or more offerors. In essence, the marketplace establishes what is a "fair and reasonable price." If "fair market price" and "fair and reasonable" are considered to be synonymous, then no difficulties will be experienced. If these terms are not synonymous, then significant delays will occur in the procurement process, and contracting officers in all likelihood will avoid making small business set-asides. This defeats the objective of awarding a fair share to small business by SIC.

Section 921(d) revises Section 15(g) of the Small Business Act to require small business goals to be established on all contracts regardless of dollar value rather than on contracts valued over $10,000 which was required in Public Law 95-507, passed on October 24, 1987. Here, we support the legislation most heartedly as the DoD has always goaled every prime contract dollar since it began its Small Business Program in 1953. However, a problem must be noted here in establishing goals on an individual SIC basis as it pertains to small purchases ($25,000 and below). In FY 1986, DoD executed 260,842 contract actions valued over $25,000 and 14,180,721 valued below that figure. The 14,180,721 awards valued under $25,000 amounted to $10.5 billion and would certainly affect almost everyone of the SIC's, and therefore, have a significant effect on the establishment of goals by individual SIC's. Neither Federal Stock Class nor SIC identification has ever been required on procurement award documents dealing with small purchases. Therefore, the reporting system will not only have to be revised significantly, but additional records will be required to be maintained on millions of transactions.

Section 1207(g)(3)(c) requires "A description of the percentage of contracts (actions), the total dollar amount (size of action) and the number of different entities relative to the attainment of the goal of subsection (a), separately for Black Americans, Native Americans, Hispanic Americans, Asian Pacific Americans, and other minorities." Procurement award history has never been collected on individual ethnic groups but rather collectively on a "small disadvantaged business" designation. A supplemental form will have to be included with procurement award data forms whenever an award is made to a small disadvantaged business to record the required information. Furthermore, we are terribly concerned that collecting specific ethnic data on contract awards will invariably lead to polarization of these groups and attempts to start setting specific goals for each ethnic group. This would in turn cause unnecessary fragmentation of our attempts to strengthen the DoD small disadvantaged program as a whole.

Section 1207(g)(4) also calls for detailed comparative procurement award data regarding differentials paid in excess of the fair market price. This will require the establishment of a new and separate reporting system which will take several months to develop and will be costly in its implementation.

In summary, it will be extremely problematic to establish goals on a SIC basis, to determine that awards under the set-aside program be based on a "fair market price," to collect procurement award data by ethnic group, and to gather data regarding differentials paid in excess of the fair market price.

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC., January 9, 1987.

Hon. ALAN J. DIXON,
Committee on Small Business, U.S. Senate, Washington, DC.

DEAR SENATOR DIXON: This is in response to the letter of December 8, 1986, from you and Senators Weicker and Bumpers. You asked that we comment on any problems which we foresee in implementing the amendments to the Small Business Act included in the "Defense Acquisition Improvement Act of 1986" and the "Department of Defense Authorization Act, 1987"; or, in maintaining a strong small and small disadvantaged business program in the Small Business Administration.

The principal changes which must be implemented, and which may have impact upon our programs, are:

1. the objective of achieving a fair proportion of Government contracts for small business is now directed at each Standard Industrial Classification (SIC) Code industry, rather than at the totality of Government procurement, as previously held;
2. size standards for small business eligibility will be based on SIC industries, by law;
3. neither small business set-asides nor "8(a)" contracts may be awarded above the "fair market price";
4. recipients of small business set-aside or "8(a)" contracts for services must perform at least 50% of the cost of the contract with their own employees, 50% of non-material costs in the case of manufacturing, and an amount to be determined by SBA in the case of construction or any other industry not covered by the statute;
5. size standards in the industries of construction, architectural and engineering services, shipbuilding and repair, and refuse systems and related services are to be adjusted to assure that small business set-asides and "8(a)" contracts do not account for more than 30% of awards in each industry;
6. the annual goals of each procuring agency, established under section 15(g) of the Small Business Act, will be premised upon all awards, rather than upon those above $10,000; and,
7. contracting officers will be required, upon request, to provide a list of expected small business offerors when a small business set-aside is made.

While some comments may be made upon each of these issues, the problems of implementation and the consequences for our programs are not yet entirely clear. A significant part of the effort which we will undertake for our report on July 15, 1987, required by the same laws which amended the Small Business Act, will be the evaluation of those various points. These amendments, taken together, make changes which we know will be significant, in process if not in substance. At this point we do not have the data to justify specific predictions, but we have launched the studies which will make more meaningful projections possible. Pending completion of that work we can offer only some tentative comments, numbered to correspond with the listed changes:

1. Seeking a fair proportion of each SIC will have the procedural effect of requiring a reporting format by SIC. The substantive result will be a heightened awareness of those areas in which small business is a marginal or even non-existent market force. This will no doubt result in yet another debate over whether even relatively small businesses can expect to exist in some fields—the production of rockets is one which comes to mind. The achieving of this goal is supported by the language adjusting the goaling efforts under section 15(g) of the Act. Goals will continue to be set as agency wide totals including all SICs, but the agencies are instructed to make "consistent effort" to improve small business participation on each SIC.

2. SBA already uses the SIC system for size standard purposes; no effect is anticipated.

3. We consider that "fair market price" is synonymous with the term "fair and reasonable" price, the traditional standard for award of Federal contracts. The former term was already included in the Federal Acquisition Regulation as guidance for award of "8(a)" contracts. We anticipate no real problem in the broader application to small business set-asides.

4. The amount of subcontracting allowed under "8(a)" contracts has been controlled by SBA procedures for several years; the controls were made regulatory in October of 1986. Since we had required a higher proportion of performance by the contractor's labor force than was established by the new amendments, we expect no difficulty. For small business set-asides, however, the policy has been that "excessive" subcontracting would be construed as creating an affiliation with the subcontractor, threatening "small business" status. The determination has been on a case basis, considering the contract, the parties, the industry, and the subcontract terms. At first glance it would appear likely that this change could affect negatively the statistics of small business set-asides and awards, but this initial

expectation can only be tested after further study.

5. Clearly, in the short-run the effect of controlling set-asides in the specified industries by modifying size standards will have some negative impact on overall set-aside and award statistics until small business participation in such areas as aerospace production and research and development is increased. Inasmuch as the Congress recognized that controlling set-asides by modifying size standards will reduce set-aside awards (see copies of pages 258 and 259 of House Report 99-718 enclosed), we do not expect the statistical reduction in these four industries to be a problem for SBA. The actual effect on small businesses in these industries cannot be immediately predicted since we do not know either what the new size standards will need to be to reduce the percentage of dollars set aside or how effectively the small business firms will compete in the unrestricted procurement arena. Most importantly, setting the new size standards within the context of set-asides will be difficult since many factors other than size standards affect the creation of set-asides. Therefore, it will be impossible to select a "magic" number of ensure that set asides hover at or around 30 percent of total procurement dollars in the SIC.

6. The change to a "zero base" for goaling purposes will be helpful. The change of "small purchase" ceiling to $25,000, and the ensuing modifications to agency reporting systems had made the $10,000 goaling threshold of the Act awkward to use. In fact, several agencies have been goaling from zero dollars for several years with SBA's permission.

7. On its face we expect that the requirement to provide lists of expected small business offerors on set-asides to generate protests about size status and performance capability, which could, in turn, discourage contracting officers from making set-asides. Contracting officers seek timely awards, and any protests or appeals add to processing time. We expect to develop more information on this question.

I recognize that these comments are quite general and trust that you will understand our need to gather more data before reaching conclusions about the prospective impact of the new amendments on our programs. Fortunately, the effort involved in obtaining that data is consistent with the requirement to report on the "advisability and feasibility of implementing" the amendments. I am committed to a good faith effort to carry out the legislative study requirements and to provide accurate data and analysis of our findings. Please let us know if you wish further information before that report is due.

Sincerely,
MONIKA EDWARDS HARRISON,
Associate Administrator for Procurement Assistance.

Enclosure:

Such as in the construction and textile industries. For this reason, the Administrator of SBA would be authorized to alter 50-percent rule to reflect typical industry practice. The amendment would establish a preference for a minimum 50-percent threshold, while providing the authority for SBA to establish a different threshold should circumstances warrant deviating from that rule, as long as such a change is consistent with the intent of this section.

Two other issues concerning set-asides are the establishment of an acceptable price for products and services awarded under a set-aside contract and the disclosure of information to the public concerning the decision to make a set-aside in the first instance.

Under current regulation, a contracting officer may only accept a set-aside offer if the price is "reasonable". The term is not defined with any specificity and, accordingly, is subject to varying interpretations. As more precise definition is clearly warranted in order to ensure some uniformity by acquisition personnel when assessing the acceptability of a set-aside offer.

Finally, a contracting officer's decision to set-aside a contract is predicated, in part, on an assessment of the capability of small businesses to perform the requirement. The identification of those businesses to the public would allow the business community to "self-police" the program. If such information is made available on a timely basis, challenges to firms misrepresenting their size and faulty decisions by contracting officers can be resolved within a reasonable timeframe. The committee recognizes that decisions to set-aside are often made on the basis of previous small business participation. In those cases the agency should provide the names and addresses of previous small business offerors.

Working with the Committee on Small Business, the committee has drafted an amendment to the Small Business Act that it believes addresses these problems. Section 911 would require agencies to ensure that a fair proportion of contracts per industry category, rather than overall agency contracts, be awarded to small businesses. Also, in order to be eligible for a contract under a set-aside or the 8(a) program, the contractor itself must agree to perform at least 50 percent of the work under the contract. Exceptions would be authorized when warranted to reflect industry practice.

In addition, the Small Business Administration would be directed to reduce the size standard for any industry if over the past three years more than 30 percent of the dollar amount of all contracts in that industry category were awarded under a set-aside. The cost of a set-aside contract to the awarding agency would not be allowed to exceed a "fair market price", a term which is already defined in the Federal Acquisition Regulations. Finally, the public would be provided timely information regarding the decision to set-aside a contract.

The committee recognizes that these charges will result in a reduction in the number of set-aside contract awards in those markets where set-asides represent a significant portion of the awards made by an agency. It believes, however, that these changes will benefit the truly small companies and help to expand set-asides in those markets where small business participation rates are low. The committee strongly recommends that all Federal agencies increase their efforts to ensure that small business receive a fair share of Federal contracts in each industry category. Allowing the agencies to satisfy small business contract award goals through set-aside of a predominant number of contracts in virtually a handful of industries has diverted attention from other industry segments in which little progress has been made. For example, small businesses continue to receive a disproportionately small share of contracts from the Defense Department for spare parts. In this regard, the committee also believes insufficient knowledge of the various market participants exists to judge whether small businesses capable of providing needed goods and services exist and have been denied a fair opportunity to receive Federal Government contracts. The committee strongly urges further emphasis and market research to assess the capabilities of small businesses to perform in industry sectors not traditionally dominated by small business and specific efforts to encourage such participation when appropriate. Reports on these efforts are to be periodically provided to appropriate committees of the Congress for their review. The amendments would further the purpose of the Small Business Act by increasing competition and by ensuring that the program benefits small business bidding as prime contractors on Federal Government contracts.

The committee also recognizes that, as a result of requiring a reduction of the size standards in industry categories where more than 30 percent of the contract dollars were awarded under set-aside, businesses in those industry categories that may have been categorized as small would no longer be eligible for small business set-asides. However, the clear intent of this legislation is to guarantee that the predominant portion of contract dollars is awarded under circumstances in which all business, large, medium or small, are allowed to compete. The committee believes that the recommended formula for achieving the result is more equitable than establishing, for instance, a strict cap on the percentage of dollars that can be awarded pursuant to a set-aside. The recommended provision allows the SBA flexibility to evaluate the existing size standards and craft size standards consistent with the objectives of the Act. The committee has been advised that, in some industries such as the military boot manufacturing industry, only four manufacturers exist, all of whom are classified as small businesses. An inappropriate reduction in the size could result in two or three companies being classified as small, leaving the one or two companies not deemed small at a significant disadvantage in bidding for those contracts. In circumstances such as those, the size standard should be reduced to a sufficient degree that all potential offerors with similar capabilities are treated similarly.

Finally, the committee was advised of at least one instance in which a "shell" company was created to enable a company to bid under a small business set-aside. Because the company was newly formed and had no history on which to establish gross receipts, etc., it was deemed eligible to bid and awarded the contract. The company then hired all the employees of the previous contract holder. This type of abuse of the set-aside program is clearly unwarranted and should be addressed by the Small Business Administration.

VETERANS ADMINISTRATION,
Washington, DC., January 20, 1987.

Senator ALAN J. DIXON,
Committee on Small Business, U.S. Senate, Washington, DC.

DEAR SENATOR DIXON: We are writing in response to your letter of December 8, 1986, regarding the "Defense Acquisition Improvement Act of 1986," Title IX of the "Department of Defense Authorization Act, 1987," Public Law 99-661.

In response to your inquiry, we have prepared comments on certain provisions which impact the small business acquisition assistance programs conducted by Federal agencies under the Small Business Act.

Our observations concerning difficulties we envision with agency implementation are contained in the enclosure. If further questions arise concerning this material, please have Mr. William B. Montalto, Committee Procurement Policy Counsel, contact Mr. Leonel V. Miranda, Deputy Director, Office of Small and Disadvantaged Business Utilization, at 376-6996.

Sincerely,

SUSAN LIVINGSTONE,
Associate Deputy Administrator for Logistics.

Enclosure.

COMMENTS ON THE "DEFENSE ACQUISITION IMPROVEMENT ACT OF 1986," TITLE IX OF THE DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1987," PUBLIC LAW 99-661

QUOTE: "Under current regulation, a contracting officer may only accept a set-aside offer if the price is "reasonable." That term is not defined with any specificity and accordingly, is subject to varying interpretation."

COMMENT: Limiting 8(a) contracts to the "Fair Market Price" may be detrimental to the 8(a) program. This may result because "fair market price" is clearly intended, after reviewing the House Committee Report on H.R. 4428, to be defined as reflected in FAR 19.806-1, i.e., "reasonable costs under normal competitive conditions and not on lowest possible costs." Since the 8(a) program is clearly intended to assist firms not yet able to effectively compete in the marketplace, this restriction may diminish 8(a) acquisitions, unless SBA is able to augment their Business Development Fund as provided in FAR 19.806-4. It is noted that the Committee may expect a certain reduction in the 8(a) program.

QUOTE: "When small business set-asides are used for the award of a preponderance of contracts in an industry category, the following undesirable conditions can materialize:

1. Small business (below the Small Business Administration (SBA) size standard) have a disincentive to achieve economics of scale, or to make the capital investment needed to grow and modernize plant and equipment.

COMMENT: There are incentives for small businesses to grow, modernize, make capital investments and yet retain their small business size standard. Most size standards and all six standards for manufacturing are based on the number of employees, not gross receipts. Accordingly, a manufacturing concern has an incentive to invest in new robotic equipment, which can in fact lower the number of employees, achieve growth and improve its competitive posture. Also, until calendar year 1987, investment tax credits were yet another motivation to modernize plant and equipment.

QUOTE: "The 'smaller' small businesses, as well as new market entrants, are not afforded the benefits of set-asides since the 'larger' small business can dominate the set-aside market. This is especially true in those industrial areas that have relatively high entrance barriers, and results in denying the Government an intended benefit of the set-aside program—the encouragement of new market entrants".

COMMENT: This analysis does not take account of the 8(a) business development program which creates a stream of new market entrants—8(a) contractors and 8(a) program graduates. In our own Veterans Administration (VA) program, we have seen evidence of 8(a) contractors and 8(a) graduates competing successfully both in small business set-asides and open competition.

QUOTE: "The failure to establish specific percent limitations on subcontracting causes great confusion in terms of attempts to resolve the question of excessive subcontracting through an analysis of whether a joint venture exists".

COMMENT: While we agree that the question of subcontracting limits should be defined, the issues of enforcement and penalties (e.g., termination, ineligibility on future procurements) have not been addressed.

QUOTE: "Section 911 would require agencies to endure that a fair proportion of contracts per industry catgegory, rather than overall agency contracts, be awarded to small businesses. . . . In addition, the SBA would be directed to reduce the size standard for any industry if over the past three years more than 30 percent of the dollar amount of all contracts in that industry category were awarded under a set-aside".

COMMENT: The quote above seems to suggest that both the agencies and SBA are responsible for assuring that a fair proportion of contracts by industry category is to be awarded to small businesses. We believe that the agency role in this is unclear. Since agencies can not adjust size standards to meet the fair proportion criterion, are they to stop awarding set-asides as soon as the 30% set-aside figure is met? Not only is the role of contracting agencies unclear, but also the role of the Small Business Administration (SBA) and its working relationship with contracting agencies. This brings into question whether contracting agencies and SBA should continue to work on the basis of maximum attainable goals or adopt some alternative approach. For SBA to set size standards in accordance with the new legislation, each agency will need to secure reliable historical data. It should be possible to utilize information in the Federal Procurement Data System (FPDS) if the information in that system is expanded to include Standard Industrial Classification numbers that are referred to in FAR 19.102.

QUOTE: Section 922(b)(3) "(B) an executive agency intending to solicit bids or proposals for a contract for property or services shall post, for a period of not less than ten days, in a public place at the contracting office issuing the solicitation. . . . (i) "in the case of an executive agency . . . if the contract is for a price expected to exceed $10,000, but not to exceed $25,000; and (ii) "in the case of the Department of Defense, if the contract is for a price expected to exceed $5,000, but not to exceed $25,000;"

COMMENT: Public posting under $25,000 is an inconvenient notification for small businesses, especially since the small business—small purchase set-aside threshold has been raised from $10,000 to $25,000 and billions of additional contract dollars will be reserved for small companies under $25,000. Undoubtedly, small businesses will have to rely on private abstracting services to keep abreast of the public postings. We believe that a Commerce Business Daily supplement for procurements under $25,000 would best serve the interests of the small business community.

GENERAL SERVICES ADMINISTRATION,
OFFICE OF ACQUISITION POLICY,
Washington, DC, February 5, 1987.

DEAR SENATOR DIXON: This letter is in response to your request of December 8, 1986, for comments on the provisions modifying the Small Business Act that are contained in the "Defense Acquisition Improvement Act of 1986", Title IX of the "Department of Defense Authorization Act, 1987," Public Law 99-661. Specifically, you asked if we foresee any problems in implementing these provisions or maintaining a strong small business and small disadvantaged business program within the General Services Administration (GSA).

GSA has serious concerns with the sweeping changes contained in these provisions. We recognize that these provisions are intended to improve the procurement assistance programs authorized by the Small Business Act. While we appreciate the problems these changes are designed to correct, we are concerned about the impact of the provisions on GSA's small business and small and disadvantaged business programs, as well as the efficiency and economy of the procurement process. We believe that the provisions will complicate the procurement process, result in delays in contract awards to the detriment of small business and Section 8(a) firms, and impose a significant administrative burden on the goal-setting process, and, in the long term, may result in a reduction of dollars awarded through small business set-asides and Section 8(a) contracts. Our comments on specific provisions modifying the Small Business Act are provided below:

1. PROPORTION OF CONTRACTS SET-ASIDE DETERMINED ON INDUSTRY CATEGORY BASIS

This provision requires agencies to establish small business set-aside goals by industry category using standard industrial classification (SIC) codes, rather than establishing an overall agency goal. This requirement imposes a substantial administrative burden on GSA. Presently, GSA does not maintain its contract records by SIC code. Further, the Federal Procurement Data System (FPDS) does not require a SIC code entry when reporting contracts awarded over $25,000. In this regard, although a modification to the FPDS for reporting SIC codes is currently in process, this change is not expected to be completed by the effective date in the statute for reporting SIC codes. Consequently, to comply with this requirement, GSA will need to establish a manual reporting system for reporting contract data by SIC codes. With more than 1,000 four-digit SIC codes in existence, such a reporting requirement will be a substantial burden. The burden could be further exacerbated if the Small Business Administration decides at some future point to further segment the industry category as provided in this provision. In any event, the goal-setting process will take longer to accomplish.

Further, we believe that requiring GSA to ensure a fair proportion of contracts by industry category may adversely affect the overall small business set-aside program. While the statute appears to establish a 30 percent criteria in certain SIC codes for the review of size standards, the Report on the Committee on Armed Services of the House of Representatives appears to apply the 30 percent criteria to all SIC codes. If the 30 percent criteria is applied to all SIC codes, then we foresee several problems. First, revising the size standard in any industry category where the 30 percent criteria is not met without concomitant change in another industry category(s) will result in an overall reduction in the set-aside program. We do not believe this was the intent of the provisions. This problem may be compounded where no industry category(s) can accommodate an increase in small business set-asides commensurate with a reduction associated with the application of the 30 percent criteria. We recognize that this situation could be remedied by revising the size standards to allow firms to be defined as small businesses. However, such action may cause inequitable results such as a firm in a depressed industry being precluded from competing for a set-aside while a firm of much larger stature in an industry with no small businesses would be afforded the opportunity to compete for a set-aside procurement. Second, the requirement for a fair proportion of contracts to be set-aside by industry category may result in an increase in protests where small business set-asides exceed the 30 percent criteria. Third, if the intended goal per SIC code is limited to 30 percent, the overall GSA goal cannot, perforce, exceed 30 percent. Assuming that it will not be possible to achieve the 30 percent goal for each SIC code, the overall GSA actual contracts set aside will be less than 30 percent.

2. AWARDING OF CONTRACTS AT FAIR MARKET PRICES

This provision establishes ". . . a fair market price . . ." standard for awarding contracts under Section 15 and Section 8(a) of the Small Business Act. This provision is significant because it contains a statutory shift from the current "reasonable price" standard to "a fair market price" standard which heretofore was a price analysis technique used in determining price reasonableness in Section 8(a) contracts. We believe that this change from the current "price reasonableness" standard will complicate the procurement process and delay awards to small business and small disadvantaged business firms, and may result in the dissolution of more set-aside procurements and withdrawal of Section 8(a) procurements. It will complicate the procurement process by requiring the application of the price analysis technique set forth in the Federal Acquisition Regulation for use in noncompetitive contracts with the Small Business Administration authorized by Section 8(a) of the Small Business Act, to small business set-aside procurements that are conducted under competitive procedures. The existence of adequate price competition is usually accepted as a basis for determining price reasonableness. We do not advocate a change from this standard. A "fair market price" technique, however, assists in the price reasonableness determination when adequate price competition does not exist in a contract action such as those authorized by Section 8(a) of the Small Business Act.

While we appreciate the apparent intent of this provision to provide a more precise method for determining an acceptable price on contracts awarded under these programs, use of the term, "a fair market price," seems to recognize (and correctly so) that there is no specific market price for any procurement actions but that market price in most instances is a range within which prices will fall. In determining that range, contracting officers must make judgments based on factors that would influence price in a specific contract action. Many of the issues and judgments that arise in cost or price analysis associated with determining price reasonableness will also be present in establishing a fair market price. Consequently, the degree of uniformity anticipated by the shift to a fair market standard probably will not be achieved.

Rather than altering the price reasonableness standard, consideration should be given to emphasizing an overlooked factor in the Small Business Act; that is, the statute does not authorize the procuring agency to pay a premium price on contracts awarded under the procurement assistance programs.

3. ASSURANCE AS TO COMPOSITION OF LABOR FORCE.

This provision establishes a requirement that a small business firm agree as a condition to either a set-aside, or Section 8(a) contract, to perform in-house a certain amount of the work required under the contract. To implement this provision, it appears that either a solicitation provision and contract clause(s), or a certification requirement is required. Although the analysis of the statutory requirement leading to the regulatory implementation is not complete, we foresee certain problems if implementation is through the contract process. To give any effect to this provision, the Government must establish a remedy or sanction in the event the contractor violates the statutory parameters. The nature of such remedy could range from termination of the contract to suspension and debarment. This would significantly increase the contract administration burden on both the contractor and the Government, as some reporting and audit requirement of contract costs would be necessary to ensure compliance. On the other hand, implementing this provision by means of a certification requirement, similar to the current solicitation requirement for self-certification of a firm's business size in its proposal, in the solicitation raises the serious possibility of a small business firm's complicity in a false statement to the Government. In any event, the underlying issue is the resource impact of implementing this provision.

4. DISCLOSURE OF INFORMATION CONCERNING APPLICANTS FOR PROCUREMENT SET-ASIDES.

This provision requires the release of certain information on the small business firms expected to respond to a set-aside procurement unless the requested information is not required to be released under the Freedom of Information Act (FOIA). Although the right to withhold information under the FOIA remains unchanged, we may expect an increase in FOIA type requests. This would create an administrative burden on the contracting process, as contracting officials would have to respond to such requests. Additionally, this provision provides for a 5-day response time to such requests which is less than the response time afforded under the FOIA.

Further, this provision may be used by small business firms to find out who their competition is for a set-aside contract. Knowing the small businesses interested in a set-aside procurement may influence a firm's decision to participate, or affect the prices offered. This could undermine the competition in set-aside procurements. In this regard, small business firms generally consider their plans to participate in a procurement to be confidential. Fear of premature disclosure of their plans to competitors may reduce the number of firms participating in a set-aside procurement.

5. REVIEW OF SIZE STANDARDS.

This provision contains a requirement for the Small Business Administration to establish a program to review the size standards for certain industry categories. This requirement is of particular significance to GSA because two of GSA's major procurement programs involve the construction and architect-engineer industry categories. In this regard, GSA's Public Buildings Service advises that presently over 30 percent of the total dollar value in each of these industry categories are set-aside for small business or the Section 8(a) program. Consequently, a revision by the Small Business Administration to the industry size standards would reduce the number of set-asides or Section 8(a) contracts. Further, the reduction in these industry categories would not be offset in other procurement programs in Public Buildings Service as the other programs also have over 30 percent of the total dollar value awarded under the procurement assistance programs. The net effect would be the overall reduction of this contracting activity's awards under the assistance programs. It is uncertain, at this time, that such a shortfall would be offset by increases in industry categories in other GSA contracting activities.

In conclusion, GSA remains committed to a strong and viable small business and small disadvantaged business program. In this regard, we support legislative initiatives designed to improve the procurement assistance programs authorized by the Small Business Act. However, based on our preliminary analysis, we do not believe that the sweeping changes to the Small Business Act, contained in Public Law 99-661, will achieve the desired result.

Thank you for the opportunity to comment on these modifications to the Small Business Act.

Sincerely,

PATRICIA A. SZERVO,
Associate Administrator for Acquisition Policy.

STATEMENT OF BERTON J. ROTH, DIRECTOR, PROCUREMENT AND ASSISTANCE

Good morning Mr. Chairman and members of the subcommittee. My name is Berton J. Roth. I am the Director of the Department of Energy's Procurement and Assistance Management Directorate and the Procurement Executive for the Department.

It is a pleasure for me to appear before you today to discuss the amendments to the Small Business Act that were contained in the Defense Acquisition Improvement Act of 1986 in Public Laws 99-500, 99-591, and 99-661. I will also offer my comments on S. 1559, which would modify those amendments.

At the outset I would like to note that the highest levels of management of the Department of Energy support and are proud of the Department's achievements in providing the maximum practicable opportunity for small and small disadvantaged businesses to participate in the award of DOE's prime contracts and subcontracts.

As I stated in my letter to you of February 5, 1987, we are working with the appropriate regulatory agencies to assure compliance with the amendments. However, we still believe that some of these amendments will work directly against small and small disadvantaged business participation. Others appear to serve a positive purpose, but their implementation may indirectly work counter to the interests of small and small disadvantaged business. Still other of the amendments will have significant negative impact, both on the procurement process and the setting aside of procurements for small business. The apparent purpose of the amendments in this latter category is to solve problems that do not warrant statutory action. We do know, however, that as long as these amendments remain in effect, agencies must implement them or risk being found in violation of the law. I would like to expand upon these observations.

The amendments establish a target level of 30 percent of total contract dollars for award through small business set-asides and the 8(a) program in four industries: construction, shipbuilding and ship repair, architectural and engineering services, refuse systems and related services, in which small businesses receive a significant share of Federal awards. However, since firms involved in those industries tend to be small businesses, the only way to reduce the proportion of awards by small business set-aside and 8(a) procurements is, as the SBA has proposed in its report to Congress, to significantly lower the size standards, thereby excluding many current small and small disadvantaged businesses from competition in small business set-asides and from receiving 8(a) awards. Since agencies must set aside any procurement for which there is a substantial likelihood of receiving reasonably priced bids or proposals from at least two responsible small businesses, the size standard will have to be reduced even further to achieve the statutory purpose.

Businesses classified as small under current size standards may lose a significant share of Federal contracting dollars beginning in October in those four designated industries.

The amendments also lay a foundation for goaling of small business and small disadvantaged business participation by Standard Industrial Classification (SIC) code. As I stated in my February letter, the use of SIC codes as a basis for establishing levels of small business and small disadvantaged business participation in Federal contracting raises many practical problems. We have no SIC code history, and our current commodity and product service code data do not translate into SIC code data. In order to be meaningful, a year's history, at a minimum, would be necessary to establish internal targets or external goals. The SIC based goaling system is to be effective October 1, 1987. As it now stands the Federal Procurement Data System will not require collection of SIC data until FY 1989.

From a procurement standpoint, the amendments at section 922 serve a positive purpose in increasing the threshold for publication in the Commerce Business Daily to $25,000 and likewise in increasing the small purchase class set-aside for small business from $10,000 to $25,000.

However, under the amendments, for the first time, goaling is to include, small purchase transactions. This change adds a new dimension to the SIC goaling process mentioned above. According to the Federal Procurement Data System, there were over 20 million transactions falling into the less than $25,000 category Government-wide during FY 1986. In the Department of Energy alone, we had over 50,000 such transactions. We foresee a logistical nightmare in attempting to goal to the $0 level and in obtaining millions of additional data elements, such as detailed SIC codes, for all these transactions. Interestingly, the SIC data is of absolutely no use to DOE.

As an example of well-intended legislation resulting in unintended problems, I would like to cite section 921(c) of the amendments. This section provides that, in the case or a service contract (other than construction), a small business, receiving an award under a small business set-aside, must perform at least 50 percent of the cost of the contract and, in the case of a contract for supplies, must perform at least 50 percent of cost of manufacture, excluding cost of materials. This provision is intended to preclude improperly brokered set-aside awards. We agree with the intent of this provision. However, we have reservations about its implementation.

We are concerned about enforcement of this provision when the award results from the setting aside of a sealed bid procurement. Currently, in set-aside, sealed bid procurements contracting officers are concerned only about low responsive, responsible bids, and, additionally, in the case of supplies, that the source of the successful small business goods is a small business. However, section 921(c) requires consideration of incurred costs. These costs are known only after contract performance. Enforcement could entail post-performance audits and will require additional small business contractor recordkeeping requirements in set-aside contracts. These burdens are contrary to the concept of and negate many of the benefits of sealed bid procurement.

Further, the 50 percent subcontracting limitations may not reflect conventional practice in many industries; yet, by its statutory nature, section 921(c) does not provide deviation authority to treat individual cases. The intended remedies for violations of this provision also are not apparent, and, we believe, these subcontracting limitations will reduce the level of competition in small business set-asides beyond that caused by the adjusted size standards.

Concerning the procurement process itself, section 921(e) of the amendments is potentially the most damaging. This view has also been reflected by the SBA in its report to Congress. That section provides that "the head of any Federal agency shall, within five days of the agency's decision to set aside a procurement for small business concerns under this section, provide the names and addresses of small business concerns expected to respond to the procurement to any person who requests such information."

DOE makes class set-aside determinations for many commodities and services. Each DOE procuring office may make its own class set-aside determinations based upon its individual experience. We frequently decide to set procurements aside based upon past history, before any bidders list is created. We also decide to set procurements aside before publication in the Commerce Business Daily. That publication often significantly increases the size of any bidders list. All of these processes will be upset and detrimentally affected by section 921(e). Either the decision to set a procurement aside will have to be made later in the process, thereby effectively eliminating class set-asides, or premature or incomplete information will be provided to the requesters. In either case, the procurement leadtimes will be extended. The only explanation we could find for this provision was that it was intended to allow the early identification of large firms that improperly represent themselves as small businesses. The misrepresentation of size is very rare in our experience, and there are existing, effective remedies—the SBA size standards appeals process and suspension or debarment of violators. We question the wisdom of altering the procurement process and creating a practical reason for not setting procurements aside to solve a problem that effectively does not exist.

In your invitation to this hearing, you asked our impressions of the effects of S. 1559. Given the concerns expressed above about the 1986 amendments to the Small Business Act, we support many of the provisions of the bill.

First and, from a procurement process standpoint, most importantly, S. 1559 would repeal section 921(e) of the amendments to the Small Business Act, requiring agencies to make available a list of small business concerns "expected to respond to the procurement" within five days of the decision to set the solicitation aside for small business. We fully support such a repeal.

Secondly, section 3 of the bill would raise the goaling threshold from $0 to $25,000. As evidenced by our earlier discussion on this matter, we see benefits resulting from this proposed change.

Next, the limitations on subcontracting contained in section 921(c) of the amendments for small business set-asides and 8(a) awards are to be accomplished on a best efforts basis. This change introduces some of the flexibility we believe is necessary in this area. The clarification of the effective date of these limitations in section 4(b) of S. 1559 is also welcome; however, we question the ability of a contracting officer to meaningfully evaluate the need for adjustment of the subcontracting thresholds on an individual procurement.

The fourth major change that would be prescribed by S. 1559 is generally replacing the use of SIC codes with product and service codes. We believe this change recognizes the reality of the procurement world, but, to fully accomplish this objective, the agency goaling paragraph of section 15(g), added by section 921(d)(2), should be deleted in its entirety. We believe that small business, 8(a), and related goaling should be done, as now, on the basis of overall awards to those classes of contractors. To require goaling, whether internal or external to the agency, to be done on such a detailed basis as SIC code or even based on product and service code will complicate and disrupt the goaling process with no corresponding advantage. We believe this deletion would be consistent with the spirit and intent of section 2 of S. 1559.

The bill would also substitute "fair and reasonable price" for "fair market price" in small business set-aside awards. "Fair and reasonable price" is a standard we in Government procurement use every day. Since it conforms to our normal way of doing business, esoteric debate over the differences between the two terms would be eliminated.

We suggest a parallel substitution of "fair and reasonable price" for "fair market price" for 8(a) awards. That additional change is appropriate for the same reasons the substitution is proposed for small business set-aside awards.

In summary, the Department of Energy will do its best to work with the appropriate regulatory agencies to meaningfully implement sections 921 and 922 of the Defense Acquisition Improvement Act of 1986. We have major reservations about their impact upon the ability of the Federal government and DOE to assure fair participation of small and small disadvantaged business in the procurement process. We are also concerned about our ability to overcome certain data collection and procurement process problems created by their enactment. The difficulties in the areas of SIC goaling of small and small disadvantaged business contracting, the statutory nature of the limit on subcontracting, and the duty to make available a list of prospective bidders within five days of the decision to set a procurement aside are particularly worrisome.

S. 1559 goes a long way in treating our concerns. That bill could be made even more effective, particularly with the repeal of the goaling paragraph added by section 921(d)(2) of last year's amendments.

I will be happy to answer any questions you may have.

Mr. DIXON. I thank the President for his kind attention and believe that this amendment has been cleared thoroughly on this side.

The ACTING PRESIDENT pro tempore. Is there further debate?

The Senator from Georgia.

Mr. NUNN. Mr. President, the Senator from Illinois is absolutely correct. This has been cleared on both sides. It is a very good amendment. It is a detailed, complex, complicated area. As the Senator observed, this was inserted in the bill last year in conference. The Senator and others on the committee on both sides have looked into it in detail, in hearings, and I think this amendment should be accepted by our body.

I should also like to pay personal tribute to the Senator from Illinois for his diligence in the committee and his exercise of great leadership and also for his tremendous help in managing this bill on the floor. For the last couple of days a number of us on both sides, the Senator from Virginia and myself, the majority leader and the minority leader, have been engaged in trying to work out a unanimous-consent request which finally was culminated last evening. The only way I could necessarily spend the time involved in that was to have the kind of leadership we have had by the Senator from Illinois in managing this bill in my temporary absence.

So I thank the Senator from Illinois for his great leadership and particularly pay tribute to him for being such a splendid floor leader in my absence.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. QUAYLE. Mr. President, I congratulate my friend from Illinois on this amendment. It not only has been cleared on our side, but I know that he and Senator GRAMM have worked long and hard on this issue. This is an issue that has been, I guess I might state, rather contentious from time to time, not only on the floor of the Senate but particularly when we get to conference.

It, unfortunately, is one of the last remaining issues. I hope that with this amendment and with this understanding we will not have that much of a problem. I think the reason we probably will not have that problem, Mr. President, is because of the hard work of the Senator from Illinois and the Senator from Texas. I wholeheartedly endorse the amendment.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

Mr. DIXON. Mr. President, I thank my colleagues, particularly the distinguished chairman of the committee, who all of us greatly admire for his expertise regarding the subject matter at issue over the last several weeks. It has been a privilege to work with him. I thank my colleagues on both sides for their support for this amendment.

The ACTING PRESIDENT pro tempore. All time is yielded back. The question now occurs on adoption of the amendment of the Senator from Illinois.

The amendment (No. 766) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 767

(Purpose: To require the Secretary of Defense to submit to Congress an annual plan on Department of Defense drug law enforcement assistance)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from Illinois.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] for himself, Mr. DECONCINI, Mr. D'AMATO, and Mr. GRAHAM proposes an amendment numbered 767.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. ANNUAL PLAN ON DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section:

§ 380. Annual plan on Department of Defense drug law enforcement assistance

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress the following:

"(A) A detailed list of all forms of assistance that is to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the U.S. Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service, during the fiscal year for which such budget is submitted.

"(B) A detailed plan for lending equipment and rendering drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components of the armed forces for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a list and plan submitted under subsection (a), shall convene a conference of the heads of all Federal Government law enforcement agencies having jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies during the fiscal year for which the list and plan are submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such chapter is available by adding at the end the following:

"380. Annual plan on Department of Defense drug law enforcement assistance.".

Mr. DIXON. Mr. President, this amendment is cosponsored by the distinguished Senator from Arizona, Senator DECONCINI; the distinguished Senator from New York, Senator D'AMATO; and the distinguished Senator from Florida, Senator GRAHAM.

This amendment makes unused Defense Department assets available to civilian agencies for their drug interdiction effort. This amendment institutionalizes a similar provision by distinguished colleague, Senator DECONCINI, had included in last year's drug bill.

We all know that drug abuse in the United States is a problem of staggering proportions. More than 18 million Americans regularly use marijuana. Over 5 million Americans are regular cocaine users. Five hundred thousand Americans are addicted to heroin.

The quantity of drugs pouring into this country to support these habits is alarming. Last year alone, over 73 metric tons of cocaine, 6 metric tons of heroin, and 4,300 to 6,200 tons of marijuana entered the United States.

On the positive side, the last few years have also seen growth in effectiveness of drug interdiction. The civilian agencies charged with interdiction efforts have become increasingly flexible, sophisticated, and aggressive in their efforts. However, continued and increased coordination and innovation are necessary if any further progress is to be made.

With a problem this severe, however, we must employ all available resources in the effort to combat drug trafficking. One way we can do more is by applying unused Defense Department assets in the war against drugs. My amendment does just that.

Currently, the Defense Department has communications and surveillance equipment, aircraft and marine vessels which are not being used to their full potential. The Department of Defense allows some of these assets to be used to support civilian agencies in drug interdiction. However, more can be done.

This measure requires the Department of Defense to submit an annual list of all forms of assistance that is to be made available to civilian drug enforcement agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service. In addition, the Defense Department would provide a detailed plan for lending equipment and rendering drug interdiction-related assistance.

Once a list and plan are submitted, the Defense Department is required to convene a conference with all the civilian agencies involved in narcotics interdiction and enter into appropriate memoranda of agreement specifying the distribution of such assistance.

This amendment provides a forum for improved coordination of the efforts of the Department of Defense with the civilian agencies. Each year the civilian agencies will know exactly what assets are available for their use, and a plan can be worked out with the Defense Department to see that they are used in such a way to have the maximum impact in the effort to battle the flow of drugs into this country.

Mr. President, this amendment builds and strengthens the relationship between the Department of Defense and the civilian agencies in their drug interdiction efforts, and represents another step forward in our war on drugs.

Mr. DECONCINI. Mr. President, the amendment introduced today to the Department of Defense authorization bill by my good friend and colleague, Senator DIXON, is patterned after a provision I had included in the Anti-Drug Abuse Act of 1986. This provision, although it did not call for direct use of military personnel to guard our borders against the drug traffickers, did allow for excess military assets to be used by civilian drug law enforcement and drug interdiction agencies.

With the inclusion of this provision in last year's drug bill, we were finally able to get the Department of Defense involved in developing a comprehensive drug interdiction plan. The amendment offered by Senator DIXON today will make the involvement of DOD in providing excess assets a permanent requirement.

This amendment is not intended to dissipate or reduce the capabilities of the Department of Defense's ability to provide protection for our country. We simply believe it is ridiculous for the Federal Government not to utilize, to the fullest extent possible, the excess assets of the Defense Department in the war on drugs.

The American taxpayer has spent billions of dollars outfitting our military with the most sophisticated equipment available. If these assets are not being used by the military, then let our civilian drug enforcement agencies borrow them to attack the drug smuggler who threatens our children, our schools, and our communities with his deadly poisons.

This amendment simply expands the military role in our drug war in a responsible, cost-effective manner.

Last year's $1.4 billion drug bill established for the first time a framework for our Nation's battle against drug abuse. The bill included funding for enforcement, interdiction, education, and rehabilitation. When President Reagan signed the bill October 27, 1986, he said, "I pledge the total commitment of the American people and their Government to fight the evils of drugs."

Less than 3 months after signing the bill, President Reagan abandoned his commitment to the American people and slashed over $900 million in antidrug funds from his fiscal year 1988 budget request. Those cuts included over $100 million from drug education programs and the entire $225 million designated to State and local law enforcement agencies for drug enforcement.

I believe the American public is sick and tired of hearing the President and Congress talk tough about a war on drugs. The American people want less rhetoric, and more action and results. We talk here a lot about the war on drugs—yet we really have not had a war on drugs in this country. In a war, you mobilize your Nation, all your resources and assets, and you pursue the enemy until victorious.

The bottom line as I see it, is—we put politics aside—we put budget constraints aside—we put agency turf battles aside—and we treat illegal drugs as the national security threat they are to the United States and act accordingly. We must proceed with all the energy and determination required to accomplish those objectives. I say no other choice is rational.

Mr. DIXON. Mr. President, my friend from New York, Senator D'AMATO, had supporting amendments last night that were adopted. This is all part of the ongoing struggle by some of us within the parameters of what the Department of Defense and our respected colleagues will tolerate to broaden the use of the military for drug interdiction and related matters.

This has been cleared on both sides by all of the students of the problem. And I thank my colleagues for their consideration.

Mr. NUNN. Mr. President, I congratulate the Senator from Illinois for taking the lead in trying to make more effective use of our military assets in the war against drugs. We have not agreed on every detail about how we go about debating that. We had some debate last year. I think it is very important that the military be used effectively and efficiently in the drug fight consistent with our overall national security objectives. This report which the Senator is calling for in this amendment I think will be helpful in helping to have success on an annual basis. So I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment?

All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois [Mr. DIXON].

The amendment (No. 767) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. Are there further amendments?

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment that has been offered by the distinguished Republican leader, Mr. DOLE, the vote on which has been ordered for next Tuesday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the names of the authors of the following amendments be dropped from the list. This has been previously agreed upon.

Mr. President, the following amendments to which I refer are those by Mr. CHAFEE, the Rhode Island National Guard; Mr. DOMENICI, the superconductor; Mr. EVANS, Hanford, WA, DOE safety enhancements; Mr. GRAMM, alcohol beverages; Mr. HELMS, ABM; Mr. QUAYLE, nuclear warhead ATACKS; Mr. QUAYLE, SALT; Mr. ROTH, European Workload Program; Mr. WARNER, authorize SDI Institute; and Mr. WEICKER, war powers. This does not eliminate the pending Byrd-Weicker amendment.

Mr. QUAYLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. QUAYLE. Mr. President, the information that I have is exactly on point. The amendments that the distinguished majority leader has read are ones that this side have agreed to drop at this time.

Mr. BYRD. Mr. President, I thank the Senator.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. DIXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator for Illinois.

Mr. DIXON. Mr. President, I thank the Chair and my colleagues for the amount of productivity that has already occurred this morning. I understand presently we will be prepared to go to a number of amendments by the distinguished Senator from Michigan. I do not know how many he will want to discuss this morning; at least one I am cosponsoring with him and would look forward to supporting in a short debate.

Are there any other Senators present at the present time who have an amendment?

Mr. QUAYLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. QUAYLE. Mr. President, very soon I will be offering a sense-of-the-Senate resolution dealing with our commitment to NATO. I am working with the chairman of the Senate Armed Services Committee and others to adopt the language. I think we basically have it now. We are getting xerox copies. Soon after that we will be offering that sense-of-the-Senate resolution. It is not going to take much time, I tell my friend from Illinois. And the Senator from Michigan has a couple of amendments.

Mr. DIXON. I think, Mr. President, the distinguished Senator from Michigan is here and is prepared to go to his amendments.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

AMENDMENT NO. 768

(Purpose: To reduce funds for the Small ICBM program and the MX Rail Mobile Basing Mode research program and increase funds for certain conventional programs)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 768.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 20, strike out "$2,805,859,000" and insert in lieu thereof "$3,138,059,000".

On page 2, line 23, strike out "$2,412,928,000" and insert in lieu thereof "$2,491,128,000".

On page 3, line 3, strike out "$2,131,239,000" and insert in lieu thereof "$2,263,239,000".

On page 3, line 16, strike out "$6,219,532,000" and insert in lieu thereof "$6,377,032,000".

On page 4, line 13, strike out "$9,137,539,000" and insert in lieu thereof "$9,203,539,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,244,782,000".

On page 7, between line 14 and 15, insert the following new subsections:

(f) APACHE HELICOPTER.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $987,485,000 shall be available only for the Apache helicopter program.

(g) UH-60 HELICOPTER.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $357,820,000 shall be available only for the UH-60 helicopter program.

(h) AHIP HELICOPTER.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $164,900,000 shall be available only for the AHIP helicopter program.

(i) TOW II MISSILE.—Of the funds appropriated or otherwise made available for procurement of missiles for the Army for fiscal year 1988, the sum of $209,439,000 shall be available only for the TOW II antitank missile program.

On page 8, between lines 9 and 10, insert the following new subsections:

(c) HARM AIR-TO-GROUND MISSILE.—Of the funds appropriated or otherwise made available for procurement of missiles for the Navy for fiscal year 1988, the sum of $274,028,000 shall be available only for the HARM air-to-ground missile program.

(d) SPARROW AIR-TO-AIR MISSILE.—Of the funds appropriated or otherwise made available for procurement of missiles for the Navy for fiscal year 1988, the sum of $178,000,000 shall be available only for the Sparrow air-to-air missile program.

On page 8, line 11, strike out "Funds" and insert in lieu thereof "(b) T-46 AIRCRAFT.—Funds".

On page 8, between lines 16 and 17, insert the following new subsections:

(c) MAVERICK MISSILE.—Of the funds appropriated or otherwise made available for procurement of missiles for the Air Force for fiscal year 1988, the sum of $391,005,000 shall be available only for the Maverick air-to-ground missile program.

(d) LOW LEVEL LASER GUIDED BOMB.—Of the funds appropriated or otherwise made available for procurement of missiles for the Air Force for fiscal year 1988, the sum of $34,000,000 shall be available only for the Low Level Laser Guided Bomb modification program.

On page 15, line 4, strike out "$16,346,598,000" and insert in lieu thereof "$15,446,598,000".

On page 17, between lines 2 and 3, insert the following new section:

SEC. 223. AIR FORCE PROGRAMS.

(a) SMALL ICBM PROGRAM.—Of the funds appropriated or otherwise made available to the Air Force for research, development, test, and evaluation for fiscal year 1988, not more than $200,000,000 may be obligated or expended for the Small Intercontinental Ballistic Missile program.

(b) MX RAIL MOBILE BASING MODE.—None of the funds appropriated or otherwise made available to the Air Force for research, development, test, and evaluation for fiscal year 1988 may be obligated or expended for the MX Rail Mobile Basing Mode program.

Renumber sections 223 through 228 as sections 224 through 229, respectively.

On page 32, line 13, strike out $21,691,300,000" and insert in lieu thereof "$21,791,300,000".

On page 34, between lines 21 and 22, insert the following new subsection:

(c) MAINTENANCE DEPOTS.—Of the funds appropriated or otherwise made available for operation and maintenance of the Army for fiscal year 1988, the sum of $1,631,500,000 shall be available only for depot maintenance.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 15 minutes.

Mr. LEVIN. Mr. President, I ask unanimous consent at this time while Senator QUAYLE is here that it be in order following my remarks for Senator NUNN on behalf of himself, Senator EXON, Senator QUAYLE, and perhaps others to offer a substitute for this amendment.

The ACTING PRESIDENT pro tempore. Would the Senator restate his request?

Mr. LEVIN. I ask unanimous consent that following my remarks it be in order for Senator NUNN on behalf of himself, Senator EXON, Senator QUAYLE, and perhaps others, to offer a substitute for this amendment, which has been worked out.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. QUAYLE. Reserving the right to object, Mr. President, I will not, but I want to point out that this was part of the agreed unanimous-consent request that we entered into the other night. It is not making an exception for a substitute amendment because the Senator from Michigan did make that request. That was part of the unanimous-consent agreement. I do not want anybody to think this is an exception that we are making on the unanimous-consent agreement because it is not. I think the Record should duly note that.

Mr. LEVIN. The Record would show that at the time we were going through the amendments that I did indicate there would be a substitute which I expected would be offered for this amendment.

The ACTING PRESIDENT pro tempore. Without objection, the Senator's request is agreed to.

Mr. LEVIN. Mr. President, the amendment that I have sent to the desk is intended to focus the attention of the Senate on our defense spending priorities and to move us in a different direction in that regard.

This amendment would transfer $500 million from the Midgetman program and $400 million from the MX rail mobile program to various conventional weapons programs. As I indicated, a substitute which has been worked out will be offered for this amendment at a later point this morning.

I believe, Mr. President, that we are spending too great a share of our defense resources on strategic forces and that we are shortchanging our conventional forces in the process.

This is not simply an insignificant misallocation of resources that can be corrected by making minor adjustments. Rather, it is the single most serious problem we face in providing for the defense of our Nation in the tight budget environment we face for the foreseeable future.

The Reagan administration has consistently sought to shift our priorities toward strategic forces, and with some minor adjustments we in the Congress have gone along with them. In short, we have been doing precisely the opposite of what we should be doing, which is to transfer more of our resources to conventional from the strategic forces.

Let me outline why I believe we must reorient our defense priorities.

First, we have a need for improved conventional forces, given some current conventional imbalances, the nature of the missions of our conventional forces, and the desirability of reducing our reliance on nuclear weapons.

Second, we can make significant improvements in our conventional capability with relative ease, given the fact that we have a finite number of key conventional deficiencies that are well within our power to redress.

Third, there is the relative lack of need for certain planned or proposed additions to our strategic forces, given the strategic nuclear balance and the nature of the strategic mission our nuclear forces perform.

Fourth, there is the very real difficulty of significantly altering the strategic nuclear balance, given the vast numbers of nuclear weapons possessed by each side, and the incredible destructiveness of those weapons.

Part of the backdrop of this amendment is a number of hard facts.

First, we are in an extremely tight budget situation. Second, that budget situation is going to get significantly worse before it gets better. Third, as our budget dilemma grows worse, it will not only create increasingly ferocious competition for limited resources between domestic and military spending. It will exacerbate the struggle for funds within the defense budget, both among the military services and between strategic forces and conventional forces.

In other words, the choice which my amendment would require us to consider today is inescapable. We are going to face this kind of choice over and over again. That is the unpleasant, and unavoidable truth.

The members of the Armed Services Committee have already grappled with this problem, and the result of our combined effort is before the Senate. I think the committee made some progress this year in addressing this problem, but I don't think we went far enough.

THE REAL NEED FOR CONVENTIONAL DEFENSE IMPROVEMENTS

Let me begin by laying before the Senate the need for real improvements in our conventional defense capabilities.

Conventional forces play two primary roles in U.S. national security policy.

First, forward deployed conventional forces, such as those assigned to NATO Europe and northeast Asia, demonstrate our will and intention to fulfill U.S. defense treaty commitments to our closest allies. Our Guard and Reserve forces also contribute significantly to this mission, as do our strategic mobility forces, by demonstrating a capability to heavily reinforce any theater.

Second, U.S. conventional forces deter attacks on American interests around the globe, and permit us to use effective military power to protect and further those interests if necessary. Our so-called power projection forces are particularly important in this regard.

Under flexible response, NATO plans to resist a Soviet attack on Western Europe with convetional forces alone. At first. Yet, we reserve the option to initiate the use of nuclear weapons if the conventional battle does not go well for the West.

This strategy has been effective to date. But since its inception in 1967 there has been a change in the balance between the superpowers: We are now at strategic nuclear parity. This change has increased the relative importance to NATO security of conventional forces because strategic parity naturally reduces the credibility of American nuclear first use. The imminent INF agreement will further this trend.

The Soviets have appeared to shape their conventional forces and their conventional military doctrine to win a quick conventional victory in the hope that they could avoid nuclear escalation by presenting NATO with a conventional fait d'accomplis.

Whether or not the Soviets believe such a quick conventional victory is achievable, and achievable without nuclear escalation, is an open question. But it is a question to which NATO can and should provide the proper response: no.

The most effective way to provide the Soviets that answer is to improve NATO's conventional forces, including those of the United States.

Enhanced conventional forces would enhance deterrence by making a quick Soviet victory very unlikely, if not impossible. And, by ensuring that a Soviet attack would precipitate an extended conventional conflict improved NATO forces would provide us much needed time.

It would give our military leaders time to bring American reinforcements to bear in the struggle. It would also give the Soviet Union's Warsaw Pact allies time to reconsider their own positions.

This is roughly the same conclusion drawn in a report entitled "The Defence of Europe" issued by the British Defence Research Trust and the Center for Foreign Policy Development at Brown University. That report said the following regarding this point:

> Conventional forces should be the top priority for force improvements by NATO. Not only do conventional improvements enhance deterrence by countering the most likely and credible threat, i.e. Soviet attempt to "win beneath the nuclear threshold", but they also create more plausible conditions for nuclear use, i.e. a decision taken with deliberation by an Alliance that is still capable of one or two limited and controlled "pre-strategic" options rather than an "all or nothing" escalation taken in conditions of absolute desperation. Thus nuclear deterrence is also enhanced by improving conventional capabilities.

The bottom line is that under current NATO strategy the likelihood of escalation to the use of nuclear weapons is in large part a function of the conventional strength of the alliance. Conventional strength enhance both nuclear and conventional deterrence without diminishing any of the many uncertainties facing Soviet military planners and political decisionmakers.

That is precisely why it is essential that we focus our attention on our conventional forces: insufficient conventional strength could lead to nuclear war.

There is another reason we should emphasize our conventional strength. If our conventional forces are known to be highly trained, well equipped, and well supplied, adversaries and potential adversaries other than the Soviet Union may well be deterred from seeking to damage United States interests. If, however, we are viewed as a paper tiger, a muscle-bound superpower that can destroy the planet in 30 minutes, but whose fleet has to follow the tankers it is escorting through the Persian Gulf for lack of minesweepers, we may face threats to and attacks on our interests that could result in wider war.

I want to state clearly that I do not believe we are conventionally weak. I have recently seen our forces in the field in West Germany, and I believe our conventional forces are a powerful deterrent. But I also know that we have some conventional deficiencies that tempt fate. And I know that those deficiencies are left unaddressed, or even made worse, by our overemphasis on strategic nuclear forces and SDI at the expense of our conventional strength.

CONVENTIONAL DEFICIENCIES

READINESS AND SUSTAINABILITY PROBLEMS

Some of the deficiencies in our conventional forces are so seemingly simple to correct that it is hard to believe they exist at all. If it weren't for a lack of resources, and what I believe are badly skewed defense spending priorities, they wouldn't.

Perhaps the best way to illustrate the extent of this problem is to quote from the testimony of our military officers earlier this year. Listen to the problems they cite, and remember the amounts we have approved for defense spending over the last several years. Ask yourself this: How could these problems be allowed to exist? As you listen to the litany of conventional force needs that are going unmet despite those budgets, remember this statement made by Dr. Robert Costello, Assistant Secretary of Defense for Acquisition and Logistics:

> The President's strategic modernization program, announced in October 1981, remains one of our highest priority efforts. Because of the continued priority we accord these efforts, they have been kept relatively immune from the large fluctuations in defense spending.

Let me begin with some testimony by Gen. Bernard Rogers from March 25, 1987, while he was still the Supreme Allied Commander, Europe and the commander in chief of U.S. forces in Europe:

> Although there has been continual improvement over the last five years, stocks of major end items of Army equipment, repair parts and Air Force war reserve kits are still not able to sustain thirty days of conflict * * *
>
> To provide just a few examples, the following key items are at stockage levels below five days of supply or 30% of that required to counter specific threat targets: modern artillery munitions, five ton trucks, drive train components for wheeled vehicles and M1 tanks, air-to-air missiles, air-launched Harpoon air-to-ship missiles, Harm/Shrike anti-radiation missiles, and anti-runway munitions.
>
> These shortfalls are so significant that efforts to conduct a prolonged conventional defense of Europe, as currently envisioned by our national strategy, could prove impractical.

In that same appearance before the Senate Armed Services Committee, General Rogers lamented the status of Army combat service support:

> The Army's combat service support structure, even when augmented by available and planned Host Nation Support, is incapable of supporting the forces currently in Europe, much less the reinforcing units.

On March 5 of this year, Air Force Maj. Gen. Thomas Darling, the deputy commander of the U.S. Atlantic Command, told Senator DIXON's Readiness Subcommittee:

> Budget cuts in FY 1986 and FY 1987, plus reductions in Air Force war reserve spares will reduce sortie generation by 19% in FY 1991.

Adm. Ronald Hays, the commander in chief of U.S. Pacific Command, told the full committee on January 25, 1987 that:

> * * * from the unified commander perspective my number one urgency is sustainability. We have superb forces in being. We cannot sustain them on a prolonged basis because the spare parts, the sophisticated ammunition, in the quantities that we would anticipate being required, are not available * * *. In some cases, it is a matter of days, for some of the sophisticated ammunition."

Marine General Crist, the commander in chief of the U.S. Central Command, the Command responsible for military operations in the Persian Gulf region, told the committee on January 27, 1987:

> Serious shortages exist in ground forces war reserve supplies and equipment. We do not attain even 50% of the requirement for supplies and equipment in either FY 1988 or 1989. FY 1988 equipment funding provides only some improvement. Again, the total available will be less than half of the requirement. There is no significant improvement by FY 1989.

There is neither an excuse nor a reason for such shortfalls. Yet, the Congress has chosen to cut readiness and sustainability in the past, and the President's requests for these accounts in this year's budget will worsen our problem rather than improve it.

To illustrate this point let me cite the record on Army and Air Force depot maintenance. Depot maintenance funding provides for the essential maintenance required to keep our sophisticated armored vehicles and aircraft in working order. Without sufficient depot maintenance our considerable investment in conventional hardware is to some extent wasted.

The President's budget request, however, would leave a 21-percent shortfall in Army depot maintenance, $391 million, and a 7-percent shortfall in air depot maintenance in fiscal year 1988. The President's budget would increase those depot maintenance shortfalls to 22 percent for the Army and 16 percent for the Air Force in fiscal year 1989.

These undesirable trends are a sharp break with the immediate past. As recently as fiscal year 1985 the Air Force had no shortfall in its depot maintenance requirement, while the Army had a 1-percent shortfall. In fiscal year 1980 the shortfall was 11 percent. In other words, our depot maintenance problem has gotten worse since 1980 and the situation as far as a number of other important sustainability and readiness items are also starting to get worse, not better.

PREMATURE TERMINATION OF CONVENTIONAL MODERNIZATION

The same is true in the conventional modernization area. The fixation on strategic forces has led the President to propose the premature termination of key elements of our conventional modernization program. The Army's budget plan is the most egregious example of this.

If we approved the President's budget plan for the Army over the next several years the United States would virtually go out of the helicopter and armored vehicle production business altogether.

We would go 5 years without producing a transport helicopter, leaving us with 36 percent of our stated requirement.

We would go 7 years without producing an attack helicopter, leaving us with 49 percent of our stated requirement.

We would go 5 years without producing an armored personnel carrier, leaving us with 60 percent of our stated requirement.

We would go 4 years without producing a main battle tank, leaving us with 71 percent of our stated requirement.

And, we would stop multiple rocket launcher production altogether after filling only 49 percent of our stated need, with no follow-on system planned at all.

That is the President's proposal. Does anyone here think that it's a good idea, that that is the way we should go?

There are other examples of our conventional modernization being cut back. The Navy's aircraft construction program has been curtailed, increasing the average retirement age of the aircraft in the Navy from 23 to 26 years. The Air Force has abandoned its goal of deploying 40 tactical air wings, and will remain at 37 wings.

Why is the administration proposing to curtail conventional modernization at the same time they are concluding an INF accord that will increase the importance of conventional forces? I believe it is because they refuse to trim their strategic modernization program, regardless of its relative importance within the defense budget.

RELATIVE LACK OF NEED FOR STRATEGIC MODERNIZATION

Let me now briefly discuss the relative lack of need for strategic funding increases of the sort proposed by the President.

The primary mission of U.S. strategic nuclear forces is to deter a nuclear attack on the United States. Those forces, because of their size and power, also contribute significantly to deterring any Soviet action that might precipitate combat between United States and Soviet conventional forces.

Our strategic forces deter a Soviet nuclear attack on the United States because any such attack would result in nuclear retaliation against the Soviet Union. That deterrent effect is derived from the fact that such retaliation would be so devastating that no rational Soviet leadership could conclude that a nuclear attack on the United States would result in a gain greater than its cost.

Spending on our strategic forces, with the possible exception of SDI spending, is thus meant to enhance that deterrent effect by increasing the effectiveness of the retaliation the Soviets can expect in response to a first strike.

I believe we should take whatever action is necessary to maintain the effectiveness of our nuclear deterrent, including agreeing to an arms reduction treaty that would achieve that goal. I question, however, the need for the massive strategic spending program set forth by the President.

THE ADMINISTRATION'S OVEREMPHASIS ON STRATEGIC FORCES

Yet the administration continues to overemphasize strategic forces at the expense of our conventional forces.

In fiscal year 1980, when this administration entered office, 16 percent of our defense research and development funding went to strategic forces. This year the President's request allocated 35 percent of our defense R&D dollars to strategic forces. In other words, the strategic forces' share of American military research and development has more than doubled since President Reagan entered office.

A similar pattern is seen when we look at the change in the strategic forces' share of our overall military investment, R&D plus procurement, during the course of the Reagan administration. In fiscal year 1981, 13 percent of U.S. military investment dollars were spent on strategic forces. In the fiscal year 1987 request, 21 percent of our military investment was allocated to strategic forces.

That same overemphasis on strategic forces at the expense of conventional forces will continue in the future if we do as the President asks. According to the supplement to the fiscal year 1988 budget of the United States, the President proposes a 7.7-percent real increase in defense spending from fiscal year 1987 to fiscal year 1990. Within those budgets, strategic forces funding would increase by a whopping 37 percent while conventional forces funding would increase by just over 3 percent.

The President would grant strategic forces 12 times the percentage increase he would give conventional forces, on top of the increases already noted.

CUTS IN STRATEGIC SPENDING CAN ALLEVIATE CONVENTIONAL DEFICIENCIES

Some have argued that conventional improvements are simply too expensive, and thus we can't reduce our reliance on nuclear weapons.

Let me give you an example of the opportunity cost in conventional capability of just one of the strategic systems currently being developed: the Midgetman.

The estimated cost of designing, deploying, and operating 500 single-warhead Midgetman missiles for 15 years is $40 billion. For $40 billion we get 500 strategic nuclear warheads.

Let's assume we need 500 more strategic warheads in order to maintain a robust deterrent, an assumption to which I do not subscribe, by the way.

We can build and operate six fully armed Trident submarines for 30 years at a cost of roughly $24 billion. Our Trident subs are each at sea about 60 percent of the time. Let's give the Midgetman advocates the benefit of the doubt, and say that 3 of 6, or 50 percent, of these Trident boats are at sea, and thus survivable.

Three Trident subs carry an estimated 572 warheads, more than is proposed for Midgetman. If we buy Trident instead of Midgetman, what can we get for the $16 billion we have left over?

Here's one sample list of Army conventional systems we can buy for $16 billion:

600 Apache Attack Helicopters, 2,000 Bradley armored personnel carriers, 2,000 M1 Abrams Tanks, and 200,000 TOW II Antitank missiles.

I don't know about you, but I think those Tridents and all that advanced Army hardware could contribute more to deterrence than 500 Midgetman missiles.

In fact, given the current military balance at the strategic and conventional levels, I believe the conventional systems alone would contribute more to deterrence than 500 Midgetman missiles, at a savings of $24 billion. Not only would those conventional arms contribute more to deterrence; they also would contribute more to a defense of our interests that does not amount to a suicide pact with the Soviet Union.

There is no nuclear window of vulnerability. There are conventional vulnerabilities, real and perceived, which threaten the security of the Western alliance and also the future of arms control.

My amendment is meant to address this problem.

The ACTING PRESIDENT pro tempore. The time in opposition will be controlled by the manager of the bill.

Mr. NUNN. Mr. President, how much time remains?

The ACTING PRESIDENT pro tempore. Fifteen minutes remain.

Mr. NUNN. Mr. President, I have a substitute on behalf of myself and Senator QUAYLE and Senator EXON and Senator WARNER, I believe, also, which I believe has already been made permissible by unanimous consent.

But I would defer to the Senator from Indiana if he would like to speak on this first and then I will follow him.

Mr. QUAYLE. Mr. President, let me just make a few observations. Of course, Senator NUNN offers the substitute.

My good friend from Michigan and I started working together on this conventional subcommittee this last year. We will be having a number of hearings. We are going to have a lot more hearings. We are going to get down to see what we really need for deterrence, what we need for peace and stability.

I want to point out a couple facts for the record as we enter into this debate on what we should be doing for our conventional forces. Believe me, as far as paying for conventional forces, assuming we have an adequate budget, I will be more than happy to jump in and spend for whatever amount the Senator from Michigan is able to get in our budget.

The problem that we have is that conventional forces cost money, and I think perhaps we have been able to have a deterrence and peace somewhat on the cheap. In fact, we have been relying on strategic nuclear deterrence and I think we will continue to rely on strategic and nuclear deterrence in the foreseeable future.

I do not fault, as a matter of fact I encourage, my friend from Michigan to point out potential deficiencies on conventional forces particularly as we look at a post-INF environment.

Conventional deterrence is going to be even more important, but as I say that, in the same breath I must point out what the projected defense budget is going to be in real terms by 1990.

You are seeing an actual reduction in real terms of 15 percent 1990 compared to 1985. Now, we just cannot have it both ways. We cannot just say we are going to be able to spend on conventional forces and yet cut the defense budget in real terms by 15 percent by 1990.

You are simply not going to be able to do that.

So, therefore, we are going to have to make some tough decisions, and I will be glad to join in the chorus and I hope the chorus develops that we have to increase rather than to decrease defense spending.

I would find that to be a rewarding result from this discussion and from the Senator's initiatives.

Also, I want to point out that there seems to be an implication by the amendment that we are really spending too much on strategic forces in our defense budget. Strategic programs account for less than 15 percent of the overall defense budget. So I believe that is somewhat of a myth that people really believe that we are spending an overwhelming portion of our defense resources in our strategic account. That is simply not the case.

But I think that this amendment shows a strong interest in conventional forces. Believe me, we have a strong interest in conventional forces, particularly as we are going to have to rely on that. I think how we achieve the integration of our conventional forces with NATO, Japan, and other countries is going to be of paramount importance as we march on into the 1990's and turn of the century.

There is no doubt we should pay attention to conventional forces.

I also want to point out that conventional forces and deterrence is not a cheap proposition, and if in fact we are going to have peace and going to have deterrence, we are going to have to be willing to put our dollars where our voices and where our directions want to go.

If in fact the budget that has been projected that this Senate has adopted looking to the 1990's and seeing a 15-percent real cut compared to 1985, I dare say that is incompatible with building up the conventional forces to the degree that I would like to see or the degree that the Senator from Michigan would like to see.

If we can somehow turn that around, I think an amendment that will spend more on conventional forces or being able to allocate more on conventional forces would be far more acceptable.

I would like to see that day, Mr. President, I might add, and I hope in due time as we look at these programs we also look at the cost and be willing to translate those costs in what it is going to invest in peace and invest for deterrence and invest for stability that we are willing to make some of those difficult choices on the budget.

Thus far, the Congress had been unwilling to do that in the last few years and the budget projections for the next year is far short of what is needed in conventional and, as a matter of fact, in the total defense resource allocation.

The ACTING PRESIDENT pro tempore. Does the Senator yield back his time on the Levin amendment?

Mr. NUNN. Mr. President, may I inquire of the Chair, does not the Senator from Georgia control the time?

The ACTING PRESIDENT pro tempore. The Senator from Georgia is opposed to the amendment and would control the time in opposition to the Levin amendment.

Mr. NUNN. Mr. President, how much time is remaining?

The ACTING PRESIDENT pro tempore. Nine and a half minutes remain in opposition to the amendment. The Senator from Michigan has consumed all of his time.

Mr. NUNN. So, Mr. President, if we decided to be really tough with the Senator from Michigan, he would not be able to say anything more on this amendment; is that correct?

The ACTING PRESIDENT pro tempore. The Senator has no time remaining.

Mr. NUNN. Mr. President, the Senator from Michigan is a very valuable member of our committee and I am delighted to yield to him 2 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me agree with my good friend from Indiana. We cannot, indeed, have it both ways. That is exactly the point of this amendment. We have limited dollars and we have to decide how to spend them.

Let me give you some quick facts on the growth of strategic spending. In 1980, 16 percent of our R&D funding went to strategic. This year, it is up to 35 percent.

A similar pattern is in the overall military investment, R&D plus procurement. In 1981, 13 percent of U.S. military investment dollars was for strategic; in 1987, it went to 21 percent.

The President proposed a 7-percent real increase in overall defense spending for 1987 to 1990. Within those budgets, he is proposing to increase stategic forces by 37 percent and conventional forces by only 3 percent. So we cannot, indeed, have it both ways.

But I say these priorities within this budget are indeed skewed priorities.

One other point. The Midgetman missile would cost us $40 billion. We could build six Trident submarines, have the same survivable warheads—if we are worried about survivable warheads—and complete our entire army modernization program. In other words, not only would we build the six Trident submarines, we could run them for their entire life and have enough left over to buy 600 Apache helicopters, 2,000 armored personnel carriers, 2,000 tanks, and 200,000 TOW antitank missiles. That is the kind of spending we ought to be doing, rather than investing more and more and more in expensive nuclear systems.

I thank my friend from Georgia for yielding.

The ACTING PRESIDENT pro tempore. The Senator from Georgia has 7 minutes remaining.

Mr. NUNN. Mr. President, in just a moment I will send an amendment in the form of an amendment to the amendment offered by Senator Levin to the desk. I believe unanimous consent has already been secured to make this amendment in order as a substitute, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. NUNN. Would an amendment to the amendment to the Levin amendment now be in order in the form of a substitute?

The ACTING PRESIDENT pro tempore. The Senator still has time remaining.

Mr. NUNN. At the end of the time, it would be in order, based on the unanimous consent?

The ACTING PRESIDENT pro tempore. The Senator is correct. A properly addressed amendment would be in order.

Mr. NUNN. Mr. President, I will send an amendment to the desk in a moment after time has expired.

Mr. President, the distinguished Senator from Michigan, who serves so ably as the chairman of our subcommittee on conventional forces and alliance defense has made a number of valid points in arguing for his amendment. I share many of his concerns regarding misplaced priorities and the problems the alliance faces in providing for an adequate conventional defense in Europe. But, at this time, I cannot agree with his proposed course of action, which is to reduce the funding for both ICBM development programs.

I believe our committee discussed and debated extensively the issue of prioritizing prior to and during markup. Indeed, as the Senator well knows, we made major reductions to the President's request for strategic modernization programs, while doing our best to shield readiness accounts and conventional forces. I know the distinguished Senator does not feel the committee went far enough in the transfer of funds from strategic to conventional. To that, I will merely observe that the committee has clearly enunicated its view regarding the change in priorities. But just as a supertanker does not turn on a dime in answer to a turning of the helm, the implementation of these changes cannot be done all in one budget year.

Therefore, I am proposing a substitute, coauthored by Senator QUAYLE of Indiana, and Senator EXON of Nebraska, that recounts the issue of priorities and constrained resources that this body will continue to face in the years ahead, and expresses the sense of the Senate that the funds authorized for Research and Development on both the Midgetman and the Rail-Garrison MX do not constitute a commitment to procure or deploy either or both of those systems.

Mr. President, I would also like to reassure my distinguished colleague of both the committee's continuing interest in establishing priorities, and my own continuing interest in developing more robust conventional defense capabilities in NATO.

I would add that the NATO defense problems cannot be solved by the United States alone. That is one of the piques I have of the way this administration approached the problem in early 1981 and I told them that before they ever embarked on it; that we had to make sure that the NATO allies were marching side by side with us. We marched off very robustly and looked over our shoulders and found they were not there. They were standing in place or marching in place. That is just not the way you move an alliance. It may improve the armed forces, but it does not overall make very much difference in the alliance unless every part of the overall alliance marches together.

Mr. President, I know the Senator from Michigan has had hearings in the Conventional Subcommittee on the whole subject of where we go with both conventional defense and conventional arms control. We are going to also try to emphasize those same issues in the full committee, and we are going to take a look at the INF hearings. We will be building in the full committee on the record the Conventional Subcommittee is now laying.

I also know that the Senator from Michigan is going to be traveling to Vienna on behalf of the committee, with people on both sides of the aisle being involved in that, to take a look at the ongoing MBFR talks, the mutual balance force reduction talks. So the Senator from Michigan is exercising a very great degree of leadership in this area and I commend him for it.

Mr. President, I will be prepared, if no one else wants to make remarks on this amendment, to send a substitute to the desk.

Mr. President, I ask unanimous consent that the Senator from Virginia, Senator WARNER, be added as a cosponsor of this, along with myself, Mr. QUAYLE, and Mr. EXON.

The ACTING PRESIDENT pro tempore. Without objection, the unanimous-consent request is agreed to.

Mr. NUNN. Mr. President, I yield back the balance of my time.

The ACTING PRESIDENT pro tempore. The Senator yields back the balance of his time on the Levin amendment.

Mr. NUNN. Mr. President, I ask unanimous consent that the amendment I am submitting to the amendment of the Senator from Michigan be in order as a substitute.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. QUAYLE. Reserving the right to object, and I will not object, I just want to again point out to our colleagues that this is not a deviation from the agreed-upon unanimous-consent agreement that we have entered into the last couple of days. It would appear to be one, having to ask unanimous consent, but for some technical reasons on drafting we are not going against the unanimous-consent understanding that we had. The Senator from Michigan made very clear on the floor in his colloquy with the majority leader in establishing that unanimous consent that a substitute would, in fact, be in order. I wanted to make sure the RECORD delineates that point.

Mr. NUNN. I thank the Senator from Indiana.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 769

(Purpose: Sense of the Senate Regarding R&D Funding for ICBM Modernization Programs)

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself, Mr. QUAYLE, Mr. EXON, and Mr. WARNER, proposes an amendment numbered 769 as a substitute to the Levin amendment No. 768.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike all beginning with line one, on page one, and insert in lieu thereof the following:

(a) The Senate finds—

(1) it is essential that our defense priorities be carefully analyzed so as to properly fund the armed forces of the United States;

(2) the status of the forces of the United States and our allies will become more important if an INF agreement is concluded between the United States and the Soviet Union;

(3) it is both desirable and possible to reduce NATO's reliance on nuclear weapons for the defense of all members of the Alliance if NATO asserts the political will and establishes sound defense priorities;

(4) the United States is currently procuring one land-based intercontinental ballistic missile while developing another such weapon at significant cost;

(5) it is imperative for the economic well-being of the United States the Federal deficit be reduced, and our efforts to reduce that deficit will continue to require limits on all discretionary Federal spending including defense spending; and

(6) such restraints on the defense budget are likely to exist for the foreseeable future.

(b) Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized for 15 minutes.

Mr. NUNN. Mr. President, I will not take that time. I have already taken some time in explaining the amendment. The bottom line of this amendment is the sense of the Senate that is stated in paragraph (b), which states:

Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

Mr. President, this means that these funds in this bill are not commitments to procurement of either of those systems. The funds can be utilized as indicated in the bill and in the report language, but we are not making any kind of a binding commitment. This amendment makes that clear.

Mr. President, I reserve the remainder of my time on the amendment.

The ACTING PRESIDENT pro tempore. The Senator reserves the remainder of his time.

The Senator from Indiana may have 15 minutes.

Mr. QUAYLE. I am prepared to yield back time. I am cosponsor of the amendment.

Mr. NUNN. I would yield to the Senator from Michigan such time as he may desire under the amendment.

Mr. LEVIN. Mr. President, I am happy to yield back the balance of my time. I would note that there are two amendments listed in the calendar. One is to cut strategic and to reallocate to conventional, 40 minutes. And then three amendments down there is another one in my name to cut strategic and reallocate to conventional.

That, I believe, was intended to be both the amendment and the substitute, in effect. With the adoption of this substitute, assuming it is by voice vote here today, we could then remove that other amendment from the list which says: Cut strategic and reallocate to conventional; leaving two amendments in my name on the list.

Mr. NUNN. I would ask unanimous consent that the amendment described as: Levin, cut strategic reallocate to conventional, be removed from the list of amendments that has been agreed to.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Is there further debate?

Mr. NUNN. Mr. President, I yield back the balance of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 769) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the amendment as modified by the Nunn amendment.

The amendment (No. 768) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. QUAYLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

AMENDMENT NO. 770

Mr. QUAYLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana [Mr. QUAYLE] proposes an amendment numbered 770.

Mr. QUAYLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

The Senate finds that with respect to the level of U.S. military forces permanently stationed in Europe in fiscal year 1988 and fiscal year 1989: The agreement in principal between the United States and the Soviet union to eliminate all intermediate-range nuclear missiles has important implications for the viability of NATO's defense posture;

The presence of U.S. forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the Alliance;

NATO Defense Ministers stated on May 26-27, 1987 that: "The continued presence of U.S. forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe":

Therefore, it is the sense of the Senate that the number of United States military personnel stationed in Europe play an indispensable role for peace and deterrence and such commitment of forces should be continued at existing levels, provided that all existing basing agreements remain in effect.

Furthermore, the actual number of United States forces in Europe at any one time may fall below this level due to administrative fluctuations or determination by the President of other national security considerations.

Mr. QUAYLE. Mr. President, this is a sense of the Senate resolution dealing with the U.S. troop levels and our commitment to NATO. I believe that what we need to do in this very sensitive time is once again have a sense of the Senate resolution which is nonbinding but certainly expresses a very strong support for our commitment to NATO.

There have been discussions in the past and there will be discussions in the future on what our troop levels will be. There will be discussions on how we are going to allocate resources but this amendment, particularly in conjunction with the Defense Ministers' meeting in May, is very important. I want to just read what the Defense Ministers declared on May 26-27, 1987:

> The continued presence of U.S. forces at existing levels in Europe plays an irreplaceable role in the defense of North America as well as Europe. But we reaffirm the importance of maintaining the commitment of nations to forward deployed forces and to strengthen them through conventional defense improvements program.

Mr. President, I think the essence of that communique showed not only the importance but the importance at this time of maintaining our presence and maintaining our presence at approximately the same levels that we have had in the past.

Mr. President, the House has somewhat similar language although I might point out to the Senate that that language is in the form of a law, and an amendment to the bill, not a sense of the Senate resolution. I think that is a marked difference.

I do not want to get into passing laws on what our troop levels ought to be. I think it is perfectly appropriate to express a sense of the Senate in resolutions and that we ought to go on record reaffirming what our Defense Ministers said in May. And that is the essence of this amendment.

We have also had some amendments, as a matter of fact, that will be pending and voted on, talking about getting more of a commitment from NATO and Japan. I think this amendment shows that we are certainly committed. The amendment provides for flexibility. It is not going to be binding and it provides flexibility for administration for causes or, quite frankly, any national security interests of the United States that the President deems necessary.

But I think that we would do by ensuring passage of this resolution is ensure that the U.S. Government is united in its intention to fulfill our alliance commitments which, I might point out, benefits the United States as much as it does Europe.

There is going to be, and we have had a discussion on the floor—as a matter of fact, we will be voting on a Byrd amendment similar to the amendment that has already been adopted that I offered on the post-INF requirement, what we have to do in the post-INF era to make sure we provide and maintain our stature and maintain our capability for deterrence.

I believe that this sense-of-the-Senate resolution will go in the direction of reaffirming the strong commitment we have, and I believe it is a very appropriate time to do that, as we start talking zero-zero. A lot of people say, "What is the next shoe to drop?" I do not think the next shoe to drop is going to be demonstrative change in our commitment. I do not think the commitment will change one bit. As we assert and support what our Secretary of Defense and what the other secretaries of NATO agreed to in May, through a sense-of-the-Senate resolution, showing strong bipartisan support in the Senate, it would be very important.

It would also be very important when we get to conference, because I think this is a preferable way to deal with this, rather than to put it into any kind of binding statutory law. This is not binding statutory law. This is a sense-of-the-Senate resolution. But it is important that we show, through strong support, that we are committed to our resources; that we are not only committed to NATO but also are committed to them at the significant levels we have had in the past.

Mr. NUNN. Mr. President, I share the feeling of the Senator from Indiana that stability in NATO for the next year or year and a half or 2 years is important—that is, that we in NATO begin to examine what kind of deterrence posture we are going to be in following an INF agreement, if there is an INF agreement, and following the ratification of that treaty, if there is a treaty.

I guess I have always been one of those who believe that the level of U.S. manpower in Europe was more symbolic than militarily significant, particularly when you consider that NATO depends, and has depended in the past, primarily on the deterrence brought about by the threat of using nuclear weapons, as opposed to a viable, robust conventional defense.

Nevertheless, I understand the symbolism and political importance of NATO troop levels.

I understand the concern expressed by the NATO ministers in terms of stability. I also think that our NATO ministers and friends should understand that NATO forces that are not U.S. forces also need to be stabilized.

One of the real paradoxes that is happening now within NATO, while are beginning to have to struggle with the whole question of how we have a more robust and viable conventional defense in a post-INF era, is that the demographics indicate that there will be a lot of pressure on European manpower levels over the next 2 or 3 years. The Germans are speaking extensively about substantial reductions being necessary in the future in their forces. While U.S. forces are important politically and symbolically, the U.S. force level could be more important if we have a viable conventional defense.

I will welcome the day when the U.S. force level becomes as important militarily as it is politically and symbolically. I do not think we have reached that day; because when we reach that day, we will have reached the position where we are less dependent on early use of nuclear weapons and more dependent and more confident of our conventional capability. We have a long way to go in that regard, and NATO has a big challenge.

So I believe the Quayle amendment does reflect the need for that kind of flexibility over the next few fiscal years. It is not binding at this point on anyone. We will have this matter in conference, because the House has passed a different kind of provision.

I think it is important for all of us to understand—speaking at least for the Senator from Georgia—that I am not making a commitment to the NATO allies on any kind of perpetual basis by my vote to continue troop levels that are arbitrary, that have not much to do with military but strictly or predominantly are political and symbolic over the next 4, 5, or 6 years.

I think that all NATO has to work together to determine what kind of deterrence we are going to have in the future, to determine if we are satisfied with continuing an early first-use policy of nuclear weapons in response to a non-nuclear attack.

Most of the people in Europe, in my view—and I believe and I am confident that most people in America—do not realize that for many years the NATO posture, including the United States, has been that if the Soviet Union-Warsaw Pact crossed the border with a large tank attack, we will be the first to use nuclear weapons. I do not think most people realize that.

If you took a poll of the people in America and ask them, "Do you believe the NATO and U.S. allies should use nuclear weapons in the early stages of a conventional conflict in Europe?" They would answer, "No."

I am not prepared to move away from that policy, because when we do, we have to have something to replace it. My point is that the question of conventional deterrence and overall deterrence is much broader militarily speaking than manpower.

One of my critiques of NATO has been that we are too manpower oriented. We think too much about manpower levels. We do not think nearly enough about viable conventional defense. We do not think nearly enough about overall arms control policies which would not be manpower oriented. We have been engaged in an exercise in seeming futility over arms reduction talks over a few years because we focus primarily on manpower. Even if we got an agreement with our allies, if the Soviets agreed to it tomorrow morning, if it was verifiable, if we had no doubt it would be carried out on the Soviet side and the Warsaw Pact side, we still would not have made an appreciable change in the balance of power in Europe.

I think the danger in a post-INF age is increasing. One danger of the NBFR—and I have not been negative in the past because I think it was irrelevant in the past—but if we were to all of a sudden get the NBFR agreement right now on our terms, complete verification, it would create more danger, in my view, than opportunity, because it would add to the illusion, and it would be an illusion, that we had done something very significant in arms control, and we would not have appreciably altered the conventional balance, in my view, one iota.

So I agree with the sentiments expressed in the Quayle amendment. But I do so with those caveats clearly on the RECORD, and I do so with the feeling that this is not the right focus for NATO, either with conventional force improvements or with arms control. I think we have had that priority too long and that symbolism too long; and it is time that NATO, as an alliance, began dealing with reality rather than symbolism.

These are pretty strong caveats to this amendment and to this approach, but I did not want anyone to believe that the Senator from Georgia did not have some continuing feeling that manpower has been greatly overemphasized, both in terms of its symbolic and its political effect, and we have obscured the real thinking that must go on, which goes far beyond the number of military forces we have in Europe.

I urge that we accept the amendment, but I also say that I would oppose in conference any amendment that does this in law. I think the Senator from Indiana would agree with that. I hope he will agree with that in conference, because putting this in law, while it might send some right signals to the Warsaw Pact, would send the wrong signals to our allies. Unless the Europeans bring their force levels up and do a lot more than they have been doing in the defense posture, the alliance is not going to make much improvement toward having a viable and creditable defense.

So I urge the acceptance of the amendment with these reservations which I hope will be clear on the Record.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. QUAYLE. Mr. President, let me say a couple things. I take to heart the caveats and the contributions the Senator has made not only today but in the past concerning NATO.

Perhaps it is unfortunate that when we do talk about manpower levels as far as our commitments to NATO, we always do get bogged down.

This is very important, as the Senator from Georgia says, perhaps more important at least symbolically than a total military capacity. I think the outcome of how strong our NATO allies are going to be, depending on Warsaw Pact nations, is how we improve the whole of our theater defenses not just the United States separate, Britain separate, Germany separate, but how we get a coordinated theater defense.

I know the Senator has been very involved in trying to get commonality of weapon systems, coproduction, and cooperative things, which are very, very important.

As far as the no first use, it is our policy, I do not think that we can, nor will we walk away from it, but I think the reason we have had peace in Europe is because of our nuclear deterrence. That nuclear deterrence has foreclosed any no first use policy and it has been effective because there has not in fact been any kind of a conflict, and I think our nuclear deterrence has worked. Our conventional deterrence has been important, but everyone knows and has stated that if we relied totally on conventional forces, we would certainly have some problems.

Therefore, I think one of the things we have to look at is how do we modernize our nuclear deterrence forces to increase their survivability. That will be in the post-INF report.

So I think what we are talking about is going on record and having the Senate to show support, symbolically, that our commitment is there. I agree with the Senator. I do not want to put this into binding langauge. I will be working with him in conference with the House of Representatives, not to put it into binding language, because quite frankly, I think that undermines many of the President's prerogatives, particularly on the deployment of troops.

I think it is perfectly appropriate, so that is why I offer this amendment for the Senate and House and others to go on record what they hope the President will do.

When we start putting in fixed numbers in binding langauge what we should have, even though it is something that I would support, and what I hope the President will do, we make a mistake. I just do not find that would be in our best interest to start down that road because it encroaches on the President's powers as Commander in Chief.

Mr. NUNN. Mr. President, if the Senator will yield, I want to make it clear, and I agree with what the Senator has just said. I do not advocate a no-first-use policy. What I advocate is conventional deterrence to move us away from what I consider to be an unsustainable policy of early first use.

I would like to see us as much firebreak as we possibly can between tank armies getting into a clash on a German border and the use of nuclear weapons.

Right now we have not only a first-use policy, which I think will perhaps continue for quite a while, NATO and the Warsaw Pact will have a much better conventional balance hopefully by arms control and other means.

I do believe it is increasingly incredible, not completely incredible, but increasingly incredible that the United States and our allies will basically have to, because of weaknesses in the conventional arena, use nuclear weapons at the very outset of a conventional war.

That is the policy General Rogers has said we need to move away from that early-first-use policy. I would certainly echo his beliefs in that regard.

I would want to add that caveat and make sure it is clear.

Mr. QUAYLE. Mr. President, I certainly understand the chairman's position on that, and there is no doubt about it, as you enhance and augment conventional forces the threshold is raised, as far as even having that option, as Bernie Rogers has testified many, many times. But I also think that we have to not only look at conventional improvements but we have to look at the modernization and survivability of the nuclear forces dedicated to protect our allies because I think nuclear deterrence is something that has worked for us quite well and, as a matter of fact, has been a very strong deterrence to the Soviet Union of crossing the threshold in Western Europe.

I think as we look at that these are issues that we must in fact consider.

So, Mr. President, I think this is a very timely sense-of-the-Senate resolution. We have Europe on our mind. We will be voting. As a matter of fact, we have a Conrad amendment dealing with Europe or NATO and Japan. We have a Byrd amendment that we are going to be voting on, dealing with post-INF, and I think it would be appropriate we will probably vote on this one as well.

So I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. QUAYLE. Mr. President, I withdraw that request for the yeas and nays.

The ACTING PRESIDENT pro tempore. The Senator withdraws his question.

Is all time yielded on this amendment? Without objection, all time has been yielded back.

The question occurs on the adoption of the amendment.

The amendment (No. 770) was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, first I thank the distinguished Senator from Georgia for his courtesy yesterday, and also my good friend, the Senator from Virginia, Senator JOHN WARNER.

I do not know very frankly which is more trying, my kidney stones or his trying to give birth to this DOD authorization bill. But whatever the case is he seems to be doing all right and fortunately I am back on my feet. I know how closely he worked with the doctors in the hospital yesterday and I deeply appreciate it.

Mr. NUNN. May I say to my friend from Connecticut we are delighted to have him back, and we know of his tremendous pain and suffering in his recent bout. We are delighted he is back in good form, and I hope that things have worked out more rapidly in his physical discomfort than they have in the discomfort of those of us who are trying to give birth to this bill.

Mr. WEICKER. You can send 99 other Senators to Bethesda and have it through in no time.

Mr. NUNN. I know the Senator was keeping abreast in the considerable pain he was under yesterday and keeping abreast with the bill itself in checking in and making every effort and coming in to make rollcall votes, under a great deal of physical discomfort.

We know the Senator from Connecticut has dedication and he further gave us a physical example of that yesterday.

Mr. WEICKER. I thank my distinguished colleague.

AMENDMENT NO. 771

(Purpose: To require reports to Congress on certain sensitive acquisition programs of the Department of Defense)

Mr. WEICKER. Mr. President, I have an amendment which I send to the desk and ask that it be read.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment of the Senator from Connecticut.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. WEICKER] proposes an amendment numbered 771.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. . BUDGET SUBMISSIONS RELATING TO SPECIAL ACCESS PROGRAMS.

(a) IN GENERAL.—Each year, the President shall include in the budget submitted to Congress for the Department of Defense under section 1105 of title 31, United States Code, a separate report to the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives on each major defense acquisition program in such budget which is designated as a special access program (provided for under Executive Order 12356, dated April 2, 1982, or any successor order).

(2) A report submitted under paragraph (1) in the case of any program shall contain—

(A) a brief description of such program;

(B) a brief discussion of the major milestones established for such program; and

(C) the actual cost of such program for each fiscal year during which the program has been conducted before the fiscal year in which such budget is submitted, the estimated cost of such program for each additional fiscal year during which the program is expected to be conducted, and the estimated total cost of such program.

(b) FORM OF REPORT.—A report required by subsection (a) may be submitted in classified or unclassified form.

(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the requirements of subsection (a) in the case of any program for which the Secretary determines that the disclosure of the existence of such program would adversely affect national security. If the Secretary exercises the waiver authority in this subsection, he shall provide the information required by subsection (a) and the justification for such waiver to the chairman and ranking minority members of the committees on Armed Services and the

Defense subcommittees of the Committees on Appropriations.

(d) CLASSIFICATION POLICY.—The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives, at the same time as the President submits the budget for fiscal year 1989 to Congress under section 1105 of title 31, United States Code, a report containing the policy for classifying reports for the purpose of this section. The policy shall provide for consistent classifications for all such reports, except that such policy may provide for exceptions to the requirement for consistent classification of such reports if such policy contains specific criteria and procedures for determining the exceptions.

(2) After submitting the policy referred to in paragraph (1) as provided in such paragraph, the President shall promptly notify the Committees referred to in such paragraph of any modification or termination of such policy. The notification shall contain the reasons for the modification or termination, as the case may be, and, in the case of a modification, the provisions of the policy as modified.

(e) DEFINITION.—As used in this section, the term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars), but does not include any program that the Secretary of Defense determines is a program conducted primarily for the purpose of facilitating intelligence-gathering activities, intelligence analysis activities, or counterintelligence activities.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I rise to offer an amendment to improve the accountability of special access or black programs. These are supersecret weapons programs.

The bill before us authorizes billions of dollars for black weapons programs.

The chairman of the House Armed Services Committee, Congressman LES ASPIN, has said funding for black programs has increased eightfold since the beginning of the decade. One of the main reasons for this increase is Stealth aircraft technology, which is designed to foil radars and other sensors. And as Stealth technology is employed in other weapons systems, the black budget will continue to grow.

Clearly, there is justification for having highly classified national security programs. I do not question the need to protect intelligence information or the need to protect sensitive, emerging technologies. These must be and will be protected.

What I do question is the burgeoning secret budget without sufficient congressional oversight in the area of weapons procurement—an area fraught with mismanagement and waste.

The information provided on black programs is meager. Its flow is highly regulated and is provided very selectively to the committees of Congress, and I am told that fewer than five people in the Defense Department have access to all black programs. Under such circumstances, meaningful oversight is impossible.

Mr. President, there is growing concern that black programs are becoming a fertile area for abuse.

Even Secretary Weinberger's Commission to Review DOD Security Policies and Practices reported that:

> Unless an objective inquiry of each case is made by the appropriate authorities, the possibility exists that such programs could be established for other than security reasons, e.g., to avoid competitive procurement processes, normal inspections and oversight, or to expedite procurement actions.

Some charge that black programs have been used to award lucrative contracts to losing competitors.

Now I know, it has been argued that because there is so little oversight, black programs are more efficient than unclassified ones, that they are completed earlier and at less cost to the taxpayer. That simply is not the case. The chairman of President Reagan's Blue Ribbon Commission on Defense Management, David Packard has said:

> The interesting thing we found is that not all of those programs are well managed, either. So our investigation didn't quite support the theory that if you classify a program, it's automatically managed better.

The B-1 bomber is a convincing example of what happens when Congress fails to exercise its oversight responsibilities. In exchange for unquestioning trust and support and an uninterrupted flow of money through multiyear contracts, the Air Force promised an exemplary program. And all we heard here in Congress was how the program was on track, on schedule and not over cost. The B-1 program even received the Secretary of Defense Management Award for "exceptional performance."

But there were serious technical problems that were not reported in a timely way to the Secretary of Defense, much less to the Congress of the United States. We were hoodwinked. The B-1 is now operational, but it may be several more years and billions of dollars before it can perform the mission.

Mr. President, the B-1 experience is painful for me because I supported the B-1 bomber from the beginning, and I still believe we must provide the funds needed to fix it. But if there is a lesson to be learned from this, it is that unfettered DOD programs are trouble waiting to happen.

It is precisely for this reason that the advanced technology bomber [ATB] or Stealth bomber program must be opened up to the maximum extent possible. Congress knows next to nothing about the program, and there are already indications in open literature of significant cost problems. As a minimum, we should have unclassified budgetary information.

The Department of Defense seems to be moving in the right direction. Deputy Secretary of Defense Taft sent me a letter dated June 24, 1987.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, June 24, 1987.
Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR: Thank you for your letter regarding the proposed amendment on special access required (SAR) programs. I am pleased to have this opportunity to follow up on the Secretary's remarks to you at the appropriations hearing on May 19. He is concerned with the movement of Congress towards legislation that could prove detrimental to the way we manage access to information involving our special access programs. Your proposed amendment is more acceptable than either of the House versions. However, we believe that additional legislation regarding special access programs is not necessary and could negatively affect our ability to carry out these important and highly sensitive programs.

Under our current procedures, the details of all acquisition special access programs are made available to all four defense oversight committees. None of these programs is exempt from commitee oversight. The special access budget materials we provide to the committee staffs include specific identification of the procurement and research and development line items in which the funds to support each program are located. We are able, therefore, to provide the committees with the information they need to perform their oversight functions while affording these programs the protection they need in the unclassified budget materials. Because of the magnitude of the Advanced Technology Bomber (ATB) program, we have further agreed to brief any member of Congress who feels he needs to understand the program.

The criteria used in establishing the requirement for each special access program are reiterated here to emphasize the need for continued extreme security measures that we currently have in effect and should not alter. First, each program involves particularly sensitive information whose disclosure to potential adversaries would be extremely damaging to national security; they involve extremely advanced technology that gives us a qualitative edge. Next, the technology is perishable and requires accelerated development and deployment. Finally, special access programs may be operational systems whose disclosure could give adversaries an added incentive and ability to develop countermeasures.

Although the Service Secretaries and the Deputy Under Secretary of Defense for Policy may establish special access programs, funding for such programs must also have our approval. No significant effort or resources may be expended on a special access project prior to funding approval. Within the last year the Secretary has established a Director of Special Programs office headed by a general officer and reporting to the Under Secretary of Defense for Acquisition. This office now serves as the focal point in OSD for acquisition SAR programs. We are confident that with the creation of this office there will be a continuing improvement in our ability to keep those with a need to know in Congress informed on all SAR issues.

It is clear that as the development, test, and production programs proceed for the ATB, we will be required to lift the veil of secrecy that has served so well to protect as many design characteristics as possible. We have recently reviewed and approved a plan for the proper phasing of security requirements regarding the ATB. Rather than have specific legislation force us to provide unclassified data on the ATB, we need to time this transition process.

The Secretary is convinced that we are acting properly in the area of special access programs. Security is the paramount issue on which we base our SAR programs. We are improving the mechanisms by which we provide all those with a need to know in Congress with the information they need to make informed decisions regarding these programs. Additional legislation in this area could prove counterproductive, and we therefore cannot at this time lend our support to any of the proposed amendments. We appreciate your providing us with a chance to make our views known in this matter.

Sincerely,

WILLIAM W. TAFT.

U.S. SENATE,
Washington, DC, May 20, 1987.

Hon. CASPAR W. WEINBERGER,
Secretary of Defense, Washington, DC.

DEAR MR. SECRETARY: In line with our discussion at the hearing yesterday, I am submitting the attached amendment on special access programs to you for review and comment.

As I said, there is ample justification for having highly classified national security programs, but those needs must be carefully balanced against the need for public and congressional scrutiny. Secrecy must not be carried to excess. With an ever increasing number of weapons systems being moved into these highly classified compartments, the potential for abuse exists, and concern is mounting that some special access programs have been established to circumvent the will of Congress.

Because of these concerns, Congress is moving toward a legislative remedy. A consensus is emerging: Too much of the Pentagon budget is being hidden from public view. The Chairmen of the House and Senate Armed Services Committees agree that some procedural changes are needed. The only question now is what shape should the legislation take.

Two amendments (Boxer and Aspin) have already been incorporated into the House version of the defense authorization bill. Here are my recommendations. What are yours? Please keep in mind that my amendment would protect the technologies about which you are so concerned.

I ask that your opinions be provided as soon as possible, since the defense authorization bill could be brought to the floor at any moment. Your assistance is appreciated.

Sincerely,

LOWELL WEICKER, Jr.,
U.S. Senator.

Mr. WEICKER. Mr. President, Deputy Secretary of Defense Taft indicated that the "veil of secrecy" surrounding the ATB Program would be lifted but gave no timetable for doing it.

And what about the other programs?

I am told that there are four or five major black weapons programs, including the advanced technology bomber [ATB], advanced tactical fighter [ATF], advanced tactical aircraft [ATA], and advanced cruise missile [ACM].

There is a lack of uniformity in the way special access designations are applied to these programs. And that baffles me.

Consider these facts. ATF technology and performance data is black, while ATF cost and budget information is unclassified. To a lesser extent, ACM is handled in a similar fashion. ATA, by comparison, is entirely black, though its technology is almost identical to that of the ATF. What accounts for these inconsistencies?

These examples seem to suggest that it is possible to have unclassified budgets for black technology. There is ample precedence for such approach.

Secretary Weinberger endorsed the black technology/white budget concept, at least in principal, in a letter to me dated January 29, 1987.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, June 29, 1987.

Hon. LOWELL P. WEICKER, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR: This is in response to your letter of December 8, 1986 requesting answers to several questions concerning so-called "black" programs. I think it would be useful to provide you and your staff some information about special access programs in general, and clarify the jargon used in connection with these programs, which sometimes impedes, rather than improves, understanding of them.

First of all, the term "black program" has no official status in any DoD policy or regulation and is frequently used incorrectly as a synonym for the term "special access program." The term "black program" is most often used to describe a special access program whose existence and purpose are classified. However, not all special access programs are "black," i.e., their existence may not be classified. Only I, and by direction, the Deputy Under Secretary of Defense for Policy, along with the Secretaries of the Military Departments, are authorized by Executive Order 12356, "National Security Information," to create special access programs. This may be done only to protect information within their jurisdictions, where they conclude that the information concerned is so sensitive that "normal" security measures will not provide sufficient protection. This is the only justification for creation of such programs under the Presidential order.

Attached are specific answers to your questions. I hope this satisfies your inquiry. If you need more information, please contact my office.

Sincerely,

CASPAR W. WEINBERGER.

DOD RESPONSE TO DECEMBER 8, 1986, SENATOR WEICKER QUESTIONS

DEFINITION

The proper definition of a special access program is found in the Information Security Oversight Office's (ISOO) Implementing Directive Number 1 to Executive Order 12356:

A special access program is "any program imposing 'need-to-know' or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program may include, but is not limited to, special clearance, adjudication, or investigative requirements, special designations of officials authorized to determine 'need-to-know', or special lists of persons determined to have a 'need-to-know'."

The ISOO Directive also specifies the test for determining whether special access controls should apply:

1. Normal management and safeguarding procedures are not sufficient to limit "need-to-know"; and

2. The number of persons who will need access will be small and commensurate with the objective of providing extra protection for the information involved.

QUESTIONS

(1) "Is there indeed a trend toward greater secrecy in defense budgets, and if so, where will it lead?"

There has been an increased emphasis on the need-to-know principle in publishing defense budgets, as we have moved to provide more protection for those technological, operational, and intelligence programs which maintain our advantage over our principal international adversaries. We would not categorize this increase as a trend in secrecy. Moreover, we take great care to ensure that all appropriate leaders and committees in the Congress are informed of the specifics of those programs to which we have limited access.

Special access programs typically fall into three categories: research, development and acquisition; intelligence; and military operations. It is imperative that the advanced technology that supports such programs be protected by establishing more extensive controls that give real meaning to the "need-to-know" concept. You are quite aware of the vast effort by our adversaries—both overt and covert—to obtain information on our most sensitive programs. Special access program security methodologies provide the added security that is required to protect this information so vital to the national security. As the threats, environments, and political realities change so will the classification and security systems that protect such programs. Using your example of the emergence of "stealth" technology, the DoD has continuously evaluated the policy decisions made in the late 70's that dictated how the information produced in "stealth" programs was to be disseminated.

(2) "What is the justification for classifying nonintelligence, nontechnical budget activities as 'black?'"

Paragraph 4.2 of Executive Order 12356 provides that Agency heads may create special access programs to control access, distribution, and protection of particularly sensitive information. The information so protected need not be limited to technology or intelligence, but may include other matters such as C2 programs or operational activities with separate budget lines. The Department implements Executive Order 12356 through the "Information Security Program Regulation," 5200.1-R which states that "authority for original classification of information as Top Secret, Secret, and Confidendial may be excercised only by the Secretary of Defense, the Secretaries of the Military Departments, and by officials to whom such authority is specifically delegated. . . ." Since I, or my designee and the three Service Secretaries are the only DoD people who can approve special access programs, the justification is based on security reasons only in the interest of national security.

(3) "What is the legal basis for this policy?"

Section 4.2 of Executive Order 12356 provides the authority.

(4) "What controls exist to preclude the use of 'black' program designation if not warranted?"

Chapter XII of the DoD Information Security Program Regulation specifies the requirements for establishing, reporting, accounting for, and terminating special access programs. This chapter also requires that each DoD special access program be reviewed annually by the responsible DoD Component. Moreover, all special access programs which involve identifiable DoD funding must be approved by the Deputy Secretary of Defense before they are initiated. Procedures must also be implemented to ensure that annual security inspections, regularly scheduled audits, and contract service administration functions are being performed. In addition, we are not completing preparation of a new DoD Directive concerning the security administration of special access programs that assigns responsibility for the implementation, direction, management, coordination and control of such activities. These programs also undergo the same program, budget, audit and oversight process applicable to any DoD program regardless of classification or sensitivity. DoD also has a very active special access program working group consisting of representatives of DoD Agencies that participate in such programs. The Defense Contracting Audit Agency, the Defense Logistics Agency, the DoD IG, and the Defense Investigative Service each have dedicated cadres of specially cleared and qualified personnel who provide oversight, audit, and inspection to many DoD special access programs.

(5) "What controls exist to ensure that all acquisition regulations are followed in a 'black' program?"

The Army, Navy, and Air Force all have audit agencies that are actively involved in special access programs. The Defense Logistics Agency and the Defense Contract Audit Agency are also active in attempting to ensure compliance with the Federal Acquisition Regulation and other applicable procurement rules and regulations.

(6) "What procedures exist for removing the 'black' designation when it no longer applies?"

Chapter XII of the DoD Information Security Program Regulation provides guidance on termination procedures for special access programs. In addition, Section 12-102(b) of this Chapter has a "sunset provision" that will automatically terminate a special access program after five years unless reestablished in accordance with the procedures contained in Chapter XII. The three military services also have their own instructions for implementing the DoD policy.

(7) "Is there a better way to handle the problem in the future?"

Problems in the security management of some special access programs have been identified by my staff as well as by the enclosed report "Keeping the Nation's Secrets." All of the recommendations of the Report pertaining to these programs have been included in the proposed new DoD Directive mentioned earlier, or incorporated into the new DoD Information Security Program Regulation dated June 1986. A better way to handle the "program(s)" in the future is to ensure that a continuing assessment of the threat(s) to a program and its development, its use, and its product be made to determine the application of security resources. If information is compromised during the RDT&E stage of a project, the possibility of damage is often greater than during the fabrication process. Therefore, the threat of real damage may lessen with each stage of program advancement. On the other hand, there will be programs in which there may not be a significant threat until all the pieces have been put together and a sensitive mosaic then emerges. Threat assessment must be dynamic, and we are striving to make it an integral part of classification management in every DoD special access program.

(8) "Is it possible to separate the classified, 'black' technology from unclassified budgetary information as the Army has done so successfully in the case of the M1 tank program?"

Yes. In fact, such a separation is most desirable from a security point of view because it avoids expending security resources for the protection of information that may not require it. This would still be true even if the budgetary data were classified, for example, as Confidential. The level of protection at this level is much less than the controls required at the Top Secret level. But where knowledge of the mere existence of the program is classified this would probably not be possible. As to specific budgetary information, DoD works directly with the particular congressional committee chairperson concerned to sort out the needed details for granting information access to the Committee membership to facilitate the accomplishment of its required functions.

U.S. Senate,

Washington, DC, December 8, 1986.

Hon. Caspar W. Weinberger,

Secretary of Defense, Washington, DC.

Dear Mr. Secretary: I am writing to you about a very disturbing trend, which I perceive, in Department of Defense budgets.

An ever increasing portion of the defense budget is being moved into highly classified compartments—the so-called "black" Budget. Since only a handful of people have access to those accounts, the end result is less review, less discussion and less scrutiny—both within the Pentagon and in the Congress. This may not be in the best interest of the Armed Forces over the longrun.

The emergence of "stealth" technology is one of the main reasons for higher levels of secrecy in Defense Department programs. With "stealth" technology burgeoning and finding its way into almost every facet of weaponry, the future growth potential in the size of the "black" budget is almost unlimited.

Clearly, there is ample justification for having highly classified programs. I don't question the need to protect intelligence information, nor do I question the need to protect sensitive and emerging technologies, but those needs must not be carried to excess. They must be carefully balanced against the need for public and congressional scrutiny.

For these reasons, I would like answers to the following questions: 1) Is there indeed a trend toward greater secrecy in defense budgets, and if so, where will it lead? 2) What is the justification for classifying non-intelligence, non-technical budget activities as "black"? 3) What is the legal basis for this policy? 4) What controls exist to preclude the use of a "black" program designation if not warranted? 5) What controls exist to ensure that all acquisition regulations are followed in a "black" program? 6) What procedures exist for removing the "black" designation when it no longer applies? 7) Is there a better way to handle the problem in the future? 8) Is it possible to separate the classified, "black" technology from unclassified budgetary information as the Army has done so successfully in the case of the M1 tank program?

I would like to have detailed answers to these questions within a reasonable length of time. Your assistance in these matters is appreciated.

Sincerely,

Lowell Weicker, Jr.,
U.S. Senator.

Mr. WEICKER. Mr. President, that concept provides the foundation for the Aspin amendment that was adopted by the House on May 8, 1987 and for mine, as well.

In offering this amendment, I have several objectives in mind: First, increase accountability; second, obtain more information on black programs; third, establish mechanism for obtaining such information; fourth, establish annual requirement for budget and cost reports on major programs; fifth, require DOD to develop consistent policy for classifying black programs.

Although the amendment would allow the President to submit annual cost and budget reports in either classified or unclassified form, it is my hope that a way will be found to provide as much budgetary information as possible in unclassified form.

I hope the chairman of the committee, Senator Nunn, will join me in urging DOD to do so. The vast majority of cost and budget information on black programs should be declassified, and clearly classifications need to be applied in a more consistent fashion. I also hope the chairman will agree that the data in the required reports be validated by the Secretary of Defense's cost analysis improvement group.

Mr. President, I believe I have chosen a very moderate course. Another approach would be to mandate declassification of budget and cost information for black programs. Originally, I planned to pursue that line, but in the final analysis, decided it was inadvisable, but I am still convinced that is the desired goal. And I hope the legislative history of this debate will show that is the sense of the Senate. By adopting my amendment, the Senate makes a strong recommendation that DOD develop the policies and procedures for achieving that goal.

Mr. President, a consensus is emerging: Too much of the defense budget is hidden from public view.

Mr. ASPIN believes that "fully 70 percent of the funds obscured under the 'black' umbrella could be listed publicly in the budget without causing any harm to national security." And our distinguished chairman, Senator NUNN, agrees that the Pentagon tends "to go black more than it should" and suggests that "there ought to be a caution light on black programs."

Mr. President, this is a fundamental issue of accountability. By allowing secrecy in weapons programs to go unchecked, Congress is not exercising its constitutional responsibilities.

There is a need for secrecy, but that need must be carefully balanced against the need for public and congressional scrutiny. Secrecy must not be carried to excess. This very question arose at the Constitutional Convention. On August 11, 1787, George Mason of Virginia warned: "Secrecy in Government will alarm the people." The delegates agreed. The people have the right to know what their government is doing—except when secrecy is essential and justified.

How can we in good conscience pass laws governing the Armed Forces if we are unwilling to demand the basic information needed to frame those laws? We must hold the Defense Department accountable for its actions.

I yield the floor.

Mr. NUNN. Mr. President, I think the Senator from Indiana controls the time.

The ACTING PRESIDENT pro tempore. The Senator from Indiana controls 10 minutes in opposition.

Mr. NUNN. Will the Senator yield 2 minutes to me?

Mr. QUAYLE. I yield the Senator 2 minutes.

Mr. NUNN. Mr. President, I will support this amendment and urge its adoption. It has been very carefully crafted. The Senator from Connecticut's staff and our staff worked very closely together. The Senator has been most cooperative in trying to carry out his goal, which is a legitimate goal, that he expressed so articulately here today of having as much information known to the public as possible, having the Congress exercise the kind of oversight responsibility necessary on these sensitive black programs, and making sure that we declassify as much as possible and not have secrecy become such an obsession that it obviates the oversight needed for efficient management. The Senator has made a very strong case for that.

I think, on the other hand, he has been willing to modify his amendment so that we can protect, in the limited number of cases required, the kind of black programs that truly are important and necessary for our national security and protect the kind of information that, if revealed under sincere and good-faith type arrangements, if it were revealed to the public could be damaging, because public information also becomes information available to potential adversaries. That is the balance the Senator has been seeking and that is the balance I think his amendment now reflects.

I believe that the amendment does provide the flexibility in handling special programs, but is also expresses the concern with the consistency of classification of special access programs. So those are two purposes that are both important.

It would require a report which would place the Department of Defense on record explaining the criteria by which special access programs are so classified. It maintains the Armed Services Committee as well as the Appropriations Committee as the proper authority within the Senate for matters pertaining to special access programs. It makes our committee also more keenly aware of our oversight responsibilities. I think it does codify some of the existing practices we have now, but does so in a carefully balanced way.

So we will have, again, another amendment on the House side in conference on this one and I do urge our colleagues to accept our amendment.

The ACTING PRESIDENT pro tempore. The Senator from Indiana.

Mr. QUAYLE. Mr. President, first, might I join welcoming our good friend back from Connecticut. We have all known that he is a tough hombre, as they say, but to pass a kidney stone, come back and all of a sudden vote last night and offer an amendment—probably the Senator will be back for the war powers debate, probably, Tuesday. I see him smiling there. He has probably studied up on that while he was out there. Maybe not. But he is a man of a great deal of resolve, and though we do not always agree, our friendship is deep.

Mr. President, I just want to point out a couple of things.

First, I appreciate the Senator's willingness to work with the Armed Services Committee to try to come up with a reasonable approach so that we can have a balance between what in fact is classified and not classified.

Before I got here I was in the newspaper business. I still consider myself somewhat of a zealot as far as freedom of the press and information. As a reporter I remember one of the things we used to have trouble with time and time again was these closed meetings that you had with your public officials. Decisions were being made behind closed doors without proper intercourse and dialog with the public, and I think we have got to continue to knock down the doors of those closed-door meetings.

But let me just say this, that there is a legitimate—and I know that the Senator from Connecticut understands and agrees with this—there is a legitimate necessity for classification. There are some things that would be revealed that are sensitive.

His amendment is not calling for that. It is a more proper approach to this. But there are some things that are very, very sensitive.

I suppose what we have is a conflict of responsibilities and desire and goals we want to have.

One, we want to make sure that nothing is compromising the national security interests. On the other hand, we want the information so we can have the proper oversight and discussion and get it out for the public debate. There is always, I think, a tendency of those who have the classified information, perhaps, to hold back; others wanting to demand more. It is a delicate balance that you have to have and not compromising those two very important goals.

I think what we have here is an approach that is certainly acceptable. I think the chairman is right. We have to work with this in the committee, so I will not be urging opposition to this.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. WEICKER. I thank my distinguished colleagues from Georgia and Indiana. Certainly I associate myself with their remarks in addition to the ones already given and I yield back the balance of my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (No. 771) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 772

(Purpose: To improve Department of Defense investigative procedures for the forensic examination of certain physiological evidence to detect the use of lysergic acid diethylamide)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 772.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE.

(a) IMPROVEMENT OF PROCEDURES.—(1) The Secretary of Defense shall prescribe procedures that ensure that, whenever, in connection with a criminal investigation conducted by or for a military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used any controlled substance—

(A) such specimen is in a condition that is suitable for forensic examination when delivered to the forensic laboratory; and

(B) the investigative agency which submits the specimen to the laboratory receives the results of the forensic examination in writing within such period as is necessary to present such results in a court-martial or other criminal proceeding resulting from the investigation.

(2) The procedures prescribed under paragraph (1) shall—

(A) ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(B) Insofar as is practicable, require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in paragraph (1)(A).

(b) TESTS FOR USE OF LSD.—The Secretary of Defense shall ensure that whenever, in connection with a criminal investigation conducted by or for any military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used lysergic acid diethylamide, such specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of such specimen, whether such individual has used lysergic acid diethylamide.

(c) Nothing in this Section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal proceeding.

(d) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1988, a report describing the procedures prescribed under subsection (a).

The ACTING PRESIDENT pro tempore. The majority leader is recognized for 15 minutes.

DRUG TESTING PROCEDURES IN THE MILITARY

Mr. BYRD. Mr. President, early on the morning of May 26, 1986, one of my constituents, PV2 Jeffrey Allen Alger of Coalwood, WV was shot and killed while sitting in his barracks at Fort Hood, TX. The Army investigated the incident and concluded that the shooting was accidental, though committed with culpable negligence.

The Alger family asked me to investigate this tragedy and the Army's handling of it. I asked a member of my staff to thoroughly study the Army Criminal Investigation Division's report of investigation, the report of proceedings by the investigating officer, the transcript of the court martial proceedings, and the evidence presented at trial. In addition, at my request, my staff assistant traveled to Fort Hood, reviewed the scene of the shooting, and interviewed various personnel involved in collecting the evidence for the trial and preparing the case.

I have been very disturbed by the reports that I have received concerning this tragic occurrence. I asked the Army to appoint a counsel from the Office of the Inspector General for the Army to do a separate, independent, and thorough analysis of the facts of this case and its disposition at trial. I have received that report as well as a letter from the Surgeon General of the Army relating to the Army's procedures for testing for the usage of certain drugs.

I have studied both the inspector general's report and the Surgeon General's letter to me. The report strikes me as shallow, internally inconsistent in some places, and written primarily to vindicate the Army's handling of the case.

In his letter to me, Surgeon General Becker recites the procedures that are followed (or supposed to be followed) in the Army medical laboratories. General Becker then writes: "The specimens collected from the accused at Fort Hood were sent to a criminal laboratory and not a medical laboratory. We do not monitor criminal laboratory procedures." So the questions I raised in my letter to Secretary Marsh have never been specifically answered by either the Inspector General's Office or by the Surgeon General.

As I mentioned, many aspects of the case concern me greatly but right now I want to focus my attention on the drug testing procedures that seem so inadequate when viewed in the context of the Army's handling of this case.

Within 4 hours of the shooting, two soldiers in Private Alger's unit had come forward separately and voluntarily and notified the officers in charge of the investigation that the accused had earlier claimed that he had been doing LSD in the days before the shooting. Two days later, a third soldier told the investigators that the accused had told him and two other individuals that he had taken a hit of acid on Saturday, May 24, 1986, a day and a half before the shooting. These three items of testimony were provided voluntarily in sworn written statements.

What other clues were there that drug usage could very probably have been a factor in this case? At 3:21 p.m. on the afternoon of the shooting, the accused was advised of his legal rights and the fact that he was being investigated for murder and for wrongful possession and use of controlled substances. He waived his rights and submitted to a sworn interview. When he was asked questions pertaining to drug usage he related:

> That he had smoked marijuana, but the last time was in January 1986, prior to going to Fort Irwin. He related that he also used some cocaine while at home on leave, but denied using acid while in the Army, stating that the last time was prior to coming into the Army.

The Army had ample knowledge, before the forensic examination of the evidence actually was commenced, that the specimens taken from the accused should have been tested for LSD, but did nothing about it.

At 1:45 the special agents briefed the captain in the office of the Staff Judge Advocate on the investigation to that point. The captain determined that the accused should be charged with involuntary manslaughter and that specimens should be taken of his blood and urine and sent to the crime laboratory for forensic examination. Between 4 p.m. and 5 p.m. on the afternoon of the day of the shooting, the special agents at Fort Hood in charge of conducting the investigation collected two vials of blood and a urine specimen from the accused to be tested as evidence.

From that point forward, the Army made no attempt to determine whether any other crime besides involuntary manslaughter had been committed; and the method in which the specimens were treated virtually guaranteed that no drugs or alcohol would, or could, be determined present in either the blood or the urine.

The specimens, which had been collected on May 26, were delivered to the Post Office at Fort Hood on June 3 and were sent by registered mail to the U.S. Army Criminal Investigation Laboratory at Fort Gillem, GA. It took 8 days to reach its destination. On July 30, the special agent at Fort Hood received a telephone call from the lab at Fort Gillem and was told that the samples of urine and blood taken from the accused, sent for a forensic toxicological examination, could not be processed at their lab and would be sent to the Armed Forces Institute of Pathology [AFIP] at Walter Reed Hospital in Washington. The specimens were again sent by registered mail through the U.S. Postal Service, and again the trip took 8 days. The samples were received on August 3.

The special agent's staff at Fort Hood told my staff man that the samples were not refrigerated in any way and were just sent as you would send any parcel through the mail. "This is the way we always do it," he was told. This was again confirmed in the inspector general's report that I received from Assistant Secretary of the Army Spurlock where I was told:

> Although transit time varies, [the use of registered mail of the United States Postal Service] is the only available means of maintaining the required "chain of custody" without the use of couriers, the cost of which is prohibitive. * * * "The examinations that were completed by the USACIDC Crime Laboratory and the Armed Forces Institute of Pathology did not require that the specimens be refrigerated while in transit to obtain valid results. All testing has confirmed that delay does not negate validity of test. This is consistent with policies established by the Army Surgeon General in the management of the urinalysis testing program.

However, in the letter that I received from the Surgeon General, I was told:

> Shipping instructions for tissue and blood samples are different than urine samples. Tissue and blood specimens obtained for toxicology examinations must be shipped and maintained frozen due to the decomposition factor. This is not true for urine samples which can be maintained at ambient temperatures for 30 days and then frozen if further testing is indicated.

So, Mr. President, I am left to infer from this last letter that the inspector general's report is wrong and that the results from any testing of the blood are invalid and could not hold up in court. The Surgeon General says that urine specimens can be tested for up to 30 days if maintained at ambient temperatures. I am not certain on how General Becker would define that term; the dictionary defines the term to mean any temperature surrounding the object.

I have checked with two independent experts in the field of toxicological examinations of specimens for drug analyses, Dr. John Whiting of Toxichem Laboratories in Gaithersburg, MD, and Dr. Frederick Rieders of National Medical Laboratory Services in Willow Grove, PA, and each of these experts has told my staff that urine should be refrigerated in order for tests for LSD or cocaine metabolites to be accurate. If the specimen is to be kept for more than 30 days, the urine should be frozen. I am quite certain that General Becker would agree that the temperature inside a closed U.S. Postal Service mail truck as it lumbers for 16 days over the roads between Texas and Georgia and between Georgia and Washington, DC, in the hot days of July is not the ambient temperature needed to keep the specimen in condition for an accurate test of its drug contents.

The IG report told me: "The Department of the Army does not have a valid test for LSD. For that reason, the accused's samples were not tested for LSD. When my staff person was at Fort Hood, he was told confidentially by one of the investigative agents that the word is getting around at the fort that, although the Army does some random drug testing for the use of marijuana and cocaine, and in no case were they checked for the use of LSD. Consequently, soldiers inclined to use drugs are slowly switching to the use of LSD because they know they cannot be caught. I am not in favor of using any drugs anywhere; except those, of course, prescribed by a physician. I find it especially intolerable that the situation within the Army might be fostering an increased usage of LSD.

The Surgeon General indicates that the Army is "considering the possibility of expanding testing for additional drugs to include an LSD procedure for screening urine specimens." I am strongly in favor of that. As he indicates, the Navy has already tested, and is currently using the radioimmunoassay screening test procedure developed by Roche Diagnostic Co. But he then tells me that there is "a great deal of difficulty with the development of a chemical confirmation procedure for LSD with the required degree or accuracy and reliability required of a forensically acceptable procedure."

I believe that he is mistaken in this. I am informed that Dr. Rieders' laboratory has developed two confirmatory chemical tests—high performance liquid chromatography and also high performance thin layer chromatography—that are available in the commercial market and have also been used by the Department of the Navy in criminal cases.

At the September meeting of the American Association of Clinical Chemists in San Francisco, a presentation was given by the Navy lab on gas chromatography-mass spectrometry and the detection of LSD in biological and urine specimens. It was presented publicly as a validated method for confirming the presence of LSD, to the same degree of forensic proof as the tests that are currently used by the Navy and Army in proving the presence of marijuana and cocaine.

I do not want the Army to sit around and ponder this issue into the indefinite future. I want action, and I want it quickly.

Lastly, Mr. President, from a careful study of the material that is available, I am convinced that the toxicological exam report from the Armed Forces Institute of Pathology was not received in Fort Hood until after the court martial of the accused was completed. The prosecutors in the JAG Corps told my staff man that they did not have them and, even if they had gotten them that morning, and it showed the use of drugs, they would not have brought an additional charge. They had collected the evidence needed to prove the easiest charge, and they were finished with the accused. He would be gone.

The final report of investigation shows a log of every time the special agents on this case received, or made a telephone call with respect to the evidence in this case. One entry reads:

> About 10:00, 14 August 86, SA REZAC contracted AFIP and spoke with Cpt. James J. Kuhlman, Jr., who stated the examination of the blood of [the accused] is completed and there was no alcohol present. Kuhlman stated the urine is still being tested.

The next entry reads:

> About 10:15, 26 August 86, SA REZAC received the toxicological examination report on the blood and urine taken from [the accused]. The report indicated there were no signs of drugs in the urine and no alcohol in the blood.

When my office called AFIP to check their records, the dates listed above match those that appear in the AFIP files. In addition, they provided information that showed that the examination of these specimens was not finally completed until Monday, August 17; they were not given to the director of AFIP for his review until Tuesday, August 18; the court martial took place at Fort Hood, TX, beginning at 9 a.m. that same morning. They were placed in the mail at some point subsequently and were received in Fort Hood, as indicated above, on Wednesday, August 26, 8 days after the court martial was concluded.

Captain Kuhlman told my staff that the AFIP lab "does not ordinarily call anyone. If they call us, we'll give them the information they're seeking. But our records do not show that any call was made to us about this case on either August 17 or 18."

The inspector general's report has the following paragraph:

> On August 14 a USACIDC special agent contacted the AFIP on the status of the forensic toxicology tests and was told the blood examinations were completed with negative results for alcohol. These results, as well as the remaining AFIP examination results, i.e., that the tests were negative for controlled substances, *were also provided telephonically to the prosecutor.* (Emphasis added).

I believe that this last sentence is purely a fabrication. I am not pleased by the caliber of the inspector general's investigation; this type of created material does nothing to alleviate my concerns over this tragedy or the unlikelihood that it would ever happen again.

Mr. President, my amendment would try to assure that this tragedy could never recur by requiring the Secretary of Defense to implement new procedures and to guarantee that certain methods that are already on the books are actually used. It requires that, when a physiological specimen is obtained from someone in the course of a criminal investigation, it must be in a condition that is suitable for forensic examination when it is delivered to the laboratory. The Secretary must prescribe for each of the services the way in which the specimens are to be preserved and transported to keep them from decomposing.

I understand that these procedures already exist in a pamphlet used by the Armed Forces entitled: "Methods for Preparing Pathologic Specimens for Storage and Shipment"—Department of Army TM8-340; NAVMED P-5083; AFM-160-28; and Veteran's Administration Bulletin VA IB113. I understand these procedures, which include the refrigeration and/or freezing of the specimens, are appropriate as far as I can determine at this point. I understand that the military now uses them whenever there is a plane crash. I think they should be followed whenever there is an ongoing criminal investigation requiring a forensic examination of biologic specimens.

My amendment would also require that the specimens be transported to the appropriate laboratory by the most expeditious means available and appropriate. Contrary to the inspector general's report, the cost of transporting a crucial specimen by overnight delivery should not be considered "prohibitive" when the validity of the test results may be central to the criminal case at trial.

My amendment also requires that whenever there is evidence that indicates that an individual may have used LSD in connection with a criminal investigation conducted by or for any of the military departments, the specimens must be submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination, whether that individual has used lysergic acid diethylamide [LSD].

I do not want time to elapse before the Defense Department looks into this problem. I, therefore, am requiring that the Secretary submit a report to the Congress by March 1, 1988, describing the procedures required by this amendment. This should give us sufficient time to examine the procedures and determine if they are adequate or whether Congress needs to mandate further procedures in this area.

Mr. President, this amendment, of course, will not bring back the life of the West Virginia soldier, nor will it close up the wounds that will exist forever in the hearts of the mother and father, and other relatives of this serviceman.

But at least in the future it will assure that every action is taken, and promptly, and that appropriate procedures will be developed and followed so that this kind of case may not happen again in which in my judgment the investigation and actions taken were too little and too late and in essence constitute somewhat of a whitewash.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. NUNN. Mr. President, I express my deep regret to the family of the victim in this particular case. The Senator from West Virginia has made a very persuasive and moving presentation this morning about the need for better procedures in the Department of Defense, the Army, in dealing with this kind of drug abuse. This amendment establishes a statutory requirement for the Secretary of Defense to promulgate rules for expeditious scientifically valid chemical testing in criminal cases.

When we looked at the amendment we had no concern about the purpose of it whatsoever because it was always very clear and very much needed. We did have some concern that there not be anything established in the law that could give a defendant in this kind of case a defense to a charge that would otherwise be valid, and we have worked very carefully with the Senator from West Virginia and his staff. We have a provision in here that takes care of that concern which says, "Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a motion for exclusion of evidence or other appropriate relief in any criminal proceeding."

I know the Senator from West Virginia completely agrees with that.

So as I see this amendment, it is a good amendment. It is a statutory prod, a requirement to the Department of Defense to ensure that drug testing procedures for criminal cases are current, valid, and timely, and I urge its adoption.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. BYRD. Mr. President, I thank my friend not only for his support of the amendment but also for the input that he and the staff had in improving the amendment. I think it makes it better and I think the suggestion of this language was appropriate and needed. I am grateful for the assistance that was given to me by, as I say, the chairman of the committee and the staff.

The ACTING PRESIDENT pro tempore. Without objection, all time has been yielded back. The question would now occur on agreeing to the amendment of the Senator from West Virginia.

The amendment (No. 772) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MILITARY NOMINATIONS

Mr. NUNN. Mr. President, there are a number of military nominations pending before the Senate and I know that we have a problem; we have an objection to those being taken up. I just wanted to call my colleagues' attention to the fact we did have an urgent meeting of the Armed Services Committee yesterday and the Senator from Indiana and myself and others were there and voted these nominations out of committee. There are time requirements here, and I believe that the top of the clock is ticking in terms of the time. It is my understanding that at the end of the month, next Tuesday, unless these nominations are approved on Tuesday, we have some very, very serious disruption that will occur to the Department of Defense uniformed people because of statutory requirements on time.

So I hope all Senators will take a close look at this and where there are objections they could examine those objections and the reasons for those objections to taking these nominations up balanced against the severe penalty some individuals will have unless the objections are removed, and we basically act on these nominations by the end of this month.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. I yield.

Mr. QUAYLE. Let me wholeheartedly associate myself with the comments of the chairman that we are running out of time on this situation. I have been around here long enough to know about the so-called hold business, but we are talking about the military; we are talking about some very sensitive appointments. If we cannot get this hold situation straightened out, I hope that the chairman and the majority leader will move as quickly as possible because we have to do this. This is not a matter of if we are going to do it. We have to do it. The chairman is absolutely correct that it is a very time-sensitive matter. So I hope those who are holding this up are either listening or think long and hard before pursuing this because we have to move forward.

Mr. NUNN. I thank the Senator from Indiana and completely agree with his comments.

Mr. President, may I say to the majority leader we have been here 3 hours and we have handled about 13 amendments. We started with 50 this morning and thanks to the leadership, particularly of the Senator from West Virginia, with the Senator from Virginia and minority leader cooperating, this is really the first day we have not had more amendments added to the list than amendments that were being handled. So we can report to the majority leader that we have handled 13 amendments today, so the list has come down by 13. It is my understanding we started this morning with 50 amendments to this bill. We now have 37 amendments. Of course, if anyone has an amendment, we can stay here this afternoon as long as necessary. We made it clear we would stay as long as there were amendments. I know of no further amendments that will be presented today, and perhaps the Senator from Indiana could tell us about any he may know of.

Mr. QUAYLE. Will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. QUAYLE. I know of no amendments forthcoming to this side, but I just want to congratulate the Senator from Georgia and also the majority leader for bringing us in today because we have gotten quite a bit of work done. I think we ought to show at this point in time that we are here and ready to debate or accept amendments.

Mr. NUNN. And stay as long as necessary.

Mr. QUAYLE. If we get into a time crunch, which I imagine we will sometime on Tuesday, it will not be because we were not willing to take time on Saturday, and I understand we will also be in on Monday. Senators can come over on Monday and I hope that they can take this up because I can tell you what is going to happen on Tuesday, We have already got, I think, three votes stacked, so we probably will not even get to discussion until close to 10 o'clock. And there is what? What did the Senator say? Fifty?

Mr. NUNN. There were 50 amendments pending before this day started, and if my arithmetic is correct, that would leave 37. The Senator is correct, we have three rollcall votes that are already scheduled for Tuesday morning. I would anticipate that Monday's debate will mean that we will have another three or four rollcall votes. So we will probably have about six or seven rollcall votes early Tuesday morning, meaning that 10 o'clock would be about as early as we could expect, maybe even 10:30, to get started on debate. That means we would have an awful lot of amendments to debate on Tuesday.

So I think the Senator from Indiana is correct; the record should clearly reflect that the Armed Services Committee is here, we are in business, and we are ready to stay here today as long as we need to handle amendments. The same thing will apply on Monday. We will have the Armed Services Committee represented on both sides of the aisle and we will be prepared to handle amendments all day.

I urge our colleagues to come in on Monday and offer their amendments. We can have good debate and we can make sure that people have plenty of time not only on Monday but on Tuesday also if we handle a number of amendments on Monday.

Mr. President, I thank the majority leader for allowing us to use this time. I know he has almost no time. My one regret about coming in on Saturday is that the majority leader himself, being the diligent leader he is and insisting on manning his post of duty at all times, feels that he needs to come in today, too.

And I know that he needed rest and needed time with his family but he is here on the floor. He is running the business of the Senate when most Senators are doing other things. I say to him I thank him for letting us come in, and I do regret the inconvenience caused to him. But I do believe we have had a productive day.

Mr. BYRD. Mr. President, I thank both Senator NUNN and Senator QUAYLE.

May I say that they have sacrificed—I use the word advisedly—their Saturday, and will be sacrificing their Monday as has the distinguished Presiding Officer today, Mr. JOHN BREAUX, and as have those other Senators who came today and presented their amendments.

I use the word "sacrifice." I say that in the context of the facts that we do not have very many Saturday sessions. We have not had a Monday session in months.

So while our other colleagues are out in their home States taking care of matters there, these Senators have given up their Saturday, and will be giving up their Monday to come in and try to expedite the business of the Senate on this bill. And to do so, Mr. President, I think we should understand that they are making it possible for their colleagues on next Tuesday to call up their amendments and, hopefully, by virtue of the work that has been done today and will be done on Monday, have a little time to debate them.

Otherwise, I think we would have had a real train crash come next Tuesday. Senators would have been shut out completely in many cases as far as debate on their amendments are concerned.

Mr. President, we started on this bill 3 hours ago. We had 38 minutes out for quorum calls, and so we might say that we have effectively used 2½ hours thus far today which, otherwise, would have come out of next Tuesday.

I thank both of these Senators. They have taken their responsibilities seriously as they always do.

Robert E. Lee said, "Duty is the sublimest word in the English language." And these two fine Senators and other Senators who are here have taken very seriously that saying by Lee. I compliment them.

This does not mean that all Senators who are not here are not doing their duty; some of them, of course, are working on the home front. That is important, too.

The order for consideration of remaining amendments to S. 1174, the National Defense Authorization Act, is as follows:

Ordered, That during the consideration of S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, the following amendments be the only amendments in order; that time on any amendments, where no time agreement is listed, or where the time agreement exceeds 30 minutes, shall be limited to 30 minutes, to be equally divided and controlled in the usual form; that the amendments be first degree amendments and that no amendments be offered in the second degree, with the exception of those offered to the War Powers Act amendments and SALT amendments; and that any vote ordered to occur on an amendment shall be deemed to be a vote on, or in relation to, that amendment: *Provided*, That there be no limitation on the number of amendments that may be offered relating to SALT or to War Powers:

Bingaman/Kennedy—NSF.

Bradley—U.S. undertake all SSBN overhauls on schedule no funds in this or any other bill shall be used to dismantle any SSBN before 30 years service, SALT compliance.

Boschwitz—Nuclear risk reduction center, 30 minutes.

Bumpers—Any SDI architecture must ensure equal protection for all states.

Bumpers—Require a report by Navy on feasibility and desirability of developing successor to Trident submarine, 15 minutes.

Bumpers/Leahy—SALT subceiling compliance.

Bumpers—Sense of Senate on convention arms control.

Dole—Require Senate ratification of SALT before U.S. obliged to adhere to its limits.

Dole—Oil embargo on Iran.

Dole—Require Soviet compliance with all SALT limits before U.S. comply with SALT II limits.

Dole—Persian Gulf.

Glenn—DOE safety oversight.

Gramm—Davis/Bacon.

Gramm—Service contract.

Gramm—Stockpile, 1 hour.

Heinz—Shipbuilding, 30 minutes.

Helms—State Dept. Americanization.

Johnston—Bio-environmental hazard research, 10 minutes.

Kasten—Sense of the Senate, Japanese/Vietnamese trade, 30 minutes.

Kennedy—Carriers study, 30 minutes.

Kennedy—Restore PRIMUS/NAVCARE clinic funding, 10 minutes.

Kennedy—Watertown Army lab milicon, 10 minutes.

Kennedy—ATACKS, 30 minutes.

Lautenberg—CHAMPUS payment for charitable hospitals, 30 minutes.

Levin—Authorizing funds for centers of advanced technology, 10 minutes.

Levin—ABM.

Levin/Dixon—Cut SDI, reallocate to conventional.

Metzenbaum—M1A1 tank, 20 minutes.

Metzenbaum—Burdensharing, sense of Senate, 20 minutes.

McCain—Indian Contacting, 15 minutes.

Nunn/Warner—Technical amendments.

Nunn—2 MAF amphibious lift requirement.

Shelby—Prohibition on sale of Toshiba products in military exchanges, 20 minutes.

Simon—Sense of Senate regarding early SDI deployment.

Specter/Heinz/Lautenberg/Bradley—Restore TAO fleet oiler ship, 30 minutes.

Wallop—Assign strategic mission within the armed services, 2 hours.

Warner—Contact on morale/welfare/recreational funds, 30 minutes.

Warner—DOE safety oversight, 30 minutes.

Warner—FEMA add-on, 30 minutes.

Wilson—Regarding M113A3 for guard/reserves, 20 minutes.

Wilson—Cost effectiveness at the margin, 1 hour.

Wilson—Shipboard IFF, 10 minutes.

Wilson—Space launch recovery.

Wilson—Presido army hospital, 1 hour.

Wilson—Strike Levin/Nunn language.

Wilson—Defense intelligence manpower exemption.

Ordered further, That on Monday, September 28, 1987, when the Senate resumes consideration of the DOD bill, any rollcall votes ordered on amendments on Monday be stacked, and occur in sequence on Tuesday, Sept. 29, 1987, following the votes stacked on Friday, Sept. 25, 1987 and Saturday, Sept. 26, 1987.

Ordered further, That on Tuesday, Sept. 29, 1987, when the Senate resumes consideration of the DOD bill, there be a vote on, or in relation to, the pending Conrad amendment.

Ordered further, That following the disposition of the Conrad amendment, votes occur on, or in relation to, the amendments stacked on Friday, in sequence, to be followed by votes on, or in relation to, the amendments stacked on Saturday, in sequence, to be followed by votes on, or in relation to, the amendments stacked on Monday, in sequence.

Ordered further, That at the hour of 8:00 p.m. on Tuesday, Sept. 29, 1987, all debate on amendments to the DOD bill cease, with the exception of amendments dealing with the War Powers Act and dealing with SALT: *Provided,* That no call for the regular order will bring back the War Powers Act amendment before the conclusion of all rollcall votes on all other amendments.

Ordered further, That no motions to recommit be in order.

Ordered further, That quorum calls before rollcall votes are waived.

Ordered further, That the initial rollcall vote on Tuesday not exceed 30 minutes, the initial vote at 8:00 p.m. not exceed 20 minutes, and all subsequent back-to-back votes be 10 minutes.

EXTENSION OF FHA INSURING AUTHORITY—AMENDMENT NO. 335

● Mr. D'AMATO. Mr. President, as ranking member of the Senate Housing Subcommittee, I rise today to join with the chairman of the subcommittee, Senator Cranston, in support of legislation to extend the insuring authority of the Federal Housing Authority [FHA] of the U.S. Department of Housing and Urban Development. Under this legislation, the FHA mortgage insurance authority would be extended until November 1, 1987. Currently, under Public Law 99-430, the FHA authority to insure home mortgages expires on September 30, 1987.

Both the House and the Senate have passed housing reauthorization bills including provisions for the continuation of this insuring authority. A House and Senate conference committee, of which Senator Cranston and I are members, is close to completing a final housing bill. Unfortunately, a few remaining unreconciled provisions may take us past the September 30 deadline for the authorization of FHA mortgage insurance. Therefore, Senator Cranston and I are sponsoring legislation today that would allow the FHA to continue, without interruption, its operating authority for the numerous mortgage insurance programs through November 1, 1987. This will give the conferees enough time to work out our differences without a threat of an FHA shutdown.

As you know, Mr. President, last year the FHA insuring authority became a pawn in a larger battle between the House and Senate over a controversial reauthorization bill of all Federal housing programs. The Congress passed seven short-term extensions. However, during the course of congressional deliberations, the insuring authority was allowed to expire a shocking six times. FHA shutdown its operation a total of 51 days. This caused confusion and frustration among many prospective homebuyers. It threatened the housing plans of many low-, moderate-, and middle-income Americans. Furthermore, it destabilized the mortgage and housing financing system in our Nation.

This FHA extender will prevent the insuring authority from expiring on September 30, 1987, while the 1987 housing bill is in conference. The FHA will continue to run smoothly through November 1, 1987, avoiding undue hardship to homebuyers, mortgage lenders, home builders, and the many individuals involved in our Nation's housing industry and financing system.

Mr. President, FHA is one of the most successful partnerships ever created between the public and private sectors. During its illustrious 53-year history, FHA has assisted more than 15 million American families realize the dream of homeownership. Let us preserve the integrity of this vital Federal agency. I urge my colleagues to join us and to support this legislation.●

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business not to extend beyond 1 hour, and that Senators may speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I wish to inquire of the distinguished Senator, who is the acting Republican leader today, Mr. Quayle, if the following calendar orders have been cleared on his side of the aisle: Calendar Order Nos. 326, 327, 328, and Calendar Order No. 350.

Mr. QUAYLE. Mr. President, I can tell the majority leader that they have been cleared on this side.

Mr. BYRD. Mr. President, I ask unanimous consent that the four calendar orders be considered en bloc, and that the measures be agreed to en bloc, and that the motion to reconsider en bloc be laid on the table.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Without objection, the preambles are agreed to.

GRATUITY TO NOLA E. FREDERICK

The resolution (S. Res. 285) to pay a gratuity to Nola E. Frederick, was considered, and agreed to; as follows:

S. Res. 285

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Nola E. Frederick, widow of George E. Frederick, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO JERLINE PARKS

The resolution (S. Res. 286) to pay a gratuity to Jerline Parks, was considered, and agreed to; as follows:

S. Res. 286

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Jerline Parks, widow of Billy J. Parks, an employee of the Senate at the time of his death, a sum equal to nine months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO ROBINNIA GRACE ELAINE RICHARDSON

The resolution (S. Res. 287) to pay a gratuity to Robinnia Grace Elaine

Richardson, was considered, and agreed to; as follows:

S. RES. 1287

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Robinnia Grace Elaine Richardson, widow of Thomas R. Richardson, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of his death, a sum to equal six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ESTABLISHING MINING AWARENESS WEEK

The resolution (S. Res. 289) establishing Mining Awareness Week was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. RES. 289

Whereas, the minerals extracted from the earth have opened doors to progress throughout history and are vital to the continuation of civilization;

Whereas, modern mining machinery, equipment and services permit the best available mining and reclamation technology on industry properties;

Whereas, the mining industry has made and will continue to make essential contributions to the industrial development of the United States, its standard of living, national security, and international competitiveness;

Whereas, the ability of the domestic mining industry to survive and prosper at home and in the international market is vital to the economic well-being and world leadership position of the nation: Now, therefore, be it

Resolved, That the Senate of the United States hereby proclaims April 24-30, 1988, Mining Awareness Week, in recognition of the domestic mining industry, which created, established and maintained our Nation's industrial cornerstone resulting in benefits to the entire world.

SEPTEMBER 22, 1950: THE VICE PRESIDENT'S DESK

Mr. DOLE. Mr. President, 37 years ago this week, on September 22, 1950, the Senate gave one of its most historic pieces of furniture, the Vice President's desk in the Chamber, to Vice President Alben Barkley.

The Senate Chamber was remodeled in 1950. The glass ceiling and elaborate wall panels were removed to improve acoustics in the Chamber, and the wooden desks that served the Vice President and clerks of the Senate were replaced by the current desks. At that time, Emory Frazier served as the Chief Clerk—today that position has become the Assistant Secretary of the Senate, but back then the Chief Clerk sat at the front desk to call the roll and handle paperwork. A native Kentuckian and a Senate history buff, Frazier knew that the first Vice President to sit at the desk in 1859, John C. Breckinridge, was a Kentuckian. The desk's last occupant in 1950, Alben Barkley, also hailed from Kentucky. Frazier lobbied with the committee overseeing the remodeling of the Chamber to present the desk to Vice President Barkley.

On September 22, 1950, Senator Dennis Chavez introduced a resolution offering the desk as "an expression of high appreciation" for Barkley's long service as a Senator, Senate majority leader, and Vice President. Republican leader, Kenneth Wherry asked that all Senators be permitted to join as cosponsors, and the motion passed without objection. Vice President Barkley took the occasion to express his gratitude to the Senate for the old desk which had graced the Senate Chamber for nearly a century, and extended the thanks of the people of Kentucky for this tribute to two of their native sons.

Today the mahogany Vice President's desk is displayed in the modern political collection of the University of Kentucky Library, in Lexington, KY, along with a statute of Alben Barkley, and photographs of numerous Kentucky Senators whose papers are deposited there.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

EVANS (AND ADAMS) AMENDMENT NO. 761

Mr. EVANS (for himself and Mr. ADAMS) proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

At the appropriate place in the bill add the following: "Replace asbestos insulation in the amount of $2,050,000 at Fairchild Air Force Base, Washington."

BYRD AMENDMENT NO. 762

Mr. BYRD proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill, add the following new section: Notwithstanding any limitation on amounts that may be otherwise paid for travel and transportation allowances, a civilian employee of the Department of Defense or Department of Transportation or a member of the Armed Forces of the United States, accompanying a member of Congress, an employee of such a member, or an employee of Congress on official travel may be authorized reimbursement for actual travel and transportation expenses in an amount not to exceed that approved for official Congressional travel when that travel is directed or approved by the Secretary of Defense or the Secretary of the executive agency or military department, or a designee of the Secretary concerned, having jurisdiction over the employee or member.

BYRD (AND NUNN) AMENDMENT NO. 763

Mr. BYRD (for himself and Mr. NUNN) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT ON REQUIREMENTS FOR MAINTAINING NATO'S STRATEGY OF DETERRENCE.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a report regarding the ability of the North Atlantic Treaty Organization (NATO) to maintain its strategy of deterrence through the 1990s, including a specific discussion concerning this issue in the event the United States and the Soviet Union agree to a treaty which requires reduction or elimination of types of delivery systems or reductions in the numbers of nuclear weapons deployed in Western Europe.

(b) FORM AND CONTENT OF REPORT.—The Secretary shall submit the report required by subsection (a) in both classified and unclassified forms and shall include in the report the following:

(1) The appropriate numbers and types of nuclear weapons and nuclear-capable delivery systems not limited by the proposed treaty which the Secretary of Defense recommends for deployment in the European theater under the terms of an arms control agreement likely to be agreed to by the United States and the Soviet Union.

(2) A description of any nuclear modernization program the Secretary of Defense has recommended or proposes to recommend as necessary to ensure that NATO will be able to maintain a credible and effective military strategy.

(3) A discussion of the impact that a reduction in the number of nuclear warheads deployed by NATO in Western Europe will likely have on NATO's ability to maintain an effective flexible response strategy and credible deterrence.

(4) A discussion of any plans for redeployment in peacetime to Western Europe, in the event an agreement referred to in subsection (a) is successfully concluded, of nuclear forces of the United States that are currently deployed outside Western Europe.

(5) A discussion of the balance of non-nuclear forces in the NATO theater and the potential impact of an agreement limiting non-nuclear forces on that balance.

(6) A discussion of the feasibility of substituting advanced conventional munitions for nuclear weapons currently deployed by NATO, including a discussion of the costs of such weapons and prospects for sharing such costs among NATO allies.

(7) A discussion of all feasible candidate nuclear weapons delivery systems that might be deployed by NATO, including all delivery systems currently in the inventories of the United States and NATO and any new systems that may become available during the time period covered by the reports required by subsection (a).

(8) A discussion of the views of the leaders of member nations of NATO (other than the United States) and of the Supreme

Allied Commander, Europe (SACEUR) on the issues in items (1) through (6) above.

(c) DEADLINE FOR REPORT.—The report required by subsection (A) shall be submitted—

(1) not later than 90 days after the date of enactment of this Act; or

(2) not later than the date on which the President submits to the Senate for its advice and consent an arms control treaty limiting deployment of intermediate-range nuclear forces (INF) in Western Europe, whichever date is earlier.

EVANS (AND OTHERS) AMENDMENT NO. 764

Mr. EVANS (for himself, Mr. ADAMS, and Mr. INOUYE) proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . The Secretary of the Navy is authorized to provide to the Tulalip Tribes of Washington, $3,400,000 from the authorization for appropriations provided in section 2204(a)(1), to settle tribal claims for loss of access to and displacement from usual and accustomed fishing grounds and stations arising from the construction and operation of the Navy Homeport at Everett, Washington, pursuant to the Memorandum of Agreement dated July 22, 1987 between the United States Navy and the Tulalip Tribes of Washington. Before payment in final settlement of the tribal claims is made, the Navy must obtain from the Tulalip Tribes a release by which the tribes waive any claims against the United States for displacement from the Homeport site while the site is owned by the United States, and for additional displacement resulting from Homeport construction-related activities in Port Gardner to the extent provided by the Memorandum of Agreement. The release will also waive any claims the tribes may have against the United States or any of its successors in interest for loss of access resulting from the permanent structures constructed for the Homeport. Nothing herein shall be construed to diminish in any way the reserved rights of the Tulalip Tribes of Washington, except as provided in the Memorandum of Agreement.".

PROXMIRE AMENDMENT NO. 765

Mr. PROXMIRE proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . The Comptroller General shall conduct a study of allegations of censorship in the Department of Defense newspaper, Stars and Stripes. The report of the Comptroller General shall be transmitted to the Congress not later than 90 days after the date of enactment of this Act and such report shall include the Comptroller General's findings regarding the validity of the allegation and any recommendations concerning those allegations which the Comptroller General believes appropriate.

DIXON (AND OTHERS) AMENDMENT NO. 766

Mr. DIXON (for himself, Mr. BUMPERS, and Mr. WEICKER) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section.

SEC. . SMALL BUSINESS SET-ASIDE PROGRAM.

(a) FAIR PROPORTION OF FEDERAL CONTRACTS; AWARD AT FAIR AND REASONABLE PRICES.—Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to the last sentence; and

(3) by striking the period, inserting in lieu thereof a comma, and the words "determined on the basis of an evaluation of the prices offered in response to the solicitation by all eligibile offerors, by other techniques of price analysis, or by cost analysis for the purpose of establishing that the anticipated contract award price will be fair and reasonable to the Government."

(b) SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS.—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

(c) SUBCONTRACTING LIMITATIONS.—(1) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(A) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(B) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(C) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(D) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(2) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

(d) REPEALER.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

(e) CONFORMING AMENDMENTS.—Section 8(a)(14) (15 U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B) by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

(f) INITIAL REVIEW OF SIZE STANDARDS.—Section 921(h) of the "Defense Acquisition Improvement Act of 1986" (Public Law 99-661) is amended by striking in the last sentence the words "until October 1, 1987" and substituting in lieu thereof the words "prior to March 31, 1988".

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987, or the date of the enactment of this Act, whichever is later.

DIXON (AND OTHERS) AMENDMENT NO. 767

Mr. DIXON (for himself, Mr. DECONCINI, Mr. D'AMATO, and Mr. GRAHAM) proposed an amendment to the bill S. 1174, supra; as follows:

On page 114 between lines 13 and 14, insert the following:

SEC. 812. ANNUAL PLAN ON DEPARTMENT OF DEFENSE DRUG LAW ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Chapter 18 of title 10, United States Code, is amended by adding at the end the following new section.

"§380. Annual plan on Department of Defense drug law enforcement assistance

"(a)(1) At the same time as the President submits the budget to Congress each year under section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress the following:

"(A) A detailed list of all forms of assistance that is to be made available by the Department of Defense to civilian drug law enforcement and drug interdiction agencies, including the United States Customs Service, the Coast Guard, the Drug Enforcement Administration, and the Immigration and Naturalization Service, during the fiscal year for which such budget is submitted.

"(B) A detailed plan for lending equipment and rendering drug interdiction-related assistance included on such list during such fiscal year.

"(2) The list required by paragraph (1)(A) shall include a description of the following matters:

"(A) Surveillance equipment suitable for detecting air, land, and marine drug transportation activities.

"(B) Communications equipment, including secure communications.

"(C) Support available from the reserve components of the armed forces for drug interdiction operations of civilian drug law enforcement agencies.

"(D) Intelligence on the growing, processing, and transshipment of drugs in drug source countries and the transshipment of drugs between such countries and the United States.

"(E) Support from the Southern Command and other unified and specified commands that is available to assist in drug interdiction.

"(F) Aircraft suitable for use in air-to-air detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(G) Marine vessels suitable for use in maritime detection, interception, tracking, and seizure by civilian drug interdiction agencies, including the Customs Service and the Coast Guard.

"(H) Such land vehicles as may be appropriate for support activities relating to drug interdiction operations by civilian drug law enforcement agencies, including the Customs Service, the Immigration and Naturalization Service, and other Federal agencies having drug interdiction or drug eradication responsibilities.

"(b) The Secretary of Defense, not earlier than 30 days and not later than 45 days after the date on which Congress receives a list and plan submitted under subsection (a), shall convene a conference of the heads of all Federal Government law enforcement agencies having jurisdiction over drug law enforcement, including the Customs Service, the Coast Guard, and the Drug Enforcement Administration, to determine the appropriate distribution of the assets, items of support, or other assistance to be made available by the Department of Defense to such agencies during the fiscal year for which the list and plan are submitted. Not later than 60 days after the date on which such conference convenes, the Secretary of Defense and the heads of such agencies shall enter into appropriate memoranda of agreement specifying the distribution of such assistance.

"(c) The Comptroller General of the United States shall monitor the compliance of the Department of Defense with subsections (a) and (b). Not later than 90 days after the date on which a conference is convened under subsection (b), the Comptroller General shall transmit to Congress a written report containing the Comptroller General's findings regarding the compliance of the Department of Defense with such subsections. The report shall include a review of the memoranda of agreement entered into under subsection (b).".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is available by adding at the end the following:

"380. Annual plan on Department of Defense drug law enforcement assistance.".

LEVIN AMENDMENT NO. 768

Mr. LEVIN proposed an amendment to the bill S. 1174, supra; as follows:

On page 2, line 20, strike out "$2,805,859,000" and insert in lieu thereof "$3,138,059,000".

On page 2, line 23, strike out "$2,412,928,000" and insert in lieu thereof "$2,491,128,000".

On page 3, line 3, strike out "$2,131,239,000" and insert in lieu thereof "$2,263,239,000".

On page 3, line 16, strike out "$6,219,532,000" and insert in lieu thereof "$6,377,032,000".

On page 4, line 13, strike out "$9,137,539,000" and insert in lieu thereof "$9,203,539,000".

On page 4, line 16, strike out "$8,210,782,000" and insert in lieu thereof "$8,244,782,000".

On page 7, between lines 14 and 15, insert the following new subsections:

(f) Apache Helicopter.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $987,485,000 shall be available only for the Apache helicopter program.

(g) UH-60 Helicopter.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $357,820,000 shall be available only for the UH-60 helicopter program.

(h) AHIP Helicopter.—Of the funds appropriated or otherwise made available for procurement of aircraft for the Army for fiscal year 1988, the sum of $164,900,000 shall be available only for the AHIP helicopter program.

(i) TOW II Missile. —Of the funds appropriated or otherwise made available for procurement of missiles for the Army for fiscal year 1988, the sum of $209,439,000 shall be available only for the TOW II antitank missile program.

On page 8, between lines 9 and 10, insert the following new subsections:

(c) HARM Air-to-Ground Missile.—Of the funds appropriated or otherwise made available for procurement of missiles for the Navy for fiscal year 1988, the sum of $274,028,000 shall be available only for the HARM air-to-ground missile program.

(d) Sparrow Air-to-Air Missile.—Of the funds appropriated or otherwise made available for procurement of missiles for the Navy for fiscal year 1988, the sum of $178,000,000 shall be available only for the Sparrow air-to-air missile program.

On page 8, line 11, strike out "Funds" and insert in lieu thereof "(b) T-46 Aircraft.—Funds".

On page 8, between lines 16 and 17, insert the following new subsections:

(c) Maverick Missile.—Of the funds appropriated or otherwise made available for procurement of missiles for the Air Force for fiscal year 1988, the sum of $391,005,000" shall be available only for the Maverick air-to-ground missile program.

(d) Low Level Laser Guided Bomb.—Of the funds appropriated or otherwise made available for procurement of missiles for the Air Force for fiscal year 1988, the sum of $34,000,000 shall be available only for the Low Level Laser Guided Bomb modification program.

On page 15, line 4, strike out "$16,346,598,000" and insert in lieu thereof "$15,446,598,000".

On page 17, between lines 2 and 3, insert the following new section:

SEC. 223. AIR FORCE PROGRAMS.

(a) Small ICBM Program.—Of the funds appropriated or otherwise made available to the Air Force for research, development, test, and evaluation for fiscal year 1988, not more than $200,000,000 may be obligated or expended for the Small Intercontinental Ballistic Missile program.

(b) MX Rail Mobile Basing Mode.—None of the funds appropriated or otherwise made available to the Air Force for research, development, test, and evaluation for fiscal year 1988 may be obligated or expended for the MX Rail Mobile Basing Mode program.

Renumber sections 223 through 228 as sections 224 through 229, respectively.

On page 32, line 13, strike out $21,691,300,000" and insert in lieu thereof "$21,791,300,000".

On page 34, between lines 21 and 22, insert the following new subsection:

(c) Maintenance Depots.—Of the funds appropriated or otherwise made available for operation and maintenance of the Army for fiscal year 1988, the sum of $1,631,500,000 shall be available only for depot maintenance.

NUNN (AND OTHERS) AMENDMENT NO. 769

Mr. NUNN (for himself, Mr. Quayle, Mr. Exon, and Mr. Warner) proposed an amendment to amendment No. 768 proposed by Mr. Levin to the bill S. 1174, supra; as follows:

Strike all beginning with line one on page one, and insert in lieu thereof the following:

(a) The Senate finds—

(1) it is essential that our defense priorities be carefully analyzed so as to properly fund the armed forces of the United States;

(2) the status of the forces of the United States and our allies will become more important if an INF agreement is concluded between the United States and the Soviet Union;

(3) it is both desirable and possible to reduce NATO's reliance on nuclear weapons for the defense of all members of the Alliance if NATO asserts the political will and establishes sound defense priorities;

(4) the United States is currently procuring one land-based inter-continental ballistic missile while developing another such weapon at significant cost;

(5) it is imperative for the economic well-being of the United States the Federal deficit be reduced, and our efforts to reduce that deficit will continue to require limits on all discretionary Federal spending including defense spending; and

(6) such restraints on the defense budget are likely to exist for the foreseeable future.

(b) Therefore, it is the sense of the Senate that authorization of funds for research and development of the Small ICBM and the rail-mobile basing mode for the MX ICBM does not constitute a commitment or express an intent to procure and deploy either or both.

QUAYLE AMENDMENT NO. 770

Mr. QUAYLE proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill add the following new section:

The Senate finds that with respect to the level of U.S. military forces permanently stationed in Europe in FY 88 and FY 89:

the agreement in principal between the United States and the Soviet Union to eliminate all intermediate-range nuclear missiles has important implications for the viability of NATO's defense posture;

the presence of U.S. forces in Europe constitutes the most visible and meaningful evidence of the continuing strong commitment of the United States to the integrity of the Alliance;

NATO Defense Ministers stated on May 26–27, 1987 that: "The continued presence of U.S. forces at existing levels in Europe plays an irreplacable role in the defense of North America as well as Europe":

Therefore, it is the sense of the Senate that the number of United States military personnel stationed in Europe play an indispensable role for peace and deterrence and such commitment of forces should be continued at existing levels, provided that all existing basing agreements remain in effect.

Furthermore, the actual number of United States forces in Europe at any one time may fall below this level due to administrative fluctuations or determination by the President of other national security considerations.

WEICKER AMENDMENT NO. 771

Mr. WEICKER proposed an amendment to the bill S. 1174, supra: as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. . BUDGET SUBMISSIONS RELATING TO SPECIAL ACCESS PROGRAMS

(a) In General.—(1) Each year, the President, shall include in the budget submitted to Congress for the Department of Defense under section 1105 of title 31, United States Code, a separate report to the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives on each major defense acquisition program in such budget which is designated as a special access program (provided for under Executive Order 12356, dated April 2, 1982, or any successor order).

(2) A report submitted under paragraph (1) in the case of any program shall contain—

(A) a brief description of such program;

(B) a brief discussion of the major milestones established for such program; and

(C) the actual cost of such program for each fiscal year during which the program has been conducted before the fiscal year in which such budget is submitted, the estimated cost of such program for each additional fiscal year during which the program is expected to be conducted, and the estimated total cost of such program.

(b) Form of Report.—A report required by subsection (a) may be submitted in classified or unclassified form.

(c) Waiver Authority.—The Secretary of Defense may waive the requirements of subsection (a) in the case of any program for which the Secretary determines that the disclosure of the existence of such program would adversely affect national security. If the Secretary exercises the waiver authority in this subsection, he shall provide the information required by subsection (a) and the justification for such waiver to the chairman and ranking minority members of the Committees on Armed Services and the Defense Subcommittees of the Committees on Appropriations.

(d) Classification Policy.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives, at the same time as the President submits the budget for fiscal year 1989 to Congress under section 1105 of title 31, United States Code, a report containing the policy for classifying reports for the purpose of this section. The policy shall provide for consistent classifications for all such reports, except that such policy may provide for exceptions to the requirement for consistent classification of such reports if such policy contains specific criteria and procedures for determining the exceptions.

(2) After submitting the policy referred to in paragraph (1) as provided in such paragraph, the President shall promptly notify the Committees referred to in such paragraph of any modification or termination of such policy. The notification shall contain the reasons for the modification or termination, as the case may be, and, in the case of a modification, the provisions of the policy as modified.

(e) Definition.—As used in this section, the term "major defense acquisition program" means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars), but does not include any program that the Secretary of Defense determines is a program conducted primarily for the purpose of facilitating intelligence-gathering activities, intelligence analysis activities, or counterintelligence activities.

BYRD AMENDMENT NO. 772

Mr. BYRD proposed an amendment to the bill S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. 812. FORENSIC EXAMINATION OF CERTAIN PHYSIOLOGICAL EVIDENCE.

(a) Improvement of Procedures.—(1) The Secretary of Defense shall prescribe procedures that ensure that, whenever, in connection with a criminal investigation conducted by or for a military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used any controlled substance—

(A) such specimen is in a condition that is suitable for forensic examination when delivered to the forensic laboratory; and

(B) the investigative agency which submits the specimen to the laboratory receives the results of the forensic examination in writing within such period as is necessary to present such results in a court-martial or other criminal proceeding resulting from the investigation.

(2) The procedures prescribed under paragraph (1) shall—

(A) ensure that physiological specimens are preserved and transported in accordance with valid medical and forensic practices; and

(B) insofar as is practicable, require transportation of the specimen to an appropriate laboratory by the most expeditious means necessary to carry out the requirement in paragraph (1)(A).

(b) Tests for Use of LSD.—The Secretary of Defense shall ensure that whenever, in connection with a criminal investigation conducted by or for any military department, any physiological specimen is obtained from a person for the purpose of determining whether that person has used lysergic acid diethylamide, such specimen is submitted to a forensic laboratory that is capable of determining with a reasonable degree of scientific certainty, on the basis of the examination of such specimen, whether such individual has used lysergic acid diethylamide.

(c) Nothing in this section shall be construed as providing a basis, that is not otherwise available in law, for a defense to a charge or a notion for exclusion of evidence or other appropriate relief in any criminal proceeding.

(d) Report.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1988, a report describing the procedures prescribed under subsection (a).

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, may I inquire of the distinguished Senator who is acting as the leader on the other side at this time whether or not he has any additional statement or any further business he would like to transact today.

Mr. QUAYLE. Mr. President, I can tell the majority leader I do not know of any other business on this side. We have been here. We have had a good day's work on Saturday. We will see the distinguished majority leader on Monday. I hope he gets a little bit of rest and peace with his family before we come back in and maybe dispose of the defense authorization bill sometime next week.

Mr. BYRD. I certainly hope so. Tomorrow I will be in West Virginia, wild and wonderful West Virginia, where the sunrises and sunsets are iridescent, the hills are iridescent, and where it is almost Heaven.

Mr. President, regarding the nominations that were referred to earlier by both managers, I should state for the Record that there is no "hold," no objection on this side of the aisle to our proceeding forthwith.

I will certainly do everything I can to expedite any action on those, hopefully, on Monday.

Mr. QUAYLE. I would just say to the majority leader I hope as soon as possible. We evidently have a hold, to try to find out, to try to be persuasive and cajole whoever has the hold and letting it go. If not, we will have to move. We really do not have any choice on that. It is not one of those things that we can wait around for. I thank the majority leader for pointing that out.

Mr. BYRD. I thank the Senator. We all know that a motion to go into executive session to take up any nomination is not debatable. I will certainly be glad to cooperate with the Senator.

THE U.S. SENATE

Mr. BYRD. Mr. President, I have a statement which is one in my continuing series of speeches on the U.S. Senate. There will be no further business today unless another Senator wishes to come to the floor to transact any morning business. I will proceed with this statement which should last or should require about 45 minutes to an hour or thereabouts, after which the Senate will go out until Monday.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Mr. BYRD. Mr. President, I shall wait until a later date to make this speech.

Let me just put in a quorum call; and then if we do not hear from any Senator who wishes to speak today, we will go over until Monday.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR MONDAY AND TUESDAY

ORDER FOR RECESS UNTIL 9:45 A.M. MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. on Monday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEADERS' TIME ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the two leaders on Monday next be reduced to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that, if there be any remaining time after the two leaders have used their time on Monday next, prior to the hour of 10 a.m., such time be utilized for morning business, and that Senators may speak therein for not to exceed 1 minute each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FROM MONDAY UNTIL 7:45 A.M. TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Monday next, it stand in recess until the hour of 7:45 a.m. on Tuesday next.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR LEAHY ON TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that, on Tuesday next, the time of the two leaders be reduced to 5 minutes each, and that upon the conclusion of that time, Mr. LEAHY be recognized for not to exceed 30 minutes or until the hour of 8:30 a.m., whichever he prefers.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS ON TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 8:30 a.m. on Tuesday next, the Senate resume its consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS ON TUESDAY FROM 1:15 P.M. TO 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, the Senate stand in recess from the hour of 1:15 p.m. until the hour of 2 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR BRADLEY ON TUESDAY

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 12:45 p.m. and until the hour of 1:15 p.m. on Tuesday next, the distinguished Senator from New Jersey [Mr. BRADLEY] be recognized for remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will recess over until Monday next, at the hour of 9:45 a.m.

At the hour of 9:45 a.m. and at the completion of the Chaplain's prayer, the two leaders will be recognized under the standing order for not to exceed 5 minutes each, after which there will be a brief period for morning business, not to extend beyond 10 a.m., at which time the unfinished business will be laid before the Senate.

Any rollcall votes, other than those which by necessity deal with parliamentary matters—such as instructing the Sergeant at Arms—will go over until Tuesday, and will fall into place sequentially behind the three rollcall votes already ordered on amendments by Messrs. CONRAD, DOLE, and BYRD, the first of which rollcall votes will begin at 8:30 in the morning.

Upon the conclusion of those rollcall votes, which will include the rollcall votes that will have been added during Monday, the Senate then will continue with debate on amendments that are called up on Tuesday. It is understood that the rollcall votes that are ordered on Tuesday, following the votes that will occur on already stacked amendments, will be stacked until no later than 8 o'clock in the evening on Tuesday.

The first rollcall vote on Tuesday at 8:30 a.m., will be limited to 30 minutes, after which the call for regular order will be made. The subsequent back-to-back rollcall votes thereto will be limited to 10 minutes each. the first of the rollcall votes that will have been ordered to begin at 8 p.m. on Tuesday will be a 20-minute rollcall vote, and the subsequent back-to-back rollcall votes will be limited to 10 minutes each, and the regular order will be called. Regular order will be called on all votes on Tuesday—the initial vote as well as the subsequent back-to-back votes.

At the hour of 8 p.m., on Tuesday, all debate will cease on amendments but any amendments remaining on the list that have not been theretofore called up may still be called up.

Such amendments would not be debatable but would be entitled to a rollcall vote if desired.

Any of the amendments to be voted on on Tuesday are subject to a tabling motion. No motion to recommit with or without instructions will be in order.

At the conclusion of all votes on all amendments, only two remaining issues will be left for the Senate's disposal: The Byrd-Weicker, and other war powers amendment; and the SALT II amendment. There is no agreement with respect to time limitation on either of those amendments and they would be subject to further amendment and to tabling motions.

During the day on Monday and during the day on Tuesday, of course, amendments may be called up and disposed of by voice vote or by division vote.

RECESS UNTIL MONDAY, SEPTEMBER 28, 1987 AT 9:45 A.M.

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m., on Monday next.

The motion was agreed to, and the Senate, at 1:30 p.m., recessed until Monday, September 28, 1987, at 9:45 a.m.

SENATE—*Monday, September 28, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable John Breaux, a Senator from the State of Louisiana.

PRAYER

The guest chaplain, the Reverend Richard C. Halverson, Jr., Chesterbrook Presbyterian Church, Falls Church, VA, offered the following prayer:

Let us all pray together.

Our Heavenly Father, as we speak to You this morning, we remember that You are a living God who hears and answers our prayers. Your presence is not limited to cathedrals or temples. And Your blessings are not reserved only for the good and the religious.

You have revealed Yourself to be a God of grace, even to Your enemies. And Your judgments have always been rendered from a heart of love.

So we ask You this morning to let Your love embrace everyone in this place. Pour out Your provisions of peace, mercy, knowledge, and understanding, even upon those who for one reason or another are resisting or ignoring You.

We pray this in Christ's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, September 28, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable John Breaux, a Senator from the State of Louisiana, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Chair recognizes the majority leader.

Mr. BYRD. Mr. President, how much time do I have?

The ACTING PRESIDENT pro tempore. The Chair will state to the leader he has 5 minutes.

Mr. BYRD. I thank the Chair.

Mr. President, I yield my 5 minutes to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank my friend, the majority leader.

TIME TO PASS LEGISLATION IMPLEMENTING THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, the U.S. Senate ratified the Genocide Convention more than 1½ years ago, way back on February 19, 1986. The vote for ratification was an overwhelming 82 to 11. Here was a treaty supported by both political parties with very strong leadership by Senators Dole and Simpson as well as by Senators Byrd and Cranston. President Reagan and his administration enthusiastically called for ratification. This was a treaty that had been pending in this body literally for decades. President Harry Truman sent the treaty to the Senate with a recommendation for ratification on June 16, 1949, more than 37 years ago. President after President, Republican and Democratic called for its ratification. So when we finally ratified it—long after every other major free nation on Earth had ratified it, most of the American people, the press, and indeed, most of the Senate assumed we had done our job.

Had we? The answer, Mr. President, unfortunately is: "No!" Senate ratification was essential. But the ratification has little or no force until we pass implementing legislation. We should have followed ratification of the Genocide Treaty with legislation implementing the treaty within weeks. April 1986 would have been a reasonable expectation for this passage. But it did not happen. We have waited month after month for more than 18 months for that implementing legislation. We have waited in vain. As all of the Members of this body understand, legislation cannot be forthcoming until it is drafted, until hearings are held on it, until the committee of jurisdiction—in this case the Judiciary Committees of the House and Senate have recommended action on it, until each body in turn considers it on the floor and acts favorably on it, and until the President signs it.

Mr. President, in the year and a half that has passed since the Senate ratified the treaty, neither Judiciary Committee has even taken the first step in advancing this legislation. There is not even the first draft of legislation. Think of it. This Senate ratified the treaty by an 82 to 11 vote. It was vigorously supported by our Senate leadership in both parties. It was firmly recommended by the President of the United States.

This is shameful, Mr. President.

Consider what the implementing legislation would do. It would make it a crime under the laws of our country for a person or persons to engage in the planned, premeditated extermination of an entire ethnic, racial or religious group. Of course, the classic example was the savage and wholesale murder of European Jews by Hitler's Nazis before and during World War II in the crime of the century. Communists engaged in a similar genocide against Cambodian religious groups in the 1960's. The victims of genocide are killed not because they have committed any crime, not because they even threaten the state. They are killed because they are Jews, or blacks or Cambodian Buddists.

Now many of us regard human life as the ultimate value. So we regard as criminal the extinction of an entire group of people—literally millions simply because they follow different religious practices than most of those who dwell in a particular country or because they come from an alien racial or ethnic group. We have ratified the Genocide Treaty at long last. That treaty aligns our country with other major countries in opposing genocide. But we have failed even to take the first step in starting to provide the implementing legislation that makes genocide a crime that will bring punishment under U.S. law. Why not?

Some might argue that we do not need such a law. We have laws against murder. We have laws providing for freedom of religious observance. We even have laws that prohibit discrimination against minority groups in education, employment, housing, and in places of public accommodation. Indeed, our laws require that all citizens equally enjoy the sovereign right to vote. Some would argue that genocide is inconceivable in our country.

Mr. President, if genocide cannot possibly happen in America, why not pass the implementing legislation that will put this country in the good company of every other major free nation in the world? And let us not be carried

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

away with a kind of national arrogance. Genocide can happen here or anywhere. Keep in mind that genocide is almost never an individual crime. It is not carried out by some rogue group within a state. Indeed, we can handle that kind of action simply and easily under present law. Genocide of any significance is a practice of governments. To be effective genocide requires the full police and military power of a soverign government. No one can predict what can happen to any government including the Government of our great country in extremes. Those of us who govern this country are human beings, as fallible as any. It is at least conceivable that an extreme Fascist or Communist group could seize control of our Government some day. Such a group might, as the Nazis in Germany did, seek scapegoats. That means a convenient ethnic or religious minority to persecute. Would legislation implementing the Genocide Treaty provide any significant protection under such circumstances? The Senator thinks it would. Just as it would have provided a strong legal rallying point against Hitler's persecution of the Jews in Europe.

Mr. President, if ever it could be said that we have everything to gain and nothing to lose by acting on legislation, we can say it with respect to this legislation implementing the Genocide Convention. We took 36 years to ratify the Genocide Treaty, let's not take another 36 years to pass legislation to show that we meant what we said in that ratification.

Mr. President, I yield the floor. Once again I want to thank my good friend the majority leader for yielding his time.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin yields the floor.

REPUBLICAN LEADER TIME RESERVED

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BICENTENNIAL MINUTE

SEPTEMBER 28, 1787: CONGRESS SENDS THE CONSTITUTION TO THE STATES

Mr. DOLE. Mr. President, 200 years ago today, on September 28, 1787, the Congress of the Confederation agreed to transmit the newly adopted Constitution to the individual States for ratification. In the 13 State ratifying conventions, provisions for the Senate received sharp scrutiny. Supporters characterized the Senate as a bulwark against tyranny, a source of stability, legislative wisdom, and the States' ultimate guarantee of sovereignty. Behind the convention's closed doors, the Constitution's defenders had argued that the Senate's great strength would be in its independence of dictation from outside forces. In public these supporters altered their tune, assuring the States that Senators would serve as their "ambassadors," subject to State legislative instruction.

Despite these assurances, critics feared that the Senate might evolve into an unreachable aristocracy with its longer terms, greater powers, and smaller numbers. One amendment that frequently surfaced in the various State conventions would have permitted State legislatures to remove Sentors from office. Critics also focused on the 6-year term and the Senate's treaty powers. To prevent the creation of a senatorial aristocracy, opponents sought to restrict Senators to one 6-year term in any 12-year period.

The Constitution's defenders dismissed these fears, explaining that limitations of terms would drive away the best men. They noted that biennial elections of one-third of the body's Members would be sufficient to check abuses of power. They also observed that the Senate was hardly an independent entity. Its actions would be subject to restraint by State legislatures, which selected Senators; the House, which shared the Senate's approval power; and the President, who alone had the power to nominate key officials and to negotiate treaties. Ultimately, the Framers' initial provisions for the Senate remained unchanged until the direct election amendment of 1913.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed beyond the hour of 10 a.m., with Senators permitted to speak for 1 minute, up to 1 minute therein.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Is there further morning business? If not, morning business is concluded.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, which is S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

Byrd Amendment No. 732 (to Amendment No. 712), of a perfecting nature, to provide that Congress express its support for (1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf; (2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in the region; and (3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

Conrad Amendment No. 749, to express the sense of the Congress that the President should enter into negotiations with members of mutual defense alliances with the United States for the purpose of achieving a more equitable distribution of the financial burden of support of such alliances. (A vote will occur on the amendment on Tuesday, September 29.)

Dole Amendment No. 753, to commend the Armed Forces of the United States for their successful operation in thwarting Iranian mine-laying activities in the Persian Gulf. (A vote will occur on the amendment on Tuesday, September 29.)

Byrd Amendment No. 763, to require a report from the Secretary of Defense regarding nuclear deterrence in Europe and the maintenance of NATO's flexible response strategy, in the event of an arms control agreement between the United States and the Soviet Union. (A vote will occur on the amendment on Tuesday, September 29.)

AMENDMENT NO. 732

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, it is somewhat interesting, to say the least, to hear all of the cries of anguish that are emanating from administration spokesmen with reference to the Byrd amendment. And there is, apparently, a great deal of misunderstanding on the part of administration spokesmen as to what the Byrd amendment does and as to what it does not do; either that, or the administration is deliberately attempting to confuse the issues and mislead the people as to what the Byrd amendment does and what it does not do.

The Byrd-Nunn amendment, which is also cosponsored by Senators BUMPERS, ADAMS, and SASSER, is amendment to the amendment by Mr. WEICKER and Mr. HATFIELD.

The amendment by Mr. WEICKER and Mr. HATFIELD would require a report as mandated by the War Powers resolution from the President within 48 hours. The Byrd-Nunn amendment would give the President 30 days in which to submit a report and the amendment would require certain specific items to be addressed within that report. There would then be 60 days in which the Congress would have an opportunity to authorize the reflagging and convoying operations or to declare war. If neither of these actions by the Congress took place, then the specific operation of reflagging and escorting would have to end.

Let us talk about what the Byrd-Nunn amendment does not do. The Byrd-Nunn amendment does not require the United States to reduce its presence in the gulf. We, who are authors of the amendment, support a United States presence in the Persian Gulf. We support a continued presence of the United States in the Persian Gulf. Those are international waters.

The Byrd-Nunn amendment would not require the United States to remove one single helicopter, one ship, one minesweeper, one airplane or one sailor or one member of any military service of the United States from the gulf. Not one. There is nothing in this amendment that requires any lessening whatsoever of the United States presence in the Persian Gulf.

I have listened to some of the discussions that have gone on in the media, there is a considerable misunderstanding as to what this amendment would really do. There are those who maintain that this amendment would require the United States to pull out of the gulf, reduce our presence there. All of that is pure hogwash; unadulterated hogwash.

This amendment does not require the United States to pull anything out of the gulf. It requires that we deescalate that action which escalated, or helped to escalate, gulf tensions in the beginning; namely, providing escort for the ships of another country carrying the American flag.

That action was taken by the administration. Who can honestly argue that there have not been imminent hostilities? Of course, there have been such, already. Those of us who are supporting this amendment believe that the requirements set forth in the War Powers resolution have been met for invoking the act. The War Powers resolution requires far more than the amendment which has been offered by Senators BYRD, NUNN, and other Senators. It would require action by the President to disengage, to desist in the "use of all U.S. Armed Forces" in the gulf.

The Byrd amendment does not require that. The Byrd amendment just says, "Mr. President, send Congress a report. We are not going to require you to do it in 48 hours. Send us up a report in 30 days. Set forth in that report," This, this, this. "Tell us what is going on? What are the prospects? What do we expect to achieve? How long will it require? What is the estimated cost?" and so on.

Then, Congress will have a basis upon which to reach a considered judgment as to whether or not this kind of operation should continue. Who knows, Congress might authorize the extended course of this operation. Who knows, I might support it. But Congress has a role, as the elected representatives of the people. Congress is being shut out of that role.

Yes, it is true that Congress has the power of the purse. It takes a long time, however, to exercise that power. What we have now is a law, the War Powers Act, passed over the President's veto several years ago.

Some of us have some qualms, some questions, about certain features of that act, but the act is on the books. It is the law of the land. No man in this country is above the law of the land—the President of the United States or anybody else. That is part of what the Iran-Contra misadventure was all about. That is what the sale of arms to Iran in exchange for hostages was all about—lying, coverup, deceit, duplicity, probable violations of law.

Why does not the administration wish for the cooperation of the Congress? Why all of this back and forth hot rhetoric which creates, certainly in the minds of the people, the imagery of "it is us against them?"

Congress wants to cooperate. Congress wants to work within the law. Why does the White House not support this amendment? Why does the White House not want an equal partner in this venture? Why does the White House want to go it alone?

Nobody knows what is going to happen over there in the gulf. It could blow up any day. Then where would the executive branch be? They would be out on a limb, going it alone.

This is an opportunity for a partnership, for bipartisanship, an opportunity for a partnership between the White House and the Congress.

We are not saying, "Get out." We are saying, "Send us up a report. Let Congress have the kind of information that is required to make a considered judgment on this." Congress might then join hands in an extension of the reflagging and convoying of Kuwaiti ships. Who knows what the outcome would be? I do not know; I might vote for continuing the policy at that point. But as of now, the administration is insisting that only it knows what is best, and it is not facing up to the reality of what this amendment really does. This is an opportunity for the administration, the White House, and the Congress to work together, to cooperate. By working together, it would assure that the American people would support the venture.

I know the American people supported the American attack on the Iranian ship that was laying mines. I supported that. I felt it was the right thing for our forces to do in the circumstances. But who knows what may happen next? God forbid, if something should happen that leaves Congress and the White House at great odds in a situation where we ought to stand together. The administration would find that they should have taken the Congress into a partnership.

That is what this amendment is all about. If, on the basis of all the facts and circumstances, and after a careful study of such a report, the Congress should make a judgment that Kuwaiti ships should be deflagged, that there should be no more reflagging and escorting as under present procedures, then that judgment would be in accordance with the law and the interests of the United States.

We ought to have seen in Vietnam that, without the support of the people, a war effort will not succeed.

Mr. President, I yield the floor.

Mr. DIXON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. WARNER. Mr. President, at some point in time, I would like to have an opportunity to engage in a brief colloquy with the distinguished majority leader respecting the very important statement he just made.

Mr. DIXON. Mr. President, if I may briefly address the question of how we are progressing on this bill, the DOD authorization bill, and what we hope to do today, may I report on the fact that on Saturday we had a very useful and productive session here. I would want my colleagues to know that we adopted 11 additional amendments to the bill on Saturday. In addition to that, we eliminated 10 other amendments. So that Saturday was productive in the sense that 21 amendments that had been pending to the DOD authorization bill were disposed of on Saturday.

In addition to that, my colleagues should know that we now have stacked for votes tomorrow morning at—when will the first vote occur? Mr. President may ask the majority leader? I know we come in at 8:30.

Mr. BYRD. The Senate will come in at 7:45 tomorrow morning. At 8:30, the first vote will occur. It will be in the morning, with a 30-minute rollcall.

Mr. DIXON. I thank the majority leader.

So at 8:30 in the morning the first vote will take place which will be the vote on the Conrad amendment. The majority leader indicated that will be a 30-minute rollcall. That will be followed by two other amendments. I am not sure of the other—but the amendment by the distinguished majority leader, Senator Byrd, and an amendment by the distinguished minority leader, Senator Dole.

So we adopted 11 amendments Saturday, we eliminated 10 amendments, and we have three stacked votes beginning at 8:30 tomorrow morning. My colleagues are advised that 45 amendments still remain. I am told by the staff that it is the hopeful and optimistic view of the staff that perhaps 20 of those may fall by the wayside. So there are still 25 amendments, and that, of course, is exclusive of the SALT question or the War Powers question—25 amendments remaining.

I want to say to my colleagues wherever they may be on the Hill this morning that the distinguished ranking member, the distinguished Senator from Virginia, is here. I am here. The majority leader is here, and others will be here in time. We would like to dispose of some of those amendments today. Remember, tomorrow will be very limited in time after the first rollcalls. The time remaining between then and 8 p.m. in the evening will pass very quickly with 30 minutes allocated to every amendment. And I find that when people are here, they tend to use up the 30 minutes. That was our experience on the first amendment Saturday morning. So I hope my colleagues will come over here now.

I am advised that there are maybe seven or eight amendments we could still take on that list. Those who are around here know who they are and that their amendments are acceptable to us. To the extent they can come in now we would love to adopt those amendments, and take care of those amendments which we can dispose of today. Anyone else who wants to come over and state their case on amendments are invited to come over at this time. We hope we can do substantial business.

I will yield the floor, Mr. President, because my friend from Virginia I think has some things to say.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Virginia, Senator Warner.

Mr. WARNER. Mr. President, I join with the distinguished Senator from Illinois in encouraging Senators to come forth because we can make considerable progress today and in hopes lay a foundation which will enable this bill to move forward on Tuesday under the unanimous-consent request, and be concluded in a satisfactory manner this week.

Mr. President, seeing the distinguished majority leader on the floor, I wonder if he would enable me to have a few moments here in the nature of a colloquy. I would like first to make a few statements, and then perhaps I can express to the distinguished leader some areas of concern I have on this amendment during the course of the day. We can discuss those concerns together perhaps with other Senators, and thereby begin to frame the debate in all likelihood that will take place this week, a very important debate, Mr. President, on the War Powers.

First, in a spirit of fairness, I would say to my good friend from West Virginia, that the headlines that say "Democratic Leadership Attacking the President" in the nature of the War Powers debate, it seems to me have an element of unfairness because as I have been present on the floor throughout this bill with the exception of the brief period on Saturday. The first round on the War Powers debate indeed was initiated entirely by Senators from this side of the aisle, the Democratic side. But they were joined by Senators from this side of the aisle.

That debate went on for some time, and was resolved by the Senate in a vote of 50 to 41, somewhere in that area, and we can correct the Record and put in the exact vote. Then there was a change in factual circumstances in the Persian Gulf. Senators of good conscience can debate those facts as to whether or not there is a changed circumstance. And in essence that prompted two other Senators, two Republican Senators, to initiate once again the debate on the War Powers resolution.

Again, my two colleagues, the Senator from Connecticut and the Senator from Oregon, in good conscience took the changed factual situation, and it was their view that this necessitated a second debate on this issue by the Senate.

In the course of that debate the distinguished majority leader, the chairman of the Senate Armed Services Committee, the Senator from Arkansas, the Senator from Washington, and myself, recognized that once again the Senate would be called upon to consider the War Powers Act in a good effort to try to determine whether or not there was a framework by which we could necessarily compromise the position. I think the word perhaps should be "bridge" the different viewpoints. Perhaps the distinguished majority leader will mention later in this colloquy that he in good faith felt it was not probably wise at this time for the Senate to review for a second time the war powers issue. But since the two Senators on this side of the aisle had raised the issue, he was compelled to address it and determine if there was another means by which rather than go straight to the War Powers Act this body could look at the changed factual situation, and comply in essence with the spirit of the law.

The sequence of our work on that covered 2 days. At the end of the first day, we drafted an instrument which I took down to the White House, discussed with the National Security Advisor, Mr. Carlucci, and others, and it appeared at that time that instrument might serve the purpose.

Subsequently, the next day it was the judgment of a group of Senators that perhaps this instrument would not meet the goals. At that juncture I had to indicate to the distinguished majority leader that I felt I could no longer be of value in trying to erect this bridge between the viewpoints. At that time, others sat down under the leadership of the Senator from West Virginia and drew up the amendment which is now known as the Byrd amendment.

So I want to say that I view this debate, the first debate as well as the second debate, as a bipartisan one and not an attack—not an attack—by the Democratic leadership against the President or in any other way an effort that could be characterized as partisan.

Having said that, I say to my good friend from West Virginia that as I examined his amendment, there are several areas, and this I think will afford us an opportunity to generally speak about those areas of my concern.

First, with respect to the provision that reads and unfortunately my copy has a blur in it, but I think it is paragraph C(1), and it reads:

> The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in section 4(a) of the War Powers Resolution.

I ask my good friend from West Virginia if that were adopted, would not that provision alone in the amendment trigger the operation of the War Powers Act? And it would have the effect as a declaraton of the Congress that the facts of the situation in the Persian Gulf meet 4(a)(1) and in effect trigger the War Powers Act.

I wonder if my distinguished colleague might address that point.

Mr. BYRD. I wonder if the distinguished Senator would repeat his question.

Mr. WARNER. Yes.

I draw the Senator's attention to his amendment, Amendment No. 732, entitled "Byrd and others," to Amendment 712, eight pages. I go the second page, the bottom paragraph, and I quote:

> The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in section 4(A)1 of the War Powers resolution.

The question, precisely, is this: Does not that provision trigger the war powers resolution?

Mr. BYRD. Mr. President, in my judgment, the War Powers resolution has been triggered by the events that have occurred in the Persian Gulf. Without the Byrd amendment and the way it is drawn—which is supported by Senators NUNN, BUMPERS, ADAMS, BYRD, SASSER, and others—then, indeed, the War Powers Act, which is the law of the land, should be followed in the fullness thereof. But the Byrd amendment goes on to put this whole matter into a different mode, so that the full thrust of the War Powers Act is withheld for the time being.

Mr. WARNER. I ask my good friend from West Virginia: What is the legislative effect if this Byrd amendment were to become law? Does the War Powers Act remain on the statute books? Is it amended by this amendment?

What does a President do? You have one law, the War Powers Act—which I will address later, and in my judgment, at this point in time, should not be addressed in Congress, but I will give those reasons later—you have the War Powers Act; and then if this were to become law, the Byrd amendment. There are two separate tracks calling for two separate courses of action by the President.

I ask my good friend, What is the President to do? Is he to follow the War Powers Act, if, as the Senator from West Virginia says, the facts have already triggered that act, or is he to follow the Byrd amendment? They are quite distinct.

Mr. BYRD. The President, I think, in the present circumstances, the President should follow the requirements of the War Powers Act, because there is no question in my mind but that the United States not only is in an atmosphere where imminent hostilities are prevalent but also has been involved in those hostilities, in the first place, by having one of its own ships hit by the Iraqis; in the second place, by firing its helicopter missiles against the Iranian minelaying ship, which action I support fully.

The President refuses to meet the requirements of the war powers resolution.

Mr. WARNER. Mr. President, at this time, I am sure the leader would want those who are following this debate to know that every President, Democrat and Republican, has acted likewise with respect to this act. No President has accepted it as the law of the land, but they have acted within the spirit. Indeed, President Reagan, in this particular instance, has acted within the spirit and forwarded to Congress his communications of last week in the nature of a report.

Mr. BYRD. That communication of last week was what I would call a "mini" report. It would almost take a microscope to establish that it was any report at all.

What we are talking about in this amendment is a report that would comply with the requirements of the amendment and set forth certain specific items that are being requested, on which Congress could than make a considered judgment as to whether the current reflagging and escort policy in the gulf should be extended.

So, to further the Senator's initial question, this amendment does not repeal the War Powers Act. The War Powers Act would still be on the books. But for a very limited period of time, a different thrust would be initiated, giving the President more time than the 48 hours required in the War Powers Act—giving him 30 days in which to submit a report. A report cannot be just a page or two pages of a letter sent up here from the President to the Senate, purporting to be a report, but a report should contain the kind of information which, the Byrd amendment requests.

Then Congress would have 60 days in which to make a judgment thereon. At the end of 60 days, if Congress had not declared war or had not authorized an extension of the current policy, then it would end. It would not, however, be as the War Powers Act requires, under which the President shall terminate "any use of United States Armed Forces." If the War Powers Act were fully implemented here, the President would have to pull out the minesweepers and the helicopters and the battleships and the other ships and the planes and the aircraft carriers—all of these, if Congress did not extend the present policy or declare war.

That is not being asked for here. This amendment merely says that the reflagging and convoying operation would have to stop at the end of 90 days from enactment if it had not been authorized in the meantime.

So, for the moment, the full thrust of the War Powers Act itself, which in our judgment has really been triggered by circumstances, would be suspended.

Mr. WARNER. Mr. President, I think this is a very valuable colloquy we are having here.

In reviewing what the distinguished leader has said, the Byrd amendment "does not have the effect of repealing the War Powers Act." Yet, the distinguished leader says that, in his judgment, the factual situation requires the President to comply with the War Powers Act.

If that were the case, then why go ahead and address the War Powers Act as it is now written on the books? It has been the law, as the Senator from West Virginia points out, for nearly 15 years. What is it that the Byrd amendment provides that enables a President—this one, Ronald Reagan—to sidestep the War Powers Act, as has every other President?

What are we doing today or tomorrow or in the debate or when this becomes law that in the majority leader's judgment enables the President to have the justification to sidestep the War Powers Act and just comply with the Byrd amendment?

Mr. BYRD. Mr. President, this is not sidestepping of the War Powers Act. This is a narrowing of the total thrust of the War Powers Act to meet a specific situation. It gives the President a little more flexibility than he would have under the War Powers Act. It gives the President more time for the report and then in the final analysis if the thrust of this amendment is fulfilled, it would be only for reflagging and convoying. The War Powers Act would still be the law of the land.

Mr. WARNER. Then, Mr. President, what is the obligation of this President, assuming the Byrd amendment becomes law? Is he still obligated in the majority leader's judgment to comply with the full War Powers Act, or does the Byrd amendment provide a justification for him not to comply with the War Powers Act but just the Byrd amendment?

Mr. BYRD. He complies with the Byrd amendment.

Mr. WARNER. What is the reason that the Congress would then give him for not complying with the War Powers Act? I mean both are laws of the land. One does not repeal the other.

Mr. BYRD. The Congress is not giving him any reason for not complying with the War Powers Act. The Congress is recognizing an ad hoc situation there and it is dealing with this matter on an ad hoc basis by saying, "Mr. President, you have 30 days, not 48 hours, because we recognize that you are already into the situation; we do not agree that you should have gotten into it, but you are there and we recognize that. Give us a report but not the kind of report that we got the other day. Give us a report that sets forth the information requested in the amendment."

Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, if I may continue my thought.

Mr. WARNER. Excuse me.

Mr. BYRD. And then Congress will make a judgment. Congress will make a judgment as to whether or not this policy should continue, and if it does not extend the reflagging and convoying in 60 days then it will stop. Unlike the War Powers Act, the Byrd-Nunn amendment would not require the termination of "use of United States Armed Forces" in the gulf. We do not pull out a single helicopter. We do not lessen United States presence in the gulf.

It would seem to me that the administration would welcome this opportunity to develop a partnership with the Congress. We need to stand united in the gulf.

Mr. WARNER. Mr. President, that is the basic reason that I suggest, and I will address it later, that we should not at this time be engaging in the debate because we should stand united. But I come back to this situation, I say to the leader, let us assume that the Byrd amendment would be accepted this week by the Senate in the course of the debate on the DOD authorization bill. What is to prevent another Senator from rising on either side of the aisle and say that the War Powers Act is still the law of the land and the President must comply with that irrespective of the action taken by this Chamber on the Byrd amendment? What would be the answer to our distinguished leader?

Mr. BYRD. I would say to my distinguished friend that the best way to inhibit and prevent the likelihood of such is for both sides to get together and support this amendment and then this amendment, if it were signed by the President, would become the law of the land for that particular policy and for that particular set of circumstances.

But the distinguished Senator has asked the question. Why does not the Congress address the War Powers Act?

Well, Mr. President, we are not in a situation where we have that kind of time. We have the War Powers Act on the books, and it is going to take a lot of time and effort, attention and study, and a good many hearings and probably by more than just one committee to address any overhaul of the War Powers Act.

I have never felt comfortable with the War Powers Act. I have felt there are just too many loopholes in it and in some ways, it goes too far. I feel that we need, at some point, to address that War Powers Act, but we are now in a specific and hostile situation over there—anything can happen at any time fast, overnight, in a single hour, may be happening right now—who knows—and what we are endeavoring to do here is get the Congress and the administration together if it is justified. The President and the administration are going ahead with the policy and the Secretary of Defense says that an amendment of this kind is absurd. Mr. President, it is not absurd. Many of the elected representatives of the people in this body feel that we are not abiding by the spirit and the letter of the War Powers Act. But in recognition of the peculiar circumstances that obtain in the gulf situation, we are not saying apply the War Powers Act in its full force, but let us fashion an approach that will give the Congress an opportunity to study a report submitted by the President and reach a judgment as to whether or not we ought to pursue the present policy.

Mr. WARNER. Mr. President, another question, if I may, and I would like to lay a bit of a foundation for this question. The distinguished majority leader has been on the Foreign Relations Committee. He is well familiar with the international fora that are addressing this issue today. He is familiar with the fact that the Secretary of State as we are debating this morning is working with the Soviet Union, Foreign Minister Shevardnadze, to try to get the Security Council to proceed to a second resolution which would embargo arms flowing into the war zone.

He is also familiar with the fact that when we first started the debate on the Persian Gulf in this Chamber, time and time again this Senator and other Senators got up to forewarn our colleagues that it had the appearance that the United States was going to go it alone in the gulf because at that time although there was a modest presence by the United Kingdom and indeed some modest presence by the French Navy, it was uncertain as to whether those navies would work in some manner in an informal way with our Navy toward the necessity of cleaning up mines and other military actions in the gulf.

But the United States Navy has received the support, the strong support of an enhanced British presence, of an enhanced French military presence, of an Italian presence, and other nations coming in, so the allies are beginning to come in and join, and likewise the Gulf States, and for good and valid reasons are very careful not to formally acknowledge what they are doing but, nevertheless, we know that the infrastructure being provided by the Gulf States has slowly begun to increase to meet the added requirements of an enlarged military presence.

And to cap it all off the U.S. Navy in a most professional and heroic action has gone out and seized the very evidence which has removed any doubts from the minds of any citizen of the world that Iran is in the gulf to disrupt international shipping and the freedom of navigation by use of mines and other military tactics. Redhanded they were caught. Those are the events that have transpired.

And I ask my distinguished leader, given the totality of the international fora, primarily the Security Council addressing the issue, the enlarged participation by our allies, the support by the Gulf States, and by the really brilliant, brilliant and heroic actions of the men and women of the Armed Forces of our Navy, Army, and Air Force and other military components of other nations in the gulf why at this time should we launch the debate which debate could send the message of uncertainty and require other world leaders to say let us wait a little while to see what happens in the Congress of the United States?

Will the Congress continue to support the President or will they pull the rug from under the President and say, "Bring those troops home, Mr. President," even though the Byrd amendment is limited to the reflagging?

When Senator GLENN and I were sent to the gulf at the direction of the distinguished majority and minority leaders of this body to make a fact-finding survey for the other Members, if there was one message we brought home it was the fragility of the United States credibility in that area as a consequence of Lebanon, as a consequence of the ayatollah seizing our hostages at the Embassy, a series of actions which had left in the minds of the Gulf States and the nations in that region a feeling of insincerity by the United States, a feeling of a lack of commitment, a feeling of unreliability. And once our President made the decision to go in, part of that decision was predicated on: Let us indicate to that region of the world, indeed the whole world, of the firmness, of the resolute intention of the United States to be a partner with other nations of the world to try and achieve freedom of navigation and to bring about a cessation of those hostilities.

If we were to enter into that debate, would not it inject an element of uncertainty in all of the actions that I have mentioned here thus far which are at the present time moving forward with some reasonable hope for success to bring about peace in that area?

Mr. BYRD. Is the Senator asking me that question?

Mr. WARNER. Yes.

Mr. BYRD. Mr. President, the element of uncertainty in the area was introduced last year and prior thereto in the sale of arms to Iran, one of the two gulf belligerents; the sale of arms to Iran by this administration as a secret policy while publicly it was enunciating a different policy, 180 degrees therefrom. That is where the degree of uncertainty first arose. That is when the loss of credibility occurred for our country in the gulf.

Many people in this country feel that the current policy of reflagging and escorting is an attempt to get the administration off the hook from its former errors which cost this country greatly in credibility. Now, that is where the uncertainty first began.

The distinguished Senator and spokesmen I would say, in the administration have referred to the enhanced presence of other countries in the gulf as though we are building among other countries with ourselves, a combined unified thrust in which we are all working together to implement and support a policy of reflagging and convoy. There is no such thing.

I do not denigrate for a moment the bravery and the courage of our fighting men in the gulf. I am fully supportive of our presence in the gulf aside from the convoying act.

But, Mr. President, the French ships and the English ships and the other ships that are in the gulf are not escorting reflagged foreign vessels. We, however, are escorting the vessels of another country that carry the American flag. The French are not doing that. The British are not doing that. They are tending their own business and making sure that their own ships and their own operations are protected and that the shipping lanes are kept open. But we are doing something beyond that, and that is what this amendment is trying to get at.

We have tried to craft an amendment which targets the War Powers Act. We do not wish to see our commitment to the gulf itself undermined.

The only area of disagreement is the area of reflagging, putting the U.S. flag, the Stars and Stripes, on the vessels of another country and then escorting those vessels in a situation where American fighting men and women are having their lives endangered thereby.

So we have asked for a report on that operation and its goals. And we are trying to remove the area that divides the support for a gulf presence and unite behind a policy in the gulf. We are after a strong bipartisan signal to the gulf states and our allies that we intend to be in the gulf. And we who support this amendment intend to be in the gulf. We intend to remain there. Nobody is going to run us out of the gulf. I do not for a moment support the withdrawal of our presence in the gulf. We are also trying to remove the appearance of taking sides in the gulf.

Mr. President, we are rapidly becoming and we have already become, in spirit and in fact, more than a neutral in the gulf war. We are tilting toward one of the belligerents. Who started the war there? Iraq. Whom are we supporting? We are supporting Iraq, indirectly at least, and we should not be supporting either side. We should be utilizing our energies to bring that war to an end, but we are supporting Iraq.

A year and more ago, we were furnishing arms to Iran. We were helping Iran under the cover, secretly, deviously providing arms to the Iranians, claiming that we were a neutral. We now have shifted. Openly, we appear to be supporting Iraq.

All we are asking here is to be given 3 months' opportunity to review our policy and to build support in the Congress if we determine that policy to be correct. We want to build bipartisanship in this amendment. Let us stop tilting in the war.

Mr. WARNER. Mr. President, would the distinguished leader then envision that the debate which would take place pursuant to his amendment, assuming it became law, would be narrowly restricted only to the flagging issue, when both the distinguished leader and I know there are Senators of good intentions, although I disagree, but of good intentions and clear conscience on both sides who take a viewpoint entirely different from that of the distinguished leader; namely, we ought to get out of the gulf, except perhaps retaining our small naval presence that has been there for some 40 years, but not be involved in this type of action, be it reflagging or anything else in the gulf.

I mean the clamor comes that we, the United States, get very little benefit from the oil that flows in terms of the purposes of getting our own oil out of there. I dispute that. Oil is a fungible good and it goes into a common market and I will not get off on that. But my point is: How do you propose to restrict this debate in such a way it is confined only to the reflagging issues?

Mr. BYRD. Vote for this amendment, and if the President will sign it, that is precisely what will happen.

I, frankly, do not know of any Senator in this body on either side of the aisle—maybe there are some—who is suggesting that the United States totally withdraw its presence from the gulf or that we get out of the gulf. I do not know of a single Senator who supports that. There may be some, who feel that way about it. I do not feel that way about it.

Mr. WARNER. Mr. President, the last question—and I see other Senators seeking recognition to get on with the bill. But I wonder if I might draw the distinguished leader's attention to page 3, paragraph 3, which reads:

> Within 60 days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States Armed Forces to escort reregistered vessels in the Persian Gulf region . . .

It is the phrase "terminate the use of United States Forces."

Is that as a consequence of our power over the purse or are we directing, by law, that the Commander in Chief—are we giving the Commander in Chief an order, pursuant to this amendment?

Mr. BYRD. Yes, we would be ordering the termination of the policy if it were not extended by Congress. Yes. We are doing precisely what the War Powers Act does except we are doing it in a very narrow area. The War Powers Act—reading from section 5(b) under Congressional Action, Public Law 93-148, enacted November 7, 1973—that act, which is the law of the land today, says that, "the President shall terminate any use of United States Armed Forces with respect to which such report was submitted * * * unless the Congress has declared war or has * * *" extended by law such 60-day—and so on.

In the War Powers Act it is not the use of appropriations. It is a direction to the President to stop the use of all Armed Forces involved in a given situation.

Here we are saying to the President: Terminate the use of U.S. Armed Forces to escort reregistered foreign vessels in the Persian Gulf region, that carry the American flag unless the Congress has enacted a law providing specific authorization for such registration and escort.

Mr. WARNER. Mr. President, I think the distinguished leader would agree with me that it is that phrase that is the most troublesome in the War Powers Act and now, again is in the Byrd amendment, which I say with no disrespect is War Powers II, so we will have two War Powers Acts now. But it is that phrase that gives the constitutional scholars and many Members of this body the greatest concern over the unconstitutionality of the War Powers Act and, indeed, the same arguments will be directed to the Byrd amendment. That is my concern, that this debate, while the Byrd amendment tries to focus it on the issue of reflagging, must of necessity, out of good conscience of those with concerns on both sides of the aisle, overflow into this question of the constitutionality of the War Powers Act and also the Byrd amendment.

Mr. BYRD. Mr. President, the Senator refers to the unconstitutionality of the War Powers Act. I do not say the War Powers Act is constitutional or that it is unconstitutional. I say it is constitutional until it is held to be unconstitutional. It has not been held to be unconstitutional by any court in this land. The Congress could change the law.

Mr. President, nobody can stand up today and say with finality and absolute certitude and convincing logic that the War Powers Act is unconstitutional.

Mr. WARNER. Well, Mr. President, we, perhaps, better bring this to a close. I recognize that the judicial branch, the third branch of our Government, is primarily concerned with judging the laws of the land as to their constitutionality. But this Chamber, and indeed I think there is considerable sentiment on both sides of the aisle, could reflect on the War Powers Act in light of changed circumstances in the world. I will deal with that on another debate.

In other words, this act was drafted against the background of major and prolonged military engagements. Now the principal threat to the United States, in addition to longstanding threats, has grown to embrace many, many actions requiring our military, of a limited time, limited nature, precipitated by terrorist actions throughout the world which have grown and proliferated, regrettably, since the War Powers Act. But I think perhaps for the moment we have had a very valuable exchange. I do not wish to delay the Senators desiring to move ahead with this bill and I look forward to the lively debate with my good friend, the Senator from West Virginia, on this at such time as the Senate determines we will take it up; possibly later this week.

Mr. BYRD. I thank the Senator. I could certainly have no higher respect for any other Senator or opponent in debate than I have for the Senator from Virginia, Mr. WARNER.

Mr. DIXON. Mr. President, may I say we are presently discussing with several Senators agreed amendments that can be accepted this morning. There are at least a half dozen amendments with Senators who are prepared to come over here shortly, we would hope, on those amendments. In the meantime the fact is that the Senator from Wyoming has an amendment that will take some time. I do not believe at this point in time, at least, that that amendment is agreeable to this side and so I think the Senator from Wyoming is prepared to proceed on an amendment, pursuant to the agreements previously made concerning the DOD authorization bill.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

The Senator from Wyoming.

AMENDMENT NO. 773

(Purpose: To express the Sense of the Senate that the Secretary of Defense should establish as a mission of the Department of Defense the defense of the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself, Mr. SYMMS, Mr. ARMSTRONG, Mr. HECHT, Mr. QUAYLE, Mr. WILSON, Mr. HOLLINGS, Mr. HATCH, Mr. BOND, Mr. HELMS, and Mr. GARN proposes an amendment numbered 773.

Mr. BYRD. Will the Senator yield for a question?

Mr. WALLOP. Yes.

Mr. BYRD. I thank the Senator. The following Senators have indicated their wish that their amendments be dropped from the list: Mr. Bradley, SALT II compliance; Mr. BUMPERS, an amendment on SDI architecture; Mr. BUMPERS, a sense-of-the-Senate amendment on conventional arms; Mr. METZENBAUM, an amendment on burden sharing.

I ask unanimous consent that those amendments be dropped from the list.

The ACTING PRESIDENT pro tempore. Without objection it is so ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. WALLOP. May the Senator inquire of the Chair if the amendment is now in order?

The ACTING PRESIDENT pro tempore. The amendment is in order. The clerk will report the amendment of the Senator from Wyoming, Mr. WALLOP.

Mr. WALLOP. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Since, no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

Since, the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

Since, six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

Therefore it is the sense of the Senate that the Secretary of Defense should not later than 60 days after the date of enactment of this act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

Mr. WALLOP. Mr. President, I noted with perhaps some dismay that the Senator from Illinois, my good friend ALAN DIXON, suggested that this might take some time. If that is the case, it is regrettable.

It is a relatively simple thing which I and my 10 cosponsors seek to do and we would wish that this was not even necessary.

Mr. President, we are engaging today in one of the most essential and serious of the Senate's responsibilities: the authorization of funding for our national defense. National defense is the primary function of Government; it was the primary purpose expressed by the Founding Fathers in our Constitution, that this Government is hereby constituted by the people to "provide for the common defense."

In the next few days, Mr. President, we will authorize $300 billion, a staggering sum of money, to carry out this function of Government. Billions and billions of dollars for manpower, retirement benefits, operations and maintenance costs, conventional weapons such as tanks, fighter aircraft and major surface combatants. In spite of all this money and all this effort—and believe me, as the Senator from Georgia and the Senator from Virginia should know, I am a strong supporter of improving our conventional defense capabilities—we still cannot prevent a single Soviet nuclear-armed missile, once launched, from reaching our territory. Three hundred billion dollars, Mr. President, and we are completely naked to Soviet nuclear weapons. And that includes Soviet bombers. How can this be?

I know we are authorizing well-nigh $4 billion this year for the strategic defense initiative [SDI]. But will any of that money provide actual protection for the American people against Soviet missiles? The answer is "No." Has the appropriation we are about to make challenged the Military Establishment to take on the task of defending the country from Soviet nuclear weapons with vigor and speed? It has not. It has done none of these things, Mr. President.

Mr. President, do the American people want to be defended from Soviet nuclear weapons? Every poll that this Senator has seen indicates that the American people believe this to be an important part of our defense role.

Indeed, the American people cannot believe we do not already do this. More than two-thirds of them think there is an adequate defense against missiles.

A recent poll, to which I referred my colleagues in a previous statement, shows the powerful strength of Americans' commitment to defense and, I might add, how sophisticated their understanding of it is.

Seventy-seven percent favored going ahead with SDI research and development. Seventy-four percent favored deploying such a defense if it is developed. In response to a question, Mr. President, about whether SDI should protect primarily cities, primarily missiles, or both equally, an astounding 75 percent favored defending both.

The only area where there was tremendous confusion about strategic defense was when Americans were asked whether we currently possess a system to defend against nuclear missile attack: 64 percent said they thought we have such a system. I submit, Mr. President, that this is not so much an expression of ignorance, than of common sense. Who would believe their country had not provided such a defense?

The American people expect, and have every right to expect, that we devote some portion of our $300 billion defense budget to a defense against the greatest threat facing us: Soviet ballistic missiles. Yet today, Mr. President, not one branch of the Armed Forces even has the mission—the assigned mission that drives the formulation of military requirements, weapons development and deployment, and strategy and tactics for their use—to defend this country from Soviet nuclear weapons.

How can we possible say to the American people we are serious about providing a defense for the American people, a defense they in trust have reasoned we already possess, if none in our Armed Forces or in the Pentagon have the mission to do so?

My amendment then, Mr. President, is very simple. At first, I intended to offer my amendment such that it would require the Secretary of Defense to assign that mission to one or more branches of the Armed Forces. If one day we are to deploy a strategic defense for America, we must have an organization of our Armed Forces to do just that. Nowhere in our Armed Forces does this mission exist. When Americans are informed of this they are just amused and disbelieving, and then they are outraged. Will anyone here say Americans are wrong to expect defenses; to be outraged that none exist?

Does the Senate or the Pentagon expect that such an organization would materialize overnight? That it would be fully prepared to carry out its mission, with a ready-made strategy, with a full book of tactics and war fighting doctrine? Whom do we fool besides the Americans we serve and ourselves? Certainly not the Soviets.

Is it not important for the designated organization to participate in the development of the weapons and other systems it will be required to employ? Of course it is.

The current mission statements of those commands that might take over the defense of our country from Soviet nuclear weapons are crudely inadequate. Even a joke. The tasks of U.S. Strategic Defense Command, Norad and the U.S. Space Command amply demonstrate that a special arm dedicated to U.S. active defenses is essential. As it now stands, the mission statements are as follows:

The mission of the United States Army Strategic Defense Command is to "conduct a coordinated research program * * * which ensures a timely, energetic, cost-effective development of mature and revolutionary technologies for defense against ballistic missiles.

Mr. President, you cannot develop a body of doctrine on only a coordinated research program.

The North American Aerospace Defense Command, Norad, classifies its mission areas in the following order of priority:

First, warning of missile and bomber attack.

I might ask, What do we do with a warning that we have no capability to confront?

Second, tracking and cataloging Earth-orbiting satellites; and third, "maintaining the peacetime sovereignty of United States and Canadian airspace, and providing limited defense against an air attack."

The mission of the U.S. Space Command, the command I am told will get a future SDI deployment, is the most artful piece of bureaucratic obfuscation I have yet seen.

The Space Command mission is to manage and operate assigned space assets, to centralize planning, to consolidate requirements, to provide operational advocacy, and to ensure a close interface between research and development activities and operational users of Air Force space programs.

That is some kind of a mission for a military force. That is some kind of a mission for the American people to rely upon for their safety. Most Americans could not even understand the bureaucratic words in it except to know that nowhere in this mission is there an obligation to confront the enemies of the United States should they seek to attack this country.

Who in this Senate will tell me that any of those missions make them or their families feel secure and protected? We can protect ourselves I assume with multiple layers of bureaucratic gas, impenetrable, imponderable, and ever so secure.

These organizations, Mr. President, are performing their missions well. But who here sleeps more comfortably because we have a research program, or because we can look to the peacetime sovereignty if an Aeroflot airplane goes off course, or because our space command is an operational advocate of Air Force space programs?

Certainly I am not. The Senator from Wyoming believes that this is not adequate. It is time that we organize the Armed Forces of the United States to defend the country from Soviet nuclear weapons, particularly ballistic missiles. It is time we have the ability to defend ourselves and our people against bombers. It is time that it was somebody's job to organize the tactics and the strategy, whatever the decisions of this Senate may be of actually providing weapons. Those who must ultimately use them should be in on the design, tactics, and strategy for their construction and their deployment.

I stated that I had intended to make this amendment legislatively binding. I am told that those opposed to the amendment on the other side of the aisle planned on accusing it of micromanaging the Pentagon. It would be a sublime irony to this Senator to be accused of meddling in Pentagon affairs by an Armed Services Committee and a Senate that last year alone reorganized the entire Pentagon, established a new special operations directorate with a commanding general and a new Assistant Secretary, and placed their own acquisitions czar in a new Under Secretary position to keep track of how money was spent.

Mr. President, the Senator from Wyoming gladly supported these initiatives because I thought they were well-intentioned and truly needed, and I thought they were a valid expression of a reorganizational requirement to place America's security at the head of the line. They made sense in their own terms. And I had hoped that Senators might decide on my amendment on the same basis, but I lost that illusion in conversations with the other side. Be that as it may, I have decided to offer this amendment as a sense of the Senate that states that this vital defense mission—the mission to defend the American homeland from Soviet ballistic missiles—should be promptly assigned by the Secretary of Defense to whatever elements of the Armed Forces he sees fit.

Mr. President, I ask for the defense of America. This vote begins to defend America. The greatest military threat our country has ever faced is before us now. Will we shrink or will we surge? It is no awesome choice viewed in its own perspective. Why would Senators trust America's survival to the leaders of the Soviet Union when they have it in their own hands?

So I say please to my colleagues; please, our country cries out to be defended.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER (Mr. LEVIN). The Senator from Nebraska.

Mr. EXON. Mr. President, there is a time agreement on this amendment.

The PRESIDING OFFICER. Thirty minutes evenly divided.

Mr. EXON. How much has been used by the proponents of the amendment thus far?

The PRESIDING OFFICER. Approximately 14 minutes.

Mr. EXON. I think we might be able to cut down the time on this considerably. In the first place, I would like to ask unanimous consent—I have not had a chance to discuss this with the author of the amendment yet or the minority side, but in reading the amendment that was offered at the desk, I think there is a typographical error in the first part of the "therefore" section. It reads "Therefore, it is the Senate of the Senate." I suspect it should be "Therefore, it is the sense of the Senate."

Mr. WALLOP. The Senator is correct.

Mr. EXON. I ask unanimous consent that correction be made on the amendment as offered by the Senator from Wyoming.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, there have been statements made in the opening remarks and debate that this measure is opposed by the other side. One of the great tragedies of the U.S. Senate these days is that we like to make everything black and white, "us against them or them against us." That is not the case at all on most of the amendments that have been brought out. Some of the more controversial ones tend to divide somewhat along party lines, but even then it is somewhat blurred.

I would certainly first say in opening debate that it has been somewhat difficult for the majority to know for sure what was coming on this amendment because it has been changed considerably. It grew out of S. 900, I believe was the number.

Mr. WALLOP. If I may respond, it did not grow out of that.

Mr. EXON. It is extremely similar then, Mr. President, to S. 900. That was a very complicated and extremely controversial measure.

Mr. WALLOP. Mr. President, if the Senator would yield——

Mr. EXON. Do I have the floor, Mr. President?

Would the Senator from Wyoming please be kind enough to let me start? And then he has 1 minute and will have a right to rebuttal at that point.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the amendment smells like S. 900 that was referred to the Armed Services Committee properly so because it is a highly complicated piece of legislation that was strongly opposed by the Chairman of the Joint Chiefs of Staff. We do not have near the initial objection to the presence of the Senate amendment offered by the Senator from Wyoming and expressing a sense of the Senate, and I am not sure that this Senator nor the others on this side are definitely opposed to it as it is drawn.

I would like to suggest that we might be able to accept the sense-of-the-Senate amendment as offered by the Senator from Wyoming and others if an extremely minor change could be agreed to in part 1 under the "therefore" clause of the sense of the Senate as introduced. I would explain to the Senate that under the "therefore, it is the sense of the Senate: One, to defend the United States against all aerial attacks including aircraft, ballistic missiles, cruise missiles and other types of missiles" and so as to not mislead the public because I think we have the duty always to level with them as I am sure the Senator from Wyoming and the Senator from Nebraska and our colleagues try to do, as we explain the continuing dangerous threat from the continued threat of expansionism and adventurism by the Soviet Union.

It is not only important that we explain what we are doing as Members of the U.S. Senate, especially the defense community, but also to indicate there has been some accomplishment of recent date that would preclude that. I think the Senator from Wyoming knows that the Senator from Nebraska, the chairman of the Strategic Deterrence Subcommittee of Armed Services, has been extremely supportive of the research development of SDI. I hope and pray that eventally it comes out to meet our fondest expectations.

I would simply say that if it could be agreed to insert the words under one "* * * to defend * * *" as stated, and insert the words "* * * to the fullest extent possible * * *" and then and so forth, "* * * the United States against all aerial threats including aircraft * * *" and so forth, I think that carries out the same meaning as the basic thrust of the amendment of the Senator from Wyoming. If that could be accepted, we would agree to accept the amendment on the majority side.

I yield. Since I believe the Senator from Wyoming has only 1 minute left, I would be glad to yield 1 minute of my time to him and 1 minute of my time to the Senator from Virginia for a response to the offer that I have just made.

Mr. WARNER. Mr. President, I see no Senator seeking recognition. I think the managers here on the floor today have certain flexibility. I think we should perhaps add another 10 minutes time to the unanimous-consent request governing this amendment. Then that gives ample time for further comments.

Mr. EXON. In other words, rather than 15 minutes equally divided it would be 20 minutes equally divided; is that correct?

The PRESIDING OFFICER. Is there objection? With the remaining time, the majority side now has 10 minutes left.

Mr. EXON. No. I think under the agreement——

Mr. WARNER. The purpose of the request was to add 10 minutes to the existing time agreement of 30, which means another 5 minutes equally divided on both sides.

Mr. EXON. There were 15 minutes equally divided, to begin with.

The PRESIDING OFFICER. Will the Senator state the unanimous-consent request?

Mr. WARNER. I make the unanimous-consent request that the time agreement governing this amendment, of 30 minutes, be extended to 40 minutes, and that the time be equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. EXON. Since the Senator from Wyoming, therefore, has time of his own, I withhold the 1 minute that I previously offered to him and ask him to respond to the offer I just made.

Mr. WALLOP. I think my 1 minute was used up in the parliamentary inquiry.

Mr. President, I guess I have no objection to "to the fullest extent possible," because, after all, that is the mission anybody carries out. But I must say that it strikes me as quirkish that in a simple statement of requirements we add a little bureaucratic language. If that is the wish of the Senator from Nebraska, "to the fullest extent possible," which is what we would be doing under any circumstances—the amendment does not call for them to defend to the fullest extent they desire, or practicable, or any other kind of thing.

I think it speaks the same language, and to that extent, I would accept that.

Mr. EXON. Mr. President, with the statement just made by the statement of the Senator from Wyoming, I plead guilty to the bureaucratic language, to the tune of five words, as I suggested earlier.

Mr. WALLOP. Will the Senator tell me what the fifth word is? I have only four.

All right.

Mr. EXON. I did not hear the Senator from Wyoming.

Mr. WALLOP. I was asking what the fifth one was, but I was using my arithmetic.

Mr. EXON. Mr. President, does the Senator from Nebraska have the floor?

The PRESIDING OFFICER. The Senator from Nebraska does indeed have the floor.

Mr. EXON. The Senator from Nebraska was explaining, attempting to explain, the five bureaucratic words, or otherwise, "to the fullest extent possible," be inserted after the words "to defend" in the "authority" portion of the sense-of-the-Senate amendment offered by the Senator from Wyoming and others. If that is accepted—it has been indicated that it would be—we have no objection to the sense-of-the-Senate amendment.

Mr. WALLOP. Mr. President, how much time does the Senator from Wyoming have remaining?

The PRESIDING OFFICER. Five minutes and twenty-four seconds.

Mr. WALLOP. Mr. President, this is not S. 900 or even the son of S. 900, its cousin or nephew. S. 900 was designed to do something which I think ultimately this country should do, and that was to establish a separate branch of Service whose mission it was to defend the country from ballistic missiles, and other aerial threats. This simply asks the Secretary of Defense to assign as many elements of the Armed Forces of the United States as he may deem necessary to carry out the mission.

Also, the Joint Chiefs have now set up a number of requirements for strategic defenses as part of the Defense Acquisition Board process; and while those exact requirements are classified, they are fully available to all Senators. So we have capabilities which we ought to begin to use, and that is what this mission statement calls for.

I think it is time that somewhere within the requirements of the Armed Forces of the United States, the job to do what we were searching to do be assigned, so that they are in on the design, in on the understanding of what it is that is being designed and will help them accomplish it.

It seems inconceivable to this Senator that you can have a group of people in a research effort and have their product lifted out and dropped in the laps of people who have never been involved in developing a strategy or tactic for their use. This is just a prudent, sensible management approach.

I am glad the majority has seen fit to accept this, and I would hope that on this side it would be accepted as well.

Let me just say that while we are doing this modest, little step here, the Soviet's PVO Strany is in fact a complete defense of the homeland, a separate branch of their armed services, with rocket defenses, with air defenses, and with space defenses. We are giving just a little recognition to what I think the American people genuinely would like to have done in their behalf—a mission to place their defense first.

Mr. WARNER. Mr. President, I will seek recognition after this amendment is adopted and will address my views on this amendment.

I assure my distinguished colleague from Wyoming that this side of the aisle concurs in the amendment, and I think we should proceed now to adopt the amendment. Then I would like to have a few minutes to speak.

Mr. EXON. Mr. President, I am about ready to yield back the considerable time we have remaining on this side because of the agreement.

I want to clarify the situation.

I believe I previously asked and received unanimous consent that the amendment offered by the Senator from Wyoming be modified in changing the typographical error after "therefore, it is"; rather than "the Senate," it is "the sense."

Also, unanimous consent has been granted that the five bureaucratic words, "to the fullest extent possible," be inserted in the amendment under part 1, following the words "to defend."

The PRESIDING OFFICER. The first modification was adopted by unanimous consent. The second has not yet been.

Mr. WALLOP. Mr. President, I ask unanimous consent that I may be permitted to modify my amendment in that way.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered. The amendment will be so modified.

The modified amendment is as follows:

At the appropriate place, insert the following:

Since no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

Since the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

Since six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

Therefore, it is the sense of the Senate that the Secretary of Defense should, not later than 60 days after the date of enactment of this act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend to the fullest extent possible the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

Mr. EXON. Mr. President, with that understanding I thank the Senator from Wyoming and the Senator from Virginia.

Mr. WARNER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 2 minutes and 57 seconds. The Senator from Nebraska has 9 minutes and 43 seconds.

Mr. WARNER. I wonder if I may address the amendment for 3 minutes; then, the time having been yielded back on both sides, we will proceed.

The PRESIDING OFFICER. Who yields time to the Senator from Virginia?

Mr. EXON. I will be glad to yield 3 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, this Chamber recognizes the expertise of our good friend from Wyoming [Mr. WALLOP]. He has studied the strategic equation since the first day he came to the U.S. Senate.

In essence, this amendment, while a sense of the Senate, clearly establishes that there is one Senator—and he will be joined by others—who wants to make it eminently clear that the strategic defense now merits a permanent part of the overall equation of our strategic interests; and that albeit we now have a sense-of-the-Senate resolution, there will be a group, of which I will be a part, together with my good friend, the leader, the Senator from Wyoming, who will be the trustees, the watchdogs, of this concept in the years to come.

And this Nation deserves much attention to the concept of its ability to defend itself in the area of strategic defense as it does in the area of strategic deterrent which we call deterrence but in reality is our offensive capability.

I thank the Senator for bringing this amendment to the attention of the Senate. I thank him for his willingness to cooperate such as it may be made part of this bill and eventually become law in the nature of a sense of the Senate.

I thank the Chair and my colleague from Nebraska.

Mr. EXON. Mr. President, I join my colleagues from Wyoming and Virginia for their concern in this area. I appreciate very much the leadership from the Senator from Wyoming who has been knowledgeable in this field for a long time due to his interest and due to his service for many years on the Intelligence Committee, and I just hope that this sense-of-the-Senate resolution, though, is not going to be interpreted directly or indirectly that there is an indication that there are only those on that side of the aisle who are concerned about the whole strategic defense initiative and defense of this country.

So I thank the Senator for the consideration offered by the Senator from Wyoming. I think his amendment is timely. It may well be that there will be not just those sponsoring this sense-of-the-Senate resolution who will band together in some kind of a formal or informal committee as the Senator from Virginia has referred to, because I think all of us are very interested in finding out what the strategic defense initiative will provide in the way of defenses in the future.

As I said the other day, properly attributing it to someone else, "Everything in its good time," I think the SDI will either prove or unprove itself in the near future as to whether or not it can meet the goals that all of us have for that tremendously important program.

Mr. WARNER. Mr. President, I wonder if the Senator will yield for a question?

Mr. EXON. I am happy to yield for a question on my time, I presume.

Mr. WARNER. Of course.

Mr. President, it was my privilege to serve as the predecessor of our good friend from Nebraska as chairman of the Defense Subcommittee on Strategic Systems and my acknowledgement to our good friend as an expert and I contend he is. He came before our committee and participated in many debates on many issues. He is the leader of a club he is opening and forming today and membership from both sides of the aisle are welcome, and I would be delighted to extend to the Senator from Nebraska the next membership in that club.

Mr. EXON. I thank my friend from Virginia very much.

I also hope that extension of invitation comes from the sponsor of the sense-of-the-Senate amendment.

Mr. WARNER. Sure, it does.

Mr. EXON. At some appropriate time, if we can have a meeting of the minds, as we usually do once again we probably can generally be in the same boat on this particular proposition.

Mr. WARNER. Mr. President, before we finish, another question to our good friend. In his capacity as chairman of the Subcommittee on Strategic Defense, it may well be that the Senator from Wyoming could suggest the format of a hearing that could be held next year on this particular subject so as to further frame and outline the necessity for our country to devote attention to the subject.

Mr. EXON. I would simply say that we have not begun to consider our schedule for hearings for next year but this particular area will certainly be one that we will be looking for with regard to all kinds of input and when we do get into this matter in whatever form I do hope and extend an invitation as a chairman of the subcommittee of jurisdiction for my colleague from Wyoming to appear before that committee and we are always interested in his established expertise.

Mr. WALLOP. Mr. President, let me begin by thanking the Senator from Nebraska for his kind words. Let me say that there already is a Member from that side in this club. One of the cosponsors of this amendment is the Senator from South Carolina, Mr. HOLLINGS. And others clearly have had a long-term interest in this.

But the biggest problem and one of the things that this amendment seeks to address frankly through resolution is that there is within the Defense Establishment no particular advocate of the establishment of strategic defenses. There is no career at this moment built on anything but research. And until there are people who understand that as part of their career pursuit they are to design the means by which America's safety can be enhanced, strategic defense will remain essentially the stepchild of a Military Establishment who sees its role more in terms of carrier battle groups, tank divisions, and strategic bombers.

So I thank the Senator from Nebraska, I thank the Senator from Virginia, and I am prepared now to yield back the remainder of my time and would tell the Senator from Nebraska that I really do hope that there is a hearing process negotiated on this because I think there is much that this country needs to examine in its own ability to organize the structure of the defense of the Nation.

Mr. EXON. Mr. President, I thank my friend from Wyoming.

Mr. President, since the time has been yielded back on that side of the aisle of which I suspect there was little, if any, remaining—there is some time remaining on this side—I yield back the remainder of my time.

Since there has been agreement on this, I would hope that the Senator from Wyoming would move his amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wyoming as modified.

The amendment (No. 773), as modified, was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CONRAD). The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, is the bill now open for amendment?

The PRESIDING OFFICER. Yes, it is.

AMENDMENT NO. 774

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 774.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, after line 8, add a new section as follows:

BIOENVIRONMENTAL HAZARDS RESEARCH

SEC. 229. Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) for the fiscal year 1988, up to $40 million may be obligated through the Office of the Under Secretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

Mr. JOHNSTON. Mr. President, this amendment makes available up to $40 million from available funds in the RDT&E account for the use in bioenvironmental research.

I am offering this amendment on bioenvironmental hazards. I was hoping it could be cleared on both sides. I understand that it has been accepted on this side, and there is some problem on the other side. But it does not add money to the bill, Mr. President. It says that of the funds authorized for RDT&E for all the Armed Forces up to $40 million may be used for research at universities on bioenvironmental hazards.

Rocket fuels, new explosives, and exotic materials being proposed for use in military systems pose new hazards to military personnel, the consequences of which are not fully understood. I believe we have a duty to investigate these hazards and to mitigate the exposure of our military personnel and civilian workers.

This research would focus on the effects of such hazardous materials on people as well as on the environment. Being DOD-funded, this research would focus on the hazardous materials present at military facilities or generated by military activities. Many of these materials are normally not present in the civilian environment. The effects on the environment of some hazardous materials used for many years by the military are not fully understood. For example Tulane University has conducted research on the food chain of hazardous byproducts from the manufacture of TNT. They have looked at the effect on military personnel of inhaling uncombusted fuels.

Another area for needed research is in the handling and disposal of toxic wastes. It is my understanding that DOD is the largest producer of toxic waste in the country. The military now generates over 500,000 tons of hazardous waste a year, more than the five largest chemical companies in the country combined. The DOD estimated in 1985 before a House subcommittee that the cost of cleaning up current and former military sites that pose a threat to the environment and to human health would be between $5 and $10 billion. Bioenvironmental hazards research could not only find less costly ways to handle and dispose of these wastes but also ways to recycle these wastes. Even better, research could focus on ways to generate less of these hazardous wastes.

Mr. President, I know there is a university research initiative included in this bill. However, the Research Program summaries of June 1987, from this university research initiative indicate to me and my staff that the kinds of research I am describing are not being covered. I believe we have an obligation to ensure that the health of our military and civilian personnel is protected as we use more exotic materials to defend our country.

Mr. President, there are literally hundreds of examples of egregious and dangerous waste around the country. For example, highly toxic wastes from an old TNT plant in Point Pleasant, WV, is at present contaminating nearby ponds. Highly toxic chemicals stored in holding tanks in Rocky Mountain Arsenal outside of Denver, CO, are infiltrating the waters beneath the city of Denver. A nuclear weapons manufacturing plant in Oak Ridge, TN, is leaking up to 2.5 million pounds of mercury into local creeks over a period of 30 years and has spread high levels of toxic substances throughout the community. Toxic leaks from the Twin Cities ammunition plant in New Brighton, MN, is tainting water wells with carcinogenic materials. Flaws in an industrial sewage plant at Tinker Air Force Base in Oklahoma is allowing cyanide and chrome to infiltrate into local rivers and lakes.

The list goes on and on, Mr. President.

We find that DOD does do work on hazardous waste. The fiscal year 1984 Defense Appropriation Act provided $150 million to manage, dispose, and cleanup hazardous waste. By fiscal year 1985, it was $314 million. In fiscal year 1986, it was $329 million. DOD spends about $25 million a year on this kind of research.

And so what this amendment does is to make available up to $40 million within available RDT&E funds to have university research in this area. It is a tremendously serious problem, Mr. President, with, as I say, estimated costs between $5 and $10 billion of cleanup and over $300 million being applied for this.

So I think this is a very useful amendment. If we can get it passed and in later proceedings get it funded, I think it would be most useful for the Department of Defense.

Mr. WARNER. Mr. President, our distinguished colleague from Louisiana has raised some serious points here deserving of attention.

At this time, this side does not oppose the amendment, but we would like to reserve the right for a Senator on the Armed Services Committee who has been given the responsibility in this area to address it at some point today. So my statement to the manager of the bill would be that at this time we are not going to indicate opposition until the Senator who has jurisdiction finds it convenient to come to the floor. And I am not certain he will state opposition.

So let us try and advise our colleague from Louisiana who has come in this morning at our request to work on the bill. The amendment deserves close attention. I am wondering if we could at this time just indicate, on a technical basis, that we will ask for the yeas and nays, and then, during the course of the day, when the other Senator comes and has an opportunity to speak to it, we will make a judgment and maybe we can drop the yeas and nays ordered on the Senator's amendment.

Mr. EXON. Mr. President, I want to be cooperative to all sides on this. This Senator and this side of the aisle are in favor of the amendment and thought that, if there was not opposition from the minority, we could pass this and move on. The idea, of course, is to dispose of these amendments.

It was warned when we made our arrangement the other day that if we went to this proposition we would have delays.

Mr. WARNER. Mr. President, this is not a delay. I could simply say we are in opposition as a consequence of the Department of Defense being strongly in opposition and ask for the yeas and nays. But I am trying to do this in an effort to indicate, until such time as this Senator gets advice from another Senator who has jurisdiction over this matter on our side, I am just trying to accommodate my good friend from Louisiana.

So the simple thing is, if we have to indicate our opposition, is to ask for the yeas and nays and stack the vote.

Mr. EXON. May I ask if it is possible for the Senator who you would like to have speak to this to come over now, or is that impossible?

Mr. WARNER. He is not available at this time.

Mr. EXON. I leave it up to my friend from Louisiana; whatever he thinks is best.

Mr. WARNER. We do not have to leave anything. I will indicate we oppose it and ask for the yeas and nays and stack the vote. A very simple procedure.

Mr. JOHNSTON. Will the Senator yield?

Mr. WARNER. Of course.

Mr. JOHNSTON. First, I want to thank my friend from Nebraska for his support and I want to thank my friend from Virginia for his almost persuaded support.

I think he is trying to get this thing worked out, which I greatly appreciate. I will be at his service to come over later in the day if someone does wish to speak on it. So I thank him for his attitude and I hope the yeas and nays will go away.

Mr. WARNER. Mr. President, at this time, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There are 3 minutes remaining for the Senator from Virginia on this amendment. Do you wish to reserve that time or yield it back?

Mr. WARNER. Mr. President, if I were to reserve the time this would become a pending amendment and we would have to set it aside. It seems to me best to yield back the time. The amendment is postured on the calendar for a vote sometime tomorrow. During the course of the day, I am quite certain there would be adequate opportunity for the Senator I have in mind and others to speak on the amendment and the RECORD can be perfected in some way to reflect that debate at this particular point, and then we can move on the calendar to today's events.

Mr. EXON. We have no objection to the statement just made by the Senator from Virginia and think that is the best way to dispose of the matter, Mr. President.

The PRESIDING OFFICER. All time is yielded back.

The bill is now open for amendment.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 775

(Purpose: To specify funds for maintenance and operation of PRIMUS and NAVCARE clinics)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] for himself, Mr. GLENN, and Mr. WILSON, proposes an amendment numbered 775.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, between lines 17 and 18, insert the following new section:

SEC. . PRIMUS AND NAVCARE CLINICS

Of the funds appropriated or otherwise made available to the Army, Navy, and Air Force for maintenance and operation for fiscal year 1988, the following amounts shall be available only for the operation and maintenance of the Primary Medical Care for the Uniformed Services (PRIMUS) clinics and Naval Primary Care (NAVCARE) clinics:

(1) $24,800,000 for the Army.

(2) $22,181,000 for the Navy.

(3) $13,200,000 for the Air Force.

INDEPENDENT SERVICE HEALTH CARE INITIATIVES

Mr. KENNEDY. Mr. President, I rise to offer an amendment on behalf of myself, Senator GLENN, and Senator WILSON. This amendment would restore funding for expansion of the independent service health care initiatives—the PRIMUS clinics of the Army and Air Force and the NAVCARE clinics of the Navy.

Two years ago, the Defense Department initiated this experimental program of PRIMUS and NAVCARE clinics to provide better quality health care to military dependents and retirees at lower costs to both them and the Government.

Under PRIMUS and NAVCARE, private contractors establish free-standing, off-base clinics that provide virtually all outpatient services—including laboratory work, x rays, and prescriptions. The Government pays these contractors on the basis of a fixed price per visit. There are no deductible or copayments by the patients.

The program has been a resounding success. From a financial standpoint, the PRIMUS and NAVCARE clinics cost the Government less on a per-visit basis than the CHAMPUS Program. And, the per-visit costs of PRIMUS and NAVCARE are still declining.

In broader terms, these new clinics relieve the pressure on overcrowded military medical facilities, allowing those facilities to do a better job of caring for active duty personnel.

Most importantly, PRIMUS and NAVCARE are extremely popular with military families. They offer better access to health care for military beneficiaries, who have experienced difficulty obtaining timely care at traditional military health care facilities.

Currently, there are eight PRIMUS and NAVCARE clinics operating. The Army has three PRIMUS clinics in Virginia and one in Georgia. The Navy has NAVCARE clinics in Florida, North Carolina, California, and Virginia.

In its budget request for fiscal 1988, the Defense Department asked for $43.6 million to open 16 new PRIMUS and NAVCARE clinics in eight different States. During its markup last spring, the Armed Services Committee rejected this request. The committee felt that the expansion of PRIMUS and NAVCARE clinics might interfere with the effort to initiate another military health care program—the CHAMPUS reform initiative.

I supported this action in committee. But, since last spring, circumstances have changed dramatically. The CHAMPUS reform initiative is in disarray. The Defense Department's plan to test CHAMPUS reforms in three two-State regions has been crippled by the failure of any company to bid in one region, the withdrawal of the only bidder in another, and the possible withdrawal of the only bidder in the remaining region.

Under these circumstances, I can no longer support the delay in the expansion of PRIMUS and NAVCARE clinics. There is a crying need to reduce overcrowding in military health care facilities. This need cannot wait while we straighten out problems with the CHAMPUS reform initiative. Accordingly, to provide immediate relief for this overcrowding, my amendment would restore authority to the services to pursue the expansion of PRIMUS and NAVCARE clinics that the Defense Department initially requested.

Note that acceptance of this amendment would not increase the overall DOD budget. The amendment requires the services to finance the expansion of PRIMUS and NAVCARE clinics from the funds already made available for operations and maintenance. DOD health care officials have informed me that the need for these clinics is so great that they welcome this self-financing plan.

Finally, I want to emphasize that this amendment is not a signal of my opposition to CHAMPUS reform. To the contrary, reform of the CHAMPUS Program is crucial to ensuring all military beneficiaries, particularly those in remote areas, receive quality health care. Accordingly, I will continue to support the distinguished chairman of the Armed Services' Manpower Subcommittee in his efforts to ensure the success of CHAMPUS reform. There is no greater advocate for quality military health care than JOHN GLENN.

But until CHAMPUS reform progresses further, the service initiatives to promote health care for our service beneficiaries should be permitted to continue. I believe strongly that our military families deserve to be treated for their illnesses with excellence, caring and at a reasonable cost. The PRIMUS and NAVCARE clinics do just that.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the amendment offered by the Senator from Massachusetts has been accepted on this side. We have no opposition. We would like to move speedily ahead on its approval, after recognizing the Senator from Virginia in a moment.

● Mr. GLENN. Mr. President, I support the amendment offered by the distinguished Senator from Massachusetts.

In marking up the defense authorization request earlier this year the Subcommittee on Manpower and Personnel, which I chair, and on which Senator KENNEDY is a valued member, decided that the requested increases for PRIMUS and NAVCARE clinics conflicted with the Civilian Health and Medical Program of the Uniformed Services Reform Initiative [CRI]. Specifically, 11 of the 16 PRIMUS and NAVCARE clinics requested were to be at locations selected for the first phase of the CRI demonstration. Since both were to be contracted out, the subcommittee recommended that the PRIMUS and NAVCARE increases be denied and the full committee approved this recommendation. The information available at the time these decisions were made indicated that the CRI effort was on course and should provide the needed medical support for the planned locations.

Since these decisions were made, the CRI effort has suffered setbacks that now indicate that only two of the demonstration areas may be contracted out and perhaps later than scheduled. This, plus the likelihood of slippage in the entire CRI effort will obviously adversely affect military health care beneficiaries. Therefore, it makes sense at this point to authorize the 16 PRIMUS and NAVCARE clinics until the CRI can get back on track.

Mr. President, I must say that I am disappointed with the performance of the Department of Defense on the CRI effort. I have made a point of supporting centralized policy control of military medical programs at the Office of the Secretary of Defense level. That is one of the reasons that I was opposed to PRIMUS and NAVCARE growth, which are individual service programs. I saw no evidence of coordination of these clinics in the CRI scheme and therefore was skeptical about the efficiency of having the systems run in parallel.

Mr. President, the CRI is a large, ambitious, and necessary project which I continue to support. Its successful completion is vital to correcting deficiencies and improving health care for military medical beneficiaries. I have confidence that the health affairs leadership in the DOD shares this view and will exert the necessary effort to see the CRI project through to successful and timely conclusion.

Mr. President, I wish to commend Senator KENNEDY for his interest in providing satisfactory medical care to beneficiaries of the military medical system. I look forward to working with him in addressing the problems in military health care as we grapple with this issue in the future. I urge my colleagues to support this amendment.●

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the amendment is acceptable on this side of the aisle. I wish to commend our distinguished colleague from Massachusetts. He is a very valuable member of the Senate Armed Services Committee. He has in mind at all times the welfare of the men and women of the armed services. I think this amendment reflects that deep concern.

The PRESIDING OFFICER. Is all time yielded back?

Mr. KENNEDY. I yield back the remainder of my time.

Mr. EXON. Any time I have remaining I yield back.

Mr. WARNER. Mr. President, we yield our remaining time back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 775) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 776

(Purpose: To authorize $15,000,000 for upgrading the laboratory facilities at the Army Materials Technology Laboratory at Watertown, Massachusetts)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 776.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 116, between lines 17 and 18, insert the following:

"Army Materials Technology Laboratory, Watertown, Massachusetts, $15,000,000.".

On page 121, line 21, strike out "$2,661,639,000" and insert in lieu thereof "$2,676,639,000".

On page 121, line 24, strike out "$423,230,000" and insert in lieu thereof "$438,230,000".

Mr. KENNEDY. Mr. President, the Deputy Secretary has requested that there be available the authorization for the modernization of the laboratory and office facilities at the Watertown Laboratory.

This amendment to the Defense authorization bill will provide $15 million for the modernization of the Army Materials Technology Laboratory in Watertown, MA.

The Watertown Laboratory is a unique research and development resource that has provided valuable materials research to the Army. It has earned a well-deserved reputation as a highly respected facility which has achieved substantial savings for the Army while contributing valuable research to our national security. The accomplishments of the lab, which are numerous and significant, include:

Development of a composite infantry armor which is a lighter and less costly type of armor that provides the equivalent protection of current armor systems. The new armor protection will achieve a 20-percent savings in cost;

Development of a structural integrity program to decrease the Department of Defense's annual materials failures which are estimated at $6 billion. This program can achieve a return on investment of 150 to 1 even with only a 10-percent reduction in materials failures;

Development of a "Center for Excellence Prevention Corrosion Control" to reduce the Army's corrosion costs—estimated at $2 million annually. If the scientists achieve even a 1-percent reduction, a 500- to 700-percent return on investment can be expected.

These are only a few examples. The employees at Watertown have continued their research and development in a variety of specialties and have made significant contributions to our national defense.

The Watertown arsenal is not without recognition. A prestigious Committee of the National Academy of Sciences concluded that the laboratory's functions and authority were so important to our national defense that it should be expanded.

The amendment that I am offering today will ensure that the Watertown Laboratory will have state-of-the-art facilities to continue its valuable work.

In its fiscal year 1988 budget, the administration proposed to close the facility and move its functions to Natick Army Laboratory in Natick, MA. After extensive review, the Army decided such a move would be ill-advised and proposed that the facility be modernized with a refocusing of the mission in order to ensure the most effective use of the advanced materials technology. The refocusing will ensure that the laboratory does not duplicate activities that are being conducted in the private sector. Rather, it will concentrate its available resources on higher yielding research and development.

The Army has proposed that the modernization be performed in two phases over a period of 2 years. Phase I will involve the replacement of the antiquated laboratory with a state-of-the-art facility for use by the scientists, engineers and support personnel. The amendment that I am offering today will accomplish phase I of the modernization.

Phase II will complete the modernization with the renovation of several other buildings and utilities. That portion of the work will be considered next year.

Mr. President, the Army supports this amendment because it recognizes the importance of retaining the valuable work of the Army Materials Laboratory at Watertown. I ask the Senate to adopt this amendment to ensure that one of our finest research facilities will continue to serve our Nation's defense needs in the future.

Mr. President, I had the opportunity to talk with both floor managers and the ranking minority member about this particular proposal. I hope they will find it acceptable.

Mr. EXON. Mr. President, the majority is in favor of this amendment. We thank the Senator for bringing this amendment as well as the previous amendment to the attention of the Senate.

I would simply say that we accept this amendment with the understanding that the proviso is there that the Army provide the committee a multiyear Watertown modernization plan with any construction it proposes for the installation in its amended fiscal year 1989 budget request.

Mr. President, we have no further comment on this side and are prepared to yield back the remainder of our time.

Mr. WARNER. Mr. President, this side likewise accepts the amendment and yields back the remainder of our time noting, again that the installation is in the great State of Massachusetts. Am I correct on that? That, I think is a manifestation of this able Senator considering the needs of the armed services and how his State can step up to meet that challenge as it has since the very beginning of this Republic.

Mr. KENNEDY. Mr. President, I thank my good friend, the Senator from Virginia. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (No. 776) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 777

(Purpose: To require the Secretary of Defense to study the impact of decommissioning two older aircraft carriers earlier than currently planned)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The Senator from Massachusetts [Mr. KENNEDY] for himself and Mr. NUNN, proposes an amendment numbered 777.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the appropriate place insert:

SEC. . STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS

(a) IN GENERAL.—The Secretary of Defense shall conduct a comprehensive study that compares—

(1) the current Department of Defense plan to decommission one aircraft carrier when the USS George Washington (CVN73) is commissioned in fiscal year 1992 and decommission a second aircraft carrier when CVN74 is commissioned in fiscal year 1997.

(2) an alternative plan that would decommission one aircraft carrier and deactivate one Navy air wing when the aircraft carrier USS Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and decommission a second aircraft carrier when the aircraft carrier USS George Washington (CVN73) is commissioned in fiscal year 1992.

(b) MATTERS TO BE INCLUDED.—The study shall determine the following implications of adopting the alternative plan for aircraft carrier retirements as compared to the current plan—

(1) the total direct and indirect outlay and budget authority savings in constant fiscal year 1988 dollars through fiscal year 1997;

(2) the effect on naval aircraft requirements through fiscal year 1997 assuming the aircraft from the deactivated wing are reassigned in the active force;

(3) the implications for Navy endstrength requirements through fiscal year 1997;

(4) the effect on requirements for naval surface ship combatants and support ships through fiscal year 1997;

(5) the cost and feasibility of making available to the active naval fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned, but is still under the jurisdiction of the Navy.

(c) DEADLINE FOR SUBMISSION.—Not later than November 15, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by him pursuant to paragraphs (a) and (b) together with such comments and recommendations as the Secretary considers appropriate.

Mr. KENNEDY. Mr. President, I rise to offer an amendment on behalf of myself and Senator NUNN. This amendment would require the Navy to study the risks and benefits of retiring our two World War II class carriers in order to pay for the cost of the two modern carriers that are proposed for authorization in fiscal years 1988 and 1989.

The administration's decision to request long-lead funding for these two carriers in this year's authorization bill represents an acceleration of the previously planned modernization schedule for the carrier force. Under the old plan, keels would be laid for the next new carriers in 1994 and 1996. The new plan moved these dates up to 1990 and 1993 respectively.

Two principal rationales were offered for this early acquisition plan. First, it was stated that problems were arising with our older carriers. The plan to put blisters on the *Midway's* hull worsened rather than improved its seaworthiness. And, the service life extension program [SLEP's] for the Forrestal-class carriers has not been as effective as hoped.

Second, the Navy stated that the early acquisition plan would save $3 billion over the previous modernization schedule. During hearings of the Projection Force Subcommittee, the savings figure was deflated to $700 million, deriving principally from the advantages of maintaining production continuity at the shipyard.

At this lower savings estimate, many Senators questioned the wisdom of shifting $6 billion from other vital programs to aircraft carrier modernization. This apprehension was reflected in the committee debate and the close 11 to 9 vote in favor of authorizing the carriers.

I have accepted—albeit reluctantly— the committee position on accelerated modernization of our carrier forces. Nevertheless, I remain seriously concerned about the affordability of this program and about the programmatic priorities it reflects. My doubts are not about the capabilities of a new Nimitz-class carrier, but about what other priorities must be sacrificed to pay for them.

Under its current plan, the Navy will achieve its goal of 15 carriers when the nearly completed U.S.S. *Abraham Lincoln* joins the fleet in 1989 or 1990. The problem is that there are critical deficiencies in the forces that surround and support an aircraft carrier.

According to the Congressional Budget Office, there will be a shortfall of over 200 naval aircraft by the early 1990's. At the same time, we will have at least 30 fewer cruisers and destroyers than are needed to escort 15 carriers. And stocks of certain critical modern munitions will be 50 percent below required levels.

Given these critical shortfalls, the Navy should not fund the two new carriers out of the aircraft, munitions, and other shipbuilding accounts as it now plans to do. Instead, the Navy should adopt a "pay as you go" strategy for financing the new carriers. Specifically, we should retire the two World War II carriers that are still in the fleet earlier than now planned.

After reaching the 15 carrier level in 1989 or 1990, current plans call for retiring the U.S.S. *Coral Sea* in 1992 and the U.S.S. *Midway* in 1997 as new carriers are added to the fleet. An alternative plan would delay achievement of the 15 carrier force until 1997 by retiring the *Coral Sea* in 1990 and the *Midway* in 1992. This plan would maintain the current level of 14 carriers.

Retiring the *Coral Sea* and *Midway* early to save their operating and support costs would offset two-thirds of the $6 billion cost of the two new nuclear carriers. The nearly $4 billion in savings could be put forward making up the deficiencies in carrier aircraft, escorts, and munitions. This would result in a more balanced program. Instead of buying the carriers first and the cruisers, destroyers, planes, and missiles later, all elements of the carrier battlegroup would be modernized at roughly the same pace.

The major argument against this proposal is that it would delay expansion of the fleet to 15 carrier battlegroups for 7 years until 1997. This argument, however, is misleading. Throughout the 1990's, the 15th carrier would be a 45-year-old World War II vintage ship, which is considerably less capable and more expensive to operate than its modern counterparts. The airwings aboard these old carriers are only two-thirds the size of the wing on a modern carrier and they do not include our most capable fighter—the F-14 *Tomcat* with its long-range Phoenix missiles.

Both the *Coral Sea* and *Midway* also have severe operational problems. Over the years, the two ships have become so overloaded with new and heavier equipment that they are unable to operate in conditions where carriers are normally unaffected. An attempt to fix this problem on the *Midway* by adding blisters to the hull only made it worse.

Beyond the limits of the carriers themselves are the problems of filling out the rest of the battlegroup. Given the deficiencies in supporting ships and aircraft noted earlier, the 15th carrier battlegroup would be a hollow force in the 1990's.

Finally, the real increase in the capability of our fleet during the 1990's will come not from the expansion to 15 battlegroups, but rather from the replacement of the two World War II class carriers by modern nuclear carriers. This replacement will still take place under the early retirement proposal.

In short, retiring the World War II carriers early will result in substantial savings without reducing the effectiveness of our fleet. It makes far more sense to delay the expansion to 15 carriers until we have the forces to fill out the accompanying battlegroup, particularly when the delay will help pay for the other needed modernization.

The amendment that we are proposing would require the Navy to report to the Armed Services Committees on the advantages and disadvantages of this early retirement plan. It contains an early deadline for the report because of the urgent necessity of addressing the problem of the affordability of the Navy modernization plans given current fiscal limitations. The urgency for this report is self-evident. Mr. President, I hope that this amendment will be acceptable to the Senate.

Mr. WARNER. Mr. President, first I wish to acknowledge the leadership that the distinguished Senator from Massachusetts has given on the Armed Services Committee in his capacity as chairman of that subcommittee that has the primary responsibility for overview of our naval forces. Having been a sailor himself in earlier years and coming from a family that has had a long association with the U.S. Navy, he brings a very broad and valuable perspective to the full committee and, indeed, in his capacity as chairman of the Subcommittee on Projection Forces and Regional Defense. I wish to thank him for the courtesies extended this Senator throughout the debate which originated earlier in the spring on the advisability of going forward with the proposal to construct two replacement supercarriers.

This Senator, speaking for this side, accepts the amendment as proposed for the study of the outyear funding problems. It should be the responsibility of the subcommittee, under the direction of the chairman and the full committee, to look closely at the budget for the outyears and to ask questions, priorities, on how those scarce dollars should be allocated.

A week or so ago, I was in the Pentagon meeting with Chairman of the Joint Chiefs of Staff and the Chief of Naval Operations, at which time I inquired whether, from the lessons learned in the gulf, there had been any change in their prioritization of funds concerning the ship construction programs of the U.S. Navy. They indicated many valuable lessons have been learned in the gulf by our operating forces, but that they continued to place the highest of priorities on the program to construct these two replacement aircraft carriers.

At this point in the Record, Mr. President, I ask unanimous consent to insert a letter sent to me by the Chairman of the Joint Chiefs and other correspondence relating to the prioritization of funding for the carrier construction program.

There being no objection, the material was ordered to be printed in the Record, as follows:

The Joint Chiefs of Staff,
Washington, DC, 24, September 1987.

Hon. John Warner,
Committee on Armed Services U.S. Senate, Washington, DC.

Dear Senator Warner: I am responding to your inquiry about the impact our recent experience in the Persian Gulf has had on my opinion of the Navy shipbuilding program.

Frankly, although there are indeed lessons to be learned from operations in the Persian Gulf area, my opinion of the Navy shipbuilding program has not changed a whit. I remain firmly convinced that adequate protection of our global interests over the long term requires, at a minimum, naval forces centered on 15 deployable aircraft carriers. The flexibility, capability and responsiveness which carriers provide have repeatedly been validated by the Joint Chiefs and the combatant commanders, who view our current requirements to exceed 20 carriers. The Persian Gulf experience has raised no doubts in my mind about the high priority assigned to long-lead funding for aircraft carriers in the FY 1988 budget requests. The high priority is fully justified in my opinion. I have also reviewed other elements of the Navy's ship acquisition plan, including mine countermeasures. I believe that an appropriate balance is reflected in the FY 1988 budget request and that reordering of priorities is unwarranted.

I appreciate having this opportunity to share my views with you and look forward to our continuing a fruitful dialogue.

Sincerely,

William J. Crowe, Jr.,
Chairman, Joint Chiefs of Staff.

Department of the Navy, Office of the Chief of Naval Operations,
Washington, DC, September 18, 1987.

Memorandum: For the Chairman, Joint Chiefs of Staff.

Subject: The Navy's balanced force structure.

Your response to Senator Warner's letter on the appropriate "mix" of ships for the Navy should firmly rebut the increasing number of arguments by the uninformed on the size and structure of today's Navy.

First and foremost, military requirements are the central determinant in shaping military force structure. Reality, not mere numerology, compels the U.S. to build and deply a Navy centered on 15 deployable aircraft carriers, four battleships, 100 nuclear-powered attack submarines and 40 ballistic missile submarines. In particular, the absolute need for the aircraft carrier as an instrument of national policy is clear and has not been altered by recent events in the Persian Gulf. The Joint Chiefs and unified commanders have repeatedly validated an aircraft carrier requirement exceeding 20 CVs. Fifteen deployable carriers are the minimum required to provide a reasonable assurance of success in sequential wartime operations and a balanced force structure taking into account geographic realities, alliance commitments and national dependencies.

I can unequivocably reaffirm that there is no other system in our Nation's defense inventory that provides the flexibility, capability and responsiveness that carriers provide across the full spectrum of national need. The maintenance of a minimum force level of 15 carriers through the CVN-74/75 multiship replacement program is in the national interest. That we are able to save hundreds of millions of dollars in the process, to me, is just a matter of good, hard-headed American business sense.

In the area of Mine Countermeasures Programs—an area which has been subjected to intense scrutiny for valid reasons—our programmed force will provide a significantly enhanced capability. During the period 1981-1987 we have dedicated $1.38 billion in shipbuilding funds to the mine countermeasures effort. The lead ship of 14 Avenger class ocean-going mine countermeasures ships was recently commissioned, and a class of 17 coastal minehunters is being developed to be used for the U.S. port clearing mission. The RH-53D mine countermeasures helicopter is being replaced by the more capable MH-53 aircraft, which provides exciting new increases in mission and equipment capability. This investment in ships, aircraft, and equipment coupled with Navy's integrated warfighting ability to defeat an enemy's minelaying effort, will significantly enhance mine countermeasures capability. Our program is not, and cannot be designed to operate independently of the significant mine countermeasures capabilities of our allies. We count on their over 400 ships in this mission area to handle mine countermeasures requirements in their territorial waters and geographic areas, and on their willingness to assume the role.

Our military operations in the Persian Gulf are the most recent confirmation that a maritime superpower faced with a wide range of global interests and a shortage of overseas basing opportunities must look to its Navy to execute national security policy in peacetime and to be its opening wedge should war develop. It is neither exceptional nor surprising that 97 percent of all U.S. servicemen supporting national policy in the Middle East are aboard the 24 ships operating there, deployed with little notice and even less local support. The Navy has established effective minesweeping, convoy escort, and freedom of navigation operations along with a credible air and power projection capability to hold in check attempts by regional belligerents to expand the scope of the war. Even more graphically, we have re-learned that we have no alternative to traditional naval power in time of "peace."

In conclusion, lessons learned from our operations in the Persian Gulf do not justify a reordering of priorities in the Navy shipbuilding program and I would not reduce the high priority assigned to long-lead funding for aircraft carriers in the FY 1988 budget request.

C.A.H. Trost,
Admiral, U.S. Navy.

Mr. President, I think it is important that our committee receive the benefit of the thinking of the Secretary of Defense with respect to outyear funding and the carrier program.

I am certain that the Secretary and others putting together this report will recite in considerable detail how the defense of our Nation today, our deterrent force structure, is predicated on a 15-level carrier force.

As we hear this morning, a carrier is in the Arabian Sea, perhaps as far up as the Gulf of Oman; and without the persence of that carrier it is doubtful that the Armed Forces of the United States—the Navy, and Army, the Air Force, and indeed the armed forces of our allies who have come to join us in trying to bring about peace in that region—could operate without knowing there is in that distant place a carrier and its air wing available. That carrier is probably the single most important deterrent against the expansion of hostilities in that region, because no other nation possesses a carrier-based naval air force that approaches that of the United States.

The Soviet Union is playing catch up. They are now beginning to build carriers with comparable capabilities to the United States supercarriers. Fortunately for our Nation and the free world, that program is way behind ours; but they are beginning to add, one by one, carriers to the Soviet Navy.

When I was privileged to go to the Department of Defense in 1969 to work with the Navy Department, we watched the embryo of the Soviet carrier program, and now it has grown to where there is one about to begin active serivce; that is, a carrier with the type of fixed-wing aircraft similar to what we have in our carrier force.

Mr. President, I have discussed that matter with the Senator from Georgia and the Senator from Massachusetts. I welcome the amendment. I believe the case for 15 carrier battle groups is strong and compelling, and I believe that it will remain strong and compelling next spring when the Armed Services Committee conducts its next annual review of the budget.

I am not pleased with the result of the budget conference with regard to funding defense. But this does not mean automatically that we should reduce our commitment to 15 carrier battle groups. I am sure all the relevant issues will be thoroughly aired next spring. The next carrier is not due to be commissioned for 2 years, and there is plenty of time for both sides to make their case.

So I welcome the amendment of the Senator, I anticipate the report will help guide the Senate's future actions as we allocate these scarce dollars. I thank the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first I commend my friend from Massachusetts for coming up with a very creative alternative to an ongoing battle which we have had in the Armed Services Committee. He and I were on the same side of that battle. We lost it. It appeared that we could not prevail if we continued it on the floor of the Senate. I believe that he was right on the merits as to what the implications of building two new aircraft carriers are for readiness, for sustainability, and for manpower. We could very easily have new carriers which we could not man, which we did not have ammo for and for which we did not have proper planes.

What this amendment says is let us look at the possibility of an early retirement of two carriers to help us pay for the two new carriers that are in this bill. I think it is a very creative possibility that at least ought to be studied by DOD and others who analyze these costs. I commend the Senator from Massachusetts for his usual creativity and forceful thinking.

I also commend my friend from Virginia, who clearly is the most forceful advocate for carriers. Without his efforts, these two new carriers would not be in this bill, and it is because of his efforts and some who are of like mind relative to the importance of carriers that, indeed, these two carriers are in the bill. While I did not agree with them in the committee and do not agree with them on the merits, I think we all ought to acknowledge that it is because of his forceful advocacy that these new carriers are in the bill. The amendment is acceptable to the majority side.

Mr. President, we are going to have a real short-fall in terms of our defense dollars. It is projected that over the next 5 years there is going to be $300 billion less for defense, using the congressional budget which has been enacted, than is being assumed by the Defense Department, $300 billion less. That is going to put us in a very tight crunch, and the approach which is at least going to be studied pursuant to Senator KENNEDY's amendment is one way of handling part of the problem which is thereby created. I yield the floor.

Mr. WARNER. Mr. President, this side yields back whatever remaining time we may have. We were not in opposition at any point. I wish to thank my long-time friend, the Senator from Michigan. We came to the Senate together. Hopefully, we will remain here working side by side as we have in most instances, collaborating toward the same goal. Occasionally in reference to the carrier program we have been of somewhat opposing viewpoints. But nevertheless, with the cooperation of my good friend from Michigan and my good friend from Massachusetts, this replacement carrier program will go forward.

Mr. KENNEDY. Mr. President, I will yield the remainder of my time in just a moment. I agree with the comments of my friend from Michigan, who is the chairman of the Subcommittee on Conventional Forces and Alliance Defense, with regard to the budgetary limitations that we are going to be facing. It is not so much the issue of carriers and modernization of them; it is really the question of shortfalls in terms of the funding not only of the carriers themselves but the other support equipment, ammunition, and planes. I believe this kind of review and study will bring the Navy to understand the kinds of limitations we are going to face in the future.

As for my good friend from Virginia, I thank him for his kind words and comments and I yield back the remainder of our time.

● Mr. NUNN. Mr. President, I too, have accepted the committee position on accelerated modernization of our carrier forces. I remain seriously concerned about the affordability of this program which is the primary reason I did not support this program in committee. My apprehension of May has matured to the alarm of September as the gap between the 5-year defense plan, the President's budget request and the planning profile of the budget resolution has become apparent. This is particularly true under the revised Gramm-Rudman procedure which I worked against because of my concern about its adverse impact on defense.

Mr. President, my staff estimates that more than $300 billion of defense programs will have to be reduced over the next 5 years to meet the spending profile of the fiscal year 1988 budget resolution. This is the difference between the 5-year defense plan and the path outlined by the budget resolution and underscored by the new Gramm-Rudman.

In this environment we have to do things differently if we are to achieve modernization in a balanced, affordable program. We must strike a balance between readiness, sustainability, and modernization. It seems to me there is a reasonable care to be made to maintain our carrier force level at 14 fully capable ships until 1997, instead of 14 fully capable ships and one cost-inefficient and operationally limited ancient mariner. That's not 15 "all up" carrier battle groups. Let's stop kidding ourselves. *Midway* is a problem today—in 1988. What will she be like as 1997 draws near when it is presently planned to retire her at age 52?

My colleague from Massachusetts asks that the Navy join with us in identifying how much could be saved by retiring *Coral Sea* 2 years earlier than planned and *Midway* some 4 years earlier than planned so their operating and support costs can offset the burden of building two new and modern ships. That is a reasonable request.

How much can be saved? Some estimates are that perhaps as much as two-thirds of outlay cost of the new ships in 1988 dollars could be saved or avoided. That would be a significant advantage in this austere budget environment.

So, this amendment says take a hard look at how much we can save by not operating two old, cost ineffective and operationally limited ships, holding our carrier force to 14 instead of 145 plus *Midway* until 1997.

I think this pay-as-you-go self-financing initiative is the kind of approach we are going to have to find across the board, if we are going to have a balanced program during the difficult budget years ahead. This is not just a Navy problem but DOD-wide in that the plans far exceed the funds that will be available.

I will have more to say on this subject at a later date.●

The PRESIDING OFFICER. Is all time yielded back? All time is yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment (No. 777) was agreed to.

AMENDMENT NO. 778

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. Kennedy] proposes an amendment numbered 778.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place, insert the following new section:

SEC. . STUDIES OF NUCLEAR WARHEAD FOR ATACMS MISSILE.

(a) Funds appropriated before, on, or after the date of the enactment of this Act, or otherwise made available to the Department of Defense or to the Department of Energy for any fiscal year may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

(b) No funds may be obligated or expended for the propose of developing, testing, producing or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a comprehensive analysis of the options available to the U.S. to preserve an adequate theater nuclear capability in Europe in the aftermath of an INF agreement between the U.S. and the Soviet Union.

Mr. KENNEDY. Mr. President, I rise to offer an amendment on behalf of myself and Senator Nunn that would permit studies of the cost and benefits of equipping the Army tactical missile system [ATACMS] with a nuclear warhead.

The ATACMS is a conventional surface-to-surface cruise missile weapon with a range of about 100 kilometers. Weapons such as this are the foundation of a viable conventional defense of Europe. By bolstering this defense, we contribute to the raising of the nuclear threshold.

Previous legislation sponsored by myself and the distinguished chairman of the Senate Armed Services Committee has prohibited the Army from developing a nuclear warhead for the ATACMS. The purpose of that legislation was to ensure that development of the system focused on the needs for modern conventional missile systems.

This amendment would continue that nuclear prohibition until the Army has achieved an initial operational capability for ATACMS with United States forces stationed in West Germany. The amendment however would allow the Army to conduct studies and analyses of the military utility and the cost of a nuclear warhead option for ATACMS.

It is our feeling that this amendment strikes the correct balance. It allows the Army the possibility of developing a nuclear ATACMS as a potential follow on to the Lance tactical nuclear missile. But by barring actual development of the nuclear ATACMS until the conventional system is deployed, it ensures that funds are not diverted from needed modernization of our conventional ground forces in Europe.

Mr. President, this has been an issue which has been before the committee for the past recent years, and I hope we can continue what has been a common, balanced judgment of the committee on this particular issue for this authorization.

Mr. WARNER. Mr. President, it is the intention of this Senator to indicate that we have no opposition to the amendment.

I do, however, have a brief statement that I have been asked to read into the Record at this point on behalf of the Senator from Indiana [Mr. Quayle]. As the proponent of the amendment recognizes, the Senator from Indiana is a very valuable member of the Armed Services Committee and has taken a leadership role in this body with respect to this particular area of weapons systems. As I look at this statement, which I will read in a moment, it reflects, I am sure, discussions with the Senator from Massachusetts on this subject.

Mr. Quayle would like to have in the Record the following statement:

Mr. President, we are prepared to accept this amendment.

I commend the Senator from Massachusetts for his foresight in proposing this amendment.

As I understand, the amendment reads "Mr. Nunn, for himself and Mr. Kennedy." Is that correct?

Mr. KENNEDY. Yes.

Mr. WARNER. I continue reading Mr. Quayle's statement:

Now that we are on the verge of an INF agreement, it is appropriate that we allow the Department to conduct all the studies relative to a nuclear warhead option for the Army Tactical Missile System, referred to as ATACMS.

I am sure that you would also agree that we should revisit, after we receive this report, the restrictions we have imposed on the Department in this amendment.

Mr. President, I have no further comment with respect to the amendment, and we yield back our time.

Mr. LEVIN. Mr. President, I commend again the Senator from Massachusetts for his leadership on a very critical issue. He has continued to maintain the fight against providing for a nuclear capable ATACMS until we have in the field a conventional ATACMS.

This amendment simply makes clear that the studies of that dual capability will be allowed, but the prohibition is going to continue on the research and development and deployment of any dual capability system. It is because of the Senator from Massachusetts that that prohibition is there and that it continues, and we are very much in his debt for doing that.

We accept the amendment.

(By request of Mr. Levin, the following statement was ordered to be printed in the Record:)

● Mr. NUNN. Mr. President, I join my committee colleague, Senator Kennedy in this amendment to clarify the situation with respect to a nuclear warhead for the Army tactical missile.

Mr. President, Senator Kennedy and I introduced an amendment to the fiscal year 1984 Defense Appropriations Act which precluded the Department of Defense and the Department of Energy from using funds for, and I quote, "research, development, test, evaluation or procurement for the integration of a nuclear warhead into the Army tactical missile system [ATACMS]."

Mr. President, this amendment was introduced originally to stop the Army from "nuclearizing" a system originally called the JTACMS, now called ATACMS. The ATACMS is a conventionally armed, ground launched cruise missile which the U.S. Army will launch from the multiple launch rocket system, or MLRS. It is designed to carry a variety of advanced conventional munitions capable of attacking a variety of targets in the near rear area of an enemy's ground forces. As such, it is one of the key new systems in NATO's follow-on forces attack, or FOFA, defense plan.

Now, Mr. President, the history of development of new Army systems is replete with examples of conventional systems being turned into "dual-capable" systems—that is, having both a nuclear and a conventional capability. But, as we have learned, the nuclear part of "dual-capable" systems becomes the tail that wags the conventional dog. The Lance missile today has both conventional and nuclear warheads available, but its real role is nuclear. Therefore, Senator Kennedy and I fear that a nuclear warhead option for ATACMS could severely compromise its badly needed conventional capabilities and lead the Army to acquire it in inadequate numbers. It is clear that NATO must take substantial steps to improve its conventional posture and the ATACMS is a key system.

Mr. President, our amendment has been continued each year since fiscal year 1984 on the appropriations bills or continuing resolutions. Earlier this year, we were informed that the Army's general counsel had taken the view that our language prohibited even studies and analysis of the costs and benefits of a nuclear warhead option for the ATACMS. While we didn't believe our amendment had this effect, it was clear that classification was necessary since we never intended to preclude studies. Senator KENNEDY and I agreed that we would sponsor a modified amendment this year, to make clear the congressional willingness to allow studies and analyses to proceed, while continuing the prohibition on development, testing, procurement, and integration of a nuclear warhead option.

Finally, Mr. President, let me simply say to the Defense Department that they should not confine their studies narrowly to the issue of a nuclear ATACMS as a Lance replacement, but rather should study the option of a nuclear warhead for ATACMS in the larger context of the options available to maintain NATO's agreed strategy of flexible response in the aftermath of an INF agreement.

Mr. President, this change has been requested by the Department of Defense and I urge my colleagues to support this amendment.●

Mr. KENNEDY. Mr. President, I thank the Senator from Virginia and the Senator from Michigan. We worked closely together on this issue with the chairman of the full committee, the Senator from Georgia [Mr. NUNN]. I am grateful for their willingness to accept Senator NUNN's proposal in this matter.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 778) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I thank the ranking minority member, the Senator from Virginia, and my good friend, the Senator from Michigan, for their courtesies and their willingness to work these matters out.

I also thank the staffs—my own and those of the committee members—for expediting these matters.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. LEVIN. Mr. President, it does not appear that the sponsor of the next amendment which we had expected would be in now cannot get here for at least a half hour and perhaps as long as 1 hour. I am wondering, then, whether or not we might temporarily leave this bill and perhaps be on call, when the sponsor of the next amendment is ready.

I know I would be happy to come back, or another floor manager. Perhaps Senator WARNER would also be able to do that.

Mr. WARNER. Mr. President, I think the presence of the majority leader is noted. We are perfectly willing to accede to that. I think we have made good progress today. I am hopeful that we have comparable momentum this afternoon. The majority leader and the managers, the Senator from Michigan and others, have stressed tomorrow is a unique day in that there is a limited time for Senators to address many important remaining amendments. We have provided this day in the hopes that a number of Senators would avail themselves of the opportunity to debate those amendments and thereby avoid—I suppose we could just call it—the crush of events due to take place tomorrow.

Mr. LEVIN. Indeed, a number of the Senators have used the time today and we do expect there will be at least one more and perhaps a number of more amendments. But at this time we do have a hiatus.

If it would be all right with the majority leader, perhaps we can be on call when the next amendment's sponsor arrives.

Mr. WARNER. I wonder if we could refine the procedure. Indeed, that is in the province of the majority leader. I would make a suggestion that at this time we go off the bill to accord the majority leader an opportunity, which he is willing to take at this time, to do some other matters. The Senate is thereby placed in recess, should I suggest?

Mr. BYRD. Mr. President, would it be all right with the two managers if, rather than go into recess or long quorum call, if I utilized this time and filled this gap with another of my statements in a long series concerning the history of the U.S. Senate?

I do not seek the floor for that purpose at this time, but if no amendments are available to be called up, no Senators are ready to call up their amendments at this time, if there would be 45 minutes to an hour before another Senator appears to call upon it, I would like to utilize that time, then, rather than going into a recess or quorum, if I might proceed.

Mr. WARNER. Mr. President, I would readily proceed with that but could the distinguished majority leader advise the two managers of the bill how we respect the interests of our two sides? In other words, at what time? In other words, how do we protect ourselves when the distinguished leader is finished and then we return to the bill?

Mr. BYRD. Mr. President, I will certainly have someone get in touch with the two managers at that time. I will put in a quorum at that time. They will be fully protected and at any time a Senator wishes to get recognition for an amendment or on another matter, I will be happy to relinquish the floor.

Mr. WARNER. Mr. President, we thank the distinguished majority leader for what he is going to present to the Senate now. The understanding is both managers would be given an opportunity to come back to the floor when it is the judgment of the leader that we should return to the bill.

Mr. BYRD. Precisely.

Mr. President, there are two additional amendments that may be removed from the list. I ask unanimous consent that the Bingaman-Kennedy amendment on NSF be dropped from the list and that the amendment by Mr. SIMPSON, the sense-of-the-Senate amendment "in re SDI deployment" be dropped from the list.

The PRESIDING OFFICER (Mr. DIXON). Is there objection? Hearing none, that is the order.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for not to exceed 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE UNITED STATES SENATE

LOBBYING AND THE SENATE

Mr. BYRD. Mr. President, in 1869, a newspaper correspondent published this vivid description of a monster in the Capitol building: "Winding in and out through the long, devious basement passage, crawling through the corridors, trailing its slimy length from gallery to committee room, at last it lies stretching at full length on the floor of Congress—this dazzling reptile, this huge, scaly serpent of the lobby." What was this awful creature? It was intended as the embodiment of lobbyists, who were proliferating in the years after the Civil War, and whom many believed were corrupting the Congress. Even today, the media tend to portray legislative lobbyists as some form of monster. And yet, we realize that lobbyists play an important and essential role in the legislative process. Today, in my continuing series of addresses on the history of the Senate, I will attempt to penetrate some of the myths and mysteries surrounding lobbyists over the past two hundred years.[1]

Citizens of the United States, whether as individuals or in organizations, have both direct and indirect interest in legislation considered by Congress. They make their interests known by electing sympathetic senators and representatives, and by petitioning for or against specific legislation. This is a right guaranteed them by the First Amendment to the Constitution. Roy Swanstrom, in his study of the Senate's early years, notes that the first petitions and memorials came from shipwrights concerned over the effects of the tariff; from merchants desiring an end to the tax on molasses; from federal clerks requesting an increase in pay; from military officers who sought reimbursement for personal funds expended during the Revolution; from chambers of commerce, taxpayers' committees, veterans, and even state legislatures. The Senate might appoint a committee to consider a petition, or refer it to a committee already dealing with similar legislation. Petitions that ran contrary to the wishes of the majority, were either tabled, pigeonholed one way or another, and forgotten.

With so many interests competing for congressional attention, petitioners sought ways of getting noticed. In April 1798, on the motion of Senator Samuel Livermore, a large committee of Philadelphia citizens were admitted to the Senate floor to present their petition in support of the administration's policies toward France. Senator Humphrey Marshall of Kentucky objected to this procedure and won passage of a resolution to prohibit individuals or delegations from presenting such petitions in such a way in the future. Entertainment was another means adopted from the start by those interested in influencing legislation. During the First Congress, Senator William Maclay wrote in his journal that New York merchants employed "treats, dinners, attentions" to delay passage of a tariff bill.

Lobbyists appear to have been at work from the earliest days of the Congress. Roy Swanstrom points to William Hull, who was hired by the Virginia veterans of the Continental Army to lobby for additional compensation for their war services. In 1792, Hull wrote to other verterans groups, recommending that they have their "agent or agents" cooperate with him during the next session to pass a compensation bill. In 1795, a Philadelphia newspaper described how lobbyists waited outside Congress Hall to "give a hint to a member, tease or advise as may best suit."

As early as the eighteenth century there were widespread suspicions that large, well-financed interests were receiving special attention from the government. During the first half century of our Republic, the most distrusted and despised special interest was the Bank of the United States, a private bank chartered by the federal government. Critics of the bank pointed out that a number of sitting senators served as its directors, a clear case of conflict of interest. As James Madison wrote to Thomas Jefferson in 1791: "Of all the shameful circumstances of this business, it is among the greatest to see the members of the legislature who were most active in pushing this job, openly grasping its emoluments." [2] In the 1830's, Senator Daniel Webster was writing to the bank's president: "I believe my retainer has not been renewed or refreshed as usual. If it be wished that my relation to the bank should be continued, it may be well to send me the usual retainers."

How is that? That is putting it right on the barrel head, isn't it?

The perception of impropriety that the bank fostered was a contributing factor to President Andrew Jackson's decision to remove government funds and to veto attempts to extend its charter.[3]

In the early days, tariff legislation had the greatest impact on society as a whole, and stimulated the greatest amount of lobbying. It is interesting to note, in light of the press's traditional suspicion of lobbyists, that the first Washington newspaper correspondents were in some respects tariff lobbyists. Merchants and shippers in New England, and planters in the South, wanted representatives in the capital throughout the congressional session, to keep them informed on the progress of tariff legislation, and to assist their representatives in fighting for their interests. This is not surprising when we consider that a critical part of lobbying has been that of supplying information, both to members of Congress and to those interested in the passage of the bill, or those interested in stopping a bill.[4]

By the 1850's, railroad construction, largely underwritten by Federal land grants and other subsidies, further increased the presence of lobbyists in Congress. Their numbers multiplied geometrically with the outbreak of the Civil War, and with the Industrial Revolution that followed. Lobbying, as both an institution and a danger, impressed itself most strongly upon the public conscience in the decade after the war. As Professor David Rothman has written: "In the 1870's, when party did not yet superintend the course of Senate affairs, lobbying for the first time became a vital element in government." Lobbyists like William E. Chandler, accepted large retainers from a great number of railroads seeking government assistance. The corporations themselves often resented the many lobbyists seeking their money, whom they called "strikers." As railroad magnate Collis Huntington complained: "The damned strikers are so numerous"—meaning lobbyists—"that if we should endeavor to put the matter before Congress this session I have no doubt it would cost us more than it would be worth. * * * The Strikers, or Third House members, are very quick and hungry in Washington this winter."

Businesses hired lobbyists to gain a sympathetic hearing for their legislative aims. But often a single lobbyist did not possess wide enough contacts, and they were forced to hire several different agents. Collis Huntington estimated that his rival railroad operator, Tom Scott, had hired two hundred lobbyists for the congressional session of 1876–77. The cost of so many agents was enormous, and the results were far from certain. Tom Scott, for instance, did not win congressional support for his railroad. Businessmen felt caught in a bind. Not always certain that lobbyists possessed the influence they claimed, they nevertheless feared that not hiring them might cause lucrative government support to slip away. The correspondence of leading businessmen is filled with their complaints about lobbying costs, including hotels, entertainment, cigars, and champagne. Sometimes it also meant direct payments to members of Congress. As Collis Huntington argued: "We must take care of our friends."

Periodically, lobbying scandals broke into the press and caught public attention. The *Credit Mobilier* scandal of 1872 revealed that a member of the House, Representative Oakes Ames, had distributed railroad stocks to senators and representatives in return for their support for railroad legislation. In 1883, when the chief lobbyist of the Southern Pacific Railroad died, his widow sued the company for a larger property settlement. To support her case she introduced his correpondence as evidence. Newspapers seized upon the material and reprinted it widely, further muddying the reputations of lobbyists as a whole.[5]

By far the most famous lobbyist of the era was Sam Ward, popularly known as the "King of the Lobby." Ward was originally hired by Treasury Secretary Hugh McCulloch, who was trying to restore order and stability to the nation's finances after the Civil War. The Treasury Secretary wanted to retire the $450 million in greenback currency issued during the war, but Congress feared the political consequences of such a deflationary action. In order to educate legislators on the need to improve the nation's credit, Sam Ward gave dinners. As his biographer explained, Ward "proceeded upon the comfortable axiom that the shortest distance between a pending bill and a congressman's 'aye' lies through his stomach." Washington was not at that time a city of first-class restaurants. Many congressman lived and ate in boarding houses, tellingly named "messes," and even official dinners were dismal affairs. Ward, however, provided the finest foods and wines, and the most sparkling conversation and entertainment, at a rumored cost to the Treasury Department of twelve thousand dollars.

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[1] Footnotes at end of article.

Ward worked for other clients as well—individuals, corporations and foreign governments—helping them move bills through Congress, and promoting their claims before government bureaus. To demonstrate his influence, he frequently used the stationary of congressional committees. And he always kept stores of wine, liquor, and cigars to make friends and influence people. Ward could often be found at Welcher's restaurant, coaching its cook, and serving as unofficial maitre d' for congressional customers. Ward would escort legislators to a table, recommend the best items on the menu, and seat them near those who had business to conduct.

Sam Ward managed to steer clear of suspicion in the multitude of lobbying scandals of the era, but in 1875 he was called to testify before a congressional investigation of subsidies for the Pacific Mail Steamship Company. Newspapers charged that Ward had distributed over a hundred thousand dollars to bribe correspondents, House doorkeepers, and other federal officials. Ward defended his actions and gave us his insights into Gilded Age lobbying. Let me read from his candid, and humorous testimony:

> The business of lobbying, so called, is as precarious as fishing in the Hebrides. You get all ready, your boats go out—suddenly there comes a storm, and away you are driven * * *. Everybody who knows anything about Washington knows that ten times, aye, fifty times, more measures are lost than are carried; but once in a while a pleasant little windfall of this kind recompenses us, who are always toiling here, for the disappointments. I am not ashamed—I do not say I am proud, but I am not ashamed—of the occupation. It is a very useful one. In England it is a separate branch of the legal profession; there they have parliamentary lawyers who do no other business. There the committees sit all day to hear these lawyers, and they sit in Parliament at night, whereas here committees are only allowed to sit for an hour and a half; so that it is very hard to get through four thousand bills in a session. The disappointments are much more numerous than the successes. I have had many a very pleasant "contingent" knocked away, when everything appeared prosperous and certain, and I would not insure any bill, if I were paid fifty per cent, to insure its passage.
>
> I was retained, I suppose, because "the king's name is a tower of "strength," and I am known as the "King of the Lobby" * * *. We who are of the "regular army" know when we are whipped. But gentlemen of little experience come down here, and peg on until the end of the session, and never understand when they had better go home * * *. To introduce a bill properly, to have it referred to the proper committee, to see that some member in that committee understands its merits, to attend to it, to watch it, to have a counsel to go and advocate it before the committee, to see that members of the committee do not oversleep on the mornings of important meetings, to watch for the coming in of the bill to Congress day after day, week after week, to have your men on hand a dozen times, and to have them as often disappointed; to have one of those storms which spring up in the Adriatic of Congress, until your men are worried and worn, and tired, and until they say to themselves that they will not go up to the Capitol today—and then to have the bird suddenly flushed, and all your preparations brought to naught—these, these are some of the experiences of the lobby.[6]

In 1869, *The Nation* defined a lobbyist as "a man whom everybody suspects * * * and whose employment by those who have bills before a legislature is only resorted to as a disagreeable necessity." That sentiment was repeated throughout the literature of the Gilded Age. Mark Twain's novel, *The Gilded Age*, which gave the name to the era, was the story of Colonel Beriah Sellers' tawdry efforts to lobby for a bill that would make him rich. Popular stage productions of *The Gilded Age* made Colonel Sellers, and another of Twain's characters, the beautiful female lobbyist, Laura Hawkins, well-known to the American public.[7] Subsequent novels and scholarly studies of the nineteenth century Congress have tended to portray the most venal aspects of lobbying. By contrast, Margaret Susan Thompson's *The "Spider Web": Congress and Lobbying in the Age of Grant* has argued that lobbyists became the scapegoats for other congressional ills, and that even during the Gilded Age, lobbyists performed beneficial services. She writes that Congress was unprepared for the vast economic changes occurring in the nation and needed all the help it could get. As the predominant branch of government, Congress had over extended itself. Henry Adams asserted that "Congress is inefficient, and shows itself more and more incompetent, as at present constituted, to wield the enormous powers that are forced upon it." Turnover of membership was high; levels of parliamentary expertise were correspondingly low. Neither House had formal floor leadership. There was practically no staff, either for committees or for individual members.[8]

At the same time, pressures on the federal government were steadily increasing. The more crowded the congressional agenda became—with issues of finance, industry, internal improvements, and international relations—the more interests demanded to be heard. This is the nub of what political scientists call "pluralistic democracy." Although we often hear a hue and cry about "special interests," everyone in a sense belongs to a multitude of these interests: we are defined by our gender, race, age, ethnicity, religion, economic status, educational background, means of employment, and ideological bent. Some groups are better funded or better organized than others: corporate interests, organized labor, New Right political action committees. Some groups, especially the very young, the very old, the very poor, are the least organized and the least able to make their needs heard. Nevertheless, they all have "special interest" before the Congress. Members of Congress, of course, attempt to represent all of the various interests within their constituencies, but they must establish some priorities. Lobbyists attempt to shape those priorities by reminding them of the needs of specific groups.

Thus, Thompson defines lobbying as "the process by which the interests of discrete clienteles are represented within the policy-making system." And she defines lobbyists as "representatives who act concurrently with, and supplement the capabilities of those who are elected at the polls. Lobbyists fill roles that in many ways are comparable to those of legislators: helping to transmit and obtain satisfaction and demands upon the government, thereby advancing the substantive interests of those whom they have taken it upon themselves to serve."[9]

So, what then is the problem? Money lies at its root. A group's chances of being heard were improved by hiring a lobbyist, which cost money. the more money available, the higher the quantity and caliber of lobbyists that could be hired. William E. Chandler, senator, cabinet member, party leader, and lobbyist, drew the unheard of retainer of ten thousand dollars from Jay Gould in the 1870's, and Gould was not his only client. As Thompson points out: "Establishing access, particularly if one's demand was individual and basically indistinguishable from hordes of others, was time-consuming, debilitating, and practically impossible unless someone was continuously on the scene to overlook it." She notes that during the 43rd Congress (1873-75), 2,666 private pension bills were introduced, and only 441, or 16 percent, were enacted. How did the members of the Invalid Pension Committee determine which pensions to accept and which to reject? Personal contact improved one's chances. Those who could afford it hired lobbyists, those who could not prowled the halls of Congress for themselves.[10]

This type of self-lobbyist was described by the Washington *Evening Star* in 1891. Noting that visitors to the Capitol searched for the beautiful female claims agent they had read about in novels, the *Star* suggested that the real case was: "a poorly clad, nervous, witful, and frightened woman. She has some claim before Congress, perhaps, or is interested in some other measure. She goes to see the members of senators because she thinks it will help her interests and not because she wishes to. It is as disagreeable to her to visit them as it is to them to receive her visit. She shrinks at a rough word and is grateful for kind usage. This is one kind of female lobbyist, and if she succeeds in getting anything it is because men take pity on her."

Far more significant were the professional lobbyists, hired by others to handle their claims or to promote their legislative causes. The *Star* broke them into three categories. One was the occasional lobbyist, who came to Washington to promote a certain measure and then went home. Largely inexperienced, these occasional lobbyists were the least effective. Then, there were the "clever fellows with smooth tongues," who peddled their familiarity with Congress to any individual or group that could afford to hire them. "If they are not employed by one side, they will work on the other side in order to be bought out." That is, wealthy interest groups would pay them not to work against their legislative aims. Finally, there was a third group which the *Star* termed "the worst of all." These were the agents of large corporations. "They have unlimited means and they usually employ lesser lobbyists under them. They are often fine men in other respects and men of talent. They do unquestionably exert an influence on legislation and they resort not only to bad means to accomplish ends, but to diplomatic means as well. These are the most dangerous lobbyists of all."[11]

During the second half of the nineteenth century, the practice of lobbying shifted from the former to the latter type of agent described by the *Star*. As the issues themselves became more complex, they required more constant and sophisticated attention. In many ways, the lobbying techniques that developed during this period are still with us. Lobbyists analyzed bills, prepared arguments in defense of their clients, drafted speeches, contacted committee members, and orchestrated grass-roots campaigns in favor of their bills.[12]

Now we accept these lobbying tools as legitimate. Back then, they were suspect, in part because they were new, and in part because interests and lobbyists were indiscreet with their use of money to sway votes. As lobbying became perceived as dangerous and a corrupting influence, Congress responded with a variety of reforms. The first effort to regulate lobbyists took place in 1876 when the House required all lobbyists to register with the Clerk of the House. In 1879, members of the Press Galleries in the Senate and House chambers followed suit. They proposed rules of admission to the galleries that would bar all lobbyists posing as journalists, and they created a Standing Committee of Correspondents to police the galleries. Those rules, and that committee, are still in operation today.[13]

Despite criticism, and reforms leveled against lobbyists, nineteenth century senators came to appreciate the help they could offer. Especially as they defended the high protective tariff, which directly affected numerous industries, senators turned to the representatives of those industries. Senator Francis Warren of Wyoming knew that as soon as he stood up to defend the high tariff on wool, his opponents would fire back with statistics against him. "I want *facts* to build up my arguments," Warren requested from a lobbying group. One representative of the sugar industry, under investigation for its lobbying practices, protested: "How can a senator know about a great question unless he keeps himself informed by those who have devoted their lifetime to it and have a lifelong interest in it?"

The growing importance of lobbying drew many former members of Congress into the profession. They held several important advantages: they understood the legislative process; they knew key members of Congress; and they had access to the floors of the chambers. In fact, by 1897, there were so many former members mingling on the floor of the Senate in behalf of clients that Senator Eugene Hale proposed barring any non-senator from the floor who had an interest in any pending legislation. The rule was not adopted.[14]

The turn of the century saw the rapid consolidation of American industry and the formation of "trusts," which offered a new challenge to congressional government. Between 1897 and 1904, the number of trusts in the United States grew from twelve to 318 (representing a consolidation of more than five thousand manufacturing plants). These giant trusts, including Standard Oil, American Tobacco, and U.S. Steel could all afford extensive lobbying in Washington. They seemed to carry the most weight with the United States Senate—the house of Congress not then directly elected by the people. A number of senators were closely identified with major trusts. Editorial cartoonists began picturing the Senate chamber filled with overblown figures representing corporate interests; newspapers referred to the Senate as a "Millionaire's Club," and David Graham Phillips published his muckraking series, "The Treason of the Senate," naming senators allegedly beholden to corporate interests.[15]

Progressive presidents like Theodore Roosevelt and Woodrow Wilson took advantage of these popular images of lobbyists and business corruption as leverage for their reform legislation. In his efforts to gain public support for lower tariff rates, President Wilson trained his fire on business lobbyists. Here is an excerpt from one of Wilson's press conference in 1913:

> WILSON: I should think you /reporters/ were missing a lot of stories about the extraordinary lobbying in this town at this time.
>
> QUESTION: There is a good deal written about it, Mr. President.
>
> WILSON: Somehow you haven't got hold of it so that the country could notice it. This town is swarming with lobbyists. . . . That is the most concerted and as concentrated an effort, I dare say, as has ever been made to influence governmental legislation by the pressure of private interests.
>
> QUESTION: Do you refer especially to sugar?
>
> WILSON: Sugar, wool—those in particular. Those have the biggest lobbies. Of course, there are men, perfectly legitimate businessmen, who have come to town in some ways to represent their interest. * * *
>
> QUESTION: I think the country knows pretty well that lobbyists are here.
>
> WILSON: I know, but there is a good deal more than the usual scenery in view. * * *
>
> QUESTION: You mean, Mr. President, there is a corrupt lobby here?
>
> WILSON: I don't know that they could approach Congress in that way. But there is just a systematic misrepresentation of the facts.[16]

Wilson's prodding of the press produced the headlines he desired—and helped the Democrats achieve a sharply lowered tariff. The New York *World* ran an expose on the questionable lobbying tactics of an agent for the National Association of Manufacturers, which led the House of Representatives to launch an investigation. The investigating committee proposed legislation requiring all lobbyists to register with the Clerk of the House. The House supported the bill, but the Senate was not yet ready to go along. Slowly but surely, however, lobbying reforms were enacted. In 1919, Congress prohibited any lobbying effort with appropriated funds. This move was designed to prevent agency officials from conducting public relations campaigns, such as stimulating letters and telegrams, to influence the passage of legislation.

In 1928, the Senate enacted a bill requiring lobbyists to register with the Secretary of the Senate and Clerk of the House, but this time the House balked. The movement gained further impetus during a lobbying scandal the next year. Newspapers revealed that Connecticut Senator Hiram Bingham had placed on the Senate payroll as a clerk Charles L. Eyanson, a lobbyist for the Connecticut Manufacturers Association. Moreover, Eyanson accompanied Senator Bingham into closed sessions of the Senate Finance Committee, which was then drafting the Smoot-Hawley Tariff. After an investigation by the Judiciary Committee, the Senate censured Bingham by a vote of 54 to 22, condemning his action as "contrary to good morals and senatorial ethics" and tending "to bring the Senate into dishonor and disrepute." The censure, however, did not spur any legislative response to lobbying.[17]

In 1930, a subcommittee of the Senate Judiciary Committee continued investigating lobbying practice. Among the senators was Hugo Black of Alabama, who was not a member of the Judiciary Committee. Black was concerned about lobbying efforts involving the private development of Muscle Shoals (which later became the public power program known as the Tennessee Valley Authority), and Chairman George Norris invited Black to sit with the committee during the investigation. It was a series of stormy hearings. At one point, a witness called Senator Black a "contemptible cur" and the senator responded: "I'll see you outside about that." The investigation derailed corporate efforts to exploit Muscle Shoals, but achieved no consensus on how to deal with lobbying. However, the experience formed strong opinions in the mind of Hugo Black, who five years later reexamined Congress' "hidden persuaders."

By 1935, Senator Black had acquired a reputation as a persistent and talented Congressional investigator. For years, he had been advocating that lobbyists publicly register their names, objectives, salaries and monthly expenses. Then, in the spring of 1935, lobbyists for public utility companies led a particularly furious assault on the Wheeler-Rayburn bill designed to break up public utility holding companies. The mountain of letters and telegrams that covered Capitol Hill bore all the evidence of an orchestrated compaign, inspiring Black to launch an investigation.

The hearings made headlines when Senator Black called in Western Union officials who testified that the 816 telegrams one Representative received were all dictated and paid for by a lobbyist for the Associated Gas and Electric Co. Evidence of large payments for propaganda activities was also uncovered. In a radio address, Black told listeners that Americans had a constitutional right to petition, but that no "sordid or powerful group" had a right to present its views "behind a mask concealing the identity of that group." He denounced the "high-powered, deceptive, telegram-fixing, letter-framing, Washington-visiting" utility company lobby, and argued that funds for such activities came from citizens' utility bills. "Just contemplate," said Senator Black, "what a good time people are having on your money in Washington!"

As a result of his efforts, the Public Utilities Holding Company Act was amended to provide for registration of all company agents. Black also introduced legislation for registration of all lobbyists, which passed the Senate and House in different versions. Efforts to reconcile the two bills failed. However, Congress was willing to regulate lobbying on an industry-by-industry basis, adding registration provisions to the Merchant Marine Act of 1936, and the Foreign Agents Registration Act of 1938. At the same time, many states enacted lobbying disclosure laws.[18]

Immediately after World War II, the Joint Committee on the Organization of Congress studied how to make Congress more efficient and better run. During the course of its hearings, the Joint Committee heard loud complaints about lobbying pressures on Congress, and several groups, including the American Political Science Association, recommended some form of lobbyist disclosure. "Congress is handicapped in the performance of its proper function," the political scientists argued, ". . . by the importunities of special-interest groups which tend to divert legislative emphasis from broad questions of public interest." The Joint Committee also became concerned that concentrated lobbying efforts by a vocal minority could distort national legislation. The Joint Committee's staff director, George Galloway, who believed that "the strongest pressures from outside are essentially minority pressures representing particular local interest or specific occupational groups," urged that Congress "turn the spotlight of publicity on lobbying activities."

At the Joint Committee's recommendation, Congress adopted the Federal Regulation of Lobbying Act, which became Title III of the Legislative Reorganization Act of 1946. This act defined a lobbyist as any person "who by himself, or through any agent or other persons in any manner whatsoever, directly or indirectly, solicits, collects, or receives money or any other thing of value to be used principally . . . to influence, directly or indirectly, the passage or defeat of any legislation by the Congress of the United States." Anyone meeting this description was required to file his name, address, salary, and expenses with the Secretary of the Senate and the Clerk of the House, along with quarterly reports on the funds he received or spent, to whom and for what purposes those funds were paid, the names of newspaper and magazines in which the lobbyist "caused to be published" articles and editorials, and the purpose of the legislation he was employed to support or oppose. Lobbyists were also required to keep detailed accounts of all contributions of $500 or more. Criminal penalties were assigned for any violation of this act.[19]

In 1954, the Supreme Court upheld these lobbying registration requirements in the case of U.S. versus Harriss. However, the Court defined the legislation narrowly, finding that it did not apply to those groups or individuals who spent their own money to lobby Congress directly, and exempted those groups whose principal purpose was something other than lobbying. In the Harriss case, the Court reasoned that:

> Present-day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the common weal. This is the evil which the Lobbying Act was designed to prevent."[20]

Only two lobbyists have ever been convicted under the Lobby Act. In 1956, Republican Senator Francis Case of South Dakota charged that he had been given a $2,500 campaign contribution to influence his vote. A Senate investigation followed, leading to fines on $2,500 and one-year suspended sentences for two lobbyists for the Superior Oil Company, and a $10,000 fine for their employer.

Calls to strengthen the Lobby Law were heard in the wake of the Watergate scandal. In 1976, the Senate drafted and passed more specific definitions of lobbyists and lobbying practices, but intensive lobbying pressures—principally arguing that the new requirements would violate the free speech rights of lobbyists—kept the measure from passing the House. During the 1980's the Senate Governmental Affairs Committee has continued to hold hearings on lobbying registration and consider new approaches to this old issue. In the 99th Congress, the committee produced an excellent report, which has informed this discussion of the history of lobbying and which I recommend to all those interested in the subject: *Congress and Pressure Groups: Lobbying in a Modern Democracy.*

It should be clear from my remarks that Congress has always had, and always will have lobbyists and lobbying. We could not adequately consider our workload without them. We listen to representatives from the broadest number of groups, large and small; single-issue and multi-purposed; citizens groups, corporate, and labor representatives; public-spirited and privately inspired. They have a service to fulfill. At the same time, the history of this institution demonstrates the need for eternal vigilance that lobbyists not abuse their role, that lobbying be carried on publicly with full publicity, and that the interests of all citizens be heard without giving special ear to the best organized and most lavishly funded. As for the lobbyists themselves, they would probably agree with Sam Ward, the nineteenth century "King of the Lobby," that the disappointments are greater than the successes. They spend many hours and considerable shoe leather trying to convince five hundred and thirty-five members of Congress of the wisdom or folly of certain legislation. They are up against vigorous competition. They still bear the brunt of press criticism, and take the blame for the sins of a small minority of their numbers. But they have a job to do, and most of them do it very well indeed. It is hard to imagine Congress without them.

Mr. President, I ask unanimous consent to print in the Record at this point notes to lobbying and the Senate.

There being no objection, the material was ordered to be printed in the Record, as follows:

Notes to "Lobbying and the Senate"

[1] Emily Edson Briggs, *The Olivia Letters* (New York, 1906).

[2] Roy Swanstom, *The United States Senate, 1787-1801: A Dissertation on the First Fourteen Years of the Upper Legislative Body* 99th Congress, 1st sess., S. Doc. 99-19 (Washington, 1985), 213-17.

[3] United States Senate, Committee on Governmental Affairs, *Congress and Pressure Groups: Lobbying in a Modern Democracy* 99th Congress, 2nd sess., Senate Print 99-161 (Washington, 1986), 2.

[4] F.B. Marbut, *News from the Capital: The Story of Washington Reporting* (Carbondale, IL, 1971), 29-38.

[5] David J. Rothman, *Power and Politics: The United States Senate, 1869-1901* (Cambridge, 1966), 191-203.

[6] Lately Thomas, *Sam Ward, "King of the Lobby"* (Boston, 1965), 336-40, 367-73.

[7] Mark Twain and Charles Dudley Warner, *The Gilded Age: A Tale of Today* (Seattle, 1968/1873).

[8] Margaret Susan Thompson, *The "Spider Web": Congress and Lobbying in the Age of Grant* (Ithaca, 1983), 33-69.

[9] Ibid., 139-40.

[10] Ibid., 165-73.

[11] Washington *Evening Star*, 31 January 1891.

[12] *Congress and Pressure Groups*, 4.

[13] Marbut, *News from the Capital*, 153-58.

[14] Rothman, *Power and Politics*, 203-04.

[15] Robert Rienow and Leona Train Rienow, *Of Snuff, Sin & the Senate* (Chicago, 1965), 157-87.

[16] Arthur Link ed., *The Papers of Woodrow Wilson* (Princeton, 1978).

[17] *Congress and Pressure Groups*, 7-8.

[18] Virginia Van Der Veer Hamilton, *Hugo Black: The Alabama Years* (Baton Rouge, 1972), 176-77, 245-59; *Congress and Pressure Groups*, 10. See also Kenneth Crawford, *The Pressure Boys, The Inside Story of Lobbying in America* (New York, 1939).

[19] *Congress and Pressure Groups*, 41-45.

[20] *U.S. v. Harriss*, 347 U.S. 625 (1954).

(Mr. EXON assumed the chair.)

RECESS UNTIL 1:56 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 1:36 p.m., recessed until 1:56 p.m.; whereupon, the Senate reassembled when called to order by Presiding Officer (Mr. Ford).

The PRESIDING OFFICER. The Chair, using his prerogative as the Senator from Kentucky, declares the absence of a quorum and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONVENE AT 8:15 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. Leahy on tomorrow morning at 7:45 a.m. or thereabouts for a period of 30 minutes be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this means that the convening time will be 30 minutes later than it was otherwise scheduled to be and I make a unanimous-consent request to that end.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I understand the Senate is still awaiting the arrival of a Senator to call up his amendment.

THIRTY-MINUTE RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes.

There being no objection, the Senate, at 1:58 p.m., recessed until 2:28 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Ford).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of S. 1174.

Mr. EXON. Mr. President, the Senator from Arkansas will be coming in the door in just a moment—I have talked with him—to offer an amendment that I understand has been cleared on this side. I believe it has been cleared on the other side.

Until the Senator arrives and until we have a representative for the minority, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. Bumpers] proposes an amendment numbered 779.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

"Not later than June 30, 1988, the Secretary of Defense shall provide to Congress a report in both classified and unclassified versions describing:

(1) The quantitative and qualitative implications of the publicly-announced position of the United States at the Strategic Arms Reduction talks in Geneva for our strategic modernization program. Special, but not exclusive, attention in this report should be paid to the implications for the Trident SSBN program, the rail-garrison Peacekeeper program, and the Small ICBM program.

(2) The advantages and drawbacks of following the recommendations made in the 1983 report of the President's Commission on Strategic Forces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to (1) and (2) above on U.S. force modernization and arms control policy."

Mr. BUMPERS. Mr. President, this is an amendment that is straightforward that we have furnished both sides of the aisle some time ago, and it is designed to address what I think is really an acute problem.

First, back in 1983 the Scowcroft Commission filed a report at the request of the President to the Congress about our strategic forces and where we ought to be headed in our modernization program.

You will recall that it was the Scowcroft Commission that recommended that we go forward with the building of 100 MX missiles.

Let me say, in all fairness, I did not agree with the report insofar as it made that recommendation and, of course, as you know, later on the Senate agreed to build 100 but subsequently cut that to 50 when it appeared that it really did not fit in with our modernization program.

But one part of the Scowcroft Commission report that got little attention was the one that said we were moving toward putting too many eggs in too few baskets with our submarine-based strategic forces; namely, the Trident submarine.

We have eight Tridents operational and we have either six or seven at one stage or another of construction.

So even if the U.S. Congress were to say today that we are going to discontinue the Trident submarine program we would probably wind up with at least 14 and maybe 15.

What does that mean, Mr. President? That means that you consider the fact that we are headed toward as far as I know building 20 Trident submarines with about 200 warheads per submarine, and considering the fact that we have almost 6,000 warheads on submarines today and considering the fact that now we are talking about going forward with a rail mobile MX with 10 warheads each, we are in deep development of the Midgetman, and we are building the B-1 and the Stealth bombers.

I have the sneaking suspicion that the administration is not paying attention to the implications of or building programs for our arms control policy, and vice versa.

The President keeps on working from that age-old theory that we have to build something in order to keep the Soviets at the bargaining table. You hear the President at times say, "I want the MX as a bargaining chip," and "I want something else as a bargaining chip." The trouble with the bargaining chip theory is we never bargain anything; we keep it.

This amendment does two things: No. 1, it says that the Secretary of Defense should report to the Congress by June 30 of next year in both classified and unclassified versions on No. 1, the quantitative and qualitative implications of where our strategic force modernization plans fit in with the negotiations that are going on at Geneva; and, No. 2, the advantages and drawbacks of the 1983 recommendation by the Scowcroft Commission that we start planning on a smaller submarine as a successor to the Trident.

No. 1, our submarines may not be as invincible as they once were. You know, there was a time, particularly before Toshiba began to sell all this sophisticated equipment to the Russians, there was a time when their submarines were very noisy. Back then we knew where they were and they did not know where ours were. They were not nearly as sophisticated in antisubmarine warfare and submarine quieting technology as we were, and we felt pretty fat and happy over the fact we knew where their submarines were and their submarines were just as vulnerable as a silo-based missile located in the southern part of the Soviet Union and our missiles like the Titan II in my home State and the Minuteman III out in Wyoming. While we always knew the Russians could knock those out, we always felt comfortable they could not knock our submarines out because they did not know where we were and, as I say, I am not engaged in Japanese bashing, but it is a fact that Toshiba has brought the Soviet Union light years forward in making the oceans invisible particularly as far as Soviet submarines are concerned.

So I think we ought to begin to put our eggs in a larger number of smaller baskets. I will give you an illustration, Mr. President. Take this example. How many times have you heard about our proposal to cut the number of warheads in half? The first time you heard that we had 11,000 warheads and to cut them in half would have meant that we would have 5,500 warheads. When you consider the fact that we have 6,000 warheads on submarines alone you tell me what are we going to give up.

Are we going to take missiles out of silos out in Wyoming? Are we going to ground these B-1 bombers that are just now coming on line? They have not even finished producing all of them yet.

Are we going to destroy all of our Poseidon submarines and maybe a Trident or two? How are we going to mix our strategic forces to come in compliance with 50 percent reduction in warheads?

Now, my point is this: If we entered into that agreement today, that would only leave room for 18 Trident submarines. And, as I said earlier, Mr. President, we will have at least 14 and probably 15 if we did not build another Trident submarine. If we had 18 Trident submarines, that would take care of about 3,500 warheads, which means we would have 15 targets out in the seas, only two-thirds of them on station at any one time; say, 12 submarines in the ocean with 75 percent of our reliable missile warheads on those 12 submarines.

Now nobody wants that. That is the most undesirable result from a strategic warfare standpoint.

So my position, Mr. President, is that the Scowcroft Commission was absolutely correct. We need to look at whether we want to build a much smaller missile-firing submarine, so that we can spread our number of submarine warheads over more than just 18 Trident subs; and if we are going to have 5,000 warheads on each side maybe we would not want more than half of them on submarines, say 2,500.

And if we were going to have 50 or 100 warheads on a submarine, you can see we would have a lot more submarines out there and that there are a lot more targets that Soviets would have to find.

So it makes no sense, in light of what the President is representing to the American people, what he has represented the START talks to mean to the American people, it makes no sense for us to continue building $2 billion submarines, which just puts all of our eggs in one basket, and we make it so much easier for the Soviet Union to find those targets.

So, Mr. President, my amendment is very simply this: No. 1, it says to the Secretary of Defense: "Before June 30, 1988, report to us what kind of strategic mix are we going to have in light of our proposal to reduce the number of warheads in half." And, No. 2, follow the Scowcroft Commission report and consider building a much smaller submarine than the Trident II.

Mr. President, I ask unanimous consent that that part of the Scowcroft Commission report dealing with the recommendation of a follow-on submarine to the Trident II be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the President's Commission on Strategic Force, April 1983]

B. SEA-BASED MISSILE PROGRAMS

1. DEPLOYMENT

The Commission supports the continuation of the Trident submarine construction program. It also supports the continued development and the deployment of the Trident II (D-5) missile as rapidly as its objectives of range, accuracy, and reliability can be attained. The Trident submarine's significantly reduced noise level and the D-5 missile's greater full-payload range will add importantly to the already high degree of survivability of the ballistic missile submarine force. Given the increased importance of that force, both programs are essential. The D-5 missile's greater accuracy will also enable it to be used to put some portion of Soviet hard targets at risk, a task for which the current Trident I (C-4) missile is not sufficiently accurate. The Commission also stresses the importance of the command, control, and communication improvements of particular relevance to the submarine force—namely the ELF communication system, the ECX aircraft, and the MILSTAR satellite.

The Commission does not recommend the development and deployment of a system for the launch of ballistic missiles from surface ships. Such a system appears to have no net advantage over submarine basing and would have vulnerabilities that submarines do not possess.

For the reasons stated in section IV.A., above, the Commission recommends strongly against adopting a strategic force posture relying solely on submarines and bombers to the exclusion of ICBM modernization; it recognizes, however, the increasing importance of the ballistic missile submarine force.

2. RESEARCH

The Commission notes that—although it believes that the ballistic missile submarine force will have a high degree of survivability for a long time—a submarine force ultimately consisting solely of a relatively few large submarines at sea, each carrying on the order of 200 warheads, presents a small number of valuable targets to the Soviets. Vigorous pursuit of the longstanding program to avoid technological surprise by the Soviets in anti-submarine warfare is thus of vital importance.

Consistent with the long-term program recommended for the ICBM force, below, to reduce the value of individual targets, the Commission recommends that research begin now on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force. The objective of such research should be to design a submarine and missile system that would, as much as possible, reduce the value of each platform and also present radically different problems to a Soviet attacker than does the Trident submarine force. This work should proceed in such a way that a decision to construct and deploy such a submarine force could be rapidly implemented should Soviet progress in anti-submarine warfare so dictate.

The PRESIDING OFFICER. This amendment had 15 minutes to be equally divided. The Senator from Arkansas has used his 7½ minutes.

Mr. EXON. Mr. President, since the majority on the committee is supporting this amendment, and I believe there is support on the other side, I yield to the Senator from South Carolina.

The PRESIDING OFFICER. The time belongs to the minority under the rules. Seven and a half minutes remain.

Mr. THURMOND. Mr. President, we are not going to object to this amendment and we are willing to go along with it.

Mr. EXON. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator does not have any time remaining. All of his time under this amendment has expired.

Mr. EXON. Will the Senator from South Carolina yield me 2 minutes of his time?

Mr. THURMOND. Mr. President, I am happy to yield 2 minutes to the Senator.

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. EXON. Mr. President, I congratulate the Senator from Arkansas for offering this amendment. I think it is an extremely good one. It comes under the jurisdiction of the Strategic Forces Subcommittee that I chair in the Armed Services Committee. We have been talking about what was going to be put on the Trident if we were going to have one. I think the Senator from Arkansas has very eloquently stated the need for at least the study; and that is all it is, something suggested by the Scowcroft Commission report.

Therefore, I am pleased to know that not only has he offered the amendment, but the distinguished ranking member of that subcommittee has also endorsed it. I believe that we could proceed with passage without further debate.

The PRESIDING OFFICER. Does the Senator from South Carolina yield back his time?

Mr. THURMOND. I yield the time back on this side.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas [Mr. BUMPERS].

The amendment (No. 779) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, any Senators within the sound of my voice should be put on notice that we are prepared to debate other amendments that Senators have. There are some 40 yet outstanding. We have no Senator on the floor at the present time that has an amendment on the list. Therefore, all should be advised that we will put in a quorum call for a period of about 15 minutes and, if no Senator has come to the floor by that time to offer an amendment, the suggestion will be made to the majority leader that no further business evidently will be conducted this afternoon.

Mr. President, I suggest that absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Without objection, it is so ordered.

Mr. BYRD. Mr. President, six amendments have been agreed to today. Six amendments have been removed from the list of amendments by unanimous consent. One amendment by Mr. JOHNSTON has been debated and a rollcall vote ordered thereon. Thirty-three amendments remain on the list, many of which are controversial and will require some debate.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1923. A communication from the President of the United States, transmitting, pursuant to law, offsetting amendments to the request for appropriations for fiscal year 1988 for the Department of Defense-Civil; to the Committee on Appropriations.

EC-1924. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the President to defer until October 1, 1989, the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term beginning October 1, 1987; to the Committee on Armed Services.

EC-1925. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 162 of title 10, United States Code, to permit the Secretary of Defense to assign Armed Forces of the United States to the United States element of bi-national or multi-national military commands; to the Committee on Armed Services.

EC-1926. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-1927. A communication from the Acting Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the first annual report on incomplete water resources studies which have been authorized, but for which no funds have been appropriated during the preceding five full fiscal years; to the Committee on Environment and Public Works.

EC-1928. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, a report on imports of strategic and critical materials from countries of the Council for Mutual Economic Assistance for May 1987; to the Committee on Foreign Relations.

EC-1929. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, a report stating that seven southern African countries have met requirements regarding members of the Southern African Development Coordination Conference; to the Committee on Foreign Relations.

EC-1930. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 24, 1987; to the Committee on Foreign Relations.

EC-1931. A communication from the Solicitor of the United States Commission on Civil Rights, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1986; to the Committee on Governmental Affairs.

EC-1932. A communication from the Chief Justice of the United States, transmitting, for the information of the Senate, notice that the Supreme Court will open the October term on October 5, 1987; to the Committee on the Judiciary.

EC-1933. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to extend and amend various health authorities, and for other purposes; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-304. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 17

"Whereas, tungsten is a strategic material which is used not only to make drilling and cutting parts for the machining, oil well drilling, and mining industries and filaments for light bulbs, but also has many important applications in armaments and aircraft; and

"Whereas, during World War II and the Korean Conflict, the United States, with world supplies cut off, became self-sufficient in the production of tungsten and created a strategic stockpiling program for this essential commodity; and

"Whereas, the Bishop, California tungsten deposit is believed to be the world's largest, and the mine and mill located there contributed greatly to this country's production of that vital material; and

"Whereas, at its peak of production in 1979, the Bishop mine and mill employed about 10 percent of that city's population, while today the mine has closed and the mill barely remains able to operate, and employs only 2 percent of Bishop's population; and

"Whereas, if present import trends continue, all tungsten mines in this country will soon close, followed closely by the remaining tungsten mills, making the United States totally dependent upon foreign imports for tungsten; and

"Whereas, although federal stockpiles of tungsten are ample for a national emergency, that material is presently stored in a raw material state, and must be refined in order to be of any use to either industry or defense; and

"Whereas, the closure of the nation's tungsten mills would render federal tungsten stockpiles worthless and unusable; and

"Whereas, the United States tungsten industry has proposed that these stockpiles be refined and upgraded as a means to keeping these vital milling facilities in operation and the country's tungsten supplies in a usable state; and

"Whereas, excess tungsten concentrates may be used to finance this upgrading and refining process in order to minimize expenditures, and a similar program is presently in place for other strategic materials such as manganese and chromium; and

"Whereas, institution of a tungsten upgrading and refining program would be the only feasible way to keep the Bishop mill and its highly trained employees working, and the closure of this modern and environmentally sound facility would be a great loss not only for the community of Bishop but for the United States; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the California Legislature respectfully memorializes the President and Congress to institute a tungsten upgrading and refining program in order to render the nation's strategic stockpiles of tungsten usable and to rescue the vital tungsten milling industry from oblivion; and be it further

"*Resoved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Administrator of the General Services Administration."

POM-305. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

ASSEMBLY JOINT RESOLUTION NO. 14

Whereas, the Environmental Protection Agency is designated by the federal government as the agency responsible for the protection of our coastal environment; and

Whereas an ever-increasing body of evidence is indicating that tributyltin-based antifouling paints can cause significant harm to the environment, especially shellfish; and

Whereas, the Environmental Protection Agency has the expert staff necessary to prepare and distribute appropriate informational and educational materials on the use of antifouling paint and its potential adverse impact on our marine environment; and

Whereas, the Pacific Fisheries Legislative Task Force is willing to assist with coordination and development in the preparation and distribution of educational materials; and

Whereas, the failure to take informative and preventative steps could lead ultimately to regulation at either the state or federal level to eliminate or significantly reduce the potentially devastating adverse impacts on the environment and the related domestic fishing economics; and

Whereas, similar educational leaflets such as "Don't Foul Things Up" have previously been prepared by the Royal Yachting Association in cooperation with the United Kingdom, Department of the Environment, and other bodies to serve as an example and guide; now, therefore, be it.

"*Resolved, by the Assembly and Senate of the State of California, jontly,* That the Legislature of the State of California requests and encourages the Environmental Protection Agency to devote all necessary staff and effort to prepare and distribute appropriate informational and educational materials on antifoulding paints at the earliest possible date to further the protection of our marine environment and to help foster a positive economic climate, especially since less environmentally damaging alternatives are available; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, and to each Senator and Representative from Alaska, California, Hawaii, Idaho, Oregon, and Washington in the Congress of the United States."

POM-306. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

"ASSEMBLY JOINT RESOLUTION NO. 15

"Whereas, marine bottom paints containing tributyltin (TBT) are widely used by commercial and recreational fleets as an effective antifoulant; and

"Whereas, The United States Navy is currently considering a conversion to the use of TBT-additive bottom paints for its fleet; and

"Whereas, High concentrations of TBT have been found in marinas along the west coast, ranging from 100 to 1,000 parts per trillion in the marina water; and

"Whereas, TBT is known to be toxic in concentrations of over 5 parts per trillion; and

"Whereas, TBT has been found to cause deformities in oysters and other shellfish and lethal to juvenile chinook salmon; and

"Whereas, TBT-based bottom paints have been banned or restricted in France and Great Britain at the insistence of the fishing industry to protect marine fish and shellfish; and

"Whereas, Existing and increased uses of TBT-based bottom paints in the United States pose a potential threat to fish and shellfish resources; and

"Whereas, Other forms of antifoulant bottom paints do exist and are available to military, commercial, and recreational fleets; now, therefore, be it

"*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact an immediate ban on the use of TBT-based bottom paints by domestic or foreign vessels until such time as methods of use of TBT-based bottom paints or derivatives of organotin paints are developed that pose no threat to the marine environment; and be it further

"*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Defense, to the Secretary of Transportation, to the Secretary of the Navy, to the Administrator of the Environmental Protection Agency, to the Speaker of the House of Representatives, and to each Senator and Representative from Alaska, California, Hawaii, Idaho, Oregon, and Washington in the Congress of the United States."

POM-307. A joint resolution adopted by the Legislature of the State of Wisconsin; to the Committee on the Judiciary:

"1987 ASSEMBLY JOINT RESOLUTION 27

"ANALYSIS BY THE LEGISLATIVE REFERENCE BUREAU

"In 1789, the Congress of the United States submitted 12 proposed articles of amendment to the states. Of the proposed articles, those numbered III to XII were ratified by the states and became the first 10 amendments—known as the Bill of Rights—of the United States Constitution.

"While the 12 proposed articles were pending, Vermont became the 14th state so that 11 ratifications were required for adoption. Proposed Article I, dealing with reapportionment, was ratified by 10 states (one short of the required number). Proposed Article II, dealing with the effective date for congressional pay changes, was ratified by 6 states from December 1789 through December 1791: Maryland, North Carolina, South Carolina, Delaware, Vermont and Virginia.

"Information compiled by the National Conference of State Legislatures (NCSL) and others indicates that only one additional state, Ohio, ratified the congressional pay change amendment in the 19th century (May 6, 1873).

"Based on the information, the recent interest in ratification of the congressional pay change amendment began with the ratification by Wyoming (March 6, 1978). Two states ratified in 1983-84: Maine (April 27, 1983) and Colorado (April 22, 1984). Five states registered their ratifications with the Office of the Federal Register in 1985, and 3 more states in 1986: South Dakota in February 1985, New Hampshire (March 7, 1985) Arizona (April 3, 1985), Tennessee (May 28, 1985) Oklahoma (July 10, 1985), New Mexico (February 14, 1986), Indiana (February 24, 1986) and Utah (February 25, 1986).

"Thus, it appears that the congressional pay change amendment has been ratified by at least 18 states. Because there are now 50 states, 38 valid ratifications are required to make the amendment operative.

"Because the congressional pay change amendment was submitted to the states in 1789 without a time limit for ratification, additional states can still ratify today. However, whether such ratifications are valid is a political question which will ultimately have to be decided by the United States Congress; see *Dillon* v *Gloss*, 256 U.S. 368 (1921), and *Coleman* v *Miller*, 307 U.S. 433 (1939).

"Whereas, the congress of the United States has submitted to the several states, by action of the house of representatives on September 24, 1789, and by action of the United States senate on September 15, 1789, a proposed amendment to the constitution of the United States pertaining to the effective date for congressional pay changes, which amendment reads as follows:

"'No law varying the compensation for the services of the Senators and Representatives shall take effect, until an election of Representatives shall have intervened.'

"Whereas, while the congress of the United States has the power to impose reasonable time limits for the ratification of proposed amendments to the constitution of the United States, and has done so for many of the amendments submitted to the states in recent decades, the congress did not impose any time limit whatsoever on the ratification of the congressional pay change amendment; and

"Whereas, the congressional pay change amendment was validly ratified by the state of Vermont on November 3, 1791, even though Vermont had not been one of the original 13 states to which the proposed amendment had been submitted, and had not yet achieved statehood when the amendment was submitted; and

"Whereas, by the act of congress dated May 29, 1848 (9 U.S. Stats., Ch. L, pp. 233-235), "for the Admission of the State of Wisconsin into the Union", this state was . . . . "admitted into the Union on an equal footing with the original States, in all respects whatever". . . .; and

"Whereas, almost 26 years following the admission of the state of Wisconsin into the union the state of Ohio, on May 6, 1873, became the 7th state to ratify the congressional pay change amendment. A century later, on March 6, 1978, Wyoming submitted the 8th ratification. Maine ratified on April 27, 1983; Colorado on April 22, 1984. Five states ratified the amendment in 1985: South Dakota in February; New Hampshire on March 7; Arizona on April 3; Tennessee on May 28 and Oklahoma on July 10. Three more ratifications—bringing the total number to 18—were received in February 1986: New Mexico on the 24th; and Utah on the 25th; and

"Whereas, the people of the sovereign state of Wisconsin, represented in senate and assembly, have studied said proposed addition to the constitution of the United States and it is their consensus that the federal government, three-fourths of the states concurring, be directed to thus alter the constitution of the United States; now, therefore, be it

"*Resolved by the assembly, the senate concurring*, That the said proposed congressional pay change amendment to the constitution of the United States is hereby ratified by the legislature of the state of Wisconsin; and, be it further

"*Resolved*, That a duly attested copy of this resolution be immediately transmitted to the president and secretary of the senate of the United States, to the speaker and clerk of the house of representatives of the United States, to the office of the federal register, to the library of congress, to each member of the congressional delegation from this state, to the national conference of state legislatures, to the council of state governments, and to the presiding officer of each house of each state legislature in the United States, attesting the adoption of this joint resolution by the 1987 legislature of the state of Wisconsin."

POM-308. A concurrent resolution adopted by the Legislature of the State of Ohio; to the Committee on Labor and Human Resources:

"AMENDED HOUSE CONCURRENT RESOLUTION No. 12

"*Be it Resolved by the General Assembly of the State of Ohio:*

"Whereas, all corporations are legally and ethically bound to the fulfillment of contractual obligations; and

"Whereas, contractual obligations made between a corporation and its employees are of particular importance because such obligations reflect a mutual assumption of an agreement in good faith and of economic justice; and

"Whereas, corporation-based pension funds and health and life insurance programs negotiated as part of employee contracts are the legal and ethical property of the employees covered in such contracts; and

"Whereas, current and retired employees who have entered into contracts which provide pension and insurance plans depend on such programs for the livelihood of their dependents as well as themselves; and

"Whereas, corporations that file for protection under Chapter 11 of the United States Bankruptcy Code can partially or fully escape their respective contractual obligations to employee pension and insurance plans; and

"Whereas, the immediate effect of corporations not meeting their pension and insurance plan obligations is a comprehensive reduction in the present and future quality of life of the employees and retired employees and the employees' respective dependents; and

"Whereas, the communities of these legally, economically, and ethically victimized persons also experience considerable economic dislocation due to bankrupt corporations' legal exemption from meeting contractual obligations; now therefore be it

"*Resolved*, That we, the members of the 117th General Assembly of Ohio, in adopting this Resolution, wish to express our wholehearted concern for the economic injustice experienced by the current and retired employees and the affected communities resulting from corporation bankruptcies; and be it further

"*Resolved*, That we request the United States Congress take whatever steps that prove necessary to ensure that corporations that file for U.S. Bankruptcy Code protection are still required to fully meet their respective employee pension and insurance plan obligations; and be it further

"*Resolved*, That the Legislative Clerk of the House of Representatives transmit duly authenticated copies of this Resolution to the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and members of the Ohio Congressional Delegation, and to the news media of Ohio."

POM-309. A joint resolution adopted by the Legislature of the State of California; to the Committee on Veterans' Affairs:

"ASSEMBLY JOINT RESOLUTION NO. 35

"Whereas, there resides in the State of California, over 3.3 million veterans who, along with their dependents, amount to approximately 20 percent of the total population of this great state, making California the number one ranked state in the United States having the largest veteran community; and

"Whereas, the young men and women presently in the armed forces that President Reagan referred to in his State of the Union Message will be veterans at sometime in the future, and by 1989, one-half of all American men over age 65 will be veterans; and

"Whereas, the Reagan Administration plans to reduce the number of veteran patients treated at Veterans' Administration Hospitals by reducing the Veterans' Administration medical staff by 3,810 workers in 1988, thereby forcing 9,700 hospital patients and 113,000 outpatients to find alternative care; now, therefore, be it

"*Resolved by the Assembly and the Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President to support and the Congress of the United States to enact legislation recognizing the medical needs of our large veteran population, and to amend the budget accordingly to assure that the veterans of this country will not be slighted by reduction in funding for the Veterans' Administration; and be it further

"*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Senate Armed Services and Veterans Committee, to the House Armed Services and Veterans Committees, and to the chairperson of each committee of the Senate and House of Representatives for consideration of legislation."

POM-310. A joint resolution adopted by the Legislature of the State of Wyoming; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION

"Whereas, on Setpember 25, 1789 the Congress of the United States offered to the states for ratification a proposed amendment to the Constitution of the United States to require an intervening election of Representatives before any increase in compensation accrues to Senators or Representatives; and

"Whereas, the Congress of the United States, upon proposing that amendment, did not place any time limitation on its final adoption; and

"Whereas, in view of recent pay increases for Congressmen, which were effected without a vote of the Congress and provided immediate benefits; and

"Whereas, in view of recent increases in pension benefits for members of the United States House of Representatives retiring this year, which was authorized with no debate and no record vote; and

"Whereas, the percentage increase in direct compensation and benefits was at such a high level, as to set a bad example to the general population at a time when there is a prospect of a renewal of double-digit inflation; and

"Whereas, increases in compensation and benefits to most citizens of the United States are far behind these increases to their elected Representatives; and

"Whereas, the state of Delaware, Maryland, North Carolina, South Carolina, Vermont and Virginia have already voted for ratification of this amendment.

"Joint resolution resolved by the Senate and House of Representatives of the United States in Congress assembled, (Two-thirds of both Houses * * *".

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DASCHLE:

S. 1724. A bill to amend the Petroleum Marketing Practices Act to require retail gasoline dispensing devices to post health hazard warning labels informing the consumer of the presence of elevated levels of benzene; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for Mr. Hatch (for himself, Mr. Thurmond, Mr. Kennedy, Mr. Wilson, Mr. Burdick, Mr. D'Amato, Mr. Wirth, Mr. Evans, Mr. DeConcini, Mr. Chafee, Mr. Hollings, Mr. Weicker, Mr. Matsunaga, Mr. Domenici, Mr. Chiles, Mr. Durenberger, Mr. Simon, Mr. Dole, Mr. Riegle, Mr. Warner, Mr. Bentsen, Mr. McCain, Mr. Adams, Mr. Packwood, Mr. Cranston, Mr. Stevens, Mr. Kerry, Mr. Boschwitz, Mr. Gore, Mr. Heinz, Mr. Levin, Mr. Garn, Mr. Pell, Mr. Danforth, Mr. Pryor, Mr. Karnes, Mr. Stennis, Mr. Lugar, Mr. McClure, Mr. Proxmire, Mr. Murkowski, Mr. Reid, Mr. Specter, Mr. Bradley, Mr. Nickles, Mr. Glenn, Mr. Bond, Mr. Moynihan, Mr. Grassley, Mr. Inouye, Mr. Gramm, Mr. Lautenberg, Mr. Stafford, Ms. Mikulski, Mr. Quayle, and Mr. Metzenbaum)):

S.J. Res. 192. A joint resolution to designate the month of October 1987, as "National AIDS Awareness and Prevention Month;" placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DASCHLE:

S. 1724. A bill to amend the Petroleum Marketing Practices Act to require retail gasoline dispensing devices to post health hazard warning labels informing the consumer of the presence of elevated levels of benzene; to the Committee on Energy and Natural Resources.

BENZENE LABELING

● Mr. DASCHLE. Mr. President, a large body of scientific data now shows that the American people face an increasing health threat from exposure to benzene, a ubiquitous petroleum distillate and a known carcinogen.

The issue of benzene exposure has been brought to the forefront by a recent Occupational Health and Safety Administration [OSHA] ruling that cuts the amount of benzene to which a worker can be legally exposed by 90 percent. The fact that the Reagan administration, which is hardly known for over-zealous intervention on behalf of workers' health and safety, has issued this far-reaching order underscores the severe dangers associated with benzene exposure.

Benzene has been shown to cause leukemia in humans, and to cause lymphoid cancers, cancers of the skin, ovary, oral cavity, lip, tongue, lung, mammary gland, and a variety of other cancers in laboratory animals. When the EPA published a priority list of the 100 most hazardous substances found at superfund sites, benzene was ranked in the highest priority group, following close on the heels of the widely recognized poisons, cyanide and chloroform. As the Washington Post recently noted, "Benzene has made almost everyone's hit list."

It is a frightening fact that benzene is showing up in increasing numbers of underground water supplies. Even in South Dakota, where air and water pollution is generally not a preoccupying concern, at least 20,000 gallons of benzene-laden gasoline that leaked from a storage tank facility in Sioux Falls has contaminated the city's backup water supply, possibly forever. Other smaller gasoline spills have occurred on the city's primary underground water source, threatening our long-term ability to provide citizens with safe water. Though that primary source, thankfully, has not yet become contaminated, the fact that over 100,000 of my constituents are only one spill away from having benzene-cointaminated water pour from their faucets is extraordinarily disconcerting to me.

I wish I could say our experience in Sioux Falls is an isolated incident, but it clearly is not. In Lisbon, IL, seven residential wells have been contaminated by benzene in gasoline. In the Los Angeles region, seven similarly contaminated wells have been discovered. In a suburb of Phoenix, benzene is suspected to be the tragic cause of a "cancer cluster," made up in large measure of child leukemia victims. Wherever gasoline containing large proportions of benzene is piped, stored, or sold, Americans are potential victims of water contaminated by the dangerous aromatic benzene.

While benzene water pollution is alarming, benzene air pollution is a much more pervasive problem. The California Air Resources Board [CARB] estimates that about 15,000 tons of benzene per year are emitted from motor vehicle exhaust and evaporative emissions representing 93 percent of total emissions. In the Los Angeles area, the south coast air quality management district has classified benzene as the No. 1 risk to area residents among air toxics.

A recently released EPA study found that even persons who simply filled their car with gasoline had twice as much benzene on their breath as those who did not, and that exposure levels from just one filling were reported that were equal to the maximum safety threshold level recently set by OSHA for workers in the refinery industry.

Following the recent award of $108 million in punitive damage to the family of a deceased chemical plant worker who died of leukemia caused by exposure to benzene, the chemical company executive replied, "the average person is exposed to higher levels—of benzene—at the gasoline pump—than the levels found in the deceased workers' body."

In the face of such startling statistics, it is fair to ask what the major oil companies are doing to combat the problem. Incredibly, they are refining gasoline in such a way that actually increases drastically the concentrations of benzene in gasoline.

In an attempt to make up octane points lost due to the federally mandated gasoline lead phase-down, many major petroleum companies have changed their refinery practices to increase the levels of benzene and other aromatics. In 1970, prior to the lead phase-down, the average aromatic content was about 22 percent. In 1987, the Motor Vehicle Manufacture's Association figures show that aromatics content has ballooned to 37 percent.

What is most disturbing about this development is that there is no need to be flooding gasoline with aromatics in order to increase octane ratings. Every oil company in America has available to them an environmentally benign means of increasing octane. The addition of 10 percent ethanol fuels to basestock gasoline increases the octane level of the gasoline by an average of three octane points, while displacing carcinogenic benzene and other aromatics. Moreover, ethanol-blends have the added advantage of decreasing the tailpipe emissions of carbon monoxide by 20 to 34 percent, **and that of hydrocarbons by 10 to 17** percent.

Instead of using ethanol blends as an environmentally sound alternative to increase octane numbers in the gasoline pool, the oil industry has done everything in its power to squeeze ethanol out of the market. Testimony before Congress indicates that oil company attempts to restrict ethanol trade range from discouraging independent franchise holders from selling ethanol blends by not permitting the charging of gasohol purchases on company credit cards, to subtle and not so subtle threats to revoke the franchises of those daring to carry the product.

More to the point, oil company executives have ordered the posting of deceptive warning-like labels on thousands of gasoline pumps around the country that boldly proclaim, "No Ethanol Added," with a fear-provoking skull and crossbones graphic in the background. These tactics incorrectly imply to the consumer that ethanol poses some ominous threat to them. Given the lack of scientific evidence linking use of alcohol fuels with any human health hazard, these tactics constitute blatant and calculated deception of the American consumer.

While millions of dollars are spent in deception campaigns to scare off potential ethanol customers, how much money is spent warning consumers about the dangers of cancer-causing benzene? Where is the concern for the consumers' health in the face of indisputable evidence indicating that benzene is killing Americans every year?

So we now have a situation in which the consumer sees emotion-provoking, warning-like labels on pumps containing environmentally-advantageous ethanol blends, while no label whatsoever is displayed on pumps utilizing cancer-causing benzene as an octane enhancer. Clearly the consumer is getting a distorted picture of the relative health hazards associated with the use of the two types of gasoline available at the corner service station.

I am introducing legislation today that will correct this situation. My bill simply says that if petroleum companies choose to increase octane levels by increasing reforming severity and increasing the levels of posions like benzene in the gasoline above and beyond concentrations naturally found in gasoline, they must warn the consumers about the public health dangers they have created by prominently posting a label warning consumers of the health risk associated with pumping, piping, and burning benzene-laden gasoline.

We have the capability to increase octane in our gasoline by blending a 10-percent mix of a domestically produced, environmentally advantageous, and renewable fuel. I am not suggesting that those who choose to use a nonrenewable carcinogen to boost octane ought to be shut out of the market. I do feel strongly, however, that the very least we owe the American consumer is the right to make an informed choice between the two types of gasolines.●

By Mr. THURMOND (for Mr. HATCH) (for himself, Mr. THURMOND, Mr. KENNEDY, Mr. WILSON, Mr. BURDICK, Mr. D'AMATO, Mr. WIRTH, Mr. EVANS, Mr. DECONCINI, Mr. CHAFEE, Mr. HOLLINGS, Mr. WEICKER, Mr. MATSUNAGA, Mr. DOMENICI, Mr. CHILES, Mr. DURENBERGER, Mr. SIMON, Mr. DOLE, Mr. RIEGLE, Mr. WARNER, Mr. BENTSEN, Mr. MCCAIN, Mr. ADAMS, Mr. PACKWOOD, Mr. CRANSTON, Mr. STEVENS, Mr. KERRY, Mr. BOSCHWITZ, Mr. GORE, Mr. HEINZ, Mr. LEVIN, Mr. GARN, Mr. PELL, Mr. DANFORTH, Mr. PRYOR, Mr. KARNES, Mr. STENNIS, Mr. LUGAR, Mr. MCCLURE, Mr. PROXMIRE, Mr. MURKOWSKI, Mr. REID, Mr. SPECTER, Mr. BRADLEY, Mr. NICKLES, Mr. GLENN, Mr. BOND, Mr. MOYNIHAN, Mr. GRASSLEY, Mr. INOUYE, Mr. GRAMM, Mr. LAUTENBERG, Mr. STAFFORD, Ms. MIKULSKI, Mr. QUAYLE, and Mr. METZENBAUM):

S.J. Res. 192. Joint resolution to designate the month of October 1987, as "National AIDS Awareness and Prevention Month; placed on the calendar.

NATIONAL AIDS AWARENESS MONTH AND PREVENTION

Mr. HATCH. Mr. President, I am pleased to rise and introduce with the senior Senator from Massachusetts, Senator KENNEDY, and the junior Senator from California, Senator WILSON, legislation declaring the month of October as "National AIDS Awareness and Prevention Month." In 1981, the Public Health Service recognized a new disease, acquired immune deficiency syndrome or AIDS. Since that time, more than 41,000 Americans have developed the disease and more than half of them have died. My own State of Utah has now reported 71 cases. But unfortunately, that is just the tip of the iceberg. Conservative estimates are that 1.5 million people have already been infected with the AIDS virus.

These numbers are important because 30 to 50 percent of these infected individuals over the next 5 years will develop what is now a fatal disease, if a cure is not found.

So what should the Federal Government do? The Federal Government has three primary responsibilities:

First, we need to support efforts aimed at finding a cure;

Second, we need to take steps to assure that those infected are treated with compassion and understanding; and

Third, we need to take steps to protect those who are not infected through information about the dangers we all face and what we can do to protect ourselves.

The Federal Government has responded. Last year, many in Congress urged the President to establish a Presidential level advisory council on AIDS and that council held its first meeting.

Secretary Bowen declared AIDS the Nation's No. 1 public health problem. The Public Health Service has established a task force made up of representatives from NIH, CDC, FDA, HRSA, and ADAMHA which meets every other week to coordinate our Nation's efforts.

And from fiscal year 1984 to fiscal year 1988, we will spend more than $1.4 billion on research and public education. Estimates are that in fiscal year 1988 the AIDS budget for the Public Health Service alone will be over $400 million.

This investment has bought an amazing amount of progress. The cause of AIDS has been identified, a virus, the blood supply has been protected, and new drugs which slow the progression of the disease are being developed.

That is the good news. The bad news is that no one is yet talking about a cure and most experts feel that a cure is years off. A vaccine is also years off because of a large number of technical, legal, and ethical problems.

That leaves prevention. Since the start of this epidemic, public health officials have talked about high risk groups. In the early days, experts described this disease in terms of high risk groups. Today public health officials are instead talking about high risk behavior, recognizing that certain behavior places people at risk of becoming infected with this disease. There needs to be a better understanding of how AIDS is transmitted, the kinds of behavior that places one at risk of exposure, and the kinds of behavior practices that will prevent exposure.

We need to do more. We need to shorten the approval time for new grants for AIDS research. Local, State, and Federal governments need to work together to increase the availability of testing and counseling centers. We need to do a better job of getting new research information to the practicing doctor who is on the front line fighting this disease. We need to assure that compassionate and cost-effective care is available for patients with AIDS. And most importantly, we need to do a better job of informing the public about how to protect themselves from this disease.

Because of this, today I am joining with the Senators from Massachusetts, Senator KENNEDY, and California, Senator WILSON, along with 51 of our colleagues introducing a joint resolution designating October of this year as National AIDS Awareness and Prevention Month. I would especially like to thank the Senator from California for the work he and his staff invested in making sure that this joint resolution is enacted. I also want to thank Secretary Otis Bowen who has planned a number of activities in October so that American citizens will get accurate information on AIDS. His efforts should be commended.

I think this joint resolution will be an important part of our efforts to reduce the spread of this deadly disease, and I urge my colleagues to join with us in its support.

I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 192

Whereas the President has declared AIDS as the number one public health enemy;

Whereas the Secretary of Health and Human Services has projected that, by the end of 1991, the cumulative total of all AIDS cases in the United States will reach 270,000 and result in nearly 180,000 deaths;

Whereas information, education, and public health measures are the nations primary weapons in prevention and control of the spread of AIDS;

Whereas if the AIDS epidemic is not controlled through a major national educational, informational, and public health effort, the devastating human and economic impact on society will be unprecedented in modern times;

Whereas informing and educating the American public, including the youth of today, about AIDS is crucial to preventing and controlling the spread of AIDS; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1987 is designated as "National AIDS Awareness and Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities.

Mr. KENNEDY. Mr. President, it is a pleasure to present this joint resolution and AIDS Awareness Month to the full Senate for passage. No problem before this Nation demands greater attention than the AIDS epidemic. The AIDS virus is a threat to Americans in all walks of life. It is a sexually transmitted disease that does not discriminate between men and women, young and old, or whites and blacks. According to the U.S. Public Health Service, by 1991, AIDS will claim more lives each year than the entire Vietnam war. We must act immediately and decisively to halt this killer.

There is no task more important to halting the spread of this epidemic than educating our population. Education of those whose behavior places them at higher risk is the first priority. Children and young adults deserve special attention and consideration. AIDS Awareness Month provides the opportunity to accelerate and focus on these education efforts. I urge educators and public health officials everywhere throughout the country to seize this opportunity. There is no time to waste.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I send to the desk a resolution and ask that it be placed on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, this resolution has been cleared. There is no objection to placing it on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 430

At the request of Mr. METZENBAUM, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Kentucky [Mr. FORD], the Senator from Arizona [Mr. DECONCINI], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 465

At the request of Mr. METZENBAUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 465, a bill to amend chapter 44, title 18, United States Code, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States.

S. 466

At the request of Mr. METZENBAUM, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 466, a bill to provide for a waiting period before the sale, delivery, or transfer of a handgun.

S. 824

At the request of Mr. LEAHY, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 824, a bill to establish clearly a Federal right of action by aliens and U.S. citizens against persons engaging in torture or extrajudicial killing, and for other purposes.

S. 1675

At the request of Mr. SANFORD, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1675, a bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

WALLOP (AND OTHERS) AMENDMENT NO. 773

Mr. WALLOP (for himself, Mr. SYMMS, Mr. ARMSTRONG, Mr. HECHT, Mr. QUAYLE, Mr. WILSON, Mr. HOLLINGS, Mr. HATCH, Mr. BOND, Mr. HELMS, and Mr. GARN) proposed an amendment, which was subsequently modified, to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy; to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

Since no element of the Armed Forces of the United States currently has the mission to defend the United States from ballistic missiles and other aerial threats;

Since the Joint Chiefs of Staff have established a set of ballistic missile defense requirements as part of the Defense Acquisition Board process;

Since six SDI programs have passed the Milestone I review of the Defense Acquisition Board and have entered the demonstration and validation phase;

Therefore, it is the sense of the Senate that the Secretary of Defense should, not later than 60 days after the date of enactment of this act, assign to one or more appropriate elements of the Department of Defense the mission—

(1) to defend to the fullest extent possible the United States against all aerial threats, including aircraft, ballistic missiles, cruise missiles, and other types of missiles; and

(2) in the event of war, to provide access to, provide intelligence from, and secure and retain control of space for the military forces of the United States.

JOHNSTON AMENDMENT NO. 774

Mr. JOHNSTON proposed an amendment to the bill S. 1174, supra; as follows:

On page 22, after line 8, add a new section as follows:

BIOENVIRONMENTAL HAZARDS RESEARCH

SEC. 229. Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) for the fiscal year 1988, up to $40.0 million may be obligated through the Office of the Undersecretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

KENNEDY (AND OTHERS) AMENDMENT NO. 775

Mr. KENNEDY (for himself, Mr. GLENN, and Mr. WILSON) proposed an amendment to the bill S. 1174, supra; as follows:

On page 38, between lines 17 and 18, insert the following new section:

SEC. . PRIMUS AND NAVCARE CLINICS.

Of the funds appropriated or otherwise made available to the Army, Navy, and Air Force for maintenance and operation for fiscal year 1988, the following amounts shall be available only for the operation and maintenance of the Primary Medical Care for the Uniformed Services

(PRIMUS) CLINICS AND NAVAL PRIMARY CARE (NAVCARE) CLINICS:

(1) $24,800,000 for the Army.

(2) $22,181,000 for the Navy.

(3) $13,200,000 for the Air Force.

KENNEDY AMENDMENT NO. 776

Mr. KENNEDY proposed an amendment to the bill S. 1174, supra; as follows:

On page 116, between lines 17 and 18, insert the following:

"Army Materials Technology Laboratory, Watertown, Massachusetts, $15,000,000.".

On page 121, line 21, strike out "$2,661,639,000" and insert in lieu thereof "$2,676,639,000".

On page 121, line 24, strike out "$423,230,000" and insert in lieu thereof "$438,230,000".

KENNEDY (AND NUNN) AMENDMENT NO. 777

Mr. KENNEDY (for himself and Mr. NUNN) proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place, inside:

SEC. . STUDY OF EARLY DECOMMISSIONING OF TWO AIRCRAFT CARRIERS.

(a) IN GENERAL.—The Secretary of Defense shall conduct a comprehensive study that compares—

(1) the current Department of Defense plan to decommission one aircraft carrier when the USS George Washington (CVN73) is commissioned in fiscal year 1992 and decommission a second aircraft carrier when CVN74 is commissioned in fiscal year 1997.

(2) an alternative plan that would decommission one aircraft carrier and deactivate one Navy air wing when the aircraft carrier USS Abraham Lincoln (CVN72) is commissioned in fiscal year 1990 and decommission a second aircraft carrier when the aircraft carrier USS George Washington (CVN73) is commissioned in fiscal year 1992.

(b) MATTERS TO BE INCLUDED.—The study shall determine the following implications of adopting the alternative plan for aircraft carrier retirements as compared to the current plan—

(1) the total direct and indirect outlay and budget authority savings in constant fiscal year 1988 dollars through fiscal year 1997;

(2) the effect on naval aircraft requirements through fiscal year 1997 assuming the aircraft from the deactivated wing are reassigned in the active force;

(3) the implications for Navy endstrength requirements through fiscal year 1997;

(4) the effect on requirements for naval surface ship combatants and support ships through fiscal year 1997;

(5) the cost and feasibility of making available to the active naval fleet for operation during a time of national emergency—

(A) an aircraft carrier that is in the Service Life Extension Program (SLEP); and

(B) an aircraft carrier that has been decommissioned, but is still under the jurisdiction of the Navy.

(c) DEADLINE FOR SUBMISSION.—Not later than November 15, 1987, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study conducted by him pursuant to paragraphs (a) and (b) together with such comments and recommendations as the Secretary considers approppropriate.

KENNEDY (AND NUNN) AMENDMENT NO. 778

Mr. KENNEDY (for himself and Mr. NUNN) proposed an amendment to the bill S. 1174, supra; as follows:

At an appropriate place, insert the following new section:

SEC. . STUDIES OF NUCLEAR WARHEAD FOR ATACMS MISSILE.

(a) Funds appropriated before, on, or after the date of the enactment of this Act, or otherwise made available to the Department of Defense or to the Department of Energy for any fiscal year may be obligated or expended for studies and analyses of the military utility and cost of a nuclear warhead option for the Army Tactical System (ATACMS).

(b) No funds may be obligated or expended for the purpose of developing, testing, producing or integrating nuclear warheads for the Army Tactical Missile System (ATACMS) unless—

(1) the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Army Tactical Missile System has achieved an initial operational capability with United States Army units permanently stationed in the Federal Republic of Germany;

(2) such development, testing, production, or integration has been specifically authorized by legislation enacted after the date of the enactment of this Act; and

(3) the Secretary of Defense has submitted to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a comprehensive analysis of the options available to the U.S. to preserve an adequate theater nuclear capability in Europe in the aftermath of an INF agreement between the U.S. and the Soviet Union.

BUMPERS AMENDMENT NO. 779

Mr. BUMPERS proposed an amendment to the bill S. 1174, supra; as follows:

At the appropriate place in the bill insert the following:

"Not later than June 30, 1988, the Secretary of Defense shall provide to Congress a report in both classified and unclassified versions describing:

(1) the quantitative and qualitative implications of the publicly-announced position of the United States at the Strategic Arms Reduction Talks in Geneva for our strategic modernization program. Special, but not exclusive, attention in this report should be paid to the implications for the Trident SSBN program, the rail-garrison Peacekeeper program, and the Small ICBM program.

(2) The advantages and drawbacks of following the recommendations made in the 1983 report of the President's Commission on Strategic Froces with regard to research on smaller ballistic-missile carrying submarines, each carrying fewer missiles than the Trident, as a potential follow-on to the Trident submarine force.

(3) The recommendations of the Secretary of Defense with regard to (1) and (2) above on U.S. force modernization and arms control policy."

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. EXON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a meeting during the session of the Senate on September 28, 1987, at 10 a.m. on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CONTRIBUTIONS OF IROQUOIS CONFEDERACY OF NATIONS TO DEVELOPMENT OF CONSTITUTION

● Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of Senate Concurrent Resolution 76 proclaiming the contributions of the Iroquois Confederacy of Nations to the development of the U.S. Constitution, and reaffirms the ongoing government-to-government relations between the Indian tribes and the United States.

The original five tribes of the Iroquois Confederation were reknowned as the Five Nations. Around the year 1722, one more tribe joined the federation which then became known as the Six Nations. It is all too little recognized that the Confederation of States that ultimately became the United States of America may have been patterned after the Six Nations.

This contribution to the development of the Constitution has been overlooked for too long. This concurrent resolution is a needed step toward giving full recognition to the Iroquois Confederation's role in the evolution of one of the greatest documents this world has known: The Constitution of the United States.

It is my hope that this resolution will help to educate the American people to the role played by the Iroquois Confederacy in the development of our Constitution.●

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow at 8:15 a.m. The time of the two leaders has been reduced to 15 minutes each.

ORDER FOR MORNING BUSINESS ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the leaders' orders, the remaining time between that point and 8:30 a.m. be utilized for morning business, and I ask unanimous consent that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROLLCALL VOTES TO COMMENCE AT 8:30 A.M.

Mr. BYRD. Mr. President, at the hour of 8:30 tomorrow morning, rollcall votes will begin on four amendments which have already been ordered. The first rollcall vote will be a 30-minute vote. The subsequent back-to-back rollcall votes will be 10 minutes each. I expect to call for the regular order at the end of the designated times on all amendments.

Upon completion of the rollcalls on the heretofore ordered amendments, the Senate will then proceed with other amendments on the list.

At 8 o'clock tomorrow evening, debate will cease and the Senate will begin voting on rollcalls that have been ordered during the day tomorrow. The first rollcall vote tomorrow evening will be a 20-minute rollcall vote. All subsequent back-to-back votes will again be 10 minutes each.

I would expect a considerable number of rollcall votes to have been ordered by that time. Therefore, the day is likely to be long. The evening shadows will have long since enveloped this great Capitol. Senators will stray away from the floor at their peril, the peril of missing rollcall votes.

Mr. President, depending on how many rollcall votes are ordered on amendments tomorrow, that session for rollcall votes could extend throughout the evening. It could conceivably go to midnight; it conceivably could be beyond midnight. We will just go until we reach the end of the rollcall votes.

I should reiterate that any Senator who, upon reaching the hour of 8 o'clock p.m. tomorrow, has not had an opportunity to debate this amendment, still has the right to call it up, to have no debate thereon but to get a vote thereon.

Following all votes on amendments tomorrow that have been ordered and that will be called up, two remaining issues will be before the Senate. one will be the amendment that deals with SALT II and the other, the so-called war powers issue. The amendment that has been introduced by Senators BYRD, NUNN, BUMPERS, ADAMS, SASSER, and other Senators will be eligible for debate and action. Those two amendments dealing with war powers and SALT II will be open to further amendments and further debate.

Ergo, the Senate could very well be in session into the wee morning hours of Wednesday. It may still be on one or the other of those two amendment types on Wednesday. I hope that the DOD authorization bill will not be around too much longer. I hope that final action will be gotten on those two amendments and that the Senate can act on the DOD authorization bill and send it to conference where the differences between the two Houses may be resolved.

There are other important matters facing the Senate. There are several appropriations bills which need to be dealt with. Last year not a single regular appropriations bill reached the President's desk. At the present time the House has sent over to the Senate the energy and water development appropriations bill; the Interior bill; the District of Columbia bill; the legislative branch bill; the Commerce, Justice, State, Judiciary bill; the Transportation bill; the military construction bill; the Labor, HHS, Education appropriations; the HUD appropriations; and the Treasury-Postal Service appropriations; the last of which has already been acted upon by the Senate. That leaves for the Senate's decision, as I count it, nine other regular appropriations bills. I hope that we can get cooperation in calling up these appropriations bills, that the Senate will act upon them, send them to conference with the House, and on to the President's desk.

The President has been making quite a big to-do about his not having the opportunity to veto appropriations bills. He did not have the opportunity to veto any last year, but the Senate, which was then under the control of our Republican friends, did not send any appropriations bills to the President's desk even though the House passed some of them. This year, I hope we can send some appropriations bills to his desk. I hope, however, he will not be too freewheeling in his exercise of the veto pen. I would prefer that he drop his veto strategy. He has a right to veto a bill in his judgment if he feels it should be vetoed; that is his right and responsibility under the Constitution, but to say that Congress is not going to give him that opportunity, I want him to have the opportunity to sign those bills, so I will be endeavoring to do my best to see that appropriations bills reach his desk.

While I am having this to say, I know that over the weekend the President did his usual castigating of Congress by criticizing the place on his desk of the extension of the debt limit which, according to him, forced him to either sign it or let the Government close down, which was an accurate statement on his part. But he also bemoaned the fact that the kind of legislation that was sent to him will require him to raise taxes and cut defense, and he is against both.

I understand also that there is some wailing and weeping and gnashing of teeth down at the White House to the effect that the President's budget ought to be considered and sent to him.

The President had his budget considered in both Houses. Even though there are 46 Republican Senators in this body, he got 17 votes on his budget, which does not say much for it. He got 27 votes in the other House. So his budget has had it. It was given the opportunity for a vote up or down and we saw what the results were.

Also, his own budget included taxes. There is no admission, however, from the other end of the avenue on that part.

We understand that user fees are ways of raising revenue. However, they are still taxes. Whoever has to pay them, they are a tax. Not only that; there were taxes in the classical and raw sense in his budget.

There are increased excise taxes on coal. For a boy who comes from the West Virginia coal mining country, that is a tax. That is not a user fee; that is a tax. It is an excise tax on coal.

The same with respect to taxes on black lung payments. There is a tax in the President's budget on black lung payments. There are many coal miners in West Virginia, Virginia, Illinois, Indiana, Alabama, Tennessee, Pennsylvania, and other States in this country. There are a lot of coal miners, and thousands of miners have been stricken with black lung. It will take many of them to their graves. Many of them have reached an untimely retirement, because they have black lung. The President's budget wants to put a tax on black lung payments. Those are taxes.

The President can call it what he will, and the White House can call it what they will, but a rose by any other name smells the same. A tax by any other name is still a tax.

The White House spokesman criticize Congress about defense. I am one of the strongest defense supporters here. The other day we had a 50 to 50 vote on SDI, and SDI won by 1 vote—the Vice President's vote. I voted for SDI. So my credentials on the Nation's defenses are pretty good.

I have supported the MX, the Midgetman missile, the Trident submarine, the Trident missile, the Stealth bomber, SDI. You name it, I have usually supported it.

The President cannot have it both ways. He ought to be willing to pay for what we spend, pay it now, not saddle it on our grandchildren and their grandchildren.

Let us not have a big banquet and then get out of town before the waiter brings the check. That is what this administration wants to do.

We must stop the credit card binge in which the national credit card has been used to go in debt for things, to put us into debt to foreigners, and we pay interest to these same foreigners on that national debt. Thirty-seven cents out of every individual income tax dollar goes to pay interest on the national debt, the fastest growing component of the budget. We are paying $140 billion in interest on the national debt this year.

So there are those on both sides of the aisle who feel that we, in our time, ought to be responsible, and that we have to cut spending—cut domestic spending and cut defense spending where it has to be done, but not to the detriment of our national security. But let us pay our own bills, so that our grandchildren will not have to pay the bills we ran up and which we do not have the courage to face up to in our day.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Yes.

Mr. EXON. I want to clarify.

I understand fully the situation. I did want to ask a question. Maybe I could help out.

I think I know how we can save at least an hour's time tomorrow.

Traditionally, when we have stacked votes the majority leader has been very kind indeed that the first vote in the morning will be a half-hour vote. It gets everybody in. If they get tied up in traffic it gives them time. After that the votes are stacked at 10 minutes each.

Tomorrow night at 8 o'clock we can start voting again. The first vote is 20 minutes with each 10 minutes after that.

As long as I have been here we have stacked votes for 10 minutes. I hope I am not out of line asking the question, what would be the matter of stacking 5-minute votes afterward?

I know traditionally we have gone for 10. I happen to feel that if we had 5-minute votes we would have much better attendance here because Senators would not have time to leave the floor to take telephone calls or they would miss a vote.

I am wondering if we might not be able to save an hour, an hour and a half, if we went to 5-minute votes and if the majority leader will consider that.

Mr. BYRD. Mr. President, I do not think that would be feasible. I do not think that the clerks can call those rolls and Senators answer those rolls in a time compressed to 5 minutes per rollcall.

Moreover, more and more Members are coming to the floor with all the confusion and all the talk and all the disorder that occurs and they are not voting. They think they have voted or they may have voted and the clerk could not hear them, with all the pandemonium during rollcall votes. To decrease those 10-minute votes down to 5 would increase that pandemonium and disorder.

If Senators would come here and sit down at the desks and be quiet and listen so that they would know whether or not the clerk hears them, and so the clerk indeed could hear them, Senators would not walk out of the Chamber thinking they have been recorded when the clerk may have not heard them vote.

If we can conduct rollcall votes in 10 minutes—we will be making good headway.

Mr. President, it should also be said that rollcalls votes can occur tomorrow between the two stacked vote sessions.

I would not want Senators to feel that, once they have finished the stacked votes tomorrow morning, there will be no more rollcall votes until in the evening at 8 o'clock.

I alert Senators to be prepared for possible rollcall votes between the two stacked sessions tomorrow.

Does any other Senator seek recognition? I know of no other business that needs to be transacted.

RECESS UNTIL 8:15 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business before the Senate, I move in accordance with the previous order that the Senate stand in recess until the hour of 8:15 tomorrow morning.

The motion was agreed to and at 3:23 p.m., the Senate recessed until tomorrow, Tuesday, September 29, 1987 at 8:15 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, September 29, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 30

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on the safety of military charter flights.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Governmental Affairs
Oversight of Government Management Subcommittee
To continue oversight hearings on Federal procurement decisions concerning Wedtech Corporation.
SD-342

10:00 a.m.

Appropriations
Transportation and Related Agencies Subcommittee
Business meeting, to mark up H.R. 2890, appropriating funds for fiscal year 1988 for the Department of Transportation and related agencies.
SD-116

Banking, Housing, and Urban Affairs
Business meeting, to consider proposed legislation to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers, H.R. 2741, to authorize the minting of commemorative coins to support the training of American athletes participating in the 1988 Olympic Games, and the nomination of William F. Sullivan, of Virginia, to be a Member of the Board of Directors of the National Corporation for Housing Partnerships.
SD-538

Environment and Public Works
Business meeting, to mark up proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health protective national air quality standards.
SD-406

Finance
To hold hearings on the nominations of Alan F. Holmer, of Virginia, to be a Deputy United States Trade Representative, with the rank of Ambassador, and O. Donaldson Chapoton, of Texas, to be Assistant Secretary of the Treasury for Tax Policy; and to consider the nomination of John K. Meagher, of Virginia, to be Deputy Under Secretary of the Treasury for Legislative Affairs.
SD-215

Judiciary
To resume hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court.
SR-325

2:00 p.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Foreign Relations
To hold hearings on the nominations of Deane R. Hinton, of Illinois, to be Ambassador to the Republic of Costa Rica, and Richard C. Howland, of Maryland, to be Ambassador to the Republic of Suriname.
SD-419

OCTOBER 1

9:30 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
To continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Hazardous Wastes and Toxic Substances Subcommittee
To hold oversight hearings on management of solid waste issues, as contained in subtitle D of the Resource Conservation and Recovery Act (RCRA).
SD-406

Foreign Relations
To hold hearings on the ILO Convention (No. 144) concerning tripartite consultations to promote the implementation of international labor standards (Treaty Doc. 99-20), and ILO Convention (No. 147) concerning minimum standards in merchant ships (Treaty Doc. 99-21).
SD-419

Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
2359 Rayburn Building

10:00 a.m.

Judiciary
To continue hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.
SR-325

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
Business meeting, to mark up S. 373, Elementary and Secondary Education Amendments of 1987.
SD-430

2:00 p.m.

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

OCTOBER 2

9:00 a.m.

Energy and Natural Resources
To hold oversight hearings on the implementation of the Reclamation Reform Act of 1982.
SD-366

Select on Indian Affairs
Business meeting, to mark up S. 1645, authorizing funds for certain Indian educational programs; to be followed by oversight hearings on implementation of the Indian Self-Determination and Education Assistance Act (P.L. 93-638).
SR-485

9:30 a.m.

Joint Economic
To hold hearings on the employment/unemployment statistics for September.
SD-628

10:00 a.m.

Environment and Public Works
Business meeting, to mark up proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health protective national air quality standards.
SD-406

Finance
Health Subcommittee
To hold hearings to review child health programs and proposals.
SD-215

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Judiciary
To continue hearings on the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.
SR-325

Joint Economic
To hold hearings on investment in the U.S. air transportation system.
SD-628

OCTOBER 5

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To hold hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 6

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on pipeline safety.
SR-253

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

2:00 p.m.
Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1044, to establish the National Maritime Museum in San Francisco, California, S. 963, to amend the boundaries of Stones River National Battlefield, Tennessee, S. 761, to provide for the establishment of a Western Historic Trails Center in Iowa, and S. 1165, to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve in New Jersey.
SD-366

OCTOBER 7

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on certain provisions of the Omnibus Drug Enforcement, Education, and Control Act (P.L. 99-570).
SR-485

9:30 a.m.
Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold hearings on armaments cooperation within the NATO alliance.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to consider legislative recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures, as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.
SR-332

Environment and Public Works
Environment Protection Subcommittee
Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988-1992 for programs of the Endangered Species Act of 1973, and S. 1389, to clarify the National Fish and Wildlife Foundation's use of Federal funds for land acquisition.
SD-406

OCTOBER 8

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on tourism marketing.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on activities of the Office of Investigations of the Nuclear Regulatory Commission.
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on government handling of Soviet and communist bloc defectors.
SD-342

1:30 p.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on activities of the Office of the Inspector and Auditor of the Nuclear Regulatory Commission.
SD-406

OCTOBER 9

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on government handling of Soviet and communist bloc defectors.
SD-342

OCTOBER 13

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation Program.
SR-485

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

OCTOBER 14

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Finance
To resume hearings on how to improve the existing family welfare system and how to promote the well-being of families with children.
SD-215

OCTOBER 15

9:00 a.m.
Select on Indian Affairs
To resume hearings on S. 721, to provide for and promote the economic development of Indian tribes.
SR-485

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Small Business
To hold oversight hearings on the Small Business Administration small business development center program.
SR-428A

OCTOBER 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To resume hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

OCTOBER 21

9:00 a.m.
Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (P.L. 93-638), S. 1236, to authorize funds for certain programs of the Navajo-Hopi Relocation Program, and S. 795, San Luis Rey Indian Water Rights Settlement Act; to be followed by hearings on S. 1321, to declare that the United States holds in trust cer-

tain lands for the Camp Verde Yavapai Apache Indian community.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.

SR-253

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

OCTOBER 27

9:00 a.m.

Office of Technology Assessment

The Board, to meet to consider pending business.

EF-100, Capitol

OCTOBER 28

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.

SR-485

OCTOBER 29

2:00 p.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on pending water resource projects of the Soil Conservation Service.

SD-401

NOVEMBER 4

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To resume hearings to review infrastructure issues.

SD-406

NOVEMBER 5

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Kamehameha elementary education project as applied on the Navajo Reservation at Rough Rock, Arizona.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.

SR-253

NOVEMBER 10

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on implementation of the Indian Child Welfare Act (P.L. 95-608).

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 12

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.

SR-485

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To resume hearings on S. 1600, to create an independent Federal Aviation Administration.

SR-253

NOVEMBER 19

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations.

SR-485

CANCELLATIONS

SEPTEMBER 29

10:00 a.m.

Environment and Public Works

Business meeting, to mark up proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health protective national air quality standards.

SD-406

HOUSE OF REPRESENTATIVES—*Tuesday, September 29, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are thankful, O God, that in all the moments of decision we are aided by those whose love is our support and whose trust becomes our bond. We are grateful that lives of tension and stress are made meaningful by the advice of colleagues, the good thoughts of friends and family, and the love and grace and comfort that Your Word provides. In Your name, we pray. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HOUGHTON. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOUGHTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will inform absent Members.

The vote was taken by electronic device, and there were—yeas 273, nays 100, answered "present" 1, not voting 60, as follows:

[Roll No. 333]

YEAS—273

Ackerman
Akaka
Anderson
Andrews
Annunzio
Applegate
Archer
Aspin
Atkins
AuCoin
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Callahan
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coyne
Craig
Darden
de la Garza
DeFazio
Derrick
DeWine
Dicks
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Hertel
Hochbrueckner
Holloway
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lujan
Luken, Thomas
Lungren
Madigan
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Pease
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Ravenel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Savage
Sawyer
Scheuer
Schneider
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Walgren
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—100

Armey
Badham
Ballenger
Bentley
Bilirakis
Bliley
Boehlert
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Clay
Coats
Coble
Coleman (MO)
Coughlin
Courter
Crane
Dannemeyer
Davis (IL)
DeLay
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Grandy
Hansen
Hastert
Henry
Herger
Hiler
Hopkins
Houghton
Hunter
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lowry (WA)
Lukens, Donald
Mack
Marlenee
Martin (NY)
McCandless
McCollum
Michel
Miller (OH)
Moorhead
Penny
Pursell
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schroeder
Sensenbrenner
Shumway
Sikorski
Skeen
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Volkmer
Vucanovich
Walker
Weber
Wolf
Young (AK)

ANSWERED "PRESENT"—1

Campbell

NOT VOTING—60

Alexander
Anthony
Barton
Biaggi
Boner (TN)
Byron
Crockett
Daniel
Daub
Davis (MI)
Dellums
Dingell
DioGuardi
Duncan
Garcia
Gephardt
Goodling
Gray (IL)
Gregg
Hawkins
Horton
Kaptur
Kemp
Livingston
MacKay
Manton
Martin (IL)
McDade
McEwen
McGrath
McHugh
Miller (CA)
Molinari
Morella
Morrison (WA)
Murphy
Nichols
Ortiz
Oxley
Parris
Pashayan
Pelosi
Quillen
Rangel
Ritter
Roemer
Russo
Sabo
Schaefer
Slaughter (VA)
Spence
Stangeland
Sweeney
Tauzin
Taylor
Vander Jagt
Watkins
Whittaker
Wortley
Young (FL)

☐ 1215

Mr. STUMP changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2907. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1988, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 2907) "An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1987," and requests a confer-

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ence with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DeConcini, Mr. Proxmire, Ms. Mikulski, Mr. Stennis, Mr. Domenici, Mr. D'Amato, and Mr. Hatfield to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

COMMUNICATIONS FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
September 25, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 1:30 p.m. on Friday, September 25, 1987, the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 362.

With great respect, I am,
Sincerely yours,
Donnald K. Anderson,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker pro tempore signed the following enrolled joint resolution on Friday, September 25, 1987:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
September 28, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received at 10:28 a.m. on Monday, September 28, 1987, the following message from the Secretary of the Senate: That the Senate passed without amendment H.J. Res. 355 and H.R. 1744.

With great respect, I am,
Sincerely yours,
Donnald K. Anderson,
Clerk, House of Representatives.

PROVIDING FOR EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 191) to provide for the extension of certain programs relating to housing and community development, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mrs. ROUKEMA. Mr. Speaker, reserving the right to object, and I will not object, I yield to the gentleman from Texas [Mr. Gonzalez], the chairman of the subcommittee for an explanation.

Mr. GONZALEZ. I thank the distinguished gentlewoman and ranking minority member of the Subcommittee on Housing and Community Development for yielding to me.

Mr. Speaker, Senate Joint Resolution 191 would extend for a 30-day period, through October 31, 1987, the authority of the Secretary of Housing and Urban Development to insure mortgages under the National Housing Act and would extend certain other authorities related to the Farmers Home Administration rural housing programs that expire on September 30, 1987.

It is necessary for us to call up this extender resolution to provide this temporary extension for 30 days so that the conferees on the housing authorization bill can complete their work on resolving the numerous differences in the differing versions of the House and Senate housing authorization bills.

Mr. Speaker, we are making excellent progress in our conference. We have been working closely with the Senate and have made major progress. It is my hope that we can conclude our conference consideration within the next 2 weeks and bring a conference report back to the House. In the meantime, it is necessary to move this resolution so there will be no expirations and that these programs can continue to operate until we can conclude our consideration of the conference on S. 825.

Mr. Speaker, this joint resolution was passed by the Senate on Friday and I urge the House to promptly pass this measure.

Mrs. ROUKEMA. Mr. Speaker, further reserving the right to object, the legislation we consider today is vital. Several days ago I joined my colleagues, the gentleman from Rhode Island [Mr. St Germain], the gentleman from Texas [Mr. Gonzalez], and the gentleman from Ohio [Mr. Wylie], in introducing this measure to extend the authorization for the FHA mortgage insurance programs through October of this year.

We did so and have brought the resolution to the floor today because the current authorization will expire tomorrow. It is imperative that we act in order to avoid an interruption in insuring authority.

Short-term extensions are not desirable. They can be confusing and disruptive to the housing market. We on the Housing Subcommittee, and particularly because of the efforts of the gentlemen from Ohio and Texas have pushed for a permanent authorization for the FHA insuring programs. Indeed, such a permanent authorization is in H.R. 4, the housing authorization bill which passed the House earlier this year and which is now in conference. Unfortunately, that conference has not concluded, and, thus, this short-term extension is required.

I do not like to recall the unpleasant experiences we have had in years past when the authorization was allowed to lapse. This has happened 17 times in recent years since 1970. In fact, the last Congress allowed the authorization to expire six times in fiscal year 1986 alone. There were 51 days during that year when there was no FHA insuring authority.

Especially hard hit were young couples attempting to buy their first home. It has been widely estimated that, last year, 10,000 home buyers were affected every day that FHA was unable to operate.

We cannot allow this to happen again. The Senate approved this resolution last Friday, and we need to act promptly today.

This resolution will carry us through October, by which time I hope that we will have resolved our differences with respect to H.R. 4 and that a permanent FHA authorization will have been approved.

I am proud to be one of the prime sponsors of this extension, and I urge every Member of the House to support it.

Mr. WYLIE. Mr. Speaker, I am pleased to support Senate Joint Resolution 191, legislation to extend certain insuring authorities relating to housing and community development programs that fall under the jurisdiction of the Banking Committee. These authorities are due to expire tomorrow, and as the chairman of the subcommittee, Mr. Gonzalez, has indicated this short-term extension, which the Senate passed last Friday, is necessary to see us through the remainder of the housing bill conference on S. 825.

Mr. Speaker, the conferees met this past September 17 and resolved approximately 75 percent of the items in disagreement. Needless to say, progress is being made on the housing conference.

Of the many items already resolved by the conferees is the provision for a permanent extension of FHA. My colleague from Oregon [Mr. AuCoin], and I were the original sponsors of the permanent FHA insuring authority provision and I hope that this short-term extension will be the last one that Congress will have to act upon.

Hopefully, this short-term extension will provide the conferees sufficient time to iron out the last remaining issues in disagreement. Although the remaining issues are the most controversial, I am hopeful that they will be resolved in such a manner as to assure broad bipartisan support for the conference agreement.

I therefore urge adoption of Senate Joint Resolution 191.

Mrs. ROUKEMA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 191

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTINUATION OF PRIOR EXTENSIONS.

Each provision of law amended by Public Law 99-430 is amended by striking out "September 30, 1987" wherever it appears and inserting in lieu thereof "October 31, 1987".

SEC. 2. ADDITIONAL EXTENSIONS.

(a) Solar Bank.—The last sentence of section 505(a) of the Solar Energy and Energy Conservation Bank Act is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987".

(b) Authority To Purchase Second Mortgages.—

(1) Federal national mortgage association.—Section 302(b)(5)(A)(i) of the Federal National Mortgage Association Charter Act is amended by striking out "until October 1, 1987" and inserting in lieu thereof "through October 31, 1987".

(2) Federal home loan mortgage corporation.—Section 305(a)(4)(A)(i) of the Federal Home Loan Mortgage Corporation Act is amended by striking out "unitl October 1, 1987" and inserting in lieu thereof "through October 31, 1987".

(c) Limitation on Amount To Be Insured Under National Housing Act. —Section 531 of the National Housing Act is amended by striking out "for fiscal year 1986" and inserting in lieu thereof "for any fiscal year".

(d) Prepayment Moratorium.—The second paragraph under the heading "Farmers Home Administration" in chapter X of title I of Public Law 100-71 is amended by striking out "September 30, 1987" and inserting in lieu thereof "October 31, 1987".

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ROBERT E. (BOB) JONES, JR. HIGHWAY

Mr. HOWARD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 3325) to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I yield to the gentleman from New Jersey [Mr. Howard] to explain the nature of his request.

Mr. HOWARD. I thank the gentleman for yielding.

Mr. Speaker, one of the great privileges of my career and one of the greatest pleasures of my life was to serve in the Congress with Bob Jones of Alabama. He is a leader in every sense of the word. I gained a legislative education watching him in action and I learned to cherish him as a warm friend.

I am proud to call this bill up to honor Bob Jones by naming a segment of highway which crosses the region he loves so well—Appalachia. His drive and ability brought the Appalachian Regional Program into being and it is only fitting that part of that program should bear the imprimatur of his name.

Bob Jones served 30 years in Congress. He was dean of the Alabama delegation. He chaired several subcommittees of the Committee on Public Works and Transportation and became its chairman in the 94th Congress. His record in the field of water pollution, water resources, transportation, Tennessee Valley Authority, economic development, and public buildings can be matched but never surpassed by any future Member of the House.

As someone so well said, it is only fitting and proper that we honor this distinguished man. He epitomizes the best in legislative leadership. He epitomizes the best in humanity and he is indeed a product not only of the South but he represents all that is good in America.

I take this time to personally salute him.

□ 1230

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Alabama [Mr. Flippo], who is the chief sponsor of this bill.

Mr. FLIPPO. Mr. Speaker, the House will consider a measure today to honor former Congressman Bob Jones of Alabama, whose service spanned three decades in the House of Representatives.

This bill, H.R. 3325, will designate the Alabama segment of Corridor V, Appalachian highway system, the Robert E. (Bob) Jones, Jr. Highway.

Bob Jones was elected to the 80th Congress in 1946 to fill the vacancy caused by John Sparkman's election to the Senate. He served as a Navy gunnery officer during World War II, seeing action in both the Atlantic and Pacific theaters from 1943 to 1946. Prior to his election to Congress, he served as a State judge in Jackson County from 1940 to 1945. He is a graduate of the University of Alabama Law School.

Bob Jones left a great legacy when he retired from Congress in 1976 to return to his home in Scottsboro, AL. During his three decades of service on the Public Works Committee, he became the chief driving force behind America's interstate highway system. He was the principal author of legislation creating the Appalachian Regional Commission and he is still known throughout the Tennessee Valley as Mr. TVA for his support of the New Deal program that electrified the South.

It is appropriate that this major highway that runs through the heart of the Tennessee Valley bear his name. It is the practical result of his program to bring the Appalachian region closer to America's economic mainstream. This bill will express in a small way the great appreciation we have for his many accomplishments, and the recognition that we have all gained by Bob Jones' service here.

Bob Jones has influenced many of us in a very lasting way. I am pleased to share with my colleagues a few thoughts by one such individual. Bob Dawson, who headed the staff of the House Public Works and Transportation Committee when Bob Jones was chairman in 1975 and 1976. Since then, Bob served as Assistant Secretary of the Army for Civil Works from 1984 to 1987 and is currently serving as Associate Director of the Office of Management and Budget at the White House. His feelings are shared by all of us who have been fortunate enough to work with Bob Jones over the years.

It is an honor for me to comment on action pending in the Congress now to honor Robert E. (Bob) Jones, Jr. As a former staff member for Chairman Jones and as someone who looks upon him as a mentor, role model and friend, it strikes me as ironic that Bob would be very uncomfortable with this proposal. One of the things I admire about him is that he never inhaled the alluring air of Washington trappings and prestige. He worried less about who got the credit for his many historic legislative accomplishments than anyone I have known at his high level of power in Washington.

While he worked hard at times to convince people of his backwoods simplicity, I found him to be one of the most intellectually powerful men with whom I have had the pleasure to work. Yet, he combined this mental candlepower with the delightful skills of the county courthouse raconteur. I would bet that those participating in this legislative endeavor will put Bob Jones near the top of their list of people with whom they simply enjoy spending time.

One of the ultimate powers in any legislative body is the ability to influence and produce votes on a particular issue. When I worked for Bob, I was always impressed with his ability, through his extensive network of personal relationships in the House, to generate support for issues for which he had responsibility.

There are many things you want to say when given the opportunity to speak about someone who has had a profound influence upon your life. Maybe it is enough to say that I am very proud that I am one of the many people here in Washington and in Alabama whose lives have been permanently touched by Bob Jones.

Mr. Speaker, I urge my colleagues' unanimous support for this measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, few occasions have provided me with more pleasure than this opportunity to rise in enthusiastic support for this legislation to name a portion of the Appalachian highway for our former colleague, the Honorable Robert E. Jones of Alabama.

I personally have greatly missed the good works and the good humor of my dear friend and former committee colleague since his retirement from this body in 1976. It was a joy to work with him.

Throughout his distinguished career in the House and as a member of the Public Works and Transportation Committee—which he eventually chaired—Bob Jones had few equals, was a chairman's chairman, and a true leader in every respect. He cast a giant shadow with his legislative accomplishments.

Certainly his constituents back in Alabama knew exactly what they could expect from the gentleman from Sand Mountain, and they wisely sent him back to Congress again and again.

We here know of his passion for improving the quality of life in Appalachia, which led to one of his greatest legislative feats—passage in 1965 of the Appalachian Regional Development Act.

It was with the same zeal and sense of devotion that he worked tirelessly for the Tennessee Valley Authority. Certainly all of those who have received the benefits of ARC and TVA owe a large measure of gratitude to Congressman Bob Jones.

This bill is really a most appropriate tribute to Bob's outstanding career of public service, and I urge my colleagues to support its passage.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. ANDERSON], a distinguished member of the Committee on Public Works and Transportation.

Mr. ANDERSON. Mr. Speaker, it is with a great deal of personal pride that I bring this bill, H.R. 3325, to the House for consideration. This legislation acknowledges the contributions of one of our highly respected former colleagues, Robert E. (Bob) Jones of the State of Alabama, by designating a segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

For over 30 years, Bob Jones represented the Fifth District of Alabama. His long tenure in the House of Representatives distinguished him as the dean of the Alabama delegation. Bob Jones' legislative imprint is identified in many areas of legislation. His most notable legislative achievement was through legislation that assured continued and dependable supplies of electric power for industrial expansion and for farm, home, and commercial use in the Tennessee Valley. With enactment of the Appalachian Regional Development Act of 1965 and the establishment of the Economic Development Administration, Bob Jones was able to continue his efforts to improve economic conditions in depressed areas of the Nation. His other legislative accomplishments were in the areas of water pollution control, mass transportation, civil aviation, disaster relief, highway construction and highway safety, and public buildings.

Mr. Speaker, with the support of my colleagues I urge passage of this legislation.

Mr. BEVILL. Mr. Speaker, I rise today in support of H.R. 3325, a bill to designate the segment of corridor V in Alabama as the Robert E. (Bob) Jones, Jr. Highway.

Bob Jones is the very distinguished former Congressman from north Alabama, who was instrumental in conceiving the idea for corridor V, a four-lane highway which will cross north Alabama.

It is very appropriate that we honor Bob Jones by naming this highway in Alabama for him. The construction is being funded by the Appalachian Regional Commission. Bob Jones was the author of the bill which established the ARC and was very supportive of this agency over the years. He recognized that Appalachia had special needs and he worked diligently to fill in those gaps.

In addition, Bob was very much involved in the creation of the Interstate Highway System in the 1950's.

Bob came to Congress in 1947, filling the seat vacated when John Sparkman went to the U.S. Senate. Bob did an outstanding job, not only serving his constituents, but also the State of Alabama and the Nation as well.

Bob Jones served in the U.S. House of Representatives longer than any other Alabamian in history. During his 30-year career in Congress, Bob became known as Mr. TVA. In fact, we still refer to him that way.

He was responsible for major legislation affecting the TVA and he worked very hard for the people of the Tennessee Valley.

Bob also played a major role in creating our water pollution control laws. He was a vice-chairman of the Water Pollution Control Commission whose work resulted in the landmark 1972 Water Pollution Control Act.

When Bob Jones retired from Congress in 1976, he was chairman of the House Public Works and Transportation Committee. The House lost one of its finest Members, but his talents have never been forgotten.

On a personal note, I'd like to add that Bob Jones was responsible for helping me to become a member of the House Appropriations Committee. I will always appreciate the support he gave me.

I urge my colleagues to name corridor V for Bob Jones, a very dedicated public servant.

Mr. DICKINSON. Mr. Speaker, I rise today in strong support of H.R. 3325, a bill to designate the segment of Corridor V in the State of Alabama as the Robert E. Jones, Jr. Highway.

This measure, unanimously endorsed by the Alabama congressional delegation, is in honor of Bob Jones who served longer in the House of Representatives than any other Member from Alabama.

From 1947 through 1975 Bob Jones served in this body with great distinction and honor, and earned the respect of his colleagues from both sides of the aisle.

As chairman of the House Public Works and Transportation, Committee, some of his many legislative accomplishments include: The Interstate Highway System in the 1950's in which he played an integral part; authoring the Appalachian Regional Commission; being a strong advocate of TVA programs; and serving as the vice chairman of the Commission on the Water Pollution Act of 1972.

As a native of Scottsboro, AL, he represented the people of the Fifth District admirably, and was very involved in the growth of the Huntsville area through his support of NASA's Marshall Space Flight Center.

I am privileged to know and to have worked with Bob for more than 30 years. He is a tremendous asset to the State of Alabama, as well as to the Nation, and I know that he and his family would be deeply touched by the approval of this legislation.

GENERAL LEAVE

Mr. HAMMERSCHMIDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey [Mr. HOWARD]?

There was no objection.

The Clerk read the bill as follows:

H.R. 3325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The segment of the highway on the Appalachian development highway system known as "Corridor V" which is within the boundaries of the State of Alabama shall hereafter be known and designated as the "Robert E. (Bob) Jones, Jr. Highway".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, or other paper of the United States to the highway referred to in section 1 shall be deemed to be a reference to the "Robert E. (Bob) Jones, Jr. Highway".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HUMAN RIGHTS FOR THE PEOPLE OF TIBET

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, I rise this morning with a deep sense of outrage. His Holiness, the Dalai Lama, visited the Congress last week and in a remarkable outpouring of bipartisan support, the chairmen and ranking members of the Committee on Foreign Affairs and Foreign Relations Committee, and the Congressional Human Rights Caucus supported his plea to the Chinese authorities to begin to respect some of the human rights of the Tibetan people. The response of the Chinese authorities was to publicly execute two Tibetan nationalists.

This defies all norms of human behavior.

We are calling on the authorities in China to put an end to the persecution of the people of Tibet. Under the Mao Tse-tung regime, over 1 million Tibetans were killed, 6,200 monasteries destroyed. In recent years we have seen some improvement, but the recent outrageous public execution attended by 15,000 people of the Tibetan nationalists must not go unnoticed.

The Congress of the United States will watch the actions of the Chinese authorities. We are calling for respect for the right of the Tibetan people and for the preservation of their culture and identity.

FUNDING OF MEDICAL PROGRAMS FOR CHILDREN WORLDWIDE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, 3 years ago, David Wood had a brainstorm. An official with the U.S. Committee for UNICEF and a frequent international traveler, he regularly returned with a pocketful of foreign change that had no purchasing power in duty-free shops. Neither would banks take the change. Yet he knew from his duties as special projects director for UNICEF that pennies can purchase a packet of oral rehydration salts for a youngster ill with chronic diarrhea. A mere $5 can inoculate a child against the six major childhood diseases. He knew that small change could make a big difference, and therein a wonderful idea was born. Why not, he asked himself, collect this change that all travelers have, return it to its country of origin, and use the funds for medical programs for needy children worldwide. Change for Good, he called his plan, and indeed it is.

A pilot project with Virgin Atlantic Airways, a British carrier that regularly flies between New York and London has had such enormous success that the U.S. Committee for UNICEF is now attempting to interest U.S. carriers' participation as well. Wood says they've determined that returning passengers have an average of $2.10 in their pockets. There are 80 million international passengers each year. The potential is staggering—and the individual contribution virtually painless.

In the first 3 weeks of the program, the small airline, Virgin Atlantic Airways alone collected nearly $8,000—enough to inoculate 1,600 children against pertussis, diphtheria, measles, tetanus, tuberculosis, and polio. This Member urges U.S. airlines with international routes to jump on this bandwagon—not only will they help save lives, but they can also begin to repair a corporate image that has not fared well in recent years.

THE HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, every year, according to Government estimates, as many as 100,000 workers die and as many as 400,000 are newly disabled due to diseases caused by workplace substances. And, every year, according to a 1984 Department of Labor study, these deaths and disabilities cost American taxpayers $5.4 billion in Social Security, Medicaid, and Medicare payments. H.R. 162, the High-Risk Occupational Disease Notification and Prevention Act, is designed to save those lives and lower those costs.

Contrary to what some critics of the bill say, H.R. 162 is not and is not meant to be a compensation bill. It is not designed to enhance or diminish the rights of anyone of compensation under the law. Accordingly, no action taken by the Risk Assessment Board, nor any notification in itself, may serve as a basis for, or be used as evidence in, any legal or administrative claim.

These exclusions will prevent claims seeking compensation for stress, fear of disease, or emotional harm arising from the risk notification process. The intent of the bill is to maintain workmen's compensation proceedings and tort liability and litigation exactly as they now stand.

The General Accounting Office's May 1987 report on risk notification said that even without passage of H.R. 162, the number of personal injury lawsuits and workmen's compensation claims might be expected to rise because workers are becoming more aware of both work place hazards and their rights to sue when exposure to such hazards causes disease or illness.

At $25 million a year, H.R. 162 is a cost-effective program that identifies workers at high risk of disease, notifies those workers of the risks, and encourages medical monitoring. It's not a compensation bill, it's a program designed to save lives, and I urge my colleagues to support H.R. 162.

TRIBUTE TO THE HONORABLE JOHN N. "HAPPY" CAMP

(Mr. INHOFE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, I would like to take this opportunity to pay homage to a colleague and friend of mine and a friend of this institution who passed away over the weekend.

John N. "Happy" Camp served in the Oklahoma State Legislature from 1943 through 1963. It was during that time I met Happy and became close friends with him. Happy was a very effective legislator and during his tenure in the House he was the only Republican to chair a standing committee—Banks and Banking. Happy's achievements are too numerous to mention here, but some of the most notable include the following:

He was solely responsible for Oklahoma's Industrial Financing Corp., which permits 100 percent financing for plant facilities for new and existing industries.

Happy also helped to create the Uniform Commercial Code, which modernized Oklahoma's business and commerce laws. Oklahoma became the 12th State to adopt the code.

In 1966, Happy lost a bid to be Oklahoma's Governor to Dewey Bartlett, later that year he was appointed chairman of the State Board of Affairs. In 1968, Happy was elected to the U.S. House of Representatives and was reelected to the 92d and 93d Congresses. He was an exceptionally gifted legislator; always able to use the art of persuasion and compromise to pass legislation to benefit his constituents.

As a Member of the U.S. House of Representatives, Happy served on the Interior and Insular Affairs Committee and was solely responsible for the Foss Reservior in western Oklahoma and for much substantial legislation benefiting the Indian tribes of western Oklahoma. He used his position on the Science and Astronautics Committee to accelerate research and development of our domestic energy resources.

John N. "Happy" Camp was called Happy for a reason. He loved everyone and everyone loved Happy, the same as everyone loves his wife, Vera.

Before his public service career in the Oklahoma State Legislature, Happy worked in the banking business serving as president of the Waukomis State Bank. I would like to pay tribute to this close friend and colleague and offer my deepest sympathy to Vera and their children.

Oklahoma will surely miss you, Happy Camp.

WINDFALL PROFIT TAX DOES NOT WORK

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, remember the windfall profit tax passed in 1980? The idea was to prevent the domestic producers from making a killing when Congress decontrolled the price of oil.

Today, hardly anyone is making a decent living let alone a killing in the oil patch, and the Government's shares of these famous windfall profit tax is zero.

Repealing this tax is a matter of common sense, discarding an outmoded and onerous tax which has proved unproductive. It is also, however, a matter of restoring our national security. Oil imports by the United States have jumped to the same levels of 1974, approximately 28 percent of our entire oil supply. We cannot afford to depend on the mined, war-torn sealanes of the Persian Gulf for our vital supply of oil while the number of our own domestic rigs drops from 4,000 to only 1,000. We must increase our domestic production, put our oilfield workers back to work on the rigs, and be self-sufficient in energy production. This is not just a matter for the oil-producing States. This is a matter of national security.

The House should recede to the Senate in the trade bill and discard the windfall profit tax.

DIRECT ASSESSMENT ON MILK PRODUCTS

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, Gramm-Rudman is a legislative tool. It was born of the very real need to rein in our Federal deficit. And, in most programs, those Gramm-Rudman cuts are simply that—cuts in what the taxpayers are spending on that program. But, in the case of dairy, how the cuts are achieved makes a big difference.

Let's say the Gramm-Rudman cut must be 9 percent. That means we have to save $86 million. The bill we just passed mandates that we do that by cutting the price support. We'd have to cut it about $1.11. Since the price support forms the basis for wholesale milk prices all around the country, you'd think that the price support cut would create a substantial savings to consumers. But, over the last 5 years the price support has dropped almost 25 percent. Have milk prices in the grocery stores decreased? No. So, who has pocketed that savings? Not the farmers, and not the consumers—it must be the middlemen—the wholesalers and retailers.

It seems to me that the same thing would happen if we allowed Gramm-Rudman to stand as it is. We'd get our $86 million Government savings all right. But we'd also transfer around a billion and a half dollars from farmers to middlemen. We'd be charging the average Wisconsin farmer $6,600 to achieve $413 of savings for the Government. Mr. Speaker, that's ludicrous. And it's not what we intended. Instead, let's achieve the Government's savings with a direct assessment on all milk produced, the same way we did it in 1985 when this issue came up before.

No one says that we shouldn't ask the dairy farmers to do their share. But let's not go beyond that to line the pockets of middlemen, at the expense of the farmers. I urge my colleagues to support the assessment alternative.

LEGISLATION TO AMEND THE HAZARDOUS MATERIALS TRANSPORTATION ACT OF 1974

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, I am pleased to introduce H.R. 3334, a significant piece of legislation to amend the Hazardous Materials Transportation Act of 1974. The legislation that I am introducing is the result of an extensive 2-year study of the critical situation that now exist in the transportation of hazardous waste and materials. There are not many, if any, Members of Congress who do not have hazardous materials or waste being transported through their district and it is for this reason that each and every one of us should take a deep interest in this matter and consider cosponsoring this bill.

In 1974, Congress passed the Hazardous Materials Transportation Act, an important piece of legislation dedicating numerous requirements to control hazardous materials transportation. The 1974 act represented a national strategy and mandated guidelines for implementing a system to protect our local communities from the devastation of a hazardous materials accident. However, we have failed to meet the mandate and intent of this law and our failure has resulted in a dangerous threat to every community that has a railroad track or highway running through it. Due to the lack of proper response by the Federal Government no one really know what is being transported and what communities these toxic substances are being transported through. We have failed to implement the law and failed to protect the life and property of those who elected us to safeguard their communities.

The legislation I am offering today would implement, through status, a key provision of the 1974 law and return control to the Federal, State, and local governments.

Simply, my bill would properly implement the requirement in the 1974 law mandating a computerized central reporting data system for real-time information on all hazardous materials and waste being transported across the country. The bill would require each generator of these wastes or materials to prepare a manifest, or bill of lading of their shipment on a computer to be transmitted to a central data base. The information that is supplied by the generator would be the same as what is currently required by law for hazardous waste. In the event of any accident or mishap, this information would be readily available at no cost to all Federal, State, and local law enforcement officials and fire personnel to be used in properly responding to that accident. No longer would we have to wait an average of 3 hours to determine what materials are contained on the truck, rail car, barge, or plane. Our local response officials would have immediate and correct information on the magnitude of the problem. We would not have to wait for the chemical company, railroad, or carrier company to claim responsibility and release the necessary information. No longer would we have to ask our local response officials to rely on luck to respond to frightening accidents.

In addition to the real-time computer system, my bill would provide a funding mechanism for a grants program to fund the cost of training and equipping State and local emergency response teams. This funding mechanism is anticipated to generate $135 million a year at no direct cost to the Federal Government, as it would be derived from a per manifest charge to hazardous materials and waste generators to manifest their shipments on the central computer data base. It does little good to provide information to local response teams if they are ill fit to combat the problem. This legislation would provide funding for training, equipment, and would give our local communities real-time information to utilize their training and equipment.

My bill represents a comprehensive solution to controlling the transportation of hazardous materials and waste at no cost to the Federal, State, or local governments which simply cannot afford to produce the system I am advocating. This legislation adheres to the just principle of polluter pays. I ask that my colleagues give this bill serious consideration and support my efforts in protecting the life and property of millions of Americans who have entrusted us with the responsibility of safeguarding them from the deception currently dictating the transportation of hazardous materials and waste. We now have the capability to gain control and halt the proliferation of this explosive crisis.

□ 1245

PRAISE FOR CARDINAL O'HARA HIGH SCHOOL

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, I rise today to publicly honor and recognize the Cardinal O'Hara High School located in Springfield Township in my congressional district.

Cardinal O'Hara, on its 25th silver anniversary celebrated this year, has been cited by the Catholic Standard and Times as the largest Catholic school in the world.

I had the pleasure of attending the first official function of their 25th anniversary celebration on Sunday, September 27, where a mass was celebrated by His Excellency, Bishop Edward T. Hughes. Following the mass, I joined with Father Cribben and hundreds of parents and friends for a special luncheon and program.

Cardinal O'Hara has earned a national reputation in just 25 short years, not just because of its size and total commitment to quality education, but also because of its commitment to the development of the whole child, and not just the academic side of an individual student.

Cardinal O'Hara has established leadership in scholarship, the athletics, as well as community involvement. I ask my colleagues today to join with me in applauding the Cardinal O'Hara family in recognition of their 25-year leadership in setting an example for all of America to follow.

BETTER CHILD SUPPORT ENFORCEMENT

(Mr. ANDREWS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS. Mr. Speaker, child support enforcement is the cornerstone of the welfare reform. One problem with the welfare system is that each time that a family begins to receive welfare payments, half of those families will continue to receive assistance for more than 3 years. In the past, we have not had a good response to this problem. In the current welfare reform effort, one of our guiding principles is to make sure that the parents have done everything they can to support their children before the Government offers assistance.

Three out of four welfare cases begin due to divorce, separation, or the birth of a child to an unmarried woman. But the great majority of these cases do not have support awards established for the children. Even for those with child support awards, half do not receive full payment.

The Family Welfare Reform Act, H.R. 1720, makes several changes to improve child support enforcement:

It requires a 50 percent across-the-board increase in paternity determinations.

It provides for additional penalties on States that have not complied with the 1984 child support amendments.

It encourages States to adopt automatic wage withholding provisions that Texas and Massachusetts have already adopted.

Finally, for the parents who are unable to pay child support, H.R. 1720 authorizes innovative programs to provide job training and job search assistance for those parents.

Better child support enforcement is not the final answer to the problem of welfare dependency, but it is the starting point for our welfare system.

A CORRECTION RE CLYDE PRESTOWITZ

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, last week, in a special order on the floor discussing the Japanese lobbying effort on behalf of their national interests and the amount of lobbying money being spent to defeat provisions of the trade bill which would ban the sale of Toshiba products in this country for years, I identified Clyde Prestowitz, a former negotiator for the Trade Representative's Office, as one of the leading lobbyists for Toshiba.

Not so. And I greatly regret the error and apoligize to Mr. Prestowitz. In an article about the numbers of administration officials who have signed on to represent Japanese interests in this country, Mr. Prestowitz was quoted on various aspects of the lobbying effort.

In a hurried reading of the article, I assumed he was part of the group referred to as lobbying for Toshiba.

Having been briefed by Mr. Prestowitz at a meeting of the Steel Caucus, and having been greatly impressed by his competence and obvious awareness of our growing trade problems, I was shocked when I thought he had signed on to defend Toshiba. Thank heavens I was wrong—that my initial impression of him as a trade expert concerned over the loss of the American industrial base was right.

Mr. Prestowitz is writing a book on our current trade problems and I urge our colleagues to read it when it is published.

REMEMBERING RAY J. MADDEN

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise today in memory of the late chairman of the House Rules Committee, the Honorable Ray J. Madden who passed away yesterday in Washington, DC.

Ray Madden was an extraordinary individual whose life was marked by great achievements and contributions to the Nation and district he served.

During his 95 years, Chairman Madden worked hard to positively influence the lives of others. This is reflected by his 60 years of public serving including his position as municipal judge in Omaha, NE, city controller of Gary, IN and treasurer of Lake County, IN. In addition, Mr. Madden served his country during World War I, in the U.S. Navy.

His service in the U.S. Congress began in 1942 and continued for 16 additional Congresses until 1976. His congressional career spanned 34 years, during which time he held a number of leadership positions in the House and in the Democratic Party.

Upon his retirement from the House, Mr. Madden continued his efforts to contribute. He was always there when I sought advice regarding my duties in the Congress, advice he provided both willingly and thoughtfully.

Ray Madden was a great person—great for his public deeds; greater for his kind heart, and greatest for his attributes as a gentleman and a true representative of the people.

Today, Ray Madden has my prayers and those of the people he served so faithfully in northwest Indiana.

At this time I would inform my colleagues that I have arranged a special order in Chairman Madden's memory for October 6, 1987.

RECLAIM MOUNT ALTO

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I am pleased that the other body has recently joined the House in voting overwhelmingly to evict the Soviets from their new Embassy on Mount Alto.

The will of the Congress is now perfectly clear. As the price for penetrating our new Embassy in Moscow, the Soviets must no longer be allowed to enjoy the intelligence advantages of Mount Alto.

Mount Alto is the second highest point in Washington. From that position, the Soviets can intercept 70 percent of the private telephone calls in the entire region, and they can train their listening devices on every important Government facility in town.

The Congress rightly asks: Why should the KGB continue to reap the intelligence bonanza of Mount Alto while the American taxpayers spend $90 million to clean up the mess they made of our Embassy in Moscow?

The answer is that they shouldn't. And both Houses of Congress have now voted by overwhelming margins to reclaim Mount Alto.

I strongly urge all my colleagues to continue to support this legislation and approve a final version requiring the Soviets' unconditional eviction. Anything less would be a surrender to Soviet espionage.

SUPPORT FOR SECONDARY MARKET PROVISIONS IN THE AGRICULTURAL CREDIT ACT

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, next week the House will resume consideration of H.R. 3030, the Agricultural Credit Act of 1987.

Title III of this legislation contains provisions relating to the creation of a secondary market for agricultural real estate loans.

I support this provision—Farmer Mac, as it has come to be known, because I believe it will have a very strong and positive impact on my farmer borrowers.

Testimony heard by the Agriculture Committee indicates that our farmers will receive better financial service, including lower interest rates, due to the greater competition among providers of agricultural real estate credit. Because the farm mortgages are securitized, farmers will have the valuable option of a long-term fixed-rate mortgage for the purchase of farmland.

Commercial agricultural lenders can use the secondary market to originate and handle more long-term farm mortgages without impairing their liquidity requirements or their capacity to meet farmers' needs for operating and equipment financing as the agricultural economy recovers. Smaller agricultural banks can use the secondary market to diversify their income sources to healthier levels and increase their lending capacity to individual farmers.

The Farm Credit System can use the secondary market to offer long-term, fixed-rate mortgages without risking the mismatch of their loan assets and bond liabilities that caused a substantial part of the system's present financial difficulties.

I urge support of the secondary market provisions in H.R. 3030

WRIGHT-REAGAN PEACE PLAN

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOKNAN of California. Mr. Speaker, tomorrow, September 30, is a fascinating anniversary in world history. It is the 49th anniversary of Munich. It is also the final day of the Wright-Reagan so-called peace plan in Central America.

The cry of Sir Neville Chamberlain to Herr Hitler on the ramp of the airport at Munich was "Peace in our time."

This similar little cry we hear today is "Give Peace a Chance."

As our Ambassador in Honduras has said, "Give peace a chance" is code words for "Destroy the democratic resistance in Nicaragua, the Contras."

I have been a supporter of the Wright-Reagan plan, as you know; but I also told the President in the Oval Office on August 7, as of midnight tomorrow, I am a free agent again to talk about freedom in Central America.

Not one political prisoner has been released during the Wright-Reagan 2 months. The torture goes on. At least 5,000 people in those cells in Nicaragua, which makes that country the highest political prisoner tormenting nation to prorated population on the face of the Earth.

It is 2½ years since Terry Anderson was taken a prisoner in Beirut, and I said I would never make another speech on the hostages, that quiet diplomacy was the answer; but I cannot stick to that.

I want the Members to pray for all these hostages in Beirut, about 26 of them.

MANDATING CAPITAL PUNISHMENT FOR MURDERERS OF LAW-ENFORCEMENT OFFICERS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, a Youngstown police officer, Paul Durkin, was shot by a man that he had stopped to question at 4 o'clock in the morning.

Reports say that Officer Durkin had radioed headquarters with a description of the suspect, and then slumped into unconsciousness. He died 20 minutes later at the hospital.

The suspect had been looting cars. The murder weapon was a handgun.

My question today is, Who protects the rights of the victims? Congress has failed to pass a capital punishment law. We continue to let murderers run the streets and continue to grieve for law enforcement officers and citizens where we should be taking some action.

We have failed to meet the crisis of handguns in our society.

Paul Durkin leaves a lovely wife who is pregnant with their second child and a 2-year-old daughter. I think it is time that Congress starts looking at the rights of families like the Durkins, and not the murderers who run the streets.

H.R. 2392 would mandate capital punishment for individuals who murder law enforcement officers. I do not think that goes far enough, but it is a place to start.

QUESTIONING THE WISDOM AND AFFORDABILITY OF HOUSE CATASTROPHIC INSURANCE PLAN

(Mr. LOWERY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWERY of California. Mr. Speaker, recently the press reported that the Department of Health of Human Services is expected to call for a huge increase in the Medicare part B premium. According to reports, the monthly premium will rise from $17.90 this year to $24.80 in 1988, the single largest increase in the history of the program. Seniors will have to pay $83 more next year for the same part B coverage they're getting this year.

From the flurry of criticisms, everyone seems concerned about it.

Well, I ask my colleagues, where was that concern when this House passed the $34 billion catastrophic insurance bill? That bill would force tax increases on millions of elderly persons. In fact, a senior with an adjusted gross income of only $8,000 will have to pay $140 in the first year alone. That's nearly twice the premium increase that everyone is so concerned about.

And where was the concern for the elderly's pocketbook when CBO estimated the bill's maximum surtax would double in just 4 years?

Supporters of the catastrophic insurance bill insist the new program will pay for itself.

What if the cost of the new catastrophic benefits skyrocket? If not beneficiaries, who's going to pay for them? Workers? The deficit?

In light of these questions, I urge my colleagues to reconsider the wisdom and affordability of the House catastrophic insurance plan. This plan is really catastrophic taxation for America's elderly.

FEDERAL FIRE SERVICE PAY SCHEDULE ACT OF 1987

(Mr. LEHMAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEHMAN of California. Mr. Speaker, as many of my colleagues know, during the August recess, forest fires raged throughout the West, burning hundreds of thousands of acres of forests and leaving in their wake millions of dollars of losses in timber, structures, grazing lands, and recreation.

For nearly 2 weeks during the peak of the fire, many residents of 22 counties in California lived a nightmare which threatened their families, their homes, and their livelihoods. The greatest of this devastation occurred in the Stanislaus National Forest, just outside of Yosemite National Park, and within the boundaries of the 18th Congressional District. In total, 140,000 acres burned and 18 families lost their homes.

Special thanks and recognition should go to the thousands of individuals who fought the fires. These crews, from throughout the area and country, worked tirelessly and without complaint. Every day they risked their own personal safety to battle the terrain and weather, oftentimes working around the clock in their successful effort.

However, unless this body takes appropriate action, these firefighters may be short changed on the just compensation for their efforts. Under current law, these individuals are limited in the amount of hours they can be paid for, regardless of the nature of the man-hours of work. Title V of the United States Code effectively limits the hours for which they can be paid, including during disasters like this fire where crews were forced to put in tremendous amounts of overtime.

Today I am cosponsoring H.R. 1174, the Federal Fire Service Pay Schedule Act of 1987, which, if enacted, would correct this injustice. Under current law, Federal employees at the GS-7 level and above cannot earn more than $2,682.40 for a 2-week period, no matter how much they work—disaster or no disaster. The California fires began at the beginning of a 2-week pay period and, since many firefighters were working 20 hour days, these dedicated individuals reached the legal pay ceiling within 9 days of work. Until the next pay period began, the firefighters' overtime was essentially volunteered.

As we are know, fires do not burn according to Government pay schedules; H.R. 1174 is an appropriate remedy.

The maximum earning limitation was established so that top executives would not abuse their overtime authority, but over the years this law has crept down to field workers. The legislation that I am cosponsoring would address the inequities involved in classifying Federal firefighters under the general pay schedule by removing them from the schedule into a separate pay system that is designed to eliminate the inequities of the current compensation scheme. The new firefighters salary schedule would accurately reflect, at each grade and step, the special nature of the Federal fire service.

Simply put, firefighters, who work an average of 72-hour work weeks and far more during disasters such as the recent west coast fires, do not belong under a pay system that treats all employees as if they worked a standard 40-hour, 5-day week. The general schedule is not the appropriate classification for Federal firefighters for it does not reflect the actual level of sacrifice, risk, training, responsibility, and skills involved in the performance of their duties.

Tuolumne County, in my district, and the other areas threatened and devastated by the recent west coast fires were fortunate to have firefighters who are dedicated to their jobs and simply did not walk off the fire lines when the pay clock stopped ticking. However, the law which provides for this compensation injustice must be changed now. Fire personnel must be compensated for all of their time.

H.R. 1174 is sound legislation and corrects a gross oversight. I urge my colleagues to join me in supporting this bill and urge the House to move expeditiously on it.

□ 1300

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

AUTHORIZING GOLD MEDAL TO MARY LASKER

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 390) to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification, and the fine arts, as amended.

The Clerk read as follows:

H.R. 390

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the President is authorized to present, on behalf of the Congress, to Mary Lasker, a gold medal of appropriate design in recognition of her humanitarian contributions in the areas of medical research and education, urban beautification, and the fine arts. For such purpose, the Secretary of the Treasury is authorized and directed to cause to be struck a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury. There are authorized to be appropriated not to exceed $20,000 to carry out the provisions of this subsection.

(b) The Secretary of the Treasury may cause duplicates in bronze of such medal to be coined and sold under such regulations as he may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, overhead expenses, and the gold medal. The appropriation used to carry out the provisions of subsection (a) shall be reimbursed out of the proceeds of such sales.

SEC. 2. The medals provided for in this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 3. Section 2(b) of the Young Astronaut Program Medal Act, Public Law 99-295, is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1988".

The SPEAKER pro tempore. Is a second demanded?

Mr. HILER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such times as I may consume.

Mr. Speaker, H.R. 390 would authorize the President to present, on behalf of the Congress, a gold medal to Mary Lasker. The legislation was introduced by the distinguished gentleman from Florida [Mr. PEPPER]. I am proud to be one of the 200 cosponsors of this legislation.

This is the first bill authorizing a congressional gold medal to come to the floor under the new criteria for gold medals adopted by the Banking Committee this Congress. Rule 15 of the Banking Committee's rules is designed to assure that congressional gold medals, the highest award that Congress can bestow, are awarded only to those individuals of the highest merit.

In the 211 years since the First Continental Congress awarded a gold medal to Gen. George Washington, there have only been 101 occasions in which Congress has voted to award these medals. Because of the Banking Committee's desire to maintain the highest standards for the award of these medals, written standards have been incorporated into the committee's rules.

The Consumer Affairs and Coinage Subcommittee, which I chair, considered H.R. 390 in light of the standards, and found Mary Lasker to meet the standards. Mary Lasker has not received a congressional gold medal previously.

The committee criteria require that the recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement.

In the field of medical research, none approach Mary Lasker's contributions. In many ways she has shaped the way basic medical research is conducted in this country. Dr. Vincent DeVita, the Director of the National Cancer Institute, has described her as "our country's first lady of science and medicine." She has put science and medicine on the public agenda. Her efforts led to the founding of the National Heart Institute, the National Cancer Institute, and the National Institute of Arthritis. Her influence on all of the National Institutes of Health is so pervasive that a building at the National Institutes of Health has been named for her.

The criteria for the award of a gold medal requires a lifetime of continuous superior achievements so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

Mary Lasker has worked for the cause of medical research for 50 years. The honors she has received would take pages to list. They include 10 honorary degrees, numerous awards from medical societies, the French Legion of Honor, and the highest civilian award the President can bestow, the Medal of Freedom. Clearly, Mary Lasker has been honored and recognized many times over by those most familiar with her work.

There can be no doubt that Mary Lasker meets all the committee's criteria for the award of a congressional gold medal, and I urge my colleagues to support this bill.

The bill also contains a provision that amends the Young Astronaut Program Medal Act to give the Young Astronaut Council an additional year in which to have medals struck for it by the U.S. Mint. Under the legislation passed last year, the Council is required to pay for the medals in advance. Due in part to the mint's busy engraving schedule and in part to the problems of the Young Astronaut Council in raising sufficient funds to pay the initial cost of the medals, no medals have yet been struck. The Council has assured me that the funding problems have been resolved, but there is insufficient time to strike the medals before the authorization expires at the end of this year. The amendment would provide a 1-year extension of the act so the mint would have adequate time to design and strike the medals.

I urge the passage of H.R. 390.

Mr. Speaker, I want to publicly acknowledge the great contribution to the subcommittee made by the gentleman from Illinois [Mr. HILER], who has worked so long and hard to improve the criteria that the committee finally approved.

Mr. Speaker, I reserve the balance of my time.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Illinois for his remarks.

Mr. Speaker, I join Chairman ANNUNZIO in support of H.R. 390, a bill to provide a congressional gold medal to Mrs. Mary Lasker for her humanitarian contributions in the areas of medical research and education, urban beautification and the fine arts.

This bill represents the first congressional gold medal we have granted this year. I wish to take a moment to impress upon my colleagues the extreme rarity of awarding a congressional gold medal. It should be awarded only to truly outstanding individuals whose achievements distinguish them for recognition. Chairman ANNUNZIO and I have worked hard to establish subcommittee criteria for the granting of gold medals. I would like to reiterate these criteria for the Members' benefit:

The subcommittee shall not schedule a hearing on any commemorative medal legislation unless the legislation is cosponsored by at least 218 Members of the House.

In considering legislation authorizing congressional gold medals, the subcommittee shall apply the following standards:

First. The recipient shall be a natural person;

Second. The recipient shall have performed an achievement that has an impact on American history and culture that is likely to be recognized as a major achievement in the recipient's field long after the achievement;

Third. The recipient shall not have received a medal previously for the same or substantially the same achievement;

Fourth. The recipient shall be living or, if deceased, shall have been deceased for not less than 5 years and not more than 25 years; and

Fifth. The achievements were performed in the recipient's field of endeavor, and represent either a lifetime of continuous superior achievement or a single achievement so significant that the recipient is recognized and acclaimed by others in the same field, as evidenced by the recipient having received the highest honors in the field.

Today we have before us an especially worthy candidate for a gold medal. As we heard at hearings last week, Mary Lasker has made major contributions to health care in our country. She has been a leader in funding medical research in the areas of cancer; high blood pressure; arteriosclerosis heart disease; stroke; eye disease; arthritis; delay of aging and other major illnesses.

Mary Lasker was the driving force behind legislation which produced several of the separate institutes of the National Institutes of Health. Most notably, Mrs. Lasker was instrumental in the creation of the Cancer, Heart, Arthritis Institutes.

She is president of the Albert and Mary Lasker Foundation which gives an annual Albert Lasker Medical Research Award for outstanding contributions to clinical and basic medical research. Over 40 winners of the Albert Lasker Award have later gone on to win Nobel Prizes.

Mrs. Lasker has received 10 honorary degrees. Additionally, in 1969 she received the Medal of Freedom Award, the highest civilian award an American citizen can receive.

She has been active in the beautification of New York City and Washington, DC, with fountains, lighting, tree and flower planting.

Mrs. Lasker is truly a remarkable woman whose achievements have touched our well-being and improved the quality of our lives. The direct results of her endeavors have created a happier, healthier human race. She deserves to be commended by the Congress for her extraordinary efforts.

Two hundred and twenty-one Congressmen have joined Congressman PEPPER in cosponsoring this legislation. I am pleased to join these colleagues in asking for prompt adoption of this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Speaker, first I want to commend my good friend, the gentleman from Illinois, Mr. ANNUNZIO, and the gentleman from Indiana, Mr. HILER, for bringing this resolution out, as well as my good friend, the gentleman from Florida, CLAUDE PEPPER. CLAUDE and I have known Mary Lasker for a good many years. I have known her for 29 years and she has been a very beautiful human being and a great friend of mine.

Mr. Speaker, I therefore rise in strong support of the resolution authorizing the President, on behalf of Congress, to present a gold medal to Mary Lasker.

This resolution recognizes her humanitarian contributions in the areas of medical research and education, urban beautification, and the fine arts, and is proof that she is quite a renaissance woman. I know Mary best in her role as a tireless advocate for increased Federal funding for medical research and education.

For nearly half a century, Mary has worked to raise public and private attention and financial support for medical research. And she is still going strong. She was behind the drive to establish a separate arthritis institute at the National Institutes of Health—no small feat to those of us familiar with the structure of NIH—and in November 1985 she succeeded. In June 1986, she was honored at a celebration marking the 40th anniversary of the passage of the National Mental Health Act, which she maneuvered through Congress to create a separate mental health institute. Tonight, she will be awarded a gold medal by the National Coalition for Cancer Research at a celebration of the 50th anniversary of the National Cancer Institute. Clearly, tracing the history of Mary's involvement with medical research means tracing the development of medical research itself.

I've been the direct target of the advocacy efforts of Mary and the Lasker Foundation when they make their regular appearances before the Labor-HHS-Education Appropriations Subcommittee, which funds programs for biomedical research, research training, and health education.

Mary's input on health issues is always welcome. She has given her time, her money, and her tremendous emotional energy to furthering medical research in this country, and she certainly has an ability to discern talent—42 winners of the Albert Lasker Awards that she established in her husband's name in 1944 have gone on to win Nobel Prizes.

I won't try to list all of her awards and achievements—that's been attempted by others.

But I do want to personally acknowledge the importance and the value of Mary's contributions to the medical knowledge that we now possess and that we will continue to develop in this country. I am proud to have crossed paths with her and to be here to honor her today.

Mr. Speaker, one of the finest things anyone can say about a person is that person is a good person, and in my book Mary Lasker is a good person.

Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I yield 7 minutes to the gentleman from Florida [Mr. PEPPER], the distinguished author of the legislation and chairman of the Rules Committee.

Mr. PEPPER. Mr. Speaker, I thank my distinguished friend from Illinois [Mr. ANNUNZIO] for giving me the opportunity to say something in behalf of this resolution. I am proud to be associated with 219 of my distinguished colleagues in support of this legislation.

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In the warmest way I wish to commend the distinguished chairman of the subcommittee, the gentleman from Illinois [Mr. ANNUNZIO] and the distinguished minority member of the committee, the gentleman from Indiana [Mr. HILER] and also my dear friend, the gentleman from Massachusetts, [Mr. CONTE] for the excellent comments that they have made here in support of this measure.

For over 50 years, it has been my honor and privilege to work with this beloved and wonderful lady, Mary Lasker, in the health field in the Congress.

In 1937, her husband Albert Lasker who was recognized as the founder of modern advertising in America and perhaps in the world, began to come to Washington to lay before the Members of Congress the proposition that Congress itself should get behind research in the health field, to find the cause and cure of killing and critical diseases.

I had the honor with my dear late wife, Mildred, to get to know Albert and Mary Lasker in that year, 1937, while I was in the Senate.

They had already given large sums of money for private research in cancer and heart disease and other critical diseases in our country. But Albert Lasker perhaps is deserving of the commendation for being the one who discovered the possibility of bringing Congress into the fray, that if the American Government could get behind this program really we could make progress. And since Albert and Mary Lasker came here—Mr. Lasker passed away in later years but Mary carried on indefatigably that great campaign—the number of National Institutes of Health established by the Government of the United States—the Congress—has increased from none in 1937 to 12 today.

The first one was the National Cancer Institute where I first came to be associated with Albert and Mary Lasker.

A crippled Senator from the State of Washington—Homer Bone—came around to all of us in the Senate and said, "I want you to sign my bill to establish a national cancer institute to appropriate $500,000 a year in support of cancer research." We passed the bill in the Senate, the House passed it. For a number of years the only amount available was that $500,000 but we did establish the National Cancer Institute and Mary Lasker was the moving force behind that legislation.

Then later after the campaign was underway for cancer research, Mary Lasker came to us who were interested in the subject and said, "Now, why don't you introduce a bill to appropriate $100 million to remain available until spent to give continuity to research in the cancer field?" We introduced that legislation, we started the hearings, Senator Neely in the House, and I was chairman of the committee in the Senate, and for 6 months, nearly, we conducted hearings all of which were provided by Mary Lasker.

Finally Senator Taft introduced a bill to provide $75 million to remain available until spent and he said he would support that measure. We all got together and we got an appropriation of about $8 million or $9 million that year for cancer research. The next year we got about $14 million for cancer research.

That went on up until today it is now about $1.3 billion on the part of our Government.

Later in 1981 Mrs. Raskin was mainly responsible for the first world Conference on Cancer meeting in Washington.

Tonight in Washington the National Coalition for Cancer Research is giving its own gold medal to Mary Lasker because she was the angel that got that program underway.

Then one day Mrs. Lasker came to several of us and said, "Now look here, we have a program for cancer research underway but we are not doing anything in the heart field. Let's do something in that." Then she whispered to me, "I could give you a tip. The chairman of the appropriations committee—Senator Styles Bridges—in the Senate has had a little heart trouble and if you could get him to hold a hearing why I will bring the witnesses down for the hearing and maybe we can get him to start a heart program."

I went to Senator Bridges, and asked "Shouldn't we do something about heart research?" He said, "Yes, I think we should." I said, "I will bring the witnesses down if you will hold a hearing before your appropriations committee." He agreed. Of course, Mary Lasker provided the witnesses.

We had a hearing before Senator Bridges' Committee on Appropriations. He put $1 million in the bill for heart research. The House reduced it to $500,000. But we got the first money for our heart research all under the genius of Mary Lasker.

The following year, if I may say so, at Mary Lasker's suggestion, because everything I did was at her suggestion and with her cooperation, I introduced a bill to set up the National Heart Institute. That became one of the early National Institutes of Health.

As I said, now we have 12 National Institutes of Health.

Mary Lasker and her husband spent millions in the health research program, as the distinguished chairman of the subcommittee has said. A building is named for her at the National Institutes of Health. She is receiving a gold medal tonight, as I said.

So this great lady, for over 50 years to my personal knowledge, has spearheaded every effort for more money for research in heart and cancer and arthritis and the other critical diseases than any other American. She stands out as the "angel of longer lives and better health" for the people of America. Every Member of this House who has had the responsibility of making appropriations for the health field research and health care will tell you that Mary Lasker has been the prime mover of every program the Government of the United States has initiated during a half century of our American life.

While this lovely, wonderful lady of noble spirit still lives and can appreciate our recognition of her incomparable contribution to American longevity and health, I am proud that the distinguished chairman has taken the initiative with his colleagues and is giving this House today an opportunity to say to Mary Lasker, "God bless you, Mary Lasker, we are grateful for what you have done for America. May you for many years more continue in your great work."

I thank the gentleman for yielding.

Mr. Speaker, it is my great pleasure to rise today to talk about one of the most extraordinary Americans it has ever been my pleasure to know, Mary Lasker of New York, NY.

To chronicle all of Mrs. Lasker's good works and charitable deeds is indeed a challenge, for this outstanding woman has lent her talent and energy to a wide variety of causes.

Mary Lasker is cofounder and current president of the Albert and Mary Lasker Foundation, named for her late husband and herself. The Lasker Foundation has made major contributions to the advancement of medical knowledge through its awards for contributions in medical research and public health administration. She has long been the driving force behind the foundation, demonstrating intelligence, vigor and most important of all imagination in her work on the foundation's service.

The Albert and Mary Lasker Foundation's annual award has become recognized as one of the most significant honors in American medicine. To say the award has changed the course of medical research in this country is no overstatement. The Lasker Award is credited with stimulating work in a whole host of medical fields, as well as arousing public and private interest in supporting medical research.

Mary Lasker has engaged in many other activities connected with medicine. She has participated actively in the National Committee for Mental Hygiene, an organization dedicated to removing the stigma of mental illness by educating the public and establishing facilities for treatment, and grating funds for research.

Mrs. Lasker has served on the Menninger Foundation and the Institute of Psychoanalysis, a teaching and research organization in Chicago. She has been a member of the advisory council of the American Heart Association and is currently an honorary member of the board and of the executive committee of the American Cancer Society. She is also vice president of the Research to Prevent Blindness Committee and vice chairman of the board of the United Cerebral Palsy Research and Education Foundation.

Despite these many affiliations and her excellent work with each, one could argue that Mary Lasker's greatest contribution has been in working with the Congress. She came to me in 1937, when I was a Member of the U.S. Senate, and made a most persuasive case for a National Cancer Institute. As you know, that was a very successful venture which has grown to the flagship cancer research center in the world. Mrs. Lasker was active in urging the passage of legislation to expand the Federal research effort to hasten the conquest of cancer again in 1971, when she lobbied for and succeeded at having passed the Cancer Act. She has played key roles in the establishment of the National Heart Institute and in ensuring appropriate funding levels for the other institutes.

Mary Lasker has received recognition from many sources. She has 10 honorary degrees including the Radcliffe Achievement Award, the highest honor from her alma mater. She received the American Cancer Society's Alfred Sloan Award in 1971 and has been honored with the French Legion of Honor. She received the Medal of Freedom Award from the President of the United States in 1969. Yet, this outstanding American so far has not been honored by the Congress.

For her many achievements in health and medicine, for her philanthropy and activism, I am most pleased to support the creation of a Congressional Gold Medal for Mary Lasker, and I would urge my colleagues to do the same.

Mr. GREEN. Mr. Speaker, I rise today to honor a great woman, Mary Lasker, who is being presented with a special gold medal for her contributions to medical research and the community at large.

The Albert and Mary Lasker Foundation, located in my district, has made a major contribution to the advancement of medical knowledge through its awards for research in heart disease, mental illness, and cancer.

Since her husband's death in 1952, Mary Lasker has been president of the foundation. Her intelligence, vigor, and imagination have stimulated the foundation's work of continued service to my community.

Mrs. Lasker is also heavily involved with the National Committee for Mental Hygiene, the National Health Education Committee, and the health insurance plan of greater New York, just to name a few. She also sits on the executive board of the New York City Board of Hospitals. Her nonmedical interests include the American Committee on United Europe and the Museum of Modern Art.

I ask you to all join me in honoring this selfless and inspiring lady for her achievements and contributions to the American public.

Mr. ANNUNZIO. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Massachusetts [Mr. BOLAND], former chairman of the Permanent Select Committee on Intelligence.

Mr. BOLAND. Mr. Speaker, first of all I want to join with other Members here to congratulate the distinguished gentleman from Illinois [Mr. ANNUNZIO], and the ranking minority member, the gentleman from Indiana [Mr. HILER], for bringing this bill to the floor.

I think it is significant that the chief sponsor of the bill who just spoke, perhaps, has known Mary Lasker longer than any Member of this body. No one is more familiar with the work she has done in this area than he. I think the magnificent demonstration and knowledge of it, which he just put on, clearly indicates the respect and admiration he has for her.

Mr. Speaker, today, with the passage of this legislation, the House of Representatives honors a true American pioneer, Mary Lasker. For more than 40 years, she has devoted her considerable abilities to ensuring that the resources necessary were available to mount great expeditions of scientific exploration into the causes of the diseases which afflict mankind, particularly cancer and heart disease. She has been both an example and a conscience to the Congress over that time as we have developed and sustained a national commitment to medical research.

Like many Americans, the first experience that Mary and her late husband and partner, Albert Lasker, had with cancer, involved the suffering and death of friends and loved ones. The lack of knowledge about this disease, and the unwillingness of many in positions of influence to even acknowledge its existence alarmed and dismayed the Laskers. Concluding that in the battle against this disease the choice of weapons was crucial Mary and Albert Lasker decided to devote their time, talents, and resources to promoting medical research. The result was the Lasker Foundation which has been directly underwriting research activities since 1942, and which, since 1946, has been encouraging quality research efforts through the Albert Lasker Awards. While the inspiration behind these efforts was joint, the foundation and the Lasker Awards have gained prominence and influence because of the skill and commitment of Mary Lasker.

In 1944, when the effort by the Laskers to stimulate a greater degree of support for medical research was just beginning, the Federal Government's annual budget for research into all illnesses was $2.4 million. In the version of the Labor/HHS/Education appropriations bill for fiscal year 1988 which this House passed several weeks ago, the research budget stood at $6.5 billion. That increase has been due in large part to the sustained and effective efforts of Mary Lasker. As a member of the Appropriations Committee, I have had the privilege of working with her for many years on matters affecting the National Cancer Institute and Medical research in general. She has a reputation as a person of extraordinary dedication and compassion. That reputation is truly merited, and explains the high regard in which she is held not only in this House but wherever people know of her work on behalf of improving people's health, and through it, the quality of their lives.

Mary Lasker richly deserves the tribute embodied in H.R. 390. Although no medal would capture the love of humanity which is the essence of her spirit, this recognition will properly signify the thanks of a grateful nation for her work support and dedication, not alone in medical research, but also in the fields of education, urban beautification, and fine arts. Mr. Speaker, it is especially appropriate that H.R. 390 comes to us on the day Mrs. Lasker is honored by the National Coalition for Cancer Research, in conjunction with the celebration of the 50th anniversary of the National Cancer Institute. With that special impetus, I urge the adoption of this resolution.

Mr. ST GERMAIN. Mr. Speaker, I am proud to have joined my distinguished colleague from Florida, Mr. PEPPER, in cosponsoring this bill awarding a gold medal to Mary Lasker. Her years of work and leadership have made impressive contributions to the cause of basic medical research. Without her efforts, the National Institutes of Health would be much different and much smaller than they are today. We would know much less about cancer and heart disease without her. She has contributed to the great strides of progress and discovery that have been made in the health sciences.

The Congressional Gold Medal is the highest award the Congress can bestow and it should be awarded only to those of the highest achievements. Mary Lasker is one of those rare persons whose extraordinary contributions meet the criteria for these medals and I urge the House to pass this bill.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the House suspend the rules and pass the bill, H.R. 390, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification and the fine arts, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

BICENTENNIAL OF THE U.S. CONGRESS COMMEMORATIVE COIN ACT

Mr. ANNUNZIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3251) to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the U.S. Congress.

The Clerk read as follows:

H.R. 3251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 10,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 10,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

The Director of the Mint shall submit the proposed designs of the coins to be minted under this Act to the Commission of Fine Arts for comments. After receiving the comments on the designs from such Commission, the Director of the Mint shall submit the proposed designs together with such comments to the Secretary. After receiving the proposed designs and the comments, the Secretary shall select the design of the coins to be minted under this Act.

SEC. 5. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(e) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1989.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designating and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Payment with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. REDUCTION OF NATIONAL DEBT.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Illinois [Mr. ANNUNZIO] will be recognized for 20 minutes and the gentleman from Indiana [Mr. HILER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ANNUNZIO].

Mr. ANNUNZIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 2 weeks ago our Nation celebrated the bicentennial of the signing of the Constitution. It was a moving sight to see thousands of people gathered at the west front of the Capitol to celebrate that event.

It was also appropriate that the ceremony took place at the Capitol, where Congress assembles. Many people tend to forget that we did not actually begin our Government under the Constitution until Congress assembled on March 4, 1789.

It is truly fitting to mark the bicentennial of Congress with the issuance of commemorative coins, I congratulate my distinguished colleague from Florida, Mr. FASCELL, for sponsoring such legislation. I am proud to be a cosponsor of the bill.

The tasks facing the First Congress were momentous. Not only did they have to create and establish the office of the executive branch and the judicial branch, but they had to meet the people's desire for a bill of rights. If the framers of the Constitution were the architects of our National Government, then the Members of the First Congress were the builders. They constructed what the framers designed.

It is remarkable, in looking back 200 years, just how much of the structure created by the First Congress has endured in a world beset by forces of change and upheaval. Their work endures as an anchor of stability in a world of unrest.

The bill before us will provide the Nation with three coins commemorating the bicentennial of Congress. Like the Olympic Coin Act passed by the House last month and the bicentennial of the Constitution coins now on sale, the legislation authorizes the minting of gold and silver coins. In addition, it authorizes the minting of a clad half dollar with a modest $1 surcharge, the half-dollar coin is designed to be affordable to as many people as possible. Indeed, it carries a surcharge of only $1 compared to the $2 surcharge imposed on the Statue of Liberty half dollar.

All amounts raised from the sale of these coins will be used solely to reduce the national debt. If all the coins are sold, a total of $115 million in surcharges will go solely to reducing the national debt. This is a tremendous accomplishment.

I am proud to chair the Subcommittee on Consumer Affairs and Coinage. With the help of the ranking minority member, the gentleman from Indiana [Mr. HILER], the subcommittee has brought to the floor a number of coin programs that have aided in reducing the national debt. There are very few subcommittees that can point to as many pieces of legislation that earn money to reduce the national debt.

The bicentennial of the Congress is a truly important milestone in our Nation's history. Issuing commemorative coins is an appropriate means of marking the occasion. They will serve as a tangible reminder that the Congress of the United States is the world's oldest legislature under a written Constitution.

Mr. Speaker, I urge the passage of H.R. 3251.

Mr. HILER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join Chairman ANNUNZIO in support of H.R. 3251, the Bicentennial of the United States Congress Commemorative Coin Act.

This bill provides for the U.S. Mint to strike three types of coins to commemorate the 200th anniversary of the Congress celebrated in 1989. The mint may strike up to 1 million $5 gold coins, 10 million $1 silver coins, and 10 million half-dollar clad coins. A surcharge will exist of $35 per $5 coin, $7 per $1 coin, and $1 per half-dollar coin. The minting of these coins will be done at no cost to the U.S. Government and the surcharges will be used to reduce the national debt.

In 1976, the Congress commemorated the bicentennial of the Delcaration of Independence by the use of a special design on the obverse of all quarters that year. This year we have commemorated the bicentennial of the Constitution by having the mint strike a special issue of gold and silver coins. The bicentennial of the Congress represents the next major event in the 5-year long celebration of our Constitution. It is appropriate to recognize the 200th anniversary of this important institution through the issuance of commemorative coins. The U.S. Congress represents the cornerstone of our democracy. It is the forum where the representatives of the American people meet to decide the major issues of the day. Congress is truly the people's institution. This coin legislation will give the American people a way by which they can join in celebrating the history of their institution. The coin is designed to be as affordable as possible so that everyone can join in the celebration.

I would like to applaud Chairman ANNUNZIO and Congressman FASCELL for the fine work they have done on this measure. I join them in calling upon the Members of the House of Representatives for the timely passage of this legislation.

Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of H.R. 3251, which authorizes the minting of gold coins by the West Point Mint to commemorate the bicentennial of the U.S. Congress and I commend the sponsors, the distinguished gentleman from Florida [Mr. FASCELL] and the distinguished gentleman from Illinois [Mr. ANNUNZIO] and the ranking minority member, the gentleman from Indiana [Mr. HILER], for bringing this measure to the floor at this time.

The bicentennial of this great body is an event worthy of such a grand commemoration. The minting of a special gold coin is a fitting tribute to this landmark in the history of our great Nation. These coins shall be passed on from generation to generation and thus will keep the great history of the U.S. Congress alive for those who will treasure the significance of these coins.

It is altogether appropriate that these coins be minted at West Point, an institution with a great history all its own. It is, after all, the U.S. Military Academy at West Point that has produced so many of those courageous leaders who have defended our Nation, thereby making this bicentennial observance possible.

I would like to take this opportunity to point out that the silver bullion depository at West Point is considered one of the finest mints in the world. It has the benefit of being located on a military base, thereby ensuring absolute security. Moreover, it is conveniently located near New York City and a Federal bank. It is staffed by skilled workers who have created beautiful coins in the past, such as the Statue of Liberty coins and the bicentennial of the Constitution coins. It is unfortunate that there are some who would strip this fine mint of any legal tender minting responsibilities.

Mr. Speaker, that would be a terrible mistake. The quality of the coins minted at West Point is such that many numismatists especially favor them. In addition, there is the special significance of minting U.S. coins at a mint that occupies such a special place in the history of our Nation.

Accordingly, I urge my colleagues to support H.R. 3251, a bill that would celebrate the 200th anniversary of the great institution of which we are all a part and at the same time would also demonstrate our support for the mint at West Point.

Mr. ANNUNZIO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Louisiana [Mrs. BOGGS], who served as Speaker of the House when the First Congress meeting was reenacted in Philadephia last month. The gentlewoman is also chairman of the House Bicentennial Commission, and it is a genuine pleasure for me to have her with us today speaking on this legislation.

Mrs. BOGGS. Mr. Speaker, I rise in support of H.R. 3251, a bill to authorize the minting of coins in commemoration of the bicentennial of the U.S. Congress.

Over the past several months we have observed the 200th anniversary of the drafting of the U.S. Constitution. Two weeks ago there were major celebrations in Washington, Phildelphia, and throughout the Nation as we commemorated the bicentennial of the signing of the Constitution by 39 delegates to the Federal Convention.

The celebration will continue in 1988 with the 200th anniversary of the ratification of the Constitution; in 1989, during the 101st Congress, with the 200th anniversary of the establishment of the Federal Government, and in 1991 the Constitution bicentennial will end with the 200th anniversary of adoption of the first 10 amendments to the Constitution, the Bill of Rights.

These bicentennial activities differ from previous celebrations because we are celebrating not one single event, as we did in 1976, but, rather, the very process of establishing our Government. The next major date on the bicentennial calendar, other than the ratification dates by the individual States, will be March 4, 1989, the 200th anniversary of the day the Constitution went into effect. That day saw the beginning of the Federal Government under the Constitution. It was the Congress that met on that day. The Nation did not yet have a President because it was up to Congress to count the ballots of the Electoral College and notify the winners. When the Federal Government began on March 4, 1789, there was no Supreme Court, because the framers of the Constitution left important details regarding the establishment of the judicial branch up to Congress.

On the first day of the first session of the First Congress, when it met in New York City, only 13 of the 59 Representatives were in attendance. Finally, on April 1, 1789, a quorum was established and the House elected its first Speaker, Frederick Muhlenberg from Pennsylvania. On April 6 the Senate obtained a quorum for the first time and the House withdrew to the Senate Chamber to open the certificates and count the votes of the electoral college. After the ballots were counted, messengers were dispatched to notify George Washington and John Adams that they had been elected as President and Vice President, respectively.

The First Congress deserves our special attention during the bicentennial not simply because it was the first, but because it did so much to breath life into the great document drafted in Philadelphia 200 years ago. It is not exaggeration to say that the First Congress completed the work of the framers of the Constitution. Among the other things accomplished by the First Congress were:

The creation of the executive departments of State, Treasury, and War and the establishment of the Office of Attorney General;

The passage of the Judiciary Act giving form to article II of the Constitution by establishing the Supreme Court and creating a system of Federal courts; and

Recommending 12 amendments to the Constitution and submitting them to the States for ratification. Ten of the amendments were ratified by December 1791 and became known as the Bill of Rights.

Mr. Speaker, commemorative coins play an important role in educating the American people and interested citizens of other nations about our history. I am certain these commemorative coins will stimulate interest in learning more about the rich and colorful history of this institution. Certainly the 200 years of representative democracy as exemplified by the Congress of the United States is worthy of these commemorative coins.

Mr. ANNUNZIO. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs and the author of this legislation.

Mr. FASCELL. Mr. Speaker, let me express my appreciation to the gentleman from Illinois [Mr. ANNUNZIO] and the gentleman from Indiana [Mr. HILER], the ranking member, for the prompt consideration of this legislation. I certainly want to associate myself with the eloquent remarks of the chairman and the ranking minority member, as well as the gentlewoman from Louisiana [Mrs. BOGGS], our distinguished chairman of the Bicentennial Commission of the House.

I am honored that the distinguished gentleman from Illinois, Mr. FRANK ANNUNZIO, has cosponsored this bill, and I thank him for his tremendous work and his leadership, not only in this outstanding bicentennial year, but also for the leadership and integrity which he has insisted upon in the entire coinage and commemorative process. This has been the ultimate in public service.

Mr. Speaker, I rise simply to add to what has been said about this bill. I support this legislation and the minting of this coin for all of the reasons that have already been expressed, but I would like to add several more. I think it is fitting for us who are serving now and who will be serving in 1989 when this coin is issued, to express our thanks and appreciation to those men and women from all over the country who preceded us in the Congress of the United States. After all, there were a lot of skeptics around when this experiment was tried. There are still some skeptics today. Not too many people were sanguine about the fact that the American people themselves through elected representatives with divided authority in government would have the dedication, the determination and the common sense to run a government and to rule themselves. Here we are through thick and thin, wars, civil wars, world wars, economic depressions, natural disasters of all kinds, all kinds of pressures on a society both internal and external, and yet the experiment lives on.

Mr. Speaker, I think it is well deserving for those of us as elected Representatives to take some small part of the credit for that. But the truth of the matter is the whole system survives because the American people are determined that it shall survive. There may be times around here when we think we are getting the brunt of a lot of abuse in the Congress as individual Members or as an organization, but the people themselves understand what is going on all the time. We should never underestimate their determination, their loyalty, and their common sense.

So in a very large measure the minting of this coin, Mr. Speaker, expresses the appreciation of the Congress to our predecessors and to the American people who played their part in the continuation of a great dream.

Mr. Speaker, in past years, the Congress has passed legislation authorizing the minting of commemorative coins in honor of the 250th birthday of our Nation's first President, the 200th anniversary of the signing of the U.S. Constitution, the centenary of the Statute of Liberty and the Olympic Games. In addition, for several Supreme Court Chief Justices and many other great American figures and institutions. Although it was the Congress which authorized the minting of these commemorative coins and medals, it has never, itself, been the institution which was so honored.

H.R. 3251 rectifies this discrepancy by authorizing the minting of gold, silver and half-dollar coins in commemoration of the upcoming 200th anniversary of the U.S. Congress. These coins would be minted by the U.S. Mint throughout 1989, 200 years after the first meeting of the new Congress on March 4, 1978, and would be emblematic of the bicentennial of the U.S. Congress. The Director of the Mint will select the design on these coins in consultation with the Commission of Fine Arts, and the proceeds from the sale of these coins will be deposited into the Treasury to be used for the sole purpose of reducing the national budget deficit.

As a member of the 100th Congress, I am particularly proud of the achievements which this great Nation has made and of the participation of the U.S. Congress in responding to 200 years of change. The enactment of this bill, which would not result in any net cost to the Government, underscores the historic importance of the U.S. Congress, and it accentuates the vital role which it will continue to play in the next 200 years. It is my hope that you will join me in supporting this legislation, which commemorates not only this institution, but, more importantly, the successes of American constitutional and representative government.

Mr. HILER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. CRANE], a member of the Bicentennial Commission.

Mr. CRANE. Mr. Speaker, I rise to commend Mr. FASCELL and Mr. ANNUNZIO, the sponsors of H.R. 3251, to authorize the minting of coins in commemoration of the bicentennial of the U.S. Congress. This measure not only honors a significant milestone for Congress but also raises revenue to reduce the national debt. Since I am not in favor of raising taxes to reduce the national debt, I respect the idea that this bill will raise revenue by another method. I might also add that it is a step toward return to the gold standard.

As a member of the Commission on the Bicentennial of the U.S. Constitution and a former professor of history, I realize the importance of honoring such an important historical event as the bicentennial of Congress. Our system of government insures more liberty than any government ever established. Ours is a system of limited government of which Congress is the most significant branch. Through the years many technical and social changes have occurred yet Congress has sought to uphold the rights of the individual. In this year of the 100th Congress the minting of commemorative coins seems an appropriate tribute.

This event of historical significance is not to be taken lightly. It is only too easy today for us to forget about our roots. As it is important for man to study his past it is also important to the Members of Congress to be aware of the history of Congress. The early Congresses were aware of the intent of the founders on the function of the Government. Thus, by the study of the origins of our government, we retain a platform on which to ride into the next 200 years. The coins commemorating the bicentennial will keep this important event at the forefront of our thoughts.

This measure is also significant because it provides for the minting of 1 million $5 gold coins. This is a step in the direction of returning to a currency redeemable in gold. A return to a commodity based currency could eliminate the double digit periods of inflation and the random growth in the money supply that have occurred since we abandoned the gold standard in 1934. It would eliminate the need for the Federal Reserve Board and its random stabs at stabilizing the value of our currency.

This bill will also help reduce the national debt. Assuming all of the coins are sold, an estimated $115 million will be raised to help reduce the debt with no net cost to the Government. The effect of the current level of national debt will be to reduce the achievable standard of living for future generations. Even if the deficit is not reduced in the near future just the interest payments are becoming burdensome. This is a disturbing national trend that must be reversed. Dealing with the escalating national debt always seems to be the last start in the right direction. At least some of my colleagues realize the danger of this spiraling debt and are ready to do battle with the money throwers.

Keeping these points in mind, I hope Members will consider and support this legislation that will inspire Americans to give thought to the history and ideals of today's Congress.

Mr. ST GERMAIN. Mr. Speaker, the Members of this House and the Senate are privileged to serve in democracy's greatest forum, the U.S. Congress. In 2 years, we will mark the bicentennial of Congress, the world's oldest democracy under a written Constitution. It is an occasion most suited to be commemorated by special coins.

Every year since 1789 the Congress has assembled. Through war and peace, prosperity and depression, the people's voice is heard, and the people's will made law, through the Congress. Representative democracy is brought to life here. I congratulate my colleague from Florida, Mr. FASCELL, and the chairman of the Coinage Subcommittee, Mr. ANNUNZIO, for their work and effort in designing a coin program to commemorate the bicentennial of this remarkable institution in which we all serve.

Mr. FISH. Mr. Speaker, I rise in support of H.R. 3251, authorizing the minting of coins in commemoration of the bicentennial of the U.S. Congress. In my district, this will mean the striking of 1 million $5 gold coins at the bullion depository at West Point. That translates into a year's work for the 200 employees presently employed at the West Point facility.

Since 1980, the Gold Coin Program at West Point has produced the highly successful 1984 Olympic coin, the Statue of Liberty coin, the American Eagle coin, which is an ongoing program, and most recently the commemorative coin for the Bicentennial of the Constitution. The American Eagle Program alone entails the minting of one ounce, half ounce, quarter ounce, and one-tenth ounce gold coins, with one ounce coins available for purchase by collectors.

West Point has proven itself as an exemplary minting facility and has established a standard of excellence for the entire commemorative coin program. I urge my colleagues to support this legislation and the continuation of the Gold Coin Program at West Point.

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Mr. HILER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ANNUNZIO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Illinois [Mr. ANNUNZIO] that the

House suspend the rules and pass the bill, H.R. 3251.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3251, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

LOWELL NATIONAL HISTORICAL PARK ACT AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2035) to increase the amount authorized to be appropriated for property acquisition, restoration, and development, and for transportation, educational, and cultural programs, relating to the Lowell National Historical Park; to continue the term of a member of the Lowell Historic Preservation Commission pending the appointment of a successor; to adjust a quorum of the Commission in the event of a vacancy; and to delay the termination of the Commission, as amended.

The Clerk read as follows:

H.R. 2035

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS.

The Act entitled "An Act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes", approved June 5, 1978 (92 Stat. 290; 16 U.S.C. 410cc et seq.), is amended—

(1) in section 103(a)—

(A) by striking "$18,500,000" and inserting "$19,800,000" in paragraph (1); and

(B) by striking "$21,500,000" and inserting "$33,600,000" in paragraph (2);

(2) in section 301(e)(2) by striking "for a period not longer than thirty days" and inserting "until his successor is appointed"; and

(3) in section 301(i) by striking "ten" and inserting "seventeen".

SEC. 2. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b), the amendments made by section 1 shall take effect on the date of the enactment of this Act.

(b) Effective Date of Authorization of Appropriation.—The amendments made by section 1(1) shall take effect on October 1, 1987.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. Vento] will be recognized for 20 minutes and the gentleman from California [Mr. Lagomarsino] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. Vento].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2035, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2035, a bill to enable the excellent efforts of the Lowell Historic Preservation Commission and the Lowell National Historical Park to continue was introduced by our distinguished colleague from that city, Chet Atkins. Following the tradition of Paul Tsongas, he has worked hard to promote this bill. I had the great pleasure of visiting Lowell 2 years ago and was very impressed by the park, the city, and the story told there. Lowell preserves and interprets parts of our Nation's history not adequately represented in the National Park System—the history of laboring men and women, of ethnic groups and of the industrial revolution. I was also impressed by the physical remains of that history—the locks, the canals, and the mills. The cooperative effort shown by the city of Lowell, the State of Massachusetts, the Lowell Historic Preservation Commission, the National Park Service and private investment all show that many people recognize the importance of Lowell's history. All of these groups have exerted their efforts, spent their time and invested their resources in making Lowell's past come alive again.

H.R. 2035 as amended will help make that history continue to come alive, and will assist the Lowell Historic Preservation Commission and the Lowell National Historical Park to continue their efforts to preserve and interpret that history. This legislation extends the authorization for the Lowell Historic Preservation Commission and increases the authorization for appropriations for both it and the park. Given the work yet to be accomplished in order to see this city and its history restored to their former State, I recommend that this legislation be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in accordance with the administration position, I support the extension of the Lowell Commission for 7 years, but I am very concerned about the increased authorization for land acquisition and development.

In 1978 when the first Lowell bill was before Congress, I opposed its enactment until the language was tightened up to restrict the scope of the project. Now, a decade later, Lowell is back asking for more. I must say, what has happened in Lowell has been an outstanding example of Federal, State, and local cost-sharing to restore and preserve a historic area. The cooperation of public and private interests for the betterment of the whole community has been worthy of emulation. Lowell has been transformed from a rusting, decaying town to a vibrant, growing center for high technology and urban renewal. This was in large part made possible by the seed money provided by the Federal Government. Although testimony before the subcommittee suggested there was some promise in 1978 of a Federal commitment to the Lowell Commission after the $40 million authorization was reached, a review of the record shows no evidence of such a congressional intent. In fact, the Senate committee report said, "The role of the Commission will, in all likelihood be very minimal by 1988." $12.1 million does not sound very minimal especially in the present budgetary climate. Mr. Speaker, over $38 million of Federal funds have already been appropriated for land acquisition and development at the park.

Mr. Speaker, I think it is important that the Members understand that the Commission would continue even without the funding authorized in this bill. The Commission's $535,000 annual budget is part of the Interior Department's appropriations which is not affected by this authorization. A 7-year extension of the Commission would still cost over $3.6 million and save every current commission job, allowing them to continue their imaginative ways of securing State, local, and private funding for Lowell projects.

If we had the money, I would be all for giving it to the Lowell Commission. They have done a great job in combining government and private dollars to reverse the economic decline of one of this Nation's most historically important cities. They have set an admirable example. However, with the Federal deficit at over $220 billion and the debt at $2.29 trillion, I am sorry to say we cannot afford it. Massachusetts has a $500 million budget surplus. They better than we can afford to fund Lowell.

Mr. Speaker, I yield such time as he may consume to my very good friend, the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I thank the gentleman for yielding to me.

I certainly have spoken with the gentleman from California, and I appreciate the gentleman's concern, and I strongly support this legislation.

Mr. Speaker, I rise in support of this bill to reauthorize the Lowell National Historical Park.

This bill is a renewal of a great experiment begun many years ago. The Lowell National Historical Park is one of its kind in the country. Much to the credit of those in this House who have represented Lowell, the park has served as a catalyst for a major economic revitalization in what was a decaying mill town. The park has changed Lowell physically as well as economically. High-technology industries now flourish in this 19th century setting which the park so well preserves.

My colleague from Massachusetts, CHET ATKINS, should be commended for his leadership in maintaining the excellence surrounding the establishment of this park several years ago. Before the first authorization, I worked with the predecessors of the gentleman from Massachusetts on what seemed an impossible undertaking. Brad Morse, Paul Tsongas as a Member of this House and as a U.S. Senator, Jim Shannon, and now Representative ATKINS have all placed high priority on the development of this historical park.

I was pleased to play a small role in the creation of the park and in funding its construction and operations over the years. I've seen the work accomplished so far, and I can safely say that this project is a shining star in the Park Service System.

The historical park was also a great experiment for the National Park Service. Created as an agency primarily to manage vast Western lands, the Park Service has met the challenge of interpreting the treasures of Lowell with enthusiasm and professionalism. Parks in an urban setting are relatively new phenomena and, in my view, the Park Service presence in Lowell is as equally important to this country as its management of traditional park lands of the Far West.

Mr. Speaker, the Lowell revitalization as demonstrated in the park is not only important to the local community and the State, but the project is important to the Nation as well. It's a living memorial to our ethnic heritage, and it's a dynamic monument to the millions and millions of workers who made this country great during the industrial revolution.

I urge my colleagues to support this important piece of legislation.

Mr. VENTO. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, 10 years ago the Lowell National Historical Park was a vision and a dream, based on a study mandated by Congress in 1975 to develop a preservation strategy for the city. At the time, the author of the legislation made some promises to the Congress.

Paul Tsongas promised a high level of cooperation between Federal, State and local governments in Lowell. He promised to limit the need for the Park Service to acquire historical buildings and land, saying that the Lowell strategy called for providing maximum incentives for preservation. But most of all, he promised that Lowell, MA, would provide an extraordinary opportunity for Americans to learn about America.

Ten years ago, Paul Tsongas had a dream of a city built upon its past to assure its future. Today, it is both a reality and an achievement. Every Federal dollar spent on development projects has generated $9 in private investment. Every Federal dollar has been matched one-for-one by money from the State or the city.

The Lowell National Historical Park attracts over 800,000 visitors annually who come to learn about the birth of our modern economy, and to visit a living park in a vital city. The city of Lowell is the site of a unique national historical park, helping Americans rediscover a neglected past, and pointing the way to the economic future for other industrial cities in transition.

This program is a government success story, and what we are asking today is the ability to write the final chapters in that story. Lowell was this country's first planning industrial city, and the canals, historic structures, waterways, and exhibits capture an important piece of this country's past. But more than bricks and mortar, the story of Lowell is the story of people—of the workers who built the foundation for what became the greatest and most powerful economic giant in the history of the world.

Not only is the Lowell National Park an important tool for educators, historians and casual visitors, but it is a monument for the millions of Americans who work today in our transitional economy, the pioneers in our new industrial revolution. Today I ask you to join your colleagues on the House Interior Committee and your colleagues from the 95th Congress in saying yes to preserving this important piece of our history, and voting to let the commission finish their work in Lowell. It is a unique park that tells a unique story, and it deserves your support.

Mr. MARKEY. Mr. Speaker, I rise in strong support of H.R. 2035. This legislation will reauthorize and continue the valuable work of the Lowell Historic Preservation Commission. It will help ensure the continued success of the Lowell National Historic Park and the continued urban revitalization in Lowell. I wish to commend my distinguished colleague from Massachusetts, Mr. ATKINS, for introducing this worthy bill, as well as Senator KERRY and Senator KENNEDY for their valuable support on this issue. I also would like to recognize the efforts of Senator TSONGAS, who helped draft the original Lowell Historic Preservation Commission Legislation. He has long been a leader on this issue and his dedication is greatly appreciated. Finally, I would like to thank the distinguished chairman of the Subcommittee on Parks and Public Lands, Mr. VENTO, for his outstanding work on this issue, both in committee and subcommittee.

Lowell, MA, was the site of the beginning of the Industrial Revolution in America. Its history is unique and important; in this city the United States began its rise to become the greatest industrial and economic power in the world. In Lowell the full industrial power of water was first realized and the mass production of woven cloth was made possible. New American businessmen invested their capital in Lowell and the city flourished. By the 1970's, however, the city's prosperity was threatened. Thousands of people were out of work and many factories stood vacant.

In 1972, the Lowell City Council adopted a resolution which designated a "Historical Park Concept" as the focal point of future urban development. Lowell National Historical Park was established in conjunction with a federally funded program to revitalize cities. The project has been highly successful. Since its inception, the park has generated nearly a quarter of a billion dollars in private investment and attracted visitors from across the country. Over 130 historical structures in the downtown area have been renovated, and a 5.6 mile power canal system, the largest in the country, has been developed. Once faltering, Lowell is now a city where business and industry are rapidly expanding.

The park's prosperity demonstrates the success of the Federal investment; Lowell's experience serves as an excellent example for other cities attempting urban renewal. It is one of very few urban parks in existence. Because of its tremendous success Lowell has been adopted as a national model for the Statewide Heritage Park Program.

Currently, however, the Historic Preservation Commission, which actually functions as an arm of the Interior Deparment, is in need of reauthorization. Passage of H.R. 2035 will allow the existing Preservation Commission to complete restoration plans and finish developing its existing educational and cultural programs and canal projects.

By combining Federal funds with State and local money, the Lowell project has become a national symbol of urban renewal and growth. Lowell National Historical Park stands as a lasting monument to America's industrial past and continuing prosperity. I urge my colleagues to join me in recognizing the dramatic success of Lowell National Park and in supporting this bill.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2035, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

TITLE AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. VENTO: Amend the title so as to read: "A bill to amend the Act establishing Lowell National Historical Park, and for other purposes."

The title amendment was agreed to.

A motion to reconsider was laid on the table.

JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE AMENDMENTS

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2566) to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.

The Clerk read as follows:

H.R. 2566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 907(e) of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230f(e)), is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2566, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2566, which was introduced by our colleague, LINDY BOGGS, to extend the term of the Delta Region Preservation Commission.

This Commission was established to assist the Secretary in the development and management of the Jean Lafitte National Historical Park and Preserve.

The original bill established the Commission for 10 years, the bill before us would extend the term for an additional 10 years.

At the Subcommittee on National Parks and Public Lands hearing on July 14, we heard testimony about the variety of projects that the Commission has undertaken. I was impressed with the effectiveness of the Commission in interceding with local governments to accomplish their purposes, and their extensive involvement in efforts to include the numerous cultures of the area in the parks development.

In addition, the Commission has assisted in obtaining concurrent jurisdiction for the Park Service, and helped to eliminate a major source of pollution into the Barataria unit of the park.

Mr. Speaker, this Commission has been singularly successful as an advocate for development of Jean Lafitte National Historical Park and Preserve, and an extension of 10 years will allow this support to continue.

The Jean Lafitte National Historical Park and Preserve was established in Louisiana in 1978 to consist of a number of historic and ecological sites in the New Orleans area. The enabling legislation also created the Delta Region Preservation Commission. The Commission includes representatives from the Governors' office, local governments, industry, and citizens' groups, and was originally established for 10 years.

The Commission advises "the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region."

The Commission has been very active during the formation of the park, including selection of sites, interpretive programs, and control of water pollution that would affect the wetlands in the park. The total cost to the Government has been less than $500 per year.

H.R. 2566 would extend the term of the Delta Region Preservation Commission for an additional 10 years.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to advise my colleagues to support H.R. 2566. Unlike the Lowell legislation, this bill simply reauthorizes the Commission but does not provide for increased authorization for funds. In fact Mr. Speaker, at the hearing on this bill, the administration testified that the Commission cost the Federal Government less than $1,000 annually because the Commission members pay much of their own expenses.

Finally, I would like to include a quote from Sidney Rosenthal, Jr., a Commission member who testified about the cost of the Commission. He said:

> None of [the Commission members] ask for or receive one cent for their services. About all the Park Service spends on this particular Commission is the furnishing of transportation when the Commission must travel long distances in pursuance of its duties. This is usually in the form of hitching a ride with Park Service personnel who will be attending the session anyway. We consider these items to be our contributions to the park. I doubt that this Commission has cost you $15,000 in the 10 years of its existence.

I ask that my colleagues support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2566, to extend the life of the Delta Region Preservation Commission, whose members serve voluntarily and function nobly in the development of the Jean Lafitte Park.

My late husband, Hale Boggs, took the initial steps toward the creation of the Jean Lafitte Park. I have followed his tradition in working on behalf of legislation to establish the park, and in working toward the necessary funding toward its development.

The region of New Orleans and the Western Acadian Parishes of the Mississippi River Delta have long been known for their varied cultures, and facinating evidences of a unique natural environment. This uniquity of cultural and natural heritage was highlighted when Congress in 1978 recognized the importance of the region and directed the National Park Service to establish the Jean Lafitte National Historical Park and Preserve.

A portion of this legislation established the Delta Regional Commission, which has served in a splendid fashion in the park's establishment and development. I would like to outline a few of the major accomplishments of this Commission:

MAJOR ACCOMPLISHMENTS OF DELTA REGIONAL COMMISSION SINCE ITS INSTITUTION IN 1978

Arranged donation of State owned tract of approximately 1,000 acres of land in park core area.

Arranged donation of various artifacts to the park.

Modified proposed general management plan to make it more appropriate to management of park areas.

Reviewed and requested modification of design of Barataria Unit Visitors Center which made it more suitable for wetlands siting thereby eliminating a $70,000 useless observation tower.

Arranged for introduction and successfully lobbied for passage in the State legislature of bill granting Park Rangers concurrent jurisdiction in park areas.

Requested and urged Louisiana delegation in Congress to secure $3 million appropriation for construction of visitors centers in Barataria and, Chalmette units.

As a Commission and through individual activities of committee members obtained revision of hurricane protection levee siting so as to minimize adverse effects on park area.

Secured cooperation from Louisiana Department of Highways in having a bridge on the State highway through the park raised at State expense so that canoe trail through the park could be completed.

Arranged for many feature stories on the park in newspapers throughout the State and for many TV articles and features on the local stations.

Arranged visits to the park by various State and local officials and by various newspaper and TV news editors to introduce them to the facilities of the park and engender their support.

Arranged for the city of New Orleans which owns a large tract of marsh adjacent to park to stop leasing camp sites whose untreated sewage was adversely affecting water quality.

Interceded successfully with St. Bernard Park for construction of landing facilities on the Mississippi River at Chalmette unit at no cost to park service.

Interceded with a legislative request to the Corps of Engineers to dredge a bayou which traverses the park so as to not affect the bayou within the park area.

Mr. Speaker, I cannot allow this legislation to pass without saluting the administration of the park by Jim Isnegole, one of the finest park service professionals it has been my privilege to know. Recently, Jim has retired after a distinguished career in the enhancement of our Nation's natural and cultural heritage.

Our gratitude can be expressed to him by extending the life of the Delta Regional Commission which worked under his direction and will continue to realize Jim Isnegole's expectations for the Jean Lafitte Park.

I urge my colleagues to render a favorable consideration of the merits of H.R. 2566 and to extend the Commission for an additional 10 years.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2566.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1400

GREAT SMOKY MOUNTAINS WILDERNESS ACT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1495) to designate certain lands in Great Smoky Mountains National park as wilderness, to provide for settlement of all claims of Swain County, NC, against the United States under the agreement dated July 30, 1943, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Smoky Mountains Wilderness Act".

SEC. 2. DESIGNATION AND ADMINISTRATION.

(a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), certain lands in Great Smoky Mountains National Park, North Carolina and Tennessee, which comprise approximately 419,000 acres, and certain lands comprising approximately 46,000 acres, formerly owned by the Tennessee Valley Authority and Cities Service Company, as depicted on the map entitled "Wilderness Plan, Great Smoky Mountains National Park, North Carolina and Tennessee", numbered 133/20,003-L DSC and dated August 1987, shall be designated as wilderness and therefore as components of the National Wilderness Preservation System. The designation shall be effective on the date provided in section 6. Such lands shall be known as the Great Smoky Mountains Wilderness.

(b)(1) Subject to valid existing rights, the area described in subsection (a) shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by such Act as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior.

(2) The Secretary of the Interior shall provide for permanent special access to any cemetery generally located within the 46,000 acre area described in section 2(a). Such access shall be provided in the same manner and to the same location as the access provided as of the enactment of this Act.

(c) As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file a map and a legal description of the area described in subsection (a) with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. The map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the map and legal description may be made. Such map and legal description shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the superintendent of Great Smoky Mountains National Park.

(d) The Secretary of the Interior shall identify and evaluate all reserved rights which may be retained by any person within the area described in subsection (a). Within 9 months after the enactment of this Act the Secretary of the Interior shall submit a report to the Congress respecting the status of such reserved rights.

SEC. 3. RIGHTS AND EASEMENTS RETAINED BY THE TENNESSEE VALLEY AUTHORITY.

The Tennessee Valley Authority shall transfer to the Secretary of the Interior all legal rights and easements retained by the Authority in the area described in section 2, except to the extent that such legal rights and easements are necessary for the operation and maintenance of Fontana Reservoir and Dam and associated transmission facilities. By exercising any such legal rights and easements the Tennessee Valley Authority shall not take any action which would impair the values of the Great Smoky Mountains National Park.

SEC. 4. SETTLEMENT WITH RESPECT TO A ROAD ALONG THE NORTH SHORE OF THE FONTANA RESERVOIR.

(a) The Congress finds that Swain County, North Carolina, claims certain rights acquired pursuant to an agreement dated July 30, 1943 (hereafter in this section referred to as the "agreement of July 30, 1943"), between the Secretary of the Interior of the United States, the State of North Carolina, the Tennessee Valley Authority, and Swain County, North Carolina, which provided, on certain conditions, that the Department of the Interior would construct a road along the north shore of Fontana Reservoir to replace a road flooded by the construction of Fontana Dam and the filling of the reservoir, which road has not been completed.

(b) In order to settle and quiet all claims arising out of the agreement of July 30, 1943, the following provisions are made:

(1) The Secretary of the Treasury is authorized and directed to pay to Swain County, North Carolina, the sum of $9,500,000. Such sum shall be deposited in an account in accordance with the rules and regulations established by the North Carolina Local Government Commission. The principal of such sum may only be expended by Swain County under a resolution approved by an affirmative vote of two-thirds of the registered voters of Swain County. Interest earned on the unexpended principal of such sum may only be expended by a majority vote of the duly elected governing commission of Swain County.

(2) Swain County, North Carolina, is relieved of any liability to make payments of principal and interest which become due after the date of enactment of this Act with respect to the loan (Case Numbered 388756600118, Code Numbered 9701) obtained on October 12, 1976, from the Farmers Home Administration.

(3) The payment and relief from liability provided for in this section shall constitute full and complete settlement of all claims of Swain County, North Carolina, against the United States of America, the Department of the Interior, and the Tennessee Valley Authority arising our of the agreement of July 30, 1943. The United States of America, its departments and agencies, including the Department of the Interior, the National Park Service, and the Tennessee Valley Authority, hereafter shall be deemed to have performed the agreement of July 30, 1943, in every particular. No money appropriated pursuant to this Act shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim settled by this subsection.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 6. EFFECTIVE DATE.

(a) The designation of the 419,000 acre area described in section 2(a) as wilderness shall take effect on the date on which legislation is enacted appropriating to Swain County, North Carolina, the total sum of $9,500,000 pursuant to section 4.

(b) The designation of the 46,000 acre area described in section 2(a) as wilderness shall take effect on the date on which

(1) legislation is enacted appropriating to Swain County, North Carolina, the total sum of $9,500,000 pursuant to section 4, and

(2) subject to valid existing rights which need not be acquired, all reserved rights retained by any person within such 46,000

acre area have been extinguished or transferred to the Secretary of the Interior (but not later than October 1, 1991).

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1495, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, sometimes solving problems takes many years. In the case of H.R. 1495 which designates the major portion of Great Smoky Mountains National Park as wilderness and settles the claims of Swain County, NC, against the United States, too many years have passed. The claims of Swain County come from a 1943 agreement. The effort to designate the park as wilderness comes from the establishment of the wilderness society there in 1964.

We now have the opportunity to resolve both these issues with H.R. 1495 introduced by our able colleague on the Subcommittee on National Parks and Public Lands, JAMIE CLARKE. H.R. 1495 represents a joint effort by the citizens of Swain County, the various environmental groups and the U.S. Park Service all of whom should be commended for their perseverance. As amended, the legislation designates the major portion of Great Smoky Mountains National Park as wilderness by reference to a map, and gives Swain County a payment of $9.5 million as well as forgiveness of a loan for their school. It includes special access to various cemeteries located in the park that became isolated by the construction and filling of the Fontana Dam. The bill does not change the rights of the Cherokee Tribe to do as they have traditionally done in gathering plant fruits. Nor does H.R. 1495 affect the use of motorboats on Lake Fontana.

H.R. 1495 makes the effective date of wilderness designation for the 419,000 acre area contingent on the date when legislation is enacted for the appropriation to Swain County. In the case of the 46,000 acre area initially transferred by the TVA, the bill sets the effective date of wilderness designation contingent on the payment to Swain County and the transfer or extinguishment of the third-party rights, but not later than 1991. It also provides for a transfer of the rights and easements retained by the Tennessee Valley Authority to the National Park Service.

Mr. Speaker, this legislation represents a careful balance between the needs of the park and of Swain County. It will resolve issues too long not resolved, and help protect the ecological richness of Great Smoky Mountains National Park. I recommend its passage.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1495, the Great Smoky Mountains Wilderness Act. As the subcommittee chairman has explained, this bill would designate approximately 465,000 acres within the Great Smoky Mountains National Park as wilderness. It would also settle a longstanding claim of Swain County, NC, against the United States.

Mr. Speaker, the purpose of H.R. 1495 is to resolve a problem which began with the Federal Government's construction of Fontana Lake in 1943. When the lake was constructed to generate electricity to produce aluminum for aircraft for World War II, several homes and cemeteries were flooded. In return for the loss of their homesteads, the mountain people were promised that the Federal Government would construct a road along the north shore of the lake to the numerous cemetery plots in the park. Although the State built its portion of the road under the 1943 agreement, the Federal Government never fulfilled its commitment to complete the road due to environmental concerns and costs. In 1980, the National Park Service and Swain County negotiated a compromise requiring the Federal Government to pay the county $9.5 million as compensation for the road. Unfortunately, as a result of this lengthy dispute, a wilderness designation has never been enacted. H.R. 1495 seeks to once and for all resolve this difficult issue.

During committee consideration of H.R. 1495, there was a great deal of concern expressed on my side of the aisle regarding the effect of the bill on third-party rights within a portion of the proposed wilderness area. These include mineral rights, timber rights, cemetery access rights, and so forth. While it still remains unclear as to what rights actually exist and their validity, I do believe that the amendments adopted in committee provide a fair and reasonable compromise on this matter. Similar to the administration's recommendations, the amended bill would not designate this area as wilderness until the reserved rights have been extinguished, transferred to the Secretary of the Interior, or recognized as valid existing rights which need not be acquired, but no later than October 1, 1991. This provides the Secretary with what appears to be adequate time to review the private rights issue, report to Congress, and subject to valid existing rights, extinguish or transfer any rights incompatible with the wilderness designation. In addition, the bill requires the Secretary to provide permanent special access to the family cemeteries within this area as is currently being done. Therefore, the bill seeks to protect the owners of the reserved rights by requiring the National Park Service to resolve the issue, including proper notification of the owners of their rights, and providing permanent cemetery access, while protecting the remarkable resources of this area through wilderness designation at an appropriate time.

H.R. 1495 also provides what I believe is a fair and equitable settlement of the claims resulting from the Federal Government's failure to construct a road through this area, by authorizing a $9.5 million payment to Swain County and forgiving a $1.6 million Farmers Home Administration loan to the county. These individuals have waited many years for the Federal Government to fulfill its commitment to them. It is only right that we provide this monetary settlement which, I might add, will greatly assist this economically depressed area.

While the public testimony at the committee hearing indicated that the proposed wilderness areas are clearly qualified for wilderness designation, I would like to point out for the RECORD that these areas were at one time heavily developed. They were clear-cut for timber, mined and settled; hence numerous family cemeteries were eventually located there. Many remnants of man's development remain in these areas. Therefore, I questioned whether they meet the qualifications for wilderness established under the Wilderness Act. However, it appears the areas are completely vegetated again and are probably as beautiful as they ever were before man's intrusion. In addition, the administration has indicated they clearly have wilderness character. Therefore, I have no objection to their designation as wilderness.

I want to commend the subcommittee chairman, Mr. VENTO, and the bill's sponsor, Mr. CLARKE from North Carolina, for working with the Members on this side of the aisle to address our concerns. Both of them have invested a great deal of time and effort in this legislation and I want to thank them for their cooperation.

Mr. Speaker, I firmly believe that it is time for Congress to put this issue to rest. H.R. 1495 does so in a fair and reasonable manner by designating the wilderness and providing the payment to Swain County in lieu of construction of a road through this area. Therefore, I urge my colleagues to approve this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Speaker, I thank the gentleman for yielding me this time.

First, may I also thank the chairman of the subcommittee for his effort in bringing to the floor this legislation, and also to thank the gentleman from California [Mr. LAGOMARSINO] for his efforts.

Mr. Speaker, I am very pleased to support the Great Smoky Mountains Wilderness Act, H.R. 1495, designating 467,000 acres in east Tennessee and North Carolina as wilderness. Throughout my 23 years of representing the Second District of Tennessee, I have supported and fought for responsible wilderness legislation that fulfills the intent of the original 1964 Wilderness Act. For almost as many years I have supported this specific wilderness designation. Like most Tennesseans, I take great pride in the pristine beauty of the Smoky Mountains, and I am therefore gratified the passage of this bill is finally at hand.

Enactment of this bill ensures that the area's unique and subtle beauty will remain intact for the enjoyment of over 10 million yearly visitors to the Great Smoky Mountains National Park. Visitors to the park always appreciate the wide variety of plants and wildflowers, and the occasional sighting of bears, deer, and other animals belonging to the region. If you have ever been to the smoky's, you can easily understand why early settlers in the area made their home in these valleys, and why today's hikers, vacationers, and naturalists have made this park the most visited in the United States. With the expended wilderness designation, all park visitors can enjoy the benefits of a major natural resource.

A statement by American naturalist, William T. Hornaday, sums up my thoughts:

> The wild things of this Earth are not ours to do with as we please. They have been given to us in trust, and we must account for them to the generations which will come after us.

With the passage of H.R. 1495, we take another step in living up to our responsibility of preserving and managing America's landscape.

Mr. Speaker, let me just add how much I appreciate the hard work of my friend and colleague, Representative JAMES CLARKE, in securing passage of this bill. He has done an excellent job and I have enjoyed working with him.

Mr. VENTO. Mr. Speaker, before yielding to the gentleman from North Carolina [Mr. CLARKE], let me first say how much I appreciate and give the gentleman credit for the work that he has done on this measure. He has been persistent. He hosted the members of the subcommittee on field investigations in his home area and really I think we got a great introduction to the issue and to the types of problems there. Certainly his perseverance in this matter has been necessary if this issue is going to be resolved. This is a big hurdle today. It is a big accomplishment for the gentleman from North Carolina, JAMIE CLARKE. I want to commend the gentleman. He is a valuable member of the subcommittee dealing with all issues. I am pleased that we could respond with this measure today.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. CLARKE], a member of the subcommittee.

Mr. CLARKE. Mr. Speaker, I am pleased that the House is taking up H.R. 1495, the Great Smokey Mountains Wilderness Act, today. As we can see, it has bipartisan support in North Carolina and Tennessee—the two States bordering the park.

I especially want to thank my friend, the gentleman from Tennessee, Mr. JOHN DUNCAN, for his sincere and wholehearted support.

This bill represents a carefully worked out compromise between local officials, the conservation community and the National Park Service. It accomplishes basically two things: it provides for compensation to Swain County, NC, for a road across the park which was promised by the Secretary of the Interior in 1943 but never built. It also provides needed protection for the park so that its natural resources and beauty will be preserved forever.

The bill designates the majority of the Great Smoky Mountains National Park—the most heavily visited park in the entire National Park System—as wilderness. In effect this simply puts present management practice into law.

The bill does not carry an appropriation. It simply provides that the wilderness designation for the park will not become effective until the appropriation for compensation to Swain County has been made and received by Swain County.

The claim of Swain County against the Federal Government arose in connection with a 1943 agreement between the county, the Tennessee Valley Authority, the Department of the Interior and the State of North Carolina. In that agreement the Secretary of the Interior made a commitment to build a road to replace one that was flooded when TVA created Fontana Lake. In the years that followed the land above the new lake was transferred to the park, but the promised road was never built.

Now the Swain County Commissioners have agreed unanimously to accept a cash settlement of $9.5 million in lieu of the road. This settlement, which will be invested and used as a permanent source of income for the county, is very badly needed. More than 80 percent of Swain County is in Federal land. Annual revenue from the county's property tax is only about $630,000. The bill also calls for forgiveness of an FmHA loan for Swain County High School which now amounts to $1.6 million. Both of these provisions were agreed to by the county and the Secretary of the Interior in 1980 as a fair settlement of the matter.

The bill provides for the continuation of the present Park Service practice of taking family members by boat and motorized vehicle to visit the graves of their ancestors in the north shore area of Lake Fontana on decoration days and at other times.

The Great Smoky Mountains Wilderness Act has the support of Representatives and Senators on both the North Carolina and Tennessee sides of the park. It is strongly supported by all the Swain County Commissioners, all the Jackson County Commissioners, the Bryson City Board of Aldermen, and by many other civic and environmental groups. It exempts from wilderness the presently developed areas inside the park in both North Carolina and Tennessee.

It is time for us to give this great park the full protection that it needs and to provide Swain County the compensation it deserves for giving up the road across the park that was promised by the Secretary of the Interior in 1943 but never built.

I want to thank my friends, Mr. DUNCAN, Mr. LAGOMARSINO, and Mr. VENTO, the chairman of the Subcommittee on National Parks and Public Lands and his staff for all of their efforts in support of this legislation.

Mr. Speaker, I urge passage of H.R. 1495.

Mrs. LLOYD. Mr. Speaker, I am happy to be an original cosponsor of H.R. 1495 and I look forward to seeing its passage in the House. I congratulate Representative JAMES CLARKE, the sponsor of the bill, and Representative BRUCE VENTO's Subcommittee on National Parks and Public Lands for negotiating an agreement that has enabled its consideration in the House. A resolution on this issue has been sought for many years.

Last year 9.8 million people visited the Great Smokey Mountains National Park, making it the most visited national park in the country. I have traveled often in this area and the scenic surroundings are some of the most beautiful in the country.

This bill will designate 467,000 acres already within the boundaries of the park as wilderness. The compromises on the issues that had been blocking wilderness designation are balanced and within reason considering the importance of this region.

I urge passage of this bill under suspension of the rules and welcome any of my colleagues who wish to visit this extraordinary natural resource.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. STUDDS). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1495, as amended.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2530) to provide for the establishment of the Mississippi National River and Recreation Area, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) The Mississippi River Corridor within the St. Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational scenic, cultural, natural, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enahancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State and local comprehensive planning and management effort.

(b) PURPOSES.—The purposes of this Act are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the St. Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this Act.

SEC. 2. ESTABLISHMENT OF NATIONAL RIVER AND RECREATION AREA.

(a) ESTABLISHMENT.—There is hereby established the Mississippi National River and Recreation Area (hereinafter in this Act referred to as the "Area") which shall consist of that portion of the Mississippi River and adjacent lands generally within the St. Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, D.C., and in the offices of the Metropolitan Council of the Twin Cities Area in St. Paul, Minnesota.

(b) BOUNDARIES.—The Secretary of the Interior (hereafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act a detailed description and map of the boundaries established under subsection (a).

SEC. 3. MISSISSIPPI RIVER COORDINATNG COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 2. The Commission shall consist of the following 20 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) 3 individuals, nominated by the Governor of Minnesota, to represent the interests of the State of Minnesota.

(5) 1 individual, to represent the Minnesota Historical Society.

(6) 1 individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) 4 individuals, to represent the cities of St. Paul and Minneapolis.

(8) 2 individuals, nominated by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) 1 individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) 1 individual, nominated by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) 4 individuals, nominated by the Governor of Minnesota, to be chosen from the general public.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of 3 years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a):

(i) 1 shall be appointed for a term of 1 year.

(ii) 1 shall be appointed for a term of 2 years.

(B) Under paragraphs (7) and (8) of subsection (a), one shall be appointed for a term of 1 year.

(C) Under paragraph (11) of subsection (a):

(i) 1 shall be appointed for a term of 1 year.

(ii) 1 shall be appointed for a term of 2 years.

(iii) 1 shall be appointed for a term of 4 years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistance, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota to serve for a term of 3 years.

(e) QUORUM.—Eleven members of the Commission shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(g) DEVELOPMENT OF POLICIES AND PROGRAMS.—As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, utilizing existing Federal, State, regional, and local plans and programs, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(i) PLAN.—Within 3 years after enactment of this Act, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall utilize existing Federal, State, regional, and local plans and shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which—

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this Act; and

(C) recognizes existing economic activities within the area and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this Act.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:

(A) Ways in which local, regional State, and Federal policies and permits may better be coordinated to the goals and policies of this Act.

(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this Act.

(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the exisiting Federal, State, regional and local programs and goals on the Minnesota and St. Croix Rivers.

(D) The provisions of the Clean Water Act and the Safe Drinking Water Act (title XIV of the Public Health Service Act) which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the purposes of this Act.

(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, regional and local agencies having jurisdiction over land and waters within the Area.

(j) DEVELOPMENT OF PLAN.—

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings with the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) APPROVAL OF PLAN.—The Commission shall submit the plan to the Secretary and the Governor of Minnesota for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the revised plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(1) INTERIM PROGRAM.—Prior to the adoption of the Commission's plan, the Secretary shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this Act, and shall consult and cooperate with the State of Minnesota and its political subdivisions to minimize adverse impacts on the values for which the Area is established.

(m) COMMISSION REVIEW.—The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this Act.

(n) TERMINATION OF COMMISSION.—The Commission shall terminate on the date 10 years after the enactment of this Act. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m). The Secretary is authorized and directed to participate as a member of such State Commission.

SEC. 4. FEDERAL LANDS AND DEVELOPMENTS.

(a) LANDS.—Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 2, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this Act, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of the enactment of this Act) shall not be transferred under this subsection without the concurrence of the administering agency.

(b) FEDERAL AGENCY ACTIVITIES.—

(1) IN GENERAL.—Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 3. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. Unless the Secretary determines that the proposed facility or undertaking is compatible with the plan, or that such proposed facility or undertaking is essential for the protection of public health or safety or is necessary for national security or defense, no license or permit may be issued by a department, agency, or instrumentality of the United States for the facility or undertaking and no such department, agency, or instrumentality may commence the undertaking or provide Federal assistance for such undertaking.

(2) WATER RESOURCES DEVELOPMENTS.—The authority of the Secretary of the Army, through the Corps of Engineers, to undertake or contribute to water resources developments, including shore erosion control and navigation improvements on lands and waters within the Area shall be exercised in accordance with plans that are mutually acceptable to the Secretary and the Secretary of the Army. Such authority shall be exercised in a manner consistent with the purposes of this Act and the purposes of existing statutes dealing with water and related resources development.

SEC. 5. ADMINISTRATION.

(2) AUTHORITIES.—The Secretary shall administer the Area in accordance with this Act. Those lands within the area under the jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Other lands and waters within the area shall be administered under State and local laws. In the case of any conflict between the provisions of this Act and such generally applicable provisions of law, the provisions of this Act shall govern.

(b) STATE AND LOCAL AUTHORITIES.—The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) LAND ACQUISITION.—Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2).

(d) REVIEW OF LOCAL PLANS.—

(1) AUTHORITY.—For the purpose of protecting the integrity of the Area the Secretary shall review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to section 3. Additionally the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary may contract with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) PURPOSE.—The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this Act. Following the approval of the plan under section 3 and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in such manner as will carry out the purposes of this Act (as determined by the Secretary), and if the Secretary determines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) ACQUISITION.—In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 3, or are not being enforced in such manner as will carry out the purposes of this Act (as determined by the Secretary), the Secretary shall notify the local government authority concerned. Unless, within 60 days after the date of such notice, the plan, law, or ordinance, amendment, or variance is modified to conform with the plan or enforced in such manner as will carry out the purpose of this Act (as determined by the Secretary), the Secretary may acquire land or interests in land without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) USE AND OCCUPANCY OF ACQUIRED IMPROVED PROPERTY.—(1) The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this Act to retain a right of use and occupancy of the property for noncommercial residential uses not incompatible with the plan approved under section 3. Except as provided in this subsection, such rights shall before a definite term ending not more than 25 years from the date of acquisition or a term ending at the death of the owner. The owner shall elect the term to be reserved, except that if the owner is a corporation, trust, partnershp or any entity other than an individual, the term shall not exceed 25 years. Unless the property is wholly or partially donated, the Secretary shall pay to the owner reserving a right of use and occupancy under this section the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(2) The Secretary may terminate at any time a right retained pursuant to this subsection if it is being exercised in a manner incompatible with the plan approved pursuant to section 3.

(3) As used in this subsection, the term "improved residential property" means a single-family dwelling, the construction of which began before January 1, 1987, together with such land on which the dwelling and appurtenant buildings are located as is in the same ownership as such dwelling and as the Secretary designates is reasonably necessary for the owner's continued use and occupancy of the dwelling.

SEC. 6. STATE AND LOCAL ASSISTANCE AND JURISDICTION.

(a) GRANTS.—Upon approval of the plan under section 3, the Secretary is authorized and directed to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purpose of this Act.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized and directed to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) TECHNICAL ASSISTANCE.—To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) STATE AND LOCAL JURISDICTION.—Nothing in this Act shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

TITLE II—TRI-RIVERS MANAGEMENT

SEC. 201. TRI-RIVERS MANAGEMENT BOARD.

(a) FEDERAL REPRESENTATIVES.—In furtherance of the integrated management of those portions of the Mississippi, St. Croix, and Minnesota Rivers within the St. Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereafter referred to as the "Board"), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers.

(b) PERSONNEL.—Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to carry out the purposes of this section the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2530, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection?

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the sponsor of H.R. 2530, I am pleased to bring before the House this legislation to designate the 80-mile statute segment of the Mississippi River within the St. Paul-Minneapolis metropolitan region of Minnesota as the Mississippi National River and Recreation Area.

The Mississippi River is a timeless natural resource that is a vital part of our national heritage. The river's passage through the Twin Cities metropolitan region reveals a diversity of resources found in no other stretch of this great river. The river undergoes a transformation as it passes through the St. Paul-Minneapolis metropolitan area. From a wide and shallow river that meanders through farmlands and forest, it becomes a fast moving giant that cuts through a deep scenic gorge and then breaks out into a broad floodplain overlooked by magnificent bluffs. Following this segment of the river one can see and enjoy a host of resources, including: prime fishing habitat; the only significant waterfall—St. Anthony—along the river's entire length; national historic landmarks; Indian burial sites and archeological ruins; a massive heron rookery—2,000 nesting; 450-million-year-old geologic formations; and stretches of tranquil river that make one seem far removed from an urban area. The Mississippi's resources within a metropolitan area of 2.2 million people have been the focus of two National Park Service studies as well as a review by the congressionally authorized Metropolitan River Corridor Study Committee. All have found the natural, cultural, and recreational resources of the Mississippi River in this area to be nationally significant. Further, the National Park Service has noted that the inherent significant qualities of the Mississippi have not been recognized in the National Park System.

H.R. 2530 establishes a cooperative framework for the preservation and utilization of the significant national resources found within this segment of the Mississippi River. The legislation directs the development of a management plan for the area that would provide direction and coordination in its implementation at the Federal, State, and local levels. National Park Service management would complement State and local authorities in the area and provide us with the opportunity to preserve significant resources without having to shoulder the entire financial and management burdens.

Mr. Speaker, to reach the point where we are today with this legislation has been the result of well over a decade of work by concerned individuals and public agencies. Scores of Federal, State, and local agencies have jurisdiction over land and water use in the area and it would have been easy to get bogged down in parochialism over the river's protection and use. I am proud of the willingness and determination of the State and local governments and the public at large to look at innovative solutions to meet the present and future needs of the significant resources that the Mississippi has to offer the Nation. The public input that went into H.R. 2530 and the widespread bipartisan endorsements it has received demonstrate the public support and cooperation that is evident for addressing the careful preservation and utilization of the Mississippi resources.

H.R. 2530, as amended, is a worthy river conservation initiative and I urge its adoption.

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Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment briefly on H.R. 2530, to establish a Mississippi National River and Recreation Area along a 69-mile corridor of the Mississippi River.

This legislation was introduced by the subcommittee chairman, Mr. VENTO. As he explained, the bill would establish a 20-member Mississippi River Coordinating Commission to develop and assist with the implementation of an integrated resource management plan for the area. The plan is to include policies and programs for the conservation and protection of scenic, historical, cultural, natural, and scientific values of the area, for enhanced public outdoor opportunities in the area and commercial utilization of the area. The plan must be approved by the Secretary.

H.R. 2530 would also prohibit Federal activities; that is, projects, grants, and permits unless the Secretary determines they are compatible with the plan. In addition, the Secretary is given the authority to condemn land in the area to prevent incompatible use if local plans, laws, and ordinances do not conform to the plan or are not being enforced. Federal land acquisition and matching grants to the State or local governments for acquisition and development are authorized. Finally, the bill authorizes the Secretaries of the Interior and Army to appoint representatives of the Tri-Rivers Management Board, if established by the State of Minnesota, to assist in development and implementation of coordinated land use and management policies for the portions of the Mississippi, St. Croix, and Minnesota Rivers within the St. Paul-Minneapolis metropolitan area.

The St. Paul-Minneapolis metropolitan area is unique in that it contains three river corridors—the Mississippi, Minnesota, and the St. Croix—as well as a population of 2.2 million. Consequently, the State and local governments have established numerous State and regional parks for public recreation and enjoyment. H.R. 2530 would allow State and local management of these areas to continue, but would establish a national park unit and provide for overall Federal control of the area in order to coordinate the management of the land and water resources of the Mississippi River corridor.

The administration and others have raised legitimate questions concerning the need for Federal control of this area and the bill's affects on the Corps of Engineers' operation and maintenance of the Mississippi River navigation project in the twin cities area. In addition, there are no cost estimates for H.R. 2530, but it is anticipated that several million dollars will be needed to meet its goals. In spite of these concerns, I do believe the chairman's efforts to establish the first National Park Service unit on the Mississippi River are appropriate and meritorious. He has been working on this legislation since the National Park Service reconnaissance study of the river corridors in 1980. During this time, he has sought input from all levels of government and the public which has resulted in H.R. 2530. When the committee considered this legislation, it was further fine-tuned to respond to concerns expressed at the public hearing. While this may not be a perfect bill in all respects, I have no objection to its enactment. I also note that it is supported by the bipartisan Minnesota delegation.

In closing, I want to commend the chairman, Mr. VENTO, for the time and energy he has expended on H.R. 2530. He has attempted to work with those concerned about the bill in an effort to address their concerns. Therefore, he has developed a fair and reasonable proposal.

Mr. VENTO. Mr. Speaker, I thank the distinguished gentleman from California [Mr. LAGOMARSINO], the ranking member, for his support and consideration in this matter and in other matters with the subcommittee.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. NOWAK], chairman of the subcommittee of the Public Works and Transportation Committee.

Mr. NOWAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this bill contains a number of provisions affecting the water resources program of the U.S. Army Corps of Engineers. Section 4 provides that before any department or agency of the United States issues a permit, for any undertaking within the National River and Recreation Area, the Secretary of the Interior must be notified. Unless the Secretary determines that the proposed undertaking is compatible with the plan for the area, or essential for public health or safety, or necessary for national security, the permit may not be issued. The use of facilities and lands administered by the Corps of Engineers for navigational purposes is subject to the same requirement for a determination of compatibility.

The Corps of Engineers has permit authority over work in navigable waters under the act of March 3, 1899, and over the discharge of dredged or fill material under section 404 of the Federal Water Pollution Control Act. Under the provisions in section 4, these permit authorities would be made subject to a determination of the Secretary of the Interior.

Also, section 4 provides that the authority of the Corps of Engineers to undertake water resources development projects in the national area shall be exercised in accordance with plans that are mutually acceptable to the corps and the Secretary of the Interior.

The water resources programs of the Corps of Engineers are under the exclusive jurisdiction of the Committee on Public Works and Transportation. Ordinarily, we would seek a sequential referral of a bill such as H.R. 2530. However, we do not wish to delay passage of this important bill which will establish a valuable national river and recreation area, and have not requested such a referral.

I seek the gentleman's concurrence that today's action on this bill is in no way intended to affect the jurisdiction of the Public Works Committee, and that future legislative actions with regard to the Mississippi National River and Recreation Area will be recognized as involving the Public Works Committee's jurisdiction over water resources development by the Corps of Engineers.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. NOWAK. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, the gentleman has my concurrence and my thanks for his help and assistance in this matter and that of his staff.

Mr. NOWAK. I thank the gentleman for his comments.

Mr. VENTO. Mr. Speaker, I have no further requests for time and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, there happens to be a recreation river and a small tributary of the Mississippi and that tributary is the Missouri River. It is shared by the gentleman from South Dakota and this gentleman in their congressional districts.

Mr. Speaker, we have found to our regret that for the first time cost-sharing arrangements are proposed for stabilization structures and for other kinds of structures on a recreation river, in this case the Missouri River Recreation Area. I wonder if the gentleman has a concern about those kinds of cost-sharing arrangements for the first time being applied to recreation rivers which were designated under the Wild and Scenic River Act or the legislation proposed by the gentleman here. I certainly hope it would not adversely affect the gentleman's legislation here because I think it is an outstanding effort.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's interest in this and his concern. I understand his concern with regard to the cost sharing arrangements that have been proposed for the Missouri National River that the gentleman is focusing on.

Obviously, this legislation deals with some of the water structures in this area. We do not anticipate any additional authorization for water structures. That really is a different responsibility, more the responsibility of the gentlman from New York [Mr. NOWAK], and the Public Works and Transportation Committee than our proposal dealing with water structures under the general Corps of Engineers' authorization.

I might say with regard to some of the local development grants that are anticipated in this legislation we do provide for a match, but that is a wholly different topic from what the gentleman is referring to and I appreciate the gentleman's support.

Mr. BEREUTER. Mr. Speaker, I would ask the gentleman if there are any bank stabilization activities contemplated in this stretch of the Mississippi River under consideration?

Mr. VENTO. There are some activities planned by the Corps of Engineers, but they apparently have been authorized under existing law so they would fall under the purview of existing law.

This legislation does not address that particular concern or change those responsibilities in any way. Again, I think that is the responsibility of the Public Works and Transportation Committee with regards to Corps of Engineers activities.

Mr. BEREUTER. Mr. Speaker, I am concerned for the first time now retroactively the administration proposes cost sharing arrangements on recreation rivers and rivers designated as wild and scenic rivers, and while I am pleased for the gentleman that cost-sharing arrangements would not apply, since apparently that kind of construction is not anticipated, it is a concern of mine and I would hope that perhaps the Committee on Interior and Insular Affairs and the subcommittee the gentleman chairs might be willing to look at this issue and see whether or not it is appropriate to retroactively apply this.

Mr. VENTO. If the gentleman will yield further, I would be happy to work with the gentleman in terms of trying to define this issue precisely and try to work for an equitable solution of the matter. I appreciate the gentleman's concern.

Mr. BEREUTER. I thank the gentleman for yielding and appreciate this legislative initiative.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2530, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADMIRALTY ISLAND NATIONAL MONUMENT LAND MANAGEMENT ACT OF 1987

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2596) to improve Federal management of lands on Admiralty Island, AK, as amended.

The Clerk read as follows:

H.R. 2596

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Admiralty Island National Monument Land Management Act of 1987."

(b) PURPOSE.—The purpose of this Act is to improve Federal management of lands on Admiralty Island, Alaska, as provided herein.

SEC. 2. FINDINGS.

The Congress hereby finds that:

(a) Admiralty Island National Monument, Alaska, is a land of unparalleled natural beauty containing national and international multiple values including, but not limited to, fish, wildlife, social, recreational, subsistence, educational, wilderness, historical, cultural, interpretive and scenic values of enduring benefit to the nation and the Native peoples residing therein;

(b) Certain non-Federal inholdings should be acquired by the Federal Government in order to enhance and protect the significant multiple values of the Monument.

(c) Land management and Federal administration would be enhanced by cooperative agreements between the Federal Government and the indigenous residents of the Island, the people of the City of Angoon and the Native Village Corporation, Kootznoowoo, Incorporated, including agreements concerning matters described in Section 506(a)(3)(E) of the Act.

SEC. 3. DEFINITIONS AND MAPS.

(a) GENERAL DEFINITIONS.—As used in this act:

(1) The term "the Act" means the Alaska National Interest Lands Conservation Act (Public Law 96-487 as amended).

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The terms "lands," "Federal lands," and "public lands" have the same meanings as specified in section 102 of the Act.

(4) The term "Kootznoowoo" means Kootznoowoo, Incorporated, an Alaska Native Village Corporation (as such term is defined in section 102(8) of the Act), existing under the laws of the State of Alaska.

SEC. 4. ACQUISITIONS AND PROCEDURE.

(a) Section 506(a) of the Act is hereby amended by adding at the end thereof the following new paragraph:

"(9) The Secretary is authorized and directed, pursuant to the procedures in subparagraph (D), to:

"(A) Make land acquisitions from Kootznoowoo which are indentified by the Secretary as necessary to improve the management of Federal lands on Admiralty Island;

"(B) Adjust boundaries of the lands granted to Kootznoowoo under section 506(a)(3)(C) of this Act to conform to the United States Rectangular survey system;

"(C) Enter into such cooperative agreements with Kootznoowoo as are deemed necessary by the Secretary to improve the management of Federal lands on Admiralty Island;

"(D) Promptly undertake, in consultations with Kootznoowoo, a study of the acquisitions from and agreements with Kootznoowoo which would benefit the management of the Monument; and

"(i) Within one hundred and fifty days following the enactment of this paragraph, the Secretary shall submit to Kootznoowoo proposals for acquisitions and cooperative agreements to carry out the purposes specified in sections 101 and 503 of this Act and the purposes of the Admiralty Island National Monument Land Management Act of 1987. The proposals shall include Kootznoowoo properties to be acquired by the United States, the Federal Lands or other compensation offered in exchange, and the text of any proposed cooperative agreements.

"(ii) Any proposal developed pursuant to this paragraph (9) and accepted by Kootznoowoo which would involve the transfer out of federal ownership of any lands, shall be submitted to Congress and shall not be implemented by the Secretary until after approval by appropriate Act or joint resolution.

"(iii) If at the end of one year following the enactment of this paragraph the parties have been unable to reach agreement with respect to one or more of the proposed acquisitions or agreements, all proposals by the Secretary shall lapse, and the Secretary shall report any areas of disagreement to the Congress.".

SEC. 5. LAND SELECTION CONSOLIDATION.

(a) Section 506(a)(5) of the Act is hereby amended by adding at the end thereof the following new subparagraph:

"(C) In order to consolidate Federal land ownership and improve management thereof, if such sale is voluntarily terminated, or is cancelled or forfeited in accordance with applicable laws and regulations, for one year after such termination, cancellation, or forfeiture all lands within the sale area and lands between such sale area and lands lying in the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph (5), shall be made available to Kootznoowoo, Incorporated, for exchange, on the basis of approximately equal values as determined as of the date of such exchange and other terms mutually agreeable to the Secretary of Agriculture and Kootznoowoo, Incorporated, for lands previously selected by or conveyed to Kootznoowoo, Incorporated, pursuant to this paragraph (5). Nothing in this paragraph (5) shall be construed as limiting the authority of any State or Federal court of competent jursidiction to issue any order affecting such sale.".

(b) Section 506(a)(5) of the Act is hereby further amended by adding at the end thereof the following new subparagraphs:

"(D) The Secretary of Agriculture may require as a condition precedent to any transfer of lands to Kootznoowoo, Incorporated through an exchange pursuant to subparagraph (C) of this paragraph (5) that any party (other than the United States) owing the subsurface estate in lands proposed to be transferred to the United States by Kootznoowoo, Incorporated in furtherance of such exchange agree to transfer such subsurface estate to the United States in exchange for the subsurface estate in the lands proposed to be transferred to Kootznoowoo, Incorporated in furtherance of such exchange.

"(E) All transfers pursuant to subparagraphs (C) and (D) of this subparagraph (5) shall be subject to valid existing rights.".

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) Acquisitions and exchanges under this Act (including amendments to the Act made by section 5 or 6 of this Act) shall be pursuant to the requirements and standards of section 1302(h) of the Act, and lands on Admiralty Island so acquired by the United States shall be added to and incorporated within the Admiralty Island National Monument and managed accordingly.

(b) Lands transferred, exchanged, or granted pursuant to provisions of section 506(a) of the Act shall be deemed to have been transferred, exchanged, or granted as of December 31, 1979: *Provided*, That this effective date not be construed in any way so as to obligate any payments by the United States, or as to require the escrow of any funds which may have been generated on such lands prior to December 2, 1980.

SEC. 7. WILDERNESS NAME CHANGE.

Section 703(a)(1) of the Act is amended by deleting the words "Admiralty Island National Monument Wilderness" and inserting in lieu thereof "Kootznoowoo Wilderness".

SEC. 8. SECTION 103 AMENDMENT.

Section 103 of the Act is amended by inserting "(but not as National Forest Monuments)" after the words "and national recreation areas" in the fourth sentence of subsection (b) of such section.

The SPEAKER pro tempore. Is a second demanded?

Mr. YOUNG of Alaska. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 2596 is a bill sponsored by the gentleman from Alaska and the gentleman from California [Mr. MILLER]. As the title indicates, it deals with Admiralty Island National Monument, which is one of the gems of the conservation system units given legislative designation in the Alaska Lands Act of 1980.

Debates over the future management of Admiralty Island, and its magnificent resources and values, played an important part in the congressional decisionmaking that resulted in enactment of the Alaska Lands Act, and to a lesser extent have continued since that time.

In the last Congress the House passed a comprehensive bill that dealt with a number of matters affecting the management of the Admiralty Island National Monument, including the extensive inholding of Shee Atika and Sealaska on the northwest coast and also the Greens Creek area where mineral development is occurring. Unfortunately, the Senate did not complete action on that bill.

The bill we now bring before the House is a much more modest measure. It does not address either the Shee Atika or Greens Creek situations, but instead deals only with some portions of last year's bill concerning the relationship between the Forest Service and the village of Angoon and its village corporation, Kootznoowoo, Inc.

The essence of the bill is a requirement that the Forest Service enter into serious negotiations with Kootznoowoo aimed at such land acquisitions and cooperative agreements as may be necessary for better management of the National Monument.

It would facilitate a possible consolidation of land ownership in other parts of the Tongass National Forest between Kootznoowoo and the Forest Service, in the event that an existing timber sale would be voluntarily relinquished or canceled, and would facilitate Kootznoowoo's management of its lands by allowing them to treat them as having been conveyed on a single date.

Finally, the bill includes a provision from last year's bill clarifying the inapplicability of the Alaska Lands Act's boundary adjustment authority to either Admiralty Island or the Misty Fjords National Monument, and also renames the wilderness area within the Admiralty Island National Monument by adopting the Tlingit name for the Island, Kootznoowoo, which means "Fortress of the Bears."

Mr. Speaker, it has been my pleasure to have worked closely with the Interior Committee's distinguished ranking member, the gentleman from Alaska, in developing the reported bill. While we do not always agree, Mr. Speaker, this is certainly an area where we do agree. I believe that the result is a bill that while not as far reaching as last year's Admiralty Island bill does deal with some matters of importance and resolves some long-standing problems. I urge its approval by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before beginning my statement I want to thank the gentleman from Minnesota [Mr. VENTO] for his kind remarks and his recognition that sometimes we differ, but also in this case and in this area we are on the same track.

Mr. Speaker, I urge the House to suspend the rules and pass H.R. 2596 today; it will be good to put this behind us, as this is an ongoing problem some 10 years old. This legislation is a part of more comprehensive legislation enacted by the House of Representatives in the 99th Congress which failed to be considered by the other body in the last days of the session due to unrelated considerations.

That legislation was intended to provide a comprehensive solution to longstanding land allocation and ownership on Admiralty Island National Monument in southeast Alaska, which has been the subject of controversy for a decade.

If enacted, H.R. 2596 would authorize and direct the Secretary of Agriculture to begin a process of negotiation with the Natives of Angoon, a small village on Admiralty Island, to discuss adjustments in land claims. The Natives in Angoon would like to negotiate an exchange of some of the lands they own in the Monument for additional lands outside off island. This, they argue, would improve the management of the National Monument and forestall the need to develop their lands for economic purposes.

In addition, they wish to consolidate some of their land holdings off island, and the legislation contemplates a potential exchange for lands and interests in lands adjacent to property they already own off island. If the Forest Service and the Natives came to agreement, an administrative exchange is authorized; if no agreement is reached within 1 year, the Secretary would be required to report to Congress with a status report and reasons for not reaching an agreement.

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Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2596, as amended.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2893) to reauthorize the Fishermen's Protective Act, as amended.

The Clerk read as follows:

H.R. 2893

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act (22 U.S.C. 1977(e)) is amended by striking "October 1, 1987" and substituting "October 1, 1988".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to support H.R. 2893, a bill to reauthorize the Fishermen's Protective Act of 1967. The Fishermen's Protective Act establishes a program to reimburse fishing vessel owners when foreign countries seize or detain U.S. fishing vessels in a manner inconsistent with international law as recognized by the United States.

Under the act, individuals may enter into user-fee based self-insurance agreements with the U.S. Government to cover losses resulting from improper seizure by foreign countries. Each vessel owner is required to pay a fee that is based on the estimated annual cost of the program and the size of each participating fishing vessel. Most of the vessels involved are distant-water tuna and shrimp vessels.

Fees collected under the act are credited to the fisherman's guaranty fund in the U.S. Treasury, and remain available to make payments under the program, subject to appropriations. The Congressional Budget Office estimates that enacting H.R. 2893 will result in no net costs to the Federal Government, because the fees collected are expected to cover all payments from the fund during 1988.

H.R. 2893 has broad bipartisan support, and I urge your support for the bill today.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. I thank the gentleman for yielding time to me.

Mr. Speaker, today the House is considering H.R. 2893, a bill that would reauthorize section 7 of the Fishermen's Protective Act of 1967. Section 7 refers to the fishermen's guaranty fund. H.R. 2893, as amended by the Subcommittee on Fisheries and Wildlife on July 28, of which I am a member, would reauthorize this program for 1 year. I think it is very important to get this legislation passed out of this Chamber because the current authorization for the section 7 program will expire on September 30.

The fishermen's guaranty fund, administered by the State Department, compensates U.S. fishing vessel owners who have entered into guaranty agreements with the State Department for certain losses covered by the seizure and detention of their vessels by foreign countries under rights or claims not recognized by the United States.

The fishermen's guaranty fund covers such losses as damage to, or destruction of, the vessel and its equipment; the market value of fish and shellfish caught before seizure of the vessel and confiscated or spoiled during the period of retention; and, up to 50 percent of the vessel's gross income lost because of the seizure of detention.

As to how the guaranty fund is specifically administered, the Department of State enters into guaranty agreements with the owners of U.S. commercial fishing vessels desiring to be covered by the fund. The State Department assesses the owners fees adequate to recover the costs of administering the guaranty fund, as well as fees adequate to cover a reasonable portion of any payments made by the Secretary of State from the fund. All fees collected by the Secretary of State shall be credited to a separate account established in the U.S. Treasury which shall remain available without fiscal year limitation—meaning funds can carry over from year to year—to carry out the payment provisions of section 7.

Mr. Speaker, I strongly believe that the fishermen's guaranty fund is essential as long as the threat of seizure of our fishing vessels, primarily tuna vessels, by foreign countries remains. Because the United States does not recognize the jurisdiction of any nation over tuna due to the highly migratory nature of the species beyond 12 miles off its coast, a position that incidentally is consistent with the Magnuson Fishery Conservation and Management Act of 1976, our tuna fishermen—as well as some of our shrimp fishermen—need some kind of insurance policy while taking on the risk of fishing in areas close by, or within most of the exclusive economic zones of nations—specifically, that area between 12 and 200 miles off a nation's coast—who do not recognize the U.S. jurisdictional position on tuna and other highly migratory species. I am convinced that the fishermen's guaranty fund provides this insurance policy. Moreover, without the fishermen's guaranty fund, our tuna fishermen might as well hang up their nets and abandon their livelihood. The risks of fishing for tuna would be just too high. Thus, reauthorization of section 7 of the Fishermen's Protective Act takes on added significance if you consider the fact that without section 7, tuna fishing by American fishermen may suffer the same fate as that of the dinosaur. Until we have sufficient treaty arrangements in existence that would allow our tuna fishermen to fish in areas of jurisdictional dispute, section 7 will continue to be necessary.

Our tuna fishermen are inherently cautious, responsible, and hardworking individuals. The seizure of American tuna vessels results not from irresponsible or risky fishing practices, but rather, as a result of the jurisdictional dispute the United States has with many of the world's nations over tuna and other highly migratory species. Thus, payments from section 7 are always made with effective scrutiny by the State Department, and with proper justification given by our fishermen in their request for payment. Mr. Speaker, you may be interested to know that payments form section 7 of the Fishermen's Protective Act would not be used to cover seizure costs that are covered by any other provision of the Fishermen's Protective Act—for example, fines, special fees, and some other direct charges are covered under section 3 of the Fishermen's Protective Act. In addition, section 7 of the Fishermen's Protective Act would not be used to compensate U.S. fishermen if the country that seized their vessel is at war with the United States, nor will section 7 be used to compensate U.S. fishermen whose vessels are fishing in an area in violation of an existing treaty, convention, of special licensing agreement between the United States and the seizing nation.

In closing, Mr. Speaker, I wish to say that section 7 of the Fishermen's Protective Act is no doubt a responsible, as well as an effective program. Hopefully, we may arrive at the day where we will no longer need section 7 of the Fishermen's Protective Act. But, until we come to a day where we have an adequate number of treaty or licensing arrangements that allow our fishermen to fish in areas where the U.S. is at jurisdictional odds with most other nations, section 7 is indispensable. I urge my colleagues to support H.R. 2893 because this legislation will go a long way in giving our fishermen, particularly our tuna fishermen, the insurance they need to maintain their livelihood.

FISHERMEN'S GUARANTY FUND AGREEMENT HOLDERS FOR FISCAL YEAR 1987

Agreement No.	Vessel name	Gross tonnage	
FGF-001-87	M/V Conquistdor	1,231	San Diego, CA.
FGF-002-87	M/V Maria C.J	914	Do.
FGF-003-87	M/V Brenda Jolene	1,158	Do.
FGF-004-87	M/V Andrea C.	1,073	Do.
FGF-005-87	M/V Antonia C.	755	Do.
FGF-006-87	M/V Mary Antoinette	605	Do.
FGF-007-87	M/V Uncle Louie	1,001	Do.
FGF-008-87	M/V South Seas	1,158	Do.
FGF-009-87	M/V Capt. Vincent Gann	1,187	Do.
FGF-010-87	M/V Bold Fleet	1,007	Do.
FGF-011-87	M/V Gold Producer	1,183	Do.
FGF-012-87	M/V Bold Adventuress	1,158	Do.
FGF-013-87	M/V Gann Discoverer	1,106	Do.
FGF-014-87	M/V South Wind	1,219	Do.
FGF-015-87	M/V Mariner	996	Do.
FGF-016-87	M/V Claudia B	787	Do.
FGF-017-87	M/V Marietta	605	Do.
FGF-018-87	M/V Odette Therese	1,053	Las Vegas, NV.
FGF-019-87	M/V China Doll	13	Los Osos, CA.
FGF-020-87	M/V Evelyn Da Rosa	989	San Diego, CA.
FGF-021-87	M/V Laurie Ann	438	San Pedro, CA.
FGF-022-87	M/V Mauritania	438	Do.

Total fees received: $22 per ton/year.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in support of H.R. 2893, a bill reauthorizing section 7 of the Fishermen's Protective Act for 1 year. Very briefly Mr. Speaker, this bill continues for 1 year an existing self-insurance program for certain losses resulting from the seizure of U.S. fishing vessels by foreign countries in a manner inconsistent with international law, as recognized by the United States. There is to my knowledge no opposition to the bill, and I urge its passage.

Under the Fisherman's Protective Act, vessel owners may enter into an agreement with the U.S. Government to cover losses from seizures or detentions. In order to participate in the program, vessel owners are required to pay fees based on the gross tonnage of their vessels. These fees are deposited in the Fishermen's Guaranty Fund, a separate account in the U.S. Treasury, and remain available subject to appropriations for payments under the program.

The program has traditionally been supported both by the administration and Congress. Earlier this year, the administration requested $1.75 million in appropriations for fiscal year 1988, and the House approved $1.75 million. Action on this bill is necessary, however, to extend the authorization itself, which expires on October 1.

Mr. Speaker, this is a small but worthwhile program. Without the assurances that funds will be available to reimburse vessel owners for their losses if and when a U.S. fishing vessel is inappropriately seized by another country, our lending institutions would not be willing to continue to finance fishing boats. The administration supports this 1 year reauthorization, the Committee on Merchant Marine and Fisheries supports it and I urge the House to support it as well.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague Chairman JONES, has mentioned, H.R. 2893 will reauthorize section 7 of the Fishermen's Protective Act of 1967. That provision of the law assures the continued viability of our distant-water fishing fleets in the face of persistent threats of illegal seizure by foreign nations. Under section 7, an insurance program provides for the reimbursement of certain losses suffered by U.S.-flag commercial fishermen as a result of such seizures.

The distant-water tuna and shrimp fleets of the United States make an important contribution to our national economy. The Congress and the executive branch recognized that fact when they enacted the Fishermen's Protective Act in 1954. By several extensions and amendments of the act, the Federal Government reaffirmed its commitment to these vital sectors of our fishing industry.

The bill before us today would extend section 7 of the act through fiscal year 1988. I support this effort and urge my colleagues to adopt the bill.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as she may consume to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. I thank my colleague from Alaska and the chairman of the committee.

Mr. Speaker, I rise in strong support of this bill. It is much needed. As a representative from the State of New Jersey, I know that this legislation is urgently needed to protect the waters off the coast of our State. It was only last month that a garbage slick caused by ocean dumping blanketed miles of the New Jersey coastline. This incident resulted in the destruction of vital marine resources as well as the loss of millions of dollars of the State's tourism industry.

The bill, I think, has been amply outlined but above all, it notes these instances of ocean pollution and it notes that this is not an issue that conforms neatly to State borders but is of a national level and I believe that this bill adequately addresses that subject.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2893, as amended.

The question was taken.

Mr. **RUSSO**. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The **SPEAKER** pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. **JONES** of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

NATIONAL OCEANS POLICY COMMISSION ACT OF 1987

Mr. **JONES** of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1171) to establish the National Oceans Policy Commission and for other purposes, as amended.

The Clerk read as follows:

H.R. 1171

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceans Policy Commission Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the manner in which the oceans and the Great Lakes are used affects the national security, transportation needs, economy, food resources, energy and raw materials needs, international leadership, and the quality of the environment of the people of the United States;

(2) Presidential Proclamation 5030 of March 10, 1983, which established the Exclusive Economic Zone of the United States of America and proclaimed the sovereign rights of the United States over ocean resources out to 200 nautical miles from the coastline of the United States, requires the development and implementation of a comprehensive exploration and monitoring plan to adequately address the conservation and development of the zone;

(3) the work of the Commission on Marine Science, Engineering, and Resources (known as the "Stratton Commission") in the 1960's was instrumental in initially defining the structure of United States oceans policy, and led to the enactment of major ocean-related legislation and the establishment of key oceanic and atmospheric institutions;

(4) recent concern regarding expanding Federal expenditures has resulted in the retrenchment of many ocean initiatives of the 1970's and, as a result, the complexion of United States ocean programs has changed significantly; and

(5) with Federal fiscal resources expected to be severely limited at least to the end of the century, a reexamination of the Nation's oceans, Great Lakes, and atmospheric activities is needed, and a new coordinated and comprehensive national oceans policy, based on that reexamination, must be developed in order that wise use of the oceans and the Great Lakes can be implemented in a peaceful and balanced fashion.

SEC. 3. PURPOSE.

The purpose of this Act is to establish a commission to propose to the Congress and the President a comprehensive oceans policy (and develop recommendations for the implementation of that policy) that will assist the Congress and the President in—

(1) developing domestic policies and laws to promote the wise use and conservation of marine resources, including Great Lakes resources;

(2) developing international policies and laws to promote the peaceful uses of the oceans and balance the interests of all nations;

(3) promoting United States leadership in marine scientific research, facilities, and technology;

(4) developing the role and capacity of the United States in the monitoring and prediction of global oceanic atmospheric processes; and

(5) appropriately allocating the responsibilities for marine and atmospheric research and marine resource understanding, conservation, management, and development among the various levels of government and the private sector and promoting the efficient use of limited fiscal resources for such activities.

SEC. 4. ESTABLISHMENT OF THE COMMISSION.

(a) IN GENERAL.—There is established a commission to be known as the National Oceans Policy Commission (hereinafter referred to in this Act as the "Commission").

(b) NUMBER OF MEMBERS.—The Commission shall consist of 17 members who shall be appointed by the President in accordance with the provisions of this section within 90 days after the date of enactment of this Act.

(c) MEMBER QUALIFICATIONS.—The membership of the Commission shall be composed in such a manner as to provide that 14 of the members shall be appointed from the following qualification categories:

(1) 3 members shall be from private sector nonprofit organizations involved with national oceans policy (including, but not limited to, those with consumer and environmental interests).

(2) 5 members shall be from private sector commercial organizations involved with national oceans policy (including, but not limited to, those with marine transportation and living and nonliving marine resource interests).

(3) 2 members shall be Governors, not of the same political party, of coastal states in different geographical regions.

(4) 2 members shall be specialists in marine science from the academic community.

(5) 2 members shall be selected from at large, at least one of whom shall be knowledgeable in international oceans policy.

(d) NOMINEES FOR MEMBERSHIP.—(1)(A) The Majority Leader of the Senate (hereinafter in this Act referred to as the "Majority Leader") and the Speaker of the House of Representatives (hereinafter referred to in this Act as the "Speaker"), in consultation with the Minority Leader of each House, respectively, shall each prepare a list of 14 nominees for appointment to the Commission.

(B) Each list of nominees prepared under subparagraph (A)—

(i) shall contain nominees that meet the qualifications set forth in subsection (c); but

(ii) may not contain any of the same nominees.

No more than half of the nominees on each list may be members of the same political party.

(C) The Majority Leader and the Speaker shall submit the lists prepared under subparagraph (A) to the President within 60 days after the date of enactment of this Act.

(D) The President shall appoint 7 members of the Commission from the list submitted by the Majority Leader and 7 members from the list submitted by the Speaker. No more than 7 members of the Commission appointed under this paragraph may be members of the same political party.

(2) The President shall make 3 appointments to the Commission in addition to those appointed under paragraph (1). Federal officers or employees or individuals employed in the private sector are eligible for appointment under this paragraph. No more than 2 of the individuals appointed under this paragraph may be members of the same political party.

(3) The President, the Majority Leader, and the Speaker shall jointly select a Chairman and Vice Chairman of the Commission from members appointed under paragraph (1)(D). The Vice Chairman shall act as Chairman in the absence of the Chairman.

(e) VACANCIES.—Except as may be required by electoral changes, members of the Commission shall be appointed to serve until the Commission terminates under section 12. In the event of a vacancy, a new member shall be appointed in the same manner in which the original appointment was made. In the case of the vacancy of a member appointed under subsection (d)(1)(D), the new member shall—

(1) be in the same qualification category under subsection (c) as the former member; and

(2) be appointed from a list of at least two nominees prepared by the Majority Leader or the Speaker, as appropriate.

(f) MEETING OF COMMISSION.—The Chairman or a majority of the members may call a meeting of the Commission.

SEC. 5. ADVISORS TO THE COMMISSION.

SEC. 5. (a) CONGRESSIONAL ADVISORS.—(1) The Commission shall have 8 congressional advisors who shall advise the Commission in the formulation of findings and recommendations. Four of the advisors are members of the Senate selected by the Majority Leader and 4 of the advisors are Members of the House of Representatives selected by the Speaker. Each congressional advisor must have knowledge appropriate to the concerns of the Commission.

(2) No more than 2 of the Congressional advisors from each House may be members of the same political party.

(b) MILITARY ADVISOR.—The Chairman of the Joint Chiefs of Staff, or his designee, shall serve in an advisory capacity to the Commission.

SEC. 6. FUNCTIONS OF THE COMMISSION.

(a) COMPREHENSIVE POLICY.—(1) The Commission shall propose to the President and to Congress a comprehensive national oceans policy to carry out the purpose of this Act.

(2) The Commission shall develop recommendations on the international and domestic ocean policies, laws, regulations, and activities of the United States that will define and implement the comprehensive policy proposed under paragraph (1). The recommendations shall—

(A) address domestic (including the Great Lakes) and international marine policy issues;

(B) include any modifications in existing United States policies, laws, regulations, and practices necessary to develop efficient long-range programs for—

(i) research in marine and atmospheric sciences;

(ii) the understanding, conservation, management, and development of, marine resources, including Great Lakes Resources; and

(iii) the protection of the ocean environment;

(C) address the most appropriate allocation of responsibilities for research in marine and atmospheric sciences and for the understanding, conservation, management, and development of marine resources among Federal agencies, State and local government, and the private sector; and

(D) consider any other aspects of United States related policies, laws, regulations, and practices considered necessary by the Commission in carrying out its duties pursuant to this subsection.

(b) Development of Recommendations.—In developing recommendations under subsection (a), the Commission shall—

(1) survey and review all existing and planned ocean-related activities of Federal agencies, including those relating to navigation, marine research, national security, and the conservation, management, and development of marine resources, and the protection of the marine environment;

(2) survey and review all existing and planned marine facilities and equipment, including surface ships, undersea research vehicles and habitats, computers, oceanographic satellites, and other appropriate research tools;

(3) evaluate the relationships among Federal agencies, State and local government and the private sector for planning and carrying out the activities described in this subsection, considering areas of substantial coincidence of interest and responsibilities among the various levels of government, academia, industry, and the public interest community and other users of the marine environment, in order to enhance the efficient use of marine resources;

(4) consider Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, including an examination of opportunities and the need for economic development within the exclusive economic zone which have a major impact on the coastal zone of the States and the adequacy of present laws to manage such development in such a way as to minimize conflict;

(5) consider the relationships of United States policies to the Convention of the Law of the Sea and actions available to the United States to affect peaceful collaborations between the United States and other nations, including the development of cooperative international marine programs which will facilitate opportunities for United States and foreign scientists to work together in the waters of the cooperating nations and to provide for the development of such programs in the United States; and

(6) engage in any other preparatory work deemed necessary to carry out the duties of the Commission pursuant to this section.

SEC. 7. POWERS OF THE COMMISSION.

(a) Obtaining Information.—The Commission may secure directly from any department or agency of the United States any information it considers necessary to carry out its functions under this Act. Each department or agency shall cooperate with the Commission and, to the extent permitted by law, furnish information to the Commission upon request of the Chairman.

(b) Use of Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(c) Administrative Support.—The General Services Administration shall provide to the Commission on a reimbursable basis the administrative support services that the Commission may request.

(d) Contractual Authority.—The Commission may enter into contracts with Federal and State agencies, private firms, institutions, and individuals to assist the Commission in carrying out its duties. The Commission may purchase and contract without regard to sections 303 of the Federal Property and Administration Services Act of 1949 (41 U.S.C. 253), section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416), and section 8 of the Small Business Act (15 U.S.C. 637), pertaining to competition and publication requirements, and may arrange for printing without regard to the provisions of title 44, United States Code. The contracting authority of the Commission under this Act is effective only to the extent that appropriations are available for contracting purposes.

SEC. 8. ADMINISTRATIVE PROVISIONS.

(a) Detail of Personnel.—Upon request of the Commission, the head of any Federal agency shall detail any of the personnel of the agency to the Commission to assist the Commission in carrying out its functions under this Act. To the extent feasible, such detail shall be on a reimbursable basis.

(b) Volunteer Services.—The Commission may accept and use the services of volunteers serving without compensation, and to reimburse volunteers for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims, a volunteer under this subsection may not be considered to be an employee of the United States for any purpose.

(c) Consultants.—To the extent that funds are available, and subject to the rules that may be prescribed by the Commission, the Director appointed under section 9(a) may procure the temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates not to exceed the rate of pay for GS-18 of the General Schedule.

(d) Conduct of Meetings.—(1) All meetings of the Commission shall be open to the public, except when the Chairman or a majority of the members of the Commission determine that the meeting or any portion of it may be closed to the public. Interested persons shall be permitted to appear at open meetings and present oral or written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(2) All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(3) Minutes of each meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. Subject to section 552 of title 5, United States Code, the minutes and records of all meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(4) The Federal Advisory Committee Act (5 U.S.C. App. 1-15) does not apply to the Commission.

SEC. 9. DIRECTOR AND STAFF OF COMMISSION.

(a) Director.—The Commission shall have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule. The Director shall be knowledgeable in administrative management and oceans policy.

(b) Staff.—Subject to such rules as may be prescribed by the Commission, the Director may hire staff for the Commission and shall fix appropriate compensation. The hiring and compensation of the Director and staff under this section may occur without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 10. COMPENSATION OF MEMBERS.

(a) In General.—Except as provided in subsection (b), members of the Commission shall be paid at a rate not to exceed the basic pay for a GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the Commission duties.

(b) Exception.—A member of the Commission who is an officer or employee of the United States may not receive pay for service on the Commission, but shall be reimbursed from funds authorized by this Act for travel expenses, including per diem in lieu of subsistence as may be authorized by law for persons in Government service employed intermittently.

SEC. 11. COMMISSION REPORT.

No later than 2 years after the Commission first meets, the Commission shall submit simultaneously to the President and to each House of the Congress a detailed final report regarding the comprehensive oceans policy and the recommendations required to be developed under section 6.

SEC. 12. TERMINATION OF THE COMMISSION.

The Commission shall cease to exist 30 days after the date of the submission of the final report under section 11.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums, but not to exceed $2,000,000, as are necessary to carry out this Act. Such sums are to remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. Jones] will be recognized for 20 minutes and the gentleman from New Jersey [Mr. Saxton] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. Jones].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1171 is a bill to establish a National Oceans Policy Commission that would develop a comprehensive U.S. oceans policy. The bill is similar to legislation passed by the House in 1983—legislation that was not taken up by the Senate.

The Commission would be composed of 17 members that will include expert representatives from ocean-related industries, nonprofit environmental and consumer organizations, marine scientific and academic communities, coastal States, the international oceans policy arena, and the Federal Government.

The members of the Commission will be appointed by the President. Of the 17 members, 14 will be selected by the President from lists of nominees recommended by the Speaker of the House and the majority leader of the Senate, in consultation with the minority leader of each Chamber. The remaining three members will be appointed directly by the President and may be Federal agency or private sector representatives.

The 14 members selected from the congressional lists will come from the various private sector, scientific, and State governmental categories to which I have already referred.

The Commission will have eight congressional advisers, four from the Senate and four from the House, evenly divided between the political parties. Additionally, the Chairman of the Joint Chiefs of Staff, or his designee, will serve as an adviser to the Commission.

Within 2 years after it first meets, the Commission will submit to the President and to the Congress a proposed comprehensive national oceans and Great Lakes policy. The Commission will develop recommendations on the international and domestic ocean policies, laws, regulations, and activities of the United States that will define and implement this comprehensive policy.

In calling for the development of an oceans and Great Lakes policy, we are asking for assistance from the Commission in helping the Congress and the President to develop policies to promote the wise use and conservation of marine and Great Lakes resources, to promote the peaceful uses of the oceans, to promote U.S. leadership in marine scientific rsesearch, to develop the role of the United States in the monitoring and prediction of global oceanic atmospheric processes, and to appropriately allocate responsibilities for marine and atmospheric functions among the various levels of government and the private sector to achieve the most efficient use of limited fiscal resources.

More than 20 years ago a noteworthy precedent for this Commission was established by the Congress. Created in 1966, the Stratton Commission issued a report in 1969 entitled "Our Nation and the Sea." That report became a blueprint for our Nation's marine activities for the decade of the seventies. It led directly to the establishment of the National Oceanic and Atmospheric Administration in the Commerce Department and to such legislative initiatives as the Coastal Zone Management Act of 1972 and the Marine Protection, Research and Sanctuaries Act of 1972.

Two decades later, we find that economic, political, and social changes have occurred that call for the reexamination of our priorities and efforts in the oceans and the Great Lakes. With Federal fiscal resources expected to be severely limited for the foreseeable future, the establishment of the exclusive economic zone by President Reagan in 1983, the expanding role of State in governing and managing their coastal waters, and the escalating pressures to both preserve and develop our marine and Great Lakes coast lines, a reevaluation of national activities and policy in the oceans and Great Lakes is needed.

As the Stratton Commission report stated:

> How fully and wisely the United States uses the sea in the dacade ahead will affect profoundly its security, its economy, its ability to meet increasing demands for food and raw materials, its position and influence in the world community, and the quality of the environment in which its people live.

Those words are as true today as they were 20 years ago. It is time to establish a Commission to take a new look given the realities of the 1980's and 1990's and report too the next administration on a sensible, efficient, and comprehensive policy for the management of our Nation's oceans and Great Lakes resources.

I ask for the support of my colleagues in the passage of H.R. 1171, the National Oceans Policy Commission Act of 1987.

Mr. Speaker, I reserve the balance of my time.

□ 1445

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1171, to establish a National Ocean Policy Commission. I thank the committee for their hard work to bring this legislation to the floor in a timely manner.

To be candid, the timing and need for this legislation could not be better. This summer was one of the worst in recent history in the Northeast regarding the condition of the ocean. Washups of hospital wastes, and high chloroform counts closed beaches on a number of occasions. The people in New Jersey are behind every effort to clean our Nation's oceans and waterways. Now, with the establishment of this Commission, we will have a master plan to safeguard our coastal resources for generations to come.

This Commission, made up of a 17-member blue-ribbon panel, will address a wide range of ocean issues in developing recommendations for implementation of a comprehensive, long-term plan for a thoughtful and balanced use of our ocean and Great Lakes.

It is my hope that this Commission will also address the need for Federal, State, and local agencies to work in unison to develop a policy we all can work with together.

Mr. Speaker, as I mentioned previously, New Jersey witnessed one of the worst summers in recent history. Garbage and medical-type wastes were washing up on the shore, beaches were being closed, and tourism dollars were being lost. The time is now for a new look at our ocean and the Great Lakes. I urge all Members to support the establishment of a National Ocean Policy Commssion.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of H.R. 1171, a bill to establish the National Oceans Policy Commission. I am glad that the House is acting on this important legislation, and I commend the members of the Merchant Marine and Fisheries Committee for reporting this bill to the floor for our prompt consideration. I specifically commend my colleagues, the distinguished chairman of the committee and my colleagues, Mr. SAXTON and Mr. HUGHES for their leadership.

It has been over 20 years since a national Commission was convened to provide recommendations to the President and Congress regarding comprehensive oceans policy. Established in 1966, the Commission on Marine Sciences, Engineering, and Resources, more commonly known as the Stratton Commission, issued a report which guided our Nation's laws and activities in the oceans during the late 1960's and into the 1970's. Clearly, as we approach our last decade of the 20th century, a reevaluation of our Nation's activities in the management of our oceans is necessary.

As a Representative from New Jersey, I know that this legislation is urgently needed to protect the waters off of my State's coast. It was only last month that a garbage slick caused by ocean dumping blanketed miles of the New Jersey coast. This incident resulted in the destruction of vital marine resources—as well as the loss of millions of dollars for the State's tourism industry. I have supported several legislative remedies designed to protect our ocean's resources, and H.R. 1171 represents another effort to accomplish this important task.

Specifically, the bill establishes a 17-member Commission to develop a comprehensive national policy for our oceans. The Commission would be charged with examining current domestic policies and laws relating to marine resources management and identifying where changes are needed to protect these resources in our oceans, as well as the exclusive economic zone and the Great Lakes. The Commission would also be given the important responsibility of promoting U.S. leadership in marine scientific research and working with the private sector in marine resource management, conservation, and development. And within 2 years, the Commission shall submit a report to the President and the Congress detailing recommendations for appropriate legislative change.

It is my hope that the Commission established in this legislation would assist Congress in protecting marine resources from environmental hazards such as ocean dumping. The incident off of the New Jersey coast this summer has sent an important signal to Federal officials that we must take further steps to protect our oceans' resources. We must remember that the ocean does not conform neatly to State borders. This is a problem which must be addressed at the national level.

In 1983, this House passed a bill to establish a Commission similar to that envisioned in H.R. 1171, but the Senate took no action on the legislation that year. However, I am pleased that a companion bill to H.R. 1171 is presently under consideration in the Senate. Therefore, I urge my colleagues to strongly support H.R. 1171 today. With passage of this bill, chances are greater that this important Commission will be one step closer to action.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I rise in strong support of H.R. 1171, legislation to establish a National Ocean Policy Commission. I congratulate the gentleman from North Carolina [Mr. JONES], the distinguished chairman of the Committee on Merchant Marine and Fisheries, and the gentleman from Michigan [Mr. DAVIS], the ranking minority member, for developing an excellent piece of legislation, something that we have worked on now for a number of years.

The legislation is designed to promote the development of a comprehensive long-term policy protecting the resources of our oceans and Great Lakes. The Commission will develop recommendations on a wide range of issues affecting the oceans and the Great Lakes such as pollution, acid rain, fisheries conservation, fisheries management, and local coastal zone management as well as other marine policies.

Our oceans and Great Lakes are susceptible to a vast array of environmental, economic, and political problems. Too often we find ourselves dealing with these problems on an individual basis without a clearcut national policy or strategy. The purpose of this Commission is to identify the various problems affecting our oceans and develop a national policy for addressing them. This will help us coordinate our efforts at all levels of government and reinforce the national commitment to protect the oceans and Great Lakes.

The new Commission will be modeled after a similar national panel which was established in the 1960's known as the Stratton Commission. The Commission's report, "Our Nation and the Sea," forms the basis for a number of major ocean policy initiatives including the creation of the National Oceanographic and Atmospheric Administration, the Coastal Zone Management Act of 1972, the Ocean Dumping Act of 1972, and the Fisheries Conservation and Management Act of 1976 that we know now as the 200-mile limit.

Mr. Speaker, this legislation gives the Commission 2 years to develop its recommendations and then submit them to the Congress.

Mr. Speaker, the gentleman from New Jersey [Mr. SAXTON] and the gentlewoman from New Jersey [Mrs. ROUKEMA] just alluded to many of the problems that we have experienced in the oceans. We have experienced these problems in just the past summer. Unfortunately, last summer was probably the worst of the last five summers, but along the east coast we have had major problems with all kinds of trash and garbage slicks, plastic leaks, green tides, red tides, black tides, beach closings, if one can name it, we have had it along the east coast because we have treated the ocean in many instances like the repository of last resort. It has become a landfill in its own right and as a result, it has threatened the major tourist industry in New Jersey, which is the second-largest industry in our State. It has threatened commercial fisheries, which is a mainstay of our economy in Cape May County. I know in my colleague's county, in Ocean County, they have a major commercial fishery as well as a major tourist economy that depends upon clean water, clean air, and clean beaches which are things, unfortunately, that have eluded us in the last few years.

This legislation will bring our policies together. We need to begin looking at ocean policy as a total view of what strategy we need to develop and deal with the whole host of problems.

Mr. Speaker, this legislation will give us a new start in looking at the total picture to try to develop the strategies that we need to take us well into the next century.

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate and commend the gentleman from New Jersey [Mr. HUGHES] for his leadership on this issue, particularly in the sense that he was thoughtful enough to point out to our colleagues that this is not a simple issue. It is a very complex issue that requires a very complex solution, and perhaps I should say complex solutions.

This is not a problem which emanates, as my colleague pointed out, from any single source. We in New Jersey know, and we from the Northeast know, that the problem comes partly from sewage treatment outflow pipes into the ocean; it comes partly from sludge in the ocean; it comes partly from oil slicks in the ocean; it comes partly from garbage slicks in the ocean; it comes partly from fishermen unwittingly doing their small but important part to pollute the ocean; and for all of these reasons, Mr. Speaker, this comprehensive planning process which will take place is also important to us in this House and the other body as well to understanding the complexities of this problem so that we can deal with it in a significant way with the types of answers and solutions that are so necessary in solving a very complicated far-reaching problem.

Mr. LOWRY of Washington. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. Mr. Speaker, I am happy to yield to the gentleman from Washington [Mr. LOWRY].

Mr. LOWRY of Washington. Mr. Speaker, I want to compliment the gentleman from New Jersey [Mr. SAXTON] and the gentleman from New Jersey [Mr. HUGHES] for both of your leadership along with the gentleman from North Carolina [Mr. JONES] on this subject. As both gentlemen from New Jersey are well aware, the Subcommittee on Oceanography held more than 7 hours of important testimony and hearings on the New Jersey shore just about a month ago, and the testimony that we received as to the extent and the complications of this problem I still am thinking about today as to just how much there was there. We have to commit ourselves as a government and as a people to finding answers to this terrible problem of ocean pollution, or we are just going to find that the effect on our overall ecological system will just be immense.

So the legislation that we have before us today that I commend the gentleman from North Carolina [Mr. JONES], the chairman of the Committee on Merchant Marine and Fisheries, for specifically gives us another avenue by which to work on that.

Mr. Speaker, I take this opportunity to commend the gentleman from North Carolina [Mr. Jones] and the gentleman from New Jersey [Mr. Saxton] and the gentleman from New Jersey [Mr. Hughes] for the work that you are doing on this.

Mr. SAXTON. Mr. Speaker, I appreciate very much the remarks of the gentleman from Washington [Mr. Lowry] and I appreciate the gentleman taking his valuable time to come to New Jersey to look at the problem we have. Mr. Speaker, it took a great deal of effort on the part of the gentleman from Washington [Mr. Lowry] to bring himself and the committee staff to look at what the gentleman from New Jersey [Mr. Hughes] and myself and others from New Jersey and New York State think is a very serious problem.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. SAXTON. Mr. Speaker, I am happy to yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I, too, want to thank our colleague, the gentleman from Washington [Mr. Lowry], for coming to Ocean City, NJ, to hear testimony from a lot of very concerned citizens, and I congratulate his committee.

That committee has been on the cutting edge of ocean policy for a number of years. Last week we reported out a major piece of legislation dealing with plastics, and plastic disposal, to implement an international convention called MARPOL, which will begin to deal with the overboard disposal of plastics of all kinds and to begin a process of enforcement, hopefully by the Coast Guard, to develop new techniques for managing plastics.

The gentleman from Washington [Mr. Lowry] offered a very important amendment which the gentleman from New Jersey [Mr. Saxton] and I joined in which I think is extremely important because it will begin the studies that will be essential for us to look at a whole host of plastics that are out there. It may not be necessary, but maybe we should be regulating, maybe we should be banning in some instances, particularly where they cannot be recycled, but certainly to deal with what is becoming an increasingly serious problem not just for man but for mammals in the ocean.

We have also thought of pollution as coming from one source, but the gentleman from New Jersey [Mr. Saxton] is right. It comes from so many different sources and we have to begin to deal with those different sources, and last week I think was a major initiative begun to deal with plastics, I congratulate the leadership of the Committee on Merchant Marine and Fisheries for that initiative.

Mr. SAXTON. Mr. Speaker, I conclude by saying that to those areas such as the one the gentleman from New Jersey [Mr. Hughes] and I represent, it is not only an inconvenience to go through summers like we just went through, the summer of 1987, it could be an economic disaster. Our districts and others throughout the coastal areas of the country depend on tourism for the health and welfare of our constituents in terms of their economic welfare.

Let me ask my colleagues on the floor, how would it feel, how would you feel going to the shore for summer vacation and hearing that there was an oil slick offshore heading to the shore? How would my colleagues feel walking down the beach to learn that there was medical waste, hypodermic needles, for example, washing up on the shore? How would my colleagues feel walking down the shore and have someone tell you that 2 miles up the beach a young boy had just been struck in the surf with a 20-foot log that was dumped offshore? How would my colleagues feel going to the shore for your vacation for the summer and finding red algae bloom emanating from perhaps manmade sources that had been dumped in the form of sludge in the ocean?

Mr. Speaker, those are the feelings that I am trying to give, and the effect that it has on tourists, and the effect that it has on those of us who live in and love the coastal areas of our country.

Mr. Speaker, I conclude by saying that I feel very strongly that we do need a master plan to protect our oceans. We need to give this a great deal of forethought. We do need to pass this bill.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of my colleague from North Carolina and his bill creating a National Oceans Policy Commission. I am very pleased to speak for H.R. 1171 because it explicity recognizes the importance of our sometimes forgotten fourth coast, the Great Lakes, and the role the lakes play in domestic and international water policy.

The Great Lakes' link with the oceans is the St. Lawrence Seaway, a critical waterway for commerce and transportation. But the lakes are an international resource with a more vital position in global oceans policy than this slender connection with the sea would indicate. The Great Lakes share many of the attributes of their saltwater cousins. However, with the benefits of a coastline come many of the same burdens. Currently, this national resource is suffering from devastatingly high water levels, which are eroding our treasured shoreline and destroying billions of dollars of property along the lakes' banks. In addition, nearshore pollution, including discharges of untreated sewage and toxic contaminants, threaten water quality and therefore the physical and economic health of Great Lakes citizens. These are only a few of the problems shared by the Great Lakes and the oceans which might benefit from the work of the National Oceans Policy Commission.

In conclusion, I hope that my colleagues will support this bipartisan bill, which has the potential of addressing and recommending solutions to problems common to all our important coastal areas, and thus to the Nation as a whole.

Miss SCHNEIDER. Mr. Speaker, I rise today in support of H.R. 1171, a bill to establish a National Oceans Policy Commission. This Commission would be charged with the responsibility of evaluating a wide range of ocean issues and making recommendations for a comprehensive, long-term plan for the proper and balanced use of the oceans—a national oceans policy. The formation of such a commission is not a new idea. Over 20 years ago Congress established the Commission on Marine Sciences, Engineering, and Research—the Stratton Commission. The results of this Commission significantly influenced the direction and shape of our national oceans policy. However, after 20 years, any plan needs review and, perhaps, fine tuning, especially in the case of a resource as important as our oceans and Great Lakes.

Several important factors have greatly influenced the direction of marine policy in the 1980's, making it a time of reassessment and the proper time for a reevaluation of marine programs. The economic, political, and social climate has changed greatly since the time of the Stratton Commission. Foremost is our budget deficit and its fiscal constraints which affects every program, forcing us to give close attention to and cut back on funding levels across the board. This limitation of Federal fiscal resources is expected to continue into the future. The degradation of coastal and estuarine pollution is increasing as is the depletion of our fisheries resources. The infrastructure of marine science—its research facilities, equipment, and vessels—is not receiving adequate support. The proclamation of an exclusive economic zone has offered new responsibilities and challenges to our Nation that any national ocean policy must address, as well as our failure to ratify the Law of the Sea Treaty. For these reasons and many others, we need to reevaluate our national priorities and activities in the Great Lakes and oceans.

The United States has a range of interests in our oceans which are often conflicting in nature: utilization of its resources, commerce, navigation, research, waste disposal, national defense, and finally, the proper protection of its environment. Any ocean policy must accommodate these various interests to the best overall benefit to the Nation. The United States must have a comprehensive, underlying approach for the proper management and utilization of one of our most important natural resources—the oceans and Great Lakes. At the current time, however, I strongly feel that this rational, underlying commitment does not exist. The United States needs a coordinated, comprehensive oceans policy developed from a close examination of our past efforts, our current trends, and our future needs and expectations. Now is the time to examine the progress and status of our marine initiatives and programs developed in response to the Stratton Commission report. Our Great Lakes and oceans research, management, and utilization priorities deserve reexamination and reevaluation in the light of the many national changes which have occurred during the past 20 years and the fiscal constraints that we all know lie ahead. The proposed National Oceans Policy Commission is the appropriate means to accomplish this task. Therefore, in conclusion, I strongly urge all of my colleagues to support H.R. 1171 as an important step to achieve the proper and wise direction for our national ocean policy.

Mr. GALLO. Mr. Speaker, I join with my colleagues, Mr. SAXTON, Mr. RINALDO, Mr. HUGHES and others in support of H.R. 1171, which will create a special Commission to put the full force of Federal policy behind our efforts to protect our oceans from a wide range of pollution sources.

We have a responsibility to protect our shoreline from disasters that close our beaches and do long-term damage to our most prized recreational and environmental asset.

This Commission will bring together the resources of 39 House subcommittees, 36 Senate subcommittees, 9 Federal departments and 46 other Government agencies that share the responsibility for Federal policy in this critical area.

It is easy to see that Commission members will have their work cut out for them.

First of all, we need tougher enforcement to send a clear signal to all midnight dumpers that they will be caught and prosecuted.

As it becomes more difficult to dispose of garbage on land, it is going to be more tempting for illegal dumpers to try to get away with this type of activity.

Attempts to seek reimbursement after the fact are never going to be as effective as taking actions to prevent dumping before it occurs.

A higher level of enforcement is needed to strengthen the strict laws that are now on the books. Current Federal law provides for maximum fines of $250,000 a day or 3 years in jail for illegal dumping.

We must give the Environmental Protection Agency and the Coast Guard the tools they need to stop illegal dumping before it occurs.

Stepped-up patrols are needed. We also need to involve private boaters in this effort. Very often, they see suspicious activities and should have some avenue for reporting these incidents to the proper authorities. A kind of ocean-going neighborhood watch program is needed.

Legislatively, we need to stop legal ocean dumping and make illegal garbage easier to trace.

As cosponsor of legislation that would prevent ocean-going vessels such as cruise ships and U.S. Navy vessels from dumping their garbage at sea, I can see this as an important area for Commission review.

I cannot believe that ocean-going vessels are allowed to dump their garbage off the New Jersey shore.

Each year, marine vessels dump 6.4 million metric tons of plastic material into the ocean. Every day, 5 tons of plastic waste are dumped overboard by U.S. Navy ships.

As Chairman Howard and others have said, we may live in the age of the disposable society but we do not have a disposable environment. Such careless acts must be stopped and I hope our Navy will lead the rest of the country in this effort.

This bill to create the first high-level study of our ocean policy since the 1969 Stratton Commission reported its findings is on a fast track and I am hopeful we will see concrete changes in Federal policy as a result.

Our shoreline is an irreplaceable natural resource and we cannot afford to turn away from this effort to take positive action to bring our Federal ocean policy up to date with the changing times.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SAXTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 1171, as amended.

The question was taken.

Mr. RUSSO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

THE MARINE SCIENCE, TECHNOLOGY AND POLICY DEVELOPMENT ACT OF 1987

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3017) to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College Program through the establishment of a strategic research program and other means, and for other purposes, as amended.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as "The Marine Science, Technology and Policy Development Act of 1987".

SEC. 2. REFERENCE TO THE NATIONAL SEA GRANT COLLEGE PROGRAM ACT.

Unless otherwise provided in this Act, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a title, section, subsection, or other provision, the reference shall be considered to be made to a title, section, subsection, or other provision of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

SEC. 3. DECLARATION OF POLICY.

Section 202 (33 U.S.C. 1121) is amended as follows:

(1) Subsection (a) is amended—

(A) by redesignating paragraphs (1), (2), and (3) as paragraphs (4), (5), and (6), respectively; and

(B) by inserting before paragraph (4) (as redesignated by subparagraph (A)) the following new paragraphs:

"(1) The national interest requires a strategy to—

"(A) provide for the understanding and wise use of ocean, coastal, and Great Lakes resources and the environment;

"(B) foster economic competitiveness;

"(C) promote public stewardship and wise economic development of the coastal ocean and its margins, the Great Lakes, and the exclusive economic zone;

"(D) understand global environmental processes; and

"(E) promote domestic and international cooperative solutions to ocean, coastal, and Great Lakes issues.

"(2) Investment in a strong program of research, education, training, technology transfer, and public service is essential for this strategy.

"(3) The expanding use and development of ocean, coastal, and Great Lakes resources, growing coastal area populations, and the increasing pressures on the coastal and Great Lakes environment challenge the ability of the United States to manage such resources wisely.".

(2) Subsection (b) is amended by striking out "ocean and coastal resources" and all that follows thereafter and inserting "ocean, coastal, and Great Lakes resources by providing assistance to promote a strong educational base, responsive research and training activities, broad and prompt dissemination of knowledge and techniques, and multidisciplinary approaches to environmental problems.".

SEC. 4. DEFINITIONS.

(a) IN GENERAL.—Section 203 (33 U.S.C. 1122) is amended—

(1) by striking out paragraph (2);

(2) by renumbering paragraph (3) as paragraph (2) and inserting immediately thereafter the following:

"(3) the term 'directors of sea grant colleges' means the persons designated by their universities or institutions to direct sea grant colleges, programs, or regional consortia.";

(3) by striking out paragraphs (6) and (7) and inserting the following:

"(6) The term 'ocean, coastal, and Great Lakes resources' means the resources that are located in, derived from, or traceable to, the seabed, subsoil, and waters of—

"(A) the coastal zone, as defined in section 304(1) of the Coastal Zone Management Act (16 U.S.C. 1453(1));

"(B) the Great Lakes;

"(C) the territorial sea;

"(D) the exclusive economic zone;

"(E) the Outer Continental Shelf; and

"(F) the high seas.

"(7) The term 'resource' includes—

"(A) living resources (including natural and cultured plant life, fish, shellfish, marine mammals, and wildlife);

"(B) nonliving resources (including energy sources, minerals, and chemical substances);

"(C) the habitat of that living resource, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment that contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(D) man-made, tangible, intangible, actual, or potential resources."; and

(4) by adding at the end the following new paragraph:

"(15) The term 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere.".

(b) CONFORMING AMENDMENT RELATING TO GREAT LAKES RESOURCES.—

(1) Each of the following provisions of the National Sea Grant College Program Act are amended by striking out "ocean and coastal resources" each place it appears and inserting "ocean, coastal, and Great Lakes resources":

(A) Paragraphs (4) and (5) of section 202(a) (as redesignated by section 3(1)(A) of this Act).

(B) Section 202(c).

(C) Paragraphs (4) and (11) of section 203.

(D) Sections (b)(1)(A) and (d)(3) of section 204.

(E) Paragraphs (2)(A) and (3) (A) and (B) of section 207(a).

(F) Paragraph (1) of section 209(c).

(G) Section 210.

(2) Paragraph (5) of section 204(c) is amended by striking out "ocean and coastal resource" and inserting "ocean, coastal, and Great Lakes resources".

(c) CONFORMING AMENDMENTS RELATING TO UNDER SECRETARY OF COMMERCE FOR OCEANS AND ATMOSPHERE.—Section 204(c) is amended by striking out "Administrator" each place it appears and inserting "Under Secretary".

SEC. 5. CONTRACTS AND GRANTS.

Section 205 (33 U.S.C. 1124) is amended at the end of subsection (d)(1), by adding the following: "Terms, conditions, and requirements imposed by the Secretary under this paragraph shall minimize Federal prior approval requirements.".

SEC. 6. SEA GRANT STRATEGIC RESEARCH PROGRAM.

Section 206 (33 U.S.C. 1125) is amended to read as follows:

"SEC. 206. STRATEGIC MARINE RESEARCH PROGRAM.

"(a) The Under Secretary may make grants or enter into contracts to carry out the strategic research program provided for under this subsection. A grant or contract may cover up to 100 percent of the cost of the research for which the grant or contract is made or awarded.

"(b) Within 1 year after the effective date of the Marine Science, Technology, and Policy Development Act of 1987, and every 3 years after that date, the Under Secretary shall develop and publish in the Federal Register, a sea grant strategic research plan. The plan shall—

"(1) identify and describe a limited number of priority areas for strategic research in fields associated with ocean, coastal, and Great Lakes resources; and

"(2) indicate the goals and timetables for the research.

"(c) In developing each sea grant strategic research plan, the Under Secretary shall consult with relevant Federal agencies, sea grant directors, other representatives of sea grant colleges, sea grant programs, and sea grant regional consortia, non-governmental marine scientists, and other interested parties, both public and private. At the time of publication, the Under Secretary shall submit the plan to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the same day. The Under Secretary may not make a grant or enter into a contract under this section for priority area research under the plan before the 45th day after the date of receipt of the plan by the Committees.

"(d) In selecting priority areas for inclusion in the sea grant strategic research plan, the Under Secretary shall concentrate on—

"(1) those critical resource and environmental areas that, because of—

"(A) their national, international or global scope, fundamental nature, or long-range aspects,

"(B) the scale of the needed research effort, or

"(C) the need for the broadest possible university involvement,

are precluded from adequate funding under other sections of this Act; and

"(2) those areas where the strength and capabilities of the sea grant colleges, sea grant programs, and sea grant regional consortia in mobilizing talent for sustained programmatic research and technology transfer make them particularly qualified to manage strategic marine research under this section.

"(e) Subsections (c) and (d) of section 205 apply to applications for grants or contracts, and to grants made or contracts entered into, under this section.

"(f) Within 1 year after the effective date of this Act, the Under Secretary of Commerce for Oceans and Atmosphere shall prescribe under section 553 of title 5, United States Code, rules and regulations necessary to carry out section 206(a) of the National Sea Grant College Program Act (33 U.S.C. 1125), after giving notice and opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, nongovernmental marine scientists, sea grant directors, other representatives of sea grant colleges, programs, and regional consortia, and other interested parties, both public and private.".

SEC. 7. FELLOWSHIPS.

Section 208 (33 U.S.C. 1127) is amended to read as follows:

"SEC. 208. FELLOWSHIPS.

"(a) IN GENERAL.—To carry out the educational and training objectives of this Act, the Under Secretary shall support a program of fellowships for qualified individuals at the graduate and post-graduate level. The fellowships shall be related to ocean, coastal, and Great Lakes resources and awarded pursuant to guidelines established by the Under Secretary.

"(b) DEAN JOHN A. KNAUSS MARINE POLICY FELLOWSHIP.—

"(1) The Under Secretary may award marine policy fellowships to support the placement of qualified individuals in positions with the executive and legislative branches of the United States Government. No fellowship may be awarded under this paragraph for a period exceeding 1 year.

"(2) For purposes of this subsection, the term 'qualified individual' means an individual at the graduate level of education in fields related to ocean, coastal and Great Lakes resources.

"(c) POSTDOCTORAL FELLOWSHIPS.—

"(1) The Under Secretary shall establish and administer a program of postdoctoral fellowships to accelerate research in critical subject areas. The fellowship awards—

"(A) shall be for 2 years;

"(B) may be renewed once for not more than 2 years;

"(C) shall be awarded on a nationally competitive basis;

"(D) may be used at any institution of post-secondary education involved in the national sea grant college program;

"(E) shall be for up to 100 percent of the total cost of the fellowship;

"(F) may be made for any of the priority areas of research identified in the sea grant strategic research plan in effect under section 206(a); and

"(G) may be made to recipients of terminal professional degrees, as well as doctoral degree recipients.".

SEC. 8. SEA GRANT REVIEW PANEL.

Section 209 (33 U.S.C. 1128) is amended as follows:

(1) Subsection (b) is amended—

(A) by striking out the matter preceding paragraph (1) and inserting "The Panel shall advise the Secretary, the Under Secretary, and the Director concerning—"; and

(B) by inserting "and section 3 of the Sea Grant Program Improvement Act of 1976" before the semicolon at the end of subsection (b)(1).

(2) Subsection (c) is amended—

(A) by striking out the second sentence of paragraph (1) and inserting the following: "The Director and a director of a sea grant program shall serve as nonvoting members of the panel. The directors of sea grant programs shall elect a representative to serve on the panel.";

(B) by striking "five" in paragraph (1) and inserting "8";

(C) by adding at the end of paragraph (2) the following: "At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel."; and

(D) by striking out "office, or until 90 days after such date, whichever is earlier." in paragraph (3) and inserting "office.".

SEC. 9. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 211 (33 U.S.C. 1130) is amended as follows:

"SEC. 211. MARINE AFFAIRS AND RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

"(a) The Under Secretary may provide annual grants to enable eligible institutions to assist the institutions to achieve the following objectives.

"(1) To improve and support curriculum offerings in marine affairs and resource management at the graduate level and to develop related educational materials.

"(2) To support graduate students, through scholarships and teaching and research fellowships, in marine affairs and resource management.

"(3) To increase multidisciplinary research in marine resources management.

"(b) For purposes of this section, the term 'eligible institution' means any sea grant college, sea grant regional consortium or institution of higher education having a sea grant program that—

"(1) maintains a graduate program in, or institute or center for, marine affairs and resource management;

"(2) has prepared a development plan to improve and strengthen that program, institute, or center; and

"(3) has demonstrated, to the extent consistent with State law, its intention to support such improved and strengthened education and training after financial assistance under this section has ceased.

"(c) Applications for grants under this section shall be made in such manner as the Under Secretary shall require.

"(d) No grant in excess of $400,000 may be made to an eligible institution under this section for any year.

"(e) Each institution receiving a grant under this subsection shall inform the Under Secretary, in such manner as the Under Secretary may require annually, and within 90 days following the termination of the grant, regarding the results of the activities and measures to which the institution applied the grant.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 212 (33 U.S.C. 1131) is amended to read as follows:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out the provisions of this Act, an amount:

"(1) for fiscal year 1988, not to exceed $44,000,000, including an amount not to exceed $500,000 for section 206.

"(2) for fiscal year 1989, not to exceed $58,000,000, including an amount not to exceed $5,000,000 for section 206.

"(3) for fiscal year 1990, not to exceed $64,000,000, including an amount not to exceed $10,000,000 for section 206.

"(b) Sums appropriated pursuant to this section shall remain available until expended.

"(c) The amount of any grant, or portion of a grant, made to a person under any section of this Act that is not obligated by that person during the first fiscal year for which it was authorized to be obligated or during the next fiscal year shall revert to the Secretary. The Secretary shall add that reverted amount to the funds available for grants under the section for which the reverted amount was originally made available.".

SEC. 11. SEA GRANT INTERNATIONAL PROGRAM.

Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended to read as follows:

"(a) The Under Secretary may enter into contracts and make grants under this section to—

"(1) enhance cooperative international research and educational activities on important ocean, coastal and Great Lakes resources;

"(2) promote shared marine activities with universities in countries with which the United States has sustained mutual interest in ocean, coastal, and Great Lakes resources;

"(3) encourage technology transfer that enhances wise use of ocean, coastal, and Great Lakes resources in other countries and in the United States;

"(4) promote the exchange among the United States and foreign nations of information and data with respect to the assessment, development, utilization, and conservation of such resources;

"(5) use the national sea grant college program as a resource in other federal civilian agency international initiatives where research, education, technology transfer and public service programs concerning the understanding and wise use of ocean, coastal, and Great Lakes resources are fundamentally related to the purpose of those initiatives; or

"(6) enhance regional collaboration with respect to marine scientific research between foreign nations and the United States including such activities as those which improve our understanding of global oceanic and atmospheric processes, undersea minerals resources within the exclusive economic zone, and productivity and enhancement of living marine resources in regions such as, but not limited to—

"(i) the Caribbean and Latin American region; and

"(ii) the Pacific Island region.

"(b) Any sea grant college, sea grant program, and sea grant regional consortium and any institution of higher education, laboratory, or institute (if the institution, laboratory, or institute is located within a State) may apply for and receive financial assistance under this section. The Under Secretary shall prescribe rules and regulations, in consultation with the Secretary of State, to carry out this section. Before approving an application for a grant or contract under this section, the Under Secretary shall consult with the Secretary of State. A grant made, or contract entered into, under this section is subject to section 205(d) (2) and (4) of this Act and to any other requirements that the Under Secretary considers necessary and appropriate.".

SEC. 12. EFFECTIVE DATE.

This Act takes effect October 1, 1987.

SEC. 13. GREAT LAKES MAPPING.

(a)(1) SHORT TITLE.—This section may be cited as the "Great Lakes Shoreline Mapping Act of 1987".

(2) DEFINITIONS.—

In this section:

(A) "Director" means the Director of Charting and Geodetic Services of the National Ocean Service, within the National Oceanic and Atmospheric Administration.

(B) "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and the Saint Lawrence River to the Canadian border), to the extent that those lakes are subject to the jurisdiction of the United States Government.

(b) PREPARATION OF SHORELINE MAPS.—

(1) Notwithstanding another law, the Director, in consultation with the Director of the United States Geological Survey, shall prepare maps of the shoreline areas of the Great Lakes. These maps shall include—

(A) bathymetry of the nearshore area;

(B) topography of the adjacent shoreline;

(C) the geological conditions of the shore and nearshore area; and

(D) information on the recent geological past.

(2) These maps shall be of appropriate scale and detail and take into account the greater information needs in areas subject to a high risk of erosion or flooding.

(3) To the maximum extent practicable, the maps prepared under authority of subsection (b)(1) of this section shall be consistent with similar shoreline maps prepared by, or for the use of, the Government of Canada.

(4) The maps prepared under subsection (b)(1) of this section shall contain appropriate information for use in predicting and preventing damage caused by erosion and flooding in the Great Lakes.

(5) In preparing the maps referred to in subsection (b)(1) of this section, the Director shall consult with, and take into consideration the informational needs of—

(A) the United States Army Corps of Engineers;

(B) the Federal Emergency Management Agency;

(C) other appropriate United States Government agencies;

(D) the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

(E) appropriate local government units; and

(F) the general public.

(6) The Director shall make available the maps referred to under subsection (b)(1) of this section to—

(A) the United States Government;

(B) State governments;

(C) local governments; and

(D) the general public.

(7) The costs of reproducing and distributing the maps prepared under subsection (b)(1) of this section may be recovered under section 9701 of title 31, United States Code, or another law.

(c) SHORELINE MAPPING PLAN.—

(1) Within three months of the date of enactment of this section, the Director, in consultation with the Director of the United States Geological Survey, shall prepare a mapping plan for the United States portion of the Great Lakes shoreline.

(2) This plan shall include—

(A) a work proposal and a division of responsibilities between the United States Coast and Geodetic Survey and the United States Geological Survey;

(B) a time schedule for completion of the maps required under subsection (b)(1) of this section;

(C) recommended funding levels for completing the maps required under subsection (b)(1) of this section; and

(D) an area mapping schedule, with first priority given to shoreline areas subject to a high risk of flooding or erosion.

(3) Copies of this plan shall be submitted on completion to the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) AUTHORIZATION FOR CONTRACTS.—Subject to appropriations, the Director may enter into contracts or agreements with other United States Government agencies, State governments, local government units, or private entities, under a reimbursable or cost-sharing basis, as appropriate, to the extent permitted by law, to carry out the responsibilities under this section.

(e) AUTHORIZATION FOR APPROPRIATIONS.—

(1) Not more than $100,000 for fiscal year 1988 is authorized to be appropriated to prepare the mapping plan described in subsection (c) of this section.

(2) Any amounts appropriated to carry out this section shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3017 reauthorizes the National Sea Grant College Program for 3 years and adds important new elements to the program. It provides expanded funding authorizations to support these new initiatives and to bolster the "core" program that has made Sea Grant such a success.

I am proud that well over 100 of my colleagues have cosponsored this legislation.

Sea Grant was established by Congress in 1966, the year in which I was first elected to Congress. The program was modeled after the Land Grant College Program. It was thought that the same approach applied by the Land Grant Program to the Nation's agricultural resources could be applied, through Sea Grant, to benefit the Nation's ocean and Great Lakes resources. I am proud to say that we were right. We were right then, and we are right now in proposing to reauthorize and strengthen this program.

Like Land Grant, Sea Grant is a three-part program, incorporating research, extension, and education functions. H.R. 3017 does not alter this basic structure but builds upon it with several new and important initiatives:

A strategic marine research initiative that will focus Sea Grant capabilities into specific areas of scientific endeavor. Examples might include marine biotechnology, estuarine and coastal processes, and global environmental change.

A postdoctoral fellowship program that will channel the best and brightest of our scholars into emerging and promising fields of research.

A broadened international research program that will encourage more cooperative efforts between nations on a regional and global level.

We have heard a great deal recently about the declining international competitiveness of U.S. industry. The White House-sponsored Packard-Bromley report—"a renewed partnership," a report of the White House Science Council, 1986—emphasizes the need for university-industry-Government partnership approaches to science as a fundamental base for economic growth and competitiveness. Sea Grant offers a model for this type of effort.

Yet, since 1981, the administration has proposed the termination of the National Sea Grant College Program. Every year, Congress has rejected such proposals and has kept the Sea Grant Program level funded. The time has come to do more for this essential program that fosters both cooperation and competitiveness in marine science, oceanography, and other coastal and Great Lakes issues.

Perhaps the most important provision of this legislation is the commitment to expanded funding support for Sea Grant. The bill provides $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990. The current authorization for fiscal year 1987 is $44 million.

These are justifiable funding levels. In 1981, Sea Grant received its highest annual appropriation—$41.8 million. Since that time, the annual funding for this program has varied between $35 and $39 million. This real decrease in funding, coupled with the effects of inflation have eroded Sea Grant's capabilities.

Our committee hearings documented that each of the 29 Sea Grant Programs have cut operations. For most, these reductions have exceeded 30 percent. Predictably, projects have declined by one-third and support for graduate students has declined by as much as 40 percent. Direct support for education activities, especially precollege education, has been virtually eliminated.

As with the Land Grant Program, Sea Grant has been a great investment for our Nation, and the backbone of this program is the corps of professionals who have dedicated themselves to this cause. The future of the program is rooted in the minds and energy of students who will be the Sea Grant researchers and specialists of tomorrow. The Congress should commit itself to maintaining this investment. A vote for H.R. 3017 is a vote for a strong commitment.

□ 1500

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. Lowry].

Mr. LOWRY of Washington. Mr. Speaker, I thank the gentleman for yielding me this time.

I want to take this opportunity to commend the gentleman from North Carolina [Mr. Jones], the chairman, for the gentleman's longstanding leadership on the important issue of the Sea Grant College Program.

The gentleman from North Carolina [Mr. Jones] and the gentleman from Michigan [Mr. Davis], the ranking minority member, were both original sponsors of the important Sea-Grant legislation that is really the basis for this bill that we brought unanimously out of our committee to the floor today.

Mr. Speaker, H.R. 3019 reauthorizes the highly successful National Sea Grant College Program which was established in 1966.

The legislation: First, reauthorizes the program for 3 years; second, retains the successful core program which emphasizes research, advisory services, and education; third, institutes a new major initiative in strategic marine research; fourth, reasserts congressional support for ongoing educational fellowships within the legislative and executive branches; fifth, authorizes a new program for post-doctoral fellowships; sixth, expands the membership of the Sea Grant Review Panel; seventh, authorizes financial assistance for the support of marine affairs and resource management graduate programs; and eighth, broadens the authority for conducting international projects.

Sea grant has broad-based bipartisan support, from Mr. Jones of North Carolina and Mr. Davis of Michigan. Over 150 Members cosponsored one or more of the three reauthorization bills that were introduced. The Subcommittee on Oceanography, held a hearing on sea grant reauthorization on June 30, 1987, and markup was held on July 23, 1987. On July 27, 1987, the Committee on Merchant Marine and Fisheries reported out a "clean bill," H.R. 3017, which we are considering today. I believe that H.R. 3017 combines the best provisions of the previous bills.

H.R. 3017 authorizes the program at levels of $44 million in fiscal year 1988, $58 million in fiscal year 1989, and $64 million in fiscal year 1990.

The Strategic Marine Research Program requires NOAA to develop a plan which identifies a limited number of national priorities for strategic research in fields associated with ocean, coastal, and Great Lakes resources. This plan is to specify the goals and timetables for such research. This program is an extremely important one because it focuses on the expertise and talent one of various sea grant institutions in tackling such national and international problems as global change, coastal and near-shore pollution, and coastal erosion.

I want to stress to my colleagues that the entire Nation and inland universities benefit from the Sea Grant Program. For example, at the University of Oklahoma sea grant-supported researchers are doing research on natural chemicals that could be useful in treating cancer and leukemia, hypertension, and heart disease. At Cornell University, a sea grant-funded enzyme chemist has discovered that a chemical, which is found in the gut of the ordinary clam is capable of breaking down carbohydrates which cause dental plaque on our teeth, clog filters in the breweries that make beer, and that lead to life-threatening mold in the blood vessels of burn victims. At the University of Washington, sea grant researchers have found that certain chemical compounds that are found in aquatic plants may prove helpful in making children's clothing safe from fire. These are just a few examples of how we all benefit from the Sea Grant Program. I urge all of my colleagues to support this important reauthorization.

Mr. DAVIS of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are currently in the midst of "Coastweek," a 2-week celebration of our Nation's coastal environment, and it is appropriate that we consider H.R. 3017, a bill to reauthorize the National Sea Grant College Program, during this time. By approving this bill we commend the contributions that the National Sea Grant College Program has made to our country by increasing our understanding of ocean, coastal, and Great Lakes resources, educating promising young scientists in marine sciences and policy, and aiding in the development of important economic contributions.

While a nationally important program, Sea Grant has made a special contribution to my region of the country, the Great Lakes States. During the Merchant Marine and Fisheries Committee's deliberations on this bill, we heard that the National Sea Grant College Program provides the only coordinated research effort in the Great Lakes. In addition, Sea Grant has been instrumental in helping Great Lakes residents deal with high water levels by conducting erosion and flooding research, educating homeowners on floodproofing techniques, and warning of the dangers of locating too close to shore. H.R. 3017 builds on Sea Grant's efforts by recognizing the important role that the Great Lakes play in Sea Grant operations.

The bill also authorizes the preparation of a shoreline mapping plan to update the current out-of-date coastal maps for the U.S. portion of the Great Lakes shoreline. The maps, which I hope will result from this plan, will update coastal maps which no longer accurately reflect the configuration of our shores; in fact, some of these maps were prepared over 50 years ago! Incidentally, through contract authority, Sea Grant institutions will play an important role in assisting with geological surveys, data collection and analysis, and field support.

Appropriations of $100,000 are authorized for fiscal year 1988 for the preparation of this mapping plan. This plan will designate priority mapping areas, assign responsibilities between the Departments of Commerce and Interior, and set out a budget. The maps prepared under this plan are intended to serve a variety of informational functions. It is estimated that they could save the United States $4.3 million each year by avoiding duplicative maps. Moreover, these maps will help prevent costly future damage along the Great Lakes shoreline by improving planning capabilities for both communities and individuals and by providing accurate shoreline data for erosion and flood protection projects. Thus costly onsite after-the-fact modifications will be avoided.

I hope that my colleagues will support this bill, which was the product of careful deliberations among many of us on the Merchant Marine and Fisheries Committee, especially with Committee Chairman Jones and Oceanography Subcommittee Chairman Lowry. The National Sea Grant College Program has made and will continue to make significant contributions far in excess of our investment in this unique program linking together Government, industry, and academia.

Mr. JONES of North Carolina. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I thank the gentleman from North Carolina [Mr. Jones], my distinguished chairman, for yielding to me.

I congratulate the gentleman from North Carolina [Mr. Jones], and the gentleman from Washington [Mr. Lowry], the chairman of the Subcommittee on Oceanography, and the gentleman from Michigan [Mr. Davis], the ranking minority member, and the gentleman from New Jersey [Mr. Saxton], for their help on H.R. 3017, national sea grant college authorization legislation.

Mr. Speaker, I strongly support H.R. 3017 which, as the gentleman indicated, retains the successful core Sea Grant Program of research, advisory services, and education by authorizing funding levels of $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990.

In addition, H.R. 3017 authorizes a new initiative in strategic marine research, a new program of postdoctoral fellowships, and financial assistance for the support and improvement of marine affairs and resource management graduate programs.

It also broadens the authority for conducting international research projects, and authorizes $100,000 for a Great Lakes Mapping Program.

Mr. Speaker, we get back manyfold for every dollar we invest in research, extension services, and education in this particular program.

I urge the Members to once again support an extremely important initiative, H.R. 3017.

MINNESOTA TWINS DIVISIONAL CHAMPIONS

(By unanimous consent, Mr. Vento was allowed to speak out of order.)

Mr. VENTO. Mr. Speaker, I am pleased to observe in the House that last night the Minnesota Twins made baseball history. The Minnesota Twins won the divisional title for the first time in 17 years.

I want to congratulate them, and I think I can speak for all members of the Minnesota delegation. We wish them well against Toronto and in the World Series.

I know that many of our staff members were out celebrating last night and recognizing the significant achievement that has been made by the Minnesota Twins led by Kirby Puckett, Hrbek, and Brunansky, and Manager Tom Kelly. We have got a dynamic group of baseball players in Minnesota. They have won this western division race in a heroic fashion. They have led the division through the summer and had a difficult time with a great deal of competition. Minnesotans and Midwesterners generally are very proud of their efforts, and we wish them well.

Mr. DAVIS of Michigan. Mr. Speaker, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Michigan.

Mr. DAVIS of Michigan. Mr. Speaker, I thank the gentleman for yielding.

I agree with almost everything the gentleman said, but the gentleman misspoke when he said they may be playing the Blue Jays.

I think the gentleman meant to say the Detroit Tigers.

Mr. VENTO. The Tigers have a player from Minnesota, Jack Morris. I am sure they will be well represented in the playoffs. We are looking forward to these games and clearly don't want to write off the Tigers today. I want to also congratulate the Giants, but I am sure their joy will be shortlived.

Mr. Speaker, today's headlines say it all. I want to share with my colleagues these words of wisdom from the St. Paul Pioneer Press Dispatch and the Minneapolis Star-Tribune:

[From the Minneapolis Star Tribune, Sept. 29, 1987]

THE MAGIC NUMBER IS 0

[From the St. Paul Pioneer Press Dispatch, Sept. 29, 1987]

TWINS ARE BEST IN THE WEST

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DAVIS of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Saxton], who has played such a key role in developing this legislation.

□ 1515

Mr. SAXTON. Mr. Speaker, I do have a statement for the Record, which I shall not proceed to give here on the floor in the interest of time and so as not to repeat what so many others have said, but I would like to say this. The gentleman from Washington [Mr. Lowery] pointed out, as did the ranking member on our side of the aisle, that there are many spinoff ancillary benefits to this program, and that is very true. That is good reason in itself to support this bill.

I would like to point out that there are some very direct reasons to vote for this bill as well. I am sure the gentleman did not mean to pass by those. He is more aware of them than I am, from having worked on this project for so many years and doing so a fine job.

I have here, Mr. Speaker, the National Sea Grant College Program for the years 1987 through 1992, and just to give the Members of this House an idea of how important this program is, you heard me and the other gentleman from New Jersey [Mr. Hughes] on the previous bill explain the problems that we have had at the shore in the Northeastern part of our country this summer. There are various solutions perhaps to those problems, but before we get to the solutions it is necessary to understand these problems. The programs that go on through the National Sea Grant College are imperative types of research programs that help us understand those problems.

In the State of New York, for example, to paraphrase the National Sea Grant College Program report:

> In the summer of 1985, a mysterious "bloom" of algae spread across the waters of eastern Long Island killing the $1.3 million scallop crop.
>
> The high degree of responsiveness of New York sea grant allowed research into the causes and effects of the bloom to be launched immediately.

In my home State of New Jersey:

> Sea grant has grown steadily in value to New Jersey by directing attention to the challenges and opportunities presented by the State's extensive and invaluable marine resources. Emphasis on critical problems dealing in fisheries, coastal processes and pollution continue to be at the forefront of sea grant activities under the New Jersey program.

And it is not just the Northeast. This is a nationwide program which should be important to every Member of this House, as in the State of Wisconsin, as another example.

> Sea grant scientists are identifying the sources of toxic chemicals in the aquatic environment and predicting how long these compounds will remain a problem in the great lakes. University of Wisconsin scientists have identified the causes and the sources of these pollutants.

And in the State of Washington, the gentleman's own State, who has worked so hard on this bill:

> Oysters have been harvested in southern Puget Sound and Willapa Bay for decades. By the 1950's, however, the native oyster had all but disappeared—but today, the oyster industry in the Pacific Northwest is booming again—the result of sea grant research to develop a means for mass producing oyster larvae.

This is a great program. I commend the gentleman from Washington for working so hard on it. I ask my colleagues and Members of this House to vote in support of it.

Mr. Speaker, I rise in support of H.R. 3017, the National Sea Grant College Program Act, to reauthorize the National Sea Grant Program for fiscal years 1988 through 1990.

The National Sea Grant Program was created in 1966, and modeled after the already successful Land Grant College Program. Its purpose is to help facilitate research and education relating to marine resources, including conservation.

Currently, there are 22 sea grant colleges, designated by the National Oceanic and Atmospheric Administration, and 7 institutional programs that link together over 300 universities and affiliated institutions in 34 States.

Mr. Speaker, New Jersey, like numerous other coastal States, is proud to be one of the States to benefit from the National Sea Grant College Program.

The New Jersey Sea Grant Institutional Program is managed by the New Jersey marine sciences consortium, an alliance of 28 educational institutions, a number of businesses and private entrepreneurial organizations, and individuals interested in marine affairs. The New Jersey program is now entering into its 11th year.

Many issues regarding the safeguarding of our coastal and marine environments have been tackled by the Sea Grant Program in New Jersey. For example, the summers of 1985 and 1986 produced a mysterious "bloom" or algae along the shores of New York and New Jersey. The Sea Grant Program was there with a high degree of responsiveness to get the research going.

In 1987, New Jersey has seen another summer of beach closings resulting from a variety of ocean pollution sources. The Sea Grant Program, with the rebuilding of the Sandy Hook Research Laboratory, will be in the prime spot to lend a hand into the research and implementation of programs designed to solve these serious problems.

Mr. Speaker, several studies have been done on the economic impact of the Sea Grant Program. In fact, one such study back in the early 1980's concluded that the $270 million spent on sea grant in its 14-year history has stimulated gross revenues and savings amounting to $227 million annually for the marine industry, commerce, and government. A 1981 study by the Heritage Foundation also recommended increasing funding for sea grant based on its economic benefits.

Mr. Speaker, H.R. 3017 authorizes $44 million for fiscal year 1988, $58 million for fiscal year 1989, and $64 million for fiscal year 1990, for the National Sea Grant College Program. I think that is a fair price to pay for the benefits gained for our Nation's oceans and Great Lakes.

I am sure those of us that represent coastal and Great Lakes States can vouch for the importance of this vital program. It is with great pleasure that I support H.R. 3017 to reauthorize the National Sea Grant College Program. I encourage all Members to do the same.

Mr. AuCOIN. Mr. Speaker, I rise in support of the Marine Science, Technology, and Policy Development Act of 1987. This act will reauthorize the highly successful National Sea Grant Program. It will also initiate a strategic marine research effort and create new postgraduate research fellowships.

If there is a single overriding imperative we face as we exercise stewardship over our resources, it is to pass a healthy resource on to our children. We cannot fulfill this imperative if we let growing pressure on marine resources outstrip our knowledge of them. Nor can we make wise use of our oceans unless we put our scientists to work making the discoveries and applying the technologies that take us back again and again to the source of life—the sea—for our food, our energy, and even our medicines.

Mr. Speaker, oceanography is a science still in its infancy. We know so little about animal and plant life in the oceans, about minerals, currents, cycles, about the effects of pollution, erosion, and climatic change. The exclusive economic zone puts under U.S. jurisdiction an area of ocean and seabed resources larger than the Nation's land mass. I believe the Federal Government has a leading role to play in research efforts in this marine environment and that sea grant is on the leading edge of some of the most important research and education priorities. I regret that this administration does not share my view, and find it particularly dismaying that the President has chosen to try to end the Sea Grant Program.

The Sea Grant Program is a model partnership between Federal and local and private sources. Matching grants leverage our best minds in universities and industry into the highest priority research areas. I believe this is a program that has more than justified its relatively small costs.

Let me give you just one example of the kind of results we are seeing from research conducted under the auspices of the Sea Grant Program. A pharmaceutical chemist at Oregon State University, Dr. Bill Gerwick, recently announced that he has been able to isolate an important hydroxylated fatty acid from a red seaweed. This compound, which is currently on the market for about $4,000 per milligram, will now be much cheaper, and much more available. The value of this discovery will be in the vastly enhanced research possibilities into the health benefits of fish oils in the human diet.

Mr. Speaker, new ability to understand how seafood in the diet reduces the risk of heart disease is just one item in the broad and exciting marine research agenda of the Sea Grant Program. It is one reason among many why I support sea grant and why I commend this bill to my colleagues.

Ms. KAPTUR. Mr. Speaker, I rise in strong support of H.R. 3017, the National Sea Grant College Program Act. As a representative from the Great Lakes region of our country, I have witnessed first hand the tremendous value of the Sea Grant Program. The research and educational opportunities generated by this program have led to dramatic reductions in pollution levels, increased development, and wise management of our coastal resources.

This summer, I participated in Ohio State University's sea grant tour of Lake Erie. I was impressed with the quality of the program as well as the commitment and dedication of those involved with it. Over the years, the Sea Grant College Program has had the support of both Federal and State government officials of both parties.

The success of this program is testimony to what can be accomplished when Government and academia work together for the common good. I urge my colleagues to support H.R. 3017, the National Sea Grant College Program Act. In doing so we are protecting our precious freshwater resources for the future. At the same time we are making them available to more citizens to enjoy and appreciate.

Miss SCHNEIDER. Mr. Speaker, I rise in support of H.R. 3017, a bill to reauthorize the National Sea Grant College Program Act. Throughout my tenure in Congress, I have consistently supported the National Sea Grant College Program as one which is both cost effective and serves the Nation's best interests. Sea grant has been dedicated to promoting the understanding, development, utilization, and conservation of our ocean, coastal, and Great Lakes resources.

As the United States examines its need for competitiveness in the international marketplace, the role of sea grant provides an important contribution to this national drive because it forms combined Government-private sector science and technology centers. It has had an extensive and successful technology transfer program, which has enabled the United States to compete economically in the ocean sector with our foreign trading partners. Biotechnology research has led to a number of exciting discoveries around the country, and finally, sea grant's eductional programs have increased scientific knowledge. Does this sound familiar? These are the types of activities suggested by the 1986 Packard-Bromley Report in order to increase the U.S. economic growth and competitiveness! Obviously, we should not terminate a program which has proven its success in serving our national objectives. A 1981 estimate of only part of the Sea Grant College Program—57 specific projects—indicated that these projects were responsible for $230 million in annual gross revenues or savings for marine- or coastal-based industries. We must continue improving our competitive posture in the international marketplace, and sea grant can make important contributions to this drive.

I take special pride in section 7 of this bill which entitles the Congressional Fellowship Program "the Dean John A. Knauss Fellowship Program." John Knauss, who this summer retired after 25 years as dean of the graduate school of oceanography at the University of Rhode Island, is a distinguished marine researcher, and is considered one of the "founding fathers" of the Sea Grant Program.

We must permit the growth and development of the Sea Grant College Program, while realizing congressional fiscal responsibility. H.R. 3017 responsibly addresses both of these concerns, and I strongly urge all of my colleagues to support this important program.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 3017, the Marine Science, Technology and Policy Development Act of 1987, which extends and strengthens the National Sea Grant College Program. This program, now entering its third decade, continues to be an effective and productive national program which has contributed to the competitiveness of the Nation's marine economy, to our pool of skilled manpower, to scientific achievement, to technology transfer, and to public education on critical resource and environmental issues.

It is the principal source of academic research in the coastal oceans, the Nation's estuaries, and the Great Lakes, and is a primary national resource in the areas of water quality, aquaculture, biotechnology, seafood and marine products, fisheries recruitment, ocean and coastal engineering, and marine policy.

In my own district and State, the Sea Grant Program is contributing to vital lifesaving sciences, to shoreline protection and economic growth. I would like to highlight just four of the many programs Minnesota's Sea Grant College Program has and is sponsoring at the University of Minnesota, Duluth:

Research into hypothermia and cold water drowning—beautiful and popular as our northern waters are for recreation and commerce, they can also represent threats to life not found in warmer waters. Hypothermia, or cooling of the body's core leading to death if untreated, is a danger to hikers and others caught, unprotected, in rainstorms or prolonged exposure to the cold. It is an even more rapid killer of people who fall into cold water, which steals body heat almost immediately. There is a strange phenomenon called cold water drowning, where people who drown in cold water can under certain circumstances be revived after as much as 30 to 40 minutes under water. Minnesota sea grant has done extensive research into both these subjects, and has developed both books and an educational videotape to help acquaint people with the dangers of hypothermia, and the possibility of saving victims of cold water drowning.

New, better, lifejackets—Minnesota sea grant joined with the Stearns Manufacturing Co., a multimillion-dollar international business headquartered in St. Cloud, MN, now the largest manufacturer of PFD's, or personal floatation devices. Using the research capability and information developed by sea grant at the University of Minnesota at Duluth, Stearns has developed a new line of lifejackets that will protect from the cold as well as keep its wearer afloat.

Aquaculture research—sea grant has performed economic feasibility studies for communities, and has distributed information through the Agricultural Extension Service and sponsored workshops for those who want to enter this field. They have helped one of our Indian reservations identify and develop local markets for their underutilized fish, thereby increasing employment and economic opportunities on the reservation.

Erosion damage prevention—the program also, in response to the high Great Lakes water levels which so recently threatened our shorelines, is working with shoreline property owners on a 1-to-1 basis, helping them protect their property from erosion.

More important for the long run, Sea Grant is also working with shoreline communities, helping them establish programs to prevent damages should the waters rise again. Sea Grant helps local officials identify erosion-prone areas, and advises them on zoning and other long-range measures that can and must be taken now to prevent future damage.

I strongly commend my colleagues on the Merchant Marine and Fisheries Committee who worked so hard to develop this legislation, which will keep these programs going and fund equally worthy ones around our coastline.

I urge my colleagues to support this important bill, and hope it can be enacted at the earliest possible moment.

Mr. DAVIS of Michigan. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3017, as amended.

The question was taken.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 1495, de novo;
H.R. 2596, de novo;
H.R. 2893, by the yeas and nays;
H.R. 1171, by the yeas and nays; and
H.R. 3017, de novo.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

GREAT SMOKY MOUNTAINS WILDERNESS ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1495, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1495, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ADMIRALTY ISLAND NATIONAL MONUMENT LAND MANAGEMENT ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2596, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2596, as amended.

The question was taken.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 385, nays 19, not voting 30, as follows:

[Roll No. 334]

YEAS—385

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
Badham
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Daniel
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sundquist
Swift
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—19

Archer
Ballenger
Barton
Brown (CO)
Crane
Dannemeyer
DeLay
Frenzel
Gekas
Holloway
Hopkins
Inhofe
Nielson
Sensenbrenner
Shumway
Stump
Swindall
Upton
Walker

NOT VOTING—30

AuCoin
Biaggi
Boner (TN)
Byron
Cheney
Daub
Dingell
Edwards (OK)
Ford (TN)
Gephardt
Gray (IL)
Hawkins
Kemp
Livingston
Lott
Mack
Martin (IL)
McEwen
McGrath
McHugh
Michel
Molinari
Parris
Quillen
Roemer
Spence
Sweeney
Tauzin
Vander Jagt
Wortley

☐ 1530

Messrs. UPTON, GEKAS, BROWN of Colorado, and INHOFE changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all additional motions to suspend the rules on which the Chair has postponed further proceedings.

FISHERMEN'S PROTECTIVE ACT REAUTHORIZATION

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2893, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 2893, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 0, not voting 30, as follows:

[Roll No. 335]

YEAS—404

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland

Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley

Packard
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)

Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—30

Biaggi
Boner (TN)
Byron
Cheney
Daub
Davis (IL)
Dingell
Ford (TN)
Gephardt
Gray (IL)

Hawkins
Kemp
Livingston
Lott
Martin (IL)
McEwen
McGrath
McHugh
Michel
Molinari

Oberstar
Parris
Quillen
Roemer
Spence
Sweeney
Tauzin
Torricelli
Vander Jagt
Wortley

□ 1545

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NATIONAL OCEANS POLICY COMMISSION ACT OF 1987

The SPEAKER pro tempore (Mr. MURTHA). The pending business is the question of suspending the rules and passing the bill, H.R. 1171, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 1171, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device and there were—yeas 311, nays 93, not voting 30, as follows:

[Roll No. 336]

YEAS—311

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bunning
Bustamante
Campbell
Cardin
Carper
Chandler
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
DioGuardi
Dixon
Donnelly

Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins

Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Lukens, Donald
Mack
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey

Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki

Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swift

Synar
Tallon
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—93

Archer
Armey
Badham
Ballenger
Bartlett
Barton
Boulter
Broomfield
Brown (CO)
Burton
Callahan
Carr
Clinger
Coats
Coble
Combest
Coughlin
Craig
Crane
Dannemeyer
Davis (IL)
DeLay
DeWine
Dickinson
Dreier
Emerson
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling

Grandy
Hammerschmidt
Hansen
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Lewis (CA)
Lightfoot
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
McCandless
McCurdy
Meyers
Miller (OH)
Montgomery
Moorhead
Nielson

Oxley
Packard
Penny
Petri
Porter
Rhodes
Ridge
Ritter
Roberts
Roth
Schaefer
Sensenbrenner
Shumway
Shuster
Skeen
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Solomon
Stangeland
Stenholm
Stratton
Stump
Swindall
Tauke
Upton
Vucanovich
Walker
Watkins

NOT VOTING—30

Baker
Biaggi
Boner (TN)
Byron
Cheney
Daub
Dingell
Ford (TN)
Gephardt
Gray (IL)

Hawkins
Kemp
Kennedy
Livingston
Lott
Martin (IL)
McEwen
McGrath
McHugh
Michel

Molinari
Parris
Quillen
Roemer
Spence
St Germain
Sweeney
Tauzin
Vander Jagt
Wortley

Mr. SCHAEFER and Mrs. MEYERS of Kansas changed their votes from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

THE MARINE SCIENCE, TECHNOLOGY, AND POLICY DEVELOPMENT ACT OF 1987

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3017, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 3017, as amended.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 323, nays 79, not voting 32, as follows:

[Roll No. 337]

YEAS—323

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Daniel
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
DioGuardi
Dixon
Donnelly
Dornan (CA)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Frank
Frost
Gallo
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Gonzalez
Gordon
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hiler
Hochbrueckner
Holloway
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowery (CA)
Lowry (WA)
Luken, Thomas
Lukens, Donald
Mack
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McMillan (NC)
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solarz
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Walgren
Waxman
Weber
Weiss
Weldon
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—79

Archer
Armey
Ballenger
Bartlett
Bereuter
Boulter
Broomfield
Brown (CO)
Bunning
Burton
Combest
Craig
Crane
Dannemeyer
DeLay
Dorgan (ND)
Dreier
Emerson
English
Fawell
Frenzel
Gallegly
Gekas
Glickman
Goodling
Gradison
Hall (TX)
Hammerschmidt
Hansen
Hefley
Herger
Hopkins
Hyde
Inhofe
Kolbe
Kyl
Lewis (FL)
Lightfoot
Lujan
Lungren
Madigan
Marlenee
McCandless
McCurdy
Meyers
Montgomery
Moorhead
Myers
Nielson
Pashayan
Penny
Regula
Rhodes
Ridge
Roberts
Roth
Rowland (CT)
Schaefer
Shumway
Shuster
Skeen
Skelton
Slattery
Smith (NE)
Smith (TX)
Smith, Robert (NH)
Solomon
Stenholm
Stratton
Stump
Swindall
Tauke
Taylor
Volkmer
Vucanovich
Walker
Watkins
Whittaker
Wolf

NOT VOTING—32

Biaggi
Boner (TN)
Byron
Cheney
Daub
Dicks
Dingell
Ford (TN)
Gejdenson
Gephardt
Gray (IL)
Gray (PA)
Hawkins
Kemp
Livingston
Lott
Martin (IL)
McEwen
McGrath
McHugh
Michel
Molinari
Parris
Quillen
Roemer
Spence
Sweeney
Tauzin
Vander Jagt
Wheat
Whitten
Wortley

□ 1600

Mr. ROWLAND of Connecticut changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2 p.m. tomorrow.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Washington?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, September 21, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC

DEAR MR. SPEAKER. Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following project on August 5, 1987.

LEASE PROSPECTUS

Silver Spring Metro Center, Silver Spring, Maryland.

The original and one copy of the authorizing resolution is enclosed.

Very best wish.

Sincerely

JAMES J. HOWARD,
Chairman.

There was no objection.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON PUBLIC WORKS
AND TRANSPORTATION,
Washington, DC, September 21, 1987.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the provisions of the Public Buildings Act of 1959, as amended, the House Committee on Public Works and Transportation approved the following projects on August 4, 1987:

LEASE PROSPECTUSES

Department of Army, Huntsville, Alabama.

Federal Bureau of Investigation, Woodlawn, Maryland.

Department of Army, Tinton Falls, New Jersey.

ACF Facility, Riverdale, Maryland.

Center Building 2, Hyattsville, Maryland.

Multiple Agencies, Linthicum, Maryland.

Internal Revenue Service, Brooklyn, New York.

Drug Enforcement Administration, Manhattan, New York.

Internal Revenue Service, New York, New York.

10 P Street, S.W., Washington, D.C.

Department of Defense, Northern Virginia.

Fish and Wildlife Service, Anchorage, Alaska.

General Accounting Office, San Francisco, California.

Internal Revenue Service, Oakland, California.

U.S. Geological Survey, Palo Alto, California.

Department of Interior, Lakewood, Colorado.

U.S. Army Corps of Engineers, Tulsa, Oklahoma.

Internal Revenue Service and Veteranas Administration, Austin, Texas.

Drug Enforcement Administration, Dallas, Texas.

Department of Housing and Urban Development and Equal Employment Opportunity Commission, Seattle, Washington.

Environmental Protection Agency, Boston, Massachusetts.

Department of Commerce, Four Locations.

Family Support Administration, Washington, D.C.

Department of Defense and Department of State, Arlington, Virginia.

Department of Justice, U.S. Marshals Service Headquarters, Northern Virginia.

Department of Justice Computer Services, Washington, DC.

Department of Defense, Naval Sea Systems Command, Arlington, Virginia.

National Institutes of Health, Bethesda, Maryland.

11(B) RESOLUTIONS

Atlantic County, New Jersey.

American Samoa.

Philadelphia, Pennsylvania Area.

The original and one copy of the authorizing resolution is enclosed.

Every best wishes.

Sincerely,

James J. Howard,
Chairman.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-321) on the resolution (H. Res. 275) providing for the consideration of the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvement, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. YATES. Mr. Speaker, less than 2 weeks ago, I learned that the Bureau of Indian Affairs, which is under the jurisdiction of the Appropriations Subcommittee on the Interior and Related Agencies that I chair, had published mineral leasing regulations in the Federal Register on August 24, 1987, and that these regulations would become final on September 23. There was a great deal of concern about this action by the Bureau, since the last time the regulations had appeared in draft form for public comment was 4 years ago, and it appeared there had been substantive changes in the final regulations as published in August, but with no further opportunity for review or comment by the affected Indian people. There have also been several important court cases in the intervening 4 years, the holdings of which appeared to conflict with some sections of the regulations as published. I met with personnel from the Bureau of Indian Affairs, and wrote to the Secretary of the Interior, asking that the regulations be withdrawn and then republished to allow for additional public comment. I am pleased to report that the Department had another notice published in the Federal Register on September 23, extending the date for the regulations to become final to October 24; and Assistant Secretary for Indian Affairs Ross Swimmer has further assured me in a letter, which I will include in the RECORD, that he will have the regulations withdrawn before October 24, and reissued so that additional comments may be received and considered before any regulations are issued as final. I received a similar letter from Secretary of the Interior Hodel.

Mr. Speaker, I have long been concerned about the Federal Government's treatment of the Indian people, and particularly whether the Federal trust responsibility is being fully carried out. I intend to continue to follow the actions of the Department of the Interior with regard to these mineral leasing regulations, as well as to examine the broader question of the Department's conduct of the trust responsibility, in the months ahead.

I am attaching to my remarks letters from Secretary of the Interior Hodel and Assistant Secretary Swimmer the first dated September 25, 1987, the second dated September 22, 1987, both of which state their approval of the procedures hereinabove outlined.

Department of the Interior,
Washington, DC, September 22, 1987.

Hon. Sidney R. Yates,
House of Representatives, Washington, DC.

Dear Congressman Yates: Pursuant to your request, we have sent a notice to the Federal Register that the regulations recently published as final mineral leasing regulations will be extended for 30 days. This will give us time to order the regulations withdrawn as final and reissued as proposed so that additional comments can be received and considered before any regulations are issued as final.

Sincerely,

Ross O. Swimmer,
Assistant Secretary, Indian Affairs.

The Secretary of the Interior,
Washington, DC, September 25, 1987.

Hon. Sidney R. Yates,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, House of Representatives, Washington, DC.

Dear Mr. Chairman: We appreciate the concerns expressed in your letters of September 18 and September 21, 1987, regarding the Final Rule concerning Contracts for Prospecting and Mining on Indian Lands; Oil and Gas and Geothermal Contracts, which was published in the Federal Register, as I understand, on August 24, 1987. The rule was to become effective on September 23, 1987. Your concern was that these regulations might impact on pending litigation or adversely affect agreements that have been entered into under the Mineral Development Act of 1982.

In respect for your concerns, the Assistant Secretary—Indian Affairs, has published a 30-day extension of the effective date of these regulations, during which time the Bureau of Indian Affairs will prepare a notice for publication in the Federal Register advising that these regulations are being reproposed and provide for an additional 60-day comment period.

The regulations at issue pertain to mining and oil and gas development on Indian lands. They are needed to implement the Indian Mineral Development Act of 1982 (96 Stat. 1938; 25 U.S.C. 2101 et seq.), which authorizes Indian mineral owners to enter into joint ventures and other types of negotiated mineral agreements. Moreover, these regulations update existing regulations promulgated under the Act of May 11, 1938, pertaining to mining on tribal lands and the Act of March 3, 1909, which relates to mining on allocated Indian lands. They are very necessary to the exercise of our collective management responsibilities.

Your concern and support for full communication in this matter is appreciated.

Sincerely,

Donald Paul Hodel.

TOP CREDIT CARD ISSUERS CONTROL MARKET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. Annunzio] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, over 100 million Americans hold at least one credit card. As a matter of fact, the average bank card holder counts almost three cards to his name. Card holders presently owe over $85 billion and, in 1987, will pay $15 billion in interest charges. Last year banks earned over $5 billion from credit profits. Most interestingly, while interest rates charged on other consumer loans have dropped dramatically in the past 6 years, credit card interest rates continue to rise.

In 1981 the prime rate reached a staggering 22.5 percent. Today it is 8.75 percent. In 1981 the Federal Reserve discount rate stood at a sky-high 14 percent. Today it is 6 percent. In August 1981, Federal Reserve Board showed credit card interest rates at 17.8 percent. Today, according to recent figures released by the Los Angeles-based Nilson Report, the average interest rate now charged is almost 19 percent. In fact, the interest rate charged by the top 10 issuers of VISA and Mastercard is a whopping 19.19 percent. The standard response of the credit card industry is that the consumer has the ability to shop around for lower rates. This sounds reasonable until one realizes that those top 10 issuers control 34 percent of the market.

There are over 3,000 credit card issuers in the Nation, and the top 10 issuers control 34 percent of the market. Additionally, the top-40 control 53 percent, the top-100 control 70 percent, and the top-500 control almost 90 percent. Is there any reason to wonder why credit card interest rates have remained in the stratosphere.

Although credit card issuers would have us believe that consumer awareness has increased competition and resulted in a decline in interest rates, this is just not true. The large money-center issuers have a strangle hold on the market and can easily resist the relatively weak competitive forces created by a small number of low-rate credit card issuers. It is a deceptive situation where the presence of low-rate issuers mask the dominance of the largest issuers and allows the industry to appear more competitive than it really is.

The fact that interest rates have not declined is testimony to the fact that competition does not exist. This lack of meaningful competition has allowed many issuers to conduct business sloppily and sometime misleadingly then just pass their costs on to the consumer. Card isssuers have been slow to respond to card fraud and have accepted accounts with greater risk of default because they can pass the added costs of these ventures on to the unsuspecting consumer. A cap on interest rates may be the necessary incentive for banks to reduce fraud and bad debts.

In fact, a report prepared last year for the American Bankers Association shows that VISA charge-off rates in States lacking credit card controls to be over 50 percent higher than charge-offs in States with moderate or strict controls. It appears that creditworthy consumers are bearing the costly burden of those risks to the tune of tens of millions of dollars in excessive interest charges.

These relatively few providers exercise disproportional control of the market and will not relinquish the tyrannical hold they enjoy. A hold that allows for artificially high interest rates with consumers victims of this conspiracy of greed. We have a responsibility to protect the American consumer from the credit card company's arrogant refusal to treat the American people fairly. This protection is in the form of legislation capping credit card interest rates; legislation that 74 percent of the American public supports.

When the bill on credit card information disclosure comes to the floor, I will act to help protect the American consumer and offer an amendment to cap credit card interest rates at eight points above the yield on 1-year Treasury securities. This is a floating cap that is fair to both the consumer and the credit card companies. It is far fairer than the situation that exists today.

POSTPONEMENT OF CONSIDERATION OF INDEPENDENT COUNSEL AMENDMENTS ACT OF 1987

The SPEAKER pro tempore (Mr. OWENS of New York). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, let me begin by apologizing for my voice. Some of the Members may consider it a bit of a small blessing that my voice is not at full throttle; nevertheless, it is not.

I do rise this evening to ask a couple of questions, and I wish a Member was here that perhaps could answer them about the schedule.

I now find out that the scheduled bill for tomorrow is not going to make it to the floor. We have had discussions out here over a period of a couple of weeks with the majority leader and others on the floor, assuring the Members we were putting in place a firm schedule; and we find out that the bill scheduled for tomorrow is not going to make it.

One wonders why this particular bill was pulled, so I have asked a couple of questions, and I hate to repeat rumors. This is what I am being told.

The bill we were to have before the Members tomorrow is the special prosecutor bill. I am being told it was pulled from the calendar, because the potential was that there was going to be an amendment added. Imagine that. The House was actually going to act on an amendment, but this amendment evidently is giving the majority some heartburn, because what this amendment would do is include Congress for the first time under the Independent Prosecutor Act.

I can understand why some Members might be upset about that in this body, but I think the House ought to be given the opportunity to act. When some of the Members have raised the question about the ethical problems that this House finds itself embroiled in, we have been told that it is simply raising a partisan issue. We have said over and over again, there is no partisanship involved in this from our standpoint.

We simply want the issues addressed, but I will tell the Members, we have no control over the calendar.

Those Members who are pulling the special prosecutor bill off the calendar are doing so for partisan reasons, because only one party controls that calendar, and so I have to wonder why it is the House is afraid to face up to it.

Have they taken a headcount and found the House might actually go ahead and vote to have a special prosecutor? The American people think it would be right.

What ultimate hypocrisy it is for the Members to continue to focus on the special prosecutor's looking at the people in the administration, but refuse that kind of coverage for the House. Yet, that is what we seem to be going.

I have said on this floor in days past, there is a pattern of corruption in this House that is disturbing. I say it again here this evening, there is a pattern of corruption in this House which is disturbing; and we need to act on it.

We have refused to take action before and refused to instruct the Committee on Standards of Official Conduct to look at its particular case, or refused to set up a special commission to look at the problem; and tomorrow we were going to be given an opportunity to see whether we would apply the same standards to ourselves that we have applied to the executive branch; namely, where a special problem arises, a special prosecutor looks in.

We are told now that the bill has been pulled from the calendar. I think the bill was pulled from the calendar for that very specific reason.

We did not want to vote on the amendment to assure ourselves special prosecutor coverage in the future.

Mr. Speaker, the bill ought to go back on the calendar. We have time to take it up. We are not so busy around here that we cannot address that issue.

Whatever time it takes, the House ought to look into that issue. I say, put the bill back on the calendar. You ripped it off this afternoon. You could just as easily put it back on tomorrow morning.

Put it back on the calendar and find out how many Members will say that we ought to be covered by the same standards that we ask of others.

POSTPONEMENT OF CONSIDERATION OF INDEPENDENT COUNSEL AMENDMENTS ACT OF 1987

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Speaker, I want to reinforce the reality that we in the House sooner or later have to face up to certain ethical issues.

I commend the Committee on Standards of Official Conduct for its recent decision to take up certain cases which might not have been taken up earlier, taken up because in some cases of newspaper reports; but I do find it puzzling that until the middle of today, we were told that tomorrow we would take up the independent prosecutor's bill that the majority Democratic leadership, apparently upon learning that there would be an amendment which is, I believe, by the gentleman from Florida [Mr. SHAW], to extend the independent prosecutor's act to the House, decided not to bring up the independent prosecutor's bill tomorrow.

It was ironic considering that as recently as last Thursday we were being assured by the Democratic leadership that we had important things to do this week, that we had to meet and get together this week; and yet I know in the middle of today, those important things were being shifted around and shuffled around.

I do think that Members should be aware that while we can delay the question of whether equal justice means including Congressmen and Congresswomen, in the end sooner or later, we are going to have to vote yes or no on the question of including Members of Congress under the independent prosecutor's act.

I think when anyone realizes that there are 16 Members of Congress with one question or another relating to their behavior in the news media, some of them of significant concern, one or two involving indictments and convictions, clearly it is important that Congress be considered an equal branch in terms of an independent prosecutor's act.

TRIBUTE TO THE LATE HONORABLE JOHN W. "JACK" WYDLER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, I rise as the dean of the New York delegation to pay tribute to a former Member who passed away at the end of the session in August, Jack Wydler, who last served in this body for some 17 years, and who died in the Capitol while he was pursuing the job that he had assigned for himself when he left the Congress itself.

Jack Wydler had always been active in Long Island affairs, and in particular the controversy that has been going on for some time with the Shoreham Long Island Lighting Co.

Mr. Wydler in fact the day that he had suffered a heart attack in the Capitol had brought with him from the New York area some 200 individuals who opposed an amendment which would have harmed the Long Island Lighting Co. and the Shoreham nuclear power arrangement, and those 200 individuals, in fact, probably had a crucial impact on the legislation that Mr. Wydler opposed, and which went down rather overwhelmingly when the votes were taken.

Jack Wydler had come to Congress in 1963, and he had retired in 1980. He had been a ranking member of the House Committee on Science, Space, and Technology, and was a member of the Committee on Government Operations.

Mr. Wydler was born in Brooklyn, was a graduate of Brown University and the Harvard University Law School, and had been in private practice, and later became an assistant U.S. attorney in the eastern district of New York as early as 1953 where he remained until 1959, and was also a member of the State Investigation Committee for another year.

We unfortunately have lost an outstanding individual, one who truly went down with his boots on. He was doing the very job that he was supposed to be doing, and he not only had managed to bring about the very result that he was looking for, and I know that from that aspect, we are proud of the job that Jack Wydler has done.

Jack's memory is going to be with us for a very long time.

Mr. Speaker, I yield to the gentleman from New York [Mr. HORTON], the dean of the Republican delegation in New York State.

Mr. HORTON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the gentleman from New York [Mr. STRATTON], the dean of the New York delegation, and I have taken this time to pay tribute to our very good friend, John W. "Jack" Wydler, who died Wednesday, August 4, in Washington.

I knew Jack Wydler, because he and I came to Congress together. We were elected in the fall of 1962, and in 1963 in the 88th Congress there were four new Republicans that came to Washington as a part of that Republican team: Ogden Reid, Jim Grover, Jack Wydler, and myself.

Jack and I worked closely together. he was assigned to the Committee on Science and Technology and the Committee on Government Operations. I was assigned to the Committee on the District of Columbia and the Committee on Government Operations, and so during the time that Jack Wydler served in the House of Representatives, he and I served next to each other on the Committee on Government Operations.

In those days, and I guess we still do that in our committees, when a Member is selected and has the same seniority, the members drew straws, or somebody drew straws, and it happened that Ogden Reid's name was drawn, and he went on the Committee on Government Operations. Ogden's name was drawn before my name, and then my name, and then Jack Wydler's.

During those years Jack and I sat together on the Committee on Government Operations, and through the entire time that he served, he and I served on the Committee on Government Operations; and I knew him best for the work that he did in the Committee on Government Operations.

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He was very aggressive, very inquisitive, had a good mind. Our committee, which is responsible for efficiency in Government, profited by Jack's experience before he came to Congress and also we profited by his experience as he began to get his feet on the ground and began to serve here in the Congress.

I have very fond recollections of Jack Wydler, having worked with him over those 18 years that he served, because he served 9 terms and then he retired.

Unfortunately, on August 4, he passed away. He was here, as a matter of fact, in Washington. I saw him that very afternoon probably only a few hours before he passed away and we had some very good conversation about what he was doing, a bill that he was interested in and what he was here looking at. He was with Congressman NORMAN LENT, who will be speaking in a few moments. He was in his office and it was there that he had the incident that brought his death.

In my judgment, for those nine terms Jack represented his constituents with diligence and integrity. He retired from Congress in 1980, but he continued working closely with us here in Washington and with his colleagues from his Long Island home. When he retired, he was the dean of the Long Island congressional delegation, as well as the senior Republican on the House Science Committee. As a matter of fact, because of our equal seniority, we switched back and forth. One year I would be on the Committee on Committees for one term, and then he would be the dean of the Republican delegation, and then we would switch back. So he and I had a close personal relationship. He was a close personal friend and I certainly am going to miss him.

His name as a prime sponsor of the Stevenson-Wydler Technology Innovation Act of 1980 served as a constant reminder of the role that he played in formulating national science policy.

Jack will be remembered, in my judgment, for his inquisitive line of questioning, his thought-provoking commentary, and he was a genuine pleasure to work with.

I also know that he looked after his district very carefully. He was very much interested in our State, in the State of New York, and he was highly regarded by every Governor that served, by every person that served in the State legislature during the years while Jack was here in the Congress.

He left, as I said, in 1980. He died on August 4. His memory and his accomplishments will go on as a living tribute to his efforts.

Mr. Speaker, my wife, Nancy, and I send our deepest sympathy to Jack's wonderful wife Brenda, to his childern

Christopher, Kathleen, and Elizabeth, and to the scores of other friends and relatives of Jack Wydler.

I might say parenthetically in that connection, I was in Jack Wydler's office many times. He always had a picture made at Christmastime with his wife and his children. It was a beautiful picture. Each year you could see the kids growing up. He had all those pictures in his office. I have never forgotten that. I do not know of any other Member whose office I have been in that has a picture like that. I know that he was a close family person. He was a loving father and a loving husband. we certainly are going to miss him in the Congress.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I want to thank the distinguished dean of our New York delegation, the gentleman from New York [Mr. Stratton] and the leader of our Republican delegation in New York, the gentleman from New York [Mr. Horton] for arranging this special order.

Mr. Speaker, I regret that we have to rise tonight to pay tribute to such a fine outstanding gentleman, a great legislator, and a dear friend, Jack Wydler.

Jack was the type of Congressman who made us all proud to be Members of Congress. As the Representative of both the Fourth and Fifth Districts of New York, Congressman Wydler shared with us nine terms, from 1963 through 1981.

He was always ready to extend a helping hand with his colleagues. He was one of the first to welcome incoming freshman to this Chamber. I still remember his briefing when I came to this Chamber in 1973.

We all remember Jack Wydler as the epitome of a true gentleman, an outstanding legislator. In the Congress he served on the Science and Technology Committee, and as ranking minority member of that committee during his last several years in the House, we all looked to Jack as a knowledgeable source for information and advice on scientific and technological issues. As a longtime member of the Government Operations Committee, Jack possessed valuable insight into the workings of our vast Federal bureaucracy and consistently worked to improve that bureaucracy.

Jack Wydler brought to the Congress a lifetime of experience, garnered in the Air Force during World War II, as a Phi Beta Kappa graduate of Brown University and of Harvard Law School; as an assistant U.S. attorney, and from his many years in private practice in the Long Island area, he brought to the Halls of Congress a wealth of experience and compassion.

I spent some pleasant moments with Jack just prior to his death, which saddened and shocked all of us.

To his widow, Brenda, to their son, Christopher, and to their daughters Kathleen and Elizabeth, I join with my colleagues in extending our deepest condolences.

Jack Wydler will be sorely and long missed by all of his colleagues and by his State and Nation which he served so faithfully and diligently.

Mr. Speaker, I thank the gentleman again for yielding.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. Lent].

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding.

I would also like to join with my colleague, the gentleman from New York [Mr. Gilman] in commending the dean of our New York delegation, the gentleman from New York [Mr. Stratton], for holding this special order today and also our colleague, the gentleman from New York [Mr. Horton] for cosponsoring this special order.

Mr. Speaker, I am pleased to join my colleagues today in paying tribute to a patriotic American and distinguished former Member of Congress, and one of my best friends the late Jack Wydler. Jack Wydler served with distinction in this body for 18 years. He was elected to represent New York's Fifth Congressional District in 1963 and he continued in that office until his retirement in 1981.

Many of us remember Jack from his service here, Jack and I served contemporaneously for 10 years, from adjacent congressional districts in Nassau County. Other of our House Members were more recently acquainted with Jack because, while he left the House 6 years ago, he maintained a keen interest in various issues and was often among us offering advice and counsel. In fact, it was on one of his frequent trips to Washington that Jack suffered a fatal heart attack and passed away on August 4, 1987.

Jack's untimely death is a great loss to his family, his many friends and the Long Island community that he served in public and private life. He began his public career as a U.S. attorney before coming to Congress. While here, he served on the Government Operations Committee and in later years as the ranking Republican member on the Science and Technology Committee. He also served as dean of the Long Island congressional delegation.

Jack's crowning achievement in Congress was enactment of the Stevenson-Wydler Technology Transfer Act which remains today the centerpiece of the cooperative effort between Government and industry for the enhancement of our competitive status abroad. It was an accomplishment of which Jack was justly proud.

Upon his retirement from the House and return to the private practice of law, Jack continued in community service as chairman of the Long Island Development Agency, a member of the Long Island Regional Planning Board, and trustee of Adelphi University.

The Long Island community will greatly miss Jack Wydler. As we remember his many achievements and dedication to public service, I know you will join me in expressing heartfelt condolences to Jack's wife Brenda, their son Christopher, and their daughters Kathleen and Elizabeth. Jack Wydler was a good and honorable man and I join with the family in mourning his passing.

Mr. Speaker, at the funeral services held August 8, 1987 at the Cathedral of the Incarnation, Garden City, NY, Chris Wydler, delivered a very moving eulogy honoring his father. At the family's request, I am inserting for inclusion in the Congressional Record this tribute to Jack Wydler as well as condolences to the family from President and Mrs. Reagan, Vice President Bush, and former President Gerald Ford. Thank you.

EULOGY OF HON. JOHN WALDEMAR WYDLER GIVEN BY HIS SON, CHRISTOPHER JOHN WALDEMAR WYDLER, AUGUST 8, 1987, CATHEDRAL OF THE INCARNATION, GARDEN CITY, NY

I do so admire my father for what he has accomplished. Yes, everyone knew John Wydler the successful public man. And that makes me proud. However, Jack Wydler the private human being put that public image to shame. He may have been "a good congressman" as he used to modestly boast when campaigning—but I can tell you from the heart, he was a great father—and your hearts say husband, son, brother and friend. His dedication to our family was his primary concentration in life and will be my most enduring memory. I can only try to emulate him in this regard—ever fearful of never even coming close.

Dad was a magical man—a man who committed to himself, that like his Father Waldemar, he would try to make people smile. Jack, like his father, almost always succeeded. We will miss his kind way, his generosity, his class. Dad leaves this world with a clear heart and with a clean soul.

There is so much I have learned from my father. Dad's best lesson may have been the patience with which he raised his son. Consisting of good advice, words of wisdom but few orders—it worked. I grew up and the two of us became closer every year. But how did he know what was right for his first child? He used to always say—trust god, live as a christian, and love your family.

No longer at the foot of my dear father, I must now try much harder to practice what I have been taught. And I take solace in the fact that he knew how I feel about him.

At this point, If I might, I'd like to just read a passage I have down here on paper:

"My best friend has died.

"He was my father, and the finest man I ever knew.

"Dad was a man who had a zest for life that burned from within, with an intensity that touched all who met him.

"He lived every day—each minute—with a job that made you feel good just to be with him.

"Nothing dampened his optimism for the future, nor his faith in God and in his fellowman.

"His energy was was an inspiration to me, for he enjoyed the important things on God's earth—his family, his home, and his friends.

"Dad was a man of deep love.

"He was a giver and always told me: 'What you give comes back a thousand times."

"This love made him like a rock, and to his children.

"A port in the storm.

"He was no saint, but he had no meanness or smallness in him.

"He was truly interested in other people and all liked him because they knew he cared about them.

"He was his brothers' keeper.

"His judgment and advice were good and nearly always right.

"I shall miss him and I know many others will, too.

"But I can thank God for making him my father and letting me know him for so long a time.

"Life is fragile—and through my father—I have learned how precious as well.

"The candle has now gone out—but its warmth will be with me all the days of my life.

"Thanks Dad."

That passage was written by Jack Wydler on the occasion of his father's passing on 1973. But for my father, it could not be more appropriate and certainly said no better. I only hope my children may feel it appropriate as the summation of my life.

In closing, my Dad's dad, Poppy to me, started something of a Wydler family tradition by wishing one Godspeed when commencing on a long journey away. This jovial greeting was a simple but hearty "Yo Ho." My Dad continued his beloved father's tradition with all of us. That tradition will continue with my family and I want to take this opportunity to wish my Dad one last "Yo Ho"—knowing the next time I'm with him, I will never have to say "Yo Ho" again.

THE WHITE HOUSE,
Washington, DC, August 10, 1987.

DEAR MRS. WYDLER: Nancy and I were saddened to learn of John's passing. Although there are no words to ease the deep pain you feel, we wanted you to know that we are keeping you and your family in our prayers.

For 17 years, John exemplified the spirit of public service by representing the 5th Congressional District with dedication and distinction. His devotion to the State of New York and to the people he served so faithfully for so long will not be forgotten.

This is a difficult time for you, I know, but there are many people who care about you. Please count us among them. We hope that the love and concern of those around you will be a source of strength.

God bless you and keep you and yours.

Sincerely,

RONALD REAGAN.

RANCHO MIRAGE, CA,
August 6, 1987.

DEAR BRENDA: Just learned of Jack's tragic passing. I write to express the deepest condolences of Betty and me in this time of sorrow.

As you know Jack was one of my very favorite colleagues in the House. I will always be most grateful for his many kindnesses and loyal support while I was in the White House. Jack was one of the finest members of the Congress. He was strong, wise and a dedicated legislator. I truly treasured his friendship. You and the family should be extremely proud of his outstanding public service.

You and the family have our prayers.

JERRY FORD.

AUGUST 6, 1987.

DEAR BRENDA: Barbara and I send our sincerest condolences. Jack, my good friend, was respected and beloved. I'll really miss him. Maybe it helps to know that friends care.

Sincerely,

GEORGE BUSH.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. MARTIN].

Mr. MARTIN of New York. Mr. Speaker, I thank the distinguished dean of our delegation for yielding to me, and I salute him and Congressman HORTON for arranging this special order to pay tribute to our dear friend, Jack Wydler.

Mr. Speaker, let me say to the gentleman from New York [Mr. STRATTON] that I am probably the only Member that is going to be speaking here today from New York who never had the privilege of serving here with Jack as a Member. The fact of the matter is that the day he left is the day I was sworn in.

He was perhaps the closest friend in the House of Representatives of my predecessor, Bob McEwen, had.

I knew Jack very well in other ways. As Congressman GILMAN pointed out, Jack Wydler knew of the importance of staying in contact with the State legislature. As a member of the State assembly, I can recall Jack coming to Albany to work with the Nassau delegation in the assembly, in the Senate, trying to work in concert and as a team to do things for the State of New York, and indeed his district.

I think we could all take a lesson from that.

I would also like to point out that Jack had an opportunity to come back and visit Washington from time to time. In doing that, he was very good about taking time to point out to the new Members of the House, particularly the New York delegation, how things were done, how to do them better, and to give us the benefit of his many years of experience.

I considered him a dear friend. He is going to be missed. To Brenda and the children, we wish them the best.

Again, I salute the distinguished dean of our delegation for arranging this special order.

Mr. STRATTON. Mr. Speaker, I yield to the gentleman from New York [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I am pleased to join my colleagues today in paying tribute to a good friend, the late Jack Wydler.

Mr. Speaker, I apologize—at a meeting which I was chairing—caused me to be late on this occasion.

Jack meant something special to me. I came here as a freshman in February 1978 after a special election. Jack took me under his wing. He invited me to join a regular Wednesday night dinner that he, Congressman Cleveland and Congressman Bob McEwen not the current House Member from upstate New York regularly had and added me to this company of Washington bachelors who dined virtually every week at the Capitol Hill Club.

Jack, together with the other two, all of them senior Members of the Congress, really took me under his wing. When you come here in the middle of a session of the Congress, elected in a special election, you have to hit the deck running, and certainly Jack Wydler's wise counsel and advice was tremendously helpful to me in enabling me to do my job when I first got here.

When Jack retired in 1981, he did so with the grace that characterized his entire congressional career, stating simply that "it was time to move on and give someone else a chance." Since leaving Congress, he remained active in the legislative process and I was often pleased to discover that our paths still crossed in Washington.

Mr. Speaker, this body is blessed on occasion by men and women who are genuine public servants and who serve not only their constituencies but also the Nation. I believe all those who knew Jack will agree with me that he was such a man and that the Nation is less for his passing. I know that all Members join me in offering our condolences to his wife, Brenda and his family.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his contribution.

Mr. Speaker, I submit for including at this point in the RECORD statements that have already been submitted in connection with Mr. Wydler.

Mr. ROE. Mr. Speaker, I rise today to pay tribute to the Honorable Jack Wydler, my good friend and former colleague on the Science, Space, and Technology Committee who passed away in August. Jack joined the committee in 1963 and served as its ranking Republican member from 1977 to 1980. Throughout his tenure, he brought strong intellect and sensible judgment to bear on every issue.

He became the most outspoken leader in the Congress on aircraft noise. He was among the first to articulate the crisis awaiting us in strategic materials and he cosponsored the country's first legislation to formulate a national policy for materials research and development. He was one of the earliest advocates of Federal policies to nurture an environment for technological innovation in the Nation. The landmark Stevenson-Wydler legislation, which established programs for that purpose, carries his name.

The roster of issues that bear Jack Wydler's imprint and influence is too long to enumerate. But in each and every instance he was the voice of pragmatism. He challenged the rhetoric and insisted on accountability. In the midst of sweeping enthusiasm, he would patiently strike hard for reality. He would always temper the fervor with facts.

Jack Wydler was a man of serious thought and strong opinions. Yet he was always open to new information, took into account changing conditions, and was not afraid to reverse a previous position. But reconsideration came only after painstaking reexamination.

He served both his constituents and his country with dedication and intelligence. The greatest tribute that I can pay to his hard work and hearty spirit is to hope that the Congress and the country are fortunate enough to have more public servants like him.

Mr. SCHEUER. Mr. Speaker, I had the pleasure of serving in the House for more than a dozen years with my colleague and fellow New Yorker, John W. Wydler.

I remember him best for his work as a member of the House Science, Space, and Technology Committee.

For many years Jack Wydler served as ranking minority member of the committee and of the Subcommittee on Aeronautics and Space Technology, which was subsequently called the Subcommittee on Aviation and Transportation Research and Development and the Subcommittee on Transportation, Aviation and Weather. Later in his career he served as the ranking minority member of the Subcommittee on Environmental Research and Production.

If I had to describe Jack Wydler in one word, I would use the word "independent." He was a man who evaluated issues in the Science, Space, and Technology Committee on their merits.

He was an outspoken leader in efforts to expand research and development in the aviation and aeronautical field. He often argued that such research and development was being shortchanged by Congress and warned that it was needed to ensure new technologies for the future.

He was careful to attend to the needs of his New York suburban district on Long Island, championing programs to improve the supression of aircraft noise in general and staunchly opposing supersonic airliners at New York's Kennedy International Airport. He was also known as a supporter of issues affecting aerospace workers.

One of his major accomplishments was sponsorship of the Stevenson-Wydler Act, which became law in 1980. The law aimed at stimulating innovation and productivity by providing for the transfer of technology from Federal research and development laboratories and facilities to private industry.

Jack Wydler made his mark in New York and the Nation. It is fitting that we remember his legacy today.

Mr. YATRON. Mr. Speaker, I rise today, with a great sense of sadness and loss, to pay tribute to our late colleague, former Congressman John W. Wydler. John Wydler was a dedicated public servant whose record of service includes the defense of his country during World War II and an 18-year tenure as Representative of the 5th District of New York.

I was privileged to serve with Jack throughout his full term of office and knew him to be a leader on many issues, earning him the immense respect of his colleagues and constituency. A member of the House Government Operations Committee and the House Science, Space, and Technology Committee, Jack's efforts were probably best known through the Science, Space, and Technology Committee. He was instrumental in paving the way for the success of our space program, one of his most important contributions the Stevenson-Wydler Technology Innovation Act. He also helped organize the "suburban caucus," a bipartisan group of 53 Members who banded in an effort to address the concerns and problems often faced by the suburban communities. After retiring from the House, Jack continued to remain active in Long Island political affairs and was in these endeavors as dedicated and committed as he was during his tenure in the Congress.

I feel honored to have known and served with Jack Wydler. He was a compassionate and forthright individual possessing many outstanding qualities. I know that the memory of Jack and the ideals he stood for will live on, his contributions long remembered and revered. Mr. Speaker, I join with my colleagues in extending deepest sympathy to Jack's wife, Brenda, his son Christopher, his two daughters Kathleen and Elizabeth and all the other members of his family.

Mr. HAMMERSCHMIDT. Mr. Speaker, shortly before the August work period my good friend and former colleague, Jack Wydler, passed away.

I had the privilege of serving with Jack from 1963 until his retirement in 1980. The onetime dean of the Long Island congressional delegation, he served as the ranking Republican on the House Science, Space, and Technology Committee and was a member of the Government Operations Committee. As a Brown University and Harvard University Law School Graduate, Jack brought much insight into the workings of both of those committees.

As one greatly concerned with the people from his district, Jack never forgot his Long Island roots. Even after his retirement, Jack continued to enjoy and take part in Long Island politics. In 1983, he was the chairman of the government affairs committee of the Long Island Association and helped to promote the new political action committee of that group.

My sympathies are extended to his wife, Brenda; his son, Christopher; his two daughters, Kathleen and Elizabeth; and the remaining members of his family.

Mr. McGRATH. Mr. Speaker, the citizens of Long Island and of our Nation have suffered a great loss with the passing the Congressman Wydler. From his years in the U.S. Air Force during World War II, until his untimely passing on August 4, Jack's life exemplified the finest tradition of service to our Nation. His terms in the House spanned some of the most turbulent years of our history. His belief in our democratic system and his courage to stand tall against political and moral challenges engendered tremendous respect in the fifth district and here in this Chamber.

Jack was particularly known for his active interest in science and technology. His legislative efforts gave direction and funding to many of our Nation's greatest achievements in space exploration and other scientific endeavors. The Stevenson-Wydler Technology Innovation Act will be an enduring tribute to Jack's efforts to shape national policy and to guide our country into the space age.

As a senior member of the Government Operations Committee, Jack was also an advocate of responsive and efficient government. He was an early and ardent proponent of Federal revenue sharing, one of the few programs which allowed local officials to determine the best means of utilizing Federal funds.

Although he "retired" from the House, Jack was a driving force on the Long Island Area Development Agency and an active member of the business and professional community.

When I took office in 1980, Jack gave me many hints. In all honesty, I thought that I could do many things better or differently. The longer I have served in the House, however, the more I learned to appreciate and respect his advice. I will miss Jack's friendship and counsel, and I extend my deepest sympathies to his wife, Brenda, and his children, Chris, Elizabeth, and Kathleen. I hope they will take comfort in the legacy of service and accomplishment Jack gave our Nation.

Mr. FISH. Mr. Speaker, I rise today to pay tribute to the late Congressman from New York, John W. Wydler, who tragically died of a heart attack on August 4. We served together in this body for 12 years and in that time I came to know Jack as a warm and thoughtful colleague.

His legislative accomplishments are well known. I had the pleasure of serving with Jack on the House Science and Technology Committee when he was ranking Republican. He also was an active member of the Government Operations Committee during his years in Congress.

I remember in 1968 his friendly and warm welcome to me as a freshman member of the New York delegation. He was a model of constituent service and was an invaluable resource throughout my career.

The cause of nuclear energy was his passion, even spending his last hours following the House debate on Shoreham. He had worked diligently in the preceeding months in support of that facility, hoping to see it become fully operational. One might disagree with his position, but his integrity and sincerity were never in question.

We use the term "gentleman" to refer to our colleagues in the House. Well, Jack was more than just a gentleman, he was a gentle person. He was a distinguished colleague, highly respected for his soft-spoken words of wisdom and good humor. We shall miss him greatly.

I extend my deepest sympathies to his wife, Brenda, and his children Christopher, Kathleen, and Elizabeth.

Mr. CONTE. Mr. Speaker, I join my colleagues today in paying tribute to John Waldemar Wydler, the former Representative from

New York who I remember best for his compassion, conviction, and reliability.

Born in Brooklyn, NY, Jack was a man with the diligence and patient ability to get things done for the good of the people of his district and this country. He was a man who cared deeply for the people he represented back home. And it was no coincidence that at the time of his most unfortunate death, Jack was watching televised House proceedings here on Capitol Hill. For while he may have left the House of Representatives, he never left behind his commitment for working for the people of New York.

When he retired from the House in 1981, Jack was the dean of the Republicans in the New York delegation. Having been elected to the House for nine terms, Jack easily could have served longer. Instead, he decided to step down, saying that he wanted to give someone else a chance.

He was a man who sought to provide others with opportunity; he was a man who valued service to his country and the people of his home State. He was a man who will be missed by all who had the honor of knowing him.

Mr. SHUMWAY. Mr. Speaker, I am pleased that my colleagues from New York have seen fit to request this time so that we might all pay tribute to our friend and former colleague, John Wydler.

While I was privileged to know and serve with John for only one term of office prior to his retirement, he made a significant impact upon us. That was my freshman term in office, and I looked to senior Republican members such as John for guidance and leadership. He was always there, always patient, and always helpful.

John Wydler's constituents, his State, and his Nation were indeed fortunate to enjoy his dedicated public service, both in and out of Congress. It is especially telling that John was here on Capitol Hill, demonstrating his ongoing commitment to serving the national best interest, when he succumbed to his fatal illness. He will long be remembered as a dedicated public servant, an intelligent and articulate leader, a strong family man, and one who always found time to be active in his church.

To his widow and his family, I extend my most sincere condolences, along with the assurance that the mark John Wydler left upon this body will not be forgotten.

Mr. ROE. Mr. Speaker, it is with a sad heart that I rise to pay tribute to a former colleague and good friend who passed away. Jack Wydler and I served together on the Science, Space, and Technology Committee from 1969 until his retirement in 1980. Jack was an indefatigable worker and a dedicated representative of his constituency. He served as the ranking Republican member of the committee. In this postion of leadership he made a major contribution to the legislative accomplishments of the committee. Of particular significance was the legislation that bears his name, the Stevenson-Wydler Act. This visionary legislation recognized very early the need of this Nation to deal systematically and imaginatively with the problem of international technological competitiveness. The Stevenson-Wydler legislation will undergird our present thrust to deal with this problem.

On a personal basis, we will all miss his hearty good fellowship. His friendship and cooperation will not be forgotten. I know that all the members of the Committee on Science, Space, and Technology join me in offering sincere sympathy to Brenda and the whole Wydler family in their bereavement.

Mr. GARCIA. Mr. Speaker, I wish to join my colleagues in paying tribute to our fellow Congressman from Long Island, Jack W. Wydler. As most of you know, Jack died Tuesday, August 4, here in Washington. Though he retired in 1980, he frequently came back to visit his friends on Capitol Hill.

Jack Wydler represented Long Island for nine terms, and was a member of the Government Operations Committee and ranking Republican on the House Science and Technology Committee. He was dependable and dedicated to his district. Retirement from his seat in the Fifth District did not mean termination of his involvement in politics. In 1983 he was the chairman of the government affairs committee of the Long Island Association and he was also part of an ad hoc group to support the opening of Shoreham by the Long Island Lighting Co. At the time of his death, he was the chairman of the Long Island Development Agency and was in Washington to watch the House debate on the Nuclear Regulatory Commission bill, which affects the nuclear powerplant at Shoreham, Long Island.

I would like to offer my sincere condolences to Jack Wydler's family. His dedication and leadership will be greatly missed.

Mr. ANDERSON. Mr. Speaker, I would like to take this opportunity to express the sorrow I share with my colleagues over the passing of a man who helped build this great Nation, former Congressman John W. Wydler of New York.

John's career as a public official began in 1962 when he was selected to the 88th Congress. He was reelected in each subsequent Congress until his retirement in 1981. Over the span of his nine terms in the House of Representatives, John always kept his district in New York close to heart as he voted and spoke the conscience of his constituency. As an example, he rose in strong opposition to the landing of the supersonic Concord at Kennedy International Airport in New York, which reflected the sentiments of his constituents.

John W. Wydler interrupted his college education and proudly served his country during World War II in the U.S. Air Force. He later resumed his studies at Brown University where he was an outstanding student before entering Harvard Law School. John subsequently was admitted to the New York bar in 1950 and served the U.S. attorney for the eastern district of New York from 1953 to 1959. He was appointed to the State Investigation Commission before entering into private practice in 1960.

Mr. Speaker, John W. Wydler was an exceptional man who cared enough about the people and the area he loved to represent them here in Washington. To say that Mr. Wydler was just a public servant is a great understatement as he embellished all that is wonderful and sacred regarding the voice of the people. His fascination and respect for the law of our great land led him to a life of sincere service to those in need of his expertise. We will all sorely miss John W. Wydler, however, his memory shall serve as a vehicle in keeping him alive in our hearts and minds.

Mr. QUILLEN. Mr. Speaker, I want to join my colleagues in paying tribute to the memory of our friend Jack Wydler, who passed away in early August.

Congressman John W. Wydler and I arrived as freshmen Members of Congress in 1964 and he served with distinction here in the House until his retirement in 1980. Jack Wydler was an intelligent, articulate, and hard-working Congressman who did an outstanding job representing his constituents in New York's Fifth District in Long Island.

Congressman Wydler was a staunch Republican and played an important role in shaping party policy here in the House. He was the ranking Republican member on the House Committee on Science, Space, and Technology and also served as a member of the House Committee on Government Operations.

Jack Wydler was a good man to have on your side and a tough opponent for those on the other side of an argument. He worked together on a number of important issues over the years and always he was forthright in expressing his views and diligent in his efforts to carry those views forward to victory. I especially remember Jack as one of my firmest allies in the fight over the outside-earned-income limit in 1977. We lost that one but Jack's arguments were absolutely sound, and it was a distinct personal pleasure to work closely with him in that effort.

Jack Wydler was a fine man and he was my friend. At this sad time, I wish to extend my sincere condolences to Jack's wife, Brenda, his son, Christopher, his daughters Kathleen and Elizabeth, his mother, Mrs. Ethel Wydler, and other members of the family.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of our departed former colleague, John Wydler.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1645

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOUGHTON) to revise and extend their remarks and include extraneous material:)

Mr. DREIER of California, for 5 minutes, today.

Mrs. JOHNSON of Connecticut, for 60 minutes, today.

Mr. WALKER, for 60 minutes, on September 30.

Mr. Goodling, for 60 minutes, on September 30.

Mr. Buechner, for 30 minutes, on September 30.

Mr. Burton of Indiana, for 5 minutes, today.

Mr. Walker, for 5 minutes, today.

Mr. Gingrich, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Gonzalez, for 60 minutes, on September 30.

Mr. Savage, for 15 minutes, today.

Mr. Gaydos, for 60 minutes, on September 30.

Mr. Gaydos, for 5 minutes, on October 1.

Mr. Skelton, for 30 minutes, on October 1.

Mr. Downey of New York, for 60 minutes, on October 6.

Mr. Frank, for 60 minutes, on October 7.

Mr. Visclosky, for 60 minutes, on October 6.

Mr. Lantos, for 60 minutes, on October 1.

Mr. Pease, for 5 minutes, on October 1.

Mr. Gonzalez, for 60 minutes, on October 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Houghton) and to include extraneous matter:)

Mr. Broomfield in four instances.

Mr. Rogers.

Mr. Courter.

Mr. Bunning.

Mr. Conte in two instances.

Mr. Clinger.

Mr. Lewis of California in three instances.

Mr. Porter.

Mr. Gallo.

Mr. Solomon in two instances.

Mr. Chandler.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Pickle.

Mr. Lipinski.

Mr. Traficant.

Mr. Gaydos.

Mr. Coleman of Texas in three instances.

Mr. Coelho.

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown of California in 10 instances.

Mr. Annunzio in six instances.

Mr. Jones of Tennessee in 10 instances.

Mr. Boner of Tennessee in five instances.

Mr. Roybal.

Mr. Udall.

Mr. Kostmayer.

Mr. Dingell.

Mr. Florio.

Mr. Lantos in two instances.

Mr. Wolpe.

Mr. Panetta.

Mr. Gordon.

Mr. Applegate.

Mr. Rodino.

Mr. Dyson in three instances.

Mr. Edwards of California in two instances.

Mr. Mavroules.

Mr. Studds.

Mr. Hoyer in three instances.

Mr. Fascell in two instances.

Mr. Mfume.

Mr. Yatron.

Mr. Bryant.

Ms. Pelosi.

Mr. Bonker.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1744. An act to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund;

H.J. Res. 355. Joint resolution designating September 27, 1987, as "Gold Star Mothers Day"; and

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, joint resolutions of the House of the following title:

On September 24, 1987:

H.J. Res. 324. Joint resolution increasing the statutory limit on public debt.

On September 25, 1987:

H.J. Res. 362. Joint resolution making continuing appropriations for the fiscal year 1988, and for other purposes.

ADJOURNMENT

Mr. DYSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 46 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, September 30, 1987, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2148. A letter from the Deputy Assistant Secretary of Defense, transmitting the Navy's determination and findings indicating the necessity to exclude the clause concerning examination of records by the Comptroller General from a proposed contract with the Office of Port Management of the Kingdom of Morocco for construction of port facilities for the U.S. Air Force Rapid Deployment Force, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

2149. A letter from the Deputy General Counsel of the Department of Defense, transmitting a draft of proposed legislation to authorize the President to defer the retirement of the officer serving as Chairman of the Joint Chiefs of Staff for the term beginning October 1, 1987; to the Committee on Armed Services.

2150. A letter from the Secretary of the Treasury, transmitting the annual report on the operations of the exchange stabilization fund for fiscal year 1986, pursuant to 31 U.S.C. 5302(c)(2); to the Committee on Banking, Finance and Urban Affairs.

2151. A letter from the Secretary of Education, transmitting final regulations for the Endowment Challenge Grant Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2152. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's study of the manufacturing and distribution of cyanide in order to safeguard the public from its wrongful use, pursuant to Public Law 99-570, section 13001(c) (100 Stat. 3207-190); to the Committee on Energy and Commerce.

2153. A letter from the Acting Secretary, Department of Commerce, transmitting a copy of Presidential Determination (87-20), dated September 23, 1987, with a full report of the Department on the purpose, effectiveness, and economic impact of the steps to be initiated to halt all pending shipments and future shipments of SCUBA gear and related equipment to Iran under the authority of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 et seq.), pursuant to 50 U.S.C. app. 2405(f); to the Committee on Foreign Affairs.

2154. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2155. A letter from the Director, Office of Management Analysis, Department of Interior, transmitting notice of a proposed new Federal records systems for the Minerals Management Service, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2156. A letter from the Director, Office of Management Analysis, Department of Interior, transmitting the Bureau of Land Management's notice of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2157. A letter from the Secretary to the Board, Railroad Retirement Board, transmitting the Board's notice of a proposed altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2158. A letter from the Commissioner, Immigration and Naturalization Service, transmitting the fourth quarterly report on waivers granted from certain admissibility requirements for refugees, pursuant to 8 U.S.C. 1157(c)(3); to the Committee on the Judiciary.

2159. A letter from the Acting Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting the first annual report of a list of incomplete water resources studies authorized but unfunded during the 5 full fiscal years preceding the submission of the list, pursuant to 33 U.S.C. 2264; to the Committee on Public Works and Transportation.

2160. A letter from the Secretary of Transportation, transmitting a revised estimate of the cost of substitute highway and substitute transit projects, pursuant to 23 U.S.C. 103(e)(4); to the Committee on Public Works and Transportation.

2161. A letter from the Assistant Secretary of State Legislative and Intergovernmental Affairs, transmitting the Secretary's determination that seven southern African countries meet the requirements specified in the Supplemental Appropriations Act of July 11, 1987 regarding members of the Southern African Development, pursuant to Public Law 100-71; jointly, to the Committees on Appropriations and Foreign Affairs.

2162. A letter from the Secretary of Energy, transmitting a report on the Department's rebate disbursements in 1986 and the usage of those rebates by the nonsited compact regions and nonmember States through December 31, 1986 regarding radioactive waste disposal, pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

2163. A letter from the Executive Director, Federal Retirement Thrift Investment Board, transmitting a draft of proposed legislation to amend title 5 and title 26, United States Code, to provide that the Thrift Savings Fund is not subject to nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions described in section 401(m) of title 26, United States Code; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 3325. A bill to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway (Rept. 100-317). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1495. A bill to designate certain lands in Great Smoky Mountains National Park as wilderness, to provide for settlement of all claims of Swain County, North Carolina, against the United States under the agreement dated July 30, 1943, and for other purposes; with an amendment (Rept. 100-318). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2530. A bill to provide for the establishment of the Mississippi National River and Recreation Area, and for other purposes; with an amendment (Rept. 100-319). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2596. A bill to improve Federal management of lands on Admiralty Island, Alaska; with an amendment (Rept. 100-320). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 275. Resolution providing for the consideration of H.R. 2310, a bill to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes (Rept. 100-321). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KOLBE (for himself, Mr. Udall, Mr. Rodino, Mr. Quillen, Mr. Fuster, Mr. Bennett, Mr. Sunia, Mr. Robinson, Mr. Nowak, Mr. Bustamante, Mr. Spratt, Mr. Jones of North Carolina, Mr. Ford of Michigan, Mr. Bilirakis, Mr. Stratton, Mr. Richardson, and Mr. Fazio):

H.R. 3348. A bill to provide for the minting and circulation of one dollar coins, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WAXMAN:

H.R. 3349. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs and for other purposes; to the Committee on Energy and Commerce.

By Mr. HOWARD (for himself, Mr. Mineta, Mr. Hammerschmidt, Mr. Gingrich, Mr. Roe, Mr. Lujan, Mr. McCurdy, Mr. Lewis of Florida, Mr. Rostenkowski, and Mr. Duncan):

H.R. 3350. A bill to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes; jointly, to the Committees on Public Works and Transportation, Science, Space, and Technology, and Ways and Means.

By Mr. HYDE:

H.R. 3351. A bill to require periodic assessments of the impact and effectiveness of United States economic assistance to foreign countries; to the Committee on Foreign Affairs.

By Mr. RODINO:

H.R. 3352. A bill to aid the innocent victims of crimes by amending the Victims of Crime Act of 1984 to make permanent the crime victims fund; to the Committee on the Judiciary.

By Mr. CRANE:

H.R. 3353. A bill to amend the Internal Revenue Code of 1986 to provide for the taxation of capital gains at a rate of 15 percent; to the Committee on Ways and Means.

By Mr. DORNAN of California:

H.R. 3354. A bill to amend the Federal Aviation Act of 1958 to require smoke detection devices in bathrooms on aircraft operated in air commerce; to the Committee on Public Works and Transportation.

By Mr. DELLUMS (for himself, Mr. Clay, Mrs. Collins, Mr. Conyers, Mr. Espy, Mr. Flake, Mr. Gray of Pennsylvania, Mr. Hawkins, Mr. Hayes of Illinois, Mr. Lewis of Georgia, Mr. Mfume, Mr. Owens of New York, Mr. Savage, Mr. Stokes, Mr. Towns, and Mr. Wheat):

H.R. 3355, A bill to establish conditions on United States assistance for Zaire; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. FRANK:

H.R. 3356. A bill to amend the Miller Act to provide for the inclusion of interest and legal fees in judgments granted on suits by subcontractors based upon payment bonds, and for other purposes; to the Committee on the Judiciary.

By Mr. HATCHER (for himself, Mr. Rowland of Georgia, and Mr. Thomas of Georgia):

H.R. 3357. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes; to the Committee on Agriculture.

By Mr. MONTGOMERY:

H.R. 3358. A bill to amend section 376 of title 28, United States Code, to allow cost-of-living adjustments in judicial survivors annuities, and to increase existing annuities by 10 percent; to the Committee on the Judiciary.

By Mr. OWENS of New York:

H.R. 3359. A bill to provide, through greater targeting, coordination, and structuring of services, assistance to strengthen severely economically disadvantaged individuals and families by providing greater opportunities for employment preparation which can assist in promoting family economic stability; to the Committee on Education and Labor.

By Mr. DREIER of California (for himself and Mr. Roth):

H.R. 3360. A bill to authorize the creation of financial services holding companies, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PEPPER:

H.R. 3361. A bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders; to the Committee on Energy and Commerce.

By Mr. TAUZIN:

H.R. 3362. A bill to amend the Panama Canal Act of 1979; to the Committee on Merchant Marine and Fisheries.

By Mr. COMBEST:

H. Res. 276. Resolution expressing the sense of the House of Representatives that Federal estate and gift taxes should not be changed in order to increase Federal revenues as part of deficit reduction; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 38: Mr. Foglietta.

H.R. 81: Mr. Thomas A. Luken, Mr. Howard, Mrs. Boxer, Mr. Roe, Mr. Akaka, Mr. Traxler, Mr. Wyden, and Mr. Pepper.

H.R. 111: Mr. Rowland of Connecticut and Mr. Boulter.

H.R. 190: Mr. Price of Illinois, Mr. Donald E. Lukens, Mrs. Boxer, Mr. Thomas A. Luken, and Mr. Vento.

H.R. 205: Mr. Frank.

H.R. 241: Mr. Weiss.

H.R. 567: Mr. Gephardt, Mrs. Boxer, and Mr. Sabo.

H.R. 578: Mr. Donald E. Lukens.

H.R. 640: Mr. Edwards of California and Ms. Pelosi.

H.R. 778: Mr. Rinaldo.

H.R. 791: Mr. Howard, Mr. Anderson, Mr. Mineta, Mr. Applegate, Mr. Savage, Mr. Sunia, Mr. Bosco, Mr. Borski, Mr. Valentine, Mr. Wise, Mr. Gray of Illinois, Mr. Visclosky, Mr. Lancaster, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. Cardin, Mr. Hayes of Louisiana, Mr. Grant, Mr. Hammerschmidt, Mr. Shuster, Mr. Stangeland, Mr. Gingrich, Mr. Clinger, Mr. Molinari, Mr. McEwen, Mr. Petri, Mr. Sundquist, Mr. Packard, Mr. Boehlert, Mrs. Bentley, Mr. Lightfoot, Mr. Hastert, Mr. Inhofe, Mr. Ballenger, Mr. Upton, Mr. Chapman, Mr. Gallo, and Mr. Bereuter.

H.R. 792: Mr. Jeffords and Mr. McDade.

H.R. 911: Mr. Barnard, Mr. Udall, Mr. Derrick, Mr. Dorgan of North Dakota, Mr. McGrath, and Mr. Ray.

H.R. 940: Mr. Jeffords, Mr. Smith of New Jersey, Mr. Gallo, and Mr. Borski.

H.R. 1313: Mr. Dowdy of Mississippi, Mr. Rhodes, Mr. Dickinson, Mr. Schuette, Mr. Bonior of Michigan, Mr. Price of North Carolina, and Mr. Mrazek.

H.R. 1352: Mr. Penny.

H.R. 1442: Mr. Kildee.

H.R. 1467: Ms. Pelosi and Mr. Wolpe.

H.R. 1572: Mr. Rinaldo.

H.R. 1709: Mr. Buechner and Mr. Nichols.

H.R. 1770: Mr. Gray of Pennsylvania and Mr. Horton.

H.R. 1786: Mr. Miller of Ohio.

H.R. 1802: Mr. Espy, Mr. Kostmayer, Mr. Bruce, and Mr. Owens of Utah.

H.R. 1885: Mr. Leach of Iowa, Mr. Gallo, Mr. Cheney, Mr. Slattery, Mr. Alexander, Mr. Mollohan, Mr. Edwards of Oklahoma, Mr. Roberts, Mr. Packard, Mr. Holloway, and Mr. Price of Illinois.

H.R. 1966: Mr. Bonior of Michigan and Mr. Penny.

H.R. 1975: Mr. Staggers and Mr. Sisisky.

H.R. 1989: Mr. Kildee.

H.R. 2041: Mr. Kostmayer and Ms. Pelosi.

H.R. 2042: Mr. Duncan.

H.R. 2056: Mr. Vento and Mr. Fish.

H.R. 2125: Mr. Wilson.

H.R. 2229: Mr. Hyde, Mr. Mfume, Mr. Tauke, Mr. Skelton, Mr. Evans, Ms. Kaptur, Mr. McCloskey, Mr. Mrazek, Mr. Borski, Mr. Manton, Mr. Traxler, Mr. Boucher, Mr. Barnard, and Mr. Ridge.

H.R. 2248: Mr. Sundquist, Mr. Sisisky, Mr. Sikorski, Mr. Moorhead, and Mr. Moakley.

H.R. 2276: Mr. Hochbrueckner.

H.R. 2433: Mr. Boulter.

H.R. 2569: Mr. Vento, Mr. Anthony, Mr. Valentine, Mr. Horton, Mr. Owens of New York, Mr. Frank, and Mr. Lagomarsino.

H.R. 2612: Mr. Lagomarsino, Mr. Lott, and Mr. Boulter.

H.R. 2628: Mr. Slattery.

H.R. 2690: Mrs. Collins, Mr. Garcia, Mr. Lewis of Florida, Mr. DeWine, Mr. Oxley, Mr. McEwen, Mr. Hefley and Mr. Fish.

H.R. 2793: Mr. Vander Jagt, Mrs. Byron, and Mr. Fazio.

H.R. 2800: Mr. Lantos, Mr. Sharp, Mr. Moakley, Mr. Alexander, Mr. Dicks, Mrs. Kennelly, Mr. McCloskey, Mr. McMillen of Maryland, Mr. Mack, Ms. Pelosi, Mr. Smith of Florida, Mr. Torres, Mr. Weber, and Mr. Price of Illinois.

H.R. 2884: Mr. Bliley, Mr. Evans, and Mr. Leach of Iowa.

H.R. 2920: Ms. Kaptur and Mr. Sundquist.

H.R. 2969: Mr. Foglietta and Mr. Nowak.

H.R. 2997: Mr. Donnelly, Mr. Lagomarsino, Mr. Roe, Mr. Slaughter of Virginia, Mr. Frank, Mr. Pursell, Mr. Gunderson, Mr. Ritter, Mr. Wortley, Mr. Smith of New Hampshire, Mr. Rogers, Mr. Wolpe, Mr. Porter, and Mr. Conyers.

H.R. 2998: Mr. Donnelly, Mr. Lagomarsino, Mr. Roe, Mr. Slaughter of Virginia, Mr. Frank, Mr. Pursell, Mr. Gunderson, Mr. Ritter, Mr. Wortley, Mr. Smith of New Hampshire, Mr. Rogers, Mr. Wolpe, Mr. Porter, and Mr. Conyers.

H.R. 2999: Mr. Hertel.

H.R. 3002: Mr. Wheat and Mr. Foglietta.

H.R. 3010: Mr. Robinson, Mr. Brown of California, Mr. Bates, Mr. Henry, Mr. Roe, Mr. Thomas of Georgia, Mr. Ford of Michigan, Mr. Sawyer, Mr. Fawell, Mr. Neal, Mr. McHugh, and Mr. Bosco.

H.R. 3019: Mr. Moakley, Mr. Rodino, Mr. Traxler, Mr. Fauntroy, Mr. Smith of Florida, Mr. Gray of Illinois, Mr. Mrazek, Mr. Edwards of California, Mr. Bilbray, Mr. Wilson, Mr. McHugh, Mr. Howard, Mrs. Boxer, Mr. Scheuer, and Mr. Fazio.

H.R. 3038: Mr. Clinger and Mr. Evans.

H.R. 3044: Mr. Hefley, Mr. Rogers, Mr. Ortiz, Mr. Hamilton, Mr. Price of Illinois, Mr. Glickman, Mr. Gunderson, Mr. Roberts, and Mr. Weber.

H.R. 3045: Mr. Hefley, Mr. Rogers, Mr. Ortiz, Mr. Hamilton, Mr. Price of Illinois, Mr. Glickman, Mr. Gunderson, Mr. Roberts, and Mr. Weber.

H.R. 3047: Mr. Shumway, Mr. Wilson, and Ms. Kaptur.

H.R. 3071: Mr. Solarz.

H.R. 3095: Mr. Wortley, Mr. Rinaldo, Mr. Courter, Mr. Walker, Mr. Sundquist, and Mr. Ballenger.

H.R. 3119: Ms. Pelosi, Mr. Fauntroy, Mr. Hughes, and Mr. Lipinski.

H.R. 3132: Mr. Hoyer, Mr. Howard, Mr. Gejdenson, Mr. Solarz, Mrs. Morella, and Mr. Foglietta.

H.R. 3153: Mr. Donnelly, Mr. Lagomarsino, Mr. Hyde, and Mr. Horton.

H.R. 3171: Mr. Akaka, Mr. Andrews, Mr. Applegate, Mr. Aspin, Mr. Beilenson, Mr. Boland, Mr. Bonior of Michigan, Mr. Borski, Mr. Bosco, Mrs. Boxer, Mr. Bruce, Mr. Bryant, Mr. Bustamante, Mr. Carper, Mr. Clarke, Mr. Coelho, Mr. Coleman of Texas, Mr. Conyers, Mr. Coyne, Mr. Darden, Mr. de Lugo, Mr. Dellums, Mr. Derrick, Mr. Dicks, Mr. Donnelly, Mr. Dorgan of North Dakota, Mr. Downey of New York, Mr. Dwyer of New Jersey, Mr. Dymally, Mr. English, Mr. Erdreich, Mr. Fauntroy, Mr. Fazio, Mr. Foglietta, Mr. Foley, Mr. Frank, Mr. Frost, Mr. Garcia, Mr. Gaydos, Mr. Gejdenson, Mr. Glickman, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Hamilton, Mr. Hayes of Illinois, Mr. Hefner, Mr. Hertel, Mr. Hochbrueckner, Mr. Howard, Mr. Hoyer, Mr. Huckaby, Mr. Jacobs, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Kastenmeier, Mr. Kolter, Mr. Lancaster, Mr. Lantos, Mr. Lehman of California, Mr. Lehman of Florida, Mr. Leland, Mr. Levin of Michigan, Mr. Levine of California, Mr. Thomas A. Luken, Mr. McHugh, Mr. McMillen of Maryland, Mr. MacKay, Mr. Manton, Mr. Markey, Mr. Martinez, Mr. Mica, Mr. Miller of California, Mr. Moakley, Mr. Mollohan, Mr. Moody, Mr. Murtha, Mr. Neal, Mr. Nowak, Mr. Oberstar, Mr. Olin, Mr. Owens of New York, Mr. Owens of Utah, Mr. Panetta, Mrs. Patterson, Mr. Penny, Mr. Perkins, Mr. Price of North Carolina, Mr. Price of Illinois, Mr. Rahall, Mr. Ray, Mr. Roybal, Mr. Sabo, Mr. Sawyer, Mrs. Schroeder, Mr. Schumer, Mr. Sharp, Mr. Slattery, Mr. Spratt, Mr. Staggers, Mr. Stallings, Mr. Stark, Mr. Stokes, Mr. Synar, Mr. Torres, Mr. Towns, Mr. Traficant, Mr. Traxler, Mr. Vento, Mr. Visclosky, Mr. Watkins, Mr. Wise, Mr. Wolpe, Mr. Wyden, Mr. Yatron, Mr. Kostmayer, Mr. Torricelli, Mr. Bliley, Mr. Buechner, Mr. Burton of Indiana, Mr. DeLay, Mr. Dreier of California, Mr. Fawell, Mr. Gekas, Mr. Gregg, Mr. Henry, Mr. Hyde, Mr. Inhofe, Mr. Jeffords, Mr. Lagomarsino, Mr. Lewis of California, Mr. Livingston, Mr. Donald E. Lukens, Mr. McGrath, Mr. Molinari, Mr. Morrison of Washington, Mr. Myers of Indiana, Mr. Nielson of Utah, Mr. Ritter, Mr. Roberts, Mr. Rowland of Connecticut, Mr. Weber, Mr. Wolf, and Mr. Pursell.

H.R. 3182: Mr. Mrazek, Mr. Fauntroy, Mr. Aspin, Mr. Rahall, Mr. Shumway, Mr. Manton, Mr. Hayes of Illinois, Mr. Dannemeyer, Mr. Roe, Mr. Inhofe, Mr. Weiss, Ms. Pelosi, Mr. Biaggi, Mr. Evans, Mr. Mineta, Mr. Ford of Tennessee, Mr. Hughes, Mr. Hall of Ohio, Mr. Smith of Florida, and Mrs. Boxer.

H.R. 3199: Mrs. Bentley, Mr. Horton, Mr. Barton of Texas, Mr. Gunderson, Mr. Whittaker, and Mr. Coats.

H.R. 3201: Mrs. Bentley, Mr. Barton of Texas, and Mr. Coats.

H.R. 3204: Mr. Price of Illinois, Mr. Hopkins, and Mr. Tauzin.

H.R. 3214: Mr. Fawell, Ms. Pelosi, Mr. Owens of Utah, Mr. McHugh, Mr. Nielson of Utah, and Mr. Oberstar.

H.R. 3243: Mr. Swindall.

H.R. 3244: Mr. Grant.

H.R. 3250: Mr. Fazio and Mr. Andrews.

H.R. 3266: Mr. Weber, Mr. Coleman of Missouri, Mr. Bruce, and Mr. Schuette.

H.R. 3290: Mr. Smith of Florida, Mr. Hutto, Mr. Grant, Mr. Bennett, Mr. Lehman of Florida, Mr. Ireland, and Mr. McCollum.

H.J. Res. 48: Mr. Blaz, Mr. Fascell, Mr. McCollum, and Mr. Weldon.

H.J. Res. 241: Mr. Thomas of Georgia, Mr. Bateman, Mr. Dickinson, Mr. Nielson of Utah, Mr. DioGuardi, Mr. Dyson, Mr. Jones of North Carolina, Mrs. Martin of Illinois, Mr. Henry, Mr. Goodling, Mr. Rinaldo, and Mr. Conte.

H.J. Res. 288: Mr. Daniel, Mr. Hansen, Mr. Hayes of Illinois, Mrs. Morella, Mr. Hefner, Mr. Berman, Mr. Jones of North Carolina, Mr. Akaka, Mrs. Bentley, Mr. Boner of Tennessee, Mr. Borski, Mr. Ackerman, Mr. Lehman of Florida, Mr. Leland, Mr. Lewis of Georgia, Mrs. Lloyd, and Mr. Howard.

H.J. Res. 289: Mr. Akaka, Mr. Anthony, Mr. Blaz, Mr. Campbell, Mr. DeFazio, Mr. Kostmayer, Mr. Levin of Michigan, Mr.

Markey, Mr. Skelton, Ms. Snowe, and Mr. Yatron.

H.J. Res. 340: Mr. Rowland of Connecticut, Mr. Hatcher, Mr. Pepper, Mr. Gingrich, Mrs. Roukema, Mr. Anderson, Mr. Hughes, Mr. S[illegible] Mr. Towns, Mr. Hamilton, Ms. Oakar, Mr. Durbin, Mr. Martinez, Mr. Gejdenson, Mr. Borski, Mr. Robinson, Mr. Bates, Mr. Atkins, Mr. Blaz, Mr. Boland, Mr. Carper, Mr. Burton of Indiana, Mr. DeFazio, Mr. Quillen, Mr. Dicks, Mr. Akaka, Mr. McCloskey, Mr. Coyne, Mr. Frank, Mr. Daub, Mr. Erdreich, Mr. Applegate, Mr. Gray of Pennsylvania, Ms. Slaughter of New York, Mr. Boucher, Mr. Annunzio, Mr. Rinaldo, Mr. Hansen, Mr. Staggers, Mr. Weiss, Mr. Hochbrueckner, Mr. Chandler, Mr. Espy, Mr. Foley, Mr. Berman, Mr. Jones of Tennessee, Mr. Bonior of Michigan, Mr. Young of Florida, Mr. Mack, Mr. Owens of Utah, Mr. Lehman of California, Mr. Frenzel, Mr. Flippo, Mr. Nichols, Mr. Levine of California, Mr. Traficant, Mr. Sawyer, Mr. Traxler, and Mr. Bennett.

H. Con. Res. 68: Mr. Boehlert, Mr. Bonior of Michigan, Mr. Dixon, Mrs. Kennelly, Mrs. Meyers of Kansas, Mr. Rangel, and Mrs. Vucanovich.

H. Con. Res. 97: Mr. Roemer, Mrs. Meyers of Kansas, and Mr. Bevill.

H. Res. 17: Mr. Bartlett.

H. Res. 199: Mr. Badham, Mr. Bilirakis, Mr. Bliley, Mr. Carper, Mr. Carr, Mrs. Collins, Mr. Conte, Mr. Crane, Mr. Dannemeyer, Mr. DeLay, Mr. Guarini, Mr. Holloway, Mr. Kildee, Mr. LaFalce, Mr. Lehman of Florida, Mr. Levine of California, Mrs. Martin of Illinois, Mr. Morrison of Connecticut, Mr. Owens of New York, Mr. Schaefer, Mr. Sikorski, Ms. Slaughter of New York, Mr. Smith of New Hampshire, and Mr. Solomon.

H. Res. 213: Mr. Kolbe, Mr. Clarke, Mr. Glickman, Mr. McCloskey, and Mr. DeLay.

H. Res. 232: Mr. Cardin.

H. Res. 258: Mr. Barton of Texas, Mr. DeLay, and Mr. Kolbe.

H. Res. 266: Mr. Stenholm and Mr. Robert F. Smith.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2310

By Mr. MOORHEAD:

—Page 90, strike out line 3, and all that follows through line 10 on page 91.

Page 91, line 11, strike out "20" and insert in lieu thereof "19".

Conform the table of contents on page 46 accordingly.

H.R. 2939

By. Mr. SCHUMER:

Amendment in the nature of a substitute.

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Amendments Act of 1987".

SEC. 2. AMENDMENTS RELATING TO INDEPENDENT COUNSEL.

Chapter 40 of title 28, United States Code, is amended to read as follows:

CHAPTER 40—INDEPENDENT COUNSEL

"Sec.

"591. Applicability of provisions of this chapter; Executive Conduct Commission.

"592. Application for appointment of an independent.

"593. Duties of the division of the court.

"594. Authority and duties of an independent counsel.

"595. Reports.

"596. Removal of an independent counsel; termination of office.

"597. Relationship with Department of Justice.

"598. Severability.

"§ 591. Applicability of provisions of this chapter; Executive Conduct Commission

"(a) Preliminary Investigation With Respect to Certain Covered Persons.—The Executive Conduct Commission established in subsection (e) shall conduct a preliminary investigation in accordance with section 592 whenever the Commission receives information sufficient to constitute grounds to investigate whether any person described in subsection (b) may have violated any Federal criminal law other than a petty offense. This subsection applies to a person described in any of paragraphs (1) through (8) of subsection (b) even if the violation of law may have occurred before the person assumed the office or position described in the applicable paragraph.

"(b) Persons to Whom Subsection (a) Applies.—The persons referred to in subsection (a) are—

"(1) the President and Vice President;

"(2) any individual serving in a position listed in section 5312 of title 5;

"(3) any individual working in the Executive Office of the President who is compensated at a rate of pay at or above level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice who is compensated at a rate of pay at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who leaves any office or position described in any of paragraphs (1) through (5) of this subsection, during the incumbency of the President such individual served in the office or position plus one year after such incumbency, but in no event longer than a period of two years after the individual leaves the office or position;

"(7) any individual who held an office or position described in any of paragraphs (1) through (5) of this subsection during the incumbency of one President and who continued to hold the office or position for not more than 90 days into the term of the next President, during the 1-year period after the individual leaves the office or position; and

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of a campaign for the election or reelection of the President who exercises authority at the national level, such as the campaign manager or director, during the incumbency of the President.

"(c) Preliminary Investigation With Respect to Persons Not Listed in Subsection (b).—If—

"(1) the Attorney General receives information sufficient to constitute grounds to investigate whether any person other than a person described in subsection (b) may have violated any Federal criminal law other than a petty offense; and

"(2) the Attorney General determines that a complete investigation or prosecution of the person (with respect to the violation of criminal law involved) by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest,

the Attorney General may conduct a preliminary investigation of the matter in accordance with section 592, or the Attorney General may refer the matter to the Executive Conduct Commission. The Commission shall conduct a preliminary investigation in accordance with section 592 of any matter so referred by the Attorney General.

"(d) Examination of Information To Determine Need for Preliminary Investigation.—In determining under subsection (a) or (c) whether grounds to investigate whether a violation of a Federal criminal law may have been committed, the Commission or the Attorney General, as the case may be, shall consider—

"(1) the degree of specificity of the information received, and

"(2) the credibility of the source of the information.

"(e) Executive Conduct Commission.—

"(1) Establishment.—There is established an Executive Conduct Commission (hereafter in this chapter referred to as the 'Commission'), which shall be composed of 4 members appointed by the President, by and with the advice and consent of the Senate. No more than 2 members of the Commission may be affiliated with the same political party.

"(2) Functions.—(A) The Commission shall conduct preliminary investigations under section 592 in accordance with this chapter, and carry out other functions vested in the Commission by this chapter.

"(B) The Commission shall notify the Attorney General of the commencement of any preliminary investigation conducted by the Commission under subsection (a).

"(C) Upon notification under subparagraph (B) of the commencement of a preliminary investigation with respect to a matter, or upon referral of a matter to the Commission under subsection (c), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by paragraph (10).

"(3) Terms.—(A) Members of the Commission shall serve for terms of 4 years, except that of the members first appointed, 2 of the members, not affiliated with the same political party, shall be appointed for 2-year terms.

"(B) A member of the Commission may serve on the Commission after the expiration of his or her term until his or her successor has taken office as a member of the Commission.

"(C) An individual appointed to fill a vacancy occurring other than by the expiration of a term of office shall be appointed only for the unexpired term of the member he or she succeeds.

"(D) Any vacancy occurring in the membership of the Commission shall be filled in the same manner as in the case of the original appointment.

"(4) Qualifications of Members.—Members shall be attorneys who are chosen on the basis of their experience, integrity, impartiality, and good judgment, and members shall be individuals who, at the time appointed to the Commission, are not elected or appointed officers or employees in the executive, legislative, or judicial branch of the Federal Government.

"(5) REMOVAL.—A member of the Commission may be removed from office, other than by impeachment and conviction, only by the President and only for good cause or any condition that substantially impairs the performance of such member's duties, including physical disability and mental incapacity.

"(6) COMPENSATION.—Members of the Commission shall each be paid the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 for each day during which they are engaged in the actual performance of duties vested in the Commission.

"(7) CHAIR AND VICE CHAIR.—The Commission shall elect from among its members a chair and vice chair who shall each serve for a term of 1 year. The chair and vice chair shall not be affiliated with the same political party. The vice chair shall act as chair in the absence or disability of the chair or in the event of a vacancy in such office.

"(8) MAJORITY VOTE REQUIRED.—All decisions of the Commission with respect to its functions under this chapter shall be made by a majority vote of the members of the Commission.

"(9) PERSONNEL.—The Commission may appoint, fix the compensation, and assign the duties of such employees as the Commission considers necessary in carrying out its functions. The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate of pay exceeding the maximum rate of pay payable for GS-18 of the General schedule under section 5332 of title 5.

"(10) ASSISTANCE OF DEPARTMENT OF JUSTICE.—(A) The Commission may request assistance from the Department of Justice in carrying out the functions of the Commission, and the Department of Justice shall provide that assistance, which may include access to any records, files, or other materials relevant to any preliminary investigation conducted by the Commission and the use of personnel, facilities, and other assistance, with or without reimbursement, which are necessary to perform the functions of the Commission.

"(B) The Attorney General shall refer to the Commission all information received by the Attorney General which may involve a determination by the Commission under subsection (a) or section 592(c)(2)(A).

"(11) ASSISTANCE OF OTHER AGENCIES.—The heads of agencies and departments (other than the Department of Justice) may make available to the Commission such personnel, facilities, and other assistance, with or without reimbursement, as the Commission may request.

"(12) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States (in addition to the Department of Justice) information necessary to enable the Commission to carry out its functions. Upon request of the chair or vice chair of the Commission, the head of such department or agency shall furnish such information to the Commission.

"(13) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(14) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(15) STANDARDS OF CONDUCT APPLICABLE TO THE COMMISSION, EMPLOYEES OF THE COMMISSION, AND THEIR LAW FIRMS.—

"(A) RESTRICTIONS ON EMPLOYMENT WHILE MEMBERS OF THE COMMISSION AND EMPLOYEES ARE SERVING.—(i) During the period in which a member of the Commission is serving under this chapter—

"(I) such member, and

"(II) any person associated with a firm with which such member is associated or was associated immediately before assuming office as a member,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

"(ii) During the period in which any employee of the Commission is serving under this chapter—

"(I) such employee, and

"(II) any person associated with a firm with which such employee is associated or was associated immediately before the employee's appointment,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

"(B) THREE-YEAR BAN ON REPRESENTATION BY MEMBERS OF THE COMMISSION AND EMPLOYEES.—Each member of the Commission and each employee of the Commission may not, for 3 years following the termination of the service under this chapter of that member or employee, as the case may be—

"(i) represent any individual in any matter if that individual was the subject of a preliminary investigation that was conducted by the Commission during the service of that member or employee, as the case may be; or

"(ii) represent any individual in any matter involving any investigation or prosecution under this chapter.

"(C) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS.—(i) Any person who is associated with a firm with which a member of the Commission is associated or becomes associated after termination of the service of that member under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(ii) Any person who is associated with a firm with which an employee of the Commission is associated or becomes associated after termination of the service of that employee under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'firm' means in law firm whether organized as a partnership or corporation; and

"(ii) a person is 'associated' with a firm if that person is an officer, director, partner, or other member of employee of that firm.

"(16) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for any fiscal year beginning after September 30, 1987, such sums as may be necessary to carry out this subsection.

"§ 592. Application for appointment of an independent counsel

"(a) CONDUCT OF PRELIMINARY INVESTIGATION.—

"(1) IN GENERAL.—A preliminary investigation conducted pursuant to section 591(a) or (c) shall be such preliminary investigation of the matters involved as the Commission or the Attorney General (as the case may be) considers appropriate in order to make a determination under subsection (b) or (c) of this section with respect to each allegation of a violation of criminal law. The preliminary investigation shall be conducted for a period of not more than 90 days after the information referred to in section 591(a) or (c) (as the case may be) is received by the Commission (if the preliminary investigation is conducted by the Commission) or the Attorney General (if the preliminary investigation is conducted by the Attorney General). The Commission or the Attorney General (as the case may be) shall promptly notify the division of the court specified in section 593(a) of the commencement of such preliminary investigation and the date of such commencement.

"(2) LIMITED AUTHORITY OF COMMISSION AND ATTORNEY GENERAL.—In conducting preliminary investigations under this section, the Commission and the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas.

"(3) EXTENSION OF TIME FOR PRELIMINARY INVESTIGATION.—The Commission or the Attorney General (as the case may be) may apply to the division of the court for a single extension, for a period of not more than 60 days, of the 90-day period referred to in paragraph (1). The division of the court may, upon a showing of good cause, grant such extension.

"(b) FINDING THAT FURTHER INVESTIGATION NOT WARRANTED.—

"(1) NOTIFICATION OF DIVISION OF THE COURT.—If the Commission or the Attorney General, upon completion of a preliminary investigation under this section, finds that there are no reasonable grounds to believe that further investigation is warranted, the Commission or the Attorney General (as the case may be) shall promptly so notify the division of the court, and the division of the court shall have no power to appoint an independent counsel with respect to the matters involved.

"(2) FORM OF NOTIFICATION.—Such notification shall contain a summary of the information received and a summary of the results of the preliminary investigation.

"(c) FINDING THAT FURTHER INVESTIGATION IS WARRANTED.—

"(1) APPLICATION FOR APPOINTMENT OF INDEPENDENT COUNSEL.—If—

"(A) the Commission or the Attorney General (as the case may be), upon completion of a preliminary investigation under this section, finds reasonable grounds to believe that further investigation is warranted, or

"(B) the 90-day period referred to in subsection (a)(1) (and any extension granted under subsection (a)(3)) elapses without a determination by the Commission or the Attorney General (as the case may be) that there are no reasonable grounds to believe that further investigation is warranted,

then the Commission or the Attorney General (as the case may be) shall apply to the division of the court for the appointment of an independent counsel. In determining whether reasonable grounds exist to warrant further investigation, the Commission and the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(2) Receipt of additional information.—If—

"(A) after submitting a notification under subsection (b), the Commission or the Attorney General (as the case may be) receives additional information sufficient to constitute grounds to investigate the matters to which such notification related, and

"(B) the Commission or the Attorney General (as the case may be) determines, after conducting (for a period of not more than 90 days after receiving such additional information) such additional investigation as the Commission or the Attorney General (as the case may be) considers appropriate, that reasonable grounds exist to warrant further investigation,

then the Commission or the Attorney General (as the case may be) shall apply to the division of the court for the appointment of an independent counsel.

"(d) Contents of Application.—Any application under this chapter shall contain sufficient information to assist the division of the court in selecting an independent counsel and in defining that independent counsel's prosecutorial jurisdiction.

"(e) Disclosure of Information—Except as otherwise provided in this chapter, and subject to section 595(b)(3), notifications, applications, and any other documents, materials, or memoranda supplied to the division of the court under this chapter shall not be revealed to any individual outside the division of the court, the Commission, or the Department of Justice, without leave of the division of the court.

"(f) Limitation of Judicial Review.—A determination of the Commission or the Attorney General under subsection (c) to apply to the division of the court for the appointment of an independent counsel shall not be reviewable in any court.

"§ 593. Duties of the division of the court

"(a) Reference to Division of the Court.—The division of the court to which this chapter refers is the division established under section 49 of this title.

"(b) Appointment and Jurisdiction of Independent Counsel.—

"(1) Authority.—Upon receipt of an application under section 592(c), the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

"(2) Scope of prosecutorial jurisdiction.—In defining the independent counsel's prosecutorial jurisdiction, the division of the court shall assure that the independent counsel will have adequate authority to fully investigate the subject matter with respect to which the Commission or the Attorney General has determined grounds exist warranting further investigation, and all matters related to that subject matter. Such jurisdiction shall include the authority to investigate Federal crimes, other than petty offenses, arising out of the investigation or prosecution of the matter with respect to which the determination of the Commission or the Attorney General was made, including perjury, conspiracy, obstruction of justice, destruction of evidence, and intimidation of witnesses.

"(3) Disclosure of identity and prosecutorial jurisdiction.—An independent counsel's identity and prosecutorial jurisdiction (including any expansion under subsection (c)) shall not be made public except upon the request of the Commission (if the independent counsel was appointed pursuant to an application of the Commission) or the Attorney General (if the independent counsel was appointed pursuant to an application of the Attorney General) or upon a determination of the division of the court, on its own motion, that disclosure of the identity and prosecutorial jurisdiction of such independent counsel would be in the best interests of justice. In any event, the identity and prosecutorial jurisdiction of such independent counsel shall be made public when any indictment is returned or any criminal information is filed.

"(c) Expansion of Jurisdiction.—The division of the court may expand the prosecutorial jurisdiction of an independent counsel appointed under this chapter—

"(1) upon the request of the Commission, if the independent counsel was appointed pursuant to an application of the Commission,

"(2) upon the request of the Attorney General, if the independent counsel was appointed pursuant to an application of the Attorney General, or

"(3) upon the request of the independent counsel.

Such request may be incorporated in such application. Each expansion of jurisdiction may include any additional persons described in section 591(b) or offenses related to matters within such prosecutorial jurisdiction, and such expansion may be in lieu of the appointment of an additional independent counsel. Any request under this subsection for an expansion of jurisdiction shall include the reasons for the request. In the case of a request by an independent counsel, the division of the court shall send notification of the request to the Commission (if the independent counsel was appointed pursuant to an application of the Commission) or the Attorney General (if the independent counsel was appointed pursuant to an application of the Attorney General). The Commission or the Attorney General (as the case may be) may, during the 14-day period beginning on the date on which the Commission or the Attorney General receives such notification, submit comments to the division of the court on the request. The division of the court may make a decision with respect to the request only after the end of that 14-day period.

"(d) Restrictions on Appointees.—The division of the court may not appoint as an independent counsel any person who holds or recently held any office of profit or trust under the United States.

"(e) Vacancies.—If a vacancy in office arises by reason of the resignation, death, or removal of an independent counsel, the division of the court shall appoint an independent counsel to complete the work of the independent counsel whose resignation, death, or removal caused the vacancy, except that in the case of a vacancy arising by reason of the removal of an independent counsel, the division of the court may appoint an acting independent counsel to serve until any judicial review of such removal is completed.

"(f) Attorneys' Fees.—Upon the request of a person who is the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorneys' fees incurred by such person during such investigation if—

"(1) no indictment is brought against such person; and

"(2) the attorneys' fees would not have been incurred but for the requirements of this chapter.

The division of the court shall notify the Commission (if the independent counsel was appointed pursuant to an application of the Commission) and the Attorney General of any request for attorneys' fees under this subsection.

"(g) Disclosure of Information.—The division of the court may, in accordance with section 592(e), allow the disclosure of any notification, application, or any other document, material, or memorandum supplied to the division of the court under this chapter.

"(h) Amicus Curiae Briefs.—When presented with precedential legal issues, the division of the court may disclose sufficient information about the issues to permit the Commission, the Attorney General, and the Houses of Congress to file timely amicus curiae briefs.

"§ 594. Authority and duties of an independent counsel

"(a) Authorities.—Notwithstanding any other provision of law, an independent counsel appointed under this chapter shall have, with respect to all matters in such independent counsel's prosecutorial jurisdiction established under this chapter, full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice, except that the Attorney General shall exercise direction or control as to those matters that specifically require the Attorney General's personal action under section 2516 of title 18. Such investigative and prosecutorial functions and powers shall include—

"(1) conducting proceedings before grand juries and other investigations;

"(2) participating in court proceedings and engaging in any litigation, including civil and criminal matters, that such independent counsel considers necessary;

"(3) appealing any decision of a court in any case or proceeding in which such independent counsel participates in an official capacity;

"(4) reviewing all documentary evidence available from any source;

"(5) determining whether to contest the assertion of any testimonial privilege;

"(6) receiving appropriate national security clearances and, if necessary, contesting in court (including, where appropriate, participating in in camera proceedings) any claim of privilege or attempt to withhold evidence on grounds of national security;

"(7) making applications to any Federal court for a grant of immunity to any witness, consistent with applicable statutory requirements, or for warrants, subpoenas, or other court orders, and, for purposes of sections 6003, 6004, and 6005 of title 18, exercising the authority vested in a United States attorney or the Attorney General;

"(8) inspecting, obtaining, or using the original or a copy of any tax return, in accordance with the applicable statutes and regulations, and, for purposes of section 6103 of the Internal Revenue Code of 1986 and the regulations issued thereunder, exercising the powers vested in a United States attorney or the Attorney General;

"(9) initiating and conducting prosecutions in any court of competent jurisdiction, framing and signing indictments, filing informations, and handling all aspects of any case, in the name of the United States; and

"(10) consulting with the United States attorney for the district in which any violation of law with respect to which the independent counsel is appointed was alleged to have occurred.

"(b) COMPENSATION.—An independent counsel appointed under this chapter shall receive compensation at a per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.

"(c) ADDITIONAL PERSONNEL.—For the purposes of carrying out the duties of an office of independent counsel, such independent counsel may appoint, fix the compensation, and assign the duties of such employees as such independent counsel considers necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate of pay payable for GS-18 of the General schedule under section 5332 of title 5.

"(d) ASSISTANCE OF COMMISSION AND DEPARTMENT OF JUSTICE.—An independent counsel may request assistance from the Commission or the Department of Justice in carrying out the functions of the independent counsel, and the Commission or the Department of Justice (as the case may be) shall provide that assistance, which may include access to any records, files, or other materials relevant to matters within such independent counsel's prosecutorial jurisdiction, and the use of the resources and personnel necessary to perform such independent counsel's duties.

"(e) REFERRAL OF OTHER MATTERS TO AN INDEPENDENT COUNSEL.—An independent counsel may ask the Commission, the Attorney General, or the division of the court to refer to the independent counsel matters related to the independent counsel's prosecutorial jurisdiction, and the Commission, the Attorney General, or the division of the court, as the case may be, may refer such matters. If the Commission or the Attorney General refers a matter to an independent counsel on the initiative of the Commission or the Attorney General (as the case may be), the independent counsel may accept such referral if the matter relates to the independent counsel's prosecutorial jurisdiction as established by the division of the court. If the Commission or the Attorney General refers any matter to the independent counsel pursuant to the independent counsel's request, or if the independent counsel accepts a referral made by the Commission or the Attorney General on the initiative of the Commission or the Attorney General, the independent counsel shall so notify the division of the court.

"(f) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—An independent counsel shall, except where not possible, comply with the written or other established polices of the Department of Justice respecting enforcement of the criminal laws.

"(g) DISMISSAL OF MATTERS.—The independent counsel shall have full authority to dismiss matters within the independent counsel's prosecutorial jurisdiction without conducting an investigation or at any subsequent time before prosecution, if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

"(h) INDEPENDENCE FROM DEPARTMENT OF JUSTICE.—All independent counsel appointed under this chapter, together with the persons appointed by independent counsel under subsection (c), constitute an agency separate from and independent of the Commission and the Department of Justice for all purposes, including section 202 through 209 of title 18.

"(i) STANDARDS OF CONDUCT APPLICABLE TO INDEPENDENT COUNSEL, PERSONS SERVING IN THE OFFICE OF AN INDEPENDENT COUNSEL, AND THEIR LAW FIRMS.—

"(1) RESTRICTIONS ON EMPLOYMENT WHILE INDEPENDENT COUNSEL AND APPOINTEES ARE SERVING.—(A) During the period in which an independent counsel is serving under this chapter—

"(i) such independent counsel, and

"(ii) any person associated with a firm with which such independent counsel is associated or was associated immediately before the appointment as independent counsel,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

(B) During the period in which any person appointed by an independent counsel under subsection (c) is serving in the office of independent counsel—

"(i) such person, and

"(ii) any person associated with a firm with which such person appointed by the independent counsel is associated or was associated immediately before that appointment,

may not represent any person in any matter involving any investigation or prosecution under this chapter.

"(2) THREE-YEAR BAN ON REPRESENTATION BY INDEPENDENT COUNSEL AND APPOINTEES.—Each independent counsel and each person appointed by the independent counsel under subsection (c) may not, for 3 years following the termination of the service under this chapter of that independent counsel or appointed person, as the case may be—

"(A) represent an individual in any matter if that individual was the subject of an investigation or prosecution under this chapter that was conducted by that independent counsel; or

"(B) represent any individual in any matter involving any investigation or prosecution under this chapter.

"(3) ONE-YEAR BAN ON REPRESENTATION BY MEMBERS OF FIRMS.—(A) Any person who is associated with a firm with which an independent counsel is associated or becomes associated after termination of the service of that independent counsel under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(B) Any person who is associated with a firm with which a person appointed by the independent counsel under subsection (c) is associated or becomes associated after termination of the service of that appointed person under this chapter may not, for 1 year following such termination, represent any individual in any matter involving any investigation or prosecution under this chapter.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'firm' means a law firm whether organized as a partnership or corporation; and

"(B) a person is 'associated' with a firm if that person is an officer, director, partner, or other member or employee of that firm.

"§ 595. Reports

"(a) REPORTS TO CONGRESS.—An independent counsel appointed under this chapter shall submit to the Congress such statements or reports on the activities of such independent counsel as the independent counsel considers appropriate, except that the independent counsel shall at least submit to the Congress a report on the budget of the independent counsel's office—

"(1) in the case of an office of independent counsel that terminates in less than 1 year after appointment of the independent counsel, upon termination of that office, and

"(2) in every other case, at least once in the 1-year period beginning on the date on which the independent counsel is appointed, at least once in each 1-year period occurring thereafter until the office terminates, and upon such termination.

"(b) REPORT TO DIVISION OF THE COURT UPON TERMINATION.—

"(1) IN GENERAL.—In addition to any reports made under subsection (a), and before the termination of an independent counsel's office under section 596(b), such independent counsel shall submit to the division of the court a report under this subsection.

"(2) CONTENTS OF REPORT.—A report under this subsection shall set forth fully and completely a description of the work of the independent counsel, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such independent counsel.

"(3) RELEASE OF INFORMATION IN REPORT.—The division of the court may release to the Congress, the public, or any appropriate person, such portions of a report made under this subsection as the division considers appropriate. The division of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and to prevent undue interference with any pending prosecution. The division of the court may make any portion of a report under this subsection available to any individual named in such report for the purposes of receiving within a time limit set by the division of the court any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may, in the discretion of the division of the court, be included as an appendix to such report.

"(c) INFORMATION RELATING TO IMPEACHMENT.—An independent counsel shall advise the House of Representatives of any substantial and credible information which such independent counsel receives, in carrying out the independent counsel's responsibilities under this chapter, that may constitute grounds for a impeachment. Nothing in this chapter or section 49 of this title shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"§ 596. Removal of an independent counsel; termination of office

"(a) REMOVAL; REPORT ON REMOVAL.—

"(1) GROUNDS FOR REMOVAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the action of the Commission (if the independent counsel was appointed pursuant to an application of the Commission) or by the personal action of the Attorney General (if the independent counsel was appointed pursuant to an application of the Attorney General) and only for good cause or any condition that substantially impairs the performance of such independent counsel's duties, including physical disability and mental incapacity.

"(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Commission or the Attorney General (as the case may be) shall proptly submit to the division of the court a report specifying the facts found and the ultimate grounds for such removal. The division of the court may release any or all of such report in accordance with section 595(b)(3).

"(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. If such removal was based on error of law or fact, the independent counsel may be reinstated or granted other appropriate relief by order of the court.

"(b) TERMINATION OF OFFICE.—

"(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

"(A) the independent counsel notifies the Commission (if the independent counsel was appointed pursuant to an application of the Commission) and the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions, and

"(B) the independent counsel files a report in full compliance with section 595(b).

"(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Commission (if the independent counsel was appointed pursuant to an application of the Commission), or upon the request of the Attorney General, may terminate an office of independent counsel at any time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of the independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the time of such termination, the independent counsel shall file the report required by section 595(b).

"§ 597. Relationship with Department of Justice

"(a) SUSPENSION OF OTHER INVESTIGATIONS AND PROCEEDINGS.—Whenever a matter is in the prosecutorial jurisdiction of an independent counsel or has been accepted by an independent counsel under section 594(e), the Department of Justice, the Attorney General, and all other officers and employees of the Department of Justice shall suspend all investigations and proceedings regarding such matter, except to the extent required by section 594(d), and except insofar as such independent counsel agrees in writing that such investigation or proceeding may be continued by the Department of Justice.

"(b) PRESENTATION AS AMICUS CURIAE PERMITTED.—Nothing in this chapter shall prevent the Attorney General or the Solicitor General from making a presentation as amicus curiae to any court as to issues of law raised by any case or proceeding in which an independent counsel participates in an official capacity or any appeal of such a case or proceeding.

"§ 598. Severability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of this chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.".

SEC. 3. STATUS OF INDEPENDENT COUNSEL AS A SPECIAL GOVERNMENT EMPLOYEE; FINANCIAL DISCLOSURE REQUIREMENTS.

(a) AMENDMENT TO TITLE 18.—The first sentence of section 202(a) of title 18, United States Code, is amended—

(1) by striking out "or" after "United States commissioner" and inserting in lieu thereof a comma; and

(2) by striking out the period at the end of the sentence and inserting in lieu thereof the following: ", or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28.".

(b) FINANCIAL DISCLOSURE REQUIREMENTS.—

(1) FILING OF REPORTS.—Section 203(b) of the Ethics in Government Act of 1978 is amended by striking out "and the Vice President" and inserting in lieu thereof ", the Vice President, and independent counsel and other persons appointed under chapter 40 of title 28 (including members and employees of the Executive Conduct Commission)".

(2) LIMITATION ON PUBLIC DISCLOSURE.—(A) Section 203(d) of the Ethics in Government Act of 1978 is amended by inserting before the period at the end the following: ", except that any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title".

(B) Section 205(a) of the Ethics in Government Act of 1978 is amended by striking out "Each" in the first sentence and inserting in lieu thereof "Except as provided in section 203(d) of this Act, each".

SEC. 4. CLERK OF THE DIVISION OF THE COURT.

Section 49(a) of title 28, United States Code, is amended by adding at the end thereof the following: "The Clerk of the United States Court of Appeals for the District of Columbia Circuit shall serve as the clerk of such division of the court and shall provide such services as are needed by such division of the court.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) TITLE 28, UNITED STATES CODE.—Section 49(f) of title 28, United States Code, is amended by striking out "a independent" and inserting in lieu thereof "an independent".

(b) COMPREHENSIVE CRIME CONTROL ACT OF 1984.—Section 228(b) of the Comprehensive Crime Control Act of 1984 is amended by striking out "Section 591(a) is amended" and inserting in lieu thereof "Subsections (a) and (c) of section 591 are each amended".

(c) CONTINGENCY FUND.—Section 601(c) of the Ethics in Government Act of 1978 (28 U.S.C. 591 note) is amended by striking out "39 (relating to special prosecutor)" and inserting in lieu thereof "40 (relating to independent counsel)".

SEC. 6. FIRST APPOINTMENTS OF COMMISSION; EFFECTIVE DATE.

(a) FIRST APPOINTMENTS OF COMMISSION.—The first appointments of members of the Executive Conduct Commission established in section 591(e) of title 28, United States Code, as added by section 2 of this Act, shall be made not later than 90 days after the date of the enactment of this Act.

(b) EFFECTIVE DATE.—

(1) WHEN MEMBERS OF COMMISSION ASSUME OFFICE.—Subject to paragraphs (2) and (3), this Act and the amendments made by this Act take effect on the date on which all members of the Executive Conduct Commission referred to in subsection (a) who are first appointed have assumed office.

(2) EXCEPTION.—The amendment made by subsection (c) takes effect on the date of the enactment of this Act.

(3) PREVIOUSLY APPOINTED INDEPENDENT COUNSEL SERVING ON EFFECTIVE DATE.—With respect to any independent counsel who was appointed, before the effective date of this Act, under chapter 39 of title 28, United States Code (before the redesignation of such chapter as chapter 40 by section 144(g) of Public Law 99-554)), or under chapter 40 of such title (after such redesignation), and who is serving on such effective date—

(A) except as provided in subparagraph (B), the provisions of chapter 40 of such title as in effect on the day before such effective date shall, in lieu of the amendments made by this Act, continue to apply on or after such date to such independent counsel, and to persons appointed by such independent counsel, until the termination of the office of such independent counsel under section 596(b) of such title, as in effect on the day before such effective date; and

(B) the provisions of section 594(i) of title 28, United States Code, as added by section 2 of this Act, and the amendments made by section 3 of this Act, shall apply on or after such effective date to such independent counsel, to persons appointed by such independent counsel, and to persons associated with firms with which such independent counsel or any such appointed person is associated.

For purposes of subparagraph (B), the terms "associated" and "firm" have the meanings given those terms in section 594(i) of title 28, United States Code, as added by section 2 of this Act.

(c) CONFORMING AMENDMENT.—Section 598 of title 28, United States Code, as in effect on September 1, 1987, is amended by striking out "five years after the date of enactment of the Ethics in Government Act Amendments of 1982" and inserting in lieu thereof "on the date on which the Independent Counsel Amendments Act of 1987 takes effect".

SEC. 7. BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under section 591(e) of title 28, United States Code, as added by section 2 of this Act, shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

H.R. 3100

By Mr. DORNAN of California:

—Page 28, beginning in line 19, strike out "; and, additionally, all such applicants shall comply with the requirements of the first sentence of this paragraph".

—Page 247, after line 2, insert the following: "Mozambique.".

—Page 247, after line 2, insert the following: "Nicaragua.".

—Page 247, after line 10, insert the following:

(5) After "Republic of Cuba." insert the following' "Republic of Seychelles.".

SENATE—*Tuesday, September 29, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore, Mr. BREAUX.

The ACTING PRESIDENT pro tempore. Our prayer today will be offered by Rabbi Moshe Feller, of St. Paul, MN.

PRAYER

Rabbi Moshe Feller, director, upper Midwest regional office of the World Lubavitch Movement, St. Paul, MN, offered the following prayer:

Almighty G-d, Master of the Universe, the members of this august body, the U.S. Senate, convene here to fulfill one of the seven commandments which you first issued to Adam at the time of his creation 5,748 years ago and then reissued to Noah and his sons after the great flood, the commandment to govern by just laws.

At the dawn of civilization, as related in the Holy Biblical Book of Genesis and its sacred commentaries, You issued the following seven laws which came to be known as the Seven Noahide Laws:

To worship you alone and not to serve idols;

Never to blaspheme Your Holy Name;

Not to murder;

Not to commit adultery, incest, sodomy, or any other aberration;

Not to steal, lie or cheat;

Not to be cruel to any living creature; and

That every society govern by just laws which are based in the recognition and acknowledgment of You O G-d as the Sovereign Ruler of all men and all nations.

We, the citizens of this blessed country of the United States of America, proudly proclaim this recognition and our commitment to justice in our Pledge of Allegiance "One Nation—Under G-d—with Liberty and Justice for All."

Grant us Almighty G-d that those assembled here to enact laws to govern this blessed country be cognizant of Your presence and conduct their deliberations accordingly. Bless them with good health, wisdom, compassion, good cheer and good fellowship. May they constantly realize that in laboring for the enactment of just laws they are doing Your will. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized for not to exceed 5 minutes.

Mr. BYRD. Mr. President, I yield my 5 minutes to my good friend, the Senator from Wisconsin [Mr. PROXMIRE].

Mr. PROXMIRE. Mr. President, I thank my good friend, the majority leader, for so graciously yielding me this time.

TIME FOR ECONOMIC GLOOM AND DOOM

Mr. PROXMIRE. Mr. President, what are the consequences of the huge and rapidly growing American debt? We all know about the $2½ trillion Federal Government debt. That is bad. It is very bad. But there is a worse, a bigger, a deeper debt. Household debt—for one—that is the debt owed by individual Americans. How is America doing on this debt? The answer is worse. Household debt has now climbed well beyond $2½ trillion. It is pushing $3 trillion. Even that is not the worst of it. Business debt is still higher. Business debt is crowding $3½ trillion. So right now Americans are, or soon will be, $9 trillion in hock and rising—swiftly rising.

Now let us look at the other side of the picture: Savings. For years Americans saved roughly 6 percent of their income. Some other countries do much better. The Japanese, for instance, over the past few years have saved a massive 20 percent of their income. Household and business saving can offset debt. During World War II Federal Government borrowing to finance the war was enormous. For 4 years wartime Federal deficits and a huge increase in the Federal debt smashed all previous records. But business and especially household savings soared. The Federal Government simply borrowed from the private sector. With the huge increase in economic activity stimulated by wartime military spending, personal and business income skyrocketed. But because of Federal restraints there were far less spending opportunities. New housing purchases declined. Automobile companies shut down the auto assembly lines to build tanks, planes, and ships. New autos were off the market. Households paid off old debts and had no reason to acquire new ones.

Today is sharply different. The massive Federal debt is far surpassed by a much larger private debt. The whole country, public and private, is living way beyond its means.

So what? Should this be cause for concern? If so why? Consider just two of several consequences of this colossal and growing and universal debt burden. First, it means that a large and growing proportion of the income of the American people is not going to pay other Americans for producing the Nation's goods and services. It is going to pay interest on the cost of the goods and services that Americans provided in past years. More and more of this debt is owed to foreigners. Just to maintain the economic equilibrium between American spending and American income Americans will have to borrow more and more from abroad. As foreign debt increases, foreign lenders are likely to require increasingly higher rates of interest to increase their lending.

A second consequence of this ocean of American debt is the vulnerability of heavily indebted American households and business in the next recession. With savings at an all-time low, relative to income and personal debt at an all-time high more American families than ever before will be unable to meet their heavy mortgage interest burden plus required interest payments on auto and other loans. Always in the past recessions have diminished housing starts as prospective homeowners found it difficult to come up with the income to meet monthly payments. The next recession will be much worst as established households find they are unable to meet their interest commitments and lose their home.

The record debt that burdens American business will push many firms into insolvency and bankruptcy. This will sharply increase unemployment and aggravate the plight of millions of households.

On top of all this the Federal Government will be unable to employ the "compensatory fiscal" policy—of cutting taxes and increasing spending. This has repeatedly helped our country pull out of recessions. But will it work in the next recession without massively aggravating the country's debt problem and plunging the country into a multitrillion-dollar debt that will destroy business and consumer confidence?

Is this gloom and doom? It sure is. But why not? What's your scenario?

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

THE FLEECE THAT NEVER WAS

Mr. PROXMIRE. Mr. President, in this corner are the good guys: keen-eyed congressional investigators, States and Indian tribes, and the long-suffering taxpayers, who may be losing up to $1 billion a year in oil and gas royalties.

In the far corner are the putative villains: Rapacious oil companies, bungling bureaucrats at the Department of the Interior, and political appointees more interested in cushy oil company jobs than in protecting the taxpayers' interests.

When I first started looking into the question of missing oil royalties, the phrase "Golden Fleece" loomed large. But the more I looked, the more I became convinced that the Department was no longer at fault. Instead of a lashing, they deserve a pat on the back for beginning to do a difficult job well.

The House Appropriations Committee released a staff report which apparently drew blood. It certainly piqued my interest. In 1985, they examined the Department's efforts to make sure that royalties from oil and gas produced on Federal lands were properly collected. At first blush, this report was a damning indictment. The key sentence read:

> Applying the 21 percent of underpaid royalties to the $28 billion of royalties collected by the Department since 1979, indicates that as much as $5.8 billion in royalties may be underpaid by the holders of Federal and Indian oil and gas leases.

Even in these days of $200 billion deficits, a loss of about $6 billion in 6 years is sufficient to catch people's attention.

And catch attention it did. NBC's Nightly News did a followup story and repeated the $6 billion assertion. The wire services used the figure in their stories. The Washington Monthly called the royalty management program, "Washington's worst run program." A visit from the folks at 60 Minutes was about the only publicity the Department avoided.

The only thing wrong with this number is that it is based on analysis so faulty that a freshman statistics student would receive a big, fat "F" if he handed it in. It is worse than wrong—it is misleading.

The first rule of statistics is to select an unbiased sample. If the sample does not accurately reflect the population, the results of the study will be useless. The most famous example of this rule being violated was Liberty magazine's 1936 poll, taken by telephone at a time when telephones were a luxury, which indicated that Alf Landon was going to win the 1936 Presidential election in a landslide.

The report used a biased sample when it projected losses of $1 billion a year. The sample consisted of leases which had already been selected for audit because of possible irregularities. The Department of the Interior knew that the leases examined were good targets for an audit and that the audits would likely prove fruitful. Even the underlying data on which the projection was made are shaky because they reflect only the Government's estimate of royalties due. Companies can challenge these estimates and get them reduced, either by administrative or court action. To use these leases and unadjusted audit estimates, and then to assume that they are representative of the 25,000 producing leases, is to commit statistical suicide.

Suppose the Internal Revenue Service decided to make an estimate of unpaid personal income taxes? They start by selecting only those returns identified by their computer as good audit targets. They do a number of audits, and make their estimate of taxes owed. They assume that this figure is an accurate indication of the unpaid taxes owed by every taxpayer. The resulting projection would surely be sufficient to eliminate the deficit and probably make a good start on paying off the national debt. It would also be useless.

Why has the $6 billion estimate been so widely used, if so fundamental an error was made? Mr. John Eisendrath, who authored the Washington Monthly story, gives the explanation:

> It would seem, for instance, simple to decide how much a company owes in royalties each year. Just determine the market price on the oil and gas, apply the applicable royalty rate, and send out the bill.

If things were this simple, then mismanagement would indeed be the culprit, and a fleece would be on the way. But these statements suggest a fatal misunderstanding of the ways in which oil and gas deposits occur in nature, and are produced and sold.

First, look at what comes out of the ground. It can be anything from a complex mixture of oil, gas, and related byproducts, requiring costly processing, to a dry natural gas ready for use by residential water heaters. Second, that product has to be moved from some of the most remote locations in this country to where it can be sold and that costs money.

Administrative nightmares lurk all along this road from wellhead to market. What comes out of the well has to be measured and classified. Is it asphalt or good crude? And what is being produced can, and often does, change as the petroleum pool is drawn down. How many Government employees would it take to keep track of this situation at roughly 25,000 producing leases containing 100,000 wells? The General Accounting Office [GAO] examined this aspect of the problem and concluded:

> I do not think the Department will ever be able to put enough auditors in the field under the current system to really conclusively say, yes, these are the right royalties we should be getting.

Then you have to face the problem of what is a fair offset for the costs incurred while moving and processing the oil or gas. Doing a good job at solving this aspect of the problem would keep a large accounting firm busy year around. Even after the oil and gas have been sold, can the final royalty be calculated? Not always, because in the meantime, the Federal Energy Regulatory Commission, or the Federal courts, may have issued a ruling which requires a recalculation all along the line.

What about determining the production on which royalties are paid? Here again what seems simple turns out to be anything but. Federal oil and gas lands are often interspersed with private, State, or Indian lands and the product is pooled so the resources can be more efficiently recovered. This brings a better return because of economies of scale but it also raises questions about which well produced what and how the proceeds can be fairly divided. Many leases have multiple beneficiaries. Again, the proceeds have to be divided a number of ways.

Most critics simply fail to recognize these complexities. To do so would mean dealing with the fact that errors are inevitable. The Department is working hard to minimize these errors. Such has not always been the case. From 1959 until roughly 1979, the Department did botch royalty management. But since then, it has been doing a better job. My evidence for this statement: Appeals from enforcement actions, which averaged about 40 a year from 1975 to 1982, soared to 350 in 1985, and exceeded 500 in 1986. More squabbles are a certain sign of more enforcement. The clincher from my point of view came when the GAO testified that:

> I think in fairness to the Department that there has been some noteworthy progress made.

By swinging at the wrong problem, and using bad data to do so, critics make two cardinal errors. Bad or lax management is not at fault. Reformers could hire the Harvard Business School's graduating class and a division of auditors, and some royalties would still go uncollected. Given the complexities of system, the Department is doing a reasonably good job. A little more time to continue their improvements and they may soon be doing an outstanding one.

The misuse of data is an even more dangerous error, especially for Congress. Recently, we in Congress became angry, rightly so in my opinion, at the news that administration officials had not been forthright and candid in supplying information to Congress. We should be at least as angry at evidence that Congress is also capable of playing this kind of game with information. If we do not police ourselves, and see that the data we trumpet to the world is reasonably accurate and statistically valid, how can we then blame the executive branch when they walk the same crooked path?

We must have some minimum standard of candor between the Congress and the Executive. As my colleague, DANIEL PATRICK MOYNIHAN has pointed out, we are all entitled to our opinions, but not to our own facts. Recently, however, I believe both great branches of Government have become more willing to use "facts" to inflame, not to inform. Instead of searching for that core of agreement, which means winnowing out good from bad data, we hurl brickbats at one another. Both branches should be concerned about this trend.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin yields the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Republican leader would be recognized.

EXIT VISAS ISSUED FOR SOVIET JEWISH FAMILIES

Mr. DOLE. Mr. President, it is not often a Member of the Senate has the opportunity to come to the floor with truly good news. But I have such news today.

The Soviet Government has evidently granted exit visas to a family—the Yakirs—and Svetlana Braun—one of the dozens of the so-called divided spouses separated from their partners who live overseas.

Over the years I have had some personal involvement with both these cases. The Yakir family was adopted by Temple B'Nai Jehudah in Kansas City. The congregation has supported the Yakirs, with its unwavering faith and commitment to gain the family's release.

Last spring, a delegation from the congregation led by Rabbi Mark Levin visited me here in Washington and we called the Yakir family in Moscow. I told Yevgeny Yakir, who first applied for an exit visa 14 years ago, that we would continue to press the Soviet Government to live up to the principles of "glasnost" by granting exit visas to his family, among others.

And several years ago I met Keith Braun, a young lawyer from Michigan, who married Svetlana in the Soviet Union in 1984. Since then, the couple has been forced to live apart because the Soviet Government would not grant her an exit visa. Keith has campaigned relentlessly—not only for his wife, but for the many couples who find themselves in this same unfortunate and irrational position.

Now it appears that both these cases will come to a happy conclusion. The Soviet news agency Tass reported yesterday that the Yakir family and Svetlana Braun would be allowed to emigrate.

This is long awaited and wonderful news, and yet another indication that the Soviet Government is responsive to our efforts to press the human rights issue.

But the news is bittersweet. While we all give thanks for the increase in exit visas granted in recent months, literally hundreds of thousands of Soviet citizens—hundreds of thousands of Yakirs and scores of Svetlana Brauns—who would emigrate tomorrow if the Government would grant them permission—remain behind.

Providing exit visas in dribbles—while a welcomed improvement—does not address the real problem. There needs to be fundamental reform in the Soviets emigration policy—reform that is not punitive and lives up to the Soviets commitment to human rights as a signator of the Helsinki final accords. The Soviets are moving in the right direction, I only hope that they finish the course.

I want to offer a personal word of thanks to Secretary of State George Shultz who has championed the human rights cause at every opportunity with Soviet officials, including at the most recent meetings with Soviet Foreign Minister Shevardnadze. I know that he will continue to make human rights a priority issue—as well it should be.

To the Yakirs, and the Brauns, I offer my congratulations and sincere hope that very soon they will join their loved ones in the West. We welcome you to freedom. And to all those who still await their turn, don't give up hope, we will not forget your plight.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak therein until the hour of 8:30 a.m.

SENATE AGENDA

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, the votes are scheduled to begin at 8:30 this morning. Four rollcall votes have been stacked. The first rollcall vote will be a 30-minute vote, notwithstanding the standing order calls for 15 minutes on these rollcall votes. This being an early morning vote, in order to allow all Senators an opportunity to get into the Chamber and to vote, it will be a 30-minute rollcall vote.

I expect to call for the regular order at the close of the time on votes this morning and this evening. All of the back-to-back votes subsequent to the first vote will be 10-minute rollcall votes and I will call for the regular order at the end of each vote so that we can expedite the business for the day. Time on remaining amendments is limited to no more than 30 minutes on each amendment and in some cases less. This will not allow for, perhaps, all of the amendments throughout the day to be called up and given the time announced but I hope that Senators will be on hand to call up their amendments as soon as time expires on one amendment, so that the Senate can go to the next amendment, thus affording as many Senators as possible as much time as possible on their amendments.

At 8 o'clock this evening, the stacked votes will begin. The first rollcall vote will be given 20 minutes and all subsequent back-to-back votes thereto will be given 10 minutes each. Again, the call for the regular order will be made by me so Senators are on alert that they should not wander out of the Chamber and make telephone calls or go back to their offices, lest they forget that they have not voted and find that they have impaired their rollcall vote standing.

With that, I hope that we will have a full day and a good day and we will continue voting into the evening until all of the rollcall votes that have been previously stacked have been had.

I should also caution Senators that rollcall votes may occur during the day.

RECESS FROM 1:15 TO 2 P.M. TODAY

Today there will be a recess from the hour of 1:15 to 2 p.m., but between the hours of 12:45 p.m. and 1:15 p.m., Mr. BRADLEY will address the Senate. There will be no votes during that period.

So it will be a long day. It could go deeply into the evening and possibly even to midnight or beyond.

NO TIME LIMITATION ON SALT II AND WAR POWERS AMENDMENTS

Following the votes on all amendments that are listed, there will be two remaining amendments, the SALT II amendment and the war powers amendment. Amendments to those amendments will be in order and there is no time limitation thereon.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will please call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for a quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be closed.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 8:30 having arrived, the Senate will now resume consideration of the unfinished business, which is S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WARNER. Mr. President, at some point I wonder if I might address the Chair. I discussed with the distinguished majority leader the possibility that one of these votes ordered yesterday by this Senator in relation to the pending amendment by the Senator from Louisiana [Mr. Johnston]—it may well be at some point that I would seek recognition and ask unanimous consent that the yeas and nays be vitiated.

That is predicated on my obtaining the concurrence of another Senator.

VOTE ON AMENDMENT NO. 749

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from North Dakota [Mr. Conrad], No. 749. This will be a 30-minute recorded vote. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. Biden], the Senator from Tennessee [Mr. Gore], and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. Boschwitz], the Senator from Mississippi [Mr. Cochran], and the Senator from Wyoming [Mr. Wallop] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "yea."

The PRESIDING OFFICER (Mr. Graham). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 4, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—90

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—4

Bradley
Evans
Matsunaga
McCain

NOT VOTING—6

Biden
Boschwitz
Cochran
Gore
Simon
Wallop

So the amendment (No. 749) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, the call for the regular order will be made at the end of each of these succeeding rollcall votes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I just wish to advise all Senators that it is the intention of this Senator at a subsequent time prior to the vote to request unanimous consent to vitiate the yeas and nays that are now pending on this Johnston amendment. I will make that request at the end of the last vote.

Mr. BYRD. Mr. President, I ask for the regular order.

VOTE ON AMENDMENT NO. 753

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment by the Republican leader, amendment No. 753. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. Domenici] and the Senator from Wyoming [Mr. Wallop] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "yea."

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 96, nays 0, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—4

Domenici
Gore
Simon
Wallop

So the amendment (No. 753) was agreed to.

VOTE ON AMENDMENT NO. 763

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from West Virginia [Mr. Byrd]. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Pennsylvania [Mr. Heinz] and the Senator from Wyoming [Mr. Wallop] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. Wallop] would vote "yea."

Mr. BYRD. Mr. President, I ask for regular order.

Mr. WARNER. Mr. President, may we have regular order, please?

The PRESIDING OFFICER. Are there any Senators in the Chamber who wish to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—4

Gore
Heinz
Simon
Wallop

So the amendment (No. 763) was agreed to.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, a parliamentary inquiry. What is the next amendment to be voted on?

The PRESIDING OFFICER. The next amendment is Amendment No. 774, by the Senator from Louisiana, Mr. JOHNSTON.

Mr. WARNER. Mr. President, I ask unanimous consent that the yeas and nays on this amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. Mr. President, the Senator from Virginia has discussed with the Senator from Louisiana a certain amendment to the amendment that is pending at the desk. I yield the floor for that purpose.

AMENDMENT 774, AS MODIFIED

Mr. JOHNSTON. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. It requires unanimous consent to modify the amendment.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the amendment be modified.

Mr. NUNN. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order. Those who have other business than that before the Senate please retire to the cloakrooms.

The Senator from Louisiana has requested unanimous consent to modify his amendment. Without objection, it is so ordered.

The clerk will read the modification.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 774, as modified.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment, as modified, is as follows:

On page 22, after line 8, add a new section as follows:

BIOENVIRONMENTAL HAZARDS RESEARCH

SEC. 229. Of the funds authorized to be appropriated to the Armed Forces pursuant to section 201(a) not more than $33 million may be obligated through the Office of the Under Secretary of Defense for Acquisition for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes.

Mr. JOHNSTON. Mr. President, we have cut down the funds authorized to be appropriated for $40 million to $33 million. Otherwise, the amendment would remain the same. I thank the distinguished Senator from Virginia and the distinguished Senator from Georgia for their courtesy in working this out.

Mr. WARNER. Mr. President, the amendment, as modified, is satisfactory on this side.

Mr. NUNN. Mr. President, I urge the amendment, as modified, be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment (No. 774), as modified, was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I will keep the floor for a moment. I see the Senator from Ohio would like to be recognized, I am sure for the purpose of bringing up an amendment. That is exactly what we want.

Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NUNN. Mr. President, I would like to take just a few minutes to let my colleagues know what has happened over the last couple of days and where we stand today.

Mr. President, we still do not have order.

The PRESIDING OFFICER. The Senate will be in order. Will those who are not engaged in the business before the Senate please retire to the cloakrooms?

The Senator from Georgia.

Mr. NUNN. Mr. President, including the three amendments that we have just passed, we have now handled 92 amendments on this bill. Seventy-two have been accepted. Seventeen have been tabled or defeated and three have been withdrawn. We have had now about 30 rollcall votes.

This is the 12th day of debate on this bill. We have had 2 productive days, Saturday and Monday. We had a number of Senators come in on Saturday and we handled a number of amendments. We dealt with 12 amendments. We also got 10 amendments off the unanimous consent list by withdrawal by unanimous consent.

When we left Friday, we had 70 amendments to dispose of. Counting the 22 amendments that were handled on Saturday and the 7 amendments that we dealt with yesterday, plus the deletion of 6 more amendments, we have dealt with, according to my count, 22 on Saturday and 13 on Monday. That is 35 amendments.

The amount of debate we would have had in dealing with those amendments today, had people not come in on Saturday and Monday, would have consumed the entire day. The remaining amendments that we have, some of which are very important, would not have been able to be debated thoroughly. I want to thank all of my colleagues who came in on Saturday and Monday to be able to dispose of these amendments. We had good debate on some of the amendments. I think it facilitated our colleagues who knew there would be no rollcall votes. Perhaps we can learn a lesson as to what can be accomplished when we have people who are willing to come in on Saturdays and Mondays to get some work done without the necessity of rollcall votes.

Mr. BYRD. Will the Senator yield?

Mr. NUNN. I yield.

Mr. BYRD. And we have managers who are willing to stay at their post of duty and work hard and press on and not yield to pressures from colleagues like myself.

Mr. NUNN. I thank the Senator. But the Senator from West Virginia is right behind the managers with a little push that is necessary and needed and indispensable to making this work.

The challenge before us today is that we have 33 amendments that are still on the unanimous-consent list. We have about four of those that we believe will be accepted on both sides of the aisle. We have a few more of those that perhaps can be handled by a colloquy which will not necessarily consume very much time.

But we do have a number of other amendments that need to be debated. I would urge all Senators who want to debate their amendments to come over and let us start debating them in a meaningful way this morning. We have a couple of amendments that have to be debated after 1 o'clock because the people who are on the two sides of it cannot get together before that time.

We will have a good bit of time this morning between now and about 1 o'clock to debate amendments. I hope we will be able to get people over here. If we are able to have a very productive day today, it could be possible that we will be able to move that 8 o'clock stacked vote period up an hour or two. But that depends on whether we utilize the morning hours to the maximum extent possible.

I thank my friend from Virginia for all of his cooperation on Saturday and Monday, and the managers on that side for a splendid job. I also thank the Senator from Illinois, the Senator from Michigan, the Senator from Nebraska, and others who spent their time here both on Saturday and Monday making sure that the managers of the bill could facilitate Senators who were willing to come in. I particularly thank those Senators who came in on Saturday and Monday.

Mr. WARNER. Mr. President, indeed we are grateful to the majority leader, the managers of the bill, and the Senator from Georgia. Progress has been made.

When this UC was laid down, I think there was some skepticism as to whether or not it would work. It has worked and worked well. It must continue to work well if we are to achieve the goal laid out in the balance of the UC agreement.

I say to my good friend from Georgia it is not certain that the 8 o'clock vote period possibly could be moved forward. I would want the leadership to look at that carefully. I know a number of schedules that are timed for Senators to be present here at 8 o'clock, since the UC represented that would be the key period, though we have not in any way precluded the possibility of votes between now and 8. The strong likelihood is that the major number of votes will occur subsequent to that hour.

So much for that, Mr. President. Now let us move to a lively morning with debate starting.

Perhaps the Senator could advise the Senate with a tentative list of amendments that we have.

Mr. NUNN. I will yield to the Senator from Illinois.

Mr. DIXON. Mr. President, if I may respond on behalf of the distinguished manager to the distinguished ranking member, the understanding we have is that we will go to the Senator from Ohio, Mr. President, Senator METZENBAUM, for an amendment that has been cleared on both sides, then to the other side, to the distinguished Senator from Minnesota, Senator BOSCHWITZ, for an amendment which has been cleared on both sides.

We would then go to an amendment by the Senator from Wisconsin. There are very minor objections and I believe they are being cleared on our side. If we can get to that, we will do that.

Then we will go to an amendment by the distinguished Senator from Arizona [Mr. McCAIN] that will be contested, and we should be able to do that in about 20 minutes or so. After that an amendment by the minority leader, Senator DOLE, on an oil embargo on Iran, and after that probably to an amendment by the distinguished Senator from Texas [Mr. GRAMM] on stockpiles, which will be opposed on this side.

Then we are looking for business, may I say, because the two amendments after that by Senator GRAMM on Davis-Bacon and the service contract will be opposed on this side by the distinguished Senator from Massachusetts, who is tied up this morning in the Bork hearings and has asked that we do that after 12 noon.

But we have at least three agreed amendments and at least three contested amendments to occupy us for awhile, may I say to my friend from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Illinois. Indeed, we ought to accommodate the Senator from Massachusetts. He was here yesterday and disposed of four amendments, so I think he has endeavored as a member of our committee to do what he can to keep the bill moving.

AMENDMENT NO. 780

(Purpose: To require the Secretary of Defense to submit a report to Congress on plans regarding the sale and production of the M1A1 Abrams tank)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an amendment numbered 780.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT OF M1A1 TANK.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any actual or proposed plans of the Department of Defense regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams tank. The Secretary shall specifically include in such report the following:

(1) Whether the Secretary of Defense has entered into or proposes to enter into negotiations with any foreign country for the sale of the M1 or M1A1 Abrams tank to such foreign country.

(2) The nature and extent of any negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of such tank by the United States and such country.

(3) The possible consequences of the sale of such tank to a foreign country and of an agreement for the co-production or co-assembly of such tank by the United States and a foreign country.

(4) A comparison of the effects on United States industry and labor of a direct sale of such tank to a foreign country with the production of such tank under a co-production or co-assembly arrangement with a foreign country.

(5) The impact that the sale of such tank to a foreign country or an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States in view of the sensitive nature of the high technology involved in the production of such tank.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) NATURE OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

(d) CONDITION ON AUTHORITY OF SECRETARY.—The Secretary may not enter into any agreement with any foreign country regarding the sale, co-production or co-assembly of the M1 or M1A1 Abrams or any variant of such tank until the report required by this section has been received by Congress.

Mr. METZENBAUM. Mr. President, the amendment I have just sent to the desk would require the Secretary of Defense to report to the Congress on plans for the production and sale of the M-1.

The M-1 is perhaps the most sophisticated tank in the world and we must be sure to safeguard its state of the art technology. I was alarmed recently by news reports that the Army was considering a coproduction agreement with another country. We do not want to export sophisticated weapons technology to an unstable part of the world.

And we do not want to hear about such pacts second hand. We, in Congress, want to hear directly from the Pentagon so we can guard against a hasty deal that could threaten our national security.

I am opposed to any pact that would cost American jobs. The 3,600 workers in Lima, OH, build the M-1. They are justifiably proud of the role they play in producing the No. 1 tank in the world.

They do a great job and I want them to continue to do that great job in the United States in Lima, OH.

When I visited the tank facility this summer, workers there told me they are worried that a coproduction pact could cost jobs in Ohio and throughout the country.

I rode in this agile and versatile tank. It is a magnificent piece of equipment. It is well worth the $1.8 billion we will spend to buy 720 M-1's in fiscal year 1988 and another $1.9 billion for 720 more in fiscal year 1989. I am glad the tank has been fully funded. Now it is time to make sure its technology is fully protected.

My amendment requires the Pentagon to tell Congress before it exports the M-1's, their technology or the jobs of Americans who have made this the world's greatest tank.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from Ohio on this very fine amendment which is supported on this side.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this side supports the amendment and congratulates the distinguished Senator from Ohio.

Mr. METZENBAUM. I appreciate the support of the managers of the bill and we are ready to vote.

The PRESIDING OFFICER. Is there any further debate?

The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 780) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 781

Mr. BOSCHWITZ. Mr. President, in the days before us, it is very likely that we will be considering a major new arms accord with the Soviet Union, one that will for the first time actually destroy a whole class of weapons. I look forward to a careful review of the provisions of that agreement and to its subsequent ratification.

But we would be remiss, Mr. President, if we failed to take notice of another arms agreement that has already been negotiated and that was signed last week by Secretary of State Shultz and Soviet Foreign Minister Shevardnadze. I refer to the agreement to create nuclear risk reduction centers in the two countries' respective capital cities. The two centers will trade information on a routine basis, informing the other side, for example, of upcoming nuclear and missile tests to lessen the chance of war through accident, miscalculation, or misinterpretation.

This is an agreement for which we here in the Senate can take some measure of credit. It was at the Senate's urging that the two countries took up the subject. In 1984, the Senate, in a resolution originally proposed by Senators NUNN and WARNER with my strong support and encouragement, voted unanimously that the United States and the Soviet Union put nuclear risk reduction centers on the arms control agenda.

The agreement that was signed last week, however, is not all that we envisioned back in 1984 when we urged the administration to go forward. We had hoped then that it might be possible to create real crisis centers manned jointly by United States and Soviet personnel that could develop common responses to the problem of nuclear proliferation and to the possibility of nuclear terrorism or blackmail. The agreement is a useful beginning, an important first step—one that will hopefully build confidence and mutual trust so that, over time, the centers may expand their roles. The centers that have been developed are certainly much more constrained and do not have the broad purpose or the ability to achieve the results that we sought in the resolution of 1984. I would anticipate, for example, the start of joint discussions to look at ways to contain the spread of nuclear weapons or other nuclear issues of mutual concern, but as those centers are now structured it could not occur.

My amendment applauds the beginning we have made in reducing nuclear risk and expresses our hope that additional steps may be taken.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an amendment numbered 781.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. —. NUCLEAR RISK REDUCTION CENTERS.

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust by both sides and lead to expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis management and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

Mr. BOSCHWITZ. Mr. President, I have described the amendment. The amendment has been cleared on both sides and I urge its adoption.

The PRESIDING OFFICER. Do Senators yield time? The Senator from Georgia.

Mr. NUNN. Mr. President, who is controlling the time?

The PRESIDING OFFICER. The Senator from Georgia controls time in opposition.

Mr. NUNN. Mr. President, I yield myself such time as I may require.

Mr. President, this amendment is I think a very positive step in two respects. One is it acknowledges that we have taken a step forward. It congratulates the President and General Secretary Gorbachev as well as the Secretary of State, George Shultz, and Foreign Minister Shevardnadze. The risk reduction agreement that has been entered into is the first step toward a much broader possible program that can evolve over a period of time to acknowledge that the two superpowers do have a mutual interest.

In spite of our differences in so many respects, we do have a strong degree of mutuality in making sure we do everything possible to prevent a war by accident or war by miscalculation. The Senator from Minnesota has been active in this for a long time. He has been one of the stalwarts in the Senate in pushing for this risk-reduction agreement that has now been entered into.

I congratulate him on moving towards an incentive for the administration and for the Soviets to take the next step, which is a much broader view of discussing possible options to deal with terrorism, the use of nuclear weapons by terrorist groups or third countries that could start a catastrophic war between the superpowers.

So I think this is a good amendment and I urge its adoption.

The **PRESIDING OFFICER.** Who yields time? Do the Senators yield back their time?

Mr. **BOSCHWITZ.** Mr. President, I yield back the remainder of my time.

Mr. **NUNN.** I yield back the remainder of my time.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Minnesota [Mr. Boschwitz].

The amendment (No. 781) was agreed to.

Mr. **DIXON.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **BOSCHWITZ.** I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **DIXON.** Mr. President, may I say at this point in time that I think we have an agreement on an amendment by Senator Kasten, and it is being cleared on the other side with one Member. In view of that, we will go to Senator McCain of Arizona on an amendment that will be contested. After he has disposed of that, we will return to Senator Kasten of Wisconsin to dispose of that.

AMENDMENT NO. 716

(Purpose: To provide an incentive for Department of Defense contractors to award subcontracts to Indian organizations and Indian-owned economic enterprises)

The **PRESIDING OFFICER.** The Senator from Arizona is recognized.

Mr. **McCAIN.** Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 716.

Mr. **McCAIN.** Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

On page 114, between lines 13 and 14, insert the following:

SEC. 812. INDIAN SUBCONTRACT SET-ASIDE INCENTIVE PROGRAM.

(a) In General.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410. Indian subcontract set-aside incentive

"(a) In General.—The head of an agency named in clauses (1) through (4) of section 2303(a) of this title shall pay an amount determined under this section to any contractor who awards to an Indian organization or Indian-owned economic enterprise a subcontract for the performance of any work for which the contractor is responsible under a contract awarded to the contractor by such agency. The amount paid under this section shall be in addition to the amount otherwise payable (without regard to this section) to the contractor by such agency under the contract.

"(b) Calculation of Additional Amount.—The additional amount paid by the head of an agency to a contractor under subsection (a) shall be equal to 5 percent of the amount of the subcontract awarded by such contractor to the Indian organization or Indian-owned economic enterprise.

"(c) Annual Reports.—Not later than October 10 of each year, the Secretary of Defense shall submit to Congress a report containing the number and total amount of the subcontracts referred to in subsection (a) that were awarded by contractors referred to in such subsection during the preceeding fiscal year and the number and total amount of the payments made to such contractors under this section during such fiscal year.

"(d) Definitions.—In this section, the terms 'Indian organization'; and 'Indian-owned economic enterprise' have the same meanings provided for the terms 'organization' and 'economic enterprise', respectively, in section 3 of the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1452).".

(b) Conforming Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

"2410. Indian subcontract set-aside incentive.".

Mr. **McCAIN.** Mr. President, I rise to offer an amendment to provide an incentive for Department of Defense contractors to award subcontracts to Indian organizations and Indian-owned economic enterprises. I am joined by the distinguished chairman of the Select Committee on Indian Affairs, Mr. Inouye. This amendment is cosponsored by Senators DeConcini and Burdick.

Mr. President, if it is agreeable at this time, due to constraints of the time of the distinguished chairman of the Indian Affairs Committee, I would llike to yield to him at this time for his comments if he chooses to make them or would he prefer to wait? He would prefer to wait.

Our amendment directs the Secretary of Defense to provide an incentive for defense contractors to receive an amount equal to 5 percent of the subcontract awarded to an Indian business firm. Such a firm would have to be 51 percent Indian-owned as certified by the Bureau of Indian Affairs. The Indian subcontract incentive would cover the cost of recruitment and outreach that defense contractors incur in identifying Indian enterprises and organizations and providing supportive services to these firms so that they may be qualified to provide products and services needed on a subcontract basis.

Let me point out to my colleagues that Indian preference is not new to the Department of Defense. Since 1982 language from the Buy Indian Act has been applicable to the Department of Defense. The language states that "so far as may be practicable Indian labor shall be employed, and the purchases of the products of Indian industry may be made in the open market at the discretion of the Secretary of Defense." Unfortunately, despite this language and its legislative history, the Defense Department looked upon such language as a simple reaffirmation of its Small Business Administration 8(a) contracting policies. The end result was predictable—only a handful of Indian owned firms received contracts or subcontracts awarded by the Defense Department.

Despite all the past and present minority set-asides and goals for increased minority contract and subcontract awards, Indian tribes remain at a disadvantage. The Department of the Interior's report of the Task Force on Indian Economic Development, released in July 1986, provided a clear explanation of problems with past preferential contracting practices for Indian owned firms. For example, 8(a) certification requires that a firm must be 51-percent owned by minority individuals and that the individuals must be "socially and economically disadvantaged." While this regulation is in place for a clear purpose, the term "economically disadvantaged" becomes ambiguous when applied to Indian tribes. Moreover, the 7-year time limit for 8(a) status places a burden on tribes and individual Indian firms to survive by that time without preferential contracts. While self-sufficiency is the ultimate goal, the limited duration of 8(a) status ignores numerous obstacles tribes already face in developing their economies, such as geographic remoteness, lack of infrastructure, lack of access to capital, and lack of experience in developing, operating and managing individually owned or tribally operated businesses.

Our amendment recognizes that there are problems unique to Indian country as well as problems that more seriously afflict Indian tribes. Problems inherent in the very programs established to increase minority participation. Problems with departments and agencies that have not carried out the intent of the Congress on past Indian preference directives.

In this bicentennial year of the Constitution, it is appropriate for us to remember that the Commerce Clause in the Constitution expressly grants the congress power "[t]o regulate Commerce * * * with the Indian Tribes." This amendment exercises that power by recognizing that the economic conditions plaguing Indian country are of such tragic proportions that establishing an incentive program is justified.

Mr. President, the conditions that exist on Indian reservations across America closely parallel those of Third World nations. Unemployment ranges from 35 percent to 95 percent. There are inordinately high rates of suicide, alcoholism, drug abuse, substance abuse, fetal alcohol syndrome, and others. The list goes on and on. The lowest socioeconomic statistics of any minority group in America exists on Indian reservations today.

Let me say that if carving out a niche in existing minority set asides were the answer, I would be offering that amendment. But the evidence is clear, even "minority" set asides or goals that include Indian tribal governments do not help. The problem is not more technical assistance. What Indian firms need help on is the basics of developing, managing, and operating a business. The incentive program would create the possibility for joint ventures with tribal or individually Indian owned firms. The private firm brings the experience, the tribe offers the ready and available labor. This amendment can make a difference.

This is a pay-as-you-go amendment. The incentive to the defense subcontractor is only valid if they have a subcontract in place with an Indian-owned firm. The Congressional Budget Office has estimated that this amendment may only cost $5 million each year, although the actual amount could be more or less depending upon the number and amount of the defense suncontracts. I suggest that this amendment is a small investment to make with great potential for creating new jobs, reducing welfare and other transfer payments, and increasing payments of personal income taxes by persons unemployed or underemployed. This amendment is directed to businesses on or near Indian reservations.

Mr. President, Indian unemployment is not a luxury that the Congress can deal with when it finds the time. It is time to address this critical issue. The Indian subcontract incentive program is a step in the right direction. I urge my colleagues to support this amendment.

Mr. President, it does not serve any useful purpose for me to review what is already well known to the Members of this body, and that is the treatment accorded to native Americans throughout the history of this Nation. Beginning with the British settlers in Massachusetts who, because they wanted the land that was occupied by an adjoining tribe, decided that they would make a gift of some blankets which were infested with smallpox which adequately took care of that problem.

Up through chapters throughout our history we have seen the sad events such as the Long Walk, and the Trail of Tears, which indicate very clearly that we have failed and failed miserably in our commitment to give native Americans the equal opportunity which is owed to all of our citizens.

Mr. President, I do not expect that this amendment will dramatically change that situation. I do not expect that this amendment will create an environment which will turn around the tragic statistics which I have cited earlier in my statement.

Recently the distinguished chairman of the Indian Affairs Committee, Senator INOUYE, who has the deep gratitude not only——

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. McCAIN. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I ask unanimous consent for 3 additional minutes in order that the Senator from Hawaii may make his comments on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, we visited the Navajo Tribe, which is the largest in America at the so-called economic summit in Gallup, NM. It became abundantly clear that the Navajo and other tribes across this country are in need of assistance in order to be provided the equal opportunity that we owe all of our citizens.

I urge my colleagues to support this amendment.

I yield to the distinguished chairman of the Indian Affairs Committee, Senator INOUYE.

Mr. WARNER. Mr. President, I believe the Senator yielded the floor.

Mr. McCAIN. Could I yield to Senator Inouye?

Mr. WARNER. Mr. President, that is not according to the rules of the Senate. Anyway, we will do that.

The PRESIDING OFFICER. The Senator from Virginia has yielded time, is that correct, to the Senator from Hawaii?

Mr. WARNER. No. The Senator from Virginia sought recognition and now as a courtesy will withhold that until such time as the debate is over.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. INOUYE. Mr. President, I rise to support this amendment, not because this is a cure-all amendment, nor do we have any guarantee that it will succeed. But, Mr. President, these are the facts. In Indian reservations, the average unemployment exceeds 48 percent. That is about 10 times the national average. There are certain tribes and certain nations that enjoy good unemployment records, such as 5 percent. But we do have nations that experience 95 percent unemployment.

Second, unfortunately, the highest incidence of suicide in any age level is found in Indian reservations. The highest incidence of alcoholism, alcohol abuse, drug abuse, is found in Indian reservations.

I think some of this can be traced back to the loss of pride, the loss of motivation.

Any ethnic group, any community would lose pride if 48 percent of their adults are unemployed.

OMB has suggested that this amendment may cost $5 million. If $5 million can be spent to halt the suicide of 10 Indians, it is worth it.

We have had hundreds and thousands of Indians committing suicide each year, but they do not hit the front pages. No one is concerned about them.

One may wonder why is it so difficult to do business with Indians. We should visit where they live. It was our policy, Mr. President, the policy of the United States in the early days of our Nation to force all Indians west of the Mississippi. We wanted them out of the fertile lands east of the Mississippi. The Cherokees were pushed from North Carolina to Oklahoma. The Navajos from Oklahoma to New Mexico and Arizona, but not to the fertile lands, to the dry deserts and even to this day 40 percent of them do not have running water. Sixty percent have no electricity. And how do you do business, how do you put up a plant?

This is the incentive that may work. I think it is worth it. I support the amendment.

The PRESIDING OFFICER (Mr. ADAMS). The Senator has used 3 minutes.

The Senator from Georgia.

Mr. NUNN. Mr. President, I yield such time as the Senator from Virginia may require.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Now comes an amendment which takes from within that formula one group, albeit a group that desperately needs help, and provides that when a prime contractor awards a subcontract to a native American group, that prime contractor can add on 5 percent.

I pose this in the form of a question not only to the proponents of the amendment, but to all Senators: It would be my opinion that within hours, within days, under the formula established last year for beneficiaries other elements under that formula will come in to this Congress of the United States and say: "We want similar treatment. We can point out that while we may not have a national level of unemployment, fortunately, that is as high as the native Americans, we can show you pockets of America where we suffer just as much, certain areas where there is the predominantly black community, we suffer just as much from unemployment as do the native Americans, so we want equal treatment and we want a statute that accords to us the benefits comparable to the amendment that is now pending."

Mr. President, you cannot look at this very complicated equation of trying to help disadvantaged groups in this country of ours without doing it on an equal basis.

That is my concern. And I pose it in the form of a question to my distinguished friend and colleague from Arizona.

The PRESIDING OFFICER. The Senator from Virginia yields the floor.

The Senator from Arizona has 1 minute remaining out of the unanimous consent. The Senator from Georgia has 3 minutes and 45 seconds.

The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, let me attempt in 1 minute to respond to the understandable concerns by my colleague from Virginia. He neglects two important aspects. One is that this amendment would in no way supersede nor even modify the previously crafted legislation.

More importantly, we cannot neglect, and I am sure that my colleague from Virginia understands that there is a unique government-to-government relationship set up by formal treaty between the United States of America and the Indians in this country and that relationship exists between this Government and Indians and exists between no other group of American citizens. And I think it is also well to remember from a practical standpoint that the unique situations which exist on most Indian reservations in America today do not lend themselves easily to the infusion or introduction of facilities and the kind of infrastructure which is readily available to defense subcontracting.

But most importantly our Government has a relationship which is unique to Indian tribes which relates to no other ethnic, racial, or no other type of citizen in this country.

I believe this amendment applies directly for that reason.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

The Senator from Georgia.

Mr. NUNN. Mr. President, I know the Senator from Hawaii and the Senator from Arizona have worked long and hard to try to assist the Indian populations on the reservations in particular and in general. I know this is a difficult, tough problem. I know that they need an economic boost and they need a helping hand.

I have to share the Senator from Virginia's apprehension about this particular approach. We have had a lot of discussions in conference. We all know that there are a number of disadvantaged groups and Indians, in some categories, are certainly among those groups. We also have very severe pockets of poverty in some black communities and in some Hispanic communities and in other communities. We have women that have not been treated equitably in many instances over our past history in terms of economics. So the problem I have is singling out one group and treating them differently in terms of disadvantaged groups than all other groups.

I hope that what we could do is set aside the vote on this. At this point I would have to join my friend from Virginia in opposing that we go to an immediate rollcall. I would like to stack this vote until this evening. It would be the first stacked vote, I believe, at 8 o'clock this evening.

During the course of the day, I would like to explore a possibility of finding another approach that might be satisfactory to the two Senators. But, in any event, we would have a vote on this this evening unless they desire a rollcall vote, of course, before then.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Georgia yield time to the Senator from Virginia?

Mr. NUNN. I yield to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join with my distinguished colleague from Georgia. I think we have pointed out, in this brief colloquy, legitimate concerns. The proponents of the amendment will work during the course of the day. However, their amendment is fully protected by having a stacked vote at 8 o'clock sharp.

Mr. NUNN. Mr. President, is that satisfactory with the Senator from Arizona?

Mr. McCAIN. Yes. Will the chairman yield to me for a comment?

Mr. NUNN. I am glad to yield on my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

I would be pleased to try and work with my colleague from Virginia and my distinguished friend, the chairman of the committee, in an attempt during the day to work out some kind of an agreement so that we could gain their much-needed support for this amendment, or something like it, during the remainder of the day.

I yield the floor.

The PRESIDING OFFICER. The vote will occur, unless there is a unanimous-consent request.

Mr. NUNN. I did not understand the Chair. Would the Chair repeat that?

The PRESIDING OFFICER. The vote will occur, unless there is a unanimous-consent request for the stacking of the vote, which has not been placed to the Chair yet.

Mr. NUNN. Mr. President, I ask unanimous consent that this vote be the first vote to occur at 8 o'clock.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Perhaps it is appropriate to order the yeas and nays.

The PRESIDING OFFICER. The yeas and nays may be ordered. Does the Senator make that request?

Mr. WARNER. Mr. President, I temporarily withhold that request.

Mr. President, I withdraw the request for the yeas and nays.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, under the unanimous-consent request, I want to be clear that a motion to table would still be in order on the amendment. So the unanimous-consent request would be that a vote on or in relation to this amendment occur at 8 o'clock.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

This will be, under the conditions stated by the Senator from Georgia, the first vote to occur, with a tabling motion in order at that point, at 8 o'clock this evening.

Mr. NUNN. And the yeas and nays are not yet ordered on the amendment.

The PRESIDING OFFICER. The yeas and nays have not yet been ordered on the amendment.

Who seeks recognition?

Mr. KASTEN addressed the Chair.

Mr. DOMENICI. Will the Senator yield to the Senator from New Mexico?

Mr. KASTEN. I am pleased to yield to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wanted to be on the floor when the distinguished junior Senator from Arizona proposed the amendment with reference to the American Indians and their possible participation in some defense contracting by allowing a 5-percent deviation from procurement costs for them.

I would like to be shown as an original cosponsor. I believe that we ought to try to work something out in this area. I think it would be healthy for our defense industry. It would be good for defense in this country. It certainly has a chance of helping the most underemployed part of our population.

So I ask unanimous consent to be added as a cosponsor and hope we can work it out.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

Mr. DOMENICI. I thank my friend from Wisconsin.

AMENDMENT NO. 782

(Purpose: To express the sense of the Congress with respect to Japanese trade with the Socialist Republic of Vietnam)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] for himself, Mr. DOLE, Mr. HELMS, Mr. BINGAMAN, Mr. WILSON, Mr. HEINZ, Mr. D'AMATO, Mr. GARN, Mr. KARNES, and Mr. STEVENS, proposes an amendment numbered 782.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

On page 114 of the bill, between lines 13 and 14, insert the following:

SEC. . TRADE WITH VIETNAM.

(a) FINDINGS.—THE CONGRESS FINDS THAT—

(1) 140,000 Vietnamese troops invaded Cambodia in early 1978;

(2) for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes or developmental aid to Vietnam until these troops are removed;

(3) Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

(4) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

(5) the Japanese Government has consistently refused to discourage private investment by its private business sector which initiates this trade;

(6) Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) IN GENERAL.—The Congress hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law, and the Congress reconfirms its call for Vietnam to withdraw from Cambodia for only in this way can Vietnam expect to end its self-induced economic isolation, and

(2) strongly urges the government of Japan to—

(A) prevent its private business sector from engaging in developmental trade with the Socialist Republic of Vietnam, and

(B) discontinue specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(i) oil and exploration development,

(ii) forestry and fishery production,

(iii) development of commodities for light industries, and

(iv) the upgrading of production capacities for export purposes.

Mr. KASTEN. Mr. President, I rise today to propose an amendment to the defense authorization bill condemning particular trading policies of the Japanese Government. This amendment has been offered previously as a free-standing resolution and has been cleared on both sides of the aisle.

Mr. President, 9 years ago, 140,000 Vietnamese soldiers invaded Cambodia. In response, Japan immediately joined in a Western embargo of Vietnam, and froze all official economic aid to the aggressor nation.

As a result, Japanese exports to Vietnam fell from $220 million in 1978 to $120 million in 1979. Japan vowed to join its Western allies in retaining this embargo until Vietnamese troops left Cambodia.

Our allied efforts to get the Vietnamese out of Cambodia have continued for 9 years. But the occupation continues, and the Japanese are reneging on their commitment. In direct violation of their promises, the Japanese have let their exports to Vietnam creep up to a level of $230 million. And Japanese business ties with Hanoi have grown substantially.

The Japanese have become Vietnam's largest non-Communist trading partner, providing the aggressors with developmental equipment and long-term credits for economic development. Thanks to Japanese investment, the Vietnamese are forging ahead in oil exploration, forestry, fisheries, light industries, and export industries in general.

As if all this weren't bad enough, the Honda Motor Co. announced plans to manufacture motorcycles in Vietnam. The Japanese would send all the necessary parts and assembly equipment for producing the motorcycles to a Vietnamese cooperative, and the Vietnamese would assemble the motorcycles.

This would have meant a direct Japanese contribution to Vietnam's war economy—because the Vietnamese could have converted the motorcycle assembly facilities to produce military vehicles. But fortunately, I am pleased to announce that since hearing of our proposed amendment, Honda has offered to withdraw from Vietnam. As a further token of its good-faith efforts to stop aiding Communist countries, Honda has agreed not to sell goods to Vietnam, Laos, and Cambodia in the future.

That's what one company has done. But the problem lies deeper. It lies with the Government. Now, the Japanese Government claims it doesn't approve of this kind of trading with a belligerent Communist nation. If that's so, why, Mr. Nakasone, are officials of your Foreign Ministry repeatedly visiting Vietnam? Why, Mr. Miyazawa, has a consortium representing no fewer than 90 Japanese businesses announced it's going to build a trading center in Hanoi?

Evasions won't cut it for much longer on this issue; it's time for the Japanese Government to show some leadership. It's not as if this is the first time we'd ever heard reports that the Japanese had violated trade agreements. Recent Japanese sales to the Soviet military led our country to ban Toshiba imports.

But it's important to remember that these violations are not isolated. They form a pattern of venality that has infected the Japanese business community. The mentality of "profits first" has blinded many Japanese producers to the moral and political implications of their actions. While other countries trade with Vietnam, few have been as brazen as the Japanese in providing explicitly developmental aid—aid that helps the Vietnamese to become an ever more formidable political and military foe.

Mr. President, it's not "Japan-bashing" to hold the Japanese to their word, and to their ethical commitments. Our amendment does not seek to impose sanctions on Japan—there are efforts in progress to apply already-existing sanctions. What we are trying to do with this amendment is to send a message to the Japanese.

That message is: Our alliance shares deeper values than respect for the bottom line of the balance sheet. We value freedom, and we prize loyalty to the forces of freedom.

The Japanese trade relationship with Vietnam mocks our alliance. It weakens the principles that have bound our two nations in friendship for four decades. I ask my colleagues to support this amendment, and call on the Japanese to be true to our alliance—and to themselves.

Mr. President, as I said, this amendment has been cleared by both sides. I might say that we have also been in consultation with both sides on the Veterans' Affairs Committee because there was some interest in this amendment as to how it would relate to the POW-MIA's. I am pleased to say we have resolved all the different questions and I hope we can now proceed with my amendment.

Mr. DIXON addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Illinois.

Mr. DIXON. Mr. President, I congratulate the distinguished Senator from Wisconsin on his amendment that strongly urges the Japanese Government to prevent Japanese business from trading with Vietnam. This side supports that amendment and we are prepared for a vote.

I yield back the balance of our time.

The **PRESIDING OFFICER.** The Senator from Arizona.

Mr. McCAIN. Mr. President, this side is also prepared to wholeheartedly support this amendment. I think it is very clear that the Senator from Wisconsin has brought up a very important issue.

We have a nation which has been in continuous occupation of Cambodia for the last 8 years. The conditions which exist in that nation are deplorable. There is no movement, despite protestations to the contrary, on the part of the Vietnamese to remove their troops. The latest numbers I have heard are there are around 200,000 that presently occupy Cambodia.

Perhaps more tragic than that, there has been an effort described as Vietnamization of Cambodia, where settlers from Vietnam have been forcibly moved into that country, which puts a permanent Vietnamese stamp on the makeup of their society. Their withdrawal is long, long overdue.

Frankly, speaking as one Member and not entirely for this side, I find it odious that the Japanese should continue to maintain a level of trade with the Vietnamese when they are engaged not only in this present atrocity but also have been so unwilling to provide the American people with a satisfactory resolution of the missing in action and POW issue. There are presently 20,000 Amerasian children residing in Vietnam for which there has been little or no effort on the part of the Vietnamese to return them to the United States.

So, I find this amendment entirely appropriate. I think that the Japanese should understand, sooner or later, that we must have a reasonable expectation of cooperation from them in areas such as these. The Vietnam war remains an open wound in our society. It is not in the interests of United States-Japanese relations to exacerbate that very serious situation that still exists.

So, on behalf of this side, Mr. President, we welcome this amendment.

The **PRESIDING OFFICER**. The question occurs upon the amendment of the Senator from Wisconsin. Who seeks recognition?

Mr. **HELMS**. Mr. President, I strongly support and cosponsor the amendment of the distinguished Senator from Wisconsin [Mr. KASTEN] condemning the increased Japanese economic ties with Communist Vietnam.

Senator KASTEN has performed an excellent service in first bringing this matter to the Senate's attention and obtaining an initial positive result. Without his persistence, a Honda motorcycle factory would be built in Vietnam, the output of which would have provided additional mobility for the invading Vietnamese Army in Cambodia. It is hard for developed countries to appreciate the potential which motorcycles give to Vietnamese reconnaissance units, but it is a significant military advantage.

The issue which the distinguished junior Senator from Wisconsin has raised is an important foreign policy issue for the United States and its allies. That is, how do we get the attention of Japanese business and political leaders and stop Japanese economic interests from propping up Communist regimes around the world?

Mr. President, Japanese businessmen have become the scavengers of the world, moving into those areas where businessmen from other free world countries are prohibited. Today we have before us the case of Japanese trade with Vietnam. The headline of a Wall Street Journal article from last June 12 reads "Japan Gains From American Embargo Against Nicaragua."

Mr. President, does a country running an annual trade surplus of $100 billion per year need to be propping up brutal regimes in Vietnam or Nicaragua? Does a company like Honda really need to do business in the economic garbage pails of the world? Isn't the $800 million in profits Honda earned last year enough? Honda, at least, appears to have seen the light—or rather the importance of access to the American automobile market.

It is worth noting, Mr. President, that we are not alone in our concern over this practice. The Association of Southeastern Asian Nations has repeatedly protested Japanese economic support for Vietnam. The brutality of the Vietnamese regime is widely recognized. An editorial in the Washington Post dated May 1, 1987, and titled "Hanoi's Broken Promise" notes the continued use of "reeducation camps" to control its populace.

Mr. President, I ask unanimous consent that the Washington Post editorial of May 1, 1987, and the Wall Street Journal article of June 12, 1987, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 1, 1987]

HANOI'S BROKEN PROMISE

Just three years ago the communist government of Vietnam promised to release to the United States all the Vietnamese still incarcerated in "reeducation camps" as a result of their service in the South Vietnamese regime associated with the Americans. Three years later, not a single one of these unfortunate people has been released and allowed to leave the country with their dependents under the amnesty pledged at that time.

These several thousand Vietnamese are the senior people remaining from a larger group caught up after the fall of Saigon in 1975. They were not accused of committing war crimes in the usual sense. They had simply held official positions in civilian and military branches under the old order. They are political prisoners, and they have endured an unimaginable ordeal in the camps. Says Khuc Minh Tho, the leader of a support group of their kin in the United States: "We do not think that belonging to a vanquished regime is a crime. But even if our relatives have committed 'crimes' under the new government's law, we think 10 years of imprisonment is enough punishment for those who have sinned."

Soon after then—premier Pham Van Dong promised to free the prisoners, reports started being heard of Hanoi's provocative demand that the United States put a political leash on the prospective new arrivals to keep them from somehow acting against Vietnam. But it is extremely farfetched to imagine that these people could, even if they would, add any discernible weight to the political scales—scales on which the Vietnamese presence in the United States rests very lightly in any event. More recently, Hanoi has simply refused to address the question of the prisoners, and it altogether stopped permitting the emigration even of non-prisoners in January 1986.

In December 1986, Hanoi started a process of leadership renewal and policy review whose significance for matters like this one remains to be demonstrated. Still, if there is any inclination in Vietnam to signal that things are changing, the authorities should consider that nothing would come through to Americans more clearly—along with a resolution of the MIA issue and an end to the occupation of Cambodia—than the prompt release of political prisoners. Hanoi's current policy stands as a glaring example of Vietnamese bad faith.

JAPAN GAINS FROM AMERICAN EMBARGO AGAINST NICARAGUA

(By Clifford Krauss)

MANAGUA, NICARAGUA.—After the Reagan administration slapped a trade embargo on Nicaragua in May 1985, Xerox Corp's Nicaraguan unit couldn't get spare parts from the U.S. So Nicaraguan businessmen and government officials turned to Japanese-made Canon Inc. copiers.

Xerox lost contracts to service 800 copiers, more than half the number of such machines in the country. In the year before the embargo, Xerox de Nicaragua generated profit of $2.1 million on revenue of $8.6 million; last year, it incurred a loss of $740,000 on revenue of $2.2 million.

"I'm trying to tell the American Embassy that we're losing the market and the Japanese couldn't be happier," says Verona Gurdian de Somarriba, director-general of the Xerox unit. "Before the revolution, you used to see American cars on Nicaraguan streets; now all you see are Toyotas and Datsuns."

BEST TRADING PARTNER

Japan hasn't become a political ally of Managua. But since the U.S. embargo, Japan has become with little effort, Nicaragua's best trading partner outside the Soviet bloc. And while Japanese trade with Nicaragua has slipped along with the warstrained economy here, representatives of U.S. corporations that still do business in the country say they lose $40 million in annual sales to the Japanese.

(Dozens of American corporations continue to operate in Nicaragua, including Exxon Corp., International Business Machines Corp. and Colgate-Palmolive Co. They sometimes can get around the embargo by using subsidiaries based in other countries, although it's an expensive way to do business.)

Nicaraguan officials contend that U.S. companies' have suffered more than the Sandinista government from the embargo. "We've become dependent on Japanese technology the way we used to be dependent on American technology," says Foreign Commerce Minister Alejandro Martinez

Cuenca, Mr. Martinez Cuenca gestures to the Sanyo personal computer, purchased last year, that sits beside his desk.

Japanese diplomats stationed here are critical of the ruling Sandinistas, but they stress their nation's nonideological trade policy. "We live in a world with many ideologies, and we try to get along," says Japanese attache Takashi Tanaka

AID PROGRAM STOPPED

Reagan administration officials, including Secretary of State George Shultz, have repeatedly urged Japan to downgrade its ties with Managua. Washington has even asked Tokyo not to invite top Sandinista officials to Japan. Such efforts apparently have had some success: Japan ended its small aid program here four years ago.

Washington has even less clout over Japanese trade, in large part because many Japanese products are brought into Nicaragua by the Sandinistas themselves. The Heroes & Martyrs Corp., a private trading company owned by Sandinista party officials, imports Japanese cars and Canon copiers, mostly through Panama and other third countries. Komatsu Ltd. machinery, which was once marketed by the dictator Anastasio Somoza, is now imported by a holding company linked to Nicaragua's Construction Ministry.

Ricardo Mendoza Miranda, the local representative of Deere & Co., and Caterpillar Inc., says he's lost $10 million in sales to Komatsu since the embargo began. "The Japanese don't even have to make an effort. The U.S. embargo opened the door for them," he says.

While giving a boost to Japanese-Nicaraguan trade and damaging Nicaraguan private enterprise, the embargo has failed to bring the Sandinistas to their knees. Western diplomats here estimate that the embargo caused a mere $30 million in damages to the Nicaraguan economy between May 1985, when it was declared, through 1986.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 782) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON. It is my understanding that the distinguished minority leader is on his way into the Chamber right now to offer an amendment, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. We are waiting for the distinguished minority leader to come here with an amendment with respect to an embargo on Iranian products. I want to advise my colleagues that thereafter we expect to go to an amendment by the distinguished Senator from Texas, Senator GRAMM, on stockpiling that will be opposed on this side by Senator BINGAMAN of New Mexico.

Thereafter, we are open for business. All agreed to amendments have been disposed of, so I would encourage colleagues who are interested in offering their amendments that in about 20 minutes to 30 minutes, we will be awaiting amendments from colleagues.

I yield the floor, Mr. President.

AMENDMENT NO. 783

(Purpose: To prohibit the import into the United States of all products of Iran)

Mr. DOLE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. DOLE. I would ask the amendment be read.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an amendment numbered 783.

SEC. . FINDINGS.—The Congress finds that:

(a) The actions of Iran in continuing mine-laying activities, launching Silkworm, missiles against Kuwait and refusing to accept the U.N.-proposed ceasefire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(b) In recent years, the United States, on annual average, has imported approximately $500-600 million worth of products of Iran.

(c) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine-laying.

(d) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibility to shape our conduct in response to the policies and conduct of the belligerents in that war.

(e) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the Unites States to practice "business as usual" with Iran.

(f) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the products of Iran, in the claims settlement process established under the Accord.

SEC. . PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.—

(a) Effective upon the date of enactment of this Section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this Section, the term "products of Iran" means any article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement Subsection (a).

SEC. . WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.—

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to 180 days following enactment of this Section.

(b) Should the President, under the authority of Subsection (a), delay implementation of the prohibition for any period up to the 180 day limit, he shall submit to the Congress a written report, explaining the reasons for the decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementation of the prohibition through the procedure outlined in Subsection (b) for the full 180 days, the prohibition shall go into effect on the 181st day following enactment of this Section, unless the Congress, by Joint Resolution, extends the 180 day period.

The PRESIDING OFFICER. The Chair will state that this is under a unanimous-consent agreement. There are 30 minutes equally divided.

The Senator from Kansas is recognized.

IRAN RAISES STAKES

Mr. DOLE. Mr. President, I thank the distinguished Presiding Officer and I thank the clerk for reading the amendment.

Let me indicate that although there may be some difference on the question of whether or not the war powers resolution should apply in the current situation in the gulf, I think everyone agrees that Iran has raised the stakes over the past 2 months.

It has fired three silkworm missiles against Kuwait, attacked a British tanker and continued its reckless mine-laying operations, provoking a fully justified American counterstroke.

In early July, as part of the trade bill, we passed an amendment which I introduced mandating a total trade embargo on Iran, if it launched "a purposeful attack in the straits of Hormuz utilizing silkworm missiles."

While the recent silkworm attacks on Kuwait did not meet the specific requirements of that amendment, their launch—combined with the other actions I have mentioned—certainly represent provocations of the kind contemplated in the amendment; and of a kind that demand a firm American response.

WE CAN'T STAND SILENTLY BY

We have responded militarily to the mine-laying. But if we fail to do more; if we stand by silently in regard to the use of silkworms and other Iranian assaults, we send to the Ayatollah a message of uncertainty that only invites further reckless behavior of the kind that has been characteristic of his erratic reign.

We must take further measured, but meaningful, steps to signal the Ayatollah that we will not tolerate "business as usual" with Iran until it again starts acting in a civilized manner.

We must add economic pressure to our military posture. The events which have transpired since we passed the trade bill fully justify further congressional action to impose an import embargo now.

Some are counseling that we take no action on oil and other imports, that we hold back in applying that weapon on the theory that pressure is more effective as a threat than a reality. In fact, I think I saw that referred to this morning in a Washington Post editorial. The threat of our action has not deterred the Ayatollah yet. The failure to respond to his latest provocations will only tell him that he can continue his provocations scot free.

We have had enough warning shots across the bow and now is time for some tough action.

They are meeting in the United Nations talking about an arms embargo. That has been delayed because of the attitude of the Soviet Union. There has been a lot of discussion about what we might do to indicate our displeasure with Iran. I must say, as I travel around the country and bring this topic up at various meetings in many, many States, I do not think many Americans realize that we are buying Iranian oil, giving them $500 to $700 million a year. And the Iranians, in turn, can use that $500 to $700 million to purchase Silkworm missiles and other weapons that pose a threat against American servicemen and servicemen from other countries who may be in the area.

If anyone doubts that the Iranians are not laying the land mines, then they ought to vote against this amendment. If anyone feels that the Iranians have cooperated in any degree with the United Nations then I would say oppose the amendment.

This amendment also has a provision which gives the President discretion. If he finds it is not in our interest, there is a 180-day window where the President can delay implementation of sanctions.

I know sanctions are difficult to impose. I know the difficulty we have had with Libya. Nevertheless, I would not be surprised if the administration did not move in this direction without any legislation.

If there is strong signal, a strong message of support, I think it would encourage the administration to move rather quickly. In fact, I think it is fair to say that I discussed this matter with the Secretary of State about 2 weeks ago. While I could only characterize his answer, I did not glean from that conversation that the Secretary of State would oppose such an amendment.

Accordingly, the amendment that I offer today prohibits the import of all products and material from Iran effective immediately upon enactment, but it does give the President that flexibility I indicated if he chooses.

As I pointed out in our July debate, most Americans would be surprised, and I can tell you firsthand they are surprised, to learn that we actually subsidize the Ayatollah's reckless policies and provocative actions. Each year, we import something of the order of 500 to 700 million dollars' worth of Iranian products. The great bulk of these imports are Iranian crude oil. The oil the Ayatollah ships out of the gulf while trying to keep other nations from conducting their own peaceful commerce.

As the article in yesterday's Washington Post noted, because of the spurt in imports from Iran in July, right now the Ayatollah is our second largest supplier of oil, second only to Nigeria. I do not know any other word to describe this situation except that it is absurd, it is ridiculous, it is hard to believe. I really believe that if we are as concerned as we suggest we are with trying to bring Iran into reality in this day and age, it seems to me we ought to take some reasonable, major step.

It is time to end this absurdity. If the Iranians are going to purchase Silkworm missiles to direct at American servicemen, let them sell their oil to somebody else, get their money from somebody else.

I have heard that this will upset some of the oil brokers in America, because they make a commission and they want that commission. They think this is a very bad idea.

If you took a poll of the average American in any State in this country, I will bet it would be 10 to 1 or 20 to 1 or 100 to 1 saying we ought to cut off all trade with Iran and we should have done it some time ago.

Let me say two final things.

This bill is certainly not any kind of a panacea for the kind of recklessness we see in the Middle East. It is not going to stop the Ayatollah. It is not going to end the war. But I do believe it does send a signal. I think we have to continue to focus maximum attention and effort on the United Nations. If the Ayatollah wants to continue commerce with the United States, all he has to do is agree to the United Nations cease-fire, one proposed and supported in this case by both the Soviet Union and the United States, the two superpowers.

Our strong action in passing this import prohibition will add credibility to our efforts to get the United Nations to go along with tough sanctions.

Neutrality doesn't mean inaction and finally let me address one question that may be raised about this bill—the charge that it constitutes an unwarranted tilt toward Iraq in the gulf war.

Well, personally, I have no problem with accepting that description. If it is a tilt toward Iraq, so be it.

Whatever past history—and the onus for starting this war in the first place probably does rest on Iraq; and Iraq is also undertaking attacks in the gulf that we deplore—the truly relevant facts are these:

It is Iran, not Iraq, which is consciously and purposefully attacking and threatening the United States and our friends in the gulf region. It is Iran that proudly declares its enmity of the United States.

And it is Iran, not Iraq, which has refused to accept the U.N. ceasefire.

We are legally and technically neutral in the war. And we should not change that legal and technical status. But neutrality doesn't mean inaction. It doesn't mean we give up our flexibility to shape American policy to reflect reality, and to maximize our ability to defend American interests, in the Persian Gulf.

It seems to me that we should at least speak out in the U.S. Senate. I am offering this amendment in the spirit of cooperation, hopefully with the administration. I know of the President's concern about the actions of the Ayatollah. I believe this amendment will be embraced by the administration. If not, then I think it is time to exert just a little common sense. Thus is not a partisan amendment. I hope we have broad support on both sides of the aisle.

I reserve the remainder of my time.

Mr. DIXON. Mr. President, may I say that I congratulate the minority leader on his amendment.

Mr. President, the United States imports about $600 million of goods from the Iranians every year, about $400 million of that being oil imports. Yet we export to Iran only $30 to $40 million a year. So from an economic standpoint, I do not think there is any significant importance to the United States.

I think it should further be noted that until about 3 months ago, only about 3 percent of United States oil imports came from Iran. But that has risen now to 11 percent in the last 3 months. I think the amendment of the distinguished minority leader is well taken. I think it sends a significant message. It is an amendment that should be adopted.

I wonder if the distinguished minority leader wants to have a rollcall vote on this amendment later in the day or whether he would want to have this amendment accepted at this time. We would be willing to accept it but I might suggest on the basis of everything that the minority leader has said and this side has said on this question, he might want to have a rollcall later in the day.

Mr. DOLE. If the manager will yield, I would certainly like to have the yeas and nays.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. If I could just indicate I am pleased to have the distinguished majority leader join as a principal cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If there is some way, if things slow down later on, maybe we could have the vote before 8 o'clock.

Mr. WARNER. Mr. President, I think the importance of the amendment is such that it should not necessitate a slowdown. I would suggest to the leaders of the Senate that this would be an appropriate matter to vote on immediately following the termination of the caucuses at 2 o'clock.

Mr. DIXON. Mr. President, that would be satisfactory.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. DIXON. Will my friend yield?

Mr. WARNER. I yield.

Mr. DIXON. May I say this side thinks that is a good idea. If it is satisfactory to all present, we can stack that vote for 2 o'clock immediately following the conference.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. WARNER. I yield.

Mr. BYRD. I believe that is a good idea. I think we ought to limit it to 15 minutes. I will call for regular order at the close of 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, if I might clarify, the vote would commence promptly at the hour of 2 o'clock with the expectation that the majority leader will call for regular order at 2:15.

Mr. FORD. Mr. President, is there some time where I might have a minute or two?

The PRESIDING OFFICER. The Senator from Illinois has the time.

Mr. DIXON. Mr. President, I am delighted to yield 5 minutes to the distinguished Senator from Kentucky.

Mr. FORD. Mr. President, let me compliment the distinguished minority leader for this amendment. I think it is important. I think it points up something that has been a debate in the last few weeks in this Chamber. The Senators are going all over this country, particularly the minority leader. He has been in practically every State in this Union in the last few weeks. Coming back from those trips, what he has gleaned out there is the feeling of the American people. I think we are exerting the prerogative of the U.S. Senate to say that this amendment, as it relates to Iran and the Ayatollah, is absolutely correct.

I think it indicates again the ability of those Members of this body who sense the feeling out there and to make a judgment as it relates to the defense of this country, as it relates to energy self-sufficiency, as it relates to the well-being of our military personnel and to the energy situation in this country.

Let us think a moment about where we were in 1973. In 1973 we were importing 30 percent of our domestic oil. Today, on occasions, we go over 50 percent. We are back in the position where one of these days that spigot will be turned off. When it is, we will react to the problem.

Now is when we ought to be acting. So this amendment is an indication that the Senate can act rather than react.

I think the provision there to give the Commander in Chief some leeway, a window, if you will, is correct.

So I compliment the distinguished minority leader for his amendment. I compliment the distinguished manager, the Senator from Illinois, on this side, for the acceptance of this amendment. I ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kansas.

Mr. DOLE. Mr. President, I thank my distinguished colleague from Kentucky [Mr. FORD], and also the manager of the bill, my good friend and colleague, Senator DIXON, from Illinois, and particularly the majority leader for his cosponsorship and willingness to have a vote on this amendment.

Again, I must say I think there is a lot of surprise; if it were Kentucky or Illinois or my State of Kansas, I do not think many people in my State would believe it if you told them that we in effect are furnishing money to the Ayatollah and he in turn might be buying Silkworm missiles or some other weapons to threaten the lives of somebody on one of those ships who might be from Illinois, Kansas, or Kentucky. It does not make any sense. It is very hard to enforce. But let us face it; if in fact the Iranian threat is as great as it is perceived to be, and I think it is as great as the Secretary of Defense and others have indicated it is, then I think this would at least send an appropriate signal.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded back the remainder of his time.

Mr. DIXON. Mr. President, I congratulate the Senator from Kansas, the distinguished minority leader, on this amendment. I think it is ridiculous to import 11 percent of our oil from a country that is mining the Persian Gulf to sink our ships. I think this sends an important message.

I yield back the remainder of the time on this side, Mr. President.

I ask unanimous consent that I may join as a cosponsor of the amendment of the distinguished Senator and then I would have some comment about the next order of business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Both sides have yielded back time.

The Chair would state that the unanimous-consent request has not been placed for the stacking of this vote. The yeas and nays have been ordered.

The Senator from Illinois.

Mr. DIXON. Mr. President, I ask unanimous consent that 2 minutes be allocated to the distinguished Senator from Arizona, who cares to make some remarks.

I ask unanimous consent that this vote be stacked at 2 p.m.

The PRESIDING OFFICER. Is there any objection to the time being yielded to the Senator from Arizona?

Hearing no objection, that will be ordered.

Is there objection to the unanimous-consent request that the vote be called for at 2 o'clock this afternoon? Is there objection?

Mr. BYRD. And that it be a 15-minute rollcall vote.

The PRESIDING OFFICER. And that this vote will be a 15-minute rollcall vote. Regular order will be called for at the end of 15 minutes.

Is there objection? Without objection, it is so ordered.

The Senator from Arizona is recognized under the unanimous-consent request.

Mr. BYRD. Mr. President, will the Senator yield to me for a unanimous-consent request without time being charged against him?

Mr. McCAIN. I will be delighted to yield.

Mr. BYRD. Mr. President, I ask unanimous consent that the warning bell on 10-minute votes be sounded when there are 7½ minutes remaining and that there be another bell to be sounded when there are 2 minutes remaining before the end of the 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McCAIN. Mr. President, I would like to add my words to this very important amendment. I think, as our distingushed leader has stated, most Americans would be amazed to know of the amount of trade between this country and Iran. There is little doubt about the deep-seated resentment that the American people have of the activities of the Iranians over the past 10 years or so. I believe it is high time that we backed up our rhetoric with concrete action and that is to pass this amendment and impose the kind of trade embargo which I think is necessary to brand the Iranians the outlaws that they are and perhaps, only perhaps, further economic pressures can bring about some modification of their present aberrational and irrational behavior.

I yield back the remainder of the time.

The PRESIDING OFFICER. The Senator has yielded back the remainder of this time. All time has expired on the amendment. The amendment has been stacked.

The Senator from Illinois.

Mr. DIXON. Thank you very much, Mr. President. Once again, even though it is repetitious, we are aware, Mr. President, of the fact that many thought that there would be no rollcalls until 8 this evening. That is not, incidentally, the unanimous-consent agreement that we adopted, but there is some misapprehension about that. So may I say to my colleagues, wherever they are, they should be on notice there will be a rollcall vote at 2 p.m. on the Dole amendment, an embargo against Iranian products being imported into this country.

It will be a 15-minute rollcall. The 15 minutes will be strictly adhered to. So everyone is on notice of that.

The PRESIDING OFFICER. The Senator is correct that the unanimous-consent request did not preclude votes during the day.

The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, Senator GRAMM of Texas is on his way into the Chamber with an amendment on stockpiling which will be opposed by Senator BINGAMAN of New Mexico. Senator BINGAMAN is just off the Chamber floor. I think Senator GRAMM will be here momentarily.

Thereafter, we will go to an amendment by Senator HELMS of North Carolina, who has been kind enough, even though he is here, to indicate that he will wait for Senator GRAMM to dispose of his, which had already been agreed to.

So we will take the Gramm amendment, then the Helms amendment, and then my colleagues are again on notice that all agreed amendments have been disposed of except for those that might be during the course of the day accepted for one reason or another, as the amendment of the Senator from Kansas was accepted.

So we are open for business, Mr. President. The Gramm amendment next and then the Helms amendment, and then we will be awaiting others who might want to offer an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DIXON. I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VOTE ON THE GRAMM AMENDMENT ON STOCKPILING

Mr. DIXON. Mr. President, may I say to the ranking member and the acting manager that we are about to dispense with an amendment by Senator GRAMM of Texas that will be opposed by Senator BINGAMAN of New Mexico on stockpiling. I wonder how they want to stack that vote? We have a 2 o'clock vote stacked on Senator DOLE's amendment. I would be amenable to either stacking it thereafter or at 8 o'clock. But it may be that you will want to wait until 8 in view of the fact that most Members expect most rollcalls then.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Illinois for his courtesy and consultation. I would strongly recommend that this vote be stacked in the 8 o'clock category. The Dole-Byrd amendment relating to trade with Iran seems to me to have had a very special characteristic, one which necessitated an early vote.

So my recommendation to conserve time would be that this vote be stacked.

Mr. DIXON. Mr. President, I ask unanimous consent that at such time as the amendment by the distinguished Senator from Texas, Senator GRAMM, is disposed of, that the amendment and the vote on or in relation thereto be stacked until 8 p.m. this evening, following the vote on the McCain amendment.

The PRESIDING OFFICER. Is there objection? The Chair might state that the Chair has not been informed that the yeas and nays have been ordered.

Mr. DIXON. They have not yet been ordered.

The PRESIDING OFFICER. Or that there has been any action with regard to the vote on the Gramm amendment. But the Senator wishes to propound the unanimous-consent request?

Mr. DIXON. May I say to the President that it is my understanding from the distinguished Senator from New Mexico that the amendment will be hotly contested, and that there certainly will be a request for the yeas and nays on that amendment. So ultimately that will be the disposition.

The PRESIDING OFFICER. Is there objection that the vote be stacked, on the unanimous consent, to 8 o'clock immediately following the McCain amendment? Is there objection?

Mr. DIXON. Mr. President, I am advised that I should clarify the Gramm amendment is on stockpiling. There are two other Gramm amendments. There is the Gramm amendment on stockpiling that we are requesting to be stacked.

The PRESIDING OFFICER. The unanimous consent is on the Gramm amendment on stockpiling, that it be stacked at 8 o'clock after the McCain amendment under the unanimous consent. Is there objection? The Chair hears none. Without objection, it is so ordered.

The Chair will state to the managers that the yeas and nays have not been ordered and therefore the Chair will call for the vote unless that is done at that point.

Who seeks recognition?

Mr. McCAIN. Mr. President, I believe the Senator from Texas will be ready momentarily. Until such time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, the distinguished Senator from Texas is still preparing his amendment. He is on the floor and will be prepared to proceed momentarily. The amendment has not been laid down, has it?

The PRESIDING OFFICER. The Chair states to the Senator that the amendment has not been laid down.

Mr. DIXON. Mr. President, we have an agreed-upon amendment with the distinguished Senator from North Carolina, and I ask unanimous consent that we proceed with his amendment at this time.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 784

Mr. HELMS. Mr. President, I have an amendment at the desk, and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 784:

Add at the end of the bill the following new section: Section (a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) Finding. Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) Prohibition. It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

Mr. HELMS. Mr. President, on occasion, in weak moments, I decided the State Department, at long last, has run the full gamut of absurdity. But then comes the State Department with a new one.

Two weeks ago this morning, at 7:30 o'clock, the State Department, would you believe, officially was declared a foreign mission for the duration of the visit of the Soviet Foreign Minister. I am not jesting. This happened. There are many who have suspected, jestingly or otherwise, that the State Department has been acting like a Soviet mission for years. But this time, it was not outraged critics of the State Department or of our foreign policy making the declaration; it was the U.S. Government, itself, that declared the U.S. State Department as a foreign mission, in honor of Soviet Foreign Minister Shevardnadze.

One wonders if Mr. Shevardnadze did not feel like he was coming home.

This may seem like Alice in Wonderland to some Members of the Senate and to the majority of the American people, but it is the absolute reality of what the State Department did 2 weeks ago.

Now, what was the purpose of declaring the State Department to be a foreign mission? It was to use the provision of the Foreign Missions Act to block peaceful demonstrations.

The timing of this declaration that the State Department was a foreign mission is very interesting, because it took place precisely 30 minutes before a group, including a number of U.S. Congressmen, planned to protest the Soviet Union's human rights abuses by peacefully demonstrating in front of the State Department building. By declaring the State Department to be a foreign mission, the Treasury Department's Secret Service automatically triggered a controversial law prohibiting citizens from appearing to demonstrate within 500 feet of foreign missions. This made the State Department, temporarily, a foreign mission for legal purposes, thus barring otherwise legal demonstrations.

In other words, these Americans, including U.S. Congressmen, were gagged. They were denied their first amendment rights; and I do pray, Mr. President, that this will never happen again.

The State Department did not want to distrub Mr. Shevardnadze with the sounds of democracy, apparently. Mr. Shevardnadze was not accustomed, you see, to the sounds of democracy where he comes from in the Soviet Union.

It may be true that glasnost is supposed to mean that a few whiffs of democracy are sprayed over the rotten record of communism on human rights. But even if glasnost does feign a smidgen of democracy in the Soviet Union, it is plain that in this case it meant a denial of democracy in the United States, specifically at Foggy Bottom.

So it is not mere speculation that the intent was to deny U.S. Congressmen and others their constitutional right of free speech. That is exactly what was intended.

The official memorandum issuing notification of this action stated:

> We have been advised of a planned demonstration against a foreign minister—

Meaning Mr. Shevardnadze.

> during his meeting at the State Department. As a result of a planned demonstration, we have declared the State Department (the main building) as a foreign diplomatic mission within the meaning of 3 USC Section 202 for the duration of the visit.

I ask the Senator from Idaho how he likes that.

Mr. SYMMS. Mr. President, I respond to my colleague by saying, first, that I compliment him for the amendment, and I wish to join him in supporting it. But I have another question I would like to ask the Senator.

If the State Department decided to take this action, to gag people who wanted to demonstrate peacefully, did they have to name themselves the foreign mission of the Soviet Union, or could they have chosen, say, Great Britain or France or some other country more friendly to our wishes, and had the same effect? Was there some reason why they had to have the Soviet Union, to just grind it into all patriotic, red-blooded Americans?

Mr. HELMS. It beats me. If the Senator is asking me to explain many State Department actions, I plead that I cannot do it. I presume that no one would demonstrate against the British or French Foreign Ministers.

Mr. SYMMS. I thank the Senator.

Mr. McCAIN. Mr. President, will the Senator yield for a comment?

Mr. HELMS. I yield.

Mr. McCAIN. Mr. President, I should like to express, perhaps in partial answer to the question of my friend from Idaho, that the suspicions some of my constituents have concerning the State Department might have been confirmed by this activity, since some feel that from time to time the State Department has indeed been a foreign diplomatic mission. Perhaps that partially answers the question of my colleague from Idaho.

Mr. HELMS. I thank the Senator.

Mr. President, let me emphasize that there was not even the slightest pretense by the State Department that there was about to be even the slightest threat of violence or radical or subversive activities contemplated by the demonstrators. These were U.S. Congressmen and others who are fed up with the abuse of human rights by the Communists of the Soviet Union—not only the Soviet Union, but also elsewhere in the world.

As a matter of fact, 2 weeks ago, it was made abundantly clear that it would be a peaceful demonstration. So, what other conclusion can be drawn? The only reason to declare the State Department temporarily to be a foreign mission for the Soviet Foreign Minister was to deny these American citizens their constitutional right to protest against Communist murderers and butchers being treated as worthy and exalted guests. I had no problem with Mr. Shevardnadze coming. But to shield him from American citizens exercising their constitutional rights under the first amendment goes beyond the pale.

Mr. President, I ask unanimous consent that the entire communique regarding the declaration of the State Department as a foreign mission be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

> Memorandum To: Francis A. Keating II, Assistant Secretary of Enforcement and Operation, Department of the Treasury.
>
> From: Louis Schwartz, Jr., Deputy Assistant Secretary, Diplomatic Security Service, Department of State.
>
> Date: September 11, 1987.
>
> Subject: Declaration of State Department as Foreign Mission.
>
> The Soviet Foreign Minister Shevardnadze will visit Washington, D.C. from September 13-19 and on September 15 he will be at the State Department, 2201 C Street, N.W., Washington, D.C. for a meeting with Secretary Shultz.
>
> We have been advised of a planned demonstration against the Foreign Minister during his meeting at the State Department. As a result of a planned demonstration we have declared the Department of State (the main building) as a foreign diplomatic mission within the meaning of 3 USC Section 202 for the duration of the visit.

Mr. HELMS. Mr. President, let me speculate just a little, and I shall conclude.

It seems to me, as just one Senator—and other Senators may have different views about it—that it would have been in our national interest and in the interest of freedom in the world for the Soviet Foreign Minister to have experienced firsthand what a real democracy is like. It would perhaps have added to the credibility of American representations to the Soviets in the field of human rights.

How in the world are we going to make credible, serious representations to the Soviets about human rights abuses in that country, when the State

Department is willing to sidestep the American constitutional guarantees of individual liberty and democracy?

Therefore, I think it mandatory that Congress take action to protect the Bill of Rights against anybody in the State Department who would seek to spare any guests the embarrassment of observing democracy in action in the United States.

The amendment pending consists of three sections, each being one sentence. I think it is simple. I think it is forthright and clear cut and the clerk has already read it. It is a matter of record.

I yield the floor, Mr. President.

The PRESIDING OFFICER (Mr. SANFORD). The Senator from Illinois is recognized.

Mr. DIXON. Mr. President, I yield myself 2 minutes in connection with this amendment.

Mr. President, I congratulate my distinguished friend from North Carolina on his amendment. His amendment and the point he has made are both well taken.

I ask unanimous consent, Mr. President, that I be listed as a cosponsor with my friend from North Carolina on this amendment and would inform the Presiding Officer that, so far as I know, there is no further comment on this side and yield back the remainder of our time. This amendment is acceptable to the majority.

Mr. HELMS. Mr. President, I yield back such time as I may have.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would ask my distinguished colleague from North Carolina if he would be requesting the yeas and nays on this amendment.

Mr. HELMS. Mr. President, I think it would be well to have them. I think Senators will want to vote on this amendment. So I ask for the yeas and nays just to send a clear message to the State Department.

Mr. McCAIN. Mr. President, I ask unanimous consent that the vote on this amendment take place at 8 o'clock, stacked, which would be immediately following the Gramm amendment.

Mr. SYMMS. Mr. President, reserving the right to object, is there any reason we do not want to vote right now?

Mr. McCAIN. Yes.

Mr. DIXON. If I may direct that to the Senator from Idaho, there are apparently some folks who by virtue of misapprehension thought that the unanimous consent provided for debating all day and stacking the votes at 8 o'clock. For that reason there is reluctance to vote during the day.

We have a vote set immediately following the conference of the two parties on the Dole amendment. The leaders have requested that these other votes be stacked this evening at 8 o'clock. For that reason we already have two amendments and this would be the third amendment, if the Senator from Idaho does not mind, stacked this evening.

Mr. SYMMS. I withdraw my reservation.

The PRESIDING OFFICER. Is there a sufficient second on the call for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Thank you, Mr. President.

I would just like to comment briefly on this amendment.

Mr. DIXON. If I may interrupt the Senator, the request is that again on this UC the agreement show on or in relation to the amendment, Mr. President.

The PRESIDING OFFICER. Yes, the agreement provides for that.

Without objection, it is so ordered.

Mr. McCAIN. Mr. President, reclaiming the floor, I would like to express my appreciation to the Senator from North Carolina on this amendment. I find it Orwellian and bizarre to contemplate a situation where our State Department declares it is a foreign diplomatic mission. I also find it incredible to be faced with a situation where the American citizens are denied with one of the basic rights in this year of celebration of the 200th anniversary of the Constitution, and that is to assemble and express themselves as they see fit.

I believe that it displays a degree of arrogance and disregard for the basic rights of the American people on the part of the State Department which is indeed deplorable.

I hope that this amendment of my colleague from North Carolina will prevent any repetition of this kind of outrageous behavior, and I yield the floor.

Mr. HELMS. Mr. President, I thank the distinguished Senator for his comments and genuinely appreciate them.

The PRESIDING OFFICER. All time has expired.

Have Senators yielded back all their time?

Mr. DIXON. Yes, we have, Mr. President.

May I say, Mr. President, under the standing agreement, the next amendment is by the distinguished Senator from Texas [Mr. GRAMM].

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. DIXON. May I further say, Mr. President, that I wanted to inform the Senator from Texas that in his absence, we adopted a unanimous-consent agreement to stack this as the second vote this evening at 8 o'clock, but the yeas and nays have not been requested subject to what the Senator wants to do.

Mr. GRAMM. I thank the Senator for informing me.

AMENDMENT NO. 785

(Purpose: To retain and revise the authority of the President to prescribe stockpile goals for strategic and critical materials in the National Defense Stock Pile)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 785.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 216, beginning with line 7, strike out all down through line 14 on page 217 and insert in lieu thereof the following:

(a) IN GENERAL.—Section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The President shall—

"(A) prescribe a goal for the quantity of each material to be stockpiled; and

"(B) transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing the goals prescribed under paragraph (1).

"(2) Stockpile goals prescribed under paragraph (1) shall become effective upon the expiration of 45 days of continuous session of Congress following the date on which the Committees referred to in paragraph (1)(B) received the report required by such paragraph.

"(d)(1) The President may revise a goal that is in effect under this section in the case of any material only as provided in this subsection.

"(2) The President may—

"(A) reduce a goal referred to in paragraph (1) by not more than 15 percent; or

"(B) increase such a goal.

"(3) Whenever the President revises a goal in the case of any material, the President shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a notice specifying the revised goal.

"(4) A revised goal shall become effective upon the expiration of 45 days of continuous session of Congress following the date on which the Committees referred to in paragraph (3) received notice of the revised goal from the President.

"(e) For the purposes of subsections (c) and (d)—

"(A) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.".

(b) ESTABLISHMENT OF GOALS.—(1) Not later than 60 days after the date of the enactment of this Act, the President shall carry out the requirements of section 3(c)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(1)), as amended by subsection (a).

(2) The total quantity of the strategic and critical materials specified in the goals prescribed in accordance with paragraph (1) may not be less than the equivalent of $7,200,000,000 determined on the basis of the cost of such materials at the prevailing prices of such materials, considering all sources of the materials, on May 31, 1985.

Mr. GRAMM. Mr. President, it is very seldom that I offer an amendment when I am certain it is not going to be adopted, but I think this is an issue that nonetheless needs to be debated.

I bring it up today to initiate that debate and I intend to bring this issue up for debate until finally we can make an important change in public policy.

Mr. President, there is something inherently contradictory about the fact that we in Congress and to some extent the American people have the ability to be outraged about little things but we don't seem to have the ability to be outraged about big things.

When some petty crook attempts to charge the Federal Government $300 for a hammer, the taxpayer is usually protected by an alert Air Force sergeant who stops payment, but we still get outraged. On the other hand, if some organized group of citizens, whether it be representatives of particular industries or whether it be organized labor or whomever use their political base to establish a policy that literally steals billions of dollars from the American taxpayer, we hardly even mention it. In fact, there is virtually no outrage.

Now, I am going to offer three amendments today that are on greatly different subjects but they all deal with exactly the same point.

One of the amendments is on Davis-Bacon, a law that requires the Defense Department to pay a wage in construction that is above the competitive wage paid by the local private sector and which literally costs us hundreds of millions of dollars because the law currently grants a special privilege to the few at the expense of the many. That one provision has robbed the taxpayer of more money than all the overpriced hammers and cathode tubes, and toilet seats that have ever been bought by the Defense Department in the entire history of the Republic, and yet every year we perpetuate this policy which cheats the American taxpayers out of their money.

Why should the Defense Department pay construction wages above the wages that are paid for the same work in the same area by the private sector? It obviously should not, but it does because Congress forces DOD to do it as, in a sense, a payoff in return for the support of organized labor.

It is an outrage of monumental proportations, but it is perpetuated by the fact that we can be outraged about little theft, but we are not willing to be similarly outraged when an organized group pirates far greater sums.

Now, the second amendment is aimed at the same kind of problem, a law that most people have probably never heard of, the Service Contract Act.

This Service Contract Act requires those who are receiving services, in this case the Defense Department, to pay wages to computer operators and secretaries and other civilian personnel that are substantially above the wages being paid by private sector employers to their computer operators and secretaries.

Now, why when somebody is providing the Federal Government with a service would want to have a law that forces the taxpayer to pay those wages above the existing, private sector pay scale in their area of the country? Why do we have a law that says computer operators doing business with the Government have to be paid a pay scale that is higher than what is being paid for identical services by IBM and General Motors and other private sector producers?

The answer, of course, is the political power of those who want to provide this special privilege at the taxpayers' expense and the political power of those who do not want services contracted out and who want the Government to provide the services internally.

The final amendment, and the one that I have offered here, has to do with stockpiled mineral resources. We today have stockpiled mineral resources totaling a value of over $9 billion. These are stockpiled resources that we have placed by the side of some railroad track in great, gigantic piles, generally in a raw form, so that in the event of a war with the Soviet Union which disrupts, our sealanes and our transportation and communication links, we would be able to go out and scoop up this raw ore, convert it into copper or lead or zinc, put it through the refinement process, mill it, send it off to the factory and build weapons with it. The fact is that virtually no one at the Pentagon believes that even a conventional World War III with the Soviet Union could ever entail such a scenario; that, in fact, the chances are almost zero that we ever get from raw bauxite to aluminum to an aircraft that will ever fire a shot in anger in a global conflict with the Soviet Union.

A conflict in some region of the world that does not involve confrontation with the Soviet Union is not relevant because the fact is that no other nation could impact our freedom of the seas to any significant extent, at least not in terms of our ability to acquire the minerals we are talking about.

You might say, "Well, what does it cost us to leave almost 10 billion dollars' worth of minerals sitting by the roadside?"

Well, I worked up some numbers that I think are pretty interesting and I urge my colleagues to listen to them.

I took three minerals—copper, lead, and zinc; minerals that are produced in the United States and that are bought from domestic suppliers. I looked at their price in 1947 when we started buying them and I looked at their price today. And I asked a question: What would have happened in 1947 if, instead of buying these mineral resources, we had invested that money in long-term Government bonds to pay off the national debt or we simply did not borrow the money to buy them? What would have happened if we had let the private sector keep the money and it had been invested in AAA corporate bonds? What would have happened if, instead of letting the Government buy all of these minerals and putting them out on the roadside, we had invested in manufacturing at the rate of return, before taxes, that existed each year since 1947?

I think you are going to be astounded by these numbers. Let me just give you a few of them. When we bought copper in 1947, we paid 30 cents a pound for it. Today, it sells at 65 cents a pound. Sounds like a pretty good investment. We held that copper. It has doubled in price.

But do you realize if we had invested that 30 cents in long-term Government bonds, it would be worth $2.22 today instead of 65 cents? If we had invested that same 30 cents in AAA corporate bonds, it would be worth $2.95 today, instead of 65 cents. And, listen to this one: Imagine if we had let the private sector keep the 30 cents and invested in before tax average rate of return in manufacturing. It would be worth $496.67.

The truth is that we are spending billions of dollars holding resources that the modern military does not require and does not want. Every year that we hold this almost $10 billion of stockpile, we are forgoing the benefits that could be achieved with that money—imagine what could be done in terms of buying weapons that deter Soviet aggression, that keep Ivan back from the gate; what could be done by not borrowing money and adding to the deficit and having to pay interest on that deficit; what could be done in the private sector if the funds were left in the hands of the private sector to begin with.

Now, the amendment I have offered is a straightforward amendment. The plain truth is, as we all know, the Reagan administration does not want these billions of dollars worth of excess minerals. It wants to reduce it substantially. Administration officials want to change the mix. Congress has stopped them from doing that.

And why have we done it? Have we done it because we believe that Ronald Reagan is soft on defense, that Cap Weinberger is not committed to keeping Ivan back from the gate? No. We have done it because these mineral deposits being purchased and held by the Government represent direct economic subsidies to special interests in this country. It was for the same reason that last year we bought high-sulfer coal in the United States and shipped it to Germany and then, in essence, dumped it along the roadside, because the Germans do not want us to burn high-sulfur coal. We did it as a political favor to one industry of this country.

Now I am not saying there is not debate about stockpiling. There is debate. I am not saying that everyone who disagrees with me is trying to help the minerals industry. But the idea of having a law that says we will not even let the President, who is charged with the primary defense responsibility of the country, assess what size stockpile we need is, I think, patently ridiculous. And, as I look at it, I cannot find any logic to justify it other than the economic interest of those involved in producing these resources.

This amendment is actually fairly restrictive. It says that the President can come up with a new minerals reserve policy and then, after this bill is enacted into law, he has 60 days in which to transmit it to the two Armed Services Committees. He cannot act on the new policy until 45 days have passed. If we disagree with the policy, we have 45 days to act. We have 45 days to debate it.

Additionally, no matter what the President wants, no matter what the Secretary of Defense wants, they cannot take it below 7.2 billion dollars' worth of sterile mineral resources sitting by the railroad track. In any one period, in any one action, they cannot reduce the stockpile by more than 50 percent in any particular area.

Finally, we retain the requirement in current law which says that efforts shall be made in the acquisition and disposal of such materials to avoid undue disruption of the usual markets of producers, processors, and consumers of such material and to protect the United States against avoidable loss.

Now, all I am trying to do in this amendment is give the President the right to come forward with a new specification of what the Defense Department believes are its needs; to, in essence, say whether they believe we need the current stockpile of any one of 25 or 30 mineral resources that we currently are holding; and to set out a policy to try to bring that stockpile into conformity with the needs of the services. I submit to my colleagues, at a time when the defense budget has been cut back by the budget resolution that was adopted several months ago to the point where 2 years from now we will be back to spending the same percentage of GNP on defense that we all opposed in 1980 when we forced President Carter to take the largest peacetime defense increase in American history; at a time when we are facing a very difficult deficit problem, I believe that one of the areas we ought to look for savings in is the holding of these sterile mineral resources.

We should ask ourselves: Do we need this much copper? Do we need this much lead? Do we need this much zinc? Could we reorder priorities? Are there other mineral resources we may need more of, so that we might want to sell off nickel and buy germanium or some other mineral?

The basic question remains, however: why should we have a law that says that the person who is constitutionally charged with the leadership of the armed services cannot even propose changing the makeup of the stockpile?

The PRESIDING OFFICER. I believe the Senator has consumed his 15 minutes.

Mr. GRAMM. Did we have a 30-minute unanimous-consent request? If I might, Mr. Chairman, may I just take 30 seconds to conclude?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. The question is, when the Commander-in-Chief of our Armed Forces and the Defense Department clearly want to reassess this policy should we not at least allow them to propose changes and let us debate it? If we oppose it we can vote against it.

I think the current policy makes no sense and I urge my colleagues to vote for this amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I think two of my colleagues are also intending to speak on this so I will yield myself 5 minutes at this point.

First, let me indicate that I strongly oppose the amendment and state my understanding of what the amendment is.

The Senator from Texas has suggested that this is another example of industry stealing billions of dollars from the U.S. taxpayer. This is another example of an organized group pirating our society.

I think it is really clear that we do not have that. We really have a question of stockpile goals which have been set for many years by interagency process involving the various agencies that have a concern about this.

The agencies that set the goals, historically, are the CIA, Defense Department, State Department, Commerce, Interior, and FEMA. To suggest that this is an example where the will of the people has been disregarded, I think is totally inaccurate.

The United States today does maintain a national defense stockpile because it is clear we cannot produce some of the strategic and critical materials that we need, such as chromium and cobalt and titanium, which would be needed to meet our military and industrial needs during periods of national emergency.

The stockpile inventory today includes less than half of the objectives that have been set under current statutory goals. The stockpile goals would add up to $16.1 billion. In fact, we have $10.1 billion in the stockpile.

Only $7 billion represents materials that can be charged to the stockpile goals. The remaining $3.1 billion in the stockpile are excess to the current goals and thus we have a lack of $9.1 billion of strategic and critical materials to meet the current stockpile inventory goals. We need another $9.1 billion.

This whole subject came to a head this last year, Mr. President, when the National Security Council released its study which suggested very, very drastic changes in the stockpile goals. It suggested that we go from the present $16.1 billion of goals down to $0.7 billion.

I think it is clear that the reaction to that study has been universal skepticism, or near universal skepticism. With the exception of a few in the Office of Management and Budget in the administration, others involved have felt that that was not a reasonable study.

GAO said the NSC study does not appear to provide a sufficient basis for setting stockpile goals or for other U.S. mobilization plans. The committee, in looking at this this year, Mr. President, decided that some action should be taken to provide flexibility. There has been no change in the stockpile goals, now, for nearly 2 years.

The feeling was that Congress should provide some flexibility and the bill that is presently before the Senate provides for that flexibility. In the legislation we reported out of committee we have a provision that says: The administration each year can present to the Congress a recommendation to lower the stockpile goals in any particular area by up to 10 percent. Unless Congress acts to override that, that 10-percent reduction in the goals will occur so that there is an ability by the administration to gradually reduce these goals if they feel that it is appropriate. But I would remind the Senator from Texas that we have elections every few years and the next President may not feel that he would like to sell off the majority of our stockpiles as this President evidently does.

I believe strongly that Congress should maintain some stability in this stockpile program so that the opportunity for the next President to make up his own mind on these matters will continue.

We did provide that the goals can be reduced up to 10 percent. We provided that, in addition, in the annual material plan that the President has to submit to Congress, if he would like a greater reduction he certainly can recommend that and then it would be up to the Congress to act favorably if it agreed with the President's recommendation in that regard. But, I believe the proposal that we have in the bill today is responsible. I believe it is a good, moderate step to take and I urge my colleagues to resist and vote against the amendment from the Senator from Texas.

I will be glad to yield 4 minutes to the Senator from Idaho.

Mr. McClure. I thank the Senator for yielding his time. In the brief time that we have to debate this issue, I must necessarily skip over a number of facts very, very quickly; facts that I think are important for us to consider as we deal with this amendment.

First of all, what is the reason for a stockpile in the first place? The reason for a stockpile of materials, which the Senator from Texas has described as sterile minerals, is that they are the basis of an industrial capacity to produce, in the event of a war. They are just as basic to our ability to turn out the materials of war if they should be required as are the factories, the railroads, the shipyards, the other infrastructure that is necessary to produce. It is absolutely specious to say that we can be so fully prepared to fight a war that we do not have to increase production in the event of war. I think anyone with any historic perspective at all recognizes that the United States won World War II not because we had the greatest standing Army, Navy, Air Force in the world or the greatest military capacity at the beginning of hostilities; we had the greatest industrial capacity and the time to use it. But we also won because we had materials that were necessary to employ in that industrial capacity, in order to produce the tools of war that produced a victory for the United States and for the Western industrialized democracies.

Yes, the stockpile is a part of the security of this United States and needs to be recognized as such.

I think it is specious for us to argue that because the President makes a suggestion to us that this is the only wisdom. If that were true, we could do away with the Congress. And why do we now talk about the issue of how many tanks, which kind of airplanes, which kinds of ships, what kind of defense material requirements should we have. Let us simply allow the administration to make a suggestion on all of those, too, and Congress can have 45 days to accept or reject those suggestions as well?

Well, there are reasons why many of us do not support simply delegating to the administration all the discretion to make all the decisions. I will not take the time to delineate all the frustrations of the stockpile goals over the last several years, but I would say to my friends in the Senate and those others who may be listening that not all of the goals established by administrations over the last many years have been rational goals. They have fluctuated dramatically, and I will not delineate the total amount of those fluctuations but let me look at just what this administration has done, just in the last 18 months.

The stockpile goal for lead, and I will just pick the one the Senator from Texas did:

On July 8, 1986, the administration said we had 301,000 tons excess in stockpile. That was July 8 of 1986.

By February 5, 1986, that same administration, FEMA, had said the excess was 40,000 tons. Somehow between February 5 and July 8 that changed from 40,000 to 301,000 tons.

That was the last word, the definite wisdom of the administration that had at that time made that tremendous change. And yet, even though they made the change from February 6 to July 8, then look at March 26 in which they said it was 74,000 tons.

If you want to look at others, we can do the same thing, for those same three time periods. Zinc varied from 345,000 to 45,000 to 140,000 tons.

You can look throughout the history of the management of the stockpile and it has varied much more by reason of OMB's demands for money and the economics of the budget than it did from any demand from industry.

So if there is error here, the error is compounded on the side of the administration, not just this one but past ones as well.

I would commend to those who are thoughtfully concerned about the stockpile to look at the GAO report dated May 1987, which has already been quoted by my friend from New Mexico. The NSC study does not provide a sufficient basis for setting stockpile goals for other U.S. mobilization planning.

Mr. President, I again thank the Senator for yielding this time. I hope the Senate will indeed reject the amendment.

Mr. BINGAMAN. Mr. President, I yield 4 minutes to my friend Senator Symms from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I thank the chairman of the subcommittee on the Armed Services Committee and my friend from New Mexico.

I would like to associate myself with the comments made by my distinguished senior colleague, Senator McClure. In general, I think even more important is that there is always a move to try to do budgetary activities when it is clear in the 1979 Stockpiling Act that we are not supposed to reduce the stockpile because of budgetary considerations. That still is the driving force behind this.

Let me say to my good friend from Texas that I oppose his amendment. In most instances I find myself on the Senate floor in general agreement with my good friend from Texas, whether it has been the Gramm-Rudman-Hollings proposition or reformation of the Service Contract Act and Davis-Bacon Act.

However, in this particular instance, what we are really talking about is similar to a person who sells the family jewels so he has extra money to buy a sports car, but then he wrecks the sports car.

I hear the numbers that the Senator from Texas is talking about, what would have happened if we would have invested the money in a certain thing, that it would have been worth this much or that much.

The reality of it is that if an adversarial relationship ever existed and we are confronted with hostilities, such conflict would demand increased production of many of our strategic and critical minerals. If we have the materials, then we can go ahead and meet that contingency. We do not know what the situation will be on the African Continent during a conflict. We do not know what the situation will be on the sealanes. These are all uncertainties that could befall this country and certainly would put us in jeopardy and risk our security.

So, I believe the better course of action, Mr. President, would be to preserve a very rational method. The committee in my view went at length to give the Senator from Texas a great deal in terms of allowing the administration a 10-percent reduction. This would give them time to think it through and the administration could reduce some of these stockpiles by 10 percent on an annual basis and in several years this could make a big change. But we should not do anything too dramatic with regard to stockpile reduction. I think from the standpoint of security it would be a mistake to allow the budget number crunchers at OMB to have control of something as vital as the ability of this country to be able to produce the industrial materials needed to fight and sustain a long, protracted conflict or war.

If we fail to adequately maintain a strategic stockpile, a national emergency will require the United States to make some very hard decisions regarding: The allocation of limited supplies available; the restriction of civilian consumption; requiring substitute materials; making technological changes in the manufacturing process; and expending large sums of money to produce low grade, domestic sources of supply.

Mr. President, while President Reagan and the negotiators in Geneva are working on nuclear arms reduction talks, the need of greater strength within our conventional forces has greatly enhanced. We cannot meet the current threat of the Soviet Union's superiority in conventional forces, without the necessary strategic minerals and materials to support ours. American ships, planes, and tanks require many of the materials in our stockpile. A dramatic reduction in the stockpile will delay considerably our ability to provide conventional forces parity. Adequate resources in the national stockpile is essential to the strategic planning and mobilization of our forces.

Moreover, depleting the stockpile would only increase dependence upon foreign sources during a national emergency. As I stated earlier, we cannot anticipate the situation on the African Continent during any global conflict. However, with the passage of the South African Sanctions Act, the United States has become increasingly dependent on the Soviet Union for many of our strategic and critical materials. If we are currently relying on the Soviets for our stockpile materials, then what are we going to do in a time of war?

Mr. President, an excellent article on this subject was printed in Barron's magazine, and I ask unanimous consent that it be inserted in the RECORD following my remarks.

I would just like to end by saying that I do not believe we should place a dollar value on the security of our Nation and the safety of American citizens. So, I urge my colleagues to reject the Gramm amendment.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Barron's Magazine, Aug. 3, 1987]

ANTI-APARTHEID OR PRO-SOVIET? SANCTIONS RAISE UNITED STATES DEPENDENCE ON U.S.S.R. FOR STRATEGIC MINERALS

WASHINGTON.—Among other things, the Comprehensive Anti-Apartheid Act, which Congress overrode a Presidential veto to pass last October, prohibits U.S. imports of any "article" from any firm connected in any way with the South African government. The law also threatens to prohibit currently legal imports of strategic minerals from South Africa one year after passage, if "significant" progress hasn't been made in establishing a nonracial democracy. While few lawmakers (and almost none of their constituents) seem to realize it, such provisions already have succeeded in sharply curtailing the flow of strategic and critical materials from South Africa. At the same time, they have made the U.S. increasingly—some say alarmingly—dependent for such imports on the Soviet Union and its satellites.

The statistics are jolting. For instance, U.S. imports of chrome ore from the Soviets surged to a whopping 6,440 gross tons per month on average for the six months ended March 31, compared with a mere 479 gross tons on average during the legislatively designated base period, 1981 through 1985. Chrome, of course, is essential to the manufacture of stainless steel and superalloys; hence, it is vitally important in the aerospace, chemical, defense, power-generation and transportation industries. And the U.S. is heavily dependent upon imports to meet its needs. Small wonder then that upon passage of the Anti-Apartheid Act, the Soviet Union, the world's second largest source of chrome, started developing a new mine with annual capacity of two million tons.

And chrome is only part of the shocking story. Imports of antimony from Russia have risen to 98 times the total in the base period. The U.S. also lacks adequate domestic sources of antimony, which is essential for such items as bullets, computers, radar and sonar. Anticipating the new demand, Russia also is rapidly expanding production of antimony in the Soviet Central Asian republics of Kirgiziya and Tadzhikistan.

The list goes on—more Soviet ferrosilicon manganese, industrial diamonds, rhodium, platinum and silver bullion, all critical materials. Strategic imports also are up from Soviet bloc countries. Ferrosilicon and ferrosilicon manganese are essential for alloyed and specialty steels used to make hull plates for Navy ships and in the bodies of military vehicles and tanks. Under the first six months of the law, monthly imports of Soviet ferrosilicon averaged 2,814,527 gross pounds, compared with 692,970 for the 1981-85 average.

Again, monthly imports of ferrosilicon manganese from Yugoslovia averaged 3,270,157 gross pounds, against the base of 2,168,352. Imports of industrial diamonds from Russia were up 100 times the base average; platinum bars and plates, up five times; rhodium up three and a half times and zinc up four and a half times. Six different categories of Yugoslav aluminum imports rose.

The law says that the President may lift any of its provisions if he determines after six months that it is causing increased U.S. dependence on Soviet and Soviet-bloc countries for strategic and critical materials and reports his finding to Congress. Even though the newly compiled figures are so startling, President Reagan has no plans to do so. The reason is painfully clear. In the current climate of opinion, Congress and the media would go for his throat.

To its credit, the Commerce Department has carried out the act's mandate to give monthly reports to Congress on growing U.S. vulnerability to the Soviets or Soviet-dominated countries in terms of strategic and critical materials. But nobody on Capitol Hill seems to be paying the slightest heed.

Queried about this, Secretary of the Interior Donald P. Hodel, who also serves as chairman of the National Critical Materials Council, replied, "I don't have the answer. If you ask somebody should we buy a major component of a weapons system from the Soviet Union, they would say, 'Of course not; that's crazy.' Then should we buy the raw material that is necessary to make that weapons system from the Soviet Union? Of course not. Because of the sanctions against South Africa, we are increasingly dependent on the Soviets and Soviet-bloc countries for raw materials that are essential to the defense establishment, at the very least."

To make matters worse, the House Foreign Affairs Africa Subcommittee plans hearings this fall on HR 1580, a bill by Rep. Ronald V. Dellums, California Democrat. It would repeal the Anti-Apartheid Act and substitute a much more drastic measure. Among other things, it would ban imports of any mineral from South Africa essential for military uses unless the President certifies to Congress that domestic supplies are inadequate and "substitutes for such minerals are not available." It says nothing about importing from Communist countries. Moreover, it does away with the requirement to report to Congress on such imports.

HR 1580 also would get rid of a little-noticed part of the Anti-Apartheid Act, which states, "The United States . . . recognizes that some of the organizations fighting apartheid have become infiltrated by Communists and that Communists serve on the governing boards of such organizations."

Incredible as it may seem, during the last Congress, the House passed the Dellums bill. The only change in the current version is an addition which would prohibit any form of cooperation, direct or indirect, with the government of South Africa by U.S. military or intelligence agencies. HR 1580 has 53 co-sponsors, including Rep. Peter W. Rodino, Jr., a New Jersey Democrat and chairman of the House Judiciary Ccommittee.

Sen. Alan Cranston, a California Democrat, has introduced S. 556, a nearly identical measure, on behalf of himself and Democratic Senators Ted Kennedy of Massachusetts and Carl Levin of Michigan. It differs from the Dellums bill only by deleting authorization for the President "to limit the importation into the U.S. of any product or service of a foreign country to the extent to which such foreign country benefits from, or otherwise takes commercial advantage of, any prohibition imposed by or under this Act." S. 556 now is pending before the Senate Foreign Relations Committee.

Meanwhile, ostensibly because the findings of the Anti-Apartheid Act for the first six months may be criticized as seasonal, the Administration is planning to continue the monthly reports for a full year. But if both houses of Congress pass the Dellums-Cranston bills, they may end abruptly.

Secretary Hodel, however, is considering having the National Critical Materials Council report on increasing imports of strategic materials from the Soviets. The 1984 law which created the Council calls for it to make public such critical materials "issues and concerns . . . as are deemed critical to the economic and strategic health of the nation" and to make policy recommendations to the President concerning them.

Will Hodel recommend that something be done about this country's mounting reliance on the Soviets for strategic materials owing to the Anti-Apartheid Act? First, he replies, Congress and the country must understand what's at stake. "Right now, when we start talking about solutions, people usually say, 'What's the problem?' " he notes.

"The last time I checked," adds Hodel pointedly, "the Soviets were still engaged in killing, mutilating and bombing innocent people in Afghanistan in a clear war of aggression."

If the sanctions against South Africa were working, the Rev. Leon Sullivan (civil rights activist and General Motors director) wouldn't find a need to call for all companies to pull out of that country. Indeed, the South African Catholic Bishops Conference, which initially supported sanctions, now has published a report finding that they are ineffective. In fact, they are counterproductive: By leaving South Africa, some companies are greatly enriching the Afrikaners who take over the divested enterprises.

At the same time, several land-bound black African countries are dependent on exporting through South Africa. Sen. Kennedy is so concerned about the harm which the sanctions he has pushed for are inflicting on them that he has proposed giving them $700 million of American taxpayers' money over half a decade.

One must ask why the U.S. should believe that racial injustice in South Africa warrants action drastic enough to harm this country, but should embrace trade with the Soviet Union, which puts millions of its own people in gulags and commits untold atrocities abroad. U.S. foreign policy should have two objectives: to achieve its intended aims and to advance the nation's interests. On both counts, sanctions against South Africa have failed.—Shirley Hobbs Scheibla.

Mr. BINGAMAN. How much time remains?

The PRESIDING OFFICER. One minute and seventeen seconds.

Mr. BINGAMAN. Mr. President, let me just summarize my comments. I think the issue obviously is coming to the Senate floor for the very simple reason that this administration has attempted to deal with the fiscal problems of the country and the budgetary problems to a great extent by selling assets. This is an area in the defense arena where the administration sees there is a potential to sell some assets. Clearly we want to deal with the budgetary problems, but I do not think we want to do it at the expense of our long-term national security. The provision we have in the bill for a moderate decrease in the size of the stockpile in these areas by the administration unilaterally without the Congress acting I think is reasonable. I think we need to resist the more drastic proposal that the Senator from Texas is presenting.

Mr. President, I gather the vote is going to be after 8 o'clock, but I move to table and ask for the yeas and nays.

If the Senator is not asking for a rollcall, then I will withdraw that motion.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Time has expired. Under the previous agreement, then the vote will occur this evening following a vote on the McCain amendment.

Mr. BINGAMAN. Mr. President, if there is no request for a rollcall, then certainly we have no objection to the issue being voted on at this point. I ask unanimous consent that we proceed to a vote at this point.

The PRESIDING OFFICER. Without objection, the question is on agreeing to the amendment.

The amendment (No. 785) was rejected.

Mr. DIXON. I move to reconsider the vote by which the amendment was rejected.

Mr. McCAIN. I Move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, my understanding of the situation now is that Senator WILSON will be here shortly on an amendment pertaining to the Presidio Army Hospital in California. Now, his staff people advise me that he will be here in about 15 minutes. He is meeting with a delegation from California on this point at this time and will be here momentarily. I have three colloquys that we can put in the RECORD at this time. I ask, if any other colleagues who are paying attention to the proceedings have any other amendments, that they come over because, quite frankly, we are going to have the conference luncheons at 12:45, Mr. President. The luncheon is at 1:15. I think we are going to have a little time after this next amendment and before the special order.

Then after lunch, Mr. President, we vote at 2.

Then we have a long period of time in the afternoon before those 8 o'clock stacked votes. So if any Senators have amendments, this afternoon from about 2:15 on through the afternoon is an excellent time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, subject to our staff's checking with Senator KENNEDY, may I announce at this time that we are prepared at 4 o'clock to go to two amendments by the distinguished Senator from Texas on service contracts and Davis-Bacon, which are familiar to those of us who have been here a few years, and Senator KENNEDY, the distinguished Senator from Massachusetts, will oppose those from this side. So at 4 o'clock there will be two rather contentious amendments if that is agreeable to the ranking Member.

Mr. WARNER. Mr. President, I think that is a helpful bit of scheduling. While the proponent of the amendment, the Senator from Texas, is here I am wondering if we can get some estimate of time because our colleagues are anxious to work with the managers of the bill. Could the Senator from Texas indicate——

Mr. DIXON. I think there is a 30-minute limit on each of them.

Mr. WARNER. First, Mr. President, is there a time agreement on both amendments?

The PRESIDING OFFICER. There is a time agreement, 30 minutes equally divided in the usual form.

Mr. WARNER. So that would be two amendments totaling an hour under the time agreement?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. The question I would have to my friend from Texas, to help other Senators in their planning, does he think the full hour would be required in view of the fact that the Senator from Illinois pointed out, as I would likewise, that the subject is well known to the Senate?

Mr. GRAMM. If the distinguished Senator from Virginia will yield, my guess is that it would be required. These are two issues about which people feel very strongly. There will be Senators who will want to speak on behalf of both amendments and there will be rollcall votes. So my guess is we will need it. Obviously, if it is not needed, I would be happy to yield it back. In any case we will be voting at 8 o'clock.

Mr. WARNER. The votes will be deferred until later and I think if we could just close on the note the Senator from Texas and presumably the Senator from Massachusetts would endeavor, to whatever extent possible, to reduce the time.

Mr. DIXON. Mr. President, I thank the distinguished manager on the other side.

WIDE AREA ANTI-ARMOR MUNITION

Mr. DIXON. Mr. President, I would like to engage the chairman of the Conventional Forces and Alliance Defense Subcommittee in a colloquy on the Wide Area Anti-Armor Munition Program, and specifically the sensor fuzed weapon portion of the program.

Mr. President, the Wide Area Anti-Armor Munition Program is one of the most important efforts underway to develop so-called "smart munitions" to destroy multiple enemy tanks with one attack run by U.S. aircraft. A single aircraft could launch a dispenser which would in turn dispense 40 submunitions. Each has its own capability to locate and attack individual tanks. This program is one of the ways we use the best of current U.S. technology to overcome the existing large numerical imbalance between NATO and Warsaw Pact conventional forces.

It is my understanding that we are in the closing stages of the full scale development effort, and that development and operational testing will begin next year. Presuming successful testing, low-rate initial production currently is scheduled to begin in 1989.

Mr. President, the Air Force acquisition strategy for the wide area antiarmor munition calls for proceeding promptly with a second source producer. The Air Force will have two contractors compete to become the second source producer with the best selected during fiscal year 1989. After a year of qualification production, the primary contractor and the winning alternate producer will compete head to head. Some 95 percent of the program will be subjected to competition.

Mr. President, I am concerned that there are those who want to delay introducing competition into this program. This would be an expensive mistake, in my judgment. The Sensor Fuzed Weapon Program is a $3 billion program. Competition offers savings that range in one analysis from $300 to $900 million. Clearly the earliest competition that is feasible and prudent is essential.

I would like to ask the distinguished chairman of the Conventional Forces and Alliance Defense Subcommittee several questions. First, how important is competition to the success of the Sensor Fuzed Weapon Program, and what is the chairman's position on competition in this program? Is there any technical reason to delay introduction of competition?

Mr. LEVIN. Mr. President, if the distinguished Senator from Illinois will yield, first let me say that the Wide Area Anti-Armor Program and the sensor fuzed weapon project are critical advanced technology programs that make a conventional defense of NATO credible. We must introduce this capability as quickly as it is feasible.

On the question of competition, munitions programs are among the best for applying competition. The Air Force intends to buy 20,000 units, each with 40 submunitions. Clearly competition is appropriate in such a case. I believe the Senator mentioned that some 95 percent of the program is scheduled for head-to-head competition, and I believe the committee strongly supports that plan.

As to the question of technical questions that might necessitate delay in introducing competition, it is my understanding that there are some continuing technical problems in development, but that solutions have been identified for those problems. Those problems might introduce an overall delay in production which will have a ripple effect as far as qualifying the second producer is concerned. The Air Force has informed the committee, however, that at this time there is no reason to believe those problems should delay introduction of competition.

TINKER AIR FORCE BASE

Mr. DIXON. Mr. President, in reply to my two distinguished colleagues from the great State of Oklahoma, may I say that I appreciate their understanding of the challenges which the Senate Armed Services Committee faced in reporting the national defense authorization bill for 1988 and 1989.

As chairman of the Readiness, Sustainability and Support Subcommittee, it was my responsibility to recommend to the full committee adjustments to the military construction portion of the budget request. This included reductions amounting to over $800 million, a goal which could be reached only by deferring a number of very valid projects such as the advanced composite repair facility at Tinker.

Our job was made more difficult because there were several high priority initiatives which were not included in the budget request but which merited support. The waste water connection at Vance Air Force Base, Oklahoma, which my colleagues requested, was one such project which the committee was able to accommodate even within our overall funding reductions.

I am aware that funding of the Tinker advanced composite repair facility enjoys a high priority with both my colleagues and the Air Force. As we proceed to conference, facing a further reduction in the military construction account of perhaps another $800 million, I will keep your interest in mind and attempt to resolve this matter favorably.

Again I appreciate the bringing of this important project to my attention.

Mr. BOREN. Mr. President, I join my good friend and colleague, Mr. NICKLES, in bringing a military construction project to the attention of the floor managers of this bill. I commend my colleagues on the good work accomplished in this most difficult task of providing the best possible defense of our Nation at the most responsible cost to American taxpayers.

Oklahoma is proud to have been assigned by the U.S. Air Force the management and maintenance of the B1-B and many of its subsystems at Tinker Air Force Base. In accordance with the planning for this mission, the administration included in the fiscal year 1988 Military Construction Program the construction of an advanced composite repair facility at a cost of $9.2 million.

I am well aware, Mr. President, of the budgetary constraints with which the members of the Senate Committee on Armed Services must contend. At the same time, however, the postponement of the composite repair facility severs an important link in a smooth transition of the maintenance mission of the B1-B.

This project, included by the administration in the fiscal year 1988 budget request, has been approved recently in both the Milcon authorization and appropriations by the House. I urge my colleagues on the committee to reconsider the importance of this project and accept the House provision during the conference on this legislation.

Mr. NICKLES. Mr. President, I rise today to join my colleague from Oklahoma [Mr. BOREN], in requesting the attention of the floor managers to a military construction project which I believe is vital for the air defense of the Nation.

As my good friend has mentioned, we are very proud to have been entrusted by the Air Force to manage and maintain the B-1B and many of its subsystems at Tinker Air Force Base. In order for Tinker to properly maintain these aircraft, the administration requested $9.2 million in fiscal year 1988 for the construction of an advanced composite repair facility.

The B1-B contains more composite material than any other weapons system. Thirty-three percent of the structure of the B-1B is composite material, and today we have 45 B-1B's flying. The repair of materials such as graphite, boron, Kevalar, and fiberglass is an exacting and specialized process, necessitating an exact and specialized repair facility.

Any delay of funding of this composite repair facility would cause an inability to fulfill the mission the Air Force has entrusted to Tinker, as it would not be able to do all the work on B-1B aircraft required during programmed depot maintenance and would not allow Tinker to be responsive to the needs of the Air Force or to quality control.

I urge my colleagues on the committee to reconsider the importance of funding this project for fiscal year 1988 and to accept the House provision during the conference on this legislation.

AIR FORCE GROUND SUPPORT EQUIPMENT

Mr. DIXON. Mr. President, I would like to have the attention of the distinguished chairman of the Subcommittee on Conventional Forces and Alliance Defense to discuss the matter of ground power generators for tactical aircraft.

Mr. President, the Air Force utilizes ground power carts to provide power, air cooling and air start for tactical combat aircraft. In 1983 the Air Force initiated development of a new ground power generator system to replace two series of carts currently in use by the Air Force. Two companies are competing for the program, and their carts are currently undergoing tests.

It is my understanding that the ground power generator program has experienced significant increases in cost. According to my figures, the original projected cost for the two cart system was $175,000, and that number has increased to $325,000.

Mr. President, we have an opportunity here to save substantial sums of money. I am aware of proposals to modify the existing MA-3D diesel driven flight line air-conditioner currently used by the Air Force to meet the air-conditioning and power generation requirement at a fraction of the cost. Rather than spending $325,000 per unit, these modified multipurpose units would cost as little as $80,000 each. Assuming a procurement goal of 700 units, this offers savings as great as $170 million.

I am not suggesting that the ground power generator program be terminated, Mr. President, but that the Air Force take a second look at it's acquisition plans in this area. Certainly with the serious budget problems facing the Defense Department, the Air Force will need to examine every opportunity possible for savings.

I wonder if I might ask several questions of the distinguished Senator from Michigan. First, could the Air Force substitute the less expensive multipurpose unit for the more expensive ground power generator sets?

Mr. LEVIN. Mr. President, if the Senator will yield, it is my understanding that the multipurpose unit could well perform some of the functions planned for the ground power generator, but would not meet all those requirements. One of the primary goals of the Air Force program is to have generator units that weigh no more than 5,000 pounds so that two airmen can move them within tactical aircraft shelters. It is my understanding that the multipurpose unit weights twice as much, which fails to meet that goal.

I should also note that the multipurpose unit fails to provide air start capability. While this is not needed for newer F-15 and F-16 aircraft, the Air Force requires this for older generation aircraft. The ground power generator units would provide this air start capability.

Mr. DIXON. I thank the Senator. If I might ask further, is it possible to procure a mix of ground power generators and multipurpose units that would satisfy requirements yet do so at lower costs?

Mr. LEVIN. If I might respond to the Senator, it is my understanding that the Air Force has a study underway that would address that very question. I believe the Senator's suggestion is quite appropriate and I understand that the Air Force is prepared to do that very thing.

Mr. DIXON. I thank the Senator for his remarks.

Mr. McCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. REID). Without objection, it is so ordered.

Mr. DIXON. Mr. President, it has just been called to my attention that at least one of the distinguished Senators on this side of the aisle would like to do a brief colloquy after lunch on an amendment that he will then withdraw. I see a list that has now been given to me by the staff from the Armed Services Committee, and it suggests that there may be other colloquys that other Senators might want to engage in on matters of importance to them concerning amendments that they would otherwise offer.

Let me again say to my colleagues we are going to do an amendment on the Presido Army Hospital in California with Senator WILSON in a moment. This afternoon, we have two amendments that Senator GRAMM will be doing at 4 o'clock opposed by Senator KENNEDY on Davis-Bacon and service contracts. That will take until 4 or 5 o'clock.

There is going to be some time this afternoon, both before those amendments and immediately subsequent to the amendments. So if any Senators have amendments or colloquys they want to do, I wish they would let us know right now. We are anxious to accommodate any Senators who have colloquys or amendments, and we believe we are about to dispose of this calendar, Mr. President, if our colleagues will be on notice. There is time to dispose of matters if they care to do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, my distinguished friend from California is here with his amendment and I note that we have a special order at 12:45. The unanimous-consent agreement allocates 30 minutes evenly divided. My calculation is that we have only 25 minutes remaining.

I wonder what the pleasure of the Senator from California is. May I say this to him: at 12:45 there is a special order, the conference of the two parties is at 1:15. A 2 o'clock stacked vote on the Dole amendment with a strict enforcement of the 15-minute rollcall means that we are pretty well, except for the 25 minutes remaining, tied up until 2:15.

Mr. WILSON. Mr. President, to respond to my friend from Illinois, if we have not exhausted the 15 minutes to which we are entitled under this may I suggest that we just pick up at the next opportunity.

Mr. DIXON. I would have no objection, Mr. President, if we do not conclude. May I say to my colleague that I will not take the full 15 minutes on this side. Let us just have the understanding if we do not conclude by 12:45 at the time of this special order that we will drift into the afternoon after the Dole amendment that is presently scheduled for 2.

The Senator, as I understand it, will agree to a unanimous-consent agreement that this rollcall be stacked tonight at 8 o'clock after whatever rollcalls are already stacked. I think there are about three of them. Is that agreeable?

Mr. WILSON. Yes, it is.

Mr. DIXON. That it be in the chronological order that it will be found upon the calendar.

Mr. WILSON. Yes, it is.

The PRESIDING OFFICER. Under the previous order debate on this amendment is limited to 30 minutes equally divided and controlled in the usual form, and, as the Senator from Illinois indicated, the debate will stop on this amendment at 12:45 and the time left over will be taken up in the next time available, which will be around 2:15.

Mr. DIXON. Mr. President, then the vote on the amendment or other issues related thereto will be stacked by unanimous consent this evening, subsequent to whatever votes are already stacked, at 8 o'clock. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 786

(Purpose: To authorize the lease of certain facilities at the Presidio in San Francisco, California, to the County of San Francisco for use as an AIDS treatment facility)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. WILSON) for himself and Mr. CRANSTON proposes an amendment numbered 786.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA.

(a) IN GENERAL.—The Secretary of the Army shall lease to the County of San Francisco the facility at the Presidio in San Francisco, California, formerly operated as a hospital by the Public Health Service, for use by such County as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) TERMS OF LEASE.—(1) The lease entered into with the County of San Francisco pursuant to subsection (a) shall be for a term of 10 years and shall be made without consideration to the United States. The term of the lease shall begin as such time as the Secretary shall prescribe after the transfer referred to in subsection (d) has been completed.

(2) The Secretary may require such other terms and conditions in connection with the lease as he considers appropriate to protect the interests of the United States.

(c) DETERMINATION BY SECRETARY OF THE ARMY; ANALYSIS BY COMPTROLLER GENERAL.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall determine the most economically feasible manner of accomplishing the transfer of activities described in subsection (d) and report such determination, together with an estimate (and underlying analysis) of the cost of accomplishing the transfer, to the Comptroller General of the United States.

(2) Not later than 30 days after receiving such determination and estimate from the Secretary of the Army, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an analysis of such determination and estimate.

(d) TRANSFER OF ACTIVITIES.—(1) The Secretary of the Army or the Secretary of Defense, as appropriate, shall complete the transfer of the Defense Language School and any other activity being carried out at the Presidio in the facility described in subsection (a) to such other location as the Secretary determines to be appropriate. The transfer shall be made as soon as practicable after the date on which the report referred to in subsection (c)(2) is received by the committees named in such subsection or the date on which the County of San Francisco provides the certification described in subsection (e) to the Secretary of the Army, whichever is later.

(e) CERTIFICATION OF FINANCIAL ABILITY.—The Secretary of the Army shall not enter into a lease under subsection (a) or initiate any action to transfer the facilities referred to in subsection (d) until the County of San Francisco has certified to the Secretary of the Army that the County is financially prepared to assume possession of and operate the facility referred to in subsection (a) as a facility for the care and treatment of persons with AIDS or ARC.

(f) RECAPTURE RIGHTS.—The Secretary shall include in the terms of the lease a condition that in the event the leased facility is not used by the County of San Francisco as a facility for the care and treatment of persons with AIDS or ARC, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated.

(g) CONSIDERATION OF COOPERATIVE USE OF FACILITY.—The Secretary of the Army, and the Administrator of Veterans' Affairs, shall immediately enter into discussions with the appropriate official of the County of San Francisco to determine the feasibility of utilizing the facility referred to in subsection (a), jointly or in conjunction with the County of San Francisco, for the care and treatment of veterans and members of the Armed Forces who have AIDS or ARC.

Mr. WILSON. Mr. President, I yield myself 5 minutes.

Mr. President, the amendment that has been sent to the desk is one that would authorize the Secretary of the Army, actually the Secretary of Defense, to release to the city and county of San Francisco a health facility, formerly a public health hospital, that a little less than a decade ago was released by public health, made available to the Department of Defense and is now being used by the department for a classroom facility in order to teach enlisted personnel four different foreign languages.

The Defense Language Institute, located at Monterey, had reached capacity. This additional space was sought on a purely stopgap arrangement, and the expectation was that within a decade or so there would be either colocation of this facility with the parent in the Monterey area or that some other arrangement would be made.

Mr. President, what has happened in the interval is not news to any of us any longer, that is, that there is an AIDS epidemic in this Nation and tragically the city of San Francisco has become the focal point for much of the attention on that dread disease, that epidemic. People have come literally from throughout the West seeking treatment there because so much of the work has been undertaken in San Francisco.

To come to the point, the Public Health Director of the city and county of San Francisco, Dr. David Worder, had predicted there will be at a minimum a fivefold increase by 1991 in the number of people actively infected with the AIDS virus. He has projected a need for a facility that could accommodate some 300 beds for some subacute AIDS patients. The actual projection is there will be some 500 needed by that time. With the addition of the 300-bed subacute facility that could be provided by this hospital at the edge of the Presidio in San Francisco, the city and county of San Francisco would be far, far ahead in the effort that it is taking to deal with this crisis.

This amendment will instruct the army to make available the hospital but it does two other things. It also instructs the General Accounting Office to find the most advantageous way for the Defense Language Institute or that portion of it currently located at the Presidio to be transferred to some other facility.

The reason for that, Mr. President, is that earlier there was much enthusiasm on the part of the Army for relocating this classroom activity to the army base at Oakland.

Now, apparently those below the level of Secretary Marsh are seeking to have it relocated instead to Monterey at what will be an added cost.

Let us let the General Accounting Office look at the options available, remembering that this is a short-term effort and that it would in fact, by the midnineties, have terminated in any event.

It also requires, as a condition of the release by the Army of this facility to the city and county of San Francisco that the institute demonstrate an ability to go forward with the operational responsibility of conducting this hospital as a subacute AIDS facility.

Mr. President, those two conditions, it seems to me, amply condition the release of this facility. It will give the Army time to determine how to relocate. it will give the city and county of San Francisco time to prepare and in fact they have already begun to prepare for the responsibility of taking over this facility and operating it.

So, Mr. President, I must say that I am irritated not a little at what I will characterize as being jerked around by a change suddenly thrown at us by the Army bureaucracy. I do not appreciate it. I will tell you that in terms of a menace to American security this AIDS epidemic represents a much more clear and present danger than the possibility of need to mobilize this facility as a hospital for the Army and clearly if that day ever comes the Army will find that it is much nearer to that mobilization goal if it is already operating as a hospital and they do not have to go through the motions necessary to convert it to a hospital from a classroom facility.

Mr. President, there is no good reason not to go forward with this. There is every imperative reason. There is a genuine emergency that requires that we take responsible efforts in order to make available, as the Secretary of the Army had indicated in an earlier letter that he fully supported doing as did the Department of Defense.

So I am really at a loss to understand why this is not being accepted, but apparently the explanation is that staff has been co-opted by lower level Department of the Army bureaucrats. I will put it as simply as possible, Mr. President. I do not think the convenience of those bureaucrats is an equivalent moral or material argument for doing something that must be done in any case to combat what is a far more serious threat to the health of the American people.

Mr. President, I will at this point reserve the remainder of my time. I am told that my colleague from Massachusetts, the chairman of the Labor Committee, Senator KENNEDY, wishes to have a voice in this. My colleague from California, Senator CRANSTON, I think will also wish to speak to its support. And for that reason I will at this point reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I would yield myself such time as I find necessary to respond briefly to the statements by the Senator from California.

The first is that I would hope that my colleagues would understand that the Department of Defense does oppose this legislation. I hold in my hand a letter to the chairman of the Armed Services Committee, Senator NUNN, in which the Department of Defense says that with respect to Presidio, they have been led to believe that they would need this San Francisco annex indefinitely.

That location, Mr. President, is presently being used for the following two purposes: 60 percent of the installation is used for foreign-language education for our service forces, particularly those who will employ those foreign languages, in many cases, in intelligence operations, which are important to the national security interests of our country. The other 40 percent of the space available now is used for storage of medical material. I just want to read the conclusion of the two-page letter to Senator NUNN from the Deputy Assistant Secretary of Defense for Intelligence.

> We wish not to be forced to leave the auxiliary school at the Presidio of San Francisco, not now, not in the future. Any move would cause serious disruption to the language training mission.

The other points I want to make are these, Mr. President. The city of San Francisco has indicated they are willing to fund only 15 percent of the operating costs. This is not an appropriations bill. It simply asks for the Army to lease this installation, as I recall it, for 10 years, to the city of San Francisco free of charge. But the next thing that is going to come along, Mr. President, is an appropriations bill. Because 50 percent of patient costs is paid for by Medicare, 15 percent by the city and simple arithmetic tells you that my friend from California and others will be back for 35 percent of the costs from the Federal Government beginning next year, which will be an expense to the Federal Government. While this is not an appropriations bill, it certainly is an authorization, a transfer by lease to the city that ultimately is going to cost us money for at least 10 years to support that lease.

You know, the Senate, Mr. President, just voted 2 to 1 a few days ago on this bill against a $200 million transfer to HHS for medical research for the Department of Defense which was offered, I believe, by the Senator from Connecticut, Senator WEICKER. With all due apologies to the Senator from California, he voted against that amendment. Here we have a back-door attempt to do something similar.

The points I would make are simply these, Mr. President, in conclusion, in the use of my time. First, the Department of Defense opposes it; and second, if this lease takes place against the agreement of the Department of Defense and they are forced to do it—they have to go lease some other place to educate those service forces in foreign languages and to store their medical material—that is a cost to the Government not provided for by the authorization bill by the committee I chair, Mr. President. That is a cost to the Government.

Then the hospital goes to San Francisco. San Francisco will only pay 15 percent; another 35 percent of the cost will be paid by the Federal Government for every year of the life of the 10-year lease, Mr. President. So the Members should be on notice that they are not voting for money in this bill, but they are going to be called upon to vote money shortly in succeeding legislation both for the Army to replace this installation, which it needs and wants, for the hospital, which the city of San Francisco, by its own admission, will not fully finance.

Given all those circumstances, Mr. President, I would urge my colleagues to oppose the amendment by the Senator from California and at the appropriate time, at the conclusion of all the debate, I will offer a motion to table from the managers.

Mr. DIXON. I yield back the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Will the gentleman yield me 2 minutes in support of the amendment?

Mr. WILSON. Yes.

Mr. McCAIN. Mr. President, as a member of the committee and one who is also deeply concerned about our national defense capabilities, I would like to make a couple of points. This lease is for 10 years. It is not a permanent transfer. It does not necessarily mean that alternate sites would have to be leased. We understand that the Department of Defense owns land all over this Nation. There is not a mandate that alternate properties would have to be leased in order for these facilities to be replaced.

I think it is important to understand that this facility originally was a hospital. And I would finally like to point out that there is a compelling need in the city of San Francisco for facilities today which are otherwise not available. If they were available, my colleague from California would not be here with the support of the chairman of the Labor Committee, in order to ask for what is a vitally needed, urgent, emergency situation and that is to treat an epidemic of AIDS.

I would suggest that there are times, perhaps, where monetary values, and even the lack of language capability on the part of our service people—this amendment may cause dislocation—there are times when those are overridden by the greater good and what is acknowledged by every expert that I know of as an emergency that has struck this country and particularly the area around San Francisco.

I respect many of the technicalities in the objections raised by my friend and colleague from Illinois. I would suggest here that we are dealing with the lives of literally thousands of people and this appears to be in the opinion, not only of my colleague from California, but the House Armed Services Committee and the people of San Francisco, as the only viable option to attack what is a serious emergency.

I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WILSON. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes.

Mr. WILSON. Mr. President, I would yield myself 2 minutes.

Mr. President, I thank my friend from Arizona. He has put it very succinctly.

Let me just say that what is in the offing is some resolution of the problem as to how, as a nation, we will share the responsibility for funding the treatment of AIDS. It is going to be a sharing between the Federal, the State, and the local levels of Government. I think we will quickly come to a resolution of that simply because we must do so.

The Department of Defense will not be the source of the funding, therefore the Department of Defense really cannot raise any objection on that score.

The sole interest of the Department of Defense in this is that they do not want to be bothered with moving a classroom facility.

I do not demean the teaching of foreign languages for intelligence purposes, but for God's sake, where must it be taught? Must it be in a hospital? Nonsense. What this amounts to is bureaucratic inertia. You have never seen anybody in the services want to give up any real estate for any purpose.

This happens to be an emergency. I am shocked, I am genuinely shocked at the temerity of this response, saying: We cannot be bothered moving a classroom in order to make way for a hospital to accommodate an epidemic.

Let me just say one other thing. My friend from Illinois has not toured that facility, I do not believe. I have. Let me tell you, the only valid reason, the only difficulty they would encounter is that not 40 percent, but maybe

15 to 20 percent of the facility is dedicated to some kind of medical experimentation. What would be involved in moving that is that they would be forced to recalibrate certain instruments. My God, how difficult is that? Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Illinois has yielded back his time.

Mr. DIXON. Mr. President, I had not intended to yield back my time.

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. DIXON. Mr. President, I will take a minute or so.

Mr. President, I simply want to say this in conclusion for those opposing this amendment. We had asked the distinguished Senator from California to let us provide in a second-degree amendment, which is prevented by the unanimous-consent agreement unless he would agree to it, for HHS and the Department of Defense to study this question and come back next year with a sensible recommendation. My friend from California did not want to accept that.

Under those circumstances, we are forced to oppose this amendment, which would mean a tremendous cost to the Federal Government in duplication of effort, as I previously indicated.

Mr. President, I ask unanimous consent that the letter from the Department of Defense to Senator NUNN, chairman of the Armed Services Committee, be printed in the RECORD at this point. The letter indicates their opposition to the amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows

OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
Washington, DC, September 23, 1987.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SENATOR NUNN: The predominant need for linguists and language-trained technicians in the Department of Defense is to support intelligence and national security missions. Increases in this area, combined with enhanced linguist requirements for special operations forces and other military missions, have caused student input at the Defense Language Institute, Monterey (DLI) to more than double in the last decade. Over 15 years ago, the Department of Defense made the decision to consolidate its military foreign language training at the Presidio of Monterey in California. In 1979, and again in 1982, we were compelled to open auxiliary schoolhouses in San Antonio and San Francisco; but we never abandoned the objective of consolidation. Since 1982 we have, with active Congressional support, expended almost $83 million in construction for the DLI to replace hopelessly outdated facilities (as old as 1903) and to meet the increasing student load. We were able to terminate the San Antonio annex in 1986, but unforeseen language requirements, with firm projections into the future, had recently led us to conclude that we would need the San Francisco annex indefinitely. Environmental restrictions (mostly water and sewage) limit the student load at the Presidio of Monterey to 4,080. We will approach 4,800 students by 1992.

Despite recent objections by the Secretary of Defense and the Secretary of the Army, there is now legislation pending that would cause us to evacuate the DLI training facility in San Francisco—a former Public Health Service hospital that is desired for use as an AIDS clinic and research center. We have had no opportunity to program for alternatives. The former hospital is particularly well-suited as a language school and would be costly to replace. We are using this location effectively, and were just beginning to expand operations to handle modest increases in student load. Our best and most ardent argument is to be allowed to continue to operate as we had planned.

If the Congress proceeds with the DLI relocation legislation, then we must have compensatory relief.

After exhaustive review—site visits and engineering comparisons—the Department of Defense and the Department of the Army concluded that a permanent and enduring structure at Ft. Ord, California, would be the most effective solution. Engineering assessments and cost data have been presented to your staff and interested colleagues in both the House and the Senate. Relocation to Ft. Ord continues the policy of consolidation, drawing the auxiliary school even closer to the Commandant in Monterey. Ft. Ord also presents the most desirable base for student troop support and the soldierization of the many recruit-level students who enter language school (up to 80 percent recent enlistees). To meet this requirement the AIDS Hospital legislation must include authorization and appropriation for an estimated $31.4 million in military construction (Title IV, Defense Agencies). Other alternatives that have been aired are undesirable and may be based on incomplete engineering data and temporary accommodations. Relocation to the Oakland Army Center, for example, could cost over $21 million for immediate construction, would continue the use of older facilities, would not present the desirable environment for language students, would take longer to design and execute, and would cause the displacement of resident Navy missions whose construction requirements could exceed an additional $17 million.

We wish not to be forced to leave the auxiliary school at the Presidio of San Francisco; not now; not in the future. Any move would cause serious disruption to the language training mission. But the DoD has recommended a well-thought-out alternative: relocate the DLI school at Ft. Ord. The Army's Training and Doctrine Command, the Army Staff, the Army Secretariat, and the Office of the Secretary of Defense agree. We solicit your support on this issue.

Sincerely,

CHARLES A. HAWKINS, Jr.,
Deputy Assistant Secretary of Defense (Intelligence).

Mr. DIXON. Mr. President, subject to a brief closing by my friend from California, I intend to move to table the amendment and yield back the remainder of my time. I believe we have an agreement to vote later in the day.

The PRESIDING OFFICER. A motion to table must be made after all time has expired.

Mr. DIXON. Then I will move to table when my colleague has concluded.

Mr. WILSON. A point of parliamentary inquiry, Mr. President. Was not the unanimous consent agreement one that contained the requirement for an up or down vote?

Mr. DIXON. No, may I say to my colleague.

The PRESIDING OFFICER. The Senator from Illinois is correct.

Who yields time to the Senator from California?

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I yield 3 minutes to my distinguished colleague.

Mr. CRANSTON. Mr. President, I am pleased to join with my distinguished colleague from California [Mr. WILSON] in offering this amendment, which would transfer the former Public Health Service Hospital located in the Presidio of San Francisco from the Department of the Army to the county of San Francisco for use as a regional AIDS facility. However, the amendment would first require the Secretary of Defense to determine the most economically feasible manner to relocate the Defense Language Institute that now occupies the facility and, within 90 days after the date of enactment, report that determination, along with a cost estimate of the transfer to the Comptroller General. The Comptroller General, within 30 days after receiving the determination and cost estimate, would submit them, together with an evaluation of the determination and estimate, to the Committees on Armed Services.

Second, the amendment would require, as a precondition to the transfer, that the county of San Francisco certify to the Secretary of the Army that it is financially prepared to assume possession of and operate the facility.

Mr. President, I am pleased to join with my colleague from California [Mr. WILSON] to offer this amendment requiring the Departments of Defense and Health and Human Services to conduct a study. Once this facility is transferred to the county of San Francisco, it would be used to provide subacute care to people with AIDS and ARC throughout the region. This type of care is virtually unavailable anywhere in the San Francisco Bay area and the same is true throughout the country.

The availability of appropriate care and treatment for people with AIDS or AIDS-related complex [ARC] varies widely across the country. With very few exceptions, care and treatment are at best a patchwork of hospital, home, and community-based services. At worst, they are nonexistent. In most places, they are simply inadequate.

A most serious problem is the lack of adequate programs for those in need of care other than hospitalization. Some communities have developed systems of noninstitutional care and it is widely accepted that more such systems need to be developed. However, although additional home and community-based services are badly needed, a less-publicized but equally pressing need also exists for the development of nursing-home-care models. Home- and community-based care cannot always provide the needed level of attention or medical services that people with AIDS or severe ARC sometimes require. Although these individuals may not need hospitalization, family and community support services are often not enough.

Many individuals with AIDS and ARC, particularly those who suffer from neurological complications resulting from infection with the human immunodeficiency virus [HIV] virus, need 24-hour-a-day surveillance that cannot be provided in a noninstitutional setting. Other individuals may not need the high level of care found in a hospital, but may need more sophisticated medical care than can be provided for at home.

Patients with those needs typically are referred to nursing homes. Unfortunately, there is a paucity of skilled nursing or subacute care available for individuals with AIDS throughout the country. Although a very small number of nursing homes have agreed to take AIDS patients, most refuse to do so. This gap in the continuum of care for AIDS patients means that more patients stay in hospitals when they don't need to or that they simply don't receive needed medical and social services.

Even in San Francisco, which has served as a model for providing a coordinated network of community medical and social services to people with AIDS, very little nursing-home care is available.

Dr. David Werdegar, Director of Public Health in San Francisco, estimates that at least 7.5 percent of all AIDS patients need skilled nursing care at any one time. By the end of this year, 258 people with AIDS or severe ARC in San Francisco alone will be in need of skilled nursing care. That number will surpass 500 in 1991. And that estimate does not take into account the impact of AZT or other drugs that may be developed to prolong the life of AIDS patients.

Currently, patients who require skilled nursing care in San Francisco are placed in a variety of settings, most of which are inappropriate. For instance, many patients continue to receive care in acute-care settings because they need a certain amount of medical assistance that cannot be provided for in the community. San Francisco estimates that approximately 13 percent of the patients at San Francisco General at any one time are in that situation. At present, there are 30 to 40 AIDS/ARC patients in San Francisco General Hospital alone.

Many more AIDS and ARC patients are discharged to their homes, even though neurological complications resulting from the HIV infection or drug addiction make adequate care at home or in a community residential setting difficult or impossible. Most tragic and disturbing are the cases of those individuals who are discharged from the hospital with no home to go to and who, with their tragic vulnerability to life-threatening diseases, are then forced into homelessness.

Mr. President, this amendment would help San Francisco—and the Nation—address that problem. The facility at the Presidio is well-suited for use as a regional skilled nursing and training facility.

I have talked to the manager of this bill, the distinguished Senator from Georgia [Mr. NUNN] about this amendment and he has been very helpful in trying to work out an amendment that he could accept. Unfortunately, he still has serious concerns regarding the cost of effecting the transfer and whether there will be funding available to carry out the necessary renovations of the facility and to meet operating expenses. I want to assure the chairman that I am working to make that funding available as soon as the transfer is accomplished. I appreciate his concern that we not force the relocation of the language school and its faculty and students only to have the facility remain idle.

Thus, when S. 1220, the proposed "AIDS Research and Information Act of 1987" is considered by the full Senate, I intend to offer an amendment, which I submitted on August 7 as amendment No. 672, to establish a 4-year—fiscal years 1988 through 1991—$10 million program of three demonstration nursing homes for people with AIDS or ARC. They are to be conducted in areas with the highest incidence of AIDS and the greatest needs for these services, such as San Francisco.

These facilities would also serve as a training ground for nurses, mental health counselors, physicians, and other health-care professionals and paraprofessionals who provide care to people with AIDS. Finally, the amendment would provide for evaluating whether it is more appropriate to establish specialized AIDS centers or units or to provide AIDS patients with care in general community nursing homes.

As I noted earlier, at present, few nursing homes will admit AIDS patients. In many cases, nursing home staffs are not appropriately trained to care for people with AIDS. Other nursing homes refuse to accept AIDS patients because the level of reimbursement under Medicaid is too low. Still other nursing homes are apparently denying admittance to AIDS patients out of fear—fear of contagion and fear that their other patients might leave.

This amendment would help provide needed training to health-care workers, research on the long-term aspects of AIDS, and, most importantly, needed and appropriate services to people with AIDS. It would provide for the establishment of demonstration projects involving hundreds of AIDS patients and health-care workers. I have discussed the amendment with the floor managers of S. 1220, the distinguished chairman, Mr. KENNEDY and, ranking minority member, Mr. HATCH, of the Labor and Human Resources Committee, and I believe they are supportive of it.

Mr. President, I am also pursuing securing the necessary appropriations for the demonstration project and for the renovation of the old PHS Hospital. The facility is generally in good condition because the Army has kept it ready for health-care use in the event of an emergency. However, some renovations are needed to transform it into a subacute-care facility for people with AIDS.

The city of San Francisco estimates that approximately $15 million would be needed for repairs, conversion, and start-up costs. I have contacted the chairman, Mr. CHILES, and ranking minority member, Mr. WEICKER, of the Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies to urge inclusion of funding to cover 80 percent of those costs in the fiscal year 1988 Labor-HHS-Education Appropriations Act, as authorized under section 1610(b)(1)(B) of the Public Health Service Act—42 U.S.C. 300r(b)(1)(B). That law authorizes the Secretary to "make grants to public and nonprofit private entities for projects for the conversion of existing facilities into facilities for long-term care" to provide services for medically underserved populations. Clearly, the proposed grant to the city of San Francisco would meet these criteria. I also urged that $10 million be appropriated to carry out the demonstration projects to be set up under my proposed amendment No. 672.

Mr. President, San Francisco has the highest number of AIDS and ARC patients per capita of any U.S. city. It has responded compassionately and effectively to the epidemic through the development of an extensive network of home and community-based care as well as by providing first-rate hospital care. Consequently, people with AIDS and ARC migrate to San Francisco from throughout the country.

San Francisco has borne more than its share of the burden. The city has allocated $18 million in its 1987-88 budget for AIDS—5 percent of the city's entire health fund. It has spent more than $50 million on AIDS since 1982—more than any other municipality—and needs Federal assistance to continue to provide vital health services.

A subacute-care facility would be a resource not just for the residents of San Francisco and those AIDS and ARC patients who have moved to that city, but, indeed, individuals in the entire region.

This amendment would be an important step in the Federal Government's acknowledging that this extraordinary epidemic requires that extraordinary steps be taken to combat it and to ensure that people with the disease receive compassionate and effective care.

Mr. President, I urge all my colleagues to support this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Under the previous order, the hour of 12:45 p.m. having arrived, the Senator from New Jersey is recognized to speak not beyond the hour of 1:15 p.m. today.

Mr. DIXON. Mr. President, if I may impose on the Senator from New Jersey, I will say I will make the motion to table this evening.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I do not object to my friend sharing that intelligence with me. I think that as a matter of procedure it is not yet in order. Is that correct?

The PRESIDING OFFICER. The Senator has not yet made the motion?

Mr. WILSON. How much time remains?

The PRESIDING OFFICER. The Senator from California has 1 minute remaining.

The Senator from New Jersey.

JUDGE ROBERT BORK

Mr. BRADLEY. Mr. President, the verdict on the appointment of Robert Bork to the Supreme Court will be one of the most important decisions this body will ever make. It will have a decisive effect not only on the Nation's highest court but also on all the courts throughout the land. The next appointee will be the pivotal vote on issues that are crucial to the kind of society we will become and the way we relate to each other as human beings. I believe paramount among his qualifications must be an unquestioned commitment to civil rights and individual liberties.

Many Senators have concerns about Judge Bork's position on the right to privacy, equality for women, or the legitimacy of "original intent." I share these concerns, but for me Judge Bork's record on civil rights is the determining factor. Why do I put so much weight on civil rights? Because an essential part of what is best about America has been shaped by racial minorities struggling to realize the promise of the Declaration of Independence "that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed."

America's effort to put out most noble ideals into practice distinguishes our democracy. That progress is not ancient history. Some of it happened just yesterday. Certainly much of it happened within our lifetime. And without vigilance it could be lost, as it was in previous eras.

We forget that 50 years after Emancipation, during the Presidency of William Howard Taft, the Post Office, the Census Bureau, the Federal Treasury, and the Bureau of Printing and Engraving all practiced segregation.

We forget that by the end of the Wilson administration, over 50 years after the ratification of the 14th and 15th amendments, segregation had been extended to the galleries of the U.S. Senate and the lunchroom of the Library of Congress. Toilets in Federal buildings were marked "whites only" and "colored."

We forget that the U.S. Armed Forces was segregated until President Harry Truman issued his Executive order in 1948.

We forget that as recently as the 1960's, blacks were still risking their necks for the right to share lunch counters, parks, hotels, and public transportation with their white compatriots.

We forget that until 1964, the right to vote was routinely denied by the imposition of poll taxes.

We forget the footdragging that persisted throughout the 1970's in implementing the school desegregation which was ordered 20 years before.

We forget that during the 1980's in New Jersey, in Louisiana, and in Texas, there have been attempts to intimidate black voters from exercising their franchise.

We forget that only 4 years ago, the Reagan Justice Department declared that private schools which practiced racial discrimination would have their bigotry subsidized by the American taxpayers through retention of the schools' tax-exempt status. The result, had the Supreme Court not rejected it, would have been segregation, condoned and supported by the Federal Government, much as it was 100 years earlier.

And if we forget the history that happened in our own lifetime, how likely are we to remember the 350-year odyssey of black Americans' struggle for equality? Yet that history frames today's debate.

We must remember that all Americans are better off because of the progress we make.

We must remember that the change begun by Brown versus Board of Education brought black Americans greater freedom and opportunity, but it also gave white Americans self-respect.

We must remember that the civil rights movement transformed the South from a place of national sorrow and misunderstanding to a center of hope and pride; from a community divided to a community emulated; from a contradiction of the Founding Fathers' ideals to the realization of their fulfillment. As it challenged all Americans, both North and South, it revealed what we should have known all along—that racial discrimination has no geographical boundaries and that redemption from our original sin was a national yearning.

Throughout the Judiciary Committee hearings, Judge Bork has attempted to put himself on the right side of this history. He has repudiated views he once held that denied minorities full equality with whites, and he has affirmed that the Constitution outlaws all racial discrimination. I am pleased to hear that. But, even if Judge Bork does accept the principle of unabridged quality for racial minorities, there is little, if anything, in his record, that persuades me he can be counted on to enforce this principle vigorously.

He has opposed decisions that upheld the constitutionality of the Federal Voting Rights Act which enabled minorities in America to participate in the electoral process. Without the Voting Rights Act, States would again be free to require literacy tests as a condition for voting. This would disenfranchise millions of voters.

He has opposed a decision prohibiting State courts from enforcing racially restrictive covenants requiring homeowners not to sell their property to nonwhites. Had Judge Bork's view prevailed on the Supreme Court, we might still be waiting to breakdown legal racial barriers in neighborhoods.

He has opposed a decision declaring the poll tax unconstitutional. Had this view prevailed on the Supreme Court, the spectre of Jim Crow would still hover over the voting booths of America.

Judge Bork also has disagreed with a number of cases implementing the equal protection clause of the 14th amendment. His opposition to providing remedies for discrimination is highly significant. It prevents him from upholding laws that actually give minorities full equality. He apparently opposes remedying the effects of past discrimination except where an individual proves that he or she has been the direct victim of racial discrimination.

If this view were to prevail, institutions that have implemented smoothly functioning affirmative action programs would be plunged into chaos. Should they abandon them, regardless of how well they are working, or how good they are for profits and morale? And to what purpose? To support some narrow reading of the 14th amendment remarkable only for its insensitivity to American's history?

Mr. President, in the years ahead, a deeper trust among the races will require great candor. It will require more action and less rhetoric; more mutual understanding, less finger-pointing; more willingness to confront fears of violence, less acceptance of token solutions to deteriorating economic conditions. Above all, white America must assure black America that the legal basis for black advancement remains unchallengeable and the determination to enforce the law remains unquestioned. The Supreme Court is the ultimate guarantor of that assurance. We must have a Supreme Court that understands the need to make opportunity a reality for minorities who historically have been excluded from jobs, from schools, from full participation in society. Anything less is a sham.

Judge Bork is erudite. He has a quick mind and a ready wit. He posesses the attractive qualities of a great college professor—the ability to provoke, to challenge assumptions, to argue fiercely, to reach a conclusion, and then move on to the next class. His iconoclasm, while stimulating in a professor, can be disastrous in a judge. What is important in our deliberations is not how nimble his argument will be but how his decisions will affect millions of Americans who will have to live by them.

So ultimately what we are asking is not only what's in Judge Bork's mind but also what is in his heart. Or as former Attorney General Nicholas Katzenbach asked for me: "Is Robert Bork a man of judgment?" Is he sensitive to human and racial problems? Is he fair, impartial, and open-minded?

I can hear his supporters saying here comes the irrational argument. But it is prudence, not irrationality, to give as much emphasis to citizen Bork's past views as to nominee Bork's new views. His supporters say, "Can't one change his views." Yes, certainly. Otherwise, how could we, in the last 32 years, have moved from a time when the air was heavy with racism to one in which the union of religious faith and civic action has begun to create a new American reality. So, yes, people can change.

The question here though is not whether people can change in a generic sense but whether Judge Bork has changed since he expressed his hostile attitudes toward civil rights laws and court decisions. On the one hand, we have the started conversion of a man who in his life time has had several different viewpoints. On the other side, we have the lengthy list of current and past positions hostile to civil rights from the nominee of an administration which supports subsidizing segregated schools. So what does one do?

During the confirmation hearings, several members of the Judiciary Committee tried to pin Judge Bork down on how he regarded the importance of precedent. Would he, they asked, seek to overturn decisions with which he disagreed? His answer: No with respect to some areas; unclear as to others. He chose ambiguity on the central question.

A law school professor dissects precedents. A circuit court judge applies precedents. A Supreme Court Justice sets precedents. If a professor slips back temporarily into the blank spot of racial insensitivity, it hurts only his immediate friends who believed him to be a different person. If a Justice of the Supreme Court slips back, it could hurt generations of Americans; it could affect our place in the world; it could destroy our self-respect; it could reopen wounds long healed; it could paralyze the forward movement of society toward a reconciliation with our past.

Ask yourself how you will feel 5, 7, or 10 years from now if the Supreme Court, with Judge Bork as the decisive vote, issues a series of decisions that effectively ends 32 years of progress in civil rights. Ask yourself how you will face your neighbors, and supporters, who believed in you. Most Senators would say it could never happen. I hope it will not, but I am not prepared to take the chance that Justice Bork would never slip back to the views of Professor Bork.

So, Mr. President, I will vote against the confirmation of Robert Bork, not because I question his integrity, competence, or qualifications, but because I doubt that he has the commitment to civil rights and individual liberties on which the decency and well-being of our American community depends.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I would like to compliment the Senator from New Jersey on a very, very thoughtful address on a vitally important matter to our country, civil rights and the nomination of Judge Bork to be on the Supreme Court. It is the sort of thoughtful analysis that we have come to expect from the distinguished Senator from New Jersey.

RECESS UNTIL 2 P.M.

Mr. CRANSTON. Mr. President, I now move in accordance with the previous order that the Senate stand in recess until the hour of 2 p.m.

The motion was agreed to; and, at 1 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of S. 1174.

VOTE ON AMENDMENT NO. 783

The PRESIDING OFFICER. Under the previous order a vote will now occur in relation to amendment No. 783 offered by the Senator from Kansas, the Republican leader.

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—98

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—0

NOT VOTING—2

Gore Simon

So, the amendment (No. 783) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 786

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from California [Mr. WILSON], amendment 786, for debate only at this time.

The Senator from California has 1 minute remaining. The Senator from Illinois [Mr. DIXON] has 8 minutes and 49 seconds remaining.

This amendment, at the conclusion of the debate, will be set aside under the previous order to be the third amendment disposed of at 8 p.m. this evening.

Mr. BYRD. Mr. President, I ask unanimous consent the remaining time on this amendment not run. There is not much time left on this. For the moment, the Senate may proceed with other matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO 786

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from California.

Who yields time?

Mr. WILSON. Mr. President, I yield myself the remainder of my time.

Mr. President, my dear friend and colleague this morning made the point that there had been defeat of an amendment that sought to transfer funds from the DOD budget to the NIH budget the other day. I think he forgot that this very morning both sides accepted an amendment offered by the Senator from Louisiana to provide Tulane University with, as it turns out, $23 million for bioenvironmental hazards research. I gather that is for unspecified research.

Mr. President, I do not begrudge that money. I will simply say there is an epidemic, an AIDS epidemic, in San Francisco. That is quite specific. There is need right now to be planning to accommodate that epidemic. By 1991, 5,000 people will be infected with the AIDS virus. The hospital in question, which was a public health hospital, now being used as a classroom for the teaching of foreign language, is essential to provide 300 beds for expected cases. Language can be taught anywhere and does not require a hospital. This hospital would, in fact, be valuable to the services in time of mobilization.

Mr. President, there is no question other than the convenience of junior Department of the Army bureaucrats to oppose this measure.

I ask if my colleague will yield 1 minute of his time.

Mr. DIXON. I am delighted to do that, Mr. President.

Mr. WILSON. Mr. President, there is no reason beyond the convenience of the military. Never have I seen them really willingly give up real estate. This real estate was not their real estate. It was a public health hospital. This is an emergency. If we act now, it will be in time to prepare them to accommodate 300 subacute cases.

Mr. President, to say that we should not inconvenience the Army by requiring them to relocate to a facility when they are, by their own planning process, obliged to do so in a matter of a few years anyway, is nonsense.

I do not think we can proudly look upon ignoring a medical emergency, an epidemic, merely for the purpose of obliging the convenience of junior Department of the Army bureaucrats. I very strongly urge adoption of this amendment.

The PRESIDING OFFICER. The time of the Senator from California has expired.

Mr. WILSON. I thank my friend from Illinois for his great generosity and graciousness.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, at the appropriate time, at 8 o'clock this evening when we reach this particular vote, I will move to table. At this time, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. All time has expired.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I wonder if after a few remarks I will make, and I will be brief, if the Senator from Illinois, the manager of the bill, would enter into a colloquy with me regarding some of the export policies and also regarding some of the problems we have had with Toshiba, Kongsberg, and now it looks like getting into some of our own companies as far as exporting technology to the Soviet Union or Soviet allies.

The manager of the bill knows I had an amendment that I think should properly be placed in the trade bill, not in this bill.

I had offered an amendment earlier on the floor regarding the trade bill. Senator GARN, of Utah, offered a perfecting amendment to my amendment. That is pending now. It has to do with prohibiting Toshiba from doing business in the United States because of what they did with Kongsberg in selling propeller-making technology to the Soviet Union, enhancing their submarine capability.

The threat to our national security goes far beyond this one sale of high technology equipment to the Soviets. Violations are occurring not only in Japan, but in Europe and the United States as well.

I have learned from the Department of Defense that the Commerce Department has unilaterally revised its previous policy of referring export licenses to DOD when the end user is a Soviet-bloc entity located in a Western country. What this means is that strategically significant computer systems and related equipment which would never be considered as eligible for export to the East bloc under United States and Cocom export policies are routinely making their way into the hands of Warsaw pact countries.

In an internal Department of Commerce memo issued this summer, the policy shift enabling such exports to be licensed without DOD or Cocom referral was formally established. However, the memo largely reaffirmed a unilateral Commerce procedure which appears to have been in place for at least a year without the knowledge of the Department of Defense. Over that time span, the Department of Defense has become aware of some license approvals for this category of exports. However, only a handful of those were forwarded to DOD, and even those few applications did not identify the end user as an East bloc entity. Incomplete though the information is, it is known that Commerce has granted licensing approval for a powerful computer system to support the activities of Transnautic, a 51-percent Soviet-owned facility that controls 10 percent of all shipping operations in and through Hamburg Harbor. We also know of a similar application involving a shipping firm in Singapore that, coincidentally, happens to be a fully owned subsidiary of Moscow Narodny Bank.

I feel that Commerce's cavalier approach in dealing with exports to Soviet bloc-owned firms makes a mockery of our own export control program and severely undercuts our initiatives in Cocom to address the issues of diversion and export enforcement on a multilateral basis. It also serves to discredit all our efforts to revitalize the technology transfer control mechanism in the wake of the Toshiba/Kongsberg fiasco.

In response to these charges and Pentagon pressure, the Commerce Department has returned to its policy of granting Pentagon review of shipments of high technology products to Communist-controlled companies in non-Socialist nations. This is a step forward, for we need strong enforcement provisions and review of export licenses by the Department of Defense to make sure potential violators of Cocom agreements think twice before becoming involved in illegal transfers.

My amendment that we talked about here dealt with Toshiba. If I offered that amendment, it would prohibit Toshiba from doing business and selling their products in military exchange stores. That is only a small part of Toshiba and the problem we are dealing with.

As the manager of the bill knows, there have been revelations in the last several days dealing with one of our mainframe computer manufacturers selling, with a license by the Commerce Department, some technology to a Soviet controlled corporation in West Germany, one in Singapore, and so forth. I believe DOD ought to review these technical purchases where our national security is involved. I understand that is what the administration is going to reassert there.

I yield to the Senator from Illinois and the Senator from Virginia.

Mr. DIXON. Does the Senator from Virginia care to comment?

Mr. WARNER. Yes, indeed.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I congratulate our distinguished colleague and I wish to associate myself with his remarks.

Congressman DANIEL, senior member of the Virginia congressional delegation, a man who has served for many, many years on the House Armed Services Committee, brought this matter to my attention. It is a matter that should be addressed by this body. It has been in the context of the trade bill.

It is my understanding that the Senator from Alabama desires to bring the amendment up and not add it on at this time. Is that correct?

Mr. SHELBY. The Senator is correct.

Mr. WARNER. But that action should not be interpreted that this body has any lessening in seeing that the purpose of the amendment is carried out.

Mr. SHELBY. If the Senator will yield, I believe we should send a message here this afternoon and hope that our colleagues who will be on the conference committee on the trade bill will hear this, that we are reasserting our interest in the Toshiba affair, in the Kongsberg affair, in what has been going on recently with the exports of technical know-how to the Soviet Union.

This is only a small part of it. But I know the trade bill was the correct bill for this.

I appreciate the Senator bringing this up with me. You share my view that we are giving away a lot of technology and KGB is stealing a lot of technology. What they cannot steal, they are buying through some of our allies and possibly through some of our own companies here in America.

Mr. WARNER. Mr. President, the Senator will state his observations. I take note of the fact that the conference on the armed services bill may come following the one on the trade bill, in which case this amendment is now in the House bill. Is that correct?

Mr. SHELBY. It is a separate bill. It is not in the House bill.

Mr. WARNER. Sometimes in conference things can be cared for. The good Senator will be in that conference as will the Congressman from the Fifth Congressional District, DAN DANIEL.

Mr. DIXON. Mr. President, may I say to my distinguished friend from Alabama that he is a very valuable member of the Armed Services Committee and he has been persistent in his concerns about this very serious national security problem. He has contacted me on regular occasions concerning this problem. He has talked to me on the telephone a number of times. I join him in his sincere concerns and assure him that that matter will be attended to and will be carefully evaluated by the conference committee between the two Houses on the trade bill.

As the Senator from Alabama already pointed out, there is an amendment on that trade bill already adopted by the Senate. There are other matters that will be considered, including the Senator's concerns that are contained in the contemplated amendment regarding the purchase of Toshiba products in military exchanges around the United States and around the world for that matter.

I will be a conferee on that trade bill. I assure the Senator of my support for his concerns and the fact that his concerns will receive the attention of this Senator and others in the conference committee as well.

Mr. SHELBY. Will the Senator yield?

Mr. DIXON. I am delighted to yield.

Mr. SHELBY. The Senator is also a member of the Armed Services Committee and chairs a subcommittee that will have some jurisdiction regarding this in the event the conferees in the trade bill do not really address this subject. Would you then hold hearings in the Armed Services Committee on the gravity of this situation as far as our national security is concerned?

Mr. DIXON. I assure my friend from Alabama that will be done. He is also aware of the fact that I have introduced a separate piece of legislation concerning the trading companies who were involved with Toshiba in this transaction. We hope to broaden the understanding of the Congress about this serious problem and address the question of trading companies as well.

So the question the Senator is referring to, which is profoundly important, as well as the question of trading companies and others who are presently violators that have not yet been touched by the amendment previously adopted to the trade bill, all those matters will receive our attention in the conference on the trade bill. And to the extent that the conference does not satisfy the Senator from Alabama, I am sure we will accommodate him at some time in the near future to hear his concerns.

Mr. SHELBY. If the Senator from Illinois will yield further, I would have a further observation here, that of the obvious confict in the administration between the Department of Commerce and the DOD regarding the selling or exporting of technology from this country. Does the Senator's subcommittee have jurisdiction of DOD regarding that?

Mr. DIXON. I believe I would want to inform the distinguished Senator from Alabama that technically the jurisdiction for that question would lie with my distinguished friend from New Mexico, Senator BINGAMAN. His Subcommittee on Defense Industry and Technology would be jurisdictional on that question.

Mr. SHELBY. We will work on that subcommittee in that regard. I thank the Senator. I appreciate the Senator yielding and I appreciate the remarks of the Senator.

Mr. WARNER. Mr. President, parliamentary inquiry. The present matter before the Senate is what?

The PRESIDING OFFICER. The bill is before the Senate and it is open for amendment.

Mr. WARNER. Mr. President, earlier the distinguished Senators from California, the junior Senator, Mr. WILSON, and the senior Senator, Mr. CRANSTON, brought to the attention of the Senate the need to transfer from Army assets to the civilian sector of the city of San Francisco a hospital, that is, a building formerly designed and built for purposes of medical care but now being utilized as an educational institution for the teaching of languages, to transfer that building to meet a humanitarian need and to try and get ahead of the regrettable bow wave of cases anticipated as a consequence of the AIDS virus. I stand in strong support of this amendment and ask our colleagues to look with great care upon the humanitarian requirements and the need to do this. I commend both Senators. Let us bear in mind that there have been other pieces of legislation, indeed one this day and several yesterday, which impacted on States of various Members of this body. It seems to me when they are all examined this one is perhaps the most noteworthy of all. I do anticipate support by this body for this amendment.

Mr. WILSON. I thank the Senator.

Mr. DIXON. Mr. President, will my friend, the distinguished manager on the other side, answer this question. The Senator from Michigan [Mr. LEVIN] has an amendment authorizing funds for centers of advanced technology. I think he has talked to the Senator's side about this and there was some thought it had been cleared over there. It is acceptable to us if it has been. That is really about the only other business other than an amendment by my friend from Virginia that we know about at this point in time.

Mr. WARNER. Mr. President, I will confer with the manager of the bill.

Mr. President, I have the amendment before me. As a matter of covenience to the manager and others, I will just read from the amendment, which sets forth, I think with some clarity, the purpose.

SEC. . HIGH TECHNOLOGY MANUFACTURING EQUIPMENT.

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the praticipation of their respective departments in a project to demonstrate the training of machine technicians in a production facility.

SEC. 229. CENTER FOR ADVANCED TECHNOLOGIES.

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, non-profit center for advanced technologies to train, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds shall not be obligated for this purpose until a Memorandum of Understanding between the Secretaries of Defense, Commerce, Labor, and Education concerning the participation of their departments is concluded.

Now, Mr. President, I have a letter here addressed to the distinguished Senator from Michigan [Mr. LEVIN], signed by Mr. Costello, Assistant Secretary of Defense for Production and Logistics:

DEAR SENATOR: This will confirm our previous discussions regarding the need for skilled technicians in the United States and the Focus: Hope proposed center for advanced technologies. On September 14, the Wall Street Journal published an interesting article on a related subject—*"A Growing Shortage of Skilled Craftsmen Troubles Some Firms."* It makes a statement that, if the skilled labor shortage continues, American industry will be left with modern factories that do not work.

The application of new technologies to the manufacturing process is important to American competitiveness and to the Defense industrial base. Advanced manufacturing systems are both technology and skill intensive. High technology manufacturing systems can be implemented only where the skills exist to use them at peak efficiency. To accomplish this, there needs to be an adequate supply of multi-skilled technicians trained to install, operate, and service advanced systems. At the present time this type of training is in short supply. The need for skills and skills training was recently confirmed during a joint conference of Department of Defense (DoD), defense industry, university, and machine tool builders representatives.

We are exploring, in conjunction with the Departments of Commerce, Education, and Labor, the possibility of establishing a demonstration program for advanced skills technologies. As part of the review, we have discussed methods of funding. It appears that a combination of public and private funds might be necessary for such a program.

We believe the private sector would be willing to make investments if the public sector shows support for a demonstration training program. As I mentioned during earlier discussions, If DoD is to consider any financial support we would require authorizing legislation and new funding.

Sincerely,

ROBERT B. COSTELLO.

Attached thereto is a document entitled "Draft Memorandum of Understanding." I shall not go into that. I ask unanimous consent that the memorandum be placed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

DRAFT—MEMORANDUM OF UNDERSTANDING

The application of new technologies to the manufacturing process is key to the restoration of American competitiveness. This was a key factor in the President's decision to approve actions to revitalize the United States machine tool industry. Among those actions is federal support for a private sector National Center for Manufacturing Sciences (NCMS). The NCMS will conduct advanced manufacturing technology research. However, advanced manufacturing systems are not only technology intensive—they are also skill intensive. High technology manufacturing systems can be implemented only where the skills exist to use them at peak efficiency. To accomplish this there is a need to train multi-skilled machine technicians capable of building, installing, integrating, maintaining, diagnosing, repairing, and modifying technologically advanced equipment and systems. These skills are needed within the general economy of the United States and the industrial manufacturing base that supports Department of Defense peacetime and mobilization procurements. At present this type of skill training is lacking in the United States.

We therefore, find a need to jointly support (in conjunction with state, local and private resources) the establishment of a national demonstration program for advanced skills technologies for manufacturing. Our Departments will jointly review and fund, as appropriate, a private sector proposal for a national demonstration center for advanced skills training.

Mr. DIXON. Mr. President, I shall once again consult with the managers of the bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I will require some time to consult with the managers of the bill. I see no other Senator at this point seeking recognition. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 787

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 787.

Mr. WILSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. Delete existing Section 227.
2. Add new Section 812, as follows:

SEC. 812. SPACE LAUNCH RECOVERY.

Of the funds appropriated pursuant to authorizations contained in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligation, $316,000,000 may be transferred from any such appropriation to any appropriate Air Force appropriation to be used for activities related to Space Launch Recovery, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred. Provided further, that the transfer authority contained in this section shall not become effective until November 1, 1987.

Mr. WILSON. Mr. President, I rise this afternoon to speak to a very important national issue—our national security strategy for access to space. The amendment I was proposing to offer requested the use of additional funds included in the present DOD authorization bill for space launch recovery. Specifically, my amendment asked for the procurement of additional boosters and the expansion of production and launch facilities on both the east and west coast. However, because this issue requires a more detailed review by this Congress, I have elected to withdraw my amendment at this time and would hope that necessary hearings can be convened in the very near future.

Mr. President, I submit that the questions to be raised here are of degree and not of concept. That we are committed to use of expendable launch vehicles where use of manned systems is not prudent has been addressed by both the Congress and the administration. The issue is no longer whether to pursue this course. We must do so. Rather, the issue is one of scope. And that is a question that can be addressed in hearings which I recommend take place, Mr. President, during the next few weeks so that we can provide our colleagues on the Senate Appropriations Defense Subcommitte a strong endorsement before they begin markup in mid-October.

The matter of launch vehicles for our more critical national security payloads goes to the heart of the recovery from the launch accidents of 1985 and 1986 and of the launch strategy that is evolving. The funds are not a one-time request to fix a specific problem. They are the first step in a commitment to a robust space launch architecture that will ensure our ability to operate in space through the end of the century.

The accidents that have kept our large defense payloads out of space for more than 2 years were a national tragedy. The work that has gone on since then to correct the problems and ensure safe flight has been enormous and more to the point it has been effective. And while it will be the middle of next year before the space shuttle flies again, we will see our largest expendable boosters, the Titans, back in space much sooner than that. The work has been done. We are ready to move forward again. The question before this Congress, and that will be considered in depth, is with what commitment we will move forward. The answer given by this expendable launch vehicle program is that there is a considered, cost effective means to ensure this Nation's space launch capabilities. It lies in a solid mix of manned and unmanned systems, of large and small boosters, of Government-owned vehicles and commercially procured services.

The decisions on this program cannot be put off until next year. They affect payloads in storage and in factories right now, payloads that have been grounded and that are essential to our security posture. And they affect the launch pads and production facilities that will determine our capabilities through the mid-1990's. So while it is not essential that we consider approval today, it is a matter of urgency that we proceed on the detailed evaluation that the program deserves and do so without undue loss of time.

Mr. President, I believe this is an essential step toward full recovery from the disasters of 1985 and 1986 and hope my colleagues will join me in supporting this initiative.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. NUNN. Mr. President, I thank the Senator from California for bringing this matter to our attention. I can assure him that it will be a matter that will be given a great deal of attention in the near future by the Armed Services Committee.

The Senator from Nebraska heads up our Strategic Forces and Nuclear Deterrence Subcommittee. It is my understanding he had scheduled around September 14 a hearing on this general area, and I think including this particular matter, but it had to be postponed because this bill came up on the floor, and he was, along with the rest of us on the committee, called to be on the floor.

So I can give assurances to my friend from California that this matter will be a subject of the subcommittee's deliberations in the near future, and I have just talked to the Senator from Nebraska about it on the floor while this amendment was pending and he assured me that he will undertake that kind of deliberation.

Congress, I think it should be noted, has approved the development of no less than three new space boosters—the Titan IV (originally called CELV); the medium launch system, or MLS, and, in the bill before us, the advanced launch system, or ALS.

So this subject is being addressed.

The Senator's points are well made about the need for increased capability within the U.S. Government, particularly within the Department of Defense in this all-important area of space satellites and other needed defense kinds of equipment and to launch those in absolutely crucial, of course, with the disasters we have had in recent years with some of the programs we had underway, including the *Challenger* problem and disaster. We really do have a serious challenge.

One of the things that the subcommittee is going to have to consider is how this program does interrelate to the overall existing NASA program, and I think that the question of the shuttle and how it is going to be used in the future is very relevant to this question.

I believe everyone has pretty well concluded that there is no way we can put exclusive reliance on the shuttle. The question is whether we are going to put any reliance on the shuttle in the future rather than trying to develop a completely new alternative and independent system. I think that is a serious question.

I can assure my colleague and friend from California that we will turn our attention to this matter that the Senator from Nebraska as chairman of the subcommittee has agreed to hold hearings, and I am sure the Senator from South Carolina, Senator THURMOND, will also be delighted to hold hearings on this subject. So they will be working together and there will be those of us on the full committee who will be following it closely.

I appreciate the Senator bringing this to our attention.

Mr. WARNER. Mr. President, I join with the distinguished chairman in thanking the Senator from California for bringing this matter to our attention.

As I understand now the Senator from California wishes to address the Senate concerning the amendment.

I yield the floor.

Mr. WILSON. Mr. President, I thank the distinguished chairman and the distinguished ranking member, and with the assurance of the chairman that these hearings are forthcoming I will withdraw the amendment at this time and look forward to participating in the hearings. I am much gratified by the response that the chairman has made in his response to me.

I think that the hearings are necessary and I think that it is absolutely essential that we make these decisions.

The loss of time that was unavoidable as a result of the tragic accidents now requires that we lose no more, that we act as expeditiously as is consistant with good judgment to make decisions that will in fact guide this program that is so vital to our national security on into the 1990's and beyond.

So I thank my friend, the distinguished chairman, and my friend, the distinguished ranking member.

I withdraw the amendment and I yield the floor.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from Virginia.

Mr. WARNER. While the distinguished manager is here, and I note the presence of the Senator from Michigan, in the course of the events here on this bill the Members have been asked to indicate their pending amendments and what they might be able to drop out. I indicated the other day that I had three pending amendments—four, as a matter of fact—and I am prepared now to drop two out, I say to the distinguished chairman, to move things along, but in doing so I want to restore one that was inadvertently taken out before.

I will make now the unanimous consent request that the Senator from Virginia be allowed to drop from the current list two amendments designated by his name, the first one the Department of Energy safety oversight;

the second the FEMA add-on, and return to the calendar just one amendment which will not require more than say—I would like to have the estimate of the Senator from Michigan of time—but I would think 20 minutes equally divided would be adequate to return to the calendar the amendment on SDI.

The PRESIDING OFFICER. Is there an objection?

Mr. NUNN. Mr. President, reserving the right to object, and I regret I will have to object at this time. I would hope something can be worked out but I am informed by the majority leader's staff that there is a standing objection to any restoration of the SDI amendment from our side; that is not by the Senator from Michigan. He is on the floor to speak for himself. Perhaps it could be worked out but at this point I would have to object.

Mr. WARNER. Fine. Then I will revisit this matter, Mr. Chairman. But I clearly state to my colleagues in the Senate, that that was inadvertently dropped; that I am yielding back time that was greater than that anticipated for the purpose of this amendment; that the amendment on the SDI Institute is one that is absolutely essential to the conduct of the business of the Department of Defense and should be addressed by this body. I would hope at some point in time I might revisit this request.

The PRESIDING OFFICER. Objection is heard.

Mr. NUNN. Mr. President, I say to my friend from Virginia, I have objection whatsoever to bringing it up, and I will try to help my friend from Virginia in any way I can to see that it is considered. I may not end up agreeing with him on the substance. I have not looked into the substance, and I would want to have a conversation with the Senator from Michigan on that. But there is an objection on this side that I would have to interpose on behalf of the majority leader at this point.

Mr. LEVIN. Would the floor manager yield?

Mr. WARNER. If I might further elaborate before the distinguished chairman leaves, somehow I thought we had an understanding that the managers had a little flexibility in this area. As a matter of fact, there is another pending amendment on the rehabilitation of the Navy memorial in the Pacific islands on the subject of Corregidor. That one, again, was not on the list. It would be my hope—I thought within the purview of the flexibility normally accorded managers—that these types of situations could occur. So I expect at this time I will not be able to bring up this amendment, in the spirit of this objection and——

Mr. NUNN. I would say to my friend from Virginia, if the Senator from Virginia would like to bring up that amendment, the standing objection is not to the procedure. The standing objection is to the particular amendment the Senator wants to bring up.

Mr. WARNER. Well, Mr. President, I do not intend, then, to try to work within the spirit of adjusting this calendar of amendments if from some unknown quarter an objection is going to be lodged against an amendment of this Senator who is manager of the bill and says he is going to drop two and make up one and make up in lost time far in excess of what is going to be consumed by those two amendments.

There is going to be a ceremony in the Pentagon this afternoon at which time the veterans organizations are going to tender funds to the Secretary of the Navy. This amendment would grant the Secretary of Defense the authority to utilize Navy Seabees to help restore the Pacific War Memorial on the island. The war memorial has unfortunately fallen into a state of disrepair and the Disabled American Veterans are raising funds to purchase material for the repair of the memorial. This amendment authorizes the Secretary of Defense to commit up to $50,000 of training funds for Navy Seabees to assist in the restoration of the memorial. I believe that is important but it has no comparable importance to the question of this SDI amendment which again I inadvertently dropped in an effort to try and assist the majority leader and minority leader in expediting the calendar.

Mr. NUNN. Would the Senator yield?

Mr. WARNER. The Senator certainly yields the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. If the Senator from Virginia chooses to bring up the Corregidor amendment, he would find there would be no objection from this side. That amendment has been studied, and I think the people who are working on that are doing a very splendid job. I know that there are people that are going to have a meeting on that general subject this afternoon and if the Senator would like to bring that up, I would have no objection. But at this point in time I have been asked by the majority leader and his staff to interpose an objection to the original amendment but nothing relating to the Corregidor amendment.

The PRESIDING OFFICER. The Senator from Virginia?

Mr. WARNER. I will not bring the amendment up. I must seek some clarification to the basis on which certain amendments can be brought up and others cannot be brought up. This comes to me as an astonishing, I repeat astonishing, development.

The PRESIDING OFFICER. The Senator from Michigan?

Mr. LEVIN. First let me tell my friend from Viriginia I have no objection to his bringing up the SDI institute amendment. I object to the amendment. We have discussed this over the years. Not only do I object to it, but many, many private groups, such as the U.S. Chamber of Commerce, object to it for reasons we can go into during the debate.

The more important point I want to make with my friend now is that I do not object, if he is able to otherwise remove the objection which apparently has been lodged. I would agree to a time limit of perhaps 30 minutes on the amendment, if that would be satisfactory with the Senator from Virginia; 20 minutes or 30 minutes, whatever is better for you would be find with me.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Michigan and I do urge him to try to help this Senator edify others as to the importance of resolving this dispute, even though the Senator may work against the interests of the Senator from Virginia on this amendment.

But I think it is important this body pass on it. We are talking of a mere 20 minutes. I know of no other Senator seeking recognition at this moment.

Mr. LEVIN. I am wondering whether this other amendment of mine now has been cleared on both sides of the aisle.

Mr. WARNER. It has not.

Mr. LEVIN. I thank you. I had understood that it had been.

Mr. WARNER. Well, there was some statement to that effect. At this point in time—and I will work to see whether or not—I tried in good faith. I got up here, I say, Mr. President, and read the Senator's amendment, covered the background material, and I am anxious to see it moved myself.

The PRESIDING OFFICER. Who yields time? The floor is open to amendments.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I earlier read to the Senate a statement in connection with an amendment relating to the need for improving the monument on the Island of Corregidor memorializing the sacrifices made there by Americans.

I ask the distinguished manager of the bill if it would be appropriate at this time to indicate that he is willing to consent to the amendment, in which case I will forward it to the desk.

Mr. NUNN. It is all right.

AMENDMENT NO. 788

(Purpose: To authorize the Secretary of Defense to repair and maintain memorial monuments and historic sites on the Island of Corregidor)

Mr. WARNER. Mr. President, I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 788.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, between lines 17 and 18 insert the following new section:

SEC. 324. AUTHORITY OF THE SECRETARY OF DEFENSE TO REPAIR AND MAINTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR.

The Secretary of Defense is authorized to repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines and may use funds appropriated pursuant to section 301, not to exceed $50,000 for operation and maintenance of the Navy for such purpose.

Mr. WARNER. Mr. President, since I have made the statement, and I should not further belabor the matter, I indicate that on this side it has been cleared.

Mr. NUNN. Mr. President, this is a very meaningful war memorial for many people who served this country with great distinction during the battle that took place on Corregidor. The memorial should be maintained, and I think this amendment is appropriate for that purpose. So I urge support of the amendment.

Mr. WARNER. I thank the distinguished manager of the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an article describing this memorial, by Bill McAllister of the Washington Post, which appears in today's edition.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ON CAPITOL HILL, A NEW BATTLE FOR HALLOWED CORREGIDOR

(By Bill McAllister)

Rep. G.V. (Sonny) Montgomery (D-Miss.), the chairman of the House Veterans' Affairs Committee, is of the old South and the old school of congressional leaders: He hasn't seen a war that the nation should not have won nor a battle that it shouldn't commemorate.

So when Montgomery heard in February about what had happened to a joint U.S.-Philippine memorial to the hundreds who died on the island-fortress of Corregidor during World War II, he was sympathetic. This spring, when he saw what had happened to the battleground, he was outraged.

"It was like letting someone throw paint on the Iwo Jima Memorial or letting a large cross fall down in Arlington Cemetery," Montgomery said in a recent interview.

Vandals have stripped valuable metal off the big guns that had protected the fortress, first from the Japanese in 1942 and then from the returning American forces in 1945.

The jungle has overtaken the ruins of most of the buildings, many of the roads around the base have vanished and many of the tunnels in which Gen. Douglas MacArthur and his command sheltered in 1942 from an intense Japanese bombardment are "unkempt, unlighted and sometimes impassable," according to a congressional report on the visit.

"It was disgusting, a real mess," said Charles E. (Butch) Joeckel Jr., executive director of the Disabled American Veterans. "The pools of water that were supposed to flow around the memorial were stagnant and infested with bugs."

According to the congressional report, "The scenes were of almost total desecration of every aspect of Corregidor's historic sites including the vestiges of battle, the buildings around the memorial and the memorial itself."

That assessment has seemed only to spur Montgomery to action.

What he did on his return to Washington is an example of how a single congressional committee chairman can galvanize attention and force action on an issue that seems far removed from the concerns of the federal bureaucracy.

But then, Montgomery knew what many outside of the nation's capital didn't know: that the government has an agency whose principal concern is maintaining American military cemeteries and battle monuments overseas.

Montgomery turned to the American Battle Monuments Commission, a tiny, independent federal agency with a Washington staff of 11, an annual budget of $12 million and responsibility for 24 overseas cemeteries, 14 memorials and two commemorative tablets.

Actually, officials at the 64-year-old agency, nestled in a carpeted fifth-floor suite amid the Army Corps of Engineers headquarters on Massachusetts Avenue, already knew of the problem. "We got a lot of complaints in here about the American memorial over there," said Col. Frederick C. Badger, one of three retired Army officers who have been recalled to active duty to help run the commission.

But because the Corregidor memorial was established by a joint U.S.-Philippine commission and supposedly maintained by the Philippine government's department of tourism, the U.S. agency has been unable to act.

"There is no question that place is in an awful condition," said Badger, who visited the island after Montgomery. The 11-member board that oversees the commission also was sympathetic.

The problem Badger saw was twofold: money and the Philippine government.

While Montgomery quickly won the promise of $100,000 from the Disabled American Veterans, whose officials accompanied him to the Philippines in April, Badger's review saw the need for much more money.

His estimate calls for $5 million to restore a key portion of the fort and the memorial to a more presentable status, plus $500,000 a year to operate the memorial and a staff of 50 to maintain it.

Just getting the Aquino government, beset by serious economic and political troubles, to consider the issue has not been easy, according to Montgomery. The Corregidor memorial, dedicated by the United States and the Philippines in 1968, simply fell victim to the Marcos government's inability to maintain it.

Corregidor, situated strategically at the entrance to Manila harbor, had briefly been a major tourist attraction, with hydrofoil boats ferrying sightseers from Manila to the fort. But that service collapsed, as did the electric and water service needed to run the U.S.-Philippine memorial atop the 600-foot-high cliffs on the island.

Today the hydrofoils have given way to slower and less crowded tour boats that daily bring a handful of tourists, many of them Japanese, to the battlefield. The island itself is occupied only by a small group of farmers and their goats.

The State Department, at the battle commission's urging, has opened talks with the Aquino government about the memorial. "They are receptive, at least they are not throwing up any roadblocks," said Badger.

The talks thus far have focused on the government's desire to open up the island, about an hour's boat ride from Manila, to development. "We would like to develop it, but we don't want anything like Disneyland there," said the colonel.

The Philippine plan calls for opening up the east end of the island to a resort-style development with hotels, shops and other attractions and reopening an old street car service to link that area with the "Topside," the western end of the island where the memorial is.

The idea of trolleys running through that area troubles the American commission, which would like to see any tourism district clearly separated from the memorial area. The Americans would like the areas restored to the condition it was during its famous four-month-long siege by the Japanese.

The battle commission, which President Jimmy Carter once targeted for abolition and then was astonished to see how many friends it had, is prepared to run the Corregidor memorial if Congress concurs.

It did the same in Europe recently, taking over a small memorial at Pointe du Hoc in Normandy after the French government declared it was unable to care for the site where American Rangers in June 1944 scaled a 100-foot-cliff overlooking Omaha Beach.

But the commission, which prides itself on maintaining its sites with "not a blade out of place," as the operations director, Col. William E. Ryan Jr., puts it, has not had much luck in obtaining tax money for new projects.

It currently lists 25 World War II battles that it proposes to commemorate, but Ryan and Badger say they have little hope of Congress providing funds for any of them because of concern over budget deficits.

The commission's current major project, a Washington memorial to veterans of the Korean war, was approved by Congress last year but with the proviso that the funds for the $5.5 million monument come from the public. The commission's first fund-raising effort has not met with much success, Ryan said.

A letter to the Washington area's top 100 firms produced $700, and one to the nation's leading unions did only slightly better, raising $2,100.

The sole major success was the Hyundai Motor Corp., a South Korean automobile maker, and its American dealers. They have pledged $1.2 million toward the memorial.

If the commission manages to raise the funds, it would become its second Washington memorial. It built the monument to the World War I leader, Gen. John J. Pershing, who was the commission's first chairman, at 14th Street and Pennsylvania Avenue NW.

When might the Corregidor battlefield join the list?

"Well," said Ryan with a deep sigh. "It isn't in our 1988 budget and it isn't in our 1989."

The answer, officials said, will probably depend, as the whole Corregidor issue has, on Montgomery's clout on Capitol Hill.

"He's the sparkplug," said Badger.

Mr. WARNER. Mr. President, the Senate should acknowledge the leadership and the work done by Representative MONTGOMERY, of Mississippi. He has brought this to the attention of the manager and myself and other Members of the Senate. It has been adopted by the House as part of their legislative package. Therefore, I am quite confident that it will be accepted in conference.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 788) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I wish to discuss some matters with the manager of the bill.

Mr. President, I see our distinguished colleague, a member of the Armed Services Committee, the Senator from Michigan, approaching the manager's chair for the purpose of presenting an amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 789

(Purpose: To provide funds for the purchase of high technology manufacturing equipment and the installation of such equipment in a center for advanced technologies)

Mr. LEVIN. I thank the Senator from Virginia.

Mr. President, I understand that this amendment has now been cleared. It has been modified, and I send it to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself and Mr. RIEGLE, proposes an amendment numbered 789.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 8 and 9, insert the following new section:

SEC. . CENTER FOR ADVANCED TECHNOLOGIES.

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility.

Funds may not be obligated for such purpose without the approval of the Secretary of Defense.

Funds may not be obligated for such purpose until sixty days after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.

Mr. LEVIN. Mr. President, this amendment provides the Department of Defense with discretion to create, on a pilot basis, a Center for Advanced Technology. It does not require the Defense Department to do anything. It does not add money to the bill. If they decide to exercise their discretion, it would have to come out of the money which is authorized in the bill.

We have a letter from Dr. Costello supporting the concept that this amendment embodies, and the amendment would require that if the Department of Defense decided to proceed with such a center that they could only do so after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.

So it adds no additional money. It is discretionary.

I understand now that it has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Virginia.

Mr. WARNER. Mr. President, the amendment is cleared on this side of the aisle, and I congratulate the distinguished Senator from Michigan for bringing this to the attention of the Senate.

Mr. LEVIN. I thank my friend from Virginia for his help on this.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 789) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DIXON). Without objection, it is so ordered.

AMENDMENT NO. 790

(Purpose: To limit the application of the Davis-Bacon Act, in the case of Department of Defense contracts, to contracts in the amount of at least $250,000)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 790.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 192, between lines 11 and 12, insert the following:

SEC. 2819. COST THRESHOLD FOR THE APPLICABILITY OF THE DAVIS-BACON ACT.

(a) IN GENERAL.—Subsection (a) of the first section of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931, (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "or, in the case of contracts awarded by the Department of Defense, every contract in excess of $250,000" after "$2,000" in the first sentence; and

(3) by adding at the end the following new paragraph:

"(2)(A) A person contracting on behalf of the Department of Defense may not divide any project for construction, alteration, or repair (including painting and decorating) into projects costing less than $250,000 for the purpose of avoiding the application of this Act to a contract for such project.

"(B) Whenever the Secretary of Labor determines that there has been a division of any project for a purpose prohibited by subparagraph (A) in the case of any contract, the Secretary may—

"(i) require that the contract be modified to incorporate retroactively all the provisions that are required under this Act and any other prevailing wage law;

"(ii) require the contractor to pay each laborer and mechanic covered by such provisions an amount, for each pay period, equal to the excess of the applicable prevailing wage rate over the wage rate actually paid such laborer or mechanic, together with interest on such amount computed at the rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 from the date on which the work under the contract was performed by the laborer or mechanic; and

"(iii) require the Department of Defense to compensate the contractor for the total amount of the payments made under clause (ii).

"(C) The Secretary of Labor may make a determination for the purposes of subparagraph (B) in the case of any construction project only if the Secretary has notified the Secretary of Defense, not later than 180 days after the date on which construction on the project is completed, that an investigation will be conducted concerning an alleged violation of subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to solicitations for bids or proposals made on or after the date of the enactment of this Act.

Mr. GRAMM. Mr. President, may I inquire as to what kind of time limit we are under?

The PRESIDING OFFICER. The Senator is advised that under the unanimous-consent agreement this amendment is allocated 30 minutes evenly divided.

Mr. GRAMM. Mr. President, I yield myself 7 minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. GRAMM. Mr. President, the amendment I have sent to the desk is well known by the Members of this body. It is an amendment to try to save the taxpayers' money by promoting efficiency and economy in defense procurement. As I noted this morning in speaking on another amendment, it never ceases to amaze me that Members of Congress can be outraged when a petty crook tries to bill the taxpayer $30 or $100 for a hammer. Usually some alert sergeant discovers the attempted ripoff and the bill is never paid, and yet there is indignation and righteous outcry that we need to do something about the taxpayer being cheated. I share that indignation. I have joined in the outcry.

But it never ceases to amaze me that while we are indignant about these little things, we allow the American worker to be robbed in far greater amounts by an act of policy that is perpetrated not by a petty criminal but by an organized political group that uses its political power to extract special privileges from the American taxpayers and in doing so, to impose more costs on the American taxpayers in the defense budget than we have spent on all the well publicized hammers, all the cathode tubes, all the ashtrays, and, yes, all the toilet seats that have ever been purchased by the Defense Department in the entire history of the Republic.

The amendment that I have sent to the desk is a very simple and, I think, a very modest amendment. This amendment says we should raise the Davis-Bacon threshold on Department of Defense construction contracts and exempt contracts worth less than $250,000.

That would mean that about 12 percent of all the DOD construction dollars, and about 70 percent of all the contracts, would be exempt from Davis-Bacon.

What is the Davis-Bacon statute?

The Davis-Bacon statute is a statute that requires the taxpayers to pay artificially higher construction wages than those paid for similar work in the private sector of the economy. This imposes an unnecessary, unjustified, and unjustifiable cost to the taxpayer.

Mr. President, I am not the first or the only person who has seen the outrageous nature of the existing law. The White House Conference on Small Business came out in favor of reform of the Davis-Bacon Act in general, not just as it applies to defense.

The American Farm Bureau Federation supports this amendment.

The National Association of Counties, the National League of Cities, the National Tax Limitation Committee, the National Federation of Independent Business, the Department of Labor, the Department of Defense, the Office of Management and Budget, the Grace Commission, all support the amendment. The list goes on and on and on. The amendment is supported by concerned citizens who think we ought to run the Defense Department like we run a business; that we ought not to have laws that grant special privileges to organizations that have political action committees and that are actively involved in campaigns around the country.

This is not a partisan issue.

I have here a report by the Comptroller General, a report to the Congress of the United States. It was issued on April 27, 1979. I remind my colleagues that this was during the Carter administration. The title of it is "The Davis-Bacon Act Should Be Repealed." On the cover it lists three reasons why: No. 1, there have been significant changes in economic conditions since 1931 when the bill was passed.

No. 2, the Labor Department has never come up with an effective way to implement it.

No. 3, it results in unnecessary construction and administrative costs of several hundreds of millions of dollars a year.

In fact, the most recent estimate we have from the Congressional Budget Office, the Director of which is appointed, in essense, by the two Budget Committee chairmen, both of whom are Democrats, estimates that simply raising the threshold of $250,000 would save us $150 million over 5 years. Repealing Davis-Bacon would save us $1.265 billion.

The argument for raising the threshold is simple: Why should the Federal Government pay a premium to construction labor above the rate that is paid in the private sector by IBM and General Motors, for example?

No. 2, it is well known, in fact it is the major reason for the support given the amendment by various groups, groups such as the National Federation of Independent Business, that Davis-Bacon, by imposing an artificially high wage, prevents small contractors from having the capacity to do business with the Government and places a particularly heavy penalty on minority contractors.

The logic of this amendment is straightforward. We can with this amendment save the taxpayer $150 million, eliminate a grievous abuse where people are paid a premium merely because they have political power. We can save more money in one vote than the Government has been ripped off on all the hammers, and toilet seats, and ashtrays that the papers have been filled with. We can save more money on one vote than we could by correcting all of those wrongs.

I urge my colleagues to not look at this issue as a labor-management issue, but to look at it from the point of view of being a good stewart of the taxpayer's money. We have been entrusted by the American taxpayer to provide for the common defense. We know that Ivan is at the gate. We all are concerned about the level of the defense budget. The wolf is at the door with Federal deficits that threaten the recovery of the Nation, that threaten a recovery that has brought jobs, hope and opportunity to our people. Why should we, in the midst of this dual challenge, perpetuate a program that is nothing more than outright piracy of the workingman's dollar, a program that benefits people who make higher than the average wage earned by the American worker, which is three times the minimum wage. Why should a privileged group benefit at the expense of the working men and women of America.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas is advised that he has 6 minutes and 49 seconds remaining. The Chair recognizes the Senator from Massachusetts, who controls the time on the other side.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. President, I rise in strong opposition to the amendment offered by the Senator from Texas.

As chairman of the Labor and Human Resources Committee, I strongly object to these repeated attempts to radically alter statutes exclusively within the jurisdiction of my committee.

Last year, when the DOD authorization bill was on the floor containing language similar to that which is before this body now, I warned the Senate of the damaging consequences of hasty and ill-considered action in this area by the improper committee on the improper vehicle. The Senate ignored my warnings, and the ensuing conference was a disaster. In fact, the conference almost broke up over the protracted debate on this issue which had no business being in a DOD bill in the first place!

When a similar amendment was offered this year in the Senate Armed Services Committee, it was rejected. It was rejected because the Armed Services Committee realized it was not the proper vehicle, for substantive changes in our prevailing wage statutes. Nothing was changed to alter that assessment, and this amendment should be rejected again.

When the House was considering their DOD authorization this past May, the ranking Republican of the Armed Services Committee offered a similar amendment, and withdrew it after a colloquy with the Labor Standards Subcommittee chairman.

The amendment was withdrawn because assurances were given that the committee of proper jurisdiction would take up legislation reforming the Davis-Bacon Act.

Those assurances have been kept. The chairman of the Labor Standards Subcommittee introduced legislation, held hearings, and reported the bill to the full Education and Labor Committee. The bill has been reported from the full committee and currently awaits action on the House floor, which is expected this fall.

As chairman of the Labor and Human Resources Committee, I can assure this body that the Labor and Human Resources Committee will take up Davis-Bacon reform legislation soon after the House sends it over.

While this is neither the appropriate time nor the place to take up this body's time with a discussion of the Davis-Bacon Act, I feel a few words are called for in response to the distinguished Senator from Texas.

The principle established by our prevailing wage laws is clear: The money raised by taxing the working men and women of our country should not be used to drive down their wages. These laws do not promise inflated wages for workers at the expense of the taxpayers, nor do they make any worker rich. But they do protect the average workers by assuring that when the Federal Government, with its massive purchasing power, comes into a local market, the wages of the workers employed on Government projects must not be driven below area standards by awarding work to the contractor promising to exploit the most by paying the least.

The distinguished Senator from Texas cites the rationale that since CBO estimates this amendment, which would exempt 70 percent of contracts from the protection of the act would save some money, that sole consideration justifies adoption.

The rationale is faulty, the estimates of savings are fatally flawed, and the consequences of low-paid shoddy construction potentially disastrous for our military preparedness.

No one disputes the need to save Federal money, particularly from our defense budget. Should we reduce the pay for soldiers? Officers? Pentagon employees? Of course not.

In fact, last year CBO reported that if the Army wanted to meet its goal of improving the quality of its manpower, it would have to pay higher wages and bonuses. The study stressed, however, that higher quality recruits reduces turnover and saves training costs.

No one on the Armed Services Committee doubts you get a better soldier with better pay. How can they doubt the same about construction craftsmen?

I will not take up this body's time with extended comment on CBO's faulty methodology, nor do more than point out that the cost savings projected turned out to be virtually nonexistent when the act was suspended in the early 1970's under President Nixon.

I will agree with the observation of the distinguished Senator from Texas about CBO revenue estimates when this body was considering an oil import fee.

"Yours is a study," Senator GRAMM stated, referring to a CBO estimate, "written by people who want an easy source of revenue. There is no doubt about the fact you get CBO to claim the amendment will save money, but do not believe it."

As Prof. D. Quinn Mills, an expert in the field of construction labor relations, pointed out about removing Davis-Bacon projections from the Federal award process, it "could result in greater total costs on Government projects by increasing industrial strife, and by facilitating awards to incompetent contractors competing only by virtue of low wages."

We can get a good sense of what a contracting world without Davis-Bacon would be like by looking at some of the violations. Testimony before the House Labor Standards Subcommittee revealed that a contractor on a Federal highway project in Harrison County, TX, evaded Davis-Bacon requirements. A concrete finisher was paid 15 cents an hour, with overtime of 22½ cents an hour. Another Texas firm brought a crew of illegal aliens to the Washington, DC, area to work on a bridge repair project. A DOL investigation disclosed that these workers were paid only $10 per day, plus food and lodging, some working 10 hours a day 7 days a week. Back pay of some $25,000 was found due these workers.

There is a myth that Davis-Bacon pay means high pay. It by definition means average pay, and if the average is low, so is the prevailing wage.

In 1986, of the 3,358 wage decisions issued in the first 4 months, 44.7 percent were for wage rates of $5.30 or less. Even assuming full-time, year round work—which in this industry is a rarity—that rate of pay for those wage determinations yields a whopping annual wage of $10,169, 92 percent of the poverty line for a family of four.

Even if the act were repealed entirely, we are forgetting that most States have their own prevailing wage laws.

These State thresholds are far closer to the current Federal level than the amendment before us.

I might point out to the Senator from Texas that while he and the Senator from Massachusetts do not agree on very much on this issue, our States agree in terms of our respective State dollar thresholds. Massachusetts and Texas have the same threshold: It is not $1 million, not $250,000, not even $2,000—the thresholds in Massachusetts and Texas are zero.

Mr. President, I also believe there are some needed changes in the Davis-Bacon Act, including the issues of interpretation and enforcement by the agencies charged with those responsibilities under the law. If the threshold should be raised to account for inflation since passage of the act, let the proper committees look at the impact of various levels on the workers protected by the act.

Let us not take up this body's time debating dollar amounts pulled from a hat and thrown out at the drop of a hat.

Mr. President, this amendment should be tabled so this body can get on with the germane and important issues of the DOD authorization bill. I assure this body that when the House sends over its Davis-Bacon reform bill, the Labor Committee will take up this issue and give it the hearings and due deliberation this issue deserves.

Mr. President, I will be glad to yield 3 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Massachusetts is advised that he has 8 minutes and 53 seconds remaining, and the Senator from Washington is recognized for 3 minutes.

Mr. ADAMS. I thank the Senator from Massachusetts. I thank the Presiding Officer.

Mr. President, I am opposed to the pending amendment—but I am not opposed to making reforms in the Davis-Bacon Act. This is simply a case of seeking to do too much and seeking to do it on the wrong bill.

Since its creation in 1931 the Davis-Bacon Act has served to maintain a wage floor under wages for Federal construction projects in communities throughout this Nation.

The Davis-Bacon Act has been a method of maintaining decent wages throughout the length and breadth of this Nation, particularly in areas where we have had low wage areas and where the temptation has been great for contractors to come in and exploit workers.

Davis-Bacon simply says that the Government contracts will not be used to undermine the wage scale in communities, and indeed they should not be. This only results in greater inefficiency and eventually greater costs to the Defense Department.

American wage standards, Mr. President, are eroding because of an increase in low wage-zero benefit jobs. I believe protecting fair and decent wages is one of the most important services of Davis-Bacon. I am aware of the needs for reform in Davis-Bacon, and I know as Senator KENNEDY has just stated that we will take up this legislation when the House sends it over. As a member of that committee, I am fully prepared and intend to look carefully into the various proposals as they are sent over in an effort to protect the essential goals of Davis-Bacon while looking also to reasonable adjustment for inflation in this area.

I believe that this amendment is not necessary. Congress will be taking a look at it which will include the possibility of raising the threshold.

In closing, Mr. President, I would like to stress the need for the proposed legislation to better enforce Davis-Bacon so far as the Federal agencies are concerned.

I am aware and have been informed by people in my State that Federal agencies may be violating the Davis-Bacon law. Again, how can we expect employers to follow Federal labor law when our own Federal agencies ignore them?

The Federal Government must practice what it preaches. According to the construction unions in Washington State this is turning into a growing problem. I hope, I intend, and expect to be able to join the chairman of my illustrious committee, Senator KENNEDY, and I hope that he will hold field hearings in the State of Washington to investigate these potential violations.

Mr. President, this is the wrong amendment on the wrong bill and I hope that the amendment will be defeated and that we will take it up in proper order at a later time in this Congress.

I thank the manager and the Senator from Massachusetts for yielding me the time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 3 minutes.

Mr. GRAMM. Mr. President, first of all, this heralded bill in the House actually broadens the coverage of Davis-Bacon and would cost the taxpayer money. It is no reform at all. It is more piracy at the expense of the taxpayer.

No. 2, we continue to hear talk about protecting the American worker. That is why we have wage and hour laws. But that is not what we are talking about in Davis-Bacon. We are talking about a bill that requires the same contractor hiring the same workers to pay them one wage if they are working for the private sector, to pay them an artificially higher wage when they are working for the Federal Government, and to pass that tab right along to the working men and women of America.

This issue is about defense. It is about waste, fraud, and abuse of the largest magnitude of any that we have discussed of clearly definable nature.

We have an opportunity here to save $150 million by letting the Federal Government go out and enter into contracts on a competitive basis just like IBM, just like General Motors, and just like every other employer doing construction work in the private sector of the economy.

Why should the Federal taxpayer be forced to pay a premium on labor that no other purchaser of construction labor in America pays? It makes absolutely no sense. And the only reason we are doing it is as a special benefit to a special group, and it ought to be stopped.

But I have not proposed repealing Davis-Bacon. That would save $1.2 billion. All I have proposed is raising the threshold on Defense contracts to $250,000 and let small businesses have an opportunity to do business with the Federal Government.

I remind my colleagues, many of whom are the first to jump to their feet on behalf of minority business, that many of the small contractors that are disadvantaged by Davis-Bacon are minorities. They are not union operators. They would like to have a chance to go on the military base and pave sidewalks and build driveways, but they do not have an opportunity to do that because they cannot compete because the system is rigged. And the rigging costs the taxpayer money. It costs the small, independent business person money. And this is waste, fraud, and abuse no matter how you want to gild the lily on the other side.

I urge my colleagues to vote for this amendment.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas is advised that he has 3 minutes and 52 seconds.

Mr. GRAMM. I yield 2 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, I rise in support of the amendment offered by my distinguished colleague from Texas. Davis-Bacon has long outlived its utility. In today's marketplace, it is simply a protectionist piece of archaic legislation that costs the U.S. Government millions of dollars in excess costs on construction projects.

The amendment offered today is limited in scope and does not go far enough in my opinion. I, for one, support repeal of the Davis-Bacon Act. Unfortunately, the Congress has refused to do so repeatedly. Senator GRAMM's amendment would apply only to Department of Defense construction projects and represents an acceptable compromise between straight repeal and no change at all.

Mr. President, the amendment would raise the threshold from $2,000 to $250,000 for Department of Defense construction contracts. Only 12 percent of military construction funds would be subject to the change.

Furthermore, 70 percent of military construction contracts would be exempt from the Gramm amendment. This amendment is simply a way of saving limited military construction dollars, and I urge my colleagues to support the amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Massachusetts is recognized and has 5 minutes and 26 seconds.

Mr. KENNEDY. Mr. President, this is basically a procedural issue and the question we have to ask ourselves is whether this really is the appropriate vehicle to be dealing with this very dramatic change in this policy. But let me conclude by pointing out a few items which I think reflect what is really at stake here.

What we are basically talking about is prevailing wages. We are not talking about union wages. We are talking about prevailing wages. The 1986 study of the entire universe of Davis-Bacon decisions revealed that only 42 percent of all area wage decisions had prevailing rates that were union rates. Almost 48 percent of all area wage decisions issued by the Department of Labor had nonunion wage rates as prevailing. Twenty-three percent of all project decisions had union rates prevailing while 62 percent had nonunion rates prevailing.

If this act is being enforced the way it should be, if it is being interpreted the way it is intended, it ought to be the prevailing wage at that particular area and at that particular site.

That is but the basis for this particular program.

Let me finally say this is not a federally superimposed piece of legislation. There are some 35 States who have various forms of the Davis-Bacon provision. So, again, I think if we are going to deal with the generic problem we ought to deal with it in toto, not just on the DOD authorization.

Finally, I will say those members of the Armed Services Committee who attended the conference last year saw that we were resolving the basic differences in terms of weapons systems that divided the House and Senate provision. This provision almost destroyed the whole conference itself. It is an appropriate way to deal with it. We on the Human Resources Committee are committed to doing so. And I, at the appropriate time, will make a motion to table the amendment.

I withhold the balance of my time unless the Senator from Texas wants to yield back the balance of his time.

Mr. GRAMM. I want to make a short statement and then I will yield back my time.

Mr. President, for three administrations under Democratic and Republican Presidents, the administrations have taken the position that this Davis-Bacon change should be made. This single change will save $150 million by letting small contracts be let competitively. It will benefit small business. It will give minorities, who make up many of the small independent contractors who would like to do business with the Federal Government, an opportunity to get on the playing field and compete. It saves money. It deals with only 12 percent of the contract dollars. It gives us an opportunity to put to the test competition versus Government intervention.

It is strongly supported by most of the groups around the country, from the White House Conference on Small Business to the American Farm Bureau Federation, to the National Association of Counties, to the National League of Cities, to the National Federation of Independent Business. It is supported by them for one, and only one, reason: it saves money. It promotes efficiency. It ends a process that squanders our construction money before we ever begin the process.

We voted on this twice before. In fact, the Senate agreed 2 years ago to raise the threshold to $1 million, not $250,000.

I know that we have had an election since then, and I wanted to go back to a very basic test of a principle. When we vote on this amendment, it is going to be a test. Are we willing to save $150 million by letting the Defense Department go into the market and compete for construction contracts, like General Motors and IBM and everybody else in America, without requiring by law artificially high wages that hurt the taxpayer, that raise costs, and that lessen effective defense?

I urge my colleagues to vote for this amendment.

Mr. KENNEDY. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts has yielded back the remainder of his time.

Mr. DIXON. Mr. President, has all time been yielded back on both sides, or consumed?

The PRESIDING OFFICER. The Senator from Texas has 3 seconds, if he wishes to use it.

Mr. GRAMM. Tempting as it may be, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DIXON. Mr. President, I move to table the amendment offered by the Senator from Texas, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Delaware [Mr. ROTH] is necessarily absent.

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—56

Adams
Baucus
Biden
Bingaman
Bradley
Breaux
Burdick
Byrd
Chiles
Conrad
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Durenberger
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Weicker
Wirth

NAYS—41

Armstrong
Bentsen
Bond
Boren
Boschwitz
Bumpers
Chafee
Cochran
Cohen
DeConcini
Dole
Domenici
Evans
Exon
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Helms
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Nickles
Pressler
Pryor
Quayle
Rudman
Simpson
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—3

Gore
Roth
Simon

So the motion to table the amendment (No. 790) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, it is my understanding that the Senator from Texas and the Senator from Massachusetts—

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order.

Senators who are carrying on conversations will cease carrying on those conversations. Staff members who are talking will stop talking so the Senate may resume its business. The Senate is not in order. The Chair would appreciate if Senators who are talking would cease talking.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank the Chair.

Mr. President, the Senator from Texas and the Senator from Massachusetts are prepared to take up a second amendment. But before that time, I urge the Senate to give its attention to the distinguished manager of the bill concerning our joint efforts to try and move the bill forward and accommodate as many of our colleagues as possible respecting their amendments.

Mr. NUNN. I thank the Senator from Virginia.

Mr. President, other than the two big amendments to which there can be amendment and which there has not been any agreement reached on, that is the SALT II amendment and the war powers amendment, other than those two, we have a Glenn amendment on the Department of Energy oversight. We have two Dole amendments that relate to SALT. So that would await the SALT outcome. We have a Dole amendment on the Persian Gulf.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order. Two minutes ago, I requested the Senate be in order. The same Senators who were talking then are talking now. Senators will please cease conversation. The Senate will be in order before we resume business.

The Senator from Georgia.

Mr. NUNN. Mr. President, I have been informed that Senator DOLE, the minority leader, is not going to offer his amendment on the Persian Gulf.

But the next one I have on my list is a Heinz shipbuilding amendment. We have a Levin ABM amendment. We have an amendment that I have on amphibious lift, which will probably not be offered. We have a Warner amendment on the DOE oversight. We have a Warner amendment on FEMA add-on. We have a Wilson amendment.

Mr. WARNER. Mr. President, if I might interject, the distinguished manager is aware of the intention of this Senator from Virginia to expedite matters and drop some of those amendments, providing one can be restored which was inadvertently dropped off. That amendment is of vital importance to the Senate.

Mr. NUNN. Mr. President, I urge all our colleagues to allow the Senator from Virginia to bring that amendment up. He knows I have done that and I will continue to, because that amendment was inadvertently left off the list. The Senator from Virginia worked diligently and in good faith on this bill and on the unanimous-consent request. I hope all of our colleagues, whether they are for or against the amendment—and I may vote against the amendment, but I think he should be afforded the privilege of bringing it up.

Mr. BYRD. Mr. President, the amendment was inadvertently left off the list and we will put it back on. I ask unanimous consent that the Senator may be permitted to do that. I would do this for anybody.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BYRD. Mr. President, it was left off through no fault of the Senator from Virginia. And I would do this for any Senator, no matter who the Senator is, if he comes to me and says it was inadvertently left off, even if I did not know about it. In this instance, I know that that is the case.

Mr. WARNER. I thank the distinguished majority leader.

The amendment was deleted in the process when the majority and the minority leaders were endeavoring to collect the body of amendments that would be deleted and, with that in mind, we would not have had a Saturday session. I think it was important that we had a Saturday session that was productive. But, nevertheless, in that formulation, this one was dropped off.

And since we are dealing with time, and that was the reason to drop off the amendment, the Senator from Virginia is prepared to drop off other amendments that would have consumed more time. So the net gain to the Senate is a savings in time.

Mr. BYRD. Well, we enter into time agreements around here and we try to lean on the good faith of everybody. And if somebody inadvertently gets an amendment left off the list through some printing error or some error on the part of myself or on the part of staff, that Senator should have his amendment back on the list, else we will not get time agreements in the future.

Mr. WARNER. Mr. President, the error, if it was error—the Senator from Virginia takes responsibility for the error. There is no error on the part of the majority leader nor the minority leader or otherwise. It was an effort to accommodate the leadership, to save time, that I reduced the number of my amendments and there was a clerical miscalculation.

The PRESIDING OFFICER. Does the majority leader make his request?

Mr. BYRD. Yes, I do.

The PRESIDING OFFICER. Is there objection to it? Without objection, it is so ordered.

Mr. WARNER. I thank the distinguished leader.

Mr. NUNN. I have a Wilson amendment on Guard and Reserves. We also have a Wilson amendment on cost effectiveness at the margin. We have a Wilson shipboard amendment identifying a friend or foe. We have a Wilson amendment on striking the Levin-Nunn language in the bill. We have a Wilson amendment on a defense manpower exemption. We have the Gramm service contract amendment, which I understand the Senator from Texas is going to bring up shortly.

We have Lautenberg amendment for CHAMPUS payments for charitable hospitals. We have a Levin-Dixon amendment relating to shifting SDI funding to conventional weapons. We have a Warner amendment on the morale, welfare, and recreation funds.

We have a Wilson Army hospital amendment which I understand has already been debated. There will be a vote on that later this evening.

Then we have a Warner amendment which was just added back to the list, which had been inadvertently left off, on the SDI Institute.

We have a lot of amendments and we have this debate. It will be lasting about a half-hour. I suspect a lot of these amendments are not going to be called up, but I want to put all Senators on notice that any debate on these will be foreclosed at 8 o'clock, pursuant to the unanimous-consent request.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. If there is not going to be an amendment called up, if there is going to be that kind of a gap, I would like us to proceed on the appropriations bill.

The distinguished Republican leader and I are here. We have our staffs, appropriations staffs. We could fill that gap with that bill. If there are any rollcall votes ordered in regard thereto, they can be stacked to follow the rollcall votes that are already stacked on this bill.

Is there another amendment? Upon the disposition of the Gramm amendment, if no other amendments are——

Mr. WARNER. Mr. President, it will be the intention of the Senator from Virginia to bring up the amendment that was restored through the courtesy of the leadership a few moments ago. I would anticipate the Senator from Michigan and I can conclude our debate in less than 30 minutes.

Mr. BYRD. All right. Upon the disposition of that amendment, then, I ask unanimous consent that the Senate proceed to consideration of the Interior appropriations bill with the understanding that at 8 o'clock the Senate will resume its consideration of the DOD authorization bill and the Interior appropriations bill would in no way dislodge the DOD authorization bill today or tomorrow or any other time as long as this bill is pending before the Senate. But upon disposition of this bill, if the Interior appropriations bill had not been completed by that time, the Senate then would revert to that.

The PRESIDING OFFICER. Is there objection? The Senator from Virginia.

Mr. WARNER. I do not intend to object. I just seek clarification from the distinguished majority leader.

I understand on the conclusion of the amendment to be brought up by the Senator from Texas, the Senate would then turn to the amendment brought up by the Senator from Virginia. We would then go to the appropriations bill.

Now, should Senators come to the floor during the course of the deliberation on the appropriations bill and address the managers to the effect that: I am on the list, where is my time? Can we set aside the appropriations bill? Is that a discretionary matter with the managers of the bill?

Mr. BYRD. I would include that in my request, that that be a discretionary matter with the managers of the bill so that there would be nothing done that would delay action on the DOD authorization bill.

Mr. WARNER. And to preserve the rights of Senators who have pending amendments to the DOD bill, to be recognized as they request?

Mr. BYRD. Absolutely. They would have priority.

Mr. DOLE. I would hope that any votes that might occur on Interior appropriations would, as you indicated earlier, follow any votes on the DOD appropriation.

Mr. JOHNSTON. Would the Senator yield? On the Interior bill, when we move to the Interior bill, it shall be in the discretion between the time we take it up and the hour of 8 p.m. with the floor managers that have the bill as to whether to displace the bill or not?

Mr. BYRD. No. No. My request is to provide that the DOD authorization bill have top priority throughout. But that during those periods when there is no action being taken in respect to DOD, the Interior appropriations would then be the business of the Senate. Then, later, on the final disposition of the DOD bill, whenever that comes, if the Interior appropriations bill had not prior thereto been disposed of, it would then come back and be the business before the Senate.

It is a way of filling in the gap, possibly getting some work done on Interior. It may very well be that we will find ourselves spending an hour and a half on Interior today. I would hope that would be the case.

The PRESIDING OFFICER. Is there objection to the majority leader's request? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank all Senators.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 791

(Purpose: To limit the applicability of the Service Contract Act of 1965 to Department of Defense contracts and to certain mariner service contract)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas [Mr. Gramm] proposes an amendment numbered 791.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, between lines 13 and 14, insert the following:

SEC. . APPLICABILITY OF SERVICE CONTRACT ACT OF 1965 TO CERTAIN CONTRACTS.

(a) Department of Defense Contracts.—Section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or, in the case of a contract entered into by the Department of Defense, $1,000,000" after "$2,500";

(2) by striking out "Every" and inserting in lieu thereof "Subject to subsection (c), every"; and

(3) by adding at the end the following new subsection:

"(c) In the case of a contract entered into by the Department of Defense, this Act shall apply only to a contract the principal purpose of which is to furnish services and shall not apply to a contract which requires the provision of services if the principal purpose of the contract is not to furnish services.".

(b) Certain Mariner Service Contracts.—(1) Chapter 141 of title 10, United States Code is amended by adding at the end thereof the following new section:

"§ 2410. Nonapplicability of the Service Contract Act of 1965 to certain mariner service contracts

"The Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall not apply to a contract for services to be performed on a vessel owned or chartered by an agency named in section 2303(a) of this title unless at least 20 percent of such contract is performed within the United States, as defined in section 8(d) of that Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2410. Nonapplicability of the Service Contract Act of 1965 to certain mariner service contracts.".

(c) Effective Date.—The amendments made by subsection (a) and (b) shall take effect with respect to solicitations for bids or proposals issued on or after the date of enactment of this Act.

Mr. GRAMM. Mr. President, I would like to ask for a clarification of the time limit that we are under.

The PRESIDING OFFICER. Thirty minutes equally divided in the usual manner.

Mr. GRAMM. Mr. President, I would like to ask my colleagues to bear with me. I will try to be brief.

The amendment I have offered attempts to deal with something we have all been outraged about. We have all been outraged by the overcharges on hammers and cathode tubes, and toilet seats. We have reacted with righteous indignation to the fact that the American taxpayer was being cheated and I think we should have.

I am going to provide an opportunity today to deal with more waste, fraud, and abuse in one vote than has occurred on all the hammers, all the cathode tubes, all the toilet seats, all the ashtrays that have ever been bought by the Defense Department in the whole history of the Republic. This waste, fraud, and abuse goes by the name of the Service Contract Act.

Mr. President, the Service Contract Act was a bill that set out in law what the wage rates have to be for private industry personnel who are providing services for the Department of Defense.

If you are providing services for the Department of Defense in competition with the Civil Service, the Service Contract Act prescribes what wages you pay.

The General Accounting Office has analyzed the wage structure and has found that we are paying between 9.9 and 11.6 percent above comparable pay in the private sector of the economy.

I remind my colleagues that we are buying 10 billion dollars worth of services, so we are talking about a lot of money.

Lest anybody think that I am being too tough on waste, fraud, and abuse, I am not proposing to repeal the Service Contract Act. I am simply asking that we raise the threshold from its existing level of $2,500 to $1 million. I am saying that if somebody provides a service up to $1 million for the Federal Government; they have to abide by the Fair Labor Standards Act; they have to abide by labor laws concerning the minimum wage; but they can go out and competitively hire people just as any other contractor would.

This modest change, according to the Congressional Budget Office, would save us $315 million.

If the debate follows its normal course, you are going to have some Members get up and say, "You are talking about people who are poor and we are trying to help them by paying them these artificial wages."

I want my colleagues to be aware that the average wage under the Service Contract Act is three times the minimum wage.

Also, I thought it would be instructive, since we are here in the Federal city, to look at the wages that are being paid in Washington and compare those to what is dictated by the Service Contract Act.

For example, if you are working for IBM or General Motors, or whomever, here in Washington, you can go out and hire a master console operator as a computer operator for $8.95. But if you have a contract to provide services for the American taxpayer, you are required by law to pay that same operator $11.05.

If you go out and hire an operations and development program phase I operator in the private sector, you pay $7.21; what General Motors is paying. But if you are doing business with the Federal Government, you pay the same operator $9.06.

For a scheduler, it is $9.50 per hour in the private sector, but if you are doing business with the Federal Government, you are required by law to pay $11.05.

I could go on and on. It is not just an inequity, and it is not just a waste of money related to the private sector.

Let me give you a couple of examples related to Civil Service. The Civil Service annually pays an able seaman $14,121. But if you go out and hire one and you happen to be doing business with the Defense Department, you are required by law to pay 33 percent more: $18,732.

For an electrician in the Civil Service we pay $21,841, but we force a private contractor doing business with the Federal Government to pay $28,152, or a 29-percent premium.

Why do we do that? Why do we impose a $300 million in additional costs on the taxpayer?

We do it because the Government employee labor union does not want contracting out. So, as a result, we have passed a law requiring all of these artificially high wages to make private sector contractors noncompetitive. Who picks up the cost? The people who do the work, pay the taxes, pull the wagon, and make America work.

It is an outrage. It ought to be stopped. We can, in one vote, save $305 million. I urge my colleagues to vote for this amendment.

I know the distinguished Senator from Oklahoma wanted to speak on this subject. He has another engagement. I would like to yield to him at this point.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I congratulate and compliment my colleague from Texas, Senator GRAMM. He has a very good amendment. I hope my colleagues will listen to the arguments he has made and I hope they will support this amendment.

This amendment deals with the Service Contracting Act and a lot of people are not familiar with it. Basically, we are talking about people who perform services for the Federal Government. They are required under this act to have the wage rates determined by the Federal Government, by the Department of Labor.

As a person who made his living in the private sector prior to coming to Congress, I am personally offended when the Department of Labor would mandate and tell an employer that they know what an individual should make instead of what the employer-employee mutually agree to.

I am very much offended by this imposition of Federal dictation of saying that this employee shall be paid $12 or $13 an hour, and maybe this employee should be paid $9 an hour. Why do we not allow the employer and the employee to decide what the wages and terms and conditions of employment should be?

It is totally absurd to have the Department of Labor mandate, coming from Washington, DC, to take some type of survey and to make that kind of statement.

Everyone who has ever employed any number of people know that you have a lot of people who perform exceptionally well. They are the real producers. They should make more money. Maybe the ones who do not produce as much should not make as much. That is the free enterprise system.

This law is directly contradictory to the free enterprise system. This is a law that say the Department of Labor should mandate wage rates, not the free market, not free individuals working for their own improvement.

I hope that we will support this amendment.

This amendment also costs, as the Senator from Texas said, $305 million. It really costs a lot more than that.

Say an employer has a janitor service, which I used to have a long time ago, and he provides service for a lot of different companies, with a lot of different opportunities. You do work here and work in another building and you go to the next and the next. But when you get to the Federal building, the Federal Government will tell you what you will pay. You may have 50 contracts, but when you get to the one that has the Federal Government behind it, the Department of Labor will tell you what your wage rate will be. You may do 90 percent of your work in the private sector, but when you get to the one contract with the Federal Government, the Government will tell you what your labor rate will be.

That can cause you a lot of problems. If you have a decent-size service, moving a lot of employees in and out, into Government work and into non-Government work, and possibly back, this makes it so difficult a lot of people say it is not worth it and they do not bid on Government work. Therefore, the cost of Government contracting services goes up and goes up substantially. This discourages competition.

Not only that, but it prices out a lot of people at the bottom end of the economic scale. If you have to hire for a janitorial service and your wage rate is $9 or $10 or $11, maybe you will not start that guy. Maybe he is only 17 or 18 years of age and looking for his first job. So you price out a lot of people trying to enter into the work force. Basically, you are denying them a job.

Basically, I think it is bad legislation. I compliment the Senator from Texas for trying to make this much-needed improvement.

Some say, "You are increasing the threshold from $2,000 to $2 million. Is that not too much of an increase?"

We should not have the Federal Government mandating wage rates on contracts above $1 million much less below $1 million. That should be repealed.

Again I compliment the Senator.

I have one final reason for supporting this amendment. We are all going to be making difficult and tough decisions in here trying to bring the deficit down. This is a simple amendment that will not cost anybody a job, it will not hurt anyone. It will save the taxpayers over $300 million. It will help us take a good step, not a panacea in the budget, certainly, a good step in the right direction where we can save hundreds of millions of dollars. I urge adoption of the amendment.

Mr. GRAMM. How much time have I remaining?

The PRESIDING OFFICER. The Senator from Texas has 3 minutes 40 seconds.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I yield myself such time as I may require.

Mr. President, I rise to oppose the Service Contract Act amendment offered by the distinguished Senator from Texas. Congress passed the Service Contract Act in 1965 to provide labor standards for employees engaged in the performance of Government service contracts. Congress acted because these service employees were and still are the poorest and the most politically vulnerable members of our national work force.

The 700,000 employees covered by the Service Contract Act are for the most part cooks, cashiers, cleaners, custodians, window washers, trash collectors, and other similarly situated at the lower end of our national wage structure. They are overwhelmingly female and minority and generally have minimal technical skills and literacy.

The Service Contract Act prohibits Federal service contractors from offering their employees wages and benefits below prevailing community rates. This prohibition effectively prevents contractors from using Federal contracts to engage in wage-busting acts.

Let me tell you about a few of the workers protected by the Service Contract Act, workers who would be the victims of this repeal.

At Fort Belvoir, VA, 150 workers are employed by an Air Force contractor to perform cleaning services at various base facilities.

These employees, who are overwhelmingly female and minority, vacuum carpets, remove trash, sweep floors, wash windows, and sterilize operating and delivery rooms in the base hospital. Blanche Bishop, who works on the surgical ward and has been employed at DeWitt Army Hospital for 13 years, is a typical worker in this unit. As of October 1984, she supported three teenage children. Her biweekly take-home pay was $428. That is $428 for 2 weeks' work to support herself and her 3 teenage children.

At Kirtland Air Force Base in New Mexico, some 75 workers are employed by a service contractor as custodians, buffers, and scrubbers. Listen to one of them, Donna Vieyra, describe her job responsibilities: "mine is vacuuming daily, trashing daily, dusting daily, table tops to be washed, the chrome of the legs of the table to be wiped down. They require that twice a week, but it is impossible to get everything, scouring rings out of toilets, off the faucets on your sinks."

It is Blanche Bishop and Donna Vieyra and thousands of others like them, who supposedly are gouging the Federal Treasury, whose wages and benefits we are being told must be dramatically reduced through unbridled wage competition. I find it appalling that the Senate would further impoverish these already poor Americans to feed the greed of Pentagon weaponsmakers. Star wars and MX's should not be purchased at the expense of the dignity of janitors and housekeepers.

What a great deal we get from those defense contractors and not a word is raised by those who would take the dollars out of the poor working people who are trying to make a living for their families. One out of three MX's do not operate and where are their voices; $4.5 billion is spent on the DIVAD and it does not work; B-1's are being cannibalized in order to keep them operating. We spend $435 for a hammer and $456 for a socket and $768 for a set of wrenches, but, no, we are going to make a big savings from the sweat of people working for a living.

Fifty-nine of the top 100 defense contractors of this country have been investigated for procurement fraud and where are the voices of those who would move this amendment? I do not hear one voice raised. I do not hear one concern indicated.

A company in my own city of Cleveland, TRW, just agreed to repay $17 million for violating the law for giving false figures with respect to procurement contracts. I believe it is high time that voices be raised with respect to these defense contracts that rip off the American people.

By raising the threshold on covered contracts from $2,500 to $1 million, we would exempt 94 percent of the contracts now covered and would exclude 72 percent of the low-wage workers currently protected. In my own State of Ohio, some 70 million dollars' worth of contracts would be eliminated overnight from coverage, and 4,300 workers would lose the protections accorded by the act.

Let us be clear about another point: This change is being made for big business. The Gramm changes, in fact, will make it easier for large businesses to use wage-busting practices to eliminate their smaller competition.

For over 20 years, Congress has spoken with one voice to protect the right to a decent minimum standard of living for millions of service workers in this country. Last year, the Senate rejected a virtually identical proposal by a resounding vote of 62 to 34. I cannot believe that in 1987 this body will vote to put the Federal Government in the business of exploiting these service workers. We must reject the Gramm proposal.

I reserve the remainder of my time.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I yield myself 5 minutes on this amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. KENNEDY. Mr. President, once again my colleague from Texas is attempting to make labor legislation through the back door of the DOD authorization bill. And once again, he has chosen a very unworthy target—the Service Contract Act.

On August 8 of last year, the Republican-controlled Senate voted to strike virtually the same language from the DOD authorization bill by almost a two-thirds margin. It seems to me that such a resounding vote of support for preserving the SCA's threshold is a clear signal that the act is doing its job and should be left well enough alone.

The act's opponents cannot see the self-evident rightness of that proposition and today they are attempting to drastically reduce the number of workers covered under the law.

But service workers need the protection of this act today more than ever before. The Defense Department alone has increased the number of contracts awarded under the Service Contract Act 33 percent from fiscal year 1983 to fiscal year 1985.

Unfortunately, some of my distinguished colleagues seem to have missed the signal.

The Service Contract Act stands for the simple principle that workers performing services for the Government should be paid the prevailing wage for their particular job in their particular locality. It does not ask that a premium wage be paid but simply the prevailing wage.

And the workers performing those services are still low paid and low skill. A Department of Labor preliminary sample survey conducted in 1986 found that employment covered by the Service Contract Act "appears to be dominated by the types of workers intended to be protected by the law: janitors, cleaners, porters, guards, mess attendants, laborers, etc."

If the amendment carries, 65 percent of all housekeeping contracts would lose protection; 62 percent of laundry contracts; 61 percent of custodial contracts; and 35 percent of food service contracts.

Service workers are also still largely minorities and women. Recent statistics compiled by the BLS show that the most common SCA-covered jobs are disproportionately filled by women, blacks, and Hispanics.

And 1 out of every 4 families headed by service workers is already in poverty.

We certainly have not lost the need for this legislation. I have not lost the will to fight for its existence. And I am confident that my colleagues have not lost the will to do what good judgment requires by voting—as 62 Members did last year—to preserve the protections of this law.

We have enough difficult issues to grapple with in this authorization bill—arms control, weapons systems, and strategic decisions affecting our Nation's security—without arguing over whether our tax dollars should be used to impoverish low-paid, low-skill service workers.

I hope the amendment of the Senator from Texas is rejected. I reserve the remainder of my time.

Mr. GRAMM. Mr. President, we have heard a lot of impassioned pleas, but I would like my colleagues to remember that 99 percent of the services provided in this country are not covered by the Service Contracting Act. Despite all the talk about poor people, the average wage paid under the Service Contract Act is three times the minimum wage and higher than the wage earned by the person who is paying the taxes to pay this premium.

Let me give you some examples of the wages we are talking about. If we went out today in Washington, DC, and hired a computer operator, we would pay in the private sector of the economy $6.65 per hour. Under the Service Contract Act, the taxpayer is paying $9.06 to a person with the same job classification.

Now you can talk all you want about poor people, but it is the poor people, the working people who are being taxed to pay a premium of almost 30 percent to people who are given special privileges that is not right.

Now, we hear all this talk about poor people.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. GRAMM. If the Senator would like to ask on his time, I will be happy to yield.

Mr. KENNEDY. Will the Senator yield on my time?

Mr. GRAMM. I would be happy to yield on the Senator's time.

Mr. KENNEDY. For a minute and a half. Would the Senator give the breakdown in terms of the wages? Because the vast majority of the service contracts apply to groups that I mentioned which are the lowest paid individuals. Also included in the service contracts are computer operators and other more highly paid individuals. But the Senator knows very well that what we are basically protecting are the individuals on the lowest paid rung of the pay scale.

And so, when we start going off and talking about three times the minimum wage, approximately $10 an hour, it ought to be put in some kind of context. So, will the Senator add in the Record the different groups, what levels they are getting paid since he seems to be free in terms of talking about those figures?

Mr. GRAMM. Now we are returning to my time. I am happy to do that. In fact, the newest figure I have is 65 percent of the positions covered by the Service Contract Act pay $9 or more, 55 percent pay $11 or more, and the average is three times the minimum wage. But the question is not whether we are talking about rich people or poor people. The point is that 99 percent of the people providing services are providing services in a market where wages are determined by supply and demand. The people who are supplying services through Government contractors are consistently paid artificial wages that are out of line with what is paid in the private sector. That money is being effectively pirated from the pockets of the men and women of America; the working men and women of America who are not so privileged.

I cannot understand how we can be outraged about hammers and ashtrays and not be outraged when we are paying in this very city chef stewards in the civil service $18,556 a year, and we are paying $26,832 to a person in the same position under the Service Contract Act. There is no justification for that. There is no amount of rhetoric that can justify the great unfairness that exists in the law, and which is effectively taking money out of the pockets of the people who have to pay the bill.

If people want to stand up, jump up and down, and criticize defense contractors, we should try to eliminate instead the greatest inequity, the greatest waste, fraud, and abuse. These abuses are the very ones imposed by the Federal Government.

Does a wrong end when the people on whose behalf the wrong is being committed have political power? I say no. We should act to raise this threshold, and let the market system set wages for the benefit of taxpayers just as it sets wages in the private sector of the economy. Why should we pay more than General Motors and IBM for identical services? In fact, they have more money than the average working American does. Let us let the free market work. That is the intent of this amendment.

I urge my colleagues to reject the motion to table that I am sure is going to be made.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, has all time been yielded back?

The PRESIDING OFFICER. All time has expired on the part of the proponents; 5 minutes remain to the opponents.

Mr. DIXON. Does my colleague yield back the balance of his time on this side?

Mr. KENNEDY. I yield back the balance of the time on this side.

Mr. DIXON. Mr. President, I move to table the amendment by the Senator from Texas, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois to lay on the table the amendment of the Senator from Texas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent. I further announce that, if present and voting, the Senator from Tennessee [Mr. Gore] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Delaware [Mr. Roth] is necessarily absent.

The PRESIDING OFFICER (Mr. Fowler). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—67

Adams
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Weicker
Wilson
Wirth

NAYS—30

Armstrong
Bond
Boschwitz
Cochran
Cohen
Dole
Garn
Gramm
Grassley
Hatch
Hecht
Helms
Humphrey
Karnes
Kassebaum
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Pressler
Quayle
Rudman
Simpson
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—3

Gore
Roth
Simon

So the motion was agreed to.

Mr. WARNER. Mr. President, the distinguished Senator from Michigan [Mr. Levin], who is in the Chamber, and I have been working on a proposed amendment, and it is my understanding that it is agreeable on both sides.

I might say that the amendment is a culmination of an effort that extends over nearly 3 years.

Mr. President, when the Republicans were in the majority and I was privileged to be chairman of the Subcommittee on Strategic Deterrence, I put forth an amendment on the SDI Institute. At the time my good friend from Michigan had what I felt were some very legitimate concerns about the structuring of that amendment and in the sense of fairness—possibly I think I had the votes—I did not push him, and now in the reverse situation he, with the sense of fairness, has come forward in, I believe, shall we characterize this amendment as being a fair accommodation of the interests of both parties.

Mr. President, perhaps the Senator from Michigan would like to speak for a moment prior to my forwarding this amendment to the desk. I would be happy to yield the floor for purposes for recognizing the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the Senator from Virginia will be offering an amendment which I believe is a far better approach than has previously been proposed by the SDIO. When we first heard about a proposal for an SDI Institute, it was going to be a sole source contract for a handpicked group of people. The amendment the Senator from Virginia is going to offer will provide first and foremost for competition, including specific requirements that private entities and existing think-tanks and research centers be invited to participate and to forward proposals. They will be specifically solicited for by the SDIO.

Also, the Senator from Virginia has provided in the new version of this amendment that in the event that the SDIO decides to propose a contract, whether it is with an existing private entity or with an existing FFRDC, or some other entity, or indeed a new entity, they will not make that decision or announce any decision prior to January 31, 1989.

Then they would have to wait 30 days at that point in case Congress wishes to act. There is in the amendment which will be offered by the Senator from Virginia a 2-year bar on any SDIO employee from participating in the SDII. There will be peer review which has been set forth now in this amendment. There is a requirement that there be a line item in a budget for any SDII in the event that one is finally set up. And there is a sunset provision as well.

With all of these changes, I am able to accept this amendment. I do not know if I can speak for this entire side of the aisle, but if I were manager of the bill, at least for the moment, I would find, at least with these changes, the amendment would be acceptable to this side. But I do not want to be presumptuous in any way because I am not manager of the bill.

Mr. NUNN. Mr. President, I say to my friend from Michigan I am delighted the Senator from Virginia and the Senator from Michigan has worked this matter out to their mutual satisfaction. There was another Member on this side, I believe Senator PROXMIRE, who had an interest in this. I see he is on the floor. Has he been acquainted to this?

Mr. LEVIN. I think his staff has been. I do believe other staffs have been apprised, staffs of a number of other Senators. I believe, with that change, this matter can be voice voted.

Mr. WARNER. Mr. President, that would be the intention of the Senator from Virginia.

I wish to again thank my distinguished colleague from Michigan for it is clear to me that the agreement does recognize the use of existing FFRDC's and contractors to provide the integration and support in the interim period between now and such date as established by this amendment that the center envisioned by the SDI would come into being. This will provide—and it is very important that the Senator from Michigan brought this out—a competitive environment for existing FFRDC's to have an equal playing field on which to compete to offer their service.

Mr. LEVIN. If the Senator will yield, and so do private entities have a right to compete, as well. I think that is important.

Mr. WARNER. That is correct, Mr. President, commercial entities. In other words, there is a level playing field out there for all to compete and try and serve the Nation in this capacity.

AMENDMENT NO. 792

(Purpose: To set forth conditions for possible authorization of the establishment of a federally funded research and development center to support the Strategic Defense Initiative Program)

Mr. WARNER. Mr. President, at this time I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 792.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, between lines 14 and 15, insert the following new section:

SEC. 235. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for system level design and integration issues related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization assessed alternative types of organizations to provide technical support to the Strategic Defense Initiative program, including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private non profit laboratories, and determined that a new federally funded research and development center would be the type of organization to provide technical support to the Strategic Defense Initiative program.

(3) To ensure the independence and objectivity of any such new FFRDC and to control its expense, certain conditions need to be met.

(4) Competitive selection of a contractor to establish and operate a federally funded research and development center to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of technological and system level Strategic Defense Initiative program issues.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds appropriated to the Department of Defense for the Strategic Defense Initiative program may be used for the purpose of awarding a contract to operate a federally funded research and development center established to support the Strategic Defense Initiative program if such center is established under competitive procedure and which emphasize the cost considerations provided further that—

(1) the Secretary of Defense has solicited proposals for such contract from existing Federally funded research and development centers, universities, commercial entities, and any new organizations, and has maximum efforts to obtain more than one proposal for such contract;

(2) the Secretary of Defense has submitted the 3 best contract proposals, together with a copy of the proposed sponsoring agreement for the new FFRDC, to peer review by 3 persons designated by the Defense Science Board from a list of six or more persons compiled by the National Academy of Sciences;

(3) the persons performing the peer review referred to in clause (3)—

(A) have evaluated the extent to which each proposal and the sponsoring agreement foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) have reported their evaluation to the Secretary;

(4) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (b) include a provision stating that no officer or employee of DOD shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(5) the Secretary of Defense has issued a directive requiring that at least 5 percent of the total amount of funds available for the new FFRDC is to be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(6) the Secretary of Defense has issued a directive (A) imposing a limitation on the compensation payable to each high-level executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to high-level executives of comparable Federally funded research and development centers for similar services, and (B) imposing a requirement that the new FFRDC publicly disclose the salary of its chief executive officer;

(7) the Secretary of Defense has issued a directive (A) prohibiting current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees if such members constitute ten or more percent of the Board of Trustees or from serving as officers of the new FFRDC, and (B) requiring that the contract referred to in clause (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC except the President of the new FFRDC if the Board is comprised of 10 or more members.

(8) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (1) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, has served in the Strategic Defense Initiative Organization within 2 years before the date on which such person is to be employed by the new FFRDC;

(9) the Secretary of Defense has issued a directive providing for a separate line item within the Department of Defense budget for all funds for the new FFRDC;

(10) the Secretary of Defense has issued a directive requiring that any contract referred to in clause (b) include a provision requiring that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program;

(11) the Secretary of Defense shall not decide upon or announce the award of any contract before January 30, 1989 and, before awarding a contract for the operation of the new FFRDC, the Secretary of Defense shall submit to Congress no sooner than January 30, 1989—

(A) a copy of the proposed final contract;

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC; and

(C) shall withhold the award of such contract and approval of such sponsoring agreement for at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives such copies and report.

(c) CONTINUITY OF CONGRESSIONAL SESSION.—For purposes of subsection (a)(13), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress; however, in computing a 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain shall be excluded.

(d) SUNSET PROVISION.—No funds shall be available for the new FFRDC 5 years after the award of its initial contract.

Mr. WARNER. Mr. President, unless there are other Senators wishing to address this amendment, I move its adoption.

The PRESIDING OFFICER. Does the Senator from Virginia yield back the remainder of his time?

Mr. WARNER. The Senator from Virginia yields back the remainder of his time.

Mr. LEVIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia [Mr. WARNER].

The amendment (No. 792) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I thank the Chair and I thank all Senators for their consideration.

T-AO FLEET OILERS

Mr. LAUTENBERG. Mr. President, several of my distinguished colleagues and I wish to discuss with the distinguished managers the funding for the Navy's T-AO Fleet Oiler Program.

Mr. President, I want to commend our Armed Services Committee for its strong support of the Navy's efforts to modernize and expand its mobile logistics support forces, of which our new T-AO fleet oilers are an essential component. Without sufficient T-AO supply ships, our naval combatants simply cannot sustain deployments at sea. However, the committee reluctantly, and only due to budget constraints, reduced funding for the T-AO Program for fiscal year 1988 from the Navy's request for $279.1 million for two ships, to $150.0 million for only one ship. I and a number of my colleagues have considered offering an amendment to the pending authorization bill to restore funding for two T-AO's. May I ask the distinguished Senator from Georgia to please state his views on this matter?

Mr. NUNN. Mr. President, I am glad to respond. The distinguished Senator from New Jersey has described the committee's action correctly. The committee reduced funding for the T-AO Fleet Oiler Program from two ships to one with extreme reluctance, and only due to budget constraints. As one Senator, I favor funding for two T-AO's for fiscal year 1988. The other body has included funding for both ships in its version of the authorization bill, and I want to assure the distinguished Senator and my colleagues that I will strive to accommodate that funding within the budgetary constraints which must be overcome to resolve this difference.

Mr. HEINZ. Mr. President, I thank the Senator from Georgia for his statement on this important matter. Would the distinguished Senator from Virginia please respond with his views on the necessity of funding two T-AO's for fiscal year 1988? In particular, I have ruefully observed that budgetary constraints have already affected the Navy's desperate need for new T-AO fleet oilers to replace 1940's vintage ships. T-AO procurement has been curtailed from four ships per year, to three per year, to two per year. Does the distinguished Senator agree that a procurement rate of two T-AO's per year is the bare minimum to meet our national defense requirements for auxiliary ships to sustain our combatants at sea?

Mr. WARNER. Mr. President, the distinguished Senator from Pennsylvania is correct. The Armed Services Committee decided by a very narrow margin to reduce funding for T-AO fleet oilers in fiscal year 1988 from two ships to one. I strongly support the Navy's request for funding two fleet oilers in this budget and will make every effort in conference to restore funding for the second ship.

Mr. BRADLEY. Mr. President, I thank the distinguished managers for their statements of support for funding two T-AO's for fiscal year 1988. Congress directed the Navy to dual source T-AO construction when it approved funding for three T-AO's in fiscal year 1985, two in fiscal year 1986, and two in fiscal year 1987. Dual sourcing has been of benefit to the Navy and has also helped maintain our Nation's shipbuilding industrial base. Without keeping to the schedule outlined to complete construction of the 18 T-AO's contemplated, it would be impossible to dual source. That would reduce competition and would imperil the ability of the Navy to continue cost-efficient production lines. That is not in the interest of the Navy and it certainly is not in the interest of the thousands of workers who are presently building these ships.

Mr. NUNN. Mr. President, I recognize the point which my good friend from New Jersey has just raised. If only one T-AO could be procured in fiscal year 1988, the benefit of dual-sourcing for this program would be lost. This is another reason why, as one Senator, I will strive to attain funding for two T-AO's for fiscal year 1988, provided that the budgetary constraints we face can be overcome.

Mr. SPECTER. Mr. President, I, too, thank the distinguished managers for their expressions of support to fund two T-AO's for fiscal year 1988. The importance of supply auxiliaries like the T-AO's has been reemphasized by the deployment of our naval forces in the Persian Gulf. Without replenishment, any deployment of naval ships would have to be cut short. The achievement of U.S. policy objectives would thus be undermined, especially in regions of the world far-distant from land-based supply sources such as the Indian Ocean, no matter how capable our personnel. My distinguished colleagues, Senator LAUTENBERG and Senator JOHNSTON, and I are privileged to serve on the Senate Appropriations Committee, where we must also consider this matter. The authorization for the T-AO Program for fiscal year 1988 is included in the Navy's shipbuilding and conversion account, in a total amount of $10.1 billion. If our Appropriations Committee were to consider this matter before final congressional action on the authorization has occurred, what guidance would the distinguished managers suggest with respect to the T-AO Program?

Mr. JOHNSTON. Mr. President, as a member of the Senate Appropriations Subcommittee on Defense, I share the concern my good friend from Pennsylvania has just expressed. I strongly support the Navy's request to fund two T-AO's for fiscal year 1988. Funding the T-AO Program to achieve a procurement rate of two ships per year is the bare minimum to meet the Navy's desperate need for these ships. I join my colleagues in thanking the distinguished managers for their statements of support for funding two T-AO's for fiscal year 1988. We on the Senate Defense Appropriations Subcommittee will certainly strive to achieve that result.

Mr. NUNN. Mr. President, I will respond as best I can to the distinguished Senator's hypothetical question. First, I am very hopeful that the situation which the Senator has described will not occur, so that appropriations for fiscal year 1988 would be consistent with the authorization finally approved by Congress. In the alternative, I would hope that our authorizing committee could work with you to achieve the outcome which we all support for the T-AO Program.

Mr. WARNER. Mr. President, I concur with my distinguished chairman's statement. There seems to be no disagreement over the desirability of funding the Navy's request for two T-AO's for fiscal year 1988, and I have high expectations that this outcome will be achieved.

THE APACHE ATTACK HELICOPTER PROGRAM

Mr. McCAIN. Mr. President, in 1972, the Army began a program to develop a new attack helicopter to replace the aging Cobra aircraft fleet. This program was called the Advanced Attack Helicopter [AAH]. The Army invested some $1.2 billion to build prototypes of the AAH, test them in a flyoff between two competing companies, and enter full scale engineering development. After some 10 years of R&D, the AH-64 Apache attack helicopter evolved. The Apache, now in high rate production, is considered one of the world's finest attack helicopters. It has exceeded its specifications for aircraft performance, reliability and maintainability. Its integrated weapons system allows the Apache pilots to fly at night, in adverse weather, and to navigate precisely to targets. The pilot's and gunner's optical systems allow them to detect targets at long standoff ranges. The Apache can then laser designate those targets in order to provide guidance for projectiles launched from the Apache or other close air support aircraft. The Army pilots who are flying this superb attack helicopter are pleased with its capabilities and report that it is changing the nature of attack helicopter warfare.

With these results, one would expect that the Army would be procuring the AH-64 Apache as one of its highest priority programs. Unfortunately, this is not the case. The budget request submitted by the Army this year included 67 Apaches for fiscal year 1988 with no request for advance procurement funds for any aircraft in fiscal year 1989. These final 67 aircraft requested would have given the Army a total production run of 593, despite the fact that the Army has stated its weapons system requirements as 1,031 aircraft to equip 28 of its attack helicopter divisions.

I want to commend Senator LEVIN, the distinguished chairman of the Conventional Forces and Alliance Defense Subcommittee, for his leadership in providing funds for procurement of 90 AH-64 Apaches in fiscal year 1988 and for adding advance procurement funds for 72 Apaches to be bought in fiscal year 1989. The provision for 90 aircraft in fiscal year 1988 will help the Apache's manufacturer phase down from its present efficient production rate of 12 AH-64's per month to the long-term sustaining rate of 6 per month. Also, the 23 additional Apaches will outfit another Army attack helicopter battalion and enhance the Armys war-fighting capability when those aircraft are delivered.

I would like to further commend the Senator from Michigan [Mr. LEVIN] for the position that the subcommittee, and full committee, took regarding the Army's long-term modernization program. You have so aptly pointed out in the Committee report that the Army's five major weapons systems were having production termination well short of the Army's inventory objectives with significant gaps in time before their replacements were due to be fielded. The committee's direction to the Department of Defense to ensure production of these systems in fiscal year 1989 and beyond, and the specific recommendation for procurement of set percentage of the Army's requirements within the fiscal year 1989 Five-Year Defense Program [FYDP], represents excellent guidance to the Department for programming of its available resources.

I did note that the committee believes with regard to the AH-64 Apache that 85 percent of the Army's requirement be bought within the fiscal year 1989 FYDP, and it is my understanding that the Army testified to the subcommittee that their weapon system requirement for Apaches is 1,031 aircraft. Is the 1,031 number the correct one for Apaches that was referred to in the committee report?

Mr. LEVIN. Yes, the Army stated that the weapon system requirement for the AH-64 Apache is 1,031 aircraft, to equip 28 divisions for its Active Reserve and National Guard units.

Mr. McCAIN. So the committee's belief that 85 percent of the requirement be bought, in essence, recommends that the Defense Department program the funds to procure a total of 876 Apaches?

Mr. LEVIN. That is quite correct, 876 is 85 percent of the 1,031 quantity.

Mr. McCAIN. And the committee's recommendation is that the Apaches should be produced at a 6-per-month, or 72-per-year rate, is that correct?

Mr. LEVIN. Yes, that is the minimum economical production rate.

Mr. DECONCINI. If the Senator would yield, I too would like to commend the chairman of the Conventional Forces Subcommittee for the strong position the committee took on the AH-64. There is no question that this is the finest attack helicopter in the world. I believe it is a serious mistake for the Army to terminate production at this stage in the program. And like my colleague from Arizona, I too think the committee took the correct position in suggesting that the Army continue to procure Apache helicopters at a rate of 72 a year.

I would like to ask the distinguished chairman, however, about another aspect of the bill which relates to the AH-64, and that concerns funds added to the research and development account. As I review the bill reported by the committee, I note that you have added $50 million "to develop improved models" of the AH-64. Could the Senator from Michigan explain what the intent of the committee was in providing those funds?

Mr. LEVIN. I thank the senior Senator from Arizona for raising this point because it is an important aspect of the overall program crafted by the committee. The committee believed that while the AH-64 is an excellent helicopter today, it could be significantly improved with modest investment. The AH-64 represents 1970's technology. Since that time there have been significant advances, especially in the area of electronics. For example, electronic navigation systems today are substantially more sophisticated. This could well be an area of improvement for the AH-64. The committee believed that in addition to continuing the AH-64 in production, it was important to improve future aircraft.

Mr. DECONCINI. If the Senator would yield, is the committee suggesting that the Army develop a "B" model of the AH-64 and that all future purchases of the AH-64 be in this advanced configuration?

Mr. LEVIN. If I might respond, the committee supports the concept of a "B" model of the AH-64, though it may take some time to fully develop that configuration. As such, we would not expect the helicopters authorized in this bill to be in the advanced configuration, but we certainly would expect the Army to develop a comprehensive plan for an advanced-design Apache helicopter.

Mr. DECONCINI. I thank the Senator for his response, and I commend him and all the members of his subcommittee for the leadership they have provided on this key issue.

M113

Mr. WILSON. Mr. President, I seek recognition for purposes of engaging in a colloquy with the distinguished chairman of the Subcommittee on Conventional Forces and Alliance Defense.

Mr. President, I would like to bring to the attention of my colleagues a problem that exists regarding the M113 vehicle. The M113, and the nine related vehicles which are based on the baseline M113 chassis, is the most common combat vehicle in the U.S. Army. Without question, the Army and the National Guard could not go to war without the M113. Across all missions, the Army has a requirement for over 49,000 M113 type vehicles. Today it has only 27,000, with another 2,000 yet to be delivered. In short, the Army is short over 20,000 M113 and related vehicles.

The shortage is particularly pressing in the National Guard which has a requirement for nearly 11,000 vehicles, but will have only 7,700 vehicles. The National Guard is short 3,200 vehicles, which is nearly a 30-percent shortfall.

Mr. President, shortages are an unfortunately common story in DOD, and especially in the Army. But what makes this situation different is that the M113 production line will be shut down after this year if there are no added purchases made. The Army has requested no M113 or related vehicles in fiscal year 1988 or 1989. Additional procurement of M113-based vehicles are planned in fiscal year 1990. There may be no further production, however, because the production line will go cold and the cost to reopen the line may be prohibitive.

This is unwise, in my judgment, because the M113 is used in so many missions and the Army is substantially short of meeting its requirements of them.

It is also unwise to terminate production of a very cost effective vehicle in the face of tightening budgets. We can afford to buy the M113 in quantity if we want to. We can't say that for many other systems.

I would like to ask the distinguished chairman of the Subcommittee on Conventional Forces several questions. First, are there any M113's in the bill as reported? If there are no funds provided in fiscal year 1988, will that mean the M113 production line will close? And finally, if funds can be identified, would the chairman support continued production in fiscal year 1988?

Mr. LEVIN. Mr. President, I thank the distinguished Senator from California for raising this issue. He knows that I am quite concerned about the lack of attention to conventional combat systems in the budget that was submitted. We amended that request to correct those shortages, but we were not able to address all the deficiencies.

As the Senator knows, there are no funds in the bill to procure M113's, and absent any reprogramming or foreign military sales, this will necessitate termination of the production line.

The distinguished Senator asked whether I would support continued production in fiscal year 1988 if additional funds could be identified. First, I know some sources of funds that my friend from California may not wish to use for that purpose. I won't press that matter here.

I should also inform my colleagues that the authorization bill that passed the House includes funds to buy an additional 300 M113 vehicles in fiscal year 1988. They did this with a bill that cut substantially more from the budget than did the bill reported by our committee. While I can't insure the Senator that we will be able to include M113's in the bill reported from the conference, it is clear that it will be a conference issue. I will be delighted to work with my friend from California during conference to carefully review this issue and to weigh the priority of continued production against the other important items contained in the budget.

SHIPBOARD IFF

Mr. WILSON. Mr. President, I would like to engage the distinguished Senator from Massachusetts, the chairman of the Subcommittee on Projection Forces and Regional Defense, in a colloquy concerning shipboard IFF.

Mr. President, our Navy surface ships have a system onboard which helps distinguish between friendly and enemy aircraft. It is called the Mark 12 AIMS IFF system. IFF is a military acronym meaning "identification friend or foe." A crucial part of this system is a device called the SN-501 UPX video synchronizer. This device, a part of the entire shipboard IFF system, is a key to effective shipboard air defense.

The Navy has identified a requirement for the SN-501 device, and the original plan called for procurement of 81 units in fiscal year 1988 and 84 units in 1989. However, the fiscal year 1988 budget request for the Mark 12 AIMS IFF system included funds for only 27 units.

Mr. President, the Navy can usefully employ these devices as quickly as the budget will allow. They are of great importance for effective air defense of Navy surface combatants.

I would like to ask the distinguished chairman of the Subcommittee on Projection Forces and Regional Defense if he is aware of this program and the current situation.

Mr. KENNEDY. I thank the distinguished Senator from California for his comments and for bringing this matter to the Senate's attention. This is an important system for the Navy, and, as events in the Persian Gulf have shown most recently, our Navy ships must have the capability to identify incoming aircraft.

I share the concerns of the Senator from California. In fact, I believe the Armed Services Committee last year supported a reprogramming request for this system.

Mr. WILSON. I thank the distinguished chairman. One other point I would like to make in this time of dwindling defense budgets—it is imperative that we spend defense dollars effectively, and this includes procuring items efficiently.

Mr. President, the current rate of production for the SN-501 is very inefficient both for the Navy and for the contractor, in this case an 8a minority owned and controlled small business.

Mr. President, I would like to ask the chairman of the Subcommittee on Projection Forces and Regional Defense if he would consider favorably an increase to this line item during conference, if possible, and, if not, if he would give fair and complete consideration to a reprogramming request for this by the Navy later in the year?

Mr. KENNEDY. Mr. President, I can assure my colleague from California that I understand his request. I am not certain this can be supported in conference. However, I will do my best to accommodate the Senator; and if not, I will agree to give careful consideration to a reprogramming request from the Navy next year, should one be submitted.

Mr. WILSON. I thank the Senator and I look forward to working with him in the future.

AMENDMENT NO. 793

(Purpose: To correct certain authorization figures in the bill and to revise section 811 of the bill relating to technical and conforming amendments.)

Mr. NUNN. Mr. President, I send to the desk an amendment to correct certain authorization figures in the bill and to revise the provisions of the bill relating to technical and conforming amendments.

The amendment contains six corrections in the authorization figures which are needed to align the bill with the overall amounts approved by the committee, and to conform certain portions of the bill in light of changes made to date through floor amendments.

This amendment also contains necessary technical and conforming changes to permanent law which have been identified by the staff and by the Department of Defense.

Section 811 contains changes related to the Goldwater-Nichols Department of Defense Reorganization Act of 1986. Section 812 consists of changes to other provisions of law.

Section 813 establishes the position of Assistant to the Secretary of Defense for Atomic Energy as a statutory position. This position has existed within DOD through administrative action, and this will provide a statutory basis for Presidential appointment and Senate confirmation. This is a conforming change resulting from last year's DOD Authorization Act which established the Nuclear Weapons Council and abolished the Military Liaison Committee.

These are routine changes that have been cleared on both sides. We have cleared it with the Senator from Virginia and I urge the adoption of the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER proposed an amendment numbered 793.

Mr. WARNER. Mr. President, I ask unanimous consent that that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, line 11, strike out "$9,150,436,000" and insert in lieu thereof "$9,272,047,000".

On page 4, line 14, strike out "$7,164,139,000" and insert in lieu thereof "$7,164,439,000".

On page 14, line 24, strike out "$2,869,013,000" and insert in lieu thereof "$2,860,598,000".

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,699,452,000".

On page 15, line 14, strike out "$3,877,680,000" and insert in lieu thereof "$3,870,680,000".

On page 110, beginning with line 18, strike out all down through line 13 on page 114 and insert in lieu thereof the following:

SEC. 811. AMENDMENTS RELATED TO THE ENACTMENT OF THE GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

(a) Amendments to Public Law 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"§ 152. Chairman: appointment; grade and rank".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

(4)(A) The heading for section 743 is amended by adding at the end "; **Commandant of the Marine Corps**".

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(5) Section 1406(i) is amended—

(A) by inserting "AND VICE CHAIRMEN" after "CHAIRMEN" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(6) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(7) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(8) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) Amendments to Title 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"§ 413. Chairman and Vice Chairman of the Joint Chiefs Staff

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) Miscellaneous Amendments.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

(e) Effective Dates.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

SEC. 812. TECHNICAL AND CLERICAL AMENDMENTS

(a) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means"

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "Applicability.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(b) Amendments to Title 37.—Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) Amendments to Public Law 100-26.—Public Law 100-26 is amended—

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

(d) Miscellaneous Amendment.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-591) is amended by inserting "the first place it appears" before the semicolon.

(e) Effective Dates.—(1) The amendments made by subsection (c) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

(2) The amendment made by subsection (d) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

SEC. 813. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY AND CHAIRMAN OF NUCLEAR WEAPONS COUNCIL

(a) STATUTORY ESTABLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"**§ 141. Assistant to the Secretary of Defense for Atomic Energy**

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(b) EXCEPTION TO SENATE CONFIRMATION.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

On page 210, line 4, strike out "$166,500,000" and insert in lieu thereof "$270,000,000".

Mr. WARNER. Mr. President, the Senator from Georgia has exactly stated the case. It is clear on both sides. I move the amendment.

The PRESIDING OFFICER. If all Senators yield back their time, the question is on agreeing to the amendment of the Senator from Georgia.

The amendment (No. 793) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 322, H.R. 2712. This is in accordance with the order earlier entered.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2712) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

H.R. 2712

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, **[**$493,649,000**]** *$502,972,000,* of which $75,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1987, as contained in Public Law 99-591, shall remain available until expended **[**: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors**]**: *Provided, That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: Provided further, That appropriations herein made shall be available for the Bureau of land Management to revise policy statements and regulations concerning wild horses and burros: Provided further, That appropriations herein made shall be available for reviewing and implementing proposals to establish humane wild horse and burro sanctuaries, pursuant to the Committee's reprogramming guidelines: Provided further, That the Bureau shall submit a report to the House and Senate Committees on Appropriations by April 1, 1988, reviewing the current status of wild horse and burro populations and recommending future policies for Congressional consideration.*

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, **[**$1,981,000**]** *$2,736,000,* to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, **[**$4,170,000**]** *$10,235,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; **[**$57,817,000**]** *$58,134,000,* to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.), but not less than $8,506,000 (43 U.S.C. 1901), and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau.

Notwithstanding any other provision of law or any court order, the Secretary of the Interior, through the State Director, Utah, Bureau of Land Management, is authorized and directed to negotiate with the appropriate government officials in the State of Utah and to take any action necessary to consummate an exchange of Federal lands and improvements thereon identified as tracts U-a and U-b, for State lands of equal value. Any exchange involving such lands shall include the transfer of funds conveyed to the BLM for the management and protection of the tracts U-a and U-b.

Notwithstanding any other provision of law or any court order, the Secretary of the Interior is authorized and directed to revoke the Bureau of Reclamation's Dixie project withdrawal, created by Commissioner's order of June 11, 1943; Public Land Order No. 1868 of June 3, 1959; Public Land Order No. 4036 of June 6, 1966; and Public Land Order No. 4061 of July 18, 1966, and to complete any land actions with regard to those lands that he believes to be in the public interest.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge**[**; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $335,524,000**]** *$342,859,000,* of which $4,300,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which **[**$6,409,000**]** *$6,528,000* shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and shall remain available until expended**[**: *Provided,* That, of the amounts provided above, not less than $1,204,000 is available for the National Fishery Research and Development Center at Wellsboro, Pennsylvania**]**.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; **[**$21,054,000**]** *$19,437,000,* to remain available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

MIGRATORY BIRD CONSERVATION ACCOUNT

For an advance to the migratory bird conservation account, as authorized by the Act of October 4, 1971, as amended (16 U.S.C. 715k-3, 5), **[**$1,000,000**]** *$3,561,000,* to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, **[**$39,074,000**]** *$72,860,000,* to be derived from the Land and Water Conservation Fund, to remain available until expended**[**, including $1,000,000 for the Tensas NWR, Louisiana**]**.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $5,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 145 passenger motor vehicles, of which 144 are for replacement only (including 41 for police-type use); not to exceed $350,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

(INCLUDING RESCISSION)

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $424,000 for the Roosevelt Campobello International Park Commission **[**and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $725,129,000**]** *$731,755,000,* without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451): *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation**[**: *Provided further,* That none of these funds may be used to compensate a quantity of staff greater than existed as of May 1, 1986, in the Office of Legislative and Congressional Affairs of the National Park Service or to compensate individual staff members assigned subsequent to May 1, 1986, at grade levels greater than the staff replaced]*: Provided further, That to advance the mission of the National Park Service for a period of time not to extend beyond fiscal year 1988, the Secretary of the Interior is authorized to charge park entrance fees for all units of the National Park System, except as provided herein, of an amount not to exceed $3 for a single visit permit as defined in 36 CFR 71.7(b)(2) and of an amount not to exceed $5 for a single visit permit as defined in 36 CFR 71.7(b)(1): Provided further, That the cost of a Golden Eagle Passport as defined in 36 CFR 71.5 is increased to a reasonable fee but not to exceed $25 until September 30, 1988: Provided further, That for units of the National Park System where entrance fees are charged the Secretary shall establish an annual admission permit for each individual park unit for a reasonable fee but not to exceed $15, and that purchase of such annual admission permit for a unit of the National Park System shall relieve the requirement for payment of single visit permits as defined in 36 CFR 71.7(b): Provided further, That all funds derived from National Park Service recreation fees during fiscal year 1988, and all funds collected by the National Park Service during fiscal year 1988 under subsections (a), (b), and (c) of section 4 of the Land and Water Conservation Fund Act of 1965, as amended, shall be transferred to the General Fund of the Treasury of the United States: Provided further, That notwithstanding any other provision of this Act, no admission fee may be charged at any unit of the National Park System which provides significant outdoor recreation opportunities in an urban environment and to which access is publicly available at multiple locations, nor shall an admission fee be charged at any unit of the National Park System which has a current, specific statutory exemption: Provided further, That where entrance fees are established on a per person basis, children 12 and under shall be exempt from the fees: Provided further, That if permanent statutory language is enacted during fiscal year 1988 establishing entrance fees for the National Park System that such language shall supersede the provisions on recreation fees contained in this Act: Provided further, That of the amounts appropriated under this head, $18,500,000 shall be distributed to units of the National Park System, to be available for resource protection, research, interpretation, and maintenance activities related to resource protection, to be distributed in the following manner: 50 percent shall be allocated to each unit of the System based on each unit's proportion of the total budgeted in the prior fiscal year for park operating expenses, and 50 percent shall be allocated to units collecting user fees or entrance fees based on each units proportion of the total entrance and user fee revenues collected during the prior fiscal year: Provided further, That when authorized by the head of the collecting agency, volunteers may sell permits and collect fees authorized or established pursuant to section 4 of the Land and Water Conservation Fund Act of 1965, and funds appropriated or otherwise available to the collecting agency shall be available to cover the cost of any surety bond as may be required of any such volunteer in performing such authorized services under that section: Provided further, That $5,500,000 of the funds provided under this head in Public Law 99-591 for the Steamtown National Historic Site are rescinded: Provided further, That notwithstanding any other provision of law, Public Law 96-565 is amended by adding the following at the end of section 104(a): "The Secretary may lease from the Department of Hawaiian Home Lands said trust lands until such time as said lands may be acquired by exchange as set forth herein or otherwise acquired. The Secretary may enter into such a lease without regard to fiscal year limitations": Provided further, That none of the funds appropriated to the National Park Service shall be used to remove, obstruct, dewater, fill or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska: Provided further, That of the funds hereafter available to the National Park Service, $85,000 shall be available annually for the town of Harpers Ferry, West Virginia, for police force use: Provided further, That funds appropriated to the National Park Service may be used for the purchase or hire or personnel services without regard to personnel laws as contained in title V of the United States Code, only to provide for the orderly transition from regional finance offices to a central finance office: Provided further, That the National Park Service shall issue a Special Use Permit to the Garkane Power Association in accordance with section 5(b) of Public Law 92-207 (Capitol Reef Enabling Act) for a period of 25 years, following the easement described in Special Use Permit No. I-45np-44, dated October 24, 1949, and shall authorize power transmission capacity not to exceed 34.5 KV: Provided further, That upgrading of existing facilities shall be conducted in a manner which will minimize visual impacts in the park.*

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, [$12,753,000] *$12,983,000.*

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), [$25,000,000] *$34,050,000* to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1989: *Provided*, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation*: Provided further, That $3,000,000 of the amount appropriated herein shall remain available until expended to establish a Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation between the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1988 shall include consideration of such factors as—*

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1988;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1988; and

(C) the availability of matching contributions in the State: Provided further, That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

URBAN PARK RECREATION FUND

(RESCISSION)

Of the amounts previously appropriated under this head and unobligated, $2,800,000 is hereby rescinded.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), [$86,056,000] *$81,331,000*, to remain available until expended, of which $4,700,000 shall be derived by transfer from the National Park System Visitor Facilities Fund, including $1,500,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290 and not to exceed $300,000 for assistance to Mariposa County, California for a solid waste disposal facility: *Provided*, That the National Park Service may not pay a fee for use of the facility at rates higher than for other users of the facility: *Provided further*, That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $31,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1988 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, [$48,431,000] *$76,323,000* to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,433,000 to administer the State Assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $27,000 shall be available in 1988 for administrative expenses of the State grant program*: Provided further, That notwithstanding any other provisions of the Land and Water Conservation Fund Act of 1965, Public Law 88-578, as amended, or other law, Land and Water Conservation Fund assisted land in Pine Bluff, Arkansas, assisted under project No. 05-00128 and No. 05-00196, may be exchanged for existing public lands if Land and Water Conservation Fund conversion criteria regarding equal fair market value* *and reasonably equivalent use and location are met.*

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $4,920,000: *Provided, That contracts awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.*

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 370 passenger motor vehicles, of which 320 shall be for replacement only, including not to exceed 300 for police-type use and 25 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen (18) months of the date on which this bill is enacted. After completion and filing, the EIS shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway. Further, the Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

Geological Survey

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; [$447,324,000] *$449,908,000*: *Provided,* That $60,364,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 25 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Geological Survey, and that within appropriations herein provided, Geological Survey officials may authorize either direct procurement of or reimbursement for expenses incidental to the effective use of volunteers such as, but not limited to, training, transportation, lodging, subsistence, equipment, and supplies: *Provided further,* That provision for such expenses or services is in accord with volunteer or cooperative agreements made with such individuals, private organizations, educational institutions, or State or local government: *Provided further,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

Minerals Management Service

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; [$169,313,000] *$171,267,000*, of which not less than [$50,929,000] *$50,179,000* shall be available for royalty management activities including general administration: *Provided,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project[: *Provided further,* That notwithstanding any other provision of law, $128,600,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury: *Provided further,* That none of the funds in this Act may be used to implement a rule which modifies the product value guidelines of the Minerals Management Service, including the proposed modification to NTL-5].

Subsection (g)(5)(A) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)(5)(A)) is amended—

(1) by striking out "such account" in the second sentence and inserting in lieu thereof "an escrow account established pursuant to an agreement under section 7";

(2) by designating the indented clause as clause (ii);

(3) in the first sentence of the clause (ii) by striking "any" and inserting in lieu thereof "a", by striking out "all" and by inserting in lieu thereof "any additional", and by inserting "or credited to" before "the escrow account"; and

(4) by inserting before clause (ii) the following new clause:

"(i) Twenty-seven percent of all bonuses, rents, and royalties, and other revenues (derived from any bidding system authorized under subsection (a)(1)), excluding Federal income and windfall profits taxes, and derived from any lease issued after September 18, 1978, of any tract which lies wholly within three nautical miles of the seaward boundary asserted by the Federal Government in the boundary dispute, together with all accrued interest thereon, shall be paid to the State either—

"(I) within thirty days of December 1, 1987, or

"(II) by the last business day of the month following the month in which those revenues are deposited in the Treasury, whichever date is later.".

Bureau of Mines

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, [$132,727,000] *$158,392,000*, of which [$82,859,000] *$97,459,000* shall remain available until expended: *Provided*, That not more than [$1,890,000] *$2,147,000* of the amount appropriated may be used for executive direction: *Provided further*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

Office of Surface Mining Reclamation and Enforcement

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; [$102,305,000] *$105,690,000*, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1988: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States in fiscal year 1988, moneys collected pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977*: Provided further, That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.*

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, [$194,899,000] *$205,439,000*, to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided*, That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That the Secretary of the Interior may deny 50 percent of an Abandoned Mine Reclamation fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87[: *Provided further*, That section 405(k) of Public Law 95-87 is amended by adding at the end thereof, "except for purposes of subsection (c) of this section with respect to the Navajo, Hopi, and Crow Indian Tribes"]: *Provided further*, That 23 full time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, [$966,452,000] *$979,471,000*, of which not to exceed [$51,121,000] *$53,557,000* for higher education scholarships and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), and $25,000,000 for firefighting shall remain available for obligation until September 30, 1989, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1989: *Provided*, That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,971,000, to remain available until expended*: Provided further, That hereafter, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the same basis as such funds were distributed in fiscal year 1986: Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That notwithstanding any provision of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act, the amounts appropriated for fiscal year 1988 for the Bureau of Indian Affairs for the Institute of American Indian Arts shall be available *to operate the Institute until the Board of Regents and President of the Institute have been named and had an opportunity to organize, and* for use under part A of that Act: *Provided further,* That [$250,000 of the funds made available in this Act] *savings realized by the Bureau of Indian Affairs from the transfer of fish hatcheries to the Fish and Wildlife Service* shall be available for cyclical maintenance of tribally-owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That none of the funds contained in this Act shall be available for any payment to any school to which such school would otherwise be entitled pursuant to section 1128(b) of Public Law 95-561, as amended, until after July 1, 1988: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate Committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That none of the funds in this Act shall be used to implement proposed initiatives to transfer any school operated by the Bureau to the control of any tribe, State, or local government agency (except that this prohibition shall not apply with respect to the transfer of a Bureau-operated school to the control of an Indian tribe under a contract entered into under the Indian Self-Determination and Education Assistance Act if the governing body of the Indian tribe approves of the transfer); to charge tuition at Bureau post-secondary schools; to implement the proposed economic self-assistance initiative (except for a limited demonstration program); to change the method of funding tribal contractor indirect costs, including imposition of a flat rate for contract support costs; to make available to the Bureau administrative deductions collected from Indian timber sales; to contract out the administration of the Bureau forestry program or any other Bureau-operated programs without prior approval of the Committees on Appropriations; or to implement any reorganizations, including "regionalization" of programs, without the prior approval of the Committees on Appropriations: *Provided further,* That Public Law 99-349 is amended by deleting under the heading "Bureau of Indian Affairs, Operation of Indian Programs" the second, third, and fourth provisos and substituting: "*Provided further,* That the funds appropriated hereunder shall be used pursuant to the consent decree and subsequent court orders in United States v. Michigan (M-26-73)"*: Provided further, That $120,000 of the amounts provided for education program management shall be available for a grant to the CloseUp Foundation.*

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, [$73,967,000] *$65,780,000,* to remain available until expended: *Provided,* That $1,482,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, water production and administration related to the relocation of Navajo families[: *Provided further,* That $2,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally-owned fish hatcheries and related facilities :*Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation]: *Provided further,* That none of the funds available in this Act may be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' housing improvement program that were not in effect on October 1, 1986.

ROAD CONSTRUCTION

[For construction of roads and bridges pursuant to authority contained in 23 U.S.C. 203, the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and the Act of May 26, 1928 (45 Stat. 750; 25 U.S.C. 318a), $1,000,000 for the Honobia Indian Road in Oklahoma, to remain available until expended: *Provided,* That not] *Not* to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, *99-283,* and 99-503, including funds for necessary administrative expenses, [$13,340,000] *$14,334,000,* to remain available until expended: *Provided,* That not to exceed $10,700,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

MISCELLANEOUS TRUST FUNDS

TRIBAL TRUST FUNDS

In addition to the tribal funds authorized to be expended by existing law, there is appropriated in fiscal year 1988 and thereafter to the Secretary of the Interior for the benefit of the tribes on whose behalf such funds were collected, not to exceed $1,000,000 in each fiscal year from tribal funds not otherwise available for expenditure.

REVOLVING FUND FOR LOANS

During fiscal year 1988, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,085,000, to remain available until expended: *Provided,* That during fiscal year 1988, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

Title II of the Indian Financing Act of 1974 (25 U.S.C. 1481, et seq.) is amended—

(1) by redesignating section 218 as section 219, and

(2) by inserting after section 217 the following new section:

"SEC. 218. (a) Notwithstanding any other provision of this Act (other than subsection (b)) or any other provision of law, the Secretary of the Interior is authorized to use any funds available to the Secretary to pay the holder of the guaranty certificate of any loan guaranteed, or the lender of any loan insured, by the Secretary under this title that is in default.

"(b)(1) The total amount of funds available solely by reason of subsection (a) to pay lenders and holders of guaranty certificates with respect to loans in default during any fiscal year shall not exceed $20,000,000.

"(2) The amount of funds available to the Secretary solely by reason of subsection (a) to make payments with respect to any loan shall not exceed the fair market value of any property securing such loan.

"(c) Any proceeds received into the Treasury of the United States from the sale of property that secures a loan with respect to which the Secretary has made a payment from funds available solely by reason of subsection (a) shall, to the extent the proceeds do not exceed such payment, be credited as a reimbursement to the appropriation from which such payment was made.

"(d) Nothing in this section shall affect any funds available in the Indian Loan Guaranty and Insurance Fund or any funds appropriated under the authority of section 217.".

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which 100 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, [$74,809,000] *$79,999,000* of which (1) [$71,847,000] *$77,037,000* shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam

Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $2,962,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided, further, That funds previously appropriated under this head for a loan to the Government of the United States Virgin Islands, for construction of an extension to the Alexander Hamilton Airport runway, St. Croix, shall be available for issuance of the loan without approval of a multiyear grant of Airport Improvement Program funds from the Federal Aviation Administration: Provided further, That $540,000 of the amounts provided for technical assistance shall be available for a grant to the CloseUp Foundation and $500,000 shall be available for the establishment of a disaster contingency fund.*

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants for the expenses of the High Commissioner of the Trust Territory of the Pacific Islands; grants for the compensation and expenses of the Judiciary of the Trust Territory of the Pacific Islands; grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; [$59,390,000] *$21,590,000,* of which [$50,940,000] *$13,590,000* is for operations [including $24,350,000 for payment of claims pursuant to the Micronesian Claims Act of 1971]: *Provided further,* That section 105 of Public Law 95-134 (91 Stat. 1159) is amended by inserting after the word "Islands" the words "(TTPI), or TTPI constituent or successor governments,"; and of which [$8,450,000] *$8,000,000* is for construction, to remain available until expended: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, [and 223] *223, 232, and 233* of the Compact of Free Association, [$33,220,000] *$33,620,000,* including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That notwithstanding the provisions of the Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further, That funds previously appropriated under this head shall be available for audit purposes as identified in section 233 of the Compact of Free Association: Provided further, That the $2,500,000 provided herein for the Enjebi Community Trust Fund, and all funds appropriated heretofore and hereafter into such Fund, and all earnings and distributions therefrom, shall not be subject to any form of Federal, State, or local taxation: Provided further, That $400,000 provided herein shall be for construction at the Jaluit Atoll.*

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of the Interior, [including $1,722,000 for the Immediate Office of the Secretary, $45,849,000] *$48,237,000* of which not to exceed $10,000 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, [$23,109,000] *$23,282,000.*

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, [$17,700,000] *$17,858,000.*

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, [$2,500,000] *$718,000* [which, together with unexpended balances in this account and personnel of the Office of Construction Management, shall be transferred to the "construction" appropriation of the National Park Service] for continued operation of the facilities construction, operation and maintenance programs and to manage the facilities improvement and repair program of the Bureau of Indian Affairs.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 8 aircraft, all of which shall be for replacement: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Sec. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

Sec. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $300,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

Sec. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

Sec. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

Sec. 107. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, pre-leasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190.

[Sec. 108. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.]

Sec. [109] *108.* Notwithstanding any other provision of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

Sec. [110] *109.* No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

[Sec. 111. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended by adding at the end the following new subsection:

"(j)(1) Any vessel, rig, platform, or other structure used for the purpose of exploration or production of oil and gas on the Outer Continental Shelf south of 49 degrees North latitude shall be built—

["(A) in the United States either by a United States chartered corporation or by a joint venture between a United States chartered corporation and a foreign corporation, with at least 50 percent of total person hours expended in the United States; and

["(B) from articles, materials, or supplies at least 50 percent of which by cost, shall have been mined, produced, or manufactured, as the case may be, in the United States.

["(2) The requirements of paragraph (1) shall not apply to any vessel, rig, platform, or other structure which was built, which is being built, or for which a building contract has been executed, on or before October 1, 1987, and shall expire with respect to any vessel, rig, platform, or other structure for which either the bidding or award process has commenced on or after September 30, 1991.

["(3) The Secretary may waive—

["(A) the requirement in paragraph (1)(B) whenever the Secretary determines that 50 percent of the articles, materials, or supplies for a vessel, rig, platform, or other structure cannot be mined, produced, or manufactured, as the case may be, in the United States; and

["(B) the requirement in paragraph (1)(A) upon application, with respect to any classification of vessels, rigs, platforms, or other structures on a specific lease, when the Secretary determines that at least 50 percent of such classification, as calculated by number and by weight, which are to be built for exploration or production activities under such lease will be built in the United States in compliance with the requirements of paragraph (1)(A).".]

Sec. 110. The Secretary of the Navy is authorized to transfer to the Guam Power Authority (GPA), pursuant to the payment provisions described in the conference report on the Continuing Appropriations Act, 1985 (House Report No. 98-1159), those Navy-owned electric power generation, transmission and distribution facilities, and equipment (excluding distribution facilities required by the military) on Guam as specified in the customer-supplier contract to be negotiated between the Navy and the GPA together with associated land interests. Transfer of such power generation, transmission and distribution facilities, and equipment shall not occur until the GPA assumes full responsibility for islandwide electrical power supply to military and civilian customers on Guam. GPA shall assume full responsibility when it meets all performance standards specified in the August 1986 independent third party plan for takeover of the islandwide power responsibilities or other performance standards mutually agreed upon by GPA and Navy.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Forest Service

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, [$137,670,000] *$136,610,000* of which $4,000,000 shall remain available until expended for competitive research grants, as authorized by section 5 of Public Law 95-307.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, [$67,734,000] *$73,894,000,* to remain available until expended, as authorized by law: *Provided,* That a grant of [$3,000,000] *$2,800,000* shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95-495.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for [repayment of advances] *liquidation of obligations* made in the preceding fiscal years pursuant to 16 U.S.C. 556d for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", [$1,218,406,000] *$1,263,799,000,* of which [$252,975,000] *$325,121,000* for reforestation and timber stand improvement, cooperative law enforcement, firefighting, and maintenance of forest development roads and trails shall remain available for obligation until September 30, 1989[: *Provided,* That not more than $30,366,000 shall be obligated for support costs for timber sales in fiscal year 1988.]

CONSTRUCTION

[(INCLUDING TRANSFER OF FUNDS)]

For necessary expenses of the Forest Service, not otherwise provided for, for construction, [$200,914,000] *$215,519,000,* to remain available until expended, of which [$42,143,000] *$23,410,000* is for construction and acquisition of buildings and other facilities; and [$158,771,000] *$192,109,000* is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205[;- and $25,000,000 to be derived by transfer from the permanent appropriation entitled "Timber purchaser roads constructed by the Forest Service";] *and $166,000,000 are appropriated for the fiscal year ending September 30, 1989, and shall remain available until expended: Provided,* That funds becoming available in fiscal year 1988 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States.

Notwithstanding any other provision of the law, of the funds provided under this head, $6,600,000, to remain available until expended, is provided to the appropriate entity in the city of Kellogg, Idaho for construction of a gondola in the Coeur d'Alene, National Forest: Provided, That these funds shall be matched from other sources: Provided further, That of these funds, $200,000 is provided to the Forest Service to proceed with all necessary land exchanges.

There is hereby authorized and appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $3,800,000, to be transferred to the Forest Service, to remain available until expended for road construction and improvement of the Snow Bowl Road, Arizona: Provided, That the funds authorized and appropriated by this section shall be available in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, [$36,327,000] *$49,313,000* to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, the Secretary of Agriculture, as soon as practicable, shall—

(1) acquire the following described lands (containing approximately 2,000 acres) from the owner of such real property:

All that portion of sections 17, 18, 19, and 20 in Township 25 north range 11 west Mt. Diablo Meridian Trinity County, California, described as follows:

The west half; of the southwest quarter; the west half of the east half of the southwest quarter of section 17.

Lots 9, 10, 11, and 12 and the southeast quarter of section 18.

Lots 5, 6, 7, 8, 17, and 18 and the northeast quarter of section 19.

The west half the northeast quarter; the west half of the northeast quarter of the northwest quarter; the southeast quarter of the northeast quarter of the northwest quarter; the southeast quarter of the northwest quarter; the southwest quarter of the northeast quarter and the south half of the northwest quarter of the northeast quarter of section 20.

All that portion of sections 13, 14, and 24 in township 25 north range 12 west Mount Diablo Meridian Trinity County, California, described as follows:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12; the west half of the northeast quarter; the east half of the west half; the northwest quarter of the northwest quarter; and the southwest quarter of the southwest quarter of section 13.

Lots 3, 4, 5, and 6; the west half of the northwest quarter of the northeast quarter; and the east half of the northeast quarter of the northeast quarter; the southeast quarter of the southeast quarter; and the southeast quarter of the northeast quarter; and the northeast quarter of the northwest quarter of section 14.

Lots 1, 2, 7, and 8 of section 24.

Tracts 44, 55, and 76;

(2) in consideration of such acquisition, reduce the aggregate outstanding loan balance, with respect to loans made to such owner by the Farmers Home Administration, by an amount equal to the fair market value (as determined by the Secretary) of such real property, plus the reasonable expenses incurred by such owner in executing such transfer of title, plus an amount equal to the reasonably expected liability of such owner for Federal, State, and local taxes incurred on account of such transfer of title, except that such reduction shall not exceed $1,250,000; and

(3) transfer such lands to the Forest Service for such sums as the Secretary determines to be appropriate, which lands shall be added to, and administered as part of, the Yolla-Bolly Middle Eel Wilderness.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $75,000,000 is hereby rescinded.

TIMBER SALVAGE SALES

For design, engineering and supervision of construction of roads, for salvage timber sales, and for sale preparation and supervision of harvesting of such timber, $40,000,000, to remain available until expended: Provided, That the appropriation shall be merged with and made a part of the designated fund authorized by section 14(h) of Public Law 94-588, October, 1976: Provided further, That moneys received from the timber salvage sales program in fiscal year 1988 shall be considered as money received for the purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, and Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 186 passenger motor vehicles of which nine will be used primarily for law enforcement purposes and of which 179 shall be for replacement only, of which acquisition of 157 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 50 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the National Forest System appropriation for the emergency rehabilitation of burned-over lands under its jurisdiction.

Appropriations and funds available to the Forest Service shall be available to comply with the requirements of section 313(a) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1323(a)).

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest: *Provided,* That not less than [$21,502,000] *$61,502,000* shall be made available to the Forest Service for obligation in fiscal year 1988 from the Timber Salvage Sales Fund appropriation.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprograming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Of the funds available to the Forest Service, $2,500 is available to the Chief of the Forest Service for official receptions and representation expenses.

The boundary of the Cranberry Wilderness located within the Monongahela National Forest, West Virginia, is modified as depicted on a map entitled "Cranberry Wilderness Area Revised" dated October 1987, on file in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, D.C.

All of the funds available to the Forest Service in fiscal year 1988 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of the date of enactment of this Act and shall remain available until expended.

[Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

[Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), not more than $41,471,000 shall be available for timber supply from, and protection and management, and resource protection on the Tongass National Forest in fiscal year 1988.]

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

[Of the funds deposited and retained in the Clean Coal Technology Reserve pursuant to Public Law 98-473, $50,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, $200,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, and $100,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended.]

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901, et seq., $350,000,000 are appropriated for the fiscal year beginning October 1, 1987, and shall remain available until expended, and $500,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended.

No later than sixty days following enactment of this Act, the Secretary of Energy shall, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), issue a general request for proposals for emerging clean coal technologies which are capable of retrofitting or repowering existing facilities, for which the Secretary of Energy upon review may provide financial assistance awards. Proposals under this section shall be submitted to the Department of Energy no later than ninety days after issuance of the general request for proposals required herein, and the Secretary of Energy shall make any project selections no later than one hundred and twenty days after receipt of proposals: *Provided,* That projects selected are subject to all provisos contained under this head in Public Law 99-190: *Provided further,* That pre-award costs incurred by project sponsors after selection and before signing an agreement are allowable to the extent that they are related to (1) the preparation of material requested by the Department of Energy and identified as required for the negotiation; or (2) the preparation and submission of environmental data requested by the Department of Energy to complete National Environmental Policy Act requirements for the projects: *Provided further,* That pre-award costs are to be reimbursed only upon signing of the project agreement and only in the same ratio as the cost-sharing for the total project[: *Provided further,* That Federal financial assistance shall not be in the form of grants:] *Provided further, That notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than 88 full-time permanent Federal employees to administer the Clean Coal Technology Program.*

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, [$345,394,000] *$281,390,000,* to remain available until expended, of which $230,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909[),-and of which $9,000,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5821(b)(1)(B)),] *and pursuant to 41 U.S.C. 12, of the amount appropriated under this head, $12,000,000 shall be available to construct DOE Fossil Energy building B-26, and pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $9,000,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $15,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable,* and [$500,000] *$21,394,000* to be derived by transfer from amounts derived from fees for guarantees of obligations collected pursuant to section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, as amended (42 U.S.C. 5919), and deposited in the "Energy security reserve" established by Public Law 96-126, *and $62,000,000 to be derived by transfer from the "Energy security reserve.", such sums to remain available until expended: Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas[: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this head in Public Law 99-190 for demonstration of the Kilngas coal gasification process, which remain unobligated, shall be available for carrying out any fossil energy research and development activities.]

Of the funds herein provided, $35,000,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 25 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1988, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $159,700,000, to remain available until expended: *Provided, That section 7430(b) of title 10, United States Code, is amended by adding after paragraph (2) the following:*

"(3) For purposes of paragraph (2), the term 'petroleum' does not include natural gas liquids,"

and section 7422(c)(1)(B)(ii) of such title is amended by inserting "(other than natural gas liquids)" after "petroleum".

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, [$162,247,000] *$335,824,000,* to remain available until expended, *of which $2,000,000 shall be made available from funds previously appropriated under this head for steel production by direct strip casting* and *of which $36,133,000, notwithstanding any other provision of law, shall be derived from unexpended balances in the Department of Energy Deposit Fund Escrow account: Provided,* That [up to] $200,000,000 *shall be* [to remain available until expended] for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) [which shall be available only in such sums as are equal to the difference between $200,000,000 and the excess amount for fiscal year 1988 disbursed by the Secretary of Energy for use in energy conservation programs under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502)]: *Provided,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums [and the excess amount disbursed] shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1987[,-and of which $6,000,000 shall be available for a grant for an energy demonstration and research facility at Northwestern University as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note):] *Provided further,* That $4,800,000 of the amount provided under this heading shall be available for continuing a research and development initiative with the National Laboratories, industry, universities, or others for new technologies up to proof-of-concept testing to increase significantly the energy efficiency of processes that produce steel: *Provided further,* That obligation of funds for these activities shall be contingent on an agreement to provide cash or in-kind contributions to the initiative or to other collaborative research and development activities related to the purpose of the initiative equal to 30 percent of the amount of Federal Government obligations: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not acceptable as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, [$21,680,000] *$21,741,000: Provided, That none of the funds herein made available may be used by the Economic Regulatory Administration or the Department of Energy to pursue judicial enforcement of any alleged violation of 10 C.F.R. 212.186 which action has not completed final administrative review by the Department and been certified by the Federal Energy Regulatory Commission.*

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,206,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $164,225,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), [$603,744,000] *$806,934,000*, to remain available until expended: *Provided, That petroleum acquisition shall not exceed an approximate annual average of 75,000 barrels per day through February 1, 1988, and shall be increased to an annual average rate of 100,000 barrels per day thereafter.*

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $61,599,000.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; [$943,388,000] *$947,235,000* together with payments received during the fiscal year pursuant to 42 U.S.C. [300aa-2] *300cc-2* for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until September 30, 1989; and [$10,000,000] *$15,000,000* shall remain available until expended, for the Indian Catastrophic Health Emergency Fund *and contract medical care*: *Provided further*, That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available until September 30, 1989 for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the establishment of an Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1989.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, [$67,592,000] *$57,511,000*, to remain available until expended.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided*, That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further*, That non-Indian patients may be extended health care at all Indian Health Service facilities, if such care can be extended without impairing the ability of the Indian Health Service to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further*, That none of the funds in this Act shall be used to implement proposed eligibility regulations until such regulations have been submitted to and approved by the Committees on Appropriations: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That funds provided in this Act may be used to reimburse the travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further,* That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206) is amended by adding the following sentence at the end thereof: "For purposes of section 224 of the Public Health Service Act of July 1, 1944 (42 U.S.C. 233(a)), as amended by section 4 of the Act of December 31, 1970 (84 Stat. 1870), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections 103 or 104(b) of this Act [or the so-called Buy Indian Act in the Act of April 30, 1908 (35 Stat. 71) or section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47)] is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.".

The paragraph under the heading "Administrative Provisions, Indian Health Service" that is under the superior headings "Health Resources and Services Administration" and "Department of Health and Human Services" in title II of the Department of the Interior and Related Agencies Appropriations Act, 1987, which is contained in section 101(h) of Public Law 99-500 (100 Stat. 1783-277) and in section 101(h) of Public Law 99-591 (100 Stat. 3341-277) is amended by striking out all after "any political subdivision of the State," in the seventh proviso and inserting in lieu thereof "any corporation (including the University of Alaska), any partnership, any business organization, any non-profit organization, or any person, and may receive or pay money to the extent that such receipt or payment is necessary to equalize the exchange: Provided, That available funds previously appropriated for this project may be used for this purpose and that any money received by the Secretary shall be credited to the appropriation for Indian Health Facilities and be used to offset the costs of constructing or lease-purchase of the hospital facilities in Alaska described in this section: Provided further, That the IHS prepare and submit a report prior to June 1988, which sets forth the legal authority necessary to enter into a lease-purchase contract, identifies the extent of tribal interest in the construction of health facilities for lease-purchase to the IHS, compares the advantages versus the disdvantages to the Government of lease-purchase to direct Federal construction of the Anchorage facility, including costs of construction, and discusses the efforts expended by the IHS in protecting the Federal investment to date.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, $66,343,000, of which $49,170,000 shall be for part A and $14,707,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1989.

OTHER RELATED AGENCIES

Navajo and Hopi Indian Relocation Commission

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $25,270,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; [$203,635,000] *$200,946,000,* including such funds as may be necessary to support American overseas research centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, [$7,650,000] *$8,150,000,* to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, [$19,254,000] *$17,669,000,* to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses to design and construct a base camp at the Fred L. Whipple Observatory[,-$1,315,000,] *and a new replacement dormitory at the Fred L. Whipple Observatory, and a new technical instrument support shop at the Smithsonian Environmental Research Center-Edgewater, and a new docking facility on Barro Colorado Island, and a new dormitory at the Smithsonian Tropical Research Institute, $2,585,000,* to remain available until expended: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, [$37,401,000] *$37,547,000,* of which not to exceed $2,420,000 for the special exhibition program shall remain available until expended.

[REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $400,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.]

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356), including hire of passenger vehicles and services as authorized by 5 U.S.C 3109, [$3,827,000] *$4,135,000.*

ENDOWMENT CHALLENGE FUND

For the purpose of an endowment challenge fund for the Woodrow Wilson International Center for Scholars, $500,000, to remain available until September 30, 1990: Provided, That such sums shall become available only to the extent matched on a three-to-one basis by private funds: Provided further, That these funds may be invested in securities approved by the Board of Trustees and the income from such investments may be used to support programs of the Center deemed appropriate by the Trustees and by the Director of the Center.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$138,111,000] *$140,056,000* shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$28,420,000] *$25,900,000,* to remain available until September 30, 1989, to the National Endowment for the Arts, of which [$20,000,000] *$16,200,000* shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$111,140,000] *$112,240,000* shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, [$28,500,000] *$27,051,000,* to remain available until September 30, 1989, of which [$16,500,000] *$15,051,000* shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, [$4,000,000] *$4,500,000.*

MARTHA GRAHAM CENTER OF CONTEMPORARY DANCE

MATCHING GRANT

There is hereby authorized a program of support for the Martha Graham Center of Contemporary Dance, Inc. ("Center"), to be administered by the National Endowment for the Arts ("Endowment") in accordance with standard Federal grant procedures.

There is hereby appropriated $4,125,000, to remain available until expended to carry out the provisions of this section. Up to $125,000 is to be provided on a non-matching basis to the Center for planning, development, and administrative expenses of the project, as well as for developing a comprehensive plan for the project, to be submitted to the Endowment by September 30, 1988, to perpetuate Martha Graham's artistic visions and standards. Such funds may be disbursed immediately upon application. Subject to receipt of the comprehensive plan, the implementation of which would assure perpetuation of Martha Graham's vision and standards, the remaining funds are to be provided on no less than a one to one matching basis by the Center and to be disbursed only after a matching amount for the following projects is raised: $1,000,000 to preserve Martha Graham's works; and $3,000,000 for expansion and renovation of studio space and creation of adequate archival space and museum space. Funds shall be disbursed on a project by project basis as soon as documents substantiating the receipt of these funds are certified by the National Endowment for the Arts.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, [$22,000,000] *$21,948,000,* including $100,000 as authorized by 20 U.S.C. 965(b): *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That the Museum Services Board shall not meet more than three times during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $446,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,719,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, [$2,967,000] *$3,013,000.*

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1989.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,531,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,000,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, [$2,145,000] *$2,183,000*: *Provided,* That hereafter persons other than members of the United States Holocaust Memorial Council may be designated as members of committees associated with the United States Holocaust Memorial Council subject to appointment by the Chairman of the Council: *Provided further,* That any persons so designated shall serve without cost to the Federal Government: *Provided further,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That hereafter the Chairman of the Council may waive any Council bylaw when the Chairman determines such waiver will be in the best interest of the Council: *Provided further,* That immediately after taking such action the Chairman shall send written notice to every voting member of the Council and such waiver shall become final if 30 days after the Chairman has sent such notice, a majority of Council members do not disagree in writing with the action taken.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the national forest system released to management for any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulphur, gilsonite, or geothermal resources on Federal lands within any component of the National Wilderness Preservation System or within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to issue oil and gas leases for the subsurface of any lands designated by Congress as wilderness study areas, that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness study area or other nonsurface disturbing methods.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 311. Notwithstanding any other provisions of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1988 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing timber management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: Provided, however, That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated because of new information: Provided further, That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

Mr. BYRD. Mr. President, any rollcall votes that may be ordered on this will be attached to the end of the stack of votes that has already been established with respect to the DOD bill and would not occur until after those votes have been taken. They will begin at 8 o'clock this evening, as Senators know.

The PRESIDING OFFICER. Is the majority leader making that request? There is no order to that effect.

Mr. BYRD. Mr. President, I did not order that earlier?

I ask unanimous consent, Mr. President, that any rollcall votes that may be ordered in relation to the Interior appropriations bill appear in sequence at the end of the rollcall votes that will occur on amendments that have been stacked or will have been stacked to the DOD bill.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. SHELBY. Mr. President, I ask unanimous consent that I be able to engage in a colloquy with the Senator from Michigan, Senator LEVIN, regarding an item in the DOD bill.

Mr. BYRD. Mr. President, I have not yielded the floor yet.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. I do not lose the floor upon making a unanimous-consent request. Was the request granted?

The PRESIDING OFFICER. The request was granted.

Mr. BYRD. So what is the pending business before the Senate, Mr. President?

The PRESIDING OFFICER. The pending business before the Senate is the Interior appropriations bill.

Mr. BYRD. I thank the Senator. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the chairman of the full committee, the distinguished Senator from Mississippi, Mr. STENNIS, is here.

Mr. WARNER. Mr. President, if the Senator would allow me, for the purpose of a question?

Mr. JOHNSTON. Yes.

Mr. WARNER. Would it be agreeable that the distinguished senior Senator from Mississippi make some opening comments, but that further consideration of the pending matter be deferred until such time as a Member from this side of the aisle on the committee is present?

Mr. JOHNSTON. Yes, of course. I think there was a colloquy that my colleagues wanted to put into the RECORD from the distinguished Senator from Alabama on the defense bill after Senator STENNIS finishes his comments.

Mr. WARNER. Of course.

Mr. JOHNSTON. But, yes; we will wait for someone from your side.

So, Mr. President, I would welcome and invite the advice and comments from the distinguished chairman of the full Appropriations Committee, the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Louisiana. I will be quite brief, Mr. President.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, we are here today to present to the Senate the Department of the Interior and related agencies bill for fiscal year 1988, which reflects the recommendations of the Senate Appropriations Committee's work.

Mr. President, I am doing this now to, frankly, point out a course of conduct here that our committee has been concentrating on to get these appropriations bills ready for an actual consideration by the Senate itself with a proper report accompanying the bill.

This is in the nature of an explanation by the committee, Appropriations Committee, of a concentrated effort—it has been successful so far—to get these appropriations bills on in here with the reports and get them actually before the membership of this body so that they may better know what they are involved in and what they are doing and what the possible solution is.

I make no criticism of any person who worked on this last year, but last year, in the rush of things, the appropriations bills were put into a barrel, you might say, and passed on or sent to the White House or sent somewhere for the attention of the President on the condition if they were not favorable to give him a chance on those assessments, as I saw it.

I think we ought to, the way we handle these matters, make it possible for every Member, every Member to have the benefit of the counsel and advice and conclusions of the membership of the committee.

I have said for a long while that the Senate makes it real contributions, really things that count, they make them in the committee room and through their reports and through the bills that they approve. I find that to be necessary and truer every day.

This bill, which provides a total of approximately $9.9 billion in new budget authority for fiscal year 1988, reflects the careful thought and hard work of our entire committee. In particular, however, it is evidence of the able leadership and excellent work of subcommittee Chairman BYRD with the able assistance of Senator JOHNSTON and the ranking minority member, Senator MCCLURE, I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. Charlie Estes, Mr. Don Knowles, Mr. Terry Sauvain, Mr. Jeff Cilek, and Ms. Jill Gallie.

Before I turn to Senator JOHNSTON to give a brief description of the bill, I wish to highlight a few important items regarding this matter.

First and foremost, I am pleased to report that this bill is below the 302(b) allocation for budget authority and outlays. This is essential, in my opinion, for all appropriation bills which are to be taken up for consideration on the Senate floor.

That has proven to be quite a chore, as most of you know. It takes time. But it brings results. It brings results. It is a workable and new phase of the law here for 2 or 3 years, and I think it is making its way toward a contribution along that line. I would like to emphasize its importance as well as emphasize the effectiveness of the work of the members of the committee to really try to make it work.

Second, the committee's $9.9 billion in budget authority recommendations regarding H.R. 2712, are only slightly above the President's requested funding level of approximately $8.6 billion. It is also only slightly above the House-passed level of $9.4 billion.

Finally, I would ask my colleagues to resist any further amendments to the committee-reported bill. Any amendment adding additional funds would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. Let me also mention that any amendment must be germane in keeping with the Senate rules and as with all general appropriation bills, Senate rule 16 requires that no legislative amendments be added.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued the consideration of the bill (S. 1174).

AMENDMENT NO. 794

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 794.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . MORALE, WELFARE AND RECREATION ACTIVITIES.

Notwithstanding section 9110 of the Department of Defense Appropriations Act, 1987 (as contained in section 101(c) of Public Law 99-500, 100 Stat. 1783-118, and section 101(c) of Public Law 99-591, 100 Stat. 3341-118), appropriated funds may be used after September 30, 1987, to support revenue generating Morale, Welfare and Recreation activities in any location designated by the Secretary of Defense.

Mr. WARNER. Mr. President, this amendment authorizes the use of appropriated funds to support certain nonappropriated fund activities which serve the men and women of our Armed Forces and their families in metropolitan areas.

Legislation included last year in the continuing resolution precluded revenue generating nonappropriated fund activities located in metropolitan areas from receiving appropriated fund support. Such nonappropriated fund activities include such things as craft shops, auto hobby shops, enlisted, noncommissioned officer and officer clubs and bowling alleys.

While I support the intent of the existing law that there be better management of these revenue-generating activities and that appropriated funds not be used to support luxurious recreational activities, such as marinas or activities which may benefit only a few personnel, I believe that some flexibility must be added to the law. For example, I believe that different rules might well be justified for installations located in metropolitan areas based upon the fact that a substantial portion of a base population are junior enlisted personnel, such as occurs, on basic and technical training bases.

Additionally, at some locations, the existing law has had the effect of totally wiping out "profit" at some activities. Formerly, these "profits" were available to support nonrevenue generating activities, such as child care centers. If these "profits" are no longer available for support of these types of essential facilities, I suggest that we in Congress will be asked, and rightly so, to begin to provide additional appropriated funds to operate these activities, which are really essential for the morale and welfare of our military personnel and their families.

In short, while the existing law appears as though it could result in a small short-term savings to the taxpayers, I fear that the long-term effect will either be an offsetting increase in need for appropriated funds to support morale and welfare activities previously provided by revenues generated by nonappropriated fund activities, or there will be a substantial degradation in the quality of life of our volunteer military personnel. This second alternative is not acceptable and the first is of little value to the taxpayer.

Therefore, I offer this amendment, which will permit appropriated funds to be used to support revenue generating nonappropriated fund activities in locations designated by the Secretary of Defense.

Mr. President, I would expect that the Secretary of Defense would consult with both the Armed Services Committees and the Appropriations Committees in establishing the criteria to be used in making such designations. I would also expect that the Secretary would use this flexibility to provide only such appropriated fund support as may be required to maintain and operate essential morale and welfare activities.

Mr. President, I believe this amendment strikes a proper balance between the concerns identified and addressed in the appropriations process last year and the concerns that have arisen and been brought to the Armed Services Committee's attention since last year's legislation went into effect.

Mr. President, at this time I ask the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. May I hear what the amendment is?

Mr. WARNER. The amendment dealt with an appropriation matter, and I think it is important that although it is within the jurisdiction of the authorization committee, it be deferred for review by the appropriators. The amendment deals with the use of appropriated and nonappropriated funds for the recreational purposes on military bases in the United States and abroad.

Mr. METZENBAUM. I thank my colleague.

The PRESIDING OFFICER. Hearing no objection, the amendment is withdrawn.

Mr. SHELBY. Mr. President, I would like to have the attention of the chairman of the Subcommittee on Conventional Forces and Alliance Defense so that I might engage in a colloquy on the subject of the Army's plans to procure tank track for the M1 tank.

Mr. President, the M1 tank is the world's most capable tank, but it has had a weak spot and that is in its tank track. The durability of the current track has been disappointing.

While required to last 2,000 miles in peacetime operation, the current track achieves an average of between 700 and 800 miles. The operating costs have been unacceptably high and, worst of all, when the track fails it brings the entire tank to a stop. The M-1 is unable to complete its mission once the track fails, as we know.

Concerned for these shortcomings, the Army has been working for some time to develop a more capable track to replace the existing baseline track. At the same time, a track developed in Europe was offered as an alternative. An extensive test and evaluation of alternative tracks has taken place during the past 2 years. It is my understanding that both tracks achieve substantially greater mileage than the baseline M-1 track and comply with the prescribed 2,000-mile replacement requirement.

Mr. President, I fully support the idea of competition, and I believe that this competition has brought out the best in both designs. But I think it is important to note that there are many things the Army should consider when it evaluates these proposals. While the primary emphasis should be on technical merit and life-cycle cost, I believe the Army must consider the health of domestic U.S. manufacturing base. There is already excess capacity in the United States and that means that it is imperative that whichever system is ultimately selected be produced in the United States, and that it be available for competition among all competent manufacturers.

I would like to ask Senator LEVIN three questions: What is his understanding of the current status of the competition; second, what is the position of the committee on that competition; and third, has the committee established a position on the relative importance of these various goals in the competition?

Mr. LEVIN. If the distinguished Senator from Alabama would yield, it is my understanding that the Army has issued a request for proposal from both manufacturing teams and that final responses are due to be submitted by October 5. The Conventional Forces Subcommittee, and indeed the full committee, fully supports the Competition in Contracting Act as it is applied to this program. Further, it is my understanding that both manufacturing teams are competing on a fair and equal basis.

I do not know weighing of the various criteria that will be considered by the Army in evaluating these two systems, but it is my understanding that the emphasis will be placed on total life-cycle costs as well as technical merit, which I believe is appropriate. Further, while interoperability with other NATO countries is a valid goal, just as important, if not more important, is the need to maintain a vibrant manufacturing base for armor vehicle tracks in the continental United States.

Mr. SHELBY. Is it the understanding of the distinguished chairman that we do have the manufacturing capability here in the domestic United States?

Mr. LEVIN. The answer is "Yes."

Mr. SHELBY. And the competition is here, too?

Mr. LEVIN. The answer is "Yes."

Mr. SHELBY. I appreciate the chairman yielding, and now I yield the floor.

EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, if I may have the attention of the distinguished acting Republican leader, I would like to ask if the following nominations on the executive calendar have been cleared on his side of the aisle: all nominations under Air Force on page 2; under Army on page 3; on page 4, Calendar Order 300; on page 4, Calendar No. 302; on page 5, Calendar No. 333; on page 6, all nominations under Army; on page 7, all nominations under Marine Corps; on page 8, all nominations under Marine Corps; on page 9, all nominations under Navy; on page 10, all nominations under Navy; on pages 11, 12, and 13, all nominations placed on the Secretary's desk in the Air Force, Army, Foreign Service, Marine Corps, Navy.

Mr. WARNER. Mr. President, I first wish to thank the distinguished majority leader and the chairman of the Armed Services Committee for their assistance in expediting this matter.

I say to the distinguished leader, he is correct in his representation. All are cleared. Might I inquire of just one nomination, and that is on page 4, Calendar No. 301. It is our understanding that this nomination is to be held in abeyance.

Mr. BYRD. We cannot go with that one.

Mr. WARNER. That is correct. So all of the nominations which total around 6,500 officers are embraced as stated correctly by the majority leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations which have been enumerated; that they be considered en bloc, confirmed en bloc, agreed to en bloc, that a motion to reconsider en bloc be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

IN THE AIR FORCE

The following-named officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of sections 594, 8218, 8373, and 8374, title 10, United States Code:

To be major general

Brig. Gen. Wayne B. Adams, Jr., [redacted] [redacted]FG, Air National Guard of the United States.

Brig. Gen. Jacob J. Braig, [redacted]FG, Air National Guard of the United States.

Brig. Gen. Drennan A. Clark, [redacted] [redacted]FG, Air National Guard of the United States.

Brig. Gen. Robert E. Harris, [redacted] [redacted]FG, Air National Guard of the United States.

Brig. Gen. Ernest C. Park, [redacted]FG, Air National Guard of the United States.

Brig. Gen. Thomas P. Webb, III, [redacted] [redacted]FG, Air National Guard of the United States.

To be brigadier general

Col. Donald E. Barnhart, [redacted]FG, Air National Guard of the United States.

Col. Donald F. Ferrell, [redacted]FG, Air National Guard of the United States.

Col. John R. Haack, [redacted]FG, Air National Guard of the United States.

Col. John M. Hafen, [redacted]FG, Air National Guard of the United States.

Col. Francis D. Rogers, Jr., [redacted] [redacted]FG, Air National Guard of the United States.

Col. Kenneth G. Stasiewicz, [redacted] [redacted]FG, Air National Guard of the United States.

Col. Wilbert T. Stewart, [redacted]FG, Air National Guard of the United States.

Col. Theodore R. Verdi, [redacted]FG, Air National Guard of the United States.

Col. Raymond D. Weber, [redacted]FG, Air National Guard of the United States.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Charles W. Brown, [redacted], U.S. Army.

The U.S. Army National Guard officer named herein for appointment as Deputy Director, Army National Guard Army, under the provision of title 10, United States Code, sections 593(a), and 3371:

To be brigadier general

Col. William A. Navas, Jr., [redacted].

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with his assignment to a position of importance and responsibility, designated as such by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Harold M. Davis, Jr., [redacted] [redacted] U.S. Army.

The U.S. Army Reserve officer named herein for promotion as Reserve Commissioned officer of the Army, under the provisions of title 10, United States Code, sections 3371 and 3380:

To be brigadier general

Col. John Ronald Carey, [redacted].

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. James E. Thompson, [redacted] [redacted] U.S. Army.

IN THE NAVY

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. John A. Baldwin, Jr., [redacted] [redacted]/1110, U.S. Navy.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Fred Hissong, Jr., [redacted] U.S. Army.

The U.S. Army National Guard officers named herein for appointment in the grades indicated below, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Richard L. Chastain, [redacted] [redacted].

Brig. Gen. Paul G. Collins, [redacted].

Brig. Gen. Don O. Daniel, [redacted].

Brig. Gen. Arthur V. Episcopo, [redacted] [redacted].

Brig. Gen. Chester E. Gorski, [redacted].

Brig. Gen. Gerald T. Sajer, [redacted].

Brig. Gen. Ivan F. Smith, [redacted].

To be brigadier general

Col. Bela J. Chain, Jr., [redacted].

Col. John R. D'Araujo, [redacted].

Col. Robert C. Watling, [redacted].

Col. Eugene M. Bass, [redacted].

Col. Edward L. Gill, [redacted].

Col. Daniel J. Hernandez, [redacted].

Col. David A. Heuer, [redacted].

Col. Francis A. Hughes, [redacted].

Col. William D. Jones, [redacted].

Col. John H. McDonald, [redacted].

Col. Daniel J. O'Neill, [redacted].

Col. Charles H. Perenick, [redacted].

Col. Reynaldo Sanchez, [redacted].

Col. Clarence R. Secrist, [redacted].

Col. James R. Williams, [redacted].

Col. Daniel L. Brennan, [redacted].

Col. James G. Martin, [redacted].

Col. Billy L. Smout, [redacted].

Col. Ned L. Turnispeed, [redacted].

Col. Robert W. Wilson, [redacted].

Col. James C. Boll, [redacted].

Col. Jose A. Buitrago, [redacted].

Col. Jack C. Clark, [redacted].

Col. Echol E. Cook, [redacted].

Col. Donald E. Howard, [redacted].

Col. Peter D. Tosi, Jr., [redacted].

IN THE MARINE CORPS

The following named officer to be placed on the retired list in the grade of lieutenant general under the provisions of title 10, United States Code, section 6322:

Lt. Gen. Clyde D. Dean, [redacted], U.S. Marine Corps.

The following named officer to be placed on the retired list in the grade of lieutenant general under the provisions of title 10, United States Code, section 1370:

Lt. Gen. D'Wayne Gray, [redacted], U.S. Marine Corps.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Louis H. Buehl, III [redacted] U.S. Marine Corps.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

William G. Carson, Jr., [redacted] U.S. Marine Corps.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

Ernest T. Cook, Jr. [redacted] U.S. Marine Corps.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

Edwin J. Godfrey, [redacted] U.S. Marine Corps.

The following named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

John I. Hudson, [redacted] U.S. Marine Corps.

The following named officer to be placed on the retired list in the grade of lieutenant general under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Ernest C. Cheatham, Jr. [redacted], U.S. Marine Corps.

The following named officer to be placed on the retired list in the grade of lieutenant general under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

John Phillips, [redacted] U.S. Marine Corps.

IN THE NAVY

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Albert J. Herberger, [redacted]/1110, U.S. Navy.

The following named officer, to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be admiral

Adm. James A. Lyons, Jr., [redacted]/1110, U.S. Navy.

The following named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. David E. Jeremiah, [redacted]/1110, U.S. Navy.

The following named officer, under the provisions of title 10, United States Code, section 5141, to be Chief of Naval Personnel, and to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Leon A. Edney, [redacted]/1310, U.S. Navy.

The following named officer, to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370.

To be vice admiral

Vice Adm. Dudley L. Carlson, [redacted]/1110, U.S. Navy.

The following named officer, under the provisions of title 10, United States Code, section 5021, to be Chief of Naval Research for a term of 3 years:

To be chief of naval research

Rear Adm. John R. Wilson, Jr., 570-34-5927/1230, U.S. Navy.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, FOREIGN SERVICE, MARINE CORPS, NAVY

Air Force nominations beginning Brent J. Adams, and ending H. Zuverink, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 1987.

Air Force nominations beginning Major Jerome T. Bellen, [redacted] and ending Major Donald G. Smith, Jr. [redacted] which nominations were received by the Senate on July 13, 1987, and appeared in the Congressional Record of July 14, 1987.

Air Force nominations beginning Henry P. Fowler, Jr., and ending David R. Francis, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Air Force nominations beginning Major Gerard A. Brangenberg, [redacted] and ending Major Arnold E. Sirk, [redacted] which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Air Force nomination of David R. Francis, which was received by the Senate and appeared in the Congressional Record of July 31, 1987.

Air Force nominations beginning Joseph A. Abbott, and ending Lianne M. Wulff, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Air Force nominations beginning Charles H. Miller, and ending Hans J. Mueh, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning Helen L. Capron, and ending Gary J. Turner, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nomination of Robert W. Ritter, which was received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning Ronald V. Dorst, and ending Glen M. Byers, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning Maj. Lyle E. Allen, [redacted] and ending Maj. David G. Schall, [redacted] which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning Bobby J. Abernathy, and ending Larry A. Williams, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning Richard J. Acosta, and ending Brian P. Zurovetz, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Air Force nominations beginning James G. Grizzard, and ending Anthony O. Patino, which nominations were received by the Senate and appeared in the Congressional Record of September 11, 1987.

Army nomination of Shirley O. Ford, which was received by the Senate and appeared in the Congressional Record of June 23, 1987.

Army nominations beginning Peter R. Levine, and ending Robert D. Weir, which nominations were received by the Senate and appeared in the Congressional Record of June 23, 1987.

Army nomination of Gary D. Barnes, which nominations was received by the Senate and appeared in the Congressional Record of June 23, 1987.

Army nominations beginning John J. Bombard, and ending David E. Retherford, which nominations were received by the Senate and appeared in the Congressional Record of June 23, 1987.

Army nominations of Charles J. Lockwood, Jr., which was received by the Senate on July 6, 1987, and appeared in the Congressional Record of July 7, 1987.

Army nominations beginning William D. Anderson, and ending Lloyd A. Walwyn, which nominations were received by the Senate on July 13, 1987, and appeared in the Congressional Record of July 14, 1987.

Army nominations beginning Colonel Dennis R. Hunt, and ending Colonel James H. Ramsden, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Army nominations beginning John T. Barber, and ending Richard A. Reid, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Army nominations beginning Alfred E. Childres, and ending Robert E. Good, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Army nominations beginning James R. Baker, and ending Charles R. Thompson, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Foreign Service nominations beginning Richard Benson, and ending Robert J. Wicks, which nominations were received by the Senate on July 27, 1987, and appeared in the Congressional Record of July 28, 1987.

Marine Corps nomination of Paul E. Backs, which was received by the Senate and appeared in the Congressional Record of July 15, 1987.

Marine Corps nominations beginning Curtis R. Adair, and ending Richard G. Yakubowski, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Navy nominations beginning German S. Arcibal, and ending Marcia L. Young, which nominations were received by the Senate and appeared in the Congressional Record of June 26, 1987.

Navy nomination of William Brown Deal, which was received by the Senate on July 13, 1987, and appeared in the Congressional Record of July 14, 1987.

Navy nomination of Donald Patrick Greene, which was received by the Senate on July 13, 1987, and appeared in the Congressional Record of July 14, 1987.

Navy nominations beginning Ronald Lee Aasland, and ending William John Zuchero, Jr., which nominations were received by the Senate on July 13, 1987, and appeared in the Congressional Record of July 14, 1987.

Navy nominations beginning Brian K. Britton, and ending David B. Weiding, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Navy nominations beginning Robert Harold Abrams, and ending Ernesto Felix Panado, which nominations were received by the Senate and appeared in the Congressional Record of July 31, 1987.

Navy nominations beginning James Lloyd Abbot III, and ending Paul D. Williamson, which nominations were received by the Senate and appeared in the Congressional Record of August 6, 1987.

Navy nominations beginning Gerald R. Chandler, and ending Robert H. Mcarthur, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

Navy nominations beginning Edward C. Ebersole, and ending Kenneth L. Sisco, which nominations were received by the Senate and appeared in the Congressional Record of September 9, 1987.

NOMINATION OF WILBERT T. STEWART TO BE BRIGADIER GENERAL

Mr. BYRD. Mr. President, I am pleased that the President has nominated Col. Wilbert T. Stewart for the rank of brigadier general. Colonel Stewart is a native of Dunbar, WV, and a graduate of Marshall University in Huntington.

Colonel Stewart has held a number of responsible positions in the West Virginia Air National Guard since he completed training in March 1957. His hard work and dedication to duty over the years, is reflected by the fact that during his service with the West Virginia National Guard, his unit won the coveted Spaatz trophy four times and the Distinguished Flying Unit Plaque three times. Most recently, he has been assigned as the assistant adjutant general for air.

Prior to that assignment, he served in a number of active duty positions, including chief, Office of Training, air directorate, National Guard Bureau; chief, Office of Safety, Security, and Inspections at the Air National Guard Support Center; and chief, directorate staff, air directorate, National Guard Bureau.

Colonel Stewart holds many honors, including the Legion of Merit and the Meritorious Service Medal with one Bronze Oak Leaf Cluster. His State awards include the West Virginia Service Medal—over 30 years service—and the West Virginia Distinguished Unit Award with three Bronze Oak Leaf Clusters. He holds the aeronautical rating of command pilot and has accumulated over 6,250 flying hours. He is also past president and member of the National Guard Association of West Virginia.

Mr. President, it has been my experience that all members of the reserve components of the armed services, and especially those reaching the high rank of brigadier general, must spend considerable time away from their families in the pursuit of their military duties. This requires no small sacrifice on the part of those family members, and in this regard, Colonel Stewart's wife, Patricia, and their daughter, Michele, are to be commended also.

Mr. President, I am pleased to cast my vote for the confirmation of Col. Wilbert T. Stewart as brigadier general, and I urge my colleagues to support this nomination.

Mr. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Department of the Interior and related agencies appropriation, 1988.

The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, the fiscal year 1988 Department of Interior and related agencies appropriation bill, as reported out of full committee on Tuesday, September 22, totals approximately $9,985,486,000 in budget authority. This recommendation is some $4,514,000 below the subcommittee's 302(b) allocation of $9,990,000,000 in budget authority. In outlays, as scored by the Congressional Budget Office, the committee recommended bill totals $9,877,764,000, which is $2,236,000 below the subcommittee's 302(b) allocation of $9,880,000,000. Let me repeat—this bill is $4,514,000 below our budget authority allocation and $2,236,000 below our budget outlay allocation.

The committee bill is some $1,543,988,000 higher in budget authority than the fiscal year 1987 bill. This increase can be explained and justified very simply. First, there were no funds appropriated for oil acquisition for the strategic petroleum reserve in fiscal year 1987 since there were adequate carryover funds from prior year appropriations. So, the strategic petroleum reserve, a very necessary item, accounts for $807,000,000 of the increase. The President's New Clean Coal Technology Program represents an increase of $350,000,000 in fiscal year 1988 compared to the current year. Pay and Federal Employee's Retirement System costs are up $200,000,000. In addition $125,000,000 more was available in fiscal year 1987 oil overcharge escrow funds to offset the bill's funding level. These four items alone account for $1,482,000,000. Of the increase, which is about $61,000,000, represents the real amount of the Senate increase over the fiscal 1987 level. This is less than a 1-percent increase in nominal dollars over the fiscal 1987 level. This minor increase is needed for rent and utilities, for equipment replacement and the like.

So, Mr. President, the funding for the basic program operations in the Interior bill is actually down compared to last year.

In addition, this Interior bill contains a number of items of great importance to the Members of the Senate. We have considered some 900 specific member requests in the formulation of the committee's recommendations here before you today. In these tight budget times, I hope that members will be understanding of those requests which we are not able to address.

Specific issues, which I would like to highlight before we begin this afternoon, are:

The committee reported bill includes an increase of $136,200,000 over the budget for the Forest Service to cover the cost of firefighting and related activities needed as a result of the recent disastrous forest fires in the West.

From the land and water conservation fund, the committee has recommended $177,164,000 for land acquisition and $35,000,000 for State assistance.

For endangered species, the committee has recommended $20,122,000, of which $4,300,000 is for grants to States.

For historic preservation, the committee has recommended $34,050,000, which includes $28,750,000 for grants to States and $5,300,000 for the national trust for historic preservation.

For timber roads, the committee has recommended $145,000,000, a decrease of $35,000,000 from the fiscal year 1987 level.

For clean coal technology, the committee has recommended that the full $850,000,000 requested by the President over the next 2 years. This program is intended to support the President's commitment to the Canadians. Consideration of the request for advance appropriations of $500,000,000 each year for fiscal year 1990, fiscal year 1991, and fiscal year 1992, have been deferred but will be considered at a later date.

For low-income weatherization and other State energy conservation grant assistance, the committee has recommended $200,000,000, the same as last year.

For the strategic petroleum reserve, the committee has recommended a total of $806,932,000 for petroleum acquisition which will permit a fill rate of 75,000 barrels per day through February 1, 1988, with an increase of 100,000 barrels per day thereafter.

Mr. President, I could go on about this bill, but I will yield to the distinguished ranking member at this time. I should add before doing so, that Senator McCLURE has served the Interior subcommittee tirelessly as our ranking member this year, and previously as the chairman. His experience and detailed knowledge of the bill are truly laudable, and I want all Members to know how much I appreciate his help.

I might say, Mr. President, that the Director of OMB paid our committee the highest compliment possible, and that is that the original letter threatening a veto of this bill was withdrawn and the letter only criticizes, and mildly at that, our bill.

So, in effect, Mr. President, we are below the allocation and we have every hope that this bill be signed. We hope that Members of the Senate, exercising their usual restraints will help us keep from piercing the gossamer web of the 302(b) allocation.

Let me say, Mr. President, we have a number of colloquies. We urge Senators quickly to get those colloquies to us so we can put them into the RECORD.

We have a few amendments which we also hope to deal with expeditiously, except where we cannot, opposing vigorously only where necessary. We hope to finish this bill in quick order.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. JOHNSTON. Mr. President, I move that the committee amendments be considered and agreed to en bloc. I ask unanimous consent that that be done.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were considered and agreed to en bloc.

Mr. JOHNSTON. Mr. President, I had one other unanimous consent on original text.

Mr. President, I further ask unanimous consent that the bill as thus amended be regarded as original text for the purpose of amendment and providing that no points of order shall be considered to have been waived by the agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I would like to again congratulate the acting chairman for his fine efforts in putting together this bill. It should be noted that in subcommittee there were no amendments that added money and a very limited number in full committee. I would hope we can continue that trend today.

As the chairman indicated, he offered an amendment to the Interior bill to bring it into compliance with it's 302(b) allocation. One of the primary reasons the subcommittee was above it's allocation was a budget amendment recently sent by the administration to increase the SPRO fill rate from 75,000 barrels a day to 100,000 barrels. This increased cost was not assumed in the budget resolution or in the subcommittee's allocation.

In order to bring the bill into compliance with it's 302(b) allocation, a reduction was made in the fill rate for the strategic petroleum reserve. At that time, both the acting chairman and myself were reluctant to use that method. I know I remain very concerned about the use of the strategic petroleum reserve as a method to fund other programs or projects and will resist efforts to reduce the fill rate further.

Mr. President, I yield to the Senator from Louisiana.

Mr. FOWLER. Mr. President, I rise in order to comment on the appropriations bill now before the Chamber. This bill is the result of many hours of hard work and discussion on the part of many of my distinguished colleagues, and I commend them for their dedication in the task of protecting our national treasures with efficient and effective appropriation of Federal funds.

Three parts of this bill are deserving of comment today, Mr. Chairman. First, I want to join with the friends of historic preservation in the Senate who so wisely have supported an increase in funding for historic preservation grants and for the National Trust for Historic Preservation. Funding for these programs has been static since 1980, allowing inflation to erode their effectiveness while many worthwhile projects have gone unfunded. If this program did nothing but preserve our national heritage, it would be worthwhile. But it does more by developing tourism and catalyzing the revitalization of cities, towns, and rural areas throughout the country. In my home State of Georgia, private investment in rehabilitation projects has exceeded $100 for every $1 appropriated at the Federal level. This is truly a success story worthy of—and in need of—increased funding.

Second, by rejecting the administration's proposed 50-percent cut in energy conservation research and their proposed elimination of State conservation grants, my colleagues on the Appropriations Committee have recognized the importance of energy conservation for our national security. I have stood here before, reminding my friends in this Chamber of the need for a national energy policy, a plan for our future independence from the whims and surprises of foreign oil barons, and I am pleased that this bill continues our commitment to energy conservation at every level of government.

Third, while I am quite pleased with most of the provisions of the bill, I am only just satisfied with the committee's compromise on timber road construction. These roads are the most environmentally damaging aspect of the Forest Service timber program. Reducing appropriations in this area offers a rare opportunity to diminish the budget deficit and further protect the environment, and I had hoped that a greater reduction in this area could have been achieved. I am, however, pleased with certain provisions of the compromise, including an exemption from cuts for recreation and general purpose roads. I commend my colleagues for their perseverance in the long and intense negotiations on this issue, and I will support this compromise.

Finally, I want to restate my support for two less controversial but important measures funded by the bill—the forest products marketing initiative and increased funding for State and private forestry programs. These will continue to strengthen the proper and environmentally conscious use of our public and private forests.

In sum, I support this bill, even with its uneasy compromises, and I urge my colleagues to do likewise. Thank you, Mr. Chairman.

AMENDMENT NO. 795

Mr. HOLLINGS. Mr. President, on behalf of myself and the distinguished senior Senator from Georgia, Mr. NUNN, and the distinguished Presiding Officer, Mr. FOWLER, I send an amendment to the desk and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. NUNN, and Mr. FOWLER proposes an amendment numbered 795.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12 delete line 18 and all that follows on line 19 through "451)" and insert in lieu thereof the following: $734,406,000, without regard to the Act of August 24, 1912, as amended (16 U.S. 451), of which $2,351,000 to remain available until expended shall be made available to the Martin Luther King, Jr., Center for the Study of Nonviolent Social Change.

Mr. HOLLINGS. Mr. President, the amendment adds $2,351,000 to the fiscal year 1988 Interior appropriations bill for the Martin Luther King, Jr., Center, for the Study of Non-Violent Social Change. As a member of the King Holiday Commission, I am acutely aware of how popular the King Center has become and of the demands placed on its resources. This amendment will provide $1.9 million to be used for the completion of the Freedom Walk Way Mural Project, $100,000 for incriptions to be placed on the two main buildings at the Center, and $351,000 for the increased maintenance and security made necessary by the flood of visitors. This funding for maintenance and security is in addition to the $195,000 provided under the current cooperative agreement between the Martin Luther King, Jr., National Historic Site and the Center.

This is a minimal amount to put it in shape for those visitors who are coming from all over the world to pay homage to Dr. King.

As a final comment, Mr. President, I would be remiss if I did not mention the tireless work that Mrs. Coretta Scott King performs on behalf of the center. I commend her and I look forward to continuing to work with her. I thank the Senator from Louisiana, Senator JOHNSTON, and the distinguished ranking member Senator McCLURE, for their help and their courtesy on this amendment.

Mr. JOHNSTON. Mr. President, to say this is a worthy goal is an understatement. I am very pleased that the discussions we have had since we were in the committee have enabled us to save a considerable amount of money, because the first estimate was that it would take $6 million for this construction and reconstruction, and the center has gotten this down to $2.351 million, which is a considerable savings.

We had indicated at committee we would endorse this once we got that figure worked out. The figure has been worked out. I congratulate the distinguished author and the present occupant of the Chair, the junior Senator from Georgia, for their leadership in working out this worthy amendment.

Mr. FOWLER. Mr. President, I rise in support of the amendment offered by my distinguished colleague from South Carolina. I am proud to join Senator HOLLINGS in continuing my support for the Martin Luther King, Jr., National Historic Site and Preservation District.

This site, authorized by Congress in 1980, is a fitting tribute to Martin Luther King, Jr. For years, it has protected and enlarged our memory of the life of Dr. King—for the inspiration and education of hundreds of thousands of American and foreign visitors to the site. Together, the preservation district and the national historic site tell much of the history of black urban culture in the South and provide the background for the story of the civil rights movement.

In the past few years, this site has expanded its attractions through the combined efforts of the Martin Luther King, Jr., Center for Nonviolent Social Change and the National Park Service. The building of Freedom Hall and the King Memorial have brought even more visitors to the area, increasing costs and staffing needs. This amendment to the Interior appropriations bill would directly benefit visitors to the site by allowing for additional parking and the necessary increase in maintenance and security services.

Without a doubt, the proper maintenance and operation of this site is in the national interest. As a tribute to a leader of unquestionable and international stature, as an inspiration to future generations, and as a historic site of great significance in understanding our heritage as a people always striving for a more perfect justice. The King site is among the most important of our national treasures. I urge my colleagues to support this necessary and beneficial amendment.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. The question occurs on the amendment offered by the Senator from South Carolina [Mr. HOLLINGS].

The amendment (No. 795) was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 796

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada [Mr. REID].

Mr. REID. The manager of the bill is now accepting amendments, is that true?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. REID), for himself, Mr. FORD, Mr. DECONCINI, Mr. BYRD, and Mr. ROCKEFELLER, proposes an amendment numbered 796:

SEC. . Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78n(d)) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9) of such subsection, and by inserting the following new paragraph:

"(2) Any person making a tender offer for or a request or invitation for tender offers or amending or extending a tender offer for, or a request or invitation for tenders of shares of any class of any such equity security shall hold such offer, request, invitation, amendment or extension open for a period of at least 35 business days from the date on which such offer, request, invitation or amendment is first published, sent or given to security holders, or such longer period as the Commission may, by rule or regulation prescribe."

(2) This amendment shall apply to tender offers or amendments or extensions of tender offers made on or after September 30, 1987 and before March 31, 1988.

Mr. REID. Mr. President, I also ask that the senior Senator from West Virginia [Mr. BYRD] be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada is recognized.

Mr. REID. Mr. President, there has been much talk over the past several months about an urgent need for reform of corporate takeovers. The rash of raids on healthy corporations has harmful implications for the economy, for employment levels, corporate efficiency, and competitiveness. Those raids have created hundreds of billions of dollars in debt and cost at least 80,000 jobs. I repeat, Mr. President, 80,000 jobs. In 1986, more money was spent on hostile raids than on new plant and equipment.

Congress has closely investigated these rampant takeovers. Several reform bills have been introduced, hearings held, and markups scheduled. Unfortunately, while that legislation is pending, corporate raids have intensified to take advantage of the existing rules.

Mr. President, every Member of this body with rare exception could tell their own horror stories of what corporate takeovers have done to companies in their own States. Let me tell you of just two examples in the small State of Nevada. For example, Caesar's Palace was the target of a hostile takeover. It cost that small corporation tens of millions of dollars to defend itself. These were wasted moneys, not creating a single job—in fact, taking jobs away from people in my State. Money was spent on attorney's fees and other such things that could have been used for expansion of their facilities and creating jobs.

Now, Mr. President, another Nevada business is a target, this one not costing tens of millions of dollars but hundreds of millions of dollars to defend themselves against this takeover. The target is a company called Newmont Mining Corp. It is the target of a hostile takeover by Ivanhoe Partners, a partnership controlled by T. Boone Pickens. Why, Mr. President, is Newmont a target? Because it is a healthy corporation. Today, that is an ultimate liability, to be a healthy corporation, because corporate raiders prey on just such targets. They prey on healthy corporations. There is in effect a risk, a substantial risk, in being an efficient, well-run and viable corporation.

The amendment that I offer today is a first step in addressing the inadequacies of the SEC Act of 1934. This amendment is simple.

It would extend the time period for which a tender offer must remain open from 20 business days to 35 business days. It would affect tender offers or amendments to tender offers after today and would expire in 6 months so as not to detract from pending tender reform legislation.

Mr. President, this provision reflects a consensus position that shareholders and corporations need more time to study the merits of tender offers. Such an extension is contained in House legislation; which would extend the period for 60 calendar days, and in Senate legislation which would extend it to anywhere from 35 to 45 business days.

Unfortunately, while the legislation amending current law has been pending, the raiders' activity has increased. Passage of this amendment would remedy the time lag inherent in considering legislation of this sort. It is not unlike closing a tax loophole effective on the date of introduction to avoid the last minute rush to profit before its closure.

Mr. President, this amendment would not insulate any corporation from a takeover or attempted takeover, nor would it change the substance or economics of any tender offer. Indeed, it would be economically neutral in any takeover attempt. It merely provides more time to a corporation and its shareholders to evaluate a tender offer. That, I believe, is simple fairness to which we can all agree.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from Nevada?

Mr. BYRD. Mr. President, I support the amendment offered by the Senator from Nevada.

The record of corporate takeovers has not been good. They have not brought new prosperity. They have not created new jobs or enhanced productivity or competitiveness. Indeed, they appear only to benefit a few large shareholders, investment bankers, and the lawyers, leaving the target companies saddled with debt and unable to generate the necessary capital for investment in new plants, new equipment, and new jobs.

Mr. President, I think many of my colleagues recognize the need to amend our securities laws to restrict some of the abuses of corporate takeovers. Indeed, the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs, has introduced a comprehensive measure to deal effectively with the corporate takeover issue. His bill has gained the support of a number of Senators on that committee, and I understand committee expects to act on that legislation expeditiously.

Yet, in spite of the attention and diligence of the chairman and members of the Banking Committee, I urge the Senate to proceed now with one provision which was in fact part of the chairman's bill.

As my colleague from Nevada has indicated, the extension of the tender offer period from 20 days to 35 days is a relatively noncontroversial provision. It is economically neutral. It does not change the substance of any tender offer. It merely gives the shareholders more time to consider pending offers and the consequences of such offers on the future of the takeover target corporation. The current 20-day period requires judgments before all the facts are available. Shareholders should not be stampeded into quick judgments by corporate raiders offering inflated stock prices in order to run up the value of their own earlier stock purchases.

I am persuaded that this one provision is of such urgency that we should act now, even as the Banking Committee proposes to deal with the issue more comprehensively. There currently appears to be a rash of these takeovers, generated perhaps by the desire to take advantage of current rules one last time before they are changed. As we do with tax legislation, we must act quickly before we inadvertently generate ever more of these unproductive, nonjob producing takeover ventures.

I urge my colleagues to support his amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. DECONCINI. Mr. President, I rise in support of the Reid amendment. While I appreciate the fact that this is not the appropriate vehicle for a securities amendment, I hope that the Senate will appreciate the time constraints we are under which force us to move quickly on the first available vehicle.

I am a cosponsor and supporter of this amendment to expand the tender offer period from 20 days to 35 days for two reasons. First, I am very concerned about the status of Newmont Mining. As we all know Newmont is in a fight for its life with T. Boone Pickens. Newmont is a major owner of Peabody mining. The health of Peabody is important to me because it is critical to the economic health of the Navajo Nation. While I hate to assume anyone's motives in a takeover fight, I am very concerned about the status of Peabody should T. Boone Pickens be successful.

However, more important than these strictly parochial concerns, is my philosophical reaction to the trend in hostile takeovers. That trend is not good for the economic health of this Nation. Too many of these hostile takeovers result in nothing but increased lawyers fees, added wealth for raiders who add nothing to the economy and lost jobs for the average American citizen.

Corporate raiders virtually have an unlimited amount of time to prepare their takeover strategy. Targets such as Newmont Mining have only 20 business days in which to prepare and carry out a defense. Because of these short time periods, target companies often result in costly poison pills, and greenmail. Inevitably this leaves the target company with fewer employees, fewer assets, and heavily burdened with debt. The result Mr. President is wasted corporate resources and lost jobs.

For these and other reasons I am a cosponsor of Senator PROXMIRE's comprehensive corporate takeover legislation. I understand that markup begins tomorrow in the Senate Banking Committee on this bill. I applaud those efforts. However, in this instance we are under a time crunch. We must act now, and Interior appropriations appears to be the only vehicle.

I urge my colleagues to join me in supporting this simple amendment to extend the tender offer period from 20 business days to 35 business days.

THE REID/BYRD/FORD AMENDMENT

Mr. D'AMATO. Mr. President, I rise in opposition to this amendment. Frankly, I do not disagree that the matter of corporate takeovers, and nature of any Federal role in regulating them, is of the utmost importance and immediacy. That is why the Senate Banking Committee has been for some time working on a bill to address this matter—a bill which is to be marked up and voted on in the Banking Committee tomorrow morning.

That is why I must oppose attempting to deal with the problem in this extraordinary fashion here tonight. The distinguished floor manager, my good friend from Louisiana, noted himself just a short time ago that it is extraordinary to attempt to legislate on a substantive matter via an amendment on the floor to an appropriations bill. I agree. I would add that, even recognizing the importance of this issue it is in this situation totally unwarranted.

The Banking Committee has significant expertise in securities matters. It is in the process of applying this expertise on this very important issue. It has put its corporate takeover legislation on a "fast track" in order to address the issue as quickly as possible while still doing so in a responsible, careful, and thoroughly debated and considered manner. That is the manner in which a subject of this far reaching importance and vital effect on our Nation's financial structure and commercial life requires and deserves to be considered.

I repeat, Mr. President; we are marking up a bill tomorrow. To act in this matter here tonight would, in my view, undermine the difficult and delicate process in which at this moment the Banking Committee is engaging. Although the amendment's 6-month impact would be temporary, it would have the effect of preempting the committee's role in attempting to enact a carefully crafted bill addressing this far-reaching and highly controversial problem.

Mr. President, unlike the bill which the Banking Committee is considering, there have been no hearings on this amendment permitting consideration of the various opposing points of view. There has been no study of its impact. This is no way to make law in this area.

I urge my colleagues to let the Banking Committee do its job.

Mr. JOHNSTON. Mr. President, I understand the distinguished senior

Senator from Texas [Mr. BENTSEN], asked for general notice on amendments of this kind. Someone from the staff has gone to call him. I wonder if we can temporarily lay this aside unless someone wants to speak on the amendment, and bring it up very quickly. Mr. President, did the Senator from Kentucky or the Senator from Rhode Island wish to speak?

Mr. FORD. Mr. President, I wish to support the amendment of the distinguished Senator from Nevada.

Mr. JOHNSTON. Mr. President, I wonder if the distinguished Senator from Nevada would object to temporarily laying this aside?

Mr. REID. I have no objection.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 797

(Purpose: To make Rhode Island a contract health service delivery area of the Indian Health Service)

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for himself and Mr. CHAFEE, proposes an amendment numbered 797.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . The Secretary of Health and Human Services shall designate the entire State of Rhode Island as a contract health service delivery area of the Indian Health Service for the purpose of providing health services to Indians in the State of Rhode Island under contracts entered into by the Indian Health Service.

Mr. PELL. This amendment, which I introduced with my colleague the junior Senator from Rhode Island [Mr. CHAFEE], and myself would correct an injustice which was brought to our attention by the Narragansett Indian Tribe.

The Indian Health Program service area currently is restricted to only one of Rhode Island's five counties, although the Narragansett Indian Tribe is scattered throughout the State.

Our amendment would simply designate the entire State of Rhode Island, which encompasses about 677,120 acres of land, as a contract health service delivery area of the Indian Health Service.

I understand from the manager of the bill that this will be acceptable.

Mr. JOHNSTON. Mr. President, the Senator from Rhode Island has correctly described the amendment. It is acceptable. We urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Rhode Island [Mr. PELL].

The amendment (No. 797) was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. FORD. Mr. President, the amendment that was temporarily set aside by the distinguished Senator from Nevada is coming back for consideration. Is that correct?

The PRESIDING OFFICER. Does the Senator from South Dakota yield?

Mr. DASCHLE. I am happy to yield.

Mr. FORD. Does that amendment automatically come back that was temporarily set aside?

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. May I respond to the Senator from Kentucky? The amendment was not set aside for a specified period of time. So the author would have to call for its return.

Mr. FORD. Mr. President, may I call for that amendment, then? I would like to make a statement on it in support of Senator REID's position.

The PRESIDING OFFICER. The Senator may do so.

Mr. FORD. The pending business before the Senate, then, is the amendment by the Senator from Nevada?

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator is correct.

Mr. FORD. I thank the Chair very much.

AMENDMENT NO. 796

Madam President, I rise today in support of the amendment offered by Senator REID to extend the tender offer waiting period from the current 20 business days to 35 business days. The unprecedented wave of speculation and manipulation of our capital markets is a situation deserving our immediate attention, for it threatens the stability and efficiency of corporate America. In this year where the leading buzzword in Congress seems to be "competitiveness," it seems to me that the current activities of many of today's leading corporate raiders—with their accompanying armies of lawyers, investment bankers, public relations firms, accountants, and other professionals—are potentially as damaging to a competitive America as any other factor. The enormous amount of talent and resources devoted to today's "takeover industry" often yields no tangible benefit for the American economy. Many times it appears that the only real results are massive transfers of wealth and highly leveraged corporations.

Madam President, do not get me wrong. I am not here advocating that all takeovers are harmful or designed to manipulate our capital markets. Obviously, the corporate restructuring that can result from successful takeovers often is highly beneficial to the economy, and in certain cases takeovers may be the only way in which such helpful restructuring can occur. This activity is essential to the operation of a free market economy, and the competition fostered by corporate tender offer activities can bring about positive economic results.

However, Madam President, an important distinction often must be made between the financial markets and the product markets. It is quite clear that competition in the former does not necessarily result in competition in the latter. And it is competition in the product markets that ought to receive our greatest attention.

A thoughtful article in Sunday's New York Times by Donald G. Margotta, who is researching takeovers at Northeastern University, underscores this difference between the financial markets and what Mr. Margotta calls the "real product market." He argues that the present threat of takeover makes today's corporate executives so preoccupied with the operating strategies that are acceptable to the financial markets, that there is a lack of divergent strategies and, in effect, a lack of adequate competition in the real product market. According to Mr. Margotta, the current wave of takeovers "forces long-term corporate strategies to be dictated by signals from today's prices, and the role of corporate managers is being reduced to that of Wall Street interpreter." Madam President, I ask unanimous consent that the full text of this article be reproduced in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DISTORTING CORPORATE INVESTMENT

(By Donald G. Margotta)

One of the most frequently heard arguments supporting hostile takeovers is that they promote competitiveness among corporate managers. Competition occurs on many levels, however, and takeovers can hurt competition on what may be the most important level in the long run, the real product market.

Real product competition is what Adam Smith had in mind when he stated that competition among producers would lead to the best products at the best prices for the entire economy. But proponents of hostile takeovers have extended this idea to include competition in financial markets, where managers compete for the right to control corporate assets; they win if their company achieves a high stock price, and lose if stock prices drop and they become takeover targets. But real product competition and competition in financial markets are quite different and that difference is the key to understanding how real product competition can be hurt by takeovers.

In its 1985 report to shareholders, Mesa Petroleum announced that it saw fewer profitable opportunities in oil exploration and was reducing exploration expenditures. In contrast, executives of Unocal were more optimistic and elected to pursue oil exploration and research programs. The stage was set for competition in the real product market. Which strategy would produce the best products? The best prices? And which would lead to the greatest shareholder benefits?

We will never know. All we know is that price setters in financial markets agreed with Mesa's strategy and disagreed with Unocal's. Unocal lost in the financial market competition, and became a takeover target.

To avoid a takeover Unocal was forced to adopt operating strategies that more closely fit those approved by financial markets. To be sure, it competed on a financial level; it raised debt to restructure its balance sheet, and fought the takeover in the courts and in the press. In the process it paid large fees to investment bankers, lawyers, academic consultants, expert witnesses, proxy solicitors and public relations firms.

The result of competition in the real product market was that Mesa did not have to compete with Unocal's research efforts or exploration activities. The financial market's judgment of Unocal's strategy prevented competition in a free, competitive product market where success depends on the consumer's choice of products.

If the financial markets are right, the oil industry will be more efficient if mavericks are forced to conform to its view of appropriate operating strategies. And, if it is correct that the financial markets are always "right," the hostile takeovers will be beneficial because they will stop operating managers from making what the markets perceive to be unprofitable research or exploration expenditures. But what is the consequence of this imposed uniformity of operating philosophies?

The consequences for the oil industry may be that another oil crisis will leave the country without the reserves and research projects that the efforts of Unocal (or Phillips, or Gulf) might have provided. Such a crisis would of course cause higher oil prices and stimulate exploration and research, but by then it may be too late to avoid a national emergency. Real capital investment in oil equipment and exploration cannot change as rapidly as highly liquid financial markets, a point made years ago by John Maynard Keynes, who warned that during national emergencies, there are restraints upon the market's ability to direct investment.

History has shown that the judgment of financial markets and corporate managers can be wrong. But when many companies pursue divergent strategies, some will prosper no matter what economic scenario evolves. This sort of diversification is beneficial to the entire economy. But today companies are forced into more uniform strategies since price setters in the market are increasingly large investors with similar investment guidelines.

This is not a phenomenon unique to the oil industry. Such uniformity may eventually force all publicly held corporations within each industry to hold similar operating philosophies, lest they be out of tune with current market sentiment and therefore subject to a takeover. This may lead to less product competition, less diverse corporate strategies, and less research, since projects deemed too risky by Wall Street will not be undertaken.

A hostile takeover environment demands that operating strategies be responsive to stock market signals. But a market response strategy may be ineffective for the oil industry for the reason given by Keynes, and may be ineffective in other industries because it allows foreign producers time to develop patents, establish markets, etc. Many innovative projects, almost by definition, will run against current market sentiment because they will be developed by people with knowledge outside of the arena of the financial markets.

The threat of takeovers clearly increases competitiveness in financial markets, but just as clearly hurts competition in real product markets. It forces long-term corporate strategies to be dictated by signals from today's prices, and the role of corporate managers is being reduced to that of Wall Street interpreter. Small wonder that product market competitiveness in publicly owned corporations seems to be decreasing, and that the "long term" is measured in days instead of years.

Mr. FORD. As the recent number of insider trading scandals have brought to our attention, the basic rules of the takeover game are in need of congressional reconsideration. I commend Chairman PROXMIRE and the other members of the Senate Banking Committee for the initiatives they have made in examining this area. Although the final legislative product is still being fashioned by the committee, I am hopeful that they will agree on legislation in the near future and strongly support their efforts.

In the meantime, Madam President, I favor the amendment offered by Senator REID, which I believe provides short-term protection for the average shareholder affected by a takeover attempt. While there may be many controversial provisions of a more comprehensive bill that have yet to be debated, the extension of the waiting period is clearly not one of them. In order to allow shareholders to obtain adequate and reliable information on the benefits and detriments of a tender offer, the current 20 business day period during which an offer must remain open should be extended. The Proxmire-Riegle Tender Offer Disclosure and Fairness Act introduced earlier this year would extend this period to 35 business days. Others have suggested a much longer time period. I believe the Reid amendment, which provides for a 35 business day waiting period, is a reasonable length of time.

Madam President, I urge my colleagues to support this simple adjustment to current law affecting takeovers in the interest of providing basic relief to shareholders now while the Banking Committee designs more comprehensive legislation in this area. I compliment Senator REID for his efforts on this amendment.

I urge my colleagues again to give him their support.

Madam President, I yield the floor.

Mr. JOHNSTON. Madam President, it requires unusual circumstances to justify placing substantive legislative provisions on an appropriations bill. This amendment by the Senators from West Virginia and Nevada is in response to just such a set of circumstances and it is for that reason that I support it.

The circumstances which make this amendment necessary are the rising tide of hostile takeovers. These takeovers are occurring in the context of the pending changes to the tender offer rules.

A consensus has emerged that tender offer reform is necessary and long overdue. Virtually no State has been unscathed by the merger mania of the past 5 years. Hence, both Houses of Congress are committed to reform. Unfortunately, the changes to the rules are actually encouraging tender offers as raiders are attempting to get in under the wire.

I have agreed to support this amendment to extend the time tender offers must remain open from 20 business days to 35 business days, effective today, because we cannot let the current situation continue for 1 more day. Raiders should not be encouraged to begin their takeovers during the pendency of the new legislation. Shareholders and management should not be stampeded into hasty, ill-conceived actions.

Madam President, I strongly support the effort of the Senators from Nevada and West Virginia. The vital importance of this amendment, as well as the critical requirement that it be enacted as quickly as possible, give us no alternative but to adopt it as an amendment to this appropriations bill.

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. JOHNSTON. I understand that there is a request on the minority side.

Mr. McCLURE. Madam President, I understand that there is a Senator on this side who wants to come to the floor to be heard on this amendment. I understand that he is on his way to the floor, and I ask unanimous consent that it may be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Madam President, does the Senator from Hawaii seek recognition? I would be happy to defer to him.

Mr. INOUYE. I think my matter can be cleared in 2 minutes.

Mr. DASCHLE. I will defer to the Senator from Hawaii.

Mr. INOUYE. I thank the Senator.

AMENDMENT NO. 798

(Purpose: To provide additional funding for contract support associated with the operation of contracts under the authority of Public Law 93-638, and to provide for reductions in funding for certain Bureau of Indian Affairs program accounts, and to delay implementation of a final rule on eligibility for Indian Health Service services)

Mr. INOUYE. Madam President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 798.

Mr. INOUYE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33, line 24, insert after "of which" the following: "not less than 48,662,000 shall be available for contract support for contracts entered into Public Law 93-638; and of which".

On page 34, line 24, insert after "expanded:" the following: "*Provided further*, That no more than $141,070,000 of the amount appropriated under this paragraph shall be available for the Natural Resources Development Account: *Provided further*, That no more than $92,524,000 of the amount appropriated under this paragraph shall be available for the General Administration Account: *Provided further*, That no more than $56,703,000 of the amount appropriated under this paragraph shall be available for the Trust Responsibilities Account:".

At the end of the bill, add the following:

SEC. . The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Service Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

Mr. INOUYE. Madam President, I offer an amendment to H.R. 2712 that would increase the funding for the contract support costs associated with the operation of Indian self-determination contracts by $3,875,000, and would take offsetting reductions in three Bureau of Indian Affairs program accounts in the equal amount of $3,875,000. My amendment thus does not propose to increase the amounts reported by the full Appropriations Committee for the Interior appropriations bill for fiscal year 1988.

The proposed reductions in the natural resources development account eliminate $700,000 from the amounts available to fund a new agricultural technical centers program; and $900,000 from amounts available for wildlife and parks. The proposed reductions in the trust responsibilities account eliminate $865,000 from amounts available for real estate and financial trust services and $122,000 from amounts available to fund a new trust resources general allocation effectiveness study. The proposed reductions in the general administration account would reduce by $750,000, amounts available to fund additional contracting and personnel positions; and would reduce by $538,000, amounts available to fund automated data processing services. The proposed reductions are taken in new administrative initiatives, which the committee believes should not be afforded as high a priority for funding as the operation of existing tribal program contracts.

My amendment also proposes to impose a 6-month delay in the implementation of a final rule recently published by the Health Resources and Services Administration of the Public Health Service which limits eligibility to members of federally recognized tribes only, with no exception for the continued provision of services to elderly Indians who very likely have no other source of health care nor the financial means to access other health care providers. And because the federally recognized status of many tribes in California were terminated during the termination era, the rule will have the effect of eliminating health care services for a substantial number of California Indians now receiving services from the Indian Health Service. Further, the rule fails to address the eligibility of mentally or physically handicapped Indian children who are currently under the care of the Indian Health Service [IHS] but who may not be members of federally recognized tribes, or whether the adopted children of Indian parents would be eligible for health care services. Another important group of Indian patients, those currently receiving care from IHS urban Indian health care programs, is also not addressed in the final rule. The proposed delay in the implementation of the final rule will enable the committees of the Congress and the Indian people to seek a clarification from the Department of the eligibility status of those groups of Indian patients now under the care of the Indian Health Service that the final rule fails to address.

Madam President, this amendment seeks to assure that those most in need of health care and least likely to have alternative health care options available to them, will not be cut off from services while the final rule is being implemented.

Authorizing legislation, S. 129, a bill to amend and reauthorize the Indian Health Care Improvement Act, now pending in the Senate, specifically addresses the eligibility of California Indians for Indian Health Service services. The committee believes that the definition of eligibility for Federal services is more appropriately addressed in the legislative process, and following clarification from the Department of the scope of the final rule with regard to the groups of patients I have described, the committee would propose to address in authorizing legislation, the eligibility of Indian patients currently receiving his services that the final rule fails to address.

Due to a scheduling conflict, there was not sufficient time to have the full committee's consideration of these proposals, but I want to commend the committee for its responsible approach to addressing what is widely acknowledged to be the dire need for funding of the programs that provide support to Indian people. In my judgment, these amendments will make the Interior bill one that will serve the Indian people of this Nation well in the upcoming fiscal year. Mindful that competing priorities never allow us to achieve our objectives in full, these amendments should at the very least maintain the fiscal year 1987 level of program effort for the programs operated by the Bureau of Indian Affairs.

Madam President, this matter has been cleared by the vice chairman of my committee. It has been discussed with the Bureau of Indian Affairs, and it has been cleared by the managers of this bill.

Mr. JOHNSTON. Madam President, I thank the distinguished Senator from Hawaii for working with us and for his careful counsel and advice. I think he improved this bill significantly. I might say that he did so at no additional cost, because all the money is simply moved around and the total amount is not exceeded. That is the kind of advice, counsel, and help that the committee treasures most in these evening hours, when spending can sometimes get out of hand.

Madam President, we accept the amendment.

Mr. McCLURE. Madam President, we have no objection to the amendment on this side.

Mr. INOUYE. Madam President, this amendment to H.R. 2712 would increase the funding for the contract support costs associated with the operation of Indian self-determination contracts by $3,875,000, and would take offsetting reductions in three Bureau of Indian Affairs Program accounts in the equal amount of $3,875,000. My amendment thus does not propose to increase the amounts reported by the full Appropriations Committee for the Interior appropriations bill for fiscal year 1988. My amendment also proposes to delay the implementation, by 6 months, of a final rule on the eligibility of Indian patients for the services provided by the Indian Health Service. This delay in implementation of the rule will prevent the health of those most in need of health care services from being jeopardized during the transition to the newly proposed program. Due to a scheduling conflict, there was not sufficient time to have the full committee's consideration of these proposals, but I want to commend the committee for its responsible approach to addressing what is widely acknowledged to be the dire need for funding of the programs that provide support to Indian people. In my judgment, these amendments will make the Interior bill one that will serve the Indian people of this Nation well in the upcoming fiscal year.

Mr. JOHNSTON. I thank my colleague, the chairman of the Indian Affairs Committee, for the concern he has shown for the funding appropriated for Indian programs. The Senator raised this matter in committee and had a series of 15 amendments that would have affected approximately $13 million in the bill. The Senator from Hawaii has reduced the number of amendments he is proposing to one amendment that would affect approximately only $4 million of the bill. The Senator's request seems reasonable—it is a significant reduction from what he was proposing earlier, and I am inclined to accept the amendment, take it to conference with the House, and to see whether our House counterparts will accept it.

Mr. INOUYE. I thank the Senator from Louisiana for accommodating the priorities of Indian tribal governments as they are expressed in this amendment. Mindful that competing priorities never allow us to achieve our objectives in full, these amendments should at the very least maintain the fiscal year 1987 level of program effort for the programs operated by the Bureau of Indian Affairs.

Madam President, there are a number of points I would like to clarify with the manager of this bill, my distinguished colleague Mr. JOHNSTON, regarding appropriations for the Bureau of Indian Affairs.

At the outset, I would like to respond to comments that I have frequently heard regarding the amount of Federal dollars that are appropriated for support of Indian programs. It has been estimated that total Federal funds allocated for support of Indian programs in all Federal agencies exceeds $2.5 billion and that if the total Federal funds for support of Indian programs were divided per capita the sum would be in excess of $12,000 per person. Mr. President, analyses have been conducted in the past that indicate that the per capita expenditure of Federal funds for Indian programs are proportionate to the per capita expenditure for similar programs benefiting non-Indians. If State and local expenditures are added to these sums, I have no doubt that the total governmental expenditures for the benefit of non-Indians would substantially exceed the support provided our Indian population.

Madam President, the request for budget authority for the Bureau of Indian Affairs for fiscal year 1988 totaled nearly $1.5 billion. I would note that nearly one-third of this sum, approximately $400 million, are the Indians' own trust funds that cannot be expended without congressional authorization. The actual outlay of Federal funds for the BIA for fiscal year 1988 was less than $1 billion. This is approximately equal to the BIA budget in fiscal year 1979. The shrinkage in Federal support through failure to match the inflationary spiral is obvious, and when coupled with the elimination of programs such as the Comprehensive Employment Training Act [CETA] from which the Indians derived $60 million, and shrinkage of effort in programs such as the Economic Development Administration [EDA], the budgetary impact on Indian programs since 1979 has been dramatic.

Madam President, it is also frequently contended that Indians do not pay taxes, and the Federal expenditure is all too often viewed as some sort of Federal largess toward which the Indians do not contribute. It is true that Indians do not pay income taxes to States in cases where their income is derived from employment or other economic activity within their respective reservations. Nor do they pay property taxes on trust lands or other trust assets. However, in all other respects the Indian people of this Nation share the same tax burden as all other citizens.

Individual Indians are liable for payment of all Federal income taxes levied except for income derived from a trust asset. They are liable for payment of all State income taxes from any work or economic activity in which they engage outside the reservation boundaries. And they are liable for payment of sales and use taxes in the same manner as any other State citizen for purchases. I have already noted the dedication of $400 million in Indian owned trust funds encompassed in the bill before us. In addition, tribes devote significant sums to the support of tribal programs and tribal government from funds derived from leasing of agricultural and grazing lands, mineral leases, timbering, sale of hunting and fishing licenses, and other business activities. When all this is considered together, I think it is clear that the Indian people contribute not only substantially but heavily toward the maintenance and support of their own people and their own governmental institutions. Mr. President, I believe that the amounts provided for the support of Indian lands and resources are a small price to pay in return for the 500 million acres we took from the tribes.

Madam President, I would like now to direct my comments specifically to the budget of the Bureau of Indian Affairs. That budget is less than $1 billion in Federal expenditures. Bureau programs serve an estimated 765,000 Indians, Eskimos, and Aleuts. It maintains relations with some 309 Indian tribes in the lower 48 States and 197 Alaskan Native organizations, in all covering some 30 States of the Union. Approximately one-third of the Bureau expenditures are for education programs or for social services including payment of general assistance for those whose income levels are below State poverty levels. Education alone accounts for nearly 24 percent of the BIA budget, and this does not include school construction or maintenance. These are programs traditionally funded by State or local governments for their citizenry and if the Federal Government did not provide these services to the Indian reservations the burden would fall on the State or local governments.

In addition to these programs the Bureau is responsible for management and protection of more than 50 million acres of land with attendant natural resources, provision of law enforcement services and support of tribal courts, management of Indian trust funds, provision of technical assistance and core support to tribes to enable the tribes to contract for and administer Federal programs, and provision of funds either through loans or grants to stimulate economic development on the reservations. The Bureau is responsible for management of nearly 46 million acres of agricultural lands, including farm lands and range lands. It manages nearly 6 million acres of commercial forest land and is responsible for leasing of lands for mineral development, including coal, uranium, oil and gas, and other minerals. Substantial sums are expended for protection and enhancement of fisheries, particularly in the Pacific Northwest, Alaska, and the Great Lakes States. It maintains over 21,000 miles of paved and graded roads within the reservations, and it is responsible for construction and maintenance of the physical plant of such facilities as schools, administration buildings, jails, irrigation projects, and dam safety.

Not only do the Federal programs of assistance to American Indians, Eskimos, and Aleuts relieve the States of substantial expense, the States also enjoy a financial contribution from the Indians through payment of taxes, dedication of income from Indian trust resources, and application of nontrust income to provide local government services. In my opinion the Federal Government's expenditures probably constitute a lesser per capita governmental expense to the support of our Indian population than that received by the non-Indian population when the expenditures of States and local governments are included. Finally, the social services and land management functions provided by these funds are vitally necessary to fulfill the trust obligations we assumed in acquiring this country from the Indians.

Madam President, with these remarks, I would now like to turn to the specific bill before the Senate today.

Indian self-determination has been the Federal policy toward Indian tribes since 1975. The Federal Government has encouraged Indian tribes to control their own affairs by contracting with the Secretary of Interior and the Secretary of Health and Human Services to operate programs otherwise operated by the Bureau of Indian Affairs and the Indian Health Service.

Unfortunately, the Federal Government expects Indian tribes to operate these programs with fewer dollars than are available to Federal agencies. The Federal Government requires Indian tribes to pay for independent audits. These audits cost money. The Federal Government requires Indian tribes to carry liability insurance. Insurance premiums have skyrocketed for tribes, just as they have for other units of government. The Federal Government requires Indian tribes to submit quarterly and annual program and financial reports. These administrative demands require sophisticated and costly management systems.

Tribal governments, like State, county, and local governments, use indirect cost rates to pay for these administrative overhead costs. The indirect cost method is a widely accepted management tool for allocating costs common to many different programs and functions within a government entity. The rules for using indirect cost rates are contained in Office of Management and Budget circular A-87, "Cost Principles for State and Local Governments."

Unfortunately, for the past 7 years, the Bureau of Indian Affairs has requested less than the amount of appropriations needed to fully fund indirect cost associated with Indian self-determination contracts. When the Congress asked why there was a shortfall every year of contract support funds, the BIA responded that tribes were abusing the system. This year the Committee on Indian Affairs challenged the BIA to produce evidence of such abuse. The BIA was unable to substantiate their charges.

The Department of Interior Office of Inspector General conducted a study of tribal indirect cost rates in 1983. The Inspector General found that tribal indirect cost rates increased between 1979 and 1983 as a direct result of increased contracting activity combined with increased Federal accountability requirements. Tribal indirect cost rates are reviewed and approved by the Inspector General.

The Committee on Indian Affairs is considering amendments to the Indian Self-Determination Act of 1975. The single most serious problem tribes have faced during the past 12 years has been the failure of the Bureau of Indian Affairs to pay its fair share of indirect costs.

Time and time again, tribal witnesses have described the horrendous administrative nightmares caused by indirect cost shortfalls. Tribes are held liable by the Office of Inspector General for the full amount of their indirect costs, even if the Bureau of Indian Affairs fails to reimburse tribes for those costs. Tribes then operate at a deficit and carry forward an underrecovery, which affects their rates in subsequent years. Some tribes have found themselves owing the Federal Government several hundred thousand dollars because of theoretical underrecoveries which result from indirect cost shortfalls.

Many tribes are forced to use trust fund revenues to subsidize indirect costs. One tribe in Nevada was forced to budget over $90,000 to cover shortfalls in Federal indirect costs for just 1 year. That tribe was unable to use its trust fund revenues to leverage private funds for economic development.

In our report to the Committee on the Budget, and in our letter to the Committee on Appropriations, the Committee on Indian Affairs emphasized the need for full funding in fiscal year 1988 for contract support funds at the level of $48,662,000. Strengthening the implementation of the Indian Self-Determination Act is one of the highest priorities of the Committee on Indian Affairs.

It disturbs me that the Federal Government would not dream of shortchanging contracts with private suppliers of goods and services. And yet, when we contract with Indian tribes, we routinely fail to reimbuse tribes for legitimate administrative costs associated with carrying out Federal responsibilities.

Unless we are willing to fully fund tribal indirect costs for self-determination contracts, then we are just paying lip service to the policy of Indian self-determination. The amendment I am offering includes an offset of $3.875 million and is, therefore, budget neutral. It is time we lived up to the Federal policy of self-determination and started paying our fair share of tribal indirect costs. I urge my colleagues to support this amendment.

Mr. CRANSTON. Madam President, I rise in strong support of the amendment offered by the distinguished Senator from Hawaii [Mr. INOUYE], the chairman of the Select Committee on Indian Affairs. The amendment would, among other things, impose a moratorium on implementation of the final rule promulgated on September 16, 1987, regarding Indians' eligibility criteria for Indian Health Service [IHS] health care that was issued on September 16, 1987. Specifically, as I proposed to the Senator from Hawaii, it would delay the effective implementation date from March 16, 1987, to September 16, 1987, and would provide that the grace period extend for 6 months following the implementation date, until March 16, 1989.

This amendment is very important to tens of thousands of Indians who live in California. The new rule requires that in order to be eligible for IHS services an Indian be a member of a federally recognized tribe. For historical reasons, however, a majority of California Indians—more than 50,000—who are now eligible and receive IHS care are not members of such tribes, and, therefore, would be terminated from eligibility.

Madam President, the Select Committee on Indian Affairs has already addressed this issue. On March 19, 1987, by a unanimous vote, the committee agreed to an amendment I helped develop to codify current practice and policy regarding the eligibility of California Indians. Specifically, Indians who fall into one of the following four categories would be eligible for IHS services: (1) Members of federally-recognized tribes; (2) descendants of Indians who lived in California on June 1, 1852, who are members of the Indian community now served by the IHS and who are regarded as Indians by their communities; (3) Indians holding certain trust interests; and (4) Indians listed on certain plans for distribution of California rancherias and reservations, and their dependents.

The committee-approved provision explicitly states that eligibility of California Indians for health services would not be expanded beyond the scope of eligibility for such services that applied on May 1, 1986. The committee bill also provides for a study to be conducted to determine the number of California Indians who are not members of federally recognized tribes, those Indians' geographic location, and an assessment of their health status.

Madam President, the final rule would undermine the committee's efforts completely. Because I was so concerned about the devastating impact this new rule would have on my State, on September 4 I contacted Dr. Otis Bowen, Secretary of Health and Human Services, to urge that the rule not be published. I ask unanimous consent that my letter to Secretary

Bowen be included in the Record at the conclusion of my remarks.

Madam President, in order to prevent a great deal of confusion and misunderstanding that will inevitably result if the HHS-promulgated rule goes into effect and then is later reversed by the enactment of S. 129, I believe that this amendment to delay implementation of the rule is fully warranted. It would ensure that no action would be taken that would result in the California Indians being denied IHS-provided care, until Congress has a full opportunity to deal with the matter.

I would like to express my deepest appreciation to the Senator from Hawaii [Mr. Inouye] for offering this amendment tonight and for all his assistance throughout the year with regard to the California Indian issue.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, September 4, 1987.

Dr. Otis Bowen,
Secretary, Department of Health and Human Services, Washington, DC.

Dear Otis. I am writing concerning the proposed final rule establishing new eligibility criteria for health services through the Indian Health Service [IHS], which I understand the Department may soon publish.

I realize that this rule follows by nearly a year the issuance of the proposed rule and that much public comment and discussion has ensued. Many of the changes, such as the deletion of the blood quantum requirement, are improvements over the proposed rule. However, Congress will be considering legislation very shortly which would also affect the eligibility criteria. Thus, I would urge you to delay publication of the final rule until Congress has had an opportunity to act on this issue.

The proposed eligibility criterion—that an eligible person be a member of a Federally recognized tribe—would have a grave impact on California Indians—denying IHS eligibility to 53,000 of them, more than 70 percent of all California Indians currently eligible for IHS care.

As you may know, S. 129, the proposed "Indian Health Care Improvement Act Amendments", as introduced contained provisions to codify current practice and policy concerning the eligibility of California Indians for IHS services. Those provisions would allow California Indians who are currently receiving care by the IHS to continue to do so. Senator McCain, who is a member of the Select Committee on Indian Affairs, expressed concerns that they would expand current eligibility of California Indians and that they constituted "special" treatment for California Indians.

However, I worked out an agreement with Senator McCain and the Chairman of the Select Committee on Indian Affairs, Senator Inouye, the result of which was offered as an amendment by Senator McCain to S. 129, when the Committee considered that legislation on March 19. I believe that the amendment met the concerns of all members involved.

The amendment, which was accepted unanimously by the Committee, would codify current practice and policy regarding eligibility of California Indians for IHS services. Specifically, Indians who fall into one of the following four categories would be eligible for IHS services: (1) Members of federally-recognized tribes; (2) descendants of Indians who lived in California on June 1, 1852, who are members of the Indian community now served by the IHS and who are regarded as Indians by their communities; (3) Indians holding certain trust interests; and (4) Indians listed on certain plans for distribution of California rancherias and reservations, and their dependents. The Committee-approved provision explicitly states that eligibility of California Indians for health services would not be expanded beyond the scope of eligibility for such services that applied on May 1, 1986. The amendment also provided for a study to be conducted to determine the number of California Indians who are not members of federally-recognized tribes, those Indians' geographic location, and an assessment of their health status.

I well appreciate the concerns of many individuals about the precedent and implication of establishing separate eligibility requirements for California. However, because of the unusual circumstances surrounding federal recognition of California tribes, that is, the non-recognition of many such tribes, fairness requires the retention of the existing policies for the determination of California Indians' eligibility. In historical context, these policies do not constitute "special" or "favored" treatment. Rather, if California Indians were made subject to the proposed IHS general eligibility standards, they would be disproportionately adversely affected.

In addition, according to the Office of Technology Assessment's April 1986 report entitled "Indian Health Care", California currently receives the lowest per capita share of IHS funds of any service area. The fiscal year 1985 per capita allocation to the California service area was $424—$368 below the national average. Moreover, OTA found that information about the health of Indians in California is practically nonexistent, primarily because of the loss of reservation lands as a consequence of the changing and diverse Federal policies applied to California Indians and the difficulty in identifying Indians in California.

In light of the fact that the Senate Select Committee on Indian Affairs unanimously accepted the amendment codifying current practice and policy with regard to eligibility of California Indians, and given the current lack of information about the health of California Indians, now is clearly not the time to make major changes in California Indians' eligibility for IHS care.

Thus, in order to prevent a great deal of confusion and misunderstanding that will inevitably result if this rule goes into effect and then is later reversed by the enactment of the pending legislation, I would urge that you delay the publication of the rule until Congress has had an opportunity to act on S. 129.

I would very much appreciate any assistance you could provide on this issue. Thank you for your attention and consideration to this very important matter.

Wish warm regards,
Cordially,
Alan Cranston.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 798) was agreed to.

Mr. INOUYE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 799

(Purpose: To prohibit the Secretary of Agriculture from transferring certain National Forest System lands in South Dakota)

Mr. DASCHLE. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. Daschle] proposes an amendment numbered 799.

Mr. DASCHLE. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east east west 1/256 corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter 16, and line 20-21 of the Big Bend Placer;

thence northeasterly along line 20-21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

Mr. DASCHLE. Madam President, the amendment I am offering would prohibit the Secretary of Agriculture from transferring a specific parcel of land in the Black Hills National Forest to private interests. The sale has been proposed under Public Law 97-465, commonly known as the Small Tracts Act.

The land in question is an area of exceptional scenic beauty and recreational value in South Dakota's legendary Black Hills. The land is adjacent to a blue ribbon trout fishing stream, and has been enjoyed as a public area since before the U.S. Forest Service assumed the responsibility for managing this special land.

Hundreds of area residents and organizations representing thousands more have voiced their opposition to this exchange. Heeding the public outcry against this transfer, the Forest Service withdrew their original proposal on this matter. Unfortunately, pressure from the private interests involved has caused the Forest Service to renege on their previous decision to allow this land to remain open to the public.

The Forest Service cites provisions of the Small Tracts Act designed to help resolve minor encroachment problems as a reason for this land exchange. The encroachment, in this case, involves only a few square feet. This transfer will eliminate 9 acres of land from public access. While the amendment I am offering will allow for the absolute minimum amount of land to be transferred necessary to resolve this encroachment, it will protect nearly the entire 9 acres for public use.

This land exchange represents an attempt by private interests to remove a parcel of land of unsurpassed beauty from public access. Land now enjoyed by all will be set aside for the pleasure of only a select few.

I firmly believe this amendment should have the broad support of the Members of this body, and I urge its adoption.

Mr. McCLURE. Madam President, will the Senator yield?

Mr. DASCHLE. I yield to the Senator from Idaho.

Mr. McCLURE. Madam President, am I correct in reading the language that it is intended by the distinguished Senator that this be a 1-year limitation authority of the Forest Service?

Mr. DASCHLE. I want to clarify that, and I am glad the Senator from Idaho has asked the question.

This does not address the 1-year stipulation; but it is my hope that before we come up with the next appropriation bill, we can resolve this concern as a result of this legislation.

Mr. McCLURE. The language of the amendment is a restriction. It is language which is binding during the term of the fiscal year for which the appropriation is made, and it is not permanent language?

Mr. DASCHLE. That is correct.

Mr. McCLURE. Madam President, this is a matter of first impression, so far as I am aware, to this subcommittee. Not being familiar with the issues, I certainly would like to defer to the Senator in whose State this land is located. If we run into problems with respect to the limitations, there is no provision like this in the House bill, and it would be before the conference, and it would give us an opportunity to take another look at it between now and the conference.

I think the Senator should understand that if we run into that difficulty, it is something we might have to adjust in conference.

Mr. DASCHLE. If I can respond, I would say that I would hope that we can resolve this matter to the complete satisfaction of the Senator from Idaho, and that is certainly my intent.

Mr. McCLURE. Madam President, we understand there is a limitation on the language as expressed. My understanding of what that limitation is, is that it is being for the fiscal year 1988 only, and, with the understanding that we will look at it further between now and the conference, I have no objection to the amendment.

The PRESIDING OFFICER. Is there any other Senator who wishes to be heard on the amendment?

Mr. JOHNSTON. Madam President, we have spoken with the Senator from South Dakota about this matter and he feels that it should be delayed and it is in his State. We, therefore, will in the spirit of taking this to conference we will accept the amendment.

Mr. DASCHLE. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

Observing none, the question on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 799) was agreed to.

Mr. DASCHLE. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from South Dakota.

Mr. DASCHLE. Madam President, I have a very short colloquy that will take no more than 30 seconds, I believe. If I could engage the manager of the bill in the colloquy, I will relinquish the floor.

I wish to address a question to the distinguished floor manager of the Interior and Related Agencies Appropriation bill. In reading the report, I have not been able to find any reference to my recommendation that the surgical suite at the Rosebud Replacement Hospital project should be completed and equipped with previously apportioned funds. Does the committee intend for this work to go forward?

Mr. JOHNSTON. The Senator is correct. It is the intent of the committee that this work be done within available funds and that these remarks will serve as guidance to the Indian Health Service in this matter.

Mr. DASCHLE. I thank the Senator for his clarification and his kind assistance.

Mr. WALLOP. Madam President, is the parliamentary situation that the amendment under consideration is temporarily set aside?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 800

(Purpose: To allow the State of Wyoming to use $2 million of its FY 87 Abandoned Mine Land Funds for direct assistance to the residents of the Rawhide and Horizon subdivisions in Campbell, Co. Wyoming)

Mr. WALLOP. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the Senator's amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself and Mr. SIMPSON proposes an amendment numbered 800.

Mr. WALLOP. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On Page 33, line 5, insert the following: "Provided further, notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2 million from its allocation of Fiscal Year 1987 appropriated funds under Section 402 (g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases."

Mr. WALLOP. Madam President, I propose this amendment on behalf of Senator Simpson and myself and state that it is a unified expression upon the part of the Government of Wyoming. I have a letter in support of it from Governor Mike Sullivan which I ask unanimous consent to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF WYOMING,
OFFICE OF THE GOVERNOR,
Cheyenne, September 29, 1987.

Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR MALCOLM: I understand that you intend to advance an amendment to the FY 1988 Interior Appropriation Bill, which would make available $2 million from Wyoming's allocation of the Abandoned Mine Land funds for assistance to the residents of the Rawhide/Horizon Subdivision.

The purpose for this letter is to indicate my firm support for this initiative, and to provide you with some indication as to how this money would be used.

For background purposes, as you may know all the technical experts who have reviewed the gas seepage phenomenon in the subdivision have firmly concluded that the gas is generated by the underlying coal seam(s). In addition, no expert has advanced a method for remediating the problem while the subdivision is still occupied. Finally, the President has recognized the threat to the health and safety of the residents, by his emergency designation for the area and the temporary assistance payments for rental as permanent residency is concluded.

Unfortunately, while we appreciate the President's action, it fails to provide the assistance to the residents which would have been available through a major disaster declaration. In addition, the residents cannot turn to the Superfund law for assistance. However, some source of funding is desperately needed to provide meaningful relief to the residents. These families should be allowed to put their lives back together, without large debts and the loss of equity in their properties.

We are hoping to use the $2 million AML allocation to provide for direct assistance to the residents of Rawhide/Horizon Subdivision who have evacuated their homes due to the hazardous gases. I anticipate that a small direct cash payment will be made to each eligible applicant, and a formula will be used to divide the remainder in a manner which reflects the varying conditions facing each family.

As you may know, some residents have been allowed a direct trade and are in permanent housing. On the other end of the spectrum, others may lose their equity and face a default situation with their lending institution. Finally, one resident has paid for his home and stands to lose his entire investment.

While we may not satisfy every resident with any formula, we hope to use the $2 million through a fair process which reflects these varying situations. The formula will be the subject of public hearings, and an AML program amendment will be submitted to the Office of Surface Mining for approval.

I hope this letter is helpful to you in explaining our intentions at this early stage to use the $2 million allocation, if it is made available to the State. We believe this is a justifiable use of the AML funds, which are paid by our coal industry, for a problem created by the presence of unleased federal coal underlying the subdivision. I hope you are successful in convincing your colleagues on this point.

Thank you again for your efforts. With best regards, I am

Yours sincerely,

MIKE SULLIVAN,
Governor.

Mr. WALLOP. Madam President, let me just take one paragraph from the letter, just so the managers of the bill can hear it.

The purpose for this letter is to indicate my firm support for this initiative, and to provide you with some indication as to how this money would be used.

While we may not satisfy every resident with any formula, we hope to use the $2 million through a fair process which reflects these varying situations. The formula will be the subject of public hearings, and an AML program amendment will be submitted to the Office of Surface Mining for approval.

I ask also, Madam President, that a letter from the Wyoming State Department of Environmental Quality to Congressman CHENEY be printed in the RECORD in support of this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENVIRONMENTAL QUALITY,
August 6, 1987.

Congressman DICK CHENEY,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN CHENEY: Over the last year I have been invited to speak before several Congressional Committees on Abandoned Mine Land funding and policy issues. Except for brief testimony on the subject of extending the fee collection period all of my testimony has been on behalf of the Association of Program States. Functioning as the chairperson of the Association I have represented common interests and concerns of the program states. In my testimony I have discouraged attempts to divert AML funds for what I called non-reclamation purposes. Examples include additional government costs such as retirement fees and pay increases and use of the monies for expanded research and development projects. It is the interest of the Association membership to maximize the benefits from this finite fund by eliminating as many abandoned mine land problems as possible.

I am aware that you have introduced legislation into the budget bill which would allow the State of Wyoming to utilize up to $2 million from its FY87 Abandoned Mine Land allocation to provide direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions of Campbell County, Wyoming. As you know, the citizens that reside in these subdivisions are at threat from explosives and toxic concentrations of methane, hydrogen sulfide and hydrogen selenide gasses which underlie their homes at near surface locations. These gasses are being released from shallow Wyodak coal deposits. To date, reasonable and economical alternatives have not been developed which might mitigate the problems. The only reasonable solution seems to be evacuation of the residents for their health and safety.

I believe use of AML monies is justifiable. The conditions at Rawhide Village constitute an extreme danger to health and safety of the residents. This subdivision is a result of coal development which blossomed in the mid 1970's in the Gillette area. These types of housing developments satisfied the early impact needs of Gillette and continue to support the coal mining industries that predominates Gillette's economy. All available evidence continues to support the fact that there is no responsible party under Federal and State law. I, therefore, support your action to gain legislative authorization to utilize AML monies to assist the victims of this situation. Wyoming currently has a balance in excess of $2 million in its FY87 allocation that would be available for this purpose.

Sincerely,

GARY BEACH,
Mine Reclamation Program Manager.

Mr. WALLOP. Madam President, I will try to be brief on this, but let me just say that the purpose of my amendment is to give the Governor of Wyoming the flexibility to use up to $2 million of the State's allocation of Federal abandoned mine land funds for fiscal year 1987 to extend appropriate assistance if he deems it advisable to the victims of this natural disaster affecting the Rawhide and Horizon Housing Subdivision in Campbell County, WY.

Madam President, this assistance would most likely be in the form of low-interest loans to help more than 200 families relocate their lives and their families. I would like to stress that the amendment does not, I repeat, does not affect the Secretary's discretionary fund of the abandoned mine land allocations of any other State. It merely gives the Governor of Wyoming authority to use a portion of Wyoming's appropriated allocation for 1 year, fiscal year 1987, to deal with a crisis that has seriously victimized more than 200 families.

It seems fitting that this flexibility be provided to the Governor, since the problem is coal-related, and Campbell County, which lies in the heart of the Powder River coal basin, probably contributes more to the abandoned mine land fund than any other county in the country. And, the State of Wyoming has, for the time being, completed most of the abandoned coal mine reclamation work that is amenable to existing technology, so the coal reclamation program in the State will not suffer as a result of this assistance.

Madam President, Rawhide is a housing development in Campbell County, WY, developed in 1976. Approximately 270 families bought homes there and in the smaller, adjacent Horizons subdivision. Both subdivisions are underlain by coal which is on the fringe of a larger nearby seam that is currently being mined under a Federal permit.

Testing was done by the State and the presence of methane gas in high concentrations was confirmed as was hydrogen sulfide gas which was found in the basements of several homes. Because of the high concentrations of both gases and accompanying threat of fire or explosion, the subdivision was ordered evacuated in June, and the Governor of Wyoming applied to the Federal Emergency Management Agency [FEMA] for a Federal disaster declaration, which would have entitled Rawhide and Horizon residents to various kinds of assistance.

In June, FEMA officials rejected the State's first application as a disaster area, but on September 5, they agreed to declare the area as an emergency area, which will allow the displaced, Rawhide and Horizon residents to be eligible for temporary rent assistance, special housing loans and grants for various disaster needs. The amendment we are offering will provide the Governor of Wyoming with additional flexibility to deal with this problem, and it will cost absolutely no money to the Treasury or threaten any other State's AML funds.

Further, in my opinion, the Senate has already expressed a willingness to rechannel abandoned mine land moneys by allowing the State of Pennsylvania to acquire private homes, businesses, and nonprofit buildings in the Borough of Centralia, and to relocate those families affected by underground mine fires by earmarking $42 million of the State of Pennsylvania's abandoned mine land funds. This was done through the fiscal year 1984 supplemental appropriations bill, which is now Public Law 98-181. All the State of Wyoming asks is to have the authority to use $2 million in its AML moneys for relocation and low-interest loan assistance for the victims of Wyoming's natural disaster.

Let me remind the Senate that any plan the State submits must be approved by the Governor and I have his letter here and his full suppport of this initiative on behalf of our delegation.

Mr. JOHNSTON. Madam President, as I understand the proposition of the Senator from Wyoming it would be to take this money out of Wyoming's share of AML funds. To do so would not satisfy the Department which opposes this.

So it is with some degree of hesitation that we say we will accept the amendment and take it to conference. But between here and conference I hope the distinguished Senator from Wyoming can make a better case to the Department and can show that what might be a bad precedent being contrary to the law at least as the Department sees it that that can be cleared up.

But we do recognize the Senator from Wyoming has a serious problem in his State and so for that reason we will take it to conference.

Mr. WALLOP. Madam President, I thank the Senator, and we will endeavor to make that case. I do not think it is a precedent being established but one being followed and I think that case can be made. But, nevertheless, the alternative remains that we do something to help the people from these two areas of Wyoming who are seriously in trouble. It would seem to me that Wyoming can make the case to use the money from funds that are already allocated to the State. That way the Treasury will not lose anything and both the country and the State will be a little better off.

So I thank the Senator for the understanding, and we will try very hard to make that case as it has already been made to the House which has accepted this amendment as well.

Mr. McCLURE. Madam President, I note the case that has been made by the distinguished Senator from Wyoming and the fact that both Senators from Wyoming approved this approach to that problem. I also note the support for this approach that has been expressed by the Governor of Wyoming, and I am struck by the fact that indeed the Senator is correct. This is out of moneys that are made available to the State of Wyoming for matters that are related to this either directly or indirectly and, therefore, we have no objection to the amendment.

Mr. WALLOP. I thank the Senators, and, Madam President, I ask for the question.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is now on agreeing to the amendment of the Senator from Wyoming.

The amendment (No. 800) was agreed to.

Mr. WALLOP. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 801

(Purpose: To make technical and clerical amendments to H.R. 2712)

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] proposes an amendment numbered 801.

Mr. JOHNSTON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 11, line type the number "$350,000" and insert immediately following the number "$400,000".

On page 16, line 4, delete the word "or" and insert in lieu thereof the word "of".

On page 17, line 13, delete the word "between" and insert in lieu thereof the word "among".

On page 18, line 13, insert the word "AND" between the words "PARK" and "RECREATION".

On page 33, line 25, remove the number "$53,557,000" and insert the number "$53,057,000".

On page 37, line 13, insert a period between the parenthesis and the close quote.

On page 43, line 14, delete the first comma.

On page 43, line 23, after the word "Foundation" insert a colon; and before the number "$500,000", insert "*Provided further,* That of the total appropriation".

On page 44, line 16, line type starting with the colon and continue line type through the close quotation mark on line 19, saving the semicolon on line 19.

On page 55, line 19, delete the first comma.

On page 67, line 25, delete the period.

On page 69, line 17, delete the number "$335,824,000" and insert in lieu thereof the number "$373,957,000".

On page 69, line 23, the word "That" should be set in bill type italic.

On page 70, line 6, the word "Further," should be inserted immediately preceding the word "That".

Mr. JOHNSTON. Madam President, this amendment is required to make technical and clerical amendments to the committee reported bill.

I ask unanimous consent that these amendments be considered en bloc and that they be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Madam President, all of these amendments have been cleared by the other side. None of them change the substance or intent of the committee reported bill but are needed to bring the bill into compliance with normal bill drafting standards.

Let me mention one of these amendments. On page 69, line 17, the amendment would delete the number $335,824,000 and insert in lieu thereof the number $373,957,000. This change does not affect the CBO scoring of our bill. If you will consult the table inserted into the RECORD, which shows the amounts provided by the committee, the table will show the larger number with a series of offsetting reductions. Unfortunately, when we printed the bill, the smaller number was included in the bill inadvertently.

Madam President, I move the adoption of the amendment.

Mr. McCLURE. Madam President, we have no objection to the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing on the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The amendment (No. 801) was agreed to.

Mr. JOHNSTON. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 802

(Purpose: To provide $250,000 for the first year of a 5-year project in Arkansas to improve vegetative cover on reclaimed mine land through research and technical assistance)

Mr. BUMPERS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Arkansas.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 802.

Mr. BUMPERS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 10, after the colon insert "*Provided*, That $250,000 of such funds available to the Rural Abandoned Mine Program, over and above the amount received by Arkansas in 1986, shall be available for the first year of a five year project in Arkansas to improve vegetative cover on reclaimed land through research and technical assistance."

Mr. BUMPERS. Madam President, I have talked to both of the managers of the bill about this. Frankly, I have changed it somewhat since I talked with the distinguished Senator from Louisiana.

Here is what the amendment now does: This year, 1987, there was $8 million in the RAMP fund. In 1988, there will be $14 million. So, naturally, Arkansas, which receives about $250,000 or $275,000 this year, will receive some considerable amount more next year.

What this amendment says is that the amount in excess of what they got this year shall be $250,000. That means we may get a little bit more than we would normally get, but not much.

Now, this amendment is not as well crafted, because I want to try to get this bill passed before 8 o'clock if we can. It would take me a while to redraft it, and we will take good care of that in the conference if this amendment is accepted.

But I want to make the record clear that it is my intention that this additional money will be used by the Soil Conservation Service for a study of vegetative covers of reclaimed lands. Normally, I would be reluctant to ask for these funds, except our reclamation program is simply not working in Arkansas because we do not have one site that we can boast about where the vegetative cover has worked as we would like.

Several years ago, I got a small agricultural center in Booneville, AR. They have now established a small plant materials center there. So it will not take any new manpower. It will not take anything very much in the way of additional expense for us to study new vegetative covers.

What they want to do is go out and plant a whole host of different kinds of vegetation on these sites and try to figure out which one is most appropriate for these reclamation projects. It is just that simple.

I do not mind telling you that I have an additional parochial interest. Most of the abandoned land like that is in my county and two adjoining counties. I see this every time I go back home. We are just not having any luck with this and until we get a program like this we are not going to.

I discussed this with the Senator from Idaho, who has agreed to it, and I think the Senator from Louisiana will also agree to it.

Mr. JOHNSTON. Madam President, the Senator from Arkansas has delineated a special problem with respect to his State and we think this is an appropriate response to it. We will, therefore, accept the amendment.

Mr. McCLURE. Madam President, I appreciate the statement the Senator has made with respect to the purpose of this amendment. I am very sympathetic to the need to do what he is setting out to do. It makes sense to me. You ought to be able to find out how to do it so that you can, with the expenditure of a minimal amount of funds, set your course for some meaningful and successful reclamation of these lands. The Senator's agreement to change the proposed amendment to guarantee that you have an increase in 1988 of at least $250,000 over 1987 seems to be a very limited response to a very real problem.

I commend the Senator for addressing it. I appreciate his willingness to cooperate in the way he has in modifying the amendment.

We have no objection to the amendment, as modified.

Mr. BUMPERS. I thank both Senators, Madam President.

Just for the record, I would like to make two additional points. We are losing between 10 and 50 tons of topsoil per acre over reclaimed land. That will give you some idea of the magnitude of our problem.

Second, it is really hardly worth our time to do any more reclamation projects unless we come up with some kind of vegetation cover that will work on these reclaimed lands.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Arkansas [Mr. BUMPERS].

The amendment (No. 802) was agreed to.

Mr. BUMPERS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 803

(Purpose: To make clear the intent of $1.2 million designated to the Bureau of Mines for the establishment of a Marine Minerals Technology Center)

Mr. JOHNSTON. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON] (for himself, Mr. STENNIS, and Mr. INOUYE) proposes an amendment numbered 803.

Mr. JOHNSTON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following: ": *Provided further,* That of the sums provided under this head, $1.2 million shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equaly divided".

Mr. JOHNSTON. Madam President, this amendment which has been cleared on both sides, is presented on behalf of the distinguished Senator from Mississippi [Mr. STENNIS], and the distinguished Senator from Hawaii [Mr. INOUYE]. It would make clear the intent of the $1.2 million designated in the bill to the Bureau of Mines for the establishment of a marine minerals technology center that has been established.

I ask for the approval of the amendment.

Mr. McCLURE. Madam President, the committee has provided $1,200,000 to establish a marine minerals technology center. Since the committee has only provided funds and not specified where the center should be located, the Bureau of Mines would hold an open competition for the center between all generic centers.

The amendment before us would eliminate that opportunity and establish the center at the University of Mississippi and the University of Hawaii. In reviewing the list of generic centers, I am not convinced that, if an open competition were held, that these universities would win. If being a generic center is not a criteria, then why shouldn't the University of California at Berkeley, or the University of Texas at Austin, or the University of Washington be allowed to compete.

The Bureau of Mines was approached over a year ago by the University of Mississippi and the University of Hawaii with a proposal to establish a marine mineral center. Their proposal was rejected for a variety of reasons. Not the least of which was a lack of funds and the administration's lack of overall support for the Mineral Institute Program.

If it is the decision of the Congress to add an additional generic center, how do we know that a marine minerals center is the center we should be adding? What was the criteria used to reject a generic center for precious metals or a generic center for explosives?

Madam President, I am not opposed to this generic center specifically, but I do feel that we have put the cart in front of the horse by first not making a rational determination that this is the next generic center which should be added to the system and, second, that these two universities should be the universities to receive the designation and the funds.

Madam President, I might say to the distinguished Senator from Louisiana that I have no objection to the adoption of the amendment at this time. It will give us the opportunity to go to conference and, perhaps, in dialog between the various interested parties between now and the conference, we will accept this wholeheartedly or modify it, if necessary.

But I have no objection to its adoption at this time. We are prepared to accept the amendment.

Mr. JOHNSTON. Madam President, I might add that that is, of course, true with all amendments, maybe some to a lesser degree than others, that we always have to look at these in conference. And we have very difficult conferees—very pleasant personally but very difficult to negotiate with in conference.

That caveat belongs to all of these amendments.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment.

The amendment (No. 803) was agreed to.

Mr. JOHNSTON. Madam President, the matter previously brought up on the Newmont Mining tender offer; I wonder if we are ready?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. I have had two requests from Members on this side. One Member, I understand, wishes to make the point of order against the amendment—upon what grounds I do not know. It may be the horrendous thought that it is legislation on appropriations. There is another who has indicated a desire to speak with respect to it. So I am in no position at this time to accept the amendment.

Mr. JOHNSTON. Madam President, I would observe that we are getting down to the end of the bill. As I look through my list here there is an amendment by the distinguished majority leader, Senator BYRD, which has yet to be dealt with.

I wonder if the distinguished occupant of the chair has an amendment to deal with on Park Police pay? So that amendment will not be brought up.

I do not know whether the distinguished Senator from New Mexico [Mr. DOMENICI] proposes an amendment or not.

There is an amendment which we are prepared to agree to, I believe, by the Senator from California, Senator CRANSTON, on the Torre Canyon, which should be a very short, quick matter.

Other than that, I believe we are ready to go to final passage, so I would urge all Senators to come to the floor immediately if they do have amendments, or if they do have motions to make, because I believe we are ready to put this bill to bed.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Will the distinguished Senator from Idaho yield for a question?

Mr. McCLURE. Madam President, I would be happy to yield.

Mr. FORD. I say to my good friend, is there an opportunity that those who may want to make a motion against the agreed amendment, or those who wish to speak, is there any reason why they cannot be here tonight so we could stack the vote and vote on the rest of them so this bill could be expedited?

Mr. McCLURE. Would the Senator yield? I will try to respond, because I have not talked to the Senators personally. I have only been the recipient of messages from them, so I cannot tell you with any degree of precision what it is they have in their minds except they have requested the opportunity to be here. I am somewhat embarrassed by the request in one respect, and that is that I am as anxious as is the manager of the bill to get this bill passed.

The other, however, is that I do not think very many Members were on notice earlier today or yesterday that this bill would be up today, in order that they know what the amendments would be. Therefore, it is not an unreasonable request that they have the opportunity to come.

Mr. FORD. I understand and I appreciate the position in which the distinguished Senator has been placed. I am just anxious to see if there could be some agreement that we could move on with this amendment and get it behind us. It is important. I think it is timely, something that should be put on; and I understand holds.

I have been waiting for weeks to get a piece of legislation up and I cannot do that so I understand holds. I am going to start speaking on it in the morning and maybe we will be able to get a little heat generated on airport improvement.

We talk about aircraft safety, you know, and cannot even get the bill up.

But, nevertheless, I understand and I was just hopeful we might be able to do something in this direction.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Is the pending business the Reid amendment?

The PRESIDING OFFICER. If the Senator calls for regular order with this bill, that would be so.

Mr. PROXMIRE. Madam President, I would like to speak very briefly on it. If it is not up now, it will be, I understand, within a few minutes.

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 796

Mr. PROXMIRE. Let me say this amendment deals with a provision which is in a bill before the Banking Committee that we are going to mark up tomorrow. There is no question about the jurisdiction our committee has. But I favor the amendment. I know it has a really serious effect on States like Kentucky, West Virginia, and Nevada. It is very important to them and the timing is important.

While the language we have in our bill is almost exactly the same as in the amendment, that language will not become law for at least 6 months, if then.

This is a very urgent matter. As I understand it, the Reid amendment has a sunset of 6 months and for that reason it seems to me, Madam President, that although we have jurisdiction it is an amendment that should pass and I will enthusiastically support it.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Madam President, at the opening of this bill I advised that the committee was paid a very high compliment in that the Director of the Office of Management and Budget had withdrawn the veto threat to this bill. I have been advised since that time that is not correct; that the veto threat still stands. But I must say, Madam President, having looked at this bill and its scoring by the Budget Committee and by CBO, being under our allocation, I am in good hopes that the OMB will rethink their displeasure with this bill, realize that it is below our 302(b) allocation, and that they will sign the bill.

This is, of course, veto season and certainly veto-threat season. I would tell OMB that we will do the best we can in conference to keep it the reasonable bill that it is.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Madam President, I take this time only to inform Members that while two or three have indicated to me a desire to offer amendments, they are not here on the floor. If, indeed, they wish to offer those amendments, they should be here.

I have also been informed by the Cloakroom that one Member wishes to speak with relation to the Reid amendment and another Member may wish to make a point of order against the Reid amendment. I would say to those Members that we are approaching the time when we will have to make some decisions with respect to the process.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I call for regular order.

The PRESIDING OFFICER. Regular order having been called for, the Reid amendment is pending.

Mr. REID. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? The Senator from Nevada has called for regular order. That means that the Reid amendment is pending before the Senate. The Senator from Nevada has asked for the yeas and nays. Is there a sufficient second?

There is not a sufficient second.

Mr. METZENBAUM. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Now there is a sufficient second.

The yeas and the nays were ordered.

Mr. McCLURE. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Madam President, as I said before, I have been told that a Member may wish to make a point of order against the amendment. The right of that Member has not been forfeited by any action taken to this point. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I thank the Chair.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for a quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that the yeas and nays that I called for be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 800

Mr. SIMPSON. Madam President, I want to comment on the amendment offered by my good friend and colleague, MALCOLM WALLOP, with regard to the Rawhide Subdivision in Campbell County, WY.

I fully support the amendment offered by MALCOLM WALLOP. Rawhide Subdivision in Campbell County, WY and the 270 families which make up that subdivision are in some dire circumstances as a result of the seepage of hydrogen sulfide and methane gases. Residents complained of gas related illinesses which were subsequently confirmed by local health officials.

As a result of the continuing seepage of gases and the inability to determine the exact cause or a short-term solution, the Campbell County authorities declared all residences in Rawhide Subdivision and the adjacent Horizons Subdivisions to be uninhabitable. The evacuation of these subdivisions was then ordered by the county commissioners.

The Governor of Wyoming has been working directly with the Federal Emergency Management Agency. Scientific data was gathered and submitted to FEMA for analysis. As a result of these efforts, the President issued an emergency declaration providing interim, short term housing assistance for the residents.

The purpose of this amendment, which has been adopted by the House of Representatives as part of the Interior appropriations bill, is to provide the Governor of Wyoming with flexibility to use up to $2 million of the State's allocation of Federal Abandoned Mine Land Funds for fiscal year 1987. This money will be used specifically and immediately to aid the victims of this continuing and vexing natural phenomenon.

It is important to note that this provision will not affect the Secretary's discretionary fund or allocations to any other State. It does, however, that the State of Wyoming shall have flexibility regarding allocation of the AML funds for one fiscal year.

Madam President, this type of governmental response to a devastating natural phenomenon is an example of government at its best. The unique geologic formations which have caused this critical problem could not have been anticipated in advance of any legislation dealing with the Abandoned Mine Land Fund. Consequently, we have requested an adaptation of the legislation tailored to fit the disaster. I commend the efforts of my colleague DICK CHENEY in the House and MALCOLM WALLOP here in the Senate in providing for this very important aid to these unfortunate citizens. I strongly urge the adoption of the amendment.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senate will come to order. Under the previous order, the hour of 8 p.m. having arrived, all debate time on the amendments listed to the DOD bill has expired. The question recurs on the McCain amendment No. 716. If a rollcall is requested, the time for that vote will be 20 minutes. Any back-to-back votes will be for no more than 10 minutes each.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Madam President, I ask unanimous consent that I may suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Madam President, I ask unanimous consent that further proceedings under the quorum call be suspended.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

The Senate continued with the consideration of the bill.

Mr. JOHNSTON. Do I understand that the distinguished Senator from New Mexico would object to the unanimous consent limiting amendments on this bill?

The PRESIDING OFFICER (Mr. CONRAD). If the Senator will suspend, the Chair is unable to hear the Senator. If we could have quiet in the Chamber so that we could hear the Senators as they make their statements.

Mr. BYRD. Mr. President, I ask unanimous consent the Senator from Louisiana may proceed for not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, we are getting down to the very end of this bill. The indication I have now is that there are five Senators who have possible amendments: Senator BYRD, Senator REID, Senator DOMENICI, Senator CRANSTON, and Senator METZENBAUM. We have gotten no indication of any other interest and if we could limit amendments to those Senators, it might expedite passage of the bill.

Mr. McCLURE. Will the Senator yield?

Mr. JOHNSTON. Yes.

The PRESIDING OFFICER. Please, can we have order in the Chamber so the Senator can be heard?

Mr. McCLURE. If the Senator will yield, do I understand that the Senator from Nevada [Mr. REID] has an amendment or is the Senator referring to the amendment that has already been offered?

Mr. JOHNSTON. Yes, the pending amendment, the Newmont mining amendment.

Mr. McCLURE. It is not an additional amendment?

Mr. JOHNSTON. That is correct.

Mr. DOMENICI. Mr. President, reserving the right to object, and I hope I do not have to object, I say to the distinguished majority leader, I have been working with his staff. I believe I have worked something out. If the Senator will agree to just add mine as the Domenici amendment—is the Senator limiting them to some category?

Mr. BYRD. No, the Senator included that amendment. I am not sure we will take it, but he included it. It is on the list.

Mr. DOMENICI. I understand, but I do not want to be precluded so long as everyone understands what it is with reference to basic research in coal. Is that it?

Mr. JOHNSTON. That is correct.

Mr. DOMENICI. And what is the request?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that when we return to the Interior and related agencies appropriations bill, the only amendments that will be in order will be by Senator BYRD, extending the exclusive right of a drug from 3 to 10 years; Senator REID with respect to the Newmont Mining tender offer, which is the pending amendment; Senator DOMENICI, which relates to clean coal research in National Labs; Senator CRANSTON, which relates to acquisition of Torre Canyon and the Los Padres National Forest; Senator METZENBAUM, which relates to national forest lands in the State of Ohio. I believe that is an exclusive list. I ask unanimous consent.

Mr. DOMENICI. There are no time limits on those amendments?

Mr. JOHNSTON. We are not requesting a time limit on those amendments.

Mr. BYRD. Mr. President, I ask for an amendment on clean coal in National Labs.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I did not hear what the distinguished majority leader said.

Mr. BYRD. I also want one on clean coal related to National Labs.

Mr. DOMENICI. I do not think that I am going to agree to the list then.

Mr. BYRD. That is all right. I wanted to try to help work something out with the Senator. This gives him an opportunity to do so.

Mr. DOMENICI. I take the Senator at his word. If that is the reason, I have no objection.

The PRESIDING OFFICER. Is there objection? The minority leader.

Mr. DOLE. Reserving the right to object, and I have no problem but I want to make certain, the distinguished Senator from Vermont [Mr. STAFFORD] had raised a question earlier on some jurisdictional problem. It is not an add-on, but would this preclude striking something out of the appropriation bill?

Mr. McCLURE. Let us just add an amendment by the Senator from Vermont.

Mr. JOHNSTON. We could, certainly. This would have precluded a strike amendment. So, Mr. President, I ask for an amendment by the distinguished——

Mr. PRYOR. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. We need order in the Chamber in order to transact business. We have to be able to hear what the Senators are saying. Please, let us maintain a modicum of order.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we add to the list an amendment by the Senator from Vermont [Mr. STAFFORD] relating to some language with respect to the National Environmental Policy Act.

Mr. DOLE. Is that satisfactory?

Mr. STAFFORD. That would be satisfactory to the Senator from Vermont.

Mr. DOLE. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, the McCain amendment which is the first amendment to be voted on may be resolved in a way that would avoid the necessity for a rollcall vote. I do not believe the yeas and nays have been ordered, though.

The PRESIDING OFFICER. The Senator is correct.

NATIONAL DEFENSE AUTHORIZATION FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the amendment by Mr. HELMS on which the yeas and nays have been ordered, and I ask unanimous consent that it be in order to order the yeas and nays on the third amendment.

What was the third amendment, may I ask the Chair?

The PRESIDING OFFICER. The Wilson amendment is the third amendment.

Mr. BYRD. I ask unanimous consent that it may be in order to order the yeas and nays on the Wilson amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the amendment. This does not preclude a tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 784

The PRESIDING OFFICER. Please, again. We really do need to maintain order so that we can transact business here, and so we know what is happening.

The question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. BYRD. Mr. President, this is correct; it is a 20-minute rollcall vote.

The PRESIDING OFFICER. The leader is correct; it is a 20-minute rollcall vote.

Mr. BYRD. The next vote is a 10-minute rollcall vote.

The PRESIDING OFFICER. The leader is correct.

Mr. BYRD. Mr. President, I will state that immediately regular order will be demanded upon the expiration of the time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Illinois [Mr. SIMON] are necessarily absent.

Mr. DIXON. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 7, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—90

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm

Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—7

Cranston
Hatfield
Hollings
Johnston
Kennedy
Metzenbaum
Reid

NOT VOTING—3

Gore
Harkin
Simon

So the amendment (No. 784) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON MOTION TO TABLE AMENDMENT NO. 786

The PRESIDING OFFICER. The question now occurs on amendment number 786 offered by the Senator from California [Mr. Wilson].

Under the previous order the rollcall vote will be concluded after 10 minutes.

Mr. DIXON. Mr. President, I move to table the Wilson amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois to lay on the table the amendment of the Senator from California.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD, Mr. President, I call for regular order.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon], are necessarily absent.

The result was announced—yeas 23, nays 75, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—23

Baucus
Bentsen
Breaux
Bumpers
Burdick
Chiles
Conrad
Daschle
Dixon
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hollings
Johnston
Levin
Nunn
Pell
Pryor
Sasser
Shelby

NAYS—75

Adams
Armstrong
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
DeConcini
Dodd
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—2

Gore
Simon

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment.

Mr. WARNER. Mr. President, a parliamentary inquiry. What is the present matter before the Senate now?

The PRESIDING OFFICER. The motion to table having been agreed to, we are back to the Wilson amendment. The yeas and nays have been ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment [No. 786] was agreed to.

Mr. WILSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, am I correct that the pending matter before the Senate is the amendment of the Senator from Arizona?

The PRESIDING OFFICER. The Senator is correct. The question now is on agreeing to the amendment No. 716, offered by the Senator from Arizona [Mr. McCain].

Mr. WARNER. Mr. President, it is my understanding that the Senator desires to address the Chair with respect to his amendment.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent to modify my amendment. This modification has been agreed to by both sides and will preclude the requirement, I believe, for a rollcall vote.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 35, line 23, strike out "$7,000,000" and insert "$7,500,000".

(b) On page 35, line 24, strike out "$7,000,000" and insert "$7,500,000".

(c) On page 36, after line 9, insert the following new subsection:

"(c)(1) Of the amounts appropriated pursuant to subsection (a) for fiscal years 1988 and 1989, $500,000 shall be available each year only for procurement technical assistance cooperative agreement outreach programs targeted to the problems caused by the unique geographical circumstances facing Indian-owned enterprises located on or near Indian reservations. Such programs shall concentrate on the formation of new businesses as well as furthering procurement opportunities for existing businesses.

"(2) Notwithstanding section 2413(b) of title 10, United States Code, the Secretary of Defense shall defray the full cost of a procurement technical assistance cooperative agreement outreach program when the cooperative agreement is made under this section with a federally-recognized tribe or Indian organization.".

Mr. NUNN. Mr. President, I urge the amendment, as modified, be accepted. I think the Senator has worked very carefully on this. His purpose is a worthy purpose, and I think we have crafted the amendment now in a way that is acceptable to both sides of the aisle.

Mr. WARNER. Mr. President, I, likewise, urge the adoption of the amendment. The Senator discussed it in detail earlier today. He has now modified it to meet the concerns of several Senators, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that Senator Conrad be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. McCAIN. I would like to thank my colleagues, both the chairman and ranking member of the Armed Services Committee, for their cooperation in this effort, particularly to Senator Inouye who has worked with me very hard in trying to obtain some kind of equal opportunity for Native Americans which they are very lacking at this time.

I would also like to tell my colleagues: we will be back on this issue again next year until such time as we have provided some opportunity for Native Americans to compete in the defense procurement process. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. I wonder if the distinguished offeror of the modification would be willing to tell us very briefly what it is so we will know what we are voting on.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, in response to my colleague, this modification would provide an additional $500,000 per year for fiscal year 1988 and 1989 under the procurement technical assistance cooperative agreement program which is already in the program, which will have funds set, earmarked specifically for Native Americans in order for them to receive this kind of assistance.

Mr. STAFFORD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified.

The amendment [No. 716] as modified was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the modified amendment was agreed to.

Mr. NUNN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, if I could have the attention of the majority leader and the other Senators in the Chamber, we now have disposed of all the amendments that have been called up that I know anything about. We do have an amendment of the Senator from Pennsylvania that I believe he is working with the Senator from Maine on now, which is on the list and is eligible to be called up.

As I understand the unanimous consent, the majority leader will correct me if I am wrong on this interpretation, any Senator who has an amendment on this list is now entitled to call up the amendment. There would be no further debate, and we would go to an immediate vote on the amendment.

There are, without getting into every one of them, I would say there are 12 or 15 amendments left. I do not know whether they are going to be called up or not. We have heard from different Senators that they probably would not call up the amendment but I wanted to let everyone know they have a right to call up an amendment and in a few minutes I would think it would be appropriate that we ask all remaining amendments that no one is going to be calling up be stricken from the list. That means we would have completed action on this bill except for the SALT II amendment and except for the war powers amendment and amendments that relate thereto.

This is the situation as we now see it. I do not pose a unanimous-consent request at this time but I wanted everyone to realize if they have amendments on the list that would be my intent in a few minutes, unless amendments are called up by Senators who have that right.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Under the agreement, all debate was to cease and the Senate was to vote on those amendments that were stacked. There is no debate left under the order. If Senators want to call up any one of those amendments that are listed they have a right to do so. Otherwise, they waive that right.

Now would be the time for a Senator to indicate he wishes to call up his amendment. Otherwise it is my understanding of the agreement, the intent of it, the Senate would be back on the Byrd-Weicker amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I think the record should reflect the managers of the bill through their staffs contacted Senators on both sides and, therefore, an effort was made to alert Senators before this colloquy. The only response that we received on this side to my knowledge was from the Senator from Pennsylvania [Mr. HEINZ], who wishes to preserve the rights that he has under the unanimous-consent agreement.

I see him present on the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, is my understanding of the order correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Mr. President, if any Senator wishes to call up an amendment which he has listed, he is expected to do so now and without debate thereon, except by unanimous consent.

Mr. WARNER. Recognizing there will be no further debate, the amendment of the Senator from Pennsylvania has been addressed to Senators on this side having jurisdiction over the substance of the amendment and there is a request that we be given just a few minutes to consider it. I think that is within the spirit.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished managers may have 5 minutes within which time to discuss with Senators on both sides whether or not they are going to call up the amendment because no debate is in order otherwise. The only thing we can go to, if the Senator is not seeking recognition to call up his amendment, the Chair is to proclaim that we are back on the Byrd-Weicker amendment.

The PRESIDING OFFICER. Is there objection?

Mr. ADAMS. I would like to object.

Mr. BYRD. There is no objection to be made. The Chair has already answered my parliamentary inquiry. Let me put a request before the Senate: Mr. President, I ask unanimous consent that the Senate return to the consideration of the Byrd-Weicker amendment but that any Senator immediately forthwith who wishes to call up an amendment on this list stand and get recognition and offer his amendment.

If he wants 1 minute or 2 of debate, or 5, whatever, he can ask consent. If nobody objects to that, he can have 1 minute or 2 or 5 minutes. Otherwise, amendments are to be called up now without further debate. Everybody knew this. The order has been printed in this RECORD here, now, since last Friday when we entered this agreement. It has been entered in the RECORD. Debate will cease at 8 o'clock.

It seems to me we have a full compliment of Senators here, 98 voted, so we should not spend too much time now.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I do not think I will object, which does not deprive any Senator from suggesting the absence of a quorum.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

There will be order in the Chamber. Does any Senator seek recognition?

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1988

The Senate continued with consideration of the bill.

Mr. BYRD. Mr. President, I ask unanimous consent that while the managers are discussing the Heinz amendment, that the distinguished Senator from Louisiana [Mr. JOHNSTON] may proceed for not to exceed 3 minutes on the Interior appropriations bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, earlier we had a unanimous consent request which was agreed to, which designated the amendments which are eligible for further action on the Interior appropriations bill. Since that time, Senator KERRY has indicated to me that he had sent word that he wanted to put in an amendment relating to a $4 million grant for Brandeis University, which I did not have on my list but which had been discussed.

At this time, I ask unanimous consent that the list of possible amendments be expanded by adding one for Senator KERRY with respect to Brandeis University.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Mr. President, reserving the right to object, might I inquire? Is the subject matter of this amendment germane to this bill?

Mr. JOHNSTON. First of all, let me say at this point I oculd not agree to the amendment. It relates to artificial intelligence. Well, perhaps we need some of that. [Laughter.]

The Senator from Massachusetts argues that it is within the jurisdiction of our subcommittee. Others argue that it is not.

Mr. McCLURE. Further reserving the right to object, I would remind all Members that interior does not refer to the interior of the body, it refers to other matters within the jurisdiction of the country, but not necessarily in a biological sense.

Might I ask the Senator of Lousiana whether or not if we adopt other amendments which are on the list, if we will have then reached the 302(b) allocation ceiling.

Mr. JOHNSTON. The 302(b) allocation according to CBO I think we have reached. According to the Budget Committee, we are just barely under it by a whisker.

Mr. McCLURE. If I would understand correctly, the Senator from New Mexico has an amendment to be offered which would add $10 million in budget authority and $5 million in outlays. The outlays are tighter in terms of our allocation.

All I am trying to get is some idea of whether or not if we add the amendment of the Senator from Massachusetts we do violence to the others that are already on the list.

Mr. JOHNSTON. I might say to the Senator from Idaho that we are trying to verify these figures. As the Senator knows, in dealing with budget figures it is quite an arcane science. It changes daily and sometimes by the hour, we are trying to check on where we are at the present time.

Mr. McCLURE. I wonder if we might withhold the request to add to that amendment until we can determine whether or not it will have an effect on the other amendments that are already on the list.

I would say the term the Senator uses, an arcane science, dignifies it beyond reason. It is not a science. There are those who claim it is an art. There are those who claim it is neither. But science it is not.

But I am concerned, and honestly concerned, that those who have their amendments on the list not be disadvantaged by the change in the unanimous consent agreement.

Mr. KERRY. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. KERRY. I think that is a very fair request. If I might say, this amendment is not something that appeared out of whole cloth in an effort to slide it in at the last minute. We dealt with staff a number of months ago with respect to the energy and water bill. At that time it was agreed that this was the place where it ought to go. A number of weeks ago it was submitted appropriately and we were discussing it.

I have no intention of requesting a vote on this matter if it cannot be accepted. What we are trying to do is to permit it to be part of the list so it can be considered, if it turns out that in subsequent deliberations it will not have an effect on anything else.

I think there has been some question among staff whether the rescoring or some of the current efforts to determine the current level will permit it to be included or not.

If it cannot be, I would say to the Senator from Idaho that I will withdraw it. I am not seeking a vote on this matter. It is merely a matter of allowing us to continue to deliberate between staff.

Mr. McCLURE. With the assurance of the Senator from Massachusetts that he would withdraw it if it causes a problem with those allocations and ceilings, I would have no objections to the request of the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I again put the request.

The PRESIDING OFFICER (Mr. GRAHAM). Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. I am also advised that the amendment of the Senator from Vermont [Mr. STAFFORD] may be eliminated from the list. Am I correct?

Mr. STAFFORD. The distinguished manager is correct.

Mr. JOHNSTON. I so request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The Senate continued with the consideration of the bill.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 804

(Purpose: To prevent the New Threat Upgrade Program of the Navy from being performed on a cost plus basis during fiscal year 1988 pending certain determination(s) by SecNav)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 804.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38 between lines 17 and 18, insert the following new section:

SEC. 324. NEW THREAT UPGRADE (NTU) PROGRAM.

No funds appropriated pursuant to this title or otherwise made available for operations and maintenance for the Navy for FY 1988 and used for the New Threat Upgrade (NTU) overhaul program may be used for work performed on a cost plus contract basis unless the Secretary of the Navy certifies in writing to the Committees on Armed Services of the Senate and the House of Representatives that such NTU overhaul work to be performed at either a public or private shipyard can be performed at a lower cost to the government on the basis of a cost plus contract, or that there exist overriding national security considerations.

In the event of any such certification, no action pursuant thereto may be taken for a 30 day period following notification.

Mr. HEINZ. Mr. President, I ask unanimous consent that I may explain the amendment for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I have cleared this amendment with Senator WARNER and Senator NUNN, and I believe there is no objection to it in terms of the managers of the bill.

Mr. President, the Navy's New Threat Upgrade [NTU] Program is a relatively new program designed to make existing guided missile cruisers and destroyers comparable in survivability to the new ABGIS cruisers and destroyers which the Navy has been building.

Because it is such a new and highly complex program, the Navy did what it always does in such situations—it assigned the work to a Navy shipyard where it has maximum control over the cost and quality of the work. This is especially important in the first few ships to receive NTU because it is the very best way for the Navy to get a firm fix on how to perform the program in the most cost-effective way. Accordingly, the Navy assigned the first ship in this program, the U.S.S. *Biddle*, to the Philadelphia Naval Shipyard [PNSY]. The complexity of this work was borne out by the fact that the NTU on the first ship, the *Biddle*, ran into some substantial problems which the Philadelphia Naval Shipyard solved with the result that the first NTU ship to be completed, the *Biddle*, was finished in July of this year. The *Biddle* has now returned to the fleet and is performing well. The Philadelphia Naval Shipyard is also presently working on two other NTU ships, the *Dale* and *Scott*. As a result, the Philadelphia Naval Shipyard today has more NTU experience than any shipyard in the Nation.

For the same reason that the first east coast ships were assigned to the Philadelphia Naval Shipyard, I understand that the Navy had decided to assign the next two ships to receive the New Threat Upgrade during fiscal year 1988, the U.S.S. *Turner* and U.S.S. *Kidd*, also to Philadelphia Naval Shipyard. It was the Navy's view that once these five ships were completed, the NTU work package would be sufficiently defined so that it could go out for public-private competition starting with the NTU overhauls scheduled for fiscal year 1989. That seems to me to have been a very sound and cost-effective and efficient way to proceed and was the approach that was urged by the uniformed Navy. However, for reasons that have not been explained to me to my satisfaction the Navy suddenly changed its mind and decided to open the *Turner* and the *Kidd* to limited private yard competition on the basis of a cost-plus contract. The fact that the work package definition on these NTU ships was not of a quality to warrant fixed-price contract competition at this still very early stage of the NTU Program, did not seem to make a difference for reasons that again, have never been satisfactorily explained to me.

The ultimate proof of the fact that the work package was not sufficiently defined to allow fixed-price competition was the fact that the solicitation for this work on the *Turner* to the private shipyards was put out, as I said a minute ago, on a cost-plus incentive-fee basis.

The use of such a contract is highly unusual and, to my knowledge, contrary to what the Navy has done over the past several years on major procurements such as this and also contrary to the entire direction of Government contract reform which clearly favors the use of fixed-price-type contracts. In fact, this may be the first time during the Reagan administration that a solicitation for a major ship construction, repair, or overhaul program has been solicited other than on a fixed-price basis.

The amendment I am proposing simply makes it clear that we believe it is inefficient and uneconomic to permit the NTU Program at this very early stage to be performed on a cost-plus basis. My amendment prohibits the use of a cost-plus contract unless the Secretary of the Navy determines that doing the NTU work on a cost-plus basis is the least-cost alternative, or that the national security requires it.

I fully appreciate any concerns that the Navy may have about the desirability of bringing shipyards into this program as soon as possible and am only asking that that step not be taken prematurely. I understand that there are about 20 or so ships which are planned for NTU overhauls, so there will be plenty of work left for fixed-price competition by both public and private yards. However, in my judgment, it is extremely premature and wasteful of our tax dollars to allow the use of a cost-plus contract, particularly at this early stage.

Mr. WARNER. Mr. President, I will defer to the distinguished Senator from Maine.

Mr. COHEN. Mr. President, I have had only a few moments to look at the amendment but I am satisfied that it is designed to place an overhaul project in either a public or private yard at the lowest possible cost to the taxpayer. I therefore recommend it be accepted.

Mr. NUNN. Mr. President, I recommend the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 804) was agreed to.

Mr. HEINZ. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, keeping in mind that no debate is in order, I ask the Chair to rule out of order any of the remaining amendments on the list if no Senator seeks recognition now for the purpose of calling up his amendment, keeping in mind the two exceptions will remain.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, the pending amendment is what?

The PRESIDING OFFICER. The pending amendment is the Byrd amendment to the Weicker amendment.

Mr. BYRD. Now debate is in order.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. Mr. President, I rise to call the attention of Senators to a national defense issue that is very important in my State of Rhode Island. It is my understanding that the distinguished senior Senators from Georgia and Virginia, the chairman and ranking Republican member of the Armed Services Committee, are aware of this problem.

Mr. NUNN. Mr. President, my friend and distinguished Senator from Rhode Island is correct. He has brought to my attention a situation relating to the Rhode Island Air National Guard. In my view, his concerns are quite valid.

Mr. WARNER. Mr. President, I am also aware of the situation facing the Rhode Island Air National Guard, and I share the concern of my good friend from Rhode Island. I believe this is an issue of aircraft modernization, is it not?

Mr. CHAFEE. The Senator from Virginia is correct. The Air National Guard of my State is entirely dependent for airlift capability upon 9 C-130A aircraft, which are over 30 years old.

In fact, Rhode Island's Air National Guard has the oldest aircraft of any State Air National Guard. The Adjutant General, John Kiely, is extremely concerned about continued future use of these aged, deteriorated planes, and is anxious for the Air National Guard Bureau to do something about it.

Mr. NUNN. Did the Senator from Rhode Island state that Rhode Island has the oldest aircraft in the Air National Guard inventory?

Mr. CHAFEE. Mr. Chairman, that is entirely correct. Do you agree with me that there is cause for concern on this score?

Mr. NUNN. I do.

Mr. WARNER. This is a problem that I hope would be addressed. Does the Senator from Rhode Island foresee a resolution of it at any time soon?

Mr. CHAFEE. It is my understanding that this bill authorizes the purchase of eight C-130H aircraft—that's a new model—for the Air National Guard, and it would be my hope that these planes would be allocated to the Rhode Island Air National Guard. There has been some talk of using these planes to replace aircraft that are newer than the C-130A's in Rhode Island. Such a policy would be troubling to me.

Mr. NUNN. As the Senator from Rhode Island knows, the authorization legislation does not assign these planes to any particular State.

Mr. CHAFEE. Yes, I am aware of that arrangement, and I agree with it. This is not an area in which we want legislative micromanagement. The Air National Guard Bureau should base its decision on the needs that are out there in the States. Of course, modernization should occur in States where the need is greatest.

Mr. WARNER. I wholeheartedly concur with that assessment. The real needs of the Air National Guard units of the States must be examined and these planes should be sent where the need is greatest.

Mr. CHAFEE. And would my good friend from Virginia agree that the age and physical condition of these essential aircraft should be primary consideration in determining need?

Mr. WARNER. That is certain.

Mr. CHAFEE. Since Rhode Island has the oldest aircraft in the entire Air National Guard inventory, aircraft that I can verify are very much in need of replacement, would the distinguished Senators agree that the need in Rhode Island merits the attention of the Air National Guard Bureau with regard to these newly authorized aircraft?

Mr. NUNN. I would agree that modernization should occur where the need is greatest.

Mr. WARNER. I concur with the chairman of the Armed Services Committee and with my colleague from Rhode Island. I urge the Bureau to address the Rhode Island situation.

Mr. CHAFEE. I thank the distinguished Senators for their interest in and attention to this issue.

DEPARTMENT OF ENERGY SAFETY OVERSIGHT AMENDMENT

Mr. WARNER. Mr. President, the Senate, in a very decisive vote on nuclear weapons testing, has endorsed the underlying premise that so long as we rely on nuclear weapons for deterrence, we shall require nuclear testing. The same is also true of the requirement for nuclear materials.

In the aftermath of Chernobyl, the ability of the United States to provide an assured supply of nuclear materials has become a cause of considerable concern. The increased and proper emphasis on safety following that disaster has resulted in a number of Department of Energy and independent studies of defense programs reactor safety. The recommendations of these studies have already resulted in the shutdown of the Hanford reactor for safety-related modifications, and a 50-percent reduction in the power levels of the three operating Savannah River reactors due to concerns about the emergency cooling system. The cumulative effect of these developments is to threaten seriously the ability to support the special nuclear material needs of the weapons stockpile, especially the need for tritium which must be replaced to maintain the effectiveness of the existing stockpile.

At the same time, Mr. President, there is a significant body of pending and planned legislation on Department of Energy matters, principally in the area of safety and the environment, that could bear directly on the ability of the nuclear weapons production complex to support our nuclear deterrence strategy. This legislation is originating in committees that have neither jurisdiction nor expertise in the national security issues that must be considered when addressing the Department of Energy defense programs area.

I believe I speak for the chairman of the committee, Senator NUNN, and the chairman and ranking member of the Strategic Subcommittee in saying that the Armed Services Committee will seek sequential referral of any legislation that impacts directly on the budget, operations, and oversight of the national security related nuclear facilities of the Department of Energy.

One such piece of legislation, S. 1085, the Nuclear Safety and Protections Act of 1987, was filed on September 24, and Senator GLENN and Senator ROTH, the chairman and ranking member of the Committee on Governmental Affairs, have agreed to the request of the Armed Services Committee for sequential referral.

On the basis of this agreement, and on a gentleman's agreement that S. 1085 will not be placed on any other legislation pending the report of the Armed Services Committee, I will not offer my amendment. My amendment would have provided for the institution of an independent outside safety oversight board specifically for the weapon's reactors and related facilities.

Mr. President, the Department of Energy is officially on record as welcoming independent outside safety oversight. This is not surprising, in view of the significant actions that the Department has taken, both before and after the Chernobyl disaster, to enhance the overall safety of the weapons production complex. It is also not surprising in view of the Department's record of safety performance since the beginning of operations, which compare most favorably with commercial reactor operations, and with industrial safety performance generally.

Mr. President, the safety of our people and the maintenance of our nuclear deterrent are two issues on which we cannot, and will not permit compromises. I look forward to working with my colleagues to ensure that these two interests are protected in any legislation falling under the jurisdiction of the Armed Services Committee.

Mr. WARNER. Mr. President, an important element in the bill that is before us is funding for civil defense in the Federal Emergency Management Agency.

The Armed Services Committee recommended full funding of the original request of $134.8 million, but due to budgetary constraints was not able to accommodate in additional $20 million that was identified in an amendment to the fiscal year 1988 budget request.

The additional requirement arises out of the findings in a study that was requested by the Senate and House Armed Services Committees. This study called for a major review of the Nation's civil defense objectives, policies, and programs.

Mr. President, I was hopeful that we could see our way clear to providing funds for the supplemental request, and I was prepared to offer an amendment to that end. However, it now appears that budget constraints impacting on this bill make that course impractical, and I therefore reluctantly withhold my amendment.

Mr. BYRD. Mr. President, I wonder if we might agree to set aside this bill now for the rest of this day and go back to the Interior bill. We have a list of the remaining amendments thereof and perhaps we can finish those amendments, hopefully finish the bill, but hopefully finish the amendments, and if someone is disposed to speak at length on the bill, they may do so, and then return tomorrow morning to the DOD bill. Overnight perhaps we could work out some modus operandi with respect to the pending amendment, the war powers amendment, and/or the SALT II amendment. Perhaps we cannot. But in order to save the time of all Senators, we could have a few hours overnight to think about that and come back in the morning, returning to the DOD authorization bill. Meanwhile, we hope to finish the Interior bill tonight.

I wonder if the distinguished Republican leader would like to respond and then the managers of the bill.

Mr. DOLE. I do not know how many amendments may be pending—four Interior amendments? Whatever. I do not know how long it would take.

Mr. BYRD. On the Interior bill.

Mr. JOHNSTON. Mr. President, if the Senator will yield.

Mr. BYRD. I yield.

Mr. JOHNSTON. We have one amendment that is likely to provoke extended debate. That is the Newmont Mining amendment. I understand a point of order will be made. The other amendments hopefully can be dealt with reasonably quickly. So that I believe we could have the whole bill ready save that one amendment.

Mr. BYRD. Very well. If the leader has no objection and the managers—

Mr. DOLE. I would just indicate to the majority leader, I know it happens every year, but we had a discussion today on the quality of life, or the lack of it, in our conference on the theory that we have been in here at 8 o'clock in the morning until 11, 12 o'clock at night, so I just raise that. That is why I say if it can be completed fairly quickly. We would have time to try to work out amendments.

Mr. ARMSTRONG. If the Republican leader will yield to me.

Mr. BYRD. Mr. President, I yield for that purpose.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. I yield for that purpose.

Mr. ARMSTRONG. I thank the majority and minority leaders.

I was wondering if it was the plan of the distinguished leader to stack the votes to the morning as he has done on a number of occasions. It seems to me that would be helpful and, as the Senator from Kansas has suggested, would improve the quality of life.

Mr. BYRD. Yes. I will be glad to respond to that.

I have an indication from both managers of the Interior bill that they would be agreeable to that approach. That being the case, I ask the Republican leader if he would agree and if the managers of the Interior bill and the managers of the DOD authorization bill would agree, we will set the DOD authorization bill aside until tomorrow morning. We will proceed with the Interior appropriation bill. If any rollcall votes are ordered in relation to that bill, they will be stacked to tomorrow morning.

ORDERS FOR WEDNESDAY

RECESS UNTIL 8 A.M.

Mr. BYRD. Mr. President, before Senators start to leave the Chamber, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECOGNITION OF SENATORS

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. LEAHY, following the prayer tomorrow morning, be recognized for not to exceed 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. CRANSTON, following Mr. LEAHY, be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Will the majority leader yield?

Senator LEAHY and I reversed that. So I will go first and he second. I will proceed for 15 minutes.

Mr. BYRD. Fine. I would reverse the order: Mr. CRANSTON first for 15 minutes and Mr. LEAHY for 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY AND MINORITY LEADERS

Mr. BYRD. I ask unanimous consent then, Mr. President, that upon the completion of those two orders, the two leaders may be recognized under the standing order for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the time between that point and 9 o'clock be consumed with morning business and Senators may speak therein for not to exceed 1 minute each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF CONSIDERATION OF THE DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that at 9 o'clock tomorrow morning the Senate resume consideration of the DOD authorization bill.

Mr. DOLE. Will we do the rollcalls first on this one?

Mr. BYRD. Mr. President, any rollcall votes which are ordered will begin at 9 o'clock, and if no rollcall votes are ordered for 9 o'clock, there will be a rollcall vote beginning at 9 o'clock.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes.

Mr. JOHNSTON. Mr. President, on the amendments pending on the Interior bill, all I think can be dealt with without rollcall votes save one and that is on the Newmont Mining amendment. I understand that after only 3 or 4 minutes of debate, a point of order can be made tonight and we can vote on that. That may be all the rollcall votes we would need on the entire Interior appropriation bill.

Mr. DOLE. And final passage.

Mr. BYRD. There would be a vote on final passage.

Mr. JOHNSTON. We could put that off until tomorrow, if that will help the majority leader.

Mr. BYRD. If that is the only vote, that would begin at 9 o'clock. Any rollcall votes tomorrow will begin at 9 o'clock. There will be one rollcall vote in any event to begin at 9 o'clock tomorrow morning. That will be 30-minute rollcall vote with a call for the regular order at the end of the 30 minutes.

I yield to the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. That was the question I was going to ask.

The PRESIDING OFFICER. With objection, it is so ordered.

NOMINATION OF WILLIAM VERITY

Mr. DANFORTH. Mr. President, I wonder if the majority leader would yield for one inquiry.

Mr. BYRD. Yes.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. BYRD. There will be no more rollcall votes today, Mr. President.

Yes, I yield to the distinguished Senator.

Mr. DANFORTH. I thank the majority leader.

I wonder if we could have 2 hours sometime for the nomination of William Verity to be Secretary of Commerce. I think this is a relatively noncontroversial nomination. He is sort of on hold now.

Furthermore, because of the trade bill and the role the Secretary of Commerce has in any negotiations on the trade bill, it would be helpful if we could find a couple of hours sometime to handle that nomination.

Mr. BYRD. Mr. President, while the distinguished leader is here, as in executive session, I ask there be a 2-hour time limitation on the nomination of Mr. Verity and that that be equally divided and under the control of the two leaders of their designees.

Mr. HELMS. Mr. President, reserving the right to object, I hope that the majority leader will propound this unanimous consent request tomorrow morning.

Mr. BYRD. Sure.

Mr. HELMS. If the Senator does not mind.

Mr. BYRD. Yes. I will be happy to.

Mr. President, I withdraw that request.

Mr. President, in further response to the distinguished Senator from Missouri, it will certainly be my desire to proceed to that nomination at some time on tomorrow or before the week is out.

Mr. DANFORTH. I thank the Senator very much.

Mr. CRANSTON. Mr. President, what is the matter now before the Senate?

The PRESIDING OFFICER. The majority leader has retained the floor. The pending business before the Senate is the second-degree amendment of the majority leader to the first-degree amendment offered by the Senator from Kentucky.

Mr. BYRD. Mr. President, I will yield the floor.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS

Mr. BYRD. I ask unanimous consent that there may be a period for morning business, that Senators may speak therein for not to exceed 5 minutes each.

Mr. STEVENS. Reserving the right to object, Mr. President, will the Senator yield to me for a moment?

Mr. BYRD. Yes.

Mr. STEVENS. I have been discussing with my friend from Idaho the unanimous-consent agreement that was just entered on the Interior bill. I wonder, is there an opportunity for a dialog between the vote on the stacked amendments and final passage on the Interior bill? Was it the majority leader's desire that we go right from the amendments that were stacked to the final passage?

Will there be time for a dialog in between the amendments and the time we go to third reading? We would like to have a short dialog about one subject for not to exceed 10 minutes before the final vote once we reach third reading on the Interior bill.

Mr. JOHNSTON. Will the Senator yield?

Mr. BYRD. Yes, I yield.

The PRESIDING OFFICER. The Senate is not in order. Will those who are without business before the Senate please adjourn to the Cloakroom?

Mr. JOHNSTON. If the Senator will yield, there will be almost of necessity that opportunity because the only vote we would have at 9 o'clock we understand to be on point of order. Of course, if that is disposed of, then the unanimous-consent request does not cover beyond that.

Mr. STEVENS. I merely raise the question, Mr. President, because if there is no point of order vote, the implication was we might go immediately to final passage on the Interior bill. Is that the majority leader's desire? Or will there be some time for a short dialog in the third reading period.

Mr. BYRD. Yes. My request does not go beyond the amendments. It does not terminate debate on the amendments.

Mr. STEVENS. I thank the leader.

The PRESIDING OFFICER. Does the Senator from West Virginia yield the floor.

Mr. BYRD. Yes, I do. Before I do, I want to reiterate to everyone within my hearing that there will be a rollcall vote tomorrow morning at 9 o'clock. It will be either on the amendment to the Interior bill, or it will be on a motion to have the Sergeant at Arms request the attendance of absent Senators.

Senators should when they go home understand there will be a rollcall vote. It will be a 30-minute rollcall vote. Call for regular order will occur at the end of 30 minutes.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, a parliamentary inquiry: Pending business?

The PRESIDING OFFICER. The pending business is the Byrd second-degree amendment to the Weicker first-degree amendment.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the bill be set aside for the remainder of the evening, that the Senate proceed to the consideration of morning business, and that Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. GARN. Mr. President, partiliamentary inquiry.

The PRESIDING OFFICER. The Senate is not in order. Those Senators engaging in conversations please retire to the Cloakroom.

The Senator from Utah.

Mr. BYRD. Mr. President, I know what the Senator from Utah is going to say. He is correct. I indicated earlier that the business of the Senate would be the Interior appropriations bill and that amendments thereto could be discussed, voted on by voice, and that any rollcall votes ordered thereon would go over until tomorrow.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that my earlier order in respect to morning business be vitiated, and that the Senate return to the consideration of the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed consideration of the bill.

Mr. ARMSTRONG and Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I intended to speak on this amendment briefly. But the Senator from California indicated that he has a 30-second amendment. I would be glad to give up the floor for that purpose, and I ask unanimous consent that after that is disposed of I be recognized.

The PRESIDING OFFICER. Is the Senator asking consent to set aside the Reid amendment?

Mr. GARN. I am asking consent to set aside the Reid amendment so the Senator from California can present his amendment and return to the Reid amendment, and that I be recognized to speak on the Reid amendment.

The PRESIDING OFFICER. Is there objection? Without objection, the Reid amendment is set aside for the purposes of the amendment of the Senator from California.

The Senator from California is recognized.

AMENDMENT NO. 805

(Purpose: To direct the Secretary of Agriculture to purchase the Torro Canyon Ranch, CA)

Mr. CRANSTON. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] for himself and Mr. WILSON, proposes an amendment numbered 805.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. . The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

Mr. CRANSTON. Mr. President, this amendment directs the Secretary of Agriculture to purchase the Torre Canyon Ranch in the Los Padres National Forest in California using moneys available in the inholding and composition land acquisition account.

Mr. President, let me describe the basis of the problem this amendment addresses. Last year the House report on the fiscal year 1987 Interior appropriations bill identified $1 million under Forest Service land acquisition for Big Sur/Los Padres National Forest. The Senate report did not provide funding for Big Sur, and the conference report was silent on the matter. Congressman PANETTA nonetheless thought there was funding available for the Torre Canyon Ranch property at Big Sur in fiscal year 1987 and urged the Forest Service to proceed with the acquisition. When the Department of Agriculture notified him there were no funds identified for the property, the Congressman then sought funding in the fiscal year 1987 supplemental appropriations bill.

Both the House and Senate Appropriations Committees indicated that there were fiscal year 1987 moneys inholdings and land acquisition account available for this acquisition. The property has now been appraised at $2.3 million. During the debate on the fiscal year 1987 supplemental, Congressman PANETTA engaged in a colloquy with the chairman of the House Interior Appropriations Subcommittee in which the chairman stated the committee's intent that the Forest Service acquire the Torre Canyon Ranch property using fiscal year 1987 moneys. The acting chairman of the Senate Interior Appropriations Subcommittee likewise stated the Senate committee's intent that the Forest Service purchase the Torre Canyon property at Big Sur using fiscal year 1987 funds. But despite the strong congressional interest in Torre Canyon and the clear statement of congressional intent, the Forest Service has not moved ahead with the acquisition.

I regret that it is necessary to mandate the purchase in the statute, but we can not affort to delay any further. The current property owners must sell the Torres Canyon Ranch by December in order to raise sufficient cash to pay estate taxes. Big Sur is one of the most spectacular areas in the Nation and acquisition of the Torres Canyon Ranch would open an additional mile of Big Sur coastline and over 1,000 acres of canyonlands with old growth redwoods for public use and enjoyment. Torre Canyon fully deserves preservation in Federal ownership.

The amendment is not adding any new money to the bill. The amendment has been discussed with the managers of the bill, and I believe it is acceptable to them.

Mr. President, I ask unanimous consent that Senator WILSON be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the amendment has been cleared. It has been properly described by the Senator from California. We accept it.

Mr. McCLURE. Mr. President, we have no objection to the amendment.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from California [Mr. CRANSTON].

The amendment (No. 805) was agreed to.

Mr. JOHNSTON. Mr. President, I wonder if the Senator from Utah will allow us to attend to one other amendment which we have cleared on both sides.

Mr. GARN. Mr. President, I would be happy to yield once more on the same basis for that purpose.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

Does the Senator from Utah yield?

The Senator from Ohio is recognized.

AMENDMENT NO. 806

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 806.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without object, it is so ordered.

The amendment is as follows:

On page 56, line 15, strike "$49,313,000" and insert in lieu thereof "$51,313,000".

Mr. METZENBAUM. Mr. President, this is an amendment having to do with Wayne National Forest. It was in the House bill. Due to I think an oversight it was taken out. This is just the restoration of the same amount that was in the House bill. I think it has been agreed to by the managers on both sides.

While I understand that budget constraints prevent us from funding every proposal, I am very concerned that land acquisition funds for the Wayne National Forest have been deleted from this bill. The Wayne National Forest faces increasing pressures due to the large amount of authorized but unacquired land within its boundaries. It is composed of hundreds of scattered blocks of land, and comprises only 21 percent of the area within its purchase boundary, the smallest proportion of any national forest. Further acquisition is necessary to consolidate these isolated tracts into a unified forest which can be feasibly managed. The House bill contained $2 million for land acquisition in the Wayne Forest, which would purchase approximately 6,600 acres. I propose an amendment to restore these funds to the Senate bill, for the beautiful Wayne National Forest in southeast Ohio.

Mr. ARMSTRONG. Mr. President, reserving the right to object, will the Senator tell us the amount?

Mr. METZENBAUM. $2 million.

Mr. ARMSTRONG. I thank the Senator.

Mr. JOHNSTON addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I misspoke myself by inviting the amendment at this point. I am advised that there is a Senator on this side who wishes to further study this matter overnight. So if we may temporarily lay this amendment aside, I think, and I hope it can be accepted tomorrow.

Mr. METZENBAUM. I have no objection to temporarily laying it aside with the understanding that it will retain its place on the calendar.

The **PRESIDING OFFICER.** Without objection, the amendment is set-aside.

The Senator from Utah is recognized.

AMENDMENT NO. 796

Mr. GARN. Mr. President, I thank the Chair. I will be brief. It is late.

I rise in opposition to the Reid amendment and I do not do so necessarily opposed to the substance of the amendment. I understand the problem that the Senator from Nevada is trying to address in his State. The problem of hostile takeovers is real. The Senate Banking Committee has been studying it for months and, interestingly enough, the bill proposed by Chairman PROXMIRE will be the subject of a markup at 10 a.m. tomorrow.

So to come out on the floor this late in the evening just a few hours before a markup on the entire problem and single out one part of that problem of hostile takeovers I do not really think is proper. Procedurally, if there was ever legislation on an appropriations bill to have an amendment on tender offers on an Interior appropriations bill, this is it. I realize that is done on the floor often, but that does not make it correct. I, first of all, wish the Senator from Nevada, who is from my neighboring State and a good friend, would withdraw and express his opinions to members of the Banking Committee in our markup. I am sure he could have some influence. But if he does not wish to withdraw it and consider it in the normal process of the Banking Committee, then we would feel constrained on this side to make a point of order.

Mr. REID. Mr. President, will the Senator yield?

Mr. GARN. I am happy to yield to my friend from Nevada.

Mr. REID. Mr. President, I respond to the Senator from Utah that it is precisely the same language included in his bill which is pending in the Banking Committee. I also state that it is temporary. The duration of this amendment would cover only 6 months. It is emergency language to help companies that are now under attack by corporate raiders, until the banking bill can be processed and enacted.

I appreciate the Senator yielding.

Mr. GARN. I understand that position of the Senator, but I can tell him that there are many other Senators who can pick out pieces of the bill and feel strongly and say this is exactly the same language and would like us to do the same thing in addressing the overall problem.

My objection is jurisdictional. The fact is that the Senate Banking Committee is proceeding tomorrow morning on this particular piece of legislation.

I yield the floor.

Mr. ARMSTRONG. Mr. President, I also would like to express my concern about the way in which this amendment comes before us.

I do not know exactly how many hours the Banking Committee has been considering the matter of corporate takeovers, but I assure the Senator from Nevada that it has been a matter of great concern and interest for some time.

As the Senator from Utah points out, we are on the verge of marking up a bill tomorrow. I expect that we will do it tomorrow, but I cannot guarantee it. I do not know whether or not the provision of particular interest to the Senator from Nevada will be in the bill.

In any event, it appears to me that while this matter may be timely, it certainly could wait for a day or two. It would not prejudice the rights of the Senator from Nevada if he were to take this amendment down and give the Banking Committee a chance to do its job. He could offer this amendment on any bill. It is not related to the Interior bill. In fact, it seems quite strikingly out of place on this legislation.

It occurs to me to ask if the Senator would have any disposition whatsoever to perhaps withhold his amendment at least for a few days, until we see what the action of the Banking Committee might be, since the committee has invested several thousand hours of member and staff time, has sat through innumerable hearings, and has painstakingly developed a fair amount of expertise on this subject.

So, both for practical reasons and for reasons that relate to the business of the Senate itself, I would appeal to the Senator to consider that. I wonder if the Senator from Nevada would be interested in that kind of operation.

Mr. REID. I appreciate very much the concern of the Senator from Colorado as to the time the committee has spent on this bill. However, I respectfully submit to my friend from Colorado, as I did to my friend from Utah, that this is emergency legislation; that it is because Congress is in the process of marking up legislation, recognizing that there is a problem, that the corporate raiders are now on the move, raiding companies like the one in Nevada; and because of this emergency nature and because it is precisely the same language that is included in the bill that will be marked up tomorrow, and that it is only for 6 months' duration, I will stand on the amendment.

Mr. ARMSTRONG. I thank the Senator from Nevada for his observations. I am disappointed that he feels as he does, but I respect his opinion.

Under the circumstances, I am going to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ARMSTRONG. Now I would like to make the point to the Senator from Nevada, and anyone else who is interested, that if this amendment is not striken from the bill on a point of order—as it richly deserves to be stricken, because it clearly violates the rules of the Senate to be presented on this bill—if it is not stricken, I expect that it will be the subject of extensive debate and further amendment.

I am not thoroughly familiar with the facts the Senator has alluded to, although I will expect to be familiar with them before this matter comes to a vote. It may be that after all Senators know exactly what the facts are, they will feel that this is a classic case of a raider, a predator, a marauder coming in to deal brutally, savagely, with some innocent company which is at the mercy of these persons who are described as corporate raiders.

I say to the Senator that I have seen that term applied to a lot of companies in a lot of circumstances, and for the most part, it is pure baloney. In fact, the opportunity to deal fairly with legislation, I think, is greatly compromised when we start out by describing people who seek to acquire the shares of a company in a willing transaction—not a forced transaction, not a transaction involving coerced buyers or sellers, but an open transaction among people who have the legal right to buy or sell whenever they wish to do so—when we attach words like "raiders" to such people, it seems to me that it does not indicate that cast of mind for dispassionate, thoughtful consideration of legislation.

In fact, I say to the Senator that I do not know the facts in the particular case he has in mind, but I must say that I start out predisposed to be very skeptical of legislation which is aimed specifically at a particular transaction.

This is a great Nation, and this is a legislative body which is intended to consider and pass legislation of general application, legislation which meets certain criteria and standards of applicability. We are not supposed to be a special-interest outfit. We are not supposed to follow the example of some State legislatures which have disgraced themselves, in my opinion, by passing that kind of ill-considered special legislation, which has jeopardized the rights of shareholders and companies and which, if the trend continues, threatens to balkanize the capital markets of this country.

So, if this is the opening gun in the discussion, the Senator from Colorado—and I do not think I will be the only one—is probably going to speak at some length in support of shareholders, because I, for one, am sick and tired of corporate managers coming in here and asking for protection.

My concern is that we do not know the facts, and as time goes on, I suppose we will find them out.

I ask the Senator to consider withdrawing the amendment and let it take its place in legislation which will be on the floor shortly, I guess, which would be the appropriate place.

Absent that, I would encourage Senators to buckle down to the task of understanding the legislation. If we are going to vote on it, if we are going to have serious consideration of it, it deserves serious and thoughtful consideration and not be adopted by a voice vote and not be adopted on an appeal from the ruling of the Chair.

I see that the Senator from Texas has arisen with a thoughtful yet resolute glint in his eye. He seems to be revving up to say something profound and worthy, and I suspect it is something which begins "I make a point of order that." If he does not do that, I am going to, because this clearly violates not only the better traditions of the Senate, but the rules of the Senate as well.

I heard a hint discussed earlier that somebody is going to appeal that ruling of the Chair, because we have it on somebody's advice that the Parliamentarian will likely advise the Presiding Officer, and the Presiding Officer will rule that this does violate the rules of the Senate, being legislation on an appropriation bill.

Now, that does not mean that somebody cannot stand up and move to appeal the ruling of the Chair. We have seen that done now and again, but I just would ask Senators to think carefully about whether that is the way they really want to do business around here. If the rules have any meaning and purpose, it is to prevent the presentation and adoption of amendments of this kind and character. Clearly this is legislation on an appropriation bill.

I am going to yield the floor and I am going to go to my office and pack up my briefcase and I am going to go home and get a good night's sleep, secure in the knowledge that the Senator from Texas is going to do the right thing, the Parliamentarian is going to do the right thing, the Presiding Officer is going to do the right thing, and, gosh, I hope after they thought it over, whoever had it in mind to appeal the ruling of the Chair, will do the right thing, too. We will not have to reach that issue in the morning.

I thank all Senators and the Chair.

Ladies and gentlemen, good night.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Texas.

Mr. GRAMM. Mr. President, after that statement, I am not going to give a long speech. I want to make this point. I feel absolutely adamant about this amendment. If we are going to stand here on the floor of the U.S. Senate every time that some private company offers to go out and buy shares in another company at a premium, putting money into the pockets of the stockholders, if we are going to do this on a piecemeal basis, we are going to destroy the American free enterprise system.

It is one thing to have a bill such as the one that we are going to mark up tommorrow in the Banking Committee. Quite frankly, I am adamantly opposed to that bill. It is a dagger aimed at the heart of American capitalism and the functioning of the free enterprise system. But at least, in my mind, that is the right procedure offer a bill, hold hearings, give everybody an opportunity to look at the facts, deal with it on a broad basis so that it affects everybody.

I think it is a very, very dangerous precedent to have a situation where we are offering an amendment, based on one company in one State, to meet the desire of the management of the company to protect itself from market forces that clearly are present, market forces that have been important to the development of America. So I am going to raise a point of order, and if the Chair is challenged on the point of order and overruled, I am willing to stand on this floor and read all 1,200 pages of an inquiry into the Nature and Causes of the Wealth of Nations, by Adam Smith and continue this debate until at least we have had an opportunity to deal with this problem in committee where it should be dealt with.

Mr. ARMSTRONG. I am looking forward to hearing it.

Mr. GRAMM. So I urge my colleagues to support the ruling of the Chair, but no matter, and I thank the distinguished Senator from Colorado who was looking forward to hearing the words of Adam Smith. As old great truths can never be repeated too often, I think quite frankly it would be therapeutic for the Senate.

So I feel adamant on this subject and, Mr. President, I raise a point of order under rule XVI of the Senate that the pending amendment is legislation on an appropriations bill.

The PRESIDING OFFICER. The amendment of the Senator from Nevada does amend the existing law. Therefore, it constitutes legislation on an appropriations bill. The point of order is sustained.

Mr. REID. Mr. President, I appeal the ruling of the Chair and move for the yeas and nays.

The PRESIDING OFFICER. The Senator from Nevada has appealed and asked for the yeas and nays.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. If the defense of germaneness were brought to the Senate, would that bring the vote to the Senate in the same way as an appeal of the ruling of the Chair?

The PRESIDING OFFICER. It is no longer timely to offer the defense of germaneness.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, you know I was halfway home and I got to thinking about this thing and returned to the Chamber to point out one additional fact that had not previously come up.

Before I do so, I would like to seek the attention of the Senator from Louisiana because I would like to answer his question in somewhat greater detail than the Chair. I believe the Chair is correct in its ruling. I would like to point out to the Senator from Louisiana and other Senators that had the question of germaneness been raised, it would have still not solved the problem of this amendment because under the precedents of the Senate, the Chair may not submit the question of germaneness unless there is some language in the bill to which it could conceivably be germane.

I happen to know that precedent very well because it was rather forcibly brought to my attention by the majority leader 8 or 9 years ago when I was trying to offer an amendment, and it is very clear that you cannot get around the point of order which has been sustained by the Chair through submitting it as a germaneness question.

I only point this out to emphasize that it would be a very serious mistake for Senators to vote to overrule the Chair, and I congratulate the Chair on its ruling.

The reason I came back, however, was to inquire whether or not an order had been entered for tomorrow permitting committees to meet after the first 2 hours of the session. Has such an order been entered?

The PRESIDING OFFICER. After reviewing the Journal, no such orders have been entered.

Mr. ARMSTRONG. Thank you, Mr. President.

The reason I raise that question is that in view of the possibility that the Senate might be treated to the Senator from Texas reading the Wealth of Nations by Adam Smith, I think it would be untimely for committees of the Senate to be meeting at the same time that he might be doing this. It would be particularly untimely for the Senate Banking Committee to be meeting to mark up this corporate takeover legislation which we are scheduled to do at 10 o'clock tomorrow in view of the fact that the Senator from Texas is a member of the Senate Banking Committee, indeed is a thoughtful and active participant in the life of the Senate Banking Committee.

I do not see how we could go forward with the markup which is otherwise scheduled and which will occur and which will be completed tomorrow as far as I can tell without the actual presence of the Senator from Texas.

If such a request were to be made to permit the Banking Committee to meet and if the amendment of the Senator from Nevada is still on the floor which it would be if the Chair were overruled on its point of order, a matter about which we will vote at 9 o'clock, then I would be constrained to object to any such request to permit the Banking Committee to meet. So we have a heads up, straight up or down question—do you want to sit around listening to a long debate on a highly specialized special interest amendment that takes care of one company for 6 months in one State or do we want to work and actually consider the legislation which is coming up in the Banking Committee tomorrow?

I do not see how we can do both because the very people who are needed on the floor to argue the amendment of the Senator from Nevada are the ones who otherwise would be occupied by the Banking Committee.

I will ask my cloakroom to protect me on this so in the event such a unanimous request were propounded, I could be summoned to the floor to object or to ask someone to object on my behalf.

Mr. GRAMM. Mr. President, will the distinguished Senator yield?

Mr. ARMSTRONG. I am delighted to yield to the Senator from Texas provided he does not intend to read the Wealth of Nations into the RECORD at this time.

Mr. GRAMM. I would just like to ask if the distinguished Senator would be inclined to join me in saying that if the Senate were so foolhardy as to overrule the Chair on so obvious a point of order, where the Chair was correct, where there was really no debate concerning its correctness, that if in fact we find ourselves on this amendment, if in fact an objection is made to the committee meeting, I was wondering if the Senator would join me if we find ourselves in that unhappy position in objecting to going off this amendment to do any other business of the Senate until this amendment is fully disposed of and until we have heard what is available in terms of the collective learning of mankind on this important issue beginning with the Wealth of Nations, but going through a long list of relevant topics that are important to the functioning of capitalism, the foundation of the great fortune that we celebrate in this Chamber every day.

Mr. ARMSTRONG. Mr. President, that Senator from Texas really has a way with words, does he not? It is not surprising to me that he so often gets his way not only because of the sweetness of his disposition and personality but also of the keeness of his intellect. Of course, I should agree to virtually any request along those lines he would suggest.

But let me point out before we cross that bridge that the immediate pending question when we come back tomorrow would be the question of whether or not to appeal the ruling of the Chair.

I do not want to speculate too much because I do not want to tempt fate here. I do not think Senators will want to do that in this particular fact situation. It would be a big mistake.

I would seek recognition at 9 o'clock in the morning to debate this issue because it is a debatable issue.

Mr. JOHNSTON. Mr. President, will the Senator yield at that point?

Mr. ARMSTRONG. I am ready to yield the floor.

I want to sum up by saying that the motion to appeal the ruling of the Chair, as I understand it, is a debatable motion. I expect to be here at 9 o'clock in the morning on my feet seeking recognition to debate that issue. Of course, the leader or someone else could move to table and that would foreclose the debate on it. But unless the motion to appeal the ruling of the Chair is tabled, I would assume that that motion itself was debatable and before we get to the substance of the amendment I think Senators would want to consider at least for a time the wisdom of appealing the ruling.

Mr. McCLURE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. ARMSTRONG. Of course.

The PRESIDING OFFICER. The Senator yields to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding.

There is a unanimous-consent agreement under which we are operating that deals with the ordering of and timing of votes. Under the unanimous-consent agreement that was heretofore entered into is further debate in order at 9 o'clock tomorrow morning, or would we proceed to a rollcall vote which has now been ordered?

The PRESIDING OFFICER. Further debate is in order at 9 o'clock.

Mr. McCLURE. Did not the majority leader, in his unanimous-consent agreement, notify Members that there would be a rollcall vote and if we are not on this matter, it would be on some other matter, such as instructing the Sergeant at Arms to request the attendance of absent Members?

I ask that question because it appears to this Senator that the Senator from Colorado is developing a scenario somewhat different than may have been understood under the unanimous-consent agreement.

The PRESIDING OFFICER. Prior to the resumption of the bill, a quorum call may be instituted and result in a rollcall vote on a procedural matter.

Mr. McCLURE. I thank the Chair.

So if the Senator from Colorado seeks to debate this matter at 9 o'clock tomorrow morning, he might well find himself supplanted by such a motion under the unanimous-consent agreement?

The PRESIDING OFFICER. He would not be supplanted by such a motion. He might be delayed, deferred, retarded by such a motion.

Mr. McCLURE. Set back.

I thank the Chair.

The PRESIDING OFFICER. Does the Senator from Colorado yield the floor?

Mr. ARMSTRONG. Yes, Mr. President. I think the Chair has made it clear that the issue is debatable and it might either be a quorum, it might be a motion to instruct the Sergeant at Arms, it might be a move for a 5-minute adjournment, it might be any number of different motions, but sooner or later Senators will either vote to table this proposal of the appeal of the ruling of the Chair or Senators who wish to do so will have an opportunity to speak to it. That is the way I see it.

By the way, I am not threatening in the slightest a filibuster on the motion to appeal the ruling. That is not my purpose. I do think it would be worthwhile for whoever wishes to do so to discuss the merits of it because I think it is a serious matter and at least Senators ought to consider the wisdom of appealing the ruling of the Chair on this particular fact situation. After that, if it is not tabled, we will take it from there.

The PRESIDING OFFICER. The Senator from Colorado yields the floor.

Mr. JOHNSTON. Mr. President, we have two amendments that I hope we can deal with tonight if the minibuster is concluded.

AMENDMENT NO. 807

(Purpose: To provide funding for national laboratory coal science initiatives)

Mr. DOMENICI. Mr. President, I ask unanimous consent that the pending matter under discussion by the Senate be temporarily set aside for the purpose of sending an unprinted amendment to the desk, which I will understand will be accepted. It will take the Senator from New Mexico no more than 1 minute to explain it.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, and I shall not object, I just wanted to establish on the record that this is one of the amendments that was placed in order earlier under the unanimous-consent agreement; am I correct on that?

The PRESIDING OFFICER. The Senator is authorized to offer an amendment.

Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. McCLURE, and Mr. BINGAMAN, proposes an amendment numbered 807.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, line 26, strike "$281,390,000," and insert in lieu thereof "$291,390,000,".

Mr. DOMENICI. Mr. President, I wish to thank Senators, STENNIS, BYRD, McCLURE, and CRANSTON for their help in this amendment and for their support.

Essentially, this amendment adds $10 million in budget authority and $3.8 million in outlays for a national laboratory coal science initiative. Essentially, it is not in competition with other coal provisions of this bill, but rather it fulfills the recommendations of the major scientific groups in this country who suggest that it is time we look at the basic science and the essence of coal in an orderly manner. The recommendation is that some of the national laboratories of the United States, working with universities, should begin that initiative so that we will acquire the basic knowledge of coal before the energy crisis hits us again.

In the fossil energy advanced research and technology development activity, the committee has added $10 million for a new subactivity entitled, "National Laboratory Coal Science." This coal science initiative is designed to provide balance to the clean coal technology demonstration program by expanding on the examination of fundamental questions underlying coal utilization and conversion. The effort will bring together the multidisciplinary scientific and engineering talents and the latest analytical and computational tools available at the national laboratories to address the age-old problems of coal structure, chemistry, and reactivity. Current research in the United States is largely concerned with marginal improvements of known systems; this new activity would be directed toward revolutionary understandings through the use of scientific capabilities that have not yet been adequately applied to the study of coal. The proposal envisions university and industry participation in both the conduct and application of this new research be an intrinsic part of this activity.

The research program for this new subactivity will be planned in coordination with the National Laboratory Coal Science Consortium, a group of national laboratories composed of the Idaho National Engineering Laboratory, the Lawrence Berkeley Laboratory, the Lawrence Livermore National Laboratory, the Los Alamos National Laboratory, Sandia National Laboratories Albuquerque, and Sandia National Laboratories Livermore. The consortium will be chaired and coordinated by Sandia National Laboratories Albuquerque. Within 6 months of enactment of this legislation, the Department of Energy will provide a comprehensive 10-year research plan to the appropriate committees of Congress for their approval within 30 days. This plan should address research programs, operating and capital funding requirements, and participation by universities and industries. The funds in fiscal year 1988 are available for both operating and capital equipment needs as recommended by the consortium.

I urge my colleagues to adopt this amendment, and I thank my distinguished colleagues, Senators BYRD, STENNIS, McCLURE, and CRANSTON for their support.

Mr. BURDICK. Mr. President, I take this opportunity to comment on the appropriations contained in this measure for the clean coal technology program provided for in this measure. It may be appropriate as well to advise the Senate of the progress the Environment and Public Works Committee is making with respect to Clean Air Act amendments and the link between the two activities.

As chairman of the Environment and Public Works Committee, I am pleased to report that substantial progress is being made on Clean Air Act amendments. I anticipate reporting a bill from committee within the next few weeks. A major component of that bill will be a program to reduce emissions that contribute to the acid rain problem. In addition, I expect that there will be a significant commitment to clean coal technology.

It is important to support ongoing research and technology efforts to find more efficient and clean methods to utilize the Nation's coal supplies. However, because this program is a creation of the appropriations process and has not been authorized by the Environment and Public Works Committee, I have some reservations about its objectives. In the past I have stated, and continue to believe, that further technology development can not be a complete substitute for actions that are available to us now to control air pollutants.

The clean coal technology program therefore must be viewed in the context of a total strategy to protect air quality.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, do I understand that this amendment simply changes the figure in the bill?

Mr. DOMENICI. The Senator is correct.

Mr. JOHNSTON. And that the actual outlay number for the next fiscal year is $3.8 million?

Mr. DOMENICI. Mr. President. Now that we look at the fact that the program will not come into being for a period of time, it seems to the Senator from New Mexico that $3.8 million is an accurate outlay estimate.

Mr. JOHNSTON. Mr. President, in view of what the distinguished Senator from Mew Mexico has said, we are certainly willing to take this amendment to conference and so we accept the amendment.

Mr. McCLURE. Mr. President, we have no objection the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 807) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the distinguished managers for their assistance.

Mr. JOHNSTON. Mr. President, am I correct that, upon the disposition of the Kerry amendment, the only amendments left in order on this bill are the Byrd amendment with respect to clean coal at National Labs, a Byrd amendment extending the exclusive period for drugs, the pending Reid amendment, and a Metzenbaum amendment with respect to the National Forest lands in Ohio?

The PRESIDING OFFICER. That is correct.

Mr. JOHNSTON. And did I understand the Chair to say that at 9 o'clock a vote will occur on the motion to overrule the Chair?

The PRESIDING OFFICER. The appeal of the ruling of the Chair is debatable.

Mr. JOHNSTON. I was under the understanding that we did have a vote set for 9 o'clock for 30 minutes.

The PRESIDING OFFICER. My understanding is that there would be a vote at 9 o'clock to take the form of a quorum and a motion to instruct the Sergeant at Arms, but the specific challenge of the ruling of the Chair is debatable.

Mr. JOHNSTON. I thank the Chair.

Mr. KERRY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Nevada, which would have to be set aside in order for the Senator to call up another amendment.

Mr. KERRY. Mr. President, I ask unanimous consent that the amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 808

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and Mr. KENNEDY proposes an amendment numbered 808.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 70, line 12, immediately before the colon insert ": *Provided further*, That of the amount provided under this head $3,000,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts".

And on page 69, line 17, strike "$373,957,000" and insert in lieu thereof: "376,957,000".

Mr. KERRY. Mr. President, this is the amendment we discussed earlier. It has been a homeless amendment for a period of time. I want to thank my colleagues for helping to find it a home.

This is an amendment to provide a grant to Brandeis University which will aid in the development of energy and natural resources technology development center. It deals with artificial intelligence, as we heard earlier, but will have an enormous impact on resource management and other energy-related matters.

I am very much appreciative to the chairman and ranking member for their assistance. My hope is that, as we proceed through the conference period, the wisdom of this will become clear and we can go on from there.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, our initial reaction over some period of time to this amendment was to oppose it for a number of reasons: Because it did not fit within our allocation; because the matter did not appear to be within the jurisdiction of the committee. However, the Senator from Massachusetts has been unusual in his assiduousness and his persuasiveness and, accordingly, we have agreed to give him the rest of our available funds, which is $3 million. It was his request initially for $4.2 million. We have agreed to do so. Senator McCLURE and I—of course, he will speak for himself—but we have agreed to do so based upon the fact that we will take it to conference where, of course, there is no guarantee that it can survive. But the fact that it is brought into the Senate bill is the first big step toward that.

Second, we make no commitment for future funding for future years. Every year is a new year and we want to make clear on the record that this is no necessary first step toward the whole piece of pie, because the pie in this case could be rather large.

With those understandings, Mr. President, we gladly accept the amendment of the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Louisiana yields the floor. The Senator from Idaho.

Mr. McCLURE. I agree with the statement the Senator from Louisiana has made with respect to this amendment. I will just add one further understanding and that is with respect to the jurisdiction of the subcommittee and whether or not this program is appropriately a part of this appropriation bill. I would want the opportunity in the future to be able to determine whether or not this is the appropriate appropriations bill to carry this item. If it is determined that, indeed, it is more appropriate within the confines of another appropriations bill, even if the Senate should decide to go forward with this program, that it might be allocated to a different subcommittee for consideration in its appropriation bill in the near future.

With that understanding I have no objection to the adoption of the amendment at this time.

The **PRESIDING OFFICER.** The Senator from Idaho has yielded the floor. The Senator from Massachusetts.

Mr. **KERRY.** Mr. President, if I might just add, and I do not want to take long, I thank both the chairman and the distinguished ranking member for their comments and their willingness to proceed forward. I acknowledge both to their comments. I understand the terms on which we are moving forward.

It is my hope that I will be able to persuade both of them that this is worth proceeding forward on this year, even if we find jurisdictionally it ought to shift somewhere else in the next. I think because it represents a new field and a new area there is reason to be broad and expansive in that effort. But I would look forward to working with the distinguished Senator from Idaho and the chairman in an effort to try to make sure that we can do what is appropriate as we move along.

The **PRESIDING OFFICER.** Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 808) was agreed to.

Mr. **KERRY.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. **JOHNSTON.** Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **METZENBAUM.** Mr. President, I have a parliamentry inquiry. I was sitting in my office when I heard the Kerry amendment was being taken up, to which I had no objection, but I understood the amendment of the Senator from Ohio was pending and had been temporarily laid aside. I did not hear unanimous consent to that fact.

Am I correct?

The **PRESIDING OFFICER.** The Kerry amendment was taken up by unanimous consent.

Mr. **METZENBAUM.** I understood the unanimous consent was to lay aside the Reid amendment and I was wondering how we could take it up. I have no objection to the Senate's taking it up. I certainly would have agreed to it, but am I not correct that my amendment is the pending amendment?

The **PRESIDING OFFICER.** The Metzenbaum amendment was set aside pending the disposition of the Reid amendment. Therefore, a unanimous consent to set aside the Reid amendment carried with it the Metzenbaum amendment.

Mr. **METZENBAUM.** I must say that the Senator from Ohio takes issue with the parliamentary ruling, but would not make a point of it.

I do not believe that because you step aside for one amendment to come up that when his amendment is set aside that it carries mine with it. I do not really think I agree to that parliamentary procedure. I am not going to make an issue of it. I am able to protect my position fully well, but I would raise the question with the parliamentarian whether, indeed, that does occur when we discuss it before the next amendment comes up.

Mr. **BYRD.** Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, on behalf of Mr. JOHNSTON, I ask unanimous consent—and I have discussed this matter with Mr. REID and Mr. McCLURE and other Senators, and I feel that we are all in agreement—that the amendment by Mr. REID, myself, and others be withdrawn.

The **PRESIDING OFFICER.** Is there objection?

Mr. **McCLURE.** It is the appeal.

Mr. **BYRD.** If I withdraw the amendment, that carries the appeal and everything with it.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the amendment by Mr. METZENBAUM be agreed to. It is my understanding there is no objection.

Mr. **McCLURE.** Mr. President, we have no objection to the adoption of the amendment.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Now, Mr. President, as I understand it, there are no further amendments pending to the measure and that takes care of all amendments which are listed that are going to be called up.

Mr. **McCLURE.** Will the Senator yield?

Mr. **BYRD.** Yes.

Mr. **McCLURE.** Under the list the distinguished Senator from West Virginia does have two amendments which could be offered.

Mr. **BYRD.** I do have two amendments. I will not call either amendment up.

Mr. **McCLURE.** I thank the Senator.

Mr. **BYRD.** I thank the distinguished Senator.

Mr. President, there are no further amendments, are there?

The **PRESIDING OFFICER.** There are no further amendments.

SEWANEE SILVICULTURE UNIT

Mr. **SASSER.** Mr. President, I rise today to join in a colloquy with my good friend from Louisiana, Senator JOHNSTON, regarding funding for the Sewanee Silviculture Lab in Tennessee. There have been some questions as to Tennessee's commitment to maintaining this research unit. I would like to clarify the situation, and I would like to determine that the Forest Service is still committed to maintaining the unit.

Mr. **JOHNSTON.** I know of the unit the Senator from Tennessee speaks of, and I understand his concern. The Interior Appropriations Subcommittee did not add funding for the Sewanee Lab because we were unaware of the degree of commitment that Tennessee had agreed to provide.

Mr. **SASSER.** I have a letter of commitment from the Tennessee Department of Conservation which notes Tennessee's recent contribution of the initial $20,000 called for and a pledge to provide an additional $100,000 in July 1988. Senator JOHNSTON will recall that these were the sums agreed to in discussions between the Forest Service and the Division of Forestry in Tennessee. I believe that the Forest Service has an additional $238,000 available in their budget for fiscal year 1988.

Mr. **JOHNSTON.** I understand that the Forest Service has said that it will provide $238,000 to maintain the Sewanee Lab if the State provides the $120,000 it has made a commitment to provide.

Mr. **SASSER.** I thank the Senator from Louisiana. I trust you will ensure that the $238,000 for Sewanee Lab is included in the Forest Service allocations for fiscal year 1988, by this agreement.

Mr. **JOHNSTON.** I will make every effort to see that the Senate position is maintained in conference.

Mr. **SASSER.** Thank you. Mr. President, I yield the floor.

Mr. **SIMPSON.** Mr. President, I appreciate this opportunity to thank the chairman and ranking members of the Interior Appropriations Committee for including funding for the construction and maintenance of the world famous buck and rail fence that threads through the scenic vistas in Grand Teton National Park.

I visited Teton National Park earlier this year and was quite disheartened to view a new type of fence the Park

Service was constructing in place of the traditional buck and rail fence that has become a landmark in the Yellowstone-Grand Teton area. While the Park Service has a mandate to "preserve and protect," in this case the mandate was ignored and an effort to tear down sections of the old buck and rail fence began and a new type of wood and wire fence was constructed. This new type of fence is an abominable eyesore and it is indeed unfortunate that any of it was ever constructed. I feel Park Service should have continued to maintain the old scenic buck and rail fence instead of embarking on a new effort that does not have the full support of the public. I trust that no more of the new type of fence will be constructed in the future.

The Interior Appropriations Committee has provided the small sum of $60,000 for the maintenence of the existing buck and rail fence and for the replacement of the newer wire fence. I am informed that this sum is adequate for necessary activities this year, but that we may need to request a similar level of funding next year in order to complete the needed work in Teton National Park.

I would add that there has been a thoughtful and pleasing response from citizens in Wyoming and from other parts of the country who are sending in donations in order to preserve the old style buck and rail fence and I will be making a personal donation for this purpose as well. Would that every Federal program had such support! I do thank my colleagues.

HOME OF FRANKLIN DELANO ROOSEVELT HISTORIC SITE

Mr. HARKIN. Mr. President, I want to take this opportunity to thank Senators BYRD and JOHNSTON as well as the Appropriations Subcommittee on the Interior for including land acquisition funds for a small addition to the home of Franklin Delano Roosevelt historic site. The Trust for Public Lands, an organization which purchases environmentally and historically significant lands for sale to the Government, recently purchased a 2.5-acre strip of land known as the Kessler property adjacent to the historic site in order to prevent its unsightly commercial development. This appropriation provides that the Department of the Interior purchase the Kessler property for addition to the FDR historic site.

Mr. JOHNSTON. I appreciate the Senator from Iowa's interest in preserving the quality of this important historic site. He is correct in regard to the committee's intent. As we all know, Franklin Delano Roosevelt was one of the most popular and influential Presidents in this history of our Nation, and it is fitting that we take this measure to protect this historic site.

Mr. INOUYE. Mr. President, there are a number of points I would like to raise with the manager of this bill, my distinguished colleague Mr. JOHNSTON, regarding appropriations for the Bureau of Indian Affairs.

The first involves the provision of funds for the BIA law and order program. In late March of this year, long after the administration submitted its fiscal year 1988 budget request to the Congress and subsequent to the oversight hearings held by the Select Committee on Indian Affairs on the administration's budget submission, the Department of the Interior published a proposed rule to provide that the Bureau of Indian Affairs law enforcement funds may not be expended to provide law enforcement services in those areas of Indian country where, pursuant to Federal law, States have jurisdiction over offenses committed by or against Indians. An example of such tribes are those affected by Public Law 83-280 which authorized States to extend their criminal laws over Indians within Indian country.

In construing these Federal laws, the courts have long established that tribes continue to have concurrent jurisdiction with the States and, in fact, most tribal ordinances cannot be enforced by the States but only by the tribes. In the past the Bureau of Indian Affairs has funded law and order programs of tribes within such States on the basis of demonstrated need.

It is my understanding that the funds provided in this bill for BIA law enforcement programs include funds for existing law and order programs of tribes within Public Law 83-280 States, or States with similar laws. Are such funds included within the funds appropriated under this bill and is it the intent of this legislation that the Bureau of Indian Affairs should continue to fund these existing programs?

Mr. JOHNSTON. My colleague's understanding is correct. The funds provided for BIA law enforcement programs do include funds for all of the existing BIA or tribal law enforcement programs and it is the intent of this legislation that all such programs should continue to be funded throughout fiscal year 1988.

Mr. INOUYE. In December 1985 Congress enacted legislation providing an emergency appropriation of $6 million for the purchase by the BIA of hay to feed Indian owned cattle in the States of Montana, North Dakota, and South Dakota which were faced with serious drought conditions. As a part of that legislation we directed the Bureau to conduct a general survey of agricultural conditions in Indian country throughout the Nation and to file an appropriate report with the Congress. That report was filed, in September of last year and, among other things, called for establishment of an intertribal agriculture council to review and recommend changes in Bureau and tribal programs and policies for agricultural and range programs—policies which had not been reviewed for nearly 40 years.

Following the submission of that report, the BIA and the tribes established a National Indian Agricultural Working Group which has made great strides in this area. At the present time the formation of the intertribal agricultural council is planned for November. Over the course of the next year it is anticipated that this council can bring to fruition the efforts that have thus far been expended, but this will require funding during this fiscal year, fiscal year 1988, of about $250,000.

I have not offered any amendment to the pending bill to increase funding for the BIA agricultural programs. However, I strongly support the efforts of the Bureau and the tribes to revise the agricultural programs of the Bureau, the tribes, and other Federal agencies. I would ask my colleague whether the funds provided in this bill are sufficient and are available to support this endeavor?

Mr. JOHNSTON. Mr. President, I share entirely my colleague, Senator INOUYE's, concern for this program. I believe the funds provided for the BIA agricultural program are adequate to underwrite this effort and I would strongly urge the Department of the Interior to fully support this effort out of the funds available through this bill.

Mr. INOUYE. I would also like to express my grave concern with regard to the funding level provided in this bill for the BIA Housing Improvement Program. For fiscal year 1988 the Department of the Interior requested only $17,217,000—a reduction of over $5 million from the amount appropriated in fiscal year 1987. The House added back $5,514,000 to restore funding the fiscal year 1987 level, but the bill before us would reduce the funding level to $10 million.

Mr. President, the Bureau of Indian Affairs identifies some 92,580 families as being in need of housing and there are some 39,880 houses identified as suitable for renovation. The Bureau also states that 52,700 new homes are required. The primary housing program for Indians is operated by the Department of Housing and Urban Development. However, the HUD Indian housing program does not provide funds for rehabilitation of housing. Under the BIA program, a limited amount of funds may be used for construction of housing, but only under emergency circumstances. In addition to providing improved housing, the BIA Housing Improvement Program [HIP] provides a major source of employment on reservations.

Mr. President, I am not offering any amendment to the bill with respect to the HIP program, but I cannot stress enough my concern with regard to this funding level. I strongly urge that the Senate recede to the House when this bill goes to conference.

MHD FUNDING

Mr. BAUCUS. Mr. President, I am pleased that the Interior appropriations bill for fiscal year 1988 provides $35 million to continue the development of magnetohydrodynamic [MHD] power generation as part of our country's overall effort to meet our future energy needs.

MHD technology is at an important crossroads. The funding provided in the Interior appropriations bill will support a critical testing stage so that very soon existing powerplants can be retrofitted to take advantage of this high-temperature, coal-fired energy production method.

Further, the $8.5 million increase in MHD funding over last year's level will help the United States to remain competitive with other countries that are aggressively developing new technologies to meet their own future energy needs.

I deeply appreciate the support that the distinguished chairman of the subcommittee, Senator BYRD, and the acting chairman, Senator JOHNSTON, have provided throughout the committee's consideration of this matter.

I recognize the difficulty of the job that they faced in determining the funding needs of the hundreds of programs covered by this appropriations bill. And I know that this has been a particularly tough year given the constraints that they have worked under. I sincerely commend them for their efforts.

I remain optimistic that funding for MHD technology is a sound investment in America's future. And I am proud that Montanans working at Butte's component development integration facility are in the forefront of this planning effort to find new ways to meet the energy demands of the Nation.

Mr. President. I believe that the funding provided in this bill for MHD reaffirms our commitment to a technology with great potential and will help to maintain the public and private partnership that is now on the verge of demonstrating tangible results.

Mr. SPECTER. Mr. President, Senator HEINZ and I would like to engage in a colloquy with the distinguished managers of the bill.

Mr. JOHNSTON. Please proceed.

Mr. HEINZ. Mr. President, all of us share a deep concern for acid rain. The Department of Energy has the capability to implement a new, comprehensive acid rain control retrofit program. This program involves new coal preparation and flue gas cleanup techniques capable of retrofitting existing coal-fired facilities to reduce acid rain precursors. The House version of H.R. 2712 provides $2 million in control technology and coal preparation and $1,800,000 in flue gas cleanup to develop such technologies by the early 1990's. The House bill specifically cites this proposal as a high priority.

If we are going to have technology-based methods of controlling sulfur emissions—this work is essential. I am very sorry that the committee was not able to fund this proposal, particularly given the strong House support. We badly need the assistance of the chairman and the ranking member to help keep this valuable new initiative in conference.

Mr. SPECTER. This new initiative includes the development of advanced physical coal cleaning and duct injection technologies that promise to reduce extensively emissions at costs well below flue gas scrubbers. Unlike other methods of sulfur dioxide control, these retrofit technologies involve low capital costs and can be applied to utility boilers of various ages and sizes. I hope my colleagues will accept the House proposal in conference. We need to pursue low-cost approaches to reduce emissions.

Mr. JOHNSTON. I thank my colleagues for bringing this matter up. I recognize the importance of a comprehensive approach to retrofit technology development. The outlay ceiling for this measure prevents us from approving all the proposals one might like, but were there an adjustment in the outlay ceiling, I would like to assist this particular program.

Mr. McCLURE. We all appreciate the contribution that retrofit technologies can make to the ultimate control of sulfur emissions. In conference we will try to assist the Senator. I would note, however, that the House allocation is lower than the Senate's, and this may make it more difficult to do as the Senator asks.

Mr. SPECTER. I thank my colleagues for their assistance. Senator HEINZ and I wish to raise some additional matters at this time. The House approved $1,700,000 for continued development of industrial combuster technologies. We urge our colleagues to accept the House proposal for this research.

Mr. HEINZ. The House-approved funding will provide for the development of revolutionary glass and iron/steel combustion; research which could save basic industries $300 million in costs compared to current technology. I hope my colleagues can accept the House figure for this urgent technology development.

In addition, the House approved $17 million to continue phosphoric acid fuel cell development. This figure would support a heavily cost-shared 7.5 MW Air Cooled Phosphoric Acid Fuel Cell Development Program. The private sector bears more than 50 percent of the program development costs. The 32 kW cell stacks have successfully been fabricated, tested, and integrated into the fundamental system building block, the 100 kW fuel cell stack containing over 450 individual cells. Preparation is under way for a 1.5 MW pilot powerplant. I hope the chairman and the ranking member will work toward the House numbers in conference.

The House also passed $8.5 million for advanced concepts fuels cells work. This research would support tubular solid oxide fuel cell development. The House level allows the Department of Energy to fulfill its contractural obligations. This is a highly efficient technology which can be applied to utility, industrial and commercial markets. It creates no toxic byproducts. I urge my colleagues support for the House work on tubular solid oxide fuel cells.

A matter of great concern to me is the $5 million above the administration request which the House approved for the completion of the Hot Gas Cleanup Program. This surface coal gasification project is the most successful coal gasification program. The increased funding will allow this project to be completed. I would add that the Morgantown Energy Technology Center has ranked hot gas cleanup as its priority program. Major achievements have been accomplished in removing sulfur from the coal derived gas. I strongly support the House-approved level of funding, and hope that the distinguished chairman and ranking member will also.

Mr. SPECTER. I join with my colleague from Pennsylvania in urging Senator JOHNSTON and Senator McCLURE to recede to the House position for these valuable energy programs.

The last matter we wish to address is the technology and consumer products program, which is a cost-effective energy conservation effort. The House approved $650,000 for oil heating equipment research. This research could save millions of dollars in unnecessary oil consumption, reducing our dependence on foreign oil.

Mr. HEINZ. I agree with my colleague. Oil heat conservation is an intelligent investment in our energy future, and I hope the House level can be provided.

Mr. JOHNSTON. My colleagues have discussed several important energy research efforts. In conference, we will try to assist them. I know they recognize the constraints we face, and appreciate the outlay ceilings under which we must operate. If that ceiling should be adjusted, I would be happy to help them with these matters.

Mr. McCLURE. Effective coal utilization and energy conservation are very important endeavors. If possible, we will try to help the Senators.

Mr. SPECTER. I appreciate my colleagues' remarks, and look forward to working with them for an aggressive research and development effort.

Mr. HEINZ. Senator JOHNSTON and Senator McCLURE have been very helpful, and I certainly appreciate their assistance.

MINNESOTA VALLEY VISITOR CENTER

Mr. DURENBERGER. I want to bring to your attention a very important project, important to the country and the State of Minnesota: the Minnesota Valley National Wildlife Refuge Visitor Center. This center will be the crown jewel in one of the loveliest spots in the country. The House recognized this and appropriated $2.68 million for construction of the center.

This money is needed to complete the project that has been years in the making and serve as the second and final phase of a long-term project. In fact the project has been prolonged to the extent that even this generous sum will not meet the project's full needs. This shortfall will come from the generous pockets of those in the Twin Cities of Minneapolis and St. Paul and surrounding suburbs like Bloomington, who live so near and enjoy the refuge. Thus, completion of the visitor center will be a symbol of uncommon local and Federal fiscal cooperation.

This you all know, gentlemen. And what I am sure you also know is that due to these fiscally austere times and not in any way reflecting on the merits of the visitor center, the center was not funded by the Senate Committee on Appropriations.

I regret, I am sure you gentlemen do too, both the needed fiscal austerity and subsequent failure of the committee to fund the visitor center. Nevertheless, I ask you as leaders of the Senate to follow the House's lead and fund the visitor center when this issue is discussed in conference.

Mr. McCLURE. Thank you for bringing this important issue to my attention. I am aware of the extensive work you, Senator DURENBERGER, have done in trying to get funding for the center. I would note that the Senate's allocation is not the same as the House's and it is unclear if new allocations will be made.

Mr. JOHNSTON. I also want to thank you, Senator DURENBERGER, for bringing this issue to my attention. It is indeed important and I, like Senator McCLURE, will give this project every consideration when we get to conference.

DULUTH FOREST STATION

Mr. DURENBERGER. On another topic, the Duluth office of the North Central Forest Experiment Station, I am happy to bring to your attention a solution to a problem that has troubled me and my constituents. Both the House and Senate Appropriation Committees failed to fund the Duluth office meaning it would be closed. Such a closure would have dramatic detrimental consequences to the timber industry in the upper Midwest. It is this office that has provided the now booming Minnesota timber industry the raw data enabling the industry to expand its plants and production through the northern portion of Minnesota.

Mr. President, during the last 24 hours, I have become aware of an effort by the State of Minnesota, in cooperation with the Forest Service to provide funding for the Duluth station. Under the proposed agreement, funding of the station would come from a State-Federal matching program, with the State providing $90,000 and the remainder coming from a reallocation of resources among Minnesota's three stations. This appears to be a promising alternative to closing the Duluth station. Although I am not happy that some of the money may have to come from the Minnesota offices, I am aware, and grudgingly, see the necessity of this and believe it is for the overall good of the State and forest industry.

In the interest of expediting this measure, I will not offer specific language to this bill on this matter, nor do I wish to delay consideration while the specifics are worked out. What I would ask of the managers is a willingness to consider language in the conference report to accompany his measure which will provide the authority for the Forest Service to proceed with funding of the Duluth station according to the final arrangement that can be worked out among the parties.

Would the managers be willing to give me such an assurance?

Mr. McCLURE. This does sound like a promising agreement. Since I am from a State with extensive natural resources, particularly timber, I recognize the value of forest economic research. This kind of research is important so that the resources can be put to their best and most productive use. I also recognize the value that the Duluth office has played in the resurgence of the timber industry throughout the Upper Midwest. In addition, I recognize the value of joint State and Federal ventures to fund needed projects. The proposed arrangement is a very good way of alleviating all too common budget constraints and will be happy to work with the Senator on conference report language outlining this agreement.

Mr. JOHNSTON. I, too, recognize the promise of this agreement worked out between the Forest Service and the State of Minnesota and believe it serves all party's best interest. Accordingly, I will work to incorporate conference report language solidifying this agreement.

HAVASUPAI RANGE REHABILITATION

Mr. McCLURE. Mr. President, the committee has recommended $900,000 "to develop a range rehabilitation plan for the Havasupai Tribe." Since the tribe, in cooperation with the Soil Conservation Service and the Bureau of Indian Affairs, prepared a range rehabilitation plan in March 1986, I would hope that the language would not prevent the tribe from using these funds to proceed with implementation of that plan, which would include various natural resource development activities.

Mr. JOHNSTON. I understand the Senator from Idaho's concern, and it is the intent of the committee for the funds to be utilized for implementation of the plan.

Mr. CHILES. Mr. President, as chairman of the Senate Committee on the Budget, I would like to inform the Senate that H.R. 2712, the Interior appropriations bill, is within the spending limits set forth pursuant to section 302(b) of the Budget Act. The bill, as reported, is under the budget authority ceiling by $19 million and under the outlay ceiling by $10 million. I would like to commend the distinguished chairman of the subcommittee, Senator BYRD. the ranking member of the subcommittee, Senator McCLURE, and Senator JOHNSTON for their success in crafting this measure.

Mr. President, I have a table that sets forth the official scoring of the Interior appropriations bill, and I ask unanimous consent that it be inserted in the RECORD at the appropriate place.

SENATE BUDGET COMMITTEE SCORING OF H.R. 2712—INTERIOR BILL—SPENDING TOTALS

[Senate reported, dollars in billions]

	Fiscal year 1988	
	Budget authority	Outlays
Bill Scoring		
H.R. 2712, Senate reported (new Budget authority and outlays)	10.0	6.8
Outlays from prior-year Budget authority and permanent appropriations	+(1)	3.1
Bills enacted this session: 1987 Supplemental Public Law 100–71		+(1)
Adjustment to conform mandatory programs to resolution assumptions	−(1)	−(1)
Bill total	10.0	9.9
Subcommittee 302(b) allocation	10.0	9.9
Difference	−(1)	−(1)
Comparisons		
Bill total above (+) or below (−):		
President's request	+1.9	+0.9
House-passed bill	+0.6	+0.2

[1] Less than $50 million.

Details may not add to totals due to rounding.

Prepared by the Senate Budget Committee.

THE CANARSIE PIER

Mr. MOYNIHAN. Mr. President, I rise to call the attention of the Senate to what has been an ongoing problem concerning the Canarsie Pier in New York's Gateway National Park. For some 60 years the pier has served as a major recreational area for many New Yorkers, including fishermen and all those who love to be in the open air.

Originally built in 1926, the pier is now suffering from long-term structural problems, identified as long ago as 1979 in a study by the National Park Service, and once again in 1980 in a study by the Federal Highway Administration. I succeeded last year in getting some moneys for a detailed analysis of the problem, and now funds are needed for engineers and planners to draw the blueprints and the like so the work can be done.

Does the distinguished chairman agree that if the Director of the National Park Service determines that such work is necessary, the work may be undertaken from project savings?

Mr. JOHNSTON. I do, and hope the Director would be able to make such a determination as soon as is possible.

Mr. MOYNIHAN. I thank the chairman for his consideration and for his efforts to assure that the public is not put at risk by the presently somewhat dilapidated condition of the pier. I thank the Chair.

OGALLALA AQUIFER FUNDING

Mr. DOMENICI. Mr. President, I wish to bring to the attention of the distinguished floor managers a provision in this bill that affects water levels in the Ogallala Aquifer.

As my colleagues know, the farmers and cities in eight High Plains States are dependent upon the Ogallala Aquifer for water. Those eight States are Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, and Wyoming.

Last year, the Congress passed Public Law 99-662, the Water Resources Development Act. In section 1121 of that act, the Congress created a new title in the Water Resources Research Act, a title that creates a cooperative Federal/State program to halt, then reverse, the decline in the water levels of the Ogallala.

This appropriations bill includes $600,000 to go to the U.S. Geological Survey to monitor water levels in the Ogallala.

But there is more that must be done.

The $600,000 appropriated in this bill goes to finance work under section 306. That is very important and necessary work. I praise the committee for its action.

But I must note that this is but a small aspect of the entire Ogallala restoration program. The real heart of the full Ogallala title is the cooperative Federal/State program. This cooperative effort is to be established and run through a High Plains Study Council, authorized by section 301 of the Water Resources Research Act.

The council is to be composed of the eight Governors, or their designees, plus representatives of the Departments of Interior and Agriculture. The council has not yet been organized.

I would like to inquire of the two managers, if it is the intent of the committee that the Governors and the agencies move forward soon in organizing the study council, and if, once that occurs, the committee will give most careful attention to the funding of other aspects of title 3, such as the section 302 technical advisory committees, the section 303 and section 304 research program, and the section 305 demonstration program?

Mr. JOHNSTON. The Senator is correct. The State/Federal aspect of title 3 is the key to developing new and effective ways to reverse the decline in the Ogallala Aquifer. It is my hope that that aspect of this important initiative can move forward as soon as possible.

I also note that the Federal/State component of the Ogallala title involves a 25 percent non-Federal contribution. That means that anything we may appropriate next year will be extended through additional non-Federal funds. That will strengthen this program in my view.

Mr. McCLURE. Mr. President, I share the enthusiasm expressed by my good friend from New Mexico [Mr. DOMENICI] and the distinguished majority floor manager [Mr. JOHNSTON]. I will make every effort to examine the needs of the eight Ogallala States in great detail next year, and give this program my most careful review.

As the distinguished floor manager pointed out, the cost sharing in the Ogallala title makes this program particularly attractive.

Mr. DOMENICI. I thank my colleagues for their consideration of this issue. I urge the USGS and the eight Governors to move forward as soon as possible to make this Ogallala restoration program a reality.

Mr. LAUTENBERG. Mr. President, I rise to day to support the Senate's passage of H.R. 2712, the Department of Interior and related agencies appropriations bill for fiscal year 1988.

This bill provides funding to maintain some of our Nation's most important national treasures and natural resources. As a member of the Appropriations Committee, I was also pleased to work for the inclusion of funds to maintain programs important to New Jersey. As the most densely populated State in the Nation, New Jersey benefits greatly from the programs of the National Park Service and other agencies of the Department of the Interior. The value that recreation and natural areas in my State provide to New Jersey residents is immeasurable.

The bill provides funds to continue the land and water conservaton fund, which helps acquire land for recreation all over the country. The bill includes over $31 million for the State grants program. I would urge my colleagues who will serve on the conference committee to work to maintain this level of funding.

Mr. President, this bill also contains funds for land acquisiton to expand New Jersey's only two national wildlife refuges; the Great Swamp and the Edwin B. Forsythe National Wildlife Refuge. The bill also provides additional land acquisition to maintain the Appalachian Trail, which runs through the northern part of my State.

The bill also contains funds to maintain the historic preservation fund, and it also establishes a new program to maintain historic lighthouses across the country. With the oldest standing lighthouse located in New Jersey, at Sandy Hook, and many or important historic lighthouses, I am particularly pleased to see the establishment of a Bicentennial Lighthouse Fund.

For the Department of Energy, I am pleased that the bill contains funds to support the research efforts of the Englehard Corp. in New Jersey, in the area of phosphoric acid fuel cells. The bill also contains funds for the important work of the Clean Coal Program, and the least-cost utility planning initiative of the Department of Energy.

I would like to congratulate the distinguished subcommittee chairman Senator BYRD and the ranking minority member Senator McCLURE for their efforts. I would particularly like to congratualte Senator JOHNSTON for his hard work on this bill.

Mr. CONRAD. I would like to engage the manager, Senator JOHNSTON, in a colloquy concerning Fort Lincoln State Park, in Mandan, ND.

Substantial interest has been expressed in appropriating funds for the restoration and reconstruction of Fort Abraham Lincoln and related structures located at Fort Lincoln State Park in Mandan, ND.

A bill authorizing funds pursuant to the Historic Sites Act of 1935 has been introduced and will likely be considered before the Appropriations Committee considers the fiscal year 1989 Interior appropriation bill. I would like to get the concurrence of the bill manager to have the Park Service carefully evaluate this site and to identify and explore funding options for restoration and reconstruction as well as technical assistance and cooperative agreements in preparation for consideration of the authorization measure. Should the authorization proposal be enacted before fiscal year 1989, I would hope that the committee will carefully consider and evaluate this project for funding in next year's bill.

Mr. JOHNSTON. I agree fully with the intent of of this language. The Senator has done his homework well and the committee should be in an excellent position to review this project for next year.

LAND ACQUISITION IN RHODE ISLAND

Mr. CHAFEE. Mr. President, I am pleased to see that the committee has recommended an appropriation for almost $73 million from the Land and Water Conservation Fund and an additional $3.5 million from the Migratory Bird Conservation Account for land acquisition by the Fish and Wildlife Service. These recommendations implement the provisions of legislation that I authorized during the last Congress, the Emergency Wetlands Resources Act of 1986.

The rapid loss of open space is one of the most serious environmental problems facing this Nation. In my own State of Rhode Island, the director of the Department of Environmental Management has estimated that we have only 5 years left to save an important but rapidly disappearing resource—open space.

One area of my State that has received Federal attention is the Trustom Pond National Wildlife Refuge. This refuge was established through the donation of 365 acres of migratory bird habitat and protects a tidal pond complex that, in the words of the Fish and Wildlife Service, is "unmatched along the southern coast of New England." In fiscal years 1982 and 1985, we appropriated $423,000 and $637,000, respectively, for acquisition of additional acreage in this refuge. According to the Fish and Wildlife Service, approximately $1 million remains to be appropriated to complete acquisition of this refuge.

The managers of this bill are familiar with the land acquisition needs in Rhode Island and I thank them for their support in this area. My question for my colleagues on the Appropriations Committee is this: although the Trustom Pond Refuge is not specifically mentioned in this bill or the accompanying report, is continued acquisition of this tidal pond complex possible in fiscal year 1988?

Mr. JOHNSTON. I am pleased to report to the Senator from Rhode Island that acquisition of land for the Trustom Pond Refuge can proceed during fiscal year 1988. First, funds previously appropriated but not yet expended are available for this purpose. Second, a portion of the $3 million we have included from the land and water conservation fund for wetland areas along the Atlantic Coastal Plain and the funds for the Migratory Bird Conservation Account, appropriations that are based on the Senator's legislation to preserve and protect wetland areas, may be available for this purpose.

Mr. McCLURE. The Senator from Louisiana has correctly summarized the situation.

Mr. CHAFEE. I thank the distinguished managers of the bill for their assistance.

Mr. BYRD. I call for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the bill before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow morning at 9 o'clock, the vote occur on the passage of the Interior appropriations bill and that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRADE BILL CONFERENCE

Mr. BENTSEN. Mr. President, today the chairmen and ranking members of the 23 committees conferring on the trade bill, H.R. 3, met and established a conference structure designed to finish this massive conference this year. We established 17 subconferences and a procedure for coordinating the activities of the subconferences. We also established a tentative target for completing our deliberations of November 1, 1987.

This is an ambitious project, over 2,000 pages of legislative text. But it took a high degree of coordination and cooperation to arrive at this structure, and I believe that bodes well for the conference.

I ask unanimous consent that a copy of a document setting forth the complete subconference structure be printed in the RECORD.

TRADE CONFERENCE

Mr. BYRD. Mr. President, I congratulate the distinguished chairman of the Finance Committee, Mr. BENTSEN, and his staff for their success in putting together this highly complex trade conference structure, and for working with the other committee chairman in both Chambers. This agreement, on how to proceed with the omnibus trade bill is an achievement which now clears the way for the 17 subconferences to begin resolving the differences between the two Chambers. It is an historic piece of legislation, and the Senate bill was endorsed by a wide majority of this body. It is a bipartisan measure which the Senate can take pride in.

Our goal of putting an omnibus bill on the President's desk this year is in reach. It addresses the full range of trade and competitiveness issues facing this Nation. It is the first such bill in this decade, and the first bill ever crafted which addresses so many difficult, but interrelated matters. I have discussed the timing of the trade bill with Mr. BENTSEN, and with the House leadership, and we are agreed to set an ambitious goal—a conclusion of the conference by October 30, in time for both Chambers to consider the conference report and put this major legislation on the President's desk before the adjournment of this session. Our goal is a bill that the President will sign, and we are prepared to extend our hand in cooperation with the President to achieve just that result.

I congratulate Mr. BENTSEN and all other committee chairmen who worked so well together to bring us to this new milestone on the road to a more competitive America.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

H.R. 3 TRADE SUBCONFERENCES

SUBCONFERENCE NO. 1—TRADE AND TARIFF LAWS; TRADE AGREEMENTS

House Conferees	Senate Conferees
Lead House Committee: Committee on Ways and Means	*Committee on Finance*
House bill:	House bill:
Title I (Secs. 101-199)—Trade Law Amendments, *except:* Sec. 186	Title I (Secs. 101-199)—Trade Law Amendments, *except:* Sec. 186
Title II (Secs. 201-212)—International Trade in Telecommunications Products and Services	Title II (Secs. 201-212)—International Trade in Telecommunications products and Services
Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation	Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation

H.R. 3 TRADE SUBCONFERENCES—Continued

House Conferees

Sec. 704—Entry processing for textiles and apparel
Title VIII (Secs. 800-894)—Tariff and Customs Provisions
Sec. 906—Unreasonable practices
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect of imports on crude oil production and refining capacity in the United States
Title XV (Sec. 1501)—Most-Favored-Nation Treatment to Products of Romania

Senate amendment:

Title I (Secs. 101-111)—Authority to Negotiate Trade Agreements
Title II (Secs. 201-221)—Enhancing Competitiveness
Title III (Secs. 301-341)—Unfair International Trade Practices
Sec. 401—Remedies under the Tariff Act of 1930
Title V (Sec. 501)—National Security
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions
Title VII (Secs. 701-703)—Authorization of Appropriations for Trade Agencies
Title VIII (Secs. 801-899D)—Tariff Provisions
Title IX (Secs. 901-981)—Miscellaneous Trade Provisions, *except:* Secs. 963-967; 968-972; 974; 975; 977

Joint Conferees on specific provisions:

Committee on Energy and Commerce

House bill:

Title II (Secs. 201-212)—International Trade in Telecommunications Products and Services
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect of imports on crude oil production and refining capacity in the United States

Senate amendment:

Sec. 310—Investigation of barriers in Japan to certain U.S. services
Title IX, Subtitle A (Secs. 901-913)—Telecommunications trade

Committee on Agriculture

House bill:

Title VI, Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation

Additional Conferees on specific provisions:

Committee on Foreign Affairs

Senate amendment:

Sec. 308—Use of export enhancement program in cases of alleged unfair agricultural trade
Sec. 311—Trade and economic relations with Japan
Sec. 958—Trade with Afghanistan

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 126 (insofar as it would add new sections 311(g)(1) and (2) to the Trade Act of 1974)—Currency manipulation

Senate amendment:

Sec. 108—Negotiations on currency exchange rates
Sec. 959—Annual trade report

Committee on Agriculture

Senate amendment:

Sec. 308—Use of export enhancement program in cases of alleged unfair agricultural trade
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions, *except:* Sec. 603

Committee on Energy and Commerce

House bill:

Sec. 104—Congressional liaison regarding trade policy and agreements

Senate Conferees

Sec. 704—Entry processing for textiles and apparel
Title VIII (Secs. 800-894)—Tariff and Customs Provisons
Sec. 906—Unreasonable practices
Sec. 908—Investigations of certain barriers pertaining to trade and services
Sec. 909—Effect of imports on crude oil production and refining capacity in the United States
Title XV (Sec. 1501)—Most-Favored-Nation Treatment to Products of Romania

Senate amendment:

Title I (Secs. 101-111)—Authority to Negotiate Trade Agreements
Title II (Secs. 201-221)—Enhancing Competitiveness
Title III (Secs. 301-341)—Unfair International Trade Practices
Title IV, Subtitle A (Sec. 401)—Remedies under the Tariff Act of 1930
Title V (Sec. 501)—National Security
Title VI (Secs. 601-605)—Agreements on Agricultural Trade; Miscellaneous Agricultural Trade Provisions, *except:* Sec. 603
Title VII (Secs. 701-703)—Authorization of Appropriations for Trade Agencies
Title VIII (Secs. 801-899D)—Tariff Provisions
Title IX (Secs. 901-981)—Miscellaneous Trade Provisions, *except:* Secs. 963-967; 968-972; 974; 975; 977

Committee on Finance and
Committee on Agriculture

Senate amendment:

Sec. 602—Representation at negotiations relating to agricultural trade ageements

H.R. 3 TRADE SUBCONFERENCES—Continued

House Conferees

Sec. 121*—Action required in response to determinations
Sec. 124*—Action decisions by Trade Representative
Sec. 181—Functions (USTR)
Sec. 183—Report by U.S. Trade Representative under sec. 181
Sec. 198—Purchases of U.S.-made automotive parts by Japan
Sec. 906—Unreasonable practices

Senate amendment:

Sec. 201 (insofar as it would add new sections 204(d)(1)(B)(ii) and (204(d)(2)(B) through (E) to the Trade Act of 1974)—Investigations under section 201 of the Trade Act of 1974
Sec. 306*—Actions in response to investigations under Title II of the Trade Act of 1974
Sec. 307*—Miscellaneous amendments to section 301 of the Trade Act of 1974

Committee on the Judiciary

House bill:

Sec. 166—Civil actions for recovery of damages
Title I, Subtitle E (secs. 171-173)—Intellectual property rights
Sec. 872—Scofflaw penalties for multiple customs law offenders
Sec. 873—Import marking provisions

Senate amendment:

Sec. 201 (insofar as it would add new section 203(f) to the Trade Act of 1974)—Investigations under section 201 of the Trade Act of 1974
Sec. 401—Remedies under the Tariff Act of 1930

Committee on Rules

House bill:

Sec. 114(d), (e)—Implementation of trade agreements

Senate amendment:

Sec. 104—Implementation of trade agreements
Sec. 107—Accession of State trading regimes to existing multilateral trade agreements
Sec. 110—Implementation of trade agreements

Senate Conferees

* Except for those matters relating to suspension, withdrawal, or prevention of trade agreement concessions or to imposition of duties or other import restrictions on goods.

SUBCONFERENCE NO. 2—TRADE AND FOREIGN POLICY

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Sec. 413—Monitoring foreign intellectual property systems
Sec. 414—Foreign assistance for development of programs to protect intellectual property rights
Sec. 415—U.S. intellectual property training institute
Sec. 963—Findings

Sec. 967—Relations with nations providing offensive weaponry to belligerent states in the Persian Gulf region
Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"
Sec. 977—Commercial relations with Mexico

Primary House Committee on specific provisions: Committee on Ways and Means

Senate amendment:

Sec. 411—Findings
Sec. 412—Monitoring of technology transfers
Sec. 416—Unfair competitive practice involving intellectual property
Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions

Joint Conferees on specific provisions:

Senate Conferees

Committee on Finance

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Title IV, Subtitle B (Secs. 411-416)—Access to Technology
Sec. 963—Findings
Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions
Sec. 967—Relations with nations providing offensive weaponry to belligerent states in the Persian Gulf region
Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"
Sec. 977—Commercial relations with Mexico

SUBCONFERENCE NO. 2—TRADE AND FOREIGN POLICY—Continued

House Conferees

Committee on Ways and Means

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community
Sec. 363—Relations with Mexico
Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Sec. 977—Commercial relations with Mexico

Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 907—Bilateral trade between the U.S. and Mexico

Committee on Agriculture

House bill:

Sec. 321—Findings and sense of Congress with respect to the European Community

Committee on the Judiciary

Senate amendment:

Sec. 415—U.S. intellectual property training institute

Additional Conferees on specific provisions:

Committee on Ways and Means

Senate amendment:

Secs. 968-972—"Fair Trade in Automotive Parts Act of 1987"

Committee on Foreign Affairs

Senate amendment:

Sec. 412—Monitoring of technology transfers
Sec. 964—Policy in the event of certain actions by Iran
Sec. 965—Policy toward purposeful attack from other states in the Persian Gulf region
Sec. 966—Definitions

Committee on Energy and Commerce

House bill:

Sec. 907—Bilateral trade between the U.S. and Mexico

Senate amendment:

Secs. 968-972—"Fair Trade in Auto Parts Act of 1987"

Committee on Science, Space, and Technology

Senate amendment:

Sec. 412—Monitoring of technology transfers

Committee on the Judiciary

Senate amendment:

Sec. 416—Unfair competitive practice involving intellectual property

Senate Conferees

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 301—Short title
Sec. 302—Findings and purposes
Sec. 311—U.S. and foreign commercial service
Sec. 312—Diplomatic missions
Sec. 313—Commercial service officers and development banks
Sec. 314—Market development cooperator program and trade shows

Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 317—Printing at overseas locations
Sec. 324—Export promotion data system
Sec. 325—Preshipment inspection regulation program
Sec. 326—Report on export trading companies
Title III, Subtitle B (Secs. 331-340)—Export Controls
Sec. 341—International negotiations
Sec. 361—Trading with the Enemy Act
Sec. 362—Limitation on exercise of emergency authorities

Senate Conferees

Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 301—Short title
Sec. 302—Findings and purposes
Sec. 311—U.S. and foreign commercial service, *except:* Sec. 311(d)(2)
Sec. 312—Diplomatic missions
Sec. 314—Market development cooperator program and trade shows
Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 317—Printing at overseas locations

Sec. 325—Preshipment inspection regulation program
Sec. 326—Report on export trading companies
Title III, Subtitle B (Secs. 331-340)—Export Controls

Sec. 341—International negotiations
Sec. 362—Limitation on exercise or emergency authorities
Sec. 364—Budget Act

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION—Continued

House Conferees

Sec. 364—Budget Act

Senate amendment:

Title X (Secs. 1001-1036)—Export Administration Act Amendments
Sec. 1104—Office of Export Trade
Sec. 1105—Report on export promotion intermediaries

Title XII (Secs. 1201-1207)—Export Promotion

Joint Conferees **on specific provisions:**

Committee on Ways and Means

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority

Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 326—Report on export trading companies
Sec. 341—International negotiations

Senate amendment:

Sec. 1026—Responsibilities of the Under Secretary of Commerce for Export Administration
Sec. 1027—Authorization of appropriations
Sec. 1105—Report on export promotion intermediaries

Committee on Energy and Commerce

House bill:

Sec. 324—Export promotion data system

Committee on the Judiciary

House bill:

Sec. 326—Report on export trading companies

Senate amendment:

Sec. 1105—Report on export promotion intermediaries

Committee on Government Operations

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority

Committee on Armed Services

Senate amendment:

Sec. 1030—Findings
Sec. 1031—Mandatory sanctions against Toshiba and Kongsberg
Sec. 1032—Mandatory sanctions
Sec. 1033—Discretionary sanctions authority
Sec. 1034—Annual report of defense impact

Additional Conferees **on specific provisions:**
Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 313—Commercial service officers and development banks

Senate amendment:

Sec. 1201—Export promotion activities of foreign commercial service officers
Sec. 1203—Multilateral development bank liaison

Senate Conferees

Senate amendment:

Title X (Secs. 1001-1036)—Export Administration Act Amendments
Sec. 1104—Office of Export Trade
Sec. 1105—Report on export promotion intermediaries
Title XII (Secs. 1201-1207)—Export Promotion

Committee on Banking, Housing, and Urban Affairs and Committee on Foreign Relations

House bill:

Sec. 311(d)(2)—U.S. and foreign commercial service
Sec. 313—Commercial service officers and development banks

Committee on Banking, Housing, and Urban Affairs and Committee on Governmental Affairs

House bill:

Sec. 324—Export promotion data system

Committee on the Judiciary

House bill:

Sec. 361—Trading with the Enemy Act

SUBCONFERENCE NO. 3—EXPORT CONTROLS: EXPORT PROMOTION—Continued

House Conferees

Committee on Energy and Commerce

House bill:

Sec. 311—U.S. and foreign commercial service
Sec. 312—Diplomatic missions
Sec. 313—Commercial service officers and development banks
Sec. 314—Market development cooperator program and trade shows
Sec. 315—Establishment of U.S. and foreign commercial service Pacific Rim initiative
Sec. 331—Oil exports

Senate amendment:

Title XII (Secs. 1201-1207)—Export Promotion, *except:* Sec. 1207

Committee on Small Business

House bill:

Sec. 314 (insofar as it would add new section 203(c) to the Export Administration Amendments Act of 1985)—Market development cooperator program and trade shows

Committee on Armed Services

Senate amendment:

Sec. 1021—National security review

Senate Conferees

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT

House Conferees

Lead House Committee: Committee on Foreign Affairs

House bill:

Sec. 316—Commerical personnel at the American Institute of Taiwan
Sec. 323—Country reports on economic policy and trade practices
Title III, Subtitle C (Secs. 341-346)—Debt, Development; and World Growth, *except:* Sec. 341
Title III, Subtitle D (Sec. 351)—Protection of U.S. intellectual property
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Title XVIII (Secs. 1801-1809—Trade Enhancement
Title XX (Secs. 2001-2012)—International Financial Affairs: Miscellaneous Provisions, *except:* Secs. 2001; 2008
Sec. 4501—Office of Barter and Countertrade

Title XLVII (Secs. 4701-4711)—Assistance to Poland

Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 323—Country reports on economic policy and trade practices
Sec. 351—Protection of U.S. intellectual property

Senate Conferees

Committee on Foreign Relations

House bill:

Sec. 316—Commerical personnel at the American Institute of Taiwan
Sec. 323—Country reports on economic policy and trade practices
Sec. 342—Trade liberalization in developing countries
Sec. 343—Overseas Private Investment Corporation
Sec. 344—Trade and Development Program
Sec. 346—Limitation on procurement in foreign assistance programs
Title III, Subtitle D (Sec. 351)—Protection of U.S. intellectual property

Senate amendment:

Title XVIII—(Secs. 1801-1809—Trade Enhancement
Title XX (Secs. 2001-2012)—International Financial Affairs: Miscellaneous Provisions, *except:* Secs. 2001; 2008
Title XLVII (Secs. 4701-4711)—Assistance to Poland, *except:* Secs. 4705-4709
Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Committee on Foreign Regulations and
Committee on Agriculture

Senate Amendment:

Sec. 4705—Agricultural assistance for Poland
Sec. 4706—Donation of surplus agricultural commodities
Sec. 4707—Use of Polish currencies
Sec. 4708—Eligible products
Sec. 4709—Joint commission

Committee on Commerce, Science, and Transportation

House bill:

Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 4501—Office of Barter and Countertrade

SUBCONFERENCE NO. 4—EXPORT ENHANCEMENT—Continued

House Conferees

Senate amendment:

Sec. 2002—Report

Committee on Banking, Finance and Urban affairs

House bill:

Sec. 344—Trade and development program

Senate amendment:

Sec. 1801—Multilateral development bank procurement
Sec. 1805—Tied aid credits and Trade and Development Program
Sec. 2012—Effective date

Committee on Agriculture

Senate amendment:

Sec. 4706—Donation of surplus agricultural commodities

Committee on Energy and Commerce

Senate amendment:

Sec. 1801—Multilateral development bank procurement

Committee on the Judiciary

House bill:

Sec. 351—Protection of U.S. intellectual property

Senate amendment:

Sec. 1806—Protection of U.S. intellectual property

Committee on Merchant Marine and Fisheries

Senate amendment:

Sec. 2011—Reflagging Kuwaiti vessels

Additional Conferees **on specific provisions:**

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 4501—Office of Barter and Countertrade

Committee on Energy and Commerce

House bill:

Sec. 316—Commercial personnel at the American Institute of Taiwan
Sec. 345—Countertrade
Sec. 912—Reports on countertrade and offsets

Senate amendment:

Sec. 1802—Commercial personnel at the American Institute of Taiwan
Sec. 4501—Office of Barter and Countertrade

Committee on the Judiciary

House bill:

Sec. 912—Report on countertrade and offsets

Committee on Small Business

Senate amendment:

Sec. 1804 (insofar as it would add new section 661(d)(2)(B) to the Foreign Assistance Act of 1961)—Trade and Development Program

Committee on Armed Services

Senate amendment:

Sec. 4901—Sense of the Senate regarding Japanese purchase of new fighter aircraft

Senate Conferees

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY

House Conferees

Lead House Committee: Committee on Banking, Finance and Urban Affairs

House bill:

Sec. 322—Export-Import Bank

Senate Conferees

Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 322—Export-Import Bank

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY—Continued

House Conferees

Title IV—International Financial and Trade Policy (Secs. 401-477), *except:* Subtitle D (Secs. 461-471)
Sec. 702—Financial services study

Senate amendment:

Sec. 1101—Definition of export trading company
Sec. 1102—Leverage
Sec. 1103—Inventory
Sec. 1106—Amendments to section 2(e) of the Export-Import Bank Act of 1945
Title XIII (Secs. 1301-1305)—Exchange Rates and International Economic Policy Coordination
Title XV (Secs. 1501-1506)—National Treatment of Financial Institutions
Title XVII (Secs. 1701-1724)—International Debt
Title XIX (Secs. 1901-1911)—Multilateral Investment Guaranty Agency
Sec. 2001—Budget offset for MIGA authorization of appropriations
Sec. 2008—Limited purposes special drawing rights for the poorest heavily indebted countries
Secs. 2178-2180A—"Foreign Agricultural Investment Reform (FAIR) Act" (except sec. 2180B)

Primary House Committee on specific provisions: Committee on the Judiciary

Senate amendment:

Sec. 1107—Amendments to the Export Trading Company Act

House bill:

Joint Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 451—Amendments to Trade and Development Enhancement Act of 1983
Sec. 702—Financial services study

Senate amendment:

Sec. 1304—International negotiations on exchange rates and economic policy coordination

Senate Conferees

Title IV, Subtitle A (Secs. 401-408)—Competitive Exchange Rate Act of 1987, *except:* Sec. 407
Title IV, Subtitle B, Chapter 1 (Secs. 411-414)—Short Title; Findings; Purposes; and Definitions
Sec. 422—Provisions relating to the regulation of depository institutions
Sec. 427—Structural adjustment lending
Sec. 428—Equal access to government debt instruments required
Sec. 432—Mobilization of private capital
Sec. 433—More flexible procedures for rescheduling of debt service payments for less developed countries
Sec. 452—Provisions relating to Export-Import Bank
Title IV, Subtitle E (Secs. 476, 477)—Export Trading Company Amendments
Sec. 702—Financial services study

Senate amendment:

Sec. 1101—Definition of export trading company
Sec. 1102—Leverage
Sec. 1103—Inventory
Sec. 1106—Amendments to section 2(e) of the Export-Import Bank Act of 1945
Sec. 1107—Amendments to the Export Trading Company Act
Title XIII (Sec. 1301-1305)—Exchange Rates and International Economic Policy Coordination
Title XV (Secs. 1501-1506)—National Treatment of Financial Institutions

Committee on Banking, Housing, and Urban Affairs and Committee on Foreign Relations

Sec. 407—Congressional recognition of the recommendations of the International Monetary Fund
Sec. 421—Limited purpose Special Drawing Rights for the poorest heavily indebted countries
Sec. 423—Negotiations to establish an international debt management authority to address sovereign debt
Sec. 424—Action by multilateral institutions
Sec. 425—Reducing capital flight
Sec. 426—Study and report on certain International Monetary Fund activities
Sec. 431—Private capital sources for developing nations
Sec. 451—Amendments to Trade and Development Enhancement Act of 1983

Senate amendment:

Title XVII (Sec. 1701-1724)—International Debt

Committee on Foreign Relations

House bill:

Title IV, Subtitle B, Chapter 4 (Secs. 436-445)—Multilateral Investment Guarantee Agency
Title IV. Substitle B, Chapter 5 (Secs.446-447)—Inter-American Development Bank

Senate amendment:

Title XIX (Secs. 1901-1911)—Multilateral Investment Guaranty Agency
Sec. 2001—Budget offset for MIGA authorization of appropriations
Sec. 2008—Limited purpose special drawing rights for the poorest heavily indebted countries
Secs. 2178-2180A—"Foreign Agricultural Investment Reform (FAIR) Act" (except sec. 2180B)

SUBCONFERENCE NO. 5—INTERNATIONAL FINANCIAL POLICY—Continued

House Conferees

Sec. 1504—Biennial reports on foreign treatment of U.S. financial institutions
Sec. 1505—Fair trade in financial services

Committee on Energy and Commerce

House bill:

Sec. 702—Financial services study

Senate amendment:

Sec. 1503—Effectuating the principle of national treatment for brokers and dealers
Sec. 1505—Fair trade in financial services

Committee on the Judiciary

Senate amendment:

Sec. 1908—Jurisdiction of U.S. courts and enforcement of arbitral awards
Sec. 1910—Arbitral awards

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 322—Export-Import Bank

Senate Conferees

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE

House Conferees

Lead House Committee:
Committee on Agriculture

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development
Title VI (Secs. 601-692)—Agricultural Trade, *except*: Subtitle G (Secs. 691, 692)

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Title XXI (Secs. 2101-2199)—Agriculture, *except*: Secs. 2178-2180A; 2185-2188

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 613—Study of Canadian wheat import licensing requirements

Sec. 626—Sense of Congress-Japanese beef market
Sec. 627—Sense of Congress-Korea's beef market
Title VI, Subtitle F (Secs. 671-682)—Domestic markets for Agricultural Commodities and Products, *except*: Sec. 676

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Sec. 2112—Agricultural trade with countries with large trade surpluses
Sec. 2128—Assistance for victims of unfair agricultural trade practices and policies
Sec. 2171—Application of marketing orders to imports
Sec. 2173—Reciprocal meat inspection requirement
Sec. 2174—Agricultural import data
Sec. 2175—Monitoring egg imports
Sec. 2191—Study of dairy import quotas
Sec. 2193—Study of honey imports
Sec. 2194—Study of circumvention of agricultural quotas

Committee on Foreign Affairs

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development

Senate Conferees

Committee on Agriculture

House bill:

Sec. 318—Agricultural trade policy
Sec. 319—Joint development assistance agreements with certain trading partners
Sec. 320—Food aid and market development
Title VI (Secs. 601-692)—Agricultural Trade, *except*: Subtitle G (Secs. 691, 692)—Trade Policy Formulation and Implementation

Senate amendment:

Sec. 974—U.S. access to the Korean beef market
Sec. 975—U.S. access to the Japanese beef market
Title XXI (Secs. 2101-2199)—Agriculture, *except*: Secs. 2178-2180A; 2185-2188

SUBCONFERENCE NO. 6—AGRICULTURAL TRADE—Continued

House Conferees

Senate Conferees

Title VI, Subtitle A (Secs. 601-613)—Improvement of Agricultural Trade Policy and Market Development Activities, *except:* Sec. 613
Sec. 621—Sense of Congress—Export assistance programs
Sec. 622—Export Enhancement Program under section 1127 of the Food Security Act of 1985
Sec. 623—Sense of Congress—Implementation of sections 1129 and 1167 of the Food Security Act of 1985
Sec. 625—Export sales of government stocks at subsidized prices
Sec. Title VI, Subtitle C (Secs. 631-649)—Agricultural Aid and Trade, EXCEPT; SEC. 638—
Sec. 651—Developing markets for wood and wood products under the short-term and intermediate-term export credit programs
Sec. 653—Use of Department of Agriculture programs
Sec. 663—International efforts to reduce grain production

Senate amendment:

Title XXI, Subtitle A (Secs. 2111-2114)—Findings, Policies, and Objectives, *except:* Sec. 2112
Title XXI, Subtitle B (Secs. 2121-2129)—Agricultural Trade Initiatives, *except:* Sec. 2128
Title XXI, Subtitle C (Secs. 2131-2139B)—Existing Agricultural Trade Programs, *except:* Secs. 2131; 2137; 2139
Title XXI, Subtitle D (Secs. 2121-2147)—Agricultural Aid and Trade Missions
Title XXI, Subtitle E (Secs. 2151-2159)—Public Law 480
Title XXI, Subtitle F (Secs. 2161-2166)—Section 416
Sec. 2180B—Use of commodities in lieu of cash
Sec. 2181—Developing markets for wood and wood products under Public Law 480
Sec. 2182—Developing markets for wood and products under the short-term and intermediate-term export credit programs
Sec. 2184—Use of Department of Agricultural programs
Sec. 2192—Report on intermediate export credit

Additional Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 605—Establishment of an Office to monitor trade practices
Sec. 606—Establishment of an Office to provide assistance to victims of unfair trade practices
Sec. 607—Long-term agricultural trade strategy
Sec. 611—Technical assistance in trade negotiations
Sec. 663—International efforts to reduce grain production

Senate amendment:

Sec. 2113—Elimination of barriers to agricultural trade
Sec. 2114—Japanese barriers and tariffs on U.S. agricultural products
Sec. 2136—Agricultural attache reports

Committee on Foreign Affairs

House bill:

Sec. 664—Sense of Congress—Minimum level of food assistance

Committee on Rules

Senate amendment:

Sec. 2131—Triggered marketing loan program

SUBCONFERENCE NO. 7—INVESTMENT; COMPETITIVENESS; FOREIGN CORRUPT PRACTICES ACT

House Conferees	Senate Conferees
Lead House Committee:	
Committee on Energy and Commerce	*Committee on Banking, Housing, and Urban Affairs*
House bill:	House bill:
Sec. 701—Foreign Corrupt Practices Act amendments	Sec. 701—Foreign Corrupt Practices Act amendments
Sec. 703—Registration of foreign-held interests in U.S. property	
Sec. 903—Competitiveness development program	Sec. 903—Competitiveness development program
Sec. 904—Related initiatives to support the program of enhanced competitiveness	Sec. 904—Related initiatives to support the program of enhanced competitiveness
Sec. 905—National security and essential commerce	Sec. 905—National security and essential commerce
Sec. 910—Impact of national defense expenditures on international competitiveness	Sec. 910—Impact of national defense expenditures on international competitiveness

SUBCONFERENCE NO. 7—INVESTMENT; COMPETITIVENESS; FOREIGN CORRUPT PRACTICES ACT—Continued

House Conferees

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Joint Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 701—Foreign Corrupt Practics Act amendments
Sec. 903—Competitiveness development program
Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers

Committee on the Judiciary

House bill:

Sec. 905—National security and essential commerce

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Sec. 703—Registration of foreign-held interests in U.S. property

Committee on Education and Labor

House bill:

Sec. 904—Related initiatives to support the program of enhanced competitiveness

Committee on Science, Space, and Technology

House bill:

Sec. 904—Related initiatives to support the program of enhanced competitiveness

Committee on the Judiciary

House bill:

Sec. 701—Foreign Corrupt Practices Act amendments
Sec. 703(h)—Registration of foreign-held interests in U.S. property

Senate amendment:

Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices, *except:* Secs. 1601; 1602

Senate Conferees

Senate amendment:

Title XIV (Sec. 1401)—Authority to review certain mergers, acquisitions, and takeovers
Title XVI (Secs. 1601-1605)—Foreign Corrupt Practices

Committee on Commerce, Science, and Transportation

House bill:

Sec. 703—Registration of foreign-held interests in U.S. property

SUBCONFERENCE NO. 8—EDUCATION AND LABOR

House Conferees

Lead House Committee:
Committee on Education and Labor

House bill:

Title V—Education and Training for American Competitiveness

Senate amendment:

Title XXII—Employment and Training for Dislocated Workers
Title XXIII—Education for Economic Security
Title XXIV—Foreign Language Assistance

Senate Conferees

Committee on Labor and Human Resources

House bill:

Title V—Education and Training for American Competitiveness

Senate amendment:

Title XXII—Employment and Training for Dislocated Workers
Title XXIII—Education for Economic Security
Title XXIV—Foreign Language Assistance

SUBCONFERENCE NO. 8—EDUCATION AND LABOR—Continued

House Conferees

Title XXV—Education for Disadvantaged Children
Title XXVI—Educational Partnerships
Title XXVII—Training Technology Transfer
Title XXVIII—Higher Education
Title XXIX—Vocational Education
Title XXX—National Center for Research and Development in the Education of Gifted and Talented Children and Youth
Title XXXI—Assistance to Address School Dropout Problems
Title XXXII—Literacy Assistance

Additional Conferees on specific provisions:

Committee on Science, Space, and Technology

Senate amendment:

Sec. 2305—Program for the coordination and joint support of mathematics, science, and engineering instruction authorized

Senate Conferees

Title XXV—Education for Disadvantaged Children
Title XXVI—Educational Partnerships
Title XXVII—Training Technology Transfer
Title XXVIII—Higher Education
Title XXIX—Vocational Education
Title XXX—National Center for Research and Development in the Education of Gifted and Talented Children and Youth
Title XXXI—Assistance to Address School Dropout Problems
Title XXXII—Literacy Assistance

H.R. 3 TRADE SUBCONFERENCES

SUBCONFERENCE NO. 9—TECHNOLOGY

House Conferees

Lead House Committee:
Committee on Science, Space and Technology

Senate amendment:

Title XXXVIII, Subtitle E (Sec. 3871)—Committee on Symmetrical Access to Technological Research
Title XXXVIII, Subtitle F (Secs. 3881-3884)—National Critical Materials Council
Title XL—National Institute of Technology
Title XLI—Technology Extension Activities

Title XLII—Advanced Technology Program

Title XLIII—Reports on Semiconductors, Superconductors, and Advanced Manufacturing Technology
Title XLIV—Authorization of Appropriations for Technology Activities

Title XLV (Secs. 4501-4505)—Miscellaneous Technology and Commerce Provisions, *except:* Secs. 4501; 4502
Sec. 4902—Metric System

Joint Conferees on specific provisions:

Committee on Ways and Means

Senate amendment:

Sec. 3871—Establishment of Committee

Committee on Foreign Affairs

Senate amendment:

Sec. 3881—New national Federal program plan for advanced materials research and development

Senate Conferees

Committee on Commerce, Science, and Transportation

Senate amendment:

Title XL—National Institute of Technology

Title XLI—Technology Extension Activities

Title XLII—Advanced Technology Program
Title XLIII—Reports on Semiconductors, Superconductors, and Advanced Manufacturing Technology
Title XLIV—Authorization of Appropriations for Technology Activities
Title XLV (Sec. 4501-4505)—Miscellaneous Technology and Commerce Provisions, *except:* Secs. 4501; 4502
Sec. 4902—Metric System

Committee on Governmental Affairs

Senate amendment:

Title XXXVIII, Subtitle E (Sec. 3871)—Committee on Symmetrical Access to Technological Research
Title XXXVIII, Subtitle F (Secs. 3881-3884)—National Critical Materials Council

SUBCONFERENCE NO. 10—GOVERNMENT PROCUREMENT

House Conferees

Lead House Committee:
Committee on Government Operations

House bill:

Title X (Secs. 1001-1004—Buy American Act of 1987

Senate Conferees

Committee on Government Affairs

House bill:

Title X (Secs. 1001-1004)—Buy American Act of 1987

SUBCONFERENCE NO. 10—GOVERNMENT PROCUREMENT—Continued

House Conferees

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Title X (Secs. 1001-1004)—Buy American Act of 1987

Senate Conferees

SUBCONFERENCE NO. 11—PATENT LAW

House Conferees

Lead House Committee:
Committee on the Judiciary

House bill:

Title XIV—Patented Processes

Senate amendment:

Title XXXIII—Process Patent Amendments Act of 1987
Title XXXIV—Patent Misuse Doctrine Reform
Title XXXV—Licensee Challenges to Patent Validity
Title XXXVI—Pharmaceutical Patent Term Restoration Act Amendments

Senate Conferees

Committee on the Judiciary

House bill:

Title XIV—Patented Processes

Sente amendment:

Title XXXIII—Process Patent Amendments Act of 1987
Title XXXIV—Patent Misuse Doctrine Reform
Title XXXV—Licensee Challenges to Patent Validity
Title XXXVI—Pharmaceutical Patent Term Restoration Act Amendments

SUBCONFERENCE NO. 12—SMALL BUSINESS

House Conferees

Lead House Committee:
Committee on Small Business

House bill:

Title XIII (Secs. 1301-1312)—Small Business
Senate amendment:

Title XXXIX (Secs. 3901-3912)—Small Business

Primary House Committee on specific provisions:

Committee on Ways and Means

House bill:

Sec. 186—Trade remedy assistance office

Senate amendment:

Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance

Additional Conferees on specific provisions:

Committee on Ways and Means

Senate amendment:

Sec. 3911—Trade negotiations

Committee on Small Business

House bill:

Sec. 186—Trade remedy assistance office

Senate amendment:

Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance

Committee on Foreign Affairs

House bill:

Sec. 1303—Changes in existing Small Business Administration
Sec. 130[illegible]—Specific reports required
Sec. 1305—Export financing provided by the Administration
Sec. 1306—Small business development centers
Sec. 1310—National Conference on Small Business Exports

Senate amendment:

Sec. 3902—Declaration of policy
Sec. 3903—Changes in existing Small Business Administration International Trade Office
Sec. 3904—Authorization of appropriations: Office of International Trade
Sec. 3905—Specific reports required
Sec. 3906—Export financing provided by the Administration
Sec. 3907—Small Business Export Assistance Centers
Sec. 3910—National Conference on Small Business Exports
Sec. 3912—Promulgation of regulations

Senate Conferees

Committee on Small Business

House bill:

Title XIII (Secs. 1301-1312)—Small Business
Senate amendment:

Title XXXIX (Secs. 3901-3912)—Small Business

Committee on Governmental Affairs

House bill:

Sec. 186—Trade remedy assistance office

Senate amendment:

Title XXXVII (Sec. 3701)—Office of Small Business Trade Remedy Assistance

SUBCONFERENCE NO. 12—SMALL BUSINESS—Continued

House Conferees

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 1303—Changes in existing Small Business Administration

Senate amendment:

Sec. 3903—Changes in existing Small Business Administration International Trade Office
Sec. 3906—Export financing provided by the Administration

Committee on Science, Space, and Technology

Senate amendment:

Sec. 3909—Small business innovation research

Senate Conferees

SUBCONFERENCE NO. 13—COUNCIL ON COMPETITIVENESS

House Conferees

Lead House Committee:
Committee on Banking, Finance, and Urban Affairs

House Bill:

Title IV, Subtitle D (Secs. 461-471)—Council on Industrial Competitivenes Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Additional Conferees on specific provisions:

Committee on Foreign Affairs

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Committee on Energy and Commerce

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Committee on Science, Space, and Technology

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness
Committee on Government Operations

House bill:

Title IV, Subtitle D (secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

Senate Conferees

Committee on Governmental Affairs

House bill:

Title IV, Subtitle D (Secs. 461-471)—Council on Industrial Competitiveness Act

Senate amendment:

Title XXXVIII, Subtitle A (Secs. 3801-3809)—Council on Economic Competitiveness

SUBCONFERENCE NO. 14—OCEAN AND AIR TRANSPORTATION

House Conferees

Lead House Committee: Committee on Merchant Marine and Fisheries

House bill:

Title XI (Secs. 1101-1110)—Ocean Transportation

Senate Conferees

Committee on Commerce, Science, and Transportation

House bill:

Title XI (Secs. 1101-1110)—Ocean Transportation
Title XII (Secs. 1201-1203)—International Air Transportation Fair Competitive Practices

SUBCONFERENCE NO. 14—OCEAN AND AIR TRANSPORTATION—Continued

House Conferees

Senate amendment:

Title XLVI (Secs. 4601, 4602)—Foreign Shipping Practices

Lead House Committee: Committee on Public Works and Transportation

House bill:

Title XII (Secs. 1201-1203)—International Air Transportation Fair Competitive Practices

Senate amendment:

Sec. 4502—Amendments to International Air Transportation Fair Competitive Practices Act of 1974

Senate Conferees

Senate amendment:

Sec. 4502—Amendments to International Air Transportation Fair Competitive Practices Act of 1974
Title LXVI (Secs. 4601, 4602)—Foreign Shipping Practices

SUBCONFERENCE NO. 15—SAFE FOOD IMPORTS

House Conferees

Lead House Committee: Committee on Energy and Commerce

Senate amendment:

Secs. 2185-2188—Safe Food Imports

Joint Conferees on specific provisions:

Committee on Agriculture

Senate amendment:

Sec. 2188—Report

Senate Conferees

Committee on Agriculture

Senate amendment:

Secs. 2185-2188—Safe Food Imports

SUBCONFERENCE NO. 16—FEDERAL BUDGET DEFICIT

House Conferees

Lead House Committee: Committee on Government Operations

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Joint Conferees on specific provisions:

Committee on Rules

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

Additional Conferees on specific provisions:

Committee on the Judiciary

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Senate Conferees

Committee on Finance

Senate amendment:

Title XLVIII (Secs. 4801-4803)—Reducing the Trade Deficit by Eliminating the Federal Budget Deficit

Committee on Governmental Affairs

House bill:

Title XVI (Secs. 1601-1603)—Federal Budget Competitiveness Impact Statement

SUBCONFERENCE NO. 17—TRADE DATA AND STUDIES; SEMATECH

House Conferees

Lead House Committee: Committee on Energy and Commerce

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Title XXXVIII, Subtitle C (Secs. 3851-3854)—Studies

Senate Conferees

Committee on Governmental Affairs

House bill:

Sec. 901—Competitiveness impact statements
Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Title XXXVIII, Subtitle C (Secs. 3851-3854)—Studies

SUBCONFERENCE NO. 17—TRADE DATA AND STUDIES; SEMATECH—Continued

House Conferees

Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Joint Conferees on specific provisions:

Committee on Ways and Means

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank

Committee on Foreign Affairs

House bill:

Sec. 901—Competitiveness impact statements
Sec. 902—National trade data bank

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Sec. 3851—Study of U.S. barriers to U.S. exports
Sec. 3854—Impact of foreign financial and regulatory systems

Committee on Banking, Finance, and Urban Affairs

House bill:

Sec. 902—National trade data bank
Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Title XXXVIII, Subtitle B (Secs. 3811-3824)—National Trade Data Bank
Sec. 3854—Impact of foreign financial and regulatory systems
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on Science, Space, and Technology

House bill:

Sec. 911—Development of semiconductor manufacturing technology

Senate amendment:

Sec. 3852—Resource needs
Sec. 3853—Manufacturing base
Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on the Judiciary

Senate amendment:

Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Senate Conferees

Title XXXVIII, Subtitle D (Secs. 3861-3867)—Interagency Coordinating Committee on Federal Participation in Sematech

Committee on Governmental Affairs and Committee on Banking, Housing, and Urban Affairs

House bill:

Sec. 902—National trade data bank

BICENTENNIAL MINUTE

SEPTEMBER 29, 1789 FINAL DAY OF THE SENATE'S FIRST SESSION

Mr. DOLE. Mr. President, as we work toward the adjournment of the first session of the 100th Congress, I would like to point out that today is the 198th anniversary of the final day of the 1st session of the First Congress.

Then as now, the last day's agenda was long, and crowded, with appropriations bills being the most pressing item of business. Even though we do not have a verbatim record of that session, meeting at Federal Hall in New York City, the minutes make it clear that it was a hectic time. On several occasions during the day, the Clerk of the House, John Beckley, appeared with announcements that the House has passed an appropriations bill, a pension bill, or trade legislation. Similarly, President Washington's personal secretary, Tobias Lear, was in and out of the Senate Chamber carrying messages from the President. The Committee on Enrolled Bills announced a series of "end-of-the session" bills that were ready to be sent to the President for his signature.

We read that the Clerk of the House returned to announce that the House had passed the military bill, but that it disagreed with one of the Senate's amendments. The Senate deliberated and held firm on its position. At last, word came that the House would accept the amendment. Private pensions also required attention, and the Senate appears to have spent a good deal of time debating a bill for payment of an Army captain.

At last, the agenda was completed. The Senate gave orders to its doorkeeper to take charge of the Chamber during its adjournment; "that he lay in a sufficiency of fuel, and have stoves so placed to give warmth to the room when they returned in January. Then Vice President John Adams gaveled the session closed. After 5 months, the first session of the Senate had finished its work.

PROGRESS TOWARD A DEMOCRATIC HAITI

Mr. KENNEDY. Mr. President, United States law requires that the Secretary of State report to Congress on human rights progress in Haiti in order to release military aid to that country. Over the August recess, the State Department sent up a report—due last June—which notes the "mixed record" of the Haitian Government in complying with human rights conditions but claims "a full assessment of these developments * * * is not possible at this time."

The report passed the buck on the human rights situation in order to trigger a release of controversial military aid to a government whose security forces have terrorized the population over the summer months. The report contains no details of the numerous killings, beatings, arrests and intimidations by the Haitian security forces that have occurred over the past months but instead emphasized the stated intention of the interim government to hold elections scheduled for November 29, 1987.

The process of building the democratic institutions in the post-Duvalier era is a long, difficult, and crucial one, but without the guarantee of the basic human rights of the Haitian people, no election can be free, fair or democratic. Looking the other way on human rights abuses serves neither the interests of the people of Haiti nor the goal this administration seeks—democratic elections.

I would like to call to the attention of my colleagues an excellent assessment of the situation in Haiti given to the Inter-American Commission on Human Rights [CIDH] of the Organization of American States by Michael S. Hooper, executive director of the National Coalition for Haitian Refugees, on September 23, 1987.

In this detailed account of the current situation in Haiti, Mr. Hooper questions how the upcoming elections can be fair "if people are being shot in the streets, if investigations of recent security force abuses are systematically refused, and if major trade unions are banned in violation of the Constitution?"

Over the summer, a series of violent attacks occurred in which the Haitian security forces were involved. During the week of June 22, over 35 people were killed and 110 wounded in attacks by the security forces. Another 24 people were killed at the end of July. The casualties included women and children; eyewitnesses have stated that uniformed army personnel, usually in civilian cars, carried out these attacks—without provocation or warning.

Gangs of thugs—including some former Tontons Macoutes and government security personnel—have been terrorizing poor neighborhoods. Over 300 members of a religious cooperative were slaughtered and troops from the 32d Tactical Battalion of the Casernes Dessalines have rounded up and beaten scores of innocent civilians; unidentified bodies riddled with bullets often appear in the morning on the streets of Haiti's slums. One gang leader was found to be the personal driver of the President of the interim government, Gen. Henri Namphy. A Presidential candidate, Louis Eugene Athis and two members of his political party were stoned and hacked to death.

The press, labor unions and the church have all been harassed by the Haitian security forces. One of the most disturbing acts of violence occurred on August 23 when five prominent Catholic priests were attacked by a paramilitary group, shortly after having passed through an army checkpoint. Two of the priests were badly beaten and intimidation of the priests continues.

This intimidation, harassment and terror perpetuated by the Haitian Government jeopardizes the upcoming elections and the process of establishing a just, free democracy in Haiti. The United States should suspend immediately all military aid to Haiti and make clear to the interim government that an election held under the current circumstances will not be viewed as legitimate by the people of the United States—or by the people of Haiti. For too long, the United States looked the other way on Duvalier-style human rights abuses. We must not make the same mistake in the post-Duvalier Haiti.

Mr. President, I urge my colleagues to read Mr. Hooper's enlightening testimony and ask unanimous consent that it be placed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF MICHAEL S. HOOPER, ESQ., EXECUTIVE DIRECTOR, NATIONAL COALITION FOR HAITIAN REFUGEES

On behalf of the Americas Watch and the National Coalition for Haitian Refugees, I deeply appreciate the interest of the Inter-American Commission on Human Rights in the current human rights crisis in Haiti and in the ominous implications this crisis has for Haiti's first election in 30 years to be held in only 65 days. I have had the privilege to coordinate nineteen human rights missions of inquiry to Haiti since 1979 and have published sixteen detailed reports on this subject, the last five jointly with the Americas Watch. I thank you, on behalf of the six Haitian human rights organizations affiliated with the Coalition as well as our thirty-nine member-organizations, for your continuing efforts to encourage member States to develop and adopt an even-handed human rights and foreign policy toward Haiti; a policy that will facilitate the development and the institutionalization of democratic structures and a complementary respect for individual rights and the rule of law.

Your 1979 report on the situation of human rights in Haiti and your regular annual reports, are valued by the international human rights community. They have been even more important in Haiti because so little international attention has been focussed on this deteriorating situation. Your on-site missions of inquiry have provided important hope for Haitians confronted by an intransigent human rights crisis.

Today's session of the Inter-American Human Rights Commission comes at a critical juncture in the attempt to develop and root democracy in Haiti, and in the developing relations between Haiti and the nations of the hemisphere.

I. INTRODUCTION

As we speak the military-dominated National Governing Council (Conseil National de Gouvernement) continues to demonstrate its contempt for the rule of law and internationally recognized human rights practices and has plunged this impoverished country into its deepest political and human rights crisis since the bloody weeks immediately preceding the flight into exile on February 7, 1986 of the country's last President-for-Life, Jean Claude Duvalier.

A paramilitary attack on August 23 on five prominent catholic priests is only the latest episode of political violence. Two of the priests were badly beaten, but survived. Other Haitians have been less fortunate. Since late June at least 53 persons have been shot dead and hundreds have been seriously wounded in the capital, Port-au-Prince, by "hit squads" of the Haitian Army, including U.S.-trained "Leopards," in night execution raids in poor neighborhoods and attacks on peaceful demonstrators and on Haitian and foreign journalists attempting to cover these events. It is impossible to calculate the number of those killed or otherwise abused by the Army in Haiti's rural areas where 85 percent of the population reside, but the toll continues to be very high.

The climate of terror rooting itself in Haiti is inordinately affected by policies of neighboring governments and by international institutions. It must be regretted that in spite of the alarming deterioration in human rights in Haiti over the summer, on August 26 the Reagan Administration reported to the United States Congress, as required by law, that the state of human rights was improving and that Haiti's military junta was thus deserving of additional United States military assistance. The decision is bad for human rights and bad for democracy in Haiti, and throughout the hemisphere.

The United States has repeatedly emphasized how important it believes the proposed electoral calendar is both for Haiti and the future of relations between both countries. However, by not also publicly insisting that the CNG represent the fundamental human rights of individuals during this pre-electoral period, we believe the United States has undermined the very electoral process it values so highly. We join Haitian human rights organizations in asking for your assistance in correcting this myopic and self-defeating policy choice.[1]

We commend international policymakers for their concern about developing institutions of democracy in Haiti, but we doubt that Haiti's military junta takes their formal intentions to heart. We ask the Inter-American Commission on Human Rights to consider whether it is really possible to talk about free and open elections if people are being shot in the streets, if investigations of recent security force abuses are systematically refused, and if major trade unions are banned in violation of the Constitution?

As United States Secretary of State George Shultz said in commenting on the 1984 elections in Nicaragua: "An election just as an election doesn't really mean anything . . . . The important thing is that if there is to be an electoral process, it be observed not only at the moment people vote, but in all the preliminary aspects that make an election really mean something."

We agree with Secretary of State Shultz that these preliminary aspects include respect for the rule of law and the basic freedom from arbitrary arrest and imprisonment, the freedom of association, expression and the press; we agree that an independent judiciary, independent trade unions, peasant and community organizations are essential in this process. Most of all we believe that without an election environment guaranteeing personal security to all Haitians, elections will come to be seen as part of the problem, not as part of the solution. Unfortunately, the CNG's own record over the last 18 months holds out little hope for Haitians, who are once again fleeing to the Bahamas, the Dominican Republic and the United States.

We sincerely hope that the Inter-American Commission on Human Rights will send a further mission of inquiry to analyze the atmosphere of terror and insecurity that dominates Haiti and that has greatly reduced the prospect for free and fair elections in the near future. We think that your member States will be shocked at what you find. However, we are just as sure that such a mission will ultimately serve to strengthen the rule of law and real democratic institutions and the respect for human rights in Haiti and derivatively throughout our hemisphere.

II. DEVELOPMENTS IN THE SUMMER OF 1987

This summer's burst of Duvalier-style terror was touched off when the clique of army officers controlling the National Governing Council (CNG) seized control of the electoral process from the Provisional Electoral Commission, and proceeded to ban outright Haiti's most active union (the Independent Union of Haitian Workers-CATH). Both actions blatantly disregarded the new Haitian Constitution of March 1987, and ended remaining hopes that the military could be expected to preside over a fair electoral process.

The Army's actions specifically violated Article 289 [guaranteeing the absolute independence of the CEP] and Article 35 [guaranteeing trade unions freedom from government interference] of the Constitution overwhelmingly adopted by the Haitian electorate on March 29, 1987. Even after these assaults against Haiti's Constitution, against its embryonic democracy and against Haitians' faith in the U.S. sponsored electoral process, the military was not finished.

The next week the same group of officers controlling the CNG attempted to terrorize the population into submission by shooting innocent civilians. During the week of June 22 alone, at least 35 persons were shot dead in random attacks and another 110, including children, were seriously wounded by gunfire. The last week in July 24 dead and scores of others seriously wounded. These figures are conservative, based on visits by our missions and representatives to the morgue and to the public hospital in Port-au-Prince and on personal interviews with families of the victims. This latest rampage by the Army was a predictable consequence of the failure of the international diplomatic community to publicly warn the Haitian military of the specific aid cutoffs and restrictions that would be imposed if they again resorted to violence.

Interviews conducted by our missions and other eyewitness accounts of these army attacks demonstrate that they were not provoked, no warnings were given, and all the killings were carried out by uniformed army personnel usually riding in civilian cars. Haitian human rights monitors believe that these trooops were always acting under orders.

Ultimately, after three weeks of national crisis, the CNG reluctantly reinstated the CATH as a legitimate organization and formally ceded control of the elections back to the CEP—at the cost of many lives—the remaining public faith in the CNG and the Army as a national arbiter had dissolved. The Army then proceeded to make matters even worse by instituting another campaign of terror throughout the slums of the capital and in many of the provinces, especially in the Northwest and Southwest regions. Unidentified bodies riddled with bullets turn up most mornings on the streets of Port-au-Prince's worst slums, further terrorizing the population and discouraging political activities.

In Jean-Rabel, approximately 320 members of the Tet Ansanm religious cooperative were slaughtered by a combined group of former Tontons Macoutes, and peasants loyal to large landowners controlling the area. An army rampage occurred in the Grande Anse region where troops from the 32nd Tactical Battalion of the Casernes Dessalines terrorized and detained scores of people, killing several accused of having sheltered or given assistance to Bernard Sansaricq, a quixotic political leader, allegedly involved in an uprising against the government. This same scenario was repeated in La Gonave, an island in the Port-au-Prince bay.

In an apparently unrelated incident, a moderate presidential candidate, Louis Eugene Athis, was stoned and hacked to death along with two other members of his party, the MODELH (Democratic Movement for the Liberation of Haiti); local officials close to the former Duvalier government are suspected. Between September 13 and the present, a similar Army persecution has decimated the Raboteau slum of Gonaives, where troops from the 32nd tactical squadron have beaten and rounded up scores of innocent persons in what has been described as an attempt to locate Jean Tatoune, an alleged opponent of the CNG, effectively terrorizing much of the population of this town that had led both the opposition to the Duvaliers and to the current military government. It will not take too many such campaigns of terror to render any electoral process meaningless.

Perhaps the most disturbing indication of the growing cooperation between the highest echelons of the Haitian military and the so-called "gangs" terrorizing the poorest neighborhoods came on Friday, September 18, 1987. A neighboring committee in Tabar, near Croix des Missions, stopped a marauding gang and found to their surprise that the leader of the "gang" driving a white Toyota Landcruiser belonging to the Haitian government was none other than Leon Gedeon, the personal driver of CNG President, General Henri Namphy. Haitian human rights groups also report that the citizens committee also found cards and telephone numbers from the Casernes Dessalines on other gang members.

Freedom of the local and foreign press, to report on these recent events has also been under increasing attacks. Early in 1986, freedom of the press and expression had been significantly liberalized so these abuses constitute a very significant regression. Crews from CNN, CBS, the Christian Science Monitor, and Agence France Presse were directly threatened and shot at on July 29, 1987. We have taken specific testimony from many photojournalists who have been intimidated and have had their cameras and other materiel confiscated or destroyed.

Haitian journalists have suffered the most in this regard. During the late night hours of July 29, 1987 all of Port-au-Prince's major radio stations, most critical of Haitian government policy, were shot up by troops in uniform firing automatic weapons in a clear effort to intimidate them into silence. Reporters from the monthly magazine Le Miroir, the weekly Haiti-Progres, and Radio Arc-En-Ciel were directly fired upon by the Army on earlier that day. Wilson Brisseau of Radio Arc-en-Ciel had to be flown to Miami, for a delicate medical operation to remove a bullet in order to save his life.

Jean Max Blanc of Radio Metropole and the Voice of America was arrested on trumped-up charges by the army in late July, was kept in detention for two days, and was beaten while being interrogated.

There has never been any significant problem regarding freedom of religion in Haiti, however recent attacks against Haiti's most respected Catholic priests who articulate the demands of the population are a particularly disturbing example of the intimidation that is practiced or condoned by the Armed Forces working closely with paramilitary gangs of former Macoutes. Well-known priests have suffered physical attacks, death threats and intimidations. On August 23, at approximately 9:30 pm, a band of 40 to 50 unidentified men, armed with Army-issue automatic weapons, handguns, machetes, clubs and stones, assaulted the Revs. Antoine Adrien, William Smarth, Jean-Marie Vincent, Jean-Bertrand Aristide and Rev. Joseph Berg (a Canadian priest). The attack occurred at a barricade approximately 75 yards from an army checkpoint at Freycineau just south of St Marc, at which the priests had been stopped by the army, ordered to identify themselves and had their vehicle thoroughly searched.

Right after the army waved them through they were again stopped, this time by a "civilian" mob. Car windows were smashed and headlights broken; two of the priests were more seriously injured before they were able to drive on, and all were of course terrorized. The occupant of a following car, seminary student Axel Martial, mistakenly identified as Rev. Aristide, was badly beaten; his life was spared at the last minute when army troops informed the mob that they were attacking the wrong man. Since this incident, soldiers in civilian cars shoot in front of the residences of three of these priests almost every night, further terrorizing the population and adding to suspecious of direct Army involvement.

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[1] Please see Exhibit 1 attached: Letter from Seven Haitian Human Rights Organizations to the United States Secretary of State Shultz.

The priests had been officiating at a mass in memory of the hundreds of peasants killed in late July in the northwestern part of Haiti, near the town of Jean-Rabel, by former Tontons Macoutes and peasants loyal to large landowners (Reverend Jean-Marie Vincent was a founder and leader of the Tet Ansanm Cooperative in Jean Rabel). When Father Aristide was introduced to the participants the religious ceremony was disrupted by gunfire and the crowd was dispersed. Just 2½ hours later, the priests were attacked.

These priests have also been among the more visible participants in the struggle against government violence and corruption and have played an essential role in monitoring human rights developments. Unfortunately, the Haitian military junta has created the climate in which attacks against them proceed by denouncing their motives and activities. The CNG has attempted to justify the compaign of intimidation against these priests by unfairly stigmatizing Father Jean-Bertrand Aristide, for example, as an "extremist" and a "communist".

In reality the priests have carried out social projects that would be praised in any democratic society. Fathers Antoine Adrien and William Smarth championed the cause of Haitian refugees in the United States, and provided essential social services to the refugees. They had fled to the United States following their forced exile by the Duvaliers. Father Jean-Marie Vincent has dedicated himself to working in the desperately poor agricultural areas of Haiti's Northwest with peasuants of the region. Still another target has been Father Jean-Bertrand Aristide who aids the homeless children of Port-au-Prince's largest slum. We specifically request that the Commission make every effort to express your concern about the attacks on these popular priests and urge that you do everything in your power to protect their lives, and the lives of others like them, who have come to embody the hopes of the most disenfranchised Haitians for the establishment of a decent democratic society.

The balance of our prepared testimony examines the details of this grab for power by the Haitian military in the context of well-documented post-February 7, 1986 human rights violations.

III. DUVALIERISM SINCE DUVALIER

Just prior to the February 7, 1986 departure of the world's only remaining President-for-Life, Jean-Claude "Baby Doc" Duvalier, the fleeing dictator personally named the junta that would succeed him. The junta is dominated by hard-line Duvalierist military officers who had loyally served both Francois "Papa Doc" and Jean-Claude "Baby Doc" Duvalier for two generations. Denominated the National Governing Council or provisional government (Conseil National de Gouvernement-CNG or KNG), this group of military officers initally contained two civilians.

However, as noted by the Commission in its 1986 annual report, "on March 20, 1986, Gerard Gourgue, the only member of the Council who had actively opposed Duvalier, resigned protesting the Council's failure to satisfy the popular demands of the Haitian people for change, and because the council had allowed Col. Albert Pierre, the head of Duvalier's secret police, and other infamous torturers and persons responsible for human rights violations to escape into exile."[2] The public clamor demanding that Gourgue resign to protest these policies was overwhelming.

In his resignation statement, Gourgue stated that the junta has been entirely unwilling to initiate even the smallest reforms and that it continued to be dominated by hard-line military and security officials who had evinced complete loyalty to Duvalierism for two generations.

There was little need to introduce the Army officers to whom Baby Doc had passed the baton of power on February 7. Knowledgeable observers agree that one leading political force within and behind the officers who now control Haiti continues to be Col. Prosper Avril. Avril was personally responsible for Jean-Claude Duvalier's education, specifically his military education, was personally responsible for naming most of the regional commanders who reported directly to the President-for-Life, and was recalled just before Duvalier's ouster to again head the elite presidential guard.

It is generally accepted as well that the other "strongman" within the regime is William Regala who promoted himself to Brigadier General in March 1987 and who possesses a long history of support for the security force institutions of Duvalierism. In particular, General Regala has been directly associated with the infamous secret police of the Duvaliers, the Investigations Commission based in the Casernes Dessalines during the 1960's and 1970's and was also a close personal associate of former police chief Luc Desyr, perhaps the most infamous human rights abuser of the early Duvalier era.

Not only has there been a continuation of the power of the highest ranking Duvalier military officials and a total lack of establishment of any new judicial system or increased respect for the rule of law, but there have also been serious severe setbacks for the cause of human rights in Haiti because of continuing security force abuses.

The depth of the Constitutional and human rights crisis in which the CNG has plunged Haiti is dramatized not just by attempts to dominate the CEP and to take control of the electoral process. But it is also evinced by the pattern of serious human rights abuses by the Haitian security forces.

There has additionally been a complete lack of any indication that the junta would carefully investigate the human rights abuses which occurred either during the Duvalier period, during the week preceding Duvalier's flight on February 7, 1986 when over 200 Haitian citizens were killed by troops and Tontons Macoutes and those security force violations continuing today.

IV. FAILURE TO INVESTIGATE PAST ABUSES

The officers who dominate the CNG have responded to public demands by promising "a clean break with the Duvalierist past." On February 10, 1986, General Henri Namphy, in a public speech, declared emphatically that the provisional government would abide by the rule of law and that it would be based on "absolute respect for human rights, press freedoms, the existence of free trade unions and the functioning of structured political parties."

Namphy has repeated these promises on a regular basis. Yet the military has done little to fulfill these promises and they have not permitted a significant investigation of past abuses as a way to discourage future violations of human rights. There has been no attempt to determine the extent of past abuses, nor the identity of those who committed them, nor the role of the security forces in these abuses. Little progress has been made in establishing a judicial system independent of the army and security force power and little indication has been given by the current junta of their intention to do so. Indeed there have been no substantive changes in the Haitian judicial system, no improvements in the administration of law, and there has been in fact a lessened respect for the rule of Law by the security forces.

Moreover, there has been no clear public order by the Army high command that security forces personnel will be prosecuted for further abuses. The exceptional cases have included the prosecution of Robes Metellus, commander of the hamlet of Fonds Verrettes, who was court-martialed for the unprovoked murder of Jules Louis in October 1986, and the trials of Macoute Colonel Samuel Jeremie, former Duvalier bodyguard and that of the former Secret Police chief, Luc Desyr, respectively in May and July 1986. Neither defendant was connected to the present regime, having been eclipsed by other Duvalierist forces long ago, but both trials were conducted in a way that mocked the rule of law and more resembled an attempt to appease the public's desire for revenge. Not one person of note has been prosecuted, since this time despite thousands of charges being filed and the undeniable human rights record of the Duvalier years.

Although specific detailed complaints of past abuses have been carefully documented by international human right groups, by Haitian legal groups, and by private complaints submitted to the Ministry of Justice, many of the worst violators of the old regime, including Me. Max Adolphe, the commander of the infamous Tontons Macoutes or National Security Volunteers and Col. Albert Pierre, Commander of the Secret Police based in the Casernes Dessalines were permitted to leave the country following the departure of Jean-Claude Duvalier.

Not only has the provisional military government steadfastly refused to investigate the involvement of current security force officials in the abuses of the recent past, but no investigations into the political killings by the security forces in Gonaives, in Martissant or at Fort Dimanche have been conducted, or even begun. General Williams Regala, Minister of the Interior and National Defense, and current strongman of the military junta, told us in May, 1986, that he categorically rejected any need for such an investigation, particularly in the case of the school children shot by the army in Gonaives. He stated that the use of deadly force was appropriate "in a country like Haiti". Finally, despite assurances given the Inter-American Commission on Human Rights and the international human rights community that the Tontons Macoutes had been disbanded, and most of their weapons retrieved, many continue with impunity to abuse civilians, often with the Army's blessing as we have seen in recent days. Well known Tontons Macoutes personally involved in torture and political killings have been allowed to freely circulate in the capital and the provinces, many of them continuing to carry arms. In this regard, it is important to make one correction concerning the 1986 Annual Report. You state that 5000 arms were recovered with 10,000 still unaccounted for as of the date of your report. However, our personal interviews with Justice Ministers Gourgue and Latortue indicate that a maximum of 3,500 weapons were picked up, and that the majority of the houses raided did not even belong to Tontons Macoutes. Furthermore, former United States Ambassador Clayton McNamaway estimated at the time of Duvalier's departure that there were 22,000 full-time Tontons Macoutes, many of whom were armed with pistols, rifles and uzis submachine guns leaving far more arms uncollected than your report estimates.

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[2] Haiti, Annual Report of the Inter American Commission on Human Rights 1985-1986, September 26, 1986, page 162

There can be little doubt that if any changes have occurred since the departure of President-for-Life Duvalier, they have been incremental, impermanent, and poorly communicated to the Haitian population. In the most significant areas of Haitian life, the same people who carried out the orders of the Duvaliers are the men who carry out the orders of the present military junta, and the policies they carry out have not been based on any clear break with the horrific past. While the courageous Haitian people have clearly demanded major reforms and institutional protection against further abuses, these steps have not yet been forthcoming from the National Governing Council. Similarly, the GNG possesses neither legitimacy nor the necessary consent of the governed, and thus cannot in good faith promise any real stability or legal protection to the population.

The armed forces violently suppressed several peaceful demonstrations and vigils during the spring of 1986 with considerable loss of life and extensive injuries.

On March 19, 1986, 5 civilians were killed in the Port-au-Prince suburb of Martissant following a personal dispute between a transport driver and an army captain. The regime's elite troops, the Leopards, attempted to disperse the crowd. When the crowd did not move quickly enough the troops deliberately shot at the unarmed civilians killing 5 and wounding 15 others.

Again on Saturday, April 26, 1986, army troops stationed at the infamous Fort Dimanche prison and police barracks fired unexpectedly on a crowd of civilians protesting against this symbol of the old regime where many hundreds have died during the Duvalier era. At least 8 civilians were shot and killed immediately and 48 others were wounded by bullets and ensuing panic. The next day the government announced that while they regretted the incident there was nothing that merited an investigation in these unprovoked killings. In fact, members of the junta and other high-ranking military officials justified the killings saying that the crowd had been inspired by political protestors and that people who do not behave correctly risked severe injury or death in Haiti.

On November 7, during a police riot in Port-au-Prince, troops fired wildly at Roman Catholic Church buildings and the country's largest radio station. There have been two "disappearances" in recent months—including a church lay worker, Charlot Jacquelin whose existence the CNG continues to deny, even though our missions have interviewed his wife and witnesses to his abduction.

In addition to the continued domination of the present government by hard line Duvalier loyalists and to the continued patterns of abuse exemplified by Haitian security forces against peacefully protesting unarmed civilians, there are other direct indications that the present government has no intention of dramatically altering past practices. Just over three months prior to the departure of the President-for-life, 4 students were shot dead by army officers in the provincial town of Gonaives: at least two of them on the premises of the Immaculate Conception secondary school in Gonaives.

Despite the unprovoked nature of the slaughter and despite the fact that absolutely no justification for this abuse has ever been put forward, there has been no systematic government investigation conducted to date by the new junta. This despite their pledge to move away from the abuses of the past.

Though labor unions are permitted, the Haitian government remains generally hostile to independent organizing efforts. The Ministry of Social Affairs, which oversees labor union affairs, appears to be collaborating with employers and does not protect the rights of workers to organize as required by Haitian laws. The outright banning of CATH, is only the most recent example of the military's intolerance of organized labor.

The June 22nd banning of the CATH was similarly a direct violation of the specific provisions of the Haitian Constitution protecting trade union freedom and the right to organize (Article 35). There is simply no legal basis to justify the CNG's banning of a union and imprisonment of its leaders and members without explanation. In addition to directly violating the Haitian Constitution, the CNG's attempt to crush CATH is a direct violation of the internationally mandated labor rights that all countries must respect in order to receive certain U.S. aid and to comply with the requirements for eligibility under the Generalized System of Preference (GSP) and the Caribbean basin Initiative. Instead of forthrightly informing the CNG that our aid and concessionary tariff considerations demand strict adherence to these fundamental rights, the United States has been publicly silent on these illegal attempts to intimidate organized labor in Haiti.

In addition to the series of security force shootings, the Haitian army has directly threatened human rights monitors, in addition to attacking the priests who carry out human rights activities. On February 4, 1987, at 3:30 p.m., some twelve soldiers broke into the locked home of Professor, Victor Benoit, Executive Director of the widely respected Institute for Democratic Education. The troops ransacked the house and terrorized Professor Benoit's wife, parents and small children while warning them that Benoit and his wife should cease human rights activities.

The same troops then proceeded to the offices of another active human rights organization, the League of Former Political Prisoners, and attempted to intimidate the President, Robert Duval and his employees.

V. THE ROLE OF THE UNITED STATES

Increasingly Haitians view the U.S. as the mainstay of the military junta that has committed these crimes. The presence of four U.S. military training teams in Haiti now associate the U.S. in the public mind with these killings. Prior to the hasty departure of "Baby Doc" Duvalier, the U.S. praised his referenda, and excused his human rights record on the apparent theory that "he may be a dictator, but at least he's our dictator." Similarly, since General Regala and Namphy and their colleagues assumed power, the U.S. is seen by many Haitians as allying itself with the junta at all costs, thus sustaining Duvalierism without Duvalier.

We share the view of Haitian legal and human rights organizations that the current junta will not risk the loss of United States support, but will continue to engage in official lawlessness until the United States and the international community deliver a stern warning to the CNG and send a clear message of support to Haitians struggling to implant democracy in their blighted land.

United States policy toward Haiti has long been designed to insure Haiti's short-term "stability", and since 1979, has also been aimed at obtaining the cooperation of the Haitian government in halting the flight of Haitian refugees to the U.S. To further these "interests", the United States Administration poured military and economic assistance into Haiti, and repeatedly certified to the Congress that the Duvalier dynasty's human rights practices were improving. The Reagan administration has continued on the same course since February 7, 1986.

The United States has sought to achieve its policies through a combination of military assistance; a one hundred ten million dollar program of general economic support to the governing junta; as well as through increased contact and pressure on Haitian politicians and organizations. The U.S. Embassy increasingly relies on the complementary activities of friendly international trade union organizations (A.I.F.L.D., I.C.F.T.U.), the National Endowment for Democracy, the National Democratic Institute, and such institutionally-tailored efforts as the Press Seminar for Haitian Journalists promoted by the Bustamante Institute of Jamaica.

In 1987, the U.S. has insisted on increased military aid for Haiti and has recently inflamed public opinion in Haiti by sending four teams of military advisors to "interface with their Haitian counterparts", despite the continuing security force abuses about which the U.S. Embassy has maintained silence.

The United States has not spoken out in favor of efforts to investigate past abuses, nor to punish those responsible, nor to criticize continuing abuses. Rather, the United States rushed to put a stamp of approval on the human rights practices of the Duvalier-appointed provisional government. It would be a tragic mistake for Haiti, and the Caribbean more generally, if the international community were to continue to provide unqualified support for the military-dominated provisional National Governing Council (CNG) in disregard of the poor human rights record of this small clique of Duvalier-appointed officers.

A broad spectrum of Haitian legal and religious organizations and international human rights groups have repeatedly urged the United States Congress to end all military aid to Haiti. When Congress did allow a resumption of military aid to Haiti in September, 1986, it wrote a new set of conditions into this authorization.[3] These included an end to specified abuses by the armed forces; a requirement that past abuses should be investigated; protection of the rights to speak and to assemble; and complete demobilization of the Tontons Macoutes—the infamous force of armed "volunteers" through which the Duvaliers controlled and abused the Haitian people.

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[3] Promoting Democracy in Haiti, U.S. House of Representatives, [Section 203], September 25, 1986.

For any military aid to be released, the President must repeatedly certify to Congress that human rights abuses by the Haitian security forces have ended. To the contrary, the Haitian army has continued its disregard for the rights of Haiti's citizens and its contempt for international human rights standards.

Congress has further mandated that no military aid should be released until investigations of human rights violations are conducted. Not only has the provisional military government steadfastly refused to investigate the involvement of current security force officials in the abuses of the past, but no investigations into the political killings by the security forces in Gonaives, in Martissant or at Fort Dimanche have been conducted, or even begun, as required by Congress, if U.S. Military aid is to be provided.

Haitian legal, human rights, and civic groups are increasingly concerned that the CNG and United States policy makers have no vision of democracy that goes beyond the holding of elections.

On June 30, the assistant Secretary of State for Inter-American Affairs, Mr. Elliott Abrams, referred at length to the situation in Haiti.[4] While he spoke eloquently of preserving the integrity of the electoral process in Haiti, he never mentioned or warned against the army killings, the Haitian government's terror campaign, or the banning of the CATH. We believe that as a consequence the message received by the Haitian military was the U.S. will support you, even if they have to hold their nose, as long as you ultimately deliver on the promise that some elections will occur.

Again, on July 10, after the facts of army killings and shootings were well established, the Deputy Assistant Secretary of State in charge of Caribbean Affairs, Mr. Richard Holwill, announced in Port-au-Prince that "elections not demonstrations are the way governments are changed in a democracy." While it is questionable whether Thomas Paine or Thomas Jefferson would have entirely agreed with this proclamation, it is certain that in the context of three weeks of illegal and brutal government activity, this message was not what the Haitian people had hoped for.

Elections, just for elections' sake, do not fulfill Secretary Shultz's litmus test, and they do not serve the long-term interests of either Haiti or the United States.

RECOMMENDATION

The National Coalition for Haitian Refugees and the Americas Watch respectfully recommend that the Inter-American Commission on Human Rights take four specific and immediate actions to ameliorate the human rights crisis presently threatening the future of Haiti.

(1) In the context of your continuing invitation from the Conseil National de Gouvernement (CNG) to evaluate the situation of human rights in Haiti and on the basis of facts and complaints received by the Commission, we urge you to write the Government of Haiti to formally express concern at the pattern of security force abuses with particular regard to Army and paramilitary killings and attacks on innocent bystanders and on those priests and community leaders working to construct the democratic institutions and infrastructure that, in the United States Secretary Shultz's words, is necessary to make "elections really mean something."

(2) After fully assessing complaints and other evidence submitted by Haitian and international human rights groups regarding the developing pattern of security and paramilitary force abuses apparently designed to terrorize the population and to render the upcoming elections meaningless, the Commission might immediately send a series of observer teams to Haiti to monitor both these violations and developments necessary to insure a minimum of security for candidates' safety and for the general public. These teams would profit from spending substantial time in the rural areas where 85 percent of Haiti's population resides and where the worst abuses are occurring. After speaking with members of the Provisional Electoral Council (CEP), national and local candidates, and most importantly the local officials who have always controlled Haitian elections, these teams might issue a series of memoranda analyzing the independence of this process.

We request that the Commission issue a formal report after the November 29, 1987 date when these elections are presently scheduled specifically analyzing the preparations and the atmosphere of electoral security, whether or not the elections are ultimately held at this time as promised.

(3) We recommend that the Commission assign a special priority in the longer term to the collection analysis and distribution of information regarding human rights abuses by the regular Army or by paramilitary squads in Haiti's rural areas where the peasant population is today far more intimidated and the subject of far more official abuses than during the infamous years of Haiti's last President-for-Life, Jean-Claude Duvalier.

(4) Finally, we recommend that the Inter-American Commission on Human Rights suggest to member nations genuinely interested in assisting Haiti that all economic and other aid be conditioned on compliance with internationally recognized standards of human, political and labor rights.

EDGAR C. FELL

Mr. FORD. Mr. President, in January I was fortunate to be able to accept the position as chairman of the Aviation Subcommittee, and during the last 6 months I have had the pleasure of having Edgar C. Fell serve as a LEGIS fellow on my staff to assist me with aviation issues.

In April Garland P. Castleberry, the Regional Director of the FAA Atlanta Office and a former fellow, contacted me, suggesting Ed for a position in my office. I am very pleased that I was able to make arrangements to have a LEGIS fellow, as it has been a rewarding experience for me and, I am sure, for Ed as well. Never to my knowledge has the Congress been more active on aviation issues, and Ed's timing was perfect. My office was so swamped by aviation matters that he briefed me the very first day on the job. Although I have traveled thousands of miles by commercial and charter aircraft, there were many aspects of the aviation industry still a mystery to me. Over the past 9 months I have had a crash course, and Ed has contributed to my learning experience.

Ed Fell is the Assistant Division Manager of the Flight Standards Division in Atlanta. His experience in the safety area has been extremely valuable in drafting the bills before the Senate concerning aviation safety. Thanks to Ed's diligence in this area, never in the process of drafting any of the aviation bills now pending did I lose sight of the safety factors. I have gained a better understanding of flight standards, and I feel certain that Ed will take back to Atlanta a sense of how the Senate works. It has definitely been a rewarding 6 months.

Ed is a pilot and earned the Distinguished Flying Cross and the Bronze Star in Vietnam. He has also received the civil service outstanding performance awards for 4 years while at the FAA.

I do not think there will ever be a better match between the needs and personality of a Senator and the experience of a LEGIS fellow. I commend the LEGIS fellow program and thank Ed for his sound advice, long hours, and friendship.

RAY J. MADDEN

Mr. LUGAR. Mr. President, Ray J. Madden, a giant in Indiana politics, died yesterday after 95 extraordinary years. For 34 of them, Ray served as a Member of Congress representing northwest Indiana, the longest tenure of any Hoosier Congressman.

I did not have the privilege of working with Ray in the Congress—his retirement from the House coincided with my election to the Senate—but his reputation as a hard-nosed, hardworking advocate for his constituency established a standard by which all office holders in Indiana are judged. He was a man for whom politics was both vocation and avocation. This total dedication to service was evident in the many important things he was able to do for his district.

There was no doubt of Ray's affection for northwest Indiana, he chose it as his home. Born in Minnesota and a graduate of the Creighton University Law School in Nebraska, Ray interrupted a promising political career in Omaha to move to Gary, IN. From 1935-42 Ray was a pivotal member of the Gary and Lake County local governments, acquiring an encyclopedic knowledge of the issues critical to Indiana's northwest corner upon which he based his first run for Congress in 1942. Once in Washington, Ray found his true calling. His constituents clearly agreed, returning him to the House of Representatives on 16 consecutive occasions.

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[4] "The Paths to Democracy", Remarks of the Honorable Elliott Abrams, Assistant Secretary of State for Inter-American Affairs, to The Washington World Affairs Council, National Press Club, Washington, D.C., June 30, 1987.

Ray Madden's legacy persists today, 10 years after he left Congress, and is not diminished by his death. He will long be remembered for his extraordinary contributions to the people he served and his unparalleled role in Indiana's rich political history.

THE CONFIRMATION OF JUDGE BORK: QUALIFICATIONS OR POLITICS?

Mr. PRESSLER. Mr. President, I shall vote for Judge Robert Bork to be a Justice of the U.S. Supreme Court. I have followed the hearings closely and feel he did an excellent job. Robert Bork is one of the most qualified individuals ever nominated. Barring some unforeseen and unanticipated ethical problem, he should be confirmed by the U.S. Senate. I recently met with Judge Bork to discuss his current views on the judicial system. When I attended Harvard Law School and Oxford University, I had the opportunity to hear his lectures and read some of his articles.

Politics should not dictate judicial nominations. In the past, I have supported the qualified judicial nominees of Democratic and Republican Presidents alike. For example, I supported President Carter's qualified and competent nominees even when I disagreed with some of their views.

It is the role of the President to nominate Supreme Court Justices. The Senate has the power to advise and consent on these nominations. The confirmation process is designed to ensure that nominees are highly qualified and have neither ethical nor character problems. It was not intended to be a battleground for partisan politics. Senators should be evaluating Judge Bork's qualifications and his extensive judicial record. Unfortunately, some individuals are making Judge Bork out to be an extremist. After reading many of his opinions and articles, I find this view to be unfounded. Not one of Judge Bork's majority opinions has been overturned by the Supreme Court. His is not the record of a radical.

Judge Bork believes in judicial restrain—the idea that the courts' role is to ensure that the laws are consistent with the Constitution rather than a judge's personal beliefs. He believes that it is the role of judges to interpret the Constitution, not to make laws.

The Supreme Court reconvenes on the first Monday in October, but Judge Bork's confirmation hearings were not scheduled to start until September 15—2½ months after the nomination was submitted. Why the delay? Some individuals seem to be using this time to make partisan issue of an important matter where politics has no place. It may even be that some would oppose any Reagan nominee in the hope that Court appointments could be made by the next President. This is inexcusable. Because of this delay, it is possible that there will be only eight Justices when the Supreme Court reconvenes this fall. The American people need and deserve the Supreme Court working at full strength. When Justice Powell retired from the Court, he noted that vacancies "created problems for the court and for litigants." Such problems could be prevented if we rise above politics and focus on the issues.

Recently, the American Bar Association endorsed Judge Robert Bork's Supreme Court nomination by giving him its highest rating. In 1982, Bork also received the American Bar Association's highest rating when he was nominated to serve on the U.S. Court of Appeals for the District of Columbia Circuit. Judge Bork was confirmed unanimously by the Senate. He has served in that position for the last 5 years. Judge Bork has served as a professor at Yale Law School, as Solicitor General of the U.S. Department of Justice, and in the U.S. Marine Corps. As a practitioner, he has argued and won numerous cases before the Supreme Court. Justice John Paul Stevens, who is considered to be a moderate liberal Justice, publicly stated:

> I personally regard him as a very well-qualified candidate and one who will be a very welcome addition to the court.

In addition to being highly qualified on the basis of experience, Robert Bork believes that excessively liberal interpretations of procedural rights do not serve the goal of protecting justice for all. Many of Judge Bork's opinions illustrate his strong belief that we must protect constitutional rights, but the guilty should not go free. There has been much debate regarding the exclusionary rule. To what extent do we disallow evidence, knowing that guilty person will go free. Yes, criminals have constitutional rights. But as Judge Bork has asked, "at what cost?" Many law enforcement agencies have announced their support for Judge Robert Bork, including: the Fraternal Order of Police, International Association of Chiefs of Police, National District Attorneys Association, and the National Sheriffs' Association, just to name a few. Stronger law enforcement procedures are needed and supported by the American people.

Some have clearly distorted Judge Bork's role in the Watergate Saturday Night Massacre in an attempt to make an issue where none exists. Former President Nixon ordered then-Attorney General Elliot Richardson to fire Special Prosecutor Archibald Cox. Richardson refused to carry out the President's order and resigned. Solicitor General Bork carried out Nixon's order. A point often overlooked by Bork's detractors is that Elliot Richardson urged Mr. Bork to stay at the Justice Department to maintain order in the wake of his own resignation. Soon after Cox was dismissed, Bork sought another Special Prosecutor and pressed former President Nixon into agreeing not to interfere with the investigation. Because of his actions, the Watergate investigation continued free from Presidential control.

It is time for everyone to focus on Judge Bork's qualifications and dispense with the politics. There is one goal—filling the vacancy on the Supreme Court with a worthy candidate. It is my hope that Senators will not vote for or against Judge Bork based solely on political philosophy or partisanship. The vacancy should be filled before the Supreme Court reconvenes in October. Further delays surely will make the American people wonder if Judge Bork is receiving a fair hearing.

SECOND ANNUAL ETHNIC AMERICAN DAY

Mr. PRESSLER. Mr. President, on September 20, 1987, the Mayflower Hotel here in Washington, DC, was the site of a program honoring 19 distinguished ethnic Americans and celebrating the Second Annual Ethnic American Day. As the chairman of the Honorary Committee for Ethnic American Day these past 2 years, I am proud to report that this year's program was just as successful as the one held last year in D.A.R. Constitution Hall.

During my tenure as chairman of the Honorary Committee, I have learned much about the enormous contributions to our society by Americans who are either first generation immigrants to America or whose ancestors chose to become Americans. All Americans should become more aware of their efforts to realize the promise of American democracy and their contributions to the richness of American life and culture.

Dr. Selven Feinschreiber, the founder of Americans By Choice and the father of Ethnic American Day, deserves special recognition for his unflagging efforts to make the event possible. Ethnic Americans and all who live in our great Nation owe him a deep debt of gratitude. Mr. Chuck Tower also deserves praise for his able assistance to Dr. Feinschreiber in planning this year's event. I wish to thank Americans By Choice for giving me the opportunity to serve and especially appreciate the thoughtful recognition awards presented by that organization to our distinguished House colleague, Congressman DANTE B. FASCELL, and myself.

Nineteen ethnic organizations that belong to Americans By Choice chose to honor individuals who have distinguished themselves through leadership positions in our society. This year's honored Americans are:

Gunnar Birkerts; Dr. Marianne Bouvier, Anna Chennault; Salvatore Donohue, M.D.; Governor Michael S. Dukakis; Hon. John Henning; Margaret Kent; John Yervant Kouyoumjian; His Eminence John Cardinal Krol; Brijendra Bihari Lal; Doyoung Lee; Dr. M.C. Madhavan; Dr. C.K.N. Patel; Dr. Anna Maria Perera; Edward Popil; Hon. Roman C. Pucinski; George Tabakov, M.D.; Hon. David M. Valderrama; and Houssein Youssouf.

Mr. President, I hope all Americans during this bicentennial year of the U.S. Constitution will pause to reflect on the thought that our Nation has become as great as it is because so many people have chosen to move to our shores and to become American citizens. Much of our constitutional history is marked by the concerns and efforts of these Americans. All Americans should recognize and be proud of their commitment to our Constitution and American ideals and values.

DEATH OF TED H. AGIDIUS

Mr. SYMMS. Mr. President, Idaho suffered the loss of a distinguished citizen with the death of Ted H. Agidius last month in St. Maries. His service to community and country, his tireless efforts to preserve our natural resources, his unwavering integrity, and his loyalty to family and friends make it certain that his death will not go unnoticed.

Mr. Agidius' impressive military record is evidence of his dedication to our country. While serving in the Navy during World War II, the Korean and Vietnam wars, he was decorated 39 times and received the prestigious Bronze Star.

Mr. Agidius was an energetic crusader for the soil conservation movement in the State of Idaho. As a member of the Soil Conservation Society of America, he served as president of the Benewah County Soil and Water Conservation District and conceived numerous conservation programs now in use, including the Tensed-Lolo project, the first of it kind in the Nation. Mr. Agidius was famous for his 2 mile Mutch Creek Ranch where he maintained 20,000 Christmas trees and illustrated soil conservation techniques. The highlight of Mr. Agidius' voluntary conservation career was when he received the Doyle Scott Award from the Idaho Associated Conservation District in 1985 for his significant and outstanding achievements in soil and water conservation projects.

Mr. Agidius will be remembered by family and friends as a man of correct principles and unquestionable integrity. His consistent commitment as husband, father, citizen, and conservationist and his dedication to firm values and high ideals made him an influence for good to all who associated with him.

Mr. President, Ted Agidius lived a life of selfless service, dedicated to the soil and water conservation cause. I am pleased to honor him and his exemplary life at this time of his passing.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS IMPROVEMENT ACT (S. 1700)

Mr. KENNEDY. Mr. President, there is little doubt that education is one of America's most pressing domestic policy issues. In our struggle to improve the quality of public education, however, it has become abundantly clear that we lack reliable and accurate data on the performance of our schools. To help get better information on educational performance, I am introducing the National Assessment of Educational Progress Improvement Act of 1987.

The National Assessment of Educational Progress [NAEP] is a federally funded testing program that provides evidence about the academic performance of 9-, 13-, and 17-year-old schoolchildren. For 20 years, NAEP has provided nationally and regionally representative data on how well our students are doing in math, reading, and writing.

In recent years, many educators have proposed that the National Assessment be expanded to cover more subject fields and to provide data that would allow States to compare the performance of their schoolchildren with that of other States and national average.

The bill that I have introduced will accomplish that purpose. More specifically, my bill will require that the National Assessment measure student achievement in reading, science, and mathematics every 2 years. It will also require that writing, history, civics, and geography be tested at least once every 6 years. In addition, my bill will allow States to get the data necessary to compare themselves to other States and the Nation as a whole.

No State will be required to participate if it does not wish to do so. Indeed, States that want to participate must contribute 20 percent of the necessary resources.

Improving American education is a task that will require the involvement of Federal, State, and local governments. State and local governments have already launched ambitious programs to upgrade quality. By enacting this bill, the Federal Government will help State and local officials determine how well they are doing.

I hope my colleagues will join me in approving this measure in the 100th Congress.

The text of the bill follows:

S. 1700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Assessment of Educational Progress Improvement Act".

SEC. 2. NATIONAL ASSESSMENT AMENDMENTS.

(a)(1) GENERAL AUTHORITY; CONTENT OF ASSESSMENTS.—The matter preceding subparagraph (A) of section 405(e)(1) of the General Education Provision Act (hereafter in this title referred to as the "Act") is amended by striking out "or cooperative agreement with a nonprofit educational institution" and insert in lieu thereof a comma and the following: "contract, or cooperative agreement with a qualified organization or institution".

(2) Section 405(e)(1)(A) of the Act is amended by striking out "five years" and inserting in lieu thereof "two years on a national, regional, and State basis".

(3) Section 405(e)(1)(A) is further amended by striking out "writing and mathematics" and inserting in lieu thereof the following: "science and mathematics, and at least once every six years on a national, regional and State basis, data in each of the areas of writing, history, geography, and civics".

(4) Section 405(e)(1)(E)(i) of the Act is amended by striking out "and communication" and inserting in lieu thereof "writing, science, history, civics, and geography".

(b)(1) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 405(e)(2)(A) of the Act is amended to read as follows: "The National Assessment Governing Board (hereafter in this section referred to as the 'Board') is authorized to design and supervise the conduct of the national assessment. The Board shall be composed of—

"(i) 2 members who shall be representatives of business and industry appointed in accordance with subparagraph (D);

"(ii) 3 members who shall be representatives of the general public; and

"(iii) 14 members from the categories of membership specified in subparagraph (B) appointed in accordance with subparagraph (D).".

(2) Section 405(e)(2)(C) of the Act is amended by striking out "Assessment Policy Committee" each place it appears and inserting in lieu thereof "Board".

(3) Section 405(e)(2)(D) is amended—

(A) by inserting "(i)" after the subparagraph designation;

(B) by striking out "(i) and (ii)"; and

(C) by adding at the end thereof the following new subparagraph:

"(ii) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee. As vacancies occur, in accordance with division (i) of this subparagraph, new members of the Board shall be appointed by the Secretary from among individuals are nominated by the Board. The Board shall nominate individuals who, by reason of experience or training, are qualified in the area of education policy or in one of the subject matter areas subject to assessment. The Board shall be considered an advisory committee for the purpose of the Federal Advisory Committee Act.".

(4) Section 405(e)(2) of the Act is further amended by adding at the end thereof the following new subparagraph:

"(E) In the exercise of its functions, powers, and duties, the Board shall be independent of the Secretary and the other offices and officers of the Department of Education.".

(5)(A) Section 405(e)(3) of the Act is amended by striking out "Assessment Policy Committee" each place it appears and inserting in lieu thereof "Board".

(B)(i) Section 405(e)(3) of the Act is amended by inserting before the last sentence the following new sentence: "The Board shall have final authority on the appropriateness of cognitive items.".

(ii) The last sentence of such section is amended by striking out "Such" and inserting in lieu thereof "Other".

(c) Assessments for States.—Section 405(e)(5) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) Participation in assessments made on a State basis shall be on a voluntary basis. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment; and

"(ii) will pay from non-Federal sources or from funds paid to the State under chapter 2 of title I of this Act the non-Federal share of participation.

"(C)(i) For each fiscal year, the Federal share for the purpose of clause (ii) of subparagraph (B) shall be 80 per centum.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly evaluated, including planning, equipment, or services.".

(d) Report.—Section 405(e)(6) of the Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) The Secretary shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of State representative data for the 1990 assessment. The report shall include—

"(i) plans for expanding the subjects tested to include science, history, geography, and civics not later than the 1992 assessment;

"(ii) possible methods of using national assessment of educational progress data to make international comparisons of educational effectiveness; and

"(iii) methods by which the results of the National Assessment of Educational Progress may be reported so that the results are more easily understood by educators, policymakers, and the general public.

The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (2), and the general public.

"(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.".

(e) Authorization.—Section 405(f)(1) of the Act is amended by striking out "for four succeeding fiscal years" and inserting in lieu thereof "each of the fiscal years ending prior to October 1, 1993".

(f) Reservation of Funds for Assessments.—Section 405(g)(1)(D) of the Act is amended by striking out "$4,000,000" and inserting in lieu thereof "$10,000,000".

SEC. 3. EFFECTIVE DATE.

(a) General Rule.—Except as provided by subsection (b), the amendments made by this Act shall take effect on the date of enactment of this Act.

(b)(1) Special Rules.—The amendment made by section 2(a)(2) shall take effect for assessments made after September 30, 1989, with respect to State data.

(2) The amendments made by sections 2(a), (3) and (4) shall take effect with respect to assessments made after June 30, 1991.

SENATOR BUMPERS' DEMOCRATIC RESPONSE TO PRESIDENT REAGAN

Mr. BYRD. Mr. President, last Saturday the senior Senator from Arkansas, Dale Bumpers, delivered the Democratic response to the President's weekly radio address. He did an excellent job of pinpointing many of the problems with the administration's policy in the Persian Gulf, with particular attention to the convoying and reflagging of Kuwaiti ships.

A reading of Senator Bumpers' remarks generates the disturbing thought that this Nation's Persian Gulf policy must appear to the rest of the world, to be ad hoc, reactive, and confused. I ask unanimous consent that the text of Senator Bumpers' radio address be inserted in the Record at this time.

There being no objection, the address was ordered to be printed in the Record, as follows:

Democratic Radio Response—Senator Dale Bumpers

This is Dale Bumpers—Senator from Arkansas. At the tail end of the Vietnam War Congress labored mightily over a major bill that became known as the War Powers Act. It became law over President Nixon's veto because Congress was determined that America would not mindlessly blunder into any more Vietnam Wars. The War Powers Act says simply, in every instance possible, the President will consult with Congress *before* introducing American forces into an area of hostilities, or an area where hostilities may be imminent. Secondly, the War Powers Act says if the President introduces troops in an area of imminent hostilities without consultation in advance, he will report such action to Congress within 48 hours, and Congress has 60 days to pass a Joint Resolution approving or disapproving of the action.

The President did not seriously consult with Congress *before* putting the American flag on Kuwaiti tankers and sending American warships to escort them through the Persian Gulf, and now steadfastly refuses to even consult with Congress, though hostilities have already occurred and will continue to occur as long as we continue our present policy.

The point is, the President may not like Congress and he may not like the War Powers Act, but it is the law of the land, and the President has no more right to violate the law than any other citizen. The War Powers Act was designed to make certain the President does not do precisely what he is now doing—conducting a foreign policy which could lead the U.S. into an accidental war without consulting with the Legislative Branch of government, which is charged in the Constitution with the responsibility of raising the money for a war. Our Founding Fathers designed it that way to keep a President from starting a war without first consulting with Congress and making sure the money would be forthcoming.

Most members of Congress feel strongly that the United States has a legitimate right to have warships in the Persian Gulf. We always have, and we always will.

But placing our flag on Kuwaiti tankers and using warships to escort those tankers is a flawed policy.

First, the President says we have to assure safe passsage of oil. Yet, not one single oil tanker has been sunk in the seven years of the Iraq-Iran War, and 99% of all oil shipments have come safely out of the Gulf. We can hardly improve on that.

The most insulting aspect of our policy is that Kuwait would not, until recently, even allow a U.S. helicopter on her soil, and still does not want our ships to berth there or our fighter planes to land.

If the President intends to stay until the end of the war, then we're at the mercy of Iran, which will end the war when they think it's to their advantage, not ours.

A Presidential spokesman said yesterday that invoking the War Powers Act would bring joy to the hearts of Iranians. The truth is there's joy in both Iran and Russia today. The Iranians can continue a war that saps our strength, and the Soviets can continue to veto sanctions against Iran, which will allow the war to continue. So we both sap our strength and lose American lives and get not one single known benefit in return.

The cost to America's taxpayers will run at least $500 million per year, and we're not being reimbursed one dime by anybody. You will recall the President first said the whole thing would only require about six warships. Now we have over 30 ships in or near the Gulf—and in putting so many ships there we leave other missions of the Navy weak or exposed.

One truly ironic aspect of this whole thing is that when the Shah ruled Iran, we sold them F-14 fighters and Phoenix missiles, our most sophisticated air-to-air missile. Then, of course, President Reagan last year sold Iran sophisticated Hawk ground-to-air missiles. Now we face the terrible possibility of American sailors and airmen losing their lives to American-made weapons, because we never seem to remember that our weapons often last longer than our friendships.

The most perverse part of the rationale for being in the Persian Gulf is that the Soviet Union is there. The Soviets only leased three of their own tankers to Kuwait, but refused to demean their flag by putting it on Kuwaiti ships. The Soviets are seen as the only neutral nation in the area, and as a result have increased their influence, while we have weakened ours.

Mr. President, I don't know of a single instance in our history where the nation's interest was not best served when Congress and the President cooperated and consulted with each other. The Vietnam War could have been averted had Congress asserted itself more vigorously. Escalation of hostilities can be avoided in the Persian Gulf, without diminishing our stature and influence there, if we are agreed on our policy. A nation divided weakens our policy and our nation.

So, Mr. President, we're pleading with you. Obey the law. Come, let us reason together.

MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 12:32 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 1744. An act to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund; and

H.J. Res. 355. Joint resolution designating September 27, 1987, as "Gold Star Mothers Day."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. STENNIS).

At 4:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 4:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. STENNIS).

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 29, 1987, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 191. Joint resolution to provide for the extension of certain programs relating to housing and community development, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs, with amendments:

H.R. 2937: A bill to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes (Rept. No. 100-186).

By Mr. CRANSTON, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1464: A bill to amend title 38, United States Code, to provide eligibility to certain individual for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities (Rept. No. 100-187).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for reappointment as Chairman of the Joint Chiefs of Staff under title 10, United States Code, section 152.

Adm. William J. Crowe, Jr., [redacted], U.S. Navy.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ (for himself, Mr. BOREN and Mr. KARNES):

S. 1725. A bill to support and stabilize farm income and provide an orderly transition to a market-oriented agricultural economy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 1726. A bill to amend the Public Health Service Act to promote employee health and disease prevention, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HARKIN:

S. 1727. A bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders; to the Committee on Labor and Human Resources.

By Mr. WILSON (for himself, Mr. FORD and Mrs. KASSEBAUM):

S. 1728. A bill to amend the Federal Aviation Act of 1958 to require the installation and use of collision avoidance systems in aircraft, to require the Federal Aviation Administration to complete research on and development of the TCAS-III collision avoidance system as soon as possible, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. FOWLER, Mr. HEFLIN, Mr. STAFFORD, Mr. PRYOR, Mr. CONRAD, Mr. DASCHLE, Mr. BURDICK, Mr. SHELBY, Mr. MATSUNAGA, Mr. ROCKEFELLER, Mr. SANFORD, Mr. EXON, and Mr. FORD):

S. 1729. A bill to promote rural development, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURDICK:

S. Res. 290. A resolution authorizing the printing of the report entitled "Highway Bridge Replacement and Rehabilitation Program, Eighth Annual Report to Congress" as a Senate document; to the Committee on Rules and Administration.

By Mr. SPECTER:

S. Res. 291. A resolution to express the sense of the Senate that the Antitrust Division of the Department of Justice should study and report to the Congress on National Football League telecasting; to the Committee on the Judiciary.

By Mr. BYRD (for himself and Mr. DOLE):

S. Res. 292. A resolution to authorize production of records by the Senate Permanent Subcommittee on Investigations; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. BOSCHWITZ (for himself, Mr. BOREN, and Mr. KARNES):

S. 1725. A bill to support and stabilize farm income and provide an orderly transition to a market-oriented agricultural economy, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FAMILY FARM PROTECTION ACT

● Mr. BOSCHWITZ. Mr. President, today Senators BOREN, KARNES and myself are introducing the Family Farm Protection Act of 1989. We believe now is the time to start debating what kind of national farm policy we want as we near the second millennium. Farmers and ranchers are enjoying a better year financially than they have for quite a long time. This uptick should not blind us to the hardship that still exists and to the fragile nature of the recovery. The signs are positive but a significant portion of farmers and farm debt is still at risk. We believe that the policies outlined in the bill we are introducing today will provide a much more firm recovery and a chance for farmers to finally make some real money from the marketplace.

Mr. President, I ask unanimous consent that a background statement on the legislation be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FAMILY FARM PROTECTION ACT OF 1989

BACKGROUND

You can't fool economic realities for long. Government programs that try may succeed in the short term, but are bound to fail in the longer pull. While it's tempting to pass a patch-and-fill farm policy and get through the next election, such policies have and will continue to lead inexorably to the decline of the family farm and all of rural America. For perhaps no reason other than this, we took the longer view and dealt with economic realities when we introduced the Family Farm Protection and Full Production Act of 1985. It was described as "A policy ahead of its time."

Senators David Boren, David Karnes and I have decided to reintroduce a modified version of our 1985 bill because we believe now is the time to look beyond the 1985 Food Security Act (the bill now governing agricultural programs) to the policy we want as the year 2000 approaches. Our bill would not take effect until the 1990 crop year.

At the base of our bill is the belief that American agriculture can compete, and that in combination with our highly efficient agricultural infrastructure, American agriculture in fact has a competitive advantage.

Also our bill recognizes that agriculture is the single most subsidized industry worldwide. These subsidies are based on the fact that much of the world knows hunger, and much of the developed world (particularly Europe and Japan) remembers starvation. It is not likely that such countries will easily or quickly give up their regime of subsidies; nor is it reasonable to assume that the American taxpayer (few of whom have known such hunger) will be willing to continue the degree of subsidies we have known for the past three years.

Our bill phases down our subsidies and makes those of other exporting nations potentially so expensive that they will have to consider more market oriented policies or consider shutting down their export production. Furthermore, our bill gives the United States the moral high ground in the multilateral trade negotiations to cool the heated arena of world ag subsidies. It is interesting to note that the Reagan Administration proposed "decoupling" on a global scale through the GATT process. Decoupled payment would be the only form of producer support ultimately allowed by the Reagan proposal

Farmers have always asked for a level playing field. This bill will give America the leverage to get that level playing field for farmers.

Our bill will make those who consider expanding their agriculture output to capture more of the 11 or 12 percent of world production that is internationally traded (nearly 90 percent of all that is produced is consumed in the country where it grows) think twice.

Also—most importantly perhaps—developing nations seldom have economic growth until they have a sound agricultural economy. Our market oriented bill will allow world prices to stabilize and not undermine such developing economies by the dumping into them low priced subsidized food products.

The fundamental difference between our approach and that of the last 50 years is that we remove the requirement to plant wheat, feedgrains, cotton and rice in order to get income support payments. Further, we intend to reduce the nonrecourse loan rate to a point where planting is not artificially induced by government programs and sales are not hindered by uncompetitive prices. Because we try to break the link between production decisions and government payment, our approach has been called "decoupling."

The only aspect of our bill upon which some focus is "decoupling". There's another important—even overwhelming—aspect to our bill and that is its impact on conservation and the environment. By removing incentives for production both by decoupling and reducing the loan rate to around the variable costs of production, we have removed with considerable finality artificial incentives for the extensive use of expensive inputs such as pesticides, herbicides and fertilizers in order to get more government farm program benefits.

PURPOSE AND NEED FOR NEW POLICY

Government Programs and the Structure of Agriculture

When deciding on a government program for any sector of the population we must return to some basic fundamentals. Government economic policy is concerned with maximizing benefits to society as a whole. In general, government policy is supposed to be aimed at distributing wealth and justice in a way society deems equitable. Farm programs, therefore, must be evaluated on their past and expected performance in distributing benefits in what most of us would consider to be a fair fashion.

A few brief and very general background points may be noted:

1. Over half of farm commodity sales come from 7 percent of the farms.

2. These farms get one-third of the direct government payments and earn on average around $100,000 per year after expenses.

3. In the last 35 years: (a) the average number of acres per farm has doubled; (b) the use of agricultural chemicals has increased by a factor of five; (c) the farm labor force has gone down 65 percent; and (d) the farm population went from 15 to less than 3 percent of all Americans.

4. The number of farms is decreasing today at about the same rate they have for the last 50 years.

Farm problems today are generally concentrated in mid-sized farms. Using solvency and net farm income measures, USDA estimates that family-sized commercial farms ($40,000-100,000 in sales) were more financially stressed than any other farm size in 1986. Thirteen percent of these farms were stressed compared to eleven percent for larger farms and ten percent for smaller farms and seven percent for the smallest farms. These mid-sized farms represent 35 percent of all farms, controlled 52 percent of all farm assets, but owed 64 percent of all farm debt. These farms do get government benefits, but they are roughly proportioned to their output. Larger farms get a disproportionate advantage in direct and indirect government farm program benefits, while smaller farms do not get their fair share of government benefits.

Cash grain farms, the ones for which we provide price and income supports, had the highest average debt to asset ratios. The Corn Belt region was the most indebted region having over 23 percent of all farm operator debt, almost 17 percent of which was held by technically insolvent operators.

Many economists conclude that past farm policies have probably helped raise the average level of farm income compared to nonfarm income, but have distributed benefits so that the largest farmers get the most benefits.

Other economists argue that farm income would have been greater without farm programs. All benefits are distributed without regard to need so that the poorest farm families receive no more assistance than the size and type of farm they operate. Current policy supports bushels, pounds, and bales—not farmers. Only through what farmers produce do they receive support. Further, only 25 percent of the commodities produced have income supports attached to them.

Unfortunately, almost all of the benefits farmers may have gained from farm programs or new technology have been bid into the price of land. Farmers and rural lenders have traditionally believed that land ownership was the key to wealth. However, the 1970's boom in land values simply raised the cost of production for farmers. Anyone who went through that period knows that prices paid for land would never pencil out. Only when combined with other previous low-price land purchases could farmer and lenders justify expending such sums.

Like every economic bubble before it, this one burst. What was intended to be a wise investment in a rising land value market turned sour as the farm economy reversed in the early 1980's and with it farmland values sunk as rapidly as they had risen. Farmers who incurred massive debt in anticipation that land values and commodity prices would continue to rise lost their gamble and in many cases their farms. If people ever wonder about the "costs" of inflation surely this boom and bust shows them clearly.

High tech, high input, and expansionist farming has been encouraged and rewarded by our farm and tax policies. By guaranteeing price, markets, and offering subsidies based on production, the aggressive producer could have the government underwrite the purchase of his neighbor's farm.

Typically, this new breed of farmer replaced the labor of other farmers with larger machines, more chemicals, and other labor saving, but expensive, equipment. This made some sense at the time, because farm and tax policy along with low real interest rates rewarded such activity. Money was actually "free" in some years; that is, the inflation rate exceeded the interest rate.

Our unrelenting movement toward greater efficiency through larger farm size was known to go beyond what was necessary for economic reasons. Both large and small farms can be efficient. We can logically conclude that "efficiency" was not the driving force that has pushed so many farmers from the land. Price supports and tax policy, reduced risk so that expansion could take place and incomes could rise. Those who were content simply got grabbed up. Our "decoupling" approach would allow all farm sizes to benefit more fairly from Federal farm programs.

Today we find an agricultural production system that is highly specialized. Each farmer does one or two things well, but is very dependent on those one or two activities for their income. It is not surprising that worst farm troubles are in the Corn Belt. It is an area where reliance on two price supported crops has grown and where land values increased the most during the double-digit inflation era. Corn and soybean farmers now feel the consequences of having no other alternative income sources such as livestock. Our farm programs have rewarded such activity by reducing the risk of specialized cropping.

The conventional wisdom that farm programs should reduce risk may be totally false if the goal is to keep farmers on the land.

Small diversified farmers are better able to tighten their belts—especially if they have not borrowed heavily—than large high tech farmers that rely on one crop. But our farm programs have reduced risk in the production of certain crops and therefore borrowing to invest in their production has taken resources away from other farming enterprises and directed them toward those commodities that have price and income supports.

One of the anomalies of today's farm crisis is the fact that many farmers still using W.W.II era equipment are in fine financial shape. They did not pay much for land or equipment, only bought when they had the money and were generally considered poor farmers by their younger, high tech, high debt neighbors.

Some changes in the structure of agriculture would probably have taken place regardless of our agriculture and tax policies. However, we are fairly certain that the growth of farming and livestock operations would have not have taken place nearly as fast. In essence, we believe that farm programs should be neutral with respect to farm structure and farm size. It has not been. But by removing the incentive to produce inherent in our present programs, a good cause could be made that our approach will bring about a revival of the medium family farm. Diversity, low input costs, risk management, and environmental quality will be the emphasis of farm families rather than "farming the government."

This new legislation will allow farmers to regroup and do with their land, labor, and capital what makes sense for each of their individual operations. No longer will the federal government encourage or discharge the production of one commodity over another. No longer will we reward more production with more benefits and no longer will we force farmers to get permission from their local ASCS office for every production decision they want to make.

THE 1985 FOOD SECURITY ACT

All of the past farm programs were continued in the 1985 Food Security Act. However, some important changes were begun. Loan rates were reduced so that their indirect benefits are less attractive to all producers, especially large producers who do not participate in acreage control programs. Over the life of the bill, target prices will be reduced 9 percent which will, combined with changes in the base and yield calculations for direct payments purposes, reduce government incentives to increase production. In addition, a provision called "50/92" was included in the Act so that producers are required to plant on only 50 percent of their permitted acres in order to receive 92 percent of their direct payments. Therefore, the requirement to produce in order to get benefits, regardless of whether or not the production is needed, has been partially broken.

Good News

Despite its many shortcomings, the Food Security Act is working reasonably well. Although not completely attributable to the 1985 Act, net cash income for farmers and ranchers is expected to reach record levels this year. Demand for all major price supported commodities except soybeans has improved. More importantly, our share of the market against world competitors has improved for all these commodities except soybeans (however soybean meal market share has improved). Not only has the volume of commodity sales gone up, but so has the value for the first time in 5 years.

TABLE 1.—CHANGE MY85/86 TO MY86/87 (VOLUME)

[In percent]

	Domestic use	Exports
Wheat	+14.1	+9.7
Corn	+11.1	+25.8
Cotton	+15.6	+240.0
Rice	+15.6	+38.7
Soybeans	+14.1	0

Source: USDA, World Agricultural Supply and Demand Estimates, Aug. 11, 1987.

Beside the fact that commodities are selling again, there are numerous other signs that rural economic decline has leveled. Rural bank surveys indicate that they and their borrowers are in better shape. Deposits in rural banks are rising at a rate faster than in the metropolitan areas. Land values are beginning to stabilize, and even rise in some areas. The vast majority of land changing hands is among farmers indicating renewed confidence by farmers in the profit potential of the land.

We can expect these trends to continue as long as Congress and the Executive Branch allow commodities to be priced competitively and to be available in sufficient quantities to supply expanding demand and discourage production abroad. Of course, macroeconomic factors such as inflation, interest rates, the value of the dollar and other things clearly outside the scope of farm policy will have as large an influence on the future of farming as our own farm programs.

Bad News

The dark cloud on the horizon lies in the fact that we are currently laying aside incredible amounts of productive land. In crop year 1986 we idled over 45 million acres and in the 1987 crop year we will idle over 71 million acres. We can expect larger land diversions in the future that may even exceed the record land diversions of 83 million acres in the 1983 PIX program. Plantings in 1988 might be the smallest since 1972.

The U.S. is the only country that seeks to control production by setasides. In 1983 over 60 million new acres were planted elsewhere in the world, as we laid aside 83 million acres. The four secretaries of agriculture from 1960–1980 came as a group to the committee as we considered the '85 Farm Bill. They advised: do away with setasides.

So what is wrong? Don't we have billions of bushels, bales and pounds of commodities in storage? The answer is yes and no.

Demand for cotton, since we lowered our prices, has actually depleted all the government and most private stocks. Wheat and feed grain stocks, however, remain high. The problem is that these stocks are by in large isolated from the market so that current year supply and demand controls prices. Without generic payment in kind certificates to bring past crops on the market it is unlikely that we could supply wheat and corn at competitive prices even though we have hugh surpluses. So, we have surpluses from past years, but they cannot be used. This system results in an artificial commodity shortage.

Already this crop year we have seen the futures and cash markets take large rises due to weather scares. Slight changes in normal yields, especially for wheat and soybeans, could push prices to uncompetitive levels even though large surpluses exist.

SUMMARY

We certainly have a long way to go if we get back to evaluating our past and present farm policies on the basis of how well they have served rural America.

Our loan rates and target prices encourage production at home and abroad, production controls tax producers and rural areas, income support is distributed without regard to who or what kind of farmer is in need, our markets are given away to foreign producers, and our environment has suffered severely in the whole process.

No farm policy is going to be perfect, but that doesn't mean we should give up trying to improve our programs. That is why we offer the Boschwitz/Boren/Karnes approach.

MAJOR DEPARTURES FROM CURRENT POLICY

Income Supports

The Boschwitz/Boren/Karnes decoupling approach takes aim at the disease while sparing the patient. We believe that production controls are not needed if the marketplace is allowed to set the price. Farmers simply will not produce if the price is too low. Under this program, for a while, prices might be low, but not much lower than they are now according to most studies. However, as our customers return and demand expands, prices will rise. In the meantime farm income will be supported through an "equity payment." The new equity payment is similar to the present income support payments made through the complicated target price/deficiency payment scheme.

Equity payments are, however, different in three respects.

(1) They are known in advance over a six-year period and are based on historic, not current plantings. They do not depend on unpredictable market prices. Our plan gives farmers the "upside" of the market while current policy takes the "upside" away. What could be worse for farmers than to watch prices go up knowing that they probably will not get any of that extra money? For every penny the price goes up their deficiency payments are reduced a penny under current law. Our plan would let farmers keep that money generated in the marketplace.

We believe strongly that producers must have an element of financial security to plan the most efficient long-term course for their operation. Therefore, in addition to nonfluctuating payments, we provide an option for the producer to sign a multiyear participation contract so that he knows exactly how much income support can be counted on from the federal government for the full term of the contract.

(2) The government would not dictate how many acres should be planted and how many should not be planted in order to get the equity payments. Our present policy takes away much of the individual decision making rights that go along with operating a private business. Producers are told how much of each program crop they must plant and how much of each program crop "base" must be laid aside.

The current program prevents farmers from responding to market forces. If the market, through price signals, calls for more wheat, for example, a producer would be forced to give up all income support on all crops if he exceeds his previous year's wheat plantings. Not only does this effect the crops that have income support target price mechanisms, but it indirectly effects the production of nonprogram crops as well by locking in program crop acreage.

Agriculture has always had one of the fastest technology adoption rates of all industries. Many producers would like to experiment with new crops and crops that are in demand locally. However, current government policy locks people into producing wheat, feed grains, cotton, and rice whether they want to or not. This seems pretty ironic considering the fact that, except for cotton, all of these crops are in tremendous surplus.

The Boschwitz/Boren/Karnes proposal unhooks the requirement that producers plant a certain amount of each crop in order to receive payments. The bill does, however, protect the interests of nonprogram crop producers so that our entire, wheat, feed grain, cotton, rice, soybean and sunflower acreage is not opened to compete with nonprogram crop producers immediately. Production of nonprogram crops would be allowed on a gradual basis in direct proportion to the phase down of income support payments.

There are many examples of successful farming operations that supply urban areas with locally grown produce. These farms are quite different than a traditional corn/soybean farm and can be many times more profitable. There is little doubt that consumer demand is present for local produce. With proper distribution and marketing systems such demand can provide benefits and employment for rural areas.

New crops that are presently available as well as those that will be coming along as a result of biotechnology breakthroughs can provide exciting opportunities for producers to break out of their present farming practices. These opportunities as well as the ones provided by local markets will be wasted if farm programs continue to inhibit and prevent changes in cropping practices.

(3) The equity payments are targeted to the small and medium size family farm with an overall payment limit that is less than current law.

Present policy is a complicated system consisting of a $50,000 payment limit for one type of payment (the regular deficiency payment); a $200,000 limit for other payments (those from marketing loan benefits); and a $250,000 overall payment limit. These payment limits have resulted in a hodgepodge of economic and political problems. Producers must carefully plan their operations in order to avoid one or both of the limits. The time, effort, and money allocated to dealing with payment limits robs resources from agricultural production and management thereby reducing efficiency.

This legislation targets payments by tiering each $50,000 of payment eligibility so that the payment is progressively less advantageous for larger farms. Total tiered payments may not exceed $200,000 in any case. It also allowed the Secretary to define a "person" for payment limit purposes in such a way as to more accurately reflect true farming operations.

Loan Rates

In an environment where producer income is no longer taxed through the unpaid acreage reduction requirement needed to offset production incentives, it is essential that price supports (loan rates) do not influence planting decisions.

Originally, nonrecourse loan rates were a temporary response to a depression era cash flow emergency. Throughout history however, nonrecourse loan rates have been used to support prices above what they would otherwise be. As mentioned earlier, production increases then must be dealt with through supply controls and the net impact on producers is very difficult to determine. Many studies indicate that farm income is lower than it would otherwise be—not to mention the impact this system has had on creating fewer and larger farms.

What makes matters worse is that these policies were enacted as if American farmers existed in a vacuum. As our price supports raise prices for a limited amount of American production, they raise prices for an unlimited amount of foreign production. Our competitors in Canada, Australia, Brazil, Argentina, the European Community and many other places have increased production and supplied the markets at a price we refused. Not only that, as our price supports increased world prices, many countries took a look and decided to start growing more of their own food.

Loan rates have a legitimate role to play in providing a safety net for producers and as a marketing and financial tool. However, it is inappropriate and counterproductive for them to be used to enhance prices. You can't fool economic realities in the long run.

Further, such loan rates should not determine the planting decision by guaranteeing that producers will recover their variable costs of production no matter what happens in the marketplace. If they do, farmers face little price risk because they know the government will guarantee them their out-of-pocket costs.

This situation, as was explained before, is one of the main reasons why there are fewer and larger farms today than ever before. Small diversified family farms can handle risk by the nature of their diversity and their ability to shift labor resources where they are needed. Large monoculture operations are subject to more risk in a market oriented environment. Our farm and tax policies have allowed these operations to reduce risk and expand.

Production Controls—Effect on Farmers

Our basic problem is that current and past policies have de facto determined how many acres are planted in this country. We require farmers to set aside so many acres and to plant on so many acres in order to get program benefits. This "control valve" on supply must be used because our loan rates and high target prices encourage too much production. Not only do the loan rates encourage production, but (absent consumption subsidies) they discourage demand. It is akin to pushing the accelerator (loan rates and target prices) and the brake (acreage controls) at the same time. In the past we have tried to keep the car moving by just letting surpluses pile up and when they got too big we slammed on the brakes with programs like the 1983 PIK program.

In the 1985 farm bill we took our foot off the accelerator marginally, stepped on the brake a little more, and oiled the linings so that surpluses wouldn't pile up. The oil we applied comes in the form of marketing loans for cotton and rice, but particularly a generic certificate program for feed grains, and export subsidies for wheat.

Things look better, but the underlying problems are the same. The 1985 farm bill made our products more competitive, but has not done much to allow or encourage our farmers to be more competitive. Until we stop encouraging production through offering producers more for their product than the market will give, production restraints will be needed.

Wheat producers in 1986 had to voluntarily idle 27.5 percent of their ground in order to be eligible for nonrecourse commodity loans and deficiency payments. Interest and principal payments plus taxes and other costs continue on those set aside acres and drive up the guaranteed price necessary to cover those costs on the 72.5 percent that is planted. So instead of getting the $4.38 per bushel target price set by law on their production, they really got about $3.40 per bushel ($3.25 per bushel considering the 4.3 percent Gramm-Rudman reductions) when the target price is applied to the entire base. Wheat farmers could take a $1.60 per bushel loan and a $1.65 equity payment with no acreage limitation and be just as well off as they are under the current program.

Program Benefits Comparison Wheat 1987

General Assumptions:
100 acre base
34 bu./acre program yield
39 bu./acre actual yield
$1.20/bu. variable cost (planted)
$20/acre variable cost (diverted)

1987 Wheat Program Provisions:
27.5 percent unpaid ARP
No paid diversion
$4.38/bu. target price
$2.28/bu. loan rate

Income:	
Production: 72.5 acres × 39 bu. × $2.28	$6,447
Deficiency payments 72.5 acres × 34 bu. × $2.10	5,177
Total	11,624
Expenses:	
Planted acres: 72.5 acres × 39 bu. × $1.20	3,393
Diverted acres: 27.5 acres × $20	550
Total	3,943
Net income above variable costs	7,681

1987 Boschwitz/Boren Program (Example)

Program Provision
No ARP
No Paid Diversion
$1.80/bu. equity payment
$1.60/bu. loan rate

Income:	
Production: 100 acres × 39 bu. × $1.60	$6,240
Equity payment: 100 acres × 34 bu. × $1.80	6,120
Total	12,360
Expenses:	
100 acres × 39 bu. × $1.20	4,680
Net income above variable costs	7,680

Our new approach of dealing with payments and production on the entire base, putting the loan at or near the variable cost of production (put it too far above that level and you're sure to get too much production) is fairer, more realistic, and production decisions will be made for economic not programmatic reasons.

One ironic thing about present policy is that our control value on production is leaky at best. Production controls in the form of land set asides act as a tax on producer income. Naturally, producers, just like other citizens and business people, try to minimize their taxes. They do this through making the land diversion tax as painless as possible. In fact, USDA data suggest that in terms of acres the 1982 through 1984 corn and wheat programs were on average only 76 and 62 percent effective in terms of harvested acres. Added to this is the fact that farmers idle their least productive land in order to comply with the program. It is estimated that for every 10 percent of the acreage base that is idled, yields increase 3 percent and 2 percent for corn and wheat respectively.

The above simply describes how producers use common sense and loopholes in the farm programs to reduce the income robbing effects of production control programs. These figures do not take into account new production resulting from the ever steady march of increasing efficiency.

The point is that voluntary acreage controls that are intended to create a crop shortage and force prices up to the loan rate do not work. The result is that the government purchases from producers the excess production and isolates such production from the market with a storage program.

One of the most discouraging things about our land diversion programs is that they treat all farms and all land as if they were the same. Our best land and our best producers must lay aside the same portion of their farm as our worst land and worst farmers. In essence, we tell farmers who are able to compete with anyone in the world that they can not compete. Similarly we tell farmers who would be better off to stop producing, collect their payments, and reorganize their operation that they must go on producing. Surely our most efficient farmers should be allowed to do what they do best. To prevent the best uses of our labor, land, and capital resources is to deny the principle of comparative advantage. Then, our whole economy loses out.

During consideration of the 1985 Farm Bill Secretaries of Agriculture Freeman, Hardin, Butz and Bergland met with the Senate Agriculture Committee and said, whatever you do don't continue set-asides. They don't work. But some of those number crunchers at CBO, OMB and USDA are unconvinced. Disregarding all the historical evidence, if you put a set-aside into a program, they will score it as a money saver when it comes to projecting the cost of the program—something they have done with little accuracy, incidentally.

While we encourage production through loan rates and target prices that are too high and back price supports up with acreage controls and surplus storage programs we simultaneously discourage demand for these very products.

Working hand in hand, price supports and production controls have given our markets away to foreign competitors. Because we set our loan rates above world market levels and backed those loan rates up with production controls, foreign competitors produced more (surprise, surprise!!). Our historic customers were drawn to cheaper sources of supply which we had essentially created by our protection of world prices. As demand dropped for our agricultural goods, it grew for our competitors and they were more than happy to fill the orders.

For example, U.S. harvested acreage was about the same in 1984/85 as in 1977/78. But during that period, Argentina, Australia, Canada and the European Community increased their harvested acreage by about 24 million acres. In 1983 under PIK we laid aside 83 million acres. That year our world competitors increased production by 63 million acres, and once in the business they tend to stay there!

One of the best measures of agricultural competitiveness is our world market share. That share fell for all prices supported commodities in the early 1980's but is non starting to come back with the aid of more favorable macroeconomic conditions and lower loan rates ushered in by the 1985 farm bill.

Production Controls—Effect on Rural America

Not only do production controls tax farmers, but they also harm the rural economy. The food chain constitutes nearly 20 percent of the Gross National Product. But the value actually added on the farm is only 2.5 percent. Farm inputs and purchases are another 2.5 to 3.0 percent. The small towns in rural American live on the sale of these inputs and the very considerable value added beyond the farm gate. Limit farm production and you thereby limit activity in rural America. Cutting production by half and doubling the price as some would do might enrich some farmers (in the short run) but would certainly play havoc with all other residents of rural America who participate in the food chain. Livestock farmers would especially be hurt as high feed costs reduce production, raise prices and discourage demand for meat. Farmers also would find that the goods and services they need to produce and market their crop—not to mention care for their families would be gone. This result may be unintentional but it surely will occur. As long as we have production controls we will never have full economic recovery in our small towns and cities.

Despite all of the well intentioned efforts to spur "rural development" through government programs no feasible plan has been submitted to Congress or even talked about that is as important as farming itself.

Between 1970 and 1980, the population of farm-dependent (more than 20 percent of their income from agriculture) counties grew at about half the rate of other rural counties not dependent on farming. As farm financial conditions got worse in the 1980's over half of the farm dependent (greater than 20 percent of their income from agriculture) counties lost population. These counties will not be helped much by "rural development" schemes because only 10 percent of their income comes from manufacturing sources. The only way these primarily corn belt and upper midwest areas will be helped as if farmers start farming again.

Even in rural counties that are not dependent on farming (less than 20 percent of their income from agriculture) the employment implications are impressive. In our 2,443 non-metro counties the farm sector, agricultural input industries, agricultural processing and marketing industries, and food and fiber wholesaling and retailing together account for over one-third of the employment.

The importance of this linkage is evident when one looks at the employment figures for the Corn Belt. While U.S. employment increased 11.1 percent from late 1982 (the worst period of the recession) to October of 1985, employment in many of these agricultural states only increased at half the national rate.

Production Controls—Effect on the Environment

Production controls also provide incentives for environmental degradation. Producers must recover all of their costs on less than all of their land. That means that producers must farm more intensively and less extensively. Input use and resource allocation is not efficient when one part of the land has to pay not only for itself, but for the part that is not producing as well. Naturally, farmers will farm the producing land more intensively then they otherwise would to make up for the shortage. Fertilizer, pesticides, herbicides, fungicides, irrigation and normal cultivation must be used at high levels.

Our present programs not only force intensive production but they reward it too. Prior to the 1986 crop, the more a farmer produced the more he got paid by the government. We were able to stop this production incentive inherent in the target prices by freezing program payment yield, but farmers may still receive commodity loans on all of their productions. However, as long as the loan rates are above the variable cost of production, producers will have an incentive to squeeze more bushels, bales and pounds from every acre.

There is little room for trees, grass water ways, and terraces given these production incentives. Further, water quality problems and excessive water use are of serious concern in rural America. Farm programs, such as the present one, that encourage maximum input use are certainly no benefit to the national environment.

SUMMARY

Senators David Boren, David Karnes and I offer this bill as the next logical step in agricultural policy. Farmers need an income safety net—this bill provides it. Farmers need to farm—this bill allows it. America needs to compete—this bill will not get in the way. Rural America needs people and money—this bill will allow for higher farm incomes and the subsequent recycling of that income in our rural economy.

The world, especially the European Economic Community, is carefully watching the American agricultural policy scene. There have already been major supply and demand changes since enactment of the 1985 farm bill—most in favor of American farmers. The Europeans know they cannot continue their programs while the U.S. follows a market oriented strategy. Now is the time to show the world that we intend to continue down the road to freeing American farmers from our crippling pact policies.

Early and open debate on the consequences of "decoupling" is why we introduce a bill now. Undoubtedly the details will change as we get closer to the time for a new farm bill, but the concept will stay the same. We welcome feedback on our proposal and look forward to the debate.

Family Farm Protection Act of 1989—At a Glance

Goals:

(1) Protect farm income

(2) Give farmers the freedom to farm

(3) Enhance American comparative advantage

(4) Improve the economic and social viability of rural America

(1) Farm Income:

(a) Equity payments.

The Act sets up a system of "equity payments" for producers of wheat, feed grains, cotton, rice, sunflowers, and soybeans. These payments are made directly to farmers based on historical measures of production on their farms. Farmers may sign multiyear contracts in order to be certain of program payment levels.

Equity payment rates

	Dollars
Wheat (bu.)	1.35
Corn (bu.)	1.04
Cotton (lb.)	.20
Rice (cwt.)	4.38
Soybeans (bu.)	.80

Equity payments for other feed grains, sunflowers and ELS cotton will be set in relation to corn, soybeans, and upland cotton respectively.

Payment rates will be derived by multiplying the 1989 crop acreage base by the 1989 program payment yield for each crop.

Payments will be reduced by 10 percent in each crop year so that by the end of the Act payments will be at 50 percent of their beginning level. Soybean and sunflower payments will be reduced by 20 percent in each year of the Act so that they expire with the Act.

(b) The "upside."

Payment reductions will be offset by an innovative provision of the Act whereby producers obtain the "upside" of the market price. Under current law deficiency payment are reduced as the market price rises. Under this Act farmers may keep the entire price above the loan rate.

(c) Farm income hold harmless clause.

If, in crop year 1990 and 1991, the Secretary determines that net farm income for producers of wheat, feed grain, cotton, ELS cotton, rice, soybeans and sunflowers, on a commodity by commodity basis is less than it would have been if the 1985 Food Security Act were continued and had such producers participated in the wheat, feed grain, cotton, ELS cotton, rice, soybeans and sunflower programs as determined by the Secretary shall make additional payments so that net farm income on a commodity by commodity basis meets or exceed that which the Secretary determines would have occurred under the 1985 Food Security Act.

(2) Farmer freedom:

(a) Unpaid acreage diversions.

The Act contains no authority for any unpaid acreage diversion. All land diversion is voluntary and does not qualify producers for price and income support like present law. The Act essentially does away with individual crop acreage bases by making payments on a historical rather than current production pattern.

(b) Paid acreage diversion.

As a cost reduction option, the Secretary may accept bids for acreage diversion on an annual basis. Such payments would be in addition to and not in lieu of equity payments. Depending on the size of the Conservation Reserve Program (CRP) the optional paid diversion could range from 5 to 10 million acres.

(c) The conservation reserve.

The Conservation Reserve Program (CRP) would remain in place. Therefore, land already enrolled in the program and future CRP acreage levels mandated by the Food Security Act of 1985 will not be reduced. The CRP is designed to idle 40-45 million acres by 1989.

The combination of CRP and paid acreage diversions may not exceed 50 million acres.

(d) Nonprogram crops.

Producers of wheat, feed grains, cotton, ELS cotton, rice, soybeans and sunflowers receiving transition payments would only be allowed to plant nonprogram crops on the percent of their acreage base that corresponds to a cumulative percent reduction in their payments.

The percent of the 1989 farm acreage base that may be planted to nonprogram crops follows:

	Percent
1990	0
1991	10
1992	20
1993	30
1994	40
1995	50

Nonprogram crop currently permitted for planting on "50/92" land will continue to be permitted on all acreage.

Producers may plant any combination of wheat, feed grains, cotton, rice, soybeans and sunflowers or the equivalent of their 1989 crop acreage base.

Haying and grazing will be allowed on the percent of the farm acreage base outlined above and the acreage devoted to wheat during the 1989 crop year.

(3) Comparative advantage:

America has learned that in a global market environment we lose by trying to hold prices above market clearing levels. With more competitive pricing brought on by provisions of the 1985 Food Security Act, our exports and our market shares are gaining ground.

Loan rates set at or near the variable cost of production without forced land diversions to qualify for income support payments, will allow our best farmers and our best land to do what they do best—Produce!

(a) Nonrecourse loan rates. Wheat, feed grains, cotton, rice, and soybeans will have nonrecourse loan rates set at the following levels:

Rates

	Dollars
Wheat (bu)	1.60
Corn (bu)	1.30
Cotton (lb)	.45
Rice (Cwt)	4.50
Soybeans (lb)	3.50

Loan rates for other feed grains, sunflowers, and ELS cotton will be set in relation of corn, soybeans, and upland cotton respectively.

Nonrecource commodity loan rates may be adjusted by not more than 5 percent if, in the previous two marketing years, market conditions warrant such an adjustment and such an adjustment will not jeopardize the competitive position of the United States.

(b) Marketing loans.

If world market prices are below the loan rate, the Secretary must allow repayment of nonrecourse commodity loans at the world market price.

(4) Rural development:

(a) Acreage controls.

Only about 25 percent of American counties are classified as "agriculturally dependent." These counties receive 20 percent or more of their income from agriculture. The communities in these counties will not fully participate in economic prosperity without prosperity in the farm economy. Communities in agriculturally dependent counties act as servicing agents for farmers and as a trading center for their commodities. Without production there is nothing to service and nothing to trade. Policies such as the current one where upwards of 70-80 million acres are idle certainly hurt small rural towns. Our bill will limit the total acres of idled through government program to 50 million acres.

(b) Environmental quality.

Currently policy forces farmers to squeeze every bushel, bale, or pound out of their land that they can. Loan rates prior to 1986, income payments, were linked to production so that the more you produced the more Federal benefits you received. Naturally, this led to more production and in many cases on fragile or marginal ground.

Further, because farmers are forced to idle part of their land to get Federal benefits, they have to recover all of their fixed costs on the idled ground such as mortgage payments, interest, and taxes. They do this by coaxing as much production from their "permitted" acres as they can. This system has lead to poor resource allocation and the excessive use of inputs such as pesticides, herbicides, and fertilizer.

Groundwater quality, lakes and streams, grass waterways, shelterbelts, and general environmental quality are critical to the quality of life and rural America. Our rural areas are attractive to many simply for the quality of life. Our bill will discontinue present programs that encourage and reward environmental degradation.

PROVISIONS

Farmily Farm Protection Act

6-year bill covering crop years 1990-1995.

Crops covered—wheat, feed grains, cotton, ELS cotton, rice, soybeans and sunflowers.

Loans	Dollars
Wheat (bu.)	1.60
Corn (bu.)	1.30
Cotton (lb.)	.45
Rice (cwt.)	4.50
Soybeans (bu.)	3.50

Loan rates for other feed grains, sunflowers, and ELS cotton will be set in relation to corn, soybeans, and upland cotton respectively.

Nonrecourse commodity loan rates may be adjusted by not more than 5 percent if, in the previous two marketing years, market conditions, warrant such an adjustment and such an adjustment will not jeopardize the competitive position of the United States.

Marketing loan:

If world market prices are below the loan rate, the Secretary must follow repayment of nonrecourse commodity loans at the world market price.

Equity Payments ($)

	Dollars
Wheat (bu.)	1.35
Corn (bu.)	1.04
Cotton (lb.)	.20
Rice (cwt.)	4.38
Soybeans (bu.)	.80

Equity payments for other feed grains, sunflowers, and ELS cotton will be set in relation to corn, soybean, and upland cotton respectively.

Payment rates will be determined by multiplying the 1989 crop acreage base by the 1989 program payment yield for each crop.

Payments will be reduced by 10 percent in each crop year. Soybean and sunflower payments will be reduced by 20 percent per year.

Producers will have the option of signing multiyear contracts for the life of the bill in order to be certain of program payment levels.

The Secretary is required to protect the interests of tenants and sharecroppers in the making of such payments.

PRODUCTION CONTROL PROGRAMS

The Secretary may not require participation in any acreage limitation or land diversion program as a condition of eligibility for other program benefits.

The bill does not modify the current Conservation Reserve Program (CRP). Therefore, land already enrolled in the program and future CRP acreage levels mandated by the Food Security Act of 1985 will not be reduced. The CRP is designed to idle 40 to 45 million acres by 1989.

As a cost reduction option, the Secretary may accept bids for acreage diversion on an annual basis. Such bids would be in addition to and not in lieu of equity payments. The combination of paid diversion and CRP land diversions may not exceed 50 million acres.

CCC SALES POLICY

The Commodity Credit Corporation (CCC) may sell acquired commodities at 125 percent of the then current loan rate for each commodity. If prices fall below 125 percent of the loan rate, CCC must discontinue sales.

EXPORT PROGRAMS

Authority to export bulk commodities through the Export Enhancement Program (EEP) are discontinued. Funding for value added and processed products will continue through the life of the bill at not less than 100 million or more than 250 million.

NONPROGRAM CROPS

Producers of wheat, feed grains, cotton, ELS cotton, rice, soybeans and sunflowers receiving transition payments would only be allowed to plant nonprogram crops on the percentage of their acreage base that corresponds to a cumulative percentage reduction in their payments.

The percent of the 1989 farm acreage base that may be planted to nonprogram crops follows:

	Percent
1990	0
1991	10
1992	20
1993	30
1994	40
1995	50

Non program crops currently permitted for planting on "50/92" land will continue to be permitted on all acreage.

Haying and grazing will be allowed on the percent of the farm acreage base outlined above and the acreage devoted to wheat during the 1989 crop year.

Producers may plant any combination of wheat, feed grains, cotton, ELS cotton, rice, soybeans and sunflowers on the equivalent of their 1989 crop acreage base.

PAYMENT LIMITATION

Producers will be eligible to receive transition payments on a tiered basis that is inversely related to farm size.

All payments and marketing loan benefits will be subject to an overall cap of $200,000 (current cap is $250,000).

The first $50,000 of payment eligibility will be credited to the producer at 100 percent. Each additional $50,000 will be subject to successive 10 percent reductions in the amount credited. All payments and marketing loan benefits are subject to the limitation.

The payment limit schedule is a follows:

1st $50,000 credited at 100 percent	$50,000
2nd $50,000 credited at 90 percent	45,000
3rd $50,000 credited at 50 percent	40,000
4th $50,000 credited at 70 percent	35,000
5th $50,000 credited at 60 percent	30,000
Total	200,000

FARM INCOME HOLD HARMLESS CLAUSE

If, in crop year 1990 and 1991, the Secretary determines that net farm income for producers of wheat, feed grain, cotton, ELS cotton, rice, soybeans and sunflowers, on a commodity by commodity basis is less than it would have been if the 1985 Food Security act were continued and had such producers participated in the wheat, feed grain, cotton, ELS cotton, rice, soybeans and sunflower programs as determined by the Secretary, the Secretary shall make additional payments so that net farm income on a commodity by commodity meets or exceed that which the Secretary determines would have occurred under the 1985 Food Security Act.●

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 1726. A bill to amend the Public Health Service Act to promote employee health and disease prevention, and for other purposes; to the Committee on Labor and Human Resources.

EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION ACT

● Mr. KENNEDY. Mr. President, it is with pleasure that I introduce this reauthorization of the Federal Office of Disease Prevention and Health Promotion and the national program of academic prevention centers. These programs are contained in title XVII of the Public Health Service Act. In introducing this bill, I am pleased to be joined by my colleague, Senator HATCH, the ranking minority member of the Committee on Labor and Human Resources. A new initiative is also contained in this bill to support worksite wellness programs for small businesses and for the public sector, two sectors of the work force which have not yet benefited from them.

Mr. President, since the establishment of the Office of Disease Prevention and Health Promotion [ODPHP] 10 years ago, a great deal has been accomplished. We who have followed the activities of this office over the years, have watched a small operation with a limited budget create an impact far out of proportion to its size or funding. I am pleased to take the opportunity to reauthorize this program at an increased funding level.

When first written into statute, this office was intended to coordinate all Federal efforts aimed at disease prevention and health promotion, to coordinate such efforts with the private sector, to establish a national information clearinghouse of education materials on prevention, and to support research and information projects. Though the Office has fulfilled this mission, its real impact is far greater than this description implies.

The ODPHP has provided real leadership to the Nation in the area of health promotion and disease prevention. It has taken the fruits of academic and public health research and increased the awareness of health departments, schools, and businesses around the country of the benefits which are possible through health promotion. In many places around the country there are requests to increase the reach and the impact of this intelligent approach to Federal involvement.

It was this office which developed and published Healthy People: The Surgeon General's report on health promotion and disease prevention. The publishing of this document was an important event in the resurgence of interest that we have seen in prevention. The development of the Surgeon General's objectives for 1990 was an outgrowth of this effort. Recently, the ODPHP coordinated a midcourse review of the objectives and the Office is currently working toward new objectives for the year 2000. These objectives are national marks by which the country has set its expectations and judged its progress. Currently, the Office is coordinating the Surgeon General's report on nutrition. We look forward to this addition to our national perspective on the role of dietary status in health and disease.

A new initiative in this bill would support demonstration projects on worksite wellness for small businesses and for the public sector. A recent study conducted by the Office of Disease Prevention and Health Promotion found that 44 percent of 1,358 businesses with 50 or more employees offered wellness programs. Nationwide, it is estimated that 100,000 worksites with 50 or more employees have wellness programs. Private corporations report tremendous benefits from these programs. But while large companies and their work forces are benefiting from these programs, small businesses and the public sector have not yet had this opportunity.

The first benefit of such programs is almost always decreased absenteeism. Improved morale and a real decrease in the cost of health care and health insurance generally follow. A number of companies have clearly saved money on these programs. The health and life insurance industry supports this effort. In 1982, the Health Insurance Association of America created an organization called the Wellness Councils of America to foster support for this concept.

Mr. President, I would like to mention one outstanding example of what has been accomplished through worksite wellness programs. Johnson & Johnson, with its Live for Life Program has achieved a remarkable success. It has decreased the rate of smoking, improved a variety of health indicators, and cut the costs of providing health coverage to its employees who have participated in this program. Not only did the number of hospital admissions decrease, but the length of those admissions and the cost of those admissions decreased compared to a control group. This program is available to 32,000 of the company's employees at 64 locations. The chairman of Johnson & Johnson, Jim Burke, has written to me about this experience. I would like to insert his letter and an article from the Journal of the American Medical Association about this experience into the RECORD.

The legislation we are introducing today would establish demonstration programs to study and promote worksite wellness programs for small businesses and for the public sector. Over 70 percent of our Nation's work force is employed in these settings. In this time of fiscal restraint and budgetary pressures, keeping our work force healthy is a strategy we must not neglect to explore.

Mr. President, this legislation also reauthorizes and expands our program of academic prevention centers. There are only three such centers at this time. At the University of Texas, the Southwest Center for Disease Prevention is focusing on strategies for health promotion for school age children. At the University of Washington, the center is developing strategies for preventing health problems amongst the elderly. The University of North Carolina is concentrating on heart disease, cancer, and infant mortality. All of these centers is working to transfer the constructive results of their work to the surrounding communities as quickly as possible.

This legislation will contribute to moving the important agenda of preventing disease and promoting health a step further toward success. I look forward to a speedy passage of this legislation by the Congress. In closing, I would like to thank the many individuals in the prevention and public health communities who have worked with me and my staff over the last couple of years in exploring the many areas of preventive health on which the country will focus attention in the years to come. Thank you.

Mr. President, I ask unanimous consent that the certain attachments, and the full text of the bill, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Health Promotion and Disease Prevention Act of 1987".

SEC. 2. FINDINGS.

Congress finds that—

(1) there is a developing body of scientific evidence that participation in organized health promotion programs administered in worksite settings improves productivity and reduces health care costs to individuals and employers;

(2) in excess of 50 percent of the work force of the United States is employed by small businesses and over 30 percent is employed in the public sector;

(3) work site health promotion programs are not generally available to public sector employees or to employees of small businesses; and

(4) employees of small businesses are less likely to have adequate employer-based health and life insurance coverage and are thus more vulnerable to hardships resulting from medical and other costs associated with "preventable" diseases and conditions.

SEC. 3. EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION PROGRAMS.

(a) IN GENERAL.—Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u(a)) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (10) the following new paragraphs:

"(11) undertake and support research and demonstration programs designed to—

"(A) establish worksite based programs for public sector employees to promote healthy behavior and to decrease participation in unhealthy and high risk behavior; and

"(B) develop a better understanding of the special circumstances and problems encountered in providing health promotion and disease prevention programs to employees of small businesses (as defined in section 3 of the Small Business Act (15 U.S.C. 632)); and

"(12) in carrying out the programs referred to in paragraph (11)—

"(A) support at least six 3-year programs;

"(B) perform the programs under the auspices of State and local organizations capable of encouraging the participation of schools, school systems, colleges, universities, community business associations and coalitions, civic groups, insurance companies, and other appropriate organizations;

"(C) make every effort to assure that the programs reflect a variety of regions, States, and community settings (including urban, rural, and minority populations); and

"(D) evaluate the impact of the programs on—

"(i) the health status measurements;

"(ii) the use of primary and acute care health services;

"(iii) absenteeism from work; and

"(iv) reduced health and life insurance costs.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1701(b) of the Public Health Service Act (42 U.S.C. 300u(b)) is amended by striking out "and $10,000,000 for the fiscal year ending September 30, 1987" and inserting in lieu thereof ", $10,000,000 for the fiscal year ending September 30, 1987, $10,500,000 for the fiscal year ending September 30, 1988, $11,000,000 for the fiscal year ending September 30, 1989, and $11,500,000 for the fiscal year ending September 30, 1990".

SEC. 4. CENTERS FOR RESEARCH AND DEMONSTRATION OF HEALTH PROMOTION AND DISEASE PREVENTION.

Section 1706 of the Public Health Service Act (42 U.S.C. 300u-5) is amended—

(1) in subsection (c)(1) to read as follows:

"(c)(1) During fiscal year 1988, the Secretary shall make grants and enter into contracts for the establishment of five centers under this section and the maintenance and operation of three of the centers established under this section in fiscal year 1987. During fiscal year 1989, the Secretary shall make grants and enter into contracts for the establishment of three centers under this section and the maintenance and operation of the eight centers established under this section in fiscal years 1987 and 1988. During fiscal year 1990, the Secretary shall make grants and enter into contracts for the establishment of three centers under this section and the maintenance and operation of the eleven centers established in fiscal years 1987, 1988, and 1989."; and

(2) in subsection (e) to read as follows:

"(e) To carry out this section, there are authorized to be appropriated $8,000,000 for the fiscal year ending September 30, 1988, $10,000,000 for the fiscal year ending September 30, 1989, and $12,000,000 for the fiscal year ending September 30, 1990.".

JOHNSON & JOHNSON,
NEW BRUNSWICK, NJ,
July 29, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources,
Washington, DC.

DEAR MR. CHAIRMAN: I am delighted to learn that you are introducing legislation which includes a provision for examining methods of providing health promotion programs to small business and public sector employees. This is an important legislative initiative.

As you may know, Johnson & Johnson has been very active in providing a health promotion program—Live for Life—for our employees. We have been gratified by the results of this program. We are convinced that our employees are healthier, happier, and more productive. Our data (attached) indicates that Live for Life is both cost effective and quality-of-life effective.

The legislation you are introducing would go a long way toward assuring that the benefits of health promotion programs are made available to employees of small businesses and the public sector. Under existing circumstances, wellness programs, if they are made available at all, generally are limited to the larger and more progressive private sector employers. Employees of small businesses and public sector agencies are seldom able to receive the benefits of these programs.

During your career in the U.S. Senate, you have been a leader in meeting the challenge of providing equal access to high quality health care. In seeking to assure that all employees receive the benefits of health promotion programs, you are moving this thrust one step further; you are providing an equal opportunity to avoid preventable illnesses. I am confident that broad-based availability of health promotion programs will provide the same benefits to the nation it has provided to Johnson & Johnson: Healthier, more productive citizens at reduced societal cost.

Once again, I congratulate you on this important legislative initiative. Please know that we at Johnson & Johnson would be delighted to assist in moving this legislation forward.

Sincerely,

JAMES E. BURKE.

IMPACT OF WORKSITE HEALTH PROMOTION ON HEALTH CARE COSTS AND UTILIZATION: EVALUATION OF JOHNSON & JOHNSON'S LIVE FOR LIFE PROGRAM

(Janet L. Bly, MSS; Robert C. Jones, PHD; Jean E. Richardson)

(Graphs, charts, and tables mentioned in text not reproducible in the RECORD.

[This study explores the relationship between exposure to a comprehensive worksite health promotion program and health care costs and utilization. The experience of two groups of Johnson & Johnson employees (N=5192 and N=3259) exposed to Live for Life, a comprehensive program of health screens, life-style improvement programs, and worksite changes to support healthier life-styles, was compared with that of a control group (N=2955) over a five-year period. To account for baseline differences, analyses of covariance produced adjusted means for inpatient hospital costs, admissions, hospital days, outpatient costs, and other health costs. Mean annual inpatient cost increases were $43 and $42 for two Live for Life groups vs $76 for the non-Live for Life group. Live for Life groups also had lower rates of increase in hospital days and admissions. No significant differences were found for outpatient or other health care costs.—(JAMA 1966;256;3235-3240)]

Worksite health promotion programs have achieved widespread acceptance in recent years and now are operational at numerous corporations. Corporate sponsorship of these programs has been motivated by many factors, including an interest in improving the health of employees, a desire to provide additional employee benefits, and a commitment to controlling health care, accident, and absenteeism costs. Evidence is mounting to suggest that worksite health promotion programs can yield positive changes in employee health behavior and health status. Increases in physical activity and fitness levels, reductions in smoking and total serum cholesterol levels, and weight loss have been achieved through worksite programs.[1-7] Other important benefits also have been reported, including reductions in absenteesim and turnover and improvements in employee morale and job satisfaction.[*][5-9]

Limited data currently are available on the medical cost benefits of health promotion programs. Shephard et al.[10] compared health care costs and utilization at two financial services companies one year before and after introduction of a fitness program in one of the companies. Results in this time series analysis included projected medical cost savings of $84.50 per employee associated with introduction of the fitness program. Costs stabilized at the test company, while costs increased significantly at the control company. Savings associated with the fitness program were seen in both participants and nonparticipants at the test site. Shephard et al.[11] did not observe a strong relationship between improvement in fitness levels or life-style changes and cost savings. In another study. Bowne et al.[1] reported a reduction of $262 in medical costs per fitness program participant one year after program initiation.

An integral problem in assessing medical cost benefits relates to the question of what is reasonable to expect in a given time period. Medical costs may require a long time horizon for effects to be seen. Many illness areas addressed by health promotion programs (such as cancer and heart disease) develop over a long peiod of time and generally are not evidenced until middle age or later, and, in many cases, the pathways of diseases are not fully understood. Thus, a reduction in a population's risk may not be mirrored immediately in medical costs. For these reasons, evaluation should be continued for an extended time to capture long-term effects, even though health promotion enthusiasts hypothesize that reducing medical risks through healthier life-styles can yield more immediate economic benefits.

Previous research on Johnson & Johnson's LFL Program, a health promotion effort, indicated effectiveness in reducing health risks of employees. Compared with non-LFL sites, LFL sites had significant reductions in smoking, weight, and stress levels and improvement in fitness and exercise levels.[2,3] This article presents results of a longitudinal study of the impact of LFL on employee health care costs and utilization.

THE LFL PROGRAM

The principal goals of the LFL program are to provide the means for Johnson & Johnson employees "to become the healthiest in the world" and to control the increasing illness and accident costs of the corporation.[12] The LFL Program is a comprehensive health promotion effort aimed at helping individuals develop and maintain healthy life-styles. Highly standardized components are a health screen, a life-style seminar that introduces employees of LFL, and several life-style improvement programs (smoking cessation, weight control, stress management, nutrition education, fitness, and blood pressure intervention). Programs are offered to employees free of charge and generally are conducted on site. Employee participation is voluntary. Alteration of the work environment is considered an essential aspect of LFL; this includes efforts such as establishing a company smoking policy, improving the nutritional value of food offered in the company cafeteria, and providing exercise facilities. An important characteristic of LFL is that, from its inception, it has received strong and visible support from corporate as well as individual company management.

Live for Life programs were initiated in 1979 and gradually phased in at member Johnson & Johnson companies. As of 1986, LFL was operational at 50 Johnson & Johnson companies employing a total of 28,000 individuals. Corporate LFL staff provide consultation and assistance to member companies in developing and maintaining LFL programs. Each company, however, is responsible for developing local leadership and for the selection, promotion, recruitment, and scheduling of employees in life-style improvement programs. With this decentralized approach, some variations exist among LFL sites in program content and facilities. For example, with respect to fitness facilities, some sites have developed elaborate fitness facilities, while others offer exercise classes. Despite these differences, the basic strategy remains the same at all sites: to offer a combination of life-style improvement programs that achieve high participation and help to restructure fundamentally the social environment of the workplace.

METHODS

Design

Three groups were identified for analysis based on the length of time that LFL had been in operation: Group 1—sites with LFL programs operational for more than 30 months as of the end of 1983; LFL start dates, January 1979 to March 1981. Group 2—sites with LFL programs operational for 18 to 30 months as of the end of 1983; LFL start dates, June 1981 to June 1982. Group 3—sites with no LFL programs as of December 1983.

Site selection for LFL was a LFL staff decision, with the principal criterion for initial sites being proximity to corporate headquarters to facilitate communication and oversight in the early stages of program development. Subsequent sites incorporated a broader geographic range. Assignment to study groups, thus, was not randomized, but followed the pattern of LFL implementation.

Two considerations guided evaluation design. First was the desire to have measurable periods of exposure to LFL. This dictated a cohort approach in which only individuals employed for the full study period (1979 to 1983) were selected for analysis. While this introduces a potential source of bias in that these individuals may differ in health habits and medical costs from those terminating employment, the advantages are that complete data are available and exposure to LFL is similar. Second, a basic LFL premise is that the environmental changes and peer influence of those participating in LFL combine to affect all individuals at a site. Thus, analyses focused on all individuals employed for the study period, regardless of their participation in LFL programs.

The resulting study group sizes were as follows: group 1, 5192; group 2, 3259; group 3, 2955. As of June 1979, individuals averaged 36 years of age in each group and had been employed by Johnson & Johnson for an average of approximately seven years. Slightly more than half of each group's employees were men, but the differences among groups were significant ($P<.001$) Significant differences were observed among the three groups for the distribution of wage and salaried employees ($P<.001$). Group 1 had the largest percentage of salaried employees (61%), followed by group 2 (56%), with group 3 having the lowest percentage (48%). Baseline differences between groups were controlled for in covariance analysis.

Health screen data for all employees receiving health screens at group 1 and group 2 sites during the first year of LFL operation suggested that baseline health habits were relatively similar. (Seventy percent of employees at group 1 sites and 81% of employees at group 2 sites received initial health screens. Data include individuals who may not have met subsequent criteria for study group selection, i.e., employed 1979 to 1983). For example, 25% of those screened were smokers in group 1 sites compared with 27% in group 2 sites; 13% in group 1 sites had at least mild hypertension

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[*] Previous research compared Live for Life (LFL) employees at four sites (N=1272) with employees at four non-LFL sites (N=751) who completed health screens in 1979 and 1981. A description of study design and detailed findings are presented in *Proceedings of the Peer Review Meeting on the Epidemiological and Economic Impact of the Live for Life Program* (New Brunswick, NJ, Johnson & Johnson, 1983). A summary of findings is as follows. Live for Life employees had significantly higher smoking cessation rates than non-LFL employees (23% compared with 17%); those at high risk for coronary heart disease had significantly higher cessation rates at LFL sites than non-LFL sites (32% vs 13%). Individuals at LFL sites lost significantly more weight or gained less than employees in non-LFL sites; in particular, overweight employees in LFL sites had significantly better weight experience (0.49-kg ([1.1-lb] reduction) than overweight employees in non-LFL sites (0.22-kg [0.5-lb] increase). Significantly more LFL employees began vigorous exercise during the study period: for those initially inactive, 20% of LFL women compared with 7% of non-LFL women began exercise; 29% of LFL men began exercise compared with 19% of non-LFL men. Fitness (based on oxygen uptake) increased significantly among LFL employees compared with non-LFL employees. Those with the greatest increase in fitness had the greatest reductions in coronary heart disease risk factors. Salaried LFL employees significantly reduced stress levels compared with non-LFL salaried employees. Live for Life employees registered significantly higher levels of satisfaction with supervision and organization commitment compared with non-LFL employees. Higher levels of health knowledge were associated with higher levels of outpatient and other health care costs. See also Blair et al.[3]

(>140/90 mm Hg) compared with 14% in group 2 sites; 56% in group 1 sites were within 10% of ideal weight compared with 51% in group 2 sites; and 38% in group 1 sites were physically active compared with 44% in group 2 sites. These data suggest that the manner of site selection for LFL did not introduce bias with respect to these factors. No comparable health screen data were available for group 3, since it was felt that health screening would sensitize employees to health issues and, potentially, affect employee health behavior. However, as LFL has been expanded since 1983 to include some group 3 sites, LFL staff reported that no substantial differences between the health habits or health status of these and earlier LFL sites have been encountered.

None of the companies experienced significant work disruptions, such as strikes, major layoffs, or personnel problems, during the study period.

Two events occurred during the study period that differentially affected groups. First, during this time many sites adopted employee assistance programs (EAPs), which provide assistance to individuals experiencing drug, alcohol, or psychiatric problems. Most sites in group 1 began an EAP in 1980, and all group 1 sites had an EAP by early 1983. For group 2, an EAP predated LFL in some cases and 90% of employees were covered by an EAP by late 1982. In group 3, EAP initiation ranged from late 1981 to late 1983, with most beginning in late 1982; 77% of group 3 employees were covered by an EAP by early 1983. Employee assistance programs, through case finding and referral efforts, may have a short-term influence of increasing health care utilization and corresponding costs, which runs counter to LFL economic aims to controlling health care expenditures. Claims related to EAPs (drug, alcohol, and psychiatric), available for some sites within each group, were used to estimate this effect.

Second, diagnosis related group (DRG) reimbursement for all third-party payers was initiated on a pilot basis in New Jersey in 1979, and all hospitals received DRG reimbursement by 1982. Under a DRG approach, where hospitals are paid a set rate for inpatient stays based on diagnosis, it might be expected that costs would be depressed.[13] Differing proportions of each study group were located in New Jersey: group 1, 67%; group 2, 83%; and group 3, 12%. Excluding LFL programs in New Jersey would have resulted in the loss of a large number of observations. An alternate approach, adopted here, was to control for New Jersey location in analyses.

Data

Data for medical cost and utilization analyses consisted of employee medical claims paid by Johnson & Johnson during the period 1979 to 1983. Johnson & Johnson has a self-insured medical plan that typically pays, without a deductible, 100% of all reasonable and customary inpatient hospital costs. The plan includes treatment for drug and alcohol care and home health care. Johnson & Johnson is also self-insured for physician and other nonhospital services. Coverage ranges from 70% to 100% of reasonable and customary charges and frequently is subject to a calendar year $50 deductible. Health plan benefits were identical for wage and salaried personnel for all sites, and no changes in the plan occurred during the study period. In this article, "inpatient costs" refers to costs paid for room and board and other services (exclusive of physician services) to employees as inpatients, "hospital outpatient" includes costs paid for hospital outpatient services (exclusive of physician services), and "other costs" includes costs to physicians for inpatient and outpatient services, major medical, home health, and diagnostic, ancillary, and therapeutic services not covered under previous categories.

The insurance carriers forwarded data tapes directly to the Research Triangle Institute (Research Triangle Park, NC), where the data were checked, verified, and processed. To protect confidentiality, encrypted identification numbers were assigned and names on the data tapes were eliminated.

Adjustments

Initial analyses revealed that primary independent variables affecting medical costs and utilization by Johnson & Johnson employees were sex, age, and job class (wage or salaried employee). Education and income were found to be highly correlated with job class and did not increase predictive value. Accordingly, analyses of covariance were conducted, controlling for age, sex, job class, New Jersey location, and baseline (1979) differences. Adjusted means were obtained for inpatient dollars per employee, hospital admissions per 1000 employees, and hospital days per 1000 employees. Differences between adjusted annual means were compared; significance was determined if the P value was .05 or less.

To reduce the effects of random fluctuations in year-to-year values, trend lines were fitted to the medical claims using least-squares regression analysis and analyzed for significance in the difference of the slopes. While linear trends appeared appropriate for most series, quadratic and cubic trends were also explored. As the study included the same individuals over the full period, the data were treated as repeated measurements.

The study groups included companies located in 18 states. Average hospital costs among the states varied from $180 to $376 in 1979.[14] Rates of increase among the states ranged from 29% to 60% between 1979 and 1983. To address these differences, hospital cost data for the study groups were indexed to 1979 dollars and weighted by the proportion of employees in each state and individual state cost indexes. Indexes were developed based on published data on average annual cost to hospitals per patient day for each state.[14,15]

RESULTS

Comparison of Means

Analysis of covariance was employed to adjust raw means for differences among groups with respect to gender, age, job class, 1979 levels of utilization and costs, and location. Women incurred higher utilization and costs than men. Increasing age was associated with increased costs and utilization. Salaried employees had lower costs and utilization than wage employees. With two exceptions, the coefficients showed no significant difference between New Jersey sites and non-New Jersey sites.

For inpatient costs (Table 2), the adjusted means showed significantly higher costs for group 2 compared with group 3 in 1980 ($P=.05$). No significant differences were found between the groups in 1981 and 1982, although group 3 had higher costs than the LFL groups in 1982. In 1983, group 3 had significantly higher inpatient costs than group 1 and group 2 ($P=.002$ and $P=.004$, respectively).

Groups 1 and 2 had higher rates of hospital admissions than group 3 in 1980 and 1981; these differences were not significant. In 1982, however, group 3's admission rate exceeded that of either LFL group. This pattern continued in 1983 and differences between both LFL groups and the non-LFL group widened; the difference was significant only between group 3 and group 2 ($P=.04$).

For hospital days, group 2 had a significantly higher rate than group 3 in 1980 ($P=.03$). In 1981, the groups showed no significant differences, with groups 1 and 2 continuing to exceed group 3 in days. In 1982, group 3 incurred higher days than either LFL group. The difference increased in 1983, when group 3 incurred more hospital days than group 2 or group 1; the difference was significant for group 2 only ($P=.04$).

In summary, while all groups experienced increases over time, groups 3's costs and utilization began to exceed those of the LFL groups in 1982, with this difference being enhanced in 1983. Group 2 showed the strongest effect, with significantly lower costs, admissions, and days compared with group 3 in 1983. Costs differences between groups 1 and 3 were significant, but utilization differences were not. No significant differences were found for the categories for outpatient or other costs.

Due to the aging of the population during the study period, increases in utilization were expected. And, while fluctuations are not uncommon, groups 1 and 2 incurred unexpectedly large increases in hospital days in 1981 and 1983 and group 3 incurred a large increase in 1983. Employee assistance program activity was investigated for its possible influence in this area. Drug, alcohol, and psychiatric claims were identifiable for New Jersey sites within each group. For group 1, where 67% of individuals were located in New Jersey, 13%, 14% and 15% of days were attributable to drug, alcohol, or psychiatric claims from 1981 to 1983. For group 2, where 83% of individuals were located in New Jersey, 15%, 9%, and 19% of days from 1981 to 1983 were attributable to such claims. Group 1, with EAPs starting at earlier dates, had a steady pattern of EAP-related days. Group 2 showed more fluctuations, with surges roughly approximating EAP initiation. Group 3, where 12% of individuals were located in New Jersey, had few drug, alcohol, or psychiatric claims prior to 1983; in 1983, such claims accounted for 10% of days. Based on these data, EAP activity partially accounted for utilization fluctuations for group 2, but not for group 1. For group 3, the increase in days in 1983 can be attributed partially to EAP activity.

Trends in medical claims

The fluctuations observed in costs and utilization, particularly for group 3 in 1983, highlighted the importance of trend analyses. The trend analyses serve to reduce the impact of possible erratic fluctuations in the data, provide further bases for tests of significance, and provide estimates of differences in annual changes in the variables.[16] For inpatient costs, LFL groups experienced significantly lower rates of change over time compared with group 3, with mean annual per capita increments of $43, $42, and $76 for groups 1, 2, and 3, respectively ($P<.001$). Mean annual increments in hospital days per 1000 employees for groups 1 (109) and 2 (67.5) were lower than that for group 3 (171.9) ($P<.001$). For admissions per 1000, there was little difference in average annual increases between groups 1 and 3 (17 admissions per 1000 vs 17.9), while for group 2, the rate of increase was 8.6 per 1000; the differences between both LFL groups and the non-LFL group, however, were significant (P=.001). No significant differences in trend lines were found for the cost categories for outpatient or other costs.

Inpatient costs indexed to 1979 dollars

The indexes constructed to control for the effects of inflation and differential cost experience in the states in which study sites were located were calculated in constant 1979 dollars. After adjustments, groups were similar from 1979 to 1981, but in 1982, cost increases for group 2 moderated and for group 1 costs declined slightly. In 1983, differences between LFL and non-LFL groups widened, with groups 1 and 2 incurring average per capita inpatient costs of $151 and $149, respectively, while group 3 incurred average per capita costs of $288. Fitted trend lines based on these 1979 constant dollar figures indicated significant differences. Average annual per capita increases were $18, $17, and $46 for groups 1, 2, and 3, respectively ($P<.001$).

COMMENT

The analyses of medical claims indicate that the LFL groups experienced lesser rates of increase in medical costs and utilization compared with a non-LFL group. Expressed in 1979 dollars, hospital costs for the LFL groups doubled over a five-year period, while costs in the non-LFL group increased four-fold. The largest LFL increases occured prior to program initiation or in early program years. Slight reductions or moderated increases are noted for postprogram years. Non-LFL companies experienced annual cost increases for the full period.

A means of quantifying the economic differences between LFL and non-LFL groups is obtained by using the difference between rates of inpatient costs increases for LFL and non-LFL groups, based on trend lines for hospital costs in 1979 constant dollars. Taking into account this difference (29) and the number of employees in the LFL groups studied here, an average savings of $245 079 per year is obtained, or a total of $980 316 for the study period. Since the rate of increase on which this figure is based is averaged over the full study period, including preprogram years for LFL groups, the projected savings are a conservative estimate of inpatient cost benefits.

The data reported here are based on all individuals employed at sites for the full study period. Live for Life is premised on full-scale environmental changes in addition to specific life-style improvement programs. The hypothesis of this "total immersion" approach is that individuals with constant reinforcing messages will alter behavior to adopt healthier life-styles. While to some this may mean participation in organized programs, to others, the environment provides impetus to make changes independent of formal program participation. Reported group differences in costs and utilization may understate the effects for active participants who may have even greater differentials when compared with controls.

Activity related to EAPs does not appear to account for the differences between groups noted in 1983. For 1983, for the LFL groups, an estimated 13% of inpatient costs were attributable to drug, alcohol, or psychiatric claims compared with an estimated 7% for group 3. On the contrary, LFL groups, with more estimated EAP days and costs, were at a disadvantage because of such claims. It might be argued that the incomplete data for group 3 provide an unreliable basis for such estimates. However, even if group 3's actual 1983 rates for drug, alcohol, and psychiatric claims matched those for group 2 (where data were most complete), significant differences between groups still would be maintained. An EAP also was established at LFL sites earlier than at non-LFL sites. This may have served to mask potentially stronger differences between LFL and non-LFL groups in earlier years.

It might be expected that group 1, with programs in existence longer, would exceed group 2 in performance, if exposure to LFL is considered the major explanatory variable. The results observed are explained partially by the fact that the group 2 (second-generation) LFL programs included substantial refinements based on experience with group 1 (first-generation) programs. Live for Life management believes that the group 2 sites contain some of the best organized and most effective LFL programs. In contrast to group 1, group 2 programs were fully operational faster, trained personnel more effectively, and achieved higher initial health screen rates (81% of all employees compared with 70%).

Differences between LFL and non-LFL groups for outpatient and other costs had been anticipated. One possible explanation for the lack of impact is drawn from previous LFL research, which indicated that those with greater health knowledge tended to have higher levels of nonhospital claims. This finding may suggest either the existence of a "worried well" phenomenon or a tendency on the part of those with higher health knowledge to seek medical care regularly as a preventive or early intervention measure. A second possible explanation is that the health screen may have prompted referrals for follow-up medical care.

Group 3's experience began to exceed that of either LFL group on costs and utilization in 1982—and continued this trend into 1983, where significance emerges. Neither the dramatic increase in 1983 nor the absolute levels of utilization for this year can be fully explained by available data. Employee assistance program activity accounts for only a portion of the 1982–1983 increase. As a comparison for utilization levels, data for a Philadelphia-area group of 100,000 employees who averaged 39 years of age had a rate of 878 hospital days per 1000 employees in 1983,[17] almost 20% lower than group 3's experience in this year. Questions arise, thus, as to future trends for group 3. Clearly, it is unreasonable to project continued escalation of the same magnitude in future years.

Can the experience of the non-LFL group be fully attributed to the lack of an LFL program? Sufficient explanatory data are not available at this time to provide a conclusive documentation. Many aspects of the environment of LFL and non-LFL groups were similar (corporate ownership, benefit plans, personnel policies, and working conditions), and other important factors were controlled for in analysis. It is possible that other forces operated to influence group 3's experience independently of the LFL groups. Longer-term data would assist in determining the stability of trends observed here.

Diagnostic data, not available for this study, would help to determine where changes occurred. For example, are changes due to differential rates of upper respiratory tract infections or other illnesses related to smoking? Or, have reductions in smoking and improvements in nutrition, exercise, and blood pressure management reduced risk levels and illness incidence related to circulatory disorders? [18] It also is possible that the strong environmental emphasis on health and wellness has helped to increase safety awareness (eg, seat belt usage) and has created more educated consumers of hospital care, which has led to lower rates of increase in medical costs.

This article presents the results of the first longitudinal study of a comprehensive worksite health promotion effort. The results are positive regarding the gross impact of the LFL program and represent significant contributions to existing knowledge in this area. Additional research on the nature of the changes that affect costs and additional data to document trends are essential to gain a more complete understanding of health promotion benefits.

(This work was supported by the Live for Life Program of Johnson & Johnson.

(We wish to acknowledge Curtis S. Wilbur, PhD, and Philip W. Poe, Live for Life, Johnson & Johnson, for their many efforts on behalf of this study. We express their appreciation to William Pierskalla, PhD, Paul Stolley, MD, and Marvin Kristein, PhD, members of the Live for Life peer review panel. We also wish to acknowledge the helpful comments of Johnathan E. Fielding, MD, MBA.)

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Mr. HATCH. Mr. President, I am pleased to join the Senator from Massachusetts [Senator KENNEDY] in introducing today the Employee Health Promotion and Disease Prevention Act of 1987. This legislation will allow us to continue our efforts to prevent disease before it occurs.

Two of every three deaths in this country are premature and most of these deaths could be prevented through appropriate use of preventive services and behavior changes. Heart disease, cancer, and stroke—our number 1, 2, and 3 causes of death—still take an incredible toll in our society, annually costing an estimated 1.6 million lives and more than $130 billion in medical care and lost productivity. Alcohol abuse cost approximately $140 billion, cigarette use approximately $65 billion, and other substance abuses approximately $40 billion per year. And in 1983, the approximately 1 million teenage pregnancies cost society more than $16.5 billion.

For those who have been keeping count, each year these few preventable diseases I have mentioned cost more than $350 billion. And there are others. This legislation will help us continue existing prevention efforts and will increase Federal efforts to assist employers in setting up health promotion and disease prevention activities for their employees.

I urge my colleagues to join with the Senator from Massachusetts and myself in supporting this legislation. I look forward to its rapid passage.

By Mr. HARKIN:

S. 1727. A bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS ACT

● Mr. HARKIN. Mr. President, I rise to introduce a bill to create The National Institute on Deafness and Other Communication Disorders. A companion bill is being introduced on the House side by CLAUDE PEPPER, the foremost advocate for elderly persons in America.

The need for a new Institute, focusing on the needs of people with hearing and speech impairments, is great. There are approximately 22 million Americans who experience partial or total loss of hearing. Of that number, 2 million are totally deaf; the other 20 million have disabling hearing conditions.

In addition, over 2.3 million Americans experience speech and other communication disorders, ranging from mild to severe in the degree of disability.

Those who are most likely to have hearing and speech problems are the elderly and very young. Approximately 50 percent of all people with hearing and speech disorders are over 65 years in age. As Americans live longer, the number of people having hearing and speech impairments will increase. It is not an exaggeration to say that the number of elderly who will have these disabilities will reach 12 million in a mere 13 years.

There also are large numbers of infants and young children who have hearing and speech disabilities. Approximately 1 out of every 22 babies has, or soon after birth develops, these disabilities. Ear infections are the most usual disease of children between birth and age 7. There also are approximately 1 million children with severe speech and hearing disabilities—people whose language is seriously impaired.

The Federal response, unfortunately, has not been sufficient. Biomedical research support in deafness and other communication disabilities amounts to only two-tenths of 1 percent of the costs of communication disorders. Within the National Institute of Neurological and Communicative Disorders and Stroke, the amount of funds targeted on research in deafness and speech disorders is inadequate to the needs. The Institute has a very full agenda, one that I support—research in multiple sclerosis, Alzheimer's disease, epilepsy, Parkinson's disease, stroke, and cerebral palsy.

I believe, however, that the creation of a separate institute—focused solely on the needs of a large and increasing population in America—is warranted, in part because not enough has been done, and in part because not enough likely will be done in the future by a research Institute that has such a broad mission.

To create a new institute would bring together a wide range of professionals, galvanize their abilities, give focus to their work, and give visibility to the needs of a special population. We have taken this direction in the past, creating special institutes to focus on cancer, heart disease, diabetes and kidney disease, stroke, allergies, blindness, child health and human development, aging, environmental health, arthritis, dental disease, and general medically related diseases.

It is entirely consistent with our policies of the past to recognize a critical need among Americans and respond to it in this way. We face up to our present problems by relying on our past policies.

I also believe that creating a new Institute will respond to the needs of the future. It is good preventive medicine and wise policy to create a National Institute on Deafness and Other Communication Disorders.●

By Mr. LEAHY (for himself, Mr. HARKIN, Mr. FOWLER, Mr. HEFLIN, Mr. STAFFORD, Mr. PRYOR, Mr. CONRAD, Mr. DASCHLE, Mr. BURDICK, Mr. SHELBY, Mr. MATSUNAGA, Mr. ROCKEFELLER, Mr. SANFORD, and Mr. EXON):

S. 1729. A bill to promote rural development, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

RURAL ECONOMY ACT

Mr. LEAHY. Mr. President, I rise today to introduce the Rural Economy Act of 1987. This legislation is a major step toward long-term, community-based development in the distressed rural areas of our Nation.

As a Vermonter, and as chairman of the Senate Agriculture Committee, I want the committee to be the voice of rural America, to listen and learn from the farmers and small business people who must live with the results of our decisions.

Earlier this year, the committee embarked on a busy schedule of field hearings. We traveled to the Dakotas, Nebraska, Minnesota, and Iowa. We traveled south to Georgia and met with small town mayors in rural Mississippi. We traveled to New England and we held a hearing in Vermont. We saw first hand the problems of rural citizens across the country.

The advent of a new global marketplace in the 1980's closed the doors on economic growth in parts of rural America. Small manufacturing plants succumbed to foreign competition. The oil patch and the coal mine ran out. Farms and farmers disappeared.

In the last 7 years, rural America suffered an economic body blow from which it may never recover:

Rural employment is growing at only one-third the rate of urban employment.

Rural areas have much higher rates of unemployment. For example, with the national unemployment rate at 5.9 percent in July of this year, 1,000 rural counties have unemployment rates of 9 percent or higher.

Nearly half of our rural counties lost population since 1980.

In 1 year, rural areas across the country lost 632,000 people to metro areas due to migration. That's like saying that all of North Dakota migrated in 1 year!

Declining population and declining income are having a devastating ripple effect. When people can't afford to shop, shopowners can't afford to stay open. In Iowa, for example, retail sales in small towns dropped by 30 percent since 1979. Over 25 percent of all the grocery stores in these communities closed. Over 6,500 main street Iowa businesses shut their doors since 1979.

We are witnessing the creation of a new generation of rural poor. In 1985, the poverty rate in rural areas was 18 percent, compared with 12 percent in urban areas. Low wage and low skill jobs are a common fate for those who have lost their farms or their factory jobs.

The sad fact is that this administration has abandoned rural America. From 1980 to 1986, the administration cut the Federal budget for programs important to rural communities by two-thirds.

This year the administration proposed to completely eliminate from the budget all rural water and waste disposal grants, all rural community fire protection grants, and all rural housing loans. The Department of Agriculture has even failed to submit to Congress a strategy for rural development, as required by law.

Faced with this lack of leadership from the administration, some States have begun their own rural development programs. But the States hardest hit by the rural economic downturn are the States least able to fund new development programs. I believe that the breadth and depth of the problems facing rural America require a Federal initiative for a partnership with the States and the private sector.

DOLE, GRASSLEY, and MCCONNELL have also introduced rural development legislation this year. While I am encouraged by this bipartisan concern for rural America, we need to translate that concern into real jobs and real opportunities for distressed rural areas.

Earlier this year, Senators HEFLIN, HARKIN, FOWLER, and I took an important first step by introducing S. 845, which has 22 cosponsors, Democrat and Republican. Congressman JONES from Tennessee, the chairman of the House Agriculture Subcommittee on Conservation, Credit and Rural Development, introduced the same language on the House side in H.R. 1800. Together, we held hearings here in Washington and across the country. We have taken what we learned in those hearings and have forged a more comprehensive development package.

In the hearings we held, we learned that many traditional employers of rural America may never recover their lost strength; accordingly, our hope for the future must be in programs designed to expand small rural businesses and to create new jobs and new businesses.

The Rural Economy Act of 1987 is intended to do just that. This bill calls for a financial partnership between the Federal Government, the States, and the private sector—a partnership which can get rural America back on its feet.

FIRST, THE ACT ENCOURAGES STATE RURAL DEVELOPMENT

The act authorizes $30 million annually in incentive grants to States to split the cost of State programs promoting rural development. Eligible State programs must operate exclusively in rural areas and must support the development of private business enterprises. This grant program recognizes the role of the States in identifying problems unique to their rural areas and could allow a State to extend a successful development program further into rural areas.

SECOND, THE ACT REBUILDS RURAL INFRASTRUCTURE

Title III of this bill provides community development assistance for smaller communities. A program of rural infrastructure grants authorizes $205 million annually in grants to States for distribution to local governments serving populations of less than 5,500. This program supplements the Community Development Block Grant Program currently administered by HUD, and addresses small communities' pressing need for help with wastewater and other public facilities.

Such small communities often are unable to raise sufficient funds for such facilities on their own, and currently face expensive EPA requirements. These communities must have a sufficient infrastructure base upon which young businesses can thrive, and States are required to consider the job-creation potential of such projects in allocating funds.

A program of basic community facility needs grants authorizes $25 million annually in grants to public agencies and nonprofits to provide safe drinking water and wastewater facilities to rural residents who cannot otherwise afford such basic facilities. It is clear that FmHA water and wastewater programs do not reach the neediest or most isolated rural residents. FmHA-funded research in the early 1980's found that less than 40 percent of unincorporated rural communities had a public water supply system. EPA-funded research has concluded that biological contamination of drinking water supplies is greatest in households served by the smallest systems or by individual water supplies.

Basic community facility needs grants could be used to design alternative approaches to small public water system facilities, for the construction of cluster systems to serve geographically isolated families, or to enable low-income residents to tap into existing public water lines where such a hookup would otherwise be prohibitively costly.

THIRD, THE ACT TARGETS FINANCING ASSISTANCE AT RURAL AREAS

The act establishes a new Rural Development Financing Authority within USDA to administer the Federal share of this partnership. This new authority would be headed by an Assistant Secretary and would administer all the programs under this act. The act transfers to the new authority the Business and Industry Loan Program and the Rural Development Loan Fund [RDLF] currently administered by Farmers Home Administration.

The RDLF makes loan capital available to rural businesspeople through intermediary borrowers such as public agencies and private nonprofit entities dedicated to rural development. In using such private sector groups, the act avoids expanding the Federal staff required to deliver local services and provides room for local innovation unencumbered by Federal redtape. The act authorizes the Assistant Secretary to make loans to intermediary borrowers to establish revolving loan funds to promote rural business development.

The act authorizes the Assistant Secretary to establish a Credit Support Program to reduce the cost of capital to young business ventures in rural communities. This program provides an interest subsidy on loans to rural businesses. To benefit from this program, a rural business must show a capability to generate local jobs which do not require postsecondary education. The bill authorizes $50 million for fiscal year 1988 and $200 million annually thereafter to ensure that rural America gets a new financial start.

FOURTH, THE ACT BUILDS THE CAPACITY FOR DEVELOPMENT IN RURAL AREAS TO MAKE THIS FINANCIAL ASSISTANCE WORK

Title IV establishes grant programs to follow up on this new capital and to make it work. The Local Capacity Building Grant Program authorizes $25 million for fiscal year 1988 and $50 million annually thereafter in grants to public agencies and private, nonprofit institutions to stimulate economic growth and diversification in financially stressed rural communities. These funds are being provided to support leadership and expertise for development. They are not intended to finance businesses—the Credit Support Program and RDLF address this need.

The act would also authorize $6 million for 1 year to test the efficiency of one-stop rural financing and technical assistance centers, and $10 million annually in grants to public and nonprofit institutions to operate centers for rural technology development. These technology centers would seek to improve the economic conditions of rural areas by promoting the development and commercialization of new rural products and new processes that can be used in rural production.

This is a big agenda. But rural America is facing big problems. I am proud to point to a community in northern Vermont—St. Johnsbury, which is taking action today. The Northern

Community Investment Corp. there has successfully leveraged private capital by identifying business opportunities, mobilizing capital, and providing technical assistance to local entrepreneurs. Capacity building grants would allow public agencies and private nonprofits across rural America to use Federal, State, and private financing effectively by providing this kind of support.

I wish to commend my colleagues in the Senate who have joined me in cosponsoring this bill.

I especially want to thank three members of the Agriculture Committee who have worked closely with me throughout this year to formulate this rural development initiative.

Senator Harkin's help has been invaluable in developing provisions in this legislation addressing the needs of areas hard hit by the downturn in the agricultural economy and subsequent business closings.

Senator Fowler has similarly worked hard for a successful Federal initiative which can meet the needs of rural Georgians who have suffered from the rural economic crisis.

Senator Heflin's leadership as chairman of the Senate Agriculture Subcommittee on Rural Development and Rural Electrification has been instrumental in bringing the entire range of rural development issues forward.

I wish also to commend Representative Jones from Tennessee, who today introduces this bill in the House. Mr. Jones has for many years been a leader in the fight to improve conditions and opportunities for America's rural citizens.

I am pleased that Mr. Jones and my Senate colleagues share my conviction that the talents, skills, and work ethic of rural America can and will power its own rebirth.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill and the text of the bill he printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1729

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Rural Economy Act of 1987".

(b) Table of Contents.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings and purposes.

Sec. 102. Definitions.

Sec. 103. Rural Development Financing Authority.

Sec. 104. Authorization of appropriations.

TITLE II—BUSINESS DEVELOPMENT

Subtitle A—General Provisions

Sec. 201. Credit support.

Sec. 202. Rural industrialization assistance.

Subtitle B—Rural Development Loan Fund

Sec. 211. Rural development loan fund.

Sec. 212. Rural development loans.

Sec. 213. Rural opportunity grants.

TITLE III—COMMUNITY DEVELOPMENT ASSISTANCE FOR SMALLER COMMUNITIES

Sec. 301. Findings.

Subtitle A—Rural Infrastructure Grants

Sec. 311. Program authorization and allocation of funds.

Sec. 312. Program requirements.

Sec. 313. Use of grants.

Subtitle B—Basic Community Facility Needs Grants

Sec. 321. Basic community facility needs grants.

TITLE IV—CAPACITY BUILDING FOR LOCAL DEVELOPMENT

Sec. 401. Local capacity building grants.

Sec. 402. Rural technology development.

Sec. 403. One-stop rural financial and technical assistance centers.

TITLE V—STATE INCENTIVE GRANTS

Sec. 501. State incentive grants.

TITLE VI—ADMINISTRATION

Sec. 601. Nondiscrimination in programs and activities.

Sec. 602. Remedies for noncompliance.

Sec. 603. Reporting requirements.

Sec. 604. Consultation with other Federal agencies.

Sec. 605. Historic preservation requirements.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) the economic well being of smaller communities and rural areas is vital to overall national growth and prosperity;

(2) many rural areas currently suffer from decline triggered by trends in agricultural production and marketing, international developments affecting major resource industries, industrial production, and other causes.

(b) Purposes.—It is the purpose of this Act—

(1) to encourage locally-based development initiatives benefiting all segments of the population in small rural communities; and

(2) to ensure that certain basic needs for essential services in rural communities are met.

SEC. 102. DEFINITIONS.

Except as otherwise specifically provided, as used in this Act:

(1) Assistant Secretary.—The term "Assistant Secretary" means the Assistant Secretary for the Authority appointed under section 103(b)(1).

(2) Authority.—The term "Authority" means the Rural Development Financing Authority established under section 103(a).

(3) Department.—The term "Department" means the Department of Agriculture.

(4) Indian Tribe.—The term "Indian tribe" means any Indian tribe, band, group, or nation (including Alaska Indians, Aleuts, and Eskimos) that is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(5) Intermediary Borrower.—The term "intermediary borrower" means a public agency or private nonprofit organization that has as its principal mission the promotion of economic and community development in the area in which it operates.

(6) Rural Area.—The term "rural area" shall not include any area in any community that has a population in excess of 20,000 residents.

(7) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(8) State.—The term "State" means each of the 50 States.

(9) Unit of General Local Government.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State.

SEC. 103. RURAL DEVELOPMENT FINANCING AUTHORITY.

(a) In General.—There is established, in the Department, a Rural Development Financing Authority to carry out this Act.

(b) Assistant Secretary.—

(1) Appointment.—The Authority shall be headed by an Assistant Secretary appointed by the President, by and with the advise and consent of the Senate.

(2) Compensation.—Section 5316 of title 5, United States Code, is amended by striking out "Administrator, Farmers Home Administration" and inserting in lieu thereof the following:

"Administrator, Farmers Home Administration, Department of Agriculture.

"Assistant Secretary, Rural Development Financing Authority, Department of Agriculture.".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) Credit Support.—To carry out section 201, there are authorized to be appropriated $50,000,000 for fiscal year 1988 and $200,000,000 for each subsequent fiscal year.

(b) Rural Development Loan Fund.—To carry out subtitle B of title II, there are authorized to be appropriated for fiscal year 1988 and each subsequent fiscal year such sums as are necessary to carry out such subtitle.

(c) Rural Infrastructure Grants.—To carry out subtitle A of title III, there are authorized to be appropriated $205,000,000 for fiscal year 1988 and each subsequent fiscal year.

(d) Basic Community Facility Needs Grants.—To carry out section 321, there are authorized to be appropriated $25,000,000 for fiscal year 1988 and each subsequent fiscal year.

(e) Local Capacity Building Grants.—To carry out section 401, there are authorized to be appropriated $25,000,000 for fiscal year 1988 and $50,000,000 for each subsequent fiscal year.

(f) Rural Technology Development.—To carry out section 402, there are authorized to be appropriated $10,000,000 for fiscal year 1988 and each subsequent fiscal year.

(g) One-Stop Rural Financial and Technical Assistance Centers.—To carry out section 403, there is authorized to be appropriated $6,000,000 for fiscal year 1988.

(h) State Incentive Grants.—To carry out section 501, there are authorized to be appropriated $30,000,000 for fiscal year 1988 and each subsequent fiscal year.

TITLE II—BUSINESS DEVELOPMENT

Subtitle A—General Provisions

SEC. 201. CREDIT SUPPORT.

(a) Establishment.—The Assistant Secretary shall establish a program under which interest rate subsidies are provided to lenders for loans made to private business enterprises located in rural areas.

(b) Eligibility.—To be eligible to receive assistance under this section, a private business enterprise must—

(1) be (or become) a borrower of an existing or new loan (including a direct Federal loan, Federally insured loan, Federally guaranteed loan, or a loan made by a private commercial lender without any Federal involvement) with an interest rate of 8 percent or more;

(2) be a private business enterprise that has operated for less than 5 years or that otherwise demonstrates a capability to generate new jobs;

(3) demonstrate a capability to generate a high proportion of jobs for residents of the local rural area that do not require post-secondary education; and

(4) be located in a rural area that exhibits severe economic distress, as measured by employment, income, business activity, or other economic indicators.

(c) Interest Subsidies.—If a borrower of a loan applies to a lender for an interest subsidy, the lender (with the approval of the Assistant Secretary) determines that the borrower meets the eligibility criteria prescribed in subsection (b), and the Secretary, lender, and borrower agree to participate in the interest subsidy program—

(1) the Assistant Secretary shall make payments to the lender equal to the amount obtained by multiplying—

(A) 50 percent of the difference between the prevailing interest rate in the area on a loan for a similar amount, maturity, and purpose (as determined by the Assistant Secretary) and 8 percent; and

(B) the principal amount outstanding on the loan; and

(2) the lender shall charge the borrower an interest rate for the loan that does not exceed the prevailing interest rate in the area described in paragraph (1)(A), less the amount provided by the Assistant Secretary under this section.

(d) Contracts.—An interest subsidy shall be provided under this section for a loan made by a lender to a borrower by means of an annual, renewable contract entered into among the Assistant Secretary, lender, and borrower.

SEC. 202. RURAL INDUSTRIALIZATION ASSISTANCE.

(a) Loans for Private Business Enterprises.—

(1) Loans.—The Assistant Secretary shall make and insure loans to public, private, or cooperative organizations organized for profit or nonprofit, to Indian tribes (including tribal entities recognized by the State in which the entities are located), or to individuals for the purposes of—

(A) improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control;

(B) the conservation, development, and use of water for aquaculture purposes in rural areas; and

(C) reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems, in rural areas.

(2) Guarantees.—Such loans, when originated, held, and serviced by other lenders, may be guaranteed by the Assistant Secretary under this subsection.

(3) Limitation.—No loan may be made, insured, or guaranteed under this subsection that exceeds a principal amount of $25,000,000.

(4) Definitions.—As used in this subsection:

(A) Acquaculture.—The term "aquaculture" means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purposes of creating or augmenting publicly owned and regulated stocks of fish.

(B) Solar energy.—The term "solar energy" means energy derived from sources (other than fossil fuels) and technologies included in the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) Joint Loans for Private Business Enterprises.—

(1) In general.—The Assistant Secretary shall participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, the Department of Housing and Urban Development, other Federal and State agencies, and private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refining, services, and fees.

(2) Transfer of employment or business activities.—

(A) In general.—Except as provided in subparagraph (B), no financial or other assistance shall be extended under this section or sections 304(b) and 312(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1924(b) or 1942(b)) that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant.

(B) Exceptions.—Subparagraph (A) shall—

(i) not apply to cases in which such assistance does not exceed $1,000,000;

(ii) not apply to cases in which direct employment will not be increased by more than 50 employees; or

(iii) not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(3) Insufficient demand for goods and services.—

(A) In general.—Except as provided in subparagraph (B), no financial or other assistance shall be extended under this section or section 304(b) or 312(b) of the Consolidated Farm and Rural Development Act that is calculated to or likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises.

(B) Exceptions.—Subparagraph (A) shall not apply—

(i) to cases in which such assistance does not exceed $1,000,000;

(ii) to cases in which direct employment will not be increased by more than 50 employees; or

(iii) if such financial or other assistance will not have an adverse effect on existing competitive enterprises in the area.

(4) Certification of noncompliance.—

(A) In general.—Except as provided in subparagraph (C), no financial or other assistance shall be extended under this section or section 304(b) or 312(b) of the Consolidated Farm and Rural Development Act if the Secretary of Labor certifies within 30 days after the matter has been submitted to the Secretary of Labor by the Assistant Secretary that paragraph (2) or (3) have not been complied with.

(B) System.—The Secretary of Labor shall, in cooperation with the Assistant Secretary, develop a system of certification that will ensure the expeditious processing of requests for assistance under this section.

(C) Exceptions.—This paragraph shall not apply to cases in which—

(i) such assistance does not exceed $1,000,000; or

(ii) direct employment will not be increased by more than 50 employees.

(5) Prior State approval.—No loan authorized to be made under this section shall require or be subject to the prior approval of any officer, employee, or agency of any State.

(6) Maxiumum investment requirement.—No loan commitment issued under this section or section 304 or 312 of the Consolidated Farm and Rural Development Act shall be conditioned on the applicant investing in excess of 10 percent in the business or industrial enterprise for which purpose the loan is to be made unless the Assistant Secretary determines there are special circumstances that necessitate an equity investment by the applicant greater than 10 percent.

(7) Certificates of Beneficial Ownership.—

(A) Issuance.—No provision of law shall prohibit issuance by the Assistant Secretary of certificates evidencing beneficial ownership in a block of notes insured or guaranteed under this section, the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(B) Sale of assets.—Any sale by the Assistant Secretary of such certificates shall be treated as a sale of assets for the purpose of title 31, United States Code.

(C) Exemption from SEC laws.—Any security representing beneficial ownership in a block of notes guaranteed or insured under this section, the Consolidated Farm and Rural Development Act, or title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 17, 22, and 24 of the Securities Act of 1933 (15 U.S.C. 77q, 77v, and 77x), except that the Assistant Secretary shall require that the issuer—

(i) place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee; and

(ii) provide such periodic reports of sales as the Assistant Secretary considers necessary.

(c) Construction or Improvement of Subterminal Facilities.—

(1) Loans.—

(A) In general.—The Assistant Secretary shall insure and guarantee loans under this section to public, private, or cooperative organizations organized for profit or nonprofit, or to individuals, for the purpose of constructing or improving subterminal facilities if—

(i) the construction or improvement of such facilities is consistent with the appropriate approved State or regional plans and the recommendations of the local plan review commission established pursuant to the Agricultural Subterminal Facilities Act of 1980 (7 U.S.C. 3701 et seq.);

(ii) the Assistant Secretary determines that the ownership and operation of such subterminal facilities will result in the efficient and competitive movement of bulk agricultural commodities and will return increased benefits to the local producers served by such facilities; and

(iii) the Assistant Secretary determines that the rail carrier designated to provide service to any such facility will be able to provide adequate service.

(B) Uses.—Such loans may be made available for purchase of rail rolling stock (including locomotives), motor trucks, barges, and other bulk agricultural commodities transport equipment to be used in conjunction with the operation of subterminal facilities.

(2) Eligibility.—The Assistant Secretary may only insure or guarantee loans under this subsection if the Assistant Secretary finds that an applicant is unable to obtain credit from commercial lending institutions (including specialized lending institutions established to provide credit to agricultural producers) on reasonable terms and conditions.

(3) Preference.—In order to preserve local ownership and control of agricultural transportation facilities, the Assistant Secretary shall give preference under this subsection to existing agricultural elevator operators and local producers in areas in which subterminal facilities are proposed to be located.

(4) State Allocation.—

(A) In general.—The total amount of loan authority made available for use for the purpose of this subsection for any fiscal year shall be allocated by the Assistant Secretary on the basis of need among those States that have approved State or regional plans as defined in the Agricultural Subterminal Facilities Act of 1980. Such allocation shall be based on such formula as the Assistant Secretary shall prescribe by regulation.

(B) Reallocation of unused authority.—Any loan authority available for use in any State in any fiscal year that is not used by such State shall be reallocated, to the extent practicable, among other States eligible for the assistance provided under this section, in accordance with the same formula developed by the Assistant Secretary for the initial allocation of loan authority under this subsection.

(5) Definition.—As used in this subsection, the term "subterminal facility" has the same meaning given such term in section 3(4) of the Agricultural Subterminal Facilities Act of 1980 (7 U.S.C. 3702(4)).

(6) Regulations.—The Assistant Secretary shall establish such rules and regulations as may be necessary to implement this subsection.

(d) Conforming Amendments.—

(1) Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended—

(A) by striking out subsection (a);

(B) in subsection (b), by striking out the subsection designation; and

(C) by striking out subsections (c), (d), (e), and (f).

(2)(A) Section 306(a)(7) of such Act (7 U.S.C. 1926(a)(7)) is amended by striking out "sections 304(b), 310B, and 312 (b), (c), and (d)" and inserting in lieu thereof "sections 304(b), 310B, and 312 (b), (c), and (d) of this title and sections 202 and 402 of the Rural Economy Act of 1987".

(B) Section 307(a) of such Act (7 U.S.C. 1927(a)) is amended—

(i) in paragraph (4), by striking out "sections 304(b), 306(a)(1), and 310B of this title" and inserting in lieu thereof "sections 304(b) and 306(a)(1) of this title and section 202 of the Rural Economy Act of 1987"; and

(ii) in paragraph (6)(B), by striking out clauses (vi) and (vii) and inserting in lieu thereof the following new clauses:

"(vi) section 202(a)(1)(A) of the Rural Economy Act of 1987;

"(vii) subsections (b) and (c) of section 202 of such Act;".

(C) Section 309A of such Act (7 U.S.C. 1929a) is amended—

(i) in the second sentence of subsection (a), by striking out "sections 304(b), 306(a)(1), 306(a)(14), 310B, and 312(b)" and inserting in lieu thereof "sections 304(b), 306(a)(1), 306(a)(14), and 312(b) of this title and section 202 of the Rural Economy Act of 1987"; and

(ii) in subsection (g)(8), by striking out "sections 306(a) and 310B of this title" and inserting in lieu thereof "section 306(a) and 310B of this title and sections 202 and 402 of the Rural Economy Act of 1987".

(D) Section 333(b) of such Act (7 U.S.C. 1983(b)) is amended by striking out "310B,".

(E) The first sentence of section 344 of such Act (7 U.S.C. 1992) is amended by striking out "section 304(b), 306(a)(1), 310B, 312(b), or 312(c)" and inserting in lieu thereof "section 304(b), 306(a)(1), 312(b), or 312(c) of this title or section 202 of the Rural Economy Act of 1987".

Subtitle B—Rural Development Loan Fund

SEC. 211. RURAL DEVELOPMENT LOAN FUND.

(a) Establishment.—There is established in the Treasury a revolving fund called the Rural Development Loan Fund. The capital of the revolving fund shall remain available until expended.

(b) Purposes.—The Rural Development Loan Fund may be used to make—

(1) rural development loans in accordance with section 212; and

(2) rural opportunity grants in accordance with section 213.

(c) Transfer of Existing Funds.—Funds in, appropriated to, repaid, or transferred to the Rural Development Loan Fund under section 1323(b) of the Food Security Act of 1985 (7 U.S.C. 1932 note) (as it existed before the amendment made by subsection (e)(1)) shall be deposited in the Rural Development Loan Fund established under this section and shall continue to be available to carry out the purposes of such fund.

(d) Source of Funds.—The Rural Development Loan Fund shall consist of—

(1) all funds deposited in the Fund pursuant to subsection (c); and

(2) such amounts as may be deposited in such fund by the Assistant Secretary out of funds made available from appropriations for purposes of carrying out this section.

(e) Administration.—The Assistant Secretary shall administer the Rural Development Loan Fund.

(f) Conforming Amendments.—

(1) Section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note) is repealed.

(2) Section 623(c) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) To carry out the lending and guaranty functions authorized under this part, there shall be established a Development Loan Fund consisting of a revolving fund called the Community Development Loan Fund. The capital of the revolving fund shall remain available until expended.";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(3) Section 407 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9812a) is amended by striking out "section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1))" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "section 211 of the Rural Economy Act of 1987".

(4) Section 633 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9822) is amended by striking out the first sentence.

(5) Section 681(a)(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9910(a)(2)) is amended—

(A) by striking out subparagraph (B); and

(B) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively.

(6) The amendments made by this subsection shall not apply to loans, grants, or guarantees made before October 1, 1987.

(g) Effective Date.—This section and the amendments made by this section shall become effective on October 1, 1987.

SEC. 212. RURAL DEVELOPMENT LOANS.

The Assistant Secretary may make loans, from the Rural Development Loan Fund established under section 211, to intermediary borrowers for the purpose of establishing revolving loan funds. Intermediary borrowers shall loan money from the revolving loan funds to profit or nonprofit local businesses to improve business, industry, and employment opportunities in rural areas.

SEC. 213. RURAL OPPORTUNITY GRANTS.

The Assistant Secretary may make grants, from the Rural Development Loan Fund established under section 211, to public or private nonprofit organizations, operating in rural areas, whose principal mission is to improve business, industrial, and employment opportunities, particularly assisting low-income rural people and economically distressed rural communities. Such assistance may be used for financing new business ventures, community improvements, capital improvements, infrastructure development, and other activities the Assistant Secretary considers consistent with the purpose of this section.

TITLE III—COMMUNITY DEVELOPMENT ASSISTANCE FOR SMALLER COMMUNITIES

SEC. 301. FINDINGS.

Congress finds that the availability of suitable infrastructure (including water and wastewater systems and other types of public facilities) is essential to the economic growth of smaller communities and rural areas and to the well-being of the residents of such communities and areas.

Subtitle A—Rural Infrastructure Grants

SEC. 311. PROGRAM AUTHORIZATION AND ALLOCATION OF FUNDS.

(a) Program Authorization.—The Assistant Secretary shall make grants to States and other eligible entities in accordance with this subtitle to provide funds for the development of local infrastructure in eligible communities in rural areas.

(b) Indian and Territory Allocation.—

(1) In general.—Not less than 3 percent of the funds made available to carry out this subtitle shall be used to provide grants to Indian tribes, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Northern Marianas Islands, and the Trust Territory of the United States.

(2) Administration.—The Assistant Secretary shall administer the program for eligible entities referred to in paragraph (1) through special regulations and administrative procedures that take into account the special conditions within the jurisdiction of the entities.

(c) State Allocation.—

(1) In general.—Funds remaining after the allocation required by subsection (b) shall be distributed among the States in accordance with this paragraph.

(2) Equal shares portion.—Of the funds described in paragraph (1), 25 percent of the funds shall be distributed equally among the States.

(3) Needs portion.—

(A) In general.—Of the funds described in paragraph (1), 75 percent of the funds described in paragraph (1) shall be distributed among the States in accordance with this paragraph.

(B) State shares.—Subject to subparagraph (C), the share of each State shall be equal to the product obtained by multiplying—

(i) the average of—

(I) the State's percentage share of residents in rural areas of all States; and

(II) the State's percentage share of residents in rural areas of all States with an income that does not exceed the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)));

(ii) the quotient obtained by dividing—

(I) the average nonmetropolitan, nonfarm, per capita payroll in all States; by

(II) the average nonmetropolitan, nonfarm, per capita payroll in the State; and

(iii) the quotient obtained under clause (ii).

(C) Adjustment.—The percentage share of each State of the funds made available under subparagraph (B) shall be proportionately adjusted so that the total share of all States equals 100 percent.

(D) Definition of rural area.—For purposes of this paragraph, the term 'rural area' means an area that—

(i) has a population of less than 2,500 inhabitants; and

(ii) is outside an urbanized area.

SEC. 312. PROGRAM REQUIREMENTS.

(a) Small Rural Communities.—A State shall make available not less than 96 percent of the funds obtained under this subtitle for programs and projects serving communities within the State with a population that does not exceed 5,500 residents.

(b) Distribution of Funds for Local Projects.—

(1) Development.—Each State receiving grants under this subtitle shall develop, through a planning system that provides for the involvement of the public living in rural areas, a system for distributing funds for local projects.

(2) Requirements.—The system developed under paragraph (1) shall—

(A) take into account the job-producing potential of projects and the basic needs of communities; and

(B) provide a priority for needs in communities with concentrations of low income residents, including communities that lack facilities essential to public health and safety.

(3) Description.—A description of the priority system and other requirements for the distribution of funds under this subtitle shall be published by the State and widely distributed by the State among entities public and private nonprofit agencies in the communities that are eligible to obtain funds under this subtitle.

(c) Public and Private Nonprofit Projects.—The State priority system and other requirements for the distribution of funds under this subtitle shall make the funds available to units of general local government and to other types of public bodies and private nonprofit organizations for infrastructure projects that the units, bodies, and organizations are permitted to own, manage, or otherwise operate.

(d) Annual Report.—Each State receiving grants under this subtitle shall provide an annual report to the Assistant Secretary that contains—

(1) a description of the priority system used by the State to select projects for assistance during the preceding year;

(2) a list of projects in the State during the preceding year;

(3) a description of the anticipated benefits from each such project; and

(4) such other information as the Assistant Secretary requires.

SEC. 313. USE OF GRANTS.

(a) Permitted Uses.—Grants provided to States under this subtitle may be used to—

(1) provide funding for projects for the development, construction, or rehabilitation of local infrastructure in eligible communities in rural areas; and

(2) provide technical and management assistance to strengthen local capacity to effectively plan and manage such projects.

(b) Prohibitted Use.—Grants provided to States under this subtitle may not be used to provide funding for housing-related activities.

(c) Administrative Costs.—A State may not use more than 4 percent of the amount of grant provided to the State under this subtitle for administrative costs incurred by the State in carrying out this subtitle.

Subtitle B—Basic Community Facility Needs Grants

SEC. 321. BASIC COMMUNITY FACILITY NEEDS GRANTS.

(a) In General.—The Assistant Secretary, in cooperation with the Administrator of the Farmers Home Administration, shall make grants to associations described in section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to test cost-effective methods of meeting the basic needs of residents of rural areas who do not have and cannot afford safe drinking water and wastewater disposal.

(b) Use of Grants.—Such grants may include financing for—

(1) costs associated with the development or improvement of individual or small, multiuser drinking water and wastewater facilities;

(2) costs associated with enabling such rural residents to connect to community water and wastewater systems, such as the payment of connection fees;

(3) costs associated with improving the operation, maintenance, or management of small community water and wastewater systems that currently are unable to provide safe drinking water and wastewater disposal at affordable rates to such rural residents; or

(4) costs associated with implementing other alternatives to meeting the basic drinking water and wastewater disposal needs of such rural residents.

TITLE IV—CAPACITY BUILDING FOR LOCAL DEVELOPMENT

SEC. 401. LOCAL CAPACITY BUILDING GRANTS.

(a) In General.—The Assistant Secretary shall make grants to public and nonprofit private institutions for the purpose of stimulating economic growth and diversification in communities in rural areas affected by recent declines or chronic underdevelopment in basic economic sectors, such as agriculture. The Assistant Secretary may make grants under this section in conjunction with financial assistance made available under section 201.

(b) Use of Grants.—Grants under this section may be used for activities consistent with the purposes of this section, including activities to—

(1) identify business opportunities that will use local economic and human resources;

(2) identify, train, and provide technical assistance to existing or prospective local entrepreneurs and managers;

(3) mobilize capital from within and outside local communities to stimulate the formation and expansion of local business activities; and

(4) establish support centers to provide research, training, and technical assistance to local projects through such approaches as peer-to-peer training by established development entities.

(c) Multiyear Grants.—The Assistant Secretary may make grants under this section on a multiyear basis.

(d) Eligible Projects.—Grants may be made under this section only for a project intended to provide direct benefit to a rural area. The Assistant Secretary shall give preference to projects serving areas with the most serious economic distress.

(e) Individual Grant Limitation.—

(1) In general.—Any grant under this section may not exceed 75 percent of the costs of implementing the project covered by the grant.

(2) Waiver.—The Assistant Secretary may waive the limitation established in paragraph (1) in the case of any project serving a rural community in which the average income level does not exceed the greater of—

(A) 80 percent of the nonmetropolitan median household income within the State in which the project is located; or

(B) the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

SEC. 402. RURAL TECHNOLOGY DEVELOPMENT.

(a) Grants.—The Assistant Secretary shall make grants under this section to public and nonprofit private institutions for the purpose of enabling the institutions to establish and operate centers of rural technology development that have, as a primary objective, the improvement of the economic condition of rural areas by promoting the development (through technological innovation and adaptation of existing technology) and commercialization of (1) new products that can be produced in rural areas, and (2) new processes that can be used in such production.

(b) Awards.—Grants under this section shall be made on a competitive basis. In making grants, the Assistant Secretary shall give preference to applicants that will establish centers for rural technology in areas that have—

(1) few industries and agribusinesses;

(2) high levels of unemployment;

(3) high rates of out-migration of people, business, and industries; and

(4) low levels of per capita income.

(c) Regulations.—The Assistant Secretary shall issue regulations implementing this section that shall include provisions for the monitoring and evaluation of the rural technology development activities carried out by institutions that receive grants under this section.

SEC. 403. ONE-STOP RURAL FINANCIAL AND TECHNICAL ASSISTANCE CENTERS.

(a) Purpose.—It is the purpose of this section to demonstrate the efficiency of one-stop rural financial and technical assistance centers for promoting community and economic development and providing a portfolio of financial and technical assistance services to new and expanding rural businesses.

(b) Grants.—The Assistant Secretary shall make grants to public agencies and private nonprofit organizations to establish three one-stop rural financial and technical assistance centers.

(c) Experience of Recipients.—In selecting entities for grants under this section, the Assistant Secretary shall take into account the experience of the entity in providing loan guarantees, interest rate subsidies, grants, and technical assistance to businesses in rural areas.

(d) Location of Recipients.—In selecting entities for grants under this section, the Assistant Secretary shall take into account the economic distress of a rural area in which an entity is located.

TITLE V—STATE INCENTIVE GRANTS

SEC. 501. STATE INCENTIVE GRANTS.

(a) Purpose.—It is the purpose of this section to encourage State initiatives in rural community development by augmenting existing State financial assistance programs and providing a Federal incentive for States to develop new programs to strengthen the economies of rural areas.

(b) Grants.—The Assistant Secretary shall make grants to States for the purpose of funding the Federal matching contribution for State government programs to promote rural development.

(c) Federal Matching Contribution.—The Assistant Secretary shall match on a dollar-for-dollar basis State appropriated funds for State government programs to promote rural development.

(d) Maintainance of Effort.—

(1) Determination of existing effort.—The Assistant Secretary shall determine the level of funding for State government programs to promote rural development for the preceding fiscal year and the second preceding fiscal year.

(2) Ineligibility.—A State shall not be eligible for funds under this section for a fiscal year if the level of funding for State government programs to promote rural development for the preceding fiscal year is less the level of such funding for the second preceding fiscal year.

(3) Waiver.—The Assistant Secretary may waive, for one fiscal year only, the requirements of this paragraph (2), if the Assistant Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

(e) Eligibility.—To be eligible to receive funding under this section, a program must—

(1) provide grants or other financial assistance on subsidized terms to local projects;

(2) support the development of private business enterprises, including the development of new or expanded business enterprises, infrastructure used directly by business enterprises, or financing for business enterprises; and

(3) operate exclusively in a rural area.

(f) Limitation on Grants to a State.—The amount of Federal matching contributions provided to an individual State in any fiscal year under this section may not exceed 10 percent of the amount of Federal matching contributions provided to all States in the fiscal year under this section.

TITLE VI—ADMINISTRATION

SEC. 601. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES.

(a) Prohibited Conduct.—No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any such program or activity.

(b) Compliance Procedures Available to Assistant Secretary.—

(1) Notice.—Whenever the Assistant Secretary determines that a State or unit of general local government that is a recipient of assistance under this Act has failed to comply with subsection (a) or an applicable regulation, the Assistant Secretary shall notify the Governor of such State or the chief executive officer of such unit of local government of the noncompliance and shall request the Governor or the chief executive officer to secure compliance.

(2) Noncompliance.—If within a reasonable period of time, not to exceed 60 days, the Governor or the chief executive officer fails or refuses to secure compliance, the Assistant Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(C) exercise the powers and functions provided for in section 602(a); or

(D) take such other action as may be provided by law.

(c) Civil Action by Attorney General.—When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Assistant Secretary has reason to believe that a State government or unit of general local government is engaged in a pattern or practice in violation of this Act, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

SEC. 602. REMEDIES FOR NONCOMPLIANCE.

(a) In General.—If the Assistant Secretary finds after reasonable notice and opportunity for hearing that a recipient of assistance under this Act has failed to comply substantially with any provision of this Act, the Assistant Secretary, until the Assistant Secretary is satisfied that there is no longer any such failure to comply, shall—

(1) terminate payments to the recipient under this Act;

(2) reduce payments to the recipient under this Act by an amount equal to the amount of such payments that were not expended in accordance with this Act; or

(3) limit the availability of payments under this Act to programs, projects, or activities not affected by such failure to comply.

(b) Civil Actions by Attorney General.—

(1) Referral to attorney general.—In lieu of, or in addition to, any action authorized by subsection (a), the Assistant Secretary may, if the Assistant Secretary has reason to believe that a recipient has failed to comply substantially with any provision of this Act, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted.

(2) Institution of civil actions.—On such a referral, the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Act that was not expended in accordance with this Act, or for mandatory or injunctive relief.

(c) Civil Actions.—

(1) Petition for review of action of assistant secretary in court of appeals.—Any recipient that receives notice under subsection (a) of the termination, reduction, or limitation of payments under this Act may within 60 days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action of the Assistant Secretary. The petitioner shall forthwith transmit copies of the petition to the Assistant Secretary and the Attorney General of the United States, who shall represent the Assistant Secretary in the litigation.

(2) Filing of record of proceedings in court by assistant secretary.—The Assistant Secretary shall file in the court the record of the proceeding on which the Assistant Secretary based the action of the Assistant Secretary, as provided in section 2112 of title 28, United States Code. No objection to the action of the Assistant Secretary shall be considered by the court unless such objection has been urged before the Assistant Secretary.

(3) Action on findings of assistant secretary.—The court shall have jurisdiction to affirm or modify the action of the Assistant Secretary or to set the action aside in whole or in part. The findings of fact by the Assistant Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Assistant Secretary, and to be made part of the record. The Assistant Secretary may modify the findings of fact of the As-

sistant Secretary, or make new findings, by reason of the new evidence so taken and filed with the court. The Assistant Secretary shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file the recommendation of the Assistant Secretary, if any, for the modification or setting aside of the original action of the Assistant Secretary.

(4) EXCLUSIVENESS OF JURISDICTION AND REVIEW BY SUPREME COURT.—On the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States on writ of certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 603. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT REQUIRED.—Not later than 180 days after the close of each fiscal year in which assistance under this Act is furnished, the Assistant Secretary shall submit to the Congress a report that shall contain—

(1) a description of the progress made in accomplishing the objectives of this Act;

(2) a summary of the use of such funds for each individual program or activity authorized by this Act during the preceding fiscal year; and

(3) in the case of grants authorized under subtitle A of title III—

(A) a listing of each unit of general local government receiving funds;

(B) the amount of such funds;

(C) a brief summary of the projects funded for each such unit;

(D) the extent of financial participation by other public or private entities; and

(E) the impact on employment and economic activity of such projects during the previous fiscal year.

(b) INFORMATION FROM RECIPIENTS.—The Assistant Secretary may require recipients of assistance under this Act to submit to the Assistant Secretary such reports and other information as may be necessary for the Assistant Secretary to make the report required by subsection (a).

SEC. 604. CONSULTATION WITH OTHER FEDERAL AGENCIES.

In carrying out this Act (including the issuance of regulations), the Assistant Secretary shall consult with other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. 605. HISTORIC PRESERVATION REQUIREMENTS.

With respect to applications for assistance under this Act, the Secretary of the Interior, in consultation with the Assistant Secretary and the National Trust for Historic Preservation in recognition of its charter duties, shall prescribe and implement regulations concerning projects funded under this Act and their relationship with—

(1) "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470 et seq.); and

(2) "An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960 (16 U.S.C. 469 et seq.).

SECTION-BY-SECTION DESCRIPTION OF THE RURAL ECONOMY ACT OF 1987

TITLE I—GENERAL PROVISIONS

Sec. 101—Findings and Purposes.—Congress finds that the economic well being of smaller communities and rural areas is vital to overall national growth and prosperity and that many rural areas currently suffer from economic decline. It is the purpose of this Act to encourage locally-based development initiatives benefiting all segments of rural population and to ensure that certain basic needs for essential services in rural communities are met.

Sec. 102—Definitions.—"Authority" refers to the Rural Development Financing Authority established within USDA to administer all of the programs established under this Act.

"Assistamt Secretary" refers to the Assistant Secretary of Agriculture for the Authority.

"Rural area," unless otherwise defined herein, shall not include any area in any community that has a population in excess of 20,000 residents.

"Intermediary borrower" means a public agency or private nonprofit organization that has as its principal mission the promotion of community economic development.

Sec. 103—Rural Development Financing Authority Establishes RDFA within USDA to carry out this Act.

Sec. 104—Authorization of Appropriations.—(a) Credit Support: Authorizes $50 million for fiscal year 1988 and $200 million annually thereafter to carry out section 201.

(b) Rural Development Loan Fund: Authorizes to be appropriated such sums as are necessary to carry out such subtitle B of title II.

(c) Rural Infrastructure Grants: Authorizes $205 million annually to carry out subtitle A of title III.

(d) Basic Community Facility Needs Grants: Authorizes $25 million annually to carry out section 321.

(e) Local Capacity Building Grants: Authorizes $25 million for fiscal year 1988 and $50 million annually thereafter to carry out section 401.

(f) Rural Technology Development: Authorizes $10 million annually to carry out section 402.

(g) One Stop Rural Financial and Technical Assistance Centers: Authorizes $6 million for fiscal year 1988 to carry out section 403.

(h) State Incentive Grants: Authorizes $30 million annually to carry out section 501.

TITLE II—BUSINESS DEVELOPMENT

Subtitle A—General Provisions

Sec. 201—Credit Support.—Authorizes the Assistant Secretary to establish a program to subsidize the interest rate on loans to business ventures operating for less than five years in financially stressed rural communities. The Authority would pay *to the lender* up to ½ of the difference between the prevailing interest rate and 8 percent. Participating business ventures must show a capability to generate jobs for local residents which do not require post-secondary education. Eligible loans include direct federal loans, federally-guaranteed loans and loans made by private lenders.

Sec. 202—Rural Industrial Assistance.—Transfers to the Authority the Business and industry loan program currently administered by Farmers Home Administration, and excises from the B&I loan program the Grants for Private Enterprises and grants for Rural Technology development (currently codified at 7 U.S.C. Sec. 1932(c) and (f). [These functions of the B&I program are duplicated elsewhere in this bill.]

Subtitle B—Rural Development Loan Fund

Sec. 211—Rural Development Loan Fund ("RDLF").—Transfers the RDLF to the new Authority. All future repayments will go the RDLF and the Assistant Secretary will administer their reallocation.

Sec. 212—Rural Development Loans.—Authorizes the Assistant Secretary to lend RDLF funds to intermediary borrowers for relending to promote rural development.

Sec. 213—Rural Opportunity Grants—Authorizes the Assistant Secretary to make grants from the RDLF to public or private nonprofit organizations operating in rural areas whose principal mission is to improve business and employment opportunities, particularly assisting low-income rural people and distressed rural communities. Such assistance may be used to finance new business ventures and for capital improvements.

TITLE III—DEVELOPMENT ASSISTANCE FOR SMALLER COMMUNITIES

Sec. 301—Findings.—Congress finds that the availability of wastewater facilities and other public facilities is essential to the economic growth of smaller communities and essential to the well being of the resident of such communities.

Subtitle A—Rural Infrastructure Grants

Sec. 301—Program Authorization and Allocation of Funds.—(a) Authorizes Assistant Secretary to make such grants.

(b) Indian and Territory Allocation: Sets aside not less than 3% of funds made available under this subtitle for grants to Indian tribes and Territories to be made under special regulations and administrative procedures which take into account the special conditions within the jurisdiction of the entities.

(c) State Allocation: 25% of the funds remaining after the allocation in (b) above shall be distributed equally among the States; 75% of the funds remaining after the allocation in (b) above shall be distributed among the states on the basis of a formula for each State's share, as follows:

Each State's share shall be the product of three terms:

1. The first term is the average of:

(a) A State's percentage share of the rural residents in all fifty states; and

(b) A State's percentage share of the rural residents in all fifty states with an income which does not exceed the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. Sec. 9902(2)).

2. The second term is calculated by dividing the average nonmetropolitan nonfarm per captia payroll in the United States by a State's average nonmetropolitan, nonfarm per capita payroll.

3. The third term is the same as the second.

For this subsection, the term "rural areas" means all population not living within urbanized areas or places of 2,500 or more inhabitants outside urbanized areas.

Sec. 312—Program Requirements.—Each State will make at least 96% of the funds it receives under this subtitle available to communities within the State of less than 5,500 population.

Each State will develop and publicly distribute a priority planning system for distributing funds to local projects. Such a system must take into acccount the job-producing potential of such projects and the basic needs of communities.

Each State receiving grants under this subtitle shall provide an annual report of the Assistant Secretary that contains a description of its priority system and a list of projects funded.

Sec. 313—Use of Grants.—States may use these funds to construct or rehabilitate infrastructure in local communities and to provide technical and management assistance to strengthen local capacity. Grants may not be used for housing-related activities.

Subtitle B—Basic Community Facility Needs Grants

Sec. 321.—Authorizes the Assistant Secretary to make grants to associations described in section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to test methods of meeting the needs of rural residents who do not have and cannot afford safe drinking water and wastewater disposal. Grants may be used to finance the costs of: improving facilities, connecting needy residents to existing public facilities, and implementing other alternatives to meet basic water needs.

TITLE IV—CAPACITY BUILDING FOR LOCAL DEVELOPMENT

Sec. 401—Local Capacity Building Grants.—Authorizes Assistant Secretary to make grants to public and nonprofit private institutions for the purpose of stimulating economic growth and diversification in rural communities. Grant funds may be used to identify business opportunities, train and provide technical assistance to existing and prospective local entrepreneurs, and mobilize capital.

Any grant under this section may not exceed 75% of the cost of such project; however, the Assistant Secretary may waive this requirement in the case of a project which serves an extremely poor rural area.

Sec. 402—Rural Technology Development.—Authorizes the Assistant Secretary to make grants to public and private nonprofit institutions to enable such institutions to operate centers for technology development. Such centers must seek primarily to improve the economic condition of rural areas by promoting the development and commercialization of new products which can be produced in rural areas and new processes that can be used in such production. In making grants under this section, the Assistant Secretary shall give preference to applicants that will establish centers in distressed rural areas.

Sec. 403—One-Stop Financial and Technical Assistance Centers.—Authorizes the Assistant Secretary to make grants to establish three one-stop financial and technical assistance centers to demonstrate the efficiency of such an approach to rural community development. Consideration to be given to the experience of an entity in offering a portfolio of financial and other assistance services to promote rural development.

TITLE V—STATE INCENTIVE GRANTS

Sec. 501—State Incentive Grants.—The Assistant Secretary shall make grants to match on a dollar-for-dollar basis State expenditures on State programs which promote the development of private business enterprises in rural areas.

To be eligible, a State must continue its level of funding for rural development programs. The Assistant Secretary may waive this requirement in the case of uncontrollable or exceptional circumstances within a State, such as a natural disaster.

TITLE VI—ADMINISTRATION

Sec. 601—Nondiscrimination in Programs and Activities.

Sec. 602—Remedies for Noncompliance.

Sec. 603—Reporting Requirements.—Not later than 180 days after the fiscal year in which assistance under this Act is furnished, the Assistant Secretary shall submit to Congress a report on the progress made in accomplishing the objectives of this Act, detailing the use of funds.

Sec. 604—Consultation with other Federal Agencies.

Sec. 605—Historic Preservation Requirements.

ADDITIONAL COSPONSORS

S. 9

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 9, a bill to amend title 38, United States Code, to increase the rate of disability compensation and dependency and indemnity compensation for veterans and survivors; to provide additional eligibility for certain educational or rehabilitation assistance to veterans and other eligible individuals with drug or alcohol abuse disabilities; to increase the maximum amount of a home loan which is guaranteed by the Veterans' Administration; to improve housing, automobile, and burial assistance programs for service-disabled veterans; and to extend and establish certain exemptions from sequestration for certain veterans' benefits; and for other purposes.

S. 27

At the request of Mr. MOYNIHAN, the names of the Senator from California [Mr. CRANSTON], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Vermont [Mr. LEAHY], the Senator from Maryland [Ms. MIKULSKI], the Senator from Rhode Island [Mr. PELL], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of S. 27, a bill to establish the American Conservation Corps, and for other purposes.

S. 93

At the request of Mr. INOUYE, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 93, a bill to provide that services furnished by a clinical psychologist in a rural health clinic need not be provided under the direct supervision of a physician in order to qualify for coverage under Medicare and Medicaid.

S. 1230

At the request of Mr. GRASSLEY, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Montana [Mr. MELCHER], the Senator from Arizona [Mr. MCCAIN], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 1230, a bill to amend title XVIII of the Social Security Act to permit payment for services of physician assistants outside institutional settings.

S. 1232

At the request of Mr. EXON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1232, a bill to amend the Agricultural Act of 1949 to make Commodity Credit Corporation stocks available to promote the production of liquid fuels, and for other purposes.

S. 1353

At the request of Mr. KASTEN, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 1353, a bill to amend the Internal Revenue Code of 1986 to exempt certain livestock breeding from the rules requiring capitalization of preproductive expenses and to preclude farmers with gross receipts in excess of $5 million from using a cash method accounting.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1510

At the request of Mr. KERRY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1510, a bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to agent orange, and for other purposes.

S. 1514

At the request of Mr. HEINZ, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1514, a bill to amend the Internal Revenue Code of 1986 to treat similarly all tier 1 railroad retirement benefits for income tax purposes.

S. 1567

At the request of Mr. BUMPERS, the name of the Senator from Vermont [Mr. STAFFORD] was added as a cosponsor of S. 1567, a bill to provide for refunds pursuant to rate decreases under the Federal Power Act.

S. 1586

At the request of Mr. KERRY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 1586, a bill to provide financial assistance under the Education of the Handicapped Act to assist severely handicapped infants, children, and youth to improve their educational opportunities through the use of assistive device resource centers, and for other purposes.

S. 1607

At the request of Mr. Roth, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 1607, a bill to prohibit the burning and dumping of toxic and hazardous waste in certain areas off the coast of Delaware, Maryland, and Virginia.

S. 1623

At the request of Mr. Daschle, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 1623, a bill to amend the Internal Revenue Code of 1986 to permit rural telephone cooperatives to have qualified cash or deferred arrangements, and for other purposes.

S. 1636

At the request of Mr. Gramm, the name of the Senator from Texas [Mr. Bentsen] was added as a cosponsor of S. 1636, a bill to authorize the acceptance of a donation of land for addition to Big Bend National Park, in the State of Texas.

S. 1645

At the request of Mr. DeConcini, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 1645, a bill to reauthorize certain Indian educational programs, and for other purposes.

S. 1703

At the request of Mr. Evans, the name of the Senator from Washington [Mr. Adams], the Senator from Montana [Mr. Melcher], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 1703, a bill to amend the Indian Self-Determination and Education Assistance Act and for other purposes.

SENATE JOINT RESOLUTION 41

At the request of Mr. Glenn, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of Senate Joint Resolution 41, a joint resolution to designate the period commencing on November 22, 1987, and ending on November 29, 1987, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 111

At the request of Mr. Heinz, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of Senate Joint Resolution 111, a joint resolution to designate each of the months of November 1987, and November 1988, as "National Hospice Month."

SENATE JOINT RESOLUTION 125

At the request of Mr. Roth, the name of the Senator from Mississippi [Mr. Stennis] was added as a cosponsor of Senate Joint Resolution 125, a joint resolution to designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. Cranston, the names of the Senator from Virginia [Mr. Warner], the Senator from Illinois [Mr. Simon], the Senator from South Carolina [Mr. Thurmond], and the Senator from Kansas [Mrs. Kassebaum] were added as cosponsors of Senate Joint Resolution 171, a joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. Murkowski, his name was withdrawn as a cosponsor of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. Nickles, the names of the Senator from Utah [Mr. Garn], and the Senator from Mississippi [Mr. Cochran] were added as cosponsors of Senate Concurrent Resolution 79, a concurrent resolution expressing support for United Nations' efforts to end the Iran-Iraq war and to bring an end to human rights abuses in Iran.

SENATE RESOLUTION 284

At the request of Mr. Dole, the names of the Senator from Kansas [Mrs. Kassebaum], the Senator from South Carolina [Mr. Thurmond], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of Senate Resolution 284, a resolution to express the sense of the Senate that the Secretary of Agriculture should make advance deficiency payments for the 1988 crop of wheat, feed grains, upland cotton, and rice, and for other purposes.

AMENDMENT NO. 716

At the request of Mr. McCain, the names of the Senator from Hawaii [Mr. Inouye], the Senator from North Dakota [Mr. Burdick], the Senator from Arizona [Mr. DeConcini], the Senator from Colorado [Mr. Wirth], the Senator from New Mexico [Mr. Bingaman], and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of amendment No. 716 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

AMENDMENT NO. 749

At the request of Mr. Mitchell, his name was added as a cosponsor of amendment No. 749 proposed to S. 1174, an original bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

SENATE RESOLUTION 290—AUTHORIZING THE PRINTING OF A REPORT AS A SENATE DOCUMENT

Mr. BURDICK submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. Res. 290

Resolved, That the annual report of the Secretary of Transportation to the Congress of the United States in compliance with section 144(i) of title 23, United States Code, entitled "Highway Bridge Replacement and Rehabilitation Program, Eighth Annual Report to Congress" be printed as a Senate document.

SEC. 2. There shall be printed three hundred additional copies for the use of the Committee on Environment and Public Works.

REPORT ON NATIONAL FOOTBALL LEAGUE TELECASTING

Mr. SPECTER. Mr. President, I am submitting a resolution calling upon the Department of Justice's Antitrust Division to undertake a study of, and prepare for Congress a report on, the telecasting practices of the National Football League.

The Senate's interest in the status of the NFL under the antitrust laws is not new. In 1961, at the request of the NFL, Congress enacted the Sports Broadcasting Act (15 U.S.C. § § 1291-95), which granted antitrust immunity to the NFL's pooling of revenues from sponsored television broadcasts. This permitted the NFL to enter into a series of leaguewide network television contracts. In 1985, each of the NFL's 28 teams earned $15 million from such contracts.

In 1966, 5 years after the Sports Broadcasting Act, Congress provided additional antitrust immunity to the NFL, in order to permit its merger with the AFL, the only competing professional football league at that time. More recently—in the 99th and 100th Congresses—a number of bills have been introduced which proposed additional grants of antitrust immunity to the NFL. Extensive hearings before the Commerce and Judiciary Committees considered proposals to exempt from the antitrust laws NFL agreements or rules regarding relocation of franchises, selection of owners, termination of owners, or sharing of revenues of any type.

At no time since the original grant of limited immunity 26 years ago, however, has the Department of Justice reviewed the NFL's telecasting practices to determine whether they are in compliance with the law. Since the act's enactment, there have been dramatic changes in the nature of telecommunications and in the NFL's telecasting practices. Contrary to the expectations of both Congress and the NFL in 1961, the league has contracted with more than one major television network at a time. Indeed, for much of the period since the AFL-NFL merger was consummated, the NFL has had contracts with all three major networks at the same time. This year, the NFL has entered into its first major contract with a cable television network. Cable television, of course, was not within the contemplation of Congress in 1961, and the extent to which this new medium is implicated by the 1961 act is not clear. To complicate the matter further, ESPN—the cable network with whom the NFL has contracted—is itself owned by ABC, one of the major broadcast networks, and the Federal Trade Commission reportedly is investigating possible irregularities with respect to bidding for NFL television contracts.

The resolution I am submitting would direct the Antitrust Division to study and report to Congress: First, the implications of new technology—specifically cable television and "pay-per-view" services—on the application of existing antitrust laws to the NFL's telecasting practices; and second, the effect (on the lawfulness of the NFL's practices) of the merger of the league's cable television partner with one of the major broadcast networks. The Department of Justice would include in its report a statement of its antitrust enforcement plans with respect to NFL telecasting practices.

Mr. President, I long have been concerned about the possibility that the NFL might remove a portion of its televised games from free broadcast television, available to the public at no charge, and offer them instead only to fans who can afford to pay—whether for cable service or on a "pay-per-view" basis. My own view is that the 1961 act does not immunize the NFL's sharing of revenues from its ESPN, or any other, cable television contract.

At the time of the 1961 act, Congress already was concerned about the public interest in keeping NFL telecasts on free broadcast television. The committee reports referred specifically to "the public interest in viewing professional league sports," and the act limited its immunity grant to shared revenues from "sponsored telecasting." "Sponsored telecasting" was a term of art which, in my view, meant free network television. Cable television was not yet on the scene; the competing forms of telecasting—closed circuit and subscription television—plainly were not covered by the act, as the committee reports make clear. Had cable television and pay-per-view television been specifically considered by Congress, I believe they too would have been enumerated in the reports as illustrations of media which do not constitute "sponsored telecasting" and therefore do not fall within the act. I think we need to know the Department of Justice's view, however, and that, of course, is why I am offering this resolution. Finding that the NFL's sharing of cable revenues is not immunized by the 1961 act would not necessarily mean that it violates the antitrust laws. Rather, it simply would mean that the practices are subject to those laws, like virtually every other business practice in this country.

The NFL has emphasized to me that the ESPN contract does not limit the availability of NFL games on free television; and that the NFL has no intention of ever moving playoff games or the Superbowl to a nonfree format. Let me explain why I recommend less than complete confidence in the NFL's professions of intent. In 1961, when NFL Commissioner Rozelle was testifying before congressional committees in support of an antitrust exemption, concern was expressed about the possibility of the NFL "tying up" more than one of the major broadcast television networks with an immunized television contract. "Put your minds at ease," Commissioner Rozelle in effect assured Congress. Using more than one network would be "just what we are trying to get away from," Commissioner Rozelle told one committee. "If this legislation is passed," the commissioner testified, "there is no intention on our part of using more than one network." As we all now know, the NFL shortly thereafter contracted with all three major networks at the same time, and presently has a contract with a cable network owned by one of the major broadcast networks.

While I was not in Congress in 1961, I have personal experience with more recent hard and fast assurances by the NFL with respect to its intentions. In 1985, in the aftermath of the relocation of two NFL franchises and the threatened relocation of others, a number of my colleagues and I worked in great detail on a proposal to stabilize professional football. At that time, I had a number of exchanges, both public and private, with Commissioner Rozelle and his representatives, and I repeatedly expressed my concerns about the NFL moving some of its telecasts to cable television in the future. "Put your mind at ease," the NFL in effect assured me. Specifically, I was told that the NFL had absolutely no intention of telecasting any of its games on cable television or any other nonfree format. Earlier this year, the NFL signed its contract with ESPN, which provides for numerous games to be televised on cable.

Mr. President, no one could have less standing than the NFL to complain that inquiries like those I am proposing are inappropriate government meddling in private enterprise. Let one thing be clear—the NFL repeatedly has come to Congress for relief from the laws that govern private enterprises. In 1961 and 1966, the NFL sought and obtained the only two antitrust exemptions that Congress ever has granted in the field of professional sports. And as recently as the 99th Congress, the NFL and its lobbyists again urged Congress to exempt certain NFL practices from the laws which govern other businesses in our country. The resolution I am offering neither proposes changes in the law nor reaches conclusions about the legality of NFL telecasting practices. It merely directs the Department of Justice—which has the expertise, authority and responsibility to ensure that the antitrust laws are properly enforced and that exemptions from them are properly interpreted—to study certain issues and report back to Congress. Only then can we be fully informed as we consider whether the public interest demands additional legislation, and I hardly see how anyone can object to our soliciting the Antitrust Division's views.

Accordingly, I urge my colleagues to support this resolution.

SENATE RESOLUTION 292—AUTHORIZING THE PRODUCTION OF DOCUMENTS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 292

Whereas, in 1981 the Permanent Subcommittee on Investigations of the Committee on Govrnmental Affairs investigated and held hearings on the influence of organized crime on the International Longshoremen's Association;

Whereas, the Department of Justice has requested access to certain materials in the Subcommittee's files from that investigation for use in a current criminal investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Department of Justice records of the Subcommittee relating to its investigation of the influence of organized crime on the International Longshoremen's Association.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

METZENBAUM AMENDMENT NO. 780

Mr. METZENBAUM proposed an amendment to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . REPORT ON M1A1 TANK.

(a) IN GENERAL.—The Secretary of Defense shall submit to Congress a detailed report on any actual or proposed plans of the Department of Defense regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams tank. The Secretary shall specifically include in such report the following:

(1) Whether the Secretary of Defense has entered into or proposes to enter into negotiations with any foreign country for the sale of the M1 or M1A1 Abrams tank to such foreign country.

(2) The nature and extent of any negotiations by the Secretary of Defense with any foreign country regarding the co-production or co-assembly of such tank by the United States and such country.

(3) The possible consequences of the sale of such tank to a foreign country and of an agreement for the co-production or co-assembly of such tank by the United States and a foreign country.

(4) A comparison of the effects on United States industry and labor of a direct sale of such tank to a foreign country with the production of such tank under a co-production or co-assembly arrangement with a foreign country.

(5) The impact that the sale of such tank to a foreign country or an arrangement with a foreign country for the co-production or co-assembly of such tank would have on the national security of the United States in view of the sensitive nature of the high technology involved in the production of such tank.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required under subsection (a) not later than 90 days after the date of the enactment of this Act.

(c) NATURE OF REPORT.—The Secretary shall submit the report required under subsection (a) in both classified and unclassified form.

(d) CONDITION ON AUTHORITY OF SECRETARY.—The Secretary may not enter into any agreement with any foreign country regarding the sale, co-production, or co-assembly of the M1 or M1A1 Abrams or any variant of such tank until the report required by this section has been received by Congress.

BOSCHWITZ AMENDMENT NO. 781

Mr. BOSCHWITZ proposed an amendment to the bill (S. 1174) supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . NUCLEAR RISK REDUCTION CENTERS.

(a) Congress applauds the recent signing of an agreement between the United States and the Soviet Union on the establishment of nuclear risk reduction centers. Congress regards this agreement as an important and practical first step in reducing the threat of nuclear war due to accident, misinterpretation, or miscalculation. Congress notes that the agreement calls for centers to be established in each nation's respective capital for the routine exchange of information and advanced notification of nuclear and missile testing.

(b) It is the hope of Congress that this first step in nuclear risk reduction will increase the confidence and mutual trust by both sides and lead to expansion in functions to reduce further the chances of accidental war. Such functions may include joint discussions on crisis management and the development of strategies to deal with incidents or threats of nuclear terrorism, nuclear proliferation, or other mutually agreed upon issues of concern in reducing nuclear risk.

KASTEN (AND OTHERS) AMENDMENT NO. 782

Mr. KASTEN (for himself, Mr. DOLE, Mr. HELMS, Mr. BINGAMAN, Mr. WILSON, Mr. HEINZ, Mr. D'AMATO, Mr. GARN, Mr. KARNES, and Mr. STEVENS) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 114 of the bill, between lines 13 and 14, insert the following:

SEC. . TRADE WITH VIETNAM.

(a) FINDINGS.—The Congress finds that—

(1) 140,000 Vietnamese troops invaded Cambodia in early 1978;

(2) for the past 9 years, the vast majority of Western powers have pledged to maintain embargoes or developmental aid to Vietnam until these troops are removed;

(3) Japan initially participated in this embargo, freezing some $135,000,000 in grants and concessionary loans, and reducing trade levels from $220,000,000 in 1978 to $120,000,000 the following year;

(4) despite the fact that 140,000 Vietnamese troops continue to occupy Cambodia, Japan's economic ties with Vietnam have grown steadily since 1982, reaching a present day trade level of $230,000,000, and this includes developmental trade;

(5) the Japanese government has consistently refused to discourage private investment by its private business sector which initiates this trade;

(7) Vietnam's 65 million people are a tempting lure for investors seeking low wages and for traders seeking new markets.

(b) IN GENERAL.—The Congress hereby—

(1) renews its condemnation of the continued Vietnamese occupation of the sovereign state of Cambodia, an activity which violates all standards of conduct befitting a responsible nation and contravenes all recognized principles of international law, and the Congress reconfirms its call for Vietnam to withdraw from Cambodia for only in this way can Vietnam expect to end its self induced economic isolation, and

(2) strongly urges the government of Japan to—

(A) prevent its private business sector from engaging in developmental trade with the Socialist Republic of Vietnam, and

(B) discontinue specific Japanese trading practices with Vietnam which provide long-term credits and developmental equipment, including equipment for—

(i) oil and exploration development,

(ii) forestry and fishery production,

(iii) development of commodities for light industries, and

(iv) the upgrading of production capacities for export purposes.

DOLE (AND BYRD) AMENDMENT NO. 783

Mr. DOLE (for himself, Mr. BYRD, Mr. FORD, Mr. DIXON, and Mr. MCCAIN) proposed an amendment to the bill (S. 1174) supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . FINDINGS.

The Congress finds that:

(a) The actions of Iran in continuing mine-laying activities, launching Silkworm missiles against Kuwait and refusing to accept the U.N.-proposed ceasefire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(b) In recent years, the United States, on annual average, has imported approximately $500-600 million worth of products of Iran.

(c) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine-laying.

(d) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war; nor to surrender the flexibility to shape our conduct in response to the policies and conduct of the belligerents in that war.

(e) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

(f) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the product of Iran, in the claims settlement process established under the Accord.

SEC. . PROHIBITION ON THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) Effective upon the date of enactment of this Section, the import into the United States of all products of Iran is prohibited.

(b) For the purposes of this Section, the term "products of Iran" mean any article grown, mined, produced or manufactured (in whole or in part) in Iran.

(c) The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement Subsection (a).

SEC. . WAIVER OF PROHIBITION ON THE IMPORT INTO THE UNITED STATES OR PRODUCTS OF IRAN.

(a) Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition for up to 180 days following enactment of this Section.

(b) Should the President, under the authority of Subsection (a), delay implementation of the prohibition for any period up to the 180 day limit, he shall submit to the Congress a written report, explaining the reasons for that decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) Should the President decide to delay implementaton of the prohibition through the procedure outlined in Subsection (b) for the full 180 days, the prohibition shall go into effect on the 181st day following enactment of this Section, unless the Congress, by Joint Resolution, extends the 180 day period.

HELMS (AND DIXON) AMENDMENT NO. 784

Mr. HELMS (for himself and Mr. DIXON) proposed an amendment to the bill (S. 1174) supra; as follows:

Add at the end of the bill the following new section: Section (a) This section may be cited as the "United States Department of State Freedom of Expression Act of 1987."

(b) FINDING. Congress finds that the United States Department of State on September 15, 1987, declared itself to be a temporary foreign diplomatic mission for the purpose of denying free speech to American citizens who planned to protest the tyranny of the Soviet regime.

(c) PROHIBITION. It is not in the national security interest of the United States for the Department of State to declare, and it shall not declare, itself to be a foreign diplomatic mission.

GRAMM AMENDMENT NO. 785

Mr. GRAMM proposed an amendment to the bill (S. 1174) supra; as follows:

On page 216, beginning with line 7, strike out all down through line 14 on page 217 and insert in lieu thereof the following:

(a) IN GENERAL.—Section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) The President shall—

"(A) prescribe a goal for the quantity of each material to be stockpiled; and

"(B) transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the goals prescribed under paragraph (1).

"(2) Stockpile goals prescribed under paragraph (1) shall become effective upon the expiration of 45 days of continuous session of Congress following the date on which the Committees referred to in paragraph (1)(B) receive the report required by such paragraph.

"(d)(1) The President may revise a goal that is in effect under this section in the case of any material only as provided in this subsection.

"(2) The President may—

"(A) reduce a goal referred to in paragraph (1) by not more than 15 percent; or

"(B) increase such a goal.

"(3) Whenever the President revises a goal in the case of any material, the President shall transmit to the Committees on Armed Services of the Senate and the House of Representatives a notice specifying the revised goal.

"(4) A revised goal shall become effective upon the expiration of 45 days of continuous session of Congress following the date on which the Committees referred to in paragraph (3) receive notice of the revised goal from the President.

"(e) For the purposes of subsections (c) and (d)—

"(A) the continuity of a session of Congress is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.".

(b) ESTABLISHMENT OF GOALS.—(1) Not later than 60 days after the date of the enactment of this Act, the President shall carry out the requirements of section 3(c)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98(c)(1)), as amended by subsection (a).

(2) The total quantity of the strategic and critical materials specified in the goals prescribed in accordance with paragraph (1) may not be less than the equivalent of $7,200,000,000 determined on the basis of the cost of such materials at the prevailing prices of such materials, considering all sources of the materials, on May 31, 1985.

WILSON (AND CRANSTON) AMENDMENT NO. 786

Mr. WILSON (for himself and Mr. CRANSTON) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 198, between lines 4 and 5, insert the following new section:

SEC. . LEASE OF PROPERTY, SAN FRANCISCO, CALIFORNIA

(a) IN GENERAL.—The Secretary of the Army shall lease to the County of San Francisco the facility at the Presidio in San Francisco, California, formerly operated as a hospital by the Public Health Service, for use by such County as a facility for the care and treatment of persons with acquired immune deficiency syndrome (AIDS) or acquired immune deficiency syndrome related complex (ARC).

(b) TERMS OF LEASE.—(1) The lease entered into with the County of San Francisco pursuant to subsection (a) shall be for a term of 10 years and shall be made without consideration to the United States. The term of the lease shall begin at such time as the Secretary shall prescribe after the transfer referred to in subsection (d) has been completed.

(2) The Secretary may require such other terms and conditions in connection with the lease as he considers appropriate to protect the interests of the United States.

(c) DETERMINATION BY SECRETARY OF THE ARMY; ANALYSIS BY COMPTROLLER GENERAL.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall determine the most economically feasible manner of accomplishing the transfer of activities described in subsection (d) and report such determination, together with an estimate (and underlying analysis) of the cost of accomplishing the transfer, to the Comptroller General of the United States.

(2) Not later than 30 days after receiving such determination and estimate from the Secretary of the Army, the Comptroller General shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing an analysis of such determination and estimate.

(d) TRANSFER OF ACTIVITIES.—(1) The Secretary of the Army or the Secretary of Defense, as appropriate, shall complete the transfer of the Defense Language School and any other activity being carried out at the Presidio in the facility described in subsection (a) to such other location as the Secretary determines to be appropriate. The transfer shall be made as soon as practicable after the date on which the report referred to in subsection (c)(2) is received by the committees named in such subsection or the date on which the County of San Francisco provides the certification described in subsection (e) to the Secretary of the Army, whichever is later.

(e) CERTIFICATION OF FINANCIAL ABILITY.—The Secretary of the Army shall not enter into a lease under subsection (a) or initiate any action to transfer the facilities referred to in subsection (d) until the County of San Francisco has certified to the Secretary of the Army that the County is financially prepared to assume possession of and operate the facility referred to in subsection (a) as a facility for the care and treatment of persons with AIDS or ARC.

(f) RECAPTURE RIGHTS.—The Secretary shall include in the terms of the lease a condition that in the event the leased facility is not used by the County of San Francisco as a facility for the care and treatment of persons with AIDS or ARC, the Secretary shall have the right of immediate reentry and the lease shall be automatically terminated.

(g) CONSIDERATION OF COOPERATIVE USE OF FACILITY.—The Secretary of the Army, and the Administrator of Veterans' Affairs, shall immediately enter into discussions with the appropriate official of the County of San Francisco to determine the feasibility of utilizing the facility referred to in subsection (a), jointly or in conjunction with the County of San Francisco, for the care and treatment of veterans and members of the Armed Forces who have AIDS or ARC.

WILSON AMENDMENT NO. 787

Mr. WILSON proposed an amendment to the bill (S. 1174) supra; as follows:

Delete existing Section 227.

Add new Section 812, as follows:

SEC. 812. SPACE LAUNCH RECOVERY

Of the funds appropriated pursuant to authorizations contained in this Act and from funds appropriated to the Department of Defense in prior years that remain available for obligations, $316,000,000 may be transferred from any such appropriation to any appropriate Air Force appropriation to be used for activities related to Space Launch Recovery, to be merged with and to be available for the same purposes, and the same time period, as the appropriation to which transferred: *Provided further,* That the transfer authority contained in this section shall not become effective until November 1, 1987.

WARNER AMENDMENT NO. 788

Mr. WARNER proposed an amendment to the bill (S. 1174) supra; as follows:

On page 38, between lines 17 and 18, insert the following new section:

SEC. 324. AUTHORITY OF THE SECRETARY OF DEFENSE TO REPAIR AND MAINTAIN MEMORIALS AND HISTORIC SITES ON THE ISLAND OF CORREGIDOR

The Secretary of Defense is authorized to repair and maintain memorial monuments and historic sites on the Island of Corregidor in the Republic of the Philippines and may use funds appropriated pursuant to section 301, not to exceed $50,000 for operation and maintenance of the Navy for such purpose.

LEVIN (AND RIEGLE) AMENDMENT NO. 789

Mr. LEVIN (for himself and Mr. RIEGLE) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 22, between lines 8 and 9, insert the following new section:

SEC. . CENTER FOR ADVANCED TECHNOLOGIES

Of the funds appropriated pursuant to section 201, not more than $31,000,000 of the amount appropriated for fiscal year 1988 and not more than $31,000,000 of the amount appropriated for fiscal year 1989 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, defense critical machine technicians to build, operate, and maintain high technology manufacturing equipment. Funds may not be obligated for such purpose until a memorandum of understanding has been entered into by the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility.

Funds may not be obligated for such purpose without the approval of the Secretary of Defense.

Funds may not be obligated for such purpose until sixty days after a report has been submitted to the Armed Services Committees of the Senate and the House of Representatives.

GRAMM AMENDMENTS NOS. 790 AND 791

Mr. GRAMM proposed two amendments to the bill (S. 1174) supra; as follows:

AMENDMENT NO. 790

On page 192, between lines 11 and 12, insert the following:

SEC. 2819. COST THRESHOLD FOR THE APPLICABILITY OF THE DAVIS-BACON ACT

(a) IN GENERAL.—Subsection (a) of the first section of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. 276a(a)), commonly known as the Davis-Bacon Act, is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting "or, in the case of contracts awarded by the Department of Defense, every contract in excess of $250,000" after "$2,000" in the first sentence; and

(3) by adding at the end the following new paragraph:

"(2)(A) A person contracting on behalf of the Department of Defense may not divide any project for construction, alteration, or repair (including painting and decorating) into projects costing less than $250,000 for the purpose of avoiding the application of this Act to a contract for such project.

"(B) Whenever the Secretary of Labor determines that there has been a division of any project for a purpose prohibited by subparagraph (A) in the case of any contract, the Secretary may—

"(i) require that the contract be modified to incorporate retroactively all the provisions that are required under this Act and any other prevailing wage law;

"(ii) require the contractor to pay each laborer and mechanic covered by such provisions an amount, for each pay period, equal to the excess of the applicable prevailing wage rate over the wage rate actually paid such laborer or mechanic, together with interest on such amount computed at the rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 from the date on which the work under the contract was performed by the laborer or mechanic; and

"(iii) require the Department of Defense to compensate the contractor for the total amount of the payments made under clause (ii).

"(C) The Secretary of Labor may make a determination for the purposes of subparagraph (B) in the case of any construction project only if the Secretary has notified the Secretary of Defense, not later than 180 days after the date on which construction on the project is completed, that an investigation will be conducted concerning an alleged violation of subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to solicitations for bids or proposals made on or after the date of the enactment of this Act.

AMENDMENT NO. 791

On page 114, between lines 13 and 14, insert the following:

SEC. . APPLICABILITY OF SERVICE CONTRACT ACT OF 1965 TO CERTAIN CONTRACTS

(a) DEPARTMENT OF DEFENSE CONTRACTS.—Section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting "or, in the case of a contract entered into by the Department of Defense, $1,000,000" after "$2,500";

(2) by striking out "Every" and inserting in lieu thereof "Subject to subsection (c), every"; and

(3) by adding at the end the following new subsection:

"(c) In the case of a contract entered into by the Department of Defense, this Act shall apply only to a contract the principal purpose of which is to furnish services and shall not apply to a contract which requires the provision of services if the principal purpose of the contract is not to furnish services.".

(b) CERTAIN MARINER SERVICE CONTRACTS.—(1) Chapter 141 of title 10, United States Code is amended by adding at the end thereof the following new section:

"§ 2410. Nonapplicability of the Service Contract Act of 1965 to certain mariner service contracts

"The Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall not apply to a contract for services to be performed on a vessel owned or chartered by an agency named in section 2303(a) of this title unless at least 20 percent of such contract is performed within the United States, as defined in section 8(d) of that Act.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new items:

"2410. Nonapplicability of the Service Contract Act of 1965 to certain mariner service contracts.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to solicitations for bids or proposals issued on or after the date of enactment of this Act.

WARNER AMENDMENT NO. 792

Mr. WARNER proposed an amendment to the bill (S. 1174) supra; as follows:

On page 25, between lines 14 and 15, insert the following new section:

SEC. 235. ESTABLISHMENT OF A FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER TO SUPPORT THE STRATEGIC DEFENSE INITIATIVE PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of Defense requires technical support for system level design and integration issues related to the Strategic Defense Initiative program.

(2) The Strategic Defense Initiative Organization assessed alternative types of organizations to provide technical support to the Strategic Defense Initiative program, including Government organizations, profit and nonprofit entities (including existing federally funded research and development centers), a new division within an existing federally funded research and development center, a new federally funded research and development center, colleges and universities, and private nonprofit laboratories, and determined that a new federally funded research and development center would be the type of organization to provide technical support to the Strategic Defense Initiative program.

(3) To ensure the independence and objectivity of any such new FFRDC and to control its expense, certain conditions need to be met.

(4) Competitive selection of a contractor to establish and operate a federally funded research and development center to support the Strategic Defense Initiative program is one way to enhance the prospects for independent and objective evaluation of technological and system level Strategic Defense Initiative program issues.

(b) AUTHORIZATION OF APPROPRIATIONS.—Funds appropriated to the Department of Defense for the Strategic Defense Initiative program may be used for the purpose of awarding a contract to operate a federally funded research and development center established to support the Strategic Defense Initiative program if such center is established under competitive procedure and which emphasize the cost considerations provided further that—

(1) the Secretary of Defense has solicited proposals for such contract from existing Federally funded research and development centers, universities, commercial entities, and any new organizations, and has maximum efforts to obtain more than one proposal for such contract;

(2) the Secretary of Defense has submitted the 3 best contract proposals, together with a copy of the proposed sponsoring agreement for the new FFRDC, to peer review by 3 persons designated by the Defense Science Board from a list of six or more persons compiled by the National Academy of Sciences;

(3) the persons performing the peer review referred to in clause (3)—

(A) have evaluated the extent to which each proposal and the sponsoring agreement foster competent and objective technical advice for the Strategic Defense Initiative Program; and

(B) have reported their evaluation to the Secretary;

(4) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (b) include a provision stating that no officer or employee of DOD shall have the authority to veto the employment of any person selected to serve as an officer or employee of the new FFRDC;

(5) the Secretary of Defense has issued a directive requiring that at least 5 percent of the total amount of funds available for the new FFRDC is to be set aside for independent research to be performed by the staff of the new FFRDC under the direction of the chief executive officer of the new FFRDC;

(6) the Secretary of Defense has issued a directive (A) imposing a limitation on the compensation payable to each high-level executive of the new FFRDC for services performed for the new FFRDC so that such compensation shall be comparable to the amount of compensation payable to high-level executives of comparable Federally funded research and development centers for similar services, and (B) imposing a requirement that the new FFRDC publicly disclose the salary of its chief executive officer;

(7) the Secretary of Defense has issued a directive (A) prohibiting current or former members of the Strategic Defense Initiative Advisory Committee from serving as members of the Board of Trustees if such members constitute ten or more percent of the Board of Trustees or from serving as officers of the new FFRDC, and (B) requiring that the contract referred to in clause (b) include a provision prohibiting members of such Board of Trustees from serving as officers of the new FFRDC except the President of the new FFRDC if the Board is comprised of 10 or more members.

(8) the Secretary of Defense has issued a directive requiring that the contract referred to in clause (1) include a provision prohibiting the new FFRDC from employing any person who, as a Federal employee or member of the Armed Forces, has served in the Strategic Defense Initiative Organization within 2 years before the date on which such person is to be employed by the new FFRDC;

(9) the Secretary of Defense has issued a directive providing for a separate line item within the Department of Defense budget for all funds for the new FFRDC;

(10) the Secretary of Defense has issued a directive requiring that any contract referred to in clause (b) include a provision requiring that the Board of Trustees of the new FFRDC be comprised of individuals who represent a reasonable cross-section of views on the engineering and scientific issues associated with the Strategic Defense Initiative Program;

(11) the Secretary of Defense shall not decide upon or announce the award of any contract before January 30, 1989 and, before awarding a contract for the operation of the new FFRDC, the Secretary of Defense shall submit to Congress no sooner than January 30, 1989—

(A) a copy of the proposed final contract;

(B) a copy of the proposed final sponsoring agreement relating to the operation of the new FFRDC; and

(C) shall withhold the award of such contract and approval of such sponsoring agreement for at least 30 days of continuous session of Congress beginning on the day after the date on which Congress receives such copies and report.

(c) CONTINUITY OF CONGRESSIONAL SESSION.—For purposes of subsection (a)(13), the continuity of a session of Congress is broken only by an adjournment sine die at the end of the second regular session of that Congress; however, in computing a 30-day period for such purposes, days on which either House of Congress is not in session because of an adjournment of more than five days to a day certain shall be excluded.

(d) SUNSET PROVISION.—No funds shall be available for the new FFRDC 5 years after the award of it initial contract.

NUNN (AND WARNER) AMENDMENT NO. 793

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to the bill (S. 1174) supra; as follows:

On page 4, line 11, strike out "$9,150,436,000" and insert in lieu thereof "$9,272,047,000".

On page 4, line 14, strike out "$7,164,139,000" and insert in lieu thereof "$7,164,439,000".

On page 14, line 24, strike out "$2,869,013,000" and insert in lieu thereof "$2,860,598,000".

On page 15, line 7, strike out "$8,706,452,000" and insert in lieu thereof "$8,699,452,000".

On page 15, line 14, strike out "$3,877,680,000" and insert in lieu thereof "$3,870,680,000".

On page 110, beginning with line 18, strike out all down through line 13 on page 114 and insert in lieu thereof the following:

SEC. 811. AMENDMENTS RELATED TO THE ENACTMENT OF THE GOLDWATER-NICHOLS DEPARTMENT OF DEFENSE REORGANIZATION ACT OF 1986

(a) AMENDMENTS TO PUBLIC LAW 99-433.—(1) The table contained in section 101(a)(5) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 995) is amended by striking out "chapter 3" above the right hand column and inserting in lieu thereof "chapter 144".

(2) Section 202(b)(2) of such Act (100 Stat. 1011) is amended by inserting "the first place it appears" immediately before the semicolon.

(3) Section 532(c)(1) of such Act (100 Stat. 1063) is amended by striking out "section" and inserting in lieu thereof "sections".

(4) Section 602(e)(3)(B) of such Act (100 Stat. 1067) is amended by striking out "and strength" and inserting in lieu thereof "end strength".

(b) AMENDMENTS TO TITLE 10.—Title 10, United States Code, is amended as follows:

(1)(A) Section 152 is amended by striking out the section heading and inserting in lieu thereof the following:

"**§ 152. Chairman: appointment; grade and rank**".

(B) The table of sections at the beginning of chapter 5 is amended by striking out the item relating to section 152 and inserting in lieu thereof the following:

"152. Chairman: appointment; grade and rank.".

(2) Section 155 is amended—

(A) in subsection (f)(4)(B), by inserting "or Congress" after "the President"; and

(B) in subsection (g)(2), by inserting "the President or" after "declared by".

(3) Section 194(e)(2) is amended by inserting "the President or" after "declared by".

(4)(A) The heading for section 743 is amended by adding at the end "; **Commandant of the Marine Corps**".

(B) The table of sections at the beginning of chapter 43 is amended by inserting "; Commandant of the Marine Corps" after "Air Force" in the item relating to section 743.

(5) Section 1406(i) is amended—

(A) by inserting "AND VICE CHAIRMEN" after "CHAIRMEN" in the subsection heading; and

(B) by inserting "or Vice Chairman" after "Chairman" in paragraph (1).

(6) Sections 3014(f)(4), 5014(f)(4), and 8014(f)(4) are each amended by inserting "the President or" after "declared by".

(7) The table of sections at the beginning of chapter 549 is amended by striking out the item relating to section 5898 and inserting in lieu thereof the following:

"5898. Action on reports of selection boards.".

(8) Section 8062(e) is amended by striking out "section 114" and inserting in lieu thereof "section 115".

(c) AMENDMENTS TO TITLE 37.—(1) Section 413 of title 37, United States Code, is amended to read as follows:

"**§ 413. Chairman and Vice Chairman of the Joint Chiefs Staff**

"The Chairman and Vice Chairman of the Joint Chiefs of Staff are entitled to the allowances provided by law for the Chief of Staff of the Army.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by striking out the item relating to section 413 and inserting in lieu thereof the following:

"413. Chairman and Vice Chairman of the Joint Chiefs of Staff.".

(d) MISCELLANEOUS AMENDMENTS.—Footnote 2 in the table in section 411(a) of title 38, United States Code, is amended by inserting "or Vice Chairman" after "Chairman".

(2) Section 1344(b)(4) of title 31, United States Code, is amended by inserting "the members and Vice Chairman of" before "the Joint Chiefs of Staff".

(3) Footnote 2 of the table entitled "COMMISSIONED OFFICERS" in section 101(b)(1) of the Uniformed Services Pay Act of 1981 (37 U.S.C. 1009 note) is amended by inserting "or Vice Chairman" after "Chairman".

(4) Section 1302(b)(3) of the Department of Defense Authorization Act, 1986 (37 U.S.C. 431 note), is amended by striking out "section 133(d)" and inserting in lieu thereof "section 113(d)".

(e) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply as if included in the enactment of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433).

(2) The amendments made by subsections (c)(1), (d)(3), and (d)(4) shall take effect as of October 1, 1986.

SEC. 812. TECHNICAL AND CLERICAL AMENDMENTS

(a) Amendments to Title 10.—Title 10, United States Code, is amended as follows:

(1) Section 101(14) is amended by inserting "a" after "means"

(2) Section 179 is amended by realigning subsection (e) so as to appear flush to the left margin.

(3) The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 423 and inserting in lieu thereof the following:

"423. Authority to use proceeds from counterintelligence operations of the military departments.".

(4) The table of sections at the beginning of chapter 39 is amended by transferring the item relating to section 686 from the end of such table to appear immediately below the item relating to section 685.

(5) Section 1102(c)(2) is amended by striking out ", United States Code" in the second sentence.

(6) Section 2321 is amended—

(A) in subsection (d)(4)(A), by striking out "paragraph" and inserting in lieu thereof "subsection"; and

(B) in subsection (i), by inserting "or subcontractor" after "contractor".

(7) Section 2322(b) is amended by inserting a period at the end.

(8) Section 2327(d) is amended by inserting "(1)" after "Applicability.—".

(9) The heading of section 2342 is amended by inserting a hyphen between the first and second words.

(10)(A) Section 2364 is amended by striking out "milestone O, I, and II decisions" in subsection (b)(5) and inserting in lieu thereof "milestone O, milestone I, and milestone II decisions".

(B) The heading of such section is amended by revising the fifth word so that the first letter is lower case.

(C) The item relating to that section in the table of sections at the beginning of chapter 139 is amended to conform to the amendment made by subparagraph (B).

(11) Section 2366(e)(1)(B) is amended by striking out "section 2303(5)" and inserting in lieu thereof "section 2302(5)".

(12) The item relating to section 2367 in the table of sections at the beginning of chapter 139 is amended so that the initial letter of the third word is lower case.

(13) Section 2406(f)(2)(A) is amended by inserting "section" after "is defined in".

(14) Section 2436(c)(5) is amended by inserting "law," after "auditing,".

(15) Section 2801(c)(3) is amended by striking out "defense agencies" and inserting in lieu thereof "Defense Agencies".

(16) Section 3723 is amended by striking out the comma after "disease".

(17) Sections 801, 1447, 2005(e), 2101, 2147(d), 2393(c), 2687(e), and 9511 are amended—

(A) by inserting "The term" in each paragraph (other than paragraph (2) of section 801) after the paragraph designation; and

(B) by revising the first word after the first quotation marks in each paragraph (other than paragraph (2) of section 801, paragraph (1) of section 1447, and paragraphs (7) and (11) of section 9511) so that the initial letter of such word is lower case.

(18)(A) Sections 1089(g), 2002(b), 2141(c), 2143(c), and 2145(b) are amended by inserting "the term" after "In this section,".

(B) Section 2356(b) is amended by inserting ", the term" after "In this section".

(19)(A) Sections 3251 and 8251 are amended by inserting ", the term" after "In this chapter".

(B) Sections 4801, 8368(a), and 9801 are amended by inserting "the term" after "In this chapter,".

(20) Section 101(20) is amended by striking out " 'Rate" at the beginning of the second sentence and inserting in lieu thereof "The term 'rate".

(b) Amendments to Title 37.—Section 303(2) of title 37, United States Code, is amended—

(1) by striking out the comma at the end of subparagraph (A) and inserting in lieu thereof a semicolon; and

(2) by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof "; or".

(c) Amendments to Public Law 100-26.—Public Law 100-26 is amended—

(1) in section 7(b)(3)(A), by inserting "in subsection (a)," before "by";

(2) in section 7(k)(1)(C), by inserting "(2)" after "paragraphs (1),"; and

(3) in section 8(d)(7), by striking out "Section 406" and inserting in lieu thereof "Section 406b".

(d) Miscellaneous Amendment.—Section 956(b)(1) of the Defense Acquisition Improvement Act of 1986 (as contained in title IX of Public Law 99-661 and in title X of section 101(c) of Public Laws 99-500 and 99-591) is amended by inserting "the first place it appears" before the semicolon.

(e) Effective Dates.—(1) The amendments made by subsection (c) shall apply as if included in the enactment of the Defense Technical Corrections Act of 1987 (Public Law 100-26).

(2) The amendment made by subsection (d) shall apply as if included in the enactment of Public Laws 99-500, 99-591, and 99-661.

SEC. 813. ASSISTANT TO THE SECRETARY OF DEFENSE FOR ATOMIC ENERGY AND CHAIRMAN OF NUCLEAR WEAPONS COUNCIL

(a) Statutory Establishment of Position of Assistant to the Secretary of Defense for Atomic Energy.—(1) Chapter 4 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 141. Assistant to the Secretary of Defense for Atomic Energy

"(a) There is an Assistant to the Secretary of Defense for Atomic Energy, appointed from civilian life by the President, by and with the advice and consent of the Senate.

"(b) The Assistant to the Secretary shall advise the Secretary of Defense and the Joint Nuclear Weapons Council on nuclear energy and nuclear weapons matters.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"141. Assistant to the Secretary of Defense for Atomic Energy.".

(b) Exception to Senate Confirmation.—The person serving as Chairman of the Military Liaison Committee, Department of Defense, under section 27 of the Atomic Energy Act of 1946 (42 U.S.C. 2037) on October 16, 1986, may be appointed as the Assistant to the Secretary of Defense for Atomic Energy under section 141 of title 10, United States Code (as added by subsection (a)), without the advice and consent of the Senate.

(c) Amendment to Title 5, United States Code.—Section 5316 of title 5, United States Code, is amended by striking out "Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense" and inserting in lieu thereof "Assistant to the Secretary of Defense for Atomic Energy, Department of Defense".

On page 210, line 4, strike out "$166,500,000" and insert in lieu thereof "$270,000,000".

WARNER AMENDMENT NO. 794

Mr. WARNER proposed an amendment to the bill (S. 1174) supra; as follows:

At an appropriate place in the bill, insert the following new section:

SEC.   . MORALE, WELFARE AND RECREATION ACTIVITIES

Notwithstanding section 9102 of the Department of Defense Appropriations Act, 1987 (as contained in section 101(c) of Public Law 99-500, 100 Stat. 1783-118, and section 101(c) of Public Law 99-591, 100 Stat. 3341-118), appropriated funds may be used after September 30, 1987, to support revenue generating Morale, Welfare and Recreation activities in any location designated by the Secretary of Defense.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1988

HOLLINGS (AND OTHERS) AMENDMENT NO. 795

Mr. HOLLINGS (for himself, Mr. Nunn, and Mr. Fowler) proposed an amendment to the bill (H.R. 2712) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes; as follows:

On page 12 delete line 18 and all that follows on line 19 through "451" and insert in lieu thereof the following: $734,106,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which $2,351,000 to remain available until expended shall be made available to the Martin Luther King, Jr. Center for the Study of Nonviolent Social Change.

REID (AND OTHERS) AMENDMENT NO. 796

Mr. REID (for himself, Mr. Byrd, Mr. Ford, Mr. DeConcini, and Mr. Rockefeller) proposed an amendment to the bill (H.R. 2712) supra; as follows:

At an appropriate place in the bill add the following:

Sec.   . Section 14(d) of the Securities Exchange Act of 1934 (15 U.S.C. s 78n(d)) is amended—

(1) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9) of such subsection, and by inserting the following new paragraph:

"(2) Any person making a tender offer for or a request or invitation for tender offers or amending or extending a tender offer for, or a request or invitation for tenders of shares of any class of any such equity security shall hold such offer, request invitation, amendment or extension open for a period of at least 35 business days from the date on which such offer, request, invitation or amendment is first published, sent or given to security holders, or such longer period as the Commission may, by rule or regulation prescribe."

(2) This amendment shall apply to tender offers or amendments or extensions of tender offers made on or after September 30, 1987 and before March 31, 1988.

PELL (AND CHAFEE) AMENDMENT NO. 797

Mr. PELL (for himself and Mr. Chafee) proposed an amendment to the bill (H.R. 2712) supra; as follows:

At the end of the bill, add the following:

Sec. . The Secretary of Health and Human Services shall designate the entire State of Rhode Island as a contract health service delivery area of the Indian Health Service for the purpose of providing health services to Indians in the State of Rhode Island under contracts entered into by the Indian Health Service.

INOUYE AMENDMENT NO. 798

Mr. INOUYE proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 33, line 24, insert after "of which" the following: "not less than $48,662,000 shall be available for contract support for contracts entered into under Public Law 93-638; and of which".

On page 34, line 15, insert after "expended:" the following: *"Provided further,* That no more than $141,070 of the amount appropriated under this paragraph shall be available for the Natural Resources Development Account: *Provided further,* That no more than $92,524,000 of the amount appropriated under this paragraph shall be available for the General Administration Account: *Provided further,* That no more than $56,703,000 of the amount appropriated under this paragraph shall be available for the Trust Responsibilities Account:".

At the end of the bill, add the following:

Sec. . The final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service of the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service, shall not take effect before September 16, 1988, and no action may be taken before such day to implement or administer such rule or to prescribe any other rule or regulation that has a similar effect. The grace period provided in section 36.33 of such published rule shall not terminate before March 16, 1989, and any other rule or regulation that has a similar effect shall provide for such a grace period which shall not expire before March 16, 1989.

DASCHLE AMENDMENT NO. 799

Mr. Daschle proposed an amendment to the bill (H.R. 2712) supra; as follows:

At the appropriate place, insert the following new section:

Sec. . (a) Except as provided in subsection (b), the Secretary of Agriculture shall not transfer certain National Forest System land in the Black Hills National Forest, South Dakota, described as follows:

TRACT 0043 (Hine)—

Beginning at the north quarter corner section 16, township 1, north, range 6 east; Black Hills Meridian;

thence westerly along the north line of the northwest quarter, section 16, to the east eastwest 1/256 corner;

thence southerly along the west line of the east half east half northeast quarter northwest quarter 393.00 feet;

thence due west to a point that is due south of the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer (MS 1442);

thence north to the intersection of the north line of the northwest quarter, section 16, and line 20-21 of the Big Bend Placer;

thence northeasterly along line 20-21 to corner 20;

thence northwesterly along line 19-20 to a point due north of the intersection of the north line of the northwest quarter, section 16, and line 20-21, MS 1442;

thence north to a point which is due west of a point that is 850.00 feet northerly along the west line of the southeast quarter, section 9;

thence east to the west line of the southeast quarter;

thence southerly along the west line of the southeast quarter 850.00 feet to the north quarter corner section 16, point of beginning.

(b) The Secretary may transfer such portion of the Hine Tract described in subsection (a) necessary to remove the encroachment of the Hine cabin which is located on the boundary of the Hine Tract.

WALLOP (AND SIMPSON) AMENDMENT NO. 800

Mr. WALLOP (for himself and Mr. Simpson) proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 33, line 5, insert the following: "PROVIDED FURTHER, notwithstanding any other provision of law, the State of Wyoming may, subject to a plan approved by the Governor, expend not more than $2 million from its allocation of Fiscal Year 1987 appropriated funds under Section 402 (g) of Public Law 95-87 for direct assistance to citizens evacuated from their homes in the Rawhide and Horizon Subdivisions in Campbell County, Wyoming, due to hazards from methane and hydrogen sulfide gases."

JOHNSTON AMENDMENT NO. 801

Mr. JOHNSTON proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 11, line 11, line type the number "$350,000" and insert immediately following the number "$400,000".

On page 16, line 4, delete the word "or" and insert in lieu thereof the word "of".

On page 17, line 13, delete the word "between" and insert in lieu thereof the word "among".

On page 18, line 13, insert the word "AND" between the words "PARK" and "RECREATION".

On page 33, line 25, remove the number "$53,557,000" and insert the number "$53,057,000".

On page 37, line 13, insert a period between the parenthesis and the close quote.

On page 43, line 14, delete the first comma.

On page 43, line 23, after the word "Foundation" insert a colon; and before the number "$500,000", insert *"Provided further,* That of the total appropriation".

On page 44, line 16, line type starting with the colon and continue line type through the close quotation mark on line 19, saving the semicolon on line 19.

On page 55, line 19, delete the first comma.

On page 67, line 25, delete the period.

On page 69, line 17, delete the number "$335,824,000" and insert in lieu thereof the number "$373,957,000".

On page 69, line 23, the word "That" should be set in bill type italic.

On page 70, line 6, the word "Further," should be inserted immediately preceeding the word "That".

BUMPERS AMENDMENT NO. 802

Mr. BUMPERS proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 31, line 10, after the colon insert "*Provided,* that $250,000 of such funds available to the Rural Abandoned Mine Program, over and above the amount received by Arkansas in 1986, shall be available for the first year of a five-year project in Arkansas to improve vegetative cover on reclaimed land through research and technical assistance."

STENNIS (AND INOUYE) AMENDMENT NO. 803

Mr. JOHNSTON (for Mr. Stennis, for himself and Mr. Inouye) proposed an amendment to the bill (H.R. 2712) supra; as follows:

At the appropriate place in the bill, add the following: *Provided, further,* That of the sums provided under this head, $1.2 million shall be available to the Mississippi Mineral Resources Institute of the University of Mississippi and the Center of Ocean Resources Technology of the University of Hawaii for a Marine Minerals Technology Center, equally divided.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

HEINZ AMENDMENT NO. 804

Mr. HEINZ proposed an amendment to the bill (S. 1174) supra; as follows:

On Page 38, between lines 17 and 18, insert the following new section:

Sec. 324. New Threat Upgrade (NTU) Program.—

No funds appropriated pursuant to this title or otherwise made available for operations and maintenance for the Navy for FY 1988 and used for the New Threat Upgrade (NTU) overhaul program may be used for work performed on a cost plus contract basis unless the Secretary of the Navy certifies in writing to the Committees on Armed Services of the Senate and the House of Representatives that such NTU overhaul work to be performed at either a public or private shipyard can be performed at a lower cost to the government on the basis of a cost plus contract, or that there exist overriding national security considerations.

In the event of any such certification, no action pursuant thereto may be taken for a 30 day period following notification.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1988

CRANSTON (AND WILSON) AMENDMENT NO. 805

Mr. CRANSTON (for himself and Mr. WILSON) proposed an amendment to the bill (H.R. 2712) supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . The Secretary of Agriculture is directed to use funds in the inholding and composite land acquisition account to purchase the Torre Canyon Ranch, in the Los Padres National Forest, California, at a cost not to exceed fair market value.

METZENBAUM AMENDMENT NO. 806

Mr. METZENBAUM proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 56, line 15, strike "$49,313,000" and insert in lieu thereof "$51,313,000".

DOMENICI (AND OTHERS) AMENDMENT NO. 807

Mr. DOMENICI (for himself, Mr. McCLURE, and Mr. BINGAMAN) proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 66, line 26, strike "$281,390,000," and insert in lieu thereof "$291,390,000,".

KERRY (AND KENNEDY) AMENDMENT NO. 808

Mr. KERRY (for himself and Mr. KENNEDY) proposed an amendment to the bill (H.R. 2712) supra; as follows:

On page 70, line 12, immediately before the colon insert: ": *Provided further*, That of the amount provided under this head $3,000,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts" and on page 69, line 17, strike $373,957,000 and insert in lieu thereof: "$376,957,000".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, to markup farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, at 2 p.m. in closed session to receive a briefing from the administration on the United States-Soviet bilateral agreement on embassy construction.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS COMMITTEE

Mr. BYRD. Mr. President, I ask unanimous consent that the Small Business Committee, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, to hold a mark-up on S. 437, a bill to amend the Small Business Investment Act of 1958 to permit prepayment of loans made to State and local development companies.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, to resume hearings on Oversight of Federal Procurement Decisions on Wedtech.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold a hearing during the session of the Senate on September 29, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, in open session to consider the nomination of Adm. William J. Crowe, Jr., U.S. Navy, for reappointment as Chairman of the Joint Chiefs of Staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, to hold a hearing on S. 1645, amendments to the Indian Education Act, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Intelligence, be authorized to meet during the session of the Senate on Tuesday, September 29, 1987, at 2 p.m. to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Energy and Natural Resources Committee, Subcommittee on Public Lands, National Parks and Forests be authorized to meet during the session of the Senate on Tuesday, 2:30 September 29, 1987 to receive testimony concerning H.R. 2121, a bill to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia; H.R. 1983, a bill authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes; S. 858, a bill to establish the title of States in certain abandoned shipwrecks, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the national ocean policy study, be authorized to meet during the session of the Senate on September 29, 1987, to hold hearings on S. 1412, the Coastal Zone Management Act Amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRI-CITY REGIONAL AIRPORT CELEBRATES 50TH ANNIVERSARY

● Mr. SASSER. Mr. President, I rise today to observe the 50th anniversary of the Tri-City Regional Airport and to extend my heartiest congratulations to all associated with the facility and staff.

Nestled in the mountains of upper east Tennessee, the Tri-City Regional Airport today serves some 1 million people in an area that includes portions of Tennessee, Virginia, Kentucky, North Carolina, and West Virginia.

The airport has been and continues to be an integral part of the community it serves and its presence has been a powerful draw for industrial development and expansion.

Further, the airport stands as a symbol of the cooperative spirit that exists between the people and governments of Bristol, TN and VA, Johnson City, and Kingsport, and Sullivan and Washington Counties.

Recognizing a need for air service to the area, a group of businessmen from the region began discussions of how to best meet that need. The year was 1934.

Pooling their resources, 323 acres of land were purchased and, in the fall of 1935, construction was begun. The Tri-City Airport was completed by the fall of 1937 and its first commercial aircraft landing was an American Airlines, Ford trimotor.

Senator Kenneth McKellar traveled to upper east Tennessee in November 1937 to officially dedicate the facility, saying that, "the welfare of the citizens of this area may be enhanced through better, speedier and safer air transportation."

Fifty years, and untold expansions later, those words continue to ring true.

The financial investment in the airport has grown from some $200,000 to millions of dollars. Nearly 400,000 passengers traveled through Tri-City Regional Airport last year alone.

Clearly, the Tri-City Regional Airport has benefited from the cooperation of the local governments and by the foresight of its various airport commissioners.

From the original commission of J. Fred Johnson, A.D. Brockman, Joseph K. Brown, R.J. Mottern, J.W. Cummings, Alan Gump, T. Floyd Dooley, Joseph E. Meredith, L. Lawrence Nave, Marion Sell, Brack R. Sames, and H.S. Keys to its current commission of Mark Hicks, James D. Bowdoin, Ewell L. Easley, Warren Vest, George E. Oldham III, Frank H. Anderson, John R. King, Hunter Wright, George Jaynes, Jim Powell, Keith Westmoreland, and H. Eugene Mills, Tri-City Regional Airport has been a facility in tune with the times and poised for the future.

And the next 50 years look as bright as the last 50.

In an area of breathtaking beauty, Tri-Cities has been discovered by so many national commercial enterprises that the area has come to be known as the mountain empire. Its quality of life has received national attention.

And we haven't seen anything yet. The next 50 years will be just as dazzling and the role Tri-City Regional Airport plays will be just as vital.

So, again, I congratulate the Tri-City Airport on this its 50th anniversary.●

GOLD STAR MOTHERS DAY

● Mr. D'AMATO. Mr. President, I am pleased to extend my most sincere congratulations to my good friend Congressman GILMAN on the passing of his Gold Star Mothers Resolution, House Joint Resolution 355, by unanimous consent in the Senate last Friday.

House Joint Resolution 355 designates September 27, 1987, as "Gold Star Mothers Day" paying tribute to the mothers whose sons and daughters died while serving in the Armed Forces of the United States or its allies. A gold star was used during World War I to represent each person in the U.S. military who had sacrificed his life for his country.

"The American Gold Star Mothers, Inc.," formed in 1928, originally consisted of 25 mothers who had lost a child in World War I. Today, there are over 5,000 members throughout the United States who volunteer their services to veterans organizations. They work in the spirit of their children to preserve freedom, promote world peace, and express a nation's gratitude.

I commend Congressman GILMAN for his efforts in gaining recognition for the Gold Star Mothers. Those mothers' sacrifice, leadership, dedication, and patriotism are an example and an inspiration.●

FREE TRADE NEGOTIATIONS WITH CANADA

● Mr. MOYNIHAN. Mr. President, I am deeply disturbed by the suspension of free trade negotiations with Canada. We seem to be on the verge of missing an opportunity of historic dimensions. A successful outcome would provide a dramatic example of the appeal of trade liberalization. If our talks with Canada fail, the legacy will be bitter.

It is still not too late. The talks held yesterday between Secretary Baker and Ambassador Yeutter and their Canadian counterparts are an encouraging sign. The administration should continue to commit whatever effort is necessary to encourage a resumption in the negotiations. I hope that our Canadian friends will return to the negotiations without any further delay. Time is short, and we cannot succeed without them.

The significance of these negotiations is clearly articulated in an article by former Special Trade Representative Robert Strauss published in the New York Times on September 27. I ask that the article be printed in the CONGRESSIONAL RECORD.

The article follows:

[From the New York Times, Sept. 27, 1987]

KEEP TALKING WITH CANADA ON TRADE

(By Robert S. Strauss)

WASHINGTON.—Last week, the talks on a free-trade pact between the United States and Canada broke down and the Canadian delegation was called home.

The full meaning of this development is unclear, but let's consider what's at stake: a historic opportunity to join two great North American economic democracies in a mutually beneficial economic relationship that could virtually eliminate all artificial barriers to trade between their peoples. Consider the opportunities for increased economic growth and prosperity. This truly is history in the making.

Although a subject of intense public debate in Canada, the free-trade talks have been virtually ignored in this country. With the suspension of negotiations and the approaching deadline for the expiration of United States negotiating authority, the Administration, members of Congress and the public at large must give the subject full attention.

The Canadians cannot forget that the American negotiators must by law advise Congress of their success or failure by Oct. 4. Opportunities such as this come once in a generation. The failure of the leadership in both countries to grasp this fleeting chance is a luxury neither can afford. The Canadians' walkout may be understandable as a good domestic political act and negotiating tactic, but their immediate return to the negotiating table is critical. Quiet diplomatic activity can bring this about.

The reasons to support a comprehensive and fair free-trade pact are numerous, but neither side has made the case effectively. The original inspiration was the recognition that reduced trade barriers would mean greater economic opportunity, more jobs and more overall prosperity.

Fully consistent with our obligations under the General Agreement on Tariffs and Trade, the United States and Canada could create the largest barrier-free trading relationship in the world. It would be a dramatic demonstration of the ability of two sovereign nations to overcome political differences and domestic concerns to establish more economic opportunity for each. It would also send a signal to our trading partners that a new level of open competition has been achieved by two great trading nations.

The sheer magnitude of our economic relationship—the United States and Canada are each other's largest trading partners—makes closer trade ties a natural and advantageous development. Common sense dictates that fostering increased economic interdependence between the countries will contribute to long-term stability and security. Most of our disagreements with Canada involve trade disputes resulting from often unnecessary cross-border regulations that could be eliminated.

The negotiations are at a critical stage. It will take real leadership to bring them to a successful close. Although the President negotiates trade agreements, Congress must approve them. Thus, in the coming weeks the shared responsibility of our constitutional system means that what began as an Administration initiative will now require full and active Congressional partnership to make the difference.

The business, agricultural and labor communities on both sides, while vigorously articulating their concerns, must also support concessions that would make the deal mutually beneficial. The President must be more outspoken and join Clayton K. Yeutter, the United States Trade Representative, in explaining the benefits of the agreement to Congress and the American people.

Prime Minister Brian Mulroney's Government and other forces in Canada must take a realistic view of the possibilities of this agreement and the necessity of joining the United States in compromise as they return to the negotiating table.

Just as these negotiations offer unlimited opportunities for success, the consequences of failure would be a setback for both countries as well as for the world trading system.

It would call into question the political ability of this hemisphere to resolve problems in a constructive and positive manner. If the two great democracies of North America, who share so much in outlook, culture and heritage, cannot resolve their trade problems in open negotiations, it is difficult to know who can.●

TRIBUTE TO MINNESOTA TWINS

● Mr. DURENBERGER. Mr. President, last night, the Minnesota Twins clinched the American League's Western Division title with a dramatic 5-to-3 win over the Texas Rangers. I want to take this opportunity to extend my personal congratulations to the Twins players, coaching staff, and management for a thrilling season—and offer my confident prediction that the Twins' best play is yet to come—in the American League playoffs and World Series.

As I've traveled the State of Minnesota this summer, I've sensed an enthusiasm in the air about baseball I haven't seen since the last time the Twins won the American League West in 1970. In towns like Albany and Brewster and Elbow Lake, portable radios were brought on every picnic and family outing all summer long. And, legions of young Minnesotans—Minnesotans of all ages, for that matter—got caught up in some old fashioned hero worship—focusing on names like Puckett and Hrbek and Viola and Reardon. For long-time Twins fans, it was hard to avoid recalling an earlier era of Twins hero worship, when the names were Killebrew, Allison, Oliva, and Versailes.

As great as the enthusiasm was around the State—and all across the Upper Midwest—nowhere was fan support for the Twins more evident this year than at home games in the Hubert H. Humphrey Metrodome. More than 2 million fans passed through the Metrodome's gates this year, beating the Twins' previous home game attendance record by more than 400,000. At the final home game on September 27, a single game record of more than 53,000 fans saw the Twins beat the Kansas City Royals to clinch at least a tie for the American League Western Division title. It was the second sell-out in the final homestand against second place Kansas City.

And, the Twins rewarded their loyal hometown fans with the best homefield win-loss record in baseball, an amazing 56 victories against only 25 defeats. "Everything they—the fans—did, they did on their feet," first baseman Kent Hrbek said following Sunday's tie-clincher against Kansas City.

Hrbek, who grew up practically in the shadow of the Twins' former stadium in Bloomington, said fan support was a key factor in getting the team up against the Royals. "When we got on the field," Hrbek told a reporter, "we could just feel the atmosphere."

Twins' first-year manager Tom Kelly is known for his soft-spoken modesty and is quick to shower credit for his teams amazing season on anybody but himself. And, he's right, there are plenty of heroes to point to.

But, Kelly, who is the youngest manager in the major leagues, has to be at the top of the list. He was a clear favorite among the Twins players when selected as Twins manager and deserves a lion's share of credit for the new brand of aggressive ballplaying the Twins started as early as their first games last spring.

Time after time, the Twins' victories were made in small, calculated steps—a single followed by a stolen base or a well-executed sacrifice—getting a player into scoring position where another base hit would bring in a run. It got to be almost expected—the aggressive base running—which turned hits into runs. And it worked. Time after time, the Twins came from behind. And, the fans loved it—and came back, again and again and again—more than 150,000 alone in the final home game series against the Royals.

As much as anything, 1987 will be remembered for the Twins' exciting—often astounding defensive plays. Whether it was Kirby Puckett robbing home runs with a fence-climbing catch in center field—or Greg Gagne or Gary Gaetti robbing an opposing team batter of a sure hit with a backhanded stab and long throw from the left side of the infield—Twins fans were assured of at least one spectacular defensive play in virtually every game.

One of the great things about this year's Twins is that there got to be so many heroes—more than enough to go around. Steve Lombardozzi proved that in the division-clinching game last night. Just the day before—in the game against Kansas City, the Twins second baseman had been on the bench. But, last night, he came through with a game tying three-run homer—the go-ahead RBI—and the final out double play.

That was the story of the Twins' season. The "big bats" like Kirby Puckett, Kent Hrbek, Gary Gaetti, or Tom Brunansky seemed to trade off on being hot and running up streaks. And, if any or all of them slumped, there were a dozen or more heroes-in-waiting—heroes like Lombardozzi last night, or Al Newman, or Greg Gagne, or Tim Laudner, or Dan Gladden.

The Twins' pitching staff deserves its share of credit, as well—with top starters like Frank Viola, Bert Blyleven, and rookie Les Straker; and ace relievers like Jeff Reardon and Juan Berenguer. Joe Niekro got in his share of knuckle-ball strikes and made himself a late night television celebrity in the process, following his suspension over alleged "ball doctoring." The fans loved it all, and carried on with enthusiasm—even vengeance—seldom seen in usually reserved Minnesotans.

Despite the abundance of heroes, the Twins' management wasn't afraid to "sweeten the pot" with bold late-season trades for veterans like Steve Carlton and Don Baylor. From owner Carl Pohlad, to team president Jerry Bell to general manager Andy MacPhail to veteran coaches like Tony Oliva, Rick Rennick, Wayne Terwillinger, and Dick Such, and—again—a top notch manager like Tom Kelly, the Twins were given a clear message. And, that message was to win!

Mr. President, this Minnesota Twins team will go down in history for not only its great play, but for the way it earned the enthusiastic backing of an entire region of the country. That spirit and enthusiasm is captured in the following article by Jeff Brown of the Red Wing Republican Eagle which I would ask be printed in the RECORD.

The article follows:

[From the Red Wing Republican Eagle]

FANS ROCKIN' WITH PENNANT FEVER

(By Jeff Brown)

MINNEAPOLIS.—The Beatles have witnessed it. So has Mick Jagger and the Rolling Stones. After this weekend, so have the Minnesota Twins.

Its called hysteria. And it's thrown thousands into a tizzy that's bound to last for some time. Yes, it's the closest thing to Woodstock that Minneapolis will probably ever see.

Hysteria, Minnesota style, had a record crowd of 52,924 rockin' and rollin' to the tune of the Minnesota Twins Sunday afternoon in the Metrodome. People came from all over to hear the sound of Kir-beeeeee Puckett, not Paul McCartney or even Jagger. Legendary rock stars were not important when sports history was in the making.

RECORD CROWD

Pennant fever has hit the metro streets harder than the first snowfall. More than 2 million people, another record, have made their way through the turnstiles for 81 home games. That's 400,000 more than ever before. After all, the Twins have won just three divisional titles and one pennant in their 26-year history. The pennant happened back in 1965 when many of those cheering were barely alive.

The fever a championship creates causes rational people to scream, jump, hug friends, even strangers—identities are irrelevant.

The fever hit fans even before they entered the Dome on Sunday. People were singing, laughing, joking and enjoying the 80-degree temperature hours before the game. They sat in the grass and listened as megaphone-armed Twins officials told long lines of ticket seekers to remain calm, most would get in.

Once inside the huge bubble fans scurried to concession stands, then to their seats. The Twins would soon appear, ready and willing to make them cheer.

But they refused to wait, giving the team a three-minute standing ovation before one pinstriped uniform hit the field. When Puckett, Brunansky, Hrbek and the gang finally strutted onto the turf, the mild roar turned deafening.

"We were so excited," said Puckett, the Twins All-Star center-fielder. "It's something I'll never forget. It's something I've never seen before."

The Twins instantly added fuel to the fire when they blasted three home runs in a five-run first inning. After that the Kansas City Royals never had a chance—the crowd simply wouldn't let them.

As one fan put it, "I stood up for the introductions and never sat down."

The festive atmosphere created some humorous moments, too. After the Royals' Danny Tartabull hit a fourth-inning home run, fans jeered at one of their own until he tossed the home run ball back onto the field, a la Wrigley Field. That drew a tremendous roar of appreciation.

FANS NOT THROUGH

Two hours and 12 minutes after the first pitch, the game was through—but the fans were not. People continued to cheer as the team returned to the field for an encore.

First it was Puckett, then Gary Gactti that grabbed the microphone and thanked the frenzied fans. Then it was Manager Tom Kelly and Kent Hrbek, the homegrown hero.

They said their job wasn't done with the magic number still at one. Dan Gladden disagreed, at least on this day, as he tossed his glove into the crowd. Hrbek and Tom Brunansky kept their leather, but flung their caps instead.

It was a festive day during this, the final home game of the regular season. But as one sign read, "This isn't the final 1987 home game."

Yes it's quite grand when the Twins can make everyone stand. Now all they need to do is win one of six and they will be every Minnesotan's playoff pick.●

TRIBUTE TO VIRGIL HILL

● Mr. CONRAD. Mr. President, North Dakotans are a tough and proud breed. There is an attitude which sweeps across our plains that if you put your mind to solving a problem, it can be solved. There is a fundamental belief that if you work hard, help out your neighbor and commit yourself to a better community, there is no challenge which can't be overcome.

One simple phrase sums up a way of life; "Yes we can."

Recently, a young North Dakotan symbolized for our Nation the spirit of my State. His name is Virgil Hill and his accomplishment was securing the World Boxing Association's light heavyweight championship.

Nobody thought he could do it, but he did.

Virgil Hill can take real pride in his amazing accomplishment. But rather than grab all the glory for himself, Virgil has credited his State and his heritage as major factors in his success. He has carried our State flag to the Olympic games where he waved it proudly with the Stars and Stripes. He has talked of his accomplishments not just in personal terms, but as recognition to the State that he calls home—North Dakota.

Virgil Hill—Olympic Silver Medal winner in Los Angeles—WBA light heavyweight titleholder with a record of 19 wins, no losses and 12 knockouts—-Virgil Hill who never forgot his roots and the people who helped him earn the title "Champion."

It is little wonder then, Mr. President, that Virgil Hill has now been nominated for North Dakota's most prestigious honor—the Theodore Roosevelt Rough Rider Award. This distinction is reserved for those special North Dakotans who achieve national recognition that reflects "credit and honor" upon our State and our people.

I can't think of a fitting recipient for such a distinction—Virgil Hill, the new generation of the tough and proud.●

INFORMED CONSENT: NEBRASKA

● Mr. HUMPHREY. Mr. President, there is probably no one in this body that has not heard or applied the phrase "you live and learn." Those four words describe much of the human experience; of encountering even tough or tragic situations, and learning from them.

I have received hundreds of letters from women in every State who have learned a very tough lesson—that their abortions had negative effects they were not prepared for. In many cases, they were not informed that the procedure might cause sterility. Others were not warned of the deep depression that could follow. Now they know, the lesson is learned. Unfortunately, this cycle continues. Every day, women still are consenting to abortion without first being told the possible effects.

I urge my colleagues to respond to the lessons already learned, and support my informed consent bills, S. 272. and S. 273. They would simply require medical personnel to fully inform women about abortion prior to the operaton. The evidence suggests such informed consent is both necessary and proper.

I ask unanimous consent that a letter from the State of Nebraska be entered into the RECORD.

The letter follows:

MARCH 16, 1987.

DEAR SENATOR HUMPHREY: Sixteen years ago I had an abortion. It was a very traumatic experience and an experience that it took very long to get over. Today, I consider it one of the most horrible experiences of my life, maybe it is the worst.

My sister and brother-in-law drove me to Kansas City, Kansas to have the abortion. Some nurses (or aides) sat down with each girl and listen to the crying, problems and then gave a brief description of what was going to happen. I remember the actual horror of the event—the doctors and the nurses performing it. Afterwards, we were sent to a large room with beds where we slept for awhile. The clinic was in an old house and people probably wouldn't think of it as an abortion clinic. The room was very cold, impersonal and dreary. It was very depressing and I felt like there was a dark cloud hanging over me. As I look back, it was like I had experienced a death. And, actually, I had experienced a death. I was about 12 weeks along when I had the abortion. Nobody tells you, though, what the after affects will be. I didn't talk about it until about 4 years ago. I hadn't really thought about it, either. I finally opened up and talked to a few pastors, counselors and close friends about it. My parents died 2½ years ago and as I went through the grieving process for the loss of them, I also grieved for the loss of this baby. I went through strong feelings of guilt and depression.

I have finally realized that God has forgiven me and I have forgiven myself. I am able to live and like myself again. It was a very, long hard struggle to finally realize all this.

I would not advise an abortion for any teenager or older woman either. If we can do anything to prevent women from having an abortion and going through all the pain, I'm all for that. And I hope we can help those who have already had abortions. I hope that we can get across to those women that we love them and care about them and the babies and that we want to help them. We need to show them that deep concern that comes from our hearts.

I don't really approve of some of the tactics that some clinics use that we've heard about on the news. We need clinics and counseling that really state our purpose and goal. We don't want to scare or confuse these women. I hope that this is of some help to you.

Sincerely,

MARGIE GOINGS,
Nebraska.●

HEALTH CARE FOR THE ELDERLY

Mr. SASSER. Mr. President, I recently held a series of hearings across the State of Tennessee on the topic of health care for the elderly. The hearings were a part of my continuing efforts to focus attention on this important issue.

These hearings were very educational for me, Mr. President, on several critical points. Perhaps most important was the emphasis placed on the elderly's intense need for long-term care coverage. Many witnesses were pleased that the Congress is finally dealing with the issue of catastrophic health care. But they shared my concern that to truly help those who are suffering from catastrophic illness, any such legislation must include coverage for long-term care. The proposal pending before the Senate does not contain such provisions. Neither does the one that was recently passed in the House. That is a shortcoming we will have to address.

Failure to do so means we will continue to witness personal tragedies such as those I heard throughout these hearings. Witness after witness recounted their shock at discovering Medicare and Medigap policies did not cover all they thought, or in some cases were led to believe they covered. This shortfall in coverage meant many of these senior citizens had exhausted their entire life savings trying to pay for their health care.

Adding to this tragedy, after many seniors found out that they did not have long-term care coverage, they were not able to find insurance that offered such coverage. One witness investigated over 50 different medigap policies but could only find one that had the coverage that he wanted. He was quick to point out that almost every single policy that he looked at claimed to offer the protection he was looking for.

Perhaps the most surprising testimony was that almost none of the seniors' health care payment problems would ever have come into existence if their Medicare coverage had included long-term care coverage. By extending Medicare to include long-term care coverage, we could eliminate almost all of the problems that our senior citizens have in obtaining health insurance.

These hearings also explored why it is so difficult for seniors to obtain long-term care insurance in the private sector. I heard from insurance experts that they had never heard of an insurance policy that covered comprehensive long-term care. Others testified that they had heard of policies that claimed to offer such coverage, but that they were skeptical as to the validity of this claim.

All the insurance experts who testified at these hearings agreed on one thing, Mr. President. They all agreed that senior citizens' problems of financial and emotional strain due to health care worries would be virtually eliminated if Medicare were adapted to include long-term care.

The committee also heard from a series of medical experts in the field of geriatrics. These witnesses clearly distinguished between treating elderly patients and treating acute care patients. They were very supportive of efforts to promote geriatric training such as I have proposed in my bill, S. 1112, to establish centers of excellence for geriatric research and training.

I was struck that these experts in treating the elderly all agreed that offering the elderly access to long-term care coverage was the most important thing we could do for our seniors. They testified that by offering long-term care, we could make Medicare a program focused for the elderly as it was intended to be.

Mr. President, we must change Medicare to make it a more efficient program. And that means addressing the problem of long-term care. Presently, Medicare covers less than 2 percent of our Nation's nursing home costs. Medicare does little for home, nursing home, and respite care. Clearly, we must move to address these critical shortcomings.

That was the message I heard throughout this series of hearings. Long-term care for the Nation's elderly is a problem we must address. Seniors need this coverage, they want this coverage, and it is our responsibility to provide it for them.

COOPER HOSPITAL TREATS AFGHAN FREEDOM-FIGHTER

● Mr. LAUTENBERG. Mr. President, next week, a courageous man from the resistance forces in Afghanistan will leave Cooper Hospital in Camden, NJ. His name is Abdul, and he was treated at Cooper Hospital for a severe gunshot injury he received 4 years ago while fighting valiantly against Soviet troops in Afghanistan.

Like so many brave men in Afghanistan fighting for the freedom of their country, Abdul's story is heart-wrenching. During a fight with the Communist forces in the mountains of Afghanistan, Abdul received a gunshot wound in his left thigh. An Afghan doctor tried to fix Abdul's wound, but was unsuccessful. To receive additional treatment for his leg, Abdul trekked on horseback to neighboring Pakistan—a journey that took longer than 1 month. Despite the tireless attempts of physicians in Pakistan, all attempts to successfully treat Abdul's war injury failed. Having sustained this war injury for some 4 years, Abdul's fractured leg was shortened and twisted because for so long it was unproperly treated.

But, thanks to the generosity of Cooper Hospital in Camden, NJ, Abdul at long last received the quality medical treatment his injured leg required. The hospital recognized the pain and anguish Abdul suffered from his war injury, and they offered to help. At my request, Cooper Hospital graciously offered to provide Abdul with long-awaited medical care, including surgery and followup care. Even more, Cooper Hospital offered to provide these services which Abdul so desperately needed free of charge.

Abdul has been under the care of physicians at Cooper Hospital since May. With three operations and the hospital's excellent care, Abdul's health has progressed rapidly. Now, he has fully recovered and is ready to rejoin his family in Afghanistan.

Providing this treatment for Abdul was a great humanitarian gesture for Cooper Hospital to make. It was a gesture that Abdul anxiously awaited for a long time. And it is one that at long last succeeded in restoring movement to Abdul's leg.

Plaza Medical, a long-term care facility which is located near Cooper Hospital, also offered its services to Abdul. They agreed to house Abdul once he was discharged from Cooper. Their generosity helped facilitate Abdul's speedy recovery, making it relatively easy for Abdul to get to Cooper Hospital for physical therapy and other necessary treatment.

Mr. President, I asked Cooper Hospital to provide medical services for war injured Afghans such as Abdul by encouraging the hospital to participate in an Afghan relief program organized by the Intergovernmental Committee for Migration. This organization, established in 1952 to ease the refugee problem in Eastern Europe after the war, has arranged treatment for a number of injured Afghans in dire need of medical treatment that is not available in Pakistan. With the cooperation of hospitals like Cooper Hospital, the Intergovernmental Committee for Migration has succeeded in arranging treatment for hundreds of wounded Afghans worldwide. Fortunately, Abdul is among those numbers.

I commend Cooper Hospital for so swiftly working to ensure that Abdul's leg would be properly treated. Shortly after I contacted the hospital, they reviewed the medical histories of some 100 Afghan patients carefully selected for the program by a team of Afghan, Pakistani, and American doctors. The hospital selected Abdul, basing their decision on the hospital's facilities and the nature of his wound.

Six individuals at Cooper Area Hospital were particularly instrumental in arranging Abdul's treatment. I appreciate the tireless efforts of Kevin G. Halpern, president and chief executive officer; Dr. William G. De Long, head orthopedic surgery; Susan B. Rintel, administrator, medical affairs; Margaret M. Leone, director, public relations; Cynthia Thomas, R.N., nurse manager; and Annette De Fel, patient representative. These individuals were responsible for providing Abdul with quality medical care. I am honored to work with such dedicated individuals, and am glad that they welcomed Abdul to New Jersey so enthusiastically. I know that Abdul is glad, too.

Mr. President, life has been a nightmare in Afghanistan since the Soviet Union invaded that country in 1979. Some 1½ million Afghan lives have been lost since the beginning of the Soviet intervention, and another 4½ million Afghan refugees have fled to Pakistan and Iran. Those courageous individuals who remain suffer intolerable hardships—courageous individuals like Abdul.

The Soviet occupation has shattered Abdul's life. His country has been bombarded and destroyed. His brother, cousin, and nephew have died at the hands of Soviet troops. His wife and seven children live in constant fear for their lives. And so Abdul will continue to fight with the Afghan resistance forces. For freedom. For dignity. And for self-determination.

By reaching out to Abdul, Cooper Hospital has demonstrated that they care about the plight of Abdul, and of all Afghans fighting for freedom in their war-torn country. It demonstrates that they share his dream of freedom for Afghanistan. I hope that dream will soon be realized.●

DATE FOR SUBMITTING RECOMMENDATIONS TO THE SENATE COMMITTEE ON THE BUDGET

Mr. BYRD. Mr. President, I ask unanimous consent that the date for submitting recommendations to the Senate Committee on the Budget in accordance with the reconciliation instructions included in the concurrent resolution on the budget, House Concurrent Resolution 93, be changed to close of business October 19.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRODUCTION OF RECORDS BY SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, on behalf of myself and Mr. DOLE, I send to the desk a simple resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 292) to authorize production of records by the Senate Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, in 1981 the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs conducted an investigation and held hearings on the influence of organized crime on the International Longshoremen's Association. The Department of Justice has now asked the subcommittee for access to materials obtained by the subcommittee during its investigation. Senators NUNN and ROTH, the chairman and ranking minority member of the subcommittee, would like to be able to respond to authorized requests for pertinent subcommittee records.

This resolution would authorize the chairman and ranking minority member, acting jointly, to provide the requested records.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 292

Whereas, in 1981 the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs investigated and held hearings on the influence of organized crime on the International Longshoremen's Association;

Whereas, the Department of Justice has requested access to certain materials in the Subcommittee's files from the investigation for use in a current criminal investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate are needful for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges and rights of the Senate: Now therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Permanent Subcommittee on Investigations, acting jointly, are authorized to provide to the Department of Justice records of the Subcommittee relating to its investigation of the influence of organized crime on the International Longshoremen's Association.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. BYRD. Mr. President, the Senate will come in tomorrow at 8 a.m. Following the Chaplain's prayer Mr. CRANSTON will be recognized for not to exceed 15 minutes; after which the distinguished Senator from Vermont, Mr. LEAHY, will be recognized for not to exceed 30 minutes; after which the two leaders will be recognized under the standing order for not to exceed 5 minutes each; after which there will be a brief period for morning business between that point and 9 o'clock, and Senators will be permitted to speak therein for not to exceed 1 minute each.

At the hour of 9 a.m., Mr. President, I ask unanimous concent that the Senate resume consideration of the Interior appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask that no further debate be in order on the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR STEVENS ON TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that at 9 o'clock tomorrow, Mr. STEVENS be recognized for not to exceed 10 minutes to speak on the Interior appropriation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR VOTE ON INTERIOR APPROPRIATION BILL

Mr. BYRD. Mr. President, I ask unanimous consent that at the expiration of the 10 minutes allocated to Mr. STEVENS, the Senate proceed to vote on the final passage of the Interior appropriation bill, without further debate, motion, point of order, or any other action, and that no quorum call be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That will be a 30-minute rollcall vote and Senators have been alerted to the fact that the call for the regular order these days is being made and that they have 30 minutes on the first rollcall vote in which to answer.

Mr. President, following that, the Senate will resume consideration of the Department of Defense authorization bill, and I would anticipate rollcall votes throughout the day tomorrow.

It is my intention, if possible, at some point tomorrow to call up any other appropriation bill that we might be able to get an agreement on and/or the Verity nomination, if we can get an agreement on it. Otherwise, the Senate will proceed with the DOD appropriation bill and amendments thereto. The pending amendment on that bill is the Byrd, et al., amendment to the Weicker-Hatfield amendment.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished acting Republican leader have any further statement or business he wishes to transact?

Mr. McCLURE. Mr. President, I think the arrangement that has been made with respect to the Interior bill and the other announcement of the program is perfectly satisfactory at this time, and I have no objection.

Mr. BYRD. I thank my friend, the distinguished ranking member of the Appropriations Subcommittee on the Department of the Interior.

Mr. President, I thank the Chair for his patience, cooperation, diligence, and dedication, and for the degree of efficiency, expertise, and immaculate equanimity with which he has presided over the Senate. It is so rare as a day in June.

RECESS UNTIL 8 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8 o'clock tomorrow morning.

The motion was agreed to and at 10:41 p.m., the Senate recessed until tomorrow, Wednesday, September 30, 1987, at 8 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 29, 1987:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTION 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be major general

BRIG. GEN. WAYNE B. ADAMS, JR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. JACOB J. BRAIG, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. DRENNAN A. CLARK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. ROBERT E. HARRIS, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. ERNEST C. PARK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

BRIG. GEN. THOMAS P. WEBB, III, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

To be brigadier general

COL. DONALD E. BARNHART, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. DONALD F. FERRELL, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN R. HAACK, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. JOHN M. HAFEN, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. FRANCIS D. ROGERS, JR., [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. KENNETH G. STASIEWICZ, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. WILBERT T. STEWART, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. THEODORE R. VERDI, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

COL. RAYMOND D. WEBER, [redacted]FG, AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH HIS ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY, DESIGNATED AS SUCH BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. CHARLES W. BROWN, [redacted] U.S. ARMY.

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT AS DEPUTY DIRECTOR, ARMY NATIONAL GUARD UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), AND 3371:

To be brigadier general

COL. WILLIAM A. NAVAS, JR., [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HAROLD M. DAVIS, JR., [redacted] U.S. ARMY.

THE U.S. ARMY RESERVE OFFICER NAMED HEREIN FOR PROMOTION AS A RESERVE COMMISSIONED OFFICER OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 3371 AND 3380:

To be brigadier general

COL. JOHN RONALD CAREY, [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JAMES E. THOMPSON, [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. JOHN A. BALDWIN, JR., [redacted]/1110, U.S. NAVY.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. FRED HISSONG, JR., [redacted] U.S. ARMY.

THE U.S. ARMY NATIONAL GUARD OFFICERS NAMED HEREIN FOR APPOINTMENT IN THE GRADES INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3371 AND 3384:

To be major general

BRIG. GEN. RICHARD L. CHASTAIN, [redacted]

BRIG. GEN. PAUL G. COLLINS, [redacted]

BRIG. GEN. DON O. DANIEL, [redacted]

BRIG. GEN. ARTHUR V. EPISCOPO, [redacted]

BRIG. GEN. CHESTER E. GORSKI, [redacted]

BRIG. GEN. GERALD T. SAJER, [redacted]

BRIG. GEN. IVAN F. SMITH, [redacted]

To be brigadier general

COL. BELA J. CHAIN, JR., [redacted]

COL. JOHN R. D'ARAUJO, [redacted]

COL. ROBERT C. WATLING, [redacted]

COL. EUGENE M. BASS, [redacted]

COL. EDWARD L. GILL, [redacted]

COL. DANIEL J. HERNANDEZ, [redacted]

COL. DAVID A. HEUER, [redacted]

COL. FRANCIS A. HUGHES, [redacted]

COL. WILLIAM D. JONES, [redacted]

COL. JOHN H. MCDONALD, [redacted]

COL. DANIEL J. O'NEILL, [redacted]

COL. CHARLES H. PERENICK, [redacted]

COL. REYNALDO SANCHEZ, [redacted]

COL. CLARENCE R. SECRIST, [redacted]

COL. JAMES R. WILLIAMS, [redacted]

COL. DANIEL L. BRENNAN, [redacted]

COL. JAMES G. MARTIN, [redacted]

COL. BILLY L. SMOUT, [redacted]

COL. NED L. TURNIPSEED, [redacted]

COL. ROBERT W. WILSON, [redacted]

COL. JAMES C. BOLL, [redacted]

COL. JOSE A. BUITRAGO, [redacted]

COL. JACK C. CLARK, [redacted]

COL. ECHOL E. COOK, [redacted]

COL. DONALD E. HOWARD, [redacted]

COL. PETER D. TOSI, JR., [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 6322:

LT. GEN. CLYDE D. DEAN, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. D'WAYNE GRAY, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LOUIS H. BUEHL III, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

WILLIAM G. CARSON, JR., [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

ERNEST T. COOK, JR., [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

EDWIN J. GODFREY, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

JOHN I. HUDSON, [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

ERNEST C. CHEATHAM, JR., [redacted] U.S. MARINE CORPS.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE OF LIEUTENANT GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

JOHN PHILLIPS, [redacted] U.S. MARINE CORPS.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. ALBERT J. HERBERGER, [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. JAMES A. LYONS, JR., [redacted]/1110 U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be admiral

VICE ADM. DAVID E. JEREMIAH, [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5141, TO BE CHIEF OF NAVAL PERSONNEL, AND TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. LEON A. EDNEY, [redacted]/1310, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. DUDLEY L. CARLSON, [redacted]/1110, U.S. NAVY.

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5021, TO BE CHIEF OF NAVAL RESEARCH FOR A TERM OF 3 YEARS.

REAR ADM. JOHN R. WILSON, JR. [redacted]/1230, U.S. NAVY.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING BRENT J. ADAMS, AND ENDING DAVID H. ZUVERINK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 26, 1987.

AIR FORCE NOMINATIONS BEGINNING MAJ. JEROME T. BELLEN, [redacted] AND ENDING MAJ. DONALD G. SMITH, JR., [redacted], WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JULY 13, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 14, 1987.

AIR FORCE NOMINATIONS BEGINNING HENRY P. FOWLER, JR., AND ENDING DAVID R. FRANCIS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

AIR FORCE NOMINATIONS BEGINNING MAJ. GERARD A. BRANGENBERG, [redacted] AND ENDING MAJ. ARNOLD E. SIRK, [redacted], WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

AIR FORCE NOMINATION OF DAVID R. FRANCIS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

AIR FORCE NOMINATIONS BEGINNING JOSEPH A. ABBOTT, AND ENDING LIANNE M. WULFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

AIR FORCE NOMINATIONS BEGINNING CHARLES H. MILLER, AND ENDING HANS J. MUEH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING HELEN L. CAPRON, AND ENDING GARY J. TURNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATION OF ROBERT W. RITTER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING RONALD V. DORST, AND ENDING GLEN M. BYERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING MAJ. LYLE E. ALLEN, [redacted] AND ENDING MAJ. DAVID G. SCHALL, [redacted] WHICH NOMINATIONS WERE RE-

CEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING BOBBY J. ABERNATHY, AND ENDING LARRY A. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING RICHARD J. ACOSTA, AND ENDING BRIAN P. ZUROVETZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

AIR FORCE NOMINATIONS BEGINNING JAMES G. GRIZZARD, AND ENDING ANTHONY O. PATINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 11, 1987.

IN THE ARMY

ARMY NOMINATION OF SHIRLEY O. FORD, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1987.

ARMY NOMINATIONS BEGINNING PETER R. LEVINE, AND ENDING ROBERT D. WEIR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1987.

ARMY NOMINATION OF GARY D. BARNES, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1987.

ARMY NOMINATIONS BEGINNING JOHN J. BOMBARD, AND ENDING DAVID E. RETHERFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 23, 1987.

ARMY NOMINATION OF CHARLES J. LOCKWOOD, JR., WHICH WAS RECEIVED BY THE SENATE ON JULY 6, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 7 1987.

ARMY NOMINATIONS BEGINNING WILLIAM D. ANDERSON, AND ENDING LLOYD A. WALWYN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JULY 13, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 14, 1987.

ARMY NOMINATIONS BEGINNING COL. DENNIS R. HUNT, AND ENDING COL. JAMES H. RAMSDEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

ARMY NOMINATIONS BEGINNING JOHN T. BARBER, AND ENDING RICHARD A. REID, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

ARMY NOMINATIONS BEGINNING ALFRED E. CHILDRES, AND ENDING ROBERT E. GOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

ARMY NOMINATIONS BEGINNING JAMES R. BAKER, AND ENDING CHARLES R. THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

IN THE FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING RICHARD BENSON, AND ENDING ROBERT J. WICKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JULY 27, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 28, 1987.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF PAUL E. BACKS, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 15, 1987.

MARINE CORPS NOMINATIONS BEGINNING CURTIS R. ADAIR, AND ENDING RICHARD G. YAKUBOWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

IN THE NAVY

NAVY NOMINATIONS BEGINNING GERMAN S. ARCIBAL, AND ENDING MARCIA L. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 26, 1987.

NAVY NOMINATION OF WILLIAM BROWN DEAL, WHICH WAS RECEIVED BY THE SENATE ON JULY 13, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 14, 1987.

NAVY NOMINATION OF DONALD PATRICK GREENE, WHICH WAS RECEIVED BY THE SENATE ON JULY 13, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 14, 1987.

NAVY NOMINATIONS BEGINNING RONALD LEE AASLAND, AND ENDING WILLIAM JOHN ZUCHERO, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JULY 13, 1987, AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 14, 1987.

NAVY NOMINATIONS BEGINNING BRIAN K. BRITTON, AND ENDING DAVID B. WEIDING, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

NAVY NOMINATIONS BEGINNING ROBERT HAROLD ABRAMS, AND ENDING ERNESTO FELIX PANADO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JULY 31, 1987.

NAVY NOMINATIONS BEGINNING JAMES LLOYD ABBOT III, AND ENDING PAUL D. WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF AUGUST 6, 1987.

NAVY NOMINATIONS BEGINNING GERALD R. CHANDLER, AND ENDING ROBERT H. MCARTHUR, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

NAVY NOMINATIONS BEGINNING EDWARD C. EBERSOLE, AND ENDING KENNETH L. SISCO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 9, 1987.

EXTENSIONS OF REMARKS

NEED FOR A DOLLAR COIN

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. UDALL. Mr. Speaker, there is ample evidence suggesting a need for a new dollar coin. Merchants, vending machine manufacturers, and metropolitan transit authorities have long known that inflation and consumer habits render the dollar bill outdated.

A dollar just doesn't buy what it used to. The Sunday edition of most major newspapers costs a dollar. A pound of butter or a half gallon of milk both costs more than a dollar. In fact it seems you can't buy much for under a dollar anymore. Yet we continue to use bills for what really ought to be a coin denomination.

Dollar bills cost more. The average life of a dollar bill is 18 months. Coins, on the other hand, last 20 years. It is estimated that switching to a dollar coin could save the Treasury over $50 million a year. Add to that the savings to vending machine manufacturers and metropolitan transit authority of not having to outfit machines to accept bills and the savings to American consumers is really quite substantial.

The United States is lagging behind the major industrialized nations in minting a dollar coin. Japan, Australia, Great Britain, and many other countries have switched to coins for the equivalent of our dollar bills. The Canadians' new dollar coin has been met with enthusiasm there.

We have known for some time that the dollar bill was outmoded. In 1979 we knew we needed a dollar coin. Unfortunately, we made one that was so similar to the quarter that the public rejected it. It was more enthusiastic about a new dollar coin when I took a look at the new Canadian dollar. The difference in color and the slightly different shape clearly distinguishes the Canadian dollar from any United States coins. I think with a similar color and design we will find widespread acceptance of a new dollar coin.

Representative JIM KOLBE and I have introduced legislation today to authorize the minting of a new dollar coin. This legislation deserves the support and attention of every Member of Congress. I would like to bring to the attention of my colleagues a recent Washington Post feature by Mr. James Benfield of the Coin Coalition outlining the many reasons why we need the Columbus dollar.

The United States currency system, fundamentally unaltered during this century, is in desperate need of change—specifically, a dollar coin.

The institution of a modern $1 coin would not only reduce government spending, eliminate the need for costly fare-box conversions, help hold down the cost of vending-machine products and aid the visually handicapped, but would remove various hidden costs of the outmoded dollar bill.

It would also be a sensible acknowledgment of inflation. In the past 30 years, the Consumer Price Index has risen from 84.3 to 338.7, a four-fold increase. Today's dollar is the quarter of the 1950s. In the Eisenhower years, a buck would buy hamburgers, french fries and soft drinks for two at McDonald's or Cokes for an entire baseball team. Today, it is no longer the threshold of a moderate purchase.

Moreover, a dollar coin would remove numerous inconveniences from modern life. With paper bills, we cannot make a long-distance call on a pay phone, buy a Sunday paper from a street box, drive through a toll booth or use a long-term parking meter. We wait in lines as Metro's farecard machines reject, then (perhaps) slowly accept bills. And the list of annoyances goes on.

THE HIGH COST OF MONEY

The American taxpayer would save over $50 million annually if a coin replaced the dollar bill, according to a 1979 Federal Reserve estimate. The reason: Coins last approximately 20 years; dollar bills only 18 months on average. The cost of handling worn-out bills runs to $16 million a year. And although coins wear 13 times longer, they have only a slightly higher initial material and minting cost—three cents apiece versus 2.6 cents for a bill.

These life-cycle savings would increase dramatically as the population and economy expand and more dollars are needed. From 1976 to 1986, for example, the number of dollar bills printed annually increased from 1.4 billion to 3.1 billion. In 1986, $1 bills accounted for 47.5 percent of all bills printed; some 3.8 billion are currently in circulation.

Based on Treasury estimates, the Fed would have to pay a total of $1.3 billion (in 1987 dollars) over the next 20 years to purchase and replace those 3.8 billion bills every 18 months—not counting internal handling costs. But the Mint would have to spend only $114 million for the same $3.8 billion in the form of coins. The Treasury Department is currently refining these figures.

But those are only the obvious savings. The technology required to deal with paper $1 bills is expensive, and those costs eventually are passed along to consumers in the form of higher prices. Conversely, eliminating the need for that machinery would hold prices down. Bill changers cost about $2,400 each, according to the National Automatic Merchandising Association. These costs are being passed on to buyers. So the costs of retrofitting 700,000 cigarette, windowfront and food machines with bill acceptors at about $400 per machine; an additional 1.2 million remain to be adapted. Most of the 1.8 million soft-drink machines cannot handle bills, although all the new ones are being made with the capability of accepting a dollar coin.

Alternatives to bill-acceptors would prove equally expensive. The vending industry already has plans for a system of magnetically coded "debit" cards which would function like Metro subway farecards: The consumer would buy a card for a certain face amount, and each purchase would subtract an increment. The installation cost is estimated at a minimum of $750 per machine. As is the case with subway tokens and travelers' checks, the seller of debit cards would have the use of the cash for goods and services not yet consumed; and of course the cost of machine changes would eventually be borne by the customer.

In addition, without prompt currency reform many more mass-transit authorities will be forced to follow the example of the Cleveland, Washington and Chicago systems, which recently spent $5 million, $8.7 million and $15 million respectively to refit buses with new fare machines to accept dollar bills. Yet Metro's old fare boxes would have accepted a dollar coin.

The New York City bus system has an easy solution to the paper-dollar problem: It doesn't accept them. No token or change, no ride—in spite of the phrase "legal tender for all debts" printed on all U.S. bills. A dollar coin would, however, negate the need for tokens, which are now used for about 37 percent of New York's bus fares.

The RP Foundation Fighting Blindness is concerned about its members' ability to differentiate among various currency denominations. If there were no dollar bills in circulation, small purchases by the visually impaired could be made without fear of accidental spending a large bill or of being cheated when receiving change. Many blind persons have devised their own system for telling paper bills apart: For example, folding fives in half, tens length-wise, twenties quartered and singles unfolded. Technology offers another solution: a six-pound talking paper-money identifier for $625.

CONFUSION AT THE EDGE

The last time a $1 coin was introduced—the Susan B. Anthony dollar in 1979—it was firmly rejected by the public. The U.S. government never formally studied the failure of the "Suzie," but the most serious problem seems to have been that it was easily confused with the quarter. Additionally, retailers didn't want to count and store both paper and metal dollars. The Treasury Department also conceded in a January 1987 study that the rejection was "due at least in part to the continued production of the dollar bill after the coin—the Susan B. Anthony dollar—had been released."

When people confused the Anthony dollar and the quarter, it was not because the two coins have similar diameters, but because both share an identical silver color and both have "reeding" (small ribs on the edges). The public has no problem differentiating dimes from pennies (which are very close in size, but different in color) or quarters from nickels, which have the same relative sizes as the quarter and the Anthony dollar. The key element for fingers in discerning coin differences is the contrast between smooth and reeded edges.

If a new $1 coin is designed, the Anthony dollar's dimensions should be retained, but it should be made without reeding and the color should be gold.

Several Western countries studied the U.S. experience with the Anthony dollar.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Recognizing the problems of a paper-based currency system, they have introduced high-denomination coins, and in every case have removed or phased out the bill of the same demonination: 1982, the 500-yen in Japan; 1983, the 1-pound in England and the 10-kroner in Norway; 1984, the dollar in Australia. Two weeks ago, Canada joined the reformers when it premiered its new $1 coin; its dollar bill is also on the way out.

Canada's new coin is the same diameter as the Anthony dollar, but offers two distinctive differences. The color is bronze-like and the edge is 11-sided without reeding (thus answering blind persons' chief objection to the Suzie—that it was hard to tell from a quarter).

Because the Canadian dollar retains the same dimensions as the Anthony dollar, U.S. vending-machine manufacturers, which export 90 percent of the machines used in Canada, will be able to employ existing coin-validators designed to accommodate the Suzie. By doing so, Canada also saved the expense of having to inventory and measure coins from every country in the world: The United States had already performed that task in designing the Anthony dollar, to ensure that no foreign coin of inferior value would accidentally prove to be interchangeable with the Suzie. If the United States were to change the dimensions of a new $1 coin, it would require a new measurement inventory, entailing further delay. And millions of coin-operated machines would have to be refitted.

U.S. designers had rejected a multi-side, flat-edged coin for the Suzie because validators in coin-operated machines require a coin that rolls down a chute; a coin with flat sides might slide or bounce. So the Anthony dollar was made round. But along the inside perimeter, an 11-sided figure was stamped in relief to aid in differentiation. The Canadian Mint made its dollar coin 11-sided, and solved the "bounce" problem by making each side an arc instead of a straight edge.

HOW MONEY MAKES MONEY

Having been burned by the rejection of the Suzie, the Treasury Department is reluctant to take the lead in reintroducing a dollar coin. There are still half a billion of the original 800 million Anthony dollars sitting unused in the vaults of three U.S. Mints and 37 Federal Reserve branches across the country. The accounting system used in creating money has posed barriers to destroying these coins. Here's why:

To mint a dollar, one cent's worth of metal strip is purchased through the Mint's Coinage Metal Fund from private metal fabricators. (Congress appropriates two cents to the Mint for manufacturing costs.) The Mint then produces a coin worth—*Presto*—$1. This dollar is recorded in the Coinage Profit Fund, which then replenishes the Metal Fund for one cent. The remaining 99-cent profit (called seigniorage) is swept daily from the Profit Fund into the Treasury's general fund.

If those coins were melted down, the process would have to be reversed—instantly adding nearly one-half billion dollars to the nation's deficit. But minting a new $1 coin would offer a solution as the new coins could be "traded" for the old coins without taking the seigniorage on the first 500 million minted. The old Anthony dollars could then be melted down.

For reasons of cost, efficiency and convenience, a diverse group of interests including the coin-operated-machine industry, metal producers and fabricators, convenience stores and the visually handicapped have joined to form the Coin Coalition. The group is calling for modernization of the U.S. currency system through the issuance of a well-designed dollar coin and a phased removal of the $1 bill.

Critics may well object that the elimination of dollar bills would add too much weight to the American pocket. (That was a serious problem in an earlier failed experiment, the Eisenhower dollar minted from 1971 to 1976. The coin was popular only in the West and in casinos, which made their own cartwheel-sized tokens when they found they needed more.) But for those who prefer paper, there is always the $2 bill, which is very popular in Canada and Australia.

Some people fear that a dollar coin would make it easier for vendors to charge a buck for a Coke and for transit authorities to raise their fares to a $1. But the cost of materials, labor and capital remains the driving force of inflation, not the form of our currency. A coin at the dollar threshold will no more cause inflation than its absence will prevent it. There was no dollar window on gas pumps in 1973—but did that keep gasoline prices under a dollar after the Arab oil embargo?

Although there is no organized opposition to currency reform, there is substantial public inertia. Just as with Uniform Product Codes and the recent extension of Daylight Saving Time, a major educational campaign is required to demonstrate that currency reform will help fight inflation and reduce government spending.

In successive steps, the United States has gone off the gold standard, removed silver from its coins and ceased to honor silver certificates. Controversy accompanied each change because an article of faith—faith being the basis of all money—had been altered.

Money is, after all, whatever a society agrees on—shells, beads, metal or a bank's computer printout. As Drake University economics professor Dwight Saunders used to tell his students, "Remember, we're only talking about ceremonially blessed dirty rags and mud pies."

THE CASE OF NAVIGATOR SOKURENKO

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. HOYER. Mr. Speaker, as Chairman of the Commission on Security and Cooperation in Europe, I have on numerous occasions criticized the Soviet Union for violations of the Helsinki accords. Nevertheless, recent statements and, more importantly, tentative measures by Soviet authorities in the area of cultural and political rights could lay the groundwork for significant compliance with the provisions of the Helsinki accords.

One important area that I have in mind is that of psychiatric abuse of political dissenters. I was heartened to see that even the official Soviet press has begun to criticize psychiatric confinement for persons who complain to authorities too frequently. Several psychiatrists who have abused their authority have been removed from their posts. While there are still around 100 known psychiatric abuse victims being held against their will in various facilities, a few of these have been released in the last few months. Recently, Egor Volkov, the oldest known victim of psychiatric abuse, was transferred from a special psychiatric hospital operated by the Ministry of Internal Affairs to an ordinary facility under jurisdiction of the Ministry of Health. Hopefully, this is in anticipation of his release. We have also learned that the special psychiatric hospitals are being turned over to the authority of the Ministry of Health.

In view of this relatively good news, the Commission is troubled by the case of a former Aeroflot navigator, Anatoly Sokurenko, a Ukrainian resident of Riga, Latvia. Mr. Sokurenko flew with Aeroflot for 9 years; every year he was required to take a strict physical and mental examination to continue his employment with the Soviet National Airline. There was never the slightest doubt about his mental health until March of last year when Mr. Sokurenko was arrested for openly discussing foreign radio broadcasts and for criticizing Soviet foreign policy. In July 1986, he was sent to the infamous Serbsky Institute of Forensic Pathology in Moscow, where the doctors diagnosed him as mentally ill. On the basis of this diagnosis, Mr. Sokurenko was remanded to the psychiatric section of the Riga Central Prison, where he stayed from September until December 1986. During this time he was subjected to forced injections of drugs that caused him to go into convulsions, which moved his doctors not to compassion, but to laughter.

In December 1986, Mr. Sokurenko was transferred to the Ordinary Psychiatric Hospital in Riga where he was held until May 1987. Although presently at liberty, he is still on the notorious psychiatric register. He must report monthly to a local psychiatric dispensary to demonstrate that he is healthy. He may, at any time, be sent back to a hospital against his will. He now believes that he has no future in the Soviet Union and wishes to emigrate to the West.

While this was happening to Anatoly Sokureno, in November 1986 his parents were seriously injured in a hit-and-run auto accident on the streets of Riga. The driver of the auto in question was released on bail and no further action has been taken. His mother is still being harassed by anonymous telephone calls in the middle of the night.

Mr. Speaker, the case of Anatoly Sokurenko is symbolic of the sort of cynical disrespect for legality that has contributed to a crisis of confidence in the Soviet system. We read in the Soviet press that there are individuals such as lawyers, intellectucals, journalists, and Government officials who are trying to combat such cases. We hope that this is the case. The Commission also urges that the Soviet Government to allow Mr. Sokurenko to emigrate and start a new life in the West, as he so fervently desires.

SUPPORT FOR THE FAMILY UNIFICATION ACTS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. COLEMAN of Texas. Mr. Speaker, today I would like to introduce a briefing paper submitted by a number of my constituents that was prepared by the Immigration Task Force of the League of United Latin American Citizens regarding the legalization Family Unification Acts of 1987.

When Congress enacted the Immigration Reform and Control Act of 1986, a serious flaw was included in the law that was ignored in the consideration of the bill and has not been corrected. Under current law, the Immigration and Naturalization Service can deport the spouse and children of aliens who apply for legalization if they personally have not been in the United States since January 1, 1982. The resulting effect of this provision is to encourage family separation and to discourage undocumented aliens who are eligible for legalization to come forward, which I am sure was not the intent of my colleagues when they passed the immigration reform measure.

This is why I am pleased to be a cosponsor of the measures introduced by Congressman EDWARD ROYBAL, H.R. 1812 and H.R. 1813, the Family Unification Acts, which would waive the continuous residence requirement for the spouse and children of a qualified applicant for legalization. If the purpose of the legalization provisions in IRCA is to be served, we must rectify this situation. I would urge my colleagues to support the Family Unification Acts.

SUPPORT FOR THE FAMILY UNIFICATION ACTS

A state-wide coalition of Hispanic, religious and labor organizations is seeking passage of the Legalization Family Unification Acts. The bills, introduced by Congressman Roybal and co-sponsored by 5 Texas Congressman (Coleman, Leland, Frost, Bustamente and Ortiz) seek to amend the newly enacted amnesty law which grants temporary residence to only those individuals who have continuously resided in the U.S. prior to 1982. The new law fails to provide "derivative status" to the spouse and children of aliens who qualify for legalization. Wives who joined their husbands after 1982 are ineligible for amnesty. Children reunited with their parents, or born outside of the U.S. after 1982, also do not qualify. Parents of U.S. citizen children born in the United States between 1982 and November 6, 1986 cannot qualify. In short, the new legalization program breaks up families.

The campaign is an attempt to voice the Hispanic community's widespread support for the Roybal bills for essentially three reasons: (1) it is morally correct to keep families together; (2) it is consistent with our stated national policy of family reunification; (3) it is undermining the success of the current legalization program.

Proponents of the bill are dumbfounded that a self-declared pro-family administration has failed to support or draw attention to the plight of families torn apart by the legalization program. Moreover, our oft cited Judeo-Christian tradition of wholesome family life and integrity has been all but abandoned by the administration as well as by Congress. In fact, the Los Angeles Times editorial board recently noted that Rep. Peter J. Rodino (D.N.J.), one of the principal authors of the law, was one "who used to take great pride in his reputation as an advocate for making family reunification one of the main tenets of the U.S. immigration law." The Times then challenged Rodino "to take the lead in amending the new law." Similiarly, the League of United Latin American Citizens (LULAC) at its recent national convention denounced the impact of the new immigration legislation as resulting in "the systematic destruction" of the Hispanic family unit.

Supporters of the Roybal measures further argue that failure to grant legal status to the family members of the newly legalized aliens is inconsistent with our stated national policy of family reunification. However, upon closer review it appears that our national policy is characterized more by the division of families rather than by its reunification. As recent as 1977, Congress enacted a law denying the right of U.S. citizen children to petition for the admission of their alien parents as residents until they become 2 years of age. This law has been and is responsible for much of the dislocation of families in our community. In order to move beyond the facade of humanitarianism and the rhetoric of the family unit, it is imperative that Congress not only enact the Legalization Family unification Acts but also repeal the aforementioned current law which denies U.S. citizen chidren the right to live with their parents in the U.S. The family unit should not be reduced to either an anomaly or to an exception. Instead, it should be endorsed as the central moral and philosophical feature of our current immigration policy and law.

The failure to grant derivative status to the spouses, children and parents of aliens eligible for legalization has also been listed as one of the main reasons why the legalization program has gotten off to a slow start. Many immigrants eligible for amnesty are holding back in order to anticipate the effects of the new law upon their friends and relatives who have come out of hiding. If they find that families are being torn apart, many will not come forward. But it would be a mistake to view the failure to grant legal status to family members of eligible amnesty applicants as mere oversight. Rather it is part and parcel of the contradictory and inflammatory framework in which Simpson-Rodino was enacted that precludes a successful legalization program.

The sending of mixed signals by legalizing some family members and exposing others to deportation, as well as the simultaneous enforcement of employer sanctions and amnesty, is having a chilling effect upon those eligible for legalization. But even assuming that all family members of those qualified amnesty applicants were legalized, the program as defined by INS would fail because the number of undocumented aliens predicted by INS simply is not there. Three months into the year-long application process has resulted in approximately 250,000 applications having been filed with INS, a far cry from the 3.9 million predicted by INS!

Indeed, INS has become a victim of the administration's own propaganda. In order to pass the Immigration Reform and Control Act of 1986, it was necessary for its proponents to exaggerate the number of "illegals" in the country and therefore create the sense that we had "lost control of our borders." Supporters of Simpson-Rodino argued that as many as 12 million "illegals" resided in the U.S. and were largely responsible for many, if not all, of our social ills. With such highly inflated figures it naturally followed that once the bill passed it was necessary to contribute the big lie. Therefore, an inflated prediction about the number of amnesty applicants had to be made.

We, as a nation, cannot and should not observe human suffering without compassion or callously dismiss the agony of others by abandoning families within our communities to the indifference of bureaucracy. The destruction of even one family unit is one too much.

FRANKIE LAINE—SINGER AND HUMANITARIAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LANTOS. Mr. Speaker, today I would like to pay tribute to the well-known Frankie Laine. Although he is recognized for his singing, I would like to call the attention of my colleagues to his humanitarian efforts.

All of us are familiar with the distinctive baritone voice of Frankie Laine. It is the voice which made hits of such songs as "Rawhide," "Mule Train," and "(Ghost) Riders in the Sky." It is also the voice that brought strength to the inspirational song "Lord, You Gave Me a Mountain."

The voice of Frankie Laine continues not only to add strength and inspiration to songs but also to the lives of senior citizens in America. Mr. Laine, whose concerts are sold out everywhere he sings, often performs at fundraising concerts for groups such as Jobs for Senior Citizens, Meals on Wheels, and the Friendly Visitors Organization. All of these organizations help our senior citizens. Through his efforts, thousands of dollars have been raised to benefit our Nation's elderly. All this he has done despite undergoing quadruple bypass surgery a year ago.

Mr. Speaker, I would like to recognize and commend Frankie Laine for his untiring efforts to help our senior citizens, one of the most neglected groups in our Nation. His actions as well as his songs are an inspiration to all of us.

CASE VAN DER EYK, SR., RECEIVES "DAIRYMAN OF THE YEAR AWARD"

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LEWIS of California. Mr. Speaker, it gives me great pleasure to have this opportunity to recognize and congratulate Mr. Case Van Der Eyk. On October 16 of this year, he will receive the "Dairyman of the Year Award."

Case Van Der Eyk, Sr., was born in Holland and emigrated to the United States in 1947. After living in Artesia for 4 years, he started his own dairy business in Torrance in 1951.

He has lived in the Chino Valley for 25 years, and for 36 years has dedicated himself to the dairy business.

This commitment to dairy farming has brought great results. The Van Der Eyk Dairy currently milks 1,600 cows daily and has a total of 5,000 cows on the property, including replacement heifers and dry cows. Mr. Van Der Eyk's career also includes his contributions to the dairy industry in ways that are far removed from the cows he owns. He has served as chairman of the board of the State Dairy Association, first vice chairman of the board of the Milk Producers Council and vice chairman of the Dairymen's Labor Committee. Mr. Van Der Eyk has also been involved in the California Beef Council, California Dairy Princess Committee, and the Milk Advisory Board. He was appointed to serve as a member of the board of both the California Livestock I.D. and the California animal health organizations.

While clearly he has devoted himself to promoting the dairy industry, Mr. Van Der Eyk has managed to find the time to serve his community. He was vice chairman of the Inland Home for the Aged and a member of the board of the Church on the Hill. Family life has also been a priority. Nelly and he have been married 44 years, and are the proud parents of 4 children and 13 grandchildren. The tradition of dairy farming continues in the Van Der Eyk family; three of his children are now involved in the dairy industry.

When asked what advice he would give to a young person wishing to go into the dairy industry, he said, "Dairying is not a get rich quick proposition. It requires a lifetime commitment." It is clearly evident that Mr. Van Der Eyk practices what he preaches. Mr. Speaker, I ask that you join me in saluting Mr. Case Van Der Eyk. He serves as an outstanding example to us all as a man who has dedicated himself to his business—not only for profit—but for growth and improvement in the entire industry. He is a most deserving recipient of the Dairyman of the Year Award, and it gives me great pride to congratulate him upon his achievements and to wish him continued success.

EXPLODING TOYS FOR AFGHAN KIDS: FROM RUSSIA WITH LOVE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. BROOMFIELD. Mr. Speaker, the Soviets are still killing Afghani children with exploding toys. While Mr. Gorbachev talks about glasnost, Soviet soldiers intentionally target children and brutalize them. The world must be told about these unspeakable Soviet atrocities which so clearly illustrate the brutal side of Soviet foreign policy.

I recently received news reports that Soviet military units continue to scatter "booby-trapped" toys, soap, chewing gum, and other common objects which draw the attention of innocent Afghan children. I first learned of this unbelievably cruel Soviet military program a few years ago. When the United Nations initially reported on these activities, I was hopeful that Kremlin leaders would have ended their efforts to actually carry the war to the innocent youth of Afghanistan. I am shocked to learn that these efforts to terrorize the young continue.

I encourage our Government to do everything possible to work with the United Nations and other organizations to bring these atrocities to the attention of the world. Victimizing young kids in any war must be avoided by all nations. These atrocities severely undermine the credibility of the Soviet leader's claims that he is sensitive to human rights issues and is moving the Soviet Union in a new direction. I would encourage him to take a look at maimed Afghan children if he wants to see the reality of brutal Soviet policies in action.

I commend the following Christian Science Monitor article on human rights violations in Afghanistan to my colleagues in the Congress.

[From the Christian Science Monitor Sept. 16, 1987]

(By John Hughes)

THE AFGHAN CHILD AND THE BRIGHT RED PLASTIC TRUCK

A week before, Soviet armor and paratroops had pulled out of the area in Afghanistan's Ningarhar Province.

Behind them they left a variety of toys, scattered by a riverbank. Among them: a bright red plastic truck. A 14-year-old Afghan boy made the mistake of grabbing it. It exploded in his hands. It was one of the booby-trapped toys the Soviets are using as weapons in their war against the civilian population of Afghanistan that opposes Soviet occupation.

In this particular instance, the boy was fortunate. The booby-trapped toy was defective. He retained his fingers. Other children have been less fortunate. They have lost hands, or even been killed.

This is part of the toll the Afghan War—a war that has taken a million civilian lives and caused more than 3 million refugees to flee Afghanistan—is inflicting on children.

The story of this toll, and the suggestion that children are sometimes singled out by the Soviets for intimidation and terror, has been collected in a report by the Center on War and the Child, an Arkansas-based foundation. According to Richard J. Parker, the organization's director, the center has two other reports underway, one on the role of children in the Iran-Iraq war, and another on the impact of conflict in Uganda on children. "Children," he says, "shouldn't be the victims in wars fought by adults."

Mr. Parker says the center accepts no government money for its nonprofit operations and espouses no particular ideology. Thus while the Soviets bear the brunt of its criticism for cruelty to children in Afghanistan, the use of children by the mujahideen, or freedom fighters, is also chronicled disapprovingly.

Citing a study prepared for the United Nations Commission on Human Rights, along with a variety of eyewitness accounts, the report confirms the use of booby-trapped toys and soap against children, the conscription and deportation of children to the Soviet Union, and the indiscriminate bombing of villages resulting in the death of children.

There are also accounts of the execution and burning of children which are too graphic to be recounted.

Perhaps one of the most cruel and morally offensive Soviet tactics against Afghan children, says the report, is the use of antipersonnel mines constructed to resemble toys. The toy bombs have been disguised as dolls, chewing gum, pens, trucks, combs, and other common objects. When picked up, they explode.

The Center on War and the Child says that in a struggle for the loyalty of Afghan children, thousands between the ages of 6 and 9 have been transported to the USSR for up to 10 years of study. The purpose of this is to create a cadre capable of leading a future communist Afghanistan.

The report makes clear that on the other side of the war, among the mujahideen, there is a corresponding attempt to indoctrinate young children.

In the schools across the border in Pakistan, crowded with Afghan refugee children, regular lessons are heavily laden with political education. Says one school teacher: "We never just teach them that two plus two makes four. We say that two dead Russians plus two dead Russians make four dead Russians killed by the mujahideen."

With the exception of the Iran-Iraq war, where thousands of young boys have been sent on suicidal human wave missions, the calculated victimization of children in Afghanistan is as gruesome a use of children in warfare as one can imagine.

So far the Arkansas institution chronicling this cruelty is not impressed by the character of Western protest. "Tragically," it concludes, "the Soviet Union has been permitted to engage in a policy of genocide directed at children of the resistance with little challenge or moral condemnation from the United States and the rest of the world."

LIVING UP TO THE IDEALS OF PAN-AFRICANISM

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYMALLY. Mr. Speaker, I wish to bring to your attention the remarks made by Chief Abiola, of Nigeria, to the Publishers' Forum during the Congressional Black Caucus Legislative Weekend, September 26–27, 1987.

AN ADDRESS TO THE PUBLISHERS' FORUM OF THE CONGRESSIONAL BLACK CAUCUS, WASHINGTON, DC, SEPTEMBER 26, 1987

(By Bashorun M.K.O. Abiola)

Chairman Dymally, my brothers and sisters, it is with a real sense of joy and pride that I seize this opportunity to address your Caucus. Indeed, it is a great privilege for me to be introduced to a Congressional organisation about whom I have heard so much, particularly in regard to your activity programmes and concerted efforts which are aimed to influence American foreign policy in Africa, along the path of justice and decency.

When the torch of Pan-Africanism was lit, it was by the deft hands and audacious spirit of African Americans and Caribbean Africans like Dr. William E.B. Du Bois and Marcus Garvey, both of blessed memory. The torch was carried to the heart-land of Africa at a significant moment in history of African emancipation from the clutches of slavery and the debilitation of colonialism. The torch kindled the tortured hearts and minds of Africans and African Americans alike and, in the ensuring enlightenment, both Africa's liberation and the civil rights movement, in the United States, became a factor that pricked the conscience of the whole world. That voice of conscience is the springboard of Pan-Africanism. It is still our battle cry. It does not separate the issues of racial crisis in America from colonialism and neo-colonialism in Africa. It crystallizes a function of generations of struggle on both sides of the Atlantic. It is the spirit force that binds us all together. Years have passed, times have changed, but the objectives of our struggle have remained. It is our own turn to rekindle the torch, tighten the safey belts of the struggle, which is not yet over, and let the generations to come regard our own part of the collective efforts with pride and dignity. But I can behold the light of victory at the end of the darkly lit tunnel.

For some reasons of misjudgment the broad masses of our people, Africans and African Americans, seem to have lost track of the significance of Pan-Africanism; some are even ignorant it ever existed; others strain after its effects to make sense of its motive power, but the assurances must be provided and the index given. The power of Pan-Africanism is both domestic and transactional. It is embedded in the colour-line, it pulsates in the blood that runs through veins; it can electrify the world into a new level of consciousness. How do we do this? It is simply by pulling together all the electrons in the volt at hand and the live wires will be set.

As African people we must develop the power base to find our own political solutions for the problems that beset us. This is the purpose of this address. It is the mission of African Concord, the premier Pan-African weekly magazine which I publish, and which circulates throughout Africa and the United States of America.

Recently, under the auspices of African Concord, the first Pan-African Conference was held in London to find solutions to the "Food Crisis in Africa". You are all aware of the crisis: it is dramatised in daily news reports carried by the western press. It is shown on television in America and Europe, the toll of famine and hunger, and endless tracks of refugees, depicting a continent unable to feed itself, pictures of hopelessness in leadership and self assertion, arousing feelings and emotions, pricking the conscience of humanitarians who rush in food aide. But you are all aware of the causes: the drought and the desertification of the Sahel, the civil wars in the Sudan and Ethiopia, South Africa's aggression against the front-line states of Southern Africa, the racism of the super powers who aid and abet apartheid, the continuing manipulations of African economies by the consortium of those famous helpers with aids and loans, and the vested interests of other donor supra powers of the developed nations. We invited well known experts and specialists, Africans and African Americans, from around the world: agriculturalists, agricultural educationalists, nutritionists, medical scientists, veterinarians, sociologists, political scientists, practising politicians, medical practitioners and communicators. They all assembled. Those who have been involved with finding scientific solutions, those who are concerned with the political challenges of the crisis, those who care about providing food aid to the hungry and starving innocent Africans—the children and their nursing mothers, handicapped adults and the deprived aged people who are continually forced in-between the cross fires of wars created by imposed political instability in Africa and the economic crunches of past colonialism and present lack of realism, or for how long must we continue to blame colonialism, an era which was intended to end over 30 years ago in most countries? They all gathered with oneness of spirit and purposes, to identify the problems and develop strategies needed to tap the resources of Africa and African Americans; to make green again the African fields, cultivate the land aplenty, gather the harvest, process, store and distribute the food and ensure that self-help is the best help. Indeed, is it not curious that there is food crisis in Africa? Is it in fact, true that Africans cannot feed themselves? These were some of the questions. But we know, of course, that the crisis never happened before the disruption and exploitation of Africa. There was no time in pre-colonial history that Africa ever imported food. It never happened before the bulk of aid became a charade in Africa. It never happened when Africans were in control of their own destiny. Something has gone wrong somewhere, obviously. It is our ardent responsibility to find out and we shall proceed with the searchlights at our command, with the know-how that we have mustered and with the determination to survive the testing and trying times. We will come up. We need to trust one another, Africans and African Americans. We need to hold hands together and rebuild strongly the broken bridges in-between and march on the golden road to true respect and acceptability, in America and the wide world.

There is power equation in world politics today which play upon the lack of unanimity amongst us, Africans and African Americans. The picture of the black man in the world today looms largely as that of impotence and unwillingness to make do with the status quo. But there is no doubt at all in my mind that we can find concrete and respectable trappings of African power if we unite as one people. There are over 820 million of us. If our domestic and foreign relations pivot on the strength of our oneness as a people, determined to stand up and be counted, who can underrate us? What can deter our forward march. The other races, who believe that it is in the union of efforts that the world can be developed into a better place for all the human race, cannot wish us bad.

The ideals of Pan-African power reside in unity. We have emphasised the need for a union of the states of Africa as a prelude to Pan-African development. The evidences are clearly analysable. Pan-African development now dangles dangerously on the edge of a precipice what with many African countries debt-ridden and engulfed in debt rescheduling programmes of all shades. Economic and technical cooperation enshrined in the blueprints of regional groupings like ECOWAS, PTA, SADCC and others are handicapped by an array of political and ideological postures which are un-African. There is no denying the fact that activities of foreign transnational companies have now been quite tightly woven into the domestic fabric of African economies. Development programmes are usually adhoc, floated with panic measures, disjointed in orientation and so alarmingly segregated with the result that the cry for aid from western donor nations have now become loud and persistent. Unfortunately, the louder we cry, the less attention we get. President Reagan referred, a few months ago, to the whole African people as "those unfortunate ones". Your opinion on that remark cannot be too different from mine—but can we really blame him?

The 5-year Development Programme agreed to by the United Nations for Africa is put at 128 billion U.S. dollars "to develop free markets and encourage individual initiative". This programme calls for scrutiny, study and pursuit at all levels of vested interests. Bt how many of our brothers and sisters, African Americans, corporate or individuals have begun to give these new developments in Africa any serious consideration? The agricultural and export sectors of the African economy, the most crucial and vital, would need a serious push. Consigning this to the exclusive interest groups of the international community (the group of seven industralised nations of Europe, Japan and the United States), community of multi-national corporations, wild suffocate the gateway which has now been kept wide open by African governments' recent accesion to privatisation.

It is common knowledge, of course, that many African countries still lack the manpower and the right types of technology for the take-off needed in large scale agriculture and relevant cottage industry. But the prospective business doors are open and it only requires the right initiatives for the interactions needed between enterpreneurs and the African governments.

Recent reports by United Nations Economic Commission for Africa (UNECA) indicate that no significant improvement has, in spite of grim expectation, been recorded on the economies of African Nations because international responses to the 46 billion U.S. dollars recommended through normal channels of solicitation have been hopeless. It is clear that the entrenched economic policies of the various developed nations expected to bail out Africa on this score are certainly responsible for the outcome. But for how long will African governments continue to rely on the cooperative generosity of the developed nations to relieve the plight of low income African nations? The time has come for new initiatives by a concert of Africans and African Americans willing to plan and explore alternative systems of export promotion and business enterprises.

I believe this is the time to remind our brothers and sisters, African Americans, this august congressional Black Caucus, that the Pan-Africanism, of the first order adhering to a political agenda, launched by such eminent African Americans as Dr. W.E.B. Du Bois and executed by distinguished Africans like Dr. Kwame Nkrumah as President of the Republic of Ghana, has cleared the way and we can now move to the end of the corridor for the next struggle bound up with the economic survival of our people. There is a lesson to learn from Zionism in all fronts. Israel is what it is today because of it. Pan-Africanism is our own clarion call. Its clear rousing sound must issue out of the consciousness at our dark skins and from the awareness that the colouration is not skin deep. Our colour tag is not a stain. Let us mobilise its energy source and dynamism to plumb new depths of rightful existence and survey new heights of advancement. These advancements can be measured in areas which clearly display economic power.

The struggle in South Africa is economic; what sustains apartheid is economic power and it is provided mainly through the collective support axis of Great Britain, the United States and West Germany, to name the ring leaders. On record we can appraise efforts to influence American policy on South Africa by the Congressional Black Caucus. These are encouraging. The adoption by the U.S. House of Representatives of a comprehensive sanctions bill against South Africa is memorable and one is full of great admiration for the courage of Rep. Ronald V. Dellums (Democrat—California). The achievement is symbolic as it represents the power of a movement within the United States, led by 30 million African Americans, which can directly influence American foreign policy. Equally reassuring are the efforts of Randall Robinson of Trans-Africa and Damu Smith, Executive Director of the Washington Office on Africa. They provide "vehicles for grassroots lobbying" on behalf of black America in support of the struggle against racist South Africa and its apartheid policy. Their efforts are commendable. There is also an emerging vision of Pan-Africanism in the actions and legislation initiated by the National Rainbow Coalition headed by the Reverend Jesse Jackson. Towards the end of last summer Reverend Jesse Jackson visited the Front-line States in Southern Africa, the Congo and Nigeria with a delegation of the Rainbow Coalition and signed mutual co-operation agreements with some African heads of state and governments. For example, in the agreement with Robert Mugabe, the Prime Minister of Zimbabwe, Reverend Jackson stated that the National Rainbow Coalition "will aggressively advance a change in U.S. foreign policy towards South Africa. In this regard the National Rainbow Coalition will encourage the American community to support the frontline states in the eradication of the racist regime". Later at a press interview following his African tour, Reverend Jackson explained, "we have discovered that we have a role to play here. We are re-uniting the African family". These are bold and incontrovertible statements. It is equally on record that the Front-line States (FLS) musters over 60 million people. The countries comprise Mozambique, Angola, Tanzania, Zambia, Zimbabwe, Botswana, and Lesotho, all independent and sovereign. South African aggression on the Front-line States continues without let or hinderance. It has ruined their economy to the extent estimated at over 10 billion U.S. dollars per annum. South Africa pursues a policy of destabilisation against these Front-line states by co-operating with rebellious gangs of its creation like UNITA in Angola and MNR in Mozambique, causing destruction to life and property, brutally damaging infrastructures of agricultural and other development projects, rushing thousands into death by starvation and turning tens of thousands into shelterless refugees. South Africa pushes the Front-line States into economic strangleholds that prompt them to beg the IMF and other western transnational banks for loans and credits to prop themselves up to continue to spend money on porous defences, with most of the "weapons" brought from the same nations that provide the credits. This strategy only creates loopholes to make the Front-line States economically dependent on South Africa. Thus, for example, Zambia and Zimbabwe are forced to use South African railways and ports facilities to export and import goods because the Beira Corridor is being continually bombed by the MNR South Africa's surrogates in Mozambique.

The devastating economic situation caused by South Africa on the Front-line states has opened the doorway to African unity. The governments of Angola and Mozambique have been pushed to realise the hollowness in their diplomatic efforts to preserve their independence and national sovereignty in seeking a peaceful solution to the serious situation prevailing in Southern Africa. Despite persistent threats to their nationhood from racist South Africa, their recourse to the OAU for concrete help has only further exposed the extent of weakness that has become the hallmark of the Organisation of African Unity whose usual felicitous expressions of solidarity with the Front-line states and condemnation of Pretoria have become synonymous with some of the dying OAU resolution, which states that "an attack on any member state is an attack on the entire continent' when the OAU knows, as a matter of fact, that it cannot raise a continental force to defend its own principles and resolutions. It is a consequence like this that can reduce the whole organisation into a huge joke.

The focus of Dr. Kwame Nkrumah's foreign policy as Head of State of the Republic of Ghana was the creation of a Union Government of Africa. Nkrumah saw the value of Pan-African Unity and co-ordinated the liberation movements in Africa on an all-African basis. He called for the establishment of an African High Command to fight aggression and threats to African nationhood. The establishment of the OAU in 1963 must have ended Dr. Kwame Nkrumah's aspirations for the creation of a realistic and purposeful Pan-African organisation.

I believe that African unity cannot be compromised. I strongly believe that the basis of African unity now exists more than ever before. It is not in the SADCC to which the Front-line states have been forced to seek an economic clout for a salvage of their battered economy. African unity exists in the string of brotherhood that now binds all African peoples on both sides of the Atlantic, in the cause of the struggle for the emancipation of Southern Africa and the defeat of apartheid. In view of the hand writing on the wall, let the governments of the Front-line states, as a matter of cause, resolve forthwith, and without equivocation to form the nucleus of the Union government of African states. The existence of this union government is the only solution to South Africa's aggression standing as one nation bound by the same destiny. Let them by this resolve stand up in battle readiness to fight the common enemy. It will be a practical application of an ancient African philosophy that a stick or broom can be broken easily but a bunch of brooms cannot be broken, even by nuclear power. I sympathise with those looking for the nuclear bomb but I submit that the most potent bomb is already with us in the practical application of those basic wisdom that enabled us to survive as a people when others, supposedly more advanced, had become extinct.

The defeat of apartheid, therefore, does not need the use of weapons, or a call for economic sanctions whether mandatory or voluntary, or a recourse to strikes by workers on the mines which can be stifled, effectively, by South Africa's prevention of any outside financial assistance to the strikers, as happened six weeks ago. The weapon needed to defeat apartheid resides in the will of the Front-line states to unite in a union government, amalgamate their distinct resources and allow instant African brotherhood and the spirit of oneness to dictate the pace for a new alignment of body and spirit. We cannot whistle for our needs and expect others to run to our aid. Is it not better for each of the leaders to lead in rotation than wait for the type of sudden death that visited Samora Machel? Or do they think that his will be the last? Or for how long must we rely on foreign troops to underwrite our independence in any part of Africa? And what will happen if other nations in the area come under more serious threats—must we ask them for more foreign troops and what type of independence will we then have in those nations?

In my opinion, the battle line is already drawn. The range is now the testing ground of Pan-Africanism. Members of the Congressional Black Caucus are in the frontline, although you live 10,000 miles away from the theatre of real action. Let unanimity be our armour, let unity be our standard, and as we march on, hand-in-hand, let us sing the new song of action, sing it loud from this Congressional Black Caucus, and I am quite sure the seven countries comprising the Front-line states will take it over and compose the chorus of 'Hurrah'.

Mr. Chairman, Ladies and Gentleman, I am grateful for this opportunity. I thank you for allowing me to present my brief. May the spirit of the Congressional Black Caucus never grow less.

RIGHTS TO PRIVACY

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. KOSTMAYER. Mr. Speaker, during the hearings in the Senate Judiciary Committee on the President's nomination of Judge Bork to be an Associate Justice of the Supreme Court, the issue of privacy has received a lot of attention.

Justice William O. Douglas said in 1952, "The right to be let alone is indeed the beginning of all freedom."

Surely then, official opposition to privacy or an unwillingness to recognize it as a constitutionally protected right is the beginning of the end of all freedom.

I'll leave it to Judge Bork and his colleagues in the legal community to argue over whether or not a citizen's privacy is protected by the Constitution.

Ira Glasser, the executive director of the American Civil Liberties Union, thinks it is.

Mr. Glasser made his case in an interview with Bill Moyers on Public Television recently.

Excerpts from the interview follow.

GLASSER. They certainly didn't imagine those huge concentrations of private power. They lived at a time when private power was enormously fragmented in a rural, agrarian society, when most people worked on, lived on or owned small farms, very small farms. They saw the private sector as a check on the government. They saw the protection of the private sector as a protection against government power because they never thought that threats to liberty could come from the private sector. The only concentration of power they worried about was the concentration of government power.

MOYERS. Has the growth of huge organizations in the private sector affected basic liberties?

GLASSER. Yes, that's right. Because the Constitution only limits government action.

Now the fact of the matter is that most people's rights depend much more today upon what their employer does than on what the government does and what the cop on the beat does. Ask any of the ACLU's 50 state branches, "What is the most frequent complaint you get in your office?" The answer is employment-related complaints. It's people complaining about something that happened to them on the job that they are powerless to deal with. "My employer is trying to do something to me that I don't think is right."

THE VALUE OF PRIVACY

MOYERS. You're saying that [the Fourth Amendment] applies to the workplace or should?

GLASSER. I'm saying that that principle should. This was not a principle that was developed by some Harvard Law School professors, you know, sitting in their ivory towers. This was the product of searing personal experience. They wrote that in because the early Americans, the colonists, all had the experience of having their homes busted into by British soldiers, having their furniture torn up with bayonets, having their clothes and their persons searched, because the British were looking for violations of the Stamp Act. Even though most of the people searched were not involved in those crimes and there was no evidence to suggest that they were. Of course, most of the people searched were the people who were against the Crown. The political activists.

So they created this balance. You could search the person, you could go into their house and search, but you had to have good reason to do it. You had to have a basis to believe that there was evidence of a crime and you couldn't decide that yourself. You had to convince a judge, a third, neutral party. That's what the search warrant process is.

What's happening increasingly today is we are being told, "Oh, those were quaint values that worked in the eighteenth century in a rural, agrarian society when things were simpler. But our society is too complex, too dangerous now to permit those kinds of things." The attempt to adapt modern conditions to those eighteenth century values is an attempt that constantly comes up against the argument, "Oh, that worked than. It won't work now."

MOYERS. But you know, I go through this document—I've been through it several times. There's no mention of the word 'privacy' in here. But you're talking about the value of privacy.

GLASSER. On yes, there's no question that when you have an amendment that talks about prohibiting the government from coming in whenever it wants to your house, what are you talking about if not privacy? The Fourth Amendment is the privacy amendment. The word is a word that characterizes that, but that's what the Fourth Amendment does when it says the government can't come in. William Pitt said, you know, every poor person in his shack with his roof not fixed, the rain may enter, the wind may enter, but the King of England may not enter. That was the spirit behind the Fourth Amendment.

MOYERS. And now you're saying that we've tamed, to a considerable extent, the impulse of government to enter our private quarters, but there's a whole new force out there in the private sector that represents an equal kind of threat to our privacy.

GLASSER. That's right. The Bill of Rights was an expression of a brief that people have certain rights. And it protected those rights against the government because it saw the government as the only danger to those rights. Today we know that there are other dangers. So we have to find other mechanisms to protect those rights.

A POTENTIAL FOR MISCHIEF

GLASSER. In the eighteenth century, every body's personal papers were in their house or in their place of business. Well, most of our personal papers are not at our houses anymore or our places of business. They're on computer disks. They're in the custody of third parties—banks, insurance companies, medical insurance, your employer.

If you want to find out something about somebody, just look at their cancelled checks and their credit card receipts. Now if you kept those at home the government couldn't search. But because someone else is keeping them, the government can go and get them merely by subpoena. You don't know about it and they don't need a warrant. The Supreme Court has been asked to extend the Fourth Amendment protections to third party custodians of your personal papers, but it has declined to do so on the grounds that the Fourth Amendment only protects your house and your place of business.

So now we have a Fourth Amendment which continues to protect the places where the information used to be kept, but the information has flown the coop. It isn't there anymore. All that information is out there, floating. And anybody can plug into it. It was one thing when all that information was fragmentary and it got lost. But now the information is persisent. It persists over time and it persists over space. It doesn't go away whether it's accurate or not. It doesn't go away whether it's relevant or not. And it follows you everywhere. And even if it's on a lot of different computers, if you could link those computers up with something like a social security number, all of a sudden overnight you have a national dossier.

MOYERS. But isn't that happening?

GLASSER. It is happening.

MOYERS. Do you think that anyone envisioned that the social security number would become chief, if not the chief, identifier of human beings in our society?

GLASSER. They did envision it and they prohibited it. That was one of the big objections in Congress to the creation of the social security number in the first place. There were people in Congress who said at the time, this is going to end up being the universal identifier, a kind of concentration camp number that everybody gets at birth and it's going to make it possible for the government to do great mischief. Over time what happened is that more and more uses of the social security number unrelated to the administration of the social security program were authorized by Congress. And more and more uses began to be legitimized. You apply for college, they want your social security number. You apply for a loan, they want your social security number. You try to open up a bank account, they want your social security number.

MOYERS. What's wrong with it being an identifier? I mean, it does make things more efficient. It gives you a ready imprimatur, no matter where you go. It enables you to save time in tracking down information. What's wrong with that?

GLASSER. Because it's a key to all the details of your life that it is nobody's business to know.

MOYERS. And they can go fishing in waters that are not their own.

GLASSER. That's right. And when the government has that power, it endows the government with a potential for mischievousness that the founders of this country were well afraid of, but that we have become used to.

ON THE 100TH ANNIVERSARY OF THE LITTLE FLOWER SCHOOL

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYSON. Mr. Speaker, I rise today in tribute to the Little Flower School of Great Mills, in the First District of Maryland. This year, on October 3, the school will celebrate its 100th anniversary.

Little Flower has always succeeded in turning out individuals of high caliber. The school combines physical, emotional, spiritual, intellectual, and moral training to young Catholic students which helps to prepare them for the challenges they will face in the future.

Classes were originally taught by parishioners of the then newly established Holy Face Parish. The parish was served by Jesuit fathers until 1961, when the priests of the Archdiocese of Washington were sent to St. Mary's County. Little Flower now serves the families from the parishes of St. George, Holy Face, St. Cecilia, Immaculate Heart of Mary, and Patuxent River Naval Station.

The original wooden building housing the school evolved over the years into the present brick building which contains classrooms for grades one to eight and houses the kindergarten in its basement.

From 1927 until 1953, the Little Flower School was served by the Sisters of St. Joseph, who left due to a lack of personnel. The administration of the Little Flower School was then undertaken by the Sisters of Notre Dame de Namur until 1972, when the Sisters of St. Joseph were able to resume this responsibility.

Mr. Speaker, the quality of the education provided by Little Flower School is known throughout southern Maryland. So on this the 100th anniversary of the school, on behalf of the entire First District of Maryland, I would like to express my heartfelt gratitude for the long years of service provided by this fine institution.

NORTH CAROLINA HEARINGS ON SMALL BUSINESS AND FEDERAL PROCUREMENT

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LANCASTER. Mr. Speaker, I would like to draw the attention of the House to field hearings held by the House Committee on Small Business in Sanford and Raleigh, NC. These hearings were hosted by Mr. PRICE and me. Mr. LAFALCE chaired these important hearings, and Mr. MAVROULES, Mr. HAYES of Illinois, and Mr. UPTON were also present.

The objective of these hearings was to examine the workings of the Small Business Administration's loan and advocacy programs, with an eye to the reauthorization of the agency next year.

Three panels of witnesses testified in Sanford during the afternoon portion of the hearings. The first panel consisted of a single witness, Mr. Gary Keel, who is the district director of the Small Business Administration in Charlotte, NC. Mr. Keel contributed the invaluable insight into these programs that only a manager of these programs could provide.

The second panel was made up of contracting representatives of several of the military installations from in and around North Carolina's Third District. Ms. Ann Barefoot represented Seymour Johnson Air Force Base, Mr. Martin Honan represented Pope Air Force Base, Mr. Gary Horne represented Camp Lejeune Marine Corps Base, and Mr. Walt Warfel represented Fort Bragg Army Base. These witnesses discussed the ways in which they work with SBA to increase procurement opportunities for small business.

The third panel consisted of five North Carolina small businesspeople. The committee heard from Mr. Don Andrews, president of Andrew Co., a chain of food stores based in Broadway; Ms. H.L. Sanderson, representing Carolina Frozen Foods of Wallace; Ms. Vicki Shore, executive director of Johnston County Industries, Inc., of Smithfield; Mr. Arthur D. Smith, owner of Monk's Marina, Bait and Tackle of Holly Ridge; and Dr. O.R. Stovall, president of Gold-Wayne Oil Co. in Goldsboro. These witnesses have dealt with the SBA across a wide range of loan and other programs, and were open and candid about their experiences with SBA and the importance of SBA programs in the early years of their businesses.

These small businesspeople, and those like them throughout the United States, provide the foundation of our national economy in its most dynamic form. They also represent the biggest successes of the SBA—opening the doors to capital and expertise for entrepreneurs who will then take this opportunity and build from it the American dream in its purest form. And they are among the most well-placed to offer advice on how these programs can be improved.

This was our intention in hosting these hearings—to examine the relative strengths and weaknesses of the various programs so that, through next year's reauthorization process, we can make the programs even stronger, even more efficient, and make these success stories even more numerous.

I would like to add a final word of thanks to the Members of Congress and, especially, the witnesses who took time from their busy schedules and worked hard to make these hearings a success.

CABINET LEVEL VA GAINING SUPPORT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. SOLOMON. Mr. Speaker, legislation I have introduced (H.R. 1707), to elevate the Veterans' Administration to a Cabinet level department continues to gain support in Congress and across the country. A majority of the House has now sponsored the legislation.

Mr. Speaker, today I will insert into the RECORD a recent story carried by the United Press International which makes a strong case for upgrading the Veterans' Administration.

(By United Press International)

WHAT OTHER ARIZONA NEWSPAPERS ARE SAYING

(From the Prescott Courier)

Our Congress is now studying legislation to establish the Veterans Administration as a cabinet-level agency and we think it's one of the few good ideas coming out of this season.

If enacted, this measure will elevate the VA administrator to the level of Secretary of the VA. It will enable our veterans and their survivors and dependents to have their concerns represented at the highest level of the executive branch.

On the basis of size alone, the VA belongs in the cabinet. It impacts about every American family in some way. It is already larger than most cabinet-level agencies. It has an annual operating budget of more than $27 billion and administers the largest health-care system in the free world, including 172 hospitals, 229 outpatient clinics, 117 nursing homes and 16 domiciliaries. It ranks second only to the Department of Defense in total personnel.

And one of those nursing homes will be at the Prescott VA facility. One of those domiciliaries is our right here in Prescott and both are undergoing change and construction within the next few years. And we have one of the outpatient services. Think of that.

If statistics are not compelling enough, consider the VA has as its mission medical care for our nation's veterans and is the first line backup to the Defense Department in any national emergency.

Consider some of its innovative programs that affect millions of Americans, such as the GI Home Loan and GI Bill, both of which have improved the economy and provided educational and training opportunities for veterans.

Nearly half of the physicians in the United States today have received all or part of their training through the VA.

Further, the VA is working to confront the AIDS crisis and mysteries of Alzheimer's disease with the same intensity it used to find the cure for tuberculosis and develop the heart pacemaker.

In addition, the VA administers the largest vocational rehabilitation and training programs that have led to increasing job opportunities and employment for disabled veterans.

Insurance policies offered by the VA would qualify it as one of the country's largest insurance companies.

In spite of all of this, the VA has been lost in the bureaucratic shuffle and is unable to present the concerns of its constituency directly at the cabinet level.

In a bipartisan push now under way, 25 senators and 194 members of the House of Representatives have endorsed the proposal to elevate the VA to cabinet-level status.

NEED FOR CREDIT REFORM

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. PANETTA. Mr. Speaker, I would like to share with Members of the House an excellent op-ed article on the need for credit reform authored by the chairman of the House Budget Committee, BILL GRAY, and the ranking minority member on the committee, DEL LATTA. It makes a persuasive argument for an improved method of measuring the cost of credit reform, and I hope we can work together in the coming year on a proposal which makes sense and attracts widespread support. I recommend the following article to anyone who has an interest in the budget process and credit reform.

[From the Los Angeles Times, Aug. 5, 1987]

U.S. CREDIT COSTS NEED A TRUE ACCOUNTING: LOANS MIGHT NOT LOOK SO DECEPTIVELY CHEAP IF WE'D BUDGET THE PRICE

(By William H. Gray III and Delbert L. Latta)

Amid the whirlwind of activities surrounding the budget this year, a somewhat arcane and complex issue deserves a spot on the congressional agenda. The issue is how the federal government accounts for billions of dollars of direct and guaranteed loans.

Largely directed toward home owners, farmers, students and businessmen, credit programs add up to a lot of money. In fiscal 1986 the government disbursed $42 billion in new direct loans and provided $159 billion in loan guarantees. Despite the fact that the federal government is potentially liable for more than $700 billion of loans, the budget does not provide complete information about the actual costs of credit programs.

Imagine trying to manage your household budget without knowing about the costs that you may incur for loans that you co-signed for relatives or friends. If one of them defaulted, you would be liable. Obviously you would want to put some money aside in case a co-signed loan goes bad. Doing so might mean that you have to make some tough decisions about other items in your household budget—some purchases might have to be delayed or your summer vacation might have to be shorter. But knowing your liabilities and planning for them is better than being caught short later.

The current method of accounting for federal credit programs gives a distorted picture of how much money the government is spending on such programs.

For example, the cost of a new direct loan is overstated in the first year because the entire amount is recorded as an outlay, even though the government will be paid back over a period of time. By the same token, the ongoing cost—the subsidy element in the loan—is not recorded in later years.

Guaranteed loans do not even show up in the budget until they go bad and the government has to pay up. Given tight federal resources, no wonder loan guarantees have become increasingly popular. In fact, the growth rate for loan guarantees has been more than double that of domestic spending.

Although the costs may not be evident when guaranteed loans are made, they do have an effect on taxpayers. About $8 billion was paid out by the government for defaulted loans in fiscal 1986.

To correct the distortions caused by the way credit programs currently are handled, the actual costs of the loans should be included in the budget. Then we could fairly compare the price tags of solving a problem with direct loans, loan subsidies, grants or tax subsidies. They all have costs, but current accounting makes loans look deceptively cheap.

Credit programs, like ordinary government spending programs, cost the government money and use economic resources that could be employed in other activities. In many cases the government lends out taxpayer money at lower rates and with more generous terms than otherwise would be available to the borrower. The Office of Management and Budget has estimated that the actual subsidy costs for credit programs were more than $18 billion in fiscal 1986.

Identifying the subsidy costs of credit programs in the budget is not a new idea. Three different commissions appointed by Presidents Dwight D. Eisenhower, John F. Kennedy and Lyndon B. Johnson suggested it. The executive and congressional budget offices and the General Accounting Office all have spent considerable time in studying the issue. Credit reform has broad bipartisan support—the need for it is agreed on by experts from across the ideological spectrum.

We are not challenging the purposes of federal credit programs. They serve important national goals like providing financial assistance for home ownership and access to higher education. But just because these programs address worthwhile goals does not mean that their costs should be inadequately accounted for in the budget.

One approach to solving this problem is credit-reform legislation that would be cosponsored by Democrats and Republicans alike. This approach and others need to be discussed by Congress. As long as we are thinking about reforming the budget process, coming up with a better way to keep track of credit costs should be on the menu.

In a time of large budget deficits we have seen it become increasingly difficult for Congress to choose among competing priorities for scarce resources. Why make our job even harder by disguising the true costs of using government credit to solve national problems?

OFFSHORE OIL CHOKES AIR AND COASTAL DEVELOPMENT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. EDWARDS of California. Mr. Speaker, one of our most important environmental laws, the Clean Air Act, has, what has been described as, a "large loophole." This loophole allows oil companies involved in offshore oil development somewhat uncontrolled nitrogen-oxide emissions. While we are debating a newly introduced clean air bill, we need to consider tightening up this loophole and getting tougher with offshore oil companies. I would like to recommend to my colleagues an op-ed piece which appeared in the Los Angeles Times by my good friend and distinguished colleague MEL LEVINE. This piece thoughtfully discusses this issue.

The article follows:

OFFSHORE OIL CHOKES AIR AND COASTAL DEVELOPMENT

(By Mel Levine)

Low-level ozone damages lung tissue, exacerbates respiratory illness and causes chest pain, headaches and eye irritation. It is so damaging that it reduces crop production, prematurely breaks down the rubber parts on automobiles and even deteriorates women's hosiery.

As the deadline for meeting the federal ozone standard nears, Congress is considering critical legislation to address the problems of cities that will not attain this health-based standard. Sadly, Southern California is a region that falls in the center of the clean-air debate. Los Angeles does not meet one or more Clean Air Act standards at a minimum of once every two days.

Both the House and the Senate have offered so-called "non-attainment legislation" that would significantly strengthen clean-air requirements and improve air quality in our cities. However, because of the immense power of the oil industry, the federal outer continental shelf may continue to be the only body of water or land that is not regulated under the federal Clean Air Act. Congress must specifically address oil and gas activities in federal waters as a major source of ozone and other pollutants in Southern California—a source that has been inadequately addressed.

The Congressional Research Service has estimated that emissions from the average daily oil production of one platform are equal to the emissions from the average daily use of 15,000 automobiles. The pollutants from oil rigs and the boats that service them blow onshore, mix with other pollutants and create hazardous low-level ozone—or smog. Yet today in federal waters off the coast of California, half the active platforms are largely uncontrolled for critical nitrogen-oxide emissions—one of the two key components of ozone.

To ignore this problem as the oil industry is encouraging Congress to do is to ignore the problem of smog in Southern California. It is unfair to the people who breathe the air of Southern California that the oil industry enjoys what amounts to the largest loophole of the Clean Air Act.

It is also unfair to the local business community. Because oil and gas development on the outer continental shelf does not come under the Clean Air Act, the state air-quality management authorities cannot control this source of pollution. Instead, these authorities must require the local industrial and business communities to make further costly changes to reduce overall pollution. And more important than the inherent unfairness of this is the fact that soon this burden could result in a serious impediment to economic growth along the Southern California coast.

Congress must bring oil and gas activities on the outer continental shelf under the Clean Air Act. Additionally, specific standards must be applied to the rigs and vessels to ensure that their operations are as clean as technology can provide today.

Opponents of this effort believe that this is an attempt to unduly encumber the oil industry's efforts to drill the outer continental shelf. They argue that new requirements could result in excessive regulation that would be needlessly burdensome. In fact, the air pollution from the rigs and service vessels are a grave burden to the coastline citizens. Legislative efforts to subject the oil industry to the same rigors that all other polluters face are fair and evenhanded. Cost-effective technology exists today to reduce emissions in some cases by more than 90%.

The oil industry has encouraged Congress to rely on the negotiations that are now taking place in Southern California between all involved parties, including the environmental community. Although the negotiations were an admirable effort, if not a preferable solution to the problem, they have not proved successful. The parties have been unable to reach a consensus and, as a result, the Department of the Interior is now drafting its own new regulations. The department has been loosely charged with regulating the emission of rigs in federal waters since 1978. It has failed in its task. The regulations today are weak and do not address the major pollution problem of platforms that are geographically concentrated.

Those in Congress who are sympathetic to the oil industry's cries have indicated that while the pollution generated by oil drilling operations offshore is bad, it will not hurt the onshore community. This is incorrect, the prevailing winds in Southern California blow onshore. Over water, emissions produced by the rigs and vessels remain intact as they approach the coast. These emissions, made up mostly of nitrogen oxides, readily form ozone when they reach shore.

On Wednesday Congress will consider legislation critical to improving our nation's air quality. When it finishes this long and difficult process, it will not likely revisit it for some time. Congress must address Southern California's needs along with the rest of the nation's, and treat offshore oil and gas activities in federal waters as it does all other sources of air pollution.

WASHINGTON POST EDITORIAL ADVOCATES FEDERAL FUNDS FOR SEMATECH

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. FLORIO. Mr. Speaker, I would like to call my colleagues' attention to an editorial that appeared in the September 21, 1987, edition of the Washington Post. This editorial points out the important reasons why the Federal Government should provide funds for Sematech, a private sector research consortium designed to develop new technology and processes used in the manufacture of semiconductors.

I wholeheartedly agree with the views expressed by the Post editors. Unless the United States becomes more competitive in the world semiconductor market, our ability to compete in the vital information market will be seriously threatened.

Both the House and Senate trade bills would provide funds for Sematech. But, as the editorial states, it is also very important that Sematech be free to pursue research that will be most viable from a commercial standpoint and that Sematech follow a policy of transferring its technology to U.S. semiconductor firms on an expeditious and timely basis.

I believe these features are critically important if Sematech is to accomplish its purpose of improving the manufacturing productivity of U.S. semiconductor firms. I ask my colleagues to keep this concern in mind as we begin the House-Senate conference that will determine what the trade bill we send the President will have in it concerning Sematech.

Mr. Speaker, at this time I would like to insert in the RECORD a copy of the Post editorial.

WHO PAYS FOR HIGH TECH?

If Sematech works, it is likely to become an influential precedent for cooperation between the federal government and private companies in research and development. A consortium of semiconductor producers, Sematech is being established to do something about the industry's weak point—its inadequate manufacturing technology. It is to cost $1.5 billion over the next six years, half of it public money and half from the companies. The appropriations are now making their way through Congress, which asked its Congressional Budget Office to look into the wisdom of this investment.

The American producers still dominate the world market for semiconductors, but their Japanese competitors are gaining rapidly. It's a pattern that runs through many industries. The Americans are unbeatable in engineering design, but the Japanese are far ahead in manufacturing. The Japanese firms are now outspending American companies on semiconductor research, CBO says. Normal market economics doesn't work well in the fragmented American industry, because much of this investment pays no special return to the company that makes it. When a concept is developed, word spreads fast. Sematech is being set up to achieve manufacturing processes that can set the world standard in cost and reliability. CBO's description makes it pretty clear that any risks in this public investment are clearly outweighed by the risks of doing nothing.

The federal money would come from the Defense Department, not an entirely ideal arrangement. The department is already spending several hundred million dollars a year on semiconductor research, but its highly specialized requirements do not reliably contribute to commercial efficiency. It will be important to keep Sematech insulated from the immediate interests of Pentagon procurement officials. The money can be more than justified by Defense's broad interest in a competitive American industry.

The alternative to funding Sematech, as the CBO suggests, is plain old protectionism. The administration's current attempts to protect the semiconductor industry are not working well, and will make more trouble as time passes. Putting money into technology is vastly preferable to imposing import quotas, and in more industries than this one. There should always be three criteria for federal support. The industry has to be a crucial one (sorry, shoemakers). It has to be able to draw up its own agenda for research. And it has to be willing to put up half of the money from its own pockets. Sematech meets all three conditions.

REPRESSIONS AGAINST LATVIAN LUTHERAN CLERGY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. HOYER. Mr. Speaker, I would like to call the attention of my colleagues to an article that appeared in the Washington Post of September 5, 1987. In this article, the chairman of the Soviet Council on Religious Affairs, Mr. Konstantin Kharchev, states that in the past, Soviet officials "did not have a proper understanding of the role of religion in society," but that henceforth "both religion and the churches will live free under socialism."

Now I am not suggesting that we here in the United States have a monopoly on the "proper understanding of the role of religion in society." Far from it. But Mr. Kharchev's words, if translated into actions, will mean hope and good news for believers in the Soviet Union, who have for years suffered from a certain "second class" status, and in many cases, outright repression and imprisonment for their religious activities.

I specifically mention Mr. Kharchev's statement because I recently read a disturbing report concerning repressions taken against several Latvian Evangelican Lutheran clergymen this year. I refer to the following decisions on the executive board of the Latvian Evangelical Lutheran Church on August 27, 1987:

Prof. Dr. Roberts Akmentins is to be dismissed from his position as rector of the Evangelical Lutheran Seminary.

As of September 1, 1987, Dean Modris Plate is dismissed from his position as first, a dean of the Latvian Evangelical Church; second, instructor at the Evangelical Lutheran Seminary; third, pastor of the churches in the towns of Kuldiga and Edole.

Dean Aivars Beimanis is to be dismissed from his position as dean of Grobins district and as instructor at the Evangelical Lutheran Seminary.

The justification for these decisions is based on the above-mentioned clergymen's membership and participation in the Christian rights group, "Rebirth and Renewal." This organization was formed in June 1987 by about two dozen Lutheran clergymen and one lay activist to revitalize the Latvian Evangelical Lutheran Church and to restore the respect of a church that it was felt had lost its former respect among believers as a result of needless compromise with secular authorities.

Mr. Speaker, as I mentioned previously, these punitive decisions were rendered by officials of the Latvian Church leadership, and it is certainly not my intention to interfere in the internal affairs of the Latvian Evangelical Lutheran Church. I would mention, however, that Pastor Plate was removed from his position as minister to the Kuldiga and Edole congregations after Lutheran officials were pressured by local government and party organizations. Meanwhile, appeals in defense of Pastor Plate have been sent to church and government authorities by 350 members of his congregation Kuldiga. Pastor Plate has been active in the defense of another Lutheran pastor, Maris Ludviks, who has been irrevocably deprived of his right to preach in Latvia. Mariks had graduated from the Lutheran seminary and had been invited by a congregation in the city of Rucava to serve as their minister. He was refused the necessary registration permit by the Soviet Latvian Commission on Religion.

In addition, the independence of the Latvian Evangelical Church does appear to be questionable in light of the order by the archbishop of Latvia in April of this year that all pastors throughout the country should hold special services to commemorate the 70th anniversary of the "October Revolution." Given the tragic events that have taken place in occupied Latvia in the name of the "October Revolution," it does seem difficult to believe that the initiative for such special services would voluntarily emanate from the Latvian Lutheran hierarchy.

Mr. Speaker, in 1980, copies of the secret "Furov Report" to the Central Committee of the Communist Party by the then deputy chairman of the Soviet Council on Religious Affairs, reached the West. This report described the overt and covert control that the Soviet Government exerted or attempted to exert on the churches of the Soviet Union. Unfortunately, this seems to be clearly demonstrated in the case of the Latvian Evangelical Lutheran Church, and Pastors Plate, Akmentins, Beimanis, and Ludviks.

I hope then that Mr. Kharchev's statements to the Washington Post were not merely for external consumption and that we will in the near future see religion and churches living free in the Soviet Union. This would include an end to political pressure on church leadership so that Christian clergy and lay leaders, not only in Latvia, but throughout the Soviet Union, may pursue their faith and their service to their fellow men and women without fear of repression and reprisal.

JOHN S. ROSSELLI—GUEST OF HONOR OF THE ITALIAN-AMERICAN FEDERATION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LANTOS. Mr. Speaker, on Columbus Day again this year, the Italian-American Federation of San Mateo County will honor a distinguished Italian-American for community service. This is a most fitting and appropriate tradition on the national holiday when we celebrate the European discovery of America by the daring and far-sighted Italian sea captain, Christopher Columbus.

Mr. Speaker, the person to be recognized this year is particularly deserving of this honor—John S. Rosselli of Redwood City.

I wish to call to the attention of my colleagues in the Congress John's accomplishments and activities. He has been a resident of Redwood City, CA since 1939. For the last 40 years he has served residents of the San Francisco Peninsula as a pharmacist-co-owner of Lock Drug Co., a seven-store chain that serves Peninsula residents. John was also a consultant and provider of medicines for the Raleigh Hills Hospital Pharmacy and is the former president of Data Diagnostics, formerly Enzyme Products. He has been recognized on many occasions by his professional colleagues, including his designation as 1984 Alumnus of the Year of the University of California, San Francisco, School of Pharmacy, and as recipient of the Award of Merit of the California Pharmacists Association in 1982.

John has made many important contributions to our community. As an elected official, he was a member of the Redwood City Council from 1958-70 and he served as mayor of Redwood City from 1962-66. He has been appointed to positions on the county board of retirement, the County Historical Society, and a number of other local government committees and commissions.

His public spirit has been evident in the volunteer public service he has rendered our community. He has also been a member of the Redwood City Kiwanis Club for 27 years and served as its chairman in 1985. Kiwanis International recognized his record of distingushed service by awarding him the Legion of Honor in 1985. John has also been chairman for 4 years and a member for 22 years of the Salvation Army's philanthropic committee. He was a charter member of the committee and treasurer for 4 years of the Casa de Redwood, a senior housing project.

John has assisted in raising funds for a number of worthwhile San Mateo County projects, including the remodeling of the Redwood City YMCA Building, the rebuilding of Temple Beth Jacob after it was damaged by fire, the rebuilding of the old St. Mary's Church of San Francisco, and the Jesuit Retreat House.

Mr. Speaker, as an Italian-American, John has actively served the Italian American community in our area. From 1982-84 he was vice chairman and from 1984-86 he served as chairman of the Italian-American Federation of San Mateo County.

At this time of year, Mr. Speaker, when we recognize the accomplishments of Americans of Italian background, few of our fellow citizens are as deserving of recognition and honor as my good friend John S. Rosselli.

A TRIBUTE TO FRIENDS OF THE MOJAVE ROAD

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LEWIS of California. Mr. Speaker, I rise to give honor to Dennis G. Casebier and his volunteer organization Friends of the Mojave Road for their valuable contributions to the Nation through creation of interpretive vehicle trails in the California desert.

On October 10, 1987, the Friends are releasing a 320-page book that is a guide to the first 171.3 miles of the 600-mile East Mojave Heritage Trail. The Heritage Trail is an interpreted four-wheel drive trail that runs through the back country of the east Mojave Desert in southeastern California and southern Nevada. The guide provides the necessary directions and maps to keep travelers on the proper road as well as detailed information describing the natural and cultural history of the region. Additionally, travelers are educated in the proper but free use of these remote public lands without adversely impacting the significant resources there.

This new East Mojave Heritage Trail is not the first volunteer venture attempted by the Friends of the Mojave Road. Beginning in 1981 they entered into a volunteer agreement with the Federal Bureau of Land Management to develop the historic Mojave Road into a similar recreation trail. In fact, the successful pattern pursued with the Mojave Road is now being duplicated with the East Mojave Heritage Trail.

In both cases, the Friends identified long stretches of suitable existing back country roads that were approved by BLM for this use. They marked the trails with small piles of stones called rock cairns, coordinated their selection of routes with BLM, created carefully drawn maps to show the way and augmented that with narrative directions. The Friends laid out the entire text of these books by "miles over the trail." They sandwiched in at appropriate points natural, cultural, and management information. For example, the trail passes through several former mining communities, some dating back nearly 100 years. The history of these places is explained in the book. Also the trail passes through several areas of the World War II Desert Training Center, where more than a million men were trained for battlefields around the world. Virtually every inch of the trail passes through some area of natural or cultural interest, and it is all explained.

The wisdom of this approach to unsupervised back country use of the public lands with motorized vehicles has been amply demonstrated with the Mojave Road since its creation in 1983. In 4 years literally thousands of people have enjoyed the experience. Careful reconnaissance of the region shows no reckless or destructive use or damage to resources attributable to this experience. Hence, the interest of the Friends and the BLM in creating more such trails to satisfy the growing demand for recreation of this type.

The contributions of the Friends consists of innumerable activities that might not even be considered at a glance. In the aggregate, literally tens of thousands of man-hours and many private dollars have been expended. All the accomplishments have been achieved with no formal funding or backing to the Friends. It is all done with their own resources.

The routes are proposed to BLM by the Friends after much time is spent in the backcountry identifying the particular routes to be nominated. Then the Friends and BLM agree upon a route, and BLM assures that the route selected is proper from all points of view consistent with multiple-use management concepts and wilderness legislation.

Next, the Friends do extensive research into the natural and cultural history of the region. Building on Mr. Casebier's library, they have accumulated one of the most extensive collections of literature and resource material pertaining to this region that exists anywhere.

They then travel the trail in small groups and caravans. This phase often takes a year or more. The leaders lecture on natural and cultural history and management considerations as they roll over the road. At the same time, careful measurements are made so descriptive narratives can be written to keep people on the road. Cartographers gather data and commence drafting the many detailed maps that will be required.

Finally, the guide, is prepared and written. Friends of the Mojave Road donate time, resources, skills and everything imaginable toward the accomplishment of this difficult task. For example, Friends perform all the following tasks and more: photographic work in the field, darkroom work enlarging modern and historical photographs, interviewing "oldtimers" to gain accurate detailed information about the desert, research in museums and libraries, typesetting, computer work (automating cultural and natural information about the desert), writing, proofreading, fabrication of mail boxes that are situated in isolated locations for travelers to sign in, preparation of mailing lists, corresponding, preparation of coordinating reports, liaison with cattle ranchers and other desert users, creation of artistic paintings and cartoon art to illustrate reports and guides, providing airplanes for aerial reconnaissance, donation of expert knowledge in areas like archeology, geology, zoology, botany, and many other disciplines.

In the end, the Friends finance publication of these detailed and professionally produced guides. Direct production costs for the present Guide to the East Mojave Heritage Trail (Needles to Ivanpah) exceed $25,000. That amount is raised by the Friends through direct purchases of the guides.

It is noteworthy that the activities and accomplishments of the Friends have received recognition in several national magazines, major newspapers (the Los Angeles Times for example), and in many regional papers.

All this is accomplished by Dennis Casebier's Friends of the Mojave Road without a drain on public monies of any kind. Entirely through their own efforts and initiative, they are creating timeless national resources of inestimable value. For this, they ask nothing in return except the satisfaction of having done something worthwhile and for having created a way that backcountry enthusiasts can enjoy the remote sections of desert public lands without damaging the environment. For this they are deserving of our commendation, praise, and gratitude.

GLASNOST PERMITS REUNION

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. BROOMFIELD. Mr. Speaker, I am pleased to report that in the past few days we have seen what, most probably, should be the closing chapters of a painful story of separation. A husband and wife who have been forced to live apart as the result of Soviet emigration practices, will finally be reunited here in the United States.

In 1983, Keith Braun, an American law student from southeast Michigan, traveled to Moscow on a work-study program. There he met and fell in love with a 20-year-old engineering student named Svyetlana. He subsequently returned to Moscow and married Svyetlana with the full consent of Soviet authorities.

That was well over 3 years ago. Since the time of their marriage the Soviet Government has consistently refused to let Svyetlana join her husband in the United States. However, according to the most recent Soviet statements, Svyetlana will finally be allowed an exit visa sometime in October. It will be the end of a tragic odyssey of a man and woman kept apart by an emigration policy that is as heartless as it is illogical.

Hopefully, we will soon witness the product of countless efforts by American legislators, diplomats, private citizens, and Keith and Svyetlana themselves, to change Soviet policy. In 1986, I was able to discuss their case with Premier Gorbachev as a member of a congressional delegation to the U.S.S.R.

Despite all the good feeling a story like this generates we must remind ourselves that, according to international law, such a situation should never have happened. As signatories of the 1975 Helsinki accords the Soviets have agreed to the reunification of families under the human contracts section. However, as has so often been demonstrated in the past, Soviet acceptance of such basic human rights has come about in increments of the most microscopic proportions.

The lesson we gain from this dictates that we continue to actively pursue Soviet human rights violations whenover we become aware of them. The story of the Brauns is but one of many. There are literally tens of thousands of cases concerning human rights violations which must be brought to the attention of the Soviet Government and the international media.

Mr. Speaker, I know that I and many of my colleagues extend to both Keith and Svyetlana our congratulations for their unbelievable perseverance and best wishes for a happy and productive life together. We can only hope that this reunion of husband and wife will be the first of many which glasnost will permit.

TIME HEALS MOST WOUNDS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYMALLY. Mr. Speaker, procrastination is the thief of time. On the other hand, time heals most wounds. These two adages summarize a dilemma with which I have been faced for approximately 10 years, 9 to be exact.

The story goes something like this: In 1978 when I was running for reelection for the office of Lieutenant Governor, the attorney general in California went about saying to the press, that a high Democratic elected official was going to be indicted. The press immediately singled me out.

The attorney general subsequently, in an interview with the San Diego Union, said he was referring to me. Along with that statement, there was a U.S. Department of Justice investigation; about what I do not know, even to this day.

I do know, however, that of all the California legislators rumored to have been under investigation, the Department of Justice zeroed in on two members of the legislature, both senators, both minorities; one black, one Korean. In the primary of 1978, the FBI leaked information about my seat mate, the Senator, and he was defeated. In the general election, there was a false leak from the California Attorney General's Office about me, and it is generally believed that the leak caused my defeat. This is what this story is all about.

I am going to try in the interest of reconciliation to avoid using names, if at all possible.

Sometime in the fall of 1978, a Los Angeles Times reporter went to an investigator, in the California Attorney General's Office, and said he heard a rumor that I was going to be indicted by a Federal grand jury. This investigator subsequently wrote a memorandum to his supervisor, in the attorney general's office, and put a "P.S." on the memo, to wit: "This is a rumor only."

Of course in politics there are no secrets, and word about this memorandum got out. An assistant attorney general who was on a technical leave of absence and who was the manager of my opposition's campaign, obviously heard about the rumor and the memorandum, from his colleagues in the attorney general's office, and requested a copy of the memorandum. One of the deputy attorneys general released a copy of the memorandum to him, totally unaware of the motives of his superior. The assistant attorney general who was on leave of absence, then gave a commentator for KCBS TV, in Los Angeles, a copy of the memorandum, and that memorandum was the subject of a commentary 2 weeks before the campaign.

Everyone agreed that the commentary on KCBS TV was responsible for my defeat. Included in that memo was the name of my campaign chairman. Businessman as he was, he immediately sued CBS, the Los Angeles Times, the attorney general's office, et al.

After 4 years of deposition, and after the statute of limitations had run out, I learned that Deputy Attorney General Michael Franchetti was the party who released the information to the assistant attorney general managing my opposition's campaign. Naturally I was angry. My opposition, in a gesture of great courage and character, after having learned that the memorandum was false, issued an apology to me in writing. For that I have always been deeply grateful. When no apology was forthcoming to me from Mr. Franchetti, who was being sued by my campaign manager at that time, I made some critical comments about Mr. Franchetti in the media, and subsequently said that he had committed a crime on a radio broadcast. That radio broadcast was based on information given to me by a lawyer, relating to a particular section of the California Government Code which I subsequently learned was false. The California Senate refused to confirm Mr.Franchetti's appointment as director of finance.

Obviously there were bitter feelings on both sides, and those feelings found their way into the California courts. But since those adversary emotions have subsided and calmer heads have prevailed, Michael Franchetti and I got together for a very conciliatory and cordial meeting in San Francisco.That meeting was important for a number of reasons: First, we reminisced about the time when he was an advocate in the California Legislature, and I was a member of the California Legislature. I knew him then as a very honest person of great integrity. In fact, he worked very closely with my seat mate who was then Chairman of the Judiciary Committee.

During the course of this rancorous debate about Michael Franchetti, there were those who suggested that his refusal to apologize was based on racism. I never entertained that thought then, nor do I entertain it now. I have no evidence now, nor did I ever have evidence that whatever he did was based on race. I believe what he did was to comply with a request from his superior in the office not realizing that his superior was technically on leave of absence and without knowing what the motive of that person was. At the San Francisco meeting, it occurred to both of us, certainly to me, that the time had come for us to bury the hatchet and begin talking with each other as we did years ago. And so, Mr. Speaker, I simply want to say that the whole incident is regrettable. I think my friends in the California Senate know that I really never harbored any personal ill feelings against Mr. Franchetti, nor do I do so now. Now that the dust has settled, I am convinced that his giving the information to his superior was in no way based on any attempt to injure me or to cause my defeat nor was it based on race, nor does it impinge on Michael Franchetti's integrity given the circumstances upon which this information was mistakenly given.

Over the last few years, I have sent several messages to Mr. Franchetti. I think he now understands that there was never any malice in my heart. The only thing I ever wanted to do was what transpired in San Francisco. We met, We chatted. We reminisced about the past. I reassured him I had no personal animosity toward him. In fact, Mr. Speaker, I sent messages to him through a mutual friend in Sacramento on several occasions, and I know my friend would be prepared to so testify.

At any rate, the time has come for us to put this unfortunate incident behind us. As I said earlier in my opening statement, time heals most wounds. My wounds have healed, and the past is now history. The fact of the matter is, had I won the relection to Lieutenant Governor, I would not be in the U.S. Congress today. Therefore, I hold no ill feelings, no bitterness toward anyone.

I wish Mr. Franchetti well, and I pray that this ends an unfortunate ordeal for both of us.

SMALL TOWN AMERICA HOLDS THE LINE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. KOSTMAYER. Mr. Speaker, I would like to bring to the attention of my colleagues an article which recently appeared in Insight magazine on the subject of smalltown America.

One of the towns featured in the article is Bristol, PA, located on the western bank of the Delaware River in my congressional district.

In the spring of 1984, 50 leading private citizens, local elected officials, and I traveled to Lowell, MA—compliments of Ransome Airlines—to see firsthand the unprecedented progress that Lowell had experienced through the revitalization of its historic resources. Having met with Senator TSONGAS and those involved with the project, we were ready to initiate a similar revitalization effort in Briston Borough.

In 1985, I then requested the National Park Service to assist in the formulation of a strategy for the revitalization and conservation of the borough's riverfront area. This technical assistance was provided under section 11(a) of the National Wild and Scenic Rivers Act and amounted to nearly $40,000.

The study area included Bristol's riverfront area from the Otter Creek Marsh to the Grundy Library including the historic district of Radcliffe Street as well as the adjacent business district of Mill and Market Streets.

The culmination of this technical assistance program resulted in the development of a concept plan that was completed with the help and cooperation of many groups and individuals in Bristol, most especially the Grundy Foundation.

The progress that has been made in Bristol Borough has been quite remarkable and I recommend this article to my colleagues and encourage the use of Bristol as a model for the revitalization of small towns in other district across the country.

SMALL-TOWN AMERICA HOLDS THE LINE

(Summary: Bristol Borough was a name the locals muttered under their breath. Its biggest claim to fame was an X-rated theater. It didn't even have a high school band. But not anymore. Once dingy and roughneck, the 17th century borough has spruced up and shines with community spirit. There is still unemployment. But the porno house is gone and people are proud of their home)

There are a few decipherable road signs directing prospective visitors to Bristol Borough in Pennsylvania. This is not merely an absence of tourist bait; it is also the result of a dearth of the typical state-supplied signs found leading into any town. The best way to find the borough is to ask someone, for it occupies the same place on the map as Bristol Township.

The two look as different as they sound alike. One is long and littered with battered gas stations and multitudes of peeling billboards; the other is compact and attractive, despite its oddball mix of restoration and decay. Age may have something to do with the disparity in looks. The township is in its mid-30s, whereas the borough is more than 300 years old.

A consultation with three McDonald's hamburger hands in sprawling Bristol Township produces precise instructions for reaching the 10,000-population borough: Go down old Route 13 toward the New Jersey Turnpike and when you get to Manny's Place, turn left. The borough will be dead ahead. The absence of signs reflects a spirit exemplified by an old borough joke. Bristol residents abroad (at the New Jersey shore, for example) would, when talking to strangers, say that they came from Pennsylvania. When further questioned, they would say, "eastern Pennsylvania." When pressed, they would answer, "Bucks County." And if pinned against the wall, they would lower their eyes, cover their mouths and mumble, "Bristol."

The borough had a dreadful reputation. It was known as home of the Bristol Stomp, where roughneck youths would as soon rob a cripple as help him cross the street. "It was the type of place where you wouldn't want to bring your car after dark," says local businessman Steve Howell.

But within the past few years, a Cinderella transformation has started in the borough. The town has adopted an earnest slogan: "Positive things are happening in Bristol." Sure enough, they are. Even to the casual visitor, the process of change is impossible to miss.

Starting from the waterfront and leading into the heart of the community, old neglected structures have become rediscovered historic treasures, sporting restorations worthy of their 17th and 18th century origins. Scaffoldings and service trucks denote additional works in progress. Brick sidewalks line the sides of historic Radcliffe Street. Clusters of eager planners roam the streets in daylight, clipboards and blueprints in hand.

An issue of the weekly Bristol Pilot features a front-page photograph of children participating in "Clean Up, Paint Up, Fix Up Month."

"Things are turning around very well," says Pilot Editor David Vasquez. "I'm not saying that we didn't have something good here to start with. But people are taking pride in Bristol."

The civic pride is not so much new as it is renewed. The feeling comes after a very long sleep: The borough of Bristol was founded in 1681 and enjoyed relative good fortune until the end of World War I. It was one of the early successful market towns in Pennsylvania and became a famous riverfront resort in the 18th century.

In the early 19th century, Bristol was a popular playground for wealthy visitors who spent their money at fancy hotels, restaurants, mineral springs and two racecourses. It evolved into a major center of shipbuilding and other industry. The Delaware River and Delaware Canal provided shipping lanes for all manner of products, particularly coal.

Beginning in 1860, the borough's fortunes followed a roller coaster path. The apex was the founding of Grundy Woollen Mills. After World War I, as highways and railroad lines skirted Bristol, the community began a slide. One by one, industries pulled out. As each year passed, a few more men were left without work and a few more businesses sank into hopelessness.

"It was a gradual thing, almost like an illness," says Leonard Snyder, director of the local Grundy Foundation. "You start to feel worse and worse and all of a sudden you realize you're sick."

Things bottomed out around 1960, says Snyder. "The attitude was, there's not much we can do to save this town."

Things got so bad that the high school didn't even have a band. Members of the football team dreaded games, when they came face-to-face with kids whose schools and towns were clearly proud of them.

Complicating the problem was a history of political feuds and polarization, says Suzanne Sutro, who came into contact with Bristol while working with the National Park Service.

But the absolute worst thing about Bristol, say the locals, was the existence of the Bristol Art Theater, an X-rated movie house. The theater occupied a prominent place at the corner of Mill and Radcliffe streets. No matter how many class-conscious professionals hung their shingles on Radcliffe Street, they could not escape the seedy twilit shadow of pornography.

"Everywhere you went, people would say, 'Oh yeah, you come from Bristol—the place with the porno house,'" says Snyder. Virtually every resident in the borough felt tainted by the Theater, he says.

"There was no point in improving other parts of the town," concurs Vasquez, "because there was always that porno house."

The year after Bristol bottomed out, an event occurred that ultimately benefited the borough. Joseph Grundy died. The controversial state Republican leader and businessman, who served one year in the U.S. Senate, left behind a perpetual trust of $15 million (now worth in excess of $30 million). His will specified that the income from the trust was to be spent on charitable scientific, literary and public works projects within the Commonwealth of Pennsylvania. Trustees later amended the terms to benefit Bucks County.

In 1966, the Grundy Foundation took a key first step toward the betterment of the borough: It constructed a general library, with both books and social programs. The waterfront library and surrounding grounds stood out like a well-manicured thumb on a hand with four battered fingers.

Other Bristol-boosting projects plugged along at a rowboat's pace, until, in 1985, fortune again smiled upon the town. In the wake of the home video revolution attendance dwindled at the pornographic movie house. The owners put it up for sale.

The Grundy Foundation jumped at the chance. It bought the theater for the sole purpose of closing it. "They outbid another potential operator," says Vasquez.

The first action taken by the new owners was to place a brand-new sign on the marquee: "Positive Things Are Happening in Bristol." Sutro says the purchase triggered an overnight rise in real estate values.

More good news followed, says Snyder. At a parent-teacher organization meeting, 300 people showed up. Residents formed a group to go Christmas caroling. "Suddenly people started to feel good and feel safe."

The theater is being converted into a live repertory stage. Its first season opens this fall. In 3½ months, a subscription drive netted 3,500 members.

"The improvements just started to snowball," says attorney Tom Edwards.

The closure of the porno house was the equivalent of bringing the Music Man to town, says Snyder. Projects and donations flooded the borough. The Lions Club improved on the waterfront Lions Park. The local Rotarians established scholarships for Bristol students. An attorney donated $4,000 in scholarships for kids. The Grundy Foundation donated $120,000 to provide extra police department staff.

The foundation also set up a matching grant program to revitalize the waterfront area. The civic spirit was fired by enthusiasm from the Radcliffe Street Historical Society, the Mill Street Business Association, the Neighborhood Design Committee and other groups.

And—much to the delight of local youngsters—the high school formed a band. "You had some real enthusiastic people there," says Sutro.

Outside the ranks of project activists, an easy pace of life seems to be the rule in Bristol. The borough's biggest problem, says Edwards, is unemployment, though there is no way to substantiate that with statistics. Bucks County officials say they do not compile unemployment figures for the borough because it is too small.

A stroll through Bristol confirms that at least part of the population isn't working in the daytime. Local porches are strewn with seemingly healthy young and middle-aged men, talking to each other or simply watching the parade of hometown traffic.

Sung Chul, a college freshman who came to Bristol from South Korea at age 11, agrees that many people seem to be out of work. When that happens, though, "they find something else," he says: Plenty of laborers are employed. Early workday mornings, they crowd the counter of his aunt's restaurant, Katy's Kozy Korner. The patrons gobble up 10 pounds of bacon a day, says Chul.

There is no mistaking the Norman Rockwell flavor of the town. On a summer day, young boys on skateboards whiz down Radcliffe Street alongside cars. People hang out at the barber shop, sitting on the front step under the red and white striped pole. The barber keeps a steady stream of cheerful conversation and calls out free advice to a mother wheeling her baby: "Turn her over on her back, honey! She wants to see where she's going!"

There is a font of easy familiarity. If a shopkeeper spots you passing in front of his window, the next time by you get a friendly wave. Patrons at Ye Olde Tobacco Shoppe flag you down and ask for help with the newfangled lottery tickets. Children playing on the church steps offer to show you how to fold paper airplanes. Midday at the riverfront, each of the dozen-plus benches at Lions Park is occupied. The squatters include lunch hour office workers, babysitting grandmothers and a shade-seeking bum. Three businessmen scheme on the merits of setting up a soft pretzel franchise.

A stereotypical redneck teen races his bicycle toward a group of black youths fishing on the dock. "Hey!" he bellows. "What do you think you're doing?"

"Hey?" they bellow back. "We looked for you and couldn't find you.[1]"

Fishing gear is quickly stowed and the teenagers scoot off together on bicycles.

The community is not without grinches, says Snyder. "There's always people who disagree with what we're doing, who think things should be done differently. But they keep us on our toes."

One well-known malcontent is tire merchant Leon Plavin. Recently retired after 50 years in business, Plavin is a frequent writer of letters to the editor. A recent letter complained of the political stranglehold placed upon the borough by "The Gang."

"Since 1950, only one party has had all the offices," he explains. "And that's the Democratic Party. I'm opposed to dictatorial, power politics government, and that's what we've had in Bristol under the control of the Democratic Party."

The town is heavily Democratic, says Vasquez. "The Republicans who call themselves Republicans are former Democrats disgruntled with the way things were going, so the only way to get change was to switch parties."

Plavin, a registered Republican, has plenty of ideas he wants "The Gang" to listen to. Among them is the removal of parking meters, which charge 10 cents per hour and can be monopolized, and the establishment of strict time limits. "We need to go back to marking tires," says Plavin. "This is a system that goes on in many communities. We need to stop the all-day parkers who feed the meters all day long and consequently the shoppers don't have a convenient place to park."

The Grundy-supplied community parking lot is great for some areas, he says, but it is quite a ways from many shops. "It's quite a walk uphill for the older people."

Plavin says his complaints have brought harassment over the years, but he intends to keep on working to improve Bristol. His is the kind of dissatisfaction that is born of being firmly settled in his hometown. Besides, crankiness has its rewards. "Many things are happening here that I suggested over 30 years ago."

THE END OF AN ERA IN OCEAN CITY: CAPTAIN BUNTING RETIRES

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYSON. Mr. Speaker, I rise today to salute a very unique individual from the beautiful shores of Ocean City, MD. For over 50 years, Orlando Bunting has been a seafaring institution in this part of Maryland's First District.

Ever since Mr. Bunting was born in Ocean City some 71 years ago, his life has been intimately linked to the sea. Indeed, the Bunting family were pioneers in Ocean City at the very beginnings of the city's modern development. His father and uncle built two of the first piers in Ocean City shortly after World War I at a time when the beach was still largely isolated and unpopulated.

While the first Buntings in Ocean City were basically involved in fishing and sailing in the ocean and in the Chesapeake Bay, Capt. Orlando Bunting helped to expand the family's operations to include charter boating as well. Mr. Bunting introduced countless numbers of excited tourists to the beautiful ocean vistas around the peninsula.

But Captain Bunting recently announced that he will henceforth remain landlocked. For the reasons of failing health, Mr. Bunting will no longer sustain the long hours out at sea. From now on, the Bunting family will be solely engaged in their restaurant business. It is truly the end of an era in the history of Ocean City.

Mr. Speaker, for the benefit of my colleagues, I request you to insert into the Record the following article on the Buntings, which appeared in the July 12, 1987, edition of the Sun:

The Buntings—For Generations the Family Has Been a Byword for Fishing and Food in Ocean City

(By Bill Lombardi)

Capt. Orlando Bunting was born in a little house on Talbot Street in Ocean City 71 years ago. And he hasn't gone much farther since then.

"I've never been no other place," says the sea captain who, in experience and longevity, is one of the most senior sailors this seaside town boasts. "I've done nothing but play on the boats and work on the boats. I don't care what's going on on the other side of the world. Heck, there's no need for me to go to Miami, Palm Beach or Fort Lauderdale, I've got it here every day. What you see around here is the way I am. I've never been able to find my way across that Route 50 bridge."

Today, he sometimes sits stoically on a bench outside his Dorchester street dock office, where the tourists come from the big cities to gawk like children at the wide-eyed tuna, mako and tiger sharks, bottom fish and sleek white marlin that are heaved to the wooden piers his father and uncle built decades ago and turned into a gold mine in south Ocean City when the inlet was cut by a hurricane in 1933. His father, Charles R. Bunting, and uncle, Levin Bunting, built the Talbot and Dorchester street piers after World War I and pioneered the way for fishing and sailing in the bay, and later, when the inlet was created, for sport fishing and motorboating in the open ocean. The descendants of Charles R. Bunting have always had as their mission the duty to provide vacationers an experience at sea or on the docks.

The tourists these days approach Mr. Bunting almost reverently, and ask him what's biting near the ocean shipwrecks. Now he's mostly an advance man, a landlocked salesman who gladly answers questions about the mysterious ocean waters. After more than 50 years as a licensed boat captain, this summer he is calling it quits because his health is failing him and the sea and the long hours don't quite hold the allure they once did.

"I think Dad's come to represent something greater than the sum of his parts," says his son, David. "Dad represents the good times to people who have fished with him. Fishing, like everything else, isn't as sweet as it used to be. He represents a standard."

"He knows that ocean out there like you know your back yard," says Irv Mumford, a fishing tackle shop owner who was a mate on some of Mr. Bunting's brothers' charter boats. "The Buntings sort of made that charter-boat business down there. Fishing was much better in those days. Everybody was real friendly. It wasn't cutthroat like it is now. It's a young man's game."

Says Orlando Bunting, "It's a funny thing, I haven't missed it. When you get enough, you've had enough. And I've just had enough of it."

Like it or not, Mr. Bunting is trading in his sea legs to become a landlubber. He's turning his one true love, the 65-foot head boat, the Captain Bunting, distinguished by its turquoise-colored hull, over to a 25-year-old captain whose surname isn't Bunting. It must grate the grizzled captain, who has spread the ashes of many of his friends and family five miles out in the Atlantic, that none of his three children is taking over the wooden wheel of his boat. But he doesn't show much emotion.

Over on Talbot Street, one block away, Capt. William Porter "Tuffy" Bunting, Orlando Bunting's nephew, is slowing down, too. A heart attack on March 27 made sure of that. But the siren call of the sea is still irresistible, especially for a 54-year-old captain who 20 years ago was known as one of the best sport fisherman in the White Marlin Capital of the World, and, as his wife, Martha, says, the quickest man to the fishing rod she has ever seen once a fish comes up behind the bait.

"I've never had any ambition to do anything else," says William Bunting, owner of the Angler party boat and Angler Restaurant on the bay at Talbot Street. "There's been a great deal of change through the years. But we've never gotten very far from the theme of giving the people good food and a water-type and fishing experience. I think it's a great life. A fellow comes down here, he's got a few days off and he goes fishing; he's out in the fresh air. If you can't please him then, shame on you."

The Bunting name has always been synonymous with the Dorchester and Talbot street piers. The piers have been passed down through the family for years, and today are almost invaluable pieces of real estate as developers look to rebuild the waterfront in downtown Ocean City.

But Orlando Bunting won't let go.

"Two or three fast operators have offered me a million dollars for this place," he says. "What am I going to do with the money? You might as well offer me $10 million. I want to keep it in the family. Money I don't care nothing about. I'm not no big spender and I don't run another woman."

Orlando Bunting's only surviving sibling, his sister, Martha Ann Williams, was one of the few Bunting children—there were six boys and three girls—who shied away from the water.

"I was the one that didn't like fish," she says. "I just don't like that smell. I'd rather have a hot dog than fish." A retired C&P Telephone Co. employee who now sells Aloe products in one of Ocean City's shopping malls, she says she is sometimes approached by tourists "because they want to touch a native. They never see them anymore."

Meanwhile, Charles R. Bunting's third generation of descendants is poised to take over operations at the Angler Restaurant, today owned and operated by William and Martha Bunting; two daughters, Julie, 29, and Jayne, 27, and William's mother, Louise, who started it all by cooking breakfast for the fishing vacationers and selling her famous home-baked pies from the former dock office.

"My daughters have decided to continue this," says William Bunting. "To tell you the truth, the women built Ocean City. The men were out making their living on boats and the women were taking in roomers. Mother would get up and cook breakfast, pack lunches and then the fishermen would be back for dinner. We graduated from one table to today's capacity. We try to offer people what they come here for—to dine outside, cruises and all local seafood. We're a family tradition here, devoted to serving the public in a family resort."

Martha Bunting says her husband now can choose when he wants to captain the boat. "Now he goes fishing when he wants to hide. Now he says he doesn't want to see any fish," she says.

Watching their parents go to work every day, both Bunting daughters begged their mother to let them work at the restaurant when they were young children. But Mrs. Bunting laid down the law: The girls couldn't punch the clock until they turned 13.

The young girls began by seating patrons and have worked their way up to where today they effectively are running the 225-seat restaurant that counts on local and returning customers who prefer to be near the water and in what is considered the quaint portion of Ocean City. Louise, William Bunting's mother, still comes in early in the morning to open up. And Mr. Bunting helps out, too. But he no longer captains the party boat every day and doesn't have to rush back from 20 miles out at sea to bus tables and wash dishes in the evening. Those days are over.

"I've seen a lot of families work together and many times it doesn't work out," says Julie Bunting. "But we really work well together. The people who work here love it. They bust their butts for this family."

Orlando Bunting rarely takes his boat to sea anymore. But he still makes all the decisions around the dock, says Beatrice Cole, who manages his dock office.

"Emotionally, he's married to that boat," she says. "He must have a lot of faith in [Capt. John Young] to let him take that boat."

"I wouldn't work for anyone else, says Mr. Young. "I always respected him. He's the hardest man I ever worked for. He's a perfectionist. Everything he ever taught me comes back to me every day I step behind this wheel."

Last Monday night, by chance, the two captains, uncle Orlando and nephew William, passed each other on their early-evening scenic cruises in choppy seas just off Ocean City's coast. Orlando Bunting laughed over the CB radio about the big swells being pushed along by a strong southwest wind. He was filling in for his new captain, who had a rare night off to stay home with his month-old baby. Nephew and uncle talked about the rough seas that mattered little to the happy, shrieking tourists getting soaked in the bows of their boats. The captains talked about the day's catch, laughed about the tourists getting wet and then passed each other as the sun set over Ocean City.

"A funny thing about the tourist," says Orlando Bunting, "the rougher it is the more they love it. A lot of people tell me they wait until she's really bad before they come to make their cruise."

THE NATIONAL DAY OF THE REPUBLIC OF CHINA

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LANCASTER. Mr. Speaker, I join the 19-million Taiwanese in celebrating October 10, 1987, the 76th National Day of the Republic of China. Today, the Taiwanese enjoy one of the highest standards of living in the Far East and in the world.

As our Taiwan friends celebrate their national day, we in the United States applaud their political reforms, appreciate and encourage their efforts in reducing their trade surplus with us, and pledge to them our continuing support for a free and prosperous Taiwan as stated in the Taiwan Relations Act of 1979.

I congratulate President Chiang for his leadership in promulgating recent liberalization programs in guiding his country to full democracy. Too, appreciation is due Dr. Fred Chien and his staff for making clear Taiwan's positions on many critical issues to my colleagues and me. The Coordination Council is a vital link of communications between Taipei and Washington.

LOCKHEED'S COMMITMENT TO AMERICA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. SOLOMON. Mr. Speaker, today I wish to pay tribute to an American corporation which doesn't just pay lipservice to patriotism but demonstrates it in a meaningful day-to-day manner.

The Lockheed Corp., as part of their employment procedure, requires male applicants between the ages of 18 and 26 to certify they have registered with the Selective Service System.

No one required Lockheed to take this type of action. However, by implementing this initiative Lockheed has demonstrated their commitment to strengthening our national security. Peacetime registration contributes up to 2 months to our national readiness posture in the event America must mobilize.

This action by Lockheed is a practical and inexpensive way to ensure the effectiveness and fairness of the peacetime registration program. It conveys the message to young Americans that if you expect the benefits of our great country, you must meet the minimum requirements of citizenship. I am very proud of the leadership demonstrated by Lockheed and hope many other American corporations will follow their fine example.

SOVIET CHANGES COULD HELP UNITED STATES

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. SIKORSKI. Mr. Speaker, I recently returned from a journey to the Soviet Union, where I discovered hope—and schooled skepticism. Cautious joy—and knowing resignation.

The first few months of glasnost and perestroika have given us some cause for optimism. Recent signs of freer speech, worship and emigration, and the appearance of a willingness to negotiate constructive arms control, are encouraging. One measure of openness, the number of refuseniks allowed to emigrate, increased dramatically in the first months of 1987 over 1986—although it is still only one-fourth the all-time high of 1979.

The United States has a natural interest in the Soviet Union—it is the other great superpower in the world. And the United States has a natural interest in the state of human rights in the Soviet Union, as in any nation. In the words of Martin Luther King, "injustice anywhere is a threat to justice everywhere."

With this in mind, I found Mark Dayton's recent column in the St. Paul Pioneer Press particularly relevant and insightful. Mr. Dayton, the former commissioner of energy and economic development for the State of Minnesota, also recently returned from a journey to the Soviet Union, and I wanted my colleagues to benefit from his observations.

[From the St. Paul Pioneer Press, Sept. 20, 1987]

SOVIET CHANGES COULD HELP U.S.

Like nothing before, 10 days in the Soviet Union made me appreciate what it means to be a free American. On the seventh day, the pervasive oppressiveness sank in. The Soviet Union is a difficult and depressing place in which to have to live.

Signs of shortcomings are everywhere. The special stores, which offer to tourists with foreign currency goods not available to Soviet citizens, speak volumes about the failure of the economic system and the injustice of the social system. An unhealthy political environment begets an unhealthy citizenry. The average life expectancy has actually declined in the Soviet Union during the last decade due in part to unhealthy diets, excessive smoking and alcoholism.

However, for many soviet citizens, the present environment is the healthiest and most democratic they have ever known. Conversations with numerous Soviets from different backgrounds leave the unmistakable impression that glasnost (openness) and perestroika (economic restructuring) are for real. As one Soviet told us, "While living may not be easier, breathing definitely is."

With openness has come a virtually unprecedented ability for Soviet leaders and Soviet citizens to speak critically about the shortcomings in their social and economic systems and the need for change. Mikhail Gorbachev, the Soviet leader, sets a very strong example by his own words and conduct.

Soviet citizens are convinced that these changes are for real. The forces of change that have been unleashed are extensive and profound. At the political level, there has been the changing of the old guard and the old order. At the social level, there is openness to new possibilities and new expressions of thought. At the economic level, there is the beginning of a massive restructuring of the Soviet economy.

No one believes that progress will come easily. Indeed, Soviet citizens while hoping for the best seem prepared for the worst. Mr. Gorbachev's economic advisers have already warned publicly that economic conditions may actually have to worsen before they can improve. As any political leader knows, such a course is fraught with high political risk. Soviet necessities such as food, housing and utilities are heavily subsidized. Unleashing market forces in the Soviet economy could well cause rising prices, unemployment, dislocation and lower standards of living for some. Virtually everyone predicts strong conservative resistance and even undermining and sabotage of the proposed reforms.

So what does this mean for America? It means that we must understand these powerful forces of change for what they are and appreciate their importance to the future of the Soviet Union and the fate of the world. In a society in which the state has been for so long a monolithic oppressor, these changes are indeed profound. If the Soviet experiment succeeds, it offers a better standard of living and a more democratic style of living for its citizens. It will be a country in which its leaders and its citizens have greater incentives to preserve a peaceful coexistence. It may even be a society in which new opportunities for cultural and economic exchange with the United States and other democracies can establish the interrelationships and interdependencies upon which a peaceful coexistence may be based.

If the benefits to America of Gorbachev's success are not convincing, the risks of his failure should at least be sobering. All Soviets with whom I spoke were gravely concerned about the serious consequences of failure. As one eminent Soviet said, "The risks are enormous. It is too terrible to think what would happen if this fails. It will not go out with a whimper. In times of economic and social collapse, most countries turn to war."

In short, while Americans may differ on their degree of hope for Soviet success and the benefits it will bring to Soviet society, our clear self-interest resides in avoiding its failure. This brings us unavoidably to the issues of arms control. For all of its difficulties, the Soviet Union remains the only nation on Earth that can destroy the United States. Yet this military power has clearly been bought at an even greater cost to the Soviet economy than has our own military buildup. The critical question now is whether both countries will pursue continued military escalation at the expense of their civilian economies and their citizens' well-being.

There is a strong evidence that Gorbachev and his economic advisers realize they cannot pursue both the arms race and improved economic change, the Soviet leaders have a strong self-interest in capping the arms race. Thus their predicament presents an historic opportunity for President Reagan and the next American president to negotiate a dramatic reversal in the arms race.

It is too easy for Americans with healthy memories to continue to view the Soviet Union through the prisms of Joseph Stalin and Nikita Khrushchev. Mikhail Gorbachev may not be the second coming of Thomas Jefferson, but he is a dramatically different leader from his predecessors. If he succeeds, he will almost certainly be the leader with whom the United States must negotiate and coexist for the next two decades. If he fails, the uncertainties for the Soviet Union, the United States, and the world are profound. Most Soviet citizens desperately hope for his success. For them it means a chance both to breathe easier and to live better. That wouldn't hurt us either.

A RESPONSE TO WILLIAM F. BUCKLEY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. FAZIO. Mr. Speaker, Sharon Gold, president of the National Federation of the Blind of California, has sent me her response to columnist William F. Buckley's article on blind sailor Jim Dickson's attempt to sail across the Atlantic Ocean. I felt it was an excellent response, one that was worthy of being shared with my colleagues.

It reads as follows:

Mr. Buckley sits on the high horse of his erudition and his three books on sailing, tilts his head back, looks down his nose, and pronounces pontifically "certain things one can't naturally do when one is blind," "people who can't see have really no business sailing," "I think it is incorrect to suppose that by engaging in a exercise of this kind you are helping blind people, because there's no way that you can make people who are blind unblind." He adds, piously, "I wish we could."

William Buckley, who postures himself as being in "the right" recently demonstrated in his syndicated column and in a television appearance his inability to recognize the rights of others when he openly and unblushingly criticized Jim Dickson, a blind sailor, for setting sail upon the Atlantic Ocean using modern technology designed for use by the blind.

Mr. Buckley, who is a recognized authority on sailing, has thrust himself into the field of blindness as a self-announced authority. In this new found position, Mr. Buckley has declared that he would neither "take" the blind to the ballet nor "take" the blind to the Grand Canyon and that the blind have no right to join him in sailing the seas.

The truth is, that the blind don't need a Mr. Buckley to "take" us to the ballet or to the Grand Canyon and we have as much right to the sea ways as we do to the streets and by ways of the land. In other words, blind persons choose for themselves whether we will attend the ballet, hike through the Grand Canyon, swim in the ocean, and, yes, sail the seas.

Mr. Dickson said the "the attitude which Mr. Buckley has expressed is the attitude which keeps 500 million humans in circumstances akin to the 14th century." The attitude to which Mr. Dickson refers is the real tragedy of blindness and it is this antiquated attitude which is the kind the National Federation of the Blind, a nationwide membership organization of blind persons, has been working to dispel for now almost half a century.

The National Federation of the Blind believes that with opportunity and training in the alternative techniques of blindness—techniques which Mr. Buckley obviously does not know or understand—blind persons can participate as equal members of society and hold jobs alongside their sighted colleagues.

In these modern times, all persons benefit from the advancement of technology. The blind person's use of technology which "speaks" in a synthesized voice or gives a printout in Braille is no different from a sighted persons' use of technology which displays or produces a readout in print.

Does Mr. Buckley believe that because Mr. Dickson has become blind he has become a "native American alien" without the right if citizenship and that he is thus without the rights and privileges of a citizen in this country—free to walk the by ways and the highways and go sailing on the high seas.

ANSWERS TO THE CONSTITUTION QUIZ

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. FASCELL. Mr. Speaker, on September 16, I inserted a three-part quiz on the Constitution into the RECORD (pp. 24246–47): Junior level; Patriot level; and Founding Father level. I know that our colleagues have been anxiously awaiting the publication of the answers so, without further ado, here they are.

JUNIOR LEVEL

1. No. 1: The Preamble.
2. No. 3: "We the People . . .".
3. No. 2: 1787.
4. No. 3: Philadelphia.
5. No. 1: Seven.
6. No. 1: Congress.
7. No. 3: Bill of Rights.
8. No. 1: 39.
9. No. 3: 13.
10. No. 2: The United States.

PATRIOT LEVEL

1. No. 3: James Madison.
2. No. 2: Union, Justice, Tranquility.
3. No. 2: A Bicameral Legislature.
4. No. 1: Alexander Hamilton.
5. No. 1: September 17, 1787.
6. No. 3: The Federalist Papers.
7. No. 4: Delaware.
8. No. 2: Separation of Power.
9. No. 4: All of the Above.
10. No. 3: The National Archives.

FOUNDING FATHER LEVEL

1. No. 3: William Jackson.
2. No. 2: 55.
3. No. 2: Edmund Randolph.
4. No. 1: Republican.
5. No. 1: Gouverneur Morris.
6. No. 3: There was no Bill of Rights.
7. No. 4: Roger Sherman.
8. No. 2: Publius.
9. No. 4: V and XIV.
10. No. 1: Speaker Jim Wright.

NORTH CAROLINA HEARINGS ON SMALL BUSINESS AND FEDERAL PROCUREMENT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. PRICE of North Carolina. Mr. Speaker, on September 11 the Small Business Committee conducted a day of field hearings in Raleigh and Sanford, NC. Mr. LANCASTER and I hosted these hearings which were chaired by Mr. LAFALCE, and also attended by Mr. MAVROULES, Mr. UPTON, and Mr. HAYES of Illinois.) The hearings focused on how to ensure that small businesses receive fair and equitable consideration from Government agencies and military installations in the competition for Federal contracts.

The first panel in Raleigh consisted of people involved in providing services to the small business community. The committee heard from Scott Daugherty, executive director of the Small Business and Technology Development Center, Joan Troy, president of Management Plus, a consulting firm for small businesses, and Margaret Rose Murray, president of the Business Building Society of Wake County. These witnesses discussed the services currently available to small businesses and the common problems small businesses face in competing for and performing on Government contracts.

The second panel of witnesses represented the contracting offices of various Government agencies. Calvin Hornsby of the Postal Service, Charles Leasure of the National Institute of Environmental Health Sciences, and Douglas Richmond of the Environmental Protection Agency testified at length on their agencies' contracting procedures and their outreach efforts toward small businesses. They also provided information on the percentage of their agency's contracts which have been awarded to small businesses in the last 3 years.

The final panel of witnesses included Malcolm Hutton, president of Independent Design and Review; James W. Gill, president of Survival System International Corp.; Peggy Richmond, president of Research and Evaluation Associates; and Robert Luddy, president of Captive-Aire Systems, Inc. These small business owners have had considerable experience with the Government contracting process, and they provided invaluable insights into the trials and tribulations of the Government procurement process. And they offered constructive suggestions for increasing the number of bids by small businesses and ensuring small businesses are not put at a competitive disadvantage by the bidding process.

Some common themes emerged from these panels which are deserving of future legislative consideration and action. The first is the need for Federal resource agencies, like the Small Business Administration and the Small Business Development Centers, to more aggresively market their services to the small business community. The second is that Congress must work harder to ensure that the proposals of small business are taken seriously by Government procurement officers. These businesses offer significant cost-savings for our Federal Government in many cases, and we can not turn our back on this resource especially in a time of budgetary crisis.

This hearing was a positive, first step toward improving the situation for small businesses in the Government contract process. I want to compliment the witnesses of their fine testimony and thank the members who took time out of their busy schedules for this hearing. I look forward to working with them in the future on these important issues.

A TRIBUTE TO JESSE UNRUH

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LEWIS of California. Mr. Speaker, I am grateful to have this opportunity to express my feelings on the passing of Jesse Unruh. Jesse was an incomparable force in politics and a great example to us all in fulfilling his duties to the people of California.

The impact of his contributions to the California State Legislature as speaker in the California Assembly was widespread and will continue to be felt for years to come. Indeed, he is responsible for restructuring the legislature.

Jesse's forthright manner, to put it mildly, offended some people. He was respected nonetheless for his firm discipline in both his professional and personal life. As speaker of the Assembly and as State treasurer, he led with the courage of his convictions. It is hard to imagine another politician so boldly challenging the incumbent Ronald Reagan for the seat of Governor.

I salute Jesse Unruh for his truly remarkable achievements. Both sides of the aisle can appreciate and learn from his incredible dedication to his career. Saying that he will be missed is a vast understatement. Of course the vacuum which now exists will slowly close itself. The business of California politics will continue without him, and others will have their own successful and influential careers. We will remember Jesse for his leadership and character, but when all is said and done, he will stand out in history as one of the great politicians of our time.

U.S. COURT OF APPEALS DECISION OVERTURNING "GAG" ORDER ISSUED AGAINST REPRESENTATIVE HAROLD FORD

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYMALLY. Mr. Speaker, I am overjoyed as a result of a recent U.S. Court of Appeals decision. The decision overturned a gag order imposed against our colleague, Representative HAROLD FORD of Tennessee, limiting his statements about his case currently before the U.S. District Court for the Eastern District of Tennessee.

The gag order entered against our colleague prohibited him from making any extrajudicial statements regarding his opinion of or any discussion of the evidence and facts in the investigation of the case as well as any statements related to the merits of the case.

This case presented questions of institutional importance to the House of Representatives: Whether, upon indictment, a member of Congress may continue to perform the representational and communicative functions of his/her office, free from any fear of judicial interference and without censorship by court order curtailing his communication with the electorate which chose him; and whether a Representative's constituents may be deprived of a major aspect of representation—the accountability of their Representative to them, through his communication with them—on the basis of a mere issuance of charges against their duly chosen Representative.

In separate opinions, a three-judge panel of the U.S. Court of Appeals overturned the gag order limiting Congressman FORD's statements about his case as being overbroad, violating his first amendment rights of free speech, and the separation of powers clauses of the Constitution. The decision by the court should be hailed as a victory not only for Congressman FORD—a member of the Congressional Black Caucus, but a victory for all Members of Congress.

I commend the House leadership for the hand of support that was extended to my friend and brother HAROLD FORD. But I owe a special debt of gratitude to Speaker WRIGHT whose very own arguments were carried in writing and in voice to the court of appeals. Had this gag order been allowed to stand our Constitution would have been tarnished by a new era of civil rights violations and the perogatives of the House would have been unconstitutionally circumscribed.

This decision of the court of appeals is significant not only because of its reaffirmation of a citizens first amendment rights but because it also reconfirms the doctrine of separation of powers espoused by Thomas Jefferson and James Madison. Messrs. Jefferson and Madison observed that:

> The people have professed the right of being governed by laws to which they have consented by representatives chosen by themselves immediately. [I]n order to give to the will of the people the influence it ought to have, and the information which may enable them to exercise it usefully, it was part of the common law, adopted as the law of the land, that their Representatives, in the discharge of their functions, should be free from the cognizance or coersion of the coordinate branches . . .; and that their communication with their constitutents should of right, as of duty also, be free, full, and unawed by any . . . the Works of Thomas Jefferson, 322 (FED. ED. 1904).

Aided by the Constitution and the trust we have in HAROLD FORD, the members of the Congressional Black Caucus know that justice will prevail.

MORE THAN MUDDY WATERS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. KOSTMAYER. Mr. Speaker, this past summer, several New Jersey beaches were closed to bathers because of the consequences of excessive ocean dumping.

The garbage was so bad in some areas, that it included dangerous material such as hospital syringes.

The ocean dumping issue is not just an environmental issue, it is an economic one as well. The tourist industry in New Jersey suffered appreciably. Many constitutents of mine in southeast Pennsylvania had their vacations adversely affected.

The fishing industry is being affected by the contamination of fish as the shoreline is being subjected to sewage and dredge being dumped in both the coastal waters and the river systems.

Of course, New Jersey is not alone in being affected by contaminated water. Water resources all across the Nation are being jeopardized by unchecked and unmonitored pollution.

The Environmental Protection Agency, charged with protecting the water systems of the Nation, is not fulfilling the requirements of current law.

My colleague from New Jersey, JAMES J. FLORIO, is a key subcommittee chairman on the Energy and Commerce Committee, and an environmental leader in Congress. Congressman FLORIO has authored many of our country's most important environmental laws. He has brought to our attention the issue of ocean dumping. His concern, which I share, is that our water resources are being polluted because the EPA is failing to live up to its duty under the law.

Congressman FLORIO deserves support in his battle to hold the EPA accountable to a higher standard, one which would ensure the safety of our citizens and the continued welfare of our Nation's water resources.

I am including below an article from the Morristown, NJ, Daily Record describing the ocean dumping problem in New Jersey and its terrible repercussions for tourism and fishing in New Jersey.

FLORIO PREDICTS NEW FIGHT OVER OCEAN DUMPING

(By Liv Osby)

The dark cloud of financial losses caused by the closure of New Jersey beaches this summer because of pollution could have a silver lining—they could spur action to combat ocean dumping, Rep. James J. Florio said yesterday.

Businesses suffering from beach closures and reports of hospital waste, sewage and dead dolphins spoiling the surf could instigate a campaign to prevent a repeat of the pollution-plagued summer, he said.

Business people that suffered out-of-pocket losses probably will lead the lobbying, said the Camden-area Democrat.

"The reality is the perception because it comes down to dollars and cents," Florio said. "But that's what motivates people to take the action they should have for public health reasons."

He said shore merchants appear to have suffered substantial business losses this summer, and he said those losses appear to be having a ripple effect and are now causing losses at non-shore businesses.

"At the Yum Yum Palace in Sea Isle City, the proprietor tells me that business is off 20 percent in the last two weeks for ice cream because people aren't going there," he said. "And I spoke to a fellow who has a concession at Sandy Hook who tells me it's 30 percent (off) for the month of August from last August. We are only beginning to see the economic impact."

Florio said losses can be expected next year as well, because vacationers will look elsewhere for pollution-free beaches.

Florio said one target of their campaign should be the Environmental Protection Agency, which he said is not enforcing laws against ocean dumping. He said New Jersey should pressure the agency to stop waiving the laws for jurisdictions that claim they can't dispose of their waste elsewhere.

EPA grants the waivers, he said, by making "tortured interpretations" of a law passed by Congress in 1980 that allows ocean dumping only in extraordinary circumstances where there is no economically viable alternative.

But Florio said waivers have become the rule rather than the exception. And he said technologies exist for safe garbage disposal, such as neutralizing and composting, that can replace ocean dumping.

"Does it cost a bit more? Yes. But I think we're beginning to see the dollars and cents value of what it costs to dump in the ocean."

Florio said New Jersey also should require developers to cover more of the costs resulting from development, paying to upgrade sewage treatment plants so they meet standards and don't pollute the ocean.

The beach season was spoiled first by a sludge slick in June, then by a 50-mile drift of garbage that included hospital gauze, syringes and condoms. Both incidents caused the closing of numerous beaches.

The shore's reputation also suffered with the death of hundreds of bottlenose dolphins that washed up on beaches between New Jersey and North Carolina.

CONGRATULATIONS TO GLENN MICHAEL

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DYSON. Mr. Speaker, I rise today to commend Mr. Glenn Michael upon being named Kent County Teacher of the Year. Education is the bedrock of this Nation's strength. The education of our children today will profoundly affect the state of America tomorrow. That is why the efforts being made on all levels, and particularly the local level, to educate our children well are vital. And Mr. Glenn Michael's efforts in Kent County in the First District of Maryland are an exemplary example of the dedication now required by all teachers for the successful education of America.

Mr. Michael's dedication shows up in all of the classes he teaches as well as in the community service he performs. Mr. Michael teaches sculpture, painting, and photography classes at Kent County High School. He stresses motivation and involvement in student projects, supplying them with the minimum guidance and information needed to complete the projects.

Teaching background, philosophy, and competence are all important for winning this award, Mr. Speaker. But equally important is community involvement. On this score also, Mr. Glenn Michael acquits himself well. He is currently involved in a variety of community activities, including president of the County Council of PTA's, National Honor Society advisor at Kent County High School, and treasurer of his church. Involvement in community affairs is vital to our goal of making our Nation even greater. At the local level, Mr. Michael's involvement exemplifies the kind of community action that we need all across America.

Therefore, Mr. Speaker, today I would like to congratulate Mr. Michael upon receipt of the Kent County Teacher of the Year Award, and to thank him for his fine work on behalf of our children.

THE DEMOCRATIZATION IN NICARAGUA

HON. ROD CHANDLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. CHANDLER. Mr. Speaker, as the Esquipulas II Agreement for peace in Central America is implemented, we in Congress must accept our responsibility to help the cause of democracy and true political freedom for Nicaragua.

We must do everything in our power to see that Nicaragua does not use this chance for peace to destroy the resistance and eventually betray their promises of freedom and pluralism, as they did in 1979.

The reopening of La Prensa and Radio Catolica are good beginnings but they can be closed at a moments notice. Only real institutional changes will help ensure political freedom in Nicaragua's future.

This report, called "necessary steps," was prepared by the Puebla Institute and is a useful list of changes the Sandinistas must make to ensure that their promises of democracy are nothing more than a detour on a road that leads to more dictatorship and persecution for the Nicaraguan people.

Necessary Steps: A Call for Nicaraguan Compliance With the Central American Peace Plan Provisions on the Full Exercise of Political and Civil Rights

In signing the Central American peace accord on August 7, 1987, the Nicaraguan Government pledged "to promote respect for human rights" and to ensure "the full exercise of all civil and political rights." Under the peace plan, Nicaragua is specifically required to establish "complete freedom of press, television and radio," "for all ideological groups" "without prior censorship"; to grant political groupings "broad access to communications media," and full exercise of the rights of association, free speech and movement "in order to proselytize"; to decree an amnesty guaranteeing "freedom in all its forms" and to terminate state of emergency laws, while reestablishing "the full exercise of all constitutional guarantees."

Compliance with the peace plan goes beyond the mere reopening of *La Prensa*, and Catholic radio and the repatriation of three exiled Catholic priests. Sandinista restrictions on human rights extend to virtually every segment of society—the media, church groups, labor unions, opposition political parties, human rights groups, Indians, and Creoles, campesinos, prisoners, students, teachers and others. The Nicaraguan Government must take numerous, but fundamental, steps to meet its human rights commitments under the accord. These include, but are not limited to, the following:

POLITICAL PRISONERS

Release all persons imprisoned without due process or a fair trial, including all persons imprisoned under vague political charges, tried in extraordinary tribunals and police courts, or others covered under the envisioned amnesty decree. The number of such prisoners is believed to be several thousand, in addition to the about 2,300 imprisoned former Somoza National Guardsmen.

Abolish the extraordinary tribunals, called "Popular Anti-Somocista Tribunals." These courts, which are outside the Nicaraguan constitutional framework, are where most convicted political prisoners are tried. In the first part of 1986, these tribunals had a trial level conviction rate of 100 percent.

Rescind extraordinary powers of police forces to conduct trials, decide appeals, and sentence individuals to prison terms. On August 15, 1987, such powers were used by the Sandinista police to arrest, try, convict, sentence, decide the appeal and detain Alberto Saboria, the President of the Nicaraguan Bar Association, and Lino Hernandez, Executive Director of the Permanent Commission for Human Rights.

Reinstate the Nicaraguan constitutional rights to due process that are now suspended by the state of emergency. These rights include the rights of all prisoners to habeas corpus, to be informed of charges upon arrest, to appeal to a higher court, to be presumed innocent until proven guilty, to not testify against oneself, and to consult an attorney upon arrest.

Permit the International Committee of the Red Cross (ICRC) and independent human rights observers, families and lawyers to visit all detainees and prisoners and to inspect conditions in all places of confinement. Currently the jails of the Interior Ministry's State Security forces are off limits to the ICRC and the rest of the public.

End the practice of holding detainees and prisoners incommunicado. Currently state security prisoners are generally held in isolation for the first several weeks, or even months, of detention. It is during this period when torture is most likely to occur.

Abolish conditions of confinement that, themselves, constitute a form of torture. Numerous prisoners of the State Security forces report having been held in "*Chiquitas*" or underground, closet-size cells, cells partially filled with sewer water, or in covered holes in the ground.

End all other forms of torture and punish offenders. The most frequent reports of torture by former prisoners include prolonged food, water or sleep deprivation, severe beatings, and mock executions.

CHURCH GROUPS

Allow the Catholic Church to reopen its social welfare office, human rights office, newspaper, and radio station. All were closed by the Government between October 1985 and January 1986.

Allow Cardinal Obando y Bravo to resume his Sunday television broadcast of the Mass. The Mass was banned from television by the Sandinistas in 1981.

Allow the return of all 20 expelled Catholic priests. The expelled priests, none of whom received due process, include the spiritual director of the Nicaraguan Catholic Seminary and the founder of 352 peasant communities, the director of the Catholic Youth Center, the directors of the Managua and Masaya Catholic youth centers, and the director of a large grass-roots conversion movement, as well as Bishop Vega, the vice president of the Nicaraguan Bishops Conference, and Msgr. Carballo, the spokesman for the Nicaraguan Church.

Repeal Article 124 of the 1987 Nicaraguan constitution, which in effect bars religion courses from the curriculum of even private religious schools.

Allow alternative service or conscientious objector status to those, on the basis of deep religious conviction, opposed to the military draft.

Stop prohibiting certain Protestant evangelicals from holding or attending prayer meetings, evangelizing or preaching. Several evangelical pastors, now in Honduran and Costa Rican refugee camps, report that such religious restrictions forced them into exile.

End detention, intimidation and other coercive measures on the basis of religious affiliation. Both Catholics and Protestants, who are members of churches not actively supportive of the Sandinista party, have been imprisoned, and threatened. Refugee pastors report that entire male congregations have been imprisoned.

End coercion against religious believers to join pro-Sandinista groups or to incorporate Sandinista ideology into religious teachings.

Labor Unions

Ensure labor unions the rights to strike—banned since 1981—to bargain collectively, to demonstrate, to meet publicly and to take other non-violent collective action to press for labor rights.

Release all labor unionists currently imprisoned in connection with non-violent union activities. Hundreds of independent unionists have been imprisoned over the past eight years, including all seven directors of the CTN, one of Nicaragua's democratic labor confederations.

End all harassment and pressure against independent unions. Bodies of both the ILO and the Organization of American States have publicly criticized the Nicaraguan Government for using such pressures as the withholding of food rations, cooking oil, bank loans and fertilizers, job dismissals, turba attacks and threats to coerce unionists away from independent unions and into Sandinista-controlled unions.

Allow union publications to reopen and give legal recognition to all democratic labor unions, including those affiliated with the democratic confederation CUS, which have been seeking legal status for several years.

Political Parties

Allow political parties to hold marches and public outdoor meetings, which are currently restricted by the state of emergency.

End the practice of jailing opposition party activists, and drafting them or their children in reprisal for non-violent political activity. The Social Christian Party, the Independent Liberal Party, the Social Democratic Party and the Conservative Party report that many hundreds of their members, particularly the mid-level leadership in the countryside, have been imprisoned over the past eight years.

End Government infiltration of party meetings and all pressure against opposition party membership to spy on party activities or incriminate party leaders.

Permit the democratic opposition free access to the media and allow them to operate their own publications.

Permit opposition parties to freely publicize party meetings and to travel within the country to attend such meetings.

The Media

Allow the establishment of all publications, including those previously shut down by the Government, including *La Prensa*, the private newsletter *Prisma*, the bulletins of the CUS and CTN labor confederations, *Iglesia*, the newspaper of the Catholic Church, and the bulletins of the various political parties.

End pre-publication censorship, currently imposed on all newspapers and journals.

End restrictions on newsprint. *La Prensa*, a 40-60 page paper at the time of the revolution, was by the time of its closing limited by the Government to six pages of newsprint daily.

End economic harrassment of independent publishers. *La Pensa*, at the time of its closing, was threatened by bankruptcy from State-imposed employee salary increases concomitant with State-imposed restrictions on the price of the newspaper.

Allow private television broadcasting. Two private groups of Nicaraguans—a business group headed by Enrique Bolanos and another group led by the well-known former news executive Fabio Gadea Mantilla are currently seeking television broadcasting licenses from the Government.

Allow the reopening of the some 25 private news programs, closed or taken over by the Government beginning in 1982.

Limit censorship to that which is strictly necessary for "the protection of national security, or of public order or of public health or morals," as provided under international human rights law. In the last year of its operation, *La Prensa* reported that between 40 and 60 percent of its copy was deleted by censorship.

End all arbitary arrests and *turba* attacks against journalists, writers, and publishers.

HUMAN RIGHTS DEFENDERS

End all jailings, the deprivation of food rations, threats and other pressures directed in reprisal against the women in the Mothers of Political Prisoners Movement, Lino Hernandez and the staff of the Permanent Commission for Human Rights (CPDH), Alberto Saborio, President of the Nicarguan Bar Association and defense attorneys. A number of members of each of these groups have been jailed in the past, the most recent example being the imprisonment without due process of Saborio and Hernandez during August 1987.

Allow independent human rights defenders to hold meetings and travel freely throughout the country to monitor human rights conditions.

Give the CPDH, attorneys and foreign independent human rights defenders access to all tribunals to observe proceedings and to all places of detention to inspect conditions and meet with prisoners.

Permit human rights defenders to report freely on their findings both in their own reports and through the general media.

INDIANS AND CREOLES OF THE ATLANTIC COAST

Permit free access to and movement within the Atlantic Coast region. Freedom of movement and access should be guaranteed all indigenous residents and leaders—whether currently in Nicaragua or in exile—and for members of the news media, for independent human rights and humanitarian organizations, church leaders, labor leaders and others. The government should stop requiring Indians and other Atlantic Coast residents to carry special identification cards and permits to travel, hunt, fish, farm and carry out commerical activities.

Permit the Indians and other indigenous peoples and their organizations freely to assemble, speak, publish, disseminate written material, and broadcast. The Government should return to its prior owners the independent Atlantic Coast radio station, previously known as "Radio Ver," which Sandinista officials took over in 1981.

Seek to establish peace with armed Indian and Creole opposition forces through negotiations leading to an agreement that would redress past grievances and guarantee autonomy for the indigenous peoples of the Atlantic Coast; cease Sandinista military occupation and control over civilians; and permit return to indigenous civilian rule in all towns and villages in the region.

End arbitrary arrests, detentions and threats against the residents of the Atlantic Coast.

Permit the return of all Indian and Creole refugees and exiles to their homes in Nicaragua; provide compensation for the reconstruction of houses and communities destroyed by the Government; and grant amnesty to all returnees.

End the practice begun in 1981 of forcible relocation and permit Atlantic Coast residents to return to their home communities. Several thousand Indians still remaining in the "Tasba Pri" relocation camps should be given all assistance necessary to return to their homes.

Cease all aerial bombing and strafing attacks on civilians and their villages, homes and property. Cease burning and destruction of Indian farms, livestock and crops. Such actions have been part of the Sandinista counter-insurgency strategy since the early 1980's.

Permit Indians and Creoles freely to engage in farming, fishing, hunting and commercial activities necessary for their subsistance in the Atlantic Coast region. Cease the imposition of restrictive licensing and marketing controls that now deny basic necessities to the people.

Permit all independent Indian and Creole political, cultural, economic and social organizations to operate freely in the region.

CAMPESINOS (PEASANT FARMERS)

Abolish the current practice of preventive detention of campesinos in areas where contras are present.

Release all campesinos currently imprisoned without charges or due process. According to reports of journalists, human rights groups, refugees and the Inter-American Commission on Human Rights of the OAS, many hundreds of campesinos have been detained on the slightest suspicion of contra involvement.

Cease all aerial bombing and strafing attacks against civilians, their villages, homes and property. Refugees report such attacks between late 1984 and late 1986, particularly in the areas of contra presence around Nueva Guinea, in southern Zelaya department.

Cease the counter-insurgency practice of burning and destroying crops, livestock and food supplies of campesinos.

End the policy of forcibly resettling campesinos in areas of contra presence to Sandinista-controlled resettlement camps; release and facilitate the return of campesinos currently held in such camps to their homes.

End pressures against campesinos to join Sandinista farming cooperatives, or to join and attend meetings of Sandinista political organizations, such as Sandinista Defense Committees.

OTHER INDIVIDUAL CIVIL LIBERTIES

Ensure to all citizens the rights to freedom of expression, association, assembly, and movement, currently restricted by the state of emergency decree.

Restore the Nicaraguan constitutional rights to security of person, the inviolability of the home, and freedom from warrantless arrests, all currently suspended by the state of emergency decree.

Stop coercive measures against citizens to join or attend Sandinista party groups, such as the neighborhood Sandinista Defense committees.

Cease applying the military draft in a discriminatory or punitive fashion.

Ensure the right to academic freedom.

Allow the rights of all citizens, including refugees and exiles, to return to the country. Amnesty should extend to all political prisoners and rebels willing to lie down their arms.

INTRODUCTION OF THE ORPHAN DRUG AMENDMENTS OF 1987

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. WAXMAN. Mr. Speaker, I am pleased to introduce today, H.R. 3349, the Orphan Drug Amendments of 1987. This legislation will be introduced in the Senate by Senator METZENBAUM, who has been a longstanding and hard-working friend of all who suffer with rare diseases.

The Orphan Drug Act was enacted in January 1983, with great hope that we might encourage the development of drugs for rare disease. Due to the efforts of so many dedicated people in and out of Government, I think we can declare success so far. Currently, there are 158 designated orphan drugs. Fifteen of those drugs are already approved and marketed; the rest are still under testing.

The Orphan Drug Amendment is a public declaration that some of our Nation's resources should be directed to the development of orphan drugs. It creates incentives and, hopefully, puts private industry and FDA on the side of the sick.

Our experience to date indicates that we can accomplish these lofty goals. Our experience also indicates that some fine tuning of the law is in order.

The most important provision in the bill addresses the potential for companies with commercially viable drugs to take advantage of the market exclusivity provisions in the law. The bill narrows the scope of the protection awarded to the company with exclusivity to avoid this problem. This provision and others are described in the summary that follows.

Mr. Speaker, the goal of this bill is to build on our success and learn from our experiences. I believe this bill will do that.

SUMMARY OF H.R. 3349, "ORPHAN DRUG AMENDMENTS OF 1987"

SECTION 2: MARKET PROTECTION

Current law: Section 527(a) of the Federal Food, Drug and Cosmetic Act (FFDCA) provides market exclusivity for a drug that is designated for a rare disease or condition (orphan drug) for seven years after approval by the Food and Drug Administration (FDA). During this period, the FDA is prohibited from approving another application for the same drug for the same disease or condition. The prohibition covers FDA approval of drugs, antibiotics and biologics. In the case of a drug, the prohibition covers the approval of the drug under a new drug application (NDA) filed under section 505(b), a "paper NDA" filed under section 505(b) or an "abbreviated NDA" (ANDA) filed under section 505(j). In the case of an antibiotic, the prohibition covers the approval of an antibiotic under an application or an abbreviated application filed under section 507, or under a paper NDA-like application filed under section 507. In the case of a biologic, the prohibition covers the approval of a biologic under an application or a paper NDA-like application filed under section 351 of the Public Health Service Act (PHSA).

Under section 527(b) of the FFDCA, the FDA is permitted to approve a second application (under one of the above mentioned sections) for a designated orphan drug for the same disease or condition during the seven year period under two circumstances. The first is if sufficient quantities of the drug are not being made available by the holder of the first application. The second circumstance is if the holder consents.

The bill: Section 527 of the FFDCA is amended to narrow the scope of the seven year market exclusivity. During this period the FDA would be prohibited from approving the application of another manufacturer for the same drug for the same disease or condition which, in the case of a drug, is a paper NDA or an ANDA; in the case of an antibiotic, is an abbreviated application or a paper NDA-like application; and in the case of a biologic, is a paper NDA-like application which contains literature describing human clinical studies that were conducted by the manufacturer that got an earlier approval of the biologic. Section 527(b) is not amended, so FDA could continue to approve additional applications under any of the other mentioned sections of law if the same two circumstances are met.

SECTION 3: DESIGNATION AS AN ORPHAN DRUG

Section 3(a): Request

Current law: Section 526 of the FFDCA permits a manufacturer or sponsor to request the designation of its drug as a drug for a rare disease or condition. The section does not specify when the request must be made, so it may be made at any time prior to approval.

The bill: Section 526 is amended to require that the request for designation be made before an application for approval is submitted. The request could be made at any time prior to or during the human clinical testing period, which is called the investigational new drug, or IND, period.

Section 3(b): Discontinuance

Current law: Section 526 of the FFDCA does not require that a manufacturer notify FDA when it discontinues production of an approved orphan drug or discontinues human clinical testing on a designated orphan drug.

The bill: Section 526 is amended to require the manufacturer of an approved orphan drug to notify FDA one year prior to discontinuation of production. It also requires the manufacturer of an orphan drug that is not yet approved to notify FDA of any decision to discontinue testing during the pre-IND and IND periods.

SECTION 4: FINANCIAL ASSISTANCE

Section 4(a): Medical devices

Current law: Section 5 of the Orphan Drug Act provides grants for the testing in animals and humans of designated orphan drugs.

The bill: Section 5 is amended to authorize FDA to make grants to assist in the development of medical devices for rare diseases or conditions. A medical device for a rare disease or condition is defined as a device for a disease or condition that occurs so infrequently that there is no reasonable expectation that a device for such disease or condition will be developed without grant assistance.

Section 4(b): Medical foods

Current law: Section 5 of the Orphan Drug Act provides grants for the testing in animals and humans of designated orphan drugs.

The bill: Section 5 is amended to authorize FDA to make grants to assist in the development of medical foods for rare diseases or conditions. "Medical food" is defined as food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation. A medical food for a rare disease or condition is defined as a food for a disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical food for such disease or condition will be developed without assistance.

Section 4(c): Authorization

Current law: Section 5 of the Orphan Drug Act authorizes appropriations for grants for fiscal year 1988 of $4 million.

The bill: Section 5 is amended to authorize appropriations for grants for fiscal years 1988-1990 of $10 million, $12 million and $14 million respectively.

Section 4(d): Study

The bill: The Secretary of Health and Human Services is directed to determine whether the application of the benefits of the orphan drug provisions of the FFDCA and the Internal Revenue Code (which provides tax credits for a portion of the cost of human clinical studies) to orphan medical devices and orphan medical foods would encourage the development of those devices and foods. The study is due one year after enactment.

SECTION 5: NATIONAL COMMISSION ON ORPHAN DISEASES

Current law: Section 4 of the Orphan Drug Amendments of 1985 established the National Commission on Orphan Diseases to evaluate the workings of the National Institutes of Health regarding rare diseases and conditions. It was directed to report to the Congress by September 30, 1987.

The bill: Section 4 is amended to extend the date for the report until February 1, 1989.

IN HONOR OF GERALD MARKS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. PORTER. Mr. Speaker, this Nation lost an important man of reason and good judgment on September 3 when Gerald Marks passed away. His was a voice filled with the American spirit of hard work and honesty. While he continued to criticize shortsighted trade policies, he challenged this country and its industries to reach out to foreign markets and compete in the world marketplace. He did so not out of contempt, but out of the heartfelt belief that the United States has the ability, creativity, and imagination to compete successfully with any of our competitors.

Gerald Marks was a professional who understood the dynamics of today's complicated international economic frontier. In his work for the Commerce Department in Chicago and London, he worked to aid U.S. firms seeking to broaden their trade activities. He was a strident advocate of the natural and physical resources available in the United States and his loss will leave a void that will be impossible to fill. Our goal must be to honor his life with the dedication to heed his words and learn by his example.

I would like to insert for the RECORD this recent article by Jerome Idaszak which appeared in the Chicago Sun Times on September 13. It explains why those of us who knew Gerald Marks realize how much he will be missed.

HISTORY MAY NOT REMEMBER GERALD MARKS, BUT WE WILL

(By Jerome Idaszak)

Our names don't go into history books when we die.

A few make it, of course. Presidents, astronauts, a football hero maybe. But most of the 240 million of us—from the chairman of a big company to the janitor who vacuums the carpet in the executive's office—live and work and then the end comes.

And so it came for Gerald Marks about a week ago.

He was trying to get his own consulting business going in Chicago. That's not easy when you're young. It's even tougher when you're turning 60.

Marks had hoped to use his reputation in the business community in Chicago as a springboard. He spent almost one-third of his life—17 years—working for the U.S. Commerce Department.

Thirteen of those years were out of cramped space in a downtown Chicago office building.

The other four were the high point of his career—working out of the U.S. embassy in London, promoting the sales of American products in England and its neighbors.

I visited him once in London. He talked about a Chicagoan there shrewed enough to see a market for restaurants selling pizza and hamburgers. He talked about Ford's problems selling cars in Europe. He talked about a British TV show he thought would find a market in the United States. He talked about the value of the dollar. It seemed that commerce and blood flowed through his veins in equal amounts.

He didn't want to leave London. But he was reassigned. Back to Chicago a year ago.

Thomas Wolfe wrote that you can't go home again. And coming back was hard for Marks.

He began to complain more about shortcomings he saw inside the Commerce Department. He talked about a tendency to make Japan a scapegoat for the failings of U.S. policies. And he drew fire from critics.

His critics forgot that he had long warned the Japanese that their unwillingness to import would build up so much ill will as to threaten retaliation. And that he had long lamented the tendency of American business leaders to think local only to be outsold by hardworking foreigners.

He went public with his complaints about the Commerce Department last spring. That led to his resignation last July 4.

Maybe he deserved a bigger stage—he wanted to talk about global issues affecting the economies of us and our trading partners. But it wasn't in the cards dealt him.

Gerry Marks was a bureaucrat. And he was from Chicago. And he was proud of both.

It's ironic that the Republican party, which Marks mostly backed, and President Reagan—whose economic policies he mostly praised—have done so much through their scorn for government to discredit the notion of a bureaucrat. Calling someone that these days is like giving a kid a nickel—it used to mean something but now it seems pretty cheap.

Marks didn't see it that way. Whenever anyone called, he answered the phone, "This is your Commerce Department, Gerald Marks speaking."

Corny. Unless a person means it. And Marks meant it. Right now, he's probably telling someone, "This is your hereafter, Gerry Marks speaking."

In between talking about the big policy issues, he would try to marshal pedestrian but useful information for callers about exports and imports. He wanted to help people doing business in Chicago.

I can't say what kind of person Gerry Marks was. A reporter seldom sees more than the public side of people—whether it's the feisty salesmanship of Lee Iacocca or the jokes of Johnny Carson.

Most people are charming in public. Savvy folks in government and elsewhere know that cooperating with a reporter when he needs some facts plants the seeds for goodwill that will bear fruit later.

But it was clear that Marks worked hard. Trade was more than a job, or even a career. It was his life, a life that ended too soon.

Like most of ours, the life won't make a history book. But like most of the people in a city like Chicago, Marks did his part in making the place go.

Those who met him will remember him. Gerry Marks left his mark.

A BILL TO STRENGTHEN THE EXPORT CAPABILITIES OF THE U.S. COMMERCIAL FISHING INDUSTRY

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Miss SCHNEIDER. Mr. Speaker, I am introducing a bill today which will serve to strengthen the export capabilities of the U.S. fishing industry. This bill will correct an inequity in the current Internal Revenue Code pertaining to foreign sales corporations which precludes cooperatives that market aquatic products from benefiting from the 100 percent dividend exclusion that is available to both agricultural and horticultural cooperatives. The availability of this exclusion will permit cooperatives which market aquatic (i.e., seafood) products to accumulate capital which can be used for reinvestment, expansion and an increase in export capabilities.

The commercial fishing industry of the United States has undergone tremendous growth since the passage of the Fishery Conservation and Management Act of 1976. The American industry has made great strides toward the full utilization of the fishery resources of the United States' exclusive economic zone, gradually replacing foreign harvesting and processing efforts in this zone. In addition, domestic seafood products are now being exported in increasing quantities. The ability of seafood cooperatives to benefit from the fiscal advantages offered through the formation of foreign sales corporations (which are currently enjoyed by private companies) would provide further incentive for the increased export of American fisheries products by these organizations, just as it has done for other sectors of the American economy. This is a most noteworthy objective, particularly in light of the 1986 U.S. trade deficit of $6.2 billion for fisheries products.

I am certain that the omission of cooperatives which market aquatic products from the Internal Revenue Code sections pertaining to foreign sales corporations was a matter of oversight, not an intentional exclusion. Fisheries products have often been included as "agricultural products and commodities" under various export and agricultural laws and programs, as well as export trade legislation. Therefore, it is appropriate to amend the Code to include these cooperative with those that market agricultural and horticultural products in the definition of qualified cooperatives. Cooperatives which market aquatic products constitute a small, yet important and growing part of the U.S. commercial fishing industry, and the availability of the advantages posed by foreign sales corporations will only serve to continue this trend.

The growth and development of U.S. commercial fishing industry should not be impeded by unintentional obstacles. This bill is good for the industry and, therefore good for the national economy. In this time of our growing interest in our international competitiveness, we should seek every opportunity to encourage the growth of our export capabilities and potential.

H.R. —

A bill to amend the Internal Revenue Code of 1986 to treat aquatic products in the same manner as agricultural and horticultural products with respect to the determination of exempt foreign trade income.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DETERMINATION OF EXEMPT FOREIGN TRADE INCOME WITH RESPECT TO MARKETING OF AQUATIC PRODUCTS.

(a) IN GENERAL.—Subparagraph (A) of section 923(a)(4) of the Internal Revenue Code of 1986 (defining exempt foreign trade income) is amended by striking out "agricultural or horticultural products" and inserting in lieu thereof "agricultural, horticultural, or aquatic products".

(b) TECHNICAL AMENDMENT.—Paragraph (4) of section 927(a) of such Code (defining qualified cooperative) is amended by striking out "agricultural or horticultural products"and inserting in lieu thereof "agricultural, horticultural, or aquatic products".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

BICENTENNIAL OF THE SIGNING OF THE U.S. CONSTITUTION

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. FOGLIETTA. Mr. Speaker, on September 17, 1987, the bicentennial of the signing of the U.S. Constitution, Secretary of Defense Caspar Weinberger paid a great tribute to those who died so that independence could be achieved. Secretary Weinberger laid a wreath at the Tomb of the Unknown Revolutionary War Soldier at Washington Square in Philadelphia. Washington Square is the location of the burial site for over 2,000 revolutionary war dead, the greatest number in any location in the United States. It is most fitting that at a time when we celebrate the birth of our democracy, we give recognition to those who died to achieve it. For the RECORD, I am submitting the remarks of the Secretary.

REMARKS BY SECRETARY WEINBERGER, AT THE TOMB OF THE UNKNOWN REVOLUTIONARY SOLDIER, WASHINGTON SQUARE PARK, PHILADELPHIA

Good morning, It is an honor to be here. On a similar morning in 1777, John Adams walked on these grounds and, gripped with emotion, wrote these words to his wife Abigail:

"I have spent an hour this morning, in the congregation of the dead. I took a walk into the Potters field, and burying ground between the new stone prison, and the hospital, and I never in my whole life was affected with so much melancholy, the graves of the soldiers, who have been buried in this ground from the hospital and bettering house . . . are enough to make the heart of stone to melt away. The sexton told me that upwards of two thousand soldiers had been buried there, and by the appearance of the graves and trenches, it is most probable to me that he speaks within bounds."

The solitude of this September morning compels us to reflect, as John Adams surely did, on the sacrifice of the soldiers buried here in the shadow of their leader George Washington.

John Adams' testimony is moving, but it needs one addition, remembering their sacrifice, and taking strength from their courage, we must not forget that these are unknown soldiers. They died in obscurity. But for this simple monument they would be forgotten. This grave is as hallowed as those tombs in Arlington Cemetery that enshrine America's unknown soldiers.

We stand today at a common grave for uncommon men.

It is fitting that we begin this day, the 200th anniversary of the signing of the Constitution, quietly honoring the men and women who gave their lives in a revolution that culminated in that great document of liberty. The words of our constitution were in no way simply drafted. They were purchased at the price of more tears and sorrow than memory can measure.

Though we do not know the names of all those who are buried here, we see all around us the fruits of their brief lives. This astonishing city embraces both the energy of a vigorous and free people along side a reverence for the monuments of liberty.

Enscribed on the tablets behind me is the simple truth, "freedom is a light for which many men have died in darkness," as the light of morning comes upon us, and we remember those who sacrificed for our liberty, let us pray that our own efforts in this great Republic are worthy of "the last full measure of their devotion."

Thank you.

NORM PODHORETZ WARNS OF THE DOUBLE ZERO DANGERS TO THE WEST

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. COURTER. Mr. Speaker, now that the recent Shultz-Shevardnadze meeting has raised arms control expectations, we should focus more sharply than ever on strategic realities and dangers in the European threater and in the overall nuclear balance. In his recent essay in the New York Post, commentator Norman Podhoretz warns that our current hunger for any type of arms control agreement may lead us into a long-range missile treaty which does nothing for our security and which places severe limits on our strategic defense initiative program.

The simple arithmetic of such an agreement should give us pause. The current U.S. Air Force Chief of Staff, Gen. Larry Welch, has said that the Soviets have at least twice the missile warheads they need to destroy critical targets in the United States. We, on the other hand, have less than half the warheads we need to threaten similar targets in the Soviet Union. A 50 percent warhead reduction on both sides will do nothing to alter this unfavorable warhead-to-target ratio for the United States. In addition, our strategic defense program will be crippled by treaty restrictions and congressional budget cuts. The net result will be a dramatically weakened deterrent posture for the United States and NATO. I urge my colleagues to read Mr. Podhoretz' essay on this vital subject.

The essay follows:

[From the New York Post, Sept. 22, 1987]

MOSCOW'S DOUBLE MISSILE TRAP

(By Norman Podhoretz)

Back in 1981, when the Reagan administration first proposed the "zero option" under which intermediate-range nuclear missiles would be eliminated from Europe, everyone (including those in the administration who conceived the idea) thought it was a clever bluff. Now the Soviets have not only called this American bluff, they are using it as sucker bait.

To begin with the most obvious trap, eliminating nuclear missiles from Europe means that the Soviet superiority in conventional forces will become decisive. What this in turn means is that the West Europeans will be subject to the political bullying that is the usual fate of the weaker party in any conflict, whether between individuals or nations.

But from a strictly American point of view, the most dangerous thing about this new deal is not its own provisions. For us, the less obvious trap is the deal to which this one will almost inevitably lead a year or two down the road, and for whose sake the Soviets finally decided to accept the zero option.

The general terms of that next step are already on the table: a 50 percent cut by both sides in long-range nuclear weapons and a moratorium on the deployment of an American system of strategic defense. The moratorium on SDI would run anywhere from seven to ten years, during which time laboratory research would be permitted. At the moment, the Soviets oppose any testing in space, but the odds are that they would give a little ground on this issue if that were the price of an agreement.

For unlike some Americans, the Soviets are not so credulous as to believe that Congress would go on funding SDI, with or without an occasional test in space, in the wake of such a treaty. After all, eager congressional hands are even now trying to pull the plug on SDI. How then, with an actual payoff deferred for so long, could they be restrained from starving SDI out of existence with one annual cut after another?

If we do not develop a system of strategic defense, the long-range missiles based here in the United States will soon be vulnerable to attack—if indeed they are not already—by the new generations of highly accurate long-range Soviet missiles. Nor would even a 50 percent cut in the abundant Soviet arsenal make our land-based missiles any less vulnerable to a first strike.

If those missiles were thus destroyed, our only remaining nuclear weapons would be the ones carried by submarines and bombers. But because of their relative inaccuracy, these are ineffective against military targets. Therefore if we were to retaliate, we would be hitting not Soviet weapons but Soviet cities, and we would be inviting the Soviets to do the same to us in a retaliatory strike of their own.

But merely to contemplate this chain of events is to realize that it would almost certainly never occur. The threat of it alone would be enough to give the Soviets a bloodless victory—checkmate by telephone, as it has been called.

Having in this way allowed the Soviets to get the nuclear drop on us, we would be unable to extend any protection to our European allies. Worse yet, we ourselves would be exposed to the same kind of political bullying and economic looting that they will soon face as a result of their inferiority in conventional forces.

The standard term for this form of subordination to the Soviet will is "Finlandization." But we do ourselves too much honor in comparing our future fate to that of the Finns.

When Stalin tried to take their country over, the Finns put up a breathtakingly courageous fight against hopeless odds. For causing the Soviets so much trouble, Finland has been rewarded (as Afghanistan also will probably be once it has been subdued) with much more independence than the satellites of East Europe.

Similarly, among the satellites themselves, the Hungarians, by rising in armed rebellion against Soviet domination, won a greater measure of freedom than, for example, the Czechs, who have never risked taking up arms against their Soviet imperial masters.

We, by contrast to all this, are not asked to fight. Our situation requires us only to face up to the truth about the Soviet Union. and yet we lack the courage even to do that. Today the instrument of our self-deception is Mikhail Gorbachev. But we have gone through similar bouts of wishful thinking about every new Soviet leader since Lenin, each one of whom we decided was ready to give up the Leninist program of imperial expansion.

Stalin, we told ourselves, was committed to "socialism in one country," but then he seized East Europe. Khrushchev, we told ourselves, wanted "peaceful coexistence," but then he put missiles into Cuba. Brezhnev, we told ourselves, wanted "détente," but then he engaged in a relentless military buildup and invaded Afghanistan.

With each disillusioning shock, we have awakened briefly to the reality of the Soviet threat, only to be driven by fear into a new period of denial. But never before has our denial gone so deep as it is going today.

Thus, just as we are about to hurl ourselves into a strategic situation whose logical outcome is a Soviet-dominated world, our secretary of state tells us that "we are on a roll," and our leading political commentators declare that we have won the ideological struggle against communism.

At this rate, and on such a roll, we will be very lucky indeed to wind up as well off as the Finns.

THE HIDDEN COSTS OF FAILED MERGERS

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. WOLPE. Mr. Speaker, the increasing number of corporate takeovers in America has had a real impact upon our economy and overall competitiveness. These big deals and the paper profits they generate mean fewer jobs for American workers and dwindling corporate investments in research and development. I would like to call the attention of my colleagues to an article published in the June 21 edition of the New York Times, "The Hidden Cost of Failed Mergers." The article identifies some of the macroeconomic consequences of corporate consolidation.

The authors, Walter Adams, distinguished university professor at Michigan State University, and James Brock, associate professor of economics at Miami University of Ohio, are coauthors of "The Bigness Complex."

THE HIDDEN COSTS OF FAILED MERGERS

(By Walter Adams and James W. Brock)

The Allegis affair provides a fitting parable for a business era of merger, consolidation and restructuring. The moral is that there is no salvation through acquisition, that the dream of assembling a corporate empire by shuffling and leveraging assets is an empty one.

Not so long ago, in 1979, United Airlines was already a colossus. By any measure, it was the largest investor-owned airline in the world. In addition, it owned and operated the Westin Hotel chain, which managed 61 hotels here and overseas. It owned such real estate landmarks as the Plaza Hotel.

In 1979, Richard Ferris, who had risen through the ranks of United's hotel and food service system became chief executive. His grand design was to convert United Airlines into a one-stop full-service travel center. He was prepared to foresake short-term profits to pursue his vision of market dominance and big returns.

Mr. Ferris proceeded to build a travel conglomerate. In June 1985, he bought Hertz for $587 million. Four months later, he paid $750 million for the Pacific routes of Pan American World Airways. Just last year, he bought the Hilton International Company for $980 million. Finally, the emerging empire was given a new name; after a year's deliberation and the expenditure of more than $7 million, United Airlines became the Allegis Corporation.

But alas, there was unrest in the empire and grumbling on Wall Street. Passengers complained about deteriorating service. Hotel and airline bookings became confused as the reservations system, an important competitive weapon for United, began to deteriorate. And, most threatening, both the airline's pilots and the Conniston Partners offered to buy Allegis and dismantle it. Their contention was that the breakup value of the parts was greater than the corporation as a whole—synergism-in-reverse.

In his scramble to fend off the Conniston Partners as well as the pilots, Mr. Ferris proposed to take on $3 billion in new debt to finance a $60-a-share payment to stockholders—a debt burden that flabbergasted stockholders and Wall Street.

The denouement came suddenly—at midnight on June 9, when the Allegis board unceremoniously relieved Mr. Ferris of his command and replaced him with Frank A. Olson. Mr. Olson promptly announced his intention to de-merge the travel conglomerate by selling off the Westin and Hilton International chain, for an estimated $2.2 billion, and the Hertz subsidiary for an estimated $850 million. Finally Mr. Olson proposed to scrap the six-week-old Allegis logo and to ask shareholders to approve a new name—United Airlines. The corporation had come full circle.

The Allegis imbroglin is more than an isolated case study. It is a poignant reminder that "restructuring" is not a magic elixir for enhancing corporate performance. Moreover, it warns us that much of the money lavished on the huge corporate consolidation movement of the last two decades may have been squandered.

The value of mergers and acquisitions reached an all-time high of $82.6 billion in 1982. New records have been set every year since then: $122.2 billion in 1984, $179.6 billion in 1985 and $190 billion in 1986. The number of takeovers valued at $1 billion or more quintupled between 1983 and 1986. All told, 75 of the 100 largest mergers in our history have occurred since 1981.

The economic consequences of this merger mania are in dispute. Critics contend that it undermines efficiency, retards technical advance and creates cumbersome bureaucracies. Proponents say it substitutes good management for bad and unleashes economies of scale and scope as well as synergies.

Amidst the claims and counterclaims, we tend to lose sight of perhaps the most crucial aspect of merger mania, one that figures prominently in the Allegis case—namely the "opportunity cost" of this dubious activity.

In economic parlance, "Opportunity cost" refers to the inescapable fact that every choice necessarily entails sacrifice, that choosing one course of action necessarily means forgoing other alternatives (or opportunities).

Thus, two decades a managerial energies devoted to playing the merger game are, at the same time, two decades during which management has been diverted from the critically important job of building new plants, bringing out new products, investing in new production techniques and creating jobs. The billions spent on shuffling paper ownership shares are, at the same time, billions not spent on productivity-enhancing investments.

The accompanying table illustrates the point dramatically. Note that, in 1985, spending on mergers exceeded combined expenditures for R&D and net new investment.

What we might call the "Allegis syndrome," the high post-merger divorce and failure rate, further attests to the wasteful opportunity cost burden of corporate consolidation. According to Business Week, "A half to two-thirds of all mergers don't work, one in three is later undone. In 1985, for every seven acquisitions, there were three divestitures."

So, too, the billions absorbed in the legal fees and investment banking commissions—expenses incurred at the initial corporate nuptials, as well as the subsequent divorce proceedings—represent funds not plowed into the industrial base. According to some estimates, for example, the three leading M&A houses on Wall Street each generated more than $200 million in merger commissions in 1985. These fees, says Forbes magazine, "may do more to explain current merger mania than all the blather about synergy and diversification.

From the perspective of opportunity cost, America's merger mania represents a possibly unprecedented degree of diversion, dissipation and misallocation of resources. It exemplifies what John Stuart Mill would have called "unproductive labor", and what Thorstein Veblen once described as games of chance and financial intrigue: intricate arrangements for doing the things that ought not to be done, while ignoring the things we need to do. It bodes ill for a nation struggling to reindustrialize and regain global competitiveness.

Inspired by the Beatitudes in the Sermon on the Mount, Representative Silvio Conte, a Massachusetts Republican, summed up the issue in a homily he delivered on the House floor.

"Joyous are the large corporations, for they shall benefit from the deduction value of the 46 percent corporate tax rate in their mergers and acquisitions.

"Joyous are the stock speculators, for they shall inherit tremendous dividends.

"Joyous are the corporate raiders, for they shall reap the profits of liquidation.

"Joyous are the corporate lawyers, for wealthy salaries shall be theirs.

And blessed are the working people of thy country for it is they who subsidize these takeovers."

THE U.S. OLYMPIC COMMITTEE AND THE CONGRESS: A CASE OF LINGUISTIC THEFT?

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. STUDDS. Mr. Speaker, sometimes, legislation which seems to us routine turns out to have consequences that are anything but routine. I doubt very much, for example, that when we passed the Amateur Sports Act of 1978, we contemplated either a frontal assault on the first amendment or a highly personal assault against one of our citizens. Yet we seem to have been a party to both.

The following essay from the New Yorker of August 24, 1987, tells a story that ought to give us all pause. It is very hard, indeed, for me to believe that this is what we intended.

[From the New Yorker, Aug. 24, 1987]

NOTES AND COMMENT

Peter Weiss is a trademark lawyer here in New York. He has defended, among many others, the appellations Superman, Chanel, and Ultrasuede against those who would make free with them. We called him up last week to talk about the Supreme Court's decision in June that the United States Olympic Committee had the right, under the Amateur Sports Act of 1978, to exclusive domain, for purposes of public identification and promotion, over the word "Olympics." The decision came in a case called San Francisco Arts & Athletics, Inc., and Thomas F. Waddell v. United States Olympic Committee, in which the U.S.O.C. sought to enjoin the defendants from using the name Gay Olympics in promoting an event ultimately called the Gay Games. (The games were held in San Francisco in 1982 and again last year.)

Mr. Weiss became involved in the matter as an informal consultant on the side of the San Francisco group. We wanted to talk to him because of a lingering feeling we had that there was something extremely peculiar about removing a general, ancient, and, indeed, religious word from our language and "awarding" it, even if only for certain purposes, to some committee. The people on the side of the Gay Olympics claimed that their right to use the word was protected under the First Amendment. They also argued that the U.S.O.C. had acted discriminatorily, having allowed the International Police Olympics, the Special Olympics, the K-9 Olympics, and the Senior Olympics (to say nothing of the Rat Olympics, the Armenian Olympics, and the Eskimo Olympics) to go unscathed while relentlessly pursuing the homosexuals who had gathered in San Francisco for a week of athletic and cultural activities.

Mr. Weiss vastly strengthened our impression that the Amateur Sports Act and the Supreme Court decision upholding its constitutionality amounted to a linguistic theft, and that the decision was kind of crazy in its details. "It's preposterous—a genuine howler of an error," he told us. "The U.S.O.C. got its power over the word directly from Congress, so obviously the action the U.S.O.C. takes with regard to this so-called trademark is the equivalent of state action. It's also pretty obvious that the U.S.O.C. has acted in a discriminatory way in this case. Furthermore, the Court upheld a statute that didn't even allow S.F.A.A. the traditional defense in such cases—that there was no likelihood of confusion, that no one would have associated the Gay Olympics with anything the U.S.O.C. might sponsor. And it's not straining at all to think of the name Gay Olympics as political speech and therefore protected by the First Amendment: the group involved was trying to make a political point against stereotyping homosexuals as being unathletic. And, by the way, there was a dissenting opinion that made that point very strongly when the case was heard by the full Ninth Circuit Court, and the judge who wrote the dissent is generally regarded as an ultraconservative."

We asked Mr. Weiss what sort of precedent this decision might set.

"Terrible," he said. "Say the Association of International Marathons went to Congress and pointed out that many marathons in this country were bringing in people from all over the world and a lot of money, and that the whole thing needed to be regulated, and so forth, and they asked for trademark rights to the word 'marathon.' It would be a very similar set of circumstances and a perfectly logical development. If Congress passed such a law and the President signed it, that would mean that the association could dole out the word to whatever events it deemed worthy and withhold it from those it felt were undeserving. In essence, Congress actually *sold* a word to the Olympic Committee, because back in 1978 the committee said that the government would end up losing money if they—the committee—couldn't regulate the term. And it's the only instance I know of where the government has given a private party exclusive rights over a single, descriptive word."

After we hung up, we realized what it was, specifically, that had prompted us to call Mr. Weiss in the first place and what was adding immeasurably to our distress about the turning of a word into a commodity: an account we'd just come across in the San Francisco *Examiner* of a memorial service for Dr. Thomas Waddell, one of the defendants in the U.S.O.C. suit, who had died of AIDS. (Dr. Waddell was the head of San Francisco Arts & Athletics, Inc.) The service was held in the rotunda of San Francisco's City Hall, and in the course of it Dr. Waddell's wife, Sara Lewinstein, announced that the U.S.O.C. had officially removed a lien it had placed on Dr. Waddell's house to defray its legal costs in pursuing its case. Evidently, the house, which Dr. Waddell has renovated himself, was his major asset, and he'd warnted to pass it on to his four-year-old daughter, Jessica. He died not knowing for certain whether he would be able to do so.

The sad irony in all this is that Dr. Waddell was an Olympian—even Congress and the Olympic Committee would have had to allow him access to the noun, by virtue of his participation in the Mexico City Games in 1968, as a member of the United States decathlon team. He finished a much-more-than-respectable sixth, within shouting distance of the gold medalist, Bill Toomey. At the Mexico City Games, Dr. Waddell supported the American sprinters John Carlos and Tommie Smith after they gave clenched-fist Black Power salutes during the medal ceremony, and his conduct made the U.S.O.C. angry. And as a physician in the Army, in the sixties, Dr. Waddell openly criticized this country's involvement in the Vietnam War; he came close to being court-martialed for his anti-war statements. Ultimately, Dr. Waddell became a tireless fighter for gay rights and gay pride. He was, it seems clear, a man with the courage of his convictions, and by all accounts he was a gentle, intelligent, and charming person. It's unlikely that he would ever have threatened to take away a dying man's legacy to his daughter.

The one bright light among these gloomy events was Dr. Waddell's bravery in facing his illness. Everyone around him was awed and inspired by his will and humor and strength of character. His last words were "Well, this should be interesting."

THE 100TH ANNIVERSARY OF FORD CITY, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. CLINGER. Mr. Speaker, this year marks the 100th anniversary of Ford City, PA, a town in the congresssional district that I am privileged to represent. On this special occasion, I wish to bring the attention of my colleagues to this special place that represents the best of America. During its history, Ford City and the people who live there have gone through good times and bad, and along the way they have overcome many obstacles to make their home what it is today: a good place to live.

This summer, four outstanding students from Ford City High School submitted essays to me on the history of their hometown. I had hoped to chose one that would illustrate the history of Ford City and the spirit of its people; a fitting commemorative to their centennial. However, each essay covered a different aspect of the area's history and they were written so well that I could not chose among them. Subsequently, all four have been chosen to appear in the CONGRESSIONAL RECORD:

LIFE OF JOHN B. FORD, FOUNDER OF FORD CITY

(By Aaron Paul Boback)

Born on November 17, 1811, in Kentucky, John Baptiste was the third child of Jonathan and Margret Ford. Jonathan Ford died when young Ford was only three, leaving Ford's mother to raise the family. Having no father, Ford spent his youth with his grandfather, Jean Baptiste.

Throughout Ford's earlier years, he spent his time as a saddlemaker's apprentice, looking toward a brighter horizon and a more prosperous future. It was during this time in Ford's life that he moved from the Kentucky area to Indiana, where he spent the next twenty-nine years of his life and married Mary Bower. With her, Ford fathered seven children, five of whom died at an early age.

Continuing the idea of a promising future, Ford began a career in plate glass manufacturing. His business was a success; and soon, the many glass companies built by Ford were amassing quite a fortune for their owner. One of these companies was Pittsburgh Plate Glass, located between Rosston and Manorville. The location of the town in which the plant was built was named Ford City in 1887, in honor of the plant's founder, John Baptiste Ford. Shortly after, in 1888, the production of plate glass was underway. Ford was approximately seventy-seven years old as the manufacturing at Ford City began.

Being a great businessman, Ford's city and glass manufacturing companies thrived. Ford was ninety-one years old when he passed away at his home in Creighton. By the time of his death, Ford had acquired a large sum of both tangible and intangible property, totaling some ten million dollars. However, Ford will be most remembered for his philanthropic contributions to society.

THE HISTORY OF FORD CITY'S RELIGIOUS HERITAGE

(By Valarie Balchunas)

In every age and among every race there is a primal instinct that impels man to share and express his beliefs. The people that Captain John B. Ford brought to Ford City from Germany to work in his glass plant highly valued their heritage and their American freedom of religion. These immigrants shared a common desire to bring the Word of God into their newfound community; thus, in 1888 they organized a Union Sunday School which was the first Protestant religious gathering in the town. This Union Sunday School became the foundation for many religions that chose to establish churches during this period of growth.

For a short time church services were held in various private homes and the Ford Glass Plant office buildings. Captain Ford then provided ground and erected the Ford Memorial Methodist Church which held its first service in 1890. Fifty-eight people of the Lutheran faith formed St. John's Evangelical Lutheran Church in 1889, and Captain Ford donated lots to build a frame church in 1891. Roman Catholic immigrants also established their faith in Ford City—St. Mary's celebrated its first mass in 1889, while Polish immigrants organized St. Francis of Paola in 1900. Seventy-one people of Presbyterian belief came together to dedicate the First Presbyterian Church in 1903. The First Baptist Church of Ford City was founded in 1892 with nineteen charter members, however the church building was not dedicated until 1911.

While these churches were among the first to form an assemblage and construct a permanent place of worship, there were still others that helped to develop Ford City's religious culture. Although the erection of the churches brought periods of financial struggle and sacrifice for the newly organized congregations, the inspiration and dedication of each parishoner helped build a proud heritage of love and devotion in the spiritual essence of Ford City.

THE HISTORY OF FORD CITY, PA

(By Melanie Klaput)

In its centennial year, Ford City celebrates and remembers its proud heritage and the man who started it all.

The town of Ford City, located in Western Pennsylvania, was established in 1887 by John Baptiste Ford, the original founder of the Pittsburgh Plate Glass Company in Creighton. Ford, needing land to build another plant, scoured the valleys along the Allegheny River until he found an extensive piece of flat land. This land was ideal for his plant because of the availability of raw materials, natural gas and coal, and a railroad and navigable river. Ford purchased this land and began construction of the factory the following year. Soon it took rank as the largest plate glass factory in the world. During its first decade, Ford City grew rapidly, increasing its population from practically zero to three thousand.

In 1898, John Ford returned to Ford City and once again helped develop a new industry. Along with John Wick, Jr., Ford established a pottery plant. The plant changed hands many times until eventually it was purchased by the Eljer Company in 1918. The Eljer Company, still in production today, specializes in sanitary ware pottery.

Although Ford City is usually thought of as a factory town, it has also gained recognition for its observance of Memorial Day. Several days before Memorial Day, members of the local Lions Club distribute candles to every home in the town. At precisely ten o'clock Memorial Day night, bells in all the churches begin to toll, all lights in the entire town are turned off, and all cars come to a halt. The candles are then lighted and a prayer is spoken, piped throughout the town on loudspeakers so that all can hear. After about ten minutes the candlelight service is completed and life resumes its normal course.

In this its centennial year, Ford City proudly remembers its past and the heroes who made this town memorable and unique.

FORD CITY'S ETHNIC INFLUENCES

(By Sandra Hansotte)

The town of Ford City evolved in 1887 when a manufacturer of plate glass, Captain John Baptiste Ford, had the supposition that a certain swampy tract of land forty miles northeast of Pittsburgh, Pennsylvania, would be a perfect location for the expansion of his Pittsburgh Plate Glass Company, more familiarly known as PPG. This PPG Plant offered much work opportunities to the then abundant immigrants flowing into the United States—it became a sort of magnetic force which attracted people from many different countries to it. These various immigrants continued their native traditions in their new town and, in turn, gave Ford City some of its most distinct characteristics. The plant's founder, John

B. Ford, can then be thought of as the symbolic patriarch of Ford City's family tree where each "limb" represents a different nationality contributing to the "trunk," the town of Ford City.

The Germans that were drawn to Ford City by PPG created the Ford City Schuetzen Club and formed the Deutcher Krieger Verein (German Veteran Society). They also established the first Catholic church in Ford City, St. Mary's, where Catholic immigrants from various nations were able to take their roots from.

The Slovaks came to Ford City not only for work in PPG but also to find liberty. In 1890 they formed Branch Number 200 of the First Catholic Slovak Union. Because the specific purpose of all Slovaks everywhere was to promote physical education, the Ford City Slovaks established an outstanding gymnastic team, the Slovak Gymnastic Union Sokol. They also sponsored various bands among other organizations.

PPG drew many Belgian people to Ford City because many of these people had been previously employed in the PPG plant in Belgium. In Ford City the Belgians established the Belgian-American Society and also formed a Belgian band.

The author has cited contributions to Ford City's heritage by the Germans, the Slovaks, and the Belgians because they were among the first generation of European immigrants into the Ford City area. It is not be forgotten, though, that there were many more "limbs" that also made their individual contributions to the "trunk" of Ford City's family tree.

JUDGE BORK'S JUDICIAL PHILOSOPHY

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. KYL. Mr. Speaker, as the Senate hearings on President Reagan's nomination of Judge Robert Bork to the Supreme Court wind down, and the Senate vote on his nomination looms in the immediate future, I would like to submit for the RECORD an analysis of Judge Bork's judicial philosophy, prepared by Citizens For Decency Through Law, Inc., from Scottsdale, AZ.

SUMMARY

Citizens for Decency Through Law, Inc., strongly urges the United States Senate to confirm Judge Robert Bork as an Associate Justice of the United States Supreme Court. Judge Bork's lengthy and distinguished legal career provides him with superb qualifications to serve on the Court. His understanding of the role of the judiciary, and his approach to constitutional interpretation are consistent with the separation of powers provided for the authors of the Constitution. Specifically Judge Bork understands, as does the Supreme Court, that obscene and pornographic materials is outside the protection of the first amendment, and can constitutionally be proscribed by communities and states.

INTRODUCTION

Judge Robert Bork has been described by opponents as a "rigid, ideological conservative." He also has been derogatorily characterized as "against abortion," "against pornography" and "against homosexual rights." In fact, he is none of these things. Those who accuse him reveal only their own ignorance of the intricacies of constitutional law and judicial philosophy, or worse, their talent for character assassination and outright dishonesty.

Even Judge Bork's enemies acknowledge his brilliant scholastic and jurisprudential record. Justice Stevens, considered a moderate-to-liberal member of the high Court, has taken the right step of publicly defending Judge Bork. Justice Stevens has praised Bork's qualifications and called him a "welcome addition to the Court." Federal judges surveyed by the L.A. Times would vote to confirm Bork by a better than 2-to-1 margin. Leading law professors—liberal and conservative—have publicly vouched for Bork's academic credentials and urged his confirmation.

But credentials are no longer the issue. His "ideology"—as his critics so crudely refer to a judicial philosophy developed over four decades of learning—has been made the central issue of the upcoming confirmation hearings. These attacks must be answered by a defense of Judge Bork's principled and reasoned approach to jurisprudence. This memorandum shall do three things:

(1) Explain the judicial philosophy of Judge Bork with regard to the constitutional role of the judiciary, and the judge's obligation to interpret the Constitution by discerning the intent of the Framers;

(2) Show that Judge Bork's judicial philosophy does not favor the political goals of conservatives or liberals;

(3) Show that Judge Bork's judicial philosophy is not only correct, but required by the Constitution.

SEPARATION OF POWERS

Judge Bork's views on the role of the judiciary can be summed up quite easily: "A judge is not a legislator." It seems a simple and obviously true proposition, yet most attacks on Judge Bork focus on his refusal to act like a legislator. But the President cannot make rulings on guilt or innocence—that is for the judiciary. The Congress cannot negotiate treaties—that is for the President. And the judiciary cannot make laws—that is for the Congress. Obviously Judge Bork understands the constitutionally required separation of powers better than his critics. Invariably, their concern is not the Constitution, but the bottom line on particular issues. That is why they rail against Judge Bork for being "against abortion," even though he has never publicly expressed any view on the wisdom or morality of the practice.

Judge Bork is not, in a legal sense, "against" abortion. In fact, given his self-avowed libertarian leanings, he quite possibly might oppose any restrictions by the state on the practice of abortion, if he were a voting member of Congress. But as a judge, his personal views about abortion are completely irrelevant. When asked to decide whether a state law outlawing abortion violates the Constitution, the question for a judge is not: "Should abortion be illegal?" but "Does the Constitution prevent states from outlawing abortion?" The judge may believe strongly that women should be free to obtain abortions, but unless he finds something in the Constitution that says otherwise, he must let the law stand as constitutional. But the approach taken by a divided Supreme Court, in Bork's words, "confuses the constitutionality of laws with their wisdom."[1] Believing that abortion should be legal, the Court has ruled that the Constitution requires it to be legal.

In his 1971 law review article "Neutral Principles and Some First Amendment Problems," Bork describes the proper role of the judiciary:

"Nothing in my argument goes to the question of what laws should be enacted. I like the freedoms of the individual as well as most, and I would be appalled by many statutes that I am compelled to think would be constitutional if enacted. But I am also persuaded that my generally libertarian commitments have nothing to do with the behavior proper to the Supreme Court." [2]

SUBSTANTIVE DUE PROCESS

The theory of substantive due process, culminating in the "right to privacy" line of abortion cases, is a prime example of what ails present methods of constitutional interpretation. At the same time, substantive due process provides us with historical evidence that judicial activism can be used to either "conservative" or "liberal" political ends.

Substantive due process is the judicially created notion that there inhere within the 14th Amendment due process clause some substantive rights retained by individuals; that the words ". . . nor shall any State deprive any person of life, liberty or property, without due process of law. . ." not only guarantee procedural rights, as the language clearly indicates, but also give rise to separate substantive rights. These substantive rights, which cannot be deprived even if due process is given, supposedly arise from an individual's "liberty" interest. But what are these rights? There is no way of telling—until the Supreme Court tells us.

Essentially, substantive due process is a fiction created by the judiciary to strike down legislation with which the judiciary disagrees. Although now used nearly exclusively to "liberal" political ends, the doctrine was originally created in the 1930's by conservative Supreme Court justices who sought to stop President Roosevelt's New Deal legislation. These justices disagree with Roosevelt's progressive legislation, and created substantive due process as a means to protect free market capitalism.

Faced with President Roosevelt's court-packing scheme, the Supreme Court eventually changed its view of the New Deal legislation. The doctrine of substantive due process fell out of favor, until it was revived in the 1960's in the case of Griswold v. Connecticut.[3] But this time liberal judges were the activists, using the theory of substantive due process to protect non-economic "privacy" interests discovered floating in the "penumbras" of the Bill of Rights. But all that talk about "penumbras" and "privacy" means only that the Supreme Court didn't like the fact that Connecticut prevented the use of contraceptives, even by married couples. But the Court needed some justification to strike down the law.

Eight years later the Supreme Court informed us that this "zone of privacy" also protected a woman seeking to abort her child.[4] But in 1986 we found out that it doesn't protect homosexual sodomy.[5] As Judge Bork points out in his criticism of *Griswold*, this kind of judicial creation does not provide any "neutral principles" upon which to base a decision. That leaves only the subjective value preferences of whoever happens to be on the Court. Judge Bork

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Footnotes at end of article.

prophetically saw that the lack of guiding principles in *Griswold* would lead to the confusion of extending the right to one group (women seeking abortions) and not another (homosexuals):

"*Griswold*, then, is an unprincipled decision, both in the way in which it derives a new constitutional right and in the way it defines that right, or rather fails to define it. We are left with no idea of the sweep of the right of privacy and hence no notion of the cases to which it may or may not be applied in the future. The truth is that the Court could not reach its result in *Griswold* through principal. The reason is obvious. Every clash between a minority claiming freedom and a majority claiming the power to regulate involves a choice between the gratifications of the two groups. When the Constitution has not spoken, the Court will be able to find no scale, other than its own value preferences, upon which to weigh the respective claims to pleasure." [6]

If Judge Bork truly were a "rigid, conservative ideologue," he certainly would have supported the use of substantive due process to strike down liberal legislation in the 1930's. But Judge Bork has made clear his view that substantive due process is wrong when used to conservative ends, wrong when used to liberal ends. He has been just as critical of the use of substantive due process to protect the free market as to create a "right to privacy." He would not be a "conservative activist" on the Supreme Court.

When the Court acts to strike down majority legislation without explicit authority from the Constitution, all that has happened is that the power to make law has been shifted from elected representatives to five unelected lawyers. Right now liberals are happy with substantive due process, because it has served their political ends. But once upon a time it served the interests of conservatives, and it may do so again. That is why it is in the interest of all to support the confirmation of Judge Bork, who would apply "neutral principles" in a manner that would serve the political interests of neither the left or the right, and return the "imperial judiciary" to its proper role under the Constitution.

INTENT OF THE FRAMERS

Judge Bork's intellectual pursuit of a theory of constitutional interpretation that is "neutrally derived, defined and applied," [7] led him to what is now called an "original intent" methodology. Essentially, proponents of this methodology assert the seemingly non-controversial view that the Constitution means what its authors intended it to mean.

An example of Judge Bork's method of constitutional interpretation is given in the 1971 "Neutral Principles" article. Specifically, Judge Bork takes the correct view that pornography was never intended to be protected by the first amendment guarantee of free speech. This is the same view taken by the United States Supreme Court in every decision on the subject—that category of material that is legally "obscene" is outside the protection of the first amendment. And this is why Citizens for Decency Through Law, Inc. supports the confirmation of Judge Bork. His correct view of the Constitution leads him to the correct legal view on particular issues, including the issue with which CDL is concerned.

Again, Judge Bork recognizes that the question for a judge is not: "Should obscene material be banned?" but "Does the Constitution forbid the banning of obscene material?"

To answer that question, Judge Bork examines the free speech clause of the first amendment in an attempt to discern what the Framers intended it to protect. At the time he wrote the 1971 article, Judge Bork believed the Framers intended the first amendment to protect only explicitly political speech:

"I am led by the logic of the requirement that judges be principled to the following suggestions. Constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic." [8]

In contrast to critics' portrayal of Judge Bork as a rigid, inflexible conservative, he has since amended his view, stating that the Framers intended more than explicitly political speech to be protected by the first amendment. Nevertheless, his inquiry remains the correct one: "What did the Framers of the first amendment intend that provision to protect?" rather than "What limitations do we think should be placed on speech?" The latter is a question to be debated by the legislative branch of government. But when judges start talking about the "broad principles" contained in the first amendment, this invariably means they are departing from the intent of its authors, and substituting their ideas of what should be constitutionally protected for what actually *is* protected. Judge Bork, on the other hand, is committed to the principle that a written Constitution is meaningless if we pay no attention to the intent of the men who wrote it. Without the anchor of "original intent," judges would be free to make their own value preferences a part of constitutional law, thus essentially usurping the law-making function from the legislative branch. Judge Bork would resist the temptation to impose his will on the country, and would return the judicial branch to its proper role of interpreting, not making law.

FOOTNOTES

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[1] R. Bork, "Neutral Principles and Some First Amendment Problems," 47 Indiana L.J. 1, at 28.

[2] *Id.*, at 21.

[3] 381 U.S. 479 (1965).

[4] *Roe v. Wade*, 410 U.S. 113 (1973).

[5] *Bowers v. Hardwick*, 106 S.Ct. 2841 (1986).

[6] Bork, 47 Indiana L.J. at 9.

[7] *Id.*, at 23.*Id.*

[8] *Id.* at 20.

KMEX TELEVISION, LOS ANGELES, CA, 25TH ANNIVERSARY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. ROYBAL. Mr. Speaker, I rise today to congratulate television station KMEX of Los Angeles, CA, on 25 years of service to the Hispanic community. For more than 23 years KMEX was the only Spanish language television station serving Hispanics on a continental basis. This pioneering effort allowed the Hispanic community of Los Angeles the opportunity to play a more active part in its political, social, and cultural environment.

Since its inception on September 29, 1962, KMEX has hosted a variety of programs dealing with issues relevant to the Hispanic community and the community at large. KMEX was the first station in the United States to produce a Spanish language morning magazine program. This program, "Mundo Latino," began as a local program which moved to national broadcast and finally international broadcast in 1987, when it became the first weekday morning program linking Los Angeles, Miami, and Mexico City. KMEX was the first Spanish language station to broadcast all political conventions as well as election coverage live with Spanish language commentary, beginning with the Presidential elections of 1978.

In addition to recognizing KMEX television for its revolutionary approach to Hispanic television, I would like to commend the station and all those involved for its outstanding record of public service to the community. "Navidad En El Barrio," a nonprofit organization which began at KMEX, conducts annual telethons and raises hundreds of thousands of dollars to benefit the needy of the community at Christmas time. In 1985 KMEX led a movement among its sister stations to raise money for disaster relief and other charitable causes. More than $20 million was raised for victims of the earthquake in Mexico City, the mudslides in Puerto Rico, the floods in Colombia and the earthquake in El Salvador.

KMEX television provides an invaluable service to a very unique community. During the past 25 years of its existence, this organization has proved itself as a source of information, a link for members of the Hispanic community and an important part of that community's social service network. For this exemplary record I would like to commend KMEX and its president and general manager Danny Villanueva for a quarter of a century of service to the Hispanic community.

OUR GROWING ECONOMIC VULNERABILITY TO FOREIGN INFLUENCE

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. BRYANT. Mr. Speaker, there are increasing signs everywhere that foreign flags are flying over the American economy. As you know, I have worked over the last 3 years to improve the quality of the information our Government collects and makes available to policymakers and researchers—so we can make sound policy judgments rather than debate in the dark. I authored an amendment to the House trade bill that would achieve this objective; foreign interests and their allies in the Reagan administration are doing everything they can to defeat it.

Since he has come to Congress, my colleague TOM MCMILLEN has taken an active and leading interest in this vital issue and has been a strong supporter of my efforts. In a recent speech to the Baltimore Council on Foreign Relations, he spoke eloquently on the urgency of responding to this economic challenge.

For the benefit of my colleagues, and the American people, I am inserting the speech in its entirety into the CONGRESSIONAL RECORD.

SPEECH OF CONGRESSMAN TOM MCMILLEN

Two years ago this month, after a deteriorating U.S. trade balance, finance ministers from the group of five nations of the United States, Japan, West Germany, Britain, France, and Italy met at the Plaza Hotel in New York in an effort to talk down the dollar to lower the United States trade deficit by making American exports cheaper and foreign imports more expensive.

Since this meeting, the dollar has fallen from 265 yen to less than 150, a 40% devaluation in our national asset. Yet recent monthly trade figures indicate that our trade deficit this year will actually be worse than the record figure of almost $170 billion.

Quite frankly, ladies and gentlemen, this dollar-bombing trade policy of this administration has not worked in solving our trade imbalance. Talking down the dollar ignores the core problem of the United States spending more than it produces on domestic consumption, investment and Government spending that has caused the twin deficits in our Federal and trade accounts. What talking down the dollar and depreciating its value has done is reduce the price of American assets to where the United States has become the bargain discount store of the world.

The unique role of the dollar as the world's principle reserve and trade currency allows the United States unparalleled advantages and temptations. It has made the United States exempt from external discipline, by allowing our economy to continue growing without having to endure a recession to correct our trade deficit—but only through the intervention of borrowed money. But these advantages, if abused too long, can lead the country finally to destroy its allure to foreign investors, cut off capital flows, and cause the dollar and the American economy to plunge.

As a result of our excess consumption the United States has eclipsed Brazil as being the most indebted nation in the world. By the end of this year our foreign debt, the difference between our holdings abroad and foreign holdings here, will stand at $400 billion, and continue growing by over $100 billion annually—much of it used to pay for our Federal budget and trade deficits.

From various corners one will hear that the United States should not worry about its foreign debt. Former administration economic figures such as Paul Craig Roberts and Martin Feldstein have labeled the United States foreign debt problem as phony issues and no cause for alarm. Reasons offered range from the accounting methods that tally the debt load to its relation to the total value of assets in the United States. Others state that foreign investment in the United States is a cause for celebration, not concern, as it increases employment opportunities for Americans and enriches our country with capital from abroad.

Some of the $1.3 trillion that foreigners have invested in the United States has been in direct investment, such as building factories or buying companies. But the great majority, almost $950 billion, is in the form of portfolio investments, such as bank deposits and securities. These holdings are very liquid and highly volatile, extremely sensitive to the variances of interest rates in global markets.

Last year, these inflows of foreign capital into the United States provided two thirds of our net investment funds. Felix Rohatyn, the architect of New York City's financial bailout, estimates that foreign investors purchased one half of the American Treasury bonds offered at auction last year, financing our Federal budget deficit. Other studies, and Federal Reserve figures show, that foreign institutions will buy more of our stocks this year than will Americans.

This reliance on foreign capital to meet American economic needs is just as dangerous as our reliance on foreign oil to meet our energy needs. A prudent level of foreign capital invested properly is certainly not injurious to our national economic health, but in excess, such an addiction can be very dangerous. Already, constraints are being imposed on American policy because of our vulnerable debtor position. Because of the need for foreign capital to continue flowing by our creditors into the United States and to remain in present assets, the yield on 10-year Treasury bonds has climbed in the last 4 months from 6.9 percent to 8.5 percent, while the yield on Japanese bonds has declined from 4.7 percent to 2.9 percent.

Due to the need for foreign capital, particularly from Japan, the Federal Reserve has been forced to raise interest rates to maintain a spread between American and Japanese bonds sufficient to lure funds across the Pacific. This has raised the cost of capital in the United States while reducing it in Japan.

If the United States were to slide towards a recession, policymakers would find monetary and fiscal tools restricted.

One monetary remedy to avert a recession is to lower interest rates. But to keep financing the trade deficit and the budget deficit, and keep the billions of dollars foreigners have invested in the United States from fleeing, interest rates will have to be maintained at a high level.

Fiscal policy will be equally restricted as Congress will face difficulty in passing tax cuts as revenue will be needed to service the interest costs of foreign-held Treasury debt. It has been estimated that by the end of the decade, just to meet the interest and dividends on foreign debt will absorb about $60 billion a year, or more than 1% of the year's total GNP. Future administrations will not have the option of expanding the deficit or priming the pump to ignite the economy as Reagan did in 1981, with his trillion dollar tax cut which resulted in the Federal deficit growing from 75 to over 200 billion. How can a future administration even consider raising the deficit to over 400 billion when so much of it already has to be financed from abroad? These factors will limit the flexibility of the Federal Reserve and Congress in the next recession. In the first four months of this year, the only foreign investor to buy Treasury bonds was the Bank of Japan, with over $20 billion in purchases. When one Government is so dependent on another for a vital commodity in their economy, a degree of sovereignty is ceded to the other country. In the decade ahead, we will see external debt as the tie that binds governments.

An example of this influence in the economic matters of the United States by foreign investors was demonstrated at a Treasury bond auction in May, 1986. Japanese financial institutions, with applications pending before the Federal Reserve for primary bond dealership status, staged a show of strength by demonstrating their ability to manipulate the U.S. bond market by creating distortions that resulted in huge losses for several American firms. Shortly thereafter, the applications were approved. Another example came in March when the administration announced that $300 million in tariffs would be affixed to Japanese electronic imports. The next day the stock market was open, Japanese investors dumped so much equity that the Dow fell by 57 points. At the previous Treasury bond auction before the sanctions were announced, Japanese investors bought about 40 percent of the offering at an average yield of 7.49 percent. In April, after the tariffs, Japanese investors bought only 20 percent, forcing the yield up to 8.9 percent.

Clearly steps must be taken to reduce our dependency on capital from abroad. Not only does the American dependency threaten our domestic political sovereignty, but it inhibits the economic growth of developing nations as needed foreign investment capital is drawn into the United States.

What are our options in minimizing our dependency on foreign capital?

First, we need to require greater scrutiny and disclosure of foreign investment in America. The House and Senate included this in their trade bills; however, the administration opposes this provision.

Second, the Federal budget deficit must be decreased to reduce the need for foreign capital to underwrite the budget deficit. The next President faces $40-50 billion in new spending to meet demands from strong constituency groups in such areas as education, housing and health that polls show have popular support. These new spending initiatives will have to be restrained to reduce the reliance on foreign debt. Otherwise, this growing foreign obligation will represent a permanent addition to the budget burden that America will take into the 21st century. Unfortunately our record Federal deficits provides only a partial picture of the ties that bind future taxpayers to present public policy. The Federal Government has not only made vast promises to an expanding population of retirees, based largely on a prosperity that has yet to be achieved; guaranteed loans to a variety of favored groups, ranging from students to farmers; signed contracts, whose payments stretch into the future; insured bank deposits and defined benefit pensions totaling several trillion dollars. Obviously it is of the highest priority to get our fiscal house in order, both in on-budget and off-budget items.

Third, measures must be taken to encourage Americans to save more and eliminate our domestic savings gap. The tax reform bill of last year which eliminated the capital gains differential and investment tax credits may prove to be counter-productive for accumulating the necessary domestic savings to rebuild our industrial base. In 1985, for example, domestic savings in the United States were $114 billion short of the $809 billion needed for investment and Government borrowing. We must eliminate the difference between the net demand for savings stemming from the needs to finance private investment and the Government deficit on the one hand and the net supply of domestic savings on the other.

Japan saves more than four times per capita than the United States. As a result, interest rates are lower, capital is cheaper and Japanese companies have a financing advantage over American firms. With a greater supply of domestic capital in the

United States, there will be a reduced need for capital infusions from abroad.

The United States must reverse the pattern of consuming more than it produces. Otherwise, we will face a reduced standard of living to pay back the excess consumption of the past several years.

Finally, U.S. foreign debt will also be an important factor in determining our relations with our NATO allies in the future. Clearly, more and more pressure will come to "burden share" the defense of the free world with our NATO allies and Japan, when it is estimates that we spend over $150 billion annually. There will be continual calls for our allies to shoulder a commensurate share of the defense costs.

Foreign investment in the United States is nothing new. Foreign funds underwrote the construction of many bridges, railroads and other infrastructure projects in the United States in the last century. But the new wave of foreign investment in the United States is a typhoon by comparison. In the 1970s, it was feared that OPEC nations, flush with petro dollars, would buy up American assets and own us. But their investment level was only $10 billion. Our current foreign indebtedness is running at $400 billion and threatens to reach $1 trillion by the end of the decade.

The danger is no longer that OPEC nations will dump dollars and wreak havoc with our economic policy. The danger now comes from the level of influence that comes with the massive foreign investment in this decade.

If our dependence on foreign capital persists, the United States, in the words of one Treasury department official, will find itself in Brazil's condition, "beholden to overseas creditors * * * always worrying about rolling over its foreign debt and its creditors' reactions when it makes policy."

Managing our twin deficits will be delicate * * * cutting spending, raising taxes to bring down the Federal deficit while keeping interest rates high is a good formula for a recession. Stated in other terms, can the United States simultaneously raise its savings rate, balance its budgets, make changes to enhance our productivity, and publicly invest in critical areas such as defense, education, scientific research, and infrastructure items without adverse reactions paralyzing its economy? The crucial issue determining the long term outlook for the American economy is what the United States will do to steadily lower its interlocked twin deficits—the international trade and federal budget deficit—without sacrificing our present prosperity.

Foreign investment does not mean a catastrophe. It can be a challenge, warning us that we will have to make tough choices about our economic future. It can also be an opportunity to engender global cooperation between the industrialized nations to avert a worldwild recession.

The days of our economic independence were left behind at the Plaza Hotel in New York. It is time to welcome the era of economic interdependence 1990's style, where policy makers of the United States no longer shuttle solely between the great financial houses of New York and the Government institutions of Washington, but increasingly to the Bank of Japan in Tokyo and the Bundesbank in Bonn.

ACQUISITION CZAR GIVES UP

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DURBIN. Mr. Speaker, I, along with many of my colleagues, was relieved last year when the Defense Department created a new position to institute reforms in our noncompetitive defense industry. These reforms were designed to eliminate some of the Pentagon's worst excesses, including $7,622 coffee pots and $435 hammers, which have wasted billions of our taxpayers' dollars.

That sense of relief has now disappeared. After less than a year in that job the Defense Department's "acquisition czar" has quit in disgust, complaining that "I can't make anything stick."

The establishment of this new position was the principal recommendation of the President's blue-ribbon commission, formed in the wake of scandalous press accounts of Defense Department waste, fraud and abuse.

The acquisitions czar, the fourth ranking Pentagon official, was given authority to oversee design and production of new weapons. First and foremost, the position was to introduce competition into the Pentagon's procurement practices to prevent defense contractors from artificially inflating their prices.

Secretary Weinberger chose Richard Godwin, a Bechtel Corp. executive, to fill this important position. However, Mr. Godwin found it impossible to make any progress with his mission because all the military services were able to go around him to make changes in decisions they didn't like. He testified before Congress that the general counsel had made it clear that his attempts to modify procurement practices depended on the acquiescence of those affected. In his words, "I had the authority to write a letter," which doesn't make much of a difference at all.

The problems in the Pentagon are deep-seated and, as we have seen with this most recent development, very resistant to attempts to solve them. New weapons cost too much and too few can then be bought. They are too complex, which means they break down and cost more to maintain.

We saw graphic evidence of this problem recently in the Persian Gulf. We did not have adequate minesweeping capabilities in the gulf to protect our ships. This was not because we lacked foresight. The Defense Department launched a $1.5 billion program to develop a new minesweeper in the early 1980's. At this point, the program is years behind schedule and the first sweeper is not yet ready for use. Meanwhile, our ships sail through the Persian Gulf with inadequate protection because our 1950's-vintage sweepers do not have the technology to do the job.

These recent setbacks have served to heighten Congress' resolve to address the problem of waste, fraud and abuse in the Defense Department. While we have made strides in eliminating wasteful spending in other areas of the Government, this is one area that needs greater attention. As Congress continues the process of budgeting for 1988, we must look for opportunities to do what the acquisitions czar could not do.

NATIONAL RESEARCH COUNCIL STUDY

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. STENHOLM. Mr. Speaker, in May of this year the National Academy of Sciences/National Research Council released a report on poultry inspection. This was the second committee of the Academy to study meat and poultry inspection over the past 4 years, both at the request of USDA. The charge to the first, which released its report in 1985, was to identify ways of increasing the scientific basis of meat and poultry inspection. The second was specifically asked to use poultry processing and inspection to develop an outline for a model system.

The Livestock, Dairy, and Poultry Subcommittee held comprehensive hearings in June to examine the current Poultry Inspection Program, and to hear testimony on how improvements might be made in the future.

The first scientific witness at our hearing was the chairman of this latest Academy committee, Dr. Joseph V. Rodricks. Although the report of Dr. Rodricks' committee was fully covered during the hearing, there continues to be confusion and misunderstanding in both the press and the public as to what the report actually said. As chairman of the Subcommittee on Livestock, Dairy, and Poultry, I feel it is important to clarify these issues. Consequently, I have asked Dr. Rodricks to respond to some additional questions in writing.

In Dr. Rodricks' response, he stated:

> I am pleased to have the opportunity to clarify several of these points, because I have noted that several press reports and information released by some groups have mischaracterized some of the conclusions and recommendations of our committee.

Dr. Rodricks also restated what he told our subcommittee in June:

> Poultry is a nutritious and desirable part of the American diet. We do not want to discourage anyone from eating chicken. Consumers must simply be made more aware of the proper handling and cooking conditions for all raw meat and poultry products, while FSIS presses to modernize inspection procedures.

Because of the widespread publicity that these issues have received recently, I would like to enter Dr. Rodricks' entire letter in the RECORD for my colleagues' review.

The letter follows:

ENVIRON CORP.,
COUNSEL IN HEALTH AND
ENVIRONMENTAL SCIENCE,
Washington, DC, August 18, 1987.

Hon. CHARLES W. STENHOLM,
Chairman, Subcommittee on Livestock, Dairy, and Poultry, U.S. House of Representatives, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN STENHOLM: I am pleased to clarify the several issues concerning poultry inspection raised by the questions posed in your letter of August 7, 1987.

Question 1: Were you asked to study poultry inspection because of concerns unique to poultry inspection?

The National Research Council (NRC) study on poultry inspection was requested by the Department of Agriculture's Food Safety and Inspection Service (FSIS). The FSIS requested the study as a result of certain recommendations set forth in a previous, and much broader, NRC study on meat and poultry inspection. The previous NRC recommendations pertained to meat as well as poultry inspection and, as far as I know, the FSIS choice to follow-up on the recommendations concerning poultry was primarily one of convenience. It was not made because of any concerns unique to poultry.

The previous NRC study called for the development and application of a risk assessment model to guide FSIS inspection strategies. FSIS understood that such an undertaking was highly complex, and elected to begin the process of model building with that segment of the meat and poultry industry—broiler chicken production—having one of the simplest and most uniform operating characteristics. The model the NRC committee developed for poultry inspection could serve as a prototype for other segments of the meat and poultry industry.

Question 2: Did your committee find any cause for concern with chicken, different from any other raw meat, poultry, fish, dairy or egg product?

Our committee made no investigation of any other products. It is well-known, however, that all such raw products are susceptible to the same set of potential problems—bacterial and chemical contamination—as are broiler chickens. It is doubtful whether a comprehensive study of all of these other products, if undertaken at the present time, would reveal much knowledge about their potential for creating a public health problem relative to that potentially associated with broilers. Although the sources, types, and distribution of potential bacteriological and chemical risks associated with the products you listed no doubt vary among them, all require the same degree of care in processing, inspection, handling, and cooking as do broiler chickens.

Question 3: Would federal standards for microorganisms on meat and poultry, or requirements to the number of microorganisms, prevent human illness or improve public health protection?

There appears to be insufficient scientific information available to establish any such standards. Our committee's recommmendations called for the establishment of comprehensive, statistically-based, quality assurance programs, based on well-founded principles of food sanitation, to control contamination. The principle purpose of such programs is to identify and establish a basis for monitoring the critical control points in poultry processing. The purpose of all such efforts is, of course, to reduce the degree to microbial contamination. But we also recognize that recontamination may occur in distribution of bulk-packed items, and during food preparation (i.e., perfectly clean birds may become contaminated in the home, and "dirty" birds may be eaten without ill effect because they are handled and cooked properly). For the latter reasons we called for information labelling for food preparers and consumers. We noted, however, that the primary burden for ensuring food safety should be placed on the producer and FSIS, not on the consumer.

Question 4: Did your committee find any evidence of deterioration in poultry inspection?

We found no evidence of deterioration. Rather, we determined that the current bird-by-bird inspection system is inherently ill-suited to provide effective protection against the most important type of microbiological contamination, i.e., that which is known to cause human illness.

Question 5: Should the public consider any meat or poultry, including chicken, as a public health risk?

All foods, including meat and poultry, have a potential for causing illness. The principle potential problems are microbiological pathogens and chemical residues of several types. Insofar as microbiological problems are concerned, raw food products generally present a higher potential risk than do other products, no such generalization can be made about potential chemical risks.

The risks are, I have emphasized, only potential ones, and there are means available to manage them. Quality assurance programs in the food industry and government inspection programs (FDA, FSIS, state and local agencies) are the first line of defense. Controls during food distribution are also required. Food preparers, whether in the home or in commercial institutions, must also be educated to prepare food properly in order to avoid microbiological contamination or recontamination (the preparer can not do anything about chemical residues). Effective controls in all these areas are needed. Although our report cited the need for improvements in FSIS inspection procedures and in consumer education for poultry products (and, at last implicitly, for other raw meat and poultry products), we saw no need for anyone to reduce chicken consumption for public health reasons.

Indeed, as I stated in my remarks to your committee "Poultry is a nutritious and desirable part of the American diet. We do not want to discourage anyone from eating chicken." Consumers must simply be made more aware of the proper handling and cooking conditions for all raw meat and poultry products, while FSIS presses to modernize inspection procedures.

I hope these are adequate responses to your questions. I am pleased to have the opportunity to clarify several of these points, because I have noted that several press reports and information released by some groups have mischaracterized some of the conclusions and recommendations of our committee.

Sincerely,

Joseph V. Rodricks, Ph.D.,
Principal.

IN SUPPORT OF JUDGE BORK

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. BUNNING. Mr. Speaker, liberal special interest groups around the country are trying to mobilize their forces to try to block the confirmation of Judge Robert Bork's nomination to the Supreme Court.

Virtually no one disputes the fact that Judge Bork is an outstanding jurist. Virtually everyone admits that he has one of the brightest legal minds in the Nation.

Judge Bork's critics object to one thing and one thing alone—the fact that he is conservative.

How many times are we going to be beat with the same stick? Six and a half years ago, the same liberal groups who now oppose the Bork nomination, campaigned with all their might and main against Ronald Reagan. One of the big issues they used at the time was the threat that, if elected, Ronald Reagan would appoint conservatives to the Supreme Court. The threat didn't seem to scare many people and Ronald Reagan was elected President.

In 1984, the same liberal groups tried again to mobilize opposition to President Reagan's reelection by trying to sell the same threat. Again, it didn't sell and President Ronald Reagan was reelected by historic margins.

Judge Bork's critics seem unable to comprehend the fact that the voters of this country expect Ronald Reagan to be Reagan. They know he is conservative. They elected him as a conservative and they fully expect him to appoint conservative Supreme Court Justices. The thought does not surprise them nor frighten them at all.

And it certainly doesn't frighten me. As far as I am concerned, Judge Robert Bork has one outstanding qualification for the Supreme Court over and above his respected legal mind and his exemplary record as a jurist. He recognizes that the legitimate role of the Court is to interpret the laws—not to write new ones. He recognizes very well the fact that the Nation's judiciary was never intended to serve as an unelected lawmaking body.

For too long, the Supreme Court has been substituting its own opinions for the will of the people as expressed through their elected representatives in the U.S. Congress.

I hope our colleagues in the other body will have the courage to withstand the empty rhetoric of the organized liberal special interests and quickly confirm Judge Bork's nomination.

BIRTHDAY WISHES TO WALKER L. CISLER

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DINGELL. Mr. Speaker, on behalf of the Michigan congressional delegation, I would like to take this opportunity to congratulate Mr. Walker L. Cisler, former chairman of the board and chief executive officer of the Detroit Edison Co., on his 90th birthday, which will be celebrated on October 8.

Mr. Cisler is an internationally recognized leader in the field of energy and power. Decorated by the U.S. Government, as well as 17 foreign governments, he has always tried to apply his international experience to the achievement of progress in Michigan as well. He has dedicated countless hours to community work within Detroit and assisted in the founding of the Michigan State Chamber of Commerce.

Mr. Cisler's accomplishments predate his career in Michigan. During World War II, he was appointed Chief of the Public Utilities

Section, Supreme Headquarters Allied Expeditionary Forces, European Theater of Operations, by then-Gen. Dwight Eisenhower. Serving in this capacity, he arrived in Paris the same day as Gen. Charles DeGaulle following the establishment of the beachhead at Normandy. He was able to restore the city's gas and electric service within 2 weeks. By the end of his assignment in 1945, the French Power System was generating more electricity than it had before the war.

Arriving at Detroit Edison in 1945, he oversaw the postwar rebuilding and expansion of the electric power system that serves southeastern Michigan. Mr. Cisler became company president in 1951, served as chief executive officer from 1964 to 1971, and as chairman of the board from 1964 until his retirement in 1975. From 1968 to 1974, he chaired the International Executive Council of the World Energy Conference, an international organization dedicated to exchanging technical energy information. While chairing the Ninth World Energy Conference in Detroit in 1974, he organized Overseas Advisory Associates, Inc. [OAAI], a nonprofit Michigan corporation whose purpose is to advise foreign nations on the development of energy industries, the organization was composed of almost 100 international energy experts.

As Mr. Cisler's many activities indicate, he has made a profound impact both within the State of Michigan, and beyond our Nation's borders. Furthermore, as a highly respected figure in the energy industry, he has made tremendous advances on its behalf serving our citizens over his long career. For these reasons, I commend Mr. Walker L. Cisler to my colleagues in the House of Representatives as an example of American leadership and salute him on his 90th birthday.

NOTCH YEARS

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Ms. PELOSI. Mr. Speaker, as a Representative of a constituency which includes many senior citizens, I am very concerned about those people who were born in the so-called notch years.

As you know, in 1972 the Congress, under President Nixon, passed a law increasing Social Security benefits in order to keep pace with inflation. However, the law was overly generous in that it compensated retirees twice, once for the increase in wage levels, and again for the increase in the cost of living. It soon became apparent that if the law remained unchanged, within a few years the Social Security system would go bankrupt.

Consequently, in 1977, Congress established a new formula for calculating Social Security benefits in an attempt to keep the Social Security System from going bankrupt, as well as to correct the overcompensation error. It was then, Mr. Chairman, that I think the Congress made one grave mistake while trying to correct another. Federal legislators decided that there should be a 5-year transition group, individuals who were born after 1916 and before 1922. This transitions group, later called notch babies, would receive lower benefits than those born before and after those years. These people, most of whom depend on Social Security to feed and house themselves, are unjustly penalized. The difference in benefit payment is as much $110 a month, or as much as $1,300 a year.

Mr. Chairman, the 99th Congress requested that the GAO conduct a study of the notch program and provide an analysis of options available to rectify this problem. Along with many concerned colleagues, I am interested in the results of this study and firmly believe that the Ways and Means Subcommittee on Social Security should convene a hearing on this issue following the publication of this report. The Federal Government owes these people just compensation. The notch babies were randomly chosen to pay for a mistake made by the U.S. Congress. I urge the 100th Congress to make amends for this injustice.

LA PRENSA

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. MAVROULES. Mr. Speaker, freedom of the press is one of our most sacred and well-established rights, and it is my sincere hope that soon the Nicaraguan people will again enjoy this freedom. All of us who cherish this right must be encouraged by the Sandinista's recent directive to reopen Nicaragua's oldest daily newspaper, La Prensa.

I must, however, admit to some reservation concerning the extent of the Sandinista's commitment to allow complete freedom of the press. As you know, La Prensa was shut down by the Sandinistas in June 1986, and they have had firm control over the daily newspapers Barricada, and El Nuevo Diario as well.

The publisher of La Prensa, Violeta Chamorro, says that "only time will tell" if the Nicaraguan Government is sincere in their effort, or if this is yet another misguided attempt to deceive the Nicaraguan people and the American Government. As a strong supporter of the Arias initiative to establish peace in Central America, I am hopeful that their commitment is strong and true.

TRIBUTE TO ROBERT W. (TEE-NINY) SCALES

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. GORDON. Mr. Speaker, I join the people of Murfreesboro, Rutherford County, and the entire State of Tennessee in paying tribute to one of my district's outstanding citizens, Mr. Robert W. Scales, known affectionately as Tee-Niny.

Tee-Niny Scales, who serves as vice-mayor of Murfreesboro, exemplifies what we mean when we say "community leader." He is a role model people throughout the Nation should aspire to, but few can hope to imitate. The list of services he has performed for my State and our country is truly grand.

Mr. Scales has operated several successful businesses, including his family's funeral home, established in 1916, but he still has found the time for his family and his church.

He and his wife, Mary Caruthers Scales, have parented six children, and there are already five grandchildren. Mr. Scales serves as treasurer of his church and is a member of the chorus, in addition to his myriad civic duties.

Mr. Scales has served on the Murfreesboro City Council for 23 years. When originally elected, he was the first black city councilman in the Southeast since Reconstruction. He also serves on the Murfreesboro Board of Education, the State job training coordinating council, is a member of the Rutherford County Senior Citizens Board of Directors, of the Junior Achievement Board of Directors, the National Association for the Advancement of Colored People, the Rutherford County Chamber of Commerce and the Rotary Club.

Mr. Scales is a past director of the Tennessee Municipal League, and served for 10 years on the Tennessee Higher Education Commission. He also served on the desegregation monitoring committee of the Tennessee Human Relations Commission.

President Jimmy Carter honored Mr. Scales in a White House luncheon as Outstanding Citizen of his Community.

Tee-Niny Scales could have spent his life putting his time in at work and his feet up at home while others took the lead in making his community a better place to live. Instead, he has devoted countless hours and huge stores of his energy to his civic leadership responsibilities.

Today, I ask my colleagues in the House of Representatives to join me in telling Mr. Scales, "We appreciate all that you have done."

MINORITY ENTERPRISE DEVELOPMENT WEEK

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. MFUME. Mr. Speaker, I rise today in recognition of the tremendous economic and social contributions being made to this Nation by America's more than 840,000 minority entrepreneurs. It is especially appropriate that I salute this essential segment of the Nation's business sector on the virtual eve of "Minority Enterprise Development Week," which runs by Presidential Proclamation, from October 4 through October 10.

I would also like to take this opportunity to express my appreciation and admiration for the fine work being performed on behalf of strengthening minority business in my home district in Baltimore by the Baltimore Minority Business Development Center in cooperation with the Control Data Business and Technology Center. This organization under the leadership of Mr. Hallot Watkins, has been instrumental in helping over 113 minority businesses in fiscal year 1987, including assisting in obtaining $3.5 million in loans and bonds and $9 million in procurement contracts. The importance of this assistance cannot be overstated. These businesses employ hundreds of people, many of whom would be jobless were it not for the existence of these small, neighborhood-based minority businesses.

I would also like to use this occasion to emphasize the need to assure that the minority business community and this Nation do not lose the services of the Minority Business Development Agency, the one national agency dedicated to assisting, preserving and strengthening minority business enterprise. I have introduced legislation in the House of Representatives, H.R. 1769, which would codify authority for the MBDA within the Department of Commerce, in response to this administration's plans to transfer MBDA to the purview of the Small Business Administration—an entity the Reagan administration is determined to eliminate.

I urge my colleagues, as we approach the official recognition of Minority Enterprise Development Week to join me in support of this legislation so that we can continue to support a vital segment of the U.S. business economy and foster the creation of millions of jobs for many who would otherwise be faced with unemployment and despair.

* * *

HONORING HUDA JONES

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. ROGERS. Mr. Speaker, it gives me great pleasure to report to the House on the outstanding work of one of my constituents.

Earlier this month, Huda Bingham Jones, of Beattyville, KY, was elected for a second 2-year term as first vice president of the National Federation of Republican Women, during their convention in Orlando, FL. This organization is the largest women's political group in the country, with 160,000 members participating through 2,600 clubs throughout the Nation.

In this capacity, Mrs. Jones will be assigned to help start up new clubs in Georgia, South Carolina, Tennessee, Florida, Alabama, and Puerto Rico. She will also fill in for the president at events the president cannot attend. Huda has been an active member of NFRW since 1973.

In addition to her political work, Huda Jones has been active as a civic leader and a parent, through her work in such organizations as 4-H, Order of the Eastern Star, and the Daughters of the American Revolution.

Mr. Speaker, I call on my colleagues to join me in congratulating Huda Jones on her reelection, and to wish her well as she serves not only her party but her community as well.

GENERAL VON STEUBEN—A REVOLUTIONARY WAR HERO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. ANNUNZIO. Mr. Speaker, September 17 was the 257th anniversary of the birth of Gen. Friedrich Wilhelm von Steuben, a professional soldier and military expert of extraordinary capabilities, who was Inspector General of the Continental Army during the Revolutionary War. A native German, von Steuben was second only to General Washington in his contribution to the cause of American independence, and in converting the Continental Army into a disciplined fighting force.

On Saturday, September 21, the United German-American Societies of Greater Chicago, under the able leadership of its president, Karl Laschet, held their 22d annual von Steuben Day Parade in downtown Chicago, to commemorate von Steuben's birth. The parade included drum and bugle corps, color guards, baton corps, German bands, and German choirs, and military contingents from Canada and several States, including Wisconsin, Missouri, Indiana, Iowa, and Illinois. Not only was the event a tribute to von Steuben, but also it featured the many contributions of German-Americans to America's growth and greatness.

Born into a military family, von Steuben led a soldier's life from age 16. He served in the Prussian Army with distinction, and in high tribute to his professional standing, King Frederick the Great appointed him to general staff duty at the royal headquarters.

General von Steuben, taken by the cause of American independence, arrived in this country late in 1777, after having been recruited in Paris by Benjamin Franklin. He was received with high honors by the Continental Congress at York, PA, in January 1778. Reporting to Gen. George Washington at Valley Forge the following month, von Steuben sustained the courage and spirit of his men during a time of great hardship for the Continental Army, since it seemed that the frigid winter could have indefinitely delayed America's hope for independence. Through the fortitude and guidance of General von Steuben, the Continental Army was able to emerge from this winter as a disciplined fighting force. For his efforts, Washington obtained for von Steuben the appointment of Inspector General with the rank of major general.

During the winter of 1778–79, von Steuben wrote an all-important manual on the basics of drill and field regulations for the American citizen-soldier which was entitled, "Regulations for the Order and Discipline of the Troops of the United States." This publication, known as the blue book, served as the official Army manual until 1812. In appreciation for his services, the State of New York awarded General von Steuben a 16,000-acre estate, and Congress granted him a pension of $2,500 for the rest of his life.

Mr. Speaker, I extend my greetings and best wishes to German-Americans in the 11th Congressional District of Illinois, which I am honored to represent, and to Americans of German descent all over this Nation who are observing the 257th anniversary of the Revolutionary War hero Friedrich Wilhelm von Steuben.

* * *

HELPING CRIME VICTIMS

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. RODINO. Mr. Speaker, today I am introducing legislation to provide for the permanent authorization of a program that has provided important help to crime victims.

The Victims of Crime Act was enacted in 1984 with strong bipartisan support and administration endorsement as part of the Comprehensive Crime Control Act of 1984. The act established a $100 million Crime Victims Fund to be used to aid State crime victim compensation programs and victim assistance programs. The money in the fund comes entirely from the fines, forfeited bailbonds, and penalty assessments on convicted Federal criminals.

The Childrens Justice Act, enacted in 1986, amended the Victims of Crime Act to increase the fund ceiling to $110 million for the purpose of providing Federal financial assistance to the States for the purpose of aiding child abuse victims. This was also accomplished with strong bipartisan support. This year the fund is expected to take in $85 million, the highest amount since its establishment.

The Victims of Crime Act, as originally enacted, contained a sunset clause of September 30, 1988. The purpose of such a clause was to give Congress a chance to evaluate the program to determine whether or not the program was worthwhile and important enough to warrant continuation.

The program has proven to be worthwhile. Some $63 million has been used to assist crime victims—and this money has come from criminals, not from taxpayers. Over 1,200 local and State victims assistance programs have received support from the fund, and State compensation programs have been able to provide more efficient, extensive help to victims of violent crime. The funding made possible by the Crime Victims Fund has strengthened such important victims services as rape crisis and domestic violence centers and has improved the training of law enforcement officials concerning the victims of crime.

For many years crime victims were virtually ignored by the criminal justice system that was supposed to protect them. The services made possible by money from the Crime Victims Fund are helping to ease the pain of innocent victims of crime and restore their faith in the criminal justice system. The program works and should be permanently authorized.

HONORING JACK BARRY OF SOUTH HADLEY, MA

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. CONTE. Mr. Speaker, I rise today to pay a special tribute to a very dear friend of mine, Jack Barry, a man who has dedicated his life to serving and improving the community of South Hadley and its surrounding towns.

Jack's postal career has spanned a period of 37 years during which he has made tremendous contributions and gained the respect of his associates. Not only has his commitment to the job resulted in his respected 4-year position as president and secretary-treasurer for several postmasters' associations, his commitment has also been the force behind many programs and improvements of the Postal Service. Jack has donated many hours to the promotion of such postal-related programs as the Ben Franklin Stamp Club and the Carrier Alert Program. Furthermore, it was largely because of his efforts that the South Hadley Post Office has gained numerous building improvements.

His service as a civil worker did not stop here, for he donated 21 years as a volunteer fireman and 4 years with the police department. His concern for protection of the citizens of South Hadley is an unquestioned trait that has his community forever grateful.

I am sure many of South Hadley's citizens are aware of Jack's talent as a singer and entertainer. He has generously used these entertainment abilities to add to the enjoyment of such occasions as Tax Night, and Veterans Day. In addition, he served as chairperson of the entertainment committee for the National Association of Postmasters' State Convention; a post he held for 9 years. Also, he has been responsible for conducting sing-alongs for such organizations as the Council on Aging and area nursing homes.

Blessed with strong religious beliefs, Jack has offered his singing talents to several churches for over 12 years. He served as president of the Holy Name Society, as well as deacon in his parish. As a member of the executive board at St. Theresa's Church in South Hadley, he assisted in the construction planning of a new church and advised the pastor on various functions and fund raisers. He personally chaired the annual minstrel show for 12 years at St. Theresa's, and for 15 years dedicated his time to gather funds for the Catholic Stewardship Appeal.

For over 20 years, numerous organizations have been fortunate to have Jack as one of their members. Among them have been the Cub Scouts, Knights of Columbus, South Hadley's Men's Club, and the Lion's Club. He has also devoted 40 years to the National Foundation of March of Dimes and several years with the American Cancer Society.

It is evident that Jack Barry has devoted his lifetime to helping others. His selflessness is an admirable attribute that will long be remembered by those whose lives he has touched.

The community of South Hadley has been very fortunate to have such an active and caring citizen as Jack Barry. It is a priviledge to have this opportunity to recognize such a remarkable individual.

HOLY TRINITY EPISCOPAL CHURCH CELEBRATES 100 YEARS

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to bestow special recognition on the 100th anniversary of the Holy Trinity Episcopal Church of Lisbon, OH.

It was in 1887 that the stone and wood frame Victorian structure was constructed and later consecrated as Holy Trinity Episcopal Church by Bishop Leonard. The congregation, founded in 1847, consisted primarily of 40 families of the Lisbon area, nearly the same size as the present-day congregation.

The church is located along the famous Lincoln Highway, U.S. Route 30, which traverses the breadth of America from the Atlantic to the Pacific. Lisbon, one of the oldest established communities of Ohio when originally founded as the village of New Lisbon in 1803, serves as the county seat for Columbiana County in Ohio.

Several famous families of the Lisbon area have played an important role in the shaping—and saving—of Holy Trinity Episcopal Church. The Vallingham family, a member of which served in Congress around the time of the Civil War, was very influential in developing the church in the 1800's. The Vance family, a fixture of the Lisbon community for countless generations, provided the needed measure of endowment that was so essential to the continuation of Holy Trinity in the 1940's.

Mr. Speaker, on this coming Sunday, October 4, 1987, will commence a 2-week-long celebration of the 100th anniversary of Holy Trinity Episcopal Church. I would like to extend my very best wishes and regards to Rev. Fayette P. Grose, who has contributed his leadership and guidance to the church during the last 7 of these 100 years. I join with the congregation of Holy Trinity and the 5,000 people of Lisbon in recognizing and sharing in the celebration of this special occasion.

In closing, let me offer to my colleagues the same motto which has been adopted by the congregation at Holy Trinity Episcopal Church for this special celebration: "Looking back to the past with pride and to the future with enthusiasm."

THE NEED FOR A NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. PEPPER. Mr. Speaker, I am today introducing legislation to take a giant step forward in our Nation's efforts to combat deafness and other disorders which limit one's ability to communicate. The legislation, which I am proud to have sponsored in the other body by the distinguished chairman of the Labor Committee's Subcommittee on the Handicapped, Senator TOM HARKIN, would finally provide proper recognition of the tremendous magnitude of communication impairments by establishing within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

Communication is one of the most important aspects of life. Yet, for more than 1 of every 10 Americans, hearing and talking can't be simply taken for granted. More Americans are disabled by deafness and other communication disorders than by any other chronic condition. Today, over 22 million people suffer from either partial or total hearing loss. Twenty million have a loss severe enough to be handicapped and 2 million are totally deaf. In addition, over 2.3 million Americans suffer from speech and other communication disorders—from mild to severe.

Although deafness and other communication disorders afflict Americans of all ages, they claim the very young and the old as their most common victims. About one-half of all hearing and speech impaired people are over 65. The prevalence of hearing impairments is expected to skyrocket as the elderly population grows. By the year 2000, more than 12 million elderly persons will be significantly affected by some hearing or speech disorder.

A shocking number of infants and small children are victimized by disorders and diseases affecting their hearing and speech. One of every 22 babies born in the United States have or shortly develop hearing problems. Ear infections are the most prevalent disease of young children from birth to the age of 7. Seventy nine percent of all children have at least one severe ear infection by the time they are 7 years of age. At least 1 million children are afflicted with deafness and speech disorders and are often left living in a world apart from others throughout the most formative years of their lives. These children often are unable to read beyond a sixth-grade level because their ability to learn language has been so compromised.

Communication disorders exact a heavy financial as well as human cost. These afflictions cost the U.S. economy over $30 billion a year in lost productivity, special education costs, and medical care costs.

Despite these exhorbitant costs, the United States spends very little on research into combatting deafness and other communication disorders. Biomedical research support amounts to only two-tenths of 1 percent of the costs of communication disorders.

The Federal Government, through the National Institutes of Health and its National Institute of Neurological and Communicative Disorders and Stroke, funds the bulk of the very modest amount of research into deafness and other communication disorders. However, Federal support for this type of research is woefully inadequate and pales in comparison to even the low level of funding of research on other health problems. Federal spending for hearing and balance research totaled $43 million in fiscal year 1987—less than $2 per victim. While an estimated 2.2 million people suffer from either partial or total vision loss, the Government presently spends four times as much for vision research through the National Eye Institute than it does for research into hearing disorders, which afflict over 22 million Americans.

While research has led to new knowledge about deafness and other communication disorders, the vast majority of persons with hearing loss and speech inhibitions still cannot be effectively treated. With respect to deafness this is due to the fact that 80 percent of all hearing losses are caused by nerve deafness, for which currently there is no cure.

Limitation of research funds has restricted crucial biomedical efforts to develop a vaccine to combat ear infection in children, to isolate genetic or hereditary factors which are believed to cause 50 percent of all hearing disorders, to provide the profoundly deaf not only with hearing "sounds" which keep them environmentally safe but with speech or language through a more sophisticated cochlear implant, and to perfect drugs which control hearing diseases.

Currently, under the National Institute of Neurological and Communicative Disorders and Stroke, there are many areas of research including: multiple sclerosis, Alzheimer's disease, epilepsy, Parkinson's disease, stroke, and cerebral palsy. Since disorders of hearing and other communication processes are encompassed in this broad group, an effort which would enable scientists to move ahead on some of the more promising areas of investigation is restricted.

The creation of a separate National Institute of Deafness and Other Communication Disorders would for the first time give the proper recognition in this Nation to what has largely been a hidden problem. It should dramatically increase dollars going toward the problem and create a place where the country's best biomedical researchers, physicians, and audiologists would work together.

The ability of the new Institute to bring together the top researchers from many fields including embryology, neuropathology, genetics, otolaryngology, audiology, neurology, immunology, bioengineering, and molecular biology hold unlimited potential for dramatic progress toward finding a cause and cure for these disorders which rob so many Americans of their natural ability to communicate.

Mr. Speaker, there is a clear and pressing need for our Nation to do more to help the hearing and communication impaired. I would urge my colleagues to join me in sponsoring this important legislation.

A SALUTE TO THE INTERNATIONAL PUBLIC TRANSIT EXPO 87

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. DELLUMS. Mr. Speaker, I call to your attention the International Public Transit Expo of 1987, sponsored by the American Public Transit Association, September 28–30, 1987, at the Moscone Center in San Francisco, CA.

The American Public Transit Association's annual expo is the largest gathering of businesses serving the public transportation industry. This year 46 minority- and women-owned businesses are exhibiting at the expo. Their participation at APTA's annual expos is unprecedented. This participation was made possible by a project funded by the Urban Mass Transit Authority, under the management of the Minority Affairs Committee of the Regional Transit Association of the Bay Area, and implemented by Mason Tillman Associates, Ltd. Mason Tillman Associates, Ltd., itself a minority-owned business, should be commended for their efforts to recruit the minority- and women-owned businesses to the expo, and for the assistance provided to the exhibitors in making arrangements. This participation of minority- and women-owned business exhibitors represents a significant contribution to the growth of our public transit industry, and to the development of a healthy strong and diversified economy. We commend Mason Tillman, Ltd., for their outstanding contribution to the continued growth and success of all minority- and women-owned business, which has insured the overwhelming success of the American Public Transit Association's International Public Transit Expo 87.

We welcome the improved competitiveness of minority- and women-owned business and their expanding role in the delivery of quality transit services.

ARMENIAN GENOCIDE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. COELHO. Mr. Speaker, I would like to take this opportunity to direct the attention of my colleagues to an outstanding article that was published recently in the Fresno Bee. This article discusses the noble efforts of some California lawmakers, most notably Gov. George Deukmejian, to provide educational material to schools in the State about the Armenian genocide of 1915–23, and other historical examples of grave human rights violations.

Earlier this year a rule on House Joint Resolution 132, which would have commemorated the Armenian genocide, was rejected by the House of Representatives. It is heartening to know that although the Federal Government continues to deny that this historical event took place, Governor Deukemjian is working to educate California's young people about this tragedy and others like it. I would like to take this opportunity to commend the Governor and everyone else involved in this effort, and I request that this article be reprinted here in the RECORD:

[From the Fresno (CA) Bee, August 20, 1987]

TURKISH GROUP QUESTIONS ARMENIAN GENOCIDE BILL

(By Jon Matthews)

SACRAMENTO.—In a bitter political struggle, Turkish-American groups are criticizing Armenian-descendant Gov. George Deukmejian in a strongly worded newspaper ad while Armenian supporters push a new bill proposing "Armenian genocide" video tapes for the state's schools.

Armenian and Turkish groups sharply dispute the facts surrounding the reported slaughter of Armenians in the early 1900s.

At the heart of the current battle is legislation intended to mark the little-known Armenian tragedy—and other human rights events—in California classrooms.

"Isn't it ironic that this unprecedented 'creation of history-by-legislation' is taking place while California has a 'Governor of Armenian descent' in power?" asked an advertisement placed in The Sacramento Bee newspaper this week signed by the Assembly of Turkish-American Associations.

"This advertisement is an excellent example of fiction writing" responded Kevin Brett, Deukmejian's press secretary. "It is deliberately intended to mislead the public."

A hearing is scheduled next Wednesday before the Senate Appropriations Committee on an Assembly-passed bill to provide video tapes to schools on the reported genocide of more than a million Armenians between 1915 and 1923. In addition, state education officials are well on their way toward developing a human rights model curriculum—including the Armenian events—already mandated for the schools by the Legislature and the governor.

"The Legislature hereby finds and declares that films or video tapes giving a historically accurate depiction of the internment in the United States of persons of Japanese origin during World War II and the Armenian genocide should be made in order that pupils will recognize these events for the horror they represented," says the pending bill introduced by Assemblyman Mike Roos, D-Los Angeles, and co-authored by numerous Assembly members and senators.

"I think the failure to look at the entire history of that era is very detrimental to Turkish-Americans," said Bonnie Joy Kaslan, chairwoman of the Council on Education and Public Affairs for the Assembly of Turkish-American Associations, headquartered in Washington, DC.

Kaslan said the advertisement was run in Sacramento because Turkish-Americans were frustrated and felt their views that Turks were being unfairly portrayed had been excluded.

But Assemblyman Charles Calderon, D-Alhambra, said that until the Turkish government "is willing to stand up and admit the fact of the Armenian genocide I think they are not only doomed in the eyes of the world, but I think they are doomed in terms of their own humanity.

Calderon is a leader in the push to insure that human rights lessons in schools include the Armenian events.

"The governor is not surprised by the advertisement considering that the Turkish government and its sympathizers have steadfastly tried to rewrite history," Brett said.

While events so long ago in the Ottoman Empire may seem far removed from modern-day American politics, earlier this year the government of Turkey threatened to reconsider its commitment to the Western military alliance if Congress passed a resolution honoring the Armenian victims.

On Aug. 7, the House of Representatives defeated the measure in a procedural vote after Reagan administration officials warned that its passage could spark a foreign policy disaster.

Deukmejian, who is very active in the Armenian community, has vigorously supported establishment of a national Armenian Day of Remembrance. He reiterated that position in a July 28 speech to the Armenian General Benevolent Union in a Detroit suburb.

"America is a bright, bold beacon of hope and freedom. That's why I cannot understand why our federal government won't stand up and designate a national Armenian Day of Remembrance in Honor of our families and ancestors," the Republican governor said.

But the advertisement signed by the Turkish-American groups claims the proposed state education programs "promoted by Armenian activists at the taxpayer's expense, will teach 'war time tragedies . . . in the Ottoman Empire' as 'planned genocide'; turning a deaf ear to what we Turkish-Americans and over sixty highly regarded American academicians . . . have to say about their reckless labeling of Turks."

Saying that school children may be exposed to "hate-mongering" teaching, the ad also criticized Deukmejian for cutting back funds for other educational programs.

The ad said the groups were not seeking a "whitewash" of events but "responsible teaching . . . not the kind of hate-provoking propaganda that fuels terrorism at worst and social ostracism at 'best.'"

Roos, Calderon and Brett all sharply criticized the advertisement signed by the organization, which Kaslan said represents more than 40 Turkish-American groups.

A TRIBUTE TO MR. JOSEPH YANKOSKI

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. WELDON. Mr. Speaker, I rise today to commemorate the brilliant career of Mr. Joseph Yankoski, director of the Delaware County Office of Employment and Training. After many years of dedicated service, Mr. Yankoski is retiring from his position. He leaves behind a legacy of hard work, compassion, and innovative ideas.

Many of Joe's friends recently gathered to celebrate his retirement. However, knowing Joe Yankoski, we can all expect that he will remain as active as ever in his hometown of Springfield, PA.

I congratulate Joe on behalf of this historic 100th Congress, and wish for him the best in all future endeavors.

TAIWAN'S 76TH NATIONAL ANNIVERSARY

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. PASHAYAN. Mr. Speaker, congratulations to President Chiang Ching-kuo and the Chinese people in Taiwan, who will be celebrating their National Day on October 10, 1987.

As we know Taiwan has achieved many political and economic successes in recent years. During the last year a genuine opposition party was formed in Taiwan and the 38-year-old martial law was lifted. The government is now considering ways and means to overhaul its parliamentary system and to allow Taiwan residents to visit their relatives in mainland China. Economically, Twaiwan continues its strong growth without widening the gap between the rich and the poor, with the nation's wealth largely in the hands of the middle class. It is interesting to note that the government is fully committed to a total protection of Taiwan's 5 million laborers. Laws governing the labor union, minimum wage, labor insurance program, labor education, and vocational education are all under current government study.

In Taiwan we see a shining example of private enterprise at work. Although Taiwan's success is largely the result of President Chiang Ching-kuo's stewardship, it is also due to America's assistance to Taiwan during the 1950's and 1960's.

Without American help in the past,

Said Ambassador Fredrick Chien,

we wouldn't have the Taiwan of today. The Chinese people are deeply indebted to America and will never forget American generosity.

I wish the Republic of China every success. I fondly hope that all developing nations will follow Taiwan's example in charting their present and future course.

CANADIAN TRADE TALKS MAY RESUME

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. BONKER. Mr. Speaker, today in Ottawa, the Canadian Cabinet is meeting to consider resumption of free trade talks with the United States. As you may recall, Canada walked out of these talks last Wednesday. Now, with only a few days remaining in which to reach an agreement, they may return to the negotiating table.

Our negotiators have said they are willing to resume the negotiations at any time. I am encouraged that dialog may be reopened on this crucial trade issue. But I caution the administration not to ignore the role of Congress and the American business community in these free trade talks.

Congress will closely examine any agreement reached between the administration and the Canadian team. The administration must keep in mind the need to inform and consult both Congress and the business community on the progress of these negotiations. If Congress is to accept a trade agreement, it must be an equitable one. It must be one which will truly open up the markets of both countries to fair competition and increase the economic opportunity of all participants.

Mr. Speaker, this agreement could serve as an historic model for other nations in breaking down barriers and expanding free trade. But in our desire to expand free trade between our two great nations, the United States must not sacrifice control over our own trade policies. I fully support the position of our negotiators on the dispute resolution issue. We cannot give up our right to act against unfair trade practices, in North America or around the world.

PERSONAL EXPLANATION

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during roll call vote No. 325 on Tuesday, September 22. Had I been present on the House floor, I would have voted "no" on the Crane amendment to the HUD-independent agencies appropriations bill.

A SALUTE TO ROBERT W. BERG

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mr. Robert W. Berg. On October 25, 1987, Mr. Berg will be recognized for his 30 years of involvement with the Cub Scouts and the Boy Scouts. He will be honored by his colleagues and the Cub Scouts of Pack 790 of Frackville, PA, where he has served as cubmaster since 1970.

Mr. Berg has had a distinguished career in Scouting. As a Scout himself, he received Scouting's highest honors, including the Eagle Scout award and selection to the Order of the Arrow. He also had the honor of serving in the color guard for then President Harry Truman at the second national jamboree held in Valley Forge in 1950.

Mr. Berg continued his commitment to Scouting as the years went by. He became cubmaster of Pack 790 in 1970, leading the pack to numerous awards. He was also instrumental in arranging events for Cub Scouts throughout the Broad Mountain District. These events included the Pinewood Derby and the Broad Mountain Olympics. In recognition of his outstanding efforts, Mr. Berg was awarded the Scouter's Key and the Broad Mountain District Award of Merit. In 1980, he was honored with Scouting's highest tribute, the Silver Beaver Award.

Bob Berg can look back with pride on his many outstanding achievements in Scouting. I know that my colleagues will join me in honoring Mr. Berg for his 30 years of dedicated service and in wishing him the best of luck and continued good fortune in the future.

HOUSE OF REPRESENTATIVES—*Wednesday, September 30, 1987*

The House met at 2 p.m.

Rev. Charles A. Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

Vindicate me, O Lord, for I have walked in my integrity, and I have trusted in the Lord without wavering. Prove me, O Lord, and try me; test my heart and my mind. For Thy steadfast love is before my eyes, and I walk in faithfulness to Thee.—Psalm 26:1-3.

Father, we acknowledge that all our judgments and experience bias our lives. Thus influenced, our judgments are suspect. We welcome Your sovereign intervention which requires an examination of heart and mind. In love, reveal any unreasoned distortion of judgment. Give us the integrity to see ourselves in Your eternal light. Thus vindicated, we will learn from our judgments and improve the quality of our experience.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUPPORT THE ARIAS PEACE PLAN

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, an historic effort to achieve peace is underway in Central America. The nations of the region have agreed to a peace of their own design and appear to be well on the road to compliance with its terms.

It is a tragedy that the Reagan administration has chosen to make the United States an obstacle to the developing peace in Central America. The administration is being left behind by events as it clings to the failed policies of the past in the face of a vastly changing diplomatic and political landscape in Central America.

United States support for the Central American peace plan, Mr. Speaker, means compliance with its terms insofar as they affect us. That means an end to Contra aid once and for all.

If we fail to comply with this component of the peace agreement, all of the administration's pious statements about sham reforms in Nicaragua will prove to be irrelevant. In the eyes of the world, it will be the United States who torpedoed Central America's best hope for an end to the conflicts that have ravaged the nations of the region. We cannot allow our Nation to be so disgraced.

Mr. Speaker, I urge my colleagues to join in support of the Arias plan and in opposition to any further aid to the Contras.

SOCIAL SECURITY NOTCH

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I rise today to focus attention on the inequities of the Social Security notch—an issue which, I am sure touches the constituents of every Member of this House.

We have all heard of notch babies. But the truth is, they are not babies at all. They are older Americans, born after 1917 who cannot understand why they are being shortchanged on their Social Security benefits.

And, as I stand before my colleagues, I can tell you that their frustration has become my frustration.

This House can and should begin to address the problem of the notch. The Select Committee on Aging has held several hearings. And we formed a notch coalition in the House in hopes of moving us closer to a solution.

But right now the ball is in another court. And I join with other members of the notch coalition today in appealing to the Ways and Means Committee, and its distinguished members, in asking that the issue be heard, that legislation be considered.

I am well aware that a GAO report on the costs of correcting the notch are forthcoming. This, of course, is promising news. But the report is slow in coming.

There is nothing that precludes us from moving ahead in the meantime. We have not had a single hearing by Ways and Means. Let us have one. Let us show we are interested in restoring faith and fairness to the Social Security system.

APPOINTMENT OF CONFEREES ON H.R. 1451, OLDER AMERICANS ACT AMENDMENTS OF 1987

Mr. KILDEE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. LENT. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Michigan [Mr. KILDEE] if he could advise whether this has been cleared with the minority?

Mr. KILDEE. Mr. Speaker, if the gentleman will yield, yes, it has been cleared with the minority, with the ranking member of the subcommittee and the chairman of the full committee.

Mr. LENT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? The Chair hears none, and appoints the following conferees:

From the Committee on Education and Labor, for the consideration of the House bill and Senate amendment (except titles III and VI), and modifications committed to conference:

Messrs. HAWKINS, KILDEE, FORD of Michigan, SAWYER, SOLARZ, VISCLOSKY, JEFFORDS, TAUKE, COLEMAN of Missouri, and GRANDY.

From the Committee on Energy and Commerce, for the consideration of titles III and VI of the Senate amendment, and modifications committed to conference:

Messrs. DINGELL, WAXMAN, SCHEUER, LENT, and MADIGAN.

OLDER AMERICANS FACE NEW OBSTACLES IN MEDICARE BENEFITS APPEALS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, once again, this administration in a misguided attempt to economize—could end up instead economizing on compassion for millions of needy older Americans.

According to the New York Times, the administration is proposing that

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for the first time in the history of Medicare—the end of face-to-face hearings for people appealing a denial of Medicare benefits.

Under the new plan more than three out of every four cases would be disposed of on the telephone.

In addition, the plan calls for the administrative law judges who make the decisions—to be employed by Medicare—again for the first time in Medicare's history.

I strongly oppose this plan—but am not surprised considering that this same administration has sought to impose tremendous obstacles on persons denied disability benefits.

For the past 22 years face-to-face hearings have been held in courthouses and field offices in more than 130 places around the Nation. While this is not a perfect system, it does provide the claimant a better opportunity for due process.

I know from firsthand experience that the current system works. In my New York office I have one staff member who has accompanied scores of elderly people denied benefits under Medicare.

The administration could not give an estimate of how much they would save from this new plan. However, if we asked our seniors they would tell you how much they could lose.

I call for this plan to be withdrawn at once. It is wrong and discriminates against our lowest income seniors—especially those who do not even own telephones. I wonder if the administration ever thought about them.

DENYING THE MINORITY FULL PARTICIPATION IN BUDGET-MAKING PROCESS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I have the same confidence in the ability of NFL and the players to settle their strike in time for this Sunday afternoon as I have in the ability of this Congress to settle its differences and produce a spending plan for the Nation which is to say—none, in time for the new fiscal year. Why don't we have a spending plan? Because the majority in this House are not allowing the minority to fully participate in the budget-making process. Opportunities for debate and amendment of legislation are restricted by the majority to say the least. This distresses the minority. Committees unduly stacked by majority members are reporting out legislation that fails to reflect the views of all committee members. Changes made in law or spending often occur through backdoor procedures by powerful lawmakers. And important money bills are frequently lumped together into one stupendous package and debated and voted on in a matter of minutes, or hours, further making a mockery of our great constitutional process. It's little wonder that voting on important issues is often done along party lines. Mr. Speaker, our budget process is a shambles. We Republicans will continue to press for reform.

KANSAS NEEDS AN ADDITIONAL BANKRUPTCY JUDGE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today I am introducing legislation, along with my colleagues from Kansas, Mr. SLATTERY and Mrs. MEYERS, to provide an additional bankruptcy judge for Kansas. Bankruptcy filings in Kansas have exceeded the capacity of the three capable bankruptcy judges now serving, largely because of the rapid surge of farm bankruptcies in recent years.

During the 12-month period ending June 30 of this year nearly 7,500 bankruptcy petitions were filed in Kansas. This represents a 16-percent increase over the same period ending June 30 of 1986, and nearly a 60-percent increase over the same period in 1985.

All the Kansas bankruptcy judges have urged creation of this new judgeship, and the Judicial Council of the 10th Circuit unanimously approved the request by our chief judge, Judge O'Connor.

It is never pleasant to face the problem of increasing numbers of bankruptcies, but it is only sensible to make sure that these cases are dealt with in a timely fashion, particularly as a result of the years of depressed Kansas agriculture.

SOCIAL SECURITY NOTCH

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, I rise today regarding an issue of extreme importance to thousands of Iowans, an inequity known as the Social Security notch. The notch is the regrettable consequence of well-intentioned legislation, the Social Security Amendments of 1977. The notch is not the result of some capricious whim—rather it arose from the type of tough compromise that occurs when Congress must find a balance between the legitimate desires of the few, the public good of the many, and a shrinking budget. Without the 1977 amendments, the Social Security trust fund would be bankrupt today and thousands of Social Security beneficiaries would be destitute.

A decade later, the problem is no longer the immediate solvency of the trust fund. Rather the problem lies with the compromise that created a transition period to ease the change from the old method of calculating benefits to the new formula. As you are all aware, this transition period has become widely known as the notch. I doubt any of my predecessors in Congress fully realized the problem that would result from the creation of this transition period. However, the lawmakers of 10 years ago are not entirely to blame for the present situation—there is a great deal of misunderstanding and misinformation which is associated with the notch issue. The blame for that rests with the politicians and organizations who have used the legitimate concerns of those born during the notch for their own advancement.

I stand here today, not to promote a specific solution to the notch issue—but rather to stress the need to seriously pursue any solution. This is why I recently joined 61 of my colleagues in requesting a hearing of the notch issue following publication of the upcoming GAO report. Additionally, I joined the Congressional Notch Coalition in an effort to vigorously pursue some remedy to the notch inequity. The fairest action the subcommittee on Social Security could take during the 100th Congress would be to grant a hearing of the notch issue.

I urge my colleagues to join the Notch Coalition in fighting to give those born between 1917 and 1921 the most basic of privileges afforded by a democratic government—a fair impartial hearing. The greatest injustice lies not in the creation of the notch but rather in the denial of a basic forum for the concerns of those affected by it.

TRIBUTE TO JOHN "HAPPY" CAMP

(Mr. ENGLISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGLISH. Mr. Speaker, today I rise to ask my colleagues to join with me in remembering a former Member of the House of Representatives who died Sunday.

John "Happy" Camp represented the Sixth District of Oklahoma from 1968 through 1974. Although we were opponents for this seat in 1974, we quickly became teammates on behalf of our great State. It was indeed an honor and a pleasure for me to call Happy my friend. Over the years, I valued his counsel on numerous matters important to our district. There is no question that Happy's friendship carried throughout the Congress during his tenure. His genuine nature and his personal working relationship with so many colleagues in the House and Senate made him a very effective Member of Congress. Always looking out for the best interests of Oklahoma, Happy will be deeply missed and long remembered not only in my State, but within the Congress as well.

My personal condolences go to Happy's wife, Vera, his four children, and the many family members who, over the years, were most supportive of his tireless public efforts on behalf of the citizens of Oklahoma.

FEDERAL ESTATE AND GIFT TAX LAWS SHOULD NOT BE CHANGED

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, for more than a decade, Congress has worked to ensure that family farmers, ranchers, and small business owners would not be forced to sell their property following their parents' death just to pay Federal estate and gift taxes. Any change in the current estate and gift tax law would be contrary to the ideals of fairness and would be disastrous for America's small- and mid-size family farms, ranches, and businesses.

We don't need to be reminded of the fact that our farmers have endured very hard times. We certainly should not be considering measures that would place an additional burden on family farmers and help drive them off their land. Quite often, the only legacy that these farmers and ranchers have to pass from one generation to another is their land. Anything we do which threatens family businesses threatens an important part of the American economy and our American heritage.

Mr. Speaker, yesterday I introduced House Resolution 276, a sense of the House resolution against any change in the Federal estate and gift tax laws. I ask all my colleagues to support the small farmers, ranchers, and business people of this country by supporting House Resolution 276.

SIGNING CEREMONY OF SO-CALLED GRAMM-RUDMAN FIX, A CHARADE

(Mr. COLEMAN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN of Texas. Mr. Speaker, all of us in America were treated last night on national television to a charade that was played out before the American people at the White House signing ceremony for the so-called Gramm-Rudman fix. We were treated to the sight of a President signing a bill he said he did not like and would not obey in front of a bunch of Republican leaders who said it will not work but who voted for it anyhow and they were real glad that he signed it.

Why do the Republican leaders feel this way? Because it takes them off the hook for now. The President can order a slash-and-burn approach to vital programs of this country such as education and child health. Also, with the Gramm-Rudman fix they can juggle the books to avoid tough defense cuts. Then, of course, they can blame it all on the Democratic Congress.

Mr. Speaker, there is a story in the recent Atlantic Monthly that has President Reagan flying home to Santa Barbara on the day after the 1989 inauguration of a new Democratic President. The stock market is crashing under the billions of dollars of red ink he has run up, unemployment soars, and the soup lines are forming again. The President turns to a reporter on the plane and says in all seriousness, "See? I told you the Democrats would screw up the economy."

Mr. Speaker, the signing of the so-called Gramm-Rudman fix was more of the same. The fix is in all right, but it is a political one, not a real one.

EMBARGO AGAINST IRAN

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, yesterday, the Senate passed an amendment to the Defense authorization bill offered by Senator Dole that would impose an embago against Iran. The embargo amendment passed 98-0 and is now part of the DOD bill which is awaiting final approval by the full Senate.

In order to have the embargo implemented as soon as possible, I am introducing companion legislation today so that the House may concur with the Senate's views on the embargo and so that the House will be able to go on record on this important issue.

The United States and Iran have a precarious relationship. On the one hand, we depend on the crude oil that Iran exports and on the other, we are engaged in escalating military and diplomatic confrontation with Iran. In fact, recent media accounts have reported that Iran has become the second largest supplier of crude oil to the United States—19.6 million barrels at a cost of $359 million. These shipments account for more than 11 percent of total U.S. oil imports.

It is difficult to explain why we are continuing to do business with Iran when they pose a direct threat to United States military personnel stationed in the Persian Gulf. United States intelligence reports have verified that Iran has laid mines in the Persian Gulf and continues to conduct activities that threaten United States military personnel in the region.

At the same time, domestic oil production has declined and the oil industry is suffering its worst depression since the 1950's. Texas, Louisiana, New Mexico, and many other States' economies are also suffering from the domestic oil slump.

It is time we correct this situation and also make sure that America does not become too dependent on foreign oil again. I urge my colleagues to join me in cosponsoring this legislation to require the President to impose an embargo against Iran.

NOTCH ISSUE IS MATTER OF GREAT CONCERN FOR MANY SENIOR CITIZENS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I am joining my colleagues on the floor today to discuss the notch issue because that issue has been a matter of concern for so many of my senior constituents. I receive hundreds of letters each session of Congress from senior citizens contending that they are being discriminated against by the 1977 Social Security amendments, which established a new formula for calculating Social Security benefits. These older Americans, born from 1917 through 1921, receive lower benefits than persons born before those years, although they may have held the same job and earned the same salary as their older counterparts.

Over 9 million Americans are affected by the benefit reductions that the notch has caused. Many of these notch babies are World War II veterans who risked their lives to defend our Nation. At the very least these Americans deserve to be heard in Congress. Although there are several notch bills currently pending in the Ways and Means Committee, little committee attention has been given to the notch issue. No hearings have been scheduled on any of these notch bills although notch legislation in the 100th Congress have over 170 cosponsors. It is time that the Ways and Means Committee give the notch a full and fair hearing so that this issue can be dealt with and debated in a truly democratic manner.

I want to thank my colleague, the gentleman from New Jersey [Mr. Saxton], for his dedication on behalf of the notch effort and for arranging to bring this issue to the attention of our colleagues.

SUPPORT TARGETED FISCAL ASSISTANCE TO LOCAL GOVERNMENTS ACT

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I rise today in support of the Targeted Fiscal Assistance to Local Governments Act.

I have introduced this legislation to meet the needs of many local governments across our Nation that need a modified form of revenue sharing. This legislation is a "targeted" approach to the problems of a nation that suffers severe economic disparity on the local level.

The loss of revenue sharing has meant the end of police protection, fire protection, and rescue services for many communities. I do not mourn the loss of swimming pools and tennis courts, I lament the loss of essential services for our communities.

This legislation is worthy of your support because it is designed with the dual controls of need and accountability.

Need will be measured not only by population, but by poverty and long-term unemployment. Communities must demonstrate that they have attempted to help themselves. Money received can only be used for public health, public safety, and public transportation.

Accountability for those funds received will require strict auditing practices, and it will require that all projects funded be visibly marked. The targeting formulas themselves will provide the ultimate accountability.

The termination of revenue sharing hit the most vulnerable local governments the hardest. Low-income jurisdictions lost 10 to 30 percent of their budgets, while wealthy communities lost 1 to 2 percent of their budgets.

I believe we can maintain a fiscally responsible program that will do what all of us want—invest money where its needed most. I urge my colleagues to support the communities that need your help most.

TRIBUTE TO H.R. GROSS

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, when as a high school student I first visited the House of Representatives, I was treated to a near priceless colloquy between Iowa Congressman H.R. Gross and "the other member of his party," Clare Hoffman of Michigan. There was much good humor. But it had a bite to it. The point was made.

My father, who had a strong admiration and respect for his Iowa colleague, had told me much about this diligent Member—how helpful he had been to him from his first day in the body.

H.R. was an institution within the institution. His H.R. 144, introduced every session, was his "trade mark" attempt to balance the budget. He thought it his duty to know what was in all pending bills. He insisted on full and fair application of the rules of the House, which he knew so completely. He was thorough. He was consistent.

No one ever had occasion to question his motives, his sincerity, or his honesty.

H.R. Gross performed a unique service to the Congress. He loved the House with a passion. He respected it as the heart of our representative government.

I feel honored to have known him. My entire family sends condolences and sincere best wishes to H.R.'s devoted wife, Hazel, and their two fine sons.

PRESSING FOR A LEGISLATIVE SOLUTION TO THE SOCIAL SECURITY NOTCH PROBLEM

(Mr. YATRON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATRON. Mr. Speaker, as a founding member of the Notch Coalition. I am pleased to join with my colleagues today in pressing for a legislative solution to the Social Security notch problem. As you all know, this problem affects approximately 9 million Americans born between the years 1916 and 1922. The disparity in benefits paid to these citizens and to individuals born before 1916 has shaken the confidence which many senior citizens previously had in America's Social Security System. Despite growing concern about the notch throughout America, we have not seen an adequate legislative response. Although the Select Committee on Aging has held several hearings, no hearings have been held by the Ways and Means Subcommittee on Social Security. It is now time for action. We must closely examine the notch problem and develop an effective solution which will restore fairness to the Social Security System. Hearings before the Subcommittee on Social Security are the first step in this effort.

□ 1430

NOTCH BABY

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, the "Notch Baby," popularized by Dear Abby and Ann Landers, is a situation that deserves a remedy by Congress.

As a member of the Social Security Subcommittee of Ways and Means, I have studied this problem carefully for several years, and concluded that, although there is merit to the formula change struck by Congress in 1977, the arbitrary and abrupt, discriminatory and unfair reduction in benefits for almost 7 million men and women, many who are veterans or widows of veterans who served their country in World War II, did not receive sufficient early or advance warning so that they could plan their retirement picture differently.

During this Congress I have introduced H.R. 1721, the Notch Baby Act of 1987, a bill which is both fair and fiscally sound. H.R. 1721 allows for a uniform phase-in of notch benefits to people born between 1917 and 1921. The Social Security Administration estimates that H.R. 1721 will cost approximately $21 billion over 1988-95, compared to other notch bills which could cost in excess of $190 billion; clearly, that can't be afforded.

Congress should forge ahead and aggressively pursue legislation which realistically confronts the notch inequity; H.R. 1721 will accomplish this worthy goal.

TRIBUTE TO RAYMOND KANE

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AKAKA. Mr. Speaker, they say that the art of the slack key guitar (ki-ho'alu) is to Hawaii as the flamenco guitar is to Spain and the Delta blues guitar is to Mississippi. I am honored today to recognize one of the foremost slack key guitarists in the world, Raymond Kaleoalohapoinaoleohelemanu Kane. Mr. Kane is a recipient of the National Endowment for the Arts' National Heritage Fellowship for his outstanding talent in the art of slack key guitar. He is here with his beautiful wife Elodia, to also celebrate their 21st wedding anniversary.

On October 2d, Raymond Kane will be celebrating his 62d birthday. Growing up in Nanakuli, my district on the island of Oahu, he has been honing his skills and playing the slack key guitar for 55 years. Mr. Kane is one of the few slack key guitarists who sings while playing his instrument and is the only artist to ever give a full-length solo slack-key concert. His superlative musical style has generated increased interest in this unique art form.

Mr. Kane's performance at the Lisner Auditorium this evening will document for the Nation this special and truly remarkable talent. I am honored to be associated with this recognition.

THE WAILING WELL VERSUS THE WISHING WELL

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, when I first came to the Congress in 1983 I quickly learned that this floor space down here was divided into two sections. On that side where the anti-Reagans resided was the wailing well, and on this side of the floor the floor space was where the pro-Reagans resided, the wishing well. Speech after speech in the wailing well complained and cried and condemned the President of the United States for his economic policies and the state of the unemployment, and the state of employment, and a thousand other statistics that showed that Reagan in their eyes was failing.

On the wishing well side we were saying, stick with the Reagan policies, look at unemployment in the long term, look at employment and economic growth.

Mr. Speaker, I am glad to report that on this pre-Thanksgiving greeting card where we have a Thanksgiving in this country coming up, that the unemployment rates show that in 1983 when the wailing well was prevalent it was at over 9 percent. Today the wishing well on this side can proclaim a better atmosphere in this country and that our wishes have come true.

IT IS TIME TO DO SOMETHING ABOUT THE DEFICIT

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, unfortunately the wishing well side of the Chamber never uses deficit charts. They always use other charts to portray economic advancement.

Mr. Speaker, the American people must surely be a little confused about the President's recalcitrance and his reaction to signing the new Gramm-Rudman bill. In December 1985 the President praised Senators GRAMM and RUDMAN and said they deserved our great congratulations.

In this year's State of the Union Address the President referred again to the Gramm-Rudman law saying that "together we made a commitment to balance the budget. Now let us keep it."

On signing the first Gramm-Rudman, he said Gramm-Rudman-Hollings will not make our decisions any easier, but it will make our choices crystal clear for all to see.

Perhaps it is because the choices are now crystal clear on defense and domestic spending and taxes that the President is so recalcitrant in signing and accepting the Gramm-Rudman bill. Perhaps it is because the Congress called his bluff on whether or not he is truly committed to deficit reduction, that he is recalcitrant on the Gramm-Rudman bill.

The President talks a good line about balancing budgets, but he never thought he would be forced to face the issue directly. Let us stop the talk. It is time to do something about it.

OUR 59TH MONTH OF ECONOMIC EXPANSION

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, I am pleased to join a number of my colleagues today in noting the 59th month of economic expansion, the longest of the postwar period. With the leadership of President Reagan, our economy has come a long way in the last few years.

I remember an inflation rate of 13.5 percent in 1980, and a top interest rate of nearly 19 percent in 1981. Under President Reagan, in June of this year, we had an inflation rate of under 4 percent, and a prime interest rate of 8.25 percent.

Although we have had nearly 5 years of prosperity, there are still areas of our country that suffer economic hardships. My home State of Colorado suffers from the collapse of the energy industry, and the numerous afflictions depressing our agricultural sector.

The major threat to our economy remains the massive Federal deficit. We currently have a debt exceeding $2 trillion, and have recently acceded to a debt of $2.8 trillion in 1989. This huge burden has devastated our foreign trade, and kept interest rates from dropping further.

The key to continued economic expansion, and for lifting our depressed areas to prosperity, lies in controlling Government spending. We have exhausted the easy solutions, now we must make the tough decisions required to ensure a better future.

IT IS TIME FOR A HEARING OF THE NOTCH

(Mr. MANTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MANTON. Mr. Speaker, since I first came to Congress, my office has consistently received more mail on one subject than on any other. That issue is not the huge budget deficit, aid to the Contras or arms control. The issue I consistently receive the most mail on is the Social Security notch.

Mr. Speaker, the Social Security system was designed to treat all Americans equally. I believe it usually does, unless you happen to have been born between the years 1917 and 1921, the so-called notch years. Beneficiaries born during this period can receive a Social Security check that is up to $160 less than a neighbor who has a similar work history but who was born a few months earlier. This is fundamentally unfair and un-American.

When my constituents contact me on the notch I tell them that I am a cosponsor of legislation to correct the notch inequity. I tell them there are many notch proposals pending in the Congress. I also tell my constitutents the General Accounting Office is in the process of completing a study on the notch. But there is little else I can tell my constituents about Congress' efforts to solve this problem because little has happened.

Mr. Speaker, I believe the time has come for the Ways and Means Social Security Subcommittee to hold a hearing on the notch—an issue which adversely effects 7 to 9 million Americans. The pending GAO study will provide an excellent opportunity for a hearing. I strongly urge the subcommittee to take the first step toward rectifying this injustice in our retirement system.

LET'S STOP FINANCING THE AYATOLLAH'S WAR

(Mr. KASICH asked and was given permission to address the House for 1 minute.

Mr. KASICH. Mr. Speaker, today I am introducing legislation to prohibit the import of products from Iran into the United States. For 7 years, the Ayatollah's regime has been carrying on perhaps the bloodiest conflict since the Second World War, and has been supporting terrorism worldwide. In the light of the fact that the United States in supporting U.N. efforts to embargo shipments of weapons to the belligerents in the gulf war, it is morally inconsistent that we as a country are financially supporting Iran's war effort by purchasing Iranian products.

Imports from Iran have averaged more than $500 million annually in recent years. They could be far greater this year due to large shipments of Iranian oil. One recent report indicated that in July alone, the United States bought some 359 million dollars' worth of Iran's oil.

We're giving the Khomeini regime the financial resources it needs to buy mines, Silkworm missiles and other weapons. It is not inconceivable that our purchases are financing the weapons that Iran has aimed against our ships and sailors in the gulf. Mr. Speaker, the House of Representatives should follow the action the Senate took yesterday and stop financing the Ayatollah's war.

PUBLIC OUTCRY FOR ACTION ON THE NOTCH

(Mr. MARTINEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTINEZ. Mr. Speaker, since the realization that the 1977 Social Security amendments created significant differences in the benefits dispersed to workers who were born before and after 1916, congressional offices have been inundated with urgent requests to correct this inequity. Despite the overwhelming public outcry for action of the Social Security "notch" issue, Congress has failed to provide a remedy in the 5 years we have known about the problem. To date, I continue to receive large volumes of letters, petitions and cards on this issue from those constituents who are receiving substantially less benefits as a result of the 1977 Social Security amendments. In those letters, my constituents express their frustration with Congress' indifference to the inequity that they continue to suffer.

In the 100th Congress, there are several pieces of legislation pending before the Ways and Means Subcommittee on Social Security which would either restore the pre-1977 Social Security benefit rules or lengthen and reform the transitional benefit formula. Unfortunately, the Subcommittee on Social Security has not conducted a hearing to review the merits of any of the pending legislative remedies. I therefore join my colleagues, here on the floor today, in urging our colleague from Indiana, Chairman Andrew Jacobs, to hold hearings on the legislative proposals pending before the Subcommittee on Social Security.

THE HOMELESS PROBLEM WILL NOT GO AWAY

(Mr. DioGuardi asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DioGuardi. Mr. Speaker, the United States is in the midst of the most serious homeless problem in decades. Nowhere is this problem more evident than in New York City and its surrounding suburbs, especially in my district in Westchester County.

We all know that the perception of a homeless man wandering the streets with his bottle of wine is a misconception. Today's homeless population consists largely of single women, one-parent families, and unemployed people who have fallen on hard economic times.

Incredibly, the administration is proposing that we cut off emergency shelter aid to the homeless after 30 days in a homeless shelter. Unfortunately, Mr. Speaker, the homeless problem will not go away in 30 days. There is a serious lack of affordable low-income housing in New York. Thirty days is simply not enough time to house thousands of homeless people when that housing does not exist.

Today, along with Mr. Gilman, I am introducing legislation that will block the administration's proposal. Mr. Speaker, let's give these people the chance to get back on their feet and make a new start for themselves.

HEARINGS ON THE NOTCH ISSUE

(Mr. JOHNSON of South Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise today to give my full and enthusiastic support for hearings to be held on the notch issue by the Ways and Means Subcommittee on Social Security. As a member of the Notch Coalition, I share the concerns of many of my colleagues that inequities exist as a result of the 1977 legislation that intended to correct flaws in the cost-of-living formula for Social Security.

In the State of South Dakota today, 14 percent of the population is age 65 or older. The overriding concern I hear from the elderly when I am back in the district is, "What is Congress doing about the notch?" At this point, there is little I can tell them. We must not let this matter rest. We must continue to seek ways to restore fairness to those affected by the notch.

The subcommittee has delayed the possibility of hearings until it receives GAO's report on the notch. We've waited a long time for this report and look forward to its completion and arrival. But action cannot stop there—the subcommittee must hold hearings so that we can examine ways to remedy this situation. The several bills that have been introduced to address the notch deserve the subcommittee's consideration. Both Democrats and Republicans have worked hard to offer solutions to this inequity. I am cosponsoring both H.R. 1917, introduced by Congressman Roybal, and H.R. 1721, introduced by Congressman Daub, and I would urge my colleagues to do the same so that we can show bipartisan support for hearings. These bills will provide a good working base to start from as we decide on the best method for new computation.

I have received more mail on this one issue than on anything else. This issue is clearly not going to go away for our elderly, or for us as lawmakers. I would again urge the chairman of the Social Security Subcommittee to call for hearings on this issue as soon as the GAO report is received.

AMERICA'S CURRENT ECONOMIC EXPANSION

(Mr. PETRI asked and was given permission to address the House for 1 minute.)

Mr. PETRI. Mr. Speaker, I am here today to mark an important anniversary.

Ever since the last recession ended way back in late 1982, we've heard repeated warnings that economic disaster lay just around the corner.

For the national media, bad news is more interesting than good news, so we've had a steady stream of reports about how bad things are for various people and organizations that are having tough times.

And naturally, the President's opponents have been more than happy to highlight the problems of every disadvantaged group.

Well, we should do more to help every American participate in the economic success we find in America today. But while we do that, we should recognize just how good times are for most Americans today.

October 1 marks the beginning of the 59th month of America's current economic expansion. This is the longest peacetime expansion since the end of World War II, and economic figures released today indicate that there is no end in sight.

When things were tough all around the country during the 1982 recession, the President's opponents blamed our problems on Reaganomics. Well, fair is fair. The President's economic policies—Reaganomics—deserve a lot of the credit for our current success. Let's give credit where credit is due—to President Reagan and to the American people, for making Reaganomics such a success.

□ 1400

HOUSE STEEL CAUCUS MARKS 10TH ANNIVERSARY

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, I rise today to commemorate the 10th anniversary of the Congressional Steel Caucus. As a member of the caucus and the executive committee I wanted to take this opportunity to express my congratulations and to outline the important role the caucus has played in developing steel policy.

Organized on September 22, 1977, the Steel Caucus was formed to examine national issues which impacted the steel industry. Among the early issues dealt with were tax policy, trade reform, and basic manufacturing issues.

Those elected to lead the caucus 10 years ago included former members

Charles J. Carney, of Ohio, as chairman, John Buchanan, of Alabama, vice chairman, and Adam Benjamin, Jr., of Indiana, secretary-treasurer. Elected as the first chairman of the Steel Caucus executive committee was Joseph Gaydos, of Pennsylvania, who today remains an active leader in the organization.

The caucus continued to focus on a wide array of issues that impacted the domestic industry. In the late 1970's the caucus played an important role in helping to shape the Carter administration's trigger price mechanism. In the early 1980's the caucus was instrumental in supporting the inclusion of "Buy American" language in the Surface Transportation Act. In addition, the caucus contributed a great deal of time to resolving the problem of rising steel imports into this country. Their efforts successfully culminated with the inclusion of the Steel Import Stablization Act in the 1984 trade bill and the development of a voluntary restraint agreement system with foreign countries.

As a current member of the caucus I congratulate it and its past and current leaders on this special occasion.

On Thursday, October 1, I will have the opportunity to join other caucus members and friends of the group during a special luncheon hosted by the Steel Service Center Institute. I look forward to this opportunity and anticipate that the caucus will continue to make significant contributions in the future.

"MADE BY OUR HANDS"—A POEM BY JAMES NIELSON

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIELSON of Utah. Mr. Speaker, I would like to submit a poem written by my son, James, on July 12, 1987. It is a sonnet to his wife, Marilyn in honor of our bicentennial celebration of our Constitution.

The rhyme scheme of the poem is based on "Stopping By Woods on a Snowy Evening" by one of my son's favorite poets, Robert Frost. The meter is based on the heroic couplet used by Alexander Pope and other poets of his day. The last stanza of the poem is virtually identical to the closing iambic pentameter couplet of my son's original sonnet to his wife; the word "Mine" in the middle of the next to the last line is the rhyming word that seems to be missing.

The poem follows:

Made By Our Hands

(To the United States of America, in celebration of the 200th anniversary of our Constitution)

We sing our song; we've always known
The joy our living here has sown.
Seeds of youth, both bold and near,
Thy beauty and love we will ever revere.

Audiences find it strange,
Our music, reverance, and our range—
Old major, minor chords they name,
Love and freedom; they're the same.

When the grounds begins to quake,
Soon elements seem to shake;
Big drumbeats peal, great fireworks shine,
Old Glory flies, bold, bright, and deep.

Our land's a home for all;
This country's mine and yours and ours
For we have dreams to keep.

SAN FRANCISCO GIANTS—THE WESTERN DIVISIONAL CHAMPIONS

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I want to talk a minute about San Francisco and baseball.

San Francisco has the Golden Gate Park, Golden Gate Bridge, Union Square, and cable cars, Ocean Beach, beautiful weather, and now a winning baseball team.

After 15 long years the San Francisco Giants have won the western division championship of the National League.

To owner Bob Lurie and manager Roger Craig, I send my heartiest congratulations. To the fans who are turning out in record numbers, I congratulate you as well; and to the St. Louis Cardinals or the New York Mets, whichever gets the chance to play off against our Giants, the gentlewoman from California [Mrs. Pelosi] and I welcome you to our fair city with this caveat: We have not won a pennant since 1962, and we are ready now.

AMERICA'S ECONOMIC GROWTH

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, tomorrow should be a day of reflection for the Chicken Littles of the political world who have been telling the Nation for the past 5 years that the economic sky is falling. Tomorrow, of course, we enter the 59th consecutive month of America's economic growth—the longest U.S. peacetime expansion since World War II.

During these 58 months of prosperity, the voices of gloom and doom have told us that we stand on the brink of an economic apocalypse. The rich are getting richer, the poor are getting poorer, and the middle class is evaporating, they've cried. If you didn't know better, you'd think the misery index was soaring through the roof. These critics of the Reagan administration's economic policies seldom let the facts get in the way of their agruments.

These are the facts:

Our recovery has created over 13 million new jobs.

The "misery index" of inflation and unemployment has steadily declined to below 9 percent, the lowest level since the index was devised.

Interest rates are at their lowest level in 8 years.

We have maintained the highest overall productivity level among the Western industrialized nations.

The percentage of families earning less than $20,000 a year has not risen, but has decreased during the past 6 years. Meanwhile, the percent of families earning over $50,000 a year has sharply risen.

Real personal income is up 12 percent since 1980.

The bottom line is that the average American is better off now than during the stagflation of the Carter years.

I've tried to imagine what's going through the minds of those who continue to decry the Reagan administration's successful economic policies while our economy grows to record highs. Webster's Dictionary defines "cognitive dissonance" as the "psychological conflict resulting from incompatible beliefs and attitudes held simultaneously." As we celebrate the continuation of the longest period of growth since World War II, I think cognitive dissonance best defines the political condition of those who said it couldn't be done.

We've been proving them wrong for 5 years. And with reason and good sense, we will extend this record far beyond 59 months.

HIGH-RISK OCCUPATIONAL DISEASE NOTIFICATION AND PREVENTION ACT

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, every year, according to Government estimates, as many as 100,000 workers die and as many as 400,000 are newly disabled due to diseases caused by workplace substances. And, every year, according to a 1984 Department of Labor study, these deaths and disabilities cost American taxpayers $5.4 billion in Social Security, Medicaid, and Medicare payments. H.R. 162, the High-Risk Occupational Disease Notification and Prevention Act, is designed to save those lives and lower those costs.

Crum & Forster Insurance Cos., the Nation's second largest writer of general liability insurance and among the top 10 workers' compensation carriers, is one of the businesses best able to appreciate the cost effectiveness of the high risk bill. In a recent letter to me they said:

> The long-term cost savings from the reduction in the incidence and severity of occupational disease implicit in the notification process make your bill worthy of enactment.

Crum & Forster has a significant economic stake in workable employee notification legislation, because improved prevention of occupational disease saves money for both insurance companies and businesses. Its support adds to the growing list of businesses that have realized that risk notification is a proven and effective way to fight occupational disease.

At $25 million a year, H.R. 162 is a cost-effective program that identifies workers at high risk of disease, notifies those workers of the risks, and encourages medical monitoring. It's not a compensation bill, it's a program designed to save lives, and I urge my colleagues to support H.R. 162.

RESTORE FAIRNESS TO THE SOCIAL SECURITY SYSTEM—CORRECT THE NOTCH INEQUITY

(Mr. LENT asked and was given permission to address the House for 1 minute.)

Mr. LENT. Mr. Speaker, we have all heard the horror stories—two workers born only days apart, one in December 1916 and the other in January 1917, who both retire in January 1982 and receive monthly Social Security benefits that differ as much as $110—even though their earnings have been the same each year. While the stories may vary slightly, the endings are always the same—glaring benefit disparities despite equal contributions.

I've cosponsored two bills which would resolve the notch benefit disparity and restore basic fairness to the Social Security System. The first, House Concurrent Resolution 15, calls for a study of the notch problem and asks the Commissioner of Social Security to recommend ways to rectify this inequity. The second measure, H.R. 1917, protects beneficiaries affected by the notch by replacing the failed 5-year transition period with a new formula which stretches out the transition period over 25 to 30 years. I urge my colleagues to lend their strong support to this effort to resolve the notch inequity.

In closing, I would like to share with you an excerpt of a letter I received from a constituent. He writes:

> I am sending you this letter with all the hope in the world that through your efforts and the efforts of many more Congressmen and citizens the notch problem may be solved. I do know that it is impossible to accomplish all endeavors, but just maybe—something may result if we keep trying.

And that is just what I intend to do.

SUPPORT URGED FOR NOTCH BABY BILL

(Mrs. PATTERSON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. PATTERSON. Mr. Speaker, today I join some of my colleagues in spotlighting the notch baby issue. I am a cosponsor of the notch baby bill, H.R. 1917, and I made a commitment to the elderly in my district to help solve the notch problem.

These Americans, people born between 1917 and 1921, are the same people who survived the Great Depression and World War II, and so many other crises our Nation has undergone in the last 70 years. Through the years, these people have answered their Nation's call time and again.

I would like to urge that hearings to discuss possible options and solutions be held as a first step in rectifying this problem. Our older citizens worked hard for their benefits and deserve to be treated fairly and equally, and we must take action to correct this situation.

ECONOMIC GROWTH IN THE EIGHTIES

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, the issue of the eighties is economic growth. Today marks the 59th month of economic expansion and Americans are beginning to believe again in the dream of a better life. And why not believe.

Real per capita disposable income from 1980 to 1986 has risen over 14 percent. Our purchasing power is 10 percent ahead of Canada's, 41 percent ahead of Japan, and 51 percent ahead of Great Britain's. Let's not forget about jobs. Over 6 million jobs have been created during this expansion. And these are not the low paying McJobs that some of my colleagues seem to think they are. The Department of Labor reported that in the period from 1981 to 1985, 42 percent of the new jobs were in the high-wage category. Only 6 percent were in the low-wage category.

This administration has lead the fight to destroy the double-digit inflation, high interest rates, and unemployment it inherited from the late 1970's.

Remember the seventies. A time when one administration told us that we should no longer look forward to economic growth. Remember stagflation, that economic phenomena that paralyzed our industry and our economy with its permeating stench of economic despair. I for one do not wish to return to those days.

In the seventies we experienced a malaise of hope, a malaise that threatened to destroy the American dream. In the 1980's, the American people rejected the demise of that dream and elected a President who could rekindle the fires of economic growth. Today, the faith in that dream is alive.

INTRODUCTION OF LEGISLATION TO REPEAL DEDUCTIBILITY OF TARIFFS PAID

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, in an era of triple-digit budget and trade deficits, American taxpayers simply cannot afford to be subsidizing imports. I find it incredible for example, if a corporation in the highest corporate bracket, 34 percent, pays tariffs of $100,000, it can then deduct that $100,000 from taxable income, effectively reducing its tariff to $66,000. This is a $34,000 subsidy for offshore production from the American taxpayer—one which we simply cannot afford.

I am introducing legislation today which would deny the benefit provided by the Tax Code which allows section 162 "ordinary and necessary" business expense deductions for tariffs paid on imported goods. I think this legislation is imperative.

This tax advantage for imported goods was enacted years ago with little thought given to how this particular benefit to imported products disadvantaged U.S.-made goods. Under current law a corporation which imports foreign products may pay a tariff, but then may deduct that tariff as an ordinary cost of doing business.

As I researched this proposal what became apparent to me—as amazing as this sounds—no one ever developed a rationale for why this subsidy was allowed in the first place—it just happened.

My legislation would deny this deduction and effectively stop the practice of giving corporations rebates for tariffs paid on imported goods. I urge my colleagues to support this vital legislation.

THE SOCIAL SECURITY NOTCH

(Mr. LIGHTFOOT asked and was given permission to address the House for 1 minute.)

Mr. LIGHTFOOT. Mr. Speaker, I join several of my colleagues today to call upon the Ways and Means Committee to hold a hearing on the notch. It has been 10 years since this inequity in Social Security was created, and not one hearing has yet been held by the committee with jurisdiction over this issue. It is time that the committee take a serious look at this issue.

I can tell you from my own experiences that interest in the notch is not waning. At every town meeting I held in August, at least one question about the notch was asked. People are getting tired of the same old story that several bills have been introduced in Congress to correct the notch, but that all of them are pending in the Ways and Means Committee, with no action taken. It's time that the committee change this and schedule a hearing so that notch babies will have an opportunity to tell the committee why they feel aggrieved by the 1977 changes in Social Security.

A Ways and Means Committee hearing would also provide the General Accounting Office with an ideal opportunity to discuss the findings of its yet completed report. Although none of us are familiar with the contents of the report, we are interested in its final release. It has been almost a year and a half since the report was requested, and it's time that the report was completed.

Finally, holding a hearing on the notch is a fair step to take. It would allow those individuals and groups who oppose correcting the notch an opportunity to discuss their views, while allowing those who support action an opportunity to discuss why they feel Congress should address this issue. A hearing on the issue would be a true democratic way to begin to tackle seriously this controversial and emotional issue.

CORRECT NOTCH BABY PROBLEM

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, I agree that the time has come for the Committee on Ways and Means to address the problem of the notch act.

It is inequitable for the Government to continue to treat the people born on and after January 19, 1917, as unfairly as we do.

The notch bill was an overreaction to fears of insolvency in the Social Security trust fund. In fact, what has happened is that Social Security has been cut over several occasions.

The high inflation that triggered its problems is behind us, and we now are building an increasing surplus in Social Security while we are denying people simply because of their birth a fair return.

The great majority of people who live on Social Security need that if they are to live in a decent existence. We are not talking about hundreds of thousands of very wealthy people out there, so I urge the Committee on Ways and Means to give serious and favorable consideration to legislation not that will totally undo the Notch Act, but that would give to the people born after 1917 a much fairer shake than they have been getting. We have money to do much better.

It is simply wrong for the country to continue to treat people so unfairly simply based on the date of their birth.

□ 1500

ECONOMIC PROSPERITY UNDER THE REAGAN ADMINISTRATION

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Madam Speaker, opportunity is knocking at America's door like it never has since World War II. Tomorrow marks the 59th consecutive month of peacetime economic growth—a record emblazoned with the word victory for the prosperity the Reagan agenda has brought to the world's greatest economic superpower.

Let the naysayers remember what President Reagan and the Republican Party stood for 5 years ago: Cutting inflation, cutting unemployment, cutting interest rates, cutting taxes, letting the American system work, and letting free enterprise reign.

And let's look at what those years have brought: Inflation slashed by an average of 7 percent; unemployment slashed by 28 percent; prime interest rates slashed by 19 percent; taxes cut by an average of $4,000 per person; nonstop growth in our gross national product—by nearly 4 percent per year.

How did it happen? Under the President's policies, we rejected the old ways, the tax and spend ways that taxed our hard work, and subsidized stagnation.

Now Americans are riding on an economic expansion that's increased their incentives to save, to invest, to employ, and be employed, to have their individual talents shine forth in a climate free of heavy-handed Government and confiscatory taxation.

That is the kind of prosperity our party promised the American people, and they know who they elected overwhelmingly to lead that charge.

This is to let them know we intend to stay that course.

SOCIAL SECURITY NOTCH PROBLEM

(Mr. BILBRAY asked and was given permission to address the House for 1 minute.)

Mr. BILBRAY. Madam Speaker, it does not seem fair that the average worker retiring at age 65 this year can expect to receive $577 per month in benefits, while a coworker who retired 5 years ago might expect benefits of $701 a month. Americans who have worked hard all their lives and contributed their fair share to the Social Security System deserve a comfortable retirement.

That in a nutshell is the notch problem.

Because of the accident of their birthdate, seniors find themselves receiving dramatically lower social security payments, payments they have earned. This injustice must be set right for millions of senior Americans.

In my own state of Nevada, over 22,000 seniors have been unfairly treated because of this serious defect in the law.

H.R. 1917 would remedy this notch problem for over 9 million Americans. I would urge the Ways and Means Committee to hold hearings on the notch problem in the near future.

WHY DOES THIS ADMINISTRATION CONTINUE TO SUPPORT MFN FOR ROMANIA?

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Madam Speaker, when Congress passed a bipartisan, moderate amendment to the trade bill to temporarily suspend most-favored-nation status for Romania for 6 months by a vote of 232 to 183.

Why did the administration, 1 month later, renew MFN for Romania?

When Helsinki Watch described the Romanian regime as "one of the most egregious offenders of human rights in Eastern Europe."

Why did this administration, act to continue Romania's MFN status?

When the last remaining Spanish synagogue in Eastern Europe was bulldozed last summer, and

When a Seventh-day Adventist Church was demolished with parishioners still in it.

Why did this administration look the other way, and renew Romania's preferred trading status?

When two more churches were bulldozed this summer, and a third is being demolished as we speak;

When Bibles have been turned into toilet paper; and

When a Pentecostal minister along the Hungarian border of Romania, was sentenced in July to 9 years in prison for distributing Bibles; and

When Romania's record of financing, providing arms and training for the PLO is underscored by two visits by PLO leader Yasser Arafat this summer.

Why is it, this administration can't see that MFN to Romania should be suspended?

When a Catholic priest is tortured and subsequently dies from the wounds from the beating because he advocated Christmas as a national holiday.

Why does the administration support MFN for Romania?

Madam Speaker, if they will not listen to the Congress, to their own State Department's reports, to the cries of the Romanian people, to eyewitness reports, who will they listen to?

Is anybody listening?

SOCIAL SECURITY NOTCH

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Madam Speaker, few matters have generated as much controversy over such a prolonged period of time as the Social Security notch issue. Since Social Security retirees first became aware of the notch inequity in 1983, it has consistently remained at the top of the list of issues about which residents of New York's Third Congressional District express their views.

Madam Speaker, I rise this morning to once again express my full support for a legislative solution to the unfairness of the Social Security notch. More than one-third of the House has cosponsored legislation to remedy the notch. A number of field hearings have been held on the notch, including one in my own district at which several hundred citizens vented their frustration over the lack of progress in resolving this injustice.

Now is the time to act on this most important issue. I am convinced that the notch will not go away until justice is served, and I urge my colleagues who have not already done so to endorse one of the notch bills now pending.

SOCIAL SECURITY NOTCH

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Madam Speaker, I rise to join my colleagues in support of H.R. 1917, to correct the inequities in the Social Security notch.

Madam Speaker, I believe we are a moral body and we respond to the problems of our Nation with sensitivity, honor, and integrity, although we may from time to time differ on the means and the methodologies.

Madam Speaker, this is one of the very few times when I am ashamed to be a Member of Congress. I am embarrassed by the fact that this immoral, unfair, prejudicial, and discriminatory treatment of senior citizens in the notch category from 1917 to 1921 still exists.

Madam Speaker, it is high time that we remedied this shameful situation. When I hold town meetings in my district, it is the only question that I cannot answer. The best I can tell my constituents is that I, too, am a "notch baby."

In 1977, the Social Security Act was amended to correct a flawed benefits formula that threatened to bankrupt the Social Security System sometime in the early 1980's.

The 1977 amendments provided for a reduction in Social Security benefits over 5 years to help affected beneficiaries adjust their finances.

Unfortunately, unexpected inflation drove up benefits for those covered by the flawed formula by more than expected and created an unjustifiable disparity in benefits between beneficiaries with identical retirement characteristics—except for their date of birth.

This disparity remains with us today—10 years after Congress first attempted to solve this problem.

Approximately 9 million beneficiaries nationwide, with over one-half of a million in the State of New York, continue to bear the brunt of this gross inequity. This is intolerable.

Those in Congress who say we cannot afford to correct this injustice are wrong. The Social Security trust fund, which can only be used for Social Security programs, currently shows a surplus of $47 billion. Between 1987 and 1995, the surplus is expected to grow by an additional $250 billion.

A solution to the notch inequity is necessary, affordable, and long overdue. At the very least, notch beneficiaries deserve a full hearing on the notch issue.

In the near future, the General Accounting Office will issue its report on the Social Security notch. The release of this report will be an opportune time to fully address the notch issue.

I have written a letter, along with 60 of my colleagues, to ANDY JACOBS, chairman of the House Ways and Means Subcommittee on Social Security, urging him to convene a hearing on the notch issue upon the release of the GAO report.

I urge all my colleagues to press for a full hearing on the Social Security notch so that we may solve this injustice now.

FIFTY-NINE STRAIGHT MONTHS OF ECONOMIC GROWTH

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Madam Speaker, today marks not only the end of the fiscal year. It also celebrates 59 straight months of economic growth, the longest peacetime expansion of our economy since the Second World War. In the past 5 years, some 13 million new jobs have been created. In April, the civilian unemployment rate reached its lowest level since 1980. Monthly payroll reports continue to show healthy gains. And, popular rhetoric notwithstanding, most of the job growth has been in well-paid occupations. The news is good. Indeed, the only sour economic note is one played by the Congress, which refuses to consider meaningful budgetary cuts or acknowledge the success of economic recovery. Instead, there are those among us who continue to sing the old tax-and-spend refrain. They are people who simply cannot take "yes" for an answer.

NOTCH HEARING IS NEEDED

(Mr. BEVILL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEVILL. Madam Speaker, I rise today to call on the House Ways and Means Committee to have a hearing to examine the Social Security notch problem. This was the No. 1 issue my constituents discussed with me during my August town meetings in all 14 counties of Alabama's Fourth Congressional District.

I agree with my constituents that we need a fair and cost-effective solution to the notch problem. I am concerned with the great disparity between the monthly benefits received by notch babies compared to similar Social Security beneficiaries born before 1917, when the notch years began. It seems most unfair.

There are a great many bills before the Congress addressing this problem. For example, I have coauthored a bill which would minimize the impact of the notch by spreading it over 10 years rather than 5 years as it now stands.

I am also supporting House Congressional Resolution 15 which calls for an immediate study of the notch problem by the Social Security Commissioner and the Secretary of Health and Human Services.

I think we need to have those who administer Social Security do a thorough analysis of the impact of the notch problem and suggest alternatives to alleviate the inequity it has caused.

In the meantime, we need to review all the legislative proposals as well as the study of the notch problem done by the General Accounting Office.

We need to know the best route to take in solving this difficult problem. No one wants to jeopardize the solvency of the Social Security System. Any solution must be cost-effective.

We must have open and frank discussions on this issue. I urge my colleagues on the House Ways and Means Committee to schedule a hearing on this matter.

The notch babies deserve an answer to this dilemma.

NEW JOBS FOR MILLIONS OF AMERICANS

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Madam Speaker, in 1981, Americans waited in unemployment lines—today all they wait for is their paychecks. Since 1982, there has been a record decline in the unemployment rate, from 9.5 percent in 1982 to 6 percent today. This translates into 14 million new jobs and 14 million new paychecks. What do 14 million new paychecks translate into? A whole lot of new pride in self-worth, and a median family income that has not increased as much since the 1960's. In fact, 90 percent of these new paychecks come from full-time jobs, and 46 percent of these new paychecks bring home more than $28,000.00. These are some facts that should make Americans feel 100 percent better about our economy.

The beauty of these 14 million new paychecks is that they can be fully enjoyed as in no other time in recent years because inflation is no longer a paycheck cancer. Inflation has been reduced from 10.4 percent in 1981 to 1.9 percent today. This means that these are solid, healthy paychecks that allow Americans the spending power to fully enjoy the fruits of their labor.

These 14 million new paychecks are being put to good use. Since 1980, household real net financial assets have soared 55 percent and as a result Americans invest their new paychecks wisely—so wisely that we now invest more on productive assets than at any other time in 13 years. When we invest in productive assets so heavily, it ensures a continued high standard of living and more new paychecks in the future. A paycheck, however, means more than just food and shelter. Paychecks give people self-respect and self-reliance. When Republican economic policies produce 14 million new paychecks, then self-respect and self-reliance has also increased by the millions. The policies that produced these 14 million new paychecks should continue because there is more at stake than just money.

CORRECT THE NOTCH

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Madam Mr. Speaker, I rise today to speak to for those Social Security recipients born between 1917 and 1921.

This, of course, is known as the notch and is a problem which my colleagues in the House must address without further delay.

In my State of South Carolina, there are more than 78,000 so-called notch babies have spent most of their working lives preparing for the golden years, only to see them tarnished by a mistaken benefit formula. It does not fully recognize a worker's earning after age 62. That means that many of these notch babies receive hundreds of dollars less each year than they rightly deserve. In my mind, this discriminates against older Americans.

While I appreciate the need for Congress to be prudent steward of the Social Security trust fund, it is apparent to me that the current formula is downright unfair.

A measure I'm cosponsoring now before the Ways and Means Subcommittee of Social Security—H.R. 1917—would restore benefits for notch babies with minimal disturbance to the current program.

H.R. 1917 is the responsible solution for thousands of senior citizens in South Carolina and throughout America who deserve a fair shake—and a full check.

SOCIAL SECURITY NOTCH

(Mr. QUILLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. QUILLEN. Madam Mr. Speaker, for a number of years bills have been introduced in the House to end the inequity in Social Security benefit payments known as the notch.

These bills have attracted a large number of cosponsors. For example, one notch bill in this Congress has 146 cosponsors, yet the Committee on Ways and Means has steadfastly refused to hold a hearing on this measure.

Madam Speaker, today I am joining with my colleagues to urge that hearings be held. Clearly, this is a matter of great concern to many Americans. Over 9 million Americans are affected adversely by the notch, including approximately 171,000 Tennesseans.

Given the number of bills introduced to solve this problem and the amount of mail received in congressional offices on this inequity, I believe this is a subject which must be looked into by the appropriate legislative committee. The Ways and Means Committee has the responsibility to explore fully the issue of the Social Security notch so that we may find a fair solution.

We do a disservice to our constituents when we refuse even to look at the notch problems and for this reason I urge the Ways and Means Committee to schedule a hearing in the near future. The time for congressional action is now.

□ 1515

IT IS TIME CONGRESS FACED UP TO THE NOTCH PROBLEM

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Madam Speaker, people at home in Oregon work hard for a living and they earn a secure and decent retirement. Consider two mill workers in my hometown of Springfield who came to one of my town meetings. They worked side by side in the mills their whole lives and have remained friends into retirement years. A happy story except for one thing: one takes home nearly $90 per month more in Social Security than the other. Why? Did this person earn more? No.

One was born in 1916 and the other was born in 1917.

The notch problem will not go away. It is time the Congress faced up to what is a tough issue. We have got some good solutions on the table with some of the proposed legislation. Let the Committee on Ways and Means go forward, hold hearings, and let the 100th Congress be known as the Congress that brought fairness and equity back to the Social Security system.

CREATING HEALTH CARE SAVINGS ACCOUNTS

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Madam Speaker, an independent Government task force created in 1986 by Congress released its findings last week on the financing of long-term health care. The report urges the use of tax breaks as incentives for individuals to save for their health care costs in retirement. This is a concept I have supported in connection with the Michel substitute bill of last July and in original legislation, H.R. 955, I introduced to create health care savings accounts.

The task force recommended that individuals be permitted to use funds accumulated in pension plans, individual retirement accounts, and life insurance plans for the purchase of nursing home and long-term care insurance on a tax-free basis.

The task force report also recommended tax incentives for the insurance industry to encourage private companies to enter the nursing home care market.

These recommendations include a number of provisions contained in the Michel substitute to the catastrophic illness coverage considered in the House last July. Unfortunately the substitute bill was defeated and the Medicare Catastrophic Protection Act which passed the House did not offer any coverage for long-term nursing home care.

It is my belief that the private sector can be helpful in many cases for the financing of long-term and nursing home care. I urge my colleagues to review the findings of this task force report which so clearly calls for a comprehensive approach to solve the health care needs of the elderly.

QUOTES FROM DAVID STOCKMAN ON THE UNSTABLE FISCAL POLICY

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Madam Speaker, last evening I saw the President on television and the President was talking about who was "nuts" in this whole area of fiscal policy. Now we have had some 1-minutes today talking about the long sustained period of economic growth. I am pleased that we have economic growth but my guess is that if anybody were to borrow $1.6 trillion they would likely experience some growth themselves.

I would like to respond to the President's remarks of yesterday, which I thought were not particularly thoughtful remarks, not from the Democratic side of the aisle, but I would like to respond from David Stockman. David Stockman in his book said this, and this is him speaking, a Republican, the architect of this fiscal policy. He says this: The White House "by 1984 had become a dreamland."

> It was holding the American economy hostage to a reckless, unstable fiscal policy based on the politics of high spending and the doctrine of low taxes. Yet rather than acknowledge that the resulting massive buildup of public debt would eventually generate serious economic troubles, the White House proclaimed a roaring economic success. It bragged that its policies had worked as never before when in fact, they had produced fiscal excesses that had never before been imagined.
>
> In 1984 we were plainly drifting into unprecedented economic peril. But they had the audacity to proclaim a golden age of prosperity.
>
> What do you do when your President ignores all the palpable, relevant facts and wanders in circles.

Question: What do you do? Not my question; David Stockman's question. Not my quotes; David Stockman's quotes, the man who helped create this economic chaos that this Republican President now tries to defend.

THE POST-REAGAN ERA

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Madam Speaker, political observers are already speculating as to the course this country will follow in the post-Reagan era. It is then appropriate to reflect on what has been accomplished in the past 6½ years and whether the administration's policy of low taxes and limited government is worth pursuing in the future.

Tax cuts of 1981 have driven our Nation's economic recovery. Inflation, once the focal point of our problems, is practically a nonissue.

Thirteen million new jobs have been created since 1982. As welcomed as these revelations are, we must also acknowledge our mistakes.

This body and the administration is simply not discharging its duties in a responsible manner precisely because we continue to spend too much money. We should celebrate the accomplishments of the past 59 months, Madam Speaker, but we should also remember the words of Frank Dane who once defined a liberal as "a man who will give away everything he does not own."

Let us reject liberal solutions to liberal problems. The taxpayers deserve better; we should do better.

LET US RECOGNIZE THE INJUSTICE OF THE NOTCH FACTOR

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Madam Speaker, I rise once again to express my strong support for the increasingly louder call that the Ways and Means Subcommittee on Social Security hold hearings on the discriminatory notch factor being used to calculate pension amounts for many Social Security beneficiaries.

Throughout their working lives these citizens planned carefully for retirement, just like their fellow taxpayers who are unaffected by the notch. Unlike their fellow taxpayers, however, those who are affected by the notch were to learn that the security on which they had counted would not exist at the time of retirement. They would receive substantially less in benefits for the sole reason that they were born between 1917 and 1921.

The Select Committee on Aging has addressed this issue by holding hearings in which the inequities of the notch were brought to light. I commend the members of this committee for their responsible treatment of this matter.

It is the Social Security Subcommittee which has legislative authority over this matter. I appeal to its chairman and members to recognize the injustice of the notch factor by convening hearings on the issue. In no other manner can this issue be appropriately handled by this body.

I urge my colleagues to join me in bringing this unjust disparity to an end.

H.R. 3335, TO AMEND THE CARGO PREFERENCE LAWS

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Madam Speaker, I have introduced H.R. 3335, a bill to amend the cargo preference laws which call for the use of American-flag ships to transport Government-sponsored or financed cargoes. This amending legislation is designed to ensure that all civilian and military purchases subject to cargo perference laws shall apply to all "commodities."

On many occasions, our Federal agencies including DOD and the Military Sealift Command have neglected to comply with cargo perference requirements when shipping foreign goods or "supplies" to the United States. They have claimed that when goods are purchased separately and shipped as commodities and then assembled here in the States the supplies are not subject to our cargo preference laws.

U.S. DOT has submitted a proposed rule that foreign cement and cement clinker purchased with Federal funds under the Surface Transportation Act are subject to cargo preference. However, OMB has stated otherwise.

The Attorney General's Office is currently reviewing this ongoing debate. Clarifying language is needed to put an end to Federal avoidance of cargo preference.

Madam Speaker, the cargo preference laws demonstrate a long-standing Federal commitment to a strong and vital American-flag merchant marine and failure to comply with these statutes is contributing to the decline of our maritime industry. I urge my colleagues to cosponsor H.R. 3335 to help bring a halt to the end runs around cargo preference.

PROGRESS BEING MADE IN GUATEMALA AGREEMENT

(Mr. BONIOR of Michigan asked and was given pemission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Madam Speaker, real progress is being made in Central America.

In Nicaragua, the Catholic radio station will be back on the air this week. The opposition paper La Prensa will open soon without censorship.

Nicaragua's National Reconciliation Commission, headed by Cardinal Obando Y Bravo, an outspoken Sandinista critic, has had two meetings already.

In El Salvador, President Jose Napoleon Duarte will sit down to talk with the rebels on October 4.

The signs for peace in Central America are hopeful.

But the Reagan administration has chosen to talk war instead of peace.

The President refuses to endorse the Guatemala agreement, calling it fatally flawed. The relentless campaign for Contra aid continues.

Peace can happen, it is happening, and the Reagan administration should get on board.

NO. 1, THE SITUATION IN CENTRAL AMERICA; NO. 2, THE PEACETIME ECONOMIC EXPANSION OF THE UNITED STATES

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I remind you again as I did yesterday, but today is the day, September 30, when 49 years ago on the ramp at the airport at Munich Neville Chamberlain said, "Goodbye" to Herr Hitler, as he called him and said, "Peace in our time."

Now the cry from Central America is "Give peace a chance." Fat chance with those communists in Managua. I supported Reagan for 57 days but tonight at midnight I am a free agent and I cannot wait to take the well tomorrow.

But the principal reason I arose, Mr. Speaker, tomorrow marks the longest peacetime economic expansion of the postwar period—59 straight months of sustained economic growth with low inflation. If you remember, when the President first unveiled his program it was met with derision and strident admonitions that "it won't work!" Well the plan did work and in the process proved once and for all that the Phillips curve is indeed dead. Long live the Arthur Laffer curve!

Under the President's leadership, the last 5 years have been truly good ones for the American economy. We have experienced sustained economic growth, increasing employment, low inflation, declining interest rates, declining poverty, higher real income, and a booming stock market. In fact, during the last 5 years the U.S. economy has become a veritable job-creating machine—the envy of the world, especially Europe. And according to the experts, the economy should continue to grow throughout 1988.

Yet despite the continued optimistic economic outlook there is a threat that looms large over the expansion. I am referring, of course, to the omnibus trade bill—a remedy meant to solve the trade deficit, a so-called crisis that this Congress does not even understand. In the process, Congress has resurrected the bogeyman of protectionism and sent shock waves of uncertainty through the stock and bond markets, which fear protectionism as much as inflation. This is all being done in the name of saving American jobs.

Mr. Speaker, I think that it is important to note that despite the hysterical claims to the contrary by the protectionists, recent studies show that there is no relationship between imports as a percentage of GNP and unemployment caused by job loss; nor is there a relationship between the trade deficit as a percentage of GNP and the percentage of unemployment caused by job loss. It is, therefore, obvious that the motivating factor driving the protectionist's headlong rush toward a global trade war and worldwide depression is not employment, but politics.

In closing, I would like to congratulate the President for his fine work in making stagflation a thing of the past, and at the same time warn Congress not to fall prey to today's feel-good economics that will produce tomorrow's economic hangover. Passing a protectionist trade bill may appear to be good politics, but it would surely undo the sustained economic expansion that so many have worked so hard to accomplish.

THE ECONOMIC SITUATION HERE IN THE UNITED STATES

(Mr. HOUGHTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOUGHTON. Mr. Speaker, businessmen by training are managers; managers by exception. In other words, if something is running smoothly you do not spend any time on it. You concentrate on the key problems. Why? Because if you do not fix the first one, there are three or four following along that will eat you up.

Now as a nation we have problems, economic problems, big ones: the debt, the national deficit, the trade gap. We know what they are and what has to be done to fix them.

Whether we get at them is a different story. But that is not the point of my words here today.

So many times in being consumed by the dark side we forget that there is light and good and things to be appreciated. One of them is, in my calculation, the largest sustained nonwar economic uptide since 1929. There are all sorts of reasons why it should not have happened; lots of nay sayers, but happen it did.

Family earnings are up, median family income is the largest growth it has been in 15 years, the United States is leading the world in industrial production as it has over the past 4 years. We have got lots of problems, Mr. Speaker, but every so often we might step back and count our blessings.

CALLING FOR REFORM OF THE BUDGETARY PROCESS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, I rise to call for reform of the budgetary process of Congress. The need for reform is clear.

Congress obviously does not care about budgetary deadline. Again this year, we have missed every budget and appropriation deadline there was.

Just for laughs, let's review what our schedule was supposed to be.

June 15, we were supposed to complete action on fiscal year 1988 reconciliation legislation. It is still weeks away.

June 30, we were to be done with all appropriation bills. To date, of the 13 bills, the House has passed 10; the Senate only one.

What is going to happen is that the leadership will roll all those 13 appropriations bills into one gigantic omnibus—a better word would be "ominous"—spending bill.

Then they will dare President Reagan to veto what will be the largest spending bill by any government in the history of the world.

I hope he does, and I hope we sustain the veto, even if it means we have to consider each appropriations bill separately, and it takes till Christmas.

Maybe that will get our attention.

LET US REDOUBLE OUR EFFORTS TO FIND OUT EXACTLY WHAT THE PROBLEM IS WITH THE NOTCH SITUATION AND HOW WE CAN CORRECT IT

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, I rise to discuss the problem of notch babies and I know there has been a lot said today about this. In fact, some of my colleagues have said we are wrong, we should not be attempting to make these adjustments. I will not read my entire statement but submit it for the RECORD but to say this: If we are wrong, we are not communicating correctly with the American people. I am going to redouble my efforts to try to find out exactly what the problem is with notch, how we can correct this problem, what can be done to better educate those who may know that the problem is not solvable the way we have recommended or to indeed solve it through legislation.

One way or another, this Congress needs to respond, needs to act, needs to correct the notch or needs to correct the misinterpretation and the misunderstanding.

I think we need to be responsible, we need to be fair, we need to be equitable and we need action. If there are those who say this legislation is wrong, then we need an understandable explanation that we can tell the people who are concerned about this issue.

□ 1530

THE SOCIAL SECURITY "NOTCH" ISSUE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

(Mrs. MORELLA. Mr. Speaker, I appreciate this opportunity to urge my colleagues to call for a hearing in the Ways and Means Committee on the Social Security notch problem.

I have heard from a number of my constituents regarding the notch, and I believe it is time that we confront this issue. A number of proposals have been introduced and public concern with the notch has not dissipated. Based on the level of interest alone, the committee should hold a hearing to reexamine the issues involved. The stability of the Social Security system must be paramount; however, that priority does not preclude a hearing on the notch.

Mr. Speaker, I believe the time has come for the Ways and Means Committee to schedule a hearing on the notch. I am optimistic that the distinguished chairman of the Social Security Subcommittee will soon include this issue on the subcommittee agenda.

CONGRESS MUST ADDRESS THE NOTCH

(Mr. DAVIS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Michigan. Mr. Speaker, we may as well stop ignoring the notch because it's not going away. Nor should it.

The time is long overdue for the Congress to thoroughly address this issue. The 7 million Americans born between 1917 and 1921 are entitled to a full and open debate of the Social Security benefit disparaties caused by the notch. At the very least, the Ways and Means Committee should hold hearings on H.R. 1917. Every retiring American has earned his or her full benefit amount.

I remain unconvinced that these people are not being treated unfairly. The 169 of our colleagues who also cosponsored the bill apparently share this view.

In Michigan, there are approximately a quarter million notch people. I have received letters from hundreds in my district. For years I have been forced to provide the same response—that while I've cosponsored legislation to correct the notch, the bill is not expected to come to the House floor. I doubt that neither the number nor the persistence of my notch constituents is unique.

Let's pull our heads out of the sand, face these 7 million Americans, and put the issue to rest. The silent treatment just isn't working.

ACTORS' FUND OF AMERICA APPRECIATION MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 199) designating April 1988 as "Actors' Fund of American Appreciation Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. Frank). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 199

Whereas the Actors' Fund of America has given over 100 years of dedicated service to the entire entertainment world;

Whereas the Fund's services are not restricted to actors but are available to any bona fide professional in the entertainment community who works in any capacity in the areas of ballet, opera, circus, variety, motion pictures, radio, television, and the legitimate stage;

Whereas the Actors' Fund provides its members with a wide variety of services and benefits, including financial assistance, educational and career guidance, blood banks, funeral and burial assistance, psychological counseling, home nursing care, and the use of the renowned Actors' Fund Home, a retirement residence in Englewood, New Jersey;

Whereas the Fund's new extended care facility, scheduled to be completed during 1987, will provide members with the finest possible nursing care;

Whereas the efforts of the officers and board members of the Actors' Fund have been aided by the cooperation and financial support of members of the entertainment community, who support the Fund with bequests, donations, endowments, and by giving special performances for the benefit of the Fund; and

Whereas since 1882 the Actors' Fund of America has been actively and productively concerned with the dignity and well-being of all members of the entertainment community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1988 is designated as "Actors' Fund of America Appreciation Month", and the President is authorized and requested to issue a proclamation saluting the accomplishments of the Fund and calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL DOWN SYNDROME MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 84) to designate October 1987 as "National Down Syndrome Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 84

Whereas the past decade and a half has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevlauation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstreamed programs in schools, to provide for vocational training in perparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1987 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL JOB SKILLS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 72) to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know the minority has no objection to the legislation now being considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 72

Whereas one of the most critical problems facing the Nation is to foster the development of a national work force that can meet the challenges of today and tomorrow;

Whereas work in the United States is undergoing rapid and profound change;

Whereas advances in technology will require new skills not now held by the national work force;

Whereas it is predicted that through the remainder of this century, businesses will experience a shortage of entry level skilled workers;

Whereas the skills of many young adults and teenagers are inadequate to perform jobs that are becoming available, thereby contributing to a much greater than normal unemployment rate among young people;

Whereas the ability to maintain a competitive and productive edge necessary for a strong economy and relatively high standard of living are dependent on the national work force;

Whereas the productivity and ability of the Nation to compete in a world economy are dependent on the national work force; and

Whereas a National Job Skills Week can serve to highlight the many changes that are underway in the workplace which have necessitated the learning of new skills, concentrate attention on private and public job training efforts, and bring attention to present and future work force needs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 11, 1987, through October 17, 1987, is designated as "National Job Skills Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MEDICAL RESEARCH DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further considertion of the Senate joint resolution (S.J. Res. 142) to designate the day of October 1, 1987, as "National Medical Research Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 340, a resolution to designate October 1, 1987, as "National Medical Research Day." During the centennial celebration of the National Institutes of Health, this resolution is very timely and recognizes the priority which medical research must hold in our society. I commend my colleague from Maryland for introducing this resolution, and I am proud to be a cosponsor.

Federal support is vital to continued advances in medical research. From its origin as a one-room hygiene laboratory in 1887, the National Institutes of Health has grown to be one of the world's foremost biomedical research centers. In addition to its own research efforts, NIH supports the research of private scientists in universities, hospitals, and other institutions worldwide. NIH Director James Wyngaarden indicates that more than 80 percent of NIH resources go to support almost 50,000 scientists in 1,650 institutions. NIH also supports more than 75 percent of all U.S. medical school research.

Mr. Speaker, this resolution is, in part, a tribute to the invaluable contributions of the National Institutes of Health, as it completes a "century of caring." I am proud to represent the congressional district in which NIH is located, and I urge my colleagues to express their strong commitment to medical research by supporting this resolution.

Mr. HOYER. Mr. Speaker, on behalf of Congressman SILVIO CONTE and Congressman JOE EARLY, who joined me as original cosponsors of House Joint Resolution 340, designating October 1, 1987, as "National Medical Research Day," I would like to thank Congressman BILL FORD, chairman of the Committee on Post Office and Civil Service; Congressman MERVYN DYMALLY of California, the chairman of the Subcommittee on Census and Population; Congresswoman CONNIE MORELLA, the ranking minority member of the Subcommittee on Census and Population; and the majority and minority staffs of the Subcommittee on Census and Population. Because of their graciousness and their expedited consideration of House Joint Resolution 340, both the House of Representatives and the Senate will have proclaimed tomorrow "National Medical Research Day."

I would like to note, gratefully, that Congressman DYMALLY and Congresswoman MORELLA are cosponsors of House Joint Resolution 340. This joint resolution is partly a salute to the National Institutes of Health, as it celebrates its centennial year. I would certainly be remiss if I failed to note that the gentlewoman from Maryland represents the congressional district that includes the National Institutes of Health, the world's foremost medical research facility.

This resolution is an acknowledgement of the contributions made by the American medical research community toward controlling disease, extending life, and making good health the expectation of every American. It is also recognition of the continuing efforts to develop cures for and to prevent cancer, heart disease, and rarer disorders such as multiple sclerosis and genetic defects.

Our country's international position in business and technology faces formidable foreign challenges. No one, however, can dispute the preeminence of our medical research. The benefits of American medical research reach the vaccinated child in the Third World who will never fear the paralysis of polio as well as the teenager here in the United States who is cured of Hodgkin's disease. American achievements in medicine and pharmacology are a source of national pride and international hope. In the midst of the crisis prompted by the spread of acquired immune deficiency syndrome, it is the United States to which the entire world anxiously and hopefully looks for a cure.

Diseases that once killed or incapacitated millions—tuberculosis and polio, for example—have been virtually eradicated. Medical research has led to the discovery of deoxyribonucleic acid as the molecular basis for inheritance; the development of new, innovative pharmacological and surgical techniques to combat cancer and heart disease; the discovery of the causative agents and possible treatment and cures for infectious diseases; and the identification of the genetic basis for addictive disorders. As the result of these and other advances, American medical research has provided invaluable service to mankind.

The commemoration of National Medical Research Day is a response to a number of persistent threats to medical research—an uncertain Federal commitment to the Federal centers for medical research—the National Institutes of Health; the Alcohol, Drug Abuse, and Mental Health Administration; the Centers for Disease Control; and the Veterans' Administration—an inadequate future supply of scientific investigators; the growing obsolescence of research facilities and equipment; and the possibility of promising avenues of discovery going unexplored. In observing National Medical Research Day, our goals include promoting greater public awareness of the importance of our Nation's medical research efforts to the health and well-being of Americans; increasing congressional recognition of the importance of Federal funding for medical research; and encouraging the maintenance of a positive public policy environment for private sector medical innovation.

October 1 marks the culmination of an nationwide public awareness and education campaign sponsored by the 23 voluntary health agencies that comprise the National Health Council. A series of events on Capitol Hill will be held on October 1, and a major publication, "Investing in America's Health: Making the Case for Medical Research," will be released at a morning press conference.

Mr. Speaker, tomorrow, October 1, is an important day. While it marks the end of many of the activities of the National Health Council's medical research campaign, it also represents the beginning of a series of other long-term initiatives to promote interest in and support for medical research. I thank my colleagues for joining in commemorating October 1 as National Medical Research Day and recognizing the fundamental importance of medical research.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 142

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical and behavioral research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all humankind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diptheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and its ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical research through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas the Congress and President of the United States have formally recognized 100 years of Federal support for medical research through resolution and proclamation commemorating the current Federal fiscal year as the National Institutes of Health Centennial year;

Whereas America's medical research enterprise has produced 85 internationally respected Nobel laureates in physiology, medicine, and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzheimer's disease, arthritis, heart and lung diseases, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of October 1, 1987, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD FOOD DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 110) to designate October 16, 1987, as "World Food Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would like the House to know that the minority has no objection to the legislation now being considered.

Mr. Speaker, I yield to the gentleman from New York [Mr. GILMAN], who is the prime sponsor of the resolution.

Mr. GILMAN. Mr. Speaker, I rise in support of Senate Joint Resolution 110 which is identical to House Joint Resolution 194 designating October 16, 1987 as "World Food Day."

Since 1979, the National Committee for World Food Day under the leadership of its chairwoman, Patricia Young, has undertaken hundreds of projects and programs related to the world's hunger problem. Without World Food Day and the organizations involved with its celebration, the groundswell needed that made all the media events possible concerning hunger would never have existed.

Yet, despite the impressive outpouring of support, the problem of world hunger still persists. According to recent reports 3 million people are at risk of starving in Angola. UNICEF informs us that every 24 hours, 42,000 children under the age of 5 die as a result of hunger and related diseases.

These grim statistics underscore the critical need for a continued commitment of private and public funds to ending hunger. But emergency relief aid is not enough. A concerted effort must be made to improve the deteriorating conditions that result in tragedy after tragedy—the same conditions that allow famine and starvation to persist and remain a reality in the world with more than enough resources to feed its population. It is time for us, for our Nation and the world of nations to work to prevent disasters from occurring—to solve the problems causing such disasters.

World Food Day has been an effective way for raising global consciousness concerning this issue.

Accordingly, I urge my colleagues to support the resolution.

Mrs. MORELLA. Mr. Speaker, I commend the gentleman from New York [Mr. GILMAN] for introducing this resolution and for the sensitivity he has shown so that we become aware of what we take for granted and what others do not have.

Mrs. ROUKEMA. Mr. Speaker, as a member of the Select Committee on Hunger and as that committee's past vice chairman, I am pleased to support this resolution establishing October 16 as "World Food Day."

We have established this special day of recognition for the last 6 years now, and it is most appropriate that we do so again. The problems of hunger at home and abroad are serious and complex.

I have often spoken of the socioeconomic factors which contribute to hunger here in the United States: increased teenage pregnancy, single parent-headed households, drug and alcohol abuse, and deinstitutionalization of the mentally ill. There are intricate relationships between these social phenomena and hunger. Solutions will not be simple.

One long-overdue step forward toward alleviation of hunger is reform of our current welfare system, which almost all experts agree is a failure. I hope that this body will soon consider freestanding, comprehensive welfare reform legislation which will include new, effective means to improve enforcement of child support payments.

On the international scene, we have widespread poverty and hunger throughout Latin America. Many of the countries in that region also face enormous debt problems which exacerbate the situation. India continues to suffer a major hunger problem. Ethiopia, which endured terrible starvation 3 years ago, is confronting a new drought and famine. I do think that the Western donor nations learned some lessons from that tragedy and that we are better prepared to act this time. We also have major civil strife in certain areas of the world causing hunger and malnutrition, most notably in Mozambique and Angola.

In short, we have major hunger problems around the world. World Food Day plays an important role in drawing attention to these problems and in educating all of us about our past successes and failures and about our hopes for progress in the future.

Mr. EMERSON. Mr. Speaker, World Food Day has become a truly unique and vital conduit for informing the public of the food needs of hundreds of millions of people throughout the world. Unfortunately, hunger and malnutrition remain daily facts of life for millions of people throughout the world with the children suffering the most serious side effects in lack of food.

Private voluntary organizations such as CARE, Save the Children, Bread for Life, to name just several of many fine organizations who are involved, plus many outstanding church agencies continue to fight world hunger by working where possible with national governments and concerned elements in the international community. These organizations have proven to be enormously successful in providing assistance to those desperately needy countries where hunger is a major, real concern.

Mr. Speaker, on October 16, 1987, World Food Day will again be celebrated. I hope my colleagues will join in recognizing the importance of hunger as an issue that not only affects those of us here at home, but also our many neighbors around the world.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 110

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of immense farm surpluses in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world and to continue to aid hungry and malnourished people of the world;

Whereas participation by the private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 375 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1987, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1987, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 275 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 275

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2310) to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two and one-half hours, with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, with thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, and with sixty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 3350 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of section 311(a) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), and with clause 7 of rule XVI and clause 5 of rule XXI are hereby waived. No amendment to title II of said substitute shall be in order except pro forma amendments offered for the purpose of debate. Following the conclusion of consideration of title II, no further amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

(Mr. DERRICK asked and was given permission to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, House Resolution 275 is a modified open rule providing for the consideration of H.R. 2310, the Airport and Airway Improvement Amendments of 1987. The rule provides for 2½ hours of general debate: 60 minutes for the Committee on Public Works and Transportation; 30 minutes for the Committee on Science, Space, and Technology; and 60 minutes for each of those committees will be equally divided and controlled by the chairman and ranking minority member of the committee.

The rule makes in order the text of H.R. 3350 as an amendment in the nature of a substitute to be considered as original text. H.R. 3350 merely incorporates the committee amendments reported by the three committees of jurisdiction.

The rule provides that the amendment in the nature of a substitute shall be considered by titles, with each title considered as having been read. The rule waives clause 7 of rule XVI and clause 5 of rule XXI against consideration of the substitute. Clause 7 of rule XVI prohibits nongermane amendments and clause 5 of rule XXI prohibits appropriations in an authorization bill or revenue provisions in a bill not reported by a committee with jurisdiction over revenue matters. This waiver is necessary because the substitute includes the revenue title reported by the Ways and Means Committee providing funding for the Airport and Airway Trust Fund, and the bill as introduced did not include any revenue provisions and was not formally referred to our reported by the Ways and Means Committee. The rule also waives section 311(a) of the Budget Act against consideration of the substitute. Section 311(a) prohibits consideration of legislation which would cause the new budget authority or outlay ceiling set by the budget resolution to be exceeded or the revenue floor to be breached. This waiver is necessary because the ways and means revenue title exempts emergency medical helicopters of nonprofit health care facilities from all applicable airport and airway excise taxes, thus reducing fiscal year 1988 revenues by a small amount.

The rule provides that no amendments to title II of the substitute—the revenue title—are in order except pro forma amendments for the purpose of debate, and that following the conclusion of the consideration of title II, no further amendments are in order to the substitute. These restrictions do not in any way impede the consideration of germane amendments to the nonrevenue provisions of this bill.

Finally, this rule provides for one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 2310 is an important piece of legislation. We are all very concerned with the state of our airports and our air traffic safety system. This bill reauthorizes spending for these purposes and provides for the continuation of the taxes that go into the Airport and Airways Trust Fund. This rule provides for the full and open consideration of all germane amendments to the authorization portion of H.R. 2310. I urge adoption of the rule and H.R. 2310 as reported from the committees.

□ 1545

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a modified open rule. I would have liked to have seen the Committee on Rules grant a waiver, so that an amendment could have been offered on the floor to take the Airport and Airways Trust Fund off the budget; but that was not done.

Actually, if we could take the trust fund out of the budget process altogether, I think it would be a fair thing, and it would accomplish a lot for airport expansion and improvements. It would give us an opportunity to use the trust fund moneys collected rather than holding them to satisfy some requirement to make a good showing for the budget process.

The rule makes in order this bill which extends the airport and airways programs for an additional 5 years. Mr. Speaker, I shall vote against the rule, because the Committee on Rules did not make in order an amendment to take the trust fund out of the budget process.

For that reason, Mr. Speaker, I am going to fight the rule to defeat it. I hope that it will be.

Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HAMMERSCHMIDT].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to join the chairman in expressing our displeasure with the rule governing the consideration of the Airport and Airway Improvement Amendments of 1987. Not only did the Rules Committee turn down our request to make in order an amendment to take the aviation trust fund off budget, but it took the extraordinary step of drafting the rule in a way that prevents us from offering a germane budgetary amendment that would have helped to free up the billions of dollars currently languishing in the trust fund.

The failure to allow these amendments is most unfortunate and unwise. At a time when we are experiencing great concern about aviation safety and passenger service, you would think that the Rules Committee would want to give their colleagues an opportunity to take meaningful action to address these problems. Evidently, that is not the case.

As a result, we are left with a rule that prevents us from improving our bill to ensure that the funds collected and needed are actually spent. If the past is any indication, this means that spending on the aviation infrastructure will continue to fall short, for example, during the last 5 years, appropriations for airport improvements were almost half a billion dollars less than authorized levels. And that occurred despite billions of dollars' worth of demonstrated needs.

Mr. Speaker, many Members have spoken up to complain about airline service and airline safety. It's too bad that the Rules Committee has taken away their opportunity to free the trust fund money to solve these problems.

Mr. DERRICK. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to the rule that has been granted for consideration of the Airport and Airway Improvement Amendments of 1987. Not only has the Public Works and Transportation Committee been denied the chance of letting the will of the House prevail on the question of taking the Airport and Airways Trust Fund off-budget. Moreover, our committee has been denied the chance to let the Members of this body extend the Essential Air Service Program which ensures the provision of commercial airline service to 500 smaller communities throughout this Nation.

On the issue of how the aviation trust fund is treated by the congressional and Presidential budget processes, in past years, the administration and the Congressional Budget and Appropriations Committees have been unwilling to spend all the money contributed by airline passengers and other users. As a result, there is now a $5.6-billion surplus in the trust fund. This has occurred despite the fact that the airport and airway trust fund gets all its revenues from taxes paid by users of our airports and airways, with the largest contribution coming from an 8-percent ticket tax imposed on domestic airline passengers.

Given past experience, it is obviously not enough to simply authorize the needed amounts. We must also ensure that the money collected is spent. We must prevent a surplus from building up in the future.

Over the past 5 years, the trust fund programs funded under prior authorizing legislation have not been fully funded and the users have been paying considerably more into the trust fund than has been going out. In the Airport Improvement Program, actual spending has been $460 million short of authorized levels. In the Research and Development Program, the shortfall has been $140 million. The most serious deficiency has been in the air traffic control facilities and equipment program where, over the past 5 years, appropriations have been $1.5 billion below the authorized levels.

Unfortunately, however, the Rules Committee has blocked you from even considering an alternative. That alternative, by removing the aviation trust fund from the budget, would have helped ensure full funding of needed airport and airway improvements.

It would have increased the capacity of the aviation system. It would have expanded airport capacity. It would have helped us replace the FAA's vacuum tubes with state-of-the-art air traffic control computers. And it would have helped provide the needed complement of improved weather detection radars to warn of wind shear.

Because this rule will not even let you consider this alternative and won't permit extension of the Essential Air Service Program. I must urge a "no" vote on the rule.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the next time the Members or the American people traveling on our scheduled airlines find themselves stuck in an airport delayed, find their baggage lost, find their families and their little children unable to make connections, discover that flights that they thought they were going to be able to take have been canceled, the next time you or your friends or your loved ones or your constituents experience this problem in our Nation's airports and airways, and the next time somebody asks you, why has this happened, why do we have such chaos in our aviation system today, tell them it is because in the House of Representatives we were not allowed to vote on the solution to this problem, for indeed the tragedy here is, there is a solution.

The reason we have chaos in our airlines and aviation today is because of the enormous success of airline deregulation which has brought about a 65-percent increase in the number of passengers flying.

Over 460 million passengers are now flying.

It has created a tremendous overload on our aviation system, but there is a solution, an obvious solution.

The solution is to expand the system, to spend the money to build the runways, to build the new airports in some cases, to build the gates, to build the baggage turnstiles, to expand the system, to put the new computers up in the towers, to add more air traffic controllers, to modernize the system, so we can eliminate the tremendous delays that are occurring.

Unfortunately, and a double tragedy is, the moneys are there to do it. The money is there to do it.

There is $5.6 billion lying in the aviation trust fund not being spent, because under the unified budget, it becomes part of the budget process, and so we break faith.

We lie to those Americans who go and in good faith buy a ticket on an airline and have 8 percent of their ticket price put into the aviation trust fund with the promise that that money is going to be spent to improve aviation, and then we break the promise.

We break faith with those people. We take their money. We tax them, but we do not spend the money to improve the system.

There is a solution. The solution is to free up the aviation trust fund, so the money can be spent in good faith to expand and modernize our aviation system, so we can keep pace with the tremendous expansion in air travel which is occurring.

We find ourselves today unable to deal with this issue, because we are not permitted to even have a vote on whether or not that $5.6 billion surplus in the aviation trust fund can be spent as we promised that it would be spent.

What is our immediate task, our immediate choice here today?

I suggest it is to vote down this rule.

If the Members care about stopping their delays, if the Members care about supporting constituents, so we can eliminate the terrible chaos, and indeed the question of increased unsafety in our aviation system, if the Members care about safety, then the Members care about airplanes arriving on time, baggage arriving on time, then vote down this rule, so we can bring to the floor the question of, should we spend the money in the aviation trust fund to modernize this system.

Vote down this rule, so we can improve America's aviation system.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GRAY], chairman of the Committee on the Budget.

Mr. GRAY of Pennsylvania. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the rule on H.R. 2310, the Airport and Airway Improvement Amendments of 1987. The Rules Committee properly rejected the request for an amendment to remove the aviation trust fund and the aviation programs from the congressional budget process, and exempt these programs from Gramm-Rudman sequestration. This Rules Committee action was taken to prevent piecemeal budgeting so that Congress can decide on priorities within the total budget. The piecemeal approach to budgeting prevents Congress from formulating and implementing Governmentwide fiscal policy. This was the reason we established the unified budget.

As Budget Committee chairman, I also believe that exempting programs from Gramm-Rudman sequestration should be decided when Gramm-Rudman is amended. That is the point in time to look at all the programs in the budget and make a decision on whether or not certain programs have such extraordinary life and death value to warrant exemption from budget cuts.

Finally, in my opinion, the existing budget resolution process, in concert with the appropriations process, has been fully able to assure sufficient funds for aviation programs. Most of the problems we face in aviation, like flight delays, are not due to lack of money. They are primarily the result of an administration that has allowed deregulation to get out of hand.

I urge my colleagues to support the rule and let the House vote in support of the bill.

☐ 1600

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Speaker, I rise in strong opposition to the rule.

Like many debates that occur here in the well, the issue is not the substance of the bill itself, it's the process that is egregiously offensive. In this instance, the process denies us a vote on whether to take the trust funds off budget. The issue is whether to reject this gag rule to permit consideration of such an amendment that Mr. HAMMERSCHMIDT is prepared to offer. The issue is ultimately whether we wish to make our airports more efficient and our skies safer for people to fly in.

An amendment taking the trust fund off budget is germane to the issue of aviation safety. But the rule says "no" to its consideration.

If there was ever an institution that believes in the adage of "rules are made to be broken," it's this House. If we were to strictly follow the guidelines set down over the years and not allow exceptions, this House couldn't operate. Thus in order to do our business, we begin to break the rules.

But for reasons I don't fully appreciate, the rule before us is void of the usual exceptional language.

This rule doesn't give you the opportunity to exercise your right to vote to improve aviation safety.

If you favor increasing the safety of our airway system; if you favor purchasing state-of-the-art computers and radars to guide our commercial and general aviation airplanes; if you favor allowing the trust fund to spend out at a rate equal to its revenues; that user fees collected for aviation safety are fully used for aviation safety.

On the other hand, if you want to continue business as usual, to inhibit the modernization of our airway system; to maintain the facade of responsible budgeting to hold the trust fund within the unified budget, then vote for the rule.

But don't think for a second that voting for the rule is voting to maintain discipline in our budget. Our budget process is a shambles, and as evidence look to the fact that the last day of the Federal fiscal year is upon us, and Congress has yet to pass an individual appropriations bill.

I urge Member to make the responsible vote and defeat this rule. Aviation safety is the issue, not budget discipline.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the distinguished chairman of the Public Works and Transportation Committee, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, on yesterday our Committee on Public Works and Transportation, along with some other committees, went before the Rules Committee with our aviation bill for this year. What we requested from the Committee on Rules was that we be permitted a waiver of the rule so that we could offer a nongermane amendment, one which would take the airport trust fund off budget.

Now, we did hear someone in the well a few minutes ago saying that if we are going to have a real honest budget process, all of these trust funds must be in the mix. Well, if that is the case, then why is it that the Social Security trust fund is going to go off budget?

There does seem to be a lack of continuity there.

Now, we believe that this trust fund should go off budget because not only will it make for honest budgeting, but every time someone buys an airline ticket he or she pays 8 percent of that into the airport trust fund. That money is there for one purpose and one purpose alone and by law can only be spent for one purpose and that is to improve the airline and airport systems in this Nation. It cannot be used for any other purpose. There is about $5.6 billion in that above and beyond what we would be spending in this bill.

There certainly is a need out there to improve our system, to improve the capacity, to improve the efficiency, to provide safer and better equipment in the control towers; but by leaving it in the budget it is counted, unfairly and illegally in my view, as a general asset. The reason it is in there is to make the budget deficit look like it is less than it is.

The same thing is being done with the benefiter-paid highway trust fund, which has about $11 billion in there.

It is smoke and mirrors so that they can say the budget deficit is a certain amount, when really it is much, much more.

So we felt, Mr. Speaker, this is the time we should get honest with our budgeting and honest with those people who have already paid the money. It is sitting there now, cannot be used for any other purpose other than improving the system in this country, and it should be able to be used.

Well, the Rules Committee yesterday denied that permission to offer a nongermane amendment, but I would like the Members to understand one thing more, something more outrageous. We had another proposal which would not take them off budget, which would be able to use some of that money to improve the system and would be germane to this bill. The outrageous thing is that although we asked for an open rule, the Rules Committee, without discussing with me or the ranking minority members of the full committee or the subcommittee, without a word to us, have in this rule denied certain germane amendments, so the members of our committee and other people in the House would not be permitted to offer a germane amendment to this bill.

We know that a lot of people are opposed to closed rules. The Rules Committee gave us here today a partially closed rule without even consulting the committee that is involved and brought this bill in.

The bill is a pretty good bill. Is it as good as it could be? It is nowhere near as good as it could be, because the money that we have collected and the people have paid will be held hostage to the smoke and mirrors of the budget process.

The only way we can straighten that out, Mr. Speaker, is to defeat this rule. Defeating the previous question and trying to change the rule would not be allowed under the parliamentary procedures here today. The only way we can do the best that we possibly can to ensure better airports, better runways, better facilities, a more efficient and safer airline system in this country, is to defeat this rule, and even though it is our bill, we urge you to vote "no" on this rule.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Speaker, I rise in strong support of the rule and just would like to try to make a couple of points. First is that the Appropriations Committee in terms of facilities for the airways appropriated every single penny that was requested by the FAA, except in two instances, one in the case of terminal Doppler radar, where the contracts could not be let until the end of the fiscal year, so they could not use the money this year, and the other is in the case of microwave landing systems where it is technically not ready for production.

Now, if we want to waste money, we can, but those are the only two areas in which we denied funding for programs requested by the FAA.

Second, in terms of facilities, terminal facilities and airports, we have again applied all the funds that are necessary. The problem there is not Federal funding. The problem is local opposition to airports because of congestion, because of noise, because of other factors, not a lack of funds from the trust fund or otherwise.

Mr. Speaker, the idea that just because money comes from a trust fund that it does not affect the national deficit is just absurd. You have to borrow every penny that goes out of the trust fund as well as we borrow everything else, so it certainly affects the deficit and we have to have some ability to control that. That money is not sitting in a piggy bank somewhere. That money is real money. It is taxpayers' money. It is money that gets borrowed.

I think it is awfully important that we not take that out from under the budget and the budget process.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Florida [Mr. PEPPER], the chairman of the Rules Committee.

Mr. PEPPER. Mr. Speaker, this has been one of the most difficult problems that the Rules Committee has had to deal with. Personally, I am sympathetic to the aspiration of the distinguished chairman of the Public Works Committee, but when we began to consider the matter, there were four standing committees, Appropriations, Ways and Means, Budget, and Government Operations, all opposed this amendment, including the able chairman of the subcommittee who appeared before our committee.

You heard the chairman of the Budget Committee here speak for himself. They say, and the Ways and Means Committee chairman says that the Ways and Means Committee has put an amendment in that if the amount of surplus is over $2 billion, the amount of taxes will be diminished, which he says is going to be effective leverage to cause the administration to spend the money that is in the surplus fund that properly could be spent. He thinks we do not need to do what the able gentleman wishes us to do.

Now, the other thing about this last amendment, the distinguished gentleman did not give us that amendment. He did not show us that amendment. His interest before our committee was, "I want to take this money out of the budget." If the gentleman had shown us his amendment that he wants to offer that he is talking about, we might have granted it in the rule.

At the last, we provided no amendments after the part of the bill that represents the Ways and Means Committee taxation part. That is what the gentleman is talking about. The Ways and Means Committee chairman asked us not to allow amendments in that area. That is not the Public Works part of the bill. That is the Ways and Means taxation part.

Now then, if the gentleman had been able, if he were able to offer by the provision of the rule, then anybody else could offer it. That means the whole process could be defeated. That means any number of amendments might be offered. The whole scope of the bill might be enlarged, with the result that the motion to recommit, which is what the gentleman has previously relied upon, would be broadened in scope and meaning and might be able to defeat the purpose of the rule that would not allow an amendment to take this fund out of the budget.

So the Rules Committee tried to be fair. Basically, our sympathies are with the able chairman of the Public Works Committee, but we came up with the best rule we thought we could under the circumstances.

Mr. Speaker, I hope the House will give consideration to the sincerity of our effort to cooperate with everybody for the best interests of the House.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. GINGRICH].

Mr. GINGRICH. Mr. Speaker, I think that the chairman from the Rules Committee has very correctly stated what happened and I feel a little saddened by the position that he finds himself in today. As he said, he is sympathetic with us.

I think every Member of this House should understand that this is a cowardly rule. This is a rule of cowardice, because the Rules Committee members who matter know full well that if they allowed this amendment on the floor, it would pass.

The Budget Committee chairman knows full well that if he allowed this amendment on the floor, it would pass.

Now, you cannot have it both ways. Either you are deliberately using the trust fund to cover up the budget, which is what the Budget chairman is doing, which is why he does not want it to go off budget, or you are not.

And the Appropriations Committee cannot have it both ways. If in fact we are already spending all the money we can spend, there is no reason to be afraid of taking it off budget; but in fact the truth is that in the last 5 years we authorized $20 billion, $350 million, in expenditures and the Appropriations Committee only appropriated $14 billion, $959 million.

Now, you cannot have it both ways. The Appropriations Committee does not want it to go off budget because they are afraid they could no longer take away from the aviation trust fund authority and spend it on other items.

The Budget Committee does not want it to go off budget because they are afraid they could no longer hide the real deficit and operating expenses by mopping up the U.S. debt with trust fund money.

The Rules Committee wants to protect its friends in those two powerful committees by making sure that House Members do not have to face up to the issue, and therefore they have issued a cowardly rule which deserves to be defeated.

But what is going to happen? We currently have a deregulated airline environment in which more airplanes take off every day and more passengers fly at lower fares. We have a government structure which is not buying the radar and is not buying the computers and is not building the airports. We are strangling the airline system in a decaying bureaucracy, and every Member should be aware of this.

□ 1615

The U.S. Federal Aviation Administration is the largest purchaser of vacuum tubes in America because the equipment is that obsolete.

If my colleagues vote for this rule they are voting to hide behind the Rules Committee, to allow a decaying Government bureaucracy to strangle airline traffic, and when my colleagues come to complain to us about delays, I suggest they look at their own vote. If they have not the courage to defeat this rule, to take the trust fund off budget and to spend it intelligently to improve the aviation system, then I think they have earned no right to complain about delays.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to take just a minute to reply to the gentleman from Georgia [Mr. GINGRICH] over here. I resent very much, quite frankly, that he would refer to this as a cowardly rule.

I want to say to the gentleman from Georgia [Mr. GINGRICH] that he is the one who is listening to all of these special interest groups who are banging down his doors, and they are banging down our doors as well so that they can get their hands on that trust fund.

Mr. GINGRICH. Mr. Speaker, I move to take the gentleman's words down.

Mr. DERRICK. Mr. Speaker, I take back the balance of my time.

The SPEAKER pro tempore (Mr. Frank). Does the gentleman from Georgia [Mr. Gingrich] insist that the words be taken down?

Mr. GINGRICH. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the words complained of.

Mr. DERRICK. Mr. Speaker, I withdraw my remarks.

Mr. GINGRICH. Mr. Speaker, that takes unanimous consent.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina [Mr. Derrick] to withdraw his remarks?

Mr. GINGRICH. Reserving the right to object, Mr. Speaker, I am confident, and I would like to hear it from the gentleman from South Carolina, the gentleman did not mean to impugn the motives of any Member.

Mr. DERRICK. Mr. Speaker, I will say to the gentleman from Georgia I did not mean to impugn that you were a coward, but it did upset me that you would refer to the Rules Committee in such a cavalier manner. We are over there trying to do——

Mr. GINGRICH. If I may reclaim the time under my reservation, Mr. Speaker, I did refer to a cowardly rule. It is a very strong Rules Committee, a very powerful Rules Committee, it is a cowardly rule, and I would certainly be willing not to object to the gentleman's request.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. Derrick] withdraws his remarks.

Is there objection to the request of the gentleman from South Carolina to withdraw his remarks?

There was no objection.

The SPEAKER pro tempore. The remarks of the gentleman from South Carolina [Mr. Derrick] are withdrawn.

The Chair recognizes the gentleman from South Carolina [Mr. Derrick].

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Traficant] for purposes of debate only.

Mr. TRAFICANT. Mr. Speaker, the American people do not like paying taxes and user fees. However, they do it because it is necessary to finance our Government and to preserve freedom.

But what really gets the taxpayers mad is when they have a promise of a use for those funds and then Congress denies that these funds be appropriated or used in those areas. I speak now about the highway trust fund and the aviation trust fund.

We have a highway trust fund. The taxpayers pay into that fund to maintain our bridges and our roads. We have an aviation trust fund so that we can take care of our airports and our aviation program.

But what does Congress do? It denies the use of those funds.

I say today, and I have the greatest respect for the Rules Committee and this chairman, I say today Congress should vote down the rule, force this Rules Committee back in there to bring out a rule that will allow us to offer an amendment to take the trust fund off budget. We should remove all trust funds from the budget. After all, the American people pay into those trust funds with the promise of their use, and they should not be denied that.

For everybody who thinks everything is so great in the aviation fund, try and find your luggage. Let us send this rule back to the Rules Committee. Let us be allowed to vote up or down on an amendment to remove that trust fund from the budget. The American people paid for it and they deserve it.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Badham].

Mr. BADHAM. Mr. Speaker, it has been said today by members of the Appropriations Committee that somehow all of the funds that are asked for by FAA are expended for airport and airplane and airline safety. I cannot believe that, in all honesty.

I represent the fourth or fifth largest, busiest airport in these United States, the fourth or fifth in the United States of America and they do not even have a radar because the FAA says they cannot afford it. Have we asked? You bet we have asked.

But as the American people, through taxes on those who fly, demand safety, we in the House of Representatives should at least demand the right to debate how those airport and airline trust funds will be spent, because they are wholly dedicated and, Mr. Speaker, they are not being spent. It is high time we had this issue on the floor of this House and we should not be denied the right to debate this issue on this floor. We have the right to rules on this floor that make things in order that are of concern to the American people for debate.

We should reject this rule out of hand because it is another in a series, but perhaps the prime example of that kind of rule which denies open debate to this forum, the House of Representatives, and to the people we represent through the trust funds, taxes, and other devices.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. Rowland] for purposes of debate only.

Mr. ROWLAND of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, in 1969, then President Johnson administratively pulled all the Federal accounts together under a so-called unified budget. It was thought at the time, Government needed a better way of keeping track of total Federal revenues and expenditures.

A good overall view of fiscal policy is needed. However, as with most reform, that which is changed usually moves the pendulum too far in the opposite direction, particularly as the reformers become familiar with the new process and learn how to manipulate it. That is what has happened today. Our unified budget is now being use to hide true fiscal policy decisions just as in the beginning it sought to uncover them.

Let me explain what is happening with the airport and airway trust fund, indeed, with all of the Federal trust funds. Money is collected from user fees, aviation fuel taxes, air passenger ticket and cargo taxes by the Government. Rather than actually putting that revenue into an interest bearing trust account, by law the Treasury Department must purchase Government securities with any funds which are not immediately appropriated and spent. This is internal debt and as such can be used to offset deficits in other accounts or used to underwrite spending for other functions, such as education or health care, or whatever.

One can say that that is acceptable policy, except that, also by law, trust fund moneys are not supposed to be used for anything other than the aviation system. We have essentially found a legal way to circumvent the purpose of the aviation user fees.

If we truly want to spend some of the money in the aviation fund because general fund revenues do not support various programs we have authorized and appropriated, we should just say that is what we are doing. But to coninue to use this sleight of hand of budget accounting procedures to accomplish this goal is not in the national interest.

I urge a "no" vote on this rule.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. Conte].

Mr. CONTE. Mr. Speaker, I rise in support of this rule providing for the consideration of H.R. 2310, the Airport Development and Improvement Act of 1987. The rule provides for the fair and orderly consideration of this measure, and it should be readily adopted.

Mr. Speaker, the Airport Development and Improvement Act reauthorizes the programs supported by the airport and airway trust fund, including capital improvements to the air traffic control system and airports and aviation weather services for 5 years. It also provides for a reauthorization of research, engineering, and development programs in the aviation area, and authorizes funding for a portion of the costs for operation and maintenance of the Air Traffic Control System. The bill provides $28 billion for the 5-year period of the authorization.

Mr. Speaker, no one can deny the need for the reauthorization of these programs. Every day brings more news about the deficiencies of our Air Traffic Control System and the need for additional airport and airway capacity.

The programs covered by this measure expire today, and it is of course unfortunate that we have waited until the day of expiration to bring this bill to the floor. But having waited this long, in effect until the last possible moment, I think that it would be totally irresponsible to do anything other than adopting this rule and getting on with the consideration of this bill.

Mr. Speaker, the opponents of this rule seek to offer an amendment that would have the effect of taking the aviation trust fund off-budget, and make it exempt from the Gramm-Rudman-Hollings fix that was recently adopted by the Congress. As a consistent opponent of the Gramm-Rudman-Hollings measure, and as a participant in the successful lawsuit that made the fix necessary, I would be pleased to see the entire Government budget made exempt from Gramm-Rudman-Hollings. but I cannot support an effort to take a single program, as important as this one is, off the budget.

Quite frankly, the arguments made by the off-budget proponents just don't hold up. We all agree that the money in the trust fund should be spent—and it will be, as soon as possible. The unfortunate reality is that the technology and airport improvements on which this money is to be spent just aren't ready to be bought yet.

Certainly we have spent less than the authorized amounts for improvements to the National Airspace System. But we have done so simply because the equipment isn't ready. Progress on many parts of our effort to improve the safety and efficiency of the Nation's airways has slipped by as much as 2 years. But that slippage has been for reasons of technological unavailability, not a lack of funds.

Taking the trust fund off budget is not going to make the money spent any faster—it is already being spent as fast as there are things to buy. But it will penalize other aviation programs, such as the operation of the air traffic control system, which are funded in large part from general revenues.

Mr. Speaker, there are a number of trust funds, and they should be treated equally. It is hard to explain why the aviation trust fund, out of all the others, should be singled out for special treatment.

In addition, I have received an unequivocal letter from OMB Director Jim Miller, indicating that taking the aviation trust fund off budget would make this bill subject to a veto recommendation. With these programs expiring at midnight tonight, a veto is the last thing we need.

Mr. Speaker, let's get on with the consideration of this critical legislation. Let's adopt the rule and move on.

Mr. Speaker, this is nothing but another power grab by the Committee on Public Works and Transportation. Last year I think it was they tried to take the highway trust fund off budget and now they want to take the airway trust fund off budget.

The next thing you know, do my colleagues know what the Appropriations Committee is going to be? Nothing but a bunch of eunuchs.

It is high time to stand up to that committee who wants to make that power grab and pass this rule, and let us get on with the business of the day.

Mr. Speaker, I include with my remarks the letter I received from James C. Miller III, Director, Office of Management and Budget.

The letter referred to follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC.

Hon. SILVIO O. CONTE,
House of Representatives,
Washington, DC.

DEAR SIL: I must advise you in your position as ranking minority member of the Appropriations Committee of the Administration's strong opposition to removing the Airport and Airway Trust Fund from budget totals and statutory budget limitations. Should such legislation be presented to the President, the President's senior advisors would recommend that he veto the bill.

User fee financing of the trust fund does not justify off-budget status. Congress and the President have an obligation to account to the public for the economic consequences of all Government receipts and spending, regardless of their source. Comprehensive budget coverage openly shows the public precisely how much the Government is spending, collecting, and borrowing. It also helps the Executive and Legislative branches make informed choices regarding public spending.

Removing the aviation trust fund from the unified budget would be unlikely to accomplish significant gains for aviation interests. The unobligated balance in the fund has not accumulated because of a desire to hold back funding for aviation. Rather, the unobligated balance in the trust fund is the consequence of congressional "penalty provisions" in the Airport and Airways Improvement Act of 1982. These provisions have resulted in $3.2 billion of Federal Aviation Administration (FAA) Operations costs being spent out of general fund revenues, rather than from the trust fund as authorized. The way to reduce the trust fund balance is to eliminate the penalty provisions, not to take the trust fund off-budget.

Further, the Federal deficit is not reduced by the cash balances in the trust fund at the end of the year. The deficit is simply the difference between total spending and receipts in that year, excluding intergovernmental transactions. In fact, Federal outlays for aviation actually contributed to the deficit in the 1982-1987 period, because outlays for aviation programs are projected to exceed user fee receipts by $10.3 billion.

Continued budgetary control of the trust fund is critical to sound fiscal management. If the fund were specifically exempted from Gramm-Rudman-Hollings requirements and the Congressional Budget Act, trust fund authorizations and appropriations would be enacted without regard for budget resolution or deficit reduction targets. For this to occur, the remaining domestic programs, including that portion of aviation and other transportation programs funded out of the general fund, would be required to bear additional reductions. Not only would this create pressure for more programs to be granted exemptions, but it could cause serious problems in meeting transportation priorities, such as maintaining a fully operational and safe air traffic control system, since Congress has insisted on funding most FAA Operations from the general fund.

In summary, the Administration strongly supports a complete, unified budget subject to statutory budget controls. Given that programs should be user-financed wherever appropriate, self-financed programs are growing in number. They do not deserve special treatment, but, instead, should be included in the overall budget, since only a comprehensive, unified budget defines the entire scope of Government activity and spending, assures effective use of all public resources, and contributes to a single national economic policy.

Priority spending needs can be met without taking the trust fund off-budget. The President proposed a 20 percent increase—$1 billion—in FAA's budget from 1987 to 1988. These critical spending needs can be met without abandoning budgetary discipline if Congress acts responsibly.

The Administration strongly objects to moving the aviation trust fund off-budget and urges the Congress not to enact any legislation that would do so. If such legislation were passed, the President's senior advisors would recommend that he veto the bill.

Sincerely yours,

JAMES C. MILLER, III,
Director.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO Mr. Speaker, the previous speaker talked about the power grabbing Committee on Public Works and Transportation, and I would like to respond that this is an attempt not at a power grab, it is an attempt to make sense of the Federal budget process and to assure safety and capacity improvements that we need in our system in order to protect the traveling public.

The traveling public this year will pay $3,051,300,000 in a sales tax on airline tickets, and will we spend every penny of that money on the needed safety improvements? No. Will we spend every penny of that money on capacity improvements we need so that we can get our airlines back on time? No.

We are going to take that money and we are going to segregate it off to one side here and put it subject to the Gramm-Rudman smoke and mirrors, which I also object to, and hold it hostage to a budget process that makes no sense.

These are dedicated trust funds. They cannot be spent on any other part of the Federal deficit. They should be spent for the purpose of which the tax is paid, which is safety improvements, capacity improvements for our overtaxed system of the Federal Aviation Administration and the airlines and airports.

So I urge Members to vote against this closed rule and hope that we can make some sense out of this system and spend the money for the purpose for which it was intended.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. BARNARD].

Mr. BARNARD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in opposition to this rule.

Like many of my colleagues I would very much have liked to have had a chance to vote to move the aviation trust fund off budget. We all know the arguments: the trust fund is running a tremendous surplus while our airports are crying out for this money—which is user funded and cannot be used for any other purpose than to hold a fig leaf over our embarrassing deficit.

I can give you an example of why we need to draw down the surplus in the aviation trust fund which hits very close to home.

In my district, in Athens, GA, a small community airport is struggling to provide the services so needed in the area. I am sure that there are numerous such municiple airports around the country that share many of the problems that this airport does.

The Essential Air Service Program, which subsidizes flights into small markets, is vital to my municipal airport. In our need to encourage economic and industrial growth, the availability of air service between communities and large airports often is a deciding factor in a firm's decision to expand into a new area. Curtailment of such subsidies damages an area's economic growth by making accessibility extremely difficult for business and industry travelers.

Additionally, while I recognize the need for regulations governing the issuance of improved instrument landing systems as well as the reopening of airport towers at these smaller airports, I hope that we will not forget that safety is not confined to the larger, international airports in this country. We must do all that we can to insure that funding is available to meet the needs of our municipalities, those communities that simply cannot support the total burden of financing a safe, usable airport.

So, Mr. Speaker, I intend to oppose the rule although I am in strong support of the legislation.

□ 1630

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. BOSCO].

Mr. BOSCO. Mr. Chairman, I find that when I go home to my Rotary and Kiwanis Clubs and have to explain everything that we do here in Congress, the most difficult thing to explain is the airport and highway trust funds, because people come up to me and say: "Is it true that Congress set aside that money in a special fund? It cannot be used for anything else? It cannot be used for education? It cannot be used for defense? It cannot be used even to bring down the budget deficit? But it is in that fund. We pay into it and you promised it is going to be used for a special purpose." And then they say, "For no explainable reason you do not spend the money."

People here are saying, "Don't single out the airport trust fund for special treatment." We are the ones that singled it out for special treatment because we made it a trust fund. It is not part of the general fund. It is a trust fund and we sit as trustees in that fund. We are obligated to spend it because we collect it. If we do not spend it we should not collect it. Let us reduce airline tickets 8 percent and go on our merry way.

But since we are collecting the money, we should spend it today.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes, for purpose of debate only, to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, as is often the case, one of the problems around here is so many things that we know that are not so. Lots of people are saying that if we only could put the trust fund off budget we would solve all of our air traffic problems. That is absolute flat-headed nonsense. The fact is that it is not true that you could solve your airport problems and your air service problems simply by taking it off budget because we put a phenomenal amount of money from general funds into the support of air service all over this country.

The problem is not whether this is off budget or on, the problem is very simple: You cannot appropriate money for equipment that is not ready to be put on line. And unless you can get the equipment modernization program up to speed, you can appropriate all the money in the world but that money is not going to be spent because you cannot buy a machine that is not ready yet.

That is the basic problem we have in the air service area.

I want to warn you of one other thing: We can if we want take one little item like this and exempt it from Gramm-Rudman. But I want to tell you I opposed Gramm-Rudman, I led the opposition to it when it passed. I think it is turkey legislation.

But if you are going to make an exception and put the air trust fund off budget, then I guarantee you you are going to have people coming to the floor saying, "Let's put cancer research off budget, let's put AIDS research off budget, let's put drug enforcement off budget, let's put toxic waste programs off budget, because all of those have a high claim that could justify on the merits they are being treated better than some other programs."

But that is a dangerous way to go. It is an irresponsible way to go in terms of budgeting.

If you voted for Gramm-Rudman last week, it is irresponsbile to start exempting people from that process this week. If we want to deal with the real problems facing air service in this country, reregulate safety in the airline business and you will be doing a big job.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we should not only vote against this rule as a protest, but we should vote against it so that a better rule can be forthcoming. It does not make sense to see our airports decay and do down the drain.

I talk to many pilots as I fly and they say the No. 1 priority they seek from the Congress is to spend the money that is being held back for airport safety and airport development and airport expansion.

I know it is bad to get on an airplane and be 45 minutes late, an hour late, even 30 minutes late, but that is the pattern today.

I think failure to take the trust funds off budget gives the airlines an excuse for poor service which should be corrected. We can make that correction by allowing this House to vote to take these trust funds off budget. We should defeat this rule and send it back to the committee and let a rule be forthcoming which this House can support.

Mr. Speaker, I have no further requests for time but I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Transportation Subcommittee of the Appropriations Committee, the gentleman from Florida [Mr. LEHMAN].

Mr. LEHMAN of Florida. I thank the gentleman from South Carolina.

Mr. Speaker, I rise in strong support of this rule. I think the problem is many people do not understand what this trust fund does and does not do. It will not solve the problems, it will exacerbate the problems.

The money in the trust fund goes for airport improvements and we have not been able to build an airport in this country, a major airport in 15 years because of community problems, because of environmental problems.

It goes for facilities and equipment. We are years behind in getting this equipment, for technical reasons. It goes for research and development, and we are behind in that. Very little of the trust fund goes for operations, which means air traffic controllers, which means inspectors, which means maintenance people, people who contribute to the safety and convenience of the air traveler.

If you take this trust fund off budget when it comes time for sequestration that means that the impact of sequestration will go entirely on the operational part and will impact more adversely than it would be if it could be spread over both the operational part, the general fund and the trust fund.

We are fixing this in the wrong way and adversely and I hope that we will be able to support this rule.

The **SPEAKER** pro tempore. The gentleman from Tennessee [Mr. QUILLEN] has 3 minutes remaining and the gentleman from South Carolina [Mr. DERRICK] has 3½ minutes remaining.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

This matter has been before the House for all practical purposes for the last 2 or 3 years. We have had two major votes on the very item that is before us today. I do not know anyone in this House, especially any chairman, who would not like to take a lot of their things off budget. All of us would.

There are some things I would like to take off budget because then you do not have the continual scrutiny of this body over the expenditures every year.

You know, what worries me about an amendment such as this is not so much the amendment. I guess the country could survive if this went off budget. But what you would do is you start a precedent. And the next thing you know, you are going to have everyone wanting to take whatever they deal with off budget.

Of course, the argument is used in this case and you know it is a very appealing argument, because we are all concerned with safety in the air, we all travel, our loved ones travel, our constituents travel; it is the No. 1 intercity transportation in this country. But the fact of the matter is that if we were to take this trust fund off budget, it is my understanding that the very thing that we have been talking about would not be affected.

There is very little bit of money in the trust fund that has anything to do with operational expenditures.

The money dealing with controllers and other things that we are concerned about in airport safety is an on-budget item and does not come out of the trust fund.

You know, I ask: If we do this and we are concerned about airport safety, we are also concerned about AIDS; AIDS is killing people and it is one of the great tragedies of our world today. "Are we going to take all of the AIDS appropriations off budget?"

People are killed on the highways. You know, they say that the most dangerous part of an airline flight is from your home to the airport. Are we going to take all the highway trust fund off budget? Of course we are not.

I think we are starting a very, very bad precedent. You know, I have received letters from many special interest groups and telephone calls, people who are interested in getting this off budget. We have talked to them. We have explained to most of them that even if this is taken off budget that it is not going to increase expenditures in the areas they are particularly interested in. They say, "Well, we did not understand that. We just had one of our national organizations that asked us to get in touch with the Congress." This is true. This is not going to help.

But what it is going to do, and we are in a very bad budget situation now, we do not need to be looking for things to take off budget, we need to look for things we can put on budget so that we can exercise the control that we need. That is the control we were elected to exercise in representing our constituents on this matter.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. DERRICK. I yield to the chairman of the committee, the gentleman from New Jersey [Mr. HOWARD].

Mr. HOWARD. I thank the gentleman for yielding.

The **SPEAKER** pro tempore. The time of the gentleman has expired.

All time has expired.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DERRICK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 178, noes 235, not voting 21, as follows:

[Roll No. 338]

YEAS—178

Ackerman
Akaka
Andrews
Annunzio
Aspin
Atkins
AuCoin
Baker
Bates
Beilenson
Bereuter
Bevill
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Boucher
Boulter
Brennan
Brooks
Brown (CA)
Bryant
Carper
Carr
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
de la Garza
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Dymally
Dyson
Edwards (CA)
Espy
Fazio
Feighan
Flake
Foley
Frenzel
Frost
Garcia
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Grant
Gray (PA)
Green
Gregg
Hamilton
Hawkins
Hayes (IL)
Hefner
Hiler
Hochbrueckner
Hoyer
Huckaby
Hutto
Jenkins
Jones (NC)
Jones (TN)
Kaptur
Kasich
Kastenmeier
Kennelly
Kleczka
Kolbe
Kostmayer
Lantos
Latta
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lowery (CA)
Lowry (WA)
Lujan
Mack
MacKay
Manton
Martin (IL)
Martinez
Mazzoli
McDade
Mfume
Miller (CA)
Miller (OH)
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Patterson
Pease
Penny
Pepper
Pickle
Porter
Price (IL)
Price (NC)
Rangel
Regula
Richardson
Rose
Rostenkowski
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schumer
Sharp
Sikorski
Skeen
Skelton
Smith (FL)
Smith (IA)
Smith (NE)
Smith, Robert (NH)
Solarz
Spratt
Stark
Stenholm
Stokes
Swift
Thomas (GA)
Traxler
Udall
Vander Jagt
Vento
Walgren
Watkins
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wolf
Wolpe
Yates

NAYS—235

Anderson
Anthony
Applegate
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Berman
Bilirakis
Bliley
Boehlert
Borski
Bosco
Boxer
Broomfield
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Callahan
Campbell
Cardin
Chandler
Chapman
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeWine
Dickinson
DioGuardi
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Eckart
Edwards (OK)
Emerson
English
Erdreich
Evans
Fascell
Fawell
Fields
Fish
Florio
Foglietta
Ford (MI)
Frank
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gingrich
Glickman
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Henry
Herger

Hertel
Holloway
Hopkins
Horton
Houghton
Howard
Hubbard
Hughes
Hunter
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kennedy
Kildee
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Luken, Thomas
Lukens, Donald
Lungren
Madigan
Markey
Marlenee
Martin (NY)
Matsui
McCandless
McCloskey
McCollum
McCurdy
McGrath
McMillan (NC)

McMillen (MD)
Meyers
Mica
Michel
Miller (WA)
Mineta
Morrison (WA)
Murphy
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Packard
Parris
Pashayan
Pelosi
Perkins
Petri
Pickett
Pursell
Quillen
Rahall
Ravenel
Ray
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Savage
Saxton
Schaefer
Schroeder
Schuette
Schulze
Sensenbrenner
Shaw
Shays

Shumway
Shuster
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Snowe
Solomon
St Germain
Staggers
Stallings
Stangeland
Stratton
Studds
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Torres
Torricelli
Traficant
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walker
Weldon
Whittaker
Williams
Wise
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Alexander
Biaggi
Boner (TN)
Byron
Dowdy
Early
Flippo

Ford (TN)
Gephardt
Gray (IL)
Hall (OH)
Kemp
Livingston
Mavroules

McEwen
McHugh
Molinari
Roemer
Spence
Tauzin
Towns

□ 1700

Messrs. CAMPBELL, MATSUI, LUNGREN, HORTON, and YOUNG of Alaska changed their votes from "yea" to "nay."

Messrs. FRENZEL, DYMALLY, BOUCHER, CARPER, and VENTO changed their votes from "nay" to "yea."

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORT ON H.R. 791, NATIONAL GROUND WATER CONTAMINATION INFORMATION ACT OF 1987

Mr. de la GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture have until midnight tonight to file a report on H.R. 791, the National Ground Water Contamination Information Act of 1987.

The SPEAKER pro tempore (Mr. Frank). Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to simply ask the gentleman from Texas [Mr. de la Garza] whether or not this matter has been cleared by the minority.

We had no information about it on this side.

Mr. de la GARZA. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. de la GARZA. Mr. Speaker, I thank the gentleman for yielding.

I am informed that it has been.

Mr. WALKER. That it has been cleared by the minority?

Mr. de la GARZA. Staff informs me that it has been cleared.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2310, AIRPORT AND AIRWAY IMPROVEMENT AMENDMENTS OF 1987

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight tonight to file a report on H.R. 2310, Airport and Airway Improvement Amendments of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. LOTT. Mr. Speaker, reserving the right to object, I do reserve the right to object and would not intend to object; but I do think that Members need to be sure they understand what the unanimous-consent request was.

Also I understand that the committee people that would be involved and are very interested in this unanimous consent are not in the room. Are those Members aware of what the gentleman is asking for?

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding.

First let me say to the gentleman, the gentleman from Florida [Mr. Pepper], the chairman of the Committee on Rules, has asked that I announce that there will be a Committee on Rules meeting at 5:45.

What the request is, as I understand from the Committee on Public Works and Transportation, that we make the Hammerschmidt amendment in order as well as the Howard amendment in order, and the reason for the unanimous-consent request to file, of course, is so we can file it tonight and deal with it tomorrow.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Washington [Mr. Foley], the distinguished majority leader.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding.

The intention of the leadership is to, if this unanimous consent is granted, and we hope it will be, have the Committee on Rules report a rule which then can be considered tomorrow, and we can proceed to deal with this legislation tomorrow as the major and only item of business.

Mr. LOTT. You do not intend tomorrow or later on tonight to bring back up at this time the independent counsel bill?

Mr. FOLEY. No, that bill is not going to be scheduled this week.

Mr. LOTT. If you get this unanimous-consent request, the Committee on Rules meets and reports a rule, does the leadership bring that back up tomorrow and intend to complete that legislation; and when that is completed, that would be it for the week? How much time?

Mr. FOLEY. That is correct.

Mr. LOTT. How much time would the gentleman be thinking of in terms of the amendment?

Mr. FOLEY. We have not discussed that with the committee representatives on both sides, but obviously we are interested in having a rule that can be adopted, so it meets the needs of the House and those Members who are concerned about the legislation.

We would anticipate that it would be agreeable to the sponsors.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Illinois [Mr. Michel], the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

The reason I raise the question with respect to the possibility of some judgment on the timing factor is that obviously one amendment is not very controversial, and I may be wrong in that regard; but the other amendment may be very controversial.

It makes a difference as to whether or not there is adequate time for debating of those amendments that might be in order. Second, if it is getaway day tomorrow, obviously we are going to be faced with those questions again.

How long does the gentleman think we are going to be here, and a lot would depend on the length of time allocated to the amendments?

Mr. LOTT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Jersey [Mr. Howard], the chairman of the Committee on Public Works and Transportation.

Mr. HOWARD. Mr. Speaker, I thank the gentleman for yielding.

As far as we know, there might be two amendments offered that we had not anticipated, and only one of them controversial, but very well understood by all the Members.

We would hope in the rule we get a time limit on that. The other amendment to be offered by the gentleman from Arkansas [Mr. Hammerschmidt] is not controversial at all, and there may be a dozen others, but none in the controversial stage that we know of, so I believe with the exception of that one amendment, things would go rather quickly tomorrow.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Does the gentleman know, or has there been any announcement as to why the special counsel bill was pulled, and why we are not going to take that up this week?

Mr. LOTT. It has not been announced, but I think it was just great wisdom that led to that conclusion.

That bill is a bad bill and poor timing, and it was decided that that was not the thing we needed to do right now.

Mr. WALKER. I thank the gentleman.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

FURTHER LEGISLATIVE PROGRAM

(Mr. PEPPER asked and was given permission to address the House for 1 minute.)

Mr. PEPPER. Mr. Speaker, I have taken this time for the purpose of yielding to the gentleman from New Jersey [Mr. Howard].

I want the Committee on Rules to be very clear in its understanding of just what it is the gentleman wishes to be changed in the rule, so we will know exactly what it is the gentleman prefers.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I yield to the gentleman from New Jersey.

Mr. HOWARD. I thank the gentleman for yielding.

In response to the gentleman's question, does the amendment we have asked for, the two waivers we had requested, one on behalf of the gentleman from Arkansas [Mr. Hammerschmidt] on access, and the other one on the off-budget amendment, those would be the only two.

Mr. PEPPER. Two amendments, the Howard amendment to take the trust fund out of the budget, and the Hammerschmidt amendment?

Mr. HOWARD. Those are the only two things.

I already talked to the minority leadership on our committee, and they are in agreement.

COMMUNICATION FROM THE HONORABLE CLAUDE PEPPER, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable Claude Pepper:

Congress of the United States,
House of Representatives,
Washington, DC, September 25, 1987.

Hon. Jim Wright,
Speaker, House of Representatives, Room H-105, The Capitol, Washington, DC.

Dear Mr. Speaker: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that I have been served with a subpoena duces tecum issued by the Circuit Court in and for Dade County, Florida.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House.

Very sincerely,

Claude Pepper,
Member of Congress.

ORDER OF BUSINESS

Mr. HOLLOWAY. Mr. Speaker, I ask unanimous consent that allotted times for the special orders granted to the gentleman from Texas [Mr. Boulter] and the gentleman from Pennsylvania [Mr. Walker] be switched.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

EXTENSION OF TIME FOR SPECIAL ORDER

Mr. HOLLOWAY. Mr. Speaker, I ask unanimous consent that the special order previously agreed to by the House for 30 minutes today for the gentleman from Missouri [Mr. Buechner] may be extended to 60 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SOVIET SPACE PHOTOGRAPHS STIR UNITED STATES

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. McCURDY. Mr. Speaker, for 3 years I have been urging the Reagan administration to get serious about civilian satellite photography.

In 1985, the pioneering American Landsat system was put into private hands. Its two satellites are now nearing the end of their lifetime, there are no replacements on the horizon, and the administration has thus far refused to provide the $250 million it promised for the transition. It has been clear for a long time that we were losing our leadership in this vital area to other countries, including France and Japan.

Now, as the New York Times reported in a front page story on Sunday, the world's best civilian satellite photographs are being offered for sale by the Soviet Union. The Russian photos can resolve objects on Earth as small as 5 meters. By contrast, the world's next best civilian satellite, the French SPOT, can resolve down to 10 meters. Landsat's current resolution is no better than 30 meters.

Given the sad state of the American civilian space program in general, and the tremendous effort being undertaken by the U.S.S.R.—as noted on Time magazine's cover this week—this development should come as no surprise. Nor should it shock anyone that among the Soviet Union's most eager potential customers is the U.S. Geological Survey. USGS, like the National Oceanic and Atmospheric Administration, depends upon remote sensing for vital monitoring purposes.

Whether or not the U.S. Government buys them, there is a strong demand for images of this quality, regardless of who is selling.

Mr. Speaker, I am submitting the New York Times story for printing with my remarks. I hope my colleagues will read it. We must regain our lead in this field, and without further delay.

Russians' Pictures of Earth Stir U.S.

(By William J. Broad)

An agency of the Federal Government is seeking to buy close-up photographs of the Earth taken by Soviet space satellites, a proposal that is likely to stir controversy.

The Russians have recently begun to sell space photographs that are superior to any in the West as part of an effort to market space-related goods and services.

The photos are being sought by the United States Geological Survey, and arm of the Interior Department that makes and sells maps and monitors the nation's land mass for earthquakes, volancoes, water pollution and other aspects of geology and hydrology.

One official at the agency's head-quarters in Reston, Va., speaking on the condition of anonymity, said scientists there were "going ape" over sample Soviet photos and were eager to be able to order them and use them routinely in their work.

The proposed purchase of the photos conflicts with Reagan Administration attempts to keep the Soviet Union from making inroads into Western space markets. It is also likely to anger the Defense Department, which believes civilian space photos in general, and especially Soviet space photos, are increasingly and wrongfully being used in ways once monopolized by military spacecraft for space-based reconnaissance.

The development is also potentially embarrassing to the Administration because the American system for taking satellite photos, Landsat, is in danger of failing for lack of financial support by the Government.

"A SIGN OF THE TIMES"

"It shows how our once-dominant place in space has eroded," said Dr. Peter D. Zimmerman, a senior associate at the Carnegie Endowment for International Peace in Washington, D.C. He said "it a sign of the times" that one arm of the Government wants to "buy things from the Soviets that we should be able to provide ourselves."

The Soviet space photographs have an intrinsic ability to resolve, or see, objects on the Earth as small as five meters long. In contrast, the world's next best civilian satellite, the French SPOT satellite, can resolve objects down to 10 meters. The civilian-operated Landsat has a resolution no better than 30 meters. That system pioneered civilian satellite photography in the 1970's.

Officials of the United States Geological Survey are now taking steps to gain approval within the Federal Government for purchasing Soviet photos, which would involve signing contracts with a Soviet organization.

PROPOSAL IN THE WORKS

"We're preparing to submit a proposal to the U.S.S.R.," said the geological survey official who requested anonymity. The proposal needs the approval of the State Department, a step that might be difficult in light of the political sensitivity of the matter.

The official added that the Central Intelligence Agency and the Federal Bureau of Investigation were showing great interest in sample Soviet photos and in whether the geological survey should create a tie to the Russians.

Recently, Frederick J. Doyle, an official of the geological survey, attended an international meeting in Leipzig, East Germany, where the Soviet space photos were displayed and discussed. On hand there was Lawrence W. Fritz of the United States National Oceanic and Atmospheric Administration, an arm of the Commerce Department that uses satellite images to monitor the oceans much as the geological survey uses them to monitor the American land mass.

The two Americans met informally with Russians who work in the Main Administration for Geodesy and Cartography of the Soviet Council of Ministers, which uses space photos for mapping and monitoring the Earth. It was recently authorized to sell the photos to foreigners. Its marketing arm is Soyuzkarta, a foreign tarde organization that recently opened shop in a sprawling concrete building on the outskirts of Moscow.

RESISTENCE BY ADMINISTRATION

The Soviet space photo program is larger than any in the West and draws on at least three classes of spacecraft: low-altitude satellites that return their film to the Earth, manned space stations that also return their film, and high-altitude satellites that electronically beam their pictures to the Earth. The photos cost $500 to $800, and more if a customer wants enhanced processing by computer.

What the geological survey wants to do runs counter to several Administration efforts.

First, the State Department is discouraging American companies from using Soviet space goods and services. It has refused to issue export licenses for American satellites to be lofted on Soviet rockets, saying it wants to keep high technology out of Russian hands. Private experts like Mr. Zimmerman assert, however, that the actual American aim is to limit Soviet commercial inroads into international space markets.

Second, the Pentagon, worried that high-powered civilian satellites will threaten national security, has promoted efforts to limit and control the development of such systems. Some civilian experts dispute the Pentagon's view, saying the new technology can promote peace by lessening military secrecy and false governmental claims and by increasing independent verifying of compliance with arms treaties.

REGULATIONS AND FUTILITY

The Commerce Department recently issued final regulations giving the State and Defense departments a veto over applications for new high-powered private satellites that the department feel might threaten national security. The departments have also reserved the right to suspend operations and seize the equipment of satellite operations they view as threatening.

But experts on the matter say these regulatory barriers, which apply only to American concerns, are futile because foreign rivals are ignoring them and winning new customers in the process. They cite the United States Geological Survey as an example.

"This shows that regulations on remote sensing will not work," said Dr. Zimmerman of the Carnegie Endowment, referring to satellite photography. "Customers will go to the best available sources, no matter where they are located."

Experts add that the Soviet photography initiatives could embarrass the Reagan Administration because they come at a time when trouble is increasing for the Landsat system, which in 1985 was put in private hands. Its two satellites are nearing the end of their lifetime, with no replacements on the horizon and the Administration so far refusing to provide $250 million it had promised for the transition to private operation of Landsat.

Even if additional funds were provided immediately, it would almost certainly be too late to build and launch replacement American satellites before the others fail. As a result, private experts say, the field will eventually be ceded to foreigners, if only temporarily.

ANGOLA

(Mr. DONALD E. LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONALD E. LUKENS. Madam Speaker, just 2 weeks ago the anti-Communist forces of UNITA turned back the biggest offensive to date of the Cuban-Soviet soldiers in Angola. Their victory surprised and overwhelmed the Cuban-Soviet forces. Hundreds of Communist soldiers were killed and millions of dollars worth of Soviet military equipment was destroyed.

Let me tell you what odds the forces for democracy in Angola has to overcome to achieve this victory:

The Soviet Union pours more, almost twice as much, military aid into Angola as they do into Afghanistan—over $1 billion.

The Cubans, by imposing a massive draft on their people, have forced over 20,000 young Cuban men to go to Africa to lose their lives in an effort to keep the Angolans enslaved.

UNITA had to survive for 10 years without any international aid. During that time the prodemocratic forces not only survived but grew.

Let this be a lesson to America. Those forces for freedom around the world can be successful if we will only give them the chance.

Madam Speaker, I include for the RECORD the article from the Washington Times on September 30, 1987, entitled "Rebels Crush Major Attack by Cuban-led Angola Forces."

The article follows:

[From the Washington Times, Sept. 30, 1987]

REBELS CRUSH MAJOR ATTACK BY CUBAN-LED ANGOLA FORCES

(By Peter Younghusband)

CAPE TOWN, SOUTH AFRICA—One of the biggest offensives yet mounted by Soviet-advised and Cuban-led Angolan troops against the rebel forces of Jonas Savimbi has been routed.

UNITA rebels assisted by South African forces have recaptured a key base in heavy fighting in southern Angola, according to reports filtering back here from the combat zone.

Military sources and a battlefield eyewitness said UNITA—the National Union for the Total Independence of Angola—retook the Lombra logistics base near Mavinga in southeastern Angola, killing an estimated 250 Angolan government troops and destroying six armored vehicles.

An army photographer attached to the South Africa forces, Cloete Breytenbach, said he was shown around the Lomba battlefield.

"It was littered with bodies," he said. He has also seen the burned-out shells of three T-55 Russian tanks, apparently knocked out by U.S.-made TOW missiles.

Mr. Breytenbach said UNITA generals told him they had lost four men in the battle, in which they claimed about 350 enemy losses. Mr. Breytenbach's own estimate of the dead, however, was "closer to 250."

He said it appeared the Angolan government forces "got clobbered" retreating across the Lomba River.

Mr. Breytenbach said he had seen the burnt-out shells of a BM rocket launcher, two TM bridge-laying vehicles and "numerous support vehicles."

The UNITA counteroffensive began on Sept. 13, when part of the 8,000 UNITA troops based in southern Angola attacked the base they had lost months earlier.

They lost Lomba after seven brigades of Angolan regulars totaling an estimated 10,000 troops, directed by Soviet Gen. Konstantin Shagnovitch, attacked from Cuito Cuanavale in Cuando-Cubango province late in May. It was the biggest push since 1985 in the Luanda government's attempt to crush the rebel headquarters at Jamba in southeastern Angola.

The government objective was Mavinga, some 200 air miles north of the UNITA base at Jamba, Mavinga's airfield is crucial for any push against Jamba, a town of thatched dwellings carved out of the bush just across the South African-controlled Caprivi Strip.

South Africa, as usual, stepped in with ground and air support for the UNITA forces—as it always does when the Soviet-directed forces get that far.

Pretoria is determined to prevent the Soviets from setting up sophisticated monitoring equipment near border under its control. Angola borders Nambia, which is South African-controlled.

UNITA claims that since May it has destroyed 20 Soviet T-55 tanks seven helicoptors, one MiG jet and killed 1,000 Angolan regulars. The rebels say they have lost 300 of their own troops.

The Soviet and Cuban-backed Angolan advance has been forced to rely on long and tenuous supply lines that appear to have failed them contributing to their setbacks in the battle.

The South African forces monitored several radio messages in which Russian officers were heard calling urgently and with marked exasperation for ammunition and other supplies.

MiG jets entered the fray occasionally but most flew high to avoid UNITA's Stinger missiles, which have proved highly effective.

South Africans have again had to endure the odd experience of having their troops deeply involved in a military engagement and not being able to read about it in their newspapers due to heavy government censorship. Petoria, determined to limit details of its involvement in the fighting, reluctantly confirmed that South African forces were engaged after a London newspaper report was reprinted here.

□ 1715

ANNOUNCEMENT OF MEETING WITH DR. SALZBERG ON AIDS PROJECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Speaker, tomorrow morning at 10 o'clock Dr. Salzberg, an eminent doctor and scientist, is going to be conducting a meeting in room 304 in the Cannon Building, to talk about computerized projections on the AIDS pandemic that is taking place in our Nation.

I hope all my colleagues who are listening in their offices or who are here in this chamber will take a few minutes and come to that meeting. These computerized studies that this doctor has done show that by 1995, about 7 years from now, that a minimum of 2.2 million Americans will be dead or dying from AIDS. That figure could be as high as almost 5 million Americans dead or dying from AIDS in just 7 years. In addition to that, there is a low figure of people who will be carriers of the AIDS virus that amounts to 3.3 million, that is a low figure, and as many as 14 million who will be carrying the AIDS virus and communicating it to other Americans by the year 1995.

Now, this gentleman has spent hours and months on this computer study. This computer study parallels what the CDC, the Center for Disease Control, has done through the year 1991, but it goes on. It goes on to the year 1995. As a matter of fact, it goes up to the year 2007.

Now, I know many of my colleagues are not listening right now, that is pretty obvious, but you will be listening in the not too distant future because this pandemic is going to be unbelievable. We are going to have by the year 2007 if we do not get on the stick as many as 10 million Americans dead or dying from the AIDS virus and another 30 to 40 million people carrying it, and 80 percent of them within 12 years will develop full blown AIDS and die.

Now, I think it is extremely important that we get educated on this subject, because we are going to have legislation before this body dealing with the testing of the people of this country and coming to grips with the AIDS epidemic in just the next few weeks.

So be informed. Please be at this meeting tomorrow morning. Dr. Marvin Salzberg will be here in room 304 Cannon Building from 10 to 12 to discuss the AIDS pandemic and his projections on how many people are going to contract this disease and be carriers of it between now and the year 2007. It is extremely important.

RENEWED INTEREST RATE OFFENSIVE MOUNTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, it is with great pleasure that I read in the September 22 issue of the American Banker about a renewed offensive being mounted to protest the exorbitant interest rates charged by credit card issuing banks. Once again Bankcard Holders of America is leading the fight with the battle cry, "lower bank card interest—or else." I can only wish them success. Their efforts to inform the American consumer of unfair and usurious interest rate charges and educate him and her on how to find the fairest credit card deals are to be commended.

Bankcard Holders of America is urging credit card users to fasten a "lower bankcard interest—or else" stamp to their monthly billing statement. They have also asked consumers to send to them every credit card solicitation they receive during the next 30 days. This will allow them to analyze the solicitation's compliance with fair disclosure standards and report to the public. They will list banks that properly disclose information and those that engage in deceptive advertising or offer bad deals.

"It's time to send banks a clear and forceful message," said Elgie Holstein, director of Bankcard Holders of America. "With banks borrowing money at approximately 7 percent while lending to card holders at over 18 percent, credit card consumers are ready to revolt."

Yes, the consumer is ready to revolt. Seventy-four percent of the people surveyed in an NBC News poll said that they support legislation that would limit the amount of interest credit card companies could charge, even if it meant it would be much harder for people like them to get credit. It appears that the public is beginning to understand the unfairness and deception with which it is being treated and starting to ask some very fundamental questions.

Why is it that when the prime rate has dropped from 22.5 percent to 8.75 percent, home mortgages from 17 percent to 10 percent, and, most importantly, the Federal Reserve Discount rate from 14 to 6 percent, that credit card interest rates have increased?

When looking at the Federal discount rate, keep in mind that this is the cost of funds to banks for which they are then charging 18, 19, 21 percent and more as interest on their credit cards. And remember, this rate represents almost 50 percent of the bank's cost of doing credit card business. Taken one step further, is it not logical to ask why, when one-half of their costs have dropped more than 50 percent, has not the cost of the final product dropped?

Let me draw an analogy. What if the manufacturers of men's sweaters found that half the material used in making those sweaters had dropped over 50 percent in cost? I don't hesitate to think that there would be a corresponding drop in price at the retail level. The competitive nature of the marketplace would see to that. Retailers would be falling all over themselves to reduce prices and advertise the change. Yet, in the credit card marketplace, as the cost of the "raw material" has dropped, no consequent reduction in "retail price" has occurred and there is only resistance to full disclosure of information.

The only thing that would prevent the cost of sweaters from dropping is if one retailer's, or a very few retailers', dominance of the market kept the price of the commodity artificially high in order to reap enormous and questionable profits.

According to Spender Nilson, in his Nilson Report newsletter, of the over 3,500 banks issuing cards, the top 10 banks control 34 percent of the market; the top 100 control 70 percent. Citibank alone controls over 11 percent of the credit card market spread over nine cards. Hardly a marketplace fertile with competition. With this kind of dominance by relatively few issuers, is there any reason to wonder why rates have remained high?

While this Bankcard Holders of America inspired revolt is an important grassroots campaign, this relatively small organization is only an aspiring David in this battle against these credit card Goliaths. I support the actions of Mr. Holstein and his organization and wish them well in their efforts to protect the American consumer. For this reason I want to share the following article with the Members of Congress:

[From the American Banker, Sept. 22, 1987]

CONSUMER GROUP DEMANDS LOWER CARD RATES

BANKCARD HOLDERS OF AMERICA URGES CUSTOMERS TO USE PROTEST STAMP ON BILLS

(By Barbara A. Rehm)

WASHINGTON.—A credit card holders association is launching a new offensive against high interest rates charged by issuing banks. Its battle cry is "lower bankcard interest—or else."

Or else what is not specified, but there is no doubt that the Bankcard Holders of America has not given up the fight for lower interest rates on credit cards.

"It's time to send banks a clear and forceful message," said Elgie Holstein, associate director of Bankcard Holders. "With banks borrowing money at approximately 7% while lending to card holders at over 18%, credit card consumers are ready to revolt."

Bankcard Holders claims 130,000 members, out of the total 75 million American credit card consumers. The nonprofit association is urging credit card users to affix a new protest stamp emblazoned with the "or else" ultimatum to their monthly credit card billing statements, to "stamp out" high interest rates on credit cards. The stamps were unveiled last week at a press conference in Washington.

"We plan to get these stamps in the hands of millions of consumers this year—organizing an army of cardholders leading an assault on high-interest rate bank cards," Mr. Holstein said.

Bankcard Holders launched an offensive against high credit card interest rates last January, encouraging its members to shop for credit cards with low interest rates. To help members in their search, the association published its fair-deal list of 60 banks with interest rates under 15.3%.

Credit card users also are asked to send every credit card solicitation received over the next month to the association. Bankcard Holders plans to analyze the solicitations and issue a report on banks' compliance with fair-disclosure standards. Banks with moderate interest rates and clear advertising will win the association's recommendation, while banks with deceptive ads or expensive rates will be cited in consumer warnings.

The stamps and the association's list of the best credit card deals are available for $1.50 from Bankcard Holders Stamps, 333 Pennsylvania Ave., S.E., Washington, D.C. 20003.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

[Mr. FORD of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SHOULD MEMBERS OF CONGRESS BE COVERED BY THE INDEPENDENT COUNSEL STATUTE?

The SPEAKER pro tempore. (Mr. OBERSTAR). Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, I want to address some confusion that appears to exist about the respective roles of the independent counsel of the House Ethics Committee and the Justice Department. We have a proposal floating around that says that Members of Congress should be automatically covered by the independent counsel statute. I think that is a mistake at this point for reasons that I will go into later, but people have argued that we must have the independent counsel cover Members of Congress because the House Ethics Committee has not been doing its job. That is a very fundamental misreading of the role of the House Ethics Committee.

The House Ethics Committee is not charged with criminal prosecution. Members who believe that we must have an independent counsel covering Members of the House apparently believe that Edwin Meese and the Justice Department are failing to do their jobs.

Now, we have an independent counsel with regard to members of the administration. We have had that since a Democratic Congress passed that to apply to a Democratic President because of the belief that there is an inherent conflict of interest when an Attorney General has to investigate his own colleagues. I think that is an institutional conflict of interest. Its existence does not mean that anybody is delinquent.

But now we are being told by some Members that we must have an independent counsel because there are cases involving potential corruption in the Congress that are not being covered. I want to say I think that is a little unfair to Ed Meese.

Now, understand that the House Ethics Committee is not the prosecutor here, the Justice Department is; so people who have told us that we must have an independent counsel to cover Congress, remember the conflict of interest which is inherent, which is the basis of the independent counsel in the executive branch, is not present between the executive branch and Members of Congress.

So what we are apparently being told is that Mr. Meese is either incompetent or unwilling to prosecute congressional corruption because the House Ethics Committee does not have the function of prosecution. If Members think that prosecution is not going forward, the quarrel is not with the House Ethics Committee, it is with the Justice Department.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I will yield briefly to the gentleman from Pennsylvania. I only have 5 minutes.

Mr. WALKER. I understand. I would remind the gentleman that on two occasions when the Justice Department has come up here to investigate, the Speaker and the general counsel of the House have invoked constitutional separation of powers as the reason not to turn over the records to them; so that the fact is the Justice Department cannot investigate this place because we will not allow the investigation to take place.

Mr. FRANK. Well, I will take back my time. If that were the case, I do not believe that is an obstacle to the kind of investigation we are talking about; but if it were the obstacle, the independent counsel would face the same obstacle, that is, an objection based on that would apply equally to the independent counsel.

So the point is that we have a wholly irrelevant objection being raised about the Ethics Committee.

I would have to say right now that I am not aware of pending situations where a Justice Department inquiry is being frustrated.

What we have, I think, are political charges without basis, because people ought to understand that the prosecutorial authority is the Justice Department. If people believe that we need an independent counsel to cover Members of Congress, they apparently believe that even where there is no institutional conflict of interest, this Justice Department cannot be trusted to do its job. I think that is a little harsh on Mr. Meese. I am not always in agreement with Mr. Meese. I do not agree with their policy views, but we are being told apparently that this Justice Department is ignoring cases of corruption. I think that is untrue. I think those are charges which are politically made which have no basis in fact.

The argument that there is somehow a barrier raised on constitutional grounds would also apply if an independent counsel came, because if there were such obstacles to particular investigations, they would be based on legislative powers and they would apply whether it was an independent counsel or the Justice Department.

The fact is undeniable, the independent counsel does not do what an Ethics Committee is supposed to do. It does what the Justice Department is supposed to do. So Members who think we need an independent counsel covering Congress are not criticizing the Ethics Committee. They are in fact making a very harsh criticism of the Attorney General. They are accusing him of not doing his job.

I am not always a friend of the Attorney General, but I think they are being a little too hard on him in this particular instance.

In fact, what is really happening is that Members do not want to see the independent counsel statute reenacted. The independent counsel statute was reenacted 5 years ago. It was not opposed by a great number of Republican Members. It was signed by Ronald Reagan. Ronald Reagan signed the independent counsel statute in 1983. Now he says that what he signed is unconstitutional. The President is telling us that the bill he signed is unconstitutional.

And what happened to make him think it was unconstitutional? Several of his closest friends and advisers have been indicted. Now, indictments may be unpleasant things, but they are not of themselves constitutional arguments.

EMBARGO IRANIAN IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 5 minutes.

Mr. PANETTA. Mr. Speaker, I rise today to urge the support of my colleagues for a bill to prohibit the import into the United States of all products grown, mined, produced or manufactured in Iran. This important piece of legislation was introduced and passed by the Senate yesterday, September 29, 1987, and unanimously passed by a vote of 98-0. It is time for this body to go on record and express its voice on this urgent matter.

My purpose in introducing this legislation is to give our Nation greater leverage for a much needed cease-fire in the current escalating Persian Gulf war. In recent days, it is indeed encouraging to see the administration beginning to work closely with the United Nations in attempting to bring about a cease-fire in that region. The Congress has an obligation and a responsibility to send a strong and clear signal to the administration, the State Department and Iran that the United States can no longer import between 500 and 700 million dollars' worth of Iranian products. It is more than hyprocritical that our Nation is subsidizing Iran's reckless policies and military actions—our trade with Iran is absolutely absurd.

I am sure all of my colleagues were outraged and shocked to learn earlier this week that our country imported 19.6 million barrels of Iranian crude oil at a cost of $359 million this past July alone! Our oil payments to Iran for just the 3 months ending in July exceeded the annual average in each of the previous 3 years with the United States paying Iran about $700 million for crude oil according to figures released by the Department of Commerce. It is important to note that merely 3 months ago only 3 percent of United States oil imports came from Iran and that has now risen to 11 percent in just the last 3 months. Even more incredible is the fact that since the release of American hostages from Tehran in 1981, there have been no import restrictions since the hostage release agreement 6 years ago.

The legislation I am introducting today prohibits the import of all products and material from Iran effective immediately upon enactment although it allows the President the flexibility to waive such a prohibition if it is not in the overall interest of the United States for up to a 180-day window following enactment of the legislation.

Imagine the reaction of the American taxpayers when they realize that the Iranians are turning $700 million of American money to potentially purchasing Silkworm missiles and other weapons that directly threatens our nearly 40,000 American servicemen currently in and around the Persian Gulf. This measure would begin to put our haphazard foreign policy with regard to the Persian Gulf back on the right track to consistency and sanity. I echo the sentiment of Senator DOLE when he said yesterday, "No more business as usual with the Ayatollah."

I am on record with many of my colleagues opposing the United States' military buildup in the Persian Gulf and I am quite discouraged at Secretary of Defense Weinberger's comments yesterday that it will be "quite a long, cold winter before the United States can reduce its military buildup in the Persian Gulf". Weinberger went on to state that United States military operations "will be required until the Iranians change their behavior". Well Mr. Secretary this legislation sends the clear and strong message that the Congress will do its part in bringing Iran into the reality of being responsible for its war-like behavior which can no longer be tolerated nor be dealt with silently and empty words.

This legislation will add the voice of both Houses of the Congress to supporting the administration's efforts to develop tough sanctions against Iran and continue to focus our attention on a United Nation's based cease-fire. The facts are clear as to which side of the War has been least cooperative in working toward a U.N. sponsored cease-fire. Iran has been attacking and placing our servicemen in imminent danger in the Persian Gulf. Iran has clearly spoken of its desire to engage in warlike confrontations with our Nation. Iran has refused to accept the United Nation's cease-fire. Iran has one choice if they desire to continue trade with the United States: accept the United Nations sponsored cease-fire.

The reasons for imposing an across-the-board embargo against Iran is that upon a closer look at our imports we find that not only has oil imports grown astronomically but so has the growth of other import commodities. The commodities which have shown an marked increase in imports from December 1986 to June 1987 figures from the Bureau of Census include: tobacco and beverage products, raw textile fibers, inorganic chemicals, medical and pharmaceutical products, perfumes, soaps, natural and synthetic dyes, cheeses, spices, furniture, fresh and frozen fish, shellfish and numerous agricultural products. The list goes on and on. No doubt our serious trade deficit is only getting worse but importing these domestically produced commodities from the Ayatollah. Such trade only adds to the absurdity of this situation with Iran and hurts our Nation economically.

Tough action and decisionmaking is name of the game at this point with regard to the war in the Persian Gulf. The Congress can no longer stand silent while the administration supports Iran and the Ayatollah in the Persian Gulf. Our Nation's neutrality in the Persian Gulf war must not be translated into sitting on our hands on the sidelines while we put American lives on the playing field of a war we have no business playing in the first place. Certainly, imports from Iran must come to an immediate halt before the United States loses more money and American lives by supporting the war economy of the Ayatollah.

This is not a partisan bill nor is it antiadministration bill; it is a sensible piece of legislation which every Member of the House can support. My hope is that the House will speak with the same unified voice today as the Senate did yesterday. Our objective must continue to be to end the hostilities in the Persian Gulf, bring our servicemen home as soon as possible and apply economic pressure to Iran to force them to agree to a United Nations sponsored cease-fire to bring the bloody 8-year-old war in the Persian Gulf to an end.

H.R.—

A bill to prohibit the import into the United States of all products of Iran

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds as follows:

(1) The actions of Iran in continuing mine laying activities, launching Silkworm missiles against Kuwait and refusing to accept the United Nations proposed ceasefire in the Iran-Iraq war are totally unwarranted and increase tension and the danger of a widening war in the Persian Gulf.

(2) In recent years the United States, on annual average, has imported approximately $500,000,000 to $600,000,000 worth of products of Iran.

(3) The provision of this hard currency to Iran increases its ability to procure mines, Silkworm missiles and other armaments from foreign sources, thereby increasing its ability to sustain and escalate its war with Iraq and other irresponsible actions, such as mine laying.

(4) A formal policy of neutrality does not require the United States to ignore, or fail to respond to, provocations from either side in the Iran-Iraq war or to surrender the flexibility to shape our conduct in response to the policies and conduct of the belligerents in that war.

(5) In light of Iranian policy and actions in the Iran-Iraq war and in the Persian Gulf, it is not in the best interest of the United States to practice "business as usual" with Iran.

(6) As the provisions of the Algiers Accord make clear, Iran has no legal grounds to respond to any action by the United States, including the imposition of a prohibition on the import into the United States of the products of Iran, in the claims settlement process established under the Accord.

SEC. 2. PROHIBITION OF THE IMPORT INTO THE UNITED STATES OF PRODUCTS OF IRAN.

(a) PROHIBITION.—Except as provided in section 3, effective upon the date of enactment of this Act, the import into the United States of all products of Iran is prohibited.

(b) DEFINITION.—For the purposes of this section, the term "products of Iran" means any article grown, mined, produced, or manufactured (in whole or in part) in Iran.

(c) IMPLEMENTATION.—The President shall direct the appropriate agencies of the Federal Government to establish such regulations and procedures as are necessary to implement subsection (a).

SEC. 3. DELAY IN IMPLEMENTATION OF PROHIBITION.

(a) AUTHORITY TO DELAY IMPLEMENTATION.—Should the President determine that it is not in the overall interest of the United States to prohibit the import into the United States of products of Iran, he may delay the implementation of the prohibition contained in section 2(a) for up to 180 days following the date of enactment of this Act.

(b) REPORT.—Should the President, under the authority of subsection (a), delay implementation of the prohibition contained in section 2(a) for any period up to the 180-day limit, he shall submit to the Congress a written report explaining the reasons for the decision, including specifying how the national interest would be jeopardized by implementing the prohibition.

(c) IMPOSITION OF PROHIBITION FOLLOWING DELAY ABSENT CONGRESSIONAL EXTENSION.—Should the President, in accordance with this section, delay implementation of the prohibition contained in section 2(a) for the full 180 days, that prohibition shall go into effect on the 181st day following the date of enactment of this Act unless the Congress, by joint resolution, extends the 180-day period.

THE NOTCH PROBLEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi [Mr. MONTGOMERY] is recognized for 5 minutes.

Mr. MONTGOMERY. Mr. Speaker, like most of my colleagues in this Chamber, I have received a great amount of mail from Social Security recipients who were born between 1917 and 1921. They are the so-called notch babies. They say it is not fair for some people to get significantly lower benefits from Social Security just because they were born in 1917, instead of 1916. They have paid almost identically the same amount of money into the system, but simply because of the year of their birth, some have been penalized. I agree with them. It is not fair.

We all know what happened back in 1977. Congress moved to make changes in the Social Security benefits formula established in 1972. The action in 1972 overcompensated for inflation, which resulted in a rise in compensation benefits to an unintended high level. But when Congress made the corrections in 1977, it produced substantially lower benefits for workers born between 1917 and 1921.

I have joined a growing number of Members on both sides of the aisle in sponsoring legislation that will amend the 1977 law and provide for a more equitable and reasonable benefit formula for the more than 7 million Americans affected by the "notch problem."

I would hope the Ways and Means Committee would move on this legislation so we can take action to correct the "notch problem" in this 100th Congress. In doing so, we will restore public confidence that the system is both fair and reliable.

TRIBUTE TO MARY LEE LAWTON

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity to pay special tribute to my longtime friend and field representative Mary Lee Lawton of Henderson, KY, who is retiring today after 10 years and 4 months of service on my staff.

Mary Lee Lawton is a valued and dedicated employee who will be missed by my staff, constituents and me. Mary Lee and her husband L.B. "Gip" Lawton, a prominent, Henderson, KY, attorney, have been close friends of mine for many years. Mary Lee's service to the community of Henderson and Henderson County as well as to 23 other counties I represent in the First Congressional District of Kentucky is most commendable and appreciated by me and will be greatly missed by those of us in western Kentucky.

Mary Lee Lawton's husband "Gip" is also retiring as a Henderson attorney.

Gip and Mary Lee Lawton want to travel, rest and enjoy life after decades of outstanding service to others in western Kentucky.

Thank you, Mary Lee Lawton, for 10 years and 4 months of outstanding service as a field representative.

VACATING SPECIAL ORDER AND REQUEST FOR SPECIAL ORDER

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent to convert my previous 60 minute special order into a 5-minute special order to be taken now.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ASSUMPTION OF FEDERAL HOME LOAN BANK BOARD CHAIRMANSHIP BY HON. M. DANNY WALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky [Mr. HUBBARD] is recognized for 5 minutes.

Mr. HUBBARD. Mr. Speaker, on July 1, the Honorable M. Danny Wall, familiar to us as the staff director for the Republican members of the Senate Banking Committee, assumed the chairmanship of the Federal Home Loan Bank Board. I was pleased to have attended his July 7 swearing-in ceremony. As a member of the House Banking, Finance and Urban Affairs Committee for the past 12½ years I have known Danny Wall for many years as an effective and successful man of action; therefore, it is no surprise to me that in his 3 months as chairman things have really been humming at the bank board.

In the days immediately following his installation, Chairman Wall moved decisively to appoint his team of senior officials, demonstrating immediately his ability to attract the first rate group of professionals the bank board must have as it undertakes the formidable task of bolstering public confidence in the future of the thrift industry, even as it closes some insolvent institutions.

I'm submitting for the RECORD the article from the August 31, 1987, Business Week entitled "Danny Wall Dives Right Into the Swamp" by Vicky Cahan. The article provides an excellent illustration of just how ambitious Danny Wall was to begin his new job.

On August 10, President Reagan signed into law H.R. 27, the Competitive Equality Banking Act of 1987, Public Law 100-86. Title III of that act provides for the recapitalization of the FSLIC and title IV established recovery guidelines for the thrift industry. Both of these titles will be administered by the bank board under the stewardship of Chairman Wall, whose participation in the final days of the conference was extremely helpful in achieving an agreement that would be assured of Presidential approval.

On August 9, Roger Martin was installed as the third member of the bank board, ensuring that Chairman Wall would begin his chairmanship with the full complement of board members.

Most recently, on August 28, the bank board established the Financing Corporation which has priced its first public offering today (September 30) that will provide the first installment of the capital infusion to thrifts provided under the act.

In his first days on the job Chairman Wall enjoyed an outpouring of support all of us would envy, but he will need all of that support to get the job done. Fortunately, he enjoys the full confidence of the Congress.

Evidence that our confidence is well placed has come in the statements of Chairman Wall during his early days in office. Besides the commendable attributes of openness, accessibility, and confidence in the future of the thrift industry, Chairman Wall has demonstrated something else that is very important.

I refer to the fact that Chairman Wall has shown that he realizes that even as the FSLIC is recapitalized, in order to enable the bank board to manage its backlog of supervisory cases the healthy majority of the industry must prosper if the financing plan is to succeed. This means that healthy institutions should have an opportunity to engage in activities beyond the traditional function of financing residential housing. Chairman Wall understands that it is not enough to recapitalize the FSLIC. The healthy portion of the industry, which after all is being called upon to finance the recapitalization, must improve its profitability and demonstrate its continuing ability to attract and retain capital. Only then will the recapitalization program be successful and the future of the thrift industry assured.

Several of my distinguished colleagues are participating in this special order, and I am very grateful to all of them. We hope that these statements will serve to alert Congress to the importance of the thrift provisions of the recently enacted statute. Second, this special order is our way of letting Chairman Wall know that we support him.

Mr. Speaker, I include the following article on Danny Wall:

DANNY WALL DIVES RIGHT INTO THE SWAMP

The Federal Home Loan Bank Board's new chairman, M. Danny Wall, is already hearing grumbles from top staffers: Five nights a week of pizza for overtime suppers is getting to be quite a bore, and they're desperate to find a new late-night delivery service.

Wall may not have solved that vexing problem, but he is off to a fast start in virtually every other respect. Since taking office on July 1, Wall has reshuffled the bank board's top management, halted a potential run on the fragile Texas thrift network, and set a swift timetable for beginning the $10 billion bailout of the insolvent savings-and-loan insurance fund. "His first month and a half has been excellent," declares John H. Rousselot, president of the National Council of Savings Institutions. "He's obviously enjoying the challenge."

SURPRISE SUCCESS

That's a good thing, because the thrift industry can hardly afford a long learning curve for its new chief regulator. One-quarter of the nation's 3,200 S&Ls are in serious trouble or insolvent, losing at least $10 million a day. And many of the healthy institutions are diversifying into more complex investments, further straining the bank board's supervisory capacity.

Such early signs of success were not entirely expected. An architect whose studies emphasized planning, Wall became executive director of the Salt Lake City Redevelopment Agency, where he met then-Mayor Jake Garn. In 1975, when Garn was elected to the Senate, he brought Wall with him. The 47-year-old Wall was immersed in the thrift industry's woes as staff director of the Senate Banking Committee from 1981 to 1987 when Garn, a Republican, was chairman. The two pushed through one major bill in 1982. But the legislative stalemate on banking issues that followed raised questions about how effectively Wall could manage the bank board.

During his stint at the committee, however, Wall witnessed the political crossfire that crippled his predecessor, Edwin J. Gray. While Gray was chairman, Congress blasted the agency for being too close to the thrifts, which paid some travel costs of some senior bank board officials, including Gray. The industry, meanwhile, charged that Gray was indiscriminately trying to shut well-managed thrifts that were in trouble because of economic conditions beyond their control.

Wall is viewed by thrift-industry experts as savvier politically and more knowledgeable about the industry. Unlike Gray, who emphasized the industry's problems, Wall plans to focus not only on the insolvencies, but also on the 80% of the industry that he considers "strong."

Wall kept a low profile during his first month, carefully assembling an aggressive, highly regarded senior staff of seven by scouring academia, Capitol Hill, bank regulators, and the bank board itself. The native of South Dakota met in small, informal sessions with most of the agency's 775 staff people, discussing his strategy for coping with both the FHLBB's and the industry's problems. The low profile didn't last long. When Texas Governor William P. Clements Jr. suggested that depositors in failed Texas thrifts might not get insured deposits back in full—prompting a run on some Amarillo S&Ls—Wall wasted no time. Within hours, he summoned reporters to the first press conference at the bank board in several years and politely but firmly announced: "I'm here to tell you the governor is wrong."

Wall's rapid response, combined with a coordinated effort by the Federal Home Loan Bank in Dallas, helped keep depositors from panicking. "He is tremendously straightforward, outspoken, and he's got a backbone," says Thomas P. Vartanian, a Washington attorney who specializes in thrifts.

FUNERALS IN STORE

Wall's next task is to execute a new recapitalization plan for the Federal Savings & Loan Insurance Corp., the insolvent thrift-insurance fund managed by the bank board. The agency has set up a meeting for early September with Wall Street representatives to discuss marketing as much as $10 billion in bonds. The proceeds will be used to help pay off depositors and allow the bank board to shut down or find merger partners for hundreds of hopelessly insolvent institutions—some of which have even been looted by management, federal officials say. Wall promises to "conduct a lot of funerals," as he puts it, and help lock up some industry executives.

Wall's biggest test—how he handles the money and the closures—is still to come. Local thrift executives or real estate interests who feel wronged by the agency remain likely to take their complaints to Congress. Wall will also have to be careful to keep the costs of the liquidations and mergers low since many financial experts feel the recapitalization plan falls far short of what is really needed for the cleanup.

Although he is unlikely to retain his chairmanship if a Democrat is elected President next year, Wall is pushing ahead ambitiously. He is hiring staffers to fill 400 recently authorized slots, speeding the application process of bidding on sick thrifts, and clarifying the FHLBB's policy on bidding for assets acquired by the agency from insolvent institutions. Predicts Wall: "I'll be a while yet before we're able to ease up." That will keep those late-night pizzas coming.

□ 1730

Mr. McCANDLESS. Mr. Speaker, will the gentleman yield?

Mr. HUBBARD. I yield to the gentleman from California.

(Mr. McCANDLESS asked and was given permission to revise and extend his remarks.)

Mr. McCANDLESS. Mr. Speaker, I join my colleague from Kentucky in his thoughts about our new chairman of the Federal Home Loan Bank.

From the beginning of his tenure as Chairman of the Federal Home Loan Bank Board, Danny Wall has stated that the reestablishment of public confidence in the Federal Home Loan Bank System was his most important task. In his first 3 months on the job, Chairman Wall:

Moved swiftly to install a new senior management team;

Intervened effectively in the last days of the conference on legislation to recapitalize FSLIC to obtain an increase in the funding level and assure the President's signature;

Adroitly responded to issues of the public's faith in FSLIC in the Southwest; and

Set the machinery in motion for the Financing Corporation to go to market before the enabling legislation was 2 months old.

As my colleagues have pointed out, the steady assurance with which Chairman Wall has taken charge at the Bank Board has received considerable notice in the press. On August 7, 1987, in an article entitled "Bank Board Chief Vows New Course," Kathleen Day of the Washington Post reported on Wall's appearance before the National Press Club the previous day:

Wall said that his priorities in his new job will be to restore the public's confidence in FSLIC and to rebuild the Bank Board, an agency that in recent years has been battered by travel expense scandals and by a growing perception that it is mismanaged.

As the Federal Home Loan Bank System goes to market this week to raise the first installment of the recapitalization, one of the major topics will continue to be whether or not the $10.8 billion cap set by Congress will be sufficient to enable FSLIC to close the most troubled thrifts and restore public confidence. Chairman Wall assured his Press Club audience that the funds would be adequate for several years and that Congress would use taxpayers' funds only as a last resort.

Wall's remarks were reported in the Post article and in an article entitled, "Wall Says Recap Is Adequate, Sees Brighter Future," which appeared in the American Banker, also on August 7. The text of both articles follows:

[From the Washington Post, Aug. 7, 1987]

BANK BOARD CHIEF VOWS NEW COURSE: WALL SAYS S&LS' INFLUENCE TO SHRINK

(By Kathleen Day)

Savings and loan executives are going to have less control than in the past over the federal agency that regulates them, Federal Home Loan Bank Board Chairman M. Danny Wall said yesterday.

Wall, in his first public appearance since taking office July 1, said he intends to be less influenced by S&L lobbyists than previous chairmen of the bank board, the federal agency that regulates S&Ls.

"It's going to be * * * hard for the agency to continue to be perceived to be too close to the industry it regulates" he said.

That close association, in which the industry has been able to direct many bank board policy decisions, "has been a problem," Wall acknowledged.

Congressional leaders and federal regulators have said that the closeness has allowed S&Ls to get the rules and regulations they wanted in the short-run, but in the long-run has allowed scores of institutions to undertake risky and often fraudulent practices that will cost the industry—and ultimately the consumer—an estimated $20 billion to clean up.

Many industry and congressional leaders give high marks to Wall for his first five weeks on the job. John Rousselot, president of the National Council of Savings Institutions, the second-largest S&L lobby group, said Wall got off to an "excellent start" by naming people with strong qualifications to key spots at the bank board.

But whether Wall in fact will be able to loosen the industry's grip on the agency remains the biggest question in the minds of many S&L analysts.

"A key question is going to be whether it's possible to wrest the agency away from industry dominance," said Bert Ely, a banking consultant based in Alexandria. "Wall's off to a good start in terms of personnel and of putting his managerial stamp on the organization. He's to be complimented for that, but that's not the whole ball game."

The really difficult issue of how to close or sell hundreds of insolvent S&Ls has yet to be addressed, and just how well Wall will be able to handle that problem will take many more months to evaluate, Ely said.

Wall's appearance at the National Press Club yesterday came as President Reagan prepares to sign a bill to pump $10.8 billion into the Federal Savings and Loan Insurance Corp., the insolvent bank board fund that insures S&L deposits and takes over failed S&Ls.

Wall said that the measure will allow the bank board to begin selling bonds in September and to put money into FSLIC by October. Because of record S&L failures. FSLIC ended 1986 more than $6 billion in the red.

Wall said that his priorities in his new job will be to restore the public's confidence in FSLIC and to rebuild the bank board, an agency that in recent years has been battered by travel expense scandals and by a growing perception that it is mismanaged.

Wall, who previously worked for Sen. Jake Garn (R-Utah) as minority staff director of the Senate Banking Committee, will have to overcome his image as a political operator to achieve those goals, some lobbyists say.

One financial service industry lobbyist said he was disappointed by Wall's statement yesterday that no one can estimate the ultimate cost of closing or selling hundreds of insolvent S&Ls.

Congressional leaders, using bank board data, have estimated that FSLIC will need at least $20 billion but probably closer to $40 billion.

Wall's statement echoes the positions of the U.S. League of Savings Institutions, the largest S&L lobby groups. The league unsuccessfully lobbied Congress to provide FSLIC with only $5 billion because many of the league's members don't want to pay the cost of bailing out the sick S&Ls.

Wall said tax money would be used to resolve problem S&L cases only if Congress could find no other way to fund FSLIC, but said he expects the $10.8 billion to be sufficient for several years.

[From the American Banker, Aug. 7, 1987]

WALL SAYS RECAP IS ADEQUATE, SEES "BRIGHTER FUTURE"

(By Jin McTague)

WASHINGTON.—Federal Home Loan Bank Board Chairman M. Danny Wall said Thursday that Congress has provided adequate funding to deal with the thrift crisis.

And James Boland, executive director of the Bank Board, confirmed that Donald Crocker, director of the San Francisco office of the Federal Savings and Loan Insurance Corp., is among the leading candidates to become the deposit insurer's new director.

"This agency, this system, and this industry are standing on the threshold of a new and brighter future," said Mr. Wall in his first public appearance since taking office in July.

Congress and the administration have helped restore the FSLIC "to the funding level it needs to tackle the problems and put them behind us," he said.

Congress has authorized the Bank Board to create a funding corporation to borrow $10.825 billion on the capital markets over three years. Borrowing is limited to $3.75 billion in any one year and will begin in September, Mr. Wall said.

Addressing the National Press Club here, Mr. Wall announced that major banks and securities firms will be asked next week to join the selling group for the 30-year, noncallable bonds that are expected to yield slightly more than issues of the World Bank and the Federal National Mortgage Association.

The borrowings, plus proceeds from the sale of assets from closed thrifts and insurance premiums from the 3,200 thrifts insured by the Federal Deposit Insurance Corp., will total about $6.1 billion each year, Mr. Wall said.

The agency previously estimated that more than 100 seriously impaired thrifts must be closed soon or merged with stronger institutions to stem losses to the FSLIC fund. About 300 more thrifts are on the agency's problem list.

The funding corporation will go to the markets between four and six times a year, raising $400 million to $600 million each time, Mr. Wall said.

It will be chaired by Austin Dowling, director of the Bank Board's office of finance. Richard Syron, president of the Federal Home Loan Bank of Boston, and Charles Thiemann, president of the Federal Home Loan Bank of Cincinnati, also will be members of the board.

Mr. Wall said he did not think Congress would permit a taxpayer bailout of the FSLIC if other means were available. Should the situation deteriorate, Congress would pursue other solutions first, Mr. Wall said.

Mr. Crocker, the candidate for FSLIC director, was chairman and chief executive of Lincoln Savings and Loan Association, Los Angeles, and oversaw its sale in October 1983 to American Continental Corp. of Phoenix for $50 million. Mr. Crocker owned 17 percent of the stock.

In 1985, he was a leading candidate to head California's Department of Savings and Loan, but declined.

The Bank Board will consider a permanent president for the Federal Home Loan Mortgage Corp., or Freddie Mac, in September, Mr. Wall said. Leland Brendsel is acting president.

Mr. ANNUNZIO. Mr. Speaker, you don't hear a great deal about the Chairman of the Federal Home Loan Bank Board these days. And that is good news. Instead of being the subject of numerous newspaper articles or defending his agency before congressional committees, the new Chairman of the Federal Home Loan Bank Board, the Honorable M. Danny Wall, is doing the job for which he was selected. He is running the agency that oversees the Nation's savings and loan industry, and he is doing an outstanding job.

The praise for Danny Wall has been universal. It has come from Members of Congress, the news media, and the savings and loan industry.

His performance is not surprising as far as I am concerned. I worked on numerous occasions with Chairman Wall when he was the staff director of the Senate Banking Committee. I always found him to be straightforward, reliable, and a person who returned phone calls; something that is getting increasingly rare in this town.

Only a few months ago there was a frenzy in the financial community which bordered on almost mass hysteria on the condition of the savings and loan industry. Much of that has faded away now, due in part to the recapitalization of the FSLIC, but also because of the strong leadership position taken by Chairman Wall. He has brought a strength to the agency not through press clippings, but through hard work and dedication. He has assembled a top staff, and rather than spending time studying problems, he has stepped in and resolved them.

I look forward to working closely with Chairman Wall, and I congratulate him on the outstanding job he has done in the short period of time that he has been Chairman of the Federal Home Loan Bank Board.

Mr. KANJORSKI. Mr. Speaker, I thank my distinguished colleague from Kentucky, the chairman of the Oversight Subcommittee, for organizing this most timely special order. I would like to expand on the last point the gentleman made. It would be so easy to look at the difficulties facing the thrift industry today and say we have to concentrate all of our attention on the sick minority of the industry and be painfully conservative during this transition period.

To adopt this philosophy would be to invite the development of another set of problem cases, because unless the healthy institutions of today can remain dynamic competitors in the financial services industry, many of them will become problem cases, and the industry will never emerge from its current predicament.

In a recent interview with John R. Yang of the Wall Street Journal, Chairman Wall stated:

> If we end up stabilizing the thrift industry as the traditional thrift industry, we will have failed. We have to stabilize [thrifts] in such a way as to make them competitive and able to be players in this expanding financial services universe.

Chairman Wall noted that thrift institutions enjoy more liberal branching provisions than banks in many States, putting them in a good position to meet the financial services needs of households. He further noted opportunities for thrift institutions to compete in other industries exist for State-chartered institutions in many States. Finally, he also suggested that the institutions themselves should determine the limits on their activities and he stressed the importance of management.

While I am not now prepared to endorse all of these proposals, they demonstrate a fresh and imaginative approach to the thrift industry's problems which I hope to hear more about in upcoming hearings.

I join my colleagues in extending best wishes to Chairman Wall, and I would like to share with the entire House the illuminating text of the August 20, 1987, Wall Street Journal article based on Mr. Yang's interview with Chairman Wall.

S&L DIVERSITY URGED BY WALL OF BANK BOARD

(By John E. Yang)

WASHINGTON.—The savings and loan industry must diversify beyond its traditional role as lender for home buying if it is to be successful, according to Chairman M. Danny Wall of the Federal Home Loan Bank Board.

"If we end up stabilizing the thrift industry as the traditional thrift industry, we will have failed," Mr. Wall said in an interview. "We have to stabilize (thrifts) in such a way as to make them competitive and able to be players in this expanding financial services universe."

Currently, the thrift industry is in turmoil, with nearly one-fifth of the nation's 3,200 savings and loan institutions either insolvent or unprofitable and losing more than $10 million a day.

Historically, thrifts have invested the deposits they hold in residential mortgages. But Mr. Wall, who became the Bank Board's 19th chairman July 1, believes they should offer a broad range of services from selling insurance to selling homes.

"They're positioned as well as anybody, with the possible exception of credit unions, to be in the broadest sense the financial-services provider to the average American," he said.

Thrifts aren't subject to many of the geographical restrictions placed upon commercial banks. Thrifts, for example, are generally freer to expand their operations across state boundaries. And some states that prohibit banks from having branches don't similarly curb thrifts.

This makes them more convenient to customers than banks are, Mr. Wall said, giving them an edge in providing "the needs of the average family through the course of their life cycle:" holding checking and savings accounts, making loans for education, automobiles and homes and selling insurance and residential real estate.

But changing federal and state laws and regulations to allow thrifts to do all these things would mean overcoming the opposition of the influential trade groups representing real estate and insurance agents. Federally chartered thrifts are barred by law from selling real estate, although 27 states allow state-chartered institutions to act as real estate brokers, Mr. Wall said. Many more states allow state-chartered thrifts to sell insurance and some permit federal chartered institutions to do so through a subsidiary.

Mr. Wall, the former Republican staff director of the Senate Banking Committee, said the only limits on what thrifts can do should be those set by the institutions themselves. "That really is a matter of management," he said.

On other topics, Mr. Wall said he isn't in any rush to resolve the problems of Financial Corp. of America, the troubled Irvine, Calif.-based parent of American Savings & Loan Association, the nation's largest thrift. Edwin Gray, Mr. Wall's predecessor, had sought without success to find a buyer for Financial Corp. before he left office June 30.

Now that the Federal Savings & Loan Insurance Corp.'s $10.8 billion recapitalization is under way, Mr. Wall said the Bank Board has "more time in which to consider what is the appropriate course of action" for Financial Corp.

Mr. Wall also said the primary operations of the FSLIC probably couldn't be transferred to the 12 regional Federal Home Loan Banks from the Bank Board in Washington because too many questions of policy are decided by the Bank Board's insurance arm. Moving the FSLIC to the regional banks, which are privately owned by federally insured thrifts, had been proposed as a way of escaping federal pay ceilings and holding onto vital personnel.

Mr. MANTON. Mr. Speaker, it is a pleasure to participate with my colleagues in this special order in honor of the new Chairman of the Federal Home Loan Bank Board, M. Danny Wall.

Coincidentally, on the same day as the Wall Street Journal interview to which my distinguished colleague referred, an article entitled "Honeymoon at Bank Board" appeared on the front page of the business section of the New York Times.

The article quotes Chairman Wall as acknowledging that his honeymoon may be brief, but he showed that he is ready to accept the difficult task ahead:

> We're going to be conducting a lot of funerals and shotgun weddings, and that is going to make a lot of people unhappy.

He said.

> Because of the job we have to do, we are going to be stepping on a lot of toes.

Already Chairman Wall has moved quickly to assure depositors in Texas their money was safe in FSLIC-insured institutions. With the benefit of his experience on Capitol Hill, he is confident of his ability to handle the job.

> In terms of understanding the whole universe of financial institutions, I may be best qualified chairman this agency has ever had.

He said.

Mr. Wall has already demonstrated his clout at the White House by his involvement in the restructuring of the legislation, his presence at the signing ceremony, and his arrangement of a picture session for 14 staff members.

Staff morale has already improved, according to Thomas P. Vartanian, former general counsel of the Bank Board, and the staff looks forward to the 400 employees Chairman Wall will hire to relieve chronic understaffing.

Mr. Speaker, clearly Danny Wall is off to a great start as Bank Board Chairman. I join my colleagues in wishing him well and assuring him of our enthusiastic support.

Mr. BUNNING. Mr. Speaker, I congratulate my good friend and fellow Kentuckian, CARROLL HUBBARD, on the timeliness of this special order, just as Chairman Wall is completing his first 3 months in office and the Financing Corporation, created under the recently enacted Competitive Equality Banking Act, is going to market to raise the first installment in the recapitalization of the FSLIC.

Coincidentally, Charles Lee Thiemann, president of the Federal Home Loan Bank of Cincinnati, which is in the same metropolitan area as my district, has been appointed as the first chairman and chief executive officer of the Financing Corporation.

In a telephone interview with Jan Paschal, of the Cincinnati Enquirer, Mr. Thiemann stated that the amount raised in the first issue would probably be close to the upper part of the $480 to $600 million range. He stressed the importance of the first issue as a demonstration of the market acceptance of the bonds. A favorable reception is anticipated, not only in this country, but also in Japan and Western Europe.

I join CARROLL and my other distinguished colleagues in wishing the Bank Board every success, as it proceeds with the recapitalization program. As a member of the House Banking Committee, and of its Subcommittee on General Oversight and Investigations, which CARROLL chairs, I look forward to working with Chairman Wall and with my colleagues to conduct the thorough oversight needed to make certain that the program achieves its goals.

In essence, we look for the Bank Board to use the funds it raises to close the sick institutions that need to be closed, while allowing the healthy segment to grow and prosper. Ultimately, a combination of shrinkage of the most troubled institutions and expansion of the healthiest can make the recapitalization a success.

The full text of the Enquirer article, entitled "Cincinnatian To Lead Recapitalization," which appeared on August 28, 1987, follows:

[The Cincinnati Enquirer, Aug. 29, 1987]

CINCINNATIAN TO LEAD RECAPITALIZATION

(By Jan Paschal)

Charles Lee Thiemann, the president of the Federal Home Loan Bank of Cincinnati, was appointed Friday as the first chairman and chief executive officer of the Financing Corp., the agency created by Congress to recapitalize the technically insolvent Federal Savings and Loan Insurance Corps.

Thiemann 49, was tapped for the one-year appointment, effective Sept. 1, by M. Danny Wall, chairman of the Federal Home Loan Bank Board.

The Financing Corp., established by the Competitive Equality Banking Act of 1987, will be responsible for raising up to $10.8 billion to replenish FSLIC, the insurance agency for about 3,200 thrifts nationwide. FSLIC had a certified deficit of about $6 billion, at Dec. 31, 1966, according to General Accounting Office audit.

"The unique thing about this is involved," Thiemann said, in a telephone interview from Washington, D.C., where he was attending the first organizational meeting of the Financing Crop.

Instead, the Financing Crop. * * * selling 30-year bonds, which will be backed in maturity and principal by the purchase of zero-coupon bonds.

The money will enable FSLIC to close hundreds of insolvent thrifts and pay off depositors, or arrange mergers for the rest, Thiemann said.

There are about 300 "problem thrifts" among the nation's 3,200 federally insured savings and loan associations.

Besides Thiemann, two other men also were named to serve as directors of the newly minted Financing Crop.: Richard F. Syron, president of the Federal Home Loan Bank of Boston, and Austin C. Dowling, director of the Federal Home Loan Bank System's Office of Finance.

Thiemann began working on FSLIC's funding problems in February 1986, when he chaired the first meeting of a Federal Home Loan Bank Board task force in Cincinnati, at the request of then-Chairman Edwin Gray.

"A solution had to be found" Thiemann said. "Everyone recognized that the resources FSLIC had available to cope with the problem were not sufficient."

Thiemann has served as president of the Federal Home Loan Bank of Cincinnati since 1976. Before joining the bank, he was an economist with the Federal Reserve Bank of St. Louis.

Each of the nation's 12 Federal Home Loan Banks, including Cincinnati's, will buy capital stock in the Financing Crop. to defease the principal of the 30-year bonds to be sold, Thiemann said.

Of the initial $1 billion in capital stock, the Federal Home Loan Bank of Cincinnati will buy $82.6 million, under a formula act by the comprehensive federal banking law signed earlier this month by President Reagan.

However, another $2 billion in Financing Corp. capital stock is expected to be needed, as more bonds are sold.

About $400 million to $600 million in bonds will be issued in late September or early October in the capital markets in the U.S. and overseas, Thiemann said.

No more than $3.75 billion in bonds can be sold in any year, and no more than six separate bond issues may be sold in any year under the new federal banking law.

"We're expecting it to be closer to $600 million," he said. "Our first (bond) issue, of course, is the big issue, in terms of market acceptance. We expect it to be accepted very well."

Japan and western Europe will be the foreign markets for the bonds, he said.

"The first effort will be in Japan," he said, "in view of the fact that they find long-term bonds to be a good investment vehicle."

The interest rate, which will not be set until right before the bond issue goes to market, is projected to be about 70 points above the long-term Treasury notes, or about 9.75%, Thiemann said.

Mr. DREIER of California. Mr. Speaker, among the delicate decisions Danny Wall will have to make as Chairman of the Federal Home Loan Bank Board involve the judicious use of the $10.8 billion provided under the recently enacted Competitive Equality Banking Act.

Given that approximately 80 percent of the industry is healthy while the other 20 percent is extremely sick, it is necessary to close some institutions in order to stem mounting losses. On the other hand, the funds and staff needed to perform this task are limited, and the Chairman must be careful not to dump thrift assets wholesale on a market that is already soft.

Recently, Chairman Wall discussed his views on these issues in an interview with Andrew Mollison, of the Cox Newspapers. In the interview, Chairman Wall stated that his top concerns are to protect depositors and to rebuild the agency. He also discussed several of the accomplishments of his first months in office.

I congratulate Danny on his auspicious start and wish him continued success. The full text of the article, entitled "Wall Lays Foundation to Rebuild Thrift Industry," follows:

WALL LAYS FOUNDATION TO REBUILD THRIFT INDUSTRY

(By Andrew Mollison)

WASHINGTON.—M. Danny Wall, the new chairman of the Federal Home Loan Bank Board, plans to use his new authority speedily. The nation's top thrift regulator expects President Reagan to sign legislation Monday that will authorize Wall to borrow $10.8 billion.

That's reassuring news to millions of Americans who have federally insured deposits in nearly 3,200 savings and loans and depend on thrift institutions for loans, investments or dividends.

Wall, who has promised to "hit the ground running," disclosed late this week that he has already started to set up the corporation that would begin borrowing that money by marketing the first $400 to $600 million in bonds before the end of next month.

"We will be offering 30-year non-caliable bonds and we will expect and hope to get a yield that's a little better than that of the Federal National Mortgage Association and the World Bank," Wall said.

By the first week of October, money from the September bond sale will begin flowing into the federal insurance fund, he said.

Wall, 48, is a bearded, bespectacled Republican whose previous executive experience was confined to heading urban renewal agencies in Fargo, N.D., and Salt Lake City, Utah. But for several years he directed the Republican staff of the Senate Banking Committee. Wall succeeded Edwin Gray.

He drew a full house of reporters, lobbyists, executives and fellow regulators to the National Press Club Thursday for his first public appearance since taking office July 1.

Ending a five-week silence in which he had "gone underground, because we've got a lot of work to do," he rattled through a list of steps already taken in his campaign to restore confidence in the troubled thrift industry.

The biggest was convincing Treasury Secretary James Baker to help forge a banking bill—the first in five years—that Reagan would be willing to sign. The bill's $8.2 billion in bonding authority was a compromise between $5 billion in passed by the House, $7.5 billion in the Senate and $15 billion proposed by Reagan.

"The legislation reaffirms that the thrift industry is going to solve its own problems by taking on its own responsibility for recapitalizing the insurance fund," Wall said.

"It isn't a government bailout," he insisted. "All of it is derived from the industry's resources—not from the taxpayer."

He acknowledged that one of his priorities in his new position was to solve the problems of the thrift industry.

"There is, in fact, almost precisely an 80-20 rule," he said, "with 80 percent of the industry doing very well, and 20 percent of the industry ranging from totally insolvent to perhaps not able to survive."

He said the troubled 20 percent contains two types of thrift operators—"bad actors" and "good managers."

"There are situations in Texas, Oklahoma and Louisiana where there are bad actors, no questions about it, and they need to be cracked down on," he said. "On the other hand, there are those good managers who are beset by economic problems that would take the best of managers' efforts and skills in order to deal with them."

Promising "sensitive" distinctions between those two situations, he said, "We aren't going to close thrifts en masse and perform wholesale liquidations."

The insurance fund, known as the Federal Savings and Loan Insurance Corporation, currently contains only $1 billion to insure $800 billion in deposits. That has forced it to be cautious about closing down shaky thrifts.

In the next year, he said, the FSLIC fund will have as much as $6 billion to deal with that problem.

That estimate included $3.75 billion from bond sales and $2.355 billion from other sources, including $780 million from regular premiums and $1.135 billion in special assessments paid by insured thrifts and $180 million from interest on earnings and investments.

He said he did not know how much of that money would be sucked up by thrifts in the troubled oil patch.

He said the bank board will want to avoid getting into a position where the "fire sale" disposal of assets seized from thrifts would wreck local markets, harming both the bank board's financial needs and the value of investments backed by nearby thrifts that are profitable or salvageable.

While examining Texas thrifts, he said, it was discovered that some had assets outside that state, which could be sold without causing such problems. But there were other troubled thrifts from outside the state which had assets in Texas.

"We're going to be as sensitive and respectful as we can," he said.

Wall said his top concern is "the safety of deposits . . . not to protect the thrift industry, not to protect management, but to protect the depositors is our principal responsibility."

He said the second item on his agenda is to "rebuild the agency," which has been plagued by uncertain funding, understaffing, feuding, conflicting political pressures, suits by unhappy thrift regulators who said the board was too lenient or too tough, an enormous workload and the stresses from transferring many routine tasks from Washington to its 12 district banks.

He said that in the past month he also:

Used other funding sources to pay for shutting down insolvent thrifts, rather than wait for the new bonding authority, which will supply only half of the $6 billion a year he expects to use in dealing with insolvent thrifts.

Received permission from Reagan's Office of Management and Budget to increase the 850-person bank board staff by 50 percent.

Leased new office space to accommodate the Washington portion of the bigger staff.

Restructured the staff and hired new national and district managers for top jobs long vacant or held temporarily by lower-ranking employees.

Named Austin Dowling of the bank board's Office of Finance, and the presidents of two of the board's 12 district banks, Richard Syron of Boston and Charles Thiemann of Cincinnati, to run the corporation which will issue the bonds that will raise the money for the bank board's insurance fund.

GENERAL LEAVE

Mr. HUBBARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks regarding the subject of my special order this evening.

The SPEAKER pro tempore (Mr. FRANK). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

ECONOMIC GROWTH DURING THE REAGAN ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, in 1980, when President Reagan was running for office, he talked about the need to have economic growth in this country as a way of assuring progress for our future. There were many who criticized his ideas of reducing taxes and bring about a period of economic growth. There were many who said that it would not work, and there were many who blamed him for the 1982 recession that basically was the result of a previous 4 years of massive inflation leading to massive unemployment ultimately.

Over the last 5 years, over the last 59 months, we have seen the Reagan program come to fruition, we have seen an economic miracle wrought in this country, the second largest expansion of economic activity in history since the end of World War II. That, I think, is something that needs to be reflected on because many times in this House we have heard Members of Congress come to the floor criticizing what is going on in the economy. We have had an awful lot of doom and gloom preached on this House floor and an awful lot of people telling how the whole economy is being ripped asunder. The facts are absolutely different.

The facts are that we have an economic expansion underway that proves that growth economics works, that it works on behalf of people, that it works on behalf of the building industry and manufacturing, that it works on behalf of construction, it works on behalf of all of those things that we hold as values in this country and that you can put people to work. In fact, over the last 59-month period we have put 13 million more Americans to work.

This is a program that I think needs to be reflected upon, and a number of my colleagues this evening intend to spend some time taking a look at what has happened over the last 59 months in terms of our economic expansion.

To lead off this evening, I yield to the gentleman from Illinois [Mr. MICHEL], our distinguished minority leader of the House.

Mr. MICHEL. Mr. Speaker, first may I thank the gentleman from Pennsylvania [Mr. WALKER] for taking the time so we might participate in this special order.

Mr. Speaker, I am glad to join with so many of our colleagues in applauding one of the most spectacular economic achievements in American history.

I refer to the fact that October 1 marks the beginning of the 59th month of America's economic expansion under the leadership of President Reagan. This is the second longest period of economic growth since the end of World War II and the longest period of consecutive monthly growth as well.

The only thing that is more amazing than this record is the silence with which it has been greeted by the media.

I leave it to students of the mysterious editorial judgments of news organizations to explain why there has not been more written and said about this 59-month period of expansion.

Suffice it to say that the sound of silence in the media has been matched by the sound of silence by our Democratic Party friends, whose economic myths have been punctured by the solid facts of 59 months of economic expansion under the leadership of a Republican President.

Let me quickly add that I do not see this expansion as some kind of utopia. There are still areas of our economy and entire regions that are hurting economically.

I can tell you that this gentleman wants to see more growth, more progress, more expansion in his own district and his own State. I know about the budget deficit and the trade deficit. So I am not saying that this period of expansion leaves us with no problems. Far far from it—much remains to be done.

But at the very least the fact of this record should be acknowledged. And this is what we have gathered here today to do.

I'm not going to go into the details of this expansion. Others will speak about GNP growth, inflation, interest, savings and investment, and other areas.

I just want to set the scene and let our colleagues talk about various aspects of the expansion.

And the first thing that has to be said is that no matter what problems we may have now—and, as I said, I'm personally aware of many of them in my district—we have to judge what we have, not only by some idealistic goal, but by where we were when President Reagan took office.

To put it in the mildest possible terms, the American economy after 4 years of the Carter administration—or maladministration—looked like the victim of a brutal mugging. In almost every area the vital signs were down, the prognosis was pessimistic, and the remedies being offered bordered on quackery.

I do not wish to be harshly critical of President Carter. By his own lights he did what he thought was best for this country. In my view he failed. Others might disagree. But whether he failed or not, one fact is unchallenged—he left President Reagan an economy that was broken and bleeding, in need of emergency aid.

When President Reagan took charge he had different ideas about what makes an economy grow. And it is precisely the importance of ideas we are commemorating today.

In my view, all the talk about what the Fed does and how policy is implemented are secondary. What matters is the vision of the President. If you have visions of pessimism and despair and an ever-shrinking economic pie, then you're going to get a pessimistic and shriking economy.

And that is the one point I wish to make as this special order begins: Economic reality depends on the vision of those who will shape it.

If that vision is one rooted in the idea that the state of our economy is something to be managed by some government elite, then you are headed for trouble.

But if you have faith in our free enterprise system, in the decisions, freely made, of millions of Americans, in the belief that the most important economic resource we have is inside our brains and hearts—if you have that kind of vision, you are going to have the chance for growth and change and progress.

And that is what President Reagan has brought to this country.

I know it is fashionable in some quarters to laugh at his optimism, to sneer at his up-beat outlook, and to denigrate his congenial optimism. But those who sneer know little about what makes America work.

Our economy isn't basically strong because President Reagan is optimistic: President Reagan is optimistic because he knows our economy is basically strong. His exhilirating sense of optimism is not rooted in some hopeful wish but in hard facts.

Happy talk about growth doesn't make an economy resilient and strong and expanding. Only the people can do that.

But if the people are told, as they have been told by certain segments of the Democratic Party leadership, that this country is doomed to despair and ever-dwindling opportunity, the people are going to react just the way you'd think they'd react.

This special order is not some kind of wild celebration about our having found the magic key to economic growth.

There is no magic key. But a high degree of freedom of choice in a free society certainly plays a vital role. There are no guarantees in freedom—only opportunities.

That is what President Reagan has done—he has reminded us that we should not fall victim to the pessimistic nonsense that made the Carter years so grim.

But neither should we fall victim to the opposite myth of fatuous happy talk nonsense that says that all we have to do is chant some fashionable economic formula and all will be well.

We have to work our way out of trouble. That's the way it is and always will be.

President Reagan, in the face of the most savage onslaught ever made against an American President trying to rebuild an economy, had faith in the American people and the American system. And his faith paid off.

The next election is going to go to the party that keeps both of these faiths.

I just want to salute President Reagan for what he has done. I believe it to be one of the major economic comebacks ever.

All isn't perfect—much remains to be done—but at least we aren't back in the swampland of gloom and doom and misery that marked the years just prior to President Reagan's administration. That is something to be very thankful for.

Mr. WALKER. I thank the gentleman for his comments. He made an excellent point about the kind of economy President Reagan's administration inherited. I think the gentleman said in the course of his remarks that many people may differ on whether or not the Carter administration did in fact rack up a pretty poor economic record. But I would remind the gentleman, and I am sure he remembers the statistics, that President Carter was the one who came up with his own index for measuring the economy, and he called it the Misery Index. He said if you took the combined rates of unemployment and inflation and added them together, you came up with a Misery Index, and he pounded President Ford with that statistic and, in fact, by the end of his administration the Misery Index was higher than it had been when he took office, and it was at 19.4 in 1980.

Today that Misery Index is down to 8. In 1986 it went down to 8. What that means is that we have had a 58-percent reduction in the very index that President Carter said we could use to measure the economy. So I think President Carter's analysis alone is enough to point out the kind of economic growth that we have seen over the last few years, and I thank the gentleman for his statement.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to my colleague from Pennsylvania.

Mr. GOODLING. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding, and also thank him for taking this special order because I, too, want to join in this celebration to celebrate the 59th straight month of economic growth in the United States. This represents the longest peacetime economic expansion since the end of World War II. It has lasted 14 months longer than the average economic expansion.

This has been characterized by slow steady growth of the gross national product, the measure of our country's wealth. Slow steady growth is healthy for our economy, allowing business to expand gradually and steadily.

The ability to count on continued expansion has aided corporations and individuals in long-term economic planning. The first quarter of 1987 saw a jump of $93 billion in GNP over the fourth quarter of 1986, and this was the biggest GNP gain since the second quarter of 1984.

□ 1745

It confirms predictions of continued economic expansion. The stock market has supported this conclusion. The Dow Jones Industrial Average rose 450 points in the first 6 months of 1987, and this came right after we had tremendous growth in 1986. Furthermore, the Department of Commerce has announced that the index of leading economic indicators rose 0.7 percent in May. This marks the fourth consecutive month that we have had an increase in the index, which is composed of 12 statistics designed to give an accurate prediction of economic activity. Families are better off. Real median family income rose by 4.2 percent in 1986. This is the fourth straight annual increase. Median family income has climbed 10.7 percent since 1982. Personal income rose at an annualized rate of $7.9 billion in May. This followed an April increase of $13 billion.

The buying power of those dollars is stronger than ever before. The inflation has risen at an annual rate of 4 percent or less since 1983. 1986 saw inflation of 1 percent.

In and of itself, this is a brilliant accomplishment for Americans who recall double-digit inflation in the previous decade. But this is not all. The August producer price index showed no increase. Producer prices are the harbinger of inflation trends. Americans thus have the ability to generate continued growth. It is more important than ever to emphasize products made in the USA. This growth will not necessarily rely on credit to finance consumer spending. Americans paid off $560 million more than they borrowed in May 1987. This represents the first reduction in consumer debt in 5 years.

Americans can continue to expect to be better off. In May 1987, consumer spending rose 0.1 percent while personal income grew twice as fast.

Additionally, unemployment has declined steadily in the past year, reaching just 6 percent in August. This is the lowest level of unemployment since late 1979.

This expansion created 3 million new jobs in the 12 months ending in August 1987. This means that over 14 million new jobs have been created in this expansion. More Americans are working than ever before.

The unemployment statistics continue to fall. Many employers report difficulty in filling jobs. Most major business publications are predicting labor shortages in coming years at all skills and pay levels.

Shortages will be most severe in these highly skilled positions. However, we should target education as a major national priority to fuel continued growth. We must have quality education programs to maintain our competitive edge.

This is all the more important, because students must be taught very basic skills before we can build on their knowledge. It is a deplorable fact that over 23 million adults in this country are functionally illiterate. In some urban areas where jobs are concentrated, the functional illiteracy rate is over 40 percent.

Targeting education will pay off. It will increase productivity and further reductions in unemployment which will result from better skilled, well educated work force which will contribute directly to the reduction of our Federal budget deficit.

Addressing deficit reduction in a serious, meaningful manner until the deficit is eliminated is essential to maintaining a healthy economic climate.

Federal borrowing now consumes vast amounts of available capital and interest rates are rising. As growth continues and budget reductions are made, we will see lower interest rates.

The lower rates will reduce the cost of the Federal debt, but more importantly, deficit reduction will free capital for loans to productive uses in the private sector, strengthening our economic growth even further.

Our record growth is remarkable and a precious phenomenon. All the facts indicate we can sustain our expansion. But to do so Congress must do its part in deficit reduction. They must also look ahead to our future. It must set priorities which include educating our youth for competitiveness and encouraging consumption of American goods at home and abroad.

Congress must be united to achieve these goals. Division is counterproductive.

These priorities must be high on the list of every community and individual. They are not just Federal responsibilities. Business has to help. It must invest in research and development of the new products and services which will keep America ahead of the pack.

In closing, cooperation, dedication, innovation and the American people's overwhelming drive to succeed are key ingredients to continuing our growth today and improving our children's future. Again, I am happy to help celebrate this 59th straight month of economic growth in the United States and again thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman for his statement. I do not know whether he has had the same experience that I have had. His district is right next door to mine. But sometimes practical kinds of things strike out to me as being the real measure of economic expansion.

I was in a couple of fast food restaurants in my district recently where when they hand you the tray, the paper that they are putting on the tray in my district right now is an employment form. The employment form in one of the places literally asks "What hours do you want to work and what would you regard as an adequate wage?" It is a mark of just how much jobs are needed. You walk through the shopping malls in my district right now and the stores are not advertising their products on the air, they are on the air advertising "If you want a job, come in and fill out an application blank in our store. We would love to have you."

Mr. GOODLING. Your district is no different than mine, being right next door.

Mr. WALKER. So we are seeing the economic expansion in terms of the reality in those districts.

Mr. GOODLING. In all the 7-11's, and so forth, in my district they are paying higher than minimum wage and still looking for more people to employ.

Mr. WALKER. The gentleman is absolutely correct.

Mr. Speaker, at this time I yield to the gentleman from Ohio [Mr. WYLIE], who is the ranking Republican on the Committee on Banking, Finance and Urban Affairs as well as on the Joint Economic Committee for any words he may have for us.

Mr. WYLIE. I thank the gentleman from Pennsylvania, my colleague, for yielding to me this time and for taking this time.

Mr. Speaker, I think the gentleman from Pennsylvania does us a great service by helping remind us that we are indeed on the eve of surpassing the longest peacetime economic expansion in history and that we do have much to celebrate.

The gentleman has given two or three good examples of why we can celebrate on this 59th month of consecutive growth in our economy. This accomplishment makes us the envy of every nation around the globe and once again demonstrates the superiority of our American work force, the ingenuity and tremendous enterprise economic systems.

We as Americans have very much to be proud of and thankful for. This expansion is even more remarkable given the condition of the economy 58 months ago as it has been alluded to by our minority leader, Mr. MICHEL, in the well a little while ago: Years of high inflation, high interest rates, low investment, high unemployment, declining productivity, stagnant income growth and negative economic growth had marred America's prospects for prosperity. But then amazingly, the U.S. economy rebounded with vitality and strength. What could cause such a turnaround? The American people responded positively and enthusiastically to a bold new Presidential leadership in the White House.

President Reagan offered renewed hope and optimism. His leadership was based on a return to sound economic principles where individual resourcefulness is rewarded and opportunity is promoted.

I was fortunate enough to be at the World Bank and International Monetary Fund meeting yesterday where President Reagan spoke and his remarks were absolutely superb. He mentioned that our expanding economy has not only improved the well-being of our own citizens but has served as an engine for progress throughout the world. The President said credit for these accomplishments belongs to the American people themselves, because as is often the case, the best thing government can do is get out of the way and that is just what we have tried to do.

But it is President Reagan's positive leadership that got the economy moving again. With confidence restored, America moved forward vigorously, boosting employment production and income figures to the highest level ever recorded.

Job creation has been astounding. There have been some statistics mentioned by the gentleman from Pennsylvania [Mr. GOODLING] and I am not going to repeat those here. One that deserves repeating, it seems to me and is significant is the fact that civilian employment has advanced by 14 million to a record 113.1 million persons. Also, disposable income, personal income has risen 16.6 percent during this current expansion period.

To the consternation of its detractors, this record was not attained by accident or fluke. As the bicentennial commemoration of the Constitution influenced the current expansion, as implausible as it may seem, I think these two events are connected in history.

The economic principles championed by President Reagan have their origins in constitutional economics.

In this important respect, the recordbreaking expansion and renewed interest in the Constitution are happily linked.

Mr. Speaker, President Reagan's reaffirmation of our free enterprise and entrepreneurship has made a valuable and lasting contribution to the current expansion and to long-term stability, growth in economic expansion for the future.

I thank the gentleman from Pennsylvania for yielding this time and I appreciate again the contribution he is making by reminding all the people of the United States where we were 58 months ago and where we are today.

Mr. WALKER. I thank the gentleman, because he has a unique opportunity as a member of the joint committee to look at some of these overall statistics and understand just exactly what has happened.

He makes the point that what we have had happen in this country is really the envy of the world and for some very good reasons. As I am sure he is aware, unemployment in this country, as he pointed out, has declined. It has really declined by about 28 percent over the previous four years. In other words, during the period of time that we are talking about.

While in Japan it has risen, unemployment has risen by 17 percent, and in the European Community by 20 percent. In fact, we have created more new jobs in this economy in the last 4 years than Europe and Japan combined have created in the last decade. We have created jobs 3 times as fast between 1982 and 1986 as Japan, 3 times as fast as Japan and 20 times as fast as West Germany.

Mr. WYLIE. That is all based on good management at the top on down from the President himself and I thank the gentleman again.

Mr. WALKER. I thank the gentleman, because it is important to recognize just exactly what is going on.

Mr. Speaker, I yield to another member of the Joint Economic Committee who also is able to look at some of these things from the inside and who is also the ranking Republican on the Committee on the Judiciary of the House, Mr. FISH from New York.

Mr. FISH. I thank the gentleman very much.

Mr. Speaker, tomorrow, October 1, the U.S. Economic Expansion will enter its 59th month—the longest consecutive peacetime growth spurt in the post-World War II era. This is an impressive accomplishment. Given the legacy of the late 1970's and early 1980's—replete with high inflation, surging unemployment, declining productivity and stagnant income growth—these past 5 years have witnessed major improvements in American economic performance and personal well being.

Adjusted for inflation, median family income jumped 4 percent in 1986; productivity in U.S. manufacturing is outpacing our major competitors, and since the end of 1982, nearly 14 million jobs have been created. And all of this has been achieved without stoking inflation. These achievements are, if anything, more impressive in light of major reductions in work-related deaths and disabling injuries.

What do these encouraging trends portend for the future? America's capacity to innovate and compete, for one thing.

These trends are disposing of a number of fashionable myths about the American economy. Consider the "dead-end" job myth, which postulates that U.S. employment growth since late 1982 has largely been confined to low-paying, dead-end jobs. Not so. Indeed, a new study on employment trends in the United States by the American Enterprise Institute indicates the exact opposite—a jump in high-paying jobs and a corresponding decline in low-paying ones.

A similar fate has befallen the "deindustrialization" myth. It postulates that with the rise of service industries and growing import competition factory jobs will disappear. As a Republican member of the Joint Economic Committee, my colleagues and I pointed out in our part of the 1987 JEC annual report that this, too, is a mistaken interpretation of what has been taken place in the American economy. We point out that in 1950, the manufacturing section produced 24.9 percent of total GNP—excluding Government services—while the service sector produced 51.8 percent. Excluding cyclical swings, the manufacturing sector's share of U.S. GNP has remained fairly constant through the mid-1980's.

Finally, these trends should also provide useful guideposts for our trading partners, particularly those in Western Europe, whose markets continue to be dominated by outmoded regulatory and employment practices. In Western Europe's strongest economy, the Federal Republic of Germany, economic expansion has ground to a halt, while unemployment—approaching 9 percent of the work force—refuses to decline. To be sure, each country's business and political leaders must honor their own traditions and policy priorities. For West Germany, the dominant priority continues to be stability on the price and social-welfare front. But a number of thoughtful German economists are reaching the conclusion that real stability is illusory in the absence of United States-type tax and regulatory reforms which if properly implemented could unleash new sources of growth in West Germany's heavily administered economy.

While we can rejoice in the rejuvenation of the U.S. economy, we must frankly and realistically face up to the challenges as well. On the domestic and international levels, the United States confronts formidable challenges. Our labor market must train a new generation of workers capable of displaying the necessary initiative and flexibility that a rapid changing workplace requires. So, too, must we retain workers who have been displaced by rapid technological changes.

Meanwhile, previous beneficiaries of American capital and know-how are mounting serious challenges to the U.S. market dominance at home and abroad. We already have taken action to address our trade deficit, and we must not rest until we solve it.

In doing so, we have three choices. First, we could go into a recession, which would deprive Americans of the disposable income needed to purchase imported goods. This, of course, is not a serious option, both because of the suffering entailed and because it is not necessary.

Second, we could establish protectionist barriers. But if we build a wall to keep foreign imports out, that same wall will keep our exports from reaching foreign markets. Retaliation is bound to result. Five million American jobs depend directly on those exports. We are part of a global economy, and we must recognize that fact.

Third, we can improve our ability to compete in the global economy. Our central response must be to make our manufactured goods more attractive, so that here at home Americans buy more domestically produced goods instead of imports and so that foreigners buy our exports. Continued downward progress on the budget deficit is essential. Since manufactured goods account for two-thirds of our exports, an increase in competitiveness is central to boosting our exports overall. And since in the domestic market 70 percent of what we manufacture for domestic consumption faces foreign competition, here again an improved competitiveness will cause consumers to buy American instead of buying imports. In short, more competitive manufactured goods will boster our exports and reduce our imports, resulting in a shrinking trade deficit.

We can take pride as we review the economic achievements of the past 59 months. Propelled by this momentum, and guided by wise policies, we can face the future with both realism and optimism.

□ 1800

Mr. WALKER. Mr. Speaker, I appreciate the gentleman from New York [Mr. Fish] appearing and commenting on this matter. I think it is important that the gentleman has done that to make the analysis that we are a part of a world economy and what we do in terms of our own expansion relates directly to what is happening in the world. I think we can look at what is happening here and understand that from the fourth quarter of 1982 until the fourth quarter of 1986 America's industrial production led the world with a 25.3-percent increase. This is to be compared with the second-place country, Japan, whose increase was 20 percent in the same time period.

The fact is that what has happened here is we are giving ourselves the ability to be competitive. That competitiveness, that productivity will in fact help us out of the trade deficit that we are now faced with.

I believe the gentleman has helped a great deal, and I thank him very much for his participation.

Mr. Speaker, I yield to the gentleman from Utah [Mr. Hansen].

Mr. HANSEN. Mr. Speaker, I appreciate the gentleman from Pennsylvania [Mr. Walker] yielding me this time.

Mr. Speaker, years ago, I took my family to the north rim of the Grand Canyon. As we stood out on a beautiful point overlooking what is undoubtedly one of the most awe-inspiring views in the whole world, my young son kept pulling on my arm to get me to look at an ugly bug he had spotted at his feet. I was a little mystified and said, "Forget about that ugly bug, son. It's small and insignificant. Look at the beauty surrounding you." However, my son's attention remained focused on that bug, and I could not direct his attention to the beauty around him.

I believe that many of us often display characteristics similar to my son. There is a real tendency in this body and in the press to focus on the ugly bugs, while ignoring a beautiful view. During my 27 years in political office, I've learned that politics is a rough business, and politicians are quick to criticize and focus on supposed mistakes or failures. While I would readily agree that differences of opinion are healthy, the constant negativism of much of our political commentary tends to distort reality.

With so much of what we hear and read focusing on the ugly bugs, I am happy to join with several of my colleagues in discussing some of the successes of the Republican economy.

The current economic expansion is in its 59th month, and is the longest peacetime expansion since World War II.

Since the upswing began at the end of 1982 over 13 million new jobs have been created. The entire continent of Europe has had virtually no job creation since 1974.

The economic outlook remains positive, with no signs of recession. Real GNP growth in 1987 will probably be in the neighborhood of 2.5–3.0 percent.

The civilian unemployment rate continues at the lowest rate since March of 1980.

According to the Bureau of Labor Statistics, civilian employment continues to grow. More Americans are now working than ever before.

Despite the mythology, most of the job growth in the current expansion has been in well-paid occupations. Since 1981 high and middle pay jobs have accounted for 47 percent of the new jobs: only 6 percent of the jobs were in the low pay category.

The American economy is not deindustrializing. Manufacturing accounts for about 22 percent GNP, about the same as 20 years ago. The real value of manufacturing output is at record level.

Manufacturing productivity has increased at an average annual rate of 4 percent in recent years. While manufacturing employment has declined by about 1 million workers over the last 6 years, these losses have been much more than made up by job creation in other sectors.

The economic policies of the Reagan administration have created greater economic freedom and opportunity for men and women, private firms and State and local governments to pursue their own interests and make their own decisions. The policies have produced a sustained economic expansion with low inflation, lower tax rates, the unshackling of industries from regulation, and a surge in investment spending.

It is easy to stand on the sidelines and complain, but the Reagan administration has produced. There is still much to be done, but many of us have missed the beautiful view while looking at the ugly bugs.

Mr. Speaker, it was very interesting the other day on "Meet the Press" to see Margaret Thatcher somewhat verbally spank America when she talked about all the beauties and good things that we have, and she said, "However, when I look at your press, when I look at your people, you always want to beat up on yourselves. You always want to spank yourselves."

We are the envy of the world, and yet one of the great comers, Margaret Thatcher, is now turning her country from a socialistic country back to free enterprise, and she will see the same success. We do not want to go the other way.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his remarks and his analogy with the ugly bug which strikes me as being very, very true of what happens in this place. I have heard a number of Members come to the floor depreciating the idea that we have created 13 million new jobs. He has probably heard it also. Our colleagues come to the floor saying, Oh, yes, there have been 13 or 14 million jobs created but they are all lousy jobs, jobs at the low end of the pay scale, all part-time employment.

The statistics that the gentleman quoted I think we ought to review for a moment because they are absolutely correct and I think vital to an understanding of this matter.

Mr. Speaker, 47 percent of all of the new jobs created in 1981 to 1985, in that time period, and that is what we have the statistics for, those jobs were in the high-wage category. They were $28,000 a year and more. Those are not bad jobs. Those are good jobs. Those are exactly the kind of jobs we want to be creating.

Comparing that with the period 1977 to 1981 under the old economic philosophy, during that period of time 41, almost 42 percent of the jobs created during that period were in the low-wage category. That is exactly the kind of job that locks people into poverty.

So, Mr. Speaker, we have had a massive reversal, and as the gentleman from Utah [Mr. HANSEN] pointed out, only 6 percent of the jobs created over the 1981 to 1985 time period were in that low-wage category. These are good jobs.

The gentleman from Utah also pointed out statistics that I think are very important in the manufacturing sector. In manufacturing we have not lost manufacturing jobs in this country, in fact there has been a net increase, just a slight increase but nevertheless an increase in the percentage of the gross national product that manufacturing produces. That is important because that is a growing gross national product and the result has been over 400,000 jobs which have been created and added in the manufacturing sector of the economy alone.

Those are the kinds of things we do not hear anybody talking about on this House floor, yet we hear statistics that make it sound like manufacturing and industrial activity in this country is being abolished.

Nothing could be further from the truth if one looks at reality.

Mr. Speaker, I am happy to yield to the gentleman from Oregon [Mr. DENNY SMITH].

Mr. DENNY SMITH. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time and it is a pleasure for me to join many of my colleagues in highlighting the 59 consecutive months of our recovery from the economic morass that we had in the late 1970's through 1980. Mr. Speaker, I gladly join in this effort. We have seen unemployment figures go down. We were just talking about them. The fact is in my area we have been very hard hit by double-digit unemployment through part of this period because of the high interest rates that resulted from inflationary problems that we had in the late 1970's, and we are now starting to have difficulty finding employees for entry-level jobs. I think one of the things that has happened is that we are providing with this 13 million jobs a lot of opportunity for people out there to get off the public program and to get on with their own responsibility. That is one of the big plusses for the Reagan administration and the program of tax rate cuts and trying to bring our budget under control.

The inflation and the interest rates are both down dramatically. In fact, my colleagues will remember back to the 1980 campaign when President Carter and President Reagan were both campaigning, we had a thing called the misery index which was a statistic that was begun as a quick way to make headlines by the Democrats. That has dropped from 19 percent in 1980 to about 8 percent now. So I think that the misery index we have seen, we can still have problems with 8 percent, but the problems we have have been solved so much better by this economy where we are able to go forward and use the ability of individuals in this society.

Mr. Speaker, I do want to try and look at some other ominous signs in the future and some things I think we need to talk about. We have achieved a tremendous economic recovery. We have done so at a tremendous cost to the taxpayers of today as well as those in the future. When I came to the Congress in 1981, our budget I believe was $600 billion of taxes, $660 billion of spending, so we had a deficit of about $60 billion.

This year's budget was $850 billion estimated taxes, and about $1,035 billion of spending.

We have made economic recovery with extremely high deficit spending. Unfortunately, we have doubled the national debt over the last 6 years and we have just voted last week to extend the debt by $689 billion over the next 20 months.

Mr. Speaker, the Democrat majority of this House has committed itself to raising taxes on individuals and businesses by at least $65 billion over the next 3 years. This recovery, the second longest in our history, is something that we can be proud of but we cannot afford to rest on our laurels and pat ourselves on the back.

As with all recoveries, this one will end eventually and we are not prepared for it. The economic gains that have been made as a direct result of the tax rate cuts in 1981 are now threatened by those who continue to feel that increased spending and increased taxation are the only ways to run this Government.

We passed a budget resolution earlier this year that was based on faulty economics, yet the Democrat majority of Congress declared it was in the economic best interest of this country.

Last week we passed a Gramm-Rudman fix with the promise that we will zero out our Federal deficit by 1993, 2 years later than originally planned.

To just explain the institutional hypocrisy with which this body operates, the next day we passed the first of what will be several continuing resolutions to fund this Government. This will probably culminate in a giant one-time spending bill similar to the one we passed last year.

We have waived the provisions of the 1974 budget law and its amended versions a total of 106 times during the 99th Congress, that is 106 times. We have done the same at least 18 times so far in the 100th Congress.

Mr. Speaker, we have achieved a recovery of sorts, but it is a recovery built on shaky ground.

While signs of a downturn are not readily apparent, we all know that they are out there.

Oregon was hurt badly by the recession of a few years ago, and we are still feeling the effects of an economy that soared very quickly and has been slow to recover.

We must use this time of recovery to our advantage. We must use it to make some of the hard choices that are required to get our budget under control.

Mr. Speaker, I might say the hard choices as far as this gentleman are concerned are not to raise more taxes. They are to freeze spending or to reduce programs so we can live within the budget that we have for our country, not try and expand the spending side of the ledger.

For too long we have taken the easy road of just borrowing or taxing more away from our citizens. I think the tough choices are what programs we do not need, how we can put responsibility back on to the citizens. What is now politically a tough choice will become a necessary decision.

Mr. Speaker, I look forward to the opportunity to vote for a balanced-budget amendment to this Constitution, and I still feel that that is the one way we might bring some kind of sanity back to the spending process.

While I feel we are enjoying an economic recovery, I do not want to overlook the problems that we have or will have if we do not bring our fiscal house into order.

Mr. Speaker, I am pleased to have been here to support the gentleman from Pennsylvania [Mr. WALKER] in his special order, and I look forward to helping in other areas.

Mr. WALKER. Mr. Speaker, I wish to thank the gentleman from Oregon [Mr. DENNY SMITH] because I think he makes a point that needed to be made in the course of this discussion, and that is that the recovery has not been used appropriately by this Congress to address some economic problems that we all know are real.

The fact is that the amount of revenue that is being generated on an annual basis to the Federal Government today is far larger than it was 6 years ago. The tax cuts have not resulted in reduced revenue to the Federal Government as some on this floor have tried to indicate in days past.

We are collecting hundreds of billions of dollars more in revenue today than we were collecting a few years ago. We are collecting that money not because we raised taxes on the American people but because we lowered taxes for the American people and allowed an economic expansion to take place that resulted in the kind of growth that produces money for the Government.

The problem is that having done that, we did not use those new revenues to bring down the deficit. We spent all those new revenues away plus some, and actually over a period of time added to the deficit while the economy was expanding.

That is grossly irresponsible.

□ 1815

That is grossly irresponsible, and what it says to me is that even if you raise taxes and got more revenues out of increasing taxes, and I am not certain that is true, the economic slowdown probably slows down the revenue to the Government. Even if you did it, what Congress has shown during this economic expansion is, they are not willing to use those new revenues to reduce deficits.

They will use them to spend more money which in fact will undercut this economy and take us right back to the 1977-81 time period when the whole economy came apart.

Mr. DENNY SMITH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oregon.

Mr. DENNY SMITH. I thank the gentleman for yielding to me.

The gentleman is exactly right. The gentleman's points last week on the hypocrisy of this House in passing the Gramm-Rudman fix one day and the continuing resolution the next points out exactly, and the number of times we have waived the Budget Act just sickens me, because it was put into this body to try and provide a little bit of structure to keep the Members from getting out of hand in the spending, so I thank the gentleman again for this special order.

Mr. WALKER. I thank the gentleman for the gentleman's contribution. It has been very valuable.

Mr. Speaker, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, many of my pessimistic Democratic colleagues have been saying that we desperately need a tax increase to balance the budget and that what they see in their crystal ball is a recession just around the corner. With all due respect, they have been blowing this hot air for the last 5 years and I for one am glad that we have the opportunity today to shed some light on this subject. Let me remind the American people that these pessimists with their highly illusory predictions and proposals failed to anticipate the current economic recovery, the level of strength it has attained or the drop in unemployment, inflation, interest rates, and gasoline prices. It seems to me that these doom and gloom economists are better suited for another well-known California institution—Disneyland—one that specializes in fantasy and make believe.

Mr. Speaker, the reality is that the U.S. economy is booming and the envy of the world. It is celebrating its fifth consecutive year of economic expansion. Unemployment has fallen to 6 percent, the lowest since the late 1970's. Since the end of 1982 over 14 million new jobs have been created. The entire continent of Europe has had virtually no job creation since 1974. Inflation, which hurts the low and middle class most, has been brought under control. The poverty rate has dropped for 3 straight years and would even be lower if the market value of Government benefits, such as food stamps, Medicare, and housing subsidies are taken into account. The list of good news goes on and on.

Frankly, it seems that many of my liberal Democratic colleagues are envious of this strong economic recovery which was engineered by President Reagan and congressional Republicans. In closing I would like to respectfully ask my Democratic colleagues to drop this constant hollow rhetoric of tax increases to reduce the deficit.

Mr. WALKER. Mr. Speaker, I thank the gentleman for the gentleman's contribution. The gentleman is absolutely correct. What we have found out is that the way to bring about economic expansion is to put more money into the pockets of consumers and entrepreneurs rather than into the pockets of Government, because Government will spend it for unproductive activities, while people in the economy, individuals and businessess, will spend it for productive activities.

When they are spending it for productive activities, you get economic expansion which produces more jobs. The problem with the liberal Democrats is that they have not learned that lesson, that they believe that money that comes to the Government is in fact more valuable than money that is produced independently in the regular economy.

I think what we have going on in this country belies that, because what happens is that that expansion, that economic activity hurts the very people that they claim all their social welfare programs are helping.

For example, it is known that real family income has grown by 10.2 percent for white Americans, 14 percent for black Americans, and 8.5 percent for Hispanics since 1982.

Real family income is going up as a result of expansion. That is what people want. People do not want welfare checks. They want real income coming into them, and taxes are the antithesis of getting to that particular state of affairs, and so I want to thank the gentleman for the gentleman's contribution.

Mr. Speaker, part of the theme of what we have been talking about here this evening is that there is a reality of a period of economic expansion.

Many Members in this dialog have mentioned that this is the longest consecutive period of economic growth, monthly consecutive period of economic growth, in the postwar era.

It is the second-longest period of economic growth over any period of time in that time period.

There was a period of time in the 1960's where it was not consecutive months, but it was a little longer; but basically this is an economic miracle.

What we are concerned about to some extent is that the reality of this period of economic expansion has been blurred by myths, that there have been a lot of myths circulating in our society, largely circulated by liberals who do not want to admit to the success of what has gone on, that just have no real basis in reality.

You have, for example, the myth that somehow the manufacturing sector of our economy is being obliterated. That simply does not square with the facts.

The manufacturing sector of our economy is today larger in terms of its contribution to the GNP than it was just a matter of a few years ago. In fact, in 1974 manufacturing made up 22.7 percent of GNP. Today it is 22.8 percent of GNP.

You say that is not all that much increase. No, it is a fairly slight increase in percentage; but you have a much larger gross national product, so that you have far more manufacturing activity.

We have created jobs in manufacturing in this country, not lost jobs. There is a 400,000-job increase in manufacturing. That is pure myth to suggest that we are losing the industrial capacity of this country. We are not.

The industrial capacity of this country has remained steady, even increased.

Mr. Speaker, I yield to the gentleman from Missouri [Mr. BUECHNER]

Mr. BUECHNER. Mr. Speaker, I thank the gentleman for yielding.

Could the gentleman draw a comparison with how that stacks up with the Japanese or the West German economies?

Mr. WALKER. We talked a little earlier about the fact that we are doing much better than either of those economies, both in terms of producing jobs and in terms of what the economy is doing.

In unemployment in Japan, for instance, they have had unemployment go up by 17 percent, while in this country unemployment has dropped by 28 percent over the last few months, and we have created jobs 3 times as fast as Japan and 20 times faster than West Germany.

Mr. BUECHNER. It is safe to say between that 1982 and 1986 period that we have been talking about here, that while the United States, as the gentleman so accurately stated, between 13 and 14 million new jobs were created, almost no new jobs, nothing that would graph out in West Germany at all.

Mr. WALKER. We have created more new jobs over the last 4 years than all of the European Community and Japan combined have created in the last decade, so the reality is that we have created a job-creation machine.

As a number of the Members have pointed out, it is the envy of the world.

Mr. BUECHNER. Those are not these make jobs that the gentleman from Missouri [Mr. GEPHARDT], who is running for President, refers to.

A lot of them are high tech, and we have gone from heavy steel into semiconductors, technical equipment.

We are turning out people in jobs that no one could have envisioned a decade or 20 years ago.

Mr. WALKER. This myth, the jobs that have been created, those 13 million jobs are in fact hamburger-flipper jobs, is just plain wrong.

About 47 percent of all the jobs created between 1981 and 1985 were high-wage jobs, $28,000 a year and more.

That is a major contribution to the economy, because those are people then who have the consumer ability to roll over their cash into the economy and help it expand further.

These are real great jobs, to put it bluntly.

Mr. BUECHNER. To nail it down, the Bureau of Labor Statistics, and even the most negative observer, would admit that only 12 percent of those jobs could in any definition be called low-skilled jobs, so we have got the high end; and there is a small part down here that are the low end.

Ninety-two percent of these new jobs created in this period are full-time jobs, and everyone knows that we have more women leaving the home, going into the workplace, people working longer.

My mother-in-law, who is 73 years old, is still working as a nurse at a nursing home, because first of all, there are not enough younger nurses willing to fill those positions.

We have all kinds of jobs going wanting, and yet we still have people beating their breasts talking about how this Nation is on the fringe of unemployment.

We are staring a recession down its face. This country is just humming along, not as fast as a lot of people would like, but certainly going back to the Carter years with the depression index, the misery index, this has been a great 5 years.

Mr. WALKER. Maybe the gentleman could remind the gentleman from Missouri who is running for President, and some of the other Presidential candidates in that party, of the fact that when they were in power between 1977 and 1981, when they were operating the job-creation machinery for the country and controlled the Presidency and both Houses of Congress, the jobs that they were creating at that particular time were at the low end of the category.

Mr. BUECHNER. A lot of them government-created jobs.

Mr. WALKER. Forty-two percent of jobs created during that period of time were in the low-wage category. Forty-seven percent of the jobs under our program are in the highest wage category.

That is precisely the change that the Nation was asking for in 1980 when they put a new team into the White House, and I want to validate what the gentleman is saying about the jobs.

There was a front-page headline in the Sunday paper in my district about the fact that the schools in my area cannot find enough people to drive the buses this year. There is a drastic shortage of part-time, full-time bus-drivers.

They were pleading with people to come out and apply for these jobs. These are not low-paid jobs. For a few hours of work, they pay pretty doggone well, and we cannot get enough people to fill those positions; and that is true in many sectors of the country, and it is something we have to deal with.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California [Mr. LUNGREN], who was formerly a member of the Joint Economic Committee, and also had a chance in that capacity to deal with some of these issues.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding.

One of these things we ought to at least reflect upon is the unfortunate circumstances that many people in public life and in the press look at the negative side of things rather than the positive side of things.

We have one of the strongest economies going in the history of the United States.

When the gentleman talks about this country and the type of jobs that are being created, a lot of it comes from a study that was done by Barry Bluestone and Bennett Harrison, and this is the study that is cited oftentimes by the labor bosses in suggesting that they are low-paying jobs.

The Department of Labor looked over that study and found that it relied on a method which overstated the low-wage theory and used years which did not represent the long-term stable trend.

When you look at it, one of the things you find is that three of the years used by the study were Carter administration fiscal years; and some have, therefore, called this study which has been used to create this myth that these are poor paying jobs, and at the very least, a statistical fraud.

Economist Robert Samuelson called it this, an exercise in statistical mythmaking designed to advance a political agenda.

It is work done by Warren Brooks and others that showed between 1981 and 1985 that 46 percent of the new jobs were in the high-wage category; that is, $28,048 and over with an equal number, 46.2 percent in the mid-wage category, and only 6 percent in the low-wage category, that is, $7,000 and under.

This compares very well with the Carter years. One of the things we as public officials ought not to do is to scare our constituents. We have a new challenge in that the economy is changing, moving in a new direction.

The service side of the economy is much more important than it used to be. Folks do not realize oftentimes when statements made by politicians about the service-sector jobs taking over for other jobs, that service sector includes professional jobs, supervisory jobs, management jobs, many of the jobs that we have our children aspire to when we send them to school to get good educations.

Mr. WALKER. The gentleman is an attorney. That would be included in that category.

Mr. LUNGREN. Some people would say unfortunately, because there is a question about the productivity there.

□ 1830

But the fact of the matter is that we have got it. Reaganomics, which we do not hear too much about now, remember that was a term that Members of the other side used to criticize the President's policies, have brought us lowered taxes, reduced inflation, reduced governmental interference and deregulation.

Now, a lot of people talk about the low savings rate we have now, but they do not talk about the fact of the tremendous increase in investment as a result of the tremendous explosion of the stock market over the last 5 years, which is new wealth for Americans. They do not talk about the wealth of the pension plans of America. They do not talk about home ownership.

You know, when we compare our statistics with other countries, we do not realize the United States is unique with home ownership. Much of our savings is in home ownership, and if you would put that together with what we have in savings accounts, we match up pretty doggone well with the rest of the world.

The point is that 59 months of tremendous expansion is the greatest sustained period we have had in peacetime. We ought to rejoice in it and take the good lessons out of it instead of denying our progress and making some very, very bad mistakes, particularly in the context of a Presidential election year.

Mr. Speaker, remember Reaganomics? That is the term that liberals gave to the economic agenda of President Ronald Reagan. They swore those policies wouldn't work. I remember not too long ago when everyone was talking about Reaganomics. What is it? Is it a gimmick? It cannot possibly work.

Now no one uses the word. Those who used the term derisively in the past are silent now. Mr. Speaker, the silence of erstwhile critics is one sure sign that Reaganomics is working!

Statistics bear this out. Mr. Speaker, this country has not seen an economic expansion like this in peacetime since 1796. The stagnation and negative growth that were the legacy of Carter and a liberal Congress resulted in tragedy for millions of Americans. People lost jobs; families lost homes; interest rates soared; inflation was rampant.

By the time President Carter left the White House, inflation was 12.4 percent after having hit a high of 13.3 percent in 1979; the prime interest rate went to 21.5 percent—the highest in 100 years; the number of U.S. families that could afford to buy a home fell from nearly one-third—1976—to fewer than 5 percent by Mr. Carter's fourth year as President.

Mr. Speaker, what a contrast between then and now. Where certain economic policies in the past resulted in tragic results such as those I just mentioned, Reaganomics on the other hand has turned the stagnation and negative growth completely around. With the help of Reaganomics, our recovery from that disaster has been nothing short of magnificent.

For example:

Since late 1982, annual economic growth averaged over 4 percent; this is the highest growth rate for any consecutive 5-year period.

In addition, this growth has not been accompanied by inflation. Instead, inflation has been reduced from a yearly rate of over 10 percent in 1981 to less than half of that today.

Median family income has increased by 10.7 percent over the past 4 years—and that rise is the highest since the 1960's.

Almost 14 million new jobs have been created in the past 5 years and most of these jobs are in the mid- and higher-wage categories. This is important, Mr. Speaker, because there has been some disinformation of late with regard to the type of new jobs that have been created under the policies of Reaganomics.

Labor bosses charged last year that Reaganomics produced mostly low-paying jobs, citing a study by the liberals Barry Bluestone and Bennett Harrison. However, according to the Department of Labor, that study relies on a method which overstates the low wage theory, and uses years which do not represent the long term, stable trend.

In fact, three of the Carter fiscal years were used to bolster the Bluestone-Harrison conclusions. Consequently, some have called this study a statistical fraud. Economist Robert Samuelson called it an exercise in statistical mythmaking designed to advance a political agenda. The Commissioner of Labor Statistics put it more obliquely, saying that "the findings—of the so-called low-wage job studies—are extremely sensitive to the particular set of data used and—the years chosen for the analysis." It is not hard to read between the lines, and statistical mythmaking says it well enough.

According to Warren Brookes and others, from 1981-85—the years of Reagan budgets—46.1 percent of the new jobs created were in the high wage category, that is, $28,048 and over. Almost an equal number, 46.2 percent were in the mid-wage category, and only 6 percent were in the low-wage category—$7,012 and under. Whatever the naysayers say, this compares extremely well with the Carter years, where over 40 percent of the new jobs were low-paying jobs, and where there was a net job loss in the high-wage category. Mr. Speaker, let the nay-sayers try as they might, statistical fraud cannot succeed in masking the unprecedented success of Reaganomics.

The real point of all this good news however is not only to celebrate our magnificent recovery, but to examine the economic policies which made it possible. The best way to celebrate 59 straight months of unprecedented peacetime economic expansion is to make sure that the next 59 months will be as bright as the previous 59. We need to keep in mind just what policies have helped to create the unique economic environment which is so conducive to growth and jobs, but we also need to be aware of bad economic policy so we can avoid its pitfalls.

In brief, Reaganomics has lowered taxes, reduced inflation, and reduced governmental interference—deregulation. Threats to our continued economic well-being would include interference with these basic features of our current policies. Thus, we must guard against tax increases, against any increase in inflation, and against other anticompetitive measures such as protectionism, reregulation, and the like.

Frankly, we are already endangering our recovery through bad economic policies that we have managed to get through the House and Senate and that are just beginning to take effect. For example, per capita disposable income fell this year. However, it fell not because our output is declining, but because of the delay in full implementation of tax cuts mandated by the tax reform measure. Just the delay in full implementation of the tax cuts while making the loss in deductions effective immediately had the effect of a tax increase. The U.S. Chamber of Commerce points out that "almost 82 percent of last quarter's increase in personal income went to personal tax payment." They also point out that total tax burden is now at a level similar to that of 1978, the year which saw the beginnings of the great American tax revolt.

Increasing the tax burden is one sure way to undermine our economy. Inflation, reregulation and protectionism are similarly dangerous. We must remain vigilant in guarding against bad economic policy to prevent a resurgence of the misery we saw in the Carter years. You may think that this is a difficult assignment. After all, an election year is approaching, and it may be especially tempting to promise more and spend more of the people's money.

Mr. Speaker, it can be done. We can find the strength to continue the good economic policies of Reaganomics which created an environment so conducive to investment and job creation. We have our proof with the record of the past 59 months.

Are we better off than we were under the old policies? The answer is a resounding "Yes"! Do we live as well as we used to? Again, the answer is a resounding "Yes"!

Sylvia Nasar stated it well:

> The average American never had it so good. By almost any measure of health and wealth . . . we are demonstrably better off now than in the . . . Fifties and Sixties. And that goes for just about any group you would care to name: the middle class, the poor, baby-boomer, old people, black people, women. (Fortune, "Do We Live as Well as We Used To?" p. 32.)

Mr. Speaker, does Reaganomics work? Yes! Yes! Yes! Now let us be strong enough to guarantee for our constituents another 59 months of unparalleled economic expansion. The Misery Index has dropped from an unconscionable 19.4 percent in 1980 to 8 percent today. Let's keep it that way.

Mr. WALKER. Mr. Speaker, the gentleman makes a very good point.

Mr. Speaker, I yield to the gentleman from Texas [Mr. DELAY]. We are running out of time but I know the gentleman has a couple of things to add.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. I appreciate him taking this special order to glorify the economic expansion in our country over the last few years.

I know that during this special order many people have talked about the myths that are being perpetrated out of this body. In fact, just today there was a hearing held in the Subcommittee on Employment Opportunities of the House Committee on Education and Labor and some of the statements that were made by Members of this body, including statements such as we are in a depression at the present time, and all the false statements that are being made, were answered in the presentation made by Richard Rahn, the chief economist of the U.S. Chamber of Commerce.

Mr. Speaker, at this point I will put into the RECORD the presentation, "The De-Mythification of America."

The article follows:

APPENDIX 1

THE DE-MYTHIFICATION OF AMERICA

The current economic expansion is unique by historic standards. As the economy enters its 59th month of recovery, all signs point to a continuation of healthy rates of economic growth, thus virtually guaranteeing that the present expansion will become our longest peacetime expansion since 1796. But there have been an abundance of myths created about the current expansion that, if allowed to influence policy, could derail the recovery:

Myth 1. The service sector is destroying the middle class.

There is no evidence that the middle class is disappearing. The fact is that the middle three-fifths of the population, ranked by income, receive about 52 percent of total national income, a proportion that has been virtually unchanged since the Census Bureau began keeping such statistics in 1947. A similar analysis of annual earnings by the Bureau of Labor Statistics indicates that the middle third of workers, ranked by earnings, make up exactly the same percentage of total employment that they did ten years ago. In short, there is nothing in the data to indicate that recent changes in the economy, such as a shift from manufacturing to services, are eroding the middle class.

Myth 2. The U.S. is becoming a service economy.

Services have been a main source of job growth in recent years. But the service sector is not made up solely of low-paid jobs nor does its growth come at the expense of manufacturing, which is actually doing quite well. Employment in manufacturing was 19.2 million in 1986, an increase from 18.4 million jobs in 1982.

Employment in services has risen by more than 10 million jobs since 1980, up from 64.7 million to 75.2 million in 1986. Thus, 75 percent of all nonagricultural workers in America are employed in jobs classified as service producing. Services have grown rapidly because as an economy grows and matures, there is a greater demand for services. The consumption of services has increased dramatically, from 33 percent of total personal expenditure in 1950 to over 52 percent in 1986.

Myth 3. Low paying jobs are replacing well paid manufacturing jobs.

It is the higher paying service jobs rather than the lower paying unskilled service jobs that are expanding most rapidly. The proportion of jobs in the low paying category has declined from 33 percent of the new jobs created in 1981 to 31.4 percent in 1985. Furthermore, during the 1981-85 period, 46.1 percent of the net new jobs created were in the high-wage category ($28,048 and over). At the same time, only 6 percent of the net new jobs created were in the low-wage category ($7,012).

Myth 4. The U.S. is losing its manufacturing base.

Virtually all discussions of the U.S. manufacturing sector concentrate on employment. But the real measure of manufacturing performance is output. Manufacturing output as a share of GNP has held remarkably steady for decades. In 1950, manufacturing output as a proportion of GNP was 21.4 percent while in 1985 it was 21.7 percent.

Myth 5. Factories are closing down in this country and we are producing less.

Industrial output hit a new record this past July and is now 25 percent above the level it was at five years ago. The data for July show that industrial production surged at a 9.7 percent annual rate, bringing the annual growth rate for the past three months to 7.8 percent. And for the past year, manufacturing output has risen at a 4.8 percent annual rate.

Manufacturing capacity is greater than it has ever been in the history of this nation. In the past year, industrial capacity increased by 2.5 percent. Contrary to the popular perception, more factories are opening than closing. For example, there are more companies making cars in the U.S. today than there have been in the last thirty years.

Myth 6. U.S. workers are not as productive as workers in other industrial nations.

U.S. workers are the most productive in the world. In 1986, gross domestic product per employed person in the U.S. was 45 percent greater than Japan, 42 percent greater than the U.K., and about 25 percent greater than Germany. Manufacturing productivity climbed at a 4.9 percent annual rate in the second quarter of this year.

Myth 7. Average American family incomes have been falling in the past four years.

Over the past four years, median real family income has increased by 10.7 percent, the best increase since the 1960s. In contrast, during the 1977-81 period, real median family income decreased. And real income and wealth have both been increasing, not falling, in the past five years. Part of the reason is because there has been an increase of $1.8 trillion in the value of stocks directly owned by some 46 million Americans and real after-tax labor compensation has also risen, which did not happen with the high tax rates of 1976-80.

Myth 8. U.S. per capita income is declining.

U.S. per capita income is at a record level. Per capita real personal income was $10,773 in 1986, about 10.8 percent above 1980.

Myth 9. Total U.S. financial wealth has fallen.

Since 1980, U.S. financial wealth (in constant 1982 dollars) has soared by 53.3 percent, from $5.8 trillion to almost $9 trillion in 1986. In contrast, during the 1970s, it rose by only 17.6 percent. Since 1980, the value of corporate equities has risen by more than $1.3 trillion, while during the 1970s those values fell by $500 billion.

Myth 10. In recent years, household net worth has fallen.

Household real net financial assets have risen from $3.5 trillion in 1980 to $5.4 trillion in 1986—a 55 percent increase in net assets, at a 7.5 percent annual rate of growth. In comparison, during the period 1970-80, household net financial assets grew by only 2.9 percent—an annual rate of growth of less than 0.3 percent a year. In 1980, household net financial assets were 109.5 percent of GNP while in 1986, they were almost 147.5 percent.

Myth 11. The U.S. has lost its competitive edge.

Our competitive stance with the rest of the world can be seen by comparing the share of income that the average American spends on foreign goods with the share the average foreigner spends on U.S. goods. If Americans spend a large share of their incomes on goods from, say, Sweden while the Swedes only spend a small part of their incomes on U.S. goods, this suggests that the Swedes are more effective in selling their own products than we are. Moreover, it implies that Swedish goods are more competitive than U.S. goods, at least in each other's markets. If competitiveness is viewed this way, America's perceived trading position changes. Rather than being uncompetitive, by virtue of its merchandise trade deficits, the U.S. is extremely competitive because of the relatively large portions of their incomes that foreigners spend on American goods. In 1985, Canadian citizens spent over 14 percent of their incomes on American goods while Americans spent only 1.7 percent of their incomes on Canadian goods. The average person in Taiwan spends nearly 8 percent of his income on U.S. goods, but the average American spends less than half a percent of his income on Taiwanese goods.

Myth 12. The U.S. international debt is greater than the problem debtors in the less developed countries.

In 1986, the net international debt of the U.S. ($263 billion) amounted to only 6.3 percent of GNP. In contrast, according to International Monetary Fund data, the external debt of the problem debtors averaged 54.8 percent of their Gross Domestic Product (GDP). Brazil's debt amounts to 40 percent of its GNP.

In addition, U.S. data is not comparable to that of the less developed countries as the numbers are computed differently. For example, Brazil's $110 billion debt is simply its financial borrowings from banks and governments, net of its official reserves. By contrast, America's net foreign position also includes net foreign direct investment and private assets.

Myth 13. The U.S. is now the largest debtor nation in the world.

Clearly, the problem lies in how the debt numbers are computed. If America's assets and liabilities were valued correctly, at the end of 1986 the U.S. had net foreign assets of about $200 billion. This figure is roughly equivalent to Japan's, which is now the world's largest creditor nation.

Direct investment by U.S. companies abroad and by foreigners in America are recorded at book value. If direct investment were revalued at current market prices, the value of U.S. investments abroad would rise by much more than the value of foreigner's investment in the U.S. For instance, U.S. gold reserves are still valued at $42.22 ounce. If our 262 million ounces of gold were valued at today's market value, U.S. assets would be boosted by $100 billion.

Myth 14. America is being taken over by the Japanese.

America is not being taken over by the Japanese. In fact, Western Europe accounts for 60 percent of foreign direct investment in the U.S. Japan accounts for less than 12 percent, despite being the world's largest creditor nation. Even on an individual country basis, Japan ranked behind the U.K. and the Netherlands in 1986.

Myth 15. Foreign investment is bad for the economy.

There is nothing intrinsically wrong with importing capital if the borrowing is used to finance productive investment. The Department of Commerce data show that the largest increases in foreign assets in the U.S. take the form of direct investment and equity investment. Foreign investment means jobs. Nationwide, the number of American jobs dependent on foreign direct investment is 3 million. Increased productivity results from increased investment in more and better machinery and equipment. In addition, foreign investors are an important source of funds for fledgling U.S. companies. Of the $2.3 billion of venture capital funds raised last year, nearly 25 percent came from overseas. These investors are interested in the wealth of new technology that they hope to develop.

Myth 16. Tax increases will reduce the Federal budget deficit.

The evidence proves this false and indicates instead that more taxes are recycled into greater federal spending. Professors Richard Vedder and Lowell Gallaway of Ohio University show that for each tax dollar collected, federal spending increases by $1.58. Moreover, the large business tax increase of 1982, the Tax Equity and Fiscal Responsibility Act of 1982, promised $3 of spending reduction for every dollar of tax increase. But the evidence shows that for every dollar of tax increase, spending went up by $1.26. In addition, evidence from Europe shows that when taxes have been raised from 33 percent of GNP in 1965 to over 45 percent of GNP in 1986, public spending has also increased to over 50 percent of European GNP in 1986.

Myth 17. Our Federal deficit is draining capital from our trading partners, thus stunting their growth.

This proposition is false as the public sector deficits of our trading partners are larger than our own. For example, in 1986 the combined deficits of Organization for Economic Cooperation and Development (OECD) European countries were 4 percent of OECD European GNP whereas the U.S. budget deficit was 3.4 percent of GNP. In fact, over the past seven years, the U.S. budget deficit, as a percentage of GNP, has been less than European deficits as a percentage of their GNP.

The supposed drain of foreign capital is not due to the U.S. budget deficit since foreign deficits are larger, but because the investment climate is superior in the U.S. We have much lower marginal tax rates on income and a relatively smaller public sector than most of our trading partners.

Myth 18. The "supplyside" tax cuts of 1981 have not increased the savings rate.

Most critics who make this erroneous claim ignore two salient facts: the tremendous growth in household net worth over the 1980's and the growth of business saving. Taking these factors into account leads to the conclusion that the the tax cuts have contributed significantly to asset and wealth accumulation. During the period 1979 to 1986, household net worth (adjusted for inflation) has increased by 25 percent or by $2.9 trillion (in 1982 dollars). This exceeds the gain made over 13 years previous to this period. And during the current economic expansion, gross private saving (personal and business saving) has averaged 17.3 percent of GNP, versus the postwar average of 16.7 percent.

Myth 19. Taxes have been cut substantially since 1981.

By virtually any measure, taxes are as high or higher than they were in 1981. Tax Freedom Day—the day when we begin to work for ourselves instead of the government—is May 4th, as late in the year as it was before taxes were reduced in 1981. Federal tax revenues (1982 dollars) increased from $612 billion in 1980 to $751 billion in fiscal year 1988.

Myth 20. Cutting the Capital gains tax rate results in revenue loss.

Historical data prove that after capital gains tax rates are cut, federal government capital gains revenue actually increases. In 1978, capital gains tax rates were reduced from 49 percent to 28 percent. This rate reduction led to an increase in capital gains revenue each subsequent year—$3.5 billion more by 1980. When the capital gains tax rate was further reduced in 1981, capital gains revenue increased again and revenue was $2.3 billion higher by 1983.

Myth 21. The Economic Recovery Tax Act of 1981, which cut taxes across the board and reduced the top tax rate from 70 to 50 percent, benefited the rich.

Internal Revenue Service data for the period 1982 through 1985 (the latest available) demonstrate that the percentage of the overall tax burden borne by the wealthy has increased dramatically since the top tax rate was cut. In 1981, individuals earning over $500,000 annually paid 3.3 percent of the overall tax burden. And in 1985, they paid 8 percent. In 1981, the top ten percent of taxpayers paid 48 percent of the tax burden, while in 1985, the same ten percent paid 51.8 percent of the total tax burden. In contrast, those taxpayers earning $20,000 annually paid 16.9 percent of the total tax burden in 1981, but paid only 12.1 percent in 1985.

APPENDIX II

Edgar Browning, "The Marginal Cost of Public Funds," *Journal of Political Economy*, April 1976, 84, 293-298.

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Council of Economic Advisors, *Economic Report of The President*, Washington, DC., 1986.

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James P. Smith and Finis Welch, *Closing The Gap*, Rand Corporation, February, 1986, Washington, DC.

Charles Stuart, "Welfare Costs per Dollar of Additional Tax Revenue," *American Economic Review* June 1984.

Walter E. Williams, *The State Against Blacks*, McGraw Hill Book Company, New York, 1982.

Mr. BUECHNER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Missouri.

(Mr. BUECHNER asked and was given permission to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, I would just like to echo what the gentleman said. If I could just point out to emphasize something that the gentleman from California mentioned, and that was on pensions. The net worth of pensions has increased $1 trillion in the past 6 years.

Net household worth, net financial assets of households have increased since 1982 from $3.5 trillion to $5.6 trillion in 1986. That is a 55-percent increase.

I think those statistics are the most eloquent presentation we could make about the 59 months.

The gentleman and I both know that the people who used Reaganomics as a purgative really do not like to talk about it now, because they know it works.

Mr. DICKINSON. Mr. Speaker, lately, it seems as if it wasn't for bad news, we wouldn't have any.

Today, I would like to stray from that thought, and join my Republican colleagues in celebration of our Nation's 59th consecutive month of sustained economic growth.

As we are experiencing a change in the role of the United States in the international marketplace, it's very encouraging and reassuring to witness the expansion of our economy under the Reagan administration. November will mark the longest peacetime expansion since World War II.

Real GNP growth from 1983 to 1987 has averaged 3.9 percent per year; compared to only 1.9 percent for 1977 to 1981.

Inflation soared from 1977 to 1981 to an average of 10 percent per year; compared to only 3.3 percent from 1982 to 1986.

The prime interest rate climbed to more that 18 percent in 1981; compared to just over 8 percent today.

Employment levels in the United States are at an all time high; more than 112 million civilians are working.

Unemployment levels have steadily fallen since 1982; from 9.5 percent down to the current rate of 5.9 percent.

Of the new jobs created between 1983 and 1986; more than 90 percent were full-time, full-year positions.

Real per capita personal income has also increased; 12 percent since 1982.

U.S industrial production has also increased since the end of 1982, more than 27 percent. That's compared to Japan's 22 percent and West Germany's 13 percent.

The stagnant growth that we experienced in the United States prior to the Reagan administration should serve as a great reminder, and should serve as a better motivator to continue our efforts: to encourage economic growth; to keep inflation and interest rates down; to promote international competitiveness; and to strive to overcome our budget and trade deficits.

Mr. WELDON, Mr. Speaker, there are some doomsayers who would have us believe that this Nation is in the midst of an economic slump. But the leading economic indicators released today are testament to the fact that our economy is as strong as ever. Not only are we entering the 59th month of sustained economic growth, but we are in the midst of the longest peacetime expansion since the middle of the last century.

Currently, employment levels are at an all-time high. Almost 14 million new jobs have been created in the United States since the economic recovery began in 1982. In contrast, Europe has had virtually no new job growth since 1974.

Inflation is under control as well. While inflation raged at an average of 10 percent per year from 1977 to 1981, last year it dipped to 1.1 percent. The annual rate during the recovery averaged 3.3 percent.

Interest rates are manageable again. The 3-month T-bill rate was 6 percent this August; down 57 percent from their 1981 high of 14 percent.

These statistics are encouraging, but the best news is that there are no signs of recession on the horizon and most private forecasters expect the current expansion to continue at least into 1989. If this comes to pass, this growth would outlast the 80-month economic growth following World War II.

So, despite allegations of doom and gloom, our economy is doing quite well. Undoubtedly, we've got some trouble spots in the trade deficit and the Federal budget which we still must address. But it is hard to deny that we've been doing something right in recent years to foster this kind of growth. We must continue to build on this sound base to ensure a strong economy in the future.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise today to pay tribute to the 59th month of this country's economic expansion and recovery. This event is truly cause for celebration, but should also serve to remind us of our duty to do all that we can to sustain this recovery. What did this Nation do to revive itself from the economic duldrums of the late seventies and early eighties? And what must it do to prevent an economic slump from recurring?

Right now the United States is in the middle of the longest peacetime expansion in history. Based on the index of leading economic indicators, this expansion should continue for at least 5 years. Fourteen million new jobs have been created in this decade, and the real median family has risen strongly each year since 1982.

How did this Nation achieve such a turnaround? When the present administration came to office, it did so on the promise of lowering taxes and less Government intervention in the private sector. We succeeded in lowering taxes, and have made some significant gains in the area of Government intervention. With lower taxes and freer markets for businesses to operate in, personal income has risen, and corporations have been able to hire more personnel. Unemployment has dropped to a low of 6.1 percent.

Now this country is faced with yet more challenges: The first being the challenge of competing in an aggressive foreign market; and the second being that of reducing our burdensome Federal deficit. There have been many proposals to address both of these issues. Some better than others. However, in the long run, what will best serve the citizens of these United States is the application of the sound economic principles that have been used to revive our economy thus far. We in Congress must resist the temptation to increase the tax load on the private sector and continue to enact budgetary reductions to reduce the deficit.

This principle will allow industries the resources they need to become more competitive with foreign products. It is only by increasing our competitiveness and through demanding open, fair markets that we will be capable of lowering our trade deficit.

As we pay tribute today to the significant economic gains that have been made during the last 59 months, it is important for us to remember the lessons that we have learned in the past so that we continue our progress in the future.

Mr. OXLEY. Mr. Speaker, today the United States economy moves into its 59th consecutive month of economic growth.

This economic expansion, the second longest since World War II, has been marked not by surging or erratic growth, but instead by steady growth that continues to create job opportunities for American workers.

The real growth in our gross national product from 1983 to 1987, which has averaged around 4 percent, is evidence of this steady economic expansion.

Our American economic machine, Mr. Speaker, has created some 14 million jobs since the start of this expansion 6 years ago. In fact, more Americans are now working than at any time in our history.

There were many who seemed to think that the double-digit inflation of the late 1970's and early 1980's was here to stay. Yet, during this period of economic expansion and recovery, we have experienced a tremendous decline in the rate of inflation, which now runs consistently below the 4 percent mark.

While the high interest rates we became accustomed to prior to the beginning of this economic turn were great for those who were able to lock in long-term interest rates on their investments, the American economy has welcomed and responded to the reduction in interest rates.

Not every area or segment of the economy has experienced all of the positive benefits of this expansion, but under President Reagan's leadership, many Americans have come to know the meaning and benefits of economic prosperity in our great Nation.

Although we cannot accurately predict the future, it is encouraging to note that there is every indication that our economy may continue to grow and prosper for some time.

Mr. HORTON. Mr. Speaker, I am very pleased to join my colleagues on the floor this afternoon to celebrate the 59th consecutive month of sustained economic growth—the longest peacetime expansion of our economy since World War II.

Under the calculated guidance of President Reagan, our gross national product continues to climb, the Dow-Jones industrial average is increasing almost weekly, inflation remains at near-record lows, industrial output is on the rise, personal income and net assets are up, and unemployment is down to only 6 percent. Although pockets of high unemployment and low economic activity remain, our Nation's economy remains confident and expansive, with almost 14 million new jobs created since 1982.

Nearly 6 years of economic growth. That, Mr. Speaker, is a record that we can all be proud of.

GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE 50TH ANNIVERSARY OF THE NATIONAL HOUSING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this month is the 50th anniversary of the National Housing Act of the United States. The National Housing Act of 1937 became law on September 1, 1937, 50 years and 29 days ago. The reason I rise is because it is worthy of commemoration.

Mr. Speaker, this act was the capstone and culmination of 5 years of efforts to develop a truly comprehensive national housing policy. That policy has survived the test of time, and today we are nearing completion of a renewal of the Housing Act. With the National Housing Act of 1937, this Nation established for the first time a complete program to finance housing at low cost, bringing homeownership within the grasp of millions; and a nationwide program for slum clearance and publicly owned rental housing. Those great achievements transformed this Nation, and it is fitting to remember and celebrate those achievements.

Franklin D. Roosevelt saw a nation that was one-third ill-housed, ill-clothed and ill-fed. He saw a nation in which industrial production had dropped by one-third inside of 4 months, in which more than 5,000 banks had gone under. Indeed on the day of Roosevelt's inauguration, virtually every bank in the United States was closed. Nothing had so devastated this country, created such hardship, or set loose so much disaster. It was in this climate of economic disaster and incredible distress that among other things, this Nation's housing policy evolved. During that period, from 1932 to 1937 this Nation faced the threat of political dissolution, brought about by disaster and desperation. The New Deal was revolutionary, but the times called for revolution: Economic revival was not the only task; human decency and dignity had to be served as well.

The first real step toward a housing program actually took place in the waning days of Herbert Hoover's administration on July 22, 1932, with the signing of the Federal Home Loan Bank Act. This established the Federal Home Loan Bank Board, providing for the first time a central banking facility for savings and loan institutions. The task of the Board was to set up regional banks to discount mortgage loans—making it far easier for mortgage lenders to maintain liquidity and expand their lending.

The Home Loan Bank Act was signed by President Hoover in a turbulent time. The campaign that would lead to Roosevelt's election was just getting underway, the terror of economic dissolution was palpable. Indeed, on the day Hoover signed the bill, the angry remnants of what had been 17,000 members of the Bonus Army's World War I veterans were camped in Washington. The House had passed the Patman bonus bill less than a month before, only to see it defeated in the Senate. Most of the veterans left Washington, but on July 22, there were still about 2,000 angry and desperate veterans in Washington. Only 6 days after signing the Home Loan Bank Act, Hoover ordered the Army to remove the veterans by force. In an infamous act, troops led by Douglas MacArthur, in whose train was Dwight Eisenhower, evicted the Bonus Army and burned its camp. That was the climate that existed when this country took its first halting steps toward a national housing policy.

Franklin D. Roosevelt announced the New Deal in his nomination acceptance speech less than a month before Hoover signed the law creating the Federal Home Loan Bank system. Interestingly enough, his New Deal platform did not include specific reference to housing; it was a program for economic reform designed to bring some order out of the chaos of banking and securities, restore some confidence, and encourage States to create what later became the Social Security System. In mid-1932 when the New Deal speech was written, the full magnitude of the Great Depression was still developing.

Needless to say, the Home Loan Bank Act could not by itself do what needed to be done to house the poor, let alone make home ownership possible for the great majority, who were at the time tenants; less than 40 percent of Americans owned their homes then, and many who did lost them in the Depression. In the chaos of the Depression, it represented little more than a faint flicker of hope.

When Franklin D. Roosevelt became President in March 1933, he faced utter chaos. Nothing—not farms, not banks, not industries—was working. Cities and towns had run out of money to feed and clothe the growing army of desperate people, thrown out of work and off their farms.

You must remember that at that time America was mostly rural.

In that disastrous time, urgent action had to be taken, and it was. Within 100 days, an incredible amount of legislation was enacted to restore order and begin finding the way to recovery. Among those acts was a relief program for homeowners, the Home Owners Refinancing Act, signed June 13, 1933. This emergency relief act was the second great step toward a national housing program.

The Refinancing Act created a corporation capitalized by $200 million to refinance the mortgages of hard-pressed homeowners. A few months later in April 1934, an additional $1 billion in capital went into the corporation. It did more than refinance mortgages; the corporation could advance money to pay back taxes and provide for repairs and maintenance. These cash advances could be for as much as 50 percent of the appraised value of the loan, the whole thing being secured by the value of the property. The Home Owners Loan Corporation remained in business for only 4 years, but in that time it had made loans covering more than 1 million mortgages. And it produced a profit.

Fifty years later, with the country in a recession as deep as any seen since 1933, notwithstanding to the contrary what we heard a few minutes ago, I offered a bill to provide emergency help to hard-pressed homeowners, and we called it that, the Emergency Homeowners Assistance Act.

In Colorado, for instance, in the city of Pueblo, where the steel mill was shutting down, the sole source of employment, the foreclosure rate on homes was 100 a month. At that time I took the floor and asked this House to approve the Homeowners Emergency Assistance Act. The House did indeed pass it, the one and the only what my minority members called a new program, that has been approved by the House under the Reagan administration, that is since 1981. It languished in the Senate and it died in the Senate, a Senate that in 6 years never once even had so much as a hearing on housing needs or community development needs of our country. The Senate proposed to do nothing, and my proposal did nothing radically more than essentially what we had seen and I had witnessed during the Depression in the Homeowners Loan Corporation. In fact, I did the research work on that bill myself and with the able help of the staff and counsel, we reshaped it in terms of modern needs. All it would do would be the same thing, make loans against home equity, to prevent those homes from being foreclosed. Ironically, not too long, in fact less than a year and a half after that in my home town of San Antonio when I walked the line of about 203 fellow Americans, destitute, homeless, waiting to make their entry into the homeless shelter that had been provided them by the city, I talked to one young, relatively young, because I consider anybody under 40 very young, homeless father of two who had lost his home in Pueblo, CO, and had we enacted that program that I had envisioned he would have been enabled to have been assisted and to have remained under the roof and the shelter of his home, instead of having to park his wife and kids with his parents in another State and wander through the South, thinking that perhaps in the South he could find employment and come to a city such as San Antonio where indeed the need was just as great as the city that he left.

I have never been able to understand why this simple, humane eminently workable idea was so adamantly opposed by the administration, why it was willing to let so many thousands of people needlessly suffer the loss of their homes, when hundreds of thousands could have been helped at virtually no real cost or risk to the Government. Why not extend help to people who are suffering economic disaster through no fault of their own, as a result of forces they cannot control? It made sense in 1933, and it should make sense today.

A little more than a year after the Home Owners Loan Corporation bill was signed, the National Housing Act of 1934 became law. This law was truly monumental. It brought up the capital of the Home Owners Loan Corporation to $3 billion. But more than that, this was the law establishing the Federal Housing Administration.

Mr. Speaker, at this point I want to render tribute to a man who passed on just last month on August 9, the great Leon Keyserling, and I want to render testimony that it was his architectural hand, his designing, hand, that devised the basic 1934 and 1937 National Housing Act, and whose friendship and counsel I never dreamed I would be able to enjoy years later after those miserable dim days that I recall vividly, because I am a depression kid and I was in school at the time, and would enjoy his great wisdom and would have shared his last supper literally, because he died 4 days after I had enjoyed an invitation to supper at his home here in Washington. Leon Keyserling actually is a man that I hope we can memorialize in a more lasting and meaningful way when the time comes, but his real monument has been etched into these great acts of humanitarian legislation, for he was the architect and the counsel and lawyer that devised and structured the basic fundamental framework of reference for this noteworthy legislation.

The FHA became the engine of housing and home ownership. As a matter of fact, the miracle of the world in the 20th century was performed here in America because between 1940 and 1980 we reversed where a minority of American families owned their homes to a percentage increase of the overwhelming majority by 1980. The sad thing is, that since 1980 we have had an increase in the emergence of this phenomena of modern-day homelessness which is in epidemic proportions and for which this Congress has passed emergency legislation just this year and all because there is cause and effect. You cannot turn back on the basic commitment to housing and the allocation of national credit for construction of affordable housing, affordable to the main mass and stream of our families. Today the average cost of a new single-family dwelling unit in the United States is over $175,000. That means that we have priced out all but 6 percent of Americans from the dream of owning a brandnew single-family dwelling unit for their loved ones.

It was the FHA, through its system of mortgage insurance, that made home loans a low risk proposition and made it possible for lenders to extend the long-term, fixed rate mortgage that was the cornerstone, the inspiration and the motivation of mass home ownership in this country. Under FHA, tens of millions of people have obtained home loans. It has turned a profit; its property standards insured a consistent quality of housing; and its operations remain at the heart of home ownership in this country today.

Since the National Housing Act of 1934, home ownership has become the rule, not the exception. No longer do two-thirds of Americans rent; though we are in a period of regression and headed back to that; two-thirds live in their own homes, thanks to these programs. Through FHA, the affordable mortgage became a reality and with it, the affordable home.

The sensation of 1937 was President Roosevelt's famous fight to transform the Supreme Court by increasing the number of Justices; that is, the old Supreme Court vehemently opposed packing charges, the President was accused of trying to pack the Supreme Court in order to have a patsy Supreme Court which would give him the opportunity to pack the Court with Justices he believed would not overturn, as the conservative court had, his Industrial Recovery Act. The Court fight made the Bork case seem utterly tame; it mesmerized the country from February to July. But the great court fight was not all that was going on that year; on September 1, the capstone National Housing Act of 1937 became law.

By 1937 the banking system was stable; there was deposit insurance, the refinancing programs for homes and farms had stemmed loan losses, and the Home Loan Bank system was in place. The FHA had begun its work. What remained was to deal with slum clearance and to try and provide decent housing to the millions who could in no way afford to pay market rents.

The 1937 Housing Act created the U.S. Housing Authority, which was empowered to make 60-year loans to local housing agencies. The local agencies had to put up 10 percent of the cost of clearing slums and erecting housing projects. The authority had the power to grant operating subsidies, so that rents could be geared to the incomes of poor families. That basic mechanism remains in place to this very day.

Mr. Speaker, what an honor to be able to rise at the end of this month to memorialize the Congress on the fact that on the first day of this month, exactly 50 years ago in this month of September, the 1937 basic Housing Act was approved, that in that day and time the Congresses and their Presidents did in fact have faith and confidence in the average American family, in the faith that with just a bit of help it could be tided over in dire circumstances over which it had no control, that not only would those loans made then under those conditions be repaid, but that they would earn a profit to the Treasury of the United States, as indeed those programs did.

Within a few years, slum clearance could be seen and felt; within 4 years the U.S. Housing Authority had helped create 511 new housing projects for low-income families, with more than 161,000 units.

In the 50 years since enactment of the landmark 1937 Housing Act, this Government has expanded the assisted housing stock to some 4 million units, about half of which are publicly owned.

Today, we still have in place, in being and in operation the same basic housing tools that were created during the cataclysmic years between mid-1932 and mid-1937. Those tools were revolutionary in their concept and in their effect.

Before this Nation set out on what became a bipartisan commitment to a comprehensive housing policy, a full third of our people lived in poor, sometimes inhuman conditions. Today the proportion of people in substandard housing is perhaps 10 percent. This reflects a monumental achievement, and yet the need should not be that great, it's 5 percent more than 1980.

Nor would the need remain so great had not the present administration elected to withdraw from housing, as far as it could. In 1982, the administration even tried to eliminate mortgage insurance for most people; it has managed to virtually stop construction of publicly owned housing units; it has managed to prevent enactment of an emergency homeowners assistance program. But it has failed to kill housing; it has failed to stop enactment of this Nation's first effective emergency shelter program for homeless people; and it has failed to prevent members of its party from joining in this year's effort to reassert and begin to revitalize the comprehensive housing program that came into being with the Housing Act of 1937.

The Nation's commitment to a decent and affordable home for every citizen has been fiercely advocated and honestly administered by a small, dedicated, extremely proficient corps of public servants—visionaries and practical administrators, innovators and financiers, regulators and politicians. It has worked, it works still, and after 50 years, the dream is as alive as ever.

After 50 years, we still have not reached the goal of a decent, safe, and affordable home for every American—but we have come a long way. The Nation has been transformed. The remaining task can be done—and it will be.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

TRIBUTE TO FORMER CONGRESSMAN WILLIAM S. MOORHEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

Mr. GAYDOS. Mr. Speaker, it is my personal pleasure to place into the RECORD in memory of our former colleague, Bill Moorhead, from the city of Pittsburgh and the city of Washington, DC, tributes of many of our colleagues that have been submitted, and because of a mixup in the schedule have been unable to be here today, and which I ask at this time to be inserted in the RECORD.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on memorials to the late Hon. William S. Moorhead.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Speaker, at this time I personally would like to express a sense of heartfelt loss for a man who was not only an articulate leader and had great vision, but knew the realities of our society and used this knowledge to obtain results. I speak of the passing of former Congressman William S. Moorhead of the city of Pittsburgh.

From 1958 until his retirement in 1981, William Singer Moorhead served his Pennsylvania district with a tireless persistance during 11 terms, 22 years, as a Member of the U.S. House of Representatives.

Mr. Moorhead spearheaded campaigns to provide Pittsburgh with funding for public housing, his strong support for the reconstruction of the Bloomfield Bridge, the construction of the Federal building in the early 1960's which was renamed the William S. Moorhead Federal Building upon his retirement in 1981, are examples that illustrate his determined commitment.

Mr. Speaker, I feel certain that the gentleman who preceded me, the gentleman from Texas, knew Mr. Moorhead, worked with Mr. Moorhead and I know shares now and did share their commitment to public housing.

Mr. Speaker, at this time it is my pleasure to yield to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Speaker, I thank my very honored, respected, and beloved colleague from Pennsylvania for yielding to me, because indeed and, in fact, I am most desirous of joining my colleague in memorializing the very illustrous former Member of this House.

I wish to certainly offer first to his survivors, his next of kin, condolences and the hope that the very, very creative contributions of William, or Bill Moorhead as we knew him, will be in some sense a solace to their sorrow and their grief.

I will say that Mr. Moorhead belonged to the same committee, naturally. He was also ahead of me in point of seniority and service, but we both shared membership since my beginning period here in the House on the Subcommittee on Housing, now known as the Subcommittee on Housing and Community Development.

□ 1845

So, I am very privileged to be able to testify as to the merits and the great contributions of Bill Moorhead in a way that perhaps unless I do so might remain unrecorded.

Bill Moorhead, as the gentleman has already stated, was a very effective Congressman. In the Subcommittee on Housing, because of the fact that we shared membership on it, we became closely acquainted. I had an opportunity to guage his talent, to respect his performance, his personality and his friendship.

We did develop a good, close friendship that lasted until the day of his passing. As a matter of fact, it was not too long ago that he visited in my office, as he had ever since his retirement from the Congress, and we had occasion to continue and sustain our friendship.

Bill Moorhead, in the housing area, was one of those who in the 1965 Omnibus Housing Act, and mind you, that was the Housing Act that resulted coincidentally with the formation of the Department of Housing and Urban Development, HUD, and he and I were at the creation of HUD. The first thing was the Omnibus Housing Act of 1965 which for the first time assembled a number of programs and new innovative programs, and it was not until 1966, 1 year later, that we actually were able to put into place and then have funded by the appropriation process this measure. Since our committee is a committee of substance, of authorization, we of course progressing on a two-track method here, had to wait until 1966 to really put flesh into this framework of bones that had been structured.

I think the record ought to reveal that Bill Moorhead and some of us too were the ones who put in title V, for instance, in the great codification of the Housing Act, and also the creation of new housing programs and community programs, what we called at that time demonstration cities. In other words, there was going to be a demonstration program. But since it coincided with a period of turbulence and civil strife, known as the demonstrations of 1966 and the riots of 1966 and 1967, we had to change that and call it model cities. That became one of the real breakthrough programs.

It has been very easy for those who were against the programs from the beginning and sustained their opposition all through the Johnson administration, and joined in the chorus of those denouncing the programs with the advent of the Nixon administration, but the record will show that I, for instance, am responsible for having a study conducted by a very competent doctor of philosophy specializing in these matters to follow through on the net impact of model cities in one particular area, and the study is a marvelous illustration of how we can, through the cooperative help of Government programs, if you please, with the private sector, the municipal, State and county governments, bring about affirmative, creative programs that add to the substance of a community. The Model Cities Program, for instance, was one that selected cities based on the target areas, but it was Mr. Moorhead who made it possible for us, because, remember, all these programs were debated and voted, and some of them we were able to get out of the subcommittee on a one- or two-vote margin. It was Bill Moorhead's vote, my vote, that joined together and added what I consider to be to the substance and enrichment of our communities. They were not eating up the substance of the country, they were adding to the wealth and well being of our citizens, their health. After all, housing or shelter is one of the three basic necessities of mankind, and has been so all along.

So I think the record should be explicit and clear that William Moorhead, whom we endearingly called Bill, Bill Moorhead was a great, great artisan. He was a great contributor to this affirmative and creative process.

The 1968 Housing Act was also another major breakthrough. Bill Moorhead was an integral part of the development of that legislation.

So I want to thank the gentleman from Pennsylvania [Mr. GAYDOS] for giving us this opportunity to place into the RECORD the achievements of a great, a noble, a very scrupulously honest man who served over many terms and whose reputation was never smirched with any kind of a shadow or any kind of smut of accusation of a derogatory kind, and yet we ought to pause and make sure that his affirmative actions, his constructive and creative actions are noted in the RECORD. For that I repeat I am grateful to the gentleman from Pennsylvania [Mr. GAYDOS] and thank him for this opportunity.

□ 1900

Mr. GAYDOS. I want the record to show that I am most sincerely appreciative of my longstanding close friend and competent colleague from Texas who has contributed so much in these special orders, for those few remarks. The intimacy and general knowledge which his family is going to be pleased to read and the sincerity with which they were delivered I think all of those things are so great, to come here on behalf of our late colleagues and talk about the long years of association with that friend of ours, our mutual friend.

I think these special orders are enhanced by what my good friend from Texas [Mr. GONZALEZ] has placed into the RECORD and I thank him.

Mr. Speaker, 7 years and 1 week ago, and I want to emphasize this, a number of Members of Congress and I believe including my good friend from Texas, stood on this floor for the purpose of paying tribute to our colleague, William S. Moorhead of Pittsburgh, PA, who was at that time retiring after 22 years of dedicated service to this body and to the people of the country. This was a sad occasion, because he was a friend, a man whom all of us, me in particular because I knew him so well, could depend on for support on many, many occasions, particularly in that sensitive field of housing which meant so much to him. We said then, when he was leaving us at that time, how much we would miss his energy, his enlightenment, his humor, and his wisdom, as alluded to by my good friend from Texas.

Today we again pay tribute to Bill Moorhead. This time sadly, it is an even more sad occasion because Bill Moorhead is no longer here to listen to our words about his accomplishments during his long and successful political career.

Bill Moorhead passed away on August 4 of this year at a relatively young age of 64. He died after a very, very long illness.

Mr. Speaker, I yield to my colleague from New York, Mr. GARCIA.

Mr. GARCIA. I thank the gentleman for yielding.

Mr. Speaker, I would like to take a minute as a New Yorker to pay my tribute to Bill because for those of us who lived and were in Government during the years 1975 and then in 1978, if you can remember we were probably the first major metropolis on the globe that was facing absolute disaster, chaos, near bankruptcy. We had very few friends. Some people were telling New York to go where they belong. Some people were very hostile to us in New York. But there was one gentleman who came out of the city of Pittsburgh who understood the plight of urban America, and as chairman of a committee was in a position to come forward and to lead the Banking Committee and especially the subcommittee dealing with economic stabilization which had jurisdiction over the cities and over being able to bring the city of New York back. It was Bill Moorhead who almost singlehandedly steered a major loan package for New York. I am happy to report it was paid back with interest and paid back on time, because Bill knew and had faith in us in New York.

I must tell you frankly that I will never forget that period, because it was my first year as a freshman in this House, watching other Members of Congress work together to save and make certain that urban America got their fair share and, better yet, that they were represented here in true fashion.

So I would just like to also as a New Yorker in behalf of all of my colleagues in New York, to thank my colleague from Pennsylvania for taking this time because there is no question in my mind that those of us, the 8 million people in New York and the 14 million people who live in the general metropolitan area of New York are deeply grateful and will always be grateful to Bill Moorhead for what he did during the moment of crisis in our city.

I again thank my colleague.

Mr. GAYDOS. I again wish on the record to sincerely thank my colleague, Mr. GARCIA from New York, for verifying what I had deep and sincere suspicions of as far as Bill Moorhead is concerned, what he meant to our colleagues and how seriously and how effectively he operated as an active Member of this House. I thank the gentleman so much for his contribution to these special orders.

As Mr. GARCIA has said, Bill Moorhead is going to be missed and missed sincerely. Having known him quite well, I want to emphasize the fact that we represented neighboring districts. In fact, at one time I represented a quarter of a million people in the city of Pittsburgh and Bill had the balance of the city. Since he had been here for 10 years before I arrived, he helped me learn the procedures about Washington and the Halls of Congress here on the floor which at times admittedly can be quite complicated.

I know I could cite chapter and verse from Bill's legislative accomplishments, the role he played in passing the Freedom of Information Act of 1974—I will never forget that—his authorship immediately thereafter of the Privacy Act and all of its ramifications and his role in uncovering massive cost overruns in the construction of the Air Force's C-5A cargo plane which was most controversial at that time, and also the synthetic fuels legislation which we argued back and forth on the floor of the House.

I could go on and mention his idea for a Federal foundation to assist the arts which formed basically the underpinnings of what came to be known as the National Endowment for the Arts and Humanities.

While it is true that Bill was best known for his legislative work here in Washington, Bill was close to the leaders in his home in Pittsburgh and always remembered his roots back home and visited Pittsburgh on a regular basis.

I can verify that, because I had many a meeting with him in Pittsburgh on many, many occasions.

A fellow attorney Nate Shore from Pittsburgh who served as Bill's district aide for over 22 years, told me that Bill always saw to it that the city of Pittsburgh's concerns, especially when it came to housing, as testified to by our colleague, Mr. GONZALEZ from Texas, were always in the forefront. Bill did not forget his constituents either. Sometimes according to Attorney Shore, Bill would get intrigued by what appeared to be an unsolvable constituent problem. Then Shore went on to inform me that Bill would get all wrapped up in it, keep chasing it until it was settled, usually to the benefit of his constituents. He spent time after time and urged his employees and representatives to do the same on constituent matters.

Bill had another outstanding talent, and this is what I guess you have to be born with, which he cultivated, he got along with most of the Members regardless of their political persuasions here in the House. That is one asset that made him invaluable as the dean of the Pennsylvania delegation, in which capacity he served at that time, and in which capacity I serve at this time. In that position, Bill was instrumental in developing a strong working relationship with the entire delegation on matters of importance to our home State of Pennsylvania. He did so effectively and he did so with an ability that seemed almost to me unmatched since his passing.

It was fitting that at a memorial service for Bill here in Washington, just last week in fact, a great many of his former colleagues were present and even more noticeable was the presence of Ms. Katherine Graham, publisher of the Washington Post, who delivered, in a very impressing fashion, a part of the eulogy on behalf of William S. Moorhead.

Bill, to cut it short and to be succinct about it, was an outstanding man and a good close friend and an exceptional colleague. He was a husband, a father, he was a legislator, a good one, and, to me, a warm colleague and good friend.

I would like to remember his family, particularly his wife, Lucy, their three sons and daughter. I am sure that when they review some of these things that are said, and which I am going to insert in the RECORD, they are going to have a better understanding of what their father stood for and what he did in his lifetime in this body and in other areas also.

□ 1915

IDENTIFICATION, NOTIFICATION AND RISK PREVENTION ACT

I would like to take just a short 10 minutes, Mr. Speaker, and deviate from the subject matter and talk just a little bit about legislation that is coming up, H.R. 162. H.R. 162 is the identification, notification and, hopefully, prevention of a dangerous hazardous working condition in the workplace.

I want to allude to testimony given before the Committee on Small Business on September 23 of this year. It was given by Leslie Cheek III, senior vice president for Federal affairs of Crum & Forster Insurance Co.

I would like to read this testimony into the RECORD at this point. I precede the reading of the testimony by an observation on my part.

Mr. Speaker, it must be remembered this testimony was given before the Committee on Small Business and might allude to other aspects of the legislation which is not in the bill as proposed. H.R. 162 is not a workman's compensation bill and it is not a health bill either, so here is how it goes, and the reason why I am taking this time under these odd circumstances is because I believe that this position illustrates quite clearly in a pronounced fashion just exactly what the insurance industry, which is in so much trouble today because of the high cost of workman's compensation cases and the ever-growing suits that are being experienced in our country, that it is very excellent testimony as to what the situation is and gives credence and substantial reason for H.R. 162, the indentification of deleterious substances and procedures and agents in the workplace, and notification to the worker, and then hopefully some prevention for the individual involved.

Mr. Cheek goes on, and I am going to quote him hurriedly, emphasizing before the Committee on Small Business, and again emphasizing that is why some pertinent parts of this testimony would not be properly considered as far as the bill is concerned, but most of it is and the philosophy engendered by these remarks is.

> Mr. Chairman and Members of the Committee: The Crum & Forster Insurance Companies are the Nation's second-ranked writers of general liability insurance and among its largest workers' compensation carriers. We have a vital economic stake in assuring that any occupational disease risk notification legislation enacted by the Congress will advance the cause of workplace safety without increasing the cost of commercial insurance for the hundreds of thousands of small to medium-size businesses we insure.
>
> We believe that H.R. 162, as reported from the Education and Labor Committee and with the addition of the amendments Chairman Gaydos will offer on the House floor, holds out the promise of significant long-term reductions in the frequency and severity of occupational disease, with concomitant savings in the costs of insurance for employers and product manufacturers.
>
> We also believe that these major long-term benefits will vastly outweigh the short-term costs that enactment of H.R. 162 may impose on a small number of employers and suppliers of products used in the workplace in certain industries.
>
> The medical monitoring and surveillance costs that H.R. 162 would impose on employers of current workers receiving notifications that they are at increased risk of disease would not, in most instances, be covered either by the employers' group health insurance policies or by their workers' compensation insurance. Health policies generally do not cover the costs of routine physical examinations, and workers' compensation benefits are available only when a worker's injury or disease results in lost time.
>
> Thus, in the handful of industries in which worker exposure to hazardous substances is found to constitute an occupational health hazard, employers would face some additional costs, but these costs would not fall within the scope of traditional insurance products.
>
> It has been argued that enactment of H.R. 162 will increase the frequency of workers' compensation and tort claims against employers and product manufacturers and hence the costs of workers' compensation and general liability insurance in industries affected by the bill. There certainly were grounds for this argument in the original H.R. 162, and we were among the most vocal in advancing it.
>
> But section 8(b) of the bill now unequivocally prohibits the use of notifications and related determinations and actions either as the legal basis for or as evidence in workers' compensation or tort claims, and we believe it adequately addresses our concern that the bill neither add to nor subtract from remedies available to workers under other law.
>
> Those arguing for further changes in section 8(b) or against the enactment of H.R. 162 in toto are really arguing against remedies for work-related harm that already exist under State law. Their concern reflects the stresses that our Nation's liability and compensation mechanisms are undergoing in trying to cope simultaneously with changing concepts of what constitutes compensable occupational harm and with claims for common chronic and latent injuries allegedly resulting from past workplace exposure to hazardous substances.
>
> Changing concepts of compensability are reflected in the fact that 27 States' workers' compensation laws now permit claims for disabling stress. And the tort system in virtually all States permits workers to bring common law actions against the makers or suppliers of products that have caused them harm in the workplace.
>
> H.R. 162 does not, and should not, affect the availability of these remedies. H.R. 162 is a disease prevention bill, not a compensation or a tort reform measure. Dissatisfaction with the remedies available to injured workers should be addressed in other contexts.
>
> Moreover, we can find no evidence in our own loss experience, nor in that of self-insurers who now routinely and voluntarily notify and medically monitor employees exposed to hazardous substances in the workplace, that notification has any effect at all on workers' compensation or tort claim frequency.
>
> The principal reason that notification/medical monitoring has not affected claim frequency is disarmingly simple: the notified workers have suffered no injury or disability that would serve as the legal predicate for a tort or workers' compensation claim.
>
> H.R. 162 would not alter this pattern. It defines an "occupational health hazard," the existence of which is a necessary precondition to notification, as one "for which there is statistically significant evidence, based on clinical or epidemiologic study conducted in accordance with established scientific principles, that chronic health effects have occurred in employees exposed to such agents and processes." It goes on to list with considerable specificity the physical impacts that an occupational health hazard must have been found to cause in order to permit notification of exposed workers. Thus, there is no basis in H.R. 162 for the allegation that it would permit or result in claims for purely mental conditions alleged to result from exposure to hazardous substances.
>
> In the final analysis, there is probably no set of words, short of a total preclusion of claims by anyone receiving a notification under H.R. 162, that could effectively wall off the notification process from the legal remedies available to those suffering harm from exposure to hazardous substances.

This conclusion was what led us, and the other business supporters of the bill, to focus our efforts on reshaping the bill so as to assure that only those employees truly at increased risk of harm would receive notifications. We believe that we have been successful, and that the notification program will rest on appropriately rigorous scientific principles and fully protective procedural safeguards.

Indeed, we believe that the medico-scientific and procedural framework within which the Risk Assessment Board will operate is so sound that it will enable the Board, over time, to establish a rational basis not only for the prevention of occupational disease, but also for determining, for compensation purposes, what is or is not an occupational disease.

The enactment of H.R. 162, in our judgment, will eventually assure the availability, to employer and employee representatives alike, of a centralized source of the very best information on how to prevent, treat and compensate for occupational diseases. The bill's scientific and procedural provisions give all affected interests a tremendous opportunity to advance their collective knowledge of chronic and latent workplace disease.

We believe the enactment of the bill will encourage insurers and others to undertake studies of exposed worker populations to determine what is, and, equally important, what is not dangerous to workers' health. If these studies show that particular concentrations and/or durations of exposure do not create increased risk of work-related disease, then it follows that they can be used not only to forestall unnecessary notifications, but also to contravene spurious occupational disease claims. By the same token, if these studies show that there are increased risks in such exposures, then they can be used not only for insurance underwriting, rating, and loss prevention purposes, but also as compensability guidelines by workers' compensation tribunals and courts.

H.R. 162 offers the business community as a whole—and insurers in particular—the opportunity to help the Risk Assessment Board do for the prevention of occupational disease and the rationalization of occupational disease compensation what Underwriters Laboratories, ANSI, ASTM, and, most recently, OSHA have done for the prevention of traumatic injury by countless products and materials both inside and outside the workplace.

In sum, Mr. Chairman, enactment of H.R. 162 not only will not increase workers' compensation and liability insurance costs in the short term, but also will assure a long-term downturn in occupational disease frequency and severity, thereby reducing insurance costs for both employers and manufacturers in the future.

We have appreciated this opportunity to present our views, and would be pleased to answer any questions you might have.

Again, let me emphasize for the record that this is the testimony of Mr. Leslie Cheek III, senior vice president of Federal affairs for Crum & Forster, one of the largest insurance compensation carriers in the Nation.

I think his testimony illustrates and emphasizes what I have said repeatedly and will say up until the time that we consider this legislation on the floor of this very House, that the bill that I am speaking of, H.R. 162, is not a compensation bill. I emphasize again is not a health bill. In fact, the subcommittee which I chair and the Committee on Education and Labor generally has no jurisdiction in those areas. We could not bring a bill out. Mr. Speaker, the chairmen of the various full committees in this House, where this jurisdiction does lie, would be here registering on the floor of this House in a formal nature criticisms and objections to the Committee on Education and Labor invading their jurisdictions.

However, there are those who are not in favor of the bill, and they are trying to make it a compensation bill; but it is not. I argue that it is not. The terms of the bill indicate that it is not. The interpretation of the bill indicates that it is not.

Mr. Speaker, they are all spurious arguments, and not based on fact.

This bill would be the first attempt to do what OSHA has not done and that is to set in place hopefully eventually these health centers throughout the country utilizing existing ones that are now under the auspices of and being operated by NIOSH, Department of HHS, and health centers generally as we have grown to know them. They already have personnel, facilities, and they have connections, they already have experts in place that have been doing some of these investigations.

We conclude that that is one of the best approaches. No place in this country today does there exist these centers which would address themselves strictly to occupational disease so that they would learn eventually how to treat a disease, how to recognize an occupational health hazard.

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Hopefully, H.R. 162, as Crum & Forster, through our witness, Mr. Leslie Cheek III, indicated would, No. 1, put a halt and a stop to the escalation of costs to cover insurance; and he goes further, but it is not part of our bill.

The gentleman goes further, and he talks about compensation and talks about third-party liability claims.

It is not in our bill, but he had to, because it is involved in his observation and in his conclusion, because he is interested in that. For our purposes, he has made his statement very clear that the bill as presently written and subject to his interpretation and his company's interpretation, they have concluded that this will be the first major step in recognizing the problem we are speaking of.

We are talking about health problems at the workplace because of exposure to a dangerous material or a process or an agent.

Take whatever one you want or combination. He says in the long run the insurance companies will benefit, that it will cost them less.

I want to again stress the fact that we are talking about a very scientific board. The Risk Assessment Board would make these determinations as to what agent, what process or what chemical is of that dangerous nature, that statistically significant studies and investigations have shown is detrimental and does cause a disease, and there is manifestation of it, and there are a lot of safeguards in the bill, and that occurs, that we submit to the Members that we are doing it on a scientific basis for the first time; and it is necessary.

Nobody is doing it; somebody has to do it.

NIOSH, which is the National Institutes for Occupational Safety and Health, created under OSHA, and which rests in the Health and Human Services Department as distinguished from the Department of Labor, NIOSH has done this many times, two or three times on a major scale.

Down South and up in Pennsylvania they have notified workers, investigated, sent them a notice, ferretted them out, and found them.

Dr. Millar, the Director of NIOSH, testified as a matter of record before our committee that they have done this. They know what the costs are and how effective it is.

We have had instances of small cases whereby this has been done, so the experience has been that the manifestation of this procedure has been proven. It is not something that is unproven.

We have the wherewithal, the centers in place, for all practical purposes, and the Risk Assessment Board will be scientific, apolitical, made up of four laymen and four Government people under the chairmanship of the Secretary of Health and Human Services in that capacity.

Under those conditions, I think that we are going to put together a really meaningful type of a board analysis done by experts in the scientific field where it should be done, and in an effective manner and done in such a manner it would not be detrimental or available to be invaded by some self-serving purpose or group or association, be strictly apolitical, hopefully for the ultimate purpose of identifying, notifying and then preventing high-risk occupational diseases.

Mr. Speaker, I yield back the balance of my time.

Mr. COYNE. Mr. Speaker, I rise here today to honor the memory of our esteemed former colleague, William S. Moorhead, who lost a long battle to cancer in early August.

A native of Pittsburgh, Bill's legacy in the House of Representatives sets a standard for all of us in public office to emulate. He left a record of achievement that was both enlightened and progessive. His deeds still testify in silent tribute to his vision for the city of Pittsburgh, the State of Pennsylvania, and his country.

His reputation as a legislator was marked not so much by the number of laws carrying his name, as it was by the quality of his leadership on issues and the influence he was able to exercise through common courtesy, common sense, and plain old-fashioned common decency.

Above all, Bill was a gentleman; a man whose generosity of spirit and compassion for his fellow man reached into every corner of society.

Bill enjoyed a long and distinguished career in public service. He was recruited into Government in 1954 to serve as the assistant city solicitor for Pittsburgh, a post he held until 1957. Around that same time, Bill was appointed as a member of the Allegheny County Housing Authority, serving on that body from 1956 to 1958.

In 1958, Bill was elected to the 86th Congress and returned to the House by the voters of the 14th District 10 more times before he retired at the end of the 96th Congress in 1980. That record of achievement is a tribute to the esteem in which Bill Moorhead was held by the people of the 14th District.

As a Member of Congress, Bill focused on the needs of America's cities, helping guide millions of dollars in Federal aid into programs that sought to reverse the decline of cities and rejuvenate urban neighborhoods for thousands of Americans. He fought successfully for a change in the way Federal grants were distributed to States and cities, writing key sections of the legislation that set up the Community Development Block Grants Program.

Among Bill's lasting contributions to our society was his record on civil liberties. His work on protecting the individual's right to privacy is legendary and resulted in the Privacy Act of 1974, a landmark law that for the first time imposed rigid limits on the extent to which the Federal Government could disclose confidential information it had collected on individuals.

He worked to strengthen the public's right of access to Government information with important amendments to the Freedom of Information Act and worked tirelessly to override a Presidential veto of that legislation.

Bill's respect for our democratic traditions lead him to denounce those who sought to subvert the Federal Government machinery for private political purposes. It was Bill Moorhead who put into the CONGRESSIONAL RECORD the full text of the infamous Houston plan, the 1970 top secret plan that proposed embassy break-ins and other criminal actions in the pursuit of Presidential objectives during the Nixon administration.

Bill was instrumental in securing a financial assistance package for the beleaguered Chrysler Corp. He was also a leader in the long battle to fashion a responsible and fair economic revitalization program for New York City.

But while Bill's heart was with economic development issues, his soul was always with the arts. Bill was a long-time patron of the arts in his hometown of Pittsburgh, serving on both the Pittsburgh Art Commission and Pittsburgh Council for the Arts. But his most important role was as champion of legislation to establish the National Endowment for the Arts and Humanities. He understood the value of preserving our cultural and artistic traditions as well as promoting the development of new, homegrown artists, writers, composers and musicians.

Bill was a devoted and honorable public servant. The Congress is better for his service to his city and his country. And his memory will be honored by his lasting contributions to America's cities, its citizens and the arts.

Mr. APPLEGATE. Mr. Speaker, I want to take this time to join with my colleagues in the House in honoring a great former Member who passed away in August, Representative William Singer Moorhead of Pittsburgh, PA.

I knew Bill during my early years in Congress when, at the same time, he was finishing up the final years of his long career in the House, a term of public service which started in 1958. His Congressional District of Pittsburgh, PA, was a short distance away from my district in Ohio, and our paths would often cross and we would often share the same concerns.

Overall, Bill Moorhead and I were witnesses to many of the same problems which have affected the Upper Ohio Valley over the past generation. However, Bill represented downtown Pittsburgh, as opposed to the small-town and rural character of my district, and he certainly left a record of service in this Chamber which reflected his deep and sincere concerns for the cities of our Nation and for the future of local communities across America.

There are probably countless millions of Americans all across the country who benefited—although possibly in a small and indirect way—from the work performed by Bill Moorhead during his 22 years in the U.S. House of Representatives.

For all American taxpayers who wanted both efficiency in Government and a strong and reliable defense, Bill Moorhead disclosed to the Nation the problems of cost overruns with the C-5A military transport during the 1960's.

For Americans who treasured freedom from tyranny by Government and who sought to see our constitutional rights upheld, Bill Moorhead worked to have the Freedom of Information Act improved and he authored the Privacy Act which prohibited Government-held information from being released without an individual's consent.

For Americans employed with the Chrysler Corp. during its period of financial difficulty, Bill Moorhead led the way in steering legislation in Congress providing needed guarantees to keep this major American firm operating.

For the millions of Americans residing in New York City during the 1970's, Bill Moorhead fought to provide needed financial aid to this largest of America's cities and helped to prevent a possible bankruptcy that would have had both national and international economic and financial repercussions.

For Americans all over the Nation living in thousands of communities in all 50 States, Bill Moorhead spearheaded the Community Development Block Grant Program to provide "package" financial assistance to cities and towns, a program that I and my colleagues in this Chamber continue to support and defend.

And, for countless millions of Americans who value the arts and humanities of our Nation, Bill Moorhead was instrumental in establishing the National Endowment for the Arts and Humanities.

Mr. Speaker, Representative William Moorhead brought more to this Chamber and he did more for the people of America than can ever be fully recognized. His concerns were not just with his constituents and his own interests but, instead, his concerns extended to all parts of America and to the interests of all 235 million Americans who live in a better Nation today because of the efforts and endeavors of Bill Moorhead.

Finally, I cannot finish these remarks without mentioning Bill's love for sailing, a devotion that was known throughout the world community and recognized by political leaders everywhere.

I wish to extend my deepest sympathies to Bill's wife, Lucy, his daughter, Perrin Moorhead Grayson, and to his three sons, William III, Stephen, and James. Bill Moorhead was truly a great Member of Congress and an outstanding citizen of America.

Mr. YATRON. Mr. Speaker, I rise today in great sadness to join with my colleagues in paying tribute to our late colleague, Congressman William S. Moorhead. Bill Moorhead's life was dedicated to public service and to representing the people of the city of Pittsburgh in the U.S. House of Representatives.

Bill ably served in the House for 22 years. I was privileged to serve with Bill for much of this period. His hard work and commitment ensured the admiration and support of his constitutents. In his long career, he was active on a number of legislative fronts. His work on the Government Operations Committee and on the Banking, Finance and Urban Affairs Committee was especially important. Bill was best known for his fine work in enacting the Privacy Act, providing Federal loan guarantees for the city of New York and the Chrysler Corp., and establishing the National Endowment for the Arts and the Humanities. In all of his endeavors, Bill represented the citizens of the 14th District of Pennsylvania with the utmost dedication and sense of responsibility.

I feel honored to have known and served with Bill Moorhead. He was a caring and compassionate man and a tremendous political leader and public servant. Mr. Speaker, I join with my colleagues in extending deepest sympathy to Bill's wife, Lucy, and all members of his family.

Mr. BROOKS. Mr. Speaker, I want to take this opportunity to join my colleagues in expressing our sense of deep sadness at the death of our beloved friend and former colleague, Congressman William S. Moorhead.

William Moorhead represented the people of Pittsburgh as an assistant city solicitor from 1954 to 1957 and as a member of the Allegheny County Housing Authority from 1956 through 1958. He was elected to the 86th Congress on November 4, 1958, and he served this body with distinction and dedication as a member of the Committee on Banking, Finance and Urban Affairs, and the Committee on Government Operations. It was my honor and privilege to serve with Congressman Moorhead on the Government Operations Committee from 1958 through 1980. He was an outstanding member of my committee and an acknowledged leader as one of my committee's subcommittee chairmen. During this time he was known by all as a Member who brought compassion and understanding to the deliberations in this Chamber.

The people of Pennsylvania's 14th District always had a hard working, capable Member who demonstrated time and again a spirit of independence and determination to pursue goals important to his constituency. The people of Pittsburgh, and Allegheny County, and the State of Pennsylvania were indeed fortunate to have a man like Congressman William Moorhead represent them here in Washington with such energy and dedication. They will long remember his skillful representation of their interests. I valued his leadership along with his warm friendship and wise counsel. I considered him a good friend and I will greatly miss him.

My deepest sympathy is with his wife, Lucy, and his four children.

Mr. ANDERSON. Mr. Speaker, at this time I would like to express a sense of heartfelt loss for a man who was not only an articulate leader and had great vision, but knew of the realities of our society and used this knowledge to obtain results. I speak of the passing of former Congressman William S. Moorhead.

From 1958 until his retirement in 1981, William Singer Moorhead served his Pennsylvania district with a tireless persistence during 11 terms as a Member of the U.S. House of Representatives. Mr. Moorhead spearheaded campaigns to provide Pittsburgh with funding for public housing. His strong support for the reconstruction of the Bloomfield Bridge and the construction of the Federal Building in the early 1960's which was renamed the William S. Moorhead Federal Building upon his retirement in 1981, are examples that illustrate his determined commitment.

Mr. Moorhead also felt that his expertise could benefit others nationwide. As chairman of the House banking Committee's Economic Stabilization Subcommittee, he advocated legislation providing New York City with $2 billion in Federal loan guarantees to avoid a possible bankruptcy. As chairman of the Foreign Operations and Government Information Subcommittee, he supported a measure that provides the public with access to Government documents through the Freedom of Information Act of 1974. He was the author of the Privacy Act of 1974, restricting Government propagation of information regarding citizens.

William Moorhead answered his country's call to arms during World War II, serving as a lieutenant aboard a Navy destroyer stationed in the Pacific. Upon returning to civilian life, Mr. Moorhead graduated from Harvard Law School cum laude in 1949 before joining the law firm of Moorhead & Knox founded by his father.

Mr. Speaker, William S. Moorhead was such an exceptional man, any attempt to summarize his contributions to our great Nation would not do him justice, and would fall far short from being complete. Perhaps the greatest honor I enjoyed while serving in the U.S House of Representatives, aside from representing my own 32d District in California, is that of working closely with people like William Moorhead. His dedication, integrity, sincerity, and warmth, will be missed here in Washington, and all of our lives have been enriched greatly by him. Mrs Anderson joins me in expressing our sincere sorrow over his passing.

Mr. LAFALCE. Mr. Speaker, I thank my colleague, Mr. GAYDOS, for allowing us this opportunity to say farewell to our dear friend, Bill Moorhead.

I had the privilege of serving on the Banking Committee with Bill, where as chairman of the Subcommittee on Economic Stabilization, he leaves an impressive legislative legacy. The New York City Financial Assistance Act, the Chrysler Corp. Loan Guarantee Act, the Energy Security Act—all attest to his stewardship, his level of commitment to, and passionate love of his country. While we may not have always agreed—I particularly remember the lively exchanges during the Chrysler debate—Bill was always willing to listen and to consider other views. No matter how tense the situation, I remember how his elfin charm and kindness would inevitably win numerous friends and allies. At his recent memorial service, Bill's youngest son described his father as "a scholar of human nature." That description was both poignant and true in every respect.

During his tenure on the Government Operations Committee, Bill championed the rights of individuals by sheparding the enactment of the Freedom of Information Act amendments, as well as the Privacy Act of 1974. These legislative accomplishments helped give greater meaning to the Bill of Rights.

Beginning with his early days in the Navy during World War II and throughout his 22 years in these hallowed Halls, Bill's desire to serve not only his constituents, but his country are preserved in deeds. To quote Sophocles, "This is man's highest end, To others' service all his powers to bend."

My wife and I extend our deepest condolences to Lucy and all the members of his family. He will be missed.

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my good friend and former colleague Bill Moorhead of Pittsburgh who passed away in August.

I served with Bill for 5 years on the Banking Committee. He was a very fine man and an outstanding Congressman who contributed so much not only to his constituents in Pennsylvania, but to the entire Nation as well.

Bill had a wide variety of interests and he put a lot of energy into those interests. It was Bill Moorhead who disclosed that the Air Force had tried to hide cost overruns on the C-5A jet transport.

It was Bill Moorhead who helped establish the National Endowments for the Arts and Humanities. And, it was Bill Moorhead who led the fight for passage of the Freedom of Information Act.

It was Bill Moorhead who helped bail out New York City and Chrysler Corp. when they were on the brink of financial failure.

Very few Congressmen leave office with such a fine record. Bill Moorhead's talents were missed when he retired from Congress after 22 years of service.

I was deeply saddened to learn of his death. I will personally miss Bill Moorhead, but I will always remember him for his wonderful personality and his good works.

Bill Moorhead will not be forgotten.

Mr. STOKES. Mr. Speaker, I thank my distinguished colleague from Pennsylvania, [Mr. GAYDOS], for reserving this time for Members to pay tribute to the late Congressman William S. Moorhead. With his passing, this House and this Nation lost a great leader and a good friend.

During his 22-year tenure in the House, Bill worked tirelessly on behalf of the residents of Pittsburgh. His dedication and hard work earned him the admiration and praise of his constituents.

A pioneer of urban revitalization, Bill spearheaded legislation to assist distressed cities. He was responsible for writing much of the language creating the Community Development Block Grant Program. The inner city of Pittsburgh, ravaged by social and economic conditions, benfited greatly as a result of his legislative efforts.

Bill will also be remembered for his work in the establishment of the National Endowment for the Arts and the Humanities, enactment of the Privacy Act, and as a member of the Committee on Banking, Finance and Urban Affairs, for providing Federal loan guarantees for the city of New York and Chrysler Corp. when both were near financial ruin.

Mr. Speaker, it was a privilege to serve with Bill Moorhead in this body. I found him to be very personable and always a gentleman. He was soft-spoken and considerate of others. I loved to hear him speak on the floor of the House. Bill was a good orator and he was always well prepared on matters he brought to the floor. He served with a great sense of dedication and responsibility.

In 1981 the Federal Building on Liberty Avenue in Pittsburgh was renamed "the William S. Moorhead Federal Building." It will stand as a lasting monument to this great man.

I join with my colleagues in extending sympathy to Bill's wife, Lucy, and members of his family.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my friend, Congressman JOSEPH GAYDOS, and the other Members of the House of Representatives in paying tribute to our former colleague, Hon. William S. Moorhead, whose death on August 3 was a tremendous loss to the people of this Nation.

It was a truly rewarding personal experience for me to have known Bill as a colleague on the House Banking, Finance and Urban Affairs Committee and to have worked with him during the 16 years we served together in the U.S. House of Representatives.

Bill was first elected to the 86th Congress in 1958, and ably served his constituents from the 14th Congressional District of Pennsylvania until his retirement in 1981. He compiled an outstanding record of achievement, as chairman of the Subcommittee on Housing of the House Banking Committee, and as the chairman of its Subcommittee on Economic Stabilization and on International Development, Institutions and Finance. He also was a member of the House Government Operations Committee and the Joint Economic Committee, where he served as chairman of the Subcommittee on Fiscal and Intergovernmental

Policy and as a member of the Subcommittee on International Economics.

Congressman Bill Moorhead was at the forefront of efforts to implement meaningful solutions and effective action on behalf of individual citizens. He distinguished himself very early in his congressional career as a major force in the establishment of the National Foundation of the Arts and Humanities, the forerunner of the National Endowment of the Arts and the National Endowment for the Humanities.

Bill was a fine legislator, and his dedication to the highest standards of excellence was an inspiration to his friends and fellow citizens. He will be long remembered by those of us who had the privilege to serve with him in Congress.

Mrs. Annunzio and I extend our deepest sympathy to the other members of his family who survive him.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. GARCIA). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SALUTE ON DEPARTURE OF SECRETARY OF TRANSPORTATION ELIZABETH DOLE

The SPEAKER pro tempore (Mr. GARCIA). Under a previous order of the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I am privileged to rise to recognize the distinguished service of Secretary of Transportation Elizabeth Dole on the day of her departure from office. I rise to commend her on her tremendous leadership in promoting safety across all modes of transportation. From day one she made safety her highest priority. She appointed a Safety Review Task Force, a group of transportation experts and program analysts who examined safety in depth in each transportation mode. At the same time she tackled tough safety issues that had been around as long as 20 years. As a result of 4½ years of her boundless energy devoted to the safety priority, the skies, seas, railways, and highways of this Nation are safer today.

I think it is truly an outstanding tribute to Elizabeth Dole that the last 3 years have been the safest in U.S. history for all four major modes of transportation. The years 1985 and 1986 share the record for the lowest automobile fatality rate. American railroading broke another record year for safety in 1986, and U.S. aviation recorded the safest level of travel ever during the last 3 years. The boating fatality rate for the last 3 years was also the lowest ever.

Secretary Dole contributed to these records and took countless actions to assure their continuation. Her success is measured in more than statistics.

Her solution to the 20-year battle over passive restraints has saved thousands of lives. She provided the incentive for the passage of seatbelt laws in 29 States and the District of Columbia. As a result of the Secretary's 208 ruling, 10 manufacturers are now offering air bags on new cars, and 25 percent of 1988 model year cars contain passive restraints. Secretary Dole also led a major effort to eliminate drunk driving, particularly among America's young people. She promoted the passage of legislation to raise the drinking age to 21, which is now in effect in 49 States, eliminating blood borders where young people drive to one State to drink and have accidents on the return trip.

She mandated the high-mounted brake light on cars. It costs less than $20 a vehicle and when all cars are equipped with this light it can eliminate 900,000 crashes a year.

Truck safety has been enhanced under her stewardship. She also initiated a rule to eliminate multiple licenses that allow truckdrivers to avoid license suspensions and revocations, as well as to provide special requirements for driving truck and tractor-trailers. She also proposed and received a tripling of Federal funding to train State motor carrier safety inspectors.

As a result of these and other highway safety initiatives, last year's highway fatality rate dropped to its lowest level in history. This is a winner's trophy she can take with her as she leaves the Department.

Aviation safety is currently a much-debated subject in the Halls of Congress. I want to commend Elizabeth Dole for her efforts in maintaining a safe national aviation system amid phenomenal growth in the industry. She responded to the growth by completely overhauling the FAA inspection system, increasing the number of FAA inspectors by 60 percent. The air traffic controller work force has increased by 24 percent under her stewardship and she has required collision avoidance warning systems in all commercial aircraft. Furthermore, the package of new rules substantially improves cabin safety in commercial aircraft.

I think her air delay initiatives are a bold stroke and I commend her creativity in dealing with the issue. Her airline truth in scheduling rule mandates that consumers be informed of airline ontime performance. Enforcement powers are being used to require carriers with chronically delayed flights at major airports to meet increasingly stringent ontime performance requirements or pay fines. Indeed, Secretary Dole's initiatives are working. Flight delays dropped 32 percent in August from the previous month. And the August delay figure was also 23 percent below the number for August of a year ago. In addition, congestion is being reduced substantially by implementing the new east coast air traffic plan and requiring flights to be spaced out.

Elizabeth Dole recognized the relationship of drugs to transportation safety and took positive steps to deal with the problem. Breaking a 12-year logjam, she took action in 1985 to issue the first requirement for alcohol and drug testing after serious railroad accidents. This came less than a year before the tragic Conrail/Amtrak accident which took 16 lives. Both the brakeman and the engineer were found to have drugs in their system. Eight hundred railroad employees have been tested under this rule and 5 percent have been found to have either drugs or alcohol in their system.

This led Secretary Dole to go to random testing and to start in her own Department. Beginning this month, the Department of Transportation became the first civilian department to administer random drug testing to all senior appointees and 30,000 employees in critical safety and security positions, with rehabilitation and transfer out of jobs until affected employees are cured. She has also ordered the preparation of rules to require such testing for all transportation industry employees who have safety and security responsibilities.

As the first woman to head a branch of the armed services—the U.S. Coast Guard—Secretary Dole coordinated a major drug interdiction effort to stop the flow of illegal drugs into the United States. Last year the Coast Guard seized 154 vessels, and prevented approximately $2 billion worth of illegal drugs from entering the United States.

With these and other accomplishments Elizabeth Dole certainly deserves to be regarded not only as an outstanding Secretary of Transportation but as the Secretary of Safety.

Mr. Speaker, I want to recognize and commend the remarkable career and public service of Elizabeth Dole. When I first entered the Congress as a freshman from Connecticut, I worked closely with Elizabeth Dole in her capacity in the White House and then as Secretary of Transportation, though she did this just out of her own intense interest and commitment on the issues of child-support enforcement and pension reform.

Her deep concern for the lives of women, for the equality of opportunity that women must have in our Nation, the fundamental issue behind the pension-reform initiative and child-support enforcement were commitments that she held dear, that she held true that motivated her, even when she no longer had responsibility for leading those matters in the White House.

Her influence within the White House circle, her ability to work with the President and with the Members of Congress was in large measure responsible for the passage of those remarkable initiatives in the service of women in America.

Mr. Speaker, there were many Members who wanted to join me in this special order; but due to the cancellation and postponement of it, and the many hours of special orders preceding us, most of the Members spoke to Elizabeth Dole as we greeted her and congratulated her today.

Mrs. SMITH of Nebraska. Mr. Speaker, it is a privilege to join my colleagues today to pay tribute to Transportation Secretary Elizabeth Dole.

I thank the gentlelady from Connecticut [Mrs. JOHNSON] for arranging this time so that we may express our admiration, respect, and thanks for a job well done to Mrs. Dole.

In her work at the Department of Transportation, Secretary Dole has provided this Nation with tremendous leadership during a time of remarkable growth and change in the transportation industry.

She will leave a simply outstanding record.

I think it important to mention as an aside that Mrs. Dole's career did not begin with the Transportation Department.

She has also served with distinction as a member of the Federal Trade Commission, on the President's Committee on Consumer Interests, as an assistant to the President on Consumer Affairs, and as an assistant to the President for public liaison.

And most recently, serving the Nation as the eighth Secretary of Transportation, Mrs. Dole directed policy for the Nation's aviation, highway, railroad, mass transit, and maritime resources, and is the first woman in U.S. history to have headed a branch of the armed services—the U.S. Coast Guard.

During her tenure as Transportation Secretary, Mrs. Dole focused her efforts on transportation safety.

I think it is for that work she will be best remembered.

Secretary Dole encouraged the passage of seatbelt laws and the use of airbags, required the installation of high-mounted stop lamps on cars, took decisive action to improve the condition of the Nation's highways, and led a major effort to put a stop to drunk driving.

Mrs. Dole led similar safety efforts in the aviation industry—requiring beefed-up airport security measures, hiring additional air traffic controllers, and increasing the FAA inspector work force.

That her efforts have been successful cannot be disputed.

These last 3 years have been the safest in U.S. history for aviation, automobile safety, and railroading.

And that record speaks for itself.

But what speaks equally well for Elizabeth Dole is that while she was tackling these tough, complex, national issues, she also found time to give special attention to the more regional problems.

The problems, for instance, such as those faced by the residents of rural, remote areas—particularly the elderly—who find themselves increasingly isolated by the loss of air, railroad, and bus transportation.

As Secretary Dole leaves her post to join her husband's campaign as a not-so-secret "secret weapon," we all extend to her our appreciation for a job well done, as well as our very best wishes for the future.

We know whatever the future may hold for her, whether it be another Cabinet post or a First Lady, we know she will continue to serve this Nation—and its people—with remarkable dedication and distinction.

Thank you, Secretary Dole.

Mr. MONTGOMERY. Mr. Speaker, I am very proud to join with my colleagues today in this special order in honor of Elizabeth Dole. I have known her for a number of years. She has been a personal friend as well as a very capable associate in the Federal Government.

Ever since she first started at the White House, working in the area of consumer affairs under Virginia Knauer, I have always been impressed with how well prepared Elizabeth was on the issues.

She went to the Federal Trade Commission and then returned to the White House where she dealt with special projects and various groups, including veterans. We worked together quite a bit on veterans issues and she was always very knowledgeable on the problem at hand.

The American public has truly been served well by Elizabeth Dole in her capacity as Transportation Secretary. She inherited some tough problems in the areas of air, rail and highway safety. But she has tackled them head-on and I think the result will be a safer transportation system in the years ahead. One example of her leadership is the antidrunk driving campaign she headed. Another is what has come to be called the "Dole light." It is the third brake light, mounted at the rear window level of our new model cars. This will no doubt save lives and property in the future.

I am sorry to see Elizabeth Dole leave the Cabinet. She has been a most effective public servant. I wish her well in future endeavors.

Mrs. MORELLA. Mr. Speaker, as she prepares to leave office, I would like to join my colleagues in thanking Elizabeth Dole for her leadership as Secretary of Transportation. The longest serving Secretary of Transportation since the Department was created in 1967, Elizabeth Dole directed the efforts of 100,000 employees and administered a budget of approximately $28 billion.

In this role, Secretary Dole has been the first woman to head a branch of the armed services—the U.S. Coast Guard, which has taken a leading role in the Nation's drug interdiction effort.

But I would like to focus on Secretary Dole's leadership in promoting safer roadways—1985 and 1986 had some of the lowest automobile fatality rates in recent years, and much of the credit is due to Elizabeth Dole. Secretary Dole played a key role in the battle to raise the drinking age to 21. This restriction is now in effect in 49 States, and deaths caused by drunk drivers have declined.

We have all noticed the brake lights set in the rear window of all late model cars. These lights, the result of a decision by Secretary Dole, cost less than $20 per vehicle and will eventually eliminate an estimated 900,000 rear end collisions every year.

And thousands of lives are now being saved and crippling injuries prevented by Secretary Dole's decision ending the two decade long battle over automatic crash protection in cars. The Secretary's solution requires that automatic seat belts or air bags be phased into cars over a four year period unless two-thirds of the American people are covered by serious mandatory seatbelt use laws. Already, the number of States with mandatory seatbelt laws has reached 29, and belt usage has increased 300 percent. Twenty-five percent of all 1988 model year cars are being equipped with automatic seatbelts and 10 manufacturers are offering airbags on new cars.

These are just a few of the important highway safety improvements undertaken during Elizabeth Dole's tenure as Secretary of Transportation. Secretary Dole has much to be proud of and America's drivers have much to be grateful for.

Mr. LIGHTFOOT. Mr. Speaker, as her position as Secretary of Transportation comes to an end, I want to take a moment to express my deep appreciation to Elizabeth Hanford Dole for the many invaluable contributions she has made to this country.

As a member of the House Committee on Public Works, I have become very familiar with Secretary Dole's capable leadership on various transportation issues. The sale of the federally owned Conrail Railroad Corporation and the transfer of National and Dulles Airports to an independent authority are examples of her outstanding ability to deal effectively with Congress as she worked toward her goals for the common good of us all.

A staunch proponent of free enterprise, Secretary Dole worked hard to allow the free market to work with the minimum government interference in practically every area of transportation. As a result, American consumers and taxpayers realize billions of dollars in savings each year from a more efficient nationwide transportation system.

Most importantly, we are greatly indebted to Secretary Dole for the literally thousands of lives that have been and in the future will be saved as a result of her relentless emphasis on safety—be it in the air, on the highway, on the railroads, or on the open seas. Under her leadership, Secretary Dole helped to prove that sound economics and sound safety practices go hand in hand.

Aside from her achievements in transportation, Secretary Dole has provided a much-needed role model for young people. Her accomplishments prove that the American dream is alive and well and that we can be what we want to be through hard work and dedication.

Thank you, Secretary Dole, not only for these contributions but for the innumerable contributions you have made during your long career as a public servant. On behalf of the people of the Fifth District of Iowa, I wish you the best in your future endeavors.

Mrs. BOGGS. Mr. Speaker, Elizabeth Hanford Dole is a beautiful southerner of great charm who has used her extensive educational background from Duke University, Oxford, and Harvard Law School along with her considerable talents and energies in service to our Nation in working with every President since President Johnson in positions of great responsibility in education, in consumer affairs, in Federal Trade Commission, in public liaison for the White House and, of course, as the first woman in President Reagan's Cabinet as the Secretary of Transportation.

The holder of many prestigious awards including the Arthur S. Fleming Award, she has also found time to serve on the board of trustees at Duke University and at the John F. Kennedy School of Politics at Harvard University.

The evidence of her popularity with the young people of our Nation was well demonstrated on September 16 during the Celebration of Citizenship ceremonies on the west front when all of the members of the President's Cabinet where introduced. She received a tumultuous ovation as she walked to her seat on the platform, the most enthusiastic response coming from the girls of all ages.

I thank the gentlewoman from Connecticut for the opportunity to salute Liddy Dole for many jobs well done, and to thank her for exceptional devotion to our Government and to the American people.

Mr. WOLF. Mr. Speaker, I would like to join my colleagues in commending Transportation Secretary Elizabeth Dole for her exemplary service at the Department of Transportation.

As a member of the House Transportation Appropriations Subcommittee, I have had the opportunity to work with her on various transportation issues affecting this country as well as my congressional district in northern Virginia.

Perhaps most notable of all, I had the pleasure of working with Secretary Dole on the Metropolitan Washington Airports Act, which without her diligence and expertise, would not have passed. Now Washington National and Washington Dulles International Airports, for so long neglected, will be improved to serve the many travelers from around the country visiting our Nation's Capital as well as those who live in the Metropolitan Washington area.

Secretary Dole will have many occasions to be proud of her distinguished service at the Department of Transportation as the fruits of her many accomplishments continue to be realized. I commend Secretary Dole for her excellence and leadership in her capacity as head of the Department of Transportation and wish her continued success in the days ahead.

Mr. JONES of North Carolina. Mr. Speaker, I want to join many others in thanking Elizabeth Dole for an outstanding job as Secretary of Transportation.

I am proud to say that she is a native of my State of North Carolina, and attended Duke University, one of the better institutions of higher learning—all in all, she is a real Tarheel.

I could not ask for any more cooperation than this office has received from her during her tenure. I am honored that we have a warm, personal friendship, one which I treasure greatly.

I certainly wish her and hers many years of health and happiness in the years ahead. I, for one, will sorely miss her in her official capacity.

Mr. DAVIS of Michigan. Mr. Speaker, October 1, 1987, will mark the departure of one of this administration's most prominent Cabinet members. Elizabeth Hanford Dole will be leaving her post as Secretary of Transportation after holding that position longer than any previous Secretary.

Most significant among her duties was her position as the head of the U.S. Coast Guard. As such, she became the first woman ever to head one of our military services. Under her direction, the U.S. Coast Guard waged an ambitious war on drug smugglers along our coasts and in the Caribbean. Boating safety also has been greatly improved during Mrs. Dole's tenure—in fact, the last 3 years have set records for the lowest boating fatalities ever recorded. This is due in large part to efforts at the Department of Transportation to curb the use of alcohol and drugs while operating boats. Later this fall, new regulations will go into effect that will increase the Coast Guard's capability to detect and enforce against alcohol and drug-related boating accidents.

Our marine environment also has benefited from the efforts of Mrs. Dole. She has proposed legislation to provide speedy, industry-financed cleanup of oil spills in our waters, and further legislation to curb the growing problem of plastic pollution in our waters, pollution which dramatically affects our living marine resources. Action on both of these pollution problems is moving forward in the House and it is my hope that we will be able to enact these bills in the 100th Congress.

Finally, Mrs. Dole has been one of this administration's most personable and energetic representatives. Her appearances before committees of both the House and Senate have always been welcome and her efforts on behalf of this administration's programs have been tireless and effective. She is well respected along both "sides of the aisle" and I know that she will continue to be one of our country's greatest public servants.

Mr. MOORHEAD. Mr. Speaker, I would like to thank the gentlewoman from Connecticut for this opportunity to say "thank you" to the outgoing Secretary of Transportation Elizabeth Dole for the superb job she has done in operating one of the Nation's most necessary Departments.

Under her stewardship, the Department has flourished. As Secretary, her contributions have been too numerous to mention. She had directed the Department with skill, sound judgment, and consummate civility through both easy and difficult times. She has set an example that is envied and, we hope, emulated.

Mr. Speaker, the Department of Transportation, the administration and, the Nation will miss her charm and gracious spirit, her efficiency and dedication, her style, and her successes.

On behalf of the people of the 22d Congressional District of California, I wish to express our gratitude to Elizabeth Dole for her many efforts on our behalf and to wish her every best wish in the future.

Mr. BADHAM. Mr. Speaker, it is with great pleasure that I speak of the work of Secretary of Transportation Elizabeth Dole. I have had occasion to work with her closely over the years, especially as a member of President Reagan's transition team.

Her dedication to public service is unsurpassed and her accomplishments as Secretary of Transportation are significant not only to us, but to countless future generations who will benefit from the important progress we have made under her leadership.

On her watch, air travel has increased dramatically while, despite all the rhetoric you hear now, safety is better than ever. Few people would have been able to manage the system as well as she has since she was sworn in on February 7, 1983. But having worked with her in the past—and having seen her deftness at the tasks she has accepted—I knew when she was appointed that if anyone could perform the immense task that a Transportation Secretary accepts, it would be her.

Mrs. Dole's dedication to saving lives and improving safety has resulted in some success against drinking drivers. She has also reduced the rear-end collision accident rate tremendously by implementing the high-mounted brake light. Every American driver owes her thanks for something very tangible: She has saved them money by making driving safer and therefore reducing automobile insurance rates.

And other prices have gone down too as a result of her work. Conrail is more efficient now that it is in private hands. And as more information from her truth-in-scheduling rules for airlines becomes available, competition among airlines will result in even better service. Mrs. Dole's policies will save millions of travelers untold amounts of time. When it comes to improving transportation, the old cliche that "time is money" certainly applies.

Mr. Speakers, Mrs. Dole is one who truly realizes the amazing capability of the private sector. For that alone she should be recognized.

She left her job to campaign for her husband who is running for President, and she will no doubt do well at that, too. While she was Secretary of Transportation, she worked very hard with Members of Congress, including myself, for our campaigns and we owe her a debt of gratitude for that, too.

Mrs. Dole truly is a great American and we in Government will miss her.

Mrs. MEYERS of Kansas. Mr. Speaker, it is my pleasure to participate in this special order honoring Secretary of Transportation Elizabeth Dole.

She is a modern-day pioneer in the ever-changing, ever-advancing role of women in key areas of decisionmaking. Elizabeth Dole has served her country with ability and grace in some of the most sensitive and influential positions of responsibility.

Elizabeth Dole is a very bright person. She was president of the student body at Duke University. She was elected Phi Beta Kappa.

She received her law degree from Harvard Law School, and her master's degree in education and government from Harvard University. And she received her law degree at a time when there were very few women entering the legal profession.

In 1973, President Nixon appointed her to the Federal Trade Commission. It was during her service at the FTC that she met her husband, Senator BOB DOLE, of Kansas.

Then, after the 1980 election, President Reagan named her to serve in the White House as Special Assistant to the President for Public Liaison.

After proving her worth, earning her stripes, passing the test, Elizabeth was nominated and confirmed as the eighth Secretary of Transportation, one of the hottest seats in the Cabinet and, indeed, one which carries a great burden in the struggle to rebuild America's infrastructure to make our highways, our railways, and our airways safer. In fact, 1986 was the safest year in history on the road, on the rails, and in the air. And Elizabeth Dole has exercised bold leadership initiating many policies to make it so.

Elizabeth led the drive for a uniform drinking age throughout the country to do away with the "blood borders," where young people can purchase alcohol just across one State line at a younger age. Today, 49 States have set age 21 as the legal drinking age.

She spearheaded the effort for mandatory seatbelt laws which will save thousands of American lives per year. As a result of her efforts and leadership, 29 States and the District of Columbia have passed seatbelt laws.

It was Elizabeth Dole who, in response to the Amtrak/Conrail accident earlier this year which claimed 16 lives, had the guts to stand up and be counted, and ordered random drug and alcohol tests for senior appointees and over 30,000 Department of Transportation employees who inspect aircraft, who inspect railroads, and who control air traffic.

It is Elizabeth Dole who has displayed all the qualities of a great leader in dealing with the current problems of aviation safety and passenger inconvenience. She has overhauled the FAA's inspection system, she has increased the number of FAA inspectors by 60 percent, she has added more air traffic controllers, and has required collision avoidance systems in all commercial aircraft.

And finally, as Transportation Secretary, Elizabeth Dole established a day care program within the Department in recognition of the realities that working women face as they both raise a family and hold down a job.

I know it is difficult for Elizabeth to resign as Secretary of Transportation at this time, especially since she is the only woman in the Cabinet. I'm sure she feels a responsibility to remain.

However, a new challenge awaits her, and her decision is one which we all, women or men, should respect.

You know, Elizabeth Dole is someone who could run for President in her own right. And if the situation were different, she might have. And definitely, she is Vice Presidential timber, should her husband not be the nominee of our party. So, we are talking about a very special woman. Someone who is making a choice. Someone who has served her country well. Someone who has much to offer America in whatever future capacity she chooses to serve. And someone who is capable of handling the most sensitive and critical aspects of governmental policy.

I am sure that as Elizabeth Dole travels thoughout the country on behalf of her husband's Presidential campaign she will continue to demonstrate great intellect as she reflects on and speaks out on the great issues confronting America today. She will continue to show sincere compassion and empathy for the elderly, the sick, and the handicapped. She will continue to set a standard of excellence as someone we can respect, as someone we can trust, as someone who conducts herself in a manner consistent with the public trust, and as someone who can accept great challenges and cope with great difficulties effectively with style and with dignity.

Elizabeth Dole is not a Kansan by birth, but she is a living testament to the Kansas motto, "Ad Astra Per Aspera," "To the Stars Through Difficulties."

Mr. CONTE. Mr. Speaker, it is a pleasure for me to take part in this special order honoring the Secretary of Transportation, Elizabeth Dole.

As I said when I learned of Secretary Dole's decision to resign from the Cabinet, I find myself with very mixed feelings. On the one hand, I am pleased that Elizabeth will be doing work that she enjoys on BOB DOLE'S campaign. There is no question that her skills, intelligence, and charm will be an invaluable asset to his campaign.

But at the same time, the Dole campaign's gain is a real loss for the administration and the Nation. After a distinguished career at the Federal Trade Commission and the White House, Elizabeth Dole for the past 4½ years has led the Department of Transportation through a time of significant changes in our Nation's transportation system. During that time, her influence on critical issues involving transportation safety, regulation, and improvements has been considerable, and it has been a real pleasure working with her.

During Secretary Dole's stewardship of our Nation's transportation system, there have been a number of significant accomplishments and challenges. Secretary Dole met each challenge with enthusiasm and optimism, and ultimately made things happen.

A good part of her success has been her willingness to work with the Congress on controversial issues, and to be willing to practice the time-honored recognition that politics is the art of the possible, as well as the art of compromise. Elizabeth Dole has put those words into practice, and the result has been for the Nation's benefit.

Secretary Dole has excelled as an effective advocate of the administration's positions, as well as a strong voice for a rational national transportation policy within the administration. As in any such case, Secretary Dole's advice within the administration has not always been heeded, often to the administration's detriment and subsequent regret. But to her credit, Elizabeth Dole has recognized when advocacy ends and team spirit begins, and I think that we have all respected that quality in her.

It has been a special pleasure for me to work with Secretary Dole on a matter of particular interest to me, involving Coast Guard user fees. Sometimes I thought that she and I were the only people who believed in this idea, but I am pleased that we are picking up more converts along the way. I am sorry that Elizabeth Dole is leaving the Department before we had a chance to see the enactment of user fee legislation, but I hope that we can make that a tribute to her after she leaves.

I know that I join all of my colleagues in wishing Liddy Dole the happiness and success in her future endeavors, and offer my personal hope that we may again enjoy the benefit of her service to the Nation in some future capacity.

Mr. GALLO. Mr. Speaker, few public officials have the opportunity to make the world over again. Some fortunate individuals are given the rare opportunity to hold a leadership position at a time of great challenge and are able to have a positive impact on the course of events.

Elizabeth Hanford Dole is truly a woman for her times in that regard. She joined the Reagan Cabinet as Secretary of Transportation at a time when all forms of transportation were undergoing revolutionary changes.

Deregulation was opening new worlds for the airlines and truckers, the Interstate Highway System was nearly complete and Federal priority was shifting to maintenance and redesign on noninterstate road systems. We were experiencing a crisis caused by years of neglect that had allowed thousands of bridges to become dangerously weakened, and the operation of mass transit was becoming more of a public responsibility.

When she assumed her new duties, she also inherited some difficult questions in the wake of the air traffic controllers' strike and concerns over the safety of our various forms of transportation.

Elizabeth Dole met these challenges with good humor and a strong sense of mission that combined to create an effective leadership style. She got results because she moderated her determination to take tough Federal action with her understanding that conflicting interests must be given an opportunity to settle their differences in order to make a transportation system work.

Elizabeth Dole will be greatly missed as we tackle the continuing challenges of providing safe and convenient transportation in all its forms through the public-private initiatives that were begun under her leadership.

She can move on to the new, and equally difficult, challenges ahead with the knowledge that she successfully plotted a new course for Federal transportation policy through uncharted waters and did so effectively and with style. She deserves our thanks and our best wishes for the future.

GENERAL LEAVE

Mrs. JOHNSON of Connecticut. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ALEXANDER (at the request of Mr. FOLEY), for today, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HOLLOWAY) to revise and extend their remarks and include extraneous material:)

Mrs. JOHNSON of Connecticut, for 60 minutes, today.

Mr. ROTH, for 60 minutes, on October 6, 7, and 8.

Mr. BURTON of Indiana, for 5 minutes, today.

(The following Members (at the request of Mr. MFUME) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. FRANK, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. MONTGOMERY, for 5 minutes, today.

Mr. CONYERS, for 60 minutes, on October 1.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MFUME) and to include extraneous matter:)

Mr. SKELTON.
Mr. YATRON.
Mr. HAMILTON in two instances.
Mr. ROE.
Mr. RODINO.
Mr. DYSON.
Mr. GARCIA.
Mr. FRANK.
Mr. ACKERMAN.
Mr. FEIGHAN.
Mr. EDWARDS of California.
Mr. MINETA.
Mr. GAYDOS.
Mr. RAHALL.
Mr. STARK.
Mr. FORD of Michigan.
Mr. FLORIO.
Mr. PEASE.
Mr. MILLER of California in four instances.
Mr. CLAY.
Mr. BONKER.

(The following Members (at the request of Mr. HOLLOWAY) and to include extraneous matter:)

Mr. GRADISON.
Mr. STANGELAND.
Mr. SHUMWAY.
Mr. DANNEMEYER.
Mr. CLINGER.
Mr. SOLOMON in four instances.
Mr. HENRY in two instances.
Mr. KONNYU.
Mr. MCEWEN.
Mr. GILMAN in two instances.
Mr. FRENZEL.
Mr. WELDON.
Mr. EMERSON.
Mr. GUNDERSON.
Mr. DREIER of California.
Mr. SMITH of New Jersey.
Mr. DENNY SMITH.
Mr. ROWLAND of Connecticut.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1666. An act to amend title 5, United States Code, to provide for the extension of physicians comparability allowances and to amend title 37, United States Code, to provide for special pay for psychologists in the commissioned corps of the Public Health Service; to the Committees on Post Office and Civil Service and Energy and Commerce.

ADJOURNMENT

Mrs. JOHNSON of Connecticut. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 45 minutes p.m.) the House adjourned until tomorrow, Thursday, October 1, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2164. A letter from the Secretary of Defense, transmitting a copy of the report on the management study of the Office of the Secretary of Defense, pursuant to 10 U.S.C. 131 nt.; to the Committee on Armed Services.

2165. A letter from the Deputy General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend chapter 157 of title 10, United States Code, to authorize Government transportation for members of the uniformed services, civilian employees of the Department of Defense, and the dependents of such members and employees, in areas outside the United States where public or private transportation is unsafe or not available; to the Committee on Armed Services.

2166. A letter from the Deputy General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 162 of title 10, United States Code, to permit the Secretary of Defense to assign Armed Forces of the United States to the United States element of binational and multinational military commands; to the Committee on Armed Services.

2167. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a copy of the National Dioxin Study Report, the results of the EPA's investigation of potential 2,3,7,8-TCDD ("dioxin") contamination, pursuant to House Report No. 98-223, accompanying the bill H.R. 3133; to the Committee on Energy and Commerce.

2168. A letter from the Deputy Assistant Secretary of Defense, transmitting the Department's notice of a proposed new record system for the Defense Logistics Agency, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2169. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of the Department's proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2170. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of the Department's proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

2171. A letter from the Secretary of the Interior, transmitting a report of amounts expended by the Massachusetts Department of Environmental Management in furtherance of the Lowell National Historical Park, for the period July 1, 1985 through June 30, 1987, noting there had been no submission by the city of Lowell, MA, pursuant to 16 U.S.C. 410cc-13(d)(1); to the Committee on Interior and Insular Affairs.

2172. A letter from the Director, Administrative Office of the U.S. Courts, transmitting a brief statement, covering the 12-month period ended June 30, 1987, on the activities of the Federal courts under the Equal Access to Justice Act of 1980, which will be included in the annual report of the Director, pursuant to 28 U.S.C. 604(a)(4) and (h)(2); 28 U.S.C. 2412(d)(5); to the Committee on the Judiciary.

2173. A letter from the Chairman, U.S. Parole Commission, Department of Justice, transmitting a copy of the Commission's annual report for fiscal year 1986, pursuant to 18 U.S.C. 4204(a)(6) (90 Stat. 221); to the Committee on the Judiciary.

2174. A letter from the Chairman, Christopher Columbus Quincentenary Jubilee Commission, transmitting a copy of the Commission's report of recommendations for the commemoration of the quincentennial of the voyages of discovery of Christopher Columbus, pursuant to Public Law 98-375, section 4(b); to the Committee on Post Office and Civil Service.

2175. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Post Office and Civil Service.

2176. A letter from the Secretary of Transportation, transmitting a report on the findings of a study of the effectiveness of the civil and criminal penalties established to deter violations of the commercial motor vehicle safety regulations, pursuant to 49 U.S.C. 521 nt.; to the Committee on Public Works and Transportation.

2177. A letter from the Secretary of Transportation, transmitting a copy of the National Plan of Integrated Airport Systems [NPIAS], 1986-1995, which estimates the costs associated with establishing a system of airports adequate to meet and anticipate the needs of civil aviation and to support the Department of Defense and Postal Service, pursuant to section 504(a) of the Airport and Airway Improvement Act of 1982; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 791. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with an amendment (Rept. 100-155, Pt. 2). Ordered to be printed.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 791. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with amendments (Rept. 100-155, Pt. 3). Ordered to be printed.

Mr. ROE: Committee on Science, Space, and Technology. H.R. 791. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with amendments (Rept. 100-155, Pt. 4. Ordered to be printed.

Mr. de la GARZA: Committee on Agriculture. H.R. 791. A bill to authorize the water resources research activities of the United States Geological Survey, and for other purposes; with an amendment (Rept. 100-155, Pt. 5). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committe on Interior and Insular Affair. H.R. 3025. A bill to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact (Rept. 100-322, Pt. 1). Ordered to be printed.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 515. A bill to provide for more detailed and uniform disclosure by credit card issuers with respect to information on interest rates and other fees which may be incurred by consumers through the use of any credit card; with amendments (Rept. 100-323). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARNARD: Committee on Government Operations. Modernization of the financial services industry: A plan for capital mobility within a framework of safe and sound banking (Rept. 100-324). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK: Committee on Rules. House Resolution 278. Resolution providing for the consideration of H.R. 2310, a bill to amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes (Rept. 100-325). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. Rahall, Mr. Wise, Mr. Mollohan, Mr. Espy, and Mr. Bevill):

H.R. 3363. A bill to establish a program to assist local governments in the provision of targeted fiscal assistance, and for other purposes; to the Committee on Government Operations.

By Mr. DERRICK (for himself, Mr. Spence, Mr. Spratt, Mr. Tallon, Mrs. Patterson, and Mr. Ravenel):

H.R. 3364. A bill to designate the Courthouse and Post Office Building at 83 Meeting Street in Charleston, SC, as the "Ernest Frederick Hollings Charleston Judicial Building"; to the Committee on Public Works and Transportation.

By Mr. FRENZEL:

H.R. 3365. A bill to amend the Internal Revenue Code of 1986 to eliminate inequities and provide symmetry in certain foreign provisions and for other purposes; to the Committee on Ways and Means.

By Mr. DioGUARDI (for himself and Mr. Gilman):

H.R. 3366. A bill to amend title IV of the Social Security Act to promote the welfare of homeless families by affirming the right of States under the AFDC program to provide simultaneous multiple shelter allowances or special need allowances to reflect differences in the types of housing in which the recipients reside, by removing the 30-day limit on emergency assistance insofar as it involves shelter, and by making it clear that a State need not specify the maximum amounts of assistance to be provided for the various types of emergency identified in its State plan; to the Committee on Ways and Means.

By Mr. FORD of Michigan (by request):

H.R. 3367. A bill to amend title 5 and title 26, United States Code, to provide that the thrift savings fund is not subject to nondiscrimination requirements applicable to arrangements described in section 401(k) of title 26, United States Code, or to matching contributions described in section 401(m) of title 26, United States Code; jointly, to the Committees on Ways and Means and Post Office and Civil Service.

By Mr. FRANK:

H.R. 3368. A bill to amend the Tax Reform Act of 1986 to provide that taxpayers who invested in low-income housing projects before January 1, 1984, shall receive the same transitional relief as taxpayers who so invested after December 31, 1983; to the Committee on Ways and Means.

By Mr. GLICKMAN (for himself, Mr. Slattery, and Mrs. Meyers of Kansas):

H.R. 3369. A bill to amend title 28 of the United States Code to authorize the appointment of one additional bankruptcy judge for the district of Kansas; to the Committee on the Judiciary.

By Mr. INHOFE:

H.R. 3370. A bill to require the President to prohibit the importation of all products of Iran so long as martial action by the Government of Iran poses an unacceptable threat to United States military personnel on duty in the Persian Gulf areas; to the Committee on Ways and Means.

By Mr. JONES of Tennessee:

H.R. 3371. A bill to promote rural development, and for other purposes; to the Committee on Agriculture.

By Ms. KAPTUR:

H.R. 3372. A bill to amend the Internal Revenue Code of 1986 to deny a deduction for the payment of tariffs imposed by the United States; to the Committee on Ways and Means.

By Mr. KASICH:

H.R. 3373. A bill to prohibit the importation into the United States of all products of Iran; to the Committee on Ways and Means.

By Mr. LEHMAN of Florida (for himself, Mr. Wolf, Mrs. Schroeder, and Mr. Rangel):

H.R. 3374. A bill to amend the Internal Revenue Code of 1986 to provide a deduction for adoption expenses, and for other purposes; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. Andrews, Mr. Flippo, Mr. Gephardt, Mr. Guarini, Mrs. Kennelly, Mr. Rangel, Mr. Archer, Mr. Crane, Mr. Daub, Mr. Duncan, Mr. Frenzel, Mr. Gradison, Mr. McGrath, and Mr. Schulze):

H.R. 3375. A bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through pass-through entities; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself and Mr. Russo):

H.R. 3376. A bill to amend the Social Security Act to establish a National Commission on Children; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. OBERSTAR (for himself and Mr. Gibbons):

H.R. 3377. A bill to amend the Federal Aviation Act of 1958 to prohibit smoking on domestic commercial aircraft flights; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah:

H.R. 3378. A bill to require the National Park Service to reintroduce wolves into Yellowstone National Park; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 3379. A bill to prohibit the import into the United States of all products of Iran; to the Committee on Ways and Means.

By Mr. RICHARDSON (for herself, Mr. Lowery of California, Mr. Leland, Mr. Dellums, and Mr. Roybal):

H.R. 3380. A bill to provide for enhanced participation in Federal contracting and to enhance the competitive viability for socially and economically disadvantaged small business concerns under the Small Business Act, to provide for expedited certification of such concerns, and for other purposes; to the Committee on Small Business.

By Miss SCHNEIDER:

H.R. 3381. A bill to amend the Internal Revenue Code of 1986 to treat aquatic products in the same manner as agricultural and horticultural products with respect to the determination of exempt foreign trade income; to the Committee on Ways and Means.

By Ms. SNOWE (for herself, Mr. Boehlert, Mr. Visclosky, and Ms. Kaptur):

H.R. 3382. A bill to amend title 39 of the United States Code to designate as nonmailable matter solicitations for the purchase of products or services which are provided either free of charge or at a lower price by the Federal Government and solicitations which are offered in terms implying any Federal Government connection or endorsement unless such matter contains conspicuous notice that the products or services offered are provided free of charge by the Federal Government or that the Federal Government does not endorse the products or services offered, and for other purposes; jointly, to the Committees on Post Office and Civil Service and the Judiciary.

By Mr. STANGELAND:

H.R. 3383. A bill to amend the Agricultural Act of 1949 to require the Secretary of Agriculture, under certain circumstances, to make established price payments for the 1988 crop of a commodity; to the Committee on Agriculture.

By Mr. STARK:

H.R. 3384. A bill to amend the Internal Revenue Code of 1986 to include in gross income the amount of the Federal subsidy under irrigation projects; to the Committee on Ways and Means.

By Mr. WILSON:

H.R. 3385. A bill to provide for an easement for a natural gas pipeline through the Big Thicket National Preserve in the State of Texas; to the Committee on Interior and Insular Affairs.

H.R. 3386. A bill to provide for an easement for the transportation of surface water through the Big Thicket National Preserve in the State of Texas; to the Committee on Interior and Insular Affairs.

By Mr. GARCIA (for himself and Mr. FAUNTROY):

H.J. Res 366. Joint resolution to establish a bipartisan commission on Third World debt; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SOLOMON (for himself and Mr. YATRON):

H. Res. 277. Resolution expressing the sense of the House of Representatives with respect to human rights abuses in Afghanistan; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

205. By the SPEAKER: Memorial of the General Assembly of the State of California, relative to United States Forest Service Lands; to the Committee on Agriculture.

206. Also, memorial of the General Assembly of the State of California, relative to occupational safety and health; to the Committee on Education and Labor.

207. Also, memorial of the General Assembly of the State of California, relative to school lunch programs; to the Committee on Education and Labor.

208. Also, memorial of the General Assembly of the State of California, relative to telephone services; to the Committee on Energy and Commerce.

209. Also, memorial of the General Assembly of the State of California, relative to national uniform appliance energy efficiency standards; to the Committee on Energy and Commerce.

210. Also, memorial of the General Assembly of the State of California, relative to the depletion of the ozone layer; to the Committee on Energy and Commerce.

211. Also, memorial of the General Assembly of the State of California, relative to the 13th anniversary of the Turkish invasion of Cyprus; to the Committee on Foreign Affairs.

212. Also, memorial of the General Assembly of the State of California, relative to transportation trust funds; to the Committee on Government Operations.

213. Also, memorial of the General Assembly of the State of California, relative to oil and gas royalties; to the Committee on Interior and Insular Affairs.

214. Also, memorial of the General Assembly of the State of California, relative to persons of Japanese ancestry interned during World War II; to the Committee on the Judiciary.

215. Also, memorial of the General Assembly of the State of California, relative to federal transportation funds; to the Committee on Public Works and Transportation.

216. Also, memorial of the General Assembly of the State of California, relative to airport funding; to the Committee on Public Works and Transportation.

217. Also, memorial of the General Assembly of the State of California, relative to foster care; to the Committee on Ways and Means.

218. Also, memorial of the General Assembly of the State of California, relative to Federal income tax reform; to the Committee on Ways and Means.

219. Also, memorial of the General Assembly of the State of California, relative to Federal gasoline taxes; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BENNETT:

H.R. 3387. A bill to clear certain impediments to the licensing of a vessel for employment in the coastwise trade and fisheries of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. SWINDALL:

H.R. 3388. A bill for the relief of Benjamin H. Fonorow; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. ROBINSON, Mr. MARKEY, and Mr. EARLY.

H.R. 21: Mr. ROBINSON, Mr. MARKEY, and Mr. EARLY.

H.R. 130: Mr. DeWINE.

H.R. 182: Mr. HOWARD, Mr. BILIRAKIS, Mr. SHAW, and Mr. YOUNG of Florida.

H.R. 190: Ms. KAPTUR and Mr. BEREUTER.

H.R. 338: Mr. HUTTO.

H.R. 345: Mr. HUTTO.

H.R. 567: Mr. MOODY.

H.R. 592: Mr. BUNNING, Ms. OAKAR, and Mr. ROGERS.

H.R. 594: Mr. LaFALCE.

H.R. 621: Mr. RINALDO.

H.R. 1073: Mr. OWENS of Utah.

H.R. 1214: Mr. DeFAZIO, Mr. ANTHONY, Mr. WALGREN, Mr. MORRISON of Washington, Mr. SAWYER, Mr. MARKEY, Mr. ROWLAND of Connecticut, Mr. SKAGGS, Mr. BEILENSON, Ms. PELOSI, Mrs. SAIKI, and Mr. MATSUI.

H.R. 1352: Mr. MRAZEK and Mr. NOWAK.

H.R. 1516: Mr. CARPER, Mr. IRELAND, Mr. NEAL, Mr. BONKER, and Mr. RAVENEL.

H.R. 1580: Mr. OWNES of Utah.

H.R. 1605: Mr. BADHAM, Mr. KONNYU, Mr. PASHAYAN, Mr. PACKARD, Mr. HERGER, Mr. LEWIS of California, and Mr. DANNEMEYER.

H.R. 1638: Mr. HUGHES, Mr. McCLOSKEY, and Mr. PRICE of Illinois.

H.R. 1663: Mr. ANDREWS, Mr. APPLEGATE, Mr. AuCOIN, Mr. BADHAM, Mr. BORSKI, Mr. BOULTER, Mr. CARPER, Mr. COLEMAN of Missouri, Mr. DeWINE, Mr. DUNCAN, Mr. DWYER of New Jersey, Mr. ENGLISH, Mr. FAWELL, Mr. FLORIO, Mr. GEJDENSON, Mr. GOODLING, Mr. GRAY of Pennsylvania, Mr. HILER, Mr. HOWARD, Mr. HUCKABY, Mr. LOWERY of California, Mr. DONALD E. LUKENS, Mr. RAVENEL, Mr. ROSE, Mrs. ROUKEMA, Mr. SCHUETTE, Mr. SLATTERY, Mrs. SMITH of Nebraska, Mr. STOKES, Mr. STRATTON, Mr. STUMP, Mr. TAUKE, Mr. TORRICELLI, Mr. WISE, Mr. SKAGGS, Mr. WEBER, and Mr. HAYES of Louisiana.

H.R. 1707: Mr. McDADE, Mr. PICKETT, Mr. OBERSTAR, Mr. WATKINS, Mr. STUDDS, Mr. GUARINI, Mr. GOODLING, and Mr. KASTENMEIER.

H.R. 1729: Mr. MOAKLEY, Mr. OXLEY, and Mr. MANTON.

H.R. 1764: Mrs. BOXER.

H.R. 1782: Mr. GUARINI and Mr. KOLBE.

H.R. 1808: Mr. HARRIS, Mr. BONIOR of Michigan, and Mr. NOWAK.

H.R. 1842: Mr. EVANS, Mr. DOWNEY of New York Mr. NEAL, Mr. SABO, Mr. TOWNS Mr. ECKART, Mr. GILMAN, Mr. MRAZEK, Mr. FOGLIETTA, Mr. BADHAM, Mr. HALL of Ohio, Mr. SWIFT, Mr. LEHMAN of California, Mr. HAYES of Louisiana, and Mr. HERTEL.

H.R. 1907: Mr. FOGLIETTA and Mr. BRENNAN.

H.R. 1908: Mr. FOGLIETTA and Mr. BRENNAN.

H.R. 1909: Mr. FOGLIETTA and Mr. BRENNAN.

H.R. 1910: Mr. FOGLIETTA and Mr. BRENNAN.

H.R. 1911: Mr. FOGLIETTA and Mr. BRENNAN.

H.R. 1923: Mr. FOGLIETTA.

H.R. 1966: Mr. MRAZEK.

H.R. 2051: Mr. FIELDS.

H.R. 2131: Mr. KONNYU, Mr. FOGLIETTA, and Mr. SMITH of Florida.

H.R. 2248: Mr. KILDEE, Mrs. MEYERS of Kansas, Mr. FASCELL, and Mr. WYLIE.

H.R. 2320: Mr. RINALDO.

H.R. 2474: Mr. EDWARDS of California, Mr. BILBRAY, Mr. WOLPE, Mr. THOMAS of Georgia, Mrs. COLLINS, Ms. KAPTUR, Mr. DeFAZIO, Mr. LEVIN of Michigan, and Mr. CARR.

H.R. 2489: Mr. FRANK, Mr. HARRIS, Mr. ROE, Mr. DENNY SMITH, Mr. BOEHLERT, Mr. McCLOSKEY, Mr. HENRY, Mr. DERRICK, Mr. COURTER, Mr. WOLPE, Mr. FAWELL, Mr. SUNDQUIST, Mr. TALLON, Mr. OWENS of Utah, Mrs. BOXER, Mr. THOMAS of Georgia, and Mr. SCHULZE.

H.R. 2606: Mr. FOGLIETTA.

H.R. 2640: Mr. QUILLEN, Mr. HOLLOWAY, Mr. WELDON, Mr. OLIN, Mr. VOLKMER, Mr. BRENNAN, Mr. LEHMAN of California, Mr. PICKETT, Mr. LIVINGSTON, Mrs. VUCANOVICH, Mr. OWENS of Utah, Mr. FOGLIETTA, and Mrs. SAIKI.

H.R. 2697: Mr. MARLENEE, Mr. HAMILTON, and Mr. PURSELL.

H.R. 2833: Mr. CONYERS and Mr. FOGLIETTA.

H.R. 2979: Mr. TOWNS.

H.R. 3024: Mr. RICHARDSON, Mr. WELDON, Mr. NEAL, Mr. MORRISON of Washington, Mr. GINGRICH, and Mr. MacKAY.

H.R. 3053: Mr. Gregg.

H.R. 3069: Mr. Inhofe.

H.R. 3071: Mr. Matsui.

H.R. 3112: Mr. Hayes of Illinois, Mr. Sawyer, and Mr. Roybal.

H.R. 3143: Mr. Roe and Mr. Madigan.

H.R. 3160: Mr. Swift and Mr. Gunderson.

H.R. 3169: Mr. Jontz.

H.R. 3228: Mr. Bennett, Mr. Akaka, Mr. Gunderson, Mr. Moody, Mr. Roberts, Mr. Smith of Florida, Mr. Barnard, Mr. Bartlett, Mr. Bates, Mr. Bilbray, Mr. Brown of California, Mr. Emerson, Mr. Fascell, Mr. Hochbrueckner, Mr. Howard, Mr. Levine of California, Mr. Lewis of Georgia, Mr. Roemer, and Mr. Sunia.

H.R. 3266: Mr. Michel.

H.R. 3344: Mr. Sensenbrenner.

H.R. 3355: Mr. Rangel.

H.J. Res. 194: Mr. Wolf, Mr. Dowdy of Mississippi, Mr. Hammerschmidt, Mr. Early, Mr. Levine of California, Mr. Volkmer, Mr. Dellums, Mr. Dicks, Mr. Dwyer of New Jersey, Mr. Evans, Mr. Ford of Tennessee, Mr. Henry, Mr. McDade, Mr. Neal, Mr. Tallon, Mr. Yatron, Mr. Young of Alaska, Mr. Jeffords, Mr. Skelton, Mr. Spratt, Mr. Smith of New Jersey, Mr. Tauzin, Mr. Sabo, Mr. Watkins, Mr. Wolpe, Mr. Staggers, Mr. Studds, Mr. Schumer, Mr. Spence, Mr. Rose, Mr. Rodino, Mr. Ravenel, Mr. Perkins, Ms. Oakar, Mr. Nichols, Mr. Miller of Washington, Mr. Miller of Ohio, Mr. Markey, Mr. Buechner, Mr. Crockett, Mr. Garcia, Mr. Rinaldo, Mr. Moorhead, Mr. Brennan, Mr. Dixon, Mr. Stokes, Mr. Daniel, Mr. Dorgan of North Dakota, Mr. Foley, Mr. Jacobs, Mr. Lantos, Mr. Lent, Mr. Livingston, Mr. Lowry of Washington, Mr. McEwen, Mr. Martin of New York, Mr. Moakley, Mr. Morrison of Connecticut, Mr. Murphy, Mr. Porter, Mr. Regula, Mr. Whittaker, Mr. Wilson, Mr. Rowland of Georgia, Mr. Miller of California, Mr. Montgomery, Mrs. Morella, Mr. Sawyer, Mr. Smith of Iowa, Mr. Thomas of California, Mr. Torricelli, Mr. Erdreich, Mr. Fascell, Mr. Foglietta, Mr. Frenzel, Mr. Hall of Texas, Mr. Hamilton, Mrs. Johnson of Connecticut, Mr. Jones of North Carolina, Mr. Kanjorski, Ms. Kaptur, Mr. Kasich, Mr. Kemp, Mr. Kolter, Mr. Manton, Mr. Molinari, Mr. Pepper, Mr. Mineta, Mr. Roybal, Mr. LaFalce, Mrs. Kennelly, Mr. Akaka, Mr. Clarke, Mr. DeFazio, Mr. DioGuardi, Mr. Donnelly, Mr. Florio, Mr. Frost, Mrs. Meyers of Kansas, Mr. Roth, Mr. Solarz, Ms. Snowe, Mr. Houghton, Mr. Edwards of Oklahoma, Mr. Shaw, and Mr. Bartlett.

H.J. Res. 206: Mr. Vento and Mrs. Patterson.

H.J. Res. 272: Mr. Kastenmeier, Mr. Florio, and Mr. Green.

H.J. Res. 320: Mrs. Boxer.

H.J. Res. 327: Mr. Porter, Mr. Bevill, Mr. Saxton, Mr. Bustamante, Mr. Whittaker, Ms. Kaptur, Mr. Sundquist, and Mr. Denny Smith.

H.J. Res. 329: Mr. Frank.

H.J. Res. 336: Mr. Applegate, Mr. Spratt, Mr. Stratton, Mr. DioGuardi, Mr. Jacobs, Mr. Andrews, Mr. Ford of Michigan, and Mr. Hamilton.

H.J. Res 340: Mr. Stark, Mr. Tallon, Mr. LaFalce, Mr. Fuster, Mr. Lewis of California, Mr. Wyden, Mr. Swindall, Mr. DeLay, Mr. Daniel, Mr. Visclosky, Mr. Inhofe, Mr. Jeffords, Mr. Gray of Illinois, Mr. Dowdy of Mississippi, Mr. Fauntroy, Mr. Garcia, Mr. Duncan, Mr. Lowry of Washington, Mr. Lujan, Mr. McHugh, Mr. Spratt, Mr. Lowery of California, Mr. Mrazek, Mr. Dornan of California, Mr. Synar, Mr. Rose, Mr. Murphy, Mr. Callahan, Mr. Natcher, Mr. Solarz, Mr. Aspin, Mr. Bateman, Mr. Spence, Mr. Sabo, Mr. Brooks, Mr. Campbell, Mr. Markey, Mr. Wilson, Mr. Vento, Mr. Manton, Mr. Hutto, Mr. Wylie, Mr. Brown of Colorado, Mr. Green, Mr. DioGuardi, Mr. Feighan, Mr. Moorhead, Mr. Kasich, Mr. Dymally, Mr. Obey, Mr. Pickle, Mr. Packard, Ms. Pelosi, Mr. Porter, Mr. Price of Illinois, Mr. Wortley, Mr. Rahall, Mr. de la Garza, Mr. Vander Jagt, Mrs. Vucanovich, Mrs. Patterson, Mr. Weldon, Mr. Thomas of Georgia, Mr. Volkmer, Mrs. Collins, Mr. Mfume, Mr. Schumer, Ms. Kaptur, Mr. Schuette, Mr. Ford of Tennessee, Mr. Coleman of Missouri, Mr. Gunderson, Mr. Pursell, Mrs. Lloyd, Mr. Coleman of Texas, Mr. Scheuer, Mr. Ackerman, Mr. Montgomery, Mrs. Boggs, Mr. Roybal, Mr. Morrison of Washington, Mrs. Byron, Mr. Miller of Washington, Mr. Waxman, and Mr. Kildee.

H.J. Res. 360: Mr. Horton, Mr. Davis of Michigan, Mr. Boehlert, Mr. Jeffords, Mr. Lagomarsino, Mr. Robinson, Mr. Foglietta, Mr. Kasich, Mr. Lipinski, Mr. Volkmer, and Mr. Wylie.

H.J. Res. 361: Mr. Edwards of Oklahoma.

H.J. Res. 365: Mr. Ritter, Mr. Boner of Tennessee, Mr. Gordon, Mr. Mrazek, Mr. Bevill, and Mr. Wyden.

H. Con. Res. 122: Mr. Staggers.

H. Res. 188: Mr. Hunter and Mr. Gallo.

H. Res. 225: Mr. Kemp.

SENATE—*Wednesday, September 30, 1987*

(Legislative day of Friday, September 25, 1987)

The Senate met at 8 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. BREAUX].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Great and wonderful are Thy deeds, O Lord God the Almighty! Just and true are Thy ways, O King of the Ages! Who shall not fear and glorify Thy name, O Lord? For Thou alone art holy. All nations shall come and worship Thee for thy judgments have been revealed.— Revelation 15:3–4 RSV.

Eternal Father, save us from a pragmatism which relegates You to a place of irrelevance in our lives. Help us realize You are not only transcendental above and beyond history, but You are imminently in touch with every detail of our lives, individually and collectively. You know when a sparrow falls to the ground. Though this staggers our imagination, help us to take it in and make room for You in this place under these overwhelming circumstances.

"Our fathers' God, to Thee, Author of liberty, to Thee we sing: Long may our land be bright with freedom's holy light; protect us by Thy might, great God, our King?" ("America" by Samuel F. Smith.) Amen.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California, Senator CRANSTON, is recognized for not to exceed 15 minutes.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. CRANSTON. I yield.

Mr. BYRD. Mr. President, I ask unanimous consent that the 5 minutes of my time under the leader's order be transferred to Mr. PROXMIRE at this time. I understand this is agreeable with Mr. CRANSTON.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Wisconsin [Mr. PROXMIRE] is recognized.

Mr. PROXMIRE. Mr. President, once again I am indebted to my good friend, the majority leader, and I am deeply grateful to him for allowing me these 5 minutes.

ALL THE WAY WITH INTRUSIVE ARMS CONTROL VERIFICATION

Mr. PROXMIRE. Mr. President, verification compliance is the very quintessence of any nuclear arms control agreement with the Soviet Union. If verification will not effectively detect violations of a United States-U.S.S.R. agreement, we should not make the agreement. Without a reasonable assurance that we can determine militarily significant violations of a nuclear arms control agreement, we are engaging in unilateral nuclear disarmament. If we refuse to negotiate agreements with the U.S.S.R. unless we can rely on our ability under the terms of the treaty to determine significant violations, does this mean we will negotiate few or perhaps no nuclear arms control treaties with the U.S.S.R.? No, indeed. Then what does it mean? It means that we will both push for and agree to verification procedures that will reveal if the U.S.S.R. is violating the agreement, and we will agree to the same procedures, however intensive, for the U.S.S.R. to effectively observe our compliance or our compliance with the agreement. Will this mean the U.S.S.R. should be permitted to examine closely our most advanced nuclear technology? Will we let Soviet agents without notice, at will, check out our Trident submarines to determine if we are abiding by any limit we might negotiate on nuclear warheads deployed in these submarines? Do we give the Soviets the freedom of minute inspection of our bomber bases, our missile sites, our nuclear weapons testing areas? Indeed we do.

But aren't we giving a great deal more than we're getting? Isn't our nuclear technology generally ahead and well ahead of the U.S.S.R.'s? Doesn't this mean that by constant inspection of our more complex and advanced nuclear deterrent the Soviets would learn far more from us than we could from them? The answer is that this "intensive" observation might, indeed, give the U.S.S.R. occasional useful technological information. It might even inform them about whatever aspects of our deterrent nuclear forces appear weak and ineffective as well as strong and effective. But in view of the steady assurance by the Department of Defense that the United States is consistently ahead of the U.S.S.R. in the effectiveness of our nuclear arsenal, this Soviet understanding of our devastating nuclear power could only reinforce the Soviet conviction that a preemptive nuclear attack on our country would be an act of certain, inevitable suicide.

Furthermore, let us not forget that just as the U.S.S.R. is a tightly closed society, we are a wide-open society with a free United States press and, indeed, a foreign press that has very wide access to our military productions and deployment including much of our vast nuclear arsenal. Do the Soviet military experts mine our publications for detailed knowledge of our nuclear arsenal? Of course, they do. Do they permit their forces to carry any information on their military technology that might be useful to us? No way. So isn't it clear who would gain from a mutually intensive verification policy?

Is there no risk that the U.S.S.R. will use the opportunity for unannounced inspection of our nuclear arsenal to secure intelligence data of serious military significance? Of course there is. There is always a risk. But consider the risk if we don't insist on the most thorough and meticulously possible verification. Could we expect the Soviets to honor a strong restriction on their nuclear deterrent embodied in a treaty without verification or with only casual or limited verification? Of course not. So there is a balance here. Meticulous verification is most likely to assure us of knowledge of any Soviet violation. It is also most likely to discourage violations of any kind at any time because of the greater likelihood of detection. Third, if both superpowers agree to mutual verification, it is more likely to win confidence that the agreement is, in fact, effective—that both superpowers are restricting or reducing their nuclear arsenal in tandem as the treaty requires.

On the other hand, intrusive verification is, indeed, more likely to give the adversary a fuller knowledge of the strength and weakness of the other side's deterrent, and an opportunity, on occasion, to secure a clearer understanding of whatever technological advantage the other side may have.

On balance, it is clear to this Senator that both superpowers gain from the most thorough and comprehensive verification they can negotiate. Not only is it far more likely that treaties will be observed without violation, not only will we have more confidence that we can detect violations, but the fuller understanding by both sides of the effectiveness of the opposing deterrent is precisely the force most

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

likely to make the deterrent of both sides credible and to prevent nuclear war.

Mr. President, I thank my good friend, the majority leader, once again, and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin yields the floor.

RECOGNITION OF SENATOR CRANSTON

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California, Senator Cranston, will be recognized for not to exceed 15 minutes.

THE NOMINATION OF ROBERT H. BORK TO THE SUPREME COURT

Mr. CRANSTON. Mr. President, I rise to speak in opposition to Senate confirmation of the nomination of Robert H. Bork to be an Associate Justice of the U.S. Supreme Court.

Before I discuss the basis for my decision, I want to comment on the singular importance of the vote on this nomination and on Senate responsibility in the confirmation of a Supreme Court Justice.

Mr. President, the vote on the Bork nomination is undoubtedly one of the most important votes that any Member of this body will make. Senators, Members of the House of Representatives, and the President serve for fixed terms and are directly accountable to the electorate at regular intervals. That is not true of members of the Federal judiciary. A seat on the Supreme Court is a lifetime position. A Justice can be removed from office only upon impeachment and conviction of the severest of high crimes. It is not uncommon for a Supreme Court Justice to serve for two and sometimes three decades. A Supreme Court Justice has an unparalleled opportunity to influence the most pressing issues facing this and future generations of Americans.

The framers of the Constitution recognized the great importance of the selection of individuals to serve on our highest court. They deliberately refused to entrust the selection to any one individual or any one branch of Government. Instead, they decided that this should be a matter of shared power and shared responsibility.

SENATE'S ROLE

Mr. President, almost 2 years ago—long before the current vacancy arose on the Supreme Court and before the current controversy over the Bork nomination—our esteemed former colleague and friend, Senator Mathias, and I undertook extensive research into the role and responsibility of the Senate in the judicial confirmation process. Both of us consulted widely with a broad range of scholars representing the full spectrum of legal philosophy.

We summarized our results in separate speeches on the Senate floor on July 21 and 22, 1986.

Senator Mathias, a Republican, and I, a Democrat, reached remarkably similar conclusions about the role the Constitution bestows upon the Senate in the judicial confirmation process.

Senator Mathias said, and I concurred, that:

> Among all the responsibilities of a U.S. Senator, none is more important than the duty to participate in the process of appointing judges and justices to serve on the U.S. Courts, from the trial bench to the Supreme Court of the United States. * * * [A] Senate that automatically consents to a President's nominations abdicates its constitutional responsibility. Its members fail to measure up to the demands embodied in their oath of office.

Those words ring even more true today.

Some people argue that a Senator need not exercise independent judgment in deciding the Bork nomination; they suggest that we should defer to the President and review the nomination on the very narrow basis of whether the nominee is legally competent and of good moral character.

I disagree.

COEQUAL ROLE IN THE CONFIRMATION PROCESS

Mr. President, the Constitution gives the President the power to nominate an individual to serve on the Supreme Court. It also gives the Senate the responsibility to review and evaluate that nomination independently.

Alexander Hamilton in the Federalist Papers confirmed that the decision by the Founding Fathers to divide the appointment responsibility between the President and the Senate was a deliberate one and that it was intended to have a salutary effect on the quality of appointments.

Granting the President the entire power of appointment, Hamilton argued, would, "enable him much more effectually to establish a dangerous empire over that body—the Senate—than a mere power of nomination subject to their control."

Hamilton feared that a President with exclusive appointment power might select judges to please particular Senators whose votes the President wanted to influence on other issues.

He also believed that a President would choose his nominees with greater care if he is faced with the possibility of a Senate rejection. But that is an effective check on Presidential power only if the President has reason to believe that the Senate is prepared to exercise its power of rejection.

The framers gave the Senate the obligation and the power to make its own independent judgment of whether confirmation of a judicial nomination would be in the best interest of the Nation.

Senator Le Baron Bradford Colt, Republican, Rhode Island, himself a former Federal trial and appellate judge, said on the Senate floor in 1916:

> By these provisions the framers of the Constitution believed they would secure judges of high character, free from partisanship and from every form of corrupting influence, and who would devote their lives to an impartial administration of law.

As Walter Dellinger, professor of law at Duke University, recounts:

> The original Virginia plan, introduced at the convention on May 29, 1787 provided that all judges would be appointed by the national legislature. By June 19, the convention had decided that the whole legislature was too numerous for the appointment of judges, and lodged that power in the Senate acting alone. *Attempts to confer the power on the President to the exclusion of the Senate were solidly defeated.* George Mason stated that he "considered the appointment by the executive as a dangerous prerogative. It might even give him an influence over the judiciary department itself." *Only near the end of the convention was it agreed to give the President any role in the selection of judges;* even then the President's power to nominate was carefully balanced by requiring the concurrence of the Senate. That final language was not seen to dislodge the Senate from a critical role in the process. Gouverneur Morris paraphrased the final provision as one leaving to the Senate the power "to appoint judges nominated to them by the President." (Emphasis added.)

The Senate's "advice and consent" function in confirming judges is different from its function in confirming administration nominees who serve at the President's pleasure and who can be removed by the next administration. Most scholars and most Senators agree that the Senate should apply far stricter standards to lifetime judicial appointments.

Then-Republican Senate Whip Robert Griffin, Republican, Michigan, made the distinction well during debate on the Haynsworth nomination in 1969:

> Traditionally, the Senate has applied a different test with respect to nominees to the Supreme Court than * * * to those nominated by Presidents to serve in the Cabinet or in the Executive Branch * * * particularly with respect to nominations for the Supreme Court, however, I do not believe * * * that the Senate is limited to accepting every nomination merely because it can't be proved that the nominee has beaten his wife, or has done this or that. I think the responsibility of the Senate is much higher than that. Under the Constitution, the President is vested with only half of the appointing power. He nominates and the Senate confirms. Accordingly, the Senate's advise and consent responsibility is at least equal to the President's responsibility in nominating. If the judiciary is to be an independent branch * * *, it is essential that its members owe no greater indebtedness for an appointment to one particular branch of our government.

Throughout our history, the Senate has blocked judicial nominees who were deemed qualified in the narrow sense, but whose confirmation would have been unwise in the broader context. Indeed, the Senate has refused to confirm nearly 20 percent of Presidential Supreme Court nominations.

Senators have given a variety of reasons for refusing to confirm. These include negative judgments on the nominee's ability, temperament, political record, or philosophy.

President Theodore Roosevelt, who consistently sought highly qualified nominees, recognized the wide latitude of judgment the Constitution gives the Senate. In a letter to one Senator whose recommendation for appointment to a lower Federal court Roosevelt was rejecting, Theodore Roosevelt said:

> It is, I trust, needless to say that I fully appreciate the right and duty of the Senate to reject or to confirm any appointment according to what its members conscientiously deem their duty to be; just as it is my business to make an appointment which I conscientiously think is a good one.

Roosevelt made three nominations to the High Court. All were confirmed.

President Richard Nixon stands in contrast. In a letter to a Senator during consideration of the Carswell nomination, Nixon wrote:

> What is centrally at issue * * * is the constitutional responsibility of the President to appoint members of the court—and whether this responsibility can be frustrated by those who wish to substitute their own philosophy or their own subjective judgment for that of the one person entrusted by the Constitution with power of appointment.

The Senate demonstrated its own view of its responsibility by rejecting the Carswell nomination, 45 to 51, with 13 Republican Senators joining 38 Democrats. It was the second of Nixon's high court nominations to be defeated.

Theodore Roosevelt's view—not Nixon's—is consistent with the intent of the framers and with the language of the Constitution. It is also consistent with historical precedents.

As early in our Nation's history as George Washington's second term, a Supreme Court nomination, Associate Justice John Rutledge to be Chief Justice, was rejected by the Senate.

The Senate rejected President James Madison's nomination of Alexander Wolcott to be Associate Justice, when a majority of Senators decided he lacked the requisite legal qualifications for service on the High Court.

For a variety of reasons, five of President Tyler's High Court nominees were not confirmed. And President Fillmore and Grant lost three nominations each.

In 1930, a Republican Senate rejected President Hoover's nomination of Judge John Parker to the Supreme Court because his discredited racial and economic views were not sufficiently sensitive to the temper of the times.

For nearly 40 years, from 1931-69, all the Supreme Court nominations of four consecutive Presidents were confirmed. But the Senate's responsibility had not changed during that time. A review of the list of nominees during this period indicates each of the Presidents had submitted nominees who were both well-qualified and not likely to create a one-sided Supreme Court. This period of Senate-Presidential agreement ended with the forced withdrawal of President Lyndon Johnson's nomination of Abe Fortas to be Chief Justice.*

CRITERIA FOR SUPREME COURT NOMINATIONS

Although the Constitution gives the Senate an important role in Supreme Court appointments, it spells out no standards for weighing the qualifications of a potential Justice. For example, unlike the constitutionally prescribed standards for service in the House, the Senate, or the Presidency, no minimum age is specified. And, though no President has ever nominated a nonlawyer, a judicial nominee does not even need to be a lawyer.

The Constitution leaves each Senator free to develop his or her own criteria. Historically, however, several tests have evolved. At a bare minimum, the nominee should possess at least these qualifications: intellectual excellence, superior legal ability, and personal integrity. No nominee who does not possess at least these qualifications should even be submitted for the Senate's consideration. To be confirmed, however, a nominee should possess more.

Judicial temperament has been deemed to be a key requirement. By that, I mean not simply the personal demeanor which the dignity of the courtroom requires. Rather, judicial temperament, in the broad sense, means the capacity to perform the essential functions of a judge: to be fair, impartial, and balanced in approaching judicial questions.

Finally, the overwhelming weight of reasoned opinion through the years has been that a nominee's judicial philosophy or ideology is an appropriate criterion for Senate approval or disapproval. Felix Frankfurter, while still a Harvard law professor, thought it odd that any nominee would expect or even desire immunity from public inspection of his views. He said:

> Surely the men who wield the power of life and death over political decisions of legislatures should be subjected to the most vigorous scrutiny before being given that power.

However, excessive ideological zeal or biased prejudgment of issues should disqualify a nominee. The agenda of an ideological extremist—whether of the extreme right or of the extreme left—creates a doctrinal conflict of interest fully as inappropriate as a financial conflict of interest. To be locked into an extreme and inflexible ideology fundamentally conflicts with the judicial responsibility to be fair and just, to be open-minded and free of prejudice, and to be able to decide cases solely on the evidence and arguments before the court and on applicable law. A nominee committed to a rigid ideology lacks the impartiality that is the essence of judicial temperament.

A nominee's philosophy or ideology becomes even more relevant to confirmation when an administration uses its appointive power for ideological purposes. By all accounts, Judge Bork was selected by this administration on the basis of his commitment to a certain judicial ideology. It is naive to think otherwise and deceptive to pretend otherwise.

This President, like Presidents before him, obviously took his nominee's judicial ideology into account before deciding to name him. This Senate, like Senates before us, has an obligation to examine that judicial philosophy in deciding whether to confirm the President's nominee.

There is little doubt that the Bork nomination is part of a determined effort by this administration to achieve by a court appointment an extremist social, political, and economic agenda it has failed to advance through the legislative process. The administration thus seeks to end run the legislative process and then cries "politics" when we seek to stop it.

Finally, Mr. President, some people argue that the Senate should defer to the President's choice because he was given a mandate in 1984. Whether that was a mandate to remake the Supreme Court is highly questionable. Moreover, to the extent that election returns deliver any mandates, the 1986 election, which restored control of the Senate to a Democratic majority, is arguably a mandate to check the Reagan administration in this as well as other areas. In the final analysis, however, no election can relieve Members of the Senate of our constitutional responsibility to exercise our independent and prudent judgments.

Mr. President, as I have said, each Senator must determine for himself or herself the acceptable criterion in judging a Supreme Court nominee. I for one believe that a Supreme Court Justice must be open-minded and impartial; have an ability to look beyond his or her own political predilections; and be able to comprehend a wide range of legitimate interests.

Sixteen years ago when Justice Powell's nomination was before the Senate, I said that in my opinion a Supreme Court Justice must also demonstrate a basic commitment to and respect for individual rights and liberties inherent in the fabric of the Bill of

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Footnotes at end of article.

Rights, for it is these rights that stand as the last bulwark between the force of government and individual freedom.

I find evidence of these essential qualifications lacking in Judge Bork's record.

JUDGE BORK DOES NOT MEET THE BASIC QUALIFICATIONS TO SERVE ON THE SUPREME COURT

Mr. President, after an exhaustive review of Judge Bork's extensive publications and speeches, decisions as a member of the Court of Appeals for the District of Columbia Circuit, and his testimony before the Senate Judiciary Committee, I have concluded that he does not meet the fundamental and indispensable standards for a Supreme Court Justice.

For more than a quarter of a century—as a professor, a legal scholar, a writer, and, most recently, as a Federal judge—Robert Bork has used his considerable intellect and skills to disparage, deride, and repudiate a body of law and principles which the majority of Americans support.

In matters of racial equality, religious freedom, women's rights, free speech, personal privacy, family rights, and the fundamental right of individuals to live their lives free from undue government interference and control, Judge Bork has advocated extreme, radical, and reactionary positions.

In the sixties, when our Nation was struggling, slowly and painfully, to overcome racial discrimination, Judge Bork was denouncing civil rights leaders as part of a mob attempting to force its moral views on others. In carefully crafted, erudite language, he opposed enactment of the historic 1964 Civil Rights Act and put the alleged moral right of bigots to discriminate ahead of the moral and constitutional right of black Americans to be free from racial discrimination. Since that time, he has reportedly attacked court decisions protecting rights of minorities.

Judge Bork has also repudiated equal rights for women. He would throw out Supreme Court decisions which forbid discrimination on the basis of gender. He has attacked cases holding that government cannot interfere with an individual's right to use birth control, to make a personal and private decision about abortion at certain stages of a pregnancy, and to decide how to raise and educate one's children. If Judge Bork's positions prevailed, women truly would be relegated to second-class citizenship.

Religious freedom has also been one of Bork's targets. He has assaulted Supreme Court decisions maintaining the wall of separation between church and state. He has advocated putting religion back into the public sector—something the first amendment was aimed at preventing.

On the issue of freedom of expression, Judge Bork has tried to rewrite the first amendment to allow Government censorship of a wide array of artistic and literary works. He has argued against a long line of Supreme Court decisions which protect the rights of Americans to speak out without fear of punishment.

Bork's view of individual liberty is embodied in his contention that the Bill of Rights, the essence and symbol of our unique freedom, was "a hastily drafted document upon which little thought was expended".[1]

Throughout his philosophy runs the radical notion that the framers of the Constitution had no overriding intention to limit the power of government over individual lives. Bork has argued that a long list of Supreme Court decisions upholding the rights of individuals against government interference are flatly wrong and without constitutional foundation. His reading of the history of our country runs directly contrary to that of Justice Brandeis who wrote in the early part of this century that the framers of our Constitution "sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized man."[2] In Bork's view, government can do almost anything to an individual that it wishes to do. Indeed, he has even taken the position that there is no constitutional barrier or fundamental interest at stake to stop a State from enacting compulsory sterilization laws if it chooses. As Prof. Lawrence Tribe testified before the Judiciary Committee, Bork finds no "constitutional obstacle" to such government action in the absence of racial bias.

Mr. President, the dangers of placing on the Supreme Court an individual who repudiates so many of the settled principles of constitutional law established during the past two centuries cannot be overstated. Although he suggested a different position in his confirmation hearings, Judge Bork has made it patently clear in his voluminous speeches, publications, and prior congressional testimony that he does not believe that a Supreme Court Justice is bound by the rule of precedent to adhere to prior decisions of the Court if he personally deems them constitutionally wrong. He has given us repeated warnings that he is ready to rewrite settled principles of constitutional law, particularly in the area of individual rights. That is what his right-wing supporters expect him to do and that is what his opponents expect he will do.

In practical terms, this could mean reopening civil rights issues settled long ago and reversing the Supreme Court's decision on abortion, thereby making it possible for a State to declare abortion illegal. The State's power to enact legislation which discriminates against women could be reinstated. A State could enact legislation—like that which died in the Senate a few short years ago—to prohibit the use of certain contraceptives, including birth control pills. It means that religious freedoms could be curtailed and the wall between church and state eroded.

Mr. President, abandonment of precedents established by earlier High Court decisions could lead to utter chaos. No one would know with any degree of certainty what the law is, which laws might be reopened, and what fundamental right withdrawn.

Justice Powell takes a different view from Judge Bork on the issue of precedents. Speaking specifically of a Justice's obligation to adhere to earlier Court decisions, Justice Powell said that respect for this doctrine was essential in "a society governed by the rule of law."[3] Only the most compelling circumstances, in Justice Powell's view, would justify deviation from that doctrine.

Our Nation does not need a Supreme Court Justice who wants to rewrite case law and constitutional principles that have evolved slowly and carefully over decades of jurisprudence. And we especially do not need to have them rewritten by an individual who holds such extreme and radical notions about the fundamental constitutional principles of individual rights and liberties.

Moreover, Mr. President, we do not need a Supreme Court Justice who is so tied to his own ideology that he is unable to fulfill the single most important requirement of a judge: impartiality.

Judge Bork's remarkable record in the brief period he has served on the court of appeals amply demonstrates that he often decides controversial cases according to his own peculiar prejudices. Judge Bork seems to be locked into an ideological doctrine which almost invariably predetermines his decisions when certain issues are raised or when certain classes of people enter his courtroom. It is possible to predict how Judge Bork will rule in almost any given closely contested case simply by identifying the parties involved.

Workers, minorities, women, consumers, environmentalists, and individuals asserting their rights against a Government agency will almost certainly leave the Bork courtroom empty-handed. Big business and big government, on the other hand, find in Bork a ready, willing, and ingenious activist on behalf of their interests.

There is often no consistency in Judge Bork's application of the law. His legal principles are revised and applied to achieve preordained results—results which reflect the social, economic, and political priorities of the far right. The most striking example of Bork's ability to revise his arguments to justify reaching a particular result is the contrast between his rationale for opposing civil rights legislation in the sixties and his contemporary support for legislation imposing the morality of the far right. When the subject was racial discrimination, he argued against imposing moral values through legislation. When the subject was sexual morality, however, he argued on behalf of the right of the majority to impose its moral values on individuals.

Mr. President, to confirm Judge Bork to sit on the Supreme Court would be to ratify a narrowminded, prejudicial doctrine of law that he has espoused throughout a lifetime of public discourse. It would stand as an invitation to the radical right to try to overturn decades of constitutional law. It would reopen heated debates over civil rights, abortion, and a host of other issues that could tear our Nation apart.

A recent poll shows that the more information people are given about what Judge Bork has said and done during this career, the more they oppose him. I believe the same is holding true for Members of the Senate.

Judge Bork's record speaks for itself. The White House would have us dismiss much of what Bork has said as simply the musings of an academician. They would have us believe that Bork really would not seek to achieve on the Supreme Court the radical changes he has spent the previous 25 years advocating.

In his testimony before the Senate Judiciary Committee, Judge Bork attempted to separate himself from the statements and judicial philosophy which made him the darling of the radical right and won him the nomination in the first place. Has he truly undergone a transformation? Or is this a cynical move to try to persuade us what we see before us now is a new Bork—that he is a different man and a moderate jurist? No amount of rationalization or recanting can convince me that Judge Bork is any different from what he has been: An extremist prepared to rewrite the Constitution to reflect his peculiar legal philosophy.

Mr. President, let me now turn in more detail to Judge Bork's record and to the philosophy to which he has ascribed throughout his career as a professor, a scholar, and a judge.

IDEOLOGY BASED UPON REPUDIATION OF INDIVIDUAL LIBERTIES

Mr. President, Judge Bork believes in the doctrine of original intent. Original intent—or as it sometimes called, the interpretationist school of judicial philosophy—maintains that judges should restrict their deliberations only to the presumed intent of the framers of the Constitution or the authors of the legislation in contention. Interpretationists then claim to know, and so are able to "interpret," that intent.

The original intent philosophy has been characterized as little more than a slogan which its adherents use to justify repudiation of court decisions with which they disagree. An article written by Leo Rennert cogently points up the fallacies of this doctrine. Rennert wrote that original intent "is a fiction that won't stand up to either judicial or historical analysis." [4]

Prof. Philip Kurland of the University of Chicago Law School notes that the Bill of Rights is frequently the main target of original intent advocates. Judge Bork's version of the "original intent" doctrine assumes that the principle intent of the framers of the Constitution was simply to establish mechanisms for majoritarian rule or, as he calls it, a Madisonian rule of law. Although he pays lipservice to the notion that the framers intended to protect some areas of individual rights against the tyranny of the majority, there are very few and very limited areas where he is willing to acknowledge that such rights exist.

One legal scholar has characterized Judge Bork's philosophy as providing that, "the majority is free to impose contested moral views on individuals and minorities in all but nearly universally acknowledged cases of constitutional violation." Another has observed that, "Bork's entire current constitutional jurisprudential theory is essentially directed to a diminution of minority and individual rights." [5] With few exceptions, Judge Bork's view of the Constitution promotes "the majority will at the expense of individual rights." [6]

Judge Bork's constricted interpretation of the intent of the framers of the Constitution is without historic foundation. As Professor Kurland observed:

> The watchword of the people and the constitutional and ratifying conventions was "liberty." They were intent on framing a government to guarantee liberty to individuals within the new nation's domain. The liberty of which they spoke was not Bork's liberty of a parliamentary majority to impose its will on everyone with regard to everything. * * * The liberty of which they spoke and wrote and for which they fought was the liberty of the individual, in "substance" as Judge Learned Hand once put it, "the possibility of the individual expression of life on the terms of him who has to live it."

Judge Bork characterizes his philosophy as the application of "neutral principles." But what Judge Bork and his allies call "neutral principles" translates in actual practice into an attack on the American heritage of protecting individual liberty against government tyranny.

Judge Bork's contention that the right of the majority to impose its will is the only general principle the framers intended to establish would overturn a long line of court decisions of the past 200 years that were based on the assumption that the Constitution limits the power of the majority over individuals. Indeed, Judge Bork himself reaches that conclusion in discussing a broad range of Supreme Court decisions.

Mr. President, let me try to highlight some of the Supreme Court decisions which Judge Bork has attacked.

RIGHT TO PRIVACY

Much attention has been focused on the impact Judge Bork's appointment would have upon the Roe versus Wade decision. That decision recognized the right of a woman to have an abortion without government intrusion at certain stages of a pregnancy. People concerned about preserving the rights recognized in Roe versus Wade have ample justification for fearing the confirmation of Judge Bork.

Judge Bork has called Roe versus Wade an "unconstitutional decision." In the part, he has repeatedly made it clear that he would feel no obligation to follow its precedent if he were a member of the Supreme Court. In his testimony at his confirmation hearings, he suggested a somewhat different position, but one which is not any more reassuring regarding the future of that case. He indicated he would consider three factors in deciding whether to overturn Roe versus Wade. First, he would invite the attorneys to present arguments as to whether there is a right to privacy which can be derived from a specific provision in the Constitution—an argument he has repeatedly and vehemently rejected since the Roe case was decided. Then he would allow them to try to argue that a right to an abortion can be found elsewhere in the Constitution. Finally, he would allow the attorneys to argue that Roe versus Wade is the kind of case that should not be overturned, even if it was wrong. Although he tried to suggest he was thus not totally committed to reversing Roe versus Wade and the decisions on which it was based, given his prior views, it is difficult to imagine how the proponents of the case could satisfy his criterion.

Judge Bork's attack on the Roe versus Wade decision reflects his general legal philosophy. He believes that the Constitution provides no basis for protecting individual choices against the will of a majority, even in the most personal, private, and intimate areas of family life. In his view, government has unfettered power to impose moral choices when those in office feel they speak for majority values. In his testimony before the Judiciary Committee, he reiterated his position that he could find no general right to privacy in the Constitution.

His opposition to the Roe case is simply one manifestation of that view.

Judge Bork sets forth the most detailed explanation of this view in an article he wrote for the Indiana Law Journal in 1971. He repeated those views in a 1984 speech to the American Enterprise Institute,[7] and again in a 1985 speech at the University of San Diego Law School.[8] In an interview in 1985, Judge Bork affirmed that the 1971 article continues to represent his basic judicial philosophy.[9] In his testimony before the Judiciary Committee, he indicated it still reflected his views, except in the area of freedom of speech and to some extent the application of the equal protection clause of the 14th amendment.

In the Indiana Law Journal article, Judge Bork used the Supreme Court's decision in Griswold versus Connecticut[10] as a case study to lay out his basic thesis. In the Griswold case, the Supreme Court invalidated a State law that made it a crime for a married couple to use contraceptives. Bork described the case as "unprincipled" and contended that the right of "a husband and a wife * * * to have sexual relations without fear of unwanted children" is no more entitled to constitutional protection than a business entity's desire not to be subjected to economic regulation.

Bork claimed that Griswold's antecedent cases also were wrongly decided. He challenged a Supreme Court decision which found that the right to "marry, establish a home and bring up children" was entitled to protection under the Constitution,[11] and he objected to a decision which upheld the right of parents "to direct the upbringing and education" of their children.[12]

If there is any doubt as to whether Judge Bork would carry to the Supreme Court his limited view of the constitutional rights of families and parents, one need only read his opinion in the court of appeals decision in Franz versus U.S.[13] This case involved alleged constitutional violations of a divorced father's right to communicate with his children who had been relocated with their mother under the Federal witness protection program. The majority held that severance of the relationship between parent and child will survive constitutional scrutiny only if it can be shown that a compelling State interest exists which cannot be achieved through any means less restrictive of the rights of parent and child. The case was remanded for further proceedings.

A month later, Judge Bork filed a lengthy statement concurring in part and dissenting in part. The thrust of his statement was an assault upon the majority for recognizing any constitutional rights on the part of the noncustodial parent.

He thus questioned the notion that the Constitution affords any basic protections for family relationships and reiterated his long-standing disapproval of the line of Supreme Court decisions including Griswold and Roe versus Wade which recognized a constitutional right of privacy in family-related areas. Similarly, he criticized this line of decisions in his majority opinion in a case involving the discharge of a serviceman because of homosexuality.[14]

Bork further asserted that the equal protection clause of the 14th amendment should be limited strictly to requiring that the Government not discriminate along racial lines. He contended that courts have no "principled" way of saying which nonracial inequalities are impermissible. Under Bork's equal protection formulation, there are no "fundamental interests" courts are required to recognize. He has said that specific decisions like Skinner versus Oklahoma, which held that a State could not require the compulsory sterilization of all persons who had been convicted twice of certain theft offenses, are "as improper and intellectually empty as Griswold versus Connecticut."[15] Judge Bork would thus have upheld the Oklahoma Compulsory Sterilization Act—an act which every member of the 1942 Supreme Court found abhorrent and unconstitutional.

During his testimony at his confirmation hearing, Judge Bork suggested that the Oklahoma statute could have been struck down on the grounds it had an adverse racial impact—that minorities fell more frequently into the categories of criminal offenses for which sterilization was mandated. That suggestion—consistent with his view that the 14th amendment should be limited to Government acts based upon racial factors—would allow the compulsory sterilization law to stand if the burden of proof demonstrating racial animus could not be satisfied. Judge Bork does not appear to have changed his underlying view that there is no fundamental constitutional interest which would itself protect any individual—regardless of race—from being subjected to involuntary sterilization.

Bork's repudiation of the right of privacy embodied in the Roe versus Wade decision and its antecedents, including Skinner versus Oklahoma, is representative of his general constitutional philosophy. He does not believe that the framers of the Constitution intended to establish any general principles or concepts of fundamental freedom from Government interference.

Moreover, even where individual rights are specifically cited in the Bill of Rights, as in the first amendment, Judge Bork would subordinate them to the dictates of the State.

CONSTRICTED VIEW OF THE FIRST AMENDMENT

Mr. President, the framers of the Constitution unequivocally sought in the first amendment to protect certain fundamental rights from governmental intrusion. Yet, Judge Bork has argued that even these fundamental liberties can be subjected to the domination of the will of the majority.

In the area of religious liberty, for example, Judge Bork set forth his constricted view of the first amendment's protection in a series of speeches.[16] The religious freedom provisions of the first amendment prohibit the Government from either "establishing" religion or interfering with an individual's "free exercise" of religion. Judge Bork has attacked the Supreme Court for holding that subsidization of religious schools with Federal educational funds violates the establishment clause of the first amendment,[17] as well as criticized the Court's application of the free exercise clause.[18]

Despite the specific protection the first amendment gives to religious freedom and the indisputable intent of the framers to guarantee individuals special protections against governmental interference, Judge Bork argued that these cases reflected an objectionable, "unprincipled" trend in constitutional law.

"All of these trends, from interpretations of the religious clauses, to readings of the speech clause, to the privacy cases share the common theme that morality is not usually the business of Government but is instead primarily the concern of the individual. Whether or not so intended, these cases may be seen as representing the privatization of morality," he said.

Bork went on to argue for "a relaxation of current rigidly secularist doctrine" which would allow for "the reintroduction of some religion into public schools and some greater regigious symbolism in our public life"—a development he characterized as "sensible."

Mr. President, Judge Bork attacks court decisions enforcing the separation of church and state on the same basis upon which he attacks other decisions upholding individual liberties: Judge Bork believes that individual liberties are not entitled to protection against the moral choices of a majority. And the majority view, he contends, is whatever the Government of the moment desires.

This approach is also reflected in Judge Bork's treatment of that other great freedom guaranteed by the first amendment—the freedom of expression.

The commitment of the framers of the Constitution to the principle of free expression also is indisputable. Yet, Judge Bork has argued that that freedom too can be curtailed by the will of the majority.

"Constitutional protection should be accorded only to speech that is explicitly political," he wrote in 1971. "There is no basis for judicial intervention to protect any other form of expression, be it scientific, literary or that variety of expression we call obscene or pornographic. Moreover, within that category of speech we ordinarily call political, there should be no constitutional obstruction to laws making criminal any speech that advocates forcible overthrow of the Government or the violation of any law."[19] Although Judge Bork now states he was wrong in attempting to limit the first amendment protections to political speech and has abandoned that position, the core of his limited view of the free speech clause remains intact. As recently as his 1984 American Enterprise speech he specifically linked his first amendment principles to his notion that the highest constitutional principle is the right of the majority to impose its will. In that speech, he attacked current first amendment law for denying the community the right to "express [its] moral beliefs in law."

Moreover, in his testimony before the committee he continued to take the view that speech calling for the violation of law could be punished. When specifically asked how this approach would have affected Martin Luther King's speech calling for civil disobedience as part of the civil rights movement, Bork offered his theory that since Dr. King was challenging the constitutionality of those laws, his speech would be protected if those laws were subsequently found to be unconstitutional. Judge Bork was uncertain whether the same rule would apply if the laws being protected withstood the constitutional challenge. He clearly allows for the possibility that one's right to advocate peaceful disobedience to a particular law depends on whether one is ultimately correct in predicting how the Supreme Court will rule on the constitutionality of that law.

Let me illustrate the problems Judge Bork's new rule would create. It is unlawful to demonstrate within a specific distance from the South African Embassy. That law, on its face, has been held to be valid. Many individuals have intentionally violated it and gone to jail as a result. Bork's theory of restricting speech calling for violation of a valid law would allow a speaker who said or wrote, "Let's demonstrate in front of the embassy" to be punished, even imprisoned, for such a statement. That is a preposterous result in a society like ours where dissent and free expression of that dissent is highly valued.

Such an interpretation of the first amendment would have allowed Connecticut to make it a crime for anyone to urge violation of the State law forbidding married couples from using birth control. If Bork's view of the Connecticut law had been one which the Griswold court had adopted, those who had advocated its violation could have been imprisoned for that speech. No serious constitutional scholar would support such a proposition.

Mr. President, Judge Bork's Judiciary Committee testimony illustrated a remarkable abandonment of a view he had previously announced was a necessary result of an original intent interpretation of the Constitution and the tentative creation of a novel theory of when speech advocating civil disobedience is or is not protected by the first amendment. Clearly Judge Bork's new-found principle—if indeed he has found it—would have a chilling effect on freedom of speech since no one would know in advance what speech was protected. Moreover, one might well ask where in the Constitution this "original intent" jurist found this new first amendment standard.

As recently as a May 28, 1987, interview with Bill Moyers, Bork indicated that art fell at the outer edges of the first amendment and might not be protected unless it was "political." The bottom line is that although it is difficult to determine with any certainty precisely where Judge Bork stands today with regard to free speech issues, it is clear he continues to limit the protections of that amendment.

OTHER INDIVIDUAL RIGHTS BORK HAS REJECTED

Mr. President, as I said earlier, Judge Bork's guiding philosophy has been that the Government that happens to be in power at any given time has the right to infringe on individual freedoms because that Government presumably represents the will of the majority. As a result of this strange philosophy, he would overturn a long list of cases upholding individual rights rendered by the Supreme Court over the past 200 years. Some of the decisions Judge Bork has criticized as wrongly decided include Shelly versus Kraemer,[20] forbidding courts from enforcing racial restrictions in deeds; Baker versus Carr,[21] and Reynolds versus Sims,[22] requiring that legislative districts be based on one man, one vote: Katzenbach versus Morgan,[23] and Oregon versus Mitchell,[24] upholding civil rights laws barring literacy tests for voting; Harpe versus Virginia State Board of Elections,[25] striking down poll taxes; and the entire line of modern first amendment cases from Dennis versus U.S. to Brandenberg versus Ohio[26] holding speech can be forbidden only if "clear and present danger" or "imminent and likely harm" is established.

Mr. President, special attention should be paid to Judge Bork's narrow construction of the 14th amendment whose equal protection clause he has said was aptly described as the "equal gratification" clause. Judge Bork has stated that he does not believe the 14th amendment applies to areas other than racial discrimination—and even there he has argued for very limited protections—and, perhaps, procedural due process. The equal protection clause, he has contended, because of its "historical origins," should be restricted to a very narrow and limited range of cases involving government discrimination along racial lines.[27]

The fact is the 14th amendment makes no mention of "race." And historically the courts properly have applied the amendment's prohibitions to a whole range of discriminatory practices.

RIGHTS OF WOMEN

Application of Bork's theory of the 14th amendment would reverse a line of cases over the past two decades which have held that arbitrary discrimination on the basis of gender is constitutionally suspect.

Under Bork's approach, the meaning of the Constitution is frozen in time to reflect only the presumed intent of the men "who drafted, proposed, and ratified its provisions and its various amendments." Although he would allow modern courts to accommodate certain technological advances such as applying the fourth amendment's protections against unreasonable searches and seizures to electronic surveillance, he sees no need to make any adjustments for social changes in our society. He thus rejects a long line of Justices beginning with Chief Justice Marshall who recognized that a Constitution is "intended to endure for ages to come, and consequently, [must be] adapted to the various crises of human affairs"[28] to Chief Justice Hughes who also rejected the argument that "the great clauses of the Constitution must be confined to the interpretation which the framers, with the conditions and outlook of their time, would have placed upon them."[29]

Because the legal rights and interests of women were not specifically addressed at the time the Constitution and the 14th amendment were drafted, Bork finds no special constitutional prohibition against sex discrimination. The only constitutional protection Bork would extend specifically to women is the right to vote because of the 19th amendment.

Not surprisingly, Judge Bork has in the past expressed opposition to the equal rights amendment to the Constitution which would afford explicit protection to women. He contended it would give judges the power to decide "enormously sensitive, highly political, highly cultural issues."[30]

Mr. President, in a long line of cases since 1971 the Supreme Court has held that, under the equal protection clause of the 14th amendment, the Government may treat men and women differently only when the differential treatment is substantially related to the achievement of an important governmental interest. Many laws discriminating against women have been struck down under the standard established in 1971—a standard Bork rejects.

In his testimony before the Judiciary Committee, Judge Bork suggested that the 14th amendment could be read to protect women against "unreasonable" discrimination. Adoption of this standard would return sex discrimination cases to the status they held prior to 1971 when virtually any basis offered by a State was sufficient to justify differential treatment. He contended that application of his standard would reach the same result as the standard currently used by the Supreme Court. Yet when discussing a recent decision of the Court striking down differential drinking ages for males and females, he indicated that the State might have been able to produce evidence showing that its distinction was "reasonable." In light of his philosophy of generally giving deference to the judgments of Government entities, it is not unrealistic to assume that a legislative determination of reasonableness would frequently prevail under his application of this standard.

As recently as June 10, 1987, Judge Bork reiterated his view that the "Equal protection clause probably should have been kept to things like race and ethnicity," implicitly acknowledging that the use of his "reasonable basis" standard for reviewing sex-discrimination would effectively remove the 14th amendment's protections from women.[31]

Judge Bork's hostility to legal equality for women also emerges in his decisions on the court of appeals interpreting statutory provisions. Most striking is his dissenting opinion in Vinson versus Taylor.[32] In this case, a unanimous Supreme Court, in an opinion written by Chief Justice Rehnquist, held that job-related sexual harassment is prohibited by title VII of the Civil Rights Act. Judge Bork, however, questioned whether sexual harassment should be considered discrimination at all. "[S]ome of the doctrinal difficulty in this area," he said, "is due to the awkwardness of classifying sexual advances as 'discrimination.' Harassment is reprehensible, but title VII was passed to outlaw discriminatory behavior and not simply behavior of which we strongly disapprove."[33] In a statement reflecting the view that sexual harassment was less offensive than racial harassment, Judge Bork argued that a more stringent standard of proof and rule of vicarious liability for supervisors should apply in cases involving sexual harassment than apply in cases involving racial harassment.

Judge Bork's attempt in this case to narrow the statutory protections against sexual discrimination has absolutely no legislative basis, and his position was sharply rejected by a unanimous Supreme Court. It endorsed the view that, "Sexual harassment which creates a hostile or offensive environment for members of one sex is every bit the arbitrary barrier to sexual equality at the workplace that racial harassment is to racial equality."[34]

A singular consistency emerges from both Judge Bork's restricted interpretation of the 14th amendment and his efforts to constrict the scope of title VII when applied to sex discrimination: hostility to equal rights for women.

RACIAL EQUALITY

An examination of Judge Bork's views on racial justice must begin with his 1963 New Republic article, "Civil Rights—A Challenge." In that article, Judge Bork strongly opposed enactment of civil rights legislation, the Public Accommodations Act, to outlaw racial discrimination in businesses serving the public.

Although Judge Bork would later argue in favor of the Government's authority to impose moral values supposedly supported by a majority of the people, Bork in this instance challenged "the morality of enforcing morals though law" when the moral principle the majority sought to impose was racial nondiscrimination. The danger, in Judge Bork's words, was that "justifiable abhorrence of racial discrimination will result in legislation by which the morals of the majority are self-righteously imposed upon a minority."

Judge Bork characterized the Public Accommodations Act as the Federal legislature "inform[ing] a substantial body of the citizenry that in order to continue to carry on the trades in which they are established they must deal with and serve persons [black customers] with whom they do not wish to associate." He described proponents of the Public Accommodations Act as "part of a mob coercing and distributing [sic] other private individuals in the exercise of their freedom. Their moral position is about the same as Carrie Nation's when she and her followers invaded saloons." He stated the issue "is not whether racial prejudice or preference is a good thing but whether individual men ought to be free to deal and associate with whom they please for whatever reasons appeal to them * * *. One may agree that it is immoral to treat a man according to his race or religion and yet question whether that moral preference deserves elevation to the level of the principle of individual freedom and self-determination."[35] No amount of clever verbiage can disguise the sentiment underlying the article: tolerance for racial discrimination

During his 1973 confirmation hearing to be Solicitor General,[36] Judge Bork backed away from the views he expressed in that article. In response to questions from Senator Tunney as to enforcement of the Civil Rights Act in light of his article, Judge Bork replied that "I no longer agree with that article * * *. The reason I do not agree with that article, it seems to me I was on the wrong track altogether * * *. It seems to me that the statute has worked very well and I do not see any problem with the statute, and were that to be proposed today I would support it."

As to whether he would vigorously enforce the Interstate Public Accommodations Act, he responded simply that he would "take the Government's position." There is no indication whether his change of position was based upon a repudiation of his notion that it was inappropriate to impose moral principles against racial prejudice through legislation, or the practical assessment that contrary to his dire prediction the public accommodations law had worked and that by 1973 only an avowed racist would publicly continue to oppose that law. Proponents of Judge Bork argue that his recanting of his offensive 1963 article in 1973 should nullify any criticism of him on civil rights grounds. Unfortunately, that article was not an isolated instance of his misguided judgment. It reflected a deep and enduring lack of understanding of the necessity of ridding this country of racial prejudice and discrimination.

Although Bork concedes that the 14th amendment forbids racial discrimination, he nevertheless has attacked Supreme Court decisions enforcing those protections. For example, he has challenged the decision in Shelly versus Kraemer,[37] which forbids courts from enforcing racially restrictive covenants in deeds. He claimed in 1971, as he did in 1963, that only government discrimination—not private discrimination—should be declared unlawful. "[The] text and history [of the 14th amendment] clearly show it to be aimed only at governmental discrimination," Bork wrote in his 1971 Indiana Law Journal article.[38]

Challenging the power of Congress to ban literacy tests, Judge Bork has described two major decisions upholding key provisions of the 1965 Voting Rights Act, Katzenbach versus Morgan,[39] and Oregon versus Mitchell,[40] as "very bad, indeed pernicious, constitutional law."[41] Ironically, Bork usually argues in favor of deferring to legislative authority.

Judge Bork has also asserted that Harper versus Virginia Board of Elections,[42] which held that poll taxes are unconstitutional, was wrongly decided.

During his 1973 confirmation hearing, he defended his position, contending that the poll tax involved in Harper was, "a very small poll tax, it was not discriminatory and I doubt that it had much impact on the welfare of the Nation one way or the other." [43] As the NAACP Legal Defense and Education Fund noted in a recently issued report, "Judge Bork's benign characterization of the poll tax is difficult to reconcile with the facts that were common knowledge long before 1973." The Supreme Court in the Harper case expressly noted that the Virginia poll tax at issue "was born of a desire to disenfranchise" black voters.[44]

The NAACP Legal Defense and Education Fund also pointed out the Supreme Court was not alone in recognizing that poll taxes had been adopted for the purpose of disenfranchising black voters. The Senate Judiciary Committee, the U.S. Commission on Civil Rights, and several lower Federal courts had reached the same conclusion.[45] Indeed, Congress in 1962 proposed a constitutional amendment to prohibit the use of a poll tax for Federal elections, an amendment which was promptly ratified by the States to become the 24th amendment to the Constitution.

Judge Bork's bald assertion that the poll tax was "not discriminatory" flies in the face of reality. And his statement before the Judiciary Committee that he personally opposes poll taxes is both irrelevant and inconsistent with his 1973 testimony that the Virginia tax in question didn't have much impact one way or the other. Moreover, Judge Bork's statement that he might have found the poll tax unconstitutional if the complaint had been brought on other grounds—a defense which Judge Bork also used to explain his position regarding the Skinner sterilization case—is pure speculation.

Judge Bork's approach would put the burden on those individuals subjected to these unjust laws to devise a new and different legal basis for protecting interests which the Supreme Court correctly held to be guaranteed as fundamental constitutional rights.

Mr. President, in addition to opposing title II of the 1964 Civil Rights Act banning racial discrimination in public accommodations, Judge Bork in a 1964 article appearing in the Chicago Tribune urged rejection of title VII of the act governing employment. He argued that both provisions presented "serious and substantial difficulties" because they would "adopt a principle of enforcing associations between private individuals which would, if uniformly applied, destroy personal freedom over broad areas of life." Striking at the very heart of civil rights legislation, Bork contended that "[t]he accommodations and employment provisions of the civil rights bill cannot be viewed in isolation but must be assessed as only a modest first step in a broad program of coerced social change." [46]

On school desegregation, Judge Bork was one of only two law professors to testify in 1972 in support of the constitutionality of legislation that would have drastically curtailed remedies which the Supreme Court had held constitutionally necessary to cure violations of the 14th amendment.[47] In 1978 he attacked the Supreme Court's decision in University of California Regents versus Bakke, upholding the constitutionality of affirmative action programs. He described that decision as "resting upon no constitutional footing." [48]

For more than 25 years Judge Bork has appeared unable to recognize the magnitude of the problem of racial discrimination. He seems to have neither the insight nor the compassion to view discrimination from the perspective of its victims.

OTHER VULNERABLE GROUPS

Mr. President, Judge Bork's views on racial issues, the rights of women, separation of church and State, and freedom of speech are inimical to basic principles of equality and justice. His constricted view of the equal protection clause of the 14th amendment would render many other groups in our society vulnerable.

Because he does not believe that the 14th amendment provides any special restriction against the Government engaging in arbitrary and invidious discrimination except in a very narrow area involving race, he would effectively withdraw 14th amendment protections not only from women, but also from disabled individuals, aliens, illegitimate children, and any other class of vulnerable people upon whom the State chooses to impose its will. Since he finds no barrier in the 14th amendment to compulsory sterilization of thieves, Skinner versus Oklahoma, it is difficult to postulate where he would draw the line limiting the power of the State to affect the lives of individuals. Ironically, under Bork's warped line of judicial reasoning, a State law making abortion compulsory would not be unconstitutional—an outlandish result.

Bork's assault upon many of the Supreme Court precedents protecting individual rights is also based on his view that Congress lacks the power to enact laws protecting those rights in many of these areas. For example, in his criticisms of the Supreme Court's decisions in Katzenbach versus Morgan, and Oregon versus Mitchell, he expressed the view that Congress lacks the power under the 14th amendment to enact laws establishing what he called "substantive" constitutional law.

Similarly, he has challenged the constitutional authority of Congress to adopt the Public Accommodations Act under the commerce clause, contending such power over the States should be "beyond the reach of the National Government." [49] "If Congress can dictate the selection of customers in a remote Georgia diner," Bork wrote, "because the canned soup once crossed a State line, federalism—so far as it limits national power to control behavior through purported economic regulation—is dead." I might point out that the importance of the commerce clause to congressional authority is evidenced by the legislation we recently enacted prohibiting discrimination against disabled citizens in air travel.[50] Although Judge Bork has said he would not overturn existing commerce clause case law, it is unclear how he would handle future cases relating to this provision.

Mr. President, it is not possible to provide a definitive list of the rights established by Congress or recognized under the Constitution by Supreme Court decisions that Judge Bork would invalidate nor would it be appropriate during his confirmation process to propound questions as to how he might rule in prospective cases. A review of his prior statements and philosophy regarding fundamental rights and the authority of Congress to protect those rights suggests, however, that many of the rights and protections Americans routinely assume are secure would become vulnerable under Judge Bork's philosophy and approach to constitutional and statutory interpretation.

DIFFERENT PHILOSOPHY IN THE AREA OF BUSINESS INTERESTS

Mr. President, Judge Bork's philosophy on general principles of law dramatically changes in the area of law affecting business—big business primarily.

As I will discuss in a few moments, a review by the Public Citizens Litigation Group of Judge Bork's decisions reveals a consistent pattern of his siding with the Government against the interests of individuals, consumers, environmentalists, and workers. But a different picture emerges when business interests are at stake.

This different standard for business appears repeatedly throughout his writings and speeches, as well as his opinions on the bench.

It is particularly apparent in Judge Bork's field of expertise: antitrust law. Numerous articles and papers criticize Judge Bork's approach to antitrust law as "virtually eliminat[ing] enforcement of the antitrust laws," [51] constituting a "sustained attack on modern Federal antitrust legislation," and evincing "rigid ideological identification with corporate interests." [52] What is remarkable about Judge Bork's views in this area, however, is the manner in which he disregards virtually every principle of judicial restraint that he demands in the area of individual rights.

For example, despite repeated declarations that judges should defer to the specific intent of legislative bodies since legislatures represent the "will of the majority," Bork's deference fades when the legislative body does not share his views. Disagreeing with virtually all antitrust legislation enacted in this century, Bork complains that "Congress as a whole is institutionally incapable of the sustained rigorous and consistent thought that the fashioning of a rational antitrust policy requires." [53] Beyond his rhetorical assaults upon the competency of elected officials to develop coherent policy in this area, Judge Bork has argued that courts should not enforce antitrust provisions "unrelated to reality and which, therefore, [the court] knows to be utterly arbitrary." He has written:

> Even in statutory fields of law, courts have obligations other than the mechanical translation of legislative will, and these obligations are particularly important with statutes as open-textured as the antitrust laws.

This is a rather astonishing position in light of Judge Bork's insistence on judicial restraint and deference to legislative authority in the area of individual rights.

The AFL-CIO Executive Council in its August 17, 1987, statement on Bork's nomination, noted that:

> Bork's writings in anti-trust law thus present the irony of a man who purports to abhor a judge's reliance on his own values arguing that judges should refuse to enforce statutes that Congress has passed, because Congress did not—and still does not—sufficiently understand economic truth.

John Donohue of Northwestern University School of Law made another important point about Judge Bork's antitrust philosophy: [54]

> Bork has argued that the anti-trust laws should be used to further economic efficiency, not social or political goals [i.e. protecting small businesses].

Donohue wrote:

> Bork . . . makes the further claim [that his view] expresses the "true" legislative intent of Congress in passing the Sherman Anti-trust Act in 1890. . . . [However,] anyone who has read the entire legislative debate over the Sherman Act will see immediately that its congressional supporters spoke with many, and at times contradictory, voices about this legislation. . . . For Bork to "find" the unequivocal, "unmistakable" original intent amidst this cacophony suggests a remarkable ability to ignore the overwhelming inconvenience of contradictory facts. . . . It does show . . . that when Bork wants to reach an outcome, he is quite facile in dressing his own subjective preferences in the garb of "original intent."

SWEEPING EXECUTIVE BRANCH PRIVILEGES

Another theme dominates both Bork's writings and actions: support for sweeping executive authority. Except where the executive branch has interfered with some business interest, Judge Bork has consistently advocated judicial and legislative subordination to executive branch authority.

This philosophy is demonstrated not only in his rigid application of the policy of deference to agency rulemaking decisions, but in his substantive policy statements in numerous areas.

One of the most striking examples of this extreme bias in favor of the executive branch is set forth in his dissenting opinion in Bartlett versus Bowen.[55] The Bartlett case involved a challenge to the constitutionality of provisions of the Social Security Act which limited payment of Medicare benefits for beneficiaries utilizing both skilled nursing facilities affiliated with the Christian Science Church and secular facilities for the same illness. The case was brought on the grounds that the statute penalized the beneficiary on the basis of her religion.

Generally, the Medicare Act precludes judicial review of claims below $1,000—an amount in excess of the claim made in the Bartlett case. The majority of the court of appeals panel held, however, that Congress in enacting the $1,000 threshold for claims had not intended to preclude judicial review of constitutional challenges to the law itself. The majority noted that the Supreme Court had previously held that a challenge to the constitutionality of the GI bill legislation was reviewable despite statutory language barring judicial review of benefit decisions of the head of the Veterans' Administration.[56] Any other conclusion, the Supreme Court ruled, would "raise serious constitutional questions."

Judge Bork would have denied judicial review to the claimant. He based his position on what the majority in Bartlett described as "an extraordinary and wholly unprecedented application of the notion of sovereign immunity." [57]

In another case, Wolfe versus U.S. Department of Health and Human Services,[58] Bork proposed another novel way to insulate the executive branch from scrutiny. The Wolfe case involved a Freedom of Information Act [FOIA] request for records disclosing when proposed and final regulations were transmitted between the Food and Drug Administration, the Department of Health and Human Services, and the Office of Budget and Management. The district court had rejected the Government's efforts to withhold these documents, and the court of appeals affirmed with Bork dissenting. Although his dissent was based upon his construction of the statute in favor of the Government's position, he offered his support for the Government's claim, made for the first time on appeal, that a constitutional executive privilege justified withholding all communications to or from OMB. The majority protested that this would create "an unnecessary sequestrating of massive quantities of information from the public eye," a result totally contrary to the purposes of the FOIA.[59] In both the Bartlett and Wolfe cases Judge Bork engaged in judicial activism by dredging up theories to insulate the executive branch from outside review.

Judge Bork also adheres to the supremacy of the executive branch in matters of foreign policy. In Abourezk versus Reagan.[60] for example, he favored essentially nullifying the McGovern amendment to the Immigration and Nationality Act which requires the Secretary of State to follow specified procedures in denying admission to certain aliens because of their political affiliations. The appeals court reversed a summary judgment entered for the Government by the district court and ordered the case remanded for a full trial of the issues. The court observed that though the executive branch had broad discretion over the admission and exclusion of aliens, that discretion was not boundless and the State Department was obligated to respect restraints imposed by Congress. Judge Bork dissented, arguing that the "principle of deference applies with special force where the subject of that analysis is a delegation to the executive of authority to make and implement decisions relating to the conduct of foreign affairs."[61] He asserted that "such authority is fundamentally executive in nature" and argued that it does not require as a basis for its exercise an act of Congress.

In another case with foreign policy implications, Barnes versus Kline,[62] Judge Bork sought to deny judicial review of executive branch action. Barnes involved President Reagan's attempted pocket veto of legislation requiring human rights certification as a condition of continued military assistance to the Government of El Salvador. The majority held that the pocket veto had been improperly exercised and ordered the case remanded for a summary judgment in favor of the congressional plaintiffs. Judge Bork dissented, claiming that neither Congress nor individual members could litigate the validity of the purported veto notwithstanding the fact the executive branch had conceded that the Senate did have standing to sue. Judge Bork charged that the majority decision expanded the power of the judicial branch. The fact is that his dissent, had it prevailed, would have expanded the power of the executive.

Judge Bork's opinions on the court of appeals regarding the power of the executive branch are consistent with views he expressed as a private citizen. In various articles and statements he has challenged the war powers resolution as an infringement upon the executive branch's inherent authority, and he has argued that Congress lacked authority to limit President Nixon's conduct of the Vietnam war.[63] He also has argued that requiring the executive branch to obtain a warrant before conducting espionage-related surveillance of persons within the United States was an unconstitutional interference with the President's powers as commander in chief.[64]

Finally, Judge Bork's excessive view of the powers of the executive branch was reflected in his role in President Nixon's infamous "Saturday Night Massacre." A Federal district court subsequently determined that Bork had acted illegally in firing Special Prosecutor Archibald Cox.[65]

LACK OF IMPARTIALITY

Mr. President, as I said earlier, most fundamental to judicial temperament is the ability to be fair and open-minded. Judge Learned Hand put it well:

> . . . [a judge] must approach his problems with as little preconception of what should be the outcome as it is given to men to have; in short, the prime condition of his success will be his capacity for detachment.

Judge Bork's record over the past 5 years illustrates his lack of impartiality.

Evidence of Bork's "result-oriented" brand of judicial philosophy is set forth in the exhaustive analysis of Judge Bork's record as a member of the U.S. Court of Appeals for the District of Columbia Circuit conducted by the Public Citizen Litigation Group, a nonprofit public interest group which has never before taken a position on a judicial nomination.[66]

Mr. President, as a member of the court of appeals, Judge Bork participated in approximately 400 cases in which opinions were published. Judge Bork wrote 144 majority, concurring, and dissenting opinions. Fifty-six of the four hundred cases involved "split decisions." The Public Citizen analysis focused extensively on the split decisions. The split decisions involve those cases in which one or more of the judges on the panel disagreed with the majority on how the case should be resolved and filed a dissent. Most of the cases decided by the court of appeals are decided by unanimous three-judge panels. Many of these cases involved relatively simple or noncontroversial issues, and the court is simply affirming the decision of an administrative agency or a district court.

The split decision cases tend to be the more controversial, "tough" cases where the position of each of the judges can determine the outcome.

The results of this analysis are startling. Judge Bork's record shows no consistent application of judicial restraint, or any judicial philosophy for that matter. One can predict with almost complete accuracy how Judge Bork would rule simply by identifying the parties in the case. His concept of judicial restraint varied according to who appeared at the courthouse door. When individuals such as consumers, workers, or environmentalists brought suit against a government agency, Judge Bork almost invariably supported the agency. Not so, however, when the litigant was a business. Then his doctrine of judicial restraint changed radically.

Judge Bork voted in favor of the Government in all seven split decisions in which public interest organizations had challenged Federal regulations. He voted for the Government in all seven split decision freedom of information cases. And he voted for the Government in four of the five split cases involving workers' rights. By contrast, there were eight split decisions involving business challenges of the Government; Judge Bork voted against the Government and for business every time.

Perhaps the most dramatic illustration of this inconsistency is found in Judge Bork's separate opinion, concurring in part and dissenting in part, in the case of Planned Parenthood Federation of America versus Heckler.[67]

The case involved a challenge to regulations promulagted by the Department of Health and Human Services requiring family planning programs funded under title X of the Public Health Service Act to notify a parent or guardian when prescription contraceptives are provided to a minor.

A majority on the court found that it was clear from the legislative history that the regulations were inconsistent with the 1981 amendments to the act and the intent of Congress in passing them. The court held that the regulations violated both the express terms of the 1981 statute and "the crystal clear and unequivocal expression of congressional intent" in the 1981 conference report.

Judge Bork did not disagree. In a separate opinion concurring in part and dissenting in part, he acknowledged that the 1981 amendments did not provide authority for the contested regulations and he conceded that the "evidence cited by majority amply demonstrates the error in HHS' position." But he aruged that the amendments did not expressly forbid the promulgation of such regulations and urged that because we "are dealing in a vexed and hotly controverted area of morality" the case should be remanded so that HHS might have an opportunity to reissue the regulations under some other authority.

In essence, Judge Bork encouraged HHS to devise a new strategy to evade what he himself conceded to be the intent of Congress. In pursuit of ends sought by the right wing, Judge Bork did not hesitate to encourage the circumvention of congressional intent. In other cases, however, Judge Bork has rigidly applied his concept of congressional intent.

Oil, Chemical and Atomic Workers versus American Cyanamid Co.,[68] dramatically illustrates Judge Bork's inconsistent approach.

This case involved a chemical company's policy of discharging female employees of childbearing years unless they agreed to be sterilized. The Federal Occupational Safety and Health Act [OSHA] requires employers to provide safe and healthful working conditions. The lead level in certain departments of the plant in question registered at a level too high for the safety of an unborn fetus. The employer contended that it was economically infeasible to reduce the level of lead and instead adopted the policy that women of childbearing age working in that department would be fired unless they were sterilized. A company doctor and nurse gave the female employees a briefing on the surgery that was involved, and they were informed that the company health plan would cover the expenses. They were also informed that there would be only seven jobs for fertile women in the entire plant after the new policy was implemented.

The Secretary of Labor determined that this policy was improper and issued a citation to the employer for violation of OSHA. Following an administrative hearing, the OSHA Commission rule against the Secretary of Labor on the grounds that the sterilization policy was not a workplace hazard of the nature Congress intended to cover in OSHA.

Judge Bork's opinion in this case affirmed the Commission's decision, noting that—

> There is no doubt that the words of the general duty clause [in OSHA] can be read, albeit with some sematic distortion, to cover [the sterilization] policy.

He then went on, however, to decline to apply the OSHA statute to this policy since he found no discussion of such a hazard in the legislative history of the act and concluded that to extend the scope of the act to this type of policy would establish a broad principle of unforeseen scope.

It is interesting to note that an amicus brief was filed in this case on the side of the employer by the Washington Legal Foundation, a conservative legal advocacy group.

Judge Bork's handling of the American Cyanamid case might not be remarkable if he consistently deferred to administrative agencies or congressional intent. Yet, as I indicated, the Planned Parenthood case demonstrates he does not consistently defer to congressional intent.

In numerous other instances, Judge Bork's deference to an administrative agency was inconsistent, depending on whether a business entity, an individual, a worker, or a consumer was involved. For example, in Vinson versus

Taylor,[69] he refused to give any deference to the "Equal Employment Opportunity Commission Guidelines on Discrimination Because of Sex" in a case where those guidelines were favorable to a claim that sexual harassment constituted illegal sex discrimination—a claim Judge Bork strongly opposed.

In a series of utility ratesetting cases, Bork refused to uphold an agency decision favoring consumers. In one case, Judge Mikva described Bork's opinion as a "blatant interference with the ratemaking procedures adopted by the [agency]."[70] Similarly, in Middle South Energy, Inc. versus Federal Energy Regulatory Commission, Judge Bork sided against consumers and substituted his personal interpretation of the statute for that of the regulatory agency. His position prompted a dissent from Judge Ginsberg who observed that, absent clear evidence that an agency's construction of its statute is incorrect, the agency's interpretation merits considerable deference.[71]

The pattern that emerges is that of a jurist who is fully prepared to modify his judicial principles to achieve a predetermined result.

Mr. President, a final striking example of Judge Bork's willingness to tailor his judicial philosophy to justify support of a right-wing agenda is displayed in his writings about the right of the majority of a community to curtail the liberties of individuals. His views on this subject have varied sharply, depending upon whether the majority is expressing a liberal or a conservative value.

In his 1963 article opposing civil rights legislation, Judge Bork argued in favor of an individual's right to engage in racially discriminatory acts because, he said, the majority was attempting to impose a moral judgment by enacting civil rights legislation. Then he argued against "the morality of enforcing morals through law."

In language diametrically opposite this rationale, however, Judge Bork has since repeatedly claimed that the majority does have the right to legislate its moral beliefs and to forbid behavior which it regards as morally wrong despite the impact on others civil liberties. In his 1984 American enterprise speech he argued that the majority should have the right "to express [its] moral beliefs in law."

Thus, in the sixties, Judge Bork argued against civil rights legislation on the grounds that it represented an unjustifiable effort to impose moral values by law, but subsequently he has used precisely the opposite argument to advocate enactment of laws that would impose moral values of a different kind. Specifically, he has argued that if a majority believes the use of contraceptives is morally abhorrent, a court should not override that decision.[72]

As Ronald Dworkin, professor of law at New York University wrote in the New York Review of Books, Judge Bork's "principles adjust themselves to the prejudices of the right however inconsistent these might be."[73]

IMPACT OF JUDGE BORK ON THE SUPREME COURT

Mr. President, when President Reagan first nominated Judge Bork to the Supreme Court, his supporters hailed the nomination as a great victory for advancing the agenda of the far right well beyond the Reagan Presidency. Of late, however, the administration has launched a disinformation campaign seeking to characterize Bork as a moderate mainstream jurist, akin to Justice Powell, who would obey the rule of law and not upset the existing balance of the Court.

Responding to this campaign, Owen Fiss, a professor of law at Judge Bork's former institution, Yale Law School, wrote recently in the New York Times:

> [Judge Bork] owes his pre-eminence as a conservative spokesman—and perhaps his nomination—in no small measure to his rejection of the constitutional doctrine associated with [cases Justice Powell supported]. . . . [W]hat Judge Bork's writings—spanning almost 20 years as a professor—reflect is not a concern for precedent but a dogmatic commitment to a comprehensive or general theory and a willingness to denounce, repudiate, even deride decisions that do not agree with his theory. Judge Bork's performance on the Court of Appeals has not revealed a change of outlook.[74]

Prof. Philip Kurland of the University of Chicago put it even more forcefully:

> The concerted efforts in the press to repaint Robert Bork as a closet liberal in order to make him acceptable to centrists in the Senate has all the cogency of Admiral Poindexter's testimony before the House and Senate Select Committees. To make Bork over in the image of a Lewis Powell, a Robert Jackson, or a Felix Frankfurter, as they would seek to do, rather than seeing him as in the tradition of a Sutherland, McReynolds, or Rehnquist, is to give the lie to Bork's public extra-judicial professions of his beliefs . . . The Department of Justice and the White House Staff . . . are not entitled to tell contradictory tales to different Senators to entice their votes for inconsistent reasons. Bork is either the moderate, restrained New Deal-type jurist that he is depicted to be by some of his recent advocates in the press. Or he is the Meeseian, "original intent", constitutional revisionist, as he has depicted himself to be in his talks to the "Federalist Society" and in other forums throughout the country.[75]

A recent study by the Columbia Law Review confirms that Judge Bork is decidedly more conservative in his judicial opinions than other Reagan appointees to the Federal bench.

This study covering 1,200 nonunanimous decisions of all of the U.S. courts of appeal during 1985 and 1986 found Bork voted on the "conservative" side 90 percent of the time compared to 69 percent for other Reagan appointed judges. Like the Public Citizen Group, the Columbia Law Review study found that Bork voted consistently in favor of business groups against Federal agencies while opposing the claims of individuals and public interest groups.[76]

Mr. President, Judge Bork's proponents have also argued that the fact that he has never been reversed by the Supreme Court demonstrates that he is not a judicial radical, but a moderate.

It should be pointed out, however, that the Supreme Court has never even reviewed a case in which Judge Bork wrote the majority opinion. In 1986-87, it granted review in only five cases from the District of Columbia circuit. Moreover, the argument also conveniently ignores the fact that in at least one case, Vinson versus Taylor, supra, the Supreme Court unanimously rejected twisted positions Judge Bork had asserted in his dissenting opinion.

Finally, Judge Bork's supporters point to a handful of cases in which he did not take a "radical-right" position. Most often, his opinion in Ollman versus Evans[77] is cited as evidence of his support for freedom of expression under the first amendment. It should not be overlooked that the parties in this case were two conservative journalists and an alleged Marxist professor. Judge Bork sided with the conservative journalists and noted that the case fell within the scope of speech—political speech—which he has consistently recognized, sometimes exclusively, as protected by the first amendment. He reached a similar conclusion—that political speech was at issue—in Lebron versus Washington Metropolitan Area Transit Authority.[78] On the other hand, he has been on the other side of the first amendment in a number of cases, for example, Finzer versus Barry,[79] upholding a statute forbidding the display of signs opposing the policies of a foreign government within 500 feet of its embassy, but permitting the display of signs supporting that government's policy, and Abourezk versus Reagan,[80] relating to policies excluding certain aliens invited to speak in the United States. Similarly, as to women's rights, Judge Bork joined the majority in three cases decided favorably to women asserting rights against employment discrimination under title VII of the Civil Rights Act.[81] As the National Women's Law Center noted, each of these cases involved settled principles of law in which the court of appeals reached unanimous decision.[82]

Finally, Mr. President, some commentators have suggested Judge Bork's elevation to the Supreme Court would not threaten individual freedoms since few legislatures today would seriously consider the laws struck down in cases Judge Bork has attacked; that is, a ban on contraceptives in Griswold or involuntary sterilization in Skinner. The short answer to that assertion is that only a few years ago, legislation, S. 158, the proposed human life statute, was considered in the Senate. That legislation would have prohibited the use of some commonly accepted forms of contraception, such as the IUD and certain types of birth control pills. When S. 158 was offered as a floor amendment in 1982 to a debt ceiling bill, it was tabled by a 1-vote margin of 47 to 46. Similarly, the recent school textbook censorship cases and legislation mandating instruction in the theory of creationism show that erosion of the wall between church and state, particularly in the classroom, is an ever present danger.

Individual rights cannot rest upon the mere hope or speculation that legislatures will not propose measures that trample freedom.

OVERTURNING PRECEDENTS

Of perhaps most critical importance in trying to assess the impact of elevating Judge Bork to the Supreme Court is his view of precedents.

At his confirmation hearing, he expressed a very different view about the obligation of a Supreme Court Justice to adhere to prior constitutional decisions from the view he had frequently stated before. In his testimony, he emphasized that he believed that certain decisions, although wrong, were so firmly established that they should not be reversed.

In the past, however, Judge Bork has not hesitated to express his view that a Supreme Court Justice is free to seek to reopen settled issues of law, particularly constitutional law, which he believes were wrongly decided. In a 1985 interview he said:

> A Supreme Court Justice always can say, and many times the Supreme Court has said, that their first obligation is to the Constitution, not to what their colleagues said 10 years before.[83]

More recently, in a 1987 speech before the Federalist Society, Judge Bork expanded on that view:

> Most constitutional doctrine is merely the judge-made superstructure that implements the framers' basic values.
>
> This means, I think, that the role of precedent in constitutional law is less important than it is in a proper common law or statutory model. . . . So if a constitutional judge comes to a firm conviction that the courts have misunderstood the intentions of the founders, the basic principle they enacted, he is freer than when acting in his capacity as an interpreter of the common law or of statute to overturn precedent.[84]

In this speech, Judge Bork also reiterated his longstanding opposition to decisions that do not comport with his "originalist" theory of constitutional requirements and declared that—

> An originalist judge would have no problem whatever in overruling a non-originalist precedent, because that precedent by the very basis of his judicial philosophy, has no legitimacy.

Any lingering doubts regarding Bork's respect for precedents with which he disagrees should be resolved by a look at his record on the intermediate court of appeals. It belies the lipservice he pays now to honoring Supreme Court precedents. For example, in his 1985 dissenting opinion in Barnes versus Kline, Judge Bork wrote:

> Though we are obligated to comply with Supreme Court precedent, the ultimate source of constitutional legitimacy is compliance with the intentions of those who framed and ratified our constitution.

He further observed that—

> Constitutional doctrine should continually be checked not just against words in prior opinions but against basic constitutional philosophy.[85]

The majority in the Barnes case attacked Judge Bork's refusal to adhere to the established precedents: "The dissent contends that previous decisions of this court permitting congressional standing do not bind this panel because they are the result of the court's failure to give proper regard to the underpinnings of article III's standing requirement, namely, the separation of powers," and observed that "Supreme Court precedent contradicts the dissent's sweeping views" on the issue of congressional litigation.

Similarly, in Dronenburg versus Zech, Judge Bork wrote a blistering attack upon Supreme Court precedents establishing a right of privacy. This prompted other members of the Court to criticize Judge Bork for trying to use "the panel's decision to air a revisionist view of constitutional jurisprudence" and for attempting "to wipe away selected Supreme Court decisions."[86]

Professor Dworkin of the New York University Law School aptly describes Bork as a "constitutional radical" who rejects the view that the Supreme Court must test its interpretations of the Constitution against the principles inherent in its past decisions, as well as other aspects of constitutional theory. As Dworkin notes, Judge Bork repeatedly has made clear his belief that "central parts of settled constitutional doctrine [are] mistakes now open to repeal by a right-wing court."[87]

Mr. President, nothing he said in his testimony before the Senate Judiciary Committee convinces me he has abandoned these views.

Once on the Supreme Court, Judge Bork is unlikely to be deterred by the legitimacy of precedents or the doctrine of stare decisis from reopening settled issues of constitutional law. He has made it clear that he regards a long line of decisions of the Supreme Court, stretching back to the 1920's, recognizing constitutionally protected freedoms to be without legitimacy. He pointedly refused to include these cases among those he considered to be settled questions of law. He has repeatedly made clear that he would, as a member of the Supreme Court, be an activist judge in seeking to overturn and reverse longstanding decisions which he regards as incorrect. I believe the Reagan administration fully understands Judge Bork's mind and intentions in this regard. It is surely a key reason for his nomination.

TESTIMONY BEFORE THE SENATE JUDICIARY COMMITTEE

Mr. President, I withheld making a final decision on the Bork nomination until Judge Bork had an opportunity to testify before the Senate Judiciary Committee and respond to the many concerns which have been raised regarding his record and fitness to serve on the Supreme Court.

He has now had that opportunity.

I found his testimony, taken as a whole, to be both disingenuous and unpersuasive.

I have commented earlier on several aspects of his testimony including his new positions on the first amendment, on sex discrimination under the equal protection clause of the 14th amendment, and on reversing Roe versus Wade, and his explanation of his position with regard to Skinner versus Oklahoma dealing with involuntary sterilization.

In numerous other instances he stated positions starkly different from those he has taken in the past.

For example, in discussing the issue of a Supreme Court Justice adhering to the doctrine of stare decisis and precedents established by earlier Courts, he several times suggested that the law should not be seen as changing each time the personnel on the Court changed. Yet, he has in the past specifically pointed to the change in the personnel of the Court as the means for reversing decisions with which he disagrees. In 1982, he stated:

> The only cure for a Court which oversteps its bounds that I know of is the appointment power. * * *[88]

In 1986 he wrote:

> Democratic responses to judicial excesses probably must come through the replacement of judges who die or retire with new judges of different views.[89]

When pressed to explain his extraordinary prior positions that the 14th amendment should not apply to women and that the 1st amendment's protection of free speech should be restricted to political expression, he presented the committee with new positions I described earlier which were inconsistent with his prior public statements. As a result, it is almost impossible to state accurately what Judge

Bork's current legal position is with respect to sex discrimination or freedom of speech or how he might apply these new policies in the future. It is also virtually impossible to understand how the doctrine of "original intent"—to which he still pledges allegiance—has led him to his new positions on these matters.

Judge Bork repeatedly characterized his opposition to specific, pivotal Supreme Court decisions upholding individual liberties as mere criticisms of the Court's reasoning, not necessarily the result. What he refers to as "reasoning" is recognizing and protecting fundamental constitutional rights. Because Judge Bork does not find these fundamental rights explicitly mentioned in the Constitution, he disagrees with the "reasoning" of the cases.

He frequently stated that he did not personally support the statutes which the Court had struck down, but, as a legal matter, did not believe that the Court had the authority to overturn the law. Judge Bork's personal view, for example, that the Connecticut law making it a crime for a married couple to use contraceptives was "nutty," is totally irrelevant. The fact remains that, as a judge, he would have allowed the law to stand. When pressed in questioning about that unacceptable result, he could only respond that the law had not been enforced and would be impossible, as a practical matter, to enforce.

Finally, he defended some of his most outrageous statements on the grounds that his job, as a professor, was to be provocative. It should be stressed that the record which gives rise to so much concern about the prospect of Judge Bork being placed on the Supreme Court does not involve statements as a professor alone. It also involves articles in publications such as the Chicago Tribune, the Wall Street Journal, Fortune, New Republic, and National Review as well as numerous speeches delivered while on the Federal bench. These were clearly efforts to engage in and influence public debate and legal philosophy regarding controversial issues. And the criticism of Judge Bork's record rests upon his record as a judge, not merely his years as a professor.

In short, his characterization of his positions during his testimony before the Judiciary Committee did little to resolve my deep concerns arising from his record and statements for the past 25 years.

CONCLUSION

Mr. President, I urge that the nomination of Judge Bork be rejected.

The struggle over this nomination is as much about the future and where this Nation is going in the next century as it is about what Judge Bork has said and done over the past 25 years.

Judge Bork looks into the Constitution and finds it an empty vessel, a mere instrument for government to impose its will on individuals. I look at the same document and see a charter for restraining the power of government from interfering with individual freedom. Judge Bork looks at the intent of the framers and sees a narrow vision of democracy. I see in the words and struggles of our Founding Fathers a deep and abiding desire to establish a rule of law which protects individuals from the tyranny of the majority.

Judge Bork is committed to a judicial philosophy that rejects the principles of individual freedom which lie at the very heart of our Constitution and our national heritage. That philosophy threatens the principles of law, liberty, and privacy which Americans deeply cherish. On the Supreme Court, he could undermine the stability of precedents and jeopardize the hard-fought gains of women and minorities. This is a time when we should be moving forward in protecting individual rights. His confirmation would move the Nation backward. The nomination should be rejected.

FOOTNOTES

*For a discussion of the role of the Senate in the confirmation of Supreme Court Justices and citations to the historical record, see generally Tribe, "God Save This Honorable Court" (1985).

[1] Bork, "Neutral Principles and Some First Amendment Problems," Indian Law Journal, fall 1971, 1, 22 (hereinafter cited as "Neutral Principles").

[2] *Olmstead* v. *U.S.*, 277 U.S. 438, 478 (1928).

[3] *City of Akron* v. *Akron Center for Reproductive Health*, 462 U.S. 416, 419-420 (1983).

[4] Congressional Record, July 22, 1987, S10516.

[5] Barber, "The New Right Assault on Moral Inquiry in Constitutional Law," the George Washington Law Review, 253, 259 (1986); Kurland, "Bork: The Transformation of a Conservative Constitutionalist," Chicago Tribune, Aug. 18, 1987.

[6] American Civil Liberties Union, "Report on the Civil Liberties Record of Judge Robert H. Bork."

[7] Bork, "Traditional and Morality in Constitutional Law," American Enterprise Institute, Dec. 6, 1985.

[8] Bork, "The Constitution, Original Intent, and Economic Rights," San Diego Law Review, July/August, 1986.

[9] McGuigan, "An Interview with Judge Bork," Conservative Digest, October 1985.

[10] 381 U.S. 479 (1965).

[11] *Meyer* v. *Nebraska*, 262 U.S. 390 (1922).

[12] *Pierce* v. *Society of Sisters*, 268 U.S. 510 (1925).

[13] 712 F.2d 1428 (1983), majority opinion reported at 707 F.2d 582 (1983).

[14] *Dronenburg* v. *Zech*, 741 F.2d 1388 (1984).

[15] 316 U.S. 535 (1942); "Neutral Principles", supra at 12.

[16] These views were fully developed in a speech, "Religion and the Law," presented at the University of Chicago on Nov. 13, 1984, and reiterated in a speech given at the Brookings Institute on Sept. 12, 1985.

[17] *Aguilar* v. *Felton*, 473 U.S. 402 (1985).

[18] Although he clearly criticized the Court's application of the free exercise clause, the record is in dispute as to whether this attack specifically included criticism of the pivotal school prayer decision, *Engel* v. *Vitale*, 370 U.S. 421 (1962). In his Judiciary Committee testimony, Judge Bork stated he had not taken a position on the school prayer issue. However, the Dean of the N.Y. University Law School has written that Judge Bork attacked the Engel decision in a speech delivered at the New York University Law Review Dinner in May of 1982.

[19] "Neutral Principles", supra at 20.

[20] 334 U.S. 1 (1948).

[21] 369 U.S. 186 (1962).

[22] 377 U.S. 533 (1964).

[23] 348 U.S. 641 (1966).

[24] 400 U.S. 112 (1970).

[25] 383 U.S. 663 (1966).

[26] 341 U.S. 494 (1951) and 395 U.S. 444 (1969). During his testimony before the Senate Judiciary Committee, Judge Bork indicated he would accept *Brandenberg* although he still regards it as wrong. What that actually means in terms of future first amendment cases is totally unclear.

[27] "Neutral Principles", supra at 11.

[28] *McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316 (1819).

[29] *Home Bldg & Loan Ass'n* v. *Blaisdell*, 290 U.S. 398 (1934).

[30] McGuigan, 1985 interview, supra at 8.

[31] *Reed* v. *Reed*, 404 U.S. 71 (1971); *Kirchber* v. *Fienstra*, 450 U.S. 455 (1981); *Weinberger* v. *Wiesenfeld*, 420 U.S. 636 (1975); Worldnet Interview, June 10, (1987), p. 12.

[32] 753 F.2d 141, rehearing denied, 760 F.2d 1330 (1985), aff'd sub nom., *Meritor Saving Bank* v. *Vinson*, 106 S. Ct. 2399 (1986).

[33] 760 F.2d at 1333 n. 7.

[34] *Meritor Savings Bank*, supra at 2406, citing *Henson* v. *Dundee*, 682 F.2d 897, 902 (1982).

[35] New Republic, Aug. 13, 1963, 21-24.

[36] Hearing before the Committee on the Judiciary, U.S. Senate, 93rd Cong., 1st Sess., Jan. 17, 1973.

[37] 334 U.S. 1 (1948).

[38] "Neutral Principles", supra at 16.

[39] 348 U.S. 641 (1966).

[40] 400 U.S. 112 (1970).

[41] Hearings on the Human Life Bill before the Subcommittee on Separation of Powers of the Senate Judiciary Committee, 97th Cong., 1st Sess., June 1, 1981 at 314.

[42] 383 U.S. 663 (1966).

[43] Hearings before the Senate Judiciary Committee, 93rd Cong., 1st Sess., Jan. 17, 1973 at 17.

[44] "Judge Bork's Views Regarding Racial Discrimination," a Report of the NAACP Legal Defense and Education Fund, Inc., August 1987.

[45] S. Rep. No. 162, 89th Cong., 1st Sess., (1965); U.S. Commission on Civil Rights, "With Liberty and Justice for All" (1959); *U.S.* v. *Texas*, 252 F. Supp. (W.D. Tex 1966); and *U.S.* v. *Alabama*, 252 F. Supp. 95 (M.D. Ala. 1966).

[46] Bork, "Two Professors Tell Civil Rights Bill Merits, Faults," Chicago Daily Tribune, Mar. 1, 1964.

[47] Hearings of the Subcommittee on Education of the Senate Committee on Labor and Public Welfare on the Equal Educational Opportunity Act of 1972, 92d Cong., 2d Sess. (1972).

[48] Bork, "The Unpersuasive Bakke Decision," Wall Street Journal, July 21, 1978.

[49] Chicago Daily Tribune, March 1, 1964, supra.

[50] Air Carrier Access Act of 1986, Public Law 99-435.

[51] Robert Pitofsky; Georgetown Law School, memorandum to Senate Judiciary Committee, August 1987.

[52] Leonard Orland, University of Connecticut, memordandum to Senate Judiciary Committee, August 1987.

[53] Bork, "The Anti-Trust Parodox: A Policy at War With Itself," 412 (1978).

[54] Donohue, "Judge Bork, Anti-Trust Law, and the Bending of Original Intent", Chicago Tribune, July 22, 1987.

[55] 816 F.2d 695 (1987).

[56] Id., citing *Johnson* v. *Robison*, 415 U.S. 361 (1974).

[57] 816 F.2d at 703.

[58] 815 F.2d 1527 (1987).

[59] 815 F.2d at 1533.

[60] 785 F.2d 1043 (1986).

[61] 785 F.2d at 1063.

[62] 759 F.2d 21 (1985).

[63] Confirmation Hearing, 1973; Wall Street Journal, Mar. 9, 1978.

[64] Wall Street Journal, Mar. 9, 1978.

[65] *Nader* v. *Bork*, 366 F. Supp. 104 (1973), subsequently vacated as moot.

[66] "The Judicial Record of Judge Robert H. Bork", August 1987. See Congressional Record, Aug. 7, 1987 at S11788.

[67] 712 F.2d 650 (1983).

[68] 741 F.2d 444 (1984).

[69] 760 F.2d 1330 (1985).

[70] *Jersey Central Power and Light* v. *Federal Energy Regulatory Commission*, 810 F.2d 1168 (1987).

[71] 747 F.2d 763, 744 (1984).

[72] American Enterprise Speech, 1984; San Diego Law Review, July/August (1986) at 830-31.

[73] "The Bork Nomination", Aug. 13, 1983.

[74] New York Times, July 31, 1987.

[75] Kurland, letter to L.A. Journal, July 1987.

[76] Columbia Law Review Release, July 27, 1987.

[77] 750 F.2d 970 (1984).

[78] 749 F.2d 893 (1984).

[79] 798 F.2d 1450 (1986).

[80] 785 F.2d 1043 (1986).

[81] *Palmer* v. *Schultz*, 815 F.2d 84 (1987); *Laffey* v. *Northwest Airlines*, 740 F.2d 1071 (1984); and *Ososky* v. *Wick*, 704 F.2d 1264 (1983).

[82] "Setting the Record Straight: Judge Bork and the Future of Women's Rights," August 1987.

[83] "Justice Robert H. Bork: Judicial Restraint Personified," California Law Journal, May 1985, at 25.

[84] "Changing the Law: The Role of Lawyers, Judges, and Legislators," Jan. 31, 1987.

[85] 759 F.2d at 56, 67.

[86] 746 F.2d at 1580.

[87] "The Bork Nomination," New York Review of Books, Aug. 13, 1987.

[88] 1982 confirmation hearing, p. 7.

[89] "Judicial Review and Democracy," Encyclopedia of the American Constitution, v. 3, p. 1062 (1986).

RECOGNITION OF SENATOR LEAHY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont, Senator LEAHY, is recognized for not to exceed 30 minutes.

Mr. LEAHY. I thank the distinguished Presiding Officer and the distinguished deputy majority leader, both of whom were here at about a quarter of 11 when we left last night and were back here again at a quarter to 7 this morning. I applaud you for that. I thank the distinguished majority leader for arranging for us to come in early enough so that we could do this.

THE CONFIRMATION OF JUDGE ROBERT BORK

Mr. LEAHY. Mr. President, the Judiciary Committee is drawing toward the conclusion of an extraordinary series of hearings on the nomination of Robert Bork to be Associate Justice of the Supreme Court. Never before in our history have the qualifications and judicial philosophy of a Supreme Court nominee been publicly examined with such thoroughness, fairness, and seriousness.

As a member of the Judiciary Committee, I prepared intensively for these hearings by reading as much as I could of Judge Bork's voluminous articles, speeches, and judicial decisions. I have participated actively in the hearings. I have studied Judge Bork's testimony, his responses to the questions posed by all 14 members of the committee, and the testimony and questioning of the other witnesses.

Based on this extensive record, I have arrived at a difficult decision. I will vote against the confirmation of Judge Bork to the Supreme Court.

I am not opposed to Robert Bork, the person. I have great admiration for his intellect, scholarship, and skill in crafting judicial opinions. Nor do I question his personal decency and integrity. His forthrightness in responding to the most probing and far-ranging questioning by committee members is unparalleled, and sets a high standard that future nominees will have to work hard to match. In the hearings, Judge Bork handled himself in a way that commands not only our respect, but also our admiration for the support shown by his impressive family.

Robert Bork the person, has my praise and respect. Robert Bork, the nominee to the Supreme Court, does not have my vote, and the President does not have my consent to this nomination.

Confirming this nominee could alter the direction the Supreme Court takes into the next century. My children will live most of their lives in that century, and my vote speaks to the legacy I would leave them—and all other Americans.

The central issue in this nomination is not Robert Bork, the person, but Robert Bork's approach to the Constitution and to the role of the Supreme Court in discerning and enforcing its commands. The central issue is his judicial philosophy. When the hearings began, I said that Judge Bork's judicial philosophy is comprehensive and clearly stated. It is also a record of consistent and forceful opposition to the main currents the Supreme Court has taken on a wide range of issues that touch on the basic freedoms of the American people. While in some areas Judge Bork departed from this long-standing record in his testimony before the Judiciary Committee, I am not convinced that his fundamental approach to constitutional principles has changed. This is a key factor in my vote on this nomination. Let me explain why.

With Judge Bork, as with any Supreme Court nominee, the record before the Senate is a record of the past: what the nominee has said and done up to the moment the Senate makes its decision. But that decision is a referendum on the future.

Whoever succeeds Justice Powell on the Supreme Court will probably serve well into the 21st century. The Senate should confirm Justice Powell's successor only if we are persuaded that the nominee has both the commitment and the capacity to protect freedoms the American people have fought hard to win and to preserve over the last 200 years.

When the framers of the Constitution met in Philadelphia two centuries ago, they decided that the appointment of the leaders of the judicial branch of Government was too important to leave to the unchecked discretion of either of the other two branches. They decided that the President and the Senate must be equal partners in this decision, playing roles of equal importance. The 100 Members of the U.S. Senate, like the Chief Executive, are elected by all the people. And all the people have the right to expect that we will approach our task with care and concern for the importance of this decision for the future of our Republic.

I cannot vote for Judge Bork unless I can tell the people of Vermont that I am confident that if he were to become Justice Bork, he would be an effective guardian of their fundamental rights.

The people of Vermont have a right to know that as a Supreme Court Justice, Robert Bork would aggressively defend their freedom to think, speak, and write as they please—without the threat of censorship or reprisal from any level or branch of government. Based on the record before me, I cannot tell the people of Vermont that Robert Bork would champion their first amendment rights to free speech.

The people of Vermont have a right to know that as a Supreme Court Justice, Robert Bork would prevent Government from intruding into the most intimate and private decisions of family life, as the Constitution provides. Based on the record before me, I cannot tell the people of Vermont that Judge Bork recognizes their right to privacy as one of their most fundamental liberties, and that he will act forcefully on that recognition.

The people of Vermont have a right to know that as a Supreme Court Justice, Robert Bork would comprehensively uphold the constitutional right to be free of unfair discrimination by any branch or level of government. Based on the record before me, I cannot tell the people of Vermont that Judge Bork will unstintingly employ the equal protection clause of the 14th amendment to block government actions based on sexual discrimination and other forms of unfounded prejudice.

From my own studies and from the hearings, I know much about Judge Bork and his judicial philosophy, and I am not convinced that the nominee will protect those freedoms into the next century. Therefore, I must exercise my constitutional duty to vote against the nominee.

As Senators decide how to vote on this nomination, much will be made of the subject of "confirmation conversion." This phrase summarizes some of the reasons why I have found this decision so difficult. But like any catch phrase, it may suggest different things to different people. Some of these connotations may be misleading.

Two weeks ago, Judge Bork told the Judiciary Committee many things he has never told anyone else before—at least not in public—about his approach to fundamental constitutional issues. The issue is not whether he was candid in those aspects of his sworn testimony which seem to contradict so many basic thrusts of his prior writings and speeches. Judge Bork testified under oath, and I have no reason to think that a man of such integrity would have testified with less than complete truthfulness. The real issue is what weight the Senate should give to these newly expressed views.

There is a pattern to the new views that Judge Bork disclosed for the first time at the hearings. His evolving thinking on free speech questions, for example, has come to rest at a point near the consensus that was reached by the Supreme Court and by most legal scholars some 20 years ago. On constitutional questions that still excite controversy within the legal mainstream—for example, the right of marital and family privacy—Judge Bork's views have scarcely changed at all.

This pattern shows that Judge Bork's views are now different from some of the more isolated positions he previously sought to defend. But it also shows that, at this point in his long career, he still does not demonstrate a passion for vindicating the individual rights of Americans that matches his passion for a rigorous and coherent legal theory of the Constitution.

A key element of the issues the Senate must confront on this nomination is whether Judge Bork's newly announced perspectives are likely to overpower the deeply considered and well documented intellectual habits of a long career as a legal philosopher. Our focus, once again, must not be limited to what Judge Bork now says about the established precedents he so forcefully attacked in the past. Our focus must be on the judicial philosophy that Justice Bork would bring to the constitutional controversies of the 21st century.

Many distinguished lawyers testified before the Judiciary Committee on this nomination. But a nonlawyer, the novelist William Styron, went to the heart of the matter when he said that the Senate must decide whether Judge Bork's newly expressed views reflect "a matter not of passing opinion but of conviction and faith." Measured against that standard, Judge Bork's testimony of earlier this month mitigates some of his previous statements, but does not erase them from the record which the Senate must consider.

When a nominee for a Cabinet position comes before a Senate committee for confirmation hearings, it is not unusual for Senators to seek specific commitments as to actions the nominee will or will not take if confirmed. Senators may even condition their vote on these commitments. But a lifetime appointment to the Federal judiciary is entirely different from an appointment to an executive branch position. In the case of a nominee to the Supreme Court, it would be improper for members of the Judiciary Committee to seek such commitments, and it would be unthinkable that any nominee would make them. The committee's job is not to extract commitments, but to exercise judgment about the probable course of the nominee's long-term performance on the Supreme Court. Recent changes in the nominee's views, whether or not they are considered "confirmation conversions," form an important part of that judgment.

Mr. President, as I stated here on the Senate floor last month and again today, the central issue in this nomination is the question of Judge Bork's judicial philosophy: his approach to the Constitution and to the role of the courts in discerning and enforcing its commands. During the confirmation hearings that are now winding up, we heard a great deal of testimony, both from the nominee himself and from other witnesses, about many aspects of Judge Bork's judicial philosophy.

But three issues stand out. Each is drawn from a phrase from the Constitution that evokes a core value of the American system of self-government: "freedom of speech," "liberty," and "equal protection of the laws." I am not persuaded that Judge Bork is philosophically committed to the historical role of the Supreme Court to protect these core values against actions by one of the branches or levels of government that would threaten the rights of individual Americans.

The first issue is one of freedom. The constitutional provision that embodies it is found in the first amendment: "Congress shall make no law * * * abridging the freedom of speech." The history of judicial interpretations of this general prohibition underscores how essential this freedom is to our constitutional system. It is the freedom of every American to think, speak, and write as we please, on any subject and in any medium, without the threat of censorship or reprisal by any branch of government at any level.

This is a freedom that every American holds dear. But it has a special meaning for me. As the son of a Vermont printer, I grew up in a family which venerated this freedom above almost any other. So when I began to read Judge Bork's interpretation of the first amendment, I was disturbed and alarmed.

The question of free speech was the centerpiece of the most significant and most widely cited law review article written by the nominee on the issue of judicial interpretation of the Constitution. Three strands of Judge Bork's view of the first amendment concerned me. First, he emphatically asserted that "constitutional protection should be accorded only to speech that is explicitly political. There is no basis for judicial intervention to protect any other form of expression." Second, Judge Bork argued that "within that category of speech we ordinarily call political, there should be no constitutional obstruction to laws making criminal any speech that advocates forcible overthrow of the Government or the violation of any law." The third theme of Judge Bork's views on free speech that I found troubling was developed in greater detail in some of his subsequent speeches and articles, in which he argued that the first amendment should not prevent State and local governments from punishing people who speak, even on "explicitly poltical" topics, in a way that the majority of the community finds "offensive."

To understand why I was so concerned about these views, it is worth reminding ourselves what freedom of speech really means under the law today. In case after case, the Supreme Court has been called upon to apply the general words of the first amendment to a variety of concrete factual situations. Those cases have established the practical contours of freedom of speech in each of the areas questioned by Judge Bork.

First, consistent with the first amendment, these cases affirm that, in America, all kinds of speech are protected: Speech that directly concerns the process of self-government, and also speech that has nothing to do with politics. The candidate on the stump and the orator on the soapbox may speak without fear of government censorship or reprisal. But so also may the scientist in the laboratory and the entertainer on the stage or screen, large or small. The author of a best-selling novel is protected by the first amendment; so is the poet publishing in an obscure journal. The painter, the sculptor, the composer may follow their muses wherever they may lead, free of the fear that official disfavor may squelch or constrain their creativity.

Second, a series of Supreme Court cases affirms that government may not arbitrarily suppress even speech that confronts government with a challenge to its legitimacy or with advocacy of disobedience of law. Only when such speech presents the danger of imminent lawless activity may it be curbed.

Finally, it is clear that the first amendment forbids censorship not only when the government dislikes what we say, but also when it dislikes how we say it. When speech is not legally obscene, the majority of the community may consider it offensive, or even immoral, but the Constitution will not allow the majority to gag the minority—even a minority of one—on that account.

Taken together, these strands of the first amendment's free speech clause form the backbone of a system of freedom of expression unparalleled in any other nation. We sometimes overlook the vital part that this system has played in making America the most vibrant, creative, prosperous and confident society in the world today. Freedom of speech has guaranteed the diversity of thought that keeps our democracy vital as it enters its third century.

When Judge Bork testified before the Judiciary Committee 2 weeks ago, I questioned him extensively about each troubling aspect of his approach to the application of the first amendment guarantee of freedom of speech. His answers were detailed and comprehensive.

Judge Bork's testimony was most nearly reassuring on the question of first amendment protection for nonpolitical speech. Referring to the well established principle that speech is protected regardless of its lack of relationship to the political process, Judge Bork said, "That is what the law is, and I accept that law." While this testimony was welcome, it still must be read against the background of Judge Bork's prior statements on the issue.

Judge Bork may have long ago abandoned the "bright-line" distinction between protected political and unprotected nonpolitical speech, but his responses to interviewers as recently as this past May and June clearly state that the existence of first amendment protection should be affected by where speech falls in relation to a "wavering line" between speech that feeds into the "way we govern ourselves" and speech that does not, a line that must be drawn on a case-by-case basis.

When he came before the Judiciary Committee, Judge Bork conceded that this line, whether bright or "wavering," is irrelevant to the scope of the first amendment. By his confirmation testimony, Judge Bork accepted a consensus that has existed for decades.

On the question of protection for speech that advocates the violation of law, my questioning focused on Judge Bork's evaluation of the leading Supreme Court case on the subject, the 9-to-0 decision in the 1969 case of Brandenburg versus Ohio. Judge Bork sharply criticized this decision on a number of occasions and at least once described it as "fundamentally wrong." When I asked him about it, Judge Bork stated, for the first time in public that "the Brandenburg position * * * is OK; it is a good position." The next day, he gave a slightly different response to a question from Senator SPECTER: "I think Brandenburg * * * went too far, but I accept Brandenburg as a judge and I have no desire to overturn it. I am not changing my criticism of the case. I just accept it as a settled law."

Finally, on the question of whether a community can punish even political speech because it uses offensive words, the leading case, Cohen versus California, struck down a conviction of a young man for disorderly conduct for using a four-letter word to express his opposition to the Selective Service Act. Judge Bork consistently has criticized this decision, but his testimony on his current position was somewhat ambiguous. While he embraced the general principle that "no community can override any guarantee anywhere in the Constitution," he also reiterated his long-standing criticism of the reasoning of Justice Harlan in the Cohen case, stating "I feel precisely the same way as I did" on the occasions of his previous attacks on the decision.

The testimony on all three of these points is inconsistent with much of what Judge Bork had said on these topics as recently as a few months before he walked into the Senate Caucus Room as a nominee for the Supreme Court. A review of Judge Bork's decisions as an appellate judge in first amendment cases does not resolve these inconsistencies. Most of these decisions involve either speech that Judge Bork deemed political, and therefore indisputably protected, or issues rather closely controlled by Supreme Court precedent that any lower court judge is bound to apply. Interestingly, in the only majority decision by Judge Bork that the Supreme Court has ever decided to review, the nominee sustained a statute that permits the government to discriminate between competing speakers on political topics based on the content of the speech.

The overall picture presented by Judge Bork's free speech decisions and his writings on the subject belies the extravagant claim made by some of the proponents of this nomination that he is "at the forefront" of modern free speech jurisprudence. At best he is somewhere in the pack and running to catch up.

While the degree of inconsistency may be debated, the only purpose of this review of the past record is to aid in anticipating his approach to free speech questions in the future, if he is confirmed.

It is quite likely that in the future, some American will say, in a speech or a book or a television program or in some other medium, something that has nothing to do with the political process, but that nevertheless raises the ire of government. It is also likely that some speaker will advocate the disobedience of a law that he finds unjust, even if it is not in fact later found to be unconstitutional. It is equally likely that a future speaker will for whatever reason choose to express his views on political subjects in a manner that many others, perhaps almost all of us, find crude, shocking or offensive. And each of these events may well arise in a context of heated emotions, of social turmoil, even of crisis when our deepest attachment to freedom of even unpopular speech is most sorely tested.

Our first amendment forbids Government censorship or reprisal against these speakers. In our constitutional system, that is a matter, in William Styron's words, of "conviction and faith." The question before the Senate is the depth and strength of Judge Bork's attachment to these fundamental principles, which he so incisively criticized for years—and which he came to accept only recently.

Certainly, Judge Bork's forthright testimony before the Judiciary Committee makes this a close question. But in the end, I am not persuaded that Justice Bork would be an energetic and effective guardian of this most basic of our constitutional freedoms. Belated acceptance of these well established principles does not match what we expect of a Supreme Court Justice.

The second great constitutional theme which was explored in the hearings on Judge Bork's nomination is an issue of equality. The words of the 14th amendment to the Constitution are, once again, grand but general: "nor shall any State * * * deny to any person within its jurisdiction the equal protection of the laws."

The Judiciary Committee questioned Judge Bork extensively on his views on issues of racial equality, and of the powers of the courts and Congress to take steps to eradicate the racial discrimination that the 14th amendment was originally adopted to combat. To me, one of the most troubling aspects of Judge Bork's philosophy of equality under the Constitution is the application of this general language to a problem that modern Americans perceive in a far different light than was perceived by the authors of the 14th amendment: unfair governmental discrimination on the basis of gender.

The problem with Judge Bork's judicial philosophy in this area can be posed in simplistic terms: does he believe that the equal protection clause applies to women? The answer is equally simplistic. Of course women are included within the phrase "any person," and therefore a law that discriminates on the basis of gender can be challenged under the equal protection clause.

The more difficult question is this: by what standard should a court evaluate a challenge to law that discriminates between men and women? Is it comparable to a law that provides different tax rates for the sale of apples and oranges? That sort of distinction is almost never found to deny "equal protection of the laws." Or is the proper standard more like the scrutiny that will be given to a law which treats members of different races differently, a form of discrimination which is virtually never permitted under the Constitution?

The Supreme Court precedents on this subject are more recent than in the free speech area, but they establish an important principle. As eight of the nine Justices agreed in a 1980 decision, laws that treat men and women differently will be upheld only if they "serve important governmental objectives" and use "means * * * substantially related to the achievement of these objectives." In other words, such laws are not always inconsistent with the 14th amendment, but they come into court with two strikes against them.

Judge Bork's statement on this issue prior to the hearing disagrees with this approach. From 1971, when he wrote that "the Supreme Court has no principled way of saying which nonracial inequalities are impermissible," to June 10, 1987, when he told an interviewer that he thought "the equal protection clause probably should have been kept to things like race and ethnicity," there was no indication that Judge Bork supported or even accepted the recent attitude of judicial skepticism toward laws that embody sex discrimination. His record as a judge on the D.C. Circuit Court of Appeals sheds little light on the issue, since he has written only one opinion in a case involving the treatment of sex discrimination under the equal protection clause, and in that case his decision did not reach the merits of the claim.

Judge Bork's testimony at the hearing fleshed out his approach to this question. He argued that the courts ought to ask the same questions of any statute challenged under the equal protection clause. A law that treats members of different groups differently would be sustained if there were a reasonable basis for the distinction, but would be struck down if a "reasonable basis" were lacking. Judge Bork concluded that this approach "would arrive at * * * virtually all of the same results that the majority of the Supreme Court has arrived at," using the existing methods of equal protection analysis in sex discrimination cases. "There is really no difference," he testified, "except in the methodology."

It was reassuring to hear that Judge Bork would have reached the same result—though by a different route—as the Supreme Court has reached in striking down state laws that reflect unfounded stereotypes about the proper role of women in modern society. But once again, our focus on his attitudes toward past decisions is useful mainly as an element of predicting the course toward which he would guide the Supreme Court in the future if he is confirmed. Viewed in that light, the nominee's testimony on equal protection issues raises some serious concerns. I will mention four here.

First, during the first century of litigation under the equal protection clause, the Supreme Court followed an approach to claims of sex discrimination that is disturbingly similar to the analysis Judge Bork presented to the Judiciary Committee. In case after case, the Supreme Court found it "reasonable" to bar women from certain professions and occupations, and otherwise to limit their opportunities compared to those available to men. Accordingly, it upheld state laws reflecting a level of blatant discrimination that would be quite offensive to the ideals of equality that we as a society hold today. Indeed, the Supreme Court never struck down a law that treated men and women differently until 1971, when, not coincidentally, it began to abandon the "rational basis" standard for measuring such laws against the equal protection clause. Perhaps it is mostly a matter of nomenclature, but Judge Bork's "reasonable basis" approach summons up unwelcome memories of the "bad old days" that are just as offensive to those concerned about women's rights as memories of the era of "separate but equal" are for people concerned about racial justice in our society.

The second problem is related to the first. To ask the Justices of the Supreme Court to decide, without further elaboration, what is "reasonable" discrimination is to invite a highly subjective decision. To use the facts of one celebrated case as an example, the Justices of the 19th century decided that it was "reasonable" for the State of Illinois to forbid Myra Bradwell from practicing law because of her gender. They reached that conclusion by using the same sort of unstructured, unpredictable analysis that Judge Bork says he would bring to the Supreme Court of the 21st century. Ironically, this method of applying the general words of the Constitution to the particular facts before the Court smacks of the free floating, "unprincipled" decisionmaking that Judge Bork has never ceased to criticize in Supreme Court precedents.

The unpredictability of this approach is a serious liability. This would be a concern not only to women who may wish to challenge laws that they believe are unfairly discriminatory. It would also be unfair to state and local governments, which every day consider actions that treat different groups of people differently because of gender or other factors. While the current state of the law may not provide as much predictability as these levels of government would like, it seems clearly preferable to a situation in which any distinction drawn by any government can be struck down whenever five members of the Supreme Court, for whatever subjective reason any of them might choose, decide that the distinction is "unreasonable."

The third problem with Judge Bork's "reasonable basis" approach to questions of constitutional equality can be illustrated by reference to one specific sex discrimination precedent which he has discussed both before and during the hearings. In 1976, the Supreme Court struck down a State law establishing a lower minimum drinking age for women than for men. Judge Bork said about this case in an interview last June that "when the Supreme Court decided that (this distinction) violated the equal protection clause, I thought * * * that was to trivialize the Constitution and to spread it to areas it did not address."

In response to questions from Senator DeConcini, Judge Bork commented as follows about this case:

> I thought, as a matter of fact, the differential drinking age probably is justified. * * * They had a lot of evidence about differential drinking patterns and resultant troubles, automobile accidents and so forth, upon which they based that differential.

Although the nominee refrained from offering a final opinion on whether the case was properly decided, he said enough to raise another concern about his approach to the entire subject.

Whatever the Justices of the past thought was "reasonable," and whatever the Justices of the future might think is "reasonable," it is disturbing that Justice Bork might find "reasonable" a law that treats individual men and women differently based on overall statistical evidence about men and women as a whole. That approach does not bode well for a principle that lies close to the heart of our constitutional commitment to equality under law: that the contribution of every American citizen should be limited only by his or her own efforts, and not by generalizations about the gender or other group to which he or she belongs.

This raises a fourth problem with Judge Bork's newly articulated views on equal protection. Supreme Court precedents have established the axiom that laws that treat members of different races differently are almost never constitutional. But surely it is possible to make accurate statistical generalizations about different racial groups. Taken as a whole, black and white populations differ in life expectancy, for example, or in the prevalence of certain diseases. If such statistical generalizations are enough to establish a "reasonable basis" for a discriminatory law, then the prohibition against laws that make racial distinctions could logically be in jeopardy.

In the final analysis, what toubles me about Judge Bork's testimony on the issue of constitutional equality is not its inconsistency with his previous statements on the subject, although certainly some inconsistency exists. Rather, I am concerned about how a Justice with his judicial philosophy would respond to an ever more powerful and beneficial trend in American society: The drive to eliminate unfounded barriers to full participation in the society, not only by racial minorities and women, but by members of other groups disadvantaged by prejudice, ignorance, and superficial stereotyping.

We must ask ourselves what forms this trend will take in the constitutional controversies of the 21st century. In a nation whose birth was announced with the proclamation of the "self-evident truth" that "all men are created equal," we can be sure that claims for a fuller and broader meaning of equality before the law will be pressed. Based on the record before the Senate, even including the new perspective provided by Judge Bork's own testimony, this nominee's conception of the equal protection clause is not broad and dynamic enough to reassure me that as a Justice of the Supreme Court, he will respond to these claims in the way the American people have a right to expect.

Our Nation, in Abraham Lincoln's words, is not only "dedicated to the proposition that all men are created equal"; it was also "conceived in liberty." The ideal of liberty as embodied in our Constitution provides the third theme for the Judiciary Committee's examination of Judge Bork's judicial philosophy.

As with freedom and equality, our Constitution speaks of liberty in the most general terms. The fifth amendment states that "no person shall * * * be deprived of * * * liberty * * * without due process of law." The 14th amendment directs a similar command to the States. As the Court applied this general language to a series of cases in our country's history it defined the meaning of the liberty our constitutional system was designed to protect.

These cases give life to a powerful American ideal that is more implicit than explicit in the words of the Constitution. Perhaps the ninth amendment comes closest to expressing it: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." But liberty is not just a group of rights; it is also an essential set of limitations on the power of government.

The Supreme Court's delineation of constitutional liberty may be found in an important series of 20th century cases. These precedents recognize that in some aspects of the lives of individuals and families, the Government has no legitimate power to intrude. Government is fenced out of those parts of our lives. We sometimes refer to the doctrine these cases establish as the right to privacy, but Justice Louis Brandeis' famous phrase more accurately describes constitutional liberty: "the right to be let alone."

These precedents do not draw the boundaries of our liberty with crystalline clarity. But they do identify points within the sphere of private and family decisionmaking where government must "let us alone."

It is fitting that, in a debate which leads to a referendum on the future of our constitutional ideals, most of the points of liberty identified by these precedents concern our children. How shall we educate them? What shall we teach them about our culture and our heritage? Shall we bring that heritage to life by having children live with their grandparents? Shall we marry and have children at all, and if so, when? Under our system, these are all decisions that, within certain limits, we are at liberty to make as we choose, without the unwanted intrusion of government.

These are also precisely the precedents which Judge Bork has most incisively and consistently criticized, for the very reason that they are not specifically rooted in the literal text of the Constitution. He has called these precedents "unprincipled," "utterly specious," "intellectually empty," and even "unconstitutional." This last criticism is part of Judge Bork's assertion that "nobody believes the Constitution allows much less demands" some of these decisions, which, in his words, "could not have been reached by interpretation of the Constitution."

These statements from Judge Bork's speeches and articles, both before and after he became a judge, are not contradicted by his actions on the bench. In those rare cases in which constitutional privacy issues came before him, he has continued to criticize these precedents. This is not improper, so long as he carried out his responsibility as a lower court judge to apply the precedents faithfully. While the testimony on this issue conflicts, I believe he has fulfilled that obligation as a U.S. circuit judge.

But Judge Bork's nomination to the Supreme Court requires the Senate to examine Judge Bork's philosophy of constitutional liberty in a different light. As a lower court judge, he is bound by precedent, even precedent he considers fundamentally illegitimate. As a Justice of the Supreme Court, he will have the power, and in some instances even the duty, to vote to overturn precedent that he believes the Constitution does not "allow, much less demand."

Thus, two issues of liberty are important in this nomination. First, what is Judge Bork's philosophy on this question? Have his views changed from those he has expressed with such consistency and forcefulness over the past decade and a half? Second, what does he think of the power of precedent for the Supreme Court? What consequences does his philosophy hold for the future of constitutional liberty?

The record on the first question is clear. Judge Bork's views on the role of the Supreme Court in defining constitutional liberty have not changed in any substantial degree.

His testimony on this subject did clear away some underbrush that might obscure the main issue. He emphasized the distinction between his personal views and his conception of the commands of the Constitution. For example, the Connecticut law which the Supreme Court struck down in the 1965 case of Griswold versus Connecticut made it a crime for a married couple to use contraceptives. Judge Bork reiterated his conviction that this was a "nutty" law; but as he told me in response to a question at the hearing, "Merely the fact that it is a dumb law gives the Court no additional power because there is no statement in the Constitution that no State shall make a dumb law."

Judge Bork also emphasized that he was criticizing Griswold and other precedents for the reasoning employed by the courts, and not necessarily for the results reached. Perhaps the same result could be reached by another route. As he told the committee with respect to Griswold, "I have never tried to find a rationale and I have not been offered one. Maybe somebody would offer me one."

Neither of these points reflect any significant change in Judge Bork's judicial philosophy. I never thought that Judge Bork's personal views on the statute struck down in Griswold, or indeed any similar policy matter, have any relevance to the merits of his nomination. His personal views on contraception are immaterial.

And the distinction between rationale and result is not particularly meaningful. The result of Griswold is history, and the flow of history has left that particular "nutty" statute stranded on a shoal of the past. What is most important for the future is the rationale of the decision, and how it will be applied, expanded, or rejected when the next case, and the next and the next, inevitably come along.

Judge Bork still challenges the legitimacy of Griswold and all the other cases defining a constitutional right of privacy. He testified, "If I decide that I am going to protect liberty * * * I have to define it without guidance from the Constitution—what liberties people ought to have and what liberties they ought not to have * * * I became convinced that it as an utterly subjective enterprise * * * I do not want judges, including me, going around, saying, 'You have this liberty, you do not have that liberty * * *.' "

Judge Bork continues to maintain, with fervor and force, that the Supreme Court cannot give real content to the general concept of constitutional liberty, as contrasted with the specific guarantees of the Bill of Rights and other constitutional provisions. Judge Bork continues to defend an isolated position.

One knowledgeable witness before the Judiciary Committee asserted that "not one of the 105 past and present Justices of the Supreme Court has ever taken a view as consistently radical as Judge Bork's on the concept of liberty—or the lack of it—underlying the Constitution." Whether or not that is so, it is certainly true that in modern times, the Justices have virtually without exception agreed that "liberty" is something more than observance of the specific limitations on Government that are literally spelled out in the Bill of Rights. They arrived at this conclusion by a variety of routes, and applied it differently in different cases. But I do not know of any who would accept the proposition that the liberty of Americans and their families goes only as far as the words of the first eight amendments to the Constitution, and no further. Indeed, I think the American people would find that narrow concept of their liberty profoundly disturbing.

What Judge Bork derides as an "utterly subjective enterprise" is what most of us would call the process of wise judgment. The role of a Justice of the Supreme Court in these cases is to draw lines, to shape contours, and then to tell Government, "This far you may go, but no further, into the private lives of the citizenry." To draw those lines requires a keen intellect, a deep understanding of history, a sense of justice, and that undefinable mixture of prudence and boldness we call good judgment. The issue for the future, and hence for this nomination, is not whether Judge Bork has those qualities, but whether he is philosphically committed to exercising them on behalf of the ideal of liberty so central to our constitutional system.

The question, then, is how a Justice Bork would use this rich history of the ongoing development of our constitutional liberties. Would he approach it as a conservative: conserve what is best in the precedents and build upon it to decide future clashes between the demands of the Government and the rights of the individual? Or would he take the activist approach of seeking to eradicate from our jurisprudence this chain of decisions that he still believes are profoundly misguided?

These are not questions to which Judge Bork's prior record gives us a definitive answer. After all, he has never before had any of the power—and will not unless the Senate confirms him—either to conserve or to reject the constitutional precedents of the Supreme Court. And the testimony of the nominee before the Judiciary Committee does not provide the definitive answer.

In my last opportunity to question Judge Bork at the hearings, I discussed with him this question of the power of precedent. I noted that earlier in the hearing he gave some examples of constitutional doctrines that were firmly embedded in our law. Judge Bork said then that regardless of whether these decisions were right or wrong, they "are now part of our law, and whatever theoretical challenges might be leveled at them, it is simply too late for any judge to try to tear it up, too late for a judge to overrule them."

Judge Bork's list of these firmly settled doctrines—of precedents he would respect even if he disagreed with them—was short but significant. It included the expansive interpretation of the Federal Government's power to regulate interstate commerce. It included the legal tender cases, authorizing the printing of paper money. It included the discrimination. It even included the free speech precedents culminating in Brandenburg versus Ohio, which until the hearing he had never publicly accepted as settled law.

I then asked Judge Bork about the most salient cases involving the constitutional liberty of the American people: "the cases based on a constitutional right to privacy in matters relating to procreation, child rearing and the like." I asked him whether he would include these decisions in his list of precedents that, right or wrong, were so firmly embedded in our law, and in the way we as Americans think about our rights, that "it is too late for the Supreme Court to tear them up."

Judge Bork replied as follows: "Senator, I have, I think, rather consistently testified that I am not going to answer that question because that is a highly controversial matter." He continued that if a right to privacy could not be more firmly "rooted in the Constitution," he would have to consider "whether this is the kind of case that should be overruled. And I have listed the factors that one would consider in deciding whether a case should be overruled. And I cannot go any further than that."

I do not criticize Judge Bork's reticence in answering my question. The purpose of a confirmation hearing for a Supreme Court Justice is not to extract commitments, but to exercise judgment about what the nominee is likely to do or not do if confirmed.

But Judge Bork's response does create a distinction. He already gave something resembling a commitment in response to another question. He said it was "too late to overrule" either the leading free speech cases or the cases addressing sex discrimination under the equal protection clause, even though he had consistently criticized those doctrines for years prior to the hearing. For Judge Bork, the cases defining a constitutional right to privacy are—even today—different.

On the issue of liberty, then, as contrasted with the questions of freedom and equality, Judge Bork did not accept the precedents. Nor did he assure us that he would reach the same result by a different route. Evidently, he continues to believe that by identifying a constitutional right to marital and family privacy the Supreme Court is not only taking the wrong path, but wandering off the path entirely, far from the signposts that can be read in the words of our Constitution.

This is what we know about Judge Bork's past views and his present thinking on the issue of liberty. But once again, our focus must be on the future.

The task of defining our liberties—of deciding where Government must stay its hand, and the individual be left free to make his or her own wise or foolish choices—is one of the most difficult tasks of interpreting the Constitution. History tells us that the decisions that the Supreme Court makes in the name of liberty are not always wise ones. Even today, there is much that any thoughtful American can disagree with in this line of precedent. But if the Supreme Court were to shirk the duty of making these decisions, of drawing these lines to define the spheres of Government power and individual rights, the results would be chilling—chilling for the American people to contemplate.

Government power and individual rights will continue to collide as we approach the new century. Technology will give Government an ever greater capacity to intrude into our homes, our families, even our bedrooms. And if we doubt whether Government will ever be tempted to realize this potential for instruction, we ignore the implications of today's headlines and the lessons of history.

When a majority of the community, acting through its elected representatives, oversteps its legitimate bounds, the results, in retrospect, sometimes seem amusing, trivial, even "nutty." But that does not mean that the majority will never repeat such mistakes. To the contrary, history teaches us that under the pressure of public turmoil or panic, the majority will in the future, as it has in the past, sometimes seek to channel the force of Government into collision with the rights of the individual. It may do so with the best of motives, with the most plausible of reasons, and with overwhelming popular support. Where then can the individual turn for protection of a fundamental liberty, the right "to be let alone"?

History gives us the answer. The individual will seek to vindicate his liberty in the same forum to which black Americans turned when the majority refused to hear that separate is inherently unequal. It is the same forum to which disenfranchised voters turned when legislative majorities refused to heed the call for "one person, one vote." The future defenders of liberty will turn to the courts, the institution that must stand, in James Madison's phrase, as "an impenetrable bulwark" to protect our liberties against a powerful government with majority support.

If the Government action violates a specific guarantee of the Bill of Rights, the courts have a duty to put an end to it. But if the right involved is not specifically listed in the Constitution, but instead emerges from our shared ideals of liberty, then it is equally important that the courts vindicate it, not, in the words of the ninth amendment, "deny or disparage" it.

This is the ideal that the American people hold of the Supreme Court as the guardian, not only of their specifically enumerated freedoms, but also of the liberties that they have never surrendered to the Government. But as I understand the record before the Senate, this is not the concept of constitutional liberty that Judge Bork holds.

We cannot know the specific challenges to liberty that will confront us and our children in the years ahead. But we can foresee that new and complex developments in our society—genetic engineering and other new technologies, threats of terrorism, epidemics of disease and panic, to name only a few—will spawn difficult and important controversies. Those cases will test, more forcefully than ever before, our commitment to limited government and to the "right to be let alone." That commitment is embodied in the specific words of the Constitution. But it can also be found in the tradition of a Supreme Court that accepts the responsibility to give real meaning to the ideal of liberty.

Judge Bork has often said that American law lacks theory; it only has a tradition. That tradition may be uneven and inconsistent. Its structure may be blurred, not sharply drawn. But if the Supreme Court is faithful to that tradition, it can continue to be a powerful safeguard against the threats to liberty that may confront the Court in the decades ahead. The Justices of the Supreme Court must be true to that tradition. I am not confident that Judge Bork can meet that test.

The extensive hearings on the nomination of Judge Bork have examined in depth many other issues besides the three I have discussed today. The testimony we heard from dozens of accomplished public servants, legal scholars, historians, and other citizens was useful and thought-provoking.

I gave careful consideration to the testimony of former President Ford, former Chief Justice Burger, and former counsel to the President Lloyd Cutler. The essence of their testimony is that Judge Bork's philosophy poses no realistic threat to our constitutional ideals of freedom, equality and liberty. These distinguished Americans, and other supporters of this nomination, argue that the concept of the Constitution that this nominee would bring to the Supreme Court will strengthen its capacity to apply these values to the unknown cases and controversies of the future.

The witnesses on either side of this controversy may speak the language of certainty. But the real issue before us is one of probabilities and of risk. Many thoughtful and distinguished Americans have shared their versions of the future with us. But our duty is not to align with witnesses, however prestigious, who vouch for or against the nominee. Each Senator brings to this nomination what we know of Judge Bork's past record and recent testimony, but the question which we all seek to answer concerns the future. The task is for each Senator to make an independent judgment about how the confirmation of Judge Bork is likely to shape the rights, the hopes and the dreams of today's Americans, and of our children who will live most of their lives in the 21st century.

As we vote on this nomination, we must respond to the recommendation of the President. But we must answer, not to him, but to the people.

We must answer to the author, the artist, the orator, who draw creative sustenance from freedom of speech.

We must answer to the women who ask nothing more than the chance to compete equally in contributing to the wealth and wellbeing of our society.

We must answer to parents of every race and creed who dream of a better life for their children.

We must answer to the families who willingly respond to the just claims of Government, but who understand that they and their children are not creatures of the state, and that some decisions are too intimate and important to leave to Government.

We must answer to every American who recognizes that the majority may rule, but the majority is not always right.

I have made my judgment, and I am prepared to be accountable to my fellow Vermonters for it. I conclude that the confirmation of Judge Bork to the Supreme Court poses too great a risk for the future of the ideals—freedom, equality, and liberty—that "we the people" have embodied in our Constitution. This judgment is a prediction, not a fact, and if Judge Bork is confirmed I may be proven wrong. But after studying the massive record before the Senate, I believe that my judgment is correct.

Accordingly, I will vote against the confirmation of Judge Bork, and will actively oppose it on the floor of the Senate.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold that request for a moment?

Mr. LEAHY. Yes.

RESERVATION OF THE MINORITY LEADER'S TIME

Mr. LEAHY. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader, Senator DOLE, be reserved for his use later.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business for not to extend beyond the hour of 9 a.m. with Senators permitted to speak therein for up to 1 minute each.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, may I ask my good friend if it is time to bring down the Interior bill?

Mr. BYRD. Mr. President, I ask morning business be closed.

The ACTING PRESIDENT pro tempore. With objection, it is so ordered.

Mr. FORD. Would the majority leader yield? I would like 1 minute. I understand we have 1 minute. That is all I want.

Mr. STEVENS. Yes. I yield the floor.

Mr. BYRD. I withhold my request.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

THE AVIATION TRUST FUND

Mr. FORD. Mr. President, I rise to say to my distinguished colleagues that we heard a great furor as it related to airline safety, near misses, needing a new communications system, large improvements in airport facilities, essential air service, truth in scheduling, and all of that.

For weeks and months the Aviation Subcommittee, of which I am chairman, and the Commerce Committee worked diligently to put together the reauthorization of the aviation trust fund. We basically have the approval of the administration, and for some unknown reason there are holds on all three of those bills but particularly one that has been out now almost 2 months. And for 8 to 9 weeks now that reauthorization of the aviation trust fund has had a hold on it.

If we are going to do anything about air safety, if we are going to do anything about the improvements and enlargement of airports, if we are going to improve our national air space communications system, then we must get on about the business of funding this particular arena.

Those airport managers are sitting there, with the push being from their community, from economic development prospects, to improve these airports.

So, Mr. President, I take this minute to urge those colleagues of mine who have a hold, particularly on the reauthorization of the aviation trust fund, that they take that hold off, so that we might proceed with the development of airspace improvement and improvement of the airport facilities.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. FORD. I am delighted to yield to the majority leader.

Mr. BYRD. Mr. President, perhaps it will help the Senator in talking with those Senators to whom he refers if I say that such a hold is not going to be recognized by this leader. That business is too important. When the time comes in the schedule here that I can go to that bill, I will go to it by motion.

If Senators want to filibuster, that is up to them. But we are not going to delay action on that. There are two other measures that have to be done first.

If that will help the Senator to get the other Senators to cooperate and work out some resolution of the matter, that will be fine.

I am paying no attention to such holds, except to alert Senators that if they have holds, the matter is going to be coming up, and if they have amendments, they can be prepared. I am not going to spring a surprise.

Mr. FORD. I say to the distinguished Senator from West Virginia that his statement warms my heart. I would be very pleased to work with any of my colleagues. That bill, which is important to air safety, is being held hostage.

I am delighted to hear the majority leader say that several other bills which are more important for the function of the Government, in total, than this bill would be among the priorities.

I thank the majority leader.

Mr. BYRD. I thank the Senator from Alaska.

Mrs. KASSEBAUM. Mr. President, tomorrow will be October 1, the day we begin the new fiscal year. Once again a substantial portion of our legislative work is unfinished. There was a time when that would have been cause for serious concern. Today, it is simply viewed as an unfortunate, but routine, fact of life.

I would like to say a few words about one of the items on our legislative agenda—S. 1184, the Airport and Airway Capacity Expansion Act. S. 1184 was reported by the Commerce Committee on July 1. It has now been available for floor consideration for 2 full months. S. 1184 contains the reauthorizations for FAA air safety improvement programs, virtually all of which expire tomorrow.

The recent erosion of public confidence in the safety of air travel in this country is disturbing. It's disturbing, Mr. President, but—on the other hand—it's understandable. Over the past 6 months, aviation-related problems have received an unprecedented level of media attention. That attention has heightened public awareness about aviation safety.

Mr. President, in truth, our air transportation system is remarkably safe. It's probably a lot more safe than most air travelers have been led to believe. The system, however, is not perfect. And while I doubt we can ever achieve a level of absolute perfection in the system, we can continue to make incremental improvements.

The program reauthorizations contained in S. 1184 provide increased flexibility for FAA safety improvements. The bill provides for the addition of 1,000 new air traffic controllers. It increases the allowable amount of funding available to individual airports for safety improvements. It makes an additional 160 airports eligible for Federal safety and capacity improvement funds.

In addition, S. 1184 contains the reauthorization of funding for modernization of the air traffic control system. The bill grants the FAA the authority to accelerate modernization of the system under the national air space plan.

Unfortunately, it has been impossible to get S. 1184 to the Senate floor. We held extensive hearings on the measure in the Aviation Subcommittee. The bill shaped by the subcommittee was reported out of the full Commerce Committee, without substantial change. As I indicated previously, it has been available for floor consideration since July 1.

The chairman of the Aviation Subcommittee, Mr. Ford has been attempting to secure a time agreement on S. 1184 for 2 months. Such an agreement has proved elusive. The demand by some Members of this body to add extraneous material to the reauthorization has brought matters to a standstill.

As the ranking member of the Aviation Subcommittee, I fully support Chairman Ford in his effort to get this important legislation to the Senate floor. I believe he is absolutely correct in attempting to move the bill quickly, and without excess baggage. We need to get the measure through the Senate, and into conference. The public would welcome a little good news on the subject of aviation, for a change.

Mr. President, the majority leader recognizes the importance of S. 1184. It is a very important piece of legislation. We have had it in our committee for 2 months, and it has been held on the calendar. Senator Ford and I, as ranking member, as well as other members of the Aviation Subcommittee of the Commerce Committee, are very appreciative this legislation will now be brought before the Senate.

Mr. STEVENS. Mr. President, I say to the Senator from Kentucky and the distinguished majority leader that I certainly join them in their concern that the airport improvement program reauthorization must come before the Senate before we complete business for the year; and I would join the distinguished chairman of the Rules Committee at any time in trying to convince our colleagues not to hold up that bill. It is vital that we get action on that bill as quickly as possible.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is concluded.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION, 1988

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9 o'clock having arrived, the Senate will now resume consideration of H.R. 2712, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 2712) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1988, and for other purposes.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Alaska [Mr. Stevens] is recognized for 10 minutes.

Mr. STEVENS. Mr. President, I am indebted to my good friend from West Virginia, the majority leader. Last evening, before I left the floor, I desired to have a colloquy with the managers of the bill concerning the pay of the U.S. Park Police.

I have served on the Post Office-Civil Service Committee, now the Governmental Affairs Committee, into which the Post Office-Civil Service Committee was folded some years ago, for 19 years. During that period, I have been very concerned about maintaining rates of pay for our civil servants. Current law requires us to provide equal pay for equal work.

One of the other things we have attempted to do is to have equal pay for similar categories of work. One of the categories of work for which we have attempted to provide equal pay is that of uniformed police officers. The uniformed National Park Police have generally been considered to be comparable to the uniformed Secret Service Division of the executive branch. In the Treasury, Postal Service appropriations bill, we voted to give the Secret Service Division a 15-percent pay increase. No similar pay increase for the National Park Police has been included in this legislation, nor has it been recommended.

The Secretary of the Interior, Mr. Hodel, has indicated his desire that this inequity be eliminated. Of course, this pay raise was not included in the Department of the Interior's budget and raises a serious problem as far as the managers of this bill are concerned. My staff and I have discussed this matter with Senators JOHNSTON and McCLURE, as well as their staffs, to see if there was something that could be done to resolve this situation in this bill. Unfortunately, we have come to the conclusion that it is not possible.

I have taken the floor this morning to make a request of the Appropriations Committee that it join those of us on the Governmental Affairs Committee to ask the General Accounting Office to make a study of the comparability of the duties of the National Park Police with other similar uniformed police personnel in the Federal Government and the Washington metropolitan area. I believe that should be done as quickly as possible.

We will have a supplemental appropriations bill this year, and in all probability we will have a continuing resolution this year. We could address this subject in one of those bills, if we can get the information before us and get the study completed in time.

I am making my statement now, realizing that the Senator from Louisiana and the Senator from Idaho will have to put their response in the RECORD after the vote commences. But I do hope they will join us.

I think the Senator from New York [Mr. D'AMATO] and the Senator from Maryland [Ms. MIKULSKI] will want to join in my request that we expedite a study to be conducted by the General Accounting Office of the inadequacies of the National Park Police's compensation and the comparability of that compensation to other uniformed police personnel. I hope that will be done as quickly as possible.

I address my good friend the majority leader as to what his intentions are at this time. Again, I am grateful to him for delaying the vote so that I could make this statement, in view of the fact that the scenario we envisioned as I left last night did not take place.

I hope the two managers of the bill will make a response to my request in the RECORD. Otherwise, I am perfectly willing now to proceed to vote, if that is the desire of the majority leader.

Mr. BYRD. I thank the very distinguished Senator from Alaska [Mr. STEVENS]. I am sure that the two managers will be happy to respond to his request.

Mr. DOMENICI. Mr. President, I rise in support of the Department of the Interior and related agencies appropriation bill as reported by the Appropriations Committee.

I commend the Appropriations Committee for bringing this bill to the floor in accordance with the budget resolution for both budget authority and outlays.

Mr. President, this bill is below its section 302(b) allocation by less than $50 million in BA and outlays.

Mr. President, I want to make a couple of observations that should not be construed as criticisms of this bill. Instead, I want to point out the likely pitfalls ahead under the Gramm-Rudman-Hollings fix.

While this bill funds a host of extremely important initiatives, such as $807 million for SPRO and $350 million for clean coal, these same programs will push funding above the Gramm-Rudman-Hollings baseline levels.

Let me try to make this clear. The Gramm-Rudman-Hollings fix we adopted last week specified a baseline for fiscal year 1988 that inflates fiscal year 1987 appropriations by 4.2 percent. In fiscal year 1987 we did not appropriate new budget authority for SPRO or clean coal. Therefore, this bill is over the new Gramm-Rudman-Hollings baseline by at least this amount.

In the next couple of months we must produce legislation that leads to a net of $23 billion in savings in order to avoid a sequester under the Gramm-Rudman-Hollings law. This bill would add to this task by providing a net increase in spending.

A "NO" VOTE ON FISCAL GROUNDS

Mr. PROXMIRE. Mr. President, I am going to vote against this bill not because it is inherently bad, but because it is the start of a trend. The bill is about $560 million over what the House provided, about $1,370 million over the President's budget, and a startling $1,560 billion—18 percent—over last year's request.

If you seek testimony that our budget crisis, our concern with the deficit, has paled this bill is it. I can see no evidence that we must spend 18 percent more on these programs than we spent last year. Next summer, when it will be apparent that the deficit is as real a problem as ever, we will be looking around for a rationale to explain why the deficit has not continued to decline or why it has increased. This bill is one of the reasons.

The best way to continue making progress in the fight against the deficit is to hold down spending. At the least, we should be able to hold spending to the increase in the Nation's gross national product. That standard implies an increase of no more than 7 to 8 percent—that is the upper limit. We should be able to do better than that. This bill fails that test.

We passed the Gramm-Rudman fix which mandates a $23 billion cut in the deficit. How can we meet that target, while increasing spending in this bill by 18 percent over last year? To this Senator, these two votes are inconsistent. We are going to have to revisit this question in the near future, when a sequester order looms and we face an across-the-board cut.

Some parts of this bill are commendable. I am particularly pleased that we were able to reach a compromise on the forest roads issue. That accommodation holds out some hope that we can reduce spending and protect the environment.

But that small bow to common sense does not outweigh the larger damage. More spending is going to mean a higher deficit. Next year, we are not going to be so fortunate as to get a $20 billion bonus in revenues from tax reform. And we are going to find it harder to use one-time gimmicks to reduce the deficit.

If this Senator were going to run for reelection, I would be extremely uncomfortable running with an increasing deficit. But that is the situation which many of my colleagues are going to face next year. This bill will be one explanation of a higher deficit.

EXPLORE VISITORS' CENTER

Mr. TRIBLE. Mr. President, I would like to engage in a colloquy with the distinguished majority bill manager, Senator JOHNSTON, and the distinguished manager, Senator McCLURE.

I would like to request that any savings the National Park Service finds within its budget from completed projects or those not underway in fiscal year 1988, be used to initiate planning for a visitors' center, to be built on the Blue Ridge Parkway near Roanoke in western Virginia. This visitors' center is part of the master plan for an extensive project called "Explore," a history-oriented tourist destination to be situated on the parkway near Roanoke.

This region's scenic and unspoiled natural beauty will be the setting Explore uses to tell the story of America's Western-moving frontier, an effort that began in these mountain foothills over two centuries ago and extended to the Pacific. Our Nation's continent was explored and tamed by countless pioneers, many of them Virginians who made their home along the famous Blue Ridge. All of us recognize the names of Thomas Jefferson, George Rogers Clark, Lewis and Clark, Sam Houston, Stephen Austin, and Zachary Taylor.

Conceived to diversify and bolster the economy of the region, "Explore" will emphasize the region's two greatest assets: history and environmental beauty. The visitors' center is a vital part of this interpretation.

This facility will be an information center for the 2.7 million annual visitors along the Blue Ridge Parkway, and an additional 5 million out-of-State travelers on I-81 through the Shenandoah Valley. From here, Americans will learn about the Blue Ridge Parkway, the Appalachian Trail, the region's two national forests, the Booker T. Washington National Monument, and Roanoke's many cultural and entertainment opportunities. They also will hear about facilities throughout the region, which includes the State of West Virginia—less than an hour drive to the west—with its equally famous environmental, recreational, and resort attractions.

In keeping with "Explore's" theme of "discovery," the visitors' center will relate to guests the stories of other States that share with us the history of national exploration. We will tell the story of the old Northwest, from Ohio to Minnesota, celebrating this year the bicentennial of Thomas Jefferson's Northwest ordinances. The history of the Plains and Rockies, explored by Lewis and Clark, and the Southwest, tamed by Houston, Austin, and Taylor will also be explained.

Furthermore, the center will serve as a regional tool of tourism and economic development. The basic sectors of the region's economy have dropped in recent years. Simultaneously, the areas population increased revenue sources are vital if this part of Virginia is to maintain and strengthen economic stability. Additional and expanded job opportunities are needed. Thus, tourism is important to an area that richly deserves a greater share of an industry so vital in Virginia and the Nation.

Mr. JOHNSTON. I thank the distinguished Senator from Virginia for his comments. I think that a visitors center constructed on the Blue Ridge Parkway would be very worthwhile, and I support the idea. I will certainly do all that I can to accommodate the request of the distinguished Senator from Virginia.

Mr. McCLURE. I concur with my distinguished colleague from Louisiana. I am pleased to make note that my colleague from Virginia, Senator JOHN WARNER, and I, representing the East and the West, have agreed to serve as honorary cochairman of the Explore History Advisory Committee. This is a very exciting concept for providing a unique recreation and historically educational experience for millions of Americans.

As you might imagine, I am particularly interested in the interpretation of our Westward expansion, particularly the expedition of Lewis and Clark through my State of Idaho to the Pacific coast.

Mr. CHILES. It has recently come to my attention that we have a rare opportunity to acquire a valuable piece of property for the headquarters of the Canaveral National Seashore. I am seeking your assistance in this regard.

When the seashore was originally authorized in 1975, the headquarters was temporarily placed at the southern end of the park, adjacent to the Kennedy Space Center complex. However, the law required that the permanent site be in the northern end of the park. In May of this year, the headquarters was temporarily moved to Titusville due to water contamination problems at the southern site. Subsequently, a prime piece of land has become available to house a permanent facility, and I believe it would be in the best interest of Florida to acquire this property.

This piece of land, known as Seminole Rest, is a 25-acre plot which already houses basic utilities. The site is easily accessed by both U.S. route 1 and the intracoastal waterway, and the owners of the property are willing to sell the land to the Federal Government if the matter is handled in an expedient manner. I have recently received word that the Southeast Regional Office of the National Park Service has favorably recommended Seminole Rest as the site of the future headquarters.

Unfortunately, if the purchase of the land is not acted upon quickly, the owners will be forced to sell the property to a private buyer, and the Government will lose the opportunity to acquire this prime land. It is my hope to secure $300,000 for acquisition of this land during conference.

Does the distinguished chairman agree that this is a matter that can be made clear in conference?

Mr. JOHNSTON. Yes, I would like to assure the distinguished senior Senator from Florida that we will give this every consideration in conference, even if we have to consider reducing the amount provided for other Florida land acquisition projects, if acceptable.

RURAL ABANDONED MINE PROGRAM INCREASES IN INTERIOR APPROPRIATIONS

Mr. SASSER. Mr. President, I am pleased that we are moving to final passage of the Department of Interior appropriations for fiscal year 1988. This bill reflects the greater concern that the Congress is showing for wise use of our national resources. One area of particular interest to me is the funding provided in this bill for the Rural Abandoned Mine Program [RAMP].

The Interior appropriations bill underscores the Senate's commitment to maintaining much needed programs like RAMP. The administration's request of only $500,000 would have effectively killed the program. However, the Appropriations Committee has recommended funding of $15 million to be transferred to the Soil Conservation Service within the Department of Agriculture, which is responsible for operation of the program. This funding level represents an increase of $5.1 million over last year's appropriation.

Mr. President, my colleagues will recall that the Surface Mine Control and Reclamation Act of 1977 created RAMP with a 15-year goal of recovering 20 percent of the abandoned mined lands around the country. It is unfortunate that we are not on schedule to meet this goal and appropriations continue to fall short of the available funding. However, RAMP continues to provide valuable funding to State programs for mine reclamation.

In my home State of Tennessee, the Soil Conservation Service has received $2.25 million over the past 11 years. These funds have provided the base for treatment of 1,734 acres and for erosion control of some 47,000 tons of soil annually. As well, water quality improvement has taken place on 808 miles of streams. This year's appropriation could mean as much as $1 million additional for Tennessee.

Needless to say, these projects have taken previously useless lands and returned them to productive and scenic areas. This reclamation is important not only for aesthetic value, but for the protection of our soil and ground water supplies. Soil erosion and toxic runoff from abandoned mines create some of the most severe water pollution problems we have seen. RAMP funds directly address the most critical erosion problems; thereby working to eliminate ground-water contamination.

Mr. President, as we move into the final 5 years of RAMP, it is my hope that funding levels will continue to increase for the program. The protection of our soil and water is an area we cannot afford to underfund. As well, I believe that the Department of the Interior must move toward greater protection of all of our natural resources. We cannot continue to ignore abandoned mine lands in this country. I am encouraged that this Interior appropriations bill shows progress toward improved management of these lands.

Mr. LEAHY. Mr. President, I am somewhat concerned with the Department of Energy's [DOE] consultations to date with the Environmental Protection Agency [EPA] in project solicitation and selection under phase I of the Clean Coal Technology Program. Certainly, the EPA has a certain expertise in this area, particularly in LIMB technology. Does the Senator from Louisiana concur with this assessment?

Mr. JOHNSTON. Yes, I would agree that the EPA has been in the forefront of LIMB technology development.

Mr. LEAHY. Do you envision that the EPA will have a role in the promotion and evaluation of clean coal technologies under the Clean Coal Technology Program?

Mr. JOHNSTON. Yes, it is my understanding that the EPA will have two representatives on the advisory panel which will help develop evaluation criteria for subsequent project selection under phase II of the Clean Coal Technology Program.

Mr. PROXMIRE. Mr. President, I am concerned that selection criteria for the program give sufficient emphasis to reducing atmospheric emissions of sulfur dioxide and/or nitrogen oxides. Would the Senator from Louisiana agree that the program is intended by the administration to serve as a response to the Lewis-Davis report of the Special Envoys of the United States and Canada?

Mr. JOHNSTON. Yes, that is correct.

Mr. PROXMIRE. Therefore, would you not agree that any clean coal program should have, as a major component, the reduction in emissions of sulfur dioxide and oxides of nitrogen? Do you not further agree that the selection criteria should therefore give great weight to such reductions?

Mr. JOHNSTON. I would agree that the reduction of sulfur dioxide and/or nitrogen oxides must be a feature of any technology chosen.

Mr. PROXMIRE. Mr. President, I am concerned that insufficient attention is being paid to technologies which deal exclusively or predominantly with control of nitrogen oxides. These technologies may be slighted in the selection process in favor of those technologies capable of removing both nitrogen oxides and sulfur dioxide. Nitrogen oxides are of particular concern to Senators from Western States. In addition, many powerplants in the United States have either wet bottom or cyclone boilers which cannot use some of the cheaper nitrogen oxide removal technologies. There are many exciting new nitrogen technologies which should be explored by the Clean Coal Technology Program. I would ask the Senator from Louisiana what his position is of the appropriateness of such technologies for funding under the Clean Coal Program?

Mr. JOHNSTON. I agree that the new nitrogen oxide removal technologies, such as natural gas reburning, are important. I look forward to new breakthroughs in this area, and agree that they provide good opportunities for funding by the Clean Coal Technology Program. Of course, as a response to the Lewis-Davis recommendation, the Clean Coal Technology Program cannot put its emphasis on technologies which solely reduce nitrogen oxides. But, I do agree with the Senator that these technologies are important.

CHEROKEE NATIONAL FOREST MANAGEMENT PLAN NEGOTIATIONS

Mr. SASSER. Mr. President, for the past 18 months, I have tracked the development of a management plan for the Cherokee National Forest in East Tennessee. Many of my colleagues will recall that the managment plan for the Cherokee, like those for many other National Forests, was appealed by various interest groups. I have been involved in the negotiations aimed at resolving this appeal Today, I am pleased to announce that progress is being made toward resolution of the Managment Plan for the Cherokee National Forest

Movement toward resolving the disputed aspects of the plan comes after lengthy talks between the appellants of the plan and the Forest Service. These negotiations have led to an agreement on at least one area dispute—protection of environmentally sensitive areas under the proposed management plan. The revised plan agreed to last week will protect some 19,416 acres from timber harvesting during the initial ten years of the plan, which is currently scheduled for review in 1995.

In addition, the appellants, the Forest Service, and intervenors to the appeal continue to work toward an agreement to reduce the percentage of clearcutting in the Cherokee and to improve wildlife management. Such agreements will provide for the multiple use of the Forest which has been a goal since the initial announcement of the plan.

Mr. President, of the 107 management plans released by the Forest Service in late 1985, 63 have been appealed. Serveral of the appeals have been worked out between the Forest Service and the appellants, and now it appears that such an agreement on the Cherokee will be forthcoming.

Debate on these plans has brought to the public's attention the affects of clearcutting and the economics of the practice of below cost timber sales. These are practices which were addressed by Congress in the National Forest Management Act in 1976 and continue to be the focus of intense scrutiny. The practice of clearcutting leaves an obvious eyesore, but worse, it contributes heavily to soil erosion and pollution of our streams and lakes. Thankfully, this is an issue which is being addressed in the Cherokee. The Forest Service indicates that clearcutting will likely be reduced by some 30 percent in the final management plan.

Below cost sales are also being reviewed by the Forest Service. In these times of budget constraint, below cost sales are not something that we can tolerate. Improved management practices can also help to turn these sales around.

At a time when we are seeing forests around the world eliminated at a drastic rate, I am pleased that we are taking a practical and long term approach to the management of our own forests. The improved protection of our natural resources and recreational lands is a goal that we must pledge ourselves to. Improvements in the management plans will help us maintain the practice of multiple use of our National Forests. They are a valuable resource for recreation and timber management alike. It is my hope that the progress we are seeing on the Cherokee will be reflected in forest management plans across the country.

Mr. SPECTER. Mr. President, I would like to ask the distinguished acting chairman of the subcommittee, and my friend the ranking member, if they would engage in a colloquy with Senator Heinz and me on the subject of park fees.

Mr. JOHNSTON. Please proceed.

Mr. HEINZ. Mr. President, earlier this year the Interior Department decided to waive the entrance fee at Independence National Historic Park during the bicentennial of the Constitution. The fiscal year 1987 Interior and related agencies appropriation granted the Interior Department authority to collect this fee. We feel that language in that legislation which bars fees at certain urban parks should exempt Independence Park. The Park Service disagrees, and may attempt to impose a fee in January. Given the tremendous historic value of Independence Park, we are very concerned that this fee amounts to little more than a tax on history—a tax which will make it difficult for innercity youth to enjoy nearby parks, and thus limit educational opportunities.

Mr. SPECTER. It is our understanding that the provisions of H.R. 2712 which extend authority to collect fees may presuppose authorizing legislation later in this session. The House already has passed such legislation, and the Senate may consider it in the near future.

Our concern is, should Congress not act soon, the Interior Department easily could change its policy toward Independence National Historic Park, and move to impose a fee. We are seeking the managers' assurance that they intend to continue current fee policies until Congress should direct otherwise.

Mr. JOHNSTON. I understand the Senators' concern on this matter. We are planning to move authorizing legislation very soon. In the meantime, it is our expectation that the Park Service's current policies will remain as they are.

Mr. McCLURE. The Senators are correct and if permanent statutory language is enacted, then the language contained in the appropriation bill will be superseded. One of the concerns of the Senators from Pennsylvania is not to restrict the youth of our Nation from enjoying parks and allowing them to experience educational opportunities. The language in this bill allows free entrance to all parks for those 12 years and under.

Mr. HEINZ. I am very grateful for my colleagues' reassurance and appreciate their help on this matter.

Mr. SPECTER. We look forward to working with Senator JOHNSTON and Senator McCLURE on the issue of park fees, specifically regarding Independence National Historic Park.

Mr. LEAHY. It is my understanding that the legislation under consideration provides a matching grant to the National Trust for Historic Preservation of $5.3 million for purposes of carrying out its congressionally chartered responsibilities. I further understand that the committee approved this amount to support, among other purposes, the expansion of technical grant assistance to local preservation organizations and public agencies through the National Trust's Critical Issues Fund and Preservation Services Fund. I would like to know how the committee intends these funds to be accounted for by the National Park Service which administers Historic Preservation Fund grants to the National Trust?

Mr. JOHNSTON. The Senator is correct. The two grant programs of the National Trust described by the Senator are designed to meet urgent preservation needs at the local level. Through the Preservation Services Fund, the National Trust provides critical seed money in the form of small planning and technical assistance grants. Through the Critical Issues Fund, the National Trust hires experts and makes grant awards to individuals and organizations to develop creative solutions to pressing local preservation problems that can serve as models for other communities.

The Preservation Services Fund is currently operated by the National Trust with nonappropriated moneys. The Critical Issues Fund has now fully committed its $1 million corpus derived from a $500,000 fiscal year 1984 appropriation and an equal amount of private funds.

The committee intends that the National Trust continue to have maximum flexibility in use of these funds in order to respond quickly and effectively to the needs of the preservation community. Therefore, the committee intends that the National Park Service administer the entire amount appropriated for grants to the National Trust as a single aggregated grant award and not on a separate subgrant basis. The committee understands that the National Trust will continue to operate its Preservation Services Fund with nonappropriated funds and further understands that the National Trust will make new Critical Issues Fund awards from nonappropriated funds.

The committee expects the National Trust, in making grants through the Critical Issues Fund and the Preservation Services Fund, to match grant funds, in the aggregate and not necessarily on an individual grant basis, on a 2-to-1 basis.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed with the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, all time has expired.

The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea".

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

Mr. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 5, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—5

Domenici
Gramm
Helms
Proxmire
Roth

NOT VOTING—4

Dodd
Gore
Simon
Simpson

So, the bill (H.R. 2712) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate insist on its amendment to H.R. 2712, request a conference with the House of the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. BYRD, Mr. JOHNSTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMPERS, Mr. HOLLINGS, Mr. REID, Mr. MCCLURE, Mr. STEVENS, Mr. GARN, Mr. COCHRAN, Mr. RUDMAN, Mr. WEICKER, and Mr. NICKLES conferees on the part of the Senate.

ADDITIONAL CONFEREES—H.R. 2712

Mr. BYRD. Mr. President, I ask unanimous consent that the names of Mr. STENNIS and Mr. HATFIELD be added as conferees on the Interior appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2713 AND H.R. 2714

Mr. BYRD. Mr. President, I have the approval of the distinguished Republican leader for this request.

I ask unanimous consent that the Senate proceed to the consideration of H.R. 2713, the District of Columbia appropriations bill; that upon the disposition of that bill, the Senate proceed to the consideration of H.R. 2714, the legislative appropriations bill, with the proviso that at any time the managers or the leaders with respect to the DOD authorization bill wish to return to that measure the Senate will return to it, with the understanding that the legislative and the D.C. appropriations; bills if not completed at that point would then return to the Senate at such time as the Senate disposed of the DOD authorization bill or had reached a gap when nothing is being done.

I have the approval of the distinguished Republican leader who said that if he was not on the floor when I make the request, he approves it.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I do not intend to object, I wonder if the distinguished leader might define the procedure by which the managers of the DOD bill can acquaint the managers of the legislative appropriations bill that they want to return to DOD. There should be some reasonable juncture.

Mr. BYRD. I will have to work that out. There will be no problem.

Mr. WARNER. I thank the distinguished majority leader.

Mr. WEICKER. Mr. President, reserving the right to object, and it is not my intention to in any way inhibit the flow of business on the Senate floor, which is being ably handled by the distinguished majority leader. However, I do not want to mislead anyone as to the intensity of feeling on the outstanding business that relates to the Department of Defense authorization bill. My colleagues have just spent several weeks stocking the larder, filling the closet. Everybody's DOD laundry list and shopping list has now been satisfied as far as this body is concerned. We have had the courage to decide what weapons, what personnel, and what systems should defend this Nation.

That is a rather easy task. All we do is spend other people's money. But when it comes to the difficult task, which is also our responsibility, as to whether or not these items should be used, nobody wants to vote.

I just want my colleagues to be aware that, no, I am not going to set this aside unless there is some agreement arrived at as to a time certain for a vote on the Weicker amendment, amended by the Byrd amendment. We have the responsibility, the ability, and the courage to vote on military hardware. We also need to accept the responsibility as to when we use the hardware.

That is the issue of the war powers amendment, the Weicker amendment as amended by the Byrd amendment before this body.

If I have to stand here all week, we are going to vote on that because we sure had dozens of votes, on the hardware issues. Now let us step up to bat and accept our share of the responsibility along with the President on the War Powers Act.

I do not believe Senator WARNER, Senator NUNN, the President, Secretary Weinberger, or anybody else has disguised the fact that we are in hostilities in the Persian Gulf. We are.

That being the case, we either go ahead and agree or we say that we want to have control as to the total hardware and we want to have our share of control as to the duty imposed on us by the Constitution and by law of how the hardware, the men and women and weapons, are employed.

I will certainly not object to the unanimous-consent request, but I want to put everyone on notice that I believe I speak not just for myself but for others who feel as intensly.

This is not going to go away. Believe me, it demeans us as a body, the longer we put decision time off. I would suggest that we get to it and vote on the war powers amendment before us.

I might add when that comes I do not intend in any way to count votes and see who has what. It will be up or down.

Mr. BYRD. Mr. President, will the Chair put the request?

The PRESIDING OFFICER. Is there objection to the majority leader's request? The Chair hears none. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Connecticut for not objecting to this request. It is my desire within the next few minutes to sit down with some other Senators and discuss precisely what we are up against and what our approach should be, if we can determine one at the moment. In the meantime, I felt if the Senate could be making some progress on some appropriations bills which we have to do before we go out it would be time well spent.

Under the request, the distinguished Senator from Connecticut can be assured that anytime he wishes to call for regular order that will bring this bill back. It is certainly not my intention to delay action on it very long, but only for the purpose I have stated. I thank the Senator.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that while the managers are coming to the floor that Senators may be permitted to speak out of order for not to exceed 5 minutes each for a period of no longer than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

THE WAR POWERS RESOLUTION

Mr. EXON. Mr. President, I would like to have the attention of Senator WEICKER for a moment, if I might. I have served in this body for a long time with him. I for one have been maybe a silent, but nevertheless very appreciative, Member of this body of the discipline the Senator from Connecticut brings to this body, and I congratulate him for the statement he just made. I think the Senator from Connecticut knows that this Senator agrees with the basic premise that if we have the courage to vote for the weapons and the projection of forces, then we should also have the courage to become involved in the process that is required by the Constitution to make use of them. I guess it all depends on how we are going to get this job done.

The dilemma that faces us at the present time, of course, is that if the Weicker amendment alone or as amended by the Byrd amendment would come to the floor of the Senate, it is my guess—and I have not counted noses but it is my guess that an amendment of that nature would pass. If it is passed on the defense authorization bill, I think, right or wrong—and he certainly has the right, but right or wrong the President would very likely make the decision to veto the bill on the grounds of the amendment being attached. It just so happens that the President does not agree with what I think probably is the majority opinion of the Senate. Therefore, the dilemma that we face is once again how can we move the body forward, take care of the very important matter of authorizing the various defense needs of the United States and the free world, and not get caught up in further delays after the bill has been delayed, as the Senator from Connecticut knows very well, for almost 4 months now, by a filibuster or a threat of a filibuster.

Is there not some way we can have some compromise and accommodation, which we generally come up with sooner or later, to remove this bill, as a suggestion, from the measure before us, have an up or down vote on the defense authorization bill with some agreement that in the immediate future, possibly immediately after the defense authorization bill is disposed of, to allow that bill to an amendment like the Senator from Connecticut offered, possibly amended by the Senator from West Virginia? Could we not come to some kind of agreement that that bill would be allowed to come up and have an up or down vote on it at that time, that we would have thorough debate but no filibuster? Would something of that nature satisfy what I think is a legitimate concern from the Senator from Connecticut?

Mr. WEICKER. In response to my distinguished colleague from Nebraska, I have indicated that if there were a time certain for this matter to be voted on immediately upon passage of the defense authorization bill, I would have no problem. But let us understand that nobody can dispute that the President is in clear violation of the law right now and has been, that we in the Congress are in violation of our constitutional duty, and the mechanism is in place to take care of the problem as raised, and reasonably so, by the distinguished Senator. It is called a veto override. Granted, that takes a few more votes. But if we cannot face up to the simple facts that present themselves to this body today, then, believe me, the country does not deserve our constitutional form of Government. It deserves a President, period. It does not need a Congress.

Mr. EXON. Mr. President, I thank the Senator from Connecticut for his response. I do not disagree with anything that he has said. I appeal to all Senators to recognize the vice grips that we are getting ourselves into right now. It seems to me that there must be some way, working together, that we can solve the problem, let the Senate work its will, and still not hold up any further the defense authorization bill that I think most of us feel is vitally necessary. I yield the floor.

The **PRESIDING OFFICER**. The Senator from Ohio.

(The remarks of Mr. METZENBAUM relating to the introduction of legislation are printed later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

FRAUD OF THE DAY

Mr. HEINZ. Mr. President, beginning today and continuing for the next few weeks, I plan to take some time periodically to discuss customs fraud. I hope my comments will make people aware of this large and growing problem. Recently, as imports to the United States have increased, incidents of fraud associated with these imports has also increased. Simply put, the Customs Service, as well intentioned as it may be, does not have the resources, either financial or legal, to effectively prevent customs fraud.

The Customs Service estimates that 10 percent of total U.S. imports are involved in fraudulent acts. Customs data for fiscal year 1984-85 suggest that only 27 percent of the textile and apparel imports involved in customs fraud are detected by the Service. Of course, textiles and apparel are not representative of all imports, but they are not the only import-impacted sector to experience serious fraud problems.

Overall, the National Treasury Employees Union estimated customs fraud at $19 billion in lost sales to U.S. industry, $8 to $12 billion in lost GNP, 500,000 lost jobs, $1.5 to $2.2 billion in lost Federal taxes, and $3 billion in lost customs revenue. We are really losing out.

Major sectors suffering from such fraud include textiles and apparel, motor vehicles and equipment, electrical and electronic equipment, and steel.

I recently proposed an amendment, adopted by the Senate, which would help to address this growing and disturbing problem. It would allow a private party who is injured by customs fraud or gross negligence to sue for damages in the Court of International Trade. I am under no illusions that this measure will solve the entire problem. That would be simplistic and naive.

The amendment would, however, and will have a significant impact. It would provide, in addition to the resources now employed by the Customs Service, a remedy via a private right of action analogous to what is now available under the antitrust and securities laws.

Today, I want to introduce the first fraud of the day. These periodic examples of customs fraud are for the most part cases which have been investigated by the Customs Service. And there is certainly no shortage of them. But at the same time, we should remember that they are only a fraction of what the Customs Service has uncovered and an even tinier part of what is no doubt actually occurring.

I am going to begin my frauds of the day with one of the most substantial cases to date. On July 21, 1982, the Mitsui Corp., pleaded guilty to 21 counts of fraud. It received $210,000 in criminal fines and $11 million in civil ones. Although $11 million might seem like an exorbitant amount, many experts contend then and now that the fine could justly have been up to 10 times greater than the $11 million that was involved because of the huge profits involved.

The fraud committed by Mitsui was both simple and widespread. The company valued its steel at more than the prices for which it actually sold the steel in the United States and because of our law at the time Mitsui was able to evade the U.S. trigger price mechanism, which would have initiated an antidumping investigation of foreign steel sold below specified price levels—trigger prices.

If my amendment had been in effect in 1982, U.S. steel companies could have brought suit against Mitsui. This would have helped the domestic companies that had been hurt by Mitsui's dumping, and it would have perhaps served as a deterrent against other fraudulent actions. The Justice Department was faced with fraud of incredible proportions and was unable to address it in its entirety. The Justice Department settled for 21 counts and $210,000, the maximum criminal fine permitted by law. The substantially larger civil penalty was negotiated by the Customs Service. My amendment would not have changed these penalties but would also have given the private sector an opportunity to redress some of the injury suffered.

Over time, I expect my frauds of the day to cover a wide range of imports. I will discuss fraud in textiles, steel, sugar, and any number of other imports. Countries involved in these frauds include ones in Latin America, Asia, and Europe. I will discuss frauds costing as little as thousands of dollars and as much as millions of dollars.

But what each of these frauds have in common is that they are in the minority. They are part of the small percentage of customs abuses which were actually discovered and penalized. I hope that drawing attention to these cases will alert my colleagues and fellow Senators to the extent of customs fraud and the need to take further action against it beyond the opportunities that current law provides.

Mr. President, I yield the floor.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1988

The **PRESIDING OFFICER** [Mr. PRYOR]. Under the previous order, the Senate will now proceed to the consideration of H.R. 2713, which the clerk will report.

The assistant legislative clerk read as follows:

A bill [H.R. 2713] making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2713

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1988, and for other purposes, namely:

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1988, **[**$425,000,000**]** *$444,500,000,* as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406): *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

Federal Payment for Water and Sewer Services

For payment to the District of Columbia for the fiscal year ending September 30, 1988, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $48,048,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612): *Provided*, That $7,916,000 of this amount shall be available upon enactment of this Act: *Provided further, That water and sewer services of $40,132,000 shall be paid to the District in four equal quarterly payments on the first day of the beginning of each quarter.*

Federal Contribution to Retirement Funds

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

Transitional Payment for Saint Elizabeths Hospital

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $30,000,000.

Criminal Justice Initiative

(INCLUDING RESCISSION)

[The $50,000,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.]

Of funds appropriated under this head in Public Law 99-500 and Public Law 99-591 for the design and construction of a prison in the District of Columbia, $20,000,000 are rescinded.

For the design and construction of a prison within the District of Columbia, to become available October 1, 1988, $20,000,000: Provided, That no funds are available for construction on the South part of Square E-1112 as recorded in Subdivision Book 140, Page 199 in the Office of the Surveyor of the District of Columbia unless previously approved by the Committees on Appropriations of the Senate and House of Representatives; Provided further, That the $50,000,000 herein and heretofore made available for the prison project shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, the payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison.

Division of Expenses

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

Governmental Direction and Support

Governmental direction and support, [$114,328,000] *$114,178,000*: *Provided*, That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further*, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further*, That notwithstanding any other provision of law, there is hereby appropriated $5,417,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $763,000 shall be derived from the general fund and not to exceed $4,654,000 shall be derived from the earnings of the applicable retirement funds: *Provided further*, That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further*, That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report[: *Provided further*, That of the $150,000 appropriated for fiscal year 1988 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission.]

Economic Development and Regulation

Economic development and regulation, $140,467,000: *Provided*, That the District of Columbia Housing Finance Agency established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further*, That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single room occupancy initiative.

Public Safety and Justice

Public safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, [$654,392,000] *$657,367,000*: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles, and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided further*, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1988, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further*, That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further*, That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further*, That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further*, That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further*, That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further*, That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further*, That the Mayor shall reimburse the District of Columbia National

Guard for expenses incurred in connection with services which are performed in emergencies by the Guard in a militia status and which are requested by the Mayor, in amounts which shall be jointly determined and certified as due and payable for such services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be considered as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, [$569,544,000] *$570,594,000,* to be allocated as follows: [$412,517,000] *$413,567,000* for the public schools of the District of Columbia: *Provided, That $600,000 shall be available to the District of Columbia Public Schools Foundation for entry level career employment programs, together with $200,000 which shall become available when the Foundation certifies that an equal amount of private contributions has been received;* $62,318,000 for the District of Columbia Teachers' Retirement Fund; $71,667,000 for the University of the District of Columbia; $17,047,000 for the Public Library; $3,544,000 for the Commission on the Arts and Humanities; $2,100,000 for the District of Columbia School of Law; and $351,000 for the Educational Institution Licensure Commission: *Provided further,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1988, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, [$695,565,000] *$696,787,000*: *Provided,* That $14,700,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, [$211,362,000] *$215,615,000,* of which not to exceed $4,141,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available, prior to October 1, 1988, for collecting ashes or miscellaneous refuse from hotels and places of business or from apartment houses with four or more apartments, or from any building or connected group of buildings operating as a rooming or boarding house as defined in the housing regulations of the District of Columbia.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $6,758,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); the Departments of Labor, and Health, Education and Welfare Appropriation Act of 1955, approved July 2, 1954 (68 Stat. 443; Public Law 83-472); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $220,905,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $224,881,000 general fund accumulated deficit as of September 30, 1986, [$20,000,000] *$11,032,000,* [of which not less than $19,118,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both)]: *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1988 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the [$20,000,000] *$11,032,000* set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $3,750,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $1,489,000.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $1,200,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $269,862,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, as approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $15,353,000 shall be available for project management and $13,134,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $4,000,000 of the $269,862,000, shall be financed from general fund operating revenues for pay-as-you-go capital projects for the Department of Public Works: *Provided further,* That $26,919,000 of the $269,862,000, shall be available to the Board of Education of the District of Columbia for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control, and general improvement projects at various school buildings, for an Administration Building site study and for the Sharpe Health School Modernization Project with $21,109,000 of these funds available for construction, $2,387,000 available for architectural design, $1,423,000 available for project management, and $2,000,000 for equipment: *Provided further,* That $10,000,000 appropriated in the fiscal year ending September 30, 1986, and $10,000,000 appropriated in the fiscal year ending September 30, 1987, shall be available to the Board of Education of the District of Columbia for asbestos abatement and removal, with $17,000,000 available for construction, $1,500,000 available for architectural design, and $1,500,000 for project management: *Provided further,* That notwithstanding the last sentence of section 405(b) of the District of Columbia Public Postsecondary Education Reorganization

Act, approved October 26, 1974 (88 Stat. 1423; Public Law 93-471; D.C. Code, sec. 31-1535(b)), the Board of Education of the District of Columbia may procure contracts for the construction of new roofs for various school buildings, for boiler, window, door, and air conditioning replacements in various school buildings, for room conversions, erosion control and general improvement projects at various school buildings, for asbestos abatement, for an Administration Building site study, and for the Sharpe Health School Modernization Project: *Provided further,* That $12,819,000 of the $269,862,000 shall be available to the University of the District of Columbia for the construction of an underground parking extension at the Van Ness campus, for architectural barrier removal, for heating, ventilation, and air conditioning and partition modification, for a security system evaluation, and for the design and project management of the Mount Vernon Square campus: *Provided further,* That $500,000 of the $269,862,000 shall be available to the District of Columbia School of Law for general repair, rehabilitation, and improvement projects: *Provided further,* That all such funds shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1989, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1989: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $169,013,000, of which $31,720,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $7,358,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and which are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $5,458,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $250,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1988, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds [37,350] *37,392,* the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1989, shall be transmitted to the Congress no later than April 15, 1988.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

[SEC. 117. None of the funds provided in this Act shall be used to perform abortions.]

SEC. 117. None of the Federal funds provided in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or *incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.*

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided*, That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided*, That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1987 shall be deemed to be the rate of pay payable for that position for September 30, 1987.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided*, That for pay purposes, employees of the District of Columbia govenment shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1988, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1988 revenue estimate as of the end of the first quarter of fiscal year 1988: *Provided*, That these estimates shall be used in the fiscal year 1989 annual budget request: *Provided further*, That the officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1987" and inserting in lieu thereof "sold before October 1, 1988".

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 *and section 104* of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85).

[SEC. 131. It is the sense of the Congress that the ongoing pattern of corruption by individuals in the District of Columbia government is deplorable.]

SEC. 131. No funds provided by this, or any other Act, may be used to condemn, vacate, or raze the building known as the Employment Security Building, located at 500 C Street, Northwest, Washington, District of Columbia, unless adequate monetary consideration has been agreed to by the Federal Government and the District of Columbia Government.

SEC. 132. An Act to authorize funds for ceremonies in the District of Columbia, chapter 231, approved July 11, 1947 (61 Stat. 314, ch. 231, 1; D.C. Code, sec. 1-355), is amended to read as follows: "There is hereby authorized to be appropriated, out of any monies in the Treasury of the District of Columbia not otherwise appropriated, not to exceed $50,000 in any fiscal year for such expenses as the Mayor of the District of Columbia and the Council of the District of Columbia shall deem to be necessary, including personal services, for the reception and entertainment of officials of foreign, State, local, or Federal governments and other dignitaries and eminent persons visiting in or returning to the District of Columbia. Records shall be public records and shall be audited as a part of the Comprehensive Annual Financial Report in conformity with generally accepted accounting principles: Provided, That public disclosure of such records shall include an itemization of each disbursement from the fund.".

TITLE II

FISCAL YEAR 1987 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,115,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $1,056,000 are rescinded: Provided further, That notwithstanding any other provision of law, there is appropriated $1,000,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, which shall be derived from the earnings of the applicable retirement funds.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $309,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $5,281,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

For an additional amount for "Public safety and Justice", $60,355,000, including ten additional passenger-carrying vehicles for the Fire Department.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $4,810,000, to be allocated as follows: $2,250,000 additional for the public schools of the District of Columbia; $1,354,000 additional for the University of the District of Columbia; $1,146,000 additional for the District of Columbia School of Law, which amount shall remain available until expended; $60,000 additional for the Educational Institution Licensure Commission: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $300,000 are rescinded: Provided further, That the language under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, is amended by striking the following provisos: "Provided further, That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: Provided further, That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: Provided *further, That if the Council of the District of Columbia or the board of trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit," and inserting in their place the following provisos: "Provided further, That acquisition or merger of the Antioch School of Law shall have been previously approved by the Council of the District of Columbia: Provided further, That the interim Board of Governors of the District of Columbia School of Law shall report, by October 1, 1987, to the Mayor of the District of Columbia, the Council of the District of Columbia, and the Appropriations Committees of the Senate and House of Representatives on the anticipated operating and capital expenses of the District of Columbia School of Law, as created by the Authorization for the Establishment of a Public School of Law for the District of Columbia Amendment Act of 1987, approved February 24, 1987 (D.C. Law 6-177; to be codified at D.C. Code, sec. 31-1541), for the next 5 years.".*

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $5,545,000: Provided, That $3,445,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $4,067,000 are rescinded.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $1,140,000: Provided, That of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $6,400,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1987 in H.R. 5175 as enacted in section 101(d) of Public Law 99-500 and Public Law 99-591, $3,488,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

(INCLUDING RESCISSION)

For the purpose of reducing the $224,881,000 general fund accumulated deficit as of September 30, 1986, $15,000,000 of which not less than $11,571,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government including amounts appropriated by this Act, revenues otherwise available, or both: Provided, That notwithstanding the provisions of section 448(a)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 801; Public Law 93-198; D.C. Code, sec. 47-310(a)(1)), appropriations shall be established in the fiscal year ending September 30, 1987, and made wholly available for expenditure or obligation for the Public Education System heading.

PERSONAL SERVICES

For an additional amount for "Personal services", $1,800,000, to be apportioned by the Mayor to the various appropriations titles for optical and dental costs for nonunion employees.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $20,585,000: Provided, That $310,000 of this additional amount shall be for project management and $240,000 of this additional amount shall be for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor, and that the funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System.

This Act may be cited as the "District of Columbia Appropriations Act, 1988".

The **PRESIDING OFFICER**. The Senator from Iowa is recognized.

Mr. **HARKIN**. Mr. President, I am pleased to present the fiscal year 1988 District of Columbia appropriations bill to the Senate. The bill before us contains a total of $574.6 million in Federal funds. This represents an increase of $14 million over the fiscal year 1987 amount. This is an increase of less than 3 percent over fiscal year 1987. This increase is totally attributable to the increase in estimated water and sewer services provided to the Federal Government. The bill is within our allocation under the budget resolution. When a $20 million rescission is taken into consideration, we are $500,000 below the House bill. As required, the committee is recommending a balanced budget.

For the Federal payment to the District, we are recommending $444.5 million, which represents a freeze at last year's level. The President had proposed a reduction in the Federal payment, however, given the increasing cost of providing city services and the already heavy burden on District taxpayers the committee has recommended the same level as last year, a freeze on last year's level of Federal payment.

In addition to the Federal payment the committee has recommended: $48.1 million for payment for water and sewer services; $52.1 million for payment to the various District retirement funds; and $30 million for the authorized transition payment to St. Elizabeths Hospital, which will be transferred to District control on October 1.

In addition, the bill contains $2.6 billion in District of Columbia funds. This represents locally generated revenue combined with the Federal payment. The District estimates an increase in local revenues of 5 percent in fiscal year 1988.

Mr. President, the bill contains language that requires that the District not begin construction of the new prison on the current site without the committee's permission. We have also asked that the General Accounting Office examine three of the sites that were originally rejected to determine which one is more suitable for the type of building the District intends to build. This will be done by February 1, 1988, at which time the District can request access to the land. All of these sites are vacant and government owned. Construction could begin during the next construction season.

We have taken this action as a result of information provided by the community. The neighborhood surrounding the current site is already inundated with large, institutional-type buildings, such as D.C. General, the D.C. Jail, the Armory, and RFK Stadium. It seems unfair to further burden them and their neighborhood streets with more traffic and threats to public safety.

The District has also encountered problems with this site. Construction could not begin as planned because of the discovery of archeological findings. We do not know if there is any significance to these findings or if they will cause further delays. However, it is the committee's opinion that these discoveries make it prudent to look further at sites that were originally rejected.

Mr. President, the committee has included funds for the new D.C. Taxicab Commission. We are also recommending report language that requires that the commission address issues of language, taxi inspection, cleanliness and age of vehicles used as taxis. There have to be some standards. We have also asked them to work with other regional agencies so that soon we might have a single rate, regardless of where the trip begins or where it ends. That is a single rate, not just for the District of Columbia but for all surrounding jurisdictions and including the District of Columbia. This is the Capital of the United States. It is the first impression that many receive when they visit America. I have traveled in much of the industrialized world, and much of the Third World. The taxi situation here is one of the worst of any major city in the world. I include both the free world and the nonfree world. Something really has to be done about this taxicab situation. I believe this bill begins taking steps in that direction.

On February 20, 1987, the committee held a hearing on the region's poor response to the two snow emergencies that struck the area in January. As a result of that hearing the District reviewed, among other things, its inventory of snow removal equipment and submitted a list of needed additional items to adequately cover the city. The committee is recommending $2.7 million to purchase this equipment. Having the equipment and knowing what to do with it are different things, so the committee report encourage efforts on regional coordination and cooperation, as well as with the Office of Personnel Management. I would also encourage the District to contact other jurisdictions and review with them their snow removal policies to see if any improvements can be made in the District's procedures.

Mr. President, the report also contains a directive to the District concerning their capacity for water rescue. We have all read of the tragic helicopter crash in the Washington channel, which cost three people their lives, and the police unit that had to return to the dock to pick up diving equipment before attempting a rescue. This wasted precious time. The fire department, which also responded within minutes, had no diving equipment. We have directed that equipment be purchased and divers trained so that any unit responding to a water emergency will be equipped to provide immediate assistance.

Mr. Chairman, the bill also includes a provision, suggested by Senator NICKLES, with which I agree that will require that the District's discretionary funds be a part of the city's annual independent audit, and that they are maintained according to generally accepted accounting principles.

This raises an issue that we all have been reading about, allegations of corruption by individuals in the District government. We have been mindful of these charges, but it is not for us to judge. Independent investigations are proceeding. What we have before us today is the budget for the Nation's Capital. The District of Columbia has a responsibility to us to maintain a city that provides the services we require, and we have a responsibility to them to respect the will of the citizens of the District and not to interfere in matters that do not have a Federal interest.

Mr. President, the committee is also recommending an agreement with a provision included by the House, that prohibits any sole source contract from being renewed without competitive bidding. There may be reasons why sole source contracts may be necessary. For instance, initially, there may be only one supplier or it may be a public emergency. However, we would prohibit the renewal, without competition, of these contracts.

GOVERNMENTAL DIRECTION AND SUPPORT

The bill includes a total of $114,178,000 for governmental direction and support. This account includes for the first time in the Office of Intergovernmental Relations the support cost to establish an Office of Education, which will be responsible for coordinating and monitoring the interagency educational services.

The bill also contain funds for the transfer of the presonnel and labor relations program from St. Elizabeths Hospital to the District government effective October 1, 1987. There are funds appropriated for the Department of Administrative Services to provide contract opportunities through increased advertising of District contracts and to acquire office automation equipment.

ECONOMIC DEVELOPMENT AND REGULATION

The committee recommends $140,467,000 for economic development and regulation. This amount is the same as the House allowance and the budget request.

Funds are appropriated for the establishment of an office of banking and finanicial institutions, pursuant to District of Columbia law 6-107. This office will be responsible for regulating and chartering banks and other financial institutions organized to do business in the District. The office is also responsible for planning and initiating community development and investment projects in targeted wards of the city.

Within the department of housing and community development increases are recommended to establish the new housing finance for elderly dependent and disabled program. This program will serve the elderly, mentally and emotionally handicapped, homeless, and those with illnesses or handicapped that require either group living facilities or special facilities not available through normal financed programs.

For the development of employment services the bill includes an increase of 32 positions. A special initiative for 12- and 13-year olds will be new for 1988. This is an enrichment program for 2,500 students to better prepare them for the Youth Employment Act programs, and the general job market. There will also be funds to support 11,660 jobs for the youth under the Summer Youth Employment Program.

PUBLIC SAFETY AND JUSTICE

The bill includes a total of $657,367,000 for public safety and justice.

The committee has recommended a total of $178,813,000 for the Metropolitan Police Department. This is the same as the budget estimate and the House allowance. The department will increase personnel by 204 positions. 129 will be civilians and 75 police cadets. The reassigned uniformed personnel will support a special emphasis unit, which will target special crime problems such as narcotics sales.

Also included in the bill is $73,879,000 for the Fire Department. The committee directs that the Fire Department take immediate action to implement a program to ensure that two qualified divers and equipment are procured, trained, available, and operational not later than January 1, 1988, for each of the four rescue squads and fireboats 1 and 2.

For the court of appeals the committee has recommended a $278,000 increase giving the highest Court its full budget request.

For the superior court the committee has included $49,634,000. Included in this amount is $678,000 to establish a mandatory arbitration program in the D.C. Superior Court. This program will provide that all cases under $20,000 should be submitted to mandatory arbitration with a right of de nova appeal. The committee has restored to the superior court's budget $840,000 for juvenile justice initiatives.

The bill also contains $250,000 as recommended by the council for a $25 per day payment for volunteer mediators participating in the court's multidoor dispute resolution program.

The committee has recommended $181,802,000 and 3,338 positions for the department of corrections. This amount is above the budget estimate and the House allowance. The additional amount will be used to increase the amount available to reimburse the Federal Bureau of Prisons for the cost of housing D.C. Code violators, this will make the total amount available $34,609,000 in fiscal year 1988.

In addition, the committee has recommended language in the bill to delay the availability of the final $20 million Federal commitment to the construction of the new prison in the District until October 1, 1988. The delay is due to unexpected location of archeological discoveries on the proposed site, which has necessitated the selection of an alternative site. The bill contains language prohibiting any construction on the current site, adjacent to the District of Columbia Jail, without the prior approval of the Committee on Appropriations of the Senate and the House of Representatives. The committee also requests the Federal Bureau of Prisons to further explore three alternative sites and make a recommendation to the committee by February 1, 1988, on which site will be most suitable for the type of facility the District intends to construct.

The committee also expects to receive quarterly reports on the status of prison construction progress prepared by the construction managers and contractors.

The board of parole's budget is $3,984,000. This amount is twice the amount of resources available to the board in fiscal year 1987. This increase is due to the transfer of responsibility for parole supervision to the board from the department of corrections.

PUBLIC EDUCATION SYSTEM

The committee recommends $570,594,000 for the public school system.

The total budget recommended for the board of education is $413,567,000. This is an increase of $26,361,000 over fiscal year 1987, and is $1,050,000 above the budget request and the House allowance.

Recommended increases will cover costs for the expansion of full-day kindergarten programs, reduction of pupil/teacher ratios at the elementary and secondary levels and expand the gifted and talented programs, and specialized staff for the special education students housed in State schools.

Included also is $800,000 to expand the Public Schools Foundation ACCESS Program. ACCESS is a partnership between the D.C. Department of Labor, and the District of Columbia public schools.

Also recommended is $2,100,000 and 65 positions for the new DC School of Law. The school is expected to receive a total of $777,000 to support another 10 positions from Federal and other sources for a total budget of $2,877,000.

HUMAN SUPPORT SERVICES

The bill includes $696,787,000 for the human support services appropriations title. This is an increase of $42,472,000 over fiscal year 1987.

For the Department of Human Services a total of $579,961,000 has been recommended. This amount is an increase of $1,106,000 above the budget estimate and $1,222,000 above the House allowance. A reduction of $202,000 has been restored for hiring new positions and the committee has also agreed to the addition of $86,000 for the office of the chief medical examiners.

Funding is also included for the transfer of authority for care of St. Elizabeths Hospital patients to the District of Columbia on October 1, 1987.

District of Columbia General Hospital is a very important and needed facility within the District. The sum of $47,930,000 is requested for the fiscal year 1988 budget. This amount is $3 million below the 1987 amount. This is due to the improved revenue collection the hospital has been experiencing over the last few years.

PUBLIC WORKS

The committee recommends $215,615,000 and 1,959 positions for the activities to be funded for fiscal year 1988.

The Department of Public Works has an increase of $3,876,000 above the fiscal year 1987 budget. Included in this amount is $1,589,000 for the new taxicab commission. The commission began operation in April 1987 and includes 12 commissioners and 20 staff persons.

The committee has included $2,664,000 to purchase new snow removal equipment. This equipment will not only enhance the District's ability to keep its main streets open during snow falls, but will aid in clearing side streets so that residential streets are passable.

REPAYMENT OF GENERAL FUND DEFICIT

The committee recommends that $11,032,000 be budgeted to reduce the general fund deficit. The recomended amount is $10,150,000 more than the budget request and the amount appropriated by the House.

Mr. President, before yielding I want to express my appreciation for the assistance of the chairman of the Appropriations Committee, Senator STENNIS, and to our distinguished ranking member, the Senator from Oregon [Mr. HATFIELD]. I also want to convey my appreciation to the ranking member of the subcommittee, the Senator from Oklahoma [Mr. NICKLES], for his cooperation, interest and time in helping to shape this bill.

Mr. NICKLES. Mr. President, I thank my colleague and friend, the Senator from Iowa [Mr. HARKIN]. I applaud him for his leadership on this bill.

Mr. President, the District of Columbia appropriations bill for the fiscal year 1988 recommended to this body by the Committee on Appropriations provides for a total of $574 million in Federal funds and $3.89 billion in District of Columbia funds.

In addition, the committee recommends an advanced appropriation of $20 million to become available October 1, 1988. The amendment recommended for fiscal year 1988 is $25 million below the fiscal year 1987 level, and it is $500,000 below the House.

This is primarily due to the deferral of $20 million on the prison funds. It is also more than $47 million above the President's request.

That concerns me, and I hope that we can continue working together with Senator HARKIN and others to see if we cannot make additional fiscal prudent decisions to reduce this amount.

I also thank the committee chairman for his cooperation in addressing a number of concerns that I raised in this bill. Specifically I think we have included extensive report language in the Senate report pertaining to Antioch School of Law and its relationship with the University of the District of Columbia.

We also addressed the matter of the mayor's discretionary fund by requiring regular auditing and disclosure of that fund and any disbursements from it.

Mr. President, I am aware there are several amendments. I have two amendments. I think the Senator from North Carolina has an amendment. There may be additional amendments.

If it is the chairman's pleasure I will be happy to offer one amendment that deals with the Federal payment at this time.

Mr. HARKIN. That will be acceptable to me. The amendment the Senator wants to offer is the committee amendment.

Mr. NICKLES. The committee amendment.

Mr. STENNIS. Mr. President, will the Senator yield to me to make a brief statement on the amendment and it will not take over 5 or 6 minutes?

Mr. NICKLES. That would be fine. I am happy to yield to my friend and chairman of the full committee. He has given us ample leadership and we appreciate his cooperation in the committee and on this bill as well.

Mr. STENNIS. Mr. President, it is a lot easier to work with Senator NICKLES and Senator HARKIN, and we have had the support of all of us, I think, and I want to cover that in a few words here.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, we have before us today before the Senate the District of Columbia appropriation bill for fiscal year 1988, which reflects the recommendations of the Senate Appropriations Committee. This bill, which provides a total of approximately $555 million in new budget authority for fiscal year 1988, reflects the careful thought and hard work of our entire committee. In particular, however, it is evidence of the able leadership and excellent work of Subcommittee Chairman HARKIN and the ranking minority member, Senator NICKLES. I also wish to compliment the highly skilled work of the staff of their subcommittee: Mr. Timothy Leeth, Mr. J. Keith Kennedy, and Ms. Lula Joyce.

Mr. President, this is not easy work. It is difficult to handle. It requires a great deal of time.

I remember among the very first items of advice that I had when I got here as a Senator was from the then sitting President of the United States, Mr. Truman, when he took me down to Mr. Truman's office and he was telling me something about his services as a member of this committee and how he learned about the Government and I think I found out as I went along that they learned a whole lot about him, too, and that in a way was my start, and I was proud to get started in that way.

Before I turn to Senator HARKIN to give a brief description of the bill, I wish to highlight a few important items regarding this matter.

First and foremost, I am pleased to report that this bill is below the 302(b) allocation for budget authority and outlays. This is essential, in my opinion, for all appropriation bills which are to be taken up for consideration on the Senate floor.

Incidentally, the membership need not doubt the worth and the merit of the operation, and a great number of instances of these allocations that we refer to here as 302(b) or some other designation. It is a good vehicle and handled correctly and doing good in solving our problems.

Second, the committee's $555 million in budget authority recommendations regarding H.R. 2713, are only slightly above the President's requested funding level of approximately $507 million. However, in the committee's serious attempt to impose fiscal restraint during a period of budgetary discipline, the bill was reduced $500,000 from the House-passed version.

Finally, I would ask my colleagues to resist any further amendment to the committee-reported bill calling for money within itself. Any amendment adding additional funds would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. Let me also mention that any amendment must be germane in keeping with the Senate rules and as with all general appropriation bills, Senate Rule 16 requires that no legislative amendments be added.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, my distinguished colleague, the ranking minority member of the Appropriations Committee, Senator HATFIELD, as well as the chairman of the District of Columbia Subcommittee, Senator HARKIN, have already given some remarks, and I am going to closely follow such remaining remarks as they may have.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I see the distinguished manager of the bill here. I wonder if I might engage him in a very brief colloquy relating to a considerable amount of speculation that has been taking place recently occasioned by the recognition that a new home is needed for the Washington Redskins.

Mr. President, I freely admit that I have an interest in this, and I am very careful not to tread in any area where I have a conflict of interest. I am proud of the fact that I am a member of the board of directors of the Washington Redskins, and from time to time I talk to Mr. Cooke, who is the owner. I am certain that my colleague has seen the publicity to the effect that the Redskins need a new home and that certain individuals, including the mayor of the District of Columbia, have been looking at the options. One option early on in the debate on this issue was possibly that Uncle Sam would be forthcoming from the Federal Treasury and perhaps offer money to some location for the purpose of matching funds or some formula to build a new stadium.

Putting aside the issue of whether a new stadium is needed or not, I think we have an obligation, those of us who deal with issues relating to the Federal budget on a daily basis, and those of us who are very concerned about the deficit and concerned about the shortage of funds and indeed concerned about many legitimate needs in the area of human welfare; I think we have an obligation really to put aside any hopes that the Federal Government could be forthcoming with an appropriation for the purpose of matching funds to build a new stadium.

It is this Senator's view that Federal funding is not available and that in consideration now being given, as it should be, to building a new home for the Washington Redskins or other professional teams that may come and play, like the all star game, and so forth, they should put aside once and forever any thought that a Federal grant or an appropriated grant could be used as a part of that plan.

I ask my distinguished colleague, because he has spent a great deal of time now in his present position as chairman of the subcommittee dealing with the financial affairs of the District of Columbia and also he has spent a great deal of time on the issues relating to the Federal budget and the deficit, does he basically concur in the observations of the Senator from Virginia?

Mr. HARKIN. I thank the Senator for his comments in this regard.

I would just hasten to add, however, I have been chairman of this D.C. Subcommittee for less than a year now, so I would not in any way pass myself off as an expert of District of Columbia fiscal matters or anything else.

Mr. WARNER. Mr. President, he survived his baptism under fire very well.

Mr. HARKIN. I thank the Senator for his kind remarks.

Let me just say that no request has come through the Appropriations Committee for any funds for any kind of stadium in the District of Columbia.

Now, as the Senator from Virginia, I come from a State where we do not have a professional football team, so I personally have adopted the Redskins. I happen to be one of the best Redskins fans around.

I recognize the problems that they may have at RFK Stadium. But I have to agree with the Senator from Virginia: With a budget constraint that we have, with all of the other things that we are dealing with in the District of Columbia, the prison, St. Elizabeth's, a host of other problems that we have, in which I believe we have a direct responsibility because this deals with the interaction of the Federal Government with the District of Columbia, I just cannot see any time in the near future at least where we would see any kind of direct Federal appropriations for any kind of a stadium of that nature.

Let me also add that the District of Columbia is a government unto itself now that they have home rule. Like any other jurisdiction, whether it is Richmond or whether it is Norfolk or Los Angeles or Des Moines, IA, or Tulsa, OK, they can do what any other jurisdiction can do. They can sell bonds. They can raise private money through their ability to raise money if the people of the District of Columbia want to go into debt to do that. So they are free to do that if they want to.

So if this becomes an issue of which jurisdiction is going to provide the best resources and location, things like that, for a new stadium, I would think the District could stand on equal footing with any jurisdiction in bidding for it without any kind of Federal Government direct payment.

Mr. WARNER. Mr. President, I thank our distinguished colleague from Iowa. We are grateful to him for the time that he puts in on this budget. It is very important to the whole Federal structure that the District of Columbia receive funding that is necessary to carry on its functions.

Mr. President, as Senators will recall, just last year the Congress was asked to act, and did act, in response to a request from the mayor, to transfer the ownership of the Robert F. Kennedy Memorial Stadium to the District of Columbia, so that the District of Columbia could utilize the very laws that the Senator mentioned to raise the funds necessary to make such improvements and conversions to enable that stadium to be part of the competitive process to attract a baseball club into Washington. I, for one, have been trying to encourage bringing a baseball club—hopefully renamed the Senators—back to Washington.

So the Senator is quite correct. The District of Columbia now owns the stadium. There is a continuing interest to the Federal Government in the land beneath the stadium. But, that tenuous Federal interest, coupled with the shortage of Federal funds, should once and for all remove any consideration that a Federal grant in the form of matching, or direct, appropriations should be used as a part of solving the problem for a new stadium.

I thank the Senator.

Mr. NICKLES. Mr. President, I wish to compliment my friend and colleague, the Senator from Virginia. I wholeheartedly agree with his assessment and will work to see that we do not have a Federal payment assessment or whatever in the building of a new stadium. If we did, I am sure that there are fans of the Dallas Cowboys or the Oakland Raiders, now the Los Angeles Raiders, who might want to have a perfecting amendment. And I do not want to get involved in that on this bill.

Mr. WARNER. Mr. President, I did not initiate this colloquy against any background of a request from anyone. No one in the Redskin organization has requested that I secure Federal funds for this purpose. But, quite naturally, the Federal Government has helped with the Kennedy Center, the Smithsonian Institution, the Air and Space Museum, and other entities, and lots of things that people come to see in this wonderful Nation's Capital. And it is an understandable spillover of that sort of thinking into the area of sports. I mean, some people are more interested in sports than they are in museums. They say, "Well, let's take care of our interests in the sports field as well as in the cultural field."

But I think we should clearly indicate that option is not open. I thank the managers of the bill for allowing me to briefly engage both of them in a colloquy and for their viewpoints.

Mr. HARKIN. I thank the Senator from Virginia.

I might add one other thing. When RFK Stadium was built, it was built, as I understand it, with a loan from the U.S. Treasury to—I guess it was not maybe the District, but it was an entity that was set up at that time to construct the stadium. Those loans were repaid. The stadium was then—when home rule was given to the District of Columbia 10, 11 years ago—the stadium then reverted to the District of Columbia.

The issue on which the Senator from Virginia spoke just a minute ago was on the transfer of the land which recently took place in the last year, I believe it was, to the District of Columbia.

Mr. WARNER. Mr. President, it was the transfer of the structure itself, it is my understanding, and the land remained titled in the Federal Government, in the Department of the Interior. I believe that is correct.

Mr. HARKIN. I think it is all transferred.

Mr. WARNER. For the record, we will resolve any difference of opinion. My recollection of the law is the stadium was transferred at the request of the mayor, such that he could use the available laws to encourage financing and improvements.

Mr. HARKIN. We will clear that up. I thank the Senator.

(Mr. EXON assumed the Chair.)

Mr. HARKIN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, with the exception of the amendment on page 24, beginning on line 13 down through line 24, and that the bill, as thus amended, be regarded as original text for purpose of amendment, and provided no point of order under rule XVI shall have been considered to have been waived if the request is agreed to.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that the committee amendments be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

AMENDMENT NO. 809

(Purpose: To reduce the Federal Payment to the District of Columbia)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 809.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 2 on line 6 strike "$444,500,000" and insert in lieu thereof "$434,500,000", and

At page 13 on line 24 strike "$11,032,000" and insert in lieu thereof "$1,032,000".

Mr. NICKLES. Mr. President, this amendment reduces the Federal payment from $444½ million to $434½ million. In other words, a reduction of $10 million in the Federal payment. The Federal payment over the last years has increased substantially. In the bill it was, as I mentioned, $444 million, the same thing we had last year. However, in this bill we had a significant increase in water payments, about a $20 million increase in water payments. So the net result is, if you add the water payments and the Federal payment together, there is a $10 million increase instead of a $20 million increase as proposed in the committee report.

Also, I might mention for our colleagues' information, the House-passed bill has a Federal payment of $42 million. So now we will have a Federal payment of $434½ million. So we split the difference between the House Federal payment and the Federal payment we had last year, again keeping in mind that the water payments for this year increased by $20 million.

Also for information and the record of the Senate, I ask unanimous consent to have printed in the RECORD a table that shows the amount of water payments and how that has increased between 1979 and 1988.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Actual Federal payments to the District of Columbia for water and sewer payments (as requested by the District government)

	Millions
1979	$12,200
1980	10,500
1981	8,100
1982	13,500
1983	11,800
1984	16,520
1985	24,100
1986	29,197
1987	28,810
1988	48,048

Mr. NICKLES. Mr. President, for the information of my colleagues, the water payment in 1987 was $28.8 million and in 1988, for this next year, it will be $48 million.

So that is the purpose of this amendment. I appreciate the cooperation of my friend and colleague, the Senator from Iowa, who I believe is prepared to accept the amendment.

Mr. HARKIN. Mr. President, we have discussed this amendment among Senator NICKLES, myself, and other members of the subcommittee. The amendment is acceptable on both sides of the subcommittee.

I just want to also add that, as I noted in my opening remarks, the bill was already below the House bill, if you take in the rescission on the $20 million, and the same as last year for the Federal payment.

I also again will point out for the record, to make it clear, that this increase has come about because of the increased cost of sewer and water services to the Federal Government for the District of Columbia services.

Mr. President, we used to have a Federal payment that covered sewer and water services just as a single item. We had one set payment for sewer and water services. OMB came in and said they thought that was too much.

What the OMB mandated, Mr. President, was that the District of Columbia meter all of the sewer and water services to the Federal Government so that we get a correct payment, a correct amount. Guess what happened? They put the meters in, they started metering the sewer and water, and found out they were undercharging the Federal Government for sewer and water services. So the increases in the bill reflect the new charges based upon accurate metering of the sewer and water services provided to the Federal Government.

In a way, OMB sort of hung out there themselves when they ordered the District of Columbia to do just that. But, having said that, Mr. President, as I said the amendment was agreed on. It was a compromise position.

I must also say, if Senator NICKLES is correct in this regard, the amendment will provide for greater fiscal responsibility on the part of the District of Columbia. And so for that reason the amendment is acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 809) was agreed to.

AMENDMENT NO. 810

(Purpose: Lorton reimbursement)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES], for Mr. TRIBLE proposes an amendment numbered 810.

Mr. NICKLES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The unaccepted committee amendment should be set aside.

The amendment is as follows:

H.R. 2713 is amended by adding at the appropriate place: *Provided further*, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1988 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make quarterly reports to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of such reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements."

Mr. TRIBLE. Mr. President, I offer an amendment today to help ensure that the citizens of northern Virginia no longer bear the financial burden of playing host to the Lorton prison.

For many years, Washington, DC's prison has been located in Fairfax County, VA. During those years, the Lorton correctional facility has been plagued by escapes, riots, and similar disturbances, and the financial burden of resolving those problems has often fallen on the residents of Fairfax County and Prince William County.

It is they who have paid the cost of mobilizing their county policy force to search for an escaped convict. It is they who have paid county police to guard the prison's perimeter during a riot to help prevent escapes. And, it is they who have financed other emergency efforts by county personnel made necessary by Lorton's presence in Fairfax County.

My proposal will redress this unfair situation by requiring that the District Government reimburse Fairfax and Prince William County for expenses incurred by those counties in providing police, fire, and related services to the prison. Simply put, this bill will help place the financial burden of handling emergencies at Lorton back where it belongs—on the city that runs the correctional facility.

Last year, I offered an amendment identical to this to the D.C. appropriations bill. That amendment was approved by the Congress, and I am pleased that $100,000 of the District's fiscal year 1987 budget was earmarked for reimbursements to Fairfax County and Prince William County.

I believe that we should continue the reimbursement requirement for another year. To that end, this bill will help ensure that the costs of maintaining the Lorton prison and responding to emergencies there will be borne by the District government and not by my constituents in northern Virginia.

Mr. NICKLES. Mr. President, I think this amendment is self-explanatory. Basically it says without exceeding $100,000 Fairfax County and Prince William County would be reimbursed in relationship to any fire or any other disturbance in the Lorton prison. They would be reimbursed for fire, police, rescue, or other related services in regard to that prison. I think it is a good amendment. It has been in the past appropriations bills and I urge its adoption.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. We are happy to accept the amendment on behalf of the Senator from Virginia, Senator TRIBLE. As my colleague has stated, a similar provision has been included in the bill in recent years. It is acceptable to the committee and to the city government.

The PRESIDING OFFICER. Is there any further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 810) was agreed to.

AMENDMENT NO. 811

(Purpose: To prohibit the use of federal and District of Columbia funds from being used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator form Oklahoma [Mr. NICKLES] proposes an amendment numbered 811.

The amendment is as follows:

On page 24, strike all after "SEC." beginning at line 15 through line 24 of the bill and insert in lieu thereof the following: 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

The PRESIDING OFFICER. Setting aside the unaccepted committee amendment, the amendment has been offered for consideration.

The Senator from Oklahoma.

Mr. NICKLES. Mr. President, this amendment is one that I doubt will be accepted. I would hope that it would be. I would hope it would be accepted by this body.

I do except that there will be a rollcall. If my colleague from Iowa would agree to accept the amendment, well, that would be fine and I would not request a rollcall vote.

Mr. President, this amendment is very simple. It is very plain. It is Hyde language dealing with D.C. appropriations. It says: "None of the funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term." That is Hyde language. It is language that we have in HHS, it is language that we have in the Treasury, and I believe it is language that we need in the D.C. appropriations bill as well.

In the District of Columbia we have one of the highest rates if not the highest rate of abortion anywhere in the country; and, again, these abortions are being subsidized with public funds.

Some will say well, wait a minute, these are not Federal funds, they are District of Columbia funds, and we should not be telling them how to spend their money.

As I am sure everyone is well aware, in the Constitution, article I, section 8, it says—it gives Congress the exclusive power "to exercise exclusive legislation in all cases whatsoever over such District," the District of Columbia.

This is awfully important. We are talking about thousands of lives.

In 1985, actually the number of abortions exceeded the number of live births. I think my colleagues need to reflect on that statement. Again, this area, this District, has had one of the highest abortion rates anywhere in the United States.

We can help protect the lives of unborn children by passing this amendment. We can help ensure that public funds are not used to subsidize the taking of an unborn child's life. Public funds are used for a lot of reasons, but when you start using public funds to terminate a human being's life, we have a fierce debate and a divergence of opinions; because we are talking about lives. We are talking about nationally a real tragedy and one I think that is a double tragedy, having it be so prominent, so evident, so commonplace in our Nation's Capital.

I hope that this amendment will pass. I hope it will be accepted. I would like to see it accepted. I think it is important.

This language, I might tell my colleagues and the majority leader, is not as strong as the language that has already passed the House of Representatives.

They have language even tougher than this that did not even have an exception for the life of the mother.

This is your typical, as we come to know it, Hyde language, that does provide an exception for the life of the mother. It does say that no funds contained in this act shall be used to perform abortions except where the life of the mother would be endangered.

I hope my colleagues will agree to the amendment.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I take a backseat to no one in this body or anywhere else in my abhorrence for the practice of abortion. I must say that as a Catholic I oppose abortion. I feel the number of abortions being performed is a national and international tragedy. But I see abortion as part of a growing insensitivity to human suffering, injustice, and disrespect for all life. But that is not the issue here. That is why I do not adopt the narrow, negative approach advocated by some which could, as a matter of constitutional law, make it a crime—which could be punished by the death penalty—for a woman to have an abortion, even in the case of rape.

If we are truly concerned about respect for life, we should enact a nuclear freeze, cancel the MX missile, and stop sending arms to Central America. A part of the savings from these actions could support a national program of pre-natal and post-natal care, assistance for women, infants and children [WIC], adoptive services, life support centers, and more help to pregnant teenagers.

I introduced a bill to do this clear back in 1977. This positive approach would work, would do more to reduce the number of abortions, and would also address the other issues concerning respect for life.

This positive approach is what I have followed in the House of Representatives, and what I will continue to follow in the future.

The issue here is one that concerns the home rule of the District of Columbia and it concerns what limitations would be placed upon both the Federal funds and the money raised by the District of Columbia to provide medical services for poor women.

Mr. President, the language dealing with this issue of abortion has been included in D.C. bills since 1980. But the language in every instance, since 1980, has been used to limit only the Federal funds that go to the District of Columbia. That is the Federal funds that we provide to the District of Columbia; not to limit the District of Columbia's ability to decide for themselves how they will spend that money.

In no other jurisdiction in the United States, no other city, does the Federal Government purport to tell that city how to spend the revenues that that city raises. But that is what this amendment, offered by my friend and colleague from Oklahoma, would say, that none of the funds in the bill, not just Federal money but that the District of Columbia money that they raise also has to be restricted.

Well, if Senators want to turn the clock back and take over running the city, the District of Columbia, once again with all that that entails, then let them step forward and let us have a vote on it.

But this Senate and the House decided 11 years ago to give home rule to the District of Columbia; to provide the District of Columbia its city council, its own elected people, the ability to govern themselves.

I think that was a major step in the right direction. We have enough to deal with around here, issues of arms control, Supreme Court Justice nominations, agricultural policy, transportation policy. We have got enough to keep us busy here from early January to late December every year. The last thing we need to do is take on the burden of running the city of the District of Columbia again.

Oh, maybe 20, 30, 40 years ago, maybe that could be done. But we have moved beyond it, way beyond it.

So, certainly, I would hope that no one would want to turn the clock back and say once again the Congress is going to run the District of Columbia. We do not have the time and we do not have the wherewithal of doing that. I trust and hope we do not have the interest in doing that.

Obviously, we do have an interest in how the Federal Government spends Federal tax dollars. I will accede to that. That is true. We do have an interest in that. That is why since 1980 we have limited the use of Federal funds to be used in cases of abortion in the District of Columbia, but not the money of the District of Columbia. I want to make that clear. The amendment offered by my friend from Oklahoma covers both Federal funds and money raised by the District of Columbia.

As I said in the beginning, this is an appropriations bill. It is not a bill for this issue, really. I think where this matter should be debated is on other pieces of authorizing legislation.

In 1985, Mr. President, on a motion to table by the Senator from North Carolina, Senator HELMS, the same committee language that we have right now, the very same language that is trying to be amended by my colleague from Oklahoma, which came out of the committee, which we have included every year since 1980—this same language in 1985 on a motion to table by the distinguished Senator from North Carolina, Senator HELMS, the Senate voted 35 to 60 not to table this language that is in the bill.

So we have a record here of voting on this very same language.

In 1985, in the same year on an amendment by the Senator from New Hampshire, Senator HUMPHREY, that would have banned all abortions, which would be similar to the language which is in the House bill, the Senate voted 54 to 41 to table that amendment.

Mr. President, just last year, the Senate voted 48 to 42 in favor of the same language that is in the bill today.

Let me read the language so there is no mistake about what this language provides because it is restrictive. I will read the section that deals with this.

> None of the Federal funds provided in this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service. Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

So we do have limitations. The limitations deal with endangering the life of the mother, the medical procedures necessary for rape or incest where that rape or incest has been reported promptly to the law enforcement agency, or for medical procedures for the termination of an ectopic pregnancy.

I would hope that those who feel just as strongly as I do about the practice of abortion, that it ought to be restricted to the greatest extent possible, I would hope that those would not want to at least strike out medical procedures necessary for termination of an ectopic pregnancy. Do those who support this amendment offered by my friend from Oklahoma say that a woman who has an ectopic pregnancy could not have an abortion?

I would ask my colleague from Oklahoma if that is the intent? I would ask my colleague from Oklahoma if in this amendment there is not a procedure that says funds may be used for medical procedures for the termination of an ectopic pregnancy. Does the Senator with his amendment say that if a woman has an ectopic pregnancy nothing could be done to abort that fetus?

Mr. NICKLES. If that pregnancy was life-threatening to the mother, that abortion could be performed. That is what we have in the HHS bill. I think that is in several pieces of legislation which have passed the House of Representatives. If there is a pregnancy that endangers the life of the mother, then abortion could be performed, but only that circumstance. I think that is the proper exception to be made.

Mr. HARKIN. I thank the Senator for his response. I guess it is again proof that we are not all doctors around here. We do not understand these situations. I happen to know something about ectopic pregnancies. I know that initially they do not know, but later on they might know. That means that a woman who might have an ectopic pregnancy in the early stages might have to wait 2 or 3 months. You do not know in the interim whether it is life endangering or not.

That is where you get into these problems where we in this legislative body cannot legislate on things like that. That is why the exceptions that have been carved out in the past were exceptions that came about through deliberation, through consideration of all of the aspects that were involved here.

I believe, Mr. President, the language that is in the bill, the same language that this body has adopted consistently since 1980, has proven to be effective. It is language this body has supported time and time again. Quite frankly, I see no overriding reason to change it, especially as it concerns the use of the District of Columbia's money.

I again just want to make that point. I would hope that the amendment would be defeated.

I see others who may wish to speak on this amendment. I do not know how long it would take. I would hope, Mr. President, that at some point we might agree on a time limit on this amendment so that we do not just go on. I do not want to cut off anybody's chance to talk. I will not move to table it now. I would ask the Senator if he might be agreeable to a time limit.

Mr. NICKLES. To my good friend from Iowa, I say I am happy to agree to a time limit. I would like to respond to several of the statements that the Senator from Iowa made. I see colleagues from North Carolina and New Hampshire who wish to speak. I do not know that we need a time limit. I have a feeling that after they make their statements and I make a brief statement, we could vote.

Mr. HELMS. If the Senator will yield, I do not want to speak very long, but I do not want to be cut off by a time limitation. We are talking about the deliberate termination of innocent human life, the most innocent human life imaginable. I want to answer some of the comments of the Senator. When I can get the floor, I will be ready to proceed.

Mr. HARKIN. Mr. President, I yield the floor.

Mr. NICKLES. Mr. President, I have a couple of comments to respond to my friend and colleague from Iowa concerning home rule. I have heard that question. A lot of people refer to home rule.

Well, it is interesting that we have had during the confirmation hearings of Judge Bork a lot of discussion concerning the Constitution. We have not repealed the Constitution, the Constitution is still the law of the land, and we swear to uphold it. The Constitution in article I, section 8, gives this body, the Congress, the right to "exercise exclusive regulation in all cases whatsoever over such District."

I have heard people say, "Wait a minute. Does that contradict home rule?"

Home rule was not a constitutional amendment. It did not override the Constitution. As a matter of fact, in home rule, very expressly, Congress left them the right and the prerogative to decide such legislation as they desired.

In the home rule statute—and I read Title VI: Reservation of Congressional Authority—section 601 says:

> Notwithstanding any other provision of this act, the Congress of the United States reserves the right at any time to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted by the council by this act, including legislation to amend or repeal laws enforced in the District prior to or after enactment of this act and any act passed by the council.

So even in home rule, they did not overturn the Constitution. The Constitution is very, very clear that we have the right to do so.

You say, "Well, still, I do not really want to get myself involved in legislative affairs for the District of Columbia, even though it is a Federal enclave, even though it is a Federal city." In the bill before us, we have a lot of Federal involvement, a lot of congressional involvement that directly violates the intent of home rule. We have language dealing with purchase of scuba equipment, we have language dealing with the D.C. law school, we have language that delays construction of a D.C. prison, and on and on. It has happened every single year. It will continue to happen. And so the home-rule question is not really valid. That may be an excuse, it may give someone an excuse to say, "I do not want to vote for this amendment."

But really the amendment is the Hyde language and the question is whether or not we are going to have Federal funds, public funds being used to subsidize abortion. Abortion is taking the lives of unborn children. It is a very serious thing. It is not a political issue so much. I guess it turns into one. But it is happening on a daily basis. We have averaged over the last few years in D.C. 20,000 per year. Forty-eight percent of those in 1985 that had an abortion had had one previously. It has become an alternate method of birth control and it is far too commonplace. It should not be taking place in our Nation's Capital. We have something to say about that. We have the opportunity to save human lives by passage of this amendment.

I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair. I do not see the distinguished Senator from Iowa on the floor, but let me comment on a few of the points that he made in opposition to the amendment pending offered by the distinguished Senator from Oklahoma.

Now, I am not going to rise to debate on whether the Congress is trying to run this city or not. If I read the newspapers correctly, listen to the news on the radio, maybe somebody ought to run the city because Mr. Barry is having his problems in terms of his personal conduct and his official conduct. But I will not get into that.

I simply say that it is not fair to suggest that there is anything unique about this amendment in terms of home rule. I would invite the Senator to look, for example on page 9 where language placing restrictions on all funds provided by this act appears beginning on line 14: "That none of the funds appropriated by this act may be used"—now get this, Mr. President—"to implement any plan that includes the closing of Engine Company 3 located at 439 New Jersey Avenue, Northwest."

Then you look at line 17:

> That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further*, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the Guard in a militia status and which are requested by the Mayor, in amounts which shall be jointly determined and certified as due and payable for such services by the Mayor and the Commanding General of the District of Columbia National Guard.

Then you turn on over to page 23; line 13:

> SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

Then you go to page 24, line 5. "None of the funds." There you go again. On page 25, section 121. "None of the funds"—the very same thing. So let us wash out this argument, Mr. President, that there is anything unusual about the amendment of the Senator from Oklahoma, whom I respect and to whom I am grateful for offering this amendment.

Now, then, what are we talking about? As I said a moment ago, here we are working in a city, the Capital city of the United States of America, which has, unless the statistics have materially changed, more abortions each year than it does live births.

Now, I reiterate, we are talking about the deliberate termination of the most innocent, most helpless, of human life. And that is what Senator NICKLES is talking about, and he is talking about using taxpayers' funds to do it.

Now, if Congress ever had a duty to move in and express itself, it is on this subject of abortion. I recognize that this amendment has been tabled in the past. It was tabled when Senator HUMPHREY offered it, and it may be tabled again today. But that does not make it right. Something like 2,000 years ago, a majority crucified our Lord. So do not complain about those of us who feel strongly about the deliberate termination of human life. As long as I am in this Senate, we are going to vote on this; we are going to vote on it again and again and again, because there is something fundamental about this issue.

I say to you, Mr. President, that a nation that condones the deliberate destruction of millions upon millions of innocent human lives each year perhaps deserves to have travail as we do now.

Now, Mr. President, since 1979, Congress has been playing a shell game with the abortion restrictions placed on moneys appropriated by Congress for the District of Columbia. Let us make one thing clear. We are not talking about just Federal money when we say "moneys appropriated by Congress," because the tax moneys collected by the District of Columbia are included in that. That point is sort of covered up, veiled, and obscured. So we are talking about all moneys. The game goes something like this. Congress puts abortion restrictions on so-called Federal funds—I emphasize the word "Federal"—restrictions on Federal funds in the D.C. appropriations bill but leaves the so-called District moneys totally unimpeded, untouched.

The District then, of course, funds abortions out of the so-called District moneys.

Now, the law in this little scheme is that all moneys available to the District are in fact and in law appropriated by Congress, as I have just said. And I hope there will be no more obscuring this issue. You cannot hide behind that, because not only, as Senator NICKLES said, do we have the right to do it, those of us who feel strongly about the slaughter of the unborn have a duty to do it, or at least try.

Now, while there may be funds denominated "Federal" and denominated "District," and while there may be certain bookkeeping and other advantages in this distinction, it is, Mr. President, the Congress of the United States that appropriates all moneys for the District of Columbia.

So we cannot hide behind this little rhetoric that we hear every time this amendment comes up. The shenanigans of the Congress, Mr. President, have helped produce an unconscionable result. The District of Columbia is now the abortion capital of the United States. According to the most recent Census Bureau report available to me the District of Columbia has the highest abortion rate in the country—1,517 abortions for every 1,000 live births.

In addition, according to the National Right to Life Committee, the District has the most permissive policy on the tax funding of abortions in the entire country, not only paying for abortions on demand for Medicaid-eligible women but also paying for abortions for women who do not qualify for Medicaid but have no private insurance.

As much as many in Congress would like to minimize this abortion issue—for many Senators like to play both sides, and they will vote one way here and talk another way when they get back home—and as much as people would like to ignore it, I think there are a few of us who intend not to let this happen. And that is why this issue is coming before this Senate again and again as long as I am here, and I am sure Senator NICKLES, Senator HUMPHREY, and others feel the same way.

Unborn babies in Washington, DC, and elsewhere across this land are making a silent but unmistakable claim on the consciences of a good many of us. They, like all other human beings, deserve the right to be born. They have the right to survive, the right to love and to be loved, and to fulfill the life the Lord himself gave them.

My favorite in American history is a fellow named Tom Jefferson who said, "We hold these truths to be self evident, that all men are created equal," and they are endowed by their Creator with certain unalienable rights. And among these are what? First, he says, is "life," and then he says "liberty and the pursuit of happiness."

Mr. Jefferson did not say we had a right to be happy. We have a right to pursue happiness.

So, Mr. President, the abortion issue highlights the fundamental right to life that our Founding Fathers sought to preserve. This abortion issue forces this Congress to make a fundamental decision, to vote up or down, yea or nay, yes or no, to these millions of people, not only here in the District of Columbia but across this country, who deserve a right to be born.

Will we have laws to protect the lives of all human beings in our border including the innocent and helpless lives still within their mothers' wombs? Or will we discriminately choose who can live and who can die—or to put it another way, who can live and who must die? That is the deadly question. If we are unwilling to protect lives of the weak and the defended yet to be born, what is to prevent us from denying the same right to the sick, the elderly, the physically impaired, or the mentally handicapped who may be just as weak and just as dependent as the unborn child?

Today, thanks to Senator NICKLES, we are going to vote once again on an important part of the fundamental question, the question of whether the taxpayers of the United States through an appropriation by their Congress will fund the deliberate termination of innocent human lives in the Nation's Capital.

I say, "Praise the Lord" for the House of Representatives which has just taken the right approach on this matter. The House voted to end the charade by placing a flatout ban on any abortion funding with moneys appropriated by Congress rather than placing the restriction merely on Federal—I stress the word "Federal"—moneys.

The approach taken by the House of Representatives is honest. It is forthright. And it is an approach worthy of the Congress of the United States and I hope the House will prevail. And if the Senate defaults in its responsibility, I hope the House will prevail in conference.

Of course, the Senate Appropriations Committee decided otherwise contrary to the House action. Our Appropriations Committee chose to perpetuate this charade, the shell game, the double standard. The committee chose to continue the status quo of prohibiting Federal—there we go again, that little old rhetorical exercise, Federal—moneys from being used for abortion while leaving so-called District moneys unencumbered.

In effect, our Senate Appropriations Committee opted in favor of funding abortion on demand in the District of Columbia.

Mr. President, obviously, I hope that the Senate will vote today to end this charade, and will support the splendid amendment by the distinguished Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield for a question?

Mr. HELMS. Yes.

Mr. NICKLES. I do not want to interrupt the Senator.

Mr. HELMS. I have finished.

Mr. NICKLES. But I wanted to ask a question. The Senator mentioned a fact. It is a statistic, but it is a fact and it is a sobering fact, and it is one I think we need to reflect on.

Did the Senator say that in 1985, according to the records that we have, there were something like 1,500 abortions for every 1,000 live births in the District of Columbia?

Mr. HELMS. That is correct. I think it is even worse today. But these are the latest figures available to me.

Mr. NICKLES. Are all of those D.C. residents or am I correct in thinking that a significant percentage, maybe as much as about half, are from outside the District of Columbia?

Mr. HELMS. That is my understanding. Of course, the records are available on that. But I think the Senator is absolutely correct and the record will verify that.

Mr. NICKLES. I believe I have heard, and I have seen some statistics, that go back to 1985.

Mr. President, I ask unanimous consent to insert two tables into the RECORD which reflect those statistics.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 2.—ABORTIONS BY RESIDENCE, 1985

Residence	Number	Percent
Total	[1] 17,742	100.0
District of Columbia	8,627	48.6
Maryland	6,177	34.8
Virginia	2,526	14.3
Other	412	2.3

[1] Does not include 1,799 abortions with unstated residence.

TABLE 6.—ABORTIONS BY NUMBER OF PREVIOUS ABORTIONS, 1985

Previous abortions	Number	Percent
Total	[1] 16,677	100.0
None	7,721	46.3
1	4,874	29.2
2	2,392	14.4
3 or more	1,690	10.1

[1] Does not include 2,864 abortions with unstated number of previous abortions.

Mr. NICKLES. I hope we can get some more accurate, more up-to-date information. But I believe according to the records we have, and the latest data we have for about half of those abortions were performed in the D.C. area for non-D.C. residents. I think about a third of them were from the State of Maryland, and the other were from Virginia and maybe surrounding States. But if people would stop to think, or would the Senator not agree that if people would stop to realize we have almost more than abortion on demand, that it is just wide open in our Nation's Capital?

If you have abortions to the ratio of 1,500 to 1,000—and I would think there are probably a lot of abortions that are being performed that are not listed in the statistics—but if you have that kind of ratio that does not speak well for our Nation, and it certainly does not speak well for this part of the country. We have to do something to stop it. I think this amendment would be a step in the right direction.

Mr. HELMS. I certainly agree with the Senator.

Again, I congratulate him on his amendment, and I hope the Senate will support it.

Mr. President, I yield the floor.

Mr. HUMPHREY addressed the Chair.

The DEPUTY PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. HUMPHREY. First, I commend Senator NICKLES for offering this amendment. The Senator from North Carolina has properly referred in this important debate to the most important passage, the most well-known passage, in our Declaration of Independence that reads "We hold these truths to be self-evident" and that all men are endowed by their Creator with inalienable rights, among which is the right to life.

Is that only Fourth of July rhetoric at this point in our Nation's history? Or do we still mean it when we utter that passage, when we speak reverently of that passage? All men are created equal and endowed by their Creator, not by Congress, not by the Senate, not by politicians, not by Government, but endowed, as Jefferson said and which we are fond of repeating, endowed by their Creator with certain inalienable rights among which is the right to life.

There is more than a debate over a technical amendment. It is more than a turf battle. It is a very fundamental question that goes to the very ethical foundations of our country. Are we going to practice what we preach, or are we going to push it aside, lay aside this noble sentiment that the rights come from God and that an inalienable right to life exists for each of us? Are we going to push that aside out of patriotism? I hope not. We have in the past in some respects, and in some respects we have not.

It is, after all, to continue Jefferson's statement, the purpose of government to secure these God-given rights; that to secure these rights, governments are instituted among men. That is what Jefferson said, after he said that there are certain inalienable rights with which we are endowed by our Creator.

He went on in the same paragraph, in the same breath, to say that, to secure these rights, governments are instituted among men.

So, let us today, by our vote, secure this right for those who would otherwise perish right here in the Nation's Capital. That is what the House said when it amended on the floor H.R. 2713 to include section 117, which is very brief and simple and says: "None of the funds provided in this act shall be used to perform abortions."

Mr. President, repeatedly over the years, Members of both Houses have amended various bills to include what has come to be known as the Hyde amendment, Hyde amendment language, which prohibits the expenditure of Federal funds to pay for abortions, except in one case, except in a single case, of where continued carriage of the pregnancy to term threatens the life of the mother. Repeatedly over the years, both Houses have adopted Hyde amendment language.

Indeed, the action of Congress in this respect has been upheld by the Supreme Court. The Court has said that Congress is well within its rights to refuse to pay for abortions. It is in no way an infringement upon the right discovered in Roe versus Wade for the Congress to refuse to pay for abortions. The Court said that the refusal to subsidize a right—in this case, the right to abortion—does not infringe upon that right.

In other words, as it applies to the bill before us, if we adopt the House language, it in no way impinges or infringes on the right of women to have abortions. It simply ends the forced subsidizing of those abortions by the taxpayers. We are in a position once more, today, to end this forcible subsidization of this ghastly procedure known as abortion. If women choose to have abortions, they may do so under the law, according to the Supreme Court.

That is not what is at issue here. What is at issue here is whether we are going to force the taxpayers of the United States and the taxpayers of the District of Columbia to pay for this ghastly procedure. We are going to fail today in this, as we have failed in past years, but we will be back next year.

The abomination of slavery was not abolished in 1 year or in one effort or in one vote. The abolitionists were troublesome in their time to those who favored slavery, and indeed troublesome to those who did not want to think about slavery, but ultimately the issue was forced, as all moral issues must be, sooner or later.

The business of killing prenatal infants—innocent, helpless, prenatal infants—is every bit as abominable, perhaps more so, than was the institution of slavery. At least, slavery, as abominable as it was, offered life; and where there is life, there is hope. Abortion offers only death and despair.

The Senator from Oklahoma and the Senator from North Carolina in their colloquy, established that the District of Columbia, the seat of our Federal Government, over which Congress has the right and the responsibility and the powers of appropriation, has become a mecca for those who wish to kill prenatal infants. It is a magnet, drawing in women from outside the District of Columbia who seek to have abortions under this unconstrained abortion policy.

The officials of the District of Columbia make no effort whatever to examine the circumstances of the person seeking an abortion. D.C. officials do not take into account the stage of development of the prenatal infant.

A woman coming to this city, residing or otherwise, can have an abortion paid for by the taxpayers in even the eighth or ninth month of pregnancy. There are absolutely no limits in this city. Small wonder that it has become a mecca for those seeking abortions.

Mr. NICKLES. Mr. President, will the Senator yield for a question on that point?

Mr. HUMPHREY. I yield.

Mr. NICKLES. I have found the information I was looking for earlier.

According to the statistics, in 1985 almost 35 percent of abortions performed came from Maryland, 14 percent came from Virginia, 2 percent came from other States, and about 10 percent are unspecified.

Along the same line, I wonder if the Senator is aware of the number of people who have had previous abortions. In other words, they have gone to D.C. and had an abortion, and maybe this is the second, third, or fourth abortion. For about 46 percent, it was their first abortion; but we find that 29 percent already had had 1 abortion, 14 percent had had 2 abortions, and 10 percent had had 3 or more abortions.

So it is almost an alternate method of birth control. But we are talking about lives of unborn children being sacrificed, in most cases, for convenience.

Mr. HUMPHREY. Those are certainly distressing statistics. Indeed, we are talking about human life.

That is the fundamental question here. The offspring of human beings are human beings. That is self-evident. One need not be a biologist, a geneticist, a scientist. One needs no training in science whatever to know that the offspring of human beings are human beings. They are not Coke bottles or toothpaste tubes. They are not pigs, cows, or chickens. The offspring of human beings are human beings, and abortion kills human beings.

It is that simple. There is no getting away from it. The apologists like to resort to terms like fetus and product of conception. Some even refer to the prenatal infant as a blob. But it does not change the fact that the offspring of human beings are clearly human, and abortion kills human beings.

Prenatality is just another stage of life, not yet widely recognized but prenatality is just another stage of life as is infancy, childhood, adolescence, young adulthood, middle age and ultimately old age. They are all stages of life. It is true we look different as these stages progress but that does not make us any less human.

Are we any less human when we are 80 and when we are wrinkled and stooped than we were when we were 20, in the prime of our health? Of course not. Is a prenatal infant any less human because it does not look like a 5-year-old child? Of course not.

Humanity is humanity. Human life is human life and either Jefferson's ringing phrases about an inalienable right to life in which all human beings are endowed by their Creator, either that means something or it is just Fourth of July rhetoric that you throw away with all the bunting and the crepe paper on July 5.

If it means something let us put it into practice by supporting this amendment. Prenatal infants are human beings.

There was a time, as Senators know, not too long ago, two generations ago, when children worked just as hard as adults in the mills and on the farms of our country and no one thought much about it at the time but ultimately society came to realize that childhood is a very special time. Childhood is not like adulthood. But it is still nonetheless a phase of the human experience, a stage of development and children are as much entitled to protection of the law as are adults. So I suggest are prenatal infants.

So it is a moral question. I hope Senators will not seek to dodge the moral question by suggesting it is a turf battle. It is not.

Other Senators have addressed the fact that the Senate routinely over the years restricted expenditures of the District of Columbia. That is our responsibility. We are the legislature of the District of Columbia with respect to appropriations, and we cannot shun that responsibility by speaking of home rule as though home rule is operative in this area. It is not.

Either we exercise our responsibilities or we evade them, but we cannot assign them to the District of Columbia, consistent with our responsibilities.

Mr. President, I will close this way: The Senate over and over again has enacted Hyde amendment language cutting off Federal funding of abortions. Why? Clearly because a majority of Senators feel that taxpayers should not be forced to subsidize this procedure. Clearly Senators feel that refusing to subsidize the procedure in no way infringes on the right to have an abortion.

So we should consistent with our past history in this matter adopt the Nickles amendment which is an amendment already adopted in the House of Representatives to their everlasting honor.

Mr. NICKLES. Mr. President, will the Senator yield for just a comment?

Mr. HUMPHREY. I yield.

Mr. NICKLES. I wish to compliment my friend and colleague from New Hampshire.

He spoke in a very moving speech, as well as the Senator from North Carolina. Both shared, I think, very strongly held convictions, convictions that I happen to share and agree with, and I just compliment them for their efforts, their past efforts as well as their comments today.

The ACTING PRESIDENT pro tempore. Does the Senator from New Hampshire yield the floor?

Mr. HUMPHREY. I do.

The ACTING PRESIDENT pro tempore. The Senator from Iowa, Senator HARKIN.

Mr. HELMS. May I ask the Senator if he is preparing to move to table?

Mr. HARKIN. I am.

Mr. HELMS. Before he does that, could I make one point and I make it in the utmost friendliness.

Mr. HARKIN. Surely.

Mr. HELMS. I will not take more than a minute.

Mr. HARKIN. I yield the floor.

Mr. HELMS. Mr. President, I realize there are those who believe that the Congress should not be attempting to run the city of Washington, the District of Columbia. And, of course, this amendment is not an attempt in that direction as Senator NICKLES pointed out.

The Congress has the duty under the statute creating the District of Columbia as an independent entity or semi-independent entity, I would substitute. We have many rights and responsibilities and duties I think.

I have enumerated several examples, Mr. President, in this very bill, which the Senator from Iowa is managing along with the distinguished Senator from Oklahoma, where the Congress itself, both the House and the Senate, have inserted language and I am going to ask unanimous consent that a list of all of the provisions of this bill which we are now considering which are identical in nature and intent to the Nickles amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(At page 2, lines 3 through 14:)

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1988, $425,000,000 *$444,500,000,* as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 47-3406): *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

(At page 9, lines 14 through 16:)

That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest:

(At page 9, lines 17 through 20:)

Provided further, That none of the funds provided by this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986:

(At page 23, lines 1 through 8:)

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during nonschool hours.

(At page 23, lines 13 through 23:)

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

(At page 24, lines 5 through 8:)

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

(At page 24, lines 9 through 12:)

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(At page 25, lines 16 through 18:)

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

(At page 25, lines 19 through 25 and page 26, lines 1 through 3:)

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

(At page 26, lines 5 through 8:)

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

(At page 29, lines 12 through 18:)

SEC. 131. No funds provided by this, or any other Act, may be used to condemn, vacate, or raze the building known as the Employment Security Building, located at 500 C Street, Northwest, Washington, District of Columbia, unless adequate monetary consideration has been agreed to by the Federal Government and the District of Columbia Government.

(At page 32, lines 2 through 25 and page 33, lines 1 through 4:)

"Provided further, That of the amount made available to the University of the District of Columbia, $1,146,000 shall be used solely for the operation of the Antioch School of Law: Provided further, That acquisition or merger of the Antioch School of Law shall have been previously approved by both the Board of Trustees of the University of the District of Columbia and the Council of the District of Columbia, and that the Council shall have issued its approval by resolution: Provided further, That if the Council of the District of Columbia or the board of trustees of the University of the District of Columbia fails to approve the acquisition or merger of the Antioch School of Law, the $1,146,000 shall be used solely for the repayment of the general fund deficit," and inserting in their place the following provisos: "Provided further, That acquisition or merger of the Antioch School of Law shall have been previously approved by the Council of the District of Columbia: Provided further, That the interim Board of Governors of the District of Columbia School of Law shall report, by October 1, 1987, to the Mayor of the District of Columbia, the Council of the District of Columbia, and the Appropriations Committee of the Senate and House of Representatives on the anticipated operating and capital expenses of the District of Columbia School of Law, as created by the Authorization for the Establishment of a Public School of Law for the District of Columbia Amendment Act of 1987, approved February 24, 1987 (D.C. Law 6-177; to be codified at D.C. Code, sec 31-1541), for the next 5 years.".

Mr. HELMS. I thank the Chair.

Mr. President, on page 29, there is one provision, section 131, beginning on line 12, which the Senate committee inserted. "No funds provided by this, or any other act may, be used to condemn, vacate, or raze the building known as the Employment Security Building, located at 500 C Street, northwest, Washington, District of Columbia, unless adequate monetary consideration has been agreed to by the Federal Government and the District of Columbia government."

Now, if we can prevent the razing, or r-a-z-i-n-g, for those who may be listening on television, that is the destruction of a building, my lord, Mr. President, are we not obliged to consider what we are doing when we provide the taxpayers' money to destroy the lives of the innocent, helpless unborn?

I thank the Senator from Iowa and the Senator from Oklahoma and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina yields the floor.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I think we have had adequate debate on this topic. I just respond just to the last point the Senator from New York made to section 131. This is put in at the request of the city of the District of Columbia. So the District of Columbia requested this provision be put in. It has to do with the GSA vacating a building in the District of Columbia. It was not the committee's or any member's desire to put that in. The city wanted it.

Mr. HELMS. If my friend will yield, that validates the point I make, that even the District of Columbia recognizes the role of the U.S. Congress.

Mr. HARKIN. If I may regain my time, Mr. President, what I am saying is that this deals with a Federal building within the city of the District of Columbia and does not deal with us mandating that the city has to do one thing or another with its own local moneys, and I believe that is an adequate distinction.

Mr. President, I said the Senate debated and talked about this issue in the past. I think the issue is clearly defined. I am prepard to move to table.

I will yield for a brief question or does the Senator desire to make a statement?

Mr. METZENBAUM. Mr. President, I will make a brief statement.

Mr. HELMS. I will yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

Mr. METZENBAUM. I will not take long.

Mr. President, we are in one of those situations that we have been in a number of times in the past. As a matter of fact, this particular amendment or this particular issue was before us in years past and on those occasions, in fact I think the last occasion this particular amendment was up I indicated that I thought that this body had dealt with the issue of abortion so often so regularly that it was time enough that we put it aside and get on to running the Government.

The D.C. appropriations bill is the measure that has to do with that body being permitted to run its government, and unfortunately this amendment would go so far as to limit what that government can do.

I think we ought to have a D.C. appropriations bill, but if the Senate should see fit not to table this amendment, I would be prepared to explain to my colleagues the 470-odd amendments or bills that we have had before us since I have been in the U.S. Senate and obviously that would take some time. I do not look forward to doing that, but I think it would be an educational procedure that might be very worthwhile.

Under the circumstances, I do hope that the motion to table, that the manager of the bill is about to make, will be looked upon favorably and that the D.C. appropriations bill might proceed to final enactment.

I thank the Senator from Iowa.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, before the Senator yields, may I respond briefly to the Senator from Ohio who has threatened a filibuster if things do not turn out the way he likes. Certainly that is his right, and I can think of worse things to have the Senator doing than spending time filibustering the bill. That would keep him out of the Judiciary Committee and we would not mind that very much.

But I find that ironic coming from the Senator from Ohio, who has such a sincere interest in protecting the minority from the majority and who, I am confident, had he been a Senator in the 1840's and 1850's, would have argued endlessly against slavery and resented anyone who impugned his motives and resented any Senator who threatened to block the abolition movement the way the Senator from Ohio has threatened to block the efforts of those of us who seek to abolish this ghastly institution of abortion.

Mr. HARKIN. Mr. President, I believe again that all discussion has been held on this amendment.

I move to take the Nickles amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on the motion to table the Nickles amendment.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii [Mr. MATSUNAGA] is necessarily absent.

Mr. BYRD. Mr. President, I ask for regular order.

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—60

Adams
Baucus
Bentsen
Biden
Bingaman
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Evans
Exon
Fowler
Glenn
Gore
Graham
Harkin
Heinz
Hollings
Inouye
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Warner
Weicker
Wilson
Wirth

NAYS—39

Armstrong
Bond
Boren
Boschwitz
Breaux
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Humphrey
Johnston
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Melcher
Murkowski
Nickles
Pressler
Proxmire
Quayle
Reid
Symms
Thurmond
Trible
Wallop

NOT VOTING—1

Matsunaga

So the motion to lay on the table amendment No. 811 was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I move adoption of the remaining committee amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the remaining committee amendment.

The committee amendment on page 24, lines 13 through 24, was agreed to.

Mr. SPECTER addressed the Chair.

the PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I would like to put on the record a brief discussion I have had with the distinguished chairman of the District of Columbia subcommittee concerning the construction of the new prison. It is a subject of considerable importance to the District. It is a matter on which I spent considerable time during the 4 years I chaired the District of Columbia subcommittee. It was only after a long, tough battle that we were able to get the Federal appropriation and move ahead with the city government to secure the plans for the building of a new prison.

The crime situation in the District of Columbia, as well as in many other big cities in this country, is enormously serious. There are major problems concerning sufficient space for sentencing violent criminals. There are major problems in getting judges to sentence violent criminals because there is no place to put them. The jails are overcrowded. There is a serious issue concerning constitutional rights of those who are in jail.

The problem of jails across the country is one of enormous importance.

This Senator considers it urgent that the plans move ahead as promptly as possible to have the D.C. jail built. I have just had a discussion with Senator HARKIN, the chairman of the D.C. Subcommittee, who has assured me that the action taken by the subcommittee will not have any effect to delay because there could not be any action taken in any event by February 1 because of collateral considerations.

I am informed that there is neighborhood objection to the construction of the prison. That is to be expected under all circumstances. I have had some experience on the issue of jail construction, having been district attorney in Philadelphia in the 1960's and 1970's. Whenever an issue came up in Pennsylvania on building a jail, the only agreement about the site was to put it in New Jersey.

There is a long history in this country of everybody wanting a jail put in somebody else's backyard. It is regrettable that a jail has to be put anywhere. Some neighborhoods will suffer.

I think it is very important for this body, the Congress, to put the people of the District of Columbia on notice that Congress has acted on this matter after appropriate consideration of local home rule with the mayor and the city council, after protracted hearings and discussions during the consideration of this matter. Simply stated, this body is not going to put up with any delays, Congress is not going to put up with any delays.

After my conversation with the chairman of the D.C. Subcommittee, I am satisfied that the situation as of February 1 does not involve a delay, but I wanted to have this discussion on the record, perhaps more for the community than for the Senate. But this jail construction ought to go ahead in an expeditious fashion in terms of public safety for this community.

Mr. HARKIN. Mr. President, I know that the Senator from Pennsylvania spent a great deal of time on this issue when he chaired the District of Columbia Appropriations Committee. I compliment him for the fine work he did do over that time in getting the groundwork laid for this prison.

There is no doubt in anyone's mind that the prison is needed, that it should be built expeditiously. But in the last several months, since I think probably earlier this year, as the Senator said, collateral things have come into play. Archaeological findings at the site on which they were going to build the prison have delayed it.

Quite frankly, we have heard a lot from the neighbors in that area down there which is right near the D.C. Armory and near RFK Stadium, a lot of people who have owned their homes for a long time down there, who are obviously very concerned about their properties, the fact that there is a heavy concentration down there right now of, like I said, the D.C. Armory, D.C. General, and RFK Stadium.

The subcommittee began reviewing the history of this matter and found there had been several sites that had been looked at and some of these were dismissed. I asked the subcommittee with the Bureau of Prisons and the District of Columbia to take another look at those sites in August. They did. There are at least two other sites which are totally uninhabited. There are no considerations of neighbors and houses and things like that. Whether or not the prison can be built there or not, I do not know.

But during this period of time when it is being held up because of these archeological findings at the present site, I felt it would be wise to at least take another look at those uninhabited areas to see if there were less insurmountable barriers, let us say, to overcome to building there rather than the site initially picked by the D.C. Armory.

If that is the case, then it might be that the building of the prison could take place more expeditiously at one of these other sites than the location that has been picked.

That may not be the case. I would think that by February 1 we should know one way or the other. But it is not going to hold it up in any regard.

Mr. SPECTER. I am pleased to hear the assurances of the chairman that there will not be a delay; that nothing could be done in any event by February 1. The problem which may arise once there is a derailment, if that should occur, and the site selection is subject to change, the difficulty is that there may be some objection to the other site. Objectors arise out of nowhere when it comes to the issue of a prison site.

It is a matter of urgency that there be additional space for the imprisonment of violent criminals in this community. It is a matter of urgency that the crowded conditions in the existing jails be reduced, eliminated if at all possible, because of the constitutional rights of those who are in custody.

As long as the notice is clear that the Senate and the Congress will not tolerate delays and that there is in fact no delay by this study, or this consideration of an alternative site, then I am satisfied and it ought to be pursued.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I join my distinguished colleague from Pennsylvania. We have worked together for many years in the Senate on this issue, because my State is impacted as a consequence of the Lorton situation and time and time again that has been used as the escape hatch, as the Senator from Pennsylvania knows, to cure the problems of the overcrowding in this jurisdiction.

So this Senator, along with others, including the Senator from Pennsylvania, will be the watchdog again to urge a rapid decision process on this issue. It is unfair to Virginia. The District should care for its own and not ask the citizens of Virginia to accept those risks occasioned by the problems of overcrowding in this jurisdiction.

Mr. SPECTER. Senator WARNER and I look forward to joining the Senator from Iowa for groundbreaking ceremonies on February 2.

Mr. HARKIN. I do not know that it will take place on February 2, but at least it will go forward after that period of time.

Mr. SPECTER. After that date. I thank the Chair.

AMENDMENT NO. 812

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 812.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendment be considered as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 1 beginning on line 1 strike down through line 2, and at page 2 after line 2 insert,

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

Mr. HARKIN. Mr. President, this is a technical amendment. It corrects a printing error in the bill. This amendment has been cleared on both sides. I urge its adoption.

Mr. NICKLES. Mr. President, there is no objection to that amendment on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Iowa.

The amendment (No. 812) was agreed to.

Mr. HARKIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments? If not, third reading.

Mr. HELMS addressed the Chair.

Mr. HARKIN. Regular order.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 813

Mr. HELMS. Mr. President, I send an amendment to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 813:

At the appropriate place in the bill, add the following: "None of the funds appropriated by this Act for payment to the District of Columbia as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, shall be obligated or expended after December 31, 1987, if on that date the City Council of the District of Columbia has not repealed D.C. Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170).".

Mr. HELMS. Mr. President, the Senate has already approved this amendment in prior years but it was not agreed to by the House. I feel obliged to have the Senate consider it again.

I remember the last time it was before the Senate. The objections raised were the objections we always hear about, "Well, Senator Eagleton and Senator HELMS call it a stupid ordinance adopted by the D.C. city council, but I am going to vote against the Senator's amendment," meaning the HELMS' amendment, even though I agree with it."

Then, let me stress at the outset that this amendment represents an agreement I have entered into with approximately 600 black ministers in the District of Columbia representing congregations of at least 150,000. These ministers came to me and to other Members of the Congress because, quite frankly, the D.C. council was more concerned about giving special preference to the homosexuals in this city than about the welfare of all of the residents of the District of Columbia, including the 150,000 individuals represented by the ministers to whom I have already alluded.

As most Senators know, the D.C. AIDS law which went into effect in August 1986 prohibits life, health, and disabilty insurers from using all AIDS-related tests for 5 years, including tests for the AIDS antibody, tests to appraise the condition of the immune system, and tests to identify the existence of the AIDS virus.

Senators may recall that on two occasions during the 99th Congress, once by a rollcall of 53 to 41 and once by a voice vote, this Senate passed my amendment favoring repeal of D.C. Law 6-170. But unfortunately, as I observed earlier the House of Representatives refused to act on my amendment, and these ministers therefore have come up to Capitol Hill again urging me to propose again an amendment to overturn the D.C. Law 6-170 which Senator Eagleton and others described as "stupid." And I do not think they were wrong, and I agree.

In any case, Mr. President, just about a year ago I stood right here on this floor and spoke against D.C. Law 6-170 because I believed, and I believe more strongly than ever before now, that insurance companies have a right to assess the risk of the applicant for insurance coverage developing AIDS just as the insurer has the right in connection with other diseases.

The insurer can ask about or they can test the applicant for high blood pressure. They can ask about or test for diabetes, cancer, allergies, anemia, or alcohol abuse or drug abuse, paralysis, heart attack, and go down the list, but not the AIDS virus. Why, as the black ministers of the District of Columbia have repeatedly said to me, discriminate? The insurer can consider the applicant's weight, the insurer can consider whether he smokes or not, the insurer can consider the medical history until the insurer gets to the AIDS virus, and then according to this foolish D.C. Law 6-170 all bets are off. You cannot ask about it. You cannot test for it. It is purely discriminatory against all of the others who apply for insurance.

The list goes on and on. If the insurer determines that the applicant is at high risk, the applicant is either denied insurance or the applicant's premiums are set in accordance with the individual's health risk. That is true except for AIDS. AIDS is off limits. That is the way the game is being played everywhere except in the District of Columbia where a certain group of people are singled out by the D.C. city council and told, "We are going to put you on a little bit of a pedestal and we are going to give you preferential treatment and make all of the rest of the residents of the District of Columbia pay for it." And pay for it they have, Mr. President.

About a year ago when I was discussing this amendment on the floor, I predicted one of two things would happen: Premiums would go up like a skyrocket, or insurance companies would stop writing policies altogether. Those fears have materialized. Shortly after the D.C. law went into effect, in early August of last year, health and life insurance companies began to flee. They shut their doors to D.C. residents, and they said, "We cannot operate like this." And by November 1986, Mr President, 3 months after the D.C. Law 6-170 went into effect, insurance companies began to pull out. According to a study by Martin Weiss, professor of insurance at Howard University, 82 percent of the city's top 50 life insurance companies had stopped writing individual life insurance policies for the residents of the District of Columbia by November 1986. New York Life, Massachusetts Mutual, Metropolitan, Prudential, Alexander Hamilton, Federal Kemper, Confederation Life, Keystone, Provident, Franklin Life, Equitable Life of New York, E.F. Hutton, Equitable Variable Life, New York Life & Annuity, Massachusetts Indemnity, Aetna Life & Annuity, and Phoenix Mutual are just a few of the companies that just said, "We are not going to cope with this. Out we go." And they closed their doors.

Health insurance companies were not surveyed by Professor Weiss, but according to a January 15, 1987, Washington Times article, 50 insurance companies have stopped writing health insurance for the residents of the District of Columbia.

I do not blame these companies. Swallowing the bitter pill forced down their throats by the D.C. city council could make other policyholders pay higher premiums or, worse, put these companies out of business. In support of that, let us look at some facts, incontrovertible facts. Assuming that 20 percent of those infected will develop AIDS, 200 out of every 1,000 applicants who test positive will develop AIDS within 5 years and will die within approximately 7 years. Compared with percentages of those who die of other causes, a person infected with the AIDS virus over a 7-year period is 26 times more likely to die than someone in what the insurance companies call standard health—26 times.

Do you see why the insurance companies are slamming their doors? I do not blame them. I would not write the policy under the restrictions and the terms ordered by the D.C. city council. The 600 black ministers who have visited with me are exactly right. They do not think it is fair because it is not fair. And the District of Columbia residents other than the black ministers say the same thing and feel the same way.

I will not consume the Senate's time reading very many of the letters that I have received. But let me read a few excerpts from some of them just to indicate how people feel. On March 19, for example, I received a letter from Ms. Loretta Davis, who lives and works in the District of Columbia. Here is what she said. And I quote her. "Please do what you can to kill this newly enacted AIDS law, D.C. Law 6-170. We appeal to you because it appears that no one downtown in the District Building cares about what happens to D.C. citizens."

Then on March 20 I received a letter from Mrs. May L. Miller, who wrote and I quote:

> . . . do whatever you feel necessary and possible, within your power, to have the Congress of the United States to overturn D.C. Law 6-170, the D.C. Aids Law. We have just realized that most of the insurance companies have ceased writing individual life policies in D.C. This can wreak havoc in young families who need this protection most.

Of course, the lady is exactly right, Mr. President.

Then there is Mrs. Sylvine Blackwell, who wrote me on March 18.

> Please use all your authority and influence to nullify D.C. Law 6-170, the D.C. AIDS law . . . We need someone who will listen to reason concerning this law. It is unfair, biased, unbusinesslike and economically damaging to D.C. and its residents . . . Please initiate actions to see that the law . . . is repealed

Well, I say to Mrs. Blackwell that that is what we are doing right now. Mrs. Blackwell is exactly right, and I hope the Senate will vote again to instruct the D.C. city council to repeal D.C. Law 6-170.

Residents of the District are paying a high price for the weakness and stupidity of the D.C. council. You would think that the D.C. council members would come to a rational conclusion about the mistake that was made last year. But, despite the mass exodus of the top insurance companies from the District, the members of the D.C. council are sitting on their hands and are digging their heels and refuse to undo a law that is obviously unjust and highly destructive to the people of the District of Columbia.

Mr. President, I urge Senators to look very carefully at this issue and not be swayed by any argument, if it is made, when it is made, that this is somehow an improper intrusion into the responsibilities of the D.C. city government. We have already been down that road in the debate on the previous amendment.

It is true that Congress in 1973 created representative local government for the District. But that act also recognized the constitutional right, and I think the duty, of Congress to legislate over the District's affairs and to repeal or amend any law passed by the D.C. city council which flies in the face of reason, as does D.C. Law 6-170. The Senate clearly has the right, and in this case the duty, to overturn this absurd law.

In summary, Mr. President, the residents of the District of Columbia are facing what is in fact an insurance crisis. As I said earlier, more than 600 black ministers, representing congregations of at least 150,000 people, want our help. They are pleading for it. They have been up here time and time again. And this day I am giving Senate an opportunity to respond to the appeals made by these ministers. We should not be afraid to listen to their pleas. We should not be hesitant to require the District of Columbia, the city council, to repeal what is obviously an unjust law. We must act now, before all insurance companies in the District pull out, leaving residents unable to protect themselves from financial disaster which may occur due to sickness or death of a family member. That is where we are headed. We are way down the road already toward that unthinkable situation.

I ask unanimous consent that the following be printed in the Record at the conclusion of my remarks: First letters from Rev. John G. Martin, founder-executive director of Third

World Assembly, Inc.; Rev. Cleveland B. Sparrow, Sr., chairman of Washington, DC, Moral Majority and pastor of Sparroworld Baptist Temple; second, letters from the following insurance companies: Great West Life Assurance Co., Mutual of Omaha, Aetna Life Insurance Co., Prudential Insurance Co. of America, Mutual Life Insurance Co. of New York, National Life of Vermont, New York Life Insurance Co., Geico Life Insurance Co., Pilot Life Insurance Co.; third, a letter from Walter E. Schmitt, Schmitt Insurance Services; fourth, a letter from Harry L. Staley, president, Pridemark Capitol Hill Insurance Agency; fifth, a letter from R. Damian DuFour, president, Greater Washington Health Underwriters Association; sixth, a study entitled "Survey of Life Insurers Writing Individual Life Insurance in the District of Columbia" by Martin Weiss, professor of insurance, Howard University; seventh, May 1987 Harvard Law Review article entitled "AIDS and Insurance: The Rationale for AIDS-Related Testing"; eighth, a letter from Rev. John Bussy, on behalf of the Baptist Ministers' Conference of Washington, DC.

The PRESIDING OFFICER (Mr. ADAMS). Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HELMS. Mr. President, obviously, I hope that we can vote on this quickly. I have no desire to consume additional time of the Senate. But it seems to me that if there ever was a time when we ought to be attendant to the pleas for help from citizens who deserve to be considered, it is now, and this amendment will do it.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield the floor.

EXHIBIT 1

SURVEY OF LIFE INSURERS WRITING INDIVIDUAL LIFE INSURANCE IN THE DISTRICT OF COLUMBIA IN DECEMBER 1986

(By Martin Weiss)

BACKGROUND OF THE ISSUE

On August 7, 1986, a bill entitled "The Prohibition of Discrimination in The Provision of Insurance Act of 1986" was enacted by the District of Columbia City Council. The Council acts as the District's Unicameral Legislature.

The stated purpose of the District of Columbia Law "is to prohibit health, disability, and life insurers from engaging in unfair and discriminatory practices stemming from efforts to predict who may or may not develop AIDS (acquired immune deficiency syndrome), ARC (AIDS-related complex), or other infection with the HTLV-III virus." [1] The law was based on two premises. "First, there is as yet no test of proven reliability and accuracy for identifying exposure to the probable causative agent of AIDS. And, second, assuming that a reliable and accurate test will be developed at some point, there is no body of evidence to show its value as a predictor of who will or will not develop AIDS or other less severe AIDS-related disorders; without evidence of predictive value, there is no foundation for the actuarial analyses that insurance risk assessment requires." [2]

To carry out this purpose, the law prohibits insurers from denying coverage on the basis of an individual's positive test for exposure to AIDS. However, the prohibition has an interesting time factor included. For a period of five years from enactment, the act also prohibits insurers from requesting or requiring anyone to take any AIDS-related screening test. Even such results obtained from other sources (perhaps a review of medical records) could not be considered. An insurer's standard use of policy exclusions or limitations of benefits would also be affected. The law anticipates possible "redlining" of persons thought to be in high-risk categories for AIDS by prohibiting underwriters from considering such factors as age, sex, marital status, and sexual orientation.[3]

Included in the testimony offered in support of the act was that of Carol B. Thompson, Director of the Department of Consumer and Regulatory Affairs. She stated that evidence available at the time indicated that from five percent to twenty percent of those who were exposed to or infected with the virus were expected to develop AIDS within two to five years. That left a group of approximately eighty percent which would never develop the disease. She concluded that this was the group which must be allowed to purchase insurance without discrimination.[4]

Soon after passage of the law, the American Council of Life Insurance and Health Insurance Association of America sought in federal district court to overturn the legislation. The law suit charged that the law was unconstitutional and interfered with private contracts made outside the District. The suit was unsuccessful.

In September and October, there were reports from various sources that some insurers were discontinuing the writing of individual life insurance for District residents.

COMPANIES SURVEYED

During October and November, records of the DC Insurance Department and annual reports of insurers licensed to write individual life insurance in the District were used to obtain information regarding the nature of the market for individual insurance in the District.

Five hundred and seventy domestic and foreign companies were licensed in 1985 to write individual life insurance in the District. These companies wrote fifty-eight thousand seven hundred ordinary life insurance policies totaling $2.66 billion of life insurance in 1985.

From among the one hundred largest insurers in the United States, the fifty companies writing the largest premiums for individual life insurance in the District of Columbia in 1985 were selected. These fifty companies issued twenty-three thousand eight hundred and sixty-two individual life insurance policies to residents of the District in 1985, totaling $1.58 billion of insurance. Thus, the companies surveyed wrote approximately forty percent of all policies written and sixty percent of the total insurance written in the District in 1985. (Table 1).

THE SURVEY

During the two-week period from November 24, 1986, through December 25, 1986, telephone inquiries were made to the DC area agencies and, where necessary, to the home offices of the fifty companies included in the survey.

The telephone inquiry requested response to the question: "To your knowlege, is the (name of insurance company) currently accepting applications for individual life insurance from residents of the District of Columbia?"

Thirty-eight answered "No"; three additional answered "No", with a qualification (such as the acceptance of applications if the resident worked outside the District). The remaining nine companies answered "Yes." (Appendix A). Thus, eighty-two percent of the sample had made the decision not to accept applications in the District, and eighteen percent were still doing so. The nine companies responding "Yes" to the question are listed as Appendix B.

Of the companies surveyed, the forty-one which no longer write individual insurance for residents of the District represent eighty-two percent by number of companies. These companies had written 65 percent of all policies written by surveyed companies in 1985 and 91 percent of the face amount of individual life insurance written by surveyed companies in 1985.

The market for the purchase of individual life insurance by District residents has been substantially restricted by the actions of insurers surveyed. To the extent that the surveyed companies are representative of all companies writing District residents or include a disproportionate number of "low-cost" companies the market availability is serious for District residents.

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS ACTION

At their meeting in December 1986, the National Association of Insurance Commissioners (N.A.I.C.) established a guideline for insurance regulators which would prohibit any consideration by insurers of a person's sexual orientation in the process of selling insurance. However, the guideline allows the regulators to permit, or not, the right of an insurer to ask an applicant about any history of AIDS-related tests or to utilize such tests in underwriting decisions.

TABLE 1

	Premium [1] (millions)	Policies [2]	Face amount [3] (billions)
All companies [4]	$137.7	58,700	[5] $2.66
50 companies surveyed	81.2	23,862	1.58
41 "No" companies	65.6	15,483	1.44

[1] For ordinary life insurance written in 1985 for D.C. residents.

[2] Issued in 1985 to D.C. residents.

[3] Ordinary life insurance written in 1985 for D.C. residents.

[4] District records list 570 domestic and foreign life insurers and an additional 33 fraternal insurers. The statistics here are based on 1985 Annual Reports from 541 companies available in the D.C. Department of Insurance at the time of the survey. Fraternal reports were not considered.

[5] The 1986 "Life Insurance Fact Book" reports $3.19 billion purchases of Ordinary Life Insurance purchases in D.C. in 1985. The difference may be caused by the annual reports not included and by fraternal insurance written.

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[1] "Purpose, Prohibition of Discrimination in the Provision of Insurance Act of 1986." Council of the District of Columbia, p. 2.

[2] Ibid.

[3] Ibid.

[4] "Statement of Carol B. Thompson on Bill 6-343, Attachment A."

SURVEY RESPONSE BY 50 COMPANIES WRITING THE LARGEST PREMIUM VOLUME OF INDIVIDUAL LIFE INSURANCE IN THE DISTRICT OF COLUMBIA IN 1985

Surveyed companies	Premium [1]	Survey response
New York Life	$5,412,000	No.
Massachusetts Mutual	5,321,000	No.
Metropolitan Life	5,159,000	No.
Connecticut General	4,403,000	Yes.
Prudential	3,657,000	No.
Alexander Hamilton	3,294,000	No.
New England Mutual	3,172,000	Yes.
United of Illinois	2,974,000	Yes.
Federal Kemper	2,523,000	No.
Confederation Life	2,397,000	No.
Keystone Provident	2,266,000	No.
Northwestern Mutual	2,231,000	No.[2]
Franklin Life	2,167,000	No.
Equitable Life (NY)	1,951,000	No.
John Hancock	1,815,000	Yes.
E. F. Hutton	1,684,000	No.
Equitable Variable Life	1,670,000	No.
New York Life & Annuity	1,634,000	No.
Massachusetts Indemnity	1,563,000	No.
Aetna Life & Annuity	1,476,000	No.
Home Life	1,417,000	No.[2]
Phoenix Mutual	1,399,000	No.
Mutual of New York	1,347,000	No.
Connecticut Mutual	1,269,000	Yes.
Penn Mutual	1,203,000	No.
Transamerica Occidental	1,149,000	No.
Southwestern Life	1,111,000	No.
Lincoln National	1,062,000	No.
Mutual Benefit Life	1,013,000	No.
First Colony Life	965,000	No.
General American	924,000	No.
Crown Life (Can)	894,000	No.
Guardian Life	795,000	No.[2]
Executive Life (Cal.)	785,000	No.
Provident Life & Accident	710,000	No.
Kemper Investors	692,000	No.
Metropolitan Insurance & Annuity	664,000	No.
Aetna Life Insurance	641,000	No.
State Farm Life	610,000	No.
State Mutual Life	604,000	No.
Mutual of Omaha	601,000	No.
Bankers Life (Iowa)	576,000	No.
IDS Life Insurance (Minn.)	574,000	No.
Pacific Mutual	545,000	No.
Bankers Life & Casualty	532,000	No.
Central Life (Iowa)	529,000	Yes.
National Life of Vermont	502,000	No.
Colonial Penn	488,000	Yes.
Western & Southern	465,000	Yes.
Sun Life (Can.)	458,000	Yes.
Total	81,292,000	

[1] Ordinary life insurance written in 1985 for D.C. residents.
[2] With limitations.

AIDS and Insurance: The Rationale for AIDS-Related Testing

(By Karen A. Clifford* and Russel P. Iuculano**)

Acquired Immune Deficiency Syndrome (AIDS) is potentially the most serious health threat the United States has ever faced. The disease, although unknown in this nation until 1981, may afflict as many as 270,000 Americans by 1991, causing an estimated 179,000 deaths.[1] Most of these deaths will occur among the 1 to 1.5 million Americans already infected with the virus, many of whom do not yet show signs of illness.[2]

Although the immediate danger posed by AIDS to Americans has understandably attracted a great deal of attention, the epidemic also threatens the country's economic well-being and the solvency of its health care system. In the rush to ensure that persons with AIDS are treated fairly, some legislatures have enacted and others are considering laws which, by mandating the abandonment of time-honored and sensible underwriting principles, endanger the financial stability of many insurers.

The United States Public Health Service estimates that the annual direct cost of health care for the estimated 171,000 AIDS patients expected to be alive in 1991 will be between eight billion and sixteen billion dollars.[3] This figure assumes a per case cost of $46,000 to $92,000.[4] Some studies predict considerably higher costs.[5] A large portion of these health care costs will be borne by insurance companies. Yet, high as they are, these figures underestimate the total impact of AIDS on the insurance industry because they do not include the cost of outpatient health care, including counseling and home health care costs. Moreover, these studies do not reflect claims incurred for loss of income due to disability, and they do not in any way measure the impact on the life insurance business. Insurers expect to pay billions of dollars for AIDS-related claims over the next several years as they fulfill contractual responsibilities to policyholders who are or become AIDS patients.[6] Estimates indicate that the insurance community has already paid a significant portion of the health care costs associated with AIDS, from thirteen to sixty-five percent in some hospitals.[7]

Insurance is founded on the principle that policyholders with the same expected risk of loss should be treated equally. Infection with the AIDS virus is now known to be a highly significant risk factor, one that cannot be ignored by any actuarially sound insurance system. Yet some lawmakers, understandably motivated by sympathy for persons with AIDS, are giving serious consideration to a prohibition on any use of AIDS-related testing for insurance purposes, a ban that would seriously distort the fair and equitable functioning of the insurance pricing system.

This Commentary argues that insurers must be allowed to continue using AIDS-related testing to determine insurability. Part I begins with an explanation of some fundamental principles of insurance and examines how these principles might apply to individuals at risk for developing AIDS. Parts II through IV then review both the legal and medical rationales behind testing by insurers and set forth recent actions by several jurisdictions that have prohibited AIDS-related testing for insurance purposes. Part V concludes that such actions present potential dangers to both insurers and the insurance-buying public. Finally, Part VI suggests an alternative means of financing the AIDS-related costs of individuals who are denied insurance.

I. BASICS OF INSURANCE UNDERWRITING

Even a cursory review of the fundamentals of insurance underwriting underscores the unprecedented challenges and implications the AIDS crisis holds for the life and health insurance industry. Underwriting is generally defined as the "process by which an insurer determines whether or not and on what basis it will accept an application for insurance." [8] The primary goal of underwriting is the accurate prediction of future morality and morbidity costs.[9] An insurance company has the responsibility to treat all its policyholders fairly by establishing premiums at a level consistent with the risk represented by each individual policyholder. As one observer has noted, "[b]asic to the concept of providing insurance to persons of different ages, sexes, . . . occupations and health histories . . . [is] the right of the insurer to create classifications to recognize the many differences which exist among individuals." [10] Individual characteristics that have an impact on risk assessment, such as age, health history and general physical condition, gender,[11] occupation, and use of alcohol and tobacco, are analyzed separately and in combination to determine their effects on mortality.[12] "It is the understanding of the way these various [characteristics] influence mortality that enables companies to classify applicants into groups or classes with comparable mortality risks to be charged appropriate premium rates." [13]

At last count, some 158 million Americans under the age of sixty-five were covered by some form of group health insurance, and nine million more were covered solely by individual health insurance.[14] About ninety percent of the insured population is covered by group heath insurance, and forty-seven percent is covered by group life insurance.[15] Group insurance underwriting involves an evaluation of the risk of a group—for example, employees, members of a labor union, or members of an association—to determine the terms on which the insurance contract will be acceptable to the insurer.[16]

In contrast to underwriting for individual insurance, insurers underwriting group life and health insurance consider only the relevant characteristics of the group, not of the individuals who comprise the group. Such an approach operates "on the premise that in any large groups of individuals there will only be a few individuals who have medical conditions of [significant] severity and frequency which would, using individual underwriting standards, make them either a substandard or noninsurable risk." [17] Thus, the issue of testing for the presence of the AIDS virus, its antibodies, AIDS-related complex (ARC), or the active presence of AIDS relates only to new coverage for which evidence of insurability is required.[18]

II. FAIRNESS AND EQUITY REQUIRED BY INSURANCE LAW

The insurance industry has long been subject to statutory rules requiring the fair and equitable treatment of insured parties in the underwriting process. The Unfair Trade Practices Act (UTPA), developed by the National Association of Insurance Commissioners (NAIC), was, by 1960, enacted in some form in all states and the District of Columbia.[19] The central tenet of the UTPA is its distinction between fair and unfair discrimination. State insurance laws modeled on the NAIC Act both compel discrimination in certain situations and prohibit unfair discrimination in others.[20] For example, the Act deems it inequitable to charge identical premiums for life insurance to a sixty-year-old man in poor health and a twenty-year-old woman in good health.[21] In such a case, an insurer must differentiate between the two to determine an equitable premium: "[r]ates should be adequate but not excessive and should discriminate fairly between insureds . . . so that each insured will pay in accordance with the quality of his risk." [22]

Likewise, section 4(7)(a) of the UTPA prohibits any insurer from "making or permitting any *unfair* discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance." Section 4(7)(b) contains a similar provision for health insurance that proscribes "unfair discrimination between individuals of the same class and having essentially the same hazard." [23] We contend that persons who have been infected by the AIDS virus are not of the same class and risk as those who have not been infected.

The proper definition of "fairness" in the underwriting context has been the subject of litigation. In *Physicians Mutual Insurance Co.* v. *Denenberg*,[24] for example, the Pennsylvania Insurance Commissioner had revoked his approval of several of Physi-

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Footnotes at end of article.

cians Mutual's health insurance policy forms.[25] Each of the policy forms in question provided for an initial premium of one dollar, regardless of the type of risk insured.[26] The Commissioner's action was based on his determination that the policy forms "effected unfair discrimination and . . . were not in accord with sound actuarial principles." [27] Agreeing with the Commissioner's ruling, a Pennsylvania state court found that "[t]he $1.00 premium in the first month in no way relate[d] actuarially to the risk involved and [was] discriminatory." [28] To underwrite within the spirit of state antidiscrimination laws, an insurer is bound to accord similar treatment in the underwriting process to those representing similar health risks.[29]

Last year, Washington became the first state to address the practical application of its Unfair Trade Practices Act to the underwriting of AIDS. The state's insurance department had promulgated a rule establishing minimum standards to be met by insurers in underwriting the AIDS risk. The regulation construed the state's UTPA "to *require* grouping of insureds into classes of like risk and exposure" and the "charg[ing of] a premium commensurate with the risk and exposure." [30] The department's rule stresses the Act's mandate that underwriting considerations for AIDS be consistent with underwriting considerations for AIDS be consistent with underwriting considerations for other diseases. It notes, by way of example, that "policies issued on a standard basis should not be surcharged to support those issued to insureds suffering from an ailment." [31]

The Washington regulation illustrates that although, on its face, the UTPA seems to impose only a negative duty on insurers, closer examination reveals that under the Act insurers have a positive duty to separate insureds with identifiable, serious health risks from the pool of insureds without those risks. Failure to do so represents a forced subsidy from the healthy to the less healthy. To meet the fundamental fairness requirements of the UTPA and to address the concern for unfair discrimination, insurers must continue to use objective, accurate, and fair standards for appraising the risk of AIDS. As will be shown below, the tests for infection by the AIDS virus indisputably identify an actuarially significant risk of developing AIDS. If the insuring process is to remain fair to other applicants and policyholders, insurers must be permitted to treat tests for infection by the AIDS virus in the same manner as they treat medical tests for other diseases.[32] To ignore the risk levels associated with infection and treat a seropositive individual on the same terms as one not similarly infected would constitute unfair discrimination against noninfected insureds and, therefore, violate the states' Unfair Trade Practices Acts.[33]

III. AIDS ANTIBODY TESTS ARE VALID UNDERWRITING TOOLS

AIDS is caused by a virus that has been given various scientific designations but is chiefly known as HTLV-III. When the HTLV-III virus enters the bloodstream, it begins to attack certain white blood cells (T-lymphocytes) which are vital to the body's immune defenses. In response to infection with the virus, the white blood cells produce antibodies. A person generally develops antibodies two weeks to three months after infection.[34]

A protocol of tests, known as the ELISA-ELISA-Western blot (WB) series, is considered highly accurate for determining the presence of infection with the HTLV-III virus. A person with two positive ELISA tests and a positive WB is a true confirmed positive with 99.9% reliability.[35] The insurance industry and the medical profession commonly administer the ELISA-ELISA-WB series of tests.[36]

Several developments have established the reliability of the series of AIDS antibody tests used by insurers. The blood test series is consistent with the Centers for Disease Control's (CDC) definition of HTLV-III infection, which provides that "[f]or public health purposes, patients with repeatedly reactive screening tests for HTLV-III/LAV antibody (e.g. [ELISA]) in whom antibody is also identified by the use of supplemental tests [including the Western blot test] should be considered both infected and infective." [37]

Further evidence of the reliability of these tests comes from the findings of the Wisconsin State Epidemiologist, who was recently directed by state law to determine whether any test or series of tests was "medically significant and sufficiently reliable" for detecting the presence of antibodies to HTLV-III.[38] The epidemiologist concluded, after a comprehensive review of the relevant medical literature, that two positive ELISA tests followed by a positive WB are "medically significant and sufficiently reliable" for detecting the presence of HTLV-III antibody.[39]

Nonetheless, when analyzing a test's validity for underwriting purposes, reliability, in and of itself, is not sufficient. A test must also be established as an effective and accurate predictor of future mortality and morbidity costs. In June 1986, the CDC estimated that 20% to 30% of those infected will develop the invariably fatal disease over the next five years.[40] In July of the same year, the National Institutes of Health predicted that, over the next six to eight years, as many as 35% of HTLV-III antibody positive persons may develop AIDS.[41] On October 29, 1986, the Institute of Medicine of the National Academy of Sciences issued a 374-page report, Confronting AIDS, which estimated that up to 50% of all those infected with the virus might develop full-scale AIDS within ten years.[42]

Quite apart from signaling the risk of developing AIDS itself, HTLV-III infection may herald the onset of other illnesses such as ARC or neurological disease. Studies cited by the CDC found that 25% of those who were confirmed positive with the HTLV-III antibody developed ARC within two to five years.[43] An individual suffering from ARC may have a weakened immune system and manifest such symptoms as night sweats, weight loss, fatigue, fever, gastrointestinal symptoms, and enlargement of the lymph nodes, and may become disabled as a result.[44] Due to the chronic nature of these ailments, ARC may, in and of itself, give rise to substantial medical expenses.

Despite the wealth of medical data that lends support to AIDS-related testing for insurance purposes, utilization of such tests is sometimes questioned because there are a significant number of individuals who have tested positive but have not yet developed AIDS. This viewpoint, however, demonstrates a fundamental lack of familiarity with basic insurance principles. Underwriting is, by its very nature, concerned with probabilities, not certainties; no one knows how many infected people will eventually develop AIDS. Even assuming that "only" twenty percent will contract AIDS during the first five years, there is a demonstrable risk that a large percentage of infected individuals will develop AIDS in year six and beyond.

A twenty percent asumption implies that 200 of each 1000 applicants testing positive on the ELISA-ELISA-WB series will develop AIDS within five years and, therefore, die within approximately seven years.[45] In comparison, life insurance mortality tables estimate that, of a standard group of 1000 persons aged thirty-four, only about seven and one-half (as opposed to 200 in 1000) will die within the first seven years from any causes.[46]

The substantially greater risk represented by persons who test positive for HTLV-III infection is obvious. The comparison of 200 deaths to seven and one-half deaths indicates that a person infected with the AIDS virus is, over a seven-year period, twenty-six times more likely to die than is someone in "standard" health.[47] The actuarial significance of these percentages is overwhelming and cannot be ignored. Because such tests are reliable, accurate, and effective predictors of risk, they must be considered appropriate as underwriting tools.

IV. LEGISLATIVE RESTRICTIONS ON AIDS-RELATED TESTING

Until recently, the right of insurance companies to inquire into and test for health conditions affecting mortality and morbidity was generally accepted within the industry and rarely questioned outside of it. However, a fundamental misunderstanding of insurance principles, coupled with the desire to prevent discrimination against homosexuals, has led to the passage of laws in several jurisdictions granting individuals infected with AIDS a favored status in the underwriting process. These laws substantially impede the insurance industry's ability to assess risk, thereby undercutting the industry's financial stability and compromising its ability to pay future claims.

In April 1985, for example, the California legislature enacted a law that provided that "the results of a blood test to detect antibodies to the probable causative agent of acquired immune deficiency syndrome . . . shall not be used in any instance for the determination of insurability or suitability for employment." [48] In July 1985, the Wisconsin legislature enacted a similar but more restrictive measure.[49] Most recently, in 1986, the District of Columbia enacted D.C. Act 6-170, the most restrictive legislation of its kind in the country.[50] It prohibits the use of *all* AIDS-related tests for a five-year period, including tests for the AIDS antibody, tests to appraise the condition of the immune system, and tests to identify the existence of the AIDS virus itself. The Act further forbids the use of personal characteristics such as age, marital status, geographic area of residence, occupation, sex, or sexual orientation for the purpose of predicting whether an individual will develop AIDS or ARC.[51]

On August 5, 1986, the American Council of Life Insurance (ACLI) and the Health Insurance Association of America (HIAA) brought suit against the District of Columbia in the United States District Court for the District of Columbia, arguing that the Act violated both the fifth amendment and the District of Columbia's Home Rule Act.[52] On September 19, 1986, in *American Council of Life Insurance* v. *District of Columbia*,[53] a district court upheld the Act, though it did not do so on the basis of the city council's allegations regarding the reliability, accuracy, or predictive value of the

AIDS tests. In fact, the court appeared to agree with the plaintiffs that presently available evidence refuted those premises upon which the city council based the Act. For example, the court stated that the plaintiffs had offered "persuasive evidence that the tests accurately target a group of individuals with significantly higher risks."[54] The court upheld the constitutionality of the law, however, because the evidence presented by the plaintiffs, ACLI and HIAA, had not been available to the city council at the time the bill was under consideration.[55] The court further observed: "[a]lthough [we] agree[] that in light of this evidence the D.C. Council should be encouraged to reconsider its decision, this report was not before the Council last spring and therefore cannot prove the irrationality of the law."[56]

The court seriously questioned the wisdom of the Act's five-year moratorium on all AIDS-related testing; "The nature of the rapidly changing landscape of AIDS research suggests that the D.C. Council may have acted too hastily in imposing the five-year moratorium on rate increases. . . . [T]he court agrees with the plaintiffs that new evidence on the accuracy of AIDS tests for insurance purposes and the everchanging breakthroughs in AIDS research raise serious questions about imposing a five-year ban on screening applicants for AIDS. . . ."[57] This decision thus calls into question whether similar legislation recently introduced in other jurisdictions will pass constitutional muster in light of the medical and scientific data that now supports the credibility of the ELISA-ELISA-WB series.

A major impetus behind these restrictive laws has been the concern that insurance companies be prevented from discriminating against homosexuals. The life and health insurance industry share that concern. In fact, the ACLI and HIAA have endorsed guidelines, adopted by the NAIC in December 1986,[58] that set forth two general propositions: "No inquiry in an application for health or life insurance coverage, or in an investigation conducted by an insurer or insurance support organization on its behalf in connection with an application for such coverage, shall be directed toward determining the applicant's sexual orientation. . . . Sexual orientation may not be used in the underwriting process or in the determination of insurability."[59] The insurance industry, by supporting these guidelines, refutes the contentions of certain groups that sexual orientation has a place in the underwriting process. Rather, the industry seeks only to use the best medical knowledge available to assess accurately the level of risk an applicant represents. Although members of the industry are in substantial agreement that an applicant's sexual orientation is not an appropriate underwriting tool,[60] they are in equally strong agreement that current state-of-the-art tools for predicting the AIDS risks, as exemplified by the ELISA-ELISA-WB sequence, are valid for that purpose and should be used accordingly in a responsible fashion.

V. DANGERS OF ADVERSE SELECTION

Adverse selection is generally defined as the tendency of persons with poorer than average health expectations to apply for or renew insurance to a greater extent than persons with average or better health expectations.[61] Such a process results in unfair, inequitable treatment of the latter because it results in the subsidization of high risk individuals by those at low risk. As a practical matter, insurance companies generally are not faced with the underwriting challenge of determining whether an applicant does or does not have full-scale AIDS. People are more likely to want to buy insurance at the onset of infection, when they already represent a very high level of risk. Thus, the main underwriting challenge facing insurers is that of identifying people in earlier stages of the disease.

Evidence already exists of significant AIDS-related adverse selection against insurance companies. The HIAA and ACLI initiated a joint survey of their member companies in the fourth quarter of 1985.[62] The survey found AIDS-related claims for life insurance to be heavily concentrated in the first two years after issuance of the policies—forty-four percent by total claim amounts.[63] This pattern strongly suggests that these individuals knew or suspected that they had been infected by the AIDS virus prior to the time they purchased insurance. This adverse selection not only endangers the financial stability of insurance companies but also unfairly burdens the other policyholders who must support the increased claims through higher premiums.

Several mechanisms usually operate to protect an insurer from the perils of adverse selection. However, the unusual characteristics of AIDS dilute the effectiveness of these protective mechanisms and, thus, render the insurer especially vulnerable to the dangers of adverse selection.

A. The Incontestability Clause in Individual Life and Health Insurance

In June 1986, the United States Public Health Service stated that "[t]he latency period between infection and overt AIDS averages 4 or more years in adults."[64] A clear underwriting challenge confronts insurers because this four-year average latency period must be reconciled with laws in most states that require life and individual health insurance policies to contain an "incontestability clause."[65] The incontestability clause prevents the insurer from disputing the validity of a policy after the policy has been in force during the life of the insured for a period of two years from its date of issue. In essence, the clause "safeguards an insured from excessive litigation many years after a policy has already been in force and assures him security in financial planning for his family, while providing an insurer a reasonable opportunity to investigate."[66] Even prior to the running of the two-year period, misrepresentations, omissions, or incorrect statements do not prevent recovery under the policy unless the insurer can show: (1) that the misrepresentations,[67] omissions, or incorrect statements were fraudulent; (2) that they were material to the acceptance of the risk by the insurer; or (3) that the insurer, in good faith, would not have issued the policy at the same premium rate, or at all, if the true facts had been made known.[68] Moreover, once the incontestability clause takes effect, even actual fraud in the application cannot be contested by the insurer unless it is expressly excepted in the clause itself.[69]

Because the fear of an AIDS epidemic is very real for certain groups in our society, applicants for life insurance who believe they have been infected with the virus very well may misrepresent their health history or their present physical conditions when applying for coverage. These misrepresentations would normally be grounds for rescission of the policy; however, after the time period in an incontestability clause has passed, benefits cannot be denied on the ground that ill health or physical disability existed at the time the policy was issued.

Given an average latency period of four years for AIDS, coupled with legislative prohibitions against insurance-related testing, it becomes relatively simple for an individual with knowledge of his or her infected status to make misrepresentations regarding such knowledge with reasonable assurance that the incontestability period will expire before "suspicious" symptoms appear that alert the insurer to the possibility that misrepresentation has occurred.

B. Pre-existing Conditions in Health Insurance

Both individual and group short-term and long-term disability benefit plans and medical care expense plans may contain a pre-existing conditions limitation that excludes or limits the benefits for an injury or sickness that was in existence during a specified period of time—usually three to six months—before a person becomes insured. Insurance company practices vary as to the size of the group and the types of coverage to which this limitation applies.[70] As a general rule, the likelihood of a pre-existing conditions limitation being included in a disability policy is inversely proportional to the size of the group—the larger the group, the less likely the inclusion of such a provision.[71]

Insurers usually waive a pre-existing conditions clause for persons previously insured when the plan has been transferred from another insurer. Likewise, it is customarily waived for an increase in coverage by the same insurer.[72] For the average uninsured starting employee, however, a pre-existing conditions clause generally applies. The rationale for this practice is to discourage the adverse selection that may result when individuals change jobs primarily for insurance purposes.

Pre-existing conditions are covered on the same basis as any other "condition" once the individual has been insured for a certain period of time. As a general rule, "the pre-existing conditions limitation in a medical care expense policy ceases to apply on the earliest of the following dates: (1) the end of three consecutive months during which no charges were incurred for the pre-existing condition or any related condition; (2) the end of six consecutive months during which the employee was continuously insured and actively-at-work; (3) the end of twelve consecutive months during which the person was continuously insured."[73] The protection normally afforded an insurer through a pre-existing condition clause diminishes substantially as a result of the lengthy AIDS latency period. It is highly likely that the cut-off date for pre-existing conditions will have passed long before the appearance of symptoms. Thus, the very nature of AIDS renders the usual protections against adverse selection minimal at best.

Blood tests taken before the commencement of coverage that are positive for HTLV-III antibodies might prompt an insurer to utilize a pre-existing conditions exclusion. For instance, New York interprets such condition to be the "existence of symptoms which would ordinarily cause a prudent person to seek diagnosis, care or treatment within a two-year period preceding the effective date of the coverage of the insured person."[74] Positive antibody tests would, in all likelihood, motivate a reasonable individual to obtain further medical attention.[75] Thus, if such a condition were present and were to come within the time limits set for a pre-existing condition, an insurer arguably would be justified in denying coverage for AIDS.[76] For any disease other than AIDS, the identical situation would invariably lead to a denial of coverage. Although reasonable analysis would seem to indicate that infection with the HTLV-III virus should be deemed a "condition" for purposes of a pre-existing conditions clause, resolution of this issue will inevitably rest with the judiciary.

VI. AVAILABILITY OF HEALTH INSURANCE

As representatives of an industry that endorses AIDS-related blood testing to ensure the equitable treatment of all insurance applicants in the underwriting process, we must address an inevitable consequence of effective underwriting—the denial of health insurance to some high-risk applicants, particularly those with HTLV-III infection. For those covered by group health insurance, various laws operate to prevent an interruption in coverage when an individual is no longer eligible for group coverage, such as upon termination of employment. The availability of continued insurance protection was significantly bolstered by the ninety-ninth Congress. Federal law now requires, with some minor exceptions, that all employers with twenty or more employees provide continuation of health coverage for up to eighteen months to employees after termination of their employment (for reasons other than gross misconduct) or a reduction in hours.[77] Several states also require continuation of group coverage, at the group rate, for varying periods of time.[78] Given that most AIDS patients die within two years of the manifestation of AIDS-related symptomatology,[79] federal and state continuation laws effectively assure that a significant portion of AIDS-related health care costs will be borne by the health insurance industry. In the face of current projections on the spread of AIDS, these laws will, in all probability, take on added significance by ensuring the continued availability of health insurance coverage for many Americans.

A. Pools for Uninsurables

Despite the fact that a majority of Americans have private health coverage,[80] some individuals do not have access to group coverage and are medically uninsurable for individual health insurance. Medical uninsurability is not, however, a phenomenon suffered exclusively by those at risk for developing AIDS. Individuals suffering from developmental disabilities, physical or mental impairments, or chronic health conditions account for a large number of those who are unable to obtain individually purchased health insurance. Estimates place the number of uninsurables in the country today at one million.[81]

Some argue that a quick and easy solution to this problem would be to force insurers to discard the underwriting process and to assume all future health care costs of AIDS patients, thereby ignoring the risk these individuals represent. Although the goal of ensuring accessibility to quality health care is certainly a laudable one, this simplistic and ill-founded approach demonstrates a basic misunderstanding of the insurance mechanism. Further, it fails to provide for the intake of premiums sufficient to cover the expected claims. If the insurance industry cannot collect premiums commensurate with the underlying risk, it will simply not have the money to satisfy the inevitable claims that are submitted. If such a policy were implemented, some companies would surely face major solvency problems. Indeed, if risk assessment were abandoned and if it were generally understood by all that insurance could be purchased after the development of an illness, the public would have no incentive whatsoever to purchase health insurance. Such a policy could have grave and serious consequences for this country's health care system.

State pools for uninsurables have been suggested as one solution to the problem. Common sense indicates—and indeed experience has shown—that such pools can reasonably be expected to sustain substantial losses. Once such losses are determined, insurance companies contribute assessments based on their pro rata share of premium volume in that state. Eleven states have enacted into law such pools.[82]

A recognized difficulty in financing these pools, however, is that the losses from each pool cannot be shared equally by all health insurance providers—the commercial insurers, Blue Cross and Blue Shield, health maintenance organizations, and self-insured employers—bcause of the Employee Retirement Income Security Act (ERISA) of 1974.[83] In short, plans that are self-funded—those that finance benefits by paying claims directly out of the assets of the employer or union trust fund rather than through the purchase of group insurance coverage—may not be treated as insurers. Under state law, employers who choose to insure employee benefits must comply with the multitude of legislative and regulatory requirements, such as state risk pools. However, section 514 of ERISA preempts state law as it related to employee benefit plans.[84] A state law requiring a self-funded employer to participate in a pool would be a law that "relates to" employee benefit plans and would, therefore, be subject to federal preemption. Thus, the self-insurance community is shielded by federal law from participation in the state pools.

The establishment of state pools could, therefore, serve as a strong incentive for employers to self-insure to avoid assessments by the pool, premium taxes by the state, and the need to comply with other state laws and regulations. As more insured plans switch to the self-insurance mechanism, a shrinking of the available insurance base upon which to impose assessments to pay for AIDS claims and other claims handled by that state's pool would occur. Consequently, the assessments per policy or group would steadily rise, thereby encouraging even more plans to switch to the self-insured market.

An intelligent approach to the national problem of uninsurability does not necessitate, nor is it well-served by, threatening the underpinnings of the private health insurance industry, an industry currently responsible for the payment of $113.6 billion of this nation's health care bill.[85] To prevent the inevitable loss of state revenue and regulatory control, a solution could appropriately be sought at the federal level.[86] Indeed, the ninety-ninth Congress was witness to the introduction of just such legislation.[87] Had it been enacted, this legislation would have imposed a tax on most employers who did not voluntarily participate in state pools that meet certain minimum standards. Thus, the bill would have established tax incentives for the states to establish pools that offer comprehensive health insurance to all citizens regardless of their health status, thereby assuring that the social responsibility of providing coverage to the uninsurable population would be fairly apportioned.

Unless and until appropriate state and/or federal laws are passed, legislation that requires only the insurance industry to engage in health care pooling for those medically uninsurable will represent a financial burden on the health insurance industry that is unshared by self-insurers, resulting in a dislocation of the forces of marketplace competition. Absent such initiatives, state pools for uninsurables fail to address effectively the problem of insuring potential AIDS patients and could, in fact, create other significant problems in the process.

VII. CONCLUSION

To operate in a voluntary market, insurance underwriting must appraise the risk of an unknown and unanticipated occurrence and spread that risk over a large number of individuals. The risk must be assessed as accurately as possible because the whole price structure of insurance depends on the principle that individuals who present the same expected risk of loss pay the same premium. When an insurer is able to estimate accurately the risk to which it is exposed, it can, in turn, be more precise in pricing the cost of the insurance.

Contrary to this principle, several jurisdictions have imposed legal constraints which place AIDS outside the normal medical and regulatory rules pertaining to underwriting for other diseases. Although it is legally permissible for an insurer to obtain medical information about an applicant who may contract any other disease, such as heart disease or cancer, some states grant AIDS carriers special treatment by completely exempting them from relevant tests.

The tests for infection by the AIDS virus are extremely accurate in the same sense that any tests used in the insurance business can be accurate: they provide a basis for an objective determination of significantly higher risks and, hence, risk-based pricing. Legislation intended to force life and health insurers to ignore reliable, scientific evidence of a person's increased risk of contracting a fatal disease will result in significant inequities to policyholders. Given the potential magnitude of the AIDS epidemic and the substantial likelihood that gay rights advocates will seek additional legal constraints on AIDS-related testing by insurers, the financial consequences of AIDS to all involved—insurers, policyholders, and the public—will become even more severe.

Because the life and health insurance industry's livelihood is dependent on insuring persons against premature death and the costs of disability, it is as concerned as the public health community with curbing this tragic disease. Although the industry is fully cognizant of the concerns of those who have been infected with the AIDS virus, it must also consider its responsibility to those who have not been infected. If projections of AIDS cases materialize, public policy makers will be faced with an increasingly pressing need to achieve a balance between competing concerns. This balance need not, and indeed should not, be achieved at the expense of an industry that will inevitably bear a substantial amount of the costs associated with the AIDS crisis.

*Assistant Counsel, Health Insurance Association of America.

**Senior Counsel, American Council of Life Insurance. The authors would like to acknowledge, with gratitude, the able assistance of J. Bruce Ferguson, Editor, Law Publications, ACLI.

[1] *See* U.S. Public Health Service, Public Health Service Plan for the Prevention and Control of AIDS and the AIDS Virus 5 (Report of the Cool-

font Planning Conference, June 4-6, 1986 [hereinafter Public Health Service Plan].

[2] *See id.*

[3] *See* Institute of Medicine, National Academy of Sciences, Confronting AIDS: Directions for Public Health, Health Care, and Research 21 (1986) [hereinafter Confronting AIDS]. This figure substantially underestimates actual expenses associated with AIDS because it does not include aggregate medical expenses associated with AIDS-related complex (ARC) patients or infected individuals. These expenses may outstrip all other costs associated with AIDS because of the larger number of ARC or seropositive individuals and because of the length of treatment they undergo. One study estimated the average hospital stay for AIDS patients to be between 13 and 25 days, at an average charge of from $740 to $950 per hospital day. *See* Scitovsky & Rice, *Estimates of the Direct and Indirect Costs of Acquired Immunodeficiency Syndrome in the United States, 1985, 1986, & 1991, 102* Pub. Health Rep. 10 (1987).

[4] *See* Public Health Service Plan, *supra* note 1, at 15.

[5] *See, e.g.,* Hardy, Rauch, Echenberg, Morgan & Curran, *The Economic Impact of the First 10,000 Cases of Acquired Immunodeficiency Syndrome in the United States,* 255 J. Am. Med. Ass'n 209, 210 (1986) (estimating hospitalization costs of approximately $147,000 per case for the first 10,000 AIDS cases).

[6] If, in the year 1991, 54,000 people die of AIDS, as has been projected by the United States Public Health Service, *see* Public Health Service Plan, *supra* note 1, at 5, and if one-half of those people owned $50,000 of individual life insurance—a conservative estimate—the resulting claim liability of the insurance industry would be $2.7 billion.

[7] *See* Confronting AIDS, *supra* note 3, at 165.

[8] Health Insurance Association of America, A Course in Group Life and Health Insurance pt. A, at 379 (1985) [hereinafter HIAA 1985 ed.]

[9] "Mortality" is defined as "the death rate at each age as determined from prior experience." "Morbidity" is the "incidence and severity of sickness and accidents in a well-defined class or classes of persons." *Id.* at 366.

[10] Bailey, Hutchison & Narber, *The Regulatory Challenge to Life Insurance Classification,* 25 Drake L. Rev. 779, 780 (1976) (footnote omitted).

[11] *In Manufacturers Hanover Trust Co. v. United States,* 775 F. 2d 459 (2d Cir. 1985), *cert. denied,* 106 S. Ct. 1490 (1986), the Second Circuit upheld the Internal Revenue Service's use of gender-based mortality tables to compute the value of reversionary trust interests. The court concluded that categorizing individuals by gender and calculating different costs and benefits on the basis of this group characteristic did not discriminate against individuals and did not involve any intent to discriminate against men or women. *See id.* at 465, 469.

[12] *See* R. Mehr, E. Cammak & T. Rose, Principles of Insurance 657-59 (8th ed. 1985); C. Will, Life Company Underwriting 6, 8-19 (1974); Bailey, Hutchison & Narber, *supra* note 10, at 785.

[13] C. Will, *supra* note 12, at 6.

[14] *See* Letter from Thomas D. Musco, HIAA Director of Statistics, to the *Harvard Law Review* (Mar. 31, 1987) (citing unpublished 1986 Health Insurance Association of America Survey) (on file at Harvard Law School Library).

[15] *See* Public Relations Division, Health Insurance Association of America, Source Book of Health Insurance Data: 1986 Update 6; Letter from Suzanne K. Stemnock, ACLI Program Director, to the *Harvard Law Review* (Apr. 16, 1987) (citing a forthcoming 1984 Life Insurance Marketing and Research Association Survey) (on file at Harvard Law School Library).

[16] Groups must have characteristics that permit the insurance company to predict, within reasonable limits, the probable claim costs under the contracts issued. The underwriting of a new group involves a general assimilation and evaluation of all the relevant factors to be considered. Common factors include, but are not limited to, the size of the group, type of industry, number of eligible lives, cost sharing involved, type of insurance plan, and previous coverage and experience. *See* HIAA 1985 ed., *supra* note 8, at 153.

[17] *Id.* Although no screening takes place in most group situations, there are at least three instances in which a group plan may require evidence of insurability. These exceptions include: (1) small groups, (2) late entrants to a group plan, (3) large amounts of life insurance that are used to supplement basic coverage. It is common to use individual underwriting standards in these situations due to the increased danger of adverse selection—the tendency of persons with poorer than average health expectation to apply to insurance to a greater extent than persons with average or better health expectations. Underwriting standards are stricter for small groups, for example, because of size of the group is insufficient to spread the risk broadly enough to absorb the effect of adverse selection. The same rationale supports the use of evidence of insurability in the group area for "late entrants." These are employees who decline coverage when first eligible but later seek to be covered. Finally, every group life insurer has a "guaranteed issue" amount, the maximum face amount it will approve without requiring evidence of insurability. Individuals seeking coverage above the guaranteed issue amount may be required to furnish a statement of health or to undergo a medical examination. *See id.* at 204-07.

[18] In the United States, individual health insurance accounts for 10% of the health insurance in force, *see* Health Insurance Association of America, HIAA Annual Survey of Health Insurance Coverage (1984) [hereinafter HIAA Annual Survey], and individual life insurance approximately 58% of the life insurance in force, *see* American Council of Life Insurance, 1986 Life Insurance Fact Book 30.

[19] *See* Bailey, Hutchinson, Narber, *supra* note 10, at 782.

[20] *See id,* at 782.

[21] *See id.*

[22] Id. (quoting A. Mowbray, R. Blanchard & C. Williams, Insurance 411 (6th ed. 1969) (emphasis omitted); *accord* Thompson v. IDS Life Ins. Co., 274 Or. 649, 654, 549 P.2d 510, 512 (1976) (en banc) ("[I]nsurance, to some extent, always involves discrimination, to a large degree based on statistical difference and actuarial tables. The legislature specifically intended . . . to only prohibit *unfair* discrimination in the sale of insurance policies." (emphasis in original (footnote omitted)).

[23] National Association of Insurance Commissioners, An Act Relating to Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance, 1972 Proc. NAIC I 493, 495 (as amended).

[24] 15 Pa. Commw. 509, 237 A.2d 415 (1974).

[25] *See id.* at 511, 327 A.2d at 416.

[26] *See id.*

[27] Id. at 515, 327 A.2d at 418.

[28] Id. at 516, 327 A.2d at 419.

[29] *Cf.* S. Huebner & K. Black, Life Insurance 4 (10th ed. 1982) (stating that equitable principles require those with more serious health risk to be charged higher premiums).

[30] Wash, Admin, Code § 284-90-0910(2) (effective Nov. 14, 1986) (emphasis added).

[31] Id.

[32] In opposing AIDS-related testing by insurers, gay rights advocates have placed particlar emphasis on laws prohibiting consideration of the sickle cell trait. Sickle cell *trait,* however—as opposed to the disease of sickle cell *anemia*—presents only a minimal increased risk of mortality or morbidity. As a study prepared by the National Academy of Sciences noted, "[s]ickle-cell trait (AS) has been considered—except in situations that involve exposure to significant hypoxia, dehydration, or acidosis—as a benign and relatively innocuous condition." National Research Council, National Academy of Sciences. The S-hemoglobinopathies: An Evaluation of Their Status in the Armed Forces 1-2(1973) (footnote omitted).

[33] A different interpretation of the Unfair Trade Practices Act was made in Massachusetts when the Commissioner of Insurance, on December 12, 1986, issued a "Policy Statement," which announced that the use of AIDS antibody tests by life and health insurers constituted an unfair trade practice under that state's version of the Act, *see* Mass. Gen. L. ch. 176D, § 3(7) (1984), and that violators would be subject to an enforcement action. *See* Letter from Peter Hiam, Commissioner of Insurance to All Life/Health Insurance Companies (Dec. 12, 1986) (Policy Statement Re: Application Form Questions Inquiring About AIDS and ARC). The validity of the Policy Statement may be subject to legal challenge because the Massachusetts Legislature expressly declined to enact legislation in 1986 that would have prohibited life and health insurers from requiring AIDS antibody tests as a condition of insurability. *See* S. 489, Reg. Sess., § 2 (1986). Moreover, the Policy Statement was issued without any prior notice, opportunity for comment, or public hearing as required by the Massachusettes Administrative Procedures Act. *See* Mass. Gen. L. ch. 31, § 4 (1984).

[34] *See* U.S. Dep't of Health and Human Services, Surgeon General's Report on Acquired Immune Deficiency Syndrome 10 (1986).

[35] *See* J. Slaff & J. Brubaker, The AIDS Epidemic 201 (1985) (citing Dr Robert Gallo, National Institutes of Health researcher and a co-discoverer of the HTLV-III virus).

[36] *See* American Council of Life Insurance & The Health Insurance Association of America, AIDS Survey of Member Companies 2 (Aug. 19, 1986) (unpublished survey) [hereinafter AIDS Survey of Member Companies].

[37] *CDC Classification System for HIV Infections,* 35 Morbidity & Mortality Weelky Rep. 334, 335 (1986).

[38] Wis. Stat. Ann. § 631.90(3)(a) (West Supp. 1986).

[39] J. Davis, Serologic Tests for the Presence of Antibody to Human T-Lymphotropic virus Type III: Information Pursuant to the Purposes of Wisconsin Statute § 631.90 Regarding Their Use in Underwriting Individual Life, Accident and Health Insurance Policies 22 (Wis. Dep't of Health and Social Servs., 1986) [hereinafter Report of Wisconsin Epidemiologist].

[40] *See* Public Health Service Plan, *supra* note I, at 5. In 1985, the CDC cited studies in which 5% to 19% of those infected with the AIDS virus were found to develop AIDS over a period of two to five years. *See Provisional Public Health Service Inter-Agency Recommendations for Screening Donated Blood and Plasma for Antibody of the Virus Causing Acquired Immunodeficiency Syndrome,* 34 Morbidity & Mortality Weekly Rep. 5 (1985) [hereinafter *Recommendations for Screening*].

[41] *See* National Institutes of Health, *The Impact of Routine HTLV-II Antibody Testing on Public Health,* 6 Consensus Development Conference Statement 10 (1986).

[42] *See* Confronting AIDS, *supra note* 3, at 7.

[43] *See Recommendations for Screening, surpa note* 40, at 5.

[44] *See* Report of Wisconsin Epidemiologist, *surpa note* 39, at 3.

[45] *See* Confronting AIDS, *supra note* 3, at 7 ("Most patients die within two years of the appearance of clincial disease; few survive longer than three years.").

[46] *See* Society of Actuaries, Transactions: 1982 Reports of Morality and Morbidity Experience 55 (1985). That is the approximate mortality upon which the premium cost of an individual standard class life insurance policy for such a person is based.

[47] *See* Affidavit of Warren L. Kleinsasser, M.D. at 6, American Council of Life Ins. v. District of Columbia, 645 F. Supp. 84 (D.D.C. 1986).

[48] Cal. Health & Safety Code § 199.21(f) (West Supp. 1986) (effective Apr. 4, 1985).

[49] *See* Wis. Stat. Ann. § 631.90 (West Supp. 1986) (effective Nov. 23, 1985). This statute is more restrictive because it also prevents the insurance company from requesting whether an applicant has taken any tests for the presence of AIDS antibodies.

[50] *See* Prohibition of Discrimination in the Provision of Insurance Act, D.C. Law 6-132, 33 D.C. Reg. 3615-24 (1986) (to be codified at D.C. Code Ann. §§ 35-221 to 35-229 (Supp. 1987)).

[51] *See id.* § 4(b)(I), (2) (to be codified at D.C. Code Ann. § 35-223(b)(I), (2) (Supp. 1987)).

[52] D.C. Code Ann. §§ I-204, I-233(a)(3) (1981). Section I-233(a)(3) states in part that "[t]he Council shall have no authority to pass any Act . . . (3) [w]hich is not restricted in its application exclusively in or to the District."

[53] 645 F. Supp. 84 (D.D.C. 1986).

[54] *Id.* at 87.

[55] *See id.*

[56] *Id.* The "report" referred to by the court was the *Report of the Wisconsin Epidemiologist. See supra* note 39.

[57] 645 F. Supp. at 88 (emphasis added).

[58] *See* Advisory Committee on AIDS, National Association of Insurance Commissioners, Medical/Lifestyle Questions and Underwriting Guidelines (1986).

[59] *Id.* § I(A), (B).

[60] *See* ACLI Minutes of the Board of Directors 9 (Nov. 16, 1986) (on file at Harvard Law School Library); HIAA Minutes of the Board of Directors 5 (Oct. 26, 1986) (on file at Harvard Law School Library).

[61] *See* HIAA 1985 ed., *supra* note 8, pt. A, at 347.

[62] *See* AIDS Survey of Member Companies, *supra* note 36, at I. Three hundred twenty-five HIAA and ACLI member companies writing 72% of all health and life insurance business in the United States responded to the survey. *See id.* at 3.

[63] *See id.* at 3.

[64] Public Health Service Plan, *supra* note I, at 5.

[65] *See, e.g.,* Ill. Ann. Stat. ch. 73, para. 836(c) (Smith-Hurd Supp. 1986); N.Y. Ins. Law § 3203(a)(3) (West 1985).

[66] Simpson v. Phoenix Mut. Life Ins. Co., 24 N.Y.2d 262, 247 N.E.2d 655, 299 N.Y.S.2d 835 (1969).

[67] The contract between the insurer and the insured consists of the policy and the application. The statements on the application both by the policyholder and by persons insured are considered representations. *See, e.g.,* Md. Ann. Code art. 48A, § 374 (1979). If such representations are later found to be untrue, they may not serve as the basis for rescission unless they materially affected the underwriting of the coverage. *See* HIAA 1985 ed., *supra* note 8, pt. B, at 109. Generally, if a claim is submitted under a recently issued insurance policy, or circumstances indicate that further inquiry is appropriate, an insurer will initiate an investigation to ascertain whether misrepresentations were made in the application for insurance. If relevant health histories are discovered that were not disclosed in the application for insurance, the insurer may seek to rescind the policy.

Thus, if AIDS patients are less than truthful on their applications and such misrepresentations are "material" (as defined by appropriate state law), insurers would presumably exercise their legal options, consistent with any other material misrepresentations of health, and rightfully seek rescission of those policies.

[68] *See, e.g.,* Hyman v. Life Ins. Co. of N. Am., 481 F.2d 441 (5th Cir. 1973); Wissner v. Metropolitan Life Ins. Co., 395 F.2d 204, 205 n.I (5th Cir. 1968) (applying Fla. Stat. Ann. § 627.409 (West 1984 & Supp. 1986)).

[69] *See* 43 Am. Jur. 2d *Insurance* § 768 (1982). Some states, however, provide that fraudulent misstatements in individual accident and health insurance applications are excepted from the application of the incontestability clause. *See, e.g.,* N.Y. Ins. Law § 3216 (d)(I)(B)(i) (West 1985).

[70] For example, in some companies this provision is not required for groups of 100 or more employees. *See* Health Insurance Association of America, A Course in Group Life and Health Insurance pt. B, at 11 (1979) [Hereinafter HIAA 1979 ed.].

[71] *See generally* Life and Health Insurance Handbook 463 (D. Gregg & Lucas eds. 1973); HIAA 1985 ed., *supra* note 8, pt. B, at 108–09.

[72] *See* HIAA 1979 ed., *supra* note 70, pt. B, at 11.

[73] *Id.* at 12.

[74] N.Y. Comp. Codes R. & Regs. tit. 11, § 52.2(u) (1982).

[75] Some would argue that the fatal nature of AIDS renders the pursuit of medical treatment nonsensical and futile. This assertion fails for two reasons. First, the fatality of an illness has never been established as preventing medicine from playing an important role in an individual's treatment. Those fearful that they may have symptoms indicative of other fatal illnesses (for example, Hodgkin's disease, Huntington's chorea, or certain brain tumors) still seek treatment for the physical and psychological comfort to be obtained from quality health care. The same is true of AIDS. Indeed, the arguments of the gay community on this point miss the mark in several respects. *Cf.* J. Levi & B. Schatz, AIDS-Related Issues and Insurance: A Position Paper 1, 4 (1986) (Position Paper of the National Gay Rights Advocates and National Gay and Lesbian Task Force on AIDS, submitted to the NAIC Advisory Committee on AIDS by Benjamin Schatz, Apr. 18, 1986) (noting the erosion of the doctor-patient relationship in the event of HTLV-III infection). If, as stated by the gay community, it should become evident that not all seropositive individuals will develop AIDS, medical advice on the health implications of being HTLV-III positive take on added significance. Absent such a finding, seropositive individuals would still need medical counseling to assist in the prevention of further transmission of the virus. Moreover, some individuals would be rightfully inquisitive about the theories currently being discussed in the medical community as to what co-factors have been discovered in seropositive individuals who went on to develop AIDS * * *.

[76] The authors must add the caveat that, to our knowledge, no company has adopted a policy that would consider seropositivity *alone,* without the presence of other symptoms, as a pre-existing condition.

[77] *See* Consolidated Omnibus Reconciliation Act of 1985, Pub. L. No. 99-272, §§ 10001-10003, *as modified by* the Tax Reform Act of 1986, Pub. L. 99-514, *and* the Sixth Omnibus Budget Reconciliation Act, Pub. L. 99-509.

[78] *See e.g.,* Ill. Ann. Stat. ch 73, § 367e (Smith-Hurd Supp. 1986) (requiring continuation for 60 days after date of termination); Md. Regs. Code tit. 09, § 09.30.61.14 (1986) (requiring continuation for six months after termination of group coverage); Mass. Ann. Laws ch 175 § 110D (Law, Co-op. 1977) requiring continuation for 31 days after the insured leaves a group * * *.

[79] *See supra* p. 1808.

[80] *See* Staff of the Senate Special Committee on Aging, A Profile of Health Benefits and the Uninsured 6 (Working Paper No. 1, Oct. 17, 1986) (referring to an American Medical Association estimate).

[81] *See* Conn. Gen. Stat. Ann. ch. 692 (West Supp. 1986); Fla. Stat. Ann. §§ 627.648-.649 (West 1984 & Supp. 1986); 1986 Ill. Laws 84-1478 (to be codified at Ill. Stat. Ann. ch. 73, paras. 1301-1314 (Smith-Hurd 1987)); Ind. Code Ann. §§ 27-8-10-1 to -8 (West 1986); 1986 Iowa Legis. Serv. 2181 (West 1986) (to be codified at Iowa Code §§ 514E.1-.13 (West Supp. 1987)); Minn. Stat. Ann. §§ 62E.01-.16 (West 1986); 1985 Mont. Laws ch. 595 (to be codified at Mont. Code Ann. §§ 33-22-1501 to -1505); Neb. Rev. Stat. §§ 44-4201 to -4235 (Supp. 1986); N.D. Cent. Code § 26.1-08 (1985); Tenn. Code Ann. §§ 56-39-101 to 121 (Supp. 1986); Wis. Stat. Ann. §§ 619.01-.18 (West 1980 & Supp. 1986).

[82] 29 U.S.C. §§ 1101-1462 (1982). The scope of this Commentary does not allow for a lengthy discussion of the uneven and inconsistent treatment accorded employee health benefits plans as a result of ERISA.

[84] *See id.* § 1144.

[85] Personal health care expenditures in the U.S. in 1985 amounted to $371.4 billion. Of that, the private insurance industry was responsible for the financing of $113.5 billion. *See* U.S. Dep't of Health and Human Servs., *National Health Expenditures, 1985,* 8 Health Care Financing Rev. 20 (1986).

[86] It should be noted that some states have effectively overcome the ERISA problem by funding such pools either directly from the state's general revenue, *see, e.g.,* 1986 Ill. Laws 84-1478 (to be codified at Ill. Ann. Stat. ch. 73, para. 1312 (Smith-Hurd 1987)), or indirectly from the general revenue, by providing insurance companies a premium tax offset for assessments the responsibility of confronting and rectifying social inequities would be shared by society as a whole.

[87] *See* The Health Insurance Availability Act of 1985, H.R. 1770, S. 1372, 99th Cong., 1st Sess. (1985) (introduced by Rep. Kennelly (D-Conn.) and Sen. Heinz (R-Pa.)); *see also Access to Health Insurance and Health Care: Hearing Before the Subcomm. on Intergovernmental Relations of the Senate Comm. on Governmental Affairs,* 99th Cong., 2d Sess. 14 (1986) (statement of Sen. Heinz).

BETHESDA BAPTIST CHURCH,
Washington, DC, February 2, 1987.

The Honorable JESSE HELMS,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SIR: We, the President, Officers, and Members of the Baptist Ministers' Conference of Washington, D.C. and Vicinity ask you to renew your effort to overturn D.C. Act 6-170, which was passed and signed by Mayor Barry last August, 1986.

Mr. Helms, if you have on hand the statement I read before the press conference and the D.C. Committee of the House of Representatives last year, and if you will check the open letter of my Committee Against D.C. Act 6-170, you will discover that practically every evil we warned against has come to pass. It is virtually impossible for a D.C. resident to obtain an individual life policy in the District of Columbia.

This letter of request comes on behalf of the Baptist Ministers' Conference of Washington, D.C. and Vicinity. Our Conference is an organization of Baptist pastors, evangelists, assistant and associate ministers of more than 600 members. We meet each Monday at the Trinidad Baptist Church, 1611 Benning Road, N.E., Washington, D.C. 20002. The Reverend Daniel Jackson is pastor.

President George Gilbert, on authority of the vote of the Body on Monday, February 2, 1987 directed me to make the above appeal to you.

We thank you for the concern you have shown for all the citizens of the District of Columbia, and the nation. If left alone, we feel certain that this unfair, unreasonable, unprofessional and anti-business law will spread throughout the nation. Congressional action must be taken against this Law.

Yours in Christian service,
JOHN D. BUSSEY
(For Rev. George C. Gilbert, President, The Baptist Ministers' Conference).

SPARROWORLD BAPTIST TEMPLE,
Washington, DC, January 30, 1987.

The Honorable JESSE HELMS,
United States Senate,
Washington, DC.

DEAR SENATOR HELMS: I write to you today not only as a pastor, but as a concerned husband and father as well.

My home and church, like the homes and churches of many other Christians like myself, lies within the jurisdiction of the District of Columbia, governed by those who have no compunction about violating the constitutional rights of the majority in order to appease a militant few.

Last year our City Council chose to ban all AIDS testing of life and health insurance applicants for the next five years. Now, not even a year since Mayor Barry signed the bill into law, 82% of our city's top insurers have stopped writing policies for individuals. Even the *Washington Post* noted that the nation's largest insurer, Metropolitan Life, and the second largest insurers, Aetna and State Farm, are among the options lost to us.

The D.C. law itself has the effect of giving preferential treatment to a deadly disease whereas the government's role should be to protect the people from its spread.

Senator Helms, you served as the champion of the people of the District last year when so many in Congress who often speak of their concern chose to look the other way. I urge you to act again in this Congress to assert the Constitutional protection of the rights of all by reintroducing a resolution of disapproval of the D.C. AIDS law.

Sincerely,
REV. CLEVELAND B. SPARROW, Sr.,
Chairman, Washington, DC.
Moral Majority.

THE THIRD WORLD ASSEMBLY, INC.,
Washington, DC, January 28, 1986.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

SENATOR HELMS: Rev. Cleveland Sparrow informed me today that there may be a chance of re-introducing H.J. Res. 366 to overturn D.C. A.I.D.S. bill 6-170.

The Health Committee of The Third World Assembly, Inc. and the Executive Board fully support H.J. Res. 366 in hope that the House will concur with the Senate in overturning this deadly legislation.

I congratulate Congressman Dannemeyer for introducing the resolution and you Senator Helms for leading the Senate to vote positively for H.J. Res. 366.

This D.C. A.I.D.S. Bill has caused more than 100 insurance companies to withdraw from the District of Columbia since Bill 6-170 has become law.

Bill 6-170 has seriously jeopardized insurance underwriting rules and placed insurance companies at great risk in writing any insurance on an Aids victim.

Certain insuring companies refuse to insure policies over $25,000 that does not meet underwriting requirements; this amount includes accidental insurance.

It appears that such senseless legislation is causing anarchy in the District of Columbia. The D.C. Lobby for the Community of Special Interest in AIDS has extended into the Ward 3 community causing serious concerns among Ward 5 citizens because of an unregulated A.I.D.S. containment house at 2800 Otis Street, N.E.

Even regulatory bodies in the District of Columbia denies the need for licensing or a Certificate of Need for such a facility.

This AIDS crisis must be controlled and regulated before AIDS contaminate and destroy our entire social structure.

As a medical researcher, minister and insurance underwriter, you have my full support in any effort to contain this disease and save our Republic.

Respectfully,

REV. JOHN G. MARTIN, H.E.,
Founder/Executive Director.

SCHMITT INSURANCE SERVICES,
Washington, DC, January 11, 1987.

Senator JESSE HELMS,
Washington, DC.

DEAR SENATOR HELMS: I was pleased to hear that you are again going to try to have the District of Columbia Bill 6-343, the so-called "AIDS Bill" affecting insurance companies, repealed.

The life insurance industry in DC is non-existent. My agency represents over 25 different carriers and none of them accept applications in DC any more. I recently tried to purchase life insurance on myself, and, after 21 years in the life insurance business, I am unable to acquire insurance I need very much at this time. I have two carriers who write disability income insurance and both offer low maximum benefits; I expect them to leave shortly.

I have had to cancel advertising in DC in fear of being accused of false advertisting, that of advertising a product I do not have. I no longer advertise in the Yellow Pages nor in newsletters published by charitable organizations such as the Fraternal Order of Police, and, because of this bill will probably have to move to Maryland or Virginia in order to maintain my Errors and Omissions Insurance.

DC residents now face a major problem, where do they go for needed life, health, and/or disability income insurance. Some companies permit us to take a DC resident to Maryland or Virginia and write the application there (Note: premium taxes go to those states, I am sure the tax coffers of these states are doing quite well.)

The DC Government has boxed itself in on this issue, however, I really feel that the main cause is John Ray. He will do nothing about the problem, mainly because of his ego and not for the concern of all the residents. I would offer this suggestion, since the DC Government (the resident taxpayers) are losing out on millions of dollars on premium taxes:

Why not eliminate Bill 6-343 and dedicate the resultant tax revenue for finding a cure for AIDS and/or taking care of AIDS victims who cannot help themselves. No one loses, everybody wins, and since we, the DC residents are going to have to pay for AIDS victims in the form of increased taxes anyway, why not do something positive for all concerned?

The AIDS problem, with respect to insurance, is being worked on nationally by the NAIC (National Association of Insurance Commissioners) and model legislation is being developed. The problem in DC is however, when will it come to fruition?

Try telling a young family they cannot protect themsevles in the event of death and/or disability, that they will have to wait. Perhaps, John Ray will take care of these people and their families. They're as much a special interest group as the Gay Alliance; they're full time tax payers who deserve more than they are getting from this administration. They are more than willing to take care of their financial responsibilities if given the chance. This administration (Marian Barry, Jr. et al) simply does not want the residents of DC to have the opportunity to take care of themselves, he does, however, pride himself on his appeal to the Gay Community, who, for the most part, are quite affluent. I guess political donations and free advertisement in Gay newspapers and magazines are more important to the Mayor.

Senator Helms, I certainly wish you the best in trying to provide a solution to this incredulous problem; please do not give up as there are many, many people out there who believe as you do and are only asking for the same rights and opportunities that residents of other states have.

Thank you for you help.

Very truly yours,

WALTER E. SCHMITT, CLU.

AETNA LAW DEPARTMENT,
Hartford, CT., August 12, 1986

Hon. JESSE HELMS,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: Julie Bullard of your office requested information concerning Aetna's reaction to the "Prohibition of Discrimination in the Provision of Insurance Act of 1986." which became effective in the District of Columbia on August 7, 1986. The Act precludes insurers from properly identifying those individuals who are at risk for developing AIDS (acquired immune deficiency syndrome) and ARC (AIDS-related complex.) Under the new law, underwriting and rate-making decisions may not take into account the results of testing for the presence of antibodies to the HTLV-III virus, which has been associated with AIDS, or other evidence of immune deficiencies.

Aetna believes that the effect of this law will be to prohibit insurers from using appropriate medical information, thereby fundamentally compromising their ability to effectively and equitably underwrite and price business. For this reason, Aetna has instituted a moratorium on accepting new applications until further notice (unless contractually committed to do so) for individually underwritten life and health insurance policies in the District of Columbia.

Insurance is designed to provide protection against unforseen losses. If insurers are not permitted to identify individuals who are at demonstrably higher risk of contracting a serious illness, the insurance mechanism cannot operate and affordable insurance products cannot be made available. The expected claim costs for individuals who test positive for the presence of the HTLV-III virus are so much higher than for non-exposed insureds that the effect is a price spiral generated by the continuing addition of high risk individuals and the simultaneous loss of others who are priced out of the market. By restricting the insurance industry's use of sound underwriting principles, the new law would impose unfair economic burdens on the insurance-buying public in the District of Columbia and threaten the financial stability of the insurers to which the public looks for risk protection.

Aetna is strongly committed to doing business in the District of Columbia and supports responsible efforts to restore a positive insurance underwriting environment.

Sincerely,

MALCOLM O. CAMPBELL, Jr.

NATIONAL LIFE OF VERMONT,
January 12, 1987.

Senator JESSE HELMS,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: I am writing at the request of your office regarding the legislation enacted in the District of Columbia which restricts the use of AIDS antibody tests in the insuring process and our Company's reaction to those restrictions.

We at National Life Insurance Company believe that as a result of the "Prohibition of Discrimination in the Provision of Insurance Act of 1986," it would no longer be a prudent business decision, or equitable to our current or future policyholders, to accept any life insurance and disability income insurance applications on the lives of residents of the District of Columbia, regardless of the jurisdiction in which the application is signed. These restrictions will be placed in force on February 1, 1987.

The need to take such severe measures is a direct result of the District of Columbia legislation. The Company believes that those suffering from AIDS and those at high risk of suffering from AIDS (test positive on the ELISA test) cannot be treated differently from those suffering from heart disease, cancer, and other life-threatening illnesses. The District's law in this regard prohibits insurers from using objective and reliable blood tests on applicants in order to assign them to appropriate risk classes. This prohibition unfairly discriminates against the Company and its policyholders. Our only alternative to withdrawing from the District of Columbia marketplace would be to charge all new policyholders higher premiums and force those at low risk of contracting AIDS to subsidize high-risk policyholders. This would be in violation of both our business ethics and the integrity of our underwriting processes.

Clearly, the very serious questions raised by the AIDS epidemic must be examined in a manner that is as compassionate as it is cautious. At National Life, we feel that our obligations extend far beyond the mere preclusion of life and disability insurance applications from the District of Columbia. Our contributions toward medical research and our active participation in industry groups which conduct educational campaigns aimed at preventing the spread of the disease are part of that response. However, we also have a business obligation to provide quality products and services at competitively advantageous costs to the public we seek and serve.

It is toward that end that we fully support any efforts which you might undertake to amend or repeal the District of Columbia law which so severely restricts our conduct of business in the nation's capital.

Sincerely,

FREDERIC H. BERTRAND.

GEICO LIFE INSURANCE,
Washington, DC., January 14, 1987.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Building,
Washington, DC.

DEAR SENATOR HELMS: This is to confirm our oral response to an inquiry from your office regarding our decision not to accept applications for life or health insurance in the District of Columbia since the effective date of D.C. Act 6-170, the "Prohibition of Discrimination in the Provision of Insurance Act of 1986."

Enclosed are copies of letters from each of our two life insurance companies to the District's Superintendent of Insurance notifying her of our decision. For your information, we are not aware of any life insurance company that is currently accepting individual life insurance applications in the District.

Sincerely,

HERBERT L. DE PRENGER,
President.

THE MUTUAL LIFE INSURANCE CO. OF NEW YORK,
New York, NY., January 14 1987.

Hon. JESSE HELMS, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: On behalf of MONY Financial Services, I am pleased to reply to your inquiry regarding the impact of the recently enacted District of Columbia Council bill 6-343 entitled "Prohibition of Discrimination in the Provision of Insurance Act of 1986." As a direct result of this legislation on July 22, 1986, MONY Financial Services ceased to accept new applications for Individual Life Insurance and Individual Disability Income policies within the District of Columbia. This applied to applications for new coverage, as well as applications for increased protection under in-force contracts.

This action has been taken because of unrealistic restraints place on insurance underwriting by the subject local legislation. Among other things, Council bill 6-343 prohibits an insurer from using or requiring any tests to detect the presence of AIDS antibodies in the blood stream of an applicant for insurance. In addition, insurers cannot ask applicants to disclose whether a test to determine the presence of AIDS antibodies has been administered, nor can we use other selection data to predict whether an individual may, in the future, develop AIDS or AIDS Related Complex.

This interference with long-standing underwriting practice strikes at the very heart of our business: the ability to classify risk on the basis of medical and other information. We have reached the decision to cease writing new individual Life and Individual Disability business in the District because of the principle involved, as well as our obligation to protect existing and future policyholders from having to unfairly shoulder the potentially drastic losses that will occur if we are denied the ability to screen for high-risk applicants.

Our sympathy for the victims of this dreaded disease cannot, unfortunately, cloud our judgment on the overriding principle involved; we must be allowed to assess risk fairly or the whole structure or private insurance will crumble.

Indeed, for many years insurance underwriters have performed this task successfully and without discrimination in the invidious sense. In this regard, we believe that currently, from an underwriting perspective, AIDS is appropriately being considered in a manner identical to other life threatening diseases pursuant to traditional underwriting practices.

MONY Financial Services will continue to service existing Individual Life and Disability Income policies in the District of Columbia. And, we will continue to accept applications for guaranteed conversions of life and health coverage. It is our hope that the District of Columbia Council will, in the near future, reverse its decision so we may again properly underwrite all new business in its jurisdiction.

Sincerely,

LEE M. SMITH.

NEW YORK LIFE INSURANCE CO.,
New York, NY., January 7, 1987.

Attention: Ms. Mary Potter

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: You have asked whether we are writing business in the District of Columbia. Please be advised that New York Life Insurance Company and New York Life Insurance and Annuity Corporation have discountinued writing new individual life and disability insurance policies in the District of Columbia. This action was taken as a result of the enactment of the "Prohibition of Discrimination in the Provision of Insurance Act of 1986" (D.C. Act 6-170).

Sincerely,

MALCOLM MACKAY.

THE PRUDENTIAL,
Washington, DC, October 10, 1986.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This letter is in response to a call from your staff to our Home Office in Newark earlier today. The Prudential has withdrawn from the individual life and health insurance market in the District of Columbia by reason of the effect of D.C. Act 6-170.

Sincerely,

PRIDE MARK,
Washington, DC, January 9, 1986.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: This letter is written in response to your concern as to the effect of the enactment of the Washington, D.C. Act 6-170 by the District of Columbia City Council.

This enactment has severely impaired the ability of insurers to properly underwrite life and health insurance on residents of the District of Columbia.

Our insurers have withdrawn from the marketplace. Applications written in the District of Columbia or written on District of Columbia residents are no longer accepted. It is our understanding that this decision shall be affirmative unless Act 6-170 is rescinded by the District of Columbia City Council.

We sincerely regret this decision by our insurers and that of the D.C. City Council. It is the consuming public who shall suffer because of the inability to obtain life and health insurance from any of the major insurers.

Those companies that have remained and are entering the marketplace do so in the absence of competitive pricing and perhaps inadequate resources or reserves to cover claims as they arise. This is a situation that affects us all if allowed to set a precedent within the industry of avoiding adverse selection in the underwriting of life and health insurance.

Your concern in this matter is appreciated and if we can be of further assistance, please give our office a call.

Sincerely,

HARRY L. STALEY,
President.

PILOT LIFE INSURANCE CO.,
Greensboro, NC, October 10, 1986.

Senator JESSE HELMS,
U.S. Senate Office Building,
Washington, DC.

Re D.C. Law 6-170.

DEAR SENATOR HELMS: We certainly do appreciate your help in attempting to overturn D.C. Law 6-170.

This is to confirm that Pilot Life has decided to discontinue the writing of individual life and health policies in the District of Columbia until this law is overturned.

Your continuing efforts are much appreciated by all of us.

Sincerely,

JAMES E. HARSHAW, CLU.

MUTUAL OF OMAHA,
Washington, DC, August 8, 1986.

Hon. JESSE HELMS, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: Bill number 6-343 passed by the District of Columbia has the effect of removing the company's right to adequately underwrite certain life and health risks.

Therefore, the companies, Mutual of Omaha and United of Omaha, have decided to discontinue marketing all life and health products except annuities and Medicare supplements in the District of Columbia.

Sincerely,

JAMES E. BARRETT,
Executive Vice President.

GREAT-WEST LIFE,
Englewood, CO, September 5, 1986.

Hon. JESSE HELMS,
U.S. Senate,
Washington, DC.

Attention: Ms. Julie Bullard.

DEAR SENATOR HELMS: The Great-West Life Assurance Company concluded that it would not continue to accept applications for individual life and disability insurance from residents of The District of Columbia.

While we regretted having to take this action we believe we had to in order to protect our participating policyholders and our shareholders.

Insurance is based on the simple concept of pooling comparable risks. Through the normal underwriting process we determine the degree of risk inherent in each life we underwrite. When we cannot pursue this underwriting process we cannot measure the risk we are undertaking.

Obviously, in life insurance, the applicant's present medical condition is a primary determinant of risk. Legislation such as Bill 6-343 that prohibits us from measuring this undermines the whole concept of pooling comparable risks.

To continue to do business on the terms required by the District's legislators would inevitably mean that our present policyholders would pay for increased mortality costs as risks that would not normally be insurable become covered due to our inability to properly underwrite them. To expose our current policyholders to this certainty is not sound management and not what they expect of us.

Everyone hopes that cures will be found for diseases that presently terminal. Until cures are found, private insurance should not be sued as a substitute for social policy.

Sincerely,

WILLIAM T. MCCALLUM,
Senior Vice President, Individual.

GREATER WASHINGTON
HEALTH UNDERWRITERS ASSOCIATION,
Washington, DC, February 2, 1987.

Hon. JESSE HELMS, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR HELMS: On behalf of our organization, I would like to thank you for your efforts in Congress on bringing to light the problems of the D.C. AIDS law, Act 6-170.

Act 6-170 has effectively diminished the availability of commercial health insurance as well as disability and life insurance to citizens of the District of Columbia. Moreover, Act 6-170 is making all such insurance less affordable for many D.C. citizens.

To date, according to newspaper articles, some forty commercial insurance carriers which underwrote the majority of commercial insurance in D.C. have withdrawn from the District. The main reason for this mass exodus is due to the fact that, under Act 6-170, people who have been exposed to the AIDS virus are to be insured as if they were healthy. This is discriminatory to the standard insurance policy holders and to those who have other medical conditions for which they are rated as higher risks. More specifically, this means that insurance companies cannot underwrite the risk for these individuals who have AIDS as they do those individuals who have heart disease, high blood pressure, diabetes and other such illnesses.

The Association understands the problem of people who have been exposed to AIDS and their need for some kind of health protection. The D.C. Act, however, goes too far in addressing this problem. It has left the citizens an oligopoly of which in the absence of competition will leave D.C. citizens very high health premium costs and less access to health insurance and care.

Our Association suggests that the D.C. AIDS law, Act 6-170, be overturned or amended so that commercial insurers are able to return to the market. Following the proper disposition of Act 6-170, in order to provide access to health insurance, we suggest that the D.C. Government support Federal legislation to create risk pools for those who are unable to obtain health insurance for *any* medical reason, not just for exposure to AIDS.

Sincerely,

R. DAMIAN DUFOUR,
President.

Mr. HARKIN. Mr. President, I rise in opposition to the amendment of the distinguished Senator for a variety of reasons.

Had I been on the city council at the time this came up, I may very well have voted against the act. But that is not the issue here. The issue here, again, is one of how intrusive the Federal Government will be in the District of Columbia's running of its own affairs.

There is also another broader issue here, and it concerns what steps we in the Federal Government are going to take to begin regulating the insurance companies in America.

It is this Senator's opinion that we have a good insurance regulatory system right now in America, based upon the McCarran-Ferguson Act, and I think it is one that ought to continue.

It is based upon the power of the States and the State insurance commissioners to regulate insurance in each of the 50 States. It has worked well. There is nothing wrong with it.

So I see no reason for the Federal Government to now take an intrusive step into regulating insurance activities in any States, including the District of Columbia.

The District of Columbia is well within its power and well within its jurisdiction to pass this law. Now, however, as much as we may disagree with it, I may disagree with what some State may do in regulating insurance in that individual State but on the whole as a Nation I think we are best served by the present system that we have.

I think once we take the step of telling the District of Columbia what it can and cannot do in terms of regulating insurance, then it is a very short step beyond that to tell the State of Washington or to tell the State of North Carolina or the State of Iowa what they can or cannot do in terms of regulating insurance.

I think it is a dangerous precedent for us to take that step and one that I hope that Senators will not take lightly in voting on this amendment, however they may feel about the amendment itself.

I think Senators would be well advised to consider the implications of voting to have the Federal Government tell an established jurisdiction what it can and cannot do in terms of regulating insurance.

Mr. President, let me clear up a couple, I think, misinterpretations about the law itself. Act 6-170, the act that is now sought to be amended by the Senator from North Carolina, does not require insurers to sell insurance to persons with AIDS. The bill solely protects healthy persons.

The act expressly allows any test that is part of a doctor's diagnosis of AIDS under the guidelines of the Federal Center for Disease Control. The act expressly allows that.

In fact, Act 6-170 provides for an extraordinary 3-year contestability provision that would allow insurers an extra year to contest the policy of any policyholder whose claim arises from AIDS.

Because the average life expectancy of persons diagnosed with AIDS is less than 3 years, this provision effectively guarantees that no one with AIDS will buy insurance and collect.

So some of the points I think that the distinguished Senator from North Carolina is making just cannot hold because of this 3-year contestability provision that is in the law.

Therefore, I think because of this provision there will be less fraud in cases involving AIDS than there is in insurance claims generally.

Indeed, as the price of the protection provided in this bill anyone with AIDS who makes a legitimate insurance claim is likely to be contested.

Again, I would just say that, contrary to some extreme opponents, Act 6-170 would not increase the incidence of AIDS in the District; rather I think a counterargument would be made that this law would assist in the prevention and would assist in education efforts by removing disincentives from individuals to seek testing and counseling on a voluntary and confidential basis.

That is what we want. We want people to come in and to get tested on a voluntary basis on a confidential basis. We want to educate these people on what to do to control AIDS.

Again, if we adopt this, this I think will be a disincentive for people to come in on a voluntary basis.

I do not know how Senators feel about mandatory testing for AIDS. Maybe there are some who want every person to be mandatorily tested for AIDS, get everyone. We have been through that debate here, and I think it has been expressed here by the Senate and others that it is not in our best national interest if indeed we could even afford it.

So what we want is education, prevention and counseling on a voluntary and confidential basis, and I think Act 6-170 provides that.

Let me just repeat one more time: the act in question passed by the District of Columbia City Council does not allow people with AIDS to buy insurance. It does, however, protect healthy people from being denied insurance unfairly or discriminatorily.

That is really basically all that it does. As I said, the 3-year contestability clause in there I think would effectively preclude any kind of fraud in this matter.

Now, I have a letter dated last year, July 23, 1986, in opposition to a similar amendment that was offered last year, signed by Mr. John Ray, Democratic council member at large, Carole Schwartz, Republican council member at large, asking that this amendment be defeated.

So, Mr. President, I hope that when Senators arrive on the floor to vote on this measure, we understand that we are not voting on whether people with AIDS have to be sold insurance. That is not what the issue is. That is not what the act provides.

What it does say is that healthy people cannot be arbitrarily discriminated against. You cannot have red lining. If there is an area in which there is a high incidence of AIDS, you cannot say everybody has to pay a higher rate of insurance because of that. The act does not prohibit a legitimate doctor's diagnosis from being used, does not prohibit that at all.

As I said, it expressly allows any test that is part of a doctor's diagnosis of AIDS under these guidelines.

So is the issue home rule? Yes, that is an issue. I think a more important issue is whether or not we in the Federal Government are now going to be controlling insurance. Are we now going to say to the State of North Carolina that you cannot regulate insurance; we are going to do it here, or in Iowa, because once you take that step to regulate it in the District of Columbia you might as well take another short step and start regulating insurance all over the United States. That is basically what is at issue here.

Third, and no less important, is just the issue itself of whether or not we are going to say that we will allow certain red-lining principles to take place because of an area that may have a high incidence of AIDS.

As I said, the act expressly allows for doctors' diagnoses to be used in the provision of insurance in the District of Columbia.

Mr. NICKLES. Mr. President, will the Senator yield just for a question?

Mr. HARKIN. I am delighted to yield.

Mr. NICKLES. I apologize. I missed part of the debate from both individuals and I am not as knowledgeable on this D.C. law.

Mr. HARKIN. 6-170.

Mr. NICKLES. 6-170.

Mr. HARKIN. Yes.

Mr. NICKLES. And I just got a copy of it and in reading section 4 it says:

> An insurer may not deny, cancel, or refuse to renew insurance coverage, or alter benefits covered or expenses reimbursable, because an individual has tested positive on any test to screen for the presence of . . . of AIDS.

Mr. HARKIN. Of any probable causative agent of AIDS.

Let us read the whole thing clearly.

Mr. NICKLES. I will read the entire paragraph.

So an insurer could not, if I am an insurer agent.

Mr. HARKIN. Please read.

Mr. NICKLES. Let us say I am—I started to say Equitable Life. I will say I am an Equitable Life agent in the District of Columbia and I have a potential client down the street. He is a lobbyist and he wants to buy $1 million worth of whole life insurance and it is our company policy that individuals before they purchase a certain amount of insurance, and I do not know where the cutoff where most insurance companies require medical examination, say $100,000. So the individual wants to buy $1 million worth of insurance.

I say, "OK, you have to take a physical."

If that individual takes a physical and tests positive for AIDS, can I deny him that insurance coverage because he tested positive for this disease?

Mr. HARKIN. I would say that in the case of an insurance company that had a potential client and said, "OK, we want you to take a physical and get a doctor's test to diagnose if you have AIDS as a condition for you getting insurance from us," that individual says, "OK, I agree to that, I will go get a doctor's test and make that available to the insurance company," and the doctor's diagnosis is in fact "Yes, you do have AIDS." Since the company can deny you coverage, they do not have to sell you insurance.

Mr. NICKLES. Mr. President, I want to clarify that because I think I noticed a little bit of an opportunity. If I am an insurance agent and I say "Yes, you have to take a physical for me to sell you 1 million dollars' worth of whole life insurance, but before I can sell you that policy, and I want to sell it very badly—it is a nice commission and so on—but in order for me to do that you have to take a physical and if proven positive, I cannot sell you the insurance or it is my company policy that we would not sell you the insurance," and the individual says "No, I wanted to buy the $1 million policy," the individual with AIDS, "But I refuse to take the test."

Now, is the insurance company prohibited from having that as a requirement?

Mr. HARKIN. It is not a requirement.

But let me see if I understand the question. A person wants to come and buy the policy. The insurance company says, "Before you get the policy you have to take a physical."

Mr. NICKLES. Right.

Mr. HARKIN. The insurance companies can do that.

Mr. NICKLES. If you test positive for AIDS we decline to.

Mr. HARKIN. We will decline.

Mr. NICKLES. We will decline. Is that it?

Mr. HARKIN. If you test and the doctor's diagnosis shows that you have AIDS, we will not sell you insurance.

It is my understanding that they can do that. I may be wrong, but it is my understanding that the insurance company can do that under this provision.

Mr. NICKLES. I think it is the real crux of the debate. It is not the way I understood it. Again, I do not claim to be an expert on this piece of legislation. I am reading it the way I read the legislation—correct me if I am wrong—it says:

> An insurer may not deny, cancel, or refuse to renew insurance coverage. . . .

So the insurer cannot deny, because an individual tests positive on any test to screen for the presence of any probable causative agent of AIDS, ARC, or the HTLV-III infection, including, but not limited to, a test to screen for the presence of any antibody to the HTLV-III virus, or because an individual has declined to take such a test.

Now, I find that as a contradiction of, or at least a confusion of, what the Senator was stating. I think it is an important issue.

I see the Senator from Connecticut and maybe he is more familiar with this legislation. But I am afraid, or at least it is my opinion—and maybe this is the right vehicle to do it on or maybe not—I am afraid, if I am reading section 4 correctly, the insurer cannot refuse to issue this policy because a person tests positive for AIDS and, therefore, you are going to find most insurers not providing the insurance for anyone in the D.C. area. And I think that is a regrettable conclusion. It may be well-intentioned, but possibly legislation that leaves much to be desired.

Mr. HARKIN. If I might just say this. As I said, I am not an expert in insurance, and I would be the first to admit that. I am just trying to read again from the same law that you have there and the explanation of it. Again, I am reading from page 16 of the report of the Council of the District of Columbia regarding this law. It says here: "the sections 4 and 5 prohibitions"—that is what you were reading from—

> "apply to any test to screen for the probable causative agent of AIDS, ARC, or the HTLV-III" . . .
>
> The rationale for the broad prohibition on the use of such tests is that none has yet been proven to be sufficiently reliable and accurate for identifying persons exposed to AIDS to permit its use for insurance purposes. The medical community and industry policymakers as well acknowledge uncertainty about the reliability of the tests in current use.
>
> "While the ELISA test for antibody to AIDS retrovirus is very sensitive and quite specific, the test is subject to a variety of errors. . . . It must be emphasized that up to 10 percent false positives may occur with the present ELISA tests, due to antibodies that react with cellular contaminants mixed in with the virus preparation,"

So, in that regard, what they provided for, as I understand it in the bill, was for a 3-year contestability provision to allow insurers an extra year to contest the policy of any policyholder whose claim arises from AIDS. And so that was written into the bill, also. Because the average life expectancy of persons diagnosed with AIDS is less than 3 years, this provision effectively guarantees that no one with AIDS will buy insurance and then collect.

Mr. NICKLES. I know the Senator is reading from an explanation and I will try and get a copy of that. I was reading from the bill. But I do not know that the 3-years would really be applicable now.

We have had some improvements. A lot of people can obtain the virus. There may be a distinction between carrying the virus and maybe that is where some of the miscommunication is being made. When they contract AIDS, the AIDS disease, or when they are carrying the virus, many people will carry the virus for years before it progresses into the fatal stage. And it may well be that the fatal stage does usually occur within 3 years once they contract it or move into that stage of what we commonly call the AIDS disease. But they can carry the virus for years.

So one could find out. They could test positive for the virus but not be into what the medical terminology is frank AIDS, not progressing to the deadly stages of the disease for several years.

My concern, again, with the language, with the law that the District of Columbia passed and the way I am interpreting the statute, as I read it—I am not reading the interpretation; I will try to find that if we cannot clear up the ambiguities—but the way the law reads is that the insurer cannot deny that policy for the person who wishes to refuse the test and, therefore, an insurer, once a person moves into the frank AIDS stage, it is a deadly disease, and no one has been able to survive from it. The insurers just, frankly, will not provide the insurance.

I think that has been the result in the last couple of years. I do not know that anybody is really writing life insurance in the District of Columbia.

Again, I find that to be a real tragedy. There are a lot of people in the District, I am sure, that would like to have that.

Mr. HARKIN. I do not know all the answers to the questions that the Senator has raised, but I would direct my friend's attention to section 6 of the bill. Under section 6, it says:

> (a) Nothing in this act shall be construed as preventing or restricting insurers or their agents or employees from following standard procedures for determining the insurability of or establishing the rates or premiums for new applicants diagnosed by a licensed physician as having AIDS, provided that the procedures:
>
> (1) Apply in the same manner to all other new applicants within the same category of insurance;
>
> (2) Are justified on the basis of actuarial evidence, and;
>
> (3) Comply with other laws and rules of the District.

I think what is important is the next paragraph:

> (b) An insurer may request or require a new applicant to take a test otherwise prohibited by this act if:
>
> (1) The test is administered by a licensed physician as a required element of a diagnosis of AIDS; and
>
> (2) Other symptoms of AIDS, as specified by the Centers for Disease Control of the United States Public Health Service, are present to the degree that a licensed physician determines that administration of the test is medically indicated.

So at least there are those restrictions and provisions that an insurer may request or require these applicants to take the test that otherwise might be prohibited.

I cannot tell you I understand exactly all that that says and exactly what all the implications are.

Mr. NICKLES. I appreciate the Senator's comments.

Let me just ask one final question. I know this is on your time and I appreciate your indulgence.

But the way I am reading the last paragraph you read, in other words, if a person is an AIDS patient and has symptoms that are quite obvious and "are present to the degree that a licensed physician determines that administration of the test is medically indicated," I see that that person has progressed quite well through not only carrying the virus but into the frank AIDS evolution of the disease to the extent that they are dying. And, therefore, in that case, the insurer could deny coverage. But without that case or the case where a person has contracted the virus, the insurer, at least the way I am interpreting it right now, would still have to provide the coverage. And I am afraid the result would be they just would not do it.

Mr. HARKIN. Mr. President, I am not an expert in this area. I would just say that the reading of it seems to permit the insurance companies to do a lot of different things. But it does not require them to sell insurance to persons with AIDS. At least that is the way the explanation reads and that is the way the law reads. If there is something different, I would like to be advised of it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

Mr. President, I can understand why the Senator from Iowa may be a bit confused. I am going to try to illustrate why much of what he has read and the conclusions he has drawn amount to non sequiturs.

The point is that a person may not be asked about or tested for AIDS infection. Now, obviously, if somebody comes in that has got the sores and all the other visible symptoms of AIDS itself, it would be the height of stupidity for the D.C Council to force insurance companies to insure them at the expense of other policyholders.

Senator Harkin raised the point of the effectiveness of the antibody tests currently on the market. He is right. One ELISA test—E-L-I-S-A—and that is the medical short term for enzyme-linked immunsorben assay. It is true that one ELISA test can yield a fairly high false or positive rate. He is right about that. But the procedure used by a whole host of people, including the Red Cross and the insurance industry and others, is to run the ELISA test and if a positive result occurs, the ELISA test is run again.

Nobody is denied insurance on the basis of one ELISA test. But the insurance company ought to have the right to run it again because—precisely what the Senator from Iowa said.

When it is run again, if a positive test result occurs, again, then the blood is subjected to what is known as western blot, b-l-o-t. Do not ask me to get into the medical technology of it. I have learned as much as I can but I do not know absolutely the details specifically.

But, in any case, this procedure has been determined to be effective.

In 1986 the Centers for Disease Control concluded, and let me quote:

> For public health purposes, patients with repeatedly reactive screening for HTLV/LAV antibody (e.g. enzyme-linked immunsorben assay [ELISA] in whom antibody is also identified by the use of supplemental tests (e.g., western blot, * * *) should be considered both infected and infective.

How effective is this method for determining the presence of HIV infection, Mr. President? We are talking about infection. That is what this amendment is all about, and this is why the 600 ministers came up here and this is why the top insurance companies are pulling out in droves. Very few of them are left writing either life insurance or health insurance.

The evidence shows that the test that I alluded to just a second ago is very effective. According to a study done by the State epidemiologist of the State of Wisconsin:

> A repeatedly reactive ELISA, validated by western blot, indicates a 94.7 percent likelihood of AIDS infection.

That is what is at issue here. Two ELISA's and a western blot are an effective method for determining the presence of HIV infection.

Statistics I read earlier about the longevity of anybody infected with AIDS do not need repeating now. I will simply say that because of the cost risk the insurance companies feel that they should not be hemmed in from testing for AIDS infection. That is what we are talking about.

I emphasize that the State of Wisconsin which once prohibited insurance companies from testing for the

AIDS antibody now allows insurance companies to use this series of tests to determine insurability.

Another fact Senators should know, according to Dr. Robert Redfield of the virus division of Walter Reed Hospital, using the series of tests conducted by the Defense Department, the percentage is even higher than the 94.7, in terms of being effective and accurate, Dr. Redfield has been quoted as saying, and I quote:

> Conditions now employed in the DOD program * * * less than 1 in 50,000 people with a low prevalent population will falsely test positive after the first western blot; a second blood sample (which the DOD requires) and a new western blot reduce the probability of a false positive to less than 1 in 50,000 times, or less than 1 in 2.5 billion.

That seems to me, Mr. President, to indicate a high degree of accuracy of the test.

I yield the floor.

Mr. NICKLES. Would the Senator yield for a question?

Mr. HELMS. Certainly.

Mr. NICKLES. I asked the Senator from Iowa some questions about how this works in reality, looking at the law and so on. Is it the Senator's belief that if an insurance agent wishes to require an applicant for life insurance to take a test to find out whether or not they test positive in carrying the virus, that they cannot use that information to deny a person a life insurance policy?

Mr. HELMS. Well, just the same way if they tested positive for cancer or for any other infirmity that insurance companies may deny coverage for, or put a higher rate on or whatever.

Mr. NICKLES. But is it the result of this law that the insurance company could not deny coverage? Here again, take that hypothetical: An individual in Washington, DC, wants to purchase $500,000 worth of life insurance. They happen to have—or test positive for AIDS, AIDS infection, or are carrying the virus. It has not progressed into the frank stage, into the deadly stages yet.

Does this law prohibit the insurance company from denying him that insurance coverage?

Mr. HELMS. I will say to the Senator: Yes, of course, it does. But it prohibits even asking, let alone testing.

Mr. NICKLES. I am not sure exactly when this was passed. I do not see a date. Do you know when?

Mr. HELMS. Are you talking about the D.C. law? it was August 7, I believe.

Mr. NICKLES. 1986. What is the result? Have insurance companies basically vacated the DC area?

Mr. HELMS. Absolutely. There has been a mass exodus. It is a wonder there have not been traffic accidents leaving the city. If I was in the insurance business, I would leave, too. That is precisely what happened.

Mr. HARKIN. I wonder if the Senator has any data on that? The data I have, as of April of this year, is that there are 600 licensed insurance companies in the District. Of those, the District has the following information: 17 have notified the District that they are not writing policies. The District has learned that there are nine others that will not write policies and seven others have announced in the news media they will not write policies. That is a total of 33 out of 600 licensed insurance companies in the District.

I know there is a rumor about. I do not know if it is just rumor. I just wonder if the Senator has any data on this so-called traffic jam of insurance companies leaving the District of Columbia? Second, I understand that even though they may not be writing individual policies they are, indeed, still writing group policies. So if you are in the group they are still writing group policies. I just wonder if the Senator has any data on it?

Mr. HELMS. We do have data. I already alluded to it and I put it in the RECORD by unanimous consent. But I will say that about 82 percent of the top 50 companies have gotten out entirely. I do not go by insurance agents or whatever. But the point is that the rates are being adjusted by those who are yet remaining in the city, and I expect they will be out of business shortly. But the insurance companies are just not going to cope with this kind of liability when death is highly probable, statistically, once a person is infected. I do not blame the insurance companies.

That is the reason the 600 black ministers came up here. They are fearful about this thing and they said it has already worked a hardship on their congregations, which total about 150,000 people in the city.

I thank the Senator. I yield the floor.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Connecticut.

Mr. WEICKER. Mr. President, as I view the legislation that has been posed, I have to ask the question as to why the concern? I could not possibly tell you what the insurance law practiced in North Carolina is; or Oklahoma; or Iowa. Why the concern about the District of Columbia?

I do not think any of us here is prepared to give a full background on our knowledge of why the insurance laws of the District of Columbia are on the books, how they got there, the legislative history, the purpose. I do not think we are prepared to do that task.

I have to say to myself, well, the reason why it is the District is if anybody tried to do this in the State of Connecticut, I can assure you we would be sitting here all day and all night, and the same would hold true for any of my colleagues. We all know as far as insurance laws are concerned we have left that up to each State. Why this patronizing measure insofar as the District of Columbia is concerned? Is it the fact that they have no Senators here? I suspect it probably is. I am not going to involve myself with what the insurance laws are of Oklahoma or North Carolina. I do not have the time. I suspect the State legislatures do and they give a great deal of thought to it.

I suspect that probably the council here in the District gave thought to what their particular circumstances were.

I also suspect that the state of the knowledge was rather imperfect when the legislation was drafted and passed in August 1986. Much has been learned since that time. So probably the legislation is imperfect both as to its drafting and as to its effect. And it is my understanding that based on these imperfections, even at this time, the government of the District of Columbia is meeting with insurers and others to try to perfect the law. It is a long, involved process and I do not need to give any lectures to my colleagues on the floor about that. They know that process because we go through it every day here on the floor.

I would suggest that a matter such as this be left in the hands of the legislative body of the District of Columbia.

Indication has been given that there are some insurance companies that refused to write coverage. That is one of the impacts that legislation can have. So be it. When that happens, legislation is modified, it is corrected, it is brought up to date. That is what will happen here in the District.

But I think to go ahead and pick out one particular governmental institution and one particular disease and try to legislate out here on the floor of the U.S. Senate makes no sense at all.

Then I have to ask a second question: Why this particular disease? Does anybody know the status of District law as it relates to typhoid or smallpox, dysentery, measles? I doubt it.

Why the problem here with AIDS? Why do we focus on this particular disease and put it in a special category? What is the status of District laws when it comes to syphilis or gonorrhea, or one of those sexually transmitted diseases between people who are quote "straight"? What is the status of the District law on that? Are we prepared to answer that question?

Mr. HELMS. If the Senator will yield, I will answer.

Mr. WEICKER. I will be glad to yield, if the Senator will tell me what the status of District law is with regard to other diseases.

Mr. HELMS. They have a law with respect to gonorrhea.

Mr. WEICKER. What is the penalty? What is allowed?

Mr. HELMS. There is no penalty.

Mr. WEICKER. I suppose the imperfect knowledge that might exist in the District Council is far more perfect than any knowledge of the Senator from North Carolina or the Senator from Connecticut. I am sure you can tell me the insurance laws of the State of North Carolina. I might be able to give you some indication about the laws of the State of Connecticut. But why the interest in the District of Columbia?

Mr. HELMS. Because it is our responsibility.

Mr. WEICKER. No, it is not our responsibility.

Mr. HELMS. The Senator from Connecticut is wrong about that.

Mr. WEICKER. It is not our responsibility. This is not the same relationship that existed 20, 30, 40 years ago. This is not a colony any longer. This is an entity unto itself, with its own legislative body and its own mayor. Why the interest in AIDS? Why not be interested in some other disease?

I understand the interest of the distinguished Senator from North Carolina in AIDS. I have seen some of the documents that come from his office. It does not credit to this body.

Mr. HELMS. Mr. President, come on. I ask the Chair to advise the Senator how far he can go in a comment like that.

Mr. WEICKER. I would suggest——

Mr. HELMS. I appeal to the Chair. The Senator has overspoken himself and I want the Chair to rule on that.

Mr. WEICKER. A parliamentary inquiry. I ask what the Chair is supposed to rule on.

The PRESIDING OFFICER. The Senator from Connecticut has the floor and he will confine his comments to the subject matter of the amendment.

Mr. WEICKER. This amendment is another effort to focus on a tragedy in a negative way, in a way that has never been the habit or custom of this Nation when one is hurting or ill. Never before until now has there been any other response to illness or hurt but that we want to help.

Now we have all sorts of judgments being passed, all sorts of inquisitiveness about what people's statuses are and what legislation they passed, who should be helped, and who should not be helped.

Whoever heard these questions arise in the pasts? Why this particular disease? Why this particular entity of government?

The entity of government being attacked by this amendment cannot defend itself. It does not have two Senators. Believe me, we would have a filibuster on this floor if we tried to pass this amendment if it involved any other State of the Union, if they were concerned. But the District does not have Senators. I will not filibuster this. It will go to an up-or-down vote. But one of the bases for that vote should be that were there representatives of the District, then they could inflict on us exactly what is being inflicted on them today by this particular amendment.

I can understand that the distinguished Senator from Iowa, who I think responded very ably to the very well put question by the distinguished Senator from Oklahoma, did not have all the answers. We do not have all the answers.

The legislative body of the District itself does not have all the answers.

Much of what we pass on the floor here we amend the next year and we amend the year after that based on experience. That is exactly what is happening here. At the present time discussion is going on between the insurance industry and the District. Obviously the District of Columbia does not want the insurance companies chased out of the District of Columbia.

What they wanted to do was to ensure that there would not be discrimination against a category of people at a time when many thought that that category of persons, minority groups, were especially vulnerable to the disease of AIDS. That is the fact of life.

They wanted to make sure they were not going to be discriminated against. I think that is a proper legislative purpose.

Now, as the tests have become more refined, as we understand the at risk populations, then the legislation is going to have to be refined, and that the District will learn through experience. It does not need the help of the distinguished Senators from North Carolina, Connecticut, Oklahoma, or Iowa.

Mr. President, I have been wrestling with the issues related to the AIDS crisis for a few years now, long before some other people finally got caught up in it and I know only a few things: No. 1, an awful lot of people are hurt and dying out there who basically need money in terms of research to alleviate their hurts. That is the only way you are going to beat this—money for research into the discovery of adequate chemotherapy to halt the progression and the shedding of the virus; and money which will go to ultimately discovering the vaccine that will eliminate the disease. I know there are an awful lot of young people we can prevent from getting AIDS as long as we put money into education to give them a very explicit education about what causes AIDS.

These are the things that have to be done. I do not think we have the time to go searching around the corner to find out what the D.C. Council did on AIDS. I know we do not have the money for that. I suggest that we would not tell other local governments, never mind the District of Columbia what to do. Why not tell New York what it should do, Charlotte, NC; Oklahoma City, OK; Hartford, CT. Let us really take this to where it belongs?

Our job is to do the job that is impossible of being accomplished either by the cities or the States. Find the cure. Do the education. Provide the money because it is massively needed.

Here we sit wasting the time of the Senate on just plain trivia, and trivia that is very hurtful. I wish all this time and effort were expended in these other areas which have suffered from the lack of money and a lack of interest—and that comes all the way from the top to the bottom, I might add, as far as the Government of the United States is concerned.

I yield the floor, and I certainly hope that this amendment will be defeated on the terms that we do not know any more than that council knew. They probably know more than we do now since they have been consulting with the insurers and they have the experience. And if we are going to tell them what to do about AIDS in the District government, then maybe we ought to tell every other city council in the United States what to do about every disease. And if we consider it morally OK, we will not tell them. If we consider it morally bad, we will. I again repeat I think less judgment passed and more help given is what is needed in this particular situation.

Mr. HELMS addressed the Chair.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HELMS. Will the Senator allow me a couple minutes to respond?

Mr. HARKIN. I just want to make one point.

Mr. HELMS. Sure.

Mr. HARKIN. Then I will yield the floor.

Mr. President, I thank the Senator from Connecticut for a very fine statement. I share his sentiments precisely. I do not mean to take any more time to repeat what the Senator said except for one point I wanted to make before the close of the debate on this topic, and that had to do with the rumored flight of insurance companies from the District of Columbia.

As the distinguished Senator from Connecticut said, I know of no one in the District of Columbia government, no one on the city council who wants to see insurance companies flee the District of Columbia. That would be bad for business, bad for growth, and they do not want that. They want business and they want growth in the District of Columbia. And so if this is happening, then what will happen then is the District of Columbia City Council is going to refine this law, revise it, make changes that are needed if in fact there is this flight of insurance companies from the District of Columbia.

The best thing to spur the District of Columbia to make needed revisions or changes is not, as the Senator from Connecticut says, the actions of this body, which is an intrusion on the home rule of the District of Columbia and which we would not visit upon any other State in terms of their insurance laws, but the best thing to get them to revisit, revise, and change the law is the pressure that will be put on them by these insurance companies and by individuals, the individuals who cannot get the insurance and the insurance companies that cannot operate here and the businesses that will be affected. That will spur the needed changes, not the rhetoric, some misguided actions taken by this body.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the distinguished Senator from North Carolina wanted to make some comment. I ask unanimous consent that I may yield the floor to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Hearing no objection, it is so ordered. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair. Of course, I thank the distinguished majority leader.

Senator WEICKER is my friend and we often disagree, but we agree to disagree agreeably and I do not think that he really meant what he said.

But he mentioned this amendment, as I understood him, as being trivia. I would suggest that he tell that to the 600 black ministers in the District of Columbia who do not think it is trivia, who came to me representing 150,000 members of their congregations. Enough about that. I would emphasize that they are black ministers representing for the most part, I am sure, black congregations. But so much for the implication that this wàs somehow tied into some racial thing. It simply is not so, and I think the Senator knows that.

As for the repeated suggestions that this has something to do with home rule and our overstepping the bounds of our prerogatives and our responsibilities, I say again that I have put in the RECORD relating to this bill that we have before us about 10 provisions imposing legislative restrictions on the District of Columbia. So you can pick and choose. You can take whatever side you want. But let us look at the home rule charter as enacted into law in 1973 and then we will talk about this home rule business. The charter recognizes clearly the constitutional power of Congress to legislative over the District of Columbia.

Now, Senators may not like that. They may not know that. But it is a fact of life. It is a part of the statute. Let me read the law just so there will be no further misunderstanding about it: "Notwithstanding any other provision of this act"—and this is the Home Rule Act of 1973—the Congress of the United States reserves the right at any time to exercise its constitutional authority as legislature for the District by enacting legislation for the District on any subject, whether within or without the scope of legislative power granted to the council—that means the District of Columbia Council—"by this act, including legislation to amend or repeal any law in force in the District prior to or after enactment of this act and any act passed by the council."

Now, the 600 black ministers who are pleading for help on this, representing their congregations of 150,000 people, understand. And I say again that a disaster is looming over the horizon in terms of the insurance business in the city.

Now, Senator WEICKER referred to the District of Columbia "or any other State." Those are his exact words. I would remind him that the District of Columbia is not a State and, if I have anything to do with it, it is not likely to be one soon.

Mr. NICKLES. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I have the floor.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. BYRD. Mr. President, I would yield for that purpose, but I hope to bring this debate to a close and get on with this bill so we can get to war powers. I yield to the Senator without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I thank the Senator. The Senator from North Carolina mentioned the home rule statute, but in reading the Constitution under article I, section 8, it gives to Congress, and correct me if I am wrong, "the authority to exercise exclusive legislation in all cases whatsoever over such district."

And am I not correct that the Senator is trying to exercise some degree of control over some legislation that was passed by the District?

Mr. HELMS. The Senator is absolutely correct, I will say to him. Furthermore, the very committee that reported out this bill has exercised that right at least eight times on provisions in the bill.

So there is the possibility of some sanctimony or chide when an effort is made on behalf of these 600 black ministers and this congregation. That is what I am doing it for. I did not dream this thing up. They came to me, Mr. President, and I say to the Senator from Oklahoma, I think they are right. I think the Senate ought to stand behind them.

Mr. KERRY. Mr. President, I rise in opposition to the amendment of the Senator from North Carolina.

The issue raised by our colleague is very simple: What is the role of the Congress in legislating purely local issues regarding the District of Columbia?

To answer this question we need look no further than the opening lines of the 1973 legislation which created the present form of local government for Washington. In granting home rule to the District we declared:

> It is the intention of Congress to the greatest extent possible, consistent with the constitutional mandate, to relieve Congress of the burden of legislating upon essentially local District matters.

If any area of economic regulation has been considered historically to be local in nature, it is the regulation of insurance. Ever since the enactment of the McCarran-Fergusen Act in 1945, the Congress has taken a hands-off position with respect to State and local regulation of insurance. The result is a highly sophisticated and effective system of State law and regulation governing our country's insurance industry.

That system of State regulation takes into account the differing interests and policies unique to each State. For example, a growing number of States are enacting legislation similar to that recently enacted by the District of Columbia council. Both California and Wisconsin restrict the right of insurance companies to discriminate in coverage involving HTLTV-3 carriers. My own State of Massachusetts and five others—New York, Illinois, California, Louisiana, and Maryland—all prohibit discriminating in writing insurance policies involving the sickle-cell trait. Illinois, Maine, and New York also prohibit special insurance treatment of persons who have been exposed to the drug DES.

The recently enacted legislation of the District of Columbia council is in this tradition and reflects the considered judgment of the District's elected political officials about what is in the interests of the citizens who elected them.

Indeed, the local legislation which would be overturned by Senator HELMS was enacted by a unanimous vote of all 13 elected representatives—Republican and Democratic—on the District of Columbia council.

Mr. President, I can think of no area of District government policy more appropriately covered by the language which was just cited from the 1973 Home Rule Act than the regulation of insurance.

If we in Congress are to begin second guessing the District government on an issue as local in nature as this, then we will be setting a dangerous precedent for the business of the Senate to be interrupted any number of attempts to interfere in District government affairs.

We have far too many serious responsibilities which only we in the Senate can address, to be distracted with requests to function in the place of a local city council.

Mr. President, apart from the obvious fact that the amendment of the Senator from North Carolina violates the mandate of the 1973 home rule statute and threatens to distract the Senate with innumerable local issues in the future—I believe there is another strong reason for opposing it.

The most important reason is that it is simply wrong for us to impose our will on a District of Columbia government which is unrepresented in this body.

The abolition of slavery, universal suffrage—for men and women—the principle of one person one vote, have brought to the governing of our State and local governments a sense of fairness and equity not imaginable 200 years ago.

One of the few remaining obstacles to the perfection of democratic principles of Government in the United States is the archaic status of the District of Columbia.

More than 600,000 of our Nation's citizens are permanent residents of the District of Columbia. They are all Americans. They pay taxes, they serve in the Armed Forces, they attempt to participate in local self-governance, as do the citizens of everyone of the 50 States. Yet they are completely unrepresented by voting membership in the Congress of the United States.

The amendment of the Senator from North Carolina serves to highlight this inequity.

Without exception, every elected official of the District of Columbia government supports the local legislation the Senator would overrule. Yet he would impose his own will on them and the constituents they represent.

I strongly believe that approval of this amendment would be a giant step backward in the development of this Nation as well as an inappropriate use of the Senate's time and energy.

If we in Congress are to concern ourselves with the welfare of the citizens of the city of Washington, we would do far better to devote ourselves to seeing that they 1 day can send one of their own to this body to speak for them, and to end the anachronistic system of denial of basic democracy which has blighted our Nation's Capital for generations.

Mr. President, 13 people have spoken for the District of Columbia. Yet the District of Columbia, of all the places in the United States, where there are 600,000 of our Nation's citizens who pay Federal taxes, are subject to the Armed Forces and everything else, has no representation in Congress. There is no reason that several Senators should overturn that expressed will of their elected body, their elected officials.

Mr. GORE. Mr. President, I rise to speak against the amendment.

Let me say at the outset that I have serious reservations about the wisdom of the District's AIDS law. While I oppose medical underwriting in health insurance, it is a time honored principle in life insurance. Unfortunately, the D.C. law prohibiting medical underwriting applies to both health insurance and life insurance.

But the wisdom behind the law is not the issue before us today. The issue is whether Congress is going to keep going back to this issue which was decided last year. The issue is, are we going to reach out and interfere with the insurance laws of the District of Columbia, after they are in place and, after the 30-day period reserved to the Congress to veto a District law before it takes effect has elapsed.

We had an opportunity to pass judgment on this matter during the 30 days allotted, last year. We debated it, we voted on it, and in the end the District's law stood. I voted to strike down the District's law, because as I said before I don't think it is properly sensitive to the differences between health and life insurance. But once the law is in place, it is wrong to keep going back and rehashing it.

I couldn't agree more strongly with the powerful statement of the Senator from Connecticut. It is indeed tragic that we continue to take up the Senate's time on this issue while failing to begin debate on real solutions to the AIDS crisis.

Over 42,000 Americans now have AIDS; 23,000 lives have been lost, yet the country is still forced to feel its way through a shroud of fear that this administration has allowed to grow around AIDS. The time has long since passed to make clear to the American people that this war is against a disease and not the individuals who suffer from it.

A vote for the Helms amendment sends the wrong message to the American people. I urge the Senate to reject it.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment being offered by the Senator from North Carolina [Mr. HELMS]. I believe that it is totally inappropriate for the U.S. Senate to interfere with a law that was passed by the District of Columbia more than 1 year ago dealing with insurance. As my colleagues well know, insurance issues in general have been traditionally left to the States to decide. We would be reversing that long-standing policy by now trying to reverse the D.C. insurance law.

Mr. President, it is my understanding that the insurance industry does not want congressional interference in this matter. I have been informed that negotiations are currently taking place between the local community and the insurance industry to come up with a compromise that would be agreeable to everyone involved. The industry should be able to work out an agreement through the regular local process without the Senate intruding in its business.

I would also point out that over 15 States, including the State of California, have adopted policies—similar to the D.C. law—restricting insurers' use of the test for the antibody to the human immunodeficiency virus.

Mr. President, although I do not believe that the central issue raised by this amendment is whether the D.C. law is good public policy or not, we in the Congress must begin to address the issues raised by that law. In addition to coping with a fatal disease, individuals with AIDS are also forced to confront discrimination—in housing, employment, health care, insurance, and many other areas. That is a major deterrent for individuals at risk to agree to be tested and receive counseling. It is difficult to imagine anything more tragic than a person discovering that he or she has tested positive for the AIDS antibody and then being denied health insurance.

Mr. President, at the same time that we are encouraging people to be tested for the AIDS antibody and to be counseled with respect to avoiding transmission of the virus, this amendment could be interpreted as sending a message that the Senate does not believe that the test result should be kept confidential. I don't think that's a message that the Senate should support directly or indirectly.

Mr. President, for all the reasons I have cited, I believe that this amendment should be defeated.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, is there an inclination to get to a vote on this amendment and then proceed to final passage?

Mr. President, I ask unanimous consent that the vote occur on or in relation to the pending amendment immediately, and that immediately following the disposition of the amendment one way or the other the Senate proceed immediately to third reading without further debate, without further motion or action of any kind, without further quorum call, and then vote immediately on the bill itself without further debate, motion, point or order or action whatsoever.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. BYRD. I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I move to table the Helms amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Iowa to lay on the table the amendment of the Senator from North Carolina. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. Simon], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chambers who desire to vote?

The result was announced, yeas 44, nays 55, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—44

Adams
Biden
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chafee
Cohen
Conrad
Cranston
Durenberger
Evans
Fowler
Glenn
Gore
Graham
Harkin
Heinz
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Proxmire
Reid
Riegle
Rockefeller
Sarbanes
Specter
Stafford
Stennis
Weicker
Wirth

NAYS—55

Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Byrd
Chiles
Cochran
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle
Roth
Rudman
Sanford
Sasser
Shelby
Simpson
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NOT VOTING—1

Simon

So the motion to lay on the table was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now occurs on the amendment offered by the Senator from North Carolina [Mr. Helms].

Mr. HELMS. Mr. President, I am willing to vitiate the rollcall on the amendment inasmuch as the motion to table failed, and I ask unanimous consent that the yeas and nays be vitiated.

Mr. ADAMS. Mr. President, reserving the right to object, does that mean we are going to have to have another rollcall on this amendment?

Mr. HELMS. It will be precisely the opposite, I say to the Senator.

Mr. ADAMS. I withdraw my objection.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the adoption of the amendment by the Senator from North Carolina.

The amendment (No. 813) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, each appropriations bill is subject to a spending limit known as a 302(b) allocation. As chairman of the Senate Committee on the Budget, I am pleased to report that the District of Columbia appropriations bill, H.R. 2713, is under its 302(b) budget authority ceiling by less than $50 million and under its 302(b) outlay ceiling by less than $50 million. I commend the distinguished chairman of the subcommittee, Senator Harkin, and the ranking minority member, Senator Nickles, for their success in crafting this bill.

Mr. President, I have a table from the Budget Committee showing the official scoring of the District of Columbia appropriations bill and I ask unanimous consent that it be inserted in the Record at the appropriate point.

DISTRICT OF COLUMBIA—SPENDING TOTALS

[Senate-reported, dollars in billions]

	Fiscal year 1988	
	Budget authority	Outlays
BILL SCORING		
H.R. 2713, Senate-reported bill (new BA and outlays)	0.6	0.6
Outlays from prior-year BA and permanent appropriations	+(1)	+(1)
Bill total	.6	.6
Subcommittee 302(b) allocation	.6	.6
Difference	−(1)	−(1)
COMPARISONS		
Bill total above (+) or below (−):		
President's request	+(1)	+(1)
House-passed bill	−(1)	−(1)

(1) Less than $50,000,000.

Note.—Details may not add to totals due to rounding. Prepared by Senate Budget Committee.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

Mr. NICKLES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. Simon] is necessarily absent.

The PRESIDING OFFICER (Mr. Bingaman). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—76

Adams
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Hatfield
Hecht
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker

NAYS—23

Armstrong
Baucus
Breaux
Daschle
DeConcini
Garn
Gramm
Hatch
Heflin
Helms
Humphrey
Karnes
Kasten
McCain
McClure
Proxmire
Roth
Shelby
Symms
Thurmond
Wallop
Wilson
Wirth

NOT VOTING—1

Simon

So the bill (H.R. 2713), as amended, was passed.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I yield to the manager without losing the floor.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senate insist on its amendments to H.R. 2713, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. HARKIN, Mr. LAUTENBERG, Mr. REID, Mr. STENNIS, Mr. NICKLES, Mr. GRASSLEY, and Mr. HATFIELD, conferees on the part of the Senate.

Mr. BYRD. Mr. President, I yield to the distinguished Senator not to exceed 4 minutes.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I thank you for the opportunity to bring an important piece of legislation to the Senate today. I am going to be very brief to conform with the consent.

I hold in my hand here just some of a large number of letters that I have received urging that the Senate take action on this particular matter, so I am pleased to be able to introduce today a bill with the unwieldy name: the Medicare Private Health Plan Capitation Improvement Act of 1987.

(The remarks of Mr. DURENBERGER pertaining to the introduction of legislation will be found later in today's RECORD under Statements on Introduced Bills and Joints Resolutions.)

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, I call for regular order.

LEGISLATIVE BRANCH APPROPRIATIONS, 1988

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 2714, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2714) making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in bold-face brackets, and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2714

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1988, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader, in all $20,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, clerks to Senators, and others as authorized by law, including agency contributions, $207,417,500 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,145,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For Office of the President Pro Tempore, $153,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $90,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,388,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $431,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $556,500 for each such committee; in all, $1,113,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $270,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $115,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,005,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For administrative, clerical, and legislative assistance to Senators, $109,605,500.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $44,161,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $905,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $40,036,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,764,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $633,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $57,161,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, as authorized by section 814 of the Foreign Relations Authorization Act passed by the Senate on July 31, 1985, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $666,300.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $66,174,000: Provided, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1986 (Public Law 99-151), $2,250,000 shall remain available until September 30, 1988.

MISCELLANEOUS ITEMS

For miscellaneous items, $10,183,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SEC. 1. (a) The table and the sentence immediately following such table in subsection (d)(1) of section 105 of the Legislative Branch Appropriation Act, 1968 (2 U.S.C. 61-1(d)(1)), is amended to read as follows:

"$716,102 if the population of his State is less than 1,000,000;

"$736,873 if such population is 1,000,000 but less than 2,000,000;

"$786,938 if such population is 2,000,000 but less than 3,000,000;

"$851,385 if such population is 3,000,000 but less than 4,000,000;

"$904,114 if such population is 4,000,000 but less than 5,000,000;

"$931,810 if such population is 5,000,000 but less than 6,000,000;
"$959,505 if such population is 6,000,000 but less than 7,000,000;
"$988,799 if such population is 7,000,000 but less than 8,000,000;
"$1,019,689 if such population is 8,000,000 but less than 9,000,000;
"$1,066,029 if such population is 9,000,000 but less than 10,000,000;
"$1,126,745 if such population is 10,000,000 but less than 11,000,000;
"$1,173,084 if such population is 11,000,000 but less than 12,000,000;
"$1,202,644 if such population is 12,000,000 but less than 13,000,000;
"$1,232,204 if such population is 13,000,000 but less than 14,000,000;
"$1,261,764 if such population is 14,000,000 but less than 15,000,000;
"$1,291,324 if such population is 15,000,000 but less than 16,000,000;
"$1,320,884 if such population is 16,000,000 but less than 17,000,000;
"$1,350,444 if such population is 17,000,000 but less than 18,000,000;
"$1,380,004 if such population is 18,000,000 but less than 19,000,000;
"$1,402,107 if such population is 19,000,000 but less than 20,000,000;
"$1,424,210 if such population is 20,000,000 but less than 21,000,000;
"$1,446,313 if such population is 21,000,000 but less than 22,000,000;
"$1,468,416 if such population is 22,000,000 but less than 23,000,000;
"$1,490,519 if such population is 23,000,000 but less than 24,000,000;
"$1,512,622 if such population is 24,000,000 but less than 25,000,000;
"$1,534,725 if such population is 25,000,000 but less than 26,000,000;
"$1,556,828 if such population is 26,000,000 but less than 27,000,000;
"$1,578,931 if such population is 27,000,000 but less than 28,000,000; and
"$1,601,034 if such population is 28,000,000 or more.

"For any fiscal year, the population of a State shall be deemed to be whichever of the following is the higher:

"(I) the population of such State (as determined for purposes of this paragraph) for the preceding fiscal year; or

"(II) the population of such State as of the first day of such fiscal year, as determined by the latest census (provisional or otherwise) conducted prior to such first day by the Bureau of the Census within the Department of Commerce.

"If the population of any State, as determined under the preceding sentence, is not evenly divisible by 1,000,000, the population of such State shall be deemed to be increased to the next higher multiple of 1,000,000.

"If, for any period after a fiscal year has begun, the census figures of the most recent census conducted prior to the first day of such year have not been officially released, then, for such period, in the administration of this paragraph, it shall be assumed that the population of each State is the same as such State's population (as determined for purposes of this paragraph) for the preceding fiscal year.

"In the event that the term of office of a Senator begins after the first month of a fiscal year or ends (except by reason of death, resignation, or expulsion) before the last month of a fiscal year, the aggregate amount available for gross compensation of employees in the office of such Senator for such year shall be the applicable amount contained in the preceding table, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by this section shall be effective in the case of fiscal years beginning after September 30, 1987.

SEC. 2. (a) Effective with respect to pay periods beginning on or after October 1, 1987, the Chaplain of the Senate shall be compensated at a rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) The second proviso, under the headings "SENATE" and "Office of the Chaplain", of the Legislative Branch Appropriation Act, 1970 (Public Law 91-145) is amended to read as follows: "Provided further, That the Chaplain of the Senate may appoint and fix the compensation of a secretary".

SEC. 3. (a) Section 192 of title I, Chapter IX, of the Supplemental Appropriations Act, 1985 (Public Law 99-88; 99 Stat. 349; 2 U.S.C. 68-5) is amended—

(1) by striking out "and", where it appears immediately after "Minority Whip of the Senate,", and inserting in lieu thereof "one for the attending physician, one as authorized by Senate Resolution 90 of the 100th Congress"; and

(2) by inserting immediately before the period at the end of such section the following: ", and such additional number as is otherwise specifically authorized by law".

(b) The amendments made by subsection (a) shall be effective in the case of fiscal years ending after September 30, 1986.

SEC. 4. Section 151(a) of Public Law 99-591 (100 Stat. 3341-3355) is amended by striking out "during fiscal year 1987".

SEC. 5. Section 213 of the Act entitled "An Act Making Appropriations for Military Construction for Department of Defense for the Fiscal Year Ending September 30, 1987 and for Other Purposes" as contained in Public Law 99-591 is amended—

(1) in subsection (a), (1), (E) by adding at the end thereof the following new sentence: "If a chairman has not been selected by majority vote of the other members within 10 days of the acceptance of this amendment, then the Senate Majority Leader and the Speaker of the House of Representatives in consultation with the Minority Leaders of the Senate and House of Representatives, will appoint a chairman. Pending selection of a chairman the Democratic and Republican designees of the Senate shall act as interim chairman only for the purpose of administration of the Commission, and that the Commission shall take no action on administrative matters without the approval of both acting chairmen. Any meetings of the Commission convened in the absence of a permanently selected chairman shall be chaired, on a rotation basis by each of the appointed members of the Commission in the following order: the Republican designee of the House, the Democratic designee of the House, the Republican designee of the Senate and the Democratic designee of the Senate.:"

(2) by amending subsection (g) to read as follows:

"(g) The Commission shall terminate on September 30, 1988.".

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to Lucie C. McKinney, widow of Stewart B. McKinney, late a Representative from the State of Connecticut, $89,500.

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $3,456,000, including: Office of the Speaker, $798,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $708,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $789,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $621,000, including $5,000 for official expenses of the Majority Whip and not to exceed $149,950 for the Chief Deputy Majority Whip; Office of the Minority Whip, $540,000, including $5,000 for official expenses of the Minority Whip and not to exceed $79,150 for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $175,199,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $50,062,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $329,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $52,418,000.

ALLOWANCES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For allowances and expenses as authorized by House resolution or law, $189,047,000, including: Official Expenses of Members, $81,523,000; supplies, materials, administrative costs and Federal tort claims, $20,119,000; furniture and furnishings, $1,005,000; stenographic reporting of committee hearings, $550,000; reemployed annuitants reimbursements, $1,118,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $84,110,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, restaurants, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000: *Provided*, That effective upon enactment of this Act, an amount not to exceed $132,000 shall be made available by transfer from the appropriation for "House office buildings, 1987, No year" for deposit in the account established by section 208 of the First Supplemental Civil Functions Appropriations Act, 1941 (40 U.S.C. 174k(b)).

Such amounts as are deemed necessary for the payment of allowances and expenses under this head may be transferred between the various categories within this appropriation, "Allowances and expenses", upon the approval of the Committee on Appropriations of the House of Representatives.

Committee on Appropriations (Studies and Investigations)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,300,000.

Salaries, Officers and Employees

For compensation and expenses of officers and employees, as authorized by law, $54,529,000, including: Office of the Clerk, $14,917,000; Office of the Sergeant at Arms, including overtime, as authorized by law, $21,180,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,915,000; Office of the Postmaster, $2,517,000, including $48,124 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $16,766 per annum each; Office of the Chaplain, $75,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $716,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $243,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $870,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,025,000; six minority employees, $447,000; the House Democratic Steering Committee and Caucus, $721,000; the House Republican Conference, $721,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this head may be transferred between the various offices and activities within this appropriation, "Salaries, officers and employees", upon the approval of the Committee on Appropriations of the House of Representatives.

Administrative Provisions

SEC. 101. Of the amounts appropriated in fiscal year 1988 for the House of Representatives under the headings "Committee employees", "Standing committees, special and select", "Salaries, officers and employees", "Allowances and expenses", "House leadership offices", and "Members' clerk hire", such amounts as are deemed necessary for the payment of salaries and expenses may be transferred among the aforementioned accounts upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. (a) One additional employee is authorized for each of the following:

(1) the House Democratic Steering and Policy Committee; and

(2) the House Republican Conference.

(b) The annual rate of pay for the positions established under subsection (a) shall not exceed 60 percent of the annual rate of pay payable from time to time for level V of the Executive Schedule under section 5316 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

Contingent Expenses of the Senate

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, [$3,197,000] *$3,284,000*.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,071,000.

Contingent Expenses of the House

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,359,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $963,600 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,543,000, to be disbursed by the Clerk of the House.

Capitol Police

GENERAL EXPENSES

For purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, [$1,752,000] *$2,531,000*, to be disbursed by the Clerk of the House: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1988 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

Official Mail Costs

For expenses necessary for official mail costs, [$100,000,000] *$85,000,000*, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided*, That funds appropriated for such purpose for the fiscal year ending September 30, 1987, shall remain available until expended.

Capitol Guide Service

For salaries and expenses of the Capitol Guide Service, [$1,040,000] *$1,175,000*, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than [twenty-eight] *thirty-three* individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the first session of the One-hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriation bills as required by law, $20,000, to be paid to the persons designated by the chairman of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,000 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under section 1886 of the Social Security Act as amended by section 601 of the Social Security Amendments of 1983 (Public Law 98-21), and those necessary to carry out the duties of the Director of the Office of Technology Assessment under part B of title XVIII of the Social Security Act as amended by section 9305 of the Consolidated Omnibus Reconciliation Act of 1985 (Public Law 99-272), [$16,435,000] *$17,464,000*: *Provided*, That none of the funds in the Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further*, That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study, except that funds shall be available for and reimbursement can be accepted for salaries or expenses of the Office of Technology Assessment in connection with the assessment required by section 101(b) of Public Law 99-190.

BIOMEDICAL ETHICS

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, as authorized by section 381 of the Public Health Service Act (Public Law 99-158), $500,000: Provided, That of the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1987 (Public Law 99-500 and Public Law 99-591), shall remain available until September 30, 1988.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), [$18,148,000] *$18,481,000*: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $6,123,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of [$10,000] *$20,000*.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $50,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, [$13,024,000] *$13,108,000*, of which $360,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, [$3,308,000] *$3,517,000*.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $24,039,000, of which $3,015,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $31,563,000, of which $8,010,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $25,400,000: *Provided*, That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1988.

ADMINISTRATIVE PROVISIONS

SEC. 103. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program.

SEC. 104. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model.

[SEC. 105. Each of the amounts provided under the heading Architect of the Capitol, beginning on line 11, page 12 through line 19, page 14; and on page 21, lines 10 through 16, shall be reduced by 2.8 percent.]

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, [$43,000,000] *$44,453,000*: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further*, That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, [$70,900,000] *$72,700,000*: *Provided*, That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further*, That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That, to the extent that funds remain from the unexpended balance of fiscal year 1984 and fiscal year 1985 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriation Act, 1988".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,295,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Speaker's Civic Achievement Awards Program, subject to authorization, development and maintenance of the Union

Catalogs; custody, care and maintenance of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, [$147,635,000] *$148,631,000*, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further*, That, of the total amount appropriated, $4,944,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,431,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1988 under 17 U.S.C. 708(c), and not more than $931,000 shall be derived from collections during fiscal year 1988 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,931,000: *Provided further, That $150,000 of the unobligated balance of that part of the appropriation "Salaries and Expenses, Copyright Office" for the fiscal year 1987, for the acquisition of a stand-alone data system for the processing of cable television statements and jukebox registrations, shall remain available until September 30, 1988.*

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $37,390,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $6,010,000, of which $4,781,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $101,390 of which $23,900 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. No funds shall be expended by the Library of Congress for the purpose of providing long-term special study facilities for profit or non-profit business enterprises until guidelines for such use are approved by the Joint Committee on the Library.

SEC. 205. (a) AMENDMENTS RELATING TO DUTIES OF ARCHITECT OF THE CAPITOL AND LIBRARIAN OF CONGRESS.—Section 1 of the Act entitled "An Act to abolish the Office of Superintendent of the Library Building and Grounds and to transfer the duties thereof to the Architect of the Capitol and the Librarian of Congress", approved June 29, 1922 (ch. 251, par. 1, 42 Stat. 715; 2 U.S.C. 141), as amended by the Act of June 12, 1970 (Public Law 91-280, 84 Stat. 309; 2 U.S.C. 141), is further amended by striking out "the care and maintenance of the grounds,".

(b) AMENDMENTS RELATING TO GROUNDS OF THE MADISON BUILDING.—Section 2 of the Act entitled "Joint Resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes", approved October 19, 1965 (Public Law 89-260, 79 Stat. 986) is amended by striking out "and the care of the surrounding grounds", and adding a new second sentence which reads, "The care and maintenance of the grounds surrounding the building authorized by this joint resolution shall be under the Librarian of Congress".

(c) EFFECTIVE DATE.—This Act shall take effect on the date of the enactment of this Act.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS [AND GROUNDS]

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings [and grounds, $6,965,000] *$6,820,000*, of which $365,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $666,000, of which $533,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $25,300,000, of which $5,500,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided*, That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided*, That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That during the current fiscal year the revolving fund shall be available for the hire of eight passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further*, That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further*, That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and expenses" together may not be available for the full-time equivalent employment of more than 5,237 workyears.

ADMINISTRATIVE PROVISION

SEC. 205. Funds authorized to be expended by the Government Printing Office for fiscal year 1988, not to exceed [$27,500] *$55,000*, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $5,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); [$334,777,000] *$340,820,000*: *Provided*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further*, That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further*, That $50,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the U.S. General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further*, That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

SEC. 306. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), the term "program, project, and activity" shall be synonymous with each appropriation account in this Act, except that the accounts under the general heading "House of Representatives" shall be considered one "program, project, and activity", and the accounts under the general heading "Senate" shall be considered one "program, project, and activity".

[SEC. 307. (a) Notwithstanding section 105 of title 4, United States Code, or any other provision of law, no person shall be required to pay, collect, or account for any sales or use tax, or any personal property tax, with respect to an essential support activity or function conducted by a nongovernmental person in the Capitol, the House Office Buildings, the Senate Office Buildings, the Capitol Grounds, or any other location under the control of the Congress.

[(b) As used in this section—

[(1) the term "essential support activity or function" means a support activity or function so designated by the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, acting jointly or separately, as appropriate;

[(2) the term "personal property tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, the value of personal property;

[(3) the term "sales or use tax" means a tax of a State, a subdivision of a State, or any other authority of a State, that is levied on, levied with respect to, or measured by, sales, receipts from sales, or purchases, or storage or use of personal property; and

[(4) the term "State" means a State of the United States, the District of Columbia, or a territory or possession of the United States.

[(c) This section shall apply to any sale, receipt, purchase, storage, use, or valuation taking place before, on, or after the date on which this section is enacted.

[SEC. 308. The Architect of the Capitol and such officers of the House as are designated by the Speaker shall undertake a detailed review of all functions, services, programs, and activities now performed by the Architect of the Capitol and officers of the House pursuant to law or regulation. Such review shall emphasize the rules and laws now governing their activities and the funds and personnel employed to carry out those activities with a view toward reassigning such activities to the Architect of the Capitol or the appropriate House officer. Necessary management and audit staff from the General Accounting Office shall be used in the determination of what transfers should be made in fiscal year 1988 with a preliminary report to be submitted to the House Committee on Appropriations, the Committee on House Administration, and the House Office Building Commission by the close of business December 31, 1987. A final report shall be submitted by February 15, 1988, and the necessary transfers of funds and personnel shall be undertaken on a timely schedule thereafter. The House Committee on Appropriations shall have authority to transfer such funds as may be necessary between the accounts of the Architect of the Capitol fund and House officers or the contingent fund as needed to accomplish such actions as recommended in the report and as approved by the House Office Building

Commission. This section shall be effective upon enactment.]

SEC. 307. Paragraph (1) of section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended to read as follows:

"(1) Each recommendation of the President which—

"(A) is transmitted to the Congress pursuant to subsection (h) of this section; and

"(B) is approved by a joint resolution agreed to by the Congress,

shall be effective as provided in paragraph (2) of this subsection.".

SEC. 308. (a) None of the funds appropriated for fiscal year 1988 by this or any other Act may be obligated or expended by any entity of the Executive Branch of the United States Government for any of the following purposes:

(1) The procurement of any printing, binding, reproduction or composition of work related to the production of government materials, unless such procurement is performed by the United States Government Printing Office.

(2) The procurement of any printing, binding, reproduction or composition equipment.

(3) The printing, binding, reproduction or composition of government materials, by any individual Executive Branch printing, binding, reproduction or composition facility, in excess of 105 percent of the volume of printing, binding, reproduction or composition work performed by such facility in fiscal year 1987.

(4) The establishment or operation of any new facility, the purpose of which is to print, bind, compose or reproduce multiple copies of government materials.

(b) Notwithstanding paragraphs (1) and (2) of subsection (a), individual printing, binding, reproduction or composition work costing $1,000 or less per individual contract may be procured directly by the issuing department or agency, if such work is not of a continuing or repetitive nature.

This Act may be cited as the "Legislative Branch Appropriations Act, 1988".

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, under the order that was entered, I believe either of the two leaders or either of the two managers could call back the DOD authorization. That is what I had in mind when I asked for regular order.

The PRESIDING OFFICER. That is contained in the order. The majority leader has that right.

Mr. BYRD. Mr. President, I exercise that right.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the unfinished business, which is S. 1174, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Weicker-Hatfield Amendment No. 712, to require compliance with the provisions of the War Powers Resolution.

(2) Byrd Amendment No. 732 (to Amendment No. 712), of a perfecting nature, to provide that Congress express its support for (1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf; (2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in the region; and (3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a cease-fire as called for by United Nations Security Council Resolution 598, and take early action toward imposing sanctions on any party which refuses to accept a cease-fire.

HOSTILITIES IN THE GULF

Mr. BYRD. Mr. President, the Senate once again turns to the issue of our current involvement in the reflagging and escorting of vessels in the Persian Gulf.

If the Byrd-Nunn-Bumpers-Adams-Sasser amendment is adopted, the Senate will be on record as opposing the reflagging and convoy escort operation until such time as the operation is specifically authorized by Congress.

There is a need for the Senate to act. The tensions in the Persian Gulf are not going to diminish as long as the Iran-Iraq war is raging. And the risks to American forces in the gulf will remain as long as the war against shipping in the gulf continues.

In regard to the war in the gulf, it is worth noting that in the days since the introduction of this amendment, Iraq has flown hundreds of sorties against shipping in the gulf. The United States continues to provide convoy service for reflagged Kuwaiti tankers at the same time that Kuwait's ally Iraq intensifies the war in the gulf. Mr. President, our policy in the Persian Gulf is working at cross purposes; 1987 is the year of the open tilt to Iraq, as if to balance off 1986, the year of the secret tilt toward Iran. Tilting as a policy, open or secret, in either direction at the same time we take the position internationally that the war be brought to an end, is a policy which might profitably be junked.

The Senate has already devoted hours to this subject, and has had several votes in relation to it. Senators SASSER, WARNER, and GLENN visited the Persian Gulf region at the request of the two leaders and reported back with their assessments earlier this summer. The Armed Services, Foreign Relations, and Intelligence Committees examined administration policy throughout the summer and expressed grave reservations about the course of action being pursued.

After considering this information, the Senate voted on a resolution calling on the administration to delay its plan to reflag the Kuwaiti tankers until more was understood about the potential threats to our forces in the region, and until our policy objectives had been clarified, and in order to give the diplomatic process—the search for a diplomatic solution to the Iran-Iraq war—a chance to work.

Despite these efforts in the Senate, and despite the fact that a clear majority favored the approach recommended, we were unable to obtain cloture in order to pass that resolution.

About 1 week ago, the Senate refused to invoke the War Powers Act. The Senate's action was followed shortly by the operation against the Iranian ship laying mines in the gulf and the sinking of another ship by a mine. We have recently had reports of still more mine-laying in the gulf.

Mr. President, I make it clear that this Senator supports the actions that were taken by the American helicopters in firing against the Iranian ship. There is no debate on that point.

Mr. President, as a result of these developments, a group of Senators have worked hard over the past 2 days to forge an approach to policy in the gulf which addresses the grave and longstanding reservations about the reflagging and convoying policy but which would not require the United States to pull out of the gulf or reduce its historic and vital commitments. This is the intent of the amendment I and other Senators have introduced to the amendment of the Senator from Connecticut.

The Byrd-Nunn amendment is a carefully targeted amendment. It aims at the actions which have exacerbated and intensified the increased tensions in the gulf and have resulted in the buildup of American naval forces there. These actions are the decisions to reflag and escort the Kuwaiti tankers.

It is very important to be clear on what the amendment does not do. It does not—repeat, not—require the withdrawal of any—repeat, any—United States forces from the Persian Gulf—not one single helicopter, not one battleship, not one airplane, not one man or woman in military uniform, not one patrol boat, from the Persian Gulf.

Instead, it would have the desirable effect of reviewing the option of giving our forces new flexibility, a definite military advantage. It does not reduce military options in the gulf—instead, it expands them. Our naval vessels need not be straightjacketed into a demanding escort regime, but could be far freer to execute a fuller range of operational capabilities with the same assets.

The amendment does not require any reduction in the U.S. military presence in the Persian Gulf region. In fact, it reaffirms that commitment in the strongest terms. The sponsors of this amendment favor a continued presence of the United States in the gulf. We favor the continued close cooperation with our allies and friends in the region. We favor the diplomatic efforts to solve and bring to an end the Iran-Iraq war. The Byrd-Nunn amendment does not invoke the specific procedures of the War Powers Resolution. That resolution, if invoked, would require all—the word is any, any meaning all—any U.S. Armed Forces; that is the War Powers Act—to be withdrawn from the region unless the Congress authorized their deployment. That is too blunt an instrument we think in this particular instance to deal with this particular problem.

So we need a sharper instrument for this problem, and that is what the Byrd-Nunn amendment provides.

The Byrd-Nunn amendment calls on the President to report within 30 days—not within 48 hours as the War Powers Resolution requires—and it sets forth certain specific requests that the President is to address in that report to the Congress. It calls on the President to submit that report within 30 days on the continued reflagging and convoying of the tankers. It requires the President to justify this policy in terms of our larger national objectives and to account for the costs of the operation.

Congress is then given 60 days in which to approve the continued escort operation. If Congress at the end of 60 days has not authorized such reflagging and escorting, then such reflagging and escorting must end. But there are no restrictions placed on the numbers of U.S. naval forces in the gulf at the end of the 90 days, or on their right to take actions to defend themselves. As I say, every boat, every plane, every helicopter, every minesweeper, every man, every woman, in U.S. military uniform that is out there now in the gulf can stay.

This amendment, contrary to what those downtown who do not understand it have said, does not require the United States to pull out. It does not pull the rug out from under anybody. It does not require the United States to withdraw its forces from the Persian Gulf. It does not require the United States to get out of the Persian Gulf. It simply drives toward the one target, that being the reflagging and escorting of vessels as we are seeing under the current policy.

When the reflagging was originally announced, the Pentagon, claimed that it would required no additional forces. Remember that? The Pentagon said no additional forces would be required. They then proposed a modest increase in forces. By now, a substantial armada has been assembled, and the cost of the operations will mount. For how long are we committeed to the convoying and escorting? How long, Mr. President, how long? Will the buildup continue? It is open ended, with no strings attached. No end in sight, no termination date. That is the administration's current policy.

It is most interesting to now hear the Chairman of the Joint Chiefs of Staff state in testimony on September 29, yesterday, before the Armed Services Committee, that the U.S. Navy underestimated, underestimated, the threat of mine warfare in the gulf.

Of course, that was obvious. It did not take the Chairman of the Joint Chiefs of Staff to see that or say that. We saw that; everybody saw it. It was embarrassing to the administration when it was obvious that that was something that had not been thought of. The threat of mine warfare certainly had not been planned against, had not been provided for. So the Chairman of the Joint Chiefs of Staff says the U.S. Navy underestimated the threat of mine warfare in the gulf. He also stated that he hopes to draw down our forces there "to a more reasonable level."

Well, what is a "more reasonable level"? So, now we have the public admission of what some of us knew all along; namely, that the reflagging and convoying operation was hastily considered and ill conceived; that the administration rushed into it without fully considering the consequences; and that the administration is now faced with an open-ended and very expensive operation about which they have not the faintest idea, not the faintest idea of its ultimate cost or its duration. It can go on and on.

Some questions must be answered if this policy is to have the support of the American people. After all, they furnish the fighting men and women. They furnish the treasure, and they ought to have some answers.

These are the questions which the Byrd-Nunn amendment sets forth and on which the Congress can then vote. The reflagging and escorting would, by law, come to an end—unless the Congress authorized the extension of that policy. It might do that. I might vote to do that. But we need the information that we have asked for. We need to have some debate based on the report that would be sent to the Congress in the implementation of the amendment by the President.

What we are asking is for the President to come to the Congress with his report, explain his policy coherently, and build support for it. The amendment is a reasonable proposal which deserves the support of the Senate.

Mr. President, I will move shortly—I do not mean to keep other Senators from speaking, but I will move to table my own amendment and I will vote against the tabling motion. I urge other Senators to vote against my motion to table the Byrd-Nunn amendment.

Now, why would I do this? Mr. President, I have sought to get an agreement for a time limitation on this amendment. I have at one point indicated that I would be happy to lift this amendment out of this bill, lay it down in a separate resolution, if I could get consent to call up the resolution and have a time limit for debate on such resolution.

The distinguished managers of the bill, Mr. NUNN and Mr. WARNER, along with their colleagues on both sides of the aisle within the committee and on the floor, have worked hard, long, arduous hours in an effort to bring this bill to the floor. Heavens knows, I have tried and tried and tried again to get the bill up. I was delayed in that until a fortuitous circumstance presented itself.

I do not want to see this bill delayed further. I want to see the bill go to conference. It is a very important bill. It has many important items in it, provisions, policy matters, amendments, and it needs to go to conference with the other body. That will be a long hard conference, I anticipate. Mr. NUNN and Mr. WARNER will spend long hours and days and probably even weeks in that conference.

I want to see this bill go to conference. But, Mr. President, the matter before the Senate is a matter of great importance to this Nation. It is a matter affecting the fortunes and blood of the American people, their sons, their daughters, the taxpayers of this country. They should at least be given an answer. They should have some understanding as to what this reflagging operation is costing now, and as to how long it is likely to go on.

Mr. President, the people of this country should not be asked to give their sons and daughters in the implementation of a policy about which they know very little, and which this administration is unwilling to come to the Congress and explain. The Constitution of the United States gives to the Congress the power to declare war, and to nobody else. And what we are talking about here is certainly germane or relevant to that provision in the Constitution which speaks of the declaration of war. We are not advocating a declaration of war. But our sons, and daughters, and our grandchildren cannot be expected to be taken into far away places without the support of their fathers, mothers, and grandparents who are paying the taxes. The elected representatives of the people who are in this body and in the other body have a right to know and to participate in any decision to continue the reflagging operation.

This administration takes the position that it is omnipotent, omniscient, and omnipresent. It knows everything, it can do anything, it does not have to answer any questions, and it does not have to go up on the Hill and lay its cards on the table.

Why does it want to go it alone? I cannot understand that. Why does it want to go it alone? It would seem to me that the administration would much prefer to have Congress as an equal partner in this venture, because Congress after all has the control of the purse but that is a very slow operation. The use of the purse takes time.

We are in a situation in the gulf now where something can happen any minute, any hour, any day. And we continue to get the back of the hand from the administration to those of us who feel that a law is on the books whether we like it or not and it should not be ignored.

I have not been completely at ease with the verbiage of the law that is on the books. But it is there. And until somebody has an opportunity to test it in the courts, if a court will indeed open its doors to the Congress for standing, then who is going to say?

Alexander Pope said, "Who shall decide when doctors disagree?" Well, who shall decide when the other end of Pennsylvania Avenue and this end disagree?

We go a bit further. We need to have the report, the information, the data that we are requesting so we will know whether or not we disagree. Perhaps we will not disagree. What is the administration afraid of?

Mr. President, I have simply wanted a time agreement on this amendment. Let us vote in 3 hours, 4 hours, 2 hours, 10 hours, but let us vote.

I cannot get that time agreement. And I cannot get an agreement thus far that would allow us to take this question outside this bill, put it into a separate resolution, call it up the next day after the DOD authorization bill has passed, and have a time limitation thereon, so there would be no filibuster. But that being the case, the only way I can hope to get some kind of a vote is to move to table my own amendment, vote against tabling it, and hope that the Senate will vote not to table so as to indicate that the Senate feels that it has a voice in this matter and that it ought to be given an opportunity to exercise its will in the matter to table that amendment.

It is a question of such statute, standing, and seriousness that it is entitled to be voted on.

So, I will move to table the amendment. But, as I say, I do not intend to summarily do that. I would be glad to yield the floor to Senators for a certain amount of time.

I do not seek to limit anybody, but would the distinguished Senator give me some idea how long he would wish?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Does the majority leader yield the floor?

Mr. BYRD. I have not. I was wondering if the distinguished Senator would tell me if he would wish the floor for a half hour, 15 minutes, or whatever.

Mr. WARNER. Mr. President, this Senator would like to have 15 minutes. I know the minority leader is anxious to have some time. As a courtesy to the sponsor of the underlying amendment, it would seem to me that question should be placed to him. I hope I could receive recognition of the Chair, following the majority leader's yielding the floor, in an effort to engage in a brief colloquy. I wonder if he would extend me the courtesy to remain for a few minutes?

Mr. BYRD. Absolutely, I will.

Mr. WARNER. I think there are other Senators who desire to speak.

Mr. BYRD. I am sure there are. I would not want to be at this time tomorrow making my motion to table. That is the only reason I am seeking some limitation. I could move to table now that I have the floor and that would shut off all debate. I would not do that.

I ask unanimous consent that I may yield the floor for not to exceed 45 minutes, after which I be recognized by the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I think I am compelled to object—I am not at this moment fully knowledgeable on the range of interest and the time required on this side of the aisle. I do object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. Mr. President, the distinguished majority leader characterized his amendment as an important one, and I agree with that. As he knows, I have tried as best I could to work out a compromise, not only in terms of the amendments but also with the time agreements. And I have not given up. I am just hopeful that the distinguished majority leader will await the arrival of the Republican leader and through some consultations try to isolate a time period that would be more convenient.

Mr. ADAMS. Mr. President, would the majority leader yield for a question?

Mr. BYRD. Yes. Could I get a response? The distinguished Senator from Virginia has been very considerate, understanding, and cooperative. He has worked with the Democratic leadership in trying to develop an approach that might have hopefully gotten bipartisan support. I want to yield the floor.

I try to be a reasonable man, and at the end of the 45 minutes I fully expect that the Republican leader will be on the floor. And if he wants time, of course I would yield further. But I do not want to yield the floor and have the Senator take the floor, keep the floor, and 3, 4, 5 hours, 5 or 6 hours, until it is an hour in the day when I do not want to move to table.

What does the Senator propose?

Mr. WARNER. Mr. President, first I request the opportunity to address the Senate with respect to my views on the Byrd-Nunn amendment, and in part on the underlying amendment. I would think 15 to 20 minutes would be sufficient.

I would hope to ask one or more questions of the distinguished majority leader specifically addressing provisions of that matter, and provide a framework for the debate. Then, of course, having gained the floor, I would yield the floor and let the regular order of business of the Senate proceed on this amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield the floor for 1 hour and that I may again be recognized.

May I assure the Senator that if the distinguished Republican leader were here, if the Senator from Connecticut here had not been recognized, I would yield again. I simply want to protect my right to move to table today at a reasonable hour.

Mr. WARNER. I wonder, since the distinguished majority leader has the floor, if he is willing to accord this Senator the courtesy of speaking on the amendment. If we could await the arrival of the Republican leader before addressing——

Mr. BYRD. That is fine. I do not want to wait too long on the arrival of someone. I want to accommodate the Republican leader and the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if those listening could inform the Republican leader that we need his presence on the floor and provide the majority leader or myself with information as to when he can likely be on the floor.

Mr. ADAMS. Mr. President, will the majority leader yield?

Mr. BYRD. I am going to first accommodate the Senator from Virginia.

Mr. WARNER. I will seek recognition, and then I will yield to the Senator for the purpose of a question to me or the majority leader.

Mr. BYRD. I have not yielded the floor yet.

The PRESIDING OFFICER. Is there a unanimous-consent request pending? Did the majority leader put a unanimous-consent request?

Mr. BYRD. Yes—that I yield for not to exceed 1 hour.

Mr. WARNER. I have to object, pending the arrival of the minority leader, with no disrespect to my good friend.

Mr. BYRD. If the Republican leader is not too long. He knows I would go another half-hour or another hour for the Republican leader. I bend over backwards for him—yesterday, today, and tomorrow.

I am not a hard man to get along with, but I do know my rights, and I know what can happen if I give up the floor. I may be the majority leader, but I cannot take the floor from any other Senator. I am going to protect my right to the floor, because I am going to move to table this amendment. That is the only way I can get a vote on it. I cannot get a vote up or down. So we are going to have a vote one way or the other.

Mr. ADAMS. Mr. President, will the majority leader yield for a question, without losing his right to the floor?

Mr. BYRD. Yes, I yield.

Mr. ADAMS. I want to support the majority leader in his statement and in his holding the floor.

I have many things I might want to say on this resolution, also. I want to give the opportunity to the distinguished Senator from Virginia to speak. We have had ample opportunity to speak on this, and I think it is essential that we have a motion to table today. I intend to support the majority leader by voting against the motion to table. I will give up my time to the Senator from Virginia.

It is not a question of getting the floor. It is a question of having the motion to table this afternoon, because we need to move this bill on.

The Senator has been very cooperative. It is the only way the majority leader said we can do it. I hope he will maintain the floor, give people an opportunity to talk, and that we move to table.

I thank the Senator for yielding to me, and I hope he keeps the floor.

Mr. BYRD. I do not want to keep the floor. I thank my friend from Washington.

Mr. President, I ask unanimous consent that time on this amendment be limited to 2 hours, the time to be equally divided between myself and the distinguished Republican leader or the manager.

The **PRESIDING OFFICER.** Is there objection?

Mr. WARNER. Mr. President, regrettably, I object.

The **PRESIDING OFFICER.** Objection is heard.

Mr. BYRD. Mr. President, I make one more try.

I am not going to wait here forever. I have had this happen too many times, in which I wait on somebody, and I wait and I wait. In some instances, they never get to the floor the same day. I have some honor. If I promise that I will not make a certain motion until a Senator is back on the floor and he does not get back that day, I am shut out.

I ask unanimous consent that there be an hour and a half for debate on this matter, that 1 hour be for the other side of the aisle and that I retain 30 minutes.

The **PRESIDING OFFICER.** Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, again this is a matter on which I feel obligated to have a consultation with the minority leader and other Members on this side, and it is with regret that I have to object.

The **PRESIDING OFFICER.** Objection is heard.

Mr. BYRD. I will hold the floor and yield it to any Senator who wishes me to yield.

Mr. WARNER. Mr. President, will the distinguished Senator yield?

Mr. ADAMS. Mr. President, will the Senator yield?

Mr. BYRD. I would like to yield to this Senator first.

Mr. WARNER. I thank my good friend, the majority leader. I shall now engage in a colloquy with him, in the form of a question, regarding his amendment.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield for such purposes, without losing my right to the floor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. WARNER. Mr. President, first, I think—I do not think, I know—that the President and members of his Cabinet and members of the Joint Chiefs have always expressed a willingness to consult with Congress on the policy in the gulf. I stand by that statement, and the record of their number of appearances, I think, substantiates it.

Furthermore, the President has tried and has succeeded, as have his predecessors—all of them, Democrat and Republican—to act within the spirit of and consistent with the War Powers Act, but has not conceded to the act itself because of the reservations of this President and all his predecessors regarding its unconstitutionality.

Having said that, we go directly to the amendment of the distinguished Senator from West Virginia. The Senator gave a very eloquent set of remarks about the concern that every one of us has regarding the men and women in the Armed Forces in the Persian Gulf; and, I am certain that the Senator wished to include the men and women of the Armed Forces of the other allied nations who have responded to the call of our President and others to come and join in an effort to bring about a degree of stability and, hopefully, eventual peace in that region, and the risks that are being taken by the citizens of the Gulf States that are right under the barrel of the Iranian Armed Forces.

Mr. President, recognizing the objective of the proponents of this amendment to bring Congress in and to get a united front, to join with the President, if that be the case, after reasonable debate—to join with the President, to create a united front between the legislative and the executive branches—then I say to my good friend that this amendment appears to this Senator to have missed the mark.

I say that because the amendment was crafted to go only to the policy of the reflagging; and the proponents have said that not one unit need be removed, not one sailor, one soldier, or airman, not one ship, not one airplane. But if we were to address the issue of the gulf only in terms of reflagging, then suppose it were the military judgment of our commanders in the area to move in tomorrow to take out Farsi Island, which is the launching pad from which some attacks are now being inflicted upon innocent merchant ships. It is a jump-off point for the smaller boats bringing the mines into the sealanes of international transit.

If this amendment were construed in a way that Congress either backed or disagreed with the President on the reflagging issue, then there is that much broader issue about the gulf policy as a whole.

To what extent would a President be able to interpret an action by Congress on the Byrd amendment as giving him the authority to go in and take out a Silkworm site if that site posed a threat to our Armed Forces and other armed forces and to innocent shipping?

Mr. BYRD. Does the Senator want me to answer that question?

Mr. WARNER. Yes.

Mr. BYRD. There will be no inhibitions on the President's authority to go in and take out the Silkworms if they present a threat to U.S. Forces in the gulf.

Mr. WARNER. I judge then that this amendment simply goes to the reflagging; but, if Senators have a broader concern about the propriety of utilizing force for other military objectives in that area, then I do not know what is to preclude, should the Senate adopt this amendment, another Senator, assuming procedurally he could do it on this legislation or a subsequent piece of legislation, from bringing up the very thing that the Senator from Connecticut is raising: Namely, should not we look at this situation in the gulf under the law of the land, the War Powers Act.

Mr. BYRD. Mr. President, will the Senator allow me to answer that question?

Mr. WARNER. Yes.

Mr. BYRD. They can do that right now. The adoption of this amendment does not give any Senators any additional rights over which they today have without this amendment.

Mr. WARNER. But if it is the objective, Mr. President, and indeed it is the laudable objective, to have the Congress join the President in the implementation of the present policy in the gulf, then why restrict it to just the reflagging element? Why not let the War Powers Act in its entirety be discussed by the body; and if that were to be done—and I will address later some points on the unconstitutionality—if that were to be done, then this body is on record not just to reflagging but on record with respect to the use of military force implementing the policy on a very broad plain, and it seems to me once this body passes judgment on the broader issue then a Senator, although procedurally the Senator could bring up and challenge the policy the second time, there would be the precedent that this issue was considered by the Senate in its broadest context and we are on record or not on record, as the case may be, in support of the President.

Mr. BYRD. Does the Senator want me to answer that question?

Mr. WARNER. Yes.

Mr. BYRD. Mr. President, in this amendment we are not saying that the President ought to withdraw forces from the gulf.

So far, as I am concerned, there is no point in debating the War Powers Resolution at this juncture. We are trying to narrow the thrust so that we only go to that issue which has already exacerbated and intensified the tension in the gulf and which has caused and is causing the American people concern; namely, reflagging and escorting of the ships.

Now, for weeks, we have been raising our expressions of concern and anxiety and apprehension with respect to this policy. That is what the amendment goes to. That is what it is skillfully, I think, molded to address; nothing beyond that.

Mr. WARNER. Mr. President, I just respectfully disagree with the leader. It seems to me, if we focus on but one element of the policy; namely, reflagging, and do not give all elements of the policy a full hearing and manifest our support for the broader policy in the gulf, then we will be revisiting and revisiting this issue after each and every incident that occurs in the gulf.

Mr. ADAMS addressed the Chair.

Mr. WARNER. Now if I may recognize——

Mr. BYRD. May I comment on that?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Yes, Mr. President.

That is a little like Bre'er Rabbit, who pleaded, "Do anything else with me. But please don't throw me into the briar patch." Yet, that was exactly where he wanted to go.

So what the Senator is saying is, let us discuss the War Powers Act.

That is just what this amendment is avoiding because if we go to the War Powers Act, then the hue and cry would be: "Now you see, that is what I told you; they want to pull us out of the gulf; they want to pull the rug out from the Commander in Chief; they want to withdraw our forces; they want us to get out of the gulf."

This amendment prevents that from being an argument that has any semblance of reason.

(Mr. KERRY assumed the chair.)

Mr. WARNER. Mr. President, I wonder if the distinguished leader will entertain another question.

Mr. BYRD. Yes.

Mr. WARNER. One of the most serious reservations that this Senator has, and I think many have, about the War Powers Act, is carried forth into this amendment, and that is the procedure by which the Congress addresses the issue. Following the War Powers Act, and I have with no disrespect termed the amendment of the Senator from West Virginia as War Powers II, following that model, it allows inaction by the Congress to trigger action by the President, requiring him to pull out the support necessary for reflagging, which incidentally is a litmus test in the view of the Gulf States.

Mr. BYRD. If the Senator will yield, it does not require him to pull anything out of the gulf.

Mr. WARNER. The support, Mr. President, I say in conjunction with reflagging, is no longer within the President's province if this amendment's resolution of approval is not enacted by Congress to give him that authority; and that reaches the point I wish to make—one House of the Congress of the United States could simply sit back and do nothing, and the clock ticks, under the Byrd amendment, and requires the President to take certain actions.

Now, that is the inaction of the Congress that would force the action of the President. And I say that is unconstitutional.

Mr. BYRD. Mr. President, I say to that, the Constitution's framers, who write that great document, did not say that the declaration of war could be enunciated by a single body of the two bodies. One House can sit back and do nothing and there will not be any declaration of war.

So what is new and unconstitutional about this approach?

Mr. ADAMS. Mr. President, will the majority leader yield for a question? I do not want to interrupt the Senator from Virginia.

Mr. BYRD. Let me yield to Senator WARNER first.

May I say to the distinguished Senator that, because there is no termination date to the reflagging policy, suppose a year from today the United States has had to send land armies over there and we are still taking the side of one of the belligerents, what then? We are today tilting on the side of Iraq. Everybody knows which side started the war. Everybody knows Iraq started that war. I do not know why everybody is tiptoeing around the question about who started the war.

But does that mean that, 1 year or 2 years from today when we still have not had an opportunity for the Congress to make its voice heard, we are still going to fall back on the argument that, well, one House of the Congress could prevent action and therefore hold the President's hands?

Mr. WARNER. Mr. President, will the distinguished leader agree with me that his amendment in that respect is a blueprint of the War Powers Act; it is a direct parallel?

Mr. BYRD. No; it is not a direct parallel except——

Mr. WARNER. In terms of the action by the two Houses.

Mr. BYRD. No; it is not a parallel in that this amendment does not require the President—where is the War Powers Act? Let me read that.

Mr. WARNER addressed the Chair.

Mr. BYRD. For the moment I yield for a further question.

Mr. WARNER. I continue to say, as I interpret the amendment, that it forces the President to take action if the Congress does not. Look at the wording. Paragraph 3 says certain actions will take place:

> * * * the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and reregistration.

One House could, by virtue of inaction, or both Houses as the case may be—and I do not wish to disparage my fellow colleagues in the Senate nor in the House of Representatives—either House could, by virtue of inaction, force the President to cease to provide such military support as he deemed necessary for the purposes of escorting reregistered vessels.

Mr. BYRD. Yes; there is nothing new about that. One House may prevent the passage of the DOD authorization bill. One House may prevent a declaration of war. What is unconstitutional about that?

What this amendment does not do and what has been wrongfully, if mistakenly, said at the other end of the avenue, it does not require the President to pull one jot and tittle—not one helicopter, not one individual, not one boat, not one minesweeper, not one airplane, not one battleship, not one barge out of the Persian Gulf. Not one. It just says, "Give us a report. Take 30 days."

Perhaps we ought to tighten that up and make that parallel the War Powers Act—48 hours; give us a report.

Here is what it says. Here are some of the things that are required in that report. Few people may have read the amendment. Let us read what would be required.

> This report shall also include a discussion of the following—
>
> (A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

And we have asked for this in classified and in unclassified form. So if it is classified, we are taking that into account.

> (B) the anticipated duration of the operation;

What is wrong with that? The President sent up a letter the other day. He did not address that question in his letter, which was purported to be some kind of a report. I assume that it was to be some semblance or some excuse for the report that is required within 48 hours but without acknowledging that the War Powers Act even exists. The letter did not say what the anticipated duration of the operation would be.

> (C) the objectives of the escorting operation and how the administration measures progress toward those objectives;
>
> (D) the funds which have been expended to date.

Tell us how much has been expended to date on the escort operation and the anticipated future requests for funds.

Normally, when the Department heads and the President and Agencies come before the Congress or submit their budget messages, they indicate what the anticipated needs will be for the future.

> The anticipated future requests for funds, including any requests for reimbursement of previously expended funds;
>
> (E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;
>
> (F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments.

There should not be anything secret about all that. At least if it is classified, the elected representatives of the people know it.

> (G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

In other words, what impact is this operation having on our NATO strength? What impact is it having on U.S. forces elsewhere? These are some of the questions that the Congress is entitled to have answered if it is going to make a considered and reasoned judgment on whether or not to authorize the extension of the current policy there.

Mr. WARNER. Mr. President, I will ask a few more brief questions. I see other Senators desiring to be recognized, if the majority leader cares to respond to questions.

Another grave concern I have about the proposal by the distinguished Senator from West Virginia is that the procedure in his amendment, albeit ad hoc for the Persian Gulf, would set a precedent, so the next problem we have that could be interpreted as requiring action under the War Powers Act would then prompt Members of the Congress again to tailor a special piece of legislation to care for that situation, and on and on and on. We would begin to establish precedents which would have that effect. And I would come back to my last question; I am still not able to determine what happens to the War Powers Act itself if the amendment of the Senator from West Virginia is adopted.

Is the President still obligated to comply with that War Powers Act? Is this not a two-track system now, with two trains leaving the station, one the War Powers Act and the other War Powers Act 2 which is the Byrd amendment?

So I ask my good friend two questions:

Which track or both tracks must the President take? And do we not establish a precedent for future actions whereby we will have to tailor every situation with a new piece of legislation?

Mr. BYRD. Mr. President, whether or not we have to tailor every piece of legislation for a new situation depends upon how forthright the administration wants to be. This administration has not been forthright. It is even to this moment unwilling to recognize even the existence of the War Powers Act. It says it is unconstitutional. That act has not been rendered unconstitutional by any court in this land.

So when we are dealing with an administration that gets the bit in its teeth and is determined to go hog wild in any direction it chooses and turns the back of its hand to the representatives of the people duly elected, then we might not be surprised to see others, if new situations arise. And the administration does not want to level with the Congress, it does not want to sit down and give whatever report is required, and wants to even deny that circumstances that clearly exist even exist. It wants to pretend that imminent hostilities do not exist in the gulf.

This amendment is a result which originates with a cause. The cause is evident. The anxiety is here. Members of the Senate feel that the administration is not abiding by the law of the land. And there is no way we can force it to, except through the power of the purse, but that takes a long time. Exigencies in the Persian Gulf will not wait that long.

So we have tailored an amendment which does not jerk the rug out from under the President, which does not bring the United States out of the gulf, which does not force the President of the United States to terminate the use of any U.S. Forces in the gulf.

Mr. WARNER. If the distinguished leader will take one more question of not more than 2 or 3 minutes, then I will be glad to, at this point, allow others to address the majority leader if they so desire. I note the presence on the floor of the distinguished minority leader.

Mr. President, I respectfully disagree, that the President has gone hog wild. If we need any better proof of that, look at the allies who have come in to join us in this mission of peace. Look at the reaction of the American people to this policy as reflected in the polling. More and more recognize the wisdom of what he is trying to do.

I agree with the distinguished leader. It is time for the Congress to look this issue squarely in the eye. But let us do it through legislation that requires us to do it up front and to be active and to express our voice, and to do so in a reasonable period of time.

If we are going to inject ourselves into decisions of foreign policy involving use of the Armed Forces of the United States, particularly in this situation, then let us do it and do it quickly. And let us stand up and be counted.

For that reason I ask the distinguished leader if he might give me the courtesy, during whatever period he might have, of looking at a piece of legislation that I would propose. And if he would accord me the courtesy of allowing it to be printed.

I send it to the desk, Mr. President, for that purpose.

The PRESIDING OFFICER. The amendment will be received and printed.

(The text of the amendment appears in today's RECORD under "Amendments Submitted.")

Mr. WARNER. This draft amendment recognizes the President still has but 48 hours to make a report but then calls on the Congress, within the period of 21 days, to make its decision and then stand and be counted, if it disapproves, in a joint resolution of disapproval.

So that we are full partners with the executive branch and our voices are heard and our votes are counted and the American people will know exactly how we stand as the legislative body. Mr. President, I would like to describe this proposal to modify the War Powers Resolution.

It would still require the President to submit a report within 48 hours after introducing military forces into a situation of hostilities or imminent hostilities.

It would still provide expedited procedures for Congress to express its will on the military operation.

But Congress would now work its will through an expedited resolution terminating use of funds, rather than through a resolution of approval. This would correct one of the existing provisions most often attacked as unconstitutional, and establish the War Powers Act on a more sound basis.

Also, it would strike some sections from the War Powers Act which are unnecessary and possibly incorrect statements of constitutional law.

Finally, it would change the timeframe for expedited action, from 60 days for a resolution of approval—the current procedure—to 21 days for an expedited resolution of disapproval.

The proposal is very specific in saying how the present War Powers Resolution would be modified.

Section 2(c) is stricken, as unnecessary and perhaps an incorrect statement of constitutional law.

Section 5(b) would be replaced with an entirely new section, providing expedited procedures for considering a resolution terminating funding, rather than a resolution of approval.

Section 5(c) is stricken as unnecessary and as a clearly unconstitutional intrusion on the President's authority as Commander in Chief and Chief Executive for foreign policy, and as probably conflicting with the Chada doctrine stated by the Supreme Court in 1983.

Section 6 is modified to reflect the 21-day period for expedited congressional consideration, rather than the 60-day period.

Section 7 is stricken as unnecessary because it provides procedures for consideration of a concurrent resolution, the authority for which is stricken from the resolution.

Let me explain also the basis for the 21-day calendar period.

After the event which begins the process, the President would have 48 hours to make his report. Then the 21-day clock begins. It would include 5 days to introduce a proposed resolution of disapproval, 2 days for committee action, and 3 days for floor action. Then the resolution of disapproval would be sent to the other body, where it would also be considered under expedited procedures. Two days in committee, 3 days for floor action, followed by 3 days for conference, and 3 additional days for floor debate. That should be a total of 21 calendar days.

I am not certain that 21 days is the correct amount of time. This was the shortest time period that seemed possible. It could be adjusted.

It would have certain advantages over the current procedure.

It directly addresses the issue of how to reconcile the War Powers Act with the real-world situation in the Persian Gulf.

It avoids an ad hoc approach to dealing with the War Powers Act generally.

It establishes a more solid basis for the constitutional authority of Congress to act. Congress still could terminate a military operation, but this directive would be based on the well-defined power of the purse.

I think that pretty well describes the proposal.

Mr. BYRD. The problem is the fact that the President can veto it. If the President vetoes the disapproval legislation, it takes two-thirds of both Houses to enact the policy that a majority of Congress stood for in the beginning.

Second, with respect to my words with respect to, "hog wild," I do not take back those words.

Any of us who saw Mr. Weinberger's statement on TV last Sunday, and who read about it in the newspapers the next day, can understand exactly what I mean.

Mr. Weinberger referred to this amendment as an absurdity, or some such. Well, what does he expect out of the elected representatives of the people? A blank check? He must think that the administration is God.

"Why should 'God' be questioned by that group of men and women on the Hill up there?" Democrats and Republicans. He is talking about Republicans, too, not just Democrats.

"The very idea, that those people up there would question us. Why, we in the executive branch are above being questioned. We are not elected. I am an appointed official of the United States. I am a Cabinet officer. I am not elected by the people. But the very idea of those people up there questioning us, saying that there are hostilities going on the gulf. Why, of course, everybody knows there are no hostilities over there. At least they haven't reached the degree necessary before the War Powers Act is invoked."

That is what I mean by hog wild. He said: They ought to be over here and talk to the servicemen and see what they think. Mr. Weinberger may have talked to some servicemen, I respect him for that. He ought to get back here on the streets, back in the hills of West Virginia and talk to people over there, in the hills and valleys of West Virginia, whose sons and daughters are in the gulf or who may be sent to the gulf.

Let me say to you on that point, West Virginia stands back of no State in this Union in its patriotism. No State in the Union exceeded West Virginia in deaths in Vietnam or in Korea, from the standpoint of percentage of the total eligible manpower available. So I speak for a patriotic people.

But even those patriotic people have a right to know when this policy is going to end. When will the Congress have an opportunity to judge it? They have a right to know how much it is costing now. What is going to be the cost of this operation? They have a right to know. What is so singularly mysterious about this operation that the American people should not be able, through their elected representatives, to have an opportunity to vote on this amendment?

Mr. President, the distinguished Republican leader is on the floor and I want to yield to the Republican leader for any reasonable time that he would wish. But I want to be protected, because I intend to make a motion to table.

Mr. President, I ask unanimous consent that I may yield to the distinguished Republican leader for 30 minutes or whatever it is he would require.

Mr. DOLE. Ten minutes?

Mr. BYRD. Ten minutes? I yield the floor to the distinguished Republican leader and I shall then regain the floor.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The Senator from Kansas, the minority leader, is recognized.

Mr. DOLE. Mr. President, I thank the distinguished majority leader, and I also thank my colleague from Virginia. I was testifying before the AIDS Commission panel. I am sorry I was not here at the outset.

I am going to recommend if there is going to be a motion to table that we all vote against it, and I would hope that all my colleagues would vote against the distinguished majority leader's motion to table his own amendment because I think we do need a debate. This is very important business.

If the amendment is not tabled, why, then, we will have a chance to debate it further or debate it at some other time, and there are some very fundamental questions I think we need to address.

I do not really believe that the American people believe that the Congress can conduct these operations. That is precisely what the effort here is. Under the amendment offered by the distinguished majority leader, if nothing happened in 60 days in the Congress, that would be the end. We do not have to do anything.

The last time I checked, Ronald Reagan was President. The last time I checked, he was trying to make foreign policy. All these things that we have heard about: We ought to know this—all we have to do is have a hearing before the Armed Services Committee, I assume, tomorrow morning, to find out all the information. Do we want to pass some law to get information we have already acquired?

Every time the President of the United States commits American forces to back up American interests, Democrat or Republican, there is somebody out there ready to second-guess the President and they jump up and say: "Oh, you can't do that unless we say OK." I do not suggest for a moment that we do not have a role to play in the Congress. We have a very important role to play. But I think it is about time we considered seriously if that is really the way we want to operate.

Is that really the role the Constitution gave the Congress or the role we want to play?

Last time I checked, the Constitution said the President was Commander in Chief. Not the Republican leader. Not the Democratic leader. Not anybody in the House of Representatives. Not the chairman of the Armed Services Committee or anyone else on the Senate floor. We have only one President at a time. In this case, this President was elected overwhelmingly in 1984.

I think we all had some serious reservations about reflagging. This Senator did, and I expressed those reservations. But I also said at that time, it is a done deal. We were given all kinds of reasons why it was necessary. Somebody even suggested we were making money on it, $5 million per ship. That did not make much sense to this Senator.

But now we are in the Persian Gulf and now, as the distinguished Senator from Virginia pointed out, our allies are cooperating. The Japanese are saying: Yes; we are even willing to pay some money. Others are sending their ships there and we have a cooperative effort.

I am not certain what the problem is, but apparently the feeling around here is Ronald Reagan cannot do the job; that somehow we ought to second-guess Ronald Reagan whether it is on this or the next issue. Right in the height of a crisis we are going to mount some ongoing offensive here in the U.S. Senate which I believe affects our credibility. I do not know what happens if this would pass and become law. It is not going to happen. The President would veto it. I think the veto would be sustained. But I must ask what our allies may be thinking today and what our adversaries may be thinking today, if they know Congress is going to take care of the problem, challenge the President's actions, challenge our reliability or our commitments?

Apparently, they do not want to face directly an up or down vote on the War Powers Act, or at least some of them. I do not. I do not think we need to do either. So, we are sort of creating a son of War Powers so we could pretend we are somehow tying the President's hands and were not going after his constitutional authority and power on his policy.

But the basic issue is the same. We are trying to skirt a direct attack on the policy by getting into a debate on the executive-congressional relations. I think we have to be very frank and candid about it. And the majority leader has been.

We talk about War Powers, the Constitution, executive-congressional relations, but in reality is that all just a kind of a cover for what is really at issue, at stake here, and that is the policy that this President set in the Persian Gulf? Does the President have political authority to see that commitment through?

Those are the real issues. First the policy. Now that we have had the policy, is Congress going to pull the rug out from under the President and under our allies and everyone else in the process?

I think we have a responsibility. We ought to have the courage to raise, debate and vote on the real issues, the policy and political issues, clearly and straightforwardly.

If we disagree with the President as individuals or as the Senate as a whole, should we just stand up and say so, that, "We do not agree with your policy, Mr. President," and then take the political consequences?

It would not be hard, it would not take a long time to draft that kind of a resolution. In fact, we have one already drafted. It is one sentence. This is it:

> The Senate disapproves of the policy the President established in the Persian Gulf.

Vote it up or down. Why all the smokescreen? Why all the mirrors? This is the question.

I would be willing to put that to a vote. I think the majority of the Senate would vote against that.

It is not that we disapprove the policy. We want to be on both sides of the issue so that if something goes wrong we can say, "We told you so." Or if something goes wrong, we can say, "Well, the Congress was in their weighing in."

Maybe we can offer a substitute to the pending amendment of the majority leader of one sentence, not very complicated. It would not take much debate. It would clear the air. We could all stand up and say, "I agree" or "I disagree" with the President's policy.

I do not think we will do that. Some want to take potshots at the President from behind some constitutional, legal facade. We want to say the policy is bad, that it is sort of bad, we would not vote against it, but we are not going to be given that opportunity. You might be a little later on.

We do not want to shoot down the policy, we just want to fire at it every day or two on the Senate floor, keep everybody nervous, keep the President nervous, our allies nervous. I am not certain about the adversaries. Maybe they are not quite as nervous. But we ought to shoot it up or down.

If we do not want to go after it directly, then maybe we have to go after it indirectly through votes on the War Powers Act. That is being suggested by some. I do not agree with them.

Now, we have the son of War Powers and we can shoot down the President's policy and America's commitment and keep our hands clean. That is what we are doing.

If that is what we are doing, we just ought to admit it.

I voted for the War Powers Act in 1973. It was a special time and a special need. I was a cosponsor of that act, too, as I recall.

I think the distinguished Senator from Virginia has been working on something that might have merit. I have only looked at an outline.

But maybe we would have a process where we could rethink the War Powers Act and modernize it, bring it up to date.

There is not one word in the War Powers Act about terrorism, not one word, because in 1973 there was not much terrorism. We did not have any terrorist acts; we did not have any airport bombings. There is not one word in the War Powers Act about what would happen if the President was to take some action because of terrorism, whether he would be impelled to invoke the War Powers Act.

I think Congress, as I say, certainly has a role to play. I must say I certainly have nothing but the highest regard for the distinguished majority leader. No one ever questions his patriotism or anyone in his State, which he just alluded to.

But I really believe there are times we can have a different view in this body without it being partisan. We can have disagreements without being disagreeable. I do not suggest anyone has been disagreeable.

But I am the Republican leader. We do not have a Republican in the White House. I think he is carrying a heavy responsibility with the activities in the Persian Gulf and other places around the world. I am not certain what we contribute to the debate, to our policy, or to the President's efforts to make it work by this daily, almost daily, attack on the President's efforts in the Persian Gulf.

I would hope if we did anything, depending on what may be worked out later—we are still trying to work out some agreement with the majority leader—we ought to set aside this whole question of the War Powers Act, take it out of the DOD authorization bill, and go ahead and proceed on the SALT amendment. We can get a time agreement on that. Maybe we can get a time agreement on the War Powers Act or some amendment thereto. But in the meantime, it would seem to me that it would not be in our interest—I am not certain we have the votes, probably not—to table the amendment of the distinguished Senator from West Virginia, the majority leader. That amendment provides us an opportunity to focus on the problem, if there is a problem.

I think if the majority leader moves to table his amendment, it would indicate we would need additional debate. I would hope my colleagues on this side would not vote to table. It probably would not be tabled, in any event. I really believe if we are going to continue to debate the War Powers Act, maybe one place to start would be in a committee somewhere, to go back and take a look at the War Powers Act. We have a lot of experts on both sides of the aisle, people who have spent a lot of time on a daily basis, a weekly basis, whatever, looking at the War Powers Act and other provisions. Maybe we ought to take a look at it.

It would seem to me, if I read the amendment correctly, as I have been listening to a very good debate between the Senator from West Virginia and the Senator from Virginia, that it states pretty clearly on page 4, paragraph 3 that:

> Within 60 days after the report required by paragraph (2) is submitted, or 90 days after enactment of this act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of the U.S. Armed Forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing for the specific authorization for such use and reregistration.

Maybe I have missed something, but it would seem to me if we did not do anything, as far as any role in the Persian Gulf, it would end, unless I misread it. I do not believe anyone in this Chamber suggests that we ought to just end our role. Maybe there would be a resolution introduced, but, if not, we are out of the Persian Gulf. We would be there without any authority. I do not think that is what we intend.

President Reagan may not be perfect, he may make mistakes, but I will bet the great majority of the American people support our efforts in the Persian Gulf as they supported our efforts yesterday when we said we should not be buying anything from Iran that would give them money to buy Silkworm missiles or whatever it might be to fire weapons at American ships.

I guess the point is we do not want to make it any more difficult for American servicemen in that area or for the President, who is the Commander in Chief.

If this were passed, I do not think we would reinforce the public's view that we have an interest there; we do not get much oil from there. We complain about our allies for not doing enough and now they are doing more. But we know full well if that source of oil is cut off, it is going to have an impact around the world, in every State in this country; it is going to raise the price.

So we do have an interest there. We do not want to turn it over to Iran. We do not want the Soviets to take it by default. We do have an interest in some of the gulf coast states in the Persian Gulf area. We may not want the responsibility but there is no one else to assume it. We are the superpower on which many free nations rely.

So I hope in the spirit of debate and bipartisanship we might still reach some agreement on a separate package, on a War Powers Resolution. And if the majority leader wishes, we could maybe go ahead and proceed on SALT, or legislative appropriations, while we are trying to work that out.

I thank the majority leader for yielding.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia, the majority leader.

Mr. BYRD. Mr. President, the distinguished Senator who is the leader on the other side of the aisle has spoken about the policy. That is just what has intrigued this Senator all along. What is the policy? What is the administration's policy in the Persian Gulf?

That is what we would like to know. Perhaps we would have some better grasp of what the administration's policy is, if we could have the answers to the questions that would be raised in the amendment, if the amendment were to be adopted.

The Republican leader wants to know what our allies might think of us if this amendment is adopted. What did they think of us when we sold arms to Iran in exchange for hostages? What was our policy then?

Mr. President, the distinguished Republican leader spoke of partisanship. We want to be partners with the administration in a policy. If that policy, after due consideration by the Congress, is a policy that involves the treasure and blood of Americans, we think we ought to be a part of it; we ought to be in on it.

Why does the administration veer away from the suggestion that the Congress be a partner?

The Republican leader has indicated, I got from his statement, if Congress does not do anything within 60 days, or if the President sends up a report, Congress may just sit down and do nothing and forget about it.

If they have taken care to read the expedited procedures portion, Senators will find that the procedures provided therein will allow quick action on the part of this Congress. The matter cannot be just put aside. If any Senator wishes to introduce a resolution or any Member of the House anent the policy that is the target of the trust of this amendment, he or she may do so. And the expedited procedures provide that that resolution is discussed within the appropriate committee, the Foreign Relations Committee, or be discharged and any Member may make the motion to go to it on the calendar. So the expedited procedures in this amendment will not only allow but will guarantee that the Congress will do something. It may authorize the further extension of the policy.

Now, Mr. President, we want to be a partner with the administration if the policy is right. First, we have to know what the policy is. That is one thing we are asking: What is the policy? We want to be a partner if it is right. It seems to me that the administration would profit by having the Congress on board if the policy is a good one.

Second, we want to abide by the Weinberger doctrine. Let us take a look at the Weinberger doctrine. Secretary Weinberger made a speech to the National Press Club in Washington on November 28, 1984. I shall ask that the entire speech be included in the Record at the conclusion of my remarks, but reading therefrom I begin with this sentence:

> I have developed six major tests to be applied when we are weighing the use of U.S. combat forces abroad. Let me now share them with you.
>
> First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies * * *
>
> Second, if we decide it necessary to put combat troops into a given situation, we should do it wholeheartedly and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all * * *
>
> Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives.

I would like to see that doctrine implemented here.

> And we should know precisely how our forces can accomplish those clearly defined objectives.

I subscribe to the Weinberger doctrine. That is what we are asking for in this amendment.

> And we should have and send the forces to do just that * * *
>
> Fourth, the relationship between our objectives and the forces we have committed—their size, composition and disposition—

> must be continually reassessed and adjusted if necessary.

I subscribe to that doctrine. That is the Weinberger doctrine. Let us continually reassess the objectives and the forces. Let us adjust them if necessary. If necessary, let us increase them.

He goes on to say in this speech to the National Press Club in Washington on November 28, 1984:

> We must continuously keep as a beacon light before us the basic questions—

Here are the basic questions—

> "Is this conflict in our national interest?" "Does our national interest require us to fight, to use force of arms?" If the answers are "Yes," then we must win. If the answers are "No," then we should not be in combat.
>
> Fifth. Before the U.S. commits combat forces abroad—

Now, gentlemen, if I may have the attention of all my colleagues, this is a cardinal plank in the Weinberger doctrine. I want all Senators who are within the sound of my voice to listen to this cardinal precept in the Weinberger doctrine.

> Fifth, before the United States commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress.

Do my colleagues subscribe to that? Do you subscribe to that?

> Before the U.S. commits combat force abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress.

I subscribe to that doctrine, and the Byrd-Nunn amendment is in full accordance with that sound doctrine. That is sound doctrine, that fifth paragraph.

Mr. Weinberger went on to say:

> This support cannot be achieved unless we are candid in making clear the threats we face. The support cannot be sustained—

Now, get this. Get this. This is almost holy writ.

> The support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win but just to be there.

Mr. President, I am going to yield to the distinguished Senator from Connecticut 15 minutes. But I understand Senators are all willing to now vote on this tabling motion. That would be perhaps some indication that they want to debate the matter further, or at least would like to have a vote up or down on the amendment. They do not want to table it.

But as we continue to wrestle with our conscience and within our hearts over these matters, I would like for us to keep in mind the Weinberger doctrine that he expounded before the National Press Club in Washington on November 28, 1984. And I hope if anybody has found a retraction to that doctrine by our eminent Secretary of Defense anywhere that they would bring that retraction forth and we could include it in the RECORD with this very clear outline of the Secretary of Defense's position with respect to when the United States commits combat forces abroad.

I repeat: "* * * there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress."

Mr. President, I yield to the distinguished Senator from Connecticut and I apologize to him for imposing on his patience. I yield 20 minutes to the distinguished Senator.

Mr. WEICKER. I thank my distinguished colleague from West Virginia.

The PRESIDING OFFICER. Without objection, the Senator from Connecticut is recognized.

If I may interrupt the Senator before he begins, I believe the Senator from West Virginia wanted to submit something for the RECORD.

Mr. BYRD. Yes.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> [From the U.S. News & World Report, Dec. 24, 1984]
>
> CASPAR WEINBERGER, SECRETARY OF DEFENSE
>
> Some on the national scene think they can always avoid making tough decisions. Some reject entirely the question of whether any force can ever be used abroad. They want to avoid grappling with a complex issue because, despite clever rhetoric disguising their purpose, these people are in fact advocating a return to post-World War I isolationism. While they may maintain in principle that military force has a role in foreign policy, they are never willing to name the circumstance or the place where it would apply.
>
> On the other side, some theorists argue that military force can be brought to bear in any crisis. Some of these proponents of force are eager to advocate its use even in limited amounts simply because they believe that if there are American forces of any size present they will somehow solve the problem.
>
> Neither of these two extremes offers us any lasting or satisfactory solutions. The first—undue reserve—would lead us ultimately to withdraw from international events that require free nations to defend their interests from the aggressive use of force. * * *
>
> The second alternative—employing our forces almost indiscriminately and as a regular and customary part of our diplomatic efforts—would surely plunge us headlong into the sort of domestic turmoil we experienced during the Vietnam War without accomplishing the goal for which we committed our forces. Such policies might very well tear at the fabric of our society, endangering the single most critical element of a successful democracy: A strong consensus of support and agreement for our basic purposes. * * *
>
> Recent history has proven that we cannot assume unilaterally the role of the world's defender. We have learned that there are limits to how much of our spirit and blood and treasure we can afford to forefeit in meeting our responsibility to keep peace and freedom. So while we may and should offer substantial amounts of economic and military assistance to our allies in their time of need, and help them maintain forces to deter attacks against them—usually we cannot substitute our troops or our will for theirs.
>
> We should only engage our troops if we must do so as a matter of our own vital national interest. We cannot assume for other sovereign nations the responsibility to defend their territory—without their strong invitation—when our own freedom is not threatened.
>
> In those cases where our national interests require us to commit combat forces, we must never let there be doubt of our resolution. When it is necessary for our troops to be committed to combat, we must commit them in sufficient numbers, and we must support them as effectively and resolutely as our strength permits. When we commit our troops to combat, we must do so with the sole object of winning. * * *
>
> Just as clearly, there are other situations where United States combat forces should not be used. I believe the postwar period had taught us several lessons. And from them, I have developed six major tests to be applied when we are weighing the use of U.S. combat forces abroad. Let me now share them with you:
>
> First, the United States should not commit forces to combat overseas unless the particular engagement or occasion is deemed vital to our national interest or that of our allies. * * *
>
> Second, if we decide it is necessary to put combat troops into a given situation, we should do so wholeheartedly and with the clear intention of winning. If we are unwilling to commit the forces or resources necessary to achieve our objectives, we should not commit them at all. * * *
>
> Third, if we do decide to commit forces to combat overseas, we should have clearly defined political and military objectives. And we should know precisely how our forces can accomplish those clearly defined objectives. And we should have and send the forces needed to do just that. * * *
>
> Fourth, the relationship between our objectives and the forces we have committed—their size, composition and disposition—must be continually reassessed and adjusted if necessary. * * * We must continuously keep as a beacon light before us the basic questions: "Is this conflict in our national interest?" "Does our naltional interest require us to fight, to use force of arms?" If the answers are "Yes," then we must win. If the answers are "No," then we should not be in combat.
>
> Fifth, before the U.S. commits combat forces abroad, there must be some reasonable assurance we will have the support of the American people and their elected representatives in Congress.
>
> This support cannot be achieved unless we are candid in making clear the threats we face. The support cannot be sustained without continuing and close consultation. We cannot fight a battle with the Congress at home while asking our troops to win a war overseas or, as in the case of Vietnam, in effect asking our troops not to win but just to be there.
>
> Finally, the commitment of U.S. forces to combat should be a last resort.—From a speech to the National Press Club in Washington on November 28.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. BYRD. Mr. President, I yield without losing my right to the floor.

Mr. WEICKER. Mr. President, there have been some very eloquent arguments relating to the matter before the Senate. And I have the difficult job in trying to bring us back to square one; and, that is we are a government of laws and not of men. I appreciate listening to various and sundry doctrines, but they are not law. I appreciate hearing of proposed amendments from my colleagues that relate to the matter at hand. But they are not law. I enjoy hearing the opinions of various Senators as to constitutionality of the law. But they are only opinions.

During this great celebration of the Constitution we do not celebrate the piece of paper. We celebrate a process. We celebrate a process that brings us to the point that we are a government of laws. We do not conjecture as to what is law or what is not law. Once gone through the constitutional process there is only the constitutional process to undo it. It cannot be undone by conjecture or debate.

That is why I am unwilling to take this quantum jump from disregarding the War Powers Act to discussing policy and how we are going to amend it, et cetera, et cetera.

If 100 men and women in this body refuse to obey the law, then really I suppose there is nothing wrong with Col. Oliver North or Bernard Goetz. They do not have our constitutional responsibilities. So maybe they have a choice, a bad one, but maybe they have a choice.

But we have the responsibility, and, therefore, I think the Nation has a right to look to us to uphold this constitutional process. How do you just disregard a law? Everybody admits the fact that we are in hostilities or in situations of imminent hostility. Nobody denies it—not the Secretary of Defense, not the President, no Senator on this floor. Yet the law is very specific as to what takes place once that situation occurs.

Maybe it is that we now determine the law by what succeeds or what fails. Grenada, which was again in violation of the law, succeeded. Therefore, it was legal. Contra aid has not been so successful. Therefore, maybe it violated the law in various respects. I mean, is that now the criteria, what succeeds or what fails?

The time to address these matters is now, not later, not when there has been success or when there has been failure. The time to address these matters is now.

I will vote initially against the tabling motion on the Byrd-Nunn amendment only to keep this matter before the body. But sooner or later the matter that has to be resolved is up or down on the Weicker amendment. And I would like to know how you vote against it. I want each Senator to stand up and say, "well, I am voting against the Weicker amendment knowing that the law certainly applies in this situation, but I really do not like the law." If that happens then we become like anybody else. We pick and choose those laws which we care to obey. If we do not like a law, we do not obey it, and we are no longer a government of laws. We are inanimate. I do not think that is the example the U.S. Senate should set.

I have no problem at all, I might add, if the U.S. Senate wants to do away with that part of the law which embodies the War Powers Act. Fair enough, through the constitutional process, do it. But to ignore the act, that devastates this process. And we have no Government. And I think my colleagues are well aware that this has been done again and again and again in the name of expediency, in the name of patriotism, or in the name of self defense.

Believe me, those who seek mischief in the gulf, whatever side—Iran, Iraq, I do not care—will succeed beyond their wildest dreams if we continue to ignore our constitutional process. They do not have to win any military victories. They will cut the heart out of this Nation and what it stands for.

That is what has me riled more than anything else before this body. Even in the debate, everybody skips over the War Powers Act: some say, "Maybe we will have to change it." Some say, "There are some parts of it I did not like. I used to be a cosponsor," and so forth, as if the law did not apply.

If somebody, anybody, can tell me why it does not apply—I do not care whether you are for or against the Byrd amendment or the Weicker amendment—tell me why the War Powers Act does not apply. Is there one person in this body who can stand up and say that by the provisions of this law, it is not now called into force? Is there one person who can stand up and say that?

That being the case, why do we not obey it? Because it is inconvenient to a President? Because it is inconvenient to a political party? Because it is inconvenient to a philosophy? Or because it offends some particular personal feelings?

The fact is that the war powers law is not an idea. It is not just a legacy of Jack Javits. It is the law of the land, and it ought to be obeyed. It is being flouted, and it is being flouted by those in the highest places, and that does not just mean Ronald Reagan. It means every man and woman in this body who chooses to ignore it or in some way delay or obviate its application.

It is time to stand up and be counted. But before we stand up and be counted on what the policy ought to be in the Persian Gulf, I think we ought to stand up and be counted on what the policy ought to be in the United States of America—whether indeed we have now become a government of men rather than a government of laws.

That is a meaty subject, but that is exactly the issue before us. If we cannot get by that first issue, that first confrontation, there really is not much point to anything we do here, no matter what we do and no matter how secure we think it is in the constitutional process, when we choose to ignore it.

I am not willing to sacrifice that on the altar of the Persian Gulf.

That is the most basic tenet to the greatness of this Nation. That is the issue that confronts us. And we are all part of it. It is not a matter—again I repeat—of fingerpointing, that it is somebody else's problem. This one is ours.

I hope that the motion of the distinguished majority leader is denied, for one reason—that we might all agree in this body to have three votes: No. 1, on the defense authorization bill; No. 2, on the War Powers Act; and No. 3, on the policy in the Persian Gulf.

That is what we were elected to do. The results of those votes then make us accountable to the people who sent us here, and we are not wandering around in a fog of constitutional and parliamentary maneuvers.

I know how I feel on the defense authorization bill. I know how I feel about upholding the law of the land. And I am beginning to know how I feel—and how I will vote—relative to the policy in the Persian Gulf.

So let us have three votes. I am sure the majority leader and the minority leader would be glad to agree, without filibuster, to have three votes. If anybody wants to play games and say, "I agree to one and not the other"—I beg your pardon. I guess there is a fourth: SALT II. But let us have those votes.

That is the reason for my support of this motion, and I hope we would move from that point to having all of us, in our various ways, reaffirm our belief in what it is we are supposed to be doing here.

I yield back to the majority leader.

Mr. WARNER. Mr. President, will the majority leader yield?

Mr. BYRD. Mr. President, I want to yield to Mr. ADAMS, and I also want to yield to Mr. WARNER.

Mr. WARNER. My remarks would be of 1 minute's duration.

Mr. President, I say to my good friend and colleague from Connecticut that the amendment I have at the desk is in the nature of an amendment to the War Powers Act and simply states that it is the obligation of this institution to face the issue squarely, right in the eye, and not to duck behind the possibility of inaction.

Mr. QUAYLE. Mr. President, will the majority leader yield for a question?

Mr. BYRD. I yield.

Mr. QUAYLE. Could I be put on the list to have some time after the Senator from Washington speaks?

Mr. BYRD. Yes. I do not want to wait too long.

Mr. QUAYLE. Ten or fifteen minutes, after the Senator from Washington.

Mr. BYRD. Mr. President, how much time does the Senator from Washington wish?

Mr. ADAMS. Two minutes.

Mr. BYRD. I yield to the distinguished Senator from Washington, retaining my right to the floor.

The PRESIDING OFFICER (Mr. DIXON). Without objection.

The Senator from Washington.

Mr. ADAMS. Mr. President, many words have been spoken on this, and that is why I do not wish to extend this debate but wish to move to the motion to table. I will vote against the motion to table so that this body can avoid what has happened to us over the past several weeks, of having to resort to parliamentary activity and to other activity to carry out, as the Senator from Connecticut has very eloquently stated, the law as it exists.

I thank the majority leader and those who have worked to see that the Senate carries out its responsibilities under the Constitution.

I do not think there is any question, I say to the leader, as he so well stated, that we are in hostilities, imminent hostilities. We have triggered the War Powers Act; not the Senate, not any activities that have taken place here. The reality and the activities that took place by an administration policy that reflagged some vessels, convoyed some vessels, and proceeded with a particular action created that situation. It triggered the law.

We have taken every possible action that is required by the Senate now and every action has been taken to carefully tailor within the confines of this act to remove the worst part of it, not to remove all the ships, not to do away with everything in the Persian Gulf, but to go specifically at the thing that is causing the problem.

There may be another way to do it, I say to the leader, but I think what has been done to this point was an effort to try to accommodate that difficult situation.

I hope we will vote down the motion to table. I hope the motion to table occurs very quickly, and I hope that we can then move to SALT II and finish this bill which everybody has worked on so very hard and this issue then is finished.

Mr. President, we have had a good deal of debate about the applicability of the War Powers Resolution to the situation in the Persian Gulf and the Gulf of Oman. I think the issue is significant enough to deserve debate—and I also believe it is important enough to demand that the U.S. Senate, one way or another, make a judgment about this issue. So while I welcome continued debate, I also anticipate a vote.

Prior to that vote, I do want to address the arguments made by opponents of this amendment. I have listened carefully to those arguments; after all, sometimes one can learn from criticism. Last week, for example, when I joined with Senators HATFIELD, BUMPERS, and MURKOWSKI in offering an amendment to invoke the War Powers Resolution, the distinguished Senator from Indiana and others criticized that proposal and indicated that if we applied a pure war powers test to the situation in the gulf, we might end up having to withdraw all American forces from the region. Since I would not want that to happen, I took the criticism to heart; as we drafted the pending amendment, we tightened it up by focusing narrowly on the issue of reflagging and convoying those reflagged vessels.

I am, then, willing to listen to arguments and respond to the concerns that critics raise. But I cannot accept these final arguments being made against the current amendment. Let me describe the nature of that criticism by quoting some comments that have been made.

Earlier this week, the distinguished minority floor manager of this bill, the Senator from Virginia, suggested that "we should not at this time be engaging in the debate because we should stand united." The Senator also asked "why at this time should we launch the debate, which debate could send the message of uncertainty and require other world leaders to say let us wait a little while to see what happens in the Congress of the United States?"

Now if I understand that argument properly, it is the old Vietnam chestnut: "We have to follow the President of the United States wherever he wants to take us." Well, that just makes no sense to me. If we really believed that, we wouldn't debate this bill or most other defense bills. After all, other nations know by now there is a difference between what a President states and the Congress and Nation finally do over as long-term foreign policy.

This "lets not undercut the President" is a shopworn argument. We heard it in Vietnam—we heard it and listened to it at the cost of over 50,000 American lives. We have heard it—and too often listened to it—every time the President meets with a Soviet leader. I wonder, however, if we will hear it when the President sends an INF Treaty up to the Senate. I intend to support that treaty. I hope the Congress and Nation will do this and it will be a national policy.

After all, this is not a monarchy. The President doesn't hold supreme sway over the realm of foreign affairs. In fact, the founders were particularly concerned about a President's tendency to get involved in "foreign entanglements" and, as a result, gave the Congress substantial power in that area. Presidents may not like it; some of our allies may find it different while some assume the parlimentary body must decide, our adversaries may take comfort in it sometimes—but Americans ought to understand that open debate is an essential part of our constitutional democratic process. It is absurd to say that Congress can modify a Presidential request for weapons, but they cannot even debate a Presidential request to use those weapons in a manner that involves the war power of the Constitution.

You know, Mr. President, if the concern is timing, let me point out that if the administration had voluntarily complied with the War Powers Resolution requiements when the Congress was initially discussing it, this issue would be behind us by now. The Congress would have already made a decision to authorize or modify or reject the administration policy in the region.

In addition, in terms of timing, I would suggest to my colleagues that sooner or later we are going to address this issue. If we don't do it on a War Powers Resolution vote, we will when we get a supplemental appropriation request designed to pay for the operations; and if not then, we will debate it on the continuing resolution; and if not then, we will do it on a regular appropriation or authorization bill. Sooner or later, this issue will be addressed. My point is that we ought to do it sooner. We owe that to our President—he needs to know if the Congress supports this policy before he invests more in it. We owe it to our allies—they need to know where we stand. We owe it to our adversaries—they need to know what our intentions are. And we owe it to our men and women in uniform—they need to know if the Congress and Nation approves and is in support of their mission.

One of the lessons we all seemed to have learned from the Iran-Contra affair is that the administration cannot make policy in secret—they cannot withhold information from the Congress, they cannot lie to us. We all seem to have concluded that the Congress had a right to know what some people in the administration were doing about selling weapons to Iran and providing funds to the Contras. My point, Mr. President, is simply this: if doesn't make much sense for the Congress to know what the administration is doing if it we are then told that we are powerless to stop or modify or even approve that action. Why did we want to know, why should we have known, the details of the Iran-Contra affair? So we could use our legitimate legislative power to prevent or stop it.

I would suggest to my colleagues that in the gulf we know about the policy. It isn't secret. And I cannot understand why some suggest that, with that knowledge, we are powerless to act while at the same time claiming that if we had had knowledge about the Iran-Contra affair we would have acted to halt it. I just don't think it is possible to maintain both positions at the same time.

In the same context, I would remind my colleagues that months ago, when we debated an amendment I offered to delay the reflagging operation, we were told that the administration was actively consulting with the Congress about the policy. I'm not sure there ever was such consultation, but let me accept for the moment the claim that there was. My question is: Why did the administration even bother to consult with us? If we have no right to a role in the decision, why did they ask us what we thought about it? I would suggest to my colleagues that the Congress had a right to be consulted while the policy was being made, we certainly have a right to be involved when the policy is being implemented. I cannot believe that people are seriously arguing that we have a right to give advice before a decision is made but no right to give advice and direction after it is adopted.

I do not, then, accept the main arguments advanced against this amendment. So let me spend a little time discussing the arguments in favor of the amendment.

To begin with, if we adopt this amendment we will simply be following the law—the law we all swore to uphold when we took the oath of office. Let me read from some of that law. The War Powers Resolution has, as its purpose, "to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations." (Section 2(a).)

That, of course, raises a factual question: have our Armed Forces been introduced into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances?

The answer is clear. Of course we are in imminent hostilities. Lets look at some facts.

To begin with, lets look at how the House report which accompanied the war powers resolution defined "imminent hostilities." The committee wrote that,

> The word hostilities was substituted for the phrase armed condlict * * * because it was considered somewhat broader inscope. In addition to a situation in which fighting actually has begun, hostilities also encompasses a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict. Imminent hostilities denotes a situation in which there is a clear potential either for such a state of confrontation or for actual armed conflict.

Despite the *Stark* incident one could, I assume, somehow argue that "no shots have been fired" at American forces in the region. But one cannot argue that such shots may be fired. In fact, that was precisely the point made by the distinguished minority leader yesterday when we were debating his amendment to cut of Iranian imports. I do not have his specific words in front of me at this moment, but I remember them very clearly. During debate on his amendment, the minority leader suggested that it made no sense for us to buy Iranian products which would allow the Iranians to use our cash to buy Silkworm missiles which could then be used against American forces in the region. The Senate accepted that reasoning and that amendment by a vote of 98 to 0. What we are seeking to do today is simply accept the logic of that argument. The Iranians shouldn't be able to use our money to attack our forces—and our forces should be in a situation where such attacks are imminent unless the Congress has specifically authorized such action.

Let me also indicate that it seems clear the Secretary of Defense is concerned about hostilities. In the Washington Post of Wednesday, September 30, we are told that the Secretary indicated that U.S. forces may attack suspected minelayers before weapons are dropped overboard. The Post quotes Secretary Weinberger as saying "when there is a hostile act committed, we don't have to wait for anything more to go and take appropriate action. The same is true when hostile intent is discovered." Well, Mr. President, we don't have to wait for anything else either: We can conclude based on those statements by the Secretary of Defense that we are in a situation in which imminent involvement in hostilities is clearly indicated by the circumstances.

The factual situation is clear. And, as a result, the war powers resolution is clearly operational.

Given those facts, we can—though we are not obligated to—debate the wisdom of applying the war powers requirements. As I have already indicated, the sponsors of this amendment have engaged in that debate and decided that a pure war powers would not be a good policy. That is why we have narrowed and focused the terms of this amendment so that it applies exclusively to the reflagging and convoying components of our policy in the region. And if others want to debate the wisdom of making a congressional decision on even that narrow subject, let me make a couple of comments.

First, those who oppose congressional involvement suggest that a period of indecision would be harmful. But as I have already indicated, sooner or later there will be such a period. We will raise this issue in other forums and on other bills. Better to resolve it now before events expand our role and increase our investment.

Let me also add, again from this morning's Washington Post, that if people are concerned about indecision, they will find it in the administration. Secretary Weinberger is characterized as claiming that U.S. forces will stay in the gulf for a long, long time. In the same story, Admiral Crowe is quoted as saying "we are looking at ways to draw down our forces to a more reasonable level" in the region. Now for goodness sake, what are we to make of all this. Can there be any more confusion or indecision? And if Admiral Crowe is looking for a way to reduce our forces, then one way to do it might be to stop convoying reflagged vessels while retaining American vessels in the gulf to protect American vessels and make clear our commitment to freedom of navigation.

Second, those who oppose congressional involvement seem to fear that our decision is a foregone conclusion: We will force the President to withdraw. Let me make this point very clearly: As a cosponsor of this amendment, I have not reached a judgment about that issue. I start from a premise which I believe is universally shared: We have a right and a reason to be in the Persian Gulf. No one is advocating cut and run. What we are advocating is that we define and determine the nature of our commitment so that we have a policy in place which will allow us to stay the course. The decisionmaking process mandated by this amendment gives the President time to make his case to the country and the Congress. I have not and will not prejudge the strength of that case. I know I have concerns. Senator NUNN's report to the majority leader raised a number of troubling questions about the policy. I don't think those questions have been answered. The administration needs to answer them. And this process will give them an opportunity to do so.

Third, some have suggeted that this is all a political issue. That is simply not the case. I say to my colleagues that no one is trying to embarass the President to score political points. This isn't a game. This is a decision which effects the future of our country and the lives of young men and women. The whole point of the war powers resolution is to avoid politics. For example, when the war powers resolution was used in Lebanon, it was precisely the fact that the Congress was involved which prevented the death of our marines from becoming a political issue. The Congress was involved: it had authorized their presence. If we wanted to play a political game, we would be better off not raising the issue, not involving the Congress in the decisionmaking process. That way, if everything in the region worked out, we could say we supported the policy; and if it failed, we could blame the President. In terms of pure politics, we would be better off keeping our hands clean. But this isn't politics—this is a basic decision about the use of American military force in an extremely dangerous region of the world. And at least this Democratic Senator is willing to take the risks of taking responsibility for making a decision about that policy.

Let me conclude, for the moment, by indicating that no one in the Senate wants the United States to fail in the gulf. We recognize the validity of the concerns which requires a naval presence in the region. We share those concerns. But we are obligated, by the law and the Constitution, to do more than share concerns. We have to share responsibility. We have to shape policy. And that is precisely what this amendment will allow us to do.

The PRESIDING OFFICER. I inform the Senator that the time has expired.

Mr. BYRD. Mr. President, I yield to the distinguished chairman of the Foreign Relations Committee 5 minutes with the understanding that I retain my right to retain the floor after 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator from Rhode Island.

Mr. PELL. Mr. President, I thank the majority leader very much indeed for his courtesy.

Mr. President, clearly the frightening modern-day madness of an unrestrained armed conflict was beyond the comprehension of the drafters of our Constitution over 200 years ago. However much to their credit and craftsmanship, they produced a document that is still vibrant and relevant to our current problems. The framers of the Constitution had the good sense to create a mechanism of government which assures a system of checks and balances that permits action, flexibility and—in serious matters—the expression of the common will.

That is why the Constitution divides the power to conduct war between the President and the Congress. There can be no doubt that there is a constitutional intention to endow the President with all the powers that ultimately adhere to a military commander but, at the same time, to withhold from him the ultimate authority on the gravest political decision of whether to declare war. This is a power that rests clearly with the Congress.

In 1973, in an effort to reassert this power, the Congress passed the war powers resolution. The passage of this resolution was a recognition on the part of Congress that it has a duty to assure itself a central role in decisions by the United States to use armed force.

Under the war powers resolution, the President must consult with Congress "in every possible instance" before introducing the Armed Forces "into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." Under section 4(a)(1), the President must report to Congress on the status of U.S. troops in such situations. Section 5(b), the engine of the resolution, requires the President to withdraw such troops within 60 to 90 days unless Congress authorizes their continued presence.

The war powers resolution does not, as some have charged, tie the President's hands or deny him his rightful powers. Rather, the legislation provides the method by which the Congress and the President can render a collective judgment on the question of whether to risk war. Congress must not shy away from the acceptance of its constitutional responsibilities regarding the commitment of U.S. forces to hostilities.

The amendment before the Senate today seeks to accomplish the purpose of the war powers resolution, but avoids the constitutional debate which would result from mandating executive branch compliance with the war powers resolution. While I personally would prefer the war powers route, this amendment does provide us with an adequate mechanism to exercise our constitutional responsibilities with regard to the administration's reflagging and convoying policy.

In addition, I want to point out to my colleagues that over 100 Members of Congress have brought an action against President Reagan asking the Federal district court to order the transmittal of a report under section 4(a)(1) of the war powers resolution. I want to emphasize that, regardless of the outcome of the vote on this amendment, the court should draw no inference as to whether Congress now believes a report is not required to be filed under current law. The effect of the adoption of this amendment would be to impose an independent reporting requirement on the President. The applicability of the reporting requirement of the war powers resolution is a separate matter. Under the war powers resolution, a report is required if the events described in that section occur, and those objective facts are not affected by any action Congress may take or decline to take in conjunction with the pending Byrd-Nunn amendment.

I yield the floor.

Mr. BYRD. Mr. President, I thank my friends, Messrs. WEICKER, ADAMS, and PELL for expressions of support for the amendment.

Mr. WARNER. Mr. President, would it be possible to ask through the majority leader a question to the distinguished chairman of the Foreign Relations Committee?

The PRESIDING OFFICER. Will the majority leader yield?

Mr. BYRD. Yes, I will yield for that purpose.

Mr. WARNER. Mr. President, the question I place to my colleague, the distinguished chairman, is as I listened very carefully to his comments, do I understand him to say that the War Powers Act remains the law of the land and that if the Byrd amendment is to be adopted the President continues to be under obligations to complete each and every part of the War Powers Act irrespective of the adoption of the amendment by the distinguished majority leader?

Mr. PELL. Mr. President, that would be my view and my preference, but I have yet to see it acquiring the support of my colleagues.

Mr. WARNER. I beg pardon.

Mr. PELL. That would be my view and wish. But I do not see it happening.

Mr. WARNER. In other words, it is the Senator's understanding that if the Byrd amendment is adopted, the President is now on two tracks. He must continue down track 1 with the War Powers Act, file the report, and the Congress must act accordingly, and then there is a second track, the Byrd amendment, and he must proceed on that at the same time and the Congress does likewise.

Is that the Senator's opinion?

Mr. PELL. As a practical matter, if the Byrd amendment passes, I think the amendment to push ahead on the War Powers Act will lose some of its steam.

Mr. WARNER. I do not understand the statement, Mr. President. Could the Senator characterize it in some other way?

Mr. PELL. I would say exactly what I said, that if the Byrd amendment passes—it is an excellent amendment—the effort to mandate compliance with the War Powers Act will be preempted. While supporting the Byrd amendment, I would prefer that the President support the War Powers Act.

Mr. WARNER. It still remains the law of the land.

Mr. PELL. It still remains the law of the land.

Mr. WARNER. There is no steam to enforce it.

Mr. PELL. It is still the law of the land.

Mr. WARNER. I think I understand. I thank the Senator.

The PRESIDING OFFICER. The majority leader is still recognized.

Mr. BYRD. Mr. President, I understand that Mr. QUAYLE wished to address some remarks to the amendment.

Mr. QUAYLE. May I have 10 minutes?

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield the floor temporarily to Mr. QUAYLE for not to exceed 10 minutes after which I regain the floor.

The PRESIDING OFFICER. Is there objection to the request of the majority leader for a unanimous consent to yield 10 minutes to the distinguished Senator from Indiana?

Without objection, it is so ordered.

The Senator from Indiana is recognized for 10 minutes.

Mr. QUAYLE. Mr. President, let me begin to try to respond to the question that was raised by the Senator from Connecticut [Mr. WEICKER] concerning the law of the land and the war powers resolution.

His basic underlying contention is that since we have imminent hostilities the War Powers Act automatically applies.

Let me say to my friend from Connecticut, and he is not here, let us go back and examine the War Powers Act. Let us take a look at what it says and then let us look at 1987 on how we deal with a piece of legislation that is certainly in all probability, much of it and all of it, unconstitutional, certainly overly broad. But how do we in 1987 and today comply with the law of the land?

I would say that in examining imminent hostilities and the War Powers Act, the War Power Act was passed after the Vietnam undeclared war. The War Powers Act was passed to prevent this Nation from venturing and going into another situation where we are basically going to have an undeclared war without declaring war, and the War Powers Act was to serve as a compromise between what the executive branch had to do as far as to provide troops and the congressional branch responsibilities as far as declaring war. Never again were we going to allow unilaterally, basically, to get this Nation into an undeclared war.

That was certainly the driving motivation behind the War Powers Act. There is no doubt about it that that is the reason that we have this legislation.

Now as to imminent hostilities, do imminent hostilities refer to acts of terrorism? I believe in 1973, as the Republican leader has pointed out, they did not even discuss terrorism. Terrorism was not a problem in 1973. Terrorism is a problem of megaproportions today, Mr. President. Terrorism is what is happening in the Persian Gulf today. It is not conventional warfare. It is terrorism.

And furthermore, when you look at the words "imminent hostilities," imminent hostilities of entering into a situation on the side of a combatant nation, entering into a situation on the side, going back in our history, of South Vietnam which was a combatant nation at that time with North Vietnam, a nation that was engaged in war. In this particular situation we are not entering on the side of a combatant nation. We are entering on the side of Kuwait to escort those ships.

And so, therefore, I think you can make a very good argument, because of the overly broad aspect of the War Powers Act, because of its questionable constitutionality, of how best do we deal with this situation? Do we automatically invoke the War Powers Act every time we are confronted with a terrorist type of situation? Many that say they support the War Powers Act say there is no mention of rescuing hostages in the consultation process. They want to skip that part of it. Well, this piece of legislation is unconstitutional, it is overly broad, but we have got to figure out a way to deal with it.

But I daresay that it is not automatic and that imminent hostilities talk about conventional warfare and we are looking at terrorism.

It has been asked by the majority leader and others, when is this going to end? When is our reflagging going to end? I would say that it will probably end when you regain stability, when the Iran-Iraq war hopefully comes to an end, or you get some sort of regional stability over there and you have free navigation of international waters.

But I think that what his amendment will do—and we will get into this debate more—this amendment, which basically denies reflagging unless the Congress says that you can go ahead with it, is saying that this policy ought to end, that the reflagging ought to end unless the Congress acts.

Is that the kind of message that we want to send to terrorism? So it is not when is this policy going to end, it is when are we going to leave? When are we going to get out of there?

Well, do we want to send a message like that to our allies; to our adversaries?

You know, once again the superpower, the United States, cannot make up its mind. The President can make up his mind. The President is very decisive. He knows what he wants to do. But now the Congress wants to get in and to sort of quarterback the situation, play commander in chief, try to see what they want to do.

But these amendments that we have, I believe, shows how this body, in looking at this situation, is absolutely gripped with paralysis, absolutely gripped with self doubt, Mr. President.

Let me just examine very quickly the resolution offered by the distinguished majority leader and others.

> Congress expresses its support for:
>
> (1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the gulf.

Fairly straightforward statement. But then it goes on and says under subparagraph 3 on page 4 that—

> The President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf.

I mean, we are going to be there, but we are not going to carry on reregistered flagging. I mean, we cannot have it both ways. I know we would like to have it both ways, and I believe that is what we are trying to do. As the Republican leader indicated, we do that best sometimes, to have it both ways.

It has been said: What is the policy in the Persian Gulf? What is our policy? Well, it has been said time and time again what our policy is. And if there is uncertainty, I am sure that the administration will be glad to come up to any hearing, to the chairman of the Senate Foreign Relations Committee, the chairman of the Senate Armed Forces Committee, the chairman of any committee; call a hearing of the entire Senate, if we want to find out what the policy is, if there is some uncertainty about what the policy is.

I do not think there is that uncertainty. I think the policy is rather straightforward. And, I might add, the policy, I believe, is succeeding. The policy is that you are going to have the free navigation of international waters. And we are certainly seeing the oil continue to come out.

Our policy is one that we simply are not going to abdicate the Persian Gulf to our chief adversary in the world, the Soviet Union. I would say, Mr. President, that had the President of the United States not decided to reflag those ships and had the Soviet Union done it, we would have had amendments on this floor scolding the President of the United States for abdicating our responsibility in the Persian Gulf. I daresay that would be happening if the President had not made that decision to reflag those ships. We would be having scores of amendments saying:

> What in God's name are you doing, Mr. President? Don't you know the Persian Gulf is in our national security interest and you simply want to turn it over to the Soviet Union?

The President said no. He reaffirmed a bipartisan foreign policy, which I wish we had more of, by saying the Persian Gulf is in our national security interest, as did former President Jimmy Carter, who first initiated this policy. That is certainly the policy of the Persian Gulf.

Finally, Mr. President, the policy is the United States of America is looking the terrorist nation of Iran right in the eye and say,

> You are not going to export your revolution and the war to other states in the Persian Gulf; that you are not going to export your terrorism and carry that to other states in the Persian Gulf.

Mr. President, we have heard complaints about lack of consultation. We have had consultation. We have had good consultation. We have had good communication. We have had recommendations.

As a matter of fact, I would say the reason the *Missouri* is there is because of the recommendation of a very distinguished Senator in this body, a Senator on the Armed Services Committee. He said,

> By golly, we ought to have a battleship in there. If we are going to go in there, let's make sure that we have a presence.

The administration listened and responded.

So I hope, Mr. President, there is no doubt about what the policy is. In the face of terrorism, we ought to think before we get too involved in all these resolutions about what kind of message, what kind of effect you are going to have on the men and women in the Persian Gulf that are over there right now. I daresay that adopting these amendments could be very, very counterproductive.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, does the Senator from Nebraska wish to address some remarks?

Mr. EXON. I do.

Mr. BYRD. Mr. President, I ask unanimous consent that I may be permitted to yield to the distinguished Senator from Nebraska 5 minutes without losing my right to the floor.

The PRESIDING OFFICER. The majority leader asks unanimous consent that he be permitted to yield 5 minutes to the distinguished Senator from Nebraska without losing his right to the floor. Is there any objection? There is none. The Chair recognizes the Senator from Nebraska for 5 minutes.

Mr. EXON. I thank the Chair and I thank my friend and leader of the U.S. Senate.

I am here today as the floor manager of the defense authorization bill, and I wish we could find some kind of a compromise to move ahead on that. Because, as has been said earlier, Mr. President, there is a long, difficult road ahead in meeting with the House of Representatives and working out the difficulties on the two bills.

But since we are into this matter, let me say a few words about it. I am very fearful, Mr. President, that too much of the debate, as often occurs on the floor of the U.S. Senate, gets into partisanship. And I think that we always try to frame our discussions, while not saying so, in the terms of Republicans versus Democrats and what one side or the other is trying to do or not to do to the President of the United States.

One of the sad parts of the debate is that it is being framed, maybe intentionally or otherwise, on the floor of the U.S. Senate as us against them; as those who do not understand and want to do great damage to the leader of the free world, the President of the United States.

I think that is not the desire. I assure all that that is not the desire of those who are supporting the idea that we need to follow the law of the land, as so well stated by the majority leader and the distinguished Senator from Connecticut, who made the point, and I think it is a key point, that we are supposed to follow the Constitution.

Mr. President, we all walked down this aisle at one time or another. Every one of us here walked down here, walked over there, put our hand on the Bible, and we took an oath of office to uphold the Constitution and the laws of the United States of America.

Whether we like it or not, War Powers Act is a part of the law of the land. Indeed, it was passed by a previous session of the U.S. Senate and was vetoed by the then sitting President and, sure enough, it was overriden in the Congress.

I simply say, Mr. President, my suggestion of the way out of this would be, first, to those who say that we ignore that law, what they should do is put up a forthright amendment to repeal the War Powers Act and let us see if that is what we want to do. That is one way of handling it. If that is part and parcel of the suggestion made by my friend from Virginia, I compliment him for that. We are dancing around the issue, Mr. President.

I, for one, want to say that I support the present action of the Commander in Chief in the Persian Gulf. I am confident that that statement I have just made is shared by the vast majority of the people who are trying to see that we live up to the law of the land.

I think that we too often try to make politics out of something when it is simply not there. As my great, and late, colleague from the State of Nebraska, Senator Ed Zorinsky was prone to say: There are too many Republican Senators and there are too many Democratic Senators and not enough U.S. Senators.

I want to assure the Chair and those who do not see this matter my way that I believe that we have an obligation to stand up and take a stand for or against the position that the Commander in Chief has taken in the Persian Gulf. Because I happen to believe that some time we are going to look back and be sorry for the fact that we did not, as a U.S. Senate, stand up and follow the law of the land.

We are supposed to be the part of the Congress, one-half of it, that declares war. We are falling right back into the same trap, right or wrong, that we did in Vietnam. I think it was wrong that the Congress never took any positive action. They sat back and carped and complained and after it was all over said: Don't blame us.

We are trying to be helpful to the President of the United States in these circumstances and to discharge our responsibilities that we undertook when we took our oath of office.

I just wish reason would prevail, Mr. President, and we could get together on some kind of a compromise as U.S. Senators and move on to the business of the Senate.

I thank the majority leader.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, the distinguished chairman of the Appropriations Committee wishes to address the Senate for 5 minutes. I ask unanimous consent that I may yield the floor for 5 minutes to Mr. STENNIS, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. BOREN. Mr. President, I would like to object. What is the situation?

The PRESIDING OFFICER. The Senator from Oklahoma has an inquiry?

Mr. BOREN. Does time control? Or are Senators allowed to debate this in any manner?

The PRESIDING OFFICER. The majority leader has control of the floor, may I say to the Senator from Oklahoma, and is asking for unanimous consent, from time to time, to accommodate other Members who care to speak, while retaining his right to the floor.

Mr. BOREN. I have no objection.

The PRESIDING OFFICER. Does the Senator from Oklahoma desire time, which I am sure he could obtain from the majority leader who is prepared to yield time to the Senator from Mississippi?

Mr. BOREN. The Senator from Oklahoma would at some point like to make remarks for about 5 minutes and would certainly like to defer to the distinguished chairman and Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Oklahoma is advised that the majority leader has asked unanimous consent to yield 5 minutes to the distinguished Senator from Mississippi. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I shall not object, I wonder if the majority leader at some point in time would, through unanimous consent, seek the right of Senators who have spoken today to expand in the RECORD their remarks?

Mr. BYRD. Yes.

Mr. President, I ask unanimous consent that Senators may revise and extend their remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Mississippi is recognized for 5 minutes.

Mr. STENNIS. Mr. President, I certainly thank the gentleman for yielding. I assumed the floor from a sense of duty, Mr. President. I have not had a chance to prepare remarks but I just think I ought to testify as a witness to being here when these matters arose.

I came here, incidentally, to see if I could make some contribution toward a world court. I had not been here long and we were in Korea, without any declaration of war. It impressed me tremendously.

Shortly thereafter, we had another lesson. We were in Vietnam, struggling here for a resolution. Finally, the War Powers Act law that is on the books now was signed. My contribution was small because I had to absent myself some. But I remember the intensity of the hard work, the universal conclusion of the need; that it was the foremost problem before the newly created post-World War II environment and something must be done.

I want to mention the late Senator from New York, Mr. Javits. That wonderful mind that he had spun faster, it seemed, and more accurately than anyone else's. And what good was in those words, those paragraphs, a large part of it—all contributed some—but a large part of it was due to him and his perseverance.

The thing that I realize more than anything else, every day, based on the days I have been here, is the absolute necessity that we must meet this occasion in a better fashion and a more unanimous fashion than we have heretofore.

So my remarks are just a testimonial relating to that. I do not see how we can expect it to be done, as good as the leadership may be, in a matter of days or months or any brief time. It is going to tax us to the limit; not only us, but others.

I think we ought to yield to that major fact and make the most exhaustive, thorough application of all of our talents, looking for a way, and then work just as hard trying to put that way together and make it right.

I commend those that are trying to do this today. God speed them on. I yield the floor.

The PRESIDING OFFICER. The majority leader?

Mr. BYRD. Mr. President, I would be happy to yield to both distinguished Senators.

Mr. BUMPERS. Mr. President, the Senator from Oklahoma was on the floor before I was.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I would ask the majority leader if he would yield 5 minutes to me for my remarks?

Mr. BYRD. Mr. President, I yield the floor for 5 minutes to the distinguished Senator from Oklahoma, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Oklahoma is recognized for 5 minutes.

Mr. BOREN. Mr. President, I thank the distinguished majority leader. I also wish to express my appreciation for the remarks that have just been made by the distinguished senior Senator from Mississippi. I am always impressed by the wisdom of his remarks, the experience behind the perspective which he brings.

The same, of course, is true of the distinguished majority leader as he seeks to grapple with this very real problem.

This Senator certainly would not pretend to have the answer to working out a new mechanism through which the Congress can participate in a meaningful way with the President of the United States in the formulation of foreign policy. It is very clear that we can have no consistent bipartisan foreign policy for this country unless there is adequate consultation and a meeting of the minds between the executive branch and the legislative branch.

The President can change a decision. The President can start a policy. But the President cannot continue a policy unless it has support within the Congress sufficient to sustain it.

It is not good for the United States of America for there to be a division of opinion as to which policy should be followed. Neither the Congress nor the President can then systematically carry out continuity in foreign policy that this country so badly needs.

When the United States makes a foreign policy decision, the rest of the world needs to know that it is America's foreign policy decision; that America is going to stand behind it. That means the totality, and particularly the two policymaking branches of the Government, are going to support it and sustain it.

I have very real concerns, Mr. President, that I must express about the current method of doing so. I simply cannot, in my own conscience, feel I can support the pending amendment.

My problem is this: While Congress should participate, while the President should have consulted with us in advance, and there were no such consultations—and that was an initial mistake by the executive branch—I do not think it is in the national interest of this country, and this is the reason why I think we should, as the Senator from Mississippi suggests, sit down and think about how we structure this kind of constructive participation.

I do not think it is in the interest of the crisis which we now face for us to set a period of time, be it 30, 60, or 90 days, during which time decisions are suspended in the eyes of the rest of the world.

The United States, by taking this action, is announcing we are suspending a final decision, final commitment to policy, for a certain period of time.

We are sending notice to those who would test our will and resolve, who might try to inflict punishment on our own young people exposed to certain dangers in the Persian Gulf right now, that we are in the state of limbo or suspension about the decisions we are going to make.

That kind of public expression of indecision through some artificially contrived time deadline I think is simply not in the interest of the United States of America.

Is it in the interest to have the President go ahead and make policy on his own without consultation with Congress? Certainly not. Can we have consistent bipartisan foreign policy without the cooperation and involvement in a partnership effort with the Congress? Certainly not.

So, Mr. President, I have great sympathy. I understand that the majority leader has tried to pinpoint the matter. He is not calling for withdrawal of military presence from the Persian Gulf. He has tried to narrow the focus. He has talked only in terms of the technical means by which reflagging and convoying are going on. I understand that. I think that is an expression on his part of the kind of dilemma he faces, how as the leader of this body can he assure that the Senate and the Congress of the United States have an appropriate role and voice in foreign policy.

How can he do that in a constructive way without undermining the President, without undermining the position of this country as the rest of the world watches us, watches these policy deliberations?

I do not know the answer, Mr. President, but I hope we will seize this opportunity to see that the exact formula, which is an artificial one spelled out in the War Powers Act, is badly in need of revision. It was derived to meet certain circumstances from the Vietnam war.

There is still a need for cooperation, a need for bipartisanship. There is a need for unity as we face the outside world that we have never had before. I simply do not believe that at this particular moment the way to show that unity, that resolve, that common commitment, and in a way to make it less likely that others will test us or try to inflict damage on us—I do not think the way to do that now is to set up an artificial period of time in which we highlight our period of indecision to the rest of the world.

While legitimate concerns have been raised by the majority leader and by others, I would hope we would find a way other than the one now before us to try to deal with the issues, and I think in the course of that we should consider meaningful and major revision of the War Powers Act itself.

I thank the majority leader for yielding time.

Mr. BYRD. Mr. President, I yield 1 minute to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I think the suggestion by the distinguished chairman with whom I am privileged to serve is a worthy one. I listen to this today and I thought about it last night, and I would say to the Senator from West Virginia, perhaps we should consider establishing, and I know the word is suspect, a commission, not unlike the Greenspan Commission which reviewed social security. This could be a totally bipartisan commission to look at the War Powers Act and to give the executive branch and the Congress some guidance.

I am going to develop further that idea as we go along, I would say to my distinguished leader and others who might be interested in making a contribution.

It seems to me we should enable a group of persons in whom we have confidence to look at this complex law, to look at the relationship between the executive and the legislative branches and perhaps render some suggestions. These are improvements which could be made to the war powers resolution which would make it more useful to us all.

I thank the majority leader for yielding.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Arkansas for 8 minutes without losing my right to the floor, and then, I will ask for a vote on a motion to table. I am telling Senators now that after the distinguished Senator from Arkansas speaks, and I yield 10 minutes, I intend to move to table. I am going to ask for regular order after 15 minutes into that rollcall. They might start now to come to the floor.

The PRESIDING OFFICER. I think the Senator from Virginia has an inquiry to make.

Mr. WARNER. Reserving the right to object, and I do not intend to object because the majority leader has been most gracious, would the majority leader put just some flexibility in the event that I might want to take a minute or two to engage in a colloquy with one of the original movers in this body of the current debate? He came to the floor some weeks or 10 days ago and initiated this matter. I just would like to have some flexibility.

Mr. BYRD. Mr. President, I will extend that by saying I will move to table at 5 o'clock. That gives the distinguished Senator from Arkansas 10 minutes and 5 minutes for any colloquy.

I ask unanimous consent that my rights be protected.

The PRESIDING OFFICER. Is there any objection?

There being no objection, the Senator from Arkansas is recognized for 10 minutes.

Mr. BUMPERS. Mr. President, I doubt that much new can be said, indeed probably nothing new can be said here this afternoon, that has not been said in the previous debates we have had on this issue. Nevertheless, I think it is important that we make a record so everything is being transcribed in the CONGRESSIONAL RECORD, to be there for our children and grandchildren to look at some day.

I think it is also important for us to make a history as to what the Senate did and how it conducted itself in the face of this so-called Persian Gulf policy.

I have heard it said on the floor today that the President is the only person who is elected by all the people.

That is not true. There are 100 Senators here who are elected by all the people of the United States. The people of Arkansas elected me. The people of Georgia elected my friend from Georgia, Senator FOWLER, and so on. And they did not elect us to come up here and take leave of our senses or to roll over and play dead every time the President decided to get into some kind of adventurous policy that might lead this country into war.

They expect me to stand on my feet and protect the interests of the United States in a legitimate way, and that is precisely what I intend to honor.

The President said in the Washington Times today in what they described as an exclusive interview, that he was not obligated to consult with us on this because as he understood the War Powers Act he was only supposed to notify us when he sent American forces against another force or against another nation.

I invite any of my opponents on this to show me where in the War Powers Act any such language as that is found. That is right out of thin air.

The War Powers Act is as clear as the nose on your face, and there is nothing in it that says the President must only notify us when he sends American forces against another nation or against another force.

It says when he introduces forces into an area of hostilities or an area of imminent hostilities.

You cannot improve on that language. It is clear.

The distinguished minority leader said, "Well, we are already there."

I ask you to search your conscience. Is that a legitimate reason to say that we must stay there forever if the President so chooses because we are already there?

What kind of nonsense is that?

And then you have heard this endless argument, absolutely endless ad infinitum, about the Congress has no right to interfere in the conduct of foreign policy, that the President has a constitutional right to conduct foreign policy.

Let me ask you, did you hear that argument yesterday when we were voting to cut off all purchases of everything from Iran? Did you hear the White House say, "We do not want the Dole amendment telling the United States that we cannot import oil, pistachios or anything else from Iran. We are opposed to that. That is our right, to conduct foreign policy."

That is the record of the past 24 hours.

And so what did the Senate do about the President's right to conduct foreign policy? We said 98 to zip, "You do not have a right to conduct foreign policy if we disagree with you." And yet when it comes to jeopardizing the lives of my sons and yours for a policy which has never been explained to Congress or the American people, this socratic argument surfaces about never interfering with the President's right to conduct foreign policy, and the White House has tried desperately to frame the debate as though the Congress is a bunch of cowards wanting to cut and run, wanting to take us out of the Persian Gulf.

Nothing could be further from the truth. The majority leader has made this point time and time again. They know it. They heard it. They know exactly what this amendment says. We have been very generous, Mr. Leader, in narrowing the focus of this amendment, very carefully crafting it to say leave your warships there. We always had warships in the Persian Gulf and we always will. We have that right. Nobody is arguing that. So I say to those who oppose this amendment, do not debase yourself by making false accusations against those of us in favor of this, as though we want to cut and run.

I do not know whether or not the Supreme Court will ever address the constitutionality of this issue. Frankly, I doubt it. I would like to make that whole constitutional argument here, but I can tell you one thing: So far as we are concerned, the War Powers Act is constitutional because it has not been declared unconstitutional. It is the law of the land. As I said time and time again, when the law is on the books duly signed or a veto overridden, the President does not have the right to flaunt it. Ordinary citizens downtown do not have a right to violate the law, nor does the President.

We want to know, Mr. President, how long are we going to be there? We want to know, Mr. President, what kind of a force do you foresee going into the gulf? You said six ships would be enough. Four months ago, Mr. President, you told Congress four to six ships would be more than adequate to convoy Kuwaiti tankers. Today there are between 31 and 40 ships in or near the Persian Gulf.

Oh, I listened to these arguments, Senator. I can go back to the Vietnam debates, and I can read what the Senators who insisted on staying in Vietnam said. It will sound like a broken record of what I have heard here today. The very same argument is being made: Do not undercut the President; we cannot cut and run; we are the most powerful Nation on Earth. Anything except doing something sensible and rational for a change.

What are we going to get out of it? Not one single tanker, Mr. President, has been sunk since that war started. Ninety-nine percent of the oil has been shipped out of the Persian Gulf. You tell me how having 41 ships in the Persian Gulf is going to improve on that. The President says we have to get the oil out. You tell me, do you think the President by sending 100 ships in there can get out more than 99 percent of the oil? Of course, he cannot. Kuwait and the other nations in the Persian Gulf still will hardly let us land a helicopter on their soil, and do not pay us one red dime for our expenses. Our allies have a few little minesweepers and a couple of fighters in there and that is the extent of their help.

I have heard the distinguished Senator from Virginia make that point two or three times: Our allies are all onboard. You look at how strongly they are onboard. Britain had to be dragged kicking and screaming into a policy with which she did not agree.

And so, Mr. President, we say to the President of the United States, we want to make a decison on this.

I know some Senators here who are going to vote for this amendment, or at least vote not to table it, but 60 days from now if this became law, we start debating a joint resolution: Shall we stay in the Persian Gulf or shall we get out, those same Senators will vote with the President. But we want to know the cost. How many ships is it going to take? Are we weakening ourselves in the rest of the world? Are we going to reflag other Nations' ships? And 100 other questions I could ask. We want to know, Mr. President.

If the Supreme Court says we do not have standing or that is a political dispute between the President and the Congress, then when the appropriations process comes up, Senator, we will say none of the funds herein may be used to continue this policy. We have the right of the purse string. But I would like to be informed as to where we are headed with this policy before I vote to cut off all money.

Finally, Mr. President, I want to say to those who will oppose this amendment and who will vote to table, what would it take, what would it take you, Senator, to vote for this amendment? Ask yourself. I yield the floor.

The **PRESIDING OFFICER.** The majority leader.

Mr. **BYRD.** Mr. President, did the distinguished Senator from Virginia wish to take advantage of the last 3 or 4 minutes that remain?

Mr. **WARNER.** Mr. President, I will take but a few minutes, but I defer to the majority leader if he wishes to take the last minutes; it is debate on his motion to table.

Mr. **BYRD.** If I might yield the floor for 2 minutes to the—first of all, does the Senator wish to speak now?

Mr. **WARNER.** Yes; I would say a few minutes speaking now. Perhaps we should state what is to be done now so other Senators listening can understand. I would ask for 3½ minutes.

Mr. **BYRD.** Mr. President, I yield to the distinguished Senator for 3½ minutes.

Mr. **WARNER.** Am I to understand the majority leader——

Mr. **BYRD.** And 2 minutes to the distinguished Senator from Oregon. Either way.

The **PRESIDING OFFICER.** The majority leader asks unanimous consent for 3½ minutes for the Senator from Virginia and 2 minutes for the Senator from Oregon. Is there any objection? The Senator from Virginia is recognized for 3½ minutes.

Mr. **WARNER.** Mr. President, as I listened to my colleague from Arkansas, he again went back—and we can go back in the Record and find the same basic statements—to concern about policy in the gulf, part of which is reflagging. If we adopt this amendment, we may restrict ourselves from looking at other issues relating to the gulf.

If it is the decision of this body, and I hope it is not, that we invoke the War Powers Act in one way or another, then let us look it square in the eye and let us look at the entire policy, not just take one part of it, so that we can put at rest, hopefully, any question of support for the President in a resolution as provided by the amendment that I have asked to be printed, a joint resolution which would give a clear signal to our Nation, to our allies, and all those working for peace that the President has joined the Congress. So I hope we vote not to table, such that we can continue this debate, such that in some way or another this body can continue other ideas as to how to resolve this question. Like the Senator from Oklahoma, I am gravely concerned that any timetable invites an enemy to tailor their tactics in accordance with that timetable. My amendment does have a timetable, but it is the shortest possible timetable that this Senator could fashion to meet this situation. I am certain other Senators can improve on it; I take no pride in authorship, but I hope other Senators will take the time to look at the amendment which will be printed. I thank the distinguished leader.

Mr. **BYRD.** Mr. President, I yield to the Senator from Oregon.

The **PRESIDING OFFICER.** The Senator from Oregon is recognized for 2 minutes.

Mr. **HATFIELD.** Mr. President, a way by any other name or armed hostilities, unlike a rose, still stinks. I think the semantics again in which we engage to try to say, in effect, we are not in an area that could create a full-fledged armed hostility or war is just that, an argument in semantics. Again, I suggest we talk to the parents of the 41 American young people that have already been lost there.

I am going to vote for the Democratic substitute, but I am not going to vote for it with a great deal of enthusiasm because I believe that the premise is wrong. It is seeking to substitute doctrine for law. We have a law that clearly lists our options. Those who think we only have one option, and that is to declare war, should reread the War Powers Act. We have other options. The Congress is going to dictate in effect under the War Powers Act a part of this policy. It is going to have that responsibility.

I think the reflagging and the escort question is too narrow a target. The target is peace and war and whether or not we are going to permit the President of the United States to once again, as we have had that experience in Vietnam through a gradual system, get us into full-fledged war or whether we call it a police action. We still have a congressional responsibility we have to face up to under the War Powers Act. And I hope that we have the courage to do that. I wish we could do it directly.

Mr. **GLENN.** Mr. President, I rise to support the amendment of my colleagues which says, in effect, that the

Senate considers the provisions of the War Powers Act to have been triggered by the escorting operation the United States has undertaken for reflagged Kuwaiti tankers in the Persian Gulf. Now I know that this administration, like all administrations since this provision was enacted, has a constitutional objection to the War Powers Act. However, it is the law of the land, duly enacted and currently in effect. The Constitution, whose bicentennial we celebrated this very week, obligates the President to "take care that the laws be faithfully executed." It does not say he shall faithfully execute the laws he likes, or only those he agrees with. If a President disagrees with a law, he's perfectly free to seek its revocation. However, I believe it is fundamentally contradictory to our system of government for a chief executive to simply ignore the law.

Mr. President, I remind my colleagues again that Congress has the constitutional power to declare war—to commit the lives of American men and women to fight and even die for this country. Now I am not suggesting that we declare war against Iran, but the difficulty is that we have already involved American servicemen in hostilities with Iran without exercising the congressional check and balance established in the Constitution. Clearly the framers of the Constitution intended that when Americans are asked to fight and possibly die for their country, approval of the Congress is mandatory. When American servicemen and women are committed to hostilities by the President, the Congress, as the duly elected representatives of the people of this country, has a constitutional responsibility to approve or disapprove such a critical decision. The problem is, Mr. President, that in this nuclear age of "limited wars," we may never declare war again in the classical World War I and World War II sense. I certainly hope we do not; but not having a formal declaration of war does not mean that this country will not be involved in hostilities or that Americans will not be killed.

In Korea, where I had firsthand experience, over 33,000 Americans were killed and over 100,000 wounded. This was our first limited war which was fought without any formal congressional endorsement of U.S. involvement. In Vietnam, nearly 50,000 Americans were killed and another 153,000 were wounded. American military involvement in this limited war was endorsed by the Congress in the Tonkin Gulf resolution, which essentially gave the President an open-ended endorsement to pursue a war which would last nearly 10 years.

Mr. President, it was from this Vietnam experience that the War Powers Act evolved. Some means had to be found to satisfy the constitutional requirement that Congress has the right to declare war—even if the hostilities are described as a "limited war," a "police action," a "peacekeeping operation," or exercising "freedom of the seas." The War Powers Act was presented in 1973 as an attempt to fulfill—not to alter, amend, or adjust the intent of the framers in order to insure that the collective judgment of both the Congress and the President will be brought to bear in decisions involving the introduction of Armed Forces into hostilities.

I would acknowledge that the War Powers Act, as presently constructed, may not be the best way to satisfy that constitutional requirement. Overall I believe it represents a reasonable balance of executive and congressional responsibilities in this critical area. It allows the President flexibility to act quickly, but preserves a role for the Congress in deciding if a military operation should continue. Nevertheless, at some later date, when the United States is not already involved in hostilities, I would be open to consideration of any suggestions on how the current act might be improved.

In the meantime, War Powers is the law of the land. Clearly, Mr. President, if there ever was a situation which the act was designed to cover, it is the situation which the act was designed to cover, it is the situation we find in the Persian Gulf today. We have some 40 warships currently devoted to the gulf protection regime, we have over 20,000 U.S. military personnel on duty there, we have surveillance aircraft, fighter aircraft, and mine sweeping boats and helicopters. U.S. forces face the very real threat of mines, gunships, and air and land based missiles—not to mention suicide squads and other acts of terrorism.

We have already lost 37 American lives. We have authorization for "imminent danger pay" for military personnel operating in the gulf. And finally we have a U.S. military helicopter launching a justified, yet lethal, attack on an Iranian Navy vessel laying mines in the gulf's shipping lanes. What sort of tortured logic allows the administration to maintain, in the face of the helicopter gunship attack and the authorization of what used to be termed combat pay, that U.S. forces have not been introduced into a situation where imminent involvement in hostilities is clearly indicated? Hostilities are not just imminent in the gulf today, they are a reality.

While I am convinced that the provisions of the War Powers Act do apply to the Persian Gulf situation, I do not necessarily believe U.S. forces should be precipitously withdrawn. On the contrary I believe the United States should maintain a strong military presence in the gulf for as long as our national interests require it. With all due respect to my colleagues who argue that mandating War Powers compliance would send a signal of lack of United States resolve, I believe that they are confusing the question of invoking War Powers with the subsequent question of whether or not to continue our gulf operation. I do not share my colleagues pessimistic assessment of the impact of invocation of the War Powers Act.

Rather I look at the War Powers process as an opportunity to develop a bipartisan, congressional-executive consensus on gulf policy. Such a consensus can only strengthen the position of the United States by demonstrating unity and resolve to friend and foe alike.

A recent editorial in the Akron Beacon Journal presents a succinct yet compelling rationale for the application of the War Powers Act to the situation in the gulf. I ask unanimous consent that that editorial appear in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

War Powers in the Gulf

The 1973 War Powers Act is not the most precisely worded law Congress has ever passed. It requires a president to inform lawmakers within 48 hours when he introduces troops into a situation of "imminent hostilities." The troops must be withdrawn after 60 days unless Congress authorizes their continued presence.

Arguments usually turn on the imprecision of the words "imminent hostilities." The ambiguity allows presidents to claim a narrow definition; Democratic and Republican presidents have resisted the law, insisting that it infringes on presidential flexibility. On Capitol Hill, the view is often very different: "Imminent hostilities" has come to mean a situation that poses a clear threat to the lives of American servicemen.

The debate has surfaced again in light of this week's confrontations in the Persian Gulf. An American helicopter justifiably attacked an Iranian ship that was laying mines in the open seas, and then an American warship fired warning shots at a harassing Iranian Hovercraft. Sen. John Glenn and others have called for the War Powers Act to be invoked. Their case is compelling.

The gulf has become an enormously dangerous place. The United States has roughly two dozen combat vessels in the region, an extraordinary concentration of naval power. The British and French are there, along with the combatants, Iran and Iraq. In his speech to the U.N. General Assembly, Ali Khamenei, the Iranian president, offered a ludicrous version of this week's events, calling the Iranian vessel a merchant ship when mines were there for all to see on the evening news. What was most troubling, however, was his fierce pledge to retaliate. Whether bluff or not, his words signal increasing tensions.

This week's events make it hard to avoid the conclusion that American servicemen face "imminent hostilities." The War Powers Act should be set in motion. The President may not like the law—some in the administration believe it's unconstitutional—but that is no matter. It must be followed. Significantly, Caspar Weinberger, the secretary of defense, described the Iran mine-laying as a "hostile act." His choice of words seems to justify invoking the law.

The White House should not shudder at the prospect. The act offers an opportunity to build bipartisan support for its policy, which is confused in some details but remains basically sound. Indeed, the purpose of the law is not to encourage congressional meddling but to achieve cooperation between the president and Congress. It's an insurance policy of sorts against a serious blunder.

A greater measure of unity in Washington will also aid U.N. efforts to gain a cease-fire in the Iran-Iraq war. The Iranian president defiantly rejected a cease-fire this week. With Congress and the president sending a signal of stiff American resolve, Tehran may eventually see the wisdom of a negotiated settlement.

Iran is the key to bringing peace to the gulf and maintaining stability there. The War Powers Act could be an important tool for showing Iranian leaders how costly it would be to continue their war with Iraq.

The PRESIDING OFFICER. Under the previous order the appointed hour having arrived, the majority leader is recognized to move to table the Byrd amendment No. 732. The majority leader.

AMENDMENT NO. 732, AS MODIFIED

Mr. BYRD. Mr. President, I thank the Chair. I send to the desk a modification which I was allowed to send under the order previously entered. This modification pertains only to the expedited procedures section.

The PRESIDING OFFICER. The majority leader has a right to modify his amendment.

The amendment, as modified, is as follows:

Strike all after subsection (a) of the amendment and insert in lieu thereof the following:

(b) Congress expresses its support for:

(1) a continued U.S. presence in the Persian Gulf and the right of all non-belligerent shipping to free passage in the Gulf;

(2) continued work with the countries in the region and with our Allies to bring about a de-escalation of the conflicts in the region, and to bring a halt to those activities which threaten the freedom of navigation in international waters in this region; and

(3) diplomatic efforts underway in the United Nations and elsewhere to bring about an early resolution of the conflict between Iran and Iraq, identify the actions which led to the current conflict and contribute to its continuation, achieve a ceasefire as called for by United Nations Security Council Resolution 598, and take early actions toward imposing sanctions on any party which refuses to accept a ceasefire.

(c) The Congress determines that the circumstances in the Persian Gulf and the Gulf of Oman meet the conditions established in Section 4(a)(1) of the War Powers Resolution.

(2) Within thirty days after the date of enactment of this Act, the President shall submit a report to the Congress, in classified and unclassified form. The report shall provide a complete review of the policy of escorting vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987, and which are currently or were formerly registered under the flag of the United States. This report shall also include a discussion of the following—

(A) the extent to which the policy of protecting reregistered vessels supports U.S. regional strategy;

(B) the anticipated duration of the operation;

(C) the objectives of the escorting operation and how the Administration measures progress toward those objectives;

(D) the funds which have been expended to date on the escort operation and the anticipated future requests for funds, including any request for reimbursement of previously expended funds;

(E) the impact of these operations on the diplomatic efforts to achieve a negotiated settlement of the Iran-Iraq war;

(F) the commitments which have been made, if any, by other governments to support this operation, and the commitments, if any, which have been made by the United States to those governments; and

(G) the impact these operations have had on the operational deployments and readiness of U.S. forces in other regions.

(3) Within sixty days after the report required by paragraph (2) is submitted, or 90 days after the date of enactment of this Act, whichever is sooner, the President shall terminate the registration of reregistered vessels under U.S. law and terminate the use of United States armed forces to escort reregistered vessels in the Persian Gulf region, unless the Congress has enacted a law providing specific authorization for such use and registration.

(e)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution introduced pursuant to subsection (c)(3).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution with no preamble, the matter after the resolving clause of which is "that the Congress authorizes the escorting of reregistered vessels in the Persian Gulf and the registration of those vessels under United States law, and which is introduced within 3 session days after the date on which the report of the President described in subsection (c)(2) is received by Congress.

(C) For purposes of this subsection, the term "session days" means days on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th session day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged under paragraph (3) from further consideration of such joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the consideration of the joint resolutions are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of. If any such motion to proceed is agreed to, it shall not be in order to move to proceed to the consideration of any other such resolution introduced in that House.

(B) Consideration of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between and controlled by the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. Amendments which are germane and relevant to the joint resolution are in order under a two-hour time limitation for each amendment. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House, if such resolutions are identical, or on the joint resolution of the other House if not identical, with the text of the resolution of the first House deemed inserted in lieu of the text of the resolution of the second House.

(C) all motions required for the disposition of amendments between the Houses shall be deemed without debate. Debate on a conference report on any such joint resolution shall be limited to one hour.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(e) For purposes of this section, the term "reregistered vessels" means vessels which had flown the flag of any country bordering the Persian Gulf on June 1, 1987 and which are currently or were formerly registered under the law of the United States.

Mr. BYRD. Mr. President, I move to table the amendment. It is the amendment which I proposed on behalf of Mr. NUNN, Mr. BUMPERS, Mr. ADAMS, and Mr. SASSER, and I shall vote against my own tabling motion. I urge other Senators to do likewise.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. BYRD. This will be a 15-minute rollcall.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia to lay on the table the amendment, as modified, of the Senator from West Virginia.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Ms. MIKULSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 1, nays 99, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—1

Boren

NAYS—99

Adams
Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Gore
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

So the motion to table amendment No. 732, as modified, was rejected.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Madam President, the overwhelming vote shows just how uncomfortable Senators are with the administration's policy of reflagging and convoying in the Persian Gulf and how uncomfortable and unclear the American people are with respect to the administration's policy of reflagging and escorting in the Persian Gulf.

Before we go any further with that policy, the American people, their representatives in Congress, want that policy reviewed. That is what the vote showed. That is clear by the outcome of this vote.

Madam President, it is obvious we are not going to get an up or down vote on this amendment today. In the interest of pressing ahead with the action on the DOD authorization bill, I have discussed with the distinguished Republican leader and with the two distinguished managers of the bill the possibility of getting an agreement on the SALT amendment which is remaining of the two issues that still need to be resolved. We might get a time agreement on the SALT amendment, go to that amendment and begin the debate thereon and vote either, say, by 11 o'clock tomorrow on it or 10 o'clock in the morning on the SALT amendment.

What would the distinguished Republican leader say?

Mr. DOLE. Madam President, if the majority leader will yield, I disagree with his characterization of the vote. I know he did not expect me to disagree, but I would indicate that it probably reflects a desire for a lot of debate, a lot more debate on a very important issue, and we are very pleased to support the majority leader in this.

Mr. BYRD. I thank the Senator. My heart overflows with emotions and gratitude.

Mr. DOLE. I must say it is a little trick I learned last year on an amendment of mine. When I announced I was going to move to table my own amendment, I suddenly discovered everybody wanted to table my amendment.

Mr. BYRD. They wanted to cooperate.

Mr. DOLE. They wanted to cooperate.

I do think we can get an agreement to go to SALT which keeps everything moving and maybe a suggestion we are also able to say to the majority leader that we could probably do the legislative appropriations bill in 1½ hours, maybe do that this evening and start on SALT tomorrow morning and maybe complete action on SALT by midafternoon. We do not lose anything that way and we are moving on appropriations bills, and it would seem to me we can get out at maybe 7 or 8 o'clock today.

Mr. BYRD. If that is agreeable with the distinguished Senator from Georgia and the distinguished Senator from Virginia, I will ask unanimous consent.

Madam President, the amendment on SALT, I believe, would be the amendment by Mr. BUMPERS.

UNANIMOUS-CONSENT AGREEMENT

Madam President, I ask unanimous consent that during the remainder of the Senate's consideration of S. 1174, the DOD authorization bill, all amendments dealing with the issue of SALT be limited to a total of 8 hours to be equally divided between the offeror of the amendment and the manager of the bill; if the manager of the bill agrees with the amendment, then the time in opposition thereto be given to the ranking manager, or if he agrees with the amendment, then to the minority leader.

Mr. WARNER. Madam President, I disagree very strongly with the amendment and therefore would qualify and I must say to my good friend, the majority leader, I have indicated to certain Members on this side that they would be granted specific amounts of time and that was a foundation by which the distinguished Republican leader was able to work out this agreement.

So I would feel obligated now to control certainly a portion of the time.

Mr. NUNN. Madam President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. NUNN. The manager of the bill is in favor of the substance of what the authors of the amendment are attempting to do but the manager of the bill has reluctance about some aspects of writing this into law, and so the manager of the bill would be somewhat in an ambivalent position, and I suggest that under those conditions the Senator from Virginia manage the time in opposition and I would work with him and I hope he would be kind enough to cooperate.

Mr. WARNER. Madam President, we will work in the same cooperative spirit we have in these past years.

The PRESIDING OFFICER. Is there objection to the majority leader's unanimous-consent request?

Mr. BUMPERS. Madam President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. As I understand it the unanimous-consent agreement was just for a straight 8-hour time period, with the time to be controlled by the distinguished Senator from Virginia and myself; is that correct?

Mr. BYRD. That is correct. However, if there are amendments in the second degree, I think we have to be careful here that the offerer of the amendment in the second degree be given some time.

I prefer, Madam President, to word the agreement differently. I would prefer that the distinguished Senator from Arkansas [Mr. BUMPERS] be permitted to call up his amendment, that the War Powers amendment be temporarily laid aside until the Bumpers amendment and any amendments thereto have been disposed of, and that there be not to exceed 8 hours overall on such amendments and motions in relation to the same.

Mr. BUMPERS. Madam President, reserving the right to object. I would like very much to add something to the unanimous-consent agreement, Mr. Leader, to the effect that no motion to recommit would be in order and that, at the expiration of the 8-hour period, a motion to table, if somebody chooses to make one, may do so, and if that motion to table fails, that we immediately have an up or down vote on the amendment.

Mr. BYRD. Madam President, I would be happy to include that in the request. I should say that there is a Senator, Senator HOLLINGS, I think has to be contacted about this time agreement, because it seems to me that he was assured that we would contact him. So I include that in the request, that no motion to recommit, with or without instructions, be in order and that a tabling motion upon the expiration or yielding back of the time be in order, but that if the tabling motion fails, then there is no time agreement on the amendment and it is open for further debate. Is that the way the distinguished Senator wished to have it put?

Mr. BUMPERS. No, it is not, Mr. Leader. What I was proposing was that at the expiration of 8 hours, if the Senator from Virgina, or any other Member in opposition to the amendment chooses to move to table the amendment, that they would have a right to do that, and following the vote on the motion to table, and assuming that the motion to table fails, that there would be no time intervening between that and an up or down vote on the amendment.

Mr. BYRD. I see. Yes.

Madam President, I would include that request as worded in my overall request.

Mr. DOLE. Madam President, I wonder if the majority leader might restate the entire unanimous consent request. I was talking with somebody when he was having an exchange with the Senator from Arkansas.

Mr. LEAHY. Madam President, before the Senator does that, would the Senator clarify—and I believe I know the answer to this—but would the Senator be willing to clarify that it is the intention of the unanimous-consent agreement to get a vote on Bumpers-Leahy by the end of the 8-hour period; that is, that were it not tabled, we will reach finality by the end of that 8-hour period?

Mr. BYRD. Yes, that would be the intention.

Mr. LEAHY. I came in missing the very first part of the request.

The PRESIDING OFFICER. The distinguished minority leader had asked to be recognized.

Mr. BYRD. No, I am recognized, but I am yielding to the distinguished Republican leader. I believe he wanted me to restate the request.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. Madam President, Mr. HOLLINGS has been contacted. He wants a total of 10 hours, and Mr. HOLLINGS wants to control 1 hour.

Madam President, I ask unanimous consent that the pending War Powers amendments be temporarily laid aside and that the Senate proceed to the consideration of the amendment by Mr. BUMPERS dealing with SALT; that there be an overall time limitation on that amendment and amendments thereon and motions in relation to same of not to exceed 10 hours, to be equally divided and controlled in accordance with the usual form, provided that Mr. HOLLINGS has control of 1 hour of the total 10 hours; provided further that no motion to recommit, with or without instructions, be in order and that a tabling motion at the conclusion of the 10 hours, the expiration thereof or the yielding back thereof, be in order and that, if such tabling motion having been made fails, the Senate then proceed without further debate, motion, amendment, point of order, or action of any kind to a vote up or down on the Bumpers amendment, as amended, if amended, at that time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Madam President, I think originally we had provided in the original unanimous-consent agreement that if the amendment was adopted it could be further amended, is that correct?

The PRESIDING OFFICER. The original agreement simply provided that there be no limitation on the number of such amendments. It would not permit an amendment to language previously agreed to.

Mr. DOLE. What was the last part?

The PRESIDING OFFICER. It would not permit an amendment to language previously agreed to.

Mr. DOLE. Madam President, I think there may be some problem with that on this side now that I reflect on it, because I know this Senator has two SALT amendments that might not be appropriate unless the Bumpers amendment were adopted. I think the Senator from Indiana, Senator QUAYLE, has an amendment that would not be appropriate until we had some final disposition.

In addition, I think, as I understand the unanimous-consent request, the motion to table would not come until the end of the 10 hours.

Mr. BYRD. Or the yielding back thereof. At the end of 10 hours or the yielding back thereof, which means that if Mr. BUMPERS used 4 hours and the other side, say, had not used any time, it would mean it would have to yield all its time back and move to table.

Mr. DOLE. And we would be precluded from tabling at the earliest opportunity, is that my understanding?

Mr. BYRD. Yes; under the standard policy that Senators may not be permitted to table except by unanimous consent until such time as controlled by the offerer of the tabling motion at least has expired.

Mr. DOLE. Madam President, after suggesting to the majority leader that we might be able to get consent, I find myself in the position now of not being able to agree to the request just made. I wonder if we might have a brief quorum call to see if we can work it out.

Mr. WARNER. Madam President, before that, I am wondering, during the course of the quorum—

The PRESIDING OFFICER. The majority leader has the time.

Mr. DOLE. Let us get a quorum call and discuss this.

Mr. WALLOP. Madam President, would the majority leader yield, reserving the right to object, before the quorum call?

As I understand it, the unanimous-consent request would make the entirety of the SALT II issue rise and fall on that one single vote? Or two, I guess—if there is a tabling motion, on the Bumpers amendment? There would be no other, in essence, SALT II amendment permitted?

I would just have to say, Mr. Leader, before you go into the quorum call, that would not be satisfactory, and probably is not wise from the standpoint of the whole Senate.

Mr. BYRD. I did not hear the last part.

Mr. WALLOP. In my opinion, I would have thought that there may be some people on the other side who might wish to try to tailor that, were it to pass in its present form, but do not want to particularly vote against the Senator's position.

Mr. BYRD. Well, Mr. President, I was simply trying to provide enough detail in the request so that we could have an orderly procedure. I will be glad to desist and have a quorum call and let us sit down and see if we can work out a different approach.

The first approach that I submitted was so ambiguous and open and free-wheeling that Senators would hardly know where their rights are at any time, who has what right, and when that right terminates. So I was trying to structure the amendment in the way they are usually structured here, so as to protect all Senators in their rights.

I am willing, of course, to withdraw my request for the time being.

Mr. PRYOR. Madam President, if I may ask a question of the leader?

A moment ago the distinguished majority leader mentioned the possibility of a legislative appropriation bill, I believe, coming up this evening.

I am wondering if that idea has been dropped or if that is still a possibility.

Mr. BYRD. No. I think that is indeed a good possibility. I think it is.

Mr. PRYOR. Is that a piece of legislation that will take a lengthy amount of time? Are there many amendments to this?

Mr. BYRD. I believe the distinguished Republican leader, when he discussed the possibility of having the legislative appropriation bill up—did he suggest a time limitation on it?

Madam President, let me try this for size. I ask unanimous consent that the Senate go to that part of the order which has already been entered that provides for taking up the legislative appropriations bill and with the understanding that either of the two leaders or either of the managers may at any time call for the regular order and bring back the DOD authorization bill. This would allow us, in the meantime, to try to reach a time agreement on the SALT amendment. In the meantime we would be making progress. I believe the manager of the legislative appropriations bill are ready to go.

Mr. BUMPERS is the manager on this side.

So I make that request.

Mr. MATSUNAGA. Reserving the right to object, while the managers are getting ready on that, I would like to make a unanimous-consent request to proceed for 5 minutes.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that Mr. MATSUNAGA be permitted to proceed in morning business and that he be permitted to speak therein and that then the Senate proceed with consideration of the legislative appropriation bill.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Hawaii.

JAPANESE-AMERICANS AND THE U.S. CONSTITUTION

Mr. MATSUNAGA. Madam President, I rise to inform my colleagues of yet another event to mark the 200th anniversary of our Constitution: one with special meaning for me as an American of Japanese ancestry, who first learned of the U.S. Constitution and its "Bill of Rights" in the public schools in Hawaii.

I refer to an exhibit opening tomorrow at the Smithsonian Institution's National Museum of American History entitled: "For a More Perfect Union: Japanese-Americans and the U.S. Constitution." The exhibit tells the story of Japanese immigrants who first came to America 110 years ago, and who with their American born children and grandchildren were incarcerated in American style concentration camps during World War II, for no reason other than that they were of Japanese ancestry. Graphically portrayed are the uprooting from their homes along the west coast of 120,000 Americans and their alien parents, their relocation and concentration in internment camps, surrounded by barbed wire fences, watch towers and armed guards.

If further tells the story of the aftermath of that period, a story which is still unfolding with the recent passage in the other chamber of reparations legislation. This chapter of their story tells of the struggle ever since the internment to correct that injustice and obtain the rights guaranteed all Americans by the Constitution. As a Smithsonian Institution brochure on the exhibit observes, "The exhibition is a case study in the process of constitutional decision-making and citizen action within the constitutional framework."

The lesson to be gained from the Japanese-American story in this bicentennial of our Constitution is that constitutional guarantees might readily be suspended, under the guise of national security, if racial prejudice and fear are allowed to upset that delicate balance between the rights of citizens and the power of the state, which the framers of our Constitution strove so hard and so diligently to achieve.

Madam President, I urge all my colleagues, their staff and family members to see this exhibit at the Smithsonian Institution's National Museum of American History. I am sure it will shock their sense of liberty, justice, and fair play which we take for granted in this great country of ours. I wish also to invite them to the opening ceremony to be held at 10 o'clock tomorrow morning on the west front of the Capitol, where several thousand Japanese-Americans from throughout the country, under the aegis of the National Japanese American Historical Society, the National Japanese American Citizens League, and the National Nisei Veterans Committee, will gather to observe this occasion. In a short program former Supreme Court Justice Arthur Goldberg will address the group, as will Congressmen MINETA, MATSUI and AKAKA, Congresswoman SAIKI, Senator INOUYE and myself. Our own Reverend Richard Halverson will give the invocation, and Bishop Kenryu Tsuji of the Ekoji Buddhist Temple will deliver the benediction. The colors will be presented by a unit of the famous 100th Battalion, 442d Infantry from Hawaii, and the U.S. Army Band will perform. I hope all my colleagues, their families an staff will make every effort to attend.

My senior colleague from Hawaii, Senator INOUYE, joins me in extending this invitation.

I thank the majority leader and I yield the floor.

LEGISLATIVE BRANCH APPROPRIATIONS, 1988

Mr. BYRD. Madam President, I ask unanimous consent that the Senate resume consideration of the legislative appropriations.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill [H.R. 2714] making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will resume consideration of the bill.

The Senate resumed consideration of the bill.

Mr. BUMPERS. Madam President, I am pleased to bring to the Senate the fiscal year 1988 legislative branch appropriations bill. The bill is within our allocation under the budget resolution.

Overall, the bill totals $1.8 billion, which reprsents a 5-percent increase over the fiscal year 1987 enacted level. It is $176 million below the amount requested, and, when compared with items jointly considered with the House, we are $1.3 million below their allowance.

This bill contains two titles. Title I represents congressional operations and title II includes other support agencies, such as the General Accounting Office, the Copyright Office of the Library of Congress, and the non-congressional segments of the Architect of the Capitol. We are recommending an increase of 4 percent in congressional operations over the fiscal year 1987 amount and a 5-percent increase in the other support agencies.

For the Senate we are recommending $346.7 million. Included in this figure are the normal salaries and expenses of Senate leadership and officers.

In addition to our usual series of budget hearings, we held a special hearing May 14 on Capitol Security and heard testimony on the status and alternatives to the so-called Whip's Security Plan. At that hearing, our Sergeant at Arms, Henry Giugni, made an interim proposal for several steps that could be taken now to enhance security. We have provided for these needed enhancements.

We are recommending that the Capitol Police hire six additional canine explosive detection teams consisting of an officer and a dog. At our hearing we received testimony that stated that this is the best existing technology for bomb detection. This allowance will permit them to have a total of 12 dog teams to screen parked cars in the underground garages and streets adjacent to the office buildings and Capitol, as well as respond to specific bomb searches. Testimony revealed that the dogs must be rested periodically as they lose their ability to sense explosives during periods of prolonged work. This has limited the effectiveness of the current complement of teams.

The committee is also recommending funds to purchase a series of metal detectors and x ray machines for all entrances to the Senate office buildings and the Capitol. This will require anyone entering these buildings, including staff, to walk through a metal detector and have their briefcases or packages x rayed. This is the same procedure we all follow before boarding an airplane. It is estimated that the cost of this will be $1.2 million, including 39 positions. These will not all be police officers. The Sergeant at Arms has made a very innovative proposal to utilize handicapped individuals for much of this work. They can look at an x-ray screen as well as anyone.

And finally, we are recommending $500,000 to perform a pilot delivery center program for the Capitol. This will permit a test of a proposal to have all deliveries destined for the Capitol taken to a remote site, probably the Hart building garage, and have the items screened and the delivery truck sealed before proceeding to the Capitol. This will ensure that no explosive devices can be smuggled into the Capitol Building.

Before concluding a discussion of Capitol security I want to state flatly that there are no funds in this bill for a fence around the Capitol.

The committee has also included $4.7 million to begin the process of automating Senators' State offices. This has been identified as one of the highest priorities among Senate users. This will make the same equipment available to the State offices as is now available to the Washington offices. It will also provide for improvements to the data communications system to support this project.

The committee has also included the request $1.4 million for upgrading the Senate legislative information system, [LEGIS]. This will allow for the development of a system that will be easier to use, contain more information, and replace the decade-old information retrieval system.

For the House of Representatives we have included the same amount that the House themselves allowed, $529.6 million. As you know, it is a matter of longstanding agreement that the two Houses do not interfere in the operation of the other.

The bill also includes a provision, approved by the Senate 84 to 4 on July 31, 1987, that requires that any future congressional pay raise be approved by vote before it can be effective.

Madam President, other items that may be of interest to the Senate are a recommendation of $85 million for official mail expenses; this is $15 million below the House and is $6 million below the fiscal year 1987 amount.

For the Office of Technology Assessment the committee has recommended $17.5 million. This is a reduction from the request, but $1 million more than the House, and reflects those items they wish to have restored.

Similarly, we have restored a $1.5 million cut by the House to the Congressional Research Service, as they requested. Also, for the Library of Congress we have included $918.5 million, a restoration of $1 million, as requested, over the House. We believe that this will give the new Librarian, Dr. Billington, a good start.

Madam President, the committee has recommended deleting a provision that would cut all accounts under the Architect of the Capitol by 2.8 percent. We are recommending reductions totaling $22.8 million in the various accounts within the Architect's office, but are still providing for the essential care and maintenance of the Capitol Buildings and Grounds.

Finally, for the General Accounting Office we have restored at $6 million cut by the House. A portion of these funds will go for travel to certain audits. The Comptroller General has become very concerned about their continuing ability to respond to congressional requests in a timely way. Staff travel has been cut in recent years, it is now to a point where responsiveness and product quality are in jeopardy, so we have restored some of those funds. We have not, however, restored $6 million requested for the next phase of renovation and asbestos removal from the GAO headquarters building on G Street. They have been at this now for 2 years and expect that it will take another 10 years and be very expensive. We want them to talk with GSA and get some sort of a cost sharing and final cost estimate before we commit any more funds.

Madam President, before yielding I want to take this opportunity to thank the chairman of the Appropriations Committee, Senator STENNIS, and our distinguished ranking member Senator HATFIELD for their assistance in bringing this bill out of committee. And to note the contribution of the Senator from Iowa [Mr. GRASSLEY]. He has attended our hearings and made suggestions, that are reflected here, that have made this a better bill.

Madam President, I now yield to my distinguished colleague, Senator GRASSLEY.

Mr. GRASSLEY. Madam President, I thank the chairman for yielding.

Madam President, the Legislative Branch Appropriations Act recommended by the Committee on Appropriations provides a total of $1,801,107,300 for the operations of the legislative branch in fiscal year 1988. Of this amount, $1,232,708,300 is for congressional operations and services provided solely to Congress, and the balance of $568,399,000 is for other agencies, such as the General Accounting Office, whose responsibilities are not limited to serving Congress.

The total recommended is $176,934,500 below the President's budget request and $78,705,386 above the amounts enacted to date for fiscal year 1987. In keeping with longstanding practice, the bill as passed by the House of Representatives included no funds for items pertaining strictly to the Senate, so with the committee's inclusion of Senate items, the recommended bill is substantially over the amount of the House bill. Comparing only those items considered by both Houses, however, this bill is $1,286,000 below the House-passed bill.

Madam President, I should note that the bill before us is within the allocation established pursuant to section 302(b) of the Budget Act, and printed in Senate Report 100-144. Senator BUMPERS, the chairman of our subcommittee and the manager of the bill, has already summarized the major provisions of the bill, and additional information is provided in Senate Report 100-158.

I believe Senators should support and vote for this bill as recommended by the committee. It meets the requirements of our congressional operations and our support agencies in a responsible manner, within the constraints necessitated by the growth of our Federal budget deficit. I hope that we can pass this bill and get to conference with the House as quickly as possible, so that we might send this measure to the President for his approval.

Finally, I want to emphasize to the Senate that this bill contains in section 307 the Grassley language relative to congressional pay raises that was adopted on the debt limit bill on July 31 by a vote of 84 to 4. That language does not rescind or modify the pay increase that went into effect earlier this year. It simply provides that any future increases that may be recommended cannot be effective unless and until they have been approved by a vote of both Houses. If Members of Congress are to be paid more, at the very least they ought to publicly vote on the matter, and not try to sneak through a pay raise as we did early this year.

With that, Mr. President, I thank my colleague, Senator BUMPERS, again for his cooperation with me and my side of the aisle on this matter. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc and that the bill as thus amended be regarded for the purpose of amendment as original text, provided no point of order under rule XVI shall be considered to have been waived if the request is agreed to.

The ACTING PRESIDENT pro tempore. Is there objection to the request?

Mr. GRASSLEY. Mr. President, I just want to make clear to my colleagues that these amendments have been agreed to by myself and everybody on this side of the aisle and there is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NOS. 815-821

Mr. BUMPERS. Mr. President, I send to the desk seven amendments which are mostly technical in nature and ask that they be considered en bloc.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes amendments numbered 815-821.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 815

At page 11 after line 5 insert the following:

"SEC. 6. Subsection (i) of Section 814 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93), as amended by Public Law 99-151, is amended by striking out '1987' and inserting '1988'.

AMENDMENT No. 816

On page 4, line 22, immediately before the period insert a colon and the following: *"Provided,* That the amounts appropriated to the Office of the Legislative Counsel of the Senate for Fiscal Year 1987 shall remain available until September 30, 1988".

AMENDMENT No. 817

On page 11, between lines 5 and 6, insert the following new section:

SEC. . Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

AMENDMENT No. 818

On page 3, line 20, immediately before the period insert a colon and the following: *"Provided,* That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate".

AMENDMENT No. 819

On page 11, between lines 5 and 6, insert the following new section:

SEC. 6. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

AMENDMENT No. 820

On page 43, line 9, insert "(a)" before "Paragraph".

On page 43, insert between lines 19 and 20 the following new subsection:

(b) Paragraph (2) of section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended by striking out "end of the 30-day period" and inserting in lieu thereof "date of enactment of such joint resolution".

AMENDMENT No. 821

At page 40 beginning on line 18 strike all down through line 2 on page 41.

Mr. BUMPERS. Mr. President, these are basically housekeeping measures. One is technical in nature. One is, for example, a request of the majority and minority leaders. Another is a request from the Secretary of the Senate to transfer $2,000 within existing funds. There are no additional moneys included in these amendments. I ask for the adoption of those seven amendments.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. GRASSLEY. Mr. President, again these amendments have been reviewed by this side of the aisle and our staffs. I have no objection to them and we accept them.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question occurs on adoption of the amendments en bloc.

The amendments (Nos. 815-821) were agreed to.

AMENDMENT NO. 822

Mr. BUMPERS. Mr. President, I send one additional amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 822:

On page 6 at line 6 strike "$66,174,000" and insert in lieu thereof "$68,021,000".

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, during the consideration and markup of this bill, I found a project of which I was not aware. It dealt with our computer systems. We are all familiar with the Senate's LEGIS system. That system is 10 years old and it needs to be simplified and expanded. The bill contains $1.4 million to carry out that initiative, which was part of the task force report of the Rules Committee last June. The upgrade will not be completed until 1990. Forty-three Senators have had access to outside information systems as a pilot program in their offices. Quite frankly, I do not know how those 43 Senators were chosen. The Senator from Arkansas was not one of them. I do not know whether the Senator from Iowa was or not. But after having looked at the program and some of the Senator's offices who have it, I found it to be a very efficient system and one that every Senator ought to have.

This amendment adds the money to provide that system for all 100 Senators at $1,000 a month for each Senator; the 10 leadership offices would have one; the Secretary of the Senate would have one; and the Senate committees would have one. This takes into consideration Senate committees October 1 through February 29. And then there is money here so that the wire services are available to each of those offices under that system.

I ask approval of that amendment.

The ACTING PRESIDENT pro tempore. Is there further debate on the amendment? The Senator from Iowa.

Mr. GRASSLEY. Mr. President, originally there was some debate of whether or not we ought to do this, but I have had a chance to hear from several of my colleagues on this question and I feel this is a good move that Senator BUMPERS, the manager of the bill, is taking. I am supporting it and I hope this body will adopt it.

The ACTING PRESIDENT pro tempore. If there is no further debate on the amendment, the question occurs on the adoption of the amendment of the Senator from Arkansas.

The amendment (No. 822) was agreed to.

Mr. BUMPERS. Mr. President, I understand that this is all the amendments that I have.

Mr. GRASSLEY. We have no more amendments on this side.

Mr. BUMPERS. I understand that Senator Wilson is on his way with an amendment and so I, with the Senator's permission, will put in a quorum call until he arrives.

Mr. GRASSLEY. I was speaking for myself. There are no more amendments I have been given or I personally have but, yes, it is my understanding that Senator Wilson does have an amendment.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, while awaiting the arrival of a Senator to call up an amendment to the legislative appropriations bill, I make this parliamentary inquiry for the record. What is the amendment that will be pending before the Senate when the Senate returns to the consideration of the DOD authorization bill?

The ACTING PRESIDENT pro tempore. The Chair will state to the majority leader that the pending amendment on the defense authorization bill will be the Byrd amendment to the Weicker amendment.

Mr. BYRD. I thank the Chair.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask for regular order.

The ACTING PRESIDENT pro tempore. Regular order has been called for.

Mr. BYRD. Mr. President, I ask that the DOD authorization bill come back before the Senate.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk on the Byrd-Nunn amendment.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Byrd-Nunn amendment, No. 732, to the Weicker amendment, No. 712, to S. 1174, a bill to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.
>
> Senators Robert C. Byrd, J.J. Exon, Dale Bumpers, Tom Harkin, George J. Mitchell, Howard M. Metzenbaum, Quentin Burdick, Frank R. Lautenberg, Tim Daschle, Jim Sasser, Brock Adams, Alan Cranston, Carl Levin, Jeff Bingaman, Kent Conrad, and Wendell H. Ford.

LEGISLATIVE BRANCH APPROPRIATIONS, 1988

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to the legislative appropriations bill.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senate resumed consideration of the bill.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HELMS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the legislative appropriations bill, H.R. 2714.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I am very happy that we are here today to present before the Senate the legislative branch appropriations bill for fiscal year 1988. This bill, which provides a total of approximately $1.8 billion in new budget authority for fiscal year 1988, reflects the diligent care and able effort which our entire committee has rendered. In particular, however, it is evidence of the hard work and excellent leadership of subcommittee Chairman Bumpers and the ranking minority member, Senator Grassley. I also wish to compliment the highly skilled work of the staff of their subcomittee: Mr. Timothy Leeth, Mr. J. Keith Kennedy, and Mrs. Lula Joyce.

I now wish to briefly highlight a few important items regarding this bill.

First and foremost, I am pleased to report that this bill is below the 302(b) allocation for budget authority and outlays. This is essential, in my opinion, for all appropriations bills which are to be taken up for consideration on the Senate floor.

Second, the committee's $1.8 billion in budget authority recommendations regarding H.R. 2714, are only slightly above the fiscal year 1987 level. However, in the committee's serious attempt to impose fiscal restraint during a period of budgetary discipline, the bill was reduced approximately $177 million below the President's requested funding level.

Finally, I would ask my colleagues to resist any further amendments to the committee-reported bill. Any amendment adding additional funds would violate the bill's spending ceiling set by the subcommittee's 302(b) allocation. Let me also mention that the Senate rules do not permit legislative amendments to appropriations bills.

In conclusion, I firmly support this bill and ask that it be adopted so that we can proceed to conference with our House counterparts in a timely manner.

Mr. President, I yield the floor.

Mr. CHILES. Mr. President, each appropriations bill is subject to a spending limit known as a 302(b) allocation. As chairman of the Senate Committee on the Budget, I am pleased to report that the legislative branch appropriations bill, H.R. 2714, is under its 302(b) budget authority ceiling by $74 million and under its 302(b) outlay ceiling by $61 million. I commend the distinguished chairman of the subcommittee, Senator Bumpers and the ranking minority member, Senator Grassley for their success in crafting this bill.

Mr. President, I have a table from the Budget Committee showing the official scoring of the legislative branch appropriations bill and I ask unanimous consent that it be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 2714—LEGISLATIVE BRANCH—SPENDING TOTALS

[Senate-reported bill, dollars in millions]

	Fiscal year 1988	
	Budget authority	Outlays
Bill Scoring		
H.R. 2714, Senate-reported (new budget authority and outlays)	1.8	1.6
Outlays from prior-year budget authority and permanent appropriations	0.1	0.2
Bills enacted this session: 1987 Supplemental (Public Law 100–71)	—	+(1)
Adjustment to conform mandatory programs to resolution assumptions	+(1)	+(1)
Bill total	1.9	1.9
Subcommittee 302(b) allocation	2.0	1.9
Difference	−0.1	−0.1
Comparisons		
Bill total above (+) or below (−):		
President's request	−0.1	−0.1
House-passed bill	−(1)	−(1)

[1] Less than $50 million.

Details may not add to totals due to rounding.
Prepared by the Senate Budget Committee.

Mr. FORD. Mr. President, I would like to ask the Senator from Alaska [Mr. Stevens], a question regarding the applicability of section 308 of the committee bill.

Mr. STEVENS. I will be happy to respond to the Senator from Kentucky.

Mr. FORD. Does this section of the bill apply to all Government printing facilities and activities, without exception?

Mr. STEVENS. I thank the Senator for his question and respond that the answer is "no," it is not intended to apply across the board. The purpose of the amendment is to maintain the status that existed prior to the adoption of the change in Federal Acquisition Regulations. It is intended to prevent agencies and departments from printing, or procuring on their own, work that previously would have been directed to the Government Printing Office. To allow agencies such autonomy would raise Government printing prices as competition is diminished and would also tend to limit the availability of the printed information to the public.

On the other hand, there are printing facilities and categories of work that, in the past, have been exempted from the requirement that they make use of the GPO-administered system. These include printing plants aboard Navy ships, Army mobile field printing units, and the facilities of security and intelligence gathering agencies. It made no practical sense in the past to direct the work of these facilities to GPO, and this amendment is not intended to change or impair in any way the status or activities of these vital facilities.

The ACTING PRESIDENT pro tempore. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered.

SCHEDULE

Mr. BYRD. Mr. President, I think we should possibly discuss the program for tomorrow, before we go out this evening. This will be the last rollcall vote for the day. We have to have some understanding before Senators break and run for the doors.

Senators should be alerted by both cloakrooms that a rollcall vote is about to occur on passage of the appropriations bill. Several of them are some distance away, so this will give them a little time.

Let me ask a question for the record: Could we vote on the Verity nomination in the morning, at 9 o'clock, so that all Senators would know that we are going to have a rollcall vote?

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I am advised that we could not do it by 9 o'clock, but hope sometime tomorrow we may be able to dispose of that nomination.

Mr. BYRD. Very well.

What do Senators see for the prospects of continuing action on the DOD authorization for this evening?

How about catastrophic illness?

Mr. DOLE. I would have to check on that. I know there have been meetings between Senator Packwood's staff and Senator Bentsen's staff.

We are about to submit at least a suggestion to the majority leader on SALT.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDERS FOR THURSDAY

RECESS UNTIL 8:15 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:15 tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that the following Senators be recognized to speak tomorrow morning before the two leaders are recognized: Mr. Proxmire, 5 minutes; Mr. Pryor, 10 minutes; Mr. Sanford, 15 minutes, and that the two leaders then have their 5 minutes each tomorrow following the others that have been named and the Senate at 9 o'clock proceed to consider the unfinished business, the DOD authorization bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, there will be a rollcall vote at 9 o'clock tomorrow morning. There will be a 30-minute rollcall vote and without holding the Senate any further at this time, the distinguished Republican leader and I are going during the vote to try to get something else up. We are consulting about various and sundry measures to use as a kind of a second track and we will explore that during the vote. I would hope that it would be catastrophic illness. I think there is a necessity for the Senate going to that quickly because Mr. Bentsen, who is chairman of the Finance Committee, has the reconciliation measure, he has the trade bill in conference, and he has just a few days in which he could give some time to the catastrophic illness legislation. So we will try to clear that, at least take it up at such time as we may hit a little roadblock on the DOD authorization bill, or once that bill has been disposed of, and then the Senate would be on the catastrophic illness legislation if it has not disposed of it prior to that. Senators now are aware of the fact that there will be a rollcall vote in the morning at 9 o'clock. It will be 30 minutes, and the regular order will be called for at the end of the 30 minutes.

So, Mr. President, I yield the floor.

LEGISLATIVE BRANCH APPROPRIATIONS, 1988

The Senate continued with the consideration of H.R. 2714.

Mr. BYRD. Mr. President, this will be the last rollcall vote today and I thank all Senators.

The ACTING PRESIDENT pro tempore. The question now occurs on the adoption of the bill, H.R. 2714, as amended.

The question is, Shall the bill pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. Simon] and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

Mr. BYRD. Regular order.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—79

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Glenn
Gore
Graham
Grassley
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker

NAYS—19

Armstrong
Conrad
Daschle
DeConcini
Fowler
Garn
Gramm
Hatch
Hecht
Heflin
Helms
Humphrey
Kasten
Pressler
Proxmire
Roth
Shelby
Wilson
Wirth

NOT VOTING—2

Simon
Stennis

So the bill (H.R. 2714), as amended, was passed.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. FORD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the Senate insist on its amendments to H.R. 2714, request a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Bumpers, Ms. Mikulski, Mr. Reid, Mr. Stennis, Mr. Grassley, and Mr. Hatfield conferees on the part of the Senate.

Mr. BYRD. Mr. President, I know some Senators want to transact some morning business shortly so I will not delay them long.

Upon the disposition of the DOD authorization bill the Senate will proceed to the consideration of the catastrophic illness bill, that is the House bill.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. Let me indicate as I did earlier that I had 12 Senators to contact on this bill. We have contacted 12. Nine have indicated no objection. We still have three to go back to in the morning. Maybe with that last indication, it might make it a bit easier. In other words, it would follow the disposition of the DOD authorization bill.

Mr. BYRD. Yes, it would follow DOD.

Mr. DOLE. If I could check that out early in the morning, maybe following the 9 o'clock vote, I would be in a better position to respond.

Mr. BYRD. I will not request that for the time being. I should state for the record so that all Senators will be alert to the intention of the majority leader, it is my intention upon the disposition of the DOD authorization bill to go to the catastrophic illness. I will seek to go by unanimous consent. That being not granted, I will proceed by motion and put a cloture motion on that motion if I cannot get the motion.

I will withdraw the request for this evening.

Mr. President, I thank the distinguished Republican leader for his cooperation. May I say that the Senate has disposed of four appropriations bills now. I thank the Republican leader for his assistance in making it possible for the Senate to go to these bills. I will have more to say with respect to the managers on both sides of the four bills.

The PRESIDING OFFICER (Mr. Daschle). The Republican leader.

Mr. DOLE. Mr. President, what is the pending question?

The PRESIDING OFFICER. The pending question is the Byrd-Nunn amendment.

CLOTURE MOTION

Mr. DOLE. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators in accordance with the provisions of Rule XXII of the Standing Rules of the Senate hereby move to bring to a close debate on S. 1174, the D.O.D. Authorization bill:

Senators Bob Dole, Malcolm Wallop, Steve Symms, Chuck Grassley, Jake Garn, Dan Quayle, Pete Wilson, Strom Thurmond, Ted Stevens, Chic Hecht, Thad Cochran, Don Nickles, John McCain, Daniel J. Evans, Paul Trible, James A. McClure, Jesse Helms, and Rudy Boschwitz.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate now go into morning business for not to exceed 30 minutes and that Senators may speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

REID TAKEOVER AMENDMENT

Mr. REID. Mr. President, last evening I offered an amendment which was eventually withdrawn in the face of a threatened filibuster by the senior Senator from Colorado and the junior Senator from Texas. It was withdrawn not because it lacked merit, nor because it could not have won passage or even cloture, but because pushing it would have delayed other legislation vital to our country.

Though withdrawn, the issue is not dead, and I wish to speak to some of the points so vehemently raised last night by the gentlemen in opposition.

The amendment offered was designed to extend the time period during which tender offers must remain open. Most, I think would agree that it was a reasonable and moderate short-term answer to a problem we have seen throughout our Nation in the past few years. Some, however, obviously disagreed.

Their arguments are what I wish to discuss. The junior Senator from Texas called a challenge to the practice in which T. Boone Pickens and others of his ilk engage, an attempt to destroy the American free enterprise system. If corporate raids which leave companies shattered, cities desolate, and workers unemployed by the tens of thousands are the Senator's idea of the heart of free enterprise, then he must believe that antitrust violations and insider trading are its soul.

The Senator offered to read to us from the wealth of Nations. I wish he had. I wish he had. It might have proved educational. Adam Smith, and I do not pretend to be an economist, but Adam Smith seemed to favor reinvestment of capital, not the concept of forcing companies into assumption of unbearable debts. I should think that the Senator would have been happier reading Arthur Laffler, the man who has done so much to bring this Nation to the brink of the worst depression since the 1930's.

The Senator from Colorado told us that he was offended by the term "corporate raider." I would inquire how he would characterize Mr. Pickens. Before he answers, however, he might want to speak to some of the 80,000 employees who have lost their jobs as a result of corporate raids.

You know, it struck me as interesting last night that once again we saw certain Members from the other side of the aisle rushing to the weapon of delay, the tactics of obstruction, in defense of big corporate money. Where have I seen that before, I thought.

Of course, I remembered. S. 2. Those where the same arguments given with the same vehemence in opposition to campaign reform. Is it not interesting that the party which fought so bitterly against limiting getting and spending in the campaign arena, produced the opponents to a provision designed to slow down the process by which their corporate fat cat contributors loot targets of opportunity.

The Senator from Colorado also accused the Senator from Nevada of acting on behalf of special interests; of offering a bill on behalf of special interests. I know he was not talking about Newmont Mining. The only campaign contributions from Newmont in the last Senate race went to my Republican opponent. But, you know what, I have a little confession to make. He is right. I did it. I offered that bill on behalf of special interests. There are 1,500 men and women in Elko, NV, who stand to lose their jobs if Mr. Pickens' track record is any indication.

They are nice folks. They work hard. They go to church. They like their families. In fact, they like to have something to eat and a roof over their heads. That is my special interest, Senator. You caught me. I have to confess. But I want you to know something. Each one of those people in Elko, and their spouses, and their kids, are special to me. Each one is a special interest to me. Those are the special interests I represent. And you know what? I am proud of it.

Mr. DANFORTH addressd the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

COMMEMORATING SISTER PATRICIA ANNE KELLEY

Mr. DANFORTH. Mr. President, on behalf of Senator Bond and myself I rise to make this statement commemorating Sister Patricia Anne Kelley.

Today Missouri mourns the loss of one of its great daughters, Sister Patricia Anne Kelley. Truly a modern day Saint, Sister Kelley displayed a compassionate and steadfast commitment to the poor and elderly. A member of the Sisters of Charity of the Incarnate Word, she devoted her life to the underprivileged of Missouri and the Nation. Sister Kelley served as executive director of Missouri Energycare and president of Dollar-Help, Inc., two charitable organizations dedicated to providing energy assistance to the elderly and the poor. She founded Missouri Energycare as a vehicle to provide fuel and weatherization assistance to low income families, and went on to form the National Fuel Funds Network as a forum for people across the country who shared these concerns.

Sister Kelley was a lifetime resident of St. Louis, but became a familiar force in Jefferson City, MO, and Washington, DC, where she supported financial assistance to the needy. On April 30, 1987, she testified before the House Appropriations Committee to increase funding for the Low Income Home Energy Assistance Program [LIHEAP]. She was also in Washington last week to meet with our staff members, and those of the Senate Appropriations Committee, in an attempt to restore a devestating subcommittee cut in the LIHEAP appropriations. An indefatigable champion of society's less fortunate members, Sister Kelley's advocacy never wavered.

Sister Kelley entered her religious order, the Sisters of Charity of the Incarnate Word, upon graduating in 1955 from Incarnate Word Academy in Normandy, MO. After working for many years as a teacher, she returned from a year-long retreat determined to devote the rest of her life to the poor. She threw herself into this cause with a level of devotion and compassion seldom matched in today's world. Her pervasive zeal compelled her into destitute neighborhoods where only angels would go. Clearly an angel herself, Sister Kelley embodied the spirit of her favorite passage from the Bible: "The needy will not be forgotten, nor the hope of the poor taken away," (Psalm 9).

It is fitting on this day of her wake, when her life is celebrated by the thousands of people whose lives she touched, that we include this tribute in the Record. Sister Patricia Anne Kelley left a great legacy of love and devotion to the poor. May her work be long remembered, may her spirit live on, and may her vision inspire all who follow in her steps.

ELIZABETH DOLE

Mr. DANFORTH. Mr. President, I rise today to commend and congratulate this Nation's longest serving Secretary of Transportation, Elizabeth Dole. Secretary Dole leaves a legacy of success based on intelligence, sensitivity, hard work, and perseverance.

In my years in Washington, I've never seen a Cabinet officer as well informed or professionally dedicated as Elizabeth Dole. She is masterful in her command of transportation issues. This knowledge is coupled with a charming tenacity that reassures her allies and persuades her opponents.

Let me give an example. In early 1985, Secretary Dole announced the selection of Norfolk Southern as the winning bidder for Conrail, the federally owned freight railroad. Mrs. Dole's presentation of this proposal before the Commerce Committee was superb. We were a skeptical audience, and she overwhelmed us with facts. But that was just the beginning. That spring, as the committee drafted Conrail legislation, she conscientiously made her case in public forums and private meetings. She made dozens of phone calls. She buttonholed doubting Senators. She simply never gave up. After months of persistent effort, Conrail sale legislation finally passed and committee and the full Senate.

When it became obvious that the House would not approve the Senate-passed measure, Secretary Dole showed that her tenacity was tempered by political common sense. Instead of letting the sale idea die, she shifted gears. She became an active player in helping the Congress craft a compromise public offering sale of the railroad. The plan was signed into law 20 months after the original sale proposal was announced. When it comes to selling a railroad, Elizabeth Dole wrote the book.

Her negotiating skills were displayed again the following year during congressional debate on the transfer of the National and Dulles airports to a regional authority. From the spring of 1986 to the following autumn of 1987, Secretary Dole worked the issue at every opportunity. Although this proposal faced active opposition in the Senate and benign neglect in the House, Mrs. Dole prevailed. The transfer was included in the fiscal year 1987 continuing resolution.

Mr. President, I want to take a moment to address one other issue which has been discussed a great deal recently—Secretary Dole's leadership on safety issues.

During my 11 years in the U.S. Senate, I've taken every opportunity to press for stronger safety standards in our Nation's transportation systems. Elizabeth Dole has been a valuable ally in this fight. She's done a truly amazing job. Time and time again, she has had to fight uphill battles on transportation safety issues within the administration. She has fought those battles with loyalty and grace. When she won partial victories, she was often criticized by all sides—

those within the administration for pushing too hard, and some of us on the Hill and outside for not going far enough. Yet she never complained; she just persevered. There are many examples of her determination and commitment.

In 1983, the Supreme Court ordered DOT to reexamine its rulemaking on automobile passive restraints. In response, DOT reinstated its phase-in requirement of either automatic seatbelts or airbags unless two-thirds of the U.S. population were covered by mandatory seatbelt laws. Elizabeth Dole can take credit for this delicate compromise.

Was this solution something I wanted? No. My long-time advocacy of mandatory airbags is well known. But there are many in this administrtation and in the Congress who wanted no passive restraint requirement, who would never want airbags to be required.

Elizabeth Dole had to fight hard for half a victory. As a result of her tenacious leadership behind the scenes, 29 States and the District of Columbia now enforce mandatory seatbelt laws. Also, 25 percent of all 1988 cars will contain passive restraints and 10 manufacturers have announced plans to equip future models with airbags. I still hope we can go farther, but Elizabeth Dole deserves credit and our thanks for helping to achieve this degree of progress.

Whether it's random drug testing of transportation safety employees, or the 21-year-old drinking age, or any one of a number of tough and controversial transportation issues, Elizabeth Dole has been in the forefront of safety initiatives.

Ernest Hemingway once defined courage as "grace under pressure." There are different kinds of courage. Elizabeth Dole has certainly exhibited that grace under pressure which is the hallmark of a great public servant. This administration and the American people have been fortunate to have the benefit of her talents and skills. She will be missed.

Mr. President, I yield the floor.

Mr. WILSON. Mr. President, the Senator echoes my sentiments.

Mr. DANFORTH. I think there are others who feel the same way.

Mr. DOLE. Yes. I thank the Senator.

THE CALENDAR

Mr. BYRD. Mr. President, may I inquire of the distinguished acting Republican leader if the following calendar orders have been cleared on his side: Calendar Order No. 329, Calendar Order No. 330, and Calendar Order No. 332?

Mr. WILSON. They have been cleared.

Mr. BYRD. I thank the Senator.

I ask unanimous consent, Mr. President, that the Senate proceed seriatim to the consideration of those matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ALPHA PHI ALPHA MEMORIAL TO MARTIN LUTHER KING, JR.

The Senate proceeded to consider the bill (S. 322) to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, which has been reported from the Committee on Rules and Administration, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—Subject to subsection (b), the Alpha Phi Alpha Fraternity is authorized to establish a memorial to Martin Luther King, Jr. in the District of Columbia and its environs in accordance with the Act entitled "An Act to provide standards for placement of commemorative works certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et seq.), to honor Martin Luther King, Jr.

(2) DEFINITIONS.—For purposes of paragraph (1), the term "the District of Columbia and its environs" has the same meaning given to such term by section 2(e) of such Act.

(b) EXPENSE TO THE UNITED STATES.—The United States shall not pay any expense of the establishment of the memorial under subsection (a).

Mr. SARBANES. Mr. President, last January we had the opportunity to celebrate the second national holiday to commemorate the birthday of Dr. Martin Luther King, Jr. Now the Senate will take another step to honor one of the Nation's distinguished and admired leaders. With the passage of S. 322, we will authorize Alpha Phi Alpha, Inc., the oldest black fraternity in the United States, to begin an effort to establish a Martin Luther King Memorial in the District of Columbia. I urge my colleagues to support this important bill, which I introduced earlier this year and which is cosponsored by 26 Senators.

Dr. King was a member of Alpha Phi Alpha Fraternity having belonged to the Sigma Chapter in Boston, MA. Alpha Phi Alpha was founded in 1906 at Cornell University and now has 700 chapters throughout the United States. Its membership includes Supreme Court Justice Thurgood Marshall as well as many of our Nation's elected officials. The fraternity has formally endorsed the Martin Luther King, Jr., Memorial as one of its major national projects.

Dr. King dedicated his life to achieving justice and enfranchisement for all Americans—goals he sought through nonviolent means. He inspired thousands to follow his principles of nonviolence and to join in the national movement for voting rights and justice for all. Passage of this bill in conjunction with the national holiday would strengthen the effort to give appropriate recognition to Dr. King as an outstanding figure in our evolving history.

This legislation provides that the monument be established at no cost to the United States. It conforms to the provisions of Public Law 99-652 passed last year establishing new procedures for locating memorials to individuals in the District of Columbia. I want especially to thank the chairman of the Senate Committee on Rules, Senator WENDELL FORD, for his efforts in moving this bill through the committee. The committee's report on this bill makes it clear that the bill's intention is that the procedures under Public Law 99-652 be started on passage of this bill. The report states, "it is expected that upon enactment of S. 322 the necessary activity of fund raising, planning, and design will begin promptly, and the processes of Public Law 99-652 can go forward."

Mr. President, it is my hope that young people who visit the memorial to Dr. King will understand that it recognizes not only his achievements but also his principles as a guide for the future. First among these is the reconciliation of the races and the inclusion of all our citizens in the mainstream of American life—objectives which are essential to the fundamental health of our Nation. Second is Dr. King's dedication to achieving his goals through nonviolent means. I congratulate Alpha Phi Alpha on this important undertaking, and I urge the Senate to pass this important legislation.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

The Senate proceeded to consider the resolution (S. Res. 192) relative to expenditures by the Select Committee on Intelligence, which had been reported from the Committee on Rules and Administration with an amendment.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The resolution, as amended, is as follows:

That (a) section 20(b) of Senate Resolution 353 (99th Congress), agreed to March

13, 1986, is amended by striking out "$1,864,131" and inserting in lieu thereof "$1,884,131".

(b) Section 20(b) of Senate Resolution 80 (100th Congress), agreed to January 28, 1987, is amended by striking out "$1,926,804" and inserting in lieu thereof "$1,963,054".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIBRARY OF CONGRESS POLICE

The bill (H.R. 2249) to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police, was considered.

Mr. SARBANES. Mr. President, I want to thank the chairman of the Senate Committee on Rules, Senator WENDELL FORD, for his assistance in bringing H.R. 2249 to the floor of the Senate, and I rise in strong support of this bill, which I introduced in the Senate. This legislation, which passed the House on July 21, 1987, reconciles the rank, structure and pay for the Library of Congress police to that of the Capitol and Supreme Court police. The Library of Congress, now the largest in the world, is one of the most open of national libraries, and the security of its varied collections is of the greatest importance. The police force plays a major role in seeing that this objective is carried out. The Library of Congress welcomes thousands of readers, researchers, and foreign dignitaries from all over the world and as the Library's acquisitions have grown over the years it has become necessary to expand, requiring increased reliance on the police force. The responsibilities of the LOC police force, in many instances, are similar to the Capitol and Supreme Court police forces. Nevertheless, the pay scale of the Library of Congress police force has remained capped for better than 13 years while the other two Capitol Hill police forces have continued to receive increases. I feel that this situation needs to be addressed.

The men and women of the LOC police force are dedicated to the responsibility of providing quality protective services for the historians, scholars, students, teachers, and Members of Congress, who use this great national repository of knowledge and information. In my view if we want to continue to ensure optimum access to the Library's collections, we need to provide fair and equitable financial security for the members of the police force, and I urge that my colleagues pass this important legislation.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO POSTPONE CONSIDERATION OF SENATE JOINT RESOLUTION 187

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 308, Senate Joint Resolution 187, a joint resolution complying with the requirements of section 274(f)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLDER AMERICANS ACT AUTHORIZATION

Mr. BYRD. Mr. President, on behalf of Messrs. KENNEDY, HATCH, INOUYE, and EVANS, I ask that the Chair lay before the Senate a message from the House on H.R. 1451.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 1451) entitled "An Act to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. BYRD. Mr. President, I move, on behalf of Mr. KENNEDY and others, that the Senate insist on its amendment and agree to a conference with the House on the disagreeing votes between the two Houses and that the Chair be authorized to appoint Senate conferees.

The motion was agreed to, and the Presiding Officer [Mr. DASCHLE] appointed Mr. KENNEDY, Mr. MATSUNAGA, Mr. PELL, Mr. COCHRAN, and Mr. HATCH conferees on the part of the Senate for all but the Native American programs portion of the bill; and Mr. INOUYE, Mr. MELCHER, Mr. DECONCINI, Mr. BURDICK, Mr. DASCHLE, Mr. EVANS, Mr. MURKOWSKI, and Mr. MCCAIN conferees on the part of the Senate for the Native American programs title only.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1417.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1417) entitled "An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance Extension Act of 1987".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended—

(1) in section 130, by striking "$50,250,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1988 through 1990.";

(2) in section 143, by striking "$13,750,000" and all that follows in the first sentence and inserting "such sums as may be necessary for fiscal years 1988 through 1990.";

(3) in section 154, by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1988 through 1990."; and

(4) in section 163, by striking "$2,700,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1988 through 1990.".

SEC. 3. ADDITION OF FAMILY SUPPORT SERVICES TO LIST OF PRIORITY SERVICES WITH RESPECT TO PERSONS WITH DEVELOPMENTAL DISABILITIES.

(a) IN GENERAL.—Section 102(11)(C) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(11)(C)) is amended—

(1) by striking "and";

(2) by striking the period and inserting a comma; and

(3) by adding at the end "and family support services.".

(b) DEFINITION OF FAMILY SUPPORT SERVICES.—Section 102(11) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(11)) is amended by adding at the end the following new subparagraph:

"(I) The term 'family support services' means services designed—

"(i) to strengthen the role of the family as the primary care-giver;

"(ii) to prevent out-of-home placement;

"(iii) to reunite families with family members who have been placed out of the home; and

"(iv) to maintain family unity.".

(c) CONFORMING AMENDMENT.—Section 102(11)(D) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(11)(D)) is amended by striking "family support services,".

SEC. 4. REVISION OF DEFINITION OF SUPPORTED EMPLOYMENT OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 102(11)(F) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(11)(F)) is amended—

(1) by striking "paid" the first place it appears and inserting "competitive"; and

(2) by amending clause (i) to read as follows:

"(i) is for persons—

"(I) with developmental disabilities who are members of groups for which competitive employment has not historically occurred, or

"(II) for whom competitive employment has been interrupted or intermittent because of a developmental disability,

who, because of their disabilities, need intensive ongoing support to perform in a work setting;".

SEC. 5. REQUIREMENT OF PROVISION OF NOT LESS THAN ONE PRIORITY SERVICE TO PERSONS WITH DEVELOPMENTAL DISABILITIES.

(a) IN GENERAL.—Section 122(b)(4)(B) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6022(b)(4)(B)) is amended to read as follows:

"(B) The plan must provide for not less than one of the five priority services. The plan may, in the discretion of the State, provide for more than one priority service, or for one or more services described in section 102(11)(A)(ii), or both.".

(b) STRIKING OF CERTAIN REQUIREMENT WITH RESPECT TO EXPENDITURES OF PAYMENTS.—Section 122(b)(4) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6022(b)(4)) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively.

(c) CERTAIN REQUIREMENT WITH RESPECT TO EXPENDITURES OF PAYMENTS.—Section 122(b)(4)(D)(i) of the Developmental Disabilities Assistance and Bill of Rights Act (as redesignated in subsection (b)(2)) is amended by striking "service activities in the priority services." and inserting "services described in subparagraph (B).".

SEC. 6. REVISION IN CATEGORIES OF REPRESENTATIVES ON STATE PLANNING COUNCIL.

Section 124(a)(3)(B)(ii) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024(a)(3)(B)(ii)) is amended by inserting "or previously institutionalized" after "institutionalized".

SEC. 7. REPORTS BY STATES WITH RESPECT TO SERVICES PROVIDED TO PERSONS WITH DEVELOPMENTAL DISABILITIES.

The Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) is amended by adding at the end the following new part:

"PART F—DEVELOPMENTAL DISABILITIES STATUS REPORT

"REQUIREMENT OF CERTAIN ASSURANCES WITH RESPECT TO REPORT

"SEC. 171. (a) For each of the fiscal years 1988 through 1990, the State plan required in section 122 must contain or be supported by assurances satisfactory to the Secretary that, not later than September 30, 1990, the State will submit to the Secretary a report containing a comprehensive description of—

"(1) the eligibility standards established by the State for the receipt of services by persons with developmental disabilities;

"(2) a description of the services provided by the State to individuals with developmental disabilities;

"(3) the extent to which the State is meeting the needs of persons with developmental disabilities;

"(4) the extent to which the State is carrying out the purpose of this title, including a description of the manner in which the State has construed, and is construing, the term 'developmental disability';

"(5) the recommendations of the State for meeting the needs of all persons in the State with developmental disabilities, including recommendations with respect to appropriate initiatives by the State and by the Federal Government; and

"(6) with respect to the matters referred to in paragraphs (1) through (5), the views of persons in the State with developmental disabilities and the views of persons in the State who are advocates for persons with developmental disabilities.

"(b) For each of the fiscal years 1988 through 1990, the State plan required in section 122 must contain or be supported by assurances satisfactory to the Secretary that, in preparing the report required in subsection (a), the State will—

"(1) conduct a study for the purpose of obtaining the information required in subsection (a)(6) and will, in conducting such study, survey a representative sample of persons in the State with developmental disabilities and a representative sample of persons in the State who are advocates for persons with developmental disabilities; and

"(2) provide public notice with respect to the development of the report and such opportunities as may be necessary to provide interested persons an opportunity to present comments and recommendations with respect to the report.

"REQUIREMENT OF SUBMISSION OF STATEMENT OF PROGRESS WITH RESPECT TO REPORT

"SEC. 172. For each of the fiscal years 1989 and 1990, the State plan required in section 122 must contain a statement of the progress made by the State with respect to completing the report required in section 171.".

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect October 1, 1987, or upon the date of the enactment of this Act, whichever occurs later.

Amend the title so as to read: "An Act to amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such Act, and for other purposes.".

Mr. HARKIN. Mr. President, on behalf of myself, Mr. WEICKER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. STAFFORD, Mr. ADAMS, Mr. COCHRAN, and Mr. METZENBAUM, I rise to urge the passage of an amendment in the nature of a substitute to S. 1417, as amended by the House of Representatives—substitute amendment. We would like to commend our colleagues on the House side, particularly Representatives WAXMAN and MADIGAN, for their willingness to work together to develop this substitute amendment which will enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

In the absence of a conference report on this legislation, we make this joint statement as members of the Subcommittee on the Handicapped and as cosponsors of the legislation. It is our understanding that the members of the House Subcommittee on Health and the Environment will be making an identical statement.

On July 21, 1987, the Senate unanimously passed S. 1417, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987—the Senate bill—to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act—the act. On August 4, 1987, the House of Representatives passed H.R. 1871, the Developmental Disabilities Assistance Extension Act of 1987 and then agreed to strike all after the enacting clauses of the Senate bill and insert in lieu thereof the provisions of H.R. 1871, as passed by the House—the House amendment.

The substitute amendment to S. 1417, which we are considering today, incorporates many of the provisions contained in the Senate bill and the major principles included in the House amendment. This joint statement will focus only on the major differences between the Senate bill and the substitute amendment.

SPECIALIZED SERVICES OR SPECIALIZED ADAPTATIONS OF GENERIC SERVICES.

Section 102(8) of the Senate bill includes illustrations of "specialized services or special adaptions of generic services"—services—with respect to each of the Federal priority areas, case management activities, child development activities, community living activities, and employment activities, and services with respect to two or more Federal priority areas or services with respect to a State priority area.

The Senate bill included the illustrations in order to describe what a comprehensive State system of services might include; it was not intended to suggest that funds provided under the basic State grant were to be used to pay for a particular service included in the list of illustrations. Funds provided under the basic State grant are to be used for priority area activities which include, among other things, activities to increase the capacities and resources of agencies to develop such a system of services, the conduct of studies and analyses, gathering of information, development of model policies, presentation to policymakers, demonstrations, outreach and training.

In order to avoid any confusion regarding the purposes for which basic State grant funds are to be used—priority area activities—the substitute amendment deletes the illustrations of "specialized services or special adaptations of generic services" from the legislation. However, because these illustrations reflect possible components of a comprehensive State system, we are including them in this joint explanatory statement.

With respect to case management activities, the term "specialized services or special adaptations of generic services" includes—

First, participation by a case manager in the development of a comprehensive individualized habilitation plan under section 123; second, referral to, and coordination of, social, health, educational, support and other services as identified in such individualized habilitation plan; third, monitoring to ensure the access, by the person with developmental disabilities and the family of such person, to appropriate services and to determine progress in meeting goals and objectives specified in such individualized habilitation plan; and fourth, the provision of assistance to a person with developmental disabilities to enable such person to obtain access to all services to which such person is entitled, and to effect changes in the service delivery system that will result in increased access to services for such person.

With respect to child development activities, the term "specialized services or special adaptations of generic services" includes early intervention services.

With respect to community living activities, the term "specialized services or special adaptations of generic services" includes—

First, inhome services, such as personal aides and attendants and other domestic assistance and supportive services; second, special living arrangements; third, group living services; fourth, recreation, socialization, and leisure time services; fifth, nonvocational social development services; and sixth, placement and continuing support services.

With respect to employment activities, the term "specialized services or special adaptations of generic services" includes—

First, services such as employment preparation and training leading to supported employment and ongoing support services; second, follow-along services; third, incentive programs for employers who hire persons with developmental disabilities; fourth, services to assist transition from special education to employment; fifth, services to assist transition from sheltered work settings to supported employment and nonsupported employment in integrated work settings; and sixth, job placement services.

With respect to activities which are within two or more Federal priority areas or activities which are within a State priority area, the term "specialized services or special adaptations of generic services" includes—

First, outreach and identification activities; second, diagnosis, assessment, and periodic reassessment to determine each person's goals, strengths, functional limitations, and needs for specific services and other assistance; third, information and referral services; fourth, treatment; fifth, family support services; sixth, respite care; seventh, foster care; eighth, day care; ninth, assistive technology; 10th, counseling of a person with developmental disabilities and the family of such person; 11th, transportation; 12th, protective and other social and sociological services; 13th, education and training of personnel, persons with developmental disabilities, and family members of such persons; and 14th, services to promote and coordinate activities to prevent developmental disabilities.

FOCUS OF THE LEGISLATION ON THE FAMILY

In recognition of the central role played by the family, the substitute amendment clarifies that priority area activities should not only enhance services for persons with developmental disabilities but should also address the needs of their families. The substitute amendment also includes "supports for the elderly parent" as an example of a "family support service" and includes "family support services" and "nonfinancial supports" as illustrations of "community living activities." The Senate bill had included only "nonfinancial supports." Consistent with these changes, it is our intent that State planning councils should describe family support service activities undertaken by States in their annual reports to the Secretary.

By including express reference in the legislation to family support services, we do not intend to restrict efforts by States to develop programs for involving friends, neighbors, and other members of the community in enhancing opportunities for persons with developmental disabilities nor do we intend to restrict in any way the freedom of adults with developmental disabilities to select their living arrangements. To the contrary, it is our intent that persons with developmental disabilities have the opportunity to select friends, neighbors, and other members of the community to live with or to provide assistance in accessing and obtaining the supports and services necessary to enhance their independence, productivity, and integration into the community.

STATE PRIORITY AREA

The substitute amendment defines a "State priority area" as an area in the State considered essential by the State planning council. This will provide flexibility to the council to include, at its discretion, an additional focus to the basic State grant. Priority area activities in two or more Federal priority areas, which was included in the definition of "State priority area" in the Senate bill, has been deleted. Such activities should be included under the applicable Federal priority areas.

EARLY INTERVENTION SERVICES

The substitute amendment defines the term "early intervention services" to mean services provided to infants, toddlers, young children and their families to identify, assess, and treat developmental disabilities at the earliest possible date to prevent more serious disability, to ensure maximum growth and development, and to assist families in raising a child with a developmental disability.

It is our intent that early intervention services address infants," toddlers," and young children's needs in the areas of physical and cognitive development, language and speech development, psychosocial development, self-help skills, and include the following services: family training, counseling and home visits, special insruction, speech pathology and audiology, occupational therapy, physical therapy, psychological services, medical and health services, nutrition services, and early identification, screening and assessment services.

It is our intent that the State planning councils coordinate their planning and advocacy activities in the area of child development with the early intervention councils authorized under part H of the Education of the Handicapped Act.

REPORT ON FEDERAL POLICIES IMPACTING ON PERSONS WITH DEVELOPMENTAL DISABILITIES.

The substitute amendment directs the Secretary to include in the annual report required by section 107(c) of the act, Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments.

DESIGNATED STATE AGENCY

The substitute amendment includes the provision in the Senate bill explicitly authorizing a State planning council to be the designated agency if such council may be so designated under the laws of the State.

SUPPLEMENT, NOT SUPPLANT

The substitute bill does not change the provision in current law that basic State grant funds must be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds. It is our intent, however, that the Secretary develop objective standards for determining whether a State is in compliance with this provision and that these standards be included in the regulations.

REVIEW AND REVISION OF THE STATE PLAN

The substitute amendment includes the provision in current law—deleted by the Senate bill—which specifies that the plan must provide for the review and revision of, a comprehensive statewide plan to plan, financially support, coordinate, and otherwise better address, on a statewide and comprehensive basis, unmet needs in the State for the provision of services for persons with developmental disabilities and their families. The substitute amendment also specifies that this review and revision must occur not less often than once every 3 years and that it must include the reviews and analyses conducted and report prepared under section 122(f) and contain, at a minimum, the analyses which were set out in section 122(b)(5)(A) of the Senate bill and which are now set out in section 122(b)(5)(B) of the substitute amendment.

DATA COLLECTED UNDER EDUCATION OF THE HANDICAPPED ACT

The substitute amendment reinserts section 122(b)(4)(D) in current law—deleted by the Senate bill—which specified that the plan must be developed after consideration of the data collected by the State educational agency under section 618(b)(3) of the Education of the Handicapped Act, pertaining to the number of children exiting the special education system each year).

SIXTY-FIVE PERCENT OF THE BASIC STATE GRANT TO BE USED FOR FEDERAL AND STATE PRIORITIES

The substitute amendment clarifies congressional intent that the State plan must provide that 65 percent of the basic State grant be expended for priority area activities. However, only activities in the priority area of employment are mandatory. Activities in the other Federal priority areas are adopted at the discretion of the State as is the decision whether or not to pursue a State priority area or use these funds for the analyses specified in sections 122(b)(3), 122(b)(5)(B), and 122(f).

DATES FOR THE COMPLETION OF THE SPECIAL REPORT

The substitute amendment specifies that the special report required by section 122(b)(3) and section 122(f) must be completed by January 1, 1990, instead of April 1, 1990; the report must be submitted by the Governor of each State to the Secretary by January 15, 1990, instead of April 15, 1990; and the Secretary must complete a summary of these reports and submit it to Congress by April 1, 1990, instead of September 30, 1990. These changes will ensure that the data contained in these reports will be available to Congress in a timely fashion as it prepares for the reauthorization of the legislation.

CARRYOVER AND LIQUIDATION

The policy governing the carryover of funds currently set out in section 1914(2) of the Public Health Services Act is made applicable to the basic State grant and grants to support protection and advocacy systems.

With respect to the liquidation of obligations by grantees, it is our intent that all obligations incurred pursuant to a grant made under the act for a specific Federal fiscal year must be liquidated within 2 years of the close of the Federal fiscal year in which the grant was awarded. Further, the Commissioner may waive these requirements when State law impedes implementation or the amount of obligated funds to be liquidated is in dispute. Our expression of intent regarding liquidation also applies to protection and advocacy systems.

WITHHOLDING

The substitute amendment deletes the changes to current law included in the Senate bill and clarifies that the Secretary's responsibility to withhold funds applies particularly to a failure to comply substantially with section 122(b)(3) or 122(f) pertaining to the special analyses and reports to be completed by the State planning council. The intent of this change is to indicate the importance we place in ensuring compliance with these new sections; it is not our intent that the Secretary include a separate standard for ensuring compliance with these sections.

FEASIBILITY STUDY

The substitute amendment includes the provision in the Senate bill authorizing the Secretary to make grants to universities to study the feasibility of establishing new university affiliated programs and satellite centers in those States which currently do not have them. A grant may not exceed $35,000. It is our intent that the authority to fund such studies should not be construed to permit the Secretary to require an applicant for a new university affiliated program or satellite center to complete such a study as a condition to applying for such a program or center.

CONSIDERATION BY UAP OR SATELLITE OF PUBLIC COMMENT BEFORE SUBMISSION OF GRANT APPLICATION

It is our intent that the UAP or satellite center receive and respond to the needs of the State in which the program will be conducted. Requirements concerning public comments and comments from the council may be satisfied by establishing a broad-based advisory council with appropriate representation from the State planning council and interested consumer advocacy organizations and members of the general public or arranging for a systematic program to provide review and comment through the duration of the UAP or satellite center.

Moreover, the phrase "general public" is intended to provide for and encourage comments outside of the formal processes established by the State planning councils as necessary and appropriate. However, the provision requiring comments from the general public shall not be construed as requiring the publication of applications in general circulation newspapers or the convening of public hearings on a statewide basis.

FUNDING FOR TRAINING IN AREAS OF EMERGING NATIONAL SIGNIFICANCE

It is our intent that of the funds appropriated for training in areas of emerging national significance under section 152(b), an equal one-third, share should be allocated to aging, early intervention, and paraprofessional training, respectively. Further, any additional funds made available pursuant to section 154(c) shall be used for training grants authorized under section 152(b) and not for grants under section 152(c). Moreover, grants issued under this new authority must be widely dispersed geographically.

NEW UAP'S AND SATELLITE CENTERS; REVIEW OF EXISTING UAPS AND CENTERS

The substitute amendment makes it clear that the Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served if such application proposes to serve the population of an entire State.

Further, the substitute amendment directs the Secretary, by regulation, to require appropriate technical and qualitative peer review of applications for assistance under section 154 of the act; specifies the qualifications of the persons conducting the reviews; and directs the Secretary to approve an application received for fiscal year 1990 and thereafter only if such application has been recommended by the persons conducting the reviews subject to waiver authority included in the legislation.

It is our intent that peer review groups will be composed of individuals with expertise and experience in the fields appropriate to the activities conducted by university affiliated programs and satellite centers. The Secretary shall ensure that it uses procedures to preclude conflicts of interest between grantees and individuals who may serve on the peer review group.

SPECIAL PROJECTS

In addition to funding the specific categories of projects set out in section 162(a)(1), it is our intent that the Secretary fund projects which support and enhance the ability of the State planning councils, the protection and advocacy systems, and the university affiliated programs and satellite centers to implement the amendments made by the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987. For example, funds could be used to support a project providing technical assistance to State planning councils in planning, conducting, and reporting the policy analyses required by sections 122(b)(4)(B) and 122(f) of the act, as added by the substitute amendment.

Mr. REID. Senator HECHT and I would like to engage in a colloquy with Senator HARKIN, the chairman of the Subcommittee on the Handicapped and the chief sponsor of S. 1417.

Mr. HARKIN. I would be glad to engage in a colloquy.

Mr. REID. In my home State of Nevada, the State planning council is currently using a limited portion of its basic State grant to purchase highly specialized community-based services for particular individuals who are developmentally disabled when: such individuals need these unique services to maintain or improve their independence; no agency currently funds such services; and the individuals are too poor to afford these services or cannot meet current agency eligibility criteria. These funds are not used for persons in institutions.

Mr. HECHT. Permitting the use of funds under the basic State grant for the purposes described by my distinguished colleague from Nevada is, in my opinion, consistent with the purpose of the act to increase the independence, productivity, and integration into the community of persons with developmental disabilities. Do you agree?

Mr. HARKIN. Section 102(10) of the act, as amended by S. 1417 specifies the activities which may be supported with funds under the basic State grant. For example, the council may pursue activities that are designed to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance that respond to the unique needs of persons with developmental disabilities and their families. This activity is included in order to reduce the likelihood that the situation that currently exists in Nevada will occur in the future.

But in the interim, the State may use a limited portion of its basic State grant to pay for the type of services provided and under the circumstances which Mr. Reid described. For example, the State planning council may fund an activity which demonstrates a new way to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, including new ways to enhance specialized services or specialized adaptations of generic services for such persons.

In short, while use of basic State grant funds to avoid institutionalization under the circumstances described by my distinguished colleagues from Nevada are permissible, they are not preferred. When Congress reauthorizes this act again in 3 years, we will want to examine how the States have used the basic State grant funds for systemic change, which is the preferred use for these funds.

Mr. HECHT. Thank you for your explanation. I find it to be most reassuring.

Mr. BYRD. Mr. President, on behalf of Mr. Harkin, I move to concur in the amendment of the House to S. 1417, the developmental disabilities assistance bill, with a further amendment.

The **PRESIDING OFFICER.** Without objection, the motion is agreed to.

(The text of the amendment is printed in today's Record under "Amendments Submitted.")

Mr. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WILSON. Mr. President, I move to lay that motion on the table.

EXPRESSING APPRECIATION OF THE CONGRESS TO THE CITY OF PHILADELPHIA, THE NATIONAL PARKS SERVICE, AND WE THE PEOPLE 200, INC.

Mr. BYRD. Mr. President, I send to the desk a Senate concurrent resolution on behalf of myself, Mr. Dole, Mr. Heinz, and Mr. Specter, and I ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the concurrent resolution.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 80) to express the appreciation of the Congress to the City of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise.

The **PRESIDING OFFICER.** Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The **PRESIDING OFFICER.** Are there amendments to the concurrent resolution?

If not, the question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 80) was agreed to, as follows:

S. Con. Res. 80

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby expresses appreciation to the City of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise, which determined the basis of representation in the Senate and the House of Representatives.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE RESOLUTION 352, 99TH CONGRESS, RELATING TO THE COMMEMORATION OF THE BICENTENNIAL OF THE SENATE OF THE UNITED STATES

Mr. BYRD. Mr. President, I send to the desk a Senate resolution and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 293) to amend Senate Resolution 352, 99th Congress, relating to the commemoration of the bicentennial of the Senate of the United States.

The **PRESIDING OFFICER.** Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

The **PRESIDING OFFICER.** Are there amendments to the resolution?

If not, the question is on agreeing to the resolution.

The resolution (S. Res. 293) was agreed to, as follows:

S. Res. 293

Resolved, That section 7(a) of S. Res. 352, 99th Congress (as amended by S. Res. 166, 100th Congress), is further amended to read as follows:

"Sec. 7. (a) The actual and necessary expenses of the Commission, including the employment of staff at an annual rate of pay and the employment of consultants at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the Contingent Fund of the Senate, out of the account of Miscellaneous Items, upon vouchers approved by the Chairman of the Commission or his designee; except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. WILSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of my friend on the other side of the aisle as to whether or not Calendar Order No. 301 and Calendar Order No. 350 on the executive calendar have been cleared for action.

Mr. WILSON. Mr. President, I am pleased to inform my friend that they have been.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session, that the two nominations be considered en bloc, agreed to en bloc, the motion to reconsider en bloc be laid on the table, and that the President be immediately notified of the confirmation of the nominees.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The nominations considered en bloc and confirmed en bloc are as follows:

In the Navy

The following-named officer, under the provisions of Title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, section 601:

To be vice admiral

Rear Adm. William D. Smith, 524-32-0106/1120, U.S. Navy.

Department of Defense

The following-named officer for reappointment as Chairman of the Joint Chiefs of Staff under Title 10, United States Code, section 152.

To be Chairman of the Joint Chiefs of Staff

Adm. William J. Crowe, Jr., 488-20-0035, United States Navy.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, while we are waiting I would simply point out that the actions that we have just taken include the confirmation by the Senate of the President's judgment to reappoint as Chairman of the Joint Chiefs of Staff a very distinguished military officer, Adm. William J. Crowe, Jr., and I think that bespeaks not only the President's confidence, but the concurrence of the Members of the Senate. As a member of the Senate Armed Services Committee along with the other members, I have been privileged to experience not only Admiral Crowe's expertise, but also the kind of personal leadership that he has provided in what are clearly challenging times.

With our confirmation, which I am sure is all that he asks, I think I can safely take the liberty of wishing him well and extending the appreciation of all colleagues on both sides of the aisle.

DOD AUTHORIZATION

"COPING WITH THE CONSEQUENCES OF CLOSING THE N-REACTOR"

Mr. ADAMS. Mr. President, as my colleagues know, both the Senate Armed Services Committee and the Senate Appropriations Committee have recommended that the N-reactor, located in Washington State, be placed in cold standby status. I support that decision. As I have indicated in the past, I simply do not believe that the documented risks of operating this aged reactor are outweighed by the need for additional nuclear materials.

My decision to support a cold standby status for the N-reactor does not, however, give me any pleasure. There is no question that this action will have an effect on the economy of the area which has become heavily dependent on nuclear related activities. And there is also no question about the fact that the economic effect will be both substantial and long-lasting.

Last week the Senate adopted an amendment which Senator Evans and Senator Hatfield and I offered to increase funding for defense waste clean up activities at Hanford. That action was motivated by both the pressing need to address the waste issue and by a desire to provide some economic assistance to the people and the area. That was a positive step; but it isn't sufficient. We cannot pretend that we can simply shift every worker from one nuclear related job to another. If the area is to survive, it needs to diversify.

That will not be an easy task. There are no magic solutions, no simple actions which can replace—in 1 day or 1 month or 1 year—the jobs which will be lost when the N-reactor closes. But the fact that the task is not easy does not mean that it ought not be begun.

The people who work and live in the Tri-Cities which surround the Hanford nuclear reservation are, as they should be, proud of the work they have done for the Nation and proud of the community they have built. They have organized a support group, "the Hanford family," which is dedicated to preserving and strengthening their hometowns. I often disagree with their conclusions, but I share their concern and I admire their dedication and determination to keep their community intact. These people have roots in the region and they don't want to see their towns wither and die.

They don't have to.

We can begin the process of helping the Tri-Cities cope with the consequences of nuclear activity at Hanford. The Department of Defense has some resources which can provide some assistance. The Office of Economic Adjustment, within DOD, has a proven track record for helping communites cope with the impact of base closings. I believe that the Department has an obligation to help the people of the Tri-Cities cope with the consequences of placing the N-reactor in cold standby status. That is why I have requested that Secretary Weinberger direct that Office to provide assistance to the Tri-Cities. There are already plans underway to help create the kind of economic diversification program which is needed: the Governor, the State legislature and the Tri-Cities themselves have initiated a number of studies and projects. Those efforts need and deserve Federal support. I believe that the involvement of the Office of Economic Adjustment is a step toward the sort of Federal involvement which is needed.

I appreciate the fact that my colleagues, whose States and people are not directly affected by the our decision about N-reactor, have been willing to join me in requesting that the Secretary of Defense instruct the Office of Economic Adjustment become involved. That involvement is not, by itself, an answer. But it is a beginning and it is a sign that the Federal Government recognizes a continuing obligation to be of assistance to people who have, over the years, been of great assistance to our Nation.

Mr. President, I ask unanimous consent that the text of this letter be inserted in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, September 29, 1987.

Hon. Caspar Weinberger,
Secretary of Defense,
The Pentagon, Washington, DC.

Dear Mr. Secretary: As you know, both the Senate Armed Services Committee and the Senate Appropriations Committee have recommended that the N-Reactor, located in Washington state, be placed in a cold standby status. Whether the N-Reactor is closed now, as a result of legislation, or in the near few years, as a result of the plant reaching the end of its productive life, the Tri-Cities which surround the facility will be faced with a serious blow to the local economy. The people of the Tri-Cities deserve more than our thanks for their years of dedicated and skilled work at this facility: they deserve assistance in adapting to the loss of employment which will result and they will need help in their ongoing efforts to diversify the economy of the area.

In that context, Mr. Secretary, we are writing to request that you direct your Department's Office of Economic Adjustment and the Economic Adjustment Committee (which includes representatives of the Department of Energy) to support the process of facilitating studies and technical assistance which will be required to minimize the impact of the facility closing. Both the local communities (through TRIDEC, the Tri-Cities Industrial Development Council) and the state (through action taken in the legislature and the Governor's Office) have already undertaken economic diversification studies to address the needs of the area. But, as you know, the Office of Economic Adjustment has a long-demonstrated ability to bring federal resources and expertise to bear in situations like those facing the Tri-Cities. We believe that the Office of Economic Adjustment could play a catalytic role in bringing together the key players and identifying the needed resources to help the Tri-Cities cope with the consequences of closing the N-Reactor.

Given the magnitude and immediacy of the problems facing the area, we request that you direct the Office of Economic Adjustment to become involved immediately. Should the Office require additional resources to carry out this task, we stand ready to provide whatever assistance we can.

We appreciate your cooperation in this matter.

Sincerely,

Brock Adams.
Bennett Johnston.
Sam Nunn.
John Stennis.
John Warner.
Mark Hatfield.

THE N REACTOR

Mr. HATFIELD. Mr. President, although I am deeply troubled by a number of provisions as well as the overall spending level in the bill now before us, I am very pleased by the provision which would place the N Reactor at the Hanford Nuclear Reservation in Washington State on cold standby status. The Senate Appropriations Committee has included a similar provision in the energy and water appropriations bill, and it is my hope that this aging and dangerous facility will not be restarted.

While this action will be a relief to those residents of the Pacific Northwest who have been concerned with the constant threat that the N Reactor presents to their health and safety, it could have considerable economic impact on the Hanford area. In particular, there is considerable concern for the facility's employees whose jobs will be eliminated by the implementation of a cold standby mode at the reactor.

Of course I share the concern over the men and women whose jobs will be eliminated if the N Reactor is placed on cold standby, but I am convinced that the problems we may face are not insurmountable. In fact, State and local efforts to help area residents respond to the economic impact are underway already. The challenge now is to get the Federal Government actively involved in such efforts.

As an editorial which recently appeared in the Spokane, WA, Chronicle pointed out, the "jobs" argument for continued operation of Hanford simply does not wash. I ask unanimous consent that the editorial, "Shut Down Hanford? Fears Are Overstated," be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Spokane (WA) Chronicle, Sept. 4, 1987]

SHUT DOWN HANFORD? FEARS ARE OVERSTATED

If Congress closes the aging plutonium production plants at the Hanford Nuclear Reservation, Washington state will lose tax revenue and Tri-Cities residents will lose jobs and suffer stress disorders, according to a self-serving U.S. Energy Department study that may receive more attention than it deserves.

Last winter, a study the department now characterizes as preliminary claimed that Hanford plant shutdowns would cost 20,000 jobs statewide and $50 million in lost state tax revenues. The new study, which the department says is more accurate, predicts a loss of 13,800 jobs by 1996 and a loss of $33 million in state tax revenue.

It also warns that in the Tri-Cities, the loss of jobs could raise suicide rates, alcohol and drug abuse, emotional depression and family problems.

Like too many other debates over the continuation of outmoded federal undertakings, discussion of Hanford's nuclear weapons plants is beginning to leave the impression that Hanford somehow mutated, over the decades, into a welfare program for scientists, engineers, technicians and bureaucrats.

In the beginning, the government built and operated Hanford because it needed fuel for nuclear warheads.

Now, however, the United States possesses many more warheads than it needs to destroy conceivable enemies or to deter nuclear attack. It builds more and more warheads in a compulsive numbers game, a contest that no longer has any relevance to military security.

One reason it has proved difficult to reduce production is that the bureaucracies, businesses and, yes, communities that grew up around this endeavor now want to preserve their existence.

So, we hear talk about the loss of jobs, while information on which to base a decision about whether we need more plutonium is concealed by arrogant officials from the public and the democracy that this endeavor originally protected—and now endangers.

Hanford's N Reactor and associated processing plants are growing old and face serious challenges to their safety. Even in the increasingly unlikely event that they are deemed safe to operate, it is inevitable that they will be shut down for good within several years.

What then? About 6,000 Hanford jobs will cease to exist. But that inevitable event will not necessarily send ripples of additional job losses, revenue declines and stress disorders spreading into the Tri-Cities and beyond.

Hanford may find a new mission, and that would create jobs. Cleaning up the radioactive and chemical wastes left by its past operations is one chore that needs doing—although it appeals to an ideological spectrum different from the one that supports the arms race.

Working with environmentalists instead of fighting them belongs on the agenda of forward-thinking Tri-Cities boosters.

It also is suggested that new production facilities be constructed to replace the old. But in view of the oversupply of warheads and the probability that new production facilities will be constructed in South Carolina, Congress is obliged, as a steward of limited public funds, to question the need for duplicate facilities at Hanford.

Those concerned about jobs in the Tri-Cities will show foresight if they strive to wean the community from dependence on the government. In the past few months, Westinghouse's Tri-Cities Investment Management Co. has begun to do so by investing seed capital in promising private businesses.

There—not in political pressure to preserve unneeded jobs and plants of questionable safety—lies hope.

Mr. SARBANES. Mr. President, I strongly support the provisions in S. 1174, the Department of Defense authorization legislation, restricting the Department of the Navy from testing the electromagnetic pulse simulator known as EMPRESS II in the Chesapeake Bay. I want to thank the chairman and ranking minority member, Senators NUNN and WARNER, for their efforts in including these provisions in the bill.

The Department of the Navy has proposed operating an electromagnetic pulse radiation environmental simulator for ships program, EMPRESS II, near Bloodsworth Island in the Chesapeake Bay. This program, designed to simulate the effects of nuclear explosions on naval ships, consists of a barge mounted generator capable of discharging bursts of up to 7 million volts of electricity. During EMPRESS II testing operations, an area of 12.6 square nautical miles around the site would be closed to commercial and recreational vessels for at least 20 days each year. The Navy anticipates continued testing for approximately 20 years, with operations beginning in fiscal 1988.

Since this project was first proposed several years ago, the State of Maryland, our entire congressional delegation, State and local representatives, the Department of the Interior, the Environmental Protection Agency, and numerous public and private organizations have expressed serious concerns about the consequences of testing EMPRESS II in the sensitive Chesapeake Bay ecosystem. In our view, there are still too many unknown factors to guarantee that this program will not have an adverse impact on the bay, our Chesapeake watermen who rely on these waters for their livelihood, and the bay community. We are just beginning to understand and address the problems that have led to the decline of our Nation's largest and most productive estuary. Through an effective partnership of State, regional, and Federal agencies—of which the Department of Defense is an important part—and citizens concerned about the bay, we have embarked on an aggressive program to protect and restore the living resources and water quality of the bay.

In light of this effort and the continuing unanswered questions relating to the EMPRESS II testing program, it is especially inappropriate to locate this project anywhere in the Chesapeake Bay. This view was recently underscored by the EPA, which, after reviewing the supplemental draft environmental impact statement on the project, stated:

> Based upon this review, EPA maintains its original conclusion that the Chesapeake Bay because of its national value as a natural resource is an inappropriate location for a largely experimental process.

In addition, the Maryland Department of Transportation, the Maryland Port Administration and the Association of Maryland Pilots have concluded that the EMPRESS II project will have very serious adverse impacts on the Baltimore channel project and on commercial shipping to the Port of Baltimore. The proposed location of the project intrudes upon the shipping channel through which approximately 80 percent of the bay's commercial traffic currently operates. Testing would effectively close this channel for at least 20 days each year.

Ships sailing to the Port of Baltimore during the testing period would be forced to either delay passage until testing was completed, use the channel at great risk to the sophisticated computer and navigational systems aboard their vessels, or travel outside the channel and risk collision or running aground. The result would mean millions, even tens of millions of dollars, in lost maritime trade and revenues to the State. In view of the tremendous importance of shipping and the Baltimore channel project to the economic vitality of our State, the proposed testing site is unacceptable.

The State of Maryland has enjoyed an excellent relationship with the U.S. Navy for many years. We are proud of the important bases which the Navy maintains in Maryland. We do not seek to interfere with legitimate testing needed for our country's defense. However, due to the adverse environmental and economic consequences of operating the EMPRESS II in the Chesapeake Bay, we believe the Navy should select an alternative site, outside of the bay, for this project.

I applaud adoption of the provisions in this legislation prohibiting the Department of the Navy from proceeding with testing of EMPRESS II in the bay.

BOB LEDERER

Mr. HATFIELD. Mr. President, I rise today with great sadness to note the passing of my good friend, Bob Lederer. The executive vice president of the American Association of Nurserymen, Bob Lederer was devoted to making our Nation a more beautiful place for all of us. Last Saturday, less than a week after undergoing heart surgery, he quietly passed away. But the spirit of his ideas and the fruits of his labor will endure.

Bob Lederer and I were drawn together, Mr. President, by our enthusiasm for horticulture. Perhaps my best tribute to him is a story of that enthusiasm.

To celebrate Arbor Day several years ago, I wanted to plant one of my favorite trees—Dawn Redwood—on the Capitol Grounds. I was undaunted in my determination for the project, but the logistical problems seemed insurmountable. In stepped Bob, who translated my enthusiasm into action. He found a local nursery with a suitable tree for the location and had it delivered. On the eve on the planting, we discovered that the nursery had mistakenly given us the wrong specimen. The nursery was unable to get another tree here in time for the planting, so we went ahead with the ceremony and planted the tree we had been sent. But Bob was not satisfied. The very morning after we had planted the first tree, he met with the landscape architect to arrange a switch.

What was once a scrawny twig has turned into a strong and healthy tree. Three years later, that tree—the one we really wanted all along—stands as a testament to Bob's dedication.

Of course it is not just on Capitol Hill that Bob's work continues to flourish. Schools and parks all across America proudly display his work, as do the National Arboretum and the White House itself.

Bob devoted himself to a great number of programs—Friends of the U.S. National Arboretum, the National Council for Therapy and Rehabilitation through Horticulture, and the Pageant for Peace Committee, which displays the National Christmas Tree each year. One of the many honors bestowed upon him was the Special Award of the Oregon Association of Nurserymen, given by the nurserymen of my home State. In addition, in 1969 Bob was earned the Key Man Award, the highest honor given by the American Society of Association Executives. But in the end, Mr. President, no résumé of accomplishments could possibly reflect the contributions Bob made to his community, to our community.

I hope all my colleagues will join me in sending condolences and prayers to Bob's wife Ramona and their family. In this time of sorrow, I only hope they can find comfort in the tremendous legacy he left us all.

ELIZABETH HANFORD DOLE, SECRETARY OF TRANSPORTATION

Mr. STAFFORD. Mr. President, a distinguished public official is today completing 4½ years of service as Secretary of Transportation. Elizabeth Hanford Dole has made public service a career and has carried out her duties as Secretary of Transportation with competence and integrity.

It was my pleasure as chairman of the Environment and Public Works Committee to welcome Mrs. Dole to the committee for an informational hearing as Secretary-Designate in January 1983.

During that hearing, it was very evident to the members of the committee that Elizabeth Dole would bring a variety of skills to the job of Secretary of Transportation. Her training and experience were outstanding. The committee found her to be well qualified for the position of Secretary of Transportation.

Since that time I have had many occasions to work with Secretary Dole on transportation issues. It has been a pleasure to work with her, and I want to especially note and commend her commitment to safety issues. During a time of reduced spending and concern over deficits, Secretary Dole continued to press for safer transportation programs and succeeded in initiating and implementing new programs which have made our transportation system safer.

Mrs. Dole's résumé contains many firsts and now she has added to it the distinction of being the first woman to serve as Secretary of Transportation, a well deserved honor.

I want to join with my colleagues today in wishing Elizabeth Hanford Dole well, and in recognizing her and thanking her for a job well done.

TRIBUTE TO SECRETARY ELIZABETH DOLE

Mr. DOMENICI. Mr. President, I would like to take a few moments to express my thanks and admiration for the excellent work of Secretary of Transportation Elizabeth Dole, who leaves her post effective tomorrow.

Serving as Secretary longer than anyone in the Department's history, Elizabeth Dole held this post with great integrity and dedication. She leaves with the highest praise, and a legacy of dedication to safety.

Under her leadership, measures have been taken to enhance the safety of our Nation's highways and roads. These actions affect us daily. And they may be responsible for our good health—even our being alive.

Two policy decisions stand out: increasing the minimum drinking age and increasing dramatically the use of seatbelts.

These two policies have the potential to save thousands of lives annually, and averting large numbers of serious injuries as well. Most States have established a minimum drinking age of 21, and many States have also passed legislation to require mandatory use of seatbelts.

Mrs. Dole has served at a time when we are hearing and reading a lot in the news regarding commercial aviation. Each of my colleagues could recite a personal incident or two about less-than-ideal air service. Secretary Dole has acted to improve this situation dramatically. By hiring additional air traffic controllers, and by requiring additional performance reporting by the airlines, the public will be better served.

In spite of all of the negative accounts in the news regarding the near misses and the like, let us remember that the recent tragedy in Detroit was the first major commercial aviation accident in the United States in 2 years.

Secretary Dole also played a major role in transferring from the Federal Government to the private sector certain responsibilities that can be performed more efficiently by the private sector.

A primary goal of the administration in this regard was to remove itself from the business of owning a railroad. After guiding the Conrail freight railroad into profitability, Secretary Dole led the effort that produced last year's agreement to sell Conrail in a public offering, satisfying both public and private interests.

Similar results were achieved with last year's transfer of control of Washington National and Washington

Dulles Airports to a regional authority. As the only two airports that are federally owned, these airports had suffered neglect for many years. The result, I am convinced, will be improved service.

Mr. President, Elizabeth Dole will be sorely missed by the administration, the Congress, and the American people. I wish her particular good fortune.

MITCHELL THORP, A GOOD FRIEND

Mr. SASSER. Mr. President, it is with great sadness that I rise today to mourn the passing of a great American and a dear friend, Mr. Mitchell Thorp, of Johnson City, TN.

Mitchell passed away last Sunday, after a valiant fight to recover from a stroke and its complications. I want to extend my deepest sympathies to his wife, Hilda, and his three children.

Mitchell devoted his life to his family, his friends, his community, and his country. I am honored to have been one of his friends and the recipient of his always wise counsel.

Although he held a law degree, Mitchell spent his adult life immersed in the business world as owner of a plumbing and electrical supply concern, a land development corporation, and an investment firm.

Always active in his community, Mitchell was the first chairman of the Johnson City area industrial commission and a past president of the Johnson City Cardinals baseball team.

He was a tireless worker for development and industrial growth, but he believed that growth should be orderly. Mitchell was particularly proud of his three terms as treasurer of the Southern Growth Policies Board.

Mitchell's interest in the community was not limited to economic growth in the region. He was also active in the Johnson City Little League and Babe Ruth baseball. He received a national merit award of little league baseball and the Johnson City Park and Recreation Board's Mr. Baseball Award.

So, as you can see, Mr. President, Mitchell Thorp was a man of measure. He was a man who deeply believed in his country and the opportunities this democracy affords those who are willing to work for success.

Mitchell also believed that, just as a man should reap the rewards of his successes, he should also return a portion of himself to his community.

I shall miss Mitchell. But, I think I speak for others who knew him when I say that I am a better and wiser man because of his friendship.

BICENTENNIAL MINUTE

SEPTEMBER 30, 1918: PRESIDENT WILSON SPEAKS OUT FOR WOMEN'S SUFFRAGE

Mr. DOLE. Mr. President, 69 years ago today, on the afternoon of September 30, 1918, President Woodrow Wilson made a surprise visit to Capitol Hill to address the Senate. The subject of the President's speech was votes for women, and, in a dramatic turnabout, he strongly urged the Senators to approve the suffrage amendment then before them.

The President had inadvertently added impetus to the suffrage movement by casting World War I as a crusade for democracy. It was unconscionable, argued suffragists, for America to deny its female citizens the right to participate in government, while at the same time fighting a war to "make the world safe for democracy." Wilson saw the issue differently. He opposed a constitutional amendment granting women the suffrage, and favored State action instead. His opposition sparked stormy demonstration by suffragettes. Hundreds of women protesters, who chained themselves to the White House fence and blocked its entrances, were arrested and jailed, at the direction of the Wilson administration.

In January 1918, the President experienced a change of heart. He endorsed the suffrage amendment, explaining his conversion in terms of the war. The House quickly approved the amendment, but the Senate remained opposed. Its intransigence prompted the President's September 30 visit, on the eve of another vote. In his impassioned plea, Wilson urged adoption of the amendment as "virtually essential to the successful prosecution of the great war of humanity in which we are engaged." Yet, while the Senators had cheered as Wilson entered their Chamber, they voted down the amendment after he left, and again in February 1919. It wasn't until the spring of 1919 when a new Congress convened that the House and Senate finally approved the suffrage amendment. In August 1920 the 19th amendment giving women the right to vote became a part of the Constitution of the United States.

TRIBUTE TO HAMILTON CAROTHERS

Mr. WARNER. Mr. President, I rise to offer a few words of tribute to Hamilton Carothers, a constituent and old and dear friend, who will be retiring tomorrow from the practice of law after nearly 40 years of active and distinguished service to his profession.

Ham Carothers is a graduate of Princeton University and, following a stint in the military during World War II, he attended and graduated from the University of Virginia Law School. At Virginia, I was privileged to be one of his classmates and can say without fear of contradiction that he was uniformly regarded as one of the brightest and most accomplished members of the class. Following our graduation, we both came to Washington to work as associates at law firms here in town. After moving to Washington, Ham and I shared a house in Georgetown, and we have a longstanding pact not to reveal much about our exploits during those days.

Ham joined Covington & Burling in 1949, and became a partner in that firm on January 1, 1961. Although his practice over the past 38 years has spanned a wide variety of areas, Ham is best known for his work in professional sports, and particularly on behalf of his longtime client, the National Football League. Some of the most senior members of both the Senate and the other body will remember Ham Carothers and Commissioner Pete Rozelle patiently working to persuade Congress to enact legislation that has had the effect of allowing pro football to expand and prosper in cities throughout the country. In the past two decades, football has become America's most popular sport, and Ham Carothers has been intimately involved in every aspect of the growth and development of the NFL. So significant was Ham's involvement in NFL affairs that even his adversaries came to refer to him as the great legal eagle of the NFL.

His partners at Covington & Burling have long regarded Ham as a true jewel at the firm. His warm and generous nature, combined with his wonderful sense of humor, have won Ham many friends and admirers over the nearly four decades that he has been at Covington & Burling.

Mr. President, Hamilton Carothers has been a source of inspiration and pride to his classmates, his clients, his colleagues, and his profession. I join his many friends throughout the country in extending my best wishes for the years to come to Ham, his charming wife, Monika, and his three lovely children.

REMARKS OF DONALD R. BEALL

Mr. HEFLIN. Mr. President, earlier this year, Mr. Donald R. Beall, president and chief operating officer of Rockwell International, delivered a speech regarding the importance of U.S. space leadership.

Mr. Beall's remarks, I believe, speak well enough for themselves, and I will not repeat them in detail in this introductory statement. I would, however, very briefly note some of the key points that are made in the speech and which touch upon the issues of interest to us in Congress concerning the U.S. space program. These include:

The space station is a fundamental part of our Nation's efforts to advance scientific knowledge, stimulate new technologies, and help realize the commercial potential of space.

The essential component of a human presence in space, whereby the ingenuity and creativity of America's men and women in the astronaut corps can be fully realized, is important for ensuring the maximum gain from our space program.

The American public strongly supports a vigorous space program, while recognizing that the adventure of space exploration entails real risks.

The United States must revitalize the space program on an urgent basis with a clear vision of our short-and long-term goals.

The points I have noted are well worth the attention of my colleagues as we look ahead to final action on NASA's budget for fiscal year 1988 and review matters of future policy direction for our space program. Since Mr. Beall's speech was rather lengthy, I have taken an excerpt from the speech and ask unanimous consent that the excerpt be included in the CONGRESSIONAL RECORD at the conclusion of my remarks.

Mr. President, two recent developments bear directly upon this final point raised by Mr. Beall. The first is the release of the Sally Ride report, "Leadership and America's Future in Space," which provides a responsible set of policy options and goals for the U.S. space program. I believe that Ms. Ride should be commended for her fine report that is filled with both "down-to-earth" commonsense advice about what is needed to make the space program succeed and a challenging vision of America's future in space.

A second development, however, is more disturbing in nature, and may seriously hamper our Nation's ability to accomplish the objectives identified in the Ride report. I am speaking of the decision by the Senate Appropriations Committee to allocate to its HUD-Independent Agencies Subcommittee a funding reduction that could result in severe and, in many cases, unsustainable budget cuts for NASA. Most recently, the subcommittee reported its bill to the full Appropriations Committee which reflects these cuts.

I think most of my colleagues would agree that the potential impact of cuts of this magnitude would be devastating in view of the challenges currently facing NASA. A number of critical activities, including shuttle return-to-flight, aeronautical research and development, space science. In addition, the bill includes the total elimination of the space station—an action which I find inconceivable. I am hopeful that my colleagues on the full Appropriations Committee will take such impacts into account and support NASA's fiscal year 1988 budget request when they mark up the HUD-Independent Agencies appropriations bill.

In this regard, Mr. President, I would simply conclude with a quote taken from a recent "Letter to the Nation" signed by six former astronauts which sums up their urgent message concerning the importance of America's civilian space program. They wrote:

> America is at a crossroads. The consequence of reducing funding for NASA at this time leaves the Agency with two unacceptable alternatives. The Space Station program could be cut back and, thereby, possibly never be built. Or, NASA could reduce other crucial projects, such as unmanned scientific missions, development of a new heavy-lift rocket and a fourth orbiter. America—the richest nation on Earth—cannot afford either option.
>
> The budget decisions which will be made in the coming months will determine the course of this nation in space for many years to come: whether we will be there as a leader; even whether we will be there at all.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF DONALD R. BEALL, PRESIDENT AND CHIEF OPERATING OFFICER, ROCKWELL INTERNATIONAL CORP., APRIL 15, 1987

VISION FOR THE FUTURE: CONTINUED LEADERSHIP IN SPACE

The real key to the long-term leadership of our space program is the Space Station. The station is the next human step into space, and already in just the past few years we have seen that there is not substitute for that human presence. With Solar Mac, with Palapa-B2 and Westar 6, and with the Soviet reactivation of Salyut 7, we had three vivid demonstrations of the value of human hands and brains to augment machines in space. Just a few days ago the Soviets did it again, when two cosmonauts left the space station Mir to assist in docking a research module. There is another, very down-to-earth, reason for moving ahead with the Space Station. There will be very direct and tangible benefits for the majority of us who will never make that high journey.

It must be an open-ended system built for growth, so that means designing today to accommodate the technologies of tomorrow. It must be designed to be assembled and checked out in space, building on experience gained in the shuttle program. It is a major scientific facility, design of which must be driven by user requirements as well as launch and operational needs. For example, as we have progressed in developing the concept and specifications for the Space Station it has become clear that a high level of automation and expert systems will be needed. And such systems will pave the way for major strides forward in industrial automation on Earth. Indeed, it may be said a few years hence that our factories of the future were born in space.

Most importantly, the Space Station will—from both a technical and operational perspective—solidly demonstrate that this country has not lost its leadership in space. And studies show that the American people want to be leaders in space. Opinion polls show that national support for the space program is at an all-time high, even higher than during the years America was putting men on the Moon. One recent poll showed that nine out of every ten Americans think we should resume flying the Shuttle, even at some risk, and eight out of 10 support the Space Station.

But not only do Americans support national space programs, they also perceive the threat to our leadership. They see clearly that if we don't stay in front, others will pass us. That same opinion poll I just cited revealed that seven out of ten Americans believe it is important to stay ahead of the Soviet Union in space technology, and six out of ten are even willing for our government to spend whatever it takes to keep our leadership position.

Further, the investment in a space program to maintain leadership is afforable, perhaps one percent of the federal budget. That level of expenditure is not going to significantly impact either the deficit or social spending. While space is probably more important to our national future today than it was in the days of Apollo, we seem to lack the sense of national urgency we had then. For years it has been our vision of the future that has driven us to greater and greater achievement in space. Now we must extend that vision to the nation as a whole, assuring that future generations are not deprived of the continued benefits of space leadership.

It is an important task, and one to which we can all contribute. To start we need to work together to build on the national consensus. We must do a much better job of articulating the space strategy—where we are going, how, why, what each step contributes to the nation—and how each step serves as a basis for the next one. And we need to do that in a clear and compelling way that the public and Congress can embrace.

Integral to understanding why we must move forward in space is also understanding why that requires a budgetary commitment. A nation committed to space leadership deserves a consistent level of funding from Congress in amounts adequate to continue that leadership. But such a commitment of taxpayers funds brings with it great responsibility. In recent years both NASA and the Department of Defense have demonstrated that operating on the leading edge of technology does not necessarily involve having to have a blank check. Working with contractors the Government/Industry team has developed ways to improve producibility, reliability and maintainability so that the value to the nation is significantly increased.

It's very hard when you are making something no one else has ever made before. But even on the Shuttle, probably one of the all-time record holders for high-value, low-production-run products, we saw excellent learning curve gains over the span of production of Columbia, Challenger, Discovery and Atlantis. We need to continue demonstrating that we are spending effectively to achieve the national goals.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United

States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification, and the fine arts, and for other purposes;

H.R. 1171. An act to establish the National Oceans Policy Commission, and for other purposes;

H.R. 2035. An act to amend the Act establishing the Lowell National Historical Park, and for other purposes;

H.R. 2566. An act to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes;

H.R. 2893. An act to reauthorize the Fishermen's Protective Act;

H.R. 3017. An act to provide for the enhanced understanding and wise use of ocean, coastal and Great Lakes resources by strengthening the national sea grant college program through the establishment of a strategic research program and other means, and for other purposes;

H.R. 3251. An act to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress; and

H.R. 3325. An act to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

At 4:46 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1451) to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991; to amend the Native Americans Programs Act of 1974 to authorize appropriations for such fiscal years; and for other purposes; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on Education and Labor, for the consideration of the House bill and Senate amendment (except titles III and VI), and modifications committed to conference: Mr. HAWKINS, Mr. KILDEE, Mr. FORD of Michigan, Mr. SAWYER, Mr. SOLARZ, Mr. VISCLOSKY, Mr. JEFFORDS, Mr. TAUKE, Mr. COLEMAN of Missouri, and Mr. GRANDY.

From the Committee on Energy and Commerce, for the consideration of titles III and VI of the Senate amendment, and modifications committed to conference: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LENT, and Mr. MADIGAN.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 72. Joint resolution to designate the week of October 11, 1987, through October 17, 1987, as "National Job Skills Week";

S.J. Res. 84. Joint resolution to designate October 1987 as "National Down Syndrome Month";

S.J. Res. 110. Joint resolution to designate October 16, 1987, as "World Food Day"; and

S.J. Res. 142. Joint resolution to designate the day of October 1, 1987, as "National Medical Research Day".

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 390. An act to provide that a special gold medal be presented to Mary Lasker for her humanitarian contributions in the area of medical research and education, urban beautification, and the fine arts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 1171. An act to establish the National Oceans Policy Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2566. An act to amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3251. An act to require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress; and to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3325. An act to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway; to the Committee on Environment and Public Works.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2035. An act to amend the act establishing the Lowell National Historical Park, and for other purposes; and

H.R. 3017. An act to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the national sea grant college program through the establishment of a strategic research program and other means, and for other purposes.

Pursuant to the order of the Senate of August 3, 1987, the following bill was placed on the calendar:

H.R. 2893. an act to reauthorize the Fishermen's Protective Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 1730: a bill entitled the "Federal Onshore Oil and Gas Leasing Act of 1987" (Rept. No. 100-188).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

John K. Meagher, of Virginia, to be a Deputy Under Secretary of the Treasury;

O. Donaldson Capoton, of Texas, to be an Assistant Secretary of the Treasury; and

Alan F. Holmer, of Virginia, to be a Deputy United States Trade Representative, with the rank of ambassador.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON from the Committee on Energy and Natural Resources:

S. 1730. A bill entitled the "Federal Onshore Oil and Gas Leasing Act of 1987"; placed on the calendar.

By Mr. METZENBAUM (for himself, Mr. SPECTER, Mr. RIEGLE, Mr. BRADLEY, Mr. MATSUNAGA, Mr. GORE, Mr. PELL, Mr. SIMON, Mr. STAFFORD, Mr. MOYNIHAN, Mr. ROCKEFELLER, Mr. LEVIN, Mr. LAUTENBERG, Mr. BIDEN, Mr. ADAMS, Mr. WEICKER, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. GLENN, Mr. KENNEDY, and Mr. KERRY):

S. 1731. A bill to amend the Job Training Partnership Act to establish a demonstration program employment opportunities for severely disadvantaged youth, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 1732. A bill for the relief of Tracey McFarlane; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. SIMON, Mr. HUMPHREY, and Mr. THURMOND):

S. 1733. A bill to amend the Internal Revenue Code to allow for deduction of qualified adoption expenses, and for other purposes; to the Committee on Finance.

By Mr. DURENBERGER:

S. 1734. A bill to improve the method of determining per capita rates of payment made with respect to eligible organizations with risk sharing contracts under section 1876 of the Social Security Act with particular emphasis on ensuring that such organizations receive equitable rates of payment; to the Committee on Finance.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 1735. A bill to clarify the Federal relationship to the Lac Vieux Desert Band of

Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. CHILES:

S. 1736. A bill to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, Florida, as the "Bob Sikes Visitor Center"; to the Committee on Environment and Public Works.

By Mr. GARN (for himself, Mr. Hatch, Mr. DeConcini, Mr. McCain, Mr. McClure, Mr. Symms, Mr. Wallop, Mr. Domenici, Mr. Wirth, Mr. Armstong, Mr. Hecht, Mr. Simpson, Mr. Reid, and Mr. Bingaman):

S. 1737. A bill providing for the completion of the Colorado River Storage Project; to the Committee on Energy and Natural Resources.

By Mr. WILSON (for himself, Mr. Dole, and Mr. Durenberger):

S. 1738. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. KERRY:

S.J. Res. 193. Joint resolution to establish a bipartisan commission on Third World debt; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 293. Resolution to amend Senate Resolution 352, 99th Congress, relating to the commemoration of the Bicentennial of the Senate of the United States; considered and agreed to.

By Mr. BYRD (for himself, Mr. Dole, Mr. Heinz, and Mr. Specter):

S. Con. Res. 80. Concurrent resolution to express the appreciation of the Congress to the City of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METZENBAUM (for himself, Mr. Specter, Mr. Riegle, Mr. Bradley, Mr. Matsunaga, Mr. Gore, Mr. Pell, Mr. Simon, Mr. Stafford, Mr. Moynihan, Mr. Rockefeller, Mr. Levin, Mr. Lautenberg, Mr. Biden, Mr. Adams, Mr. Weicker, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Glenn, and Mr. Kennedy):

S. 1731. A bill to amend the Job Training Partnership Act to establish a demonstration program for employment opportunities for severely disadvantaged youth, and for other purposes; to the Committee on Labor and Human Resources.

YOUTH EMPLOYMENT SERVICES ACT

Mr. METZENBAUM. Mr. President, I rise to introduce the Youth Employment Services Act of 1987—the "Yes Act." I am pleased that Senators Specter, Riegle, Bradley, Matsunaga, Gore, Pell, Simon, Stafford, Moynihan, Rockefeller, Levin, Lautenberg, Biden, Adams, Weicker, Dodd, Harkin, Mikulski, Glenn, and Kennedy join me as original cosponsors of this bill.

Nothing bothers me more than seeing young people walking the streets of America without a job and without the skills necessary to get a job. These young people want to work, but as each day passes, they are losing hope of ever becoming productive members of society. This problem is becoming critical among minority young people who live in the inner city.

Recently, I visited a job training program in Dayton and I was struck by the determination and hope of the young people there. They are learning the fundamentals they need to get and hold a job. They told me they just want an even chance to make it.

That's what this bill does. Our Government has set up many fine programs to help prevent crime and drug and alcohol abuse by asking the public to "just say no." This bill would "just say yes" to a poor young person when he or she asks for a chance to get a job.

We must combat this problem now. As a nation, we cannot afford to write off an entire generation of young workers. The youth population is declining, and there is a developing shortage in the pool of entry-level workers. But the unemployment rate for disadvantaged, unskilled young people is skyrocketing. Entry-level jobs may exist, but these young people, who lack the most basic skills needed to work, are in danger of becoming a permanent, unemployable underclass.

That such an underclass can exist in the United States—the richest Nation in the history of the world—is a disgrace. We must make a national commitment—government, industry, labor, and the community—to help these young people acquire the skills and training necessary to get jobs in our society. The "Yes Act" is part of that national commitment to give poor, unskilled young people a chance at a decent life.

Without jobs and the self-esteem that goes with working, many young men and women will become victims of the street. Many of them already are languishing on the streets of our cities, struggling to survive.

The statistics paint a bleak picture:

In 1985, nearly 43 percent of young black men who were high school dropouts did not work at all—more than triple the 1973 rate.

Every year 700,000 students drop out of school, with the dropout rate exceeding 50 percent in some cities.

A Department of Education study classified 13 percent of all 17-year-olds as functionally illiterate, but 56 percent of black youth and 44 percent of Hispanic youth are functionally illiterate.

Unemployed, disadvantaged youth cost society billions of dollars annually, including lost tax revenues and costs of welfare, unemployment, and crime.

But these cold facts cannot measure the anguish of a young person whose dreams of a decent life are shattered by everyday existence. This was brought home to me several months ago, when I held hearings on this subject before the Labor Subcommittee of the Labor and Human Resources Committee. Five out-of-school, unemployed young people from Ohio testified. They have aspirations like any other young person—one wanted to be a landscaper, another a doctor, a third wanted to be an electronics technician so he could get off welfare, support his infant daughter, and "put something back into the community" instead of taking from it. But there is little hope that these dreams will ever come true. One youngster, Dwayne, a 16-year-old dropout, put it bluntly:

> I can't see 5 years from now, I can't see 2 years. The only thing I live for is tomorrow. I live one day at a time.

Another witness, Steve, a 19-year-old dropout who had spent years on the street selling drugs, finally decided to turn his life around because he felt he was headed either "to the penitentiary or to my grave." But he still cannot find work because he lacks the skills necessary for employment. Without a job opportunity, he could slip back onto the street and back into crime.

This legislation I am introducing today is designed to help the tens of thousands of young people like Dwayne and Steve. We need the "Yes Act" because despite the many efforts to reach this population, severely disadvantaged young people seem to fall through the cracks in the system.

The bill creates a national demonstration program under the Job Training Partnership Act to provide intensive training and support services to severely disadvantaged young people. Under this demonstration program, which will be in existence for 3 years, 75 to 100 partnerships between the public and private sectors will receive grants from the Secretary of Labor. The lessons learned from this demonstration program will help structure our youth training efforts for the remainder of this century.

The legislation calls for $100 million in budget authority for the first year and $150 million for each of the last 2 years of the program. We spend over $150 million annually on military bands and $100 million for just one MX missile. It is not asking too much to commit $100 million to help tens of thousands of poor young Americans, who only need a chance to turn their lives around.

To ensure that this is money well-spent, the legislation conditions over half the Federal funding on the partnership's ability to obtain matching private funds and to place severely disadvantaged young people in paying jobs or help them successfully complete their high school education. By involving the private sector and by paying for concrete results, this legislation provides the necessary incentives to combat this daunting problem.

I urge all my colleagues to "just say yes" to these young people by joining me in support of the Youth Employment Services Act of 1987. It is needed legislation to attack a critical and growing national concern.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Youth Employment Services Act of 1987".

PROGRAM AUTHORIZED

SEC. 2. Title IV of the Job Training Partnership Act is amended by adding at the end thereof the following new part:

"PART H—EMPLOYMENT OPPORTUNITIES FOR SEVERELY DISADVANTAGED YOUTH

"FINDINGS

"SEC. 491. (a) The Congress finds that—

"(1) the nature of work in the economy of the United States will require workers to be both more flexible and more highly skilled in the future;

"(2) the absolute number of young people entering the workforce will decline over the next decade;

"(3) the youth unemployment rate is expected to increase (despite the finding in clause (2)) because a growing percentage of the youth population are disconnected from the mainstream of society in that they are economically disadvantaged and lack the basic skills and training necessary for employment;

"(4) the gap between the skills needed to become a productive member of the changing United States economy and the skills possessed by severely disadvantaged youth is widening dramatically;

"(5) intensive skills training and work opportunities must be provided to the segment of the youth population who are severely disadvantaged;

"(6) the activities currently conducted under this Act have not effectively provided intensive training services or employment opportunities to severely disadvantaged young people; and

"(7) because of the growing need for trained entry level employees, the business community should play a significant role working with public agencies and nonprofit organizations to provide intensive training services and employment opportunities to severely disadvantaged youth.

"(b) The purpose of this part is to demonstrate—

"(1) the feasibility and cost effectiveness, including long-term employment impact, of providing intensive training services and employment opportunities to young people who are severely disadvantaged; and

"(2) the ability and the capacity of the business community to be a significant partner with public agencies or nonprofit organizations in providing intensive training services and employment opportunities to severely disadvantaged youth.

"DEMONSTRATION PROGRAMS AUTHORIZED

"SEC. 492. The Secretary shall, from amounts appropriated pursuant to section 3(a)(4) in each fiscal year, carry out employment opportunity demonstration programs for severely disadvantaged youth in accordance with the provisions of this part.

"ELIGIBLE SEVERELY DISADVANTAGED YOUTH

"SEC. 493. For the purpose of this part, a severely disadvantaged youth is an individual—

"(1) who has attained 16 years of age but not 25 years of age;

"(2) who is economically disadvantaged;

"(3) who has dropped out of elementary or secondary school, or who has received a secondary school degree but whose reading and math skills are both below the eighth grade level;

"(4) who has not participated in an education or training program in the 9 months preceding the month in which the individual is enrolled in the program assisted under this part; and

"(5) who has less than 150 hours work experience in the 9-month period referred to in clause (4).

"ELIGIBLE PARTNERSHIPS

"SEC. 494. (a) In order to qualify for grants under this part, the applicant shall form an eligible partnership in accordance with the provisions of this section.

"(b)(1) Each eligible partnership shall include a public agency or private nonprofit organization and a business concern or a business association.

"(2) For the purpose of paragraph (1), a private nonprofit organization may include a private industry council or community-based organization.

"USES OF FUNDS

"SEC. 495. (a) Each eligible partnership may use funds under this part to—

"(1) provide individual assessment of the skill levels and support service needs of severely disadvantaged youth participating in the program;

"(2) provide intensive basic skills training in combination with vocational training or work experience or both depending on the needs of the severely disadvantaged youth as determined by the assessment made under clause (1);

"(3) provide support services necessary to enable the severely disadvantaged youth to participate in the program, including counseling, meals, transportation, child care services, and referrals for medical and legal services;

"(4) provide job development and placement services for severely disadvantaged youth;

"(5) provide monitoring for each severely disadvantaged youth for 18 months after the completion of the program, including the furnishing of the support services set forth in clause (3) during the monitoring period to assist in retaining employment or advancement toward a degree from an accredited education program; and

"(6) provide any other services the partnership deems appropriate to further initial or extended successful placements, as defined in section 497(c).

"(b) For purposes of this section, the term 'intensive basic skills training' means at least 200 hours of instruction, including computer-assisted instruction, to improve the reading, mathematics, writing, and language skills of severely disadvantaged youth.

"ALLOCATION AND NUMBER OF DEMONSTRATION GRANTS

"SEC. 496. (a) The Secretary shall enter into agreements under this part with not less than 75 nor more than 100 eligible partnerships among service delivery areas in accordance with the provisions of this section.

"(b) In carrying out the provisions of this section, the Secretary shall, to the extent practicable, target the service delivery areas most in need of assistance under this part. In determining which service delivery areas are most in need, the Secretary shall consider—

"(1) the number of severely disadvantaged youth in the service delivery area;

"(2) the presence of special-needs populations, such as teen parents, limited-English proficient individuals, handicapped individuals and juvenile offenders, in the service delivery area;

"(3) the unemployment rate among severely disadvantaged youth in the service delivery area;

"(4) the degree to which severely disadvantaged youth are already being served in the service delivery area; and

"(5) such other factors the Secretary deems appropriate.

"(c)(1) In carrying out subsection (b) of this section, the Secretary shall, to the extent practicable, assure that—

"(A) at least 25 percent of the eligible partnerships with which the Secretary has an agreement under this part include private industry councils as a member of the partnership; and

"(B) at least 25 percent of the eligible partnerships with which the Secretary has an agreement under this part include community-based organizations as a member of the partnership.

"(2)(A) In carrying out the provisions of this section, the Secretary shall assure that to the extent practicable there is an equitable geographic distribution of assistance under this part.

"(B) In carrying out the provisions of this section, the Secretary shall, to the extent practicable, assure that at least 50 percent of the eligible partnerships with which the Secretary has an agreement under this part serve service delivery areas with populations of 500,000 or more.

"AGREEMENTS

"SEC. 497. (a) The Secretary shall enter into an agreement with an eligible partnership, for a 3-year period, to carry out the demonstration program under this subpart. Each such partnership agreement shall—

"(1) describe the private sector participation, including—

"(A) financial or in-kind contributions,

"(B) job commitments to employ graduates of the program,

"(C) the establishment of mentor systems under which individuals from the private sector serve as role models and counselors for the severely disadvantaged youth; and

"(D) other similar activities which the Secretary determines to be eligible for the matching requirement under section 498(a)(3);

"(2) describe the outreach, training, development, placement, and support services and activities for which assistance is sought, including a description of any efforts to utilize existing organizations of demonstrated effectiveness in assisting with outreach and other activities of the partnership;

"(3) provide assurances that—

"(A) the eligible partnership will serve only individuals who meet the requirements of section 493;

"(B) the eligible partnership will pay the non-Federal share of the cost of the program for the 3-year period for which assistance is sought;

"(C) the eligible partnership will inform the private industry council for the service delivery area served by the partnership of the partnership's activities on a regular basis; and

"(4) provide such other assurances and conditions as the Secretary may reasonably require to carry out the provisions of this Act.

"(b) Nothing in this part shall be construed to affect the obligation of the private industry council to serve disadvantaged youth pursuant to title II of this Act.

"PAYMENTS; FEDERAL SHARE

"SEC. 498. (a)(1) The Secretary shall pay for each fiscal year to an eligible partnership having an agreement under section 496 the Federal share of the cost of the activities described in the agreement.

"(2) The Federal share—

"(A) for the first year in which the eligible partnership receives assistance under this Act shall be 20 percent of the 3-year cost of the program;

"(B) for the second such year shall be—

"(i) 5 percent of such costs;

"(ii) 10 percent of such costs if the conditions of subsection (b) are met; and

"(iii) 15 percent of such costs as the conditions of subsection (c) are met;

"(C) for the third such year shall be—

"(i) 5 percent of such costs;

"(ii) 10 percent of such costs if the conditions of subsection (b) are met; and

"(iii) 15 percent of such costs as the conditions of subsection (c) are met.

"(3) The non-Federal share of payments under this Act may be in cash or in kind, fairly evaluated, including planning, equipment, services, including job commitments, or other similar private sector participation, as determined by the Secretary.

"(b)(1) The Federal share payable to an eligible partnership in the second and third year under subsections (a)(2)(B)(ii) and (a)(2)(C)(ii) may be paid only to an eligible partnership in which the private sector contributes the non-Federal share of payments at least equal to 20 percent of the cost of the 3-year period described in the agreement entered into under section 496.

"(2) For the purpose of paragraph (1) the term 'private sector' means any nongovernmental entity that is a part of the eligible partnership.

"(c)(1)(A) The Federal share payable to an eligible partnership under subsections (a)(2)(B)(iii) and (a)(2)(C)(iii) shall be paid in accordance with the provisions of this subsection.

"(B) The Secretary shall require verification from each eligible partnership that the eligible partnership has completed an initial successful placement of a severely disadvantaged youth who participated in the program established under this part or an extended successful placement of a severely disadvantaged youth who participated in the program established under this part. The Secretary shall make success payments in accordance with this subsection for both initial and extended successful placements.

"(2) For the purpose of paragraph (1), the amount of a success payment shall be an amount equal to 15 percent of the cost per participant to an eligible partnership or $1,500 for each placement, whichever is less, but in no event shall the aggregate of such payments to an eligible partnership be more than 30 percent of the 3-year cost of the program.

"(3)(A) For the purpose of paragraph (1), the term 'initial successful placement' means—

"(i) full-time nonsubsidized employment for 6 months after completion of the program conducted by the eligible partnership; or

"(ii) receipt of a high school diploma or high school equivalency degree within 6 months after completion of the program conducted by the eligible partnership.

"(B) For the purpose of paragraph (1), the term 'extended successful placement' means—

"(i) full-time nonsubsidized employment for 12 months after completion of the program conducted by the eligible partnership;

"(ii) for participants who received a high school diploma or high school equivalency degree within 6 months after completion of the program conducted by the eligible partnership, full-time nonsubsidized employment for 6 months thereafter or full-time attendance in a degree program in an accredited higher education program for 6 months thereafter; or

"(iii) receipt of a high school diploma or high school equivalency degree within 12 months after completion of the program conducted by the eligible partnership.

"(d) The Secretary may, from amounts not paid because of subsections (b) and (c) of this section, make incentive grant payments to eligible partnerships for demonstration programs conducted by such eligible partnerships which are the most effective at completing initial and extended successful placements of severely disadvantaged youth or provide technical assistance to eligible partnerships for demonstration programs conducted by such eligible partnerships which are the least effective at completing initial and extended successful placements of severely disadvantaged youth.

"EVALUATION AND REPORT

"SEC. 499. (a)(1) The Secretary shall, for any eligible partnerships funded under this part, conduct or provide for an evaluation of the success of intensive services for severely disadvantaged youth to achieve the objectives of this part. The Secretary shall consider—

"(A) the level of utilization of this part by severely disadvantaged youth;

"(B) the impact of providing intensive services to severely disadvantaged youth, including the cost effectiveness of such efforts and the effect of matching funds and success payments on the overall ability to complete successful placements of severely disadvantaged youth;

"(C) the impact of this part on specific target groups among the severely disadvantaged youth population, such as black and Hispanic males, teen parents, individuals with limited English proficiency, handicapped individuals and juvenile offenders;

"(D) the participation level by the business community in the eligible partnerships;

"(E) the comparative effectiveness of different types of entities involved in the eligible partnerships in helping meet the intensive needs of severely disadvantaged youth; and

"(F) such other factors as the Secretary deems appropriate.

"(2) Each eligible partnership under this part shall furnish all information requested by evaluators to conduct this study.

"(b) The Secretary shall prepare and submit to the Congress a report of the evaluation required by this section not later than the fourth quarter of the third fiscal year for which appropriations are made under this Act, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.".

CONFORMING AMENDMENTS

SEC. 3. (a) Section 3(a) of the Job Training Partnership Act is amended by adding at the end thereof the following new paragraph:

"(4)(A) There are authorized to be appropriated $100,000,000 for fiscal year 1988, $150,000,000 for fiscal year 1989, and $150,000,000 for fiscal year 1990 to carry out the provisions of part H of title IV.

"(B) Of the amounts available in each fiscal year under subparagraph (A), the Secretary shall use not more than 10 percent for administration and evaluation of part H of title IV.".

(b) The table of contents of the Job Training Partnership Act is amended by inserting after item "Sec. 481." the following:

"PART H—EMPLOYMENT OPPORTUNITIES FOR SEVERELY DISADVANTAGED YOUTH

"Sec. 491. Findings.
"Sec. 492. Demonstration programs authorized.
"Sec. 493. Eligible severely disadvantaged youth.
"Sec. 494. Eligible partnerships.
"Sec. 495. Uses of funds.
"Sec. 496. Allocation and number of demonstration grants.
"Sec. 497. Agreements.
"Sec. 498. Payments; Federal share.
"Sec. 499. Evaluation and report.".

Mr. SPECTER. Mr. President, today I join Senator METZEBAUM in introducing the Youth Employment Services Act of 1987.

This legislation will establish a 3-year, nationwide demonstration program to provide intensive training and employment opportunities for unskilled and unemployed youth.

This legislation would amend the Job Training Partnership Act administered by the Department of Labor to assist severely disadvantaged youth—particularly in urban areas, where this problem is most acute. The bill would create public sector/private sector partnerships designed to serve these disadvantaged young people.

Mr. President, there is a desperate need for legislation of this type. Despite the notable success of the Job Training Partnership Act in providing job training, the programs developed under the act primarily have trained and placed those individuals who are the easiest to serve, while those most in need of the act's resources have been underserved. The Government must address more fully the problem of youth unemployment or our Nation will sacrifice the productive talents of a significant portion of our next generation. The unemployment rate for inner-city youth now exceeds 40 percent and the rate of functional illiteracy is in excess of 50 percent. The message of these frightening statistics is clear: a significant percentage of our Nation's young people are not equipped with the basic educational and interpersonal skills which they must have in order to succeed in today's job market. The hard truth is that many of these young men and women, if struck in chronic unemployment, will turn to drugs and crime, and become even greater burdens on society.

The business community has recognized the need to assist these young people—to help them become productive and employable members of the community. In Philadelphia, for example, there is concern that the current dynamic economic growth will slow because of a shortage of labor. Business leaders have recognized that a better use of labor resources is necessary, and the business community is anxious to work with the public sector to solve this problem.

Such public and private sector partnerships are the backbone of this bill. The bill will authorize 75 to 100 partnerships in which the private sector will provide financial or like-kind contributions, including commitments to hire graduates of the program. Community-based organizations, such as the Opportunities Industrialization Centers of America, the National Urban League, 70,001, National Council of La Raza, Ser-Jobs for Progress, and the United Way of America, will be able to use their unique grassroots resources to provide assistance and training to youths who are economically and educationally disadvantaged.

The bill's modest Federal investment of $400 million dollars over a 3-year period would be money well spent. This up-front cost would be repaid many times over by the increased Federal tax revenues, reductions in welfare and unemployment insurance payments, and the predictable reductions in crime. Moreover, to ensure that the Federal funds will be used effectively, 20 percent of the funds will be available only if the partnerships obtain an equal contribution from the private sector. More importantly, incentive payments are available to a partnership for placing a graduate in a job or if the graduate completes high school.

Mr. President, assisting these young adults will provide more than just a moral victory; this legislation reflects sound fiscal policy as well.

The Youth Employment Act of 1987 is an innovative, narrowly tailored and fiscally sound bill, which we desperately need. I urge my colleagues to join Senator METZENBAUM and me in supporting it.

Mr. LAUTENBERG. Mr. President, I am pleased to join with my colleagues, Senators METZENBAUM, SPECTER, and others, in introducing a bill to provide training, job placement, and support services to disadvantaged young people located predominantly in this Nation's urban areas.

It is a tragedy that too large of a part in a generation of young people are growing up in our inner-cities without the opportunities and skills necessary for them to find employment. We must provide these young people with the necessary tools to make them attractive to employers. They must be able to see the light at the end of the tunnel, that they can achieve and become productive members of society.

This bill will provide intensive training, employment services, job placement assistance, and support services to help alleviate a growing crisis of youth unemployment in our inner-cities. This unemployment rate has risen to the alarming rate of 40 percent. The program to be authorized by this bill will be targeted at the 16- to 24-year-olds most at risk. The targeted group includes high shool dropouts, those who have less than eighth grade reading and math skills levels, and those who are economically disadvantaged.

The 3-year investment called for in this bill, while modest in terms of dollars, is major in terms of its potential payoff in the future. By helping the current generation of youth gain access to the job market, we will be helping to break the cycle of poverty and alienation that affects too many urban youngsters today. Moving toward employing these urban and minority young people should also help to provide them with alternatives to alcohol and drug abuse.

We owe these young people a second chance. If they have not succeeded in school, they should still have an opportunity to gain the skills they need to succeed in the job market.

In my home State of New Jersey, in 1982, blacks comprised only 12.5 percent of the population while they were 24 percent of those unemployed and 49 percent of those on welfare. Bureau of Labor Statistics data for 1985 show that the unemployment rate for black males 16 through 19 years old was almost 2½ times the rate for white males in the same age category—41 percent versus 16.5 percent. Futhermore, according to a 1987 publication by the National Urban League, "The State of Black America," the unemployment rate for black teenagers has averaged 43.6 percent for the last six years, up from 38.9 percent in the previous 6 years. We cannot continue to lose ground in the battle for economic equality.

The requirements of the program include involving the private sector in order to qualify for Federal matching funds, thus developing a relationship between successful, socially conscious employers and a large potential work force. In addition, at least 50 percent of these public-private partnerships should serve urban centers where the basic skills, vocational training, and job placement is most needed.

The amount of funding an individual project receives is closely tied to the amount contributions provide from the private sector and the success of the project. The first year authorization for this program is $100 million, and the second and third years would rise to $150 million. Partnerships between public agencies or nonprofit organizations and businesses are eligible to run these programs. Each partnership will be eligible for additional Federal funds if they provide an equal amount of private funds. An additional Federal Funds bonus will be provided as success payments to partnerships which show results. The results will include job placement that lasts at least 12 months, or receipt of high school diplomas or equivalency certificates.

This bill is appropriately called the "YES Act." Let us say yes to job opportunities for the young people in our cities. Let us say yes to reducing unemployment in our most depressed urban areas. And, let us say yes to help educate and develop our youth, our future.

Mr. RIEGLE. Mr. President, I rise as a cosponsor of the Youth Employment Services Act, and to express my strong support for this important legislation. The Youth Employment Services Act of 1987 establishes a feasible, cost-effective nationwide program that will provide intensive training services and employment opportunities to young people who are severely disadvantaged. This program is an important step in alleviating the growing percentage of the youth population who are not in the mainstream of society because they are economically disadvantaged and lack the basic skills and training necessary for employment. This program joins the business community with public agencies and nonprofit organizations in partnerships to serve these young people.

The problem of youth unemployment is particularly acute among the poor, inner-city youth where the unemployment rate exceeds 40 percent and the rate of functional illiteracy approaches 50 percent. Many of these young people lack the basic skills that are needed to get even an entry-level position that will allow them to be a useful member of the U.S. work force. Therefore, this group does not even have a glimmer of ever becoming productive members of society until the door of economic opportunity is opened to them.

The bill that we are introducing today attempts to alleviate this growing crisis in youth unemployment by creating a 3-year program in which 75 to 100 partnerships between the public and private sectors are created to receive grants to help these young people. This bill will provide assistance to young people who are economically disadvantaged, have dropped out of high school, have no previous job experience, who have not been trained in any particular field and who otherwise cannot find meaningful employment. These people are not being properly served by current programs.

Additionally, this program only allows partnerships between public agencies or nonprofit organizations and business concerns to receive a grant from the Department of Labor. Each partnership is authorized to design its own programs that will lead these youth to successful placement in jobs or further schooling. The partnerships would individually assess the skills of each individual and provide intensive basic skills training combined with vocational training or actual work experience along with the necessary support services in order to ensure successful job placement.

Most importantly, this bill targets the problem areas that are most affected—the inner cities. The Secretary is directed to assure that 50 percent of the partnerships will serve urban centers with populations of 500,000 or more. This should help to alleviate the chronic unemployment of the youth in these areas and bring back some hope to these young people who currently have no reason for hope.

Additionally, partnerships will have to secure contributions from the private sector to qualify for Federal matching funds. These donations may be in the form of actual funds or inkind services such as advance commitments to hire graduates of the program or mentor systems where volunteers serve as role models for young people.

Finally, the funding plan, which proposes $100 million for the first year and $150 million in each of the last 2 years, provides incentives for both the private and public sector to combat this problem and provide effective and useful services. This 3-year program will be able to provide help to thousands of disadvantaged young people, giving them the chance they deserve from newly learned skills that will be of use to them long into the future.

By Mr. BENTSEN:

S. 1732. A bill for the relief of Tracey McFarlane; to the Committee on the Judiciary.

RELIEF OF TRACEY MCFARLANE

●Mr. BENTSEN. Mr. President, today I am introducing legislation for the private relief of Tracey McFarlane. Tracey is a member of the championship women's swimming team at the University of Texas, and she is a world-class swimmer in her own right. A number of top swimming coaches from around the Nation have contacted me about Tracey's strong prospects for Olympic medals in 1988. Like me, they would like to see Tracey bring those medals home to the United States of America.

Although she is a Canadian citizen, Tracey has strong ties to the United States. She has resided in this country since she was 12 years old, and she considers herself an American. Tracey obtained permanent resident status here in the United States back in 1984, shortly after being adopted by her step-father, an American citizen.

Because of her strong ties to the United States and a compelling desire to join the teammates with whom she has long trained in international competition, Tracey wanted to compete for the United States in the 1984 Olympics. Prior to that time, she had always intended to obtain U.S. citizenship but simply had not initiated the process. With the prospect of competing for the United States in the Olympics lying ahead, Tracey realized a little too late that there are long delays involved in obtaining U.S. citizenship, delays that made it impossible for her to compete for the United States in Los Angeles without special legislation. Tracey inquired and was informed that a private bill had little chance of passage since she had not yet taken the initial step of becoming a permanent resident. Promptly thereafter, Tracey took that important step and became a permanent resident. But the end result was that this athlete of great potential, an athlete with a strong desire to compete for America, was unable to do so in the 1984 Olympics.

Tracey missed an opportunity to swim for the United States in 1984, and without special legislation she will be unable to compete for the United States next year in Seoul. Under applicable immigration statutes, Tracey is not eligible for citizenship until 5 years have expired from the date that she obtained permanent resident status. For Tracey, this 5-year period does not expire until August 1989—too late for her to participate in the 1988 Olympics. I am informed that there is simply no way to speed this up administratively, and that a private bill is her only hope for competing for the United States in Seoul.

The purpose of this legislation is to expedite the naturalization process so that she will become a U.S. citizen in time to participate in the U.S. Olympic trials and, ultimately, compete for the United States in the 1988 Olympics. There is every reason to believe that Tracey will qualify for citizenship in due course in 1989, but both Tracey and the United States would benefit greatly if the process is expedited. This legislation will do exactly that, and I urge my colleagues to support me in this effort.●

By Mr. HATCH (for himself, Mr. SIMON, Mr. HUMPHREY, and Mr. THURMOND):

S. 1733. A bill to amend the Internal Revenue Code to show for deduction of qualified adoption expenses and for other purposes; referred to the Committee on Finance.

FAIRNESS FOR ADOPTING FAMILIES ACT

Mr. HATCH. Mr. President, I am today introducing the Fairness for Adopting Families Act, a bill that will address, in a comprehensive way, the tax problems of adopting children.

This legislation is desperately needed. As lawmakers, we continue to call for the strengthening of the family unit, yet tax codes inherently favor those who have children biologically. There is no doubt as to the validity of these deduction, but there should also be provisions for those who adopt their children.

This legislation would accomplish a number of objectives. First, it would ensure equality in treatment—whether the family is formed biologically or through adoption—regarding cost assistance through tax breaks. In contrast with the numerous tax benefits given to those couples who have children biologically, there is not one tax deduction associated with adoption. A benefit discrepancy such as this must be corrected.

Second, it recognizes the importance of the family unit and seeks to strengthen that unit through alleviating many of the cost barriers associated with adoption. To many seeking to adopt a child, the costs associated with such a procedure are simply prohibitive. Prospective parents are not only required to pay court and attorney fees, but often maternity home services, hospital and physician's costs, and at times, prenatal care for the natural mother. Data provided by the National Committee for Adoption shows that the actual cost connected with legal adoptions range up to $15,000. Family wealth should not be the determinative factor in adopting a child.

Mr. President today, I am pleased to join several of my colleagues from both sides of the aisle in both Houses introducing this bill. There are many reasons for this bipartisan support. The bill removes unfair discrimination in our Tax Code against those families who form their families through adoption.

This legislation will also save our society money. The National Center for Adoption has shown savings in two ways: first, by moving thousands of children, who might otherwise have lingered in inappropriate foster care, into loving homes. Second, the tax deduction encourages shifting medical costs to the adoptive family, away from the more expensive AFDC and Medicaid system.

This proposed legislation has three major features. First, it would provide a tax deduction for unreimbursed and legitimate adoption expenses. Second, it would exclude from the employee's income any payments made by an employer for adoption expenses. Third, it would treat any employer contribution to an adoption expense plan as an ordinary and necessary business expense.

This legislation would set a $5,000 cap on all adoptions of children.

As long as an adoption is in accordance with State and local law, the tax deduction for unreimbursed adoption expenses would be available for the costs of an adoption. Each legal adoption is socially useful and beneficial. Each adoptive family, regardless of how the adoptive child came to be in that family, deserves our support. Whether that child is a healthy infant, a child with special needs or a child from another country, the adoption expenses may be deductible, as long as all Federal and State legal requirements are met.

This legislation would exclude, however, those adoptions which are administered through illegal practices, such as procuring the services of a baby broker. Many in my own State of Utah and other States have been defrauded by such schemes. The cost of an illegal adoption is often over $25,000, most of which goes into the pockets of middlemen. Fees for such arrangements would not be deductible.

Two of the provisions deal with the interest in adoption by many of the Nation's employers. Nearly 40 companies now provide some adoption benefits, including such corporations as Dow Chemical, IBM, Digital Equipment, and Honeywell. The actual benefits vary considerably, with some providing both a cash payment and paid leave. Many of these benefits are flat payments. Deseret Mutual Benefit Association, a large employer in my home State of Utah, provides adoption benefits to their employees of up to 80 percent of approved adoption expenses capping the fee at $1,200. These fees include maternity expenses and legal agency fees.

This bill also addresses two problems now associated with employer-provided benefits. The first problem is that payments made to employees are taxable as income. This bill excludes from an employee's income those payments made by an employer.

The second problem is that companies may not treat their adoption payments to employees as a regular business expense. This discouraging factor is eliminated by removing that barrier to more companies providing adoption benefits.

The most important resource America has is its families. We must do everything in our power to ensure their continued growth and success. By making adoption costs tax deductible, this bill benefits not only children and families, but society as a whole.

I urge my colleagues to support this legislation and I ask unanimous consent that the full text of the bill and a summary of the bill be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1733

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fairness for Adopting Families Act".

SEC. 2. DEDUCTION FOR ADOPTION EXPENSES.

(a) Deduction for Adoption Expenses.—

(1) In general.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. ADOPTION EXPENSES.

"(a) Allowance of Deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the taxpayer during such taxable year.

"(b) Limitations.—

"(1) Dollar limitation.—The amount allowable as a deduction under subsection (a) with respect to the legal adoption of any child by the taxpayer shall not exceed $5,000.

"(2) Income limitation.—The amount allowable as a deduction under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so allowable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section and section 134) exceeds $60,000, bears to

"(B) $10,000.

"(3) Denial of double benefit.—

"(A) In general.—No deduction shall be allowed under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) Grants.—No deduction shall be allowed under subsection (a) for any expenses paid from any funds received under any Federal, State, or local program.

"(c) Qualified Adoption Expenses.—For purposes of this section—

"(1) In general.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees (including agency fees), court costs, attorney fees, and other expenses which—

"(A) are directly related to the legal adoption of a child by the taxpayer but only if such adoption has been arranged—

"(i) by a State or local agency with responsibility under State or local law for child placement through adoption,

"(ii) by a non-profit, voluntary adoption agency which is authorized by State or local law to place children for adoption, or

"(iii) through a private placement, and

"(B) are not incurred in violation of State or Federal law.

"(2) Adoption expenses not to include certain amounts.—The term 'qualified adoption expenses' shall not include any expenses in connection with—

"(A) the adoption by an individual of a child who is the child of such individual's spouse, or

"(B) travel outside the United States, unless such travel is required—

"(i) as a condition of a legal adoption by the country of the child's origin,

"(ii) to assess the health and status of the child to be adopted, or

"(iii) to escort the child to be adopted to the United States.

"(3) Child.—The term 'child' shall include any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act."

(2) Clerical Amendment.—The table of sections for such part VII is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 220. Adoption expenses.
"Sec. 221. Cross reference.

(b) Adoption Assistance Programs.—

(1) In general.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. ADOPTION ASSISTANCE PROGRAMS.

"(a) In General.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

"(b) Limitations.—

"(1) Dollar limitation.—The amount excludable from gross income under subsection (a) with respect to the legal adoption of any child by the taxpayer shall not exceed the excess (of any) of $5,000 over the amount allowable as a deduction under section 220 with respect to such adoption.

"(2) Income limitation.—The amount excludable from gross income under subsection (a) for any taxable year shall be reduced (but not below zero) by an amount which bears the same ratio to the amount so excludable (determined without regard to this paragraph but with regard to paragraph (1)) as—

"(A) the amount (if any) by which the taxpayer's taxable income (determined without regard to this section and section 220) exceeds $60,000, bears to

"(B) $10,000.

"(c) Adoption Assistance Program.—For purposes of this section, an adoption assistance program is a plan of an employer—

"(1) under which the employer provides employees with adoption assistance, and

"(2) which meets—

"(A) the requirements of section 89(k), and

"(B) requirements similar to the requirements of paragraphs (2), (3), and (5) of section 127(b).

"(d) Qualified Adoption Expenses.—For purposes of this section, the term 'qualified adoption expenses' has the meaning given such term by section 220(c)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 89(i) of such Code (defining statutory employee benefit plan) is amended by adding at the end thereof the following new subparagraph:

"(D) An adoption assistance program (within the meaning of section 135(c))."

(3) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 135. Adoption assistance programs.
"Sec. 136. Cross reference to other Acts."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to taxable years beginning after December 31, 1986.

COMPONENTS OF ADOPTION TAX DEDUCTION BILL

Title: Fairness for Adopting Families Act.

Sponsors: Senator Orrin G. Hatch (R-Utah) and Congressman William Lehman (D-Florida).

Date of introduction: September 30, 1987.

1. Provides tax deduction for adoption expenses: allowance of a deduction for the costs of an adoption, in accordance with State law, including infant, special needs, or foreign child. The amount allowable is capped at $5,000. Families earning up to $60,000 could deduct 100 percent of expenses, with a gradual phaseout of the benefit from $60,000 to $70,000 annual income. Adoption expenses which are not tax deductible include relative adoptions and foreign travel not associated with requirements of a foreign adoption.
2. Excludes from employee's income adoption expenses paid by an employer up to $5,000.
3. Treats employer contribution to adoption expense plan as an ordinary and necessary business expense.
4. Effective date: applies to expenses incurred or paid for adoptions which become final after December 31, 1986.

Mr. HUMPHREY. Mr. President, today I am pleased to join my colleague from Utah [Mr. HATCH], in introducing the Fairness for Adopting Families Act. This bill amends the Tax Code to provide for the deduction of expenses incurred through adoption.

One of the great accomplishments of the 99th Congress was the tax reform bill. I supported tax reform, but was very disheartened when the tax deduction for special needs adoption was eliminated.

According to the Department of Health and Human Services, an estimated 276,000 children are in foster care, and at least 36,000 of these children are legally free and waiting for adoptive homes. Many of the 36,000 are children with special needs; that is children who are older, in sibling groups, mentally, physically, or emotionally disabled, or members of minority groups.

Financial considerations are a necessary concern for parents who adopt any child. The adoptive parents who will benefit from this deduction are the individuals and couples who give a permanent home to children who need it most. They are people who are willing to take on large responsibilities in order to build a family and bring joy to a child who needs a home.

Because of limitations in available data, we do not know exactly how many adoptive parents utilized the adoption expenses deduction in the past. But we do know the number of special needs adoptions has risen in recent years, and the number of children in foster care has dropped. Undoubtedly, many factors have contributed to this progress in special needs adoptions, but clearly the tax deduction helps reduce one important barrier to adoption, the cost.

As an adoptive parent, I know firsthand the benefits of adoption. Adoption is a wonderful way to build a family. Every child is indeed a wanted child, and we would be remiss as a body if we did not do everything in our power to make sure that barriers like cost do not prevent a child from having the family they desperately need and deserve.

I urge my colleagues to support the Fairness for Adopting Families Act.

By Mr. DURENBERGER:

S. 1734. A bill to improve the method of determining per capita rates of payment made with respect to eligible organizations with risk sharing contracts under section 1876 of the Social Security Act with particular emphasis on ensuring that such organizations receive equitable rates of payment; to the Committee on Finance.

MEDICARE PRIVATE HEALTH PLAN CAPITATION IMPROVEMENT ACT

Mr. DURENBERGER. Mr. President, thank you for giving me the opportunity to bring this important bill to the Senate today. I'll be very brief, knowing the important discussion before us. I hold in my hand some of the scores of letters I've received urging action. I am happy to answer them, in part, with the introduction of this bill today.

Mr. President, this bill, with the unwieldy name "Medicare Private Health Plan Capitation Improvement Act of 1987," goes to the heart of harm caused to senior citizens and care providers by inefficiencies in our Medicare payment system.

It is designed to provide fair payment to rural doctors and health plans, to allow more Medicare beneficiaries—including, and especially, those living in rural areas—access to well-run private health plans.

Mr. President, this bill evolved in the best tradition of the Congress—through the articulated needs of vulnerable people who came to me with requests that their problem be addressed.

One writer said:

> Because the Federal Government pays up to one-half less for the same health care in my area as it does for seniors in other parts of the State and country, my senior health plan is operating at an extreme money loss.

A writer from the Steelworkers' HMO in Minnesota's rural iron range, whose health plan has gone into bankruptcy, wrote:

> I like this plan because it covers all my health care needs for a reasonable price, and I am not subjected to all of the problems associated with hospital and doctor bills and insurance claim forms.

And a third says:

> My husband passed away on May 24th, and I only get $486 a month from Social Security. The problems faced by the plan may mean a substantial increase in my premiums—which I cannot afford—and even threaten the existence of my plan.

Mr. President, these seniors need help now and the need is evident. For example, in the urban counties surrounding Minneapolis and St. Paul, rates are $257.51 and $252.86 for each enrollee, while in the rural counties of Blue Earth and Lake, the rate is $158.27 and $159.09. By contrast, the rate for Dade County in Florida is $385.84. This happens simply because of the way the original payment system was set up. And it makes no sense on either technical or equity grounds.

This bill would correct several of the glaring inadequacies in the present system while setting up a task force to deal with the tough technical issues.

I urge my colleagues to join me in enacting this bill to ensure fairness and real choice. I ask unanimous consent that my complete statement, the text of the bill, and the attached summary of its key features be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DAVE DURENBERGER

Mr. President, I'm pleased to come to the Senate today with a bill that has evolved in the best tradition of the Congress—through the articulated needs of vulnerable people who came to me with requests that their problem be addressed.

Mr. President, this bill didn't come about because a bunch of federal officials sat around and dreamed it up. In fact, it so urgently came from a grassroots demand, that before I could even introduce it before this body, scores of letters have arrived in support of it.

This bill is about fairness. It's about access to good medical care for thousands of elderly, often living in rural areas already subject to other disadvantages. It's about consumer choice, about reasonableness, and about incentives for quality.

The name of this bill is the "Medicare Private Health Plan Capitation Improvement Act of 1987." It's designed to provide fair payment to doctors and prepaid health providers such as health maintenance organizations (HMOs) and other competitive health plans. It will allow more Medicare beneficiaries to enroll in private health plans and shore up some existing plans that are endangered because of existing inequities in the Medicare payment.

People who've written to me from Minnesota—Medicare beneficiaries enrolled in a rural health plan near Duluth—tell of the need better than I can.

"Because the federal government pays up to one-half less for the same health care in my area as it does for seniors in other parts of the state and country," says one writer, "my senior health plan is operating at an extreme money loss."

Another writer, asking for help for her health plan, says, "I like this plan because it covers all my health care needs for a reasonable price, and I am not subjected to all of the problems associated with hospital and doctor bills and insurance claim forms."

And from still another, I hear, "My husband passed away on May 24th, and I only get $486 a month from Social Security. The problems faced by the plan may mean a substantial increase in my premiums—which I cannot afford—and even threaten the existence of my plan."

Mr. President, these seniors need help, and they need it now. In Minnesota, the wide range of payments which exist between urban and rural areas is clearly evident. The urban counties of Hennepin—home of Minneapolis—and Ramsey—which is St. Paul—receive rates of $257.51 and $252.86 respectively for each enrollee while the rural counties of Blue Earth and Lake receive $158.27 and $158.09. Chippewa County receives only $128.52!

As a result of such rates, "More-HMO", a steelworkers' HMO on the rural "Iron Range" in Northern Minnesota, has gone into bankruptcy and another rural HMO in Itasca County might have to discontinue its services for over 1900 elderly citizens within six months due to a continuing twenty-five-dollar-a-month deficit per patient. The low rates make it impossible to provide the level of care which residents in these areas deserve.

Nationally, the geographic disparity in payment rates is also apparent. For example, the rate for Dade County in Florida is $385.84 while the rate for Bell County, Texas, is $182.24 for the same people. Naturally, these rates influence the decisions of potential contract organizations to offer services in these areas. Frankly, I don't believe this is fair. This happens simply because of the way the original payment system was set up. It's the only payment system in Medicare that pays by county—and it makes no sense on either technical or equity grounds.

Payment rates just announced for 1988 do represent an increase over 1987 as the Health Care Financing Administration will claim, but the total 13.5 percent increase for the nation as a whole doesn't even approach the costs of care to the elderly in some of these underpaid counties, nor approach increases that other providers are getting under Part B—a significant part of the payment. And, of course, the increases do absolutely nothing about the equity problem which is very serious and is substantially undermining choice in the Medicare program.

For more than a decade, private health plans have been able to contract with the federal government for the provision of services to Medicare beneficiaries. Growth in Medicare enrollment was slow until 1982, when the Tax Equity and Fiscal Responsibility Act (TEFRA) was authorized. With TEFRA, Congress allowed private health plans to enroll Medicare beneficiaries on a risk basis with no retroactive adjustment for real costs incurred. Medicare enrollment in such plans has soared. As of June 1, 1987, there were 154 HMOs with TEFRA risk contracts enrolling nearly 1,000,000 Medicare beneficiaries. Thirty-five more applications for risk contracts are pending. But growth has been selective because payments are inadequate.

Today, the risk contract program is reaching a crucial juncture. Despite the dramatic growth in participation and enrollment, many problems exist which may discourage more private health plans from joining the program and may force plans with current contracts to opt out. In fact, a number of plans already have not renewed their contracts claiming, in particular, that payments have been inadequate.

A recent national survey of the risk contracting experiences of larger, more established HMOs, conducted by the widely-respected Interstudy, of Excelsior, Minnesota, noted increasing discontent among such organizations. Over half of responding HMOs reported that their contracting experiences were somewhat or very unfavorable, and only 56 percent felt confident that they would renew their contracts in 1988.

The primary reason for dissatisfaction was the Adjusted Average Per Capita Cost (AAPCC). Payments to risk contract organizations are based on the AAPCC, an estimate of how much Medicare would reimburse for services obtained by enrollees in the fee-for-service sector. The AAPCC is determined by calculating the per capita cost for all Medicare beneficiaries in an area and then adjusting for age, sex, institutional and welfare status. Risk contract organizations receive only 95 percent of the AAPCC. The survey confirmed that the AAPCC is perceived to be an inadequate payment, particularly in rural areas where the AAPCC is consistently very low.

Since rates vary by county of residence, there can be great discrepancy in payments for two enrollees that live in adjoining counties, even though the health plan's cost of caring for those enrollees are the same. This problem is exacerbated in rural counties and is particularly distressing since, historically, these areas have had poorer access to comprehensive services and have greater unmet health care needs.

The variability in rates does not reflect adequately real costs or patient utilization. For example, the AAPCC does not compensate for costs of comprehensive care in areas where populations have not had access to and have not used such services previously. In these areas the AAPCC is insufficient to allow private health plans to offer care at 95 percent of the already low base.

Yet, it is in the best interest of the enrollee, the private health plan, and the government that capitation rates better reflect expected costs: enrollees must be protected from inadequate rates that threaten quality of care; the enrollee and the plan need to be protected against underpayment on behalf of the beneficiary which occurs when there is strong adverse selection (which results when plan enrollees are less healthy than not-enrolled Medicare beneficiaries); government must be assured that it is not overpaying for the care of healthier-than-average beneficiaries. Using the county level also underprotects contracting organizations from being able to pool risk and to pool risks over time.

Certainly, rates should not be set to discourage the enrollment of the frailest elderly. It is these individuals who may most benefit from HMO enrollment since the need for services is great and the managed care concept is essential for maintaining high quality care. Unfortunately, the present AAPCC system rewards HMOs for enrolling healthy Medicare beneficiaries.

The current system of providing payment to risk contract organizations is fraught with many problems of a theoretical, technical or procedural nature. For example:

Risk contract competitive health plans do not receive extra payments for high cost, catastrophic (outlier) cases. Such high cost cases can jeopardize the financial viability of a risk contract, particularly if the plan is new or has a relatively small enrollment.

Although disabled individuals generally incur higher costs, the AAPCC currently does not increase payment to risk contractors which enroll disabled Medicare beneficiaries who are age 65 or older.

There is little flexibility permitted in the setting of premiums by risk contract organizations. This lack of flexibility serves as a barrier to expansion into new areas where the AAPCC is low.

Risk contract organizations are barred from having more than 50 percent Medicare or Medicaid enrollment. Increased ability to waive this "50 percent rule", particularly for high quality, financially secure, and long-standing organizations would encourage development of risk contracts in rural areas.

Current and prospective risk contracting organizations find that calculation of the AAPCC is confusing, predictions about future rates are unreliable, frequent changes in methodology of computation are unwarranted or inexplicable, and disclosure about the entire process of rate calculation is desperately needed.

Mr. President, the bill which I am introducing begins the process of resolving the complex issues surrounding risk contract payments. In order to promote the long-term stability and growth of the risk contracting model, and to deal with the tough technical issues, the bill calls for the creation of a Task Force on Medicare Capitation. This Task Force will bring together: experts on capitation from private health plans including health professionals; health services researchers including researchers with expertise in financing and underwriting prepaid care; Medicare beneficiaries, and individuals representing employers and labor.

Over the next three years, these Task Force members will study the payment methods, assess alternatives and develop a report to the Congress on ways of improving risk contract payments. The Task Force will build on the excellent work of the commissioner and staffs of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

For the short-term, while the Task Force deliberates, a strategy must be put into place which will maintain access for beneficiaries where payments are the lowest in the nation and prevent the devastating effects that additional contract terminations might have on Medicare beneficiaries and private health plans.

The termination of the contract of even one plan, particularly if that plan is well respected, sends a message of instability and unreliability which can discourage other plans from continuing or developing risk contracts and prevent Medicare beneficiaries from enrolling. I'm convinced from talking about this to hundreds of rural Minnesotans in the last 6-8 months that we must move quickly. This bill's provisions immediately would correct several of the glaring inadequacies in the present system.

A key provision guarantees that HMOs and competitive health plans, during the next four years, would receive a minimum AAPCC payment which would be no less than 80 percent of the median of AAPCCs in Metropolitan Statistical Areas. This provision would strengthen the ability of prepaid plans to serve beneficiaries in areas with excessively low payments. Most of these underpaid counties are in rural areas, but not all. This is a problem caused by methodologies applied to the problem, so, for a short-term correction, a simple adjustment is adequate. But more extensive work—based on research—is needed to completely solve the problem. This slight correction buys us time to salvage the program and protect beneficiaries in undercompensated areas.

A second provision adjusts the AAPCC to better account for risk contract Medicare beneficiaries who are also disabled. Other key features of the bill would:

Require full disclosure of the methodology and assumptions for the calculation of the AAPCC;

Eliminate the Adjusted Community Rate (ACR) for premium setting and allow plans to charge different premiums for different geographic areas;

Provide for notification and comment on proposed changes in the method of computing the AAPCC (or the United States per capita cost);

Adjust the base period for calculation of the AAPCC; and

Enable a waiver, if specific criteria are met, of the "50 percent rule".

Mr. President, the expansion and development of the risk contracting program has not been without controversy. I, as well as other proponents, believe that such growth holds great promise for increased options, improved quality and cost-effective health care for our growing elderly population. HMOs with risk contracts are well suited to older people and the disabled because, generally, they provide expanded benefits such as preventive care, prescription drugs and vision and hearing examinations with few or no extra payments. High quality of care and increased services are made possible by the elimination of unnecessary, duplicative, and inappropriate services through management of care by a primary care physician. And access to care is improved by the reduction or elimination of co-payments and deductibles.

Cost containment derives from the same principle of managed care, but is enhanced by the very nature of the risk contract. Since risk contract health plans only receive 95 percent of the AAPCC, the government potentially saves 5 percent for each enrolled Medicare beneficiary.

Critics of risk contracts have raised concerns about the quality and scope of care being provided and have suggested that risk contractors may be overpaid for their services if they are enrolling beneficiaries who are healthier-than-average. The recent publicity surrounding the failure of IMC, a risk contract organization in Florida, casts a shadow over the entire program. It's particularly unfortunate that some people generalize that incident to the vast majority of quality private health plans now serving the elderly.

To protect the program, payments must be changed if the risk contract program is to demonstrate its full potential for providing quality care at a lower price. Mr. President, it would be a great mistake to allow inertia to prevail, to reduce or eliminate real choice for Medicare beneficiaries, or to fail to take this opportunity to make sure that the risk contracting program is continuing in the right direction. We must make sure that we are providing real incentives for more quality, managed care plans to sign risk contracts. I urge my colleagues to join me in enacting this bill to ensure fairness and real choice.

S. 1734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Private Health Plan Capitation Improvement Act of 1987".

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act—

(1) to promote the provision of high-quality and cost-effective health care to all individuals receiving benefits under title XVIII of the Social Security Act,

(2) to manage the total amount of expenditures made for such benefits during the lifetime of an individual while maintaining adequate access to quality care,

(3) to ensure access to such benefits without regard to the health and disability status of an individual, the geographic area in which the individual lives, or the health plan that the individual chooses,

(4) to increase the options of individuals who choose to receive such benefits through an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act, and

(5) to provide an equitable capitation rate that adequately allows for the provision of high-quality health care to individuals who receive benefits through such an organization.

SEC. 3. TASK FORCE ON MEDICARE CAPITATION.

(a) Establishment of Task Force.—There is hereby established a Task Force to be known as the Task Force on Medicare Capitation (in this section referred to as the "Task Force") to be composed of 15 members appointed in accordance with subsection (b)(1).

(b) Appointment and Term of Members; Vacancies; Transaction of Business.—

(1)(A) Members of the Task Force shall be appointed jointly by the Prospective Payment Assessment Commission and the Physician Payment Review Commission after consultation with private and prepaid health plan organizations.

(B) Of the 15 members composing the Task Force—

(i) five members shall be chosen from among representatives of private health plan and prepaid health plan organizations (which representatives may include physicians and other health professionals who serve Medicare beneficiaries),

(ii) five members shall be chosen from among researchers in health care delivery and finance and individuals with an expertise in the financing and underwriting of prepaid health care, and

(iii) five members shall be chosen from among Medicare beneficiaries and representatives of employers and labor.

(2) Members of the Task Force shall serve for the life of the Task Force. A vacancy on the Task Force shall be filled in the same manner in which the original appointment was made, shall be consistent with the requirements of paragraph (1)(B), and shall not affect the powers or duties of the Task Force.

(3) A majority of the members of the Task Force shall constitute a quorum for the transaction of business. Decisions of the Task Force shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(4) The first meeting of the Task Force shall be jointly called by the Prospective Payment Assessment Commission and the Physician Payment Review Commission and shall be held not later than January 1, 1988. At such meeting, the members of the Task Force shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members (which in no event shall be less than once every three months).

(c) Basic Pay.—

(1) Members of the Task Force shall serve without pay.

(2) Members of the Task Force shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(d) Duties of the Task Force.—

(1) It shall be the duty of the Task Force—

(A) to review periodically the calculations and methodology employed by the Secretary in determining the capitation rate with respect to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(B) to document and report on the discrepancies between the actual and projected United States per capita incurred cost used for purposes of determining such capitation rate (and, in particular, to identify such discrepancies with respect to calendar years 1985, 1986, and 1987), and

(C) to assess alternative methodologies for determining such capitation rate.

(2) Not later than January 1 of 1989 and 1990, the Secretary shall submit interim reports to the Congress describing the activities of the Task Force during the preceding year and containing such assessment, analysis, evaluation, and recommendations (as described in paragraph (3)(A)) as can reasonably be formulated at the time such reports are prepared and submitted.

(3)(A) Not later than January 1, 1991, the Task Force shall submit a report to the Congress that contains—

(i) an assessment of the extent to which the long-term cost of providing benefits under title XVIII of the Social Security Act would be reduced by providing such benefits through prepaid health plans;

(ii) an analysis of the use, cost, and quality of benefits provided under prepaid plans as compared to fee-for-service systems;

(iii) an evaluation of—

(I) the use of various geographic areas in calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section 1876 of the Social Security Act,

(II) the use of fee-for-service reimbursement and utilization rates in calculating such rate, and

(III) the effects on such rate of substantial market area penetration by capitated health plans; and

(iv) recommendations for revising the method for calculating the capitation rate applicable to an organization with a risk-sharing contract with the Secretary of Health and Human Services under section

1876 of the Social Security Act that specifically address the need for—

(I) adjusting the rate to account for the case mix (including such factors as age, disability, and functional status) of individuals entitled to benefits under title XVIII of the Social Security Act who are enrolled with the organization, geographic differences in the cost of furnishing services, and the effect of outlier cases,

(II) controlling and reimbursing for catastrophic illness by using alternative methodologies to calculate the rate,

(III) developing methods for ensuring that individuals residing in rural or medically underserved areas have access to quality health care (as provided through such organizations), and

(IV) setting a more equitable rate with respect to contracting organizations that serve rural or medically underserved areas (or any geographic area in which the medical practice is more conservative).

(B)(i) The report submitted to the Congress under subparagraph (A) shall be prepared in consultation with the Health Care Financing Administration and shall be based, in part, upon the findings of various research projects that shall be jointly conducted by the Task Force and such Administration.

(ii) Prior to submitting the report to the Congress under subparagraph (A), the Task Force shall make the report available to representatives of private and prepaid health plan organizations and shall provide to such representatives an opportunity for commenting upon the report. The comments of such representatives shall accompany the report when submitted to the Congress.

(e) POWERS OF THE TASK FORCE.—

(1)(A) Subject to subparagraph (B), the Task Force may award grants or contracts to individuals or entities to conduct research that the Task Force determines would be of assistance in the performance of any of the duties of the Task Force (as described in subsection (d)).

(B) No contract or grant may be awarded under subparagraph (A) unless the Task Force demonstrates to the satisfaction of the Prospective Payment Assessment Commission and the Physician Payment Review Commission that information otherwise available to the Task Force is inadequate to allow the Task Force to perform such duties.

(2)(A) The Task Force may appoint and fix the pay of such staff personnel as it deems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates (which personnel shall be allowed travel expenses, including a per diem in lieu of subsistence, in the same manner as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code).

(B) The Task Force may use on a reimbursable basis, with the prior consent of the commission concerned, the services of the personnel of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

(3) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(4) The Task Force may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(5) The Task Force may procure supplies, services, and property, and make contracts.

(6) For purposes of carrying out its duties under subsection (d), the Task Force may adopt such rules for its organization and procedures as it deems appropriate, including procedures that allow any interested party the opportunity to submit information to the Task Force.

(f) TERMINATION OF THE TASK FORCE.—

(1) The Task Force shall terminate on January 2, 1991.

(2) Any funds held by the Task Force on the date of termination of the Task Force shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Task Force on such date shall be disposed of as excess or surplus property.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1988 through 1991 such sums as may be necessary to carry out the provisions of this section.

SEC. 4. GUARANTEED MINIMUM AAPCC FOR ELIGIBLE ORGANIZATIONS WITH RISK-SHARING CONTRACTS.

(a) IN GENERAL.—Section 1876(a)(1)(C) of such Act (42 U.S.C. 1395mm(a)(1)(C)) is amended—

(1) by inserting "(i)" after "(C)";

(2) by striking "The" and inserting in lieu thereof "Except as provided in clause (ii), the"; and

(3) by adding at the end thereof the following new clause:

"(ii) For each of the calendar years 1988, 1989, 1990, and 1991, the annual per capita rate of payment for each such class shall be equal to the greater of—

"(I) 95 percent of the adjusted average per capita cost (as defined in paragraph (4)) for that class, or

"(II) 80 percent of the median of all adjusted average per capita costs in Metropolitan Statistical Areas as adjusted by class.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 5. DISCLOSURE REQUIREMENTS WITH RESPECT TO CALCULATION OF USPCC AND AAPCC.

(a) IN GENERAL.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395mm(a)) is amended by adding at the end thereof the following new paragraphs—

"(7)(A) Not later than September 30 of each calendar year, the Secretary shall provide to each eligible organization with a risk-sharing contract, a summary of the calculations made by the Secretary in computing (for purposes of determining a per capita rate of payment under this subsection with respect to the succeeding calendar year) the United States per capita incurred cost and each adjusted average per capita cost applicable with respect to a class of individuals enrolled with such organization.

"(B)(i) The summary provided under subparagraph (A) shall contain a narrative description of all assumptions made by the Secretary in computing the United States per capita incurred cost and each applicable adjusted average per capita cost and shall specifically explain how the Secretary treated the factors described in clause (ii) in making the computations.

"(ii) The factors described in this clause are—

"(I) benefits under this title becoming available after the period used by the Secretary to compute the United States per capita incurred cost and each adjusted average per capita cost;

"(II) the impact of the amendments to this title made by section 9201 of the Consolidated Omnibus Budget Reconciliation Act of 1985;

"(III) the proportion of individuals who are entitled to medical assistance under title XIX, the proportion of individuals who receive aid under title IV, and the proportion of individuals who receive such aid who reside in institutions;

"(IV) the economic indices, wages, and case-mix changes used to project utilization and payments under parts A and B of this title with respect to a geographic area;

"(V) adjustments made for the time period between when expenses are incurred and when payments are received; and

"(VI) changes in population estimates with respect to individuals entitled to benefits under this title and with respect to various demographic groups.

"(8) The Secretary shall annually issue to every eligible organization with a risk-sharing contract—

"(A) not later than July 1, a preliminary estimate of the United States per capita incurred cost used to determine a per capita rate of payment with respect to the succeeding calendar year;

"(B) not later than August 1, a preliminary estimate of each adjusted average per capita cost applicable with respect to a class of individuals enrolled with such organization used to determine any such rate of payment with respect to such year; and

"(C) not later than April 1, a narrative explanation of the difference between the preliminary estimate of the United States per capita incurred cost made with respect to a per capita rate of payment required to be issued before the previous September 7 and—

"(i) the projection for the United States per capita incurred cost required to be issued before the following September 7 (as contained in the Report of the Board of Trustees under section 1817(b)(2) or 1841(b)(2)); and

"(ii) the actual United States per capita incurred cost made with respect to a per capita rate of payment required to be issued before such date.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to a per capita rate of payment determined for calendar year 1989 and each succeeding calendar year.

SEC. 6. PROCEDURES FOR CHANGING METHODOLOGY USED TO COMPUTE USPCC AND AAPCC.

(a) IN GENERAL.—Section 1876(a) of the Social Security Act, as amended by section 5 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(9) Prior to making any change with respect to the methodology used by the Secretary to compute (for purposes of determining a per capita rate of payment under this subsection with respect to a calendar year) the United States per capita incurred cost and each adjusted average per capita cost applicable with respect to a class of individuals enrolled with an eligible organization with a risk-sharing contract, the Secretary shall provide notice to such organization of the proposed change and shall afford each such organization not less than 30 days to comment on the change.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 7. USE OF MORE RECENT BASE PERIOD IN COMPUTING AAPCC.

(a) In General.—Section 1876(a)(4) of the Social Security Act (42 U.S.C. 1395mm(a)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) For purposes of subparagraph (A), the Secretary shall estimate the amount that would be payable in any contract year for such services covered or expenses otherwise reimbursable on the basis of services actually provided or expenses actually incurred during a period of time that ends no earlier than February 1 of the calendar year preceding the year with respect to which an adjusted average per capita cost is determined.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to a per capita rate of payment determined for calendar year 1989 and each succeeding calendar year.

SEC. 8. CLASSIFICATION OF DISABLED INDIVIDUAL FOR PURPOSE OF DETERMINING PER CAPITA RATE OF PAYMENT.

(a) In General.—Section 1876(a)(1)(B) of the Social Security Act (42 U.S.C. 1395mm(a)(1)(B)) is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end thereof the following new clause:

"(ii) The Secretary shall establish a class of members based on age and disability status that includes individuals who attain the age of 65 during calendar year 1988, 1989, 1990, or 1991, are entitled to benefits under this title, and (prior to attaining such age) received disability insurance benefits under section 223.".

(b) Effective Date.—The amendments made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 9. ELIMINATING ADJUSTED COMMUNITY RATE AS RESTRICTION ON AMOUNT OF PREMIUM; INCREASED FLEXIBILITY IN SETTING PREMIUM.

(a) In General.—Section 1876(e)(2) of the Social Security Act (42 U.S.C. 1395mm(e)(2)) is amended by striking "In" and all that follows through the period and inserting in lieu thereof the following: "Such organization may not increase any premium or other charge established (or maintained) for a year of a contract with respect to such additional services more than once during any such contract year and may provide for different premiums or charges for such services with respect to each Metropolitan Statistical Area (including any county contiguous to such Area) in which members reside or with respect to each group of two or more counties in which members reside that is not located contiguous to a Metropolitan Statistical Area.".

(b) Conforming Changes.—

(1)(A) Section 1876 of such Act (42 U.S.C. 1395mm) is amended—

(i) by redesignating paragraph (3) of subsection (e) as paragraph (7) and by transferring and inserting such paragraph in subsection (g) at the end thereof; and

(ii) by striking "section" the first place it appears in such paragraph and inserting in lieu thereof "subsection".

(B) Section 1876(g)(2)(A) of such Act (42 U.S.C. 1395mm(g)(2)(A)) is amended by striking "subsection (e)(3)" and inserting in lieu thereof "paragraph (7)".

(2) Section 1876(e) of such Act (42 U.S.C. 1395mm(e)) is amended by redesignating paragraph (4) as paragraph (3).

(c) Effective Date.—The amendments made by subsections (a) and (b) shall become effective on the date of enactment of this Act.

SEC. 10. MODIFICATION OR WAIVER OF 50-PERCENT RULE FOR CERTAIN ORGANIZATIONS; APPLICATION OF THE RULE TO AFFILIATED ORGANIZATIONS.

(a) Modification or Waiver of Rule.—Section 1876(f)(2) of the Social Security Act (42 U.S.C. 1395mm(f)(2)) is amended—

(1) by striking "only" in the matter preceding subparagraph (A);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) The Secretary shall waive or modify the requirement imposed by paragraph (1) if—

"(A) there is a determination by a utilization and quality control peer review organization or a private accreditation body that the care furnished by the organization meets appropriate quality standards;

"(B) the organization demonstrates fiscal soundness exceeding the requirements under title XIII of the Public Health Service Act and this title (or such fiscal soundness is guaranteed by the parent organization of such organization); and

"(C) the organization (or its parent organization) demonstrates successful operational experience as a prepaid health plan for a period of at least five years.".

(b) Application of Rule to Affiliated Organizations.—Section 1876(f)(1) of such Act (42 U.S.C. 1395mm(f)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by striking "Each" and inserting in lieu thereof "Subject to subparagraph (B), each"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) No eligible organization that is an affiliate of a multistate or multicontract entity shall be treated as failing to meet the requirement of subparagraph (A) if such requirement would be met if applied to the enrolled membership of all organizations affiliated with such entity.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall become effective on the date of enactment of this Act.

SEC. 11. GAO AUDIT AND REPORT.

(a) GAO Audit.—The General Accounting Office shall—

(1) conduct an audit of the claims under parts A and B of title XVIII of the Social Security Act to determine the extent to which claims in a geographic area are attributed to beneficiaries who are legally domiciled in such area at the time services are provided rather than the area in which services are received; and

(2) review the extent to which the claims under such parts are attributed to retroactive adjustments to claims from prior years.

(b) GAO Report.—Not later than January 1, 1989, the General Accounting Office shall submit a report to Congress that contains the results of the audit and review conducted under subsection (a) and makes recommendations for improving data collection and exchange within the Department of Health and Human Services for processing claims under parts A and B of title XVIII of the Social Security Act.

Summary of Key Provisions—The Medicare Private Health Plan Capitation Improvement Act of 1987

1. Task Force on Medicare Capitation:

To ensure that long term payment reform is undertaken as soon as possible, the bill creates a fifteen-member Task Force on Medicare Capitation appointed jointly by the Prospective Payment Assessment Commission and the Physician Payment Review Commission. Task Force members will be representatives of Medicare beneficiaries, private health plans, health services researchers including researchers with expertise in prepaid health care, employers and labor.

The Task Force will function for three years and will review and assess a wide range of issues that impact on payment rates to Medicare risk contract organizations. The Task Force will report to Congress on its findings and will provide recommendations on alternative methodologies or revisions to present methods for calculating capitation rates for risk sharing contracts.

2. Guaranteed Minimum Payment:

To temporarily correct an immediate payment problem for some localities, a payment floor is created. This simple correction will be replaced by more permanent changes enacted by Congress after the Task Force has weighed alternatives, analyzed data and reported to Congress. For calendar years 1988, 1989, 1990, and 1991, organizations with Medicare risk contracts will receive payments for their Medicare enrollees which will not be less than 80 percent of the median adjusted average per capita cost (AAPCC) received for similar Medicare beneficiaries residing in Metropolitan Statistical Areas (MSA).

3. Disclosure Requirements:

Annually, all contracting organizations will receive a summary of the calculations and a description of the assumptions made by the Secretary in computing the United States per capita cost (USPCC) and the Adjusted Average Per Capita Cost (AAPCC). Also, at specified intervals which allow for timely calculation of the AAPCC, the Secretary will provide risk contract organizations with preliminary estimates of the USPCC and the AAPCC for the next year, and will provide a narrative explanation of differences between preliminary projections, projections of the Board of Trustees and the actual AAPCC.

4. Changes in Payment Computation Method:

Risk contract organizations will receive notification of and will have 30 days to comment on any proposed changes in the method of computing the USPCC or the AAPCC.

5. Use of More Recent Base Period:

As the basis for determining the AAPCC, The Secretary will use actual data from the period which occurred six months prior to the date that the AAPCC is established.

6. Payment for Disabled Individuals:

Individuals who are classified as disabled for the purposes of qualifying for Medicare will continue to be classified as disabled after they attain the age of 65 (and a separate class of disabled-aged individuals will be established) for the purposes of determining the per capita rate of payment. This is intended to be a temporary adjustment until better methods of classifying individuals according to functional, disability, or other health status measures are instituted.

7. Eliminating the Adjusted Community Rate as a Restriction on the Amount of Pre-

miums and Increased Flexibility in Setting Premiums:

The Adjusted Community Rate shall be eliminated for premium calculation purposes. Premiums for services in addition to those covered under Parts A and B may be increased no more than once in any contract year. Contracting organizations shall be allowed to have different premiums or charges for each MSA, or group of two or more counties not contiguous to MSAs, in which members reside.

8. Modification or Waiver of 50-Percent Rule:

The Secretary shall waive the rule that at least 50-percent of risk contract enrollees must *not* be entitled to Medicare or Medicaid if quality standards are met, fiscal soundness requirements are exceeded, and the plan has operated successfully for at least five years.

9. GAO Audit:

The General Accounting Office (GAO) will conduct an audit of Parts A and B to assess the impact of beneficiary location and retroactive adjustments on attribution of claims.

By Mr. RIEGLE (for himself and Mr. LEVIN):

S. 1735. A bill to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes; to the Select Committee on Indian Affairs.

LAC VIEUX DESERT BAND OF LAKE SUPERIOR CHIPPEWA INDIANS ACT

Mr. RIEGLE. Mr. President, I rise today to introduce legislation to clarify the Federal relationship to the Lac Vieux Desert [LVD] Band of Lake Superior Chippewa Indians.

Although currently recognized as part of the Keweenaw Bay Indian community, the LVD Band has historically existed as a separate and distinct Indian tribe. The band consists of approximately 250 members and is located over 75 miles from the Keweenaw Bay Indian community. The LVD Band exercises all of its inherent rights as a sovereign Indian tribe. It has its own constitution, elects its own tribal council, determines its own membership, and represents itself in every respect as a legal tribal entity.

However, because the LVD Band is recognized as part of the Keweenaw Bay Indian community, it has no direct or legal government-to-government relationship with the Federal Government. Although the Department of Interior recognizes the LVD Band through the Keweenaw Bay Indian community, the band receives no services or programs, nor does it possess a direct trust relationship with the Federal Government.

Without Federal acknowledgement as a distinct and separate tribe, the LVD Band is unable to exercise full and official legal jurisdiction over the affairs of the tribe, its people, and its resources.

There is a question as to whether or not LVD is already a federally recognized tribe. I have tried to resolve this question with the Bureau of Indian Affairs during the past 4 months, but as of yet, they have been unable or unwilling to make a determination in this matter.

After reviewing the merits of LVD's circumstances, I believe there is a strong basis for granting the band Federal recognition separate and distinct from the Keweenaw Bay Indian community.

Mr. President, I intend to request hearings on this legislation before the Select Committee on Indian Affairs at the earliest possible date. The question LVD's status has lingered too long, and I urge my colleagues in the Senate to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lac Vieux Desert Band of Lake Superior Chippewa Indians Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Lake Vieux Desert Band of Lake Superior Chippewa Indians, although currently recognized by the Federal Government as part of the Keweenaw Bay Indian Community, has historically existed, and continues to exist, as a separate and distinct Indian tribe that is located over 75 miles from the Keweenaw Bay Indian Community;

(2) the Lake Vieux Desert Band consists of approximately 250 members who continue to reside close to their ancestral homeland near the town of Watersmeet, Michigan;

(3) the Lac Vieux Desert Band entered into two treaties with the United States as a distinct tribal entity (7 Stat. 591, 10 Stat. 1109); and

"(4) members of the Lac Vieux Desert Band currently reside on or otherwise occupy lands within the Township of Watersmeet, Michigan, which are held by the United States in trust for the Keweenaw Bay Indian Community, and currently receives limited Federal benefits through the Keweenaw Bay Indian Community.

"(5) because of its distance from Keweenaw Bay and the failure of the United States to recognize the independent status of the tribe, the Lac Vieux Desert Band and its members receive only limited benefits to which the tribe and its members are entitled."

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Band" means the Lake Vieux Desert Band of Lake Superior Chippewa Indians;

(2) the term "member" means those individuals eligible for enrollment under section 5 in the Band; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 4. FEDERAL RECOGNITION.

(a) The Band is hereby recognized as an independent tribe, separate and apart from the Keweenaw Bay Indian Community or any other federally recognized tribe or Indian community, and all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of the Act shall be applicable to the Band and its members.

(b) FEDERAL SERVICES AND BENEFITS.—The Band and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members without regard to the existence of a reservation for the Band.

(c) APPLICABILITY OF INDIAN REORGANIZATION ACT.—The Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), is hereby made applicable to the Band.

SEC. 5. ESTABLISHMENT OF BAND ROLL.

Within six months after the date of enactment of this Act, the Band shall submit to the Secretary its membership roll which shall consist of all individuals eligible for membership in the Band. An individual is eligible for membership if that individual is—

(1) at least one-quarter Chippewa Indian blood quantum who was born in the Lac Vieux Desert or Watersmeet area and still resides in that area;

(2) at least one-quarter Indian blood quantum and is descended from the historical Lac Vieux Desert Band with one or more lineal ancestors whose names appear on any of the censuses for Lac Vieux Desert prepared by the Superintendent of the Mackinaw Agency prior to 1928;

(3) at least one-quarter Lake Superior Chippewa Indian blood quantum, resides in Gogebic or Iron County, Michigan, or any other counties traditionally inhabited by the Lac Vieux Desert Band, and is closely and primarily affiliated with the Lac Vieux Desert Band; or

"(4) Is a child, who is at least one-quarter Indian blood quantum, and whose parent(s) is a duly enrolled member pursuant to paragraph (1), (2), or (3)."

Upon completion of such roll, the Secretary shall immediately publish notice in the Federal Register stating that the roll has been completed. The Band shall ensure that the roll, once completed, is maintained and that it is current.

SEC. 6. RESERVATION.

Subject to valid existing rights, the Secretary shall transfer the land which, on the date of enactment of this Act, is held in trust by the United States for the benefit of the Keweenaw Bay Indian Community to the United States to be held in trust for the benefit of the Band. The Secretary may place such other land into trust for the benefit of the Band as the Secretary deems necessary or desirable pursuant to the provisions of the Indian Reorganization Act.

By Mr. CHILES:

S. 1736. A bill to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center"; referred to the Committee on Environment and Public Works.

BOB SIKES VISITOR CENTER

● Mr. CHILES. Mr. President, construction will soon be completed on the new headquarters for the Gulf Islands National Seashore. I am introducing legislation today to name this facility in honor of former Florida Congressman Robert L.F. Sikes.

During his tenure in the House of Representatives, Congressman Sikes served his district in an exemplary manner. While the Pensacola region grew in size and in economic stature, Congressman Sikes oversaw a development strategy which balanced economic goals with protection of the area's sensitive natural resources and historic landmarks.

Toward this goal, Congressman Sikes worked long for establishment of a national seashore along the northwest Florida and Mississippi gulf coast. The mainland area of the park features spectacular bayous, beaches, and historic military forts.

Mr. President, Gulf Islands National Seashore now attracts about 5 million visitors a year, offering a host of recreational opportunities. It is one of only two specially designated seashores along the Gulf of Mexico.

I understand that the new facility will serve as the administrative headquarters for the entire park and will house a visitor information center and theater. In view of Congressman Sikes' contributions in bringing national attention to this unique region, I believe it is most appropriate that the headquarters bear his name.●

By Mr. GARN (for himself, Mr. HATCH, Mr. DECONCINI, Mr. MCCAIN, Mr. MCCLURE, Mr. SYMMS, Mr. WALLOP, Mr. DOMENICI, Mr. WIRTH, Mr. ARMSTRONG, Mr. HECHT, Mr. SIMPSON, Mr. REID, and Mr. BINGAMAN):

S. 1737. A bill providing for the completion of the Colorado River storage project; to the Committee on Energy and Natural Resources.

COMPLETION OF COLORADO RIVER STORAGE PROJECT

● Mr. GARN. Mr. President, along with my colleague Senator HATCH and Senators from other Colorado River Basin States, I am today introducing legislation which will increase the appropriations ceiling for the Colorado River storage project which provides water and power to the States of Arizona, Colorado, New Mexico, Utah, and Wyoming.

The Colorado River storage project was authorized by Public Law 84-485 in 1956, and reauthorized for increased appropriations ceiling by Public Law 92-370 in 1972. The project as currently authorized provides for the construction of 4 major water storage and/or power producing units, and 10 participating projects which provide water for municipal and industrial uses, irrigation water supplies, and smaller amounts of power production. The total amount currently authorized to be appropriated for CRSP, at current price levels, is $2,171,308,000. The current estimated total appropriations required for the project are now $2,925,744,000. Therefore, additional appropriations ceiling of $754,436,000 will be required to complete this project. While the bulk of the increased appropriations ceiling will be needed to complete the Bonneville unit of the central Utah project, all of the units in participating projects of the Colorado River storage project will be benefited by this increased authorization ceiling.

The Bureau of Reclamation has known for some time of the eventual need to seek additional ceiling for CRSP. In fact, in January 1983 the chairmen of both the House and Senate Appropriations Committees were informed by the Bureau that increased ceiling would eventually be needed. Frankly, we had hoped that congressional action would not be required for several more years, but due to a variety of factors it now appears that the ceiling will need to be increased prior to fiscal year 1990. For that reason, it is important that Congress pursue this matter with some dispatch so that these badly needed projects will not be delayed due to congressional inaction.

As we proceed to consider this increase in the ceiling for CRSP, there are several things that I hope my colleagues will keep in mind. First, there should not be a debate over the need for these projects—particularly the central Utah project. On at least two prior occasions, in 1956 and again in 1972, the Congress has given the go ahead to the Colorado River storage project and its component parts. Year in and year out the Congress has continued to appropriate money for these badly needed projects, albeit not as much as some of us would have like. With respect to the central Utah project in particular, it is important to remember that the voters of the State of Utah have approved major financial contributions to this project and recently approved a $335 million supplemental repayment contract by an overwhelming margin.

Since this project was originally authorized in 1956, it has had a history of construction delays and inadequate funding. However, for the past several years the project has taken some dramatic leaps forward as appropriations have increased, the Congress has acted to halt fund transfers, and perhaps most importantly, we have reigned in excessive overhead in the project's construction. Now is not the time to rethink the need for or the benefits from this important water development project. Rather, it is time for us to move forward and complete it.

Mr. President, I urge my colleagues on the Senate Energy Committee to act promptly to consider this important piece of legislation and I look forward to working with them personally to ensure that the necessary ceiling increases are achieved in the near future.●

● Mr. HATCH. Mr. President, it is a pleasure to join my colleague, the distinguished senior Senator from Utah, in introducing legislation to increase the appropriations ceiling for the Colorado River storage project. I join my colleague in urging prompt and favorable consideration of this legislation.

As my colleagues are well aware, I have long been a strong proponent of the development of economically sound and environmentally prudent water projects throughout our country. As President Reagan so eloquently pointed out only recently:

> Providing enough high quality water promptly to those who need it is a task that has confronted Americans since the earliest days of our national experience. In the first summer at Plymouth, the Pilgrims experienced a summer drought that nearly ruined their crops. More than 350 years later, Americans had to contend with flooding on the Mississippi and the Colorado, and drought throughout most of the rest of the nation. The lesson of these events is clear. Providing enough high quality water where and when it is needed is a never ending process.

As Senator GARN has stated, the appropriations ceiling increase which is needed for the Colorado River storage project will benefit water development, and water projects in Arizona, Colorado, New Mexico, Utah, and Wyoming. However, it is no secret that the vast bulk of the funds which we are asking Congress to authorize today will be applied directly to the Bonneville unit of the central Utah project. For that reason, Mr. President, I would like to take just a few moments to remind my colleagues of the importance of the central Utah project to my State and to the Nation.

The central Utah project is a water resource development project that will provide critically needed water supplies to the central Utah area. Conceptually, the central Utah project will include a transbasin diversion of water from the Uinta basin, a portion of the Colorado River Basin, to the Bonneville basin in central Utah. Developments of related local water sources will be made in both basins. The project will develop water for municipal and industrial use, irrigation, hydroelectric power production, recreation, and fish and wildlife. It will also provide benefits toward flood control, water quality control, and area redevelopment.

The CUP has been considered by local groups and government agencies since the turn of the century. Continuous investigations have been conducted by the Bureau of Reclamation since 1945.

The Bonneville unit of the central Utah project, now under construction, is the largest and most complex of the authorized units of the CUP. Greater utilization of Bonneville basin water made possible by the unit and a trans-basin diversion of water will serve the needs of a growing population in the Bonneville basin. This complex unit includes 10 new reservoirs and the enlargement of one existing reservoir; more than 200 miles of aqueducts, tunnels, canals; six powerplants; 10 pumping plants; and 300 miles of drains.

As my colleague Senator GARN has pointed out, Congress has on two prior occasions thoroughly reviewed the need for the entire Colorado River storage project as well as for the central Utah project. But let me just take but a minute to review for my colleagues the vast benefits of the Bonneville unit in particular. The justification of the Bonneville unit can be expressed in several ways: First, in physical terms—acre-feet of water for municipal and industrial uses, acre-feet of water for irrigation, acres of land to receive irrigation water, hydroelectric power produced, flood damages prevented, facilities for recreation and fish and wildlife, and improvement in the quality of irrigation and industrial water; second, in terms of social and economic impacts—increases in farm and industrial income, providing the economic base for continued population expansion, providing greater tax revenues from increased assessed valuation.

The demand for agricultural, municipal, and industrial water is expected to increase steadily in the 12 county area to be served by the Bonneville unit. Although the rate of population and economic development has varied over time and by region, the Bonneville unit area, taken as a whole, has experienced continuous growth over the years. The delivery of additional water will be necessary to accomodate projected overall infrastructure development.

Salt Lake and Utah Counties, the most populous counties in the project area, are expected to increase their population by about 390,000 people by the end of the century, raising their total population to about 1.2 million. Slightly higher growth rates are projected for most of the remaining counties to be served by the Bonneville unit.

One of the major elements of the Bonneville unit for which increased appropriations ceiling is being sought is for greater deliveries of irrigation water. The major irrigation water need in the State of Utah is for supplemental service to presently irrigated lands to stabilize existing agricultural production. By maintaining the existing agricultural base, adequate greenbelt areas can be preserved. Stabilizing the farm economy also reduces an outmigration tend from rural to urban areas.

The agricultural growth of the project area is severely limited by the shortages of dependable water supply. About 216,250 acres of supplemental service land now experience average shortages of about 19 percent of diversion demand, while 27,340 acres of full service land receive no water supply other than from infrequent precipitation. This points out the dramatic need for the full development of the irrigation facilities of the central Utah project.

Mr. President, in conclusion, I urge my colleagues to approve the appropriations ceiling increase for the Colorado River storage project. This project provides vast benefits to citizens in five States and is in keeping with our national policy of assisting in the development of badly needed water development projects. With this ceiling increase, the central Utah project can finally be completed after years of delays. For these reasons, Mr. President, I look forward to prompt approval of this legislation.●

By Mr. WILSON (for himself, Mr. DOLE, and Mr. DURENBERGER):

S. 1738. A bill to make long-term care insurance available to civilian Federal employees, and for other purposes; to the Committee on Governmental Affairs.

LONG-TERM HEALTH CARE INSURANCE FOR CIVILIAN FEDERAL EMPLOYEES

Mr. WILSON. Mr. President, it is time for the Congress and the administation to address the long-term health care needs of older Americans.

Very shortly those of us on this floor will consider a catastrophic illness bill. We are all familiar with the tragic phenomenon of older Americans being inflicted with the kind of illness that can literally in a matter of days wipe out the life savings of a family. That obviously is the situation that deserves and demands our immediate attention.

But earlier, Mr. President, in the course of moving legislation that had to do with the problem of gaps in Medicare coverage, I made the same interesting discovery as have so many others; and, that is, when so many older Americans very prudently seek to supplement their Medicare coverage hoping to find some way to provide themselves and their loved ones with nursing home care on an extended basis they found that not only are they uncovered by Medicare but that it is virtually impossible for many of them to obtain or to pay for the kind of long-term care which increasingly is a necessity for older Americans.

The good news is that our medicine and our general health care have expanded the life expectancy of many, many Americans, but with the increase in life expectancy we face the onset of troubling infirmities of the kind that more and more make an expectation for older Americans to spend some considerable time in a nursing home or requiring the visits in their own homes of health care professionals.

Mr. President, this we have discovered is the source of even greater anxiety among most older Americans than the fearful specter of catastrophic illness. Increasingly older Americans are troubled by the fact that they simply do not find a way to obtain or to afford the kind of long-term care which they feel they must have.

It is true that there are health insurance policies now on the market, that some 70 companies write this insurance but it is prohibitively expensive because, Mr. President, it is based on individual rather than group experience. And as a result, a typical policy of that kind can cost $4,000 in premiums per year—beyond the reach of most older Americans, and indeed beyond the reach of most Americans of any age.

It simply should not be that as we grow old, we are faced with the unacceptable choice between uncomfortable premiums and, the worst prospect, of being without the kind of coverage that can lead to decent long-term care.

So I repeat, Mr. President: It is time for Congress and for the administration to focus upon this need and address it. It is not simply the problem of older Americans. It is the problem of all of us who care about older Americans and their quality of life. There can be no decent quality of life, no golden years, for those who are stricken with the kind of anxiety that necessarily attends the present situation.

It is my hope and purpose that the bill I introduce today, with Senator DOLE and Senator DURENBERGER, will provide a very significant way to address if not the totality of this need, a very large part of it. What we are seeking to do is to offer to Federal employees who are enrolled in a group life insurance plan the opportunity to convert a portion of the equity they have built up under that policy to pay for long-term care, either nursing home care or home health care visits by health care professionals.

Mr. President, in the view of most older Americans, this is clearly the single greatest omission that we have found to exist in the 20 years of Medicare. Even with the more heartening developments of private and public health care initiatives, with corporate-sponsored health plans, with all the new approaches to long-term care, with all the emphasis on preventive medicine, still we find that too many older Americans are indeed growing older without adequate health care coverage. In order for them to avoid the debilitating doubt and anxiety that inevitably accompany growing older, without any idea of how they will be able to obtain this care and pay for it, I think this not only will provide peace of mind for those who are Federal employees eligible to participate, but also, I think that by this legislation we will offer a model that can induce participation by a number of private sector health care carriers to enter the market and provide this insurance.

There is a very clear need for it. If we are correct in that, we will produce the competition in the private sector that is available to any number of different groups, not just Federal employees, but also employees of General Motors, employees of the University of California. In short, Mr. President, I think we have an opportunity to do something not only for our own employees, but also to provide a means whereby a number of Americans, during their working years, can prudently plan for their own health care.

Obviously, a great benefit of this program would be that it would not—I emphasize would not—impose any crushing new expenditures on Federal taxpayers.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 87 of title 5, United States Code, is amended—

(1) in section 8704, by adding a new subsection (e) to read:

"(e)(1) The Office shall provide optional group long-term insurance coverage for civilian employees in accordance with the following terms and conditions:

"(A) Consistent with the conditions, directives, and terms specified in section 8709 and 8712 of this title, the Office shall arrange for each qualified employee, as defined in paragraph (4) of this subsection, to have an opportunity to irrevocably convert a portion of the employee's basic insurance amount and associated accured projected claims reserve funds, as determined by OPM, for purposes of group life insurance and accidental death and dismemberment insurance under this section to group long-term care insurance.

"(B) The long-term care insurance shall provide specified dollar reimbursements for a period of at least 1 year's duration to offset expenses related to nursing home and home health services required by the employee and may include additional benefits which the Office determines to be appropriate. The long-term care insurance shall, as the Office deems appropriate, offer employees more than one reimbursement plan from more than one insurer.

"(C) The Office shall determine appropriate employee contributrions which will be payable for all periods during which long-term care insurance continues and will be withheld from any salary, compensation, or retirement annuity due an insured individual. Each employee's contribution rate under this subsection shall be determined by the employee's age at the time an election is made for purposes of this subsection, relative to such age and rate categories as the Office determines will, with adjustments provided for by paragraph (3) below, fully cover estimated long-term care insurance policy costs in excess of the actuarial value of the life insurance conversion amount.

"(D) The Office shall establish appropriate age and rate categories for qualified employees who wish to avoid the basic insurance conversion requirement and pay the full cost of group long-term care coverage.

"(E) The Office shall also arrange for qualified employees who elect group long-term care insurance on themselves under this subsection to have, simultaneous with their election or upon subsequent marriage, the option of purchasing supplementary long-term care insurance coverage on a spouse, without evidence of such spouse's insurability and at appropriate group rates added to the affected employee's individual contribution rate.

"(F) An active or retired employee may cease contributions under this subsection at any time, in which case the long-term care insurance shall terminate, with no restoration of converted group life insurance coverage.

"(2) Any employee who elects to convert basic life insurance to long-term care insurance as provided by paragraph (1) of this subsection shall retain a residual amount of the group life insurance and accidental death and dismemberment insurance authorized under this section which shall equal the greater of—

"(A) $2,000, or

"(B) an amount representing the basic insurance amount generally available based on the employee's current annual rate of basic pay decreased by the life insurance conversion requirement established pursuant to paragraph (3) of this subsection on the date the employee elected long-term care insurance.

"(3) For purposes of this subsection, the Office shall specify the initial dollar amounts for the life insurance conversion requirement and, in consultation with insurers, determine the reimbursement rates for benefits under each long-term care insurance plan (including reasonable waiting periods for benefit commencement) and periodic employee contributions for self and for spouse coverage based on age categories of qualified employees as the Office considers appropriate. All amounts determined in accordance with this paragraph shall be subsequently adjusted on the effective date, and in accordance with the average percent, of any change in pay rates for the General Schedule authorized under section 5305 of this title. Other adjustments of amounts under this paragraph may be made at such other times and in such amounts as the Office deems necessary and prescribes by regulation. The Office may, through negotiations with insurers, provide options that, by using other indexes, allow increases that exceed those of the General Schedule.

"(4) A qualified employee for purposes of this subsection is any employee who is subject to this chapter and who—

"(A) is in active service;

"(B) attains an age specified by regulations of the Office, which shall be no less than age 50;

"(C) is currently insured under this chapter and has been insured for a total of 10 years, or elects to make contributions for long-term care insurance without the benefit of the basic insurance conversion authorized by paragraph (1) of this subsection; and

"(D) has not transferred ownership of life insurance to another person under subsection 8706(e) of this chapter.

"(5) Unless otherwise provided by regulations of the Office, all elections involving employee insurance under this subsection must be made within a period which the Office shall specify that begins when each employee first becomes a qualified employee as described in paragraph (4) of this subsection."

(2) in subsection 8706(a)—

(A) by inserting "life insurance" immediately before "policy purchased"; and

(B) by inserting the following sentences immediately after the first sentence. "An election of long-term care insurance under subsection 8704(e) shall be disregarded for purposes of determining an employee's basic insurance amount under this subsection. A long-term care insurance policy under this chapter may provide for conversion to an individual or group policy upon separation from service."

(3) by amending subsection 8707(c) to read:

"(c)(1) Except as otherwise provided by this subsection, the amount withheld from the pay, annuity, or compensation of each employee subject to insurance deductions under this section shall be at the rate, adjusted to the nearest half-cent, of 66⅔ percent of the level cost as determined by the Office for each $1,000 of the employee's basic insurance amount.

"(2) No employee withholding is required under this section, however, for any part of the basic insurance amount that is converted to long-term care insurance under subsection 8704(e) of this title.";

(4) by amending subsection 8708(a) to read:

"(a) Except as otherwise provided by this section, for each period in which an employee is insured under a policy of insurance purchased by the Office of Personnel Management under section 8709 of this title and is subject to withholding under section 8707 of this title, a sum equal to one-half of the general employee withholding specified under subsection 8707(c)(1) of this title shall be contributed from the appropriation or fund used to pay the employee. Contributions under this section shall be apportioned between basic life insurance and long-term care insurance accounts in the Employees' Life Insurance Fund if an employee has elected the basic insurance conversion permitted under subsection 8704(e) of this title.";

(5) in section 8708, by adding a new subsection (d) to read:

"(d) The sum required by subsection (a) of this section in the case of each employee who retires on immediate annuity or commences receiving compensation under subchapter I of Chapter 81 of this title after December 31, 1989, and who elects to retain insurance in accordance with 8706(b)(3)(A) of this chapter, shall be paid by the Office from annual appropriations which are hereby authorized to be made for that purpose and which may be made available until expended.";

(6) by amending subsection 8709(a) to read:

"(a) The Office of Personnel Management may, in its sole discretion and without regard to section 5 of title 41, United States Code, purchase from one or more duly licensed insurers a policy or policies to provide benefits specified by this chapter, including group life insurance, accidental death and dismemberment insurance, and long-term care insurance. For long-term care insurance, purchase will be through a competitive process among insurers who agree to accept liability for the benefits offered. To be eligible for consideration as an insurer under this chapter, an entity must meet the following requirements:

"(1) For purposes of group life and accidental death and dismemberment insurance, it must—

"(A) be licensed to transact such insurance in all the States, and

"(B) have in effect, on the most recent December 31 for which information is available to the Office, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

"(2) For purposes of group long-term care insurance, it must—

"(A) be licensed to transact group life or health insurance in each State in which the company proposes to offer long-term care benefits provided by this chapter, and

"(B) have, in the judgment of the Office, long-term care expertise, substantial experience with insuring very large groups, and financial soundness."

(7) in subsection 8710(a)—

(A) by inserting "life and accidental death and dismemberment" immediately after "total amount of"; and

(B) by adding at the end thereof the following new sentence: "This section shall not apply to long-term care insurance authorized under subsection 8704(e) of this chapter."

(8) by amending the fourth sentence of section 8712 to delete the word "life"; and

(9) in the first sentence of subsection 8714(a) by inserting "8704(e) or" before "8707".

SEC. 2. This Act shall take effect on January 1 of the first year which begins at least 120 days after enactment.

Mr. DOLE. Mr. President, Senator WILSON is to be commended as this is a first step in helping to sort out answers with respect to the financing of long-term care. In many respects it is an experiment with a public/private sector solution to a very pressing need.

There is no additional cost to the Government, as the payments currently made to the life insurance policy would instead be applied to a long-term care policy. Therefore, there would not be an additional burden on the taxpayer. It would also be of benefit to the employee, as insurance needs change as an individual ages. Most importantly, the conversion would be optional and several plans will be offered, thus it would allow the employee a choice.

I have long been a proponent of public/private sector activity, and in fact I think that is the only way we will be able to develop a solution to the difficult and complex issue of the financing of chronic care. This plan will allow us to observe what options the public wants and needs, and it also allows the private sector to participate in the process.

This is a significant model for us to follow. Again, I am pleased to support this bill.

By Mr. KERRY:

S.J. Res. 193. Joint resolution to establish a bipartisan commission on Third World debt; referred to the Committee on Foreign Relations.

ESTABLISHMENT OF A BIPARTISAN COMMISSION ON THIRD WORLD DEBT

Mr. KERRY. Mr. President, today I am introducing a joint resolution that would establish a bipartisan commission on Third World debt. A companion resolution is being introduced in the House by Representatives FAUNTROY and GARCIA.

A bipartisan commission on Third World debt is needed to forge a consensus on an issue that for the last 5 years has cast a cloud over international financial relations, has stymied economic growth and development in Third World countries, and has threatened the political stability of emerging democracies.

Let me hasten to add that since the crisis first arose in 1982 after Mexico announced its inability to service its debt, that many creative and useful solutions have been formulated to solve the debt crisis. A bipartisan commission would be complementary to these solutions. Proposals for a debt management facility contained in both the Senate and House versions of the omnibus trade bill and the so-called options plan in the House version of the trade bill potentially represent part of the solution to the debt crisis.

Similarly, the initiative of Secretary Baker, first announced 2 years ago, meets part of the challenge by concentrating on the debt of the so-called Baker dozen. In the Congress, Senators BRADLEY, PROXMIRE, and SARBANES, and Representatives FAUNTROY, GARCIA, LAFALCE, MORRISON, and SCHUMER, among others have all made valuable contributions to the dialog on the Third World debt.

My own involvement stretches back several years and includes preparation of a staff study, introduction of a resolution in the 99th congress based on the study, and the convening of hearings on the decline of the dollar by a subcommittee of the Foreign Relations Committee. Hearings on the dollar invariably center on international financial problems including the Third World debt crisis.

My involvement in this issue has convinced me that now is the time to bring all of this work to fruition. While progress has been made the crisis lingers, and as long as it does, the potential for serious economic and political upheavals in Third World countries remains.

As long as the crisis lingers the damage to the U.S. economy will continue. It is difficult to measure the cost of the debt crisis, but financial instability and imbalance in the international trading system, by-products of the debt crisis, cannot be tolerated indefinitely.

As indicated in discussions of the omnibus trade bill and the findings of the resolution I have introduced, the United States has a major stake in Third World recovery. It is important that economic growth resume in Latin America, Asia, and Africa not only for the developing countries but also for the health of the United States economy. It has been estimated, for example, that debt related austerity in the top five developing country debtors, Brazil, Mexico, Argentina, Venezuela, and the Phillipines, reduced United States exports to these countries by $5 billion and increased imports from them by almost $9 billion, thereby reducing employment in the United States by more than 200,000 full-time jobs in nonservice industries.

Whether you are a textile manufacture hurt by imports from Third World countries that must increase their exports in order to pay interest on their debt, or a hi-tech manufacturer that cannot sell in the Third World because the debt crisis has slowed economic growth and development, you and your employees are directly affected by the debt crisis.

The debt crisis means less growth, less sales, and less jobs. It also means instability in credit markets thereby making it more difficult for businesses to obtain credit for plant expansions, farmers to obtain needed credit, and consumers to finance purchases of homes and automobiles.

Despite the progress to date and rhetoric to the contrary, the debt crisis will not go away and it is not amenable to piecemeal solutions. The Commission I have proposed can provide the required coherent approach to the debt crisis. It can pull together the vast array of data and material on the debt crisis. More importantly a bipartisan commission can provide an independent evaluation of the many solutions—including those contained in the omnibus trade bills—that have been proposed. A set of recommendations from an independent blue-ribbon commission would bring the required focus to this issue.

DEBT CRISIS: A HEADLINE A DAY

The importance and complexity of the Third World debt crisis cannot be overemphasized. The debt crisis continues to generate, almost on a daily basis, newspaper accounts in the financial press which describe threats of suspension of payments by debtor nations and/or announcements by major money-center banks that they have established reserves against expected losses from loans to Third World countries. The Wall Street Journal, for example, recently reported that major money-center banks added a total of $15 billion in the summer of 1987 to their loan loss reserves.

International financial organizations, financial ministers from the G-7 and academic organizations regularly hold conferences in which the Third World debt is often a major topic on the agenda.

The World Bank and the International Monetary Fund [IMF] are holding their annual joint meetings here in Washington this week, and these organizations are expected to consider proposals for increasing the flow of funds to hard-pressed debtor nations, both those in Latin America and those in the poorer sub-Saharan area.

At preliminary meetings, Treasury Secretary Baker cited "impressive progress" made by a number of individual countries including Mexico and the Philippines. But West German Finance Minister Gerhard Stoltenberg expressed a more pessimistic view when he told reporters outside the preliminary meetings that "There are no real breakthroughs in the debt situation so far."

The National Bureau of Economic Research [NBER] held a conference last week in Washington on "Developing Country Debt." Papers were presented on the case histories of eight debtor countries and the role of the IMF, World Bank, and private capital flows.

If a solution to the Third World debt problems were at hand, or if we had made substantial progress in the past 5 years, than I believe we would not still have such a flurring of activity. It seems to me that these activities suggest that we are a long way away from a permanent over-all solution to the many facets of the problem.

Jeffrey Sachs, director of a NBER debt project, summed up the issues at the debt conference held in Washington last week. Sachs observed:

> The urgency of the NBER study should be self evident. For dozens of developing countries, the financial upheavals of the 1980's have set back economic development by a decade or more. Poverty has intensified in much of the developing world as countries have struggled under an enormous external debt burden. Moreover, the world financial system has been disrupted by the prospect of widespread defaults on the foreign debts of the developing world. More than 5 years after the onset of the crisis, almost all of the debtor countries are still unable to borrow in the international capital markets on normal market terms.

Mr. President, I believe Professor Sachs has cogently called our attention to the urgency of the Third World debt problem and I will insert a copy of his full summary statement in the Record at the conclusion of my statement.

THE RECORD

Given the daily newspaper reports and the proceedings of major international financial and research organizations, it is difficult to argue that the Third World debt crisis is near resolution. A review of the historical record will give an indication of the magnitude of the problem, the amount of progress to date, the impact of the crisis on debtor and creditor nations, and the scope of what remains to be accomplished.

The World Bank projects total external Third World debt at over $1 trillion—$1,080 billion; up from and estimated $1,035 billion in 1986. While Third World debt more than doubled ever 5 years in the inflationary environment of the 1970's, growth in external debt averaged about 5 percent per year after the 1982 crisis.

Slow growth in debt was consistent with the desire to reduce the exposure of major money center banks, and to prevent debt from growing faster than the ability of Third World countries to service the debt. While the exposure of nine U.S. money center banks, from loans to the 15 "Baker countries," decreased from 193 percent of capital in 1982 to about 124 percent of capital in 1986, the burden on these countries continued to increase. Between 1982 and 1986 the ratio of debt to exports—a measure of ability to service debt—increased for the 15 "Baker countries" from 270 to 338. The combination of rising real interest rates, and falling commodity prices, made the terms of trade less favorable to the less developed countries [LDC] thereby making it more difficult to generate the trade surpluses needed to service the external debt.

Despite the adoption of structural fiscal, monetary, and exchange rate policies urged upon the debtor nations by the IMF, there has been little permanent improvement in their ability to service their debts. While belts were tightened, the quid-pro-quo commitment of new loans did not materialize. Net loans to 109 nations in the World Bank debt reporting system [DRS] in 1986 were estimated to be about $21 billion—down from $28 billion in 1985—compared to about $50 billion in net interest paid by the debtor nations. Thus there was a net outflow of funds of approximately $30 billion from debtor to creditor nations.

The legacy of austerity and lack of required capital inflows was a 4-year—1981-84—decline in per capita output in the 15 "Baker countries" with per capita output remaining about 10 percent below its 1980 level.

EVALUATION OF PROGRESS TO DATE

There appears to be two schools of thought on progress to date. This past August the opposing views were aired in the financial pages of the New York Times. Jeffrey Sachs, a professor of economics at Harvard University—and director of the NBER debt project discussed earlier—argued that—

> It is time for a new direction in United States leadership in the Latin American debt crisis. Against all odds, the Reagan administration has been supporting the banks in holding out for full payments of interest on the bank debt owed by Latin America, a strategy that has left Latin America in financial and economic stagnation.

William B. Cline, a senior fellow at the Institute of International Economics, has an opposing view. He argues that—

> The search for a quick fix for the Latin American debt problem has generated numerous proposals for concessional debt relief. But a close analysis suggests that, except for some extreme cases (Bolivia, for example) such relief is not needed and would be counterproductive.

Mr. President, I will insert both of these excellent articles in the Record at the end of my statement.

Sach's basic evaluation is supported by Pedro-Pablo Kuczynski, cochairman of First Boston International and former Minister of Energy and Mines in Peru. Writing in the fall 1987 issue of Foreign Affairs, he argues that—

> No single scheme will "solve" the debt problem; there is no alternative, however, to some mix of reform of debtor economies and fresh capital. Unfortunately the clock is ticking and the progress on new action has been limited.

Martin Feldstein, professor of economics at Harvard University and former chairman of President Reagan's Council of Economic Advisers, supports the Cline position and observes in the Economist that—

> The world has been muddling through the Latin American debt problem with reasonable success for nearly 5 years now. The frequently predicted crisis, in which debtor countries repudiate their debts and big banks are no longer able to attract deposits has not occurred.

It is interesting, however, to note that although Cline and Feldstein both believe that reasonable progress has been made, they agree with Kuczynski and Sachs that additional capital inflows to the debtor nations are needed. In reality the disagreement is on how best to generate the required capital. It also important to note that most of the focus of these commentaries has been on Latin America. Tackling the problems of the poorer countries of sub-Sahara Africa will require a totally different approach.

BIPARTISAN COMMISSION

Mr. President, the bipartisan Commission I have proposed is consistent with both perspectives summarized above. A commission can reach a consensus on how far we have come and on what remains to be done. It can deal with the debtor nations of Latin American and the poorer nations of sub-Sahara Africa.

Specifically the Commission would:

First, document and analyze the consequences of the debt crisis on the Third World;

Second, document and analyze the consequences of Third World debt for the United States;

Third, review existing proposals and proposals contained in or recommended pursuant to the Omnibus Trade and Competitiveness Act of 1987 for addressing Third World debt problems, identifying particularly promising approaches, and analyzing their strengths and weaknesses; and

Fourth, develop concrete recommendations for resolving the debt crisis, addressed primarily to the U.S. Government but including guidance to other industrial country governments, debtor country governments, and international financial organizations.

The Commission would consist of 17 members selected as follows: First, seven members selected by the President; second, five members selected by the Speaker of the House; and third, five members selected by the majority leader of the Senate.

The President shall designate a chairman from among the members of the Commission.

The Commission will issue a final report 1 year after all its members are appointed.

Mr. President, the Greenspan Commission on Social Security—a bipartisan commission created by Executive order of the President—issued its report in early 1983. Its recommendations quickly formed the basis of bipartisan legislation enacted in April 1983. No analogy is perfect but it is my belief that there as some important similarities—principally the need to solve a complex set of financial obligations in order to preserve vital institutions—Social Security in 1983; the international banking system and democracy in the Third World in 1987.

In 1983 the financial obligations of the Social Security System were equitably apportioned among current and future workers and current and future beneficiaries to the advantage of the entire Nation. Today, we must allocate the financial obligations of the Third World debt equitably among debtor and creditor nations, and between the private and public sector within these nations.

The task is made more difficult by the need to not only reach a consensus in this country, but also by the need to reach an international consensus. But as Professor Sach's argues this is a time, Mr. President, for new directions in American leadership. The bipartisan Commission can provide that leadership.

The Washington Post asserted in editorials in both March and more recently last week that the subject of the Third World debt crisis "is not one in which American legislation is likely to be useful * * *" Rather the Post argues that "the patient work of holding things together" is the way to achieve progress on the Third World debt.

A bipartisan commission is consistent with this approach. But a commission will also assure—as the Post acknowledges is important—that the slow steady progress is preserving the political and economic stability of emerging democracies as well as the annual profits of financial institutions.

I submit for the RECORD an overview of the NBER Conference on Third World Debt prepared by Professor Sachs. I also submit for the RECORD two articles from the New York Times written by Mr. Cline and Mr. Sachs. I ask unanimous consent that the material be inserted in the RECORD at the end of my statement.

Finally, Mr. President, I also ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 193

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress hereby finds the following:

(1) The international debt crisis threatens the safety and soundness of the international financial system, the international trading system, and the economic development of the debtor countries.

(2) Over the past 5 years, the debt service requirements and the virtual cessation of new voluntary commercial bank lending to heavily indebted developing countries have resulted in massive net transfers of capital from such countries to creditor banks.

(3) While heavily indebted developing countries have enacted austerity programs, substantially reducing their consumption, these programs have contributed to negative economic growth, declining standards of living, and increased political instability in many emerging democracies.

(4) The United States has a major stake in Third World recovery. Renewed economic growth in Africa, Asia, and Latin America would mean expanded markets for United States products and new employment opportunities for United States workers. It would bring higher demand for United States agricultural exports. A revived Third World market would help reduce the United States trade deficit, would provide new investment opportunities for United States corporations, and would greatly strengthen the financial situation of United States Banks.

(5) The austerity policies enacted by the debtor countries have resulted in commodity gluts and price deflation within the international trading system, thus increasing instability within the international financial system.

(6) In order for the United States trade deficit to decline, substantial growth must occur on an international scale, particularly in the developing countries.

(7) Current policies and existing mechanisms for resolving the debt crisis have failed to produce adequate new capital flow in part because of the constraints imposed by the old debt. The heavily indebted countries of Latin America, Africa, and Asia are not recovering economically and the prospects are small for improvements in coming years.

(8) Negotiations between debtor nations and banks have become protracted and almost every day brings new announcements of threats of default by debtor nations or establishment of loss reserves by banks.

(9) A resolution of the current international debt problem will require—

(A) an increase in the flow of private capital in both debt and equity form, to the developing countries; and

(B) an increase in the role played by the public sector and the commercial financial institutions in providing assistance to the developing countries in managing the international debt situation.

(10) The longer the debt crisis lingers on the greater the danger to the economic and political stability of the developing nations and to the financial stability of international financial markets. Debt is not merely a financial or technical problem; it is at the heart of politics in much of Latin America, Asia, and Africa.

(11) It is now time to develop a sound program of international cooperation that can effectively bring the debt crisis to an end, restore economic growth and vitality to Third World nations, and alleviate current threats to international financial and trading arrangements.

SEC. 2. PURPOSE.

It is the purpose of this joint resolution to establish a National Bipartisan Commission on International Debt to develop recommendations for resolving the Third World debt crisis.

SEC. 3. ESTABLISHMENT.

There is established a national Bipartisan Commission on International Debt (hereinafter referred to as the "Commission"). The Commission shall consist of 17 members, selected as follows:

(1) 7 members selected by the President, not more than 4 from the same political party;

(2) 5 members selected by the Speaker of the House, not more than 3 from the same political party; and

(3) 5 members selected by the Majority Leader of the Senate, not more than 3 from the same political party.

The President shall designate a Chairman from among the members of the Commission.

SEC. 4. FUNCTIONS.

The Commission shall—

(1) document and analyze the consequences of the debt crisis on the Third World, and examine the full economic, social, and political costs resulting from the international debt burden, giving particular attention to the implications for democratic rule, for long-term social development, and for security;

(2) document and analyze the costs and consequences of Third World debt for the United States, report on all of the economic costs (such as lost trade and jobs, weakened banking system, and foregone investment), discuss who is having to pay these costs, and examine the broader implications of the debt crisis—for United States relations worldwide, for the building of democracy in this hemisphere, for migration and drug trafficking, and for inter-American and world security;

(3) review existing proposals and proposals contained in or recommended pursuant to the Omnibus Trade and Competitiveness Act of 1987 for addressing Third World debt problems, identifying particularly promising approaches, and analyzing their strengths and weaknesses; and

(4) develop concrete recommendations for resolving the debt crisis, addressed primarily to the United States Government but including guidance to other industrial country governments, debtor country governments, and international financial organizations, and specify for each recommendation, the costs, who will pay the cost, and the expected improvements in debtor country growth prospects, in United States trade and employment prospects, and in the stability of United States and international financial institutions.

SEC. 5. ADMINISTRATIVE PROVISIONS.

(a) The heads of executive agencies shall provide the Commission information to carry out its functions.

(b) Members of the Commission shall serve without any compensation. Members may be allowed travel and per diem expenses.

(c) The Commission shall have a staff headed by an Executive Director. Expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(d) The Commission shall terminate 30 days after submitting its final report.

SEC. 6. REPORT.

The Commission shall make its final report on its findings and recommendations under section 4 to the President and the Congress not later than one year after all members of the Commission have been appointed.

SEC. 7. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this joint resolution.

INTRODUCTION TO THE NBER DEVELOPING COUNTRY DEBT PROJECT

(Overview Presented by Jeffrey Sachs at NBER Conference in Washington, DC, Sept. 21-23, 1987)

The Project on Developing Country Debt undertaken by the National Bureau of Economic Research in the past two years seeks to provide a detailed analysis of the ongoing developing country debt crisis. The focus is on the middle-income developing countries, particularly those in Latin America and East Asia, though many lessons of the study should apply as well to the poorer debtor countries in Sub-Saharan Africa.

The urgency of the NBER study should be self evident. For dozens of developing countries, the financial upheavals of the 1980s have set back economic development by a decade or more. Poverty has intensified in much of the developing world as countries have struggled under an enormous external debt burden. Moreover, the world financial system has been disrupted by the prospect of widespread defaults on the foreign debts of the developing world. More than five years after the onset of the crisis, almost all of the debtor countries are still unable to borrow in the international capital markets on normal market terms.

Table 1 shows several aspects of the economic crisis of the major debtor countries in recent years. Since the dramatic outbreak of the crisis in 1982, economic grown has slowed sharply or has been negative. Per capital incomes in the most indebted countries are still generally well below the levels of 1980. And ominously, debt-export ratios are higher today than at the beginning of the crisis.

Future growth prospects are clouded by a sharp drop in the share of capital formation in GNP. At the same time, inflation has risen to remarkable levels throughout Latin America. The mechanism behind the epidemic of high inflations is basically the same that caused the hyperinflations in Central Europe after World War I, with foreign debts now playing the role that reparations payments played in the post-World War I crisis.

The NBER Project analyzes the crisis from two perspectives, the individual debtor country, and the international financial system as a whole. A major goal of the country studies is to understand why some countries, such as Argentina or Mexico, succumbed to a serious crisis, while others, such as Indonesia or Korea, did not. Another important goal is to understand why most of the debtor countries have been unable to overcome the crisis despite many years of harsh economic adjustment.

To analyze such questions, the NBER commissioned eight detailed country monographs, covering four countries in Latin America (Argentina, Bolivia, Brazil, and Mexico) and four countries in the Middle East and East Asia (Indonesia, the Philippines, South Korea, and Turkey). Each study was prepared by a team of two authors: a U.S.-based researcher and an economist from the country under study.

The choice of countries was dictated by several considerations. First, the project aimed to include the countries with the largest external debt, since their behavior is most important from a global economic point of view. Second, the project was designed to investigate both successes and failures in external debt management. Thus, we have countries that succumbed to serious crisis, and have so far not recovered (Argentina, Bolivia, Brazil, Mexico, and the Philippines); a country which succumbed to crisis but has recovered in substantial part (Turkey); and two countries that did not succumb to an external debt crisis (Indonesia and South Korea). Third, the countries vary widely according to their trade structure, with economies heavily dependent on primary commodity exports (Argentina, Bolivia, Indonesia); countries with a mix of commodity and manufactured exports (Brazil, Mexico, the Philippines, and Turkey); and a country almost wholly dependent on manufactured exports (South Korea).

The economic performance of the eight NBER countries is summarized in Table 2. The table shows the very broad range of experiences. Economic growth is strong, and inflation relatively low, in South Korea, Indonesia, and Turkey. The Latin American economies all have low growth (negative in per capita terms), and very high inflations. The Philippines has low growth and also low inflation. The external debt burden, measured by the debt-export ratio, is heaviest in Latin America and the Philippines, and relatively light in Indonesia and South Korea. Turkey is ranked in the middle. As shown in the final column of the table, two countries (Indonesia and South Korea), escaped a debt crisis altogether. Turkey's came in the late 1970s, before the onset of the global crisis. The Latin American economies and the Philippines have all been engaged in repeated reschedulings since 1982-83.

The individual country studies can answer only some of the questions about the crisis, since global factors have undoubtedly been key to many of the developments in the past few years. Indeed, as Lindert and Morton stress, international debt crises have been a recurrent part of the international financial landscape for at least 175 years, in the 1820s, 1870s, 1890s, and 1930s. It is important to understand the fundamental properties of the international macroeconomy and global financial markets which have contributed to this repeated instability.

The NBER studies that take a global or "systemic" perspective cover several important topics, including: the history of international sovereign lending (Eichengreen, and Lindert and Morton); the nature of negotiations between the commercial banks and the debtor countries (Krugman); the role of the International Monetary Fund (Sachs); the global linkages between debt and macroeconomic policies in the industrial countries (Dornbusch); the appropriate role for long-term structural adjustment policies in the debtor countries (Edwards); the political factors within the developing countries that contribute to economic crisis versus stabilization and growth (Haggard and Kaufman); and possible new approaches to the global management of the crisis (Fischer).

LESSONS FROM THE INTERNATIONAL DEBT CRISIS

The international debt crisis has given rise to many oversimplified interpretations, most of which can be dismissed on the basis of the studies in the NBER project. Simple ideas abound on this topic often because they serve particular vested interests. Creditors want to blame the crisis on the policy mistakes of the debtor governments. Debtors want to blame the crisis on the macroeconomic and trade policies of the creditor governments. Both sides are keen to neglect the more nuanced historical record.

THE CREDITOR AND DEBTOR POSITIONS

The mainstream creditor position (as expressed variously by the United States government, the international institutions, and the commercial banks) can be summarized as follows. The debt crisis emerged largely because of the policy mistakes of the debtor governments. Loans were wasted by inefficent state enterprises, or were squandered in capital flight. "Successful" governments were those like South Korea, which pursued free-market economic policies, while unsuccessful governments smothered economic growth with government regulations. With sufficient economic reforms, including trade liberalization and an encouragement of foreign direct investment, the debtor countries will be able to grow out of the current crisis.

Creditors also maintain that the only proper way to manage the current crisis is to insist that the debtor governments honor their debts in full, since to do otherwise would threaten the international financial system. To grant debt relief to the debtors, they also suggest, would hurt the debtors more than it would help them, because it would cut the debtors off from future borrowing from the world financial markets, and thereby hinder their economic growth.

The debtor perspective of course differs at key points. Debtor governments hold that the crisis erupted because of the rise in world interest rates, the fall in commodity prices, and the collapse of world trade at the beginning of the 1980s. They blame the macroeconomic policies of the creditor governments, particularly the U.S. fiscal policies, for many of the global shocks. Debtor governments typically downplay the role of debtor country policies in the crisis, and often state that advocates of "free market policies" in response to the crisis are simply serving foreign interests (e.g. multinational firms) at the expense of the domestic interests. Many debtor governments argue that successful adjustment will require some debt relief. Attempts to honor the debt burden through increased exports will, they maintain, simply promote offsetting protectionist pressures in the creditor economies.

FINDINGS OF THE NBER STUDIES

There is no single NBER position to emerge from the country studies and systemic analyses, but the historical record belies many of the points commonly made by both the creditors and the debtors. At the risk of some oversimplification, the studies in this project suggest the following major points.

The debt crisis arose from a combination of policy actions in the debtor countries and macroeconomic shocks in the world economy. The "unsuccessful" adjusters (all but Indonesia and South Korea among the countries in the NBER study) fell prey to a common pattern of policy actions: chronically large budget deficits; overvalued exchange rates; and a trade regime biased against exports in general, and agriculture in particular. These policies would have hindered economic performance in most circumstances, but they provoked a deep crisis when confronted with severe shocks to world interest rates, exchange rates, and commodity prices, in the early 1980s.

Importantly, however, the policy actions in the debtor countries typically were not "mistakes" or technical misjudgments, but the result of a deeper political instability. The economies in Latin America, in particular, are deeply riven by great inequalities of income, which in turn prompts intense political conflict over income distribution. The chronic large budget deficits in these countries do not reflect political irresponsibility so much as political vulnerability. Governments can not resist the demands for spending from various highly mobilized social groups, and at the same time can not (or choose not to) raise taxes on the economic elites. Political institutions repeatedly proved too weak to keep the demands for government spending in line with the government's limited tax collections.

In some pathological cases, the political battle can degenerate into a battle of "ins" versus "outs", with the ins using the apparatus of the government for narrow personal gain. The worst exesses of this sort are seen in the Philippines under Marcos, and in many of the Bolivian regimes in the late 1970s and early 1980s.

The experience of South Korea belies the position often taken by the United States and the IMF and World Bank, that "small" government (as opposed to effective government) is a key to good economic performance. As the study by Collins and Park makes clear, the government of South Korea played a leading role in organizing economic development. The government was sufficiently powerful, however, to be able to generate significant budget surpluses to finance domestic investment, and to pursue a long-term policy of export-led growth. Also, given Korea's relatively equal distribution of income (the result in large part of extensive land reform in the late 1940s and early 1950s), the government was able to devote its attention to matters of efficiency rather than equity.

The historical record also belies the creditors' optimism with respect to rapid adjustment in the face of the debt crisis, but also the debtor's pessimism about the long-run results of adjustment policy. The historical record is rather clear on the long-run benefits of outward-oriented trade policies (though the studies by Edwards and Sachs make clear that outward orientation is not the same as trade liberalization). But the country experiences also suggest that outward-orientation requires a sustained period of heavy investment in the export sector, at rates that are difficult to achieve under conditions of financial crisis.

FISCAL ASPECTS OF THE DEBT CRISIS

A foreign debt crisis sets in motion various adverse feedbacks that hinder economic recovery and reduce the possibility of a dramatic improvement in a country's export performance. The debt crisis has had three major external components: (1) a rise in world interest rates, which is generally translated into higher domestic interest rates; (2) a fall in export commodity prices; and (3) a reduction or reversal of net capital inflows.

All of these shocks tend to worsen the fiscal balance, which in most debtor countries was already seriously in deficit before the debt crisis hit (indeed, most of the foreign borrowing was used to finance public sector deficits). The combination of (1) and (3) directly caused a worsening of budget deficits (because of higher interest servicing charges on both home and foreign government debt), together with a reduced capacity to finance those deficits with foreign borrowing. The result in many cases has been that governments have resorted to inflationary finance (i.e. money printing) in lieu of foreign borrowing. This is the experience in Argentina, Bolivia, Brazil, and Mexico. The inflation in turn undermines the tax system, leading to a potentially explosive growth of the budget deficits.

More directly, the collapse of export prices reduces the government's tax revenues from exports and from imports financed by the exports. The reduction in trade tax collections has contributed to the budget crisis in most of the high-inflation economies.

The adverse income effects of (1), (2), and (3), have usually resulted in a real exchange rate depreciation in the debtor economies. While the real depreciation may be salutary for exports in the longer run, it may create several problems in the short run. The government budget deficit tends to widen because the domestic resource costs of the foreign debt are increased by the real depreciation.

At the same time, many private firms (particularly those in the nontraded goods sector and those with heavy foreign debt) may be subject to financial distress, because of the combination of high interest rates and real depreciation. The budgetary burden is then increased to the extent that the government is compelled to bail out the private firms (e.g. to give expensive interest rate subsidies), or more often, to bail out the private banks that are threatened when the private firms go bankrupt.

Once a government's fiscal situation has seriously deteriorated, a fiscal crisis can become self-fulfilling, as argued recently by Guillermo Calvo (1987). The fear of high future inflation, for example, can raise nominal interest rates, and thereby raise the interest costs for the government. Higher interest costs in turn widen the fiscal deficit and make inevitable the high future inflation. This kind of adverse feedback has apparently contributed to the sustained high interest rates in many of the debtor countries in recent years.

In general, major new export sectors require heavy investment. A devaluation can sometimes produce a rapid increase in exports (as happened in South Korea and Turkey after 1980, and Brazil after 1983), but only if there is substantial excess capacity resulting from earlier investments (or if there is a sharp domestic recession, which may free up domestic capacity for export if the country produces tradeables that are consumed domestically). Also, increasing the capacity of export industries often requires both public and private investment. New export sectors generally require new infrastructure in transport, communications, and perhaps port facilities, that usually are in the domain of public investment. Unfortunately, public sector investment has been among the hardest hit areas of government expenditure in the crisis countries of Argentina, Bolivia, Brazil, Mexico, and the Philippines.

Despite the centrality of the public-sector budget in the origin and development of the crisis, there are profound difficulties in measuring and forecasting the fiscal position. Even the IMF auditing of the fiscal accounts, as recorded in the IMF's Government Finance Statistics, are inadequate to the task.

There are several kinds of measurement problems, many with economic, significance. First, actions with fiscal consequences (e.g. actions that increase the public debt or the money supply) are made not only by the central government, but also by regional governments, parastatal enterprises, development banks, and the central bank. Often, the finance minister has little ability to measure, much less control, the consolidated public sector accounts. In most of the countries under study, the various governmental entities outside of central government can gain direct access to the central bank, or can get government guarantees for foreign borrowing, without the authorization of the finance minister.

Another problem is that private sector obligations often quickly become public sector obligations when a financial crisis hits. Domestic firms cry for bailouts, and foreign creditors often insist as well that the central government make good on the private sector debts. The government takeover of the debt can be partially disguised (or at least hard to measure) if the takeover comes in the form of special exchange rates for debt repayments, subsidized credits, or other off-budget means of bailing out private debtors.

The net result of this fiscal complexity is that many countries are forced to rely heavily on inflationary finance even when the measured central government budget seems close to balance. Cardoso and Fishlow discuss, for example, the data problems in Brazil, where several years of triple digit inflation were accompanied measured deficits near zero. The small measured deficits led some to conclude that the inflation was purely an "inertial" phenomenon. This view was tested in the ill-fated Cruzado plan, which attempted to use a wage-price-exchange rate freeze to break the inertia. After the collapse of the Cruzado Plan, most observers now conceded that large fiscal deficits are the driving force of the high Brazilian inflation.

RENEGOTIATING THE EXTERNAL DEBT

The creditor community has long argued that debt forgiveness (i.e. a partial cancellation of debt service payments) is unnecessary and counterproductive. Here we have the historical record as an important guide. Lindert and Morton, and Eichengreen, both demonstrate that previous debt crises have usually ended in some forgiveness. A compromise is typically reached in which the debtors service some, but not all, of the debt that is due. A partial writedown of the debt is the norm, not the exception.

In the past, the compromise was typically reached as the result of bilateral negotiations between debtors and creditors. Lindert and Morton suggest that the involvement in the 1980s of third parties (mainly the creditor governments and the international institutions) has hindered the effective (though often messy) process for arriving at a solution to excessive debt.

The creditor view that debt relief would be harmful even for the recipient debtor countries, because these countries would be closed out of capital markets for many years in the future, is not supported by the historical experience. Both Lindert and Morton, and Eichengreen, find that countries that have achieved partial debt relief have not lost access to the markets to any greater extent than countries that continue to pay their debts. In the aftermath of global debt crises, neither "good" debtors nor "bad" debtors have been able to borrow.

History offers an ironic example why. Argentina was the only country in South America to service the federal debt in the 1930s, under terms laid down by onerous treaties with Great Britain. The nationalist backlash against foreign influence helped to sweep Peron into power. Peron's populist policies more than undid any beneficial reputational effects that Argentina might have garnered from its debt repayments in the 1930s.

It remains to ask, then, why the debtor countries have by and large continued to service their debts fully in the 1980s, despite the historical experience. In part, the question may be simply one of time. In the first years of the crisis, most countries accepted the creditors' arguments that the crisis could be quickly resolved. As that has not come to pass, more and more countries are taking unilateral actions with respect to debt servicing. By mid-1987, several Latin American countries had unilaterally suspended at least part of the interest servicing of the debt, including: Bolivia, Brazil, Costa Rica, Dominican Republic, Ecuador, Honduras, Nicaragua, and Peru.

Another aspect of the debt servicing policies involves the balance of power between debtors and creditors. Debtor governments fear the retaliation of the commercial banks, especially in the form of a cutoff in trade credits. Ironically, those countries that have suspended interest payments in recent years (e.g. Brazil, Ecuador, and Peru), have been able to maintain their trade credit lines, though at the cost of a higher risk premium on the short-term borrowing.

Another kind of retaliation that is feared is a reaction by the creditor governments, either within the financial sphere or more generally in other areas of foreign relations. Countries fear that if they suspend interest servicing, they may lose access to support from the IMF, the World Bank, the Paris Club (for a rescheduling of debts with official bilateral lenders), foreign aid agencies, and export credit agencies. Moreover, debtor governments fear that the leading creditor governments might withdraw other forms of foreign policy support (e.g. involving trade policy, security assistance, etc.), and might even back political opponents of the regime.

A final, and often overlooked reason that countries do not default involves the domestic political economy of the debtor country. In the case of a unilateral suspension of debt payments, some sectors and classes of the economy will tend to gain and others will tend to lose. Gainers from tough bargaining will usually include the nontradeables sectors, urban workers, and landless peasants producing for the domestic market. Losers will include the tradeables sectors (both because of repercussions on the exchange rate, and because of possible retaliation), and the domestic financial community, which has a stake in harmonious financial relations with the foreign banks. Left-wing governments, such as Alan Garcia's in Peru, are therefore more likely to please their working class constituency by taking a hard line on the debt than are governments oriented to exporters and the banking community.

TOWARDS A POLITICAL ECONOMY OF CRISIS, STABILIZATION, AND ADJUSTMENT

We have noted that policy "mistakes" are often not mistakes (in the sense that the government misunderstands the implications of its actions). Rather they are often symptoms of deeper political or economic problems in the debtor countries. The diagnosis that a budget deficit is too large, and therefore should be reduced, is not a complete diagnosis. In the abstract, most finance ministers understand that excessive inflation, or excessive foreign borrowing, result from excessively large budget deficits. At the same time, however, they are often unable or unwilling to do much to reduce the deficits. We must therefore try to understand why the political process produces the excessive deficit. Similarly, we should better understand the ways in which the political process leads to a debtor country's debt negotiating strategy. The papers by Haggard and Kaufman, Sachs, and Edwards, as well as the country monographs, all emphasize the political context in which various economic policies are pursued.

The basic ideas in most stabilization programs supported by the IMF and World Bank are quite straightforward, and aim to reduce budget deficits, achieve a real exchange rate depreciation, and open the economy to international trade. The sobering point is that programs of this sort have been implemented repeatedly, and have failed repeatedly, in the countries under investigation during the past 30 years. A major goal must be to understand why such programs typically fail.

Consider the cases of Mexico and Argentina, for example. As the Mexican case study by Buffie and Sangines makes clear, the "standard" package has been attempted in 1971, 1977, and 1983. In the first two cases, at least, major parts of the package were abandoned early on. Similarly, in Argentina, the "orthodox" package has been tried under Peron, in 1951; Ongania, in 1967 (the so-called Krieger-Vasena program); Viola, in 1977-81 (with Martinez de Hoz as Finance Minister); and to some extent, Alfonsin, since 1985. Again, the staying power of the orthodox program has been very weak in Argentina. (Very recently, this weakness was again underscored, by the electoral losses of Alfonsin's Radical party, and the electoral resurgence of the Peronists.)

More generally, the review by Sachs of IMF programs supports the general point that the most basic weakness of Fund programs is not in design, but in implementation. The common charge by leftist critics that Fund programs do great economic damage is belied by the different, but also damaging conclusion that Fund programs rarely get implemented.

The NBER studies raise some hypotheses as to why the "standard" programs repeatedly fail. Part of the answer seems to lie in the nature of IMF relations with the debtor countries. The style of IMF bargaining seems almost designed to undercut the legitimacy of Fund programs, by relying on secret negotiations, and short-run actions that involve the executive branch but avoid the legislature.

More significantly, most of the countries under study suffer from deep class and political cleavages, combined with weak political institutions and fragmented political parties that fail to keep pace with rapid increases in political and social mobilization. The result, as pointed out by Huntington (1968, p.262) is that "cliques, blocs, and mass movements struggle directly with each other, each with its own weapons. Violence is democratized, politics demoralized, society at odds with itself." In the end, governments alternate rapidly between civilian and military regimes, and budgets and exploited for short-term political advantage rather than long-term economic strategy.

Interestingly, Huntington argued that political stability in modernizing societies can best be achieved through an alliance of an urban ruling elite with the rural masses. Ideally, according to Huntington, that alliance is cemented through agrarian reform and the organization of party support in the countryside. Among the countries under study in the NBER project, Indonesia and South Korea most closely fit Huntington's ideal type. (In the case of Indonesia, however, Suharto's stress on his rural constituency was combined, early in his rule, with violent repression of his rural opposition.) In none of the Latin American countries have governments recently looked to the rural sector as the principle locus of political support.

Haggard and Kaufman identify several other features of the political landscape which affect a government's capacity to carry out necessary economic adjustments, including: the administrative capacity of the governments; the pattern of trade union organization; and the susceptibility of the political institutions to electoral business cycles.

With regard to the substantive design of adjustment programs, Edwards disputes the notion that dramatic liberalization is helpful in the context of a debt or stabilization crisis, suggesting that dramatic liberalization has little basis in either theory or history. Edwards argues that rapid trade liberalization is likely to generate adverse employment effects in the short term, as occurred in the liberalization programs in Argentina, Chile, and Uruguay in the 1970s. Similarly, abrupt devaluations are likely to result in output losses and unemployment in the short run.

NEW APPROACHES TO MANAGING THE DEBT CRISIS

The unsatisfactory economic performance of most of the debtor countries in the past five years has led to continued suggestions for new approaches to international debt management. The NBER studies by Fischer, Krugman, and Sachs consider several alternatives that have been widely discussed, as well as some new proposals.

All of the authors stress that a workable solution to the debt crisis will differ across countries. Some countries, such as Bolivia, Sudan, or Zaire, clearly can service only a small fraction of their debts on market terms. When Bolivia tried to meet its debt servicing obligations during 1982-84, the result was a hyperinflation (the links of debt servicing and hyperinflation are explained by Morales and Sachs). Other countries can service some, but perhaps not all of their debts at normal market terms. Thus, a real case-by-case approach would recognize the need for substantial debt relief for some of poorest and weakest economies, and perhaps some lesser degree of relief for the other debtor countries.

Krugman and Sachs both illustrate the efficiency case for debt relief. A heavy debt burden acts like a high marginal tax rate on economic adjustment. If the economy successfully imposes austerity, much of the benefit accrues to the foreign creditors. Partial debt relief can therefore be pareto improving (i.e. to the benefit of both creditors and debtors), by improving the incentives for the debtor country to take needed adjustment actions. In political terms, partial debt relief can strengthen the hand of moderates, who would pay some but not all of the debt, against the hand of extremists, who would like to service little or none of the debt.

Fischer offers an analysis of a broad range of proposals, dividing his analysis between those alternatives that would merely restructure the debt, and those that would effectively cancel part of the debt. In the first group, he considers debt-equity swaps, and echoes the conclusions of Krugman that debt-equity swaps are unlikely to be a major vehicle for resolving the crisis (indeed Krugman shows how such swaps can be detrimental to the debtor country).

Among proposals that would offer partial forgiveness to the debtor countries (i.e. an explicit writedown of part of the present value of the debt), Fischer focuses heavily on the idea of creating an International Debt Discount Corporation (IDDC). The IDDC would buy developing country debt from the banks in exchange for claims on the institution, and in turn collect from the debtor countries. The basic idea is that the IDDC buy the debt at a discount, and then cancel some of the debt due from the debtor country. Calculations in Sachs (1987) show that the IDDC, far from hurting the commercial banks, could actually raise their market value, so deeply are their stock prices currently discounted because of their LDC debt exposure.

Fischer stresses, however, that the most likely scenario is that partial relief will result from bilateral negotiations between creditors and debtors (as in the historical examples described by Eichengreen, and by Lindert and Morton) rather than through a single international relief operation.

TABLE 1.—THE ECONOMIC CRISIS IN THE HEAVILY INDEBTED COUNTRIES

	Average, 1969–78	1979	1980	1981	1982	1983	1984	1985	1986
Per capital GDP (annual change)	3.6	3.6	2.6	−1.6	−2.7	−5.5	−0.1	0.9	1.4
Inflation (annual rate)	28.5	40.8	47.4	53.2	57.7	90.8	116.4	126.9	76.2
Gross capital formation (percent of GDP)	NA	24.9	24.7	24.5	22.3	18.2	17.4	16.5	16.8
Debt-export ratio	NA	182.3	167.1	201.4	269.8	289.7	272.1	284.2	337.9

Source: All data refer to the 15 heavily indebted countries: Argentina, Bolivia, Brazil, Chile, Colombia, Côte d'Ivoire, Ecuador, Mexico, Morocco, Nigeria, Peru, Philippines, Uruguay, Venezuela, Yugoslavia. Data are from the IMF "World Economic Outlook," April 1987. Inflation refers to the consumer price index.

TABLE 2.—ECONOMIC PERFORMANCE IN THE EIGHT NBER COUNTRIES

	GDP 1980–85	Inflation, 1980–85	Primary share of commodities in exports, 1985	Debt-export ratio, 1985	Debt rescheduling, 1975–86
Argentina	−1.4	342.8	82	576	Yes.
Bolivia	−4.5	569.1	94	601	Yes.
Brazil	1.3	147.7	59	417	Yes.
Indonesia	3.5	10.7	89	191	No.
Mexico	.8	62.2	73	445	Yes.
Philippines	−.5	19.3	49	563	Yes.
South Korea	7.9	6.0	9	156	No.
Turkey	4.5	37.1	46	315	Yes.

Source: World Bank, "World Development Report, 1987." GDP and inflation measures are annual rates of change.

[From the New York Times, Aug. 9, 1987]

SHOULD SOME LATIN DEBT BE FORGIVEN?

IT'S THE RIGHT TIME TO OFFER REAL RELIEF

(By Jeffrey D. Sachs)

It is time for a new direction in United States leadership in the Latin American debt crisis. Against all odds, the Reagan Administration has been supporting the banks in holding out for full payments of interest on the bank debt owed by Latin America, a strategy that has left Latin America in financial and economic stagnation.

The continued insistence on full debt payments could threaten the new democracies in Argentina, Brazil, Peru and elsewhere that are saddled with the financial overhang of the preceding military regimes. A change in policy could ease the way for a compromise in the critically important debt talks now going on between Brazil and the banks.

Washington seems to be alone in its optimism that the Latin debts can be fully serviced. To a degree, even the banks have recognized realities this year by announcing large losses in the form of increased loan-loss reserves for their Latin American exposure. And when Citicorp and others announced the losses, bank share prices actually rose.

The markets had long anticipated what the banks finally decided to admit, that the loans to many developing countries were worth considerably less, perhaps 40 percent less, than their face value. The same market readings are also present in the secondary market for Latin paper, where a $100 claim on Brazil now sells for $55, and where a true connoisseur of junk notes can buy a $100 claim on Bolivia for $10.

It is not hard to see the reasons for these markets assessments. Five years after the outbreak of the debt crisis, Latin America remains a financial basket case, even with some decline in world interest rates. The ratio of debt to exports is higher today than 1982, despite years of austerity. Poverty has risen sharply, and public services have deteriorated. The production and trafficking of illicit drugs have increased in step with the collapse of the legitimate economy.

Most Latin American governments are broke, and are forced to print money to cover their internal expenses, since so much of their tax earnings go toward servicing the foreign debt. The money printing fuels domestic inflation at rates unimaginable in the United States. Brazilian inflation has topped 500 percent at annual rates in recent months, while the rates in Argentina, Peru and Mexico are all well above 100 percent and appear to be heading higher. Bolivian inflation topped 50,000 percent in the spring of 1985 before the Government finally quit bank debt payments and applied Draconian fiscal measures to restore price stability.

The startling inflation rates throughout Latin America contribute to economic stagnation, capital flight and political despair. In response to the deepening crisis, a growing number of democracies in Latin America, including Bolivia, Brazil, Costa Rica, the Dominican Republic, Ecuador, Honduras and Peru, have recently said "Enough!" and have unilaterally suspended part or all of the debt servicing to the commercial banks.

From the Latin American perspective, the United States Government has seemed to be holding out for the last buck on the Latin debt. By promoting a progrm of relief for Latin America, the United States could instead become an ally of the new democracies rather than a financial adversary. Real debt relief would give the new democracies the will, the incentive and the political standing to go forward with true reform programs. For the first time, the Latin American governments could tell their people that the reforms and economic sacrifices are truly for their own benefit, and not for the foreign banks.

The key is to turn the banks' existing declines in the stock market into real relief for the debtor countries, while at the same time protecting the banks from any further declines. Many observers, such as Senators Bill Bradley and Paul S. Sarbanes, have discussed one of the ways this can be accomplished.

Given the current market value of the bank claims on the developing countries, bank shareholders should be happy to trade their Latin debt for about $60 per $100 of debt (the precise price would vary by country).

For debtor countries willing to pursue rigorous adjustment programs under International Monetary Fund and World Bank supervision, an international agency such as the World Bank should purchase the bank debt at the 60 percent price. The purchase could, of course, be made with maketable bonds rather than cash. Then the World Bank would reduce the debt burden to 60 percent of the current amount.

In this way, the debt burden would be reduced to a level that the country could reasonably be expected to service.

In the proposed plan, the relief would come from the banks, rather than from the taxpayers. Could the banks afford it? The answer is obviously yes, since the losses have already been incurred in their stock market valuations and loan-loss reserves. Risks to taxpayers in the creditor countries would arise only to the extent that the debtor countries could not service even the greatly reduced burden and the World Bank would require new funding to make up the difference.

These risks could be lessened in many ways. The World Bank could, for example, charge a spread between the purchase price from the banks and the relief price to the debtor. Or the debtor might pledge gold reserves as partial collateral.

The proposal would take the banks out of the long-term financing of Latin American governments, a business that the banks are now eager to abandon and one that is unnecessary for Latin America's present development needs.

A QUICK FIX THAT WOULD BE HARMFUL

(By William R. Cline)

The search for a quick fix for the Latin American debt problem has generated numerous proposals for concessional debt relief. But a close analysis suggests that, except for some extreme cases (Bolivia, for example), such relief is not needed and would be counterproductive.

The best single measure of the debt burden is the ratio of interest payments to exports. In part because of the decline of world interest rates, this ratio has fallen from 47 percent to 34 percent since 1982 for non-oil exporting countries in the region. After a setback from lower oil prices last year, the oil exporters should resume their improvement this year. Since 1982, debtor countries have sharply cut their external deficits, reduced their budget deficits and devalued their exchange rates to spur exports. After a severe recession in 1983, the countries re-established positive economic growth, and last year growth in non-oil Latin countries averaged 6.5 percent.

None of the four key debtor countries—Mexico, Brazil, Argentina or Venezuela—can be described as insolvent and in need of bankruptcy treatment. Brazil's current suspension of bank payments results not from external shock but from internal mismanagement last year. Exports are now recovering and new economic measures taken in June will reduce the budget deficit. Mexico has shown a dramatic external-sector recovery after last year's collapse of oil prices. The banks have just completed a new lending package for Argentina, and Venezuela has large foreign reserves.

Smaller countries such as Chile that have adopted proper policies have achieved impressive results in growth and exports. Most of the countries in the region can manage their debt and still achieve politically acceptable domestic growth of some 4 to 5 percent annually or higher.

International economic conditions must of course be adequate for continued progress. A threshold of perhaps 2½ percent annual growth in industrial countries is required for sufficient expansion of debtor-country exports. In addition, a new explosion of interest rates and new trade restrictions in industrial countries must be avoided. Commodity prices have been an area of disappointment, although there are emerging signs that they are recovering, particularly in the metals. The partial recovery of oil from its 1986 low is helping to stabilize conditions for Mexico and other oil exporters.

Not only is there no immediate need for widespread debt relief, but its long term benefits are also doubtful. Debt forgiveness is incompatible with improving the debtor country's creditworthiness and returning the country to normal access to international capital markets. Any improved capacity to service reduced debt would tend to be more than offset by the deterioration in creditors' perception of the country's willingness to pay—especially if they thought the country was capable of meeting its obligations while achieving satisfactory growth. Credit reputation is crucial in sovereign borrowing, where physical collateral is absent.

Forced forgiveness would tend to isolate the country not only from capital markets but also from export markets. Peru illustrates the point. Its exports and foreign reserves have fallen as foreign banks cut off trade credit in response to President Alan Garcia's unilateral ceiling on payments, and its favorable growth of last year is unlikely to be sustained.

Senator Bill Bradley has proposed that banks forgive three percentage points annually on both interest and principal—over three years—with agreed policy reform. For Mexico, this program would raise national income by at most one-half percentage point annually during the period. This benefit would seem too small to risk the potentially large long-run costs associated with impairment of creditworthiness.

Another proposal in Congress would create a new debt entity to buy bank debt at the secondary market price and convey the discount to the countries. If such a program is voluntary, few banks would enlist. If forced on the banks, such mechanisms would severely damage the long-term credit relationship between the banks and the countries.

It is true that the risk to the international banking system from developing country debt is much lower today than in 1982 because of increased bank capital and the sizable loan-loss reserves set aside after Brazil suspended bank payments in February. The central point, however, is that even judged solely by the debtor country's own interests (especially longer term), arrangements for new borrowing usually will be superior to forced forgiveness of debt.

The proper policy on debt remains a strengthened Baker Plan, which envisions coordinated resumption of capital flows to the debtor countries in return for policy reform. Renewed capital inflows will be necessary for investment revival and sustained growth, especially as export expansion begins to exhaust idle capacity.

The banks must fulfill their part of the Baker Plan, and will come closer to doing so this year with large new lending to Mexico, Argentina and possibly Brazil. The Export-Import Bank should expand lending more rapidly. And lending through the World Bank and the regional banks should rise faster than under Treasury Secretary James A. Baker 3d's original formulation.

But the fundamental premise of the Baker Plan remains sound: It is far better for the debtor countries themselves—and for the international financial system—to keep debt management on a track that points back to re-establishment of normal access to capital markets Forced debt forgiveness would jettison the hard-won progress in that direction that has already been achieved.

ADDITIONAL COSPONSORS

S. 368

At the request of Mr. MATSUNAGA, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 368, a bill to amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs in the United States, to place restrictions on drug samples, to ban certain resales of drugs purchased by hospitals and other health care facilities, and for other purposes.

S. 444

At the request of Mr. BOSCHWITZ, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 444, a bill to amend the Internal Revenue Code of 1986 to retain a capital gains tax differential, and for other purposes.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Florida [Mr. CHILES] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 858

At the request of Mr. BRADLEY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 858, a bill to establish the title of States in certain abandoned shipwrecks, and for other purposes.

S. 889

At the request of Mr. GORE, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 1162

At the request of Ms. MIKULSKI, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1162, a bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to certain health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes.

S. 1304

At the request of Mr. SIMON, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1304, a bill to enhance the energy security of the United States, improve the environment, and expand markets for agricultural commodities by providing for the increased use of motor fuel blended with ethanol.

S. 1346

At the request of Mr. MATSUNAGA, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1440

At the request of Mr. Evans, the names of the Senator from Missouri [Mr. Danforth], and the Senator from Kentucky [Mr. Ford] were added as cosponsors of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families With Dependent Children, Medicaid, and Food Stamp programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1469

At the request of Mr. Boschwitz, the name of the Senator from Alaska [Mr. Murkowski] was added as a cosponsor of S. 1469, a bill to amend title VII of the Social Security Act to restrict the use of "Social Security" or "Social Security Administration" on goods not connected with such Administration.

S. 1522

At the request of Mr. Riegle, the names of the Senator from Michigan [Mr. Levin], and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1561

At the request of Mr. Bond, the names of the Senator from North Carolina [Mr. Helms], and the Senator from Delaware [Mr. Roth] were added as cosponsors of S. 1561, a bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes.

S. 1616

At the request of Mr. Simon, the name of the Senator from Louisiana [Mr. Johnston], and the Senator from Connecticut [Mr. Weicker] were added as cosponsors of S. 1616, a bill to amend title XVIII of the Social Security Act and the Internal Revenue Code of 1986 to provide long-term home care benefits under the Medicare Program for chronically ill individuals and children, to provide quality assurance for home care services, and for other purposes.

SENATE JOINT RESOLUTION 105

At the request of Mr. Lautenberg, the names of the Senator from New Jersey [Mr. Bradley], the Senator from Georgia [Mr. Nunn], the Senator from Arkansas [Mr. Bumpers], the Senator from Nebraska [Mr. Exon], the Senator from North Dakota [Mr. Burdick], the Senator from Massachusetts [Mr. Kerry], the Senator from Illinois [Mr. Dixon], the Senator from West Virginia [Mr. Rockefeller], the Senator from Michigan [Mr. Riegle], the Senator from Mississippi [Mr. Cochran], the Senator from Minnesota [Mr. Durenberger], the Senator from South Dakota [Mr. Pressler], the Senator from North Carolina [Mr. Helms], the Senator from New Hampshire [Mr. Humphrey], the Senator from South Carolina [Mr. Thurmond], and the Senator from Arizona [Mr. McCain] were added as cosponsors of Senate Joint Resolution 105, a joint resolution to designate December 7, 1987, as "National Pearl Harbor Remembrance Day" on the occasion of the anniversary of the attack on Pearl Harbor.

SENATE JOINT RESOLUTION 172

At the request of Mr. Bradley, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE JOINT RESOLUTION 184

At the request of Mr. Riegle, the names of the Senator from Georgia [Mr. Fowler], the Senator from New York [Mr. Moynihan], the Senator from Tennessee [Mr. Sasser], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of Senate Joint Resolution 184, a joint resolution designating October 15, 1987, as "National Safety Belt Use Day."

SENATE JOINT RESOLUTION 192

At the request of Mr. Hatch, the names of the Senator from Maine [Mr. Mitchell], and the Senator from Illinois [Mr. Dixon] were added as cosponsors of Senate Joint Resolution 192, a joint resolution to designate the month of October 1987, as "National AIDS Awareness and Prevention Month."

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. Stevens, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of Senate Concurrent Resolution 43, a concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE CONCURRENT RESOLUTION 80—TO EXPRESS THE APPRECIATION OF THE CONGRESS TO THE CITY OF PHILADELPHIA, THE NATIONAL PARK SERVICE, AND WE THE PEOPLE 200, INC.

Mr. BYRD (for himself, Mr. Dole, Mr. Heinz, and Mr. Specter) submitted the following concurrent resolution; which was considered and agreed to.

S. Con. Res. 80

Resoved by the Senate (the House of Representatives concurring), That the Congress hereby expresses appreciation to the City of Philadelphia, the National Park Service, and We the People 200, Inc., for their hospitality during the July 16, 1987, ceremonies commemorating the bicentennial of the Great Compromise, which determined the basis of representation in the Senate and the House of Representatives.

SENATE RESOLUTION 293—TO AMEND SENATE RESOLUTION 352 RELATING TO THE COMMEMORATION OF THE BICENTENNIAL OF THE SENATE

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. Res. 293

Resolved, That section 7(a) of S. Res. 352, 99th Congress (as amended by S. Res. 166, 100th Congress), is further amended to read as follows:

"Sec. 7. (a) The actual and necessary expenses of the Commission, including the employment of staff at an annual rate of pay and the employment of consultants at a rate not to exceed the maximum daily rate for a standing committee of the Senate, shall be paid from the Contingent Fund of the Senate, out of the account of Miscellaneous Items, upon vouchers approved by the Chairman of the Commission or his designee; except that no voucher shall be required to pay the salary of any employee who is compensated at an annual rate of pay.".

AMENDMENTS SUBMITTED

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1988

NICKLES AMENDMENT NO. 809

Mr. NICKLES proposed an amendment to the bill (H.R. 2713) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1988, and for other purposes; as follows:

At page 2 on line 6 strike "$444,500,000" and insert in lieu thereof "$434,500,000", and

At page 13 on line 24 strike "$11,032,000" and insert in lieu thereof "$1,032,000".

TRIBLE AMENDMENT NO. 810

Mr. NICKLES (for Mr. TRIBLE) proposed an amendment to the bill H.R. 2713, supra; as follows:

H.R. 2713 is amended by adding at the appropriate place:

Provided further, That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia, for expenses incurred by the counties during fiscal year 1988 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison. The District shall make quarterly reports to the House and Senate Subcommittees on District of Columbia Appropriations regarding the amount and purpose of such reimbursements made to the counties, and the amount of the authorization remaining for such reimbursements.

NICKLES AMENDMENT NO. 811

Mr. NICKLES proposed an amendment to the bill H.R. 2713, supra; as follows:

On page 24, strike all after "SEC." beginning at line 15 through line 24 of the bill and insert in lieu thereof the following:

117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

HARKIN AMENDMENT NO. 812

Mr. HARKIN proposed an amendment to the bill H.R. 2713, supra; as follows:

At page 1 beginning on line 1 strike down through line 2, and at page 2 after line 2 insert:

TITLE I

FISCAL YEAR 1988 APPROPRIATIONS

HELMS AMENDMENT NO. 813

Mr. HELMS proposed an amendment to the bill H.R. 2713, supra; as follows:

At the appropriate place in the bill, add the following:

"None of the funds appropriated by this Act for payment to the District of Columbia as authorized by the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, shall be obligated or expended after December 31, 1987, if on that date the city council of the District of Columbia has not repealed D.C. Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170).".

DEPARTMENT OF DEFENSE AUTHORIZATION, FISCAL YEARS 1988 AND 1989

WARNER AMENDMENT NO. 814

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill (S. 1174) to authorize appropriations for fiscal years 1988 and 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. . AMENDMENT OF THE WAR POWERS RESOLUTION.

(a) Strike out section 2(c) of the War Powers Resolution (50 U.S.C. 1541(c)).

(b) Section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)) is amended to read as follows: "If, within twenty-one calendar days after (1) a report is submitted or is required to be submitted under subsection (a) of this section (whichever is earlier), or (2) Congress is convened pursuant to subsection (a) of this section, whichever is later, an enrolled joint resolution or bill, as described in the first sentence of section 6(a), is presented to the President and is subsequently enacted into law, funds may not be obligated or expended to support the continued use of the Armed Forces in the hostilities or situations described in the report submitted, or required to be submitted, pursuant to section 4(a)(1), as provided in such joint resolution or bill.".

(c) Strike out section 5(c) of the War Powers Resolution (50 U.S.C. 1544(c)).

(d) Section 6 of the War Powers Resolution (50 U.S.C. 1545) is amended—

(1) In subsection (a)—

(A) by adding immediately before the first sentence the following new sentence: "For purposes of this section and section 5, the term 'joint resolution or bill' means only a joint resolution or bill which prohibits the obligation and expenditure of funds to support the continued use of the Armed Forces in hostilities or situations described in a report submitted, or required to be submitted, pursuant to section 4(a)(1) that becomes effective thirty or more days after the date of enactment of such joint resolution or bill.";

(B) by striking out "thirty" and inserting in lieu thereof "sixteen";

(C) by striking out "sixty" both places it appears and inserting in lieu thereof "twenty-one"; and

(D) by striking out "twenty-four" and inserting in lieu thereof "fourteen";

(2) In subsection (c)—

(A) by striking out "fourteen" and inserting in lieu thereof "nine"; and

(B) by striking out "sixty" and inserting in lieu thereof "twenty-one"; and

(3) In subsection (b)—

(A) by striking out "four" and inserting in lieu thereof "three";

(B) by striking out "sixty" both places it appears and inserting in lieu thereof "twenty-one"; and

(C) by striking out "48" and inserting in lieu thereof "24".

(e) Strike out section 7 of the War Powers Resolution (50 U.S.C. 1546).

(f) The amendments made by this section shall apply to the introduction of the United States Armed Forces into situations described by section 4(a) of the War Powers Resolution which occurred on or after August 1, 1987.

LEGISLATIVE BRANCH APPROPRIATIONS, FISCAL YEAR 1988

BUMPERS AMENDMENTS NOS. 815 THROUGH 822

Mr. BUMPERS proposed eight amendments to the bill (H.R. 2714) making appropriations for the legislative branch for the fiscal year ending September 30, 1988, and for other purposes; as follows:

AMENDMENT No. 815

At page 11 after line 5 insert the following:

"SEC. 6. Subsection (i) of Section 814 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93), as amended by Public Law 99-151, is amended by striking out '1987' and inserting '1988'.

AMENDMENT No. 816

On page 4, line 22, immediately before the period insert a colon and the following: "*Provided,* That the amounts appropriated to the Office of the Legislative Counsel of the Senate for Fiscal Year 1987 shall remain available until September 30, 1988".

AMENDMENT No. 817

On page 11, between lines 5 and 6, insert the following new section:

SEC. . Effective in the case of fiscal years beginning after September 30, 1986, the first sentence of section 107(a) of the Supplemental Appropriations Act, 1979 (Public Law 96-38; 2 U.S.C. 69a), is amended by striking out "$2,000" and inserting in lieu thereof "$4,000".

AMENDMENT No. 818

On page 3, line 20, immediately before the period insert a colon and the following: "*Provided,* That, from funds appropriated to the Conference of the Majority and from funds appropriated to the Conference of the Minority for any fiscal year, such Conference may utilize such amounts as it deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate".

AMENDMENT No. 819

On page 11, between lines 5 and 6, insert the following new section:

SEC. 6. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1988, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

AMENDMENT No. 820

On page 43, line 9, insert "(a)" before "Paragraph".

On page 43, insert between lines 19 and 20 the following new subsection:

(b) Paragraph (2) of section 225(i) of the Federal Salary Act of 1967 (2 U.S.C. 359) is amended by striking out "end of the 30-day period" and inserting in lieu thereof "date of enactment of such joint resolution".

AMENDMENT No. 821

At page 40 beginning on line 18 strike all down through line 2 on page 41

AMENDMENT No. 822

On page 6 at line 6 strike "$66,174,000" and insert in lieu thereof "$68,021,000"

DEPARTMENT OF DEFENSE AUTHORIZATION, FISCAL YEARS 1988 AND 1989

MELCHER AMENDMENT NO. 823

(Ordered to lie on the table.)

Mr. MELCHER submitted an amendment intended to be proposed by him to the bill, S. 1174, supra; as follows:

On page 114, between lines 13 and 14, insert the following new section:

SEC. —. PLAN FOR SHARING COSTS INVOLVED IN THE USE OF UNITED STATES ARMED FORCES.

(a) IN GENERAL.—Section 5 of the War Powers Resolution (Public Law 93-148) is amended by adding at the end thereof the following new subsection:

"(d)(1) Whenever the United States Armed Forces are introduced into any situation described in section 4(a)(1), the President should enter into negotiations with the government of any country benefiting from the introduction of those forces in order to establish a pro rata sharing of costs involved in such introduction and use of forces.

"(2) Within 30 calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall prepare and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

"(A) his assessment of the costs involved in the use of United States Armed Forces pursuant to section 4(a)(1);

"(B) a plan for the pro rata sharing of such costs among those countries which benefit from that use of United States Armed Forces; and

"(C) a discussion of the status of negotiations entered into for the purpose of implementing the plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any sixty-day period described in section 5(b) of the War Powers Resolution which is in progress on the date of enactment of this Act or which begins on or after such date.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS

HARKIN AMENDMENT NO. 824

Mr. BYRD (for Mr. HARKIN) proposed an amendment to the amendment of the House to the bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; as follows:

In lieu of the matter proposed by the amendment of the House of Representatives, insert the following:

SHORT TITLE

SECTION. 1. This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSES

SEC. 101. Section 101 is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

"(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

"(4) family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

"(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

"(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately address the needs of, or exclude persons with developmental disabilities in their planning and delivery of services;

"(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

"(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

"(b) The purposes of this title are—

"(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

"(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

"(3) to make grants to support a system in each State to protect the legal and human rights of persons with developmental disabilities.".

DEFINITIONS

SEC. 102. Section 102 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private share holder or individual.";

(2) by redesignating paragraph (4) as paragraph (3);

(3) by striking out paragraph (5);

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (4), (5), (6), and (7), respectively;

(5) by redesignating paragraph (10) as paragraph (8), and in such paragraph, by striking out "nonhandicapped" each place it appears and inserting in lieu thereof "nondisabled";

(6) by striking out paragraph (11);

(7) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (17), (18), (19), and (20), respectively;

(8) by inserting after paragraph (8) (as redesignated by paragraph (5) of this section) the following new paragraphs:

"(9) The term 'priority area activities' includes, with respect to Federal priority areas or a State priority area—

"(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

"(B) the—

"(i) conduct of studies and analyses;

"(ii) gathering of information;

"(iii) development of model policies, and procedures; and

"(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers,

in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in Federal priority areas or a State priority area, including access to specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

"(E) the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons; and

"(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

"(10) The term 'Federal priority areas' means community living activities, employment activities, child development activities, and case management activities.

"(11) The term 'State priority area' means priority area activities in an area considered essential by the State Planning Council.

"(12) The term 'community living activities' means such priority area activities as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including nonfinancial supports and family support services).

"(13) The term 'employment activities' means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

"(14) The term 'supported employment' means competitive work in integrated work settings—

"(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

"(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need on-going support services to perform such work.

"(15) The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(16) The term 'case management activities' means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and services, and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity, and integration into the community is attained.";

(9) by striking out "facility or facilities" in subparagraph (A)(ii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program or programs";

(10) by striking out "facilities" each place it appears in paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "programs";

(11) by striking out "paragraph (13)" in subparagraph (A)(iii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "paragraph (18)";

(12) by striking out "facility" the first place it appears in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program";

(13) by striking out "public or nonprofit facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "program operated by a public or nonprofit private entity";

(14) by inserting ", including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers," before "which is" in subparagraph (A) of paragraph (18) (as redesignated by paragraph (7) of this section);

(15) by striking out "the facility" in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof "a facility"; and

(16) by adding at the end thereof the following new paragraphs:

"(21) The term 'family support services' means services designed to—

"(A) strengthen the family's role as primary caregivers;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, personal care, parent training and counseling, support for elderly parents, and other individualized services.

"(22) The term 'assistive technology' means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements.

"(23) The term 'early intervention services' means services provided to infants, toddlers, young children, and the families of such to—

"(A) identify, assess, and treat developmental disabilities at the earliest possible time to prevent more serious disability;

"(B) ensure the maximum growth and development of a person within the above classes who has a developmental disability; and

"(C) assist families in raising a child with a developmental disability.".

REPORTS

SEC. 103. (a) Section 107(a) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) a description of the State Planning Council's response to significant actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State; and

"(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f).".

(b) Section 107(c)(1) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f);

"(D) the significant Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

"(E) the number of meetings held by the interagency committee established under section 108(b) during the period for which the report is made, which agencies were represented at each such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.".

TITLE II—STATE ASSISTANCE PROGRAM

PURPOSE

SEC. 201. (a) Section 121 is amended to read as follows:

"PURPOSE

"SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.".

(b) The heading for part B is amended by striking out "AND SERVICE" and inserting in lieu thereof "PRIORITY AREA".

STATE PLAN REQUIREMENTS

SEC. 202. (a) Section 122(b) is amended by striking out "for the provision of services for persons with developmental disabilities" in the matter preceding paragraph (1).

(b)(1)(A) Section 122(b)(1) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.";

(ii) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the 'designated State agency'). Except as provided in subsection (e), the designated State agency may be—

"(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office."; and

(iii) by striking out "each" in subparagraph (C) and inserting in lieu thereof "the".

(B) Section 122 is amended by adding at the end thereof the following new subsection:

"(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general public and the non-State agency members of the State Planning Council with respect to the designation of such State agency, and after the Governor has made an independent assessment of the impact that the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

"(3) If the Governor of a State determines not to retain the designation of a State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, designate another agency as the State agency in accordance with the requirements of subsection (b)(1)(B).

"(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any designation of a State agency shall be made in accordance with the requirements of subsection (b)(1)(B)."

(2) Section 122(b)(2) is amended—

(A) by inserting a comma and "activities," after "programs" in subparagraph (A);

(B) by striking out clause (i) of subparagraph (C) and inserting in lieu thereof "(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans or federally assisted State programs that the State conducts and in which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, comprehensive health and mental health, and such other plans as the Secretary may specify, and"; and

(C) by striking out "priority services being or to be provided" in subparagraph (D) and inserting in lieu thereof "Federal and State priority areas which are addressed or which will be addressed".

(3) Section 122 (as amended by paragraph (1)(B) of this subsection) is further amended—

(A) by redesignating paragraphs (3) through (7) of subsection (b) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The plan must describe a process and timetable for the completion, by January 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in subsection (f)."; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provide public assistance) which affect or which potentially affect the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency, and if appropriate, shall include their families.

"(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) By January 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning—

"(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

"(B) the steps to be taken to include the data and recommendations obtained through the conduct of the reviews and analyses under paragraphs (1) and (2) in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

"(5) By January 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By April 1, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.".

(4) Section 122(b)(4) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "strengthening services for" in subparagraph (A) and inserting in lieu thereof "enhancing the independence, productivity, and integration into the community of"; and

(B) by striking out "or agencies" each place it appears in subparagraph (C).

(5) Section 122(b)(5) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall be made consistent with subparagraph (B).";

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must provide for the review and revision, not less often than once every three years, of the comprehensive Statewide plan to ensure the existence of appropriate planning, financial support and coordination, and to otherwise appropriately address, on a Statewide and comprehensive basis, urgent needs in the State for the provision of services for persons with developmental disabilities and the families of such persons. Such review and revision, and examination under subparagraph (A), shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum, include—

"(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may be causing persons with developmental disabilities to be excluded from receiving such services;

"(iii) an analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

"(iv) an analysis of existing and projected fiscal resources;

"(v) an analysis of any other issues identified by the State Planning Council; and

"(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.";

(C) by striking out subparagraph (C);

(D) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively;

(E) by striking out "service activities in the priority services" in clause (i) of subparagraph (D) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (B), and the implementation of paragraph (3) and subsection (f)";

(F) by striking out "service activities for persons with developmental disabilities, and" in clause (ii) of such subparagraph;

(G) by inserting "priority area activities for" after "administration of" in such clause; and

(H) by striking out "the provision of such services" in such clause and inserting in lieu thereof "persons with developmental disabilities".

(6) Section 122(b)(6) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "services furnished" in clause (i) of subparagraph (A) and inserting in lieu thereof "programs";

(B) by striking out "furnished" in such clause and inserting in lieu thereof "operated"; and

(C) by striking out "delivery of services" in clause (ii) of such subparagraph and inserting in lieu thereof "programs".

(7) Section 122(b)(7)(B) (as redesignated by paragraph (3)(A) of this subsection) is amended by striking out "alternative community living arrangement services" and inserting in lieu thereof "community living activities".

HABILITATION PLANS

SEC. 203. Section 123(b) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established."; and

(2) by striking out "program coordinator who will be responsible for" in paragraph (3)(C) and inserting in lieu thereof "case manager who will be responsible for coordinating".

STATE PLANNING COUNCILS

SEC. 204. Section 124 is amended—

(1) by redesignating subsection (b) as subsection (d) and, in paragraph (1) of such subsection—

(A) by striking out "or agencies"; and

(B) by striking out ", including the specification of services under section 122(b)(4)(B)" and inserting in lieu thereof the following: "including the specifications of Federal and State priority area activities under section 122(b)(5)(D)(i)"; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities.

"(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

"(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

"(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

"(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

"(A) are persons with developmental disabilities;

"(B) are parents or guardians of such persons; or

"(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(5) Of the members of the State Planning Council described in paragraph (4)—

"(A) at least one-third shall be persons with developmental disabilities; and

"(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

"(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

"(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.".

STATE ALLOTMENTS

SEC. 205. (a) Section 125(a) is amended—

(1) by striking out "$100,000" in clause (i) of paragraph (3)(A) and inserting in lieu thereof "$160,000";

(2) by striking out "$250,000" in clause (ii) of such paragraph and inserting in lieu thereof "$300,000";

(3) by striking out "$47,000,000" in paragraph (4) and inserting in lieu thereof "$60,000,000";

(4) by striking out "$160,000" in subparagraph (A) of such paragraph and inserting in lieu thereof "$200,000";

(5) by striking out "$300,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$350,000"; and

(6) by adding at the end thereof the following new paragraph:

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

(b) Section 125(b) is amended to read as follows:

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

WITHHOLDING

SEC. 207. Section 127(1) is amended by inserting ", particularly sections 122(b)(3) or 122(f)" after "State plan".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 130 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.".

TITLE III—PROTECTION AND ADVOCACY

REQUIREMENTS FOR SYSTEM

SEC. 301. (a) Section 142(a)(2) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (F), and (G), respectively;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) have the authority to—

"(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and "(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

"(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

"(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

"(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;"; and

(3) by striking out subparagraph (G) (as redesignated by clause (1) of this subsection) and inserting in lieu thereof the following:

"(G) have access to all records of—

"(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access; and

"(ii) any person with developmental disabilities—

"(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

"(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

"(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;".

(b) Section 142(c) is amended—

(1) by striking out "$11,000,000" in subparagraph (A) of paragraph (1) and inserting in lieu thereof "$20,000,000";

(2) by striking out "$80,000" in clause (i) of such subparagraph and inserting in lieu thereof "$107,000";

(3) by striking out "$150,000" in clause (ii) of such subparagraph and inserting in lieu thereof "$200,000";

(4) by striking out "$11,000,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$20,000,000";

(5) by striking out "$50,000" in such subparagraph and inserting in lieu thereof "$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $80,000";

(6) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(7) by inserting after paragraph (1) the following new paragraph:

"(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 143 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 143 for such preceding fiscal year.".

(c) Section 142 is further amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) (as amended by subsection (b) of this section) as subsection (b); and

(3) by adding at the end thereof the following new subsection:

"(c) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 143 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 143. For allotments under section 142, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $22,000,000 for fiscal year 1989, and $24,200,000 for fiscal year 1990.".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

PURPOSE

SEC. 401. (a) Section 151 is amended—

(1) by striking out "facilities" and inserting in lieu thereof "programs"; and

(2) by striking out "the conduct of service demonstration programs" and inserting in lieu thereof "the demonstration of exemplary services and technical assistance".

(b) The heading for part D is amended by striking out "FACILITIES" and inserting in lieu thereof "PROGRAMS".

GRANT AUTHORITY

SEC. 402. (a) Section 152(a) is amended—

(1) by striking out "section 154" and inserting in lieu thereof "section 154(a)";

(2) by striking out "facilities" and inserting in lieu thereof "programs"; and

(3) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)".

(b) Section 152 is further amended—

(1) by striking out subsections (b) and (d);

(2) by redesignating subsection (c) as subsection (d) and (in such subsection)—

(A) by striking out "The" and inserting in lieu thereof "From amounts appropriated under section 154(a), the"

(B) by inserting "and may compete for grants under subsections (b) and (c)" before the period at the end of the second sentence; and

(C) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)";

(3) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as described in paragraph (2)), programs for elderly persons with developmental disabilities (as described in paragraph (3)), and community-based service programs (as described in paragraph (4)).

"(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

"(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

"(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

"(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide direct supports and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

"(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

"(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services."; and

(4) by adding at the end thereof the following new subsection:

"(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university or a public or nonprofit entity which is associated with, or is an integral part of, a college or university, to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center. The amount of a grant under this subsection may not exceed $35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.".

APPLICATIONS

SEC. 403. (a) Section 153(a) is amended—

(1) by striking out "facilities" in the first sentence and inserting in lieu thereof "programs";

(2) by inserting "all" before "persons with developmental disabilities" in the second sentence; and

(3) by striking out "section 102(13)" in the second sentence and inserting in lieu thereof "section 102(18)".

(b) Section 153(b) is amended—

(1) by striking out "section 152" in the matter preceding paragraph (1) and inserting in lieu thereof "section 152(a)";

(2) by striking out "facility" each place it appears in paragraph (2) and inserting in lieu thereof "program";

(3) by striking out "is making" in clause (i) of subparagraph (B) of such paragraph and inserting in lieu thereof "will make";

(4) by striking out "and" at the end of such subparagraph;

(5) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(6) by adding at the end thereof the following new paragraphs:

"(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

"(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.".

(c) Section 153(c) is amended—

(1) by striking out "facility" and inserting in lieu thereof "program"; and

(2) by striking out "section 152" and inserting in lieu thereof "section 152(a)".

(d) Section 153(d) is amended—

(1) by striking out "facility" each place it appears and inserting in lieu thereof "program";

(2) by striking out "section 154" each place it appears and inserting in lieu thereof "section 154(a)";

(3) by striking out "$175,000" in paragraph (1) and inserting in lieu thereof "$200,000";

(4) by striking out "$75,000" in paragraph (1) and inserting in lieu thereof "$150,000"; and

(5) by adding at the end thereof the following new paragraph:

"(3)(A) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year.

"(B) Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

"(C) The Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served by the program or center, if such application proposes to serve the population of an entire State.".

(e) Section 153 (as amended in this section) is further amended by adding at the end thereof the following new subsection:

"(e)(1) The Secretary shall by regulation require appropriate technical and qualitative peer review of applications for assistance under this part by peer review groups established under paragraph (4).

"(2) Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience or training, are highly qualified to assess the comparative quality of applications for assistance.

"(3)(A) The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.

"(4) The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

"(A) the provisions of title 5, United States Code, concerning appointments to the competitive service;

"(B) the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, concerning classification and General Schedule pay rates;

establish such peer review groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

"(5) The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Section 154 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 154. (a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $4,500,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, and $5,500,000 for fiscal year 1990.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

"(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).".

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

SEC. 501. (a) Section 161 is amended by striking out "for demonstration projects" and inserting in lieu thereof "and contracts for projects of national significance".

(b) The heading for part E is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE".

GRANT AUTHORITY

SEC. 502. (a) Section 162(a) is amended—

(1) by inserting "and enter into contracts with" after "make grants to" in the matter preceding paragraph (1);

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal interagency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and"; and

(3) by inserting "the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and" after "otherwise improving" in paragraph (2).

(b) The last sentence of section 162(b) is amended—

(1) by striking out "for each" and inserting in lieu thereof "in such"; and

(2) by striking out "in which an applicant's project will be conducted".

(c) Section 162 is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 163 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 163. (a) To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1988, $3,650,000 for fiscal year 1989, and $3,650,000 for fiscal year 1990.

"(b) Of the amounts appropriated under subsection (a) for any fiscal year, $600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.".

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601. This Act, and the amendments made by this Act, shall become effective on October 1, 1987.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President. I would like to announce for the information of the Senate that the closed hearing originally scheduled on October 20, 1987 at 9:30 p.m. in room S-407 on the status of the Department of Energy's efforts to address questions on environmental and safety issues concerning the defense materials production reactors located in the United States has been rescheduled.

The closed hearing will now take place on October 27, 1987 at 10 a.m. in room S-407 in the Capitol Building in Washington, DC.

For further information, please contact Mary Louise Wagner at (202) 224-7569.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests.

The hearing will take place October 20, 1987, 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following measures currently pending before the subcommittee.

H.R. 2629, a bill to amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native corporations and the State of Alaska;

S. 1335, a bill to establish the city of Rocks National Reserve in the State of Idaho, and for other purposes; and

S. 1675, a bill to provide for the establishment of the Hagerman Fossil Beds National Monument in the State of Idaho, and for other purposes.

Those wishing information about testifying at the hearing or submitting written statements should write to the Subcommittee on Public Lands, National Parks and Forests, U.S. Senate, room SD-364, Dirksen Senate Office Building, Washington, DC 20510. For further information, please contact Tom Williams at 224-7145 or Beth Norcross at 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON AVIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on September 30, 1987, to hold oversight hearings on the safety of military charter flights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 30, 1987, at 2 p.m. to hold a hearing on Ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, September 30, 1987, to resume hearings on oversight of Federal procurement decisions on Wedtech.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL CREDIT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Credit, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, September 30, 1987, and to markup farm credit legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 30, 1987, to Pending Business; S. 1084 and amendment No. 176, U.S. Uranium Enrichment Act; and S. 1100 and amendment No. 177, Uranium Revitalization and Tailings Reclamation Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a hearing during the session of the Senate on September 30, 1987, on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 30, 1987, to hold hearings on the nominations of Alan F. Holmer to be a Deputy U.S. Trade Representative, with the rank of Ambassador, and O. Donaldson Chapoton to be an Assistant Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, September 30, 1987, to mark up S. 1323, the Tender Offer Disclosure and Fairness Act of 1987; H.R. 2741, the 1988 Olympic Commemorative Coin Act; and the nomination of William Sullivan to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on October 6, 1987, at 2 p.m. on the nomination of Robert H. Bork to be Associate Supreme Court Justice.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PENNSYLVANIA AVENUE REDEVELOPMENT

● Mr. MOYNIHAN. Mr. President, recently Chairman Hank A. Berliner, Jr., and the other members of the board of the Pennsylvania Avenue Development Corp., honored my work on the redevelopment of Pennsylvania Avenue, and on the new International Cultural and Trade Center to be built on the Federal Triangle site. I appreciate their recognition—indeed the PADC Board and staff were instrumental in developing the legislation which passed the Senate and House unanimously in August, and which the President signed into law on August 22, 1987. I ask that Mr. Berliner's remarks and a copy of the board's resolution be placed in the RECORD.

The material follows:

Remarks, Henry A. Berliner, Jr., Chairman, to PADC Board of Director, September 16, 1987, Regarding Federal Triangle Development Act

Over many years, many PADC Board Members had inquired why the massive parking lot at Pennsylvania Avenue and 14th Street had never been developed.

In 1985, I asked Executive Director Jay Brodie to investigate this matter and, at the same time, to analyze which major Federal agencies were in scattered locations in the Washington area and could benefit from a consolidation of their space at this location. The answers were:

. . . there had been many plans, initially for a "Great Plaza," later for for various Federal Office developments; none had come close to being realized.

. . . there were, indeed, Federal Departments notably Justice and Treasury, that could utilize this site to develop much more efficient operations.

We followed up to ascertain if the Attorney General and the Secretary of the Treasury would be interested. They were.

Meanwhile—

Terry Golden was appointed as the Administrator of General Services; we met with him and benefitted from his enthusiasm for the consolidation principle and for his idea of incorporating the concept of an International Cultural and Trade Center (previously proposed by the Federal City Council for a site near L'Enfant Plaza) into the development. A variety of architectural and economic studies were made by a working group including PADC, GSA, Federal City Council and State Department staff. And, Senator Daniel Patrick Moynihan came forward as a strong advocate for this concept, seeing in it the culmination of the revitalization of Pennsylvania Avenue between the Capitol and the White House.

An impressive team had emerged!

Drafts of a Bill were prepared and shared with Congressional staff. As the drafts were reviewed and as hearings were held by Senator Moynihan (in May) and by Representative Sunia (in July), several parties suggested PADC's active participation to move the project forward expeditiously through a design-developer competition. Finally, through Senator Moynihan's consummate legislative skills, and the cooperation of Representatives Howard and Vento, the Bill was unanimously approved on August 5 and 7 by the Senate and the House . . . and signed by President Reagan on August 22. In recognition of the significant contributions that Senator Moynihan has made, over a quarter century, to the rebirth of Pennsylvania Avenue, we have prepared a Resolution expressing our appreciation. I ask for your approval by unanimous consent.

The following resolution was passed with the unanimous consent of the PADC Board of Directors.

Resolution of the Board of Directors, of the Pennsylvania Avenue Development Corp.

Whereas, Daniel Patrick Moynihan has made significant and enduring contributions to the planning and design of Pennsylvania Avenue during its period of revitalization from 1961 to the present; and

Whereas, as Secretary of President John F. Kennedy's Ad Hoc Committee on Federal Office Space, as Vice Chairman of President Lyndon B. Johnson's Temporary Commission on Pennsylvania Avenue and as Counselor to President Richard M. Nixon for Urban Affairs, Daniel Patrick Moynihan was in a unique position to assist and maintain the momentum of the Avenue's progress, including the retention of the Willard Hotel; and

Whereas, Daniel Patrick Moynihan's continuing interest in the quality of Federal architecture was expressed particularly in "The Guiding Principles for Federal Architecture—1962" contained in the Report to the President by the Ad Hoc Committee on Federal Office space, positively influencing the standard for government buildings throughout the nation; and

Whereas, Daniel Patrick Moynihan's efforts were instrumental in the passage by the unanimous consent of the Congress of the Federal Triangle Development Act, calling for PADC to lead the design and development of a major Federal building containing government offices and an International Cultural and Trade Center on the parking lot at 14th Street and Pennsylvania Avenue, N.W.; and

Whereas, this most recent achievement culminates over a quarter century of dedication of Daniel Patrick Moynihan's energy, imagination and leadership to the improvement of America's "Main Street;"

Now, therefore, it is unanimously resolved by the board of directors of the Pennsylvania Avenue Development Corporation that Daniel Patrick Moynihan be hereby recognized for his exceptional work on behalf of the redevelopment of Pennsylvania Avenue and its environs between the Capitol and the White House.●

TRUCKING DEREGULATION

● Mr. PACKWOOD. Mr. President, last week I introduced by request the Reagan administration's legislation to totally deregulate the interstate trucking industry, the "Trucking Productivity Improvement Act of 1987" (S. 1710).

I would like to bring to the attention of my colleagues an excellent editorial on trucking deregulation which appeared last week in the Journal of Commerce. This editorial points out the successes of partial deregulation to date and urges that we now finish deregulating the trucking industry.

I ask that this editorial be printed in the RECORD.

[From the Journal of Commerce, Sept. 25, 1987]

Finish Truck Deregulation

The grass roots backlash that is hammering the nation's airlines no doubt emboldens critics of economic reforms in transportation. But the trucking industry, which was deregulated based on the airline model, has had far fewer problems.

Shippers, the ultimate judge of trucking service, aren't complaining of missed schedules, uneven service and rapidly rising rates. To the contrary, most truckers seem better organized than ever, delivering freight faster and with fewer hitches than at any time in memory.

Consider this: Congress is now mulling legislation to force airlines to disclose on-time performance. Most large truckers, on the other hand, readily supply detailed performance reports to customers on a regular basis.

Instead of debating the merits of reregulation, as some railroad and airline customers are doing, most truck shippers can't wait for Congress to abolish the industry's remaining economic controls.

The industry-wide trucking oligopoly long predicted by deregulation's critics has failed to materialize. To be sure, a handful of large fleets dominate the long-haul markets. But competition there is vigorous and rates are reasonable. Witness the first half of 1987, when a rate war among the country's three largest carriers drove their collective operating profits down 40%. Rates eventually will stabilize, but the buyer's market isn't likely to disappear any time soon.

Meanwhile, unpretentious mid-sized carriers continue to prosper. Over the past 10 years, medium-sized companies have consistently posted higher profit margins than any of the industry giants. As in banking, the big get bigger, but size has little to do with profitability.

Safety remains the trucking industry's biggest problem, but deregulation doesn't seem to have made it any worse. Data from the Department of Transportation's Fatal Accident Reporting System show the number of trucks involved in fatal crashes, measured against miles traveled, fell 25% from 1976 to 1985.

Fortunately, the government already has taken the first positive steps to reduce big rig disasters. The number of roadside truck and bus inspections, for example, rose from 36,000 in 1983 to 545,000 in 1986, according to government figures. The increase is the result of federal safety grant programs that helped states hire and train thousands of new inspectors.

Despite the good news, bills in Congress to complete trucking deregulation languish, victims of the general fear that transportation reforms may have gone too far.

The Reagan administration has authored a proposal that would end collectively set freight rates and abandon the regulations that forced carriers to file 1.2 million tariffs with the Interstate Commerce Commission last year. The measure also would prevent states from imposing their own restrictive in-state controls on carriers that also operate interstate. Such legislation is before the House of Representatives, and a similar version was introduced in the Senate last Tuesday.

This legislation merits support. Trucking service is better than ever, rates are competitive and the industry's safety problem is being addressed. But there are still inefficiencies that push up transportation costs needlessly. It's time to complete the job of deregulation.●

SINKING OF THE "TUSCANIA"

● Mr. DECONCINI. Mr. President, I rise today to comment on an intriguing parallel between events in the Persian Gulf today and those in the Irish Sea nearly 70 years ago. Recently, a 91-year-old constituent wrote me about his experience as a young, nervous, and ill-clad American recruit sent to Europe to fight for democracy in World War I.

He traveled across the Atlantic in a troop ship called the *Tuscania.* Few people today have heard of the *Tuscania* and fewer still actually remember her, but in February 1918, she was a household word. As much of a household word as the U.S.S. *Stark* is today. After a long and uneventful crossing, the transport group of which the *Tuscania* was a part, steamed into the seemingly safe waters of the North Channel to the Irish Sea between Ireland and Scotland. It was there, in friendly waters, that the *Tuscania* was torpedoed by German U-boat 77.

As the *Tuscania* slowly sank into the icy waters on that February night in 1918, confusion reigned onboard in the dark. The lifeboats were awkwardly lowered into the water; some of them became stuck while others crashed on top of boats loaded with American soldiers and the English, Irish, and Scottish crew. A few men jumped overboard in an attempt to save themselves, only to perish from hypothermia in the freezing winter waters. Of those who were not rescued by other ships which sailed in the group, many lifeboats were washed toward the coastal islands of Scotland. Some boats found safe harbor there, but others were dashed to pieces by the harsh waves and jagged rocks along the craggy, cliff-dotted coastline. Those men who did survive those cold hours on the open sea found warm homes and inviting hearts in the Scottish people. The same undaunted families who opened up their homes to weary and freezing American recruits that night, however, also buried the many dozens of bodies which were washed upon the shore in the following days.

Because of the scattered information available on the rescue missions in the aftermath of the disaster, it was nearly 24 hours before General Pershing's cable from his headquarter's in France to Secretary of War Newton Baker arrived in Washington. After it was received, Secretary Baker delayed announcing the news of the attack until additional information could be obtained. President Wilson was not informed of the torpedoing until after he returned from the theater, nearly 36 hours after the event had taken place.

Just as this Nation answered the call for assistance from our allies in Europe 70 years ago, so has the United States come to the assistance of friendly nations in the Persian Gulf. While the decision of this administration to escort Kuwaiti tankers has been hotly debated in this body, the fact remains that we again have American servicemen and women placing their lives on the line to protect American interests abroad.

As has already been proven, Iraqi missiles and Iranian mines are as deadly as German U-boat torpedoes. This country lost 209 brave men on the night of February 5, 1918. We have already lost 39 American lives in the gulf this year. It is my fervent hope and prayer that the number will not rise and that cooler heads will prevail in that troubled region.

In the meantime, let us reflect upon what—in our role as a superpower—we are called upon to do. Our entry into World War I, following years of debate and isolation, made us a decisive player in the world arena. Our efforts in later wars and incidents have cast upon our shoulders the mantle of keeper of the peace and flagship of democracy for the world. It is not an easy role, as the events of the last few years have proven. Also, events today appear at times to be too closely related to events we view as history.

The survivor of the bombing of the *Tuscania* went on to fight in France and Germany and later returned home to work in Wisconsin and ultimately retire to Sun City in my State of Arizona. I am hopeful that the men who survived the bombing of the *Stark* will live equally long and productive lives; lives that will experience years of peace.●

INFORMED CONSENT: NEW HAMPSHIRE

● Mr. HUMPHREY. Mr. President, it is a statement of the obvious to say that every Member of this body has special concerns about the residents of his or her home State. Our constituents elect us for just that purpose—to keep their well-being in mind as we help set the course of this Nation.

Today, I bring to your attention several letters from the great State of New Hampshire regarding my informed consent bills, S. 272 and S. 273. Written by some of my constituents, the letters tell sad stories of traumatic postabortion experiences, trauma the women were never informed might occur. I am indeed sorry that such injustice to women goes on in New Hampshire, but the fact is, it happens in every State in the Union. I have hundreds of letters from all over America testifying to that reality.

Therefore, I ask my colleagues end this travesty against women that's occurring in our country, and support S. 272 and S. 273. The bills will help make sure that women considering abortion know full well the effects and potential consequences of their decision before they make it. I also ask unanimous consent that letters from three women in New Hampshire be entered into the RECORD.

The letters follow:

JUNE 25, 1986.

DEAR SENATOR HUMPHREY: When I had an abortion, no one discussed the risk, the procedure, the development of the unborn, or the alternatives. No one believed in me or offered positive help thus after the abortion, I experienced many years of regret alone.

I had suicidal thoughts due to an even lower self esteem because the reality of what had happened was devastating!!

I know if one person had said "I'll help you" and told me the truth about abortion I would not have had my baby killed.

Please continue to speak up for the innocent unborn babies!!

God Bless You!

JO ANN FRASER,
New Hampshire.

DEAR SENATOR HUMPHREY: When I told my folks of my condition, they were shocked; hurt. My dad was literally speechless. I didn't think I could hurt them more by having a baby now. I didn't think I could manage on my own for the next 18 to 20 years. I would not go on Welfare. Life seemed impossible. I didn't know that with God all things are possible. Planned parenthood, whom I'd always trusted for help, pills, information, etc., calmly informed me of my "options". I could have my baby and raise it myself—impossible I thought or I could give it up for adoption. The third choice they said was abortion. I was told how safe and easy it would be for me. The one counseling session I had consisted of me doing all the talking while the counselor just sat there silently. It was a total waste of time. As time ran out and after much agonized deliberation, I made the appointment. While the procedure was no more painful than menstrual cramps and the bleeding lasted only a week, I felt an empty spot that was to last for years.

I went on with my life but soon felt it was passing me by. I told Phil that if we didn't get married that I would start dating others. He proposed and we got married in November. We had many ups and downs much stemming from my basic insecurity. I didn't see how any could love me. In the beginning I had a lot of jealousy and mistrust. Four years later we had a beautiful daughter and started going to church. I was still searching for what had lacking all my life.

I start coming to terms with my past. I kept hearing people talking about abortion, all the babies being killed even in our town. I began going to Right to life meetings and was surprised to find myself crying daily for my lost baby. I shared my pain with my Pastor and a Christian sister who helped me see that the grieving I was going through was a normal process necessary for full healing—even if it had been put off for twelve years. They showed me that I had to forgive myself and all other people involved, and most importantly, to accept Christ's forgiveness; that no sin is too great for him to forgive, and once God has forgiven a sin he forgets it. Only true healing comes from Christ.

Sincerely,

PAT RECK,
New Hampshire.

DEAR SENATOR HUMPHREY: At the age of eleven I gave up on my family and started looking for approval amongst peers. Needless to say, I ended up with a crowd of druggies until they started using needles and I got scared. In college, I worked hard and partied hard on weekends. I met a young man in a bar one night who was very impressed with what a very special person I was! I ate that right up, all the way to his bedroom. I was not impressed with him. He was collecting welfare, drank constantly, had a nasty temper—but he kept telling me how wonderful I was. So, I stayed with him. After about four months I knew that I was pregnant. I went to Planned Parenthood. The test was negative. After six weeks of severe symptoms, I went back—still negative I went back four weeks later and my fears were confirmed. They told me "It" was no big deal; that I was to go to the address on the piece of paper they gave me at 11 A.M. the following day and they would take care of my dilemma, nothing to worry about. I made the appointment, was sedated heavily and given a D&C.

I stopped seeing "my boyfriend", didn't tell him about the abortion and he never even pursued me! I stayed sedated for three years. Somehow I graduated from college with honors. The last year and a half I was drunk or stoned. I continued to bury any consciousness with drugs for another 1½ years after graduation. Five years later the Lord brought Mary Pat into my life. She, ever so gently, helped me to realize that I have a child in heaven that I murdered! I went to God with all of the emotions that I never even knew I had concerning what I'd done to my child. What a release! For the first time I cried over the slaughter of my child and I cried tears of gratefulness that Jesus loves him and is raising him for me!

Sincerely,

PAULA F. RIVIZZO,
New Hampshire.●

U.S. REFUGEE PROGRAM—1988

● Mr. KENNEDY. Mr. President, in fulfillment of the statutory requirements of The Refugee Act, members of the Judiciary Committee have consulted with Secretary of State George Shultz and other representatives of the President on the admission of refugees to the United States for the coming year.

Following mid-year hearings that our Judiciary Subcommittee on Immigration and Refugee Affairs held last June 30, we have carefully followed recent developments in our worldwide refugee program. We sent a special staff mission to Southeast Asia last month to review the continuing problems of Indochinese refugees and the need to strengthen programs to protect and assist them.

The admission of Indochinese refugees remains the single largest component of our annual admission of refugees—40,200 this year and 38,000 proposed for next year—out of a total of 68,500 worldwide for the coming year. These levels of resettlement suggest both the continuing needs of the refugees, but also the need for the international community to find other solutions to the continued movement of refugees and migrants in Southeast Asia.

During our consultations this year we raised a number of these issues and will pursue them further during public hearings that we have had to schedule later next month because of the Judiciary Committee's consideration of the nomination of Judge Robert Bork.

But I did want to share with my colleagues, Mr. President, the Judiciary Committee's letter concluding this year's refugee consultations, as well as the President's proposal for admitting additional refugees during the coming fiscal year—a proposal which we have supported with some modifications.

I ask that the text of the letter that the Judiciary Committee has sent to the President, as well as his refugee program request, be printed in the RECORD.

The material follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC., September 29, 1987.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Members of the Committee on the Judiciary have now consulted with your representatives on the proposed refugee admissions for fiscal year 1988, as required by Section 207 of The Refugee Act of 1980. We hereby concur in your recommendation, with the following recommendations and requirements.

As you know, this Committee has over the years shared your commitment, and that of our Nation, in our efforts to assist refugees around the world—especially those needing emergency protection and resettlement opportunities. Our country can be proud of its leadership in support of international programs for refugees, which demonstrates far better than words our Nation's commitment to basic human rights.

We accept your assessment that conditions in the field justify maintaining refugee admissions at about the same level as last year. However, as you know, the Committee's view last year—both the majority and minority—was that there were strong reservations over these levels of admissions.

Yet the proposed numbers for this year have been increased, even as concerns over the policy directions of our refugee program have deepened—particularly in Southeast Asia. Regrettably, we believe that if some of the Committee's policy recommendations of past years—especially the need to pursue options other than just third country resettlement for Indochinese refugees—had seriously been approached, there might not be the need today for high levels of refugee admissions. For the sake of the refugees we seek to assist, we must give more than lip service to the often quoted admonition that third country resettlement is the least preferred durable solution, compared to repatriation and local settlement.

As was noted during the Committee's consultations last year, we had hoped that, in addition to appropriate resettlement, "new initiatives will be developed to deal with the continuing flow of Southeastern Asian refugees—especially voluntary repatriation and local settlement . . ." Yet, to date, no such "new initiatives" have seriously been undertaken, much less realized in Southeast Asia. For example, there has not even been an official response by your Administration to the very modest initiatives in these areas made by the U.N. High Commissioner for Refugees in his "Informal Paper to the Indochinese Consultation Group" last March 31st.

As the Committee has urged previously, there is need for new policy initiatives on many different fronts in Southeast Asia. Otherwise we are likely to foreclose permanently those options which would permit Indochinese refugees to remain humanely within their native Southeast Asian countries.

As a result, we take this opportunity to make the following recommendations, as well as to stipulate some additional consultation requirements during the coming year:

1. While our commitment to work in partnership with Southeast Asian governments continues, we are nonetheless at a critical juncture in our programs in the region; we therefore request that only half of the 29,500 numbers proposed for the regional ceiling on "first asylum refugees" in Southeast Asia—that is, 14,750—shall be allocated before further mid-year consultations with the Committee. We make this stipulation for the following reasons:

(A) We commend you and your Administration for helping to break the diplomatic logjam that has threatened the continuation of the Orderly Departure Program for Vietnam. This program is clearly the option we must pursue in shifting a refugee flow into a family reunification program—while providing for the safe departure of political prisoners, Amerasian children, and others from Vietnam. The new procedures now agreed upon by the United States and Vietnam for processing ODP cases will certainly increase the numbers needed for the program—numbers that are clearly for those persons of "special humanitarian concern" to the United States. It is our view that some of the "first asylum" numbers in the current allocation proposal should be shifted to the ODP program.

(B) The Committee is also doubtful, based upon our latest field reports, that the 29,500 "ceiling" requested for "first asylum" cases in Southeast Asia is justified without it becoming a "quota," for which pressures then build to fill.

(C) Of particular concern is that the proposed ceiling cannot be reached without an extremely large increase in the resettlement of H'mong Highland Lao refugees. The Committee believes that before such a large-scale resettlement program is instituted for the H'mong that the full implications of such a policy be reviewed by the Congress—including its humanitarian implications, increased state and local program costs and, most importantly, whether this option is in the best interests of the H'mong themselves. If it is determined to be in the best interests of the H'mong to be resettled in third countries, then the programs at our refugee processing centers should be reviewed to ensure that the English language and cultural orientation curricula are suitable for the special needs of this ethnic group. The Committee requests that it be notified before more than 1,000 H'mong refugees are processed during the coming year, other than those with immediate family reunification or other special ties.

(D) Finally, based upon this year's requirements, additional numbers will likely be needed for Eastern Europe and the Soviet Union, as well as for the Near East and South Asia. Numbers not needed for Southeast Asia may need to be programmed to meet additional needs in these areas by mid-year.

2. The Committee remains concerned over refugee assistance and protection needs among the Khmer along the Thai-Cambodian border. Recommendations have been made over the past years for improving conditions and providing better protection for these refugees by members of this Committee, by your Administration and officers in the field, and by the United Nations Border Relief Operation. But, to date, they have largely been ignored by the responsible authorities of the Royal Thai Government. We urge strong diplomatic intervention in support of the recent recommendations of UNBRO regarding conditions at Site 2. We further recommend:

(A) That no resettlement of refugees from Thailand be undertaken this year until the Royal Thai Government fulfills its pledge to facilitate the departure of relatives of

United States citizens now mixed with refugees in several Khmer refugee camps. It is impossible to justify to the American people the movement of refugees from Thailand, at the Thai's request, when we cannot secure the departure of the immediate relatives of U.S. citizens and other current and approved immigration visa cases.

(B) Additional U.S. resources should be earmarked for UNBRO's proposals to upgrade and move part of the camp at Site 2 and for assistance to Thailand in providing regular, well-trained and disciplined troops to protect the refugees along the border.

3. The Committee welcomes your Administration's initiative regarding the processing of non-Cuban refugees from Latin America. While recognizing that local settlement or repatriation are the preferred options, there remain resettlement needs among refugees from several nations, particularly in Central America.

4. We support the numbers allocated for refugees from Africa, and commend efforts to assure that those refugees with close ties to the United States are afforded the opportunity to resettle here. There are urgent and growing refugee assistance needs in Southern Africa, and the Committee strongly encourages efforts to address them in the days ahead.

In conclusion, we appreciate this opportunity to raise these issues with you, which we have done in some detail, since the regularly scheduled oversight hearings of the Committee have necessarily been postponed because of the hearings on the nomination of Judge Robert Bork.

Obviously, there are other refugee programming and policy issues which members of the Committee will like to raise with your representatives during the public hearings we will schedule later next month. However, we did want to conclude the formal consultations, as statutorily required by The Refugee Act, before October 1st.

Again, we concur in the refugee admissions ceiling you have proposed, provided the Committee has an opportunity to review, mid-year, the allocation of those numbers in light of changing refugee needs in the field and the requirements we have outlined for new policy initiatives, particularly in Southeast Asia.

Many thanks for your consideration, and best wishes.

Sincerely,

STROM THURMOND,
Ranking Member.
JOSEPH R. BIDEN, Jr.
Chairman.
ALAN K. SIMPSON,
Ranking Member.
EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs.

U.S. COORDINATOR FOR
REFUGEE AFFAIRS,
Washington, DC, September 9, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary, U.S. Senate.

DEAR MR. CHAIRMAN: In accordance with the Refugee Act of 1980, I am pleased to transmit the President's recommendation for the fiscal year 1988 refugee admissions ceiling in preparation for our annual consultations with the Congress.

I have written to the Chairman of the Committee on the Judiciary indicating that the Administration is prepared to begin the consultation process to arrive at a refugee admissions level for fiscal year 1988.

Sincerely,

JONATHAN MOORE.

THE WHITE HOUSE,
Washington, September 5, 1987.

Memorandum for the Honorable George P. Shultz, The Secretary of State. The Honorable Johathan Moore, United States Coordinator for Refugee Affairs.

Subject: Fiscal year 1988 Refugee Admissions consultations.

In accordance with the Refugee Act of 1980, you are authorized to consult with the appropriate committees of the congress on the following points:

The admission of up to 72,500 refugees to the United States during fiscal year 1988. Of this ceiling, 68,500 would be allocated by specific region as follows: 3,000 for Africa, 29,500 for East Asia/First Asylum, 8,500 for East Asia/Orderly Departure Program, 15,000 for Eastern Europe and the Soviet Union, 3,500 for Latin America and the Caribbean, and 9,000 for Near East and South Asia. The remaining 4,000 admissions numbers would be held as an unallocated reserve for refugee admissions needs contingent upon the availability of private sector funding.

An additional 5,000 refugee admissions numbers which shall be made available for the adjustment to permanent resident status of aliens who have been granted asylum in the United States, as this is justified by humanitarian concerns or is otherwise in the national interest.

Further, I propose to specify that special circumstances exist such that, for the purpose of admission under the limits established above, the following persons, if they otherwise qualify for admission, may be considered refugees of special humanitarian concern to the United States even though they are still within their countries of nationality or habitual residence:

Persons in Vietnam and Laos with past or present ties to the United States, persons who have been or currently are in reeducation camps in Vietnam or seminar camps in Laos, and Amerasian children in Vietnam, and their accompanying family members; and

Present and former political prisoners, and persons in imminent danger of loss of life, and their accompanying family members, in countries of Latin America and the Caribbean.

RONALD REAGAN.

Proposed U.S. refugee admissions for fiscal year 1988

Area of origin	*Proposed admissions*
Africa	3,000
East Asia:	
First Asylum	29,500
Orderly Departure Program	8,500
Eastern Europe and the Soviet Union	15,000
Latin America and the Caribbean	3,500
Near East and South Asia	9,000
Subtotal	68,500
Unallocated reserve	4,000
Total	72,500

U.S. REFUGEE ADMISSIONS IN FISCAL YEAR 1987

	Consultation levels	Reallocated levels	Estimated arrivals in the United States
Africa	3,500	2,000	2,000
East Asia:			
First Asylum	32,000	32,000	30,800
ODP	8,500	8,500	8,500
Eastern Europe and the Soviet Union	10,000	12,300	12,300
Latin America and the Caribbean	4,000	1,000	400
Near East/South Asia	8,000	10,200	10,000
Subtotal	66,000	66,000	64,000
Unallocated reserve	4,000	4,000	0
Total	70,000	70,000	64,000

DUFFY DAUGHERTY

● Mr. RIEGLE. Mr. President, with the recent passing of Hugh "Duffy" Daugherty, the State of Michigan and football fans everywhere lost a man who was a friend to many and a wonderful human being. I ask that an editorial that appeared in the September 29 issue of the Detroit News be printed in the RECORD.

The editorial follows:

DUFFY DAUGHERTY

Sometimes, it seems as if college football is just an extension of pro ball—with college football programs serving merely as farm teams for the NFL.

Marketing, gate receipts and television income have become as important to some college programs as they are in professional sports. But that's not really what college football is all about. The best coaches are the ones who remember that college football is supposed to be fun—not just for the students, alumni and other fans, but fun for the players.

Hugh "Duffy" Daugherty, who died Friday, is one of the coaches who remembered that. He also remembered that a coach is, first of all, a teacher. A number of his former players at Michigan State have recalled his warmth, his humanity and his willingness to help his boys work out their problems—whether those problems were on or off the field.

Along the way, though, he recruited such great players as Earl Morrall, Gene Washington and Bubba Smith, and put together teams that made the name Michigan State University feared in places like Columbus, South Bend and Ann Arbor.

Indeed, there is a whole generation of pre-Schembechler Wolverine fans who had to console themselves with remarks like "Here's to Michigan, where the football team has to live up to the university rather than vice versa." But if they'd been honest, they would have admitted that they would just as soon the Wolverines had a better record against the Spartans.

Not everything was perfect in East Lansing when Duffy was there. His relationship with MSU Athletic Director Biggie Munn was tense. He had a rocky starting season and a disappointing closing season, with plenty of rough spots in between. But for a time, there was a glow on the banks of the Red Cedar when football season arrived.

From 1954 to 1972, Duffy Daugherty was Michigan State football. His success on the gridiron coincided with former President John Hannah's drive to make Michigan State a worthy rival to Michigan in academics as well as athletics. In his own way, Duffy contributed to that effort by making MSU a well-known name.

Duffy Daugherty clearly enjoyed himself as a coach. His jokes and stories are legend. His remark about MSU's 1966 10-10 tie with Notre Dame—"Ties are like kissing your sister"—would become immortal. Because he had fun, everybody had fun.

That's quite a gift, and quite a legacy. At the time of his death, Duffy Daugherty had been long retired. But he was never forgotten, and he never will be.●

NATIONAL PASTORAL CARE WEEK

● Mr. SIMON. Mr. President, I would like to call the attention of my colleagues to a significant upcoming event, National Pastoral Care Week, to be observed from October 25 to 31, 1987. This is a week being planned by a number of organizations active in providing pastoral care—the National Association of Catholic Chaplains; the College of Chaplains, American Protestant Health Association; the Association for Clinical Pastoral Education; and the Council on Ministry in Specialized Settings.

Mr. President, we hear a great deal about the importance of health care provided in hospitals. But we spend very little time focusing on the nature of the healing process. The chaplains of our Nation devote their lives to healing, and as they could so vividly provide witness, healing does not result just from the provision of medicine, nor does it result in other situations just from providing for material needs. Healing is profoundly spiritual in nature, as is living, day-to-day, for each and every one of us.

The chaplains of our Nation, the volunteer care givers, and persons in local congregations who provide pastoral care dedicate themselves to ministering to the needs of fellow human beings, helping individuals come to an understanding of themselves and our common human situation. Through their own selflessness and their dedication to the well-being of others, the chaplain and care givers of this Nation provide living witness to the power of goodness, mercy, and love in this world, and reflect the ultimate source of all goodness, mercy, and love. They administer to our needs, but more than that, they call us to reflect back the goodness and love that they provide.

So it is fitting that the week of October 25-31 be set aside to call attention to the role of pastoral care in our Nation. The theme for this year's national pastoral care week is "Excellence in Pastoral Care." I urge my colleagues and all the people of the United States to take note of this week and to participate with appropriate activities.

I submit for the RECORD a description of National Pastoral Care Week submitted to me by my good friend, the Reverend Arne K. Jessen, Ph.D., executive vice president of the College of Chaplains, headquartered in Schaumburg, IL.

The material follows:

NATIONAL PASTORAL CARE WEEK

"Excellence in Pastoral Care" is the theme for National Pastoral Care Week to be observed from October 25-31, 1987. The observance of National Pastoral Care Week has emerged in less than three years as a major emphasis among pastoral care organizations in the United States. Begun in 1984 by the National Association of Catholic Chaplains (NACC), the concept has received endorsement from the College of Chaplains and the Association for Clinical Pastoral Education (ACPE) as well as formal recognition by the Council on Ministry in Specialized settings (COMISS), a coordinating agency of religious endorsing bodies and pastoral care organizations.

"Excellence in Pastoral Care" provides an important opportunity for pastoral care givers in specialized settings to highlight their contributions in the care of patients, clients, inmates, their familes and staff. In addition, pastoral caregivers can reflect upon their specific contributions to people in various settings and receive in turn information and feedback about their ministries.

The theme for 1987 compliments the objectives established for the observance by COMISS:

1. To celebrate the growing professional development of pastoral care and to affirm its mission and purpose within specialized settings.

2. To interpret and promote pastoral care within specialized settings and in the wider society.

3. To recognize professional chaplains, volunteer caregivers, and persons in local congregations who provide pastoral care.

4. To express appreciation to appropriate institutions and their staff for their support of pastoral care ministries.

5. To publicize the work and certification procedures of pastoral care organizations affiliated with COMISS.

6. To provide continuing education for clergy, laity, and institutional employees.

A primary focus on Pastoral Care Week, in light of the theme for 1987, is the identification among pastoral caregivers of what constitutes excellence in their ministries, including a consideration of criteria of excellence, measurement of performance and competence, standards for certification, accountability, and continuing education.

For some, especially those who have been certified by a pastoral care organization and endorsed by a religious body, highlighting excellence may mean telling the story about how they perform their day-to-day responsibilities. For others, Pastoral Care Week may also serve as a vehicle for informing their communities about how pastoral caregivers regularly symbolize the best (the heart and soul) of the institution's mission and simultaneously provide hands and feet for the mission of The Church in the world.

The pastoral caregiver crosses institutional, economic, cultural and ecclesiastical boundaries to represent a God who has demonstrated a desire for wholeness in human life. Because they have access to the entire community, pastoral caregivers are in a unique position to take an assertive role in minimizing fragmentation by calling together individuals and groups to create a more harmonious environment for those serving and those being served. Among other things, excellence in pastoral care demonstrates a dedication to human dignity, and appreciation for individual differences, a balance of acceptance and accountability, a dedication to justice and mercy and an incarnation of love and hope.

Nothing will distinguish institutions as much as the quality of their caring. Now is the time for pastoral care to celebrate its gifts and affirm the difference "Excellence in Pastoral Care" can make.

To assist participating organizations, institutions, and individuals, COMISS will provide a listing of resources and other suggesting that can be appropriately adapted to various specialized settings. For more information about National Pastoral Care Week, contact, Rev. Arne K. Jessen, Ph.D, Executive Vice President, College of Chaplains, American Protestant Health Association, 1701 Woodfield Rd, Suite 311, Schaumburg, IL 60173 (312)240-1014.●

AMBASSADOR ALBERTO MARTINEZ PIEDRA

● Mr. KERRY. Mr. President, during this past April recess, I traveled to Guatemala and Costa Rica. While in Guatemala, I had the privilege of spending a considerable amount of time with our then-Ambassador, Alberto Martinez Piedra.

I found Ambassador Piedra to be one of the most gracious and astute individuals I had ever met. He arrived in Guatemala at a very critical period in that nation's history—that of a transition from a military dictatorship to a democratically elected civilian government. He handled our relations with Guatemala at this critical juncture with great skill and dignity. It was quite evident, during my brief stay in Guatemala, that Ambassador Piedra has won the respect and admiration of Guatemalans from all strata of that society—[illegible] so.

Upon his departure from Guatemala as our Ambassador this past July, the Government of President Vinicio Cerezo Arevalo, chose to honor Alberto with that nation's highest honor—The Order of the Quetzal. In making this award, the Guatemalan Foreign Minister noted:

> Mr. and Mrs. Martinez Piedra will leave a profound void upon their departure. We all know this, and that is the reason for the expression of love and thanks of our people. This testimony of official recognition adds itself to that proof of affection, when Ambassador Martinez Piedra is awarded the Great Cross of the highest Guatemalan decoration, the Order of the Quetzal.

Mr. President, Ambassador Piedra is more than a worthy recipient of this award. He has left a solid foundation for his successor, Jim Michel, to build upon in the pursuit of the common goal of both our nations—to see democracy take firm root in the Guatemalan soil. He worked quietly and persistently in support of this goal. And I for one want to express my personal appreciation for the service he rendered our Nation, as our Ambassador to Guatemala. He is a distinguished diplomat, who deserves our gratitude as well.

I ask that the Foreign Minister's remarks, delivered during the awards ceremony, be printed in the RECORD.

The remarks follow:

MINISTRY OF FOREIGN AFFAIRS, REPUBLIC OF GUATEMALA, C.A.

The president of the republic, licenciado Marco Vinicio Cerezo Arevalo, Supreme Commander of the Order of the Quetzal, awarded the Great Cross of the Order to His Excellency Doctor Alberto Martinez Piedra in Council of Ministers, both for his personal merits and in recognition of the brilliant and effective activity carried out by him as ambassador extraordinary and plenipotentiary of the United States of America in Guatemala, where his efforts helped to strengthen relations between both countries.

Dr. Martinez Piedra arrived in Guatemala three years ago, when we were going through a drastic and uncertain period, debating in the search for a better way to affirm and realize our destiny. He understood reality, thanks to his proven intellect and solid education, his qualities and experience.

In Havana, his birthplace, he became a doctor at law and years later also became a doctor of political economy at the University of Madrid. He added to these degrees that of doctor in economic sciences at Georgetown University, Washington, D.C. His academic background led him to teach at several United States universities. In 1969 he became a citizen of the United States and in 1982 he began to serve the Government of the United States as political advisor of the country's mission to the Organization of American States and subsequently as United States representative to the Inter-American Economic and Social Council. His first position vis-a-vis another government is the one he held among us since 1984 as ambassador, which he has fulfilled in an outstanding manner and so appropriately that he has been called "a first-rate ambassador".

He has proven that his prestige was well-earned and has clearly shown his ability through successful actions. He has maintained exemplary balance and has consolidated an efficient relationship of friendship and mutual appreciation between the United States and Guatemala. He witnessed the political aperture and the process which has led us to institutional re-establishment, as a first step toward consolidation of a genuine democratic system. Ambassador Martinez Piedra approvingly observed and supported this process at all times, not only vis-a-vis his own government, but also at international fora, in his friendly and official relationship with other countries and within organizations and entities before which he has always readily praised the Guatemalan political process, which culminated, as he said, "in 1985 with some of the freest and most honest elections of its history". He has also borne witness at all times that in the field of human rights "Guatemala has made substantial improvements".

He acquired a deep insight into our reality and has fully understood the transformation taking place in our country, which he proves when he says that "Guatemala has left behind the system of repression in which political freedoms and other rights were drastically limited and has committed itself to following the democratic system", as he said when he addressed the rotary club of Houston, Texas, in May of last year.

The support given by Ambassador Martinez Piedra to the democratic transformation process taking place in our country has also resulted in productive initiatives to obtain assistance for Guatemala, be it economic, financial, technical or scientific, not only in the official circles of his country but also at financial and international cooperation agencies and institutions. Thus, United States financial assistance to Guatemala rose from 15 million dollars in 1984 to 100 million in 1985. The same amount was assigned to Guatemala for 1986 and this amount may increase to 185 million. This assistance has helped to adjust the balance of payments and to launch programs promoting the country' development. Military assistance, which had been suspended in 1977, arguing non-respect of human rights in our country, was re-established with 300,000 dollars in 1985 and has increased to five million during the next two years.

In our midst he has constantly shown his appreciation for Guatemala and the extent to which he has identified with us, bringing donations and assistance to the different strata of our society in an uninterrupted effort which has taken him to the farthest corners of our land, where he has earned the affection and admiration of the natives.

Both he and his wife Edita are well-known and appreciated in the city and in the country. They know our landscape and our people thanks to their long and frequent leisure trips, or those during which they carried out humanitarian assistance and channeled projects through official agencies such as AID and others.

They have made lasting friendships and many are the groups and agencies where they will always be remembered gratefully. That is why they have been the object of so many and so significant and expressive farewells, not only in the upper circles of our society but also in middle-level and popular sectors.

Mr. and Mrs. Martinez Piedra will leave a profound void upon their departure. We all know this, and that is the reason for the expression of love and thanks of our people. This testimony of official recognition adds itself to that proof of affection, when Ambassador Martinez Piedra is awarded the great cross of the highest Guatemalan decoration, the Order of the Quetzal.

I should add that in addition to the official seal, this decoration also conveys the personal appreciation of the President of the Republic, Licenciado Vinicio Cerezo.

As Chancellor of the Order of the Quetzal, I am especially pleased to award the Order of the Quetzal to Ambassador Alberto M. Piedra. In addition to my friendship and admiration for him, I wish to convey the esteem of Guatemalan society, which knows how to distinguish true friends from fair-weather friends.

Alberto, receive this decoration with the affection of Guatemalans, in whose hearts there will always be room for Edita and you, true friends who helped us in difficult times, with our best wishes that life may bring you the happiness and joy with which God rewards those who serve him well.

Guatemala, August 10, 1987.●

KINGS RIVER

● **Mr. JOHNSTON.** Mr. President, on September 25, 1987, the Committee on Energy and Natural Resources filed the report to accompany H.R. 799, an act to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

At the time the report was filed, the committee had not received an estimate of cost from the Congressional Budget Office. The committee has now received that report, and I ask that it be included in the RECORD at this time for the use and information of the public and my colleagues of the Senate.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, September 29, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 799, an act to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE

COST ESTIMATE

September 29, 1987.

1. Bill Number: H.R. 799.

2. Bill Title: An act to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes.

3. Bill Status: As ordered reported by the Senate Committee on Energy and Natural Resources on September 16, 1987.

4. Bill Purpose: Section 1 of H.R. 799 would designate certain segments of Kings River as a wild and scenic river and would authorize the appropriation of no more than $250,000 for the Development of Agriculture to establish boundaries and classifications, develop management plans, and acquire land.

Section 2 would establish the Kings River Special Management Area in the Sierra and Sequoia National Forests to be administered by the Department of Agriculture. Provisions in Section 2 would place certain additional restrictions on land use within the area. The Secretary of Agriculture would be required to develop a separate management plan for the special management area and provide for a trail within three years of enactment.

5. Estimated Cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level:					
Specified	0.25				
Estimated	1.50				
Total	1.75				

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Estimated outlays	.75	0.50	0.50		

If the Forest Service constructs a trail in the special management area designated by the bill, federal costs would increase by an additional $4 million over fiscal years 1991 and 1992. Designation of the special management area would result in the removal of approximately 30 million board feet of commercial timber from the Forest Service timber base. However, because no timber is currently being harvested or being planned for future harvesting in these areas, no timber receipts will be lost in the foreseeable future.

The costs of this bill fall within budget function 300.

Basis of Estimate: In addition to the amounts specifically authorized in the bill, CBO estimates that provisions in Section 2 of the bill relating to the establishment of the special management area, including planning and designing the trail from Garlic Creek to Tehipite Valley, will result in costs to the federal government totaling approximately $1.5 million over the next three years. This amount is based on information from the Forest Service.

This estimate assumes that H.R. 799 will be enacted early in fiscal year 1988 and that the full amounts authorized and estimated will be appropriated. The outlay estimates are based on typical spending patterns for similar Forest Service and Bureau of Land Management activities.

6. Estimated Cost to State and Local Governments: None.

7. Estimate Comparison: None.

8. Previous CBO Estimate: On April 9, 1987, CBO prepared a cost estimate for H.R. 799, as ordered reported by the House Committee on Interior and Insular Affairs, April 1, 1987. The differences between the two estimates reflect the amendments of the Senate Committee on Energy and Natural Resources—including a specific authorization of appropriations, which was not in the House bill.

9. Estimate prepared by: Theresa Gullo (226-2860).

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).●

MRS. ARTHUR BEERMAN OF DAYTON, OH

● Mr. GLENN. Mr. President, I rise today to pay tribute to a distinguished citizen of Dayton, OH, Jessie Beerman. Mrs. Beerman is the widow of Arthur Beerman, who forged the Elder-Beerman Stores Corp. into one of Ohio's most successful enterprises. Elder-Beerman Stores now retails clothing, shoes, and furniture in over 20 locations in Ohio, and manages subsidiaries in 9 other States.

Mrs. Beerman has an outstanding record as a civic leader and philanthrophist. In 1967, with her husband, she initiated a Thanksgiving Day dinner for the lonely, the needy, and the disadvantaged of the Miami Valley. That dinner is now an annual event of the Beerman Foundation.

In keeping with her civic spirit, Mrs. Beerman is honorary chairman of a gala benefit on October 4 for the Dayton Performing Arts Fund. This support for enriching Dayton's cultural life is characteristic of her commitment to the overall quality of life in her community. Mrs. Beerman has also been active on behalf of the Dayton Art Institute, and has made special contributions to the Air Force Museum at Wright-Patterson Air Force Base.

In addition to her interest in cultural affairs, Mrs. Beerman continues her husband's concern for community affairs in her support of the Children's Medical Center, the Good Samaritan Hospital in Dayton, the University of Dayton, Wright State University, and many other civic organizations.

In a city with a long tradition of community service, Mrs. Arthur Beerman is a shining example of compassion and leadership. It is with great pride that I recognize her for her accomplishments.●

ROSH HASHANA AND NAUM MEIMAN

● Mr. SIMON. Mr. President, last Thursday was Rosh Hashana, the Jewish New Year. On this day of worldwide celebration, it saddened me to think once again of the plight of my friend, Naum Meiman.

Naum is forced against his will to remain in the Soviet Union. His applications to leave for the West have been rejected for more than 12 years. Naum's burden increased recently with the death of his wife, Inna. This loss is harder to bear in the knowledge that Inna might have lived had she only been allowed to receive proper medical treatment. Unfortunately, this treatment was only obtainable in the West and Inna was not given permission to leave until it was too late.

There is no excuse for Naum's continued captivity. I urge the Soviet Union to release Naum so that he may celebrate the next new year in freedom.●

THE CONSTITUTION AND NAUM MEIMAN

● Mr. SIMON. Mr. President, September 17, we celebrated the 200th anniversary of our Constitution. It seems appropriate, while we reflect on the privileges of our citizenship, to recall once again the plight of my friend, Naum Meiman.

Our Constitution has successfully guaranteed our basic rights and freedoms for over 200 years; among these freedoms is our freedom of movement. Not all are so lucky. For over 11 years, Naum Meiman, a Soviet citizen, has had his freedom of movement severely curtailed. He is old and ill, yet, he has been refused permission to leave the Soviet Union again and again. This burden was increased with the tragic death of his wife, Inna, after she was refused permission to travel to the West for life-saving surgery until it was too late.

Naum's situation, and those of people like him, gives a special poignancy to our celebration of the Constitution that has preserved our freedoms. I strongly urge the Soviet authorities to give Naum his freedom.●

KERN RIVER

● Mr. JOHNSTON. Mr. President, on September 25, 1987, the Committee on Energy and Natural Resources filed the report to accompany S. 247, a bill to designate the Kern River as a national wild and scenic river.

At the time the report was filed, the committee had not received an estimate of cost from the Congressional Budget Office. The committee has now received that report, and I ask that it be printed in the RECORD at this time for the use and information of the public and my colleagues of the Senate.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC., September 29, 1987.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 247, a bill to designate the Kern River as a national wild and scenic river.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 247.

2. Bill title: A bill to designate the Kern River as a national wild and scenic river.

3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, September 16, 1987.

4. Bill purpose: The bill would designate two specific segments of the Kern River in California as wild and scenic rivers and would authorize the appropriation of no more than $100,000 for the purposes of development and land acquisition.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Authorization level	0.1	—	—	—	—
Estimated outlays	0.1	—	—	—	—

The costs of this bill fall within budget function 300.

Basis of estimate: This estimate assumes that the full amounts authorized will be appropriated in fiscal year 1988. Outlays are estimated based on information from the Forest Service.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Theresa Gullo.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).●

A REAL "DOERR" PRIZE

● Mr. RIEGLE. Mr. President, on June 12, 1987, Julie Domenick Doerr and Karl Doerr became the proud parents of a baby girl.

Katherine Elizabeth Doerr was born at Columbia Hospital for Women at 12:37 a.m. She weighed 7 pounds, 2 ounces and measured 21 inches at birth.

I understand that Kate is a real determined young lady and despite her tender age, likes to express herself day and night. Her folks also say, that anyone who loves to eat and talk as much as Kate has a head start on a career in Washington.

As my colleagues know, Julie directs the legislative affairs of the Investment Company Institute—the trade association for the mutual fund industry.

Karl is vice president, Federal and Commercial Marketing for National Computer Systems, a Minneapolis-based company that manufacturers and develops computer systems.

I know my colleagues join me in wishing Karl and Julie all the best and a lifetime of happiness and pleasure with their new "Doerr" prize, Kate.●

COSMOPOLITAN CLUB DEDICATION

● Mr. LAUTENBERG. Mr. President, I rise to note the dedication October 4 of the newly renovated health care facility, known as the Cosmopolitan Club of Seashore Gardens in Atlantic City.

The Cosmopolitan Club provides care for older Jewish adults. The club has a dual role. The facility serves those in need of long-term health care who require daily nursing care. In addition, the club provides long-term residential care. Private dining rooms, recreational activities and a hotel-like atmosphere all contribute to the secure residential environment that these men and women are seeking.

The year 1906 marked the beginning of the shelter in Atlantic City. In 1934 it was expanded to provide lodging and meals. Finally in 1952, permanent residency was established and the Seashore Gardens evolved from a transient community shelter to a long-term facility. Today they have expanded to a 300-bed facility. The Cosmopolitan Club primarily serves residents to the north, south, and west of Atlantic County. As an active member of the Vineland community they are dedicated in assisting those residents when called upon.

I congratulate the staff and residents of the Cosmopolitan Club of Seashore Gardens. October 4 will be a memorable day for all those who will celebrate this dedication.●

CLAYTON CELEBRATES CENTENNIAL

● Mr. LAUTENBERG. Mr. President, October 3 marks a very special day in my State. The borough of Clayton is celebrating the 100th anniversary of its incorporation.

The town was originally named Fislerville but by an act of the legislature in 1867, the name was changed to Clayton and in 1887, Clayton was made a borough. Clayton, like many towns in the area, was home to the glass business. There were two major firms, Moore Brothers Glass Works and the Fisler and Morgan Co. Often, the two companies worked together in mold making and in production. As the glass industry grew, so did Clayton. Today, Clayton is a town of over 6,500 people.

Clayton is primarily a residential community. It is the smallest town in New Jersey to house its own high school, Clayton High School. Hungerford-Terry, a water treatment facility and the Safety Clean Corp., are just a couple of the major firms which employ many of its residents.

I applaud Mr. Gene Costill, chairman of the Clayton Centennial Committee, and the other members for their work in making the boroughs' 100th anniversary a joyous celebration. I would like to congratulate and honor the borough on its centennial occasion and the citizens who are to be apart of this celebration. October 3 will be an historic day for all those who live in the Borough of Clayton.●

PROGRAM

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate concludes its business today it stand in recess until the hour of 8:10 a.m. instead of 8:15 in the morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF MR. BENTSEN

Mr. BYRD. Mr. President, I will state the program for now. I ask unanimous consent that following the completion of the orders that have been heretofore entered on tomorrow for special speeches, Mr. BENTSEN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate will come in at 8:10 a.m. tomorrow. After the prayer of the Chaplain, Mr. PROXMIRE will be recognized for 5 minutes, Mr. PRYOR for 10 minutes, Mr. SIMPSON for 15 minutes, and Mr. BENTSEN for 15 minutes.

Thereafter the Senate will resume consideration of the unfinished business. That would be at circa 9 o'clock, and there will be a rollcall vote on a motion to instruct the Sergeant at Arms. That rollcall vote will be a 30-minute vote.

RESUMPTION OF THE DOD AUTHORIZATION BILL

Mr. BYRD. Upon the conclusion of that vote the Senate will resume consideration of the DOD authorization bill. The pending question before the Senate at that time is the Byrd-Nunn amendment to the Weicker-Hatfield amendment. We have no agreements at the moment. We have no agreement on that amendment or the underlying amendment.

We have no agreement on the SALT II amendment. I anticipate rollcall votes tomorrow on amendments to the DOD authorization bill on matters in relation thereto or other matters that may be cleared for action.

I should alert Senators to the fact that the regular order will be called for at the end of the 30 minutes tomorrow morning. So they might try to get an early start so as to avoid any traffic jams or unforeseen problems and not miss the vote.

Mr. President, it is the hope of the majority leader and the manager on this side of the aisle, and I am sure that other Senators concur therein, that the Senate complete action on the DOD authorization bill no later than tomorrow night or Friday. We would suggest to Senators in a very serious vein that they not plan on early airline reservations for Friday—yet.

RECESS UNTIL TOMORROW AT 8:10 A.M.

Mr. BYRD. Mr. President, I inquire of the able acting Republican leader if he has any further business that he wishes to transact.

Mr. WILSON. I thank the majority leader. I have nothing further.

Mr. BYRD. I thank the acting Republican leader.

Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 8:10 tomorrow morning.

The motion was agreed to and the Senate, at 7:44 p.m., recessed until Thursday, October 1, 1987, at 8:10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 30, 1987:

THE JUDICIARY

ROBERT S. GAWTHROP III, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE J. WILLIAM DITTER, JR., RETIRED.

ROBERT P. RUWE, OF VIRGINIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM EXPIRING 15

YEARS AFTER HE TAKES OFFICE, VICE CHARLES R. SIMPSON, RETIRED.

IN THE COAST GUARD

THE FOLLOWING-REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

EDWARD A. HEMSTREET
BENJAMIN M. CHISWELL III
DENNIS R. FREEZER
DOUGLAS W. CROWELL
JON J. MCNUTT
ARTHUR A. WHITING III
VERNON O. ESCHENBURG
WILLIAM H. BOLAND, JR.
CLINTON W. CARTER
STEPHEN E. GOLDHAMMER
MICHAEL F. COOK
JAMES T. CUSHMAN
ROBERT C. HOULE
THOMAS D. MCLAUGHLIN
RUDOLPH L. CARPENTER, JR.
ROBERT J. REINING
ROBERT T. RITCHIE
ROBERT E. WILLIAMS
THOMAS J. SCHAEFFER
RONALD R. DIGENNARO
JAMES W. CALHOUN
HERBERT D. ROBINSON, JR.
MICHAEL P. LOVETT
JOHN H. DISTIN
CARMOND C. FITZGERALD
MICHAEL F. COWAN
RICHARD S. TWEEDIE
JAMES R. WHITE
GEORGE P. WHITE, JR.
RUSSELL J. COLLINS
RICHARD B. COOK
THOMAS W. SNOOK
RICHARD M. LARRABEE III
PAUL J. PLUTA
JAMES F. VERPLANCK
KENNETH L. ERVIN
CHAD B. DOHERTY
THOMAS C. GREENE
JAMES R. TOWNLEY, JR.
GARY J. THORNTON
DAVID E. PROSSER
STEPHEN W. CLARK
JACK A. LANG
WINSTON G. CHURCHILL
ROBERT W. SITTON
JAMES J. SHAW, JR.
LEO B. TYO
CHARLES G. BOYER
MONT J. SMITH, JR.
ERIC J. WILLIAMS III
WILLIAM S. SHAFFER
DONALD E. BODRON
DAVID J. KANTOR
JOHN F. WESEMAN
MICHAEL G. CAVETT
RICHARD F. MATTINGLY, JR.
ROBERT J. PARSONS
DOUGLAS D. LUNDBERG
PAUL M. REGAN
CRAIG M. NICHOLSON
JAMES B. MORRIS
MICHAEL F. MCCORMACK
DOUGLAS A. SMITH
QUINTIN K. QUINN
JOHN K. COLVIN
JAMES M. SHERMAN
PETER A. POERSCHKE
STEVEN J. DELANEY
ROGER A. BRUNELL
FRANCIS R. TARDIFF
DUANE R. JEFTS
PAUL D. BRIDGES, JR.
DAVID A. POTTER
WILLIAM R. HODGES, JR.
NORMAN V. SCURRIA, JR.
JAMES T. INGHAM
LARRY J. OLSON
NORMAN C. EDWARDS, JR.
JOHN T. TOZZI
THOMAS S. JOHNSON III
THOMAS H. COLLINS
ERNEST R. RIUTTA

THE FOLLOWING-RETIRED RECALLED OFFICER OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF CAPTAIN:

JOHN R. HEARN, JR.

THE FOLLOWING-RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE REGULAR COAST GUARD IN THE GRADES INDICATED:

To be lieutenant

STEVEN E. VANDERPLAS

To be lieutenant (junior grade)

AGOSTINO CATALANO
JOHN W. KOSTER
NEAL B. THAYER

THE FOLLOWING REGULAR OFFICERS OF THE U.S. COAST GUARD FOR PROMOTION TO THE GRADE OF COMMANDER:

THOMAS W. PURTELL
TIMOTHY G. BALUNIS
GARY L. GREGORY
HAROLD B. MORTON
CHARLES T. WINFREY
ALBERT C. MUCCILLI, JR.
JOHN L. GLEN
KENNETH M. COFFLAND
BRUCE K. KLIMEK
STEVE S. SHEEK
LAWRENCE G. BRUDNICKI
JAMES M. ALDERSON
FREDRIC R. GILL
JIMMY NG
DANNY D. BENEFIELD
RICHARD T. BUCKINGHAM
WALTER G. JOHNSON
CHARLES F. KLINGLER
THOMAS D. YEAROUT
CHARLES B. WILLIAMS
CLAY A. FUST
JAMES F. MCCARTHY III
JAMES F. MCENTIRE, JR.
HENRY F. BALEY IV
ERROLL M. BROWN
JOHN W. WHITEHOUSE
PHILLIP C. SMITH
ALAN D. SUMMY
CARL R. SMITH
FRANCIS J. KISHMAN, JR.
JAN E. TERVEEN
JAMES M. COOPER
JOSEPH H. JONES, JR.
MARK D. NOLL, JR.
MICHAEL D. HATHAWAY
TIM B. DOHERTY
WAYNE H. OGLE
EDWIN E. ROLLISON, JR.
HUGH T. GRANT
JAMES L. ROHN
EDWARD E. PAGE
BRADLEY J. NIESEN
ROBERT D. INNES, JR.
DEAN L. HARDER
MILTON S. DILLON III
WILLIAM M. BANNISTER
ROBERT W. VAIL
MICHEAL W. RAGSDALE
WILLIAM H. FELS
ROBERT F. DUNCAN
JOHN M. GRAY III
JOHN M. CRYE
JOHN G. CALHOUN
KEVIN J. SCHEID
CRAIG A. LEISY
WILLIAM P. FOREMAN
THOMAS C. PAAR
JAMES H. MORTON, JR.
JEFFREY A. HILL
HAROLD E. BLANEY, JR.
MICHAEL P. DECESARE
THOMAS D. WALTERS
MERRITT H. AURICH IV
DAVID L. WALTS
PAUL J. HOWARD
DENNIS A. SANDE
JOHN D. KOSKI
TERRY L. RICE
JOHN C. LUTHER
JOSEPH A. WALKER, JR.
WILLIAM J. THRALL
FRANKLIN T. FOWLER
WILLIAM F. WALKER
DOUGLAS W. LOSKOT
ROBERT B. HURWITT
NICHOLAS E. CARCIA
DONALD S. GILBERT
DOUGLAS A. LENTSCH
SCOTT P. COOPER
WAYNE E. LUGINBUHL
RICHARD E. BENNIS
CHARLES J. MATHIS
MARK R. MAYNE
RANDALL P. PARMENTIER
MARTIN C. EGER
STEPHEN R. CAMPBELL
TERRENCE L. STAGG
ROGER G. EVANS
WILLIAM J. MORANI, JR.
GERALD W. VONANTZ
GERALD O. ROBICHAUD
RONALD V. LARSEN
JOHN S. CALHOUN
CHRISTIAN T. BOHNER
WAYNE K. GIBSON
DOUGLAS K. MCFADDEN
THOMAS A. TROSVIG
RICHARD E. FRYE II
ARTHUR E. ADKINS
WOODY L. LOVELAND
CLIFFORD I. PEARSON
MARC W. WOLFSON
DAVID B. PETERMAN
SCOT W. TIERNAN
ROBERT A. JONES
WILLIAM R. ASHFORTH
DAVID W. KUNKEL
ADOLPH E. ZIMMER II
MICHAEL L. BEATTY
RONALD L. NELSON
DAVID A. RIIKONEN
FRANCIS G. BARNETT
GARY A. REITER
ELMO J. PETERS, JR.
WILLIAM M. HAYES
FREDERICK V. NEWMAN
LARRY L. MIZELL
JOHNNY F. BURELL
WAYNE R. HAMILTON
LEWIS J. BEACH
HUGH M. O'DOHERTY
JACK D. CAMPBELL
DALE E. GOODREAU
JONATHAN S. GLANTZ
RICHARD K. SOFTYE
WILLIAM W. SPITLER
KENNETH T. VENUTO
GARY K. SOOY
JOHN J. ANTHONY
JAMES A. RAUCH
BRUCE J. GOOD
WILLIAM D. KLINE
DENNIS G. BOHLAYER
PHILIP P. WIECZYNSKI
DANIEL J. FARRELL
DANIEL W. STUHLMANN
STEVEN E. FROEHLICH
KEVIN J. ELDRIDGE

THE FOLLOWING-REGULAR OFFICERS OF THE U.S. COAST GUARD OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY FOR PROMOTION TO THE GRADES INDICATED:

To be commander

JOSEPH B. EGAN

To be lieutenant commander

ROBERT J. FULLER

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD J. KUTYNA, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISION OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JOHNNY J. JOHNSTON, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. ORREN R. WHIDDON, [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. WILLIAM F. MCCAULEY, [redacted]/1110, U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING-NAMED AIR FORCE CADET TO BE PERMANENT ENSIGN IN THE LINE OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

RODOLFO LLOBET

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JEFFREY T. BARR
BRENT R. BEABOUT
DAVID J. CASTAGNETTA, JR.
FRANCISCO CHAPA
MICHAEL A. FERRARA
GERALD J. IWANEJKO, JR.
RUSSELL C. JONES
MICHAEL J. MASINO
STANLEY A. MULLEN
BRAD T. SWANSON
RICHARD E. YOST

THE FOLLOWING-NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JAMES K. LOGUE
MIGUEL A. ZAYAS

THE FOLLOWING-NAMED NAVY ENLISTED CANDIDATES TO BE APPOINTED PERMANENT LIEUTENANT (J.G.) IN THE MEDICAL SERVICE CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

GERMAN S. ARCIBAL
VALMORI M. CASTILLO
ROBERT B. TAYLOR
ROBERT A. WELCH III

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PRMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

FREDERICK S. GIFFIN
CARLOS D. GODINEZ
WILLIAM D. MICHAEL
PAUL A. ONORATO
DAVID A. PREVOST
DAVID A. WARNE

THE FOLLOWING-EX-U.S. NAVY OFFICER TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

GARY W. WATSON

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

ARTHUR E. PELLEGRINI
CHERYL D.C. ROSENBLATT

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

BRUCE E. CARLSON
PAUL W. ESPOSITO
RICHARD S. HERDENER
HARI C. PURI

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE DENTAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

DARREL A. BAKER
ROBERT L. DUELL

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 1987:

IN THE NAVY

THE FOLLOWING-NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, TO BE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. WILLIAM D. SMITH, [redacted]/1120, U.S. NAVY.

DEPARTMENT OF DEFENSE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT AS CHAIRMAN OF THE JOINT CHIEFS OF STAFF UNDER TITLE 10, UNITED STATES CODE, SECTION 152:

ADM. WILLIAM J. CROWE, JR., [redacted], U.S. NAVY.

EXTENSIONS OF REMARKS

A MODEST PROPOSAL ON THIRD WORLD DEBT

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. GARCIA. Mr. Speaker, I am introducing legislation today that will, hopefully, help to resolve the Third World debt crisis. The bill, which I am introducing along with my colleague, WALTER FAUNTROY, would establish a bipartisan commission to study the debt crisis. Identical legislation is being introduced in the other body by the gentleman from Massachusetts, Mr. KERRY.

When I first became aware of the gentleman from Massachusetts' proposal to establish such a commission, I jumped at the idea. I see it as a complement to the fine work that has already been done on this issue, particularly the provisions in the trade bill dealing with Third World debt.

Individuals such as our colleagues CHUCK SCHUMER, JOHN LAFALCE, and BRUCE MORRISON, have worked on innovative proposals that can only help to alleviate the problem. In the other body, BILL BRADLEY, PAUL SARBANES, and WILLIAM PROXMIRE have also contributed considerably to the effort to resolve this crisis. I see the commission as another track in the process of moving debate on Third World debt forward.

As chairman of the Banking Committee's Subcommittee on International Finance, Trade, and Monetary Policy I have conducted a number of hearings on this issue. I know that WALTER, as chairman of the Committee's Subcommittee on International Development Institutions and Finance, has also looked at this issue very closely. I think the time for action is now.

It is estimated that as many as 1 million jobs may have been lost as a result of the debt crisis. Certainly the U.S. trade deficit has grown because of this problem. While it may not be reasonable to assume that the level for trade between the United States and Latin America that existed before the crisis could have been maintained, it is clear that Latin America does offer an important market for U.S. goods and services. The debt crisis has severely inhibited the growth potential of that market.

The developing world is over $1 trillion in debt. U.S. commercial banks alone are said to have 85 million dollars' worth in loans to the Banker 15 nations. The consequences of a default by the major debtors could be severe.

The situation not only threatens the stability of the world's economy, it is a threat to the security of all democratic nations. Latin America has several nations which are struggling to build a democratic tradition. This is not an easy process. If the economies of nations like Argentina, Brazil, and Peru collapse as a result of their overwhelming debt burden, then their democratic governments will surely fall. The same is true for the Philippines. This should not be allowed to happen. Confronting the debt crisis is one way of preventing it.

The debt commission, which is patterned after the highly successful Greenspan Commission on Social Security, would make a thorough study of this problem, as well as proposed solutions, by drawing on the expertise of persons from the public and private sector.

It would consist of 17 Members from both parties: Seven to be chosen by the President, five by the Speaker of the House, and five by the majority leader in the other body. The President would designate the chair of the commission, and the commission would issue a report to the President 1 year after its formation.

This is not a dramatic approach, but it is an important step in helping to resolve the Third World debt crisis. It would force all the major players working on this issue to come together to try and find a solution. Finally, I hope that this is only a first step, and that we will eventually begin to work more closely with our European and Asian allies on this issue. It is only by working together that we can move forward.

Text of the bill follows:

H.J. RES. 366

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress hereby finds the following:

(1) The international debt crisis threatens the safety and soundness of the international financial system, the international trading system, and the economic development of the debtor countries.

(2) Over the past 5 years, the debt service requirements and the virtual cessation of new voluntary commercial bank lending to heavily indebted developing countries have resulted in massive net transfers of capital from such countries to creditor banks.

(3) While heavily indebted developing countries have enacted austerity programs, substantially reducing their consumption, these programs have contributed to negative economic growth, declining standards of living, and increased political instability in many emerging democracies.

(4) The United States has a major stake in Third World recovery. Renewed economic growth in Africa, Asia, and Latin America would mean expanded markets for United States products and new employment opportunities for United States workers. It would bring higher demand for United States agricultural exports. A revived Third World market would help reduce the United States trade deficit, would provide new investment opportunities for United States corporations, and would greatly strengthen the financial situation of United States banks.

(5) The austerity policies enacted by the debtor countries have resulted in commodity gluts and price deflation within the international trading system, thus increasing instability within the international financial system.

(6) In order for the United States trade deficit to decline, substantial growth must occur on an international scale, particularly in the developing countries.

(7) Current policies and existing mechanisms for resolving the debt crisis have failed to produce adequate new capital flow in part because of the constraints imposed by the old debt. The heavily indebted countries of Latin America, Africa, and Asia are not recovering economically and the prospects are small for improvements in coming years.

(8) Negotiations between debtor nations and banks have become protracted and almost every day brings new announcements of threats of default by debtor nations or establishment of loss reserves by banks.

(9) A resolution of the current international debt problem will require—

(A) an increase in the flow of private capital, in both debt and equity form, to the developing countries; and

(B) an increase in the role played by the public sector and the commercial financial institutions in providing assistance to the developing countries in managing the international debt situation.

(10) The longer the debt crisis lingers on, the greater the danger to the economic and political stability of the developing nations and the financial stability of international financial markets. Debt is not merely a financial or technical problem; it is at the heart of politics in much of Latin America, Asia, and Africa.

(11) It is now time to develop a sound program of international cooperation that can effectively bring the debt crisis to an end, restore economic growth and vitality to Third World nations, and alleviate current threats to international financial and trading arrangements.

SEC. 2. PURPOSE.

It is the purpose of this joint resolution to establish a National Bipartisan Commission on International Debt to develop recommendations for resolving the Third World debt crisis.

SEC. 3. ESTABLISHMENT.

There is hereby established a commission to be known as the National Bipartisan Commission on International Debt (hereinafter in this joint resolution referred to as the "Commission").

SEC. 4. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The commission shall be composed of 17 members appointed as follows:

(1) 7 members appointed by the President, not more than 4 of whom shall be from the same political party;

(2) 5 members appointed by the Speaker of the House, not more than 3 of whom shall be from the same political party; and

(3) 5 members appointed by the majority leader of the Senate, not more than 3 of whom shall be from the same political party.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(b) Terms.—Members shall be appointed for the life of the Commission.

(c) Vacancy.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) Chairperson.—The President shall designate a Chairperson from among the members of the Commission.

(e) Compensation.—

(1) Basic pay.—Members of the Commission shall not be entitled to pay for service on the Commission.

(2) Travel expenses.—Members may be allowed travel and subsistence expenses (including per diem allowances) under subchapter I of chapter 57 of title 5, United States Code.

(f) Quorum.—9 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) Meetings.—The Commission shall meet at the call of the chairperson or a majority of the members.

SEC. 5. DUTIES OF COMMISSION.

The Commission shall—

(1) document and analyze the consequences of the debt crisis on the Third World, and examine the full economic, social, and political costs resulting from the international debt burden, giving particular attention to the implications for democratic rule, long-term social development, and security;

(2) document and analyze the costs and consequences of Third World debt for the United States, report on all of the economic costs (such as lost trade and jobs, weakened banking system, and foregone investment), discuss who is having to pay these costs, and examine the broader implications of the debt crisis—for United States relations worldwide, for the building of democracy in this hemisphere, for migration and drug trafficking, and for inter-American and world security;

(3) review existing proposals and proposals contained in or recommended pursuant to the Omnibus Trade and Competitiveness Act of 1987 for addressing Third World debt problems, identifying particularly promising approaches, and analyzing their strengths and weaknesses; and

(4) develop concrete recommendations for resolving the debt crisis, addressed primarily to the United States Government but including guidance to other industrial country governments, debtor country governments, and international financial organizations, and specify for each recommendation, the costs, who will pay the cost, and the expected improvements in debtor country growth prospects, in United States trade and employment prospects, and in the stability of United States and international financial institutions.

SEC. 6. EXECUTIVE DIRECTOR AND STAFF OF COMMISSION.

(a) Executive Director.—The Commission shall have an Executive Director who shall be appointed by the Commission.

(b) Staff.—Subject to the approval of the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(c) Applicability of Certain Civil Service Laws.—The Executive Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Experts and Consultants.—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(e) Staff of Federal Agencies.—Upon the request of the Commission, the head of any Federal agency or department may detail, on a reimbursable basis, any of the personnel of such agency or department to the Commission to assist the Commission in carrying out its duties under this joint resolution.

SEC. 7. POWERS OF COMMISSION.

(a) Hearings and Sessions.—The Commission may, for the purpose of carrying out this joint resolution, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) Powers of Members and Agents.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission may take under this section.

(c) Obtaining Official Data.—The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out the Commission's duties under this section. Upon request of the chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies and departments of the United States.

(e) Administrative Support Services.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(f) Payment of Expenses.—Expenses of the Commission shall be paid from such funds as may be appropriated to the Secretary of the Treasury pursuant to the authorization contained in section 10.

SEC. 8. REPORT.

The Commission shall prepare and submit a final report on the findings, conclusions, and recommendations of the Commission under section 5 to the President and the Congress not later than 1 year after all members of the Commission have been appointed.

SEC. 9. TERMINATION OF COMMISSION.

The Commission shall cease to exist 30 days after submitting the Commission's final report pursuant to section 8.

SEC. 10. AUTHORIZATION.

There are authorized to be appropriated for any fiscal year beginning after September 30, 1987, such sums as may be necessary to carry out this joint resolution. Amounts appropriated under this section shall remain available until expended (or, if earlier, the termination of the Commission pursuant to section 9).

SALUTE TO W. ROBERT MORGAN

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MINETA. Mr. Speaker, it is a pleasure to take this opportunity to salute Mr. W. Robert Morgan—a good friend and an avid patron of the arts. It is due to his tireless efforts that on October 11 the Triton Museum will reopen in its new quarters in Santa Clara, CA.

On September 27, an editorial appeared in the San Jose Mercury News which appropriately praised Bob Morgan's efforts. I take this opportunity to share it with my colleagues:

A Dream on Display

Monday, the Triton Museum of Art will close its cramped and makeshift exhibition galleries, ending a 22-year era in which a handful of determined individuals, most notably San Jose lawyer W. Robert Morgan, kept a dream alive.

On October 11, a spacious $3 million Triton Museum will open in Santa Clara—a remarkable testament to the private philanthropy and public support which have combined to create a cultural institution of regional importance.

For the inspiration, credit Morgan, who began the Triton with this private colection of painting and statuary in 1965.

For the philanthropy, credit Morgan, David Packard, Ben and A. Jess Shenson and Austen Warburton, among others.

For the management skill to translate this potential into the design and construction of a major museum, credit Bill Atkins, the Triton's director since early 1986.

And for the foresight to take in a small idea and nurture it into a major asset, credit the city of Santa Clara.

Morgan opened the museum in downtown San Jose, but was frustrated in trying to find a permanent location in the city. After two years, the Triton found a more hospitable climate in Santa Clara, which provided a seven-acre vacant site across from its Civic Center.

Morgan and other original museum trustees paid for construction of four kiosk-like galleries, totaling 6,000 square feet. The new museum, on the same site, contains 22,000 square feet.

While the Triton is not a municipal museum, its relationship with the city of Santa Clara is intimate: The city owns the land; the museum trustees own the building; the city contributed one-third of the construction cost and this year will provide $150,000 in operating costs, plus janitorial service and utilities.

And a significant part of the museum's permanent collection belongs to the city, with the Triton as caretaker.

It is an unusual and complex arrangement, but is has worked; the result is a long, low, sweeping graceful building, whose pyramidal skylights and state-of-the-art interior fittings provide a superb showcase.

As for the art that will be shown there, judge for yourself. The Triton will be open to the public from Oct. 11. Admission is free. The address is 1505 Warburton Ave., Santa Clara.

Thank you, Bob Morgan and friends.

Mr. Speaker, in light of the tremendous contribution that he has made to the development of the Triton Museum, I respectfully urge my esteemed colleagues to join me in saluting Mr. W. Robert Morgan.

JOE TURNER—A MODERN DAY HERO

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DYSON. Mr. Speaker, in these times of mega-budget deficits, Middle Eastern turmoil, and visible economic hardships, we often miss the many good things that are also going on right under our noses. Today I'd like to reaffirm that modern day heroes do exist. Although we in Washington sometimes tend to overlook or to mitigate the daily occurrences in our districts, we should not underestimate the invaluable deeds these modern day heroes perform.

A constituent of mine, Mr. Joe Turner of Cambridge, MD, recently provided just such an act. Mr. Turner is a letter carrier, belonging to the Cambridge, MD branch of the U.S. Postal Service. For the benefit of my colleagues, Mr. Speaker, I would like to insert this article from the July 1987 Postal Record magazine about Mr. Turner's heroic effort:

"NOT A HERO" BRAVES FIRE TO FIND, SAVE BABY

Joe Turner was in the right place at the right time recently when he singlehandedly rescued an 18-month-old child from her burning home.

The Cambridge, Maryland Branch 1050 carrier was hailed as he walked his route. A patron shouted for him to call an ambulance and fire company, that her house was on fire and her baby stranded upstairs. Seeing smoke coming out of the eaves, Turner dropped his mailbag and sprinted into the smokefilled house. Equipped with the child's location from the mother, he searched on hands and knees.

"I got a couple feet in the door when I felt something under my right hand. I pressed it and heard the baby cry. I hugged her to my chest and carried her outside," he later recalled.'

Delivering the child to safety, Turner learned that another child was missing. Disregarding his own safety, the carrier once again entered the burning, smoke-filled house. A bystander called to him that the child was safe and Turner left the building. When fire fighers arrived on the scene, all the building's residents were safety outside, but the second floor continued to burn.

In a letter praising Turner's actions, the fire department chief thanked him for entering the building—one which was extremely hot and hostile with smoke—to save a child's life. Fire Fighters determined the fire started when a spark from a kerosene heater ignited stored kerosene.

Turner received a joint resolution and standing ovation from the Annapolis, Maryland General Assembly for his actions. The Cambridge City Council and Mayor C. Lloyd Robbins, a former Branch 1050 letter carrier, presented him with a certificate that states in part, "On behalf of the city, we'd like to present you this as appreciation for the unselfish and lifesaving effort you did. We're very, very proud of you and hope you continue your good deeds."

Unaccustomed to such notoriety, the lifelong Cambridge resident summed up his feelings: "I appreciate your thanking me for doing something that anyone would do. I didn't think at the time it would lead to all this, but I really appreciate it. I'm glad I was there and glad I did what I did.

"But don't make me out to be a hero—I'm just an everyday person."

FEDERAL RETIREMENT THRIFT BOARD LEGISLATION

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FORD of Michigan. Mr. Speaker, today I am introducing, by request, a proposal by the Federal Retirement Thrift Investment Board which would exempt the Thrift Savings Plan [TSP] from the nondiscrimination requirements imposed on cash or deferred compensation arrangements by the Internal Revenue Code. The Committee on Post Office and Civil Service has been aware for some time of concerns over the application of the nondiscrimination requirements to the TSP, and has been actively exploring ways to address those concerns. The Thrift Board proposal will be helpful in this regard.

For the Members information, I am inserting in the RECORD at this point the Thrift Board letter transmitting its proposal.

FEDERAL RETIREMENT
THRIFT INVESTMENT BOARD,
Washington, DC, September 22, 1987.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The Federal Retirement Thrift Investment Board respectfully submits the enclosed draft bill to amend 5 U.S.C. 8440 and 26 U.S.C. 7701(j) to exempt the Thrift Savings Plan (TSP) from the nondiscrimination requirements imposed on cash or deferred compensation arrangements by the Internal Revenue Code.

We are requesting prompt consideration of this proposal by Congress since an exemption from the nondiscrimination requirements would (1) remove serious impediments to effective implementation of the Federal Employees' Retirement System Act (FERSA) of 1986, (2) reduce uncertainties facing federal employees who have a one-time opportunity in 1987 to transfer from the Civil Service Retirement System (CSRS) to the Federal Employees' Retirement System (FERS), and (3) significantly reduce costs to the Board and federal agencies of administering the Plan.

Generally, the nondiscrimination tests in the tax laws limit the average percentage contributions to TSP (and to similar private 401(k) plans) from employees earning over $50,000 to no more than 2 percent above the average percentage contributions of employees earning less than $50,000. Thus, if the average of lower-paid employees' annual contributions is no more than 3 percent of pay (which seems likely, based on preliminary information to date), the average contribution permitted for higher-paid employees could be no more than 5 percent of pay. The nondiscrimination tests are thus clearly inconsistent with the intent of Congress, in FERSA, that FERS employees be permitted to contribute up to a limit of 10 percent of pay to the Plan (up to $7,000 a year).

The nondiscrimination tests frustrate the FERSA objective of encouraging CSRS employees to participate in FERS, and in TSP, in 1987. Since there is no way of knowing what contributions of lower-paid employees will be to the new Plan in 1987, there is no way that higher-paid employees can know what their permissible limits will be in 1987. By the time the 1987 contributions data are collected in early 1988, it will be too late for CSRS employees, who must decide now whether to transfer from the old CSRS program to the new FERS program, to consider this information in exercising their one-time option (FERSA permits such transfers only during the six-month period, July-December 1987).

FERSA imposes on the five members of the Board and the Executive Director strict fiduciary responsibilities, unique for a federal agency. Yet we are unable to provide federal employees with financial information essential to their decision to participate in the Plan.

Also, FERSA does not permit the Board the flexibility afforded similar private plans to adjust the plan to meet the nondiscrimination tests. Private plan sponsors can change their plan documents, including the permissible limits on employer and employee contributions, to meet the tests. Indeed, this was apparently a major purpose of the nondiscrimination tests—to encourage plan sponsors, especially high-salaried corporate executives, to make their plans more equitable. Clearly, this purpose has no relevance in a federal context, since federal executives are not paid on a comparable basis. Further, we cannot, by law, make adjustments to the Thrift Savings Plan to accommodate the tests—our plan document is FERSA, and it can only be changed by Congress. FERSA itself guarantees the right of equal participation to federal employees at all salary levels, so the TSP cannot be discriminatory and the nondiscrimination tests would not provide any further benefit to lower-paid employees.

There may also be an unintended result for higher paid employees. If employer matching contributions exceed the prescribed ratio, the excess is distributed to the employee to use as he or she wishes, and is taxed as ordinary income. Although government agencies will continue to incur the expense of matching contributions, higher-paid FERS employees would receive some of that money as salary rather than as an intended supplement to their retirement savings.

In addition, FERSA requires that I submit to Congress by January 1, 1988, legislation for make-up contributions for employees who do not contribute their full entitlement of 10 percent of pay to the Plan. This requirement seems directly contrary to the nondiscrimination test requirement which will probably limit higher income employee average contributions to much less than the limits allowed by FERSA.

The nondiscrimination tests impose formidable administrative and communication burdens which threaten the successful implementation of the Plan. We are attempting to deal with a very stringent schedule this year to meet the FERSA requirements to put in place before January 1, 1988, a fully operational private equity investment fund, a private bond fund, a loan program, and an annuity program. In less than six months, the Thrift Savings Plan has already become the largest such employee plan in the nation, in terms of the number of participants. This presents an extraordinary administrative challenge for the entire federal establishment.

It is difficult to justify adding to this burden by imposing complex and costly nondiscrimination requirements which will require federal agencies to develop new computer programs and income data for all federal employees, including those who do not participate in the Plan. Some organizations are still unable to comply with the initial statutory requirements to develop new payroll system capabilities to support routine contributions to the Plan by April 1, 1987.

Exempting the Plan from the nondiscrimination tests of the Tax Code will not result in inappropriate or excessive tax avoidance. Only about 5 percent of federal employees have incomes in excess of $50,000, and their tax deferred contributions are limited to 10 percent of salaries (5 percent for CSRS employees) as well as to the $7,000 maximum annual limit.

TSP exemption from the nondiscrimination requirements is unanimously endorsed by the Employee Thrift Advisory Council, which was established by FERSA to advise the Board and is comprised of 14 union and association leaders representing federal and Postal employees at all pay levels.

In summary, the application of the nondiscrimination tests of the Tax Reform Act of 1986 to the Thrift Savings Plan achieves no apparent tax policy purpose, frustrates the achievement of important FERSA objectives, and creates demoralizing uncertainties throughout the Federal Government as to long-term retirement planning and the commitment of Congress to the Thrift Savings Plan.

We have already initiated instructions to agencies as to the application of the nondiscrimination tests—we had no choice but to do so under present law. We urge the Congress to act promptly to repeal this requirement, so agencies will not have to undertake this burden and employees will be able to proceed during the remainder of this year to make important lifetime retirement decisions on the basis of a clear understanding of their entitlements.

I am sending a similar letter to the President of the Senate. Copies have been sent to the Director of the Office of Management and Budget.

Sincerely,

FRANCIS X. CAVANAUGH,
Executive Director.

Enclosure.

A BILL To amend title 5 and title 26, United States Code, to provide that the Thrift Savings Fund is not subject to non-discrimination requirements applicable to arrangements described in section 401(k) of Title 26, United States Code, or to matching contributions described in section 401(m) of Title 26, United States Code.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that

(a) Section 7701(j) of Title 26, United States Code, is amended as follows:

(1) By deleting from paragraph (1)(c) the words "the provisions of paragraph (2) and" following the words "subject to."

(2) By deleting paragraph (2) in its entirety and substituting in lieu thereof, the following language:

"NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the non-discrimination requirements applicable to arrangements described in section 401(k) or to matching contributions (as described in section 401(m)), so long as it meets the requirements of this section."

(b) Section 8440 of Title 5, United States Code, is amended as follows:

(3) By deleting from paragraph (a)(3) the words "the provisions of subsection (b) and" following the words "subject to."

(4) By deleting subsection (b) in its entirety and by substituting in lieu thereof, the following language:

"NONDISCRIMINATION REQUIREMENTS.—Notwithstanding any other provision of law, the Thrift Savings Fund is not subject to the non-discrimination requirements applicable to arrangements described in section 401(k) of Title 26, United States Code, or to matching contributions (as described in section 401(m) of Title 26, United States Code) so long as it meets the requirements of this section."

SUMMARY OF PROPOSED LEGISLATION

AMENDMENT TO SECTION 770(J) OF TITLE 26, UNITED STATES CODE

Section 7701(j) of Title 26, United States Code, requires that the Thrift Savings Fund comply with non-discrimination tests applicable to cash or deferred arrangements under section 401(k) of the same title and to matching contributions under section 401(m) of that title. These tests limit average contributions for higher paid employees based on average contributions for lower paid employees.

The purposes of the tests are to prevent highly paid employees from sheltering unduly large amounts of current income from current taxation and to encourage employers to make their retirement programs available to larger numbers of workers.

The amendment exempts the Thrift Savings Fund from these nondiscrimination tests.

AMENDMENT TO SECTION 8440 OF TITLE 5, UNITED STATES CODE

Section 8440 of Title 5, United States Code, also requires the Thrift Savings Fund to be subject to nondiscrimination tests contained in the section of Title 26, United States Code, described above.

The amendment exempts the Fund from these nondiscrimination tests.

RELIEF FOR HOMELESS CITIZENS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. GILMAN. Mr. Speaker, I commend my distinguished colleague, the gentleman from New York [Mr. DIOGUARDI], for demonstrating exceptional leadership and foresight in the essential homeless housing legislation which we are introducing. It is a pleasure to work with a legislator of such outstanding caliber as we join in a mutual effort to preserve the funding for emergency homeless shelters.

The problem of homelessness has grown to epidemic proportions throughout our Nation, and the effects have been keenly felt in my own 22d Congressional District. Rockland County, for instance, has experienced an estimated 14 percent rise in homeless persons between 1985 and 1986. In Orange County, spending for the treatment of homeless persons has risen from $630,000 to $1.86 million during that same period. In Westchester, the number of homeless children has jumped from 714 in July 1985 to 1,373 in November 1986.

At a time when Federal programs should be expending to meet the rising tide of homeless suffering, it is an absurdity for the Department of Health and Human Services [HHS] to propose curtailing the use of funds under Federal shelter programs. These funds have apparently been used by several States in violation of a 30-day statutory aid limitation. This money goes to provide temporary emergency housing for thousands of homeless families across the country. Unfortunately, the problem of homeless suffering is often not amenable to a quick 30-day solution, and the HHS has now proposed to cut off this vital source of funds once the limitation is reached. This proposal, which is currently being evaluated by the Office of Management and Budget, will come at great cost to State and local governments. In Westchester County alone, the revenue loss is estimated to be $10 million per year. Accordingly, our proposal will make a correction to existing law by exempting emergency shelter programs from the 30-day limitation on aid.

Mr. Speaker, during this period of crisis, it is more important than ever to redouble our efforts to eradicate homelessness. Rather than abandoning the problem after 30 days of assistance, we must furnish homeless families and individuals with the help they need to help themselves. The most obvious solution we can offer to a victim of homelessness is temporary emergency shelter. My distinguished colleague, Mr. DIOGUARDI, and I intend to see that homeless citizens receive the temporary relief they so urgently need, while we in the Government develop an alternative, more permanent solution to our Nation's homeless crisis.

IRAN-IRAQ WAR AND THE UNITED NATIONS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SOLOMON. Mr. Speaker, the suspicions that many of us have about the United Nations have been confirmed in recent days and weeks as we have watched that organization's floundering attempts to arrange a cease-fire in the Iran-Iraq war. The United Nations is handicapped not so much by a lack of good intentions as it is by the contradictions within its own organizational structure.

Once envisioned as a concert of nations, the United Nations has, in fact, become a gaggle of governments—and those countries who truly do uphold the ideals enshrined in the U.N. Charter are in a distinct minority. The supposed equality of all nations, regardless of their political system, has led to a moral and ethical relativity that renders the United Nations helpless in the face of a shooting war.

Iran and Iraq had been fighting each other for nearly 7 years before the U.N. Security Council was able even to take up the case, and what looked like a historic resolution last July has bogged down in the face of intransigent parties in the Middle East—and in the Security Council.

President Reagan's call last week that the U.N. cease-fire resolution on Iran and Iraq be enforced by immediate sanctions against Iran, as the offending party, was met with a collective shrug by the United Nations as a whole and by rhetorical bombast from the Soviet Union in particular. The Soviets even went so far as to say that the real source of instability in the Persian Gulf is not the Iran-Iraq war but the United States. So much for our so-called partner in the U.N. peace process.

So on and on it goes—speeches, resolutions, votes, negotiations—and as the "process" goes on, the war does also. Maybe this experience will teach us that the fundamental gulf that divides the free peoples of the world from everyone else cannot be papered over by the U.N. Charter—and we had better start looking for some other alternative way to protect our interests.

SUBSTITUTE, DOES NOT PREEMPT STATE RIGHT-TO-KNOW LAWS

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. HENRY. Mr. Speaker, I want to respond to an argument which has recently been circulating concerning the impact of the Jeffords-Henry substitute bill to H.R. 162, the High Risk Occupational Disease Notification and Prevention Act. Proponents of H.R. 162 have attempted to cloud the issues and the differences between their bill and the substitute by arguing that the Jeffords-Henry substitute would preempt State worker right-to-know laws. Let me address that specific concern.

Section 18 of the Federal Occupational Safety and Health Act provides that the States may enforce their own occupational safety and health laws despite the Federal law in this area—under either of two conditions—first, that there is no Federal OSHA standard with regard to that specific issue or, second, under an OSHA approved State plan.

Twenty-five of the States have qualified State plans, and are responsible for enforcing their own occupational safety and health standards. The only question for these States is whether their own State right-to-know law is at least as effective as the Federal hazard communication program. If it is, then the State may continue to enforce its State program.

The situation for non-State plan States is not quite so clear. In 1985, the U.S. Department of Labor promulgated a Hazard Communication Program which applied only to manufacturers. That program was subsequently tested in the courts; one of the grounds for challenge was whether a Hazard Communication Program limited to manufacturers preempted broader State programs. Two Federal court decisions have gone in different directions, and the Supreme Court has been asked to rule. However, in the meantime, the USDOL has now promulgated standards which apply beyond manufacturers to all employers. Given the basis of the courts' rulings, the broader Federal standard may well mean that States which do not have their own OSHA program are now preempted in terms of having their own right-to-know laws. However, that is the effect of the recent DOL regulations, not of the Henry-Jeffords substitute. The substitute bill which we will introduce does not in any way change current law or affect whether or not State laws would be preempted without the bill's passage.

In summary, the Jeffords-Henry substitute does not preempt State workers right-to-know laws which are part of State OSHA programs in State plan States. Worker right-to-know laws in other States very likely have already been preempted by the DOL regulations, and the Jeffords-Henry substitute does not affect in any way the current situation.

UNITED STATES-WEST GERMAN ISSUES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs News letter for September 1987, into the CONGRESSIONAL RECORD:

UNITED STATES-WEST GERMAN ISSUES

The Federal Republic of Germany, also known as West Germany, is one of America's most important allies. Situated in the center of Europe, it is a member of the North Atlantic Treaty Organization (NATO) and faces Soviet military power directly to the east. West Germany is the most populous European member of NATO and has the fourth largest economy in the world. Although it possesses no nuclear weapons, West Germany fields the strongest and best equipped conventional force in Europe. Ties with the U.S. are close: West Germany is a strong proponent of democracy, human rights, and free trade. Yet the relationship may face several challenges in coming years because of disagreements on defense spending, arms control, economic issues and relations with the Soviet bloc.

BURDENSHARING

One major U.S. concern is to get West Germany to spend more on defense—"burdensharing". While the U.S. annually spends 6.7% of its gross domestic product on defense ($300 billion), West Germany spends only 3.1% ($29 billion). West Germany has a military draft, maintains a large standing army and well-trained reserves, supports a sizable foreign military presence, and accepts large-scale military exercises on its soil, but many Americans feel it should spend more on defense. The burdensharing issue is of growing importance at a time when large budget deficits raise doubts in Congress about the need to keep some 240,000 U.S. troops in West Germany. A broader concern is that West Germany, an economic powerhouse and a key member of the European Community (EC), should do more to support western interests outside of Europe. The U.S. may need to prod West Germany to play a political role equal to its economic stature.

NUCLEAR ARMS REDUCTIONS

Because of its location and recent history, West Germany has been a strong supporter of arms control and efforts to reduce East-West tensions in Europe. Yet many West Germans have concerns about the emerging U.S.-Soviet agreement to eliminate intermediate-range nuclear missiles from Europe. West Germany officially supports this plan, which would reduce the Soviet missile threat to other NATO countries. Many in West Germany are concerned, however, that such an agreement would leave them within the range of Soviet "battlefield" nuclear missiles. They fear that a sharp reduction of nuclear weapons in Europe would leave NATO vulnerable to Soviet political intimidation and a 3:1 Soviet superiority in conventional weapons. Their overriding worry is an eventual U.S. troop withdrawal from West Germany.

TRADE FRICTIONS

The U.S. had a $1.4 billion trade deficit with West Germany in 1980; last year, it was $15.5 billion. The imbalance has been due mainly to a sharp increase in West German exports. The U.S. has fairly good access to West German markets, yet has had difficulty increasing its sales, due in part to inadequate marketing efforts by American companies and product quality that does not always meet German standards. West Germany depends heavily upon exports—exports account for ⅓ of its gross national product (GNP), compared to 10% in the U.S. and 16% in Japan—so it has become an efficient exporter of a wide range of quality products. The recent sharp decline in the value of the dollar should help to address the trade imbalance over the next 18 months, but U.S. frustration could lead to tough provisions in pending trade legislation.

ECONOMIC GROWTH

The U.S. and several European countries have been trying to get West Germany to stimulate its economy. Greater German demand for goods and services would help reduce the U.S.-West German trade imbalance and aid world economic growth. The West Germans say that they do not want to fuel domestic inflation (a major historical concern), and argue that they are already implementing stimulative tax cuts. There is little indication that West Germany will respond to allied pressure for additional steps.

Agricultural subsidies are another area of trade dispute. Both the U.S. and the EC are paying enormous subsidies (some $25-30 billion annually) to prop up farms and stimulate global overproduction. The agreement last May by GATT members, to consider opening markets and cutting subsidy levels, was an important first step forward in stabilizing U.S.-EC agricultural trade. There is some hope that the enormous strain farm subsidies are putting on the EC—taking some ⅔ of the total EC budget and pushing it toward insolvency—will force subsidy reform.

TIES WITH THE EAST

Ties between East and West Germany have improved markedly in recent years. An increasing number of East Germans, nearly 2 million, will visit West Germany this year. The first official visit of an East German leader to West Germany in September 1987 is another sign of change. There is talk among some Germans of reunification, but it remains a distant hope. The Soviets are wary of the problems a united Germany could pose for them. In addition, the Soviets gain technology and trade benefits from East Germany's current access to the EC through its special trade relationship with

West Germany. Many in West Germany believe that trade with the Soviet bloc can help expand western influence and reduce East-West tensions. On the other hand, the U.S. is concerned that such trade ties may help the Soviets gain access to sensitive technologies. U.S. export controls on the transfer of high technology to the Soviet bloc are likely to be a source of continuing friction with West Germany.

GERMAN YOUTH

Recent polls indicate that 31% of West Germans with post-secondary school education support West German neutrality. Young people do not remember the U.S. role in the reconstruction of postwar Europe, and moral distinctions between the U.S. and the Soviet Union are no longer as clear cut. A new generation needs to acquire an awareness of the ideals our two countries share. Youth exchanges, including the Congress-Bundestag exchange, are an important means of addressing this need.

The United States has excellent relations with West Germany. Yet we must find common approaches to sensitive issues, including trade, technology transfer, and burdensharing. Building strong ties between new generations of West Germans and Americans can help us to resolve the problems that threaten to divide us.

THE SPACE STATION BOONDOGGLE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. STARK. Mr. Speaker, until we decide what we want to accomplish in space, we shouldn't be spending billions of dollars on the space station. The space station does not further any coherent space strategy. It has become an end in itself.

The space station seems destined to be NASA's biggest boondoggle. It has all the qualifications: The necessity for it has yet to be established; at an estimated cost of $32 billion, it is fabulously expensive; and it is likely to devour NASA's budget for years to come.

An outstanding journalist, Gregg Easterbrook, recently wrote an incisive analysis of the space station that appeared in the Los Angeles Times. It's right on target. I'd like to share it with you.

[From the Los Angeles Times, Sept. 27, 1987]

SPACE STATION: NASA PLANS ITS LATEST VAST VENTURE FOR U.S. AEROSPACE FUNDS

(By Gregg Easterbrook)

WASHINGTON.—One of the best things that ever happened to the National Aeronautics and Space Administration was that Skylab, launched in 1973, fell back into the earth's atmosphere and burned in 1979. If it still existed, it would be a huge embarrassment to the agency's current request for a space station.

One reason Skylab would embarrass NASA is that it was cheap: about $5 billion in current dollars. NASA's proposed space station may cost $60 billion to build, let alone operate.

Another awkward aspect of Skylab is that it was considerably larger than the new Soviet Mir space station, launched last year to cries of "the Russians are ahead!" from aerospace lobbyists.

But the most inconvenient thing about Skylab was that, after just three crew visits, NASA stopped sending astronauts there. Skylab floated vacant for five years before it fell. Budget constraints were a factor, but the real reason was that NASA had trouble dreaming up things for space-station astronauts to do.

But don't let reality get you down. The new NASA demand is for a "continuously occupied" space station that will have men abroad, whether or not there is anything to do.

The new NASA project represents, in many respects, a greater national extravagance than the Apollo moon program. Apollo was expensive, but returned many benefits—scientific knowledge, a triumph of American technical prestige, a testament to human courage. The space station will merely make work for NASA and its contractors. Apollo had clear goals and, after accomplishing them, ended. The space station project has no clear goals (other than funding) and will never stop demanding more money. And the kicker is: The entire Apollo program cost about $40 billion in 1987 dollars. That bought six manned landings on the moon, three manned trips around the moon and numerous test flights. When operating expenses are thrown in, the space station will cost more than Apollo, while its inspiration value will be negligible. Indeed, it may damage the space program if it proceeds just far enough to become a megabucks white elephant—not unlikely.

Let's examine space station costs, potential uses politics and then some alternatives:

COSTS

In 1984, NASA said the space station would cost about $8 billion. Early this year NASA allowed as how it should have said $14.5 billion (nearly $16 billion in 1987 dollars). NASA has since adopted a balmy practice of quoting all space station prices in 1984 dollars—allegedly for consistency, actually to soften their magnitude. Though it is not possible to return to 1974 to purchase the space station, NASA documents seem to pretend otherwise.

Two months ago the National Academy of Sciences examined the proposal at White House request and came up with an "interim" cost estimate of $32 billion, or twice NASA's. After further study, the academy issued a solid number—$30 billion for the first phase of construction. No guess for the entire project.

Do we have the real price tag? Probably not. To calculate the cost of placing the station in orbit, the academy relied on NASA's operating price for the space shuttle, a lowball figure that Joe Isuzu could not recite with a straight face. NASA claims a space-shuttle launch costs $78 million. But if NASA's budget for manned flight is divided by the number of space-shuttle launches in 1985—the last year of normal operations before Challenger—the price was $550 million per launch. Talk about adding dealer prep. At true shuttle costs, the complete facility will cost about $60 billion.

USES

NASA cites these potential uses for the space station: observatory, space manufacturing site, repair and refueling station for satellites, staging base for assembly of moon or Mars ships and laboratory.

—Observatory: Telescopes and other devices mounted aboard the station could perform important observations. But these can be accomplished with higher technical quality, and far more cheaply, by satellites. One lesson of Skylab was that men caused the station to jiggle in ways that threw off the fine calibrations of instruments. In the microgravity environment of orbit, one person pushing his feet against the floor can make the building shake.

—Space manufacturing: Space manufacturing has been a field of flowering promises and no payoffs. Someday commercial space manufacturing will come, but a space station may actually stand in the way. Because human bouncing around disrupts the pristine conditions that space manufacturing is all about, NASA plans to include manufacturing "platforms" in the station complex—unmanned craft that fly alongside but do not touch it. That's right. In tandem with our $60-billion astronaut luxury hotel we will have devices to simulate unmanned conditions.

—Repair and refueling of satellites: Possible, but not cost-effective. Most satellites have little value by the time they wear out. A few military-reconnaissance and special NASA satellites are worth servicing. A space tug will have to be built to convey these to the station's orbit, however, which may make this "saving" an expensive proposition—rather akin to driving your mail to the recipient's door in order to save postage.

—Staging base: Again possible but not cost effective. In order to be serviced by the space shuttle, the space station must be placed in a low orbit the shuttle can reach. Such orbits are ill-suited for vehicles bound for the moon or the planets.

—Laboratory: Two basic types of work may be performed on a space station: scientific experiments and biological studies of the effects of weightlessness.

The general scientific experiments could be done aboard the space shuttle. In fact, former White House science adviser George A. Keyworth once campaigned to have the space-shuttle fleet essentially converted into a fleet of orbital workshops—first, to get the shuttle out of the dangerous and profligate business of launching cargo; second, to obtain the benefits of a space laboratory right away, at far lower cost than building a space station. Keyworth's efforts were beaten back by former NASA Administrator James M. Beggs, who persuaded President Reagan that the space station was something he could claim credit for (Reagan did, in his 1985 State of the Union address) but not pay for, since the bulk of costs would fall on future Presidents.

Biological studies on the extended effects of weightlessness have been the focus of the Soviet manned-space program, with mini-space stations in orbit for 16 years. Results have been discouraging. Soviet scientists have found no antidotes for the muscle atrophy, motion sickness and bone decay that accompany prolonged stays in space.

Do we need to duplicate that unsuccessful research? The whole concept is a circularity: putting astronauts in space to find out how to counter the damaging effect on astronauts in space.

—Military: NASA doesn't list military space-station applications. Could there be any? Yes, but hardly of the cost-effective variety.

The best evidence of this shortage of military space-station applications is Mir. Surely the Soviets would love to use their new facility for military advantage, but apparently they aren't. A good guess is that they cannot think of any military applications other than reconnaissance, already done by satellites.

POLITICS

In the wake of Challenger, logical thinking about space policy seems to have been suspended. NASA is insisting that all space-station components be launched via shuttle, rather than by cheaper expendable boosters, and assembled in orbit by astronauts. At least 32 missions would be required, more than the entire shuttle fleet has flown.

In addition to being more expensive, orbital assembly of multiple shuttle-launched space station components will be riskier than building a few big pieces on the ground and launching them with what the U.S. space program most desperately needs—a new large throwaway rocket employing basic technology to keep costs low. NASA officials maintain that although such a "big, dumb booster" would save money once developed, now is not the time to invest in a new vehicle-development program. Yet the agency will invest at least $1 billion developing a "life-boat" spacecraft for bringing the space station crew back to earth quickly in an emergency. This is more than would be required for a big, dumb booster.

It's safe to say that nearly all U.S. scientists not employed or funded by NASA oppose the space station, fearing that to finance it, money for cost-effective space science will be starved out.

Now, in a delightful reversal, Sen. William Proxmire (D-Wis.), whom scientists long despised as a Philistine for his "Golden Fleece" awards, has become the scientists' champion.

Proxmire chairs a Senate subcommittee with jurisdiction over NASA. He has vowed to kill the station, and recently said, "NASA has fallen prey increasingly over the years to an institutional imperative that requires it to consider the needs of its eight space centers first, and national goals second."

Unrealistic thinking about the space station is an expression of NASA's cultural change, a descent from the progressive, goal-oriented agency of the 1960s to a defense-contractor mentally making staff and budget preservation the driving considerations.

Lately the line spouted by NASA backers and aerospace lobbyists is that what the agency needs is a sign of White House "leadership." "Leadership" is a code word for a big budget increase.

The space program does need a demonstration of White House leadership—of a better kind. True leadership would entail converting the shuttle to a limited role as an orbiting science workshop; postponing the space station until a valid requirement came along; developing new, low-cost "dumb" expendable boosters for almost all missions, and starting work on a small, practical "spaceplane" that could carry people and their supplies into orbit for those missions when men are truly needed.

NATIONAL COMMISSION ON CHILDREN

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MILLER of California. Mr. Speaker, 5 years ago yesterday, this body wisely created the Select Committee on Children, Youth, and Families, to provide Members of the House of Representatives with valuable and needed information about the status of children. Now it is time to build on the product of our committee.

For this reason, today I am introducing legislation to establish a bipartisan National Commission on Children. This proposal offers the opportunity to bring national attention, and to devise national solutions, to the profoundly troubling problems confronting America's children and families. I am joined in this endeavor by my colleague Mr. RUSSO of Illinois.

Mr. Speaker, America's children are growing up in circumstances far different than we anticipated and in many instances, we are paying a great price. Unprecedented changes in the work place and in family life, have created a myriad of problems and challenges for the Nation's children and for their families—regardless of the community they live in, their income, their race or their family composition.

Yet, children, who hold the Nation's future in their hands, continue to be disenfranchised at the highest levels of Government when public policy about their well-being is at stake. Unless we elevate the needs of children to the top of the national agenda, their future health, education, and economic status will remain precarious at best, stunting their opportunities for productive adulthood and jeopardizing the economic competitiveness and security of our Nation as we enter the 21st century.

Mr. Speaker, children deserve our undivided attention because Americans are telling us, in poll after poll, that they believe children are worse off today than when they were growing up.

And they are right.

They deserve our attention because Americans believe that no one—neither government, nor schools, nor churches, nor families themselves—are doing enough to ensure the health and well-being of the youngest and most vulnerable members of our society.

And they are right.

And they deserve our attention because it is far less expensive to provide effective services to children and their parents now than to foot the bill later for dependence and costly remediation.

Mounting evidence demonstrates, for instance, that nutrition programs for high-risk pregnant women and children dramatically reduce infant deaths and save $3 for every $1 spent. Distinguished Government scientists have documented that prenatal care not only results in healthier infants, it returns more than $3 for every $1 invested. And early childhood education reaps similar human and fiscal benefits: children are better prepared to enter elementary school, less likely to become teen parents or go on welfare as adults, and the American taxpayer gets back nearly $5 for each $1 we spend.

When we know how to create a blue-chip portfolio for children, it is unacceptable for us to stand back and continue to consign children unnecessarily to illness and disability, illiteracy and joblessness, and long-term poverty.

The problems besetting American children are too numerous to detail here. But it is critical to note several significant trends which have had a marked imprint on the demographics of our society, and which continue to create complex and rigorous pressures for American families, institutions, and for government at every level:

One out of every two children under 6, and more than 60 percent of 6- to 17-year-olds, have mothers who work full- or part-time outside the home.

One in 5 children—12.5 million—lives in poverty.

One in four children live in a single-parent family.

The United States ranks behind most other industrialized nations in its infant mortality rate.

More than one-fifth of all babies are born to unmarried mothers.

More than a quarter of all youngsters drop out of high school before graduation—a phenomena which has not changed in more than 25 years—preparing them only for a long life of poverty and joblessness.

Families with children are the fastest growing segment of the Nation's homeless population.

This Commission will be broadly representative of groups who serve children, academics who have conducted research about their needs, public officials, and parents.

The House of Representatives, through the work of its Select Committee on Children Youth and Families, has much to contribute to the ongoing work of this national commission. That is why the Commission's 36 members will be appointed, in equal numbers, by the President, the Speaker of the House, and the President pro tempore of the Senate. Their appointments will be made in consultation with the chairman of the committees of the House and the Senate which have jurisdiction over relevant Federal programs.

The Commission will conduct public hearings across the country and receive testimony from a wide spectrum of individuals, parents and children, and public and private organizations with an interest in the welfare of children. Using its public forum, the Commission will be able to draw together the view of the diversity of Americans, the expertise of the best researchers and practioners in the field, and the perspectives of both the public and private sectors which are so deeply intertwined in their efforts to improve the lives of the Nation's children.

Based on this indepth examination, the National Commission on Children will submit a report, with recommendations, to the President and to Congress no later than September 30, 1988. It is my hope that this Commission's factfinding and report will elevate the emphasis children's issues received during the 1988 campaigns for public office, and that it will propel candidates for local, State, and National office to outline in detail their platforms for enhancing the well-being of children and assuring this Nation regains its leadership in the world's economic marketplace.

This Commission is charged with setting forth recommendations in four specific areas:

First, questions relating to the health of children, including: (a) how to reduce infant mortality, (b) how to reduce the number of low birthweight babies, (c) how to reduce the number of children with chronic illnesses and disabilities, (d) how to improve the nutrition of children, (e) how to promote the physical fitness of children, (f) how to ensure that pregnant women receive adequate prenatal care, (g) how to ensure that all children have access to both preventive and acute care health services, and (h) how to improve the quality and availability of health care for children.

Second, questions relating to social and support services for children and their parents, including: (a) how to prevent and treat child neglect and abuse, (b) how to provide help to parents who seek assistance in meeting the problems of their children, (c) how to provide counseling services for children, (d) how to strengthen the family unit, (e) how children can be assured of adequate care while their parents are working or participating in education or training programs, (f) how to improve foster care and adoption services, (g) how to reduce drug and alcohol abuse by children and youths, and (h) how to reduce the incidence of teenage pregnancy.

Third, questions relating to education, including: (a) how to encourage academic excellence for all children at all levels of education, (b) how to use preschool experiences to enhance educational achievement, (c) how to improve the qualifications of teachers, (d) how schools can better prepare the Nation's youth to compete in the labor market, (e) how parents and schools can work together to help children achieve success at each step of the academic ladder, (f) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential, (g) how to address the problems of drug and alcohol abuse by young people, (h) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and (i) how schools might better meet the special needs of children who have physical or mental handicaps.

And, fourth, questions relating to income security, including: (a) how to reduce poverty among children, and (b) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried.

In addition, the Commission will identify ways in which the public and private sectors can work together at the community level to ensure that, using all available resources, the needs of children and their families will be met in a coordinated and comprehensive fashion.

The Commission will also recommend ways to improve agencies' collection, analysis, and utilization of data on the status of children and on relevant Federal programs.

Our colleague, Mr. BENTSEN, who chairs the Senate Finance Committee, has introduced a campanion bill in the Senate. Mr. BENTSEN's leadership on behalf of improving the health and welfare of children is well known, and I am pleased to be joining him in this effort.

Mr. Speaker, these are not simple questions, but they are questions which demand our deepest searching, our most concentrated energies, and our most creative vision.

And, as the select committee has documented, there are dedicated communities, organizations, and individuals who have put strategies and programs in place which are working to enhance the lives of American children. They have must to teach us. Now is the time to learn from them for the benefit of all American children.

The children of this Nation can wait no longer for its leaders to tackle this daunting but fundamental task. Their health and the health of the nation depend on it.

OPPORTUNITY AFFORDED BY GLASNOST

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. BONKER. Mr. Speaker, I wish to express my deep concern for the prisoners of conscience and other persons who are seeking freedom through emigration from the Soviet Union. We must take advantage of the opportunity afforded by the glasnost policy to use what influence we can on behalf of those denied basic human rights in the Soviet Union.

The history of our human rights and the Jewish emigration movement suggests that Soviet behavior can be modified whenever they have important needs of the West—especially the United States—and whenever they have clear evidence that our security, trade, and/or economic policies are linked to their emigration and human rights performance. These conditions existed in 1979, until they were overridden by the Afghanistan invasion, and they exist again today.

We must understand what motivates the Soviets and then design incentives to encourage improvement in their human rights and emigration policies. Recognizing economic power as the driving force of international politics, Gorbachev seeks to strengthen the Soviet economy and reduce international political tensions through a strategy of increased global interdependence based on bilateral trade between the Soviet Union and Western nations. Now is an appropriate time for the United States and the Soviet Union to discuss the differences that exist between them, including the issue of human rights in general and of the rights of Soviet Jews in particular.

We have two mechanisms to exert economic leverage: The Jackson-Vanik amendment and the Stevenson amendment. Both tie economic benefits to a Communist country's emigration record—Jackson-Vanik through the use of most-favored-nation trade status and the Stevenson amendment through the extension of credit guarantees by the Export-Import Bank. The value of MFN to the Soviets probably has been increased by Soviet trade reforms and their drive to increase manufactured exports.

We may use the issue of Jewish emigration to test Gorbachev's glasnost and perestroika policies because it offers a measurable standard of performance. Soviet emigration practices are now a matter of world attention. And indeed, although some progress has been made, we must not relax our attention. In the words of Ambassador Warren Zimmermann, "promises are not performance; objectives are not achievement. Glasnost and perestroika represent an encouraging process. But they do not—at least not yet—describe considerable accomplishments." We must continue to encourage this process.

When Pamela Braun of the Union of Councils for Soviet Jews testified before the Subcommittee on International Economic Policy and Trade in July, she argued that "if [the Soviets] cannot keep their solemn pledges to observe international standards of behavior in the human rights field, if they cannot treat their own citizens fairly and humanely, it follows that they cannot then be trusted to take their place as honorable traders in the international marketplace or to keep their word in such matters as security and arms reduction agreements."

The broad and passionate support in the United States on behalf of Soviet Jews in particular and human rights in general, and the durability of that support during the past generation, constitutes a formidable democratic instrument which we must continue to utilize in the ongoing struggle to advance the cause of human rights in the Soviet Union.

GROUP LOAD CURTAILMENT—AN ENERGY PROGRAM THAT WORKS

HON. DON EDWARDS

OF CALIFORNIA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. EDWARDS of California. Mr. Speaker, we would like to bring to the attention of our colleagues the outstanding service being provided by Santa Clara County businesses and government agencies through their participation in the Pacific Gas & Electric Co.'s Group Load Curtailment Program [GLC].

Members of the GLC program help PG&E prevent blackouts or rolling brownouts by agreeing to lower their electric usage whenever a critical need arises. Since 1980, these business and government agencies have joined in this cooperative effort.

The voluntary assistance of GLC members enables our communities to maintain a more dependable energy supply. By working as a team, members hope to ensure that vital services are delivered without interruptions in the energy supply.

Santa Clara County members who deserve our sincere appreciation are: Burke Industries, Pacific Bell, San Jose Hospital, the county of Santa Clara, Santa Clara Valley Medical Center, Santa Teresa Community Hospital, and the city of Sunnyvale.

We are proud to salute all the members of the GLC program. We commend their sense of civic responsibility and wish them continued success.

JUSTICE MARSHALL'S VIEW ON REAGAN CIVIL RIGHTS RECORD

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. CLAY. Mr. Speaker, I think most of my colleagues are familiar with Supreme Court Justice Thurgood Marshall's recent comments about the contribution of modern Presidents to the achievement of civil rights. As we reflect on the remarks of Justice Marshall, I commend the following editorial, "A Powerfully Credible Source," taken from the St. Louis Post Dispatch, September 16, 1987:

A POWERFULLY CREDIBLE SOURCE

Rare though it is for a Supreme Court justice to speak publicly, much less criticize a sitting president, when such a moment comes the public should take notice. There was nothing new in Thurgood Marshall's remarks about what Ronald Reagan has done for blacks in more than six years in office. Commentators have been saying much the same thing for years.

The impact comes from the fact that Justice Marshall, who has been on the front line of the long, hard fight for racial equality in this country for four decades, chose not to bite his tongue when columnist Carl Rowan asked him in a taped television interview about which presidents had done the most for civil rights. He gave that honor to Lyndon Johnson and Harry Truman. He chose not to defer to the constitutional separation of powers or the inappropriateness of a Supreme Court justice commenting on a president still in office.

His remarks were brief but to the point. Asked how Ronald Reagan ranks among presidents in civil rights, Justice Marshall answered: "The bottom . . . [as] when we really didn't have a chance." He compared Mr. Reagan's popularity to that of a movie star, and he wasn't willing to concede that the public's fondness for the president translates into endorsements of his conservative positions on social issues.

As expected, Mr. Reagan failed to grasp the import of Justice Marshall's comments. He countered that he has always opposed discrimination and that some of his best friends are black. What Mr. Reagan still does not understand is the need of society to use certain tools—affirmative action, enforced voting rights, education and so on—to overcome the very degradation Justice Marshall alluded to. Which is why, in the minds of many, Mr. Reagan ranks at the bottom when it comes to civil rights.

ON OKLAHOMA NEWSPAPER EXCELLENCE

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. WATKINS. Mr. Speaker, Thomas Jefferson, in a letter to Col. Edward Carrington dated January 16, 1787, wrote:

> The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to perfer the latter.

It is in this context that I bring to the attention of my colleagues that in recently concluded 1987 Oklahoma Press Association Better Newspaper Contests, winners in four of the eight divisions are from the Third District of Oklahoma.

Newspapers in the Third District which won sweepstakes categories were: The Ardmore Ardmoreite, published by William H. Stauffer, division 1, daily newspapers with 9,000 or more circulation; the Durant Democrat, published by David L. Crouch, division 2, daily newspapers with circulation between 4,500 and 8,999; the Chandler Lincoln County News, published by Donald F. Ferrell, division 4, weekly newspapers with a circulation of 3,000 and up; the Tecumseh Countywide News, published by Wayne and Gloria Trotter, division 5, weekly newspapers with a circulation of 1,850 to 2,999.

Other Third District newspapers placing in the Better Newspaper Contests, established in 1946 by the Oklahoma Press Association, which itself dates to 1888, were: the Ada Evening News, the Lone Grove Ledger, the Stillwater NewsPress, the McAlester News Capital & Democrat, the Shawnee News-Star, the Seminole Producer, the Wewoka Times, the Cushing Daily Citizen, the Holdenville Daily News, the Sulphur Times Democrat, the Antlers American, the Davis News, the Coalgate Record-Register, the Yale News, the Hartshorne Sun, and the Durant Bryan County Star.

Mr. Speaker, I'm sure that my colleagues will join me in saluting these members as an example of this Nation's fourth estate, prizing with us a free press above all as one of our most cherished rights guaranteed under the Constitution.

Thank you, Mr. Speaker.

SALUTE TO FRANK FISCALINI

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MINETA. Mr. Speaker, I would like to ask you and our distinguished colleague to join us in saluting Frank Fiscalini, who October 29, 1987, will be receiving the San Jose Hospital Foundation's Legacy Medal Award.

Frank is now serving as the executive director of the St. Joseph Cathedral Restoration. His aim is to establish the cathedral as the treasure it is in our community. With the completion of this 3-year project it will surely be one of the major visitation points for thousands of visitors to San Jose.

This activity is typical of the life-long interest Frank has continually exhibited toward the city of his birth. His career as a teacher began at Bellarmine College Preparatory School. In 1950 he began teaching at James Lick High School. In 1956, after rising to the position of principal, he became the superintendent of the East Side Union High School District, a position in which he gave distinguished service until 1982. His crowning achievement was the completion of Independence High School, a $27 million educational park that was created as an alternative to segregation. Independence High School is now a model of successful integration for the State of California.

Frank is the epitome of the community-minded individual. Reaching out from his realm of education, Frank became chief executive officer for Alexian Brothers Hospital, believing that "both education and health care demonstrate the same commitment to the people they serve."

Although Frank Fiscalini has given so much of himself to our city and county, he has also been a devoted husband to his wife Joan and shared in the raising of a son and three daughters. For these many reasons, I ask you, Mr. Speaker, and our colleagues to join with me in congratulating Frank on this prestigious award.

OUR CONSTITUTION IS FOREVER RENEWED

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DYSON. Mr. Speaker, I rise today to commend a young student from my district, Maryland's First Congressional District, for his recent essay on our Constitution. The essay is both timely and valuable. This essay won first place in the annual July Fourth competition sponsored by the Liebman-Berger Memorial Post No. 707 division of the Jewish War Veterans Ladies Auxiliary of the United States.

During this year of the 200th anniversary of the signing of our Constitution, it is vital to remember the role that this great document plays in our daily lives. Mr. Speaker, I hope that we shall never cease to recognize that our fundamental rights, such as freedom of speech and religion, have their basis in the Constitution.

The Constitution and all that it stands for, furthermore, has survived and will continue to thrive through the daily exercise of these rights. This means that it is extremely important that we must always pass on the message of the Constitution to the next generation. Ryan Smith's essay proves that this process of renewal is alive and well in the United States.

Mr. Speaker, for the benefit of my colleagues, I respectfully request that you insert Mr. Smith's essay into the CONGRESSIONAL RECORD:

HOW THE CONSTITUTION HELPED AMERICA GROW

(By Ryan Smith, Wicomico Senior High School)

According to the Preamble of the U.S. Constitution, the purposes of the new government were ". . . to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty. . .". By doing this, America has developed into the great country it is today.

The Constitution ensured the equal distribution of the government's power. It divided the federal government into three branches, and developed a system of checks and balances to prevent a monopoly of power. As a result, America grew into a stronger nation.

In the Constitution, the federal government is given the right to raise an army. This army would defend the United States against aggressors, thus giving Americans a sense of security that promoted prosperity. Consequently, America grew and expanded into new areas.

The basic principle of any democracy is that the people hold the power. This was essential to the growth of America, because the people elected the officials who ran the government. As a result, the people can ensure that their freedoms aren't lost.

Undoubtedly, the Constitution was the key to America's growth into the "Land of Opportunity". By creating a government that could better serve its citizens, establishing a court system to ensure fair judgement of citizens, establishing a military to defend the United States and ensuring the liberty and freedom of every citizen, the Constitution enabled America to rise to its present status as one of the world's leading nations. People from all over the world immigrated to America for a new start, a chance to succeed. The Constitution made that chance possible for immigrants in the 1800's, and it continues to give us an opportunity to succeed in America today.

REPRESENTATIVE FORD EULOGIZES DECEASED AUTO GIANT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FORD of Michigan. Mr. Speaker, America yesterday lost one of its great industrial giants, Henry Ford II, the grandson of the man who put the United States on wheels.

It would have been easy for the grandson to have simply played the role of scion to one of the world's great fortunes. He chose, instead, to be a doer who improved the lives of millions of workers who toiled at the Ford Motor Co. outside Detroit, and many places around the world.

History will remember him as a man of compassion, vision, and fairness.

Had it not been for his efforts after he was thrown abruptly into Ford leadership following the death of his father, Edsel Ford, the legendary auto company might well have foundered on the rocks of bad management. The automobile colossus was in dreadful disarray and its bookkeeping practices were in shambles. It was losing $9 million a month when his ailing grandfather named young Henry head of the company in 1945. When Henry II stepped aside as chief executive officer in 1979, company earnings were $1.6 billion.

Mr. Ford rescued the ailing corporation with two swift and decisive management strokes. First he fired Harry Bennett, the former prize fighter whose special police force terrorized Ford workers for decades. The notorious Bennett had been old Henry Ford's chief lieutenant and he wielded extraordinary influence over almost all phases of Ford's corporate life. He was the bete noire of organized labor and the scourge of Ford workers. Bennett was so firmly entrenched in the Ford hierarchy that many observers at the time thought he had a shot himself at the presidency. His firing by the 28-year-old new head of the company was regarded at the time as a major feat by the then youthful heir.

Next, young Henry was quick to see the deplorable state the venerable firm had slipped into. It had fallen behind both General Motors and Chrysler and its future was indeed doubtful. That the youthful new chief was able to see this is probably what rescued the giant auto firm that sprawled over hundreds of acres in what was known as the huge River Rouge complex, an industrial Ruhr unto itself.

First he saw the dilemma. Then he took a giant step to correct it. This was the employment, en masse, of a group of former World War II officers who had earned the name of "Whiz Kids" in the Army because of a super-effective managerial system they had developed to provide America with the weapons of war.

Among the bright young men was Robert McNamara, later to become Secretary of Defense under Lyndon Johnson. The Whiz Kids have been given credit by a number of industrial historians for reviving Ford Motor Co. But it must be remembered that it was Henry Ford II who had the vision and the understanding to bring them to Ford.

Like all of us, Henry Ford II was fallible. He made some prominent mistakes. He approved production of the Edsel—which holds some kind of record for automobile design bloopers—and he fired Lee Iacocca, who revived the Chrysler Corp. and turned it into a fierce Ford competitor.

But mainly he was a talented, dedicated industrialist who saw the future better than most of his genre. He was ahead of his time in labor relations and one of his first moves as company head was to make peace with the late United Auto Worker President Walter P. Reuther.

Mr. Ford will be remembered as a tough corporate head who saw final decisions as his job.

He will be missed as a fierce competitor who inspired the entire auto industry and those who are a part of it.

PARALYZED VETERANS OF AMERICA SUPPORT ELEVATING THE VETERANS' ADMINISTRATION TO CABINET LEVEL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SOLOMON. Mr. Speaker, Jack Powell, who is doing an outstanding job as executive director of the Paralyzed Veterans of America, recently drafted and sent out a letter to the major newspapers in the country requesting readers to write their legislators to support legislation—H.R. 1707—elevating the VA to Cabinet level.

Over 230 Members of the House of Representatives have already cosponsored this bipartisan legislation. According to the Congressional Budget Office the cost of implementing H.R. 1707 is insignificant, and the bill is the top priority of every veterans' organization in the country. I urge all of my colleagues to support this very important legislation.

Mr. Speaker, I wish at this time to submit into the RECORD that letter to the editor by the Paralyzed Veterans of America.

PARALYZED VETERANS OF AMERICA,
Washington, DC, September 9, 1987.

DEAR EDITOR: The U.S. Congress now is giving consideration to legislation which would establish the Veterans Administration (VA) as a cabinet-level agency. If enacted, this measure will elevate the Administrator of the VA to the level of Secretary, thereby enabling our nation's veterans and their survivors and dependents to have their concerns represented at the highest level of the executive branch.

On the basis of size alone, the VA belongs in the cabinet. The VA, directly and indirectly, impacts virtually every American family. It already is larger than most cabinet-level agencies—State, Interior, Labor, Commerce, Education, Transportation, Energy, Justice, and Housing and Urban Development. The agency has an annual operating budget of more than $27 billion and administers the largest health care system in the Free-World—including 172 hospitals, 229 out-patient clinics, 117 nursing homes and 16 domiciliaries. In addition, the VA ranks second only to the Department of Defense in number of personnel.

And if statistics aren't compelling enough, consider that the VA has as its mission the provision of medical care to our nation's veterans and is the first line backup to the Department of Defense during times of national emergency. Consider also some of its innovative programs which affect millions of Americans—such as the GI Home Loan and the GI Bill Programs—which have improved the economy and have provided educational and training opportunities.

The VA is the largest trainer of health care manpower in the U.S.—with nearly half of the physicians in the U.S. today having received all or part of the training through the VA. In fact, if you counted all the Americans who received medical attention from VA-trained health care personnel, it probably would cover virtually every American family.

Further, the agency's award-winning research program—second in size only to the National Institutes of Health—is working to confront the AIDS crisis and the mysteries of Alzheimer's Disease with the same intensity it used to find the cure for tuberculosis and develop the heart pacemaker.

In addition, the VA administers America's largest vocational rehabilitation and training programs, which have led to ever-increasing job opportunities and employment for disabled veterans.

Insurance policies offered by the VA would qualify the agency to be one of America's largest insurance companies.

Yet, in spite of all of this—the fact that the VA impacts all Americans, that it is the largest health care system in the Free World, the largest vocational trainer and equal to some of the largest insurance companies—the VA, operating as an independent agency, has been lost in the bureaucratic shuffle and is unable to present the concerns of its constituency directly at the cabinet level.

In a major bipartisan push now underway, 25 U.S. Senators and 194 Members of the House of Representatives have endorsed the proposal to elevate the VA to cabinet-level status (S. 533 and H.R. 1707).

The Paralyzed Veterans of America applauds this effort and we urge your readers to write their legislators to press for passage of this important legislation in time for Veterans Day 1987.

Sincerely,

R. JACK POWELL,
Executive Director.

THANKS FOR NOTHING, SOUTH KOREA!

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. HENRY. Mr. Speaker, recently South Korea announced that it was lifting arbitrary import restrictions on the importation of foreign manufactured automobiles. There was a brief moment of elation in Detroit as American automakers thought that there would be a reprieve from the unfair trading competition between the United States and South Korea in the automotive market.

That moment of joy was shortlived. According to Paul Lienert, columnist for the Detroit Free Press, imports of American manufactured automobiles may amount to only 200 to 300 units this year. Why are the numbers so meagre?

Quoting Lienert:

* * * Imported cars are subject to a laundry list of taxes, including a 50 percent tariff, a 40 percent special excise, a defense tax (equal to 10 percent of the special excise) and value-added tax. Thus, a new Cadillac DeVille, which costs about $21,000 in the United States, retails for the equivalent of an eye-poping $87,000 after all the taxes and tariffs are added. A 4-cylinder Ford Taurus, which lists in the States for around $10,000, costs a breathtaking $76,000.

Thank you, South Korea, for nothing!

FOREIGN INVESTMENT IN THE UNITED STATES

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, September 30, 1987 into the CONGRESSIONAL RECORD:

FOREIGN INVESTMENT IN THE U.S.

Hoosiers are increasingly concerned about the growing foreign involvement in our economy. They hear about foreign interests buying U.S. companies, and about the U.S. owing huge sums of money to foreign investors. They fear that we are starting to lose control over America's future. These fears can be overstated, but to some extent they are justified. Increasingly our economic and foreign policy decisions may be influenced by our indebtedness to foreigners.

Increased direct investment by foreigners in the United States has prompted widespread publicity. Their purchase of U.S. companies ranging from Standard of Ohio to Smith & Wesson generates feelings of uneasiness. Foreign investors now own 46% of the commercial real estate in downtown Los Angeles. Foreigners flush with cash are attracted to American technology, low U.S. corporate tax rates, high rates of return and our long-term political stability. Because of the recent sharp decline in the value of the dollar, overseas investors find many bargains in the U.S.

Foreign investment in the U.S. brings mixed results. It can provide communities with the capital needed to create new jobs. Foreign investment in U.S. plant and equipment can improve company efficiency, and provide quality products for consumers. But foreign investment also means that the dividends go overseas, and that we can lose some control over our means of production. Also, as economic power grows, so does the political influence of foreign interests within the U.S.

Despite the spate of recent purchases, the percentage of U.S. assets under foreign control is still very small. Moreover, the federal government restricts foreign ownership in industries considered essential or sensitive, such as telecommunications, shipping, or aviation. It is important to keep in mind that the U.S. continues to have more direct investment overseas than foreigners have here. If we place sharp limits on their investment, they will limit ours. My sense is that it is too early to tell whether new limits are needed on foreign direct investment. We should, however, develop a better system of reporting requirements to monitor foreign inroads into the U.S. economy.

Less visible, but potentially more worrisome than the purchase of companies or real estate is the rapid borrowing of the U.S. from foreign interests. Last year only 16% of foreign assets in the U.S. was in the form of direct investment (such as factory ownership), and 12% was in corporate stock, while 72% was in debt instruments, such as U.S. Treasury bonds and corporate bonds. In 1986 foreigners held $995 billion of U.S. public and private debt. In just a few short years, the U.S. has gone from being the world's largest creditor to being its largest debtor. The net international investment position of the U.S. in 1982 was $137 billion in the black. This year it will be some $400 billion in the red. By the early 1990s net U.S. international debt could reach $1 trillion.

There are several reasons for the rapid accumulation of U.S debt. Much of the debt owed to foreigners has gone to finance our huge federal budget deficits. U.S. consumers have also been on a buying spree, especially of foreign products, and have piled up heavy personal debts. In addition, the Federal Reserve's tight money policy in the early 1980s drove up U.S. interest rates, offering foreigners high rates of return. At the same time, a variety of problems—such as the declining competitivenes of American industry, foreign import barriers, and the high value of the U.S. dollar raising the price of our exports—led to our current trade deficit. As long as our imports exceed our exports, we must finance the difference by increasing our indebtedness to foreigners or by selling off U.S. assets.

The inflow of foreign capital is not all bad. It can be beneficial if it finances productive investments that create jobs and generate the future earnings needed to repay our creditors. Unfortunately, our growing indebtedness reflects private consumption and military spending more than investment. U.S. investment as a proportion of gross national product during this decade differed only slightly from earlier years.

If we do not generate economic growth to pay the interest on our debt, we will have to pay for it by a reduced American standard of living. As in the case of a household, we will have to hold spending below income to cover our debt payments. Paying just the interest on this foreign debt will likely cost each U.S. household $500 per year in the early 1990s; trying to pay off part of the debt will cause greater hardship. For the first time in generations, we could be passing on a lower standard of living to our children.

The U.S. dependence on foreign capital also restricts our freedom to make economic policy. If foreign investors reduce their lending to us, the tighter supply of credit would force up interest rates, and perhaps precipitate a recession. The Federal Reserve's recent hike in interest rates, to the possible detriment of domestic economic growth, may have been to attract foreign funds to finance our national debt. Foreign investors and governments will increasingly call the tune for our monetary policy.

The burgeoning debt also undermines our status as a world leader. We will find it difficult to insist that others follow our economic or political leadership as our indebtedness to them mounts. Our failure at the Venice Economic Summit to convince our allies to adopt policies to stimulate world growth and our reduced influence in Third-World debt negotiations exemplify the difficulties encountered by a nation attempting to instruct others without having its own house in order.

No country has ever managed to remain both a great power and a great debtor. Americans need to adopt healthier economic habits which reduce our need to borrow and increase our production and exports. That means curbing our appetite for expensive foreign goods, selling more exports, cutting our federal budget deficit, and saving and investing more. America must once again become a nation that produces more than it consumes.

DIPLOMATIC DOUBLE STANDARD

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MILLER of California. Mr. Speaker, since the Arias peace initiative was announced in Guatemala earlier this month, the Reagan administration has let no opportunity slip to demean this historic effort.

Each and every step toward compliance with the Arias accord by the Government of Nicaragua has been denounced as cosmetic and insincere: the lifting of restrictions on Radio Catholica, the reopening of La Prensa uncensored, the creation of a national reconciliation commission, the limited cease-fire. Most of the world, and those in Central America who are sparing no effort to make this peace process succeed, are encouraged, as are many in this body who have opposed the administration's policy of subverting the Nicaraguan Government—a policy many believe contributed to the antidemocratic restrictions in Managua.

The administration sees no hope in the movements toward peace. Apparently, the President continues to believe that the plan, which has the unanimous support of the four

Central American Presidents with most to fear from Nicaragua, is fatally flawed.

The administration also continues to refuse any bilateral negotiations with President Ortega or other leaders of the Nicaraguan Government. The President tells us that he will not negotiate with a government which is militarily and politically allied with the Soviet Union, restricts freedom of the press, cracks down on antigovernment radio broadcasts, outlaws trade unions, intimidates the church, or employs other antidemocratic policies.

So it was with a certain sense of confusion that I read over the weekend of Vice President BUSH'S official visit to Poland, where he engaged in discussions with an antidemocratic Soviet puppet Wojciech Jaruzelski who, with Soviet military might, overthrew the Polish Government, abolished trade unions and jailed their leaders, prohibits dissident press and media activities, and confronts the Catholic church.

This is not the first time that I have been struck by the administration's apparent willingness to get off its high horse and engage in normal political relations with countries whose antidemocratic nature is repugnant to this Member of Congress, and presumably to many others as well; Marcos' Philippines, Botha's South Africa, Pinochet's Chile, Stroessner's Paraguay all come to mind, among others. And apparently we can have normal diplomatic discussions with China, a Communist country of 1 billion, but not with Nicaragua, a tiny nation of 2.5 million.

This duality is most fascinating, and I hope that when he returns from Warsaw, Vice President BUSH will brief us on this voodoo foreign policy.

SURPLUS CROPS GROWN ON LAND IRRIGATED WITH SUBSIDIZED WATER

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. STARK. Mr. Speaker, I am pleased to introduce a bill to amend the Internal Revenue Code to include in a taxpayer's gross income the value of any Federal irrigation subsidy received.

The United States has a shortage of water and a surplus of food. The Federal Government has responded to this problem by delivering taxpayer-subsidized water to farmers to grow more food.

What is the result of this Federal intervention? The Agriculture Department found that in 1982, surplus crops were grown on almost half the land irrigated with subsidized water. This is senseless.

Let's look at a specific example from California's Central Valley, where the total Federal water subsidy is nearing $3 billion.

Cinco Farms gets subsidized water worth well over $1 million a year. In 1983, Cinco received more than $1 million in the Cotton Surplus-Reduction Program. How do we explain that to the taxpayers?

The consequences of this giveaway go beyond budget busting. Subsidizing water is irresponsible water policy.

Water is a scarce resource. Giving it away just encourages waste. The Interior Department puts the taxpayer subsidy on most Bureau of Reclamation water at a whopping 85 percent. The lucky recipients of this windfall have little or no incentive to conserve water.

My bill gives them that incentive. While agribusiness still won't be paying the full cost of the water, it's a step toward ending water welfare.

Finally, there is the question of fairness. Other water users pay the full price. While cities and suburbs look for new—and costly—water supplies, the Federal Government is giving water away to agribusiness. This isn't right.

My bill allows the taxpayers to recapture some of the subsidy agribusiness gets from them. It's fair, it's fiscally responsible, and it will encourage greater conservation of water. This reform is long overdue. I hope my colleagues will support it.

H.R. 3384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part II of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 90. FEDERAL IRRIGATION SUBSIDIES.

"(a) GENERAL RULE.—Gross income shall include an amount equal to the Federal irrigation subsidy received by the taxpayer during the taxable year.

"(b) FEDERAL IRRIGATION SUBSIDY.—For purposes of this section—

"(1) IN GENERAL.—The amount of the Federal irrigation subsidy received by any taxpayer during any taxable year is the excess (if any) of—

"(A) the full cost charge for Federal irrigation water delivered to the taxpayer during the taxable year, over

"(B) the amount required to be paid for such water.

"(2) FULL COST CHARGE.—The term 'full cost charge' means the full cost determined by the Secretary of the Interior under paragraph (3) of section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb(3)) plus any operation, maintenance, or replacement charges required in addition to any full cost charge.

"(3) FEDERAL IRRIGATION WATER.—The term 'Federal irrigation water' means any water made available for agricultural purposes from the operation of any reclamation or irrigation project referred to in paragraph (8) of section 202 of the Reclamation Reform Act of 1982.

"(c) DENIAL OF DEDUCTION.—No deduction shall be allowed under this subtitle by reason of any inclusion in gross income under subsection (a)."

(b) The table of sections for part II of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 90. Federal irrigation subsidies."

(c) The amendments made by this section shall apply to water delivered to the taxpayer in months beginning after the date of the enactment of this Act.

DEFENSE REFORM BIG FLOP

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. WELDON. Mr. Speaker, in the continuing effort to get the budget under control, many have looked to the defense budget for reductions. As with most areas of the budget, we can save money in defense by increasing program efficiency and management. But we will not achieve these savings without the cooperation of those who administer defense programs.

Not long ago, Congress adopted some of the Packard Commission reforms to increase efficiency of defense procurement and ultimately, to get more for our defense dollars. But as the attached editorial points out, this effort has gone astray. Unfortunately, the need for savings has not disappeared. As we seek ways to implement policies aimed at budget reduction, this commentary may be instructive. I think most of my colleagues on the Armed Services Committee share these concerns. I hope other Members will take the time to review this editorial. I include the editorial from the Delaware County Times in the CONGRESSIONAL RECORD:

[From the Delaware County Times, Sept. 28, 1987]

DEFENSE REFORM BIG FLOP

Alas, the Pentagon's emperor of procurement has found he has no clothes. When Richard P. Godwin was tapped a year ago to be the new deputy secretary of defense for acquisition, he thought he wore the imperial purple as "czar" of the nation's $140 billion military hardware program. A former Bechtel executive, he shared the same corporate alma mater as Defense Secretary Caspar W. Weinberger. And he carried the mandate of the Packard Commission report on defense reforms backed by such congressional biggies as Barry Goldwater, Sam Nunn and Les Aspin.

But then reality intruded in the form of service secretaries who resisted his orders, Pentagon lawyers who undercut his authority and a defense secretary who would not back him up. Mr. Weinberger's defense buildup has been focused from the beginning on getting money out of Congress rather than worrying too much how it would be spent. The latter chore he left to service secretaries. This loose, lax, horizontal organizational structure was an anathema to Mr. Godwin, an advocate of tight, vertical, business-world controls. He thought it was his mandate to enforce improved procurement procedures.

When he tried to assert his authority, however, he found himself embroiled in endless turf battles. Some of the big ones he won by appealing to Mr. Weinberger. But with the whole weapons procurement establishment mobilized against him and his relations with Under Secretary William Howard Taft IV none too good, his frustrations got the better of him. In his judgment, the job was not "doable under conditions of status quo." Mr. Taft, in contrast, contends the job is doable, provided the right man is tabbed to replace Mr. Godwin. We doubt it. Mr. Godwin, a man of extensive government and business experience, was Mr. Weinberger's handpicked candidate a year ago. His resignation has alerted Capitol Hill to the very real prospect that the latest Pentagon reforms are being "reinterpreted or ignored" (Mr. Godwin's words) by a huge bureaucracy that never wanted them anyway.

President Reagan has the opportunity to deal with this depressing situation in a dramatic manner. Instead of accepting Mr. Godwin's resignation, he should ask him to stay on the job and order Secretary Weinberger—publicly—to make it mean something. It took presidential intervention to get the Packard reforms on the books in the first place. Now it will need presidential intervention to make sure they will be implemented. The alternative will be increasing public disillusion with the waste, fraud, collusion, inefficiency and mismanagement that plague the Pentagon.

LEACH'S ARE "PEOPLE OF THE YEAR"

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FRANK. Mr. Speaker, the Attleboro Area Chamber of Commerce does excellent work as an advocate for the economic interests of the area which it serves. I am pleased to have been able to work closely with the chamber of commerce on a number of projects important to the well-being of the people of Attleboro and the towns near it.

One recent example of the excellent work done by the Attleboro Chamber of Commerce is the selection of Virginia and Philip Leach as People of the Year for the community service they have performed.

Usually, there is one "Person of the Year." But Virginia and Philip Leach have worked so closely together on behalf of the Attleboro area that the chamber of commerce wisely decided to make a joint award to these two wonderful people.

Mr. Speaker, I congratulate Virginia and Philip Leach on this very deserved award, and I ask that the article which was printed in the Sun Chronicle explaining their award be printed here.

LEACH'S NAMED "PEOPLE OF YEAR"

ATTLEBORO.—Virginia and Philip Leach have been named people of the year by the Attleboro Area Chamber of Commerce for their community service.

The chamber's selection committee cited the Leach's work with All Saints Church and Sturdy Memorial Hospital in making the award Monday.

"Virginia N. and Philip F. Leach's community pride and concern for others are reflected in the countless hours of service as well as the many acts of kindness and support they give toward the betterment of the Attleboro area," the committee said in a prepared statement.

The annual award usually goes to one person, but the selection committee decided to give it to both Philip and Virginia Leach this year.

The Person of the Year Award is presented to an individual who has, by his or her efforts, made a positive impact on their community, the Attleboro area, society and their fellow man, according to the committee.

"We're very pleased and proud," Virginia Leach said. "We're very proud of this honor."

Philip Leach was born and raised in Attleboro and joined the family business, Leach & Gardner, in 1938. Virginia Leach grew up in New Jersey and moved to Attleboro after her marriage to Philip Leach in 1941. The couple has four daughters and a son.

Both have been active in All Saints Church.

Virginia Leach has been a member of the auxiliary, served on the altar guild, worked on several bazaars and was involved in the creation of a local cook book.

Philip Leach has been a church vestry member, worked on the search committee for new ministers, acted as treasurer, junior warden and senior warden and served on the building committee for the parish house.

Their involvement with Sturdy Hospital spans many years. The hospital recently honored them by naming a wing the "Virginia N. and Philip F. Leach Surgical Day Care Facility."

Philip Leach has served on the hospital's board of trustees, board of managers and the hospital corporation and development committee.

Virginia Leach served on the auxiliary board and chairwoman of the gift shop.

She is also chairwoman of the city park commission and is a past member of the public library's board of trustees.

The selection committee said "Phil and Ginny offer inspiration, support and friendship to everyone they meet. Never to busy to pay a compliment, praise an effort or extend a helping hand, they have quietly served the community for many decades."

THE NOTCH PROBLEM

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DURBIN. Mr. Speaker, at the many town meetings I have held in my Illinois district there continues to be a great deal of confusion surrounding the issue of the Social Security "notch." There are dozens of facts and figures being passed around showing some retirees benefiting and others losing benefits. Unfortunately some of these statistics are misleading. It is time to get the facts. This is not only an issue that should be of importance for notch-year constituents. Any action that addresses the notch also has implications for future retirees. It is time that we answer some important questions for those of our constituents born between 1917 and 1921 during the so-called notch years.

Notch-year constituents have their benefits formulated under either the new formula or a transition formula, whichever gives them a higher dollar figure. Is this method of calculating benefits fair to those born during the notch years and those born after 1921? Is it true that retirees born during the notch have been singled out to get benefits lower than other retirees? I have also heard and read many conflicting explanations about whether those born during the notch years are better off than those born after 1921 as a result of their benefits being calculated under the transition formula.

In addition, I believe that we need to know what the financial implications are of the numerous legislative proposals designed to give notch retirees higher benefits than they can currently receive. I have heard figures ranging from at least $40 billion over the next 5 years—almost the entire amount currently within the Social Security trust fund, to a total retroactive solution that could cost almost $80 billion over 5 years.

We also need to look at whether these legislative proposals would create pressure to increase benefits for those born after the notch. It is essential to find out how the various legislative proposals would affect the long-term solvency of the Social Security system for future generations.

I am looking forward to reviewing the results of the General Accounting Office [GAO] study that was requested to address the notch issue. Following the release of the study, I am also hopeful that Congress will begin to work in efforts to finally answer some of these important questions for the sake of our many constituents who have taken the time to speak with us at town meetings and have written to our offices expressing their concerns about the notch issue.

THE 125TH ANNIVERSARY OF FAMOUS AMERICAN HUNGARIAN SCULPTOR GEORGE JULIAN ZOLNAY'S BIRTH

HON. ERNEST L. KONNYU

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. KONNYU. Mr. Speaker, from time to time Congress takes note of significant contributions made to the arts by Americans. When an artist is an American by choice, such as sculptor George Julian Zolnay, we have something additional to be proud of. The following article recites Zolnay's contributions to the art world:

125TH ANNIVERSARY OF FAMOUS AMERICAN HUNGARIAN SCULPTOR GEORGE JULIAN ZOLNAY'S BIRTH

For his grand jubilee Zolnay's granddaughter, Mrs. Virginia Wilcox of Washington, D.C., ordered a splendid medal from the outstanding Hungarian medalist, Sandor Bodo of Nashville, Tennessee. On the observe of the medal one can read that the first great American Hungarian artist was born on July 8, 1862 in the city of Pecs, Hungary, from a famous porcelain-manufacturer family. In the upper left part one can see the American and Hungarian coat-of-arms. Under them is visable the outline of the historical Roman-style cathedral of Pecs. On the right side of the medal there is a remarkable protrait of Zolnay, full of brightness and intellectual power that enabled him to become such an extraordinarily successful artist.

On the reverse of the medal there appears a reproduction of one of the most successful of Zolnay's artistic creations, Sequoya (1770-1843), inventor of the Cherokee Alphabet. Zolnay did this brilliant relief for the "Hall of Fame" in the U.S. Capitol, Washington, D.C. With this work the Hungarian artist immortalized Oklahoma's famous son and the native Indian culture. The circular script emphasizes Zolnay's 125th Anniversary. In the background you can see the noble outline of the Capitol and the Supreme Court. This American commission was perhaps the greatest honor a nation can give to an immigrant artist.

A legitimate question arises: Who was this great artist and how come that we know so little about him? The 125th anniversary is a good occasion to answer that question. His father, Ignatius Zolnay was the first manager of the Zolnay's porcelain factory, founded in 1851 in Pecs, Hungary. He was a very private man and an amateur artist with strong convictions. In 1862 he fell in love with an actress of German origin and, against the opposition of the Zsolnays, he married her. Of course there was a big fight in the family: and, as a result, the hasty George Julian gave up his managerial job at the plant and decided to leave the country.

That was the time of the unification of Rumanians and in 1866 the German, Karl Hohenzoller, became the first Duke of the new country. Bucuresti grew rapidly and looked like a great location for a prosperous porcelain store. Zolnay decided to settle there with his wife and newborn son, George Julian. Furthermore, against the advice of his Hungarian relatives, he decided to accept Rumanian citizenship. After an initial success, the business slowed down.

After graduating from the Rumanian elementary and secondary schools, the young George Julian registered at the Bucuresti Art Academy where he learned the basics of sculpturing but did not graduate. His father had to close the porcelain shop and ask his Hungarian brothers and sisters to take care of his children. So it happened that in 1888 George Julian returned to his uncle, Nicholas, in Pecs, Hungary. Nicholas' first order of business was to send his nephew to Vienna, Austria and finish his studies. In 1890 he graduated from Vienna Academy of Art with honors, and also received his first commission to execute a bust of Emperor and King, Joseph Francis. After that he returned to Pecs where he was requested to create mosaic portraits of the Zsolnay-ceramists. That outside wall composition still exists at the factory.

But George Julian could not rest in Pecs either. His uncle gave him the advice to emigrate to America. At that time the United States was looking for architects and sculptors. It so happened that in 1892, the 30 years old Zolnay arrived in New York. In order to pronounce his last name more easily his first act was to strike out the "s" from his family name. Although he was eager to work, and spoke six languages, in the first year he could not get a sculptor's job. So, he played European songs in restaurants on his master violin. In 1893 he became Art Commissioner for the Chicago World's Fair. After the Fair he went back to New York and there, in 1897, he founded the National Art Club. His idea was that with the help of art we should arouse noble thoughts and sentiments in the heart of the people. With this goal, he founded an Art Club in Washington, D.C., and also an Artist's Guide in St. Louis, Missouri. With the idea of the educational influence of art, he lectured all over America.

In 1903 he arrived in St. Louis with famous developer E.G. Lewis. At that time the St. Louisians were preparing for the 1904 World's Fair. In University City he started to design residences and exhibition halls. In 1904, at the end of Delmar Avenue, he sculpted the elegant University City Gate with the famous lions. Through this work he gained a great reputation in the St. Louis art community. He taught drawing in the Art Academy and became an artist-in-residence at Washington University. He accumulated so many orders that, after the fair, he stayed in St. Louis for a decade. His main works executed there are: "The Laclede Statue" (beside the City Hall) in 1912; "The Confederate Memorial" (near the Art Museum) in 1914; grave memorials; and development decorations. He was greatly disappointed in 1913, when he did not get the commission for the German "Naked Truth" statue. For this reason he left St. Louis for Washington, D.C.. He later came back for lectures, exhibitions and for execution of other commissions: such as "The Golfer" (Missouri Historical Society); "Governor and Mrs. Davis Francis' Memorial" (Bellefountain Cemetery).

In Washington, D.C., Zolnay was very active, indeed. One commission came after the other: "Black Nanny" (Fountain at Massachusetts Avenue); "Education", friezes on Central High School (1916), "Mrs. W. Hoxie's Memorials at Arlington Cemetery and "The Sequoya Relief", we mentioned already, at the U.S. Capitol. From Washington, D.C., he traveled to different Southern cities where he left dozens of beautiful patriotic monuments. Nashville, Tennessee is a real depository of this great artist: "Sam Davis Statue" (beside the State House), "Edgar Allen Poe" (1898), "Stonewall Jackson" (1904), "Walter L. Sheldon" (1908, in Fine Art Center), "Civil War Soldiers" (1908), "Parthenon's Friezes", "World War I. Heroes" (1922). In Richmond, Virginia he created a large "Tympanum" and "Bust of Edgar Allen Poe" (University of Virginia), "Winnie Davis", "Jefferson Davis" and daughter "Mrs. Hayes' Memorial" (Hollywood Cemetery); and in the Public Square, Richmond, Kentucky: "Kentucky Pioneer".

That Zolnay was a popular American sculptor is supported by the fact that his highly artistic works can be found all over this great country: "The Fishers" (1912) in Bedford, Massachusetts; his great Granite Group in San Francisco's Duty Station, another Great Granite Group at Falstaff, Arizona; "Gen. Barton and Gen. McLaws Memorial" in Savannah, Georgia; "Dr. Still's Memorial" in Kirksville, Missouri; and "The Duncan Jacob Memorial" in Louisville, Kentucky. Even this partial list should convince the readers that Zolnay was a valued artist in big demand. You can ask again, how come that so little information was left of him for example, in the Hungarian community. No one even mentioned his name for years in the United States or in Hungary! The truth of the matter is that, for a time, Zolnay declared himself a Rumanian. Of course, he was wrong. You can change your citizenship, but you cannot change your nationality. He was born in Hungary from a Hungarian family, so as a result of his emmigration and Rumanian education he could only call himself a Rumanian Hungarian. When he died in 1949 in New York, with one exception, the American papers called him Hungarian.

After the 1956 Hungarian Revolution more and more people called themselves Hungarian. Not only the descendents of Zolnay called themselves Hungarians but the outstanding Hungarian refugee-relatives also emphasized Leslie Konnyu's goal: let us reclaim George Julian Zolnay to the American Hungarian flock! This is the goal of this jubilee article in English and in Hungarian, and also the goal of Sandor Bodo's brilliant medal. At least one more step should be taken: we have published an Arthistorical Zolnay-essay with photos. This we are prepared to do, if we can collect enough money for the purpose.

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Author: Leslie Konnyu is a Hungarian born poet, writer, lecturer and publisher who resides in St. Louis, MO.

SOCIAL SECURITY NOTCH

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. ROYBAL. Mr. Speaker, I rise to discuss an inequity of importance to millions of older Americans, the Social Security notch. Arbitrary discrepancies in benefit levels are unfair and undermine confidence in the Social Security System. I urge the Subcommittee on Social Security to hold a hearing on this major benefit in equity.

In April 1986, then chairman Jim Jones of the Subcommittee on Social Security requested the General Accounting Office [GAO] to conduct a study on the notch, including an analysis of options available to rectify this problem. The report is still not finished.

Last month over 60 of my colleagues joined me in signing a letter to the present chairman of the Ways and Means Subcommittee on Social Security, ANDREW JACOBS, requesting that he hold a hearing on the Social Security notch once the GAO publishes its report. Chairman JACOBS' response to our request was that he could not give us "a blanket assurance that a hearing will be conducted" until the members of the subcommittee have an opportunity to determine if there is any new material to be considered.

There is no need for the committee with legislative jurisdiction over Social Security to take additional time to consider holding a hearing. The GAO report, due some time this fall, should provide the subcommittee with any information it needs prior to a hearing on this important issue.

If the members of the subcommittee wish additional information, however, I urge them to review the hearings of the Select Committee on Aging which were held across the country and have documented the cases of individuals whose benefits have been reduced more than Congress ever intended. In addition, they should also read the American Enterprise Institute's legislative analysis on the notch. This comprehensive analysis provides the Congress with an excellent examination of this problem.

My goal has always been to press for a responsible solution to the notch that will restore faith in Social Security for millions of notch babies and provide maximum protection to current Social Security beneficiaries without undoing the reforms of 1977.

Numerous legislative proposals have been introduced to rectify this problem over the years. My current bill H.R. 1917, has 146 bipartisan cosponsors, and would not harm the long-term financial solvency of the Social Security System.

Still, the Committee on Ways and Means, but most specifically the Subcommittee on Social Security, has not held hearings to examine this important subject. It is time for Congress to examine the notch. I urge the Committee on Ways and Means to hold a hearing to fully discuss this issue.

EDITORIAL URGES "KEEP POLITICS OUT OF TREATY"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SOLOMON. Mr. Speaker, it is once again my pleasure to single out another outstanding newspaper in the 24th District of New York, in this case the Troy Record. The Record editorial of September 23 reminds us that President Reagan has been proven right, and his critics wrong, about the terms of an arms treaty with the Soviet Union. In addition to entering the entire editorial in the CONGRESSIONAL RECORD, I wish to emphasize one key paragraph:

> Most knowledgeable and objective observers concede the terms to which the Soviets have agreed are the same terms President Reagan proposed early in his administration and which were ridiculed as being unrealistic.

The editorial also points out that while our liberal appeasers were heaping ridicule on President Reagan's SDI proposals, at least someone was taking "star wars" pretty darn seriously; namely, the Soviet Union. What else, I might add, explains their propaganda full court press against the West to undermine SDI, a campaign aided and abetted by our own media?

But, as usual, Ronald Reagan has been proven right and his critics wrong.

[From the Troy Record, Sept. 23, 1987]

KEEP POLITICS OUT OF TREATY

Despite protests from administration critics, threats from politicians and criticism from political pundits, it appears almost certain there will be an arms treaty signed by President Ronald W. Reagan and Soviet leader Mikhail S. Gorbachev before the end of the year.

During his first term in office, President Reagan was sharply criticized by his political opponents for (1) failing to work toward peace with his Soviet counterparts, and (2) proceeding with development of his Strategic Defense Initiative program, which his critics disparagingly labeled "Star Wars."

Both were bum raps.

Most knowledgeable and objective observers concede the terms of which the Soviets have agreed are the same terms President Reagan proposed early in his administration and which were ridiculed as being unrealistic.

The Soviets, his critics said, would never agree to such terms. They claimed the president knew his demands were unacceptable and that his proposing such terms was a sham to make people believe he was serious about wanting peace.

Many of these same critics ridiculed the SDI program as something dreamed up by fiction writers. It would never work, they claimed.

Obviously, the leaders of the Soviet Union took it more seriously than some Americans did. Obviously, our progress with the development of the "Star Wars" program concerned them enough to want to bargain seriously.

So now we have a breakthrough.

We can understand the concerns of our allies in Europe that we may be leaving them exposed to conventional weapons and forces in which the Soviets have superior strength.

But those in Congress who criticize this peace initiative are merely playing politics.

Furthermore, the threats by some members of Congress to hold up ratification of the treaty in an effort to undermine the SDI program is unconscionable.

We must not allow Congress to hold a peace treaty hostage just to satisfy the whims of a few politicians or advance the causes of a few candidates for the Democratic presidential nomination.

LET'S NOT BE FOOLED BY ROSY EMPLOYMENT NEWS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MILLER of California. Mr. Speaker, as the President continues to celebrate the alleged employment miracle of his economic policies, we should take note of recent studies which highlight the very severe and deep-rooted employment problems which affect—and will continue to affect—millions of American workers and would-be workers.

Like his promises to reduce the deficit, Mr. Reagan has succeeded mainly rhetorically in reducing unemployment.

The President has tripled the deficit, doubled the national debt, and taken us from being the world's greatest creditor to our present status as the greatest debtor nation—all in just 7 years. And yet he and his supporters claim credit for reviving the American economy and getting us back on our fiscal feet.

Each month, the President cites announcements of low unemployment figures as further proof of the success of his policies.

But the truth is far more sobering, and raises serious policy considerations about the economic strength of our Nation, and the economic security of millions of Americans in the near future.

There are today in the United States between 10 and 20 million hard-core unemployables, not including those who remain out of the labor market for such reasons as illness and disability, education, child rearing/housework, and retirement. At least 6 million of those want to work, but are not looking because there remain severe barriers to their joining the work force. Millions more, of course, are employed at or slightly above the obscenely low minimum wage of $3.35 an hour—employed at subpoverty level wages which leave them heavily dependent on public support such as AFDC, Medicaid, and food stamps.

At the end of 1986, nearly 18 million people, according to the Bureau of Labor Statistics, worked less than half of the year, and earned less than $10,000. That means that more than 15 percent of the record labor force, of which the administration is so proud, was only marginally employed, living in poverty, and paying little if any taxes.

Nor has the situation improved with the economic growth of the last 9 months. According to the New York Times of September 27, 1987, more than 40 percent of all American workers are earning less than $11,000 a year. Clearly, as the Times noted, "the rising tide of the 5-year-old economic recovery is not sufficient to raise all boats."

The law scale of many of the new jobs which have been created, as documented by our own Joint Economic Committee, has serious policy implications for the debate over welfare reform, job training and employment incentives. The difficulties of encouraging a welfare recipient to seek job training or employment at wages which are barely above subsistence welfare grants are obvious; add to that the inadequate availability of child care and transportation services, and the loss of vital services such as Medicaid, and you have a compelling logic which keeps people in poverty and dependent.

The direction of the American economy toward low-paying services offers little hope that this pattern can be reversed, or that millions of young Americans entering the job market, or frustrated workers seeking to reenter, will find appealing employment. Of 26,000 new positions available with New England Telephone, most begin at just $13,338 a year. While that salary may be encouraging to some, one must also note that half of those who took the job test failed to pass. At New York Telephone, 84 percent failed the same test. Obviously, for every job filled, hundreds of would be workers are untrained, uneducated, or uninterested.

The point, Mr. Speaker, is that there is no clear agenda or easy answers to these complicated problems of employment, income and dependence. But it is clear that the administration prefers to hide behind misleading claims about job creation, ignoring the fact that most of the jobs are subpoverty level, and that millions of Americans can't qualify even for those meager positions.

One wonders whether the administration's idea for improved competitiveness is to allow American workers to decline to the life style of workers in developing nations. But that is not an acceptable strategy for the American people, and it cannot be acceptable for the Congress either.

We need to reemphasize the need for expanded education, for job training and for a revitalized economy. Real revival means economic security for all workers, not subsistence on the job and dependence on the Government.

CONGRESS GAVE THE PRESIDENT AUTHORITY TO BAN OIL IMPORTS FROM IRAN

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. STARK. Mr. Speaker, the latest Department of Commerce data shows that the United States is supporting the terrorist Khomeini regime. To help finance its war effort, Iran has stepped up its sales of oil to the United States—and we're buying it.

For the first 6 months of this year, we imported over 496 million dollars' worth of crude petroleum from Iran. This virtually equals the total for all of last year: $505 million.

Our imports of all Iranian goods for the first 6 months of this year were worth over $566 million. Compare the value of our exports to Iran: $15 million.

The news should not be that startling. For several years I have pointed out that Iran buys almost nothing from us while we spend lavishly on Iranian goods. It's time we stopped buying Iranian.

Iran is a terrorist nation. Only last week we caught Iran redhanded planting mines in international shipping channels.

As they sow, so should they reap.

Iran's economy is on the skids. Its large budget deficit is increasing while its oil revenues are shrinking. Let's ban all imports from Iran. This will damage the Iranian war effort, and hinder Iranian-sponsored terrorism.

Congress gave the President clear authority to ban imports from terrorist nations in the 1985 foreign aid bill. The President should use it.

A TRIBUTE TO JAMES TAYLOR

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to James Taylor, of Collingdale, Delaware County, PA. Mr. Taylor will be honored at a special dinner of the Collingdale Fire Company No. 1 for his 60 years of active service with the fire company on October 3, 1987.

Mr. Taylor joined Collingdale Fire Company in 1927. He helped organize the first ambulance service and served as a line officer and executive officer.

To date, Mr. Taylor is still active with Collingdale fire company. He participates in the fire police and committee work within the fire company. Outside the fire service, Mr. Taylor is an active volunteer at Taylor Hospital and an active voice with the Collingdale senior citizens.

Mr. Speaker, James Taylor is a perfect example of the true American spirit. Volunteers are certainly the backbone of this great Nation, and I wish Mr. Taylor many years of continued success, good health, and happiness.

TRIBUTE TO SISTER PAT KELLEY

HON. JACK BUECHNER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. BUECHNER. Mr. Speaker, I rise today in great sorrow over the brutal murder of a dear friend and selfless community leader—Sister Patricia Kelley of the Incarnate Word in St. Louis.

Sister Pat—as we called her—lived near her office because her good works were so very important to her. Her works were important to the community: She helped shelter the needy; she helped those without heating during the dead of winter; she helped those without air-conditioning during the sweltering summer. Sister Pat Kelley never neglected the needy—it is said that her favorite Bible verse is Psalm chapter 9, verse 18 "The needy will not be forgotten, nor the hope of the poor taken away." Sister Pat was a doer—and not a hearer only.

Sister Pat was dedicated to caring for those who couldn't care for themselves. After returning from a yearlong retreat, she dedicated herself to working for the poor in 1981, joining Catholic Charities in March. In 1984, she became the first woman to win the St. Louis Globe-Democrat's Humanitarian Award.

The St. Louis Post Dispatch reported that soon after she joined Catholic Charities, Sister Pat found out that millions of dollars in aid for energy assistance was not being used by Missouri and was returned to the Federal Government. She immediately flew to Washington to get the policy changed.

Sister Pat served as president of Dollar-Help, an organization she helped create in 1982 with the assistance of Laclede Gas. The program asked Laclede's customers to contribute an extra dollar each month to help defray the cost of heating bills for the poor. She also played a key role with Union Electric Co., in setting up a similar program called Dollar More. Through the two programs last year, nearly half a million dollars was raised.

In 1983, she helped form the Energycare Corp., a not-for-profit corporation which helps the poor obtain private and government funds to pay their utility bills.

Mr. Speaker, Sister Pat Kelley helped make our community a caring community. She touched lives in ways that many of us are only willing to talk about. Pat Kelley was indeed a blessing to the St. Louis area. She will be missed.

WORK TO END NOTCH DISPARITY

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SMITH of Florida. Mr. Speaker, as a cosponsor of H.R. 1917, I am pleased to join with my colleagues to once again focus attention on the plight of the notch babies. I commend my colleagues who have joined together to send a message to the Ways and Means Committee to hold hearings on this legislation.

There are an estimated 9 million notch babies nationwide, and in my State of Florida alone, more than 440,000 individuals were born between 1917 and 1921. The numbers speak for themselves. As Members of Congress, we have a responsibility to reduce the disparity in benefits and restore equity and fairness to the Social Security System. For many notch babies, Social Security is the only source of income. They contributed into the system. They expected to receive their fair share. They should receive the benefits to which they are entitled, benefits which perhaps a relative or friend who is 1 day older may be receiving.

I commend my colleagues for their efforts, and I remain committed to working for a fair and equitable solution to this problem.

INTRODUCTION OF LEGISLATION TO MODIFY SECTION 67(c) OF THE INTERNAL REVENUE CODE OF 1986

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MATSUI. Mr. Speaker, I rise today to introduce legislation designed to protect some 20 million Americans from being required to pay taxes on income they never received—"phantom income," as it is called. The bill I am introducing, for myself and 14 colleagues, both Democratic and Republican members of the Ways and Means Committee, would limit the scope of section 67(c) of the Internal Revenue Code relating to the disallowance of indirect deductions through pass-thru entities. Unless Congress acts, section 67(c) could adversely affect almost every mutual fund and mutual fund shareholder in America.

Section 67(c) was enacted as a "technical amendment" in last year's Tax Reform Act, as part of the new 2-percent floor on miscellaneous itemized deductions. The section was intended as an antievasion measure designed to prevent taxpayers from avoiding the 2 percent floor by means of pass-thru entities.

However, the provision vastly overshot the mark. Let me describe how, and what should be done about it.

Previously, a mutual fund deducted all of its expenses as ordinary and necessary business expenses, and then distributed the remaining "net" income to its shareholders. Unless corrected, section 67(c) will require, for tax purposes only, that the actual income reported by the shareholder be increased by the shareholder's pro rata share of certain mutual fund expenses. So the amount of income reported by the shareholder will be "gross" income, which will include certain expenses already incurred by the mutual fund. Under this provision, shareholders will be treated as if they incurred the expense directly.

They will be permitted to deduct these expenses only if they itemize—and then only to the extent that, together with other miscellaneous itemized deductions, the expenses exceed the 2 percent floor. Most shareholders are either nonitemizers, or itemize but have expenses that do not exceed the 2 percent floor. They will have no recourse; they will be required to pay tax on income they never received. To put it mildly, they will not welcome the news, and they will let the Congress know about it.

Mr. Speaker, mutual funds are not tax avoidance devices. They are used by millions of middle income investors and working Americans trying to accumulate savings and retirement income. Over half of mutual fund shareholders (excluding those in tax-exempt funds) have household incomes less than $50,000. Over 40 percent have household incomes less than $40,000. Thirty-eight percent of all fund shareholders (excluding money market funds) are retired.

The impact of section 67(c) on these elderly and retired shareholders will be particularly pernicious, since they often depend heavily on their mutual fund investments for living expenses. In addition, they are less likely to be able to deduct any portion of the imputed income, since they either use the standard deduction or have insufficient miscellaneous itemized deductions to exceed the 2-percent floor. For many of these shareholders, any benefit received under last year's tax reform will be offset by the imputation of income under this provision. I can show Members tax returns that demonstrate this: tax reductions under the 1986 act wiped out by 67(c)'s tax on income the taxpayer never saw.

The impact of the section will first be felt by mutual fund shareholders next January. Unless we act soon, the shareholders will receive a form 1099 with reported income, including section 67(c) "phantom income," which will disagree with the shareholders' records and yearly account statements received from the funds. Millions of shareholders will be confused by this discrepancy. Many will simply report on their tax returns the income they know they received. The result will be a mismatch between tax returns and 1099's, leaving the Internal Revenue Service in the daunting position of trying to collect the tax from millions of citizens who do not believe that they have underpaid their taxes.

The legislation that I introduce today is designed to preserve the original antievasion, loophole closing purpose of section 67(c), while protecting traditional mutual fund shareholders from the imputation of phantom income. The bill does so by exempting publicly offered mutual funds from section 67(c), while leaving the section fully applicable to other mutual fund arrangements. So if a small group of wealthy investors were to organize a mutual fund in an attempt to avoid the restrictions of the 2-percent floor, the section would be fully applicable and the deduction would be disallowed. But the average mutual fund shareholder would not pay a tax on money he or she never received.

MINORITY BUSINESS DEVELOPMENT IN QUEENS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. ACKERMAN. Mr. Speaker, this week marks the occasion of Minority Business Development Week in Queens, a particularly appropriate commemoration given the expanding economic successes of a variety of minority owned companies in the borough I'm honored to represent.

I'm pleased to submit the following proclamation issued this week to note the importance of this week's commemoration:

MINORITY BUSINESS DEVELOPMENT IN QUEENS

It gives me great pleasure to mark the occasion of Minority Business Development Week in Queens. In joining with the rest of the Nation in celebration, I applaud the many local minority-owned business success stories that abound in Queens.

Because of the relatively high number of thriving minority businesses in our ethnically diverse borough, this observance takes on a special significance during this period when we are also celebrating the 200th anniversary of our Constitution and the promises it contains. I note with great pride that here in Queens we are able to witness firsthand the achievements and successes of so many Americans who have worked so hard to make the promises come true. The American Dream has become a reality for thousands of Blacks, Hispanics, Asians and Indians and though there is still much progress to be made, we can see we've come a long way. From the "Mom and Pop" stores to the major law firms and insurance companies that contribute to the economic well-being of our community, we can see that Minority Business Development Week has real meaning in Queens.

As a Member of Congress, I pledge to continue to support the growth and emerging strength of minority businesses here in Queens, in all of New York and, indeed, throughout the Nation. I look forward to working with these new businesses and helping them to make more of their dreams come true.

VA CABINET LEVEL LEGISLATION [H.R. 1707]

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SOLOMON. Mr. Speaker, I rise today to thank the over 230 Members of this House who have joined in cosponsoring legislation I've introduced to elevating the Veterans' Administration to a Cabinet level department.

Of the over 230 Members who have signed onto H.R. 1707, several are prominent chairmen of the House. This includes Chairman ANNUNZIO of the House Administration Committee, Chairman DE LA GARZA of the Agriculture Committee, Chairman FASCELL of the Foreign Affairs Committee, Chairman DELLUMS of the District of Columbia Committee, Chairman FORD of the Post Office and Civil Service Committee, Chairman HAWKINS of the Education and Labor Committee, Chairman HOWARD of Public Works Committee, Chairman MONTGOMERY of Veterans' Affairs Committee, Chairman ROE of the Science and Technology Committee, Chairman ST GERMAIN of the Banking Committee, Chairman UDALL of the Interior Committee, Chairman PEPPER of the Rules Committee, and Chairman WHITTEN of the Appropriations Committee.

H.R. 1707 is strongly supported by every major veterans' organization in the country, and I respectfully request my colleagues join in supporting this important bipartisan legislation.

ANOTHER STUDY SHOWS BENEFITS OF WIC PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. MILLER of California. Mr. Speaker, the extensive hearing record gathered by the Select Committee on Children, Youth and Families has clearly indicated the humane and fiscal wisdom of investing in cost-effective nutrition and medical programs for America's children.

No program has been more successful, or earned more praise from the medical community, than the Women, Infants and Children Supplemental Feeding Program, which I had the honor to coauthor in 1975 with Senator Hubert Humphrey. In study after study—by leading medical schools, and even by this administration, which has tried to restrict funding for the program—WIC has shown itself to save far more money than it costs by dramatically reducing the incidence of low birthweight and malnutrition among babies.

Inexplicably, the Reagan administration has continued to oppose congressional efforts to fund WIC adequately. Just a few years ago, Budget Director David Stockman told the House Budget Committee that he did not dispute the effectiveness of WIC in reducing nutritional disorders or infant disorders and deaths. He favored cutting the program anyway. Fortunately, Congress rejected that shortsighted ill-wisdom and has significantly increased WIC funding since the onset of the Reagan administration.

It is a sad statement that after years of unchallenged scientific evidence which indicates the soundness of the WIC Program, we are still providing this vital service to less than half the eligible, medically needed population it was designed to serve. We pay dearly for that stinginess in future medical costs, in special education, in unemployment, and many other costly impacts related to inadequate health and child development.

Just this week, a new report has been released by the Centers for Disease Control which testifies to the great success of the WIC Program in reducing anemia among poor children. As reported in yesterday's New York Times, anemia among children in poor families was reduced by two-thirds—from 7.8 percent to 2.9 percent—between 1975 and 1985.

While we can celebrate yet another indication of the success of the WIC Program, we would also do well to remember the advice of Dr. Ray Yip, who led the study by CDC.

I'm hoping that nobody will misconstrue the information we're releasing in thinking that all the work is done and it is time to move on to something else. There is still plenty of room to improve.

I sincerely hope that Members of the House and Senate will keep in mind, during the next budget cycle, the results of the CDC report on reducing anemia, and Dr. Yip's reminder that we must recommit our efforts and resources to expand WIC and serve those who have yet to benefit from this cost-cutting, health-saving program.

ERASMUS HIGH HAS HIGH HOPES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FLORIO. Mr. Speaker, this past week, the faculty, staff, students, and alumni of Erasmus Hall High School in Brooklyn, NY, have been celebrating the 200th anniversary of the founding of their school.

As the second oldest high school in the Nation, Erasmus Hall High and its years of service to the students who have come through its classrooms on Flatbush Avenue evoke a long tradition of scholarship and enthusiasm for education.

At the same time, now, on the beginning of its third century, the school has pledged itself for a fresh start, renovating rebuilding parts that had fallen in disarray in the past few years.

This school holds special memories for me. In the 1950's, I was proud to have attended Erasmus High and benefited from the knowledge and the compassion that the school and the people who populated its classrooms had to offer.

Many of the people who went through Erasmus, came out into the real world, prepared to face the reality of life and to make a dent in it with their own contributions. Indeed, the learning that the teachers and staff of the school posses was passed on to all of us who sat in those classrooms pondering the day's assignments.

When we think of our years in high school, we think of yes, the homework and the tests, and the friendships and foundations that we built during those years.

So, I am especially pleased to see an article in the New York Times recently, describing the revitalization that the school is undergoing.

And revitalization is exactly the right word to describe the transformation of the school. Despite the years during which the school faced the same critical problems faced by schools across the Nation, such as deterioration of the physical plant and even a high dropout rate, Erasmus is now building on the old foundation of life and vigor to produce a new spirit of cooperation and learning for everyone who goes there.

What the school has lacked in terms of physical appearance in the last few years, it has made up with the enthusiasm for achievement and for focusing on the students who do want to learn.

For the memories and the desire to learn that the school has given me and my classmates, and for the contributions that I hope I have made in return following the years that I attended Erasmus Hall High School, I would like to share with you the article.

The article follows:

[From the New York Times, Sept. 28, 1987]

ERASMUS HIGH AT 200: FRESH PAINT, NEW HOPE

(By Jane Gross)

There was a fresh coat of paint and a tentative sense of optimism this weekend at Erasmus Hall High School in Brooklyn, where public officials and prominent alumni celebrated the 200th birthday of the school with pledges that they would work to reverse its terrible decline.

"Whatever is required to be done, let us commit ourselves to do it," Mayor Koch said at yesterday's convocation in the Erasmus chapel, where autumn sunshine spilled through stained-glass windows. "What could be a greater cause than these youngsters and their future?"

Erasmus was an appropriate setting for the Mayor's pledge, as its recent, troubled history parallels that of the public school system, a victim in the last decade of the fiscal crisis, the continued migration of white families to the suburbs and what many consider a sluggish bureaucracy.

Once, the vaulting chapel, Gothic towers and leafy courtyard at Erasmus were a proud home for its students, who routinely won academic prizes, advanced degrees and national recognition in their professions. But as the Flatbush neighborhood changed, with middle-class Jewish families replaced by poor minority groups, Erasmus deteriorated physically and academically.

That deterioration is measured in many ways—by a dropout rate and attendance record among the worst in the city and a feeling of abandonment among students and faculty, but most palpably by the leaking ceilings, broken windows and littered hallways that made Erasmus an eyesore.

Robert F. Wagner Jr., president of the New York City Board of Education, has harped on the physical decay at Erasmus, citing the "terrible message" that was being sent to the Hispanic and black youngsters—that their school did not matter because its student body was no longer white.

A coat of paint and other minor repairs gave Erasmus a lift this weekend. Mr. Wagner said yesterday that the bicentennial, with so many distinguished alumni in attendance, had forced the modest renovation, but that the school would receive continued attention.

"If they only painted the first and second floor I'd think it was for the guests," said Thomas Lenihan, an assistant principal. "But they did the whole building, from the tippy-top to the basement, where those folks will never tread."

RENOVATIONS DELIGHT STUDENTS

In the last week, the corridors and courtyard were a tangle of drop cloths, paint cans, ladders and sawhorses as workmen finished painting and plastering, repairing leaded windows and cratered ceilings. Several of the school's 3,349 students said the spruced-up building had been a delightful surprise when they returned for the new semester.

"We've been trying to get money for a while and they finally gave it to us," said Kischa Washington, a senior who sang in the glee club yesterday, lifting her soprano in the Hallelujah Chorus from Bach's Mass in B Minor. "My point of view is good things will keep on happening and we'll get a better reputation and everything."

Stanley Saretsky, the principal, seemed touched by the student's optimism, and by the respect they have shown for the cleaned-up building. "Kids are very forgiving," he said, adding that the renovation "restores faith in the system and the adults in charge."

ASSIGNMENT OF CUSTODIAN

At the convocation yesterday and a dinner dance Saturday at the Grand Prospect Hall in nearby Park Slope, officials and alumni said the occasion could be a turning point for a troubled school and system, which has lately come under intense fire.

"People are energized," Mr. Koch said. "This is a moment when things heretofore undoable are doable."

Dr. Thomas Sobol, the new State Commissioner for Education, agreed. "We must seize this moment," he said in the keynote address yesterday. "A civilized society cannot permit this waste of human life."

Dr. Sobol graduated from Boston Latin, the only high school in the United States older than Erasmus, which began as a private boys school endowed by such distinguished post-Revolutionary citizens as Alexander Hamilton and John Jay.

The weekend was buoyant with promises of continued involvement, including the following:

Mr. Wagner pledged that Erasmus would be assigned an effective custodian to replace the ineffective one who retired last spring. School officials said improved conditions are partly the result of a temporary custodian, but that they worried that the permanent replacement would be someone with seniority but not much energy.

Howard Golden, the Borough President, said he would urge the city to renovate the abandoned Astor Theatre, a tumble-down carcass next door to the school's entrance on Flatbush Avenue. Erasmus has special programs in the performing arts, but no performance space.

Earl G. Graves, publisher of Black Enterprise magazine and a graduate of the class of 1953, said an alumni committee planned to raise $1 million to supplement educational programs. Mr. Graves, who wore his father's class of '28 senior pin, also said he planned to seek advice from Eugene Lang, an industrialist who began the "I Have A Dream Program" to encourage private interest and investment in public schools.

Franklin Morton, a State Supreme Court Justice and graduate in the class of 1937, said another committee would finance an annual $10,000-a-year scholarship in honor of Albert Badain, the longtime basketball coach at Erasmus who died last spring.

OLD YEARBOOKS AND SCHOOL SONGS

Mr. Graves and Justice Morton were among 1,100 guests at the dinner dance Saturday, where they poured over old yearbooks and sang the school song. In fur coats and jewels, and driving new Mercedeses and BMW's, the crowd attested to the good fortune of many Erasmus graduates.

Mr. Graves, one of the few blacks in his class, called the school "a port of entry to the American dream." The weekend guests were largely white, but Mr. Graves said he heard no suggestions that children of other races were not worthy of their efforts.

"What's important," Mr. Graves said, gesturing toward the crowd, "is that these people are concerned with what's going on."

EXECUTION OF TIBETAN NATIONALS BY THE PEOPLE'S REPUBLIC OF CHINA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. GILMAN. Mr. Speaker, this morning the distinguished chairman of the Senate Foreign Relations Committee, CLAIBORNE PELL, and the cochairman of the Human Rights Caucus, the gentleman from California [Mr. LANTOS] and myself held a press conference protesting the People's Republic of China's execution of Tibetan nationals. In order to focus the attention of my colleagues on this issue I request the statement made at today's press conference be inserted in full in the RECORD along with other materials concerning the People's Republic of China's repugnant action in Tibet:

MR. GILMAN'S STATEMENT PROTESTING PRC'S EXECUTION OF TIBETAN NATIONALS

Thank you Mr. Chairman.

Late last week the finest crews of our United States Air Force displayed their skills for the mainland Chinese military.

Little did our Air Force personnel realize that in another part of China their hosts were putting on their own show.

At a staged rally attended by 15,000 persons in Tibet's capital city, Lasa, the PRC executed two Tibetan nationalists and announced the imprisonment of nine others.

It is infuriating that in response to the U.S. Congress inviting and allowing his holiness the Dalai Lama to address the Congressional Human Rights Caucus, the PRC carrys out such an outrageous violation of human rights.

It is a slap in the face to the ideals of democracy and human rights that our country stands for and indeed to our Nation itself that while the leader's of the House Foreign Affairs Committee, the Senate Foreign Relations Committee and the Human Rights Caucus praise his holiness for his proposed peace plan, the government to which we supplied radar installations, anti-submarine missiles, artillary factories, and 50 advanced avionics packages, brutally suppresses people who want to practice their religion and administer their own country.

We question—

Isn't it enough that 1.2 million Tibetans have died as a result of the Chinese occupation—one sixth of the population?

Isn't it enough that 7.5 million Chinese colonialists have already moved into Tibet, outnumbering the 6 million native Tibetans?

Isn't it enough that over 6,000 monasteries, temples and historic structures have been looted and razed, their ancient, irreplaceable religious art and literature destroyed or sold by the Chinese?

We asked the Dalai Lama to be our guest in the Congress to share his thoughts with us on how to put an end to the crisis his people face.

The PRC response to this peace initiative is repugnant and unacceptable.

INFORMATION ON CHINESE VIOLATIONS OF HUMAN RIGHTS IN TIBET

Attached are a series of documents that relate to recent serious Chinese human rights violations against the Tibetan people.

1. September 25, 1987—A Radio Lasha (Tibet) broadcast reported the execution of two Tibetans. A later broadcast (text is not yet available) reported the execution of one more Tibetan. Nine other Tibetans were given prison sentences. The individuals who were executed were charged with "murder." Chinese practice is to identify the crimes of those executed as murder, robbery, or rape. In fact the charges brought against them are usually "crimes against the unity of the motherland" and "anti-social activities." It is clear that these executions were carried out in response to the Dalai Lama's statement in Washington a few days earlier.

2. Statement from the Office of Tibet. This statement was made by the Office of Tibet in New York, which represents the Dalai Lama in the United States.

3. Letter to Chinese Prime Minister Zhao Ziyang by Congressional Foreign Affairs and Human Rights Leaders—The letter urges the Chinese government to give serious consideration to a five-point plan announced by the Dalai Lama last week to restore respect for human rights in Tibet.

This letter was signed by the Chairman and Ranking Minority Member of the Senate Foreign Relations Committee, Senators Claiborne Pell (D-Rhode Island) and Jesse Helms (R-North Carolina); the Chairman and Ranking Minority Member of the House Foreign Affairs Committee, Congressmen Dante Fascell (D-Florida) and William Broomfield (R-Michigan); the Cochairmen of the Congressional Human Rights Caucus, Congressmen Tom Lantos (D-California) and John Porter (R-Illinois); and Congressmen Charles Rose (D-North Carolina) and Benjamin A. Gilman (R-New York).

RADIO ANNOUNCEMENT BY PEOPLE'S REPUBLIC OF CHINA

(Radio Lhasa; September 25 Broadcast, Literal Translation)

Lhasa People's Court called a meeting attended by 10,000 on [September 24] to announce the verdict on 11 people [including] Kelsang Tashi, Migmar Tashi.

Party state and army leaders Gyatso, Tsewang Dorjee and Yang Bhian Dho Chi and masses, about 15,000 [people], attended the meeting where the verdict was read out. Lhasa deputy mayor Tashi Thondup, called upon the Party cadres and servicemen of the whole city, officers and men of the People's Liberation Army and armed security forces stationed in Tibet to adhere to the basic principles and stop corrupt and immoral activities with a clear view and clear stand, intensify legal education, popularize features of law, and safeguard political climate of peace and unity. Kelsang Tashi, a criminal charged with murder, has been sentenced to death which is to be carried out immediately. Migmar Tashi, a criminal charged with murder, has been sentenced to death, which has been extended for 5 months and stripped of political rights for life.

Linga, a criminal charged for injury and murdering, has been sentenced to imprisonment and stripped of political rights for life. Remaining eight criminals, including Xi Hai, have been sentenced to imprisonment for various serious [crimes] as per law.

PRESS RELEASE FROM THE OFFICE OF TIBET (SEPT. 30, 1987)

Responding to the public execution by Chinese authorities of two Tibetan nationalists and the imprisonment of nine others (one of whom is to be executed shortly), at a staged rally attend by 15,000 persons in Tibet's capital, Lhasa, on September 24, 1987, Mr. Rinchen Dharlo, the Representative of the Dalai Lama at the Office of Tibet in New York made the following statement.

"China's sentencing of Tibetan nationalists and the immediate execution of two of them, Kelsang Tashi and Sonam Gyaltsen, is a direct response to His Holiness the Dalai Lama's five-point peace plan for Tibet, announced at the Congressional Human Rights Caucus on September 21st. To meet a call for dialogue and compromise with imprisonment and execution of innocent people violates all norms of human decency. As Tibetans we are shocked and horrified by the brutality of China's response to His Holiness the Dalai Lama's sincere gesture for dialogue. The execution of Kelsong Tashi and Sonam Gyaltsen is not only a tragic blow to His Holiness the Dalai Lama and the Tibetan people. Given the tremendous bipartisan support of Senators and Representatives for the cause of Tibet, it is also a clear message to the U.S. Congress."

"The Dalai Lama has visited the United States in an effort to construct a viable solution to the ongoing military occupation of our country. On September 20th, he met with former President Carter in Plains, Georgia to explore new avenues for a dialogue with the Chinese government. On September 21st, despite a demand issued by the PRC's Washington embassy that the Dalai Lama not be allowed to engage in political activities or make a statement while in Washington, he announced a five-point plan for the peaceful resolution of Tibet's future status."

"The cornerstone of the plan is the conversion of Tibet into a 'zone of peace', restoring the neutral buffer status enjoyed by it prior to the 1950 invasion by Communist China. The plan also calls for a halt to the massive population influx of Chinese immigrants into Tibet, a policy of absorption and assimilation that has already resulted in a presence of a million more Chinese than Tibetans in Tibet."

"Following the Dalai Lama's announcement, the U.S. Senate and House of Representatives unanimously passed a resolution commending him for the 'just and honorable causes that he has championed'. The leading members of the Senate Foreign Relations Committee (including its Chairman, Claiborne Pell and the ranking Minority Leader, Jesse Helms), and leading members on the House Foreign Affairs Committee (including its Chairman, Dante Fascell and its ranking minority member, William Broomfield), and the co-chairmen of the Human Rights Caucus, Tom Lantos and John Porter, sent a letter to China's Premier Zhao Ziyang, urging him to use the five-point plan as a basis of negotiation with the Dalai Lama. These initiatives, along with legislation passed on June 18th by the House of Representatives in support of the Tibetan people's rights, are among the most significant international responses to our country's occupation since three U.N. resolutions condemned China's annexation of Tibet in the early sixties."

"For almost ten years now the current Chinese leadership has insisted to the world at large that it wishes to amend the holocaust enacted in Tibet by the Mao Zedong—a holocaust in which over one million Tibetans perished, 6,250 monasteries were destroyed and our nation's wealth and natural resources plundered. Under the cloak of its avowed liberalization, however, Beijing has continued to send troops and settlers to Tibet in a 'final solution', supplanting the Tibetan people in their own home. Tibetans today remain in the most dire jeopardy of being erased from the family of nations as a distinct people with a profound human and cultural legacy. We grieve for the two Tibetan nationalists who have already lost their lives in an unconscionable attempt to stifle the Dalai Lama from speaking out abroad. We pray that the international community will mobilize every effort to stop the future imprisonment and execution of our people."

The executions and prison sentences were reported by the official Chinese Radio Lhasa on September 25 and subsequent broadcasts. From the speeches made by party officials at the rally on the 24th and the similar language used by the Chinese Embassy officials in Washington, D.C. when they warned the Dalai Lama not to make his statement on Capitol Hill, it is clear that the new wave of executions and imprisonments are immediate responses to the Dalai Lama's speech and the renewed interest on Capitol Hill.

CONGRESS OF THE UNITED STATES,
Washington, DC, September 22, 1987.

His Excellency ZHAO ZIYANG,
The Prime Minister of the People's Republic of China.

YOUR EXCELLENCY: Members of the United States Congress were honored yesterday with a visit from His Holiness the Dalai Lama of Tibet, who addressed various meetings on Capitol Hill at our invitation.

As you are no doubt aware, the people of the United States and their representatives in the United States Congress take a keen interest in the welfare of the Tibetan people, whose great spiritual tradition and rich culture is a source of inspiration to people around the world. Our grave concern with the present situation in Tibet and the policies of your government towards its people was recently expressed in an amendment unanimously adopted by the House of Representatives on June 18, 1987.

We take note of a number of encouraging changes in your government's overall policies, but wish to express our dismay at the population transfer and other initiatives which threaten the survival of the culture and distinct identity of the Tibetan people.

His Holiness the Dalai Lama, whose wisdom and leadership we greatly admire, has now proposed a five-point plan to restore peace and respect for human rights in Tibet and to ensure the preservation of Tibet's identity, and the survival of its culture and spiritual tradition.

This plan can be summarized as follows:

1. *Transformation of the whole of Tibet into a peace zone.* This would be in keeping with Tibet's historical role as a peaceful Buddhist nation and a buffer state separating the continent's great powers. It would also be in keeping with Nepal's proposal to declare Nepal a peace zone, a proposal supported by your government.

2. *Abandonment of China's population transfer policy.* The population transfer of Chinese to Tibet, which will reduce the Tibetan population to an insignificant and disenfranchised minority in Tibet itself, threatens the very existence of the Tibetan people.

3. *Respect for human rights and democratic freedoms.* The fundamental human rights and democratic freedoms of the Tibetan people should be recognized and respected not only in theory but in practice. Thousands of political and religious prisoners should be released, freedom of religion implemented, culture and education promoted, and Tibetans should be free to determine their own destiny in an atmosphere free of oppression and intimidation and in a spirit of openness and reconciliation.

4. *Restoration and protection of Tibet's natural environment and the abandonment of China's use of Tibet for the production of nuclear weapons and for dumping nuclear waste.*

5. *Conduct earnest negotiations on the future status of Tibet and relations between the Tibetan and Chinese peoples.* His Holiness the Dalai Lama and the Tibetan government in exile wish to approach this subject in a reasonable and realistic way, in a spirit of frankness and conciliation and with a view to finding a solution that is in the long term interest of all: the Tibetans, the Chinese, and all other peoples concerned.

We welcome His Holiness the Dalai Lama's proposal as a historic step towards resolving the important question of Tibet and alleviating the suffering of the Tibetan people. We also believe that it is a significant contribution to relieving regional tensions and promoting world peace. His Holiness the Dalai Lama has addressed these issues in a most remarkable and statesmanlike manner, and we wish to express our full support for his proposal. We write to you in the hope that your government's response will be equally constructive.

Yours sincerely,

Claiborne Pell, U.S. Senator, Chairman of Senate Committee on Foreign Relations; Dante Fascell, Member of Congress, Chairman of House Committee on Foreign Affairs; Tom Lantos, Member of Congress, Cochairman of the Congressional Human Rights Caucus; Charlie Rose, Member of Congress; Jesse Helms, U.S. Senator, Ranking Member of Senate Committee on Foreign Relations; William Broomfield, Member of Congress, Ranking Member of House Committee on Foreign Affairs; John Porter, Member of Congress, Cochairman of the Congressional Human Rights Caucus; Benjamin Gilman, Member of Congress, Member of House Committee on Foreign Affairs.

KEEPING TO DEATH

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SIKORSKI. Mr. Speaker, there is no better time for all Americans to reevaluate the situation for Soviet Jewish refuseniks than now. This past Wednesday night marked the start of the Jewish new year, Rosh Hashanah. During the 10-day period between Rosh Hashanah and Yom Kippur it is traditional for Jews around the world to reevaluate the year past and to make plans for improving the year to come.

Jews in the Soviet Union, however, are not free to observe the traditions of their faith. They do not have the freedom of religion and are persecuted if they attempt to pursue their basic right of expression.

This year has been a very mixed one for refuseniks. The rhetoric of glasnost and perestroika has echoed with calls for "openness" and "change." And, to the credit of the Soviet Union, some concrete progress has been made. There is more freedom of the press, of travel, of culture, and of commerce. And more refuseniks were allowed to emigrate this year than last.

But when we hold this "progress" under a microscope, we see that these molecules of "openness" are firmly attached to a larger, and stronger, body of control. No freedoms have been granted that have not been used to strengthen governmental control over society.

Approximately 800 refuseniks a month have been allowed to emigrate over this past year. Closest to my heart is Yuri Druzhnikov, a Soviet author-playwright who arrived in Vienna with his wife and son on the Jewish new year itself. The Druzhnikov family was able to celebrate the new year on free soil after 10 long years of painful refusal.

Yet, emigration figures are still enormously disappointing when compared to 1979 figures, when over 50,000 Jewish refuseniks were allowed to emigrate to Israel and the West. Today 400,000 Jews await their turn to emigrate.

One of the many waiting for freedom is Naum Meiman. Because Naum's daughter Olga lives in the United States, Naum should be entitled under Soviet law to emigrate for the purpose of "family re-unification." Howev' Naum's application to emigrate has been repeatedly refused for 12 years. The official reason for refusal is his knowledge of "state secrets." The real reason is that Naum was an active member of the Moscow Helsinki Watch Group. Naum Meiman is now the sole remaining member of this group in the Soviet Union.

The story of Naum's wife, Inna, is even more tragic. Struck with malignant cancer, Inna was refused both medical treatment and the ability to emigrate to a country where she could receive treatment. Finally, after pressure from around the world, including from myself, Inna received a visa to go to the West. By this time it was too late. She died 3 weeks after arrival in the United States, and Naum was not allowed to attend his wife's funeral.

Recently, I met with Naum Meiman during my trip to the Soviet Union to personally meet the refuseniks whose cases I've come to know so well over the years. My meeting with Naum moved me. Naum told me that to refuse a human being treatment for a killing disease hardly differs from murder. And to refuse such treatment as part of public policy equals the evil of the holocaust.

Before I left him, Naum gave me two letters to place in the CONGRESSIONAL RECORD. Naum's case is symbolic of the injustice faced by refuseniks. In accordance with Naum's personal request, and because of the importance of Naum's case, I will place a series of his comments, including these two letters, in the CONGRESSIONAL RECORD this week. During this time of personal reflection in the Jewish world, and as a statement of the universal principles of human rights shared by people of all faiths, Naum's testimony is particularly powerful. His voice rings out around the world.

KEEPING TO DEATH

JUNE 30, 1987

On the 12th of June, last year, a group of refuseniks, cancer patients—Inna Kitrosskaya Meiman, Tatjana Kheifetz Bogomolnaya, Benjamin Charny—and members of their families made an appeal at a press conference. This appeal was addressed to Heads of Governments who have signed the Helsinki Accords, to the Parliaments of these countries, to oncologists and physicians for whom the Hippocratic oath is not an empty phrase, to international medical community, to all cancer patients, to people of good will all over the world.

To be stricken with cancer is a severe blow and it is inhumane to aggravate the situation of such patients by additional stresses denying them the right to live and be treated where they choose. It is the more so as in some cases patients cannot receive an adequate treatment in the USSR. Under these conditions the refusal to leave the country for treatment abroad hardly differs from murder. Just recently, an agreement on unconditional prohibition of tortures, concluded under the aegis of UN, has come into action. It is specifically emphasized there that no circumstances, even the most extraordinary ones can justify tortures. Prohibiting an adequate treatment is literally a combination of physical and moral tortures. Nothing can justify it, neither fiction of secrecy nor closed instructions on prohibiting departure from the USSR. Definitely, prohibiting treatment chosen by the patient should be qualified by the international law as a serious crime against humanity.

Political and public figures, physicians, people of good will responded to the appeal of our group. The International Cancer Patients Solidarity Committee headed by M.D. Gerald Battist (Montreal, Canada) was formed. This Committee has been doing tremendous work on behalf of us and other refuseniks, cancer patients.

Under pressure of the world community Soviet authorities have given permissions to emigrate to several long-term refuseniks ill with cancer. Each permission has been given with a great delay, which cost life to Inna Meiman, Michael Shirman, Yuri Speizman and Rimma Bravve. Each of these cases deserves a detailed description, out of respect to the memory of these people who were the victims of the violation of their right, which Soviet authorities call, for political purposes, the most sacred right for life.

Inna Meiman did not receive an adequate treatment of her cancer and was ready to accept an experimental treatment, which could prolong her life. The authorities had been denying her this chance for many years. She received the visa when her health became desperate. How and why it happened will be told separately.

Michael Shirman then living in Israel could have been saved by bone marrow transplantation from his sister living that time in the USSR. Her exit visa was given too late and Michael Shirman died.

Yuri Speizman was given permission only after he had had a heart attack in addition to his cancer. His permission to leave was given too late and he died in Vienna, the next day after his departure, on his way to Israel. He did not live to see his grandchildren.

Nine years ago Rimma Bravve was separated with her near ones when the authorities let her mother and sister go simultaneously taking back Rimma's already given exit visa. Rimma was then young and healthy. Sorrow and bitterness of the separation played an essential role in Rimma's getting cancer. When she finally got the permission to leave her situation was hopeless. She died last week.

Having paid respect to the memory of the victims we must say with bitterness that their tragedies have not effected the attitude of the authorities, towards sick people. We, Naum Meiman and Benjamin Charny, who have signed this letter, belong to such people as well as Faina Kogan, Edward Erlikh, Marianna Simontova and Genya Gutman.

We have to fight diseases. We also have to struggle with the authorities for our right to live and be treated where we choose. We are short of time and cannot wait till democratization and glasnost finally reach us. We must assert today that still denying us permission to emigrate the authorities intend to keep us here to death.

Prof. NAUM MEIMAN
Dr. BENJAMIN CHARNY

IN HONOR OF ROBERT LEDERER

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DENNY SMITH. Mr. Speaker, it is with sadness that I note the September 26 passing of Robert Lederer, executive vice-president of the American Association of Nurserymen.

Mr. Lederer had served as executive vice-president of the AAN for the past 22 years. He was a tireless and effective advocate for the nursery industry and for the beautification of America.

Mr. Lederer was a close ally of Lady Bird Johnson during her effort for beautification in the 1960's, and he served as vice president of the board of the National Wildflower Research Center, of which Mrs. Johnson was a founder.

Mr. Lederer has also worked on beautification and landscaping projects with Mrs. Nixon, Mrs. Carter, and Mrs. Reagan.

At the time of his death, Mr. Lederer was serving as president of the Friends of the U.S. National Arboretum.

Mr. Lederer's leadership and service were recognized by the nurserymen of my State of Oregon, when they honored him with a special award several years ago. Oregon nurserymen will miss him greatly. So, too, will the many others—including Members of this Congress—who benefitted from his service and dedication.

I'm sure other Members join with me in extending our sympathies to Robert's wife, Ramona, his son, Robert Jr., his daughter, Cherie deGeorge, and his two grandchildren.

THE REPUBLIC OF CHINA

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. EMERSON. Mr. Speaker, warmest greetings to the Republic of China on Taiwan, as it celebrates its 76th National Day on October 10, 1987.

The Republic of China has a glorious past. It replaced the backward Manchu government and gave birth to a modern China. Dr. Sun Yat-sen, father of modern China, envisioned a China free from foreign domination and a China prosperous under the Three Principles of the People—a country of the people, for the people, and by the people.

Dr. Sun's death in 1925 prevented him from ever fulfilling his goal of seeing a self-reliant and prosperous China. The task of pursuing that dream was left to the late President Chiang Kai-shek, Dr. Sun's chosen successor.

President Chiang Kai-shek was single-minded in guiding his people toward a strong China, but his efforts were frequently frustrated by years of war with the Chinese warlords, the Japanese invaders and the Chinese Communists. It was only after 1949 that he had a chance to devote his full energies to building a China that would earn the respect of the world.

In Taiwan, President Chiang introduced land reform, capital formation, universalization of education, and direct democratic processes. By the time of his passing in 1975, President Chiang had laid a firm foundation for Taiwan's economic and political future.

Indeed, in 1987, Taiwan is an economic giant. Politically, Taiwan has a genuine two-party system and is well on its way to becoming a full democracy.

The Chinese people in Taiwan owe their good fortune to Dr. Sun and particularly to their late President Chiang Kai-shek, who proved to the world that the Three Principles of the People were and would continue to be the key to China's prosperity and stability.

Congratulations.

AIRLINER CABIN AIR QUALITY PROTECTION ACT OF 1987

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. OBERSTAR. Mr. Speaker, today I am introducing the Airliner Cabin Air Quality Protection Act of 1987 to permanently prohibit smoking on domestic airline flights. I believe the time has come to act decisively on the scientifically demonstrated, profound health risks to passengers and crews from passive smoking by legislating a strict prohibition on smoking on domestic airline flights.

Just a few weeks ago, the House passed by a narrow margin the Durbin amendment to the Transportation appropriations bill to prohibit smoking on domestic airline flights of 2 hours or less. I have vigorously supported legislation to curb the health risks of smoking throughout my tenure here in the Congress, and spoke in favor of and voted for the Durbin amendment when it came to the House floor. The Senate Subcommittee on Transportation Appropriations is currently considering similar language to include in their version of the bill. I am hopeful some form of this prohibition will be retained in the conference report on the measure because I believe the U.S. Congress is finally ready to act on the clear and compelling evidence that passive smoking poses serious health risks to airline passengers and crews.

I have spent several months working on the Airliner Cabin Air Quality Protection Act, to craft an effective and permanent prohibition on smoking in commercial passenger aircraft. The scientific evidence in favor of a total smoking ban is abundant, clear and convincing. About two-thirds of commercial passengers now prefer nonsmoking seating; nonetheless, those nonsmokers are still subjected to environmental tobacco smoke through the recirculating air systems aboard aircraft. They should not be subject to such involuntary health endangerment.

The Aviation Subcommittee of the House Public Works and Transportation Committee will hold hearings on this important issue on October 7. In addition to the many severe health risks posed by indoor pollutants on airplanes, the committee, chaired by the Honorable NORMAN MINETA, will examine the health and safety risks to passengers and flight attendants by environmental tobacco smoke. I have prepared a brief survey of the health, safety, and economic issues to be discussed in these hearings; I commend it to my colleagues' attention:

First, cigarette smoke can make a significant, measurable contribution to the level of indoor air pollution at levels of smoking and ventilation that are common in the indoor environment. This effect is exacerbated in enclosed environments such as airplanes, where air flow is further restricted. Nonsmokers have a right to a clean and smoke-free environment when they travel.

Second, nonsmokers who report exposure to environmental tobacco smoke have higher levels of urinary continine, a metabolite of nicotine, than those who do not report such exposure.

Third, cigarette smoke in the air can produce an increase in both subjective and objective levels of eye irritation. Further, some studies suggest that high levels of involuntary smoke exposure may produce small changes in pulmonary function in some subjects.

Fourth, in 1986, three reports bearing on the health risks of smoking aboard commercial aircraft were issued:

First, the congressionally mandated report on airline cabin air quality issued in August 1986 by the National Academy of Sciences, titled "The Airliner Cabin Environment: Air Quality and Safety," recommended that for health and safety reasons all smoking aboard domestic commercial flights be prohibited.

Second, the November 1986 National Academy of Sciences report on the health effects of involuntary smoking (Environmental Tobacco Smoke: Measuring Exposures and Assessing Health Effects) provided further scientific evidence about the health risks posed to nonsmokers onboard aircraft when smoking is permitted anywhere in the passenger cabin.

Third, the December 1986 study on involuntary smoking conducted by the Surgeon General further documented the dangers of environmental tobacco smoke.

Fourth, involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers.

Fifth, the National Academy of Sciences found that the separation of smokers and nonsmokers in separate sections aboard airplanes does not prevent smoke exposure for all passengers and all flight attendants.

Sixth, the relatively low humidity aboard airplanes combined with the reduced fresh air flow aggravates passenger discomfort and irritation when air quality contaminants are present. Especially sensitive persons, such as asthmatics or those with allergies, may experience extreme discomfort and severe reactions to tobacco smoke exposure in the airliner cabin environment.

Seventh, cigarette smoking is responsible for many inflight fires, which pose a substantial threat to passenger and crew safety.

Eighth, the high concentration of smoke in the smoking section of a passenger cabin cannot be compensated for by increased ventilation, even if such an increase were economically feasible, which it is not.

Ninth, the airline industry would likely benefit from a ban on smoking aboard aircraft. The N.A.S. study on airliner cabin air quality states that—

> After a period of adjustment and with strict enforcement, prohibiting smoking should reduce on-board fire risk, cleaning costs and costs of replacing damaged materials. Removing tobacco smoke from the aircraft environment would reduce cabin ventilation requirements and would result in additional fuel savings while reducing irritation and health risk.

There are some of the issues which will be discussed as we debate the merits of a complete ban on smoking aboard domestic aircraft. My home State of Minnesota is the home of the "Minnesota Clean Indoor Air Act," which in 1975 imposed a ban on smoking in public areas except where specifically designated otherwise. Minnesotans—smokers and nonsmokers alike—have been pleased with the positive health, safety, and economic effects of the law. I hope we can enact into Federal law a similar measure which shifts the presumption of law in favor of the nonsmoker while preserving the rights of smokers to smoke in designated areas. Over the last several years Americans have become increasingly aware of the irony of the presumption in current law which favors the rights of the smoker over those of the nonsmoker. In most public buildings in the United States, one can smoke unless smoking is prohibited for specific reasons. The presumption should be reversed: smoking should be allowed only in designated areas in public buildings, on public transport, or in other public areas shared by smokers and nonsmokers. In places such as the airliner cabin, where airflow is severely restricted and space is strictly confined, no smoking should be allowed.

This bill is an important step in the direction of reversing an outdated presumption, and should be enacted this year. I am honored that the gentleman from Florida, [Mr. GIBBONS] has joined me as an original cosponsor of this legislation, and speaking for both of us, I urge my colleagues on the Public Works and Transportation Committee to move quickly to mark up and report to the House a bill which will permanently prohibit smoking on domestic airlines.

WHAT AMERICANISM MEANS TO ME

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. PEASE. Mr. Speaker, it is with pleasure that I again submit for inclusion in the CONGRESSIONAL RECORD the first and second prize winning essays from the 1987 "What Americanism Means to Me" contest. As we celebrate the Bicentennial of our Constitution, it is especially important that we think carefully about what the concept of Americanism means to the students of our country. I submit with pride the following essays by Laurel Zurawick of Canfield, OH, High School and Jason Steckel of Huron, OH, High School.

"WHAT AMERICANISM MEANS TO ME"

(By Laurel A. Zurawick)

I believe that Abraham Lincoln best summarized Americanism when he talked of a "government of the people, by the people, and for the people . . ." To me Americanism is government with representation, which is what we fought for in the Revolutionary War. Americanism as we know it and many of the freedoms offered by our type of government are now being jeopardized by the liberals in America and other forces around the world. These forces are attempting to take away many of our individual liberties and make decisions for us. This, in my opinion, stops one of the greatest powers of the American people, freedom of choice. Americanism as we know it today is based on the right of each and every person to life, liberty, and the pursuit of happiness. Having the right to decide for ourselves is part of all three of these principles. Some people are changing the meaning of the Gettysburg Address by making our government treat people more as a society than individuals. Individualism is what makes Americanism so great and so important to us today. We are one of the last strongholds of democracy in the world. As one of the last survivors of communist aggression, we have a duty to uphold freedom as a whole throughout the world and to continue the support of Americanism in the United States of America.

As important as it is, Americanism is not an easy word to define. Perhaps one of the best definitions of Americanism is American History itself. Most of the decisions which have been made and carried out under this government of ours serve as a symbol of the strength of freedom and democracy when placed in the proper hands. If one does not have the time to study American History, then the next best thing to examine is the

United States Constitution. The Constitution has served as a charter for this country and a guide for its laws for two hundred years. This shows the strong commitment towards Americanism, which still exists today. Just having the right to defend our rights proves that Americanism, freedom and liberty for all, is an important part of the American Heritage.

"I HAVE A DREAM . . ."

(By Jason Steckel)

These famous words of Martin Luther King inspired many blacks, as well as all those who dwelt within this vast land, a land to which many immigrants fled, seeking life, liberty, and the pursuit of happiness, to have a dream and to strive to achieve it, and to never stop believing that such a goal can be achieved. For in America freedom is infinite, and how you exercise that freedom is your contribution to the American Dream.

In essence, Americanism is the freedom to dream, and dreams are powerful things. They inspire us, lead us, and grace us with their results—results from which future generations benefit and expand upon, continually improving the quality of that original dream.

Americanism, backed by freedom, gave men such as Henry Ford and the Wright brothers the inspiration to dream, and dream they did, by taking full advantage of America's free enterprise system. By exercising responsible citizenship, their dreams resulted in prosperity and increased productivity; for the foundation of every achievement is a dream, a dream which encourages change, changes that increase productivity and result in progress.

Americanism is about that progress which affects the future of America and reflects the liberties of the past. It is about those who were a part of our great American heritage and those who passed on to future generations the legacy of freedom, unaware that one day a great honor would be bestowed upon them—the honor of self-pride, that they were part of the American Dream and had the freedom to express their dreams like no other individual in any other nation ever could.

Was it not for freedom that many immigrants fled to America, to be granted their inalienable rights? Indeed, they came to America because they had a dream, a dream to be free. Only in America was the freedom to dream granted to so many individuals. Today, Americanism still means having a dream and being free to pursue it.

These ideas have been aptly summarized on a plaque which is located at the gravesite of Wendell L. Wilkie, a great American statesman and famous political figure of the 1930's and 40's. His words further exemplify the statement "Americanism is the freedom to dream."

I believe in America because in it we are free—
free to choose our government, to speak our minds,
to observe our different religions.
Because we are generous with our freedom, we share
our rights with those who disagree with us.
Because we hate no people and covet no people's lands.
Because we are blessed with a natural and varied abundance.
Because we have great dreams and because we have the
opportunity to make those dreams come true.

As long as there are Americans, there will be dreams, and as long as there are dreams there will be a country that fosters leadership, free enterprise, responsible citizenship and productivity, all part of Americanism and our great American heritage.

IN TRIBUTE TO JACK WYDLER

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. MILLER of Ohio. Mr. Speaker, I want to join with my House colleagues in paying tribute to a former Member, and good friend, the late Jack Wydler. Jack came to the House in 1963 and departed in 1980. He was never far from Congress, however, and that seems somehow fitting and certainly appropriate. He was as much a part of the Congress as it was of him, and he will be deeply missed by all those who truly appreciated this gentleman and what he represented.

He brought to the House a record of experience and service. He served honorably in the Air Force during World War II, earned Phi Beta Kappa honors at Brown University and graduated from Harvard Law School. He served, too, as an assistant U.S. attorney. When he began his distinguished career in the House he had already established a distinguished record of service to his community and country. In addition to being an outstanding legislator, he was a man of principle and immense compassion for those who send us here. The course of progress and prosperity that this Nation pursues and the liberties we consistently enjoy have been provided, in part, by Jack Wydler and those like him. We owe him our thanks, and we'll remember him fondly and well.

To his widow, Brenda, and their children, Christopher, Kathleen, and Elizabeth, I extend my personal condolences and sympathy.

THE 13TH ANNUAL NEW JERSEY STATE A. PHILIP RANDOLPH INSTITUTE AWARDS BANQUET

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. RODINO. Mr. Speaker, on Saturday, October 10, 1987, the New Jersey State A. Philip Randolph Institute will hold its annual awards banquet to honor outstanding New Jersey residents for their exemplary service to the community and their continued dedication to promoting social and racial justice.

The A. Philip Randolph Institute was founded in 1965 by the great civil rights and labor leader A. Philip Randolph. As an educational, civil rights, and labor organization, the institute was a pioneer in recognizing the importance of bridging the gap between those committed to progressive social change.

The A. Philip Randolph Institute has over 180 local affiliates which have sponsored voter registration drives and programs to strengthen relations between the black community and the labor movement.

In New Jersey, this mission has been ably carried forward by my good friend Clara Dasher, the president of the New Jersey A. Philip Randolph Institute. Clara's tireless efforts and extraordinary commitment provide a beacon of hope and progress for the citizens of our state.

As the first recipient of the A. Philip Randolph Institute Award, it gives me great personal pleasure to extend my congratulations to this year's honorees who exemplify the best qualities of America's quest for equal opportunity. Through the efforts of men and women like these honorees and the organization which honors them, the struggle for a fairer and more just society will continue.

This year's awards banquet is also a time to remember another major influence on the important work of the A. Philip Randolph Institute, Bayard Rustin, who I was privileged to call my friend. Bayard served ably as A. Philip Randolph's close associate and cofounder of the institute. Bayard, until his death this past August, was an unwavering champion of civil rights in this country and human rights throughout the world.

Let us all rededicate ourselves to continue the work of A. Philip Randolph, Bayard Rustin and the organization they founded. They are a constant inspiration and reminder that we must join together to guarantee that everyone participates fully in the blessings and prosperity of our Nation.

BLACK LUNG BENEFITS SHOULD NOT BE TAXED

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. RAHALL. Mr. Speaker, as part of its budget deficit reduction package, the Reagan administration has proposed to include black lung benefits as taxable income. This is perhaps one of the most mean spirited proposals to have ever been advanced by this administration and I am pleased that the Journal of Commerce in its September 17, 1987, issue saw fit to editorialize against the proposal. I include the editorial in the RECORD:

THE BLACK LUNG TAX

Ideas about how to increase the government's revenues are flying thick and fast in Washington. One that should be discarded immediately is removing the tax-exempt status of disabled miners' black lung benefit payments.

About 140,000 former coal miners and 260,000 widows and children now benefit from black lung programs. The payments they receive are compensation for disabilities arising from years of inhaling coal dust in underground mines, and are funded by an excise tax on coal production. Last year, Congress authorized the Black Lung Trust Fund to borrow $2.5 billion from the Treasury, granting the fund a one-time subsidy by providing for a five-year forgiveness of interest on the money borrowed.

The case for taxing black lung benefits is simple. The federal budget has a big deficit. Underground coal miners are no longer a significant political force. If it's possible to raise revenue without upsetting too many constituents, why not? That's why the notion was raised in President Reagan's fiscal 1988 budget proposal and is now on the lengthy list of revenue options under review by the House Ways and Means Committee.

But taxing black lung benefits does not raise much revenue. Estimates are in the range of $400 million over a four-year period, or about $100 million per year. That amounts to barely 1/20 of 1 percent of projected budget deficit for next year.

To raise that revenue, the administration would create a serious inequity in the tax code. Beneficiaries of several analogous programs, most notably veterans' disability payments and worker compensation plans, do not pay personal income tax on their benefits. Taxing veterans' disability would raise a lot more money than taxing black lung payments, but the subject is not even under discussion on Capitol Hill. Among U.S. voters, there are far more veterans than coal miners.

A 1983 study by the Labor Department showed that the average household income for black lung beneficiaries was $9,870 a year. More than half of the beneficiaries had a total family income of less than $9,000, and among widows of black lung victims, more than a third had family incomes of under $7,000 a year. They comprise a significant part of the elderly poor: the mean age of recipients is 70.

Increasing government revenue is important. But there are far better—and far more rewarding—ways to deal with the deficit than by placing the financial burden on a group chosen only for its lack of political clout.

TRIBUTE TO EVELYN BARTLETT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SHAW. Mr. Speaker, today I rise to pay tribute to one of Fort Lauderdale's most eloquent women, Evelyn Bartlett, on the occasion of her centenial birthday. I am proud to represent her and to recognize and honor this most remarkable and caring woman who first came to Florida with her beloved husband, the lat Mr. Frederick Clay Bartlett, in 1931. Mrs. Bartlett is a true humanitarian and a symbol of the classic Florida of yesteryear.

Although Mrs. Bartlett is a very private and reserved woman her actions and deeds speak for themselves. She has been a well respected citizen of the community since she and her husband first arrived in Fort Lauderdale. Her passion and love for her historic residence, paintings, orchids, and animals are as strong as ever. As we honor her today on her 100th birthday Evelyn is still as quick witted and concious as ever.

Mrs. Bartlett is the proud owner and preserver of a magnificient 35-acre ocean front estate in my district. This estate was built in 1921 and Evelyn and Frederick moved in as newlyweds in 1931. Recently, Evelyn Bartlett graciously bequeathed this historic piece of Florida culture to our State, so it will be protected and cared for and not destroyed. The Smithsonian Institution was so intrigued by the beauty of the Bonnet House that they sent a crew there to videotape a tour of the area with Mrs. Bartlett. She revealed her dreams for the future of the house when she said how she wants to "keep it a picture of old Florida. I would like to think of it as a place for the birds and monkeys to be safe, you know, and happy."

The architecture and furnishings of the Bonnet House are breathtaking reminders of an earlier Florida. The Bonnet House is also the site of some truly remarkable pieces of art. Evelyn and her late husband, through the years were sharing and alturistic with their possessions. Before his death, Mr. Bartlett donated artwork to the Art Institute of Chicago, which is considered one of the museums most valuable collections.

Visitors who stroll through the grounds of the estate will be fascinated by the beautiful flowers and plantlife that grace the area. They will also be surprised to find that most of these items were cared for and grown by Evelyn Bartlett herself, a skilled gardner. Her passion for her orchids still runs as deep as ever. Her pride in these orchids is revealed in her speech. The treasured orchid house and a shell bar given to her by her husband as a wedding gift are a constant reminder of her love of her husband. Mrs. Bartlett is also an acclaimed artist. She credits Frederick for starting her art career and through these works she expresses her gratitude and love for her husband.

The people of the 15th District of Florida and all who visit the Bonnet House owe a great deal of gratitude to Evelyn Bartlett. I would like to thank her for the legacy she will leave. I commend "the grande dame of an elegant Fort Lauderdale long gone" and wish her a very happy birthday.

INTRODUCING A BILL TO MODIFY INTERNAL REVENUE CODE SECTION 67(c)

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. McGRATH. Mr. Speaker, I am introducing today, together with my distinguished colleague from California, Mr. MATSUI and 13 Democratic and Republican members of the Ways and Means Committee, a bill to modify a most unfortunate provision of the 1986 Tax Reform Act.

The provision of Section 67(c) of the Internal Revenue Code which, unless corrected, will impute taxable phantom income to nearly 20 million mutual fund shareholders throughout the country.

The legislation being introduced today is companion legislation to a bill introduced by the senior Senator from New York Mr. MOYNIHAN, and a majority of the Senate Finance Committee members. This provision, which was passed in last year's tax reform effort as a "technical amendment," falls particularly hard on the residents of the State of New York. There are over 2.7 million mutual fund shareholders in New York with over $78 billion invested in mutual fund assets. Unless we act to modify section 67(c), most of these residents will be required to pay tax on income they never received.

A large number of mutual funds have headquarters or offices in New York. Section 67(c) discriminates against these mutual funds because other competitive investment products, such as bank money market deposit accounts, are not subject to this new provision.

Section 67(c) ostensibly was designed to prevent taxpayers from using "pass-through entities" to circumvent the new 2-percent floor on miscellaneous itemized deductions provided by section 67. Properly limited to effect that purpose, it would have been unobjectionable—a genuine technical provision. However the effect of the provision is to impute additional taxable income—phantom income—to nearly 20 million Americans.

Mutual funds are a valuable product to small investors who could not otherwise invest in our increasingly institutionalized financial markets. These are not casually interested investors: their savings are at stake. Moreover, no one can argue that, absent section 67(c), these 20 million shareholders would use their mutual funds to sidestep restrictions on miscellaneous itemized deductions.

The bill we are introducing today is designed to implement the antiabuse purpose of section 67(c), while protecting traditional mutual fund shareholders from the imputation of phantom income. The bill does so by exempting publicly offered mutual funds from section 67(c), while leaving the section fully applicable to other mutual fund arrangements.

This bill has broad bipartisan support. I hope that members of the Ways and Means Committee will give it their full consideration.

TRIBUTE TO JACK WYDLER

SPEECH OF

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 29, 1987

Mr. LUNGREN. Mr. Speaker, last month, the House of Representatives lost one of its most distinguished alumni, former Congressman Jack Wydler of New York. Jack died on August 4, following a heart attack which he suffered on Capitol Hill.

In a way, it's quite fitting that Jack passed away during a visit to Washington on behalf of Long Island residents. He spent almost his entire professional life in service to the people of Long Island and New York State. A veteran of the Air Force, Jack obtained a bachelor's degree from Brown University and a law degree from the Harvard University Law School after World War II. In 1953, he became assistant U.S. attorney for the eastern district of New York. In 1962, voters in Long Island sent him to Washington for the first of nine terms in the House of Representatives. Although he rose to become the ranking Republican on the House Science and Technology Committee and served as a regional Republican whip, Jack became best known for his labors on behalf of the residents of the Fifth Congressional District of New York. His organization of a congressional suburban caucus stands out in this respect.

Following his retirement, Jack served as chairman of the Long Island Association and the Long Island Development Agency, respectively. It was his work in the latter capacity which brought him to Washington last month.

Over my 8 years in the House, I've repeatedly expressed my anxiety about our Nation's dependence on foreign oil. Such a dependence endangers our national security and our economy. Jack Wydler shared that concern and worked hard to promote research into alternative sources of energy—especially nuclear power.

As former Republican leader John Rhodes observed in a 1980 tribute, Jack became "one of the Nation's leading experts on space and energy related research and technology." As a result of his key role in promoting legislation that advanced cooperation in technological innovation between government, industry, and the academic world, the science and technology panel named the bill the Stevenson-Wydler Technology Innovation Act of 1980.

Mr. Speaker, all of us express our devotion to our constituents. But few of us demonstrate our devotion, our concern and our commitment through a lifetime of dedicated service. Jack Wydler was a Congressman for his colleagues to be proud of. We will miss his friendship—and his example—very much.

THE NOTCH ISSUE

HON. JOHN G. ROWLAND

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. ROWLAND of Connecticut. Mr. Speaker, I rise today to urge my colleagues on the Ways and Means Committee to confirm to those individuals born in the "notch" years their right to a fair hearing. To deny the roughly 9 million American citizens, many of whom risked their lives in war for their country, this hearing is to trample over their first amendment right to petition their Government for a redress of their grievance. During this, the 200th anniversary of the Constitution, a time in which we are celebrating the bountiful freedoms that document has provided us, this seems the height of hypocrisy.

Whether you want to repeal the notch bill or not, at least support open hearings on this vital issue. We have already committed the crime of neglect, will we add the crime of denying constitutional rights. As a cosponsor of H.R. 1917, I join my friend JIM SAXTON and the other members of the "notch coalition" to assure those individuals that Congress will not let that occur.

RURAL ECONOMY ACT OF 1987

HON. ED JONES

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. JONES of Tennessee, Mr. Speaker, today I am introducing the Rural Economy Act of 1987. Senator PATRICK LEAHY, chairman of the Senate Agriculture, Nutrition, and Forestry Committee, introduced an identical bill yesterday in the U.S. Senate. Earlier this year Senator LEAHY and I agreed to work together on finding solutions to the economic problems of rural communities. This is the second bill we have jointly sponsored. Additionally, the ranking Republican member of the Subcommittee on Conservation, Credit, and Rural Development, Mr. COLEMAN of Missouri, has been very active in developing rural development initiatives and has introduced the Rural Development Act of 1987 which I am cosponsoring. I believe we can work together and bring legislation to the floor of the House next year.

As you know, the economic recovery in recent years has been essentially a bicoastal affair. The rural areas of the Nation continue to suffer from high unemployment, growing levels of poverty, substandard housing and stagnant economies.

This bill is a modest effort to assist rural communities to make the best possible use of their natural resources, excess labor, and business acumen. As all of us who represent rural areas know, rural America does not suffer from a shortage of resources or talent but rather from a lack of financing and economic opportunity. This bill will help alleviate those problems.

The following is an executive summary and section-by-section analysis of the bill:

RURAL ECONOMY ACT OF 1987

EXECUTIVE SUMMARY

1. A New Rural Development Financing Authority

The Act will establish within USDA a new Rural Development Financing Authority ("Authority"), headed by an Assistant Secretary, to carry out the programs established by the Act. The Business and Industry Loan program and Rural Development Loan Fund currently administered by Farmers Home Administration would be transferred to the new authority.

The Act authorizes $50 million for FY88 and $200 million for each subsequent fiscal year for a Credit Support program which would subsidize the interest rate on loans to business ventures operating for less than five years in financially stressed rural communities. The Authority would pay to the lender up to ½ of the difference between the prevailing interest rate and 8%.

2. State Government Incentive Grant Program

Authorizes $30 million annually in grants to states to fund 50% of state government programs promoting rural development. Eligible state programs must support projects which create or expand rural business enterprises.

3. Local Capacity Building Grants

Authorizes $25 million for FY88 and $50 million annually thereafter in grants to public and nonprofit private institutions to stimulate economic growth and diversification in financially distressed rural communities. Grants may be used to identify business opportunities, provide technical assistance to local entrepreneurs, mobilize capital, and establish support centers to provide training and technical assistance for local projects.

The Act authorizes $6 million for one year to demonstrate the efficiency of one-stop financial and technical assistance centers for promoting rural economic development.

The Act also authorizes $10 million annually in grants for rural technology development centers which seek to improve the economic conditions of rural areas through the development and commercialization of rural products.

4. Development Assistance for Smaller Communities

The Act authorizes $205 million annually for Rural Infrastructure Grants to States for distribution to local units of general government serving populations of under 5,500. This program is designed to supplement the CDBG program administered by HUD and will address the smallest communities' needs for assistance in constructing or rehabilitating wastewater and other public facilities.

The Act also authorizes $25 million annually for Basic Community Facility Needs grants to nonprofits, public agencies and Indian tribes to test cost-effective methods of providing safe drinking water and waste water disposal for needy rural residents.

SECTION-BY-SECTION DESCRIPTION OF THE RURAL ECONOMY ACT OF 1987

TITLE I—GENERAL PROVISIONS

SEC. 101 FINDINGS AND PURPOSES

Congress finds that the economic well being of smaller communities and rural areas is vital to overall national growth and prosperity and that many rural areas currently suffer from economic decline. It is the purpose of this Act to encourage locally-based development initiatives benefiting all segments of rural population and to ensure that certain basic needs for essential services in rural communities are met.

SEC. 102 DEFINITIONS

"Authority" refers to the Rural Development Financing Authority established within USDA to administer all of the programs established under the Act.

"Assistant Secretary" refers to the Assistant Secretary of Agriculture for the Authority.

"Rural areas," unless otherwise defined herein, shall not include any area in any community that has a population in excess of 20,000 residents.

"Intermediary borrower" means a public agency or private nonprofit organization that has as its principal mission the promotion of community economic development.

SEC. 103 RURAL DEVELOPMENT FINANCING AUTHORITY

Establishes RDFA within USDA to carry out this Act.

SEC. 104 AUTHORIZATION OF APPROPRIATIONS

(a) Credit Support.

Authorizes $50 million for fiscal year 1988 and $200 million annually thereafter to carry out section 201.

(b) Rural Development Loan Fund.

Authorizes to be appropriated such sums as are necessary to carry out such subtitle B of title II.

(c) Rural Infrastructure Grants.

Authorizes $205 million annually to carry out subtitle A of title III.

(d) Basic Community Facility Needs Grants.

Authorizes $25 million annually to carry out section 321.

(e) Local Capacity Building Grants.

Authorizes $25 million for fiscal year 1988 and $50 million annually thereafter to carry out section 401.

(f) Rural Technology Development.

Authorizes $10 million annually to carry out section 402.

(g) One-Stop Rural Financial and Technical Assistance Centers.

Authorizes $6 million for fiscal year 1988 to carry out section 403.

(h) State Incentive Grants.

Authorizes $30 million annually to carry out section 501.

TITLE II—BUSINESS DEVELOPMENT

SUBTITLE A—GENERAL PROVISIONS

SEC. 201 CREDIT SUPPORT

Authorizes the Assistant Secretary to establish a program to subsidize the interest rate on loans to business ventures operating for less than five years in financially stressed rural communities. The Authority would pay *to the lender* up to ½ of the difference between the prevailing interest rate and 8%. Participating business ventures must show a capability to generate jobs for local residents which do not require post-secondary education. Eligible loans include direct federal loans, federally-guaranteed loans and loans made by private lenders.

SEC. 202 RURAL INDUSTRIAL ASSISTANCE

Transfers to the Authority the Business and Industry loan program currently administered by Farmers Home Administration, and excises from the B&I loan program the Grants for Private Enterprises and grants for Rural Technology development (currently codified at 7 U.S.C. Sec. 1932(c) and (f). [These functions of the B&I program are duplicated elsewhere in this bill.]

SUBTITLE B—RURAL DEVELOPMENT LOAN FUND

SEC. 211 RURAL DEVELOPMENT LOAN FUND ("RDLF")

Transfers the RDLF to the new Authority. All future repayments will go to the RDLF and the Assistant Secretary will administer their reallocation.

SEC. 212 RURAL DEVELOPMENT LOANS

Authorizes the Assistant Secretary to lend RDLF funds to intermediary borrowers for relending to promote rural development.

SEC. 213 RURAL OPPORTUNITY GRANTS

Authorizes the Assistant Secretary to make grants from the RDLF to public or private nonprofit organizations operating in rural areas whose principal mission is to improve business and employment opportunities, particularly assisting low-income rural people and distressed rural communities. Such assistance may be used to finance new business ventures and for capital improvements.

TITLE III—DEVELOPMENT ASSISTANCE FOR SMALLER COMMUNITIES

SEC. 301 FINDINGS

Congress finds that the availability of wastewater facilities and other public facilities is essential to the economic growth of smaller communities and essential to the well being of the residents of such communities.

SUBTITLE A—RURAL INFRASTRUCTURE GRANTS

SEC. 303 PROGRAM AUTHORIZATION AND ALLOCATION OF FUNDS

(a) Authorizes Assistant Secretary to make such grants.

(b) Indian and Territory Allocation.

Sets aside not less than 3% of funds made available under this subtitle for grants to Indian tribes and Territories to be made under special regulations and administrative procedures which take into account the special conditions within the jurisdiction of the entities.

(c) State Allocation.

25 percent of the funds remaining after the allocation in (b) above shall be distributed equally among the States.

75 percent of the funds remaining after the allocation in (b) above shall be distributed among the states on the basis of a formula for each State's share, as follows:

Each State's share shall be the product of three terms:

1. The first term is the average of:

(a) A State's percentage share of the rural residents in all fifty states, and

(b) A State's percentage share of the rural residents in all fifty states with an income which does not exceed the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. Sec. 9902(c))

2. The second term is calculated by dividing the average nonmetropolitan nonfarm per capita payroll in the United States by a State's average nonmetropolitan, nonfarm per capita payroll.

3. The third term is the same as the second.

For this subsection, the term "rural areas" means all population not living within urbanized areas or places of 2,500 or more inhabitants outside urbanized areas.

SEC. 312 PROGRAM REQUIREMENTS

Each State will make at least 96% of the funds it receives under this subtitle available to communities within the State of less than 5,500 population.

Each State will develop and publicly distribute a priority planning system for distributing funds to local projects. Such a system must take into account the job-producing potential of such projects and the basic needs of communities.

Each State receiving grants under this subtitle shall provide an annual report to the Assistant Secretary that contains a description of its priority system and a list of projects funded.

SEC. 313 USE OF GRANTS

States may use these funds to construct or rehabilitate infrastructure in local communities and to provide technical and management assistance to strengthen local capacity. Grants may *not* be used for housing-related activities.

SUBTITLE B—BASIC COMMUNITY FACILITY NEEDS GRANTS

SEC. 321

Authorizes the Assistant Secretary to make grants to associations described in section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to test methods of meeting the needs of rural residents who do not have and cannot afford safe drinking water and wastewater disposal. Grants may be used to finance the costs of: improving facilities, connecting needy residents to existing public facilities, and implementing other alternatives to meet basic water needs.

TITLE IV—CAPACITY BUILDING FOR LOCAL DEVELOPMENT

SEC. 401 LOCAL CAPACITY BUILDING GRANTS

Authorizes Assistant Secretary to make grants to public and nonprofit private institutions for the purpose of stimulating economic growth and diversification in rural communities. Grant funds may be used to identify business opportunities, train and provide technical assistance to existing and prospective local entrepreneurs, and mobilize capital.

Any grant under this section may not exceed 75 percent of the cost of such project; however, the Assistant Secretary may waive this requirement in the case of a project which serves an extremely poor rural area.

SEC. 402 RURAL TECHNOLOGY DEVELOPMENT

Authorizes the Assistant Secretary to make grants to public and private nonprofit institutions to enable such institutions to operate centers for technology development. Such centers must seek primarily to improve the economic condition of rural areas by promoting the development and commercialization of new products which can be produced in rural areas and new processes that can be used in such production. In making grants under this section, the Assistant Secretary shall give preference to applicants that will establish centers in distressed rural areas.

SEC. 403 ONE-STOP FINANCIAL AND TECHNICAL ASSISTANCE CENTERS

Authorizes the Assistant Secretary to make grants to establish three one-stop financial and technical assistance centers to demonstrate the efficiency of such an approach to rural community development. Consideration to be given to the experience of an entity in offering a portfolio of financial and other assistance services to promote rural development.

TITLE V—STATE INCENTIVE GRANTS

SEC. 501 STATE INCENTIVE GRANTS

The Assistant Secretary shall make grants to match on a dollar-for-dollar basis State expenditures on State programs which promote the development of private business enterprises in rural areas.

To be eligible, a State must continue its level of funding for rural development programs. The Assistant Secretary may waive this requirement in the case of uncontrollable or exceptional circumstances within a State, such as a natural disaster.

TITLE VI—ADMINISTRATION

Sec. 601 Nondiscrimination in Programs and Activities.

Sec. 602 Remedies for Noncompliance.

Sec. 603 Reporting Requirements.

Not later than 180 days after the fiscal year in which assistance under this Act is furnished, the Assistant Secretary shall submit to Congress a report on the progress made in accomplishing the objectives of this Act, detailing the use of funds.

Sec. 604 Consultation with other Federal Agencies.

Sec. 605 Historic Preservation Requirements.

AMERICA NEEDS TODD SHIPYARDS

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. JONES of North Carolina. Mr. Speaker, in the face of the pressing legislative responsibilities on our slate, I wish I could inform this House that America's merchant marine is healthy, and requires no immediate attention or assistance. Unfortunately, that is not the case.

On August 18, the Los Angeles Times ran a front page story that began:

> Todd Shipyards, the nation's largest independent shipbuilder filed Monday for protection from creditors under Chapter 11 of the federal bankruptcy code, the largest evidence of the decline of the shipbuilding industry in the nation and California.

A related story the same day reported:

> Todd's entrance into bankruptcy marks a low point in the long history of the company, one of whose forerunners constructed the Civil War ironclad Monitor. The firm later became key to the nation's shipbuilding effort in World War II.

I do not address the House to deliver an obituary for this major maritime company which time and time again, in wartime and peacetime, has answered the Nation's call for fighting ships and vessels of commerce. Todd Shipyards has weathered previous business downturns, and is now making a concerted effort to reorganize as a profitable enterprise once again. I wish the company and her employees in Galveston, Los Angeles, and Seattle well, and I know my colleagues join me in that sentiment.

I do rise to share with you my studied concern that we are witnessing a dangerous and unrelenting erosion of a heavy industry critical to our national defense and economic security. More than 27,000 direct U.S. shipyard jobs have been lost in the last 5 years. Todd's Seattle and Los Angeles divisions are the last remaining naval surface combatant building yards on the west coast.

Since 1982, the number of shipyard production workers on the west coast has dropped by an alarming 51 percent. While the deterioration has been most glaring, the concern can hardly be considered regional. In the same period, east and gulf coast yards have lost at least 20 percent of their highly trained work force. These statistics have been misused as evidence that U.S. shipyards are rusting industrial dinosaurs which long ago outlived their usefulness. That impression is wrong—dead wrong.

Todd Shipyards' history, formally beginning with incorporation in 1916, provides an excellent case for rebuttal. Todd has been an active industry participant in the Government-sponsored National Shipbuilding Research Program aimed at advancing U.S. shipyard productivity and world market competitiveness. Since 1976, Todd has invested more than $200 million in facilities modernization, and became the first U.S. shipbuilder to introduce the use of robotics. Todd played an important role in the phenomenal industrial mobilization effort in World War II. During the war effort, Todd's east, gulf, and west coast yards numbered 18, and accounted for the construction, conversion, and repair of 23,450 ships, large and small, of more than 40 military and commercial designs. During the phenomenal war effort, some 157,000 Todd shipyard workers built 444 Liberty ships, 46 destroyers, 56 escort aircraft carriers, and 350 infantry landing craft.

In more recent times, Todd has demonstrated continued excellence and innovation in crafting sophisticated naval and commercial vessels. Since the mid-1970's, the Los Angeles and Seattle divisions have delivered 30 guided missile frigates, with the last vessel of this class now under construction in Los Angeles. As recently as 1985, Todd-Seattle won the largest Coast Guard ship overhaul contract in the agency's history to extend the service life and upgrade the capabilities of the Coast Guard's high endurance cutters. Todd-Galveston recently delivered the second of two aviation support ships for the Marine Corps which were fashioned from existing merchant hulls.

The record of accomplishments of Todd and other shipbuilding companies may well be a record of times gone by, for if something is not soon done, the yards, and most important their capabilities and pools of specialized skilled personnel, will be gone. At that point, what will be the cost, and not in dollars alone, of playing catch up if we must once again mobilize.

I ask my colleagues to listen carefully to what was said by Hans K. Schaefer, president of the Todd Pacific Shipyards subsidiary and chairman of the board of the Shipbuilders Council of America, in testimony before the Commission on Merchant Marine and Defense on May 18. Schaefer told the commission:

> We represent a troubled industry on its way to extinction unless dramatic steps are taken to halt the decline. It seems that no matter how we approach the Administration, the maritime industry can do very little to influence the policies which will determine our fate. Will a national calamity be required to cause attention to focus on the entire industrial base problem?
>
> A strong industrial base is the foundation of our strategy of deterrence. Without industrial strength and the ability to engage a powerful enemy in a conventional war, are we prepared to either lose a significant conventional military encounter or initiate a mutual act of nuclear suicide?
>
> It should be paramount on every policymaker's mind that the maintenance of national strength, especially maritime strength, is so obvious that it discourages any hostile nation from testing our resolve. Real deterrence requires real capability. Otherwise, the facade of preparedness is just that, a facade, and as insubstantial as the fabled Camelot. War may never come again, but if it does, better that the industrial mobilization "switch" be turned to the "on" position. That requires strategic planning, visionary foresight and an immediate beginning.

These comments from Mr. Schaefer present a sobering assessment of what is at stake for America's security in a troubled world if little or nothing is done to halt the erosion of our shipyard base and reverse the disappearance of the U.S.-flag merchant fleet. The administration must commit itself to a leadership role in working with the Congress to accomplish this critical national endeavor.

Mr. Speaker, in closing, America needs healthy shipyards, and a national decision to turn around the steady decline of this vital industry can and should start with a concerted effort to save Todd. The company, her employees, their communities, and this great country deserve a better fate and a brighter secure future.

THE BROOKLYN PUBLIC LIBRARY'S 90TH ANNIVERSARY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. OWENS of New York. Mr. Speaker, I rise in observance of the 90th anniversary of the Brooklyn Public Library, which has been committed to informing, educating and enlightening Brooklyn residents since its first branch, the Bedford, which was temporarily housed in Public School 3, opened its doors in what was then the city of Brooklyn.

From a single branch, the Brooklyn Public Library system grew to include 11 formerly independent libraries between and 1897 and 1904. Of these, eight are still part of the system.

In 1901, when the Brooklyn Public Library was barely 5 years old, it ranked fourth in the Nation relative to the numbers of books borrowed. By 1914, the library's Department of Traveling Libraries was serving people of all ages at 369 locations around Brooklyn, which by then has become a borough. Brooklyn residents were thus able to borrow books at factories, clubs, churches, fire and police departments, and businesses, as well as at their local branches.

The Brooklyn Public Library was also the first library in the world to have one branch devoted entirely to children, the Brownsville Children's Library which opened in 1914. The stone and brick building was constructed especially for children, featuring child size furniture, and characters from children's stories carved on the exterior of the building. The Children's Library was so successful, particularly during its early years, that lines of children would often form, stretching from its entrance and running the length of the block. In 1919, the staff of five children's librarians had to resort to allowing each child to borrow only one book at a time.

Today, the Brooklyn Public Library continues to serve area constituents through a wealth of free informational and educational services. It maintains a comprehensive Education and Job Information Center, where specially trained staff assist library users in finding information concerning a variety of subjects, ranging from resumé writing to high school equivalency programs. Its Business Library provides business-related documents for the investors, students, and entrepreneurs who depend on it as a resource. Children, youth, and parents having trouble with school work may call the library's "Homework Hotline" 5 days per week and receive whatever help is needed. Other library services include an adult literacy program, tools for the blind and the visually handicapped, a reference service for the deaf or hearing impaired, and "The Child's Place," which contains material for those raising preschoolers, as well as books, toys, and crafts for the youngsters. There is even a music division housed in the central library, through which users may borrow sheet music, records, and compact discs. Soon, videotapes will be made available through the library system.

As the first professional librarian ever elected to the U.S. House of Representatives, I fully understand that in order to play a significant part in this "Age of Information," our Nation's libraries must be transformed from being quiet, secluded, isolated pockets of intellectual retreat, to information powerhouses for average citizens, learning centers where students, professionals, families, and others may have their information needs met. The fact that the Brooklyn public library system has served its communities in this manner for nearly a century is a testament to its enduring commitment to education for all. I applaud the Brooklyn Public Library on its 90th anniversary, and wish it continued growth and success over its next 90 years.

NOTCH BABIES

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mrs. BYRON. Mr. Speaker, I have come before your to speak about our "notch babies." Rarely does a day go by without contact from a "notch baby" be it in the form of a letter, a phone call, or signing a petition. While on district tour, the notch issue was an ever-present concern of my constituents. There are an estimated 9 million notch babies and about 140,000 in Maryland.

Most of you here know that the term "notch baby" is derived from those persons born in the years 1917 through 1921 and of their treatment from the Social Security Administration. In order for the Social Security Administration to correct a benefit formula which overcompensated for inflation and which threatened to bankrupt the Social Security Administration, the Social Security Administration, in 1977, made significant changes in the benefit formula for workers who reached the age of 62 after 1978. As a result, benefits for these workers might be lower than for workers with similar earnings histories who reached age 62 in 1978 or earlier.

While there is much dissent over the proper solution to the notch issue, I believe we owe our elderly a hearing. On August 3, 1987, I joined with 61 of my colleagues requesting the Social Security Subcommittee to hold hearings on the notch issue. Because we are unable to agree on a specific solution to the notch issue we urged the subcommittee with legislative jurisdiction to gather information that would provide a record on which to base our actions.

At this point, the subcommittee has responded that they do not believe a hearing is possible at this time. I would like to reaffirm my commitment to the elderly and to a fair Social Security system. I wish to urge the subcommittee to hold a hearing which is so very much needed.

URGING ACTION ON SOCIAL SECURITY "NOTCH"

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FEIGHAN. Mr. Speaker, I join several of my colleagues today in urging the House Subcommittee on Social Security to hold hearings on the social security "notch" bill. For 3 years now, this legislation has been in legislative limbo. We've studied it to death. Now it's time to hold hearings, move this bill through Congress, and make it into law.

Why are we waiting so long? One constituent of mine recently wondered out loud whether Congress is just waiting for Social Security beneficiaries born between 1917 and 1921 to die. Thousands of others have also written. To them the delay is simply incomprehensible. They cannot understand why Congress is so reluctant to rectify this injustice.

Nor can I. The "notch" bill has been characterized as an irresponsibile drain on Social Security funds. In fact, it is a compromise approach. The notch problem arose from 1977 Social Security reforms to correct overindexed benefits formulas set in 1972. Despite provision for a gradual transition, the 1977 corrections have led to drastic benefit reductions for retirees born in 1917 and later. Clearly we cannot return to the old, pre-1977 formulas. But, Congress did not intend the abrupt drop in benefits that occurred. H.R. 1917 would provide for a gradual, 10-year phase in of the new benefit levels.

There is no reason for the Social Security Subcommittee to continue to delay; 145 of my colleagues have joined me in cosponsoring H.R. 1917, demonstrating the widespread support it enjoys in Congress. We have a responsibility to pass this legislation and give millions of Americans the Social Security benefits they earned and deserve.

McCORRISTIN CATHOLIC HIGH SCHOOL CELEBRATES 25 YEARS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SMITH of New Jersey. Mr. Speaker, I rise today to pay special tribute to the legacy and success of McCorristin Catholic High School located in Hamilton Township, NJ.

Now bearing the name of its founder and principal sponsor, McCorristin Catholic High School, this year, celebrates its 25th anniversary for providing outstanding academic, ethical, and spiritual guidance to thousands of central New Jersey's young adults. With a current enrollment of more than 1,100 students, Mr. Speaker, McCorristin holds a promise for added achievements and a continued influence on America's future leaders.

Mr. Speaker, in 1962, Msgr. Michael P. McCorristin, pastor of St. Anthony's Parish, cited a shortage in available Catholic education at the high school level in the greater Trenton area. A man of foresight, vision and action, Monsignor McCorristin conceived a plan that could complement and improve Catholic education for hundreds of area grade school students.

Within 6 months of proposing his idea, Monsignor McCorristin saw the opening of St. Anthony's High School on September 5, 1962. Still under partial construction, the school held regular classes, expanded its extracurricular activities, and established a working Parent-Teacher's Association. Through the earlier years, both faculty and student body grew in such tremendous proportions that a new wing was required before the school had even received its State approval.

Mr. Speaker, the 1964–65 school year marked the turning point for St. Anthony's High School. With its new wing completed, a copious enrollment in every grade, and a faculty of nearly 50 members, St. Anthony's High School received its State accreditation and conducted its first commencement on June 13, 1965.

Mr. Speaker, once underway, St. Anthony's High School earned a reputation for providing a well-rounded scholastic curriculum as well as important moral guidance and direction for its student body. As it attracted more and more students, the school acquired a chapel, well-equipped laboratories and yet another new wing. By the mid-1970's St. Anthony's had more than tripled its first year's enrollment and was fulfilling the Catholic education of high school students from 13 area parishes.

Mr. Speaker, by 1979, St. Anthony's School was a well-known, well-established, and well-attended educational institution of central New Jersey. And while the success of the school has been perpetuated through the support, prayers, and activities of thousands of area Catholics, it was Monsignor McCorristin's vision and leadership that enabled a proposal to become a reality. Recognizing Monsignor McCorristin's contributions in this regard, the Most Reverend George W. Ahr, former Bishop of Trenton, officially changed the name of the school to McCorristin Catholic High School in June 1979.

Today, Mr. Speaker, McCorristin Catholic High School continues to provide an excellent educational program that challenges our young people to test their knowledge, test their skills, and to test their imagination, while adhering to critical Judeo-Christian principles. And as they grapple with the complexities of adolescence and a rapidly changing society, the graduates of McCorristin Catholic High School are better prepared to become tomorrow's responsible, sensible leaders.

Mr. Speaker, I know my colleagues here in the House of Representatives will gladly join me in congratulating McCorristin Catholic High School on its 25-year record of achievements. In addition, I ask you to join me in wishing the best of success to its faculty, supporting parishioners and members of the past, present, and future student bodies.

FIREMEN HEROES TO PENNSYLVANIA FAMILY

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. CLINGER. Mr. Speaker, on August 15 of this year, 7-day-old Breanne Smith, the daughter of Brian and Lisa Smith of Falls Creek, PA, unexpectedly stopped breathing while she was being fed by her mother. There was an obstruction in her airway. In desperation, the parents got into the family car, along with another young daughter, and started toward the local hospital. She was turning bright red. The Smiths knew they were in a race against time, and fortunately they had the insight to stop at the Falls Creek Fire Department which was on the way.

Volunteer firemen Robert Snyder and Jim Kaschalk, Jr. had just returned from some routine drills. Snyder laid the baby girl down on the bumper of a fire truck and began performing cardiopulmonary resuscitation, or CPR as it is commonly called, while Kaschalk assisted him. After about a minute, the girl began to breathe. An ambulance arrived almost immediately and took her to the hosptial.

A little girl's life was saved that Saturday night because of the quick action of two volunteer firemen who had learned how to perform a life-saving technique. Snyder, who had recently saved another life, encourages everyone to learn CPR.

On behalf of all my colleagues in the House of Representatives, I would like to extend a heartfelt commendation to Robert Snyder and James M. Kaschalk, Jr. You are truly heroes.

ROBERT BORK AND THE RIGHTS OF MINORITIES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. CONYERS. Mr. Speaker, on Tuesday, September 29, I testified before the Senate Judiciary Committee on behalf of the Congressional Black Caucus in opposition to the nomination of Robert Bork to the Supreme Court. Also testifying along with me were Congressman DYMALLY, the chairman of the Black Caucus, and Congressman FAUNTROY.

I would like to take this opportunity to share my views on this extremely important issue with my colleagues on this side of the Capitol:

TESTIMONY OF CONGRESSMAN JOHN CONYERS

Mr. Chairman, Members of the Judiciary Committee: Thank you for allowing me to testify on the nomination of Judge Robert H. Bork to the United States Supreme Court. This may be *the* most important vote for the Senate in the 100th Congress.

For the past 22 years, I have served on the House Judiciary Committee working with you on the Senate Judiciary Committee to improve the laws of the land, to improve race relations, not just as a legislator but as a human being who knows the pain and suffering my people have sustained on the long road toward first class and equal citizenship.

Many of you worked with me to make a reality the proposal to honor the birthday of Dr. Martin Luther King, Jr. as a national holiday, a bill I first introduced four days after his tragic assassination. Seventeen years later that bill was signed into law following overwhelming congressional endorsement. I would once again like to express publicly my gratitude to those of you who helped to honor this great civil rights leader as one of our national heroes.

One of the legacies of Dr. King is the Congressional Black Caucus, on whose behalf I appear today. For we are truly the product of the civil rights movement which Dr. King founded. And we are living proof of the correctness and wisdom of his nonviolent philosophy and his unshakeable belief in our constitutional system.

It is in the spirit of Dr. King's memory and his commitment to constitutional government, to the same democratic rights for every single American, that we come before you and urge the Senate to reject the nomination before you. The Congressional Black Caucus represents not just the citizens of 23 congressional districts in twelve states. We have a large constitutency; we represent the aspirations of 20 million black Americans spread throughout this country.

The very fact that there are only 22 voting black members of the House of Representatives—constituting about 5 per cent of the House membership in a country in which black people are more than 10 per cent of the population—and that only one black has served in the United States Senate since Reconstruction, reminds us of the tenuous position of the black minority and explains the importance of the federal judiciary to our well being.

The very existence of a sizeable Black Caucus in the Congress of the United States today must be credited, in significant part, to the decisions and leadership of the Supreme Court, which was the first major institution in our land to respond to the pleas of black Americans for justice. At the time of its landmark decision in *Brown* v. *Board of Education* in 1954, the decision which finally allowed black people to take their rightful place as part of the people of the United States, there were only two black members of Congress. It was the Supreme Court which opened up the political process:

Baker v. *Carr*, requiring one-person-one-vote and thus forbidding rural-dominated legislatures from disfranchising black urban masses;

Harper v. *Virginia State Board of Election*, invalidating the poll tax;

Katzenbach v. *Morgan*, and *Oregon* v. *Mitchell*, upholding Congressional power under the 14th Amendment to prohibit literacy tests and other devices which had a discriminatory affect on black voting;

If not for those decisions, there would be no where near 23 black members of Congress today. So, in a very real sense, the Black Caucus is the progeny of the Supreme Court. The Court opened wide the door for black participation in the nation's political life and decision-making.

But if Robert Bork had had his way, none of these decisions would have occurred and there would be no Black Caucus.

Judge Bork condemned every one of these decisions. He called Harper "wrongly decided." He denied Congress had power under the 14th Amendment to legislate a discriminatory-affects test and said the Morgan and Mitchell decisions were "pernicious constitutional law." He derided *Baker* v. *Carr* as being without constitutional basis.

If Judge Bork had been sitting on the Supreme Court at the time those cases were decided, and if his views had prevailed, it is likely I would not be here today as a senior member of the House of Representatives.

That is what this nomination means to the Black Caucus and to black America.

The franchisement of blacks has, of course, impacted on the whole country. Twenty years ago the black vote and black voters could be safely ignored. That is surely no longer the case. In 1986, the black vote was decisive in at least six United States Senate contests, elections in which the winner prevailed only because of massive support from black voters.

This is how the Supreme Court's voting rights decisions have impacted on the political process and provided black Americans with a sense of empowerment they did not previously enjoy. And it is all the result of decisions which Judge Bork denounced and ridiculed. Black America cannot risk return to the bad old days.

It was the Supreme Court which first recognized, in *Brown* v. *Board of Education*, that the social compact known as the Constitution of the United States promised equal treatment under the laws to members of minority groups; and that it was the special responsibility of the judicial branch to enforce that promise even over the objections of electoral majorities. Indeed, 16 years before Brown, in the historic footnote 4 of the Carolene Products case, the Supreme Court observed that the courts had a special obligation under the Constitution to protect the rights of "discrete and insular minorities" from oppression by majoritarian institutions. At least for the 33 years since the Brown decision, the federal courts, under the guidance of the Supreme Court, have actively enforced that commitment to protect minority rights.

For black Americans and other minority groups, the enforcement of this constitutional promise is a matter of survival. In a democratic society, legislatures can be generally trusted to watch over the prerogatives of the majorities which elect them. Minorities enjoy no such assurance.

That is why protection of minority rights is uniquely the job of the judiciary. The recent balance of the United States Supreme Court, as reflected in votes dealing with minority rights, has left this principle of protection in a tenuous posture.

And that is what gives us such great concern about Judge Bork. His extensive body of writings, over a long career, both as an academic and as a judge, make clear that he does not accept the concept of a social compact in which the judicial branch is obliged to protect minorities from the tyranny of the majority. He is a strict majoritarian—at least where minority rights are concerned. And we are not reassured by anything different he said before this Committee at his job interview.

Judge Bork's view of the social compact is at direct odds with those of most of the Justices who have sat on the Supreme Court for at least the past 50 years. Over and over, starting with his now famous exegesis of "Neutral Principles" in the Indian Law Journal, Judge Bork has insisted that the only individual rights protected against the majority are those explicitly and unmistakably mentioned in the Constitution and Bill of Rights. That, in itself, is a chilling idea for those of us whose ancestors were enslaved at the time of the adoption of the original compact and whose assimilation into the policy of the United States under the Constitution required a bloody war and another hundred years of equivocation.

Equally disturbing is his apparent willingness to permit majorities to maintain exclusivity through the use of devices which restrict the right to vote. I refer again to his public criticism of legislation forbidding certain voter literacy tests which had been used as a pretext for discrimination and his denunciation of the Supreme Court decision forbidding poll taxes.

Whatever his real motivation, it is indisputable that Judge Bork opposed virtually every civil rights advance of this era.

In 1948, six years before *Brown* v. *Board of Education,* the Supreme Court decided the landmark case of *Shelley* v. *Kraemer.* A precursor of Brown, the case outlawed judicial enforcement of racially restrictive deed covenants. Bork's Indiana Law Journal article denounced the Shelley opinion, thus supporting the right of property owners to divide the country into racial ghettoes enforced by the police power. In the 40 years since Shelley, housing integration has advanced at a snail's pace. If Bork had had his way, it would have stood absolutely still.

When Congress, inspired by Supreme Court decisions like Shelley and Brown, as well as the early civil rights movement, passed the Civil Rights Act of 1964 prohibiting discrimination in public accommodations, Bork called it "unsurpassed ugliness." There is no record that he ever found racial segregation and discrimination itself so personally obnoxious or offensive.

And for the next 20 years, Mr. Bork took every opportunity to inveight against proposals to expand rights of racial equality and justice in our land, including his opposition to protection of the right to vote discussed earlier:

As Solicitor General, Bork opposed fair housing remedies for low income black citizens even though the federal government had participated in the discrimination. (*Hills* v. *Gautreaux,* 425 U.S. 284, 1976).

He found fault with the Supreme Court's decision in *Reitman* v. *Mulkey* (387 U.S. 369, 1967), which upheld the California Supreme Court decision invalidating the state's Proposition 14, a ballot measure that overturned California's open housing law.

In 1972, Bork was one of only two law professors to testify in support of the constitutionally of proposed legislation to drastically curtail school desegregation remedies that the Supreme Court had held necessary to cure violations of the 14th Amendment. And as Solicitor General, he continued to oppose school desgregation remedies before the Supreme Court.

Regarding affirmative action in medical school admissions, Bork sharply attacked the opinion of Justice Lewis Powell, the man he is nominated to succeed, in *University of California Regents* v. *Bakke* (438 U.S. 265, 1976), for suggesting that universities might take affirmative steps to train qualified blacks as doctors to meet the needs of the medically underrepresented black community. Justice Powell has cited that opinion as the one of which he is most proud.

Judge Bork has gone so far as to say that affirmative action offends "ideas of common justice." I have not seen in his writings a suggestion that he feels racial discrimination "offends common justice."

CONCLUSION

Judge Bork's public career has spanned the period in which our society has made its greatest strides in extending the promise of equal justice to all its citizens and eliminating many of the vestiges of a polarized past. Many Americans played heroic roles in this historic forward movement toward an integrated society. Millions of others who were once skeptical of the civil rights movement have now come to terms with it and endorsed its objectives. During this entire period, Robert Bork has been in effect an active and vocal heckler along every step of the forward march toward civil rights. And, from all that appears on the public record, he remains so to this day.

So, I, behalf of my colleagues in the Black Caucus, urge that you join with the forward wave of history, with all who are concerned with human rights progress in America, with justice and fairness, and turn back this nomination.

In a way, this debate is as much about ourselves as it is about Judge Bork. Not only is he being tested, but we are as well. Hopefully, we, not he, will point the way to our country's future. At a time when we pride ourselves on the advances brought about by the civil rights movement, his confirmation would represent a major step backward and would polarize and divide Americans as his nomination has already started to do.

To black Americans there is no more important vote than that of the nomination pending before you now. Thank you.

IN MEMORIAM: ALEXANDER SINGER

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mrs. MORELLA. Mr. Speaker—

Who died far away, before his time: But as a soldier, for his country—SIR HENRY NEWBOLT.

Mr. Speaker, we mourn the death of Capt. Alexander Singer, formerly of Chevy Chase, MD. Captain Singer died on September 15, his birthday. He was fatally wounded as he went to the aid of a fellow soldier who was shot in a firefight with Palestinian guerrillas in the Mount Hermon area of southern Lebanon. A third Israeli soldier also died in the clash.

A graduate of Bethesda-Chevy Chase High School and Cornell University, Alex made aliyah—that is, moved up to Israel—in 1984. He joined the army shortly afterward.

Those who knew him celebrated his zest for life and his deep commitment to the State of Israel. He entered into service for his home knowing full well the dangers involved. And he and his comrades died in defense of their beloved Israel; to paraphrase Lincoln, "who gave their lives that that nation might live."

On behalf of the Congress, I extend my deepest sympathies to Alex's parents, Max and Suzanne, and to the Singer family. A memorial service is planned for October 18 at the Israeli Embassy.

THE H.R. 2972 SUBSTITUTE BILL

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. RICHARDSON. Mr. Speaker, today, I am introducing the H.R. 2972 substitute bill. This bill is a fully integrated bill which incorporates not only the positive reforms introduced in the H.R. 1807—Mavroules/Conte substitute bill—and further enhances and improves the section 8(a) program, but it also recognizes the administrative failure of the section 8(a) program and the need for workable and meaningful reform to address these programmatic failures.

The H.R. 2972 substitute bill offers a full and complete program of competition within the section 8(a) program as one important reform and enhancement of the program. The Small Business Administration, in cooperation with procuring agencies, will be requested to identify procurements at the beginning of each fiscal year suitable for competition among 8(a) firms after their fifth year of participation in the program. These procurements can be supplemented by the SBA throughout the year. Additional contracts which 8(a) concerns are able to identify themselves will be procured using the current system of 8(a) procurement.

We keep in mind the fact that the section 8(a) program has not been effective in realizing the legislative goal of increasing minority small business opportunities and ownership. Twenty years after institution of the section 8(a) program, less than 2 percent of the Federal procurement budget is contracted with minority small businesses.

The regulatory thicket created by years of Small Business Administration regulation of the section 8(a) program has not only substantially contributed to this failure of the program, but is also a primary cause. Too many regulations have been promulgated within the administration which impede the growth and development of minority small businesses. This excessive regulatory environment cannot be continued without detriment to the minority small business community and the free enterprise system.

Simply stated, the programmatic failures of the section 8(a) program must be addressed. I believe the H.R. 2972 substitute bill is the vehicle for ensuring that necessary reform, enhancement, and improvement of the program is accomplished. I urge you to join me and the cosponsors of the substitute bill in supporting the H.R. 2972 substitute bill to ensure that the legislative goals of enhanced minority small business opportunities and ownership in the free enterprise systems, which originally inspired Congress 20 years ago, are met.

NOTCH SITUATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. ROE. Mr. Speaker, I wish to thank my colleague from New Jersey for organizing this opportunity for those of us who feel so strongly about this issue. It is an issue which affects almost 6½ million retired workers born between 1917 and 1921, over 230,000 of which reside in my State of New Jersey. Think about it, 6½ million people represented by legislation supported by over 170 Members of this House of Representatives and for 10 years virtually no action has been taken on the matter.

It has been a year and a half since the GAO was asked to issue a report on the notch situation and there is not even the mention of a likely date for its release. It is even questionable that when the report is released whether or not hearings will be held on the subject. Something is fundamentally wrong when such a large number of individuals are ignored and shut out of the democratic process.

These are conscientious people who worked hard all their lives, through some of the most difficult times this country has ever faced, four wars, depression and recession. Now they have organized a national grassroots campaign to restore what they have unfairly been deprived of, something they have paid for with their many years of labor. Mr. Speaker they deserve to be heard.

A TRIBUTE TO JACK CANN

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SHUMWAY. Mr. Speaker, at this time I would like to ask that my colleagues join with me in paying tribute to an extraordinary man who has given so much of himself to his community. Jack Cann, of El Dorado County, CA, will be honored for his exemplary record of dedication at a special "Community Social" in Georgetown, CA, this coming Sunday.

Virtually no area of community living has remained untouched by Jack and his able leadership. For 13 years, he has served as a member of the El Dorado Board of Education, serving under three supervisors. His efforts were instrumental in accomplishing the purchase of 27 acres for the new Board of Education Building.

Jack also served for 17 years as a volunteer fireman; he was Fireman of the Year in 1985, and was a member of the Georgetown Fire District for 5 years. In that latter capacity, Jack was active in Ambulance Joint Powers Service Area 7.

Jack's fundraising talents know no bounds. He has successfully raised needed money for the North Side Volunteer Fire Department, the Golden Sierra High School's Turf Club, and numerous high school scholarships. He has served as president of the Georgetown Divide Association, and should take well-deserved pride in the fact that Georgetown Park doubled in size and was turned over to the County Recreation Department. He has been a member of the Sugar Loaf Foundation, and president of Georgetown Rotary, while also serving as chairman for procurement of the amphitheater for that organization.

A Navy veteran who served in the Korean war, Jack has been a local businessman in the general insurance field for 18 years. He and his wife of 33 years, Mary Lou, have four children. He has extensive experience in city government, as well as business, civic affairs, education, and local politics.

Few individuals can match Jack Cann's selfless record of involvement, achievement, leadership, and community giving. I am pleased to join with so many of his friends, colleagues, and neighbors in saluting him, and I know that my colleagues will be equally pleased to participate in this manner.

FAIRNESS FOR ADOPTING FAMILIES ACT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. LEHMAN of Florida. Mr. Speaker, I am today introducing along with my colleagues Congressmen FRANK WOLF, CHARLES RANGEL, and Congresswoman PATRICIA SCHROEDER the Fairness for Adopting Families Act. This legislation would amend the Internal Revenue Code of 1986 to provide a deduction for adoption expenses.

I believe that we must take a special interest in representing our Nation's children. We sometimes forget that there are many children who do not live in permanent homes with loving, nurturing parents. Just as each child has a right to a home, I believe that people who are eager to become parents should not be barred only due to the fact that they cannot afford the high costs associated with adoption. For those who choose this option, and it is a wonderful way to form families, we should not be placing arbitrary barriers in their path.

We have not done very much to encourage the development of healthy families, despite a lot of lip service to this ideal. Children are still languishing in the foster care system much too long, their best interests being lost in the legal tangle. Many prospective parents are ready and able to parent older, hard-to-place, and handicapped children as well as infants.

I believe that this legislation, when enacted, will alleviate much suffering by American taxpayers who desperately want to parent but who simply do not have the savings or income necessary to meet the increasing costs of adoption. Let us help children and would-be parents by allowing a little relief that is already being allowed to taxpayers who deduct medical expenses for childbirth. It would also help families who are, more and more, choosing to expand their own families through adoption.

Tax reform enacted during the last Congress leaves this issue to the States. Yet research has shown that most States have neither the funds nor the interest to initiate adoption assistance programs. If we want to improve children's lives now, we have very little time to waste.

This legislation being introduced in the House today with a companion bill in the Senate by Senators ORRIN HATCH and PAUL SIMON would provide a tax deduction for reasonable and necessary adoption fees which are directly related to the legal adoption of a child by a taxpayer. These fees include agency fees, court costs, attorney fees and other expenses directly related to the legal adoption of a child. It does not allow expenses incurred in the adoption by an individual of the spouse's child since such a child would already be a member of a family. The amount allowable shall not exceed $5,000 and in the case of an international adoption, $7,000. The deduction would not be allowed for anyone whose gross income exceeds $60,000. And to encourage more companies to join those who already provide employee reimbursement for adoption expenses, the bill allows for a business expenses.

One of the primary barriers to adoption for the mainstream of American citizens who wish to adopt is the cost associated with adoption. I know from the many letters I have received over the years and from my long involvement in adoption issues that the expenses prohibit many deserving people from adopting infants or older children. It is a myth that those who adopt can afford to do so. And it is unfair for only those who can afford to adopt to become parents. It is unfair to the children who I believe have a right to be nurtured in loving homes. And it is shortsighted if we do not help prospective adoptive parents to realize their dream. All of our children are our future, and we have a responsibility as legislators to represent their needs.

It is time for adoption as a mode of family formation to receive more support, and I urge my colleagues to cosponsor this legislation and work for its enactment.

THE SITUATION OF YEVGENY YAKIR AND HIS FAMILY

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. GRADISON. Mr. Speaker, Yevgeny Yakir, his wife Rima, and their son, Alexander, have been waiting for the Soviet Government to grant them permission to emigrate to Israel since 1973. However, the Soviet Government repeatedly denied their requests.

In April 1979, I had the opportunity to meet the Yakir's personally when I visited the Soviet Union. As a dinner guest in their home, I was privileged to witness their courage and determination despite the years of hardship they have endured because of the Soviet Government's policies.

On September 24, 1987, the official Tass news agency reported that a newly formed government commission, established to review emigration applications that have been rejected by the Soviet Government, has reversed years of rulings against the Yakirs. The commission has recommended that the Yakir family be allowed to leave the Soviet Union.

I am especially pleased by this report and I hope that the Yakir family will be allowed finally to realize their dream of emigration to Israel as soon as possible. I only regret that it took so long for the Soviet Government to grant their request.

The Cincinnati Jewish Community has worked tirelessly on behalf of the Yakir family and I have no doubt that their efforts have prompted the Soviet Government to act favorably toward Yevgeny and his family. I am gratified that the Soviet Government has taken steps to resolve numerous refusenik cases over the past few months and that many refuseniks have already been allowed to emigrate.

Nevertheless, it is important to recognize that thousands of others are still waiting to leave the Soviet Union and that hundreds of thousands more are still afraid to apply for permission to emigrate. I sincerely hope that the favorable resolution of the Yakir case heralds a new beginning for Soviet Jewry.

A TRIBUTE TO REV. HAROLD McKINLEY WINGO

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. McEWEN. Mr. Speaker, I rise today to pay tribute to the Reverend Harold McKinley Wingo on the anniversary of his 55th year in the ministry this October 4.

Reverend Wingo is a charter member of the NAACP, the Eastern Union Missionary Baptist Association, the Ohio Baptist General Convention, the Masonic Lodge, as well as the Scioto Leadership Conference. In addition, the reverend has been pastor of the Zion Baptist Church for 39 years, and has served faithfully in the U.S. Postal Service for 50 years.

Mr. Speaker, his many years of pastoral duty in the ministry, postal service, and the Ross County community have not gone unrecognized. Reverend Wingo has been named Outstanding Postal Service Star Route Carrier, awarded the NAACP Community Service Award, and has received an honorary doctorate from Richmond Theological Seminary. He has also served as president of the Ross County Black Minister's Conference.

Once again, Mr. Speaker, I want to extend my warmest and sincere congratulations to Reverend Wingo for his outstanding community and pastoral service, and commend his accomplishments to the attention of my colleagues. May God bless him.

PENNSYLVANIA—BIRTHPLACE OF LIBERTY AND "LIBERTY"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. GAYDOS. Mr. Speaker, on Thursday, September 17, 1987, the eyes of the Nation, indeed the world, focused on the city of Philadelphia, PA, birthplace of our country's liberty. The occasion, of course, was the official national observance of the 200th anniversary of the signing of the Constitution of the United States. Americans, from coast to coast, celebrated the event in grand style.

But, 10 days earlier, on the side of the State, a group of Americans held their own celebration commemorating "Liberty". Their ceremonies were not quite so prestigious nor as widespread as Philadelphia's but they were just as significant in their own right. These Americans were celebrating the 75th anniversary of their hometown—"Liberty Borough, PA."

It was in 1912 that some resident of a certain borough in southwest Pennsylvania rebelled against what they believed was unfair taxation by the local government These citizens were angered that they were not sharing in improvements undertaken by the borough, although their tax dollars were being used to help underwrite the costs. So, like the early colonialists, they launched a fight for freedom—this time in the courts—and, like the early colonialists, they won!

On September 7, 1912, the Quarter Session Court of Allegheny County formally approved the creation of a new borough for these citizens. They named it, appropriately, "Liberty."

At the time, the new municipality was the smallest borough in the State. It had a population of only 100. Its school district, created at the same time and comprised of the legal limits of the new borough, numbered just 82 students in Grades 1 thru 8. High school students had to finish their education elsewhere.

But, like the United States, Liberty Borough grew and prospered. Today, it has a population of more than 3,000. Its school district now is part of the South Allegheny Joint School District with a student population of more than 1,800.

Liberty is not a sprawling metropolis like Philadelphia. But, it is a thriving community. It has excellent educational and recreational programs, outstanding police and fire protection and a number of stores, shops and businesses that make it a truly fine place to raise a family in a good environment.

Mr. Speaker, if I sound biased in my remarks it is with good reason. I am proud of Liberty Borough. I live there and raised a family there. And, I consider it a personal privilege and high honor as a Member of the Congress of the United States to extend, on behalf of my colleagues in Washington, DC, congratulations to my friends, neighbors and the elected officials of Liberty Borough on the occasion of our 75th anniversary.

FARM CREDIT LEGISLATION—H.R. 3030

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. STANGELAND. Mr. Speaker, I would like to express my support for H.R. 3030 and the preliminary work which has been done on this bill. Beginning October 6, the work will continue and I look forward to the debate as well as the opportunity to add some important amendments to the legislation.

Among the provisions in the bill are important changes in lending practices which are intended to benefit the farmer and provide greater protection against unfair foreclosures. Other provisions will bring much needed help to a system which has been troubled by years of falling land and commodity prices. Approximately $4.8 billion has been lost since 1985 and the remaining $1.2 billion of usable reserves is not expected to be enough to cover the estimated $3 billion of losses that have been predicted for the next 3 years. In addition, the Farm Credit Corporation of America is predicting that total capital of at least two Federal land banks will have been depleted by the end of December and, in one instance, perhaps as early as the end of October. Also, it is expected that at least three Federal land banks will have collateral deficiencies before the end of the year and one, or possibly more districts, will be collateral deficient by December 31, 1987.

The Credit Subcommittee has held extensive hearings from March all the way into June of this year where testimony was heard from over 100 witnesses. I was present at many of these hearings and took part in them. Furthermore, I was glad to see that my concerns about protection of borrowers stock were incorporated into the final bill.

When the House continues its work on H.R. 3030, I will offer two amendments to the section dealing with the secondary market. One amendment adds the requirement that an agricultural mortgage marketing facility have acceptable managerial ability to carry out its functions. The other makes clear that the Federal Agricultural Mortgage Corporation must use as much of its fee income as necessary to build a reserve against losses.

These amendments are very straightforward and are intended to insure that the secondary market provisions function in an efficient and equitable manner. H.R. 3030 is a very complex and important piece of legislation and as October 6 approaches, I look forward to participating in the debate and adding my amendments to the final bill.

A SALUTE TO ROBERT W. BERG

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mr. Robert W. Berg. On October 25, 1987, Mr. Berg will be recognized for his 30 years of involvement with the Cub Scouts and the Boy Scouts. He will be honored by his colleagues and the Cub Scouts of Pack 790 of Frackville, PA, where he has served as Cubmaster since 1970.

Mr. Berg has had a distinguished career in Scouting. As a Scout himself, he received Scouting's highest honors, including the Eagle Scout award and selection to the Order of the Arrow. He also had the honor of serving in the color guard for then-President Harry Truman at the second national jamboree held in Valley Forge in 1950.

Mr. Berg continued his commitment to Scouting as the years went by. He became Cubmaster of Pack 790 in 1970, leading the pack to numerous awards. He was also instrumental in arranging events for Cub Scouts throughout the Broad Mountain District. These events included the Pinewood Derby and the Broad Mountain Olympics. In recognition of his outstanding efforts, Mr. Berg was awarded the Scouter's Key and the Broad Mountain District Award of Merit. In 1980, he was honored with Scouting's highest tribute, the Silver Beaver Award.

Bob Berg can look back with pride on his many outstanding achievements in Scouting. I know that my colleagues will join me in honoring Mr. Berg for his 30 years of dedicated service and in wishing him the best of luck and continued good fortune in the future.

A CONGRESSIONAL SALUTE TO DR. CAL FARMER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. ANDERSON. Mr. Speaker, it is my honor to rise today to pay tribute to Dr. Cal Farmer. Dr. Farmer will be honored at a luncheon at the Queen Mary, October 29, 1987.

Cal Farmer was born and raised in Kansas. His determination, integrity, and commitment to education propelled him to do graudate work at California State University, Long Beach, and UCLA and he received his master of science degree from Kansas State University. Cal's untiring, persistent nature compels him to undertake many projects and to support organizations directed toward the betterment of his community.

Cal has compiled a long list of community service achievements. He serves on the board of directors for the Better Business Bureau for Los Angeles and Orange Counties, the Industry Education Council of California, the Downtown Long Beach Associates, California Association of Vocational Education [CAVE], and is a past member of the board of directors of the Long Beach Area Chamber of Commerce. Cal serves as vice president of the Industry Education Council of California, executive director of the Long Beach Council; charter member of the Committee 300 Board of Governors; Queen Mary Club; founding member of the International Business Association, and a member of the Downtown Long Beach Lions Club. He is also the past president of the Navy League of Long Beach, Harbor Employer Advisory Group and is a Port Ambassador.

Along with Cal's long list of impressive accomplishments, he has been recognized by his friends and colleagues as an outstanding citizen. As a past president of the National Association of Distributive Education Teachers [NADET], he was awarded the only honorary life membership ever issued by NADET in California. He has also been awarded an honorary life membership in the Distributive Education Clubs of America [DECA] by the California Association, and in 1971, Cal was honored by the city of Long Beach as the "Lobbyist for Youth."

Mr. Speaker, as you can see, Dr. Cal Farmer has done so much to serve his community, and has helped make it a special place in which to live and work. My wife, Lee, joins me in congratulating Cal on all his great achievements. We wish him and his wife, Nancy, and their two children, Paula and Jon, happiness and all the best in the years ahead.

SKELTON HONORS WELLINGTON

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. SKELTON. Mr. Speaker, I wish to tell my fellow Members a little about the proud history of Wellington, MO. This year, 1987, is the year of Wellington's sesquicentennial celebration. Wellington is located on the Missouri River bluff, at the junction of Highways 224 and 131, and commands an excellent view of the river and the fertile countryside.

In 1819, settlers were attracted to the area because the deep fertile soil opened farms between the Sni Creek, near the present site of Wellington. A tanning yard was established on the brook to the south of Wellington in 1830. Today, Tanyard Acres gets its name from this early venture. Jacob and Peter Wolfe built a storehouse on the banks of the Missouri River and sold wood to the passing steamboats. This became known as Wolfe's Landing and is located at the north end of Cherry Street.

Settlers continued to come into the area and in May 1837, Jacob Wolfe and Isaac Bledsoe went before the county court to charter a town on the site known as Tyro. On August 23, 1837, Tyro was discarded and the plat created for the town named Wellington. Soon after, historically minded persons renamed the town of Lisbon 5 miles to the west, Napoleon. Following this, the resort area of Helm's Lake located between Wellington and Napoleon was renamed Waterloo.

The first church, a union church of four denominations, including the Methodists, was built in 1840. The first school was built on Tanyard Branch in 1843.

The years before and during the Civil War were ones of much unrest and strife for the area. Many raids and battles occurred in the town and surrounding area. In the 1870's, the first coal mine was opened and the railroad through Wellington was completed in 1876. The 1880's saw Germans of the Evangelical faith, attracted by the area's fertile soil, begin to settle in the vicinity. In a short time, Wellington became the center of German farming community.

The Missouri River, always a major force affecting the destiny and development of the community, caused much havoc when flooding. In the flood of 1918 the river changed its course northward leaving Wellington no longer on the river bank.

Today the town of Wellington has four active churches, the Wellington-Napoleon school system, a number of businesses including a bank, its own fire and police departments, ambulance service, medical clinic, city hall, and a city park located on the town square. There is a Lion's Club park under construction on the west edge of town, a post office which serves over 800 people. There is at least one home on the National Register, with several others dating back to the late 1800's.

A TRIBUTE TO BEUENIA BROWN

HON. JOSEPH J. DioGUARDI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DIOGUARDI. Mr. Speaker, I rise today in recognition of Beuenia Brown, a distinguished constituent, for her dedicated community service and devotion to mankind.

Beuenia's achievements and accomplishments earned her the honor of being conferred a past matron of the Maybelle Chapter No. 18, Order of Eastern Star, Prince Hall Affiliation. Beuenia served in this capacity with "distinction and pride" because she unselfishly gave of herself without any request for, or receipt of, monetary compensation. Her success is due to the diversified services rendered to her chapter, the city of New Rochelle, the County of Westchester, and the State of New York.

Beuenia is an involved individual for all worthy causes and is inspired by her religious devotion. She is a communicant of the Shiloh Baptist Church of New Rochelle where she has served for a decade as chairperson of the pastoral committee. Committed to youth activities and wishing to share her knowledge, Beuenia was also an active member of the teaching staff at the Shiloh Baptist Sunday School for many years and also served as treasurer.

On the local level, Beuenia's services include holding the title of past president of the F. Willia Davis Women's Club, president of the Beauticians Unit No. 35 of New Rochelle, NY, and youth supervisor of the F. Willia Davis League of Girls and Boys. On a broader level, Beuenia is on the executive board of the National Association for the Advancement of Colored People, presently serving as membership chairperson, is the first vice president of the Empire State Federation of Women's Club, Inc., is on the board of the State Beauty Culturist Association and served on the executive board of the New York Institute for the Education of the Blind.

Despite her tireless efforts and unyielding involvement in an array of activities, Beuenia is devoted and caring to her husband, Kenneth, and to their daughter, Sharon Lynn.

Mr. Speaker, please join me in paying tribute today to Beuenia Brown. I am proud to know Beuenia Brown and have her in my district.

THE FINANCIAL SERVICES HOLDING COMPANY ACT: H.R. 3360

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. DREIER of California. Mr. Speaker, Congress recently imposed an ill-conceived moratorium on banking institutions from engaging in certain securities, insurance, and real estate activities. However, it did so with the understanding that both the House and

Senate Banking Committees would move expeditiously on legislation to restructure our financial services industry. The moratorium, we were told, was needed to "keep our feet to the fire" so to speak—to freeze the balance of competition until Congress can reshape the Nation's outdated banking laws.

Well, that moratorium was enacted over 2 months ago, and only 6 months remain before it expires. While the banking industry continues to operate under a legal structure that is dangerously inadequate, no action has been taken by the House Banking Committee, and none is scheduled. Now there is talk of extending the moratorium—a recognition that Congress is incapable of coming to a consensus on financial restructuring.

In an effort to move forward in the debate on the appropriate legal and regulatory structure of banking institutions and their affiliates, I introduced the Financial Services Holding Company Act, H.R. 3360. This proposal, developed by the Association of Bank Holding Co's., would authorize the creation of "Financial Services Holding Companies."

Under this proposal, if a nonbank institution chooses to own a full service commercial bank, or a bank holding company seeks full scale entry into the securities, real estate, or insurance fields, the institutions could do so by forming a financial services holding company. Existing institutions and the Federal and State laws that govern them would remain intact.

The Financial Services Holding Company would be a corporation, chartered under State law, owning a bank holding company and one or more other companies that are financial in nature. The Bank Holding Company Act and the present regulatory system would apply to bank holding companies with the Financial Services Holding Company parent. There would be appropriate amendments to insulate the bank holding company and its insured subsidiaries from the Financial Services Holding Company.

I am introducing this bill because it is a step toward a better capitalized and more competitive banking system. This does not mean, however, that Congress should not consider other innovative, comprehensive financial restructuring plans.

Recently, a number of proposals for financial reform have emerged which are worth congressional consideration. My colleague from Delaware, Mr. CARPER, has introduced an innovative proposal that builds on State initiatives. FDIC Chairman William Seidman recently announced the release of an FDIC study on financial restructuring which calls for revision of restrictions on bank powers, ownership and affiliates, while strengthening the safety and soundness of banks at the same time. I am also in the process of developing another alternative approach which provides new products and services and creates consumer banks.

There is one common issue that will surface during discussion of these various proposals. That is the separation of banking and commerce. I recognize that the bill I am introducing today does not provide for a completely level playing field by allowing commercial firms to acquire banks. However, I believe the separation of banking and commerce should be seriously reevalutated by Congress to determine whether it is blocking the way to a more consumer oriented, competitive, and safe banking system.

I also recognize that consideration of the Financial Services Holding Company concept is a long-term proposition. But I believe its introduction is helpful in the short run because it embraces several basic principles which should be included in any comprehensive restructuring Congress may enact. It provides for functional regulation, parity of treatment among financial firms, separately capitalized subsidiaries, and restrictions on transactions among affiliates. Furthermore, there is no reason why these same principles cannot be applied in the interim to any legislation we may consider as short-run responses to the problems of financial institution structure.

The Financial Services Holding Company Act has the support of the American Bankers Association, the Bank Capital Markets Association and the Consumer Bankers Association. It is an approach designed to combine safety and soundness on behalf of customers of insured depository institutions with a degree of regulatory and supervisory flexibility needed for financial institutions to compete in today's ever changing financial environment.

I include herewith a more detailed explanation of the Financial Services Holding Company Act. I urge my colleagues to carefully consider the merits of H.R. 3360 and join me in cosponsoring this innovative approach to restructuring the financial services industry.

FEATURES OF THE FINANCIAL SERVICES HOLDING COMPANY ACT

The bill creates a "Financial Service Holding Company" (FSHC) whereby corporations "financial in nature" can voluntarily join together in a common enterprise under the FSHC umbrella. Existing institutions, such as banks and bank holding companies, S&L's and S&L holding companies, insurance companies, securities firms, and so on would remain intact, and so would the laws and regulations affecting them—except where changes are needed to allow the FSHC to operate. Change would occur when the management of a non-bank financial firm decides to own a full-service commercial bank, or the management of a full-service commercial banking firm decides to enter the insurance, securities or real estate fields.

The FSHC uses the bank holding company as the basic building block, rather than a bank, for two reasons. First, the bank holding company format is the dominant type of institution in banking. At the end of 1986, there were 6,465 bank holding companies, and they controlled 9,409 commercial banks out of the 14,000 in operation today. Second, the regulatory and supervisory mechanisms affecting bank holding companies and their bank subsidiaries are in place and have proven to be effective. Safety and soundness must be at the heart of our consideration of any financial structure initiatives, and it makes sense to me to preserve a safety net that, by and large, has functioned well to protect America's consumers and businesses.

The FSHC would be certified to operate by the Federal Reserve Board, and the subsidiary companies of the FSHC would be regulated by their present regulators—federal or state. This approach—"functional regulation"—would apply to each subsidiary of the FSHC. For example, as I have indicated, bank holding companies would be regulated and supervised by the Federal Reserve Board, their subsidiary banks by the Comptroller of the Currency, state bank authorities, and the Federal Deposit Insurance Corporation, as appropriate. S&L's would be regulated and supervised by the Federal Home Loan Bank Board and state thrift supervisors; insurance companies by the state insurance commissioners; and investment companies and securities firms by the Securities and Exchange Commission and state securities commissioners.

The role of the Federal Reserve Board with regard to the FSHC and its non-bank holding company subsidiaries would be largely ministerial in nature. For example, the Federal Reserve Board would review notices requesting certification or to acquire additional "financial in nature" firms, but the proposed actions could go ahead unless the Board chose to notify the applicant, within 30 days, that the proposal does not meet the statutory standards for certification. These provisions aim to achieve a balance between a proper degree of supervision and regulation and the flexibility that financial institutions must have to compete.

After the primary concern for safety and soundness, a second key feature of this proposal is its voluntary aspect. A bank holding company in operation today could continue as is, offering the limited insurance, securities and real estate products now permitted under Regulation "Y" and the Bank Holding Company Act. Only if the bank holding company's management wished to engage in a full range of insurance, securities, or real estate services would it become necessary to organize an FSHC. Similarly, if a non-bank financial firm did not wish to become affiliated with a full-service bank, then it would not have to form an FSHC. This would only become necessary if the management decided the firm should affiliate with a bank.

In addition, the bill incorporates provisions that permit banks to engage directly in low-risk activities such as insurance, real estate, or securities brokerage. These provisions are intended to give smaller banks some of the marketing flexibility which will be accorded bank holding companies under the FSHC structure without requiring them to either become bank holding companies or to form an "upstream" financial services holding company.

A third key feature is the promise this bill holds out for consumers—in terms of greater efficiencies, convenience, and innovation—because it will tend to increase competition. Aggressive managements that seek to serve the American public in better ways will find the FSHC a versatile vehicle to carry out their plans. New blood will be injected into the banking, securities, insurance and real estate businesses; this added competition will produce more efficient and cheaper ways of delivering products and services that have not been available before. All of this constructive ferment will benefit consumers, a consideration which should be at the core of congressional policy.

THE FOREIGN INCOME TAX EQUITY ACT OF 1987

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 30, 1987

Mr. FRENZEL. Mr. Speaker, the provisions of the Senate and House versions of the Tax Reform Act of 1986 (Public Law 99-514) were reconciled under severe budgetary and time pressures.

As a result of those pressures, inequities in the taxation of foreign source income resulted. Several provisions of the 1986 act caused similar factual situations to be subject to differing tax treatment. The act also failed to correct areas of asymmetrical tax treatment that were exacerbated by the 1986 act's provisions. Finally, the act violates long-standing sound tax policy specifically designed to deal fairly with taxing foreign source income.

The Foreign Income Tax Equity Act of 1986 would correct these inequities, provide symmetry and reestablish sound principles consistent with past tax policy. The Equity Act would preclude double taxation by removing the limitation on foreign tax credits in the calculation of the alternative minimum tax liability. Further, double taxation on foreign source income would be lessened by requiring interest paid by foreign affiliates, as well as the assets of those affiliates, to be taken into account in allocating interest of the domestic consolidated group for foreign tax credit purposes.

Gains associated with the sale of a foreign affiliate would be classified, for separate foreign tax credit limitation purposes, in accordance with the underlying earnings of that affiliate. Gains from the sale of U.S. affiliated and non-U.S. affiliates would be sourced in accordance with consistent rules; effective control would be recognized when more than 50 percent ownership was held consistent with other historical provisions of the code. Pre-1987 accumulated subpart F deficits would be carried forward to reduce subsequent subpart F income consistent with past precedent. The open issue on allocation of domestic research and development expenditures would be resolved for future years by allocating at least 67 percent of such domestic expense to the U.S. operations. Domestic losses which reduce foreign source income and foreign tax credits would be recaptured and subsequent U.S. source income would be re-sourced as foreign source income so as to avoid double taxation and provide symmetry with the tax treatment of overall foreign losses in the calculation of the limitation on the foreign tax credit.

I ask Congress to join me in the support and passage of this bill which will not only provide equity, symmetry and sound tax policy, but will also tend to minimize the otherwise unfair U.S. tax burden cast upon U.S. business operating abroad in competition with foreign owned companies. The adoption of this bill would serve as a supplement to, and, be consistent with the principle objectives which gave rise to the trade bill which is now in conference.

H.R. 3365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF THE INTERNAL REVENUE CODE OF 1986.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. ALTERNATIVE MINIMUM TAX FOREIGN TAX CREDIT.

Paragraph (2) of section 59(a) is deleted.

SEC. 3. RULES FOR ALLOCATING INTEREST, ETC., TO FOREIGN SOURCE INCOME

Subsection (e) of section 864 (relating to the allocation of interest expense and other expenses) is amended to read as follows:

"(e) Rules for Allocating Interest, etc.—

"(1) Treatment of affiliated groups.—For purposes of section 904, except as otherwise provided in this section, the taxable income of an affiliated group from sources outside the United States shall be determined by allocating and apportioning interest expense to such income in an amount equal to—

"(A) the total interest expense of the expanded affiliated group which includes such affiliated group, multiplied by

"(B) a percentage equal to the ratio which the foreign assets of the expanded affiliated group bears to all assets of the expanded affiliated group.

"(2) Treatment of foreign subsidiary interest expense.—Interest expense allocated to foreign source income under the rules of paragraph (1) shall be reduced (but not below zero) by any interest expense incurred by any foreign corporation in the expanded affiliated group to the extent such interest would have been allocated and apportioned to foreign source income of such corporation if this subsection were applied separately to all foreign corporations in the expanded affiliated group as if such corporations were an affiliated group. A similar reduction shall be made in the case of a corporation described in section 1504(b)(4).

"(3) Gross income method may not be used for interest.—All allocations and apportionments of interest expense shall be made on the basis of assets rather than gross income.

"(4) Tax-exempt assets not taken into account.—For purposes of allocating and apportioning any deductible expense, any tax-exempt asset (and any income from such an asset) shall not be taken into account. A similar rule shall apply in the case of any dividend (other than a qualifying dividend as defined in section 243(b)) for which a deduction is allowable under section 243 or 245(a) and any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined).

"(5) Basis of stock in certain corporations adjusted for earnings and profits changes.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any asset which is stock in a corporation which is not included in the expanded affiliated group and in which members of the expended affiliated group own 10 percent or more of the total combined voting power of all classes of stock entitled to vote in such corporation shall be—

"(A) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulate during the period the taxpayer held such stock, or

"(B) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(6) Exception for interest expense of certain domestic subsidiaries.—

"(A) In General.—A domestic corporation which is a member of an affiliated group and which incurs interest expense with respect to qualified indebtedness (as defined in subparagraph (C) may elect to allocate and apportion interest expense incurred with respect to such qualified indebtedness under the rules of paragraphs (1) through (5) as if such corporation were the common parent corporation of an expanded affiliated group consisting of such domestic corporation and any corporation at a lower level in the chain of corporations which includes such domestic corporation.

"(B) Equalization rule.—All interest expense of the affiliated group not allocable to qualified indebtedness shall be allocated to foreign source income to the extent such expense does not exceed the amount of all interest expense which, but for this paragraph, would have been so allocated.

"(C) Qualified indebtedness.—For purposes of this paragraph, qualified indebtedness means any borrowing from any unrelated party which is not guaranteed (or in any other way facilitated) by any corporation within the same affiliated group as the borrower (other than a corporation at a lower level in the chain of includible corporations).

"(D) Effect of certain transactions on qualified indebtedness.—To the extent a domestic corporation allocating interest expense under the rules of subparagraph (A)-

"(i) distributes dividends or makes other distributions with respect to its stock in any year to any member of its affiliated group in excess of the greater of—

"(I) its average annual dividend (expressed as a percentage of current earnings and profits) during the 5-taxable year period ending with the taxable year preceding the taxable year, or

"(II) 25 percent of its average annual earnings and profits for such 5-taxable year period, or

"(ii) deals with any related party in any manner not clearly reflecting the income of the corporation,

an amount of qualified indebtedness equal to the excess distribution or the understatement or overstatement of income, as the case may be, shall be recharacterized for purposes of this paragraph as nonqualified indebtedness. If a corporation has not been in existence for 5 taxable years, this paragraph shall be applied with respect to the period it was in existence.

"(E) Effect of Election on Group.—If 1 member of an affiliated group makes an election under subparagraph (a), all members of such group shall be treated as having made such election.

"(7) Allocation of Other Expenses.—Except as otherwise provided in regulations, expenses (other than interest and research and development expenses) which are not directly allocable to any specific income producing activity shall be allocated as if all members of the affiliated group were a single corporation.

"(8) Affiliated Group; Expanded Affiliated Group.—For purposes of this section—

"(A) Affiliated Group.—The term 'affiliated group' has the meaning given such term by section 1504(a).

"(B) Expanded Affiliated Group.—The term 'expanded affiliated group' means an affiliated group determined without regard to paragraph (3) or (4) of section 1504(b). The requirements of section 1504(a)(2) shall be determined by substituting '50 percent' for '80 percent' each place it appears.

"(9) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(A) providing for the resourcing of income of any member of an affiliated group or modifications to the consolidated return regulations to the extent such resourcing or modification is necessary to carry out the purposes of this section,

"(B) providing for the proper treatment of related party indebtedness for allocation and apportionment of expense under this section,

"(C) preventing a domestic corporation allocating interest expense under the rules of paragraph (6)(A) from making the economic benefit of qualified indebtedness available to other members of the expanded affiliated group,

"(D) providing for the apportionment of expense allocated to foreign source income among the members of the affiliated group and various categories of foreign source income described in section 904(d)(1), and

"(E) providing for direct allocation of interest expense incurred to carry out an integrated financial transaction to any interest (or interest-type income) derived from such transaction."

SEC. 4. DETERMINATION OF SOURCE IN CASE OF SALES OF PERSONAL PROPERTY.

(a) Paragraph (1) of section 865(f) is amended to delete: "which is a foreign corporation".

(b) Paragraph (4) of section 865(h) is amended to read as follows:

"(4) Affiliate.—The term "affiliate" means a member of the same affiliated group (within the meaning of section 1504(a) without regard to section 1504(b)). The requirements of section 1504(a)(2) shall be determined by substituting '50 percent' for '80 percent' each place it appears."

SEC. 5. SEPARATE APPLICATION OF SECTION 904 WITH RESPECT TO CERTAIN CATEGORIES OF INCOME.

(a) Paragraph (3)(A) of section 904(d) is amended to include the following addition: "For purposes of this subsection only, the term 'dividends' shall include the excess of gains over losses from the sale or exchange of stock which gives rise to the above referenced dividends."

(b) Paragraph (3)(D) of section 904(d) is deleted and replaced by the following:

"(3)(D) Dividends.—

"(i) Any dividend paid out of the earnings and profits of any controlled foreign corporation in which the taxpayer is a United States shareholder shall be treated as income in a separate category in proportion to the ratio of—

"(a) the portion of the earnings and profits attributable to income in such category, to

"(b) the total amount of earnings and profits.

"(ii) 'dividends' as defined in subsection 904(d)(3)(A) above shall be treated as income in a separate category in accordance with the ratio defined in clause (i). The ratio shall reflect earnings and profits accumulated in taxable years of the foreign corporation beginning after December 31, 1962."

SEC. 6. SUBPART F INCOME—PRIOR YEAR DEFICITS.

Paragraph (1)(B)(ii) of section 952(c) is amended to read "which began after December 31, 1962".

SEC. 7. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) Section 864 is amended by adding at the end thereof the following new subsection:

"(f) Allocation of Research and Experimental Expenditures.—

"(1) General Rule.—For purposes of sections 861(b), 862(b), and 863(b)—

"(A) 67 percent of the amount allowable as a deduction for qualified research and experimental expenditures shall be allocated to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

"(B) the remaining portion of such amounts is apportioned on the basis of gross sales or gross income.

"The preceding sentence shall not apply to any expenditures described in section 1.861-8(e)(3)(i)(B) of the Income Tax Regulations.

"(2) Qualified Research and Experimental Expenditures.—For purposes of this subsection—

"(A) In General.—The term 'qualified research and experimental expenditures' means amounts—

"(i) which are research and experimental expenditures within the meaning of section 174, and

"(ii) which are attributable to activities conducted in the United States.

"(B) Treatment of Depreciation, Etc.—Rules similar to the rules of subsection (c) of section 174 shall apply."

(b) Repeal of Provision Relating to 1-Year Modification for Allocating Research and Experimental Expenditures.—Section 1216 of the Tax Reform Act of 1986 is hereby repealed.

SEC. 8. RECAPTURE OF OVERALL DOMESTIC LOSS.

Section 904 is amended by redesignating sections 904(g), 904(h) and 904(i) as sections 904(h), 904(i) and 904(j) respectively and by inserting after section 904(f) the following new section:

"Section 904(g)—Recapture of overall domestic loss.

"(1) General Rule.—For purposes of this subpart and section 936, in the case of any taxpayer who sustains an overall domestic loss for any taxable year, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

"(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

"(B) 50 percent (or such larger percent as the taxpayer may choose) of the taxpayer's taxable income from sources within the United States for such succeeding taxable year, shall be treated as income from sources within the United States (and not as income from sources within the United States).

"(2) Overall Domestic Loss Defined.—For purposes of this subsection, the term "overall domestic loss" means the amount by which the gross income for the taxable year from sources within the United States (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) for such year is exceeded by the sum of the deductions properly apportioned or allocated thereto, except that there shall not be taken into account—

"(A) any net operating loss deduction allowable for such year under section 172(a), and

"(B) any—

"(i) foreign expropriation loss for such year, as defined in section 172(h), or

"(ii) loss for such year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise.

"(3) Dispositions.—

"(A) In General.—For purposes of this chapter, if property which has been used predominantly within the United States in a trade or business is disposed of during any taxable year—

"(i) the taxpayer, notwithstanding any other provision of this chapter (other than paragraph (1)), shall be deemed to have received and recognized taxable income from sources within the United States in the taxable year of the disposition, by reason of such disposition, in an amount equal to the lesser of the excess of the fair market value of such property over the taxpayer's adjusted basis in such property or the remaining amount of the overall domestic losses which were not used under paragraph (1) for such taxable year or any prior taxable year), and

"(ii) paragraph (1) shall be applied with respect to such income by substituting '100 percent' for '50 percent'."

In determining for purposes of this subparagraph whether the predominant use of any property has been within the United States, there shall be taken into account use during the 3-year period ending on the date of the disposition (or, if shorter, the period during which the property has been used in the trade or business).

"(B) Disposition Defined and Special Rules.—

"(i) for purposes of this subsection, the term 'disposition' includes a sale, exchange, distribution or gift of property whether or not gain or loss is recognized on the transfer.

"(ii) Any taxable income recognized solely by reason of subparagraph (A) shall have the same characterization it would have had if the taxpayer had sold or exchanged the property.

"(iii) The Secretary shall prescribe such regulations as he may deem necessary to provide for adjustments to the basis of property to reflect taxable income recognized solely by reason of subparagraph (A).

"(C) Exceptions.—Notwithstanding subparagraph (b), the term 'disposition' does not include—

"(i) a disposition of property which is not a material factor in the realization of income by the taxpayer, or

"(ii) a disposition of property to a domestic corporation in a distribution or transfer described in section 381(A).

"(4) Characterization of Subsequent Income.—Subsequent income from sources within the United States that is treated as income from sources without the United States under this section, shall be allocated among and increase the income categories in proportion to the losses previously allocated to separate limitation income in the prior year. (For purposes of this paragraph, the terms 'income category' and 'separate limitation income' shall have the same meaning as the definitions provided in section 904(f)(5)(E)(i), (ii).)"

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act are applicable to taxable years beginning after December 31, 1986. The Transition Rules provided in section 1215(c)(2) of P.L. 99-514 remain in effect subject, however, to the following amendment: the reference to "the amendments made by this section" found in section 1215(c)(2) shall mean the amendments made by Section 2. of this Act (i.e., the amendments of Section 2. of this Act supersede the amendments made by P.L. 99-514).

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, October 1, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 2

9:00 a.m.

Energy and Natural Resources
To hold oversight hearings on the implementation of the Reclamation Reform Act of 1982.
SD-366

*Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93-638).
SR-485

9:30 a.m.

Joint Economic
To hold hearings on the employment/unemployment statistics for September.
SD-628

10:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Credit Subcommittee
Business meeting, to continue markup of S. 1665, Farm Credit Act of 1987.
SR-332

Finance
Health Subcommittee
To hold hearings to review child health programs and proposals.
SD-215

Joint Economic
To hold hearings on investment in the U.S. air transportation system.
SD-628

1:00 p.m.

*Environment and Public Works
Business meeting, to resume markup of proposed legislation to provide limited extensions in the Clean Air Act deadlines for areas that violate the health protective national air quality standards.
SD-406

OCTOBER 5

9:30 a.m.

Finance
Taxation and Debt Management Subcommittee
To hold hearings on the effect of current tax laws on American competitiveness.
SD-215

Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
2359 Rayburn Building

OCTOBER 6

9:30 a.m.

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on pipeline safety.
SR-253

Judiciary
Antitrust, Monopolies and Business Rights Subcommittee
To hold hearings on the antitrust aspects of the NFL-ESPN contract.
SD-226

10:00 a.m.

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

Governmental Affairs
Federal Services, Post Office, and Civil Service Subcommittee
To hold hearings on the Postal Rate Commission study of political advocacy third class non-profit mail.
SR-485

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on H.R. 1044, to establish the National Maritime Museum in San Francisco, California, S. 963, to amend the boundaries of Stones River National Battlefield, Tennessee, S. 761, to provide for the establishment of a Western Historic Trails Center in Iowa, and S. 1165, to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve in New Jersey.
SD-366

*Judiciary
Business meeting, to consider the nomination of Robert H. Bork, of the District of Columbia, to be an Associate Justice of the Supreme Court of the United States.
SR-325

OCTOBER 7

9:00 a.m.

*Select on Indian Affairs
Business meeting, to mark up S. 1645, authorizing funds for certain Indian educational programs.
SR-485

9:30 a.m.

Armed Services
Conventional Forces and Alliance Defense Subcommittee
To hold hearings on armaments cooperation within the NATO alliance.
SR-222

Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting, to consider legislative recommendations which it will make to the Committee on the Budget with respect to spending reductions and revenue increases to meet reconciliation expenditures, as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.
SR-332

Environment and Public Works
Environmental Protection Subcommittee
Business meeting, to mark up S. 675, authorizing funds for fiscal years 1988-1992 for programs of the Endangered Species Act of 1973, and S. 1389, to clarify the National Fish and Wildlife Foundation's use of Federal funds for land acquisition, and other pending business.
SD-406

Labor and Human Resources
To hold hearings on poverty and policy issues in the 1980s.
SD-430

OCTOBER 8

9:30 a.m.

Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings on tourism marketing.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on activities of the Office of Investigations of the Nuclear Regulatory Commission.
SD-406

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on government handling of Soviet and Communist bloc defectors.
SD-342

1:30 p.m.

Environment and Public Works
Nuclear Regulation Subcommittee
To hold oversight hearings on activities of the Office of the Inspector and

Auditor of the Nuclear Regulatory Commission.
SD-406

OCTOBER 9

9:30 a.m.
Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on government handling of Soviet and Communist bloc defectors.
SD-342

OCTOBER 13

9:30 a.m.
Energy and Natural Resources
To hold hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

OCTOBER 14

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Finance
To resume hearings on how to improve the existing family welfare system and how to promote the well-being of families with children.
SD-215

OCTOBER 15

9:00 a.m.
Select on Indian Affairs
To resume hearings on S. 721, to provide for and promote the economic development of Indian tribes.
SR-485

9:30 a.m.
Energy and Natural Resources
To continue hearings on S. 1217, to provide for oil and gas leasing, exploration, and development within the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

10:00 a.m.
Small Business
To hold oversight hearings on the Small Business Administration small business development center program.
SR-428A

OCTOBER 19

9:30 a.m.
Finance
Taxation and Debt Management Subcommittee
To resume hearings on the effect of current tax laws on American competitiveness.
SD-215

OCTOBER 20

9:30 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 816, S. 1026, and S. 1040, bills relating to the construction, acquisition, or operation of rail carriers, and to review the Interstate Commerce Commission consideration of railroad line sales.
SR-253

Energy and Natural Resources
To hold closed hearings on the status of the Department of Energy's efforts to address issues concerning the defense materials production reactors located in the United States.
S-407, Capitol

OCTOBER 21

9:00 a.m.
Rules and Administration
To hold hearings on the feasibility of providing captioning for the hearing impaired of television from the Senate chamber.
SR-301

Select on Indian Affairs
Business meeting, to consider proposed amendments to the Indian Self-Determination and Education Assistance Act (Public Law 93-638), S. 1236, to authorize funds for certain programs of the Navajo-Hopi Relocation Program, and S. 795, San Luis Rey Indian Water Rights Settlement Act; to be followed by hearings on S. 1321, to declare that the United States holds in trust certain lands for the Camp Verde Yavapai Apache Indian community.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold oversight hearings on activities of the Foreign Commercial Service, Department of Commerce.
SR-253

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

OCTOBER 27

9:00 a.m.
Office of Technology Assessment
The Board, to meet to consider pending business.
EF-100, Capitol

9:30 a.m.
Joint Economic
Education and Health Subcommittee
To resume hearings on the competitiveness and quality of the American work force.
Room to be announced.

2:00 p.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings on pending water resource projects of the Soil Conservation Service, Department of Agriculture.
SD-406

OCTOBER 28

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado.
SD-562

2:00 p.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Francis J. Ivancie, of Oregon, to be a Federal Maritime Commissioner, and Francis H. Fay, of Alaska, and William W. Fox, Jr., of Florida, both to be Members of the Marine Mammal Commission.
SR-253

NOVEMBER 4

10:00 a.m.
Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To resume hearings to review infrastructure issues.
SD-406

NOVEMBER 5

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on certain provisions of the Omnibus Drug Enforcement, Education, and Control Act (Public Law 99-570).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To hold oversight hearings on activities of the Federal Aviation Administration, Department of Transportation.
SR-253

NOVEMBER 10

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Indian Child Welfare Act (Public Law 95-608).
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 12

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1039, to review and determine the impact of Indian tribal taxation on Indian reservations and residents.
SR-485

9:30 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To resume hearings on S. 1600, to create an independent Federal Aviation Administration.
SR-253

NOVEMBER 16

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1722, to establish the National Museum of the American Indian, Heye Foundation within the Smithsonian Institution, and to establish a memorial to the American Indian, and S. 1723, to establish certain regional exhibition facilities as part of the National Museum of the American Indian.
SR-301

NOVEMBER 19

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings to review Federal agency actions related to the implementation of the Department of the Interior's Garrison Unit Joint Tribal Advisory Committee final report recommendations.
SR-485

NOVEMBER 24

2:00 p.m.
Select on Indian Affairs
To hold hearings on S. 1236, authorizing funds for certain programs of the Navajo-Hopi Relocation program.
SR-485

POSTPONEMENT

NOVEMBER 5

9:00 a.m.
Select on Indian Affairs
To hold oversight hearings on implementation of the Kamehameha elementary education project as applied on the Navajo Reservation at Rough Rock, Arizona.
SR-485